



**Planning Proposal
for Amendment of Byron Local Environmental Plan 2014
- Tallowood Ridge Estate, Mullumbimby**

Byron Shire Council

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V1 Gateway Version (#E2016/10617)

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Part 1 Introduction

Objective and intended outcomes

The objective of this Planning Proposal is to rezone the subject land on the western edge of Mullumbimby to provide for additional residential development. It will also modify the Byron LEP 2014 zones that apply to the site to reflect past approvals for sporting facilities and to remove environmentally sensitive land from a residential zone.

Property details and existing zones

This Planning Proposal relates to land located at Tallowood Ridge Estate, Mullumbimby, described as part Lot 80 in Deposited Plan 1202269. It also affects an un-made road that traverses north / south through Lot 80 and one that abuts it immediately to the south (Figure 1).

Lot 80 is approximately 59.10 hectares in area and is irregular in shape (Lot 80 is in several pieces). The land has:

- an L-shaped frontage to Clays Road and Coral Avenue at its northern edge,
- an eastern frontage to the Brunswick River and several flood liable rural properties,
- an unmade road reserve along the southern boundary (that was designated as a “Shelter Belt” to provide a buffer between Tallowood Ridge and the existing rural residential allotments to the south),
- some open grazing land to the west,
- an unmade road connection (north/south) to Clays Road,
- a connection to the existing Tallowood Ridge urban area via Tuckeroo Avenue, and
- some remnant vegetation on its southern boundary.

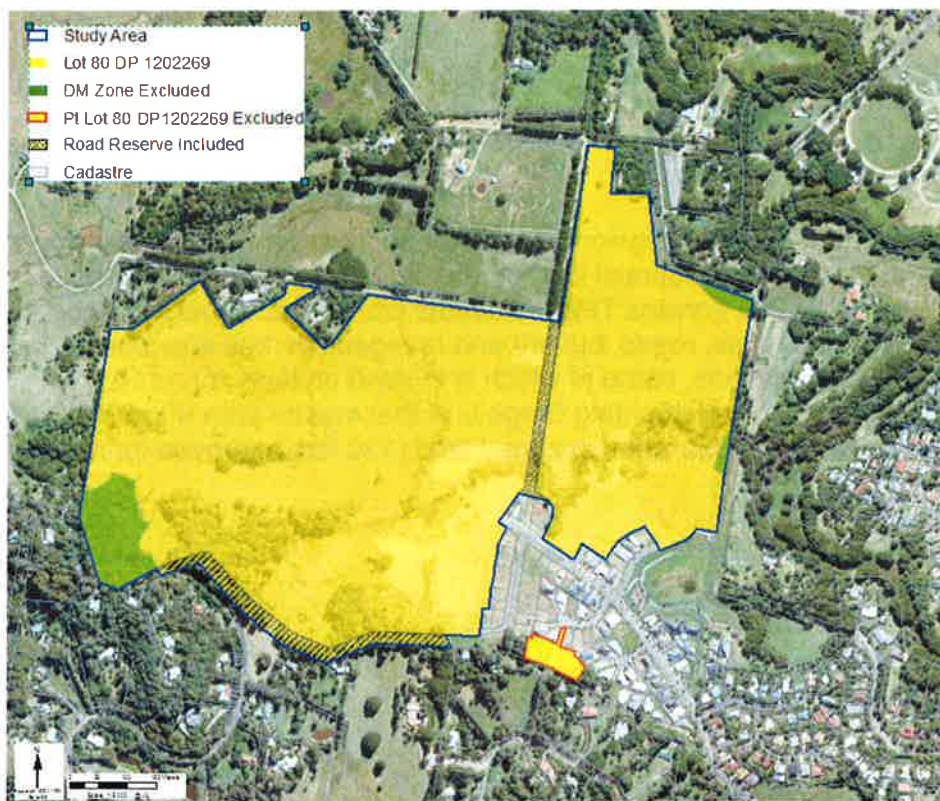


Figure 1: Subject land

The land is currently zoned part R2 Low Density Residential zone, part RU2 Rural Landscape, part RU1 Primary Production zone and part Deferred Matter under Byron LEP 2014 (Figure 2). The Deferred Matter land remains zoned Rural 1(a) General Rural under LEP 1988 as a result of Byron Shire not being permitted to include E2 and E3 zones in its 2014 LEP.

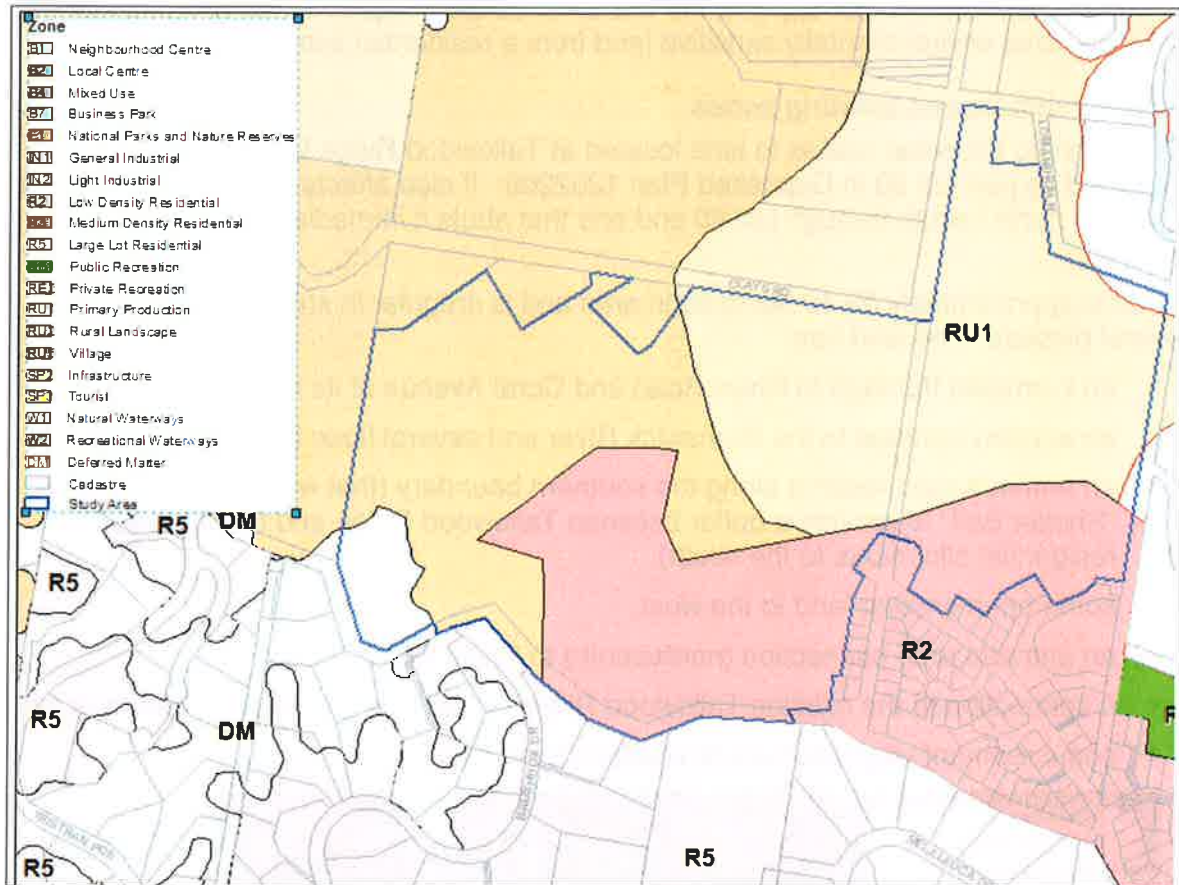


Figure 2: Current zoning map, Byron LEP 2014

Background

On 14 September 2010 the Land and Environment Court approved a 7 stage master plan for the development of the zoned residential land on the site (now the R2 Low Density Residential Zone). A yield of 240 Torrens Title residential lots was anticipated. Ancillary development including sports fields, roads, buffers and revegetation has also been approved in subsequent applications, some of which is located on land zoned RU1 or RU2. The applicant is currently implementing Stage 5 of that master plan (Figure 3) and is half way through the likely yield of the existing zoned land (130 lots approved for release so far).

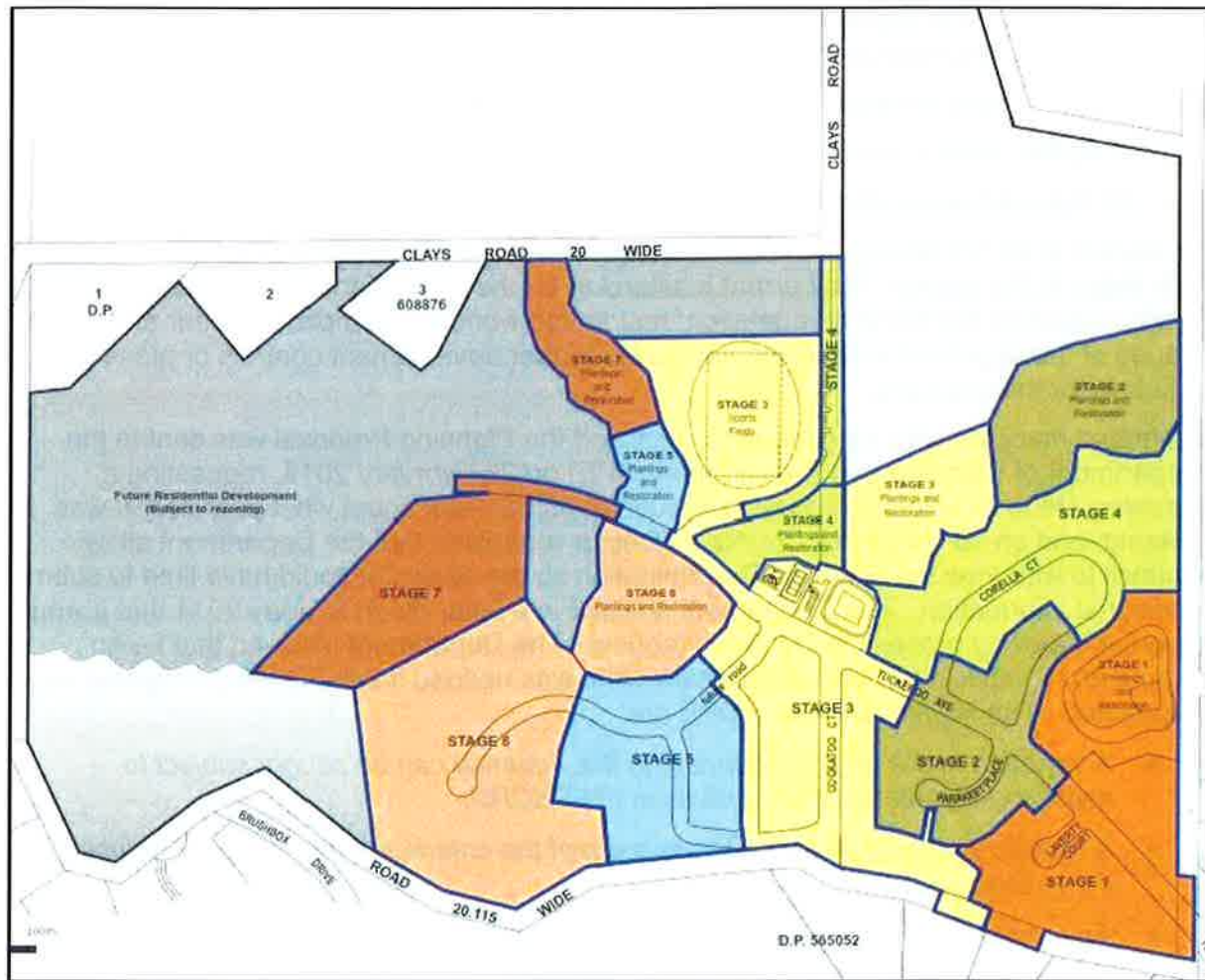


Figure 3: Current master plan for existing zoned land

In response to Koala habitat mapping relevant to the subject land, Council resolved on 14 March 2013 (**13-143**):

"That Council invite the developer of Tallowood Ridge Estate, Mullumbimby (Lot 36 DP 1169053) to lodge a planning proposal for Council's consideration to amend Council's Local Environmental Plan to adjust the residential zone boundary."

In May 2013 the applicant submitted a Planning Proposal to rearrange the zone boundaries on the subject land and increase the area of residential zoned land.

Council considered the Planning Proposal on 19 September 2013, and resolved (**13-493**):

"1. That amended plans be submitted to Council, in draft LEP 2012 format, addressing the steeper slopes on the western portion of the land showing:

- a) Land Zoning,*
- b) Minimum Lot Size, and*
- c) Floor Space Ratio.*

2. That Council forward the amended planning proposal to the Department of Planning and Infrastructure for a Gateway Determination.

3. That should the Department of Planning and Infrastructure issue a positive Gateway Determination, prior to the planning proposal being placed on public

exhibition a Development Control Plan or Concept Plan for the new residential areas needs to be prepared to adequately address the following issues at a minimum:

- i) Buffer areas between existing rural/residential lots,*
- ii) Buffer areas to existing drainage lines, and*
- iii) Riparian areas along boundaries for potential koala habitat regeneration."*

In relation to Item 3 above, the zone boundaries proposed in the Planning Proposal deal with these buffer issues. The current masterplan for the site (refer Figure 3 of Attachment 1) also indicates bushland revegetation/ restoration works to the riparian buffer at different stages of the approved subdivision works. No further development controls or plans are required for this rezoning.

