

## Site 1: 660 The Pocket Road, The Pocket

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| <b>Site Description</b>                    | Lot 2, DP 1218678   |
| <b>Existing zone</b>                       | 1A, RU1, RU2, DM  |
| <b>Proposed zone</b>                       | C2, RU2   |
| <b>Primary Land Use</b>                    | Rural Living, Farm Stay (tourist accommodation) and Agriculture   |
| <b>Site visit</b>                          | No, access denied   |
| <b>Verification of attributes</b>          | Aerial photography (1979, 2015, 2022). Flora and fauna records and 2017 vegetation mapping.   |
| <b>Landowner reason for review request</b> | <ul style="list-style-type: none"> <li>• Objects to zone change as proposed E-zone is based on out of date mapping</li> <li>• Required methodology to determine primary use of land not used</li> <li>• Site has approval for Rural Tourist Facility and residential dwelling, farmland and orchards where C-zone is proposed.</li> </ul> |



### Council justification for proposed zoning:

- Recorded threatened Flora and Fauna species from Bionet and Council databases. However, Council is unsure of age or provenance of Flora and Fauna records.
- 86,534sqm of E2 zone removed in response to feedback from landowner. Landowner has declined a site visit or meeting.

### BCD Advice

- Some vegetation that has not been mapped should be assessed.
- Records of the following threatened species in the area: White-eared Monarch, Marbled Frogmouth, Koala, Rose crowned Fruit Dove & Sooty Owl.

### Department (Agile Planning and Program) consideration:

- Note that Council have attempted to visit the site and have reduced the E2 zone in response to feedback from the landowner.
- Council have indicated that its assessment is based on two data sources. However, the baseline data and age of any field work is unclear.
- The Department is therefore not satisfied that Council have validated the ecological attributes in accordance with the Recommendations Report, as no site visit or ecological report has been carried out within the last 5 years.

### Department (Agile Planning and program) recommendation:

- **DEFER**, as insufficient evidence to meet criteria for C-zone listing.
- Council, in consultation with the BCD, to review the proposed C-Zone boundary based on up to date field work and mapping and against any approvals on the site.

## Site 2: 201 Skyline Road, The Pocket

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| <b>Site Description</b>                    | Lot 1, DP368773   |
| <b>Existing zone</b>                       | 1A, RU2 RU2, DM   |
| <b>Proposed zone</b>                       | C2, RU2   |
| <b>Primary Land Use</b>                    | Rural Living  |
| <b>Site visit</b>                          | No, access denied   |
| <b>Verification of attributes</b>          | Aerial photography (1979, 2015, 2022). Flora and fauna records and 2017 vegetation mapping.   |
| <b>Landowner reason for review request</b> | <p>Objects to the zone change, as:</p> <ul style="list-style-type: none"> <li>• Council used incorrect / incomplete information</li> <li>• Site has a dwelling entitlement and an old cottage, and Council have not considered historic habitation of dwelling and farmland</li> <li>• Site was partially cleared since the 1950s and used as farmland.</li> <li>• While this area has significant camphor laurel and other regrowth, including lantana, the owner wishes to use this area for RU2 and farmland</li> <li>• Proposed C zone applied to a portion of the ridgeline which has never been cleared or farmed.</li> </ul> |



### Council justification for proposed zoning:

- The proposed C2 on this property is part of a forested wildlife corridor across the Pocket Spur to Inner Pocket Nature Reserve.
- 52,585sqm of E2 zone removed in response to feedback from the landowner. There is no dwelling entitlement for the property and 2001 aerial photography shows 'rural living' with no recent farmland and no dwelling present.

### BCD Advice

- Some vegetation that has not been mapped should be assessed.
- Records of the following threatened species in the area: Koala and Smooth Davidson's Plum.

### Department (Agile Planning and Program) consideration:

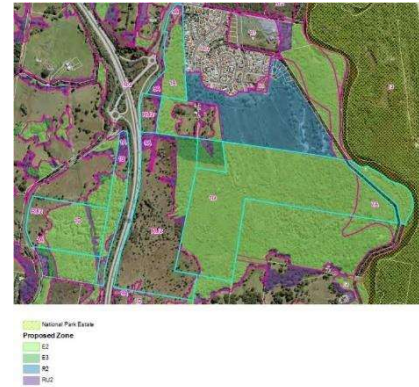
- Note that Council have attempted to visit the site and have reduced the E2 zone in response to feedback from the landowner.
- However, the Department is not satisfied that Council have validated the ecological attributes in accordance with the Recommendations Report, as no site visit or ecological report has been carried out within the last 5 years.

### Department (Agile Planning and program) recommendation:

- **DEFER**, as insufficient evidence to meet criteria for C-zone listing.
- Council, in consultation with the BCD, to review the proposed C-Zone boundary based on up to date field work and mapping and confirm any existing dwellings on the site and distinction between camphor laurel and old growth forest.
- Verification of historical dwelling entitlement to be resolved.

## Site 3: 296 Gulgan Road & Pacific Highway and 15 Eucalyptus Lane, Brunswick Heads

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| <b>Site Description</b>                    | Lot 1, DP 122589<br>Lot 2, DP 536396<br>Lot 4, DP 576360<br>Lot 12, DP 881230<br>Lot 14, DP 881230<br>Lot 11, DP 1014197  |
| <b>Existing zone</b>                       | 1A, 1D, RU2<br>1D<br>1D, 7A, RU2<br>1A, 1D, 9A, RU2<br>1A, 1D, 9A, RU2<br>1A, 9A, RU2   |
| <b>Proposed zone</b>                       | C2, RU2<br>C2, C3, RU2<br>C2, RU2<br>1A, 9A, RU2<br>C2, C3, RU2<br>C2, RU2  |
| <b>Primary Land Use</b>                    | Environmental / Rural Living  |
| <b>Site visit</b>                          | Yes   |
| <b>Verification of attributes</b>          | 2 site visits by an ecologist (in March 2018 and March 2019) and drone footage  |
| <b>Landowner reason for review request</b> | Objects to the zone change, as: <ul style="list-style-type: none"> <li>Each allotment contains an existing dwelling entitlement</li> <li>Proposal is inconsistent with Planning Direction 2.5 (Application of E-Zones in Far North Council LEPs), as the site does not contain high environmental conservation qualities required for a C2 zoning.</li> </ul> |



### Council justification for proposed zoning:

- There is cattle grazing on parcels 151720, 224560, 224530, with other parcels largely vegetated. There are currently no dwellings constructed on any parcels, but most have a dwelling entitlement.
- 97,747 sqm of C2 zone removed and 28,418 sqm changed from C2 to C3 in response to feedback from the owner.

### BCD Advice

- Some vegetation that has not been mapped should be assessed.
- Records of the following threatened species in the area: Wallum Froglet, Glossy Black Cockatoo, Little Bent-winged Bat, Southern Myotis, Hoary Wattled Bat, White Lace Flower, Coraki, Arrow-head Vine, Green-leaved Rose Walnut, Stinking Cryptocarya, Basket Fern.
- Common Planigale, Common Blossom Bat, Long-nosed Potoroo and Koala recorded nearby.

### Department (Agile Planning and Program) consideration:

- The Department is satisfied that Council's proposed C-zones are informed by site visits by an ecologist in March 2018 and March 2019, and therefore the proposed C-Zones are consistent with the criteria in the Recommendations Report.

### Department (Agile Planning and program) recommendation:

- SUPPORT** Council's proposed rezoning.

## Site 4: 146 Tandys Lane, Tyagarah

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|--|---|
| <b>Site Description</b>                    | Lot 152, DP 755692  |
| <b>Existing zone</b>                       | 1A, 1D, 7A, 7B, RU2<br>RU2, DM  |
| <b>Proposed zone</b>                       | C2, RU2   |
| <b>Primary Land Use</b>                    | Environmental/<br>Rural Living  |
| <b>Site visit</b>                          | No, Council offered but did not receive a response.                             |
| <b>Verification of attributes</b>          | Aerial photography (2021 / 22) and environmental mapping.                       |
| <b>Landowner reason for review request</b> | Requests a dwelling entitlement for the site in return for agreeing to C2 zone. |



### Council justification for proposed zoning:

- Dwelling entitlements can only be addressed at a strategic (Shire wide) level and site-specific proposals are not supported.

12,359sqm of C2 zone removed in response to feedback from the owner.

### BCD Advice

- Some vegetation that has not been mapped should be assessed.
- Records of the following threatened species in the nearby: Wallum Froglet and Durobby.

### Department (Agile Planning and Program) consideration:

- Note that Council have attempted to visit the site and have reduced the E2 zone in response to feedback from the landowner.
- However, the Department is not satisfied that Council have validated the ecological attributes in accordance with the Recommendations Report, as no site visit or ecological report has been carried out within the last 5 years.

### Department (Agile Planning and program) recommendation:

- **DEFER**, as insufficient evidence to meet criteria for C-zone listing.
- Council, in consultation with the BCD, to review the proposed C-Zone boundary based on up to date field work and mapping.



