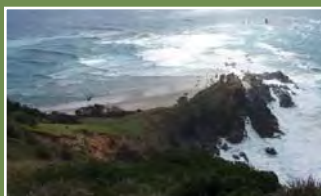


Byron Shire Council

BYRON SHIRE LES



JULY 2008



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Byron Shire Council Local Environmental Study

July 2008 (V10) #776414

Byron Shire Council



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It should be noted that this document is the combined work of Parsons Brinckerhoff Australia Limited (PB) and Byron Shire Council (BSC). It was finalised in July 2008, however the documentation is correct as of January 2008. More information on changes since January can be found in the Addendum LES Document.

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1. Introduction

1.1 Background

This Local Environmental Study (LES) is an assessment of the environmental, social and economic issues relevant to the review of land use controls in the Byron Shire area. It has been prepared in light of available information, much of which is far more detailed than that summarised in this LES.

As part of the process of developing new land use controls for the study area, some prior consultation with the public and government agencies has taken place. The outcomes have been valuable to the process and are summarised in the LES.

The LES also documents the statutory and strategic publications and controls at local, regional and state level that influence the LES and the subsequent local environmental plan (LEP) that will flow from this process. The LES is a key matter for Council to consider in preparing a new Shire-wide LEP.

Council resolved on 21 December 2004 to prepare a new Shire-wide LEP (Resolution No. 04/1067); the relevant extract of the resolution is shown below:

04-1067 Resolved:

2. (a) That pursuant to s54 and s74(1) of the *Environmental Planning and Assessment Act 1979* a draft Local Environment Plan be prepared for the Shire.
- (b) That Council advise the Department of Infrastructure Planning and Natural Resources pursuant to Section 54(4) of its intention to prepare the draft Shire-wide local environmental plan.
- (c) That Council exhibit the proposed draft Shire-wide local environmental plan in accordance with the "Best Practice Guidelines" published by the Department of Urban Affairs and Planning in January 1997 and entitled "LEP's and Council Land — Guideline for Councils using delegated powers to prepare LEP's involving land that is or was previously owned or controlled by Council" to enable Council to assume its delegation pursuant to Section 65(1) of the *Environmental Planning and Assessment Act 1979* thus enabling the public exhibition of the draft local environmental plan.
- (d) That the draft Shire-wide local environmental plan be reported to Council prior to public exhibition.

Council then reaffirmed its commitment to the development of the new LEP in June 2006 (Resolution No. 06-416 and No. 06-417) with the following:

06-416 Resolved:

1. That Council reaffirm its commitment to the preparation of a Shire-wide draft LEP for the Shire as per resolution 04-1067(2).

2. That no further resources are expended on the draft Byron Bay Area LEP and that the submissions and legal advices received by Council are used to assist in the preparation of the draft LEP for the Shire.

06-417 Resolved:

1. That the draft LEP for the Shire be based on bringing the 1988 LEP and all its amendments into accord with the standard template, and taking into account all adopted land use strategies.
2. That the \$100,000 from the Planning Department, referred to in the Director's comments on page 18 of the Agenda, be used to contract a high level independent consultant to bring the 1988 LEP into accord with the standard template.

1.2 Overview

Byron Shire occupies an area of 567 square kilometres in north-eastern New South Wales (NSW). It is bounded by the South Pacific Ocean on the eastern side, and partly by Skinners Creek, Wilson River, Coopers Creek and the Nightcap Range on the landward side. It comprises most of the catchment area of the Brunswick River, and part of the Richmond River.

Byron Shire was created in 1906 under the *Local Government (Shires) Act 1905*. The original boundaries of the Shire included the locality of Mullumbimby. However, in 1908, the residents of Mullumbimby took steps to create a separate council and the Municipality of Mullumbimby was created, which incorporated an area of 1.7 square miles (approximately 440 hectares). In 1980, under Ministerial Direction, Byron Shire and the Municipality of Mullumbimby were amalgamated into the one Shire (Brett Stubbs, *Byron Shire Community-based Heritage Study — Volume 2 Thematic History*, 2006). It currently has a population of over 28,766 residents.

The Shire is picturesque, with beautiful, white sandy beaches on the 24 kilometres of coastline and lush, green, rolling hills with rich, red volcanic soil. There are pockets of remnant rainforest dotted throughout the hinterland escarpments in the northern parts of the Shire.

Byron Shire has a sub-tropical climate with warm summers (average mean temperature 19–27°C) and mild winters (average mean temperature 10–19°C). The average rainfall is 1,850 millimetres per year, one of the highest rainfall areas in the state.

Matching a social trend in recent years of population moving to the coast, there has been a strong and steady population growth since the 1980s, ranging from 1.9% to 3.3% annual growth rates.

There are a number of towns and villages throughout the Shire, which has a population of 28,766 usual residents, with 28% living in rural areas (2006 Census).

The community comprises a diverse mix of people, with each town or village having its own distinctive character.

There is a high proportion of low-income earners, high numbers of new residents, a substantial transient population, and high levels of unemployment and under-employment. The Shire has a diverse population of long-term residents, alternate-lifestyle living residents, and an aging population that is echoed throughout the country.

Between 1986 and 1996 there was a 50.3% growth in the Shire population. Between 1996 and 2001 the growth slowed to 33.2%. Growth in many parts of the Shire is restricted by infrastructure, planning and environmental constraints, which is reflected by the last 5-year period showing only a 10% population growth.

If the projected population of approximately 41,000 is reached in 2019 (Byron Shire Social Plan 2004d), it will place enormous strain on the infrastructure of towns and on the balance of the environment. Tourism and population growth are having huge impacts on the Shire and will continue to do so into the future. Both issues create potential hardships on community life and may have a detrimental effect if they are not planned and managed properly.

The major industries employing people in the Byron Shire are retail trade (1,173 employed — 16.9%), followed by accommodation, cafés and restaurants (1,170 employed), health and community services (1,123 employed), and education (946 employed). Employment in agriculture, forestry and fishing has dropped from 7.6% to 5.6% (Byron Shire Council 2004d).

The Aboriginal people retain a strong interest in the maintenance, protection and management of Aboriginal cultural values in the Byron Shire. There have been a number of agreements signed with the traditional custodians of the land and the State Government and the Council in 1997, 1998, 2001, 2003 and 2006. Details of these are included in Section 5.8.2. In 2001, 347 Aboriginal and Torres Strait Islanders were estimated to be living in the Byron Shire, representing 1.2% of the population.

The *Byron Shire Local Environmental Plan 1988* (Byron LEP) (Byron Shire Council 2007a) promoted sustainable development in the Byron Shire in line with the *Environmental Planning and Assessment Act 1979*. A continuing commitment to sustainable development in the Byron Shire was embodied in its *Greenprint for a Sustainable Future*, which amended the LEP (Byron Shire Council undated a).

The major industry in the Shire is tourism. An estimated 1.7 million tourists visit the Shire each year, with the majority of them visiting the township of Byron Bay. There are a range of businesses and services throughout the Shire affiliated with the tourism industry to match the growing number of tourists.

When written in 2002, the Byron Shire Tourism Management — Options Paper (Tonge et al., 2002) predicted that visitation to the Shire would increase substantially over the coming years, potentially to 2.1–2.3 million by 2008. This was a staggering prediction for an ecologically-sensitive area. Due to these concerns regarding the management of tourism growth within the area, the Council has engaged Southern Cross University and the Australian Regional Tourism Research Centre (ARTRC) to prepare a Tourism Management Plan.

Another major industry in the Byron Shire is agriculture. Agricultural activity includes beef and dairy cattle, farm forestry, sugar cane, macadamias, avocados, stone fruit and coffee, with some bush foods and essential oils.

The Shire also hosts a myriad of thriving, small owner-operated and home-based businesses with a focus on alternative, cultural, creative and knowledge industries. There is also a growing population of artists, writers and filmmakers.

The property boom in recent years has seen real estate prices soar, especially in coastal areas. It is now apparent that the first-time home buyers will find it difficult to afford a house in the area, and many will move away to find employment and affordable housing.

Byron Shire is in the grip of the 'sea change' phenomenon as described by Bernard Salt in his landmark 2001 work, *The Big Shift*. 'This is characterised by massive population influxes (permanent residents and tourists), rapidly increasing permanent, holiday and business rents, strains on infrastructure (road, sewerage, water supplies), alienation of local residents, unemployment and welfare dependency.'

The median weekly individual income for the Shire is \$200–\$299 compared with the NSW average of \$300–\$399. The median weekly family income in the Shire is \$600–\$699 compared with the NSW average of \$800–\$899. The median weekly household income for the Shire is \$500–\$599 compared with the NSW average of \$800–\$899. However, the median weekly rent is the same as the NSW average, with both rents at \$150–\$199 (Byron Shire Council, 2004d).

The Byron Shire's employment status, compared with the NSW average, shows an unemployment rate that is extremely high compared with the state average. What is not shown is the under-employment rate, as part-time employees make up 40% of the Shire's labour force, which is the second highest proportion of part-time workers in NSW. However, the number of unemployed persons is declining. The unemployment rate, as reported by the Department of Employment and Workplace Relations in March 2005, was 13.2%. By March 2006, the rate had fallen to 12% and further to 9% in March 2007.

Tourism is the subject of most of the development in the area and is largely responsible for the international profile of the Shire in recent years.

2. Study framework

This Local Environmental Study (LES), and the draft Local Environmental Plan (LEP) that flows from it, is influenced by state, regional and local (Byron Shire Council) plans, policies, strategies and guidelines. These documents and overriding legislation form the 'framework' for the preparation of the LES.

2.1 Legislative framework

This section provides an overview of the relevant legislation that applies to the preparation of an LES and LEP for Byron Shire.

2.1.1 Environmental Planning and Assessment Act 1979

The *Environmental Planning and Assessment Act 1979* (EP&A Act) forms the framework for the planning system in New South Wales (NSW). This Act creates the mechanism to prepare LEPs, development control plans (DCPs) and State Environmental Planning Policies (SEPPs). Section 5 of the EP&A Act outlines the objects of the Act, which are as follows:

- (a) to encourage
 - (i) the proper management, development and conservation of natural man-made resources for the purpose of promoting the social and economic welfare of the community and a better environment;
 - (ii) the promotion and co-ordination of the orderly and economic use and development of land;
 - (iii) the protection, provision and co-ordination of communication and utility services;
 - (iv) the provision of land for public purposes;
 - (v) the provision and co-ordination of community services and facilities;
 - (vi) the protection of the environment;
 - (vii) ecologically sustainable development; and
- (b) to promote the sharing of responsibility for environmental planning between different levels of government in the State; and
- (c) to provide increased opportunity for public involvement and participation in environmental planning and assessment.

Part 3 of the EP&A Act provides Council with an outline on preparing Local Environmental Studies and LEPs, while Section 26 of the Act states that an environmental planning instrument (EPI) may provide, among other things, for any of the following:

- protecting the environment
- controlling development
- protecting trees or vegetation

- protecting and conserving native animals and plants, including threatened species, populations and ecological communities.

Council received a letter from the Department of Planning, on 9 August 2006, instructing Council to 'comply with Sections 57 and 61 of the EP&A Act in respect of the draft LEP', thus requiring the preparation of an LES. The LES is to compile and review existing studies and strategies to support the draft LEP. It should address the need for provision of adequate and suitably located employment land and respond to the draft Far North Coast Strategy'.

Section 61 of the Act also requires Council to have regard to the LES when preparing the draft LEP. The Act no longer requires the documents to be prepared sequentially, and it is normal practice that they be prepared and exhibited together. However, at the time of preparing the majority of this environmental study, the draft LEP had not been prepared. Council will have regard to this LES in preparing the draft LEP.

2.1.2 Ministerial directions

Under Section 117 of the EP&A Act, the Minister can provide directions in relation to the format, structure and general principles to be followed in the preparation of the LEP. Appendix D provides a summary of the relevant directions and comments for this LES and resulting LEP.

2.1.3 Other relevant legislation

In addition to the EP&A Act, there is also a core set of relevant environmental legislation relevant to the State of NSW and, therefore, Byron Shire. These Acts and their broad relevance are presented in Table 2-1.

Table 2-1 Other relevant legislation

Legislation	Key requirements
<i>Local Government Act 1993</i>	The Act provides a framework for the operation of local government in NSW. Local participation is incorporated into the Act as is the ability of Councils to provide goods, services and facilities.
<i>Heritage Act 1977</i>	The New South Wales <i>Heritage Act 1977</i> provides protection for natural and cultural heritage by providing for the listing of heritage items or places on the State Heritage Register and providing for the making of interim heritage orders for the protection of heritage items or places.
<i>National Parks and Wildlife Act 1974</i>	The <i>National Parks and Wildlife Act 1974</i> ensures that the care, control and management of all national parks, historic sites, nature reserves, reserves, Aboriginal areas and state game reserves is maintained by the Director-General of the National Parks and Wildlife Service. Under this Act, the Director-General is also responsible for the protection and care of native fauna and flora, and Aboriginal places and objects throughout NSW.
<i>Native Vegetation Act 2003</i>	The <i>Native Vegetation Act 2003</i> regulates the clearing of native vegetation on all land in NSW except for land listed in Schedule 1 of the Act. The objective is to maintain or improve the existing remnant vegetation and biodiversity values of the state, encourage and promote the management of native vegetation and to prevent broad scale clearing unless it improves or maintains environmental outcomes.
<i>Protection of the Environment Operations Act 1997</i>	The Act enforces licences and approvals formerly required under separate Acts relating to air, water and noise pollution and waste management with a single, integrated licence.

Legislation	Key requirements
<i>Water Management Act 2000</i> , including the <i>Rivers and Foreshores Improvement Act 1948</i> and <i>Water Act 1912</i>	The <i>Water Management Act 2000</i> governs the issue of new water licences, and the trade of water licences and allocations for those water sources (rivers, lakes and groundwater) in NSW where water sharing plans have commenced. The object of the Act is the sustainable and integrated management of the state's water for the benefit of both present and future generations. The <i>Water Management Act 2000</i> is progressively replacing the <i>Water Act 1912</i> , which currently controls the extraction of water, the use of water, and the carrying out of activities in or near water sources in NSW. The <i>Rivers and Foreshores Improvement Act 1948</i> controls any activities within or along a river, such as the removal of sand or gravel from a river or 40 metres from the top of the bank, or which could affect the river flow.
<i>Fisheries Management Act 1974</i>	The objects of the Act are to conserve, develop and share the fishery resources of the state for the benefit of present and future generations.
<i>Rural Fires Act 1997</i>	This Act generally aims to provide for the prevention, mitigation and suppression of bush and other fires, co-ordination of fire fighting throughout the state and for the protection of persons from injury or death, and property from damage arising from fires. Importantly, it creates within the NSW Rural Fire Service a continuous chain of command from the Commissioner to fire fighter, and places an emphasis on ecological sustainable development.
<i>Coastal Protection Act 1979</i>	This Act provides for the protection of the coastal environment of the state through the regulation of development and other activities undertaken by public authorities in the coastal zone. The particular aims of this Act are to protect, enhance, maintain and restore the environment of the coastal region and also to have regard to principles of ecologically sustainable development.

There are a number of other state Acts and policies that have reference to the preparation of an LEP. These are included throughout the study in the sections that relate to their purposes. Some of the relevant Acts include:

- *Native Vegetation Act 2003*
- *Marine Parks Act 1997*
- *Forestry Act 1916*
- *Threatened Species Conservation Act 1995*.

2.2 Planning policy

2.2.1 State Environmental Planning Policies

There is a long list of State Environmental Planning Policies (SEPPs), many of which have relevance to the Byron Shire local government area (LGA). The full list of SEPPs is detailed in Appendix B. However, it must be noted that Clause 9(2) of the Standard LEP states that SEPPs 1, 4, 9 and 60 do not apply to land that the LEP applies to.

The provisions of the relevant SEPPs are assessed for their relevance to the preparation of a Shire-wide LES in Appendix B. Particularly, relevant SEPPs to the Byron LEP process include:

- SEPP 32 Urban Consolidation (Redevelopment of Urban Land), SEPP 36 Manufactured Home Estates and SEPP (Housing for Seniors or People with a Disability) 2004 — due

to the potential shortage of available land for housing, which includes seniors living housing development due to the aging population of Byron

- SEPP 71 (Coastal Protection) — due to the fact that a significantly high proportion of Byron's population lives within the coastal zone.

2.2.2 The NSW Coastal Policy

The *NSW Coastal Policy 1997* (the Coastal Policy) is the NSW Government's policy for coordinated planning and management of the NSW coastline. It represents an attempt to better coordinate the management of the coast by identifying, in a single document, the various management policies, programs and standards as they apply to a defined coastal zone.

The coastal zone is defined in the Coastal Policy as those areas that are:

- 3 nautical miles seaward of the mainland and offshore islands
- 1 kilometre landward of the open coast high water mark
- a distance of 1 kilometre around all bays, estuaries, coastal lakes, lagoons and islands, and tidal waters of coastal rivers to the limit of mangroves as defined by NSW Fisheries (1985) maps or the tidal limit, whichever is closer to the sea (refer Figure 11).

The Coastal Policy applies to both urban and non-urban areas along the NSW coast that are within the coastal zone, along with beaches and seas along the entire NSW coast.

The Coastal Policy is referred to in Section 117 Direction 2.2 (refer Appendix D) as applying to the coastal zone. It requires Council preparing an LEP to include provisions that give effect to, and are consistent with, the Coastal Policy, and do not alter, create or remove existing zones unless an environmental study has been prepared and considered by Council. Portions of the Byron Shire LGA are within the coastal zone.

Appendix F assesses the LES against the relevant provisions of the Coastal Policy, while Appendix I refers specifically to SEPP 71.

2.2.3 Coastal Design Guidelines for NSW

The Coastal Design Guidelines represent the NSW Government's design principles for coastal settlements in NSW. Although they apply to a range of planning documents, the guidelines are relevant in the preparation of a draft LEP for the Shire in terms of defining the boundaries of urban settlements, connecting open spaces, protecting natural areas, reinforcing street patterns and establishing appropriate built forms.

2.2.4 North Coast Regional Environmental Plan

The *North Coast Regional Environmental Plan 1988* (REP) is a regional policy to protect the natural environment, encourage an attractive built environment and guide development into a productive yet environmentally sound future. Parts of the REP specifically advise Council on issues of state and regional significance that should be considered when preparing an LES or LEP. These are summarised in Appendix E with comments on the consistency with the LES.

2.2.5 Far North Coast Regional Strategy

The *Far North Coast Regional Strategy* covers the LGAs of Ballina, Byron, Kyogle, Lismore, Richmond Valley and Tweed. The strategy was developed by the Department of Planning in 2006 to guide the future development and land use of the region over the next 25 years, and predicts that an additional 60,400 people shall reside within the region during this time period. To cater for this growth, an additional 51,000 new homes and 32,500 new jobs shall be developed on the Far North Coast. The strategy establishes three major regional centres — Lismore, Tweed Heads and Ballina — which shall cater for 35% of future housing development. Two major towns, Casino and Murwillumbah, and several minor towns and coast and inland villages are also identified within the strategy.

The strategy builds upon previous planning work undertaken in the region, including the *Northern Rivers Regional Strategy* and various local council settlement strategies. The *Far North Coast Regional Strategy* provides a framework for sustainable growth while protecting unique environmental assets, cultural values and natural resources, and ensuring the provision of economic opportunities.

The Far North Coast has an ageing population and is experiencing a high population growth. Key drivers of growth for the Far North Coast include in-migration from the Sydney Greater Metropolitan Area and other areas of NSW, and greater accessibility due to the upgrading of the Pacific Highway. Due to the ageing population, housing choice and diversity is an important issue; the strategy identifies the importance of providing diversity in housing choice and particular emphasis is placed upon the need for 1–2 person housing.

Over the next 25 years, it has been projected that South East Queensland shall grow by 1.1 million people, which shall also be a significant influence upon the region. The significant growth in South East Queensland shall enable the development of viable employment lands in the Far North Coast, providing strong economic opportunities for the region. The areas within the town and village growth boundaries will provide future employment lands within the Shire that shall be located in close proximity to existing urban areas or the rail line.

The strategy outlines the importance of preventing coastal spread by encouraging future development within non-coastal centres. At present, coastal growth accounts for approximately 75% of total development. Future growth in non-coastal areas shall be achieved by limiting growth in coastal areas to 60% of the total future growth. In addition, no rural residential growth shall be permitted within the coastal areas, which shall also limit urban growth along the coast and ensure efficient use of land. The specific dwelling targets of the Far North Coast Regional Strategy in relation to the Byron Shire dictate that Byron Shire shall accommodate an additional 2,600 dwellings within the next 25 years. Additionally, appropriately located rural residential opportunities around existing settlements are recommended under the strategy, excluding the coastal area unless part of an approved rural residential release strategy.

The planning outcomes and actions in the strategy will be supported by the *Settlement Planning Guidelines* (Department of Planning, 2007), which have been prepared by the Department of Planning to assist councils in the preparation of a local growth management strategy. The guidelines provide:

- detail on environmental criteria and their application
- planning and urban design principles for residential, rural residential, commercial, industrial and tourism lands

- a framework for a new Housing and Land Monitor.

The guidelines dictate that, under the *Far North Coast Regional Strategy*, a local growth management strategy is required for each Council within the region prior to preparation of an LEP to zone land for residential, rural residential, commercial, industrial and for special purposes such as tourism uses.

The current local settlement strategies for Byron Shire have been used as an interim, and a local growth management strategy will be prepared following the LES/LEP process.

2.2.6 North Coast Urban Planning Strategy

The *North Coast Urban Planning Strategy* (into the 21st century) identifies Lismore and Tweed Heads as subregional centres within the northern rivers subregion. The aim is to encourage a 'higher order' service provision and a high proportion of the region's residential growth in these localities that are best able to sustain it and allow the smaller district centres, and isolated towns and villages, to retain their character. Byron Bay is identified as a major district centre.

The strategy acknowledges that Byron Bay's new urban areas will need to be 'carefully designed to retain the unique sense of community and low-rise urban form and to complement the area's sensitive coastal environment and tourism industry'.

The population projections in the strategy indicate that Byron Shire may reach a population of 42,900 persons by the year 2016. This is consistent with Council's Shire-wide estimates based on existing zoned lands and the projected yield of Council's settlement strategies.

2.2.7 Northern Rivers Catchment Action Plan

The *Northern Rivers Catchment Action Plan* (CAP), prepared in 2005 by the Northern Rivers Catchment Management Authority, is a 10-year plan aimed at guiding natural resource management across the Northern Rivers region. Developing a CAP is a requirement of all NSW Catchment Management Authorities under the *Catchment Management Authorities Act 2003*.

The CAP is a statutory, but non-regulatory, plan approved by the (then) Minister for Natural Resources, and will be the central mechanism to prioritise and deliver natural resource management investments and outcomes to the catchment community of the Northern Rivers region. As part of this plan, biodiversity-related targets and actions are identified, many of which are relevant to the Shire's environmental planning.

2.3 Local environmental planning documents

Strategic documents provide policy direction for plans to follow; statutory documents provide rules, which generally relate to procedural requirements. The relevant aspects of these statutory and strategic documents are discussed below.

2.3.1 Byron Local Environment Plan

The Byron Shire is currently subject to the planning controls in the *Byron Local Environment Plan (LEP) 1988*. The new draft LEP arising from this LES will replace the existing Byron LEP 1988. A new set of planning controls will apply, and will need to address the full range of planning issues and land uses that currently occur in the Byron Shire LGA.

The *Standard Instrument (Local Environmental Plans) Order 2006* prescribes the form and content of a principal LEP. Council's Standard LEP will have to be consistent with the Order, and the *Standard Instrument — Principal Local Environmental Plan*. The LES will inform the development of the Shire-wide LEP.

2.3.2 Draft Local Environmental Plan for the Byron Bay Area

Draft LEP

In 2003, Byron Shire Council resolved to prepare a new LEP for Byron Bay, Suffolk Park and Ewingsdale, hence known as the 'draft LEP for the Byron Bay Area'. The draft LEP was exhibited between January and April 2006, during which time a total of 1,074 submissions were received in relation to the document. Following this exhibition, Council was instructed by the Department of Planning to prepare a Shire-wide LES and LEP. As a result of this instruction, Council formally abandoned the draft LEP for the Byron Bay Area on 10 October 2006 to focus resources on the Shire-wide LEP.

The draft LEP for the Byron Bay Area will have input, where appropriate, into the Shire-wide LEP.

Submissions report

The submissions report 'provides an analysis of submissions received from the public exhibition of the draft Local Environmental Plan (LEP) for the Byron Bay Area'. The submissions report, where appropriate, will be utilised to inform the development of Council's Shire-wide LEP.

The report identifies the most frequently raised issue as holiday letting in residential areas, other key issues raised include: coastline management, wildlife corridors, heritage, rural residential lands and affordable housing.

2.3.3 Byron Bay Suffolk Park and Ewingsdale Local Environmental Study

The Byron Bay Suffolk Park and Ewingsdale LES was prepared by Byron Shire Council in 2004. The LES is an assessment of the 'environmental, social and economic issues relevant to the review of land use controls in the Byron Bay, Suffolk Park and Ewingsdale Study area'. The LES was utilised to inform Council during the preparation of the draft LEP for the Byron Bay Area, which was formally abandoned in 2006 (Byron Shire Council and Community Planning Services, 2005).

The purpose of the LES was to:

- consider the interrelationship between the different land uses, taking into account the socio-economic and physical make-up of the area
- recognise the needs of the people that live and visit the area
- identify those parts of the environment that require protection
- give the community, Council and government authorities an understanding of the factors that are likely to influence land use controls in Byron Bay, Suffolk Park and Ewingsdale.

The study explored issues in relation to the environment, people, land uses, and infrastructure. Specific places, such as Belongil fields, Sunnybrand abattoirs and chicken sheds, Ewingsdale Road and the Sand Hills Estate are also addressed within the LES (Byron Shire Council and Community Planning Services 2005).

Relevant findings of the Byron Bay Suffolk Park and Ewingsdale LES have been included within this Byron Shire LES.

2.3.4 Byron Bay and Suffolk Park Settlement Strategy

The key aim of the *Byron Bay and Suffolk Park Settlement Strategy* (Byron Shire Council 2002a), which has not formally been adopted by Council, is to pave a way for the better planning, management and community ownership of the character, design, density and strategic directions of these settlements.

The strategy was publicly exhibited twice: in 1999 and 2001. A final version, amended in response to public submissions, was resubmitted to Council in March 2002. It should be noted that the strategy was not formally adopted by Council but was adopted only as a basis for the preparation of the draft LEP for the Byron Bay area.

The strategy adopted several guiding principles, which were considered essential to planning and management. These are:

- the community vision
- acknowledgement that land is a finite resource
- development decisions must consider potential and cumulative impacts, and be based on the precautionary principle
- decision-making must ensure community consultation and participation
- use of the environment must be based on ecologically sustainable development.

The strategy suggests the major issues and constraints facing Byron Bay and Suffolk Park are:

- division of the town of Byron Bay by the North Coast railway line, and the lack of crossings of this line
- inadequate capacity to cater for through-traffic (bypass of Byron Bay town centre is required)
- sewerage treatment plants at capacity
- limited capacity for Byron Bay High School
- stormwater drainage limitations
- traffic and parking congestion in town centres
- flora and fauna impacts
- acid sulfate soils and peat
- limited availability of job opportunities
- the cost and availability of serviced residential land
- physical/ecological constraints to expansion
- extent of comparable investment and job opportunities in other nearby centres
- flooding/floodplain management
- tourism impacts.

The Byron Bay and Suffolk Park Settlement Strategy notes the requirement for a legal framework to prescribe the permissibility of different types of development in different locations. It makes 45 recommendations (outcomes), many of which are relevant to the formation of a new draft LEP. These form an important input into the draft LEP but may be more appropriately addressed in the DCP or other policy documents.

2.3.5 Mullumbimby Settlement Strategy

The *Mullumbimby Settlement Strategy* was adopted by Council in December 2003 and provides a plan to preserve the 'valued identity of Mullumbimby' (Byron Shire Council, 2003d). The vision statement for Mullumbimby provides a reflection of the intended future development of the town:

Mullumbimby, where people respect the rural character of the town, including its: role as a service centre, environment, sense of community, cultural diversity, spirit of innovation and leadership, rural connections and built heritage.

The strategy determines the extent of growth for Mullumbimby over a 10-year period. It adopted the same guiding principles as the five listed in Section 2.3.4 for the Byron Bay and Suffolk Park Settlement Strategy. These principles also apply to Brunswick Heads and Bangalow.

It is noted that expansion of Mullumbimby is physically limited due to ecological and physical constraints. The identification of additional lands for future rezoning and residential settlement is not proposed within the strategy. The existing supply of zoned land for residential development is expected to yield approximately 280 lots. A majority of this land is located off Left Bank Road, which is yet to be serviced and subdivided.

Several specific areas are investigated for residential use within the strategy. The southern entrance to Mullumbimby from Coolamon Scenic Drive, undeveloped existing residential zone land on Main Arm Road and the Clay's Road/Coral Avenue areas are amongst several areas investigated for residential use. The relationship between future developments and surrounding agricultural uses is also determined within the strategy.

The strategy identifies a deficiency in the provision of services and community facilities within Mullumbimby. The inadequacy in infrastructure is considered a constraint on further development occurring within the area.

The implementation of the strategy is proposed to be linked to the Shire-wide LEP and a specific DCP for Mullumbimby to allow for urban development, without the need to create additional land zoned for urban uses, within the growth boundaries.

2.3.6 Brunswick Heads Settlement Strategy

The key aim of the Brunswick Heads Settlement Strategy (Byron Shire Council, December 2004) is to:

... provide for better planning, management and community ownership of the future character, design and strategic direction, including housing density, housing location and infrastructure works required for the Brunswick Heads village catchment area.

The strategy states that Brunswick Heads will 'maintain its appearance — and atmosphere — as a low-key, family friendly coastal village'.

The strategy recognises that there is a limited quantity of land available for residential development and there are also several major natural constraints to the growth of Brunswick Heads, including: the Brunswick River to the east and north, the Nature Reserves to the west and south, flood-prone land, wetlands and coastal erosion hazard along the coastline, and acid sulfate soils. The strategy notes that the Pacific Highway is a physical barrier to the westward of Brunswick Heads (Byron Shire Council December 2004).

The southward extension of the residentially-zoned Bayside Brunswick is identified as the only avenue for expansion. The strategy states that there is 'no more developable land in the Brunswick Heads village catchment ...development ... will occur within the boundaries of existing zoned land'. Garden flats are explored as an option to contribute to meeting the needs of affordable housing in Brunswick Heads and the Byron Shire (Byron Shire Council, December 2004).

The strategy identifies regional issues, and general and specific area outcomes. Council proposed that the strategy shall be implemented through a new LEP for the Shire and a new DCP for Brunswick Heads. As yet, a Brunswick Heads DCP has not been prepared. In addition to the need for a specific Brunswick Heads DCP, the following issues are raised within the strategy:

- the need to provide guidelines and controls in relation to retention of streetscape and character
- the need for Tweed Street to be integrated into the village
- the need for the development of a 'design theme' for the town centre as part of the Brunswick Head DCP.

With reference to the second dot point, the strategy recommends that any integration of Tweed Street into the village would need to take place with a focus on traffic management, pedestrian amenity and streetscape design, which are more urban design issues than zoning issues. It is also noteworthy that the community (from the community consultation results provided in Section 3 and Appendix A) appears divided in its opinion regarding this issue. Council should consider potential linkages between the Tweed Street commercial area and the existing town centre (Byron Shire Council December 2004).

2.3.7 Bangalow Settlement Strategy

The Bangalow Settlement Strategy was adopted by Council in December 2003 and outlines constraints to development within the village. Strategies are identified to manage the village's growth over a 10–20-year period so as to 'maintain the character, image, built form, heritage values and maximise the use of the available land, infrastructure and natural resources to achieve the community's vision' (Byron Shire Council, 2003a).

The community vision for Bangalow is stated within the strategy as:

... a healthy environment to live, work and raise a family; a village rich in history and heritage, a socially resilient community and economically viable centre, providing a range of services to the people of the community and the surrounding area; nestled in the hills, surrounded by natural beauty and rich in ecological biodiversity.

The strategy does not endorse ongoing growth beyond that which is ecologically, physically, economically and socially sustainable. The areas suitable for possible future development within Bangalow have been determined by an analysis of ecological and physical

constraints. This analysis has determined that there is limited potential for expansion of residential growth in the area.

A staged release program is presented within the strategy, which is proposed to ‘manage future, limited residential area expansion’. The strategy notes that the nine areas under investigation have issues that need to be addressed prior to rezoning; the right to rezone and subdivide these areas is not guaranteed. Four site specific rezoning sites (Area 1, 2 and 3, Area 4, Area 6 and Area 7) identified in the strategy for urban developments in the short to medium term are as follows:

- Area 1,2 and 3 combined:
 - Area 1 — top of Rankin Drive, near the water reservoir
 - Area 2 — between Rankin Drive and Pacific Highway, discussed in site specifics section
 - Area 3 – Corlis Close off Rankin Drive
- Area 4 — land on Old Pacific Highway, south of 2(a) (Residential Zone) land
- Area 6 — land zoned 1(d) (Investigation Zone) off Thomas Street
- Area 7 — land off Parrott Tree Place.

The first stage of the land release program is infill and further development of the existing 2(a) (Residential Zone) land. This study addresses the rezoning of certain lands for residential development at Bangalow, in Section 7.4

2.3.8 Draft Social Impact Assessment Policy and DCP

The draft *Social Impact Assessment Policy* was developed by Byron Shire Council to provide a mechanism for identifying and assessing the impact upon the community of proposed projects, policies and developments (Byron Shire Council 2006b). The objectives of the policy are outlined below:

- to assist in achieving sustainable, resilient and cohesive communities within the Shire
- to enhance consistency, certainty and transparency in Council’s assessment of the positive and negative social impacts of proposed development and infrastructure
- to maximise the positive social impacts of development and minimise negative social impacts of development
- to ensure that proposals that do not require a development application but are likely to cause significant social impacts are guided by social impact assessments.

The draft policy identifies proposals for which a social impact assessment may be required; these include a new strategic plan, an affordable housing project and infrastructure proposals. The policy aims to ensure that proposals that are likely to have ‘significant social impacts’ are properly considered. The draft DCP presents the following six social elements for consideration:

- transport
- safety
- diversity

- amenity
- employment
- culture.

The draft DCP provides a social impact assessment and management process to determine the level of assessment that is required to predict the social impact of a development (Byron Shire Council 2006b).

2.3.9 Byron Shire Urban Affordable Housing Strategy

The Affordable Housing Strategy Steering Committee, established by Council in 2000, developed the *Byron Shire Urban Affordable Housing Strategy* to 'provide advice and direction about ways to achieve affordable housing appropriate to the needs of people in Byron Shire and to identify specific strategies to achieve this'. The strategy identifies key strategies along with recommended modifications to Council's planning instruments, in an aim to address affordable housing needs and issues within the Shire (Byron Shire Council 2002b).

The strategy notes that when housing costs exceed 30% of income in low to median income families, some form of housing stress is likely to occur. The strategy identifies that housing affordability within Byron Shire is restricted as a result of rapid population growth, tourist pressures, and the increasing popularity of the area as a 'sea change' destination for retirees and baby-boomers. The sewage moratorium and the limited opportunities available for new housing development within the Shire are noted as another factor placing a major stress on housing affordability within the Byron Shire. Housing affordability is impacted further by the relatively low incomes of Byron Shire's residents and the relatively high rents and housing prices (Byron Shire Council 2002b).

The strategy defines the affordable housing situation in Byron Shire as well as addressing the specific affordable housing needs currently facing the LGA. To cater for affordable housing within the Shire, the strategy presents various 'Council initiatives', which are intended to act as practical pathways to affordable housing (Byron Shire Council 2002b).

Council initiatives presented within the Affordable Housing Strategy include, amongst others: the introduction of waiver, reduction or deferral of fees for designated affordable housing projects, special zoning consideration be given to affordable housing projects, utilise Section 94 developer contributions to promote housing affordability, support public and community housing, and development of eco-villages/co-housing (Byron Shire Council 2002b).

Council is moving towards implementing various components of the affordable housing strategy through an implementation plan. The Shire-wide LEP should provide appropriate supply of land as well as allowing for a diverse range of housing choices, including higher density, to address the affordability issue as identified in the *Far North Coast Regional Strategy* (refer Section 2.2.5). It should be noted that affordable housing will be an issue that is to be considered in the review of the Byron Rural Settlement Strategy (see below).

While the eco-villages and co-housing initiatives identified within the Affordable Housing Strategy can be applied to rural areas, the strategy's primary focus is on urban areas within the Shire. The rural areas of Byron Shire have specific affordability issues and needs, and it is recommended that a specific rural housing strategy be developed.

2.3.10 Byron Rural Settlement Strategy

The *Byron Rural Settlement Strategy 1998* (BRSS) outlines Council's aims and objectives for future rural settlements in the Shire. The need for such a strategy stems from the unsustainable nature of past patterns of rural settlement throughout the Shire (Byron Shire Council 1998b).

From the late 1960s to the 1980s, rural settlement in the Shire was largely characterised as concessional allotments excised from rural landholdings and other small allotment subdivisions, which resulted in a dispersed rural settlement pattern. In 1998, some 1,200 concessional allotments and severed-lot subdivisions existed throughout rural areas of the Shire. In addition, some 800 rural small holdings in a number of dispersed designated rural residential areas also existed (Byron Shire Council 1998b). These low-density dispersed settlements have alienated rural areas from other parts of the Shire, and increased the cost of physical infrastructure and human services.

Following completion of the Byron LEP 1988, the Byron Residential Development Strategy 1993 identified preferred rural residential areas in accordance with the zone objectives set out in the Byron LEP 1988. However, there was no systematic process to support the selection and siting of these preferred areas. Indeed, some of these preferred areas may have jeopardised lands having greater potential for urban expansion. While the Byron Residential Development Strategy 1993 did set out minimum land capability criteria for rezoning of rural land, it also adopted a merit-based approach to rural residential settlement. This allowed rural settlement to occur outside designated rural residential zones if the proposals could meet very broad criteria. This enabled subdivisions in rural areas that were not intrinsically suitable for this form of settlement. The *Byron Residential Development Strategy 1993* may have represented best practice at the time, but a more ecologically, socially and economically integrated and catchment-based approach to rural settlement was required if the Shire was to become sustainable (Byron Shire Council 1998b, 1993).

To try to reduce the isolation of rural settlements, and to provide a better way of life in rural areas, the BRSS was adopted by Council in 1998. The BRSS seeks to provide a range of rural lifestyle opportunities that were compatible with the natural environment, settlement patterns, community aspirations and economic pursuits of people working in the rural areas. The vision of the BRSS is:

Sustainability for our rural communities, land uses and ecology through collective responsibility for their protection, repair, management and use.

To achieve the BRSS guiding principles, the BRSS correspondingly places considerable emphasis on responsible land and resource management. This includes linking future rural settlement to environmental repair and enhancement. The key outcomes of this BRSS are a ten year Rural Land Release Program and best practice guidelines and performance standards. The Rural Land Release Program component of the BRSS identifies areas for future rural settlement which clearly meet sustainability criteria in terms of ecological/physical, social and economic infrastructure/servicing values (Byron Shire Council 1998b).

Council resolved to review the BRSS in February 2005; this review is currently being undertaken with a view to publicly exhibit the draft strategy in 2008.

2.3.11 Byron Shire tourism management — an options paper for consideration

In 2002, Byron Shire Council, in conjunction with Tourism New South Wales, commissioned the *Byron Shire Tourism Management — Options Paper* (Tonge et al., 2002). The options paper provides guidance and assistance to Council in 'balancing the management of tourism and its impact on the community in Byron Shire'. The options paper covers the entire Shire; however, focus is placed upon the area of Byron Bay. Strategies and recommendations are identified within the paper and relate to various aspects of the Shire, including tourism accommodation within Byron Bay, traffic and parking within Byron Bay, accommodation auditing and compliance, short-term tourism rental accommodation, rural and hinterland and other area-specific strategies.

The strategies and recommendations identified within the options paper aim to shift the tourism impact upon Byron 'towards manageable and adequately acceptable community levels, improving the quality of life for residents, maintaining the quality of visit by tourists and the economic benefit tourism brings to Byron, thereby sustaining the community'.

The issues identified within the options paper have been given consideration within the preparation of the LES. In the preparation of the LEP, Council will need to ensure consistency with the *Byron Shire Tourism Management — Options Paper* (Tonge et al., 2002).

The Southern Cross University has been engaged to undertake the Tourism Management Plan for the Byron Shire, which is yet to be completed. The outcomes of this plan were not available at the time of writing the LES but will need to be considered where possible in the Shire-wide LEP.

2.3.12 Byron Shire Sustainable Agriculture Strategy

The *Byron Shire Sustainable Agriculture Strategy* was prepared by Byron Shire Council with the support of the Commonwealth and NSW Governments (Byron Shire Council and Byron Shire Sustainable Agriculture Round Table 2004). The strategy was adopted in 2004 and develops a framework to achieve sustainable agriculture within the Byron Shire.

The strategy's goal includes:

... to develop diverse and productive agriculture in Byron Shire that is profitable for producers and the community, protects and enhances the natural environment on which it depends and provides healthy nutritious food, fibre, timber and other products and services for the community and beyond.

The strategy sets out practical and achievable means to progress towards sustainable agriculture over the 10-year period of 2004–2014. Five main issues are addressed within the strategy's priority areas: land use policy and planning, natural resource management, economic viability, community support for agriculture, and access to research, extension services and information resources.

In terms of the Shire-wide LES and the preparation of the LEP, the agricultural strategy identified several priority actions that require consideration. These actions relate to the objectives of the land use and policy planning issue, and include, amongst others: 'Objective 1: Permanently secure valuable suitable land for the purpose of agriculture, now and for the future — (iii) Inform the Shire-wide LEP process on locally significant lands for agriculture'.

The relevant issues, objectives and priority actions identified within the *Byron Shire Sustainable Agriculture Strategy* will need to be addressed within Council's LEP document to ensure the successful implementation of the strategy.

Byron Shire Sustainable Agriculture Strategy — Case Studies of Good Production, Environmental Practice and Innovation by Local Producers

The *Byron Shire Sustainable Agriculture Strategy — Case Studies of Good Production, Environmental Practice and Innovation by Local Producers* form part of the Byron Shire Sustainable Agriculture Strategy. The document has been produced to illustrate, and provide examples, of how local farmers' every day operations and production can be linked to natural resource management for 'better environmental and production outcomes'. The strategy achieves this by identifying both case studies and industry standards for good practice and environmental management, which will be added to and updated over time.

2.3.13 Byron Biodiversity Conservation Strategy

In 2004, Council prepared the *Byron Biodiversity Conservation Strategy* (Byron Shire Council September 2004) in recognition of the compounding problems that loss of vegetation and human land use practices are having on the ecology of the Shire. The aim of the strategy is to promote ecologically sustainable development and, in particular, the principle of conserving and enhancing biological diversity and ecological integrity in the Shire. Actions from the strategy include incorporation of the concept of wildlife corridors, and environmental repair and enhancement into its planning controls.

2.3.14 Greenhouse Action Strategy

In 2004, Council also adopted the *Byron Shire Greenhouse Action Strategy* (Byron Shire Council June 2004b). In response to the important role local government can play in the reduction of greenhouse gases, Byron Shire Council joined the Cities for Climate Protection (CCP) program in September 2002. CCP Australia is an International Council for Local Environmental Initiatives program, delivered in collaboration with the Australian Greenhouse Office, an agency of the Australian Government. As part of this program, Council created an emissions inventory and forecast in order to strategically identify what activities are contributing to greenhouse gas emissions and to determine the most appropriate strategic actions to reduce these emissions. The *Byron Shire Greenhouse Action Strategy* serves to assist Council in implementing practical greenhouse abatement actions in order to achieve its emission reduction goals. To obtain the greatest economic, social and environmental benefits of this program, this strategy should be seen as a 'living document', whereby alternative actions may be added. Further review of this document will occur throughout the implementation, monitoring and evaluation stages (Byron Shire Council June 2004b).

2.3.15 Byron flora and fauna study

Council commissioned a flora and fauna study, which was completed in 1999 (Byron Shire Council 1999). The aim of this study was to provide information on the distribution of plant communities/associations, and identify threatened or significant species. The study found that the Shire contains a high proportion of biodiversity on all levels.

2.3.16 Development control plans

Council has prepared a number of development control plans (DCPs), which provide specific detailed objectives and development controls relating to land uses within the Byron Shire LGA.

DCP 2002 is the over-arching development control plan relating to the Byron Shire LGA. It contains general objectives to guide land uses and development within the Byron Shire LGA. The plan identifies detailed development controls for residential, rural residential, commercial and industrial uses, as well as bushfire areas, erosion-prone areas and flood-labile land. Specific controls relating to subdivision, vehicle circulation and parking, landscape, stormwater management and signs are also stipulated within the plan.

The site-specific and area-specific DCPs (including drafts) are listed below:

- Development Control Plan No.3 — The Epicentre Byron Bay
- Development Control Plan No.4 — Friday Hut Road Coorabell
- Development Control Plan No.6 — Bayside Brunswick Estate
- Development Control Plan No.7 — Village of Federal
- Development Control Plan No.8 — Village of Main Arm
- Development Control Plan No.9 — Suffolk Park
- Development Control Plan No.10 — Coopers Shoot
- Development Control Plan No.11 — Mullumbimby
- Development Control Plan No.12 — Bangalow
- Development Control Plan No.14 — Ocean Shores
- Development Control Plan No.18 — Becton Site and Adjoining Lands
- Development Control Plan No.19 — Broken Head
- Draft Development Control Plan — Main Arm
- Draft Development Control Plan No.20 — Bayshore Village, Byron Bay.

The following DCPs apply to the Shire as a whole:

- Development Control Plan No.17 — Public Exhibition and Notification of Development Applications
- Development Control Plan No.15 — Industrial Development
- Development Control Plan No.16 — Exempt and Complying Development
- Draft Development Control Plan No.21 — Social Impact Assessment.

2.3.17 Local area management plans

Local area management plans (LAMPs) were initiated in the late 1990s, prior to and during the development of the *Byron Rural Settlement Strategy* (refer Section 2.3.10). LAMPs are intended to provide a guide to a particular community's views as to the future development and management of their area. Another purpose of LAMPs is to provide Council with information on the range of views in a particular community regarding possible development options, issues to be addressed, and community services and facilities required. LAMPs

were used as a means of ensuring that the *Byron Rural Settlement Strategy* better reflected the diversity of identities, visions, aims and concerns among the different rural catchments within the Shire. LAMPs were, therefore, prepared by the relevant community with the aim of providing Council with a document that outlines a particular community's views regarding the future development and management of their area.

The rural communities within the Shire who have formed their own LAMPs include:

- East Tyagarah
- Possum Creek-Coorabell
- Fowlers Lane
- Tibian Valley-Goonengerry
- Upper Coopers Creek
- Wilsons Creek-Huonbrook
- Mullumbimby Creek
- Skinners Shoot
- Ewingsdale
- Suffolk Park.

The various LAMPs have significance for the preparation of DCP provisions as they provide framework for future development within the growth boundaries of each area. The LAMPs have been further considered in Section 5.9.

3. Stakeholder consultation

Byron Shire Council conducted various forms of consultation with government and non-government organisations as part of the development of the Shire-wide Local Environmental Plan (LEP). The consultation resulted in a range of responses, which are discussed in Sections 3.1 and 3.2.

3.1 Government consultation

In terms of the *Environmental Planning and Assessment Act of 1979* (EP&A Act), Section 62 must be applied when preparing a Local Environmental Study (LES). Section 62 states that:

In the preparation of an environmental study or a draft local environmental plan, the council shall consult with:

- (a) such public authorities or bodies (including authorities of the Commonwealth or other States) as, in its opinion, will or may be affected by that draft local environmental plan,
- (b) where the draft local environmental plan applies to land adjoining a boundary between the council's area and another area—the council of that other area, and
- (c) such other persons as the council determines.

In light of the above, consultation with various organisations, stakeholders and relevant government agencies has and will continue to take place. This section identifies the organisations, stakeholders and relevant government agencies that have been engaged to date. A summary of the responses from the public authorities, as required by Section 62, is attached as Appendix A, which also discusses any possible ramifications of the issues raised for the LEP.

In addition to Section 62, Section 34A(2) of the EP&A Act requires Council to consult with the Director-General of the National Parks and Wildlife Service before preparing an environmental study or a draft LEP if Council forms the opinion that critical habitat of threatened species, populations or ecological communities or their habitats will or may be affected by the environmental study or draft plan. No specific submission has been provided by the Department of Environment and Climate Change (DECC) in relation to Section 34A(2) at this stage of the LEP process.

In accordance with Section 62, Council received correspondence from the following agencies:

- NSW Rural Fire Service, dated 11 April 2007
- Department of Natural Resources (now DECC), dated 19 December 2006
- Department of Primary Industries, dated 21 December 2006 and 2 April 2007
- Roads and Traffic Authority of NSW, dated 19 January 2007 and 22 February 2007
- Heritage Council of NSW, dated 22 December 2006
- North Coast Public Health Unit — Lismore, dated 7 November 2006
- Northern NSW Housing Services Division, dated 20 February 2007
- Marine Parks Authority — Byron Marine Park, dated 18 January 2007

- Tourism NSW, dated 24 January 2007
- Northern Rivers Catchment Management Authority, dated 2 January 2007
- Rous Water — Regional Water Supply, dated 20 April 2007 and 4 May 2007
- Department of Lands, dated 11 July 2007.

Further consultation will occur with government agencies as preparation of the LEP progresses, especially relating to specific sites.

3.2 Community consultation

In addition to the consultation required by Section 62 of the EP&A Act, Council undertook targeted community and stakeholder consultation (refer to list of groups in Appendix A). Meetings were held with representatives of the following community groups (a summary of their responses is also provided in Appendix A):

- Planners, Developers, Architects, Building Designers and Real Estate Agents on 24 April 2007
- BEACON on the 2 May 2007
- South Golden Beach Progress Association and Conservation of North Ocean Shores (CONOS) on the 18 May 2007
- Wategos Community on 3 April 2007
- Bangalow Community Alliance on 17 May 2007
- Brunswick Heads Community/Chamber of Commerce on 7 May 2007
- Main Arm Community on 8 May 2007
- New Brighton Progress Association on 1 May 2007
- Byron United Community on 23 April 2007
- Federal Community on 2 April 2007
- Sustainable Agriculture Round Table (SART) on 10 May 2007
- Brunswick Valley and Nashua Landcare on 3 May 2007
- Skinners Shoot Community on 30 March 2007.

Written correspondence was also received from the following community groups (a summary of their responses is provided in Appendix A):

- South Golden Beach Progress Association Inc., dated 18 May 2007
- Brunswick Heads Progress Association, email dated 28 May 2007 and letter dated 14 June 2007
- Brunswick Heads Progress Association, dated 28 May 2007
- Skinners Shoot Residents Group, dated 11 April 2007
- Federal Community Centre/Landcare, dated 8 May 2007
- Main Arm Residents Association, dated 23 May 2007
- New Brighton Village Association, 'Community objectives for the new Byron Shire LEP 2007'

- Bangalow Residents, dated 22 June 2007
- Conservation of North Ocean Shores, dated 5 June 2007.

It is clear from the variety of submissions received that the residents of Byron Shire have very strong feelings about the place they live. Many respondents hope that they would be able to positively influence the future planning strategies of Council. From the variety of meetings held and submissions received some common themes became apparent, which are summarised below.

Firstly, there is obvious concern with many in the community — who are very committed to maintaining and preserving the perceived ‘village’ atmosphere of Byron Shire — about the pressures to accommodate increasing numbers of residents and tourists. Preservation of ‘character’, ‘aesthetic values’, ‘atmosphere’ and ‘heritage’ was a common theme but it is clear there are many interpretations of these aspects. The need to retain and protect productive farmland was also raised. Additionally, the recognition of the area as a possible World Heritage Site was discussed.

The importance of zoning controls in managing the development process and moderating negative outcomes was a common theme. Lot sizes, community title, dwelling entitlements, dual occupancy, subdivision of lots, height restrictions, controls on commercial development, garden flats and holiday lettings were amongst the concerns raised. The rate and use of Section 94 Contributions was also queried.

Most groups were aware of the pressures on existing infrastructure, and the considerable investment required if the ambitions in the various residential and tourism strategies were to be realised. Traffic management and roads were seen as limiting factors for many communities already, and were considered to be already stretched and over-used. Additionally, the provision of basic water and sewerage services was considered another pressure point that needed investment to deal with any growth in residents or tourists. Many concerns were raised about flooding and other water quality issues. Public transport was also seen as a key issue in the Shire.

The hinterland, wildlife corridors, coastal zones, vegetation, bushfire and biodiversity were some of the issues associated with the environment that were discussed. The importance of the dune areas and the possibility of reclaiming areas seen as particularly vulnerable were also flagged.

Finally, the extent and opportunity for consultation, and the ability to influence the outcomes of the LES and LEP process, was also a common concern of a majority of respondents.

4. Natural environment

Byron Shire lies within the biogeographic province known as the McPherson-Macleay overlap and is centred in the Wet Subtropics Bioregion (Burbidge 1960). The region's unique combination of landform, soil and climate supports an area of great ecological significance with one of the richest and most diverse assemblages of fauna and flora in Australia.

The Shire's rich biodiversity supports some of the highest frog, snake and marsupial diversity per unit area of land in Australia, while the region's bird diversity is second only to the Wet Tropics. The Shire also supports over half the state's plant species. Importantly, this area forms a transition zone between the tropical and temperate environments with many species reaching their southern and northern distributional limits (Byron Shire Council 1999).

Topographically, the Shire is significantly influenced in the east by coastal floodplains and a complex mosaic of coastal estuaries, dune systems and back barrier swamps, while the west is dominated by the fertile and rugged topography of the Mt Warning shield volcano, rising steeply to 800 metres above sea level in the Koonyum Range.

The characteristically rich soils and high rainfall that contributes to a diverse array of habitat for many of the region's species has also supported some of the most agriculturally-valuable lands of eastern NSW. The resulting conflicts between over 150 years of agricultural productivity and the region's naturally high level of biodiversity has consequently resulted in Byron Shire supporting the highest number of threatened species within the state. Approximately 70 plant species and 90 animal species recognised as vulnerable or endangered are known to occur in the Shire (Byron Shire Council 2007a).

The future environmental planning of the Shire requires significant management and protection of the complex ecological constraints associated with the majority of the remaining naturally vegetated areas, coupled with the broader landscape constraints of the coastal floodplains and retention of the viable agricultural lands.

This Chapter provides an overview of biodiversity; landform, soils and geology; bushfire; flooding and stormwater; coastal zone; and climate change issues within the Shire. The existing conditions and potential development constraints are identified, as are outcomes that will assist in the preparation of the Shire-wide local environmental plan (LEP).

4.1 Biodiversity

Section 4.1 broadly explores the biodiversity values of the Shire and the various strategies that have been prepared to manage those values.

4.1.1 Introduction

Biodiversity within Byron Shire has been discussed in a variety of documents, including:

- *Byron Flora and Fauna Study* (Byron Shire Council 1999)
- *Byron Biodiversity Conservation Strategy*, Parts 1, 2 and 3 (Byron Shire Council September 2004)
- Byron Shire State of the Environment reports
- *Byron Bay, Suffolk Park and Ewingsdale LES* (Byron Shire Council 2005a)

- *Byron Coastline Management Study* (Byron Shire Council 2003b)
- *Draft Brunswick Estuary Management Plan* (Byron Shire Council 2005b)
- *Belongil Estuary Study and Management Plan* (Byron Shire Council 2001).

These documents have been examined and much of the following discussion has been adopted from them.

Biodiversity is 'the variety of life-forms and their patterns in space', and includes all living things (plants, animals and micro-organisms), the genes they contain and the range of ecosystems they form. Biodiversity can be considered at three levels:

- **Genetic diversity**, which relates to the variety of genetic information contained in all living things
- **Species diversity**, which refers to the variety of species on Earth, and is usually a measure of the number of species and their relative abundances at a point in time
- **Ecosystem diversity**, which refers to the variety of habitats/communities of species and the diversity of interactions between community members (ecological processes). An ecosystem consists of all living and non-living things that interact as a unit.

Other important considerations, which are generally less well understood, include biodiversity interactions and the recognition of biodiversity at the landscape level. Biodiversity at the landscape level includes the diversity and the relative distribution of ecosystems (and all that they contain) across the broader landscape.

In assessing biodiversity it is important to include everything that helps maintain biodiversity and to understand what leads to the loss of essential parts within a system. This includes such things as geology/soils, landforms, topography, landscapes, climate, fire regimes, disturbances, relationships between living things, invasions by exotic species, and the range of pressures related to human land use and settlement.

Biodiversity also provides society with a wide range of secondary benefits that are difficult to put a dollar value on. Examples include producing oxygen, controlling climate, forming soil, stabilising land, purifying water, controlling pests, disposing of wastes and recycling nutrients. These benefits (ecosystem services) form 'the basis for healthy, functioning ecosystems' and are essential to human life. Maintaining biodiversity is also of great importance to many major industries, including fisheries, forestry, agriculture and tourism. (Byron Shire Council September 2004).

4.1.2 Byron Flora and Fauna Study

Council commissioned a flora and fauna study, which was completed in 1999 (Byron Shire Council 1999). The aim of the study was to provide information on the distribution of plant communities/associations, and to identify threatened or significant species. The main findings of the study showed that:

- Byron Shire is an area of extremely high biodiversity on all levels (genetics, species and ecosystems).
- The area contains many plant and animal species that are at their distributional limits.
- The Shire provides important habitat for subtropical rainforest species, including several primitive rainforest plants (species related to ancient families).

- Byron Shire has one of the highest numbers of threatened species in NSW, including 70 threatened animals and 38 threatened plants (most of which are inadequately reserved).

The study also showed that, despite the high biodiversity and threatened species in the Shire, the majority of the habitats present have been disturbed by human activities to some degree.

4.1.3 Byron Biodiversity Conservation Strategy

As stated previously, Byron Shire Council prepared a *Biodiversity Conservation Strategy* (BCS) (Byron Shire Council September 2004) in recognition of the compounding problems that loss of vegetation and human land use practices are having on the Shire's ecology. The objectives of this strategy are to:

- Ensure the survival and adaptive capacity of species, populations and ecological communities of plants, animals and micro-organisms native to Byron Shire.
- To improve the condition of ecosystems and increase the extent of native vegetation cover in the Shire through targeted ecological restoration works and development of appropriate planning controls.
- Identify High Conservation Value vegetation and habitats (HCV) and Wildlife Corridors (including the ecosystems, habitats, species and genotypes they contain) that require protection, ecological restoration and/or threat abatement.
- Develop a regulatory framework for the protection and management of identified HCV and Wildlife Corridors, so as to enhance their long-term ecological viability, and encourage appropriate ecologically sustainable development.
- Improve the integration of biodiversity conservation and management principles with social, economic and environmental considerations in Byron Shire's land use planning decision-making processes and day-to-day operations.
- Ensure that biodiversity conservation, restoration and management is considered in Council decision making.
- Encourage and promote the importance of native biodiversity protection and restoration across the Shire, strengthening existing initiatives and developing new ones in consultation with the community, industry and relevant government agencies.
- Develop a greater understanding of biodiversity issues, values and solutions throughout Byron Shire, utilising existing information and networks and fostering greater links between Council, the community, industry and government agencies.
- Identify threatening processes and develop actions that will prevent the further degradation of biodiversity values.
- Identify and implement appropriate management for HCV, biodiversity hotspots, areas under threat and areas with specific biodiversity issues within Byron Shire.
- To prioritise biodiversity conservation actions on lands with the highest conservation value.
- Identify and access funding sources and resources for biodiversity management.
- Improve the valuation of goods and services provided by biodiversity to our local economy and social well-being.

Actions from the strategy included incorporation of the concept of wildlife corridors, and environmental repair and enhancement into its planning controls.

Wildlife corridors are very important for biodiversity, as they are critical for the maintenance of ecological processes. Some of these processes include animal and genetic movement across landscapes, continuation of viable populations, migration and colonisation.

Wildlife corridor mapping has been undertaken in north-eastern NSW by the Department of Environment and Climate Change (DECC) (Scotts, 2003) to consolidate areas of potential high conservation value for priority forest fauna and to identify habitat corridors linking these areas across landscapes. This corridor mapping was indicative only and was refined in the BCS (see Figure 4). Council's corridor mapping identifies a number of regional and subregional wildlife corridors, and further divides these into vegetated corridors (already providing habitat) and non-vegetated corridors (requiring environmental repair and enhancement). Local corridors have not been currently mapped.

Importantly, the strategy also identified and mapped HCV, which was determined using a relative ecological value matrix for a variety of ecological criteria within Byron Shire. Within this process, each criterion is assigned point values or scores, which are tallied according to the number of criteria mapped within a given area of vegetation (Byron Shire Council September 2004).

The ecological criteria included in the determination of HCV were:

- growth stage of vegetation
- rare, endangered and vulnerable forest ecosystems
- forest ecosystems with limited extent in the Shire
- adequacy of distribution of forest ecosystems
- adequacy of reservation of forest ecosystems
- percentage of forest ecosystems cleared in the upper north-east Comprehensive Regional Assessment (CRA)
- locally endemic forest ecosystems
- forest ecosystems whose target cannot be met wholly on public lands
- fauna corridors
- significant fauna habitats
- Grey-headed Flying Fox and Black Flying Fox maternity and roost sites
- koala habitat
- threatened fauna locations
- significant Byron Shire flora habitats
- subject to threatening process
- rare and threatened flora locations
- wetlands
- native grasslands
- heath and Banksia

- Register of the National Estate
- floodplains
- SEPP 26 mapping
- endangered ecological community locations
- patch/remnant size — ecological resilience to threatening processes
- patch/remnant size — ecological threat in core vegetation.

This mapping has since been updated (in 2007) to incorporate higher resolution air-photo imagery, new threatened species records and endangered ecological community listings. The distribution of HCV is shown in Figure 5.

4.1.4 Northern Rivers Catchment Action Plan

The *Northern Rivers Catchment Action Plan* (CAP), prepared in 2005 by the Northern Rivers Catchment Management Authority (CMA), is a 10-year plan aimed at guiding natural resource management across the Northern Rivers region. Developing a CAP is a requirement of all NSW CMAs under the *Catchment Management Authorities Act 2003* (Catchment Management Authority 2005).

The CAP is a statutory, but non-regulatory, plan approved by the (then) Minister for Natural Resources, and will be the central mechanism to prioritise and deliver natural resource management investments and outcomes to the catchment community of the Northern Rivers region. As part of this plan, biodiversity-related targets and actions are identified, many of which are relevant to the Shire's environmental planning.

The application of the E2 — Environmental Conservation, E3 — Environmental Management, E4 — Environmental Living and W1 — Natural Waterways zoning, based in part on the detailed HCV classification developed within the *Biodiversity Conservation Strategy* (refer Section 4.1.3), ensures that the CAP's biodiversity-related targets and actions are supported.

4.1.5 Native Vegetation Act 2003 and BioMetric Assessment

In December 2005, the *Native Vegetation Act 2003* (NV Act) was enforced in NSW with the broad objective of preventing broad scale clearing, unless environmental outcomes are improved or maintained. With the implementation of this Act, development involving the clearing of native vegetation in areas of non-residential zoned land may require approval from both the Northern Rivers CMA under the NV Act and from Byron Shire Council under the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The adoption of Clause 34 of the Standard LEP will result in planning controls for identified species or kinds of trees or other vegetation that are prescribed for the purposes of the clause by a development control plan (DCP) made by the Council. The DCP may prescribe the trees or other vegetation to which Clause 34 applies by reference to species, size, location or other manner. According to Sub-clause (8), where the NV Act, *Native Vegetation Conservation Act 1997*, *Forestry Act 1916*, *Electricity Supply Act 1995*, *Roads Act 1993*, *Surveying Act 2002* or *Noxious Weeds Act 1993* require consent to clear vegetation or where clearing is identified as exempt, Clause 34 does not apply. The operation of the various Acts may limit the ability of Council to implement its *Biodiversity Conservation Strategy* in certain circumstances.

The NV Act applies to all lands not identified as excluded lands. Lands excluded from the Act include:

- National park estate and other conservation areas
- State forestry land
- listed local government areas (LGAs)
- land zoned in an environmental planning instrument as residential (but not rural residential), village, township, industrial or business, or, having regard to the purpose of the zone, having the substantial character of a zone so designated.

To assess a proposal's ability to 'improve or maintain' biodiversity outcomes under the NV Act, CMAs use the *BioMetric Assessment Tool* (NSW Department of Environment and Conservation 2005). The implementation of the *BioMetric Assessment Tool* to assess the clearing of native vegetation within non-urban zoned lands significantly influences the potential clearing and biodiversity outcomes within the Shire. In particular, clearing of vegetation that may be permissible under the local planning provisions and the EP&A Act may not meet specific 'improve or maintain' criteria for constraints within the *BioMetric Assessment Tool* and, therefore, is not be permissible under the NV Act.

Constraints that may not be cleared, regardless of offsetting, under the *BioMetric Assessment Tool* include the clearing of vegetation not in 'low condition' and that comprises one of the following:

- Endangered Ecological Communities — as listed on the schedules of the *Threatened Species and Conservation Act 1995* (TSC Act).
- Over-cleared vegetation types — under the *Environmental Outcomes Methods of the Native Vegetation Act* (NSW Department of Natural Resources 2005), a vegetation type that is greater than 70% cleared is considered to be over-cleared.
- Over-cleared Mitchell Landscapes — under the *Environmental Outcomes Methods of the Native Vegetation Act* (NSW Department of Natural Resources 2005), a landscape that is greater than 70% cleared is considered to be over-cleared.

Within Byron Shire, the constraints identified above are generally incorporated within the existing HCV areas and will be suitably protected under the environmental protection zoning.

4.1.6 Terrestrial ecosystem types — Mitchell Landscapes

Mitchell Landscapes are a system of ecosystem classification mapped at the 1:250,000 scale, based on a combination of soils, topography and vegetation (NSW National Parks and Wildlife Service 2002). Seven landscapes occur in the Byron Shire:

- Lamington Volcanic Slopes (49% of the Shire)
- Byron-Tweed Alluvial Plains (17% of the Shire)
- Mount Warning Exhumed Slopes (15.5% of the Shire)
- Nimbin Ridges (9.5% of the Shires)
- Summervale Range (5% of the Shire)
- Byron-Tweed Coastal Barriers (2.3% of the Shire)
- Clarence-Richmond Alluvial Plain (1.7% of the Shire).

These landscapes are described below based on the *BioMetric Assessment Tool* (NSW Department of Environment and Conservation 2005), including an estimation of clearing across the landscape and are shown in Figure 2. CMAs use the estimated clearing across the landscape when assessing clearing applications under the NV Act. Under the *Environmental Outcomes Methods of the Native Vegetation Act* (NSW Department of Natural Resources 2005), a landscape that is greater than 70% cleared is considered to be over-cleared and generally no further clearing is allowed for clearing requiring approval under the NV Act.

Lamington Volcanic Slopes — 57% cleared

This landscape has very extensive hills and ridges forming a broadly circular pattern 50 kilometres in diameter with radial drainage centred on Mt Warning. The geology is Tertiary Lamington volcanic, which is composed of a complex of multiple layers of flows of basalt, rhyolite and trachyte and pyroclastics including tuff and agglomerate. This landscape has a general elevation of 50–1,120 metres, with local relief varying considerably and is greatest in the higher parts of the landscape where it is up to 500 metres. Soils are mostly red and brown gradational structured loams with high organic content and high fertility. On lower slopes adjacent to valleys red, brown and grey-brown texture-contrast soils occur. Most of the ecosystem is covered in subtropical closed forest with stands of cool temperate Antarctic beech above 1,000 metres. Typical subtropical species include White Booyong, Red Carabeen, Rose Marara, Pigeonberry Ash, Myrtle Ebony, Incense Cedar, and emergent Moreton Bay Fig, Strangling Fig, Giant Stinging Tree and Yellow Carabeen. Drier sites and less fertile soils support forests of Sydney Blue Gum, Brush Box, Broad-leaved Apple, Flooded Gum, Turpentine, Blackbutt and Coachwood. On lower slopes the vegetation consists of Tallowwood, Grey Gum, White Mahogany, Ribbon Gum and Forest Oak.

Byron-Tweed Alluvial Plains — 79% cleared

This landscape includes channels, floodplain, terraces and estuaries of the Tweed River and other coastal streams on Quaternary alluvium, with a general elevation below 50 metres. The soils are uniform brown earths and structured brown clays on floodplains, with high organic content on terrace remnants. Most of the valley is cleared but contained subtropical closed forest with White Booyong and Red Cedar, and retains many rare species such as Heart-Leaved Bosistoa, Velvet Laurel, Red-Fruited Ebony and Southern Fontainea. Dry coastal hardwood forest occurs on the terraces and slopes, and includes species such as Cabbage Gum, Forest Red Gum, Broad-leaved Apple, River Oak, Silky Oak, Rough-barked Apple, Native Teak, Coastal Grey Box, Pink Bloodwood, Spotted Gum, Grey Ironbark, Broad-leaved Paperbark, Blackwood and Black She-oak.

Mount Warning Exhumed Slopes — 62% cleared

This landscape has moderately steep hills and ridges with central drainage to the Tweed River formed on the slopes of a pre-Tertiary landscape exposed by erosion of the Lamington volcanics. The geology includes Silurian/Devonian greywacke, slate, phyllite and quartzite; Triassic rhyolite, tuff and claystone; and Jurassic shale sandstone and coal. The area has a general elevation of 25–300 metres, with local relief of 125 metres. The soils are shallow structured and friable red and brown loam and clay loam gradational profiles. Vegetation is dominated by subtropical and tropical closed forest of White Booyong, Native Teak, Pigeonberry Ash, Ball Nut, Ferny-leaf Bosistoa, Union Nut, Doughwood, Crow's Ash, Red Lilly Pilly and numerous vines. Marginal areas of Tallowwood, Sydney Blue Gum, Red Bloodwood, Turpentine, Brush Box and Blackwood also occur.

Nimbin Ridges — 5% cleared

This landscape has steep ridges and prominent 100-metre cliff line with sub-parallel incised valleys on layered basalt, rhyolite flows with strong columnar jointing and related pyroclastics. Slopes rise in a northerly direction toward Mt Warning. General elevation is 100–930 metres, with local relief of 400 metres. Soils consist of bouldery debris slopes below the cliff with gradational red-brown gritty loam, structured friable red clay on basalts and some brown texture-contrast soils. Upper edges of the cliff are covered in dwarf scrub of Red Bloodwood, Forest Oak and Scribbly Gum (*Eucalyptus signata*). Below the cliffs, moist hardwood forest occurs with Blackbutt and Brush Box with a closed forest understorey, and in the valleys subtropical closed forest of White Booyong, Red Carabeen, Yellow Carabeen, Red Cedar, Rosewood, White Beech and Bangalow Palms.

Summervale Range — 12% cleared

This landscape is characterised by the higher inland coastal range adjacent to Ballina Coastal Ramp on a prominent line of middle Jurassic quartz sandstone and conglomerate, with water gaps where streams have cut across the structure. The geology has strong structural control with north–south folds. The general elevation is 50– 325 metres, with local relief of 150 metres. The soils are shallow stony red-brown structured loams, and red, yellow or brown texture-contrast soils in different slope positions, the colour differing with drainage conditions. The vegetation is dry hardwood forest of Spotted Gum, Blackbutt, Large-fruited Blackbutt, with grasses and Burrawang.

Byron-Tweed Coastal Barriers — 43% cleared

This landscape consists of beaches, dunes, swamps and lagoons on Quaternary coastal sands, with inner and outer barrier dune sequences. The area has a general elevation of less than 25 metres, with local relief of 10–20 metres. The landscape has a similar pattern to the Clarence-Richmond Barriers and Beaches Ecosystem (being siliceous sand with organic topsoil on the hind dune with Tuckeroo, Coast Wattle, Broad-leaved Paperbark and Coastal Screw Palm; Pleistocene high dunes with well developed podzol profile and Hairpin Banksia, Wallum Banksia, Heath Banksia, Black Tea Tree, Pink Bloodwood, Broad-Leaved White Mahogany, Grass Tree, Kangaroo Grass and Blady Grass; poorly drained inner low dunes and beach ridges, with humus podzols and peaty podzols with Broad-Leaved Paperbark, Wallum Bottlebrush, Common Tea Tree, Common Reed, Common Rush and Coral Fern; back barrier swamps and plains with gradational dark coloured loamy sand, peaty podzol and acid peat with Broad-leaved Paperbark, Swamp Oak, Swamp Mahogany, Forest Red Gum, Red Bloodwood, Pink Bloodwood, Coast Banksia, and Rough-barked Apple on better drained sites; and high dunes on the bedrock coastal ramp with shallow podzols and Blackbutt, Pink Bloodwood, Broad-leaved White Mahogany, Red Bloodwood and Brush Cypress Pine).

This landscape has a greater proportion of swamp, shifts in common plant species and large areas of littoral closed forest of Tuckeroo, Broad-leaved Lilly Pilly, Plum Pine, Riberry, Yellow Pear Fruit, Yellow Tulip with abundant vines and occasional epiphytes.

Clarence-Richmond Alluvial Plain — 75% cleared

Wide valleys, channels, floodplains, terraces and estuaries of the Clarence and Richmond Rivers and other coastal streams on Quaternary alluvium characterise this landscape. It has a general elevation of 0–50 metres, with a local relief of 15 metres. Soils are deep brown earths and structured brown clay on floodplains, while the terraces have a yellow texture-contrast soil containing ironstone concretions. The valley floor has been extensively cleared

but supports forest of Cabbage Gum, Forest Red Gum, Broad-leaved Apple, River Oak, Silky Oak, Rough-barked Apple, Native Teak, Coastal Grey Box, Pink Bloodwood, Spotted Gum, Grey Ironbark, Broad-leaved Paperbark, Blackwood and Black She-oak. Dry closed forest occurs on the margins of the basalt-based Lamington Volcanic Slopes Ecosystem, with common species being Native Cascarilla, Yellow Tulip, Silver Basswood, Guioa, Red Cedar with abundant vines and emergent Hoop Pine. Saltmarsh, mangrove communities and paperbark freshwater swamps occur in the estuary.

4.1.7 Terrestrial flora

Vegetation mapping was done as part of the *Byron Flora and Fauna Study* (refer Section 4.1.2). It identified broad vegetation types mainly from information based on 1991 aerial photography. This mapping was updated in 2006-2007 by Ecograph. This mapping identified 46 broad vegetation associations in the Shire, with about one-third meeting the classification of an Endangered Ecological Community (EEC) as listed by the NSW Scientific Committee under the NSW TSC Act. The distribution of vegetation communities within the Shire, including those corresponding with EECs are shown in Figure 3. The EECs occurring within Byron Shire are listed below; all of these communities are recommended for protection:

- Lowland Rainforest on Floodplain in the NSW North Coast Bioregion
- Lowland Rainforest in the NSW North Coast and Sydney Basin Bioregion
- Littoral Rainforest in the NSW North Coast, Sydney Basin and South East Corner Bioregions
- Byron Bay Dwarf Graminoid Clay Heath Community
- Coastal Saltmarsh in the NSW North Coast, Sydney Basin and South East Corner Bioregions
- Freshwater Wetlands on Coastal Floodplains of the NSW North Coast, Sydney Basin and South East Corner Bioregions
- Swamp Oak Floodplain Forest of the NSW North Coast, Sydney Basin and South East Corner Bioregions
- Swamp Sclerophyll Forest on Coastal Floodplains of the NSW North Coast, Sydney Basin and South East Corner Bioregions
- Subtropical Coastal Floodplain Forest of the North Coast Bioregion
- River-flat Eucalypt Forest on Coastal Floodplains of the NSW North Coast, Sydney Basin and South East Corner Bioregions.

All native vegetation remaining on the floodplain areas of the Shire would meet the classification of one of the floodplain EECs (either Freshwater Wetlands, Swamp Oak, Swamp Sclerophyll Forest, Subtropical Coastal Floodplain Forest, River-flat Eucalypt Forest or Lowland Rainforest). These floodplain vegetation communities also correspond with the two over-cleared Mitchell Landscapes identified within the Shire. Floodplains are areas that are periodically inundated and include alluvial flats, drainage lines and river terraces. In the Byron Shire these areas include the Belongil and Cumbebin wetlands (including Cumbebin Nature Reserve), Arakwal National Park, Tyagarah Nature Reserve, Billinudgel Nature Reserve, along the Brunswick River, Lacks Creek, Byron Creek, Tallow Creek and Tea Tree Lake (including the lagoon).

Byron Bay Dwarf Graminoid Clay Heath community is located on various lands in Byron Bay in the vicinity of Paterson Hill and the Arakwal National Park. Littoral rainforest (often in narrow strips and/or degraded condition) is located in either predominantly sandy soils on old dune formations along many parts of the coastline or shallow headland soils. These include land near Belongil Creek and Cavvanbah Street, behind Clarks Beach, near Alcorn Street (Suffolk Park) and throughout areas of Arakwal National Park. Lowland rainforest (excluding floodplain occurrences) occurs in such places as the upper reaches of the Wilsons River, Brunswick River with occurrences in Goonengerry National Park, Nightcap National Park and Mount Jerusalem National Park. Coastal Saltmarsh is limited to small patches and strips (in association with mangroves) in the Belongil estuary.

In addition to EECs, a number of over-cleared vegetation types, as defined under the NV Act, are also present within the Shire. These vegetation types generally correspond with the over cleared/rare Forest Ecosystem criteria or listed EECs considered in the HCV classification.

The North Coast of NSW (the coastal area east of the Dividing Range between the Hunter River in the south and the Queensland border in the north) has the highest number of rare or threatened Australian plants (ROTAP) in the state, with 28 species classed as endangered, 55 as vulnerable and 122 as rare. Sixty-two threatened plants listed under the TSC Act and 43 plants classified as nationally threatened under the *Commonwealth Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act) occur within the Byron Shire. All except two of the Shire's threatened plants are considered to be inadequately reserved in formal conservation areas and greater reservation is often not possible due to extensive clearing of their habitat. Some threatened plants are locally common and have their core habitat within the Shire but have extremely limited distribution elsewhere. These plant populations are incorporated into the HCV mapping and will be maintained in Byron Shire under appropriate E2 — Environmental Conservation zoning.

4.1.8 Terrestrial fauna

The wide range of vegetation communities and flora diversity in the Shire results in an equally wide range of available habitat types. This, in turn, is directly related to a high diversity of fauna, particularly frogs, turtles, snakes, some lizards, marsupials and birds (especially raptors). It also provides suitable habitat for a number of migratory bird species. More than one-third of terrestrial and freshwater fauna species are at the limit of their distributional ranges here.

The *Byron Flora and Fauna Study* (refer Section 4.1.2) identified 420 terrestrial vertebrate fauna species in the Shire, including 30 amphibians, 45 reptiles, 283 birds and 62 mammals. One amphibian, five birds and six mammals are naturalised exotic species, while 70 species (or 17%) are regarded as threatened in NSW (listed under the TSC Act). An additional three threatened invertebrate species have also been recorded in the Shire. Ten of these species are listed as nationally threatened under the EPBC Act. A number of species that occur in the region have a restricted distribution and/or specialised ecological requirements. These species are considered under the HCV classification and should be subsequently protected under appropriate E2 — Environmental Conservation zoning.

4.1.9 Aquatic ecosystems

The location of the Byron Shire provides a diverse range of aquatic environments from inland freshwater creeks and streams through to estuarine lagoons, lakes and swamps, and marine environments. Six threatened marine species are known from the area and four threatened fish have also been recorded in the Shire.

Two major river systems occur in the Shire, the Brunswick River and the Wilson River and their associated tributaries. The threatened Eastern Freshwater Cod has historically been recorded from the Wilson River, although it is now presumed extinct in the Shire. The only other threatened freshwater species that may occur in the Shire is the Oxleyan Pygmy Perch. This species is found in fresh, acidic waters with abundant aquatic vegetation in swamps, streams and dune lakes that lie in lowland, coastal 'wallum' heaths.

Aquaculture in the form of existing oyster farming is present within the Brunswick River estuary. This estuary also contains a number of 'priority oyster areas' identified and mapped by the *NSW Oyster Industry Sustainable Aquaculture Strategy*. Identified 'priority oyster areas' should be adequately protected from adverse effects such as stormwater discharge and acid runoff potentially caused by adjoining developments, through the application of W1, and E2, E3 and E4 environmental zoning surrounding these areas.

A number of estuaries (semi-enclosed waterbodies at the border of marine and freshwater ecosystems) occur in the Shire. They are ecologically important habitats, which usually contain naturally high concentrations of nutrients, high productivity and biological diversity. Many species of fish, birds, invertebrates and mammals depend on estuaries for feeding, spawning and/or nursery grounds at some stage in their life-cycle, including a large number of threatened species. There are three estuarine systems in the Shire: the Brunswick Estuarine, which comprises the tidal reaches of the Brunswick River; Kings Creek, Marshalls Creek and Simpsons Creek; Tallow Creek; and Belongil Creek. Much of these estuarine systems have been negatively impacted by past and continuing human pressure, including clearing, development, stormwater discharge and acid runoff.

These estuaries, and much of the coastline and marine ecosystem of Byron Shire, were designated as the Cape Byron Marine Park in 2002. This protected area provides habitat for a variety of threatened marine species, including the Little Tern, Grey Nurse Shark, Great White Shark, Black Cod, Green Turtle and Loggerhead Turtle. Humpback Whales travel through the park on their annual migration, while the Southern Right Whale, Sperm Whale and Dugong have also been recorded in the area.

Development in estuarine catchments within the Shire should seek to have no negative impacts or preferably result in improvements in estuary health. This is of particular concern for proposals resulting in acid sulphate soil disturbance, clearing of native vegetation or surface runoff that flows directly into the estuary. New developments, increased residential densities and more intensive tourism developments can all impact the local estuaries. The recommendations of the various estuarine studies undertaken in the Shire should be adhered to, and appropriate application of W1, and E2, E3 and E4 environmental zoning surrounding these areas should be applied.

4.1.10 Reserved and protected areas

The reserved and protected lands within Byron Shire help to conserve and maintain its biodiversity. These areas include formal reserves such as National Parks and Nature Reserves, Crown and Council Reserves, and lands protected by legislative controls.

Several legislative planning controls help protect biodiversity, including land protected by State Environmental Planning Policies (SEPPs) and land zoned for environmental protection. SEPPs can help identify and protect ecologically-significant lands by requiring certain types of development to follow an established process. Four such SEPPs are applicable to Byron Shire:

- SEPP 14 Coastal Wetlands
- SEPP 26 Littoral Rainforest
- SEPP 44 Koala Habitat Protection
- SEPP 71 Coastal Protection Zone.

The HCV mapping developed within the *Byron Biodiversity Conservation Strategy* (refer Section 4.1.3) and used to identify appropriate Environmental Conservation zoning generally incorporates those areas covered by the above SEPP legislation. SEPP 14 Coastal Wetlands and SEPP 26 Littoral Rainforest correspond directly with descriptions of HCV vegetation communities, while SEPP 44 Koala Habitat is a specific criterion considered in determining HCV. Minor discrepancies between the areas mapped as SEPP 14 and identified HCV areas are a result of the relatively low resolution and large scale of the SEPP mapping compared to HCV mapping utilised in the *Byron Biodiversity Conservation Strategy*.

Byron LEP 1988 provides for the protection of various lands and biodiversity within the Shire through a number of environmental protection zones. However, since the implementation of this zoning, the *Byron Biodiversity Conservation Strategy* and aerial photographic interpretation of vegetation have more accurately identified local environmental constraints. This has highlighted some areas with high conservation significance that will need to be appropriately zoned in the Shire-wide LEP.

Approximately 11% (6,217 hectares) of the Byron Shire is reserved under the *National Parks and Wildlife Act 1974*. National Parks (which combine conservation with recreational opportunities) occupy 3,707 hectares, Nature Reserves (which are primarily for conservation and research) occupy 2,236 hectares and State Conservation Areas (again for recreation and conservation purposes) occupy 274 hectares. Formal reserves provide direct conservation of biodiversity, and also help to raise awareness and educate the public about environmental issues and conservation.

In addition to terrestrial reserves, the Cape Byron Marine Park was designated in 2002 (refer Section 4.1.9). This park covers approximately 22,000 hectares and extends from the Brunswick River and its estuarine habitat to Lennox Head, and from mean high water out to 3 nautical miles from the coast or islands. It includes the tidal waters of the Brunswick River, and Belongil and Tallow creeks. Cape Byron Marine Park is a multiple-use marine park that includes protected areas where fishing and collecting is prohibited, and general-use areas that support both commercial and recreational fishing.

4.1.11 Buffers to protect areas of environmental significance

Developments adjoining conservation areas can adversely impact these areas through a variety of ways, often collectively called 'edge effects'. Edge effects can include any or all of the following: loss of soil moisture, increase in wind exposure, changes to species composition and abundance, weed proliferation, increase in predation and brood parasitism, increased competition and nutrient enrichment. Some edge effects are often related to specific developments, such as noise disturbance and rubbish dumping, while others are commonly-occurring effects, such as changes in micro-climatic conditions. Edge effects extend at least 50 metres from the edge but some effects (e.g. noise disturbance) may extend much further (Bali 2005). Although edge habitats may attract some species (edge-preferring species), these are generally common and adaptable species. On the other hand, threatened species tend to be sensitive to disturbance and to prefer interior habitats.

To minimise the impact of edge effects and to ensure the ecological integrity of environmental significant areas is maintained, buffers are often used. The extent and nature of buffers can be based on a standard minimum distance (such as 40 metres or 100 metres) from the conservation area or can be more flexible, performance-based buffers (with width based on the achievement of certain standards of operation or emissions) (Byron Shire Council 2005b; Department of Infrastructure, Planning and Natural Resources 2004).

Standard buffers can be zoned around areas of high conservation or be placed to protect areas of wetlands, rivers and streams. Also, buffer requirements can be detailed in the relevant clauses of an LEP. The aim of such buffers is to reduce any edge effects. Standard buffers are often easier to interpret and police than performance-based buffers, which often require constant monitoring.

Performance-based buffer requirements can be simple, such as the existing Clause 36 of Byron LEP 1988, or if more complex or detailed, they could be included in a DCP. Performance-based buffer requirements will be different depending on the use that is being buffered (e.g. residential areas, sporting fields, commercial areas, industrial areas) (Byron Shire Council 2005b).

The type of land use that is permitted within buffers should be compatible with the environmental values of the area being buffered (SWC 1997). Measures that could be applied along the boundary of adjoining uses include: boundary roads (which can also act as a bushfire mitigation measure), fencing and minimising access by people and domestic animals; landscaping; retention of existing native vegetation to provide seed sources, retain genetic diversity and reduce edge-effects; revegetation to reduce edge effects; management of stormwater impacts, including sediment and erosion control, nutrient loads and gross pollutants (i.e. litter) (Byron Shire Council 2005b).

Where existing zoning does not allow urban development, a buffer of 40 metres around HCV mapped lands should be incorporated within an E3 or higher E2 environmental zoning. Where existing zoning provides for urban development adjoining areas of HCV, performance-based buffer requirements should be applied.

Implementation of the recommendations of the *Byron Biodiversity Conservation Strategy* (refer Section 4.1.3) means that there may be significant increases in areas to be zoned for environmental protection when compared to Byron LEP 1988. Therefore, some location criteria should be carefully considered when implementing potential buffer zonings or clauses of the Shire-wide LEP. Examples of criteria may be significance of land/vegetation to be buffered or the proximity of it to a waterway.

4.1.12 Discussion of local planning options

Many forms of new and existing development can affect biodiversity. The most obvious is the continuing loss of habitat. This also includes loss of significant vegetation, including individual trees. Many physical barriers such as large buildings, roads and fences can also indirectly impact on biodiversity and wildlife movements.

Land within Byron Shire that has been identified as significant for flora and fauna must be retained as suitable conservation lands, and avoided for inappropriate development. This includes those EECs found in the Shire such as Littoral Rainforest, Lowland Rainforest, Byron Bay Dwarf Graminoid Clay Heath, Saltmarsh and floodplain vegetation (including Swamp Sclerophyll Forest, Swamp Oak, Subtropical Coastal Floodplain Forest, Freshwater Wetlands and Lowland Rainforest).

Council has raised concerns that adoption of the optional tree preservation provision of the Standard LEP will remove dual consent roles in relation to clearing of vegetation under the NV Act. One opportunity to retain the dual consent provisions in the Shire-wide LEP is to gain exemption from the operation of the NV Act. However, such a request for exemption has been refused in the past. Council may wish to consider an alternative local provision for tree preservation; however, it is unlikely to receive support.

The Standard LEP includes a number of zones that could provide for biodiversity protection. These zones are listed in Table 4-1. The range of possible biodiversity values that may be addressed through using these zones are also identified in this table.

Council will need to be satisfied that the standard objectives are consistent with the use of that zoning and also that additional objectives can be incorporated.

Table 4-1 Standard LEP zones relating to biodiversity conservation

Standard LEP zone	Objective of zoning (as shown in template)	Biodiversity values that may be included in this zone
Zone E1 National Parks and Nature Reserves	To enable the management and appropriate use of land that is reserved under the <i>National Parks and Wildlife Act 1974</i>. To enable uses authorised under the <i>National Parks and Wildlife Act 1974</i>. To identify land that is to be reserved under the <i>National Parks and Wildlife Act 1974</i> and to protect the environmental significance of that land.	All lands registered as National Park estate will be included in this zone. This will include many areas of HCV. At this stage it is recommended that advice be sought as to whether the Marine Parks are incorporated within this zone. Further advice from DECC is required.
Zone E2 Environmental Conservation	To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values. To provide for a limited range of development that does not have an adverse effect on those values.	Areas of HCV outside the National Park estate need to be included in this zone. Corridors and linkages with National Park estate might also be considered. Those buffer areas to significant riparian zones, SEPP wetlands, and threatened species habitats may need to be included in this zoning.
Zone E3 Environmental	To protect, manage and restore	Smaller patches of HCV may be

Standard LEP zone	Objective of zoning (as shown in template)	Biodiversity values that may be included in this zone
Management	areas with special ecological, scientific, cultural or aesthetic values. To provide for a limited range of development that does not have an adverse effect on those values.	included in this zone along with appropriate environmental buffers to those areas of HCV. Mapped wildlife corridors of the Shire should be included in this zone or E2. Alternatively overlays of corridors may be incorporated into the LEP mapping.
Zone E4 Environmental Living	To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values. To ensure that residential development does not have an adverse effect on those values.	This zone may allow some urban development consistent with the objectives of the zone. This may include some smaller areas of HCV or wildlife corridors. Individual developments will need to be assessed against criteria to be established by Council and consideration given to the provision of offsets or management actions. It should also be noted that the E4 zone may also be available for coastal hazard areas.
Zone W1 Natural Waterways	To protect the ecological and scenic values of natural waterways. To prevent development that would have an adverse effect on the natural values of waterways in this zone. To provide for sustainable fishing industries and recreational fishing.	This zone may be used for navigable natural waterways and estuaries within the Shire.
Zone W2 Recreational Waterways	To protect the ecological, scenic and recreation values of recreational waterways. To allow for water-based recreation and related uses. To provide for sustainable fishing industries and recreational fishing.	This zone may be used for navigable natural waterways and estuaries within the Shire, where the predominant use of those waterways is recreational or commercial boating.

In addition to the implementation of the standard environmental zones, the new LEP will need to recognise biodiversity conservation objectives across all zones. In conjunction with the zoning options above, additional actions to incorporate biodiversity protection measures are recommended in Section 7.2 Options considered include the following:

- Investigation of the option of biodiversity certification (under the TSC Act) in some areas providing certainty of both biodiversity conservation and future development. It is unlikely, however, that current knowledge of biodiversity within the Shire would allow for certification of anywhere apart from small localised areas.
- The implementation of Biobanking (or other suitable green offsets) to offset impacts on biodiversity from future developments. Any offsetting arrangement would need to ensure that the offsets are suitable, targeted and located within Byron Shire so that biodiversity values are improved or maintained within the shire boundaries. Any offsets should be

consistent with State government policies. Such controls would also need to complement the already existing offsetting provisions of the NV Act.

- Clause 34 of the Standard LEP would be adopted to allow for the incorporation of planning controls for identified vegetation that require development consent for clearing.
- Investigation of performance criteria and information requirements for development applications in accordance with the relevant environmental legislation and Council guidelines for incorporation in the Shire Wide LEP and/or DCP.
- Buffer areas (either zoned or linked to a clause) would be used for sensitive habitat areas, high conservation areas and wildlife corridors. These areas could be included in the Environmental Management zoning.

4.2 Landform, soils and geology

This section forms part of several specialist studies across the Byron Shire LGA and addresses potential geotechnical issues that could be associated with future urban development of the soil landscapes that form the Byron LGA.

Most of the geotechnical issues that have been highlighted during this desktop study can be mitigated with appropriate best-practice engineering. However, issues such as flooding or landslide risk, which may preclude urban development, do occur in certain areas of the LGA. These geotechnical issues are discussed in more detail in the following sections.

4.2.1 Methodology

The following issues have been assessed as part of this study:

- slope stability
- erosion hazard
- acid sulfate soils (ASS)
- soil acidity and salinity hazard
- foundation hazard, including soft soils and reactivity
- drainage hazards and flooding
- shallow depths to rock and excavation difficulties
- on-site effluent disposal
- potential contamination related to land use history.

These issues have been determined by grouping similar terrains based on landform, geology and soils. Information for the terrain classification has been obtained from GIS data provided by Byron Shire Council as well as published geology, topography and soil landscape maps for the subject area.

Land capability has been determined based on the severity of the issues that have been highlighted. Land capability has been classified using the following Department of Infrastructure and Natural Resources (now DECC) definitions:

- minor limitation for urban development: areas with little or no physical limitations

- moderate limitations for urban development: areas where physical limitations may influence design and impose management requirements on development
- high to severe limitations for urban development: areas where limitations are difficult to overcome, requiring detailed investigation and design. Some areas maybe unsuitable for development.

4.2.2 Existing environment

This section details the findings of the desktop study. The information used to classify the terrains includes the 1:250 000 Lismore-Ballina Soil Landscape Sheet, 1:250 Tweeds Heads Geology Sheet, 1:25 000 Lismore-Ballina Topographic Sheet as well as information in the GIS database provided by Council. Figure 7 shows the distribution of the soil landscapes.

Acid sulfate soils

Acid sulfate soils (ASS) are soils that contain significant concentrations of pyrite that, when exposed to oxygen and in the presence of sufficient moisture oxidises, result in the generation of sulfuric acid. Unoxidised pyritic soils are referred to as potential ASS. When the soils are exposed the oxidation of pyrite occurs and sulfuric acids are generated, and the soils are said to be actual ASS.

Pyritic soils typically form in waterlogged, saline sediments rich in iron and sulfate. Typical environments for the formation of these soils include tidal flats, salt marshes and mangrove swamps below about relative level (RL) 1 metre Australian Height Data (AHD). They can also form as bottom sediments in coastal rivers and creeks.

Figure 6 shows the distribution of soils that may be at risk of being ASS across the Shire. The ASS mapping shows that significant portions of coastal land within the Byron Shire LGA may be affected by ASS within 1 metre of the ground surface. The remaining areas shown on Figure 6 are likely to contain soils with a low probability of being ASS within a 1–3-metre depth. It is recommended that the new Shire-wide LEP adopts planning controls that ensure that areas of land with potential ASS risk undergo preliminary ASS investigation to determine the presence and likely disturbance of ASS. If development of these areas is likely to disturb ASS then a detailed ASS investigation involving preparation of an ASS management plan should be carried out.

The new Shire-wide LEP planning controls should ensure that ASS investigations and management plan preparation are carried out in accordance with the *Acid Sulfate Soil Manual* (Ahern et al. 1998).

Erosional soil landscapes

Bangalow, Billinudgel and Minyon

The location of each of these soils is presented on Figure 7. The Bangalow soil landscape occupies the low, rolling hills within the Alstonville Plateau, generally centred around the village of Bangalow. The Billinudgel soil landscape occupies the edges of the Burringbar Hills and the flanks of the Alstonville Plateau. The type location is the area of low hills surrounding Billinudgel. The Minyon formation is generally found within the Whian Whian State Conservation Reserve and Nullum Nature Reserve.

The Bangalow landscape is underlain by Lismore Basalt, Billinudgel landscape is underlain meta-sediments, and Minyon landscape is underlain by volcanic and meta-sediments. Soils are generally residual materials derived from these rocks.

Topographically, these landscapes are characterised by low, rolling hills with slope gradients of 10–25%. Shallow slumping along drainage lines is common. Plateaus are a feature of the Minyon landscape. Streams are erosional. Bangalow and Billinudgel soil landscapes have been extensively cleared; however, Minyon landscape is well vegetated with eucalypt forests.

Soils tend to have medium to coarse textures with clay horizons. Stony soils are common. Depth to weathered rock is generally 1–2 metres. Soils tend to be mildly to strongly acidic, may have low water-holding capacity, have aluminium toxicity potential and may have high erodibility. Dispersive soils are common through the Billinudgel soil landscape. Cleared areas are generally used for grazing, and banana and macadamia plantations. Some road base quarries are present in the Billinudgel landscape.

Geotechnical issues associated with these soil landscapes are summarised as follows:

- The potential for flooding is low; however, localised flooding may occur on lower slopes after prolonged rain.
- There is a moderate foundation hazard due to mass movement on steeper slopes.
- Soils with low water holding capacity may not be suitable for on-site effluent disposal.
- Very little contamination is expected from sheep and cattle grazing; however, some areas around farm houses or barns may have been contaminated as a result of mixing of herbicides and pesticides, or sheep or cattle dipping. Plantation areas may contain pesticide contamination. Some contamination around quarry areas maybe expected. Soils have high aluminium concentrations.
- Moderate to severe gullying and sheet erosion is expected in cleared areas or where dispersive soils are found. Erosion will need to be controlled during and after any earthworks for urban development.
- Highly acidic soils may impact on concrete and steel foundations for structures.

Burringbar and Rosebank

The location of each of these soils is presented on Figure 7. The Burringbar landscape occurs north and west of Mullumbimby on the southern fringes of the Burringbar Hills. The Rosebank landscape covers an extensive area that takes in most of the hill country north, northeast and east of Lismore.

Burringbar landscape is underlain by meta-sediments and Rosebank is underlain by Lismore Basalt. Soils are generally residual materials derived from these rocks.

Topographically, these landscapes are characterised by high, rolling hills in the Burringbar landscape and low, rolling hills in the Rosebank landscape. Slope gradients are 15–40%. Streams are erosional, and aquifers and springs are present in the Rosebank landscape.

Soil profiles tend to be shallow (0.5–1 metre), have high acidity and sodicity, and have high to moderate erodibility. Aluminium toxicity potential is common in the Burringbar landscape and stoniness is a feature of the Rosebank landscape. The Rosebank landscape is

generally used for horticulture and the Burringbar landscape has generally been left as bushland.

Geotechnical issues associated with these soil landscapes are summarised as follows:

- There is a high foundation hazard due to mass movement on steeper slopes.
- Excavation difficulties are expected in areas with shallow soil depths.
- Contamination in the form of pesticides maybe expected in areas used for horticulture. Soils have high aluminium concentrations.
- Highly acidic soils may impact on concrete and steel foundations for structures.
- Moderate to severe gullyng and sheet erosion is expected in cleared areas or where dispersive soils are found. Erosion will need to be controlled during and after any earthworks for urban development.
- Dispersive soils would be unsuitable for effluent disposal.
- Moist ground conditions may occur in areas where springs have developed.

Colluvial soil landscapes

Coolamon

The area is underlain by Lismore Basalts. Soils are colluvial and have formed from Lismore Basalt. The area has been extensive cleared and is generally used as grazing land.

Topographically, the landscape is characterised by very steep slope gradients of 20–60%. Landscape tends to be hummocky and boulder-strewn. Flow lines are common on side slopes. Springs and seepages occur along hill sides.

Soils tend to be shallow (less than 1 metre). Clay soils tend to have high plasticity and sandy soils have high permeability. Soils maybe stony and can be highly erodible if exposed.

Geotechnical issues associated with this soil landscape are summarised as follows:

- Excavation difficulties are expected in areas with shallow soil depths.
- There is a high foundation hazard due to mass movement.
- Moderate gullyng and sheet erosion is expected, and will need to be controlled during and after any earthworks for urban development.
- Very little contamination is expected from grazing; however, some areas around farm houses or barns may have been contaminated as a result of mixing of herbicides and pesticides, or sheep or cattle dipping.
- Steep slopes and shallow, stony soils are unsuitable for effluent disposal.
- Moist ground conditions may occur in areas where springs develop during prolonged rainfall.
- Foundations for structures will need to be designed to accommodate surface movements for reactive soils.

Nimbin Rocks

This area is formed by the Nimbin Rhyolite, which is characterised by massive rhyolite, minor obsidian, pitchstone, tuff and agglomerate. Soils are colluvial and have formed from

the Nimbin Rhyolite. The landscape is generally uncleared. Some logging has taken place in the past and minor grazing takes place on less steep foot slopes.

Topographically, the landscape is characterised by cliffs and scarps with very steep foot slopes with gradients 10–33%.

Soils on foot slopes have variable depths (less than 0.5 metres to more than 1 metre). Soils tend to be stony, strongly acidic and have moderate to high erodibility.

Geotechnical issues associated with this soil landscape are summarised as follows:

- Excavation difficulties are expected in areas with shallow soil depths.
- Very little contamination is expected from grazing; however, some areas around farm houses or barns may have been contaminated as a result of mixing of herbicides and pesticides, or sheep or cattle dipping
- Highly acidic soils may impact on concrete and steel foundations for structures.
- Steep slopes and shallow, stony soils are unsuitable for effluent disposal.
- Moderate to severe gullyng and sheet erosion is expected, and will need to be controlled during and after any earthworks for urban development.
- There is a high foundation hazard due to mass movement and rock falls.

Residual soil landscapes

Ewingsdale and Wollongbar

These landscapes are underlain by Lismore Basalt and have been extensively cleared. Soils are residual and have formed from the underlying Basalt.

Topographically, these landscapes are characterised by low, undulating hills with slope gradients of 3–15%. Streamlines are dominated by drainage depressions on upper surfaces and become erosional on lower slopes.

Soils tend to be deep (more than 2 metres), have low water holding capacity, are highly acidic and have high aluminium toxicity. Soils maybe moderately erodible if exposed. These landscapes are dominantly used for grazing and horticulture. Residential development is increasing.

Geotechnical issues associated with these soil landscapes are summarised as follows:

- Moderate gullyng and sheet erosion is expected, and will need to be controlled during and after any earthworks for urban development.
- Very little contamination is expected from grazing; however, some areas around farm houses or barns may have been contaminated as a result of mixing of herbicides and pesticides, or sheep or cattle dipping. Areas used for horticulture may have been impacted by the use of fertilizers or pesticides. Areas that have been developed for residential usage may have been subject to contaminating activities. High aluminium concentrations are likely.
- There is a moderate to low foundation hazard due to localised shallow slumping.
- Soils with low water holding capacity may not be suitable for onsite effluent disposal.

Aeolian-beach and Aeolian-estuarine soil landscapes

Black Rock and Tyagarah

These landscapes have formed on Quaternary beach and dune sand, and Quaternary estuarine alluvium. The Black Rock landscape is generally uncleared heath; some mineral sand mining has taken place in the recent past. The Tyagarah landscape is generally used for grazing. Sugar cane and tea tree plantations are becoming important.

Topographically, these landscapes are characterised by low, level to gently undulating rises with slope gradients of more than 5%. The Black Rock landscape is formed by dune and swale systems, and the Tyagarah landscape is formed by sediment basins.

Soils tend to be deep (1.5–3 metres) and are highly permeable. Soils from these landscapes are strongly acidic, have high water tables, are often water logged and are susceptible to wind erosion. Tyagarah soils have low water-holding capacity and may have localised salinity.

Geotechnical issues associated with these soil landscapes are summarised as follows:

- Significant wind erosion is expected where soils are exposed. Erosion will need to be controlled during and after any earthworks.
- Very little contamination is expected from grazing. Areas used for horticulture may have been impacted by the use of fertilizers or pesticides. Areas that have been mined may have been subject to contaminating activities.
- Acid sulfate soils are expected in the Tyagarah landscape.
- High water tables and saturated soils are unsuitable for effluent disposal.
- Foundations for structures will need to be designed to accommodate surface movements for highly reactive peat rich soils in the Black Rock landscape.
- Severe foundation hazard as saturated soils may have low wet bearing strengths, which may impact on foundations for buildings and roads.

Alluvial soil landscapes

Eltham and Mullumbimby

These landscapes are underlain by Quaternary alluvial deposits of gravels, silt, sands and clays. Topographically, these areas are characterised by level to gently undulating alluvial plains and terraces.

The soil profile is generally deep (more than 3 metres). Clay soils generally have high plasticity and high reactivity, and are poorly drained. Soils are strongly acidic, and are prone to water logging and flooding. These landscapes are currently used for grazing.

Geotechnical issues associated with these soil landscapes are summarised as follows:

- High plasticity clays may have low wet bearing strengths, which may impact on foundations for buildings and roads, and have lower infiltration rates where on-site effluent disposal is proposed.
- Very little contamination is expected from sheep and cattle grazing; however, some areas around farm houses or barns may have been contaminated as a result of mixing of herbicides and pesticides, or sheep or cattle dipping.
- Potential for flooding is high and wet foundation soils are expected.

- Highly acidic soils may impact on concrete and steel foundations for structures.

Transferral landscapes

Disputed Plain and Myocum

These landscapes are underlain by Lismore Basalt, and are characterised by valley infills and alluvial fans in the Disputed Plain landscape, and drainage plains and back plains in the Myocum landscape. The topography is characterised by low, gently inclined slopes with gradients of 1–3%. These landscapes are vegetated by grasses and are predominantly used for grazing.

The soil profile is generally deep (more than 2 metres) and tends to be poorly drained. Clay soils generally have high plasticity and are highly reactive. Soils may be stony and water tables are permanently high. Myocum soils may be strongly acidic.

Geotechnical issues associated with these soil landscapes are summarised as follows:

- High plasticity clays may have low wet bearing strengths, which may impact on foundations for buildings and roads, and have lower infiltration rates where on-site effluent disposal is proposed.
- Very little contamination is expected from grazing; however, some areas around farm houses or barns may have been contaminated as a result of mixing of herbicides and pesticides or sheep or cattle dipping.
- Foundations for structures will need to be designed to accommodate surface movements for highly reactive soils.
- Highly acidic soils may impact on concrete and steel foundations for structures.
- Potential for flooding is high and wet foundation soils are expected.
- Gully erosion can be severe. Erosion will need to be controlled during and after any earthworks for urban development.

4.2.3 Summary of geotechnical issues — landscape development capability

The following list summarises the main geotechnical issues that may affect development across the Shire:

- gullying or sheet erosion
- foundation hazards associated with saturated soils with low wet bearing strength and highly reactive soils
- flooding
- slope stability hazards associated with steep slopes and shallow soil profiles
- saline or acidic soils
- acid sulfate soils
- soil contamination associated with land usage
- shallow depths to rock.

The following landscapes have moderate to minor implications for urban development and low implications for rural development. These geotechnical issues do not preclude development of these landscapes but will need to be managed with best-practice engineering practices:

- Bangalow
- Billinudgel
- Minyon
- Ewingsdale
- Wollongbar
- Mullumbimby Terraces.

Geotechnical issues associated with urban development of these landscapes include issues such as:

- gullying or sheet erosion
- moist ground conditions following prolonged rainfall
- moderate foundation hazards associated with soft soils or highly reactive soils
- contamination associated with land usage
- localised mass movement hazard
- saline or acidic soils
- shallow depths to rock.

The remaining landscapes: Burringbar, Rosebank, Coolamon and Nimbin Rocks all have high to severe limitations associated with steep slopes and landslide activity; and the Black Rock, Tyagarah, Eltham, Mullumbimby floodplains, Disputed Plain and Myocum landscapes have high to severe limitations associated with flooding.

It is possible that there are areas within these landscapes that maybe suitable for urban or rural development; however, each landscape would need to be assessed individually.

4.2.4 On-site effluent disposal capability

The following section discusses some of the factors involved when selecting suitable sites for on-site effluent disposal. The soil landscapes that meet these requirements and may be suitable for on-site effluent disposal are also identified. It should be noted that this is a broad-brush approach and detailed effluent disposal investigations should be included in urban capability studies for any proposed development.

Limiting factors for system selection

Following is a summary of the typical limiting factors affecting the selection of on-site effluent disposal systems obtained from AS/NZS 1547:2000.

Conventional absorption trenches or subsurface irrigation systems

- Trenches are difficult to construct on slopes of more than 25%.

- A soil depth of more than 1.2 metres is required. A minimum depth of 0.4 metres below the bottom of dripper lines is desirable.
- Low permeability soils require impractical trench lengths and long dripper lines.
- A water table deeper than 1.2 metres from the surface is required.
- Dispersive soils require impractical trench lengths, and may result in failure.
- High rock or cobble content reduces water storage capacity.
- Small lot sizes are unfavourable.

Evapotranspiration-assisted absorption bed/trench

- A maximum slope of 5% is recommended for bed or surface irrigation.
- Trenches are difficult to construct on slopes of more than 25%.
- A minimum soil depth of 1.2 metres is required for trench or bed. A minimum depth of 0.4 metres below lines is required for irrigation.
- Clay soils are preferred.
- A water table deeper than 1.2 metres from the surface is required.
- Dispersive soils require impractical trench lengths, and may result in failure.
- High cobble or boulder content reduces water storage capacity.

Mounds

- A maximum practical slope of 15% is required. Steeper slopes require a large quantity of imported sand and would induce the risk of soil seepage.
- Soil depth is not important.
- Can be used for all soil types (i.e. categories 1–6 as defined by DLG (1998)).
- A water table deeper than 0.6 metres from the surface is preferred; however, it can be designed for shallower water tables if required.
- Can occupy a smaller area on flat land; however, larger areas are required on steep slopes.

Surface irrigation area

- A maximum slope of 6% is recommended. Steeper slopes can cause high runoff.
- A minimum soil depth of 1.2 metres is required. A minimum depth of 0.4 metres below the bottom of dripper lines is desirable.
- Clay soils require large dripper line systems.
- A water table deeper than 1.2 metres from the surface is required.
- This is best where intense rainfall events are uncommon.

Effluent disposal capability

Based on a preliminary review of the soil landscapes surrounding the main town centres, the following soil landscapes are considered most suitable for on-site effluent disposal:

- Mullumbimby Terraces
- Minyon.

The remaining landscapes are considered unsuitable for effluent disposal due to shallow soils, slope instability, high water tables, low water-holding capacity and/or flooding. It is possible that there are localised areas within these soil landscapes that may be suitable for on-site effluent disposal. These areas may be identified by more detailed urban capability studies or site-based studies as required.

Suitable effluent disposal systems

Based on the above information, the following on-site effluent disposal systems are likely to be suitable for the above mentioned soil landscapes:

- conventional absorption trenches
- subsurface irrigation systems
- evapotranspiration assisted absorption beds (on slopes less than 5%) or trenches
- surface irrigation areas (on slopes of less than 6%).

Mound systems would be appropriate for areas where soil depth is expected to be less than 1.2 metres.

The above recommendations for effluent disposal systems are based on a preliminary study of the LGA. Detailed effluent disposal analysis of specific areas (including subsurface investigation) would be required during detailed studies for a proposed development.

4.2.5 Land contamination

According to the literature reviewed for this study, nearly all landscapes within the Byron Shire LGA have been, or continue to be, used for grazing (mainly cattle), fodder cropping and commercial crops such as macadamia nuts. Soil contamination associated with grazing land and fodder cropping is expected to be minimal; however, there may be more potential for contamination from areas that have been used for cattle dipping. Figure 14 shows the location of known cattle tick dip sites in the Shire. Landscapes that have been used for horticulture such as Burringbar, Rosebank, Bangalow, Billinudgel, Ewingsdale and Wollongbar are also likely to represent a greater contamination risk due to the potential use of pesticides.

Areas that have been used for light industrial; extractive industries such as quarry or coastal sand mining; waste treatment and disposal sites; and certain agricultural practises including cattle dipping areas, banana growing and stone fruit orchards are associated with a risk of land contamination. In the past, many persistent chemicals, including oils, fuels, paints, pesticides, herbicides, termiticides, and heavy metals and radioactive tailings have been allowed to escape onto land causing contamination. Some properties were identified by the Department of Health and the former Environment Protection Authority under the *Unhealthy Building Land Act 1990* because they were contaminated or in low-lying flood-prone parts of the catchments. This Act was repealed on 28 March 2003.

The *Contaminated Land Management Act 1997* (CLM Act) currently legislates the appropriate responses to better management of land contamination issues. The CLM Act, in conjunction with SEPP 55 Remediation of land, are the tools for Council to identify and monitor land contamination as part of sound forward planning. The results of routine

reporting of land contamination assessments as part of the development application process, as well as any remediation works, are being incorporated into a Council contaminated land information system. It is expected that the information system will eventually be able to clearly identify land that has a history of contamination so that future land owners can be better informed, and will also assist the safety and efficiency of planning processes. It must be appreciated that there is considerable history from the early 1900s to today that must be collated into the information system before a complete reference set is available.

SEPP 55 Remediation of land

SEPP 55 provides for a state-wide approach to remediation of contaminated land. The policy aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. SEPP 55 requires Council to consider any contamination issues associated with the site when considering the rezoning of land to a more sensitive land use, such as residential or community uses.

Where Council receives or assesses a submission for rezoning a site, or as part of preparation of the LEP, it must consider the implications of SEPP 55. All sites for rezoning must be considered suitable in their contaminated state for a proposed use or must be remediated. To aid the assessment of contaminated sites, Council has prepared a draft Management of Contaminated Land Policy that should be reviewed (following public exhibition) and adopted. The policy is a regional document designed to ensure consistent legislative compliance and also provide guidance for any applicant considering SEPP 55 requirements.

4.2.6 Discussion of local planning options

This study has found that the following landscapes have geotechnical and environmental issues that are likely to impose minor to moderate limitations for urban development and implications for rural development:

- Bangalow
- Billinudgel
- Minyon
- Ewingsdale
- Wollongbar
- Mullumbimby Terraces.

These limitations do not preclude development of these landscapes but will need to be managed with the application of sound engineering practises.

Erosion

The impacts of new development on soil erosion will require ongoing management. This management includes adopting best-practice management guidelines. It is suggested that Council continues to update and endorse best practice within its development guidelines.

Moist ground/localised flooding

Any future development in areas affected by moist ground or localised flooding will require ground treatment and re-grading to remove any soft or wet soils that may form during

periods of rain. Adequate drainage of these areas during wet periods will need to be accommodated.

The design of on-site effluent disposal systems will need to allow for low infiltration rates that may occur within these soils.

It is suggested that Council considers including appropriate provisions to address these issues in its development guidelines.

Saline or acidic soils

Soil salinity is not a widespread problem in the Byron Shire. The soil landscapes likely to contain isolated areas with high soil salinity are the Tyagarah and Black Rock landscapes. Saline soils may be found around old estuarine areas or near basaltic areas in the Tyagarah landscape and in low lying areas with peaty soils in the Black Rock landscape. Developments with the Tyagarah and Black Rock landscapes may need to address soil salinity during detailed design as highly saline soils can be corrosive to concrete structures, such as footings. It is suggested that Council considers including appropriate provisions to address this issue in its development guidelines.

Contamination

As mentioned in Section 4.2.5, there is likely to be a number of sites in the Byron Shire that are considered contaminated due to previous or current activities. The LES should examine whether the draft LEP will be proposing any new zonings of land that may increase the risk to human health or the environment, and what is proposed should remediation be required.

The site specific changes in zoning included in Section 7.6 of the LES, which may have some potential contaminated lands which need to be addressed as part of the LES, with associated recommendations to be made for the new Shire-wide LEP. The specific SEPP 55 information about these sites and any remediation options are included in Appendix J.

It is suggested that, to make future proposals for rezoning in Byron Shire potentially simpler, Council should maintain a contaminated lands register, and ensure the draft Management of Contaminated Lands Policy is finalised and adopted.

Shallow rock depths

The presence of shallow rock will have an impact on the location of services due to excavation difficulties and will also pose difficulty to on-site effluent disposal. It is suggested that Council considers including appropriate provisions to address this issue in its development guidelines.

Reactive and plastic soils

Reactive and plastic soils are a constraint for foundations for structures and for on-site effluent disposal due to low infiltration rates.

Options to address these soils include site classification of areas proposed for development and implementation of design requirements under AS2870-1996 Residential Slabs and Footings. On-site effluent disposal systems that utilise evapotranspiration (e.g. Evapotranspiration-assisted absorption beds or surface/shallow subsurface irrigation type systems) are best suited for these areas.

Landslide risk

Several landscapes including Nimbin Rocks, Coolamon, Burringbar and Rosebank have

high to severe limitations associated with steep slopes and potential landslide activity. Any development within these areas will require detailed investigation and landslide risk management in accordance with AGS (2000).

Flooding

The Disputed Plain, Myocum, Eltham and Mullumbimby landscapes also have high to severe limitations associated with flooding. A flood study should be carried out prior to the consideration of any large-scale development of these areas. It is suggested that Council considers including appropriate provisions to address this issue in its development guidelines.

Acid sulfate soils

Soils at risk of being ASS affect significant portions of coastal land within the Byron Shire LGA. It is recommended that the new Shire-wide LEP adopts planning controls that ensure that areas of land with a potential ASS risk, or with potential to alter the water table, are investigated in accordance with current standards for these soils.

On-site effluent disposal

The soil landscapes identified as the most suitable for on-site effluent disposal are the Mullumbimby Terraces and Minyon. Many of the remaining soil landscapes in the Shire have shallow soils, slope instability, high water tables, low water-holding capacity and/or flooding. There are likely to be localised areas within these soil landscapes that may be suitable for on-site effluent disposal. These areas will need to be clearly identified by detailed urban capability studies and it is suggested that Council considers including appropriate provisions to address this issue in its development guidelines.

4.3 Bushfire

The bushfire review and analysis has been undertaken with the assistance of the NSW Rural Fire Service (RFS) guidelines *Planning for Bushfire Protection: A Guide for Councils, Planners, Fire Authorities and Developers* (NSW Rural Fire Service and NSW Department of Planning 2006, 2001). The guide is recognised as the state-wide bushfire planning instrument for use by local councils, town planners, NSW fire authorities, developers, planning and bushfire consultants, surveyors and building practitioners.

To assess the level of bushfire threat within Byron Shire, consultation was undertaken with the NSW RFS and Byron Shire Council. Technical advice from the NSW RFS recommended that the *Bush Fire Risk Management Plan* be consulted. This document assisted the review of bushfire risk within the LGA. However, it must be noted that the document was completed in 2000 and is scheduled to be updated late 2007 (Byron Shire Council 2000a).

4.3.1 Bushfire history and ignition patterns

Frequent small fires characterise the Shire's bushfire history, with fires in coastal heaths and swamp sclerophyll usually kept small by early response and control. Large-intensity fires within coastal vegetation are not common within the Shire, and are usually containable due to the fragmented and discontinuous distribution of vegetation and other natural or managed control advantages.

Much of the wet sclerophyll forest and wet sclerophyll/rainforest interface has been exposed to frequent fire as a result of existing land management practices.

Little documentation of fires prior to 1945 exists for the Shire. Recorded bushfire events indicate serious fires coincide with prolonged droughts. Fire event records for the past 50–60 years suggest major fire events within the Shire occur every 5–10 years.

The five major bushfire ignition causes in the Byron Shire are:

- illegal burning, which in turn affects air pollution
- arson
- escapes from hazard-reduction burns
- car dumping
- lightning.

4.3.2 Climate and bushfire season

Fire season within the Shire most commonly commences in late August/early September and usually finishes early December, but can continue through until April.

The Shire's climate is warm, subtropical characterised with heavy summer rainfall (January–March), and a dry winter and spring (Byron Shire Council 2004c). This heavy summer rainfall causes lush re-growth, which in turn cures during the winter months giving early commencement of the local fire season.

Common weather patterns during the fire season include strong south-westerly to north-westerly winds, temperatures as low as 0°C and as high as 42 °C, and humidity between 40% and 70%.

Dangerous bushfire seasons are most commonly associated with two or more of the following factors in combination:

- extended drought period
- lower than average rainfall
- persistent south-westerly to north-westerly winds in late winter/early spring
- prolific fuel loads
- spring/summer thunderstorm activity in dry years
- extreme fire danger days are most often associated with strong west to north-westerly winds.

4.3.3 Vegetation and fire behaviour

The type and arrangement of vegetation gives rise to resultant radiant heat and, therefore, plays a major role in determining how a bushfire will behave. Each broad vegetation type occurring within Byron Shire is capable of supporting fires of varying severity. The main vegetation types and their bushfire characteristics are detailed in the *Bush Fire Risk Management Plan* (Byron Shire Council 2000a).

4.3.4 Bushfire-prone land mapping

One of the main considerations of the NSW RFS's *Planning for Bushfire Protection* is to achieve strategic planning through:

- the mapping of bushfire-prone areas
- determining suitable bushfire requirements during preparation of local planning documents
- the identification of the extent to which land is bushfire-prone.

A bushfire-prone area is an area of land that has been identified as capable of supporting a bushfire or is likely to be subject to bushfire attack. In general, a bushfire-prone area is a mapped area that identifies vegetation types and associated buffer zones. Generally, these are areas consisting of, or close to, bushfire hazards, such as forest or grasslands (NSW Rural Fire Service 2006).

Bushfire-prone land maps provide the trigger for various development assessment provisions within LGAs. These provisions are designed to improve the survivability of local developments that are exposed to a bushfire hazard.

The identification of bushfire-prone areas in NSW is required under Section 146 of the EP&A Act. Local councils are required to prepare LGA-specific bushfire-prone land maps for approval by the NSW RFS Commissioner. These maps are required to be updated and reviewed at least every 5 years (NSW Rural Fire Service and NSW Department of Planning 2006).

The EP&A Act, coupled with bushfire planning guidelines, effectively result in a system that requires bushfire protection measures to be implemented on development within bushfire-prone land. In summary, if a development site is on bushfire prone land, the requirements of the planning guidelines will apply (NSW Rural Fire Service and NSW Department of Planning 2006).

4.3.5 Analysis of existing Byron Shire bushfire-prone land map

The existing bushfire-prone land map for Byron Shire was completed November 2003 and is attached as Figure 8.

Analysis of this map identified a number of issues and anomalies that require incorporation into strategic bushfire risk management planning. These issues were discussed further with the relevant authorities (i.e. the NSW RFS and Byron Shire Council), which resulted in confirmation that the following examples, presented in Figure 9, provide insight into a number of anomalies within the current map that require local authority review:

- Plate 1 presents an area within the Ocean Shores Area. Bushfire risk analysis reveals the area possesses forest vegetation that is potentially bushfire-prone. It is sufficient in area, often connected to other vegetated areas, with a steep relief that is common to Ocean Shores, to provide a bushfire threat to the surrounding dwellings. Despite these bushfire risks, the area is not mapped as bushfire-prone land. This analysis complies with anecdotal information from the NSW RFS that areas within Ocean Shores are understated on the existing bushfire-prone land map.
- Plate 2 presents an area south-west of the Billinudgel. The existing bushfire-prone land map has categorised vegetation at the centre of the map as vegetation category 1. Investigation of the vegetation revealed only scattered trees of minimal bushfire threat surrounded by heavily managed lands. Plate 2 confirms areas within the bushfire-prone land map are overstated. The NSW RFS has confirmed this as an area of concern with the existing bushfire-prone land map.

- Plate 3 presents an area south of the Brunswick Heads township. The map displays a series of rectangular blocks mapped as vegetation category 2. Surrounding categories appear to follow vegetation boundaries with a much higher degree of accuracy. It appears that ground-truthing is required for certain areas of the bushfire-prone lands map.
- Plate 4 presents the Brunswick Heads area and has been included as a result of consultation and liaison with local RFS staff. Consultation identified that many areas currently mapped within the Brunswick area are both presently under- and over-stated within the existing bushfire-prone land map. The local *Bush Fire Risk Management Plan* revealed arson is an increasing trend within the Council area, particularly in the grassland and heath land areas adjacent to Brunswick Heads. As a result, this issue would appear to require further investigation. (Byron Shire Council 2000a)

4.3.6 Discussion of local planning options

Following review of Byron Shire Council's *Bush Fire Risk Management Plan* and analysis of bushfire-prone land mapping, further consultation with the NSW RFS is required to review and update of the existing bushfire-prone land map. Under Section 146 of the EP&A Act, bushfire-prone land maps are required to be updated at least every 5 years (being November 2008). The bushfire risk analysis carried out in Section 4.3.5 identified areas that were both under- and over-stated in terms of bushfire threat. Analysis also revealed that the level of mapping detail was variable and particular areas required ground-truthing.

Byron Shire Council should carefully consider the types of exempt and complying development that are permitted within bushfire-prone land in the area when drafting any future local planning controls.

Within the existing Byron DCP 16 — Exempt and Complying Development, bushfire-prone land is not considered a trigger to preventing a development from qualifying as exempt or complying.

Table 4-2 details developments that are currently considered as permissible as exempt or complying development within bushfire land.

Table 4-2 Examples of exempt and complying development controls

Exempt development	Complying development
▪ Awnings and shade structures on or associated with dwellings, bird aviaries, cabanas/gazebos, green houses ▪ Bird aviaries, cabanas/gazebos or green houses ▪ Council works: playground equipment ▪ Cubby houses and playground equipment ▪ Decks (unroofed and attached to single dwelling houses) ▪ Garden sheds ▪ Pergola or patio ▪ Shade houses	▪ Alterations and additions to buildings or works (structural or load bearing) ▪ Dwelling-house ▪ Shed (including garage)

While these structures are currently considered exempt or complying development, they possess the potential to impact dwellings on bush fire prone land by:

- reducing the provided defensible space surrounding the habitual dwelling
- disrupting/reducing provided separation between a bush fire hazard and buildings, which in combination with other measures, prevent direct flame contact and material ignition.

The types of exempt and complying development considered as permissible within Council's DCP 16 has the potential to contradict the aims and objectives of the bushfire planning guidelines (NSW Rural Fire Service and NSW Department of Planning 2006).

Future local planning controls will require careful consideration of the types of exempt and complying development, particularly those specified in Table 4-2.

Currently, the bushfire planning guidelines do not include Class 10 buildings. Development currently identified as exempt should remain as exempt development, and consideration should be given to steel or similar minor structures. For other types of development, it is appropriate that Council does not alter exempt and complying development until the review of bushfire-prone land mapping is completed, and further consultation is undertaken with the NSW RFS.

4.4 Flooding and stormwater

4.4.1 Existing environment

Existing and future development within the Shire faces varying degrees of risk from flooding. Due to the coastal location of the Shire, it receives high levels of rainfall (1,700–2000 millimetres per year) with a defined wet season occurring between December and April, during which in excess of 60% of annual rainfall occurs.

Drainage within Byron Shire exists through five catchments, as shown on Figure 10 and summarised below:

- The northern sector of the Shire, comprising approximately 40% (230 square kilometres) drains to the Brunswick River, and encompasses the urban areas of Brunswick Heads and Mullumbimby. The northern section of the catchment is drained by Marshall's Creek, which runs through South Golden Beach and Ocean Shores. The catchment discharges to the Pacific Ocean at Brunswick Heads and has a response time in the order of 15–18 hours. Lower-lying regions of the Brunswick River have historically experienced widespread flooding.
- The southern sector of the Shire, also comprising about 40% (230 square kilometres) drains southwards to Lismore via Wilson's River. In essence, the catchment forms the upper reaches of Richmond River, which discharges to the sea at Ballina. While Richmond River has a much larger catchment with a longer response time and historical impacts at Lismore, Wilson's River at the Byron LGA boundary has a response time in the order of 24–30 hours and there are fewer instances of flooding because of the steeper topography. Notwithstanding the above, Bangalow and Nashua, at the confluence of Wilson's River and Byron Creek are subject to some flooding.
- The easternmost region of the Shire drains to the ocean at Byron Bay via Belongil Creek. This catchment is smaller at about 10% of the LGA (57 square kilometres) and rises quickly once out of the floodplain. It has a very short response time and is likely to be subject to flash flooding. Flood mapping (refer Figure 10) indicates that the lower

reaches of the catchment are subject to widespread flooding in and around the township of Byron Bay.

- There is a small portion of the LGA around Suffolk Park, comprising approximately 2% (10 square kilometres) that discharges to Tallow Creek, which drains directly to the ocean at Suffolk Park. This catchment also has a very short response time (probably less than 1 hour) with steep headlands. Accordingly, Tallow Creek is also subject to flash flooding. Flood mapping indicates some localised flooding, which needs to be investigated in greater detail to assess impacts.
- A minor portion of the LGA, approximately 8% (45 square kilometres) drains to the south via North Creek, which ultimately discharges to the sea at Ballina. The Byron LGA part of this catchment forms the very upstream headwaters of North Creek; however, the lower floodplain does lie within the Byron LGA at Newrybar Swamp and is subject to flooding. The response time to Newrybar Swamp is in the order of a few hours and so is likely to be subject to sudden inundation, without sufficient warning time to mobilise emergency services. Existing land uses are mostly rural.

Mullumbimby

The town of Mullumbimby has a combination of old and newly developed areas. Stormwater drainage for the town discharges to either Brunswick River (Main Arm) or into one of its tributaries. There is minimal pipe drainage and a conveyance system of open drains is used for stormwater management in the majority of the older areas.

The Mullumbimby Sewage Treatment Plant (STP), which is currently in the process of being decommissioned, discharges treated wastewater effluent directly into Brunswick River pursuant to EPA licence conditions. The new replacement plant at Vallances Road will have additional capacity to cater for further growth in Mullumbimby and will also provide for a higher level of treatment, reducing impacts on the environment in accordance with its new licence.

Ocean Shores/South Golden Beach

Development within these towns has occurred since the 1960s and, as a result, drainage is generally poor. Stormwater management consists mainly of overland flow and an open drain network which drains into Brunswick River (North Arm) and its tributaries, Marshall's Creek and Capricornia Canal.

The Marshall's Creek catchment (including the flow through Kallaroo Circuit Bund) has been a significant issue in relation to flooding in this area. A recent LEP amendment and a commitment by Council to be involved in a Marshall's Creek flood study seeks to resolve some of these issues.

Brunswick Heads

Brunswick Heads is located at the mouth of the Brunswick River. The town has a majority of older development with some staged residential development since the mid 1980s. Stormwater management consists mainly of overland flow and an open drain network which drains into Brunswick River (South Arm) and one of its tributaries, Simpson Creek.

The Brunswick Heads STP, which is also in the process of being decommissioned, discharges treated wastewater effluent into Brunswick River via Simpson Creek pursuant to EPA licence conditions. The new replacement plant at Vallances Road will have additional

capacity to cater for further growth in Brunswick Heads and will also provide for a higher level of treatment, reducing impacts on the environment in accordance with its new licence.

As a result of early development work within the floodplain, parts of the town are known to be flood-prone.

Byron Bay

Byron Bay has undergone significant residential and commercial development since the 1980s. Wetlands border the township to the east, west and south-west with urban development encroaching on the fringes of these areas. The town itself has been developed on a perched swamp and as such is poorly drained. Drainage of stormwater is contained within two catchments, Cowper Street (discharging to Clarkes Beach Outfall) and Byron Street (discharging to Belongil Creek). Belongil Creek is intermittently open to the Ocean which is regularly blocked by sand obstructions which occur several times each year.

