



IRF NIRF21/3923

Gateway determination report – PP-2021-6076

Rezone part of Lot 8 DP 589795, 53 McAuleys Lane, Myocum from RU2 to R5, amend the minimum lot size and permit multiple occupancy/community title development on part of the lot

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Table 1 - Reports and plans supporting the proposal

Relevant reports and plans
Planning Proposal/LEP Amendment Request – Lot 8 DP 589795, 53 McAuleys Lane, Myocum – December 2020 (updated October 2021) - including Appendices A – J
Attachment B – Gateway determination
Attachment C – Letter to Council

1 Planning proposal

1.1 Overview

Table 2 - Planning proposal details

LGA	LGA name
PPA	Byron Shire Council
NAME	Rezone part of 53 McAuleys Lane, Myocum and amend associated development standards (39 homes, 0 jobs)
NUMBER	PP-2021-6076
LEP TO BE AMENDED	Byron LEP 2014
ADDRESS	53 McAuleys Lane, Myocum
DESCRIPTION	Lot 8 DP 589795
RECEIVED	7/10/2021
FILE NO.	IRF21/ 3923
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the planning proposal are to:

- rezone part of the subject site from RU2 Rural Landscape to R5 Large Lot Residential (approximately 33 large residential lots) and amend the minimum lot size for this area from AB2 – 40ha to part W – 4000m² and part Z2 – 2.5ha (Sheet LSZ_002 & 002DA); and
- amend the Multiple Occupancy and Community Title Map (Sheet MOC_002) to facilitate a community title subdivision (6 x neighbourhood lots and 1 x association property lot) of the area to remain zoned RU2 Rural Landscape.

The planning proposal refers to proposed minimum lot size (MLS) maps that show the area remaining RU2 to have an MLS of 8000m² despite this not being detailed in the proposal. Discussions with Council about the intention of the proposed zoning amendment to the MOC map, retention of the RU2 zoning and proposed MLS of 8000m² for the purpose of multiple occupancy/community title development, have resulted in the following proposed amendments to the proposal which Council and the Department believe will best achieve the proposal's overall intention more effectively:

- rezone that part of the site proposed to remain RU2 to R5 in keeping with the proposed zoning of the remainder of the lot; and

- insert an MLS of 10ha for that part of the site zoned R5 and intended for multiple occupancy/community title development.

The planning proposal also contains errors in Sections 3.1 and 3.2 regarding the number of proposed neighbourhood lots. The intention is that the part of the site to be mapped on the MOC map for multiple occupancy/community title development will support 6 and not 7 neighbourhood lots.

Council are in agreement with these changes and feel they better reflect the planning proposals intended land use and subdivision outcome whilst affording stronger biodiversity protection. Council staff intend to report the amended planning proposal back to Council prior to community consultation.

The planning proposal should be updated prior to community consultation to address the following;

- correct all references to the number of proposed neighbourhood lots from 7 to 6.
- rezone that part of the site proposed to remain RU2 to R5 and include a proposed land zoning (LZN) map;
- insert a proposed MLS map that shows that part of the site proposed to be included on the MOC map has an MLS of 10ha; and
- insert a proposed MOC map that shows only that part of the lot intended for Multiple occupancy/community title development.

1.3 Explanation of provisions

The planning proposal (with the changes detailed above) seeks to amend the Byron LEP 2014 per the changes below:

Table 3 - Current and proposed controls

Control	Current	Proposed
Zone	RU2 Rural Landscape	R5 Large Lot Residential
Maximum height of the building	9m (RU2)	9m (R5)
Minimum lot size	40ha	10ha (R5 & E2) 2.5ha & 4000m ² (R5) 4000m ² (E2)

As discussed earlier, the planning proposal will need to be updated to address all the proposed changes to zoning, MLS and the number of multiple occupancy/community title lots.

1.4 Site description and surrounding area

The subject land is located approximately 3km southeast of Mullumbimby and 15km northwest of Byron Bay (Figure 1). The land itself is approximately 34.82ha and has a frontage of 104.045m to McAuleys Lane. Structures on the site include a main residential dwelling in the south and a secondary residential structure in the northern section as well as some ancillary structures. The site has a long history of use for grazing and is largely cleared with some scattered bush and paddock trees remaining (Figure 2).

The subject land is currently zoned RU2 Rural Landscape and E2 Environmental Conservation (Figure 3).



Figure 1 - Subject site (source: Six Maps)



Figure 2 - Subject land showing extent of clearing (source: Nearmap)

The site is adjoined by land zoned R5 Large Lot Residential to the west (2.5ha MLS), RU2 Rural Landscape to the north and south (40ha MLS) and RU1 Primary Production to the east (40ha MLS). Also adjoining the subject site are parcels of land zoned Deferred Matter (DM) (Figure 3). These areas directly adjoin (apart from the area zoned E2 in the top left of the subject land) those areas on the subject site that are zoned E2 Environmental Conservation.

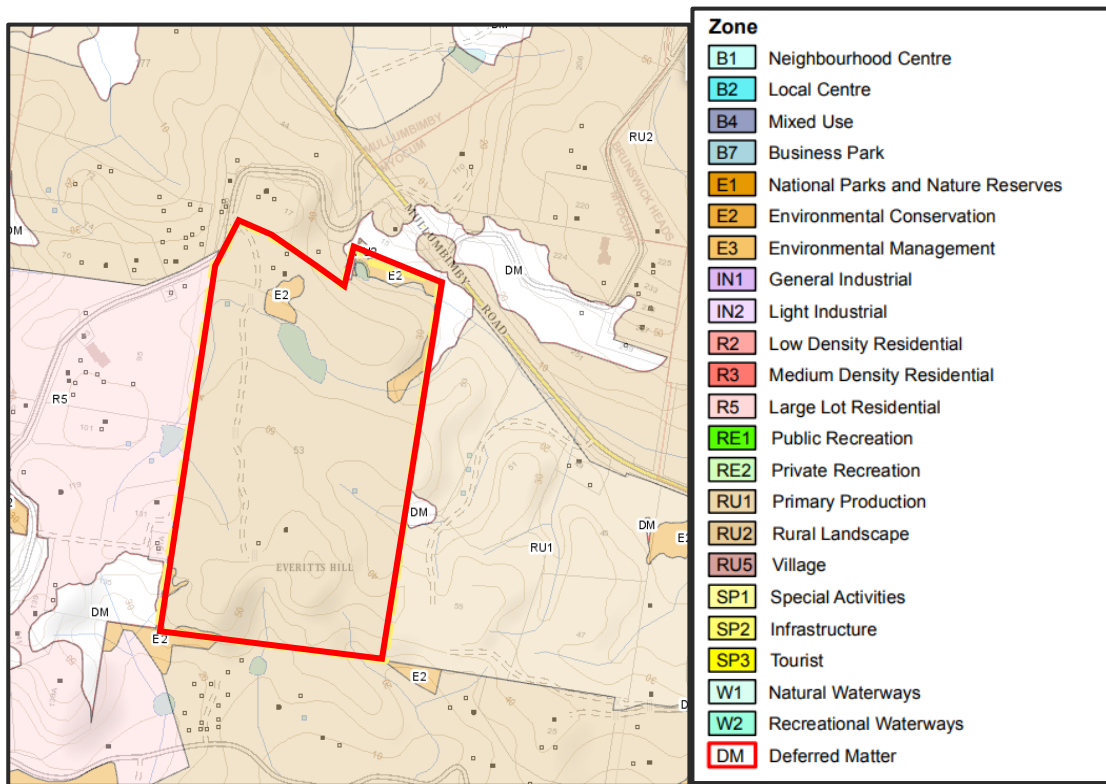


Figure 3 - Zoning of subject site and adjoining land (source: planning portal spatial viewer)

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the Land Zoning and Lot Size maps, which are suitable for community consultation subject to the recommended Gateway determination changes discussed above (Figure 4, 5, 6 & 7). The planning proposal however does not include a current and proposed Multiple Occupancy and Community Title Map. This should be included prior to community consultation.