## Site 5: 133B Middle Ridge Road, Upper Main Arm

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| <b>Site Description</b>                    | Lot 1, DP 719570   |
| <b>Existing zone</b>                       | 1A, 7D, RU1, RU2<br>RU1, RU2, DM   |
| <b>Proposed zone</b>                       | C2, RU2, (7D retained)   |
| <b>Primary Land Use</b>                    | Rural Living   |
| <b>Site visit</b>                          | No, access denied  |
| <b>Verification of attributes</b>          | Aerial photography and existing environmental mapping such as vegetation   |
| <b>Landowner reason for review request</b> | <p>Objects to the proposed rezoning as:</p> <ul style="list-style-type: none"> <li>detrimental to current regeneration work for future.</li> </ul> <p>Environmental Impact Report submitted to Council 3 years ago as part of a DA therefore states site visit not required.</p> |



### Council justification for proposed zoning:

- Environmental Enhancement and Management Plan for 133B Middle Ridge Road prepared by Landmark Ecological Services dated Jan 2016 which split the site into 5 management zones based on vegetation and significance of Flora relative to the house site.
- Environmental Impact Report verifies/confirms proposed C zone mapping. Regeneration still permitted in all zones.
- 28,106sqm of C2 zone removed in response to feedback from the owner.

### BCD Advice

- Records of the following threatened species on the site: Pouched Frog, Woompoo Fruit Dove, Sooty Owl, Powerful Owl, White-eared Monarch, Eastern Long-eared Bat and Rusty Rose Walnut.

### Department (Agile Planning and Program) consideration:

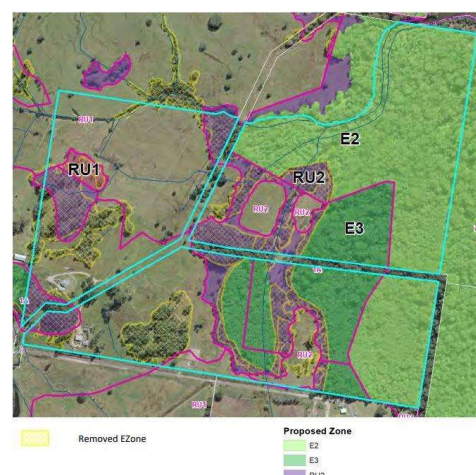
- Council have reduced the area of C2 zone in response to feedback and review of Applicant's vegetation mapping.
- However, the Department is concerned that the applicant's vegetation mapping is older than the 5 years as required by the Recommendations Report.

### Department (Agile Planning and program) recommendation:

- DEFER**, as insufficient evidence to meet criteria for C-zone listing.
- Council, in consultation with the BCD, to review the proposed C-Zone boundary based on up to date field work and mapping.

## Site 6: 80 Vallances Road, Mullumbimby

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|--|--|
| <b>Site Description</b>                    | Lot 1 DP 779821  |
| <b>Existing zone</b>                       | 1A, 7B, RU1, RU2<br>RU1, RU2, DM   |
| <b>Proposed zone</b>                       | C2, C3, RU2  |
| <b>Primary Land Use</b>                    | Environmental/ Rural<br>Living/Agricultural  |
| <b>Site visit</b>                          | Partial site visit by qualified Council ecologist  |
| <b>Verification of attributes</b>          | Aerial photography, environmental mapping such as vegetation and partial site visit by a qualified Ecologist.  |
| <b>Landowner reason for review request</b> | <ul style="list-style-type: none"> <li>Property is identified as regionally significant farmland and primary use is farming.</li> <li>Property does not have a primary use of environmental conservation or environmental maintenance. No ground studies undertaken of vegetation or wildlife present.</li> <li>OEH study from 2011 found no old growth forest with aerial surveys from 1958, 1965 and 1975 showing little forest in the proposed C2 areas, only scrub and grassland.</li> <li>Councils aerial mapping is flawed and inaccurate.</li> <li>1988 zoning as 7B is challenged as no old growth or forestry.</li> </ul> |



### Council justification for proposed zoning:

- Partial site visit by a qualified Ecologist in 2019.
- Cattle grazing and farmland structures in the west of the property in proposed RU1/RU2 zone.
- Council aerial photos show that vegetation was there in 1965. Refer to Appendix A for Old growth mapping determinations. Council offered to verify the old growth mapping with a Council Ecologist however this offer was not taken up. Council requested a copy of the NSW OEH report to verify the findings however this was not provided.
- Councils mapping indicates 7B appropriate and has been in place since 1988.
- Owner submitted to Council a request for Farmland rating in May 2021 which includes a hand drawn map confirming eastern part of property (proposed as C2) is coastal forest with restricted use.

### BCD Advice

- Desktop analysis
- Some vegetation that has not been mapped should be assessed
- TS (fauna) Common Planigale, Koala, Eastern Osprey, White-eared Monarch, Rose-crowned Fruit Dove, Masked Owl, White-bellied Sea Eagle, Comb-crested Jacana) recorded nearby.

## Site 6: 80 Vallances Road, Mullumbimby

### Department (Agile Planning and Program) consideration:

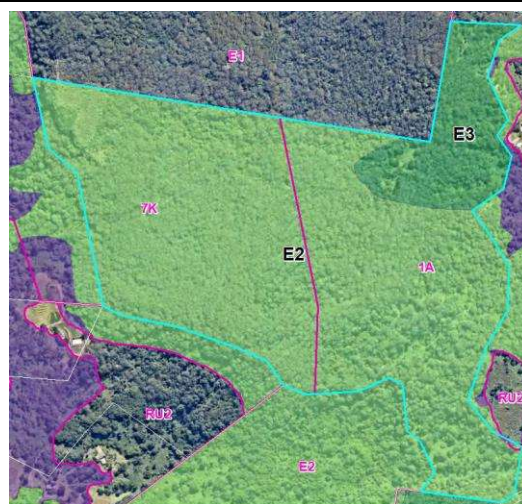
- Areas identified as C3 only verified by aerial photography and vegetation mapping.
- Partial field verification undertaken however its not clear which areas actually verified on site by Ecologist. Council document states that discussion with current and previous owner only at house and shed in bottom western corner of the site. Photo taken from Synotts Lane (north of the whole site) appears to be some distance from any vegetation on the site.
- Note that Council have attempted to visit the site and have reduced the E2 zone in response to feedback from the landowner.
- However, the Department is not satisfied that Council have validated the ecological attributes in accordance with the Recommendations Report, as no site visit or ecological report has been carried out within the last 5 years.

### Department (Agile Planning and program) recommendation:

- **DEFER**, as insufficient evidence to meet criteria for C-zone listing.
- Council need to undertake field verification or other verification of attributes required.

## Site 7: 11 Garrong Road, Goonengerry

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|--|---|
| <b>Site Description</b>                    | Lot 2 DP 772174   |
| <b>Existing zone</b>                       | 1A, 7K, RU2<br>DM   |
| <b>Proposed zone</b>                       | C2, C3, RU2   |
| <b>Primary Land Use</b>                    | Environmental/ Bushland areas,<br>Multiple occupancy  |
| <b>Site visit</b>                          | Yes - July 2021<br><br>Refer to Appendix B within Council's Summary Table for on-site photos. Includes area proposed by Council for C3 and area beyond where approved MO extends into.  |
| <b>Verification of attributes</b>          | Site visit undertaken in July 2021 by Council Ecologist?  |
| <b>Landowner reason for review request</b> | <ul style="list-style-type: none"> <li>Property contains an approved multiple occupancy development (for up to 9 dwellings) which is the primary use of the land.</li> <li>Request for 7 dwellings to be included on the MOCT map because land has approval for 7 structures (6 dwellings and 1 community building) and additional lot would not cause additional occupancy footprint.</li> <li>Owners have requested that the eastern portion of the site where the approval applies be zoned RU2 as the approval extends further than the proposed E3.</li> </ul> |



Proposed Zone  
 E2  
 E3  
 RU2

### Council justification for proposed zoning:

- Property is not identified on LEP 2014 Multiple Occupancy and Community Title (MOCT) map, given existence of an original DA approval in 1989 and subsequently modified approval in 1999.
- Because most of the approved dwelling sites (i) have not been built on and (ii) are located in areas significantly constrained high environmental value vegetation, steep slopes and bushfire risk, staff have recommended that the six dwellings should be clustered more closely in the northern part of the property in the proposed E3 zone, with E2 over the remainder of the site.
- Council determined that MO DA 89/200 has commenced and can be added to MOCT map for 6 dwellings, however the 6 dwellings must be clustered into the delineated E3 area.
- Council considers that the proposed E3 area provides adequate space for the dwellings and APZs without the need for significant vegetation clearing, which in turn will provide an easier pathway for DA modification and/or future community title subdivision.
- Site visit undertaken by Ecologist, no changes were proposed to maps as a result of this site visit and the landowners submission.

### BCD Advice

- Desktop analysis
- TS flora and fauna recorded on and in close vicinity to site.

### Department (Agile Planning and Program) consideration:

- The site has an existing development consent for a multiple occupancy development which identifies sites being located a substantial distance into the proposed C2 zone.
- It is acknowledged that Council have facilitated a site visit with photos within Appendix B of Council's submission. Further, there is no argument/disagreement that multiple occupancy is



## Site 7: 11 Garrong Road, Goonengerry

acknowledged as a primary use of the land in conjunction with environmental/ bushland. However, Council need to address the area of the active consent

### **Department (Agile Planning and program) recommendation:**

- **DEFER**, as the location and zone within the north-eastern corner of the site requires further review in order to accommodate the approved multiple occupancy development on the site.

