



BYRON SHIRE COUNCIL PLANNING PROPOSAL

GENERAL AMENDMENT 1 – Minor amendments & corrections

August 2015

(E2015/37505)

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Introduction

Byron Shire Council (BSC) has been considering a number of amendments to Byron LEP 2014 since it came into effect on 21 July 2014. At its meeting of 30 October 2014, Council resolved to amend its LEP to correct a range of minor matters and mapping errors. This planning proposal represents that amendment.

14-509 Resolved:

- 1. That a minor corrections and amendments planning proposal be prepared that seeks to amend Byron LEP in the manner set out in Table 1 of this report (#E2014/66629).*
- 2. That the General Manager (or delegate of his choice) be delegated the authority to include additional non-policy amendments in the planning proposal (not already identified in this report) for minor corrections and amendments to Byron LEP 2014.*
- 3. That the General Manager (or delegate of his choice) be delegated the authority to assume the role of the 'relevant planning authority' pursuant to the Environmental Planning & Assessment Act 1979 in relation to preparation and finalisation (whether Council has delegated authority to make the plan or not) of any other planning proposals consisting of non-policy matters such as corrections and consequential and/or minor amendments; and that Council be advised of any such amendments made under delegated authority.*

The Planning Proposal has been prepared with reference to the Department of Planning and Environment's Guidelines "A guide to preparing planning proposals" and "A guide to preparing local environmental plans".

The Planning Proposal amends Byron LEP 2014 as outlined in Table 1:

Table 1 Proposed LEP amendments and supporting rationale

Amendment proposed	Rationale
1) Amendment of the Byron LEP 2014 Heritage Map – Sheet HER_002BA and Schedule 5 to omit Heritage item I144 (24 Mill Street, Mullumbimby) generally in accordance with Map 1 shown in Attachment 1.	To delete heritage item listed in Schedule 5 (item I144) that is not subject to Byron LEP 2014, as the land is currently a Deferred Matter (previous E3 zone in draft LEP) to be reviewed separately. It was by oversight that the site's proposed heritage listing was not removed from LEP Schedule 5 when all E zones were deferred.
2) Amendment of the Byron LEP 2014 Heritage Map – Sheet HER_003CBB and Schedule 5 to amend the property description for Heritage item I031 (George Reading Store, Bangalow) to Lot 15 DP 1202254 generally in accordance with Map 2 in shown in Attachment 1.	To amend the property description for the George Reading Building (Heritage Item I031 in Schedule 5) to include only the lot on which the store is now located. Since the George Reading Building was first listed in the draft LEP the land containing the item has been subdivided. Too many lots are currently listed in Schedule 5.
3) Amendment of the Byron LEP 2014 Land Zoning Map – Sheet LZN_003CB generally in accordance with Map 3 shown in Attachment 1, and consequential amendments to the relevant Minimum Lot Size Map (40ha) and Floor Space Ratio Map (no FSR).	Adjust the <i>R2 Low Density residential zone</i> boundary in the vicinity of Muskwood Place, Palm-Lily Crescent and Ivory Curl Place, Bangalow to take account of cadastral boundary changes that occurred as a result of subdivision in that vicinity. New subdivisions in this locality have resulted in a number of adjustments to mapped cadastral boundaries (i.e. they are now more

Amendment proposed	Rationale
	accurate). This has resulted in a greater mismatch between property and zone boundaries in this locality. Therefore zone boundaries in this location should be amended and where relevant the zone boundary should be aligned with the updated cadastral boundary. In this case some land currently zoned R2 Low density residential will be rezoned to RU1 Rural landscape. The land proposed to be rezoned to RU1 is a riparian area.
4) Amendment of the Byron LEP 2014 Land Zoning Map – Sheet LZN_002DA generally in accordance with Map 4 shown in Attachment 1, and consequential amendments to the relevant Minimum Lot Size Map (40ha) and Floor Space Ratio Map (no FSR).	The R3 Medium Density Residential zone is intended to apply to privately owned land along Arika Avenue, Ocean Shores. At one point it affects a small part of the old Pacific Highway road reserve adjacent to Lot 100 DP 1044616. The SP2 Classified Road zone is intended to apply to land owned by RMS. The R3 zone should be removed from the RMS road reserve and replaced with the SP2 zone. (PN238631).
5) Amendment of the Byron LEP 2014 Land Zoning Map – Sheet LZN_002CA generally in accordance with Map 5 shown in Attachment 1 , and consequential amendments to the relevant Minimum Lot Size Map (600m2) and Floor Space Ratio Map (0.5).	In this location the RE2 Private Recreation zone is intended to apply to the Ocean Shores Country Club and not its public road access (Langi Place). In one location the RE2 zone affects a small part of the Langi Place road reserve. It should be removed from the road reserve and replaced with a R2 Low Density Residential zone consistent with the balance of the road reserve. (PN 240781).
6) Amendment of the Byron LEP 2014 Land Zoning Map – Sheet LZN_002DA generally in accordance with Map 6 shown in Attachment 1.	This affects the southern edge of Ferry Reserve Caravan Park (Brunswick Heads). Lot 11 DP 1169547 is an irregular shape lot that is substantially zoned RE1Public Recreation and is part of the caravan park. The southern most tip of the lot is zoned SP2 Classified Road but is not owned by RMS. The entire lot should be zoned RE1Public Recreation to reflect its ownership and predominant use. (PN 241878).
7) Amendment of the Byron LEP 2014 Land Zoning Map – Sheet LZN_003CA generally in accordance with Map 7 shown in Attachment 1, and consequential amendments to the relevant Minimum Lot Size Map (40ha) and Floor Space Ratio Map (no FSR).	SP2 Classified Road zone boundary on western side of the Pacific Highway (at Ewingsdale) is intended to apply only to Lot 12 DP 1194832 owned by RMS. It encroaches onto adjacent (privately owned) Lot 10 DP1194832 at two separate locations (both minor) and should be removed and replaced with the prevailing zone for that lot being RU1 Primary Production. (PN 267244 and PN 267246).
8) Amendment of the Byron LEP 2014 Land Zoning Map – Sheet LZN_003CC generally in accordance with Map 8 shown in Attachment 1, and consequential amendments to the relevant Minimum Lot Size Map (40ha) and Floor Space Ratio Map (no FSR).	The IN2 Light Industrial zone at West Byron inadvertently spills onto the adjacent Ewingsdale Road reserve in proximity to the Banksia Drive intersection. It should be removed and replaced with the prevailing zone for the road reserve at this location, being RU2 Rural Landscape. (PN84190).