Amended mapping was supplied to Council and the Planning Proposal was sent to the Department of Planning and Environment (DPE) on 26 February 2014, requesting a Gateway Determination. Discussion ensued at officer level about what information was missing, and on 19 May 2014 Council's Director requested that the Department allow Council to withdraw the Gateway Determination so the applicant could have time to submit additional information. The Department advised in a letter dated 27 May 2014 that it would stop the Gateway process at Council's request. The Department followed that up on 2 June 2014, advising Council specifically what was needed if this Planning Proposal was to proceed. The issues notified by DPE are:

- *A variation to the growth boundary in this instance can be sought subject to satisfying the sustainability criteria in the FNCRS.*
- *A revised proposal should address each of the criteria in detail to assist in justifying the rezoning.*
- *Any revised proposal needs to address this matter and clearly identify the land subject to the rezoning.*
- *There are a number of inconsistent statements within the Planning Proposal, for example in relation to value of the vegetation on site and the extent of land subject to the proposed rezoning.*
- *The Planning Proposal needs to provide justification for the inconsistency with the current Mullumbimby Settlement Strategy and the reasons why it's appropriate that a variation be supported prior to reviewing and updating the strategy.*
- *The proposal involves areas of steep, flood prone and regionally significant agricultural land. The proposal could be strengthened if greater detail was provided on how these matters are being addressed. Consideration could be given to the proposed minimum lot size to address these issues, in particular on the steeper areas of the land.*

The applicant has provided some additional information in response to the DPE concerns which has been used to inform the Planning Proposal. Council has also clarified its position on these matters and addressed them in this Planning Proposal and the associated Sustainability Criteria Report.

Part 2 Explanation of provisions

The Planning Proposal seeks to amend the existing zones under Byron LEP 2014 to:

- permit additional residential development on the subject site,
- consolidate environmentally sensitive land (and some steep land) into a single rural zone (in the absence of an Environmental zone),
- allocate a public recreation zone to sports fields that are under construction,
- allocate a rural zone to a riparian corridor that passes through the site.

The Planning Proposal will rezone:

- approximately 5 hectares of the existing R2 Low Density Residential zone to RU2 Rural Landscape
- approximately 5 hectares of the RU1 Primary Production zone to RU2 Rural Landscape
- approximately 3 hectares of the RU1 Primary Production zone to RE1 Public Recreation
- approximately 12 hectares of the RU2 Rural Landscape zone and RU1 Primary Production to R2 Low Density Residential zone.

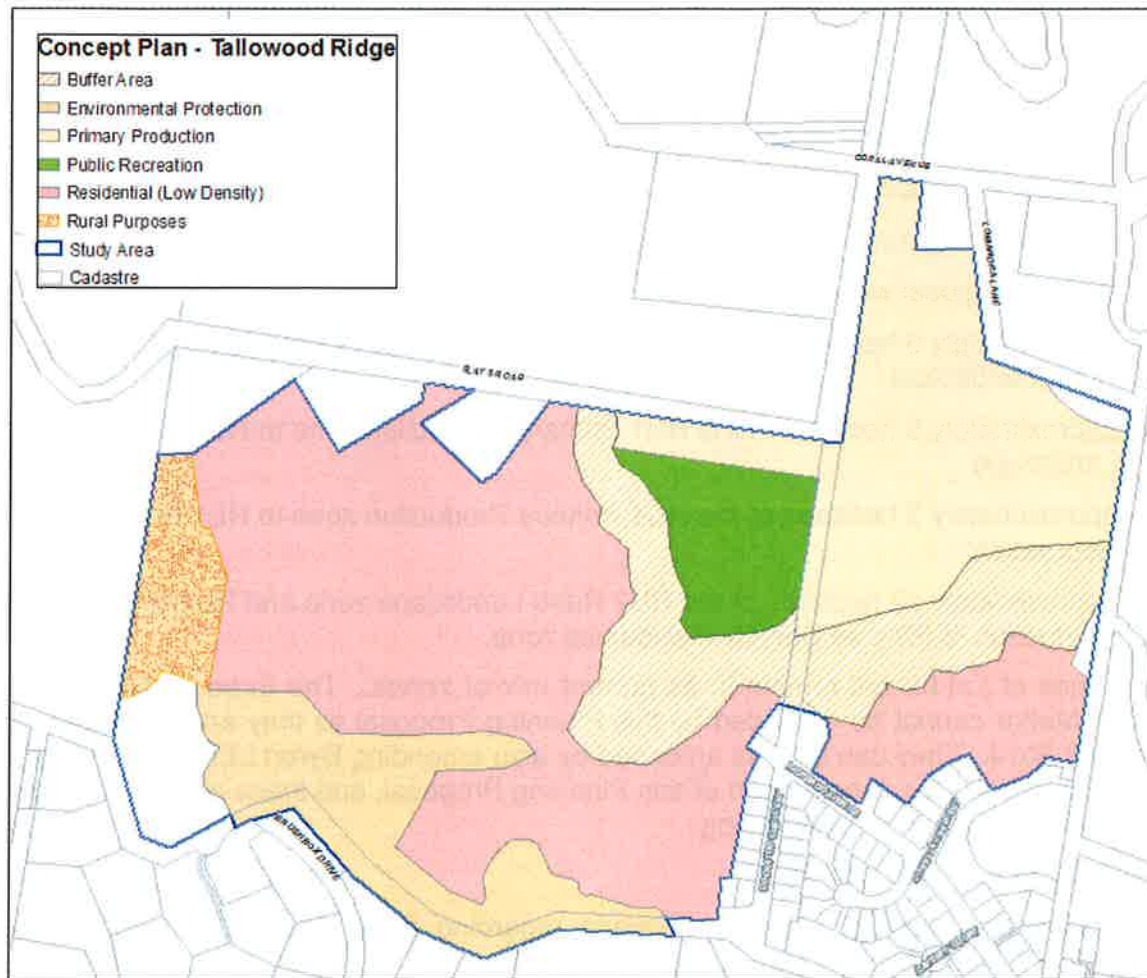
The balance of Lot 80 will remain in its current mix of zones. The three small areas of Deferred Matter cannot be amended by this Planning Proposal as they are not subject to Byron LEP 2014. They can only be amended by also amending Byron LEP 1988. It is not practicable that this be done as part of this Planning Proposal, and these areas will remain as Deferred Matters for the time being.

The Planning Proposal will also:

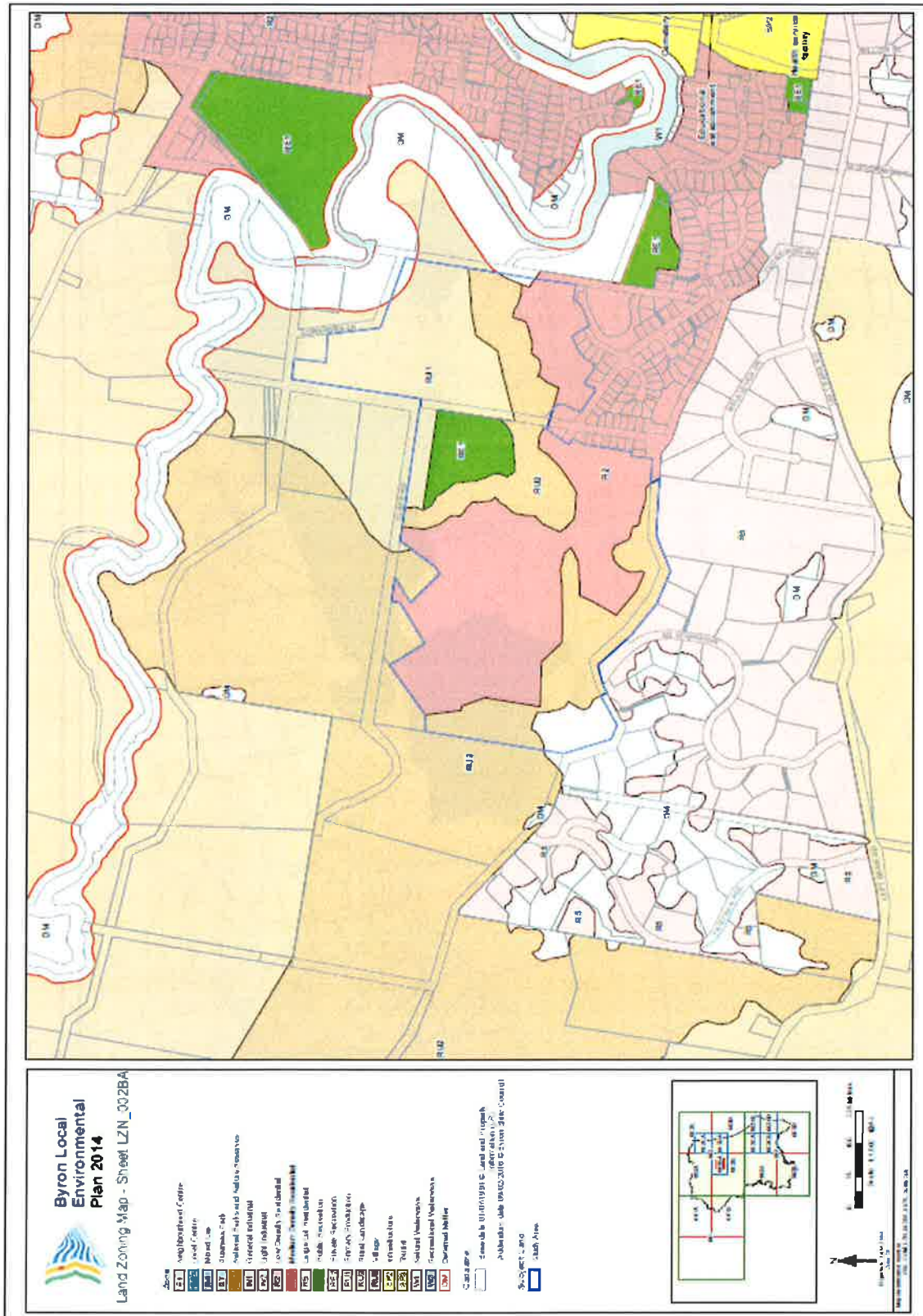
- make consequential changes to maps regarding Floor Space Ratio controls to reflect the proposed RU2, R2, and RE1 zones,
- make consequential changes to maps regarding Minimum Lot Sizes to reflect the proposed RU2, R2, and RE1 zones.

A Concept Plan for the Tallowood Ridge development showing land suitability and proposed land uses is provided below along with the recommended LEP map amendments (proposed land zoning, floor space ratio and minimum lot size maps)..

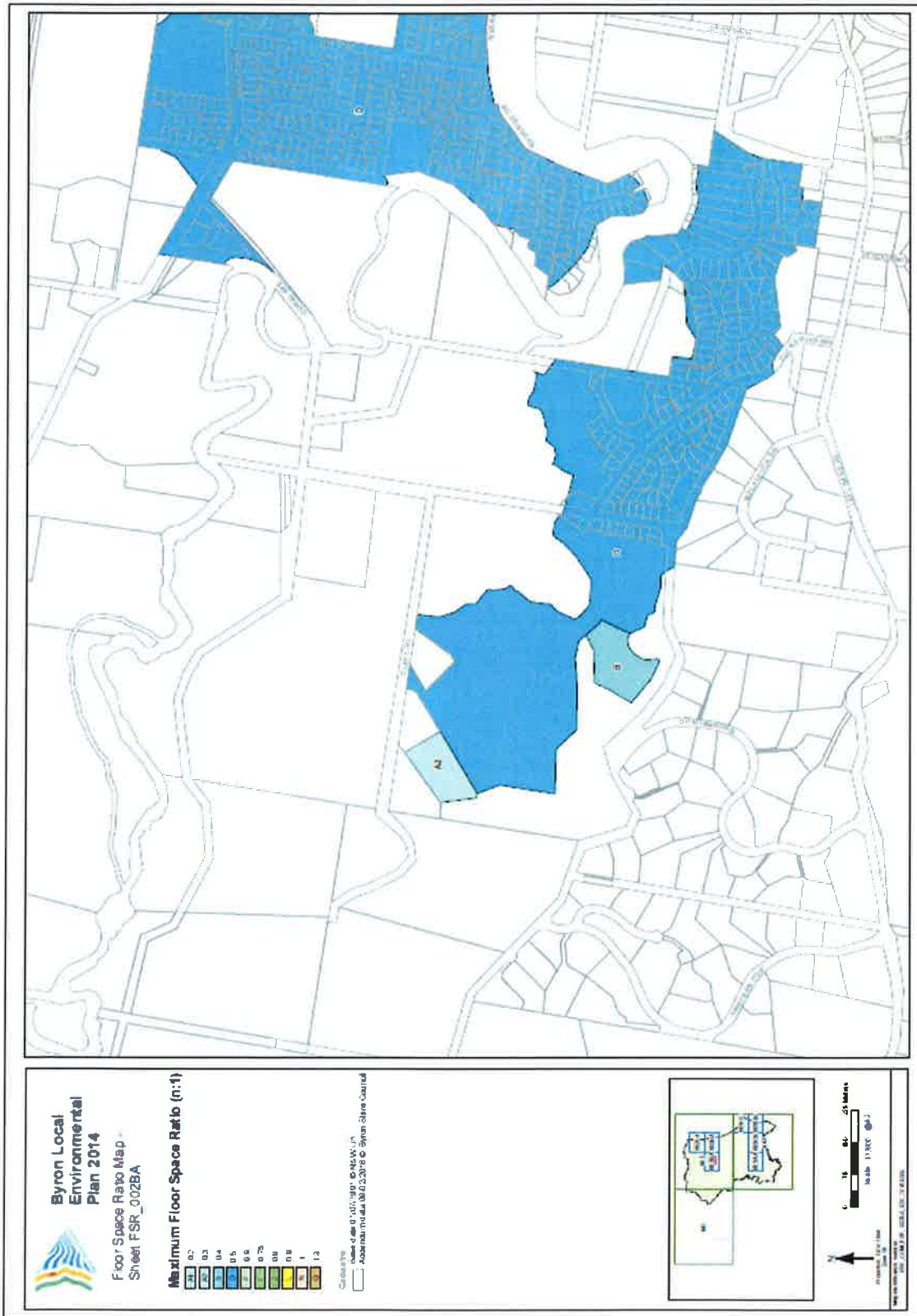
Concept Plan the Tallowood Ridge development - showing land suitability and proposed land uses