## Site 8: 73 Upper Coopers Creek Road, Upper Coopers Creek

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|--|--|
| <b>Site Description</b>                    | Lot 1 DP 1046447   |
| <b>Existing zone</b>                       | 1A, RU2<br>RU2, DM   |
| <b>Proposed zone</b>                       | C2, RU2  |
| <b>Primary Land Use</b>                    | Rural Living   |
| <b>Site visit</b>                          | Site visit to neighbouring properties as site is steep. Site visit denied  |
| <b>Verification of attributes</b>          | 21/22 aerial photography, environmental mapping such as vegetation, site visit by qualified Ecologist to neighbouring properties |
| <b>Landowner reason for review request</b> | Objects to the proposed rezoning   |



### Council justification for proposed zoning:

- The proposed Ezone area is steep and inaccessible and unsuitable for farmland activities. Farmland rated (verified by Council's Revenue database)
- Adjacent to Nightcap National Park wildlife corridor.
- Possible Czone connectivity with Lismore Shire in the south

### BCD Advice

- Desktop analysis only.
- Other vegetation that has not been mapped should be assessed, noting TS records not mapped in HEV layer.
- TS fauna (Koala) and flora (Arrow-head Vine, Rusty Rose Walnut) records in eastern portion but not mapped in HEV layer.

### Department (Agile Planning and Program) consideration:

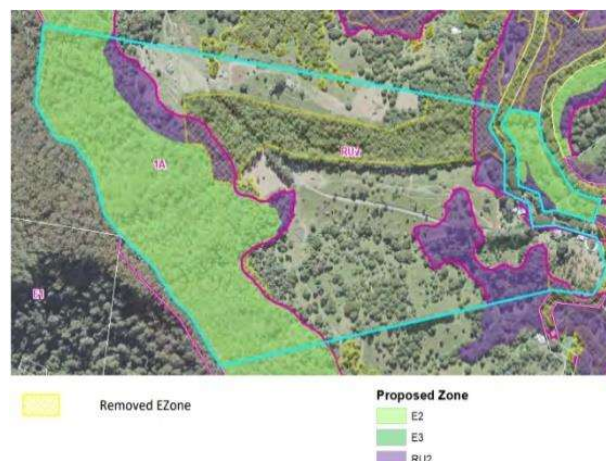
- Council have attempted to verify aerial observations via site visit. However, as the site is very steep, Council have relied on the verification of neighbouring properties.
- The Department is not satisfied that Council have validated the ecological attributes in accordance with the Recommendations Report, as no site visit or ecological report has been carried out within the last 5 years.

### Department (Agile Planning and program) recommendation:

- **DEFER**, as insufficient evidence to meet criteria for C-zone listing.
- Council need to undertake field verification or other verification of attributes required.

## Site 9: 135 Coopers Creek Road, Upper Coopers Creek

|  |   |
|--|---|
| <b>Site Description</b>                    | Lot 4 DP 264149   |
| <b>Existing zone</b>                       | 1A, RU2<br>RU2, DM  |
| <b>Proposed zone</b>                       | C2, RU2   |
| <b>Primary Land Use</b>                    | Rural Living  |
| <b>Site visit</b>                          | Access denied. Site visit to neighbouring properties as site is steep.  |
| <b>Verification of attributes</b>          | 21/22 aerial photography.   |
| <b>Landowner reason for review request</b> | <ul style="list-style-type: none"> <li>The proposal will “separate” and effectively “lock up” land that is rightfully ours.</li> <li>We have no plans for changing any of the land that will supposedly become the E-2 zone but feel that the right to private land ownership is being overlooked or removed.</li> <li>The zoning proposal has a negative impact. Much of the proposed E-2 zone is infested with non-native invasive flora and the proposal makes no offers to assist owners in quelling or removing this. It seems pointless in changing zones within such areas.</li> <li>If it is important to recognise and protect the intrinsic value of the area then it should also be important to put the area back to its native state.</li> </ul> |



### Council justification for proposed zoning:

- 56,661sqm of C2 within the central northern half of the site removed after consultation.
- Dwelling present. No agricultural activity.
- Adjacent to Nightcap National Park. Possible Czone connectivity to the south with Lismore Shire.

### BCD Advice

- Desktop analysis only.
- Some vegetation that has not been mapped should be assessed.
- TS fauna (Koala) and flora (Thorny Pea, Red Lilly Pilly, Durobby) records on site. Numerous TS records in vicinity of site.

### Department (Agile Planning and Program) consideration:

- Council have attempted to verify aerial observations via site visit. However, as the site is very steep, Council have relied on the verification of neighbouring properties.
- The Department is not satisfied that Council have validated the ecological attributes in accordance with the Recommendations Report, as no site visit or ecological report has been carried out within the last 5 years

## **Site 9: 135 Coopers Creek Road, Upper Coopers Creek**

### **Department (Agile Planning and program) recommendation:**

- **DEFER**, as insufficient evidence to meet criteria for C-zone listing.
- Council need to undertake field verification or other verification of attributes required.



## Site 10: 159 Coopers Creek Road, Upper Coopers Creek

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|--|---|
| <b>Site Description</b>                    | Lot 5 DP 264149   |
| <b>Existing zone</b>                       | 1A, RU2   |
| <b>Proposed zone</b>                       | C2, RU2   |
| <b>Primary Land Use</b>                    | Rural Living  |
| <b>Site visit</b>                          | Council's Ecologist visited neighbouring site and verified adjoining vegetation.  |
| <b>Verification of attributes</b>          | 2021/22 aerial photography, environmental mapping such as vegetation and a site visit by qualified Ecologist to neighbouring properties.  |
| <b>Landowner reason for review request</b> | Landowner does not agree with Byron shire council's assessment of the importance of their land to the environment, and would like an independent assessment. Property does not contain old growth it is regrowth. |



Aerial Photography source: NSW Spatial Services 2020

E2 Zones Removed  
**Proposed Zone**  
 C2 Environmental Conservation  
 C3 Environmental Management  
 RU2 Rural Landscape

### Council justification for proposed zoning:

- Property contains multiple dwellings and gardens. Very steep slopes, inaccessible and unsuitable for farmland activities.
- After reviewing the vegetation mapping and feedback from owner, 112,951 sqm (11ha) of C Zone was removed.
- Adjacent to Nightcap National Park. Possible C zone connectivity to the south with Lismore Shire.

### BCD Advice

- Desktop analysis only.
- TS (fauna) Common Planigale, Koala, Eastern Osprey, White-eared Monarch, Rose-crowned Fruit Dove, Masked Owl, White-bellied Sea Eagle, Comb-crested Jacana) recorded nearby.

### Department (Agile Planning and Program) consideration:

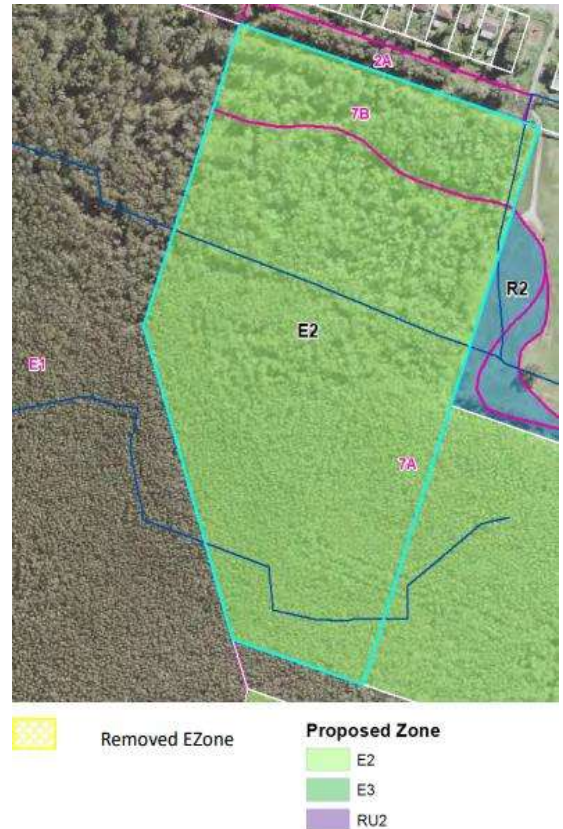
- Acknowledge Council have tried to gain access to verify on-site. Council removed significant amount of C2 land removed through the centre of the site.
- The Department is not satisfied that Council have validated the ecological attributes in accordance with the Recommendations Report, as no site visit or ecological report has been carried out within the last 5 years.

### Department (Agile Planning and program) recommendation:

- DEFER**, as insufficient evidence to meet criteria for C-zone listing.
- Council need to undertake field verification or other verification of attributes required. In addition, distinction between old growth and re-growth should be established.

## Site 11: Butler Street, Byron Bay

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|--|---|
| <b>Site Description</b>                    | Lot 185 DP 755695   |
| <b>Existing zone</b>                       | 7A, 7B<br>DM  |
| <b>Proposed zone</b>                       | C2  |
| <b>Primary Land Use</b>                    | Environmental   |
| <b>Site visit</b>                          | Yes. Refer to Appendix B. With photos [2018] and video July 2021] available verifying site flora. Images taken from adjoining sites as site is steep and inaccessible.  |
| <b>Verification of attributes</b>          | 2021/22 aerial photography, environmental mapping such as vegetation and a site visit by qualified Ecologist in September 2021.   |
| <b>Landowner reason for review request</b> | <ul style="list-style-type: none"> <li>• Requests that an E3 Environmental Management zoning be applied to that part of the site situated immediately north of the area identified as 'Coastal Wetlands' in the Coastal Management SEPP; and</li> <li>• Landowner identified a potential dwelling site in the north west corner of the subject land.</li> <li>• Review request justified by landowner on basis that flooding of caused flooding that results in land being undevelopable</li> </ul> |



### Council justification for proposed zoning:

- The majority of the site is classified as high flood hazard, as well as the adjoining Council land to the north. For zoning purposes, Council's current practice is not to permit new development in areas having a high flood hazard risk.
- The large area zoned 7A (Wetlands) has significant environment values, including Coastal Wetland SEPP, Threatened Fauna, Threatened Ecological Community, Key Habitat, Over Cleared Landscapes/Vegetation.
- The smaller area zoned 7B (Coastal Habitat) in the northern part of the property also has significant environment values including Threatened Ecological Community, Key Habitat and Over Cleared Landscapes/Vegetation.
- The area proposed to be zoned C2 Environmental Management has been reviewed in light of the above assessment findings. In addition to having high bushfire risk, high flood hazard and lack of flood-free access (see map extract below), this area meets the C2 Environmental Conservation zone criteria as the level of disturbance is very low and the area contains a Swamp Oak ecosystem, which is an Endangered Ecological Community (EEC).
- Adjacent to Cumbebin Swamp Nature Reserve. Forming a Swamp Oak Corridor to the Nature Reserve.

