

Byron Shire Council

Planning Proposal 26.2021.3.1

Amendment of Byron Local Environmental Plan 2014

150 Lismore Road, Bangalow

Post Exhibition Version

Date: July 2022
#E2022/62680

Document History

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Contents

Part 1	Introduction	3
1.1	Objective and intended outcomes	3
1.2	Subject land	3
1.3	Background.....	5
Part 2	Explanation of provisions	7
Part 3	Justification	8
Section A	Need for the planning proposal.....	8
Section B	Relationship to strategic planning framework	10
Section C	Environmental, social and economic impact	34
Section D	State and Commonwealth interests	35
Part 4	Mapping	37
Part 5	Community consultation.....	38
Part 6	Project timeline	38
Conclusion	38
Appendix	40

Part 1 Introduction

1.1 Objective and intended outcomes

The objective of this planning proposal is to amend Byron Local Environmental Plan (LEP) 2014 to rezone part of Lot 4 DP 635505, 150 Lismore Road, Bangalow from RU1 Primary Production to IN1 General Industrial and C3 Environmental Management.

Amendments to the floor space ratio map and minimum lot size map are also proposed to reflect the industrial zoning.

1.2 Subject land

This planning proposal relates to part of 150 Lismore Road, Bangalow legally described as part of Lot 4 DP 635505, as shown below in Figure 1.



Figure 1.0. Subject site highlighted and area to be rezoned outlined in dark blue.

The area subject to the rezoning is separated from the remainder of the lot by Maori Creek and directly adjoins the existing Bangalow Industrial Estate.

The site is a grassed area containing a few scattered trees and no development. The site has historically been used for light agricultural purposes including grazing cattle however the site has limited agricultural capability due to its isolation, separated by Maori Creek to the east, Lismore Road to the south, the rail corridor to the north and the existing industrial estate to the west.

Access to the site is via Dudgeons Lane and all essential services are available to the subject land.

The site is not mapped as bushfire prone land, containing acid sulfate soils or high environmental value vegetation.

Part of the site is mapped as flood prone land. This is generally in relation to Maori Creek as shown in figure 2. A flood study has been prepared in support of this rezoning.



Figure 2.0. Flood prone land mapping

Maori Creek is mapped by Department of Primary Industries as key fish habitat as shown in figure 3. A minimum 40m C3 Environmental Management zoned buffer is proposed. This will provide an area to be revegetated as part of any future subdivision. The stormwater management plan concludes that stormwater can be managed on site and any stormwater entering the creek can meet Council's water quality guidelines.

It is recommended that the planning proposal be forwarded to Department of Primary Industries, Fisheries for comment as part of the public exhibition.



Figure 3.0. Key fish habitat

1.3 Background

The subject site is identified within the Byron Shire Business and Industrial Lands Strategy 2020 as an investigation area for future industrial lands.

The strategy was endorsed by the Department of Planning, Industry and Environment in October 2020.

The strategy identifies key issues that require further investigation prior to rezoning the land for industrial purposes. These issues are addressed in Part 3 of this planning proposal.

To support this planning proposal the following studies have been prepared

- Flood impact assessment
- Stormwater management plan
- Preliminary contaminates site investigation
- Traffic impact assessment
- Road safety audit

1.4 Public exhibition outcomes

This planning proposal was exhibited from 11 April to 11 May 2022. Submissions were received from the public and several agencies.

As a result of these submissions the planning proposal has been amended to allow for a minimum 40m C3 zoned buffer to Maori Creek from the proposed IN1 zone and a 20m C3 buffer on the western side of the creek. The soak area identified in the Ecological Assessment has also had a C3 zone applied.

The resulting changes to the proposed zone has reduced the scale of the industrial zoned area to 7663m² and increased the C3 Environmental Management zone to 12725m².

The planning proposal has been further updated to reflect the findings of the Ecological Assessment, identifying Maori Creek on the Biodiversity Values Map due to the key fish habitat mapping and further information regarding the flood modelling.

Part 2 Explanation of provisions

The planning proposal intends to rezone part of Lot 4 DP 635505 from RU1 Primary Production to IN1 General Industrial and C3 Environmental Management. The minimum lot size will be changed from 40ha to 1000 square metres and a floor space ratio of 0.75 will be applied for the General Industrial zoned area. Floor space ratio does not currently apply to the subject land.

The zoning, minimum lot size and floor space ratio all mirror the existing controls that apply to the adjoining Industrial estate.

This will be achieved by amending the following maps within the Byron LEP 2014 as shown in appendix 1

- Land zoning map
- Minimum lot size map
- Floor space ratio map

Part 3 Justification

Section A Need for the planning proposal

Q1. Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?

The subject land is identified in Byron Shire Business and Industrial Lands Strategy 2020 as investigation area 7.

As identified in the strategy the strengths of this site include:

- single ownership
- adjoins and can be accessed from existing industrial area
- relatively flat and cleared area
- adjacent to disused railway corridor
- minimal visual impact due to relatively flat topography and presence of existing industrial estate
- multi directional access

The strategy also notes key considerations and further investigation which is addressed below:

Table 1. Byron Business and Industrial Lands Strategy 2020 Area 7

Consideration	Comment
Distance from Pacific Highway and access via Bangalow village	<p>A road safety audit and traffic assessment conclude that the existing access to Lismore Road is suitable for the proposed rezoning. The location is suitable for industrial purposes given its proximity to the existing Industrial estate.</p> <p>Lismore Road is an important link between Lismore and surrounding communities and further to the Byron coastal area.</p> <p>Lismore Road is not approved by TfNSW for vehicles exceeding 19m in length. Any subsequent development applications that require vehicles greater than 19m are unlikely to be approved by Council without appropriate permits from TfNSW. The relatively small area, minimum lot size and vehicle size restrictions on Lismore Road suggest the sites future uses will be small scale urban services consistent with the existing IN1 zoned adjacent industrial estate.</p>