Byron STP has recently been upgraded and relocated to improve capacity and level of treatment. The effluent is treated via the use of a natural wetland system (the Byron Bay Integrated Water Management Reserve) and is subsequently discharged to Belongil Creek in accordance with EPA licence conditions. The plant provides an improved level of sewer treatment than prior to the upgrade, improving the environmental sustainability for the growing community.

The development of the currently disused rail line between Casino and Murwillumbah is likely to have extensively altered the hydrology of the Byron Bay area. Railway lines typically intersect and re-route natural overland flow paths to the west of the town. Any development near this rail line should be carefully considered for flooding and drainage issues.

Suffolk Park

The majority of development in Suffolk Park has occurred over the past 10 years and is located on higher ground to the west of the village. Stormwater management consists mainly of open drain conveyance with limited piped drainage and discharges into Tallow Creek and Taylor's Lake. Both Tallow Creek and Taylor's Lake are intermittently opened waterways with Tallow Creek open the majority of the time.

The effluent from Suffolk Park is now pumped to the Byron STP following its upgrade.

Bangalow

Bangalow is located on the northern side of the Byron Creek, approximately 7 kilometres west of Cape Byron. Drainage flows directly to the Byron Creek and drains then to the Wilsons River and onto Lismore.

The town is continuing to grow and while earlier development, such as the ribbon development along the main roads, comprises more direct drainage to Byron Creek, modern stormwater management practices for the more recent developments comprise detention basins and water quality ponds.

The current sewage treatment plant has recently undergone a significant upgrade. The treated effluent disposal scheme includes irrigation for 22 hectares of crops, thereby reducing impacts on the environment while allowing for continued growth of the town. Any remaining treated effluent disposal will be in accordance with EPA licence conditions.

4.4.2 Appraisal of flooding and stormwater issues

The further urbanisation of the Shire, as outlined in the various settlement strategies, is limited by several existing environmental and social issues. The additional flooding, as well as stormwater quality impacts resulting from growth and expansion of impervious areas can be managed by the use of water sensitive urban design principles.

A 'floodway' can be defined as an area where a significant volume of water flows during floods. Such areas are often aligned with obvious naturally-defined channels and are areas that, if partially blocked, would cause a significant redistribution of flood flow that may in turn adversely affect other areas. They are often, but not always, the areas of deeper flow or the areas where higher velocities occur (Byron Shire Council 2006).

Flooding

A substantial proportion of land to the north-east of the LGA is low-lying and susceptible to flooding as a result of 1-in-100 year average recurrence interval (ARI) storm events.

As indicated on Figure 10, urban areas at significant risk include Ocean Shores, Mullumbimby, Byron Bay, Brunswick Heads, South Golden Beach and some areas of Suffolk Park and Bangalow. Due to the population density in these regions, flooding has the potential to create significant impacts.

The fact that a large amount of the Shire has been developed prior to the mid 1980s is a contributing factor towards the poor general drainage within each of the urban areas specified. Several flood studies have been completed for various floodplains and other regions of the Shire which are currently in the process of review. These include:

- *Marshall's Creek Floodplain Management Plan* (1997)
- *Draft Tallow Creek Floodplain Risk Management Study and Plan* (2003)
- *Mullumbimby Floodplain Management Study* (1989)
- *Belongil Creek and Byron Bay Floodplain Risk Management Study and Plan*
- *Shire-wide Urban Stormwater Management Plan* (2000).

No flood study has been conducted for Byron Creek at Bangalow.

The effect of climate change on the weather patterns is expected to increase the intensity and unpredictability of storm events. This inherently impacts on the risk of flooding and must be considered in the formulation new flood risk management plans. Hence, the mapping of flood-prone areas should be updated regularly in conjunction with subsequent revisions of risk management plans.

Clause 4.3 of the Minister's Section 117 Directions, dated 19 July 2007 (refer Appendix D), requires new LEPs to be consistent with the NSW Government's *Floodplain Development Manual* (NSW Government 2005). This manual also promotes the development of floodplain management plans to manage the risk of flooding (Byron Shire Council 2005a. The Ministerial direction also restricts certain rezoning on the basis of flood management.

Compliance with the principles of the Government's *Floodplain Development Manual: the management of flood liable land* is the responsibility of Council's Floodplain Management Committee. The Committee acts as a forum to allow all issues to be aired and resolved within the context of an overall management plan that has been developed and set within strategic time frames.

As part of the flood risk management process, a floodplain management plan must be compiled whereby the management of flood prone land can consist of:

- *Risk Avoidance* — this option is used to minimise the occurrence of flooding by restricting development in these areas using land zoning and development controls.
- *Risk Mitigation* — this option is used to minimise the potential impacts of flooding through specific control measures such as property modifications, education services, development controls and drainage modifications within the specific catchment.

The NSW Government's *Floodplain Development Manual: the management of flood liable land* does not endorse the use of restrictive zoning to unjustifiably limit development just because land is flood-prone. Zoning of this land should be based on an objective assessment of land suitability and capability, flood risk, environmental and other factors. In many cases it is possible to develop flood prone land whilst preserving the natural characteristics of the land without resulting in undue risk to persons and property. The flood risk assessment should include consideration of factors discussed above (NSW Government 2005).

Accordingly, any potential rezoning of flood prone land requires consideration of the flood issue in order to minimise future risk. Further information on the individual aspects/issues of these development controls is provided as part of the NSW Government's *Floodplain Development Manual* (Floodplain Risk Management Options).

Stormwater

Stormwater management issues arise when the level of urbanisation within a catchment exceeds the carrying capacity of the stormwater management options adopted. Given the fact that urban development is an ongoing process, planning for stormwater management issues is important with increasing populations.

Various strategic management options and recommendations have been adopted by Council, yet monetary constraints have limited the implementation of these in practice. It has become a significant planning issue because existing problems have become amplified by further urbanisation of the region.

In terms of on-site management, appropriate practices vary from site to site. There are three broad management principles that can be followed when developing assessment criteria. These principles are listed in hierarchal order (PPK Environment and Infrastructure 2000):

- Preserve (and restore) valuable features of the water environment such as natural channels, riparian zones and wetlands.
- Source control (water quality and quantity), which can include education programs, land-use planning, on-site retention. This includes the limitation of excess stormwater runoff and/or the prevention of pollution.
- 'End of pipe' management practices/solutions. These are structural controls such as treatment techniques (gross pollutant traps) or detention basins, to improve water quality and control the volume of stormwater discharge.

These broad principles should form the basis of stormwater management principles for future development within the Byron Shire.

The current trend is toward a more comprehensive 'systems approach' to managing stormwater runoff, with an integrated system of preventative and control practices used to

accomplish stormwater management objectives. This water sensitive urban design (WSUD) process of development occurs over two stages. The first stage is to minimise the generation of runoff and pollutants through a variety of techniques. The second stage is to manage any runoff (with its associated pollutants) in order to minimise its impacts on the environment in a cost-effective manner. This WSUD approach focuses on optimum site planning and the use of more natural drainage systems (such as grassed swales), rather than traditional kerb and gutter and piped systems (CSIRO 1999).

Significantly, Council currently has a comprehensive range of development controls in the DCP for stormwater management. However, these are not fully in step with the principles of WSUD, which is more holistic in its approach to the water cycle, rather than being prescriptive about some individual components. Moving forward is another significant step in Council's management policies, and it is recognised that this may take some time and resources. Accordingly, it is the link to appropriate stormwater controls that is the important issue for the LEP, and revision of the DCP can occur at a later time.

4.4.3 Discussion of local planning options

Suitable land-use controls will need to be included in the new LEP to ensure that consideration of flooding issues are in line with *North Coast Regional Environmental Plan* (Clause 45A), the *Far North Coast Regional Strategy*, the *Floodplain Development Manual*, various Council policies and resolutions and the relevant Ministerial Direction. Such controls would include:

- A local planning provision (i.e. not land use zone specific) relating to flood-prone land. The effect of the clause would be to require specific assessment of flood risk issues against the relevant part of Council's DCP for new development. It is not necessary to identify the extent of flood prone land on an LEP map but a definition of flood prone land should be included in this provision.
- Floodways, where identified through flood risk management studies, should be referred to in a local provision to control development or further development on these areas.
- Any land proposed to be rezoned in the shire wide LEP will need to address flooding and the risk associated with the flooding, with particular reference to the potential loss of areas of flood storage capacity.

Land use controls will also need to be included in the new Shire-wide DCP that considers stormwater and the principles of WSUD.

4.5 Coastal zone

Coastal areas are places that hold great significance for most Australians for a wide range of reasons, including recreation activities, holiday destinations, lifestyle (residence) choice and retirement. The Byron Shire coastline is no exception, and is internationally renowned for its white, sandy beaches and amazing coastal geography (Byron Shire Council 2005a).

The Byron coastal zone extends from the Byron/Ballina Shire border on Seven Mile Beach in the south to the Byron/Tweed Shire border on Crabbes Creek Beach in the north (WBM 2003). This coastal zone includes sandy beaches, rocky headlands and river and creek entrances (WBM 2000). Sandy foreshore areas make up approximately 75% of the entire Byron Shire coastline, with another 15% of the Byron Shire consisting of rocky foreshore habitats (Byron Shire Council 2005a). Byron Shire has four estuaries, the Brunswick River,

Belongil Creek, Tallow Creek and Taylors Lake (Byron Shire Council 2004c). These estuaries form part of the coastal zone.

Byron Shire has rapidly become renowned worldwide for its beautiful beaches and coastal environments. The beaches and foreshore areas of the Shire are the main areas for recreational and social activities of the residents of Byron Bay and the surrounding region. From 1990 to 2001 the coast of Byron Shire experienced enormous expansion in commercial, industrial and residential development (Byron Shire Council 2004c). The 2001 Census showed a significant increase in coastal townships of Suffolk Park (31.4%), South Golden Beach (15%) and Byron Bay (14.3%) (Byron Shire Council 2004c). Today, nearly two-thirds of the Shire's population lives in the coastal towns of Byron Bay, Ocean Shores and the inland town of Mullumbimby. However, residential population growth projections for the Shire indicate a potential 46% increase from 2001 to 2026, with the bulk of the growth in Byron Shire forecast to be in the urban areas initially concentrated in Mullumbimby, Ewingsdale, Ocean Shores, Brunswick Heads, Suffolk Park and to a lesser extent Byron West (Byron Shire Council 2004c).

The concentration of the Shire's population in the coastal area creates significant pressures on coastal and estuarine ecosystems from urban, agricultural, industrial, tourist and recreational development (Byron Shire Council 2005a). Pressures on estuaries and the coastal zone are impacting by modifying water flow, disturbing ASS, causing severe beach erosion and the loss of coastal vegetation. Overall, all these pressures and impacts combined have been threatening development and assets of the Shire in the past, and are still continuing today (WBM 2000).

4.5.1 The NSW coastal zone management framework

The Commonwealth, State and Local Governments share responsibility for management of the Australian coastal zone, its resources and the offshore waters. The legislative basis, or management framework, for planning and management of the land area of the coastal zone in NSW is provided by the State Government, and Local Government is responsible for the day-to-day decision-making.

In 1988, the NSW Government adopted the *Coastline Hazard Policy* (NSW Government 1988a) with the primary objective to reduce the impact of coastline hazards on owners of private and public land. The *Coastline Management Manual* (NSW Government 1990) was released with the Hazard Policy in order to provide local councils with a better understanding of coastal processes, hazards and coastline management so that balanced, merit based decisions could be reached. The manual sets down a management system that requires other planning factors, such as social, economic, recreational, aesthetic and ecological issues, be weighed along with coastline hazard considerations and beach amenity requirements, when making decisions regarding coastal development (NSW Government 1990).

In addition to the manual, the NSW *Estuary Management Manual* (NSW Government 1992) provides a framework for the management of NSW estuaries that is similar to that of the Coastline Manual. Together, these manuals form the basis of the NSW Coastal Zone Management framework. So much so, they have recently been combined into the draft *Coastal Zone Management Manual*, pending release by the State Government. (NSW Government 1992)

The application of a *Coastal Zone Management Plan* and *Estuary Management Plan* is given direction through the *NSW Coastal Policy*. The policy applies to urban and non-urban areas along the NSW coast that are within the coastal zone, along with beaches and seas along the entire NSW coast. In 1997, the NSW Government released the third edition of the *NSW Coastal Policy*, designed to guide management and planning of the coastal zone based on the principles of ecologically sustainable development (ESD) (NSW Government 1997).

The principles of ESD are to be used to guide decision making in all areas and activities affecting the NSW coast. These principles should be considered by local councils in decisions relating to development applications, LEPs and their own activities, by state agencies in relation to planning, policy formulation, works and funding, by the development industry when framing development proposals, and by the community in relation to everyday activities (NSW Government 1997).

4.5.2 Current management of the coastal zone

The coastal zone is exposed to a variety of hazards of differing impact that may threaten human activities and coastal amenity. However, the pressure to develop coastal areas is intensifying, and state and local planning needs to ensure that the coastal zone is protected while the potential future use of the coastal zone is maintained without causing any significant impacts to the zone.

There are other state and local planning instruments in place to manage the future use of the coastal zone, besides those in the NSW coastal planning framework Table 4-3 outlines all the current Government legislation and planning policies, and Byron Shire Council's management plans and planning policies that are currently required/used to manage the Byron Shire coastal zone.

Table 4-3 Legislation relevant to the Byron Shire coastal zone

Legislation and planning policies	Key requirements	Relevance to Byron Shire coastal zone
<i>NSW Coastal Policy</i>	The 1997 Coastal Policy is based on the four principles of ESD and provides a strategic policy framework for the coast in order to guide decision making. It sets a direction to be taken by Local and State Government in the planning and management of the coast and in works and activities impacting on the coast.	The Coastal Policy is Government Policy and all NSW State Government agencies and Local Councils are obliged to take account of it in the preparation of their own specific policies and programs. Local Council have primary responsibility for planning and development in the Coastal Zone. It is recommended that Local Councils address their implementation of the Coastal Policy through the management plans which they are required to prepare under Section 402 of the <i>Local Government Act 1993</i> .
Section 117 Ministerial Directions (issued	The objective of Direction No.2.2 is to implement the principles in the NSW Coastal Policy. Direction No. 2.2 applies	The Draft LEP shall include provisions that give effect to and are consistent with the <i>Coastline</i>

Legislation and planning policies	Key requirements	Relevance to Byron Shire coastal zone
under the EP&A Act 1979) – Direction No.2.2 Coastal Protection	to the Coastal Zone, as defined in the <i>Coastal Protection Act 1979</i> . This Direction applies when a Council prepares a Draft LEP that applies to land in the Coastal Zone.	<i>Management Manual</i> 1990, the <i>NSW Coastal Policy</i> 1997 and the Coastal Design Guidelines.
<i>Coastal Protection Act 1979</i>	The objective of the <i>Coastal Protection Act 1979</i> is to provide for the protection of the coastal environment of the State for the benefit of both present and future generations.	Under this Act a public authority shall not, without the concurrence of the Minister, carryout any development in the Coastal Zone, or grant any right or consent to a person to use or occupy any part of the coastal zone, or to carryout any development in the Coastal Zone. Under Part 4A Coastal Zone Management Plans, Division 1 General 55B Requirement for Coastal Zone Management Plans, a Council whose area, or part of whose area is included within the Coastal Zone may, and must, if directed to do so by the Minister, make a Coastal Zone Management Plan in accordance with this Part. A draft of the first management plan prepared by Council must be submitted to the Minister.
NSW Government <i>Coastline Management Manual</i>	The objective of the <i>Coastline Management Manual</i> is to assist Local Councils in developing plans of management for the coastline. The Manual assists in the implementation of the Coastline Hazard Policy 1988. The primary objective of the Governments Coastline Hazard Policy is to reduce the impact of coastline hazards on individual owners and occupiers of coastal lands, and to reduce private and public losses resulting from such hazards.	Council has completed a <i>Coastline Management Study</i> , and currently has consultants preparing the <i>Coastal Zone Management Plan</i> for the Shire's coastal zone. The <i>Coastal Zone Management Plan</i> will provide policies and strategies for Council's long term future management of the Byron coastline, particularly in solving longstanding coastal erosion problems, enhancing the coastal environment and establishing sound planning guidelines to cater for increasing development and recreational usage of the beach areas. The suggested strategies may include amending Council's DCPs and LEP to ensure that future activities and developments along the coast are sustainable.
<i>Coastal Design Guidelines for NSW</i>	This document shows how best practice urban design helps new development to be more responsive to community expectations and local conditions. Urban design plays an important role in protecting the environment it also improves the economic viability of communities by protecting the unique natural and cultural characteristics of a place, thereby attracting investment and	A draft LEP must be consistent with the provisions of the <i>Coastal Design Guidelines for NSW</i> if Section 117 Direction No.2.2 – Coastal Protection applies to the Local Council.

Legislation and planning policies	Key requirements	Relevance to Byron Shire coastal zone
	tourism. The guidelines are designed to assist decision makers in Government, development applicants (including their planners and designers) and local communities.	
SEPP 71 – Coastal Protection	This SEPP aims to protect, manage and improve the natural, cultural, recreational and economic attributes of the NSW coast. This SEPP applies to land the whole or any part of which is within the coastal zone.	Part 2 Clause 8 sets out 16 matters for consideration that should be taken into account by a Council, when it prepares a draft LEP that applies to land to which this policy applies. (Refer to Appendix F and I)
NSW Government <i>Estuary Management Manual</i> (1992) <i>Brunswick Draft Estuary Management Plan</i> (2005) <i>Belongil Estuary Management Plan</i> (2001)	The Manual was produced to help develop and implement Estuary Management Plans. The Manual contains guidelines and principles for better estuary management to assist Estuary Management Committees prepare and implement Management Plans. The primary goal of the Estuary Management policy is to encourage the integrated, balanced, responsible and ecologically sustainable use of the State's estuaries. The object of an estuary management plan is to sustain a productive and attractive estuary where balanced and coordinated management of resources ensures sustainability of diverse natural systems; whilst, maintaining or meeting community needs	Two estuary management plans exist for the Byron Shire. The <i>Brunswick Estuary Management Plan</i> (draft 2005) and the <i>Belongil Estuary Plan of Management</i> (2001). Both of these plans outline actions that need to be taken to ensure the future of the estuaries. Management actions in the plan include; control of stormwater, weed control, bank stability, and amending the LEP to protect riparian areas. The plans provide specific actions to protect the estuary and restore degraded health. A table of management tasks is presented in the summary of the plan and should be considered by Council during preparation of the LEP, including defining foreshore reserves and riparian buffers. Appropriate zoning of HCV, as discussed in Section 4.1.11, will adequately address buffer requirements.
Cape Byron Marine Park	The Cape Byron Marine Park was declared on 1 November 2002 as part of the NSW Government's commitment to the development of a representative system of marine protected areas. The Marine park covers over 22,000 hectares, extending from the northern break wall of the Brunswick River in the North to Lennox Head (Ballina Shire) in the South, and includes all of the seabed and extends seawards from the mean high water mark to the three nautical mile limit of State Waters. The tidal waters of the Brunswick River and its tributaries, as well as, Belongil Creek and Tallow Creek are also within the Marine Park. There are four planning zones in the Marine Park, there are restrictions on what activities can be carried out in	The Cape Byron Marine Park may effect certain development on land below mean High Water Mark, where the boundary overlaps Council LEP zones. Activities that can occur in a Marine Park zone appear to be compatible with the Standard LEP zones E1, E2 and E3.

Legislation and planning policies	Key requirements	Relevance to Byron Shire coastal zone
	each of the zones, also a permit may be required for certain activities.	
<i>Byron Local Environmental Plan 1988</i>	The purpose of an LEP is to control development and environmental management, particularly through zoning and the permissibility of development within the zones.	Council has two zones that cover most coastal land within the Shire and control what development can occur within these zones. They are the 7(f1) (coastal land zone) and 7(f2) (urban coastal land zone). Clause 32 and 33 of the LEP refer to the 7(f2) and the 7(f1) Coastal Land Zones. These Clauses limit the potential for development in these areas due to the likely impacts of coastal processes.
Byron Shire Council Development Control Plan – Part J Coastal Erosion Lands	The purpose of Part J is to provide advice, guidelines and development standards addressing coastal hazard issues in Byron Shire. This part of the DCP applies to land affected by predicted coastal erosion and coastal hazards as defined on maps provided to Council by the NSW Department of Land and Water Conservation. The objectives of this DCP are: To make provisions for the orderly and economic development of land within the coastal erosion zones. To ensure that such development is carried out in a manner which does not adversely affect coastal processes and which will not be adversely affected by coastal processes. To provide guidelines for determination of the merits of development on coastal lands as required by section 79C (a) (iv) of the Environmental Planning and Assessment Act 1979.	Council has adopted to continue the planned retreat principles contained within the DCP, which are in accordance with the <i>NSW Coastal Policy and Coastline Management Manual</i> . These principles should therefore be consistently applied within the LEP pending the outcome of the CZMP currently underway.
<i>Far North Coast Regional Strategy</i>	The Far North Coast Regional Strategy aims at restricting development in coastal areas that will impact on the coastal zone, and restricting development in areas where the development will be vulnerable to coastal hazards.	The strategy outlines Actions that relate to coastal development that the Byron Shire LEP and all other Council planning instruments must be consistent with.
<i>Coastal Dune Management : A Manual of Coastal Dune Management and Rehabilitation Techniques</i>	Plans prepared under the manual provide strategies, methods and a work program for restoration of coastal dune vegetation.	Vegetation management plans were prepared in 2003, for the following dunal areas: North Seven Mile Beach South Golden Beach New Brighton Belongil Cavvanbah Brunswick Heads Main Beach

Legislation and planning policies	Key requirements	Relevance to Byron Shire coastal zone
		Suffolk Park The zones recommended in the LES for the coastal dune areas will not conflict with these plans.

Planned retreat

According to the *Byron Coastline Management Study* (Byron Shire Council 2003b), the planned retreat option for coastal erosion management acknowledges that erosion is an ongoing phenomenon and seeks to address the issue by removal of threatened facilities rather than trying to protect them. By removing the threat, the objective is to allow the beach to recede naturally and by so doing, the natural values and amenity of the beach will be retained. Once potentially threatened facilities are removed and a dune system is re-established, there will be no further costs for ongoing works apart from standard dune and beach management activities.

Byron Shire Council has resolved to adopt planned retreat (under private and public ownership) as the preferred management option Shire-wide. Council is also committed to preserve the approved protection works in the Byron Bay town centre.

4.5.3 Discussion of local planning options

Based on the findings of the coastline management study and other existing studies relevant to the coastal zone, such as estuary management plans and dune vegetation management plans, the following have been identified as key issues:

- While there are no predicted immediate threats to the Shire's biodiversity from coastal erosion, there are some medium- to long-term threats predicted due to potential coastal erosion, as well as impacts from climate change. This may be in the form of direct habitat loss from dune erosion, such as wetland and littoral rainforest, to the as yet unquantifiable impacts of climate change and sea level rise associated with climate change.
- Immediate and long-term threats exist to private development and public infrastructure in the coastal zone. These threats arise from coastal erosion and coastal inundation (through overtopping of the sand dunes or marine flooding of the estuaries). Council maintains a 'planned retreat' policy for private development under threat of coastal erosion.
- The *Coastal Zone Management Plan* (CZMP) currently being prepared will recommend further investigations, and if required, assist in informing the LEP zoning of the coastal zone and a specific local provision to guide the management of these areas.
- Current coastal zone planning mechanisms within Council's DCP 2002 Part J —Coastal Erosion Lands, are based on best practice coastal management principles that are as relevant today as they were in 1988 when the DCP was prepared. They are being reviewed as part of the preparation of the CZMP. Review of the DCP to date also reveals that its principles are still in accordance with relevant State Government policy.

The legislation and policies above give an overview of the different requirements and guidelines that must be met by Byron Shire Council to manage development and use of the coastline and for the preparation of a new LEP.

For the LEP to maintain the ecological and economic sustainability of the Byron Shire coastal zone, the following must be further considered:

- Adopt the standard LEP template clause relating to development within the coastal zone, 'Development within the Coastal Zone'.
- Investigate the inclusion of a 'local provision' within the Shire-wide LEP, to address residential development within the coastal hazard zone.
- Recent analysis of the standard LEP revealed an anomaly within permissible activities for the environmental zones. If E2 Environmental Conservation zone is used for the coastal areas, Environment Protection Works are permissible with consent. 'Erosion protection works' are included under the definition of environment protection works and such hard engineering works are contrary to the principles of 'planned retreat', therefore, Council will need to seek approval from the Department of Planning to modify the standard inclusions in the E2 zoning table.
- Council should revisit their current DCP, to ensure consistency with the outcomes/recommendations identified within the CZMP, which is currently being undertaken by Council, if adopted by Council at the time of preparation.
- Council may consider the implementation of a moratorium on development within the hazard zones until completion of the CZMP.
- Apply the planned retreat principles within the current DCP into the new Shire-wide LEP.
- Council has confirmed its position on coastal protection of the Byron Bay town centre and as such Council's CMP, that is being prepared, will consider the application of coastal hazard provisions to the Byron Bay town centre.
- Consider how the Cape Byron Marine Park can be addressed in the new LEP, where required, including buffers.
- The estuary management plans for Belongil and Brunswick (currently draft) should be considered in the preparation of the new LEP in relation to buffers and protection of important vegetation and habitats.

4.6 Climate change

4.6.1 Global climate change

Within the past several decades, it has become clear that the progressive growth of the human influence on the planet is affecting the Earth's climate system. As climate is a major factor determining not only the spatial distribution of the world's plants and animals, but also the enterprises of human beings such as agriculture and forestry, a change in the Earth's climate is likely to have significant consequences (Preston et al. 2006).

Although the greenhouse effect is a natural process, human activities, including land clearing and burning of fossil fuels, have changed the amount of greenhouse gases in the atmosphere altering the natural heat balance (Byron Shire Council June 2004a). It is increasingly clear that as a result of human activities (releasing vast quantities of greenhouse gases into the atmosphere) over the last 50 years, Earth's climate is changing. Current evidence of a changing global climate includes the following (CSIRO 2007):

- Temperatures in the northern hemisphere at the end of the 20th century are believed to have been warmer than they have been at any time in the previous 1,000–2,000 years.
- The average global temperature in 2005 was the warmest on record, and eight of the 10 warmest years have occurred since 1997.
- The Earth's average surface temperatures has risen 0.7°C since 1900.
- Heatwaves and extreme rainfall have become more common in many regions.
- The sea level has risen 1.8 millimetres per year since 1950 and that rate is accelerating.
- There have been fewer frosts and the ice sheets of Antarctica and Greenland are shrinking.
- The timing of physiological processes in plants and animals is changing throughout the world, and populations are shifting their distributions.

Projected warnings in the 21st century are dependent on scenarios of future emissions of greenhouse gases and aerosols. Global average warming predictions range from 1.4°C to 5.8°C by 2100 relative to 1990, and global average sea level rise by 2100 range from 9–88 centimetres (Australian Greenhouse Office 2003). The sea level rise will be a result of thermal expansion of sea water (about one half), the melting of glaciers (about one quarter), and a small amount from Greenland ice melt and possibly from snow accumulation over Antarctica (Australian Greenhouse Office 2003). These scenarios were regarded as 'plausible' by the International Panel on Climate Change, but were not assigned any probabilities (Australian Greenhouse Office 2003).

4.6.2 Australian climate change

Australia is experiencing rapid climate change. Since the middle of the 20th century, Australian temperatures have increased by almost 0.9°C over the last hundred years, which is slightly more than the global average (CSIRO 2005). Australia has also experienced an increase in the frequency of heatwaves and a decrease in the numbers of frosts and cold days (CSIRO 2005). Rainfall patterns have also changed — the north-west has seen an increase in rainfall over the last 50 years while much of eastern Australia and the far south-west have experienced a decline (Australian Greenhouse Office 2003). Droughts have become more intense since 1973, and extreme rainfall events have increased in the north-east and south-west (CSIRO 2007).

Using global climate model simulations, the CSIRO has projected future climatic conditions in Australia, which include (CSIRO 2007):

- an increase in average annual temperature of 1–6°C by 2070 over most of Australia
- an increase in the average number of extreme hot days and decrease in the average number of extreme cold days
- a decrease in annual average rainfall in the south-west and in parts of the south-east and in Queensland
- an overall drying trend for Australia due to increased temperatures and evaporation and changes in rainfall
- an increase in maximum wind speed of tropical cyclones of 5–10% in some parts of the globe by 2100 and an increase in precipitation rates by 20–30%.

4.6.3 Impacts of climate change on Byron Shire

Byron Shire offers a year round tropical climate with an average temperature of 27°C in summer and 22°C in winter (BOM 2007). Temperatures rarely fall below 10°C, with the lowest temperature since 1974 being 3.3°C in 1997 (BOM 2007 – recorded at Byron Bay Lighthouse). The Shire receives an average of 1,850 millimetres of rain annually with most rain occurring between February and April and the least rainfall between August and September (BOM 2007).

Since recording began in 1974, nine of the highest minimum temperatures for each month have been in the last decade. This demonstrates that the climate of Byron Shire is warming. It is hard to indicate whether rainfall in the Shire has increased or decreased as it is very variable; however, the highest daily rainfall (millimetres) for each month since records began in 1974 have all been in the 1970 and 1980s except for 2 days, which occurred in 1994 and 1996 (BOM 2007).

The future climate of Byron Shire is likely to be warmer, based on the temperature predictions for NSW (see Figure 4-1). Temperatures for northern NSW are predicted to be higher by between 0.3–2.1°C by 2030 and 0.9–6.4°C by 2070 (Hennessy et al. 2004a).

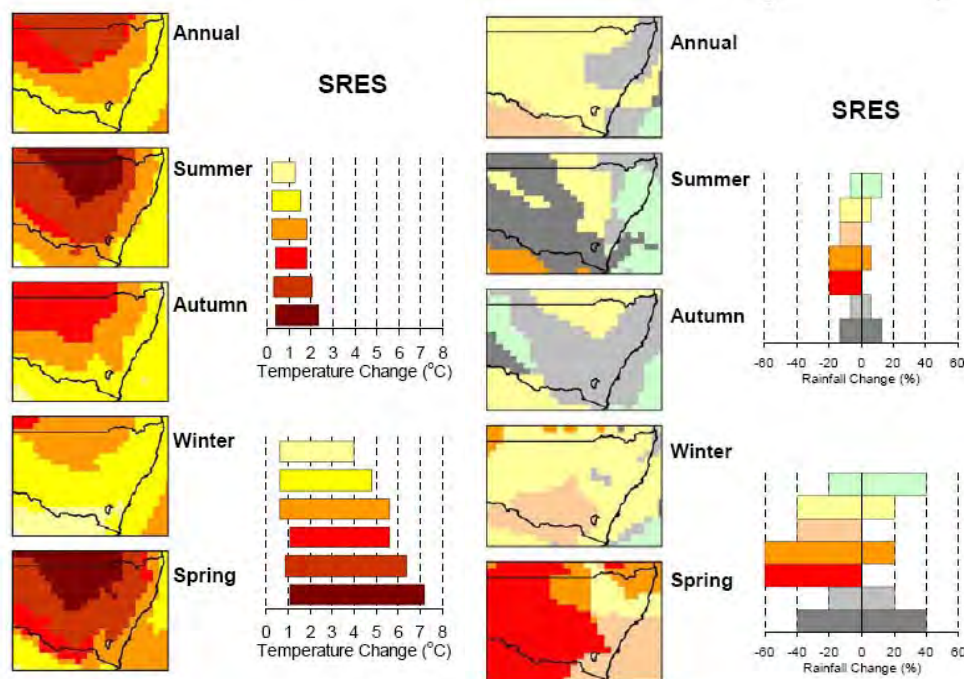


Figure 4-1 Climate projections for New South Wales

Note: SRES are predictions that exclude specific actions to reduce greenhouse gas emissions. The coloured bars show the range of projected changes corresponding with the colours in the maps

Source: Hennessy et al. (2004a)

Although current projected changes in average rainfall are currently not clear, rainfall predictions for northern NSW may vary between $\pm 10\%$ by 2030 and $\pm 20\%$ by 2070 (Hennessy et al. 2004a). With the predicted increases in temperature and evaporation (8–15% by 2030 and 22–40% by 2070), the Shire is likely to be drier. Such climate change will also increase heatwaves, extreme winds and fire risk (CSIRO 2007). However, the drier conditions may be offset if seasonal rainfall increases in extreme rainfall events.

Although changes in average temperature, rainfall and evaporation will have long-term consequences for the Shire, the impacts of climate change are more likely to be felt through extreme weather events. Projections suggest there will be more hot days, bushfires, double the occurrence of spring droughts, increased flooding incidents in summer/autumn, and intense storms which will increase coastal erosion and infrastructure damage. These can all place human life, property and natural ecosystems at increased risk (Hennessy et al. 2004a; Byron Shire Council June 2004a).

Agriculture

Agriculture is identified as an important social, economic and environmental sector of the Byron Shire. Agriculture is the third largest source of income for the Shire, generating between \$35 million (ABS 2000-2001) and \$57.5 million (ABS 1999-2000) annually (Byron Shire Council 2004c). The Shire's natural environment is well suited to a variety of enterprises including sugar cane, macadamias and other nuts, limes, lemons, mandarins, oranges, avocados, mangoes, a range of vegetables (tomatoes, cucumbers, lettuce, zucchinis, marrows), peaches, nectarines, coffee, cut flowers, herbs, bush foods, farm forestry as well as a range of animal production, including dairies, pigs, beef cattle and poultry (Byron Shire Council 2004c). Agriculture in the Shire is characterised by relatively small holdings involved in intensive production with over 53% (ABS 2000-2001) of landholders, in the agriculture sector, involved in some form of horticulture (Byron Shire Council 2004c).

Predicting the impacts of climate change on agriculture is complicated as some impacts may be positive (i.e. increased growth and water use efficiency from higher carbon dioxide concentrations). However, these could be offset by increased temperatures, reduced rainfall and more frequent extreme events (Australian Greenhouse Office 2003). The most likely impacts from climate change on agriculture in the Shire is that climate change has the potential to exacerbate other land degradation challenges already being faced by farmers, such as salinity and soil erosion, and the availability of water for irrigation. Changes to the water balance and water tables can increase salinisation and higher flood flows and drought induced dust storms can result in dramatic soil erosion events (Australian Greenhouse Office 2007). Drought frequency and severity, and consequent stresses on agriculture, are likely to increase in the future (Australian Greenhouse Office 2007).

Biodiversity

Byron Shire has extremely high biodiversity at the species and ecosystem level (refer Section 4.1). The Shire is centred in the Wet Subtropics Bioregion, and is one of the richest and most diverse regions for flora and fauna in Australia. Current threats to the Shire's biodiversity are largely due to weed and pest invasion, and past land clearing for agriculture resulting in fragmentation of vegetation and the associated alteration to the natural flow regimes of rivers, streams, floodplains and wetlands. However, climate change is likely to increase the need for conservation efforts (Byron Shire Council 2007).

Plants and animals

Changes to the climate will have significant effects on plants and animals as species from tropical and temperate zones intermingle in the Shire, with many reaching their southern and northern limits in eastern Australia. For example, the Marbled Frogmouth reaches its southern limit and the Eastern Pygmy-possum reaches its northern limit (Byron Shire Council 2007). Climate change is likely to drive changes in the distribution of some plant and

animal species, driving some species out of the Shire or enabling invaders to move in. Meanwhile, even those species capable of coping with climate change alone may be affected by the cumulative effects of multiple stressors. Other risks to plants and animals are that they may become stranded in isolated vegetation due to the changing climate and continual land development, and increased stress on plants and animals due to increase frequency of droughts and fires (CSIRO 2007).

Preliminary research has suggested that temperate forests in Australia may increase in productivity with higher temperatures and increased concentrations of atmospheric carbon dioxide. However, these benefits may be offset by warmer and drier conditions and are likely to impact on forests, reducing their extent and threatening species which inhabit these areas (Australian Greenhouse Office 2003). The new conditions will result in a change in the species composition(i.e. could change from a wet sclerophyll forest to a dry sclerophyll forest).

The modelling of climate change interactions with other threatening processes, such as invasive species, salinity, altered fire regimes and pathogens like *Phytophthora cinnamomi* involves complex layers of uncertainty and make the identification of the impacts of climate change on ecosystems difficult. Consequently, this area of uncertainty has recently been identified as one of the six key action areas of the *NSW Biodiversity and Climate Change Adaption Framework* developed by the NSW Inter-agency Biodiversity and Climate Change Impacts and Adaption Working Group (NSW IBCCIAWG) (2007).

Wetlands

Wetland ecosystems will be affected by the decline in rainfall, which will result in the reduction in stream flows. Less water flow into wetlands and marshes that are important bird habitat areas could result in less frequent breeding events (Australian Greenhouse Office 2003). Sea level rise is likely to inundate coastal wetlands, resulting in saltwater intrusion and alter the discharge of freshwater into estuaries. Floods associated with more intense rainfall events could result in increased sediment and nutrient levels in estuaries and coastal ecosystems. This has the potential to significantly impact habitat areas essential to many fish species (Australian Greenhouse Office 2007, 2003).

Water resources

Australia's water resources are particularly vulnerable to climate change due to projected drying trends. Climate change is already having a significant impact on water supply, especially because Australia's rainfall is so variable. This variability often results in recurrent rainfall deficits and drought which are likely to become more extreme due to the predicted changes in rainfall and higher evaporation rates (Hennessy et al. 2004a; Australian Greenhouse Office 2003). This predicted decrease in rainfall, higher temperatures and increased evaporation will have consequences for storages and place strains on the Shire's water resources. For example, the past and current trends for Rocky Creek Dam is for the dam to be at almost 100% capacity in the winter months, decreasing to 80–25% during summer (see Figure 4-2). If rainfall decreases, evaporation increases, but extreme rainfall events become more frequent, the water levels in the dam may become even more fluctuant and instead of being a yearly water cycle, there may become yearly cycles of the dam being at low capacity before an extreme event increases its capacity (Rous Water 2007).

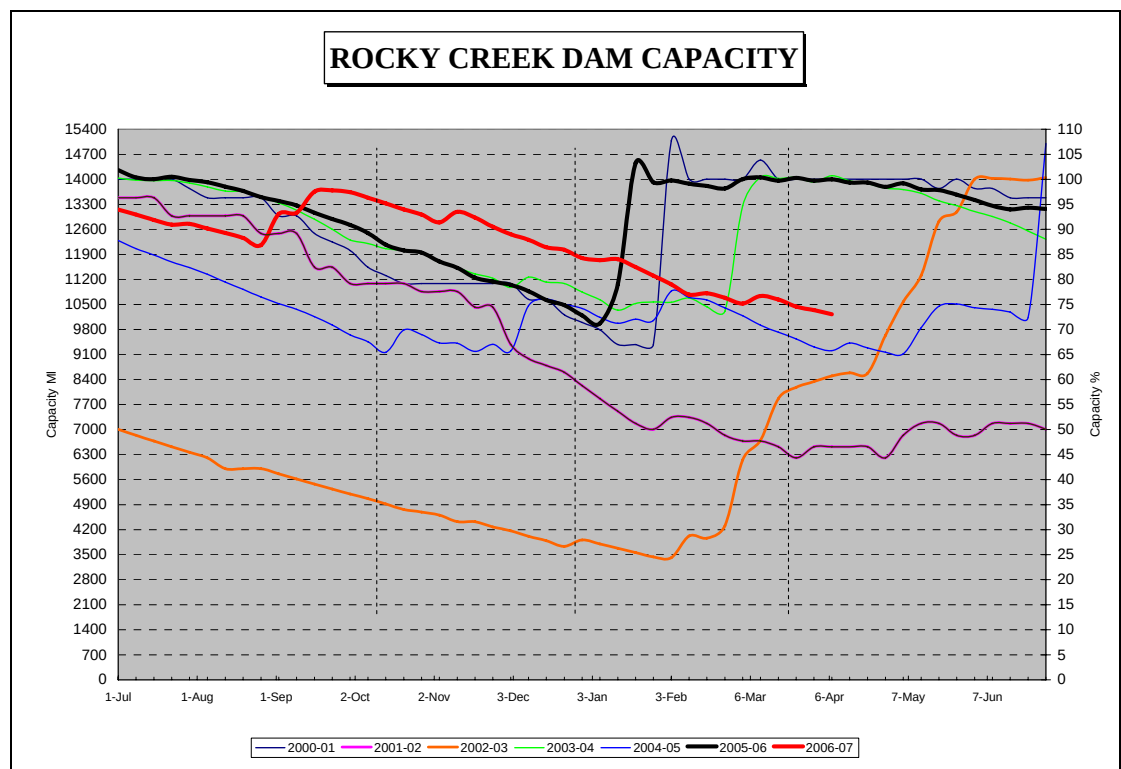


Figure 4-2 Rocky Creek Dam capacity over the last 7 years

Source: Rous Water (2007)

Various studies of stream flows in NSW indicate that climate change is likely to reduce flows in the future (CSIRO 2007). Low water supply and higher temperatures can affect water quality. Drought conditions can exacerbate erosion, leading to higher sediment loads entering rivers following rainfall events and the higher temperatures can lead to more eutrophication and algal blooms (Australian Greenhouse Office 2003). Greater fire activity could contaminate water sources with sediment and ash and salinity problems may be exacerbated by changes in rainfall, temperature and stream flows. Groundwater aquifers

may be adversely affected by rising sea levels and salt-water infiltration due to flooding of coastal areas (CSIRO 2007).

Communities

A larger percentage of the population of Byron Shire lives along the coast. Marked trends to greater population and investment in exposed coastal regions are increasing vulnerability to tropical cyclones and storm surges. Thus, projected increases in tropical cyclone intensity and possible changes in their location-specific frequency, along with sea level rise, would have major impacts, notably, increased storm-surge heights. Increased frequency of high-intensity rainfall, flash-flooding and fire would increase damages to settlements and infrastructure (CSIRO 2007; Australian Greenhouse Office 2003).

A greater frequency of extreme events such as floods, fires and high winds may adversely affect the security and continuity of supply of electricity transmission and other communications systems. Changes in climate will affect building design and performance, particularly higher temperatures, as this will increase peak demand for electricity for air conditioning, requiring either adaptation to reduce demand or greater installed peak generating capacity (Australian Greenhouse Office 2003 and CSIRO 2007). Increases in the intensity of the heaviest rainfall events will increase flash flooding, placing strains on water infrastructure such as sewerage and drainage systems, particularly in the urban settlements.

Modelling of weather patterns along the NSW coast indicates that there is a potential for increases in the frequency of weather events that contribute to extreme winds and subsequently storm surges (Hennessy et al. 2004b). An increase in storm surges, combined with sea level rise, will increase the risk of coastal inundation, erosion, and damage to infrastructure and property along the coast. Modelling of impacts of sea level rise on various locations along the NSW coast, indicates that there is a potential for beach erosion in excess of 100 metres during extreme storm events (CSIRO, 2007), however the actual magnitude of beach erosion will vary significantly depending on the geomorphology of the area. Nonetheless, this magnitude is dealt with largely in Council's current *Coastline Hazard Definition Study* (2000c) and *Management Study* (2004), which is informing the current preparation of the *Byron Shire Coastal Zone Management Plan* (BSC 2000c).

4.6.4 Discussion of local planning options

It is clear from the above that impacts of climate change on biodiversity, agriculture and infrastructure, for example, is not yet an exact science, and is therefore difficult to predict. The implications of planning for such uncertainty are also difficult to quantify, and accordingly the planning mechanisms available are significantly limited at this stage.

As part of the Climate Change Impacts and Adaptation Research Program (CCIARP) an inter-agency team is currently undertaking research and modelling into the projected impacts of climate change on:

- bushfire risk
- coastal erosion and storm surge
- estuarine inundation
- water availability and flooding in the Greater Metropolitan Region
- water availability in the Murray-Darling Basin
- flooding on the NSW north coast

- biodiversity and threatened species
- weeds and pests in natural and agricultural systems
- human health risks from climate change.

It is expected that with the completion of these studies our understanding of the potential implications of climate change will allow for future precautionary planning (NSW IBCCIAWG 2007).

In the absence of complete information, these estimates should be used as the basis for planning controls such as:

- environmental zoning within LEP
- land title restrictions
- establishing larger setbacks to ensure that endangered communities, such as saltmarsh, can respond to sea level rise link to buffers
- changes to infrastructure design to ensure that the ecological response to climate change can be accommodated (e.g. culverts under roads to allow saltmarsh to re-colonise).

The proposed E2 environmental protection zoning, based on the HCV identified lands within the Shire (Byron Shire Council September 2004), incorporates the majority of lands likely to be significantly impacted by climate change in the near future. These lands and the use of E2 and E3 environmental zoning for appropriate buffers around the HCV lands, riparian and estuarine areas will ensure that the impacts of climate change within Byron Shire are appropriately considered in planning.

The provision of E3 or better environmental protection zoning for the major habitat corridors identified within the Shire will assist the movements of fauna species where habitats are affected by climate-induced change.

Covenants on land title can be used to control the use of land in perpetuity, thus enabling a land use control that is inter-generational, which could be used to plan for long term climate change impacts. Restrictive covenants can restrict the use to which the land can be put even when bought by a subsequent purchaser. A covenant could, therefore, be placed to control any future development or land clearing to occur upon the site to preserve key habitat and significant biodiversity, to plan for predicted climate change impacts. Current local and national data is not comprehensive enough to enable this in the short term.

Positive covenants, on the other hand, require a landholder to 'do something' on their land and thus could be used to ensure private land owners continue to carry out conservation management on these areas and on land adjoining environmentally significant areas. Unlike restrictive covenants, positive covenants are not enforceable in Court.

In the long-term, financial incentives could be utilised to encourage land owners to place a covenant upon their land. Although it is considered unlikely that this measure would be affective as such restrictions upon land could potentially impact the market value of the property.

Further, provisions under the *Conveyancing Act* 1919 (Section 88d and 88E) enable government departments, authorities and local councils to enter into agreements with land holders to attach covenants to land; these covenants can be enforced against subsequent land owners. This type of covenant is usually part of an agreement under which Council will

let a development go ahead. It may be possible that 'public positive covenants' be utilised; however, it should be noted that they are usually enforced to reflect the development of land rather than the conservation of the environment. These provisions may be appropriately applied to areas adjoining riparian and estuarine environmental constraints that are not zoned for environmental protection or buffer zones.

Outright purchase of private land is a potential option to protect and enhance biodiversity and establish setbacks to ensure that certain floral communities, such as the endangered saltmarsh community, can respond to sea level rise into the future. Purchased land could be dedicated as public land and thus protected from future development. Alternatively, private land could be resold after a covenant is placed upon the title to restrict future loss. Furthermore, as more detailed knowledge of climate change impacts becomes available, governments may need to consider compulsory acquisition, such as the 'planned retreat' approach used in coastline management. This option can be significantly constrained by land value, particularly in coastal localities. The issue of the acquisitions of land is dealt with in more detail in the Coastal Zone Management Plan and Section 4.5.1.

There are several forms of conservation agreements that could also be utilised to establish a protection mechanism for biodiversity and climate change impacts. Protection could possibly be achieved via the negotiation of a conservation agreement with the owner or leaseholder. These agreements are generally voluntary. As such, sufficient and attractive terms of an agreement would be required to persuade a landowner to enter a conservation agreement.

Council's, possibly with the assistance of State Government, could establish a policy or framework to initiate such agreements with local land owners. It is likely that such policy may be developed, following the implementation of the proposed Climate Change Adaptation and Capacity Building Program for Local Government as identified in the priority action Area 4 of the NSW IBCCIAWG (2007).

Climate change has the potential to impact on the built environment through loss of land and alterations to overland flow and flooding pathways. Future provision of infrastructure, buildings and associated structures must be assessed in light of contemporary understanding and emerging models that predict impacts of climate change. Furthermore, increased storm intensity and temperature may impact on new buildings. Increased storm intensity may require increased expenditure and design considerations to withstand additional live loads. Higher temperatures may also require additional insulation or design considerations in buildings to maintain thermal comfort. Both increased loading and thermal comfort requirements are dealt with under the provisions of Building Code of Australia.

5. Social and economic environment

5.1 Social profile

This section provides a demographic profile of the Byron Shire local government area (LGA). The findings within this section are based on 2001 Census data and extracts from the 2006 Census data.

5.1.1 Population trends in Australia

In 2001, there were 18.8 million people living in Australia. Of these people, two-thirds were located in major cities. The rest were counted mainly in regional areas (31%), with only 3% of people counted in either remote or very remote areas.

Between 1991 and 2001, the population of Australia grew by 12%. Major cities experienced a similar population growth over the decade (13%). The population in regional and very remote areas grew by 5% each, while remote areas remained virtually stable.

In the 10 years to 2001, some of the additional 484,000 people in regional areas were the result of migration to coastal areas and along commuter belts. Such regional areas can offer accessibility to services without the higher costs associated with living in major cities. People on government benefits who moved out of Sydney to non-metropolitan areas in 2001 indicated that a major reason for moving was housing affordability.

In addition, people moving to regional areas along the coast did so as a lifestyle choice. In the 5-year period ending June 1999, all 15 SLAs (Statistical Local Areas) outside capital cities, which grew by more than 5,000 people were coastal SLAs.

5.1.2 Demographic characteristics of Australia

In 2001, there were 98 males for every 100 females in Australia. Women outnumbered men in major cities and inner regional areas, but in the more remote areas there were a greater number of males than females.

In 2001, the median age in major cities (the age at which half the population are older and half are younger) was 35.1 years. In inner regional areas the median age was highest at 37.3 years; median ages then declined consistently as remoteness increased, to 32.3 years in very remote areas.

In 2001, major cities had the highest percentage of young adults (aged 15–24 years) as a proportion of the population (14%). Major cities provide opportunities for education, employment and social interaction, which are general requirements of people in this age group. There is a recognised pattern of young people migrating out of country areas to cities, seeking such services and opportunities.

Consistent with this movement, outer regional and remote areas had the lowest proportions of young adults (12% and 11% respectively). Inner regional and outer regional areas had the highest proportions of people aged 65 years and over (14% and 13% respectively), contributing to higher median ages for these remote areas.

In addition to lifestyle factors, non-metropolitan areas have a comparatively lower cost of living than capital cities, and these locations attract and retain older people. Further, rates of disability increase with age, affecting just over half (54%) of those people aged 65 years and over. Many inner regional areas have the necessary population base to support specific services for the aged, such as nursing homes, and are generally located closer to capital cities where more specialised services are available.

The lowest proportions of people aged 65 years and over were in remote and very remote areas (10% and 8% respectively). This may be partly the result of older people moving away from these areas to less remote locations, such as inner regional areas, to access health services and other forms of assistance. The lower percentage of older people is also likely to be related to the higher proportion of Indigenous peoples in these areas and their significantly lower life expectancy compared with the total Australian population.

5.1.3 Population trends in the Byron Shire local government area

The population in the Byron Shire LGA experienced a growth rate of 1.9% per annum between 1996 and 2001, compared with 3.3% per annum for the period 1991–1996. Bangalow, Suffolk Park, South Golden Beach and Byron Bay experienced the highest growth rates (Byron Shire Community Profile 2001). There was also a significant increase in tourism, which was estimated to be 1.75 million visitors per annum.

Population increased within the LGA between 1991 and 2001 from 22,772 to 30,327, which was a 33.2% increase (see Table 5-1). The population decreased by 5% in 2006 to 28,766. Growth in many parts of the Shire is restricted by infrastructure, planning and environmental constraints, which is reflected in the last 5-year period where Byron Shire showed a population decrease of 5%.

Table 5-1 Byron local government area population

	1996	2001	2006
Byron Shire Council	27,568	30,327	28,766
Percentage increase/decrease	+21%	+9%	-5%

5.1.4 Age profile

The largest population group in the Byron LGA in 2006 was the 25–54 year age group (44.7%), indicating a young to middle-aged population. The 0–14 year age group (19.4%) and the 55–64 year age group (12.2%) were the second and third largest age groups in the Shire respectively (Australian Bureau of Statistics (ABS) 2006).

Age groups younger than 24 years accounted for 30.9% of the total population, while those over 55 years accounted for 24.3% of the total population in the LGA.

Figure 5-1 shows that the population projection by 2019 for the age group of 25–54 years will still make up the greatest proportion of the Shire, accounting for 43.4% of the Shire's population. The projected increase of 8.4% for those aged 55 and over results in this age group being predicted to represent 28.3% of the Shire's population in 2019. Those aged 0–24 years are projected to decrease (5.15%) to 28.3% of the Shire's population (Byron Shire Community Profile 2001).

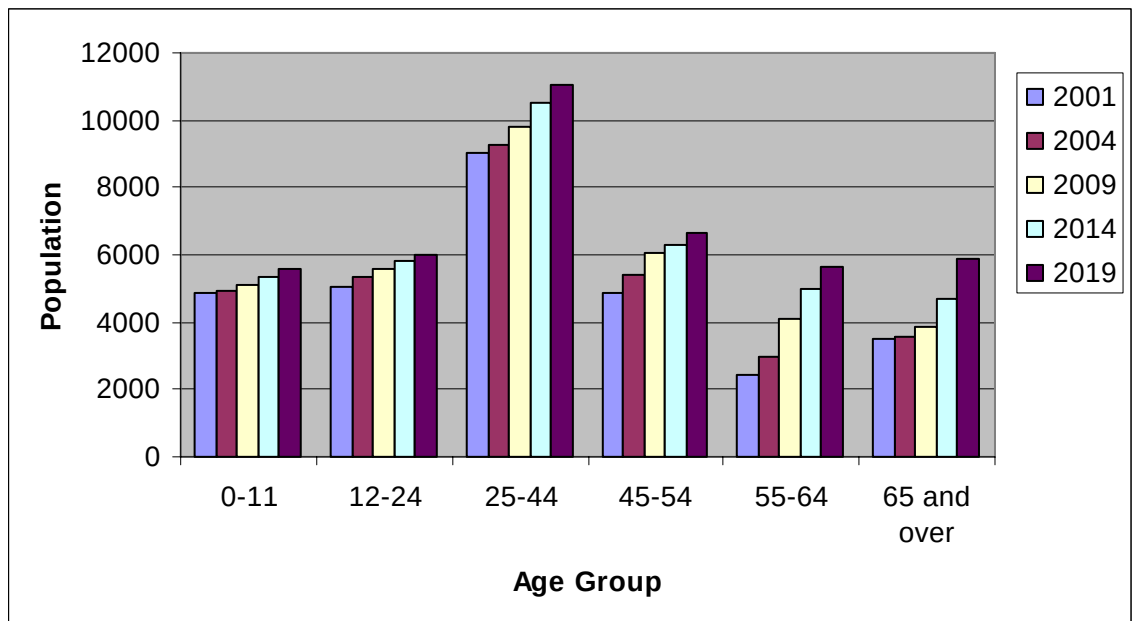


Figure 5-1 Projected age profile

Most areas of the Shire have a broad mix of ages. Brunswick Heads has a higher proportion of residents aged over 55 years; 34.1% of residents fell within this age group in 2001. Mullumbimby (26.8%) and Ocean Shores/New Brighton (28.3%) also have a high proportion of those over 55 years. Bangalow (37%) and South Golden Beach (39%) have the highest proportion of those aged 0–24 years (Byron Shire Community Profile 2001).

The median age for Byron Shire was 39 years. Excluding Bangalow (34 years), Suffolk Park and South Golden Beach (both 35 years), the median age in Byron Shire was higher than that of NSW, which had a median age of 35 years. Brunswick Heads had the highest median age at 46 years, followed by Mullumbimby, Ocean Shores, Rural South each showing a median age of 40 years, Rural North 39 years and Byron Bay 38 years.

5.1.5 Ethnicity

Byron LGA comprises of large proportion of residents born in Australia (78.0%) compared with NSW as a whole, where 70.5% are born in Australia. Census data indicates that 1.2% of residents living in the Shire are of Indigenous origin, including Aboriginal and Torres Strait Islanders, which is similar to the figure for NSW (1.9%) (see Table 5-2).

Table 5-2 Byron Shire local government area population

	Byron Shire LGA	NSW
Born in Australia	78.0%	70.5%
Born overseas	22.0%	29.5%
Indigenous origin	1.2%	1.9%
English spoken at home	89.7%	75.7%

Source: Australian Bureau of Statistics (2001)

Of the residents born overseas a large proportion of people came from the United Kingdom (1,345 persons), New Zealand (618 persons) and Germany (333 persons), which were the three largest countries of origin (ABS 2001). English was spoken at home by 89.7% of

residents in Byron Shire. Of the other languages spoken at home, German (1%), French (0.5%) and Dutch (0.25%) were the most frequent; however, only accounted for a very small percentage (Byron Shire Community Profile 2001).

5.1.6 Households

Byron Shire differs from many parts of NSW in the make-up of households and families. Byron Shire has a lower proportion of family households: 68% in comparison to the NSW average of 73%. The Shire also has a higher proportion of lone person households: 26% compared with the NSW average of 23%. Additionally, Byron Shire has a higher proportion of group households (6%) than the NSW average (4%) with Byron Bay at 12.3% having one of the highest levels of group households in the state (Byron Shire Community Profile 2001).

The proportion of couple families with children for NSW was 48%, compared to Byron Shire's 40%. Byron Shire also has a higher proportion of one-parent families (24%, increasing from 21% in 1996) compared with NSW (15%) (Byron Shire Community Profile 2001).

Overall, with a high proportion of single people and sole parents, there is a strong need for smaller 1–2 bedroom homes within the Shire (Byron Shire Affordable Housing Strategy for Urban Areas 2002).

5.1.7 Housing

Table 5-3 compares the dwelling types and ownerships of houses within the Byron Shire compared with NSW as a whole. In 2001, separate detached dwellings accounted for 76.8% of dwellings in the Byron LGA; this is slightly higher than the state average of 70.3%. Semi-detached, row, terrace houses or townhouses accounted for 7.7% of dwellings in the Shire, while flats, units or apartments equated for 7.5%. Significantly fewer people are living in medium density dwellings within the LGA, than the state average (15.2% compared to 27.2%). Byron Shire had a significant proportion of people living in 'other dwellings' (6.9%) when compared to the state average of 1.7% (Byron Shire Community Profile 2001). The category 'other dwellings' includes caravan, cabin, houseboat, improvised home, tent, sleepers out, and houses or flats attached to a shop/office.

This dwelling composition is likely to continue within the Byron LGA given the demand for housing choice and affordability. Rapid population growth, tourist pressures, the increasing population of the area as a 'sea change' destination for retirees and baby-boomers, and limited new housing development opportunities are considered major impacts upon housing affordability in the Byron LGA (Byron Shire Affordable Housing Strategy 2002).

The development of 'other dwellings' and medium density dwellings reflects the strong demand for alternative living within the Shire. This will continue to be an important factor for any future land releases, which, given the limited supply of residential land, are likely to be higher density developments comprising alternative forms of development (cluster housing, group homes and garden flats).

Table 5-3 Byron local government area housing types

	Byron Shire LGA	NSW
Dwelling types		
Separate detached dwellings	76.8%	70.3%
Semi-detached, row, terrace houses or townhouses	7.7%	9.3%
Flats, units or apartments	7.5%	17.9%
Other Dwelling	6.9%	1.7%
Ownership		
Dwellings fully owned or being purchased	59.5%	64.4%
Dwellings rented	30.5%	27.5%
Other tenure type	3.6%	2.8%

Source: Byron Shire Community Profile and ABS Census Data (2001)

In the Byron LGA in 2001, 59.5% of private dwellings were fully owned or being purchased and a total of 30.5% of dwellings were rented. In comparison, 64.4% of dwellings were fully owned or being purchased in NSW with 27.5% being rented, which shows an increased home ownership rate compared to Byron Shire.

The greater proportion of home ownership and lower proportion of renting in NSW as a whole, compared to the Byron LGA indicated the lack of housing affordability in the area. The larger amount of detached dwellings, and small numbers of apartments and units in the LGA compared to NSW, the limited supply of land for residential development and the economic impacts of tourism upon the coastline (including high numbers of tourism rentals of dwellings) have affected housing prices and affordability in the LGA.

5.1.8 Education

There are two State Secondary Schools in Byron Shire located in Mullumbimby and Byron Bay, and a number of Primary Schools located in the various towns and rural villages. Primary Schools include government, Catholic and other non-government schools, such as the Byron Community School and both Byron and Mullumbimby Steiner Schools (both of which also offer secondary classes). The proportion of primary students attending 'other' schools is 14.9% compared with 8.6% in NSW (Byron Shire Community Profile 2001).

Those attending university (Byron Shire 2.4%; NSW 3.6%) or TAFE (Byron Shire 2.1%; NSW 2.9%) are required to travel outside of the Shire with the nearest campuses being located in either Wollongbar or Lismore. Byron Shire continues to have a lower proportion of students attending TAFE and university, which most likely reflects the distance and limited transport options (Byron Shire Community Profile 2001).

A high proportion (48.0%) of residents in Byron LGA had no formal qualifications; however, this was lower than NSW, which had 63.8% of residents without any formal qualifications (see Table 5-4).

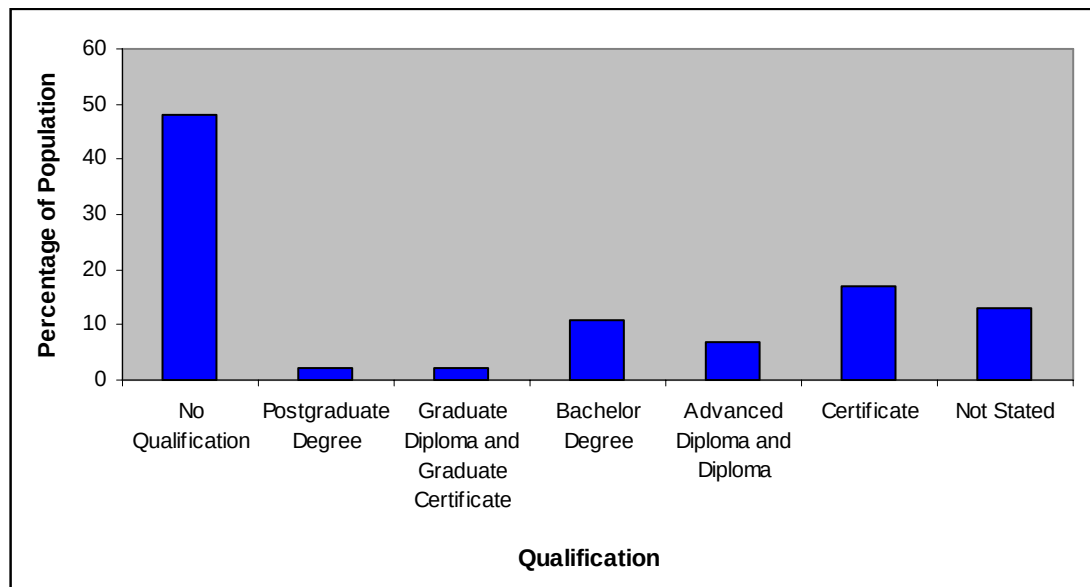
Table 5-4 Byron local government area education attained

	Byron Shire 2001	NSW
No formal qualifications	48.0%	63.8%
Certificate level qualifications	17.0%	16.4%
Post graduate degree, graduate diploma or advanced diploma	11.0%	9.7%
Bachelor degree	11.0%	10.1%
Not Stated	13%	-

Source: Australian Bureau of Statistics, 2001 and Byron Shire Community Profile (2001)

The most common type of post-school qualification held by residents in the Byron Shire in 2001 was a Certificate level qualification, which accounted for 17.0% (including certificate levels I, II, III and IV). This was very similar to NSW, which had 16.4% who had attained the same qualification.

The Byron LGA compared to the state had a lower proportion of residents with no qualifications. The Shire had a higher proportion of persons obtaining Bachelor Degree (11%) compared with the NSW average of 10.1%. The percentage of residents with post-graduate degree, graduate diploma or advanced diploma, qualifications was also higher for the Shire (11%) compared with NSW (9.7%). Details for the level of education attained for residents in the Byron LGA are illustrated in Figure 5-2.


Figure 5-2 Breakdown of education in Byron Shire LGA

5.1.9 Employment

The most common occupation for employed persons in the Byron LGA in 2001 was professionals, which accounted for 9.5% of the population followed by intermediate clerical, sales and service workers at 6.7%, and associated professionals at 6.6%. The least common occupation was advanced clerical and services workers, which only accounted for 1.5% of the population.

In 2001, the most dominant industries in the Shire were retail trade (16.9%) and accommodation, cafes/restaurants, which accounted for 5.1%, followed by education at 4.2%, and health services at 3.7% (see Figure 5-3). Agriculture, forestry and fishing employed 5.6% (Byron Shire Community Profile 2001). In NSW, the most dominant industries were business services at 5.8%, health services at 3.8% and education at 3.7% (ABS 2001).

These figures are indicators of the economic and social influence that tourism has upon the Byron LGA. At 40.1% in 2001, the Shire had the second highest concentration of part-time workers as a proportion of persons in the labour force in NSW (Byron Shire Community Profile 2001).

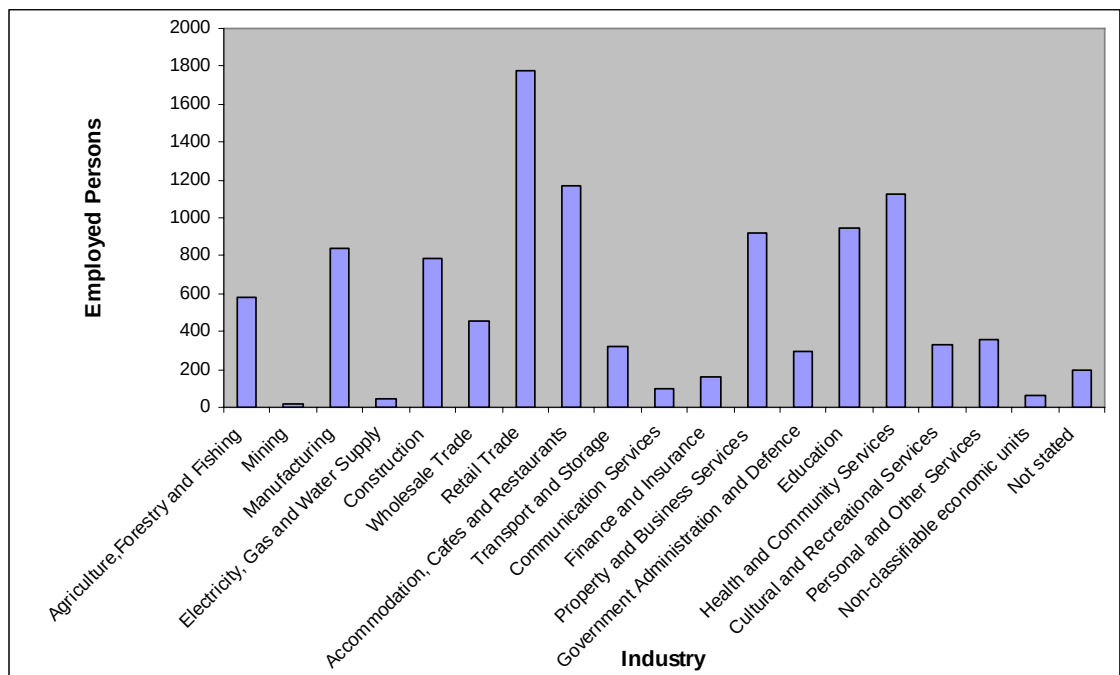


Figure 5-3 Industry breakdown in the Byron local government area

5.1.10 Unemployment

Byron Shire has consistently had the highest unemployment rate in the region, with a rate of 19.6% in 1991, increasing to 25.5% in 1994 before settling to 14.4% in 2001 (Byron Shire Community Profile 2001). This is notably higher than the unemployment rate in NSW, which was at 7.2% in 2001.

It is unclear whether this drop in unemployment reflects an improving economy and job opportunities or a contracting job market forcing people to look for work outside of the LGA and hence relocating.

The 20–24 age group accounted for 15.1% of the unemployed in Byron Shire followed by the 40–44 year age group at 13.6% and the 45–49 year age group at 12.7%. The reasons for high unemployment in relation to the 20–24 year age group should be considered further.

5.1.11 Income

In the Byron LGA the median individual income level in 2001 was \$200–\$299 per week. The medium remained unchanged since the 1996 Census, and apart from Bangalow, Byron Bay Suffolk Park and the Rural South (\$300–\$399) are lower than NSW (\$300–\$399) (Byron Shire Community Profile 2001). Details of the weekly individual incomes are illustrated in Table 5-5.

The median weekly family income at \$600–\$699 is considerably lower than NSW at \$800–\$899 per week. Families in Brunswick Heads and South Golden Beach are on a median weekly income of \$500–\$599 per week, and in Suffolk Park and the Rural South \$700–\$799 per week (Byron Shire Community Profile 2001).

The biggest difference is shown in Byron Shire's median weekly household income, which at \$500–\$599 per week is \$300 less than NSW at \$800–\$899 per week. This could be partly explained by Byron Shire's lower median household size of 2.4 persons, compared to NSW's 2.6 persons. In Brunswick Heads, with a household weekly income of \$300–\$399 it should be noted that there is a lower median household size of 2 persons. Bangalow, Suffolk Park and the Rural South had the highest median household income of \$600–\$699, still well below NSW median income (Byron Shire Community Profile 2001)

Table 5-5 Weekly individual income — usual residents in the Byron LGA

Income	Males	Females	Persons
Negative / Nil income	615	639	1,254
\$1–\$39	103	154	257
\$40–\$79	203	298	501
\$80–\$119	241	334	575
\$120–\$159	599	628	1,227
\$160–\$199	1,278	1,287	2,565
\$200–\$299	1,591	2,219	3,810
\$300–\$399	1,097	1,552	2,649
\$400–\$499	1,010	1,097	2,107
\$500–\$599	820	664	1,484
\$600–\$699	547	421	968
\$700–\$799	413	277	690
\$800–\$999	491	285	776
\$1,000–\$1,499	538	301	839
\$1,500+	274	83	357
Not stated	968	1,088	2,056
Total	10,788	11,327	22,115

Source: Byron Shire Community Profile (2001)

5.1.12 Discussion of local planning options

Demand for the development of land for higher residential density and tourism uses is likely to occur now that the sewer moratorium is over in some areas or almost over in other areas, thus increasing local population growth.

Higher population growth rates in the short term will exhaust land supplies more quickly and may generate demand for land outside the urban fringe. The inevitable scenario is that the demand for residential land caused by migration into the North Coast region will continually outstrip supply. One result could be an increase in pressure for infill development in existing urban areas.

In residential areas, development controls will be needed to ensure that population pressures do not compromise the need to retain a low-key residential neighbourhood character and do not exceed environmental or infrastructure capacity.

An ageing population in the Shire will have implications in terms of demand for seniors housing and facilities and services suitable for older age groups.

Employment outcomes can be facilitated by providing support and protection to existing employment lands including non-urban lands (that generate agricultural employment). Some opportunities can be provided in residential areas subject to proposed uses not interfering with the amenity of the location. This may extend to special provisions (refer Section 7.3) in the new Shire-wide local environmental plan (LEP) or development control plan (DCP) for creative home industries that enhance the art and cultural amenity of the study area.

Consideration should be given to Council engaging with NSW TAFE to encourage development of a training facility in the shire.

There need to be clear guidelines to ensure that health, education and community services are provided consistent with the demands of the community.

Objectives to promote positive social structure in the shire through incentives such as affordable housing and employment generation in accord with Council's draft *Social Impact Assessment Policy* will need to be considered. Social impact assessment guidelines should also be included in any new DCP.

5.2 Housing

Increasing population numbers in recent years have created pressure for housing. This has placed pressure on available land, infrastructure and the environment. With the present development controls, the sewerage moratoriums in Brunswick Heads and Mullumbimby and the location of environmentally-sensitive or physically-unsuitable lands, there is a limited amount of land available for future residential development within the Shire.

The Shire has also undergone a change in the nature of households including the predicted growth in demand for single person accommodation. Certain areas of the Shire have a high number of share houses and a major shortage of single-person accommodation. A range of appropriate housing is essential to avoid future shortages of essential workers in the hospitality, health, service and cultural industries that are major employers as well as contributors to the Shire lifestyle.

It is evident from the above comment that the Shire is facing a housing shortage in the foreseeable future and that this will continue to place pressure on the housing market. It should be noted that the housing issue is not unique to the Shire but it is a problem facing the state of NSW and other parts of Australia. What follows is a discussion on the issues facing the Shire and possible outcomes to resolve these issues.

5.2.1 Implications of the Far North Coast Regional Strategy

The *Far North Coast Regional Strategy* (FNCRS) (refer Section 2.2.5) builds upon previous planning work undertaken in the region including the *Northern Rivers Regional Strategy* and various local council settlement strategies. Section 7 of the FNCRS focuses upon settlement and housing within the Far North Coast, including the Byron LGA. It is estimated that 51,000 new dwellings will be needed to house an additional 60,400 persons over the next 25 years.

At present, coastal growth accounts for approximately 75% of the current total development on the Far North Coast. The FNCRS outlines the importance of preventing coastal spread, encouraging future development within non-coastal centres. The strategy limits growth in coastal areas to 60% of the total future growth.

Furthermore, no rural residential growth shall be permitted within the coastal areas (other than land in an approved release strategy), to ensure efficient use of land. Future rural residential growth will be located close to existing centres, occurring in accordance with existing rural residential strategies or in a review negotiated between Council and the Department of Planning.

The strategy recognises that, due to the ageing population, housing choice and diversity is an important issue, with particular emphasis placed upon the need for 1–2 person housing. The FNCRS encourages councils to consider a range of affordable housing strategies, including forms of low-cost housing, suitable zonings and development controls to improve housing choice.

The specific dwelling targets of the FNCRS in relation to the Byron Shire dictate that Byron Shire shall accommodate an additional 2,600 dwellings within the next 25 years. The strategy identifies that land areas adjoining Byron Bay, Bangalow, existing zoned areas and closer rural settlement areas shall be utilised to facilitate this forecasted growth.

5.2.2 Housing affordability

Current scenario

Housing affordability is a serious social concern. In general, it is defined as the ongoing cost of housing in relation to gross income to distinguish it from accessibility to housing, which is the cost of undertaking a home purchase or entering a rental arrangement.

The most commonly used measure of affordability is the ratio of housing costs to income. However, in order to gauge the extent and dimensions of the affordability problem for low income people, a further measure — that of housing stress — has been developed. A household is considered to be experiencing such stress if it is within the lowest 40% of the income distribution range and is paying more than 30% of income on housing.

In the Byron Shire in 2001, 59.5% of private dwellings were fully owned or being purchased. A total of 30.5% of dwellings were rented. In comparison, 64.4% of dwellings were fully owned or being purchased in NSW, with 27.5% being rented. These statistics indicate a decreased home ownership rate within Byron Shire in comparison to NSW. The greater amount of home ownership and decreased amounts of renting in NSW, in comparison to Byron Shire, are indicative of a lack of housing affordability.

Many factors are likely to impact upon housing affordability, including:

- interest rates

- building activity
- Commonwealth Government policy (immigration, tax and other incentives)
- State Government policy (taxes, regional development, infrastructure)
- supply and demand of available land
- costs of housing relative to income
- Council land release and land use planning regulations
- development costs including Section 94 (*Environmental Planning and Assessment Act 1979* (EP&A Act)) developer contributions
- Section 64 (EP&A Act) sewerage and water charges
- competing uses for available residential land for tourism and commercial uses
- possible loss of dwellings due to tourist holiday rentals.

Byron Shire's population has high proportions of retirees, under-employed, part-time and casual workers, single parents and single person households, as reflected in Section 5.1. Housing affordability is a major issue that currently faces Byron Shire. The various sewage moratoriums, limited opportunities available for new housing development, the relatively low incomes of Byron Shire's residents, and the relatively high rents and housing prices are other factors placing a major stress on housing affordability.

The *Byron Shire Affordable Housing Strategy for Urban Areas* (Byron Shire Council 2002b) notes that in general, housing costs that exceed 30% of household income are likely to cause 'after-housing poverty' or 'housing stress' for low- to medium-income households. Data provided by Council indicates current housing stress rates as listed in Table 5-6.

Table 5-6 Percentage of renting households in the Byron local government area experiencing 'housing stress'

Suburb	Renters in stress (%)
Brunswick Heads	65.3
Mullumbimby	64.8
Suffolk Park	64.4
Byron Bay	62.9
Ocean Shores	60.7
Bangalow	57.7

The housing stress figures provided in the above table are likely to be a result of the fact that Byron Shire has consistently had the highest unemployment rate in the region (refer Section 5.1.10). There are few opportunities for the younger population to gain qualifications, and thereby increase their potential for higher incomes, in the Shire. Those attending university or TAFE are required to travel outside of the Shire with the nearest campuses being located in either Wollongbar or Lismore. Low potential for training, reduced employment opportunities for professionals and trades and lack of affordable housing, and associated 'housing stress', is forcing many young people to move elsewhere for work and housing to raise their families.

Housing stress is also affecting retirees wishing to sell the family home and move into a smaller unit as they are meeting stiff competition from rental investors, and older retired

home owners who are burdened by increased rates and land tax (Byron Shire Council 2002b).

Housing prices within the Byron Shire continue to increase dramatically. The median house price (as at September 2001) was \$375,000 in Byron Bay, \$156,000 in Mullumbimby and \$160,000 in Brunswick Heads/Ocean Shores (Residex) (Byron Shire Council 2002b). In comparison, the average housing prices for 2007 have been identified as follows:

- Mullumbimby: \$415,000 (Chincogan Real Estate)
- Rural (i.e. Main Arm and Federal): \$600,000 (Chincogan Real Estate)
- Byron Bay/Suffolk Park and Ewingsdale: \$550,000–\$600,000 (Byron Bay First National Real Estate)
- Brunswick Heads: \$700,000 (LJ Hooker)
- Ocean Shores: \$360,000–\$400,000 (LJ Hooker)
- Bayside Brunswick Estate: \$450,000–\$500,000 (LJ Hooker).

Byron Shire has a significant proportion of people living in 'other dwellings' (6.9%) when compared to the NSW average of 1.7% (Byron Shire Community Profile 2001). The category 'other dwellings' includes; caravan, cabin, houseboat, improvised home, tent, sleepers out, and houses or flats attached to a shop/office. The high proportion of the population residing in 'other dwellings' and medium density dwellings, reflects the strong demand for alternative living/affordable housing within the Shire.

In 2002, Byron Shire was recognised by the then Planning NSW's Office of Community Housing as a high-need LGA for additional social housing, ranked fourth of the 37 LGAs in the Northern Region for one-, two- and three-bedroom accommodation (Byron Shire Council 2002b). Low capital investment by the Department of Housing has resulted in only 1.2% of Byron Shire housing stock, facilitating government rental housing. This figure is below both the North Coast (3.7%) and the NSW (5.5%) average (Byron Shire Council 2002b). Public housing in Byron Shire has been below the NSW and North Coast average for the past two decades. This could be a result of high property prices constraining the ability of the Department of Housing to increasing public housing stocks in the Shire. Waiting lists for public housing are in excess of 9 years, with rare vacancies filled by people with priority housing needs (Byron Shire Council 2002b).

Byron Shire's rapid population growth has not been matched by equivalent growth in local employment opportunities. Currently, a high proportion of local work is part-time, casual and/or seasonal, particularly in the tourism industry. In 2001, 68% of individual Shire residents earned less than \$500 a week, with only 50% of households having combined incomes of more than \$500 a week (Byron Shire Council 2002b).). In comparison to NSW, the Byron Shire's median weekly household income is \$300 less than NSW, which is estimated at \$800–\$899 per week (Byron Shire Community Profile 2001).

The significance of increased housing prices, limited development of new housing and low capital investment by the Department of Housing within the Shire, in relation to housing affordability, is intensified by the relatively low incomes of Byron Shire residents.

In order to remedy housing affordability, Council could encourage development in the Shire through the release of urban land and redevelopment and intensification of development in existing areas. This, however, cannot be addressed in the new Shire-wide LEP, due to the need for Council to first remedy its existing housing strategies. Due to the physical

constraints of the Shire, this should be a separate investigation or process from this LES and draft Shire-wide LEP. Council should also seek a site for a future education facility by commencing discussion with TAFE to encourage their movement to the area to improve training and employment opportunities for the population as a whole.

5.2.3 Discussion of local planning options

The FNCRS guides direction of the region's land use over the next 25 years, and Council must implement the objectives and actions outlined within the FNCRS. Council is required to prepare a local growth management strategy outlining how the dwelling targets within the FNCRS are to be met. Due to the high demand for housing and the affordability predicament currently facing the Byron Shire, it is unlikely that the proposed dwelling targets would meet the potential housing need. As a result, further consideration should be given to readdressing the housing shortage and lack of affordable housing within the Byron Shire. Such considerations could include:

- release of urban land in accord with the FNCRS in conjunction with development incentives
- introduction of higher density precincts within walking distances of the main commercial centre of the major urban areas in Byron Shire
- investigation of areas within and in close proximity to the Shire's key urban areas for residential infill (this could be undertaken as a focus when Council's urban strategies are reviewed)
- further controls to reduce the loss of dwellings to tourist accommodation should also be considered.

Housing affordability, for an individual, depends on both household income as well as housing costs. As such, housing affordability can be improved by raising household incomes as well as by lowering housing costs. To achieve housing affordability with Byron Shire it is recommended Council aims to achieve a reduction in housing costs. This, however, will not easily be achieved. The Shire has many physical constraints to additional development such as flooding, topography and ecology. As a result, options are limited for suitable residential land development. This has, and will continue to, place pressure on existing urban areas.

The need to increase densities and release additional land within and in close proximity to the core urban areas must be considered. The introduction of higher density precincts within walking distances of the main commercial centre of the major urban areas in Byron Shire must be investigated. Particular reference is given here to Byron Bay, Mullumbimby, Ocean Shores and Brunswick Heads. This, together with additional land release areas, could reduce the burden on housing cost. Any increases in densities will need to consider the unique characteristics of the Shire's towns and villages, which could be achieved through relevant DCP provisions.

A further option is to consult with the Centre for Affordable Housing within the Department of Housing. Assistance in exploring housing issues and options for LGAs is available. The centre is a business unit within the Department of Housing whose purpose is to facilitate increased affordable housing opportunities. The unit can assist Council to explore potential opportunities for promoting affordable housing. It can provide expert advice and assistance in developing affordable housing responses and brokering partnerships between private developers, local government and the non-profit sector.

The future development of the Shire will need to accommodate the appropriate provision of affordable housing. Affordable housing can comprise different types and tenures of housing, including rental housing, owner-occupied housing and housing for people with special needs.

At present, detached dual-occupancy development is prohibited within rural areas, as a result of the *North Coast Regional Environmental Plan* (NCREP). Detached dual-occupancy would provide additional housing in rural areas to assist in reducing housing stress in these areas. Council needs to provide justification to the Department of Planning to move away from the NCREP restriction so that provisions for detached dual-occupancy can be included within the Shire-wide LEP.

The Shire-wide LEP will need to take cognisance of the objectives of the *Byron Shire Affordable Housing Strategy for Urban Areas 2002* (Byron Shire Council 2002b) and the subsequently-adopted implementation plan.

The new LEP needs to utilise this document as a tool to implement its relevant strategies and initiatives, in particular, to:

- include affordable housing in the objectives
- match development to levels of public transport
- facilitate medium housing density.

It is also appropriate for Council to consider an affordable housing section in its DCP. This may provide further detail for the LEP provisions. Additionally, Council could consider the use of planning agreements with developers to provide for affordable housing opportunities.

5.3 Cultural amenity

Townscape character is an important component of Byron Shire. An appraisal of the area's special character will focus on Byron Bay and its surrounds with a particular focus on the larger settlements. The *Byron Shire Tourism Management — Options Paper* (Tonge et al., 2002) provides the following:

Byron Shire has achieved tourism icon status as one the highest profile destinations in Australia, and is well known domestically and internationally. For many travellers, Byron is a 'must see' inclusion in itineraries, particularly for the backpacker market. Although the primary focus is Byron Bay, the Shire offers a range of products and experiences, including:

- high scenic value and natural beauty
- picturesque villages
- alternative and relaxed lifestyle.

Larger urban areas in Byron Shire include Byron Bay, Suffolk Park, Brunswick Heads, Ocean Shores, Bangalow and Mullumbimby, and these make up two-thirds of the Shire's population with the remainder being smaller settlements and rural areas such as Billinudgel, Ewingsdale, Federal, Main Arm and surrounds.

There is significant pressure on the Shire's natural and built resources from population growth and tourism. Retention of the unique characteristics of towns and villages within Byron Shire is essential. Townscape character relates to the natural and built environment of the town, how it looks and functions, and what makes it special.

The visual characteristics of the Shire as a whole are depicted on Figure 13.

The following features for each town/village have been noted:

- unique features of each town/village — what makes the place special
- distinctive cultural significance — what cultural/social aspects of the town are important
- significant views — are there any significant views to major landmarks, landscapes etc
- major gateways — are there any major visual entry points to the town
- significant landscape and vegetation — are there any special areas of landscape worthy of mention and retention.

A snapshot of the key unique features of the Shire's main towns and villages is described below.

5.3.1 Coastal towns

Byron Shire has a beautiful beach and coastal environment. There are a large number of coastal land uses, including housing, tourism, industrial, commercial and recreational, all with unique impacts on the coastal environment.

The Byron Shire coastline is diverse in landform with dramatic landscapes, including headlands (Cape Byron and Broken Head), sand plains, estuaries, wetlands, bays, beaches and escarpments. The ranges of Wollumbin/Mt Warning can be viewed from the coastline.

The coastal areas of Byron Shire have significant social and cultural significance to many people who reside or holiday in this area. The urban scale and form of the coastal area, along with the natural beauty of the area, is what attracts people and should be retained wherever possible.

The main coastal towns and villages are Byron Bay, Suffolk Park, Brunswick Heads, Ocean Shores, New Brighton and South Golden Beach.

Byron Bay

Byron Bay is located on the easternmost point of Australia's coast and is a highly aesthetic tourism town. It serves as a major tourist destination with attractive beaches and a diverse range of facilities.

Unique features

- The town centre has a traditional grid pattern, low-scale commercial development (one to three storeys high), it is a major tourist destination, it has a pristine coastline and dramatic topography, and a mix of old and new residential.
- The town centre is located on the main beach.
- Residential areas have a mix of single dwellings and medium density in around town centre — heritage character areas in Kingsley Street, Shirley and Burns Street areas.
- It is in proximity to Arakwal National Park and Belongil Estuary.

Distinctive cultural significance

- It is an iconic tourist attraction.
- The town centre has significant community icons such as the beaches, the Community and Arts Centre, the post office, the Youth Activity Centre, the lighthouse and the Beach Hotel.
- It has a diverse range of eating, social and entertainment attractions
- The area is of importance to the Arakwal Aboriginal people, and has National Park and Nature Reserve areas.

Significant views

Significant views in and around Byron Bay include:

- views to and from the lighthouse
- coastline views
- water views out to Byron Bay and Julian Rocks
- views to low-lying agricultural land and hinterland mountains.

Major gateways

Major gateways within the town include:

- the roundabout at Johnson and Lawson Street
- south from Suffolk Park
- the proximity of agricultural land to Byron CBD.

Significant landscape and vegetation

- Byron Bay has a number of significant trees, including Norfolk Pines (Shirley and Bay Streets), palms (Carlyle Street) and fig trees (Kingsley Street).
- Arakwal National Park is significant to the area.
- The numerous estuaries, coastline and beaches provide significant landscape and vegetation.



Ewingsdale

Ewingsdale is located west of Byron Bay, and with its mix of rural dwelling and existing native vegetation, contributes to the visual amenity of the 'rolling green hills' of Byron Shire.

The Ewingsdale rural residential area lies south of Ewingsdale Road; it has one access road and is a rural locality with a rural residential core area.

Suffolk Park

Suffolk Park is located south of the Byron Bay township and has a variety of landforms with a scenic backdrop of escarpment land. It serves as a small-scale commercial area and residential.

Unique features

- There are small-scale commercial and tourist developments in the town.
- The Suffolk Park beaches are unique.
- There is a mix of new and old residential development.
- Broken Head Nature Reserve and Taylors Lake are located to the south of the town.

Distinctive cultural significance

Areas of distinctive cultural significance within Suffolk Park include:

- Tallow Creek Wetlands
- neighbourhood shops serving the local community
- Suffolk Park land, including the community hall (near the beach).

Significant views

There is a scenic backdrop of escarpment land to the west of Broken Head Road.

Major gateways and arterial routes

- Broken Head Road is major access from the south leading into the Byron Bay township.
- It acts as the southern gateway to Byron Bay.

Significant landscape and vegetation

The following landscapes and areas of vegetation are significant in Suffolk Park:

- the variety of landforms and drainage patterns that will allow for a variety of housing development
- important ridgelines
- Tallow Creek and associated vegetation.



Brunswick Heads

Brunswick Heads is located on the junction of the Brunswick River, Marshall's Creek and Simpson Creek. It is set in a flat coastal plain and remnant dune system and is underlain by acid sulfate soils. Tourism development has been limited to motels, hotels, caravan parks and bed and breakfast establishments. The main function of Brunswick Heads is to be a family-friendly coastal village, retaining its fishing and coastal character.

Bayside Brunswick is a residential suburb on the southern outskirts of the town of Brunswick Heads. Bayside Brunswick is characterised by a range of modern style, single detached family dwellings and dual occupancy dwellings on relatively small blocks of land. There is some land zoned for expansion of the residential area to the south of Bayside Brunswick and a small area of commercial area for future neighbourhood shops.

Unique features

Unique features of Brunswick Heads include:

- the town centre has uniformity in building height, bulk and density
- Brunswick River
- the community vision is for Brunswick Heads to maintain and enhance its atmosphere and appearance as a low-key family-friendly coastal village
- limited available land due to environmental limitations and sewerage moratorium
- holiday rental houses in and around the town, in close proximity to beach areas
- Brunswick River and trained river entrance (Breakwalls).

Distinctive cultural significance

- The Brunswick River is a significant resource for recreation, fisheries and tourism.
- The fishing and coastal character of the town provides cultural significance.
- Brunswick Heads is a heritage town, has coastal village areas and the Hotel Brunswick.

Major gateways and arterial routes

- The Pacific Highway provides a clear physical barrier.
- The port or traditional shipping/fishing entrance provides a gateway to the town.

Significant landscape and vegetation

- The Brunswick River is located to the north and Simpson Creek is located to the east.
- There area Nature Reserves to the west and south.
- There are beaches to the east of Brunswick Heads village across Simpson Creek.



Ocean Shores

Ocean Shores is a low- to medium-density residential area located between the Pacific Highway and the North Arm of the Brunswick River. The original estate is based on a 1970s 'golf course suburb' concept. Originally designed for the car-owning over-50s retirement cohort, it has now evolved into a family-oriented community.

The land is undulating and characterised by small patches of remnant native vegetation and areas of regeneration. Some parts near the Ocean Shores Country Club and the river are flood-prone, and unsuitable for further development. The locality comprises mostly single detached housing with some dual occupancies and some townhouse development on lots over 1,200 square metres.

Commercial development is limited to the Ocean Shores Motel near the Pacific Highway and the Ocean Shores shopping centre on Rajah Road. Expansion of the Rajah Road Shopping Centre has occurred as the residential population of its catchment increases.

Unique features

Unique features of Ocean Shores include the ocean, the golf course and the canal.

Distinctive cultural significance

Areas of distinct cultural significance include:

- the 1970s development
- remnants of historic development, which are evident in areas near and surrounding Ocean Shores.

Significant views

The backdrop of hills, and the beaches and coastline, provide significant views in Ocean Shores.

Significant landscape and vegetation

Billinudgel Nature Reserve is located to the north of the town, which provides significant landscape and vegetation.



South Golden Beach and Fern Beach

South Golden Beach and Fern Beach are located in flat hind dune areas adjacent to the coast, while North Ocean Shores is partly on coastal plain and partly on low vegetated foothills. A major canal runs through the area draining water from the north back to the North Arm of the Brunswick River. Some previously low-lying areas have been filled by past development.

The built form of the area reflects the staging of the land releases and therefore the age and style of the dwellings. Predominantly, the area is characterised by single storey dwellings and some dual occupancy dwellings on larger lots (over 1200 square metres). No dwellings exceed two storeys.

Infill residential development of subdivided areas is ongoing, as is the release of new residential lots in areas previously allocated for residential purposes west of Shara Boulevard. New development in flood-prone areas has only been permitted if consistent with the *Floodplain Development Manual: the management of flood liable land*.

New Brighton

New Brighton is a low density residential area located between the North Arm of the Brunswick River and the Pacific Ocean. Historically, the locality was a place for holiday cabins but this has evolved into a distinct village with a mixed permanent and tourist population. Past coastal erosion has severely affected some beachfront properties.

The built form of the locality is predominantly single storey 'beach cottages' with two-storey dwellings in the flood-prone areas. Lot sizes are large and some lots have been further subdivided for either infill residential or low-key tourism accommodation, such as bed and breakfast establishments and holiday rental dual-occupancy dwellings. Streetscapes are characterised by a predominance of native vegetation in landscaped gardens and low speed roads that are pedestrian and bicycle friendly.

5.3.2 Hinterland towns and villages

The subtropical hinterland of Byron Shire is an area of natural beauty. The hinterlands have rainforests, rolling hills and panoramic views.

The area to the north is characterised by national parks and scenic valleys. The areas serve as local centres for the rural population and have been and continue to be (although of a lesser extent) part of the beef, dairy, sugar cane and banana farming community.

The character of the south is high escarpment with magnificent views integrated into a very rich agricultural farming area with pockets of state and large areas of regionally significant farmland. The predominant function/activity of these rural areas is agriculture.

The main towns and villages include Mullumbimby, Bangalow, Billinudgel, Main Arm and Federal with a number of other smaller villages, hamlets and communities scattered throughout the area. For details of all the localities refer to Figure 1 and Figure 13.

Mullumbimby

Mullumbimby is located approximately 19 km north-west of Byron Bay and is situated on the Brunswick River. Tourism and the surrounding rural hinterland are important to the local economy. Mullumbimby is important as the centre for Local Government in the Shire and provides a meeting place to the community west of the highway.

Unique features

- acts as a service centre for residents of town and surrounding rural areas
- town centre retains traditional grid street pattern with back lanes
- Burringbar Street is a wide main street and has a mix of 1 and 2 storey buildings, many with original shopfronts and parapets
- residential areas have heritage value as a conservation precinct, particularly in close proximity to the shopping centre and the older parts of town
- residential environment is predominantly older single storey weatherboard and iron dwellings
- relaxed rural character
- centre of local government for the Shire
- surrounding agricultural uses (e.g. Sugar cane) right on the edge of the town area
- much of town and surrounds is flood prone.

Distinctive cultural significance

- heritage items within commercial area, in particular courthouse, banks, churches, hotels and former Council administrative precinct (including memorial hall)
- rural landscape and trees
- outstanding heritage character
- Brunswick River
- alternative lifestyle shops and businesses.

Significant views

- surrounding backdrop of steep hills visible from most parts of the town
- views to Mt Chincogan, glimpses of Mt Warning and the backdrop of Koonyum Range.

Major gateways and arterial routes

- intersection of Station/Argyle/Burringbar streets.

Significant landscape and vegetation

- lush subtropical environment
- street trees
- rural landscape – valuable natural and economic resource
- need to enhance links between Brunswick River and town centre.



Bangalow

Bangalow is a village located in a valley substantially on the northern side of Byron Creek 12 km south west of Byron Bay. The commercial area is focussed on the land fronting Byron Street between the North Coast Rail Line and Ashton Street.

It is an important historical village due to its unique heritage nature of main street buildings surrounding residential buildings of authenticity and local rural agriculture outbuildings. It is a centre for business and trade for the people of Bangalow, and its surrounding rural district and neighbouring towns. It is an important destination for tourists to stop and shop among the variety of shops from antiques, boutiques, coffee lounges, restaurants and craft shops.

Unique features

- historic village of strong individual character
- most commercial buildings were built around World War I
- undulating topography – stepping of buildings down the steep main street
- residential area predominantly small scale weatherboard and iron dwellings.

Distinctive cultural significance

- historic value of town.

Significant views

- Significant rural views to and from the surrounding agricultural areas.

Major gateways and arterial routes

- roundabout at top of hill on Byron Street from the West
- from the East, Bangalow residential areas.

Significant landscape and vegetation

- landscape and topography create much of the charm from all approaches and from within the town, all vistas end against evergreen rolling hills.



Billinudgel

Billinudgel is a small historic village in the north of the Shire.

Unique features

- historic village
- home to famous Humble Pie
- industrial Estate
- location very close to upgraded pacific highway that heads north to the Tweed
- significant flooding occurs in the town during heavy rainfall events.

Distinctive cultural significance

- Billinudgel was developed by a local land owner to supply the workers building the railway nearby.

Significant views

- the rural areas to the west of Billinudgel.



Main Arm

Main Arm is a small rural hamlet in the North West of the Shire surrounded by National Park and former agricultural lands. There is a relationship with the Upper Main Arm area as it contains the local primary school and hall.

Unique features

- rural character
- Western Ridge contains camphor laurels and rainforest pioneer species
- Blindmouth Creek
- Arboretum – located to the west of the old dairy – clump of trees of national and local significance
- small primary school at Upper Main Arm.

Distinctive cultural significance

- community halls – Durrumbul and Kohinur
- rural areas
- related to the alternate lifestyle culture of the Shire.

Significant views

- surrounding ridges and valleys.

Major gateways and arterial routes

- Main Arm Road and Blindmouth Road.

Significant landscape and vegetation

- backdrops of significant topography, vegetation and National Parks.



Federal

Federal is a small village surrounded by picturesque hills and approaching country lanes. There is a small rural residential area located in close proximity to the village centre.

Unique features

- rural character
- Eastern Reserve (east of Federal Drive)
- Western Reserve – adjacent to Stoney Creek
- adjoining areas of rural residential development.

Distinctive cultural significance

- historic buildings such as Federal School of Arts and church.

Significant views

- surrounding rural areas
- to the coast from some more elevated areas.

Significant landscape and vegetation

- rainforest remnants
- undulating agricultural landscape.



5.3.3 Culture

The section that follows are extracts from the preliminary draft of the *Byron Shire Culture Plan* (2007b) which provides an insight into the Shire's diverse cultural attributes.

In defining culture, Council seeks to recognise and enhance, not confine or predetermine, the values that give this community its sense of identity and belonging.

Culture is the expression of the history, heritage, customs, arts, recreation, creativity and values of a community. As a community changes, so its culture will evolve. Culture helps define a community.

There is no 'one-size-fits-all' definition of culture in Byron Shire: The original inhabitants and the different groups of people who have settled in the area have all influenced its culture and social characteristics.

Vision

In 2002/2003, Byron Shire Council engaged in a consultation process with the Byron Shire community to develop a Cultural Policy for the Shire. The Council adopted the Policy on 17 April 2003.

The vision for this cultural action plan is adapted from Council's Cultural Policy.:

The people of Byron Shire belong to a vibrant community which embraces both traditional and alternative lifestyles, with each of our towns and villages having its own distinctiveness.

Byron Shire Council seeks to work in partnership with the community to ensure our programs reflect the diverse cultural desires of the community. Council works to identify the resources needed to enhance the diverse and colourful cultural tapestry of our community. Together with

the community Council will take a strong stand to protect the characteristics that make Byron Shire unique and ensure that its culture can flourish.

Council continues to be a partner in reconciliation. It agrees to the protection and enhancement of Aboriginal traditions and values in relation to the land and to recognise Aboriginal people's status as traditional owners of the land.

The cultural action plan is closely linked to, and builds on, Council's Cultural Policy, which provides the overarching policy framework for cultural development in the Shire.

The cultural policy defines goals to maintain and develop the cultural identity of the Shire and proposes an implementation strategy to ensure the achievement of these. The preparation of a cultural action plan for the Shire is one of the implementation strategies listed in the cultural policy. The cultural action plan reflects the goals, objectives, principles of the cultural policy.

Overview

The following provides an overview of the cultural aspects of Byron Shire:

- Historically known as a meeting place for Aboriginal cultures, Byron Shire is now a hub of creativity and artistic and cultural expression, including performing arts, literature and print media, visual arts and crafts, design, development, broadcasting and music composition.
- A wide range of events occur in the Shire, including the *East Coast Blues and Roots Festival*, the *Byron Bay Writers Festival*, *A Taste of Byron*, *Bangalow Billycart Derby*, *Byron Bay Film Festival*, *Splendour in the Grass* and *Byron Yogafest*.
- Byron Shire has a diverse and colourful mix of people with each town and village having its distinctive identity.
- The shire has a community that embraces a wide range of traditional and alternative lifestyles, making it a tolerant, accepting, socially and culturally diverse community.
- There are many cultural attractions that support cultural activity and tourism, including the Cape Byron Lighthouse, beaches, Arakwal National Park, the Byron hinterland, cafes, regional markets, art galleries and studios.
- The community is passionate and committed to community action.
- There is a talented and diverse arts community, including visual artists, performers, musicians, writers, filmmakers, designers, craftspeople, healers, natural therapists and community artists.
- The Shire has a very large tourist population, with more than 1 million visitors people to the area each year. This puts pressure on existing infrastructure and is influencing the cultural fabric of the area.
- There is growing cultural infrastructure, including a planned new library, the Byron Community and Cultural Centre, the Youth Activity Centre, halls, venues, cinema, cultural education and training services.

The Shire

Byron Shire's culture is associated with its people, activities and environment.

The people of Byron Shire belong to a vibrant community that embraces many different lifestyles, with each town and village having a distinctive identity. Embracing diversity and

accepting difference are the hallmarks of the Shire's cultural identity: diversity is essential to sustaining cultural vitality. Diversity offers all individuals and groups an opportunity to contribute to a shared culture.

Byron Shire is a place where people are inspired by and care for the natural environment, and respect and acknowledge the area's Aboriginal and European history. It is also a place that faces many challenges in employment, income and housing affordability, all of which affect the region's capacity to retain diversity and support individual cultural pursuits.

Arts and creativity

Byron Shire is an artistic and vibrant hub that cultivates and attracts a broad range of people who engage in many cultural pursuits. It is a community renowned for the quality, depth and originality of its creative life.

Workshops, galleries, markets and performing arts spaces provide avenues which highlight the artistic talent of the people who live here. The Shire offers numerous workshops in visual and other creative arts, while its many galleries exhibit the work of local artists and crafts persons, including those from Aboriginal and multicultural communities. Other cultural facilities include halls, music and entertainment venues, studios, libraries, education facilities and places of worship.

Markets across the Shire give stallholders opportunities to display cultural products and services. The markets are a distinctive part of the Shire's cultural identity and an important means of communicating its culture through the availability of locally made products such as art, glassware, jewellery, fashion and food. And they are meeting places for people, young and old, families and travellers.

Aboriginal culture

Byron Shire's Indigenous history is a significant component of the areas cultural identity today. The Shire is part of the Bundjalung Nation, which encompasses the entire Far North Coast region. The Aboriginal people are acknowledged as custodians of the Byron Shire, and retain a strong role and interest in the maintenance, protection and management of Aboriginal cultural values. Indigenous culture and way of life is promoted in the Shire through mutual respect and harmony as well as a number of special events and agreements such as the series of Indigenous Land Use Agreements (ILUAs).

Protection and preservation of culturally significant areas and the environment is very important to the Aboriginal people; this is explored further in Section 5.8.1

There are numerous Aboriginal groups acknowledged for their association with the Shire: Arakwal Aboriginal Corporation, Bundjalung Elders, Tweed-Byron Local Aboriginal Land Council and Jali Local Aboriginal Land Council are most of the main groups.

The natural environment

The Shire's natural environment is at the heart of its cultural identity, and includes its coastal landforms, beaches, creeks, waterfalls, hinterland, rainforest, marine life and archaeology.

The natural environment is central to the way of life of the Shire's residents and the people who visit the area. The strong desire of residents to protect and enhance the environment is reflected in the many groups who work actively to maintain the natural environment and its

eco-systems and build a sustainable future. These groups are intrinsic to the local culture and part of what makes the Shire unique.

Political activism

The Byron Shire community is passionate, committed and politically aware. Since the 1970s, the community has had a strong involvement in political activism, especially around environmental and social issues. The strong concentration of politically active people is unique to the region.

Alternative health and lifestyle

The Byron Shire is home to many alternative health techniques such as massage, naturopathy, trager realignment, reflexology, aromatherapy, readings, acupuncture, Zen shiatsu and reiki. The popularity of yoga and meditation is reflected in numerous classes, events and festivals such as the *Byron Yogafest*.

The Shire's alternative lifestyle and healing practices attracts visitors to dedicated facilities such as health retreats and day spas, which combine natural health with the natural environment.

Local produce

With a strong farming heritage, the region produces some wonderful quality produce, with several iconic brands acclaimed nationally and internationally. Food has become a celebrated part of the Shire's culture, recognised through its markets and events. One such event, *A Taste of Byron*, an annual festival in Byron Bay, celebrates the food and culture of Byron and involves restaurants, cafes and street stalls. Other events such as the local farmer markets, occur within the Shire at various locations, providing support for local producers.

The Shire's popular café culture is in part a reflection of the quality of its local produce in part a response to the growth of tourism. The popularity of Byron Bay has changed its fabric, from a town of local low-key businesses to one with many boutique style shops and cafés.

Events and festivals

Many local and international events and festivals represent Byron Shire's culture. These events symbolise the way of life and creative and artistic talent of the community and the local area in which they live. Local and traditional events co-exist with larger, national and international festivals.

The Brunswick Heads *Fish and Chips* festival is, for example, a local carnival that involves wood chopping and fishing, while the *Billycart Derby* is an annual highlight for the township of Bangalow. Larger events include the *East Coast Blues and Roots Festival* held annually in Byron Bay, and the *Byron Bay Writers Festival*. The extraordinarily large number and variety of events is part of what distinguishes the Byron Shire from surrounding areas.

5.3.4 Discussion of local planning options

The unique character of the towns and villages within Byron Shire is what makes the LGA unique.

Byron Shire's urban settlement strategies identify that any development should be managed by:

- reinforcing consistent elements and maintaining the fundamental character of the town, village or neighbourhood
- remedying any inconsistencies that detract from the neighbourhood
- establishing guidelines for future development and retention of character
- identifying clear vision statements for each town and village.

The Shire-wide LEP should include an objective within the village, residential and commercial zones that identifies the need to retain the fundamental character of the area and its unique features, and any new development to reinforce the consistent elements.

The Shire-wide DCP should establish clear guidelines for future development of the main towns and villages, and include clear vision statements as part of this.

Implementation of the cultural action plan will help establish the strategic direction for managing cultural development in the Shire over the next 5 years. It gives Council and other organisations a framework for setting priorities, identifying resources and implementing agreed strategies in a sustainable way. The plan seeks to reflect local needs and aspirations within an integrated and strategic context. In order for the culture action plan to be fully realised the draft LEP will need to include in its set of objectives the unique value of the Shire's culture as recognised in the plan. In doing so, the draft LEP will endorse the recommendations of the cultural action plan.

5.4 Tourism

Byron Shire has achieved icon status as one of the highest profile destinations in Australia, and is well known domestically and internationally. Byron Bay is the most prominent small town coastal tourist destination along the east coast route between Sydney and Brisbane.

The Shire is a popular tourist destination for several reasons including its:

- high scenic values and natural beauty
- picturesque villages and hinterland
- alternative and relaxed lifestyle.

The Shire offers a unique holiday experience for a diverse range of tourists. This is reflected in the various commercial accommodation types that operate within the Shire. Popular accommodation venues within the Shire include hotels, motels, resorts, caravan and camping parks, bed and breakfast establishments, hostels, backpacker accommodation, holiday units, houses and flats. The Shire also offers relaxation/exercise camp type tourist activities.

While farm- and nature-related tourism and accommodation is currently available within the Shire, the further development of this type of tourism is being explored. This will provide additional opportunities for residents and visitors to the Shire.

Byron Bay is noted, within the *Byron Shire Tourism Management — Options Paper* (Tonge et al., 2002), as a ‘must see inclusion in itineraries, particularly for the backpacker market’. As a result Byron Bay, and to a lesser extent the adjoining areas of Suffolk Park and Belongil, are currently faced with extremely high and unprecedented tourist numbers. Current annual tourist visitation figures are estimation to fall within 1.2million and 1.75 million (Tonge et al., 2002).

Brunswick Heads has long been a vibrant and diverse coastal holiday town with a family friendly atmosphere. Brunswick has a variety of accommodation types, such as motels, caravan parks, and holiday houses and flats. It also has the benefit of being located with both river and beach access. The local community recently launched a tourism and “buy local” campaign called Simple Pleasures. It has been a successful campaign that succeeded in ensuring visitors enjoy the simple pleasures that Brunswick Heads has to offer (Brunswick Heads Business and Tourism Group 2005).

Although inland towns, Mullumbimby and Bangalow attract a share of the visitors and tourists to Byron Shire, that come to see the rural town and hinterland areas. The heritage values and character of Bangalow in particular attract many visitors who stay in their main accommodation of bed and breakfasts. Mullumbimby maintains the original rural and more recent ‘hippy’/alternative feel, and opens the gateway to the environmentally-sensitive hinterland of the Shire.

More than 10% of employed persons are directly employed in the tourism industry within Byron Shire. In fact, 10.1% of employed persons are employed in the accommodation, cafés and restaurants division alone, driven almost exclusively by tourism. People are also employed in other tourism-oriented business such as tour operations, and retail and construction are highly interlinked with tourism, comprising 16% and 7.2% respectively (Tonge et al., 2002).

A survey undertaken in 1997 (Bannister 1997) revealed the heavy reliance upon tourism:

Many residents let their house or units to tourists during the year, not an uncommon practice in may tourist destinations. Respondents with small businesses in Byron, almost totally rely on the industry as a source of income.

Turner (1997) provided insight to the tourism accommodation available within the Shire in 1988:

In 1988, the Shire’s tourist accommodation supply was generally budget oriented comprising mainly caravan parks, cheap motels, holiday flats and hostel styles.

As the backpacker market segment is especially strong for the Byron Shire, due attention has been placed on this group. Indeed, although potentially losing time relevance, the *Byron Shire Tourism Plan* (Ludwig Rieder & Associates 1988) identified that a major growth segment for the Shire was the youth market, particularly overseas visitors. A strong form of accommodation for this group is backpacker hotels and youth hostels (Tonge et al., 2002). The Shire offers a desired atmosphere for young adults. It is a trendy place to visit for those on the backpacker circuit and for young Australian’s. The ‘Y’ generation is an important factor to capitalise on within the local economy. This generation could be the catalyst for many of the micro businesses in the Shire.

In comparison to coastal LGA regions across the state, the Byron Shire received the highest number of international tourists, who were aged in the 15–30 year old category. A high

proportion of these visitors utilised a backpacker hostel or youth hostel, signifying the importance of this market segment to tourism in the area. According to a small survey in 1997, backpackers stay slightly longer than other visitors, with the average being 7.5 days. The survey revealed that ages ranged from 18 to 30 years; 22.96% of the respondents were international visitors, with 46% from Britain, 16% from Sweden, 8% from Canada and 6% from Germany (Bannister 1997).

Tourism is of tremendous importance to Byron Shire. A dramatic increase in the Shire's popularity, stemmed primarily from the popularity of the Byron Bay township, has consistently gained momentum since the early 1990s. The other reasons tourists visit the Shire, include the opportunity for relaxation, the beauty of the beaches and hinterland and the surfing options. The markets (including the farmer markets) in Bangalow, Byron Bay, Brunswick Heads and Mullumbimby are also an important part of the reason many day visitors come to Byron Shire.

It is a debate and a matter of opinion how Byron Shire will benefit from the new paradigm shift generated as a result of the sea change phenomenon. The influx to coastal destinations has, in some cases, favoured the local environment and others not. Another tourism driver includes 'generation Y', which has more access to finance than ever before. As discussed before, this generation group has, and will continue to, make a significant contribution to the local tourism economy.

Increasing levels of tourism growth in the Shire has also led to criticism concerning tourism amongst some residents. The results of a survey undertaken in 1997 revealed an overwhelming majority of respondents felt that the benefits of tourism outweighed the disadvantages. Nevertheless, despite the overall favourable response of residents, several negative reactions towards tourism emerged from the study. Such negative responses included things such as increased crowding and noticeable environmental degradation (Bannister 1997).

To address many of the tourism concerns in Byron Shire, Council has engaged the Australian Regional Tourism Research Centre (ARTRC) at Southern Cross University (SCU) to develop a tourism management plan. ARTRC is undertaking robust consultation that is a feature of the project. It will consult through a variety of channels, including:

- stakeholders representing indigenous groups, tourism operators as well as business, events and festival, environmental, arts and culture, Council, and community groups
- experts in regional tourism who are external to the Shire
- the community, through an innovative, randomly-selected Citizens Jury.

The contract is expected to be completed by April 2008 and should be incorporated into the new Shire-wide LEP if possible at that time.

5.4.1 Holiday letting

Holiday letting of dwellings relates to the arrangement under which a person is entitled to the use of residential accommodation, on a commercial basis, enabling the gain of profits for the property owner of said accommodation. As such, the ability to holiday let properties during the peak tourism seasons provides income for home owners and provides a diverse choice of accommodation for visitors.

Holiday letting is common practice in the Byron Shire, particularly in the coastal locations, such as Byron Bay and Suffolk Park as well as Brunswick Heads, although is an issue recognised Shire-wide. Council's current LEP prohibits tourist facilities in the residential zones, and as holiday letting could be considered tourist accommodation and by definition a tourist facility it is, therefore, prohibited. However, traditionally, this has not been enforced by Council. As such, unauthorised holiday rental properties and uncontrolled holiday rental within residential areas has resulted in holiday letting being a highly contested issue within the Byron Shire, most particularly Byron Bay and Suffolk Park.

During the exhibition of the Draft Byron Bay LEP 1988, 80% of the submissions received were regarding concerns in relation to the holiday letting provisions in the draft plan (both for and against it).

While holiday letting is a significant contributor to the local economy, the negative impact of holiday letting upon residential amenity is a major issue currently facing the Shire. The negative impacts of holiday letting include (but are not limited to) the increased traffic congestion, car-parking issues, and increased noise and waste. The fluctuating demands that holiday letting creates also places pressure upon the Shire's existing service infrastructure and permanent rental accommodation.

The abovementioned issues are those generally associated with holiday letting. However, there are several major social impacts resultant from holiday letting that must also be considered. A loss of 'sense of community' is often felt within areas with a high proportion of holiday let properties. Perhaps more of a concern is the social displacement of many of the Shire's residents as a result of holiday letting during the Christmas and holiday periods.

Housing demand within the Shire is such that some residents are forced to rent properties with short-term leases. These short-term leases often require residents to vacate properties during the peak tourist seasons, enabling owners to gain significantly increased rent from tourists. Those residents displaced during these peak periods must then seek scarce and expensive alternative accommodation elsewhere.

In 2005, Council established the holiday letting forum as a mechanism to consult with various key stakeholders and considered various options to control holiday letting. The recommendations from the forum were reported to Council; however, no decision has been made to date as to how holiday letting should be managed in either Byron Bay or the Shire in general.

5.4.2 Tourism in rural areas

To enhance the Shire's income and leisure opportunities, as well as ease some of the visitors' pressure on Byron Bay during peak holiday periods, the *Byron Rural Settlement Strategy 1998* (BRSS) (refer Section 2.3.10) sought to encourage innovative forms of rural tourism that attracts visitors looking to the hinterland for a more peaceful farm-stay or eco-tourism experience. Most of the provisions from the BRSS have been replicated in the Byron LEP 1988 and the DCP (Byron Shire Council 1998b, 1988).

Rural tourism accommodation can range from bed and breakfast establishments which encourage greater social interaction among guests, guest houses or holiday cabins which offer total seclusion and privacy in a tranquil surrounding, to farm-stay establishments providing visitors with first-hand experience of a rural lifestyle.

The aim of the Council for tourism in the rural areas of the Shire is, according to Byron Shire Council's *Rural Settlement Strategy* (1998):

To encourage innovative forms of rural tourism which combine the desire to learn about and experience natural and rural areas with the desire to conserve these areas for long term use through promotion of ecologically sustainable land management practises.

However, Council also wants rural tourism to remain low-scale, ancillary to agriculture or the environmental aspects of the property/area, and to contribute to visitor appreciation of the Shire's unique natural, agricultural and/or cultural values along with the community's diverse lifestyle response to these values. Low-scale nature-based tourism has much to offer in achieving sustainability by contributing to conservation financially and through community awareness where such tourism combines the desire to visit, learn about and experience natural areas with the desire to conserve these areas for long-term use. Over the long term, the promotion of low-scale 'farm stay' or 'eco-tourism' has the potential to become a major economic force for the Shire, which both embraces the quality of its rural lifestyles and nurtures an appreciation of the area's unique natural landscape.

Farm and nature tourism

A major industry within Byron Shire is agriculture, particularly the production of beef and dairy cattle, macadamias, avocados, stone fruit and coffee with some bush foods and essential oils. In addition, it has been already recognised that the natural beauty of the hinterland with its remnant pockets of rainforest is one of the main attractions of the Shire. There is considerable potential for current agriculture/business operations to diversify into agriculture or nature-based tourism as an option for alternative or value-added income generation on farms.

The rural location is an attraction in itself but in combination with opportunities to observe and participate in farm activities, farm tourism has considerable potential. Additionally, the proximity of rural properties to natural environmental areas makes them an attractive tourism alternative to the traditional beach holiday. Options for tourism accommodation in rural areas include bed and breakfast, holiday cabins and farm experience opportunities with associated activities such as horse riding and bush walking.

Farm and nature tourism became an important issue for the Shire-wide LEP following the launch and success of the recent Farm and Nature Tourism Project, an initiative of the ARTRC based at SCU and the Sustainable Tourism Cooperative Research Centre. This project encourages local land owners in the initiation of both tourist attractions and accommodation that is in keeping with value adding to farming and agricultural operations as well as rehabilitation and revegetation.

5.4.3 Discussion of local planning options

Tourism generally

The tourism management plan, currently being prepared by the ARTRC and SCU, must be considered for the draft Shire-wide LEP and DCP if the recommendations are available at the time of drafting. Any recommendations for the LEP must be in accordance with the standard instrument limitations.

It is suggested that SP3 Tourist Zone be utilised for some tourist orientated land uses, where appropriate.

There is concern that current zones within the standard instrument would provide the opportunity for the redevelopment of caravan parks into more intense development (e.g. holiday apartments). This would potentially reduce the stock of affordable holiday accommodation and potentially change the culture of tourism within the Shire. This is a major concern for Brunswick Heads in particular. It is recommended that Council consults with the Department of Planning to request consideration of a review of the template to be able to restrict the potential for changes in use, say from caravan park to resort, where this is not appropriate. Specific objectives could be used in the SP3 zoning table to highlight this as a preference. A local provision, as stated below, could be considered; however, this may not be possible due to the limitations of the requirements to be consistent with the Standard template. Other zoning options should be considered for caravan parks if necessary.

The *Byron Shire Tourism Management — Options Paper* (Tonge et al., 2002) recommended that new controls seeking to limit the location and extent of tourist accommodation within Byron Shire be implemented. Opportunities for the LEP or DCP could include, where possible:

- control of development of tourist accommodation within certain areas suited to the land use such as in close proximity to existing town centres that can readily service tourism
- permit new tourist accommodation only in areas assessed as having the necessary support and essential infrastructure
- allow for development in areas where impacts on resident amenity is deemed acceptable
- establish controls relating to scale, form, streetscape, access, parking and landscaping
- prepare a local provision for retention of existing caravan parks.

In the LES and the draft LEP for the Byron Bay area the extent of backpacker establishments was a somewhat significant issue and the LES recommended that they be limited into the future to only those existing as Council approved establishments. Until the tourism management plan can consider this issue and make recommendations, particularly in light of the proximity of these establishments to the commercial centre of Byron Bay, it is recommended that the Shire-wide LEP should not include provisions that restrict backpackers in this way.

Holiday letting

The LEP will need to take cognisance of the findings of the Holiday Letting Forum, March 2006. The Shire-wide LEP should be utilised, as a tool, to implement an option from the outcomes of the forum. The possible options considered by the forum to address the issue of holiday letting within the Shire, in order of preference, included:

- a precinct-based permissibility system under the LEP, with an approval process (complying development certificate, development application or licences), a transition period to remove holiday letting from residential areas outside the precinct/s, accreditation of tourist operators, education of all parties and public exhibition and community input into the definition of the precinct(s)
- enforcement of 'no holiday lettings in residential zones'
- holiday letting allowed anywhere, but must be approved by an authority (could be Council, industry or joint Council/industry body), with industry self regulation backed up

by Council process (e.g. development application, complying development certificate, licence)

- a precinct-based approach but not in the LEP, with no expansion of holiday letting outside the precinct/s. System to be reviewed after 2 years at which time it can be modified or abandoned or left as is, with a shorter transition period at the end of the 2-year trial period
- no regulation or management.

Note, not all of the recommendations of the forum are able to be addressed in the Shire-wide LEP.

Council should consider appropriate holiday letting precincts within the Shire's towns, particularly the coastal towns where holiday letting is more prevalent. This could be enforced either through:

- zoning to prohibit with appropriate enforcement
- overlays for precincts and/or appropriate clauses.

To identify these precincts, the following criteria should be considered:

- location of existing holiday letting properties
- proximity to town centres or commercial areas
- characteristics of areas (e.g. heritage, social aspects)
- economic considerations (i.e. occupancy rates, market trends).

Under the *Standard Instrument (Local Environmental Plans) Order 2006* Councils are required to adopt the definitions and zoning provisions within the *Standard Instrument — Principal Local Environmental Plan*. Holiday letting could fall within the definition of tourist and visitor accommodation under the Standard instrument. This definition applies to a building or place that provides temporary or short-term accommodation on a commercial basis.

The Standard Instrument provides limited options for Council other than the use of the Zone SP3 (Tourist) for areas in which they wish to permit holiday letting. A more feasible option would be to introduce a local provision allowing for an overlay in the appropriate precincts or within certain zones. This would provide the flexibility for Council to 'pin point' the relevant areas where the overlay would be applied. To go with this local provision, a new definition of holiday letting would be required within clause.

Another option would be to include the 'tourist and visitor accommodation' as a prohibited use within the R2 Low Density Residential zone. The definition 'tourist and visitor accommodation' means a 'building or place that provides temporary or short-term accommodation on a commercial basis ...' which would exclude any form of holiday letting within this zone.

As discussed in Section 5.4, a community survey (Bannister 1997) found that management of tourism was a key concern for residents of Byron Shire. Issues such as maintaining the existing character and social structure of towns in the Shire must be managed in tandem with the economic and social benefits of ongoing tourism. Holiday letting must be managed to ensure that uncontrolled tourism does not occur across the Shire.

The recommended preferred method of controlling holiday letting is to create an overlay for the LEP to permit holiday letting in specific areas of the Shire that are in close proximity to existing commercial areas and existing tourist facilities. This would be accompanied by a local provision that would include a specific definition.

Rural areas

In addressing tourism in rural areas the LEP can consider the dual land uses of agriculture, environmental management and tourist uses. There are a variety of options for achieving tourism in rural areas, including the following:

- Use of the SP3 Tourist zone will allow visitor accommodation in rural and other areas; however, the SP3 zone will be unnecessarily restrictive for permissible land uses in the rural area and is not really intended for rural area zoning.
- Use of a local clause/provision that allows tourist and visitor accommodation and associated uses in rural areas and some environmental management areas subject to various controls, that includes accommodation types, number of visitors, etc, or
- Use of an overlay or precinct map that identifies locations for these tourist uses with an associated local provision/clause, as identified in the *Byron Rural Settlement Strategy* (BRSS) (Byron Shire Council 1998b).

The preference is for use of a local clause/provision, similar to that in the Byron LEP 1988 and this would comply with Council's resolution. This would, however, contradict the recommendations of the BRSS, which have not already been included in the Byron LEP 1988. It is noted that the review of the BRSS will not address these issues again.

DCP provisions will be needed to accompany any of the provisions mentioned above that are to be included in the Shire-wide LEP.

5.5 Economic

5.5.1 Retail

In October 2002, IBECON Pty Limited was commissioned to undertake a retail study of the Byron Shire. The draft report was completed in August 2003 but was not adopted by Council. What follows is a brief synopsis of this study.

Over the past 10 years, total retail sales in Byron Shire have grown by 8.4% per annum. Over this same period the Consumer Price Index (CPI) has averaged 2.6%, thus real retail sales have increased by a little over 5.6% per annum in real terms over the past decade. Over this same period, population in Byron LGA has grown by 2.7% per annum. Thus, retail sales per head of population in Byron have increased by about 2.9% per annum in real terms over the decade, which is well above the national average of 2–2.5%. To some extent this reflects the strong growth in tourism component of spending in the Shire (IBECON 2003).

Total sales in Byron Bay township in 2002 were estimated at \$116 million and 75% of the trade is estimated to come from fringe areas in the region, mostly nearby LGAs. The high apparent market penetration into Byron Bay town reflects the fact that there are a large number of tourists, including day-trippers, whose spending is designated as being sourced from Byron Bay town centre. Similarly, there is a substantial level of employment in the town

centre. Many of these tourists spend substantial amounts on food and tourist items. Most of the shops servicing this demand are in the town centre (IBECON 2003).

In 2002, it was estimated that \$214 million (or 68%) of the total of \$314 million spending available from the Byron Shire is retained within the Shire. The balance of \$21 million captured from outside the Shire is less than the \$100 million currently escaping from the Shire to locations such as Ballina, Lismore, Tweed and Gold Coast. Net escape spending is \$79 million, equivalent to 25% of total spending generated from within the Shire. Most of this escape spending is in non-food categories (IBECON 2003).

If there were no further additions to shop floor space, trading levels would increase from the current \$5,080 per square metre NSA in 2006 and then to \$6,833 per square metre NSA by 2011. This baseline 'no charge' scenario provides the base for comparison of effects of any proposed changes to shops and major roads. These relatively high trading levels are consistent with the conclusion of an under supply of shop floor space. Such trading levels will put considerable pressure on both rental levels and pricing structures within those existing shops. This acts to the detriment of residents as they would be required to pay higher prices for local goods. It has also resulted in the utilisation of footpaths as extensions of shops, particularly for restaurants. While this al fresco dining is popular, it does lead to congestion on narrow footpaths. Generally, an under-provision of floor space also leads to demand for additional floor space in other lower rental areas such as the commercial or industrial area (IBECON 2003).

Most of the bulk retail in Byron Shire is presently in a few locations comprising the industrial park to the west and other locations spread throughout the Shire, including Billinudgel. There has been a proliferation of retail particularly in the industrial zone to the west of Byron Bay. While a substantial part of this floor space is in bulk retail/homewares categories, there was also a large amount of other retail that might normally be viewed as being appropriately included in town centres or other zoned retail locations.

Trends

IBECON's estimate for workers' spending at or near their workplace is that of the \$314 million in total retail spending generated from within Byron Shire in 2002; \$22 million (just over 7%) is generated from people shopping at or near their workplace. Most of this (\$16 million) is within the three areas of Byron Bay, Suffolk Park and Mullumbimby.

Several major factors influence the retail industry. In locations such as Byron Bay town centre, these factors include the through-traffic, the influence of major industries in the town and in the surrounding rural sector and, particularly in Byron Bay, the influence of tourism. Possible and proposed changes to some of these factors will occur over the next decade. While hard data is not yet available, anecdotal evidence indicates that this has resulted in a substantial increase in day-trippers traffic to Byron Bay town centre. It may also result in an increase in escape spending for non-food items out of Byron Shire to locations such as the Tweed and Gold Coast.

Markets

It is difficult to get precise measures of markets as they are quite variable both seasonally and by location. The total sales in markets are estimated to be of the order of \$6–7 million per annum. This represents about 2% of all retail spending in Byron Shire. While this would appear to only be a relatively small part of the total retail scene, they are a very substantial tourism attractor and result in spin-off benefits to other existing shops such that the total

influence on retailing in terms of tourism spending particularly is substantially greater than this (IBECON 2003).

As a result of their mobile nature, markets do not utilise zoned spaces, nor do they need fixed shops for their trade. Rather, their appeal is that they do not have this type of structure. Due to their variability, it is difficult to place fixed quantities on markets.

Spending/sales

Table 5-7 shows the percentage of spending by type of person for Byron and the region. It indicates that shops in Byron Shire are substantially more dependent upon tourists than residents when compared with four neighbouring LGA's (Ballina, Lismore, Tweed and Gold Coast) total but is about the same as the region total, including the southern half of the Gold Coast.

Table 5-7 Percentage of total spending for residents, workers and tourists in the region

	Byron LGA	Four neighbouring LGAs ¹	Region total
Residents	58.5	71.2	58.3
Workers	7.0	9.1	6.2
Tourists	34.5	19.6	35.5
TOTAL	100.00	100.00	100.00

Note: 1: Neighbouring LGAs are Ballina, Lismore, Tweed and the Gold Coast

The total level of sales in shops within Byron Shire has increased from \$235 million in 2002 to \$286 million in 2007. This increase in trade is the combined effect of population growth, real spending growth, tourism growth and assumed additions to shop floor space. Significantly, most of the growth in trade has been in the food category, particularly in the supermarket category.

Future retail requirements

The IBECON report (2003) suggested that there was a supermarket undersupply in Byron Bay town centre, Suffolk Park plus Byron Bay Industrial West, Ewingsdale and Byron Bay South in 2003. At that time, it was sufficient to warrant another full-line supermarket in this subregion. The options for providing the development included either in the southern end of the town centre or in a potential site in Suffolk Park to the north of the existing centre. The apparent oversupplies in the Ocean Shores/Brunswick Heads subregion indicate that there is no need for additional floor space here for the some time. In addition, the report identified a need around Mullumbimby, indicating that there could be scope for expansion of one of the existing supermarkets or a third smaller local supermarket. It was thought that the combined demands for Ewingsdale, Bangalow and Byron Bay would also indicate that there is scope for additional local and convenience retail either in Bangalow or Ewingsdale (IBECON 2003). This would need to be reconsidered in the future following recent events in the Shire in relation to supermarket floor space.

The general level of undersupply in non-food indicates that there would be scope somewhere in Byron Shire for the provision of additional amounts of non-food retail such as might be supplied in a discount department store and associated specialty shops. The problem that arises here is finding a suitable site, as no site is big enough in Byron Bay town centre. The only area currently zoned that could absorb this type of floor space is the

industrial area in Byron Bay west. It would be inappropriate for such a facility to be included in this location as it does not have ancillary retail associated with it, and would require the development of supermarkets and other specialty shops to support a fully functional centre. This should be viewed as totally inappropriate, for planning, commercial and social reasons (IBECON 2003). While there is also some deficiency of this type of floor space in the Ocean Shores/Brunswick Heads region, the level of deficiency is not sufficient to warrant the location of a discount department store in this subregion.

By the year 2021 there would be sufficient demand in the Shire for what is usually described as a subregional centre. Given the absence of suitably zoned land, the only way of meeting community needs is for a distributed model that would include supplementing many of the local centres. There is sufficient demand in and around Byron Bay town centre for substantial additions to retail floor space of all types.

Factors affecting centres and locations

Several major factors will influence the retail sector in Byron Shire. The population growth projections and real spending per capita forecasts have a reasonably constant effect across each location of shops throughout the region. Some other factors have more specific effects on different locations.

Byron Bay town centre

Three substantial factors will have an impact on Byron Bay town centre. These factors are as follows:

- The increased access to and from the strong growth areas to the north of the Tweed and Gold Coast would result in easier access for residents of Byron Shire to Centres such as Tweed City and Robina.
- The anticipated continued growth in tourism and both destination tourism and day-tripper tourist spending can be expected to increase strongly.
- The possible introduction of a road bypass around the town centre would have an impact.