## Site 11: Butler Street, Byron Bay

### **BCD Advice**

- Desktop analysis only.
- TS fauna (Mitchell's Rainforest Snail, Koala) recorded near site.

### **Department (Agile Planning and Program) consideration:**

- Site visit by Ecologist from site boundary, did not agree with zoning.
- It appears based on the information provided in Council's documentation that an E2 zone is appropriate, however clarification should be sought from Council.
- There appears to be errors in the Council documentation relative to this property. Some of the information outlines the zone applied is E3, but the mapping and other information references E2.

### **Department (Agile Planning and program) recommendation:**

- **DEFER**, as insufficient evidence to meet criteria for C-zone listing.
- Council need to undertake field verification or other verification of attributes required or confirmation that site visit and viewing from nearby property considered adequate.
- Further clarification from Council on zoning required. Appears C2 zone can be justified [as noted on Council's mapping but referred to as C3 in Council's report.]

## Site 12: Cemetery Road, Byron Bay

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| <b>Site Description</b>                    | Lot 187 DP 755695   |
| <b>Existing zone</b>                       | 7A  |
| <b>Proposed zone</b>                       | C2  |
| <b>Primary Land Use</b>                    | Environmental   |
| <b>Site visit</b>                          | Yes. In September 2021. Site was viewed from adjoining rail corridor to the east  |
| <b>Verification of attributes</b>          | Aerial photography, environmental mapping such as vegetation and site visit by a qualified Ecologist.   |
| <b>Landowner reason for review request</b> | <ul style="list-style-type: none"> <li>• Willing to accept an E3 zone or a combination of E2 and E3 on different sections of the land with possibility of a portion of the land being handed back to Council for public use.</li> <li>• Intended use is a combination of environmental conservation, public use environmental tourism, and eco-friendly off-the-grid eco tiny home style residences.</li> <li>• Residential zoning has historically been applied to portions of neighbouring properties and properties opposite the site are zoned commercial separated by a main road.</li> <li>• E2 zone is at odds with Council's long term plan to extend the bypass which abuts the property.</li> <li>• Council have not sourced sufficient ecological information. Support for the assertion that the properties have over recent years been subjected to man-made (council) water diversions to resolve drainage and stormwater issues. Land identified as subject to flooding</li> </ul> |



Aerial Photography source: [NearMaps](#) 2021

- EZones Removed
- Proposed Zone**
- C2 Environmental Conservation
- C3 Environmental Management
- RU2 Rural Landscape

### Council justification for proposed zoning:

- Recorded threatened Flora and Fauna species from Bionet and Council databases. However, Council is unsure of age or provenance of Flora and Fauna records.
- 86,534sqm of E2 zone removed in response to feedback from landowner. Landowner has declined a site visit or meeting.

### BCD Advice

- Some vegetation that has not been mapped should be assessed.
- Records of the following threatened species in the area: White-eared Monarch, Marbled Frogmouth, Koala, Rose crowned Fruit Dove & Sooty Owl.



## Site 12: Cemetery Road, Byron Bay

### Department (Agile Planning and Program) consideration:

- Note that Council have attempted to visit the site and have reduced the E2 zone in response to feedback from the landowner.
- Council have indicated that its assessment is based on two data sources. However, the baseline data and age of any field work is unclear.
- The Department is therefore not satisfied that Council have validated the ecological attributes in accordance with the Recommendations Report, as no site visit or ecological report has been carried out within the last 5 years.

### Department (Agile Planning and program) recommendation:

- **DEFER**, as insufficient evidence to meet criteria for C-zone listing.
- Council, in consultation with the BCD, to review the proposed C-Zone boundary based on up to date field work and mapping and against any approvals on the site.

## Site 13: Bangalow Road, Byron Bay

|  |   |
|--|---|
| <b>Site Description</b>                    | Lot 14 DP 792128  |
| <b>Existing zone</b>                       | 2A, 7A, R2<br>R2, DM  |
| <b>Proposed zone</b>                       | C2, C3  |
| <b>Primary Land Use</b>                    | Environmental/ Urban Residential  |
| <b>Site visit</b>                          | Yes. October 2021. Inspected around the boundaries.   |
| <b>Verification of attributes</b>          | 2021/22 aerial photography and vegetation mapping.  |
| <b>Landowner reason for review request</b> | <ul style="list-style-type: none"> <li>It has been confirmed by the Coastal Policy Team at DPIE that when the Coastal Management SEPP mapping was undertaken that in some cases it followed a tree canopy and with rough straight lines. Therefore it has mistakenly included land on the property that is outside of the significant paperbark forest and sensitive wetlands area. The mapped SEPP area includes previously cleared land which has a higher ground level (not wetlands) and is inundated with exotic tree species and not typical of the paperbark forest.</li> <li>The Coastal mapping doesn't follow the wetlands curve accurately. This has caused the SEPP mapping to encroach into non wetlands area and as a result, close off the historic access from the northern residential zoned portion of the site to the southern portion of the residential zoned land.</li> <li>Concern access for future development on the land zoned for residential is restricted due to access via the previous track (now under Coastal Wetlands SEPP);</li> <li>Clearing of the once cleared area can now not occur, meaning no bushfire protection zone can be achieved for the existing house located at 56A Bangalow Rd, Byron Bay, creating a significant fire danger.</li> <li>Coastal Wetlands SEPP now includes areas of highly invasive trees such as Coral Trees, Camphor Laurels and Cocos Palms for example.</li> <li>The owner of the land is prepared to eradicate the exotic trees and weeds from the sensitive wetlands areas and seeks a VMP to achieve this.</li> </ul> |



## Site 13: Bangalow Road, Byron Bay

### **Council justification for proposed zoning:**

- The subject property is a unique 8 acre site located only 1km from the Town Centre of Byron Bay, within the primary developed area of the town.
- The property is bordered by a large open stormwater drain to the north, the railway line to the west and residential development to the south, north and east. It has had a sewer main developed across its centre to service the residential precincts to the south.
- Site contains significant areas of Swamp Oak EEC.
- Koalas sighted at nearby properties.
- Site visit by Ecologist.
- 833sqm of C2+ zone removed and 1515sqm of C2 changed to C3.
- Council cannot widen the area of R2 as it encroaches into the Coastal Wetland SEPP mapping layer and have referred owner to DPE.

### **BCD Advice**

- Desktop analysis.
- Some land has been cleared so no longer fits criteria.
- In addition, Tsfauna (Mitchell's Rainforest Snail) recorded in very close proximity to site.

### **Department (Agile Planning and Program) consideration:**

- DPE Coastal Wetlands SEPP not scheduled for review, Council can work with DPE to review and update boundary of eastern C2 zone boundary near the existing dwelling as part of future process.
- This discussion may lead to a future update to the Coastal Wetlands SEPP map which is not survey accurate.
- Noted that Council did amend the eastern C2 line in this location following exhibition.

### **Department (Agile Planning and program) recommendation:**

- **SUPPORT** Council's proposed rezoning as it fulfils criteria.
- Council should further investigation issue identified with boundary of SEPP and C zone proximity to access road.

## Site 14: 368 Broken Head Road, Broken Head

|  |   |
|--|---|
| <b>Site Description</b>                    | Lot 1 DP 879695   |
| <b>Existing zone</b>                       | 1A, 1B1, 7D, RU1, RU2, DM   |
| <b>Proposed zone</b>                       | C2, C3, RU2   |
| <b>Primary Land Use</b>                    | Rural Living/ Environmental<br><br>Cattle grazing north of the property in RU2 zone.  |
| <b>Site visit</b>                          | Yes   |
| <b>Verification of attributes</b>          | 2021/22 aerial photography and vegetation mapping. Use of area for cattle grazing verified by previous owner.<br><br>Site visits with Ecologist in 2019 and 2021.   |
| <b>Landowner reason for review request</b> | <ul style="list-style-type: none"> <li>Landowners dispute the rezoning on the basis that the land has been a 1(a) General Rural Zone for three decades and this zoning should remain. There is no discussion in the submission in relation to the two year primary use test.</li> <li>Previous owner initially disagreed with C Zones but after site visit by the Council ecologist, reached an agreed outcome. The new owner made a submission through a lawyer requesting no C Zone in April 2021.</li> </ul> |



### Council justification for proposed zoning:

- 7D areas not included in this proposal as this zone will be reviewed as part of a wider Council review of 7D land.
- Council removed 126,356m<sup>2</sup> of proposed E2 zone mostly along the eastern boundary and access paths to RU2 following feedback from owner.
- 2 site visits by Council Ecologist on May 2019 and May 2021 (new owner). Site contains large areas of Subtropical rainforest and North Coast wet sclerophyll forest.

### BCD Advice

- Desktop analysis.
- In addition, Tsfauna (Mitchell's Rainforest Snail) recorded in very close proximity to site.

### Department (Agile Planning and Program) consideration:

- The Department is satisfied that Council have relied on 2021/22 aerial photography, site visits in 2019 and 2021 and verification by the owner.