	<p>The site location enables vehicles to access the Pacific Highway via Hinterland Way or through Lismore and the Bruxner Highway allowing trucks to bypass Byron Street.</p> <p>The site is unlikely to enable truck movements that require special permits or other truck movements to the degree that the amenity of Bangalow will be affected.</p>
Aboriginal cultural heritage sensitivities	<p>TBLALC have conducted a site walk over and created a report to accompany this planning proposal.</p> <p>The report concludes that the rezoning is unlikely to have a negative impact on Aboriginal cultural heritage.</p> <p>Conditions of consent for any subsequent development application will include a provision to cease works should any cultural material be revealed as part of development works.</p>
Riparian buffer, flooding and stormwater drainage	<p>The flood study accompanying this planning proposal concludes the site can accommodate the proposed rezoning and there is no significant impact to peak flows for the culverts under Lismore Road.</p> <p>The stormwater management plan concluded that stormwater quality measures can be accommodated on site, allowing it to achieve Council's stormwater management targets for water quality.</p> <p>A minimum 40m C3 Environmental Management zoned buffer is proposed for the site. This space can be revegetated at the subdivision stage in line with Council's B1 Biodiversity DCP 2014 chapter which will require a Biodiversity Conservation Management Plan.</p>
Important farmland classification - requiring detailed assessment of agricultural capability and impact on surrounding land as part of any planning proposal consistent with Environmental Planning and Assessment Act 1979 Section 9.1 Direction 5.3: Farmland of State &	<p>The site is mapped as important farmland. Assessment against the relevant criteria in the North Coast Regional Plan is presented in Q3 of this planning proposal.</p> <p>The area subject to the rezoning is not suitable for long term sustainable farming due to its size and isolation being separated from by Maori Creek as</p>

Regional Significance on the NSW Far North Coast	<p>well as Lismore Road, the rail corridor and the existing Industrial estate.</p> <p>The planning proposal is supported by an Agricultural Capability Assessment which concludes the site has limited capacity for agricultural use and the rezoning will not significantly detract from the agricultural capability of the wider region.</p>
Traffic flow implications for Lismore Road	<p>The traffic study indicates that the intersection is capable of providing safe access for the site, even if the subdivision generated traffic movements that were to be substantially higher than predicted.</p> <p>The study further comments that the industrial zoning will likely provide service and low impact industries in keeping with the existing uses at the industrial estate. The uses are unlikely to generate significant heavy truck movements through the Bangalow village centre.</p>
Gateway to Bangalow landscaping to enhance visual amenity	<p>Impact on visual amenity will be minor as the proposed industrial land will be screened by the existing industrial estate on entry to town. Additional vegetation for screening can be planted as part of any future subdivision approval.</p>
Investigations to ensure that any proposed development is consistent with relevant State and regional planning provisions this may include the management of areas of high environmental value, flooding and heritage/cultural significance	<p>Maori Creek is mapped as key fish habitat. The stormwater management plan concludes that stormwater quality targets can be met and an C3 buffer will apply.</p> <p>The planning proposal is supported by flood assessment and Aboriginal cultural heritage report.</p>

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

Yes. The Planning Proposal is considered the best means of enabling the land to be used for industrial purposes and providing additional industrial land within Bangalow. This site is the only investigation area in Bangalow within the Business and Industrial Lands Strategy.

Section B Relationship to strategic planning framework

Q3. Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (in this case the North Coast Regional Plan 2036)?

Yes. The planning proposal is consistent with the North Coast Regional Plan 2036, which is a 20-year blueprint for the future of the North Coast. The NSW Government's vision for the North Coast is to create the best region in Australia to live, work and play thanks to its spectacular environment and vibrant communities.

The following actions have been identified as relevant to this proposal

Table 2. Relevant actions from the North Coast Regional Plan 2036

Action	Comment
1.1 Focus future urban development to mapped urban growth areas.	The site is not currently mapped in the urban growth area, however the site is identified in the Business and Industrial Lands strategy. An assessment against the variation criteria is presented below.
2.1 Focus development to areas of least biodiversity sensitivity in the region and implement the 'avoid, minimise, offset' hierarchy to biodiversity, including areas of high environmental value.	<p>The site is a cleared area used historically for light agricultural uses.</p> <p>The site is bound by Maori Creek which is mapped as key fish habitat. A buffer of C3 zoning will be provided to enable revegetation along the creek.</p>
2.2 Ensure local plans manage marine environments, water catchment areas and groundwater sources to avoid potential development impacts.	The Stormwater Management Plan prepared by BMT Global considered the impact on the adjoining Maori Creek and concluded that the development could occur without any significant impact on water quality, flooding or fish habitat.
3.1 Reduce the risk from natural hazards, including the projected effects of climate change, by identifying, avoiding and managing vulnerable areas and hazards.	<p>The site is mapped as being flood prone land, and in this regard a flood study was prepared for the site and accompanies this report.</p> <p>The area proposed to be zoned IN1 is reflective of the scenarios within the flood study. The environmental buffer will also act as a flood buffer.</p>

	The site is not identified as being subject to any other natural hazards.
6.6 Deliver an adequate supply of employment land through local growth management strategies and local environmental plans to support jobs growth.	The site is identified in Byron Business and Industrial Lands Strategy as additional employment land for Bangalow.
16.2 Ensure Aboriginal communities are engaged throughout the preparation of local growth management strategies and local environmental plans.	Consultation will occur through the public exhibition process. An Aboriginal Cultural Heritage Assessment was completed by Tweed Byron Local Aboriginal Land Council and accompanies this planning proposal.
18.2 Undertake Aboriginal cultural heritage assessments to inform the design of planning and development proposals so that impacts to Aboriginal cultural heritage are minimised and appropriate heritage management mechanisms are identified.	An Aboriginal Cultural Heritage Assessment was completed by Tweed Byron Local Aboriginal Land Council and accompanies this planning proposal.
21.2 Maximise the cost-effective and efficient use of infrastructure by directing development towards existing infrastructure or promoting the co-location of new infrastructure.	The proposed area to be rezoned is adjacent to the existing industrial area and has access to all essential services and infrastructure.