Suffolk Park

An issue that needs to be faced is the question of whether an additional major supermarket should be permitted either in the south of the Byron Bay town centre or in Suffolk Park. Either location would service the present, undersupplied demand. Suffolk Park, particularly if the petrol station was included in the site, could be made to have quite good access incorporating use of the existing roundabout and could possibly provide alternative alleviation of traffic issues in the town centre. It would, however, result in the development of yet another major retail node within the Shire. The dispersion of retail facilities, while appealing to some, is relatively inefficient and results in generally higher cost structures, and greater traffic circulation and movements than would otherwise be the case.

Mullumbimby

The Minister for Planning has approved a supermarket for Mullumbimby adjacent to the railway line. The approved site for the future supermarket development is the site nearest to the existing shops on the north-western side of the railway line in Station Street. This will have the benefit of linking more closely back to existing shops in the town centre.

Other local centres

An observation that can be made of most of these local centres is that they are highly dispersed for such small total volumes of shops. This particularly applies to Bangalow but also to some extent, Brunswick Heads. The Ocean Shores development is a poorly designed dysfunctional centre which could otherwise have been developed as a highly functional local neighbourhood centre. It is recommended that in any future development, encouragement be given to consolidating retail components and that the further spread or disaggregation of these local centres be actively discouraged (IBECON 2003).

Changes in retailing

Since the preparation of the IBECON report retail space at Byron Bay has been enhanced by the provision of 1,800 square metres of supermarket floor space, and 1,000 square metres of associated retail floor space at Sunrise Beach, West Byron. An additional 930 square metres of retail space is being constructed in Byron Street, Byron Bay. Notwithstanding recent retail development at Sunrise Beach and Byron Bay, there may still be a requirement for additional supermarket floor space to service the Suffolk Park residential precinct, as discussed in Section 7.5.

5.5.2 Commercial

Future requirements for commercial facilities can be separated into two streams:

- tourist accommodation
- quasi retail and other commercial.

Tourist accommodation

With reference to Section 5.4, it is understood that the total tourism in Byron Shire currently including day-trippers is about 1.85 million person or bed nights per annum. Of this amount it is estimated that those staying in commercial accommodation totalled 1.01 million bed nights of stays. Discussions with Byron Shire Council officers indicate that the rate of growth has been high in recent years and in particular surged at and after 2001. To be conservative, it is reasonable to use a percentage growth rate of 2% per annum compound for the next 5 years. This results in a 10% overall increase to about 1,150,000 bed nights of stays by 2008, growing by then at about 20,000 bed night per annum (IBECON 2003).

Because of the arithmetic anomalies that can occur when percentage compound rates are applied to low base numbers, an annual growth rate of 20,000 per annum is applied for the period up to the year of 2021, resulting in an annual rate of a little over 1,410,000 bed nights of stay by then. Assuming 50% occupancy (because of the high seasonal component in tourism) this would indicate a requirement for about 7,725 beds (IBECON 2003).

Thus, planning could be based on an assumption of 1,260,000 bed nights requiring 7,000 beds at 50% occupancy, an increase of 500 over the current provision. At a typical average of beds per motel of say 90–100, this would indicate a requirement of about the equivalent of 5–6 new motels or other forms of commercial accommodation in the Shire-wide region. Some of these could be suitably located near the various beaches, some in the major town centres. It is emphasised that this is a preliminary and cursory overview of the tourism provision and possible future requirements. It is recommended that this assessment be reviewed. Policy inputs from Council also represent a very significant and possibly over-riding input into any assessment of tourism (IBECON 2003).

Quasi retailing and other commercial facilities

Generally, as there is only a low apparent vacancy rate in these types of facilities with the exception of some vacant commercial space in the industrial zone, it seems reasonable to provide these 'pro rata' to population in total, with the possible exception of banks who are generally attempting to reduce their large outlets and replace them with ATMs or simpler service facilities in shopping centres. This trend is likely to continue. Allowing for some unidentified/unqualified commercial uses in homes, it seems reasonable to assume that there is currently about 25,000 square metres of non-accommodation commercial floor space in the Shire. The overall average provision of non-accommodation commercial floor space in the Shire is thus presently approximately 0.65 square metres gross leasable area per capita, which is about half the rate in neighbouring Ballina (IBECON 2003). In the past few years, more office and shops have been constructed, which may have reduced this ratio.

As the population is predicted to increase to 45,000 by 2020, this would indicate that an approximate doubling of current levels of floor space is required. It is difficult to quantify how much work is presently being conducted from home offices. However, indications are that it is increasing and is likely to increase further. It is suggested that for 'ultimate' planning purposes a figure reduced by about 15–20% would minimise the risk of error. Thus, allowance should be made for an increase of non-accommodation commercial floor space somewhere in the Shire of approximately 20,000 square metres, to slightly less than double of what is currently provided (IBECON 2003).

Where this additional floor space should be provided then needs to be considered. The four major population nodes outside Byron Bay (Suffolk Park, Mullumbimby, Brunswick/Ocean Shores and Bangalow) will all require some level of commercial floor space in the form of doctors, dentists, accountants, lawyers etc. It is recommended that these be provided at the rate of about 1.0 square metre per capita distributed between the major centres.

One general issue relating to shops is access. Consideration must also be given to the design of the shops and their location. Most shops in old town centres suffer from a number of serious design deficiencies. These include the general spread-out nature of strip shop locations. When compared with an enclosed mall where the shoppers are 'on the inside looking out', in strip shop locations the shoppers are focused to be 'on the outside looking in'. Many of the shops are also very narrow-fronted and very deep, which opposite to the shallow, wide-fronted shops in structured shopping centres; for the retailer, the latter are far better from a merchandising perspective.

5.5.3 Industrial

In a paper entitled *Employment Challenge and Estimated Commercial/Industrial Land Requirements*, the (then) Department of Industry, Planning and Natural Resources (now the Department of Planning) has assessed the impact of two population growth scenarios, and their impact on employment and industrial and commercial land. For Byron Shire, the total number of jobs needed to supported growth is between 3,400 and 5,301. At the low end, the stock of industrial land presently available within the Shire (i.e. 62 hectares) is sufficient. At the high end, a further 10 hectares of industrial lands will be required (Byron Shire Council 2007c).

Council recently prepared a review of industrial land in Byron Shire to examine the supply of industrial land. The review found that the Shire has 62 hectares of industrial lands, of which all but 6.7 hectares are fully serviced. Furthermore, about 17.3 hectares of land,

representing 60 lots, remain in a greenfield state. In addition, a range of lots appear to be undercapitalised, suggesting further development is possible (Byron Shire Council 2007c). The findings of the review for various areas within the Shire are summarised below.

Bangalow

The Bangalow estate is relatively small and largely unchanged since 2000. The low level of development is largely explained by capacity constraints at the local sewerage treatment plant. Those constraints were lifted in late 2007 (Byron Shire Council 2007c.).

Billinudgel

The Billinudgel estate has three distinct sections:

- The north-eastern zone is largely developed and relatively unchanged since 2000.
- In the southern zone roughly 50% of land undeveloped in 2000 now has structures.
- the north-western zone remains undeveloped.

Additionally, the estate is flood-prone (Byron Shire Council 2007c.).

Mullumbimby

Only one lot has been developed since the construction of Towers Drive. A very large vacant property is included in the industrial estate. Given its size, it is presumed that the land will be subdivided prior to development. Constraints presently exist as a result of sewerage capacity issues due to be lifted in 2009-2010. A second small, mature estate is located on Station Street. Significant development is not considered possible within this site.

Byron

The Byron estate consists of three zones:

- The eastern zone is largely developed although very limited opportunities remain for greenfield development as well as for redevelopment of existing apparently undercapitalised properties.
- The western zone has more space to accommodate greenfield development. Construction is taking place on three sites on Centennial Court.
- The northern zone consists of undeveloped land, most of which is owned by Council.

While there appears to be a sufficient supply of lands for growth of suitable light industry in the short term, consideration will need to be given in the long term to the identification and eventual development of suitable property. Presently, the LEP process does not include such consideration. One notable idea that has been mentioned is the earmarking of lands for larger enterprises in order to mitigate heavy truck traffic on the increasingly utilised Ewingsdale Road (Byron Shire Council 2007c).

5.5.4 Discussion of local planning options

A detailed economic strategy for the Shire needs to be undertaken. Council will need to consider retail, commercial and industrial development into the future, including potential locations and expansion of employment.

The focus of such a study should analyse the status quo, anticipate future developments and recommend planning outcomes to guide the shire through the next 10 years. This strategy can also be used as an instrument to inform further amendments to the Shire-wide LEP.

Several conclusions can be drawn from the IBECON analysis and recent development:

- Apart from some delay in growth due to limited sewerage treatment plant capacities, there will be continuing strong population growth in Byron Shire and Region up to 2011, with slower growth in Byron Shire thereafter.
- There will be continuing moderate to strong growth in tourism to Byron Bay and flow-on to other parts of the Shire as a destination with strong growth continuing in over night stayers and day-trippers.
- The combination of this population growth, tourism growth and increased real spending at about 1–1.5% per capita per annum will result in continuing growth in retail sales dollars available from residents, workers and tourists in Byron LGA and the surrounding LGAs.
- There is currently a level of escape spending out of Byron LGA, although there are also some offsetting flows back into Byron LGA from adjoining and nearby LGA's and tourism expenditure.
- Where possible, consolidating retail outlets need to be encouraged.
- While there is substantial undersupply of retail floor space overall in Byron LGA, much of the non-food escape spending is met by regional and other centres outside the LGA. Recent expansion of retail floor space in Byron Bay might help to address the potential undersupply.
- There has been identified in the past a deficiency in supermarket floor space, sufficient to support the development of another full line supermarket within Byron LGA. However, with the recent development of IGA in Sunrise Beach (west of Byron Bay) and the proposed expanded supermarket in Mullumbimby, this deficiency could be somewhat addressed. The development of another site would definitely ameliorate any perceived/potential shortage of supermarket floor space.
- Initial indications are that the Pacific Highway upgrade has resulted in an increased outflow of residents shopping to locations such as Tweed Heads and a significant additional inflow of day-tripper visitation.
- Recent expansion and upgrade of retail floor space in Ballina (supermarket, discount department store and other specialty shops) may also encourage escape spending until the needs can be met in Byron Shire.
- Consider the potential for the expansion of the commercial zone in Brunswick Heads to ensure a connection between the supermarket and the main retail part of town.
- Ensure the areas of current industrial zoned land are not reduced. Currently, Byron Shire's industrial estates cater to relatively small enterprises. Successful small enterprises need room to expand to become large enterprises and this is not well catered for in existing estates. These enterprises are faced with the choice of relocation, which for Byron Shire puts at risk the local employment and revenue generated by the business. As such there is a foreseen need for large scale industrial sites within the Shire which are easily serviced and transport accessible. An economic study should be considered for the LGA that would look at where these sites might be located, taking into consideration any environmental and sustainability values.
- Consider the use of a Business Park zone with the western part of the arts and industrial estate in Byron Bay. This is in keeping with the draft Settlement Strategy for the area

and would also enable the mix of uses that the area is currently encouraging. The remainder of the estate should remain a mixture of light and general industrial to ensure the traditional industrial uses have a place to locate.

5.6 Accessibility

5.6.1 Existing environment

General

The population of Byron Shire is 28,766 (ABS 2006) with an estimated annual growth of 1-2%. The Byron Shire LGA is currently serviced by a combination of road, rail and air infrastructure and services.

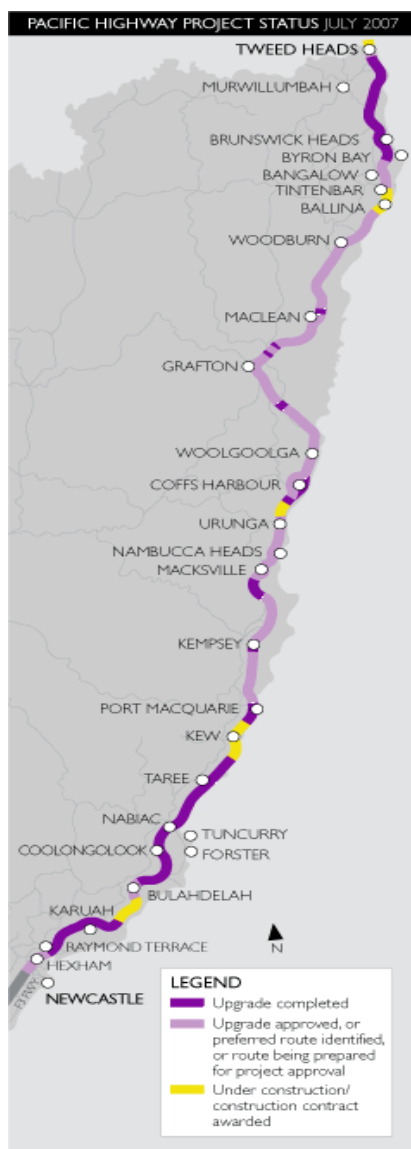


Figure 5-4 RTA progress of Pacific Highway upgrades (RTA 2007)

In 2001-2002 there were 20,294 licensed motorists in the LGA; this figure rose to 22,405 licensed motorists in 2006-2007.

The area is relatively well connected to the surrounding regional centres, particularly south-east Queensland. Future infrastructure planning has to include and facilitate the service industries that can increase local employment and add value to the quality of life for residents and the large tourist market.

Currently, the Byron Shire's community values people's amenity above cars, one of the factors making it a popular tourist destination. However this vision has led to under-designed road networks leading to traffic congestion.

Roads

Main road network infrastructure includes Ewingsdale Road, Eureka Road, Bangalow Road and the Pacific Highway. Upgrade planning, funded by the State and Commonwealth governments for the Pacific Highway between Ewingsdale and Tintenbar (Ballina Shire) is currently in progress as shown in Figure 5-4. A significant upgrade of the highway between Brunswick Heads and Yelgun, including twin bridges over the Brunswick River was completed in May 2007.

As indicated in other studies (Byron Shire Council 2004b), Byron Shire has a large majority of its population dependant on private motor vehicle transport.

Levels of vehicle ownership within the Shire are steadily rising by approximately 3.5% per annum. In 2001-2002 there were 21,016 vehicles registered in the area; this figure rose to 24,615 vehicles in 2006-2007.

The number of licensed drivers/riders has steadily increased by 2.1% per annum. over the past 10 years.

According to RTA traffic survey data, there has been an average of 3.3% per annum increase to traffic average daily volume (ADV) over the four major arterial roads (the Pacific Highway, Ewingsdale Road, Bangalow Road and Mullumbimby/Tyagarah Road) within the Shire. The roads of highest growth were the Pacific Highway and Bangalow Road.

The level of road safety within the Shire has decreased (taking into account a 2.1% per annum increase to Shire licensed motorists), as shown in Figure 5-5. The number of serious crashes (involving either injury or a fatality) has remained relatively stable over the observed period.

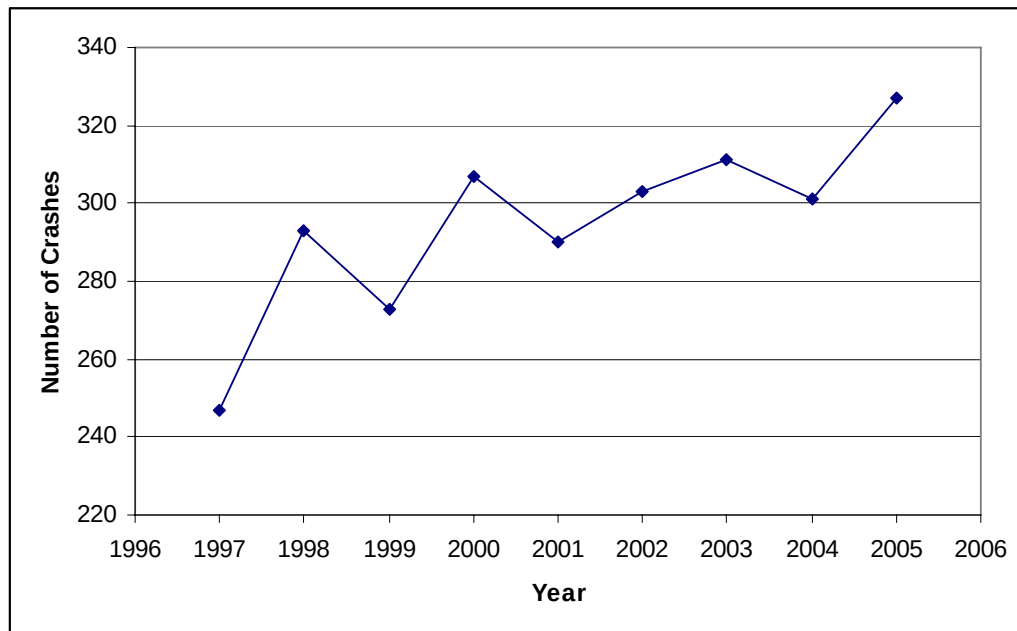


Figure 5-5 Annual crash statistics for Byron Shire LGA

Source: RTA (2005)

According to Byron Shire Council (2004b), two lane roads have an absolute peak carrying capacity of 20,000 vehicles per day, provided intersections have adequate capacity and pedestrians are suitably accommodated. However, where pedestrian amenity or residential access is important, loads on the roads should not exceed 10,000 vehicles per day.

Roads within the outer areas of the Shire, including Main Arm and Federal, have not been properly constructed (i.e. dirt) and are poorly maintained. There has been a major planning failure with respect to planning public transport services in conjunction with land use strategies (DUAP 2001).

Currently, four main bus routes operate regularly throughout the Byron Shire area. There are two bus services offering intraregional transport as well as school bus services.

At an extraordinary meeting on 1 March 2005, Council matched funds allocated as part of the NSW Coastline Cycleway initiative to link the entire NSW coastline via a shared cycle/pathway, for the following stages:

- Byron Bay town centre — Tennyson Street to Recreation grounds
- Byron Bay town centre — Recreation grounds to Cowper Street
- Suffolk Park — Alcorn Street and Clifford Street

- Brunswick Heads — Pacific Highway to Bowling Club.

There is also currently an upgrade to the pedestrian and cycle pathway network in progress at Mullumbimby which has the potential to affect local traffic flows.

Due to the poor internal road network structure caused by scattered settlement patterns, there is a propensity for local residents and visitors to rely on the use of private vehicles as a mode of transport rather than public transport systems. As a direct result, major shortfalls in parking spaces have been identified with occupancy rates in excess of 95% during the day (Byron Shire Council 2004a).

Shortfalls in parking also impact traffic demand levels during weekends and peak holiday season where up to 40% of traffic is circulating looking for a park (Byron Shire Council 2004a).

Initiatives to address the lack of parking spaces in the LGA are currently in a preliminary operational stage, with coupon paid parking showing positive results (Byron Shire Council 2004a). These trials have been expanded and have proven to provide a net profit to Council. This system, however, has been vehemently opposed by local businesses and been restricted to three car parks. However, increased development may provide an opportunity to revisit this issue via Section 94 planning.

Byron Shire has been pursuing the need to bypass Bangalow from the Pacific Highway to Lismore Road west of Bangalow. This would improve the amenity of Bangalow and access to Lismore from the east.

Aviation

Air services for Byron Shire include:

- Brisbane International Airport (international and domestic flights) — 120 minutes from Byron Bay
- Coolangatta Airport (domestic and some international flights) — 45 minutes from Byron Bay
- Ballina Airport (domestic flights including numerous direct flights to Sydney per day) — 25 minutes from Byron Bay
- Lismore Airport (commuter flights to and from Sydney) — 40 minutes from Byron Bay
- Tyagarah Airstrip (no scheduled transport) — 10 minutes from Byron Bay.

A dedicated bus shuttle service operates regularly between Byron Shire and Ballina Airport. Shuttle services are also in place to and from Brisbane International Airport and Coolangatta Airport.

Rail

Rail services for the Byron LGA include:

- The main Country Link — Northern Line connects Sydney to Brisbane with dedicated bus/coach links from Casino, Grafton and Brisbane.
- The local rail service between Casino and Murwillumbah was recently closed and replaced by bus. The rail line is still in place.

There is currently an upgrade to the XPT service on the Country Regional Network in progress.

5.6.2 Identification of existing traffic and transport issues in the region

General

There is an inherent need for Byron Shire businesses, local communities and local government agencies to work together in planning for the changes that will flow from likely intensified future development.

Residents have a high dependency on the use of private vehicles. As such, transport is a major issue for the region. The lack of accessibility is a significant concern for the residents of the Shire. A traffic and transport study is required (and included in Council's management plan) to analyse the traffic congestion issues specifically at Byron Bay and also other areas within the Shire.

A stronger emphasis on public transport and the creation of a more efficient system is required to alleviate traffic congestion and parking issues within town centres. Notwithstanding this, private cars are still likely to form a significant part of the transport mix, especially with regard to visitors during peak holiday and festival times.

Roads

Scattered settlement patterns within the Shire have resulted in poor internal road network structures. High vehicle dependence, which strengthens the annual rise in vehicle ownership, combined with anticipated population growth is likely to lead to an exponential traffic increase in Byron Shire.

Peak holiday season leads to a large influx of visitors, which further impacts on intersections and traffic congestion in town centres. Council is also currently considering a number of options to improve traffic management around town centres. One option being considered is a town centre bypass of Byron Bay to direct passing traffic away from the town centre.

Significant reductions in the town centre traffic congestion can be made by providing centralised (even multi-deck) parking in lieu of kerb side parking. This is because side friction due to parallel parking movements is removed and another lane can be returned to traffic movement, particularly for itinerant use such as bus lanes and set downs.

Alternatively, remote at-grade parking could be provided in conjunction with shuttle bus services. In this scenario, retention of a certain level of traffic congestion is appropriate as this in itself encourages use of the public transport services.

The impending growth provides an opportunity for new and expanded businesses in the town centres, which in turn provides opportunity to look at traffic and parking Section 94 plans. It is important, however, to look at this issue in association with the character of all towns and villages to ensure this unique character is not lost. Note that pedestrian movement is also part of the issue and effective pedestrian management plans should be considered in conjunction with other strategies.

Outlying areas typically suffer from road under-design; however, upgrades to some areas may be constrained by environmental issues and investigation is required on a case-by-case basis. It is important that any future changes to transport infrastructure do not result in a loss of amenity. To a large degree, increased opportunities will come out of the burgeoning population, as road maintenance funding is essentially a function of the population to road ratio.

Inadequate public transport services with limited access within the Byron LGA impact on less mobile local residents having access to services such as health. A more efficient public transport system may dissuade some motorists from relying solely on private vehicle transport, thereby reducing the traffic in the area.

Byron Shire has been pursuing the need to bypass Bangalow from the Pacific Highway to Lismore Road west of Bangalow. This would improve the amenity of Bangalow and access to Lismore from the east.

Aviation

There are three commercial airports within an hour of Byron Shire, accommodating both international and domestic flights with bus shuttle services in operation. While these services cater for some visitors during festivals and other events, private cars remain the preferred mode of transport; current air services and the associated infrastructure are adequate for the Shire.

Tyagarah Airstrip, located 10 minutes from Byron Bay, provides important landing facilities for light aircraft. While immediate growth in the aerodrome is unlikely, encroaching residential development is often incompatible, with noise becoming the predominant issue.

Rail

The rail service between Casino and Murwillumbah was replaced by buses in 2004. The future of the rail system for Byron Shire is yet to be ascertained; however, large capital expenditure would be required to sufficiently upgrade and maintain the lines to working order. Hence, it is very unlikely in the short-medium term.

Retention of the rail corridor and associated infrastructure, such as embankments and bridges may be valuable to future opportunities, such as potential reinstatement of trains for either transport or tourism uses.

5.6.3 Discussion of local planning options

Transport infrastructure will need to be incorporated in the local planning framework. The following are key strategic issues for Council to consider:

Roads and parking

- The Byron Bay Town Centre Bypass — consideration of whether this should be zoned as SP2 in the new Shire-wide LEP or potentially included on the land acquisition map.
- Consultation with the RTA as to whether future road corridors for the Pacific Highway south of Ewingsdale should be separately zone to facilitate improvements to the capability as part of the planned upgrades by the RTA or another zoning selected through a further consultation process.
- Completion of a Shire-wide traffic and transport study. The proposed study should also investigate critical bottlenecks (such as Ewingsdale Road).
- Provisions in Section 94 Planning for options to address traffic congestion through provision of parking infrastructure and the like within town centres.
- Council should examine the need for a bypass of Bangalow from the Pacific Highway to Lismore Road in conjunction with the RTA.

Aviation

- Tyagarah Airstrip should be separately zoned. Consideration should also be given to specific overlay controls relating to noise assessment within the likely affected area around the airstrip.

Rail

- Key corridors of the former Casino–Murwillumbah Railway land will need to be separately zoned as transport corridors.

5.7 Infrastructure and servicing

5.7.1 Description of the existing environment

Potable water

Byron Shire Council sources bulk water supplies from Rous Water, which services the LGAs of Lismore, Ballina, Richmond River and Byron, comprising a total population of some 135,000 people. The majority of the Byron Shire potable reticulated water is sourced from Rocky Creek Dam, located in the Lismore LGA, approximately 10 kilometres north-west of Eureka. This water is chlorinated and treated with alum and lime at the Nightcap Water Treatment Plant, just downstream of the dam. Byron Shire Council then reticulates and maintains the supply network within the Shire. Figure 12 shows the location of major water infrastructure for the Shire. Storage reservoirs are located at Clunes, Eureka, Bangalow, Coopers Shoot, Suffolk Park, Byron Bay, New Brighton and Ocean Shores, and are linked by pipeline from the Rocky Creek Dam.

Mullumbimby draws water from a separate supply at the Laverty's Gap weir on the upper reaches of Wilson's River, approximately 5 kilometres south-west of Mullumbimby. Accordingly, Mullumbimby's water supply is constrained by separate limitations to the rest of the LGA. It should also be noted that Council has recently constructed a drought management pipeline connecting the Rous Water supply to Mullumbimby. The recently completed *Catchment Management Plan for the Laverty's Gap Weir Catchment* (April 2007) identified a number of land use issues relevant to the LEP. These are examined further in section 5.7.3.

The Rous Water system has a peak yield capacity of 12,513 megalitres per annum. This equates to approximately 35 megalitres per day. However, this is divided amongst a population of approximately 135,000 people. Accordingly, the per capita water supply capacity is in the order of 260 litres per day. The NSW EPA reports that average unconstrained water consumption is approximately 400 litres per person per day. Both Rous Water and Byron Shire Council, therefore, need to secure further water supplies to enable continued growth of the Shire population.

As an interim measure, to increase the drought security capability of the water supply, Rous Water has developed a series of water use restriction levels for councils to enforce, as shown in Table 5-8 below.

Table 5-8 Trigger capacity of Rocky Creek dam for restrictions

Restriction level	Dam capacity (%)		Target base demand (ML/day)
	Introduction of restriction	Lifting of restriction	
0	>55	-	34.25 (100%)
1	55	65	32.54 (95%)
2	45	55	29.06 (85%)
3	35	45	25.69 (75%)
4	25	35	24.01 (70%)
5	20	25	22.96 (67%)
6	15	20	21.9 (65%)
7	10	15	15 (44%)

Source: Rous (2007)

Note that the Building Sustainability Index (BASIX) requires that water demand for new dwellings be curbed by augmented water supply (either recycled effluent or rainwater) such that a 40% saving is achieved. However, BASIX applies only to residential development, which accounts for about 60% of potable water use; this will reduce the demand from approximately 400 litres per person per day to about 300 litres per person per day, still above current supply capacity.

Sewage

The Byron Shire LGA is serviced by five sewage treatment plants (STP), located at Ocean Shores, Byron, Bangalow, Brunswick Heads and Mullumbimby. Mullumbimby and Brunswick Heads are currently in the process of being decommissioned, to be replaced by a single plant at Vallances Road.

The Department of Environment and Conservation (now the Department of Environment and Climate Change (DECC)) has identified a hierarchal list of effluent reuse preferences for strategies to be implemented in the Shire:

- uses that replace potable water supply demands with effluent (e.g. dual reticulation, existing sporting ground irrigation, industrial reuse opportunities)
- uses that replace water supply demands from natural supplies with effluent (e.g. agricultural reuse opportunities, industrial reuse opportunities)
- uses specifically created to utilise effluent (e.g. agricultural reuse including turf farms, environmental regeneration projects).

An issue identified previously for the Shire is the under-designed capacity of STPs due to rapid growth to the population and tourism expansions. This has forced Council to place sewage moratoriums on several of the overloaded STPs to enable an augmentation and an upgrade programme to take place.

All STPs within the Shire are licensed to the DECC (EPA) for effluent discharges.

Ocean Shores

According to the *Byron Shire Council Integrated Water Cycle Management Concept Report February 2007*, the maximum achievable population for Ocean Shores should be

approximately 7,000. This is within the capacity of the current STP and, hence, has an adequate capacity for short-medium term future demand. Treated effluent from this STP is discharged to the Brunswick River.

Currently, the Ocean Shores STP is operating at around two-thirds capacity. There is little fluctuation in effluent inflow between the tourist seasons and the rest of the year.

Byron

Council recently completed the Byron Bay Sewerage Augmentation Scheme, which consisted of upgrading of the West Byron STP and decommissioning of the South Byron STP. This has resulted in the termination of effluent discharge into Tallow Creek.

A major reuse project operating for the Byron STP is the regeneration of a Melaleuca wetland using disinfected effluent from Byron STP. Significant capital investment in this project has enabled effective rehabilitation of these wetlands to occur.

A second major reuse project completed recently is the construction of a recycled water pipeline linking the new sewerage treatment plant to Byron Bay and Suffolk Park. This project supplies urban quality recycled water to the Byron Bay Golf Course, the Byron Bay Bowling Club, the Byron Bay High School, the Red Devils Rugby League Club, the Tennyson Street recreation grounds and two commercial nurseries.

The remaining treated effluent from the Byron STP is discharged to Belongil Creek.

The Byron STP is currently operating at approximately 60% capacity during off-peak periods of the year and increases to approximately 70% capacity during peak (high tourist) periods.

Bangalow

The Bangalow STP has recently undergone a significant upgrade. The treated effluent disposal scheme includes irrigation for 5 hectares of bamboo, thereby reducing impacts on the environment while allowing for continued growth of the town. These upgrades mean that the previously imposed sewage moratorium that has been in place since March 1998 due to the overloading has been lifted.

Since its upgrade the Bangalow STP operates at about 50% capacity, with little fluctuation in effluent inflow between low-tourist and high-tourist periods of the year.

Brunswick Heads and Mullumbimby

The towns of Brunswick Heads and Mullumbimby are currently serviced by two separate STPs, which are more than 30 years old and approaching the end of their useful life. A sewage moratorium has been placed on both the Mullumbimby STP and Brunswick Heads STP due to hydraulic overloading; this is in place until current and future loadings can be catered for, and is expected to be lifted in 2010.

The Brunswick Area Sewerage Augmentation is proposed to comprise of the decommissioning of the existing Brunswick Heads and Mullumbimby STPs and transfer of sewage from these catchments to a new STP to be constructed at a site recently purchased by Council at Vallances Road, to the east of Mullumbimby. Completion of this new STP is expected in 2010.

Gas

NSW is in a unique situation in that it is the only state in Australia without any significant deposits of natural gas. For this reason, natural gas must be pumped from South Australian reserves in order to provide reticulation to urban NSW regions.

There is currently no natural gas network available in the Shire. Bottled gas is available throughout the Shire.

Electricity

Electricity generation for the Shire is undertaken by private companies and state-owned corporations. TransGrid (NSW Government owned) operates a high voltage (132 kilovolt (kV)) transmission network within the Shire, with energy primarily retailed by Country Energy.

Substations are located at Mullumbimby (132 kV, 66 kV, 11 kV, recently upgraded) and Ewingsdale (66 kV, 11 kV) supplying electricity to the entire Shire. A major development program in the Ewingsdale and Byron Bay areas will proceed over the next several years to improve the electricity supply for the Shire. Solar is another source of electricity that is now being used more widely in the Shire.

Telecommunications

Changes to telecommunications technology over the past two decades have created significant planning issues due to changes in consumer behaviour and community expectations. The erection of new mobile phone towers, as covered under the *Telecommunications Act 1997*, can be a difficult issue with both a lack of services and community malcontent.

Broadcasting infrastructure such as towers, cabling, satellite dishes, power supplies, access roads and equipment sheds, are covered by the *Telecommunications Act 1997* whereby Councils are the consent authority for any facility classed as not 'low impact facilities'. These 'low impact facilities' are exempted from state and territory planning and environmental laws by the *Telecommunications (Low Impact Facilities) Determination 1997* (Byron Shire Council 2004b).

The State Environmental Planning Policy (Infrastructure) 2007 (the Infrastructure SEPP) applies to certain infrastructure developments that include electricity generating works. According to Clause 5 of the SEPP, a public authority is permitted to undertake development for the purpose of a public utility undertaking in all zones, with the exception of land zoned National Parks and Nature Reserves, subject to gaining approval under Part 3A.

There are 11 exchanges in the Byron Shire Council area, all of which are enabled for ADSL but there are transmission limitations in some of these areas and are limited to 4 kilometres from the relevant exchange. (All exchanges are linked via optical fibre.) Telstra provides mobile coverage to the majority of Byron Shire via GSM, Next GTM and CDMA (until February 2008). Pockets of the Shire will experience reduced coverage due to the topography of the area. Broadband data cabling and access to satellite broadband is also found in the Shire and provides access to internet and other broadband services.

The recent development of the Telstra NextG network has expanded mobile and some broadband services in the Byron Shire region. This expansion, however, has not included services in the west of the Shire. Figure 5-6 illustrates the telecommunications coverage in the Shire.

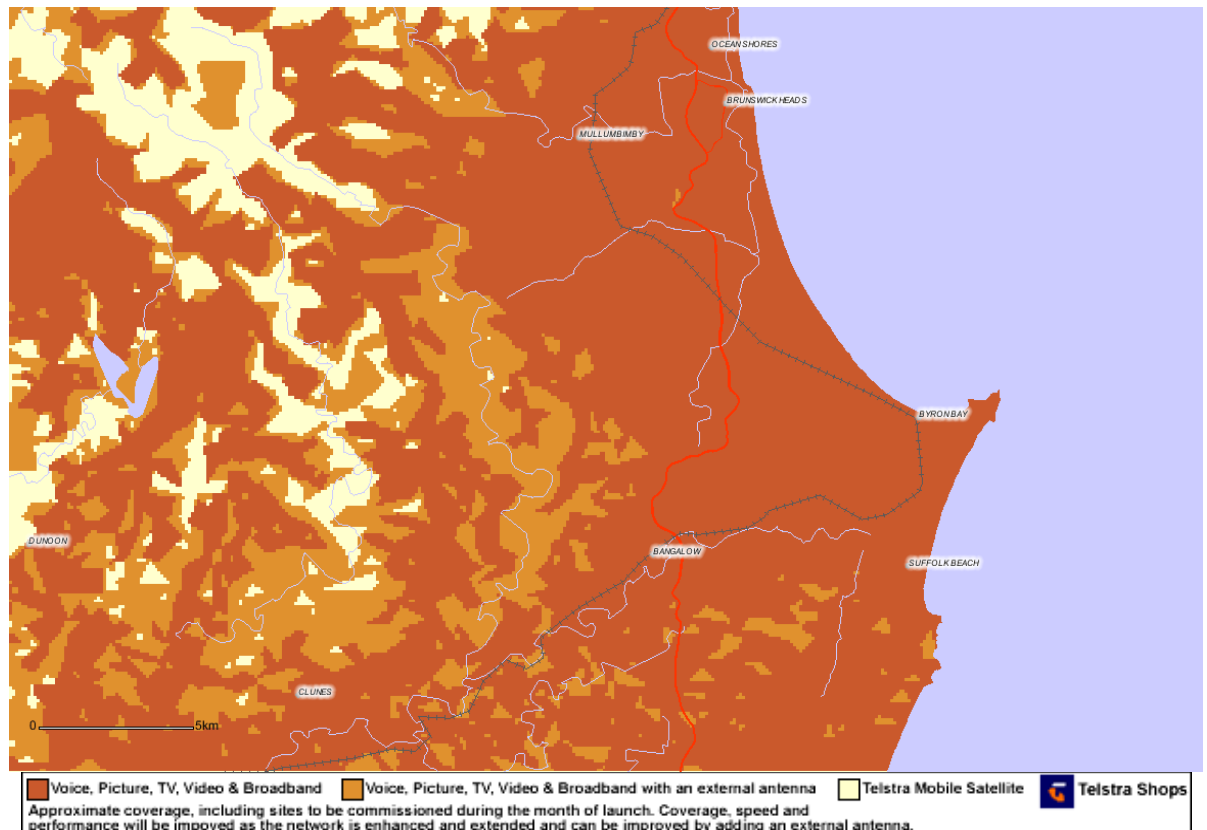


Figure 5-6 Telstra mobile network services

Waste disposal

Byron Shire has developed an *Integrated Waste Management Strategy* (IWMS) (Byron Shire Council 2003c) for the region. A significant initiative to arise from this strategy is the focus on waste minimisation practices. This strategy will form the basis for decision making on all aspects of waste management and will be supported by action plans to ensure that objectives are met.

Council provides, by a contractor, a weekly roadside service of a 140–240-litre separate waste/recycling bin to urban, rural and commercial areas. A commercial waste only service is also available at an additional cost.

The provision of bulk bin services to commercial areas is an open market and as such council provides a minor proportion of all commercial waste services in competition to external contractors.

The street and park litter service consists of 240-litre wheelie bins at 276 locations, which are routinely emptied. Due to the seasonal nature of tourism in the area, these services come under severe pressure during peak tourism times and major events (Byron Shire Council 2003b).

A problem identified in the IWMS report is the use of these bins for residential and commercial waste, thereby limiting the capacity of these bins for litter.

The Myocum Landfill was reopened by Council in August 2003 with an estimated maximum capacity of 10 years. Formerly, waste was transferred off-site from Myocum transfer centre to Ipswich in Queensland for disposal. Future solid waste management solutions are

expected to be regionally based with the cooperation of Councils which are part of the North East Waste Forum.

5.7.2 Regional infrastructure constraints and opportunities

Potable water

Rous Water is in the process of increasing the amount of bulk water available to the LGAs it services by the use of new water sources.

The management of water use within the Shire is the responsibility of the water authority (Council) and is controlled by a number of factors. Population growth of the Shire (i.e. the number of customers using water, and the amount of water each customer uses) is the primary controller. The water authority is also able to control, to a degree, water usage through controlling the cost of water. Other factors, which contribute towards controlling water use of the Shire, include education, BASIX requirements that reduce demand of water used by new customers, rainwater tank installation and usage incentives, and water restrictions (which are really only used as a last resort and in times of drought). These practices will help to ensure the security of water supply for current and future populations.

In 2005, Council developed a *Development Servicing Plan for Water Supply Services* (DSPWSS) (Byron Shire Council 2005c) which details the water supply developer charges to be levied on development areas utilising a Council's water supply infrastructure. These up-front developer charges are levied to recover part of the infrastructure costs incurred in servicing new developments or additions/changes to existing developments and serve two related functions:

- They provide a source of funding for infrastructure required for new urban development.
- They provide signals regarding the cost of urban development and thus encourage less costly forms and areas of development.

In 2007, the Minister for Water and Utilities announced an Inquiry into the institutional and regulatory arrangements by which town water supply and sewerage services are provided in country NSW. The objective of the Inquiry is to identify the most effective arrangements for the long-term provision of cost-effective and sustainable water supply and sewerage services in country NSW. The outcome of this Inquiry will affect the way in which provision of urban water supply is managed within the region and Byron Shire (NSW Department of Water and Energy 2008).

Having regard to the high seasonal variation in population, it is likely that the volumetric capacity of some water reservoirs will be tested during holiday periods. The supply capacity of the major water mains should, therefore, be examined in conjunction with population estimates to determine the required capacity of reservoirs and therefore the adequacy of existing reservoirs.

A number of land use issues are identified in the *Laverty's Gap Weir Catchment Management Plan*, notably:

- *Development of LEP zones* — Use the new Environmental Protection Zones (E1 – E4) and Waterway Zone (W1 and W2) in any revisions to the new Shire-wide LEP to ensure that the catchment is protected.

- *Development of LEP overlays* — Use the 'wildlife corridor' and 'catchment' overlays in the new Shire-wide LEP to ensure that the catchment is protected. Suggest using the overlay over the whole of the catchment.
- *Development of context* — Planning instruments will need to be specific about the values and risks that will need to be 'had regard to' in development application (DA) consideration. In this respect, it is logical that DAs pertaining to the Lavery's Gap Weir catchment should have regard to this Catchment Risk Management Plan (CRMP) and specifically, the Values Paper and the Risk Assessment Paper.
- *Referral Authority* — It may be necessary to formalise a link with the Water and Recycling Management Services to allow those directly responsible for water management to review DA applications and give an opinion on the potential risks to water and catchment quality.
- *Riparian Protection* — Riparian buffer protection distances on all watercourses and drainage depressions should be considered through an easement set in the revised LEP. It is recommended that faecal pollution from stock (particularly calves) should be treated in the same manner as the sewage management easement above and should therefore be set at least 40 metres from natural, intermittent waterways. Where existing zoning doesn't allow urban development a buffer of 40 metres around high conservation value vegetation and habitats (HCV)-mapped lands should be applied and controlled through the use of appropriate E2 or E3 environmental zoning. Where existing zoning provides for urban development adjoining areas of HCV, performance-based buffer zone requirements should be applied.
- *Agriculture* — There is currently little agriculture in the Lavery's Gap Weir catchment; however, it is recommended that a clause be inserted in the revision of the LEP to protect the catchment against future agricultural or horticultural developments.
- *Triggers* — It is recommended that planning instruments (LEP/DCP) be used to lock in current land uses, to at least preserve the status quo. However, changes in development or land use should be used to trigger new LEP/DCP conditions to come into force (e.g. whether it be the application of a buffer distance and/or the need to have regard to the findings of the CRMP in consideration of the new development/land use). For instance, the conversion of Multiple Occupancy to Community Title (which occurs through an amendment to Byron LEP 1988, Clause 175A (5) of the LEP, that prohibits subdivision of a multiple occupancy) may trigger new conditions to take into account water supply catchment status.

Land use zones for the Wilson's River, upstream of Lavery's Gap Weir should also be carefully considered to protect water quality. It is noted that the existing 7(c) zone extends for approximately 0.5 kilometres either side of the river centre line and does not cover the full extent of the catchment. As described above, catchment management can occur through the use of appropriate E2 or E3 environmental zoning for buffer areas.

Sewage

The augmentation of Bangalow, Byron, and Brunswick area STPs has, and will continue to, increase the capacity of the Shire's sewage network capacity until each STP becomes operational.

There is a significant opportunity to increase the levels of effluent reuse in accordance with the recommended hierarchy of reuse preferences provided by the DECC. This increase in reuse will improve the water security of potable sources and due to the uncertainty of

rainfalls (such as the drought of 2002-2003); the drought-proofing of the water supply for Byron Shire is an important issue.

Gas

Due to the networks of settlement within the Shire it would not be equitable or practical to provide natural gas reticulation. Future growth and development of the Shire may necessitate the expansion of the NSW gas pipeline network into the area.

Electricity

A major development program in the Ewingsdale and Byron Bay areas will proceed over the next several years. Regionally, the Far North Coast has the opportunity for the development a local energy industry due to identification of large reserves of coal seam gas.

There is the opportunity for renewable energy projects to be developed as part of a regional initiative and in cooperation with waste management services (biomass technology).

Telecommunications

The development of a national high-speed broadband network would provide the opportunity for the expansion of internet capabilities within the Shire.

There are several infrastructure upgrade and capital projects to further enhance these and other services. We are expecting growth in both residential and commercial markets over the next couple of years and therefore exchanges and infrastructures will continue to grow accordingly.

Waste disposal

By incorporating the details of the IWMS, Council has the opportunity to reduce management costs by actively promoting waste minimisation practices (reduce, reuse and recycle). These strategies have the potential to increase revenue raised from recycling activities thereby enabling the expansion of waste management practices.

There will be a necessity for the future planning of a new landfill site in the Shire (or a further expansion of the Myocum landfill) within the next 8 years, before the site reaches capacity. Two options for expansion are being considered, close to the Myocum site or a regional landfill, possibly located at Bora Ridge in the Richmond Valley Shire.

5.7.3 Discussion of local planning options

As part of planning on a shire wide basis, developer contributions should take into account the requirement for augmenting and extending existing trunk servicing infrastructure in the LGA.

Charges also may be levied for access to existing trunk infrastructure networks that have been provided to serve planned development. Forward planning for the requirements of these extensions and augmentations can be undertaken in accordance with the Shire's strategic settlement plan, which identifies the expected areas of growth within the Shire.

The Shire-wide LEP should make provision for all utilities infrastructure. In the case of regional trunk infrastructure such as sewer treatment plants, water treatment plants, electrical substations etc. the proposed SP2 zone should be applied and should be worded to appropriately accommodate the required use. Notwithstanding the special purpose zone SP2, provision should also be made in the LEP to permit (with consent) all public

infrastructure (i.e. defined as a utility installation in the shire wide LEP) in all areas regardless of whether the proponent is a public utility authority or not. Clause 38 of the standard LEP allows for certain crown development and public utilities to occur without consent.

The drinking water catchment area for the Lavery's Gap Weir and Rous Water Catchment should be the subject of separate overlay and planning controls.

Development proposals within the catchment area should be subject to assessment of compliance with matters outlined in catchment plans.

5.8 Heritage

Natural and cultural heritage is conserved because it helps build individual, community and national identities; defines who we are and maintains links with the past and often is of scientific and economic value.

In NSW, environmental heritage is defined in the *Heritage Act 1977* as being 'those buildings, works, relics, or places of historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance for the state'. All heritage items are now managed in accordance with Commonwealth and State legislation.

There are a number of levels of significance recognised for heritage, including the following:

- World Heritage relates to places of cultural and natural heritage and is defined on the basis of 'outstanding universal value', the disappearance or destruction of which would constitute a 'harmful impoverishment of the heritage of all nations of the world'.
- National Heritage include heritage items owned by the Commonwealth and places on the National Estate Register based on significance in terms of historic, evolutionary, rarity, representativeness, research, technical, creative and social values. Includes wilderness areas and landscapes, natural features, geological monuments, aspects of the built environment and places of importance to Australia's Indigenous and non-Indigenous cultural history.
- State and Local Heritage items determined as significant at the state or local level by the NSW Minister or Council (respectively). Includes movable as well as built items (e.g. contents of buildings, transport items, house collections etc). Organisations such as The National Trust of Australia (NSW) maintain registers of heritage items including Landscape Conservation Areas, but these have no statutory protection without listing on the State Heritage Register or an LEP.

The *Far North Coast Regional Strategy* (FNCRS) (Department of Planning 2006) states that one of the environmental challenges of the region is to improve understanding of Aboriginal and European cultural heritage values, and the incorporation of this information within land use planning and natural resource management processes.

5.8.1 Indigenous heritage

At the time of first European contact, about 13 clans lived within the boundaries of the Bundjalung Nation. The Bundjalung Nation encompasses the entire Far North Coast region, and extends from the Clarence River in the south to the Logan River in the north and to the foothills of the Great Dividing Range in the west. Many areas of the landscape feature important cultural significance. Significant evidence of the original ownership and occupation

of the land by the Bundjalung People has survived, often with the physical and landscape modifications due to later European occupation (Department of Planning 2006).

An outcome of the FNCRS is that councils are to ensure that Aboriginal cultural and community values are considered in the future planning and management of their local government area.

It is acknowledged that Byron Shire contains a wealth of Aboriginal cultural sites, which include middens, stone arrangements, rock shelters and tool-making sites. Additionally, many Aboriginal works have survived in the names of places within the Shire (e.g. Mullumbimby and Billinudgel). These all testify to the long period of occupation of this area by Aboriginal people prior to the arrival of Europeans.

No attempt was made in the *Byron Shire Community-Based Heritage Study* to identify Indigenous heritage sites in the Shire or to deal in any comprehensive way with Aboriginal cultural history in the Thematic History. Both are to be dealt with in a proposed Byron Shire Study of Aboriginal cultural heritage. While Aboriginal heritage is not within the scope of the community-based heritage study, the traditional ownership and occupation of the Byron Shire area by the Bundjalung and Arakwal people was acknowledged.

Without a formal Aboriginal cultural heritage study, Council should still consider how it is able to identify places of significance in the new Shire-wide LEP, such as through the use of the DECC records and, most importantly, through discussion with local Aboriginal groups.

5.8.2 Indigenous agreements

Byron Shire Council is committed to promoting mutual respect and harmony between Aboriginal and non-Aboriginal people in the Shire. This commitment has been demonstrated by Council's role in signing and facilitating historic agreements to progress Native Title claims and land use around Byron Bay. Key dates and events in recognising the Bundjalung of Byron Bay (Arakwal) people as traditional custodians are as follows:

- April 1997 — A Native Title agreement between the State Government and the Bundjalung of Byron Bay (Arakwal) people of Byron Bay created the Cape Byron Trust which is a State Recreational Area. The Trust includes representatives from the Bundjalung of Byron Bay to ensure Aboriginal people play a role in decision making on the care, control and management of this significant place of culture and heritage within the Byron Shire.
- 1998 — The Heads of Agreement was signed between the Bundjalung of Byron Bay (Arakwal) and the Byron Shire Council. The agreement is based on recognition of the desire of both Council and the Arakwal to 'live and work in the Byron Shire community in a way that promotes mutual respect between Aboriginal and non-Aboriginal people and harmonious community relations'. It formalised the role of the Byron Shire Council Aboriginal Advisory Committee, which made recommendations on strategic plans for the Byron Shire. The committee also ensured the Bundjalung of Byron Bay were involved in the management and protection of culturally significant places within the Shire. This agreement was the first of its type between a local council and native title applicants in NSW.
- 2001 — Registration of an Indigenous Land Use Agreement (ILUA) saw the creation of the Arakwal National Park, which is a joint-managed park between the NSW

Government and the Arakwal Bundjalung people. This agreement is the first of its kind in Australia.

- 1 July 2003 — Council entered into the second stage of its Agreement with the Arakwal Corporation (and the State government): ILUA 2. The parties agreed to:
 - a Native Title claim by the Arakwal Bundjalung people over land in the Sandhills Estate Byron Bay
 - the transfer of a parcel of land in the Sandhills Estate to Byron Shire Council for a new library in exchange for land at Taylors Lake
 - Council handing over the management of Broken Head Crown Caravan Park to the Arakwal Bundjalung people
 - the Minister agreeing to transfer the title of the Broken Head Crown caravan park to the Arakwal Bundjalung people.
- 2006 — ILUA 3 was registered, being a former section of the ILUA 2 agreement, that Council-owned Land at Taylor's Lake be acquired by the Minister for reserving under the National Parks and Wildlife Act in recognition of cultural importance to the Arakwal Bundjalung people.

5.8.3 Non-Indigenous heritage

Currently, there are only a limited number of Non-Indigenous items of environmental heritage identified in a variety of places in Byron Shire. These are listed below:

State Heritage Register

- Byron Bay Railway Station and yard group
- High Conservation Value Old Growth Forest.

Section 170 of the Heritage Act — NSW State Agency Register

- Bangalow Railway Station Group
- Byron Bay Railway Station and yard group
- Mullumbimby Station Group
- Yelgun Road Underbridge — Billinudgel.

North Coast Regional Environmental Plan (REP)

- Barnes House, 40 Mullumbimby Street, Brunswick Heads
- Cape Byron Lighthouse Group, Byron Bay
- Mullumbimby Power Station, Wilsons Creek Road, near Laverty's Gap
- Former Bangalow Court House, Byron Street, Bangalow
- Cedar House, 140 Dalley Street, Mullumbimby
- Mullumbimby Court House and Police Station, Dalley Street, Mullumbimby.

Byron Local Environmental Plan (LEP) 1988

- Buildings within Heritage Precinct on map, Bangalow
- Catholic Church, Deacon Street, Bangalow
- Residence, Jelbon Leigh, Pacific Highway, Bangalow
- Residence, Byron Bay Road, Bangalow
- Lighthouse Complex, Byron Bay
- Railway Water Tower, Butler Street, Byron Bay
- Police Station and old Courthouse, Shirley Street, Byron Bay
- Old Post Office, Jonson Street, Byron Bay
- Railway Station, Jonson Street, Byron Bay
- Station Master's Cottage, Jonson Street, Byron Bay
- Attached buildings, 27–31 Fletcher Street, Byron Bay
- Attached buildings, 33–35 Fletcher Street, Byron Bay
- Residence, Jasmine House, 4 Browning Street, Byron Bay
- All of the building located on the corner of Lawson and Fletcher Streets, which includes the 1929 section of the former BSC Chambers building, 19–23 Lawson Street, Byron Bay
- National Bank, Burringbar Street, Mullumbimby
- Former Westpac Bank, Burringbar Street, Mullumbimby
- Heritage Museum, Stuart Street, Mullumbimby
- Court House, Dalley Street, Mullumbimby
- Church of England, Stuart Street, Mullumbimby
- "Inverary", Main Arm Road, Mullumbimby
- Power Station and Race, Wilsons Creek Road, Mullumbimby
- Cedar House, 140 Dalley Street, Mullumbimby
- "Somerset", 12 Azalea Street, Mullumbimby.

Council's Byron LEP 1988 is the main document used to protect heritage within the Shire. The DCP also has some provisions for heritage, mainly in relation to the town of Bangalow.

Council has a responsibility to protect heritage within the Shire and due to the limited studies undertaken to date, Council decided to prepare a comprehensive Community-based heritage Study for the Shire. Between 2004 and 2006, the *Byron Shire Community-Based Heritage Study* was undertaken (coordinated by Dr Donald Ellsmore, the Byron Shire Heritage Adviser) to identify, assess and recommend places for inclusion on the schedule of places of local heritage significance in the Byron Shire LEP, and to make recommendations for the ongoing management and protection of the Shire's heritage places.

The *Byron Shire Community-Based Heritage Study* is presented in three volumes:

- Volume I Coordinator's Report — introduces the study, provides its background and methodology, and provides the findings and recommendations.
- Volume II Byron Shire Thematic History — provides the historic context, based around relevant key historical themes.
- Volume III Heritage Inventory Forms — documents the community-based research identifying and recording details of items of heritage significance.

It was the consensus view of the combined heritage study steering committee that the designated places merit inclusion due to their local significance, and that their inclusion, and the uptake of the heritage Study recommendations, is important to the continuing protection of Byron Shire heritage places. A list of proposed places for listing is included in Appendix F of the heritage study.

According to the FNCRS (Department of Planning 2006), non-Indigenous heritage reflects the landscape, soil and vegetation of the area and subsequent European occupation. The cultural heritage values of major regional centres and major towns that are to be the focus of urban renewal projects will be reviewed, with the aim of protecting cultural heritage. Council and the DoP will review the scope and quality of existing statutory listings of heritage items and ensure that all places of significance are included in the heritage schedules of LEPs (Department of Planning 2006). The community-based heritage study will assist this process.

While Aboriginal heritage is not within the scope of the community-based heritage study, the traditional ownership and occupation of the Byron Shire area by the Bundjalung and Arakwal people was acknowledged. The Tweed Byron Local Aboriginal Land Council, Arakwal Aboriginal Corporation, and Bundjalung Elders Inc were invited to participate in the heritage Study.

No attempt was made in the heritage study to identify Indigenous heritage sites in the Shire or to deal in any comprehensive way with Aboriginal cultural history in the Thematic History. Both are to be dealt with in a proposed Byron Shire Study of Aboriginal cultural heritage, yet to be undertaken. Refer to the section on Indigenous heritage for more detail.

5.8.4 Discussion of local planning options

The *Byron Shire Community-Based Heritage Study* provided a number of recommendations in relation to the ongoing management and protection of Byron Shire's local heritage places (refer Annexure F of that report). Buildings and structures of heritage significance (and possibly 'moveable heritage') need to be protected as representative of the history of the Shire. In the case of character precincts, specific planning and design controls will need to be developed to ensure that new development is consistent with the built form and amenity of these areas. Further, areas or sites of Aboriginal significance, where known, will need to be protected from inappropriate development.

The heritage study's recommendations include that approximately 200 individual places, five conservation areas and eight groups of places of like significance (Serial Lists) should be included in a schedule of places of local heritage significance (refer to Annexure F of the heritage report).

In addition, one of the recommendations of the heritage study is that a Heritage Advisory Committee should be established to assist the ongoing management and protection of Byron Shire heritage places.

The proposed Byron Shire Study of Aboriginal cultural heritage will need to be undertaken by Council so that more detailed and accurate information can be included in a future review of local planning controls. A pilot study is underway in the Eurobodalla Shire to examine the options for addressing the identification of Aboriginal Heritage and future guidelines will be available through the DECC.

In the meantime, until a Shire-wide Aboriginal heritage study can be completed it is recommended that significant Aboriginal heritage and cultural areas be identified on an area wide basis through a map/overlay to accompany the standard heritage provisions. This will be through the use of the DECC records and most importantly discussion with local Aboriginal groups.

5.9 Rural areas

Byron Shire is a popular tourist and residential destination and is well known for its beautiful coastlines, with nearly two-thirds of the Shires population living in the coastal towns of Byron Bay and Ocean Shores, and the inland town of Mullumbimby. However, Byron Shire is more than just coastline; it has magnificent rural areas, with 2.8% of the Shire zoned for rural residential uses and approximately one-third of the population lives in the villages and surrounds of the Rural North and Rural South of Byron Shire localities as indicated in Table 5-9 (refer Section 4.6.3 for a summary of the economic value of agriculture to the Shire).

Table 5-9 Rural areas in Byron Shire

Villages / Localities		
Rural North	Goonengerry	Middle Pocket
	Tyagarah	Yelgun
	Montecollum	Wooyung
	Billinudgel	Main Arm
	Myocum	Palmwoods
	Upper Main Arm	Upper Wilsons Creek
	The Pocket	Huonbrook
	Nightcap	Wanganui
	Whian Whian	Upper Coopers Creek
	Koonyum Range	Wilsons Creek
	Mullumbimby Creek	
Rural South	Eureka	McLeods Shoot
	Coorabell	Possum Creek
	Federal	Booyong
	Nashua	Talofa
	Broken Head	Ewingsdale
	Binna Burra	Skinners Shoot
	Clunes	Newrybar
	Coopers Shoot	Hayters Hill

The other parts of the rural areas of the Shire are made up of significant portions of agricultural land and rural landscape elements. The Shire contains vast areas of rural landscape ranging from native vegetation, agriculture and grazing.

Rural and rural residential living is an important component of settlement in the Shire. It has the potential to provide a diversity of lifestyle options and contribute to the character, economy and social fabric of the region.

Rural residential living in particular has the potential to revitalise rural communities, assist in the regeneration of natural vegetation systems and develop new forms of agricultural production. Unfortunately, past and present rural residential development patterns have also contributed to environmental damage, adversely affected other land uses, constrained potential urban development areas, created costly and inefficient servicing patterns, and extended a form of urban 'sprawl' with its inherent social problems, across the landscape. The challenge is to design and locate rural residential living to avoid environmental damage and to integrate such development with the landscape and other land uses. Rural residential development needs to result in sustainable communities incorporated within the overall pattern of human settlement. The *Byron Rural Settlement Strategy 1998* (BRSS) and its upcoming review is an attempt to ensure that this occurs (Byron Shire Council 1998b).

Section 5.4.2 provides for information on tourism in rural areas, and Section 4.6.3 provides information on climate.

5.9.1 Local area management plans

Local area management plans (LAMPs) were introduced as a means of ensuring that the BRSS better reflected the diversity of identities, vision, aims, and concerns among the different rural catchments within the Shire. LAMPs were prepared by the relevant community with the aim of providing a guide to Council on what the community views are regarding the future development and management of their areas. The principal objectives of the LAMPs are that:

- every effort should be made to ensure that any development is ecologically sustainable
- the rural character and scenic amenity of the area needs to be preserved
- natural features are protected or enhanced.

During the preparation of the BRSS, 10 communities had prepared a LAMP for their community while three other communities were still preparing them. Since 1998, more LAMPs have been prepared.

The most prominent issues identified in the LAMPs were: population growth, road safety, sustainability, conservation and environmental repair and community facilities and infrastructure. The BRSS has tried to cover all these issues where possible. They should also be used in the preparation of DCP provisions for the rural areas to ensure that the community's vision for the character of their areas is maintained.

5.9.2 Byron Rural Settlement Strategy

The BRSS is generally outlined in Section 2.2.10. The strategy suggests that further rural settlement in terms of rural residential development should only occur as multiple occupancy (MO) development or community title (CT) subdivisions in accordance with the provisions of the strategy. Currently, MO developments can be approved through the development

application process. CT proposals can only be considered subject to further detailed site specific assessments and an amendment to Byron LEP 1988. Both only in areas identified in the LEP or BRSS. Council would not consider any LEP amendments for closer rural settlement which are not specifically identified in this BRSS.

Subsequent to Council's adoption of the BRSS in 1998, Council resolved to permit the conversion of existing MO development to CT subdivision as part of the BRSS. Nineteen communities in total are involved in this process, some of which have already had development applications approved for CT subdivision and others are pending.

Council is currently preparing a reviewed BRSS document. Council resolved to commence the review in February 2005 and is close to public exhibition of the revised document. Until the revised document is available, Council is not considering any new proposals for LEP amendments to permit CT development or other types of rural residential development.

The BRSS also dealt with other rural issues such as rural dual occupancy, rural workers dwellings, bed and breakfast establishments, holiday cabins and dwelling entitlement issues. Most of these issues were carried through to the Byron LEP 1988 and the DCP 2002. It will be also necessary to address them in the new Shire-wide plans and details are outlined below.

Rural settlement performance standards

Apart from the BRSS only outlining the types of rural residential settlements permitted to be built in rural areas of the Shire, the BRSS also outlines rural settlement performance standards or requirements that each rural settlement and individual dwelling must aim to achieve. The performance standards cover the following issues:

- wastewater treatment and management of effluent
- environmental buffers, repair and enhancement
- aesthetic design, scenic character and energy efficiency
- water and riparian management
- bushfire hazard mitigation
- impacts on and buffers to agricultural, horticultural and extractive activities.

The review of the BRSS will also consider these performance standards and consider ways in which they can be updated.

5.9.3 Dwellings in rural areas

Dwelling entitlements

Dwelling entitlements have a long history in the Shire and have become a complex issue to address. A dwelling entitlement really is just an ability for a land owner to submit a development application for a dwelling, there is no guarantee that the development application will be automatically approved, there are other considerations such as effluent disposal, bushfire etc that need to be considered and may be a reason for refusal of an application.

Clause 15 of Byron LEP 1988 includes provisions for permissibility of dwellings in rural areas. As detailed above, dwellings in rural areas may be approved by Council subject to the clause, which is shown below:

15. (1) This clause applies to land within Zone No. 1(a), 1(b1), 1(b2), 1(c1), 1(c2), 1(d), 7(c) or 7(d).
- (1A) A dwelling-house may not be erected on land to which this clause applies except in accordance with this clause.
- (2) In subclause (2A), **existing holding** means:
- (a) an allotment, lot or portion in existence on the relevant day that was not on that day held in the same ownership as any adjoining or adjacent allotment, lot or portion, and that has not been subdivided since that day, or
 - (b) each area of land comprised of all adjoining or adjacent allotments, lots or portions that were held in the same ownership on the relevant day, and that have not been subdivided since that day.
- In this definition, **relevant day** means:
- (a) in the case of land formerly subject to *Interim Development Order No 1 - Shire of Byron*, 8 November 1968, or
 - (b) in the case of land formerly subject to *Interim Development Order No 1 - Municipality of Mullumbimby*, 9 November 1973.
- (2A) Consent may be granted to the erection of a dwelling-house on land to which this clause applies only if there is no dwelling already on the land and only if the land is:
- (a) an existing holding, or
 - (b) an allotment created in accordance with clause 11, 11B, 12(3) or 13, or
 - (c) a lot or portion referred to in Schedule 7, or
 - (d) if a deposited plan is referred to in Schedule 7 without reference to any particular lot or lots in it, any of the lots in the deposited plan, or
 - (e) a portion or a lot (not included by paragraph (c) or (d)) that was created between 8 November 1968 and 21 April 1988 under the provision of *Interim Development Order No 1 – Shire of Byron* or *Interim Development Order No 1 - Municipality of Mullumbimby* and is subject to a certificate of subdivision signed during that period by the Council's Clerk.
- (2B) However, subclause (2A) does not prevent consent being granted to the erection of a dwelling-house on land described in that subclause that has been affected only by the following:
- (a) a minor boundary adjustment, such as to rectify an encroachment on an allotment,
 - (b) a consolidation of lots, but not so as to reduce the area of the land on which the dwelling-house will be erected,
 - (c) excision of part of the land if the part is to be acquired by a public authority,
 - (d) excision of part of the land if the Council is satisfied the part is, or is intended to be, used for a public purpose.

- (3) The council shall not consent to the erection of a dwelling-house in accordance with this clause unless it has satisfied itself that the dwelling will have adequate access and services and will not cause significant adverse environmental impact.

If a property can meet the criteria in Clause 15 (2A) and (2B) then it is said to have a dwelling entitlement. If the property does not have a dwelling entitlement, then the property is unable to gain development approval for a dwelling. It should be noted that not all zones in the Byron LEP 1988 permit dwellings to be constructed.

There have been a number of concerns raised with Council over the loss of, or lack of, dwelling entitlements on properties. These properties may have previously been given dwelling approvals or could have had the ability to gain an approval, due to size, historic information or council anomalies. To address these issues, the Shire-wide LEP will need to consider permitting additional dwelling entitlements in the following circumstances:

- Dwelling replacement clause — where dwellings may have been erected with approval or legally in the past, there should be provision for replacing these dwellings with another subject to the relevant approvals.
- Recognition of historical permissive occupancies — where dwellings were erected on a permissive occupancy which has since become a legal allotment.
- If a property has an allotment size of over 40 hectares.

There has been pressure in the past for Council to recognise the past history of 'natural' subdivisions that occurred throughout the Shire and the broken existing holdings; however, it is not recommended that these be changed on a broad scale in the Shire-wide LEP. It is suggested that these should be considered on an individual property basis.

There are also concerns raised about the potential loss of existing dwelling entitlements from the use of the E2 zoning over environmentally sensitive areas. It is suggested that no properties should lose their dwelling entitlements, this could be achieved through the following in the Shire-wide LEP:

- an enabling clause, giving each of those properties that may have had a dwelling entitlement assurance that they will not be lost
- an overlay map identifying these properties, which could be time consuming and potentially lead to the accidental exclusion of one or more properties
- ensure that each property has a piece of land for location of a dwelling house that is not zoned E2, this could be cumbersome and may lead to the loss of environmentally sensitive land where a better location might be able to be found.

Council will need to ensure that it continues to reflect where dwellings can be permissible in the rural areas of the Shire through not only zoning but through a clause similar to that existing in the Byron LEP 1988 (Clause 15).

Dual occupancy

At present detached dual-occupancy development is prohibited within rural areas, as a result of the *North Coast Regional Environmental Plan* (NCREP) and is replicated in Council documents such as the Byron LEP 1988 and the *Byron Rural Settlement Strategy*.

Detached dual-occupancy could provide additional housing in rural areas to assist in reducing housing stress in these areas. Council needs to provide justification, to the

Department of Planning, to move away from the NCREP restriction so that provisions for detached dual-occupancy can be included within the Shire-wide LEP.

Making dual occupancy permissible in rural areas will allow for an increase in density that may have a minor effect on the character of the rural area. However, given the low density of development in rural areas allowing high quality dual occupancies will not create a significant adverse impact. The issue of attached and detached dual occupancies is less important than the overall design of the proposal.

Council has committed to improving housing affordability in the Shire and encouraging younger members of the community the opportunity to live and work in the Shire. Allowing dual occupancies in rural areas will have an insignificant impact on the agricultural capability of land and will improve available housing stock and opportunities for additional development to improve housing affordability. A local area plan for rural areas can be included in the consolidated DCP to ensure the design of the dual occupancy is in keeping with the locality.

However, it is self-evident that dual occupancies are an acceptable use in existing urban areas and increased consolidation of existing town and villages is preferable to placing additional strain on productive farming land, infrastructure and the environment. Appropriate design can ameliorate concerns over character of existing town and villages and can allow for considerable improvement in housing affordability.

Traditional town planning does not favour detached dual occupancies in rural zones but Byron Shire is somewhat unique in its history of co-housing, land sharing and cheaper accommodation in rural areas. It may be possible to reduce the impacts of any type of dual occupancy by ensuring there is only one access to the site, limiting dwelling sizes and other more detailed DCP criteria.

Affordable housing

As discussed above, Council has committed to improving housing affordability in the Shire, through its *Byron Shire Affordable Housing Strategy for Urban Areas* (Byron Shire Council 2002c). Dual occupancy is one way to address this issue in rural areas as detailed above. However, larger developments for affordable housing in rural areas are not appropriate. Existing urban towns and villages are the appropriate location for the larger development growth within recognised boundaries and increased density to address housing affordability.

5.9.4 Rural areas as a resource

Sustainable agriculture

Rural land is a fundamental requirement for a viable agricultural economy. Council adopted the *Byron Shire Sustainable Agriculture Strategy* in 2004 (Byron Shire Council and Byron Shire Sustainable Agriculture Round Table 2004) and what follows is largely based on that work.

The Shire's farmers and other rural producers provide the community with food, fibre and other products, generate income for themselves and the wider community, provide jobs, contribute to the social mix of the Shire communities, maintain and enhance the Shire's natural resources and are an essential component of the special character of the Shire and region. Agriculture is important to the Byron Shire community.

The principles of ecologically sustainable development underpin the essential elements of sustainable agriculture. Set out below are the elements for sustainable agriculture in Byron Shire. All elements are required for sustainable agriculture.

Social

- enjoys community support and commitment
- is integral to the identity of the Byron Shire community
- is important for the quality of life and social interaction of the community
- provides safe and healthy food as well as fibre, timber and other products for the Byron Shire community and beyond
- coexists in harmony and mutual respect with other land uses.

Economic

- has a long term future
- is ensured by the preservation of agriculturally productive land
- is productive and diverse and provides services as well as commodities
- is economically viable
- provides significant employment for the community
- is integrated with other industries in the Shire such as tourism, knowledge and value adding industries
- supplies and promotes a regional based cuisine
- takes advantage of/encourages cooperative structures
- is supported by knowledge information and management systems and networks
- the Byron Shire community recognises its responsibility to support local production and marketing
- producers utilise best practices, are knowledge hungry and are willing to accept change and are driven by change
- promotes the marketing edge of sustainable agriculture
- Byron Shire Council proactively encourages and supports agriculture.

Environmental

- works within the capacity of the environment and enhances the environment on which it depends
- is modelled on natural ecosystems using closed nutrient cycles, maximising biodiversity, constantly evolving and therefore resilient
- is resource conserving and energy efficient
- is able to respond and adapt as conditions (environment, trade), community needs, knowledge and values change
- is GMO free

- there is greater acceptance of organic agriculture production systems.

Farmland protection project

The intent of the Farmland Protection Project (FPP) is to keep farming options open for the future by protecting important farmland now from development pressures. The draft maps and planning rules were exhibited in 2003 and reviewed in response to community feedback. New maps were prepared along with new draft planning rules applying to state and regionally significant land. The new proposed planning rules focus on strategic urban planning, while allowing farmers flexibility to diversify their on-farm uses. The project aims to provide genuine benefit to agriculture in the region without imposing unnecessary restrictions on farmers.

Section 117 Direction 5.3 Farmland of State and Regional Significance on the NSW Far North Coast seeks to prohibit rezoning of land identified as State and Regionally Significant Farmland or significant non-contiguous farmland for urban and rural residential purposes unless it is identified in an approved Strategy.

The mapping from the FPP will be used as one of the tools in the preparation of the mapping for the RU1 Primary Production and RU2 Rural Landscape zones.

Agricultural land classification

Good quality agricultural land is a limited resource and its loss reduces the sustainability of existing agricultural systems and encourages the use of more marginal land in terms of its suitability for general agricultural use. The agricultural land classification system was developed specifically to meet the objectives of the EP&A Act, in particular 5(a)(i) 'to encourage the proper management, development and conservation of natural and man-made resources, including agricultural land for the purpose of promoting social and economic welfare of the community and a better environment' (Byron Shire Council, June 2004).

Agricultural land is classified by evaluating biophysical, social and economic factors that may constrain the use of land for agriculture. In general terms, the fewer the constraints on the land, the greater its value for agriculture. Each type of agricultural enterprise has a particular set of constraints affecting production. A comprehensive list of all the constraints affecting each form of agriculture would be expensive to compile and unwieldy to use. Consequently, agricultural land classification is based on a set of constraining factors common to most agricultural industries (Byron Shire Council, June 2004).

The classification system will be used in conjunction with the FPP mapping as tools in the preparation of the mapping for the RU1 Primary Production and RU2 Rural Landscape zones.

Land use conflicts (buffers)

Land use conflict is likely to be an issue in rural areas, given the small lot sizes and variety of activities. Conflict may arise at the interface between rural and agricultural uses and rural residential or urban land uses. Buffers in the form of spatial separation between rural and non-rural activities are an appropriate planning control to ameliorate conflict. Where RU1 and RU2 are adjoining urban areas spatial separation could be provided in the form of an RU6 zoning or buffer of approximately 500 metres in tandem with use of existing access roads that will provide for larger lot sizes and physical separation of urban and rural activities.

North Coast Land Use Conflict and Interface Project

NSW Department of Primary Industries and SCU, in partnership with the Northern Rivers Catchment Management Authority and with NHT funding, have been undertaking a regional project aimed at developing a best-practice package to reduce land use conflict and interface issues in rural areas. The project commenced in October 2006 and is nearing completion.

The project is a response to the Northern Rivers Catchment Action Plan (CAP) which has identified land use conflict as an important natural resource management issue. The CAP has, accordingly, set a management target of: 'By 2016 land use conflict within or adjacent to key environmental assets and rural production areas reduced by 90%'. (Catchment Management Authority 2005)

The North Coast Land Use Conflict and Interface Project has resulted in the drafting of a publication titled *Living and Working in Rural Areas: A handbook for managing land use conflict issues on the NSW North Coast* (NSW DPI 2007). The handbook is scheduled for release in early 2008. Chapter 5 of the handbook will provide recommendations for avoiding and reducing land use conflict in rural areas and the protection of key environmental assets via land use planning and plan making. Chapter 6 of the handbook will provide recommendations for avoiding and reducing land use conflict in rural areas and the protection of key environmental assets via development control mechanisms, which include model provisions for a Buffer DCP, as well as recommended minimum buffers and setbacks between incompatible land uses and a method for carrying out land use conflict risk assessment at the individual development scale.

The handbook has been developed as a collection of current best practice measures to reduce and avoid rural land use conflict. It is primarily a guide and reference for stakeholders, including local government, to draw upon. While it is a non-statutory document it complements and provides practical suggestions for achieving a number of the provisions and outcomes contained in the two regional strategies that cover the north coast. Councils will be encouraged to utilise Chapters 5 and 6, which are aimed at LEP making and development control. The handbook will not override an adopted DCP or LEP but will serve more as a resource for councils in drafting new LEPs and DCPs.

Lot sizes

The minimum lot size in RU1 and RU2 rural areas should be 40 hectares to allow for ongoing management of farm land, generally consistent with Byron LEP 1988. It should be noted that the 1(b2) (Agricultural protection) zone in the Byron LEP 1988 allows a minimum allotment size of 20 hectares — this should be considered in the Shire-wide LEP.

Lot sizes of 40 hectares will allow for economic agricultural production in RU1 and RU2 zones and gives due consideration to the Farmland Protection Project and the Section 117 Direction 5.3. Smaller lot sizes in the RU5 village zones may be considered during detailed design of the LEP, nominally a minimum of approximately 1,000 square metres.

In the absence of more detailed information justifying a change, council should retain its current planning controls for minimum allotment sizes. In the longer term a rural land size Study would be beneficial for Council in determining appropriate lot sizes.

5.9.5 Planning mechanisms discussion

The protection of agricultural land is a planning priority. This has been identified by the Northern Rivers Farmland Protection Project (Section 117 Direction 5.3) and agricultural land classifications. Land to be protected includes regionally and state significant lands. RU1 Primary Production is a specific zone to ensure that these areas as well as forestry lands and mineral resource areas are protected.

The Byron Shire Sustainable Agriculture Strategy recommends the following matters relevant to the preparation of local planning controls:

- Implement, where appropriate, the outcomes of the Northern Rivers Farmland Protection Project (which identifies areas of state, regional and local significance for agriculture) and rezone the land appropriately.
- Develop criteria/process for assessment/determination of suitable land for agriculture. The Northern Rivers Farmland Protection Project provides an adequate basis for criteria to retain agricultural land.
- Develop and adopt a range of relevant planning mechanisms to reduce potential conflict e.g.; separation distances, buffers, zones. The North Coast Land Use Conflict and Interface Project will provide assistance in developing standards for buffers.

Existing rural dwelling entitlements will need to be protected and retained. This includes the range of current opportunities for additional rural dwellings including those on existing rural properties over 40 hectares. Where land is proposed to be rezoned, to a zone that may not permit dwellings (such as E2 Environmental Conservation), a local provision must be provided in the new LEP to ensure that any existing dwelling entitlements are maintained.

In relation to affordable housing, attached and detached dual-occupancy development should be encouraged within all rural areas. The ability to erect dual-occupancies in rural areas will have some impact on housing supply and may improve opportunities for families or separate farming partners to manage agricultural activity and remain on agricultural land. Council should consider a section in the new DCP that considers the provisions for the development of dual occupancy in rural areas and how they should be controlled and guided.

6. Opportunities and constraints analysis

An opportunities and constraints analysis was completed as part of this study. This analysis demonstrates the complexity of Byron Shire. A summary of this analysis is detailed below.

6.1 Opportunities

- Limited land is available for residential development within the Shire. Council will need to consider opportunities to permit medium density developments and alternative housing infill development close to key urban areas.
- The existing rail infrastructure that once serviced the shire provides an opportunity to reinstate train or light rail within the Shire. Provision of such public transport would increase accessibility and mobility within the Shire (i.e. this would contribute greatly to the integration of land use and transport).
- The presence of the recently upgraded Pacific Highway transport corridor provides a significant opportunity to facilitate access to tourist and recreational facilities within the Shire.
- Byron Shire is recognised as an international tourist destination, this is primarily associated with the Coast and Byron Bay. However the Shire's hinterland and rural areas also provide opportunities for tourist development, such as farm and nature tourism and accommodation opportunities.
- State significant and regionally significant farmland occurs within the Shire. The farmland contributes to the economy and labour force of the Shire. The long-term benefits of this resource must be safeguarded to ensure its ongoing sustainability.
- Many buildings and places within the Shire have heritage value. Some of these are iconic, such as the Byron Bay lighthouse, which affords the Shire with tourism catalysts and economic benefits.
- The Shire encompasses significant areas of vegetation, habitats and biodiversity of high conservation value. These diverse ecological values contribute to the natural resources within the Shire. The protection and ongoing management of this resource is critical to ensure that the Shire continues to build on the nature experience for the resident and visitor to the area.
- The Shire benefits from having a diverse group of people living and working within its environment. There is a strong belief within the resident community to practice sustainable living. This inturn has created a unique experience within the Shire to live and work and a welcome experience for the visitor.
- The rapid growth of the population and tourism expansions forced Council in the past to place sewage moratoriums on several of the overloaded sewerage treatment plants (STPs). However the capacity of some of the STPs within the Shire is now being upgraded which will allow for potential residential development to occur in the proposed areas. There is also potential for future redevelopment to occur on some of the STPs proposed to be decommissioned at Brunswick Heads, Mullumbimby and South Byron.

- There is a significant opportunity to increase the levels of effluent reuse in accordance with the recommended hierarchy of reuse preferences provided by the Department of Environment and Climate Change (DECC). This increase in reuse will improve the water security of potable sources and due to the uncertainty of rainfalls (such as the drought of 2002-2003); the drought-proofing of the water supply for Byron Shire is an important issue.
- There is a significant opportunity to conserve rainwater on-site. With the Shires high rainfall the opportunity to introduce water saving techniques should be further investigated and promoted within the Shire.
- Byron has a well established bikeways committee. There is an opportunity to expand and improve on the existing cycleways within the Byron Shire. The possibility of converting old railway tracks to cycleways is one such opportunity that could be explored.

6.2 Constraints

Byron Shire has many physical constraints that impact on the supply of additional land for urban development and the diversity in forms of housing, the provision of infrastructure and integrated land use and transport. This subsequently places pressure for development of rural lands and/or lands subject to a range of hazards e.g. flood prone land.

- Natural and physical constraints, such as topography, high conservation value vegetation and habitats (HCVs), threatened species, habitat corridors, the coastline, flood-prone land and Pacific Highway limit the capability for large scale future expansion.
- State significant and regionally significant farmland occurs within the Shire. This farmland also restricts urban development.
- A majority of the Shires urban development is located in coastal locations. Coastal erosion and climate change is placing much of this development under threat. No further development should occur upon land falling within the identified coastal hazard line.
- The Shire is partly flood affected. Future development should not occur upon flood-prone land unless in accordance with appropriate flood risk assessments.
- Noise from the Pacific Highway and other major arterial roads within the Shire could constrain the development capability of available land for residential use.
- There are buildings and places within the Shire that have heritage value; this may constrain the range of development opportunities in some circumstances.
- Limited access and inadequate public transport services within the Byron LGA impacts on local residents having access to services such as health.
- Due to the poor internal road network structure caused by scattered settlement patterns, there is a propensity for local residents and visitors to rely of the use of private vehicles as a mode of transport rather than public transport systems. As a direct result, major shortfalls in parking spaces have been identified with in-excess of 95% occupancy rate during the day.

- Roads within the outer areas of the Shire, including Main Arm and Federal, have not been properly constructed (i.e. dirt) and are poorly maintained.
- The capacity for new STPs and agreed sewage moratoriums on existing overloaded STPs provides considerable limitations on potential residential development within the Shire.

7. Future strategic directions

7.1 Background

Council has previously identified that land use planning issues encompass a broad spectrum of considerations across key sectors including environment protection, rural activity, residential development, commercial and industrial operations, open space and waterways, infrastructure, community uses and tourism.

One of the key outcomes of this study is to guide the development of a land use plan that will provide, where possible, clear direction on these considerations and that also adequately reflects local aspirations, values and the needs of the Byron Shire local community. This land use plan must also be developed having regard to regional and state strategic and statutory frameworks.

This section seeks to assist Council and the community by consolidating the findings of the planning investigations and consultation completed as part of this Local Environmental Study (LES) with the aim to provide sufficient detail and direction to commence the preparation of a new Local Environmental Plan (LEP) for the Shire.

There is also an ongoing issue for Council to undertake to collect better and more current information on certain key sectors in the local community to continue to assist this process.

There are a number of external influences that affect this LES, including:

- ongoing work and research that Council and the community have undertaken during the preparation of this study to better inform those key sectors identified by Council
- changes in legislative frameworks including the amendment of the Standard Instrument LEP Template and requirements for the preparation of future Shire-wide development control plans (DCPs).

This section specifically identifies:

- those zoning issues that will influence the conversion of the Byron LEP 1988 to the new Standard Instrument LEP
- matters that have been identified in the preparation of this local environmental study to assist with the development of local planning provisions and future development controls
- assessment of specific sites, areas and issues within the Shire for inclusion in the new LEP.

7.2 Byron LEP 1988 conversion to Standard Instrument LEP

The Byron LEP 1988 has been the principal statutory planning document for Byron Shire for up to 20 years. Council has continued to amend this principal LEP over this time.

The conversion of the existing 1988 LEP to the new Standard Instrument LEP Template is a separate matter that Council will need to address as there is a need to consider the transfer and adaptation of current land use definitions, zonings and development control clauses contained within this LEP to form part of the new Shire-wide LEP.

There are a number of limitations associated with the *Standard Instrument (Local Environmental Plans) Order 2006*. This Order now establishes the standard for local environmental plans across the State. Byron Council will be required to use the Standard Instrument when preparing the new Shire-wide LEP.

The Standard Instrument Order includes the following standardised provisions:

- standard land use definitions (compulsory)
- standard land use zones (compulsory where used)
- standard land use planning provisions (compulsory and optional)
- standard instrument overlay requirements (compulsory and optional).

Council has the ability to include within the Standard Instrument Order local planning provisions, with the concurrence of the Department of Planning, to address:

- local planning issues
- spatial mapping and overlays to support local planning issues.

The Standard Instrument LEP Template has a list of specific land use definitions that are to be applied consistently across the state. Councils are not able to alter or add to these land use definitions.

Council will also be required to select from the standard zones and associated objectives considered appropriate to meet the land use recommendations of this Study.

Each standard land use zone has a number of core objectives and mandated permitted or prohibited land uses. Council may consider preparing additional local objectives to supplement the core objectives where appropriate and can add those land uses it seeks to permit or prohibit within the zone.

Council will be required to adopt certain compulsory planning provisions and determine which optional planning provisions will be used. Council will also be required to develop local planning provisions to reflect the outcomes of this study.

There are compulsory and optional overlay controls (e.g. flood prone land, wildlife corridors) that may apply to land in several different zones.

7.2.1 Land use zonings

The following is a summary of the possible options for Council to consider to transfer the existing zones under the existing Byron LEP 1988 to the new standardised zonings.

Council must consider the key objectives of the standard zonings to ensure they are consistent with the current Byron LEP 1988 zones and the intention of those zones. Discussion on the specific application of the recommended zones is examined in Section 7.3.

Table 7-1 Possible options to transfer existing zones to new standardised zones

Byron LEP1988 zonings	Suggested standard template zonings
1(a) General Rural	RU2 Rural Landscape
1(b1) Agricultural Protection	RU1 Primary Production
1(b2) Agricultural Protection	RU1 Primary Production
1(c1) Small holdings	R5 Large Lot Residential
1(c2) Small holdings	R5 Large Lot Residential
1(d) Investigation	Various (Refer to Section 7.6 – later in document)
1(e) Extractive Resources	RU1 Primary Production
1(f) Forestry	RU3 Forestry or RU1 Primary Production
5(b) High Hazard Flood liable land	E2 Environmental Conservation or E3 Environmental Management
2(a) residential	R2 Low density residential or R3 Medium Density residential
2(t) Tourist	SP3 Tourist
2(v) Village	RU5 Village
3(a) Business	B1 Neighbourhood Centre B2 Local Centre B4 Mixed use B7 Business Park
4(a) Industrial	IN1 General Industrial IN2 Light Industrial B7 Business Park
5(a) Special Uses	SP2 Infrastructure SP3 Tourist or Other zone where appropriate
6(a) Open Space	RE1 Public recreation
6(b) Private Open Space	RE2 Private recreation
7(a) Wetlands	E2 Environmental Conservation
7(b) Coastal habitat	E2 Environmental Conservation
7(c) Water catchment	Various zones including E3 Environmental Management
7(d) Scenic/Escarpment	E2 Environmental Conservation E3 Environmental Management
7(f1) Coastal Lands	E2 Environmental Conservation
7(f2) Urban Coastal Lands	E4 Environmental Living E2 Environmental Conservation E3 Environmental Management
7(j) Scientific	E2 Environmental Conservation
7(k) Habitat	E2 Environmental Conservation
8(a) National Parks and Nature Reserve Zone	E1 National Parks and Nature Reserves
9(a) Proposed road zone	SP2 Infrastructure or Other zone where appropriate

It should be noted that the conversion of the Byron LEP 1988 to the new Shire-wide LEP will not simply be a straight transferral of the current zones to the new ones in the Standard Template. They will be subject to various Council strategies that have been adopted, various Council resolutions and the recommendations of this Study.

Furthermore it is anticipated that Council develop a suitable land use matrix to examine the land use options within each zone and undertake conversion analysis of the remainder of the existing LEP.

7.2.2 Zoning options for Byron Shire

The following are options for Byron Shire in respect to the findings of this study and the Standard zonings in the LEP template. It should be noted that not all of the zonings have been recommended for use in the new LEP and some that have been recommended may not be appropriate when final zonings are decided by Council. All the zonings used in the Standard LEP and descriptions of how they should be used are included in the Department of Planning LEP Practice Note PN06-002 — Preparing LEPs using the Standard Instrument: Standard Zones issued in April 2006.

Review of the zone objectives will be required to ensure that there is consistency between those areas recommended in this study and the final land uses and objectives that Council may incorporate into that zoning. The main recommendations for zoning and land uses are identified within the discussion on the zonings.

Residential Zones

The following zones are recommended to be used for residential development across the Shire:

- R2 Low Density
- R3 Medium Density
- R5 Large Lot Residential Zone
- E4 Environmental Living.

R2 Low Density Residential Zone

This zone may be applied to the majority of residential areas in the Shire.

R3 Medium Density Residential Zone

This zone may be applied to areas where medium density development is permitted under current development controls or as suggested in this study or the draft LEP for the Byron Bay Area.

R5 Large Lot Residential Zone

This zone may be applied to the current 1(c1) and 1(c2) Small Holdings zone. The R5 objectives are generally consistent with the Small Holdings zones.

E4 Environmental Living

This zone may be applied to land that contains special environmental or scenic values where residential development could be accommodated.

Application of new residential zones

The following are options for Council to consider in applying the standard residential zones across the Shire:

- Lilly Pilly, Cypress Pine Area, Areas in Ocean Shores adjoining SEPP26 and sensitive coastal areas (coastal hazard areas) — Environmental living zone.
- Bangalow — Low density residential.
- Mullumbimby — Generally low density residential; however, there may be some areas of Mullumbimby where the medium density zone may be applied. These locations are within close proximity to the town centre.
- Byron Bay/Suffolk Park — The current densities in DCP 2002 are considered a suitable guide for zoning choice for the Byron Bay area. The zoning will follow closely to the previous draft LEP for the Byron Bay Area. Medium density will be located in designated areas and close to Byron Bay town centre. The remainder will be low density.
- Ocean Shores — The DCP for Ocean Shores is suggested as a guide to the location of medium density and low density.
- Brunswick Heads — Low density residential with those areas containing existing medium density changed to medium density. Council will need to determine the locations for medium density development and where and if it may be appropriate.

Business Zones

There are four business zones available for business land use across the Shire. These zones are more defined than the residential zonings and can be more easily identified with existing development. These zones include:

- B1 Neighbourhood Centre
- B2 Local Centre
- B4 Mixed Use
- B7 Business Park.

B1 Neighbourhood Centre Zone

This zone has application to small neighbourhood centres across the Shire that incorporate small scale convenience retail and business premises and community uses. This zone may be applied to the following areas:

- West Byron Shopping Centre at Sunrise Beach
- Suffolk Park shopping Centre
- Commercial land located in the residential estate of Bayside Brunswick.

There may be others that are not shown here when the final mapping is completed.

B2 Local Centre

This zone relates to the main local centres in the Shire that provide a range of retail, business, entertainment and community functions. This zone may be applied to the following commercial areas and town centres:

- Byron Bay
- Bangalow
- Mullumbimby
- Ocean Shores
- Brunswick Heads.

As identified in this study car parks should be a permissible land use in the B2 Zone.

B4 Mixed Use Zone

This zone may be used where there is a mix of land uses including retail, employment, residential, community and other uses. Council has been suggested that this zone is applied to the current 2(v) Village zoned land proposed to be called Bayshore Village (opposite Sunrise Beach commercial area along Bayshore Drive, Byron Bay). Other areas may be considered where appropriate.

B7 Business Park

This zone may be applied to existing industrial lands that accommodate office and light industrial uses, including high technology industries. This zone also allows for a range of facilities and services which support the day-to-day needs of workers such as childcare centres and neighbourhood shops. This zone may be suitable for that part of the industrial area of Byron Bay (located only on land in the western side of Bayshore Drive).

Industrial Zones

There are three zones that are applicable to industrial development in the Shire. These include:

- IN1 General Industrial
- IN2 Light Industrial
- IN4 Working Waterfront.

IN1 General Industrial

This zone may be used for areas which hold a wide range of industrial and associated uses. This zone may be applied to the following industrial zoned land in the Shire:

- Bangalow industrial area
- Billinudgel industrial area
- Mullumbimby industrial area
- Byron Arts and industry area (eastern side of Bayshore Drive) to match existing under draft LEP for the Byron Bay Area.

IN2 Light Industrial

This zone may be used for land that provides light industry, warehouse and distribution uses. This zone is proposed for the following areas in the Shire:

- Ross Industrial Estate (Mullumbimby)
- Byron Industrial Estate (eastern side abutting residential lands in Sunrise Beach, to match existing areas under draft LEP for the Byron Bay Area).

IN4 Working Waterfront

This zone has been included in the standard template to be used for industrial and maritime uses that require direct waterfront access. This zone could be applied to port facilities, small commercial fishing or other ports as well as other maritime industrial uses. This zone has some potential to be applied to harbour facilities located at Brunswick Heads. If not considered an option Council will need to carefully identify the type of zone and land uses that best reflects the industrial and potential tourism potential of this area.

Special Purposes Zones

There are two special purpose zones:

- SP2 Infrastructure
- SP3 Tourist.

SP2 Infrastructure

This zone is generally intended to cover a wide range of physical and human infrastructure uses such as transport (e.g. roads and railways), utility undertakings and works, community uses, educational establishments (e.g. schools) and hospitals.

This zone has been established to replace the previous special uses zone that may have applied. A map notation to identify the defined type of facility will be required. For example, a council adopting this zone for a school would mark 'SP2 (School)' on its zoning map.

Where land is reserved for public infrastructure purposes (e.g. a railway) and not owned by a public authority the land is also to be outlined and annotated on the Land Reservation Acquisition Map and the relevant acquisition authority identified in the table in Clause 25.

In the case of regional trunk infrastructure such as sewer treatment plants, water treatment plants, electrical substations etc. it is suggested that the proposed SP2 zone be applied and identified on the zoning map to accommodate the associated use of the land.

As identified in this study:

- Tyagarah Airstrip will need to be zoned SP2. Consideration should be given to overlay controls relating to noise assessment within the likely affected area around the airstrip.
- Key corridors of the former Casino–Murwillumbah Railway land should be retained in the SP2 Zone as transport corridors in the new LEP.
- Further consultation with the RTA is required to determine whether future road corridors for the Pacific Highway south of Ewingsdale should be zoned SP2 to facilitate improvements to the capability as part of the planned upgrades by the RTA or another zoning selected through the consultation process.

As a general approach to existing health, education and community services or facilities these will need to be included in this zone to allow maximum community use within the constraints of individual sites.

SP3 Tourist Zone

This zone is generally intended to be used in the case where there are a variety of tourist-orientated land uses, and includes uses such as tourist and visitor accommodation, pubs and restaurants.

There are not any of these areas specifically identified in Byron Shire.

Specific areas that may facilitate the use of this zoning are Byron at Byron, the North Beach/Becton site, Rainforest Resort and caravan park on Broken Head Road and the Piggery. It is likely that the majority of tourism land uses will be identified within specific zonings and it is unlikely that Council will receive support for spot zoning all motel, caravan parks located throughout the Shire. Further discussion will need to occur with the Department of Planning relating to the use of this zone and possible changes to the template for regional/rural use.

The option of using a RU2 Rural Landscape for some tourist uses may also be appropriate, to reflect some of the important tourism precincts with additional permitted uses included in the Byron LEP.

Rural Zones

There are three zones suggested for rural areas of the Shire:

- RU1 Primary Production
- RU2 Rural Landscape
- RU5 Village.

RU1 Primary Production

This zone ideally applies to that land within the Shire used for most kinds of primary industry production, including extensive agriculture, horticulture, intensive livestock agriculture, mining, forestry and extractive industries. As identified in the conversion table highly productive agricultural lands would ideally be included in this zoning along with quarries and forestry areas.

The draft LEP zones will need to protect agricultural land as identified by the Northern Rivers Farmland Protection Project (Section 117 Direction 5.3) and associated agricultural land classifications. Land to be protected includes regionally and state significant land that should be zoned RU1 Primary Protection.

RU2 Rural Landscape

At this stage that rural land with landscape values and land that has been identified as having reduced agricultural capability due to gradient, soil type, vegetation, rock outcrops, salinity etc. may be included in this zone. Council may wish to consider the type of land use restrictions in this zone and this may include restrictions on the type and variety of agricultural uses.

RU5 Village

This zone may be used to cover rural villages where there is a mix of residential, retail and other uses. Some areas that are suggested for inclusion in this zone include areas which have previously been zoned as 2(v) Village zone under the Byron LEP 1988 including Federal, Main Arm and Billinudgel villages.

This study recommends that Council permit with consent attached/detached dual-occupancy development and bed and breakfast accommodation in RU1 and RU2 zones.

Environmental Protection Zones

All four environmental zones in the standard LEP are proposed to be used across the Shire. These include:

- E1 National Parks and Nature Reserves
- E2 Environmental Conservation
- E3 Environmental Management
- E4 Environmental Living.

E1 National Parks and Nature Reserves

This zone will apply to National Parks estate (including waterways). The DECC has indicated that the only land uses permitted in this zone are those under the *National Parks and Wildlife Act 1974*. It has been suggested that the Marine Park be zoned E1; however, discussions with the Department of Planning and the DECC will be required to confirm this approach.

E2 Environmental Conservation

This zone has been introduced to protect that land identified as having high conservation value. High conservation value vegetation and habitats as identified through the methodology in the Biodiversity Conservation Strategy would be included in this zone.

Mapping of this zone would include endangered ecological communities, riparian areas (including 20 metres each side of waterways), SEPP 26 littoral rainforest lands, mangroves, saltmarsh etc. This zoning layer would be based on revised vegetation mapping for the entire Shire.

Generally this zone will not be applied to residential, industrial, commercial, tourist or village zones where the area of HCV on an individual property is less than 1,000 square metres.

Some parts of existing SEPP 14 wetlands haven't been identified as high conservation value vegetation (HCV); however, it is recommended that these areas be zoned E2.

It is suggested that at least the current 7(f1) (Coastal Lands Zone) be incorporated into the E2 zone to protect the important coastal locations, mainly along beach areas.

E3 Environmental Management

This zone has been introduced to apply to land with environmental and scenic values or hazard and risk. The difference between this zone and E2 is based around the objectives of the zone and the range of development and land uses that may be permitted. This zone can also be used as a buffer between E2 and residential or rural zones.

This is likely to be a zone that could be applied extensively in the Shire as an alternative to any environmental land overlays. It is suggested that this zone may be applied to coastal areas (outside of urban areas and currently in Erosions Precincts 2 and 3), scenic areas that aren't HCV, other vegetated areas that aren't picked up in HCV particularly if they are in a wildlife corridor, and other areas that were previously zoned for environmental protection.

E4 Environmental Living

This zone is intended for existing urban areas with special environmental or scenic values where residential development could be accommodated. The applicability of this zone is to be further investigated, but there is some indication of its applicability in Section 7.3.

Waterway Zones

There are two zones that have been identified for waterway areas in the Shire:

- W1 Natural Waterways
- W2 Recreational Waterways.

W1 Natural Waterways

This zone is intended for waterways that are to be protected due to their ecological and scenic values. A limited number of low impact uses will be permitted in the zone. The use of this zone may be used for all estuaries and most of the open water areas in the Shire.

W2 Recreational Waterways

This zone is intended for waterways that are used primarily for recreational purposes but may also have ecological, scenic or other values that require protection. The use of this zone may be suitable for waterways in the urban context (e.g. Brunswick Boat Harbour or Capricornia Canal). Mandated permissible uses in this zone include 'marina' and 'kiosk'.

Recreation Zones

There are two zones for public and private recreational areas that replace the previous open space zones. These are:

- RE1 Public Recreation
- RE2 Private Recreation.

RE1 Public Recreation

This zone may be used for all public recreation areas and activities throughout the Shire, including local and regional open space areas. The RE1 zoning would ideally apply to land that is currently zoned 6(a) Open Space.

Acquisitions for open space and public recreation lands need to be identified on a separate land acquisition map.

RE2 Private Recreation

This zone may be used for a wide range of recreation areas and facilities on land that is privately owned or managed. The RE2 zoning would ideally apply to areas currently zoned 6(b) Private Recreation under Byron LEP 1988.

7.2.3 LEP and zoning objectives

The following are suggested matters that may need to be included in objectives to be further developed by Council. These would be incorporated into the LEP and the relevant land use zonings and include objectives to:

- promote positive social structure in the Shire.
- reflect the outcomes of *Byron Shire Affordable Housing Strategy for Urban Areas 2002*
- the potential impact of climate change and attempt to manage that impact through appropriate land use zoning and buffers
- the unique value of the Shire's culture as recognised in the plan. The draft LEP in so doing will endorse the recommendations of the cultural plan.

7.3 Local planning provisions for draft Shire-wide LEP

This section identifies which of the LES planning mechanisms, in the various sections of this study, that Council needs to consider in the development of local planning provisions for the new Shire-wide LEP. These recommendations also identify the necessary supporting documentation including further spatial mapping to form part of the new LEP.

7.3.1 Biodiversity

The following are recommendations to address biodiversity within the new LEP (including template clause and/or local planning provisions):

- a) The Standard Instrument LEP contains a standard planning provision requiring separate consent for the clearing of land. This clause is optional and it is recommended that it be adopted in the draft LEP.
- b) A local planning provision is required that contains performance criteria and the necessary information requirements for development applications to address the objectives of Council's biodiversity conservation strategy.
- c) A local planning provision for buffer areas may be established to protect sensitive habitat areas, high conservation areas and wildlife corridors (incorporating bushfire management options where possible). This local planning provision may need supporting mapping overlays. As identified in this study those critical buffer areas may also be identified through the use of the E3 Environmental Management zone. Council will need to be consistent in terms of the likely impacts of future land use types in the E3 zone on biodiversity.
- d) A local planning provision for identified wildlife corridors will need to be included. This may also be mapped and included as an overlay in the new LEP or zoned appropriately.
- e) Planning provisions, local provisions and exempt and complying development should be considered for the areas adjoining W1 zones and threatened fish habitat. Refer to the

Department of Primary Industry Fisheries submission for more information in how this should be implemented and to gain acceptance of the recommendations.

7.3.2 Landform, soils and geology

The following is a recommendation to address landform, soils and geology within the new LEP (including template clause and/or local planning provisions):

- a) The Standard Instrument LEP Template does not provide standard provisions to address land with potential for acid sulphate soils risk. It is suggested that Council either transfer the existing provisions for development of land identified on acid sulfate soils planning map from Byron LEP 1988 or take the opportunity to further develop new local planning provisions consistent with the acid sulphate soils management standards.

7.3.3 Bushfire

The following are recommendations to address bush fire within the new Shire-wide LEP (including template clause and/or local planning provisions):

- a) Use the compulsory clause for bushfire protection of lands identified as bushfire prone land.
- b) At this stage the provisions for exempt development do not exclude bushfire prone land, and while this raises some level of concern, the development identified by Council should remain as exempt development until the review of the bushfire-prone land maps is completed. Council may also give consideration for other types of exempt development including steel or minor structures designed to be non-combustible. For other types of development beyond current exemptions Council may seek to consult with the NSW Rural Fire Service and the Department of Planning.

7.3.4 Flooding and stormwater

The following are recommendations to address flooding and stormwater within the new LEP (including template clause and/or local planning provisions):

- a) The Standard Instrument LEP does not provide a standard clause for flooding. Council will be required to develop a local provision (i.e. not land use zone specific) relating to the restrictions for development on flood prone land. It is suggested that Council retain the existing LEP provision for development of flood liable land.
- b) Ensure that floodways are zoned appropriately or have a local provisions that considers development within the identified floodway.

It is noted that in consultation with the Department of Natural Resources that new additional provisions for flooding in the Standard Instrument LEP are under consideration.

7.3.5 Coastal Zone

The following are recommendations to address the coastal zone within the new LEP (including template clause and/or local planning provisions):

- a) The Standard Instrument LEP includes compulsory provisions for land within the coastal zone that is required to be adopted.

- b) It is noted that the compulsory provision includes an objective that future development in the coastal zone comply with the *NSW Coastal Policy* (refer Section 2.2.2) and this might also be reflected in wider objectives of the new Shire-wide LEP.
- c) There an anomaly within permissible activities for the environmental zones. If E2 Environmental Conservation zone is used for the coastal areas, Environment Protection Works are permissible with consent. 'Erosion protection works' are included under the definition of environment protection works and such hard engineering works are contrary to the principles of 'planned retreat'. Therefore, Council will need to seek approval from the Department of Planning to modify the standard inclusions in the E2 zoning table.
- d) The *Byron Shire Coastal Zone Management Plan* is still under preparation and there may be a need to supplement the compulsory provisions with additional local provisions until the plan is completed. This interim provision could place a moratorium on development within the existing hazard zones until completion of the management plan and the resolution and finalisation of specific planning controls. An alternate option is to form the Council policy of 'planned retreat' and the provisions of the current LEP 1988 and DCP 2002 Part J into a new local provision.
- e) Consider introduction of provisions that protect and buffer the Cape Byron Marine Park, either through zoning or new local provision.
- f) Implementation of the Brunswick and Belongil Estuary management plans, through zoning or local provision.

7.3.6 Climate change

The following are recommendations to address climate change within the new LEP (including template clause and/or local planning provisions):

- a) The Standard Instrument LEP does not include any provisions relating to climate change considerations. Council may consider developing local provisions to apply the coastline policy 'planned retreat' principles within the new LEP or a moratorium as mentioned above in section 7.3.5.
- b) In the absence of complete information, current best estimates on climate change should be used as the basis for planning controls such as:
 - the use of environmental zoning as identified in Section 4.6.
 - establishing larger buffer and setbacks to ensure that endangered communities, such as saltmarsh, can respond to sea level rise, through zoning or local provision.

Note that increasing buffers and setbacks has a number of implications for existing adjoining development

7.3.7 Social profile

The following are recommendations to address social issues within the new LEP (including template clause and/or local planning provisions):

- a) There are no specific provisions in the standard template that relate to the social issues of the Byron Shire. A specific objective should be inserted into the new LEP that ensures that social impacts are considered.

- b) Consider a local provision that permits creative home industries in locations within the Shire, this could be done through the zoning tables.

7.3.8 Housing

The following are recommendations to address housing within the new LEP (including template clause and/or local planning provisions):

- a) The Standard Instrument LEP provides for floor space ratio and height controls as optional provisions. This study recommends that Council introduces high density precincts within walking distances of the main commercial centre of the major urban areas in Byron Shire through the use of this optional provision.
- b) It may be necessary to prepare a local provision for retention of existing caravan parks except where it can be justified that proposed development maintains or improves access to affordable housing.
- c) Introduce a local provision relating to holiday letting to reduce loss of residential accommodation to tourist accommodation.

7.3.9 Cultural amenity

The following are recommendations to address cultural amenity within the new LEP (including template clause and/or local planning provisions):

- a) The Standard Instrument LEP does not include specific provisions to acknowledge the fundamental character of the Shire village, residential and commercial zones. There is a need to consider local provisions that identify the need to retain the fundamental character of the area and its unique features and any new development to reinforce the consistent elements. These provisions would obviously require that further detail on these controls be included in a development control plan (DCP).
- b) An objective in the new Shire-wide LEP could also address the cultural plan that is in preparation and ensure consideration of its recommendations in proposing new development.

7.3.10 Tourism

The following are recommendations to address tourism within the new LEP (including template clause and/or local planning provisions):

- a) The Standard Instrument LEP template does not provide guidance as to the management of holiday letting other than identifying the appropriate tourism related land uses. The suggested method of controlling the location of holiday letting is to develop a local provision that matches to an overlay for the new LEP that will permit holiday letting in specific areas of the shire in close proximity to existing commercial areas. Other options are outlined in Section 5.4.
- b) It is also recommended that Council develops a local provision that allows tourist and visitor accommodation and associated uses in rural areas and some environmental management areas subject to various controls, that includes accommodation types, number of visitors.

- c) There are no standard provisions for advertising signage, including tourism signage, and it is suggested that a local provision is consistent with the recommendations of SEPP 64.

7.3.11 Accessibility

The following are recommendations to address accessibility within the new Shire-wide LEP (including template clause and/or local planning provisions):

- a) The Standard Instrument LEP does not include any provisions addressing accessibility. The development of a suitable local provision incorporating the objectives and actions outlined within the *Far North Coast Regional Strategy* (refer Section 2.2.5) may be considered by Council.
- b) Key corridors of the former Casino–Murwillumbah Railway land should be retained in the SP2 Zone as transport corridors in the new LEP.
- c) Consideration of zoning the location of the Byron Bay town centre bypass to ensure that the land is reserved for that usage. This would require some detailed analysis to identify what land is should be covering.
- d) Investigate use of special purpose zoning for Tyagarah Airstrip; this should be accompanied by appropriate development controls relating to aircraft noise.

7.3.12 Infrastructure and servicing

The following are recommendations to address infrastructure and servicing within the new LEP (including template clause and/or local planning provisions):

- a) The Standard Instrument LEP consolidates the exemptions under the Model Provisions for public infrastructure activities and these are included as a compulsory provision. At this stage it is suggested that a local provision may be included in the new LEP to permit (with consent) all public infrastructure (i.e. defined as a utility installation in the shire wide LEP) in all areas regardless of whether the proponent is a public utility authority or not.
- b) As recommended in this study the drinking water catchment area for the Lavery's Gap Weir and Rous Water will not be separately zoned and a local planning provision is required to address the protection of the catchment and supported by overlay controls in the LEP. The local provisions will need to specifically require:
 - the values, aims and objectives of the relevant catchment management plan to be considered in the assessment of development applications
 - specific considerations for any permitted land uses that incorporate any hazardous activities that would pose a significant threat to drinking water quality.

7.3.13 Heritage

The following are recommendations to address heritage within the new LEP (including template clause and/or local planning provisions):

- a) The Standard Instrument LEP template includes a Schedule for heritage items. It may be necessary for Council to produce a heritage map overlay. The recommendations of the draft *Byron Shire Community-Based Heritage Study* identify approximately 200 individual

places, five conservation areas, and eight groups of places of like significance (Serial Lists). These will need to be included in this schedule as places of local heritage significance in the new Shire-wide LEP.

- b) The standard heritage provision in the template should be adopted to work with the above list of items and localities.
- c) As an interim measure, until a Shire-wide Aboriginal heritage study can be completed it is recommended that significant Aboriginal heritage and cultural areas be identified on an area wide basis through a map/overlay to accompany the standard heritage provisions.

7.3.14 Rural areas

The following are recommendations to address rural areas within the new LEP (including template clause and/or local planning provisions):

- a) The Standard Instrument LEP identifies subdivision provisions for rural lands as optional. Given the productive capacity of land in the Shire, they are recommended to be adopted in the Shire-wide LEP.
- b) A separate local provision will be required to address existing dwelling entitlements within rural areas of the Shire. This will need to consider both the minimum area of 40 hectares and also other land ownership mechanisms. This local provision will need to address the requirements for a replacement dwelling where the original dwelling is to be demolished.
- c) Another local provision will have to ensure that dwelling entitlements are maintained where environmental zonings may prohibit dwellings.
- d) As an affordable housing tool, it is recommended that dual occupancies (both detached and attached) be made permissible in rural areas (RU1 and RU2 zones).

7.4 Future Shire-wide development control plan provisions

The requirements of Section 74C(2) of the EP&A Act identify that only one DCP per planning authority can apply to the same land. The requirement that only one DCP applies to particular land took effect when a DCP is made on or after 30 September 2005. The Department of Planning has recently advised that compliance with Section 74C(2) and (5) will only be required once a council has prepared its new principal LEP that adopts the provisions of the Standard Instrument or by 31 March 2011, whichever is sooner. Numerous councils are in a similar position to have to prepare their new principal LEP within two or three years and, as such, will need to ensure that they comply with Section 74C by the time their new LEP is gazetted.

This study provides a number of recommendations that are at a level of detail that would be suitable to be included in a Shire-wide DCP. This will assist to manage environmental and development issues in the Shire.

7.4.1 Biodiversity

The following is a recommendation to address biodiversity within the new DCP:

- a) As identified in Section 7.3.1 the inclusion of a local provision to address the necessary performance criteria to meet biodiversity targets will need to be supported by detail regarding the level and type of information required for future development applications.

7.4.2 Landform, soils and geology

The following are recommendations to address landform, soils and geology within the new DCP:

- a) Specific planning controls will be needed to ensure that urban capability investigations and these assessments include, but are not limited to addressing geotechnical and environmental issues.
- b) The DCP will need to include best practice erosion and sediment control planning for soil and water management. Council will need to ensure this planning occurs concurrently with engineering design and in advance of earthworks.
- c) The DCP will also be required to address:
 - areas identified with shallow soils, slope instability, high water tables, low water-holding capacity and/or flooding
 - moist ground and land subject to localised flooding
 - testing of soils suspected to be acidic or having high salinities
 - specific controls for soil landscapes of Nimbin Rocks, Coolamon, Burringbar and Rosebank that have high to severe limitations associated with steep slopes and potential landslide activity.

7.4.3 Flooding and stormwater

The following are recommendations to address landform, soils and geology within the new DCP:

- a) Part N of DCP 2002 specifies Council's approach to stormwater management. This will need to be reviewed to align with the principles of Water Sensitive Urban Design in the future.
- b) All future development should be subject to Shire-wide development controls that require minimal impact on the natural water cycle.
- c) Specific development guidelines for flood-prone land should support the proposed LEP provision in Section 7.3.4.

7.4.4 Coastal Zone

The following are recommendations to address the coastal zone within the new DCP:

- a) Council should revisit their current DCP (Byron DCP 2002 Part J — Coastal Erosion Lands), to ensure consistency with the outcomes/recommendations identified within the *Coastal Zone Management Plan*, which is currently being undertaken by Council. In the interim provisions should be prepared that reflect the current principles of 'planned retreat', which is Council's adopted policy.

- b) Council will need to take into consideration the NSW Coastal Design Guidelines and SEPP 71 to address and manage visual amenity of the Shire's coastline is protected and effectively managed into the future.
- c) While the guidelines and SEPP 71 require applicant's to demonstrate compliance this will need to be cross referenced in the Shire wide DCP.

7.4.5 Climate change

The following are recommendations to address climate change within the new DCP:

- a) In the absence of complete climate change information, current best estimates on climate change may be used as the basis to develop detailed planning controls such as:
 - suggested land title restrictions
 - changes to infrastructure design and planning to ensure that the ecological response to climate change can be accommodated (e.g. culverts under roads to allow saltmarsh to re-colonise)
 - assessment criteria for building design to accommodate climate change, i.e. increased storm events, temperatures etc.

7.4.6 Social profile

The following are recommendations to address social issues within the new DCP:

- a) The Byron Shire Affordable Housing Strategy for Urban Areas 2002 included an implementation plan that has been adopted by Council. The Shire wide DCP will need to incorporate the recommendations of this strategy to implement the relevant strategies and initiatives. Council should include an affordable housing section in the Shire wide DCP to encourage affordable housing through provision of offsets.
- b) The recently exhibited social impact assessment DCP should be incorporated in the new DCP, with amendments as suggested during the public exhibition of the document.

7.4.7 Housing

The following are recommendations to address housing within the new DCP (further to those included in section 7.4.6):

- a) Provisions that promote social structure through incentives such as:
 - affordable housing and employment generation to reflect with Council's draft Social Impact Assessment Policy/DCP.
 - it is suggested that 1 in 10 new dwellings must be allocated for affordable housing and priced at a level acceptable to Council with restrictions on the use of land that include sale price of the affordable unit.

7.4.8 Cultural amenity

The following is a recommendation to address cultural amenity within the new DCP:

- a) The Shire wide DCP needs to consider the establishment of clear guidelines for future development of the towns and villages within the Shire. This would include clear vision statements consistent with the outcomes of the various settlement strategies.

7.4.9 Tourism

The following are recommendations to address tourism within the new DCP:

- a) Council will need to establish urban and rural controls relating to scale, form, streetscape, access, parking and landscaping for tourism related development.
- b) If holiday letting is included in the new LEP as permissible then detailed guidelines will need to be included in the DCP that consider such issues as parking, waste removal, floor space etc.

7.4.10 Heritage

The following is a recommendation to address heritage within the new DCP:

- a) In the case of character precincts, specific planning and design controls will need to be addressed in the Shire wide DCP to ensure that new development is consistent with the built form and amenity of these areas.

7.4.11 Rural areas

The following is a recommendation to address rural areas within the new DCP:

- a) The Shire wide DCP will need to establish planning controls to protect agriculture from encroachment from incompatible uses, particularly residential uses. Planning controls such as establishment of buffers and related controls will be needed to adequately address the issues of farmland protection and allow for effective implementation of regional guidelines.

7.5 Additional key recommendations and actions

In addition to addressing the outcomes of this study into the new LEP and Shire wide DCP there are a number of additional recommendations provided to Council to be considered as part of the development of the new LEP.

7.5.1 Biodiversity

There are a number of other matters that Council may consider in terms of the findings of this study relating to biodiversity including:

- a) the introduction of a local bio-banking scheme, or other suitable green offsets, to address impacts on biodiversity from future developments
- b) investigating the relevance of biodiversity certification (under the *Threatened Species Conservation Act 1995* as amended) in some areas of the Shire providing certainty of both biodiversity conservation and future development

7.5.2 Landform, soils and geology

There are a number of other matters that Council may consider in terms of the findings of this study relating to landforms, soils and geology including:

- a) developing and maintaining a contaminated lands register to ensure that all identified contaminated sites are clearly identified and known to Council
- b) finalisation of Council's draft *Management of Contaminated Land Policy*.

7.5.3 Bushfire

There are a number of other matters that Council may consider in terms of the findings of this study relating to bush fire including:

- a) Council will need to consult with the NSW RFS to request a thorough review and update of the existing bush fire prone land map. An updated *Bush Fire Risk Management Plan* for Byron Shire was scheduled to be produced in late 2007 and further updating of the progress of the management plan will be required.
- b) Council will need to consider the opportunities through this plan and updating of mapping of bushfire prone land as an opportunity to develop stronger relationships in the cooperative management of bush fire risk within the area.

7.5.4 Coastal Zone

There is another matter that Council may consider in terms of the findings of this study relating to the coastal zone, including:

- a) Council will need to ensure the coastal zone management plan is completed and adopted by Council. This should also be assured for all the remaining estuaries in the Shire where management plans are not yet complete. These may influence appropriate zoning/clause amendments to the LEP in the future.

7.5.5 Climate change

There are a number of other matters that Council may consider in terms of the findings of this study relating to biodiversity including:

- a) There is a substantial volume of work and investigation underway to address the impacts of climate change and to consider the issue of adaptation to climate change. There is a range of ongoing research that indicates that there are both public and private responses needed to accommodate the physical changes associated with climate change. Council should ensure that it keeps up with these changes and ways that it should be adapting planning to climate change that it has not already implemented.
- b) Climate change has the potential to impact on the built environment through loss of land and alterations to overland flow and flooding pathways. Future provision of infrastructure, buildings and associated structures must be assessed in light of contemporary understanding and emerging models that predict impacts of climate change.

- c) This study suggests that Council consider developing the use of covenants on land title including positive covenants (requiring a landholder to 'do something' on their land) and associated financial incentives to manage biodiversity and buffer zones.
- d) In developing these approaches Council investigations may focus on:
 - the provisions of the *Conveyancing Act 1919* (Sections 88d and 88E) or voluntary planning agreements
 - land acquisition.

7.5.6 Social profile

There are a number of other matters that Council may consider in terms of the findings of this study relating to social issues, including:

- a) development of a training facility (TAFE) in the Shire
- b) the use of planning agreements to provide for affordable housing opportunities.
- c) providing support and protect existing employment lands including non-urban lands (that generate agricultural employment).
- d) exploring opportunities in residential areas for creative home industries that enhance the art and cultural amenity of the study area.
- e) matching services to future residential, rural and tourism development by ensuring consultation with agencies regarding the matching and delivery of health, education and community services or facilities needs that will need to be provided either on existing sites or in new locations.

7.5.7 Housing

There are a number of other matters that Council may consider in terms of the findings of this study relating to housing issues, including:

- a) the use of planning agreements to provide for affordable housing opportunities.
- b) Council will need to examine existing housing policies across the Shire to ensure better housing solutions are provided within the community. These may include:
 - broader housing choice through urban consolidation opportunities in established areas that have high amenity or good access to existing public transport
 - provision for a range of housing types and densities across any new release areas
 - ensuring that densities achieved in new residential release areas are appropriate to both the location and local environmental context of the particular area
 - promotion and support for best practice and well designed medium density infill developments in other established areas, particularly within walkable catchments of district or neighbourhood shopping centres
 - continue to explore opportunities, where appropriate, for the development of alternative housing forms including, garden apartments, eco-villages, co-housing, manufactured housing estates, and shop-top housing

- c) Council is required to prepare a *Local Growth Management Strategy* outlining how the dwelling targets within the *Far North Coast Regional Strategy* are to be met.

7.5.8 Cultural amenity

Another matter that Council may consider in terms of the findings of this study relating to cultural amenity, includes:

- a) ensuring that the cultural plan is finalised, adopted and implemented.

7.5.9 Tourism

There is another matter that Council may consider in terms of the findings of this study relating to tourism including:

- a) There is a distinct gap in the information available regarding local tourism. It is understood that this information is part of the *Tourism Management Plan*, currently being prepare by Australian Regional Tourism Research Centre and Southern Cross University. It is suggested that Council ensure that this plan is finalised, adopted and implemented. This implementation will form a new local tourism strategy for the local government area.

7.5.10 Economic

There are a number of other matters that Council may consider in terms of the findings of this study relating to the economy, including the following:

- a) The development of an economic strategy to consider industrial, commercial and retail floor space requirements across the Shire is recommended to assist with identifying key gaps in the key service sectors.
- b) Incentives to encourage the right scale and types of new development into the Shire
- c) Providing support and protect existing employment lands including non-urban lands (that generate agricultural employment).
- d) While there appears to be a sufficient supply of lands for growth of suitable light industry in the short term, consideration will need to be given in the long-term to the identification and eventual development of suitable property.

7.5.11 Accessibility

There are a number of other matters that Council may consider in terms of the findings of this study relating to accessibility, including the following:

- a) Development of a traffic and transport study is essential to ensuring the ability for accessible developments in the future by public and private transport.
- b) As part of developing a traffic and transport study, Council will need to investigate Section 94 Plan options to address traffic congestion through provision of parking infrastructure and the like within town centres.
- c) It is noted that Council staff have begun a scoping exercise with Councillors on methods of seeking contributions for traffic management. The proposed transport study should

also investigate critical bottlenecks (such as Ewingsdale Road) in road infrastructure and lead into improvement works to be funded by a shire-wide Section 94 plan

7.5.12 Heritage

There is another matter that Council may consider in terms of the findings of this study relating to heritage including the following:

- a) It is recommended that the preparation of Aboriginal cultural heritage study is an important element in ensuring that Aboriginal heritage is considered, managed and protected appropriately in the Shire.

7.6 Area-specific recommendations

A number of sites and localities have been considered for zoning changes under the proposed new Shire-wide LEP for a number of reasons including:

- Council's resolution for the Shire-wide LEP was to prepare an LEP based on the Byron Shire LEP 1988, taking into account all adopted land use strategies, including the Biodiversity Conservation Strategy. Therefore there are a number of properties within Byron Shire that will need to be considered for a change in zoning due to their inclusion in a land use strategy.
- Not all zones in the Byron Shire LEP 1988 have a comparable zone in the template, including 1(d) Investigation Zone and 9(a) Proposed Road Zone. The land affected by these zones will need to be considered for a new zoning.
- The report on the submissions received following the public exhibition of the draft LEP for the Byron Bay area included a number of recommendations for the Shire-wide LEP. These recommendations have been considered subject to the Council resolution (06-416 included in Section 1.1).
- Over the past few years Council has made various recommendations relating to rezoning of land in the Shire that have not been considered due to resource limitations. The LES considers some of these where appropriate.
- There have also been a number of zoning and permissibility anomalies and requests received from land owners, staff and Councillors in relation to a number of properties within the Shire, including those owned by Council and the Crown. These have been assessed for their validity and included in this section of the LES.

Council has also resolved to reclassify certain areas of land through the LEP process, these are also considered in the section below.

7.6.1 Ocean Shores

(a) Shara Boulevarde, North Ocean Shores

Lot 146 DP 1124615 Shara Boulevarde, Ocean Shores is a 9.4 ha lot (approximately) located at the north western edge of the urban area known as the North Ocean Shores residential estate (to the west of the Ocean Shores Public School). All the site is currently zoned Residential 2(a) under Byron LEP 1988 with the adjoining lands zoned Environment Protection 7(k) Habitat. The site is all bushfire prone, affected by acid sulfate soils,

floodprone in parts and over 18% slope affecting parts of the site. There are also significant areas of HCV vegetation on the site.

In their Section 62 consultation, the Dept of Environmental and Climate Change (DECC) have recommended that Council consider the zoning and development potential of a number of sites that may be considered to have significant ecological or environmental values. This was one of those sites identified by DECC and as the Byron Shire Biodiversity Conservation Strategy (BCS) suggests that all HCV lands should be protected, this site was considered.

In considering the physical and ecological characteristics of the site and its development history, it came to light that there was an existing development consent for approximately 100 allotments on the site. The characteristics of the site, particularly its biodiversity and ecological values and bush fire hazard risk, indicate that a re-evaluation of the land use zoning that will apply to the land in the Shire-wide LEP should be considered. However due to the existing consent, it is suggested that the residential zoning remain, pending further discussions with the land owners regarding future implications of that consent during the public exhibition process.

Recommendation

It is recommended that the site retain its residential zoning until further negotiations can occur with the land owners. It should be zoned R2 Low Density Residential.

7.6.2 Brunswick Heads

(a) Brunswick Heads Commercial Area

The existing Brunswick Heads commercial centre is focussed on the 56 lots (approximately) zoned 3(a) under Byron LEP 1988. These lots are located generally in the block between Mullumbimbi Street, Fingal Street and The Terrace. The current zone does not cover both sides of these streets and does not extend all the way to Tweed Street (the old Pacific Highway). In 2005 it was estimated that the gross leasable area of retail buildings in Brunswick Heads was 5384 sq metres. About 20% of the 3(a) zoned lots are currently occupied by houses and a number of others are occupied by residential flat buildings. Some redeveloped lots have a mix of commercial floor space at the ground floor and residential or tourism units above. Buildings can currently be constructed up to three storeys in this zone, but only a few exist. The majority of buildings are still one or two storeys.

A range of commercial uses exist outside of the 3(a) zone and these particularly relate to Tweed Street. On the eastern side of Tweed street these include the shops, restaurant and service station on the corner of Fawcett street and Tweed street, the disused service station on the corner of Mullumbimbi Street and Tweed Street, the take away food shop and other premises at the corner of Fingal and Tweed street, the supermarket and shops on the corner of Booyun Street and Tweed Street. On the western side of Tweed Street there are shops and service stations, mechanics and take away food shops.

Brunswick Heads has been in a sewerage moratorium since 1998 and this has limited the opportunity for significant commercial redevelopment of the existing 3(a) zoned land. Some dwellings have been converted to commercial use, but this has been minimal. Without a pattern of demand over a five year period (or more) it is difficult to estimate if additional land is required. The lack of sewerage may be causing a pent up demand for commercial land, but anecdotal advice from the Brunswick Heads Chamber of Commerce does not seem to support this. The population of Brunswick Heads has not increased over the census periods

between 1996, 2001 and 2006 (place of enumeration counts were 1837, 1836 and 1839 persons respectively). Given that place of enumeration counts include visitors this indicates that the tourist population has also been stable over this period. It might be concluded that the lack of redevelopment of existing commercial zoned land is being caused by a lack of demand combined with a lack of sewerage rather than constraints on the supply of zoned land.

On the supply side of this issue there would appear to be about 20% of the existing zoned land that remains undeveloped. It is also true that very little of the existing zoned land has been developed to its full 3 storey capacity. It is not clear (on current information) if the existing zoned land is actually available (meaning the owners wish to use it for commercial purposes) or suitable, and if it should be discounted from supply.

The adopted Brunswick Heads Settlement Strategy (2004) states in relation to a possible expansion of the commercial area that

“there is insufficient justification to significantly modify the zone boundaries (for example to extend the zone to Tweed Street)”.

The Strategy also suggested that the zone boundary passing through the middle of a lot at 35 Fingal Street (Lot 2 DP 336571) should be rectified and the commercial zoning of two historic dwellings in Mullumbimbi Street should be reviewed.

In 2005 the draft Byron Shire Retail Strategy recommended the rezoning of land east of Tweed Street between Mullumbimbi Street and Fingal Lane into a single consolidated area of 3(a) land. This was rejected by the Brunswick Heads Chamber of Commerce in its submission and the draft Strategy was subsequently not adopted by Council.

The Brunswick Heads Chamber of Commerce suggested in 2005 that Brunswick Heads needs more motel development and that the best place for this would be on Tweed Street. It also recommended that the land on the east side of Tweed Street between Mullumbimbi Lane and Booyun Street should be zoned 3(a) (with a 7.5 m height limit). This would add approximately 12 lots to the 3(a) zone including the existing supermarket, shops and takeaway food shops.

Rezoning existing commercial land uses allows them to be changed more readily to other commercial uses and is a statement from Council that it wants that use to continue on that site into the long term. It does not generate a lot of additional capacity for commercial development because the land is already being used. If Council does nominate part of Tweed street for a 3(a) zone then it raises the question of why not all of the existing uses on both sides of Tweed Street.

One option is to rectify the split zone on 35 Fingal Street and leave the existing 3(a) area as it is. Another option is to rezone all of the existing commercial uses along Tweed Street (on one or both sides) and not add any sites that are not currently being used for commercial uses. A further option is to select that part of Tweed Street that best represents the cluster of existing commercial uses and rezone that land (this was the Chamber of Commerce view in 2005). A final option is to take no action to significantly extend the commercial zone until after the sewerage moratorium has been lifted and examine the supply and demand issues again at this time.

Recommendation

It is recommended that the split zone on Lot 2 DP 336571 (35 Fingal Street) be corrected by including the entire lot in the B2 Local Centre zone and the issue of extending the commercial zone be revisited after 2010 when the sewerage moratorium has been lifted. Ideally this should be done as part of a commercial lands or employment lands strategy.

(b) Bayside Brunswick

Lot 1 DP 871039 Kingsford Drive, Brunswick Heads is a 31 ha lot (approximately) located at the southern edge of the urban area known as the Bayside Brunswick residential estate. Approximately 22.5 ha is currently zoned Residential 2(a) under Byron LEP 1988 with the balance being zoned Environment Protection 7(a) Wetlands and Environment Protection 7(b) Coastal Habitat.

In their Section 62 consultation, the Dept of Environmental and Climate Change (DECC) have recommended that Council consider the zoning and development potential of a number of sites that may be considered to have significant ecological or environmental values. This was one of those sites identified by DECC and as the Byron Shire Biodiversity Conservation Strategy (BCS) suggests that all HCV lands should be protected, this site is being re-evaluated as a residential area.

The physical and ecological characteristics of the site and its development history are documented in Appendix L. The characteristics of the site identified by Council's ecologist confirm that a re-evaluation of the land use zoning that will apply to the land in the Shire-wide LEP is warranted, particularly to recognise the environmental attributes of the site.

There are four main options that arise from the site analysis for this land:

Zone most of the land E2 Environmental Conservation to reflect the extensive areas of HCV and the other restrictive physical characteristics of the land.

Retain a residential zoning over that part of the lot currently zoned for residential purposes through the use of the E4 Environmental Living zone or R2 Low Density Residential zone.

Zone the more ecologically significant parts of the site E2 and then zone the remaining areas for residential development using a number of residential zones i.e. E4, R2 and R3.

Zone part of the site for residential purposes (i.e. E4, R2 or R3) with the DECC to acquire the remaining part of the site from the landowner as an addition to Tyagarah Nature Reserve. Note that no discussions have taken place between Council and the DECC in relation to possible acquisition, nor has any commitment been given by DECC.