Amendment proposed	Rationale
9) Amendment of the Byron LEP 2014 Land Zoning Map – Sheet LZN_003CA generally in accordance with Map 9 shown in Attachment 1, and consequential amendment to the relevant Minimum Lot Size Map (8000m2).	SP2 Classified Road zone boundary on eastern side of Pacific Highway near William Flick lane (Ewingsdale) does not align properly with RMS property. Minor adjustments over several lots will replace SP2 with R5 Large Lot Residential, and consequential amendments to the relevant Minimum Lot Size Map.
10) Amendment of the Byron LEP 2014 Land Zoning Map – Sheet LZN_003CB generally in accordance with Map 10 shown in Attachment 1, and consequential amendments to the relevant Minimum Lot Size Map (600m2) and Floor Space Ratio Map (0.5).	Council owned public road (Barby Crescent, Bangalow) encroaches slightly into the RU1 Primary production zone. Adjust the zone boundary to make the road completely R2 Residential the same as surrounding land (and road reserve) to the south.
11) Amendment of the Byron LEP 2014 Land Zoning Map – Sheet LZN_002BA generally in accordance with Map 11 shown in Attachment 1.	Lot 2 DP 1170435 contains the Mullumbimby Golf Club house. The adjacent RU1 Primary Production zone extends inadvertently into the lot on its north eastern edge. Adjust the zone boundary to make the subject lot entirely RE2 Private Recreation.
12) Amendment of the Byron LEP 2014 Land Zoning Map – Sheet LZN_003CB generally in accordance with Map 12 shown in Attachment 1, and consequential amendments to the relevant Minimum Lot Size Map (600m2 & 300m2) and Floor Space Ratio Map (0.5).	Land at Bangalow (zoned R2 Low Density Residential) backs on to the disused Casino to Murwillumbah rail line corridor (zoned RU1 Primary Production). There is a discrepancy between the two boundaries that needs to be fixed so that all of the area within the Lismore Road boundary is zoned RU1.
13) Amendment of the Byron LEP 2014 Land Zoning Map – Sheet LZN_003D generally in accordance with Map 13 shown in Attachment 1, and consequential amendments to the relevant Minimum Lot Size Map (40ha & 2.5ha).	Lot 4 DP 1203742 is an irregular shaped lot with a narrow access to Armstrong Lane (Broken Head). The alignment of the cadastre and the zone boundaries has slipped in several places. Some small areas will transfer from R5 to RU1 and some from RU1 to R5. (PN 267540).
14) Amendment of the Byron LEP 2014 Heritage Map – Sheet HER_003 generally in accordance with Map 14 shown in Attachment 1.	Lot 1 DP 1173905 (229 Eureka Road, Eureka) contains <i>Zalmonah House</i> (Item I098). The designation of this lot on the LEP heritage map inadvertently identifies small parts of adjacent lots as well. This needs to be trimmed back so it only identifies the subject land. (PN 241867).
15) Amendment of the Byron LEP 2014 floor space ratio map grids to remove reference to 033AA and replace it with 003AA.	To correct a map grid reference error that appears on all Floor Space Ratio maps.
16) Amendment of the Byron LEP 2014 Drinking Water Catchment Map - Sheet DWC_002B to remove 'Refer to map CL1_002BA'.	To remove an incorrect map reference.
17) Amendment of the Byron LEP 2014 Heritage Map – Sheet HER_002BA and Schedule 5 for Heritage item I185 (Power station, Wilsons Creek) to include the Mullumbimby Hydro-electric power station	To include in Schedule 5 the Mullumbimby Hydro-electric Power Station Complex as an item of State Significance as a result of its listing on the NSW State Heritage Register on 27 June 2014.

Amendment proposed	Rationale
complex as an item of State Significance on the following lots: Part Lot 11 DP 1107625, Part Lot 21 DP 1134217 and Part Lot 18 DP 633243	
18) Amendment of the Byron LEP 2014 clause 4.1E Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings to apply an 800 square metre minimum lot size for attached dual occupancies in the R2 Low Density Residential zone and remove reference to 'Zone RU2 Rural Landscape' in column 2 in relation to attached dual occupancies.	To correct a typographical error in the published version of the LEP that referred to 'Zone RU2 Rural Landscape' instead of 'Zone R2 Low Density Residential'. The amendments proposed are consistent with the publicly exhibited version of the LEP and the version submitted to the Department of Planning and Environment for finalisation.
19) Amendment of the Byron LEP 2014 land use table for zone R5 Large Lot Residential land use table by including <i>sewage treatment plants</i> (instead of <i>sewage treatment facilities</i>) and <i>water recycling facilities</i> (instead of <i>water recycling systems</i>).	The standard LEP does not have definitions for <i>sewage treatment facilities</i> or <i>water recycling systems</i> . They should not have been included in the LEP. They should be replaced with the defined terms <i>sewage treatment plants</i> and <i>water recycling facilities</i> respectively.
20) Amendment of the Byron LEP 2014 land use table for zone B7 Business Park by deleting reference to <i>retail premises</i> .	The reference to <i>retail premises</i> as prohibited in the B7 land use table is unnecessary as the "parent" definition of <i>commercial premises</i> is already listed as prohibited. <i>Retail premises</i> will remain prohibited in the zone so it is not a policy change that needs to be justified.
21) Amendment of the Byron LEP 2014 land use table for zone IN1 General Industrial by deleting reference to <i>garden centres</i> .	The reference to <i>garden centres</i> as prohibited in the IN1 land use table is unnecessary as the "parent" definition of <i>commercial premises</i> is already listed as prohibited. <i>Garden centres</i> will remain prohibited in the zone so it is not a policy change that needs to be justified.
22) Amendment of the Byron LEP 2014 land use table for zone IN2 Light Industrial by deleting reference to <i>business premises</i> .	The reference to <i>business premises</i> as prohibited in the IN2 land use table is unnecessary as the "parent" definition of <i>commercial premises</i> is already listed as prohibited. <i>Business premises</i> will remain prohibited in the zone so it is not a policy change that needs to be justified.

PART 1 Objectives and Intended Outcomes of the Proposed Instrument

The **intended outcome** of the instrument proposed by this Planning Proposal is to correct minor errors in Byron LEP 2014 clauses, land use tables and on maps.

PART 2 Explanations of Provisions to be included in the Proposed Instrument

The proposed amendments are outlined in Table 1 above.

PART 3 Justification for Objectives, Outcomes & Implementation Process

Section A – Need for the Planning Proposal

Q1. Is the planning proposal a result of any strategic study or report?

No. The Planning Proposal consists of minor map, clause and land use table amendments that are not a result of a strategic study or report. The amendment proposed to clause 4.1E (in relation to the minimum lot size for attached dual occupancies in the R2 Low Density zone) relates to a Departmental oversight when finalising the LEP for gazettal and is consistent with the publicly exhibited provisions of what is now Byron LEP 2014.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

A planning proposal is the best means of addressing the minor amendments and corrections needed to improve Byron LEP 2014.

Section B – Relationship to strategic planning framework

Q3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy?

The Far North Coast Regional Strategy is not relevant to the minor amendments and corrections outlined in this planning proposal. No significant land use or policy changes are involved.

Q4. Is the planning proposal consistent with Council's local strategy or other local strategic plan?

Keeping its LEP up to date is consistent with the corporate governance objectives of Byron Community Strategic Plan 2022.

No other policy or land use issues are relevant to the minor amendments or corrections outlined in this planning proposal. The amendment proposed to clause 4.1E in relation to the minimum lot size for attached dual occupancies in the R2 Low Density zone is consistent with the publicly exhibited provisions of what is now Byron LEP 2014 and corrects an obvious (typographical) error in the published version of the clause.

Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

Most State Environmental Planning Policies (SEPP) are not applicable to this planning proposal. The planning proposal is consistent with the following applicable State Environmental Planning Policy (SEPP):

State Environmental Planning Policy (SEPP)	Compliance of Planning Proposal
SEPP (Rural lands) 2008	This planning proposal constitutes minor corrections and amendments. No significant new rural or residential housing will result from this planning proposal. It is consistent with the rural planning principles in the SEPP.