The site is mapped as important farmland and to support the rezoning an assessment against the Important Farmland Interim Variation Criteria in the NCRP.

Table 3. Important farmland interim variation criteria

	Criteria	Comment
Agricultural capability	The land is isolated from other important farmland and is not capable of supporting sustainable agricultural production.	The subject area of land to be rezoned is constrained by Maori Creek to the east and the existing industrial estate to the west. It is further constrained by Lismore Road to the south and the rail corridor to the north. The land is isolated from the rest of Lot 4 DP 635505 by Maori Creek and is only accessible via Dudgeons Lane. This makes it impractical to use the land for agricultural purposes and therefore

		<p>not capable of supporting sustainable agricultural production.</p> <p>The area of land in question is 1.1ha and the removal of this area from the RU1 zone will have minimal impact on the availability of viable agricultural land.</p>
Land use conflict	<p>The land use does not increase the likelihood of conflict and does not impact on current or future agricultural activities in the locality.</p>	<p>There is minimal potential for land use conflict as the subject area is 160m away from the nearest sensitive receiver (dwelling house on Lot 4 DP 635505) which is located on the same lot. Further measures in relation to noise attenuation can be applied at DA stage is deemed appropriate.</p> <p>The industrial use will not impact on agricultural production as the land is separated from the rest of the lot by Maori creek and requires access to be obtained via Dudgeons Lane, making agriculture impractical for this portion of the site.</p>
Infrastructure	<p>The delivery of infrastructure (utilities, transport, open space, communications and stormwater) required to service the land is physically and economically feasible at no cost to State and Local Government.</p>	<p>All essential services are available to service the site. The site is directly adjoining the existing industrial estate.</p> <p>The traffic assessment shows the existing road can cope with the additional traffic.</p> <p>The stormwater management plan concludes that the site can accommodate the increase in stormwater.</p>
Environment and heritage	<p>The proposed land uses do not have an adverse impact on areas of high environmental value, and Aboriginal or historic heritage significance.</p>	<p>The adjacent Maori Creek is identified as possibly providing fish habitat on NSW Department of Primary Industries maps.</p> <p>The Stormwater Management Plan prepared by BMT Global Pty Ltd (Appendix 2) found that stormwater management targets are able to be</p>

		<p>achieved if the land is developed for industrial purposes in the future.</p> <p>An C3 Environmental Management zone buffer is proposed to further protect the environmental values of Maori Creek. Revegetation of this area will be required at the subdivision stage.</p> <p>A site walk over from TBLALC concluded that the rezoning is unlikely to compromise Aboriginal cultural values.</p>
Avoiding risk	Risks associated with physically constrained land are identified and avoided, including flood prone, bushfire-prone, highly erodible, severe slope and acid sulfate soils.	<p>The land is not subject to any of the risks identified in his table with the exception of flooding.</p> <p>A flood study was prepared by BMT which informed the area suitable to be rezoned for industrial purposes.</p> <p>The area proposed to be zoned IN1 is reflective of the scenarios within the flood study. The environmental buffer will also act as a flood buffer.</p>

The site is not within the Urban Growth Area as contained in the North Coast Regional Plan 2036. While the site is identified in Byron Business and Industrial Lands Strategy the NCRP 2036 has not been updated for some time and as such a variation to the urban growth area is required.

Table 4. Urban Growth Area Variation Principles

	Criteria	Comments
Policy	The variation needs to be consistent with the objectives and outcomes in the North Coast Regional Plan 2036 and any relevant Section 117 Directions and State Environmental Planning Policies, and should consider the intent of any applicable local growth management strategy.	The variation is considered appropriate as the planning proposal is generally consistent with the NCRP, Ministerial Directions and is identified for industrial purposes in Byron Business and Industrial Lands Strategy.

Infrastructure	The variation needs to consider the use of committed and planned major transport, water and sewerage infrastructure, and have no cost to government. The variation should only be permitted if adequate and cost-effective infrastructure can be provided to match the expected population.	The site is directly adjacent to the existing industrial estate with all services available.
Environmental and farmland protection	The variation should avoid areas: <ul style="list-style-type: none"> • of high environmental or heritage value; and • mapped as important farmland, unless consistent with the interim variation criteria prior to finalising the farmland mapping review 	<p>The site is not mapped as high environmental value or heritage value.</p> <p>The site is mapped as important farmland and is consistent with the variation criteria as addressed in the table above.</p>
Land use conflict	The variation must be appropriately separated from incompatible land uses, including agricultural activities, sewage treatment plants, waste facilities and productive resource lands.	The site is directly adjacent to the existing industrial estate. The site is isolated by Maori Creek, Lismore Road and the disused rail corridor. It is unlikely that any land use conflicts will occur as a result of this proposal.
Avoiding risk	The variation must avoid physically constrained land identified as: flood prone, bushfire-prone, highly erodible, having a severe slope, and having acid sulfate soils.	<p>The land is not subject to any of the risks identified in his table with the exception of flooding.</p> <p>A flood study was prepared by BMT which informed the appropriate area of the industrial zoning.</p> <p>The area proposed to be zoned IN1 is reflective of the scenarios within the flood study. The environmental buffer will also act as a flood buffer.</p>
Heritage	The variation must protect and manage Aboriginal and non-Aboriginal heritage.	An Aboriginal Cultural Heritage report supports this

		proposal. The site contains no listed heritage items.
Coastal area	Only minor and contiguous variations to urban growth areas in the coastal area will be considered due to its environmental sensitivity and the range of land uses competing for this limited area.	The site is not located in the coastal area and is not subject to coastal processes.