Recommendation

It is recommended that the E4 zone to be considered for the western side of the lot with large lot sizes (say 2000 square metres) applied on the Lot Size map in the LEP. The objective is to maximise retention of the scribbly gum community. A combination of R2 and R3 should be applied in the central section including to the southern extent of the lot. E2 should be applied on the eastern side in the vicinity of the existing road access and on the significant vegetation in two areas on the western side of the land. The remainder should be zoned E2 including all of the areas currently zoned for environment protection. The proposed zoning is shown on Figure 9 in Appendix K.

7.6.3 Ewingsdale

(a) Hospital Site, Ewingsdale Rd, Ewingsdale (Hospital Site)

The site is located on the southern side of Ewingsdale Road, between the intersections of McGettigans Lane and William Flick Lane, approximately 5 km north-west of the centre of Byron Bay. The majority of the site is cleared and has previously been utilised for grazing. There is an existing dwelling located on the eastern part of the site. The total site is approximately 22.46 ha, with about 6 ha being subdivided for the hospital. It is currently zoned part 1(d) Investigation and part 1(c2) Small Holdings under Byron LEP 1988.

The proposed use of the 6 ha portion of the site is a 54-bed hospital, as well as core services such as an emergency department and acute medical beds, low risk maternity services for the Ballina and Byron Shires and private & public surgical services for residents of Byron Shire. The remainder of the site, at present, is to retain its rural / rural residential use. The proposed zone requested by the applicant is SP2 Infrastructure.

The site is generally clear of vegetation and development will not adversely impact on the biodiversity values of the area. Water sensitive urban design must be considered at the development application stage to minimise any adverse impact on local watercourses. Contamination was assessed and is not considered a health issue, and noise will require further assessment at the development application stage.

Other environmental concerns associated with the site can be addressed at the DA stage. Any development application prepared for the site will need to consider the relevant aspects of a new DCP, this would include drainage, water sensitive urban design, heritage, visual impacts, etc.

Positive social implications are evident in the development of a new hospital for the Shire. The Social Impact Assessment concluded that the main impact on the broader community relates to transport/accessibility of the site. Where possible, community concerns have been addressed by the proponent. There will be provision of social infrastructure and services that will add to those currently existing in Byron Shire. Whilst the two existing hospitals in Byron Bay and Mullumbimby will close, the proposed new hospital will provide for a central facility for the community as a whole. There is likely to be some impact on residential amenity for adjoining residences and the need to reduce this impact is considered essential. Amelioration of the reduction of residential amenity will need to be carefully considered in the design stage for the Development Application and details can be included in a site specific DCP.

The submission considered the social issues in a social impact assessment consistent with Councils draft social impact assessment (SIA) policy. A further SIA in accordance with the draft SIA DCP will also be required with the development application.

The economic implications are considered positive. Any existing and future demand for medical services can be met by the hospital and will provide construction, health professional, health support and other employment opportunities.

There is a strong social advantage to allowing the site to be rezoned from rural to infrastructure to allow a hospital. A landscape/vegetation buffer has been proposed to the south of the site to ameliorate any potential impacts on the adjoining local rural residential community. The buffer will allow for a vegetated strip between the hospital and existing dwellings and will provide physical separation between different land uses. Furthermore, the buffer could provide a physical connection between the east and west portions of the residual lot, to allow for improved management of the remainder of the site. Whilst the new zoning will not “zone” this land as open space, a DCP prepared for this site should

incorporate the buffer to assist in the retention of adjoining residential amenity. This will then need to be addressed at DA stage.

The existing heritage item on the residual lot can be adequately protected by the proposed RU2 zoning. Further, it is not desirable to reduce/remove land currently zoned as 1(c2), particularly in light of the shortage of developable land in the Shire. It is recommended that the portion of the site that adjoins Parkway Drive be zoned R5 Large Lot Residential. The recommending zoning will be a variation to the proponent's proposed rezoning layout but will assist in improving residential amenity for existing residents.

In light of the negotiations undertaken by the proponent with the neighbouring community, it is logical to provide for a regional health facility with close proximity to the highway, thus providing easier access to the facility from numerous communities including Mullumbimby and Byron Bay. Given the proposed hospital is being built to meet existing need, there is also likely a future demand/need for increased number of beds. It is therefore considered logical to extend the SP2 zone west to meet the boundary of the concrete batching plant to allow for expansion of the hospital in the future.

Refer to detailed assessment in Appendix L for more information.

Recommendation

It is recommended to zone Lot 171 & 172 DP 1121005 (previously Lot 17 DP 816451) Ewingsdale Road, Ewingsdale to part SP2 Infrastructure, part RU2 Rural Landscape and part R5 Large Lot Residential as shown on Figure 7 in Appendix K.

7.6.4 Byron Bay

(a) Belongil Fields, Ewingsdale Road, Byron Bay

The site is located on Ewingsdale Road, Byron Bay, west of Byron Bay township on the southern site of Ewingsdale Road opposite the School of Audio Engineering. The site is currently being used as a caravan park and camping ground. The total site is approximately 22.8 ha and is currently zoned 1(d) Investigation under Byron LEP 1988.

The land is generally flat with the majority of the site being grass, low scrub and managed landscaping reflecting its use as a caravan park and camping ground. Native vegetation is limited to mainly along drainage lines and a small area on the south of the site.

Proposed use of the site by the applicant is primarily for residential development with appropriate associated uses such as open space, neighbourhood commercial uses and environmental repair. A mix of residential densities and some affordable housing is envisaged. The proposed zone requested by the applicant is residential, business and environmental.

As detailed in the assessment attached in Appendix L, the major potential constraints that occur on the site include flooding, drainage, vegetation, habitats and bush fire. Flood studies and other environmental assessments conclude that some of the site can be developed with specific areas protected through zonings.

Additional information provided by the applicant suggest that the other site constraints have been considered. Any development application prepared for the site will need to consider the relevant aspects of a new DCP which would include flora, fauna, drainage, water sensitive urban design, access etc.

The social implications include a significant new residential area on the outskirts of Byron Bay. Positive social implications are the potential for affordable housing, access to public transport and existing services and proximity to employment lands. A SIA in accordance with the draft SIA policy and DCP will be required with the development application.

The economic implications are considered positive. There is currently a perceived demand for residential development in Byron Bay that is affordable. The proposed development would assist in providing residential accommodation as well as providing job opportunities during the construction of the subdivision and dwellings.

The Belongil Fields site is the core of the only land release area identified by Byron Shire and the Department of Planning to meet housing needs of Byron Bay over the coming 20 years. The Far North Coast Strategy stipulates the release of this land for residential use. The land is relatively unconstrained and already serviced.

Pursuant to the North Coast Regional Environmental Plan, the land being rezoned should be part of a land release area and preference should be given to land which is already being used for urban purposes and is the most economic to service. In this case, the land is being used for a residential purpose and the land is currently serviced by all public utility services. The land is located on Ewingsdale Road, and access can be easily upgraded to ensure traffic safety and improve traffic flow.

However Council has not resolved to consider the rezoning of this site until the Regional Road Study for MR545 is completed and supports the development.

Refer to detailed assessment in Appendix L for more information.

Recommendation

It is recommended to zone Lot 1 DP 207626 and Lot 2 DP 542178, Ewingsdale Road, Byron Bay part R2 Low Density Residential, part E2 Environmental Conservation and part E3 Environmental Management subject to the completion of the Regional Road Study that supports the development of the site as shown on Figure 8 in Appendix K.

In the meantime it is an option to zone the residential areas as RU2 Rural Landscape.

(b) South Byron Sewerage Treatment Plant (STP)

The South Byron STP was decommissioned in November 2005 after the opening of the augmented West Byron STP. Council no longer needs the South Byron STP site for operational purposes. It is currently zoned predominantly 5(a) Special Uses (Sewage Treatment Works), but is also zoned partly 1(d) Investigation zone, 7(f1) Environment Protection (Coastal Lands), and 7(a) Environment Protection (Wetlands). It has a total area of 7.82 ha. The 5(a) zone is no longer required on the land and the 1(d) and 7(f1) zones have no comparable zone in the new Shire wide LEP. The number of environment protection zones available to Council is also limited.

A planning report was undertaken and reported to Council along with other supporting information in March 2008. Council resolved not to undertake the rezoning of the land as part of the Shire wide LEP, but to address it in an amendment to the Shire wide LEP to be prepared late in 2008. However, the land must be zoned something under the new LEP as an interim measure.

Recommendation

Consistent with other lands in the locality, the land zoned 7(f1) Environment Protection (Coastal Lands), and 7(a) Environment Protection (Wetlands) should be zoned E2 Environmental Conservation. The land zoned 1(d) Investigation should be zoned E2 Environmental Conservation to reflect the high conservation value vegetation identified in the Byron Shire Biodiversity Conservation Strategy. Any high conservation value vegetation on the rest of the site should be zoned E2 Environmental Conservation and the balance of the site (including ponds and hard infrastructure) should be zoned RU2 Rural Landscape.

(c) Sandhills Estate

The Sandhills estate is a 14 ha Crown land site in Byron Bay located between Middleton and Massinger Streets and south of Lawson Street. Although sand mined in the 1960's the site remains largely undeveloped except for the Sandhills early childhood centre and Youth Activity Centre (both run by Council on land leased from the Department of Lands). The land is partly zoned 1(d) Investigation zone, partly 7(b) Coastal habitat zone and partly 7(f2) Urban coastal lands zone under Byron LEP 1988. The 1(d) and 7(f2) zones have no comparable zone in the new Shire wide LEP and the number of environment protection zones available to Council is limited.

In 2003, the Minister for Lands entered into a memorandum of understanding (MOU) with the Arakwal people and Byron Shire Council regarding certain lands within Byron Shire. The MOU required the preparation of a strategic planning study for the Sandhills estate and this was undertaken by the Department of Lands. It was presented to Council in August 2007 with a recommended structure plan that nominated certain parts of the land for environment protection, open space, community use, residential development and mixed use development. Council's resolution on that structure plan is as follows:

"Resolution No 07-399

Resolved that Council support the Sandhills Estate Recommended Structure Plan (Illustration 4.1) [#695252, p32] subject to the following adjustments:

1. *Sufficient area being provided for in the Library and Youth Activity Centre precincts for future development.*
2. *An adequate car parking precinct being provided near the court house.*
3. *Easements and wetland area as required by Council's Drainage Engineer being incorporated.*
4. *The Department of Lands being advised that two of the proposed residential lots in Lawson Street are not suited to separate residential development.*
5. *Council advise that all necessary servicing upgrades will be the responsibility of the State Government. To this end Council would desire to negotiate a Developer Agreement with the responsible authority.*
6. *That a detailed diagram of issues raised by Council be included in the submission to the Government, including the plan for Stages 2 and 3 of the Youth Activity Centre and any other relevant information."*

Although the strategic planning study assessed the ecological, cultural and physical constraints on the site it did not address the issue of possible land contamination from past land uses such as sandmining. In accordance with SEPP 55 (Remediation of Land) Council needs to be confident at the rezoning stage that land is not contaminated or if it is contaminated then it is suitable or can be made suitable for the likely uses that will be

allowed under the new zone. Council recently undertook such a study for the proposed Byron Bay library site (Lot 456 DP 1126388) to ensure that the land was suitable for that public use. Given the recommendations of the strategic planning study this particularly applies to areas that may become zoned for mixed use or residential development.

Recommendation

Consistent with Council's resolution it is recommended that the site known as Sandhills estate be zoned in accordance with the Recommended Structure Plan (refer to illustration in Appendix L) as follows:

N (Native Vegetation Area) – Zone E2 Environmental Conservation

BG (Bushland Botanic Gardens) – Zone E3 Environmental Management

C (Community Development Area) – Zone B4 Mixed Use

CO (Common Area) – Zone B4 Mixed Use

OP (Open Space / Common Area) – Zone B4 Mixed Use

P (Parking) – Zone B4 Mixed Use

D (Development Area) – Zone B4 Mixed Use

R (Residential Lots) – Zone R3 Medium Density Residential

However, this is subject to the Department of Lands providing a preliminary assessment of contamination (consistent with SEPP 55) that allows Council to make an assessment of this issue prior to finalising the zoning of the land.

(d) South Jonson Street

When the draft Byron Bay area LEP was exhibited there were a few submissions which raised concerns about the future zoning of land located at the southern end of Jonson Street and the differentiation between the Business (Town Centre) zone and the Business (Mixed Use Fringe) zone. There was also strong landowner support for the proposed commercial rezoning of land at the southern end of Jonson Street south as far as Browning Street.

Council had resolved on 4 November 2003 (Res 03-1072) the following:

“That Council support a Section 54 Resolution to rezone the remainder of Jonson Street to the northern corner of Browning Street, Byron Bay to a 3A Commercial Zone with a view to allowing a maximum two storey height limit, setbacks for landscaping and providing for on site parking.”

Recommendation

Both sides of the southern end of Jonson street from Kingsley Street to Browning Street are proposed to be zoned B2 Local Centre under the shire wide LEP. This is consistent with the remainder of the town centre that is also proposed to be zoned B2 Local Centre.

The height of buildings on this land will be controlled by the Building Height Map and it is recommended that the area currently zoned 3(a) Commercial will be maintained at the equivalent of three storeys. The area on the east side of Jonson Street between Kingsley and Browning Streets is recommended to be the equivalent of two storeys. The issue of landscaping and parking should be addressed in the DCP that will apply to the subject land. This is consistent with the Council resolution of 4 November 2003.

7.6.5 Suffolk Park

(a) Broken Head Road, Suffolk Park.

The applicant proposes use of this 3.33 ha site for retail and commercial development, in particular a supermarket and associated shops. The vacant allotment is currently zoned 2(a) residential. The proposal also includes open space at the rear of the site which is suggested would provide environmental protection for drainage and ecological purposes. The proposed zone requested by the applicant is business and private recreation / open space. The site has frontage to Broken Head Road, Suffolk Park, near its southern intersection with Beech Drive.

As detailed in the assessment, the major constraints that occur on the site include flooding, drainage, vegetation, noise, bush fire and landscape/visual impact. Although large portions of the site have been identified as flood prone, the Tallow Creek Floodplain Risk Management Strategy (SKM, 2007) indicates that development may occur at the site subject to compliance with the recommendations of the study, including any buildings being above the flood level by 0.5 m. Further, the flood prone land including the Tallow Creek Fill Exclusion zone provides a buffer between proposed future development and existing residential dwellings.

Additional information provided by the applicant suggests that the other site constraints have been considered and are discussed in the Technical Review of this site. Any development application prepared for the site will need to consider the relevant aspects of a new DCP, including flora, fauna, drainage, water sensitive urban design, access, noise, etc.

The risk of flood has been considered and the proponent considers that flooding issues can be ameliorated by appropriate development of the site. The recommended zoning of the site (refer to Section 8) restricts development to outside the “fill exclusion zone” of the creek line, which, in turn, provides a buffer between the proposed development and existing residential development to the east. Whilst the applicant has sought a B2 zoning for the whole site it is recommended to zone the environmental area accordingly to ensure no development can take place in this area. A detailed DCP should also be prepared for the site which would take into consideration design details for the proposed development to ensure that it can meet sustainability and urban design key objectives, including a flora and fauna study.

Negative social impacts include the impacts of a significant retail development on a heavily trafficked road on the character of Suffolk Park. Positive social implications are the reduced travel times for shopping for residents of Suffolk Park and surrounds, local convenience and reduced pressure on existing retail services. The impact of the proposed new zoning on the existing residents, especially in terms of amenity and increased traffic movements in the local streets, needs to be carefully considered and managed as part of any new development. A SIA in accordance with the draft SIA policy and DCP will be required with the development application.

The economic implications are considered positive. There is currently a perceived demand for retail services that is not being met. The proposed development would not only provide job opportunities during the construction phase but will generate additional revenue and employment in the area once established. The proposed retail centre may impact on other commercial centres in the region.

The provision of a commercial and retail centre incorporating a major supermarket could provide for the development of Suffolk Park and reduce pressure on existing services in

Byron Bay town centre. The Byron Bay, Suffolk Park and Ewingsdale Local Environmental Study (LES) concluded that there is currently an under supply of some types of retail floor space in Byron LGA and there is a continuing deficiency in supermarket floor space, sufficient to support the development of another full-scale supermarket within Byron Bay. The LES also states that expansion of the Suffolk Park commercial area is likely to be opposed by residents; although, the demand for traffic and parking infrastructure generated by Suffolk Park residents commuting to Byron Bay for normal household requirements is recognised. The proponent presents alternate survey results that indicate the majority of residents are in favour of a major supermarket on the site. The noteworthy point of the results is that a “major” supermarket is in demand and not necessarily another small to medium supermarket.

Further, the proposed development would be located within an expanding commercial node of the area, which is also buffered from the existing residential areas to the east. In addition, it must be acknowledged that Suffolk Park is no longer the coastal “hamlet” it once was, as recently as the 1990s. With nearly twice the footprint of the original hamlet, the introduction of a B2 zone would no longer be out of character with Suffolk Park.

During public exhibition of the draft LEP the opinions of the Suffolk Park residents can be sought. The proposal has merit on planning grounds for development of the site to allow for long-term sustainability and growth of Suffolk Park and surrounds.

Recommendation

It is recommended to zone Lot 2 DP 701391 and Lot 7 DP 258562, 183-205 Broken Head Road, Suffolk Park B2 Local Centre and E2 Environmental Conservation as shown on Figure 6 in Appendix K.

7.6.6 Bangalow

(a) Areas 1, 2 and 3, Granuaille Crescent & Rankin Drive, Bangalow

The proposed use of the site, located in the vicinity of Granuaille Crescent and Rankin Drive on the northern outskirts of Bangalow, is low density residential development. The site is bounded by Rankin Drive with housing lots adjacent to the south-west. There are no buildings or structures on the site. The area included in this proposal is approximately 7.99 ha. The site is currently zoned mostly 1 (a) General Rural, 1 (b1) Agricultural Protection and 1(a) General Rural with hatching (clause 38) under Byron LEP 1988. There are two small slivers of land zoned 2(a) residential.

The applicant indicates that a theoretical maximum number of residential lots could be 40 to 60 dwellings. The proposal also includes the recommendation of some land to be dedicated as open space. The proposed zone requested by the applicant is part residential and part open space.

As detailed in the assessment, the major constraints that occur on the site include slope, flooding, drainage, noise, bushfire and visual impact. Additional information provided by the applicant indicates that the majority of the site has a slope of between 8 and 20%. Many of the less sloping sites are in close proximity to the riparian corridor and flood prone land. The applicant has argued that the visual aspect can be addressed through appropriate design measures. The requested drainage map has provided information sufficient to demonstrate the possible measures to cope with runoff from the site. The main issue remaining is the site's steep slopes, which contain strongly acidic and moderately erodible soils; therefore

landslip issues are also associated with the site. Due to the landslip issue, it is recommended that not all of the land in the submission should be rezoned and further geotechnical studies/slope assessment would be required before the remainder of the land can be zoned for residential development. The areas at risk of landslip are also visually significant.

Any development application prepared for the site will need to consider the relevant aspects of a new DCP, this would include drainage, water sensitive urban design, access, noise, etc.

Potential impacts of additional residents on existing social services must be reviewed in tandem with other proposed rezonings in Bangalow. Existing social services are currently stretched. For example, the Bangalow Primary School is operating at near its design capacity and is being considered for further expansion if possible (Byron Shire Council, 2003). The impact of the proposed rezoning on the existing residents, especially in terms of amenity and increased traffic movements in the local streets, needs to be carefully considered and managed as part of any new development. The submission considered the social issues in a similar way to Councils draft social impact assessment (SIA) policy. A further SIA in accordance with the draft SIA DCP will also be required with the development application.

The economic implications are considered positive. The proposed development would not only provide job opportunities during the construction phase but will bring additional revenue into the local businesses and area once established.

Development of the site would be an extension of the existing residential precinct located along Rankin Drive, and thus is considered a suitable location for 'infill' residential development. On balance the proposed concept plan achieves a positive planning solution, by providing economic benefits to the land owners, provision of housing, community open space and facilities. However, the Bangalow Settlement Strategy did not identify Areas 1 and 2 as suitable for residential development, particularly due to visual amenity, steep slopes and noise associated with the Pacific Highway.

Council states that any residential development of Area 3 would be contingent upon resolving the drainage issues along the railway, and providing usable open space. The rezoning application shows that open space can be provided, but it is not essential to zone it for recreation. A detailed assessment of drainage was provided by the applicant and is considered sufficient for the rezoning.

With particular reference to Areas 1 and 2, subsequent to the release of the Bangalow Settlement Strategy, the Pacific Highway upgrade preferred route has been identified, and the associated negative noise impacts identified with Areas 1 and 2 are less prominent. The applicant has provided additional information addressing the noise and vibration issues. Further, the existing residential development, water storage facility and cleared nature of the ridgeline, in conjunction with the proposed development of Area 3, would appear to have reduced the visual sensitivity of site considerably. The information provided by the proponent shows that a portion of Area 1 and 2 could be developed without utilising the steepest slopes of the land, and could form a logical extension of the development of Area 3.

Even with the information and justifications provided by the proponent, it is not considered that the entire area identified by the applicant is appropriate for residential development as further detailed slope stability/geotechnical assessment would be required to confirm site suitability before rezoning of the additional areas could occur. The assessment would

specifically relate to a geotechnical and slope stability study to confirm that the site is suitable for residential development, particularly in relation to on-site water storage.

Comprehensive design controls, either as a site specific DCP or at the Development Application stage, would need to be prepared for the site, should the rezoning of the land identified for residential land proceed, to ensure that any development impacts related to aesthetics, drainage, and slope are minimised. Also the north eastern portion of Area 2 is a bushfire threat area and appropriate controls will apply.

The Settlement Strategy for Area 1 states that “Council may have to negotiate an outcome with the landowner to secure a public benefit. Alternatively the land may be left vacant.” In a letter dated 29 June 2007, the proponent has proposed the following outcome to secure a public benefit as envisaged within the Settlement Strategy:

- “Dedication of the land adjacent to the water tower for the purposes of public lookout together with linking open space and walkways
- Voluntary contribution per allotment for the proposed Bangalow swimming pool.”

In light of the above, the rezoning of land for Area 3 and Area 2 is considered appropriate. Re-zoning of Area 1 should be deferred pending negotiations with Council to determine the most feasible outcome in respect of the site being used for a public lookout. A slope stability and geotechnical study of these areas to confirm their suitability should also be undertaken for the rezoning as detailed above.

Recommendation

It is recommended to zone Area 2 and Area 3 (part of Lot 101 DP 1127017) Granuaille Crescent / Rankin Drive, Bangalow R2 Low Density Residential, E2 Environmental Conservation and E3 Environmental Management as shown on Figure 3 in Appendix K. It is not recommended to alter the zone for Area 1 from Rural.

(b) Area 4 North, Ballina Road, Bangalow

The site is located between Ballina Road and the Pacific Highway to the east of the village of Bangalow. Access is gained via Ballina Road. The site is currently zoned 1 (a) General Rural under Byron LEP 1988.

An area to the south (Area 4 South) of the site is also proposed for rezoning and whilst this site has been evaluated on its own merit, the planning implications have been considered in tandem with the current proposal for Area 4 North.

The proposed use of the site is low to medium density development with two options:

1. A mixture of low density (6 new lots with access to Blackwood Crescent) and a major component of medium density in the form of a 52 unit seniors living residential development with self-contained dwellings; or
2. A low density residential subdivision of 37 new lots with access to both Ballina Road and Blackwood Crescent.

The applicant states that a mobile home or caravan park as recommended in the Bangalow Settlement Strategy is not suited to this allotment due to the lack of support for this type of development in Bangalow and its location and proximity to the existing residential development and nursing home.

The proposed zone requested by the applicant is R1 General Residential or R3 Medium Density Residential and E2 Environmental Conservation Zone.

Part of Area 4 has been identified as flood prone. However, the information provided by the applicant indicates that development shall occur above the 1% flood level. Further, a buffer between 10 and 30 metres has been provided to the creek line. Portions of the land greater than 20% in slope have been identified by the proponent, and are not suitable for future urban development.

Other environmental concerns associated with the site can be addressed at the DA stage. Any development application prepared for the site will need to consider the relevant aspects of a new DCP, including flooding, drainage, water sensitive urban design, heritage, geotech, etc. These issues are discussed further in the Technical Review of this particular site.

Impact of additional residents on existing social services must be reviewed in tandem with other proposed rezonings in Bangalow. Existing social services are currently stretched, such as the Bangalow Primary School that is operating at near its design capacity and is being considered for further expansion if possible (Byron Shire Council, 2003). The impact of the proposed rezoning on the existing residents, especially in terms of amenity and increased traffic movements in the local streets, needs to be carefully considered and managed as part of any new development. The submission considered the social issues in a similar way to Councils draft social impact assessment (SIA) policy. A further SIA in accordance with the draft SIA DCP will also be required with the development application.

The economic implications are considered positive. There is unmet demand for seniors living type accommodation and this has been recognised in the Bangalow Settlement Strategy. The proposed development would not only provide job opportunities during the construction phase but will bring additional revenue into the local businesses and area once established.

The Bangalow Settlement Strategy recommends non-standard residential development within Area 4. The rezoning of the site to facilitate medium density, possibly incorporating seniors living, would be suitable given the close proximity to existing aged care facilities and medical services. Further, the site is easily accessed from Ballina Road, without adversely impacting on existing residential areas, particularly in terms of traffic volumes and noise. Its proximity to the town centre and community facilities, including open space, makes it the most suitable available site within the Bangalow Settlement Strategy to accommodate medium density and in particular seniors living. It would help meet the housing demand facing Byron Shire to cater for its increasing aging population.

In addition, if possible there is potential for Area 4 North and South to be integrated rather than developed in isolation, however due to the environmental constraints of the creek line, this appears to be an unlikely option.

It is recommended that a site specific DCP be prepared which will include design issues, bulk and scale, and site of buildings etc to assist in reducing visual impact. The issue of slope, flooding and access will also need to be carefully considered at DA stage.

In light of the above and the site being identified within the Bangalow settlement strategy, the proposed zoning to accommodate medium density residential is justified and considered desirable for the area.

Recommendation

It is recommended to zone Lot 22 DP 1070522 and Lot 4 DP 233810 Ballina road, Bangalow part R3 Medium Density Residential and part E3 Environmental Management as shown on Figure 2 in Appendix K.

(c) Area 4 South, Ballina Road, Bangalow

The site is located between Ballina Road and the Pacific Highway to the east of the village of Bangalow. Access is gained via Ballina Road. The site is currently zoned 1 (a) General Rural under Byron LEP 1988.

An area to the north (Area 4 North) of the site is also proposed for a new zone and whilst this site has been evaluated on its own merit, the planning implications have been considered in tandem with the current proposal for Area 4 South.

The proposal is for alternatives to standard residential development. The applicant states that a mobile home or caravan park as recommended in the Bangalow Settlement Strategy is not suited to this allotment due to noise, bushfire prone land and flood prone land. More substantial forms of construction are required to accommodate these constraints while addressing the demand for non-conventional housing types. The specific zone type is not stipulated, however smaller medium density housing is suggested to support cluster housing or attached/group housing.

Part of Area 4 has been identified as flood prone. However, the flood study provided by the applicant indicates that development will occur above the 1 in 100 year (or 1%) flood level. Further, a buffer between the creek line and the proposed development must be provided. Portions of the land that is greater than 20% in slope have been identified by the proponent and are not suitable for future urban development.

Other environmental concerns associated with the site can be addressed at the DA stage. Any development application prepared for the site will need to consider the relevant aspects of a new DCP including flooding, drainage, water sensitive urban design, heritage, geotech, etc. There is more discussion of these issues in the Technical Review specific to this site.

Impact of additional residents on existing social services must be reviewed in tandem with other proposed rezonings in Bangalow. Existing social services are currently stretched. For example, the Bangalow Primary School is operating at near its design capacity and is being considered for further expansion if possible (Byron Shire Council, 2003). The impact of the proposed rezoning on the existing residents, especially in terms of amenity and increased traffic movements in the local streets, needs to be carefully considered and managed as part of any new development. The submission considered the social issues in a similar way to Councils draft social impact assessment (SIA) policy. A further SIA in accordance with the draft SIA DCP will also be required with the development application.

The economic implications are considered positive. The proposed development would not only provide job opportunities during the construction phase but will bring additional revenue into the local businesses and area once established.

The proposal for this part of Area 4 is in part inconsistent with the Bangalow Settlement Strategy, which only identifies part of Area 4 as an area for an alternative type of residential use. It is considered that environmental and social constraints associated with development of this land can be managed with a reduced development footprint. Although one option to manage the impacts is linking the proposed development with Area 4 North, this is not considered appropriate due to the environmental constraints of the creek line which divides the two areas.

The proposed concept plan within the rezoning application includes a range of smaller 1 and 2 bedroom dwellings, thus potentially providing access to affordable housing in the Shire. The medium density housing proposed within the application would meet some of the desired need for non-conventional housing types within Area 4. It is important to note that the standard of development would need to be in keeping with the surrounding neighbourhood.

It is recommended that a site specific DCP be prepared which will include design issues, bulk and scale, and site of buildings etc to assist in reducing visual impact. The issue of slope, flooding and access will also need to be carefully considered at DA stage.

The part of the site fronting Ballina Road is recommended for residential zoning and the residue of the site is recommended for environmental zoning as the land is constrained. Although the submission suggests the residential zone should cover more of the site, this is not considered appropriate. A portion of the site is identified within the settlement strategy for future release, and sufficient justification for its part development is given within the submission, as assessed above.

Recommendation

It is recommended to zone Lot 2 DP 1086364 Ballina Road, Bangalow to part R3 Medium Density Residential and part E3 Environmental Management as shown on Figure 5 in Appendix K.

(d) Area 6, Lismore Road, Bangalow

The site is located on the eastern side of Lismore Road. It has a total area of 28.49 ha and is irregular in shape. The site has frontage to Charlotte Street, Thomas Street and Little Thomas Street. The site is currently zoned 1 (a) General Rural and 1 (d) Investigation Zone under Byron LEP 1988 and the 1(a) section is also hatched (clause 38 of the LEP).

The applicant proposes low density residential development with approximately 35 to 45 residential lots. The proposed zone requested by the applicant is part residential with the remainder of the allotment general rural. The proponent has suggested that a portion of the area should be used for recreation and open space, and the Settlement Strategy states that the development of Area 6 should be “the catalyst for the provision of open space such as community gardens and playing fields, walkways and environmental repair along Byron Creek”. However, the analysis recommends rezoning to residential and rural and does not include open space at this stage.

The major constraints that occur on the site include slope, flooding and drainage. Portions of the land greater than 15% in slope have been identified by the proponent and are not suitable for future urban development. A geotechnical study will need to be prepared as part of any DA. A floodplain management plan has not been prepared for Bangalow. However, the flood study provided by the applicant is considered sufficient for this stage of the process and it is suggested that this could be the basis for the identification of the boundary of the residential zone. Where flood prone land is encountered it must not be developed for urban use. It should be noted that the boundary proposed by the applicant’s flood study, which took into account both flooding and climate change, is preferred to the boundary identified in the adopted Strategies and the 1(d) area.

Other environmental concerns associated with the site can be addressed at the DA stage. Any development application prepared for the site will need to consider the relevant aspects

of a new DCP including flooding, drainage, water sensitive urban design, heritage, geotech, etc.

Impact of additional residents on existing social services must be reviewed in tandem with other proposed rezonings in Bangalow. Existing social services are currently stretched. For example, the Bangalow Primary School is operating at near its design capacity and is being considered for further expansion if possible (Byron Shire Council, 2003). The impact of the proposed rezoning on the existing residents, especially in terms of amenity and increased traffic movements in the local streets, needs to be carefully considered and managed as part of any new development. The submission considered the social issues in a scoping exercise consistent with Councils draft social impact assessment (SIA) policy. A further SIA in accordance with the draft SIA DCP will also be required with the development application.

The economic implications are considered positive. The proposed development would not only provide job opportunities during the construction phase but will bring additional revenue into the local businesses and area once established.

Development of Area 6 (part of Lot 1 DP 127485) as residential development is considered to be to be a logical extension of the existing residential development in Bangalow Village. The site (Area 6) is identified within the Bangalow Settlement Strategy and the Far North Coast Regional Strategy as a future release area. There is a slight change proposed to the boundary of the area identified in the Strategies to ensure the proposed residential area is flood free.

The site adjoins a newly developed residential area of Bangalow, so if it is developed, it should have a minimal impact upon the village character associated with this area. However, the site is potentially visible from Lismore Road, and increased density could adversely impact upon the amenity of the area if appropriate DCP controls are not implemented. It is recommended that a site specific DCP be prepared which will include slope, design issues, bulk and scale, and site of buildings etc to assist in reducing visual impact. The application indicates access from Thomas Street and this will have some potential impacts on the amenity of existing residents. Whilst the Strategy stated access from Lismore Road was the preferable access, the flood issues associated with the site restrict this opportunity.

The residue of the site is recommended for rural zoning as the land is classified as being of high agricultural value.

Part of the site is identified within the settlement strategy for future release, and sufficient justification for its development is given within the rezoning submission, as assessed above.

Recommendation

It is recommended to zone Lot 1 DP 127485 Lismore Road, Bangalow to R2 Low Density Residential, RU1 Primary Production or RU2 Rural Landscape and E2 Environmental Conservation as shown on Figure 4 in Appendix K.

(e) Area 7, Parrot Tree Place, Bangalow

The site has frontage to Parrot Tree Place, which is accessed off Rifle Range Road. The majority of the site is cleared and has previously been utilised for grazing. There are no buildings or structures on the site. It has an area of approximately 5.87 ha and is irregular in shape but is designed to accommodate an extension of the adjoining subdivision. The site is currently zoned 1 (b1) Agricultural Protection under Byron LEP 1988.

The proposed use of the site is 41 residential lots and an additional 28 medium density units. The proposal also suggests open space areas and adjoins an existing detention basin. The proposed zone requested by the proponent is part residential with the open space areas to be dedicated to Council and zoned open space.

The submission presents a preliminary ecological assessment, which concludes there are no threatened species on the site, and the riparian vegetation is the most significant ecological attribute. A riparian buffer should be established on the site, either through a DA condition, DCP or zoning in the new Shire-wide LEP.

Other potential issues relate to noise and contamination. These issues have been addressed in the site specific Technical Review prepared for the LES. All of the issues with the site can be addressed at the DA stage. Any development application prepared for the site will need to consider the relevant aspects of a new DCP including drainage, water sensitive urban design, heritage, access, noise, etc.

Impact of additional residents on existing social services must be reviewed in tandem with other proposed rezoning in Bangalow. Existing social services are currently stretched. For example, the Bangalow Primary School is operating at near its design capacity and is being considered for further expansion if possible (Byron Shire Council, 2003). The impact of the proposed rezoning on the existing residents, especially in terms of amenity and increased traffic movements in the local streets, needs to be carefully considered and managed as part of any new development. The site is more than 400m from the main town centre and the strategy identifies that Bangalow should be a walkable village. Generally 400m is considered the optimum distance. To address this, the applicant has accommodated pedestrian and improved bicycle access to the village as suggested by the Settlement Strategy.

The submission considered the social issues in a scoping exercise consistent with Council's draft social impact assessment (SIA) policy. A further SIA in accordance with the draft SIA DCP will also be required with the development application.

The economic implications are considered positive. The proposed development would not only provide job opportunities during the construction phase but will bring additional revenue into the local businesses and area once established.

Rezoning of Area 7 (part of Lot 77 DP 1031773) is considered to be a logical extension of the existing residential area, and a large portion of the site is identified within the settlement strategy and the Far North Coast Regional Strategy as a future release area. As the site adjoins a relatively new subdivision in Bangalow the impacts of any future developments on the townships would be minimal. Specific DCP controls should be prepared for this site to guide development in this area and ensure that future residential development does not adversely impact on heritage or amenity values of the existing township.

The submission generally addresses Council's requirements, including the provision of a landscaped buffer to the railway line and Lismore Road. Whilst the Council requirement is not met in regards to the cycleway adjacent to the railway line, it is believed that the applicant's justification for its relocation within the site is considered sufficient; having addressed potential safety/crime issues and still providing pedestrian access to the village centre.

It is not considered an appropriate option to introduce medium density housing into this site. Due to the potential noise, traffic and amenity impacts, the housing numbers should be limited. Further, in light of the proposed medium density for Area 4 (North and South), it

would be more in keeping with the local neighbourhood to restrict development to low density.

The residue of the site is recommended for rural zoning as the land is classified as being of high agricultural value. Although the proponent is suggesting an open space use, this is not considered necessary or appropriate.

Part of the site is identified within the settlement strategy for future release, and sufficient justification for its development is given within the rezoning submission, as assessed above.

Recommendation

It is recommended to zone Lot 77 DP 1031773 Parrot Tree Place, Bangalow to R2 Low Density Residential and RU2 Rural Landscape as shown on Figure 1 in Appendix K.

7.6.7 1(d) Investigation Zoned Lands

There are approximately 185 lots currently zoned partly or entirely 1(d) Investigation zone under Byron LEP 1988. As this zone does not have an equivalent in the Standard LEP all these areas will need to change to a different zone. (It should be noted that the RU6 Transition zone in the standard LEP is not an investigation zone).

Many of the 1(d) areas have been specifically addressed in the settlement strategies for Mullumbimby, Bangalow, Brunswick Heads, and Byron Bay/Suffolk Park. For these lands the recommendations of the settlement strategies have been followed as per Council's resolution that they be considered as an input into the preparation of the new Shire wide LEP.

Each lot was specifically evaluated and its constraints examined according to the best available information on Council's geographic information system. An assessment was made of the existing prevailing zones in the locality and the proposed prevailing zones in the locality. An assessment was made of the land use in the area. Whether the land had been acquired by the NPWS for inclusion in a National Park or Nature Reserve was also considered.

Recommendation

The findings of each assessment and the zone/s recommended for the new Shire wide LEP are documented in Table 1 in Appendix M.

7.6.8 9(a) Proposed Road Zoned Lands

There are approximately 75 lots currently zoned partly or entirely 9(a) Proposed Road zone under Byron LEP 1988. In addition there are other corridors of land that are zoned partly or entirely 9(a) Proposed Road zone but do not have discrete property descriptions because they are in Crown land corridors. The nearest equivalent zone in the Standard LEP is the SP2 Infrastructure zone. However, instructions to Council from the Department of Planning are that roads (including local roads, main roads, arterial roads and motor ways) should be in the prevailing zones for the locality as long as roads are a permitted use in that zone. This often means that a section of road may fall into several zones over a relatively short distance. The State Environmental Planning Policy (Infrastructure) when made will play an important role in the permissibility of roads in all zones in all Local Government Areas in NSW.

The issue of compulsory acquisition was linked to the 9(a) Proposed Road zone in LEP 1988 via clause 43. In the new Shire wide LEP an acquisition map will be prepared that identifies land that is required by the RTA or Council for use as a future road. This map will be linked to acquisition clauses that identify the acquiring authority. The zone of the land will not be affected by it being identified for future acquisition.

Recommendation

There are parcels of land zoned 9(a) that are both privately owned and publicly by the RTA and other government agencies. The land has been assessed for constraints and characteristics and the findings of the privately owned lands and other government agency lands, including recommendations for the new Shire wide LEP are documented in Table 2 in Appendix M. The RTA land has not been addressed individually, these lands will be zoned for future roads (where known) or as are adjoining lands and constraints (HCV vegetation and wildlife corridors etc).

7.6.9 Crown & Council Land

Within Byron Shire there are numerous parcels of land that are either owned by Council or the State government (Crown land). Much of this land is within road reservations (often un-made Crown roads) and other reserves and it often does not have a discrete property description such as a Lot and Deposited Plan number. Large areas of State owned land are within the major National Parks and Nature Reserves that affect much of the coast line and some of the hinterland. Some Crown or Council land is currently used for a particular purpose (such as schools, depots or sewage treatment plants) or may have been used for a particular purpose that no longer functions (the railway land in Byron Shire is an example of this). Some of this land may be subject to Aboriginal land claims and Council respects that the process of finalising any such claims needs to run its course on a case by case basis.

A lot of this land is currently zoned under Byron LEP 1988 as 8(a) National Parks and Nature Reserves, 6(a) Open Space, 7(f1) Coastal Lands, 5(a) Special Uses or in one of the eight Environment Protection zones available. However, there are also numerous often small lots that are scattered throughout all urban and rural zones.

Council has resolved that where possible it will transfer land into the most similar zone that is offered in the Standard Instrument. However, the Standard Instrument does not provide all of the zones that Council currently has available to it. In deciding what zone the land should be placed in, the following factors will be considered:

- The existing zone under LEP 1988;
- Any site specific Council resolutions;
- Any Council Strategies or Policies that are applicable;
- The physical, infrastructure and environmental characteristics of the site;
- The existing use/s undertaken or proposed to be undertaken, including the reason for which the lot was acquired; and
- Any State Environmental Planning Policies that apply e.g. SEPP 55 – Remediation of Land.

Recommendation

It is recommended that Crown and Council land be zoned where possible into the most similar zone that is available in the Standard Instrument subject to consideration of the above factors.

7.6.10 Dwelling Entitlements

Since it commenced the Shire wide planning process Council has received a number of submissions from landowners who consider that certain rural properties should be listed in the Shire-wide LEP as having a dwelling entitlement. This arises from the current situation that Byron Shire LEP 1988 contains provisions (clause 15) that limit dwelling permissibility in rural and environment protection areas. It is intended that similar provisions will apply to rural and environment protection areas to limit dwelling permissibility in rural and environment protection areas under the new Shire-wide LEP.

Each submission was specifically evaluated and its circumstances examined according to the information supplied and the best available information on Council's geographic information system and in Council records. An assessment was made of the permissibility of dwellings in the zones that apply to the subject land, how and when the lot was created, whether a lawfully erected dwelling exists on the lot, whether Council has ever advised an owner in writing or in a Section 149 (5) certificate that the lot has a dwelling entitlement or whether development consent for a dwelling has ever been issued, and whether a building permit for a dwelling has ever been issued. Where possible an assessment was made as to whether the land was suitable for a dwelling and if a dwelling exists that appears to be unlawful, then whether that dwelling existed before 1988 (the date of the previous planning instrument) and whether there is evidence that it meets current building requirements.

Recommendation

The findings of each assessment and whether or not the subject land is recommended to be listed to permit a dwelling in the new Shire-wide LEP are documented in Table 3 in Appendix M.

7.6.11 Private Landowner Requests

Since it commenced the Shire wide planning process Council has received a number of submissions from landowners and consultants who consider that their land should be rezoned to allow uses such as residential, rural residential, commercial or industrial. Some have requested additional subdivision capability or questioned the existing minimum lot size provisions. Others have queried existing environment protection zones or land use controls.

Each request has been evaluated and assessed according to the best available information on Council's geographic information system (where relevant). An assessment was made of the existing prevailing zones in the locality and the proposed prevailing zones in the locality. Relevant Council strategies such as the small towns and villages settlement strategies and the Byron Rural Settlement Strategy also play an important role in determining if urban or rural residential development is supported by Council in a given locality.

Recommendation

The findings of each assessment and whether or not the subject land is recommended to have a change in zoning or a change in planning controls in the new Shire-wide LEP are documented in Table 5 in Appendix M.

7.6.12 Unzoned Land

Council has located four pieces of land within the Byron Shire that are currently unzoned. This means that none of the zones indicated in clauses 8 and 9 of Byron LEP 1988 apply to these pieces of land. This situation was caused by mapping errors in the original LEP and the new Shire-wide LEP provides an opportunity to correct those errors. It is appropriate that all land within Byron Shire be located within a zone in the new Shire-wide LEP. Each piece of land was specifically evaluated and its circumstances examined according to the best available information on Council's geographic information system. An assessment was made of the existing prevailing zones in the locality and the proposed prevailing zones in the locality. An assessment was made of the land use in the area and whether the land is within a National Park or Nature Reserve.

Recommendation

The findings of each assessment and the zone/s recommended for the new Shire wide LEP are documented in Table 4 in Appendix M.

7.6.13 Draft LEP for the Byron Bay Area Submission Report Recommendations

In 2006 at the closure of the draft Byron Bay Area LEP a staff report was submitted to Council on the submissions made by the public and Government agencies. The report documented 17 broad policy issues or area specific issues that are likely to be relevant to the new Shire wide LEP.

Recommendation

The application of these issues to the new Shire wide LEP is contained in the summary in Appendix N.

7.6.14 Environmental Zone Boundary Anomalies

Council has received some submissions that identify environmental zone boundaries under Byron LEP 1988 that are inaccurate and restrict the appropriate use of the land. Other sites have been identified through the revision of mapping in the course of preparing the draft Shire-wide LEP.

In the past these minor inaccuracies could have been dealt with in the development application process through the use of flexible boundary provisions. The State government introduced a prohibition on the use of flexible boundary provisions in the coastal zone (clause 13 of SEPP 71) so it is important that Council make its zone boundaries as accurate as possible. This is particularly important for environment protection zones in urban areas in the coastal zone.

In the North Coast Regional Environmental Plan (clause 29), the State government requires that Council:

"...not alter or remove existing environmental protection, scenic protection or escarpment preservation zonings or controls within them, without undertaking a detailed analysis to determine whether there will be adverse environmental effects resulting from such action..."

In each of the cases nominated in this section the detailed analysis has included air photo interpretation and review of the vegetation mapping. It has also typically included a site inspection.

Where there is suspicion of allegedly illegal vegetation clearing or development without consent that may have affected the extent of vegetation on the property they have not been included in this group. If landowners affected by this scenario wish to have the environmental zones revised they will need to make a submission to Council documenting the history of vegetation clearing and /or unauthorised development.

A summary table for each of the proposed changes in environment protection zones is included in Table 6 in Appendix M. Seventy three lots are affected. Of these 63% (46 lots) are proposed to be changed from either 7(k) Habitat or 7(d) Scenic Escarpment to R2 Low Density Residential and all of these are located at West Suffolk Park. The majority of these are residential size lots, with existing dwellings and the amendment is generally less than 200 square metres. The vegetation mapping for this area supports the need to amend these zone boundaries.

Other clusters include five residential size lots at Byron Bay that are located in the vicinity of Cumbebin Swamp. These are residential lots that have been incorrectly zoned partly 7(a) wetlands even though the wetlands are located beyond the lot boundary. Two lots owned /managed by Council in the Sandhills Estate (the Byron Bay library site and the YAC site) are also currently subject to a poorly mapped 7(b) Coastal Habitat zone and this is proposed to be amended and replaced (in part) by a B4 Mixed Use zone. Four lots at Lilli Pilli (with existing buildings) are proposed to be subject to minor zone amendments (less than 200 square metres) and are going from 7(a) Wetlands to E4 Environmental Living. Two lots at Sunrise that adjoin vegetated areas are proposed to have minor areas of 7(a) go into the R2 zone.

Other significant sites include the Broken Head Caravan Park at Broken Head where over 2 ha of land which is currently zoned part 7(f1) Coastal Lands and part 8(a) National Park (even though it is not owned by DECC and is not in a Gazetted National Park or Nature Reserve) is proposed to be zoned RE1 Public Recreation consistent with most of the other Crown land caravan parks.

Approximately 1 ha of land within the Ferry Reserve Caravan Park which is currently zoned 7(b) habitat , but is covered completely by a fully developed caravan park is proposed to be zoned RE1 Public Recreation consistent with most of the other Crown land caravan parks.

The Byron Bay Van Village is another caravan park that currently has extensive areas of land zoned 7(b) habitat that is actually a fully developed caravan park and camping area. It is proposed that part of this area (the non vegetated part) be included in the SP3 Tourist zone consistent with other privately owned caravan parks.

The Red Devils Football field on the southern edge of Byron Bay is currently zoned partly 7(a) wetlands (north west corner of the lot) and this is proposed to be zoned RE2 Private Recreation consistent with the balance of the facility.

A private college at Broken Head has an approval for buildings on land that is zoned partly 7(d) Scenic Escarpment. This area is proposed to be zoned SP1 Private College consistent with the remainder of the building envelope on this large site. The extent of the variation is less than 500 square metres.

The Byron at Byron tourist development has an approval for additional tourism development on approximately 1 ha of land that is currently zoned 7(b) Coastal Habitat and that part of the site subject to this approval is proposed to be zoned SP3 Tourism consistent with the other developed parts of the site.

The North Beach tourism site on the northern edge of Byron Bay has an approval for a significant development which includes a small area (approximately 300 square metres) that is currently zoned 7(b) Coastal Habitat. Given the existing approval and that the land is cleared it is proposed that this area be zoned SP3 Tourism consistent with the balance of the development envelope on this site.

Recommendation

It is recommended that parts of the land identified in Table 6 in Appendix M be zoned from an environment protection zone to a residential, business, special uses or recreation zone for the reasons outlined in this study above. For specifics on location and extent of zoning, refer to maps also included in Appendix M.

7.6.15 Reclassification of Suffolk Park Holiday Park

The Suffolk Park Holiday Park is a Council owned caravan park located on approximately 1.4 ha of land described as Lot 100 DP 1023737, Alcorn Street, Suffolk Park.

A report prepared in April 2001 on a public hearing on community and operational land in Byron Shire, recommended that Council consider reclassification of the Suffolk Park Holiday Park land from community to operational because of the difficulties associated with operating a business on community land. Council resolved to consider reclassification.

The difficulties referred to in the 2001 report persist today. One result now being identified is the potential inability to issue leases for permanent occupancy within the Park. The land has not been reclassified and it remains community land which is impractical in terms of continued operation of a commercial enterprise on the land. It is therefore important that Council now consider this matter further to provide a positive path forward.

The statutory regime under the *Local Government Act* 1993 makes it extremely difficult to continue the operation of an existing caravan park on community land. The difficulties extend primarily from:

- the requirement for a Plan of Management;
- requirements for public exhibition and formal reporting and resolution procedures for each individual lease; and/or
- more onerous requirements in relation to development of buildings on community land.

The result is that each step of management of the Park becomes onerous and time consuming, representing a significant drain on resources, a limitation on ability to progress improvements in a timely fashion and financial costs to Council. One of the less obvious problems is that it makes it nearly impossible for Suffolk Park Holiday Park to remain competitive in any real sense and it inhibits the net returns which are able to be generated from this enterprise.

Conversely, if the land is reclassified operational, Council would be able to manage the enterprise as would any other caravan park owner. There would still be various statutory requirements relating to the operation of a caravan park, however, the additional layer of

requirements relating to community land would be removed. Reclassification would mean that Council would also gain the ability to be able to sell the land which, historically, has not been supported by some sections of the community. However, the reality is that it is unreasonable and unnecessary for Council to continue to labour under the regime which accompanies a community land classification on a site which has historically operated as a caravan park.

Historically, Council has issued leases for the occupation of a number of 'permanent' sites in the Suffolk Park Caravan Park. Recent review of the management of this land has, however, identified that Council may not be able to do so without first having a Plan of Management in place and, even then, without going through a public consultation process for each lease.

At its meeting of 27 September, 2007, Council resolved to reclassify Suffolk Park Holiday Park to operational (Resolution #07-534). The General Manager has requested that this occur as part of the Shire Wide LEP rather than a stand-alone LEP. A public hearing is required for the reclassification of community land to operational land, and will therefore apply to Suffolk Park Holiday Park. The hearing requirement is detailed in Clause 29(1) of the *Local Government Act 1993*, Clause 68 of the *Environmental Planning and Assessment Act, 1979*, and Clause 14 of the *Environmental Planning and Assessment Regulation 2000*.

Recommendation

It is recommended that Council list the Suffolk Park Holiday Park (Lot 100 DP 1023737) as operational in the appropriate schedule in the Shire-wide LEP for the reasons outlined above and consistent with the Council resolution of September 2007 (Res # 07-534).

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9. Figures

Following are the Shire-wide figures referred to in the documentation.

Appendix A

Stakeholder consultation

Responses from public authorities

Issues raised	Planning comment/recommendation
NSW Department of Primary Industries	
<i>Generally:</i> - Access to primary industry resources is planned for and secured - Land is to be developed in a manner consistent with its inherent capability - Water quality is to be protected and improved in adjacent and downstream waterways including the estuaries for the benefit of the commercial and recreational fishing industries, aquaculture, agriculture and rural communities and industries - The protection and enhancement of the natural aquatic environment and the ability of ecological processes to operate in a natural way to help maintain fish populations and recover threatened fish species, including appropriate buffers - Reduction in the risk of land use conflicts <i>More specifically:</i> Mineral Resources Division - Operating mines and quarries should be protected from sterilisation or hindrance by encroachment of incompatible adjacent development - Known resources and areas of identified high mineral potential should not be unnecessarily sterilised by inappropriate zoning or development - Access to land for mineral exploration and possible development should be maintained over as much of the planning area as possible Threatened Aquatic Species and Aquatic Habitat Protection – (including Aquaculture) - Land based Aquaculture and the need for a SEE or EIS to accompany a DA - Oyster Aquaculture and water quality requirements - NSW Oyster Industry Sustainable Aquaculture Strategy - Priority Oyster Aquaculture Area - Implications of land use zoning and conflicts with oyster aquaculture - Exempt and complying development should not include activities that are key threatening processes to fish habitats under Part 7A of the <i>Fisheries Management Act</i> - Waterfront structures should be prohibited where the W1 zone is used.	A number of issues have been raised here that have been considered in Sections 4, 5 and 6. While significant vegetation and riparian corridors (which are often located on or near land containing primary industry resources) are recommended for conservation within this LES, it is not the intention of the LES recommendations to restrict access to such resources. Natural aquatic environment areas are proposed to be zoned W1 Natural Waterways or W2 Recreational Waterways under the Standard LEP. Refer to Sections 7.2 Buffers should also be considered to these areas. This LES does not recommend any change to the existing buffer recommendations of the DPI. Refer to Section 7. Mineral resources sites be zoned RU1 Primary Production under Standard LEP in line with DoP requirements. Refer to Section 7.2 Existing stringent impact assessment requirements should not change as a result of this LES recommendations. Refer to Section 7 Section 4.1.9 has acknowledged aquaculture within the Shire and corresponding recommendations appear in Section 7. The draft LEP should also be consistent with SEPP No 62 Sustainable Aquaculture (refer to comments in Appendix B). Exempt and complying development should be address accordingly in the LEP. The W1 zone should follow the guidelines set out by DPI Fisheries in relation to habitat and permissible uses, including subdivision.

Issues raised	Planning comment/recommendation
- Small lot subdivisions fronting streams should be avoided. Agriculture - Equitable access to finite resources in line with principles for Ecologically Sustainable Development - Planning for sustainable development opportunities for a range of primary industries and the ability to adjust to future changes - Need to provide a clear, stable operating environment which encourages investment in agriculture and sustainable development - Reducing the potential for land use conflict - Retention of a critical mass of land and agricultural businesses to sustain key support industries, infrastructure and rural communities Forestry - Need for appropriate zoning so that forestry is permitted on particular lands and those activities authorised under the Forestry Act, 1916, are permitted without consent.	Agriculture areas be zoned RU1 Primary Production under the Standard LEP where currently zoned for protection, affected by state significant farmland and land classified as prime agriculture. Refer to Section 7.2 Land use conflict handbook due to be released in the near future by DPI will be reflected in the Shire-wide DCP. Refer to Section 5.9.4 Forestry areas are proposed to be zoned RU1 Primary Production or RU3 Forestry under the Standard LEP. Forestry could be permitted without consent in such appropriate zones. Note: there are no State Forests in Byron Shire. Refer to Section 7.2
Rous Water	
- Management of the catchment by ensuring appropriate development controls are in place for protection and improvement of the catchment. - Management of demand by ensuring that water conservation measures are incorporated into development - The continued operation of existing and possible future extension of water supply infrastructure and operations - Provision of infrastructure corridors - Reducing the demand on region's potable water supply through the active promotion of a wide range of Water Sensitive Urban Design (WSUD) principles - On site wastewater treatment systems within water catchment areas - Concern over the extent of residential land released in excess of that identified in the <i>Far North Coast Strategy</i>	Section 5.7 provides guidelines that suggest appropriate measures to accommodate Rous Water issues, including: - Drinking water catchment management - Infrastructure corridor management - WSUD principles are supported by the LES and should be included in the draft DCP. Whilst the LES has acknowledged the need for additional residential land, no land other than that identified within existing strategies has been identified including the FNCRS. Refer to Section 5.2.3

Issues raised	Planning comment/recommendation
Northern Rivers Catchment Management Authority	
See the <i>Northern Rivers Catchment Action Plan</i> , <i>Native Vegetation Act 2003 and Regulation 2005</i> and <i>17 Vegetation Information Sheets</i>	The LES (see Section 4.1.4) addresses the key principles and actions of the <i>Northern Rivers Catchment Action Plan</i> and generally supports the key catchment management targets. The proposed environmental protection zones will generally have regard to the Native Vegetation Act, Maintain or Improve requirements. Refer to Section 7.2
Tourism NSW — Department of State and Regional Development	
- Very important to 'retain the existing tourism appeal and reinforce the regional character' - A need for the environmental resources and destinations that are important to tourism to be sustainably managed into the future - Meeting the challenge of balancing large scale tourism with smaller scale opportunities in 'prime' locations and seeing visitor facilities as functional elements of the local economy - Need for review of bed numbers in relation to benchmark levels for sustainable business operations - Planning for a future 'Space' to host arts and cultural attractions - Need to investigate existing tourism accreditation models or systems before developing/introducing new ones - Essential for findings of the tourism study (currently taking place) to be incorporated in new LES and LEP.	- The department's concerns/issues are acknowledged and endorsed throughout Section 5, particularly 5.1, 5.3 & 5.4. - Recommendations for tourism, infrastructure, accessibility, housing and housing affordability have been made with direct consideration of the department's principles and desires. Refer to Sections 7.3, 7.4 and 7.5 However, specific recommendations for matters such as future space to host arts and cultural events are beyond the level of detail of a Shire-wide LES. - Byron Shire Tourism Management Plan will not be completed in time for inclusion in the LES, however it is recommended that the Shire-wide LEP be reviewed where required following its adoption by Council.
Marine Parks Authority NSW	
- Need to refer to "<i>Background Resource Working Paper for Cape Byron Marine Park</i>" and "<i>Cape Byron Marine Park Zoning Plan</i>" when preparing the LES and LE.P. - Need to provide protection for biological diversity, habitat, ecological processes, natural and cultural features.	LES acknowledges the Marine park. Refer to Section 4.5.2 Draft LEP should include planning controls over sensitive coastal lands and buffers (where possible). 100m buffer area to the marine park waters may be provided to limit development within this area. However this should be limited to undeveloped areas. Any existing developed areas should not be included in the buffer. Refer to Section 4.1.11.
NSW Department of Housing	
- Wants to ensure that the planning controls, which may apply to social housing sites that are well located in terms of access to transport and services, are sufficient to enable redevelopment of ageing and/or inappropriate stock. - Provisions in the LEP need to assist with housing affordability and encourage a range of housing types in the public and private sectors to meet the housing needs of the community.	Affordable housing issues are addressed in section 5 of the LES, particularly 5.1, 5.2, 5.4 & 5.9. Specific recommendations for the LEP lie in Section 7. Limited ability to include affordable housing provisions due to Council not being included in SEPP No 70.

Issues raised	Planning comment/recommendation
North Coast Area Health Service	
Political, economic, social, environmental, behavioural and biological factors all contribute to the creation of health and the LEP needs to recognise these and how it contributes to Public Health.	These factors and principles are acknowledged, addressed and incorporated throughout the LES. Further, the need for a new hospital site has been recommended for approval within the LES.
Heritage Council of New South Wales (part of the NSW Department of Planning)	
- Standard model heritage provisions are prescribed as per the <i>Standard Instrument (LEPs) Order 2006</i> - Heritage Impact Assessment to be allowed for and to include natural areas and places of Aboriginal, historic or archaeological significance. - If not already done, a field survey of non Aboriginal heritage items should be undertaken. - A survey of sites and places of significance to Aboriginal people should be undertaken in consultation with the Aboriginal community. - A survey of significant existing or potential cultural landscapes, conservation areas, views and vistas covering all major historical land uses and themes should take place. Possible land use conflicts should be clearly identified and mitigation strategies formulated. - Any areas or sites proposed for rezoning should be assessed for potential heritage assets and the rezoning shall allow for the continued use and conservation of the heritage item.	LES acknowledges existing heritage information as well as the draft Community-Based Heritage Study (CBHS). The recommendations of the CBHS are endorsed by the LES, particularly section 5.8. Known items of environmental heritage are not subject to any change in the planning controls of this LES. Further, any additional heritage items/structures adopted by Council and the State will be identified in a schedule to the LEP.
Roads and Traffic Authority	
- Principles for managing development along the Pacific Highway detailed in a Memorandum of Understanding and Section 117 Direction should be incorporated in any LES or LEP. - Other roads with similar levels of traffic need similar levels of protection. - With regard to the Classified Road system Clause 28 of the new Standard Instrument 2006 should be applicable. - B6 Enterprise Corridor Zones which may encourage ribbon development are of concern to the RTA. - Land should not be rezoned unless safe and efficient access can be gained and the road infrastructure improvements are identified. - Industrial, retail and commercial development should be consolidated to reduce travel demand and efficiently use infrastructure.	These issues and principles are acknowledged and incorporated in the LES, particularly Sections 5.6. S117 Directions are included in LES assessment (refer to Appendix D) B6 Enterprise Corridor Zone is not going to be included in the draft LEP. This principle has been incorporated in Section 7.6 - Area Specific Recommendations. This principle has been incorporated in Section 5.6 of LES.

Issues raised	Planning comment/recommendation
Department of Natural Resources (DNR) — Now Department of Water and Energy and/or Department of Environment and Climate Change (DECC)	
▪ DNR will be involved in the Department of Planning's process to address the key environmental issues for the new LEPs and intends to give detailed advice with regard to: ▪ riparian land and waterway management ▪ surface and groundwater access, management and protection ▪ coastline and estuarine management ▪ floodplain management ▪ vegetation management especially with respect to rural and rural residential development ▪ acid sulfate soils management.	The principles and issues raised by the department are significant to the Shire and acknowledged in the LES. The majority of Section 4.0 of the LES has addressed these issues, with suggested specific recommendations for the LEP provided throughout Section 7.0.
NSW Rural Fire Service	
▪ No concerns or special considerations for the LES or LEP. ▪ Planning for <i>Bush Fire Protection 2006</i> is the current document for reference.	The LES has considered the provisions of Section 117 Direction 4.4 Planning for Bushfire protection and made specific recommendations in Section 7.3 and 7.5
Department of Lands	
▪ Concerned that the LEP will reflect its interests in the management of Crown Land. ▪ Rationalisation of zonings applicable to the five caravan parks on Crown Land. Special interest in: ▪ land status ▪ proposed zonings of Crown land and sites ▪ heritage, environmental protection and waterways zonings ▪ tourism and public recreation zonings ▪ coastal and estuary infrastructure ▪ tourist/recreation corridors and walking tracks ▪ possible zonings for "Standard Local Environmental Plan"	Council's liaison with the department was ongoing at the time of completion of the draft LES. While the principles and issues expressed by the department are acknowledged, specific zone recommendations for the crown caravan parks have purposefully not been addressed at this stage. Nonetheless, heritage, environmental protection, waterways zoning, tourism, the coastal zone and recreation have all been discussed and addressed in Sections 4.0 and 5.0, with specific recommendations provided in Section 7.0 Ongoing consultation with Department of Lands is recommended.

Responses from community representatives

The following points are collated from notes taken by Council Officers at various Community Meetings and any subsequent submissions. A summary of the major issues is detailed in the Section 3.2 of the LES.

Community group	Issues raised
South Golden Beach Progress Association Inc.	▪ flooding issues at Kallaroo Bund ▪ impact of zoning changes on fauna movements – increases in residential numbers and the consequences ▪ ensure drainage systems are functional and do not negatively impact on land in vicinity ▪ measures to reduce impact of run-off, water tanks etc., ▪ support 2 storey height limit for area ▪ increase in recreational space ▪ increase in sporting facilities ▪ completion of integrated network of cycleways ▪ non existence of Public Transport ▪ maintenance of character of area by maintaining existing size and scale in new developments.
Skidders Shoot	▪ need for community input to be thoroughly considered ▪ concern about predetermined zonings ▪ road upgrading urgently required if additional land uses being considered. Concern about costs and who will pay for it ▪ perceived inaccuracies with vegetation mapping ▪ rehabilitation of vegetation and bushfire hazard reduction conflicts ▪ form of information presented in public exhibition ▪ use of Section 94 Contributions ▪ environmental implications of upgrades/repairs to Skidders Shoot Road ▪ suggestion supported by residents that any changes to land uses be conditional on road upgrades
Sustainable Agriculture Round Table (SART)	▪ Boarding House controls ▪ Regional Vegetation Plans ▪ conservation of vegetation ▪ lack of encouragement for farming.
Federal	▪ increase in minimum lot size from 1000 sq m to 2000 sq m ▪ review of Byron Rural Settlement Strategy (BRSS), particularly Community Title. This really should happen before other things like LEP ▪ feeling that a new DCP was overdue ▪ important that residents have opportunity to be heard, timeframe may not allow for that.

Community group	Issues raised
Federal Community Centre/Landcare	- concern about the area's capacity for dealing with on-site wastewater resulting from smaller lot size developments - traffic management - Western Reserve should be retained in new DCP.
Byron United	- tourist accommodation and holiday letting - wildlife corridors - bypass of Byron CBD still important.
New Brighton Progress Association	- planned retreat - provisions for coastal areas - holiday lettings - existing use rights - flooding and water quality issues - zone 7(f2) – what is permissible? - car parking for beach access - Ocean Shores development strategy.
New Brighton Village Association	- connection of New Brighton and Ocean Shores by footpaths and foot-bridge - reclamation of hind dunes - reclamation of the Esplanade to North Head Road from private landholders - development of community infrastructure - need to set standards for future development.
Main Arm Residents Association	- zoning and rezoning in relation to Farmland Protection, Vegetation and Rural Landscape - Byron Rural Settlement Strategy - protection and preservation of hinterland, vegetation, farmland and waterways - conservation area and possible world heritage listing - independent nature of consultants – sensitivity to local issues - lot sizes, dwelling entitlements, dual occupancy, community title - concentrating big development around main towns in line with BRSS - regeneration and required environmental works - no need for “urban development” such as additional shops or services.
Brunswick Valley Nashua Landcare	- concern over biodiversity, environmental protection zones and tree preservation - new residential development concerns - rural development concerns - protection of aesthetic values and scenic areas - need for traffic impact studies - farmland preservation

Community group	Issues raised
	- what is meant by “heritage” in this process - consideration should be given to how cattle can be kept out of creeks or protect roadside vegetation - lack of familiarity with issues within Shire by use of external consultants.
Brunswick Heads – represented by numerous groups	- vegetation mapping issues - dual occupancy and garden flats controls - parking - specific DCP for Brunswick Heads - building height controls - population growth - existing use rights – Tweed Street service station and other sites.
Brunswick Heads Progress Association	- multiple concerns over zoning arrangements, residential, business, medium density as well as existing use provisions - support the existing settlement strategy for the area ‘guard’ the 2 storey height limit and village atmosphere - maintain and increase parking - support garden flats - address pedestrian, bicycle and disabled access throughout the village.
Bangalow Community Alliance	- extent of consultation - low cost housing - coastal areas and flooding issues - increasing incidence of cyclones and implications for construction standards - water resources in light of population increases - rezoning timetables - tailoring Standard LEP for Byron.
Bangalow Residents	- mobile home parks and associated social and economic issues - protection of rural and village culture - flooding concerns
Wategos	- bushfire mapping accuracy - Native Title Claim - Crown Land requires protection - popularity with tourists means area under increasing pressure - urgent need for Plan of Management to inform other planning processes.

Community group	Issues raised
South Golden Beach Progress Association and Conservation of North Ocean Shores (CONOS)	▪ settlement strategy required ▪ flooding and drainage issues, particularly with regard to approvals of development not taking flooding and drainage into account ▪ Kallaroo Circuit Bund issues ▪ Aboriginal heritage issues ▪ Cleland enquiry and results about wildlife corridors and prime agricultural land.
BEACON	▪ range of issues associated with consultation process and opportunities for input and review by interested parties ▪ definitions, options, need for community survey about holiday letting ▪ consistent application of buffer zones ▪ relationship between LEP and Far North Coast Regional Strategy ▪ consideration of flooding, climate change and other events like cyclones ▪ infrastructure issues associated with growth such as roads
Planners and Real Estate Agents	▪ influence of Byron Rural Settlement Strategy on LES and LEP ▪ expected Community Title developments have not resulted from BRSS ▪ rural tourism ▪ how to ensure new LES is not a 'dog's breakfast' of cut and pasted previous documents ▪ fate of unadopted strategies such as Retail Strategy ▪ Bangalow flooding issues ▪ Section 94 contributions prohibitive ▪ detached/attached dual occupancy and subdivision issues ▪ 'one size fits all' approach to LEPs not optimal ▪ possibility of peer review of consultant's work by local planners ▪ Affordable Housing workshop.
Conservation of North Ocean Shores	▪ Allow for 'reduction' as well as 'increase' in Kallaroo Circuit Bund's hydraulic capacity ▪ North Ocean Shores/Yelgun wildlife corridor ▪ Aboriginal and archaeological assessments of North Ocean Shores area.

Community and stakeholder groups invited for consultation

1. Bangalow Chamber of Commerce
2. Bangalow Progress Association
3. BEACON
4. Belongil Progress Association
5. Billinudgel Progress Association
6. Brunswick Heads Chamber of Commerce
7. Brunswick Heads Progress Association
8. Byron United Inc
9. Bryon Bay Community Association
10. Byron Bay Progress Association
11. Byron Bay Town Centre Committee
12. Byron Environment Centre
13. Community Action Network
14. Conservation of North Ocean Shores (CONOS)
15. Ewingsdale Progress Association
16. Federal Community Centre Progress Association
17. Jarjum Gangalehla Aboriginal Corporation
18. Middle Pocket and Yelgun Progress Association
19. Mullumbimby Chamber of Commerce
20. Mullumbimby Creek Progress Association
21. Mullumbimby Progress Association
22. Mullumbimby Rate Payer's Association
23. Nashua Landcare Group
24. New Brighton Village Association Inc (NBVA)
25. Ocean Shores Urban Association
26. The Pocket Valley Community Centre
27. Possum Creek/Coorabell Community Association
28. South Golden Beach Progress Association
29. Suffolk Park Progress Association
30. Sunrise Residents Association
31. Tyagarah Sustainable Community Alliance
32. Upper Main Arm Community Association
33. Watego's Beach Protection Association Inc
34. Wilsons Creek/Huonbrook Progress Association
35. Holiday Letting Organisation
36. Byron Shire Ratepayers Association
37. Cape Byron Headland Reserve Trust
38. Myocum Residents Association
39. Myocum Residents Group
40. Bangalow Rivercare Group
41. Arakwal Aboriginal Corporation
42. Brunswick Valley Landcare
43. Richmond Valley Landcare
44. Dunecare Coordinating Committee
45. Tweed/Bryon Aboriginal Land Council
46. Main Arm Residents Association
47. Federal Community Centre/Landcare
48. Skinners Shoot & Environs Residents Group
49. Sustainable Agriculture Round Table
50. New Brighton Progress Association
51. Bangalow Community Alliance representatives
52. Planners & Real Estate Agents (various)

Appendix B

State Environmental Planning Policies (SEPPs)

State Environmental Planning Policies

Further to the discussion on SEPPs in Section 2.2.1 and more specific mention of individual SEPPs throughout the LES, the following is provided as a summary and/or commentary of the relevance of each SEPP to the LEP process.

Name and subject of clause, instrument or direction	Planning comment
SEPP 1 (Development Standards) - this Policy permits a proponent to vary a development standard if that standard is considered unnecessary or unreasonable.	This SEPP is over-ridden under the Standard LEP, with reference to clause 9 of the Standard LEP. (Refer also to clause 24). LES is consistent with this Policy.
SEPP No. 3 Castlereagh Liquid Waste Disposal Depot - allows the continuation and expansion of the Castlereagh Liquid Waste Disposal Depot in the City of Penrith pending the construction, on a new site, of a liquid waste treatment plant for industry.	Not applicable
SEPP 4 (Development Without Consent) – This Policy aims to permit minor development and utilities construction without the need for development consent.	This SEPP is over-ridden under the Standard LEP, with reference to clause 9 of the Standard LEP. Draft LEP will need to consider that certain development will be permissible without consent. Much of this will be included in Council's Exempt and Complying provisions. LES is consistent with this Policy.
SEPP 6 (Definition of a Storey) – this Policy aims to allow definitions relating to the height of buildings to be interpreted consistently.	Applies to Shire. Draft LEP (under the standard template) already contains definitions in relation to height of buildings. LES is not inconsistent with this Policy.
SEPP No. 7 Port Kembla Coal Loader - Regulates the receipt at the Port Kembla coal loader of coal and coke hauled by road.	Not applicable
SEPP 8 (Surplus Public Lands) – this Policy aims to allow Government agencies to undertake a wide range of development on land no longer required for public purposes as long as the consent of the Minister is obtained.	Applies to the Shire. This overrides local planning controls and has not been widely used across the State. LES is not inconsistent with this Policy.
SEPP 9 (Group Homes) – this Policy aims to facilitate the establishment of permanent group homes for disabled persons in residential areas.	This SEPP is over-ridden under the Standard LEP, with reference to clause 9 of the Standard LEP. (Refer also to clause 37). Applies to the Shire. This overrides local planning controls which means that group homes are permissible in any area where dwellings are permissible. LES is not inconsistent with this Policy.
SEPP No. 10 Retention of Low-Cost Rental Accommodation - the policy covers 53 local government areas in the Greater Metropolitan Region and requires the local council's consent, and the Director General of the Department of Planning's concurrence, to demolish, alter or change the use of a boarding house.	Not applicable

Name and subject of clause, instrument or direction	Planning comment
SEPP 11 (Traffic Generating Development) – this Policy aims to require certain types of development to be referred to the RTA for comment prior to determination.	Applies to the Shire. This overrides local controls and requires Council to refer certain matters to RTA. No plan preparation guidelines. The LES is not inconsistent with this Policy. Refer to Section 5.6
SEPP 14 (Coastal Wetlands) - the aim of this policy is to ensure that coastal wetlands are preserved and protected in the environmental and economic interests of the State. It requires development consent for a range of uses as well as the concurrence of the Department of Infrastructure Planning and natural Resources.	Applies to the Shire. All SEPP 14 areas, unless detailed site specific assessment proves otherwise, are to be protected in the draft LEP. Most other wetland areas are identified for protection in council's vegetation mapping. Section 4.5 of the LES supports the above, with relevant recommendations for provided in Section 7.0. Draft LEP should be consistent. LES is consistent with this Policy.
SEPP No. 15 Rural Land-Sharing Communities - makes multiple occupancy permissible, with council consent, in rural and non-urban zones, subject to a list of criteria in clause 9(1) of the policy.	Not applicable
SEPP No. 16 - Tertiary Institutions - the policy provides that where development for the purposes of a particular class of tertiary institution is allowed (either with or without development consent) development for the purposes of any other class of tertiary institution is allowed (with the development consent of the consent authority).	The LES is consistent with this Policy. Refer to Section 5.1.8
SEPP No. 19 Bushland in Urban Areas - the policy is designed to protect bushland in public open space zones and reservations, and to ensure that bush preservation is given a high priority when local environmental plans for urban development are prepared.	Not applicable
SEPP 21 (Caravan Parks) – this Policy requires Council consent for caravan parks and subdivision of caravan parks.	Applies to the Shire. Requires Council consent for the use of land for a caravan park for either short or long term occupation and requires consent for subdivision of a caravan park. LES is consistent with this Policy.
SEPP 22 (Shops and Commercial Premises) – this Policy allows the change of use of one shop or commercial premise to another even if the use is prohibited.	Applies to the Shire. This overrides local planning controls to allow the change of use of shops etc to other shops even if the type of shop would otherwise be prohibited. The draft LEP should take this into consideration. LES is not inconsistent with this Policy. Refer to Section 5.5

Name and subject of clause, instrument or direction	Planning comment
SEPP 26 (Littoral Rainforests) - this policy provides a mechanism for the consideration of applications for development that is likely to damage or destroy littoral rainforest areas with a view to the preservation of those areas in their natural state. It controls development (both within a littoral rainforest area and in a 100 metre buffer surrounding the mapped area) and requires the concurrence of the Department of Infrastructure planning and Natural Resources.	Applies to parts of the Shire. All SEPP 26 areas are to be protected in the draft LEP. Any areas of littoral rainforest not in SEPP 26 are still part of an endangered ecological community and will be protected in the draft LEP. Draft LEP should be consistent. LES is consistent with this Policy. Refer to Section 4.1.10.
SEPP 27 (Prison Sites) – this Policy allows the minister to include any land in a schedule to the Policy and make prisons permissible with consent on that land. The Minister also becomes the consent authority.	Applies to the Shire in principle but no land in Byron Shire is in the schedule and therefore it has no effect. The LES is not inconsistent with this Policy.
SEPP No. 29 - Western Sydney Recreation Area - Enables development to be carried out for recreational, sporting and cultural purposes within the Western Sydney Recreation Area, including the development of a recreation area of State significance.	Not applicable
SEPP 30 (Intensive Agriculture) - this Policy requires development consent for large cattle feed lots or piggeries as defined.	Applies to the Shire. Agriculture is addressed in the Shire in the LES. Intensive animal husbandry is currently a consent use in rural areas and prohibited in urban areas. These controls, where possible, are likely to be brought forward into the draft LEP and this is consistent with the Policy. The LES is not inconsistent with this Policy. Refer to Section 5.9.
SEPP No. 31 Sydney (Kingsford Smith) Airport - Provides that where the State's planning laws apply; airport and ancillary development will comply with Part 5 of the <i>Environmental Planning and Assessment Act 1979</i> .	Not applicable
SEPP 32 (Urban Consolidation) – This Policy requires Councils to investigate the opportunities for multi unit housing on all urban land when preparing a new planning instrument.	Applies to the urban parts of the Shire. The LES addresses the issue and it has also been addressed in the Settlement Strategy for Byron Bay and Suffolk Park. The draft LEP will attempt to promote multi unit housing in appropriate locations and with regard to environmental and infrastructure constraints. The LES is not inconsistent with this Policy. Refer to Section 5.2.
SEPP 33 (Hazardous and Offensive Development) this Policy requires Councils to use certain definitions and consider certain matters when dealing with a DA for hazardous or offensive development.	Applies to Shire. The policy requires additional definitions to be included in the LEP, this is not possible in the Standard Template. It is assumed that the template is consistent with the SEPPs, therefore the LES is not inconsistent with this Policy. Refer to Section 7.2.

Name and subject of clause, instrument or direction	Planning comment
SEPP 35 (Maintenance Dredging of Tidal Waterways) – this Policy enables public authorities to undertake maintenance dredging of tidal waterways without consent.	There are navigable waterways in the Shire, such as the Brunswick River, to which this SEPP could be applied if needed. The LES is not inconsistent with this Policy. Refer to Section 4.4, 4.5 & 4.6.
SEPP 36 (Manufactured Home Estates) – this policy permits mobile home estates on any land on which caravan parks are permitted subject to Council consent and with some listed exceptions)..	Applies to the Shire. Draft LEP will consider this as part of Council's approach to affordable housing. LES is not inconsistent with this Policy.
SEPP No. 39 Spit Island Bird Habitat - Enables a bird habitat at Spit Island at Towra Point, Kurnell to be created and protected without the need for development consent. Such work is still subject to Part 5 of the <i>Environmental Planning and Assessment Act 1979</i> .	Not applicable
SEPP No. 41 Casino/Entertainment Complex - Permits development for the purpose of a casino/entertainment complex or complimentary development on the land to which the policy applies.	Not applicable
SEPP No. 43 New Southern Railway - Enables the construction and operation of the New Southern Railway, a public transport facility linking Sydney's Central Business District and Airport.	Not applicable
SEPP No 44 (Koala Habitat Protection) - This policy aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline. It requires a plan of management to be prepared before development consent can be granted for development in an area containing 'core' koala habitat (i.e. certain types of trees).	Section 4.1 of the LES has considered this policy and provide recommendations for the draft LEP LES is consistent with this Policy. Refer to Section 4.1.10
SEPP No. 47 Moore Park Showground - Enables the redevelopment of the Moore Park Showground for film and television studios and film-related entertainment facilities in a manner that is consistent with the Showground's status as an area important to the State and for regional planning.	Not applicable
SEPP 48 (Major Putrescible Land Fill Sites) This Policy makes the Minister for Planning the consent authority for major land fill proposals.	While no major landfill proposals are proposed for the Shire, the SEPP also applies to major extensions/additions to existing landfills. The LES is not inconsistent with this Policy.
SEPP 50 (Canal Estates) – this Policy prohibits canal estates as defined.	Canal estates are not proposed in the Shire (or anywhere else). The LES is consistent with this Policy.
SEPP No. 51 Eastern Distributor - Clarifies the ambiguity over the permissibility of the Eastern Distributor. It provides that development for the purposes of the Eastern Distributor may be carried out without needing development consent.	Not applicable

Name and subject of clause, instrument or direction	Planning comment
SEPP No. 52 Farm Dams and Other Works in Land and Water Management Plan Areas - Applies to the areas of Coleambally, Jemalong, Wyldes Plains, Burronga, Tabbita and Wah Wah; Berriquin, Cadell, Denemein and Wakool, which are part of the area administered by Murray Irrigation Ltd; and land in East Cadell in the Murray local government area.	Not applicable
SEPP No. 53 Metropolitan Residential Development - Repeals SEPP No. 12, SEPP No. 20, SEPP No. 25 and Sydney Regional Environmental Plan No. 12. Applies to councils in the Greater Metropolitan Region that have not prepared a suitable residential development strategy that addresses local housing needs while contributing to the metropolitan objective of more compact cities.	Not applicable
SEPP No. 54 Northside Storage Tunnel - Enables the construction, operation and maintenance of the Northside Storage Tunnel. This tunnel runs from Lane Cove to North Head and intercepts, stores and transports the four largest wet-weather sewerage overflows into Sydney Harbour.	Not applicable
SEPP No 55 (Remediation of Land) – this Policy concerns the remediation of contaminated land. Council must consider certain things relating to contaminated land in preparing any draft plan permitting a change of use of the land.	Contaminated land is discussed in section 4.2.5 of the LES. The draft LEP should only include lands for rezoning to a higher level land use that have been considered under SEPP 55. Refer to section 7.6 and Appendix J that considers the land proposed for rezoning under this LES.
SEPP No. 59 Central Western Sydney Economic and Employment Area - Rezones land in the central-west of Sydney for employment and residential purposes and regional open space.	Not applicable
SEPP No. 60 Exempt and Complying Development - provides a more efficient and effective approval process for certain classes of development. The policy is an essential part of the reforms introduced to the development assessment system in July 1998. It applies to areas of the State where there are no such provisions in the council's local plans.	This SEPP is over-ridden under the Standard LEP. See clause 9 of the Standard LEP. (Refer also to clauses 16, 17 & 18 and Schedules 2 & 3).
SEPP No. 61 Exempt and Complying Development for White Bay and Glebe Island Ports - introduces categories of exempt and complying development for minor types of port development.	Not applicable
SEPP 62 (Sustainable Aquaculture) – this Policy aims to permit certain types of aquaculture in certain locations with consent and if appropriate with an EIS.	Applies to the Shire. This overrides local planning controls with the result that aquaculture is permissible with consent in a wide range of areas. There has not been a strong history of aquaculture in the Shire. Refer to Section 4.1.9 LES is not inconsistent with this Policy.

Name and subject of clause, instrument or direction	Planning comment
SEPP No. 63 Major Transport Projects - establishes a uniform assessment and approval process for four major transport projects in the Sydney Region: Parramatta Rail Link, Liverpool-Parramatta Transitway, the Cross City Tunnel and Bondi Beach Rail Link.	Not applicable
SEPP 64 (Advertising and Signage) – aims to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish. The SEPP was amended in August 2007 to permit and regulate outdoor advertising in transport corridors (e.g. freeways, tollways and rail corridors). The amended SEPP also aims to ensure that public benefits may be derived from advertising along and adjacent to transport corridors.	Council should consider the requirements of SEPP 64 when drafting LEP provisions if required to ensure consistency with this policy. LES is not inconsistent with this Policy.
SEPP 65 (Design Quality of Residential Flat Development) – this Policy allows for the Minister to set up a design panel to comment on certain DA's for residential flat buildings from a design perspective and requires planning instruments to have regard to urban design issues.	Council will need to include design controls either in the draft LEP or a DCP and have regard to the Residential Flat Design Code, 2002 for flats over 3 storeys in height (see SEPP for definition). LES is not inconsistent with this Policy.
SEPP No. 67 Macquarie Generation Industrial Development Strategy - Facilitates the development of high-energy-user industries on the land surrounding the Bayswater and Liddell power stations.	Not applicable
SEPP No. 69 Major Electricity Supply Projects - aims to clarify the planning, decision-making and assessment process of the TransGrid Picnic Point to Haymarket 330kV electricity supply proposal and Energy Australia's Haymarket to Surry Hills 132kV electricity supply proposal.	Not applicable
SEPP 70 Affordable Housing (Revised Schemes) - extends the life of affordable housing provisions relating to: Sydney Regional Environmental Plan No. 26 — City West, Willoughby Local Environmental Plan 1995, South Sydney Local Environmental Plan 1998.	Not applicable to the Shire, however refer to Section 5.2.3 Planning Mechanisms Discussion; Section 7.5.6 Social and Economic
SEPP 71 (Coastal Protection) - This SEPP operates within the coastal zone which covers almost the entire Shire. The aim of the Policy is to ensure consistency in coastal planning. It requires Council to take into account an extensive list of matters under Clause 8 when preparing a draft LEP.	The LES is consistent with this Policy. (Refer also to Appendix I) Refer to Section 2.2 and 4.5.
SEPP No. 72 Linear Telecommunications Development – Broadband - provides a clear and transparent framework for the assessment and determination of major telecommunications projects in NSW. The policy applies in the local government areas of the Cities of Lake Macquarie and Newcastle.	Not applicable

Name and subject of clause, instrument or direction	Planning comment
SEPP No 73 Kosciuszko Ski Resorts - the aim of this policy is to provide a framework for the planning and development of ski resorts in the Kosciuszko National Park.	Not applicable
SEPP No. 74 Newcastle Port and Employment Lands - The aims of this policy are: (a) to promote and coordinate the orderly and economic development of certain land in the local government areas of Port Stephens and Newcastle; (b) to promote the economic development of the Port of Newcastle while promoting the conservation of natural and cultural heritage in the lower Hunter; (c) to facilitate the carrying out of certain types of industrial and infrastructure development of State significance with a strong commitment to sustainable environmental performance; and, (d) to enable public involvement and participation in the assessment of applications for consent to carry out this development.	Not applicable
SEPP (Infrastructure) 2007 – this SEPP consolidates and updates planning provisions relating to infrastructure. The SEPP applies state-wide.	Section 5.7 of the LES has made appropriate recommendations for the draft LEP. Refer to Section 5.7 Infrastructure & Servicing The LES is consistent with this draft SEPP.
SEPP (Housing for Seniors or People with a Disability) 2004 - encourage the development of high quality accommodation for our ageing population and for people who have disabilities - housing that is in keeping with the local neighbourhood. Note the name of this policy was changed from SEPP (Seniors Living) 2004 to SEPP (Housing for Seniors or People with a Disability) 2004 effective 12.10.07	Applies to the Shire. Refer Section 2.2 and 5.2 It overrides local planning controls, which means that a range of housing options can be undertaken for these groups subject to meeting certain criteria. It applies to zones that provide for either dwelling-houses or residential flats/ medium density or to any zones that may adjoin these areas. LES is consistent with this Policy (and consistent with Council's affordable housing strategy).
SEPP (Building Sustainability Index: Basix) 2004	Applies to the Shire. A BASIX certificate is required for all development that involves the erection of (or change of use of a building to) 'any building that contains one or more dwellings, not including a hotel or motel'. The LES is not inconsistent with this SEPP.
SEPP (ARTC Rail Infrastructure) 2004	Applies to the Shire. It overrides local planning controls to facilitate development for the purposes of rail infrastructure facilities that are subject to arrangements between the Australian Rail Track Corporation Ltd and State rail authorities. This Policy provides that development for the purposes of certain rail infrastructure facilities may be carried out without development consent. Consequently, that development will be assessed under Part 5 of the Act. The LES is not inconsistent with this SEPP. Refer to Section 5.7

Name and subject of clause, instrument or direction	Planning comment
SEPP (Sydney Metropolitan Water Supply) 2004 - facilitates development for water supply infrastructure to enable deep water extraction from dams supplying water to the Sydney metropolitan area, allows investigation for groundwater availability, and allows development by the Sydney Catchment Authority under Part 5 of the <i>Environmental Planning and Assessment Act 1979</i> .	Not applicable
SEPP (Development on Kurnell Peninsula) 2005 - The SEPP amends Sydney Regional Environmental Plan No.17 - Kurnell Peninsula (SREP17) to clarify the permissibility of certain land uses within the area affected by the ANEF25 contour within Kurnell Village.	Not applicable
SEPP (Major Projects) 2005 - formerly known as State Environmental Planning Policy (State Significant Development) 2005. Defines certain developments that are major projects under Part 3A of the Environmental Planning and Assessment Act 1979 and determined by the Minister for Planning. The SEPP also lists State significant sites. The policy repeals SEPP 34 and SEPP 38, as well as provisions in numerous other planning instruments, declarations and directions.	Applies to the Shire. The main aim of this Policy is as follows: to identify development to which the development assessment and approval process under Part 3A of the Act applies The LES is consistent with this SEPP.
SEPP (Sydney Region Growth Centres) 2006 - provides for the coordinated release of land for residential, employment and other urban development in the North West and South West growth centres of the Sydney Region (in conjunction with Environmental Planning and Assessment Regulation relating to precinct planning).	n/a
SEPP (Mining, Petroleum Production & Extractive Industries) 2007 - this Policy aims to provide for the proper management and development of mineral, petroleum and extractive material resources for the social and economic welfare of the State. The Policy establishes appropriate planning controls to encourage ecologically sustainable development.	The LES is consistent with this SEPP.
SEPP (Temporary Structures and Places of Public Entertainment) 2007 - provides for the erection of temporary structures and the use of places of public entertainment while protecting public safety and local amenity. The SEPP supports the transfer of the regulation of places of public entertainment and temporary structures (such as tents, marquees and booths) from the Local Government Act 1993 to the <i>Environmental Planning and Assessment Act 1979</i> . The fact sheet - Changes to the regulation of temporary structures and places of public entertainment (DOP October 2007) provides further information.	Any proposed LEP provision, if required, should be consistent with the SEPP. The LES is consistent with this SEPP.

Draft State Environmental Planning Policies

Note: Should any of these SEPPs be gazetted prior to the LEP being exhibited then additional documentation will have to be prepared to assess their consistency with the LEP.

Name and Subject of Clause, Instrument or Direction	Planning comment
Draft amendment to State Environmental Planning Policy (Major Projects) 2005	The LES is consistent with this draft SEPP.
Draft SEPP (Kosciuszko National Park—Alpine Resorts) 2007 - the draft SEPP is proposed to introduce detailed planning controls and standards necessary to rigorously assess development on land within the alpine resorts given the significance of the unique alpine environment of Kosciuszko National Park.	Not applicable
Draft SEPP (Application of Development Standards) 2004 - Currently SEPP 1 provides local councils with flexibility in applying development standards. This new draft policy provides clearer and tighter criteria that development applicants must meet if they wish to vary from a development standard. The aim is to have the flexibility to achieve better planning outcomes.	The LES is consistent with this draft SEPP.
(Draft) SEPP No. 66—Integration of Land Use and Transport - released as part of the Government's Integrated Land Use and Transport (ILUT) package in 2001.	Section 5.6.3 of the LES has made appropriate recommendations for the draft LEP. The LES is consistent with this draft SEPP.

Appendix C

Far North Coast Regional Strategy

Far North Coast Regional Strategy

REGIONAL STRATEGY ACTION	CONSISTENT: Y/N
4. ENVIRONMENT & NATURAL RESOURCES	
Local environmental plans <u>will protect</u> and zone land with State or regional environmental, agricultural, vegetation, habitat, waterway, wetland or coastline values	Yes Refer to Section 4 & 7
Local environmental plans <u>will not</u> zone land within the Environmental Assets and Rural Land area to permit urban purposes, other than rural residential development	Yes Refer to Section 5.9, 7.2, 7.3, 7.4
Existing and future rural residential development <u>will be</u> located in the Environmental Assets and Rural Land area but not where it conflicts or coincides with the attributes or values listed above in 1.a)	Yes Refer to Section 5.9, 7.2, 7.3, 7.4
Local environmental plans <u>will</u> identify and zone land of landscape value (including scenic and cultural landscapes) to protect those values	Yes Refer to Section 7.0
Local environmental plans <u>will</u> protect land identified as having extractive resources of regional significance (see Appendix 2 of Strategy)	Yes Refer to Section 2, 4 & 7
New development adjoining or adjacent to farmland, extractive resources, waterways, wetlands, and areas of high biodiversity value <u>will</u> incorporate buffers to avoid land use conflict	Yes Refer to Section 4.1.11
The Department of Primary Industries and the Department of Planning <u>will assist</u> local government with the development of appropriate subdivision standards for rural zones	Yes (assistance has been limited) at this stage. Refer to Section 2, 5 & 7
Local environmental plans <u>will</u> : include minimum subdivision standards for rural and environment protection zones > include provisions to limit dwellings in the rural and environmental zones > <u>not</u> include provisions to permit concessional allotments	Yes Refer to Section 2, 4, 5 & 7
Local environmental plans <u>will</u> include provisions to encourage habitat and corridor establishment in future zoning of Environmental Assets and Rural Land area	Yes Refer to Section 2, 4, 5 & 7
Local environmental plans <u>will</u> include provisions to limit the creation of additional water rights on land fronting watercourses	Yes Refer to Section 2, 4 & 7
Local environmental plans <u>will not</u> rezone land within town water supply catchments and significant groundwater areas if this has the potential to reduce the quality and quantity of these assets	Yes Refer to Section 4.4
Rezoning of land for future development within the catchments of coastal lakes (as defined in Schedule 1 of State Environmental Planning Policy No. 71—Coastal Protection) <u>will consider</u> the recommendation of any Coastal Lake Sustainability Assessment which has been prepared	Yes Refer to Section 2.2, 4.5
Subdivision and dwelling standard provisions in local environmental plans <u>will reflect</u> the objectives of the relevant zone and the Regional Strategy	Yes Refer to Section 5.2, 7.3, 7.4 & 7.5
A Regional Conservation Plan prepared by the Department of Environment and Conservation <u>will guide</u> local councils in implementing conservation outcomes	Yes Refer to Section 4

REGIONAL STRATEGY ACTION	CONSISTENT: Y/N
5. CULTURAL HERITAGE	
a) Councils are to ensure that Aboriginal cultural and community values are considered in the future planning and management of their local government area	Yes Refer to Section 5.8, 7.3 & 7.4
b) Councils and the Department of Planning will review the scope and quality of the existing statutory lists of heritage items and ensure that all places of significance are included in the heritage schedules of local environmental plans	Yes Refer to Section 5.8, 7.3 & 7.4
c) The cultural heritage values of major regional centres and major towns that are to be the focus of urban renewal projects will be reviewed, with the aim of protecting cultural heritage	Yes Refer to Section 5.8, 7.3 & 7.4
6. NATURAL HAZARDS	
a) In order to manage the risks associated with climate change, councils will undertake investigations of lands with the potential to be affected by sea level rise and inundation to ensure that risks to public and private assets are minimized	Yes Refer to Section 4.6, 7.3, 7.4 & 7.5
b) Local environmental plans will make provision for adequate setbacks in areas at risk from coastal erosion and/or ocean-based inundation in accordance with Coastal Zone Management Plans. Until these plans are made by the Minister for Natural Resources, councils cannot zone land or approve new development or redevelopment in potential hazard areas, unless assessed within a risk assessment framework adopted by the council	Yes Refer to Section 2, 4 & 7
c) Local environmental plans will zone waterways to reflect their environmental, recreational or cultural values	Yes Refer to Section 4 & 7
d) Local environmental plans will zone areas subject to high hazard to reflect the capabilities of the land	Yes Refer to Section 2, 4, 6 & 7
e) Councils should ensure that their local growth management strategies, local environmental plans and development control plans maximise achievement of the principles and implementation of the recommendations in these policies and plans, in particular: (i) NSW Coastal Policy and State Environmental Planning Policy No. 71—Coastal Protection NSW Government's Water Quality River Flow Objectives (1999) Northern Rivers Catchment Action Plan Local storm water management plans Floodplain risk management plans prepared in accordance with the Floodplain Development Manual (NSW Government 2005) Management of flood liable land under the Floodplain Development Manual and in accordance with section 733 of the <i>Local Government Act 1993</i> Coastal zone management plans Existing coastline and estuary management plans Soil landscape mapping (Department of Natural Resources) Planning for Bushfire Protection (NSW Rural Fire Service Planning NSW 2001) Planning Guidelines for Acid Sulfate Soils (NSW Government 1998)	Yes Refer to Section 2, 4 & 7

REGIONAL STRATEGY ACTION	CONSISTENT: Y/N
7. SETTLEMENT AND HOUSING	
a) Local environmental plans, local growth management strategies and other statutory planning controls will align with the Regional Strategy's settlement network (as shown on the Housing Map) to contain the spread of urban development, efficiently utilise existing services and infrastructure, and protect areas of high conservation value	Yes Refer to Section 2 & 7
b) Tweed Heads, Lismore and Ballina will be promoted and supported as major regional centres of population and service provision for the Region	N/A
c) Councils will review the building height limits within the central business areas, major employment areas and major tourism areas of Tweed, Ballina and Lismore local government areas	N/A
d) Local environmental plans will ensure that all new development reinforces existing urban and rural centres, towns and villages	Yes Refer to Section 2, 5 & 7
e) New development must be located in a manner that prevents ribbon or strip development along major roads and does not impact on the safety and efficiency of arterial roads	Yes Refer to Section 5 & 7
f) A land release staging program will be developed to ensure the orderly release of new housing	Yes Refer to Section 2, 5.2 & 7
g) Where development or a rezoning increases the need for State infrastructure, the Minister for Planning may require a contribution towards the provision of such infrastructure	Yes Refer to Section 2, 5.7 & 7
h) Councils will plan for a range of housing types of appropriate densities, location and suitability are capable of adapting and responding to the ageing of the population	Yes Refer to Section 5.2 & 7
i) Local government will consider a range of affordable housing strategies, including forms of low cost housing, suitable zonings and development controls to improve housing choice, and specific schemes. These strategies must be consistent with relevant State policies	Yes Refer to Section 2, 5 & 7
j) Existing land use rights will not be diminished by the Regional Strategy	Yes Refer to Section 2 & 7
k) Local environmental plans generally should locate major health and educational facilities in urban areas	Yes Refer to Section 5.7 & 7
l) New caravan parks and manufactured home estates, where there is any potential for permanent accommodation to occur, should be located generally in urban areas	Yes Refer to Section 5 & 7
m) Local environmental plans cannot use the Transition Zone in the Standard Instrument (Local Environmental Plans) Order 2006 to identify land for future urban investigation purposes.	Yes Refer to Section 2 & 7
n) Local environmental plans will maintain interurban breaks between existing and new settlements	Yes Refer to Section 2 & 7
o) No land in the Coastal Area will be released other than land identified within the Town and Village Growth Boundary or within an approved rural residential release strategy	Yes Refer to Section 2, 4, 5 & 7
p) Councils will prepare a Local Growth Management Strategy prior to zoning further land for urban, commercial and industrial uses in accordance with the Settlement Planning Guidelines	Yes Refer to Section 2, 4 & 7
q) Councils will demonstrate through the Local Growth Management Strategy how dwelling targets (Table 1) for each local government area will be met in local environmental plans	Yes Refer to Section 2, 4, 5 & 7

REGIONAL STRATEGY ACTION	CONSISTENT: Y/N
r) Planning for urban land <u>must be</u> integrated with the supply of relevant infrastructure and transport provision	Yes Refer to Section 2, 5 & 7
s) Any development proposed for greenfield sites in the non-coastal area that is located outside of the Town and Village Growth Boundary <u>will be subject</u> to satisfying the Sustainability Criteria (Appendix 1)	Yes Refer to Section 4, 5 & 7
t) Future rural residential land <u>will only</u> be released in accordance with a Local Growth Management Strategy agreed to by council and the Department of Planning, and consistent with the Settlement Planning Guidelines	Yes Refer to Section 2, 5 & 7
u) No new rural residential development <u>will</u> be permitted within the Coastal Area, other than development already zoned or within an approved rural residential release strategy	Yes Refer to Section 2, 4, 5 & 7
v) Planning for rural residential land <u>must be</u> integrated with the supply of relevant infrastructure and transport provision	Yes (where applicable) Refer to Section 5 & 7
8. SETTLEMENT CHARACTER & DESIGN	
a) Councils <u>should</u> prepare desired character statements for their localities that include provisions (through a development control plan) to ensure that new development enhances the desired character	Yes Refer to Section 2, 5.3, 5.9, 7.3.9, 7.4.11 & 7.5.7
b) New buildings <u>should</u> be designed to maximise adaptability to meet changing demographic needs and alternative future uses	Yes Refer to Section 5 & 7
c) New development <u>should</u> be designed to respond to the subtropical climate of the Region through best practice in water and energy efficient design, and use of landscaping and building materials	Yes Refer to Section 4, 5.2 & 7
d) New development <u>should</u> be designed to reflect and enhance the natural, cultural, visual and built character and values of the local and regional landscape	Yes Refer to Section 4, 5 & 7
e) New and changing urban areas <u>should</u> provide access to natural features such as coastal foreshore and riparian land in a manner that is consistent with the maintenance of their ecological values	Yes Refer to Section 4, 5 & 7
f) New and changing urban areas <u>should</u> incorporate open space that is accessible to the public, which provides opportunities for recreation, nature conservation, social interaction, and for visual enhancement and amenity	Yes Refer to Section 4, 5 & 7
g) Village centres <u>are to be</u> multi-functional, mixed use (including residential) areas catering for diverse community needs	Yes Refer to Section 5 & 7
h) Local environmental plans <u>will</u> set building heights in urban areas that reflect the landscape character, function and hierarchy of the future settlement and visual and cultural amenity of its location	Yes Refer to Section 7
i) Local environmental plans for areas subject to the NSW Coastal Policy (NSW Government 1997) <u>will</u> incorporate provisions to achieve the outcomes of the Coastal Policy in respect to overshadowing. Generally, development on urban land in Tweed Heads, Kingscliff, <i>Byron Bay</i> and Ballina will not result in the beach or adjoining open space being overshadowed before 3.00 p.m. midwinter (standard time) or 6.30p.m. midsummer (daylight saving time). For other beaches or waterfront open space in the Region, development will not result in overshadowing before 4.00 p.m. midwinter or 7.00 p.m. midsummer (daylight saving time)	Yes Refer to Section 2 & 7
j) Local environmental plans and development control plans (and subsequent land release development) <u>will</u> be consistent with the Settlement Planning Guidelines, and the Government's <i>Coastal Design Guidelines for NSW</i> (2003) as applicable	Yes Refer to Section 2

REGIONAL STRATEGY ACTION	CONSISTENT: Y/N
9. ECONOMIC DEVELOPMENT & EMPLOYMENT GROWTH	
a) Local environmental plans (and other relevant planning provisions) will facilitate employment growth in regional and major town centres, appropriate home-based employment, and local jobs in towns, villages and neighbourhood centres	Yes Refer to Section 2, 5.5 & 7
b) Local Environmental Plans will ensure that sufficient lands which are zoned employment and currently vacant are protected to accommodate the new jobs required for each local government area until 2031	Yes Refer to Section 2, 5.5 & 7
c) Use of existing vacant industrial land should be considered prior to the release of any major new industrial areas	Yes Refer to Section 5.5 & 7
d) The development potential of commercial centres is to be explored by councils and identified in local strategies, local environmental plans and development control plans. Councils will identify opportunities for bulky goods style retailing in appropriate locations in commercial centres and restrict this form of retailing in employment and industrial zones as set out in the Government policy 'Right Place for Business'	Yes Refer to Section 2, 5.5 & 7
e) Planning for commercial and industrial land uses must be integrated with the supply of relevant infrastructure and transport	Yes Refer to Section 5.7 & 7
f) Highway service centres may be located beside the Pacific Highway at Chinderah and Ballina	Yes Refer to Section 5.6
g) Councils will monitor the supply and take-up of employment land through the continued update of the Far North Coast Housing and Land Monitor	Yes Refer to Section 5.5 & 7
h) In planning for tourism needs, councils will have regard to the North Coast Regional Tourism Plan 2004–2007 (or latest version) and Northern Rivers Regional Tourism Plan 2003–2006 (or latest version)	Yes where possible. Refer to Section 5.4
i) Local environmental plans will locate large scale tourism development in prime tourism development areas unless other proposed locations are consistent with an approved Local Growth Management Strategy	Yes Refer to Section 5.4 & 7
j) Local environmental plans will ensure that appropriate land is available to provide for a range of tourism experiences and forms of tourist accommodation, including ecotourism and the support of 'bed and breakfast' enterprises within residential and rural areas	Yes Refer to Section 5.4 & 7
k) Local environmental plans will permit no more than small scale tourism development in rural or environment protection zones	Yes Refer to Section 5.4.2
l) Local environmental plans will prevent permanent residential accommodation in tourism development, except where it is: - ancillary to existing tourism development, or - part of an area otherwise identified for urban expansion in an approved Local Growth Management Strategy	Yes Refer to Section 5.4 & 7.0
m) The Regional Strategy requires that councils identify sufficient new commercial and industrial land to match the needs of the growing economy	Yes Refer to Section 2.2, 7.2 & 7.3

REGIONAL STRATEGY ACTION	CONSISTENT: Y/N
10. WATER & ENERGY RESOURCES	
a) Councils <u>are to complete</u> Integrated Water Cycle Management Plans	Yes Refer to Section 5.7
b) Local environmental plans <u>will</u> recognise and protect the regional water supply system through appropriate planning provisions	Yes Refer to Section 5.7
c) In preparing local environmental plans councils <u>will</u> liaise with water and energy providers and make provision for any regional gas, water and electricity infrastructure corridors that may be required	Yes Refer to Section 5.7
d) All future <u>development is to apply</u> water sensitive urban design principles, including the use of dual use reticulation systems in releases of adequate scale, and meet storm water management targets that support the environmental values of the catchments	Yes Refer to Section 4.4 & 7.3.4
e) Suitable locally generated and/or renewable energy projects such as wind, solar, bio-waste and wave power <u>will</u> be supported	Yes Refer to Section 5.7
11. REGIONAL TRANSPORT	
a) Local environmental plans <u>will</u> provide for passenger interchanges in all major regional centres, major towns and towns. These interchanges <u>will</u> be well connected to pedestrian and cycle ways	Yes Refer to Section 5.6, 5.7 & 7.0
d) Land use and transport planning <u>must</u> be integrated to minimise the need to travel, and to encourage energy and resource efficiency	Yes Refer to Section 5.6, 5.7 & 7.0
e) Local environmental plans <u>are</u> to recognise and protect the regional transport network through appropriate planning provisions	Yes Refer to Section 5.6, 5.7 & 7.0
f) The Casino to Murwillumbah rail corridor <u>will</u> be protected	Yes Refer to Section 5.6, 5.7 & 7.0
g) As the Gold Coast rail extension is planned, investigation <u>will be</u> undertaken to determine whether demand warrants extension of the route into NSW	Yes Refer to Section 5.7 & 7.0

Appendix D

S117 Directions

S117 Directions

<u>Instrument: S.117 Directions</u>		Planning comment
1.1	Business and Industrial Zones The objectives of this direction are to: (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.	The LES is consistent with this Direction. No reduction in business or industrial areas are recommended and the LES suggests the completion of an economic strategy by Council that considers where areas for employment may be increased. Refer to Sections 7.2, 7.3, 7.4 and 7.5
1.2	Rural Zones The objective of this direction is to protect the agricultural production value of rural land.	The LES is consistent with this Direction as it proposed the protection of agricultural land in the Shire-wide LEP by zoning those areas Primary Production. Refer to Section 7.3 and 7.4
1.3	Mining, Petroleum Production and Extractive Industries The objective of this direction is to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.	Not mentioned specifically in document. Refer to Section 7.2 Council has consulted with the DPI in the preparation of the LES and their views will be considered in the preparation of the draft LEP. It is intended that extractive resources in the Study area will be protected from encroachment and haulage routes will also be taken into consideration.
1.4	Oyster Aquaculture The objectives of this direction are: (a) to ensure that Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area are adequately considered when preparing a draft LEP, and (b) to protect Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area from land uses that may result in adverse impacts on water quality and consequently, on the health of oysters and oyster consumers.	The LES is consistent with this Direction. See Section 4.1.9 of the LES.
2.1	Environmental Protection Zones The objective of this direction is to protect and conserve environmentally sensitive areas.	The LES is consistent with this Direction. See Section 7.2 of the LES which provides detail about how environmental areas will be protected via proposed zonings and potential clauses.
2.2	Coastal Protection The objective of this direction is to implement the principles in the NSW Coastal Policy.	A large portion of the Shire's population is within the coastal zone. The Coastal Policy will be a significant influence on the draft LEP and this LES addresses the wide range of issues raised by the Coastal Policy. Council will consider this LES in the preparation of the new Shire-wide LEP. The LES, in section 4.5 and 4.6, addresses a range of coastal matters including major issues such as coastal erosion, environment protection and public access. Council has followed the Coastline Manual in the preparation of its coastline management Study and current status of the draft plan. The draft LEP will be consistent with these principles.

<u>Instrument: S.117 Directions</u>		Planning comment
2.3	Heritage Conservation The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	The LES is consistent with this Direction. See section 5.8 of the LES which proposes opportunities for the protection of heritage in the Shire-wide LEP and DCP.
2.4	Recreation Vehicle Areas The objective of this direction is to protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.	The LES is consistent with this Direction. See section 4.1 of the LES.
3.1	Residential Zones The objectives of this direction 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 LES is consistent with this Direction. See section 5.2, 5.4 and 7.0 of the LES, which suggest that the LEP include a wide variety of housing choice and opportunities for new development in any potential release areas.
3.2	Caravan Parks and Manufactured Home Estates (MHE) The objectives of this direction are: (a) to provide for a variety of housing types, and (b) to provide opportunities for caravan parks and manufactured home estates.	Council has an affordable housing strategy and recognizes the role that MHEs and caravan parks can play in supplying low cost accommodation to both permanent and tourists. This issue is addressed in the LES and will be addressed in the draft LEP. Refer to Sections 5.4.3, 7.2, 7.3 & 7.4
3.3	Home Occupations The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.	The LES is consistent with this provision as it does not recommend the prohibition of home occupations in dwelling houses in the Shire. This should be reflected in the LEP zoning tables. Refer to Section 7.3 and 7.4
3.4	Integrating Land Use and Transport The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives: (a) improving access to housing, jobs and services by walking, cycling and public transport, (b) increasing the choice of available transport and reducing dependence on cars, (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, (d) supporting the efficient and viable operation of public transport services, and (e) providing for the efficient movement of freight.	The LES is consistent with this Direction in that it encourages the LEP and DCP, where possible to incorporate these provisions and improve accessibility. Refer to Section 5.6

	Instrument: S.117 Directions	Planning comment
3.5	Development near Licensed Aerodromes The objectives of this direction are: (a) to ensure the effective and safe operation of aerodromes, (b) to ensure that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity, and (c) to ensure development for residential purposes or human occupation, if situated on land within the Australian Noise Exposure Forecast (ANEF) contours of between 20 and 25, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise	The LES is consistent with this Direction as no alteration to current provisions is proposed.
4.1	Acid Sulfate Soils (ASS) The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.	The LES is consistent with this Direction. See section 4.2 of the LES which recommends Council include provisions for ASS in the Shire-wide LEP. Refer to Section 4.2. 7.3, 7.4 and 7.5
4.2	Mine Subsidence and Unstable Land The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.	The LES is consistent with this Direction as any existing provisions will be maintained. Refer to Section 4.2
4.3	Flood Prone Land The objectives of this direction are: (a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i>, and (b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.	The LES is consistent with this Direction. See section 4.4 of the LES which recommends the restriction of development in flood prone areas in accordance with State policies.
4.4	Planning for Bushfire Protection The objectives of this direction are: (a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and (b) to encourage sound management of bush fire prone areas.	Council has consulted with the RFS in the preparation of this LES. Section 4.3 of the LES specifically addresses bushfire issues and includes current bushfire prone land mapping for the Shire. The draft LEP will be consistent with the Direction as far as possible given the existing built environment and the limitations of the standard template.
5.1	Implementation of Regional Strategies The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.	The LES is consistent with this Direction. Refer to Appendix G for more information. Refer to Section 2.2
5.2	Sydney Drinking Water Catchments The objective of this direction is to protect water quality in the hydrological catchment.	Not applicable.

	Instrument: S.117 Directions	Planning comment
5.3	Farmland of State and Regional Significance on the NSW Far North Coast The objectives of this direction are: (a) to ensure that the best agricultural land will be available for current and future generations to grow food and fibre, (b) to provide more certainty on the status of the best agricultural land, thereby assisting councils with their local strategic settlement planning, and (c) to reduce land use conflict arising between agricultural use and non-agricultural use of farmland as caused by urban encroachment into farming areas.	The LES is consistent with this Direction. See section 5.9 of the LES as the recommendation is for the protection of primary production land through appropriate zoning.
5.4	Commercial and Retail Development along the Pacific Highway, North Coast 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 LES is consistent with this Direction. Maybe refer to Section 5.6, 6.2 and 5.5
5.5	Development in the Vicinity of Ellalong, Paxton and Millfield (Cessnock LGA) The objective of this direction is to ensure that development in the vicinity of the villages of Ellalong, Paxton and Millfield is consistent with the Cessnock City Wide Settlement Strategy and the Lower Hunter Regional Strategy.	Not applicable
5.6	Sydney to Canberra Corridor The objective of this direction is to ensure that draft LEPs are prepared in accordance with the Sydney to Canberra Corridor Strategy.	Not applicable
5.7	Central Coast The objective of this direction is to ensure that land is zoned in accordance with the appropriate regional strategy for the Central Coast.	Not applicable
5.8	Second Sydney Airport: Badgerys Creek The objective of this direction is to avoid incompatible development in the vicinity of any future second Sydney Airport at Badgerys Creek.	Not applicable

<u>Instrument: S.117 Directions</u>		Planning comment
6.1	Approval, and Referral Requirements The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	The LES is consistent with this direction as it does not propose to include any additional concurrences/approvals etc from Ministers or Public Authorities in the Shire-wide LEP.
6.2	Reserving Land for Public Purposes The objectives of this direction are: (a) to facilitate the provision of public services and facilities by reserving land for public purposes, and (b) to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.	The LES is consistent with this Direction.
6.3	Site Specific Provisions The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	The LES is consistent with this Direction. See section 7.6 of the LES.

Appendix E

North Coast Regional Environmental Plan 1988

Overview of North Coast Regional Environmental Plan 1988 and relevance to LES

Section	Consistency
Part 1, Aims etc	The LES is consistent with the REPs aims, which relate primarily to development of regional scale policies and processes. Refer to Section 2.
Part 2, Division 1 – Agricultural Resources	The LES is consistent with the REP in that it recognises the good agricultural land identified by the State in the S.117 Direction on Farmland Protection. The draft LEP should identify the elements required for sustainable agriculture in the Shire. These areas will be subject to specific planning controls in the draft LEP. Limitations on further subdivision of rural land are also discussed in Section 5.9 of the LES. Also refer to Section 2 & 7.
Division 2 – Catchment Management	The LES is consistent with this Division of the REP in that it acknowledges wetlands and other sensitive catchment areas and recommends provisions for their conservation and/or protection where applicable. Refer to Section 2, 4 & 7.
Division 3 – Geological Resources	The LES addresses geology and soils and is not inconsistent with the exploitation of extractive resources. It is consistent with the REP. Refer to Section 2 & 4
Division 4 – Rural Housing	The LES addresses rural residential development in the Shire and is consistent with the REP. See Section 5.9. Rural dual occupancy is considered in the LES as a potential option for addressing affordable housing in those areas, in this regard there may be a minor inconsistency which, due to the public benefits it could provide, is justified.
Division 5 - Forestry	There are no longer State forests within the Shire. The current LEP permits forestry without consent in rural areas and this is recommended for the draft LEP. The LES is consistent with the REP. Refer to Section 2, 4 & 7.
Part 3, Division 1 – The Natural Environment	The LES addresses this issue over a range of sections. Refer to Section 2, 4 & 7. The recommendation of the LES is to maintain provision for tree preservation orders as well as for the protection of significant vegetation and habitat (refer to the LES for details as the standard template provisions differ to those in the current LEP 1988 and restrict some opportunities for tree preservation). It also acknowledges the need to protect significant viewscape areas such as the coastal ridgeline. The LES reinforces that development in domestic water catchment areas or on land overlying important groundwater resources should not adversely affect water quality. Domestic water catchment areas occur in the Shire. The LES is consistent with the REP.

Section	Consistency
Division 2 – Coastal Development	The LES addresses this issue over a range of sections. The LES acknowledges the coastal hazard areas within the Shire and notes that the process Council has entered into is consistent with the NSW Coastal Policy and the Coastline Management Manual. Council's Coastal Zone Management Plan is not finished and a precautionary approach is recommended in the absence of an adopted position. Issues such as visual impacts and public access will also be addressed where possible in the draft LEP. The LES is consistent with the REP. Refer to Section 2, 4 & 7.
Division 3 - Heritage	The LES addresses the issues of natural and cultural heritage including Aboriginal and non-aboriginal heritage matters. It is recommended that the draft LEP contain provisions that protect all known heritage items and areas. The LES is consistent with the REP. Refer to Section 5.8.
Part 4, Division 1 – Strategic Planning	The LES addresses the issues of residential and commercial expansion. Council has prepared residential settlement strategies for parts of the Shire but they do not contain a land release program as described in the REP. It is the basis for limited urban change largely within the existing urban areas. The LES is consistent with the REP. Refer to Section 5 & 7.
Division 2 – Urban Housing	The LES addresses a range of urban housing issues and acknowledges the work of the residential settlement strategy that applies to some parts of the Shire. It is recommended that the draft LEP address the issues raised in the REP. The LES addresses the variety and affordability of housing and is not inconsistent with the REP. Refer to Sections 5.2 & 7.
Division 3 – Environmental Hazards	The LES addresses the major hazard issues that affect the Shire including flooding, coastal erosion, acid sulfate soils and bushfire risk. It is recommended that the draft LEP address these issues and constrain tourism, rural housing and urban development on such areas. The LES is consistent with the REP. Refer to Sections 4 & 7.
Division 4 – Commercial and Industrial Development	The LES addresses commercial and industrial development. There is no intention to reduce the areas available for either use. The draft LEP is likely to review the utility of mixed use zones that currently allow both commercial and residential development. A commercial strategy is in preparation and will influence the draft LEP when finalized. The LES is consistent with the REP. Refer to Section 2, 4 & 7.
Division 5 – Tall Buildings	The LES does not go into detail on this issue because there is no history of tall buildings (over 14 metres) in the Shire. The LES is consistent with the REP. Refer to Sections 5 & 7.

Section	Consistency
Part 5, Division 1 - Transport	The LES addresses transport issues and acknowledges the importance of protecting transport infrastructure in the face of population growth and high visitor numbers. The draft LEP will need to include provisions to restrict and control direct access onto main, secondary and primary arterial roads in the Shire. It will also need to allow for an efficient transport route system and airports in the Shire. The LES is consistent with the REP. Refer to Sections 5.6, 5.7 & 7.
Division 2 – Utility Services	The LES addresses utility services including wastewater, water, solid waste and stormwater. The draft LEP will need to include provisions to ensure that infrastructure can be supplied commensurate with demand and the ability of the environment to deal with the consequences. The LES is consistent with the REP. Refer to Sections 5.7 & 7
Division 3 – Health and Education	The LES considers the location for a new hospital site for Byron Shire and this should be reflected in the draft LEP. Existing education facilities will be addressed in the draft LEP. The LES is consistent with the REP. Refer to Sections 5.7 & 7.
Division 4 – Community Services	The draft LEP will need to ensure that child care centres are permissible in all rural, business and residential zones and that additional community services are provided commensurate with demand where possible. The LES is consistent with the REP. Refer to Sections 5.7 & 7.
Part 6, Division 1 - Tourism	The extent and variety of planning issues associated with tourism within the Shire need to be addressed in the draft LEP. The draft LEP will need to include controls on tourism development and the environment, tourism on farms, residential development and tourism as a mixture, and tourism and services/infrastructure. It will also need to review the permissibility of various types of tourism in a range of locations under current planning controls. The LES is consistent with the REP. Refer to Sections 5.4 & 7.
Division 2 - Recreation	There are no plans to reduce the amount of open space available within the Shire. The draft LEP should include provisions that allow a wide range of public recreation uses including access to foreshores and waterways. No recreation vehicle areas are proposed. The LES is consistent with the REP. Refer to Sections 5 & 7.
Part 7 - Miscellaneous	The various LEP instructions contained in this part of the REP are to be considered in the preparation of the draft LEP. The LES is not inconsistent with the REP. Refer to Sections 2 & 7.

Appendix F

NSW Coastal Policy

Coastal policy checklist

Strategic Action	Provision	Planning comment
1.1.2	Does the site have areas with land and/or marine and estuarine conservation values ? If so, are these to be dedicated?	Marine and estuarine areas are protected in the Cape Byron Marine Park and relevant estuary management plans. The importance of this issue is acknowledged and the principle will not be inhibited by any recommendation in this LES. Refer to Sections 4 & 7
1.1.3	If the land is Crown land (submerged or otherwise), has it been assessed for dedication/reservation under appropriate Acts (e.g. MPA, NPWS, NSWFW)?	Relevant authorities have provided comment to Council on the management of such lands. While the importance of this issue is acknowledged, the LES has not recommended specific dedication/reservation changes to Crown lands. Further discussions are recommended with government agencies to ensure that this part of the Policy is considered. Refer to Sections 2 & 7
	If foreshore Crown land , will public access be maintained and/or appropriately zoned?	The importance of this issue is acknowledged and the principle will not be inhibited by any recommendation in this LES. Refer to Sections 2 & 7
1.1.5	If open space land, is it to be classified ' community land ' under the Local Government Act?	Council recently reviewed all its open space land in an amendment to LEP 1988 and these classifications are current and are not required to be carried forward into the draft LEP. This does not remove or negate those classifications. The principle will not be inhibited by any recommendation in this LES. Refer to Sections 2, 4, 5 & 7
1.1.9	Does the land have recognised conservation values ? If so, what zones and/or other provisions are proposed?	Land with recognised conservation values have been recognised on their status confirmed by the recommendations of this LES. Refer to Sections 4 & 7
1.1.10	Is the land adjacent to a Marine Park ? If so, what provisions are included which will give effect to the Marine Park zoning and operational plans?	Land with recognised conservation values have been recognised and their status confirmed by the recommendations of this LES. Refer to Sections 4 & 7
1.1.11	Does the plan enable the natural habitats of the site to form part of a regional open space corridor (including water areas)? If so, how?	The LES adopts the wildlife corridors and high conservation vegetation mapping of the biodiversity conservation strategy as suitable for protection in the draft LEP. Such land will not be inhibited by any recommendation in this LES. Refer to Sections 2, 4 & 7
1.3.7	Is the site included in a catchment management plan ?	Yes, the Northern Rivers Catchment Action Plan Blueprint has been considered in the LES. Refer to Sections 2, 4 & 7
	Have water quality objectives been established? If so, in what form (i.e. instrument/strategy)?	Water quality is addressed in the LES but it is not recommended that specific water quality objectives be included in the draft LEP. Nonetheless, the importance of this issue is acknowledged and the principle will not be inhibited by any recommendation in this LES. Refer Sections 4 & 7
	Does the plan incorporate water quality objectives and controls?	No, however, the importance of this issue is acknowledged and the principle will not be inhibited by any recommendation in this LES. Refer to Sections 4 & 7
	Is ongoing water monitoring proposed?	Council monitors water quality regularly in key locations and reports on it in its SoE report annually. Refer Sections 4 & 7

Strategic Action	Provision	Planning comment
	Does the plan incorporate water monitoring provisions?	N/A to the LES
1.3.8	Has a stormwater management plan been developed?	Council has a Stormwater Management Plan and the LES recommends that the Shire-wide DCP address stormwater and water sensitive urban design. Refer to Sections 4 & 7
	Does the plan include stormwater controls?	N/A to the LES
1.3.14	Does the plan create the potential for impacts on groundwater ? If so, does the plan incorporate management controls for groundwater?	No, however, the importance of this issue is acknowledged and the principle will not be inhibited by any recommendation in this LES. Refer to Sections 4 & 7
2.1.1	Does a coastline, estuary or floodplain PoM apply to the land? If so, does the LEP incorporate provisions to give effect to these plans?	The LES supports the findings of Council's current coastline management program, applicable estuary management plans and floodplain plans. The principles in those plans are confirmed by the recommendations of this LES. Refer to Sections 4 & 7
2.1.4	If the site is affected by Acid Sulfate Soils , does the plan incorporate objectives for their management in accordance with the ASS Manual and s117 Direction-ASS C1?	The LES addresses ASS and recommendations of this LES are in accordance with current best practice. Refer to Sections 4 & 7
2.2.2	Does the plan include provisions for sea level change as provided by the Inter-governmental Panel on Climate Change?	The importance of this issue is acknowledged and recommendations within the LES are in accordance with current State policy and Council's current coastline management program, which addresses sea level change. The principle will not be inhibited by any recommendation in this LES. Refer to Sections 4 & 7
3.1.2	Does the plan include provisions to protect areas or items of high aesthetic value ? If so, in what way?	The principle will not be inhibited by any recommendation in this LES. Refer to Sections 5 & 7

Strategic Action	Provision	Planning comment
3.2.4	How does the plan address design and locational principles listed below (as detailed in Appendix C Table 3 p83 Coastal Policy): ▪ only essential public developments (e.g. surf lifesaving club) on beach frontal dunes ▪ overshadowing of beaches and waterfront open space ▪ preservation of undeveloped headlands ▪ new development on developed headlands (require environmental assessment including visual impact from adjoining beaches) ▪ no buildings greater than 14m (unless justified following environmental planning considerations) ▪ do building height controls apply to the land? In what form (e.g. LEP, endorsed DCP)? ▪ Is DUAP concurrence required or does council have assumed concurrence? If so, up to what height? ▪ does the plan establish a setback line from coastal lakes, estuaries, beaches, foreshores and cliffs? Provide details. ▪ is public access to foreshore to be maintained or provided. If so, how does the plan achieve this? ▪ have provisions been made for dedication or an agreement entered into, to ensure use and maintenance of the public access area? ▪ tourist or recreational developments adjacent to or within a National Park, Nature Reserve or State Recreation Area.	The principles will not be inhibited by any recommendation in this LES. Refer to Sections 4.5 & 7

Strategic Action	Provision	Planning comment
3.3.1	Has a regional and/or local housing strategy been developed to encourage compact towns? If so, does the plan comply?	Council has settlement strategies for the Shire which are consistent with the North Coast REP. They have been a resource for the preparation of the LES, and their principles supported by recommendations within the LES. It is a recommendation of the LES and the FNCRS that a housing strategy be prepared for the Shire which considers an appropriate land release program. Refer to Sections 2, 5.2 & 7
4.1.2	How does the plan conserve or protect known regional/local items or areas of coastal heritage ?	Items/areas with recognised conservation values have been recognised and their status confirmed by the recommendations of this LES. Refer to Sections 5.8 & 7
4.1.4	Does the plan protect any significant views or vistas within or from towns?	The principles for such protection will not be inhibited by any recommendation in this LES. Refer to Sections 4, 5 & 7
5.1.2	Does a regional industry, economic development and/or tourism strategy apply to the area? If so, does the plan comply?	A regional industry/economic plan applies and there is a regional tourism strategy. The LES supports the strategy findings. Refer to Sections 2, 5 & 7
5.1.3	Is the land identified as Class 1, II or III (Prime Crop and Pasture Land) in NSW Agriculture's Land Classification Scheme? If so, how does the plan protect this resource?	The LES considers the S117 Direction on Farmland Protection and the Shire contains some regionally significant land. The LES supports the strategy findings. The LES acknowledges the importance of this issue and is supported by recommendations in the LES. Refer to Sections 5 & 7
5.1.7	Does the plan affect or facilitate the identification or development of areas for aquaculture ?	Such identification is not inhibited by any recommendation in this LES. Refer to Sections 4.1 & 7
5.1.8	Does the plan identify or facilitate mineral exploration, mining or extraction ?	The importance of this issue is acknowledged and will not be inhibited by any recommendation in this LES. Refer to Sections 4, 5 & 7
	How does the plan ensure ecologically sustainable development of the resource and protect environmentally significant sites?	The LES does not recommend inhibiting resource extraction, but does support the principles of ESD and recommend the conservation of environmentally significant sites. Refer to Sections 2, 5 & 7
5.2.3	Are there plans of management that apply to the site?	Existing plans of management are not inhibited by any recommendation in this LES. Refer to Sections 2 & 7
	How does the plan integrate these to ensure responsible and ecologically sustainable development and use of resources?	N/A
5.2.11	Does a regional and/or local tourism plan apply to the area?	Council is currently preparing a local tourism plan based on a tourism management options paper. Values within the tourism strategies have been supported by the recommendations of this LES. Refer to Sections 5.4 & 7
	If so, how does the LEP complement this plan?	N/A
6.1.1	Is the plan consistent with a regional settlement strategy prepared by DUAP and consistent with the Coastal Policy?	The LES acknowledges the importance of this issue and establishes that the likely population capacity of the Shire is consistent with the North Coast Regional Planning Strategy. Refer to Sections 2, 5 & 7

Strategic Action	Provision	Planning comment
6.1.2	Is the plan consistent with an urban land release/settlement strategy endorsed by DUAP and consistent with the Coastal Policy?	The LES addresses the relevant settlement strategies throughout the document, as they apply, and is consistent with the Coastal Policy in its application. Refer to Sections 2, 5 & 7
6.1.4	Does the plan create canal estate developments as these types of developments are prohibited?	The LES does not canvas this as an option based on SEPP 50. Refer to Sections 2 & 7
6.2.1	If the plan creates urban areas are they " compact " and " contained " rather than "ribbon", "unrelated cluster" or "continuous"?	The LES supports these principles. Refer to Sections 5 & 7
	Does the plan define urban boundaries and indicate the amount and form of development?	The LES makes recommendations regarding site specific urban development in accordance with the policy principles. Refer to Sections 5 & 7
	Can servicing and infrastructure be economically and environmentally provided?	The LES only supports development that meets these principles. Refer to Sections 5 & 7
6.3.1	Is the plan consistent with a rural residential release strategy , endorsed by DUAP and consistent with the Coastal Policy, which preserves scenic, conservation, agricultural, significant mineral or extractive resources?	The LES supports these principles. Refer to Sections 2, 5 & 7
6.4.1	Does the plan provide greater choice in housing ?	The LES acknowledges the importance of this issue and has endorsed the provision of greater choice through recommendations in the LES. Refer to Sections 5.2 & 7
6.4.2	Is the area close to an existing town centre ?	Town centres are included in the Shire. Refer to Sections 1 & 5
	Does the plan provide for higher density residential development?	The LES acknowledges the importance of this issue and has endorsed the investigation of higher density in certain areas through recommendations in the LES. Refer to Sections 7.3, 7.4 and 7.5
	Does the plan require additional infrastructure ? What type?	N/A
7.2.4	If the plan provides for tourism development , what provisions have been included in the plan to ensure public access to the foreshore?	Public access to the foreshore is not inhibited by any recommendation in this LES. Refer to Section 5.4, 5.6 & 7

Appendix G

Threatened flora species

This table lists the threatened flora species recorded in or near the Byron Shire. This information was obtained from Council's current threatened flora database and a search of the Department of Environment and Climate Change's Wildlife Atlas.

