



PLANNING PROPOSAL/LEP AMENDMENT REQUEST

Lot 8 DP 589795
No. 53 McAuleys Lane, Myocum

December 2020



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Job Captain:	Dwayne Roberts				
Author:	Joanne Kay				
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1. Introduction

This section introduces the proposal and provides a general overview of the Planning Proposal.

1.1 Background

This submission comprises a Planning Proposal/LEP Amendment Request which explains the intended effect of, and provides justification for proposed amendments to the Byron Local Environmental Plan 2014 (BLEP).

The proposed amendments relate to land described as Lot 8 DP 589795, No. 53 McAuleys Lane, Myocum and involve:

- rezoning the RU2 – Rural Landscape zoned land to R5 – Large Lot Residential Zone; and
- changing the existing AB2 – 40ha minimum lot size for the proposed R5 zoned land to part W – 4000m², part Z2 – 2.5ha minimum lot size and part 10ha; and
- amending the Multiple Occupancy and Community Title Map (Sheet MOC_002) so that part of the subject land is identified on the map and thus able to be subdivided to create 6 x neighbourhood lots and 1 x association property lot

There are no changes to the boundaries of any of the existing E2 – Environmental Conservation zoned land on the subject land.

The proposed R5 – Large Lot Residential zone is the same zone as the adjoining/adjacent land to the west and south-west along McAuleys Lane.

This Planning Proposal has been prepared having regard to the provisions of:

- Section 3.33 of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*; and
- *Planning Proposals – A Guide to Preparing Planning Proposals* (Department of Planning and Environment, December 2018).

This submission has been prepared on behalf of the owner of the subject land, McAuleys No. 1 Pty Ltd. There is no Political Donations and Gifts Disclosure required to accompany this request.

1.2 Structure and Scope of Report

This LEP Amendment Initiation Request contains the following:

Section 2	Context and characteristics of subject land.
Section 3	A statement of the Objectives and Intended Outcomes of the proposed LEP amendment (Section 2.1, Part 1).
Section 4	An Explanation of the Provisions that are to be included in the proposed LEP amendment (Section 2.2, Part 2).
Section 5	The Justification for those objectives, outcomes and provisions and the process for their implementation (Section 2.3, Part 3).
Section 6	Mapping showing the relevant aspects of the proposed LEP amendment (Section 2.4, Part 4).
Section 7	Details of the Community Consultation in respect of the Planning Proposal (Section 2.5, Part 5).

A number of appendices form part of this proposal being:

Appendix A	Locality plan
Appendix B	Copy of deposited plan
Appendix C	Planning proposal plans
Appendix D	Road safety audit
Appendix E	Traffic impact assessment
Appendix F	Bushfire assessment
Appendix G	On-site wastewater report
Appendix H	Ecological assessment
Appendix I	Preliminary site investigation (SEPP 55)

Appendix J Stormwater management strategy

Appendix K AHIMS search results

Appendix L Design road safety audit

2. Context and Characteristics of Subject Land

This section describes the subject land and identifies the geographical context of the site and its relationship to the surrounding locality.

2.1 Property Details

This Planning Proposal relates to a single lot which is described in real property terms as Lot 8 DP 589795, is commonly known as No 53 McAuleys Lane, Myocum. The subject land:

- is generally rectangular in shape with overall dimensions of approx. 460m x 750m and area of 34.82ha
- has a frontage of 104.045m McAuleys Lane with vehicular access being via an existing driveway thereto
- contains a dwelling house and associated improvements/structures
- is largely cleared with a number of scattered small stands of bushland and paddock trees

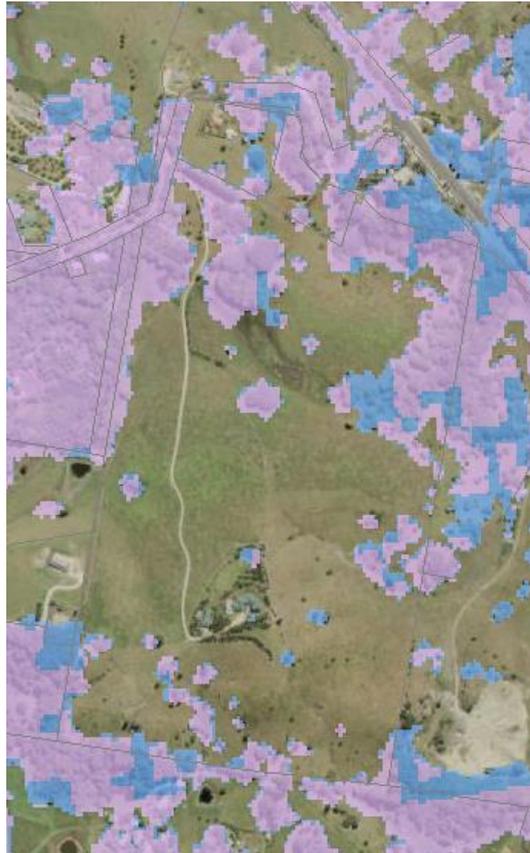
An aerial photograph of the subject and adjoining land is provided at **Appendix A**. A copy of the deposited plan is provided at **Appendix B**.