Q6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Unless otherwise noted the Planning Proposal is consistent with applicable Ministerial Directions as follows:

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
1. Employment and Resources			
1.1 Business and Industrial Zones	Applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).	A small area of IN2 Light Industrial at West Byron that affect a road reserve will be replaced by RU2 Rural Landscape to correct a drafting error. It is a minor matter and will not affect employment or business outcomes.	Justifiably inconsistent
1.2 Rural Zones	Applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary). Under this direction a planning proposal must: (a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. (b) not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).	In a number of locations this planning proposal will remove a rural zone and replace it with residential or other urban zones. These are all minor mapping anomalies and will not impact significantly on rural land use or agriculture.	Justifiably inconsistent

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
1.3 Mining, Petroleum Production and Extractive Industries	Applies when a relevant planning authority prepares a planning proposal that would have the effect of: (a) prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or (b) restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.	Nothing in this planning proposal will prohibit or restrict exploration or mining or the extraction of other material.	Consistent
1.4 Oyster Aquaculture	Applies when a relevant planning authority prepares any planning proposal that proposes a change in land use which could result in: (a) adverse impacts on a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate”, or (b) incompatible use of land between oyster aquaculture in a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate” and other land uses.	Priority Oyster Aquaculture Areas (POAA) exist in the Brunswick River however there is minimal likelihood the planning proposal will have adverse impacts on POAA as the changes are so minor and will not result in significant land use changes.	Consistent.
1.5 Rural Lands	Applies when: (a) a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary), or (b) a relevant planning authority prepares a planning proposal that changes the existing minimum lot size on land within a rural or environment protection zone.	This planning proposal does not affect or alter environment protection zones or the deferred matters that remain subject to Byron LEP 1988. It will also not alter the minimum lot sizes for rural zones other than to correct a mistake in CI 4.1E that relates to MLS on R2 Low Density Residential land that was incorrectly gazetted as applying to RU2 Rural Landscape land. It alters some rural zones to correct mapping errors.	Consistent

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	A planning proposal to which clauses (a) and (b) apply must be consistent with the Rural Planning Principles listed in <i>State Environmental Planning Policy (Rural Lands) 2008</i>. A planning proposal to which clause (b) applies must be consistent with the Rural Subdivision Principles listed in <i>State Environmental Planning Policy (Rural Lands) 2008</i>.	In a number of locations this planning proposal will remove a rural zone and replace it with residential or other urban zones. These are all minor mapping anomalies and will not impact significantly on rural land use or agriculture.	
2 Environment and Heritage			
2.1 Environment Protection Zones	A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas. A planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with clause (5) of Direction 1.5 “<i>Rural Lands</i>”.	The planning proposal does not alter or remove any environment protection zone.	N/A
2.2 Coastal Protection	Direction applies when a relevant planning authority prepares a planning proposal that applies to land in the coastal zone. A planning proposal must include provisions that give effect to and are consistent with: (a) the NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997, (b) the Coastal Design Guidelines 2003, (c) the manual relating to the management of the coastline for the purposes of section 733 of the <i>Local Government Act 1993</i> (the NSW Coastline Management Manual 1990).	Certain land affected by this proposal is located within the coastal zone, which affects the eastern half of Byron Shire. In a number of locations this planning proposal will alter zone boundaries. These are all minor mapping anomalies and will not impact significantly on coastal protection, coastal design or management of the coastline.	Consistent.

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
2.3 Heritage Conservation	A planning proposal must contain provisions that facilitate the conservation of: (a) Items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area, (b) Aboriginal objects or Aboriginal places that are protected under the <i>National Parks and Wildlife Act 1974</i>, and (c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.	Byron LEP 2014 currently contains provisions that are consistent with this Direction. This planning proposal will affect four listed heritage items. Item I144 is a heritage item listed in Schedule 5 that is not subject to Byron LEP 2014, as the land is currently a Deferred Matter (previous E3 zone in draft LEP) to be reviewed separately. It was an oversight that the site was not removed from LEP Schedule 5 when all E zones were deferred. Item I031 is the George Reading Building (Heritage Item I031 in Schedule 5) will be amended to include only the lot on which the store is now located. Too many lots are currently listed in Schedule 5. Item I185 is the Mullumbimby Hydro-electric Power Station Complex. It will be changed in Schedule 5 from Local to an item of State Significance as a result of its listing on the NSW State Heritage Register on 27 June 2014. Item I098 (Lot 1 DP 1173905 (229 Eureka Road) contains Zalmonah House). The designation of this lot on the LEP heritage map inadvertently identifies small parts of adjacent lots as well. This needs to be trimmed back so it only identifies the subject land	Consistent

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
2.4 Recreation Vehicle Areas	A planning proposal must not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the <i>Recreation Vehicles Act 1983</i>): (a) where the land is within an environment protection zone, (b) where the land comprises a beach or a dune adjacent to or adjoining a beach, (c) where the land is not within an area or zone referred to in paragraphs (4)(a) or (4)(b) unless the relevant planning authority has taken into consideration: (i) the provisions of the guidelines entitled <i>Guidelines for Selection, Establishment and Maintenance of Recreation Vehicle Areas, Soil Conservation Service of New South Wales, September 1985</i>, and (ii) the provisions of the guidelines entitled <i>Recreation Vehicles Act, 1983, Guidelines for Selection, Design, and Operation of Recreation Vehicle Areas, State Pollution Control Commission, September 1985</i>.	The proposal does not enable land to be developed for the purpose of a recreation vehicle area.	N/A
3. Housing, Infrastructure and Urban Development			
3.1 Residential Zones	This direction applies when a relevant planning authority prepares a planning proposal that will affect land within: (a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary), (b) any other zone in which significant residential development is permitted or proposed to be permitted. A planning proposal must include provisions that encourage the provision of housing that will: (a) broaden the choice of building types and locations available in the housing market, and (b) make more efficient use of existing infrastructure and	The planning proposal does affect residential zoned land in a number of locations. However all map changes are minor and will not impact significantly on its residential use or the provision of housing.	Consistent

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	services, and (c) reduce the consumption of land for housing and associated urban development on the urban fringe, and be of good design. A planning proposal must, in relation to land to which this direction applies: (a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and (b) not contain provisions which will reduce the permissible residential density of land.		
3.2 Caravan Parks and Manufactured Home Estates	Applies when a relevant planning authority prepares a planning proposal. In identifying suitable zones, locations and provisions for caravan parks in a planning proposal, the relevant planning authority must: • retain provisions that permit development for the purposes of a caravan park to be carried out on land, and • retain the zonings of existing caravan parks, or in the case of a new principal LEP, zone the land in accordance with an appropriate zone under the Standard Instrument (Local Environmental Plans) Order 2006 that would facilitate the retention of the existing caravan park. In identifying suitable zones, locations and provisions for manufactured home estates (MHEs) in a planning proposal, the relevant planning authority must: (a) take into account the categories of land set out in Schedule 2 of SEPP 36 as to where MHEs should not be located, (b) take into account the principles listed in clause 9 of SEPP 36	This planning proposal affects the Ferry Reserve Caravan Park at Brunswick Heads. However it is a minor zone boundary adjustment to exclude part of the existing caravan park from an SP2 zone.	Consistent