Q4. Will the planning proposal give effect to Council's endorsed local strategic planning statement, or other local strategic plan?

Byron Shire Local Strategic Planning Statement (LSPS) was endorsed by DPIE in September 2020.

At this time the Business and Industrial Lands Strategy was not yet finalised with an action contained in the LSPS to finalise the strategy and implement priority actions (TA6).

The Business and Industrial Lands Strategy was endorsed by DPIE in October 2020 with a key action to consider landowner planning investigations for possible new industrial areas as identified in the strategy through the assessment of any submitted planning proposal (action 13).

This site is located as an investigation area within the Business and Industrial Lands Strategy and therefore this planning proposal is considered to give effect to both Byron Shire LSPS and Business and Industrial Lands Strategy.

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

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

Table 5. Relevant SEPPs

State Environmental Planning Policy (SEPP)	Compliance of Planning Proposal
Coastal Management SEPP 2018	The site is not mapped within the coastal management SEPP
Koala Habitat Protection SEPP	The site does not contain any potential koala habitat.

SEPP 55 – Remediation of Land	A preliminary contaminated land site investigation was completed, and a report accompanies this proposal. The report concludes that the Investigation Area would not represent a significant risk of harm to end users of the proposed rezoning proposal.
Primary Production and Rural Development SEPP 2019	The site is not mapped as state significant farmland under the SEPP. There are no specific provisions related to this planning proposal.

Q6. Is the planning proposal consistent with the applicable Ministerial Directions (s.9.1 directions)?

Consistency with the Local Planning Directions is assessed in the following table:

1. Employment and Resources

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
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).	<p>The proposed rezoning will add to the supply of employment lands within the Byron Shire and the site is directly adjacent existing industrial zoned land in Bangalow.</p> <p>The site is located as an investigation area for future industrial land in Byron Business and Industrial Lands Strategy which has been endorsed by the Department of Planning, Industry and Environment.</p>	Consistent
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).	<p>A planning proposal must not rezone rural land to an industrial zone unless by an approved strategy or is of minor significance.</p> <p>In this case, the site is identified in the Byron Business and Industrial Lands Strategy which has been endorsed by the Department of Planning, Industry and Environment.</p> <p>The land is of minor rural significance due to the small size and isolation from the larger residual lot.</p>	Justifiably inconsistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
1.3 Mining, Petroleum Production and Extractive Industries	<p>Applies when a relevant planning authority prepares a planning proposal that would have the effect of:</p> <ul style="list-style-type: none"> 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. 	Not applicable	Not applicable
1.4 Oyster Aquaculture	<p>Applies when a relevant planning authority prepares any planning proposal that proposes a change in land use which could result in:</p> <ul style="list-style-type: none"> 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 	The planning proposal does not impact on any priority oyster aquaculture areas.	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	in the national parks estate” and other land uses.		
1.5 Rural Lands	<p>Applies when a relevant planning authority prepares a planning proposal that:</p> <ul style="list-style-type: none"> a) 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) changes the existing minimum lot size on land within a rural or environment protection zone. 	<p>The proposal will rezone a small area of farmland that is isolated from the remainder of the lot. The area is separated by an industrial estate, road, rail corridor and Maori Creek and is considered not significant for agricultural purposes.</p> <p>The variation to the North Coast Regional Plan farmland criteria is presented above in table 3.</p>	Consistent

2. Environment and Heritage

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
2.1 Environment Protection Zones	<p>The objective of this direction is to protect and conserve environmentally sensitive areas.</p> <p>A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.</p>	<p>The adjacent Maori Creek is mapped as key fish habitat.</p> <p>The stormwater management plan states that stormwater quality targets can be achieved. An 40m minimum C3 Environmental Management zoned buffer if proposed to protect Maori Creek.</p>	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	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".		
2.2 Coastal Protection Zones	This direction applies to land that is within the coastal zone, as defined under the Coastal Management Act 2016 - comprising the coastal wetlands and littoral rainforests area, coastal vulnerability area, coastal environment area and coastal use area - and as identified by the State Environmental Planning Policy (Coastal Management) 2018.	The site is not within the coastal zone	Not applicable
2.3 Heritage Conservation	<p>A planning proposal must contain provisions that facilitate the conservation of:</p> <p>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,</p>	<p>The planning proposal does not impact on any heritage items or the existing heritage provisions in Byron LEP 2014.</p> <p>A site investigation was undertaken by TBLALC and the accompanying report notes that rezoning presents a very low risk of harm to Aboriginal cultural heritage.</p>	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>object or place, identified in a study of the environmental heritage of the area,</p> <p>b) Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974, and</p> <p>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.</p>		
2.4 Recreation Vehicle Areas	<p>A planning proposal must not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the Recreation Vehicles Act 1983):</p> <p>a) where the land is within an environmental protection zone,</p> <p>b) where the land comprises a beach or a dune adjacent to or adjoining a beach,</p> <p>c) where the land is not within an area or zone referred to in paragraphs (4)(a) or (4)(b)</p>	Not applicable	Not applicable