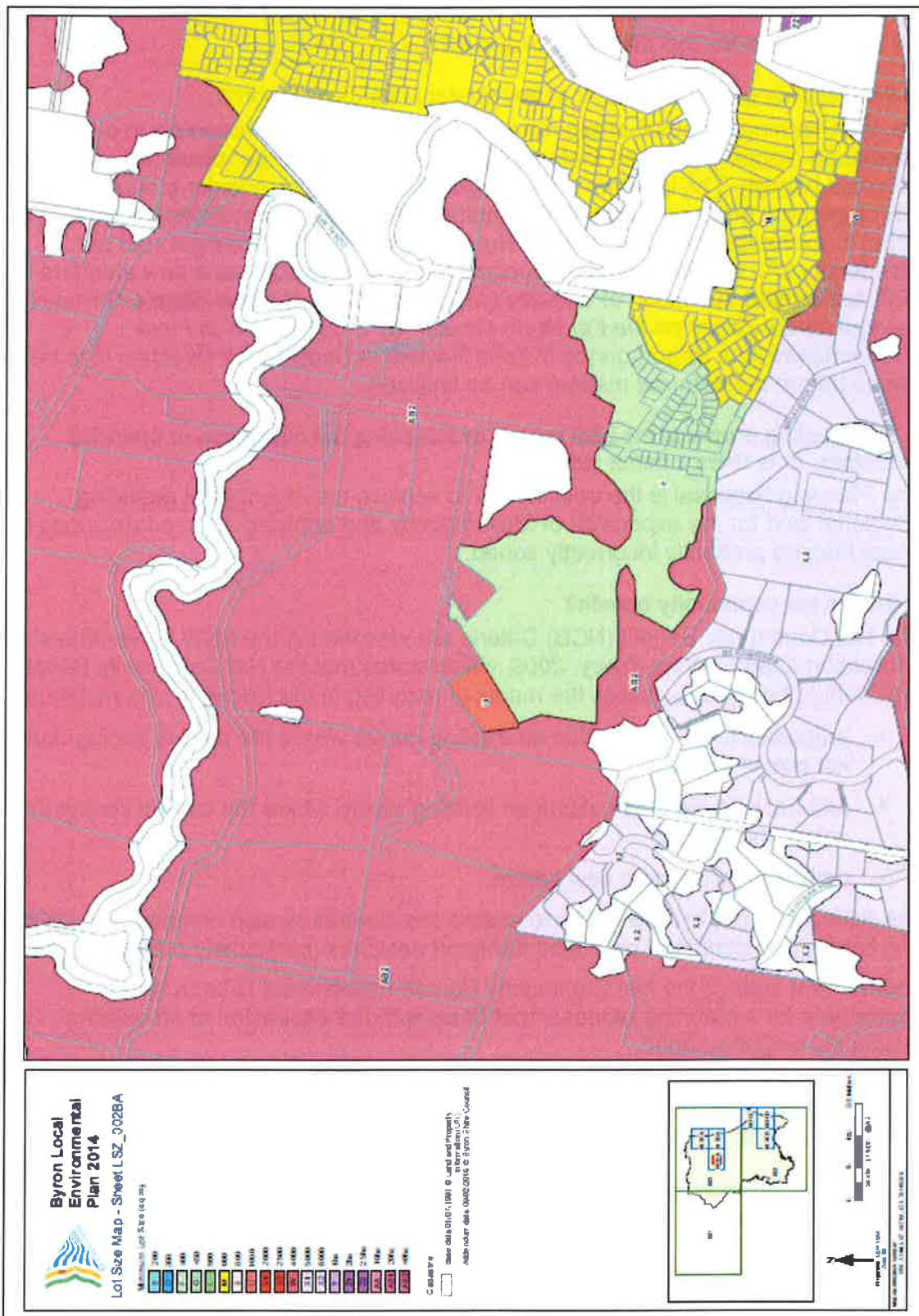
Proposed Land Zoning Map Sheet LZN_002BA



Proposed Floor Space Ratio Map Sheet FSR_002BA



Proposed Minimum Lot Size Map (indicative only) Sheet LSZ_002BA



Part 3 Justification

Section A Need for the planning proposal

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

No, the Planning Proposal arises from a Council resolution in response to a vegetation mapping exercise that initially identified some of the residential zoned land as Koala habitat. The landowner was invited by Council to consider a boundary rearrangement that would rezone the habitat areas to 7B Coastal Habitat (under LEP 1988) in exchange for some areas of Rural 1A General Rural being zoned as Residential 2A. By the time the idea came to fruition Council had a new standard LEP, but without the option of E zones (which were subject to the State's *Review of Environmental Zones on the Far North Coast*). DPE has issued its Final Recommendations Report on the E Zone Review. A Section 117 Direction is to be issued before the deferred matters can be finalised.

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

The Planning Proposal is the best means to achieve the objective of providing additional land for the expansion of Mullumbimby and applying appropriate zones to areas that are presently incorrectly zoned.

3 Is there a net community benefit?

The Net Community Benefit (NCB) Criteria are identified in the NSW Government's publication *Draft Centres Policy, 2009*, which states that the Net Community Benefit Test should be used to assess the merits of rezoning in the following circumstances:

- proposals to develop within an existing centre where the current zoning does not permit the use
- proposals to develop outside an existing centre where the current zoning does not permit the use
- proposals to create a new centre.

The main focus of the NCB test is to ensure that centres remain compact and viable, and linked to existing and proposed transport networks (particularly public transport).

Assessment against the Net Community Benefit Assessment Criteria is not appropriate for a planning proposal that deals with the expansion of an existing residential neighbourhood.

Section B Relationship to strategic planning framework

1 Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (in this case the Far North Coast Regional Strategy)?

The majority of the subject site is located outside of the Town and Village Growth Boundary areas under the *Far North Coast Regional Strategy* (December 2006). Only part of the subject site is identified within the "existing urban footprint" and no part is listed as "proposed future urban release area". The FNCRS does not identify any options for future urban release areas at Mullumbimby.

However, the proposal specifically responds to the following FNCRS actions:

- *Local environmental plans will ensure that all new development reinforces existing urban and rural centres, towns and villages (page 29)*
- *Councils will plan for a range of housing types of appropriate densities, location and suitability that are capable of adapting and responding to the ageing population (page 29).*

The FNCRS allows for urban growth outside of the Town and Village Growth Boundary (a greenfield site) in a non-coastal area as long as it satisfies the Sustainability Criteria in Appendix 1 of the Strategy (page 28). Mullumbimby is considered a non-coastal area and a Sustainability Criteria Report has been prepared by Council to support this Planning Proposal. On this basis, the Planning Proposal is consistent with the FNCRS.

2 Is the planning proposal consistent with the local Council's Community Strategic Plan, or other local strategic plan?

The Mullumbimby Settlement Strategy (2003) states: *"This area is 2 to 3 km from the town centre. Access via Clays Road requires costly upgrading. Parts of the land are flood prone, and other areas on the floodplain are subject to the higher probable maximum flood level. The topography is uneven and not suited to residential development. This land should not be identified for residential development until a floodplain management plan has been adopted. Urban development is not supported by this Strategy. This area could be considered in a long term (2008) structural review of the Byron Rural Settlement Strategy for rural settlement."*

Despite this negative comment, the Strategy does recognise that most of what is being proposed for residential development in this Planning Proposal is actually free from ecological or physical constraints. This Planning Proposal does zone a small strip of land for residential development that is flood prone in a 20 Year ARI event or greater (about 1 hectare in proximity to Clays Road). However, this flood prone land is west of the proposed Clays Road connector road (which has to be filled), is a Low Hazard flood fringe up to a 100 Year ARI event, and experiences low velocity and low depth up to a 100 Year ARI event. It is proposed that the land will be filled and used for residential lots as well as support infrastructure (roads, water/sewer, stormwater retention, etc). Some other small areas on the edge of the floodplain will require filling for a small number of residential lots (mostly parts of lots), but this land is already zoned R2. Byron LEP 2014 clause 6.3 (Flood Planning) would apply to such land in any case.

The revised Brunswick River Floodplain Management Plan is still not available, but the Draft North Byron Flood Study (exhibited in January 2016) predicts, maps and discusses flood behaviour for the entire Brunswick River catchment including the subject land. It identifies the flood prone part of the subject land as similar in extent to the area identified in previous work. Given the limited amount of flood prone land proposed for R2 in this Planning Proposal, this is not a key issue.

The topography of the subject land is mostly suitable for residential development. The steepest land on the site will be included in an RU2 zone. Small areas of steep land proposed for residential use are subject to an increased minimum lot size (MLS) and reduced floor space ratio (FSR).

Council is currently developing a Residential Strategy as part of a shire-wide review of residential land supply and demand. The Residential Strategy will be exhibited as a draft in 2016. This extension to Tallowood Ridge Estate is proposed to be included

in that Strategy. The proposal is largely consistent with Council's 'site suitability criteria mapping' that has been prepared to inform the Strategy. It is a logical expansion of an existing urban area that can provide quality land quickly to meet short-term market demand while Council continues to investigate longer term options in its new residential strategy. The Planning Proposal process has already commenced and it is therefore reasonable that rezoning of the subject land precedes the upcoming revision of the Mullumbimby residential strategy.

In 2012 Council adopted a 10 year + *Community Strategic Plan 2022 (CSP)*. The plan is based on five key themes being Corporate Management, Economy, Environment, Community Infrastructure, Society and Culture. Four of those themes or objectives are relevant to this Planning Proposal:

<i>Economy:</i> A sustainable and diverse economy which provides innovative employment and investment opportunities in harmony with our ecological and social aims	The Planning Proposal supports the economy through development and investment in the expansion of the township of Mullumbimby, which will create economic growth and demand without major ecological or social concerns.
<i>Environment:</i> Our natural and built environment is improved for each generation	The Planning Proposal ensures the environment and its resources will be maintained and protected for future generations by restricting development to land with no major environmental significance.
<i>Community Infrastructure:</i> Services and infrastructure that sustains, connects and integrates our communities and environment	The Planning Proposal builds on, and is linked to an existing urban expansion area which has recreational infrastructure. Water and sewerage is available to service the subject land.
<i>Society and Culture:</i> Resilient, creative and active communities with a strong sense of local identity and place	The subject site adjoins the township of Mullumbimby and is in close proximity to the local high school and CBD shops. It will continue to support its village character and thereby maintain a strong sense of local identity and place.

On this basis the Planning Proposal is consistent with Council's CSP.

3 Is the planning proposal consistent with the applicable State Environmental Planning Policies (SEPPs)?

The State Environmental Planning Policies relevant to this Planning Proposal are as follows:

State Environmental Planning Policy (SEPP)	Compliance of Planning Proposal
SEPP 55 – Remediation of Land	A Contamination Report has been prepared that includes the subject site. There is no recorded dip site on the land and the report did not identify any contamination arising from the past use of the subject site for cattle grazing. The Contamination Report confirms that the subject site is generally suitable for residential purposes.

State Environmental Planning Policy (SEPP)	Compliance of Planning Proposal
SEPP 44 – Koala Habitat Protection	SEPP 44 specifies that in order for a forested area to be classified as koala habitat, a minimum of 15% of the trees must be species of trees that provide food for koalas. The Flora and Fauna Report undertaken for the site confirms that the trees in the forested area located in the south-west corner of the site contain less than 4% koala food trees, and consequently SEPP 44 does not apply. However, this area is to be retained in a rural zone (in the absence of the availability of environmental zones) and limited development will be permissible here.
SEPP 71 – Coastal Protection	The relevant provisions of clause 8 are considered below: (a) <i>the aims of this Policy set out in clause 2</i> The subject site is about 7 km from the coast, however it is approximately 100 metres from the Brunswick River (at its eastern edge). The Brunswick River is still tidal at this point and therefore the site is within the coastal zone. The Planning Proposal will adequately protect the coastal zone as it pertains to the Brunswick River by protecting a drainage channel which feeds into the Brunswick River. Water sensitive urban design will be applied to future development. (d) <i>suitability of development given its type, location and design and its relationship with the surrounding area</i> The Planning Proposal will extend the existing residential area and has regard to the site constraints and its relationship with the surrounding area. (g) <i>measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats</i> The Flora and Fauna Report undertaken for the subject land identifies the areas of significant flora and fauna, and concludes that the Planning Proposal would have no adverse impact on threatened species or their habitat. (h) <i>measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats</i> The Planning Proposal would have no impact on fish stocks or their habitat. Site runoff or stormwater will be addressed at the detailed design development stage as it has with previous stages of the development. (i) <i>existing wildlife corridors and the impact of development on these corridors</i> The Planning Proposal seeks to retain all substantial

State Environmental Planning Policy (SEPP)	Compliance of Planning Proposal
	flora on Lot 80 and therefore will have minimal impact on any existing wildlife movement. No recognised wildlife corridors pass through the site. (l) <i>measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals</i> An Aboriginal Cultural Heritage Assessment concludes that there is limited potential for encountering Aboriginal heritage on the subject site. A corridor of vegetation that is of interest to the local Aboriginal community is substantially within the proposed RU2 land. (m) <i>likely impacts of development on the water quality of coastal waterbodies</i> The Planning Proposal represents limited potential for impact on water quality of coastal water. Appropriate measures to control stormwater will be addressed at the detailed design development stage as it has with previous stages of the development. (o) <i>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</i> The Planning Proposal is in close proximity to the existing township of Mullumbimby. It is a logical expansion area.
SEPP (Rural Lands) 2008	<i>The aims of this Policy are as follows:</i> (a) <i>orderly and economic use and development of rural lands,</i> (b) <i>regard to Rural Planning Principles and the Rural Subdivision Principles,</i> (c) <i>to implement measures designed to reduce land use conflicts,</i> (d) <i>to identify State significant agricultural land</i> (e) <i>to amend provisions of other environmental planning instruments relating to concessional lots in rural subdivisions.</i> This Planning Proposal is consistent with this SEPP. No State significant agricultural land occurs on the subject land. The Planning Proposal intends to create a new urban area rather than promote a change in rural lot size or rural dwelling permissibility. It will not have a significant impact on surrounding rural land.