### Department (Agile Planning and program) recommendation:

- SUPPORT** Council's proposed rezoning.



## Site 15: 336 Tweed Valley Way, Wooyung

|  |  |
|--|--|
| <b>Site Description</b>                    | Lot 21 DP 1034998<br>Lot 13 DP 873331  |
| <b>Existing zone</b>                       | 1A, RU2<br>1A<br>DM  |
| <b>Proposed zone</b>                       | C2, RU2<br>RU2   |
| <b>Primary Land Use</b>                    | Multiple Occupancy   |
| <b>Site visit</b>                          | No   |
| <b>Verification of attributes</b>          | Via aerial mapping and discussion with previous landowner.   |
| <b>Landowner reason for review request</b> | <ul style="list-style-type: none"> <li>• Requests entire property to be zoned RU2 (Rural Landscape) Primary use of the land for last 60 years has been agriculture.</li> <li>• Large portion of area proposed as C2 zone previously used as an orchard and farm dam.</li> <li>• Most of the site is 'deferred matter'</li> </ul> |



### Council justification for proposed zoning:

- Vegetation mapping reviewed after meeting with landowner and areas of Ezone over approved subdivision were removed.
- 39,842sqm of proposed C2 zone was removed.
- DA to convert multiple occupancy to community title subdivision approved with an Environmental Enhancement Management Plan (EEMP) which identified 'zone A' as 'high conservation value/ wildlife corridor'. The area identified aligns with proposed C2 area which joins part of a forested wildlife corridor connecting to Billinudgel Nature Reserve.

### BCD Advice

- Desktop analysis.
- Some vegetation that has not been mapped should be assessed.

### Department (Agile Planning and Program) consideration:

- Not enough information in Council documents to determine whether any site visits , that meet the criteria test of field verification were undertaken.
- The Department is not satisfied that Council have validated the ecological attributes in accordance with the Recommendations Report, as no site visit or ecological report has been carried out within the last 5 years.

### Department (Agile Planning and program) recommendation:

- **DEFER**, as insufficient evidence to meet criteria for C-zone listing.
- Council need to undertake field verification or other verification of attributes required. Council to verify vegetation in areas previously orchard.

## Site 16: 9 Scotts Wood Grove, Mullumbimby Creek

|  |  |
|--|--|
| <b>Site Description</b>                    | Lot 1 DP 1045498<br>Lot 162 DP 1057874   |
| <b>Existing zone</b>                       | 1C2, R5  |
| <b>Proposed zone</b>                       | C2   |
| <b>Primary Land Use</b>                    | Rural living with bushland, house and gardens.   |
| <b>Site visit</b>                          | Unclear  |
| <b>Verification of attributes</b>          | Proposed C2 zone based largely on mapping and data base analysis. Council mention koala sightings. |
| <b>Landowner reason for review request</b> | New owners late objection request for review.  |



### Council justification for proposed zoning:

- 2,556sqm of C2 zone removed as it does not have connectivity with surrounding vegetation and is close to existing dwelling.
- Council proposal based largely on mapping and database analysis. The proposed C2 on this property is part of a koala corridor that extends from Tallowood Estate across Mooibal Spur and extending through High Ridges Estate. Recent sightings of koalas have been recorded. Unclear what these sightings or the data base included site/field verification.

### BCD Advice

- No analysis provided

### Department (Agile Planning and Program) consideration:

- Not clear whether field verification was carried out.
- The Department is not satisfied that Council have validated the ecological attributes in accordance with the Recommendations Report, as no site visit or ecological report has been carried out within the last 5 years.

### Department (Agile Planning and program) recommendation:

- **DEFER**, as insufficient evidence to meet criteria for C-zone listing.
- Council need to undertake field verification or other verification of attributes required.

## Site 17: 373-391 Ewingsdale Road, Byron Bay

|  |  |
|--|--|
| <b>Site Description</b>                    | Lot 100 DP 1054375   |
| <b>Existing zone</b>                       | 5A, 7B, SP2  |
| <b>Proposed zone</b>                       | C2, SP2  |
| <b>Primary Land Use</b>                    | Education Facility and accommodation, environmental conservation.  |
| <b>Site visit</b>                          | No   |
| <b>Verification of attributes</b>          | Property database, aerial photography, Revenue database  |
| <b>Landowner reason for review request</b> | <ul style="list-style-type: none"> <li>The allotment currently has a number of structures used as part of the School of Sound and Audio Engineering including administration buildings, recording rooms, classrooms and student accommodation, located to the northeast of the main building.</li> <li>Development consent for existing school and school accommodations. Support retention of existing SP2 (Educational establishment) zone and the previous 5A zones on the land.</li> <li>Whilst the Bushfire mapping has not been recently updated, both the creation of the school and the student accommodation are development that is required to be considered to be special fire protection purposed. The development of this property requires considerable Asset Protection Areas between the existing residential accommodation to the north and to the west, which has not been maintained by the previous owner partly believed to be due to confusion over the E Zones.</li> </ul> |



Aerial Photography source: [NexMaps](#) 2021

E Zones Removed  
 Proposed Zone:  
 C2 Environmental Conservation  
 C3 Environmental Management  
 RU2 Rural Landscape

### Council justification for proposed zoning:

- 2,241 sqm of C2 zone was removed following Council's Ecologist review of vegetation mapping.
- Considered a small but key remnant in a highly fragmented landscape connecting to adjoining property.

### BCD Advice

- Site now developed as SAE Institute, Ewingsdale Road, West Byron.
- Some vegetation may have been required to be retained and protected as part of the DA process.
- TS fauna (Koala) recorded on, and in close vicinity, to site.

## Site 17: 373-391 Ewingsdale Road, Byron Bay

### Department (Agile Planning and Program) consideration:

- It isn't clear if an Ecologist has visited the site to verify the vegetation mapping particularly around the boundary with low density zone to north and west.
- The Department is not satisfied that Council have validated the ecological attributes in accordance with the Recommendations Report, as no site visit or ecological report has been carried out within the last 5 years.

### Department (Agile Planning and program) recommendation:

- **DEFER**, as insufficient evidence to meet criteria for C-zone listing.
- Council need to undertake field verification or other verification of attributes required.

## Site 18: 103 Dudgeons Road, Mullumbimby

|  |  |
|--|--|
| <b>Site Description</b>                    | Lot 1 DP 123259<br>Lot 2 DP 123259   |
| <b>Existing zone</b>                       | 7D   |
| <b>Proposed zone</b>                       | C2   |
| <b>Primary Land Use</b>                    | Rural Living   |
| <b>Site visit</b>                          | No   |
| <b>Verification of attributes</b>          | From aerial mapping and recorded threatened Flora and Fauna Species (from Biomet database and Council database).   |
| <b>Landowner reason for review request</b> | <p>Disagree with the environmental planning proposal.</p> <p>Owner considering primary producing industries for property.</p> <p>We have had a member from the DPI plantations assessment unit come to our property in October and has assessed the land on our request for cabinetry timber.</p> <p>DPI have looked at all of the trees on the property and will be sending through a map which will allocate the protected trees on the block. Map requested.</p> <p>When we bought the property it was 85% camphor Laurel and had no road access into it.</p> <p>We would like to hold off on the ezone proposal until we have had a chance to assess the property.</p> |



Aerial Photography source: [Satellite 2021 6](#)



### Council justification for proposed zoning:

- C2 zone reduced (7050 sqm) since exhibition on western side of property based on aerial photography identifying predominantly Camphor Laurel.
- Email from owner in Dec 2021 advising Forestry Agreement pending, but details never sent or confirmed.

### BCD Advice

- Desktop analysis.
- Some vegetation that has not been mapped should be assessed.
- TS flora (Red Bobbel Nut) recorded in vicinity of site.

### Department (Agile Planning and Program) consideration:

- Council need to verify if a Forestry Agreement is in place for this site and what vegetation species are present on the ground.
- The Department is not satisfied that Council have validated the ecological attributes in accordance with the Recommendations Report, as no site visit or ecological report has been carried out within the last 5 years..

### Department (Agile Planning and program) recommendation:



## Site 18: 103 Dudgeons Road, Mullumbimby

- **DEFER**, as insufficient evidence to meet criteria for C-zone listing.
- Council need to undertake field verification or other verification of attributes required.
- Council to undertake site verification given the suggestion of substantial camphor laurel coverage, Ecologist verification should be sought. Further inquiry into evidence of Forestry Agreement.

## Site 19: 401 Coopers Creek Road, Upper Coopers Creek

|  |  |
|--|--|
| <b>Site Description</b>                    | Lot 1 DP 618891  |
| <b>Existing zone</b>                       | 1A, RU2  |
| <b>Proposed zone</b>                       | C2, C3, RU2  |
| <b>Primary Land Use</b>                    | Rural Living (house gardens, orchards).<br>Within a predominantly native bushland  |
| <b>Site visit</b>                          | Yes Council Ecologist  |
| <b>Verification of attributes</b>          | 2021/22 aerial photography, environmental mapping such as vegetation and a site visit by qualified Ecologist.                |
| <b>Landowner reason for review request</b> | Agreement and compromise with owner, late request by owner for further review, owner told they should submit request to DPE. |



Aerial Photography source: NSW Spatial Services 2020

E Zones Removed  
Proposed Zone  
C2 Environmental Conservation  
C3 Environmental Management  
RU2 Rural Landscape

### Council justification for proposed zoning:

- Not Farmland rated (Council Revenue database)
- Vegetation verified as diverse subtropical rainforest dominated by old growth Brushbox and mature Bangalow Palm, native Tamarind. Highly diverse, adjoining national park in high rainfall area on Coopers Creek.
- Previously mapped wattle and Lantana patches have succeeded to advanced rainforest regrowth. Site was part of historic walking track to national park, now closed and inaccessible and has not been farmed. Some old mangos and fruit trees under rainforest canopy in rural zone. Consultation and discussion at site visit with landowner. It was agreed with landowner that area of rural zone and C zones was appropriate. C3 area contains highly diverse rainforest and could qualify for C2, but landowner collects native seeds and has made income from this area. So C3 considered more appropriate zoning.
- 21,135 sqm of C2 zone was removed in areas where Camphor laurel dominant (from recent aerial photography). 35,884 sqm of C2 was changed to C3.
- Adjacent to Nightcap National Park.