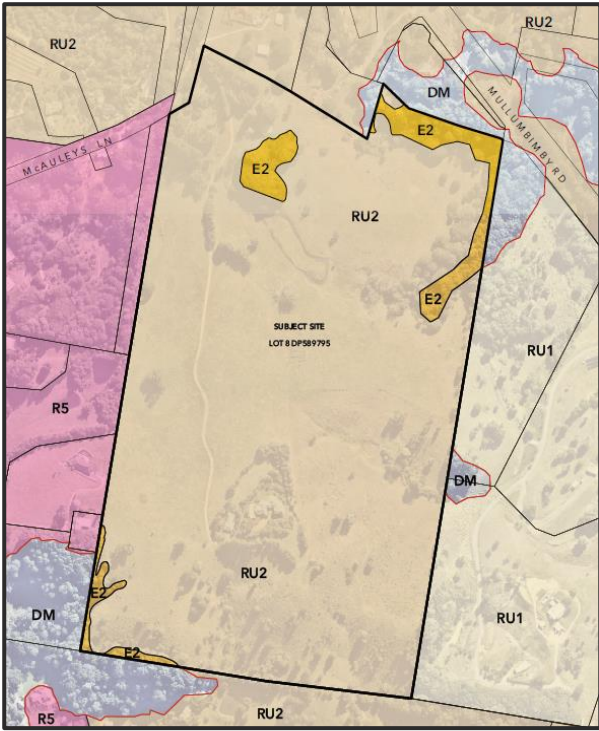


Figure 4 - Current zoning map (source: Planning proposal)

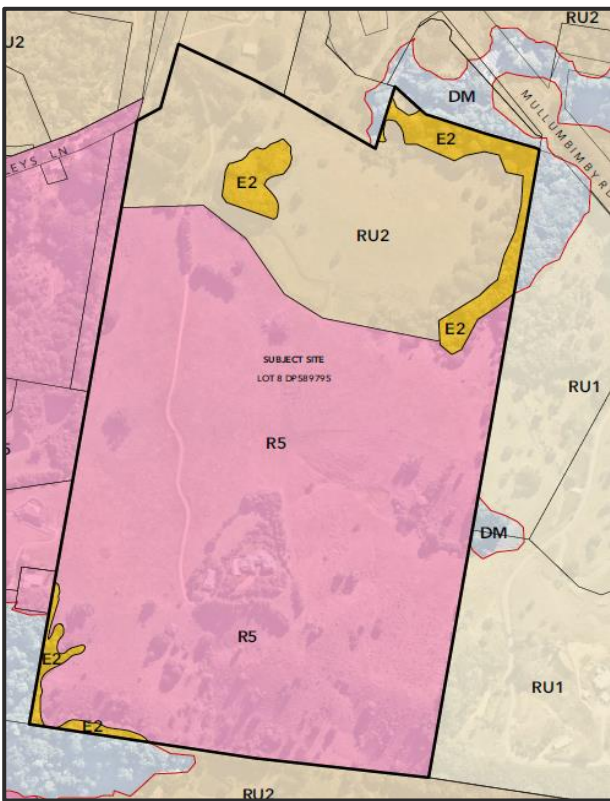


Figure 5 - Proposed Zoning map – Replace RU2 with R5 (source: Planning proposal)

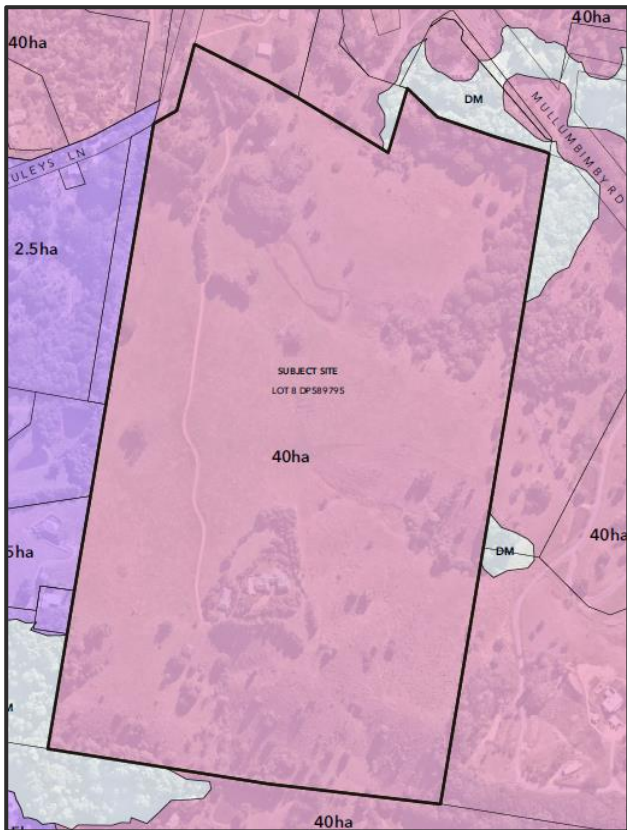


Figure 6 - Current minimum lot size map (source: Planning proposal)

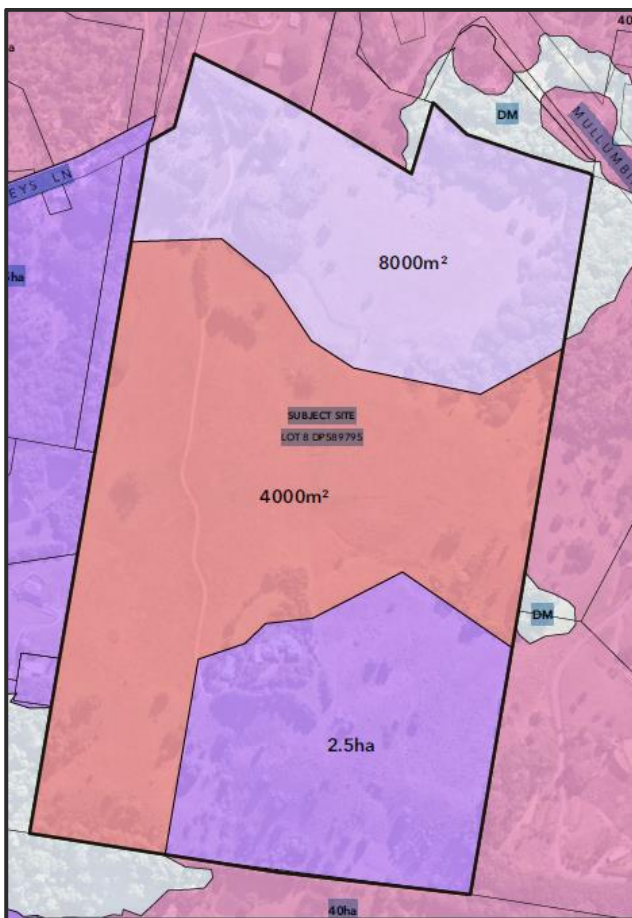


Figure 7 - Proposed minimum lot size map – **Replace 8000m² with 10ha** (source: Planning proposal)