Common Name	Scientific Name	Conservation Status			Habitat	No. of Records in the Shire ⁴
		TSC ¹	EPBC ²	ROTAP ³		
Marblewood	1. <i>Acacia bakeri</i>	1. V	1.	1.	1. Wet sclerophyll forest & rainforest.	1. 56 (125)
Mountain Wattle	2. <i>Acacia orites</i>	2.	2.	2. 2RC-	2. Margins of wet sclerophyll forest & rainforest.	2. 6 (12)
Acalypha	3. <i>Acalypha eremorum</i>	3. E1	3.	3.	3. Subtropical & dry rainforest.	3. 4 (4)
-	4. <i>Acianthella amplexicaulis</i>	4.	4.	4. 3RC-	4. Moist coastal scrub on dunes & littoral rainforest.	4. 7 (10)
-	5. <i>Acomis acoma</i>	5.	5.	5. 3RC-	5. Grows in forest margins & on roadsides.	5. 1 (-)
Byron Bay Acronychia	6. <i>Acronychia baeuerlenii</i>	6.	6.	6. 3RC-	6. Subtropical & warm-temperate rainforest.	6. 16 (18)
Scented Acronychia	7. <i>Acronychia littoralis</i>	7. E1	7. E	7. 3ECi	7. Littoral rainforest & swamp forest margins on sand.	7. 19 (56)
Dwarf Heath Casuarina	8. <i>Allocasuarina defungens</i>	8. E1	8. E	8. 2E	8. In tall heath on sand.	8. 3 (3)
White Lace Flower	9. <i>Archidendron hendersonii</i>	9. V	9.	9.	9. Lowland subtropical & littoral rainforests.	9. 45 (48)
Veiny Lace Flower	10. <i>Archidendron muellerianum</i>	10.	10.	10. 3RC a	10. Subtropical & littoral rainforest.	10. 86 (90)
Silver Leaf	11. <i>Argophyllum nullumense</i>	11.	11.	11. 3RC a	11. Subtropical & warm-temperate rainforest.	11. 15 (27)
Hairy Joint-grass	12. <i>Arthraxon hispidus</i>	12. V	12. V	12. 3VC- +	12. Rainforest	12. 3 (-)
Pink Cherry	13. <i>Austrobuxus swainii</i>	13.	13.	13. 3RC a	13. Rainforest on the coastal ranges.	13. 9 (17)
Heart-leaved or Three-leaved Bosistoa	14. <i>Bosistoa transversa</i> (<i>B. selwynii</i>)	14. V	14. V	14.	14. Rainforest to an altitude of 150 m.	14. 3 (15)

Common Name	Scientific Name	Conservation Status			Habitat	No. of Records in the Shire ⁴
		TSC ¹	EPBC ²	ROTAP ³		
Native Wisteria	15. <i>Callerya australis</i>	15.	15.	15. 3RC	15. Rainforests, wet sclerophyll forests & riparian areas.	15. 12 (10)
-	16. <i>Chamaesyce psammogeton</i>	16. E1	16.	16.	16. Uncommon species of beach sands.	16. 1 (-)
Giant Ironwood	17. <i>Choricarpia subargentea</i>	17. E1	17.	17. 3RC-	17. Regrowth in dry rainforest.	17. 9 (6)
Coast Palm Lily	18. <i>Cordyline congesta</i>	18.	18.	18. 2RC-	18. Warmer rainforest on coastal lowlands.	18. 22 (65)
Corokia	19. <i>Corokia whiteana</i>	19. V	19. V	19. 2VCi	19. Warm-temperate rainforest on poorer soils.	19. 5 (12)
Southern Corynocarpus	20. <i>Corynocarpus rupestris</i> ssp. <i>arborescens</i>	20.	20. V	20. 3RC-	20. Dry rainforest on dry stony slopes.	20. 7 (6)
Stinking Cryptocarya	21. <i>Cryptocarya foetida</i>	21. V	21. V	21. 3VCi	21. Scattered in littoral rainforest.	21. 50 (138)
Long-leaved Tuckeroo	22. <i>Cupaniopsis newmanii</i>	22.	22.	22. 2RC-	22. Warmer rainforest.	22. 49 (59)
White-flowered Wax Plant	23. <i>Cynanchum elegans</i>	23. E	23. E	23. 3ECi	23. Rainforest gullies, scrub & scree slopes.	23. 1 (-)
Cliff Sedge	24. <i>Cyperus rupicola</i>	24. V	24.	24.	24. Amongst rocks or on exposed cliff faces near forest.	24. 1 (1)
Davidson's Plum	25. <i>Davidsonia jerseyana</i>	25. E1	25. E	25. 2ECi	25. Subtropical rainforest in coastal areas.	25. 87 (211)
Smooth Davidson's Plum	26. <i>Davidsonia johnsonii</i>	26. E1	26. E	26. 2ECi	26. Disturbed subtropical rainforest or on the margins with wet sclerophyll forest.	26. 18 (53)
Thorny Pea	27. <i>Desmodium acanthocladum</i>	27. V	27. V	27. 2VC-	27. Mainly along rivers.	27. 48 (53)
Red-fruited Ebony	28. <i>Diospyros mabacea</i>	28. E1	28. E	28. 2EC-	28. Lowland subtropical rainforest.	28. 2 (1)
Shiny-leaved Ebony	29. <i>Diospyros major</i> var. <i>ebenus</i>	29. E1	29.	29.	29. Lowland subtropical rainforest.	29. 0 (1)
Small-leaved Tamarind	30. <i>Diploglottis campbellii</i>	30. E1	30. E	30. 2E	30. Riverine rainforest.	30. 5 (21)

Common Name	Scientific Name	Conservation Status			Habitat	No. of Records in the Shire ⁴
		TSC ¹	EPBC ²	ROTAP ³		
Byron Bay Diuris	31. <i>Diuris byronensis</i>	31. E1	31.	31.	31. Coastal clay heath	31. 4 (6)
Giant Spear Lily	32. <i>Doryanthes palmeri</i>	32. V	32.	32.	32. Exposed rocky outcrops in Wet Sclerophyll Forests	32. 3 (4)
Basket Fern	33. <i>Drynaria rigidula</i>	33. E1	33. E	33.	33. Rainforest.	33. 3 (3)
Minyon Quandong	34. <i>Elaeocarpus</i> sp. 'Rocky Creek'	34. E1	34. E	34. 2E	34. Warm-temperate rainforest & Brush Box forests.	34. 2 (9)
Hairy Quandong	35. <i>Elaeocarpus williamsianus</i>	35. E1	35. E	35. 2ECi	35. Disturbed rainforest.	35. 7 (17)
Crystal Creek Walnut	36. <i>Endiandra floydii</i>	36. E1	36. E	36. 2VCi	36. Warm-temperate & sub-tropical rainforest	36. 22 (34)
Black Walnut	37. <i>Endiandra globosa</i>	37.	37.	37. 2RC-	37. Riverine rainforest & on moist slopes in subtropical rainforest.	37. 69 (197)
Rusty Rose Walnut	38. <i>Endiandra hayesii</i>	38. V	38. V	38. 3VC-	38. Lowland subtropical rainforest	38. 26 (47)
Dorrigo Plum	39. <i>Endiandra introrsa</i>	39.	39.	39. 3RCa	39. Warm temperate rainforests on poor soils.	39. 2 (-)
Green-leaved Rose Walnut	40. <i>Endiandra muelleri subsp bracteata</i>	40. E1	40. E	40.	40. Subtropical rainforest, chiefly at lower altitudes.	40. 54 (115)
Ball Nut	41. <i>Floydia praealta</i>	41. V	41. V	41. 3VC-	41. Subtropical & riverine rainforest.	41. 19 (26)
Southern Fontainea	42. <i>Fontainea australis</i>	42. V	42. V	42. 3VCi	42. Rainforest.	42. 1 (2)
-	43. <i>Gahnia insignis</i>	43.	43.	43. 3RCa	43. Slopes in forest & occasionally heath.	43. 2 (7)
Pink Nodding Orchid	44. <i>Geodorum densiflorum</i>	44. E1	44.	44.	44. Dry sclerophyll forests often on coastal sands.	44. 2 (2)
Sweet Myrtle	45. <i>Gossia fragrantissima</i>	45. E1	45. E	45. 3EC-	45. Subtropical rainforest.	45. 19 (56)
Narrow-leaf Finger Fern	46. <i>Grammitis stenophylla</i>	46. E1	46.	46.	46. On rocks in wet sclerophyll forest and rainforest	46. 1 (1)
White Silky Oak	47. <i>Grevillea hilliana</i>	47. E1	47.	47.	47. Subtropical	47. 10 (22)

Common Name	Scientific Name	Conservation Status			Habitat	No. of Records in the Shire ⁴
		TSC ¹	EPBC ²	ROTAP ³		
					rainforests.	
Native Justicia	48. <i>Harnieria hygrophiloides</i>	48. E1	48.	48.	48. Rainforest or adjacent wet sclerophyll forest.	48. 1 (10)
Flax Lily	49. <i>Helmholtzia glaberrima</i>	49.	49.	49. 2RC a	49. Steep sides of damp rainforest gullies & along rocky streams	49. 21 (21)
Tree Guinea Flower	50. <i>Hibbertia hexandra</i>	50. E1	50. E	50. 3RC-	50. Heath, open forest or rainforest.	50. 0 (1)
Red Bobbel Nut	51. <i>Hicksbeachia pinnatifolia</i>	51. V	51. V	51. 3RC-	51. Subtropical rainforest.	51. 133 (137)
Isoglossa	52. <i>Isoglossa eranthemoides</i>	52. E1	52. E	52. 2E	52. Subtropical rainforest.	52. 14 (19)
-	53. <i>Knoxia sumatrensis</i>	53. X	53.	53.	53. Presumed extinct	53. 1 (-)
Rough-shelled Bush Nut	54. <i>Macadamia tetraphylla</i>	54. V	54. V	54. 2VC-	54. Subtropical rainforest in coastal areas.	54. 91(110)
Large-flowered Milk Vine	55. <i>Marsdenia liisae</i>	55.	55.	55. 3RC-	55. Wet sclerophyll forest and rainforest margins.	55. 1 (1)
Slender Marsdenia	56. <i>Marsdenia longiloba</i>	56. E1	56. V	56. 3RC-	56. Rainforest	56. 5 (3)
Coast Evodia	57. <i>Melicope vitiflora</i>	57. E1	57.	57.	57. Subtropical & littoral rainforest.	57. 2 (2)
Smooth-leaved Plum	58. <i>Niemeyera chartacea</i>	58. E1	58.	58.	58. Subtropical rainforest	58. 2 (-)
Rusty Plum	59. <i>Niemeyera whitei</i>	59. V	59. V	59. 3RC a	59. Littoral & warm-temperate rainforest.	59. 35 (43)
-	60. <i>Oberonia complanata</i>	60. E1	60.	60.	60. Rainforest, coastal scrub, mangroves & gorges.	60. 1 (-)
Southern Ochrosia	61. <i>Ochrosia moorei</i>	61. E1	61. E	61. 2ECi	61. Subtropical rainforest	61. 16 (22)
-	62. <i>Olearia heterocarpa</i>	62.	62.	62. 2RC a	62. Wet sclerophyll forest/woodland & fringing mallee scrub.	62. 2 (2)
Onion Cedar	63. <i>Owenia cepiodora</i>	63. V	63. V	63. 2VCi	63. Subtropical & dry rainforest.	63. 4 (8)
-	64. <i>Ozothamnus whitei</i>	64.	64.	64. 3RC-	64. Forest on rocky hillsides.	64. 2 (3)
Mountain laheyana	65. <i>Pararistolochia laheyana</i>	65.	65.	65. 2RC +-	65. Highland subtropical &	65. 2 (-)

Common Name	Scientific Name	Conservation Status			Habitat	No. of Records in the Shire ⁴
		TSC ¹	EPBC ²	ROTAP ³		
					cool-temperate rainforest	
Brown Fairy-chain Orchid	66. <i>Peristeranthus hillii</i>	66. V	66.	66. 2RC- +	66. Lowland Rainforest, Littoral Rainforest	66. 1 (2)
Southern Swamp Orchid	67. <i>Phaius australis</i>	67. E1	67. E	67. 3VC a	67. Coastal paperbark swamps & sclerophyll forests.	67. 4 (4)
Greater Swamp Orchid	68. <i>Phaius tancarvilleae</i>	68. E1	68. E	68.	68. Paperbark swamps.	68. 1 (2)
Brush Sauropus	69. <i>Phyllanthus microcladus</i>	69. E1	69.	69.	69. Along creeks & rivers in rainforest	69. 14 (14)
	70. <i>Plectranthus cremnus</i>	70.	70.	70. 3K	70. Shallow soil on rocky coastal headlands.	70. 1 (1)
Nightcap Plectranthus	71. <i>Plectranthus nitidus</i>	71. E1	71. E	71. 2KCi	71. Rocky outcrops along creeks in rainforest	71. 2 (4)
Dark Greenhood	72. <i>Pterostylis nigricans</i>	72. V	72.	72. 3V	72. Coastal scrub & heath.	72. 1 (1)
Southern Quassia	73. <i>Quassia</i> sp. 'Mt Nardi'	73.	73.	73. 3RC-	73. Subtropical & warm temperate rainforest & regrowth.	73. 22 (21)
Spiny Gardenia	74. <i>Randia moorei</i>	74. E1	74. E	74. 3EC-	74. Subtropical rainforest.	74. 11 (38)
Smooth Scrub-Turpentine	75. <i>Rhodamnia maideniana</i>	75.	75.	75. 2RC-	75. Subtropical rainforest in coastal areas.	75. 8 (12)
Ravine Orchid	76. <i>Sarcophilus fitzgeraldii</i>	76. V	76. V	76. 3VC-	76. On rocks or rarely on bases of trees, in subtropical rainforest usually near streams.	76. 2 (-)
Hartman's Sarcophilus	77. <i>Sarcophilus hartmannii</i>	77. V	77. V	77. 3VC-	77. Volcanic rocks in sclerophyll forest.	77. 2 (2)
Rainforest Cassia	78. <i>Senna acclinis</i>	78. E1	78. V	78. 3RC-	78. Subtropical rainforest.	78. 1 (2)
Small-leaved Hazelwood	79. <i>Symplocos baeuerlenii</i>	79. V	79. V	79. 2VC-	79. Subtropical & warm-temperate rainforest.	79. 6 (26)
Red Lilly Pilly	80. <i>Syzygium hodgkinsoniae</i>	80. V	80. V	80. 3VC-	80. Subtropical rainforest or gallery forest.	80. 98(113)

Common Name	Scientific Name	Conservation Status			Habitat	No. of Records in the Shire ⁴
		TSC ¹	EPBC ²	ROTAP ³		
Durobby	<i>81. Syzygium moorei</i>	81. V	81. V	81. 2VCi	81. Lowland subtropical rainforest.	81. 127(172)
Arrow-head Vine	<i>82. Tinospora tinoporoides</i>	82. V	82. V	82. 3RC-	82. Wetter subtropical rainforest.	82. 54 (64)
Silky Cucumber	<i>83. Trichosanthes subvelutina</i>	83.	83.	83. 3RC-	83. Margins & within rainforest & moist eucalypt forest.	83. 15 (16)
Peach Myrtle	<i>84. Uromyrtus australis</i>	84. E1	84. E	84. 2ECi	84. Warm-temperate rainforest	84. 4 (31)
-	<i>85. Westringia blakeana</i>	85.	85.	85. 2RCa	85. Wet sclerophyll forest, often near creeks.	85. 2 (3)
Queensland Xylosma	<i>86. Xylosma terrae-reginae</i>	86. E1	86. E	86.	86. Littoral rainforest.	86. 7 (15)
Hind's Zieria	<i>87. Zieria hindii</i>	87.	87.	87. 2R	87. Rocky granite hillsides	87. 2 (4)

- Notes: 1 V= Vulnerable, E1 = Endangered; E2= Endangered Population, E4 = Extinct (Threatened Species Conservation Act 1995);
2. V = Vulnerable, E = Endangered (Environment Protection and Biodiversity, X = Extinct Conservation Act 1999)
3. ROTAP (Rare or Threatened Australian Plants, Briggs and Leigh 1996) is a conservation rating for Australian plants. Codes are:
- 1 Species only known from one collection
 - 2 Species with a geographic range of less than 100km in Australia
 - 3 Species with a geographic range of more than 100km in Australia
 - X Species presumed extinct; no new collections for at least 50 years
 - E Endangered species at risk of disappearing from the wild state if present land use and other causal factors continue to operate
 - V Vulnerable species at risk of long-term disappearance through continued depletion.
 - R Rare, but not currently considered to be endangered.
 - K Poorly known species that are suspected to be threatened.
 - C Known to be represented within a conserved area.
 - a At least 1,000 plants are known to occur within a conservation reserve(s).
 - i Less than 1,000 plants are known to occur within a conservation reserve(s).
 - The reserved population size is unknown.
 - t The total known population is reserved.
 - + The species has a natural occurrence overseas.
4. Records on Byron Shire database shown first, records held on the DECC Wildlife Atlas Database provided in brackets.

Appendix H

Limitation statement

LS-3 Limitations of Geotechnical Site Investigation

Instructions for use

1. This Limitations Statement is to be used in accordance with the Parsons Brinckerhoff (PB) Quality Assurance System.
2. The explanatory and Limitation Statement is drafted on the assumption that expressions “PB” and “Client” are defined elsewhere in the document.
3. The “Report for Benefit of Client” section of the explanatory and limitation statement is aimed at precluding third parties from stating that they relied upon the contents of the report (and therefore provide an impediment to the recovery of damages by third parties for inaccurate or incomplete statements made in the report).
4. The Statement is set up as a stand alone document, however, the text can be copied and inserted as a separate chapter in reports, etc.

Scope of Services

This geotechnical site assessment report (“the report”) has been prepared in accordance with the scope of services set out in the contract, or as otherwise agreed, between the Client and Parsons Brinckerhoff (PB) (“scope of services”). In some circumstances the scope of services may have been limited by a range of factors such as time, budget, access and/or site disturbance constraints.

Reliance on Data

In preparing the report, PB has relied upon data, surveys, analyses, designs, plans and other information provided by the Client and other individuals and organisations, most of which are referred to in the report (“the data”). Except as otherwise stated in the report, PB has not verified the accuracy or completeness of the data. To the extent that the statements, opinions, facts, information, conclusions and/or recommendations in the report (“conclusions”) are based in whole or part on the data, those conclusions are contingent upon the accuracy and completeness of the data. PB will not be liable in relation to incorrect conclusions should any data, information or condition be incorrect or have been concealed, withheld, misrepresented or otherwise not fully disclosed to PB.

Geotechnical Investigation

Geotechnical engineering is based extensively on judgment and opinion. It is far less exact than other engineering disciplines. Geotechnical engineering reports are prepared to meet the specific needs of individuals. A report prepared for a consulting civil engineer may not be adequate for a construction contractor or even some other consulting civil engineer. This report was prepared expressly for the Client and expressly for purposes indicated by the Client or his representative. Use by any other persons for any purpose, or by the Client for a different purpose, might result in problems. The Client should not use this report for other than its intended purpose without seeking additional geotechnical advice.

This Geotechnical Report is Based on Project-specific Factors

This geotechnical engineering report is based on a subsurface investigation which was designed for project-specification factors, including the nature of any development, its size and configuration, the location of any development on the site and its orientation, and the location of access roads and parking areas. Unless further geotechnical advice is obtained this geotechnical engineering report cannot be used:

- when the nature of any proposed development is changed; or
- when the size, configuration location or orientation of any proposed development is modified.

This geotechnical engineering report cannot be applied to an adjacent site.

The Limitations of Site Investigation

In making an assessment of a site from a limited number of boreholes or test pits there is the possibility that variations may occur between test locations. Site exploration identifies specific subsurface conditions only at those points from which samples have been taken. The risk that variations will not be detected can be reduced by increasing the frequency of test locations; however this often does not result in any overall cost savings for the project. The investigation programme undertaken is a professional estimate of the scope of investigation required to provide a general profile of the subsurface conditions. The data derived from the site investigation programme and subsequent laboratory testing are extrapolated across the site to form an inferred geological model and an engineering opinion is rendered about overall subsurface conditions and their likely behaviour with regard to the proposed development. Despite investigation the actual conditions at the site might differ from those inferred to exist, since no subsurface exploration programme, no matter how comprehensive, can reveal all subsurface details and anomalies.

The borehole logs are the subjective interpretation of subsurface conditions at a particular location, made by trained personnel. The interpretation may be limited by the method of investigation, and can not always be definitive. For example, inspection of an excavation or test pit allows a greater area of the subsurface profile to be inspected than borehole investigation, however, such methods are limited by depth and site disturbance restrictions. In borehole investigation, the actual interface between materials may be more gradual or abrupt than a report indicates.

Subsurface Conditions are Time Dependent

Subsurface conditions may be modified by changing natural forces or man-made influences. A geotechnical engineering report is based on conditions which existed at the time of subsurface exploration.

Construction operations at or adjacent to the site, and natural events such as floods, or groundwater fluctuations, may also affect subsurface conditions, and thus the continuing adequacy of a geotechnical report. The geotechnical engineer should be kept apprised of any such events, and should be consulted to determine if additional tests are necessary.

Avoid Misinterpretation

A geotechnical engineer should be retained to work with other appropriate design professionals explaining relevant geotechnical findings and in reviewing the adequacy of their plans and specifications relative to geotechnical issues.

Bore/Profile Logs Should Not Be Separated from the Engineering Report

Final bore/profile logs are developed by geotechnical engineers based upon their interpretation of field logs and laboratory evaluation of field samples. Customarily, only the final bore/profile logs are included in geotechnical engineering reports. These logs should not under any circumstances be redrawn for inclusion in architectural or other design drawings. To minimise the likelihood of bore/profile log misinterpretation, contractors should be given access to the complete geotechnical engineering report prepared or authorised for their use. Providing the best available information to contractors helps prevent costly construction problems. For further information on this matter reference should be made to "Guidelines for the Provision of Geotechnical Information in Construction Contracts" published by the Institution of Engineers Australia, National Headquarters. Canberra 1987.

Geotechnical Involvement During Construction

During construction, excavation is frequently undertaken which exposes the actual subsurface conditions. For this reason geotechnical consultants should be retained through the construction stage, to identify variations if they are exposed and to conduct additional tests which may be required and to deal quickly with geotechnical problems if they arise.

Report for Benefit of Client

The report has been prepared for the benefit of the Client and no other party. PB assumes no responsibility and will not be liable to any other person or organisation for or in relation to any matter dealt with or conclusions expressed in the report, or for any loss or damage suffered by any other person or organisation arising from matters dealt with or conclusions expressed in the report (including without limitation matters arising from any negligent act or omission of PB or for any loss or damage suffered by any other party relying upon the matters dealt with or conclusions expressed in the report). Other parties should not rely upon the report or the accuracy or completeness of any conclusions and should make their own enquiries and obtain independent advice in relation to such matters.

Other Limitations

PB will not be liable to update or revise the report to take into account any events or emergent circumstances or facts occurring or becoming apparent after the date of the report.

Appendix I

SEPP 71

State Environmental Planning Policy No 71 – Coastal protection

Clause	Provision	Planning comment
8(a)	Protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast	This should be an aim of the draft LEP, which confirmed by the recommendations of this LES.
	Protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore	The proposed environmental zones for the coastline will not inhibit foreshore access.
	Ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore	While the Coastal Zone Management Plan will address this issue, the principle will not be inhibited by any recommendation in this LES.
	Protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge	This is reinforced through the recommendations of this LES.
	Ensure that the visual amenity of the coast is protected	The importance of this issue is acknowledged and the principle will not be inhibited by any recommendation in this LES
	Protect and preserve beach environments and beach amenity	The importance of this issue is acknowledged and the principle will not be inhibited by any recommendation in this LES
	Protect and preserve native coastal vegetation	This is reinforced through the recommendations of this LES.
	Protect and preserve the marine environment of New South Wales	The importance of this issue is acknowledged and the principle will not be inhibited by any recommendation in this LES
	Protect and preserve rock platforms	The importance of this issue is acknowledged and the principle will not be inhibited by any recommendation in this LES
	Manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6(2) of the <i>Protection of the Environment Administration Act 1991</i>)	The importance of this issue is acknowledged and the principle will not be inhibited by any recommendation in this LES
	Ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area	The importance of this issue is acknowledged and the principle will not be inhibited by any recommendation in this LES. The LES recommends that the DCP include provisions that would require development to address SEPP 71, which clearly incorporates this issue.
	Encourage a strategic approach to coastal management	While Council is undertaking a Coastal Zone Management Plan in accordance with the Coastline Management Manual, The importance of this issue is acknowledged and the principle will not be inhibited by any recommendation in this LES.
8(b)	Existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved	The importance of this issue is acknowledged and the principle will not be inhibited by any recommendation in this LES
8(c)	Opportunities to provide new public access to and along the coastal foreshore for pedestrians or	The importance of this issue is acknowledged and the principle will not be

Clause	Provision	Planning comment
	persons with a disability	inhibited by any recommendation in this LES
8(d)	The suitability of development given its type, location and design and its relationship with the surrounding area	This is reinforced through the recommendations of this LES.
8(e)	Any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore	The importance of this issue is acknowledged and the principle will not be inhibited by any recommendation in this LES
8(f)	The scenic qualities of the New South Wales coast, and means to protect and improve these qualities	The importance of this issue is acknowledged and the principle will not be inhibited by any recommendation in this LES
8(g)	Measures to conserve animals (within the meaning of the <i>Threatened Species Conservation Act 1995</i>) and plans (within the meaning of that Act), and their habitats	This is reinforced through the recommendations of this LES.
8(h)	Measures to conserve fish (within the meaning of Part 7A of the <i>Fisheries Management Act 1994</i>) and marine vegetation (within the meaning of that Part), and their habitats	The importance of this issue is acknowledged and the principle will not be inhibited by any recommendation in this LES. It will also be addressed in the Cape Byron Marine Park.
8(i)	Existing wildlife corridors and the impact of development on these corridors	The Biodiversity Conservation Strategy identifies these and This is reinforced through the recommendations of this LES.
8(j)	The likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards	While Council is undertaking a Coastal Zone Management Plan in accordance with the Coastline Management Manual, the importance of this issue is acknowledged and the principle is reinforced through the recommendations of this LES.
8(k)	Measures to reduce the potential for conflict between land-based and water-based coastal activities	The importance of this issue is acknowledged and the principle will not be inhibited by any recommendation in this LES. It will also be addressed in the relevant Estuary Management Plans.
8(l)	Measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals	This is reinforced through the recommendations of this LES.
8(m)	Likely impacts of development on the water quality of coastal waterbodies	This is reinforced through the recommendations of this LES.
8(n)	The conservation and preservation of items of heritage, archaeological or historic significance	This is reinforced through the recommendations of this LES.
8(o)	Only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities	This is reinforced through the recommendations of this LES.
8(p)	only in cases in which a development application in relation to proposed development is determined: (i) the cumulative impacts of the proposed development on the environment, and (ii) measures to ensure that water and energy usage by the proposed development is efficient	The importance of this issue is acknowledged and the principle will not be inhibited by any recommendation in this LES.

Appendix J

SEPP 55 Assessment

This Appendix contains two tables. The first is a summary of all lots that are proposed to change in part or entirely from rural zones such as 1(a), 1(b1), 1(b2), 1(d), or environment protection zones such as 7(a), 7(b), 7(c), 7(d), 7(f1), 7(j) or 7(k), or other largely non residential zones such as 5(a), 6(a), 6(b) or 9(a) to a zone that is more likely to be used be used for residential or tourism purposes. This includes R2, R3, R5, B2 and B4, SP3 and E4.

There are 117 lots where at least some part of the property is being rezoned to allow higher order uses that may trigger SEPP 55 (Remediation of Land). Of these 46 lots (39%) are located at Suffolk Park (west) and are being rezoned from 7(k) or 7(d) to R2. These lots are also discussed in Section 7.6.14. They are typically small residential lots that were the subject of poor environmental mapping that has now been improved and revised. They are typically used for residential purposes already as they are all zoned residential in part. There is no known risk of contamination in this area and the potential for additional housing is minor given that most lots are already occupied.

A further 23 lots (20%) are located at Bangalow and are within the areas identified for additional residential development in the Bangalow Settlement Strategy. Preliminary soil assessments have been undertaken for these sites and these are documented in Table 2 of this Appendix.

Of the remaining lots identified in Table 1, properties at Sandhills Estate (Byron Bay), Ocean Shores, Lilli Pilli, and Suffolk Park are discussed in Table 2.

Lots not covered by Table 2 include those affected by the Byron Bypass (three lots) which are currently zoned 9(a) but are proposed to be zoned B2 consistent with surrounding lands. One of these properties contains a service station (that still functions) and there is a risk of contamination of other lots from past commercial uses, the nearby rail line and the service station tanks. This proposed zone permits dwellings, but only associated with commercial uses e.g. Shop-top housing. Given that the B2 zone fits in best with the surrounding land use and the uses on the site (and that the proposed road zone with acquisition by Council no longer exists in the Standard Instrument) it is appropriate to proceed, but with a requirement that any redevelopment will need to address the contaminated land issue.

The five lots in Byron Bay adjacent to Cumbebin Swamp are all residential lots that have been incorrectly zoned as 7(a) wetlands for many years. They are predominantly used for residential purposes and the likelihood of contamination is low.

The nine lots affected by the deletion of the 1(d) zone along Ewingsdale Road are proposed to be transferred into a R5 Large Lot Residential zone. Although this may allow some additional housing it will depend on the average size of the lots from the original subdivision (this area has a minimum and average lot size existing and proposed in the Shire-wide LEP). There are three known dip sites in this locality and the buffers affect the subject lands. However, recent development on nearby sites has not shown wide spread contamination in the buffer areas and the rationalisation of this zone is required due to there being no equivalent zone in the Standard Instrument. If additional houses are proposed in these areas then the contaminated land issue will need to be addressed. This situation is similar to the two small areas of 9(a) land at ocean Shores near to the Coolamon Scenic Drive rural residential areas. The existing zone will no longer exist and the prevailing zone in this area is R5. It is logical that these left over pieces from the motorway construction go into the main zone of the locality. The ability to construct a house in this location is unlikely to change.

Other notable lots include the caravan parks and tourist facilities along Broken Head Road and Ewingsdale Road that are variously zoned 1(d) and 7(b). They are proposed to be rezoned to SP3 which allows the uses that already exist on these sites to continue. The environment protection areas on these sites are addressed in Section 7.6.14 and the use of the SP3 zone makes sense as the 1(d) zone has no equivalent in the Standard instrument and Council wants to maintain a tourist function on these sites. The small area of 6(a) land in Wentworth street Byron Bay is land sold by the Crown to an adjacent tourist facility for use as a customer car park. It is part of an ex road reserve that was zoned 6(a) Open Space consistent with nearby land. It is important that this land is now removed from a Recreation Zone as it is privately owned and Council has no interest in buying it back for a public purpose. The SP3 zone is consistent with the zone of the adjacent land.

Table 1

Proposed Zone	Current Zone	Lot/Sec/DP	Address	Property Area (m ²)	Rezoned Area (m ²)
B2	9A	2/588653	Jonson St BYRON BAY	3607	1208
B2	9A	8/818197	Jonson St BYRON BAY	1004	555
B2	9A	9/818197	Jonson St BYRON BAY	3155	813
B4	7B	456/1126388	Lawson St BYRON BAY	2599	736
B4	7B	457/1087879	Lawson St BYRON BAY	82482	6770
B4	1D	456/1126388	Lawson St BYRON BAY	2599	1862
B4	1D	1/67/758207	Lawson St BYRON BAY	648	628
B4	1D	2/67/758207	Lawson St BYRON BAY	707	394
B4	1D	457/1087879	Lawson St BYRON BAY	82482	29968
E4	7A	47/854800	Lilli Pilli Dr BYRON BAY	1026	102
E4	7A	46/860353	Lilli Pilli Dr BYRON BAY	1905	144
E4	7A	1/879888	Lilli Pilli Dr BYRON BAY	982	176
E4	7A	53/860353	Lilli Pilli Dr BYRON BAY	1145	200
E4	1D	3/862033	Broken Head Rd SUFFOLK PARK	9896	4059
E4	1D	2/879888	Lilli Pilli Dr BYRON BAY	2873	636
E4	1D	1/879888	Lilli Pilli Dr BYRON BAY	982	48
E4	1D	193/755695	Cemetery Rd BYRON BAY	71438	5227
R2	1B1	25/879204	Parrot Tree PI BANGALOW	752	752
R2	1B1	34/880271	Parrot Tree PI BANGALOW	614	318
R2	1B1	35/1010427	Ivory Curl PI BANGALOW	603	574
R2	1B1	37/1010427	Ivory Curl PI BANGALOW	609	346
R2	1B1	41/1010427	Ivory Curl PI BANGALOW	632	41
R2	1B1	42/1010427	Ivory Curl PI BANGALOW	602	356
R2	1B1	27/879204	Jambos Crt BANGALOW	914	914
R2	1B1	26/879204	Parrot Tree PI BANGALOW	708	708
R2	1B1	38/1010427	Ivory Curl PI BANGALOW	621	68
R2	1B1	30/879204	Parrot Tree PI BANGALOW	1174	810
R2	1B1	33/880271	Parrot Tree PI BANGALOW	632	121
R2	1B1	44/1010427	Ivory Curl PI BANGALOW	637	637
R2	1B1	36/1010427	Ivory Curl PI BANGALOW	604	453
R2	1B1	49/1010427	Ivory Curl PI BANGALOW	4031	797
R2	1B1	50/1010427	Ivory Curl PI BANGALOW	1764	1764
R2	1B1	46/1010427	Parrot Tree PI BANGALOW	667	627
R2	1B1	48/1010427	Ivory Curl PI BANGALOW	1732	92
R2	1B1	43/1010427	Ivory Curl PI BANGALOW	646	641
R2	1B1	45/1010427	Ivory Curl PI BANGALOW	1060	1060
R2	1B1	77/1031773	Tristania St BANGALOW	55905	38419
R2	1B1	32/1034122	Tristania St BANGALOW	452038	39
R2	7A	17/593693	Cumbebin Pk BYRON BAY	486	342
R2	7A	18/593693	Cumbebin PK BYRON BAY	417	165
R2	7A	10/253588	Cumbebin Pk BYRON BAY	768	128
R2	7A	10/622728	Keats St BYRON BAY	16344	627
R2	7A	8/253588	Cumbebin Pk BYRON BAY	569	12
R2	7K	9/1013623	Caniaba Cr SUFFOLK PARK	798	62
R2	7K	21/842105	Redgum PI SUFFOLK PARK	964	591
R2	7K	8/1013623	Caniaba Cr SUFFOLK PARK	2079	137
R2	7D	274/867786	Corkwood Cr SUFFOLK PARK	1389	781
R2	7D	271/867786	Corkwood Cr SUFFOLK PARK	1564	811
R2	7D	277/867786	Corkwood Cr SUFFOLK PARK	949	302
R2	7D	278/867786	Corkwood Cr SUFFOLK PARK	985	292
R2	7D	270/867786	Corkwood Cr SUFFOLK PARK	1645	818
R2	7D	269/867786	Corkwood Cr SUFFOLK PARK	2332	1065
R2	7D	276/867786	Corkwood Cr SUFFOLK PARK	999	343
R2	7D	268/867786	Corkwood Cr SUFFOLK PARK	7302	2450
R2	7D	273/867786	Corkwood Cr SUFFOLK PARK	1414	790

Proposed Zone	Current Zone	Lot/Sec/DP	Address	Property Area (m ²)	Rezoned Area (m ²)
R2	7D	275/867786	Corkwood Cr SUFFOLK PARK	1540	848
R2	7D	272/867786	Corkwood Cr SUFFOLK PARK	1527	837
R2	7D	2/631285	Hayters Dr SUFFOLK PARK	162144	5545
R2	7K	100/831214	Beech Dr SUFFOLK PARK	731	429
R2	7K	104/831214	Hayters Dr SUFFOLK PARK	677	481
R2	7K	117/831214	Hakea Cr SUFFOLK PARK	825	219
R2	7K	108/831214	Hakea Cr SUFFOLK PARK	727	57
R2	7K	145/836461	Beech Dr SUFFOLK PARK	908	523
R2	7K	1052/850511	Hayters Dr SUFFOLK PARK	558	487
R2	7K	253/876932	Mahr PI SUFFOLK PARK	699	63
R2	7K	99/831214	Beech Dr SUFFOLK PARK	732	422
R2	7K	1051/850511	Hayters Dr SUFFOLK PARK	572	545
R2	7K	106/831214	Hakea Cr SUFFOLK PARK	734	512
R2	7K	254/876932	Mahr PI SUFFOLK PARK	960	198
R2	7K	175/837085	Ribbonwood PI SUFFOLK PARK	8730	43
R2	7K	251/876932	Mahr PI SUFFOLK PARK	638	114
R2	7K	107/831214	Hakea Cr SUFFOLK PARK	613	57
R2	7K	176/837085	Ribbonwood PI SUFFOLK PARK	5590	30
R2	7K	250/876932	Mahr PI SUFFOLK PARK	923	35
R2	7K	103/831214	Hayters Dr SUFFOLK PARK	673	57
R2	7K	2/1071584	Coogera Ct SUFFOLK PARK	1306	7
R2	7K	4/1115281	Tea Tree Crt SUFFOLK PARK	1766	29
R2	7K	19/1013623	Hoop Pine Ln SUFFOLK PARK	1109	80
R2	7K	21/1013623	Hoop Pine Ln SUFFOLK PARK	899	802
R2	7K	22/1013623	Hoop Pine Ln SUFFOLK PARK	1037	948
R2	7K	20/1013623	Hoop Pine Ln SUFFOLK PARK	893	402
R2	7K	126/836461	Teak Ct SUFFOLK PARK	1569	548
R2	7K	23/1013623	Hoop Pine Ln SUFFOLK PARK	1128	597
R2	7K	127/836461	Teak Ct SUFFOLK PARK	1346	36
R2	7K	196/846399	Booyong Crt SUFFOLK PARK	997	127
R2	7K	24/1013623	Hoop Pine Ln SUFFOLK PARK	1144	579
R2	7D	3/1013623	Caniaba Cr SUFFOLK PARK	1317	215
R2	7D	33/1013623	Caniaba Cr SUFFOLK PARK	4039	976
R2	7D	4/1013623	Caniaba Cr SUFFOLK PARK	1673	625
R2	6B	14/826312	Orana Rd OCEAN SHORES	1471	717
R2	6B	1/788083	Balemo Dr OCEAN SHORES	2241	605
R2	7A	136/877932	Sunrise Blvd BYRON BAY	769	243
R2	7A	135/877932	Sunrise Blvd BYRON BAY	587	8
R2	1D	1/127485	Lismore Rd BANGALOW	279390	28295
R2	1D	Road Reserve	Cowper St BYRON BAY	8470	2288
R2	1D	3/862033	Broken Head Rd SUFFOLK PARK	9896	5838
R3	1D	383/728202	Cowper St BYRON BAY	53157	591
R3	1D	SP30458	Lawson St BYRON BAY	778	54
R5	1D	11/816451	Parkway Dr EWINGSDALE	2202	1023
R5	1D	32/1064508	Avocado Cr EWINGSDALE	4163	4163
R5	1D	13/816451	Parkway Dr EWINGSDALE	3320	154
R5	1D	12/816451	Parkway Dr EWINGSDALE	2498	855
R5	1D	31/1064508	Avocado Cr EWINGSDALE	4275	4031
R5	1D	9/816451	Parkway Dr EWINGSDALE	2269	124
R5	1D	10/816451	Parkway Dr EWINGSDALE	2167	725
R5	1D	30/1064508	Avocado Cr EWINGSDALE	54624	21180
R5	1D	172/1121005	Ewingsdale Rd EWINGSDALE	202530	5179
R5	9A	5/826071	Coolamon Scenic Dr OCEAN SHORES	8724	838
R5	9A	25/1016168	Coolamon Scenic Dr OCEAN SHORES	835	835

Proposed Zone	Current Zone	Lot/Sec/DP	Address	Property Area (m ²)	Rezoned Area (m ²)
SP3	7B	1/1057431	Broken Head Rd SUFFOLK PARK	173121	11666
SP3	6A	1/1040156	Wentworth St BYRON BAY	1840	1839
SP3	7B	1/620682	Ewingsdale Rd BYRON BAY	79777	7338
SP3	7B	447/812102	Bayshore Dr BYRON BAY	18847	328
SP3	1D	1/620682	Ewingsdale Rd BYRON BAY	79777	56721
SP3	1D	1/558340	Broken Head Rd BYRON BAY	27989	15562
SP3	1D	9/708338	Broken Head Rd BYRON BAY	107231	54667

This second table includes details of sites which have been identified for land uses in the Shire-wide LEP where consideration of land contamination is required under SEPP 55, including recommendations for management in the LEP.

Table 2

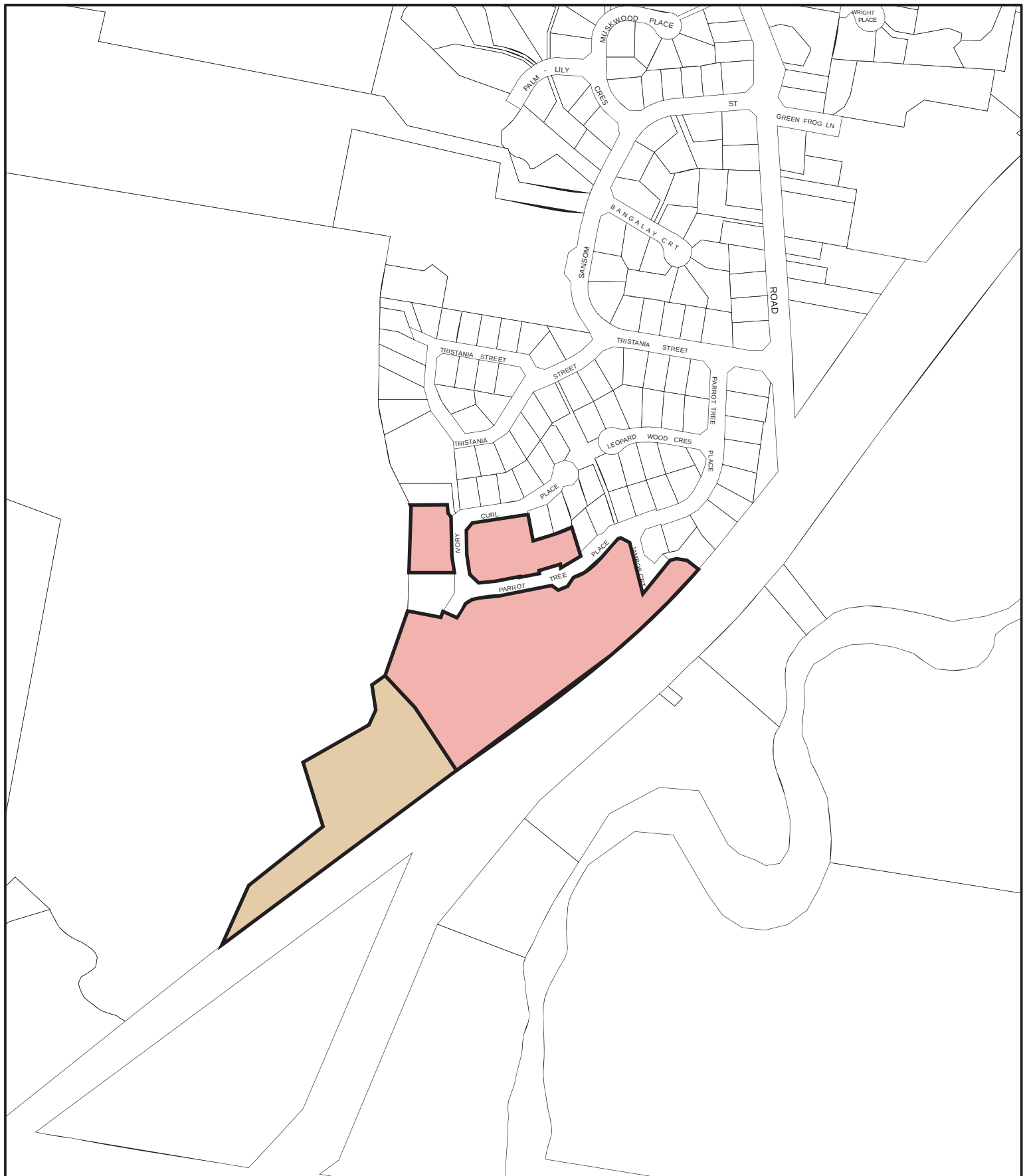
Site	Contamination potential	Recommendation
Lot 2 DP 701991 & Lot 7 DP 258562, Broken Head Road, Suffolk Park	A preliminary land contamination assessment was undertaken by Ardill Payne & Partners (2007). The report identified elevated levels of lead above 'health investigation levels' in groundwater and TPH C10-C36 was encountered in soils and groundwater that was below the adopted 'health investigation levels'. Additional groundwater testing concluded that there is widespread, low level of lead and TPH contamination across the site. The likely source of the contamination is the service station activity on adjoining properties. The reports concluded that the contamination is currently below adopted "health investigation levels" and the site would not be a risk.	It is recommended that further testing be undertaken at the DA stage to consider any potential changes in levels.
Lot 17 DP 816451, Ewingsdale Road, Ewingsdale (Proposed Hospital Site)	The site is contaminated due to a previous goat dip utilised for processing goats prior to transportation to the Dorrigo abattoir. The site was tested for contamination from the former Grissells Goat Dip. The dip was not located on the site identified for the hospital. The results of the testing showed that the levels were well below the health guidelines and did not pose a risk to the development of the site for a hospital.	No further testing is required at this stage, further testing could be undertaken at the DA stage to consider any potential changes in levels if required.
Lot 3 DP 820621, Ewingsdale Road, Byron Bay	A planning submission prepared by consultants in October 2007 includes a statutory declaration that the 1.5 ha lot has not been used for purposes likely to cause land contamination. The land is not identified on Council's unhealthy building land register. The land previously had a single house on it, but this burnt down in 2005. It now has consent for a new dwelling and a bed and breakfast establishment.	No further SEPP 55 analysis is warranted. The site is proposed to be zoned mainly E2 Environmental Conservation and partly E3 Environmental Management under the new Shire-wide LEP. The E3 zone permits dwellings and is recommended for that part of the lot subject to the consent for a dwelling and bed and breakfast development.
Areas 1,2&3 Lot 1 DP 303569, Lot 1 DP 123851 & Lot 100 DP 1016338, Rankin Drive / Granuaille Road, Bangalow	A preliminary soil contamination investigation for potential site contamination was undertaken by the applicant. This confirmed that there was negligible risk of contamination within the site and that no further investigation, including soil sampling, was warranted.	No further assessment is considered necessary at this stage.

Site	Contamination potential	Recommendation
Area 4 North Lot 22 DP 1070522 & Lot 4 DP 233810, Ballina Road, Bangalow	An assessment of potential contamination was undertaken for a previous DA (No. 10.2002.77.1) for the site. The report was undertaken by Soil Pacific in 2001 and quantified the extent of lead contamination in soil that was identified by a preliminary investigation (Irwin & Cooney 2000). It also identified the remediation strategy to be employed, reported on results and validation of the site. Additional work was done for the proposal to identify potentially contaminating activities that may have occurred on the site. No further potentially contaminating activities were identified for the site. The lead contamination has been removed and the site validated. The Soil Pacific report concludes that the property is suitable for 'sensitive' land uses including residential.	No further assessment is considered necessary at this stage.
Area 4 South Lot 2 DP 1086364, Ballina Road, Bangalow	A Stage 1 (SEPP 55) preliminary investigation for potential site contamination was undertaken by the applicant. The preliminary investigation confirmed that there was negligible risk of contamination within the site and that no further investigation, including soil sampling, is warranted. A preliminary investigation was undertaken for an earlier DA applying to the site (DA 10.2005.418.1) for use of a relocated dwelling. At that time, Council determined that the proposed residential use could be undertaken and no further investigations were required.	No further assessment is considered necessary at this stage.
Area 6 Lot 1 DP 127485, Lismore Road, Bangalow	The submission states that the site has a low probability of being contaminated due to past farming practices.	Further detailed assessment, including soil tests can be carried out at the development application stage.
Area 7 Lot 77 DP 1031773, Parrot Tree Place, Bangalow	A preliminary soil contamination assessment was undertaken for the proposed developable area. The assessment concluded that there is a very low likelihood of any soil contamination being present on the site.	No further assessment is considered necessary at this stage.
Belongil Fields Lot 1 DP 201626 & Lot 2 DP 542178, Ewingsdale Road, Byron Bay	The subject land is currently used as a caravan park, consisting of a mix of long term residential and short term residential. The current residential use of the site has occurred for over 30 years. The proposed rezoning does not seek to change the residential use of the site and therefore no issues are raised in the context of the requirements of SEPP 55.	No further assessment is considered necessary at this stage.

Site	Contamination potential	Recommendation
Sandhills Estate, Byron Bay Lot 457 DP 1087879, Lot 383 DP 728202 Byron Bay	Part of this area was sand mined in the 1960's and this may have resulted in some concentration of radioactive minerals. The NSW Health Commission conducted radiation surveys over the site in the early 1980's and this information needs to be checked. Given that parts of this site are now being considered for residential, community and mixed use development, it is appropriate that further investigation take place. (Note that Lot 456 DP 1087879 is the proposed Byron Bay library site and has been individually assessed for land contamination as part of a site specific LEP amendment. The proposed rezoning of this site satisfies SEPP 55	The site is currently a mix of 1(d) Investigation zone, 7(b) Coastal Habitat zone and 7(f2) Urban Coastal zone under Byron LEP 1988. Parts of this site are recommended for inclusion in the R3 Medium Density and B4 Mixed Use zones. It is appropriate that this proceed to public exhibition stage, but this site should not be zoned to permit residential and other urban uses until Council has sufficient information to be confident that the rezoning of the land is consistent with SEPP 55- Remediation of Land.
Lot 2 DP 850245, Cemetery Road, Byron Bay	A minor extension of E4 Residential zone over land that is currently 1(a) Rural. The proposed E4 area is mostly covered by a large dwelling and its curtilage.	Given that the house already exists on this lot, there is minimal opportunity for additional residential development as a result of the zone change.
Lot 14 DP 826312, Orana Road, Ocean Shores	A minor extension of R2 over land that is currently 6(b) Private Open Space. This land was previously owned by the Ocean Shores Country Club.	A house exists on this lot and the additional area is an extension to its backyard proposed to be used for a pool. The likelihood of contamination is minimal.
Lot 1 DP 788083, Balemo Drive, Ocean Shores	A minor extension of R2 over land that is currently 6(b) Private Open Space. This land was previously owned by the Ocean Shores Country Club.	A motel exists on this lot and the additional area is currently used for parking, a pool and pergola. The likelihood of contamination is minimal.

Appendix K

Site-specific rezoning figures



Legend:

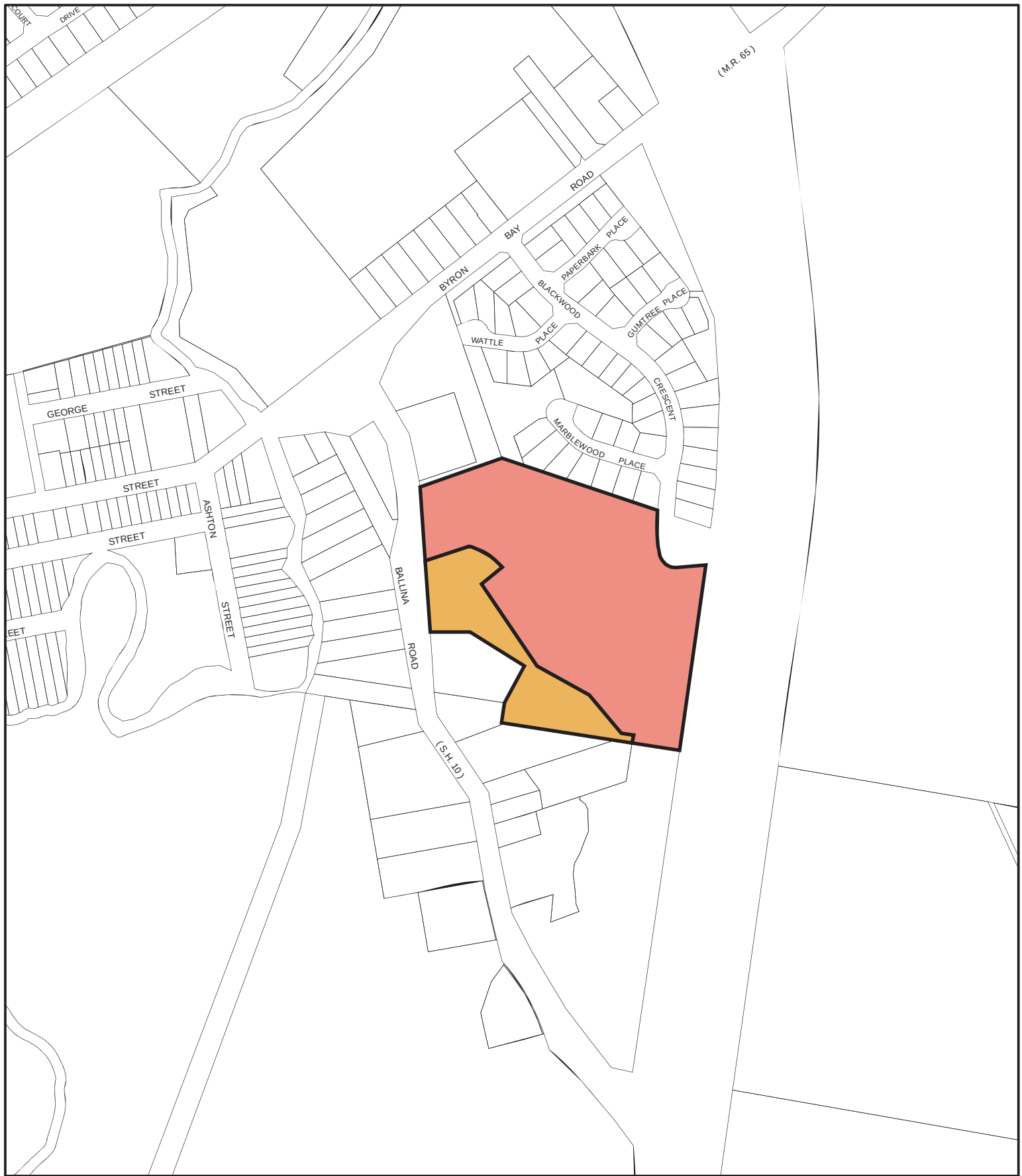
— Site Boundary

Zoning:

- R2 Low Density Residential
- RU2 Rural Landscape or RU1 Primary Production

Data Source:
Byron Shire: Cadastre

Title: Area 7 Plan			
Project: Byron Shire Rezoning		Scale: 0 50 100 Scale 1:5,000	
Client: Byron Shire Council		Drawn: JKR	Date: 13.09.07
Project No.: 2122791B		Designed: NM	Date: 13.09.07
Projected Coordinate System: GDA 1994 MGA ZONE 56		Checked: NM	Date: 13.09.07
Layout Size: A4		Figure No.: 1	



Legend:

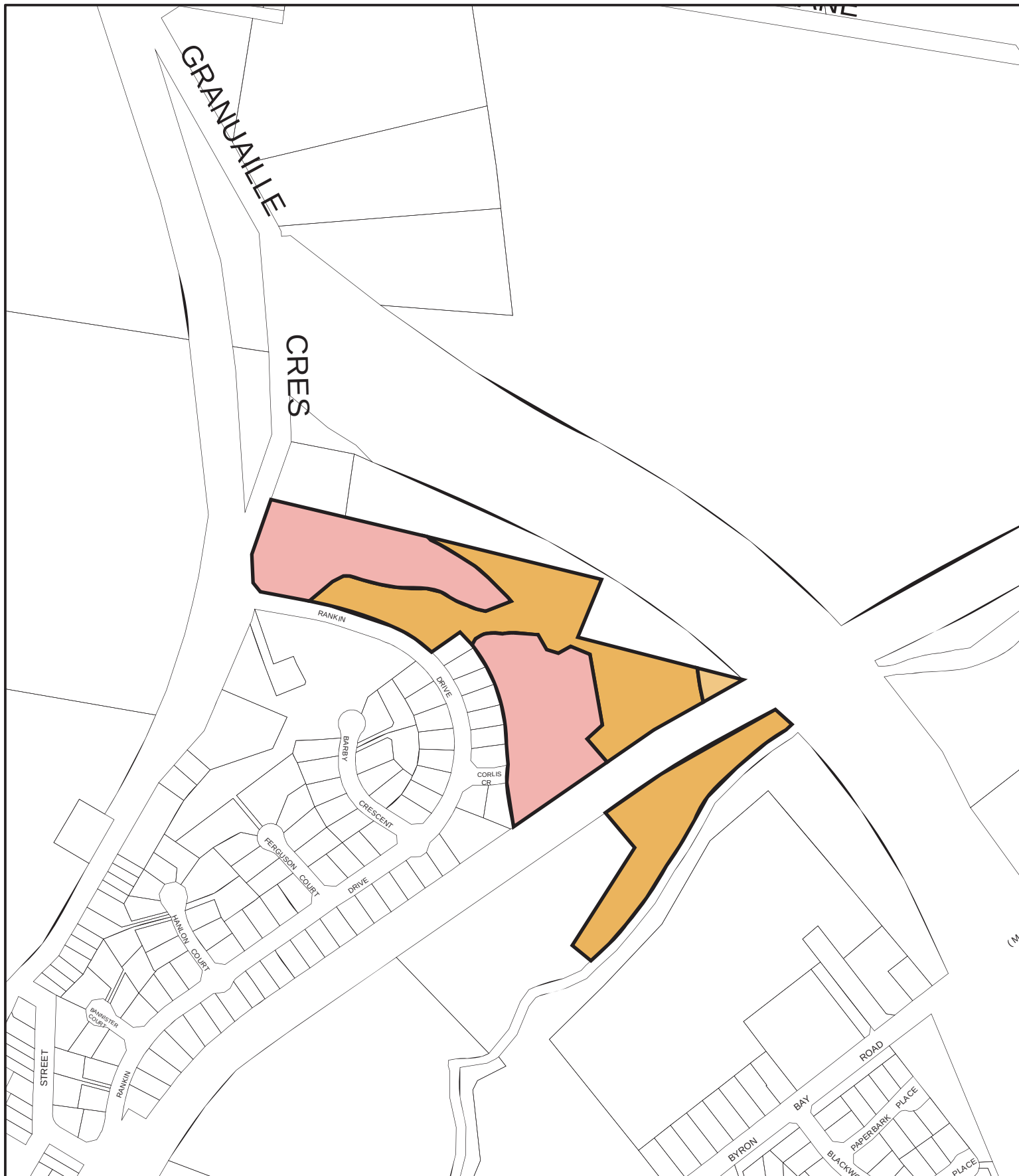
— Site Boundary

Zoning:

-  E3 Environmental Management
-  R3 Medium Density Residential



Data Source: Byron Shire: Cadastre	
Title: Area 4 North	
Scale: 0 50 100 Scale 1:5,000	
Project: Byron Shire Rezoning	Drawn: JKR
Client: Byron Shire Council	Date: 13.09.07
Project No.: 2122791B	Designed: NM
Projected Coordinate System: GDA 1994 MGA ZONE 56	Checked: NM
	Date: 13.09.07
	Layout Size: A4
	Figure No.: 2



Legend:

Site Boundary

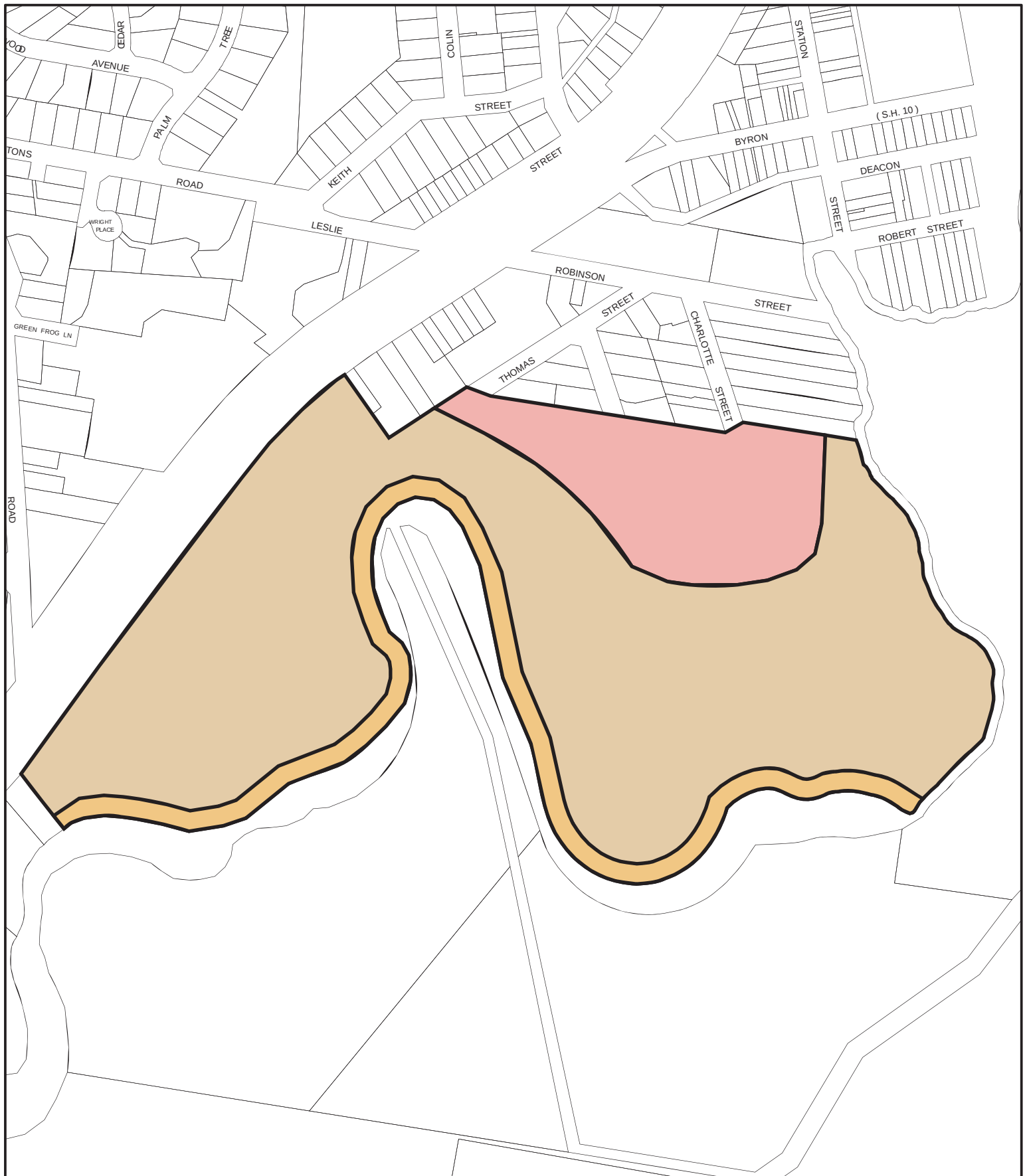
Zoning:

- E3 Environmental Management
- R2 Low Density Residential
- E2 Environmental Conservation



Data Source:
Byron Shire: Cadastre

Title: Area 3 Plan			
Project: Byron Shire Rezoning		Scale: 0 50 100 Scale 1:5,000	
Client: Byron Shire Council		Drawn: JKR	Date: 13.09.07
Project No.: 2122791B		Designed: NM	Date: 13.09.07
Projected Coordinate System: GDA 1994 MGA ZONE 56		Checked: NM	Date: 13.09.07
		Layout Size: A4	Figure No.: 3



Legend:

— Site Boundary

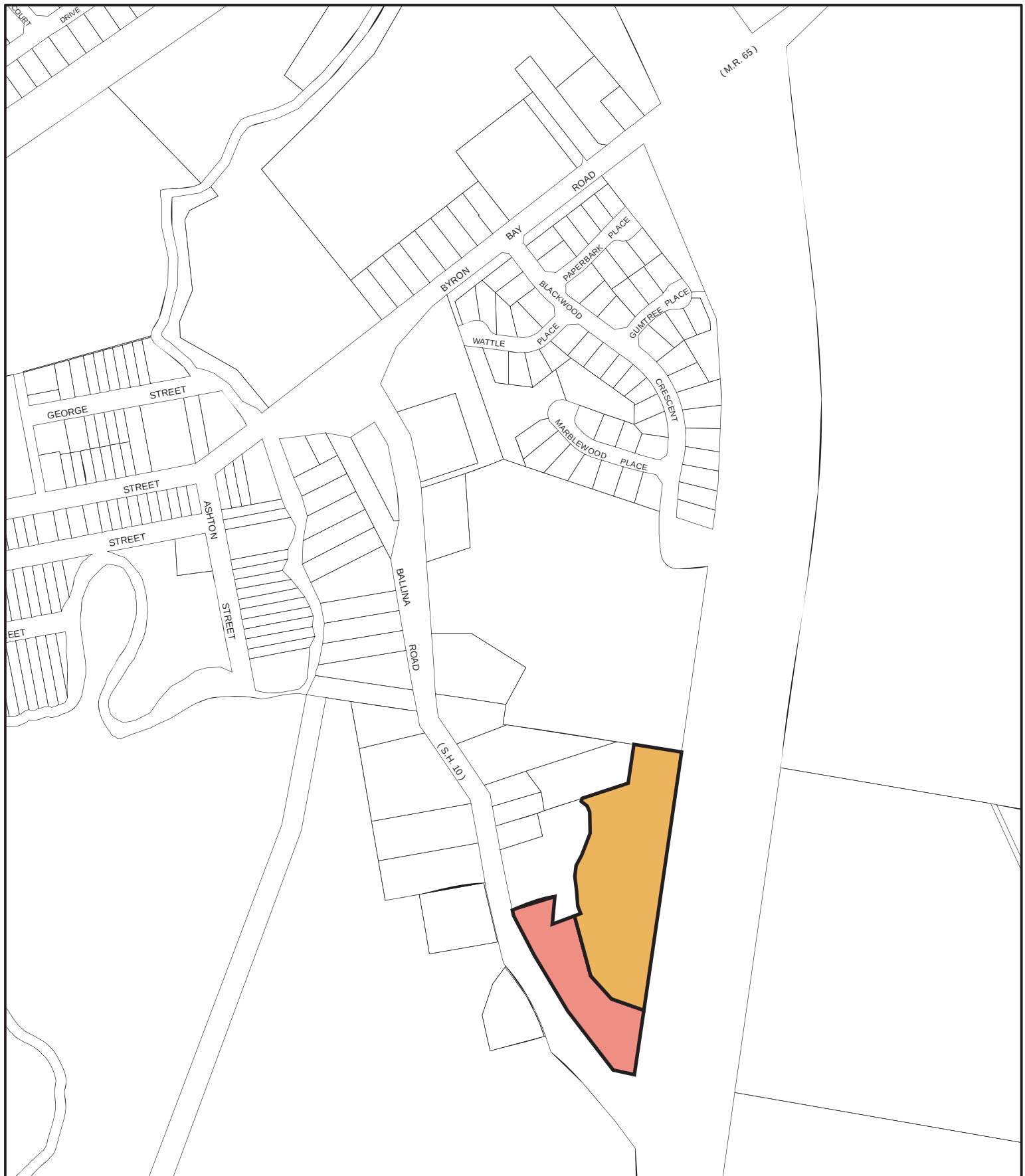
Zoning:

- R2 Low Density Residential
- RU2 Rural Landscape or RU1 Primary Production
- E2 Environmental Conservation



Data Source:
Byron Shire: Cadastre

Title: Area 6 Plan			
Project: Byron Shire Rezoning		Scale: 0 50 100 Scale 1:5,000	
Client: Byron Shire Council		Drawn: JKR	Date: 13.09.07
Project No.: 2122791B		Designed: NM	Date: 13.09.07
Projected Coordinate System: GDA 1994 MGA ZONE 56		Checked: NM	Date: 13.09.07
		Layout Size: A4	Figure No.: 4



Legend:

Site Boundary

Zoning:

R3 Medium Density Residential

E3 Environmental Management

N

E

S

W

Data Source:
Byron Shire: Cadastre

Title:

Area 4 South

Scale:
0 50 100

Scale 1:5,000

Project:
Byron Shire Rezoning

Client:
Byron Shire Council

Project No.:
2122791B

Projected Coordinate System:
GDA 1994 MGA ZONE 56

Drawn:
JKR

Designed:
NM

Checked:
NM

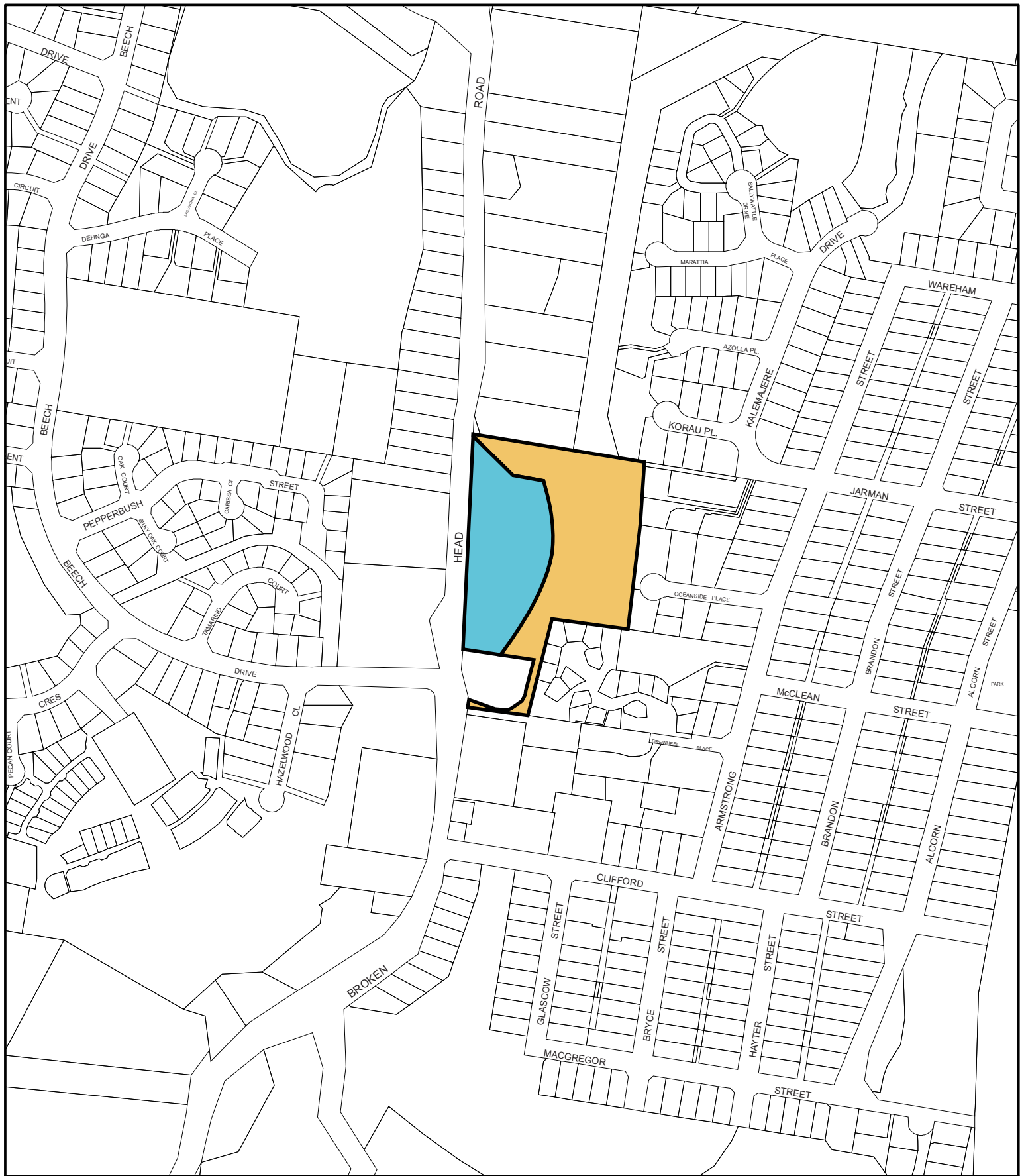
Layout Size:
A4

Date:
13.09.07

Date:
13.09.07

Date:
13.09.07

Figure No.:
5



Legend:

— Site Boundary

Zoning:

E2 Environmental Conservation

B2 Local Centre

Data Source:
Byron Shire: Cadastre

Title:

Suffolk Park

Scale:
0 50 100
Scale 1:5,000

Project:
Byron Shire Rezoning

Client:
Byron Shire Council

Project No.:
2122791B

Projected Coordinate System:
GDA 1994 MGA ZONE 56

Drawn:
JKR

Designed:
NM

Checked:
NM

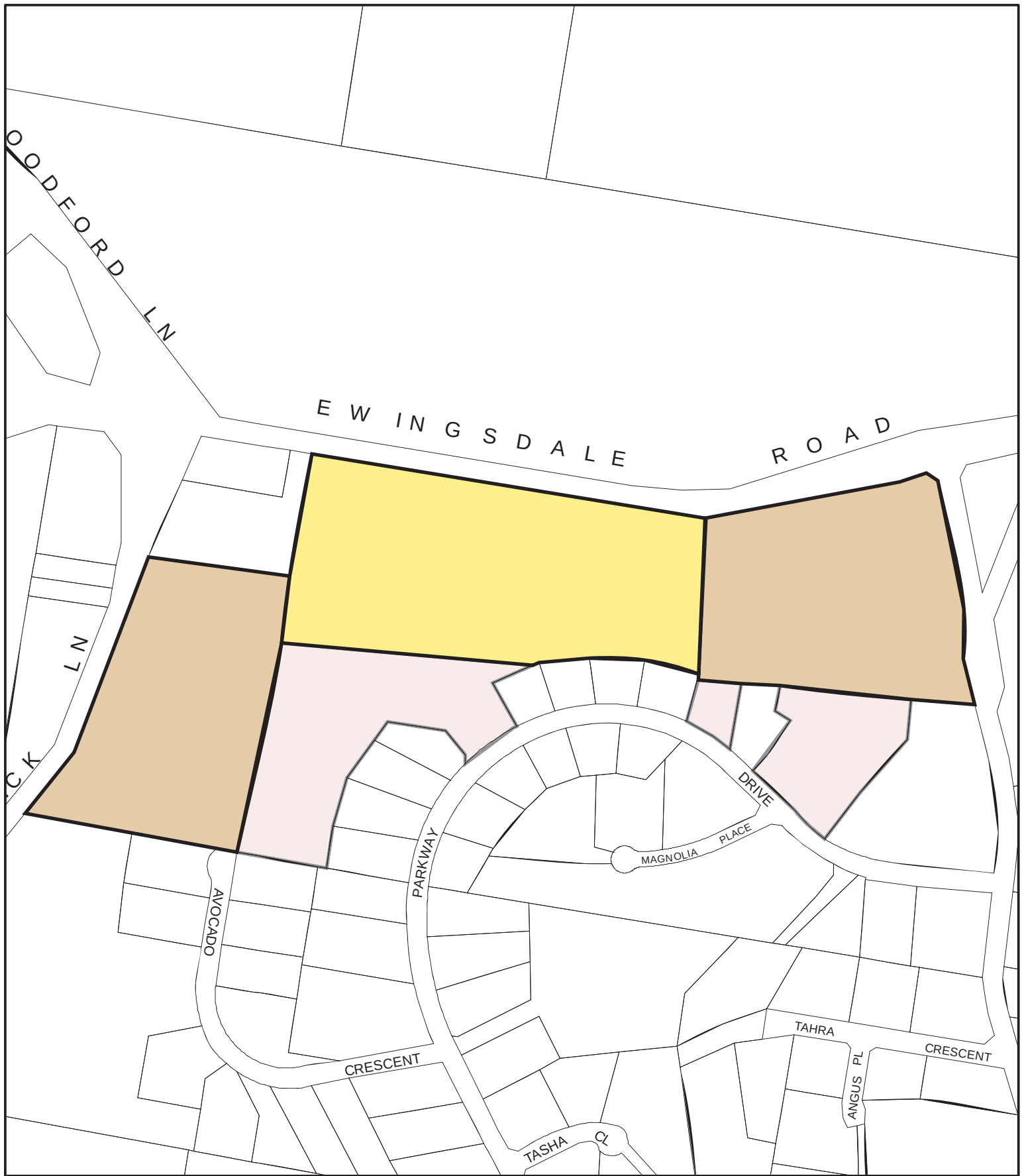
Layout Size:
A4

Date:
13.09.07

Date:
13.09.07

Date:
13.09.07

Figure No.:
6



Legend:

Site Boundary

Zoning:

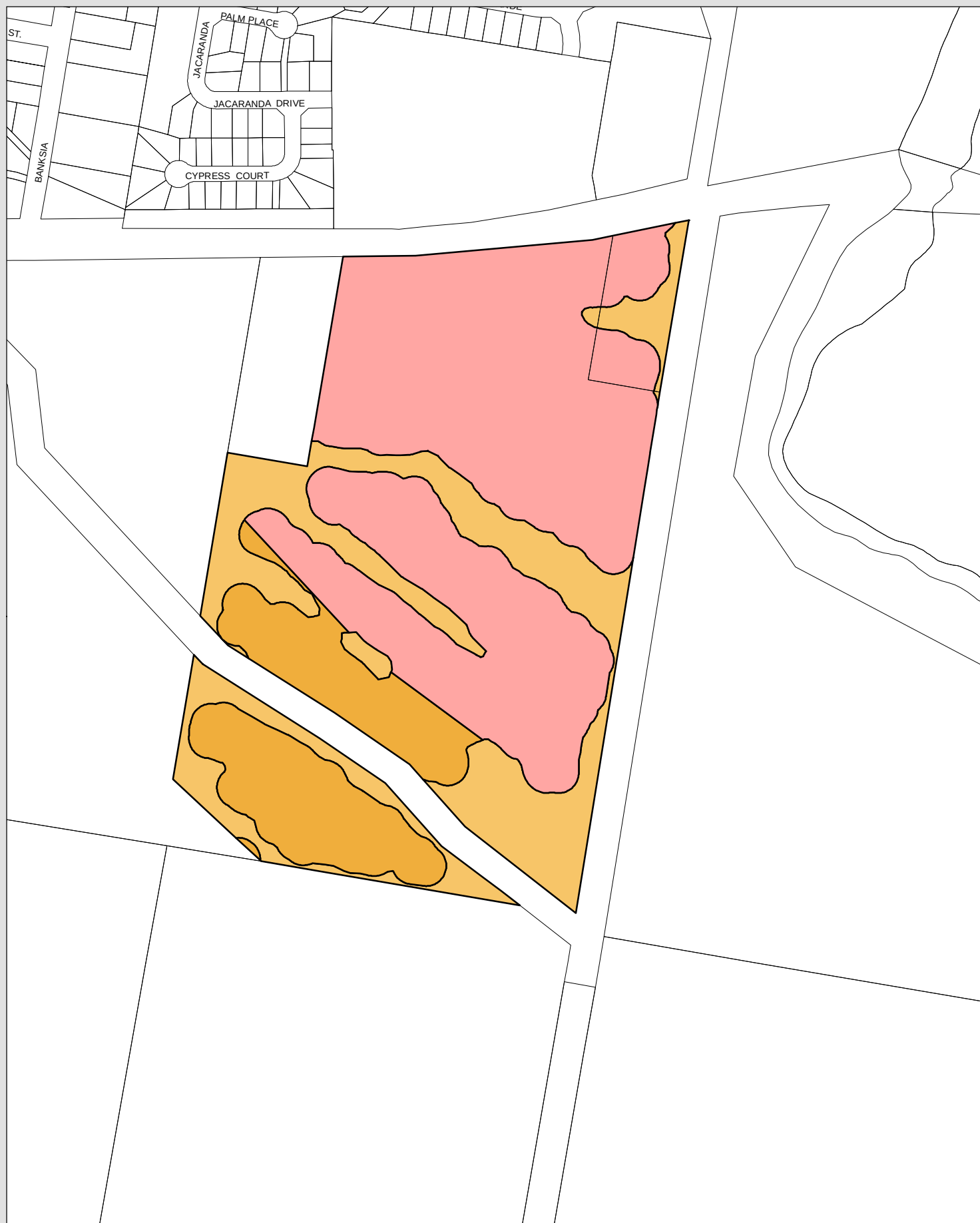
- SP2 Infrastructure
- RU2 Rural Landscape
- R5 Large Lot Residential



Data Source:
Byron Shire: Cadastre

Title: Hospital Site			
Project: Byron Shire Rezoning		Scale: 0 50 100	Scale 1:5,000
Client: Byron Shire Council	Drawn: JKR	Date: 13.09.07	
Project No.: 2122791B	Designed: NM	Date: 13.09.07	
Projected Coordinate System: GDA 1994 MGA ZONE 56	Checked: NM	Date: 13.09.07	
	Layout Size: A4	Figure No.: 7	

Proposed Zoning for Belongil Fields - Pending Traffic Study for MR545



0 30 60 120 180 240 Metres
Scale 1:5,000



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Legend

Land Parcels

Proposed Zoning for Belongil Fields

Zone

- E2 Environmental Conservation
- E3 Environmental Management
- R2 Low Density Residential

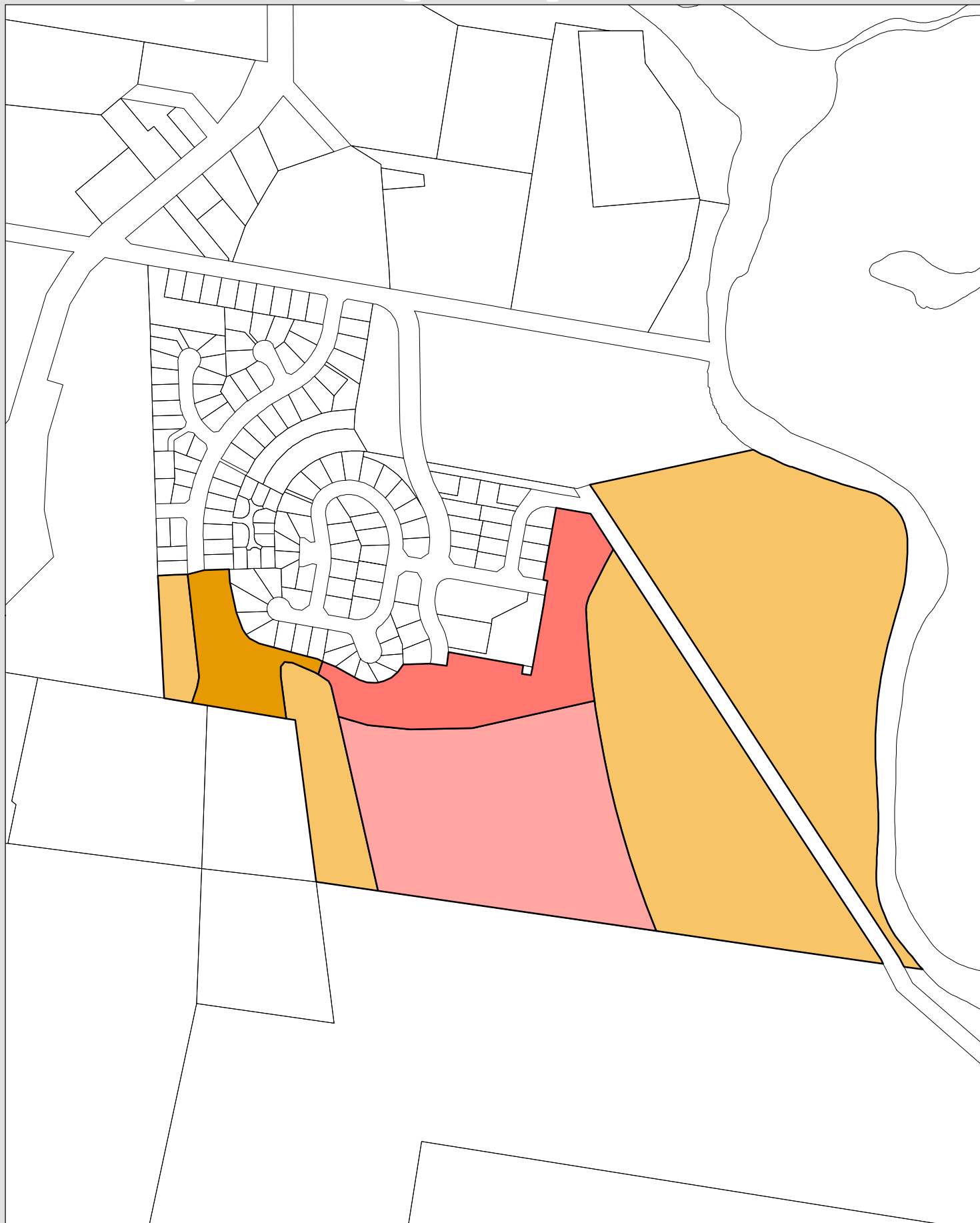


Byron Shire



July 2008

Proposed Zoning for Bayside Brunswick



0 40 80 160 240 320 Metres

Scale 1:6,000



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Legend

Land Parcels

bayside_bruns_clip

Zone

- E2 Environmental Conservation
- E4 Environmental Living
- R2 Low Density Residential
- R3 Medium Density Residential



Byron Shire



July 2008

Appendix L

Site-specific background information (where available)

Bangalow Area 7



**Parsons
Brinckerhoff
Australia
Pty Limited**

Suite 1, Level 3, 55 Bolton Street
Newcastle NSW 2300
PO Box 1162
Newcastle NSW 2300
Telephone +61 2 4929 3900
Facsimile +61 2 4929 7299
Email newcastle@pb.com.au

ABN 80 078 004 798
NCSI Certified Quality System ISO 9001

Our reference: 2122791B/Lt-823/NM/NM

August 2007

REZONING ASSESSMENT

*Lot 77 DP 1031773 Parrot Tree Place, Bangalow
Proponent: GeoLINK on behalf of land owners
Area 7*

1. Description of site and current zoning

The site has frontage to Parrot Tree Place, which is accessed off Rifle Range Road. The majority of the site is cleared and has previously been utilised for grazing. There are no buildings or structures erected on the site. It has an area of approximately 5.87 ha and is irregular in shape but is obviously designed to accommodate an extension of the adjoining subdivision. The site is currently zoned 1 (b1) Agricultural Protection under Byron LEP 1988. Refer to Map 1 from Council's GIS mapping system.

2. Proposed use of land and proposed zoning

The proposed use of the site is for 41 residential lots and an additional 28 medium density units. The proposal also suggests open space areas and adjoins an existing detention basin. The proposed zone requested by the proponent is part residential with the open space areas to be dedicated to Council as zone open space.

3. Information and relevant specialist studies

The following documentation has been provided with the rezoning application by the proponent:

- Rezoning report prepared by GeoLINK including a variety of information relating to the site and the impacts of the proposed development; and
- A Contamination report prepared by Black Earth Environmental Services 2007.

In a letter to the applicant dated 1 June 2007 additional information was requested. The applicant supplied this, which included additional information about slope, access and use (in the form of a structure plan) in a letter dated 18 June 2007. The response by the applicant assisted with this assessment of the rezoning application.

4. Consultation required with rezoning

As with all rezonings and LEP amendments, Council is required to consult with relevant government agencies in relation to any proposed change in zoning. Therefore Council will need to consult and consider their comments when drafting the new LEP. The following government agencies are suggested:

- Roads and Traffic Authority;
- Rail Corporation NSW;
- Rural Fire Services;
- Dept of Water and Energy;
- Dept of Primary Industries;
- Dept of Planning;
- Dept of Environment and Climate Change; and
- Dept of Education.

5. Technical review

The submissions by the applicant addressed a number of technical issues. These have generally been adequately addressed and a summary of the main issues, with details of how they have been addressed is included below:

Ecological assessment: The submission presents a preliminary ecological assessment of the site. A large portion of the site is heavily disturbed. The Department of Environment and Conservation Wildlife Atlas database was assessed for records of threatened fauna species and some were listed within a 5km radius of the study area. However, the recommendation concluded that the study area does not provide suitable habitat for any threatened flora and fauna species. The result is that there are no identifiable constraints that will affect the zoning of the site for residential development. Protection and regeneration of riparian habitat will provide an appropriate level of ecological management.

Noise: The proposal is located within 60m of an existing rail network. Although the rail network is not currently operating, there is the potential that future decisions could result in trains operating on the line. The proposed vegetated noise buffer will not provide for any noise attenuation, albeit an improved visual impact. Any development application for the site will need to consider the noise and vibration guidelines prepared by Railcorp for development in the vicinity of a railway line.

Contamination: A preliminary soil contamination assessment was undertaken for the proposed developable area. The assessment concluded that there is a very low likelihood of any soil contamination being present on the site. No further assessment is considered necessary at this stage.

Access & Movement: The site is to be accessed from the adjoining residential streets, mainly Parrot Tree Place. The Bangalow Settlement Strategy supports residential development subject to the expansion of the railway underpass to provide safe passage of traffic and access to the Lismore to Bangalow Road, and improvement of pedestrian and cycle access to the village centre. The applicant has provided information showing pedestrian and cycle access to the village centre and outlining the impact of additional vehicular movement to the area. The submission suggests that the impact of the additional traffic in the adjoining residential area will not be significant, however it is suggested that more detail should be provided at the development application stage when final numbers are known in relation to residential allotments. The intersection at the Rifle Range road underpass is identified in Councils Section 94 plan and discussions have been undertaken with the RTA and Railcorp about the intersection and underpass upgrades. This

can be achieved and should be considered as part of the development application. The current bus services for Bangalow can be utilised for public transport.

Flooding: None of the area proposed for residential subdivision has been identified by Council as being floodprone so therefore no study into flooding has been prepared.

Bush Fire: The site does not contain any bush fire prone land and therefore no assessment is required to be carried out.

Slope: The site has some small areas of over 15% slope, which will not inhibit the development of the site.

Infrastructure: The site is well placed to be connected to these services. The submission shows how the proposed development could be connected to essential infrastructure such as roads, water, sewer, drainage, telephone etc.

Heritage: The submission identified that there were no register indigenous or non-indigenous sites or places on the site. No consultation was done with the local Aboriginal community as the potential for sites in the area proposed for development was low. Consultation could occur as part of the development application if thought necessary at the time. Bangalow has a number of historic sites and places, including heritage listings. The character of the development should be considered in site specific development controls.

Social Impacts: The submission includes a scoping for a social impact assessment in accordance with Council's draft policy. A number of issues were considered and it concluded that there would be no adverse impacts from the proposed development on the social aspects of Bangalow and the surrounding locality. Further details can be considered in a development application when Council finalises its social impact assessment policy and DCP.

6. Implications of proposal

6.1 Statutory Implications

6.1.1 Environmental Planning and Assessment Act 1979

The proposal has been considered under the provisions of the EP&A Act 1979 and found to be generally consistent.

6.1.2 State Environmental Planning Policies (SEPPs)

The proposal has been assessed against the relevant SEPPs as detailed below:

- SEPP 11: Traffic Generating Developments – An initial traffic analysis was provided as part rezoning submission. The traffic analysis found that the potential future traffic movements are acceptable with regard to the local road subject to network improvements at the subdivision stage. Network upgrades will be required in the form of existing road configurations, intersection upgrades and underpass consideration. SEPP 11 to be considered as part of DA stage when scale of development is known.

- SEPP 44: Koala Habitat – No Koala habitat is known to occur on the site.
- SEPP 55: Remediation of Land – The submission adequately addresses potential for land contamination. A preliminary assessment found the site is unlikely to be contaminated.

The assessment of the information provided suggests that the proposed rezoning is therefore consistent with relevant SEPPs. No other SEPPs are relevant.

6.1.3 Ministerial Section 117 Directions

The proposed rezoning is generally consistent with all the Section 117 Directions. Discussion of the consistencies can be found in Annexure A.

6.1.4 North Coast Regional Environmental Plan (REP)

The North Coast REP provides a list of issues to be addressed and considered as part of any rezoning. The list of relevant sections of the REP are detailed in Annexure A. There are no inconsistencies.

6.1.5 Far North Coast Regional Strategy

The proposed rezoning is consistent with the Far North Coast Regional Strategy as the subject site is included as a Proposed Future Urban Release Area.

6.1.6 Bangalow Settlement Strategy

The proposal seeks rezoning for land identified in the strategy. Area 7 (being part of Lot 77 DP 1031773) is identified within the Settlement Strategy as a future urban release area. The remainder of the site, zoned 1(b1), has not been identified within the strategy for residential purposes mainly due to its location within the sewerage treatment plant (STP) buffer.

The strategy states that Area 7 is suitable for residential development in two stages, subject to vegetation buffers to Lismore Road and the railway line, planting the riparian zone of the drainage line to the west, improvement of the railway underpass on Rifle Range Road and pedestrian and cycle access to the village centre (Byron Shire Council, 2003)..

Issues such as the 400 metre buffer to the STP and vegetation buffers have been addressed in the submission. Other issues such as planting the riparian zone, improving the railway underpass and pedestrian and cycle access to the village centre have been addressed in the submission but will require further consideration. These issues along with watercourse management, including planting in the riparian zone and water sensitive urban design, can be considered in a site-specific DCP and/or at the development application stage. Pedestrian and cycle access to the village centre may be dealt with through s94 contributions and/or a planning agreement. Similarly, the rail underpass may be dealt with at development application stage; however, the cost involved in increasing the capacity of the underpass may be a limiting factor in development of the site and should be further discussed with the proponent during the public exhibition stage of the LEP amendment.

The proposal generally accords with the settlement strategy. Part of Lot 77 and the area identified for open space at the southern portion of the site were not identified for urban development in the settlement strategy.

It should be noted that an area of the site to the south west was identified in the submission for open space as were two other locations within the proposal. The area to the south west is recommended to remain as rural as at this stage it is not needed for open space purposes by Council. The other two locations identified in the proposal will be zoned residential and can be negotiated with Council during the development application process. They have not been considered further as part of this rezoning proposal.

6.1.7 Byron LEP 1988

The whole site is currently zoned 1 (b1) Agricultural Production under Byron LEP 1988. The application seeks a new zoning to residential with the open space areas to be dedicated to Council as an open space zone.

This is not considered appropriate and the zoning under the Standard LEP Template could be:

- R2 Low Density Residential or R3 Medium Density Residential for Area 7;
- RU1 Primary Production or RU2 Rural Landscape for the residue within the STP buffer; and
- E3 Environmental Management or E2 Environmental Conservation for the area adjoining the waterway area.

6.2 Environmental Implications

The submission presents a preliminary ecological assessment of the site. The assessment found that appropriate development of the land would have no significant impact on threatened species as no threatened species were found on the site. The rezoning submission states that the riparian vegetation is the most significant ecological attribute of the study site. A riparian buffer should be established on the site, through either a DA condition, DCP or zoning in the new Shire-wide LEP.

Other potential issues relate to noise and contamination. These issues have been addressed in Section 5 of this report and there are none that cannot be addressed until the DA stage. Any development application prepared for the site will need to consider the relevant aspects of a new DCP, this would include drainage, water sensitive urban design, heritage, access, noise, etc.

6.3 Social Implications

Impact of additional residents on existing social services must be reviewed in tandem with other proposed rezoning in Bangalow. Existing social services are currently stretched, such as the Bangalow Primary School that is operating at near its design capacity and is being considered for further expansion if possible (Byron Shire Council, 2003). The impact of the proposed rezoning on the existing residents, especially in terms of amenity and increased traffic movements in the local streets, needs to be carefully considered and managed as part of any new development. The site is more than 400m from the main town centre and the

strategy identifies that Bangalow should be a walkable village. Generally 400m is considered the optimum distance. To address this the applicant has accommodated pedestrian access to the village as suggested by the Settlement Strategy.

The submission considered the social issues in a scoping exercise consistent with Councils draft social impact assessment (SIA) policy. A further SIA in accordance with the draft SIA DCP will also be required with the development application.

6.4 Economic Implications

The economic implications are considered positive. The proposed development would not only provide job opportunities during the construction phase but will bring additional revenue into the local businesses and area once established.

7. Conclusion

Rezoning of Area 7 (part of Lot 77 DP 1031773) is considered to be a logical extension of the existing residential area, and a large portion of the site is identified within the settlement strategy and the Far North Coast Regional Strategy as a future release area. As the site adjoins a relatively new subdivision in Bangalow the impacts of any future developments on the townships would be minimal. Specific DCP controls should be prepared for this site to guide development in in this area to ensure that future residential development does not adversely impact on heritage or amenity values of the existing township.

The submission generally addresses Council's requirements, including the provision of a landscaped buffer to the railway line and Lismore Road. Whilst the Council requirement is not met in regards to the cycleway adjacent to the railway line, it is believed that the applicant's justification for its relocation within the site is considered sufficient; having addressed potential safety/crime issues and still providing pedestrian access to the village centre.

It is not considered an appropriate option to introduce medium density housing into this site, due to the potential noise, traffic and amenity impacts, the housing numbers should be limited. Further, in light of the proposed medium density for Area 4 (North and South), it would be more in keeping with the local neighbourhood to restrict development to low density.

The residue of the site is recommended for rural zoning as the land is classified as being of high agricultural value. Although the proponent is suggesting an open space use, this is not considered necessary or appropriate.

Part of the site is identified within the settlement strategy for future release, and sufficient justification for its development is given within the rezoning submission, as assessed above.

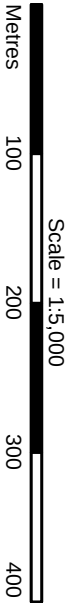
8. Recommendation

It is recommended to zone Lot 77 DP 1031773 Parrot Tree Place, Bangalow to R2 Low Density Residential and RU2 Rural Landscape as shown on Figure 1 in Appendix K of the LES.

Map 1 – Area 7 Bangalow – Lot 77 DP 1031773
Byron LEP 1988 Zoning



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(Scale correct at A4 size)



10/07/2008



ANNEXURE A

S117 DIRECTIONS

<u>Instrument:</u> S.117 Directions		Compliance: Yes/No	Comments
1.1	Business and Industrial Zones	Yes	
1.2	Rural Zones	Yes	The proposal will affect land currently zoned 1 (b1) Agricultural Production. The site is adjacent to existing residential land and involves a logical extension of that land. The proposal is consistent with a strategy adopted by Council and the Far North Coast Regional Strategy. It is also contained within this LES which recommends the proposal. Therefore the proposed rezoning is consistent.
1.3	Mining, Petroleum Production and Extractive Industries	Yes	The proposal is a relatively small addition to the township of Bangalow and should not have a detrimental impact on resources. Section 62 consultation will be undertaken as part of this process also.
1.4	Oyster Aquaculture	N/A	
2.1	Environmental Protection Zones	Yes	The site contains potential habitat for threatened species. Protection and regeneration of riparian habitat will provide an appropriate level of ecological management. Riparian buffer to be established at the DA or DCP stage.
2.2	Coastal Protection	N/A	Not located within the coastal zone.
2.3	Heritage Conservation	Yes	No sites have been identified within the area proposed for rezoning.
2.4	Recreation Vehicle Areas	N/A	
3.1	Residential Zones	Yes	The proposal involves an extension to an existing residential zone. The proposal is in accord with the Direction as it allows for a range of building types and locations, varied density and use of existing infrastructure and services.
3.2	Caravan Parks and Manufactured Home Estates	N/A	

<u>Instrument:</u> S.117 Directions		Compliance: Yes/No	Comments
3.3	Home Occupations	Yes	Council to consider making home occupations permissible without consent generally in the residential zone in the new Shire-wide LEP.
3.4	Integrating Land Use and Transport	Yes	The Far North Coast Regional Strategy identifies the site as a suitable area for urban development. The site is easily accessible from existing road infrastructure and is also within walking distance of public transport and facilities. Further traffic assessment should be undertaken at the development application stage.
3.5	Development near Licensed Aerodromes	N/A	
4.1	Acid Sulfate Soils	Yes	There are no acid sulfate soils identified on the site in Council's mapping.
4.2	Mine Subsidence and Unstable Land	N/A	
4.3	Flood Prone Land	Yes	Flood prone areas have been suitably identified in the submission and will not form part of the developable area. Areas that are identified as flood prone are not in the area proposed for urban development
4.4	Planning for Bushfire Protection	Yes	No bush fire prone land identified for rezoning to residential.
5.1	Implementation of Regional Strategies	Yes	The proposed rezoning is identified in the Far North Coast Regional Strategy and is generally consistent with that strategy.
5.2	Sydney Drinking Water Catchments	N/A	
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	Yes	The site is considered regionally significant farmland, however as it is included within the Bangalow Settlement Strategy it was as exclusion from the final project (Section 4). Also the site is consistent with the Far North Coast Regional Strategy.
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	N/A	
5.5	Development in the Vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	N/A	

<u>Instrument:</u> S.117 Directions		Compliance: Yes/No	Comments
5.6	Sydney to Canberra Corridor	N/A	
5.7	Central Coast	N/A	
5.8	Second Sydney Airport: Badgerys Creek	N/A	
6.1	Approval, and Referral Requirements	Yes	No concurrence or referral requirements are required as part of this proposal and it is not designated development.
6.2	Reserving Land for Public Purposes	Yes	No land is being reserved for a public purpose as part of this proposal.
6.3	Site Specific Provisions	Yes	This rezoning proposal is part of a new major Shire-wide LEP – all the zones have new provisions relating to areas and sites. It is therefore not inconsistent as an LEP is not being amended.

NORTH COAST REGIONAL ENVIRONMENTAL PLAN

Clause	Item	Consistent: Yes/No	Comments
7	Plan Preparation – prime crop or pasture land - Identify and include land in an agricultural protection zone and contain provisions that prevent subdivision other than for commercial farming; set minimum lot sizes; separate this land with land zoned residential; prohibit incompatible development; and only rezone prime crop or pasture land for purposes other than agriculture only if a detailed analysis of agricultural capability has been carried out. - Land not included in an agricultural protection zone as above: include provisions that retain land for commercial farming; set minimum lot sizes to maintain commercial farming.	Yes	The Bangalow Settlement Strategy (Byron Shire Council, 2003) states that development areas identified in the Strategy, such as the current proposal, are on relatively small land units, which consolidate and help define the village edge, rather than expanding into agricultural lands. Given the topography and size of area involved the site is not considered suitable for many forms of agriculture.
14	Plan preparation – wetlands or fishery habitats A draft LEP for land containing rivers, streams, wetland or fishery habitats should: ...	Yes	Appropriate riparian buffers can be established at the DCP or development application stage
17	Plan preparation – extractive materials A draft LEP applying to rural lands should: include in a suitable zone major deposits of extractive material...and include provisions to prohibit development which may compromise the proposed extraction operation...	Yes	No major deposits are known to occur on the subject site. Appropriate section 62 consultation is being undertaken.
29	Plan preparation – natural areas and water catchments A draft LEP should: (a) retain existing provisions allowing the making of tree preservation orders; (b) not alter or remove existing environmental protection, scenic protection or escarpment zonings or controls within them...; (c) include significant areas of natural vegetation....in environmental protection zones; (d) contain provisions which require that development in domestic water catchment areas...; (e) require consent for clearing of natural vegetation in...	Yes	Existing areas of native vegetation should be retained and allowed to regenerate, where possible. Protection and regeneration of riparian habitat will provide an appropriate level of ecological management.

Clause	Item	Consistent: Yes/No	Comments
38	Plan preparation – urban land release strategy - A draft LEP which permits significant urban growth should not be prepared unless an urban land release strategy has been adopted for the whole of the LGA. - Development as above should be consistent with that strategy. - The strategy shall: ...	Yes	Byron Shire LES and township settlement strategies can be considered an urban land release strategy at this time.
40	Plan preparation – principles for urban zones A draft LEP applying to urban areas should adopt the following principles: ...	Yes	Release area should be incorporated into the DCP to address these principles.
42	Plan preparation – principles for housing A draft LEP to permit dwellings in urban areas should incorporate provisions that: ...	Yes	Proposal provides for diverse housing types.
45	Plan preparation – hazards - A draft LEP should not permit development for tourism, rural housing or urban purposes on land subject to the following hazards, namely.....unless the council has made an assessment of the extent of the hazard and included provisions in the plan to minimise adverse impact. - In the event of a bush fire hazard being identified for land on which dwellings are proposed to be permitted, the council shall not permit development unless it is satisfied that arrangements where appropriate have been made to: ...	Yes	None of the area proposed for residential development is flood prone. None of the land proposed for residential development is bush fire prone. No acid sulfate soils exist on the site. Other hazards, if identified can be considered as part of any development application.
45A	Plan preparation – flood liable land - Applies to flood liable land within the meaning of the Floodplain Development Manual. - A draft LEP should: ...	Yes	No flood liable land has been identified in the area proposed for urban development.
56A	Plan preparation – bus services In the preparation of a draft LEP involving an alteration to the zoning of land which could give rise to the need for bus services or the revision of existing bus services, the council should take into consideration...	Yes	This was considered as part of the social impact assessment scoping exercise. Although the bus services to Bangalow are not extensive, the site is within walking distance of local bus stops.

Clause	Item	Consistent: Yes/No	Comments
58	Plan preparation – servicing urban areas A draft LEP should not permit development for urban purposes unless the council is satisfied that: ...	Yes	A servicing strategy can be provided by the proponent with any development application
61	Plan preparation – health and education facilities A draft LEP should not zone land for residential purposes on either urban or rural land unless: ...	Yes	The site is located in close proximity to Bangalow services, which are only minor. Major services are located in Lismore, Byron Bay and Ballina.
65	Plan preparation – provision of community, welfare and child care services A draft LEP should: ...	Yes	The site is located in close proximity to Bangalow services, which are only minor. Major services are located in Lismore, Byron Bay and Ballina.
78	Plan preparation – public recreation areas A draft LEP should include provisions which: ...	Yes	The site is located in close proximity to Bangalow's facilities. Major recreation facilities are located in Lismore, Byron Bay and Ballina.

Bangalow Area 4 North



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NCSI Certified Quality System ISO 9001

Our reference: 2122791B/Lt-820/NM/NM

August 2007

REZONING ASSESSMENT

Lot 22 DP 1070522 and Lot 4 DP 233810 Ballina Road, Bangalow
Proponent: ERM on behalf of land owners
Area 4 (North)

1. Description of site and current zoning

The site is located between Ballina Road and the Pacific Highway to the east of the village of Bangalow. Access is gained via Ballina Road. The site is currently zoned 1 (a) General Rural under Byron LEP 1988. Refer to Map 1 from Council's GIS mapping system.

An area to the south (Area 4 South) of the site is also proposed for rezoning and whilst this site has been evaluated on its own merit, the planning implications have been considered in tandem with the current proposal for Area 4 North.

2. Proposed use of land and proposed zoning

The proposed use of the site is low to medium density development with two options:

1. A mixture of low density (6 new lots with access to Blackwood Crescent) and a major component of medium density in the form of 52 unit seniors living residential development with self-contained dwellings; or
2. A low density residential subdivision, with access to both Ballina Road and Blackwood Crescent, of 37 new lots.

The applicant states that a mobile home or caravan park as recommended in the Bangalow Settlement Strategy is not suited to this allotment due to the lack of support for this type of development in Bangalow and its location and proximity to the existing residential development and nursing home.

The proposed zone requested by the applicant is R1 General Residential or R3 Medium Density Residential and E2 Environmental Conservation Zone.

3. Information and relevant specialist studies

The following documentation has been provided with the rezoning application by the applicant:

- Rezoning report prepared by ERM including a variety of information relating to the site and the impacts of the proposed development;

- Report on Engineering Matters, Robert Dennis and Associates (2007);
- Flora and Fauna Assessment, James Warren and Associates (2007);
- Acoustics Assessment, Craig Hill Acoustics (2007); and
- Contamination Assessment and Validation, Soil Pacific (2001).

In a letter to the applicant dated 1 June 2007 requested additional information. The applicant supplied this, which included additional information about traffic and use in a letter dated 13 June 2007. The response by the applicant assisted with this assessment of the rezoning application.

4. Consultation required with rezoning

As with all rezonings and LEP amendments, Council is required to consult with relevant government agencies in relation to any proposed change in zoning. Therefore Council will need to consult and consider their comments when drafting the new LEP. The following government agencies are suggested:

- Roads and Traffic Authority;
- Rail Corporation NSW;
- Rural Fire Service;
- Dept of Water and Energy;
- Dept of Primary Industries;
- Dept of Planning;
- Dept of Environment and Climate Change; and
- Dept of Education.

5. Technical review

The submissions by the applicant addressed a number of technical issues. These have generally been adequately addressed and a summary of the main issues, with details of how they have been addressed is included below:

Ecological assessment: The submission presents an ecological assessment of the site. The assessment found that appropriate development of the land would have no significant impact on threatened species. Areas of ecological consideration are the creekline to the south of the site and the small clump of native rainforest trees near the northern boundary. No further consideration of ecology is necessary, subject to compliance with the recommendations of the ecological assessment by James Warren & Associates (February, 2007) with the exception of the riparian buffer. A riparian buffer should be established on the site through appropriate environmental zoning (E2 or E3).

Noise: The proposal is located adjacent to the Pacific Highway. The proponent has provided a noise assessment that concluded construction methods could ameliorate potential noise impact from the highway. The noise assessment addresses amenity issues of outdoor recreation by recommending a noise barrier along the eastern boundary of the subject site. No further consideration of noise is required at the rezoning stage and the requirement for a noise barrier could be included in a site specific DCP..

Contamination: An assessment of potential contamination was undertaken for a previous DA (No. 10.2002.77.1) for the site. The report was undertaken by Soil Pacific in 2001 and quantified the extent of lead contamination in soil that was identified by a preliminary investigation (Irwin & Cooney 2000). It also identified the remediation strategy to be employed, reported on results and validation of the site. Additional work was done for the proposal to identify potentially contaminating activities that may have occurred on the site. No further potentially contaminating activities were identified for the site. The lead contamination has been removed and the site validated. The Soil Pacific report concludes that the property is suitable for 'sensitive' land uses including residential. No further assessment is considered necessary at this stage.

Access & Movement: The assessment by the applicant indicates that Ballina Road is a dead end no through road which services only 18 properties with light and infrequent traffic movements. The road reserve adjacent to the property is in excess of 30 m and is of suitable grade that would enable the construction of an intersection complying with relevant Austroads and RTA guidelines. Blackwood Crescent has been constructed as an 8 m wide Local Access Road and is suitable for providing access for up to 100 ETs. Presently Blackwood Crescent road only services 60 allotments and has the potential for providing access to an additional 40 ETs on the subject site if required. The traffic assessment can be revised with the development application once the final proposal for the land is known.

The site provides potential for the development of pedestrian and bike paths for connection to the adjacent residential subdivisions and the Bangalow community. The location is within a short level walk to shops, primary school, sporting fields, recreation club, medical services and other community facilities. The current bus services for Bangalow can be utilised for public transport.

Flooding and Stormwater: Flooding and drainage has been considered by the applicant, particularly on the southern part of the site near the creek. Flood prone land is not to be included in the area proposed for development. The area adjoining the creek, including the flood prone land will be zoned environmental (E2 or E3) so as to protect the areas subject to hazards and the riparian areas. Stormwater management on the site should be undertaken in accordance with Water Sensitive Urban Design, using on-site detention and filtration of stormwater. This will be proposed in a DCP.

Bushfire: The site does not contain any bush fire prone land and therefore no assessment is required to be carried out.

Slope: The site has some small areas of over 15% slope, which will not inhibit the development of the site.

Infrastructure: The site is well placed to be connected to these services. The submission shows how the proposed development could be connected to essential infrastructure such as roads, water, sewer, drainage, telephone etc.

Social Impacts: The submission includes a social issues assessment that considered a number of issues and it concluded that there would be no adverse impacts from the proposed development on the social aspects of Bangalow and the surrounding locality. The proposal indicates potential for seniors living on the site, which would fill a gap that has been identified in the Bangalow and Shire housing provision market. Further details can be considered in a development application when Council finalises its social impact assessment policy and DCP.

6. Implication of proposal

6.1 Statutory Implication

6.1.1 Environmental Planning and Assessment Act 1979

The proposal has been considered under the provisions of the EP&A Act 1979 and found to be generally consistent.

6.1.2 State Environmental Planning Policies (SEPPs)

The proposal has been assessed against the relevant SEPPs as detailed below:

- SEPP 11: Traffic Generating Developments –An initial traffic analysis was provided as part of the additional information supplied by the proponent. The traffic analysis found that the potential future traffic movements are acceptable with regard to the local road network; however, potential additional traffic from Area 4 South has not been considered in this traffic assessment (refer to Area 4 South assessment). Issues such as upgrades of Ballina and Bangalow Roads, inability to access the new Pacific Highway and provision of a new intersection to the site must be addressed. Traffic management and SEPP 11 can be considered at the DA stage, including road network upgrades section 94 contributions.
- SEPP 44: Koala Habitat – No Koala habitat is known to occur on the site.
- SEPP 55: Remediation of Land – The submission adequately addresses potential for land contamination. A preliminary assessment found the site was contaminated but has been adequately remediated and certified. Further assessment can be undertaken at a DA stage if required.

The assessment of the information provided suggests that the proposed rezoning is therefore consistent with relevant SEPPs. No other SEPPs are relevant.

6.1.3 Ministerial Section 117 Directions

The proposed rezoning is generally consistent with all the Section 117 Directions. Discussion of the consistencies can be found in Annexure A.

6.1.4 North Coast Regional Environmental Plan (REP)

The North Coast REP provides a list of issues to be addressed and considered as part of any rezoning. The list of relevant sections of the REP are detailed in Annexure A. There are no inconsistencies.

6.1.5 Far North Coast Regional Strategy

The proposed rezoning is consistent with the Far North Coast Regional Strategy as the subject site is included as a Proposed Future Urban Release Area.

6.1.6 *Bangalow Settlement Strategy*

The proposal seeks rezoning for land identified in the strategy. The northern part of Area 4 (being Lot 22 DP 1070522 and Lot 4 DP 233810) is identified within the Settlement Strategy as a future urban release area. However not all of the identified Area 4 is addressed within this application. The rezoning applies only to the northern portion of the area. Both parts of Area 4 shall be assessed separately; however the dual impact of both must be given considered when assessing the “big picture” for Bangalow.

Council identified Area 4 for an alternative type of residential use such as a caravan park or mobile home site, which would have a yield of approximately 40 sites, located on the flood free land. The applicants have suggested that several of the non-standard land uses (i.e. mobile home villages), would be incompatible with the existing village character. It is suggested that a rezoning to permit seniors living would be a more appropriate outcome for Bangalow.

It should be noted that the low density residential subdivision (proposed option two) is not seen as being consistent with the settlement strategy, which outlines that Area 4 shall be utilised to provide non-standard residential development.

There will be public interest associated with this proposal, especially from the residents of Bangalow. Many will want to ensure that any new development is sympathetic to the existing character of Bangalow. The proposal, particularly if senior’s living is approved, is generally in keeping with the Settlement Strategy and the character of Bangalow. The facilitation of aged housing is proposed in the Settlement Strategy and would therefore be the recommended option.

6.1.7 *Byron LEP 1988*

The whole site is currently zoned 1(a) General Rural under Byron LEP 1988.

The application seeks a new zoning to residential and environmental conservation under the new Shire-wide LEP. The appropriate zoning under the Standard LEP Template could be:

- R3 Medium Density Residential for the main part of the site; and
- E3 Environmental Management or E2 Environmental Conservation for the riparian area and the remainder of the constrained land.

6.2 **Environmental Implications**

Part of Area 4 has been identified as flood prone. However, the flooding information provided by the applicant indicates that development shall occur above the 1% flood level. Further, a buffer between 10 and 30 metres has been provided to the creek line. Portions of the land that is greater than 20% in slope have been identified by the proponent, and are not suitable for future urban development.

There are other environmental concerns associated with the site, but there are none that cannot be addressed until the DA stage. Any development application prepared for the site will need to consider the

relevant aspects of a new DCP, this would include flooding, drainage, water sensitive urban design, heritage, geotech, etc. There is more discussion of these issues in section 5.

6.3 Social Implications

Impact of additional residents on existing social services must be reviewed in tandem with other proposed rezonings in Bangalow. Existing social services are currently stretched, such as the Bangalow Primary School that is operating at near its design capacity and is being considered for further expansion if possible (Byron Shire Council, 2003). The impact of the proposed rezoning on the existing residents, especially in terms of amenity and increased traffic movements in the local streets, needs to be carefully considered and managed as part of any new development. The submission considered the social issues in a similar way to Councils draft social impact assessment (SIA) policy. A further SIA in accordance with the draft SIA DCP will also be required with the development application.

6.4 Economic Implications

The economic implications are considered positive. There is unmet demand for seniors living type accommodation and this has been recognised in the Bangalow Settlement Strategy. The proposed development would not only provide job opportunities during the construction phase but will bring additional revenue into the local businesses and area once established.

7. Conclusion

The Bangalow Settlement Strategy recommends non-standard residential development within Area 4. The rezoning of the site to facilitate medium density, possibly incorporating seniors living, would be suitable given the close proximity to existing aged care facilities and medical services. Further, the site is easily accessed from Ballina Road, without adversely impacting on existing residential areas, particularly in terms of traffic volumes and noise. Its proximity to the town centre and community facilities, including open space, makes it the most suitable available site within the Bangalow Settlement Strategy to accommodate medium density and in particular seniors living. It would help meet the housing demand facing Byron Shire to cater for its increasing aging population.

In addition, if possible there is potential for Area 4 North and South to be integrated rather than developed in isolation, however due to the environmental constraints of the creek line, this appears to be an unlikely option.

It is recommended that a site specific DCP be prepared which will include design issues, bulk and scale, and site of buildings etc to assist in reducing visual impact. The issue of slope, flooding and access will also need to be carefully considered at DA stage.

In light of the above and the site being identified within the Bangalow settlement strategy, the proposed zoning to accommodate medium density residential is justified and considered desirable for the area.

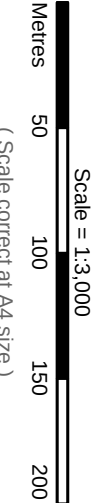
8. Recommendation

It is recommended to zone Lot 22 DP 1070522 and Lot 4 DP 233810 Ballina road, Bangalow part R3 Medium Density Residential and part E3 Environmental Management as shown on Figure 2 in Appendix K of the LES.

Map 1 – Area 4 (North) Bangalow – Lot 22 DP 1070522 & Lot 4 DP 233810
Byron LEP 1988 Zoning



Disclaimer: While all reasonable care has been taken to ensure the information contained on this map is up to date and accurate, no warranty is given that the information contained on this map is the property of the council. Any reliance placed on this map is at the user's risk. The council is not responsible for the accuracy of the information shown on this map. Please verify the information with the council.



(Scale correct at A4 size)



10/07/2008



Annexure A

S117 DIRECTIONS

<u>Instrument:</u> S.117 Directions		Compliance: Yes/No	Inconsistency and reasons
1.1	Business and Industrial Zones	Yes	
1.2	Rural Zones	Yes	The proposal will affect land currently zoned 1 (a) General Rural. The site is adjacent to an existing urban/residential area and involves a logical extension of that land. The proposal is consistent with a strategy adopted by Council and the Far North Coast Regional Strategy. It is also contained within this LES which recommends the proposal. Therefore the proposed rezoning is consistent. The site has been considered in tandem with the proposed urban release of Area 4 South.
1.3	Mining, Petroleum Production and Extractive Industries	Yes	The proposal is a relatively small addition to the township of Bangalow and should not have a detrimental impact on resources. Section 62 consultation will be undertaken as part of this process also.
1.4	Oyster Aquaculture	N/A	
2.1	Environmental Protection Zones	Yes	The site contains potential habitat for threatened species. The ecological study found that the site did not contain threatened species. Riparian areas on the boundary of the creek must be conserved and suitable buffers must be provided to proposed urban development. An Environmental Protection zone is proposed in these areas. A hydrology study should be undertaken at the subdivision stage to determine the potential impact of stormwater on the creek.
2.2	Coastal Protection	N/A	Not located within the coastal zone.
2.3	Heritage Conservation	Yes	No sites have been identified within the area proposed for rezoning.
2.4	Recreation Vehicle Areas	N/A	

<u>Instrument:</u> S.117 Directions		Compliance: Yes/No	Inconsistency and reasons
3.1	Residential Zones	Yes	The proposal will allow for development of a new residential zone that is connected to an existing residential area. The proposal is in accord with the Direction as it allows for a new density of development in Bangalow and use of existing infrastructure and services.
3.2	Caravan Parks and Manufactured Home Estates	N/A	
3.3	Home Occupations	Yes	Council to consider making home occupations permissible without consent generally in the residential zone in the new Shire-wide LEP.
3.4	Integrating Land Use and Transport	Yes	The Far North Coast Regional Strategy identifies the site as a suitable area for urban development. The site is easily accessible from existing road infrastructure and is also within walking distance of public transport and facilities. Further traffic assessment should be undertaken at the development application stage.
3.5	Development near Licensed Aerodromes	N/A	
4.1	Acid Sulfate Soils	Yes	There are no acid sulfate soils identified on the site in Council's mapping.
4.2	Mine Subsidence and Unstable Land	N/A	
4.3	Flood Prone Land	Yes	Flood prone areas have been suitably identified in the submission and specific drainage requirements can be considered at the development application stage. It is proposed to consider the area for urban development based on the flood study included in the proposal. Any areas that are identified as flood prone are not proposed for urban use.
4.4	Planning for Bushfire Protection	Yes	No bush fire prone land identified for rezoning to residential.
5.1	Implementation of Regional Strategies	Yes	The proposed rezoning is identified in the Far North Coast Regional Strategy and is generally consistent with that strategy.
5.2	Sydney Drinking Water Catchments	N/A	

<u>Instrument:</u> S.117 Directions		Compliance: Yes/No	Inconsistency and reasons
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	No	The site is considered regionally significant farmland, however as it is included within the Bangalow Settlement Strategy it was as exclusion from the final project (Section 4). Also the site is consistent with the Far North Coast Regional Strategy.
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	N/A	
5.5	Development in the Vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	N/A	
5.6	Sydney to Canberra Corridor	N/A	
5.7	Central Coast	N/A	
5.8	Second Sydney Airport: Badgerys Creek	N/A	
6.1	Approval, and Referral Requirements	Yes	No concurrence or referral requirements are required as part of this proposal and it is not designated development.
6.2	Reserving Land for Public Purposes	Yes	No land is being reserved for a public purpose as part of this proposal.
6.3	Site Specific Provisions	Yes	This rezoning proposal is part of a new major Shire-wide LEP – all the zones have new provisions relating to areas and sites. It is therefore not inconsistent as an LEP is not being amended.

CHECKLIST FOR CONSISTENCY OF DRAFT LEP WITH THE PROVISIONS OF NORTH COAST REGIONAL ENVIRONMENTAL PLAN

Clause	Item	Consistent: Yes/No	Relevant?
7	Plan Preparation – prime crop or pasture land - Identify and include land in an agricultural protection zone and contain provisions that prevent subdivision other than for commercial farming; set minimum lot sizes; separate this land with land zoned residential; prohibit incompatible development; and only rezone prime crop or pasture land for purposes other than agriculture only if a detailed analysis of agricultural capability has been carried out. - Land not included in an agricultural protection zone as above: include provisions that retain land for commercial farming; set minimum lot sizes to maintain commercial farming.	Yes	The Bangalow Settlement Strategy (Byron Shire Council, 2003) states that development areas identified in the Strategy consolidate and help define the village edge, rather than allowing urban expansion into agricultural lands. Given the topography and size of area involved, the site is not considered suitable for many forms of agriculture.
14	Plan preparation – wetlands or fishery habitats A draft LEP for land containing rivers, streams, wetland or fishery habitats should: ...	Yes	Appropriate riparian buffers are proposed to be zoned E2 or E3 environmental zones to protect these important areas.
17	Plan preparation – extractive materials A draft LEP applying to rural lands should: include in a suitable zone major deposits of extractive material...and include provisions to prohibit development which may compromise the proposed extraction operation...	Yes	No major deposits are known to occur on the subject site. Appropriate section 62 consultation is being undertaken.

Clause	Item	Consistent: Yes/No	Relevant?
29	Plan preparation – natural areas and water catchments A draft LEP should: (a) retain existing provisions allowing the making of tree preservation orders; (b) not alter or remove existing environmental protection, scenic protection or escarpment zonings or controls within them...; (c) include significant areas of natural vegetation....in environmental protection zones; (d) contain provisions which require that development in domestic water catchment areas...; (e) require consent for clearing of natural vegetation in...	Yes	Existing areas of native vegetation should be retained and allowed to regenerate, where possible. Appropriate conservation zones will be applied to any riparian areas and vegetation. Any stand alone trees will be required to be considered for retention where appropriate as part of any development application for the site.
38	Plan preparation – urban land release strategy - A draft LEP which permits significant urban growth should not be prepared unless an urban land release strategy has been adopted for the whole of the LGA. - Development as above should be consistent with that strategy. - The strategy shall: ...	Yes	Byron Shire LES and township settlement strategies can be considered an urban land release strategy
40	Plan preparation – principles for urban zones A draft LEP applying to urban areas should adopt the following principles: ...	Yes	Release area should be incorporated into the DCP to address these principles.
42	Plan preparation – principles for housing A draft LEP to permit dwellings in urban areas should incorporate provisions that: ...	Yes	Proposal provides for diverse housing types and densities
45	Plan preparation – hazards - A draft LEP should not permit development for tourism, rural housing or urban purposes on land subject to the following hazards, namely.....unless the council has made an assessment of the extent of the hazard and included provisions in the plan to minimise adverse impact. - In the event of a bush fire hazard being identified for land on which dwellings are proposed to be permitted, the council shall not permit development unless it is satisfied that arrangements where appropriate have been made to: ...	No	It is proposed to only permit residential development on land that is not flood prone. None of the land proposed for residential development is bush fire prone. There are buffer requirements imposed. No acid sulfate soils exist on the site. Other hazards are not fatal to the proposal and can be considered as part of any development application.

Clause	Item	Consistent: Yes/No	Relevant?
45A	Plan preparation – flood liable land - Applies to flood liable land within the meaning of the Floodplain Development Manual. - A draft LEP should: ...	Yes	Flood liable land should not be considered for urban development. It has been zoned accordingly.
56A	Plan preparation – bus services In the preparation of a draft LEP involving an alteration to the zoning of land which could give rise to the need for bus services or the revision of existing bus services, the council should take into consideration...	Yes	This was considered as part of the social issues assessment. Although the bus services to Bangalow are not extensive, the site is within walking distance of local bus stops.
58	Plan preparation – servicing urban areas A draft LEP should not permit development for urban purposes unless the council is satisfied that: ...	Yes	A servicing strategy can be provided by the proponent with any development application
61	Plan preparation – health and education facilities A draft LEP should not zone land for residential purposes on either urban or rural land unless: ...	Yes	The site is located in close proximity to Bangalow services, which are only minor. Major services are located in Lismore, Byron Bay and Ballina.
65	Plan preparation – provision of community, welfare and child care services A draft LEP should: ...	Yes	The site is located in close proximity to Bangalow services, which are only minor. Major services are located in Lismore, Byron Bay and Ballina.
78	Plan preparation – public recreation areas A draft LEP should include provisions which: ...	Yes	The site is located in close proximity to Bangalow's facilities. Major recreation facilities are located in Lismore, Byron Bay and Ballina.

Bangalow Areas 1, 2 & 3



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ABN 80 078 004 798
NCSI Certified Quality System ISO 9001

Our reference: 2122791B/Lt-819/NM/NM

November 2007

REZONING ASSESSMENT

*Lot 1 DP 303569, Lot 1 DP 123851 & Lot 100 DP 1016338 (now Lot 100 & 101 DP 1127017),
Rankin Drive / Granuaille Crescent, Bangalow*

Proponent: Balanced Systems Planning Consultants on behalf of land owners.

Areas 1, 2 and 3

1. Description of site and current zoning

The site is in the vicinity of Granuaille Crescent and Rankin Drive on the northern outskirts of Bangalow. The site is bounded by Rankin Drive and adjacent housing lots to the south-west. There are no buildings or structures erected on the site. The area included in this proposal is approximately 7.99 ha. The site is currently zoned mostly 1 (a) General Rural, 1 (b1) Agricultural Protection and 1(a) General Rural with hatching (clause 38) under Byron LEP 1988. There a couple of small slithers of land zoned 2(a) residential. Refer to Map 1 from Council's GIS mapping system.

2. Proposed use of land and proposed zoning

The proposed use of the site is low density residential development. The applicant indicates that a theoretical maximum number of lots could be in the region of 40 to 60 dwellings. The proposal also includes the recommendation of some land to be dedicated as open space. The proposed zone requested by the applicant is part residential and part open space.

3. Information and relevant specialist studies

The following documentation has been provided with the rezoning application by the proponent:

- Rezoning report prepared by Balance Systems Planning Consultants including a variety of information relating to the site and the impacts of the proposed development;
- A specialist assessment for engineering issues prepared by Greg Alderson and Associates;
- A specialist assessment addressing flora and fauna matters prepared by Landmark Ecological Services;
- An assessment to address traffic matters prepared by Greg Alderson and Associates;
- A noise assessment prepared by Greg Alderson and Associates;
- A flood assessment prepared by Greg Alderson and Associates; and
- A Stage 1 SEPP 55 assessment prepared by Balance Systems Planning Consultants.

In a letter to the applicant dated 12 June 2007 additional information was requested. The applicant supplied additional information about slope, layout, drainage and use (in the form of a structure plan) in a

letter dated 25 and 29 June 2007. The response by the applicant has assisted with the assessment of the rezoning application.

4. Consultation required with rezoning

As with all rezonings and LEP amendments, Council is required to consult with relevant government agencies in relation to any proposed change in zoning. Therefore Council will need to consult and consider their comments when drafting the new LEP. The following government agencies are suggested:

- Roads and Traffic Authority;
- Rail Corporation NSW;
- Rural Fire Services;
- Dept of Water and Energy;
- Dept of Primary Industries;
- Dept of Planning;
- Dept of Environment and Climate Change; and
- Dept of Education.

5. Technical review

The submissions by the applicant addressed a number of technical issues. These have generally been adequately addressed and a summary of the main issues, with details of how they have been addressed is included below:

Ecological assessment: The submission presents an ecological assessment of the site. The assessment found that appropriate development of the land would have no significant impact on threatened species. No further consideration of ecology is necessary, subject to compliance with the recommendations of the ecological assessment by Landmark Ecological Services Pty Ltd (March 2007). It is however recommended to ensure the protection and regeneration of riparian habitat to provide an appropriate level of ecological management. This could be provided through an environmental zoning.

Noise: The Pacific Highway alterations would result in the new pacific highway being located more that 500m east of the site. As the main source of noise and vibration, its relocation would result in reduced noise constraints for the site. The proponent has provided a noise assessment that concluded construction methods could ameliorate potential noise impact from the highway. These should be included in a DCP for the site. The railway line bisects the south-eastern corner of the site running north-east to south west. Should the railway be reopened a further noise assessment would be required. Any development application for the site will need to consider the noise and vibration guidelines prepared by Railcorp for development in the vicinity of a railway line.