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	(which relevant planning authorities are required to consider when assessing and determining the development and subdivision proposals), and (c) include provisions that the subdivision of MHEs by long term lease of up to 20 years or under the <i>Community Land Development Act 1989</i> be permissible with consent.		
3.3 Home Occupations	Planning proposals must permit home occupations to be carried out in dwelling-houses without the need for development consent.	This proposal does not alter home occupation provisions in Byron LEP 2014.	N/A
3.4 Integrating Land Use and Transport	Applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes. A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of: <i>Improving Transport Choice – Guidelines for planning and development</i> (DUAP 2001), and <i>The Right Place for Business and Services – Planning Policy</i> (DUAP 2001).	The planning proposal will make only minor changes to urban zones. There is unlikely to be any impact on public transport as a result of this planning proposal.	Consistent.
3.5 Development Near Licensed Aerodrome	Applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome. The main requirements of the Direction are that Council takes into consideration the Obstacle Limitation Surface (OLS) as defined by that Department of the Commonwealth for residential purposes, and does not increase residential densities in areas where the ANEF, as from time to time advised by that Department of the	The planning proposal will not alter provisions on land in the vicinity of the Tyagarah aerodrome.	N/A

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	Commonwealth, exceeds 25.		
4. Hazard and Risk			
4.1 Acid Sulfate Soils	Applies when a relevant planning authority prepares a planning proposal that will apply to land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps. A council shall not prepare a draft LEP that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the council has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils.	Some of the land subject to the planning proposal may be affected by Acid Sulfate Soils. However, the planning proposal will not necessarily lead to intensification of land uses proposed on land identified on the Acid Sulfate Soils Planning Maps. Council will consider acid sulfate soils if it receives an application in an ASS affected location in accordance with cl. 6.1 of Byron LEP 2014.	Consistent.
4.2 Mine Subsidence and Unstable Land	Applies when a relevant planning authority prepares a planning proposal that permits development on land that: (a) is within a mine subsidence district, or (b) has been identified as unstable in a study, strategy or other assessment undertaken: (i) by or on behalf of the relevant planning authority, or (ii) by or on behalf of a public authority and provided to the relevant planning authority.	This proposal does not impact on any mine subsidence area.	N/A
4.3 Flood Prone Land	Applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land. A planning proposal must include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i> (including the <i>Guideline on Development Controls on Low Flood Risk Areas</i>). A planning proposal must not rezone land within the flood planning areas from Special Use, Special Purpose,	The planning proposal will make only minor changes to land use zones and only one small area (west of Brunswick Heads) is located on flood affected land. Byron LEP 2014 already contains a flood planning clause that would apply to development on land that is flood prone. The planning proposal will not permit significant development on flood prone land (beyond that already permitted). There is unlikely to be a net increase in demand for flood	Consistent.

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	Recreation, Rural or Environment Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone. A planning proposal must not contain provisions that apply to the flood planning areas which: (a) permit development in floodway areas, (b) permit development that will result in significant flood impacts to other properties, (c) permit a significant increase in the development of that land, (d) are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or (e) permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, buildings or structures in floodways or high hazard areas), roads or exempt development. A planning proposal must not impose flood related development controls above the residential flood planning level for residential development on land, unless a relevant planning authority provides adequate justification for those controls to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General). For the purposes of a planning proposal, a relevant planning authority must not determine a flood planning level that is inconsistent with the Floodplain Development Manual 2005 (including the <i>Guideline on Development Controls on Low Flood Risk Areas</i>) unless a relevant	rescue services as a result of the minor changes in this planning proposal.	

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	planning authority provides adequate justification for the proposed departure from that Manual to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).		
4.4 Planning for Bushfire Protection	Applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land. In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made. A planning proposal must: (a) have regard to <i>Planning for Bushfire Protection 2006</i>, (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and (c) ensure that bushfire hazard reduction is not prohibited within the APZ. A planning proposal must, where development is proposed, comply with the following provisions, as appropriate: (a) provide an Asset Protection Zone (APZ) incorporating at a minimum: (i) an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with	The proposal contains small areas of land identified as being Bushfire Prone. However, the zone changes are minor and will not result in significant land use changes or additional uses. Consultation with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act will take place when the gateway determination has been received. It is assumed that any concerns they may have can be addressed.	Consistent.

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	the incorporation of an APZ, within the property, and (ii) an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road, (b) for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the planning proposal permit Special Fire Protection Purposes (as defined under section 100B of the Rural Fires Act 1997), the APZ provisions must be complied with, (c) contain provisions for two-way access roads which link to perimeter roads and/or to fire trail networks, (d) contain provisions for adequate water supply for fire fighting purposes, (e) minimise the perimeter of the area of land interfacing the hazard which may be developed, (f) introduce controls on the placement of combustible materials in the Inner Protection Area.		
5. Regional Planning			
5.1 Implementation of Regional Strategies	Planning proposals must be consistent with a regional strategy released by the Minister for Planning.	The planning proposal does not raise any policy issues relevant to the outcomes and actions contained within the Far North Coast Regional Strategy (FNCRS).	Consistent.

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
5.2 Sydney Drinking Water Catchments	Applies when a relevant planning authority prepares a planning proposal that applies to the hydrological catchment.	The proposal is not within this catchment.	N/A
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	The planning proposal must not rezone land mapped as State or regionally significant farmland under the Northern Rivers Farmland Protection Project for an urban use.	Only very small areas of rural land are proposed to be rezoned by this planning proposal. There will be no significant impacts on farmland or agriculture.	Justifiably inconsistent
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	A planning proposal that applies to land located on “within town” segments of the Pacific Highway must provide that: (a) new commercial or retail development must be concentrated within distinct centres rather than spread along the highway, (b) development with frontage to the Pacific Highway must consider the impact the development has on the safety and efficiency of the highway. (c) For the purposes of this paragraph, “within town” means areas which, prior to the draft local environmental plan, have an urban zone (eg “village”, “residential”, “tourist”, “commercial”, “industrial”, etc) and where the Pacific Highway speed limit is less than 80 km/hour. A planning proposal that applies to land located on “out-of-town” segments of the Pacific Highway must provide that: (a) new commercial or retail development must not be established near the Pacific Highway if this proximity would be inconsistent with the objectives of this Direction, (b) development with frontage to the Pacific Highway must consider the impact the development has on the safety and efficiency of the highway. (c) For the purposes of this	This planning proposal does not affect commercial or retail uses in proximity to the Pacific Highway.	N/A

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	paragraph, “out-of-town” means areas which, prior to the draft local environmental plan, do not have an urban zone (eg “village”, “residential”, “tourist”, “commercial”, “industrial”, etc) or are in areas where the Pacific Highway speed limit is 80 km/hour or greater.		
6. Local Plan Making			
6.1 Approval and Referral Requirements	A planning proposal must: (a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and (b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of: (i) the appropriate Minister or public authority, and (ii) the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General), prior to undertaking community consultation in satisfaction of section 57 of the Act, and (c) not identify development as designated development unless the relevant planning authority: (i) can satisfy the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the	The planning proposal will not include provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority.	N/A

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	environment, and (ii) has obtained the approval of the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act.		
6.2 Reserving Land for Public Purposes	A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General).	The planning proposal alters the zone of a small piece of land at Brunswick Heads (Ferry Reserve Caravan Park) to correct an anomaly where the southern tip of one lot was included in an SP2 Infrastructure zone. The land is already in public ownership (Crown land) and will not create any acquisition liability.	Justifiably inconsistent
6.3 Site Specific Provisions	Applies when a relevant planning authority prepares a planning proposal that will allow a particular development to be carried out. A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either: (a) allow that land use to be carried out in the zone the land is situated on, or (b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or (c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal	The planning proposal will not facilitate any particular development to be carried out. The planning proposal does not contain schematic drawings.	N/A

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	environmental planning instrument being amended. A planning proposal must not contain or refer to drawings that show details of the development proposal.		