2 Need for the planning proposal

The subject land has been identified in the Byron Shire Rural Land Release Strategy 2017 (BSRLUS) as being a priority site (Site 1) for rural lifestyle living opportunities. This strategy was endorsed by the Department on 13 June 2018 subject to several conditions. Approval of the strategy enabled Council to undertake the necessary investigations to prepare a planning proposal for amendments to the Byron LEP 2014 to facilitate the release of the identified R5 Large Lot Residential expansion area shown on Map 3(a) of the strategy (Figure 8).

In regard to future opportunities for large lot residential living, the strategy focused on areas that contained a relatively high amount of unconstrained and/ or assessable land having strong potential to build on and which also had reasonable access to major town services. In order to achieve this, the Strategy applied the following criteria for the purpose of identifying new large lot residential subdivision opportunities:

- situated west of the Pacific Highway (undeveloped sites only);
- within a 5km radius of a town with a high school;
- not identified in a draft or adopted strategy for future urban purposes, or for future village/urban development in this strategy;
- contains at least 10ha of unconstrained land;
- does not require access through constrained land, as identified in Table 1 of the Site Suitability Criteria and Mapping Methodology; and
- can be adequately serviced by existing or committed road infrastructure at a standard suitable for the predicted level and type of traffic resulting from development, at no cost to the wider community.

The BSRLUS regards the above criteria as being consistent with the North Coast Regional Plan (NCRP) 2036 and the former Settlement Planning Guidelines – Mid and far North Coast (2007).

The BSRLUS has also identified land mapped on Map 3(a) in the strategy as being suitable for multiple occupancy and community title development. The planning proposal therefore also seeks to enable subdivision of this type on the subject land where an acceptable standard of road infrastructure can be provided at no cost to the wider community.

The planning proposal is supported by the following additional studies that identify the land as being relatively unconstrained and suitable for the proposed development:

- Road Safety Audit
- Traffic Impact Assessment
- Bushfire Assessment
- On-site wastewater report
- Ecological Assessment
- Preliminary Site Investigation
- Stormwater Management Strategy
- AHIMS search results.

This planning proposal is considered to be the most appropriate means of the rezoning the subject land to bring the recommendations of the BSRLS into effect.

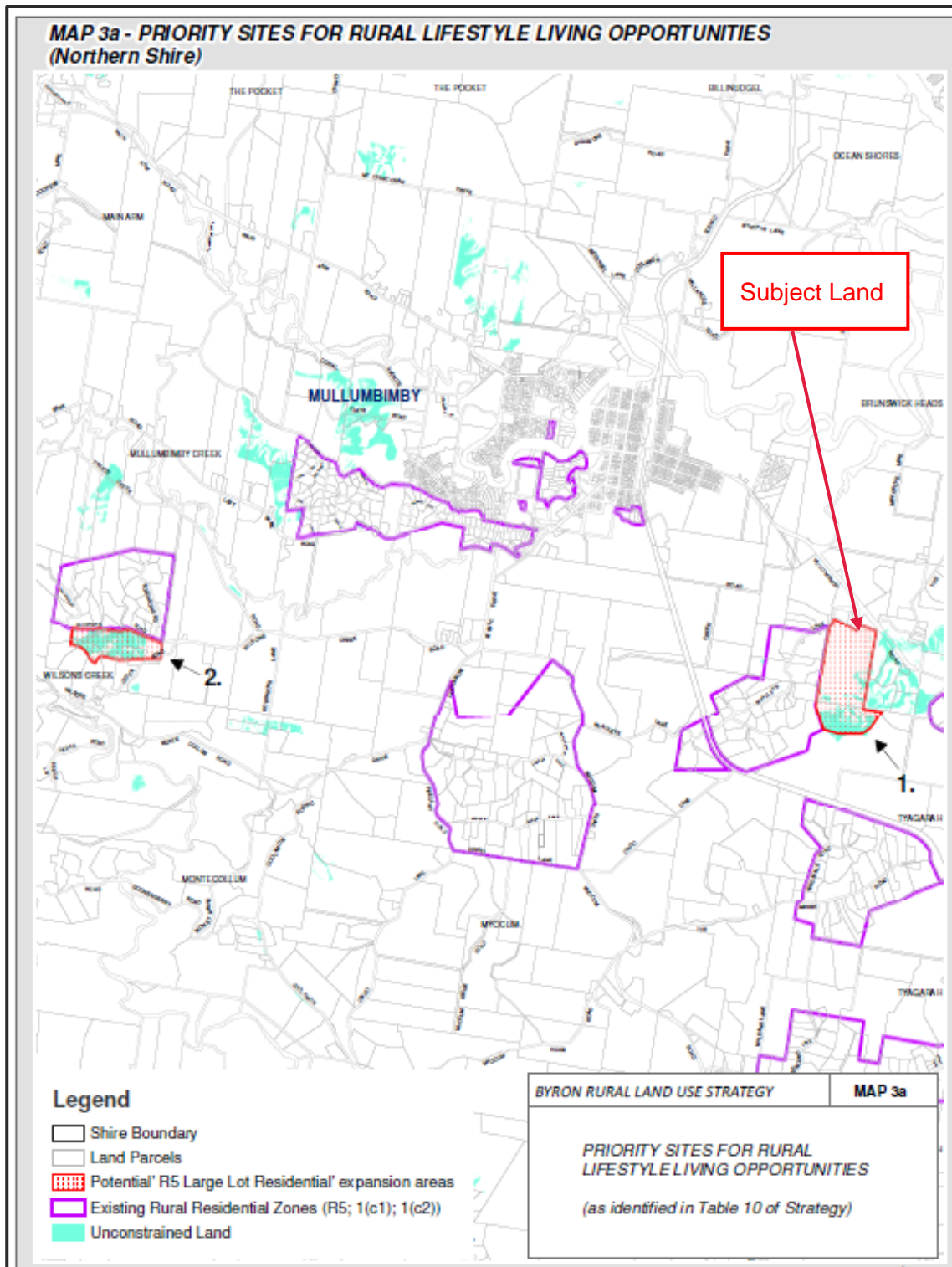


Figure 8 – Map 3 Byron Shire Rural Landuse Strategy showing subject land as Priority are for Rural Lifestyle Living opportunity (source: Byron Shire Rural Landuse Strategy 2017)

3 Strategic assessment

3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the NCRP.