4 Is the planning proposal consistent with applicable Ministerial Directions (s117 Directions)?

Consistency with the s117 Directions is assessed in the following table:

Consistency with S117(2) Directions

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).	This planning proposal will not affect the boundaries or extent of business or industrial zones.	N/A
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).	Approximately 5 hectares of the existing R2 Low Density Residential zone will change to RU2 Rural Landscape. Approximately 8 hectares of the RU1 Primary Production zone will change to RE1 Public Recreation and RU2 Rural Landscape. Approximately 12 hectares of the RU2 Rural Landscape zone and RU1 Primary Production will change to R2 Low Density Residential zone. Overall, about 15 hectares will go out of rural zones, about 5 hectares will go into rural zones and about 5 hectares will go from one rural zone to another. In accordance with the requirements of the FNCRS, a Sustainability Criteria Assessment has been carried out (see comment under Direction 5.1). The Assessment justifies the rezoning in terms of its location, reduced environmental significance and potential lot yield in relation to existing land supply. The rezoning is considered necessary to maintain contiguity of the proposed R2 zone and reduce the potential for land use conflict. The inconsistency is therefore considered to be of minor significance.	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.	Rezoning of an area of RU1 zoned land to R2 will prevent the use of that part of the land for mining or extractive industry. However the rezoning is justified in terms of the sustainability criteria from the FNCRS. There is no extractive material evident on-site which will be prevented from exploitation by this rezoning. The inconsistency is considered to be of minor significance.	Justifiably inconsistent
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 them. Most land in the vicinity of the POAA is already zoned for environmental protection or within the national parks estate.	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. A planning proposal to which clauses (a) and (b) apply must	This Planning Proposal is consistent with the Rural Planning Principles listed in <i>State Environmental Planning Policy (Rural Lands) 2008</i> as follows: (a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas (b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State	Consistent

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	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>.	(c) <i>recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development</i> (d) <i>in planning for rural lands, to balance the social, economic and environmental interests of the community</i> The Planning Proposal will affect about 25 hectares of land identified as regionally significant farmland in the Northern Rivers Farmland Protection Project. However, only about 0.5 hectares of this will be zoned R2 Low Density Residential. An area of approximately 3 hectares will be zoned RE1 to reflect an existing consent for sports facilities. The balance of the regionally significant farmland will be retained in rural zones and protected, consistent with the above Planning Principles. The 0.5 hectare area proposed to be rezoned from RU1 to R2 is isolated from the rest of the RU1 Primary Production lands due to the presence of a riparian corridor between the two. To avoid potential landuse conflicts it is logical that this land, which is located on the south-western side of the waterway, is rezoned to R2 Low Density Residential the same as adjoining lands. The riparian corridor can then provide a natural buffer area between the R2 zoned lands on one side of the waterway and the RU1 Primary Production lands on the other side. The proposed R2 zoned land is identified in Council's 'site suitability criteria mapping' (prepared to inform the new shire wide residential strategy) as generally 'unconstrained/ assessable'. The proposed rezoning is therefore largely consistent with the new strategy.	

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
		(e) <i>the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land</i> The Planning Proposal seeks to protect fauna and environmentally sensitive areas through the use of an RU2 Rural Landscape zone (until further assessment for the purposes of determining environmental zones is done). The small amount of flood affected land that is proposed for the R2 Low Density Residential zone is justifiable because it is west of the proposed Clays Road connector road (which has to be filled), is a Low Hazard flood fringe up to a 100 Year ARI event, and experiences low velocity and low depth up to a 100 Year ARI event. (f) <i>the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities</i> (g) <i>the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing</i> (h) <i>ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General</i> The Planning Proposal will specifically provide for residential development in an area that has previously been considered appropriate for future expansion, provide access to the necessary services and infrastructure, and is considered to be consistent with the FNCRS (through compliance with the	

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
		Sustainability Criteria). Planning Proposal's consistency with the Rural Subdivision Principles: (a) <i>the minimisation of rural land fragmentation</i> This Planning Proposal will not promote further rural land fragmentation. The only remaining portion of RU1 Primary Production Land on the subject site is located in the north-east and is bounded to the west by a road and an approved sports facility and to the south by a drainage channel. It will not be further fragmented through the Planning Proposal. (b) <i>the minimisation of rural land use conflicts, particularly between residential land uses and other rural land uses</i> This Planning Proposal will reduce the potential for land use conflict through the provision of a buffer between the existing residential development in the south-east and agricultural land in the north-east. (c) <i>the consideration of the nature of existing agricultural holdings and the existing and planned future supply of rural residential land when considering lot sizes for rural lands</i> (d) <i>the consideration of the natural and physical constraints and opportunities of land</i> (e) <i>ensuring that planning for dwelling opportunities takes account of those constraints</i> This Planning Proposal has taken into consideration the natural, physical and appropriate density constraints for development. The Planning Proposal seeks to expand an existing settlement into a rural area with defined boundaries, including:	

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
		- a drainage channel to the east, with flood liable land beyond, - existing development to the north, south-east and south, - significant flora and fauna habitat and steep slopes to the south, and - steep and hilly land to the west, not suitable for development. This proposal will have no significant impact on State or regional agricultural lands.	
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 "Rural Lands".	The Planning Proposal does not alter or remove any environment protection zone. No environmental standards will be reduced by the proposed LEP changes. While some of the forested land in the west of the site may qualify for an environmental zone or overlay map, there are no such zones in Byron LEP 2014, pending adoption of the Review into Environmental Zones on the Far North Coast. In the absence of environmental zones or overlay maps, this land is being zoned RU2. In the circumstances any inconsistency with the Direction is justified.	Justifiably inconsistent
2.2 Coastal Protection	This 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:	Some land affected by this Planning Proposal is located within the coastal zone, which affects the eastern half of Byron Shire. It is consistent with the NSW Coastal Policy as there is minimal likelihood of physical impact on the environment, and future subdivision will be assessed	Consistent

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	(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).	on merits through the development process.	
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.	There are no known items of significance to the Aboriginal community or items of built heritage which will be affected by this Planning Proposal.	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 Planning 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	This Planning Proposal will not change any relevant provisions on land within an existing residential zone. In regard to the proposed extension of the R2 Low Density Residential zone, the Planning Proposal meets the provisions of this Direction in that: - It will provide the opportunity for a broad range of housing options, demonstrated through a range of lot sizes, - Make efficient use of existing infrastructure and services designed and constructed with capacity to cater for approved Stages 1–7, as well as proposed additional residential zoned land under	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 (d) 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.	this Planning Proposal, - It will reduce the consumption of land suitable for residential use by applying the R2 zone to land in close proximity to the town of Mullumbimby and other nearby schools and services, instead of large lot rural residential development (as has been the case with surrounding rural land), and - Tallowood Ridge Estate development has historically demonstrated implementation of good design, particularly development of a range of near level lots capable of affordable housing (in the context of Byron LGA house prices). The Planning Proposal meets the requirements of this Direction in that it is capable of being connected to all necessary site services such as water, sewerage and electricity, and will not reduce the density of existing residential lands.	
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: (a) retain provisions that permit development for the purposes of a caravan park to be carried out on land, and (b) 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	This Planning Proposal does not seek development for the purposes of a caravan park or manufactured homes estate, nor does it impact upon any land that does permit development for the purposes of a caravan park or manufactured homes estate.	N/A

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	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 (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 Planning 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: (a) <i>Improving Transport Choice – Guidelines for planning and development</i> (DUAP 2001), and (b) <i>The Right Place for Business and Services – Planning Policy</i> (DUAP 2001).	This Planning Proposal will alter land zoned for residential purposes. (1) <i>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:</i> (a) <i>improving access to housing, jobs and services by walking, cycling and public transport, and</i> (b) <i>increasing the choice of available transport and reducing dependence on cars, and</i> (c) <i>reducing travel demand including the number of trips generated by development and the</i>	Consistent

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
		<i>distances travelled, especially by car, and</i> <i>(d) supporting the efficient and viable operation of public transport services, and</i> <i>(e) providing for the efficient movement of freight.</i> Mullumbimby is a country town that relies heavily on private transport. In order to the reduce reliance on private cars, the developers of Tallowood Ridge Estate have included on-site: ▪ quality recreational facilities, ie football field and cricket pitch, tennis court, basketball/netball court, ▪ toddlers park and play area, ▪ community garden, ▪ bike paths linking all recreational facilities, ▪ bike path linking the community back to Mullumbimby. Public transport in Mullumbimby is limited to the school bus, however, at such time as public transport facilities become more generally available, they would not be precluded from servicing the subject site, as the central collector road is of sufficient width to cater for buses. The Planning Proposal meets the objectives of the Direction.	

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
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 considers 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 Commonwealth, exceeds 25.	The Planning Proposal will not alter provisions that affect land located in the vicinity of any aerodrome.	N/A
3.6 Shooting Ranges	Applies when a relevant planning authority prepares a planning proposal that will affect, create, alter or remove a zone or a provision relating to land adjacent to and/or adjoining an existing shooting range. A Planning Proposal must not seek to rezone land adjacent to and/or adjoining an existing shooting range that has the effect of permitting more intensive land uses in the area.	There are no shooting ranges in the vicinity of this Planning Proposal.	N/A
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 land to which this Planning Proposal will apply may be affected by acid sulfate soils. 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 this location in accordance with existing clause 6.1 of Byron LEP 2014.	Consistent

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
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 Planning Proposal does not impact on any mine subsidence area. The geotechnical report identifies some small areas of land which may exhibit slope instability. Areas in this category at the north-west of the site are proposed for a larger lot size (1000 m²). Any issues on other land can be addressed through subdivision design at development stage. The inconsistency is of minor significance.	Justifiably inconsistent
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, 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	This Planning Proposal does zone a small strip of additional land for residential development that is flood prone in a 20 Year ARI event or greater (about 1 hectare in proximity to Clays Road). However, this flood prone land is west of the proposed Clays Road connector road (which has to be filled), is a Low Hazard flood fringe up to a 100 Year ARI event, and experiences low velocity and low depth up to a 100 Year ARI event. It is not a floodway. It is proposed that the land will be filled and used for residential lots as well as support infrastructure (roads, water/sewer, stormwater retention, etc). Some other small areas on the edge of the floodplain will require filling for a small number of residential lots (mostly parts of lots), but this land is already zoned R2. This will depend on the final subdivision design. Should any development in flood prone areas be contemplated, the provisions of existing clause 6.3 of the Byron LEP 2014 will apply at development stage.	Justifiably inconsistent

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	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 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.	The forest located in the south-west corner of the subject site is classified as bushfire prone land. A Bushfire Hazard Report has previously been prepared assessing the potential risk of the Sclerophyll forest. The report provides recommendations for minimum setbacks to be considered in greater detail at the design development stage. This Direction will not be resolved until consultation with the Rural Fire Service has been undertaken.	Inconsistent at this stage pending consultation with RFS

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	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 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 <i>Rural Fires Act 1997</i>), 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 firefighting purposes, (e) minimise the perimeter of the area of land interfacing the	Council will conduct that consultation during notification of the Planning Proposal, and any recommendations from the Rural Fire Service will be incorporated in the Planning Proposal.	

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	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.	This Planning Proposal is not within the town and village growth boundary identified in the FNCRS. However, it complies with the overall intent and strategies outlined in the FNCRS. The Planning Proposal would assist in meeting the challenges for population and housing growth to expand towns and villages outside the coastal area. It will not impact adversely on environmentally significant land. The subject site is located outside of the coastal area in the FNCRS and immediately adjoins, but falls outside of any proposed future urban land release or employment land areas, other than those identified historically within local planning documents for Mullumbimby. In these circumstances the Strategy requires that a Sustainability Criteria Assessment be carried out. This is attached to the Planning Proposal. It is not considered that the Planning Proposal prejudices the rezoning of any other urban release areas under the FNCRS, nor would it impact adversely on the environment or prime agricultural land. It can be adequately serviced with urban infrastructure. As explained in the Sustainability Criteria Assessment, whilst the Planning Proposal will result in a moderate increase in residential zoned land, the level of demand for residential dwellings at	Consistent

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
		Mullumbimby will exceed supply within the next five years. The Planning Proposal would not undermine the FNCRS vision, land use strategy, policies, outcomes or actions.	
5.2 Sydney Drinking Water Catchments	Applies when a relevant planning authority prepares a planning proposal that applies to the hydrological catchment.	The Planning 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.	Approximately 20 hectares of Lot 80 is identified as regionally significant farmland under the Northern Rivers Farmland Protection Project and sits outside any of the identified "town and village growth boundary" areas of the FNCRS. Most of this will be retained in a RU1 or RU2 zone. (1) The [relevant] 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, (c) to reduce land use conflict arising between agricultural use and non-agricultural use of farmland as caused by urban encroachment into farming areas. This Planning Proposal meets the above objectives because it does not seek to utilise good agricultural land that has not already been affected by previous development consents, ie the public sports field. In addition, the Planning Proposal will reduce the potential for land use conflict through the provision of a buffer between the existing residential development in the south-east and agricultural land in the north-east.	Consistent

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
		The Sustainability Criteria Assessment does not provide any evidence that the land is essential to be conserved for an agricultural use. Additional discussion is provided immediately following this table in relation to the Northern Rivers Farmland Protection Project.	
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 paragraph, “out-of-town” means areas which, prior to the draft local environmental plan, do not have an urban zone (eg “village”, “residential”,	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
	"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 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.	The Planning Proposal will not include provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority. It does not identify development as designated development. N/A	

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
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 includes a proposed RE1 zone for the approved sports fields. Council, as the relevant public authority, has approved this use but approval from DP& E may be necessary.	Justifiable inconsistency
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 environmental planning instrument being amended. A planning proposal must not contain or refer to drawings that show details of the development proposal.	The Planning Proposal does seek to allow a particular development to be carried out. The Planning Proposal does not impose any development standards or requirements in addition to those already contained in the principal environmental planning instrument. The Planning Proposal does not contain schematic drawings.	N/A

5.3 Farmland of State and Regional Significance on the NSW Far North Coast

The three objectives of this Direction are to:

- ensure the best agricultural land will be available for agriculture;
- provide for certainty on the status of land and thereby assist with strategic planning; and
- reduce conflict caused by urban encroachment into farming areas.

All of these objectives can be achieved with this Planning Proposal.