Section C – Environmental, social and economic impact

Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The amendments proposed will not adversely affect critical habitat or threatened species, populations or ecological communities, or their habitats.

Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

There are negligible environmental effects likely as a result of the minor amendments and corrections outlined in this Planning Proposal.

Q9. Has the planning proposal adequately addressed any social and economic impacts?

There are negligible social and economic impacts as a result of the minor amendments and corrections outlined in this Planning Proposal.

Section D – State and Commonwealth interests

Q10. Is there adequate public infrastructure for the planning proposal?

Public infrastructure provision is not relevant to the minor amendments and corrections outlined in this proposal.

Q11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

Relevant public authorities will be consulted in accordance with the Gateway Determination.

PART 4 Mapping

Refer to Attachment 1.

Amendments will be required to the following map sheets:

Byron LEP 2014 Heritage Map – Sheet HER_002BA, Sheet HER_003CBB, Sheet HER_002BA, Sheet HER_003

Byron LEP 2014 DWC Map – Sheet DWC_002B

Byron LEP 2014 FSR Map – all Sheets

Byron LEP 2014 Land Zoning Map – Sheet LZN_003CB, Sheet LZN_002DA, Sheet LZN_002CA, Sheet LZN_003CA, Sheet LZN_003CC, Sheet LZN_002BA, Sheet LZN_003D,

PART 5 Community Consultation

Community consultation is not necessary for this proposal as it relates only to minor administrative corrections and amendments. However it is recommended that a 14 day exhibition is a logical alternative if the Department considers that an exhibition is warranted.

PART 6 Project Timelines

An indicative project timeline is provided in the table below:

Plan making step	Estimated Completion
Gateway Determination (Anticipated)	August 2015
Government Agency consultation	September 2015
Public Exhibition Period	September 2015 (14 days recommended)
Submissions Assessment	September/October 2015
Council assessment of planning proposal & exhibition outcomes	October 2015
Submission of endorsed LEP amendment to Parliamentary Counsel for drafting (if delegated)	November 2015
Council to make the LEP amendment (if delegated)	December 2015
Forwarding of LEP amendment to Department of Planning & Environment for notification (if delegated)	December 2015

Conclusion

Byron Shire Council has initiated a planning proposal to modify its 2014 LEP to make a range of map, clause and land use table changes.

The planning proposal is broadly consistent with the Far North Coast Regional Strategy and SEPPs. It is also consistent (or justifiably inconsistent) with section 117 Directions.

It is not considered that this planning proposal raises any issues that require further studies or detailed assessment. It requires minimal public consultation (if any).

It is a minor matter that can be dealt with by Council under delegation.

ATTACHMENT 1 – Proposed Map Changes

- 1) Amendment of the Byron LEP 2014 Heritage Map – Sheet HER_002BA and Schedule 5 to omit Heritage item I144 from 24 Mill Street, Mullumbimby, as circled in red in Map 1.



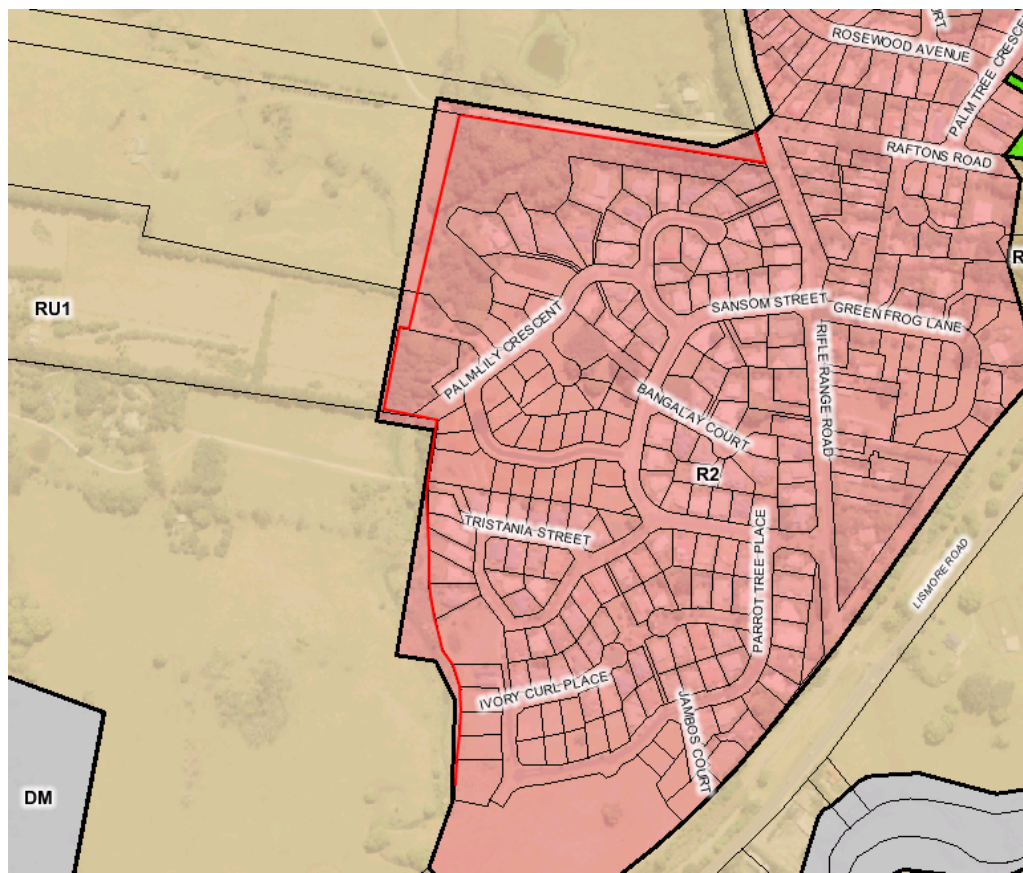
Map 1

- 2) Amendment of the Byron LEP 2014 Heritage Map – Sheet HER_003CBB and Schedule 5 to amend the property description for Heritage item I031 (George Reading Store, Bangalow) to Lot 15 DP 1202254 only. 'Heritage item' is to be removed from properties outlined in red shown in Map 2.



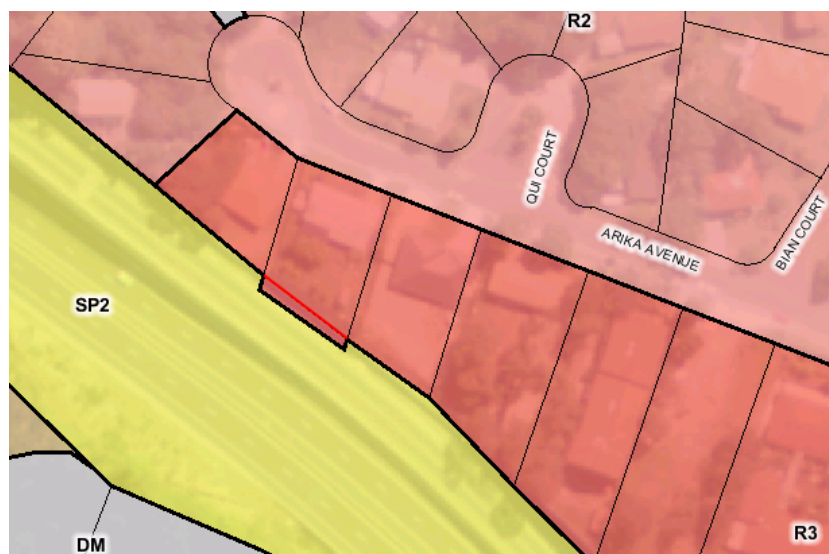
Map 2

- 3) Amendment of the Byron LEP 2014 Land Zoning Map – Sheet LZN_003CB (Muskwood Place, Palm-Lily Crescent and Ivory Curl Place, Bangalow). The RU1 and R2 zone boundary is to be realigned with the red line shown in Map 3.