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>unless the relevant planning authority has taken into consideration:</p> <ul style="list-style-type: none"> (i) the provisions of the guidelines entitled Guidelines for Selection, Establishment and Maintenance of Recreation Vehicle Areas, Soil Conservation Service of New South Wales, September, 1985, and (ii) the provisions of the guidelines entitled Recreation Vehicles Act, 1983, Guidelines for Selection, Design, and Operation of Recreation Vehicle Areas, State Pollution Control Commission, September 1985 		
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	<p>This direction applies when a relevant planning authority prepares a planning proposal:</p> <ul style="list-style-type: none"> a) that introduces or alters an E2 Environmental Conservation or E3 Environmental Management zone; b) that introduces or alters an overlay and associated clause. 	<p>An C3 Environmental Management zoned buffer is proposed along Maori Creek. The applicants have agreed to this application and the zoning will provide an area for plantings to protect Maori Creek.</p> <p>The application of the environmental zone will be in accordance with requirements of the Northern Councils E Zone Review Final Recommendations.</p>	Consistent
2.6 Remediation of Contaminated Land	This direction applies to:	A preliminary contaminated site investigation was prepared and concluded that the investigation	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<ul style="list-style-type: none"> a) land that is within an investigation area within the meaning of the Contaminated Land Management Act 1997, b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out, c) the extent to which it is proposed to carry out development on it for residential, educational, recreational or childcare purposes, or for the purposes of a hospital – land: <ul style="list-style-type: none"> (i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and (ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge). 	<p>area would not represent a significant risk of harm to end users of the proposed rezoning proposal.</p>	

3. Housing, Infrastructure and Urban Development

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
3.1 Residential Zones	<p>This direction applies when a relevant planning authority prepares a planning proposal that will affect land within:</p> <ul style="list-style-type: none"> 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. 	The planning proposal does not impact on residential land	Not applicable
3.2 Caravan Parks and Manufactured Home Estates	<p>In identifying suitable zones, locations and provisions for caravan parks in a planning proposal, the relevant planning authority must:</p> <ul style="list-style-type: none"> 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. 	Not applicable	Not applicable

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
3.3 Home Occupations	Revoked	Not applicable	Not applicable
3.4 Integrating Land Use and Transport	<p>This direction 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:</p> <p>a) <i>Improving Transport Choice – Guidelines for planning and development</i> (DUAP 2001), and</p> <p>b) <i>The Right Place for Business and Services – Planning Policy</i> (DUAP 2001).</p>	<p>The site is located to the existing industrial area in Bangalow. The traffic assessment concludes that the current road infrastructure is suitable for the rezoning and resulting development.</p> <p>The industrial area is located approximately 1600m from the town centre.</p> <p>There are currently no footpaths linked to the industrial area with vehicles likely to be the predominant way to access the site.</p> <p>The proposal is partly consistent with this direction.</p>	Consistent
3.5 Development Near Regulated Airports and Defence Airfields	<p>This direction applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to land near a regulated airport which includes a defence airfield.</p>	Not applicable	Not applicable

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
3.6 Shooting Ranges	This direction 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.	Not applicable	Not applicable

4. Hazard and Risk

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
4.1 Acid Sulfate Soils	This direction 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.	The land is not mapped as containing acid sulfate soils	Not applicable
4.2 Mine Subsidence and Unstable Land	<p>This direction applies to land that:</p> <ul style="list-style-type: none"> a) is within a Mine Subsidence District proclaimed pursuant to section 15 of the Mine Subsidence Compensation Act 1961, or b) has been identified as unstable land. 	Not applicable	Not applicable

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>This direction applies when a relevant planning authority prepares a planning proposal that permits development on land that:</p> <ul style="list-style-type: none"> a) is within a mine subsidence district, or b) has been identified as unstable in a study, strategy or other assessment 		
4.3 Flood Prone Land	<p>This direction 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.</p> <p>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 Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk Areas).</p> <p>A planning proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone.</p>	<p>Part of the site along Maori Creek is mapped as flood prone land. A Flood Study was carried out by BMT Global which concluded that the land can be developed in accordance with the NSW Flood Prone Land Policy and Floodplain Development Manual.</p> <p>The flood study informed the appropriate location of the industrial zoning. An environmental zoned buffer of 40m is required to protect Maori Creek and reduce impacts of flooding, with a larger buffer in areas of higher flood risk, particularly in the southern portion of the lot.</p> <p>The development will not result in any additional or unacceptable risks to life or property in the vicinity.</p>	Justifiably inconsistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
4.4 Planning for Bushfire Protection	<p>This direction applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land.</p> <p>In the preparation of a planning proposal the relevant planning authority must consult with the</p> <p>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 Schedule 1, clause 4 of the Act, and take into account any comments so made.</p>	The site is not mapped or in proximity to bushfire prone land.	Consistent

5. Regional Planning

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
5.1 Implementation of Regional Strategies	Revoked	Not Applicable	Not Applicable

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
5.2 Sydney Drinking Water Catchments	Applies when a relevant planning authority prepares a planning proposal that applies to land within Sydney drinking water catchment.	Not Applicable	Not Applicable
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	<p>This applies to Byron Shire Council except within areas contained within the “urban growth area” mapped in the North Coast Regional Plan 2036.</p> <p>A planning proposal must not:</p> <ul style="list-style-type: none"> a) rezone land identified as “State Significant Farmland” for urban or rural residential purposes. b) rezone land identified as “Regionally Significant Farmland” for urban or rural residential purposes. c) rezone land identified as “significant non-contiguous farmland” for urban or rural residential purposes. 	<p>The site is mapped as regionally significant farmland in the North Coast Regional Plan 2036.</p> <p>The site is isolated being separated by Lismore Road, the rail corridor, the existing industrial estate and Maori Creek. This isolation reduces the capabilities of this site to be used for farming purposes. The variation to the farmland criteria is justified above in table 3.</p>	Justifiably inconsistent
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	This Direction applies when a relevant planning authority prepares a planning proposal for land in the vicinity of the existing and/or proposed alignment of the Pacific Highway.	Not applicable	Not applicable