This Direction applies because part of the site is classified as regionally significant farmland (approximately 20 hectares). Most of the area described as regionally significant farmland is proposed to be either RU1 Primary Production or RU2 Rural Landscape. Less than 1 hectare is proposed to be R2 Low Density Residential. About 3 hectares is proposed to be RE1 Public Recreation as it is approved as a sports field. No land is proposed for rural residential development under this Planning Proposal.

An assessment against the Sustainability Criteria in the FNCRS has been undertaken and is attached to this Planning Proposal. It is therefore reasonable to regard all of this Planning Proposal area as being consistent with the FNCRS.

The second basis for assessing this Planning Proposal is against the Northern Rivers Farmland Protection Project – Final Recommendations, February 2005. The final recommendations state that urban development could be considered on regionally significant farmland if all seven of the following criteria apply:

1. The proposed new urban area would form part of the urban fabric of Mullumbimby and would not be a disjointed suburb. Council has viewed the subject land as a logical expansion to Mullumbimby in previous DCPs. It can be easily serviced and will supply additional lots in the short term while longer term options are investigated.
2. The new urban area is located less than 2 km from the Mullumbimby main street shopping area and less than 1.5 km from the high school, hospital, swimming pool, service station, bowling club, etc. It is clearly close to the existing urban areas of Mullumbimby and will be within an easy bicycle ride for children attending the Mullumbimby high school or Steiner School on Left Bank Road.
3. It will not be a wedge into regionally significant farmland because the nearest farmland is to the east and north, towards the main arm of the Brunswick River. These areas are physically separated from the new urban area by roads and creeks as well as lesser quality grazing land. Allowing urban development on the subject land will not disrupt the use of other farmland.
4. Local agriculture is dominated by beef cattle grazing, small crops and horticulture. Some beef cattle grazing will cease. However, none of these areas are critical to the viability of this industry. No agricultural infrastructure or transport routes will be affected by the expansion of the urban area.
5. No impacts arising from the new urban area will compromise the horticulture or grazing being carried out on other significant farmland. The proposed riparian area (zoned RU2) is a natural buffer to surrounding rural lands.
6. The land surrounding Tallowood Ridge Estate is not subject to existing land use conflicts relating to agriculture. Location of residential development will not exacerbate any known agricultural conflicts.
7. A small part of the proposed R2 land is flood prone in major events. It is located in a 1 in 100 year flood fringe area. The filling of this area is permitted under Byron LEP 2014, subject to certain provisions. However, filling is not anticipated.

In this case, all seven of the criteria can be met by the amended Tallowood Ridge Estate Planning Proposal.

Section C Environmental, social and economic impact

1 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?

No. The flora and fauna studies of the site have established there is no critical habitat or threatened species, populations or ecological communities on the subject land. The Planning Proposal specifically seeks to protect the vegetated land and riparian land by taking it out of the R2 Low Density Residential zone and placing it in a RU2 zone. This is being done in the absence of environmental zones in Byron LEP 2014. There is limited to no likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the Planning Proposal.

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

No. The subject site was previously used for cattle grazing and consequently is largely cleared and significantly degraded. There is limited potential for further adverse impact to the natural environment. There is an existing drainage channel that will be protected with an RU2 zone. Residential development will be confined to the cleared grasslands, which have no environmental significance.

3 How has the planning proposal adequately addressed any social and economic effects?

The Planning Proposal will have strong positive social and economic effects, which have been explained in the supporting information. It will provide social benefits by improving housing availability and affordability. It will provide economic benefits through the most efficient use of developable lands in close proximity to an existing centre, and employment opportunities during construction.

Section D State and Commonwealth interests

1 Is there adequate public infrastructure for the planning proposal?

During the initial planning phase for the development of the Tallowood Ridge Estate, Mullumbimby DCP 1988 foreshadowed the rezoning of parts of Lot 80 as future Urban Residential land. In anticipation, Council designed the central collector road, sewage pump stations and water supply infrastructure to cater for the projected expansion of the estate. Consequently, there is adequate public infrastructure to incorporate development under the Planning Proposal. Capacity has been set aside in the Brunswick Valley Sewage Treatment Works for the projected growth of Mullumbimby, including this site. State infrastructure such as schools and hospitals will be able to deal with the additional population if the site is rezoned.

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

State and Commonwealth public authorities have not been formally involved in this particular Planning Proposal as it is yet to receive Gateway Approval. At this early stage it appears unlikely that there will be any issues of interest to Commonwealth authorities. State government authorities will be consulted during the public exhibition period.

The following table provides a summary of the relevant public authorities, which in the opinion of Council, should be consulted in accordance with the Gateway Approval:

Public authority/stakeholder	Issue requiring comment
NSW Rural Fire Service Office of Environment and Heritage Department of Primary Industries	Section 117 of the <i>Environmental Planning and Assessment Act 1979</i>, Ministerial Direction 4.4 requires consultation with the Commissioner of the NSW Rural Fire Service. Consideration of significance of forested area in the south-west of the site. Agricultural land.

Part 4 Mapping

The Planning Proposal will amend the following maps:

Amend map sheet LZN 002BA

Amend map sheet LSZ 002BA

Amend map sheet FSR 002BA

No amendment required for Height of Building maps.

A summary of the key mapping criteria are as follows:

Zone	Minimum Lot Size (indicative only)	Height of Buildings	FSR
R2	400 m ² and 1000 m ²	9.0 m	0.5; 0.4 and 0.3
RU2	40 hectares	9.0 m	None
RE1	None	9.0 m	None

Part 5 Community consultation

Council will commence community consultation in accordance with the Gateway Determination. For the purposes of public notification, the Planning Proposal is **not** considered to be low impact as outlined in the Department of Planning and Environment's *A guide to preparing local environmental plans*. A **28 day public exhibition period** is recommended.

Notification of the exhibited Planning Proposal will include:

- a newspaper advertisement that circulates in the Byron LGA, which is the area affected by the Planning Proposal
- the web sites of Byron Shire Council and the Department of Planning and Environment.

Part 6 Project timeline

The proposed timeline for the completion of the Planning Proposal is as follows:

Estimated completion	Plan making step
April 2016	Decision by Council to support the amended Planning Proposal and send for Gateway Determination by Department of Planning and Environment.
May 2016	Gateway Determination issued by Department of Planning and Environment.
June 2016	Public exhibition of Planning Proposal. Government agency consultation.
August 2016	Analysis of public submissions. Preparation of Council report.
September 2016	Endorsed Planning Proposal submitted to Department of

Summary and conclusions

The Tallowood Ridge Estate Planning Proposal seeks to rezone land on the subject site to increase the opportunity for residential development in response to a documented demand and inadequate long-term land supplies. It will also incorporate environmental areas (remnant vegetation and riparian corridors) into an RU2 zone (until further assessment for the purposes of determining environmental zones is done). It will also zone public recreation facilities in a public recreation zone.

The land has been subject to a range of studies and reports that support the extension of the residential zoned area through a planning proposal.

It is an area that can be economically serviced with urban infrastructure, and will allow innovative and diverse housing to take place that contributes to the local economy without causing concern regarding social services.

The Planning Proposal will have no adverse impact on significant agricultural lands. The minor areas of hazard affected lands (some steeper areas and some small areas of flooding) can be dealt with at the development stage through subdivision design.

The proposed zoning changes align with the objectives of the Far North Coast Regional Strategy.

Council had previously resolved to receive and send a Planning Proposal for the extension of the Tallowood Ridge Estate to the Department of Planning and Environment (DPE) for Gateway Determination. This Planning Proposal is as a result of further advice from the DPE on the previous Planning Proposal. It is a relatively minor expansion of an existing urban area that can provide quality land (around 65 lots) quickly to meet short-term market demand while Council continues to investigate longer term options. It is therefore reasonable that the Planning Proposal precedes the Residential Strategy currently in preparation.

An assessment of the Planning Proposal indicates that it is consistent with relevant SEPPs. It is consistent with most of the relevant s117 Directions, and where inconsistencies occur they can be justified. An assessment against the Far North Coast Regional Strategy Sustainability Criteria concluded that the extension to the Tallowood Ridge Estate is appropriate.

There is sufficient information to enable Council to support the Planning Proposal and forward it to the Department of Planning and Environment for a Gateway Determination.

Appendix 1

Sustainability Criteria Assessment



Tallowood Ridge Estate Sustainability Criteria Assessment

11 March 2016

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ANNEXURES:

- A GEOTECHNICAL SITE INVESTIGATION prepared by Australian Soil and Concrete Testing, dated 4 December 2009
- B CONTAMINATION REPORT prepared by Simmonds & Bristow Pty Ltd, dated January 2009
- C BUSHFIRE ASSESSMENT REPORT prepared by Barry Eadie Consulting Pty Ltd, dated 16 March 2010
- D FLOOD MANAGEMENT REPORT prepared by Paterson Consultants, dated March 2010
- E FLORA AND FAUNA REPORT prepared by Peter Parker Environmental Consultants, dated 18 December 2013
- F ABORIGINAL CULTURAL HERITAGE ASSESSMENT prepared by Everick Heritage Consultants Pty Ltd, dated June 2009

1 Introduction

The Far North Coast Regional Strategy (FNCRS) specifically provides that innovative development proposals can be considered even if they affect land located outside of the Town and Village Growth Boundary maps.

To be considered, the land needs to be located outside of the coastal area (it must be located west of the Pacific Highway), and it must be demonstrated that the site satisfies the Sustainability Criteria listed in Appendix 1 to the FNCRS.

The majority of the subject site (Lot 80 in Deposited Plan 1202269 plus some un-made road reserves) is located outside the Growth Boundary Areas under the FNCRS. That part of the subject site that is zoned R2 Low Density Residential is within the "existing urban footprint", but no part is identified as "proposed future urban release areas" (Figure 1).

The site is located west of the identified coastal area in the FNCRS (see map on pages 12 and 13 of FNCRS).

The Planning Proposal for the Tallowood Ridge Estate expansion area was supported by Byron Shire Council in September 2013. The Department responded to Council in 2014 and requested that Council undertake an assessment against the Sustainability Criteria before resubmitting the Planning Proposal for Gateway Determination.

The applicant has supplied studies, which have been undertaken over a number of years, to support the Planning Proposal. These studies (attached as Annexures A to F) include a:

- contaminated land assessment,
- geotechnical assessment,
- bushfire hazard assessment,
- flood assessment,
- flora and fauna assessment, and
- cultural heritage assessment.

This Planning Proposal will back-zone approximately 5 hectares of R2 Low Density Residential land to mostly RU2 Rural Landscape in acknowledgment of its being riparian, flood affected or containing significant vegetation. It up-zones an area of approximately 12 hectares to R2 Low Density Residential. This is a net increase of about 7 hectares of R2 zoned land. This will yield potentially 65 additional lots assuming a net residential density of nine lots per hectare can be achieved.

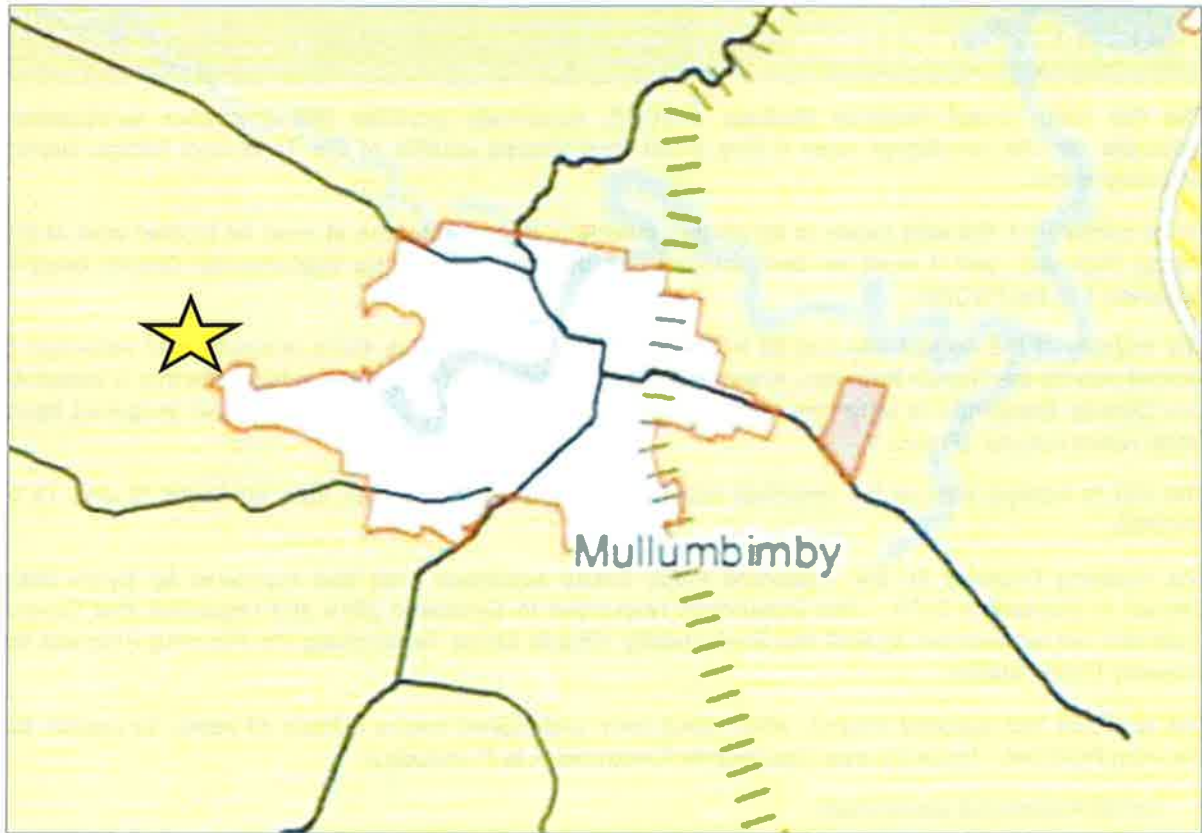


Figure 1: The FNCRS Town and Village Growth Boundary for Mullumbimby (star symbol marks the approximate location of the subject land).

2 Infrastructure Provision

Mechanisms in place to ensure utilities, transport, open space and communications are provided in a timely and efficient manner.