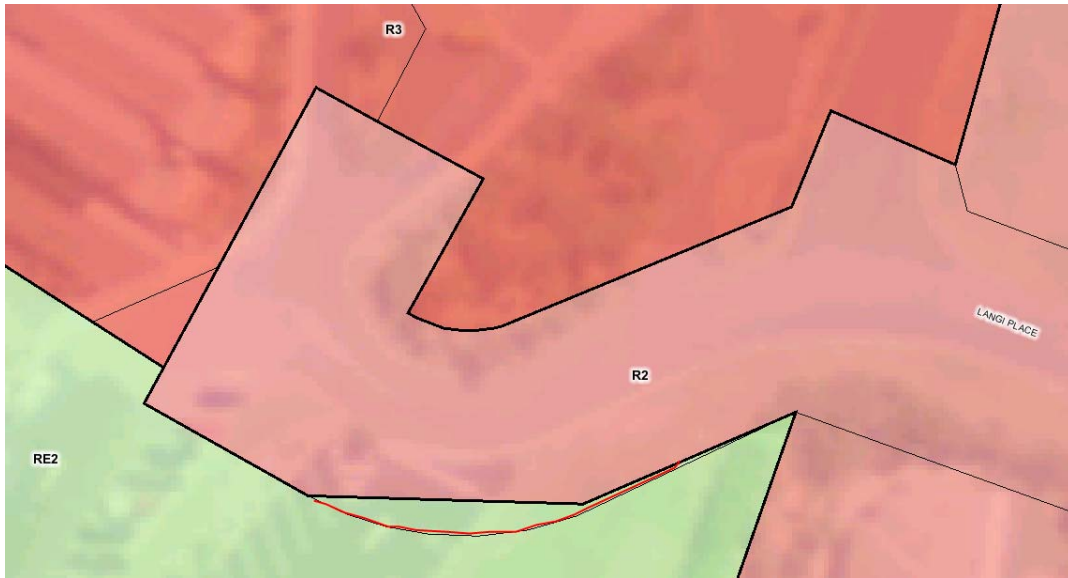
Map 3

- 4.) Amendment of the Byron LEP 2014 Land Zoning Map – Sheet LZN_002DA (Arika Avenue, Ocean Shores and the old Pacific Highway road reserve). The SP2 and R3 zone boundary is to be realigned with the red line shown below in Map 4.



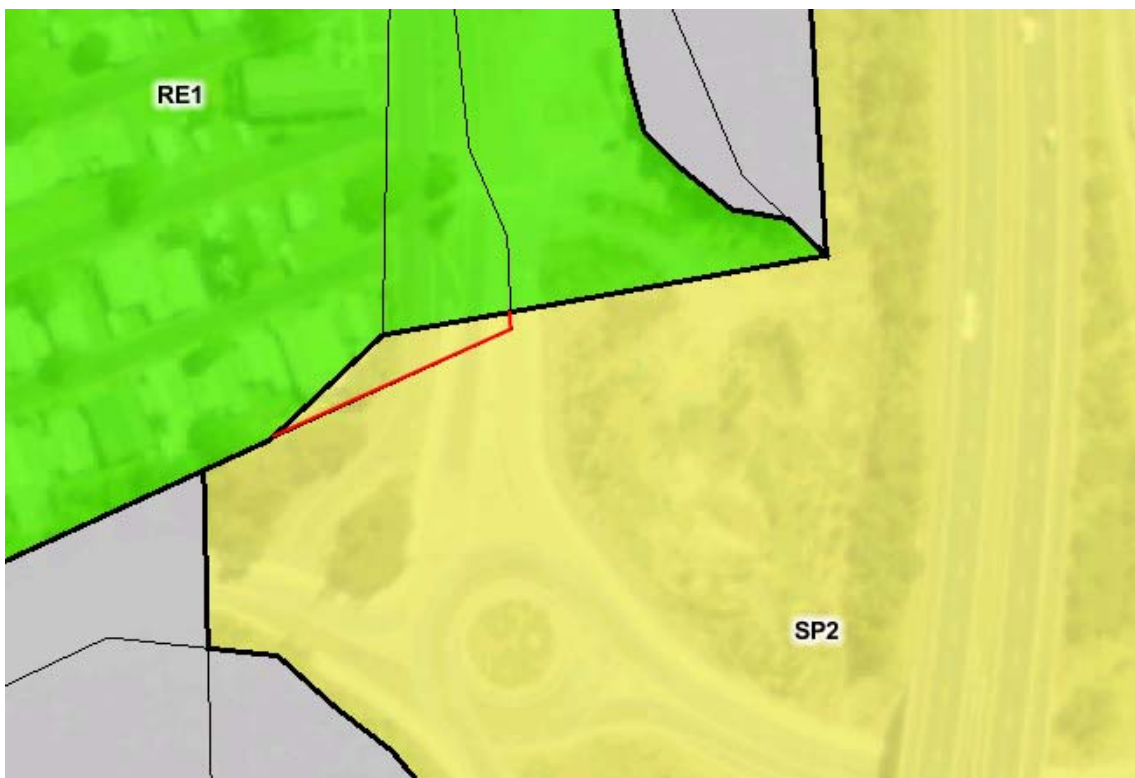
Map 4

- 5) Amendment of the Byron LEP 2014 Land Zoning Map – Sheet LZN_002CA (Langi Place, Ocean Shores).
The RE2 and R2 zone boundary is to be realigned with the red line shown below in Map 5.