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
5.5 – 5.8 Revoked	Revoked	Not applicable	Not applicable
5.9 North West Rail Link Corridor Strategy	This Direction applies to Hornsby Shire Council, The Hills Shire Council and Blacktown City Council.	Not applicable	Not applicable
5.10 Implementation of Regional Plans	Planning proposals must be consistent with a Regional Plan released by the Minister for Planning.	<p>The consistency of this Planning Proposal with the North Coast Regional Plan is addressed in Section B above.</p> <p>The planning proposal is generally consistent with the North Coast Regional Plan as the site has been identified as a potential site for industrial uses in Byron Business and Industrial Lands Strategy.</p>	Consistent
5.11 Development of Aboriginal Land Council Land	This direction applies when a planning proposal authority prepares a planning proposal for land shown on the Land Application Map of State Environmental Planning Policy (Aboriginal Land) 2019.	Not applicable	Not applicable

6. Local Plan Making

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
6.1 Approval and Referral Requirements	<p>A planning proposal must:</p> <ul style="list-style-type: none"> 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: <ul style="list-style-type: none"> (i) the appropriate Minister or public authority, and (ii) the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) 	The planning proposal will not include any new provisions requiring concurrence or referrals and is considered to be consistent with this Direction.	Consistent
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 does not create, alter or reduce existing zonings or reservations of land for public purposes	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
6.3 Site Specific Provisions	<p>This direction applies when a relevant planning authority prepares a planning proposal that will allow a particular development to be carried out.</p> <p>A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either:</p> <ul style="list-style-type: none"> 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. <p>A planning proposal must not contain or refer to drawings that show details of the development proposal.</p>	The planning proposal will not enable a particular type of development	Consistent

Section C Environmental, social and economic impact

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

The site is mostly cleared and has historically been used for light cattle grazing.

The site is bound by Maori Creek in the East which is identified as key fish habitat by the Department of Primary Industries. An objective of the Fisheries Management Act is to conserve key fish habitats.

Maori Creek is mapped on the NSW Biodiversity Values (BV) Map shown below. Consultation with BCD recommended that the planning proposal include C3 Environmental Management buffer of 20m on both sides of the creek to ensure the riparian corridor on the BV map is zoned appropriately.



An Ecological Assessment has been prepared for this site and is appended to this planning proposal. The assessment concluded that the site has limited biodiversity value due to historical clearing and grazing. The revegetation of the C3 buffer is supported and necessary to assist with mitigation of potential future impacts.

A soak area was identified within the Ecological Assessment and this area has also been included within the C3 zone as recommended by BCD.

The Ecological Assessment was conducted with the exhibited zone map which included a 20m buffer to Maori Creek. To closer align with NSW Fisheries buffer policy, a 40m minimum buffer is now proposed.

The 40m buffer will allow a greater separation distance and minimise the amount of fill required on the site.

This buffer area will be required to be revegetated at the subdivision stage and help to minimise environmental impacts on Maori Creek.

The Stormwater Management Plan found that stormwater management targets can be achieved if the land is zoned for industrial purposes.

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

The storm water management plan demonstrates that the site can comply with Council's stormwater management and water quality controls without having an adverse impact on the environment.

The eastern portion of the site along Maori Creek is mapped as flood prone. This area will have an environmental zone applied. A flood study has been prepared to demonstrate the sites capability and impact of flooding into Maori Creek.

The increased buffer area will reduce the amount of fill needed on site which will minimise any downstream flooding impacts associated with this development. Further detail regarding the flood modelling calibration has been provided.

Maori Creek is mapped as key fish habitat. The creek on this site is within a grass paddock with very limited riparian vegetation. The subsequent requirements to revegetate this area will create a beneficial environment helping to provide habitat, stabilise the creek bank and filter water runoff.

A Traffic Impact Assessment and Road Safety Audit have been prepared to accompany this planning proposal. Both traffic studies show that the proposed industrial development will have minimal impact on the existing road network.

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

The planning proposal will provide additional industrial land in Bangalow which will provide additional local employment opportunities. The site is adjacent to the existing industrial estate which provides connectivity to services and concentrates industrial uses on the outskirts of Bangalow. The sites isolation means there is unlikely to be any nearby land use conflicts.

A site visit and cultural heritage report was undertaken by Tweed Byron Local Aboriginal Land Council. The report notes that the site has an agriculture history and the scope of works related to the rezoning presents a very low risk of harm to Aboriginal cultural heritage.

Council has previously investigated options for reactivation of the rail corridor. The planning proposal will not hinder any future use of the rail corridor.

Section D State and Commonwealth interests

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

The site is directly adjacent to the Bangalow industrial estate with all services available.

The existing road network and intersection to Lismore Road is suitable for the additional industrial zoned land as demonstrated by the supporting road safety audit and traffic impact assessment.

Additional signage and no parking areas will be required along Dungeons Lane to enable access to the subject site as outlined in the road safety audit. This will be implemented as part of any subsequent subdivision development application.

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

Consultation with state authorities occurred during the public exhibition period.

The following agencies were notified:

- Department of Primary Industries – Agriculture
- Department of Primary Industries - Fisheries
- Arakwal
- TBLALC
- Rous County Council
- Transgrid
- NSW Mining, Exploration and Geoscience
- Transport for NSW
- Natural Resource Access Regulator
- Essential Energy
- Department of Planning Industry and Environment – Biodiversity Conservation Division

The planning proposal has been updated based on the comments received during public exhibition.

Part 4 Mapping

Amendments will be required to the following Byron LEP 2014 map sheets:

- LZN_003A
- FSR_003AA
- LSZ_003

The existing and proposed maps are contained in appendix 1.