Access & Movement: The submission presents a traffic assessment of the site which suggests that the proposed rezoning for residential and open space uses in Areas 1, 2 and 3 are suitable with respect to traffic issues, as long as the works nominated in the traffic assessment, prepared by Greg Alderson and Associates, are carried out before the residential use of the land commences. The land should be served

by the existing Granuaille Road, Rankin Drive and the proposed Corlis Crescent which will join up to Granuaille Road at the top of the hill. The figures used in the assessment are considered conservative and it is suggested that more detail should be provided at the development application stage when final numbers are known in relation to residential allotments. Council will require road upgrades as well as Section 94 contributions for road upgrading works. This would allow upgrading to Granuaille Road (Old Pacific Highway) Bangalow Road and other roads in the system in Bangalow.

The applicant has provided information showing pedestrian and cycle access to the village centre, along Granuaille Road as well as potentially across the railway to the open space areas. The current bus services for Bangalow can be utilised for public transport.

Flooding and Stormwater: A preliminary flood and stormwater study has been provided by the applicant. The preliminary assessment on flooding indicated that only a small portion of the site will be affected by 1% flood. The flood prone land is not proposed to be developed for residential development which is supported.

Stormwater management on the site can be undertaken in accordance with Water Sensitive Urban Design, using on-site detention and filtration of stormwater. Thus the proposed rezoning of the property for residential purposes would be appropriate for this land with implementation of the provisions specified in the assessment report prepared by Greg Alderson and Associates. These can be included in DCP provisions to ensure that the impacts downstream are minimised.

Bush Fire: The site contains a small portion of bush fire prone land, this area is not proposed to be used for residential development, therefore no further assessment is required for the rezoning. Assessment for the DA could be carried out and as the north eastern boundary of Area 2 abuts a bushfire prone area, this will need to be considered in the layout design.

Slope: The sites have significant areas over 20% slope which will inhibit development on those areas. This is a significant constraint that was identified in the Bangalow Settlement Strategy, hence Area 3 was the only part of the site recommended for consideration for residential development. The submission includes assessment of the slope issues associated with the site and it is recommended from this information that it is still not possible to recommend all the areas for rezoning and development until detailed geotechnical and landslip assessment is undertaken on some of the steeper slopes.

Infrastructure: The site is well placed to be connected to these services. The submission shows how the proposed development could be connected to essential infrastructure such as roads, water, sewer, drainage, telephone etc. Some additional infrastructure for water and sewer provision will be required and restrictions upon the development of buildings within the easements for water and stormwater drainage lines would be necessary

Contamination: A preliminary soil contamination investigation for potential site contamination was undertaken by the applicant. This confirmed that there was negligible risk of contamination within the site and that no further investigation, including soil sampling, was warranted. No further assessment is considered necessary at this stage.

Visual Impacts: The subject site is elevated and thus highly visible, the sections of the site would require additional consideration of visual impacts for the DA. Details can be included in a DCP for the site. The visual assessment may also include options for screening of development from the village and highway.

Area 1 & parts of Area 2 were not included in the Bangalow Settlement Strategy for residential development because of steepness and potential for adverse visual impacts.

Social Impacts: The submission includes a social issues assessment that considered a number of issues and it concluded that there would be no adverse impacts from the proposed development on the social aspects of Bangalow and the surrounding locality. Further details can be considered in a development application when Council finalises its social impact assessment policy and DCP.

6. Implications of proposal

6.1 Statutory Implications

6.1.1 Environmental Planning and Assessment Act 1979

The proposal has been considered under the provisions of the EP&A Act 1979 and found to be generally consistent.

6.1.2 State Environmental Planning Policies (SEPPs)

The proposal has been assessed against the relevant SEPPs as detailed below:

- SEPP 11: Traffic Generating Developments – An initial traffic analysis was provided as part rezoning submission. The traffic analysis found that the potential future traffic movements are acceptable with regard to the local road subject to network improvements at the subdivision stage. Network upgrades will be required in the form of existing road configurations and intersection upgrades. SEPP 11 to be considered as part of DA stage when scale of development is known.
- SEPP 44: Koala Habitat – No Koala habitat is known to occur on the site.
- SEPP 55: Remediation of Land – The submission adequately addresses potential for land contamination. A preliminary assessment found the site is unlikely to be contaminated.

The assessment of the information provided suggests that the proposed rezoning is therefore consistent with relevant SEPPs. No other SEPPs are relevant.

6.1.3 Ministerial Section 117 Directions

The proposed rezoning is generally consistent with all the Section 117 Directions. Discussion of the consistencies can be found in Annexure A.

6.1.4 North Coast Regional Environmental Plan (REP)

The North Coast REP provides a list of issues to be addressed and considered as part of any rezoning. The list of relevant sections of the REP are detailed in Annexure A. There are no inconsistencies.

6.1.5 Far North Coast Regional Strategy

The proposed rezoning is consistent with the Far North Coast Regional Strategy as the subject site is included as a Proposed Future Urban Release Area.

6.1.6 Bangalow Settlement Strategy

The proposal seeks rezoning for land identified in the strategy. Area 3 (part of Lot 101 DP 1127017) is identified within the Settlement Strategy as a future urban release area. The surrounding two Areas 1 and 2 are not identified in the strategy for residential purposes mainly due slope and vegetation. The submission does not therefore accord with the settlement strategy, however addresses the three areas as they are in a logical area that should be considered as a whole.

In the strategy Area 1 was not identified for residential development due to its high visibility (it is located on a ridgeline) and steep slopes. The prospect of an elevated lookout and park to create a community focus was to be explored, such as through a Section 94 Plan. The strategy states that Council may have to negotiate an outcome with the landowner to secure a public benefit, alternatively the land may be left vacant. According to the strategy estimated residential lot yield is nil.

In relation to Area 2 the strategy states it is not suitable for residential development due to its proximity to the highway, steep slopes and topography. The strategy identifies the area as a vegetation buffer of native trees to screen the village from the highway with an estimated lot yield of nil allotments.

Under the strategy Area 3 has very limited opportunities for residential development. The strategy expresses concerns on the basis of drainage issues along the railway, providing usable open space and establishment of a pedestrian crossing over the railway line to encourage pedestrian mobility to the village centre. The strategy recommends the north-eastern part of Area 3 be used for a buffer to screen the village from the highway.

There is sufficient justification to consider portions of Area 3 for future urban development. The site is in close proximity to existing residential development and can be readily serviced. Further consideration is to be given to release of Areas 1 and 2. Similarly to Area 3, the site is in close proximity to existing residential development and can be serviced. Details of the final recommendations are included below.

6.1.7 Byron LEP 1988

The whole site is currently zoned 1(b1) Agricultural Production, 1(a) General Rural and 1(a) General Rural (hatched under clause 38) under Byron LEP 1988. The application seeks a new zoning to residential with the open space areas to be dedicated to Council as an open space zone.

This is not considered appropriate and the zoning under the Standard LEP Template could be:

- R2 Low Density Residential;
- RU1 Primary Production or RU2 Rural Landscape for the residue areas where residential or environmental zoning are not appropriate; and
- E3 Environmental Management or E2 Environmental Conservation for the riparian areas.

It should be noted that the areas suggested to be zoned for open space are not considered for zoning to recreation areas as it is not necessary under the new Shire-wide LEP.

6.2 Environmental Implications

As detailed in the assessment above, the major constraints that occur on the site include slope, flooding, drainage, noise, bushfire and visual impact. Additional information provided by the applicant indicates that the majority of the site has a slope of between 8 and 20%. Many of the less sloping sites are in close proximity to the riparian corridor and flood prone land. The applicant has argued that the visual aspect can be addressed through appropriate design measures. The requested drainage map has provided sufficient information at this point showing the possible measures to cope with runoff from the site. The main issue remaining are the steep slopes on the site, the submission notes that the sites soils are strongly acidic and moderately erodible, therefore landslip issues are also associated with the site. It has therefore been recommended that not all of the land in the submission will be recommended for rezoning as it is suggested that further geotechnical studies/slope assessment would be required before the remainder of the land can be zoned for residential development. These areas are also visually significant.

Any development application prepared for the site will need to consider the relevant aspects of a new DCP, this would include drainage, water sensitive urban design, access, noise, etc.

6.3 Social Implications

Impact of additional residents on existing social services must be reviewed in tandem with other proposed rezonings in Bangalow. Existing social services are currently stretched, such as the Bangalow Primary School that is operating at near its design capacity and is being considered for further expansion if possible (Byron Shire Council, 2003). The impact of the proposed rezoning on the existing residents, especially in terms of amenity and increased traffic movements in the local streets, needs to be carefully considered and managed as part of any new development. The submission considered the social issues in a similar way to Councils draft social impact assessment (SIA) policy. A further SIA in accordance with the draft SIA DCP will also be required with the development application.

6.4 Economic Implications

The economic implications are considered positive. The proposed development would not only provide job opportunities during the construction phase but will bring additional revenue into the local businesses and area once established.

7. Conclusion

Development of the site would be an extension of the existing residential precinct located along Rankin Drive, and thus is considered a suitable location for 'infill' residential development. On balance the

proposed concept plan achieves a positive planning solution, by providing economic benefits to the land owners, provision of housing, community open space and facilities. However, the Bangalow Settlement Strategy has not identified Areas 1 and 2 as suitable for residential development, in regards to visual amenity, steep slopes and noise associated with the Pacific Highway.

Council states that any residential development of Area 3 would be contingent upon resolving the drainage issues along the railway, and providing usable open space. The rezoning application shows that open space can be provided, but it is not essential to zone it for recreation. A detailed assessment of drainage was provided by the applicant and is considered sufficient for the rezoning.

With particular reference to Areas 1 and 2, subsequent to the release of the Bangalow Settlement Strategy, the Pacific Highway upgrade preferred route has been identified, and the associated negative noise impacts identified with Areas 1 and 2 are less prominent. Additional to this the applicant has provided additional information which has addressed these issues. Further, the existing residential development, water storage facility and cleared nature of the ridgeline, in conjunction with the proposed development of Area 3, would appear to have reduced the visual sensitivity of site considerably. The information provided by the proponent shows that a portion of Area 1 and 2 could be developed without utilising the highly sloping portion of the land, which could form a logical extension of the development of Area 3. Even with this information, it is not considered that the entire area identified by the applicant is appropriate for residential development as further detailed slope stability/geotechnical assessment would be required to confirm site suitability before rezoning of the additional areas could occur. The assessment would specifically relate to a geotechnical and slope stability study to confirm that the site is suitable for residential development, particularly in relation to on-site water storage.

Comprehensive design controls, either as a site specific DCP or at the Development Application stage, would need to be prepared for the site, should the rezoning of the land identified for residential land proceed, to ensure that any visual, drainage, slope etc impacts from development is minimised. Also the north eastern portion of Area 2 is a bushfire threat area and appropriate controls will need to be employed.

The Settlement Strategy, for Area 1, states that "Council may have to negotiate an outcome with the landowner to secure a public benefit. Alternatively the land may be left vacant." In a letter dated 29 June 2007 the proponent has proposed the following outcome to secure a public benefit as envisaged within the Settlement Strategy:

- "Dedication of the land adjacent to the water tower for the purposes of public lookout together with linking open space and walkways
- Voluntary contribution per allotment for the proposed Bangalow swimming pool."

In light of the above the rezoning of land for Area 3 and Area 2 is considered appropriate. In relation to Area 1 this should be deferred pending negotiations with Council to determine the most feasible outcome in respect of the site being used for a public lookout. A slope stability and geotechnical study of these areas to confirm their suitability should also be undertaken for the rezoning as detailed above.

8. Recommendation

It is recommended to zone Area 2 and Area 3 (part of Lot 101 DP 1127017) Granuaille Crescent / Rankin Drive, Bangalow R2 Low Density Residential, E2 Environmental Conservation and E3 Environmental Management as shown on Figure 3 in Appendix K of the LES. It is not recommended to alter the zone for Area 1 from Rural.

Map 1 – Areas 1, 2 & 3 Bangalow – Lot 100 & 101 DP 1127017
Byron LEP 1988 Zoning



Disclaimer : While all reasonable care has been taken to ensure the information contained on this map is up to date and accurate, no warranty is given that the information contained on this map is free from error or omission. Any reliance placed on this map is at the user's sole risk of the user. Please verify the accuracy of the information prior to using it.
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Annexure A

S117 DIRECTIONS

Instrument: S.117 Directions		Compliance: Yes/No	Comments
1.1	Business and Industrial Zones	Yes	
1.2	Rural Zones	Yes	The proposal will affect land currently zoned 1 (a) General Rural and 1(b1) Agricultural Protection. The site is adjacent to an existing residential area and involves a logical extension of that land. The proposal is generally consistent with a strategy adopted by Council and the Far North Coast Regional Strategy. Even though it includes a small additional section of land (Area 2), it is also contained within this LES which recommends the proposal. Therefore the proposed rezoning is consistent.
1.3	Mining, Petroleum Production and Extractive Industries	Yes	The proposal is a relatively small addition to the township of Bangalow and should not have a detrimental impact on resources. Section 62 consultation will be undertaken as part of this process also.
1.4	Oyster Aquaculture	N/A	
2.1	Environmental Protection Zones	Yes	The site contains potential habitat for threatened species. The ecological study found that the site did not contain threatened species. Riparian areas on the boundary of the creek must be conserved and suitable buffers must be provided to proposed urban development. An Environmental Protection zone is proposed in riparian areas and a buffer.
2.2	Coastal Protection	N/A	Not located within the coastal zone.
2.3	Heritage Conservation	Yes	No sites have been identified within the area proposed for rezoning.
2.4	Recreation Vehicle Areas	N/A	
3.1	Residential Zones	Yes	The proposal will allow for extension of a new residential zone. The proposal is in accord with the Direction as it allows for a range of building types, locations and use of existing infrastructure and services.

Instrument: S.117 Directions		Compliance: Yes/No	Comments
3.2	Caravan Parks and Manufactured Home Estates	N/A	
3.3	Home Occupations	Yes	Council to consider making home occupations permissible without consent generally in the residential zone in the new Shire-wide LEP.
3.4	Integrating Land Use and Transport	Yes	The Far North Coast Regional Strategy identifies the site as a suitable area for urban development. The site is easily accessible from existing road infrastructure and is also within walking distance of public transport and facilities. Further traffic assessment should be undertaken at the development application stage.
3.5	Development near Licensed Aerodromes	N/A	
4.1	Acid Sulfate Soils	Yes	There are no acid sulfate soils identified on the site in Council's mapping.
4.2	Mine Subsidence and Unstable Land	N/A	It is not identified officially as unstable land, however due to it's steepness, it is an issue that requires additional consideration in some areas.
4.3	Flood Prone Land	Yes	Flood prone areas have been suitably identified in the submission and specific drainage requirements can be considered at the development application stage. It is proposed to consider the area for urban development based on the flood study included in the proposal. Any areas that are identified as flood prone are not proposed for urban use.
4.4	Planning for Bushfire Protection	Yes	The north-eastern portion of the site is considered bushfire prone. Appropriate Asset Protection Zones (APZs) must be provided by the proponent at the DA stage. Specific APZs incorporating an Inner Protection Area and Outer Protection Area must be identified by the proponent in a Bushfire Assessment Report. No development is proposed in the bush fire prone area.
5.1	Implementation of Regional Strategies	Yes	The proposed rezoning is identified in the Far North Coast Regional Strategy and is generally consistent with that strategy.
5.2	Sydney Drinking Water Catchments	N/A	

Instrument: S.117 Directions		Compliance: Yes/No	Comments
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	No	The site is considered regionally significant farmland, however as it is included within the Bangalow Settlement Strategy it was as exclusion from the final project (Section 4). Also the site is consistent with the Far North Coast Regional Strategy.
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	Yes	No commercial or retail development is proposed and nor is there any direct access to the highway.
5.5	Development in the Vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	N/A	
5.6	Sydney to Canberra Corridor	N/A	
5.7	Central Coast	N/A	
5.8	Second Sydney Airport: Badgerys Creek	N/A	
6.1	Approval, and Referral Requirements	Yes	No concurrence or referral requirements are required as part of this proposal and it is not designated development.
6.2	Reserving Land for Public Purposes	Yes	No land is being reserved for a public purpose as part of this proposal.
6.3	Site Specific Provisions	Yes	This rezoning proposal is part of a new major Shire-wide LEP – all the zones have new provisions relating to areas and sites. It is therefore not inconsistent as an LEP is not being amended.

NORTH COAST REGIONAL ENVIRONMENTAL PLAN

Clause	Item	Consistent: Yes/No	Comments
7	Plan Preparation – prime crop or pasture land - Identify and include land in an agricultural protection zone and contain provisions that prevent subdivision other than for commercial farming; set minimum lot sizes; separate this land with land zoned residential; prohibit incompatible development; and only rezone prime crop or pasture land for purposes other than agriculture only if a detailed analysis of agricultural capability has been carried out. - Land not included in an agricultural protection zone as above: include provisions that retain land for commercial farming; set minimum lot sizes to maintain commercial farming.	Yes	The Bangalow Settlement Strategy (Byron Shire Council, 2003) states that development areas identified in the Strategy consolidate and help define the village edge, rather than allowing urban expansion into agricultural lands. Portions of the site are not identified in the settlement strategy or are identified as not suitable for urban expansion; however, given the topography and size of area involved the site is not considered suitable for many forms of agriculture.
14	Plan preparation – wetlands or fishery habitats A draft LEP for land containing rivers, streams, wetland or fishery habitats should: ...	Yes	Appropriate riparian buffers are proposed to be zoned E2 or E3 environmental zones to protect these important areas.
17	Plan preparation – extractive materials A draft LEP applying to rural lands should: include in a suitable zone major deposits of extractive material...and include provisions to prohibit development which may compromise the proposed extraction operation...	Yes	No major deposits are known to occur on the subject site. Appropriate section 62 consultation is being undertaken.
29	Plan preparation – natural areas and water catchments A draft LEP should: (a) retain existing provisions allowing the making of tree preservation orders; (b) not alter or remove existing environmental protection, scenic protection or escarpment zonings or controls within them...; (c) include significant areas of natural vegetation....in environmental protection zones; (d) contain provisions which require that development in domestic water catchment areas...; (e) require consent for clearing of natural vegetation in...	Yes	Existing areas of native vegetation should be retained and allowed to regenerate, where possible. A riparian buffer should be established and zoned appropriately.

Clause	Item	Consistent: Yes/No	Comments
38	Plan preparation – urban land release strategy - A draft LEP which permits significant urban growth should not be prepared unless an urban land release strategy has been adopted for the whole of the LGA. - Development as above should be consistent with that strategy. - The strategy shall: ...	Yes	Byron Shire LES and township settlement strategies can be considered an urban land release strategy at this time.
40	Plan preparation – principles for urban zones A draft LEP applying to urban areas should adopt the following principles: ...	Yes	Release area should be incorporated into the DCP to address these principles.
42	Plan preparation – principles for housing A draft LEP to permit dwellings in urban areas should incorporate provisions that: ...	Yes	Proposal provides for diverse housing types and densities
45	Plan preparation – hazards - A draft LEP should not permit development for tourism, rural housing or urban purposes on land subject to the following hazards, namely.....unless the council has made an assessment of the extent of the hazard and included provisions in the plan to minimise adverse impact. - In the event of a bush fire hazard being identified for land on which dwellings are proposed to be permitted, the council shall not permit development unless it is satisfied that arrangements where appropriate have been made to: ...	No	It is proposed to only permit residential development on land that is not flood prone. None of the land proposed for residential development is bush fire prone. There are buffer requirements imposed. No acid sulfate soils exist on the site. Some of the land is affected by steep slopes and hazards, these are a constraint to development on part of the site, especially Area 1.
45A	Plan preparation – flood liable land - Applies to flood liable land within the meaning of the Floodplain Development Manual. - A draft LEP should: ...	Yes	Flood liable land should not be considered for urban development. It has been zoned accordingly.
56A	Plan preparation – bus services In the preparation of a draft LEP involving an alteration to the zoning of land which could give rise to the need for bus services or the revision of existing bus services, the council should take into consideration...	Yes	This was considered as part of the social issues assessment. Although the bus services to Bangalow are not extensive, the site is within walking distance of local bus stops.

Clause	Item	Consistent: Yes/No	Comments
58	Plan preparation – servicing urban areas A draft LEP should not permit development for urban purposes unless the council is satisfied that: ...	Yes	A servicing strategy can be provided by the proponent with any development application
61	Plan preparation – health and education facilities A draft LEP should not zone land for residential purposes on either urban or rural land unless: ...	Yes	The site is located in close proximity to Bangalow services, which are only minor. Major services are located in Lismore, Byron Bay and Ballina.
65	Plan preparation – provision of community, welfare and child care services A draft LEP should: ...	Yes	The site is located in close proximity to Bangalow services, which are only minor. Major services are located in Lismore, Byron Bay and Ballina.
78	Plan preparation – public recreation areas A draft LEP should include provisions which: ...	Yes	The site is located in close proximity to Bangalow's facilities. Major recreation facilities are located in Lismore, Byron Bay and Ballina.

Bangalow Area 6



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NCSI Certified Quality System ISO 9001

Our reference: 2122791B/Lt-822/NM/NM

August 2007

REZONING ASSESSMENT

Lot 1 DP 127485 Lismore Road, Bangalow
Proponent: GeoLINK on behalf of land owners.
Area 6

1. Description of site and current zoning

The site is located on the eastern side of Lismore Road. It has a total area of 28.49 ha and is irregular in shape. The site has frontage to Charlotte Street, Thomas Street and Little Thomas Street. The site is currently zoned 1 (a) General Rural and 1 (d) Investigation Zone under Byron LEP 1988 and the 1(a) section is also affected by hatching under clause 38 of the LEP. Refer to Map 1 from Council's GIS mapping system.

2. Proposed use of land and proposed zoning

The use proposed for the site by the proponent is low density residential development with approximately 35 to 45 residential lots. The proposed zone requested by the applicant is part residential with the remainder of the allotment general rural. There has been some suggestion that there should be large open space or recreation areas on the site, this is not the subject of this rezoning assessment.

3. Information and relevant specialist studies

The following documentation has been provided with the rezoning application by the applicant:

- Report prepared by GeoLINK including a variety of information relating to the site and the impacts of the proposed development; and
- A flood study by MGR Water Consulting Pty Ltd (March 2007).

In a letter to the applicant dated 1 June 2007 requested additional information. The applicant supplied this, which included additional information about slope, access and use in a letter dated 14 June 2007. The response by the applicant assisted with this assessment of the rezoning application.

4. Consultation required

As with all rezonings and LEP amendments, Council is required to consult with relevant government agencies in relation to any proposed change in zoning. Therefore Council will need to consult and consider their comments when drafting the new LEP. The following government agencies are suggested:

- Roads and Traffic Authority;
- Rail Corporation NSW;
- Rural Fire Service;
- Dept of Water and Energy;
- Dept of Primary Industries;
- Dept of Planning;
- Dept of Environment and Climate Change; and
- Dept of Education.

5. Technical review

The submissions by the applicant addressed a number of technical issues. These have generally been adequately addressed and a summary of the main issues, with details of how they have been addressed is included below:

Ecological assessment: The submission presents a preliminary ecological assessment of the site. The assessment found that appropriate development of the land would have no significant impact on threatened species. The submission states that the riparian vegetation is the most significant ecological attribute of the study site. It is suggested that a minimum riparian buffer of 40 m should be established on the site, possibly through zoning to environmental protection (E2) or management (E3).

Flooding: Flood prone land on the site is not suitable for urban development and has been identified by the detailed flood study (MRG Water Consulting Pty Ltd). This area of the site should not be identified for residential development.

Bush Fire: The site contains a very small section of bush fire prone land, near Byron Creek. The area of the site proposed for rezoning is not bush fire prone, nor within a buffer area and therefore no assessment is required to be carried out.

Contamination: The submission states that the site has a low probability of being contaminated due to past farming practices. Further detailed assessment, including soil tests can be carried out at the development application stage.

Slope: The site has some areas of over 15% slope. The proponent has advised that it will not inhibit the development of the site. It is suggested that the development application include a geotechnical assessment prepared by a suitable qualified geotechnical engineer which is to consider the impact of urban development on the substrata and the potential for landslip.

Infrastructure: The site is well placed to be connected to these services. The submission shows how the proposed development could be connected to essential infrastructure such as roads, water, sewer, drainage, telephone etc.

Access & Movement: The site is to be accessed from the adjoining residential streets, Thomas and Charlotte Streets. The Bangalow Settlement Strategy suggests that access should be considered from Lismore Road, however this is not considered to be appropriate due to flooding and RTA concerns.

Pedestrian networks can easily be extended onto the site and the current bus services for Bangalow can be utilised for public transport.

Heritage: The submission identified that there were no register indigenous or non-indigenous sites or places on the site. No consultation was done with the local Aboriginal community as the potential for sites in the area proposed for development was low. Consultation could occur as part of the development application if thought necessary at the time. Bangalow has a number of historic sites and places, including heritage listings. The character of the development should be considered in site specific development controls.

Social Impacts: The submission includes a scoping for a social impact assessment in accordance with Council's draft policy. A number of issues were considered and it concluded that there would be no adverse impacts from the proposed development on the social aspects of Bangalow and the surrounding locality. Further details can be considered in a development application when Council finalises its social impact assessment policy and DCP.

6. Implications of proposal

6.1 Statutory Implications

6.1.1 Environmental Planning and Assessment Act 1979

The proposal has been considered under the provisions of the EP&A Act 1979 and found to be generally consistent.

6.1.2 State Environmental Planning Policies (SEPPs)

The proposal has been assessed against the relevant SEPPs as detailed below:

- SEPP 11: Traffic Generating Developments – An initial traffic analysis was provided as part of rezoning submission. The traffic analysis found that the potential future traffic movements are acceptable with regard to the local road subject to network improvements at the subdivision stage. Network upgrades will be required in the form of existing road configurations and potential intersection upgrades. SEPP 11 to be considered as part of DA stage when scale of development is known.
- SEPP 44: Koala Habitat – No Koala habitat is known to occur on the site.
- SEPP 55: Remediation of Land – The submission adequately addresses potential for land contamination. A preliminary assessment found the site is unlikely to be contaminated. Further assessment can be undertaken at a DA stage if required.

The assessment of the information provided suggests that the proposed rezoning is therefore consistent with relevant SEPPs. No other SEPPs are relevant.

6.1.3 Ministerial Section 117 Directions

The proposed rezoning is generally consistent with all the Section 117 Directions. Discussion of the consistencies can be found in Annexure A.

6.1.4 North Coast Regional Environmental Plan (REP)

The North Coast REP provides a list of issues to be addressed and considered as part of any rezoning. The list of relevant sections of the REP are detailed in Annexure A. There are no inconsistencies.

6.1.5 Far North Coast Regional Strategy

The proposed rezoning is consistent with the Far North Coast Regional Strategy as the subject site is included as a Proposed Future Urban Release Area.

6.1.6 Bangalow Settlement Strategy

The proposal seeks rezoning for land identified in the strategy. Area 6 (being part of Lot 1 DP 127485) is identified within the Settlement Strategy as a future urban release area. The remainder of the site, mostly zoned 1(a), has not been identified within the strategy for residential purposes.

The strategy states that Area 6 is suitable for residential development, subject to resolution of access and use of neighbouring rural land currently in the same ownership. The Strategy stipulated that access to the site should be from Lismore Road not Thomas Street. This does not appear to be a practical option given associated flood issues on site.

It should be noted that the area of the site zoned 1(a), although not included in the Strategy for residential purposes. It is suggested that the land may be able to be zoned for recreational or open space use. This has not been considered as part of this rezoning proposal.

6.1.7 Byron LEP 1988

The whole site is currently zoned 1(a) General Rural (hatched) and 1(d) Investigation Zone (Area 6) under Byron LEP 1988.

The application seeks a new zoning to residential with the residue to remain as rural under the new Shire-wide LEP. The appropriate zoning under the Standard LEP Template could be:

- R2 Low Density Residential for Area 6;
- RU1 Primary Production or RU2 Rural Landscape for the residue; and
- E3 Environmental Management or E2 Environmental Conservation for the riparian area.

6.2 Environmental Implications

The major constraints that occur on the site include slope, flooding and drainage. Portions of the land that are greater than 15% in slope have been identified by the proponent and are not suitable for future urban development. A geotechnical study will need to be prepared as part of any DA. A floodplain management plan has not been prepared for Bangalow. However, the flood study provided by the applicant is considered sufficient for this stage of the process and it is suggested that this could be the basis for the identification of the boundary of the residential zone. Where flood prone land is encountered it must not be developed for urban use. It should be noted that the boundary proposed by the flood study is different to that identified in the adopted Strategies and the 1(d) area, however it is suggested that this outcome is preferable from a hazard perspective, taking into account flooding and climate change.

There are other environmental concerns associated with the site, but there are none that cannot be addressed until the DA stage. Any development application prepared for the site will need to consider the relevant aspects of a new DCP, this would include flooding, drainage, water sensitive urban design, heritage, geotech, etc.

6.3 Social Implications

Impact of additional residents on existing social services must be reviewed in tandem with other proposed rezonings in Bangalow. Existing social services are currently stretched, such as the Bangalow Primary School that is operating at near its design capacity and is being considered for further expansion if possible (Byron Shire Council, 2003). The impact of the proposed rezoning on the existing residents, especially in terms of amenity and increased traffic movements in the local streets, needs to be carefully considered and managed as part of any new development. The submission considered the social issues in a scoping exercise consistent with Councils draft social impact assessment (SIA) policy. A further SIA in accordance with the draft SIA DCP will also be required with the development application.

6.4 Economic Implications

The economic implications are considered positive. The proposed development would not only provide job opportunities during the construction phase but will bring additional revenue into the local businesses and area once established.

7. Conclusion

Development of Area 6 (part of Lot 1 DP 127485) is considered to be to be a logical extension of the existing residential development in Bangalow Village. The site (Area 6) is identified within the Bangalow Settlement Strategy and the Far North Coast Regional Strategy as a future release area. This area has been identified by the proponent to be developed for future residential development. There is a slight change proposed to the boundary of the area included in the Strategies to account for flooding and to ensure the proposed residential area is flood free.

The site adjoins a newly developed residential area of Bangalow, and as such if developed should have a minimal impact upon the village character associated with this area. However, the site is potentially visible from Lismore Road, and increased density could adversely impact upon the amenity of the area if appropriate DCP controls are not implemented. It is recommended that a site specific DCP be prepared which will include design issues, bulk and scale, and site of buildings etc to assist in reducing visual impact.

The application indicates access being from Thomas Street and this will have some potential impacts on the amenity of existing residents. Whilst the Strategy stated access from Lismore Road was the preferable access, the flood issues associated with the site restrict this opportunity. The issue of slope will also need to be carefully considered at DA stage.

The residue of the site is recommended for rural zonings as the land is classified as being of high agricultural value. Although the Settlement Strategy recommends a recreation or open space use, this is not the subject of this submission.

Part of the site is identified within the settlement strategy for future release, and sufficient justification for its development is given within the rezoning submission, as assessed above.

8. Recommendation

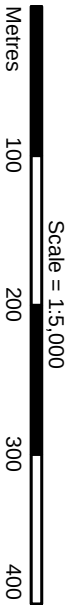
It is recommended to zone Lot 1 DP 127485 Lismore Road, Bangalow to R2 Low Density Residential, RU1 Primary Production or RU2 Rural Landscape and E2 Environmental Conservation as shown on Figure 4 in Appendix K of the LES.

Map 1 – Area 6 Bangalow – Lot 1 DP 127485
Byron LEP 1988 Zoning



Disclaimer: While all reasonable care has been taken to ensure the information contained on this map is up to date and accurate, no warranty is given that the information contained on this map is the property of the Council. Any reliance placed on this map is at the user's risk. The user is advised to verify the accuracy of the information prior to using it.

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(Scale correct at A4 size)



10/07/2008



Annexure A

S117 DIRECTIONS

Section 117 Directions		Compliance: Yes/No	Comments
1.1	Business and Industrial Zones	Yes	
1.2	Rural Zones	Yes	The proposal is mainly affecting land zoned 1(d) Investigation zone, but there is small portion zoned rural on the edge of the proposed residential area. The proposal is consistent with a strategy adopted by Council and the Far North Coast Regional Strategy. It is also contained within this LES which recommends the proposal. Therefore the proposed rezoning is consistent.
1.3	Mining, Petroleum Production and Extractive Industries	Yes	The proposal is a relatively small addition to the township of Bangalow and should not have a detrimental impact on resources. Section 62 consultation will be undertaken as part of this process also.
1.4	Oyster Aquaculture	N/A	
2.1	Environmental Protection Zones	Yes	The site contains potential habitat, including Byron Creek, for threatened species. A preliminary ecological study found that the site did not contain threatened species. Riparian areas and the native rainforest trees on the site must be provided with suitable buffers to proposed urban development. Appropriate zoning of the riparian areas is recommended.
2.2	Coastal Protection	N/A	Not located within the coastal zone.
2.3	Heritage Conservation	Yes	No sites have been identified within the area proposed for rezoning.
2.4	Recreation Vehicle Areas	N/A	
3.1	Residential Zones	Yes	The proposal will allow for development of a new residential zone that is in close proximity to existing residential areas. The proposal allows for a range of building types and locations, varied density and use of existing infrastructure and services.
3.2	Caravan Parks and Manufactured Home Estates	N/A	

Section 117 Directions		Compliance: Yes/No	Comments
3.3	Home Occupations	Yes	Council to consider making home occupations permissible without consent generally in the residential zone in the new Shire-wide LEP.
3.4	Integrating Land Use and Transport	Yes	The Far North Coast Regional Strategy identifies the site as a suitable area for urban development. The site is easily accessible from existing road infrastructure and is also within walking distance of public transport and facilities. Further traffic assessment can be undertaken at the development application stage if required.
3.5	Development near Licensed Aerodromes	N/A	
4.1	Acid Sulfate Soils	Yes	There are no acid sulfate soils identified on the site in Council's mapping.
4.2	Mine Subsidence and Unstable Land	N/A	
4.3	Flood Prone Land	Yes	Flood prone areas have been suitably identified in the submission and specific drainage requirements can be considered at the development application stage. It is proposed to consider the area for urban development based on the flood study included in the proposal. Considering all the issues it is suggested to amend the boundary of residential land from that included in the Bangalow Settlement Strategy and the Far North Coast Regional Strategy based on the revised flooding information. This is a better outcome from a planning perspective and can achieve the same net result. Any areas that are identified as flood prone are not proposed for urban use
4.4	Planning for Bushfire Protection	Yes	No bush fire prone land identified for rezoning to residential.
5.1	Implementation of Regional Strategies	Yes	The proposed rezoning is identified in the Far North Coast Regional Strategy and is generally consistent with that strategy.
5.2	Sydney Drinking Water Catchments	N/A	

Section 117 Directions		Compliance: Yes/No	Comments
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	Yes	The site is considered regionally significant farmland, however as it is included within the Bangalow Settlement Strategy it was as exclusion from the final project (section 4). Also the site is consistent with the Far North Coast Regional Strategy.
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	N/A	
5.5	Development in the Vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	N/A	
5.6	Sydney to Canberra Corridor	N/A	
5.7	Central Coast	N/A	
5.8	Second Sydney Airport: Badgerys Creek	N/A	
6.1	Approval, and Referral Requirements	Yes	No concurrence or referral requirements are required as part of this proposal and it is not designated development.
6.2	Reserving Land for Public Purposes	Yes	No land is being reserved for a public purpose as part of this proposal.
6.3	Site Specific Provisions	Yes	This rezoning proposal is part of a new major Shire-wide LEP – all the zones have new provisions relating to areas and sites. It is therefore not inconsistent as an LEP is not being amended.

NORTH COAST REGIONAL ENVIRONMENTAL PLAN

Clause	Item	Consistent: Yes/No	Comment
7	Plan Preparation – prime crop or pasture land - Identify and include land in an agricultural protection zone and contain provisions that prevent subdivision other than for commercial farming; set minimum lot sizes; separate this land with land zoned residential; prohibit incompatible development; and only rezone prime crop or pasture land for purposes other than agriculture only if a detailed analysis of agricultural capability has been carried out. - Land not included in an agricultural protection zone as above: include provisions that retain land for commercial farming; set minimum lot sizes to maintain commercial farming.	Yes	The majority of the are proposed for rezoning is zoned 1(d) Investigation zone and has been identified as potentially available for urban development for a number of years. The Bangalow Settlement Strategy (Byron Shire Council, 2003) identifies the site for future urban expansion as it was not considered suitable for many forms of agriculture.
14	Plan preparation – wetlands or fishery habitats A draft LEP for land containing rivers, streams, wetland or fishery habitats should: ...	Yes	Appropriate riparian buffers are proposed to be zoned E2 Environmental Conservation to protect these important areas.
17	Plan preparation – extractive materials A draft LEP applying to rural lands should: include in a suitable zone major deposits of extractive material...and include provisions to prohibit development which may compromise the proposed extraction operation...	Yes	No major deposits are known to occur on the subject site. Appropriate section 62 consultation is being undertaken.
29	Plan preparation – natural areas and water catchments A draft LEP should: (a) retain existing provisions allowing the making of tree preservation orders; (b) not alter or remove existing environmental protection, scenic protection or escarpment zonings or controls within them...; (c) include significant areas of natural vegetation....in environmental protection zones; (d) contain provisions which require that development in domestic water catchment areas...; (e) require consent for clearing of natural vegetation in...	Yes	Existing areas of native vegetation should be retained and allowed to regenerate. Appropriate conservation zones will be applied to any riparian areas and vegetation. Any stand alone trees will be required to be considered for retention where appropriate as part of any development application for the site.

Clause	Item	Consistent: Yes/No	Comment
38	Plan preparation – urban land release strategy - A draft LEP which permits significant urban growth should not be prepared unless an urban land release strategy has been adopted for the whole of the LGA. - Development as above should be consistent with that strategy. - The strategy shall: ...	Yes	Byron Shire LES and township settlement strategies can be considered an urban land release strategy at this time.
40	Plan preparation – principles for urban zones A draft LEP applying to urban areas should adopt the following principles: ...	Yes	Release area should be incorporated into the DCP to address these principles.
42	Plan preparation – principles for housing A draft LEP to permit dwellings in urban areas should incorporate provisions that: ...	Yes	Proposal provides for diverse housing types.
45	Plan preparation – hazards - A draft LEP should not permit development for tourism, rural housing or urban purposes on land subject to the following hazards, namely.....unless the council has made an assessment of the extent of the hazard and included provisions in the plan to minimise adverse impact. - In the event of a bush fire hazard being identified for land on which dwellings are proposed to be permitted, the council shall not permit development unless it is satisfied that arrangements where appropriate have been made to: ...	Yes	It is proposed to only permit residential development on land that is not flood prone. None of the land proposed for residential development is bush fire prone. No acid sulfate soils exist on the site. Other hazards are not fatal to the proposal and can be considered as part of any development application.
45A	Plan preparation – flood liable land - Applies to flood liable land within the meaning of the Floodplain Development Manual. - A draft LEP should: ...	Yes	Flood liable land has been identified and should not be utilised for urban development. It has been zoned accordingly.
56A	Plan preparation – bus services In the preparation of a draft LEP involving an alteration to the zoning of land which could give rise to the need for bus services or the revision of existing bus services, the council should take into consideration...	Yes	This was considered as part of the social impact assessment scoping exercise. Although the bus services to Bangalow are not extensive, the site is within walking distance of local bus stops.

Clause	Item	Consistent: Yes/No	Comment
58	Plan preparation – servicing urban areas A draft LEP should not permit development for urban purposes unless the council is satisfied that: ...	Yes	A servicing strategy can be provided by the proponent with any development application
61	Plan preparation – health and education facilities A draft LEP should not zone land for residential purposes on either urban or rural land unless: ...	Yes	The site is located in close proximity to Bangalow services, which are only minor. Major services are located in Lismore, Byron Bay and Ballina.
65	Plan preparation – provision of community, welfare and child care services A draft LEP should: ...	Yes	The site is located in close proximity to Bangalow services, which are only minor. Major services are located in Lismore, Byron Bay and Ballina.
78	Plan preparation – public recreation areas A draft LEP should include provisions which: ...	Yes	The site is located in close proximity to Bangalow's facilities. Major recreation facilities are located in Lismore, Byron Bay and Ballina.

Bangalow Area 4 South



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Our reference: 2122791B/Lt-821/NM/NM

August 2007

REZONING ASSESSMENT

Lot 2 DP 1086364 Ballina Road, Bangalow

Proponent: Balanced Systems Planning Consultants on behalf of land owners.

Area 4 (South)

1. Description of site and current zoning

The site is located between Ballina Road and the Pacific Highway to the east of the village of Bangalow. Access is gained via Ballina Road. The site is currently zoned 1 (a) General Rural under Byron LEP 1988. Refer to Map 1 from Council's GIS mapping system.

An area to the north (Area 4 North) of the site is also proposed for a new zone and whilst this site has been evaluated on its own merit, the planning implications have been considered in tandem with the current proposal for Area 4 South.

2. Proposed use of land and proposed zoning

The proposal is for alternatives to standard residential development. The applicant states that a mobile home or caravan park as recommended in the Bangalow Settlement Strategy is not suited to this allotment due to noise, bushfire prone land and flood prone land. More substantial forms of construction are required to accommodate these constraints while addressing the demand for non-conventional housing types. The specific zone type is not stipulated, however smaller medium density style of housing is suggested.

3. Information and relevant specialist studies provide with the rezoning application

The following documentation has been provided with the rezoning application by the applicant:

- Rezoning report prepared by Balance Systems Planning Consultants including a variety of information relating to the site and the impacts of the proposed development;
- A specialist assessment for engineering issues prepared by Greg Alderson and Associates;
- A specialist assessment addressing flora and fauna matters prepared by Landmark Ecological Services;
- An assessment to address traffic matters prepared by Greg Alderson and Associates;
- A bushfire assessment prepared by Chris Power Environmental Planning;
- A noise assessment prepared by Greg Alderson and Associates;

- A flood assessment prepared by Greg Alderson and Associates; and
- A Stage 1 SEPP 55 assessment prepared by Balance Systems Planning Consultants.

In a letter to the applicant dated 1 June 2007 requested additional information. The applicant supplied this, which included additional information about flooding, traffic and use in a letter dated 12 June 2007. The response by the applicant assisted with this assessment of the rezoning application.

4. Consultation required with rezoning

As with all rezonings and LEP amendments, Council is required to consult with relevant government agencies in relation to any proposed change in zoning. Therefore Council will need to consult and consider their comments when drafting the new LEP. The following government agencies are suggested:

- Roads and Traffic Authority;
- Rail Corporation NSW;
- Rural Fire Service;
- Dept of Water and Energy;
- Dept of Primary Industries;
- Dept of Planning;
- Dept of Environment and Climate Change; and
- Dept of Education.

5. Technical review

The submissions by the applicant addressed a number of technical issues. These have generally been adequately addressed and a summary of the main issues, with details of how they have been addressed is included below:

Ecological assessment: The submission presents an ecological assessment of the site. The assessment found that appropriate development of the land would have no significant impact on threatened species. No further consideration of ecology is necessary, subject to compliance with the recommendations of the ecological assessment by Landmark Ecological Services Pty Ltd (February, 2007) with the exception of the riparian buffer. A riparian buffer should be established on the site through appropriate environmental zoning (E2 or E3).

Noise: The proponent has provided a noise assessment that concluded that where feasible and reasonable, existing noise levels can be reduced to meet acceptable noise criteria via judicious design and construction of the buildings within the development. No restrictions are necessary by way of setback from the highway. A condition of development consent would be that building on the land be designed to comply with the AS 2107. Locations, internal layouts, building materials and construction should be chosen so as to minimise noise impacts. The noise impacts on any development of the subject land are relatively minor and can be ameliorated by the construction of the buildings. Expected noise levels from the highway are in the order of 59dB(A). Noise levels in the room of any residential building could easily be reduced to 25dB(A),

by the building construction techniques, thus being within the acceptable limits. A site specific DCP could include these recommendations.

Access & Movement: The submission presents a traffic assessment of the site. There is likely to be some adverse impacts that can be ameliorated by the construction of some relatively minor road works. The proposed rezoning for residential use with access from Ballina Road is suitable with respect to traffic issues and the works will need to be done as part of the development consent conditions. The figures used in the traffic assessment are conservative and can be revised with the development application once the proposal for the land is known.

Pedestrian networks can easily be extended onto the site and the current bus services for Bangalow can be utilised for public transport.

Flooding and Stormwater: A preliminary flood and stormwater study has been provided by the applicant. The preliminary assessment indicated that there will need to be creek crossings in three locations on the proposed internal access road. Flood prone land is not included in the area proposed for development. Concern is expressed regarding the need for creek crossings on this property, it is not recommended for environmentally sustainable development.

The allotment is currently predominantly pasture, so the runoff will increase once the land has been developed. There will be a greater number of impervious areas and some on-site detention will be required. Stormwater management on the site can be undertaken in accordance with Water Sensitive Urban Design, using on-site detention and filtration of stormwater. This will be proposed in a DCP.

Bushfire: A preliminary bushfire assessment was provided by the applicant. The recommended APZ's of 10 m are achievable within the boundaries of the site. The RFS may negotiate with regard to recommended APZs for an increase in AS3959-1999 construction levels and the preparation of a comprehensive Fire Management Plan. Detailed assessments would be required at DA stage. No residential development is proposed within the bush fire prone area.

Contamination: A Stage 1 (SEPP 55) preliminary investigation for potential site contamination was undertaken by the applicant. The preliminary investigation confirmed that there was negligible risk of contamination within the site and that no further investigation, including soil sampling, is warranted. A preliminary investigation was undertaken for an earlier DA applying to the site (DA 10.2005.418.1) for use of a relocated dwelling. At that time, Council determined that the proposed residential use could be undertaken and no further investigations were required. No further assessment is considered necessary at this stage.

Slope: The site has some areas of over 20% slope. The proponent has advised that it will not inhibit the development of the site. It is suggested that the development application include a geotechnical assessment prepared by a suitable qualified geotechnical engineer which is to consider the impact of urban development.

Infrastructure: The site is well placed to be connected to these services. The submission shows how the proposed development could be connected to essential infrastructure such as roads, water, sewer, drainage, telephone etc.

Social Impacts: The submission includes a social issues assessment that considered a number of issues and it concluded that there would be no adverse impacts from the proposed development on the social aspects of Bangalow and the surrounding locality. Further details can be considered in a development application when Council finalises its social impact assessment policy and DCP.

6. Implications of proposal

6.1 Statutory Implications

6.1.1 Environmental Planning and Assessment Act 1979

The proposal has been considered under the provisions of the EP&A Act 1979 and found to be generally consistent.

6.1.2 State Environmental Planning Policies (SEPPs)

The proposal has been assessed against the relevant SEPPs as detailed below:

- SEPP 11: Traffic Generating Developments – A preliminary traffic analysis and traffic information was provided by the proponent. The land should be served by only one access point onto Ballina Road as specified in the traffic assessment. Network upgrades will be required in the form of potential intersection upgrades. The figures used in the traffic assessment are conservative and will need to be revised in the SEPP 11 assessment to be considered as part of DA when scale of development is known.
- SEPP 44: Koala Habitat – No Koala habitat is known to occur on the site.
- SEPP 55: Remediation of Land – The submission adequately addresses potential for land contamination. A preliminary assessment found the site is unlikely to be contaminated. Further assessment can be undertaken at a DA stage if required.

The assessment of the information provided suggests that the proposed rezoning is therefore consistent with relevant SEPPs. No other SEPPs are relevant.

6.1.3 Ministerial Section 117 Directions

The proposed rezoning is generally consistent with all the Section 117 Directions. Discussion of the consistencies can be found in Annexure A.

6.1.4 North Coast Regional Environmental Plan (REP)

The North Coast REP provides a list of issues to be addressed and considered as part of any rezoning. The list of relevant sections of the REP are detailed in Annexure A. There are no inconsistencies.

6.1.5 Far North Coast Regional Strategy

The proposed rezoning is consistent with the Far North Coast Regional Strategy as the subject site is included as a Proposed Future Urban Release Area.

6.1.6 Bangalow Settlement Strategy

The proposal seeks rezoning for land identified in the strategy. The southern part of Area 4 (being Lot 2 DP 1086364) is identified within the Settlement Strategy as a future urban release area. However not all of the identified Area 4 is addressed within the application. The rezoning applies only to the largest lot in the southern portion of the area. Both parts of Area 4 shall be assessed separately; however the dual impact of both must be given considered when assessing the “big picture” for Bangalow.

Council identified Area 4 for an alternative type of residential use such as a caravan park or mobile home site, which would have a yield of approximately 40 sites, located on the flood free land. However the proposal suggests cluster housing or attached/group housing. The Settlement Strategy recommends medium density within 400 m of the village centre, this site is further than 400m, however it is adjoining existing residential / urban areas and part of the site adjoining Ballina Road would be appropriate for this type of development. The other parts of the site are constrained and should be protected.

6.1.7 Byron LEP 1988

The whole site is currently zoned 1(a) General Rural under Byron LEP 1988.

The application seeks a new zoning to residential under the new Shire-wide LEP. The appropriate zoning under the Standard LEP Template could be:

- R3 Medium Density Residential for the southern part of Area 4 fronting Ballina Road; and
- E3 Environmental Management or E2 Environmental Conservation for the riparian area and the remainder of the constrained land.

6.2 Environmental Implications

Part of Area 4 has been identified as flood prone. However, the flood study as provided by the applicant indicates that development shall occur above the 1 in 100 year (or 1%) flood level. Further, a buffer between the creek line and the proposed development must be provided. Portions of the land that is greater than 20% in slope have been identified by the proponent and are not suitable for future urban development.

There are other environmental concerns associated with the site, but there are none that cannot be addressed until the DA stage. Any development application prepared for the site will need to consider the relevant aspects of a new DCP, this would include flooding, drainage, water sensitive urban design, heritage, geotech, etc. There is more discussion of these issues in section 5.

6.3 Social Implications

Impact of additional residents on existing social services must be reviewed in tandem with other proposed rezonings in Bangalow. Existing social services are currently stretched, such as the Bangalow Primary School that is operating at near its design capacity and is being considered for further expansion if possible (Byron Shire Council, 2003). The impact of the proposed rezoning on the existing residents, especially in terms of amenity and increased traffic movements in the local streets, needs to be carefully considered and managed as part of any new development. The submission considered the social issues in a similar way to Councils draft social impact assessment (SIA) policy. A further SIA in accordance with the draft SIA DCP will also be required with the development application.

6.4 Economic implications

The economic implications are considered positive. The proposed development would not only provide job opportunities during the construction phase but will bring additional revenue into the local businesses and area once established.

7. Conclusion

The proposal for this part of Area 4 is in part inconsistent with the Bangalow Settlement Strategy and has some environmental and social constraints. However, it is considered that these constraints can be managed with a reduced development footprint. One option for this management is potentially linking of the proposed development with Area 4 North, however this is not considered appropriate. The proposal does have positive outcomes as it would provide opportunity to develop alternative housing within Bangalow, particularly medium density housing, thus addressing the Shire's shortage of available residential land.

The proposed concept plan within the rezoning application includes a range of smaller 1 and 2 bedroom dwellings, thus potentially providing access to affordable housing in the Shire. The medium density housing proposed within the application would meet some of the desired need for non-conventional housing types within Area 4. It is important to note that the standard of development would need to be in keeping with the surrounding neighbourhood, environmental constraints of the site and potentially be linked to Area 4 North.

It is recommended that a site specific DCP be prepared which will include design issues, bulk and scale, and site of buildings etc to assist in reducing visual impact. The issue of slope, flooding and access will also need to be carefully considered at DA stage.

The part of the site fronting Ballina Road is recommended for residential zoning and the residue of the site is recommended for environmental zoning as the land is constrained. Although the submission suggests the residential zone should cover more of the site, this is not considered appropriate. The site is identified within the settlement strategy for future release, and sufficient justification for its part development is given within the submission, as assessed above.

8. Recommendation

It is recommended to zone Lot 2 DP 1086364 Ballina Road, Bangalow to part R3 Medium Density Residential and part E3 Environmental Management as shown on Figure 5 in Appendix K of the LES.

Map 1 – Area 4 (South) Bangalow – Lot 2 DP 1086364
Byron LEP 1988 Zoning



Disclaimer : While all reasonable care has been taken to ensure the information contained on this map is up to date and accurate, no warranty is given that the information contained on this map is free from error or omission. Any reliance placed on this map is at the user's sole risk. Please verify the accuracy of the information prior to using it.
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Annexure A

S117 DIRECTIONS

<u>Instrument:</u> S.117 Directions		Compliance: Yes/No	Comments
1.1	Business and Industrial Zones	Yes	
1.2	Rural Zones	Yes	The proposal will affect land currently zoned 1 (a) General Rural. The site is adjacent to an existing urban area and involves a logical extension of that land. The proposal is consistent with a strategy adopted by Council and the Far North Coast Regional Strategy. It is also contained within this LES which recommends the proposal. Therefore the proposed rezoning is consistent. The site has been considered in tandem with the proposed urban release of Area 4 North.
1.3	Mining, Petroleum Production and Extractive Industries	Yes	The proposal is a relatively small addition to the township of Bangalow and should not have a detrimental impact on resources. Section 62 consultation will be undertaken as part of this process also.
1.4	Oyster Aquaculture	N/A	
2.1	Environmental Protection Zones	Yes	The site contains potential habitat for threatened species. The ecological study found that the site did not contain threatened species. Riparian areas on the boundary of the creek must be conserved and suitable buffers must be provided to proposed urban development. An Environmental Protection zone is proposed in riparian areas and a buffer. A hydrology study should be undertaken at the development application stage to determine the potential impact of stormwater on the creek.
2.2	Coastal Protection	N/A	Not located within the coastal zone.
2.3	Heritage Conservation	Yes	No sites have been identified within the area proposed for rezoning.
2.4	Recreation Vehicle Areas	N/A	

<u>Instrument:</u> S.117 Directions		Compliance: Yes/No	Comments
3.1	Residential Zones	Yes	The proposal will allow for development of a new residential zone that is connected to an existing residential area. The proposal is in accord with the Direction as it allows for a new density of development in Bangalow and use of existing infrastructure and services.
3.2	Caravan Parks and Manufactured Home Estates	N/A	
3.3	Home Occupations	Yes	Council to consider making home occupations permissible without consent generally in the residential zone in the new Shire-wide LEP.
3.4	Integrating Land Use and Transport	Yes	The Far North Coast Regional Strategy identifies the site as a suitable area for urban development. The site is easily accessible from existing road infrastructure and is also within walking distance of public transport and facilities. Further traffic assessment should be undertaken at the development application stage.
3.5	Development near Licensed Aerodromes	N/A	
4.1	Acid Sulfate Soils	Yes	There are no acid sulfate soils identified on the site in Council's mapping.
4.2	Mine Subsidence and Unstable Land	N/A	
4.3	Flood Prone Land	Yes	Flood prone areas have been suitably identified in the submission and specific drainage requirements can be considered at the development application stage. It is proposed to consider the area for urban development based on the flood study included in the proposal. Any areas that are identified as flood prone are not proposed for urban use.

<u>Instrument:</u> S.117 Directions		Compliance: Yes/No	Comments
4.4	Planning for Bushfire Protection	Yes	The north-eastern portion of the site is considered bushfire prone. Appropriate Asset Protection Zones (APZs) must be provided and not zoned for residential or urban use. Specific APZs incorporating an Inner Protection Area and Outer Protection Area have been identified by the proponent in a Bushfire Assessment Report (CPEP, 2007). At the subdivision stage consideration should be given to APZs of greater than 10 m to increase safety and reduce the required level of construction of buildings.
5.1	Implementation of Regional Strategies	Yes	The proposed rezoning is identified in the Far North Coast Regional Strategy and is generally consistent with that strategy.
5.2	Sydney Drinking Water Catchments	N/A	
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	No	The site is considered regionally significant farmland, however as it is included within the Bangalow Settlement Strategy it was as exclusion from the final project (Section 4). Also the site is consistent with the Far North Coast Regional Strategy.
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	Yes	No commercial or retail development is proposed and nor is there any direct access to the highway.
5.5	Development in the Vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	N/A	
5.6	Sydney to Canberra Corridor	N/A	
5.7	Central Coast	N/A	
5.8	Second Sydney Airport: Badgerys Creek	N/A	
6.1	Approval, and Referral Requirements	Yes	No concurrence or referral requirements are required as part of this proposal and it is not designated development.
6.2	Reserving Land for Public Purposes	Yes	No land is being reserved for a public purpose as part of this proposal.

<u>Instrument:</u> S.117 Directions		Compliance: Yes/No	Comments
6.3	Site Specific Provisions	Yes	This rezoning proposal is part of a new major Shire-wide LEP – all the zones have new provisions relating to areas and sites. It is therefore not inconsistent as an LEP is not being amended.

CHECKLIST FOR CONSISTENCY OF DRAFT LEP WITH THE PROVISIONS OF NORTH COAST REGIONAL ENVIRONMENTAL PLAN

Clause	Item	Consistent: Yes/No	Comments
7	Plan Preparation – prime crop or pasture land - Identify and include land in an agricultural protection zone and contain provisions that prevent subdivision other than for commercial farming; set minimum lot sizes; separate this land with land zoned residential; prohibit incompatible development; and only rezone prime crop or pasture land for purposes other than agriculture only if a detailed analysis of agricultural capability has been carried out. - Land not included in an agricultural protection zone as above: include provisions that retain land for commercial farming; set minimum lot sizes to maintain commercial farming.	Yes	The Bangalow Settlement Strategy (Byron Shire Council, 2003) states that development areas identified in the Strategy consolidate and help define the village edge, rather than allowing urban expansion into agricultural lands. Given the topography and size of area involved, the site is not considered suitable for many forms of agriculture.
14	Plan preparation – wetlands or fishery habitats A draft LEP for land containing rivers, streams, wetland or fishery habitats should: ...	Yes	Appropriate riparian buffers are proposed to be zoned E2 or E3 environmental zones to protect these important areas.
17	Plan preparation – extractive materials A draft LEP applying to rural lands should: include in a suitable zone major deposits of extractive material...and include provisions to prohibit development which may compromise the proposed extraction operation...	Yes	No major deposits are known to occur on the subject site. Appropriate section 62 consultation is being undertaken.

Clause	Item	Consistent: Yes/No	Comments
29	Plan preparation – natural areas and water catchments A draft LEP should: (a) retain existing provisions allowing the making of tree preservation orders; (b) not alter or remove existing environmental protection, scenic protection or escarpment zonings or controls within them...; (c) include significant areas of natural vegetation....in environmental protection zones; (d) contain provisions which require that development in domestic water catchment areas...; (e) require consent for clearing of natural vegetation in...	Yes	Existing areas of native vegetation should be retained and allowed to regenerate, where possible. Appropriate conservation zones will be applied to any riparian areas and vegetation. Any stand alone trees will be required to be considered for retention where appropriate as part of any development application for the site.
38	Plan preparation – urban land release strategy - A draft LEP which permits significant urban growth should not be prepared unless an urban land release strategy has been adopted for the whole of the LGA. - Development as above should be consistent with that strategy. - The strategy shall: ...	Yes	Byron Shire LES and township settlement strategies can be considered an urban land release strategy at this time.
40	Plan preparation – principles for urban zones A draft LEP applying to urban areas should adopt the following principles: ...	Yes	Release area should be incorporated into the DCP to address these principles.
42	Plan preparation – principles for housing A draft LEP to permit dwellings in urban areas should incorporate provisions that: ...	Yes	Proposal provides for diverse housing types and densities
45	Plan preparation – hazards - A draft LEP should not permit development for tourism, rural housing or urban purposes on land subject to the following hazards, namely.....unless the council has made an assessment of the extent of the hazard and included provisions in the plan to minimise adverse impact. - In the event of a bush fire hazard being identified for land on which dwellings are proposed to be permitted, the council shall not permit development unless it is satisfied that arrangements where appropriate have been made to: ...	Yes	It is proposed to only permit residential development on land that is not flood prone. None of the land proposed for residential development is bush fire prone. There are buffer requirements imposed. No acid sulfate soils exist on the site. Other hazards are not fatal to the proposal and can be considered as part of any development application.

Clause	Item	Consistent: Yes/No	Comments
45A	Plan preparation – flood liable land - Applies to flood liable land within the meaning of the Floodplain Development Manual. - A draft LEP should: ...	Yes	Flood liable land should not be considered for urban development. It has been zoned accordingly.
56A	Plan preparation – bus services In the preparation of a draft LEP involving an alteration to the zoning of land which could give rise to the need for bus services or the revision of existing bus services, the council should take into consideration...	Yes	This was considered as part of the social issues assessment. Although the bus services to Bangalow are not extensive, the site is within walking distance of local bus stops.
58	Plan preparation – servicing urban areas A draft LEP should not permit development for urban purposes unless the council is satisfied that: ...	Yes	A servicing strategy can be provided by the proponent with any development application
61	Plan preparation – health and education facilities A draft LEP should not zone land for residential purposes on either urban or rural land unless: ...	Yes	The site is located in close proximity to Bangalow services, which are only minor. Major services are located in Lismore, Byron Bay and Ballina.
65	Plan preparation – provision of community, welfare and child care services A draft LEP should: ...	Yes	The site is located in close proximity to Bangalow's facilities. Major recreation facilities are located in Lismore, Byron Bay and Ballina.
78	Plan preparation – public recreation areas A draft LEP should include provisions which: ...	Yes	The site is located in close proximity to Bangalow services, which are only minor. Major services are located in Lismore, Byron Bay and Ballina.

Suffolk Park Proposed Commercial Site



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NCSI Certified Quality System ISO 9001

Our reference: 2122791B/Lt-824/MM/NM

September 2007

REZONING ASSESSMENT

Lot 2 DP 701391 and Lot 2 DP 258562 Broken Head Road, Suffolk Park

Proponent: Malcolm Scott Consultant Town Planner on behalf of land owners

Suffolk Park

1. Description of site and current zoning

The site has frontage to Broken Head Road, Suffolk Park, near its southern intersection with Beech Drive. There are no buildings or structures erected on the site. The total site is approximately 3.33 ha and is currently zoned 2(a) Residential under Byron LEP 1988. Refer to Map 1 from Council's GIS mapping system.

2. Proposed use of land and proposed zoning

Proposed use of the site by the applicant is for retail and commercial development, in particular a supermarket and associated shops. The proposal also includes open space at the rear of the site which is suggested would provide environmental protection for drainage and ecological purposes. The proposed zone requested by the applicant is business and private recreation / open space.

3. Information and relevant specialist studies

The following documentation has been provided with the rezoning application by the proponent:

- Rezoning report prepared by Malcolm Scott Consultant Town Planner including a variety of information relating to the site and the impacts of the proposed development;
- Economic Impact Statement, Urban Economics (2007);
- Traffic Impact Assessment, Carter Rytenskild Group (2007);
- Preliminary Acid Sulfate Soil Investigation, Ardill Payne & Partners (2007);
- Preliminary Contaminated Site Investigation, Ardill Payne & Partners (2007); and
- Preliminary Flood and Stormwater Impact Assessment, Greg Alderson & Associates Pty Ltd (2007).

In a letter to the applicant dated 1 June 2007 additional information was requested. The applicant supplied additional information about contamination, layout, flooding/drainage, traffic, noise, environmental considerations and use (in the form of a structure plan) in a letter dated 23 July 2007 (plus some other

information provide subsequent to this letter). The response by the applicant has assisted with the assessment of the rezoning application.

4. Consultation required with rezoning

As with all rezonings and LEP amendments, Council is required to consult with relevant government agencies in relation to any proposed change in zoning. Therefore Council will need to consult and consider their comments when drafting the new LEP. The following government agencies are suggested:

- Roads and Traffic Authority;
- Rail Corporation NSW;
- Rural Fire Service;
- Dept of Water and Energy;
- Dept of Primary Industries;
- Dept of Planning;
- Dept of Environment and Climate Change; and
- Dept of Education.

5. Technical review

The submissions by the applicant addressed a number of technical issues. These have generally been adequately addressed and a summary of the main issues, with details of how they have been addressed is included below:

Ecological assessment: The submission does not present a preliminary ecological assessment of the site, merely a tree identification survey. The northern portion of the site contains potential 'high conservation value vegetation and habitat' and the Byron Biodiversity Conservation Strategy 2004 identifies part of the land as a 'non-vegetated' wildlife corridor. The site is also in close proximity to two SEPP 14 wetlands. In a follow-up letter to the proponent a preliminary flora and fauna assessment was requested and has not been provided by the applicant. However, it is considered that site-specific ecology and drainage issues can be dealt with at the development application stage and that proposed future uses can be accommodated within the constraints of the site.

Land contamination: A preliminary land contamination assessment was undertaken by Ardill Payne & Partners (2007). The report identified elevated levels of lead above 'health investigation levels' in groundwater and TPH C10-C36 was encountered in soils and groundwater that was below the adopted 'health investigation levels'. Additional groundwater testing concluded that there is widespread, low level of lead and TPH contamination across the site. The likely source of the contamination is the service station activity on adjoining properties. The reports concluded that the contamination is currently below adopted "health investigation levels" and the site would not be a risk. It is recommended that further testing be undertaken at the DA stage to consider any potential changes in levels.

Economic impact assessment: The economic assessment by Urban Economics (March, 2007) found that the proposed future use of the site for commercial facilities could be justified on planning, community and economic

grounds. In order for the site to be economically viable it is considered that a major retail supermarket, potentially with associated specialty stores, is required.

Bush fire: Preliminary Asset Protection Zones (APZs) incorporating an Inner Protection Area and Outer Protection Area have been identified by the proponent. This is acceptable for the rezoning proposal and further details will need to be provided with the DA and design stage.

Flooding & Stormwater: A flooding and drainage assessment was undertaken for the site as it is identified as being affected by the 1 in 100 year flood. The rezoning should ensure that no land within this flood level is zoned for urban purposes. Also a flood impact statement must be provided at the development application stage confirming that a particular development on the site can be constructed in accordance with the appropriate floor levels and Tallow Creek Floodplain Risk Management Strategy and Plan prepared by SKM (3 July 2007).

Noise: The proposal is located within close proximity to existing residential areas. This was raised with the applicant and they suggested that the level of noise would not be significant for adjoining residential areas, therefore a detailed noise survey must be provided at the development application stage to determine the impact that operation of a commercial/retail centre may have on neighbouring properties.

Access & Movement: The submission presents a traffic assessment of the site which suggests that the proposed rezoning for commercial and retail use would possibly reduce the traffic on Broken Head Road due to the reduced need for trips to Byron Bay and Ballina to access a supermarket. Road works will need to be constructed with the proposal to ensure safe ingress to and egress from the site.

The applicant has provided information showing pedestrian and cycle access to the proposed commercial and retail area along Broken Head Road and where this could be enhanced. There are current bus services that can be utilised for public transport.

Slope: The site is gently sloping, which will not inhibit the development of the site.

Visual & Landscape Impacts: The subject site is currently vacant and the proposal for a commercial and retail development would change the visual appearance of the site and locality which is mainly low scale residential. The submission includes a landscape and visual assessment which outlines existing and future landscaping opportunities which would reduce the impacts. This will need to be further assessed and detailed at the development application stage when the final details of the proposal is known.

Social Impacts: The submission includes a consideration of social impacts based on the economic assessment. This generally concludes that the community are in support of the proposal. A social impact assessment in accordance with Councils social impact assessment policy and DCP will be required at the DA stage.

Infrastructure: The site is well placed to be connected to these services. The submission shows how the proposed development could be connected to essential infrastructure such as roads, water, sewer, drainage, telephone etc.

Heritage: The submission identified that there were no registered indigenous or non-indigenous sites or places on the site. No consultation was done with the local Aboriginal community as the potential for sites in the area proposed for development was low. Consultation could occur as part of the development application if thought

necessary at the time. Suffolk Park has a number of potential Indigenous sites and although the site has been mainly disturbed, this should be considered at the DA stage.

6. Implications of proposal

6.1 Statutory Implications

6.1.1 Environmental Planning and Assessment Act 1979

The proposal has been considered under the provisions of the EP&A Act 1979 and found to be generally consistent.

6.1.2 State Environmental Planning Policies (SEPPs)

The proposal has been assessed against the relevant SEPPs as detailed below:

- SEPP 11: Traffic Generating Development – SEPP 11 is likely to be relevant to any future commercial/retail development. An initial traffic analysis concluded that a commercial/retail facility of 2,800m² will not have any adverse traffic implications in terms of road network capacity of the existing Beech Drive intersections. The traffic analysis found that intersection treatment is required on Broken Head Road. Road network upgrades can be managed through the DA process and section 94 contributions. SEPP 11 to be considered as part of DA stage when scale of development is known.
- SEPP 14: Coastal Wetlands – The site is approximately 100 m downstream of a SEPP 14 wetland and 800 m upstream of a SEPP 14 wetland. Any development on the subject site will impact on drainage patterns to both SEPP 14 wetlands and must be considered at the development application stage.
- SEPP 44: Koala Habitat – No primary Koala habitat is known to occur on the site.
- SEPP 55 Remediation of Land – The submission adequately addresses potential for land contamination from the adjacent service station and nearby tick dip site. There is widespread, low level of lead and TPH contamination across the site. A more detailed and updated Contamination Report will be required at Development Application stage.
- SEPP 71 – Coastal Protection – The submission considers this SEPP and is consistent with it. Refer to checklists in Appendix A.

The assessment of the information provided suggests that the proposed rezoning is therefore consistent with relevant SEPPs. No other SEPPs are relevant.

6.1.3 Ministerial Section 117 Directions

The proposed rezoning is generally consistent with all the Section 117 Directions. Discussion of the consistencies can be found in Annexure A.

6.1.4 North Coast Regional Environmental Plan (REP)

The North Coast REP provides a list of issues to be addressed and considered as part of any rezoning. The list of relevant sections of the REP are detailed in Annexure A. There are no inconsistencies.

6.1.5 Far North Coast Regional Strategy

The proposed rezoning is consistent with the Far North Coast Regional Strategy. The subject site is not presented as a Proposed Future Urban Release Area in the strategy as it is currently already part of the residential zoned areas. However, as the site will generate economic development through future employment generating land use it is consistent with the Strategy.

6.1.6 Byron Bay and Suffolk Park Settlement Strategy

The proposal generally accords with the settlement strategy. Outcome 5 of the Strategy states that in the absence of a Floodplain Management Plan there should be no rezoning to higher order uses on flood prone land. SKM prepared the Tallow Creek Floodplain Risk Management Strategy and Plan (2007). It is recommended that any development on the site comply with the SKM plan. To accord with Outcome 4 of the settlement strategy existing portions of the site should be allowed to regenerate to provide/embellish wildlife corridors, subject to consideration of bushfire issues. The relevant areas on the site will be zoned where possible and further ecological study at the development application stage will inform the protection of the remaining areas and appropriate environmental repair and enhancement provisions.

In terms of traffic management the strategy states that due to high value placed on pedestrian amenity by Byron Shire Council higher order development should not be permitted on allotments that are accessed only from local roads carrying high traffic volumes. The subject site is located on Broken Head Road that is affected by high traffic volumes. The proposal does not accord with the traffic management objectives of the strategy. Any future development application must confirm the ability to comply with the traffic management objectives of the strategy.

It should be noted that the Byron Bay and Suffolk Park Settlement Strategy was never formally adopted by Council.

6.1.7 Byron LEP 1988

The whole site is currently zoned 2 (a) Residential under Byron LEP 1988. The application seeks a new zoning business centre and open space / private recreation.

This is in part considered appropriate and the zoning under the Standard LEP Template is recommended to be:

- B2 Local Centre for the area for the commercial and retail development; and
- E2 Environmental Conservation for the remainder of the site adjoining the waterway.

6.2 Environmental Implications

As detailed in the assessment above, the major constraints that occur on the site include flooding, drainage, vegetation, noise, bush fire and landscape/visual impact. Large portions of the site have been identified as flood prone. However, the Tallow Creek Floodplain Risk Management Strategy (SKM, 2007) indicates that development may occur at the site subject to complying with the recommendations of the study, including any buildings being above the flood level by 0.5 m. Further, the flood prone land including the Tallow Creek Fill Exclusion zone provides a buffer between proposed future development and existing residential dwellings.

Additional information provided by the applicant suggest that the other site constraints have been considered and are discussed in section 5. Any development application prepared for the site will need to consider the relevant aspects of a new DCP, this would include flora, fauna, drainage, water sensitive urban design, access, noise, etc.

6.3 Social Implications

The social implications include a significant retail development on a heavily trafficked road that will impact on the character of Suffolk Park. Positive social implications are the reduced travel times for shopping for residents of Suffolk Park and surrounds, local convenience and reduced pressure on existing retail services. The impact of the proposed new zoning on the existing residents, especially in terms of amenity and increased traffic movements in the local streets, needs to be carefully considered and managed as part of any new development. A SIA in accordance with the draft SIA policy and DCP will be required with the development application.

6.4 Economic Implications

The economic implications are considered positive. There is currently a perceived demand for retail services that is not being met. The proposed development would not only provide job opportunities during the construction phase but will generate additional revenue and employment in the area once established. The proposed retail centre may impact on other commercial centres in the region.

7. Conclusion

The provision of a commercial and retail centre incorporating a major supermarket could provide for the development of Suffolk Park and reduce pressure on existing services in Byron Bay town centre. The Byron Bay, Suffolk Park and Ewingsdale Local Environmental Study (LES) concluded that there is currently an under supply of some types of retail floor space in Byron LGA and there is a continuing deficiency in supermarket floor space, sufficient to support the development of another full-scale supermarket within Byron Bay. The LES also states that expansion of the Suffolk Park commercial area is likely to be opposed by residents; although, the demand for traffic and parking infrastructure generated by Suffolk Park residents commuting to Byron Bay for normal household requirements is recognised. The proponent presents alternate survey results that indicate the majority of residents are in favour of a major supermarket on the site. The noteworthy point of the results is that a “major” supermarket is in demand and not necessarily another small to medium supermarket.

The risk of flood has been considered and the proponent considers that flooding issues can be ameliorated by appropriate development of the site. The recommended zoning of the site (refer to Section 8) restricts

development to outside the “fill exclusion zone” of the creek line, which, in turn, provides a buffer between the proposed development and existing residential development to the east. Whilst the applicant has sought a B2 zoning for the whole site it is recommended to zone the environmental area accordingly to ensure no development can take place in this area. A detailed DCP should also be prepared for the site which would take into consideration design details for the proposed development to ensure that it can meet sustainability and urban design key objectives, including a flora and fauna study.

Further, the proposed development would be located within an expanding commercial node of the area, which is also buffered from the existing residential areas to the east. In addition, it must be acknowledged that Suffolk Park is no longer the coastal “hamlet” it once was, as recently as the 1990s. With nearly twice the footprint of the original hamlet, the introduction of a B2 zone would not longer be out of character with Suffolk Park.

During public exhibition of the draft LEP the opinions of the Suffolk Park residents can be garnered. The proposal has merit on planning grounds for development of the site to allow for long-term sustainability and growth of Suffolk Park and surrounds.

8. Recommendation

It is recommended to zone Lot 2 DP 701391 and Lot 7 DP 258562, 183-205 Broken Head Road, Suffolk Park B2 Local Centre and E2 Environmental Conservation as shown on Figure 6 in Appendix K of the LES.

Map 1 – Suffolk Park – Lot 7 DP 258562 & Lot 2 DP 701391
Byron LEP 1988 Zoning



Disclaimer : While all reasonable care has been taken to ensure the information contained on this map is up to date and accurate, no warranty is given that the information contained on this map is free from error or omission. Any reliance placed on such information is at the sole risk of the user. Please verify the accuracy of the information prior to using it.
Note : The information shown on this map is a copyright of the Byron Shire Council and the NSW Department of Lands.

Scale = 1:3,000



(Scale correct at A4 size)



14/07/2008



Annexure A

S117 DIRECTIONS

<u>Instrument:</u> S.117 Directions		Compliance: Yes/No	Comments
1.1	Business and Industrial Zones	Yes	The proposed rezoning of this land will increase the area for commercial / retail use and employment opportunities in the area. This area is not identified specifically in an adopted strategy but is adjoining an existing commercial area and is currently zoned for an urban/residential use.
1.2	Rural Zones	N/A	
1.3	Mining, Petroleum Production and Extractive Industries	Yes	The proposal is a minor addition to the existing urban area footprint of Suffolk Park and should not have a detrimental impact on resources. Section 62 consultation will be undertaken as part of this process also.
1.4	Oyster Aquaculture	N/A	
2.1	Environmental Protection Zones	Yes	The site contains potential habitat for threatened species. The ecological study found that the site did not contain threatened species. Riparian areas on the boundary of the creek must be conserved and suitable buffers must be provided to proposed urban development. An Environmental Protection zone is proposed in riparian areas including a buffer.
2.2	Coastal Protection	Yes	Proposed rezoning is consistent with this direction – refer to checklists at the end of this annexure.
2.3	Heritage Conservation	Yes	No sites have been identified within the area proposed for rezoning.
2.4	Recreation Vehicle Areas	N/A	

<u>Instrument:</u> S.117 Directions		Compliance: Yes/No	Comments
3.1	Residential Zones	Yes	The proposal will result in a loss of land zoned for residential purposes. However, due to numerous constraints on the site, in particular flooding, it is not considered desirable for residential land use and the commercial use would make more efficient use of the infrastructure. Also it should be noted that shop top housing is permissible in the proposed zone of a slightly higher density than is permissible in the current residential zoning if the proponents consider this option.
3.2	Caravan Parks and Manufactured Home Estates	N/A	
3.3	Home Occupations	N/A	
3.4	Integrating Land Use and Transport	Yes	The site is easily accessible from existing road infrastructure and is also within walking distance of existing residential areas, public transport and facilities. Further traffic assessment should be undertaken at the development application stage.
3.5	Development near Licensed Aerodromes	N/A	
4.1	Acid Sulfate Soils	Yes	The submission includes an assessment of acid sulfate soils and considers the appropriate management.
4.2	Mine Subsidence and Unstable Land	N/A	
4.3	Flood Prone Land	Yes	Flood prone areas have been suitably identified in the submission and specific drainage requirements can be considered at the development application stage. It is proposed to consider part of the area for commercial / retail development based on the flood study included in the proposal.
4.4	Planning for Bushfire Protection	Yes	Two separate parts of the site are considered bushfire prone. Appropriate Asset Protection Zones (APZs) must be provided by the proponent at the DA stage. Specific APZs incorporating an Inner Protection Area and Outer Protection Area must be identified by the proponent in a Bushfire Assessment Report.

<u>Instrument:</u> S.117 Directions		Compliance: Yes/No	Comments
5.1	Implementation of Regional Strategies	Yes	The proposal is not inconsistent with the direction. The subject site is not presented as a Proposed Future Urban Release Area in the strategy as the site is currently zoned for an urban use – l'e' residential. The site will generate economic development through future employment generating land use which is a key component of the Far North Coast Regional Strategy.
5.2	Sydney Drinking Water Catchments	N/A	
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	N/A	
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	N/A	
5.5	Development in the Vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	N/A	
5.6	Sydney to Canberra Corridor	N/A	
5.7	Central Coast	N/A	
5.8	Second Sydney Airport: Badgerys Creek	N/A	
6.1	Approval, and Referral Requirements	Yes	No concurrence or referral requirements are required as part of this proposal and it is not designated development.
6.2	Reserving Land for Public Purposes	Yes	No land is being recommended to be reserved for a public purpose as part of this proposal.
6.3	Site Specific Provisions	Yes	This rezoning proposal is part of a new major Shire-wide LEP – all the zones have new provisions relating to areas and sites. It is therefore not inconsistent as an LEP is not being amended.

NORTH COAST REGIONAL ENVIRONMENTAL PLAN

Clause	Item	Consistent: Yes/No	Comments
14	Plan preparation – wetlands or fishery habitats A draft LEP for land containing rivers, streams, wetland or fishery habitats should: ...	Yes	There are SEPP 14 wetlands at some distance from the subject land, they may be impacted by proposed development, therefore this is to be considered at DA stage
29	Plan preparation – natural areas and water catchments A draft LEP should: (a) retain existing provisions allowing the making of tree preservation orders; (b) not alter or remove existing environmental protection, scenic protection or escarpment zonings or controls within them...; (c) include significant areas of natural vegetation...in environmental protection zones; (d) contain provisions which require that development in domestic water catchment areas...; (e) require consent for clearing of natural vegetation in...	Yes	Existing areas of native vegetation should be retained and allowed to regenerate, where possible. Appropriate riparian buffers are proposed to be zoned E2 or E3 environmental zones to protect these important areas.
31	Plan preparation – coastal hazard areas A draft LEP for land that is not currently developed should identify any coastal hazard area.	Yes	This site is not close enough to the dune areas to be affected by coastal hazards.
32A	Plan preparation – coastal lands - Applies to land within the region to which the NSW Coastal Policy applies. - A draft LEP which applies to any such land should: ...	Yes	The change in zoning for the site has been considered under the coastal policy – refer to checklist below – and is consistent.
39	Plan preparation – retail, commercial or business activities A draft LEP should not provide for the establishment of significant retail, commercial or business development unless: ...	Yes	Site adjoins existing retail/commercial area in Suffolk Park.

Clause	Item	Consistent: Yes/No	Comments
40	Plan preparation – principles for urban zones A draft LEP applying to urban areas should adopt the following principles: ...	Yes	Zoning of the part of the site which can be developed will be the B2 Local Centre zone with adjoining E2 zone, therefore the zone boundary cannot be flexible as provided for in these principles.
45	Plan preparation – hazards - A draft LEP should not permit development for tourism, rural housing or urban purposes on land subject to the following hazards, namely.....unless the council has made an assessment of the extent of the hazard and included provisions in the plan to minimise adverse impact. - In the event of a bush fire hazard being identified for land on which dwellings are proposed to be permitted, the council shall not permit development unless it is satisfied that arrangements where appropriate have been made to: ...	Yes	It is proposed to manage development appropriately on flood prone land. Appropriate buffer requirements will be imposed on proposed urban development. Acid sulfate soils exist on the site and can be appropriately managed. Some of the land is affected by hazards, these are a constraint to development on part of the site and this has been zoned E2 environmental conservation.
45A	Plan preparation – flood liable land - Applies to flood liable land within the meaning of the Floodplain Development Manual. - A draft LEP should: ...	Yes	Where possible flood areas are being zoned E2, however to ensure that flooding is considered a DA stage a flood impact statement must be provided confirming that a particular development on the site can be constructed in accordance with the Tallow Creek Floodplain Risk Management Strategy and Plan prepared by SKM (3 July 2007).
47	Plan preparation and development control – principles for commercial and industrial development Before preparing a draft LEP relating to commercial or industrial development, the council should take into consideration the following principles: ..	Yes	The proposal will strengthen and expand the existing commercial area

Clause	Item	Consistent: Yes/No	Comments
53	Plan preparation – primary arterial roads - A draft LEP applying to a primary arterial road should identify that road and contain provisions to promote the safety and efficiency of the road. - The above provision should: ...	Yes	Additional access to and treatment of that access to Broken Head Road (an arterial road) will need to be considered in conjunction with the RTA to ensure impacts on the road are limited to local traffic. The applicant indicates that the development may actually reduce the traffic impacts on the road network.
56A	Plan preparation – bus services In the preparation of a draft LEP involving an alteration to the zoning of land which could give rise to the need for bus services or the revision of existing bus services, the council should take into consideration...	Yes	This was considered as part of the social issues assessment. Although the bus services to and through Suffolk Park are not extensive, the site is within walking distance of the local bus stop.
58	Plan preparation – servicing urban areas A draft LEP should not permit development for urban purposes unless the council is satisfied that: ...	Yes	A servicing strategy can be provided by the proponent with any development application

NSW COASTAL POLICY 1997

Compliance Checklist for the preparation of local environmental plans

Proposal to zone land at Suffolk Park for Retail/Commercial Development

Strategic Action	Provision	Consistent: Yes/No/NA	Indication of how the draft LEP is inconsistent with the Policy (if relevant)
Protect, rehabilitate and improve the natural environment			
1.1.2	Does the site have areas with land and/or marine and estuarine conservation values? If so, are these to be dedicated?	Yes	Flood prone fill exclusion area to be free from urban development. E2 environmental conservation zoning to be used.
1.1.3	If the land is Crown land (submerged or otherwise), has it been assessed for dedication/reservation under appropriate Acts (eg MPA,NPWS,NSWF)?	N/A	
	If foreshore Crown land, will public access be maintained and/or appropriately zoned?	N/A	
1.1.5	If open space land, is it to be classified 'community land' under the Local Government Act?	N/A	
1.1.9	Does the land have recognised conservation values ? If so, what zones and/or other provisions are proposed?	Yes	Zoning allows for environmental conservation
1.1.10	Is the land adjacent to a Marine Park ? If so, what provisions are included which will give effect to the Marine Park zoning and operational plans?	N/A	Council has indicated that the Cape Byron Marine Park only applies to areas of Crown Land. The subject site is not affected by the Marine Park area or buffer
1.1.11	Does the plan enable the natural habitats of the site to form part of a regional open space corridor (including water areas)? If so, how?	Yes	Flood prone fill exclusion area to be free from urban development

Strategic Action	Provision	Consistent: Yes/No/NA	Indication of how the draft LEP is inconsistent with the Policy (if relevant)
1.3.7	Is the site included in a catchment management plan ?	Yes	Tallow Creek Floodplain Risk Management Strategy and Plan prepared by SKM (2007)
	Have water quality objectives been established? If so, in what form (ie instrument/strategy)?	Yes	These can be further explored in the development application through water sensitive urban design.
	Does the plan incorporate water quality objectives and controls?	Yes	These can be further explored in the development application through water sensitive urban design.
	Is ongoing water monitoring proposed?	N/A	
	Does the plan incorporate water monitoring provisions?	N/A	
1.3.8	Has a stormwater management plan been developed ?	Yes	Tallow Creek Floodplain Risk Management Strategy and Plan prepared by SKM (2007)
	Does the plan include stormwater controls?	Yes	These can be further explored in the development application through water sensitive urban design.
1.3.14	Does the plan create the potential for impacts on groundwater ? If so, does the plan incorporate management controls for groundwater?	Yes	Tallow Creek Floodplain Risk Management Strategy and Plan prepared by SKM (2007). It should be noted that the ground water shows signs of contamination, however not at levels that would affect health.
Recognise and accommodate natural processes and climate change			
2.1.1	Does a coastline, estuary or floodplain POM apply to the land? If so, does the LEP incorporate provisions to give effect to these plans?	Yes	Tallow Creek Floodplain Risk Management Strategy and Plan prepared by SKM (2007). The LEP is using the E2 zone to protect these areas on this site.
2.1.4	If the site is affected by Acid Sulfate Soils , does the plan incorporate objectives for their management in accordance with the ASS Manual and s117 Direction-ASS C1?	Yes	The general Shire-wide LEP incorporates appropriate provisions.

Strategic Action	Provision	Consistent: Yes/No/NA	Indication of how the draft LEP is inconsistent with the Policy (if relevant)
2.2.2	Does the plan include provisions for sea level change as provided by the Inter-governmental Panel on Climate Change?	N/A	
Protect and enhance the aesthetic qualities of the coastal zone			
3.1.2	Does the plan include provisions to protect areas or items of high aesthetic value ? If so, in what way?	N/A	
3.2.4	How does the plan address design and locational principles listed below (as detailed in Appendix C Table 3 p83 Coastal Policy): - only essential public developments (eg surf lifesaving club) on beach frontal dunes; overshadowing of beaches and waterfront open space; - preservation of undeveloped headlands; - new development on developed headlands (require environmental assessment including visual impact from adjoining beaches); no buildings greater than 14m (unless justified following environmental planning considerations); - do building height controls apply to the land? In what form (eg LEP, endorsed DCP)? - Is DoP concurrency required or does council have assumed concurrency? If so, up to what height? - does the plan establish a setback line from coastal lakes, estuaries, beaches, foreshores and cliffs? Provide details.	N/A	
		N/A	
		N/A	
		N/A	
		N/A	
		N/A	
		N/A	
		N/A	

Strategic Action	Provision	Consistent: Yes/No/NA	Indication of how the draft LEP is inconsistent with the Policy (if relevant)
	is public access to foreshore to be maintained or provided. If so, how does the plan achieve this?	N/A	
	have provisions been made for dedication or an agreement entered into, to ensure use and maintenance of the public access area?	N/A	
	tourist or recreational developments adjacent to or within a National Park, Nature Reserve or State Recreation Area.	N/A	
3.3.1	Has a regional and/or local housing strategy been developed to encourage compact towns? If so, does the plan comply?	N/A	
Protect and conserve cultural heritage			
4.1.2	How does the plan conserve or protect known regional/local items or areas of coastal heritage ?	Yes	No sites have been identified.
4.1.4	Does the plan protect any significant views or vistas within or from towns?	N/A	
Promote ecologically sustainable development and use of resources			
5.1.2	Does a regional industry, economic development and/or tourism strategy apply to the area? If so, does the plan comply?	N/A	
5.1.3	Is the land identified as Class 1, II or III (Prime Crop and Pasture Land) in NSW Agriculture's Land Classification Scheme?	N/A	
	If so, how does the plan protect this resource?	N/A	
5.1.7	Does the plan affect or facilitate the identification or development of areas for aquaculture ?	N/A	

Strategic Action	Provision	Consistent: Yes/No/NA	Indication of how the draft LEP is inconsistent with the Policy (if relevant)
5.1.8	Does the plan identify or facilitate mineral exploration, mining or extraction ? How does the plan ensure ecologically sustainable development of the resource and protect environmentally significant sites?	N/A N/A	
5.2.3	Are there plans of management that apply to the site? How does the plan integrate these to ensure responsible and ecologically sustainable development and use of resources?	N/A N/A	
5.2.1.1	Does a regional and/or local tourism plan apply to the area? If so, how does the LEP complement this plan?	N/A N/A	
Provide ecologically sustainable human settlement			
6.1.1	Is the plan consistent with a regional settlement strategy prepared by DoP and consistent with the Coastal Policy?	N/A	
6.1.2	Is the plan consistent with an urban land release/settlement strategy endorsed by DoP and consistent with the Coastal Policy?	Yes	Far North Coast Regional Strategy. The Byron Bay and Suffolk Park Settlement Strategy was not formally adopted by Council or DoP.
6.1.4	Does the plan create canal estate developments as these type of developments are prohibited?	N/A	
6.2.1	If the plan creates urban areas are they " compact " and " contained " rather than "ribbon", "unrelated cluster" or "continuous"?	N/A	
	Does the plan define urban boundaries and indicate the amount and form of development?	N/A	

Strategic Action	Provision	Consistent: Yes/No/NA	Indication of how the draft LEP is inconsistent with the Policy (if relevant)
	Can servicing and infrastructure be economically and environmentally provided?	Yes	Servicing is in close proximity to the site and can be easily provided
6.3.1	Is the plan consistent with a rural residential release strategy , endorsed by DoP and consistent with the Coastal Policy, which preserves scenic, conservation, agricultural, significant mineral or extractive resources?	N/A	
6.4.1	Does the plan provide greater choice in housing ?	N/A	
6.4.2	Is the area close to an existing town centre ?	Yes	Adjoins the existing Suffolk Park centre.
	Does the plan provide for higher density residential development?	N/A	
	Does the plan require additional infrastructure ? What type?	Yes	Can be adequately serviced with existing infrastructure. Some road works will be required.
Provide for appropriate public access and use			
7.2.4	If the plan provides for tourism development , what provisions have been included in the plan to ensure public access to the foreshore?	N/A	

STATE ENVIRONMENTAL PLANNING POLICY NO 71 – COASTAL PROTECTION

Clause 2 'Policy Aims' & Clause 8 'Matters for Consideration'

Compliance Checklist for the preparation of local environmental plans Proposal to zone land at Suffolk Park for Retail/Commercial Development

Clause	Provision	Consistent: Yes/No/NA	Indication of how the draft LEP is inconsistent with the Policy (if relevant)
Aims of the Policy			
2			
Matters for Consideration			
8(a)	Protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast	Yes	Part of the site is being protected with the E2 environmental conservation zone.
	Protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore	N/A	
	Ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore	N/A	
	Protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge	Yes	No sites were identified on the site.
	Ensure that the visual amenity of the coast is protected	N/A	Not adjoining the coast.

Clause	Provision	Consistent: Yes/No/NA	Indication of how the draft LEP is inconsistent with the Policy (if relevant)
	Protect and preserve beach environments and beach amenity	N/A	
	Protect and preserve native coastal vegetation	N/A	
	Protect and preserve the marine environment of New South Wales	N/A	
	Protect and preserve rock platforms	N/A	
	Manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6(2) of the <i>Protection of the Environment Administration Act 1991</i>	Yes	Part of the site is being protected with the E2 environmental conservation zone.
	Ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area	Yes	This will be controlled through appropriate DCP provisions.
	Encourage a strategic approach to coastal management	N/A	
Other Matters			
8(b)	Existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved	N/A	
8(c)	Opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability	N/A	
8(d)	The suitability of development given its type, location and design and its relationship with the surrounding area	Yes	Development is adjoining existing urban areas.

Clause	Provision	Consistent: Yes/No/NA	Indication of how the draft LEP is inconsistent with the Policy (if relevant)
8(e)	Any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore	N/A	
8(f)	The scenic qualities of the New South Wales coast, and means to protect and improve these qualities	N/A	
8(g)	Measures to conserve animals (within the meaning of the <i>Threatened Species Conservation Act 1995</i>) and plans (within the meaning of that Act), and their habitats	N/A	
8(h)	Measures to conserve fish (within the meaning of Part 7A of the <i>Fisheries Management Act 1994</i>) and marine vegetation (within the meaning of that Part), and their habitats	N/A	
8(i)	Existing wildlife corridors and the impact of development on these corridors	Yes	The wildlife corridor area is within the part of the site to be zoned E2.
8(j)	The likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards	N/A	
8(k)	Measures to reduce the potential for conflict between land-based and water-based coastal activities	N/A	
8(l)	Measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals	Yes	No sites identified.
8(m)	Likely impacts of development on the water quality of coastal waterbodies	Yes	These can be further explored in the development application through water sensitive urban design.

Clause	Provision	Consistent: Yes/No/NA	Indication of how the draft LEP is inconsistent with the Policy (if relevant)
8(n)	The conservation and preservation of items of heritage, archaeological or historic significance	Yes	No sites identified.
8(o)	Only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities	N/A	
8(p)	only in cases in which a development application in relation to proposed development is determined: (i) the cumulative impacts of the proposed development on the environment, and (ii) measures to ensure that water and energy usage by the proposed development is efficient	Yes	Environmentally sensitive areas are proposed to be protected through zoning.

Hospital Site Ewingsdale



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Our reference: 2122791B/Lt-825/NM/MM

September 2007

REZONING ASSESSMENT

Lot 17 DP 816451 (now Lots 171 & 172 DP 1121005) Ewingsdale Road, Ewingsdale
Proponent: ERM on behalf of land owners
Ewingsdale Hospital Site

1. Description of site and current zoning

The site is located on the southern side of Ewingsdale Road, between the intersections of McGettigans Lane and William Flick Lane, approximately 5 km north-west of the centre of Byron Bay. The majority of the site is cleared and has previously been utilised for grazing. There is an existing dwelling located on the eastern part of the site. The total site is approximately 22.46 ha, with about 6 ha being subdivided for the hospital. It is currently zoned part 1(d) Investigation and part 1(c2) Small Holdings under Byron LEP 1988. Refer to Map 1 from Council's GIS mapping system.

2. Proposed use of land and proposed zoning

The proposed use of the 6 ha portion of the site is a 54-bed Hospital, as well as core services such as an emergency department and acute medical beds, low risk maternity services for the Ballina and Byron Shires and private & public surgical services for residents of Byron Shire. The remainder of the site, at present, is to retain its rural / rural residential use. The proposed zone requested by the applicant is SP2 Infrastructure.

3. Information and relevant specialist studies

The following documentation has been provided with the rezoning application by the proponent:

- Rezoning report prepared by Newton Denny Chapelle (NDC) including a variety of information relating to the site and the impacts of the proposed development;
- Ecological, bushfire and archaeological assessment, Place Environmental (2007);
- Social impact assessment, Planning Resolutions (2007);
- Traffic and parking study, TEF Consulting (2007);
- Landscape design concept, Design Team Ink (2007);
- Engineering infrastructure and services report, Ardill Payne & Partners (2007);
- Conceptual stormwater management plan, Black Environmental (2007);
- Acoustic assessment, Tim Fitzroy Environmental (2007);
- Contaminated lands assessment, Tim Fitzroy Environmental (2007); and

- Agricultural assessment (2007).

In a letter to the applicant dated 1 June 2007 additional information was requested. The applicant supplied additional information about strategy justification, Section 117 directions, traffic, future use and expansion, economic issues, future of potentially redundant hospitals and pedestrian access in a letter dated 4 July 2007. The response by the applicant has assisted with the assessment of the rezoning application.

4. Consultation required with rezoning

As with all rezonings and LEP amendments, Council is required to consult with relevant government agencies in relation to any proposed change in zoning. Therefore Council will need to consult and consider their comments when drafting the new LEP. The following government agencies are suggested:

- Roads and Traffic Authority;
- Rail Corporation NSW;
- Rural Fire Service;
- Dept of Water and Energy;
- Dept of Primary Industries;
- Dept of Planning;
- Dept of Environment and Climate Change; and
- Dept of Education.

As part of the consultation process Chris Lonergan town planner, on behalf of the Ewingsdale Progress Association submitted a letter (dated 8 April, 2007) in regards to the proposed hospital site. In particular he requested an open space zone to the south of the site to form part of the rezoning to optimise residential amenity and meet habitat corridor objectives. The North Coast Area Health Service responded to the various issues presented by Chris Lonergan and agreed that a vegetation buffer is desirable on the southern boundary.

5. Technical review

The submissions by the applicant addressed a number of technical issues. These have generally been adequately addressed and a summary of the main issues, with details of how they have been addressed is included below:

Ecological assessment: The submission presents a preliminary ecological assessment of the site. It is accepted that development of the site is unlikely to have a significant impact on threatened flora and fauna. The site is also in close proximity to a SEPP 14 wetland, it is considered that site-specific ecology and drainage issues can be dealt with at the development application stage and that proposed future uses can be accommodated within the constraints of the site.

Land contamination: The site is contaminated due to a previous goat dip utilised for processing goats prior to transportation to the Dorriggo abattoir. The site was tested for contamination from the former Grissells Goat Dip. The dip was not located on the site identified for the hospital. The results of the testing showed that the levels were well below the health guidelines and did not pose a risk to the development of the site for a hospital. No further testing is required at this stage, further testing could be undertaken at the DA stage to consider any potential changes in levels if required.

Heritage: The proponent has provided an Indigenous Heritage Assessment that included field work. The one archaeological find is located outside of the area proposed for development and can be retained *in-situ* and where further archaeological sites are discovered during construction consultation with the Department of Environment and Climate Change must occur. It appears no consultation was done with the local Aboriginal community about this find. Consultation could occur as part of the development application if thought necessary at the time.

The existing dwelling on the site is subject to an interim heritage order and it is considered that change in zoning of the site will not result in a significant impact on the building. Council is in the process of completing a draft Community based Heritage Study in which this building and some others in the locality, such as the Ewingsdale Church and Hall, are identified. Further detailed assessment of the impact on the dwelling and other potential heritage items should occur at the development application stage.

Agricultural assessment: The site is considered regionally significant farmland under the Northern Rivers Farmland Protection Project. The agricultural assessment found that potential land use conflicts with neighbouring residential land and its size limit the productive capacity of the site. It is considered that the potential community benefits of a future hospital outweigh the minor loss of agricultural land.

Social Impacts: A social impact assessment in accordance with Council's draft policy, including consultation, was conducted by Planning Solutions. This assessment concluded that the main impact on the broader community relates to transport/accessibility of the site. Where possible, concerns of the community have been addressed by the proponent. It is considered that rezoning the site for a future hospital will provide a positive social impact. If required, further details can be considered in a development application, when Council finalises its social impact assessment policy and DCP.

Bush Fire: Preliminary Asset Protection Zones (APZs) incorporating an Inner Protection Area and Outer Protection Area have been identified by the proponent. The hospital site is not within the APZs recommended. However as the site has been identified as bush fire prone land under the Act the proposed future hospital is considered a special fire protection purpose and must be referred to the Rural Fire Service (RFS) for comment and approval as part of the development application process.

Noise: The proposal is located adjacent to a number of noise generators, electricity depot, highway and concrete batching plant. A preliminary acoustic assessment found that the site is suitable for development. Consideration should be given to the design of the hospital to reduce noise impact from external and internal sources as well as noise impacts on surrounding residents. This could be included in a DCP for the site and require more detailed acoustic assessment at the development application stage. Attenuation measures could include vegetation buffers, mounding etc.

Economic impact assessment: There was no formal economic assessment provided with the submission, however the applicant estimates that there will be significant employment and economic benefits associated with the proposal for a hospital on the site.

Flooding & Stormwater: The site is not subject to flooding from the 1 in 100 year flood. It is suggested that the site be developed in accordance with water sensitive urban design principles in relation to the drainage and stormwater disposal from the site. This can be included in a DCP and addressed at DA stage.

Access & Movement: The submission presents a traffic assessment of the site which suggests that the proposed rezoning for a hospital and associated uses would not worsen the level of service along Ewingsdale Road. Roadworks will need to be constructed with the proposal to ensure safe ingress to and

egress from the site. The RTA will need to be consulted in relation to this rezoning in relation to access from the Pacific Highway and Ewingsdale Road, which is part of MR545.

The applicant has provided information showing pedestrian and cycle access to the proposed hospital site, where and how this could be enhanced should be a DCP issue. There are current bus services that can be utilised for public transport, however the SIA suggests that the bus services should be enhanced and demand driven bus service should be introduced specifically for the hospital. This cannot be addressed in the LEP but can be considered at the DA stage.

Slope: The site is gently undulating which will not inhibit the development of the site for a hospital.

Visual Impacts: The subject site where the hospital is proposed (6 ha) is currently vacant and the development of a hospital would change the visual appearance of the site and locality which is mainly low scale rural and rural residential. The submission includes suggestions for reducing the visual impact of the proposal through landscaping opportunities. This will need to be further assessed and detailed at the development application stage when the final details and size of the proposal is known.

Infrastructure: The site is well placed to be connected to these services. The submission shows how the proposed development could be connected to essential infrastructure such as roads, water, sewer, drainage, telephone etc with some relatively minor extensions.

6. Implications of proposal

6.1 Statutory Implications

6.1.1 *Environmental Planning and Assessment Act 1979*

The proposal has been considered under the provisions of the EP&A Act 1979 and found to be generally consistent.

6.1.2 *State Environmental Planning Policies (SEPPs)*

The proposal has been assessed against the relevant SEPPs as detailed below:

- SEPP 11: Traffic Generating Development – SEPP 11 is likely to be relevant to future development. An initial traffic analysis concluded that intersection and other road network upgrades can occur to allow adequate vehicular movement. SEPP 11 to be considered as part of DA stage when scale of development is known.
- SEPP 14: Coastal Wetlands – The site is approximately 100 m downstream of Ewingsdale wetland which is a SEPP 14 wetland. Suitable water sensitive urban design will have to be considered at the development application stage and is capable of ameliorating any significant impact on the wetland. This can be included in the DCP for the site. No further consideration of SEPP 14 is required at this stage.
- SEPP 44: Koala Habitat – No Koala habitat is known to occur on the site.
- SEPP 55 Remediation of Land – The submission identifies potential land contamination from the Goat Dip on site. The results of the testing showed that the levels were well below the health guidelines and did not pose a risk to the development of the site for a hospital. No further testing is required at this stage, further testing could be undertaken at the DA stage to consider any potential changes in levels if required.

- SEPP (Major Projects) – The proposed future use of the site may be considered a major project and assessed under Part 3A of the EP&A Act.

The assessment of the information provided suggests that the proposed rezoning is therefore consistent with relevant SEPPs. No other SEPPs are relevant.

6.1.3 Ministerial Section 117 Directions

The proposed rezoning is generally consistent with all the Section 117 Directions, except Direction 5.3 which can be justified. Discussion of the consistencies, or not, can be found in Annexure A.

6.1.4 North Coast Regional Environmental Plan (REP)

The North Coast REP provides a list of issues to be addressed and considered as part of any rezoning. The list of relevant sections of the REP are detailed in Annexure A. There are no inconsistencies.

6.1.5 Far North Coast Regional Strategy

The proposed rezoning is generally consistent with the Far North Coast Regional Strategy. Whilst the Strategy encourages the siting of health and education facilities within urban areas it does not restrict or prohibit them in rural areas. It should be noted that the site is in close proximity to an existing urban area (west Byron Bay) and the rural residential area of Ewingsdale. The Strategy does not specifically identify the proposed hospital as public infrastructure; however, it is likely to include this in any review of the Strategy, at the request of Council and the Northern Area Health Service.

6.1.6 Byron Bay and Suffolk Park Settlement Strategy

Section 2.6.7 of the strategy states that "...major improvements to social infrastructure, such as schools and hospitals, are required to support significant additional population in Byron Shire...". The subject site is not identified for future development in the strategy; however, the site is generally free of natural constraints. Proposed future use of the site for hospital purposes may provide positive health and other social benefits to the local community.

It should be noted that the Byron Bay and Suffolk Park Settlement Strategy was never formally adopted by Council.

6.1.7 Byron LEP 1988

The whole site is currently zoned part 1(d) Investigation and part 1(c2) Small Holdings under Byron LEP 1988. The application seeks a new zoning for special purposes for the hospital and does not consider the appropriate zoning for the remainder of the land.

Considering the submission, the zoning under the Standard LEP Template is recommended to be:

- SP2 Infrastructure for the hospital site and also along Ewingsdale Road to adjoin the Country Energy site;
- R5 Large Lot Residential for the areas already zoned for small holdings; and

- RU2 Rural Landscape for the remainder of the site to provide protection for the landscape elements of the locality.

6.2 Environmental Implications

The site is generally clear of vegetation and development will not adversely impact on the biodiversity values of the area. Water sensitive urban design must be considered at the development application stage to minimise any adverse impact on local watercourses. Contamination was assessed and not considered a health issues and noise will require further assessment at the development application stage.

There are other environmental concerns associated with the site, but there are none that cannot be addressed until the DA stage. Any development application prepared for the site will need to consider the relevant aspects of a new DCP, this would include drainage, water sensitive urban design, heritage, visual impacts, etc.

6.3 Social Implications

Positive social implications are evident in the development of a new hospital for the Shire. New services and facilities for provision of health services will serve the current and future community. There will be provision of social infrastructure and services that will add to those currently existing in Byron Shire. Whilst the two existing hospitals in Byron Bay and Mullumbimby will close, the proposed new hospital will provide for a central facility for the community as a whole. There is likely to be some impact on residential amenity for adjoining residences and the need to reduce this impact is considered essential. Amelioration of the reduction of residential amenity will need to be carefully considered in the design stage for the Development Application and details can be included in a site specific DCP.

The submission considered the social issues in a social impact assessment consistent with Councils draft social impact assessment (SIA) policy. A further SIA in accordance with the draft SIA DCP will also be required with the development application.

6.4 Economic Implications

The economic implications are considered positive. Any existing and future demand for medical services can be met by the hospital and will provide construction, health professional, health support and other employment opportunities.

7. Conclusion

There is a strong social advantage to allowing the site to be rezoned from rural to infrastructure to allow a hospital. A landscape/vegetation buffer has been proposed to the south of the site to ameliorate any potential impacts on the adjoining local rural residential community. The buffer will allow for a vegetated strip between the hospital and existing dwellings and will provide physical separation between different land uses. Furthermore, the buffer could provide a physical connection between the east and west portions of the residual lot, to allow for improved management of the remainder of the site. Whilst the new zoning will not “zone” this land as open space, a DCP prepared for this site should incorporate the buffer to assist in the retention of adjoining residential amenity. This will then need to be addressed at DA stage.

The existing heritage item on the residual lot can be adequately protected by the proposed RU2 zoning. Further, it is not desirable to reduce/remove land currently zoned as 1(c2), particularly in light of the shortage of developable land in the Shire. It is recommended that the portion of the site that adjoins

Parkway Drive be zoned R5 Large Lot Residential. The recommending zoning will be a variation to the proponent's proposed rezoning layout but will assist in improving residential amenity for existing residents.

In light of the negotiations undertaken by the proponent with the neighbouring community, it is logical to provide for a regional health facility with close proximity to the highway, thus providing easier access to the facility from numerous communities including Mullumbimby and Byron Bay. Given the proposed hospital is being built to meet existing need, there is also likely a future demand/need for increased number of beds. It is therefore considered logical to extend the SP2 zone west to meet the boundary of the concrete batching plant to allow for expansion of the hospital in the future.

8. Recommendation

It is recommended to zone Lot 171 & 172 DP 1121005 (previously Lot 17 DP 816451) Ewingsdale Road, Ewingsdale to part SP2 Infrastructure, part RU2 Rural Landscape and part R5 Large Lot Residential as shown on Figure 7 in Appendix K of the LES.

Map 1 – Ewingsdale – Hospital Site – Lot 171 & 172 DP 1121005
Byron LEP 1988 Zoning



Disclaimer : While all reasonable care has been taken to ensure the information contained on this map is up to date and accurate, no warranty is given that the information contained on this map is free from error or omission. Any reliance placed on such information is at the sole risk of the user. Please verify the accuracy of the information prior to using it.
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Scale = 1:6,000



(Scale correct at A4 size)



14/07/2008



Annexure A

S117 DIRECTIONS

<u>Instrument:</u> S.117 Directions		Compliance: Yes/No	Comments
1.1	Business and Industrial Zones	N/A	
1.2	Rural Zones	Yes	The draft LEP does not propose a zoning to any of the identified zones or to increase density as such. The zoning is from a investigation zone to a special use zone. Therefore it is not technically inconsistent. However it does increase the intensity of use on the site and there is a minor loss of agricultural land. However this is justified in the preparation of the LES and the social benefit of the future hospital
1.3	Mining, Petroleum Production and Extractive Industries	Yes	The proposal is a small addition to the rural residential area of Ewingsdale and should not have a detrimental impact on resources. Section 62 consultation will be undertaken as part of this process also.
1.4	Oyster Aquaculture	N/A	
2.1	Environmental Protection Zones	N/A	
2.2	Coastal Protection	N/A	Not located within the coastal zone.
2.3	Heritage Conservation	Yes	No sites have been identified within the area proposed for rezoning for the hospital.
2.4	Recreation Vehicle Areas	N/A	
3.1	Residential Zones	N/A	
3.2	Caravan Parks and Manufactured Home Estates	N/A	
3.3	Home Occupations	N/A	
3.4	Integrating Land Use and Transport	Yes	The site is easily accessible from existing road infrastructure and is also within close proximity to the centre of Byron Bay. Public transport could be accessed as the site is within the bus route. Pedestrian and cyclist facilities will need to be enhanced. Further traffic assessment can be undertaken at the development application stage if required. The benefits of having a centrally based hospital for the Shire will assist the population that don't live in the main centres.

<u>Instrument:</u> S.117 Directions		Compliance: Yes/No	Comments
3.5	Development near Licensed Aerodromes	N/A	
4.1	Acid Sulfate Soils	Yes	There are no acid sulfate soils identified on the site in Council's mapping.
4.2	Mine Subsidence and Unstable Land	N/A	
4.3	Flood Prone Land	N/A	
4.4	Planning for Bushfire Protection	Yes	The part of the land that is bush fire prone does not affect the site where the hospital is located.
5.1	Implementation of Regional Strategies	Yes	The subject site is not included as a infrastructure project in the strategy. However, the site will generate economic development through future employment generating land use which is a major focus of the strategy.
5.2	Sydney Drinking Water Catchments	N/A	
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	No	The loss of regionally significant farmland can be justified as the potential of the site for agriculture is low due to it location adjacent to rural residential areas. Also the use of the site as a hospital will be an employment generating land use and will have important social benefits.
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	N/A	
5.5	Development in the Vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	N/A	
5.6	Sydney to Canberra Corridor	N/A	
5.7	Central Coast	N/A	
5.8	Second Sydney Airport: Badgerys Creek	N/A	
6.1	Approval, and Referral Requirements	Yes	No concurrence or referral requirements are required as part of this proposal and it is not designated development.
6.2	Reserving Land for Public Purposes	Yes	No land is being reserved for a public purpose as part of this proposal.
6.3	Site Specific Provisions	Yes	This rezoning proposal is part of a new major Shire-wide LEP – all the zones have new provisions relating to areas and sites. It is therefore not inconsistent as an LEP is not being amended.

NORTH COAST REGIONAL ENVIRONMENTAL PLAN

Clause	Item	Consistent: Yes/No	Comments
7	Plan Preparation – prime crop or pasture land - Identify and include land in an agricultural protection zone and contain provisions that prevent subdivision other than for commercial farming; set minimum lot sizes; separate this land with land zoned residential; prohibit incompatible development; and only rezone prime crop or pasture land for purposes other than agriculture only if a detailed analysis of agricultural capability has been carried out. - Land not included in an agricultural protection zone as above: include provisions that retain land for commercial farming; set minimum lot sizes to maintain commercial farming.	Yes	The site has low agricultural potential due to the potential for conflict as it is located so close to a rural residential area. The loss of agricultural land is justified by the social benefit of the future hospital
17	Plan preparation – extractive materials A draft LEP applying to rural lands should: include in a suitable zone major deposits of extractive material...and include provisions to prohibit development which may compromise the proposed extraction operation...	Yes	No major deposits are known to occur on the subject site. Appropriate section 62 consultation is being undertaken
29	Plan preparation – natural areas and water catchments A draft LEP should: (a) retain existing provisions allowing the making of tree preservation orders; (b) not alter or remove existing environmental protection, scenic protection or escarpment zonings or controls within them...; (c) include significant areas of natural vegetation....in environmental protection zones; (d) contain provisions which require that development in domestic water catchment areas...; (e) require consent for clearing of natural vegetation in...	Yes	The proposal will not impact on environmentally sensitive natural areas. Water sensitive urban design will be used at DA stage to ensure there are no adverse impacts on the water course adjacent to the hospital site.

Clause	Item	Consistent: Yes/No	Comments
38	Plan preparation – urban land release strategy - A draft LEP which permits significant urban growth should not be prepared unless an urban land release strategy has been adopted for the whole of the LGA. - Development as above should be consistent with that strategy. - The strategy shall: ...	Yes	Byron Shire LES and township settlement strategies can be considered an urban land release strategy at this time.
40	Plan preparation – principles for urban zones A draft LEP applying to urban areas should adopt the following principles: ...	Yes	The site should be incorporated into the DCP with site specific provisions.
45	Plan preparation – hazards - A draft LEP should not permit development for tourism, rural housing or urban purposes on land subject to the following hazards, namely.....unless the council has made an assessment of the extent of the hazard and included provisions in the plan to minimise adverse impact. - In the event of a bush fire hazard being identified for land on which dwellings are proposed to be permitted, the council shall not permit development unless it is satisfied that arrangements where appropriate have been made to: ...	Yes	No hazards detrimental to the hospital use on the site are present.
53	Plan preparation – primary arterial roads - A draft LEP applying to a primary arterial road should identify that road and contain provisions to promote the safety and efficiency of the road. - The above provision should: ...	Yes	Additional access to and treatment of that access to Ewingsdale Road (an arterial road) will need to be considered in conjunction with the RTA to ensure impacts on the road are limited to local traffic. The applicant indicates that the development will not worsen the level of service on the road.
56A	Plan preparation – bus services In the preparation of a draft LEP involving an alteration to the zoning of land which could give rise to the need for bus services or the revision of existing bus services, the council should take into consideration...	Yes	This was considered as part of the social issues assessment. Although the bus services to and through Ewingsdale are not extensive, the site will become a local bus stop and may even cause the potential for a demand run bus.

Clause	Item	Consistent: Yes/No	Comments
58	Plan preparation – servicing urban areas A draft LEP should not permit development for urban purposes unless the council is satisfied that: ...	Yes	A servicing strategy can be provided by the proponent with any development application

Belongil Fields Byron Bay

July 2008

REZONING ASSESSMENT



Lot 1 DP 201626 and Lot 2 DP 542178 Ewingsdale Road, Byron Bay

Proponent: Land owners

Belongil Fields

1. Description of site and current zoning

The site has frontage to Ewingsdale Road, Byron Bay, west of Byron Bay township on the southern site of Ewingsdale Road opposite the School of Audio Engineering. The site is currently being used as a caravan park and camping ground. The total site is approximately 22.8 ha and is currently zoned 1(d) Investigation under Byron LEP 1988. Refer to Map 1 from Council's GIS mapping system.

The land is generally flat with the majority of the site being grass, low scrub and managed landscaping reflecting its use as a caravan park and camping ground. Native vegetation is limited to mainly along drainage lines and a small area on the south of the site.

2. Proposed use of land and proposed zoning

Proposed use of the site by the applicant is primarily for residential development with appropriate associated uses such as open space, neighbourhood commercial uses and environmental repair. A mix of residential densities and some affordable housing is envisaged. The proposed zone requested by the applicant is residential, business and environmental.

3. Background / History

Belongil Fields has a history of development rights and existing use provisions. During the sewerage moratorium in Byron Bay, development was limited to those sites that had existing sewerage credits. Belongil Fields resolved their credits through a Class 4 Consent Order of the Land and Environment Court (1992), which includes Council's agreement:

- That the authorised use of the site is a conference centre and a caravan park with a maximum of 226 sites: 49 long term, 49 short term, and 128 camping sites;
- To the licensing and dedication to Council of one hectare of land for the purpose of public recreational use; and
- To a credit in respect of the caravan park component of the development for 113 ET in calculating Section 94 contributions for future development and for 113 ET of sewerage loading upon connection of the existing development to Council's sewerage scheme (which has been effected by the current owner).

The existing use rights are relevant to consideration of future zoning options as caravan parks are not permissible on land zoned 1(d).

The site is also specifically identified in Clause 48 – Temporary Use of Certain Land of the Byron LEP 1988 which allows for the temporary use of the land subject to the provisions of the clause. This provision has allowed the regular use of the site for a variety of festival and concerts over past years.

The Draft LEP for the Byron Bay Area in 2006 identified the land for rezoning to a residential area with some environmental protection zonings. This draft LEP was abandoned by Council in preference of the preparation of a Shire-wide LEP.

Council recently resolved to consider Belongil Fields in the LES to support the Shire-wide LEP, however this was subject to it being supported by the Regional Road Strategic Study for MR545 of which Ewingsdale Road is part. See resolution below:

Resolution No 08-104

1. *That consideration of the residential development of the Belongil Fields site (Lot 1 DP201626 and Lot 2 DP542178) be included in the Shire-wide Local Environmental Plan preparation process.*
2. *That consideration of the residential development of the Belongil Fields site (Lot 1 DP201626 and Lot 2 DP542178) be excluded from the Shire-wide Local Environmental Plan preparation process should the completed Regional Road (MR545) Strategic Study show the land to be unsuitable for further development at this time.*
3. *That Landpartners be advised that their zoning request of December 2007 on behalf of West Byron Landowners Group is premature and that they should resubmit the Section 54 proposal post gazettal of the Shire-wide Local Environmental Plan.*

4. Consultation required with rezoning

As with all rezonings and LEP amendments, Council is required to consult with relevant government agencies in relation to any proposed change in zoning. Therefore Council will need to consult and consider their comments when drafting the new LEP. The following government agencies are suggested:

- Roads and Traffic Authority;
- Rail Corporation NSW;
- Rural Fire Service;
- Dept of Water and Energy;
- Dept of Primary Industries;
- Dept of Planning;
- Dept of Environment and Climate Change; and
- Dept of Education.

5. Technical review

The submissions by the applicant addressed a number of technical issues. These have generally been adequately addressed and a summary of the main issues, with details of how they have been addressed is included below:

Ecological assessment: The site has been considered in detail by Council's ecologists and their preliminary findings are that there is significant vegetation stands in the southern areas of the site along drainage lines and the property boundaries. This vegetation has been classified as HCV, is habitat to a number of threatened fauna species, within a wildlife corridor and part of an endangered ecological community (EEC) – Swamp Sclerophyll Forest on a Coastal Floodplain. There are also Koala food trees, as identified in SEPP 44 identified on the site. There are opportunities for revegetation and rehabilitation of the site in the cleared areas adjacent to the vegetation. It is recommended that the vegetated areas be zoned Environmental Conservation to protect the habitat areas and the other land located within the corridor environmental management. The proposed residential areas on the northern part of the site could be instrumental in ensuring the protection of these areas.

Land contamination: The subject land is currently used as a caravan park, consisting of a mix of long term residential and short term residential. The current residential use of the site has occurred for over 30

years. The proposed rezoning does not seek to change the residential use of the site and therefore no issues are raised in the context of the requirements of SEPP 55.

Bush fire: A portion of the land is bushfire prone, according to Council's mapping. However, the majority of the land is not identified as bushfire prone. With appropriate access and consideration of site management and construction materials, the bushfire hazard is able to be mitigated.

Flooding & Climate Change: In accordance with the requirements of the Far north Coast Regional Strategy, Council's flooding consultants recently undertook a flood study of the Belongil Creek catchment taking into account the impact of climate change on flood levels. A site specific study was undertaken by the same consultants SMEC, for the Belongil Fields site. The study concluded that a large part of the site is flood free and free of the impact of climate change on the 1 in 100 year flood levels.

Access & Movement: The site is within cycling and walking distance of the town centre, and is serviced by bus to the Byron Bay town centre as well as to the towns of Mullumbimby, Bangalow, Ballina and Lennox Head. Traffic generated on the main road by the redevelopment of the site would replace that currently generated by the authorised existing development and temporary major uses under clause 48 of the LEP

Logical traffic entrance arrangements include relocation of the existing substandard entrance to the property to a point adjacent the site's western boundary and opposite the Sound and Audio Engineering (SAE) entrance with a roundabout servicing both entrances. The SAE entrance works have been constructed to accommodate a future roundabout at this point.

However, Council and the RTA have expressed concern about the traffic issues associated with Main Road 545 from this site and the adjoining lands identified in the Settlement Strategy. Council is currently undertaking a Regional Study for this road and it is suggested that this site is not rezoned until this study is complete and supports the release of this site.

Social Impacts: The social issues were considered from a State and Regional level when the site was identified as a potential release area. The site is located in close proximity to existing residential areas, public transport, employment locations and services in Byron Bay and surrounds. Further details will be considered in a future development application when Council finalises its social impact assessment policy and DCP.

Infrastructure: The site is well placed to be connected to essential infrastructure such as roads, water, sewer, drainage, telephone etc.

Heritage: A report for Council by Jackie Collins, archaeologist assessed all investigation areas. No area or site of Aboriginal significance was identified on the site. No European sites have been identified on the site either.

Agricultural assessment: In the context of agricultural potential and impacts, the 1996 Area 2 LES undertaken on Council's behalf by ERM Mitchell McCotter reported that the land was Class 4 agricultural land. The report concluded that the development of the site for residential purposes would not represent a significant loss of agricultural land.

The area has been designated as 'Investigation Zone' since the 1988 LEP. The area is on the edge of the township of Byron Bay and has not been considered for an agricultural zoning in the LES for the Byron Bay, the Draft LEP for the Byron Bay Area or by the NSW Farmland Protection project.

6. Implications of proposal

6.1 Statutory Implications

6.1.1 Environmental Planning and Assessment Act 1979

The proposal has been considered under the provisions of the EP&A Act 1979 and found to be generally consistent.

6.1.2 State Environmental Planning Policies (SEPPs)

The proposal has been assessed against the relevant SEPPs as detailed below:

- SEPP 11: Traffic Generating Development – SEPP 11 is likely to be relevant to any future major residential development. Initial traffic information provided by the applicant indicated that the traffic impacts will not be greater than that already existing from the site as a caravan park and function centre. However Council and the RTA wish to wait until the regional road study for MR545 is completed before they will support a rezoning. Anyway, SEPP 11 is to be considered as part of DA stage when scale of development is known.
- SEPP 14: Coastal Wetlands – The site is in close proximity to a SEPP 14 wetland and contains some wetland vegetation. Any development on the subject site will have potential impacts on drainage patterns to SEPP 14 wetlands and must be considered at the development application stage.
- SEPP 44: Koala Habitat – Swamp Mahogany which is listed as a Koala feed tree in Schedule 2 of SEPP 44 has been identified on the site. Koalas have also been found on two occasions. SEPP 44 will need to be addressed in detail at the DA stage if this part of the site is to be affected by the proposed development.
- SEPP 55 Remediation of Land – The information supplied by the applicant adequately addresses potential for land contamination. A preliminary assessment found the site is unlikely to be contaminated. Further assessment can be undertaken at a DA stage if required.
- SEPP 71 – Coastal Protection – The submission considers this SEPP and is consistent with it. Refer to checklists in Appendix A.

The assessment of the information provided suggests that the proposed rezoning is therefore consistent with relevant SEPPs. No other SEPPs are relevant.

It should be noted that it is anticipated that, once the land is rezoned and an application is submitted for subdivision of the land, the Development Application will be considered to be state significant development with the Minister for Planning being the consent authority.

6.1.3 Ministerial Section 117 Directions

The proposed rezoning is generally consistent with all the Section 117 Directions. Discussion of the consistencies can be found in Annexure A.

6.1.4 North Coast Regional Environmental Plan (REP)

The North Coast REP provides a list of issues to be addressed and considered as part of any rezoning. The list of relevant sections of the REP are detailed in Annexure A. There are no inconsistencies.

6.1.5 Far North Coast Regional Strategy

The proposed rezoning is consistent with the Far North Coast Regional Strategy as the subject site is included as a Proposed Future Urban Release Area.

The Strategy estimates that Byron Shire will have an additional 2,600 dwellings by 2031. As part of one of the limited urban release areas in the Shire, Belongil Fields is integral to meeting that estimate.

6.1.6 Byron Bay and Suffolk Park Settlement Strategy

The site is identified in the Byron and Suffolk Park Settlement Strategy 2002 as part of Area 2. The Belongil Fields portion of Area 2 is identified in Map 4 of the Settlement Strategy as predominantly physically and environmentally unconstrained and therefore capable of residential development. It has direct frontage to a main road (Ewingsdale Road) and is currently serviced for water, sewer and electricity, with sewer and water mains in place to fully service the redeveloped site.

The strategy suggested development of part of the site for low cost housing, such as a manufactured home park and also that Area 2 is uniquely placed to sustain an integrated community, containing its own commercial support and employment generating activities.

It should be noted that the Byron Bay and Suffolk Park Settlement Strategy was never formally adopted by Council.

6.1.7 Byron LEP 1988

The whole site is currently zoned 1 (d) Investigation under Byron LEP 1988.

The application seeks a new zoning to a mix of residential, business and environmental under the new Shire-wide LEP. The appropriate zoning under the Standard LEP Template could be:

- R2 Low Density Residential for cleared part of the site (pending the traffic study supporting the release) or RU2 Rural Landscape if the study does not support the rezoning; and
- E3 Environmental Management or E2 Environmental Conservation for the riparian areas and those with a corridor role or significant vegetation.

It is not proposed to suggest the business zoning for any parts of the site as this has not been supported by an economic study nor is there a DCP or structure plan that shows the best location for the site.

6.2 Environmental Implications

As detailed in the assessment above, the major potential constraints that occur on the site include flooding, drainage, vegetation, habitats and bush fire. Flood studies and other environmental assessments conclude that some of the site can be developed with specific areas protected through zonings.

Additional information provided by the applicant suggest that the other site constraints have been considered and are discussed in section 5. Any development application prepared for the site will need to consider the relevant aspects of a new DCP which would include flora, fauna, drainage, water sensitive urban design, access etc.

6.3 Social Implications

The social implications include a significant new residential area on the outskirts of Byron Bay. Positive social implications are the potential for affordable housing, access to public transport and existing services and proximity to employment lands. A SIA in accordance with the draft SIA policy and DCP will be required with the development application.

6.4 Economic Implications

The economic implications are considered positive. There is currently a perceived demand for residential development in Byron Bay that is affordable. The proposed development would assist in providing

residential accommodation as well as providing job opportunities during the construction of the subdivision and dwellings.

7. Conclusion

The Belongil Fields site is the core of the only land release area identified by Byron Shire and the Department of Planning to meet housing needs of Byron Bay over the coming 20 years. The Far North Coast Strategy stipulates the release of this land for residential use. The land is relatively unconstrained and already serviced.

Pursuant to the North Coast Regional Environmental Plan, the land being rezoned should be part of a land release area and preference should be given to land which is already being used for urban purposes and is the most economic to service. In this case, the land is being used for a residential purpose and the land is currently serviced by all public utility services. The land is located on Ewingsdale Road, and access can be easily upgraded to ensure traffic safety and improve traffic flow.

However Council has not resolved to consider the rezoning of this site until the Regional Road Study for MR545 is completed and supports the development.

8. Recommendation

It is recommended to zone Lot 1 DP 207626 and Lot 2 DP 542178, Ewingsdale Road, Byron Bay part R2 Low Density Residential, part E2 Environmental Conservation and part E3 Environmental Management subject to the completion of the Regional Road Study that supports the development of the site as shown on Map 2 in Annexure B.

In the meantime it is an option to zone the residential areas as RU2 Rural Landscape.

Map 1 – Belongil Fields, Byron Bay – Lot 1 DP 201626 & Lot 2 DP 542178
Byron LEP 1988 Zoning



Disclaimer : While all reasonable care has been taken to ensure the information contained on this map is up to date and accurate, no warranty is given that the information contained on this map is free from error or omission. Any reliance placed on such information is at the user's risk. Please verify the accuracy of the information prior to using it.
Note : The information shown on this map is a copyright of the Byron Shire Council and the NSW Department of Lands.



Annexure A

S117 DIRECTIONS

<u>Instrument:</u> S.117 Directions		Compliance: Yes/No	Comments
1.1	Business and Industrial Zones	N/A	
1.2	Rural Zones	Yes	The proposal is entirely affecting land zoned 1(d) Investigation zone. The proposal is consistent with a strategy adopted by Council and the Far North Coast Regional Strategy. It is also contained within this LES which recommends the proposal. Therefore the proposed rezoning is consistent.
1.3	Mining, Petroleum Production and Extractive Industries	Yes	It is not anticipated that the proposal will have a detrimental impact on resources. Section 62 consultation will be undertaken as part of this process.
1.4	Oyster Aquaculture	N/A	
2.1	Environmental Protection Zones	Yes	The site contains potential habitat for threatened species and an EEC. These areas are to be conserved and suitable buffers must be provided to proposed urban development. An Environmental Protection zone is proposed in affected areas including a buffer. The area in the wildlife corridor is proposed to be Environmental Management to enable rehabilitation and restoration to occur.
2.2	Coastal Protection	Yes	Proposed rezoning is consistent with this direction – refer to checklists at the end of this annexure.
2.3	Heritage Conservation	Yes	No sites have been identified within the area proposed for rezoning.
2.4	Recreation Vehicle Areas	N/A	
3.1	Residential Zones	Yes	The proposal will allow for development of a new residential zone that is in close proximity to existing residential areas and employment. The proposal allows for a range of building types and locations, varied density and use of existing infrastructure and services.
3.2	Caravan Parks and Manufactured Home Estates	N/A	
3.3	Home Occupations	Yes	Council to consider making home occupations permissible without consent generally in the residential zone in the new Shire-wide LEP.