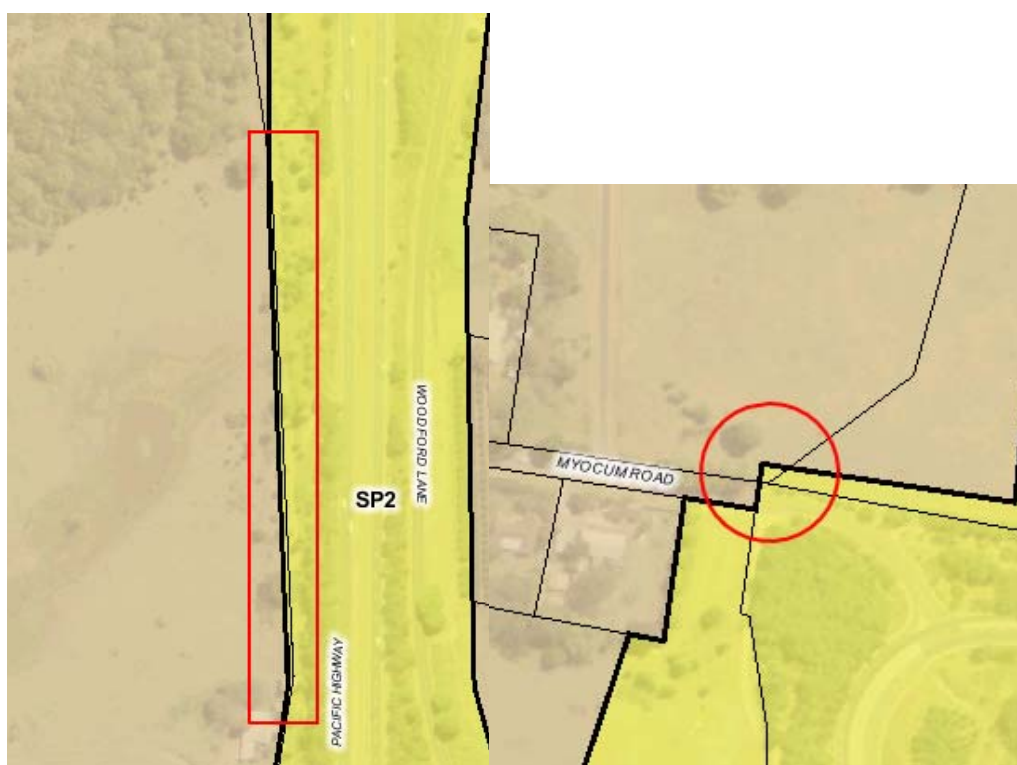
Map 5

- 6) Amendment of the Byron LEP 2014 Land Zoning Map – Sheet LZN_002DA (Ferry Reserve Caravan Park).
The RE1 and SP2 zone boundary is to be realigned with the red line shown below in Map 6.



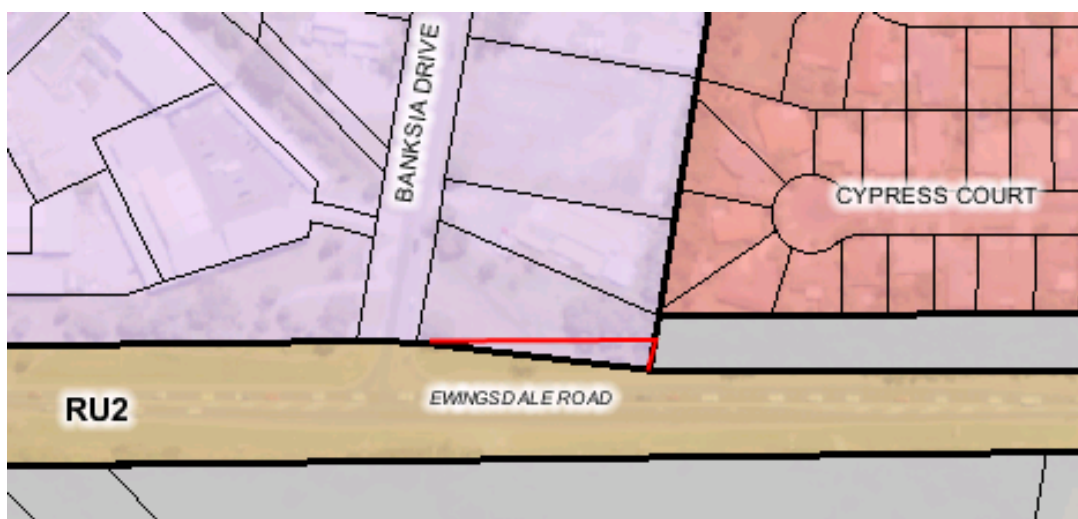
Map 6

- 7) Amendment of the Byron LEP 2014 Land Zoning Map – Sheet LZN_003CA (Western side of Pacific Highway at Ewingsdale, at 2 separate locations) SP2 zone to be removed from privately owned property and rezoned RU1.



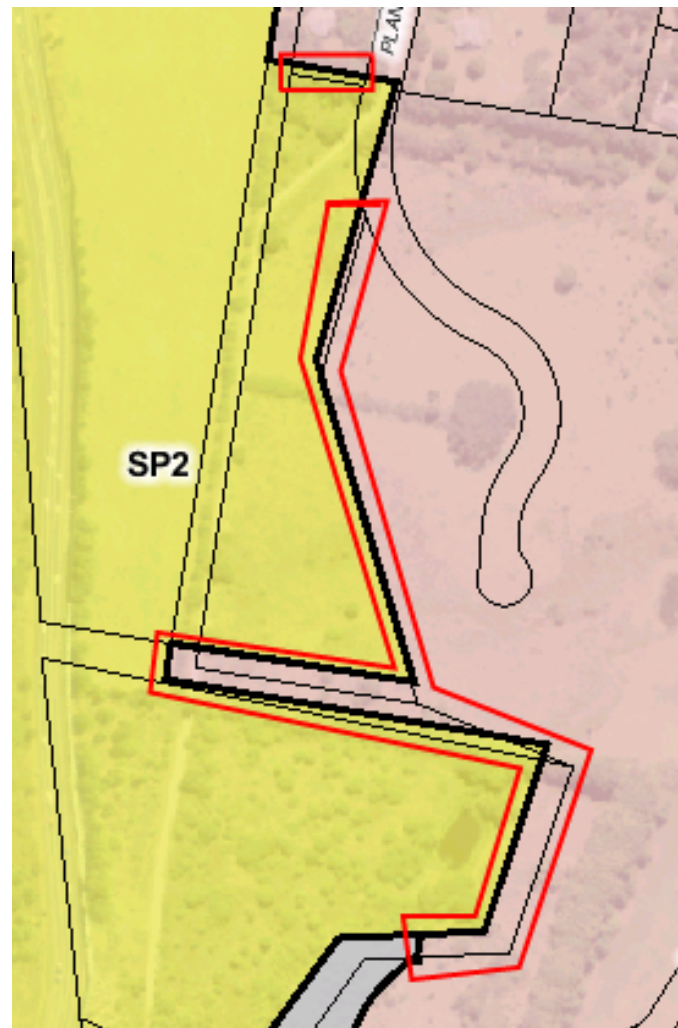
Map 7

- 8) Amendment of the Byron LEP 2014 Land Zoning Map – Sheet LZN_003CC (Ewingsdale Road reserve near Banksia Drive, West Byron). The IN2 and RU2 zone boundary is to be realigned with the red line shown below in Map 8.



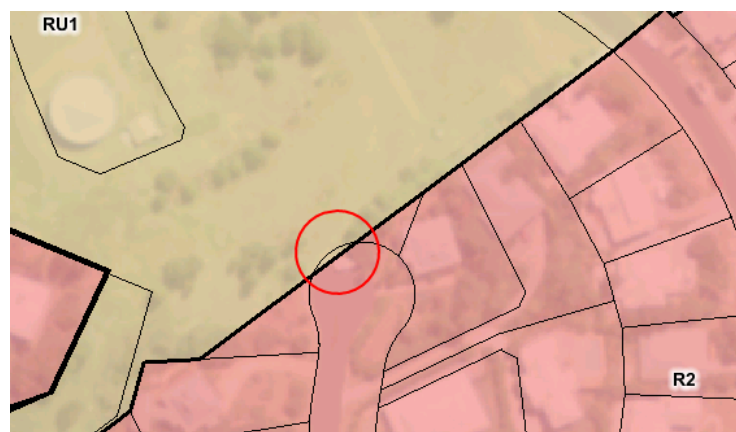
Map 8

- 9) Amendment of the Byron LEP 2014 Land Zoning Map – Sheet LZN_003CA (Eastern side of Pacific Highway at Ewingsdale). SP2 and R5 zone boundary shown in Map 9 to be amended so that the R5 zone applies only to privately owned land.