- Development consistent with FNCRS and S.117 Directions
- Provision of infrastructure is costed and economically feasible
- Preparedness to enter into a development agreement

The Tallowood Ridge Estate Planning Proposal fulfils the objectives of the population and housing challenges outlined in the FNCRS by:

- Providing land to cater for the expected future population growth of the Far North Coast that is consistent with the village character and has good connectivity to the existing urban area of Mullumbimby,
- Utilising the existing capacity in the Brunswick Valley sewage treatment works (Vallances Road) and a nearby sewage pump station,
- Utilising a recently constructed reservoir and watermain,
- Providing access through the existing road network back to Mullumbimby and the Pacific Motorway,
- Expanding the choice of housing options in Byron Shire in a location set back from the coast.

The Planning Proposal is supported by infrastructure which was designed from the outset to cater for the additional demand anticipated by this Planning Proposal. It will support the provision of a range of housing types and densities. In particular, a range of lot sizes including small blocks which may be suitable or adaptable to respond to an ageing population.

During the initial planning phase for the development of the Tallowood Ridge Estate in 2008, Mullumbimby DCP 1988 foreshadowed the rezoning of parts of Lot 80 as future residential land. In anticipation, Council designed the central collector road, sewage pumping stations and water supply infrastructure to cater for the projected expansion of the Estate. Consequently, there is adequate public infrastructure to incorporate development under the Planning Proposal. Capacity has been set aside in the Brunswick Valley sewage treatment works for the projected growth of Mullumbimby.

Water Supply

A 200 mm water trunk main passes through that part of the subject site proposed to be zoned for residential development. Council has constructed an additional bulk water storage reservoir on a hill to the west of the subject site and the 200 mm water trunk main is the connection between the new and the existing water storage facilities. The subject land has adequate access to reticulated drinking water. Mullumbimby is now also connected to the Rous Water bulk water supply system in the event that the Lavery's Gap weir is unable to supply bulk water to the reticulated areas. This is a backup option for dry periods to ensure water is available to the subject land. There are no water supply issues that are of such magnitude as to prevent this Planning Proposal from proceeding.

Sewerage

The Planning Proposal would utilise the existing constructed services at the subject site, including a dedicated sewage pumping station built at a cost of \$400,000 to pump sewage via a pressure rising main tunnelled under the Brunswick River and discharge it into the town sewer system.

In 2011, the Council completed construction of the Brunswick Valley sewage treatment works (Vallances Road) to service the towns of Mullumbimby and Brunswick Heads at a total cost of approximately \$42 million. The design capability of the treatment plant is underutilised and has the capacity to deal with the wastewater from this site. There are no sewerage issues which are of such magnitude as to prevent this Planning Proposal from proceeding.

Stormwater

Stormwater controls will be detailed in the subdivision design staging to be included with a future development application (DA). As the stormwater controls are required only for the subject development and controls outside of the site are not proposed, it is recommended that the developer fund the works that may otherwise be regarded as trunk infrastructure, eg terminal basins on the eastern periphery of the site, in conjunction with the reticulation works for each stage of the development.

As Council does not have an urban dual reticulation strategy, it is recommended that rainwater tanks and on-site stormwater detention be considered for individual allotments. This would provide an at-source control and reuse opportunity, and would assist to reduce the size of sub-catchment detention structures.

Open Space and Community Facilities

Local parks scattered throughout new urban areas will provide Passive Open Space (POS) facilities, such as children's play opportunities and informal kick-a-ball space. These are normally located within 500 metres of new lots. They will be detailed in the subdivision design staging to be included with a future development application (DA). This will also include a network of pathways for recreational walking and cycling, linking back to existing facilities and Mullumbimby.

Community facilities that may be included in local parks should consist of sheltered barbecue sites, lookout facilities where views are available, park furniture (bike racks, seating, bollards, drinking bubblers), toilets, lighting, pathways, artworks that are in-built, signage, landscaping, community gardens and car parking. Precise locations and details are not documented at this stage.

The existing Tallowood Ridge Estate includes recreational infrastructure (football field, cricket pitch, tennis court and basketball/netball court) supplied as part of previous approvals. It also includes a toddlers' play park and a community garden. These will be linked to new areas by shared paths.

One of the objectives of the Planning Proposal is to restrict residential subdivision in the west and south-west, within the proposed RU2 Rural Landscape zone. This is to ensure protection of the remnant bushland until such time as Council is able to use environmental (E) zones. These areas provide an opportunity for passive open space. Council will only accept the dedication of undevelopable land where it can be demonstrated that the public benefit outweighs the ongoing maintenance burden. The provision of public access will be an important consideration in making this judgement.

Roads

Council's urban design goal for Tallowood Ridge Estate is to provide a permeable road network through a system of multiple collector streets and connections to the external road network.

The major access point will remain Tuckeroo Avenue, however a connection to the sports fields and Clays Road is also planned. Where these roads cross the floodplain they will be filled to ensure flood free access to surrounding areas. There are no road network issues that are of such magnitude as to prevent this Planning Proposal from proceeding.

Section 117 Directions

The Tallowood Ridge Estate Planning Proposal is consistent with most Section 117 Directions. For those where there is an inconsistency, it can be justified. An assessment of s117 Directions is part of the Planning Proposal.

3 Access

Accessible transport options for efficient and sustainable travel between homes, jobs, services and recreation to be existing or provided

- Accessibility by road and/or public transport including network, location, land use, and catchments
- No net negative impact on performance of road, bus, rail and freight networks.

Mullumbimby is a country town that relies heavily on private transport. In order to reduce reliance on private cars, the developers of Tallowood Ridge Estate have included on-site:

- quality recreational facilities, ie football field and cricket pitch, tennis court, basketball/netball court,
- toddlers' park and play area,
- community garden,
- bike paths linking all recreational facilities,
- bike path linking the community back to Mullumbimby.

Public transport in Mullumbimby is limited to the school bus, however, at such time as public transport facilities become more generally available, they would not be precluded from servicing the subject site, as the central collector road is of sufficient width to cater for buses.

The subject land is approximately 2 km from the Mullumbimby Post Office and main street shops. It is approximately 1.5 km from the Mullumbimby High School, swimming pool, bowling club, service station and general store. It is accessible to employment in Mullumbimby and beyond (Figure 2).

The expansion of the Tallowood Ridge Estate will not generate sufficient traffic to have a negative impact on sub-regional roads or the transport network generally.

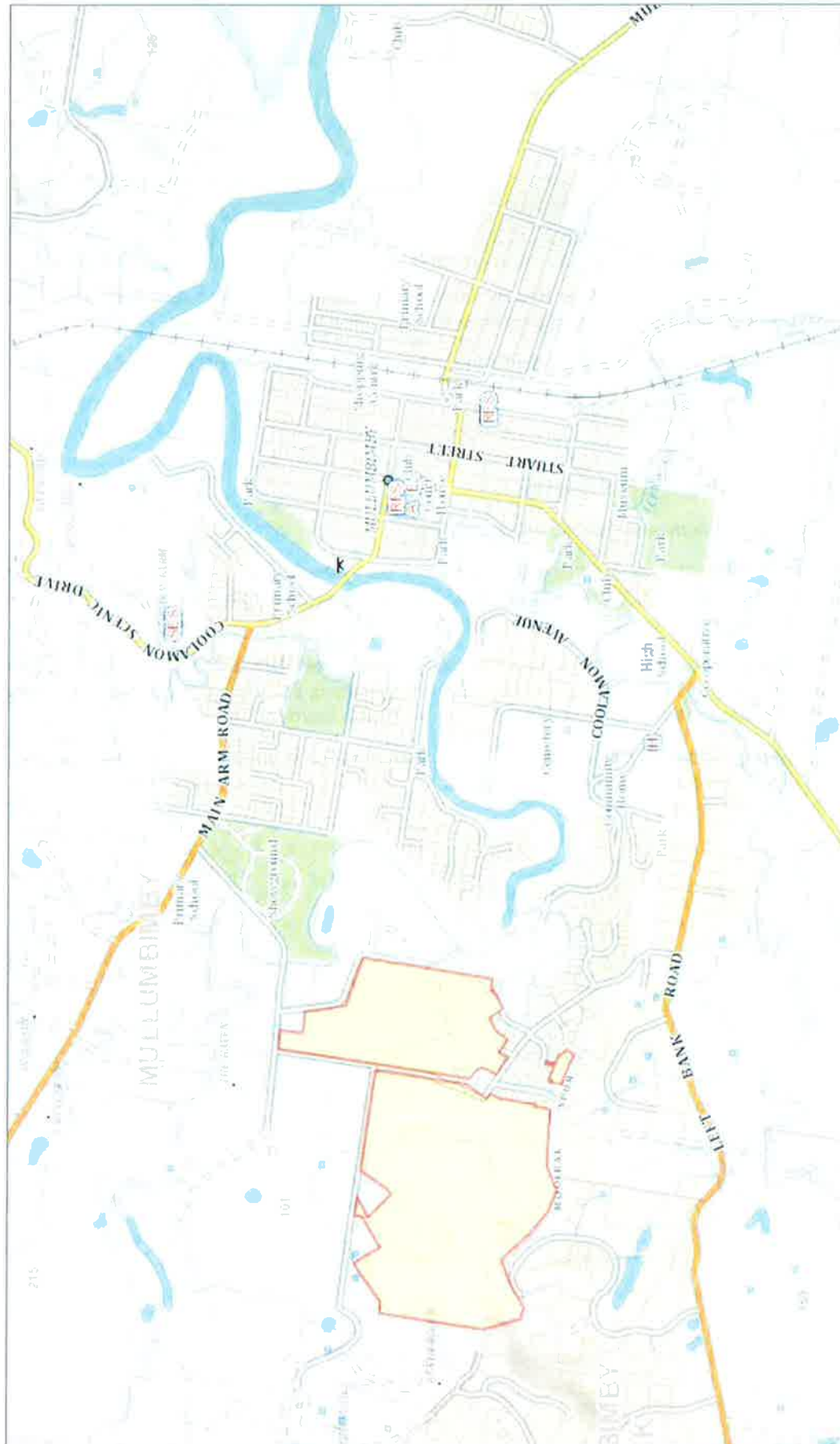


Figure 2: The subject land is easily accessible to Mullumbimby

4 Housing Diversity

Provide a range of housing choices to ensure a broad population can be housed

- Contributes to the geographic market spread of housing supply, including any government targets established for aged, disabled or affordable housing

It is estimated that Byron Shire as a whole had about 127 hectares of undeveloped zoned residential land in 2014. The estimate for Mullumbimby is approximately 14.5 hectares, most of which is in the remaining stages of the existing Tallowood Ridge Estate (about 10 hectares). Mullumbimby had about 10% of the Shire's population (2011 census), and about 13% of the Shire's zoned residential land.

In the period 2007/8 to 2011/12, Byron approved about 150 new dwellings per year, with some years spiking to 200 new dwellings. If this represents demand for new dwellings then Mullumbimby's share is between 20 and 26 dwellings per year (13%).

Using population growth projections produces a similar estimate for demand for dwellings for Mullumbimby. The Buckley Vann Byron Shire Housing Needs Report (December 2015) concluded that population growth would generate a demand for 25 dwellings per year over the next 20 years (Figure 3).

Locality	Population					Population Growth (2011-2031)		Additional Dwellings (2011-2031)
	2011	2016	2021	2026	2031	Population	Rate	
Byron Bay/Suffolk Park	9,167	9,994	11,174	12,167	12,984	3,817	1.76%	1,682
Brunswick Heads	1,639	1,681	1,865	2,047	2,224	585	1.54%	258
Ocean Shores	5,667	5,993	6,330	6,571	6,737	1,070	0.87%	471
Mullumbimby	3,172	3,483	3,800	4,073	4,337	1,165	1.58%	513
Bangalow	1,348	1,565	1,930	2,419	2,480	1,132	3.10%	499
Total Urban	20,993	22,716	25,099	27,277	28,762	7,769	1.59%	3,422
Rural North and South	8,216	8,343	8,812	9,148	9,379	1,163	0.66%	512
Total Rural	8,216	8,343	8,812	9,148	9,379	1,163	0.66%	512
Total Shire	29,209	31,059	33,911	36,425	38,141	8,932	1.34%	3,935

Source: Byron Shire Council 2015.

Note: Localities based on catchments in the Byron Section 94 Contributions Plan.

Figure 3: Byron population and dwelling projections

The Mullumbimby Settlement Strategy was prepared in 2003 and contained four locations that may yield residential lots. Only Tallowood Ridge has progressed in the last 12 years. Tallowood Ridge Estate has about 110 lots remaining in its approved master plan, which correlates to about 4 to 5 years supply at estimated demand rates. Even with some lots being produced from minor resubdivision in other locations, Mullumbimby has a limited supply of land for residential development.

Council is currently developing a new Residential Strategy as part of a shire-wide review of residential land supply and demand. The Residential Strategy will be exhibited as a draft in 2016. The proposed extension to Tallowood Ridge Estate will be included in that Strategy. The proposed extension is largely consistent with Council's 'site suitability criteria mapping' that has been prepared to inform the strategy. It is a logical expansion of an existing urban area that can provide quality land quickly to meet short-term market demand while Council continues to investigate longer term options. The Planning Proposal process has already

commenced and it is therefore reasonable that rezoning of the subject land precedes the Residential Strategy.

This Planning Proposal will back-zone approximately 5 hectares of R2 Low Density Residential land to mostly RU2 Rural Landscape in acknowledgment of its being riparian, flood affected or containing significant vegetation. It up-zones an area of approximately 12 hectares to R2 Low Density Residential. This is a net increase of about 7 hectares of R2 zoned land. This will yield potentially 65 additional lots, assuming a net residential density of nine lots per hectare can be achieved.

In relation to housing diversity, Buckley Vann recommended:

"Byron Shire is a highly desirable place to live, and therefore has a high demand for dwellings. While simply adding to supply will not necessarily combat housing prices or diversity, providing for better yields, increased densities and additional well located urban land may assist. Housing stock in the Shire is currently dominated by detached housing and there is a lack of product diversity. Provisions that support increased yields of housing stock especially in greenfield areas and through infill development."