### BCD Advice

- Desktop analysis.
- TS Flora (Red Boppel Nut, Thorny Pea) and fauna (Wompoo Fruit-Dove, Superb Fruit Dove) recorded on site.

### Department (Agile Planning and Program) consideration:

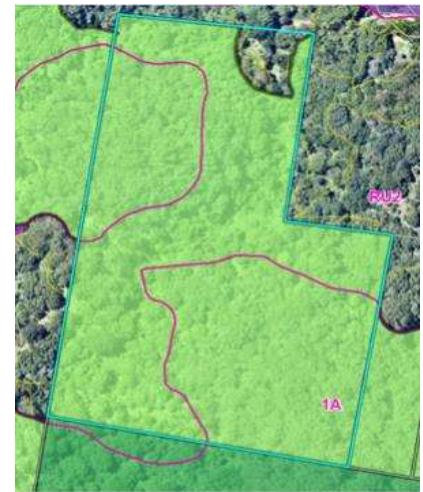
- Noted that site visited by Ecologist August 2019.

### Department (Agile Planning and program) recommendation:

- **SUPPORT** Council's proposed rezoning

## Site 20: 560 Middle Pocket Road

|  |   |
|--|---|
| <b>Site Description</b>                    | Lot 1 DP 123240   |
| <b>Existing zone</b>                       | 1A, RU2, DM   |
| <b>Proposed zone</b>                       | C2  |
| <b>Primary Land Use</b>                    | Rural Living  |
| <b>Site visit</b>                          | Yes<br>Ecologist for Council and landowner Ecologist  |
| <b>Verification of attributes</b>          | Aerial photography and field verification   |
| <b>Landowner reason for review request</b> | The landholder's agent claims DPE was not working with the new landholder, who was not able to respond to any exhibition. The new landowner has its own ecological advice and is requesting a change to the proposed zoning boundary. |



### Council justification for proposed zoning:

- 1021sqm of C2 zone removed in disturbed areas and 19,897sqm of C2 added in regenerated areas as requested by owner.
- Change of ownership since 2019 consultation.
- The property to the south has been zoned C3 because a Private Native Forestry Agreement in place;
- Historic aerial photography from 1966 shows the property containing mature vegetation in the area mapped as old growth

### BCD Advice

- Desktop analysis.
- Some vegetation that has not been mapped should be assessed.
- TS for a (Rough shelled Bush Nut, Durobby) and fauna (Southern Pink Underwing Moth, Koala) recorded nearby.

### Department (Agile Planning and Program) consideration:

- Cannot undertake a review as no information accessible for this property or to address the land owners issues.
- Landowner submitted an independent Ecologist report which suggests an increased area for RU2 beyond Council's boundary and that the proposed E2 area should be part of Council's existing HEV Mapping layer.
- The Department is not satisfied that Council have validated the ecological attributes in accordance with the Recommendations Report, as no site visit or ecological report has been carried out within the last 5 years.

### Department (Agile Planning and program) recommendation:

- **DEFER**, as insufficient evidence to meet criteria for C-zone listing.
- Mapping for proposed Council zoning appears incorrect as it doesn't show any RU2 zone.
- Council should review the independent ecologist report and recommendations for the RU2 boundary on this site.

## Site 21: 150 Koonyum Range Road, Wilsons Creek

|  |  |
|--|--|
| <b>Site Description</b>                    | Lot 5 DP 740203  |
| <b>Existing zone</b>                       | 7C, 7D, 7K   |
| <b>Proposed zone</b>                       | C2, RU2  |
| <b>Primary Land Use</b>                    | Rural Living and C2  |
| <b>Site visit</b>                          | Yes by an ecologist  |
| <b>Verification of attributes</b>          | Via aerial mapping and field visit by ecologist.   |
| <b>Landowner reason for review request</b> | <ul style="list-style-type: none"> <li>Request area around his dwelling be changed from 7D to RU2 zone.</li> <li>Owner has requested that the RU2 zone be extended away from the northern boundary and instead extend further east and south.</li> </ul> |



### Council justification for proposed zoning:

- Rural living (house and gardens) within a predominantly native bushland setting (verified by 2021/22 aerial photography, submission by landowner and site visit by qualified Ecologist). Council has modified zoning to reflect APZ function of this area as requested by the owner.
- 9000sqm of C2 was removed close to the house and APZ following exhibition and consultation with the owner.
- an area of very high environmental values that connects with Mount Jerusalem National Park and is on edge of a very steep escarpment.

### BCD Advice

- Desktop analysis notes clearing and house existing in centre.
- TS flora (Southern Ochrosia) on site and EEC.

### Department (Agile Planning and Program) consideration:

- While Council consider this property to be one of the 'agreed' properties, the owner has submitted a request for review.
- Council have not demonstrated which attributes they rely on to meet the C zone criteria.
- The Department is not satisfied that Council have validated the ecological attributes in accordance with the Recommendations Report, as no site visit or ecological report has been carried out within the last 5 years.

### Department (Agile Planning and program) recommendation:

- DEFER**, as insufficient evidence to meet criteria for C-zone listing.
- Council need to document which attributes have been verified on the site in accordance with the Recommendations Report requirements.
- Council to undertake site verification of the area that the owner is asking for which is slightly larger than shown.

## Site 22: 376 Upper Wilsons Creek Road, Wilsons Creek

|  |   |
|--|---|
| <b>Site Description</b>                    | Lot 1 DP 1210346  |
| <b>Existing zone</b>                       | 7C, 7K  |
| <b>Proposed zone</b>                       | C2, RU2   |
| <b>Primary Land Use</b>                    | C2 and Rural Living   |
| <b>Site visit</b>                          | Yes By Council ecologist  |
| <b>Verification of attributes</b>          | 2021/22 aerial photography, high environmental value vegetation mapping   |
| <b>Landowner reason for review request</b> | <ul style="list-style-type: none"> <li>Byron Shire Council documents outline that proposed C2 zone includes disturbed vegetation and cleared bushfire APZ area, both of which don't meet the E2 criteria. As such, the E2 area has been reduced and zoning map updated to incorporate larger RU2 zone on the property.</li> <li>According to Council Report - one of 205 properties where agreement was reached on proposed C zones and non-C zones.</li> <li>Site visit by Council ecologist and Council staff. 56,526 sqm of C2 zone was removed and made RU2 in areas where the vegetation is disturbed and in response to owners feedback following exhibition.</li> <li>Site adjoins Mount Jerusalem National Park.</li> </ul> |



Aerial Photography source: NSW Spatial Services 2020

E Zones Removed  
 Proposed Zone:  
 C2 Environmental Conservation  
 C2 Environmental Management  
 RU2 Rural Landscape

### Council justification for proposed zoning:

- Byron Shire Council documents outline that proposed C2 zone includes disturbed vegetation and cleared bushfire APZ area, both of which don't meet the E2 criteria. As such, the E2 area has been reduced and zoning map updated to incorporate larger RU2 zone on the property.
- According to Council Report - one of 205 properties where agreement was reached on proposed C zones and non-C zones.
- Site visit by Council ecologist and Council staff. 56,526 sqm of C2 zone was removed and made RU2 in areas where the vegetation is disturbed and in response to owners feedback following exhibition.
- Site adjoins Mount Jerusalem National Park.



## Site 22: 376 Upper Wilsons Creek Road, Wilsons Creek

### BCD Advice

- Desktop analysis only.
- Some vegetation that has not been mapped should be assessed.
- TS fauna (Koala, Albert's Lyrebird, Wompoo Fruit Dove) and flora (Rough-shelled Bush Nut) recorded nearby.

### Department (Agile Planning and Program) consideration:

- There is no justification provided by the land owner in regard to the objection of the application of the proposed E zone, only that of the adjoining landholders receiving a different zone. A site visit has been undertaken and the E2 zone reduced to remove disturbed or cleared vegetation for APZs on the site. Contained in Table 1(a) agreed changes (both environmental and non-environmental zones). According to Council Report - part of 205 properties where agreement was reached on proposed E zones and non-E zones.

### Department (Agile Planning and program) recommendation:

- **SUPPORT** Council's proposed rezoning.
- Council has met criteria for C2 zone and demonstrates reasonable discussion and compromise with landowner.