<u>Instrument: S.117 Directions</u>		Compliance: Yes/No	Comments
3.4	Integrating Land Use and Transport	Yes	The Far North Coast Regional Strategy identifies the site as a suitable area for urban development. The site is easily accessible from existing road infrastructure and is also within walking and cycling distance of public transport and facilities. Further traffic assessment can be undertaken at the development application stage if required.
3.5	Development near Licensed Aerodromes	N/A	
4.1	Acid Sulfate Soils	Yes	Acid sulfate soils affect the site, information from the applicant indicates that they can be appropriately managed.
4.2	Mine Subsidence and Unstable Land	N/A	
4.3	Flood Prone Land	Yes	Flood prone areas have been suitably identified in the submission and specific drainage requirements can be considered at the development application stage. Any areas that are identified as flood prone are not proposed for urban use
4.4	Planning for Bushfire Protection		The southern part of the site is considered bushfire prone. Appropriate Asset Protection Zones (APZs) must be provided by the proponent at the DA stage. Specific APZs incorporating an Inner Protection Area and Outer Protection Area must be identified by the proponent in a Bushfire Assessment Report.
5.1	Implementation of Regional Strategies	Yes	The proposed rezoning is identified in the Far North Coast Regional Strategy and is generally consistent with that strategy.
5.2	Sydney Drinking Water Catchments	N/A	
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	N/A	
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	N/A	
5.5	Development in the Vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	N/A	
5.6	Sydney to Canberra Corridor	N/A	
5.7	Central Coast	N/A	
5.8	Second Sydney Airport: Badgerys Creek	N/A	

<u>Instrument: S.117 Directions</u>		Compliance: Yes/No	Comments
6.1	Approval, and Referral Requirements	Yes	No concurrence or referral requirements are required as part of this proposal and it is not designated development.
6.2	Reserving Land for Public Purposes	Yes	No land is being recommended to be reserved for a public purpose as part of this proposal.
6.3	Site Specific Provisions	Yes	This rezoning proposal is part of a new major Shire-wide LEP – all the zones have new provisions relating to areas and sites. It is therefore not inconsistent as an LEP is not being amended.

NORTH COAST REGIONAL ENVIRONMENTAL PLAN

Clause	Item	Consistent: Yes/No	Comments
14	Plan preparation – wetlands or fishery habitats A draft LEP for land containing rivers, streams, wetland or fishery habitats should: ...	Yes	Any development is not proposed within identified habitat or wetland areas. Any of the areas near the drainage lines are being zoned for environmental conservation.
17	Plan preparation – extractive materials A draft LEP applying to rural lands should: include in a suitable zone major deposits of extractive material...and include provisions to prohibit development which may compromise the proposed extraction operation...	Yes	No major deposits are known to occur on the subject site. Appropriate section 62 consultation is being undertaken.
29	Plan preparation – natural areas and water catchments A draft LEP should: (a) retain existing provisions allowing the making of tree preservation orders; (b) not alter or remove existing environmental protection, scenic protection or escarpment zonings or controls within them...; (c) include significant areas of natural vegetation....in environmental protection zones; (d) contain provisions which require that development in domestic water catchment areas...; (e) require consent for clearing of natural vegetation in...	Yes	Existing areas of native vegetation should be retained and allowed to regenerate. Appropriate conservation zones will be applied to any riparian areas and vegetation. Any stand alone trees will be required to be considered for retention where appropriate as part of any development application for the site.
32A	Plan preparation – coastal lands - Applies to land within the region to which the NSW Coastal Policy applies. - A draft LEP which applies to any such land should: ...	Yes	Refer to checklist below.
38	Plan preparation – urban land release strategy - A draft LEP which permits significant urban growth should not be prepared unless an urban land release strategy has been adopted for the whole of the LGA. - Development as above should be consistent with that strategy. - The strategy shall: ...	Yes	Byron Shire LES and township settlement strategies can be considered an urban land release strategy at this time.
40	Plan preparation – principles for urban zones A draft LEP applying to urban areas should adopt the following principles: ...	Yes	Release area should be incorporated into the DCP to address these principles.
42	Plan preparation – principles for housing A draft LEP to permit dwellings in urban areas should incorporate provisions	Yes	Proposal provides for diverse housing types.

Clause	Item	Consistent: Yes/No	Comments
	that: ...		
45	Plan preparation – hazards - A draft LEP should not permit development for tourism, rural housing or urban purposes on land subject to the following hazards, namely.....unless the council has made an assessment of the extent of the hazard and included provisions in the plan to minimise adverse impact. - In the event of a bush fire hazard being identified for land on which dwellings are proposed to be permitted, the council shall not permit development unless it is satisfied that arrangements where appropriate have been made to: ...	Yes	It is proposed to only permit residential development on land that is not flood prone. Any of the land proposed for residential development will need to consider the bush fire prone areas and appropriate APZs.. Acid sulfate soils exist on the site and can be managed. Other hazards are not fatal to the proposal and can be considered as part of any development application.
45A	Plan preparation – flood liable land - Applies to flood liable land within the meaning of the Floodplain Development Manual. - A draft LEP should: ...	Yes	Flood liable land has been identified and should not be utilised for urban development. It has been zoned accordingly.
50	Plan preparation – height controls Before preparing a draft LEP applying to an urban area, the council should consider the necessity for height controls on buildings and include such controls as it considers appropriate.	Yes	Height limits will apply as identified for the remainder of the Shire.
53	Plan preparation – primary arterial roads - A draft LEP applying to a primary arterial road should identify that road and contain provisions to promote the safety and efficiency of the road. - The above provision should: ...	Yes	Additional access to and treatment of that access to Ewingsdale Road (an arterial road) will need to be considered in conjunction with the RTA to ensure impacts on the road are limited to local traffic. The applicant indicates that the development will not change the existing traffic impacts on the road network from the caravan park and function centre.
56A	Plan preparation – bus services In the preparation of a draft LEP involving an alteration to the zoning of land which could give rise to the need for bus services or the revision of existing bus services, the council should take into consideration...	Yes	The site is located on a major bus route and can be accommodated in the future.
58	Plan preparation – servicing urban areas A draft LEP should not permit development for urban purposes unless the council is satisfied that: ...	Yes	A servicing strategy can be provided by the proponent with any development application

Clause	Item	Consistent: Yes/No	Comments
61	Plan preparation – health and education facilities A draft LEP should not zone land for residential purposes on either urban or rural land unless: ...	Yes	The site is located in close proximity to Byron Bay where major health and education services and facilities are located.
65	Plan preparation – provision of community, welfare and child care services A draft LEP should: ...	Yes	The site is located in close proximity to Byron Bay where community and childcare services and facilities are located.
78	Plan preparation – public recreation areas A draft LEP should include provisions which: ...	Yes	The site is located in close proximity to Byron Bay where public recreation facilities are located. It is also proposed for a new facility near the site on Ewingsdale Road.

NSW COASTAL POLICY 1997

Compliance Checklist for the preparation of local environmental plans

Proposal to zone land at Belongil Fields for Residential Development

Strategic Action	Provision	Consistent: Yes/No/NA	Indication of how the draft LEP is inconsistent with the Policy (if relevant)
Protect, rehabilitate and improve the natural environment			
1.1.2	Does the site have areas with land and/or marine and estuarine conservation values? If so, are these to be dedicated?	Yes	Flood prone area to be free from urban development. E2 environmental conservation and E3 environmental management zoning to be used.
1.1.3	If the land is Crown land (submerged or otherwise), has it been assessed for dedication/reservation under appropriate Acts (eg MPA,NPWS,NSWF)?	N/A	
	If foreshore Crown land, will public access be maintained and/or appropriately zoned?	N/A	
1.1.5	If open space land, is it to be classified ' community land ' under the Local Government Act?	N/A	
1.1.9	Does the land have recognised conservation values ? If so, what zones and/or other provisions are proposed?	Yes	Zoning allows for environmental conservation
1.1.10	Is the land adjacent to a Marine Park ? If so, what provisions are included which will give effect to the Marine Park zoning and operational plans?	N/A	The Cape Byron Marine Park only applies to areas of Crown Land. The subject site is not affected by the Marine Park area or buffer
1.1.11	Does the plan enable the natural habitats of the site to form part of a regional open space corridor (including water areas)? If so, how?	Yes	Site is part of the wildlife corridor in the Shire and this area has been zoned E3 environmental conservation to protect these values.
1.3.7	Is the site included in a catchment management plan ?	Yes	Belongil Creek plans have been considered and this proposal is consistent.
	Have water quality objectives been established? If so, in what form (ie instrument/strategy)?	Yes	These can be further explored in the development application through water sensitive urban design.

Strategic Action	Provision	Consistent: Yes/No/NA	Indication of how the draft LEP is inconsistent with the Policy (if relevant)
	Does the plan incorporate water quality objectives and controls?	Yes	These can be further explored in the development application through water sensitive urban design.
	Is ongoing water monitoring proposed?	N/A	DCP / DA issue.
	Does the plan incorporate water monitoring provisions?	N/A	DCP / DA issue.
1.3.8	Has a stormwater management plan been developed ?	Yes	These can be further explored in the development application through water sensitive urban design.
	Does the plan include stormwater controls?	N/A	DCP / DA issue.
1.3.14	Does the plan create the potential for impacts on groundwater ? If so, does the plan incorporate management controls for groundwater?	N/A	DCP / DA issue.
Recognise and accommodate natural processes and climate change			
2.1.1	Does a coastline, estuary or floodplain PoM apply to the land? If so, does the LEP incorporate provisions to give effect to these plans?	Yes	Floodprone areas are not being considered for urban development.
2.1.4	If the site is affected by Acid Sulfate Soils , does the plan incorporate objectives for their management in accordance with the ASS Manual and s117 Direction-ASS C1?	Yes	Acid sulfate soils can be managed on the site. LEP includes appropriate provisions for this management.
2.2.2	Does the plan include provisions for sea level change as provided by the Inter-governmental Panel on Climate Change?	Yes	Report was prepared by SMEC for locality and site, the areas proposed for development will be outside the affected areas.
Protect and enhance the aesthetic qualities of the coastal zone			
3.1.2	Does the plan include provisions to protect areas or items of high aesthetic value ? If so, in what way?	N/A	DCP / DA issue.
3.2.4	How does the plan address design and locational principles listed below (as detailed in Appendix C Table 3 p83 Coastal Policy): only essential public developments (eg surf lifesaving club) on beach frontal dunes;	N/A	DCP / DA issue.

Strategic Action	Provision	Consistent: Yes/No/NA	Indication of how the draft LEP is inconsistent with the Policy (if relevant)
	overshadowing of beaches and waterfront open space;	N/A	
	preservation of undeveloped headlands;	N/A	
	new development on developed headlands (require environmental assessment including visual impact from adjoining beaches);	N/A	
	no buildings greater than 14m (unless justified following environmental planning considerations);	Yes	Two storey limits apply as for rest of Shire.
	do building height controls apply to the land? In what form (eg LEP, endorsed DCP)?	Yes	Two storey limits apply as for rest of Shire.
	Is DOP concurrency required or does council have assumed concurrency? If so, up to what height?	N/A	
	does the plan establish a setback line from coastal lakes, estuaries, beaches, foreshores and cliffs? Provide details.	N/A	
	is public access to foreshore to be maintained or provided. If so, how does the plan achieve this?	N/A	
	have provisions been made for dedication or an agreement entered into, to ensure use and maintenance of the public access area?	N/A	
	tourist or recreational developments adjacent to or within a National Park, Nature Reserve or State Recreation Area.	N/A	
3.3.1	Has a regional and/or local housing strategy been developed to encourage compact towns? If so, does the plan comply?	Yes	Proposal follows FNCRS and will include provisions for a variety of housing types.
Protect and conserve cultural heritage			
4.1.2	How does the plan conserve or protect known regional/local items or areas of coastal heritage ?	Yes	No sites have been identified.
4.1.4	Does the plan protect any significant views or vistas within or from towns?	N/A	
Promote ecologically sustainable development and use of resources			

Strategic Action	Provision	Consistent: Yes/No/NA	Indication of how the draft LEP is inconsistent with the Policy (if relevant)
5.1.2	Does a regional industry, economic development and/or tourism strategy apply to the area? If so, does the plan comply?	N/A	
5.1.3	Is the land identified as Class 1, II or III (Prime Crop and Pasture Land) in NSW Agriculture's Land Classification Scheme?	N/A	
	If so, how does the plan protect this resource?	N/A	
5.1.7	Does the plan affect or facilitate the identification or development of areas for aquaculture ?	N/A	
5.1.8	Does the plan identify or facilitate mineral exploration, mining or extraction ?	N/A	
	How does the plan ensure ecologically sustainable development of the resource and protect environmentally significant sites?	Yes	Environmentally sensitive areas are being zoned environmental conservation to ensure their protection.
5.2.3	Are there plans of management that apply to the site?	N/A	
	How does the plan integrate these to ensure responsible and ecologically sustainable development and use of resources?	N/A	
5.2.11	Does a regional and/or local tourism plan apply to the area?	N/A	
	If so, how does the LEP complement this plan?	N/A	
Provide ecologically sustainable human settlement			
6.1.1	Is the plan consistent with a regional settlement strategy prepared by DoP and consistent with the Coastal Policy?	Yes	Consistent with FNCRS.
6.1.2	Is the plan consistent with an urban land release/settlement strategy endorsed by DoP and consistent with the Coastal Policy?	Yes	Consistent with FNCRS. The Byron Bay and Suffolk Park Settlement Strategy was not formally adopted by Council or DoP.
6.1.4	Does the plan create canal estate developments as these type of developments are prohibited?	N/A	
6.2.1	If the plan creates urban areas are they " compact " and " contained " rather than "ribbon", "unrelated cluster" or "continuous"?	Yes	Contained within unconstrained area close to existing urban areas

Strategic Action	Provision	Consistent: Yes/No/NA	Indication of how the draft LEP is inconsistent with the Policy (if relevant)
	Does the plan define urban boundaries and indicate the amount and form of development?	Yes	
	Can servicing and infrastructure be economically and environmentally provided?	Yes	Servicing is in close proximity to the site and can be easily provided
6.3.1	Is the plan consistent with a rural residential release strategy , endorsed by DoP and consistent with the Coastal Policy, which preserves scenic, conservation, agricultural, significant mineral or extractive resources?	N/A	
6.4.1	Does the plan provide greater choice in housing ?	Yes	Greater housing choice is provided.
6.4.2	Is the area close to an existing town centre ?	Yes	Byron Bay
	Does the plan provide for higher density residential development?	Yes	Where possible on the site through FSR map.
	Does the plan require additional infrastructure ? What type?	Yes	No additional infrastructure is required than that available or existing on the site.
Provide for appropriate public access and use			
7.2.4	If the plan provides for tourism development , what provisions have been included in the plan to ensure public access to the foreshore?	N/A	

STATE ENVIRONMENTAL PLANNING POLICY NO 71 – COASTAL PROTECTION

Clause 2 'Policy Aims' & Clause 8 'Matters for Consideration'

Compliance Checklist for the preparation of local environmental plans Proposal to zone land at Belongil Fields for residential development

Clause	Provision	Consistent: Yes/No/NA	Indication of how the draft LEP is inconsistent with the Policy (if relevant)
Aims of the Policy			
2		Yes	
Matters for Consideration			
8(a)	Protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast	Yes	Part of the site is being protected with the E2 environmental conservation zone.
	Protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore	N/A	
	Ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore	N/A	
	Protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge	Yes	No sites were identified on the site.
	Ensure that the visual amenity of the coast is protected	N/A	
	Protect and preserve beach environments and beach amenity	N/A	

Clause	Provision	Consistent: Yes/No/NA	Indication of how the draft LEP is inconsistent with the Policy (if relevant)
	Protect and preserve native coastal vegetation	Yes	Part of the site is being protected with the E2 environmental conservation zone where vegetation is located.
	Protect and preserve the marine environment of New South Wales	N/A	
	Protect and preserve rock platforms	N/A	
	Manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6(2) of the <i>Protection of the Environment Administration Act 1991</i>	Yes	Part of the site is being protected with the E2 environmental conservation zone.
	Ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area	Yes	This will be controlled through appropriate DCP provisions.
	Encourage a strategic approach to coastal management	N/A	
Other Matters			
8(b)	Existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved	N/A	
8(c)	Opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability	N/A	
8(d)	The suitability of development given its type, location and design and its relationship with the surrounding area	Yes	Development is near existing urban areas and infrastructure.

Clause	Provision	Consistent: Yes/No/NA	Indication of how the draft LEP is inconsistent with the Policy (if relevant)
8(e)	Any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore	N/A	
8(f)	The scenic qualities of the New South Wales coast, and means to protect and improve these qualities	N/A	
8(g)	Measures to conserve animals (within the meaning of the <i>Threatened Species Conservation Act 1995</i>) and plans (within the meaning of that Act), and their habitats	Yes	Vegetated areas and habitats are being protected by the use of the environmental conservation and management zones.
8(h)	Measures to conserve fish (within the meaning of Part 7A of the <i>Fisheries Management Act 1994</i>) and marine vegetation (within the meaning of that Part), and their habitats	N/A	
8(i)	Existing wildlife corridors and the impact of development on these corridors	Yes	Wildlife corridor goes through site and is being protected with appropriate zoning.
8(j)	The likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards	N/A	
8(k)	Measures to reduce the potential for conflict between land-based and water-based coastal activities	N/A	
8(l)	Measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals	Yes	No sites were identified on the site.
8(m)	Likely impacts of development on the water quality of coastal waterbodies	Yes	WSUD will be considered in the DA through DCP provisions, protecting water quality that runs off the site.
8(n)	The conservation and preservation of items of heritage, archaeological or historic significance	Yes	No sites were identified on the site.

Clause	Provision	Consistent: Yes/No/NA	Indication of how the draft LEP is inconsistent with the Policy (if relevant)
8(o)	Only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities	Yes	Contained within unconstrained area close to existing urban areas
8(p)	only in cases in which a development application in relation to proposed development is determined: (i) the cumulative impacts of the proposed development on the environment, and (ii) measures to ensure that water and energy usage by the proposed development is efficient	Yes	DA is still to be submitted, however the DCP will include provisions to consider these impacts.

Bayside Residential Area Brunswick Heads

Investigation of biodiversity values of vacant land zoned 2(a) Residential under Byron LEP 1988 & recommendations for land use zoning under new Shire-wide LEP – Bayside Brunswick estate, Brunswick Heads

In response to a request for comment under Section 62 of the Act, the Department of Environment and Climate Change (DECC) identified a number of parcels of vacant land identified for urban development in the Far North Coast Regional Strategy that warranted investigation of biodiversity values. This response prompted more detailed investigations by staff in order to inform the preparation of the draft Shire-wide LES and LEP.

The following table outlines the results of these more detailed investigations and provides options and recommendations for consideration in the draft Shire-wide LEP.

Site: Undeveloped residential land at Bayside Brunswick estate, Brunswick Heads

Property Description	Lot 1 DP 871039
Property Address	Kingsford Drive, Brunswick Heads
Area of existing 2(a) land	Approximately 22.5 ha Refer to attached Map 1 showing aerial photograph and zoning from LEP 1988.
Constraints	Bushfire prone land – whole site is vegetation category 2 Acid sulfate soils – whole site is class 3 Floodprone – large areas of the land in the flood planning area (1% AEP + 500mm), central and eastern parts of the site identified as flood prone land. Coastal zone – SEPP 71
Biodiversity attributes	<u>Desktop analysis – Council records:</u> - SEPP 14 wetlands on eastern side of the site currently zoned for environmental protection - GIS data indicates that the 2(a) land contains a small area of tertiary koala habitat on the western side of the site and a larger area of secondary habitat on the eastern side. - Site is situated directly west of the Tyagarah Nature Reserve and adjacent to part of the Cape Byron Marine Park. - Parts of the site are mapped as wildlife corridor although the whole of the estate forms a 'hole' in the mapped corridor. - Most of the middle section of the site is identified as 'eco wetlands'. - Most of the site has been identified as high conservation value vegetation and habitats (HCV) (other than a small area adjacent to the developed area) based on updated vegetation mapping and Council's HCV model. The identification of the land as HCV is based on field verification and the product of the HCV model developed in accordance with the methodology in the <i>Byron Shire Biodiversity Conservation Strategy</i>. - Parts of the site have been identified as containing a candidate endangered ecological community (EEC). - Various threatened species records have been recorded on the site (refer to ecologist assessment). <u>Data from Settlement Planning Guidelines:</u> information to guide LEP preparation and DA assessment provided by Department of Planning. - Parts of the site have been identified as wet landscapes (high constraints) - Parts of the far eastern side of the site currently zoned for environmental protection are identified as SEPP 14 wetland and 100m buffer. - The eastern part of the site has been identified as being within an estuarine buffer

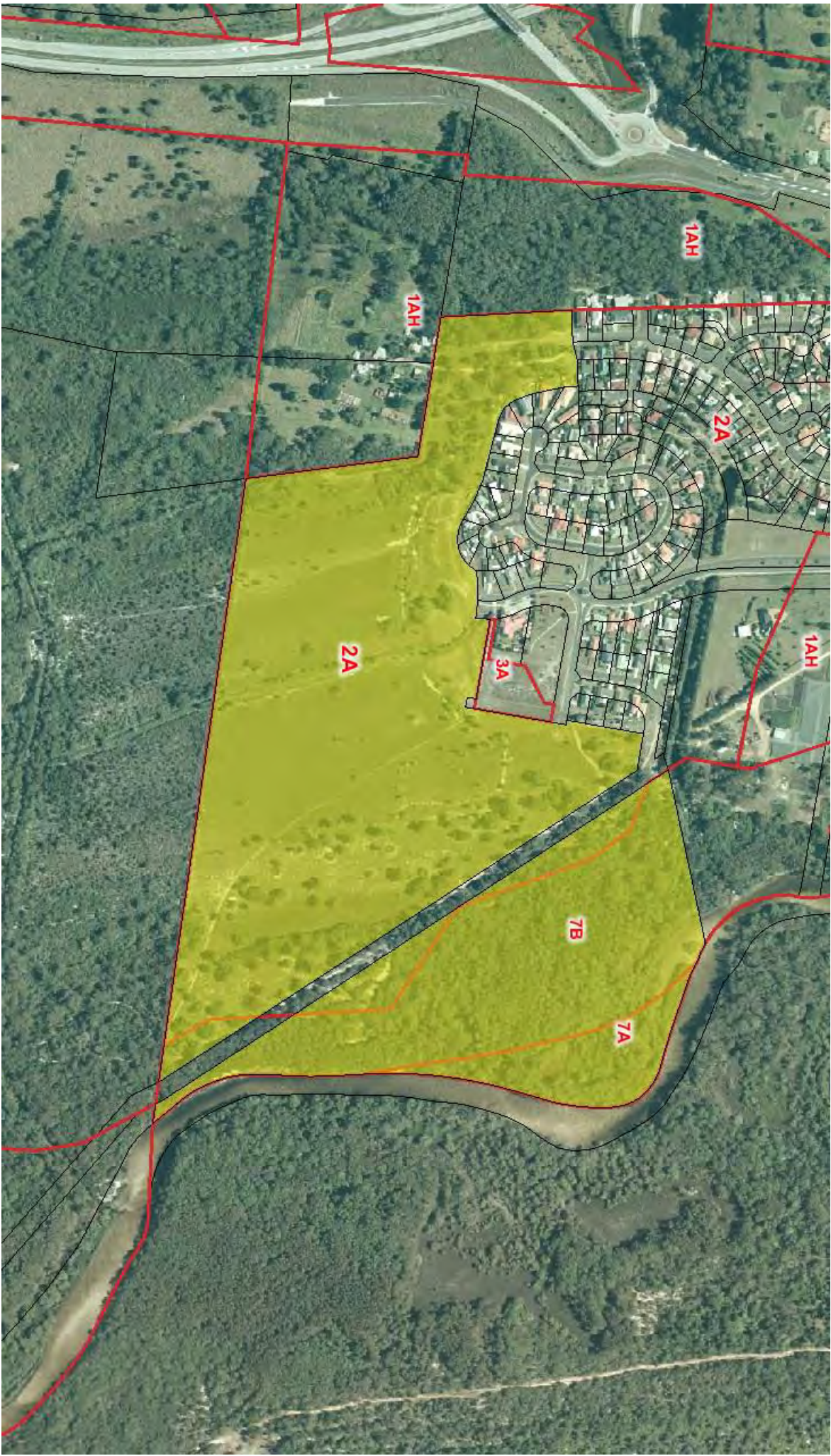
	• The entire site is identified as biodiversity high significance • The entire site has been identified as medium risk acid sulfate soils • Most of the site has been identified as containing significant groundwater • The entire site is identified as being within an inundation area. [Note: the scale of use for this data is no larger than 1:100,000] <u>Outcome of assessment by ecologist:</u> An ecologist was requested to carry out a more detailed assessment of the biodiversity attributes of the subject land. Council's Shire-wide vegetation mapping and HCV modelling for the site were refined following this more detailed assessment. The ecologist's report (#743257) recommends the following: <i>'Application of Council's Ecological Matrix results in most of the property's vegetation being recognised as being of High Conservation Value. Environmental protection zoning (E2 Environmental Conservation) would be the most appropriate response considering this outcome.'</i> <i>The property's high biodiversity value is reinforced by the following:</i> • <i>The availability of diverse habitats for a wide range of threatened fauna, including old growth elements (hollows etc.) which are highly restricted in coastal Byron Shire.</i> • <i>Occurrence of Swamp Sclerophyll Forest EECs and likely occurrence of Freshwater Wetland EECs.</i> • <i>Occurrence of SEPP 14 Wetlands.</i> • <i>Landscape conservation significance as a mosaic of Wallum vegetation communities in good condition and contiguous with other Wallum communities. The Wallum ecosystem characterises coastal Byron Shire and this mosaic of vegetation communities has largely been converted to agricultural, residential or other higher order land uses where unreserved.</i> • <i>Occurrence of rare/vulnerable/endangered forest ecosystems and restricted vegetation associations, most of which are endemic and/or of limited extent in the shire and/or are inadequately reserved.</i> • <i>Highly diverse vegetation associations.</i> • <i>Surrounded by and contributing to habitat connectivity and wildlife corridor values at the local and regional scale.</i> <i>The practice of periodic slashing heathland and sedgeland communities and underscrubbing the Scribbly Gum association is reducing the value of these Wallum communities to some threatened fauna, however threatened fauna is still being recorded in these communities and in the case of Wallum Froglet in large numbers. All communities will respond well if slashing ceases and will afford habitat to a wider range of threatened fauna.</i> <i>In summary, there is a convincing argument for applying the highest form of zoning protection to most of the property's vegetation other than to the lower value grassland, sedgeland/fernland/grassland and sedgeland-grassland communities'.</i>
Approvals history	The sewerage moratorium in Brunswick Heads was introduced on 24 March 1998. Council refused Development Application 5.1995.373.1 for a 256 lot subdivision on 14/10/97 on the basis that the development could not satisfy clause 45 of the Byron LEP 1988 relating to prior adequate arrangements for sewerage services. This decision was ultimately upheld by the Land and Environment Court in 1998. A Part 3A Major Projects application for a 208 lot residential subdivision is currently under consideration by the Department of Planning. The Minister authorised a concept plan could be lodged for the development in January 2007 pursuant to clause 75M of the Act. The Director General's Environmental Assessment requirements were provided to the proponent on 12 January 2007 (to expire in January 2009).

	Discussions with DoP Major Projects staff on 30 May 2008 indicate that the proponent has not yet submitted the environmental assessment report required in accordance with the Director General's requirements and that the project has not advanced in the preceding 12 months. Given this, it is unlikely (but not impossible) that the Part 3A application will be approved prior to gazettal of the new Shire-wide LEP. When approving a Part 3A application the Minister can effect a rezoning simultaneously i.e. for environmental protection. In the absence of a decision about the outcome of the major projects application Council should choose a land use zone/s that are appropriate for the identified site constraints.
Relevant Council resolutions, policies or strategies	DCP No. 6 Bayside Brunswick currently applies to this land. This DCP commenced on 25 August 1992. It contains performance standards and specific controls for future subdivisions of the estate and stipulates that a minimum of 10% of allotments should be small lots (450 square metres) and at least 10% should be allocated for medium density housing. The Brunswick Settlement Strategy recommends that the DCP be reviewed <i>'to ensure it is consistent with the outcomes of this Strategy and contemporary best practice in environmental management'</i> (page 9). Extract from the Brunswick Heads Settlement Strategy (page 21) adopted 21 December 2004: <i>'There are approximately 22 hectares of land zoned 2(a) (Residential) in one contiguous area at Bayside Brunswick. This includes areas on the east which have regenerated with native vegetation since being zoned 2(a) (Residential Zone). Fragments of significant vegetation on the west – particularly scribbly gum – are contiguous with similar vegetation on adjoining properties and should be retained for their habitat value and contribution to a local wildlife corridor between land to the south and to the west'. Also 'the Bayside Brunswick subdivision area is flanked by areas of significant vegetation to the east, south and west. Future development of the estate should provide buffers to reduce human impact as well as to provide adequate fire source separation to dwellings. Buffers should be provided on the developer's land'</i> (page 25). The Strategy also states that in the absence of a floodplain management plan, <i>'No further development involving filling or a intensification of runoff should be permitted on floodprone land'</i> (page 25). Also in relation to the land release program (page 34), <i>'The Bayside Brunswick land adjoins environmentally sensitive habitats which are exhibiting rapid regeneration and development of natural ecosystems. The undeveloped parts of the Bayside subdivision area are known to contain habitat for the Wallum Froglet, a threatened species. In view of the potential for natural habitat to regenerate on this land, future subdivisions of this land should be restricted to a 5 year supply of allotments. This figure may be derived from past uptake rates as well as an estimate of 'pent up' demand during the sewerage moratorium (this may in fact indicate that the whole subdivision area could be consumed in 5 years). Further stages may be considered when the majority of the approved lots have been purchased and developed. This will limit speculative demand and should ensure reasonable consistency with contemporary planning controls. Outcome 12: Subdivision approval should be controlled to provide a 5 year supply of land, the area of which will vary depending on uptake rates'</i>. The Bayside Brunswick site is specifically mentioned in the <i>Byron Biodiversity Conservation Strategy</i>. The Strategy states that the lands directly abutting the southern extent of Bayside Brunswick are known to support native vegetation but were not mapped in the Byron Flora and Fauna Study (1999) (and subsequently not considered for mapping as HCV vegetation in the Biodiversity Conservation Strategy). Therefore the residential zoned land on the subject site was not identified as containing high conservation value vegetation and habitats in Map 1 of the Strategy. As the Strategy recommended the vegetation mapping has since been revised based on new aerial photography and ground truthing. This site was identified in that review

	as containing HCV vegetation and habitats. A 50m buffer is recommended between residential development and native vegetation in the DPI publication 'Living and Working in Rural Areas'. Separation distances will be required if development proceeds to ensure appropriate asset protection zones. Smaller distances will require higher levels of construction and ultimately increase the cost of housing. Due to the sensitivity of the surrounding land and the need to manage drainage on and from the site adequate separation distances and other measures will be required to ensure that these areas aren't significantly impacted i.e. through ecological disturbance and pollution and runoff. Council's ecologist has identified a number of environmental and ecological considerations should development be considered on the site.
Other information	The site is identified in the Far North Coast Regional Strategy as part of the existing urban footprint of Byron Shire. In its correspondence dated 19 October 2007 the DECC state with regard to Bayside Brunswick, <i>'Area covered has been desktop assessed as almost entirely lands of State significance to biodiversity and includes regionally significant wetlands and Koala habitat. The area is part of a regional wildlife corridor and is adjacent to Tyagarah Nature Reserve. Should detailed investigation confirm these attributes, development of this area should be avoided'</i>. Council records indicate illegal vegetation clearing has occurred previously on the site and orders were subsequently imposed. The environmental values of the site were identified at this time by Council and the DECC.
Discussion	In making a decision whether to rezone this land, the following factors should be taken into account: • The land is currently completely zoned for residential development and is identified within the existing urban footprint in the Far North Coast Regional Strategy • The existing sewerage moratorium has prevented development on the site since 1998. Additionally Council and the Court (Codlea Pty Ltd v. Byron Shire Council (1998) NSWLEC 305 (4 December 1998) refused consent for subdivision of the site previously on the basis of clause 45 of Byron LEP 1988 not being satisfied in relation to sewerage services. The moratorium is still in place and is likely to remain in place until mid 2010. • A Part 3A major projects application has been lodged for a 208 lot residential subdivision however assessment has proceeded slowly since the Director General's requirements were issued in January 2007 and the relevant environmental assessment documentation has not been prepared. It is unclear whether the landowner intends to pursue this concept plan application and subsequent future development of the site. The application is for concept plan approval and the DoP advise that they are able to approve a concept plan even though the sewerage moratorium remains in place. The DoP also advise there are savings provisions in relation to the zoning in place when the original concept plan application was lodged. • There is currently no other land for significant development identified in the Brunswick Heads locality and Council is required to meet dwelling targets under the Far North Coast Regional Strategy by 2031. • DECC raised the biodiversity importance of this land and may support Council should it wish to rezone the land. DECC is yet to be approached with the outcome of our assessments and has not made any commitments with regard to this matter. • Much of the land has been identified as high conservation value vegetation and habitats through revised vegetation mapping, site inspections and the modelling methodology adopted by the <i>Byron Biodiversity Conservation Strategy</i>. • The land has been identified through desktop analysis and site analysis as supporting threatened species habitat, having threatened species records, containing endangered ecological communities and supporting special biodiversity attributes.

	• The land has been identified as being of high biodiversity significance in the State Government's data package associated with the Settlement Planning Guidelines. • The land currently constitutes a 'hole' in a significant regional wildlife corridor in the Biodiversity Conservation Strategy. • The site is constrained by bush fire risk on three sides. • Part of the land is flood prone and filling would need to occur in order for development to proceed. • The yield originally envisioned for the site (208 lots) is unlikely to be achievable given the constraints of the site. • Due to the sensitive location of the site, any development would need to be particularly responsive to environmental constraints i.e. incorporating water sensitive urban design systems. Also the recommendations in the ecologist report should be adopted should development proceed on the site. An area of the site that could be considered for development has been identified. This area was used during consideration of options for the site. Revision of the current residential zoning of the site is entirely reasonable given the significant biodiversity attributes of the land and the constraints of the site.
Options for Shire-wide LEP	These four options have been considered: 1) Zone most of the land E2 Environmental Conservation to reflect the extensive areas of HCV and the other restrictive physical characteristics of the land. 2) Retain a residential zoning over that part of the lot currently zoned for residential purposes through the use of the E4 Environmental Living zone or R2 Low Density Residential zone. 3) Zone the more ecologically significant parts of the site E2 and then zone the remaining areas for residential development using a number of residential zones i.e. E4, R2 and R3. 4) Zone part of the site for residential purposes (i.e. E4, R2 or R3) with the DECC to acquire the remaining part of the site from the landowner as an addition to Tyagarah Nature Reserve. Note that no discussions have taken place between Council and the DECC in relation to possible acquisition, nor has any commitment been given by DECC.
Recommendation	Option 3 is recommended. It is recommended that the E4 zone to be considered for the western side of the lot with large lot sizes (i.e. 2000 square metres) applied on the Lot Size Map in the LEP. The objective is to maximise retention of the scribbly gum community. A combination of R2 and R3 should be applied in the central section including to the southern extent of the lot. E2 should be applied on the eastern side in the vicinity of the existing road access and on the significant vegetation in two areas on the western side of the land. The remainder should be zoned E2 including all of the areas currently zoned for environment protection.

Map 1 – Bayside Brunswick – Lot 1 DP 871039
Byron LEP 1988 Zoning



Disclaimer: While all reasonable care has been taken to ensure the information contained on this map is up to date and accurate, no warranty is given that the information contained on this map is free from error or omission. Any reliance placed on this map is at the user's risk. The user is advised to verify the accuracy of the information prior to using it.
Note: The information shown on this map is a copyright of the Byron Shire Council and the NSW Department of Lands.

Scale = 1:6,000



(Scale correct at A4 size)



23/07/2008

Sandhills Estate Byron Bay Illustration



Legend:

Development Areas		
Community Purposes		
C - Community Development Area	One of these areas is earmarked for Byron's new library. Another encompasses the existing youth centre and another the existing child care. Other areas could be developed for other community uses such as local health care, or the like.	
CO - Common Area	This area would incorporate formal outdoor facilities, such as a performance space or the like.	
OP - Open Space / Common Area	Public park useable by all the community for casual recreational purposes.	
P - Parking	Parking area for the community space.	
PP - Pocket Park	Small local neighbourhood park. Would include seats, perhaps a picnic table etc.	
Private Development		
D - Development Area	Mixed use development with a strong community focus e.g. 'wellness centre', aged care facility, recreation centre, indoor pool etc. Need to include uses that will activate the site, providing for passive surveillance.	
R - Possible New Residential Lots	Land sold to finance environmental rehabilitation programs.	
Nature Conservation Areas		
N - Native Vegetation Area	Would include additional edge plantings, weed control and rehabilitation works and the provision of interpretive walking trails.	
BG - Bushland Botanic Gardens	Creation of native vegetation public gardens including walking paths and native vegetation 'display & appreciation' areas. This area would be developed to include appropriate density of planting and species to provide bushfire protection for adjoining development (existing and proposed).	
	Vehicular connections	---
	Pedestrian connections	---
	Possible location of aged care facility as determined by bushfire risk	---
	Indicative potential wetland area	---



Appendix M

Information for 1(d), 9(a), dwelling entitlements, anomalies, zoning requests & changes

Table 1: 1(d) Zoned Lands Assessment and Recommendations

Lot/DP	Location	Issues & Comments from Staff
2 790257	BANGALOW	Lot 2 is a large (15.8 ha) lot that abuts the existing urban area of Bangalow on its northern edge. It is partly zoned 1(d). It is largely cleared of native vegetation and is used for a commercial tree crop. It is entirely regionally significant farmland. The surrounding land is currently zoned 1(b1). It was examined in the Bangalow Settlement Strategy but was not recommended for residential use at this stage. It should be zoned RU1 consistent with adjacent lands.
1 127485	BANGALOW	Lot 1 is a large (27.9 ha) lot that abuts the existing urban area of Bangalow. It is partly zoned 1(d). It is largely cleared of vegetation and is used for grazing. It is entirely regionally significant farmland and is mostly prime agricultural land. However, it has been identified for some time in Council's Bangalow Settlement Strategy as future residential land and is also identified as an urban expansion area in the Far North Coast Regional Strategy. It is the subject of more detailed information and analysis in the Shire-wide local environmental study (LES). It should be zoned R2 where applicable. Refer to Section 7.6.6 Bangalow (d) Area 6 of the LES for final details and recommendation.
39 850926	BILLINUDGEL	Lot 39 is a 5.5 ha lot of which only a small area at its eastern boundary is zoned 1(d). This area is now bisected by the Pacific Motorway and adjacent to the old Pacific Highway. Although generally cleared of vegetation it is heavily affected by traffic noise and road infrastructure. Those parts within the wildlife corridor should be zoned E3 and the Pacific Motorway and its infrastructure should be zoned E3 which matches with the prevailing zones in the locality.
1 779833	BILLINUDGEL	Lot 1 is an 8.4 ha lot of which about one third at its eastern boundary is zoned 1(d). The 1(d) area contains an unused road reserve. This area is now bisected by the Pacific Motorway and adjacent to the old Pacific Highway. Although generally cleared of vegetation it is heavily affected by traffic noise. Those parts within the wildlife corridor should be zoned E3 and the Pacific Motorway and its infrastructure should be zoned RU2 or E3 depending on the prevailing zones in the area.
2 779833	BILLINUDGEL	Lot 2 is a 2.8 ha lot of which only a small area at its eastern boundary is zoned 1(d). The 1(d) area contains an unused road reserve and is in a number of pieces as a result. This area is now bisected by the Pacific Motorway and adjacent to the old Pacific Highway. Although generally cleared of vegetation it is heavily affected by traffic noise. The HCV vegetation areas should be zoned E2, those parts within the wildlife corridor should be zoned E3 and the Pacific Motorway and its infrastructure should be zoned RU2.
1 40804	BILLINUDGEL	Road reserve. Should be zoned according to adjacent lands. Those parts within the wildlife corridor should be zoned E3 and the Pacific Motorway and its infrastructure should be zoned RU2.
13 1091051	BROKEN HEAD	Lot 13 is a large (41 ha) lot that is partly zoned 1(d). The 1(d) area is irregularly shaped and generally follows an area that is cleared or partially cleared. The balance of the lot is heavily vegetated and the locality generally has high biodiversity. Broken Head Nature Reserve is located to the east. The areas of HCV vegetation should be zoned E2 and the balance should be E3 to reflect its wildlife corridor function.

Lot/DP	Location	Issues & Comments from Staff
6 1074790	BROKEN HEAD	Lot 6 is a large (40 ha) lot that is partly zoned 1(d). The 1(d) area is irregularly shaped and generally follows an area that is cleared or partially cleared. The balance of the lot is heavily vegetated and the locality generally has high biodiversity. Broken Head Nature Reserve is located to the east. The areas of HCV vegetation should be zoned E2 and the balance should be E3 to reflect its wildlife corridor function. Any lands outside of the wildlife corridor and not HCV vegetation should be zoned RU2.
5 1074790	BROKEN HEAD	Lot 5 is a large (36 ha) lot that is partly zoned 1(d). The 1(d) area is irregularly shaped and generally follows an area that is cleared or partially cleared. The balance of the lot is heavily vegetated and the locality generally has high biodiversity. Broken Head Nature Reserve is located to the east. The areas of HCV vegetation should be zoned E2 and the balance should be zoned E3 to reflect its wildlife corridor function. Any lands outside of the wildlife corridor and not HCV vegetation should be zoned RU2.
1 1031848	BROKEN HEAD	Lot 1 is a very large (112 ha) lot that has a very small area zoned 1(d). The 1(d) area is a thin strip along the Broken Head Road frontage to the lot. The balance of the lot is heavily vegetated in parts and the locality generally has high biodiversity. The areas of HCV vegetation and SEPP 14 should be zoned E2 and the wildlife corridor plus a 50 m buffer around the SEPP 14 area (whichever is the greater) should be zoned E3.
12 1091051	BROKEN HEAD	Lot 12 is a large (40 ha) lot that is partly zoned 1(d). The 1(d) area is irregularly shaped and generally follows an area that is cleared or partially cleared. The balance of the lot is heavily vegetated and the locality generally has high biodiversity. Broken Head Nature Reserve is located to the east. The areas of HCV vegetation should be zoned E2 and the balance should be zoned E3 to reflect its wildlife corridor function.
11 1091051	BROKEN HEAD	Lot 11 is a large (40 ha) lot that is partly zoned 1(d). The 1(d) area is irregularly shaped and generally follows an area that is cleared or partially cleared. The balance of the lot is heavily vegetated and the locality generally has high biodiversity. Broken Head Nature Reserve is located to the east. The areas of HCV vegetation should be zoned E2 and the balance should be zoned E3 to reflect its wildlife corridor function.
4 1074790	BROKEN HEAD	Lot 4 is a large (40 ha) lot that is partly zoned 1(d). The 1(d) area is irregularly shaped and generally follows an area that is cleared or partially cleared. The balance of the lot is heavily vegetated and the locality generally has high biodiversity. Broken Head Nature Reserve is located to the east. The areas of HCV vegetation should be zoned E2 and the balance should be zoned E3 to reflect its wildlife corridor function.
13 844553	BRUNSWICK HEADS	Lot 13 is a road reserve that is used as Bashforths Lane. It should be zoned consistent with surrounding lands. It should be zoned E2 and RU2.
109 755692	BRUNSWICK HEADS	Lot 109 is a 26 ha lot that is partly zoned 1(d). It is held in conjunction with other land in the vicinity. It has some HCV vegetation in different locations and is regionally significant farmland. It is an area that was addressed in the Brunswick Heads Village Settlement Strategy (page 33) which recommended that even though it was partly unconstrained it was not suitable for residential development. The HCV vegetation should be zoned E2 and the balance should be RU2.

Lot/DP	Location	Issues & Comments from Staff
108 755692	BRUNSWICK HEADS	Lot 108 is a 16 ha lot that is partly zoned 1(d). It is held in conjunction with other land in the vicinity. It has some HCV vegetation in different locations and is regionally significant farmland. The HCV vegetation should be zoned E2 and the balance should be zoned RU2.
1 613075	BRUNSWICK HEADS	Lot 1 is a tiny (65 sq metres) lot owned by Council. It is entirely zoned 1(d). It is used for a sewer pump station and needs to be in a zone that allows this use to continue. It is noted as containing HCV vegetation, but its small size suggests this is likely to be from shadow from adjacent vegetation. Council is able to undertake sewerage reticulation systems on any land without consent. The land should be zoned E3.
14 1019200	BRUNSWICK HEADS	Lot 14 is a 66 ha lot the eastern part of which is zoned 1(d). It is owned by NPWS and should be zoned E1.
6 864174	BRUNSWICK HEADS	Lot 6 is a 16.3 ha lot, the eastern half of which is zoned 1(d). It has frontage to Tandy's Lane and Gulgan Road. It is generally cleared grazing land with small areas of HCV vegetation. The lower areas are flood prone and have ASS. The 1(d) areas between Gulgan Road and the Pacific Motorway are not addressed in the Brunswick or Mullumbimby Settlement Strategies. The HCV vegetation areas should be zoned E2, the wildlife corridor should be zoned E3 and the balance should be zoned RU2.
221 755692	BRUNSWICK HEADS	Lot 221 is a 5 ha lot, most of which is zoned 1(d). It has frontage to Gulgan Road. It is almost entirely HCV vegetation. It is mostly flood prone and has ASS. The 1(d) areas between Gulgan Road and the Pacific Motorway are not addressed in the Brunswick or Mullumbimby Settlement Strategies. The HCV vegetation areas should be zoned E2 and the balance should be zoned RU2.
1 122589	BRUNSWICK HEADS	Lot 1 is an 11.2 ha lot, most of which is zoned 1(d). It has frontage to Gulgan Road. It is predominantly HCV vegetation, is flood prone and has ASS. The 1(d) areas between Gulgan Road and the Pacific Motorway are not addressed in the Brunswick or Mullumbimby Settlement Strategies. The HCV vegetation areas should be zoned E2 and the balance should be zoned RU2.
1 250517	BRUNSWICK HEADS	Lot 1 is a 7.4 ha lot that is entirely zoned 1(d). It has a long frontage to Mullumbimby Road and is held in conjunction with Lot 2 DP 250517. It has some HCV vegetation on its eastern boundary and is heavily affected by flooding on its low lying areas. It has an old consent for a roadside stall and ancillary dwelling. The roadside stall has been constructed. The HCV vegetation should be zoned E2 and the balance should be zoned RU2.
2 250517	BRUNSWICK HEADS	Lot 2 is a 0.06 ha triangle lot that is entirely zoned 1(d). It is located on the corner of Mullumbimby Road and Gulgan Road (north side) and is held in conjunction with Lot 1 DP 250517. It has a rotunda on it that is used in association with the totem park adjacent. It should be zoned RU2.

Lot/DP	Location	Issues & Comments from Staff
327 755692	BRUNSWICK HEADS	Lot 327 is a 0.2 ha irregular shaped lot that is used for an earthmoving business. It is entirely zoned 1(d). It has some HCV vegetation located towards the front of the lot and adjoins heavily vegetated Crown land. It is held in conjunction with Lot 325 DP 755692. It is an area that was addressed in the Brunswick Heads Village Settlement Strategy (page 34) which recommended that even though it was partly constrained it should be zoned for industrial use. This recommendation was adopted by Council in Dec 2004 but should be revisited for the following reasons. Lots 327 and 325 are only 0.3 ha in total and are fully utilised for a dwelling and a single industry. There is no opportunity for expansion of industrial uses. This site is heavily constrained by HCV vegetation on all sides and there is little opportunity to create a genuine functional industrial area. It is inappropriate to have this industrial use in a gateway location on the main entrance to Brunswick Heads. The dwelling that exists would become a prohibited use in an industrial zone and the industrial use that exists on the site is currently not permitted in the existing zone and would be no worse off in a zone that is more consistent with the locality. The HCV vegetation should be zoned E2 and the balance zoned E3 consistent with the wildlife corridor through the area.
325 755692	BRUNSWICK HEADS	Lot 325 is a 0.1 ha lot that is used for a dwelling. It is entirely zoned 1(d). It is noted as having HCV vegetation on it, but the structures occupy most of the lot and the mapping does not appear to be accurate. See the comments for Lot 327 in relation to the recommended zoning for this lot. The lot should be zoned E3 consistent with the wildlife corridor through the area.
14 881230	BRUNSWICK HEADS	Lot 14 is a 33.2 ha lot that is mostly zoned 1(d). It is split in a north/south direction by the Pacific Motorway with 1(d) land on both sides of it. The eastern side is within the buffer to the extractive resource at the end of Andersons Lane. It is a mix of HCV vegetation and cleared land, but is almost entirely flood prone and affected by ASS. This land is specifically addressed in the Brunswick Heads Settlement Strategy and is identified as not suitable for residential development (page 33). The HCV vegetation areas should be zoned E2 and any land in the wildlife corridor should be zoned E3, with the balance of the land in RU2.
4 576360	BRUNSWICK HEADS	Lot 4 is a 42.4 ha lot that is mostly zoned 1(d). It is situated immediately south of the existing 2(a) zone on the edge of Bayside Brunswick. The southern side is within the buffer to the extractive resource at the end of Andersons Lane. It is also affected by a SEPP 14 wetland at its eastern end. It is almost entirely HCV vegetation and mostly flood prone and affected by ASS. This land is specifically addressed in the Brunswick Heads Settlement Strategy and is identified as not suitable for residential development (page 33). The HCV vegetation areas and any SEPP 14 areas should be zoned E2 and any other land in the wildlife corridor should be E3.
2 536396	BRUNSWICK HEADS	Lot 2 is a 2.4 ha lot that is entirely zoned 1(d). It is situated immediately south west of the existing 2(a) zone on the edge of Bayside Brunswick. It is almost entirely HCV vegetation and is totally flood prone and affected by ASS. This land is specifically addressed in the Brunswick Heads Settlement Strategy and is identified as not suitable for residential development (page 33). The HCV vegetation areas should be zoned E2 and any land in the wildlife corridor should be E3.

Lot/DP	Location	Issues & Comments from Staff
15 881230	BRUNSWICK HEADS	Lot 15 is a 4.2 ha lot which is entirely zoned 1(d). It is owned by the RTA in conjunction with land immediately to the south which has frontage to Tandy's Lane. It is partly cleared grazing land with small areas of HCV vegetation. The lower areas are flood prone and have ASS. The 1(d) areas between Gulgan Road and the Pacific Motorway are not addressed in the Brunswick or Mullumbimby Settlement Strategies. The HCV vegetation areas should be zoned E2, the wildlife corridor should be zoned E3 and the balance should be RU2.
1 327189	BRUNSWICK HEADS	Lot 1 is a 4 ha lot that is entirely zoned 1(d). It has a dwelling on it, and is heavily vegetated in parts. It is also partly flood prone. The lot is entirely within a buffer to an extractive resource located south of Andersons Lane. A wildlife corridor crosses the locality. This land is not specifically addressed in the Brunswick Heads Settlement Strategy. The HCV vegetation areas should be zoned E2, the wildlife corridor should be zoned E3 and the balance should be RU2.
2 825173	BRUNSWICK HEADS	Lot 2 is a 7.3 ha irregular shaped lot that is mainly zoned 1(d). It has a dwelling on it adjacent to Tandy's Lane, and is vegetated in parts. It is also partly flood prone. The lot is entirely within a buffer to an extractive resource located south of Andersons Lane. A wildlife corridor crosses the locality. This land is not specifically addressed in the Brunswick Heads Settlement Strategy. The HCV vegetation areas should be zoned E2, the wildlife corridor should be zoned E3 and the balance should be RU2.
3 613173	BRUNSWICK HEADS	Lot 3 is a 1.4 ha lot that is entirely zoned 1(d). It has a dwelling on it adjacent to Tandy's Lane, and is vegetated in parts. The lot is entirely within a buffer to an extractive resource located south of Andersons Lane and entirely within a wildlife corridor that crosses the locality. This land is not specifically addressed in the Brunswick Heads Settlement Strategy. The lot should be entirely zoned E3.
1 825173	BRUNSWICK HEADS	Lot 1 is a 2.2 ha lot that is entirely zoned 1(d). It has a dwelling on it adjacent to Tandy's Lane, and is vegetated in parts. The lot is entirely within a buffer to an extractive resource located south of Andersons Lane and entirely within a wildlife corridor that crosses the locality. This land is not specifically addressed in the Brunswick Heads Settlement Strategy. The HCV vegetation mapping at the northern edge of the lot appears to be inaccurate and should be checked. It appears to cover an area that is not vegetated with swamp sclerophyll forest. The lot should be entirely zoned E3.
3 863320	BRUNSWICK HEADS	Lot 3 is a tiny 0.03 ha lot that is an ex road reserve, now owned by the adjoining land owners. It should be zoned RU2 consistent with the surrounding rural lands.
1 532902	BRUNSWICK HEADS	Lot 1 is a 7.3 ha lot that is entirely zoned 1(d). It has a dwelling on it and is accessed from Andersons Lane. It is mostly cleared but has dense vegetation at its northern end. The lot is entirely within a buffer to an extractive resource located south of Andersons Lane and partly within a wildlife corridor that crosses the locality. This land is not specifically addressed in the Brunswick Heads Settlement Strategy. The HCV vegetation areas should be zoned E2, the wildlife corridor should be zoned E3 and the balance should be RU2.

Lot/DP	Location	Issues & Comments from Staff
35 881231	BRUNSWICK HEADS	Lot 35 is a 10.4 ha lot that is almost entirely zoned 1(d). It has a long frontage to Tandy's Lane. It is mostly cleared but has scattered vegetation across it. The lot is entirely within a buffer to an extractive resource located south of Andersons Lane and almost entirely within a wildlife corridor that crosses the locality. There is no apparent reason for the exclusion of a small piece of the lot from the wildlife corridor along its southern boundary. This land is not specifically addressed in the Brunswick Heads Settlement Strategy. The entire lot should be zoned E3 consistent with its location in a wildlife corridor.
2 700120	BRUNSWICK HEADS	Lot 2 is a 2 ha lot that is mainly zoned 1(d). It has a dwelling on it adjacent to Tandy's Lane, and is vegetated in parts. The lot is entirely within a buffer to an extractive resource located south of Andersons Lane and entirely within a wildlife corridor that crosses the locality. This land is not specifically addressed in the Brunswick Heads Settlement Strategy. The lot should be entirely zoned E3.
2 863320	BRUNSWICK HEADS	Lot 2 is a tiny 0.07 ha lot that is an ex road reserve, now owned by the adjoining land owners. It should be zoned RU2 consistent with the surrounding rural lands.
5 863320	BRUNSWICK HEADS	Lot 5 is a 25.8 ha lot that is mostly zoned 1(d). It has a dwelling on it and is accessed from Andersons Lane. It is mostly cleared but has dense vegetation in a number of patches. The lot is entirely identified under the State Government's Section 117 Direction as containing an extractive resource. It is partly within a wildlife corridor that crosses the locality and has a SEPP 14 wetland located at its eastern edge. This land is not specifically addressed in the Brunswick Heads Settlement Strategy. The HCV vegetation areas should be E2, the wildlife corridor should be E3 and a 50 m buffer to the SEPP 14 area should also be zoned E3. The balance should be zoned RU1. The RU1 in this case is consistent with the extractive resource identified on the lot.
2 613173	BRUNSWICK HEADS	Lot 2 is a 1 ha lot that is entirely zoned 1(d). It has a dwelling on it adjacent to Tandy's Lane, and is vegetated in parts. The lot is entirely within a buffer to an extractive resource located south of Andersons Lane and almost entirely within a wildlife corridor that crosses the locality. This land is not specifically addressed in the Brunswick Heads Settlement Strategy. The wildlife corridor excludes a sliver of land at the eastern edge of the lot and there appears to be no logical vegetation boundary in this location. It would be easier for future interpretation of zone boundaries if it aligned with the eastern edge of the lot. The lot should be entirely zoned E3.
1 613173	BRUNSWICK HEADS	Lot 1 is a 0.7 ha lot that is entirely zoned 1(d). It has a dwelling on it and is vegetated in parts. The lot is entirely within a buffer to an extractive resource located south of Andersons Lane and almost entirely within a wildlife corridor that crosses the locality. This land is not specifically addressed in the Brunswick Heads Settlement Strategy. The wildlife corridor excludes the south east corner of the lot and there appears to be no logical vegetation boundary in this location. It would be easier for future interpretation of zone boundaries if it aligned with the eastern edge of the lot. The lot should be entirely zoned E3.

Lot/DP	Location	Issues & Comments from Staff
2 532902	BRUNSWICK HEADS	Lot 2 is a 23 ha lot that is about half zoned 1(d). It has a dwelling on it and is accessed from Andersons Lane. It is partly cleared but has dense vegetation in a number of patches. It is partly affected by a wildlife corridor that crosses the locality and has a SEPP 14 wetland located at its eastern edge. This land is not specifically addressed in the Brunswick Heads Settlement Strategy. The HCV vegetation areas should be E2, the wildlife corridor should be E3 and a 50 m buffer to the SEPP 14 area should also be zoned E3. The balance should be zoned RU2.
1 584730	BRUNSWICK HEADS	Lot 1 is a 0.12 lot that is entirely zoned 1(d). It contains a Council water reservoir used to supply water to Brunswick Heads. It should be zoned RU2 which allows such uses on this land without consent.
1 441896	BRUNSWICK HEADS	Lot 1 is a 0.3 lot that is entirely zoned 1(d). It contains a Council water reservoir used to supply water to Brunswick Heads. It has a tiny piece of HCV vegetation on the entrance road to the water reservoir. It should be zoned RU2 and E2 which allows such uses on this land without consent.
1 583377	BRUNSWICK HEADS	Lot 1 is a 2.3 ha lot that is entirely zoned 1(d) and has a dwelling on it. It has frontage to Saddle Road. The HCV vegetation on it should be zoned E2 and the balance RU2.
1 555377	BRUNSWICK HEADS	Lot 1 is a 1 ha lot that is entirely zoned 1(d). It has frontage to Saddle Road. It should be zoned RU2.
11 881230	BRUNSWICK HEADS	Lot 11 is a 55 ha lot divided by Saddle Road, Mullumbimby Road and the Pacific Motorway. It is about half zoned 1(d). It has some HCV vegetation in different locations and is regionally significant farmland. It contains a dip site and dip site buffer and is still an active dairy farm. That part of the lot south of Mullumbimby Road is flood prone. That part of the lot east of the Pacific Motorway is partly HCV vegetation and entirely within a wildlife corridor. It is an area that was addressed in the Brunswick Heads Village Settlement Strategy (page 33) which recommended that even though it was partly unconstrained it was not suitable for residential development. The HCV vegetation should be zoned E2, the wildlife corridor zoned E3 and the balance should be RU2.
32 1018929	BRUNSWICK HEADS	Lot 32 is a 30 ha lot bisected by Saddle Road. It is entirely zoned 1(d). It has some HCV vegetation in different locations and is regionally significant farmland. It is an area that was addressed in the Brunswick Heads Village Settlement Strategy (page 33) which recommended that even though it was partly unconstrained it was not suitable for residential development. The HCV vegetation should be zoned E2 and the balance should be RU2.
21 740271	BRUNSWICK HEADS	Lot 21 is a 0.12 ha lot that is entirely zoned 1(d) and has a dwelling on it. It has frontage to Saddle Road. It should be zoned RU2.
31 1018929	BRUNSWICK HEADS	Lot 31 is a 1.25 ha lot that is entirely zoned 1(d) and has a dwelling on it. It has frontage to Saddle Road. It should be zoned RU2.
2 631177	BRUNSWICK HEADS	Lot 2 is a 5.3 ha lot that is entirely zoned 1(d). It has a dwelling on it and frontage to Saddle Road. It should be zoned RU2.
1 631177	BRUNSWICK HEADS	Lot 1 is a 5.7 ha lot that is entirely zoned 1(d). It has frontage to Saddle Road. It has a patch of HCV vegetation which should be zoned E2 and the balance should be zoned RU2.
3 631177	BRUNSWICK HEADS	Lot 3 is an 8.3 ha lot that is entirely zoned 1(d). It has frontage to Saddle Road. It should be zoned RU2.
4 810118	BRUNSWICK HEADS	Lot 4 is a 20 ha lot that is entirely zoned 1(d). It has frontage to both Saddle Road and Gulgan Road and has a dwelling on it. It should be zoned RU2.

Lot/DP	Location	Issues & Comments from Staff
443 820680	BYRON BAY	Lot 443 is a small lot (0.9 ha) of Crown Land with two small areas on its eastern edge currently 1(d). This land is largely vegetated mainly with low lying swamp vegetation. It has one small patch of cleared land in its north east corner near Bangalow Road. There is no dwelling currently on the lot. It should be predominantly zoned E2 to reflect its vegetation. The small cleared patch should be zoned E3 to reflect its wildlife corridor function, linking vegetation on two sides.
320 755695	BYRON BAY	Lot 320 is a small lot (2.9 ha) with one small area currently 1(d) on its eastern edge. This land is largely vegetated, mainly with low lying swamp vegetation. It has one small patch of cleared land on its eastern edge near Bangalow Road. There is a dwelling currently on the lot. It should be predominantly zoned E2 to reflect its vegetation. The eastern cleared edge should be zoned E3 to reflect its wildlife corridor function, linking vegetation through to the west. The E3 would also allow for a dwelling.
445 841913	BYRON BAY	Lot 445 is a small lot (2.4 ha) with one small area currently 1(d) on its eastern edge. This land is a battle axe access to the larger part of the lot and fronts Bangalow Road. The battle axe is largely cleared of vegetation. There is a dwelling currently on the balance of the lot. It should be zoned E3 to reflect its proximity to HCV vegetation and to be consistent with the zone it abuts immediately to the south.
7 580423	BYRON BAY	Lot 7 is a small lot (0.26 ha) entirely within the 1(d) zone. It is a long thin lot that fronts Bangalow Road. It is largely vegetated and there is no dwelling on the lot. It is Council land that has historically been associated with the South Byron STP. It also is adjacent to the Arakwal National Park across a road reserve to the north. It should be zoned E2 to reflect the HCV vegetation.
438 729107	BYRON BAY	Lot 438 is a small lot (0.45 ha) of Crown Land entirely within the 1(d) zone. This land is largely vegetated with swamp sclerophyll vegetation. It has one small patch of cleared land near its southern edge which is really an access road to the property that it abuts to the west. South of this access road is a patch of regrowth vegetation that is of low ecological value. There is no dwelling currently on the lot. It should be predominantly zoned E2 to reflect its vegetation. The small patch at its southern end should be zoned E3 to reflect its wildlife corridor function, linking surrounding vegetation.
1 558340	BYRON BAY	Lot 1 is approximately 2.79 ha almost all of which is within the 1(d) zone. It has a long frontage to Bangalow Road and the eastern edge backs on to HCV vegetation and then Tallows Creek. The 1(d) area is partly used for tourism accommodation (the Rainforest Resort) and has some areas of HCV vegetation scattered through it. The eastern half of the lot is dominated by HCV vegetation. This lot is part of Investigation Site 3 in the Byron Bay and Suffolk Park Settlement Strategy which is not recommended for significant urban development. The area used for tourism accommodation should be zoned SP3 to reflect Council's desire to maintain low density traditional tourism accommodation in Byron Bay. The HCV vegetation at the eastern edge of the 1(d) area should be zoned E2 consistent with the land further to the east.

Lot/DP	Location	Issues & Comments from Staff
9 708338	BYRON BAY	Lot 9 is approximately 10.7 ha about half of which is within the 1(d) zone. It has a long frontage to Bangalow Road and the eastern edge backs on to Tallows Creek. The 1(d) area is mostly used for a caravan park and has some small areas of HCV vegetation scattered through it. Council has recently abandoned the South Byron STP to the north east of this land. This lot is part of Investigation Site 3 in the Byron Bay and Suffolk Park Settlement Strategy which is not recommended for significant urban development. The area used for a caravan park should be zoned SP3 to reflect Council's desire to maintain this form of tourism accommodation in Byron Bay. A small area of HCV vegetation at the eastern edge of the 1(d) area should be zoned E2 consistent with the balance of the lot further to the east. (Submission #501236)
381 728183	BYRON BAY	Lot 381 is an unformed road reserve adjacent Cumbebin swamp of approximately 1.6 ha. It has a small area of 1(d) zoned land which is mostly HCV vegetation and all SEPP 14 wetland. The site should be zoned E2 consistent with the constraints and adjoining land.
257 755695	BYRON BAY	Lot 257 (4.8 ha) is held in conjunction with Lot 256 DP 755695. It has a dwelling on it and other structures or buildings which are located in a small cleared area. It is mostly HCV vegetation and entirely within the wildlife corridor. It is entirely zoned 1(d). This lot is part of Investigation Site 7 in the Byron Bay and Suffolk Park Settlement Strategy which is not recommended for significant urban development. It is physically set apart from Lilly Pilly residential area by the Byron Bay cemetery and Crown land. It should be predominantly zoned E2 to reflect its vegetation cover. The larger cleared patches near the dwelling/s and other structures should be zoned E3 to reflect its wildlife corridor function while still allowing for a dwelling.
256 755695	BYRON BAY	Lot 256 (4.8 ha) has no dwelling on it, but does have some small patches of cleared land. It is affected by flooding and SEPP 14 in part at its western edge and is mostly HCV vegetation. It is mostly within the 1(d) zone and entirely within the wildlife corridor and is linked to vegetation on all sides. This lot is part of Investigation Site 7 in the Byron Bay and Suffolk Park Settlement Strategy which is not recommended for significant urban development. It should be predominantly zoned E2 to reflect its vegetation. Any larger cleared patches should be E3 to reflect its wildlife corridor function.
193 755695	BYRON BAY	Lot 193 (7ha) has a single dwelling with a small cleared curtilage. It lies immediately to the north of the residential land at Lilly Pilly. This lot is part of Investigation Site 7 in the Byron Bay and Suffolk Park Settlement Strategy which is not recommended for significant urban development. The cleared area should be zoned E4 (consistent with Lilly Pilly) and the remainder E2 consistent with its HCV vegetation, SEPP 14 and floodprone status. (Submission #501230 & #585908)

Lot/DP	Location	Issues & Comments from Staff
383 728202	BYRON BAY	Lot 383 is a 5.3 ha lot of Crown Land the northern half of which is zoned 1(d). There is no dwelling currently on the lot. The Sandhills Estate Strategic Planning Study recommended this area be mainly retained for its native vegetation values and this is consistent with Councils HCV vegetation mapping. A small area in the north east corner near Massinger Street is recommended for residential development. This may be appropriate given it is cleared and is largely in a residential area. However, a land contamination assessment will need to be undertaken to before Council can finalise the zoning. It should be zoned E2 to reflect its vegetation values and part zoned R3 if it can be shown that this part is not contaminated. Refer to Section 7.6.4 Byron Bay (c) Sandhills Estate of LES for more details.
3 706286	BYRON BAY	Lot 3 is a 40 ha lot owned by Byron Shire Council (it is 249 Ewingsdale Road). It is located immediately to the west of the Byron industrial estate and has a long frontage to Ewingsdale Road. It is entirely zoned 1(d). It has been the subject of considerable study and the important vegetation on the site is documented. The HCV vegetation area is also affected by bushfire, ASS and flooding. It contains a single dwelling in the north east corner. This lot is part of Investigation Site 11 in the Byron Bay and Suffolk Park Settlement Strategy which is not recommended for significant urban development. In March 2005 Council adopted a concept plan (Resolution No 05-138) for this site which forms the basis for the recommended zoning (Refer to #507837). It should be part E2 and part E3 and part RE1 with the boundaries based on the HCV vegetation mapping and the concept plan.
398 728550	BYRON BAY	Lot 398 (1.9ha) is a Crown lot that is partly zoned 1(d). It is flanked on its west by Belongil Creek, its north by the disused rail line and to the south, Ewingsdale Road. It has no dwelling on it and is entirely flood prone. It is mostly HCV vegetation. It should be zoned E2 to reflect the value of its vegetation.
1 729063	BYRON BAY	Lot 1 is a thin strip of Crown land covering the bed of the Belongil Creek between the bridge over Ewingsdale Road and the rail bridge down stream from that. A very small part of it is zoned 1(d). It should be zoned W1 consistent with the adjacent waterway.
1 780242	BYRON BAY	Lot 1 is a 21 ha lot with a narrow frontage to Ewingsdale Road and a long frontage to Belongil Creek. It is located to the east of the Belongil Fields caravan park and was previously used for manufacturing boxes. It is mostly zoned 1 (d) and the balance of the lot is mostly within SEPP 14 wetlands. It is partly cleared and partly contains some significant vegetation. It is partly within a wildlife corridor and partly flood prone. This lot is part of Investigation Area 2 in the Byron Bay and Suffolk Park Settlement Strategy which is not recommended for significant urban development. However, it is also included in the Far North Coast Regional Strategy as a constrained potential urban release area. It is not recommended for release in this Shire-wide LEP as there has not been sufficient research into the land constraints. Therefore the HCV vegetation areas should be zoned E2 and any areas in a wildlife corridor should be zoned E3. The balance of the area should be zoned RU2. (Submission #642221)

Lot/DP	Location	Issues & Comments from Staff
350 755695	BYRON BAY	Lot 350 (15.4ha) is the old meat works holding paddock and is zoned mostly 1(d). It has no dwelling on it, but has a long frontage to both Ewingsdale Road and the disused rail line. It is partly HCV vegetation and partly within the wildlife corridor. It is also almost entirely flood affected. The dip site that affects it is located on the old meat works site to the north of the land. The erosion precinct 2 land is located in the north east corner of the lot. This lot is part of Investigation Area 1 in the Byron Bay and Suffolk Park Settlement Strategy which is not recommended for significant urban development. The HCV vegetation land should be zoned E2 and the balance of the lot should be zoned RU2 to reflect its flood prone nature. (Submission #691075)
3 551947	BYRON BAY	Lot 3 is a 0.45 ha lot fronting Ewingsdale Road that is entirely 1(d). It contains a dwelling, other structures and some scattered vegetation. This lot is part of Investigation Area 2 in the Byron Bay and Suffolk Park Settlement Strategy which is not recommended for significant urban development. However, it is also included in the Far North Coast Regional Strategy as a constrained potential urban release area. It is not recommended for release in this Shire-wide LEP as there has not been sufficient research into the land constraints. Therefore, it should be zoned RU2.
1 520063	BYRON BAY	Lot 1 is a 1.6 ha lot with frontage to Ewingsdale Road. It is entirely zoned 1 (d). It currently contains a dwelling and a carob factory. It is partly cleared and partly contains some vegetation, although most of this vegetation has been degraded by past land use and management and is effectively a large garden. However, the remnant vegetation at the southern boundary to the lot provides a good connection with remnants to the east and west of the lot. This lot is part of Investigation Area 2 in the Byron Bay and Suffolk Park Settlement Strategy which is not recommended for significant urban development. However, it is also included in the Far North Coast Regional Strategy as a constrained potential urban release area. It is not recommended for release in this Shire-wide LEP as there has not been sufficient research into the land constraints. Therefore the HCV vegetation areas at the rear of the lot should be zoned E2 and the balance RU2.
2 551947	BYRON BAY	Lot 2 is a 0.1 ha lot fronting Ewingsdale Road that is entirely 1(d). It contains a dwelling. This lot is part of Investigation Area 2 in the Byron Bay and Suffolk Park Settlement Strategy which is not recommended for significant urban development. However, it is also included in the Far North Coast Regional Strategy as a constrained potential urban release area. It is not recommended for release in this Shire-wide LEP as there has not been sufficient research into the land constraints. Therefore it should be zoned RU2.

Lot/DP	Location	Issues & Comments from Staff
1 542178	BYRON BAY	Lot 1 is a 21.5 ha lot with a long frontage to both Ewingsdale Road and Melaleuca Lane. It is entirely zoned 1 (d). It currently contains a dwelling and a commercial horse riding school. It is partly cleared and partly contains some significant vegetation, although some of this vegetation is of lower quality due to past land use and management. This lot is part of Investigation Area 2 in the Byron Bay and Suffolk Park Settlement Strategy which is not recommended for significant urban development. However, it is also included in the Far North Coast Regional Strategy as a constrained potential urban release area. It is not recommended for release in this Shire-wide LEP as there has not been sufficient research into the land constraints. Therefore the HCV vegetation areas should be zoned E2, the lower quality HCV vegetation areas should be zoned E3, any areas in a wildlife corridor should be zoned E3 and the balance RU2. (Submission #729022)
229 755695	BYRON BAY	Lot 229 is a 25 ha lot with no constructed road frontage. It is located to the south east of the Belongil Fields caravan park. It is partly zoned 1 (d) and the balance of the lot is mostly within SEPP 14 wetlands. It is partly cleared and partly contains some significant vegetation. It is entirely within a wildlife corridor. This lot is part of Investigation Area 2 in the Byron Bay and Suffolk Park Settlement Strategy which is not recommended for significant urban development. However, it is also included in the Far North Coast Regional Strategy as a constrained potential urban release area. It is not recommended for release in this Shire-wide LEP as there has not been sufficient research into the land constraints. Therefore the revised HCV vegetation areas should be zoned E2 and any areas in a wildlife corridor should be zoned E3. (Submission #729022)
227 755695	BYRON BAY	Lot 227 is a 20 ha lot with no constructed road frontage. It is located to the south of the Belongil Fields caravan park. It is partly zoned 1 (d) and the balance of the lot is mostly within SEPP 14 wetlands. It is partly cleared and partly contains some significant vegetation. It is entirely within a wildlife corridor. This lot is part of Investigation Area 2 in the Byron Bay and Suffolk Park Settlement Strategy which is not recommended for significant urban development. However, it is also included in the Far North Coast Regional Strategy as a constrained potential urban release area. It is not recommended for release in this Shire-wide LEP as there has not been sufficient research into the land constraints. Therefore the HCV vegetation areas should be zoned E2 and any areas in a wildlife corridor should be zoned E3. (Submission #729022)

Lot/DP	Location	Issues & Comments from Staff
9 111821	BYRON BAY	Lot 9 is a 1.3 ha lot with no constructed road frontage. It is located to the south of the Belongil Fields caravan park and is a narrow ex road reserve that is situated between Lots 227 and 229 DP755695. It is partly zoned 1 (d) and the balance of the lot is mostly within SEPP 14 wetlands. It is partly cleared and partly contains some significant vegetation. It is entirely within a wildlife corridor. This lot is part of Investigation Area 2 in the Byron Bay and Suffolk Park Settlement Strategy which is not recommended for significant urban development. However, it is also included in the Far North Coast Regional Strategy as a constrained potential urban release area. It is not recommended for release in this Shire-wide LEP as there has not been sufficient research into the land constraints. Therefore the HCV vegetation areas should be zoned E2 and any areas in a wildlife corridor should be zoned E3. (Submission #729022)
1 620682	BYRON BAY	Lot 1 is approximately 8 ha almost all of which is within the 1(d) zone. It has a frontage to Ewingsdale Road and Sunrise Boulevard as well as the rail line and Belongil Creek. The 1(d) area is partly used for a caravan park and mobile home park and has some areas of HCV vegetation scattered through it. The eastern half of the lot is dominated by HCV vegetation along the creek frontage. Parts of the site are low lying, flood prone and have ASS. This lot is part of Investigation Area 2 in the Byron Bay and Suffolk Park Settlement Strategy which is not recommended for significant urban development. However, it is also included in the Far North Coast Regional Strategy as a constrained potential urban release area. It is not recommended for release in this Shire-wide LEP as there has not been sufficient research into the land constraints. Therefore the area used for caravan park and mobile home park should be zoned SP3 to reflect Council's desire to maintain low density traditional tourism accommodation in Byron Bay. The HCV vegetation should be zoned E2.
2 542178	BYRON BAY	Lot 2 is a 22 ha lot with frontage to Ewingsdale Road. It is entirely zoned 1 (d). It currently contains the Belongil Fields Caravan Park. It is partly cleared and partly contains some significant vegetation, although some of this vegetation has been degraded by past land use and management. This lot is part of Investigation Area 2 in the Byron Bay and Suffolk Park Settlement Strategy and this part of Area 2 is recommended for consideration for low cost housing. However, Council will need to be satisfied that infrastructure issues can be dealt with and environmental and social outcomes can be agreed between Council and the developers prior to the site being rezoned. A planning agreement is recommended. The HCV vegetation areas should be zoned E2, any areas in a wildlife corridor should be zoned E3 and the balance R2 should the infrastructure issues be resolved. Refer to Section 7.6.4 Byron Bay (a) Belongil Fields in the LES.

Lot/DP	Location	Issues & Comments from Staff
1 201626	BYRON BAY	Lot 1 is a 1.1 ha lot with frontage to Ewingsdale Road. It is entirely zoned 1 (d). It is currently part of the Belongil Fields Caravan Park and is located in the north east corner of this caravan park. It is partly cleared and partly contains some significant vegetation. This lot is part of Investigation Area 2 in the Byron Bay and Suffolk Park Settlement Strategy and this part of Area 2 is recommended for consideration for low cost housing. However, Council will need to be satisfied that infrastructure issues can be dealt with and environmental and social outcomes can be agreed between Council and the developers prior to the site being rezoned. A planning agreement is recommended. The revised HCV vegetation areas should be zoned E2, any areas in a wildlife corridor should be zoned E3 and the balance R2 should the infrastructure issues be resolved. Refer to Section 7.6.4 Byron Bay (a) Belongil Fields in the LES.
3 820621	BYRON BAY	Lot 3 is a 1.5 ha lot that is partly zoned 1(d). It has historically had a dwelling located on it adjacent to Ewingsdale Rd. It now has development consent for a Bed and Breakfast Establishment. It is flanked on its west by the School of Audio Engineering site and to the north by vegetated Council land. It has some HCV vegetation on it and a wildlife corridor affects the lot. Note that the wildlife corridor needs to be amended to reflect the revised vegetation mapping that Council has undertaken for this location. Council's HCV vegetation mapping has also been revised to allow for a building envelope for the bed and breakfast establishment approved on the site. The HCV vegetation should be zoned E2 to reflect the value of its vegetation and the balance of the lot zoned E3 to reflect its location in a wildlife corridor. Also refer to Section 7.6.11 of the LES relating to private land owner requests.
1 121394	BYRON BAY	Lot 1 (0.07ha) is a Council lot that is entirely zoned 1(d). It is flanked on its west by Belongil Creek, its north by the disused rail line. It has no dwelling on it and is entirely flood prone. It is entirely HCV vegetation. It should be zoned E2 to reflect the value of its vegetation.
138 755695	BYRON BAY	Lot 138 (2.5 ha) is held in conjunction with Lot 141 DP 755695. It has no dwelling on it but contains a cleared area. It is mostly HCV vegetation and entirely within the wildlife corridor. It is also bushfire affected. It is about half zoned 1(d). It is physically set apart from the western edge of Lilly Pilly residential area by some small lot subdivision. This lot is part of Investigation Site 7 in the Byron Bay and Suffolk Park Settlement Strategy which is not recommended for significant urban development. It should be predominantly zoned E2 to reflect its vegetation cover. The larger cleared patches should be zoned E3 to reflect its wildlife corridor function.

Lot/DP	Location	Issues & Comments from Staff
141 755695	BYRON BAY	Lot 141 (3.7 ha) is held in conjunction with Lot 138 DP 755695. It has a dwelling on it and other structures or buildings which are located in a cleared area. It is about half HCV vegetation and entirely within the wildlife corridor. It is also bushfire affected. It is about half zoned 1(d). It is physically set apart from the western edge of Lilly Pilly residential area by some small lot subdivision. This lot is part of Investigation Site 7 in the Byron Bay and Suffolk Park Settlement Strategy which is not recommended for significant urban development. It should be partly zoned E2 to reflect its vegetation cover. The larger cleared patches near the dwelling/s and other structures should be zoned E3 to reflect its wildlife corridor function while still allowing for a dwelling.
456 1087879	BYRON BAY	Lot 456 is a 0.26 ha lot of Council Land about half of which is zoned 1(d). The vegetation values on this site are restricted to two small areas of swamp oak forest on its northern and southern edge. The Sandhills Estate Strategic Planning Study recommended this area be used as a community development area. Consistent with the larger Lot 457 (adjacent) and nearby land use, the entire site should be zoned B4 Mixed Use to reflect the diversity of uses that are likely to take place in conjunction with a public library.
457 1087879	BYRON BAY	Lot 457 is an 8.2 ha lot of Crown Land about half of which is zoned 1(d). There is no dwelling currently on the lot. It is the balance of the lot excised for the purpose of a public library for Byron Bay (Lot 456 DP 1087879). The Sandhills Estate Strategic Planning Study recommended this area be divided into precincts that reflect its current uses such as the Byron Youth Activities Centre and the Sandhills Early Childhood Centre as well as retaining other parts of it for conservation and mixed use development. Council resolved in August 2007 to support this concept in principle subject to clear recognition of the YAC extensions (DA 92/341) and other matters relating to car parking and drainage. With reference to the Sandhills Estate Strategic Planning Study Illustration 4.1 the Development Area (D), Parking(P),Community Development Area (C), and Common Area (CO) should be zoned B4 Mixed Use to reflect the diversity of uses that are likely to take place. This should include sufficient room around the YAC to include the proposed expansion. The Bushland Botanic Gardens (BG) should be zoned E3 and the Native Vegetation Area (N) should be zoned E2.
1 758207 (section 67)	BYRON BAY	Lot 1 is about 0.06 ha of land owned in conjunction with Lot 2 DP 758207. It is mostly zoned 1(d) and is used for a motel. For consistency with the adjacent proposed zone and in order to reflect its current use it should be zoned B4 to allow a mix of commercial, tourism and residential uses.
2 758207 (section 67)	BYRON BAY	Lot 2 is about 0.07 ha of land owned in conjunction with Lot 1 DP 758207. It is about half zoned 1(d) and is used for a motel. For consistency with the adjacent proposed zone and in order to reflect its current use it should be zoned B4 to allow a mix of commercial, tourism and residential uses.
Strata Plan 30458	BYRON BAY	Strata plan 30458 is about 0.08 ha of land subject to a strata subdivision. It has only a small area zoned 1(d) and is used for town houses. The remainder of the lot is currently zoned 7(f2) coastal urban land. In order to reflect its current use it should be zoned R3 to allow predominantly residential uses.

Lot/DP	Location	Issues & Comments from Staff
1 879888	BYRON BAY	Lot 1 is a 0.1 ha lot at the northern edge of the Lilli Pilli residential estate. Only a tiny piece in the north west corner of the lot is zoned 1(d). The balance of the lot is mainly 2 (a) residential with some 7(a) wetlands (which appears to be inaccurate). A dwelling exists on the lot. This lot is part of Investigation Site 7 in the Byron Bay and Suffolk Park Settlement Strategy which is not recommended for significant urban development. There are no more significant constraints on this lot than other lots in the Lilli Pilli estate and its zoning should be consistent with these other residential areas. It should be zoned E4.
2 879888	BYRON BAY	Lot 2 is a 0.3 ha lot at the northern edge of the Lilli Pilli residential estate. Only a small strip on the northern edge of the lot is zoned 1(d). The balance of the lot is 2 (a) residential. A dwelling exists on the lot. This lot is part of Investigation Site 7 in the Byron Bay and Suffolk Park Settlement Strategy which is not recommended for significant urban development. Although there is HCV vegetation on this lot, this vegetation was left as part of the residential development of the Lilli Pilli estate and there is HCV vegetation throughout the existing 2(a) residential zoned lands. There are no more significant constraints on this lot than other lots in the Lilli Pilli estate and its zoning should be consistent with these other residential areas. It should be zoned E4. (Submission #685559)
2 878549	BYRON BAY	Lot 2 is a 1 ha lot fronting Melaleuca Lane that is entirely 1(d). It contains a dwelling, other structures and some scattered vegetation. This lot is part of Investigation Area 2 in the Byron Bay and Suffolk Park Settlement Strategy which is not recommended for significant urban development. However, it is also included in the Far North Coast Regional Strategy as a constrained potential urban release area. It is not recommended for release in this Shire-wide LEP as there has not been sufficient research into the land constraints. Therefore the area within 50 m of SEPP 14 should be zoned E3 and the balance should be zoned RU2.
2 818403	BYRON BAY	Lot 2 is an 11.5 ha lot that fronts Melaleuca Lane. It abuts the Sunnybrand Factory on its western boundary. It is partly 1(d). It contains significant vegetation in three locations, and is partly in an identified wildlife corridor. This lot is part of Investigation Area 2 in the Byron Bay and Suffolk Park Settlement Strategy which is not recommended for significant urban development. However, it is also included in the Far North Coast Regional Strategy as a constrained potential urban release area. It is not recommended for release in this Shire-wide LEP as there has not been sufficient research into the land constraints. Therefore the HCV vegetation areas should be zoned E2 any areas in a wildlife corridor or within 50 m of a SEPP 14 boundary (whichever is the greater) should be zoned E3 and the balance RU2.

Lot/DP	Location	Issues & Comments from Staff
8 622736	BYRON BAY	Lot 2 is a 41 ha lot that is located at the southern end of Melaleuca Lane. It is split in two by the unmade extension of Melaleuca Lane and a dwelling is located on the eastern part of the split lot. It only has a very small area at its northern edge that is zoned 1(d). The small 1(d) area contains scattered vegetation and is partly in an identified wildlife corridor and is HCV vegetation. This lot is part of Investigation Area 2 in the Byron Bay and Suffolk Park Settlement Strategy which is not recommended for significant urban development. However, it is also included in the Far North Coast Regional Strategy as a constrained potential urban release area. It is not recommended for release in this Shire-wide LEP as there has not been sufficient research into the land constraints. Therefore the HCV vegetation should be zoned E2 and the land in the wildlife corridor and within 50 m of a SEPP 14 boundary should be zoned E3.
1 878549	BYRON BAY	Lot 1 is a 1 ha irregular shaped lot fronting Melaleuca Lane that is mainly 1(d). It contains a dwelling and some scattered vegetation. This lot is part of Investigation Area 2 in the Byron Bay and Suffolk Park Settlement Strategy which is not recommended for significant urban development. However, it is also included in the Far North Coast Regional Strategy as a constrained potential urban release area. It is not recommended for release in this Shire-wide LEP as there has not been sufficient research into the land constraints. Therefore it has a small area of SEPP 14 wetland on it and this area should be zoned E2. A 50 m buffer should be zoned E3 and the balance should be zoned RU2.
5 622736	BYRON BAY	Lot 5 is a 5 ha lot with a long frontage to Ewingsdale Road. It abuts the Sunnybrand Factory on its western boundary. It is entirely 1(d). It contains large areas of significant vegetation, but is not in an identified wildlife corridor. This lot is part of Investigation Area 2 in the Byron Bay and Suffolk Park Settlement Strategy which is not recommended for significant urban development. However, it is also included in the Far North Coast Regional Strategy as a constrained potential urban release area. It is not recommended for release in this Shire-wide LEP as there has not been sufficient research into the land constraints. Therefore the HCV vegetation areas should be zoned E2 and the balance RU2. (Submission #729022)
6 622736	BYRON BAY	Lot 6 is a 5.5 ha lot that fronts Melaleuca Lane. It abuts the Sunnybrand Factory on its western boundary. It is entirely 1(d). It contains large areas of significant vegetation, but is not in an identified wildlife corridor. This lot is part of Investigation Area 2 in the Byron Bay and Suffolk Park Settlement Strategy which is not recommended for significant urban development. However, it is also included in the Far North Coast Regional Strategy as a constrained potential urban release area. It is not recommended for release in this Shire-wide LEP as there has not been sufficient research into the land constraints. Therefore the HCV vegetation areas should be zoned E2 and the balance RU2. (Submission #729022)

Lot/DP	Location	Issues & Comments from Staff
137 877932	BYRON BAY	Lot 137 is an 11.9 ha Council lot that is partly zoned 1(d). It is located both north and south of Sunrise Boulevard and has frontage to the rail line at its northern boundary. It is mostly HCV vegetation and within a wildlife corridor. This lot is part of Investigation Area 2 in the Byron Bay and Suffolk Park Settlement Strategy which is not recommended for significant urban development. However, it is also included in the Far North Coast Regional Strategy as a constrained potential urban release area. It is not recommended for release in this Shire-wide LEP as there has not been sufficient research into the land constraints. Therefore the HCV vegetation should be zoned E2 to reflect the value of its vegetation and the balance of the lot E3 to reflect its location in a wildlife corridor.
32 1064508	EWINGSDALE	Lot 32 (0.4ha) is a small rural lot that is entirely zoned 1(d). It has no dwelling on it. Given its size and location it should be zoned R5 consistent with the rural residential development in its proximity.
31 1064508	EWINGSDALE	Lot 31 (0.4ha) is a small rural lot that is entirely zoned 1(d). It has no dwelling on it. Given its size and location it should be zoned R5 consistent with the rural residential development in its proximity.
30 1064508	EWINGSDALE	Lot 30 (5.4ha) is a small rural lot that is about half zoned 1(d). It has no dwelling on it. Given its size and location it should be zoned R5 consistent with the rural residential development in its proximity.
2 600681	EWINGSDALE	Lot 6 (1.1 ha) currently contains a Country Energy electricity substation. It is currently entirely zoned 1(d). It should be zoned SP2.
171 & 172 1121005 (was 17 / 816451)	EWINGSDALE	Lot 17 (21.6 ha) 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 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 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.
1 559803	EWINGSDALE	Lot 1 (1.1 ha) currently contains a concrete batching plant. It is currently entirely zoned 1(d). It should be zoned RU2 to reflect its rural setting. The concrete batching plant is currently not a permitted use. This will continue under the proposed zone.
12 816451	EWINGSDALE	Lot 12 (0.2 ha) is a small lot with a dwelling on it. It is mostly zoned for rural residential development with only a small section at its northern edge zoned 1(d). It is logical to align the zone boundary with the property boundary in this case and the entire lot should be zoned R5.

Lot/DP	Location	Issues & Comments from Staff
11 816451	EWINGSDALE	Lot 11 (0.2 ha) is a small lot with a dwelling on it. It is mostly zoned for rural residential development with only a small section at its northern edge zoned 1(d). It is logical to align the zone boundary with the property boundary in this case and the entire lot should be zoned R5.
10 816451	EWINGSDALE	Lot 10 (0.2 ha) is a small lot with a dwelling on it. It is mostly zoned for rural residential development with only a small section at its northern edge zoned 1(d). It is logical to align the zone boundary with the property boundary in this case and the entire lot should be zoned R5.
9 816451	EWINGSDALE	Lot 9 (0.2 ha) is a small lot with a dwelling on it. It is mostly zoned for rural residential development with only a small section at its northern edge zoned 1(d). It is logical to align the zone boundary with the property boundary in this case and the entire lot should be zoned R5.
5 786783	EWINGSDALE	Lot 5 (7.7 ha) is a small rural lot that is held in conjunction with adjacent lots. It is entirely zoned 1(d). It has a dwelling on it. It is entirely identified as regionally significant agricultural land but is only partly prime agricultural land. It is affected by a potential mineral resource Section 117 Direction. It has a SEPP 14 wetland on its eastern border. A wildlife corridor runs along its eastern border. The HCV vegetation and SEPP 14 area should be zoned E2, the wildlife corridor and a 50 m buffer around the SEPP 14 area (whichever is the greater) should be zoned E3, the remainder including the prime agricultural land to ensure any future mineral resources activities can be undertaken.
2 786025	EWINGSDALE	Lot 2 (25.5 ha) is a large rural lot that is held in conjunction with adjacent lots. It is about half zoned 1(d). It has no dwelling on it. It is entirely identified as regionally significant agricultural land but is only partly prime agricultural land. It has a SEPP 14 wetland on its eastern half outside of the 1(d) land. A wildlife corridor runs along its eastern border. The wildlife corridor and a 50 m buffer around the SEPP 14 area (whichever is the greater) should be zoned E3, the prime agricultural land should be RU1 and the balance should be zoned RU2.
7 621694	EWINGSDALE	Lot 7 (5.4ha) is a small rural lot that is held in conjunction with adjacent lots. It is entirely zoned 1(d). It has no dwelling on it. It is entirely identified as regionally significant agricultural land and is entirely prime agricultural land. The whole lot should be zoned RU1.
4 786783	EWINGSDALE	Lot 4 (30.8 ha) is a large rural lot that is about half zoned 1(d). It has a dwelling on it. It is entirely identified as regionally significant agricultural land. The entire lot should be zoned RU2.
2 7189	EWINGSDALE	Lot 2 (19.5 ha) is a large rural lot that is held in conjunction with an adjacent lot. It is about half zoned 1(d). It has no dwelling on it. It is entirely identified as regionally significant agricultural land but is only partly prime agricultural land. It has some flood prone land. The prime agricultural land should be zoned RU1 and the balance should be RU2.
1 168419	EWINGSDALE	Lot 1 (7.7 ha) is a smaller rural lot that is held in conjunction with an adjacent lot. It is entirely zoned 1(d). It has a dwelling on it. It is entirely identified as regionally significant agricultural land but is mostly prime agricultural land. The prime agricultural land should be zoned RU1 and the balance should be RU2.

Lot/DP	Location	Issues & Comments from Staff
1 1032298	MULLUMBIMBY	Lot 1 is a 14.6 ha lot that is entirely 1(d). It is substantially flood prone and is subject to acid sulfate soils. It is mapped as mainly prime agricultural land and is entirely regionally significant agricultural land. It was examined in the Mullumbimby Settlement Strategy (2003) as a potential investigation area. It was regarded as having no ability to supply residential land until the flooding issues can be resolved. In the mean time the HCV vegetation corridor along the creek should be E2, a 100m buffer to the creek is applicable to the marine Park area and should be E3, the prime agricultural land should be zoned RU1 and the balance RU2.
12 527314	MULLUMBIMBY	Lot 12 is a 0.23 ha lot the southern half of which is 1(d). It contains a dwelling at the front of the lot in a residential zone. It is substantially flood prone and is subject to acid sulfate soils. It is entirely regionally significant agricultural land. It was examined in the Mullumbimby Settlement Strategy (2003) as a potential investigation area. It was regarded as having no ability to supply residential land until the flooding issues can be resolved. Note that the site may have been a former fuel depot and the issue of possible contamination should be resolved (DA 10.2001.742.1). The rear of the lot should be zoned RU2.
1 575565	MULLUMBIMBY	Lot 1 is a 0.35 ha concessional lot that is entirely zoned 1(d). It has a dwelling on it and frontage to Henderson Lane. It should be zoned RU2.
3 583200	MULLUMBIMBY	Lot 3 is a 0.5 ha concessional lot that is entirely zoned 1(d). It has a dwelling on it and frontage to Henderson Lane. It should be zoned RU2.
4 583200	MULLUMBIMBY	Lot 4 is a 0.4 ha concessional lot that is entirely zoned 1(d). It has a dwelling on it and frontage to Henderson Lane. It should be zoned RU2.
1 576880	MULLUMBIMBY	Lot 1 is a 1.4 ha ex road reserve lot that is partly zoned 1(d). It has HCV vegetation on it and is partly affected by ASS and bushfire. The areas that are HCV vegetation should be zoned E2 and the balance should be zoned RU2.
1 823660	MULLUMBIMBY	Lot 1 is a 1.7 ha ex road reserve lot that is partly zoned 1(d). It should be zoned RU2.
3 831545	MULLUMBIMBY	Lot 3 is a 73 ha lot that is only partly zoned 1(d). It has a dwelling on it. The areas that are HCV vegetation should be zoned E2 and the balance should be zoned RU2.
4 1052900	MYOCUM	Lot 4 is a 5.3 ha lot owned by Byron Shire Council. It is mostly 1(d). There is no dwelling on the lot. The lot contains a significant part of the Leela Quarry (which is a regionally significant extractive resource). It also has some small areas of HCV vegetation and is within a wildlife corridor. However, some of the vegetation mapped on this site needs to be reviewed. In the long term the site is likely to be considered as a landfill site for Byron Shire. Given the significance of the extractive resource on this site and the consent to operate an extractive industry the lot should be zoned RU1.
1 1052900	MYOCUM	Lot 1 is a large site of 14.8 ha of which only a small part (about 0.3ha) is zoned 1(d). (There is no dwelling on the lot.)The small part contains a dam structure that controls surface water from the landfill site. The small area is also partly mapped as HCV vegetation, but this mapping appears inaccurate. It is important that this area is the same zone as the balance of the lot which contains the Council landfill site. This small area should be zoned a special purpose (SP1 or SP2) zone and named "Waste or resource management facility".

Lot/DP	Location	Issues & Comments from Staff
2 1052900	MYOCUM	Lot 2 is a 16.25 ha lot. It is almost entirely zoned 1(d). There is no dwelling on the lot. The lot contains a significant part of the Leela Quarry (which is a regionally significant extractive resource). It also has some large areas of HCV vegetation and is within a wildlife corridor. The areas mapped as HCV vegetation should be zoned E2. Given the significance of the extractive resource on this site and the consent to operate an extractive industry the balance of the lot should be zoned RU1.
3 1052900	MYOCUM	Lot 3 is a large site of 61.9 ha of which only the north east corner is zoned 1(d). It contains some HCV vegetation and its eastern edge is in a wildlife corridor. The HCV vegetation areas should be zoned E2, the wildlife corridor zoned E3 and the balance RU2.
22 259869	MYOCUM	Lot 22 is a site of 12.9 ha which is entirely zoned 1(d). It appears to have a dwelling on it. It contains patches of HCV vegetation and is within a wildlife corridor. The HCV vegetation areas should be zoned E2, the wildlife corridor zoned E3 and the balance RU2.
16 259869	MYOCUM	Lot 16 is a site of 8.3 ha which is entirely zoned 1(d). It has a dwelling on it. It contains patches of HCV vegetation and is within a wildlife corridor. The HCV vegetation areas should be zoned E2, the wildlife corridor zoned E3 and the balance RU2.
17 259869	MYOCUM	Lot 17 is a site of 8.2 ha which is entirely zoned 1(d). It does not appear to have a dwelling on it. It contains patches of HCV vegetation and is within a wildlife corridor. The HCV vegetation areas should be zoned E2, the wildlife corridor zoned E3 and the balance RU2.
3 580369	MYOCUM	Lot 3 is a 0.017ha strip of Council land that appears to be a road re-alignment lot. It is adjacent o Macauleys lane. It should be zoned RU2.
8 589795	MYOCUM	Lot 8 is a 35 ha lot that is entirely zoned 1(d). It has frontage to Macauleys lane and has a dwelling on it. Small parts of it are HCV vegetation, but the majority is cleared. The HCV vegetation areas should be zoned E2, and the balance RU2.
2 580369	MYOCUM	Lot 2 is a 1 ha lot that is entirely zoned 1(d). It has frontage to Macauleys lane and has a dwelling on it. Small parts of it are HCV vegetation, but the majority is cleared. The HCV vegetation areas should be zoned E2, and the balance RU2.
1 580369	MYOCUM	Lot 1 is a 1.3 ha lot that is entirely zoned 1(d). It has frontage to Macauleys lane and has a dwelling on it. The majority is cleared. The lot should be zoned RU2.
26 830652	MYOCUM	Lot 26 is a very large lot (164 ha) of which only a small triangle at its northern edge (about 1 ha) is zoned 1(d). The lot has a large multiple occupancy community on it and some of the buildings associated with this are in this area. It has a small patch of HCV vegetation and some cleared land. The HCV vegetation areas should be zoned E2, and the balance RU2.
1 1048569	MYOCUM	Lot 1 is a 6.7 ha lot of which only a small triangle in its north eastern corner is zoned 1(d). It is located on the southern corner of Mullumbimby Road and Gulgan Road and has a dwelling on it. Most of the 1 (d) corner is used as a vehicle rest area and there is a small area of HCV vegetation that encroaches into it. The balance of the property was zoned 1(e) under LEP 1988 because a quarry was operating on the lot to the west. This quarry has been abandoned and is no longer subject to the S.117 Direction on extractive industries. It is not regarded as having a significant extractive resource. The small area of HCV vegetation should be zoned E2 and the balance RU2.

Lot/DP	Location	Issues & Comments from Staff
3 810118	MYOCUM	Lot 3 is a 12.25 ha lot that is entirely zoned 1(d). It has frontage to Saddle Road and has a dwelling on it. It has a small area of HCV vegetation which should be zoned E2 and the balance should be zoned RU2.
1 529317	MYOCUM	Lot 1 is a 0.55 ha concessional lot with frontage to Saddle Road that is entirely zoned 1(d). It has a dwelling on it. It should be zoned RU2.
PT1 363848	MYOCUM	Part Lot 1 is a 2.8 ha concessional lot that is substantially zoned 1(d). It has frontage to Saddle Road and has a dwelling on it. It has a small area of HCV vegetation which should be zoned E2 and the balance should be zoned RU2.
6 587709	MYOCUM	Lot 6 is a 0.58 ha concessional lot that is entirely zoned 1(d). It has frontage to Saddle Road and has a dwelling on it. It has a small area of HCV vegetation which should be zoned E2 and the balance should be zoned RU2.
3 582169	MYOCUM	Lot 3 is a 0.3ha concessional lot that is entirely zoned 1(d). It has frontage to Saddle Road and has a dwelling on it. It has a small area of HCV vegetation which should be zoned E2 and the balance should be zoned RU2.
4 582169	MYOCUM	Lot 4 is a 0.6ha concessional lot that is entirely zoned 1(d). It has frontage to Saddle Road and has a dwelling on it. It has a small area of HCV vegetation which should be zoned E2 and the balance should be zoned RU2.
1 859817	MYOCUM	Lot 1 is a 6.9 ha lot that is entirely zoned 1(d). It has a long frontage to Mullumbimby Road and backs onto Saddle Road. It has some HCV vegetation on its northern boundary and is affected by flooding on its low lying areas. It has a structure on it that may be a dwelling. The HCV vegetation should be zoned E2, a cleared curtilage around the structure should be zoned E3 and the balance should be RU2.
2 529317	MYOCUM	Lot 2 is a 0.45 ha concessional lot that is entirely zoned 1(d). It has frontage to Saddle Road and has a dwelling on it. It should be zoned RU2.
2 580144	MYOCUM	Lot 2 is a 1.6 ha concessional lot that is entirely zoned 1(d). It has frontage to Saddle Road and has a dwelling on it. It should be zoned RU2.
3 869207	NEW BRIGHTON	Lot 3 is a 5.2 ha lot which is entirely zoned 1(d). It has access off Byron Street but has no dwelling located on it. The lot is partly HCV vegetation and entirely within a wildlife corridor, entirely flood prone and partly bushfire affected. It is also subject to acid sulfate soils. It has Crown land to the east and south and Nature Reserve to the west. The area that is HCV vegetation should be zoned E2 and the balance E3 to reflect its location in a wildlife corridor and other constraints.
1 869207	NEW BRIGHTON	Lot 1 is a 3.5 ha lot which is entirely zoned 1(d). It has access off Byron Street (via an access across adjacent private land to the south) and has a dwelling located on it. The lot is partly HCV vegetation and entirely within a wildlife corridor, entirely flood prone and partly bushfire affected. It is also subject to acid sulfate soils. It has Crown land to the east and Nature Reserve to the west and north. The area that is HCV vegetation should be zoned E2 and the balance E3 to reflect its location in a wildlife corridor and other constraints.

Lot/DP	Location	Issues & Comments from Staff
2 869207	NEW BRIGHTON	Lot 2 is a 4.4 ha lot which is entirely zoned 1(d). It has access off Byron Street (via an access across adjacent private land to the south) and has a dwelling located on it. The lot is partly HCV vegetation and entirely within a wildlife corridor, entirely flood prone and partly bushfire affected. It is also subject to acid sulfate soils. It has a large freshwater dam or pond located on its western side. It has Crown land to the east and Nature Reserve to the west. The area that is HCV vegetation should be zoned E2 and the balance E3 to reflect its location in a wildlife corridor and other constraints.
422 755687	NEW BRIGHTON	Lot 422 is a 0.11 ha lot which is entirely zoned 1(d). It has access off Byron Street and has a dwelling located on it. The lot is entirely HCV vegetation and within a wildlife corridor, entirely flood prone and partly bushfire affected. It is also subject to acid sulfate soils. Normally it would be E2, but because the lot is so small and has a dwelling and other buildings on it should be zoned E3.
233 755687	NEW BRIGHTON	Lot 233 is a 4.3 ha Crown lot which is entirely zoned 1(d). It is located north west of the New Brighton soccer fields and has road access off New Brighton Road. The lot is entirely HCV vegetation and within a wildlife corridor, entirely flood prone and bushfire affected. It is also subject to acid sulfate soils. It shares two boundaries with the Billinudgel nature Reserve. It should be entirely zoned E2.
458 729085	NEW BRIGHTON	Lot 458 is a 1.8 ha Crown lot which is entirely zoned 1(d). It is located immediately north of the New Brighton soccer fields and has road access off Byron Street. The lot is mostly HCV vegetation and within a wildlife corridor, entirely flood prone and bushfire affected. It is also subject to acid sulfate soils. The HCV vegetation area should be zoned E2 and the balance zoned E3.
423 755687	NEW BRIGHTON	Lot 423 is a 2.3 ha Crown lot the western half of which is zoned 1(d). It is located immediately north of the New Brighton soccer fields and has road access off Byron Street. The eastern side of the lot is affected by the current erosion precinct 3. The 1(d) part of the land is predominantly within a wildlife corridor and entirely flood prone. It is also bushfire prone. It should be zoned entirely E3 because it is mostly in the wildlife corridor. The small area in the south edge of the lot that is not in the wildlife corridor would normally be recommended as RU2, but as there is no RU2 any where in the vicinity it is recommended that it be zoned E3.
1 536652	NEW BRIGHTON	Lot 1 is a 0.2 ha lot that is entirely zoned 1(d). It has no dwelling located on it. It is entirely HCV vegetation, is located within a wildlife corridor, affected by bushfire category 1 and acid sulfate soil. It should be zoned E2.
9951 840779	OCEAN SHORES	Lot 9951 is a 0.22ha lot of which only a tiny sliver (a few square metres) at its eastern edge is zoned 1(d). However this part of the lot is vegetated, flood prone and has acid sulfate soils. It is part of a larger area that is HCV vegetation that includes golf course land to the east. It should be zoned E2 consistent with the adjacent land to the east.
1 616597	OCEAN SHORES	Lot 1 is a 0.07 ha lot all of which is zoned 1(d). It is located in the centre of the Ocean Shores golf course. Some of it is cleared but mostly it is heavily vegetated. It is all flood prone and affected by acid sulfate soils. The areas identified as HCV vegetation should be E2. The remainder should be zoned RE2 consistent with the actively used parts of the golf course.
604 559328	OCEAN SHORES	Lot 604 is a 2.2 ha lot the eastern part of which is zoned 1(d). It is an open grassed area of land between the Ocean Shores club house car park and a row of houses. It should be zoned RE2 consistent with the rest of the golf course.

Lot/DP	Location	Issues & Comments from Staff
2 616597	OCEAN SHORES	Lot 2 is a 15 ha irregular shaped lot all of which is zoned 1(d). It has access off Terrara Court but is located in the centre of the Ocean Shores golf course. Some of it is used as golf course fairways, but a lot of it is heavily vegetated. It is all flood prone and affected by acid sulfate soils. The areas identified as HCV vegetation should be zoned E2 and the remainder RE2 consistent with the actively used parts of the golf course.
2 859951	OCEAN SHORES	Lot 2 is a 52 ha lot of which only two small areas approximately 2 ha in an irregular shape are zoned 1(d). The northern most area (east of Balemo Drive) is surrounded on all sides by the Ocean Shores golf course and has no direct road frontage. It is vegetated, flood prone and has acid sulfate soils. The eastern most area (west of Wirree Drive) is also mostly vegetated, flood prone and is also within 50 m of a SEPP 14 wetland. The areas identified as HCV vegetation should be zoned E2 and the remainder RE2 consistent with the actively used parts of the golf course.
3 554518	OCEAN SHORES	Lot 3 is a very narrow sliver of land (1m wide) located between the old Pacific Highway alignment and residential lots in Ocean Shores that are south of the intersection with Orana Road. It was handed over to Council by the RTA as a way of putting a physical barrier between residential lots and the Pacific highway to control access. Whether or not it remains in Council ownership it should be in the same zone as the old highway which it abuts. It should be zoned RU2.
606 240398	OCEAN SHORES	Lot 606 is a very narrow sliver of land (1m wide) located between what was to be an alternate highway alignment and residential lots in Ocean Shores. It was handed over to Council by the RTA as a way of putting a physical barrier between residential lots and the proposed Pacific highway to control access. The alternate highway alignment has since been abandoned and sold off leaving Council with a very narrow strip of land in between private lands. Council has resolved in the past that it be offered to adjacent landowners for purchase as it no longer serves any purpose. Whether or not it remains in Council ownership it should be in the same zone as the ex highway alignment which it abuts. It should be zoned RU2.
977 241073	OCEAN SHORES	Lot 977 is a very narrow sliver of land (1m wide) located between what was to be an alternate highway alignment and residential lots in Ocean Shores. It was handed over to Council by the RTA as a way of putting a physical barrier between residential lots and the proposed Pacific highway to control access. The alternate highway alignment has since been abandoned and sold off leaving Council with a very narrow strip of land in between private lands. Council has resolved in the past that it be offered to adjacent landowners for purchase as it no longer serves any purpose. Whether or not it remains in Council ownership it should be in the same zone as the ex highway alignment which it abuts. It should be zoned RU2.
1 121491	OCEAN SHORES	Lot 1 is a very narrow sliver of land (1m wide) located between the old Pacific Highway alignment and residential lots in Ocean Shores that are south of the intersection with Orana Road. It was handed over to Council by the RTA as a way of putting a physical barrier between residential lots and the Pacific highway to control access. Whether or not it remains in Council ownership it should be in the same zone as the old highway which it abuts. It should be zoned RU2.

Lot/DP	Location	Issues & Comments from Staff
1 859951	OCEAN SHORES	Lot 1 is an irregular shaped 1 ha lot which is partly zoned 1(d). It has frontage to Marshalls Creek and is surrounded on two sides by the Ocean Shores golf club. It backs onto dwellings on Wirree Drive but has no direct access itself. It is completely vegetated and flood prone. As it is entirely HCV vegetation it should be zoned E2.
978 241073	OCEAN SHORES	Lot 978 is an irregular shaped 0.9 ha lot with a long frontage to the Old Pacific Highway. It is heavily affected by traffic noise. It has been proposed in the past as an access to another lot held by the same owner and located further to the north. Both lots are part of an old highway alignment that was established, but not used. It is mostly cleared, but has some HCV vegetation at its northern end. There is no specific information on the history of the site in relation to possible contamination issues (SEPP55). It should be zoned RU2 and the HCV vegetation should be zoned E2.
649 240398	OCEAN SHORES	Lot 649 is a 0.08 ha lot which is entirely zoned 1(d). It is located at the end of Terrara Court. It is heavily vegetated, flood prone and has acid sulfate soils. As it is entirely HCV vegetation it should be zoned E2.
990 561648	OCEAN SHORES	Lot 990 is a 0.09 ha lot which is entirely zoned 1(d). It is located at the end of Terrara Court. It is heavily vegetated, flood prone and has acid sulfate soils. As it is entirely HCV vegetation it should be zoned E2.
648 240398	OCEAN SHORES	Lot 648 is a 0.1 ha lot which is entirely zoned 1(d). It is located at the end of Terrara Court. It is heavily vegetated, flood prone and has acid sulfate soils. As it is entirely HCV vegetation it should be zoned E2.
7 710428	OCEAN SHORES	Lot 7 is a 4.6 ha lot of which only a thin strip at its eastern boundary is zoned 1(d). This area is now bisected by the Pacific Motorway and adjacent to the old Pacific Highway. It is heavily affected by traffic noise. The HCV vegetation areas should be zoned E2, those parts within the wildlife corridor should be zoned E3 and the Pacific Motorway and its infrastructure should be zoned RU2.
4 703263	SKINNERS SHOOT	Although Lot 4 is a large lot (47 ha) only a small area on its southern edge is currently 1(d). This land is largely vegetated and the small patches of cleared land are set apart from the existing residential development at Lilly Pilly. This lot is part of Investigation Site 7 in the Byron Bay and Suffolk Park Settlement Strategy which is not recommended for significant urban development. It should be predominantly zoned E2 to reflect its vegetation. Any larger cleared patches should be zoned E3 to reflect its wildlife corridor function, linking vegetation on all sides.
428 755687	SOUTH GOLDEN BEACH	Lot 428 is a 4.1 ha lot entirely zoned 1(d). It is entirely owned by the NPWS and should be zoned E1.
459 729098	SOUTH GOLDEN BEACH	Lot 459 is a 1.5 ha Crown Lot that is entirely zoned 1(d). It is all HCV vegetation and is in a flood prone wildlife corridor. Although it has frontage to Redgate Road it is surrounded on three sides by Billinudgel Nature Reserve. It should be zoned E2.
PT406 755687	SOUTH GOLDEN BEACH	Part Lot 406 is a 9.5 ha lot entirely zoned 1(d). It is entirely owned by the NPWS and should be zoned E1.
219 755687	SOUTH GOLDEN BEACH	Lot 219 is a 7.6 ha lot entirely zoned 1(d). It is entirely owned by the NPWS and should be zoned E1.

Lot/DP	Location	Issues & Comments from Staff
100 828174	SOUTH GOLDEN BEACH	Lot 100 is a 1.2 ha lot entirely zoned 1(d). It has a long frontage to Redgate Road, but the lot is narrow and backs onto Billinudgel Nature Reserve. A dwelling is located on the lot at its north eastern end. It is predominantly HCV vegetation, but is also flood prone, bushfire affected and contains acid sulfate soils. It should be predominantly zoned E2 to reflect its vegetation. The cleared patch in the curtilage of the dwellings and other structures should be zoned E3 to reflect its wildlife corridor function. (Submission #363749 & #688010)
50 838451	SUFFOLK PARK	Lot 50 (5 ha) is a lot that is held by Byron Shire Council in conjunction with an adjacent lot to the south. These lots have been part of land swap agreements with the State government. It is entirely zoned 1(d) and has no dwelling on it. It partly serves as a fire break for the Suffolk Park residential areas and is heavily vegetated, flood prone and affected by ASS. It is entirely within a wildlife corridor. This lot is part of Investigation Site 1 in the Byron Bay and Suffolk Park Settlement Strategy which is not recommended for significant urban development. The HCV vegetation areas should be zoned E2 and the remainder E3 consistent with its wildlife corridor characteristics.
3 245836	SUFFOLK PARK	Lot 3 is a tiny lot of just 60 square metres and fronts the Broken Head Road. It is partly vegetated and entirely within a wildlife corridor. This lot is part of Investigation Site 1 in the Byron Bay and Suffolk Park Settlement Strategy which is not recommended for significant urban development. The lot should be zoned E2 consistent with surrounding lands.
1 563373	SUFFOLK PARK	Lot 1 is a 0.4 ha lot that fronts the Broken Head Road and has a dwelling on it. It is partly vegetated and entirely within a wildlife corridor. This lot is part of Investigation Site 1 in the Byron Bay and Suffolk Park Settlement Strategy which is not recommended for significant urban development. The HCV vegetation areas should be zoned E2 and the remainder E3 to allow a curtilage for the dwelling.
4 802745	SUFFOLK PARK	Lot 4 is a 2.5 ha lot that has a small sand quarry on it. It is partly vegetated and entirely within a wildlife corridor. This lot is part of Investigation Site 1 in the Byron Bay and Suffolk Park Settlement Strategy which is not recommended for significant urban development. The HCV vegetation areas should be zoned E2 and the remainder RU1 consistent with other extractive industries in the locality. (Submission #685560)
4 245836	SUFFOLK PARK	Lot 1 is a 0.14 ha lot that fronts the Broken Head Road and is held with Lot 4 DP 802745. It is mostly vegetated and entirely within a wildlife corridor. This lot is part of Investigation Site 1 in the Byron Bay and Suffolk Park Settlement Strategy which is not recommended for significant urban development. The HCV vegetation areas should be zoned E2 and the remainder zoned E3 if they are large enough to map. (Submission #685560)

Lot/DP	Location	Issues & Comments from Staff
3 862033	SUFFOLK PARK	Lot 3 is a 1 ha corner lot that has frontage to Broken Head Road and Beech Drive. It was identified in the Byron Bay and Suffolk Park Settlement Strategy as suitable for an aged housing development (a residential use). It has some Callitris pine on it, but is not identified as HCV vegetation. It is entirely within an east /west wildlife corridor and is affected by flood. It contains a dip site and is totally affected by the buffer. It is understood that the dip site has been rehabilitated. The information supplied is sufficient (pursuant to SEPP 55) to satisfy Council that the site has been made suitable for residential development and the flooding issue can be dealt with appropriately. The vegetated areas should be zoned E4 (consistent with the Callitris areas across the road) and the balance should be zoned R2. (Submission #755365)
152 755692	TYAGARAH	Lot 152 is a 24 ha lot with only a narrow strip along its northern boundary zoned 1(d). It is mainly vegetated and is entirely within a wildlife corridor that crosses the locality. It is almost entirely flood prone and has a SEPP 14 wetland located at its eastern edge. This land is not specifically addressed in the Brunswick Heads Settlement Strategy. The HCV vegetation areas and SEPP 14 area should be zoned E2, the wildlife corridor should be zoned E3.

Table 2: 9(a) Zoned Lands Assessment and Recommendations

Lot/Sec/DP	Location	Proposed Zone	Comments
1/123291	BANGALOW	SP2 & RU1	Small lot that appears to be an ex road reserve. Tiny area of property is 9A. Portion to be rezoned SP2 so that if required it can be used for the Ewingsdale to Tintenbar section of the Pacific Highway.
4/582602	BANGALOW	SP2 & RU1	Portion to be rezoned SP2 so that if required it can be used for the Ewingsdale to Tintenbar section of the Pacific Highway.
1/571044	BANGALOW	SP2 & RU1	Small area of lot is 9A. Portion to be rezoned SP2 so that if required it can be used for the Ewingsdale to Tintenbar section of the Pacific Highway.
1/334117	BANGALOW	SP2 & RU1	Small lot only part of which is 9A. Portion to be rezoned SP2 so that if required it can be used for the Ewingsdale to Tintenbar section of the Pacific Highway.
1/104380	BANGALOW	SP2 & RU1	Small lot of which half is 9A. Portion to be rezoned SP2 so that if required it can be used for the Ewingsdale to Tintenbar section of the Pacific Highway.
11/813568	BANGALOW	SP2 & RU1	Small area of large lot is 9A. Portion to be rezoned SP2 so that if required it can be used for the Ewingsdale to Tintenbar section of the Pacific Highway.
25/222189	BANGALOW	SP2 & RU1	Tiny sliver lot (probably a road closure or realignment). Any 9A land to be rezoned SP2 so that if required it can be used for the Ewingsdale to Tintenbar section of the Pacific Highway.
1/879546	BANGALOW	SP2 & RU1	Small portion of lot, relative to lot size, is 9(a). Portion to be rezoned SP2 so that if required it can be used for the Ewingsdale to Tintenbar section of the Pacific Highway.
2/879546	BANGALOW	SP2 & RU1	Very small proportion of larger lot is 9A. Portion to be rezoned SP2 so that if required it can be used for the Ewingsdale to Tintenbar section of the Pacific Highway.
3/1007622	BANGALOW	SP2 & RU1	Small proportion of larger lot is 9(a). Portion to be rezoned SP2 so that if required it can be used for the Ewingsdale to Tintenbar section of the Pacific Highway.
181/100050 7	BANGALOW	RU2	Tiny area of Property is 9A, rezone whole lot to RU2.

Lot/Sec/DP	Location	Proposed Zone	Comments
1/1019917	BANGALOW	SP2, RU1 & E2 (where HCVV)	Small part of larger lot is 9A. Portion to be rezoned SP2 so that if required it can be used for the Ewingsdale to Tintenbar section of the Pacific Highway.
3/129126	BANGALOW	SP2, RU1, E2 & E3 (where HCVV & other environmental attributes)	Part of lot is 9A. Portion to be rezoned SP2 so that if required it can be used for the Ewingsdale to Tintenbar section of the Pacific Highway.
37/850926	BILLINUDGEL	IN1	Tiny area of Property is 9A. Proposed IN1 for entire parcel.
264/755692	BRUNSWICK HEADS	E3 (where wildlife corridor) & E2 (where HCVV)	Strip of 9A runs through eastern edge of property.
331/755692	BRUNSWICK HEADS	E2.	Crown land. Completely covered in HCVV and wildlife corridor.
1/388031	BRUNSWICK HEADS	E3 (where wildlife corridor) & E2 (where HCVV)	Entire allotment currently zoned 9(a). HCVV, wildlife corridor and existing dwelling/building.
2/700120	BRUNSWICK HEADS	E3 (where wildlife corridor)	Small triangle of 9(a), remainder 1(d). 100% wildlife corridor and an existing dwelling.
1/825175	BRUNSWICK HEADS	E3 (where wildlife corridor)	Currently whole parcel zoned 9(a). Very small lot owned by Telstra. Within wildlife corridor.
2/825173	BRUNSWICK HEADS	E3 (where wildlife corridor) & E2 (where HCVV) & remainder RU2	Western edge is 9(a), remainder is 1(d). 2 portions of HCVV, part Wildlife Corridor.
58/755692	BRUNSWICK HEADS	E2.	Crown Land. Strip of 9A bisecting the allotment North to South. Remainder of allotment is 7(b). 100% HCV; 100% wildlife corridor.
396/724680	BRUNSWICK HEADS	E2.	Strip of 9(a) dividing land. 100% wildlife corridor; 98% HCV.
417/729100	BRUNSWICK HEADS	E1.	Crown land. All of SW corner is 9(a), but small proportion of the allotment, remainder 7(b). Area gazetted as National Park.
101/851964	BRUNSWICK HEADS	RE1	Brunswick Heads Caravan Park (Ferry Reserve).
102/851964	BRUNSWICK HEADS	RE1 & E2 (small riparian strip)	Brunswick Heads Caravan Park (Ferry Reserve).
12/881230	BRUNSWICK HEADS	E3 (where wildlife corridor) & E2 (where HCVV)	Almost all of the allotment currently 9(a). HCVV & wildlife corridor.
14/881230	BRUNSWICK HEADS	E3 (where wildlife corridor) & E2 (where HCVV) & remainder RU2	9(a) strip bisects allotment from north to south. 100% flood prone. Patches of HCVV & in wildlife corridor.
33/881231	BRUNSWICK HEADS	E3 (where wildlife corridor) & E2 (where HCVV) & remainder RU2	Part lot is 9A. Some HCVV & Small area is Wildlife Corridor.

Lot/Sec/DP	Location	Proposed Zone	Comments
34/881231	BRUNSWICK HEADS	E3 (where wildlife corridor) & E2 (where HCVV) & remainder RU2	Part lot is 9A. Some HCVV & Small area is Wildlife Corridor.
35/881231	BRUNSWICK HEADS	E3 (Wildlife Corridor)	Small area of lot is 9A. All unvegetated Wildlife Corridor.
11/1014197	BRUNSWICK HEADS	E3 (where wildlife corridor) & E2 (where HCVV)	2 small parts 9(a). In wildlife corridor and large area HCVV.
14/1019200	BRUNSWICK HEADS	E1.	Owned by DECC. 9(a) strip through eastern half. Recently gazetted as National Park.
15/1019200	BRUNSWICK HEADS	E1 (National Park) & E2	Crown Land. Small area of northwest corner is 9A. Part recently gazetted as National Park, remainder HCVV.
19/1019200	BRUNSWICK HEADS	E2	Crown Land. Large proportion 9A. All HCVV.
20/1019200	BRUNSWICK HEADS	E2	Crown Land. 9(a) strip through centre. All HCVV & in corridor.
50/1067782	BRUNSWICK HEADS	E2 & E1 (National Park)	Crown Land divided by highway. Small portion east of highway zoned 9(a). Large part riparian HCVV and remainder gazetted as National Park.
2/588653	BYRON BAY	B2	1/3 of allotment 9(a) which is part of the Byron Bay bypass. Recommended that entire allotment is rezoned to adjoining zones as bypass may not need these lands.
8/818197	BYRON BAY	B2	BSC owns. Part 9(a) which is part of the Byron Bay bypass. Recommended that entire allotment is rezoned to adjoining zones as bypass may not need these lands.
9/818197	BYRON BAY	B2	Part 9(a) which is part of the Byron Bay bypass. Recommended that entire allotment is rezoned to adjoining zones as bypass may not need these lands.
132/755687	OCEAN SHORES	E2	NE corner zoned 9(a). 100% wildlife corridor and part HCVV where 9(a) zone.
1/900376	OCEAN SHORES	E2	Large part 9(a). 100% HCV; 100% Wildlife corridor.
27/1016168	OCEAN SHORES	E3 (where wildlife corridor) & E2 (where HCVV) & remainder RU2	Very small portion is 9(a). 9(a) land is all HCVV and in wildlife corridor.
10/1062883	OCEAN SHORES	E2 & RU2 (where STP)	BSC owns, includes Ocean Shores STP in the SW corner. 100% wildlife corridor, mostly HCVV. Large strip of 9(a).
1/1052705	OCEAN SHORES	E3 (where wildlife corridor) & E2 (where HCVV)	Odd shaped NE corner is 9(a). Bounded to the south by the Brunswick River. Large areas of HCVV and in wildlife corridor.

Lot/Sec/DP	Location	Proposed Zone	Comments
402/755687	WOORYUNG	E3 (where wildlife corridor) & E2 (where HCVV) & remainder RU1 (prime agriculture) & RU2	Strip of 9(a) land bisects the lot north to south. Patches of HCVV & wildlife corridor. Remainder rural.
403/755687	WOORYUNG	E2 (where HCVV) & remainder RU1 (prime agriculture) & RU2	Strip of 9(a) land bisects the lot north to south. Patches of HCVV & wildlife corridor. Remainder rural.