This Planning Proposal will add to the limited supply of land in the Mullumbimby locality and should assist in providing housing choice to the growing population.

5 Employment Lands

Provide regional/local employment opportunities to support the Far North Coast's expanding role in the wider regional and NSW economies

- Maintain or improve the existing level of sub-regional employment self-containment
- Meet sub-regional employment projections. Employment lands in appropriately zoned areas

No local employment lands such as a neighbourhood retail/commercial centre or industrial land are proposed within the subject land. Council has an industrial estate on the eastern edge of Mullumbimby that has some capacity for expansion, which will assist with employment opportunities in Mullumbimby.

Council aims to reinforce the existing CBD. Residents of Tallowood Ridge Estate will likely shop in the CBD as it has a choice of supermarkets and specialty stores. Access from the subject land directly into town will promote "every day" expenditure locally. Some higher order spending will escape north to Tweed Heads or south to Ballina.

The intended expansion of the Tallowood Ridge Estate is anticipated to have a positive effect on the local community and economy. The Planning Proposal will likely yield a further 65 lots which will generate significant employment over the construction phase of the development. It is generally accepted that for every \$1 million in construction expenditure, 27 jobs are created throughout the broader economy.

6 Avoidance of Risk

Land use conflicts and risk to human health and life avoided

- No residential development in the 1:100 floodplain
- Avoid physically constrained land – steep slopes or erodible land
- Avoid land use conflicts
- Provide for safe evacuation routes from flood or bushfire

The subject site is bordered on the east and south by existing development of various types and densities. Some land is constrained by environmental or topographical constraints as follows:

- The land to the north, east and parts of Lot 80 are flood liable,
- The land to the west is steep and undulating hills, with some areas unsuitable for development,
- The land to the east of the subject site is existing development, referred to locally as "Chincogan Views Estate", and
- The land to the south is existing rural residential allotment development accessed off Left Bank Road.

The steepest land on the site will be retained in the RU2 zone on the western edge of Lot 80. A small area of steep land where there may be some surface instability located in the north-western corner of the R2 land will be allocated a 1000 m² MLS to reflect the need to have larger lots on steeper sites. Further consideration of the slope issue will occur during detailed subdivision design. A Geotechnical Assessment is at Annexure A. A slope map showing those parts of the site that have a 20% slope or greater (and therefore have limited development potential) is shown at Figure 4.

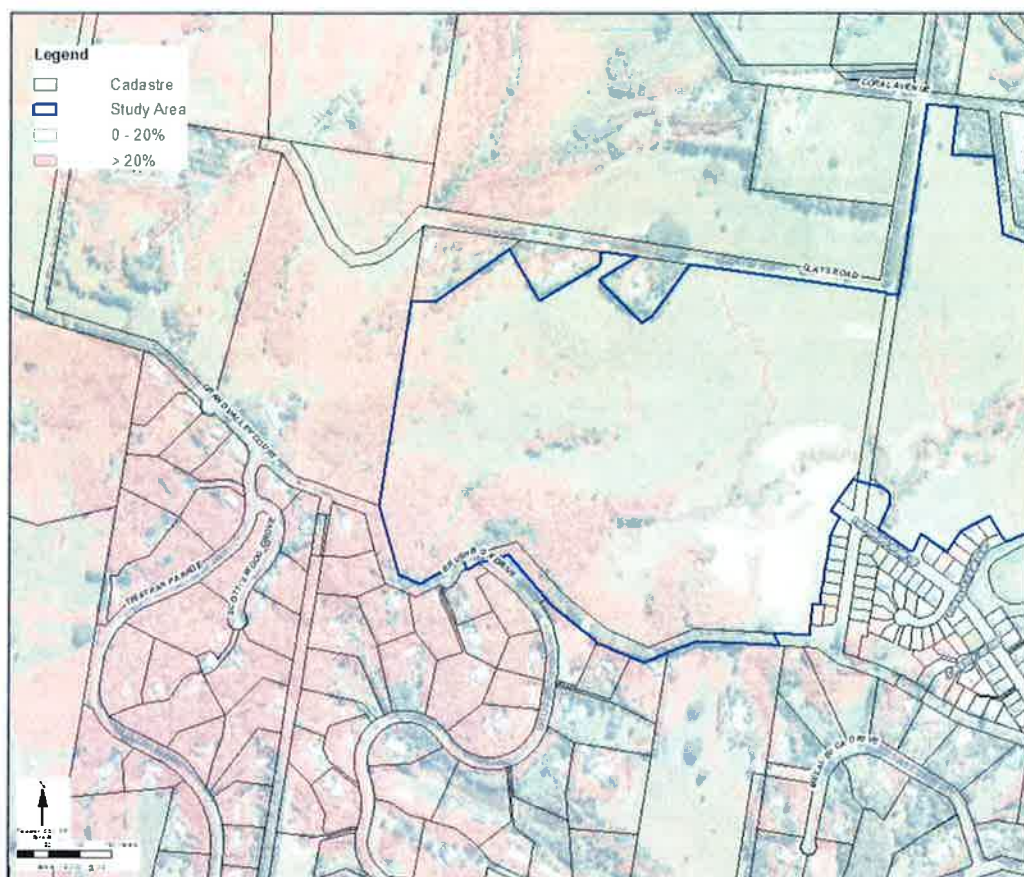


Figure 4: Subject land showing slopes greater than 20%

A Contamination Report has been prepared that includes the subject site (Annexure B). There is no recorded dip site on the land and the report did not identify any contamination arising from the past use of the subject site for cattle grazing. The Contamination Report confirms that the subject site is generally suitable for residential purposes.

A Bushfire Hazard Report (Annexure C) identified that the site is affected by bushfire hazard from the remnant vegetation at its southern edge. Hazard buffers that meet the Planning for Bushfire Protection requirements can be incorporated into the subdivision design. Consultation with the Rural Fire Service is required and Council will conduct that consultation during notification of the Planning Proposal. Any recommendations from the Rural Fire Service will be incorporated in the Planning Proposal.

This Planning Proposal will zone a small strip of land for residential development that is flood prone in a 20 Year ARI event or greater (about 1 hectare in proximity to Clays Road). However, this flood prone land is west of the proposed Clays Road connector road (which has to be filled), is a Low Hazard flood fringe up to a 100 Year ARI event, and experiences low velocity and low depth up to a 100 Year ARI event (Annexure D). It is proposed the land will be filled and used for residential lots as well as support infrastructure (roads, water/sewer, stormwater retention, etc). Some other small areas on the edge of the floodplain will require filling for a small number of residential lots (mostly parts of lots), but this land is already zoned R2. Byron LEP 2014 clause 6.3 (Flood Planning) would apply to such land in any case.

In the event of a hazard situation (flood or bushfire) a flood free and bushfire free evacuation route is provided via Tuckeroo Avenue and Clays Road.

The Draft North Byron Flood Study (January 2016) maps and discusses flood behaviour for the entire Brunswick River catchment, including the subject land. It looks at flooding up to the extreme event known as a Probable Maximum Flood (PMF), which is a flood with an annual return interval of greater than 500 years. Taking this extreme PMF map, the subject land is affected slightly more than previously expected (approximately 2 hectares of proposed R2 land), but in the same location. This level of flooding on the edge of a floodplain can be dealt with by filling of the land. Filling of small areas on the edge of a floodplain has a low probability of affecting other flood prone areas. An extract of the Draft North Byron Flood Study mapping is included as Figure 5.

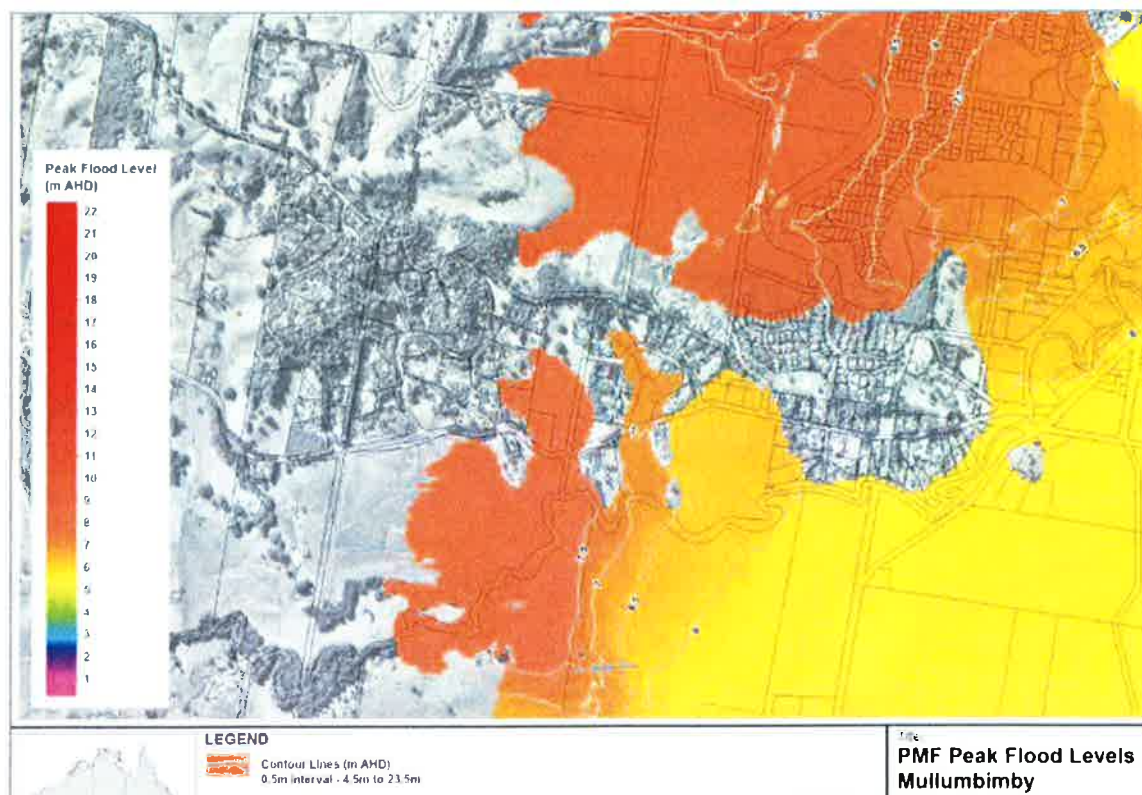


Figure 5: Draft North Byron Flood Study – PMF peak flood levels

7 Natural Resources

Natural resource limits not exceeded/environmental footprint minimised

- Demand for water does not impact on environmental flows
- Avoids significant agricultural land
- Avoids other resource lands
- Does capacity of infrastructure not exceed energy supply?

The Planning Proposal will only add a relatively small number of lots to the Tallowood Ridge Estate, and the demand for reticulated water that arises from this will not place pressure on environmental flows in the waterways that supply bulk water to Mullumbimby. Council connected Mullumbimby to the Rous Water system some time ago to cater for periods of dry weather when Lavery's Gap was unable to meet demand.

The subject land is not known to contain any significant extractive or mining resources. It is not located in a buffer to any mines or extractive industries. It will not impact on the haul route of any mines or extractive industries.

The extension to the residential land at Tallowood Ridge Estate will be supplied with reticulated electricity and this is not expected to place unacceptable pressure on energy supply. Reticulated water and sewer will also be supplied to all new residential lots.

The subject land contains approximately 20 hectares of regionally significant agricultural land identified in the Northern Rivers Farmland Protection Project (Figure 6). However, only about 0.5 hectares of this will be zoned R2 Low Density Residential (because it's isolated from the main area). An area of approximately 3 hectares will be zoned RE1 to reflect an existing consent for sports facilities. The balance of the regionally significant farmland will be retained in the RU1 and RU2 rural zones. The existing and proposed residential development will be buffered from the RU1 farmland by a riparian area. The impact on farmland will be minimal.

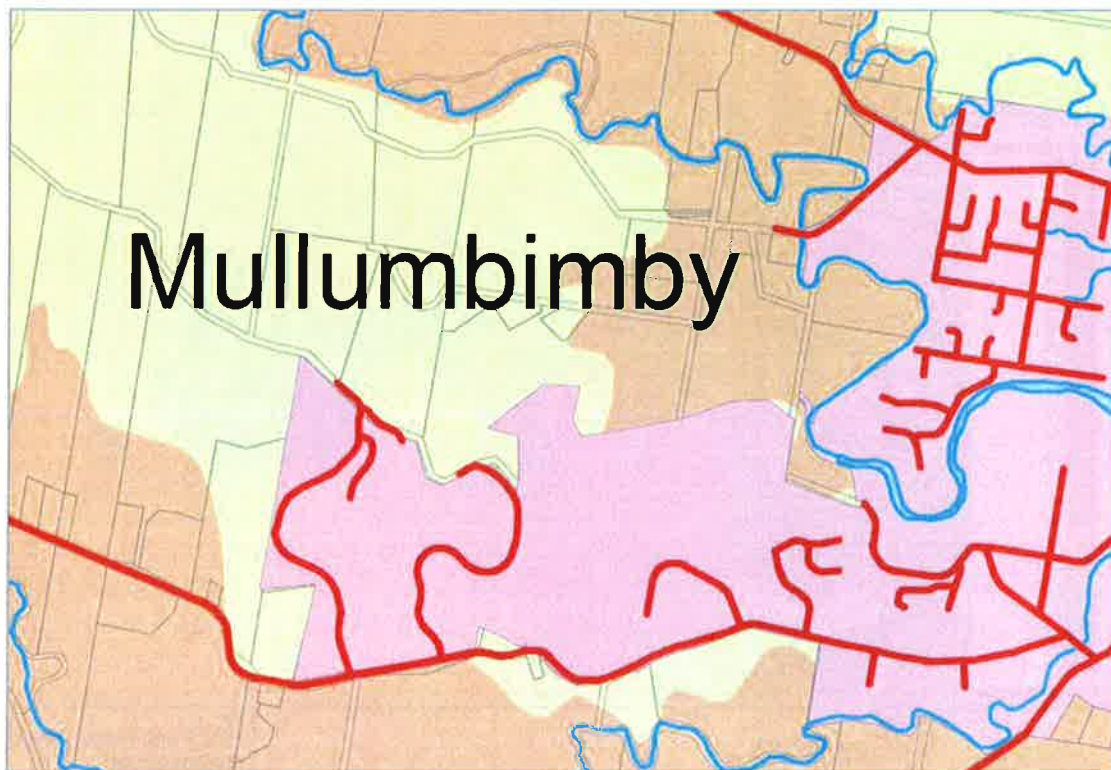


Figure 6: Regional Farmland mapping (regional farmland is brown colour)

This Planning Proposal identifies a small but logical extension to the Tallowood Ridge Estate that will protect the environment and resources for future generations by maintaining prime agricultural land, restricting development to unencumbered land with minimal environmental significance and accessing existing infrastructure.