## Site 23: 865 Broken Head Road, Broken Head

|  |   |
|--|---|
| <b>Site Description</b>                    | Lot 8 DP 840653   |
| <b>Existing zone</b>                       | 1A, 7D, 7K, RU2   |
| <b>Proposed zone</b>                       | C2, C3, RU2   |
| <b>Primary Land Use</b>                    | Rural Living and Rural Landscape  |
| <b>Site visit</b>                          | Yes by council's Ecologist  |
| <b>Verification of attributes</b>          | 2021/22 aerial photography, submission by landowner and site visit by Ecologist   |
| <b>Landowner reason for review request</b> | <p>The aerial photography and cadastre layers are not correctly aligned (DA lodged 13/07/2021).</p> <p>Bush Fire Assessment that has been submitted with the DA. Landowners proposal relies on bush fire asset protection zones to the line of vegetation adjacent to the northern property boundary. Dwellings are currently permitted in the rural zoning over this corner of the property, however dwelling (and associated bush fire asset protection zones) are prohibited in the C2 Zone.</p> |



Aerial Photography source: Nec Maps 2021

E Zones Removed  
 Proposed Zone  
 C2 Environmental Conservation  
 C3 Environmental Management  
 RU2 Rural Landscape

### Council justification for proposed zoning:

- 44 347 m<sup>2</sup> of C2 removed from the northern boundary of the site and replaced by RU2.
- Main issue of contention is the accuracy of Council's cadastre which has resulted in 1,750 sqm of C2 zone vegetation from the adjoining land, being included in northeast corner of this land. For the sake of finalising Council would be willing to remove the C2 zone in this area and replace with RU2.

### BCD Advice

- Desktop analysis notes C zone criteria for small part of the site but mostly cleared.
- Some vegetation that has not been mapped should be assessed.
- TS flora (Scrub Turpentine) recorded on site.

### Department (Agile Planning and Program) consideration:

- The Department acknowledge Council have taken into consideration the concerns of the owner by reducing the C2 zone along the northern boundary area response to the approved dwelling.
- Recommended that the C2 boundary be adjusted to align with the property boundary along its northern boundary not the fence line taken off the aerial photos which has been used to map the C2 area in this location.
- The Department is not satisfied that Council have validated the ecological attributes in accordance with the Recommendations Report.

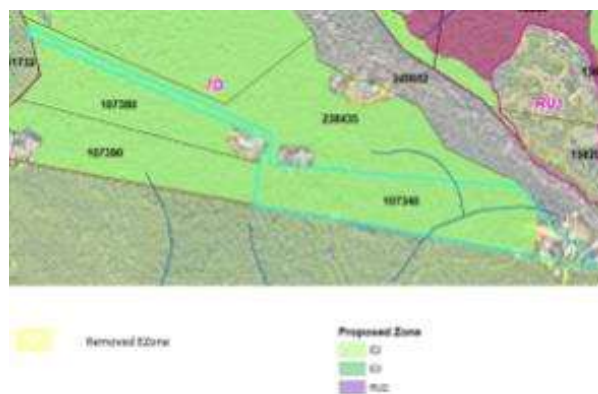
### Department (Agile Planning and program) recommendation:

## **Site 23: 865 Broken Head Road, Broken Head**

- **DEFER**, as insufficient evidence to meet criteria for C-zone listing.
- Council need to document which attributes have been verified on the site in accordance with the Recommendations Report requirements.
- Council resolve the removal of C zone areas which conflict with approved dwelling and APZ at northern end of property along boundary lines.

## Site 24: Boogarem Road, Koonyum Range

|  |   |
|--|---|
| <b>Site Description</b>                    | Lot 1 DP 260297   |
| <b>Existing zone</b>                       | 7D  |
| <b>Proposed zone</b>                       | C2  |
| <b>Primary Land Use</b>                    | Rural Living  |
| <b>Site visit</b>                          | Ecologist Report 2017   |
| <b>Verification of attributes</b>          | Aerial photography and high environmental value vegetation mapping (Landmark Ecological Services, 2017) and site visit by qualified Ecologist.  |
| <b>Landowner reason for review request</b> | <p>Council staff were made aware that the owner wished to retain the two 7D areas.</p> <p>Request deferral of rezoning to enable a DA for the use of the unauthorised shed to be lodged. Council concerned the structure is located on NPWS land.</p> |



### Council justification for proposed zoning:

- 3,043 sqm of C2 zone was removed in areas where the vegetation has been disturbed in the eastern corner of the property.
- Site contains 2 unlawful structures at the western end of the site which are zoned C2 and not excised as requested by owner for the following reasons:
  - They contain High Environmental Value vegetation.
  - They are not lawfully approved structures.
  - These sites are part of a wildlife corridor connected to Mount Jerusalem National Park.
  - A recent Ecological report has identified the area as potential koala habitat.
- Old growth forest with connectivity to national park and surrounding properties. Site is within an area of extreme bush fire risk and not suitable for future houses or other habitable structures.

### BCD Advice

- Desktop analysis only
- TS fauna (Pouched Frog, Albert's Lyrebird, Long nosed Potoroo) and fauna recorded on and in close vicinity to site.

### Department (Agile Planning and Program) consideration:

- Primary use limited Rural living and Scenic escarpment or proposed C2 zone
- Zoning map with up to date key required. Otherwise Council has made a reasonable effort to discuss issues with the owner.

### Department (Agile Planning and program) recommendation:

- **SUPPORT** Council's proposed rezoning. Council has met criteria for C2 zone and demonstrates reasonable discussion and compromise with landowner.

## Site 25: Blindmouth Road

|  |   |
|--|---|
| <b>Site Description</b>                    | Lot 11 DP 1044288   |
| <b>Existing zone</b>                       | 1A, RU2   |
| <b>Proposed zone</b>                       | C2, RU2   |
| <b>Primary Land Use</b>                    | Rural Landscape   |
| <b>Site visit</b>                          | No  |
| <b>Verification of attributes</b>          | 2021/22 aerial photography, high environmental value vegetation mapping and advice from owner   |
| <b>Landowner reason for review request</b> | <p>Our property straddles both Tweed and Byron shires and therefore involves some challenges with differing land usage and building entitlements. It was these challenges that I have been trying to address with Byron Shire Council in conjunction with the Ezone proposals prior to the adoption of those Zones.</p> <p>Please find attached amendments to the original mapping the Council environmental team provided. I met with Jane Wickers from their Ezone department in the council offices earlier this year to go over these amendments which represent areas of existing agriculture use and areas of Lantana we are returning to pasture rather than conservation zones.</p> |



Aerial Photography source: NSW Spatial Services 2020

Ezones Removed  
 Proposed Zone  
 C2 Environmental Conservation  
 C3 Environmental Management  
 RU2 Rural Landscape

### Council justification for proposed zoning:

- 31,108 sqm of C2 zone was removed where vegetation is disturbed following exhibition. Many attempts were made to get feedback from the owner about the proposed zoning on his property.
- Owner was trying to resolve his dwelling entitlement issues at the same time which complicated things for him. The Dwelling entitlement issue is separate to the C zone criteria and really needs to be resolved with State Government as his property overlays two LGAs (Byron/Tweed) and his existing house is in Tweed Shire. Quality of farmland in Proposed C2 areas is poor due to predominantly steep slopes (> 30%) throughout.
- C2 part of a forested wildlife corridor across the Pocket Spur from Mount Jerusalem National Park to Inner Pocket Nature Reserve in the west.

### BCD Advice

- Desktop analysis only
- Some scattered vegetation that has not been mapped should be assessed.

### Department (Agile Planning and Program) consideration:

- Council's proposal is reasonable however there is no indication that they carried out any field visits as required by the criteria.

### Department (Agile Planning and program) recommendation:

- **DEFER**, as insufficient evidence to meet criteria for C-zone listing.



## **Site 25: Blindmouth Road**

- Council need to undertake field verification or other verification of attributes required.

## Site 26: 46 Coopers South Lane, Main

### Arm

|                                     |  |
|-------------------------------------|--|
| Site Description                    | Lot 2 DP 577017  |
| Existing zone                       | 1A, RU2  |
| Proposed zone                       | C2, RU2  |
| Primary Land Use                    | Rural living and C2  |
| Site visit                          | Yes, Ecologist in September 2021   |
| Verification of attributes          | 2021/22 aerial photography, submission by landowner, and site visit in 2021. |
| Landowner reason for review request | Object to zone change  |



#### Council justification for proposed zoning:

- Council Ecologist site visit. 2980sqm of C2 zone removed following exhibition.
- Vegetation on site verified as old growth Blackbutt forest managed by landowner for environmental values.
- Primary land use as environmental confirmed, with occasional use of goats for weed control. Landowner has built walking tracks through forest for environmental use.
- The C2 on this property is part of a forested wildlife corridor across the Pocket Spur from Mount Jerusalem National Park to Inner Pocket Nature Reserve in the was
- Given that most of the plantings were done by Mr Polo and the site has poor connectivity to other remnants, Council may consider applying an RU2 zone over all of this land. However this scenario may impact on the surrounding C2 zoned properties and also require their zonings to be reviewed.

#### BCD Advice

- Desktop analysis only.
- Some vegetation no longer present in eastern part of lot

#### Department (Agile Planning and Program) consideration:

- Council's proposal is reasonable however there is no indication that they carried out any field visits as required by the criteria.
- The Department is not satisfied that Council have validated the ecological attributes in accordance with the Recommendations Report, as no site visit or ecological report has been carried out within the last 5 years.

#### Department (Agile Planning and program) recommendation:

- **DEFER**
- Further advice required from Council on whether they wish to pursue the proposed C2 zone and how much of the existing vegetation has been regenerated by the land owner.