Table 4 - Regional Plan assessment

Regional Plan Objectives	Justification
Direction 1 – Deliver environmentally sustainable growth	The subject land is located outside of the coastal strip and within an area identified in an endorsed local strategy. Further investigations have also identified the land as being relatively unconstrained and therefore suitable for large lot residential development.
Direction 2 – enhance biodiversity, coastal and aquatic habitats and water catchments	<p>The subject land is not mapped as containing State or Regionally Significant Farmland under the Northern Rivers Farmland Protection Project 2005. It does however contain areas mapped as:</p> <ul style="list-style-type: none"> • potential High Environmental Value (HEV); • Biophysical Strategic Agricultural Land (BSAL); • within the 'Koala Development Application Map' of the former Koala SEPP 2019; and • within the 'Coastal Zone' of SEPP (Coastal Management) 2018. <p>These aspects of the site will be discussed individually later in the report.</p> <p>Despite the site being mapped as containing areas of high biodiversity value, the planning proposal is not considered to be inconsistent with this Direction as further specific studies have identified the area as being relatively unconstrained and therefore ensuring that development is focussed to areas of least biodiversity sensitivity.</p>
Direction 11 – Protect and Enhance productive agricultural lands	Whilst the site has been identified as containing land mapped as BSAL, it is not mapped as State or Regionally Significant Farmland. The planning proposal is also supported by further studies identifying the subject land as relatively unconstrained. The planning proposal is therefore not considered to be inconsistent with this Direction.
Direction 22 – Deliver greater housing supply	The proposal is consistent with Action 22.1 – Deliver an appropriate supply of residential land within local growth management strategies and local plans to meet the regions projected housing needs.
Direction 23 – Increase housing diversity and choice	The planning proposal will create an additional 39 lots consisting of Torrens and Community title thereby enabling housing diversity and choice.
Direction 24 - Deliver well planned rural residential housing areas	The subject land has been identified in a Department endorsed rural land use strategy (BSRLUS) prepared consistent with the former Settlement Planning Guidelines: Mid and Far North Coast Regional strategies (2007).

Direction 25 – Deliver more opportunities for affordable housing	The mix of Torrens and Community title lots proposed in the planning proposal will enable a greater choice of housing type and therefore assist in the delivery of this action.
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3.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

Table 6 - Local strategic planning assessment

Local Strategies	Justification
Local Strategic Planning Statement	<p>The planning proposal responds to the Planning Priorities and Actions of Council's Local Strategic Planning Statement (LSPS). In particular:</p> <ul style="list-style-type: none"> • A Liveable Shire <p>Planning Priority 3 - Support housing diversity and affordability with housing growth in the right locations.</p> <p>The planning proposal responds to the BSRLUS and is supported by additional studies that indicate further development of the subject land for large lot residential and multiple occupancy/community title housing can be achieved on land that is relatively unconstrained and suitably located adjoining existing large lot rural residential development.</p> <p>The planning proposal, as submitted does not adequately address the LSPS despite it being considered to be consistent with the Planning Priorities and Actions contained within. It is recommended that the planning proposal be updated prior to community consultation to address consistency with the LSPS in more detail.</p>
Byron Shire Rural Landuse Strategy 2017	The planning proposal is considered to be consistent with this Department endorsed strategy as discussed earlier.

3.3 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 7 - 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.2 Rural Zones	No – Inconsistent/Justified	<p>The proposal is inconsistent with this Direction as it rezones land from RU2 Rural Landscape to R5 Large Lot Residential.</p> <p>The inconsistency with this Direction is considered to be of minor significance as the subject land has been identified in a Department endorsed strategy for large lot residential and multiple occupancy/community title development, with</p>

		supporting studies confirming its suitability as a result of its relatively unconstrained nature.
1.5 Rural Lands	No – Inconsistent/Justified	<p>The proposal is inconsistent with this Direction as it will affect land within a rural zone and is unable to satisfy all the requirements of the Direction.</p> <p>The inconsistency with this Direction is considered to be of minor significance as:</p> <ul style="list-style-type: none"> the subject land has been identified in an endorsed strategy (BSRLUS) for large lot residential and multiple occupancy/community title development, with supporting studies confirming its suitability as a result of its relatively unconstrained nature; the site does not contain any farmland of State or Regional significance; the current agricultural use of the land is for low value grazing pasture; and the proposed land use is consistent with the surrounding uses including the adjoining land zoned RU1 Primary Production which consists of 6 lots that have been developed for the purpose of rural residential/ large lot living. <p>Consultation with DPI – Agriculture is however recommended.</p>
2.1 Environment Protection Zones	No – Inconsistent/Justified	<p>The planning proposal is inconsistent with this Direction as it affects land mapped in the NCRP as containing Potential High Environmental Value land.</p> <p>The inconsistency with this Direction is considered to be of minor significance as the planning proposal is supported by an ecological assessment that has found:</p> <ul style="list-style-type: none"> as a result of significant historical impacts, the site has been extensively cleared and as such vegetation is degraded, fragmented, and does not form part of an important habitat corridor; the site does not represent significant habitat for any threatened fauna species; and the majority of the area on the site mapped as Potential HEV under the NCRP corresponds with land currently zoned E2 Environmental Conservation that will not be rezoned by the proposal. <p>Consultation with DPIE – BCD is recommended.</p>
2.2 Coastal Management	No – Inconsistent/Justified	<p>The planning proposal is inconsistent with this Direction as it does not contain provisions which give effect to NSW Coastal policies.</p>


		<p>Despite part of the subject land being mapped as Coastal Environmental Area, the inconsistency with the Direction is considered to be of minor significance for the following reasons:</p> <ul style="list-style-type: none"> the supporting ecological assessment has concluded that the features described as characterising the Coastal Environmental Area do not occur at the site; the subject land is not mapped under the SEPP mapping as being/containing: <ul style="list-style-type: none"> Coastal Wetlands and Littoral Rainforest Area and/or proximity area thereto; Coastal Vulnerability Area; or Coastal Use Area the proposal does not impact on matters of coastal significance, and the Coastal Management SEPP 2018 already contains adequate protections relating to the coastline and coastal processes.
4.4 Planning for Bushfire Protection	No – Inconsistent/unresolved	<p>The planning proposal is potentially inconsistent with this Direction because the land is bush fire prone. The Direction provides that the Council must consult with the Commissioner of the NSW Rural Fire Service (RFS) following the issue of a Gateway determination and prior to community consultation. Consultation with the RFS is required following receipt of a Gateway determination and prior to undertaking community consultation. Until this consultation has occurred the inconsistency with the Direction is unresolved.</p>
5.10 Implementation of Regional Plans	No – Inconsistent/Justified	<p>The planning proposal is considered to be inconsistent with this Direction as it enables the residential development of land mapped under the NCRP as containing Potential HEV land.</p> <p>The inconsistency with this Direction is considered to be of minor significance as:</p> <ul style="list-style-type: none"> the planning proposal is supported by an ecological assessment that has found: <ul style="list-style-type: none"> The proposal would be expected to be able to be accommodated at the site without impacting any significant vegetation or threatened flora species recorded at the site, or others with the potential to occur; the site does not represent significant habitat for any threatened fauna species; the site does not contain any suitable areas of forest or habitat important to the Koala and no records of usage were recorded during site surveys undertaken for the proposal; and areas mapped as potential HEV under the NCRP correspond with land currently zoned