This Planning Proposal has taken into consideration the natural, physical and appropriate density constraints for development. It seeks to expand an existing settlement into a relatively small urban area with clear boundaries.

8 Environmental Protection

Protect and enhance biodiversity, air quality, heritage, and waterway health

- Consistent with Regional Conservation Plan
- Maintains or improves areas of regionally significant biodiversity
- Maintain or improve air quality and water quality
- Protect areas of Aboriginal cultural heritage

The regional mapping undertaken to support the FNCRS does not identify the Tallowood Ridge Estate as containing biodiversity areas of State or regional significance.

The Far North Coast Regional Conservation Plan (2010) does not identify any State or regional biodiversity assets in the Tallowood Ridge Estate area. The nearest corridor and habitat network is a coastal fauna corridor that is located to the north of the subject land and does not affect it. The Tallowood Ridge Estate is not identified as being in a regional conservation priority area.

The Tallowood Ridge Estate development is guided by an approved Biodiversity Conservation Management Plan, which is consistent with the objectives of Council's Byron Biodiversity Conservation Strategy 2004.

Ecological assessments that have been undertaken for the site identify some small areas of regenerating lowland sub-tropical and dry rainforest which have ecological value (Annexure E). Some significant flora species have been located and will be protected. The site has limited Koala food trees but those that are present will be protected.

The Planning Proposal seeks to protect fauna habitat and environmentally sensitive areas through the use of an RU2 Rural Landscape zone (in the absence of E zones). Specifically:

- by zoning riparian areas on each side of an existing drainage channel system between residential zoned and prime agricultural land, and
- by protecting in perpetuity the Sclerophyll forest in the south and south-west corner of the subject site which provides habitat for a range of fauna.

There is limited potential for impact upon water quality because all new residential development will be consistent with water sensitive urban design principles. The riparian corridor will separate residential development from the waterways and allow space for detention and stormwater cleaning structures.

Air quality is not a significant issue in the vicinity of Mullumbimby given the absence of major polluting industry and the open topography of the location. Although urbanisation of this area will generate pollution from private motor vehicles and emissions generally from energy use in the residential context, it is more an issue of minimisation of impact. Carbon emissions minimisation should be a goal of all new urban areas.

An Aboriginal Cultural Heritage Assessment of the subject site concluded that there is limited potential for encountering Aboriginal heritage on the subject site (Annexure F).

Byron Environmental Values mapping (Figure 7) shows the land largely free of constraints.

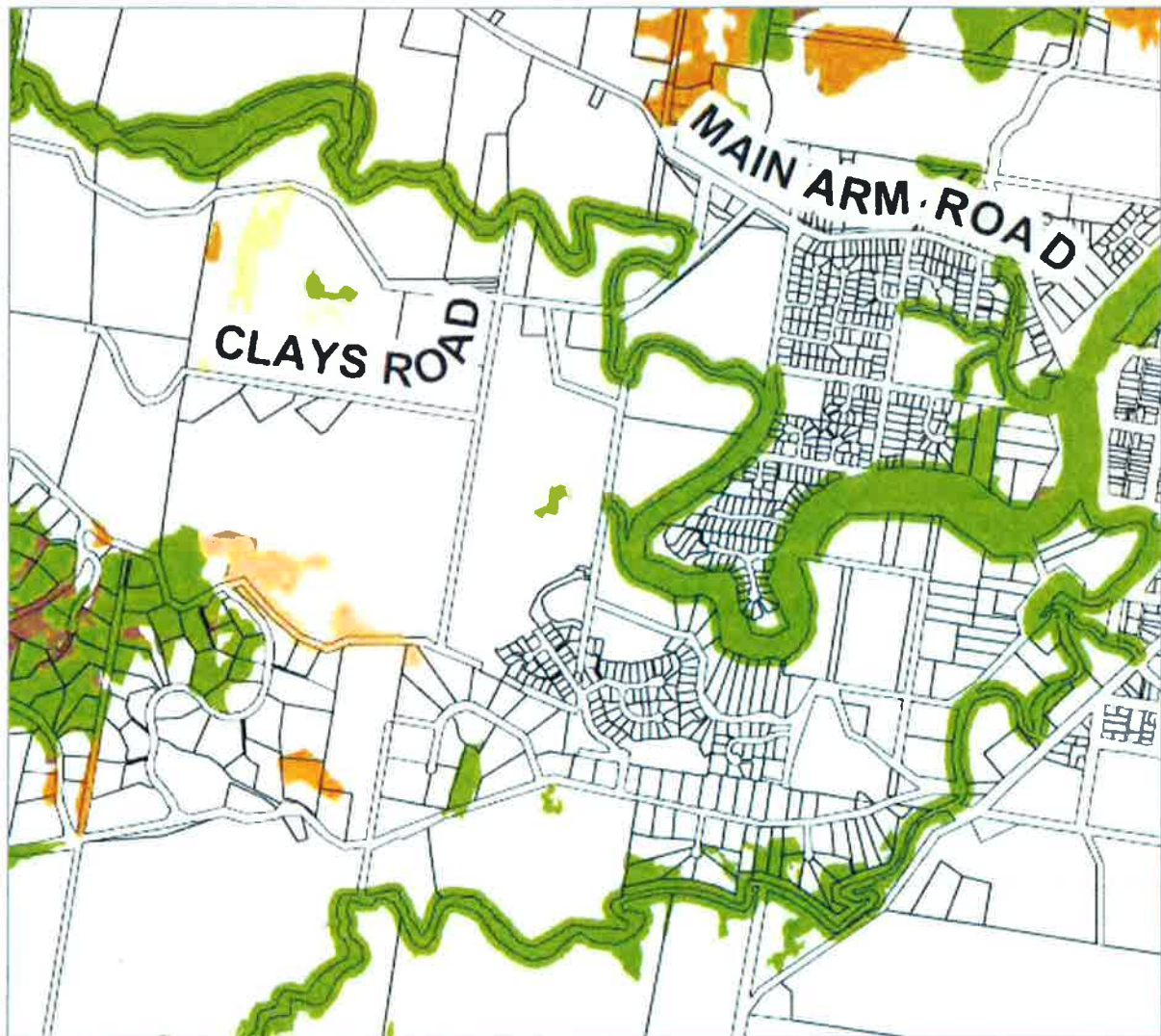


Figure 7: Byron Environmental Values mapping

9 Quality and Equity in Services

Quality health, education, legal, recreational, cultural and community development, and other government services are accessible

- What social services exist and is there any capacity?
- Has government planned for service provision?
- What developer funding is available?

The Planning Proposal will specifically provide for a quality residential lifestyle in an area that has access to the necessary services and infrastructure, and is a logical extension to an existing urban area.

The initial stages of the Tallowood Ridge Estate include a toddlers' playground and park, a community garden, protection of remnant vegetation for passive recreation, shared paths to access services and recreation facilities including sports fields (football field and cricket pitch, a tennis court and a half basketball/netball court). Later stages will add to this to ensure that new residents get access to quality social infrastructure.

Off-site services within easy access (less than 2 km) include the Mullumbimby Post Office, main street shops, supermarkets and medical services. Mullumbimby High School is less than 1.5 km from the site as is a general store, service station, bowling club and (for the short-term) the Mullumbimby hospital. An ambulance service, police station and fire station are all located in Mullumbimby.

Mullumbimby has excellent education opportunities with a public primary school and high school, a catholic primary school and a K-12 Steiner School.

No community halls or built facilities are expected to be provided or needed on the subject land. Council is currently focussing on existing facilities and has no capacity to take on new buildings. Mullumbimby CBD includes a range of meeting spaces and halls, including the Mullumbimby Civic Hall (Dalley Street) and Mullumbimby Drill Hall (Jubilee Avenue), both of which are within 2 km of the subject land.

The Tallowood Ridge Estate has access to high-speed broadband and telephone services, and these will be extended throughout the new residential areas. The Planning Proposal will have strong positive social and economic effects.

The additional dwellings in the Tallowood Ridge Estate will be able to access quality services from day one by virtue of the current facilities on the site and in the nearby CBD of Mullumbimby (Figure 8).

Council will impose section 94 contributions to ensure that future development contributes to other services and facilities off-site. It is unlikely that a modest extension of an existing urban development will create concerns about the capacity of government services.

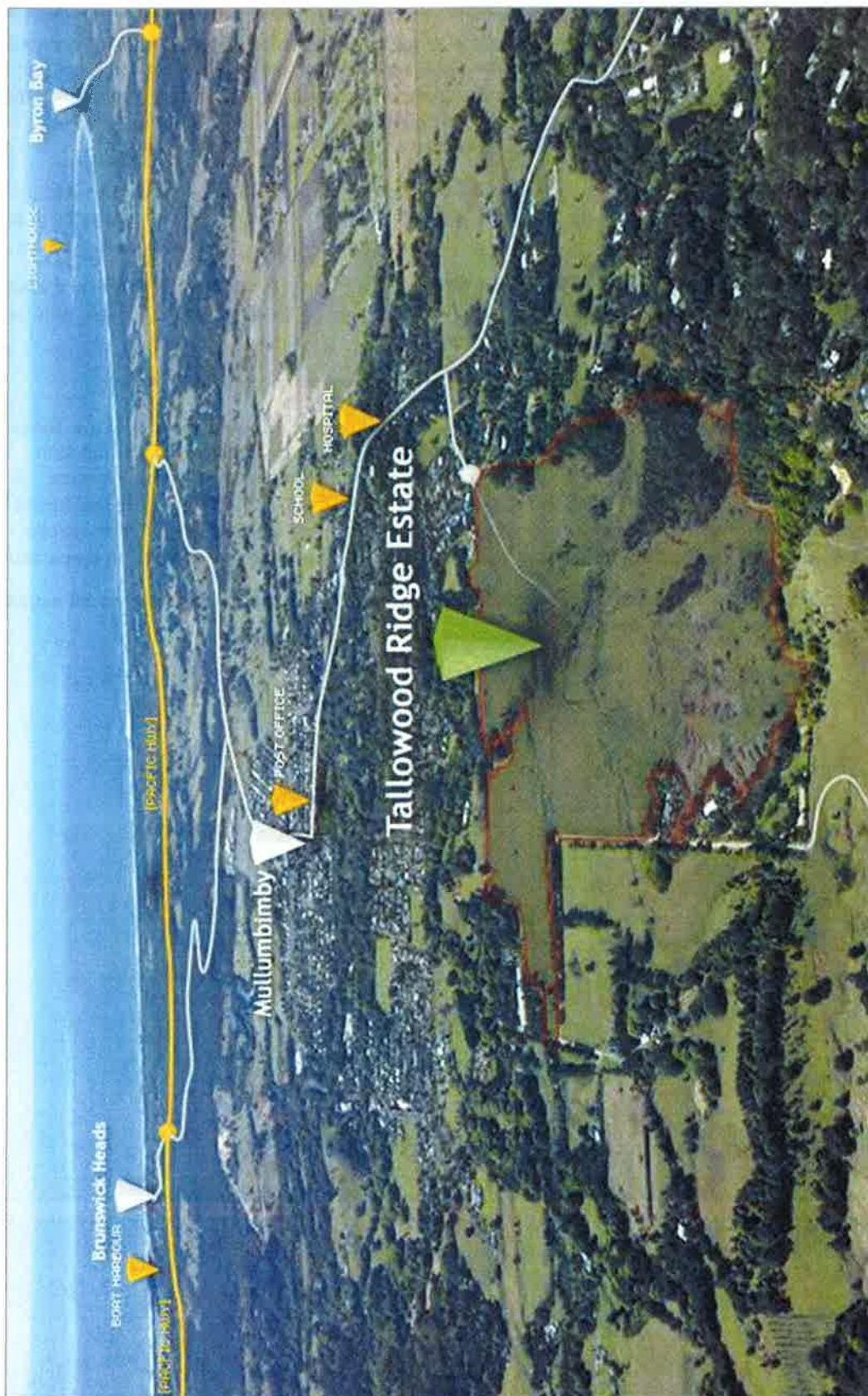


Figure 8: The site is close to Mullumbimby services as shown in this oblique air photo
(source: Tallowood web site)

10 Conclusion

The Tallowood Ridge Estate Planning Proposal seeks to rezone land on the subject site to increase the opportunity for residential development in response to a documented demand and inadequate long-term land supplies. It will also incorporate environmental areas (remnant vegetation and riparian corridors) into an RU2 zone (until further assessment for the purposes of determining environmental zones is done). It will also zone public recreation facilities in a public recreation zone.

It is an area that can be economically serviced with urban infrastructure, and will allow innovative and diverse housing to take place that contributes to the local economy without causing concern regarding social services.

The Planning Proposal will have no adverse impact on significant agricultural lands. The minor areas of hazard affected lands (some steeper areas and some small areas of flooding) can be dealt with at the development stage through subdivision design and minor filling.

The proposed zoning changes would strongly align with the objectives of the FNCRS.

Council had previously resolved to receive and send a Planning Proposal for the extension of the Tallowood Ridge Estate to the Department of Planning and Environment (DPE) for Gateway Determination. This Planning Proposal is as a result of further advice from the DPE on the previous Planning Proposal. It is a relatively minor expansion of an existing urban area that can provide quality land (around 65 residential lots) quickly to meet short-term market demand, while Council continues to investigate longer term options. It is therefore reasonable that the Planning Proposal precedes the Residential Strategy currently in preparation.

The Tallowood Ridge Estate Planning Proposal satisfies the Sustainability Criteria and should be supported by the Department of Planning and Environment.