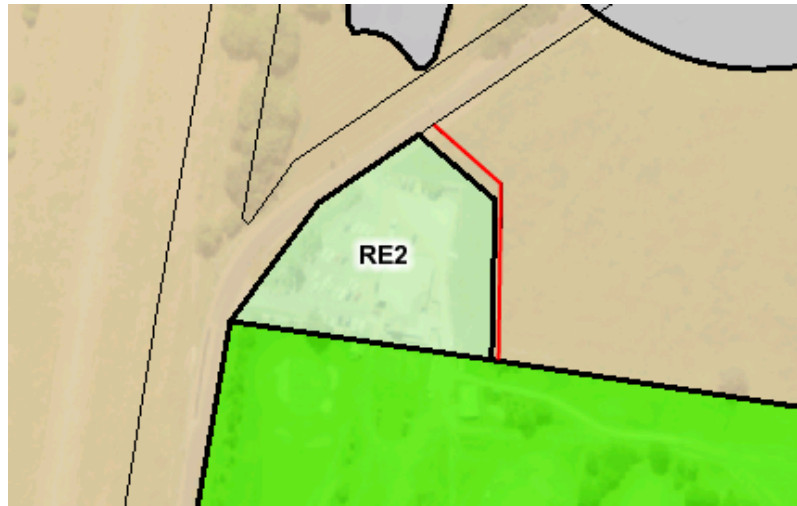
Map 9

- 10) Amendment of the Byron LEP 2014 Land Zoning Map – Sheet LZN_003CB (Barby Crescent, Bangalow). The end of Barby Cres is to be rezoned R2.



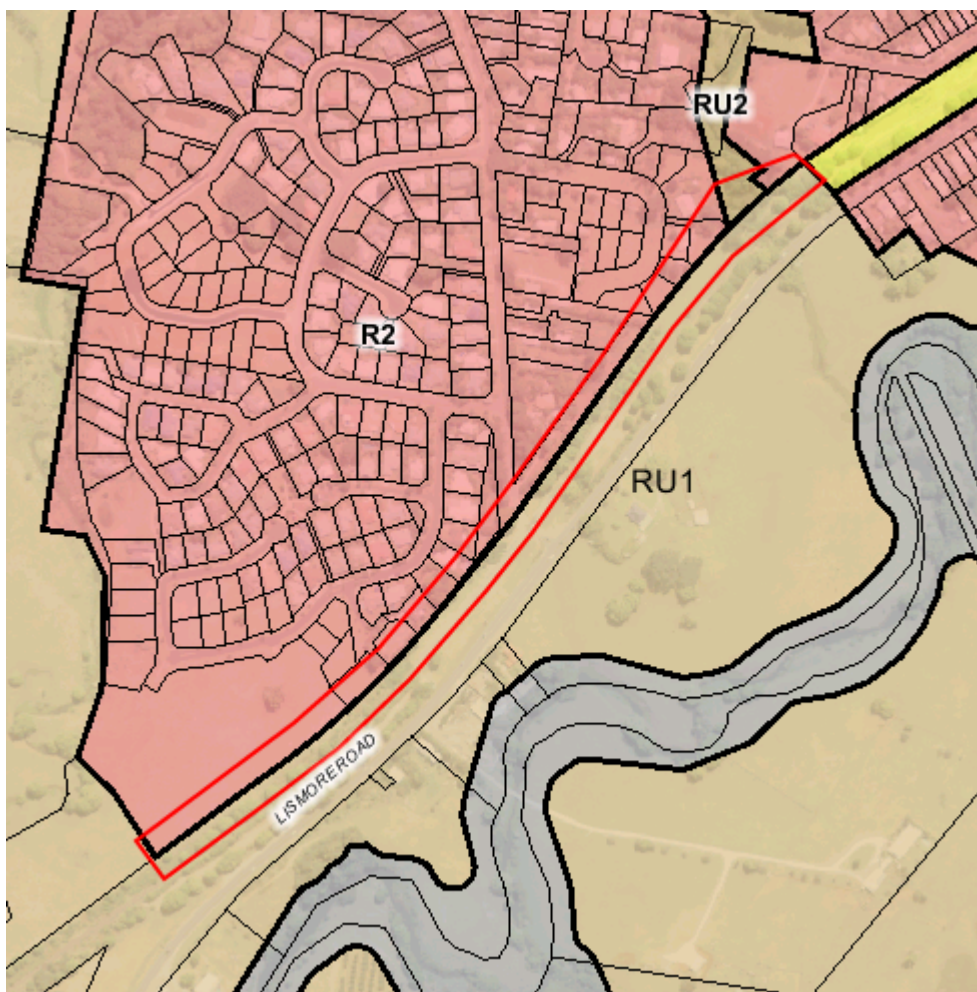
Map 10

- 11) Amendment of the Byron LEP 2014 Land Zoning Map – Sheet LZN_002BA (Mullumbimby Golf Club, Mullumbimby). The RE2 and RU1 zone boundary is to be realigned with the red line shown below in Map 11.



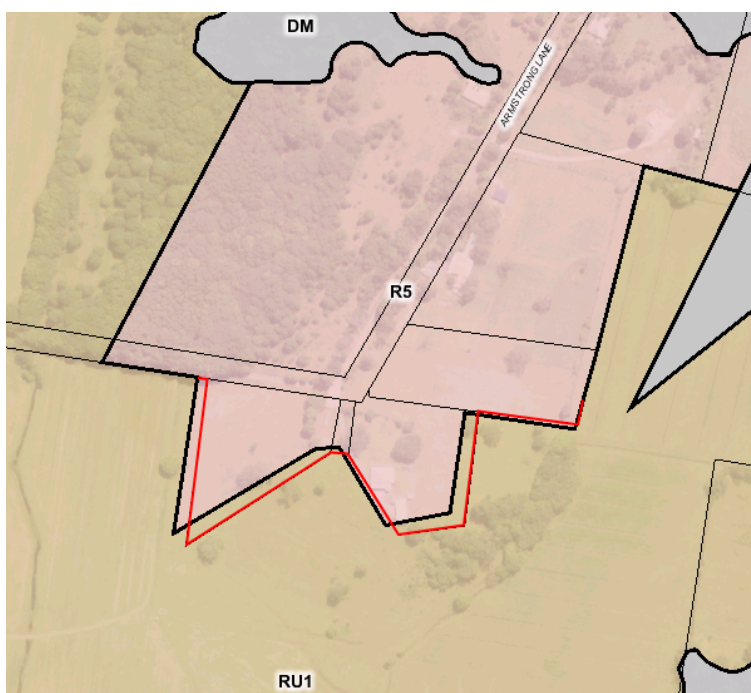
Map 11

- 12) Amendment of the Byron LEP 2014 Land Zoning Map – Sheet LZN_003CB (Green Frog Lane, Parrot Tree Place, Rifle Range Road, Bangalow). The R2 and RU1 zone boundary shown in Map 12 is to be realigned so that all land within the Lismore Road boundary is zoned RU1.



Map 12

- 13) Amendment of the Byron LEP 2014 Land Zoning Map – Sheet LZN_003D (Armstrong Lane, Broken Head). The R5 and RU1 zone boundary is to be realigned with the red line shown below in Map 13.



Map 13

- 14) Amendment of the Byron LEP 2014 Heritage Map – Sheet HER_003 (Item I098, 229 Eureka Road, Eureka – Zalmonah House). Heritage item designation is to be realigned with the property boundaries as shown by the red lines in Map 14.



Map 14