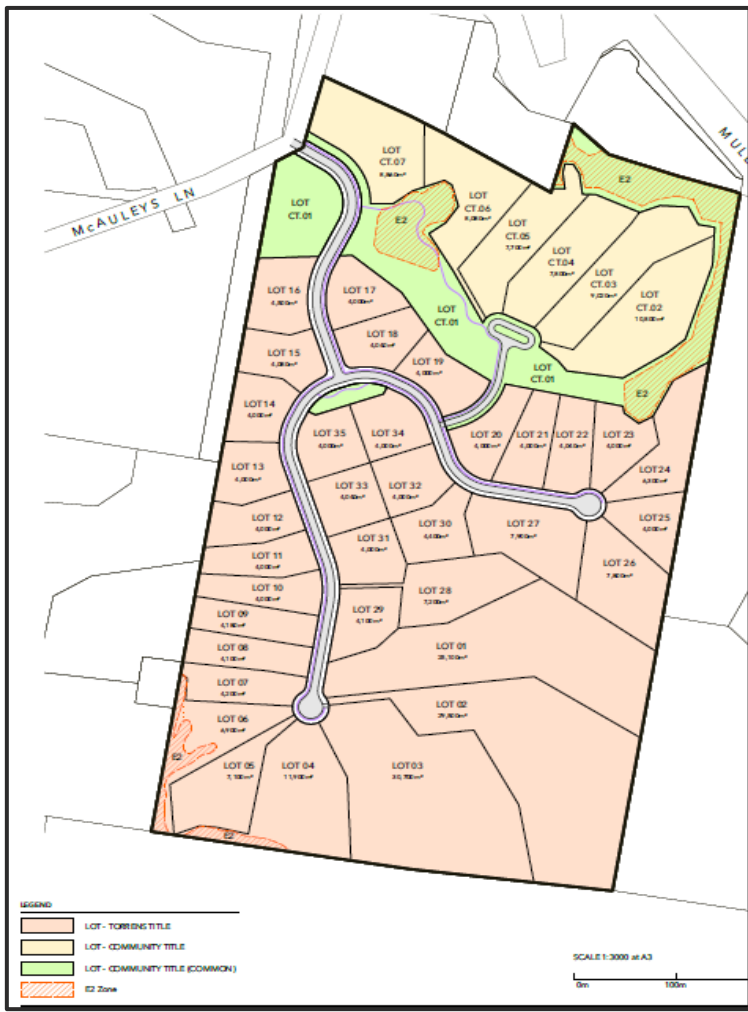
		<p>E2 Environmental Conservation. This land is not proposed to be rezoned by the proposal. Despite the proposal facilitating a community title subdivision for this area, the subdivision layout shows this area will form part of the community title lot and will not be subdivided further (Figure 10).</p> <p>Consultation with DPIE - BCD is recommended.</p>
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3.4 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in the table below.

Table 8 - Assessment of planning proposal against relevant SEPPs

SEPPs	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP (Coastal Management) 2018	Yes	<p>This Direction applies as part of the land affected by the planning proposal is located within the Coastal zone (and mapped as Coastal Environment Area) as defined by the Coastal Management Act 2016 (Figure 9).</p>  <p>Figure 9 - Subject land showing Coastal Environment Area under SEPP (Coastal Management) 2018 (source: Planning Portal spatial viewer)</p> <p>The subject land is not mapped under the SEPP as being/containing:</p> <ul style="list-style-type: none"> • Coastal Wetlands and Littoral Rainforest Area and/or proximity area thereto;

SEPPs	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
		<ul style="list-style-type: none"> • Coastal Vulnerability Area (no map at this time); or • Coastal Use Area. <p>The proposed subdivision layout for the land shows the area of the site mapped as Coastal Environment Area to contain one, potentially two Community title lots with areas greater than 8000m² and part of the Community title (common lot). Land zoned E2 Environmental Conservation also makes up part of the area and will not be affected by the planning proposal (Figure 10).</p>  <p>Figure 10 - Proposed subdivision layout (source: Planning Proposal)</p> <p>The planning proposal is not considered to be inconsistent with the intent of the SEPP and it is considered appropriate that relevant provisions under the SEPP can be considered at the development application stage of the proposal.</p>
Koala Habitat Protection 2020	Consistent	Byron Shire Council has a Comprehensive Koala Plan of Management (KPoM) that applies to the subject land however the site is not mapped as being part of a Koala Management Precinct (Figure 11). The provisions of Koala Habitat Protection 2020 therefore currently apply to the subject land. Once rezoned

SEPPs	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
		<p>however, the subject land will be subject to the provisions of the SEPP (Koala Habitat Protection) 2021.</p> <p>The planning proposal is considered to be consistent with the provisions of the SEPP and it is considered appropriate that further consideration be given at the development application stage of the proposal.</p> <p>The planning proposal states that the subject land is subject to the provision of SEPP (Koala Habitat Protection) 2019 and this should be updated prior to community consultation to reflect the correct legislation.</p> <div data-bbox="564 741 1302 1630"> </div> <p>Figure 11 – Koala Management Precinct (source: Byron Coast Comprehensive Koala Plan of Management)</p>
SEPP 55 Remediation of Land	Consistent	<p>The planning proposal is supported by a Preliminary Site Contamination Assessment. This desktop assessment did not identify evidence of previous development or activities on the site that would suggest potentially contaminating activities had taken place within the area of focus. Analytical results from surface soils indicated all of the compounds tested returned concentrations that were below the adopted criteria for residential use and no further investigation was deemed warranted.</p> <p>The site is considered suitable for its intended use.</p>

4 Site-specific assessment

4.1 Environmental

The following table provides an assessment of the potential environmental impacts associated with the proposal.

Table 9 - Environmental impact assessment

Environmental Impact	Assessment
Biodiversity - Flora	<p>An ecological assessment has been undertaken to support the planning proposal.</p> <p>Vegetation at the site is highly disturbed and fragmented as a result of its long history of use for agriculture grazing. Remaining vegetation differs between substantially cleared grazing pasture and regrowth forest dominated by the invasive exotic species Camphor Laurel. Mature native rainforest trees including Brush Box, Hoop Pine and Ficus spp. are scattered throughout the site within regrowth forest areas and as isolated paddock trees. Several areas of native and exotic plantation also occur throughout the site. Vegetation is dominated by exotic species through all forest layers, with vegetation structure and composition generally being in low condition (Figure 12).</p> <p>Despite the dominance of exotic species through most structural layers across the site, it is considered that some of the vegetation at the site contains sufficient elements, to varying degrees, to be considered for inclusion as Lowland Rainforest in the NSW North Coast and Sydney Basin Bioregions listed in Schedule 2 of the BC Act. Despite this, it is likely that the condition of most vegetation on the site would result in a Vegetation Integrity Score (VIS) in accordance with the Biodiversity Assessment Method which would exclude the vegetation from consideration as an EEC.</p> <p>The site also contains several drainage lines which are generally devoid of riparian vegetation however those located in the northern portion of the site although generally dominated by exotic vegetation, contain the most expansive areas of riparian associated vegetation and associated potential habitat.</p> <p>The construction of farm dams in association with non-perennial drainage lines has created habitat analogous with Freshwater Wetlands. However, as this habitat is a direct result of anthropogenic activities, it is likely that these areas would likely be precluded from consideration as the EEC Freshwater Wetlands on Coastal Floodplains of the New South Wales North Coast, Sydney Basin and South East Corner Bioregions listed in Schedule 2 of the BC Act.</p>