Part 5 Community consultation

Community consultation was conducted in accordance with the Gateway determination.

Notification of the exhibited planning proposal included:

- updates to Council's website
- referral to relevant State agencies
- notification in writing to affected landowners

Part 6 Project timeline

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

Plan making step	Estimated completion
Gateway Determination	October 2021
Agency Consultation	April 2022
Public Exhibition Period	April - May 2022
Submissions Assessment	August 2022
Submission of endorsed LEP amendment to DPIE for finalisation	September 2022
LEP amendment notification	November 2022

Conclusion

This Planning Proposal seeks to amend Byron Local Environmental Plan (LEP) 2014 to rezone part of lot 4 DP 6355050, 150 Lismore Road from RU1 Primary Production to IN1 General Industrial and C3 Environmental Management.

The subject site is identified as an investigation area in Byron Business and Industrial Lands Strategy and is directly adjacent to the existing industrial zoned land in Bangalow.

The planning proposal is supported by a traffic impact assessment, flood study, stormwater management plan and preliminary contaminated land study. The studies conclude that this site is suitable for industrial purposes and will not have significant impacts on traffic or the environment.

The proposal has been amended to reflect both agency and public submissions. It is recommended that the planning proposal be sent to DPIE for finalisation.

Appendix

Appendix 1 – Existing and proposed maps

Appendix 2 - Flood impact assessment

Appendix 3 - Stormwater management plan

Appendix 4 - Preliminary contaminated site investigation

Appendix 5 - Traffic impact assessment

Appendix 6 - Road safety audit

Appendix 7 – Agricultural capability assessment

Appendix 8 – Ecological Assessment

Appendix 1 – Existing and proposed maps

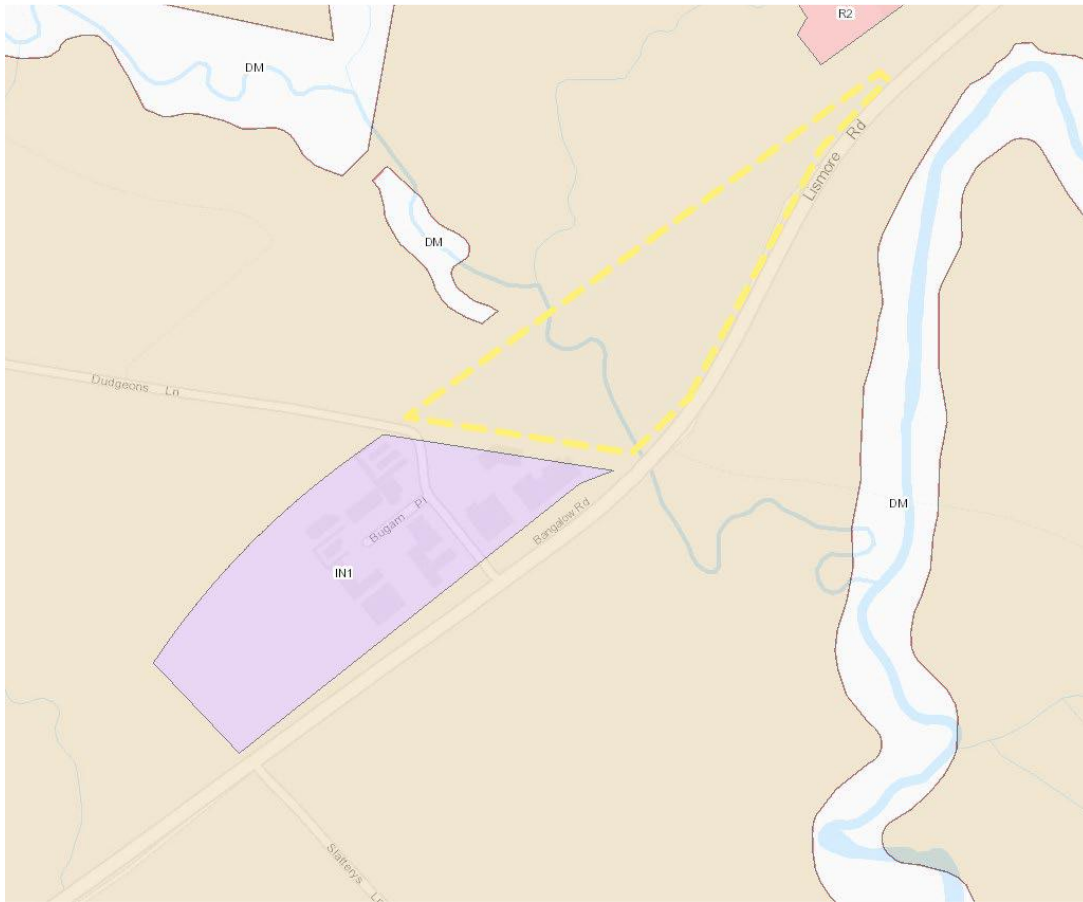


Figure 4.1. Existing zoning

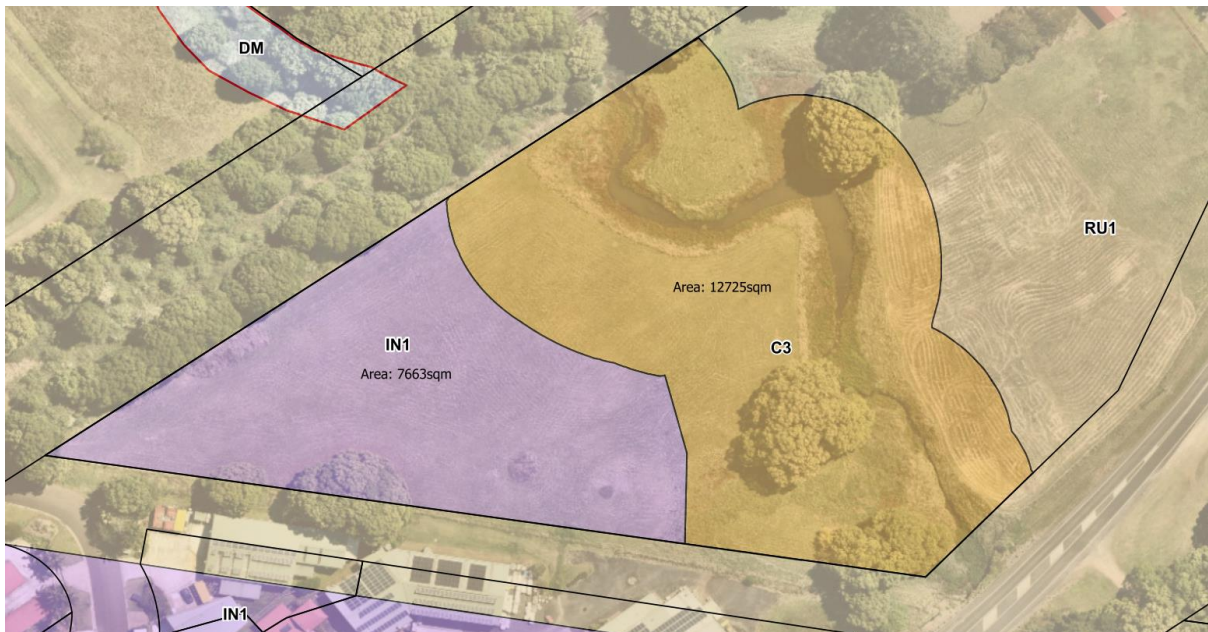


Figure 4.2. Proposed zoning

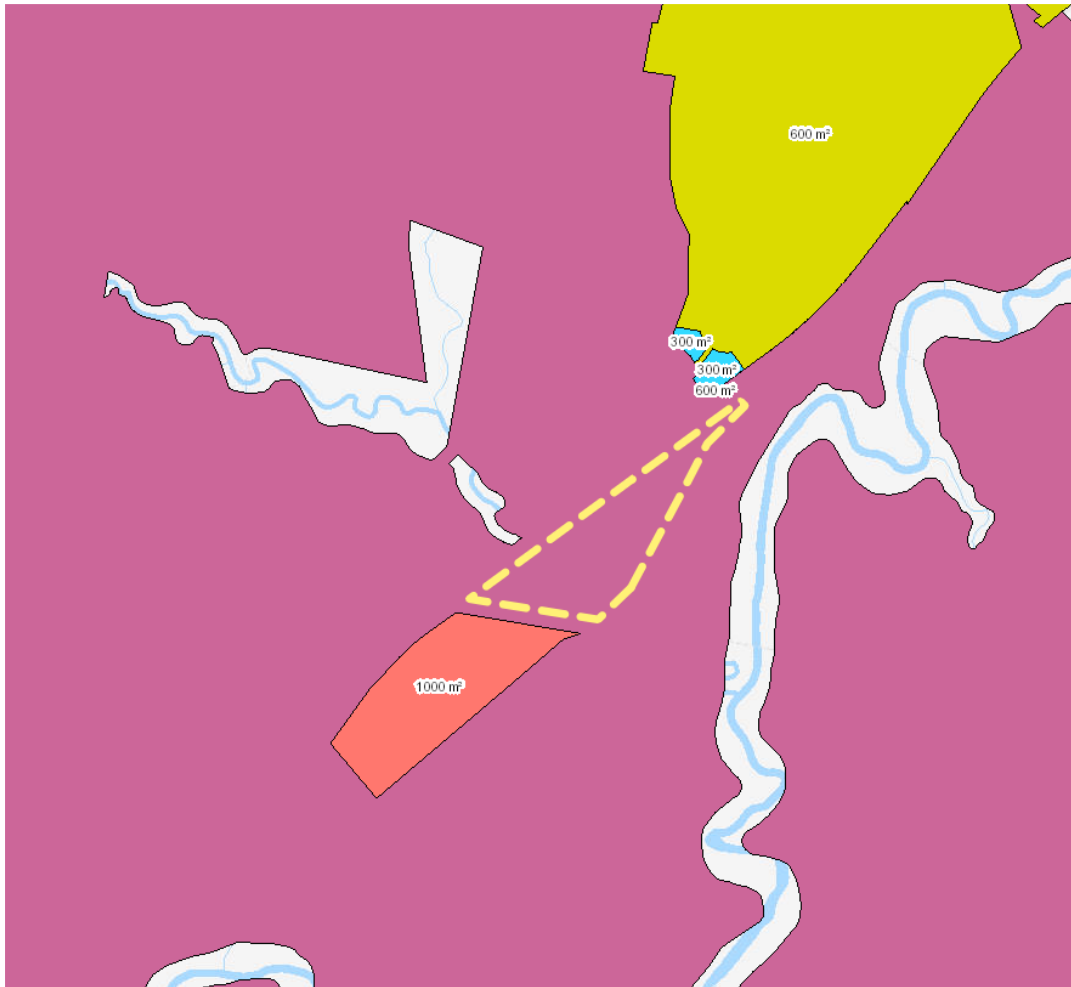


Figure 5.1. Existing lot size

Map to be created to reflect new zoned area with IN1 Lot Size of 1000m², C3 with 40ha.

Figure 5.2. Proposed lot size



Figure 6.1. Existing floor space ratio

Map to be created to reflect new zoned area with IN1 FSR of 0.75:1. No FSR applying to C3.

Figure 6.2. Proposed floor space ratio