Table 3: Details regarding Dwelling Entitlement Requests and Considerations

Property Details	Issues & Comments from Staff
Lot 11 DP 605727, Cedar Road, Mullumbimby	Request for a dwelling entitlement Lot 11 is a 7.6 ha lot that was registered on 25/10/79 as a natural subdivision and the DP does not have the Shire Clerks signature. A Section 149(5) certificate issued in 2002 (#331080) advises that there is no dwelling entitlement. It does not meet the dwelling entitlement criteria under clause 15 of LEP 1988. There is no record of a dwelling being located on the lot. It is proposed to be zoned mainly E2 and E3 under Shire-wide LEP. There are no extenuating circumstances about this lot and no dwelling entitlement is warranted. It is not recommended that the lot be included in Schedule 1.
Lot 152 DP 755692, Tandys Lane, Tyagarah	Request for a dwelling entitlement & fixing zoning Lot 152 is a 24.28 ha lot that was an original Parish portion. It is currently held in conjunction with other adjacent property and the owner acknowledges that it has no dwelling entitlement. It does not meet the dwelling entitlement criteria under clause 15 of LEP 1988. There is no record of a dwelling being located on the lot. It is proposed to be zoned mainly E2 and E3 under Shire-wide LEP. There is a dwelling on an adjacent lot that would constitute the dwelling entitlement for the original existing holding. There are no extenuating circumstances about this lot and no dwelling entitlement is warranted. It is not recommended that the lot be included in Schedule 1.
Lot 332 & Lot 334 DP 755692, Riverside Crescent, Brunswick Heads	Request for a dwelling entitlement & change of zoning Lots 332 and 334 have a combined area of approximately 0.145 ha and they are both original Parish Portions. The lots do not meet the dwelling entitlement criteria under clause 15 of LEP 1988. Dwellings are prohibited in the current 7(b) environment protection zone. There is no record of a dwelling being located on the lot although there is evidence of development approval for a dwelling being issued in November 1978 for Lot 334 and again in August 1984 for Lots 332 and 334 (combined). The land is flood prone and partly cleared. It is proposed to be zoned mainly E2 and E3 under Shire-wide LEP. There is a case to suggest that one or both of the dwelling approvals were commenced by activities such as filling and connection of services such as electricity and water. However the site is subject to bushfire hazard and reticulated sewerage would be required due to its proximity to the Brunswick River. Access to the site needs to be substantiated and any dwelling would need to be constructed above the flood planning level. The history of dwelling approvals and the likelihood of commencement being proved makes for a strong case that the lots should be listed as having a single dwelling permissibility (for the two lots combined) subject to the site issues being resolved. It is recommended that Lot 332 & 334 DP 755692 Riverside Crescent, Brunswick Heads be included in Schedule 1 for the purposes of a dwelling house, subject to conditions requiring lot amalgamation, connection to reticulated sewerage and resolution of access, bushfire hazard and flooding issues.
Lot 1 DP 188300 Tyagarah Road, Myocum	Request for a dwelling entitlement Lot 1 is a 8.2 ha lot that was created in 1938. Up until 1982 it was held as part of an existing holding. It is currently held by an owner who uses it for a nursery site and acknowledges that it has no dwelling entitlement. It does not meet the dwelling entitlement criteria under clause 15 of LEP 1988. It is a broken existing holding. There is no record of a dwelling being located on the lot and none is shown in the air photo. A Section 149(5) certificate issued in August 2003 advised that the lot has no dwelling entitlement. It is identified as regionally significant farmland by the Dept of Planning. It is proposed to

Property Details	Issues & Comments from Staff
Lot 3 & 4 DP 576093 Blackbean Road Wilsons Creek	be zoned mainly RU1 under Shire-wide LEP. There are no extenuating circumstances about this lot and no dwelling entitlement is warranted. It is not recommended that the lot be included in Schedule 1. Request for a dwelling entitlement Lot 3 (3.7 ha) and Lot 4 (23.01 ha) are part of a natural subdivision that was registered on 8/7/75 and the DP does not have the Shire Clerks signature. It does not meet the dwelling entitlement criteria under clause 15 of LEP 1988. An air photo shows that a dwelling is located on each of the lots. The owners have produced a letter advising of development consent for a dwelling on lot 4 dated July 1979. In June 1988 the owners advised Council that a Council approved dwelling also existed on Lot 3. Council advised the owners by letter of 8 July 1988 that it acknowledged the dwelling houses existed and considered them to have continuing use rights. Lot 3 is mostly proposed to be zoned E3 with E2 over the riparian vegetation and Lot 4 is proposed to be zoned partly E2 and partly E3 under Shire-wide LEP. A dwelling entitlement is warranted in this case for both Lot 3 and 4 because a dwelling has been erected on both lots for an extended period of time (pre 1988 when the current LEP commenced). Council's letter of 8 July 1988 is likely to constitute estoppel should Council wish to pursue any action in relation to the legality of the dwellings. Wilsons Creek is quite close to the dwelling on lot 3 so Council's efforts may be better spent in ensuring that any OSMS meets current standards. It is recommended that both lots 3 and 4 DP 576093 Blackbean Road Wilsons Creek each be included in Schedule 1 for the purpose of a dwelling house.
Lot 7 DP 586804 103 Goonengerry Mill Road Goonengerry	Request for a dwelling entitlement Lot 7 is a 12.44 ha lot that was registered on 10/11/76 as a natural subdivision and the DP does not have the Shire Clerks signature. A Section 149(5) certificate issued in March 2006 indicated that the dwelling entitlement question was not applicable because a dwelling already exists on the lot. It does not meet the dwelling entitlement criteria under clause 15 of LEP 1988. An air photo shows that a dwelling is located on the lot. The owner has advised that a dwelling was constructed in the early 1980's. Council's records indicate that a Building permit was issued for Lot 7 in August 1983. Lot 7 is proposed to be zoned mostly E2 and partly E3 under Shire-wide LEP. A dwelling entitlement is warranted in this case because a dwelling has been erected on the site for an extended period of time (pre 1988 when the current LEP commenced) apparently with Council's permission. It is unlikely Council would be successful with a demolition given its involvement in the dwellings construction. It is recommended that Lot 7 DP 586804 Goonengerry Mill Road Goonengerry be included in Schedule 1 for the purpose of a dwelling house.
Lot 2 DP 537488 Tickles Road, Rosebank (also Coopers Creek Road)	Request for a dwelling entitlement Lot 2 is a 1.21 ha lot that was registered on 12/9/69 as a natural subdivision and the DP does not have the Shire Clerks signature. A Section 149 certificate issued in 1983 does not address the dwelling entitlement issue and a series of later Section 149(5) certificates answers the question accurately – i.e. one entitlement accrues to the existing holding of which lot 2 is a part. It does not meet the dwelling entitlement criteria under clause 15 of LEP 1988. An air photo shows that a building is located on the lot and the owners consultant admits that this is a shed approved by Council in 1990 with the express condition that it not be used for residential purposes. It has never been approved as a dwelling. A dwelling exists on Lot 3 DP 537488 (and apparently on Lot 1 DP 537488) and this is the dwelling that accrues to the existing holding. It is not known if the dwelling on Lot 1 is lawfully erected. Lot 2 is proposed to be zoned partly E2 and partly RU2 under Shire-wide LEP. A dwelling entitlement is not warranted in this case because Lot 2 is simply

Property Details	Issues & Comments from Staff
	part of a broken existing holding (albeit that the holding was broken in 1969) and no dwelling currently exists on the land. Council has not issued any Section 149 certificates in error. Nor has it authorised with building permits or the like any residential occupation of the land. It is recommended that the lot not be included in Schedule 1.
Lot 1 DP 394451, Jones Rd, Yelgun	Request for a dwelling entitlement Lot 1 is a 5.2 ha lot that was registered on 29/5/55 as a lawful subdivision. The DP has the Council Clerks signature on it. It was held as an individual lot by Bashforth at the appointed day and is an existing holding in its own right. Three Section 149(5) certificates have been issued (28/4/03, 8/10/03 and 20/1/04) and all advised correctly that the lot has no dwelling entitlement. The basis for this advice is that it is entirely zoned 7(k) and dwellings are prohibited in that zone. It does not meet the dwelling entitlement criteria under clause 15 of LEP 1988 because this clause does not apply to the 7(k) zone. An air photo shows that there is no dwelling on the lot and Councils old rate books don't mention a dwelling. It is proposed to be zoned E2 under Shire-wide LEP. The issue of dwelling entitlements in this location was addressed as part of LEP 51 which stemmed from a Commission of Inquiry in to land zones in North Ocean Shores. A number of lots in this locality were listed as a result of this Inquiry and this one was omitted from that list. If the proposed E2 zone is accurate then the lot will remain without a dwelling entitlement. However, if part of the lot is zoned E3 or RU2 (for example) then the lot would have a dwelling entitlement as a result of the rural dwellings clause and not require listing in schedule 1. The current owner was made aware of the absence of a dwelling entitlement in conversations with Council planners at the time of the acquisition. It is recommended that the lot not be included in Schedule 1 but that the zone of the lot be reviewed to ensure that it reflects the HCV vegetation and other relevant boundaries.
Lot 384 DP727453, Coolamon Scenic Drive, Coorabell	Request for a dwelling entitlement Lot 384 is a 4.5 ha lot that was registered on 20/6/88 as a Crown subdivision and the DP does not have the Shire Clerks signature. Prior to 1988 it was part of a Crown existing holding. It appears that in 1998 the owner of the lot was the Tweed Byron Land Council with the balance of the existing holding being held by the Dept of Education. It is unclear as to whether the re-alignment of lot boundaries (and splitting of the lots) in 1988 constitutes a subdivision for a public purpose. If it does then this suggests that the existing holding (of which this lot is a part) has a dwelling entitlement under clause 15 of LEP 1988. If it does not, then the lot is part of a broken existing holding and has no dwelling entitlement under clause 15. A Section 149 (5) certificate issued in 1998 states that the lot has a dwelling entitlement and a later Section 149(5) certificate (Feb 2006) states that there is no dwelling entitlement. An air photo shows that there is no dwelling on the lot and the balance of the existing holding is either vacant or has the Coorabell school on it. It is proposed to be zoned E3 under Shire-wide LEP and dwellings are a permitted use. A dwelling entitlement is warranted in this case because Council has issued documentation in the form of Section 149 certificate stating that the lot has an entitlement. No dwelling currently exists on the land or any other part of the original existing holding so the entitlement has not been used elsewhere. However the schedule listing should be conditional on access to the lot not being obtained from Coolamon Scenic Drive. Access is available from Mango Lane. It is recommended that Lot 384 DP727453 Coolamon Scenic Drive,

Property Details	Issues & Comments from Staff
Lot 1 DP 722429 & Lots 1& 5 & 6 DP 258921, Grays Lane (Pacific Highway), Tyagarah	Coorabell be included in Schedule 1 for the purpose of a dwelling house conditional on access not being obtained from Coolamon Scenic Drive. Request for a dwelling entitlement Lot 1 is a 7.7 ha lot held in the same ownership as Lots 5 and 6 which are 0.0885 ha and 0.0192 ha respectively. Lots 5 and 6 were registered on 1 August 1979 and are part of a plan of lands to be acquired for the purposes of the Main Roads Act. They were created as part of the Tyagarah highway upgrade and associated road realignments. They are a Crown subdivision and do not have the Shire Clerks signature. Lot 1 was created as the balance of the subdivision that created DP 258921 but for some reason was not registered until 23/10/86. Importantly, the original existing holding for this location included lots 5 and 6 and lot 1 DP 722429 as well as lot 1 DP 258921 which is located immediately to the south of the other lots. It also included some land across the Pacific Highway which is now owned by the Crown. Council records show that in 1986 development consent was granted to a dwelling on Lot 1 DP 722429 (DA 86/0329). However, the paper work for this approval states incorrectly that the subject land is lot 1 DP 285291. The plans attached to the DA clearly show that the house was intended to be built on Lot 1 DP 722429. At this time the existing holding status had been broken and it is unclear as to whether a dwelling entitlement existed. A Section 149 certificate issued in 2003 indicates that a dwelling already exists on the property. A Section 149 certificate issued in 2003 for lot 1 DP 258921 indicates that there is no dwelling entitlement for the property. Council has no record of a dwelling being approved on this lot. None of the lots meet the dwelling entitlement criteria under clause 15 of LEP 1988. Even though the initial subdivision was for a public purpose (apparently) being the Pacific Highway, the existing holding was broken when Lot 1 DP 258921 was separated from the balance of the property. An air photo shows that a dwelling is located on Lot 1 DP 722429 and some buildings are located on Lot 1 DP 258921. The Lots are proposed to be zoned part E2 and part E3 under Shire-wide LEP. It is not necessary to list lots 5 and 6 of DP 258921 and it is not recommended that Council list Lot 1 DP 258921 even though it has been separated from the existing holding for many years. Given Council's involvement in the approval of the dwelling on Lot 1 DP 722429 Grays Lane (Pacific Highway), Tyagarah and the fact that it no longer meets the dwelling requirements under the draft rural dwelling clause in Shire-wide LEP it is recommended that it be listed in schedule 1 for the purpose of a dwelling house to avoid confusion as to its status.
Lot 7 DP 571588, Fraser's Road, Mullumbimby	Request for a dwelling entitlement Lot 7 is a 2.48 ha lot that was registered on 26/8/74 as a natural subdivision and the DP does not have the Shire Clerks signature. Section 149(5) certificates issued to the owners indicated that there was a dwelling already in existence on the lot. Subsequent enquiries by potential purchasers revealed that the lot was a broken existing holding. It does not meet the dwelling entitlement criteria under clause 15 of LEP 1988. An air photo shows that a building is located on the lot and the owners consultant advises that this is the original dwelling on the original lot and was built in the 1950's. It was approved for extensions by Council in 1991 and received a final inspection in 1997. A building certificate for the dwelling was issued by Council in August 2002. Lot 7 is a classic broken existing holding with a dwelling on it that has on balance of probabilities has existing use rights. However, the owner has consistently lobbied for inclusion in the dwelling schedule to LEP 1988 because they insist that cautious buyers are not willing to risk the uncertainty

Property Details	Issues & Comments from Staff
	generated by existing use rights. Lot 7 is proposed to be zoned entirely RU2 under Shire-wide LEP. Council should have considered the status of this lot in 1991 and again in 2002 and at least acknowledged its history before approving extensions and issuing a building certificate. It was a broken existing holding when it was purchased by the current owner and nothing has changed since then except they now have an awareness of what that means. A dwelling entitlement is warranted in this case because it will finally bring the matter to a close and avoid the future conflicts that may ensue if Council does not schedule the lot. It is recommended that Lot 7 DP571588 Fraser's Road, Mullumbimby be included in Schedule 1 for the purpose of a dwelling house.
Lot 1 DP123842, Midginbel Road, Mullumbimby	Request for a dwelling entitlement Lot 1 is a 10.38ha lot that was registered on 29/5/91 as a Crown subdivision and the DP does not have the Shire Clerks signature. It was previously Part lot 1 of DP 171817 and was held in an existing holding with a small adjacent lot. A Section 149(5) certificate was issued on 18/12/02 and states (incorrectly) that a dwelling entitlement accrues to Lot 1. A later Section 149(5) certificate issued on 5/4/05 answers the question accurately and advises that a dwelling is not permitted on the lot. The reason is that it is a broken existing holding and the dwelling entitlement to that holding was taken up by another lot. It does not meet the dwelling entitlement criteria under clause 15 of LEP 1988. An air photo shows that there is no dwelling located on the lot. Lot 1 is proposed to be zoned partly E2 and E3 and partly RU2 under Shire-wide LEP. A dwelling entitlement is warranted in this case because Council has issued a Section 149 certificates in error. It is recommended that Lot 1 DP123842 Midginbel Road, Mullumbimby be included in Schedule 1 for the purpose of a dwelling house.
Lot 125 DP755722, Coopers Lane, Mullumbimby	Request for a dwelling entitlement Lot 125 is an original portion of approximately 47 ha. It does not have a dwelling entitlement under clause 15 of LEP 1988 because it is a broken existing holding. The owners consultant suggest that the existing holding was broken in 1983 when the current owner sold off one of the original portions. There are photos of what appears to be an old wooden house on the lot which may have been built as early as 1912. The consultant states that the house has not been lived in since 1996 and has since collapsed. The absence of use for this time would constitute an abandonment of the use according to the EPA Act. The lot is proposed to be zoned mainly E2 and partly E3 under Shire-wide LEP. Under the proposed rural dwelling provisions it would meet the criteria for a dwelling entitlement because it has greater than 40 ha and is partly in a zone that permits dwellings. As a broken existing holding it has no claim to a dwelling entitlement. It is unlikely that the existing use provisions still prevail for now collapsed house. It is not recommended that the lot be included in Schedule 1 as it will likely get a dwelling entitlement via the new rural dwellings clause.
Pt Lot 16 DP825707, Lawlers Lane, Bangalow	Request for a dwelling entitlement Lot 16 is a 7.574 ha lot that was registered in 1992 as a lawful subdivision of land within Ballina Shire and has the Ballina Shire Clerks signature. It is unusual in that the rear of lot 16 (0.59 ha) is located in Byron Shire and the balance is located in Ballina Shire and has frontage to Broken Head Rd. An air photo shows that a dwelling is located on the Ballina Shire balance of Lot 16. It is proposed to be zoned partly RU1 and partly E2 under Shire-wide LEP. It does not meet the dwelling entitlement criteria under clause 15 of LEP 1988 and would not meet the rural dwelling criteria in Shire-wide LEP. Since a dwelling already exists on the land there is no basis for an additional dwelling entitlement. In any case it is a small land locked piece adjacent to a

Property Details	Issues & Comments from Staff
	creek. The best solution would be to move the Shire boundary such that all of the lot was located in Ballina Shire. It is not recommended that the lot be listed in Schedule 1.
Lot 1 DP 571873, Left Bank Road, Mullumbimby	Request for a dwelling entitlement Lot 1 is a 0.84 ha lot that was registered on 5/9/74 as a natural subdivision and the DP does not have the Shire Clerks signature. It does not meet the dwelling entitlement criteria under clause 15 of LEP 1988. An air photo shows that a dwelling is located on the lot. The neighbour has advised that a dwelling was constructed approximately 35 years ago which is about the time that the lot was created. The plumber inspecting the septic tank suggests it was installed in 1977. Council has advised a solicitor that it has no records relating to buildings on this property. A building assessment report advises that the dwelling is structurally sound and in reasonable condition. It is proposed to be zoned E2 under Shire-wide LEP. A dwelling entitlement is warranted in this case because a structurally sound dwelling has been erected on the site for an extended period of time (pre 1988 when the current LEP commenced). It is unlikely Council would be successful with a demolition order given the time delay since construction. Mullumbimby Creek is less than 30 m away from the dwelling. Although the OSMS is not failing (septic report provided) Council may need to pursue an upgrade of the OSMS to ensure it meets current standards. It is recommended that the Lot 1 DP 571873 Left Bank Rd, Mullumbimby be included in Schedule 1 for the purpose of a dwelling house.
Lot 169 DP 257244, Left Bank Rd, Mullumbimby	Request for a dwelling entitlement Lot 169 is a 0.1751 ha lot that was registered on 1/3/79 as a natural subdivision and the DP does not have the Shire Clerks signature. It is hard up against Mullumbimby Creek on one side and Left Bank Rd on the other. The current owner has supplied a statutory declaration from a neighbour to say that the dwelling was in existence in that location in 1953. Council has no records of its approval. A building certificate was issued in 1988 and again in February 2008. The dwelling is in good condition according to a recent building inspection report and is structurally sound according to an engineers report. Council inspection of the OSMS recommends an upgrade due to the disposal area being within 15 metres of Mullumbimby Creek. This lot does not meet the dwelling entitlement criteria under clause 15 of LEP 1988. It would also not meet the rural dwelling criteria under Shire-wide LEP. It is proposed to be zoned entirely E2 under Shire-wide LEP. A dwelling entitlement is warranted in this case because the dwelling has been located on the lot for approximately 55 years (pre 1988 when the current LEP commenced) and it is unlikely a demolition order would be successful. It is recommended that Lot 169 DP 257244 Left Bank Rd, Mullumbimby be included in Schedule 1 for the purpose of a dwelling house.
Lot 373 DP 729103 and Lot 158 DP 755695, Skinners Shoot Rd, Skinners Shoot	Request for a dwelling entitlement on each Lot Lot 373 is a 2.52 ha lot that was registered as a Crown subdivision on 27/4/89 and does not have the Shire Clerks signature. Lot 158 is an original Portion of 0.52 ha. Lot 373 was originally held as part of an existing holding with Lot 158 DP 755695. Before the subdivision lot 373 was Lot 274 DP 755695. A dwelling was approved on Lot 373 by Council consent 98/2319. According to the air photo the dwelling was constructed. A dwelling was subsequently approved on Lot 158 by Council consent 10.2007.294 (13/8/07) notwithstanding that the lot was a broken existing holding and had no dwelling entitlement. A Section 149(5) certificate issued on 26/6/07 advised that Lot 158 did not have a dwelling entitlement. The lots are proposed to be zoned E2 under Shire-wide LEP, and dwellings are to be prohibited. They are not likely to get a dwelling entitlement under the rural dwelling provisions of Shire-wide LEP because they are a broken

Property Details	Issues & Comments from Staff
	existing holding. Given Council has approved dwellings on both properties it is recommended that Lot 373 DP 729103 and Lot 158 DP 755695, Skinners Shoot Rd, Byron Bay both be listed separately in Schedule 1 for the purpose of a dwelling house.
Lot 1 DP 1022843, Dry Creek Road, Upper Main Arm	Request for a dwelling entitlement Lot 1 is a 0.0956 ha lot that was registered as a Crown subdivision on 16/2/01 and does not have the Shire Clerks signature. It was referred to Council for comment at the time of closing the road, but that does not constitute approval. The lot does not meet the criteria of clause 15 of LEP 1988 and it has no dwelling entitlement. It has a dwelling on it that was allegedly built in 1953. There are no Council records of any approvals. The house was originally part of a banana plantation on a Crown PO. The lot is proposed to be zoned E2 under Shire-wide LEP, and dwellings are to be prohibited. It is not likely to get a dwelling entitlement under the rural dwelling provisions of Shire-wide LEP because of the unusual way in which the dwelling came to be on a discrete lot. A dwelling entitlement is warranted in this case because the dwelling has been located on the lot for approximately 55 years (certainly pre 1988 when the current LEP commenced) and it is unlikely a demolition order would be successful. It is recommended that Lot 1 DP 1022843 Dry Creek Road, Upper Main Arm be included in Schedule 1 for the purpose of a dwelling house.
Lot 8 DP 571588, Frasers Road, Mullumbimby	Request for a dwelling entitlement Lot 8 is a 4.55 ha lot that was registered on 26/8/74 as a natural subdivision and the DP does not have the Shire Clerks signature. Enquiries by potential purchasers of the adjacent Lot 7 revealed that both lots were part of a broken existing holding. Lot 8 does not meet the dwelling entitlement criteria under clause 15 of LEP 1988. An air photo shows that a building is located on the lot and the owner advises that this is a dwelling that has existed on the lot since 1976. A building application was approved in 1976 and extensions were approved by Council in 1979. Lot 8 is a classic broken existing holding with a dwelling on it that has on balance of probabilities existing use rights. However, the owner has consistently lobbied for inclusion in the dwelling schedule to LEP 1988 because they insist that cautious buyers are not willing to risk the uncertainty generated by existing use rights. Lot 8 is proposed to be zoned mostly RU2 under Shire-wide LEP. Council should have considered the status of this lot in 1976 and again in 1979 and at least acknowledged its history before approving extensions and issuing a building certificate. It was a broken existing holding when it was purchased by the current owner and nothing has changed since then except they now have an awareness of what that means. A dwelling entitlement is warranted in this case because it will finally bring the matter to a close and avoid the future conflicts that may ensue if Council does not schedule the lot. It is recommended that Lot 8 DP571588 Frasers Road, Mullumbimby be included in Schedule 1 for the purpose of a dwelling house.
Lot 1 DP 123289, Charltons Rd, Federal	Request for a dwelling entitlement Lot 1 is a 20.37 ha lot that was registered as part of a Crown subdivision on 24/8/89 and does not have the Shire Clerks signature. A Section 149 (5) certificate issued in 2003 (ref 30727) advised that the lot has no dwelling entitlement because it is part of an existing holding. That existing holding was broken some time before that. Council records show that a consent for a dwelling was approved on 9 August 1993 (DA 93/259). A building permit was issued (93/2472) On 31 August 1993. A solicitor's letter in 2003 advised that the dwelling was commenced but not completed at that time.

Property Details	Issues & Comments from Staff
	Lot 1 is proposed to be zoned mostly E3 and partly E2 under Shire-wide LEP. It would not meet the requirement for a rural dwelling entitlement proposed in Shire-wide LEP. Council should have considered the status of this lot in 1993 as it would appear that it was a broken existing holding at this time. A dwelling entitlement is warranted in this case because Council has probably issued a dwelling approval incorrectly and the dwelling likely exists on the property in some form, albeit incomplete. It is recommended that Lot 1 DP 123289 Charltons Rd, Federal be included in Schedule 1 for the purpose of a dwelling house.
Lot 5 DP 580915, Coral Avenue, Mullumbimby	Request for a dwelling entitlement Lot 5 is a 0.85 ha lot that was registered on 24/5/72 as a natural subdivision and the DP does not have the Shire Clerks signature. A proposed sale allegedly fell through in 2004 because of concern over whether the property has a dwelling entitlement. The lot is a broken existing holding. It does not meet the dwelling entitlement criteria under clause 15 of LEP 1988. An air photo shows that a building is located on the lot and a survey in 1978 shows a dwelling located on the lot. Council records show that a building application for a dwelling was approved in that location on 20/3/75. It was allegedly extended without Council approval in 1997. Lot 5 is a classic broken existing holding with a dwelling on it that has on the balance of probabilities existing use rights. However, it was probably a broken existing holding when the Council approval was issued and it may have been issued in error. Lot 5 is proposed to be zoned mainly RU1 with some RU2 and E2 (near the Brunswick River) under Shire-wide LEP. A dwelling entitlement is warranted in this case because Council has probably issued a dwelling approval incorrectly and the dwelling exists on the property. It will finally bring the matter to a close. It is recommended that Lot 5 DP 580915 Coral Avenue, Mullumbimby be included in Schedule 1 for the purpose of a dwelling house.
Lot 267 DP755687 Upper Main Arm, west of the Upper Main Arm School	Request for a dwelling entitlement Lot 267 is an original Portion of 78 ha located at the far north western corner of Byron Shire. It is very steep, heavily vegetated, has no formed legal access (only an unformed Crown Road), is within a wildlife corridor, contains HCV vegetation and is largely bushfire affected. As at the appointed day it was part of an existing holding with lots to the south and east. As a broken existing holding there is no dwelling entitlement for lot 267. A Section 149 (5) certificate was issued (correctly) in October 2006 stating that a dwelling already existed on the lot. The applicant had advised that a dwelling did exist. Council has no record of approval of any dwelling on this lot and the applicant has not provided any evidence to suggest that if a structure is there, it is an approved dwelling. The land is proposed to be zoned entirely E2 under Shire-wide LEP and dwellings are proposed to be prohibited in this zone. A local provision that provides an interim period for dwellings on land completely zoned E2 will not apply because a dwelling was not lawfully permitted on this lot under LEP 1988. This lot will simply remain as a broken existing holding (albeit a very large one). There are no extenuating circumstances about this lot and no dwelling entitlement is warranted. It is not recommended that the lot be included in Schedule 1.
Lot 1 DP 195255, Mullumbimby Road, Mullumbimby	Request for a dwelling entitlement Lot 1 is a 1.3 ha lot registered on 15/4/91 as a Crown subdivision without the Shire Clerks signature. It is currently held as part of a large multi lot parcel of adjacent farmland. It has no dwelling on it and would not meet the criteria for a dwelling entitlement under clause 15 of LEP 1988. It is a land locked lot that fronts the rail line and has a creek running through it. It is part prime

Property Details	Issues & Comments from Staff
	agricultural land, part flood prone, contains some HCV vegetation and contains class 4 ASS. It is recommended that it be zoned part E2 to reflect the small area of HCV vegetation, part E3 as a buffer to the Cape Byron Marine Park and the balance RU1. There are no extenuating circumstances about this lot and no dwelling entitlement is warranted. It is not recommended that the lot be included in Schedule 1.
Lot 15 DP 755695, Corrabell Road, Coorabell	Request for a dwelling entitlement Lot 15 is an original Portion of 40.3 ha. It is currently used for macadamia nut production and has a lawfully erected shed located on it. As at the appointed day it was part of a two lot existing holding with Lot 30 DP755712. The dwelling entitlement accruing to the existing holding has been used on Lot 30. So there is no dwelling entitlement for lot 15. Section 149 (5) certificates have been issued (correctly) to this effect. The land is proposed to be zoned mainly RU1 under Shire-wide LEP. The draft rural dwellings clause allows for a dwelling on any lot in this zone with an area not less than the minimum lot size shown on the Lot Size map for the location. If 40 ha is adopted as the minimum lot size then Lot 15 will have a dwelling entitlement via this clause. If more than 40 ha is required then no dwelling entitlement will accrue to this lot and it will simply remain as a broken existing holding (albeit a very large one). It is not recommended that the lot be included in Schedule 1 as it will likely get a dwelling entitlement via the new rural dwellings clause.
Lot 230 DP 755730 Main Arm Road, Upper Main Arm	Request for a dwelling entitlement Lot 230 is approximately 5.86 ha and was an original portion. A search of Council records and through the Dept of Lands failed to identify if the allotment was part of an original existing holding in 1968 or a holding in it s own right. On the 9/9/74 a plan of subdivision was registered with the Lands Title Office for the subdivision of an original portion 227 to create two lots – Lots 1 and 2 DP 571376. The plan is not accompanied with a Council clerks signature however Lot 230 is the same size and configuration as Lot 1. Further searches of Councils records revealed a Building Application was approved on the subject property (Lot 1 DP 571376) on 3/9/75 for a dwelling house. It is understood the dwelling has been constructed generally in accordance with these plans. On the 1/3/77, it appears that DP 571376 reverted back to the Portions Plan and Lot 1 reverted back to Portion 230 and Lot 2 to Portion 227. Portion 227 has since been further subdivided into three parcels and the DP is listed in Schedule 7 of Byron LEP 1988. After exhaustive searches, the exact ownership of Lot 230 and surrounds in inconclusive. Therefore, as there is uncertainty and a dwelling appears to have been approved by Council, to ensure that the allotment has a dwelling entitlement into the future it is recommended that Lot 230 DP 755730 main Arm Road, Upper Main Arm be included in Schedule 1 for the purpose of a dwelling house.

Table 4: Unzoned Lands Assessment and Recommendations

Property Details	Issues & Comments from Staff
Lot 235 DP 755687, Casuarina Street, Mullumbimby	Unzoned land. The 2.75 ha subject site is entirely unzoned under Byron LEP 1988. It has a house located on it. The site has boundaries to 1(a), 6(a) and 1(b1) zoned land, is in close proximity to the Mullumbimby sewage treatment plant and the Brunswick river. Due to the extent of vegetation, flooding characteristics, proximity to the STP and proximity to the Marine Park it is recommended that the lot be zoned E2 Environmental Conservation to cover the riparian vegetation and the balance to be E3 Environmental Management to reflect the Marine Park buffer.
Lot 138 DP 755730, Middle Ridge Road, Upper Main Arm	Partly unzoned land and partly 1(f) Forestry. This 95 ha lot has been transferred to the NPWS estate. It is now part of Mt Jerusalem National Park. It should be entirely zoned E1 National Parks and Nature Reserves.
Lots 205 and 206 DP1088790, Midgen Flat Road, Newrybar (Note: Lot 336 DP 755695 is the historical description of the site)	Unzoned land. The subject site previously straddled the local government boundary between Ballina and Byron Shire Council areas. Lot 205 is 3.5 ha and is mostly unzoned with a small area being zoned 1(a) hatched under Byron LEP 1988. Lot 206 is 55.5 ha and is mostly zoned 1(a) hatched, 1(a) and 1(b)1 under Byron LEP 1988 with only a small sliver remaining unzoned. Advice from the Department of Local Government (13/2/03) indicates that in 1977, the boundary was redescribed by the Land and Property Information NSW, which brought the subject site wholly within the Byron LGA. It is recommended that under the Shire-wide LEP the RU2 Rural Landscape Zone be applied to the entire unzoned parts of both lots. It is noted that the current LGA boundary has already been adjusted to include the entire area of both these allotments in the Byron LGA.
Land with no property description within the Shara Boulevard road reserve, North Ocean Shores, just west of Bass Close.	Unzoned road reserve. There is approximately 0.15 ha of unzoned land within the Shara Boulevard road reserve in North Ocean Shores. The site adjoins the 7(k) zone to the south and 2(a) zone to the north under Byron LEP 1988. The site should be zoned similar to the adjoining land within the road reserve. It can't be the same as the majority of the adjoining land which is mostly E1 National Parks and Nature Reserves. It is recommended that it be zoned E2 Environmental Conservation under the Shire-wide LEP.

Table 5: Land Owner Requests Assessment and Recommendations

Property Details	Issues & Comments from Staff
Lot 100 DP 1070724 35 Bayside Way, Brunswick Heads	Rezoning of land requested from 1(a) to 2(a) The rezoning of the existing 1(a) portion of the site to residential development is not supported at this stage as the site is not identified under the Brunswick Heads Settlement Strategy for further residential expansion. The Brunswick Heads Sewerage Treatment Plant has not yet been decommissioned and therefore the subject site is still subject to the 400m buffer requirements. It is recommended that under the Shire-wide LEP, an appropriate rural zoning (RU2 Rural Landscape) be applied to the existing 1(a) General Rural Zone, an appropriate environmental zoning (E2 Environmental Conservation) be applied to the existing 7(b) Coastal Habitat zone and the R2 Low Density Residential zone be applied to the current 2(a) Residential portion of the site.
Extension of business zone – Lot 1 DP 508514, 34 Fingal Street, Brunswick Heads	Request to extend 3(a) zone to include 34 Fingal Street The potential expansion of the Brunswick Heads commercial zone is examined and discussed in more detail in Section 7.6.2 <i>Brunswick Heads (a) Brunswick Heads Commercial Area</i> of the LES. It is not recommended that this lot be included in the B2 zone.
Lot 1 DP 523341, Bangalow Road, Clunes	Request village zoning for this property as an expansion of Clunes The subject site is currently zoned 1(a) General Rural zone under Byron LEP 1988 and adjoins the Lismore/Byron LGA boundary and the village of Clunes. The rural site is approx 4 ha in size and is mostly cleared. The applicant has approached Lismore Council seeking the rezoning of the site for village expansion and a response back to the applicant (see #685030) indicates that under Chapter 8 of Lismore DCP No.1, the land to the east of the village is too steep for any substantial residential development. Further there is currently existing 2(v) Village zone which is vacant and yet to be subdivided. This land is required to be utilised prior to any 1(d) Investigation lands being assessed for further subdivision. Lismore City advises that it has 16 ha of 2(v) and 24 ha of 1(d) un-subdivided within or adjacent to the village area of Clunes. Lismore Council at this stage sees no immediate need to expand the village of Clunes into Byron Shire, however this situation may be reviewed in the future when an effluent disposal system has been implemented for the village. It is recommended that an RU2 zone is most appropriate for this site.
Main Arm Road, Main Arm Lot 1 DP 1079219	Request for zoning for CT development – Shire-wide LEP and Review of BRSS The subject site is identified in the current BRSS and will be considered under the BRSS review currently being undertaken. Council has resolved not to include any new rural residential areas in the new Shire-wide LEP. Under the new Shire-wide LEP the land will be zoned according to prevailing physical characteristics. It will be zoned mainly RU2 and RU1 with vegetated areas and riparian areas in E2/E3.
Tallow Sands, 2 Alcorn Street, Suffolk Park Lot 10 DP 270196	Rezoning of land requested from 7(f1) & 7(a) to 7(f2) This site contains a cabin based tourist facility which is located mainly within the 7(f1) zone, but partly within the 7(a) zone. The site is heavily vegetated, has a SEPP 14 wetland on its western edge, contains HCV vegetation, is entirely within a wildlife corridor, is affected by bushfire, ASS and is flood prone on its western edge. The lot is substantially affected by the 100 year coastal impact zone shown in Part J of DCP 2002. It is recommended that the entire lot be zoned E2 to reflect both the ecological value of the vegetation on it and the hazards and constraints that affect the land. W1 may be considered for the Tallows Creek portion of the property.

Property Details	Issues & Comments from Staff
Lot 1 DP 585465. Polo-cross Field Bangalow (located adjacent to showground)	Rezone to Open Space to support regular use by the Bangalow Rugby Club Submission identifies lack of sporting fields in Bangalow as a concern. Suggests utilising 'Polo Cross Field' for sporting fields. This land is Crown land and currently zoned 6(a) Open Space. Recommend that this site be zoned RE1 Public Recreation Zone under Shire-wide LEP.
Lot 7 DP1125308, Bangalow Rd, Hayters Hill	Adjustment of 7(J) zoning to reflect actual location of rainforest The subject land contains some areas of HCV vegetation surrounded by mostly cleared land. A wildlife corridor runs through the northern edge of the lot. The HCV vegetation areas should be zoned E2 and the land in the wildlife corridor zoned E3. The balance of the lot is recommended for a RU2 zone.
Lot 2 DP 850245 Cemetery Road, Byron Bay	Land zoned 1(a) and 2(a). Rezone to 2(a) to enable additional urban development The subject site contains a single dwelling house and dense native vegetation. The current zone boundary is placed across the lot without regard to the vegetation or the location of the dwelling. The lot contains HCV vegetation and is partly within a wildlife corridor. Council's ecologist suggests that existing vegetation on Lot 2 warrants environmental protection, excluding the area of the existing dwelling, bush fire hazard areas and established gardens. It is recommended that the residential zone boundary be shifted to include the existing dwelling. It is recommended that the HCV vegetation be zoned E2 and the area of the existing dwelling and its cleared curtilage be zoned E4 consistent with the residential lands to the east.
Lot 49 Section 4 DP 2772, 110 Stuart Street, Mullumbimby	Land zoned 2(a) & abuts the commercial zoned land – request for land to be zoned commercial No expansion of the Mullumbimby commercial area is supported at present. Council holds no current retail or commercial strategy to support additional commercial floor space in this area. The subject site is part of an area in Mullumbimby which has heritage significance and retention of the residential zone is more likely to assist in retaining the existing streetscape. It should be noted that home businesses are a permitted use within residential areas, should the owner of the property wish to pursue some degree of commercial use on the site.
Lot 4 DP 805403, Bougainvillea Drive, Federal	Land zoned 1(c1) – request ability to subdivide. Does not conform with the parameters of the current BRSS Review and not supported by any Settlement Strategy. Therefore not supported for consideration in Shire-wide LEP. Should the applicant wish to pursue this, submissions can be made during the exhibitions of the Shire-wide LEP and the BRSS Review. Further subdivision potential of this area can be determined via a planning enquiry with Council.
Lot 15 DP 603097, Brooklet Road, Newrybar	Land located partially within Ballina and Byron Shires. Land within Byron Shire zoned 1(b)2 under LEP 1988 – Request to subdivide with 10 rural residential lots in Ballina Shire and 1 residue lot in Byron Shire with access from Ballina Shire The proposal is to subdivide a 41 ha lot to create 10 small rural residential lots and a 29.6 ha residue. Proposed additional rural subdivision less than the current LEP minimum lot size is not supported by the BRSS. This area is not identified in the BRSS for further investigation for closer rural settlement and is not being considered in the current BRSS review. The lot is prime agricultural land and is recommended for inclusion in the RU1 zone except for the riparian corridor which is recommended for inclusion in the E2/E3 zone. Further subdivision of the lot will only be considered in accordance with the proposed rural subdivision controls in the new Shire-wide LEP.

Property Details	Issues & Comments from Staff
Lot 184 DP 755695 Butler Street, Byron Bay	Currently zoned 2(a) and used as a caravan park – request for zoning for medium density development Submission provided to draft LEP for the Byron Bay Area. Further investigation is required on the history of removal of vegetation on the boundary of Lot 184. This land is still in SEPP 14 as is the surrounding vegetated land on adjacent properties. There is debate about when vegetation was cleared and whether consent was obtained. This site is unusual in that it is the only caravan park /mobile home park in Byron Shire that is currently zoned mostly Residential 2(a) under LEP 1988. Other caravan parks are recommended for inclusion in the SP3 Tourist or RE1 Public Recreation zones, but this would not be consistent with its current use partly as a mobile home park for permanent residents. It is recommended that the site be zoned mostly R2 which is similar to its existing zone (as it permits multi dwelling housing) and part E2 over areas currently zoned for environment protection and the SEPP 14 areas. If the owner objects to the E2 zone then detailed information will need to be supplied on the history of any clearing and filling activity on the land, information on any consent/s for clearing undertaken after 1985 as well as information to satisfy Council in relation to SEPP 55 – Remediation of Land. Even with this information, there is no guarantee that Council will alter the zoning of the land.
Lot 235 DP 755695, Ewingsdale Road, Byron Bay	Land currently zoned part 7(a) and part 2(a) – request to have land zoned to permit a car yard or a retail plant nursery Submission provided to draft LEP for the Byron Bay Area. The site contains HCV vegetation and is affected mostly by SEPP 14. The current zone boundaries reflect the extent of vegetation on the site. The commercial uses requested by the applicant are unlikely to enhance the entrance site to Byron Bay residential areas and are not supported. It is recommended that under the Shire-wide LEP, E2 Environmental Conservation zone be applied to the land currently zoned 7(a) and the R2 Low Density zone to the land currently zoned 2(a) Residential.
Part lot 36 DP 270338, Sallywattle Drive Suffolk Park, triangular parcel of land truncated by creek from residential land. Also known as Lot 42 in proposed subdivision of Part Lot 22 DP 270338.	Currently zoned 2(a), but relates more to the Callitris pine areas on the eastern side of Tallows Creek, therefore was suggested for an environmental management zone in the draft LEP for the Byron Bay - request assurance of residential zoning Subject land is a lot of about 4000 sq m created by DA 10.2003.563.1 (see #477364). Site is currently zoned 2(a) Residential under LEP 1988. The Draft LEP for the Byron Bay Area recommended an Environmental Management (Habitat) zone for the site. Council's ecologist has assessed the site and suggests that the zone boundary be amended to comply with the approval for development consent and the revised vegetation mapping. Council's ecologist suggests that any vegetation outside the approved development consent warrants an increased level of protection. The owner advised (see #591356) that they had an agreed building envelope on the site and that a Vegetation Management Plan (including a Planting Plan) identifies those parts of the site that contain vegetation worthy of protection. It is recommended that the subject land be partly zoned E2 Environmental Conservation over that area within the fenced riparian corridor adjacent to Tallow Creek and the Cypress grove in the north eastern corner of the lot, as shown on the Planting Plan marked GEC1 attached to Doc # 591356. The balance of the lot is recommended to be zoned R2 Low Density Residential. These zones reflect the importance of maintaining the vegetation on parts of the lot while still allowing its residential use.
Lot 7 DP 258176 211 Balraith Lane, Ewingsdale	House and property has potential to be an Item of Environmental Heritage This site has been considered by Council's heritage advisor and is not recommended in Council's draft Community-Based Heritage Study to be listed as an item of environmental heritage, therefore it is not recommended to list the site as a heritage item in the Shire-wide LEP.

Property Details	Issues & Comments from Staff
Lot 2 DP 556714 55 Granuaille Road, Bangalow	Request to zone to 2(a) Residential The subject land is one of 10 small lots fronting Granuaille Road on the outskirts of Bangalow. Not all the lots appear to be connected to reticulated sewerage. Most of the lots have dwellings on them. Some of the land is quite steep. There is also a residue lot that backs onto most of the lots and connects north to Rankin Drive. This area encompasses the BSC Water Reservoir north of the subject land. The subject site is not identified in the Bangalow Settlement Strategy for further land release but is immediately adjacent to Area 1 that is identified in the Strategy. Its likely that it was not addressed specifically in the Strategy because the lots are already small, mostly contain dwellings and therefore cannot contribute much to the provision of future residential land. The issue is more whether or not the lots should be included in the residential zone in recognition of the predominant lot size, their use and their proximity to the village of Bangalow. There is no information on past land use for these lots that may indicate whether the land is contaminated. The adjacent Area 1 has been reviewed and no past land uses can be established that would suggest that it is contaminated. SEPP 55 -Remediation of Land is an issue that needs to be addressed in changing from a rural zone to a residential zone, even though there are already houses on most of the lots. It is recommended that this land be considered in conjunction with Area 1 in order to rationalise this edge of the Bangalow urban area. Without satisfactory information and due to the steep nature of the site, it is not recommended that the zoning be changed to residential in this area. Area 1 is not being considered for residential due to visual and slope issues. The area is proposed to be zoned RU1, the same as the adjoining land.
Lot 196 DP 755695 169 Skinners Shoot Road, Byron Bay	Currently zoned part 7(a), 7(b), 7(d) and 1(a) – Request that the property be rezoned to simplify the number of zones applying to the site The site contains significant areas of HCV vegetation and is entirely within a wildlife corridor. The Shire-wide LEP will be a lot simpler in its environment protection zones as prescribed by the template LEP. It is recommended that the HCV vegetation on the site be zoned E2 and the balance including an areas around the dwelling be zoned E3 to reflect its inclusion in a wildlife corridor.
Lot 12 DP 578826 1862 Coolamon Scenic Drive, Mullumbimby	Rezone land from 1(a) to 2(a) Lot 12 is a 12.8 ha lot that is entirely zoned 1(a) General Rural zone under LEP 1988. it contains a small area of HCV vegetation that is along the Brunswick river frontage. A change of zone to residential was considered by the current Mullumbimby Settlement Strategy (Area 3) but was discounted because it was too steep and was affected by the Mullumbimby STP buffer. The Mullumbimby STP is likely to close in 2010, although a large pond for storage of recycled water will be retained. When the Mullumbimby Settlement Strategy is reviewed and the STP is closed it is worth revisiting this site to see if there are parts of it that in conjunction with neighbouring lands may yield an area suitable for residential development. The applicant would need to supply supporting information on land contamination, geotechnical issues, hazards or environmental issues, that could be used by Council to make an informed decision. It is recommended that the HCV vegetation on the land be zoned E2 and any buffers to the river be zoned E2/E3. The balance of the land should be zoned predominantly RU2 Rural Landscape under the Shire-wide LEP.

Property Details	Issues & Comments from Staff
Lot 3 DP 540706 26 Mill Street, Mullumbimby	Rezone portion of land from 1(a) hatched to 2(a) Subject site contains two zones, part 4(a) Industrial and part 1(a) General Rural zone (cross hatched). The site contains a building that is identified under Council's draft Community-Based Heritage Study to be listed as a heritage item and is also located within a proposed heritage conservation area. The site is also entirely flood affected. It is also substantially within the 100m buffer area to the Cape Byron Marine Park. The Section 117 Direction No. 4.3 – Flood Prone Land prohibits Councils from rezoning rural flood prone land to residential unless it is consistent with a floodplain risk management plan prepared in accordance with the Floodplain Development Manual 2005. No floodplain risk management plan has been prepared for Mullumbimby to date. There is also no preliminary land contamination report to support a rezoning of this site (pursuant to SEPP 55). Further investigation is required for this site and may be considered in future amendments to the Shire-wide LEP, once a floodplain management plan has been completed for Mullumbimby and land contamination information is available. If the long term viability of the adjacent industrial area is to be maintained then residential use of this land may not be appropriate given the potential for conflict. It is recommended that the existing industrial zoned land be zoned IN2 Light Industry, the riparian vegetation area be zoned E2 and the balance of the lot be zoned E3 in recognition of its location in the marine park buffer.
Dudgeons Lane, Bangalow	Request for additional rural residential subdivision in close proximity to Bangalow The proposed concept for additional rural residential lands in close proximity to Bangalow does not form part of the current Byron Rural Settlement Strategy (BRSS) and is not within the parameters of the BRSS Review. Council has not resolved to include additional rural residential areas in the Shire-wide LEP. If Council wishes to pursue additional rural residential areas then the North Coast REP requires that these areas be identified in a rural strategy. It is recommended that no further action be taken on this request at this stage.
Lot 2 DP 804515 & Lot 2 DP 206360 Broken Head Road, Suffolk Park	Request to rezone to allow Seniors Living SEPP development The subject sites are currently zoned 2(a) Residential cross hatched under Byron LEP 1988. Both contain a dwelling. Under the Draft Byron Bay Area LEP, the subject sites were identified within the Cypress Pine Protection Area, due to the extensive vegetation. The sites contain HCV vegetation, are in a wildlife corridor, are bushfire prone (veg category 2) and are partly flood prone. Under the Shire-wide LEP, the subject sites are recommended to be zoned E4 Environmental Living, as they are environmentally sensitive. Seniors Living applications are unable to be undertaken in the E4 zone, as this zone is classified as 'environmentally sensitive' land identified as environmental protection under Schedule 1 of the SEPP. Given the extensive site constraints the limitations to seniors living development is appropriate.
Lot 13 DP 623877 13 Blackbean Lane, Federal	Request to rezone rural land to enable rural residential subdivision The subject site is a 3.4 ha lot currently zoned 1(b2) Agricultural Protection under BLEP 1988. It is partly state significant farmland and partly prime agricultural land. The subject site is not identified in the Byron Rural Settlement Strategy (BRSS) for further land release or subdivision and is not within the parameters of the BRSS Review. Council has not resolved to include additional rural residential areas in the Shire-wide LEP. If Council wishes to pursue additional rural residential areas then the North Coast REP requires that these areas be identified in a rural strategy. It is recommended that no further action be taken on this request at this stage.

Property Details	Issues & Comments from Staff
Lot 7 DP 776025, 9 Mountain Blue Court, Myocum	Request to rezone rural land to enable further subdivision, request to rezone from 1(c1) to 1(c2) The subject site is a 2.7 ha lot currently zoned 1(c1) under BLEP 1988. It is part of a larger area of fully developed rural residential land. The subject site is not identified in the Byron Rural Settlement Strategy (BRSS) for further land release or subdivision and is not within the parameters of the BRSS Review. Council has not resolved to increase the density of rural residential areas in the Shire-wide LEP and previous community consultation has indicated a preference for retaining the existing density and average lot size system for rural residential areas. If Council is not permitted by the State to retain its average lot size controls then this issue may be revisited. It is recommended that no further action be taken on this request at this stage.
Lot 2 DP 738270, Lot 2 Coolamon Scenic Drive, Myocum	Request a zoning to R5 Large Lot Residential Zone or RU4 Rural Small Holdings Zone The subject site is a 4 ha lot currently zoned 1(b1) under BLEP 1988. It is entirely prime agricultural land. The subject site is not identified in the Byron Rural Settlement Strategy (BRSS) for further land release or subdivision and is not within the parameters of the BRSS Review. Council has not resolved to include additional rural residential areas in the Shire-wide LEP. If Council wishes to pursue additional rural residential areas then the North Coast REP requires that these areas be identified in a rural strategy. It is recommended that no further action be taken on this request at this stage. It is recommended that the site be zoned RU1 Primary Production Zone under Shire-wide LEP.
Lot 62 DP 856020, Argyle St, Queen St & Manns Road, Mullumbimby	Request to rezone for Affordable Housing / Seniors Living / Open Space and Environmental Restoration The subject site is a 45 ha lot currently zoned part 1(b1), part 1(a) and a small portion of 2(a) under BLEP 1988. It is located on the eastern entrance to Mullumbimby and is mostly used for sugar cane production. The subject site is flood prone land, contains some riparian HCV vegetation and is substantially prime agricultural land. It has frontage to the Cape Byron Marine Park. It is not identified in the Mullumbimby Settlement Strategy for residential expansion. Council is unable to consider the land for residential purposes unless it is identified in the Mullumbimby Settlement Strategy and this cannot happen until the flooding issue has been further investigated. The prime agricultural land designation is also a restriction to any urban use. It is recommended that no further action be taken on this request at this stage. It is recommended that the HCV vegetation on the site be zoned E2, the riparian buffer be zoned E2/E3 and the balance be zoned RU1 Primary Production Zone under Shire-wide LEP.
Lot 1 DP 336571, 37 Fingal Street, Brunswick Heads	Surrounded by commercial uses – Request to rezone land to 3(a) The potential expansion of the Brunswick Heads commercial zone is examined in more detail in Section 7.6.2 <i>Brunswick Heads (a) Brunswick Heads Commercial Area</i> of this LES. It is not recommended that this lot be included in the B2 zone.
Lots 354, 355 and 357 DP 755687, New Brighton Road, New Brighton	Request to rezone the subject site from 7(b) Coastal Habitat to 2(a) Residential, supported by flora and fauna assessment report Council inspected this site as part of the biodiversity conservation strategy field work. The ecologist recommended maintaining the 7(b) Coastal Habitat zone over the site and did not recommend a residential zone, due to the multitude of constraints affecting the site, such as HCV vegetation, wildlife corridor, ASS, flooding and bushfire constraints. It is recommended that an E2 Environmental Conservation zone be applied under Shire-wide LEP.

Property Details	Issues & Comments from Staff
Lot 14 DP 826312 7 Orana Road Ocean Shores. And Lot 1 DP 788083, Balemo Drive, Ocean Shores	Request to rezone all land to 2(a) Both lots acquired surplus land from the adjacent Ocean Shores Golf Club in 1990 (approximately). This extends the backyard of Lot 14 (now 1471sq m) and the side yard of Lot 1 (now 2241 sq m). The land in lot 1 is now used for a pool and storage shed as part of the motel that they operate on it. The owners of lot 14 intend to use their backyard for a pool also. Although there is no SEPP 55 information for these lots the extension of the residential zone makes sense as it is the prevailing zone of the balance of the lots and the land is no longer part of the golf course. It is recommended that all of both lots be zoned R2 Low Density Residential.
EarthSeed Gardens Lots 4, 6, 7 & 8 DP 8385 Yagers Lane, Skinners Shoot	Rezoning of land to facilitate additional employment lands within the Shire. Proposal for botanical gardens, nursery and organic garden centre, community cultural facilities including creative art studio, workshops, visitor accommodation, conference facilities and work studios, tea house and day spa and exhibition and meeting space The subject site currently contains approval for a plant nursery (11/2/06). The site was previously used as a large piggery. See site history on DA 10.2005.315.1 (#531474). The proposal to allow for a wide range of commercial and community uses would require a comprehensive rezoning report. Further investigations and studies are required to justify any change in zoning for this site. These would need to include a SEPP 55 contaminated lands analysis, geotechnical analysis, on site waste management, traffic study, visual impact analysis and ecological study. Even with this information, there is no guarantee that Council will consider a change in zoning. Recommend that the HCV vegetation on the subject land be zoned E2 and the balance be zoned RU2 consistent with its prevailing rural use.
Richmond River Cane Growers' Association	Protection of Agricultural Land and the 40 Hectare Minimum Subdivision Limit Submission from NSW Sugar Milling Cooperative Limited suggests that the minimum 40ha subdivision requirement for rural lands should be increased to 100ha. Richmond River Cane Growers Association Ltd disagrees with this position, suggesting that 40ha minimum subdivision requirement for rural lands is adequate and supports this provision. It is recommended that Council maintain the 40ha minimum subdivision standard in accordance with the requirements set out in Byron LEP 1988 and Council's resolution to transfer the requirements of the Byron LEP 1988 into the Standard LEP instrument.
Lot 2 DP 1126204 and Lot 7 DP 573269, Buckleys Lane Tyagarah	Request for land to be zoned to permit Community Title development The subject land contains approval for a rural tourist facility comprising 16 tourist cabins, a refreshment room (including a pool) and a boundary adjustment, approved on 13/10/98 under DA 5.1996.132.1 (see site history #707387). The subject site which is approximately 88 ha is currently zoned part 7(a), 7(b) and 1(a) under Byron LEP 1988. The proposal requests that the site be zoned to allow for 58 dwellings within a community title subdivision. The site is not identified under the current Byron Rural Settlement Strategy (BRSS) and does not conform with the parameters of the current BRSS Review. The proposal is also not supported by any of Council's urban settlement strategies. Council has not resolved to include additional rural residential areas in the Shire-wide LEP. Nor has Council resolved to establish a new urban area in this location. If Council wishes to pursue additional rural residential or residential areas then the North Coast REP requires that these areas be identified in a rural or urban strategy. It is recommended that no further action be taken on this request at this stage. Property will be zoned RU1, RU2, E2 or E3, dependent on the constraints or characteristics of the site.

Property Details	Issues & Comments from Staff
Lot 2 DP 123243 Coolamon Scenic Drive Mullumbimby	Request for land to be zoned to permit Community Title development The subject site is a 40 ha lot currently zoned part 1(a) and part 1(a) hatched under BLEP 1988. It is partly HCV vegetation, partly affected by ASS, affected by a dip site and less than 1km from a quarry. It also is currently used for Macadamia nut production. The subject site is not identified in the Byron Rural Settlement Strategy (BRSS) for further land release or subdivision and is not within the parameters of the BRSS Review. Council has not resolved to include additional rural residential areas in the Shire-wide LEP. If Council wishes to pursue additional rural residential areas then the North Coast REP requires that these areas be identified in a rural strategy. It is recommended that no further action be taken on this request at this stage. It is recommended that the HCV vegetation areas be zoned E2 and the balance of the site be zoned RU2 under Shire-wide LEP.
Lot 21 DP 1013623 6 Hoop Pine Lane, Suffolk Park Relevant to Lots 19 to 24 DP 1013623, Hoop Pine Lane.	Request for residential lots to be fully zoned 2(a) When the 7(k) zone was applied to this part of Suffolk Park it was not mapped accurately. A flexible boundary clause was used to allow development of residential lots affected by the zone. Now that Council has more accurate HCV vegetation mapping this zoning anomaly should be corrected. There is no SEPP 55 analysis of these lots, but as they are currently already used for residential purposes it is the zone that is being amended not the use. It is recommended that the R2 Low Density Residential Zone be applied to Lots 19 to 24 in the Shire-wide LEP to reflect their residential use and the absence of HCV vegetation. Refer also to Section 7.6.14 <i>Environmental Zone Boundary Anomalies</i> of the LES.
Lot 7 DP 626084, 204 Lismore Road, Bangalow	Request for land to be zoned for industrial land in the Bangalow Industrial Estate Lot 7 is a 4.6 ha triangular shaped lot with a long frontage to Bangalow Road. It is currently zoned 1(b1) under BLEP 1988. It contains a dwelling which is accessed from Bangalow Road. It is partly prime agricultural land and immediately abuts the existing industrial area which is substantially built out. Council does not have an industrial strategy and there is no current information on the supply and demand for additional industrial land. The site is not mentioned in the Bangalow Settlement Strategy 2003. Access to this site is an issue and if it cannot be obtained through the existing industrial area then it will place another busy intersection on Bangalow Road. No formal provision for access through the existing industrial area has been made although a recent submission suggests that it may be possible. Given its awkward shape the yield from the site is not known. There has also been no evaluation of other sites in the vicinity or elsewhere to establish if there is a better location for industrial land. Council has not resolved to include additional industrial areas in the Shire-wide LEP. If Council wishes to pursue additional industrial areas then an industrial lands strategy is recommended rather than responding to individual applications in isolation. This could be undertaken as part of a Growth Management Strategy prepared after the Shire-wide LEP has been implemented. It could then be implemented through an employment lands LEP amendment. It is recommended that no further action be taken on this request at this stage.

Property Details	Issues & Comments from Staff
Lot 2 DP 547367 & Lot 9 DP 7189, Quarry Lane, Ewingsdale	Request for land to be listed in the Schedule 8 equivalent in the new Shire-wide LEP to allow subdivision of a 20ha property divided by Quarry Lane into two 10ha lots. The submission states that a dwelling already exists on one part of the land and the development concept indicates an additional dwelling is planned for other half of the site following subdivision. Lots 2 and 9 with a combined area of approximately 20 ha are held in the same ownership, with a dwelling on lot 2. They are entirely zoned 1(b1) under BLEP 1988 and are predominantly prime agricultural land. The prime agricultural land categorisation is disputed by the owner. The request is essentially to create an additional dwelling entitlement on the eastern side of Quarry lane. Quarry lane is a quiet, dead end road that is easy to cross for cattle and machinery. Reduction of the lot size in this area is not supported by Council. Closer rural settlement is not supported in this location in the BRSS. It is recommended that no further action be taken on this request. The land is recommended to be zoned RU1 primary Production in the Shire-wide LEP.
Lot 4 DP 703416, "Twin Peaks" 245 Coopers Shoot Road	Requests that the allotment be classed as a 'Broken Head Village Catchment' site under Clause 6.3 of the BRSS 1998 and that the land is specifically zoned to permit Community Title subdivision (MO to CT) Lot 4 is a 26 ha lot that is entirely zoned Rural 1(a). It is partly affected by HCV vegetation and is partly in a wildlife corridor. The subject site is not identified in the Byron Rural Settlement Strategy (BRSS) for further land release or subdivision and is not within the parameters of the BRSS Review. Council has not resolved to include additional rural residential areas in the Shire-wide LEP. If Council wishes to pursue additional rural residential areas then the North Coast REP requires that these areas be identified in a rural strategy. It is recommended that no further action be taken on this request at this stage. It is recommended that the HCV vegetation areas be zoned E2, the wildlife corridor be zoned E3 and the balance of the site be zoned RU2 under Shire-wide LEP.
Lot 1 DP869145, 878 Binna Burra Road, Federal	Requests that Council consider allowing subdivision of the property into 2 or 3 lots The subject site is a 3 ha lot currently zoned 1(c1) under BLEP 1988. It is part of a larger area of fully developed rural residential land. The subject site is not identified in the Byron Rural Settlement Strategy (BRSS) for further land release or subdivision and is not within the parameters of the BRSS Review. Council has not resolved to increase the density of rural residential areas in the Shire-wide LEP and previous community consultation has indicated a preference for retaining the existing density and average lot size system for rural residential areas. If Council is not permitted by the State to retain its average lot size controls then this issue may be revisited. It is recommended that no further action be taken on this request at this stage. The site will be zones R5 Large Lot residential but will not permit further subdivision than is currently permitted.

Property Details	Issues & Comments from Staff
Lot 20 DP 793702, 44 Bay Vista Lane	Request rectification of part zoning of land – currently part 1(c2) and 1(a) hatched – owner wants it all 1(c2). Lot 20 is a 2.36 ha lot created on 11 July 1989 as a re- subdivision of a much larger lot (108 ha) that at that time was zoned partly 1(c2) and partly 1(a) hatched under LEP 1988. The owners at that time could have been guided by the zone boundary and used it then as the subdivision line. They chose not to and Council allowed the subdivision to occur. A dwelling is permitted on the lot, but as it currently has less than 1.6 ha of land zoned 1(c2) it is not eligible for further subdivision. If Council extends the 1(c2) zone then it will potentially be creating further subdivision potential for no particular planning purpose. The BRSS 1998 does not endorse increasing the subdivision potential of the zoned rural residential lands in this location. There is no cogent reason to expand the R5 zone in this location and it is recommended that this lot remain part R5 and part RU2/RU1 in the same configuration as currently occurs.
Lot 29 DP 1038072, Lot 224 DP 755695, Lot 10 DP 111820, Citriadora Drive & Ewingsdale Road	Request a 1(c2) zoning to permit a 13 lot subdivision with associated environmental works Lot 224 is a 21 ha lot that is entirely zoned 7(a) and 7(b), is substantially flood prone, is affected by SEPP 14, contains substantial areas of HCV vegetation and is within a wildlife corridor. Lot 10 is a 0.4 ha lot that is entirely flood prone, and has no direct road access. Lot 29 is a 37 ha split lot that is partly flood prone, partly affected by SEPP 14, contains HCV vegetation and is partly within a wildlife corridor. Lot 29 appears to be the “residue lot” from the subdivision that created the Citriadora and Cape Vista subdivision. Most of the lots in this subdivision are small and lot 29 was needed to achieve the average lot size required under clause 11 of LEP 1988. The applicant suggests that approximately 9.6 ha of Lot 29 is currently zoned 1(c2). This residue would have at most, one dwelling entitlement. The applicant suggests that it could yield 13 dwellings on rural lots. As part of the BRSS 1998, the residue lots in Ewingsdale were assessed and some were recommended for further subdivision. Lot 29 was not recommended for further subdivision. It was suggested that no other residue lots should be allowed to be subdivided if the integrity of the average lot size system is to be maintained. The Ewingsdale community has consistently opposed further subdivision of residues in its precinct. There are several large residue lots in Byron Shire that arise from the average lot size provisions of LEP 1988. It is a valid comment that this land is relatively underutilised and some of it may well be easily serviced and made suitable for additional rural residential development. However, this is not supported in this location by Council's BRSS which is the agreed strategy that currently guides rural settlement in Byron Shire. Unless Council reviews the BRSS and agrees to re-visit the residue lots for additional development then this rezoning request cannot be supported. It is recommended that the zone pattern for these lands be as follows: HCV vegetation and SEPP 14 areas be zoned E2, wildlife corridor areas be zoned E3, existing 1(c2) areas be zoned R5 and the balance be zoned RU2. It is recommended that the average lot size methodology in LEP 1988 be carried over to the Shire-wide LEP.

Property Details	Issues & Comments from Staff
Lot 1 DP 1073035 (Poinciana Café), 55 Station Street, Mullumbimby and Lot D DP 368311, 60 Stuart Street, Mullumbimby. (Dwelling and doctors surgery), and Lot C DP 368311, 58 Stuart Street Mullumbimby. (Dwelling and approval for doctors surgery)	Both lots 1 and D are currently zoned part 3(a) General Business and part 2(a) Residential. Each is split down the middle by the current zone boundary. Small urban lots split into two zones does not really make a lot of sense. Lot C is entirely zoned 2(a) Residential. Consider most appropriate zoning for these allotments. Lot 1 is already being used for a café and altering the zone to Business would reflect the current use. Lot D is being used for a dwelling and a doctors surgery, but in the interests of rationalising the split zone a business zone is preferred. Although the Mullumbimby Settlement Strategy did not recommend any expansion of the business zone, this expansion would be minor (about 1000 sq m in total). It is recommended that the zone be adjusted to include the entire areas of both Lot 1 and Lot D in the B2 Local Centre zone. Lot C is currently a dwelling with a consent for a doctors surgery (presumably a home office). The preferred use is permitted in the current zone and it does not have the same issue as Lot D which is encumbered by a split zone. Although in the long term Council may consider an extension of the Business zone along this street this should be looked at as part of a commercial strategy, not on a one off basis. It is recommended that Lot C remain in the R2 zone.
Lot 31 DP 880376 Yelgun	Rezone northern portion to 8(a) National Park Lot 31 is an ex road reserve given to DECC by the RTA as it is no longer required for use as a road. It is known to contain an aboriginal site and it is intended in part to be retained as part of Billinudgel Nature Reserve. It is partly within a wildlife corridor, partly prime agricultural land. In 2004/5 NPWS advised that it wanted the lot to be zoned E1. In correspondence from 30 June 2008 (doc # 775019) it specifically asked that Lot 31 not be zoned E1 as its negotiations on land swaps were on going. It is recommended that the northern portion of Lot 31 DP 880376 be zoned E3 to reflect its wildlife corridor status and the balance be zoned RU1 consistent with adjacent land.
Lot 1 DP238724 New Brighton Road, New Brighton	Restriction required to limit further subdivision options for this lot The subject site is approximately 3.3 ha and is zoned predominantly 2(a) Residential with a small portion of 7(b) Coastal Habitat zone under Byron LEP 1988. From aerial photography the site appears to be heavily vegetated and is entirely covered with HCV vegetation. There is a Council resolution dated 22/9/04 where Council resolved to prepare a draft DCP amendment to limit residential development of this site to a single dwelling per residential allotment only. It is recommended that the site be zoned predominantly E2 Environmental Conservation where significant vegetation exists on the site and a small portion of E4 Environmental Living over the cleared areas of the northern section of the site to allow for a dwelling. Resolution can be found in #478874. Related DA is 10.2003.63.1.
Lot 6 DP 710428 and Lot 1 DP168081 (Historical description) The Tunnel Road, Billinudgel (Current Description – Lot 10-12 DP 1088233)	Remnant RTA land from Pacific Highway upgrade, currently 1(a) – request to be zoned to reflect high conservation values of the area The HCV vegetation areas of the site will be zoned E2 Environmental Conservation. Areas in the vicinity of the houses on the lots will be zoned E3. Lot 12 is now owned by NPWS and should be zoned E1 National Parks and Nature Reserves. Land retained by the RTA and used for the Pacific Motorway will be zoned consistently with the prevailing surrounding zones.
Lot 445 DP 812102 and Lot 448 DP 812102 Bayshore Drive Byron Bay	Request to be rezoned from 7(b) to 8(a) The subject site adjoins national park and is owned by NPWS. Council has recently received updated mapping from NPWS (updated in Nov 2006), detailing areas of land that are gazetted as national park, which included this site. Therefore under the zoning for the Shire-wide LEP, the subject site will be zoned E1 – National Parks and Nature Reserves.

Property Details	Issues & Comments from Staff
Lot 11 DP 1066623, Tyagarah.	Suggestion that the boundary of the vegetation and therefore the 7(b) zone is incorrectly placed over the subject site – requests that it be changed. Lot 11 is an irregular shaped lot of approximately 74 ha adjacent to the Tyagarah airport and the Tyagarah Nature Reserve. It is heavily vegetated in parts and is partly within a wildlife corridor. It also contains areas of HCV vegetation. The current vegetation mapping and wildlife corridor have been used to revise the environment protection zones across the property. It is recommended that the HCV vegetation areas be zoned E2, the wildlife corridor be zoned E3 and the balance of the lot be zoned RU1.
Lot 5 DP 1039596, Byron Bay Road, Bangalow. Adjacent to Sporting Fields	Request zoning for recreation use This Council owned lot is approximately 5 ha and is predominantly located between the existing sporting fields to the east and Byron Creek to the west. It is entirely flood prone and partly prime agricultural land. Council are in the process of upgrading the site to use as sporting fields. It is entirely within the urban fabric of the Bangalow village and should be zoned consistent with the adjacent land and its future recreational use. It is recommended that the vegetated riparian corridor part of the lot be zoned E2 and the balance be zoned RE1 Public Recreation Zone.
Lot 22 DP 1073165, Jubilee Ave Mullumbimby. Land at rear of High School Sporting Fields.	Request zoning for recreation use This Council owned lot is approximately 28 ha and should be predominantly zoned RE1 Public Recreation. Riparian vegetation near the creek at the eastern edge of the lot should be E2 and consideration should be given to zoning the buffer to the Cape Byron Marine Park as E3.
Lot 6 DP 792431, 214 Balraith Lane, Ewingsdale	BLEP 1988 Cadastre was incorrect on LEP maps and zone boundary ran along the cadastral boundary. Cadastre has been corrected, therefore zone boundary in this location needs to be amended to follow the cadastral boundary Lot 6 is a 66 ha lot that is currently mostly Rural 1(a) and 1(a) Hatched and partly 7(d) Scenic Protection under LEP 1988. It also has a very small sliver of land on its western edge that is currently zoned 1(c2) Small Holdings, but this zone provides no benefit to the lot. It contains areas of HCV vegetation and a wildlife corridor. It is recommended that no part of Lot 6 be zoned R5. Rather it is recommended that the HCV vegetation area be zoned E2, the wildlife corridor areas and scenic protection areas be zoned E3 and the remainder of the lot be zoned RU2 in the Shire-wide LEP.
Hakea Court and Kamala Ct, Mullumbimby	Assess possible zoning anomaly – Residential lots are part 1(a) zone and part 2(a) zone in this locality The current zone boundary for the residential lots in this case runs approximately along the estimated flood boundary in this location. Those parts of the lots that are not suspected of being below the 1% flood height are zoned and used for residential purposes. There is no point in rezoning flood affected land to residential unless its supported by flood information that would allow it to be filled. In the absence of clear information it is recommended that the “tails” of the small lots that are currently zoned 1(a) be zoned E3 in recognition of their flood prone nature and that they are within 100 metres of the Cape Byron Marine Park.

Property Details	Issues & Comments from Staff
Lot 456 DP 1126388 (previously DP 1087879), Lawson Street, Byron Bay.	This is the site of the proposed new Byron Bay library – request to ensure zoning permits a library and associated uses In June 2008 Council resolved to ask the Minister for Planning to finalise an LEP amendment that permitted a library and a range of related uses on this 0.26 ha lot. Supporting information included an ecological study, an acid sulfate soil study and a preliminary contaminated land analysis. It is likely this LEP amendment will be completed by the end of 2008. The site is currently zoned 1(d) Investigation Zone and 7(b) Coastal habitat zone under LEP 1988. The 1 (d) zone will not have an equivalent in the new LEP and the 7(b) zone is not appropriate as the site has limited areas of regrowth native vegetation. Given the range of uses proposed it is recommended that the site be zoned entirely B4 Mixed Use under the Shire-wide LEP.
Lot 468 DP 47676, Coolamon Scenic Drive	Request alternate zoning where uses will be permissible consistent with its usage This lot is approximately 1 ha, and is partly vegetated. It is used as a Council Depot but is currently zoned 2(a) residential. It is on the northern edge of Mullumbimby and there are approximately 14 houses within 100m of the lot. Land immediately to the north of the lot is zoned rural. The land use that best describes the activity on the site is “depot” and this use will be prohibited in the R2 zone. Depots are permissible in the B7, IN1 and IN2 zones. In the long term if this site is not going to be required as a Council Depot then it would be best to let it remain in a residential zone. However, in order to better facilitate its use as a Council Depot over the foreseeable future then the IN2 Light Industrial zone is recommended.
Lots – 7004/1055229, 1/667917, 412/755687 Main Arm Road, Coral Avenue & Chinbible Avenue	Request a more appropriate zone for the Mullumbimby Showground Mullumbimby showground is on the western edge of Mullumbimby accessed off Main Arm Road. It is partly flood prone and has some HCV vegetation along its river frontage. Its substantive use as a showground falls into the new definition of recreation facility (major) and this will be prohibited if the site goes into the R2 zone. Recreation facility (major) is a permitted use in the RE1 zone. It is recommended that the lots 1, 7004 and 412 be zoned RE1 in the new Shire-wide LEP to ensure that the substantive use as a showground is permitted. This zone may also give Council some flexibility to pursue other uses that may be appropriate and have been considered in the past (see land use table in draft instrument). The riparian vegetation should be zoned E2.
Lot 3 DP1004514 Bayshore Drive Byron Bay	Request land zoned 2(v) and 4(a) be considered for a mixed use zone The subject site is currently zoned predominantly 2(v) Village zone and a small portion as 4(a) Industrial zone under Byron LEP 1988. The subject site is affected by Draft Bayshore Village DCP. A comparison has been completed on the land uses set out in the DCP and the relevant zoning under the new Shire-wide LEP, and it is recommended that the site be zoned as B4 Mixed Use to facilitate uses proposed for this area.

Property Details	Issues & Comments from Staff
Lot 1, 2 and 4 DP 1004514 Bayshore Drive, Byron Bay	Consider zoning of 2(v) and 4(a) zoned Council land along Bayshore Drive Lot 1 is a 2.9 ha irregular shaped lot that has a long thin access to Bayshore Drive. It is heavily affected by HCV vegetation and is entirely within a wildlife corridor. It has a long boundary with the West Byron STP site and a long boundary with the proposed Bayshore Drive mixed use area mentioned above. It is mostly zoned 4(a) but has some small areas of 2(v) under LEP 1988. Lot 2 is a more regular shaped 2.9ha lot that abuts the existing industrial land off Centennial Circuit and is opposite the Sunrise shopping centre on Bayshore Drive. It has some HCV vegetation on its western end and is entirely within a wildlife corridor. It is entirely zoned 4(a) under LEP 1988. Lot 4 is a 4.9 ha lot that has a small access to Bayshore Drive, abuts a recently approved residential development, and has a long frontage to the railway corridor and the proposed Bayshore Drive mixed use area. It is heavily affected by HCV vegetation and is entirely within a wildlife corridor. It is mostly zoned 2(v) but has some 4(a) land at its western edge (under LEP 1988). All of these sites have some potential for employment lands or residential development (including affordable housing) or a combination of the two. However, the presence of extensive areas of HCV vegetation and the known presence of threatened species (e.g. wallum frogs) would make significant development difficult. The mix of existing zones has resulted in a range of surrounding uses, so there is a need to ensure that the potential for future conflict is minimised. The awkward shape of the lots makes it difficult to deal with them in isolation of each other. It is recommended that Lot 2 be zoned predominantly B7 Business Park consistent with the proposed zone of the land immediately to its south. The small HCV vegetation areas on the western edge of Lot 2 should be zoned E2. It is recommended that Lot 1 be zoned predominantly E2 as a result of the large areas of HCV vegetation. The lot will act as a buffer between development to the east and the STP to the west. The exception to this is the access handle for this lot which is recommended to be zoned B7 consistent with the proposed adjacent zone to the south. It is recommended that Lot 4 be zoned mostly E2 to reflect the extent of the HCV vegetation affecting the site and partly B4 Mixed Use at its western end in the vicinity of an existing plant nursery that currently uses the site. It is also recommended that a strip of mostly cleared land at the southern edge of Lot 4 be zoned B4.

Table 6: Environmental Zone Boundary Anomalies

Current Zone	Proposed Zone	Lot/Sec/DP	Address	Property Area (m ²)	Rezoned Area (m ²)
1B1	R2	18/853050	Hanlon Crt BANGALOW	607	65
1B1	R2	19/853050	Hanlon Crt BANGALOW	974	202
7F1	RE1	369/723046	Beach Rd BROKEN HEAD	3.9 ha	1.1 ha
8A	RE1	369/723046	Beach Rd BROKEN HEAD	3.9 ha	1.1 ha
7D	SP1	1/1031848	Broken Head Rd BROKEN HEAD	112.7 ha	471
7B	RE1	101/851964	Pacific Hwy BRUNSWICK HEADS	1.3 ha	4431
7B	RE1	101/851964	Pacific Hwy BRUNSWICK HEADS	1.3 ha	342
7B	RE1	102/851964	Pacific Hwy BRUNSWICK HEADS	1.1 ha	4131
7A	RE2	358/704247	Broken Head Rd BYRON BAY	3.4 ha	3875
7B	SP3	1/620682	Ewingsdale Rd BYRON BAY	7.9 ha	7338
7B	SP3	447/812102	Bayshore Dr BYRON BAY	1.9 ha	328
7A	R2	136/877932	Sunrise Blvd BYRON BAY	769	243
7A	R2	135/877932	Sunrise Blvd BYRON BAY	587	8
7A	R3	SP43659	Belongil Cres BYRON BAY	2145	605
7A	R3	SP37318	Belongil Cres BYRON BAY	2246	770
7A	R3	68/772011	Belongil Cres BYRON BAY	1646	17
7A	R2	135/877932	Sunrise Blvd BYRON BAY	587	9
7A	R2	136/877932	Sunrise Blvd BYRON BAY	769	243
7B	B4	456/1126388	Lawson St BYRON BAY	2599	736
7B	B4	457/1087879	Lawson St BYRON BAY	8.2 ha	6770
7A	E4	47/854800	Lilli Pilli Dr BYRON BAY	1026	102
7A	E4	46/860353	Lilli Pilli Dr BYRON BAY	1905	144
7A	E4	1/879888	Lilli Pilli Dr BYRON BAY	982	176
7A	E4	53/860353	Lilli Pilli Dr BYRON BAY	1145	200
7A	R2	17/593693	Cumbebin Pk BYRON BAY	486	342
7A	R2	18/593693	Cumbebin Pk BYRON BAY	417	165
7A	R2	10/253588	Cumbebin Pk BYRON BAY	768	128
7A	R2	10/622728	Keats St BYRON BAY	1.6 ha	627
7A	R2	8/253588	Cumbebin Pk BYRON BAY	569	12
8A	R2	2/871349	Shara Blvd OCEAN SHORES	2.9 ha	84
7K	R2	9/1013623	Caniaba Cres SUFFOLK PARK	798	62
7K	R2	21/842105	Redgum PI SUFFOLK PARK	964	591
7K	R2	8/1013623	Caniaba Cres SUFFOLK PARK	2079	137
7D	R2	274/867786	Corkwood Cres SUFFOLK PARK	1389	781
7D	R2	271/867786	Corkwood Cres SUFFOLK PARK	1564	811
7D	R2	277/867786	Corkwood Cres SUFFOLK PARK	949	302
7D	R2	278/867786	Corkwood Cres SUFFOLK PARK	985	292
7D	R2	270/867786	Corkwood Cres SUFFOLK PARK	1645	818
7D	R2	269/867786	Corkwood Cres SUFFOLK PARK	2332	1065
7D	R2	276/867786	Corkwood Cres SUFFOLK PARK	999	343
7D	R2	268/867786	Corkwood Cres SUFFOLK PARK	7302	2450
7D	R2	273/867786	Corkwood Cres SUFFOLK PARK	1414	790
7D	R2	275/867786	Corkwood Cres SUFFOLK PARK	1540	848
7D	R2	272/867786	Corkwood Cres SUFFOLK PARK	1527	837
7D	R2	2/631285	Hayters Dr SUFFOLK PARK	16.2 ha	5545
7K	R2	100/831214	Beech Dr SUFFOLK PARK	731	429
7K	R2	104/831214	Hayters Dr SUFFOLK PARK	677	481
7K	R2	117/831214	Hakea Cres SUFFOLK PARK	825	219
7K	R2	108/831214	Hakea Cres SUFFOLK PARK	727	57
7K	R2	145/836461	Beech Dr SUFFOLK PARK	908	523
7K	R2	1052/850511	Hayters Dr SUFFOLK PARK	558	487
7K	R2	253/876932	Mahr PI SUFFOLK PARK	699	63

Current Zone	Proposed Zone	Lot/Sec/DP	Address	Property Area (m ²)	Rezoned Area (m ²)
7K	R2	99/831214	Beech Dr SUFFOLK PARK	732	422
7K	R2	1051/850511	Hayters Dr SUFFOLK PARK	572	545
7K	R2	106/831214	Hakea Cres SUFFOLK PARK	734	512
7K	R2	254/876932	Mahr PI SUFFOLK PARK	960	198
7K	R2	175/837085	Ribbonwood PI SUFFOLK PARK	8730	43
7K	R2	251/876932	Mahr PI SUFFOLK PARK	638	114
7K	R2	107/831214	Hakea Cres SUFFOLK PARK	613	57
7K	R2	176/837085	Ribbonwood PI SUFFOLK PARK	5590	30
7K	R2	250/876932	Mahr PI SUFFOLK PARK	923	35
7K	R2	103/831214	Hayters Dr SUFFOLK PARK	673	57
7K	R2	2/1071584	Coogera Cir SUFFOLK PARK	1306	7
7K	R2	4/1115281	Tea Tree Crt SUFFOLK PARK	1766	29
7K	R2	19/1013623	Hoop Pine Ln SUFFOLK PARK	1109	80
7K	R2	21/1013623	Hoop Pine Ln SUFFOLK PARK	899	802
7K	R2	22/1013623	Hoop Pine Ln SUFFOLK PARK	1037	948
7K	R2	20/1013623	Hoop Pine Ln SUFFOLK PARK	893	402
7K	R2	126/836461	Teak Crt SUFFOLK PARK	1569	548
7K	R2	23/1013623	Hoop Pine Ln SUFFOLK PARK	1128	597
7K	R2	127/836461	Teak Cir SUFFOLK PARK	1346	36
7K	R2	196/846399	Booyong Crt SUFFOLK PARK	997	127
7K	R2	24/1013623	Hoop Pine Ln SUFFOLK PARK	1144	579
7D	R2	3/1013623	Caniaba Cres SUFFOLK PARK	1317	215
7D	R2	33/1013623	Caniaba Cres SUFFOLK PARK	4039	976
7D	R2	4/1013623	Caniaba Cres SUFFOLK PARK	1673	625
7B	SP3	1/1057431	Broken Head Rd SUFFOLK PARK	17.3 ha	1.2 ha
7C	SP2	1/361241	Wilsons Creek Rd WILSONS CREEK	1209	1209
7C	SP2	1/816487	Wilsons Creek Rd WILSONS CREEK	5244	5244
7C	SP2	32/1106761	Wilsons Creek Rd WILSONS CREEK	5906	5906
7C	SP2	2/964224	Wilsons Creek Rd WILSONS CREEK	3637	3637

Broken Head - Proposed area for rezoning from Environmental to Recreation

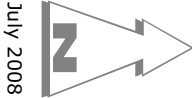


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Scale 1:4,000

- Legend**
- Proposed area to be rezoned
 - Current zone & Boundary
 - Cadastre



Broken Head - Proposed area for rezoning from Environmental to Special Purpose

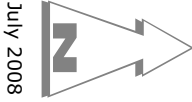


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Scale 1:4,000

- Legend**
- Proposed area to be rezoned
 - Current zone & Boundary
 - Cadastre



July 2008

Byron Bay - Proposed area for rezoning from Environmental to Tourist

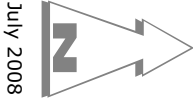
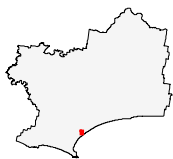


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Scale 1:2,500

Legend
 Proposed area to be rezoned
 Current zone & Boundary
 Cadastre



Byron Bay - Proposed area for rezoning from Environmental to Business, Recreation or Residential

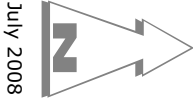
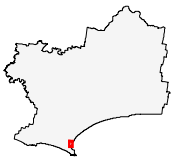


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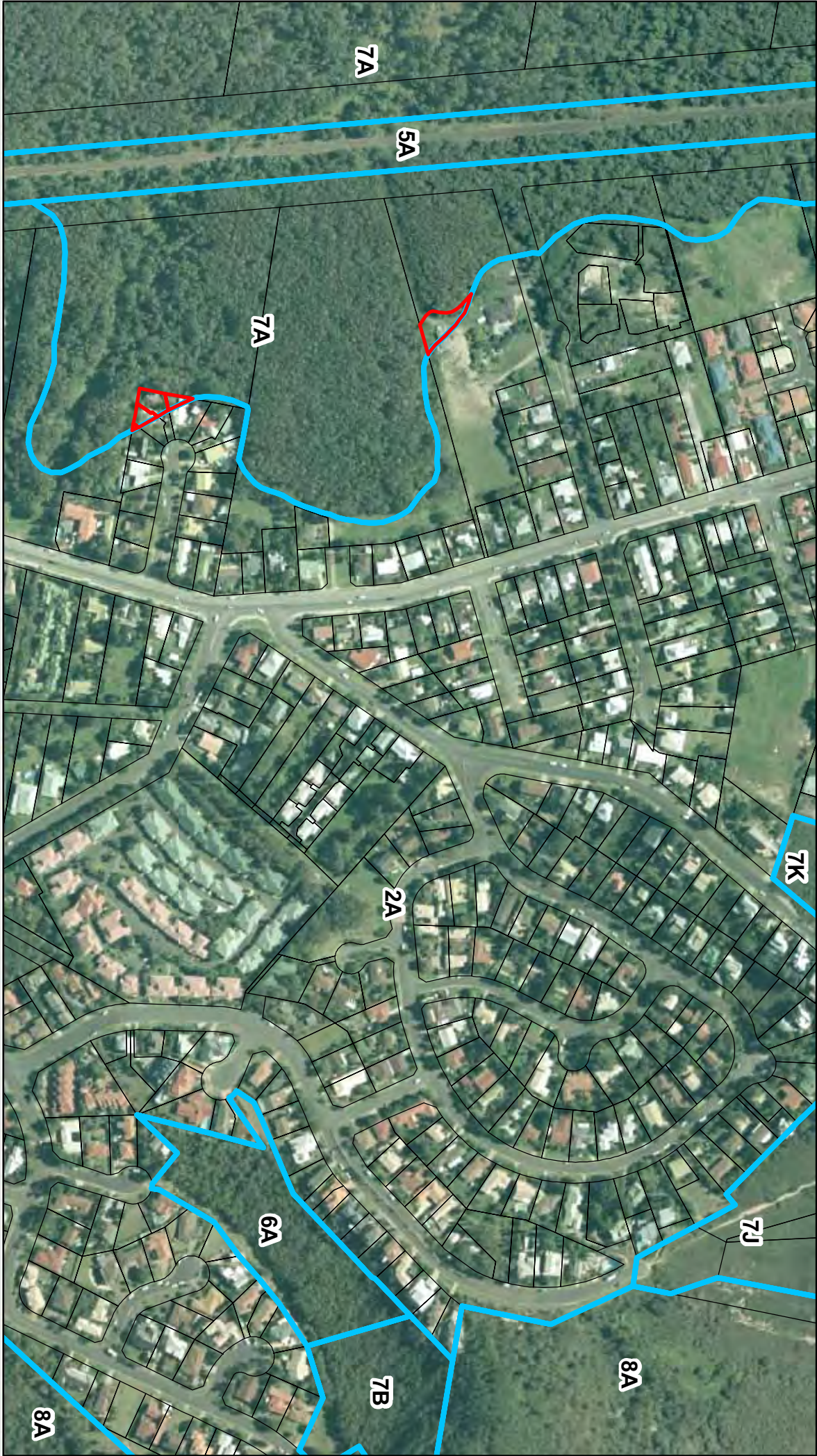


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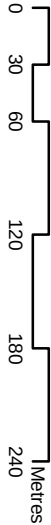
Legend
 Proposed area to be rezoned
 Current zone & Boundary
 Cadastre



Byron Bay - Proposed area for rezoning from Environmental to Residential

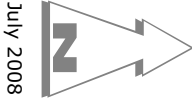
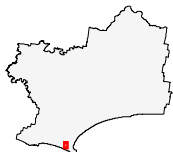


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Scale 1:4,000

Legend
 Proposed area to be rezoned
 Current zone & Boundary
 Cadastre



Byron Bay - Proposed area for rezoning from Environmental to Environmental Living



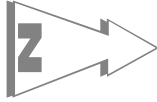
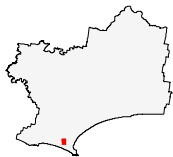
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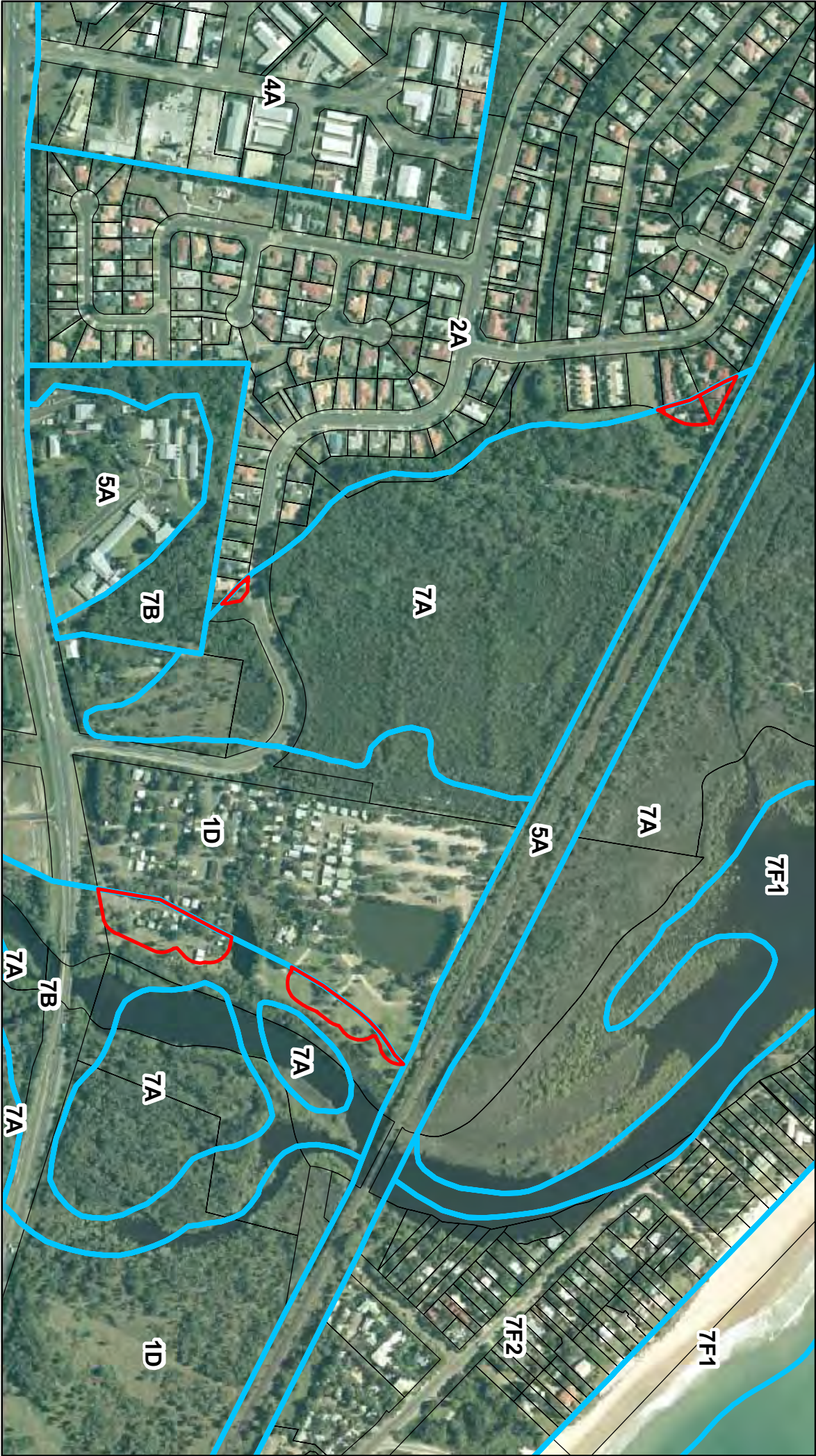
Legend

-  Proposed area to be rezoned
-  Current zone & Boundary
-  Cadastre



July 2008

Byron Bay - Proposed area for rezoning from Environmental to Tourist or Residential

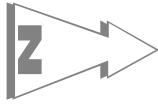


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Scale 1:5,000

- Legend**
- Proposed area to be rezoned
 - Current zone & Boundary
 - Cadastre

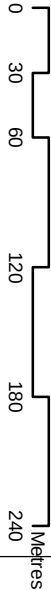


July 2008

Suffolk Park - Proposed area for rezoning from Environmental to Tourist



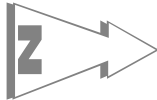
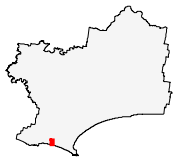
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Scale 1:3,500

Legend

-  Proposed area to be rezoned
-  Current zone & Boundary
-  Cadastre



July 2008

Byron Bay - Proposed area for rezoning from Environmental to Recreation

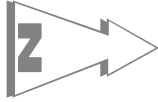
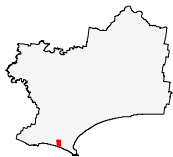


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Scale 1:3,000

- Legend**
- Proposed area to be rezoned
 - Current zone & Boundary
 - Cadastre



July 2008

Brunswick Heads - Proposed area for rezoning from Environmental to Recreation

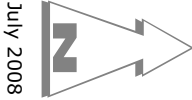
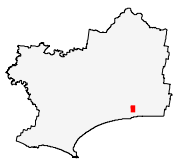


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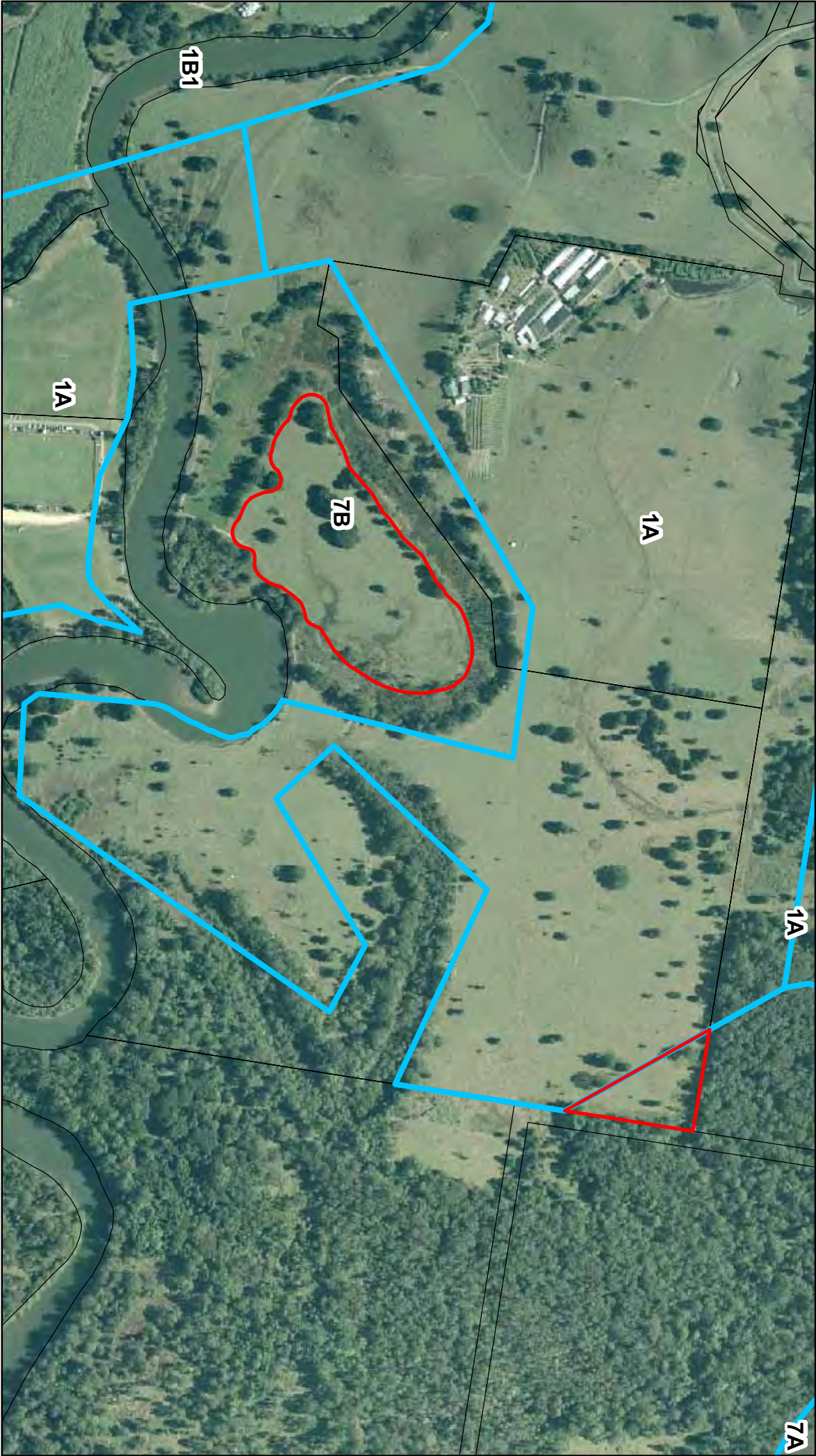


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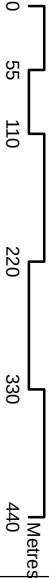
Legend
 Proposed area to be rezoned
 Current zone & Boundary
 Cadastre



Mullumbimby - Proposed area for rezoning from Environmental to Rural

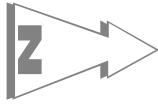


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Scale 1:6,500

- Legend**
- Proposed area to be rezoned
 - Current zone & Boundary
 - Cadastre



July 2008

Byron Bay - Proposed area for rezoning from Environmental to Rural

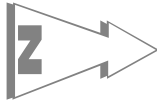


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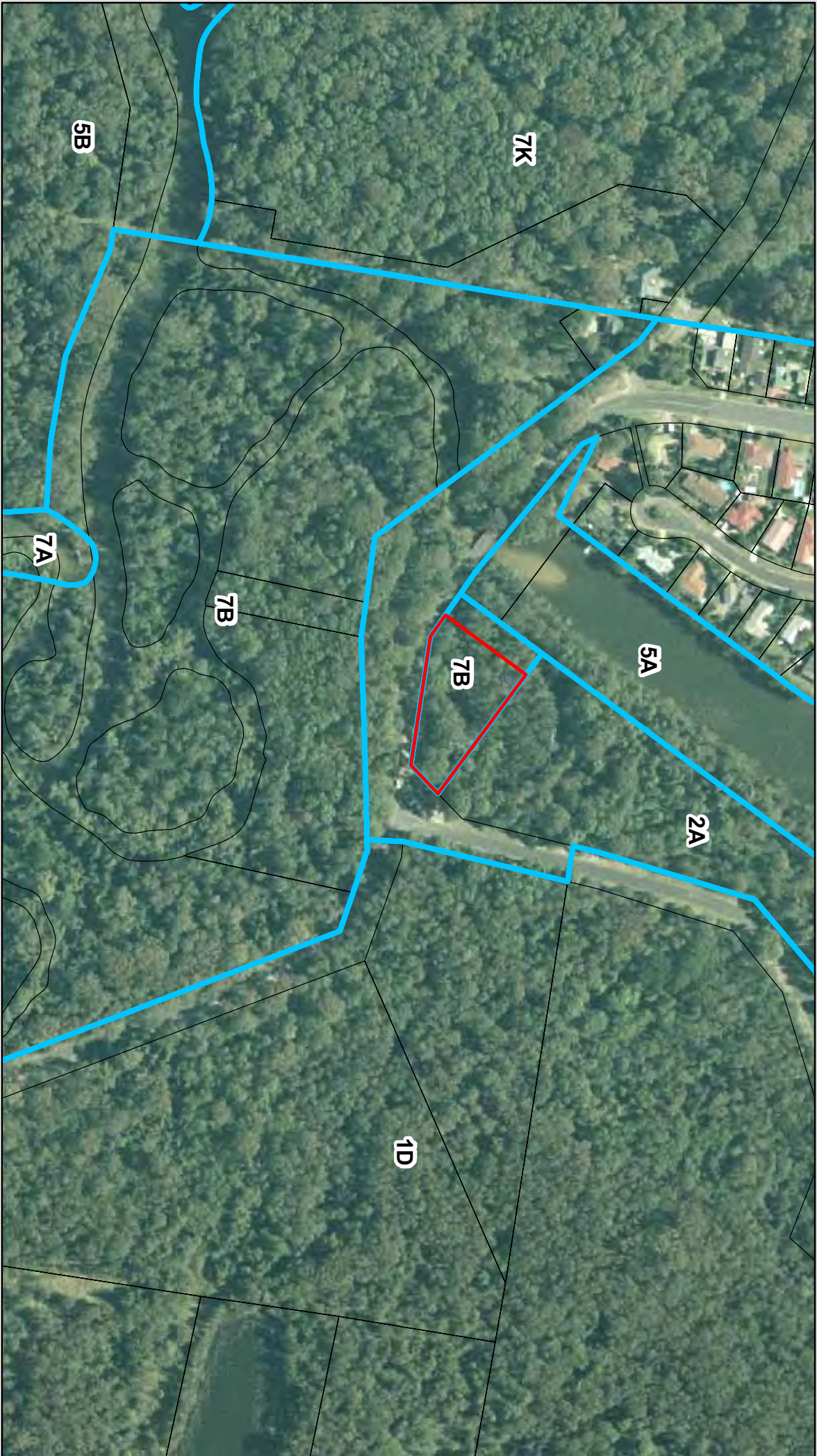
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- Legend**
- Proposed area to be rezoned
 - Current zone & Boundary
 - Cadastre



July 2008

South Golden Beach - Proposed area for rezoning from Environmental to Environmental Living

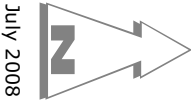
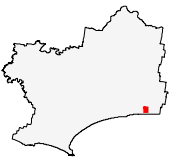


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Scale 1:2,963

- Legend**
-  Proposed area to be rezoned
 -  Current zone & Boundary
 -  Cadastre



Suffolk Park - Proposed area for rezoning from Environmental to Recreation & Special Purpose

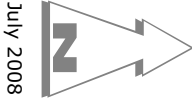


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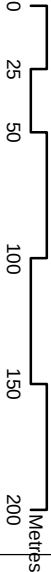
- Legend**
- Proposed area to be rezoned
 - Current zone & Boundary
 - Cadastre



Suffolk Park - Proposed area for rezoning from Environmental to Residential

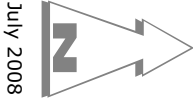


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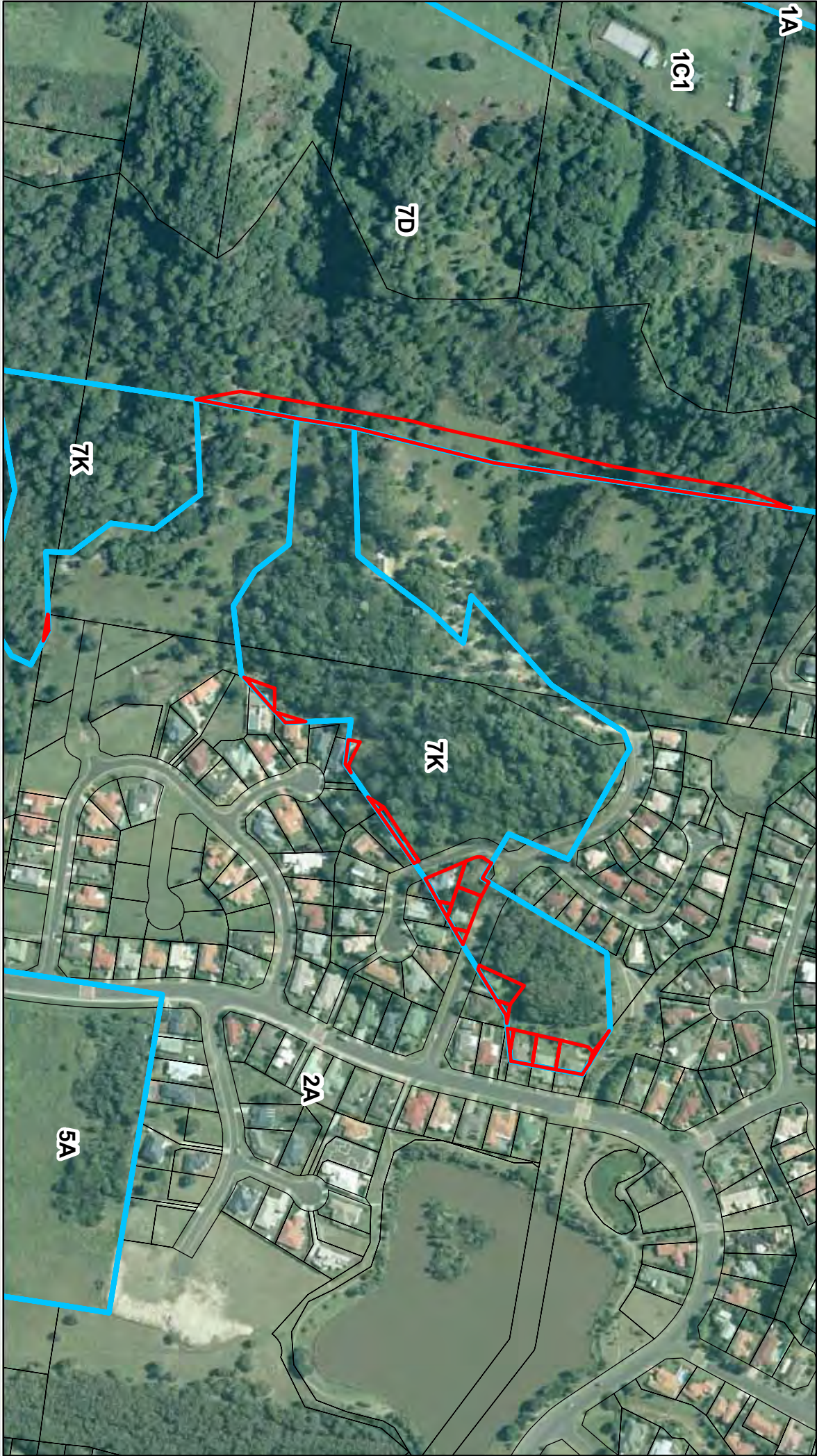


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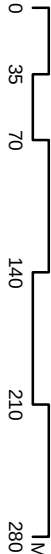
Legend
 Proposed area to be rezoned
 Current zone & Boundary
 Cadastre



Suffolk Park - Proposed area for rezoning from Environmental to Residential



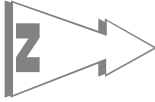
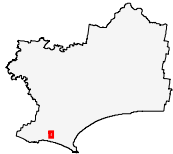
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Scale 1:4,000

Legend

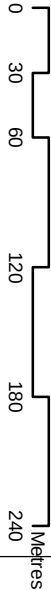
-  Proposed area to be rezoned
-  Current zone & Boundary
-  Cadastre



Suffolk Park - Proposed area for rezoning from Environmental to Residential



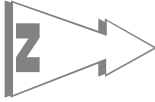
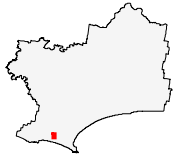
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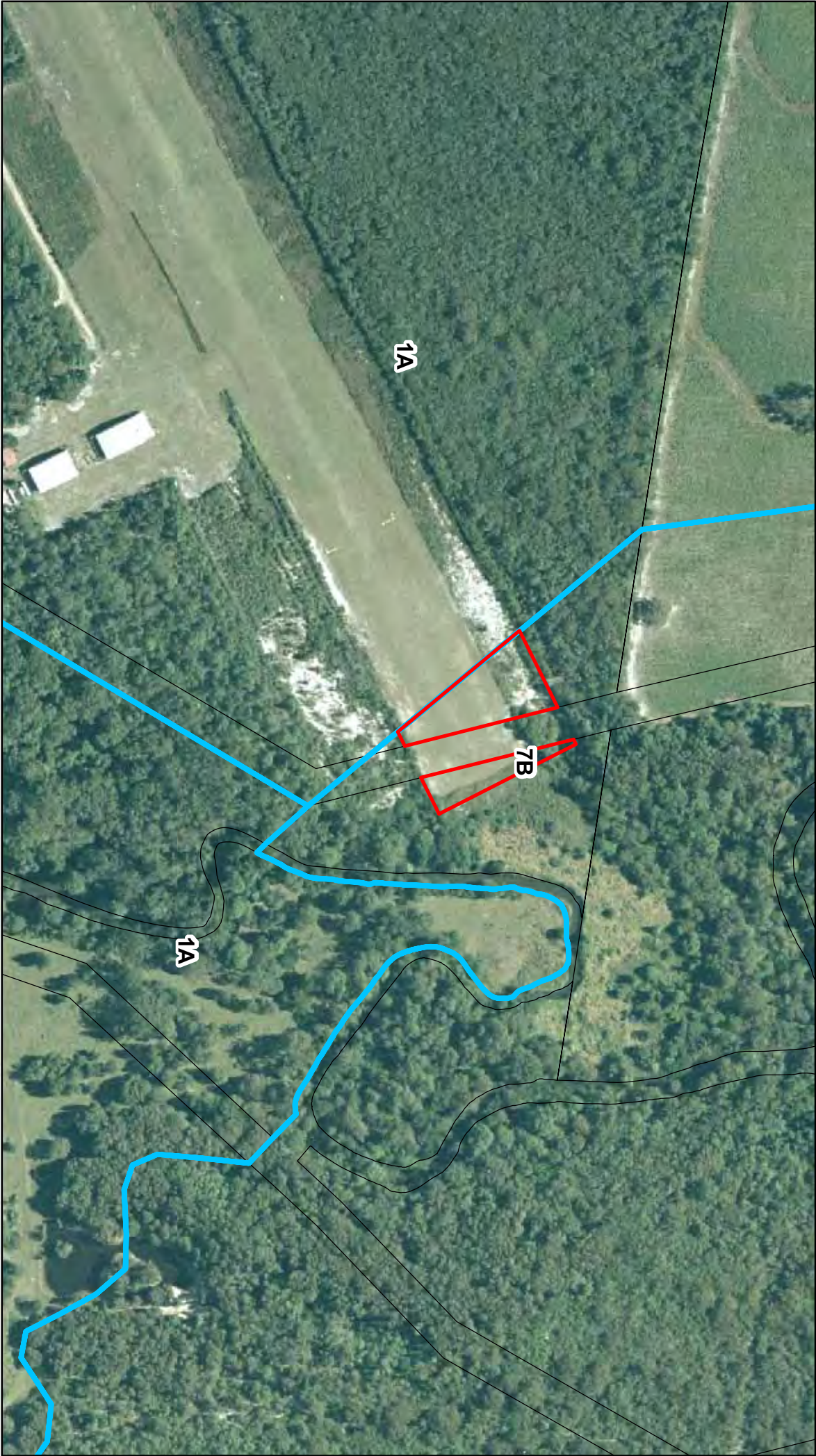
Legend

-  Proposed area to be rezoned
-  Current zone & Boundary
-  Cadastre

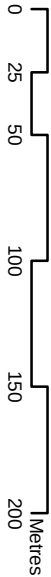


July 2008

Tyagarah - Proposed area for rezoning from Environmental to Rural (for airstrip)

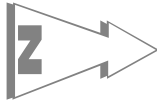


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Scale 1:3,000

- Legend**
- Proposed area to be rezoned
 - Current zone & Boundary
 - Cadastre



July 2008

Wilsons Creek - Proposed area for rezoning from Environmental to Special Purpose

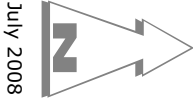
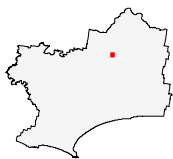


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Scale 1:2,000

- Legend**
-  Proposed area to be rezoned
 -  Current zone & Boundary
 -  Cadastre



Appendix N

Recommendations from the Draft LEP for the Byron Bay Area

Draft Byron Bay LEP Summary of recommendations as applied to the Shire wide LEP

The following is a summary and discussion of issues that were raised in submissions to the draft Byron Bay LEP and the recommendations that were reported to Council in 2006. The additional commentary explains how these same issues have now been dealt with in the Shire wide draft LEP.

Holiday Letting

The most frequently raised issue, covering almost 85% of all submissions was the topic of holiday letting in residential areas. From the submissions there was both objection and support for Council's prohibition on holiday letting in residential areas and wide variety of comments were provided on the issue.

Prior to the exhibition of the draft LEP for the Byron Bay Area, Council made a policy decision to prohibit this activity in areas which are zoned for residential development. Council also resolved to facilitate a Holiday Letting Forum which established a mechanism for consultation to occur between representatives from industry groups, residents, Councillors and Council staff to discuss holiday letting planning controls in Byron Shire. A report was provided to Council in April 2006 from the Holiday Letting Forum which suggested that Council examine the option of a precinct permissibility based system for holiday letting. Council needs to make a policy decision on this issue to be incorporated in the Shire-wide LEP.

2006 Recommendation

That Council use the first preference of the Holiday Letting Forum, being a precinct-based permissibility system, as the policy basis for the preparation of the Shire-wide LEP.

2008 Application to the Shire wide LEP

Council resolved on 12 June 2008 (resolution 08-329) to note a report recommending the Draft LEP provide for Guest House (Holiday Home) accommodation in Zones R2 and R3. A decision was not made as to whether holiday letting or similar should be included in the draft LEP. Thus no provision for a Guest House (Holiday Home) has been included. The holiday letting issue has been included as a policy issue in the Section 64 report to Council.

Coastline Management

A number of submissions raised concern over the coastline management provisions contained in the draft LEP. There was further concern that the coastal erosion lines as included in the draft LEP maps were incorrect and amendments are required to these lines in line with the recent findings of the Coastline Hazard Definition Study.

Council has had a planned retreat policy since 1988 and re-affirmed this position by resolution when adopting the Coastline Management Study and by endorsing the provisions in the draft LEP as exhibited. The coastal erosion lines illustrated in the draft LEP maps are based on maps contained in Part J of DCP 2002. Council adopted a Coastal Hazards Definition Study in 2000 which re-assessed hazard lines in the immediate, 50 year and 100 year timeframes. Those lines have not been further developed into planning tools by the consideration of the precautionary principle, buffer distances for protection of beach amenity or geographical considerations.

The development of the Coastline Management Plan (including revised coastal erosion lines) will inform the provisions of the Shire-wide LEP.

2006 Recommendation

That Council staff use the outcomes of the Coastline Management Plan process in the preparation of the Shire-wide LEP.

2008 Application to the Shire wide LEP

The Coastline management plan remains only in preliminary draft form and will not be complete before the draft LEP is reported to Council for public exhibition. The draft shire wide LEP contains a Coastal Hazards Area Map which identifies two precincts of coastal land based on the precincts contained in DCP 2002, Part J. The 2002 DCP's immediate impact precinct is the equivalent of the Blue area on the Coastal Hazards Map and the 50 year impact precinct and Amendment No 66 Map from Byron LEP 1988 are the equivalent of the Green area on the Coastal Hazards Area Map. The Coastal hazard definition lines from the 2000 study still can't be used because the Coastline Management Plan has not identified how they should be used in the context of a planning instrument. Local provisions address how development is to be dealt with in the two Coastal Hazard Areas.

The clauses in Byron LEP 1988 that prohibit certain development in areas identified on a map created by LEP Amendment No 66 have been drafted into the coastal clauses in the draft LEP.

Zoning of land in the Shirley Street Precinct

There were a number of submissions which raised concern about the proposed low density residential zoning of lands along the southern side of Shirley Street and the northern section boarded by Shirley, Kendall, Dryden and Cavvanbah Streets. It is acknowledged that there are existing individual properties that have already been developed for medium density development in the northern section of Shirley Street.

There were also some concern raised in submissions regarding the imposition of a residential medium density zone imposed on sites located on the northern side of Shirley Street, where there are existing tourist accommodation development such as motels, hotels and hostels. There are suggestions that the zoning of this area should reflect the types of uses that currently exist.

2006 Recommendation

That the zoning of lands in Shirley Street be investigated in relation to medium density development to inform the future zonings of the Shire-wide LEP.

That Council maintain the status quo for the medium residential density zone of the northern side of Shirley Street and schedule list approved tourist developments in this location.

Note: The reason for differences in the above recommendations is that placing a medium density residential zone adjacent to a lower density residential zone is less likely to be incompatible than the provision of commercial zoning within a residential zone for tourism developments. It is for this reason that the above two recommendations for different areas within Shirley Street were treated differently.

2008 Application to the Shire wide LEP

The Shirley Street area is proposed to be zoned a mix of R2 Low Density Residential and R3 Medium Density Residential in the draft shire wide LEP. The majority of the North side of Shirley street is zoned R3 where holiday accommodation in the form of serviced apartments and motels exists. This zoning permits tourist and visitor accommodation in the form of bed

and breakfast accommodation and serviced apartments. Existing use rights will apply to approved motel and hotel accommodation in this area. The southern side of Shirley street is zoned R2 where dwellings are the predominant form of development. The zoning chosen is in response to the limitations of Shirley Street in dealing with significant additional traffic flows in this location and the heritage conservation area that has been mooted for Shirley Street in the draft shire wide LEP. A regional road study of Main Road 545 (Ewingsdale / Shirley Street / Bangalow Road) is underway and the outcomes of this work may influence the zoning of land in this precinct.

Tourist Developments on Lawson Street (Northern side of Road) at Middleton Street Intersection

A few submissions raised the concern regarding the proposed medium residential density zone located on the northern side of Lawson Street (near the intersection with Middleton Street), with particular reference to sites containing tourist accommodation. It was suggested that the zoning of this area needs to be reviewed, noting the predominance of tourist accommodation uses in this area.

Options for this area include:

- o Rezone sites at 37-47 Lawson Street and 30-34 Lawson Street to a business tourist accommodation zone to facilitate holiday accommodation which is approved on these sites.
- o Extension of the business zone or similar for sites at 37-47 Lawson Street and 30-34 Lawson Street.
- o Maintain the medium residential density zone in this entire area and provide a schedule listing for sites in Lawson Street which contain approved tourist development.

2006 Recommendation

That Council staff consider the use of a business tourism zone for sites at 37-47 Lawson Street and 30-34 Lawson Street, Byron Bay in the development of zoning for the Shire-wide LEP to facilitate tourist uses.

Council staff to investigate restrictions on the height of buildings in this area for the preparation of the Shire-wide LEP to avoid potential overshadowing of adjacent public open space.

2008 Application to the Shire wide LEP

The use of a business or tourism zone for this area was considered. Given the proposed use of the B4 Mixed Use zone on the Sandhills estate, 30-32 Lawson Street is also proposed to be included in the B4 zone as it contains a motel which is a permissible use in this zone. These two lots are also included in the existing 1(d) Investigation Zone therefore an opportunity exists to rezone this area to a suitable zoning such as B4 Mixed Use zone. The Building Height Map can be used to restrict these sites to a two storey height limit in recognition of their proximity to public land and of their location at the edge of the town centre. 34 Lawson Street, which contains serviced apartments, is proposed to be rezoned to the R3 Medium Density Residential zone as this zoning permits serviced apartments and this lot is not currently contained within an existing 1(d) Investigation zone.

37-47 Lawson Street are located on the north side of Lawson street and currently contain motels and serviced apartments. These properties could be zoned the SP3 Tourist zone in recognition of their beach side location and existing tourism use. However, as there is no existing Council strategy in place to support this rezoning, it is proposed to rezone these lands to R3 Medium Density Residential zone which is the zone which most closely matches

the objectives of the existing 7(f2) Urban Coastal Lands zone of the properties also taking into consideration the location and current uses of the land. Existing use rights will remain for approved uses.

Southern End of Jonson Street

When the draft Byron Bay area LEP was exhibited there were a few submissions which raised concerns about the future zoning of land located at the southern end of Jonson Street and the differentiation between the Business (Town Centre) zone and the Business (Mixed Use Fringe) zone. There was also strong landowner support for the proposed commercial rezoning of land at the southern end of Jonson Street south as far as Browning Street.

Also Council resolved on 4 November 2003 (Res 03-1072) the following:

"That Council support a Section 54 Resolution to rezone the remainder of Jonson Street to the northern corner of Browning Street, Byron Bay to a 3A Commercial Zone with a view to allowing a maximum two storey height limit, setbacks for landscaping and providing for on site parking."

2006 Recommendation

That the nature of the commercial zoning on both sides of Jonson Street from the intersection with Kingsley Street to the southern most part be reconsidered in the Shire-wide LEP in conjunction with the Byron Bay by-pass and other concerns raised by land owners.

2008 Application to the Shire wide LEP

Both sides of the southern end of Jonson street from Kingsley Street to Browning Street are proposed to be zoned B2 Local Centre under the shire wide LEP. This is consistent with the remainder of the town centre that is also proposed to be zoned B2 Local Centre.

The height of buildings on this land is controlled by the Building Height Map and it is recommended that the area currently zoned 3(a) Commercial will be maintained at the equivalent of three storeys. The area on the east side of Jonson Street between Kingsley and Browning Streets is recommended to be the equivalent of two storeys. The issue of landscaping and parking should be addressed in the DCP that will apply to the subject land. This is consistent with the Council resolution of 4 November 2003.

Small Scale Tourism Development in Rural Zones and Skinners Shoot

A number of submissions raised concern regarding the need to provide small scale rural tourism in the rural zones, particularly in the Skinners Shoot locality.

2006 Recommendation

That Council maintain the permissible uses in the Skinners Shoot locality, however further investigations be carried out on the environmental and traffic infrastructure constraints, when developing the zoning for the Shire-wide LEP.

That Council consider options for tourist uses in the rural areas, consistent with the Tourism Management Plan to be prepared for Council to provide input into the Shire-wide LEP.

2008 Application to the Shire wide LEP

The draft LEP permits tourism related uses in rural areas in a number of ways. Subject to the provisions of clauses, restaurants and retail development are permitted with Council consent in the RU1 Primary Production and RU2 Rural Landscape zones and restaurants

only in the E3 Environmental Conservation zone as long as they are conducted in conjunction with existing lawful agriculture, an agricultural produce industry or environmental facility.

Rural holiday accommodation is permitted with Council consent in the RU1 Primary Production, RU2 Rural Landscape and E3 Environmental Management zones subject to a clause that includes a range of provisions. These controls are based on the existing LEP 1988 provisions relating to rural holiday cabins. The RU1 Primary Production, RU2 Rural Landscape and E3 Environmental Management zones also permits farmstay accommodation.

These recommendations are based on the Farm and Nature Tourism Project which is supported by the draft Tourism Management Plan.

Cypress Pine Protection Area

A few submissions were received from land owners fronting Broken Head Road that raised concerns regarding the imposition of clauses related to the Cypress Pine Protection Area under Map 18 of the draft LEP. Some main issues of concern related to the mapping of the area, existing structures located in areas of protection and the reduction in residential density, particularly the subdivision potential from existing Residential 2(a) zone under Byron LEP 1988 to the EM(H) zone under the draft LEP.

Council's intention was to ensure that any future residential development on the Cypress Pine Protection Area would not have a negative impact on the Cypress Pine community. Mapping of this area needs further refinement noting existing structures from aerial photography and investigation into development consents.

2006 Recommendation

That Council staff further investigate the mapping, appropriate residential densities and subdivision controls for the Cypress Pine Protection Area in developing the zoning for the Shire-wide LEP.

2008 Application to the Shire wide LEP

The Cypress Pine Protection Area under Byron LEP 1988 is zoned Residential, but is subject to specific subdivision controls that restrict the number of lots that can be created and therefore their size. The shire wide LEP recommends that this area be zoned E4 Environmental Living which is a zone tailored to provide for low impact residential development in areas with special ecological values. It is also recommended that the minimum lot size map designate a lot size that is the "best fit" with the controls that currently apply to this area, approximately 2000m².

Wildlife Corridors

There were a number of submissions which raised concerns regarding the large extent of land the wildlife corridors covered in the draft LEP. There was concern raised regarding the restrictions on lawful activities and the confusion on property rights.

There were some submissions which raised the need to review the provisions for wildlife corridors in context of consistency with current bushfire legislation under the Rural Fires Act 1997.

2006 Recommendation

That Council reconsider the coverage of wildlife corridors, ensure consistency with bushfire legislation contained under the Rural Fires Act 1997 and revised vegetation mapping currently being undertaken in the context of developing provisions and maps for the Shire-wide LEP.

2008 Application to the Shire wide LEP

The shire-wide LEP still contains large areas of wildlife corridor. These areas reflect the connectivity between the native vegetation remnants in the Shire and are consistent with the Byron Biodiversity Conservation Strategy. The wildlife corridors themselves are not always vegetated land and are mainly zoned E3 Environmental Management as recommended by the BCS.

The Standard template LEP contains a compulsory Clause 5.11 which states that bush fire hazard reduction work that is authorised by the Rural Fires Act, 1997 may be carried out on any land without consent. In most cases bush fire hazard reduction work that is not authorised by the Rural Fires Act, 1997 will require Council consent.

Commercial Premises in the Industrial Estate

One submission received from the Byron Bay Business Group raised concern regarding the permissible uses of “commercial premises” and “health consulting rooms” in the industrial estate, suggesting that it will lead to fragmentation of the Byron Bay business town centre. Further investigations are required into the impact that commercial premises will have if they are located in the industrial estate on businesses in the town centre.

2006 Recommendation

That Council staff further investigate the impact of permissible uses such as commercial premises and health consulting rooms in the industrial estate and their impact on business activity in the Byron town centre.

2008 Application to the Shire wide LEP

No specific economic impact work has been undertaken by Council on this topic. The recommended use of the B7 Business Park zone in the Byron Bay industrial estate will allow certain office, business and retail uses to occur there with Council consent. Many of these uses are already there and anecdotal evidence suggests that they have located there because they cannot find affordable or suitable accommodation in the existing town centre. It is possible that the use of the B7 Business Park zone in the Byron Bay industrial estate may impact on business activity in the Byron Bay town centre. It is also unlikely that an economic impact statement will be able to quantify the level of this effect (if any), or provide Council with definite advice on whether to proceed with these sort of changes to the LEP. On balance it is recommended that Council take the opportunity to recognise what is already happening in the Byron Bay industrial estate and implement a B7 Business Park zone over the area west of Bayshore Drive.

Heritage

There were a number of objections with regards to the identification of heritage items, interim heritage items and the interim heritage conservation areas due to the current incomplete Heritage Study. The finalisation of this Heritage Study will be completed for incorporation into the Shire-wide LEP.

One particular submission raised a broad policy implication for Clause 56 of the draft LEP which related to conservation incentives for heritage items. This clause provides incentives to

property owners affected by heritage, to ensure conservation of heritage items and interim items. It was suggested that the clause also apply to Interim Heritage Conservation Areas.

2006 Recommendation

That the listing of individual items and conservation areas occur at the completion of the Community Based Heritage Study which will be used to develop the Shire-wide LEP.

That Council staff review the heritage provisions (including conservation incentives) for the Shire-wide LEP. It should be noted however that the Standard Template does include heritage provisions and they may not be able to be altered.

2008 Application to the Shire wide LEP

The Standard Template LEP contains extensive heritage provisions (cl 5.10) none of which can be modified by Council. They include conservation incentives.

The shire wide LEP also contains heritage items and heritage conservation areas identified as part of the Draft Community Based Heritage Study undertaken by Council, which is expected to be adopted prior to public exhibition of the Draft Shire-Wide LEP and any properties removed or changes will amend the draft LEP through their removal.

Existing Use Rights and Schedule 6 Listing of approved developments

Many submissions raised concern about the loss of existing use rights of a particular land use being carried out on specific sites, where the new zone prohibited the current use. In the drafting of the instrument, Schedule 6 was provided to capture all approved existing use for individual properties. This type of schedule has been supported by the Department of Planning in other North Coast shires to avoid the creation of existing use rights.

Amendments in March 2006 to the EP& A Regulations 2000 made significant changes to these provisions. These changes will affect sites in the Shire-wide LEP area.

In the drafting of the Shire-wide LEP, further investigations are required to determine whether a similar provision to Schedule 6 will be used to identify existing uses. Further the requirements of the Standard LEP will need to be taken into consideration.

2006 Recommendation

Further investigations by Council staff into the use of a clause similar to Schedule 6 of the draft LEP for the Byron Bay Area for use in the Shire-wide LEP.

2008 Application to the Shire wide LEP

There is no benefit in scheduling approved developments that could no longer be approved in the shire wide LEP as the concept of "existing use" under the Environmental Planning and Assessment Regulations, 2000 has been amended. It is now only possible to change the existing use to other uses permissible in the zone.

Rural Residential Land

A number of submissions raised concerns on behalf of some property owners in the area of Ewingsdale. The submissions requested a higher zoning for agricultural lands and a relaxation on the subdivision provisions for residual lands. Many of the residual small holdings lands have already reached their full potential under the Byron LEP 1988.

There are some rural lands identified for further investigation which is currently being assessed in the Review of the Byron Rural Settlement Strategy 1998. The outcome of this review process will inform the future zonings of land in the Ewingsdale locality for the Shire-wide LEP.

2006 Recommendation

That Council make no changes to proposed subdivisions controls for the Ewingsdale locality in the development of the Shire-wide LEP.

That further investigations into the zoning of areas for agriculture for Ewingsdale be considered in the Shire-wide LEP.

That the outcome of the review of the BRSS be taken into consideration in the development of new zones for the Shire-wide LEP.

2008 Application to the Shire wide LEP

The review of the BRSS will not be completed in time to have its findings incorporated into the shire wide LEP. In past consultation with the Ewingsdale community there has been strong support for maintaining the existing planning controls that are based on an average lot size as well as a minimum lot size. The shire wide LEP contains only one rural residential zone (R5 Large Lot Residential), however a local provision has been included that refers to a Lot Yield Map that designates where each of the averaging formulas will apply. The Lot Size Map in the draft LEP designates the minimum lot size for each locality. This combination of Lot Size Map and Lot Yield Map maintains the existing subdivision controls for areas zoned 1(c) 1 and 1(c) 2 under Byron LEP 1988.

Affordable Housing

There were a number of comments made with regards to affordable housing. There was a high number suggesting that existing caravan parks should be maintained for low cost housing, ensuring the prohibition of subdivision and strata-titling. There were some comments suggesting the lack of affordable housing due to current real estate prices and the real impact of holiday letting on the provision for affordable housing, due to lack of rental stock.

Council has adopted an Affordable Housing Strategy and associated Implementation Plan which shows Council's commitment to the provision of affordable housing in the Shire. Affordable housing provisions will be implemented in the Shire-wide LEP in context of the requirements of the Standard LEP template. There were some comments regarding examples of affordable housing in other areas (e.g. Caboolture Shire Council) which staff can take into consideration when developing provisions for affordable housing in the Shire-wide LEP.

2006 Recommendation

Examples of affordable housing in other areas be noted by Council staff and taken into consideration where appropriate in the development of the Shire-wide LEP.

Any selection of holiday letting precincts be mindful of the need to preserve predominantly residential areas from the displacement process that occurs when holiday letting becomes prevalent.

2008 Application to the Shire wide LEP

Some clauses specific to affordable housing have been provided in the Shire-wide LEP. Clause 4.4 provides for additional floor space on a lot of land in specified areas subject to the provisions of a voluntary planning agreement in accordance with Council's Voluntary

Planning Agreements Policy for contributions to affordable housing. Development carried out by NSW Department of Housing (or its equivalent) or its nominated community housing provider on lots of land in specified areas will also be eligible for additional floor space. Clause 6.2 requires that any development for the purposes of a dwelling or subdivision in zone R2, R3, B2 and B4 must consider the need for affordable housing the provisions of a DCP which addresses affordable housing.

LEP Provisions and Definitions

Many submissions included detailed objections to specific provisions and/or definitions contained within the draft LEP instrument. These drafting errors and anomalies will be reviewed in context of the drafting of the Shire-wide LEP, where appropriate.

2006 Recommendation

That Council staff acknowledge specific drafting errors and anomalies raised in submissions to the draft LEP in context of drafting a new Shire-wide LEP. (It should be noted however, all definitions included in the Standard Template LEP are fixed and cannot be altered by Council. It may be possible to add clause-specific definitions in some cases.)

2008 Application to the Shire wide LEP

The dictionary of definitions is supplied to Council in the Standard Template LEP and Council is unable to modify any of these definitions. It can (and has) applied some local definitions, but these apply only to the local clause in which they are used. These local definitions will be scrutinised by the Parliamentary Counsel before the LEP is finalised.

Zones and Vegetation Mapping Anomalies

There were a number of site specific submissions which have been analysed in Part A of this report which relate to specific zoning changes and vegetation mapping anomalies. Further investigations are required by Council staff to determine such issues as the approved uses on the subject site, existing development and vegetation on the site, in order to determine the most appropriate zoning for the development of the Shire-wide LEP.

2006 Recommendation

That further investigations by Council staff occur into specific sites identified in Part A of this report to inform the zoning of land in the Shire-wide LEP.

2008 Application to the Shire wide LEP

A considerable amount of field work has been undertaken by Council staff and in house consultants to assess sites which may contain vegetation mapping anomalies. This includes many sites in the Byron Bay area the subject of submissions to the Byron Bay LEP. The LEP mapping for the Shire-wide LEP is improved as a result of these investigations.

Other Shire-wide LEP Considerations

There were a number of submissions which raised general issues of concern in draft LEP provisions and maps. These include, but are not limited to, the following issues:

- o Acid Sulfate Soils
- o Bushfire Hazard
- o Marine Parks zone
- o Buffers
- o Drainage and fill
- o Landscaping

- o Excavation
- o Scenic/Visual Prominence
- o Tree Preservation
- o Infrastructure provision and potential population growth

There were also issues which were raised by numerous submissions regarding development standards, definitions and clauses in the draft LEP. Many of these and the above issues will be addressed in new provisions for Shire-wide LEP and associated Shire-wide DCP. It should be noted that the drafting of these instruments will be required to be consistent with the new State Government Standard Template.

A number of submissions raised issues that were unrelated to the LEP instrument such as aircraft noise, alcohol consumption, illegal camping and the spraying of pesticides. These issues can not be addressed in the LEP context/document.

2006 Recommendation

That Council staff acknowledges the general comments made with respect to issues outlined in Part D of this report and use this information to inform the development of the Shire-wide LEP instrument, mapping and associated Shire-wide DCP.

2008 Application to the Shire wide LEP

These issues have been addressed in the shire wide LEP where appropriate.

Government Agency Comments

A wide variety of comments were received from Government Agencies during and after the public exhibition of the draft plan. Many of the drafting errors and anomalies of the draft LEP are noted by Council staff, however these comments will be used in context of adhering to the requirements and being consistent with the State Government Standard Template.

There were some site specific issues (mapping etc) that will require further field investigation and consultation with the relevant Government Agencies for example Department of Environment and Conservation and the Marine Parks Authority.

There were some major concerns raised by the Department of Natural Resources (DNR) regarding the coastline management provisions contained in the draft LEP. It is agreed with DNR that new hazard information is more accurate, but a policy decision is required on buffers or setbacks for these to be included into a planning instrument. The major issues raised by DNR can not be easily resolved and in order for Council to make policy decisions on this issue, the Coastline Management Plan is required to be finalised. Council will need to continue to liaise with the Department of Natural Resources on this matter in the development of the Shire-wide LEP.

2006 Recommendation

That Council staff acknowledge comments made by various Government Agencies (amendment to provisions and mapping etc) in context of the Standard LEP template requirements when developing the Shire-wide LEP.

That Council staff have further consultation with various Government Agencies as outlined in recommendations of Part C of this report.

That Council continue to liaise with the Department of Natural Resources on the completion of the Coastline Management Plan process to inform the Shire-wide LEP.

2008 Application to the Shire wide LEP

The coastline management issues are discussed in an earlier part of this document. Where possible the views of Government agencies have been addressed in the Shire-wide LEP. Two rounds of consultation with Agencies have taken place as part of the Shire-wide plan preparation. Further liaison with Agencies will be undertaken during and after the exhibition of the draft LEP.