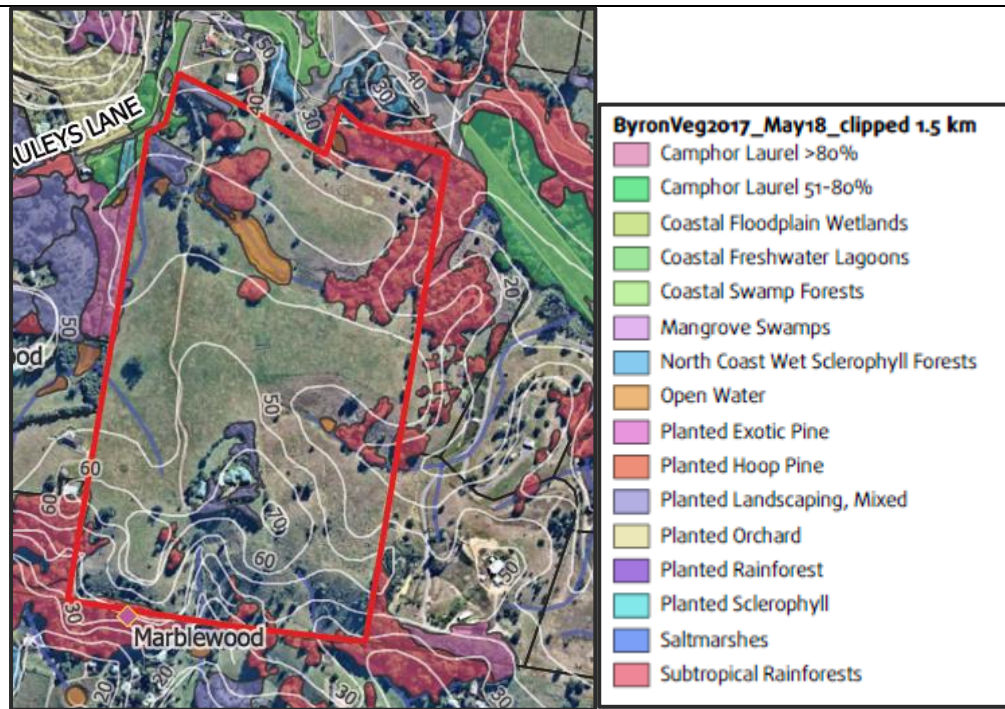


Figure 12 - BioNet Atlas threatened flora and vegetation mapping (source: Ecological Assessment - Biodiversity assessments and solutions)

Three (3) threatened flora species listed in Schedule 1 of the BC Act were recorded at the site. These were Scrub Turpentine, Durobby and Rough-shelled Bush Nut. The individuals of Rough-shelled Bush Nut are unlikely to be from a wild population and likely to have been planted in the vicinity of the original dwelling on the site (Figure 13).

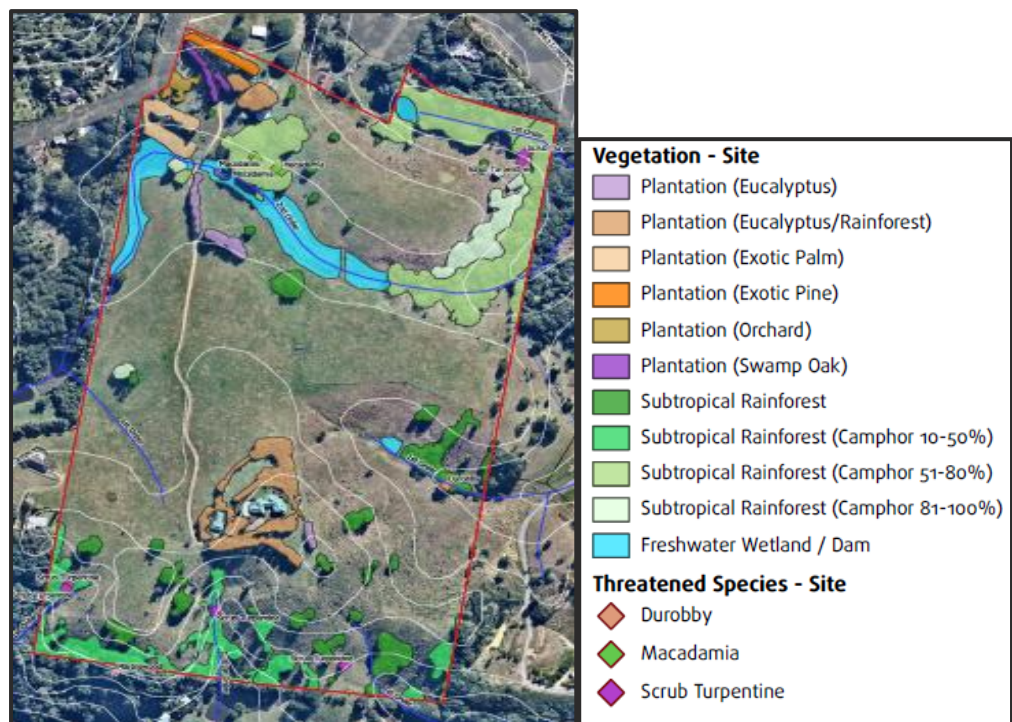


Figure 13 - Site Vegetation and BioNet flora records for the site (source: Ecological Assessment - Biodiversity assessment and solutions)

The ecological assessment has concluded that a continuation of existing use at the site is likely to result in the continued and increasing dominance of

	<p>exotic species through all vegetation communities and therefore it would be expected that without active management, the sites' vegetation condition would remain low and continue to reduce over time.</p> <p>In summary, the ecological assessment concluded that the proposal would be expected to be able to be accommodated at the site without impacting any significant vegetation or threatened flora species recorded at the site, or others with the potential to occur.</p>
Biodiversity – Fauna	<p>The site is within the southern portion of the Burringbar-Conondale Ranges IBRA subregion which contains a high diversity of fauna species based on an area within 1.5 km of the study site. A search of the NSW Wildlife Atlas also identified the confirmed records of six (6) threatened fauna species listed in Schedule 1 of the Biodiversity Conservation Act 2016 (Figure 14).</p> <p>The 1.5 km site buffer also contains the mapped Wilsons sub-regional corridor. The Wilsons sub-regional corridor is identified as being an important subregional link network for fragmented key habitats of coastal plain to hinterland and identified as of importance to the Eastern Blossum-bat, Koala & Stephens Banded Snake.</p> <p>An assessment of the site (1.5km site assessment circle) was also undertaken using the BAM calculator based on the best matching plant community types (PCT's). The BAM calculator identified 23 Candidate threatened fauna species requiring assessment for the site.</p> <p>Figure 14 - BioNet Atlas threatened fauna records within 1.5km radius and mapped habitat corridors (source: Ecological Assessment - Biodiversity assessment and solutions)</p>

As a result of significant historical impacts, the site has been extensively cleared and as such exhibits a general low condition of habitat that provides marginal habitat value for native fauna. Vegetation is degraded, fragmented, and does not form part of an important habitat corridor.