## Site 27: 259 Upper Middle Pocket Road, Middle Pocket

|  |   |
|--|---|
| <b>Site Description</b>                    | Lot 266 DP 755687   |
| <b>Existing zone</b>                       | 1A, RU2   |
| <b>Proposed zone</b>                       | C2, RU2   |
| <b>Primary Land Use</b>                    | Farmland and C2   |
| <b>Site visit</b>                          | Yes, Ecologist June 2021  |
| <b>Verification of attributes</b>          | 2021/22 aerial photography, high environmental value vegetation mapping and site visit by qualified ecologist         |
| <b>Landowner reason for review request</b> | Object to environmental zoning. Previously used as banana plantation, currently resting it but plan to regrow bananas |



Aerial Photography source: [Nico Maps](#) 2021



### Council justification for proposed zoning:

- All the land that has been used for banana farming has been zoned RU2. The area proposed to be zoned C2 is very steep and inaccessible considered unsuitable for farming. Contains old growth Eucalypt forest (verified by a site visit by Council's Ecologist).
- The C2 on this property is part of a forested wildlife corridor across zoned the Pocket Spur from Mount Jerusalem National Park to Inner Pocket Nature Reserve in the west.
- 1858sqm if C2 removed where vegetation disturbed and 19,776sqm changed from C2 to C3 following exhibition and in response to owner request to use existing vegetation for on farm timber use.

### BCD Advice

- Desktop analysis only.
- Some scattered vegetation has not been mapped should be assessed

### Department (Agile Planning and Program) consideration:

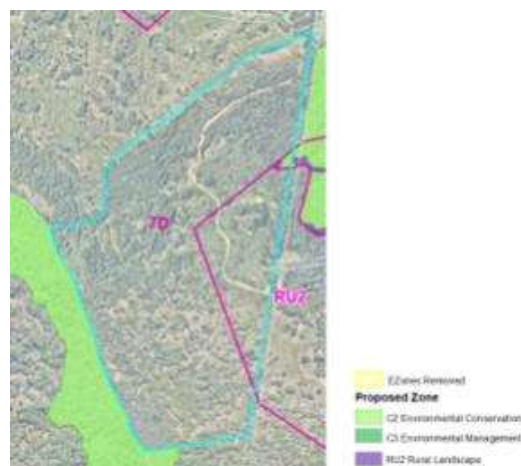
- Council's verification meets C-zone criteria requirements.
- The Department is satisfied that Council has investigated and satisfactorily negotiated, communicated and compromised with the owner retaining appropriate areas for farming use.
- The C2 on this property is part of a forested wildlife corridor across the Pocket Spur from Mount Jerusalem National Park to Inner Pocket Nature Reserve in the west. This area within the C2 zone is a very steep escarpment which is inaccessible to vehicles.

### Department (Agile Planning and program) recommendation:

- **SUPPORT** Council's proposed rezoning.

## Site 28: 170 Dudgeons Road, Mullumbimby

|  |   |
|--|---|
| <b>Site Description</b>                    | Lot 1 DP 124874   |
| <b>Existing zone</b>                       | 1A, 7D, RU2   |
| <b>Proposed zone</b>                       | C2, RU2   |
| <b>Primary Land Use</b>                    | Farmland and 7D zone.   |
| <b>Site visit</b>                          | Yes, Ecologist 18 June 2021   |
| <b>Verification of attributes</b>          | 2021 aerial photography submission from landowner and site visit by ecologist.  |
| <b>Landowner reason for review request</b> | <p>The primary use of the land for the last 50 plus years being agriculture with currently Deferred Matters would be better defined as RU2 (Rural Landscape) zone to match the existing agricultural zoned lands on this property.</p> <p>Several attempts made to advise Council that their mapping is inaccurate and there is limited subtropical type rainforest vegetation on the property. Council have partially ground truthed vegetation on my property, majority infested with weeds such as Camphor Laurel.</p> <p>Owner has been removing exotic, noxious vegetation for the land under Local Land Services Act 2013 to allow continuation of grazing on the property.</p> |



### Council justification for proposed zoning:

- Owners do not support C2 zone in existing 7D escarpment to the east.
- C2 removed from 7D zone to be address as part of a wider strategic review of 7D land.
- The small area of C2 on the eastern boundary is only approx. 1,100 sqm and can be removed if this is only area of disagreement.

### BCD Advice

- Desktop analysis only.
- TS flora and fauna recorded in close vicinity to site.

### Department (Agile Planning and Program) consideration:

- Majority of site to retain 7D zoning of the steep escarpment and Council plan to review this zone across its Shire. Vegetation of proposed C2 area is confirmed as old growth eucalypt forest, the small spur proposed to be zoned C2 does not have any discussion about what attributes are present or if the Ecologist was able to access this area.
- The Department is not satisfied that Council have validated the ecological attributes in accordance with the Recommendations Report.

### Department (Agile Planning and program) recommendation:

- **DEFER**, as insufficient evidence to meet criteria for C-zone listing.
- Council need to document which attributes have been verified on the site in accordance with the Recommendations Report requirements.
- Council are required to confirm if they will be adjusting map to show removal of small Proposed C2 zone on the eastern boundary.

## Site 29: 64 Corkwood Crescent, Suffolk Park

|  |  |
|--|--|
| <b>Site Description</b>                    | Lot 285 DP 1198641   |
| <b>Existing zone</b>                       | R21A, 7D   |
| <b>Proposed zone</b>                       | 7D, R21A   |
| <b>Primary Land Use</b>                    | N/A  |
| <b>Site visit</b>                          | N/A  |
| <b>Verification of attributes</b>          | N/A  |
| <b>Landowner reason for review request</b> | (note that no C zones are proposed on this site, so Recommendations Report does not apply) |



### Department (Agile Planning and Program) consideration:

- No E zone proposed on this land at this stage.
- Support Councils position to amend zoning in response to landowner

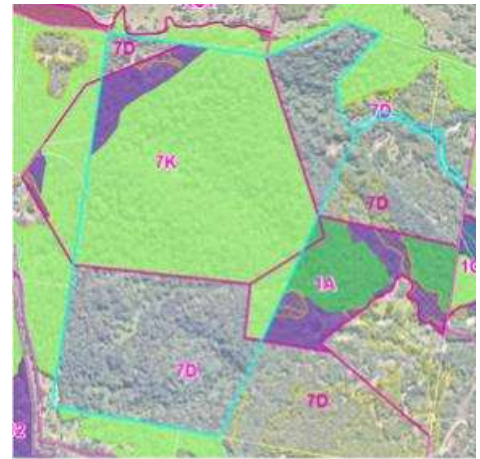
### Department (Agile Planning and program) recommendation:

- N/A



## Site 30: 160 Koonyum Range Road, Wilsons Creek

|  |   |
|--|---|
| <b>Site Description</b>                    | Lot 5 DP 732108   |
| <b>Existing zone</b>                       | 1A, 7D, 7K  |
| <b>Proposed zone</b>                       | C2, RU2   |
| <b>Primary Land Use</b>                    | N/A   |
| <b>Site visit</b>                          | N/A   |
| <b>Verification of attributes</b>          | N/A   |
| <b>Landowner reason for review request</b> | (note the request is lodged by neighbour not the landowner) |



Aerial Photography source: [New Maps 2021](#)

E-Zones Removed  
**Proposed Zone**  
 C2 Environmental Conservation  
 C3 Environmental Management  
 RU2 Rural Landscape

### Department (Agile Planning and Program) consideration:

- This request is from a neighbour, not the landowner. While this request for a review is acknowledged, the Final Recommendations Report (FAQs) make provision for review requests by the owner of the land.

### Department (Agile Planning and program) recommendation:

- N/A, as landowner has not requested the review.

## Site 31: 512 Seven Mile Beach Road, Byron Bay

|  |  |
|--|--|
| <b>Site Description</b>                    | Lot 1 DP 394061  |
| <b>Existing zone</b>                       | A, 7F1, 7J   |
| <b>Proposed zone</b>                       | C2, RU2  |
| <b>Primary Land Use</b>                    | Environmental and Rural Living   |
| <b>Site visit</b>                          | Unknown  |
| <b>Verification of attributes</b>          | Aerial photography and property data bases.  |
| <b>Landowner reason for review request</b> | <p>Landowner claims geographical inconsistencies in tools used by Council.</p> <p>Owner is concerned over accurate depiction of:</p> <ul style="list-style-type: none"> <li>the littoral rainforest area</li> <li>cadastral boundaries, area used the current house and garden, and any future extensions</li> <li>current and alternative access routes.</li> </ul> <p>Request for:</p> <ul style="list-style-type: none"> <li>a survey where the two reserves meet, to identify locations on-ground</li> <li>close and rehabilitate the access track through the beach reserve</li> </ul> <p>provide beach access for emergency vehicles only, using a chain-and-plank track</p> |



### Council justification for proposed zoning:

- The E zone and vegetation mapping are based on where vegetation is located on the ground (as per aerial photography or from ground truthing), which is most accurate we can achieve from a spatial mapping standpoint. The rural cadastre boundaries are not survey accurate (and never have been) and hence are secondary to our decision making re proposed zone boundaries.
- 200sqm of C2 zone removed around house for bushfire APZ.
- The eastern half of the site is zoned 7F1 (Coastal Lands) containing a mix of Subtropical Rainforest and Littoral Rainforest vegetation. Land zoned 7F1 is not part of this review and remains deferred.

### BCD Advice

- Desktop analysis only.
- TS flora (Scented Acronychia) recorded on and in vicinity to site.

### Department (Agile Planning and Program) consideration:

- Council have made a reasonable effort to confirm the correct zone boundaries which appear to have an acceptable margin of error only.
- The only issue is that there is no indication that Council has undertaken any site or field verification as required.
- The Department is not satisfied that Council have validated the ecological attributes in accordance with the Recommendations Report, as no site visit or ecological report has been carried out within the last 5 years.

### Department (Agile Planning and program) recommendation:

- DEFER**, as insufficient evidence to meet criteria for C-zone listing.
- Council, in consultation with the BCD, to review the proposed C-Zone boundary based on up to date field work and mapping and against any approvals on the site.