The Ecological Assessment has concluded that the suitability of the site for threatened fauna recorded in the 1.5 km assessment circle or identified as a BAM candidate species with the potential to occur, and the likelihood of occurrence is very low to moderate. Accordingly, it was also concluded that the site does not represent significant habitat for any threatened fauna species, however, additional seasonal surveys may be required for those threatened fauna species with the potential to occur and to be impacted by the proposal. It is considered appropriate that further consideration be given to the presence of and impact on threatened fauna at the development application stage of the proposal.

In regard to the presence of the Koala and its associated habitat, the site was found to contain a few small areas of Koala SEPP 2020 Schedule 2 tree species, occurring entirely as planted windrows or in association with residential gardens at the site (Figure 15). The site does not contain however any suitable areas of forest, nor would it be considered to contain habitat important to this species. It is possible this species may infrequently pass through the site to reach more suitable habitat in the wider area, although few recent local records occur. No records of usage were recorded during site surveys undertaken for the proposal. It is considered appropriate that further consideration be given to the presence of Koalas at the development application stage of the proposal.

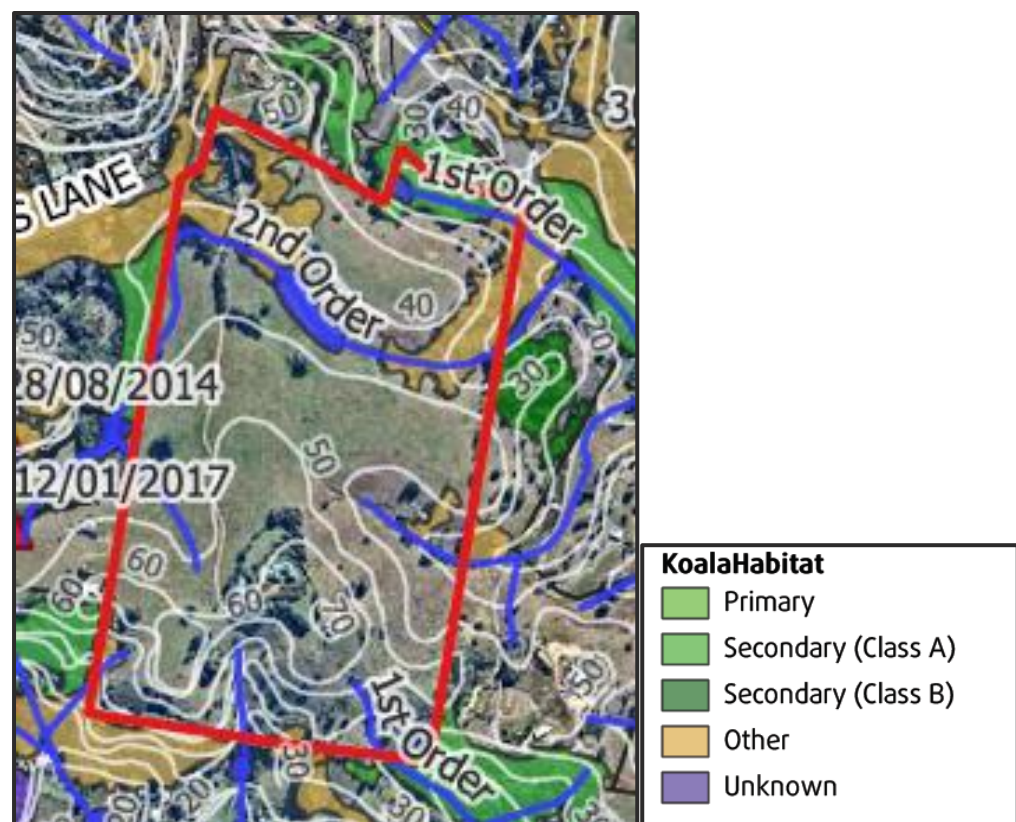


Figure 5 - Koala BioNet records & Koala habitat mapping (source: Ecological assessment - Biodiversity assessment and solutions)

The subject land is also mapped as containing areas of potential HEV under the NCRP. These areas correspond with land currently zoned E2 Environmental Conservation and will not be rezoned and can be appropriately addressed and incorporated into the final proposal design at the development application stage (Figure 16).

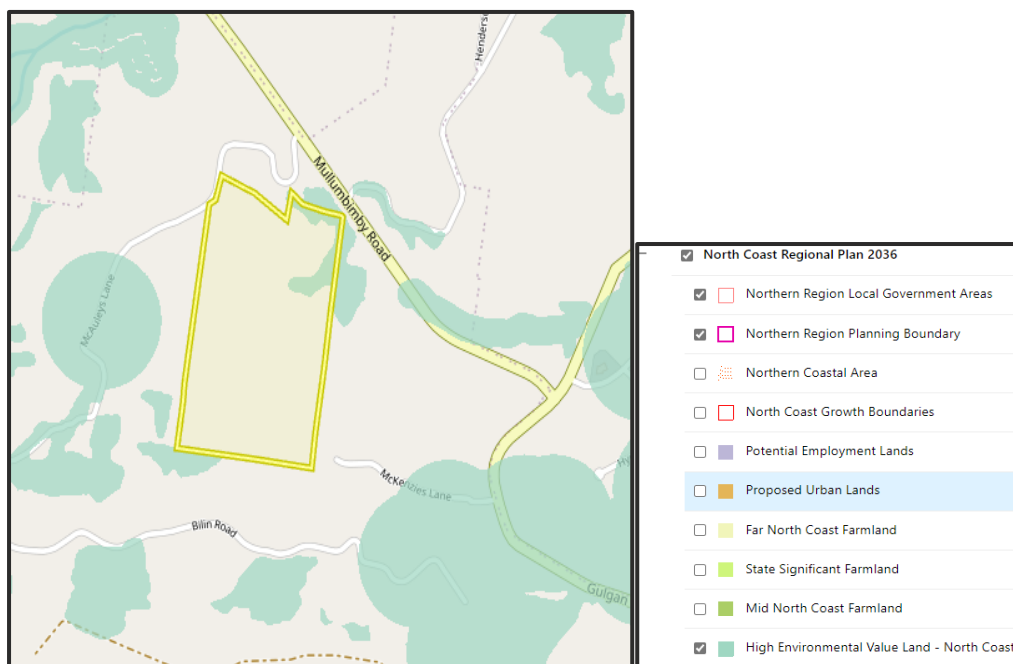


Figure 16 – Potential High Environmental Value Land - North Coast Regional Plan (source: NCRP 2036)

Consultation with DPIE – Biodiversity and Conservation Division is recommended.

Coastal Management

The site does not contain any areas of coastal wetlands or littoral rainforests and is not within the proximity areas for either of these categories.

The site occurs outside of the Coastal Use Area and only a small area of the Coastal Environmental Area intersects with the site in the far north west corner. However, the ecological assessment has concluded that the features described as characterising the Coastal Environmental Area do not occur at the site and it is considered that the Coastal Management Act 2016 and therefore the SEPP (Coastal Wetlands) 2018 are not overly relevant to the proposal.

Bushfire

The subject land is mapped as bushfire prone and as such the planning proposal is supported by a Bushfire Assessment Report.

The Bushfire Attack Level (BAL) for this land has been assessed using Method 1 in Planning for Bushfire Protection 2019 (PBP) (NSW RFS, 2019) and in Australian Standard 3959 – Construction of Buildings in Bushfire-prone Areas 2009 (AS3959) (Standards Australia, 2009). Using this method, it was determined that there is a suitable area on each potential lot for building in BAL 29 or less with further site-specific assessment required at the development application stage of the proposal.

Consultation with NSW Rural Fire Service is recommended.

Contamination

A Preliminary Site Investigation has found that analytical results from surface soils indicated all of the compounds tested returned concentrations that were

	<p>below the adopted criteria for residential use and no further investigation was deemed warranted.</p> <p>The site is considered suitable for its intended use.</p>
Traffic	<p>The 'Byron Shire Rural Land Use Strategy 2017' (BSRLUS) identified the subject land as a Priority Site 1 for Rural Lifestyle Living Opportunities and mapped it as a "Potential 'R5 Large Lot Residential' expansion area". In relation to this, the strategy further stated that the realisation of such development opportunities could only be realised through the planning proposal process which would require the support of <i>an intersection 'capacity and functionality' assessment. As required, the planning proposal is supported by a traffic assessment.</i></p> <p>The Traffic Assessment has concluded that the proposed development will impose an increase in the number of daily and peak hourly trips on the local roads. The implementation of recommended improvements that have been outlined in the report will however improve amenity and safety in relation to the traffic impacts of the proposed development.</p> <p>It is considered that further consideration of traffic related issues and the implementation of the upgrades detailed in the report can be appropriately addressed at the development application stage of the proposal.</p> <p>Consultation with Transport for NSW is recommended.</p>
Aboriginal cultural heritage	<p>The planning proposal is supported by an AHIMS Web Service search that found no Aboriginal sites recorded or Aboriginal sites declared on or near the subject land.</p> <p>Consultation with the Arakwal and Tweed-Byron Aboriginal Land Council is recommended.</p>
Stormwater	<p>As the subject land is dissected by a number of watercourses, the planning proposal is supported by a Stormwater Management Strategy. It is considered appropriate that this matter is able to be adequately addressed at the development application stage of the proposal.</p>

4.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

Table 10 Social and economic impact assessment

Social and Economic Impact	Assessment
Social	<p>It is expected that the proposed development will provide a positive contribution to the Byron Shire LGA. Benefits will include:</p> <ul style="list-style-type: none"> • Additional housing stock to cater for anticipated population growth (with the NCRP estimating an additional 3150 houses will be needed to cater for population increase to 2036); • Housing that will be able to cater for a range of household types; • Flow on community/social benefits to the wider Byron LGA, • A new residential area that is relatively unconstrained in regard to environmental impacts; and • The continued protection of land mapped as having high environmental value.

Economic	It is expected that the proposed development will provide a positive economic contribution to the local economy directly as a result of the construction of new dwellings and indirectly through a greater population base to support local business.
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4.3 Infrastructure

The following table provides an assessment of the adequacy of infrastructure to service the site and the development resulting from the planning proposal and what infrastructure is proposed in support of the proposal.

Table 11 Infrastructure assessment

Infrastructure	Assessment
Local	Local infrastructure upgrades will be required specific to site requirements identified at the development application stage.
State	There will be no impact on State or regional infrastructure or the requirement for additional funding.

5 Consultation

5.1 Community

Council proposes a community consultation period of 28 days.

The exhibition period proposed is considered appropriate.

5.2 Agencies

Council has nominated the following public agencies to be consulted about the planning proposal:

- Rural Fire Service (RFS)
- Department of Planning, Industry and Environment (Biodiversity Conservation Division - BCD)
- Natural Resources Access Regulator (NRAR)
- Arakwal and Tweed-Byron Local Aboriginal Land Council.

It is recommended the following agencies also be consulted on the planning proposal and given 21 days to comment:

- Transport for NSW (TfNSW)
- Department of Primary Industries – Agriculture (DPI - Agriculture)

6 Timeframe

Council proposes a 8 month time frame to complete the LEP.

The Department recommends a time frame of 9 months to ensure Council has sufficient time to complete the planning proposal whilst ensuring that all planning proposals are completed in line with its commitment to reduce processing times.

A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

As the site/planning proposal is consistent with an approved strategy and of local significance, it is recommended that Council be authorised to be the local plan-making authority for this proposal.

8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- The planning proposal is not inconsistent with the NCRP and will assist in delivering key Directions such as greater housing supply and increasing housing diversity and choice;
- The subject land has been identified in a Department endorsed strategy (Byron Shire Rural Land Use Strategy) as being a priority site for rural lifestyle living opportunities such as large lot residential and multiple occupancy/community title development;
- The proposed development will have positive social and economic impacts both from a housing supply, diversity and choice perspective but also an increased population base to support local business; and
- Supporting studies indicate the site to be relatively unconstrained and generally suitable for the proposal.

Based on the assessment outlined in this report, the proposal must be updated before consultation to:

- rezone that part of the site intended for multiple occupancy/community title development to R5;
- insert a proposed MLS map showing that part of the site intended for multiple occupancy/community title development as 10ha;
- include current and proposed community title and multiple occupancy maps;
- provide an assessment of consistency with the Byron Shire LSPS in Section 5.2(4); and
- correct all references to '7' community title lots with '6' community title lots.

9 Recommendation

It is recommended the delegate of the Secretary:

1. **Agree** that any inconsistencies with section 9.1 Directions 1.2 Rural Zones, 1.5 Rural Lands, 2.1 Environment Protection Zones, 2.2 Coastal Management and 5.10 Implementation of Regional Plans are minor or justified; and
2. **Note** that the consistency with section 9.1 Directions 4.4 Planning for Bushfire Protection is unresolved and will require justification.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal is to be updated to:
 - rezone that part of the site intended for multiple occupancy/community title development to R5;
 - insert a proposed MLS map showing that part of the site intended for multiple occupancy/community title development as 10ha;
 - include current and proposed community title and multiple occupancy maps;
 - provide an assessment of consistency with the Byron Shire LSPS in Section 5.2(4); and
 - correct all references to '7' community title lots with '6' community title lots.

2. Consultation is required with the following public authorities:
 - NSW RFS
 - DPIE – BCD
 - DPI – Agriculture
 - TfNSW
 - NRAR
 - Arakwal and Tweed-Byron Local Aboriginal Land Council
3. The planning proposal should be made available for community consultation for a minimum of 28 days.
4. The timeframe for completing the LEP is to be 9 months from the date of the Gateway determination.
5. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.



1 November 2021

(Signature)

(Date)

Craig Diss
Manager, Local and Regional Planning
Northern Region



1 November 2021

(Signature)

(Date)

Jeremy Gray
Director, Northern Region

Assessment officer

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