2.2 Constraints

Preliminary planning investigations (including interrogation of Council's GIS mapping) have confirmed as follows:

2.2.1 Bushfire

As shown below, parts of subject land are mapped as being bushfire prone as a consequence of Vegetation Category 1 and Category 2 vegetation + buffer.

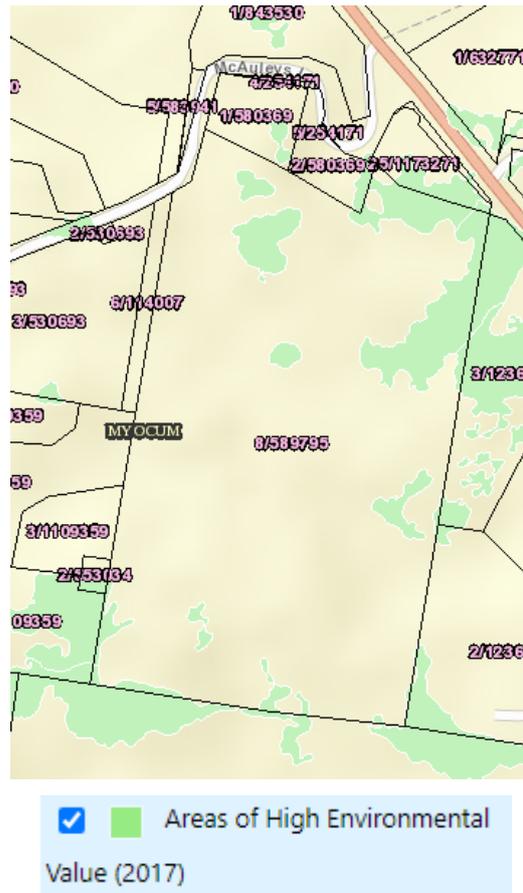


- Koala Development Application Map

 - Site Investigation Area for Koala Plans of Management
- Map

Extract: ePlanning Spatial Viewer

As shown below, parts of the subject land are mapped as containing “Areas of High Conservation Value (2017)”:



Extract: BSC Online Mapping Tool

As a consequence of the above, an ecological assessment has been prepared and is provided at **Appendix H**.

2.3 Other matters

The subject land is **not**:

- mapped as containing acid sulfate soils
- mapped as being subject to flooding
- mapped as being subject to coastal hazards or processes
- mapped as being in a drinking water catchment
- mapped as containing “Biodiversity Values” on the Biodiversity Values Map and Threshold Tool
- identified as being or containing an item of environmental heritage under Part 1 of Schedule 5 of the BLEP 2014

- identified as being within a Heritage Conservation Area under Part 2 of Schedule 5 of the BLEP 2014
- affected by any Road widening or realignment proposal under either Division 2 of Part 3 of the *Roads Act 1993*, any environmental planning instrument or any resolution of Council
- identified as being subject to acquisition by a public authority under the provisions of any environmental planning instrument, deemed or draft environmental planning instrument

2.4 Application History

A search of Council’s Online DA Tracker has identified the following applications that have been determined by Council in respect of the subject land:

Application Number	Application Type	Lodgement Date	Details
13.2004.41.1	Occupation Certificate	20/05/2009	53 Mcauleys Ln, Myocum 2482 NSW New Swimming Pool
11.1999.850.2	Construction Certificate	19/04/2004	53 Mcauleys Ln, Myocum 2482 NSW Modifications for additions to dwelling
16.2004.41.1	Complying Development Cert	16/04/2004	53 Mcauleys Ln, Myocum 2482 NSW New Swimming Pool
10.1999.850.4	DA Modification	10/02/2004	53 Mcauleys Ln, Myocum 2482 NSW Modifications for additions to dwelling Modifications for additions to dwelling
13.2002.287.1	Occupation Certificate	21/03/2003	53 Mcauleys Ln, Myocum 2482 NSW
11.2002.287.2	Construction Certificate	21/03/2003	53 Mcauleys Ln, Myocum 2482 NSW
11.1999.850.1	Construction Certificate	21/02/2003	53 Mcauleys Ln, Myocum 2482 NSW
10.1999.850.3	DA Modification	22/01/2003	53 Mcauleys Ln, Myocum 2482 NSW Section 96(1) to delete condition C3 relating to the driveway Section 96(1) to delete condition C3 relating to the driveway
11.2002.287.1	Construction Certificate	22/11/2002	53 Mcauleys Ln, Myocum 2482 NSW Farm Shed Facility
10.2002.287.2	DA Modification	28/10/2002	53 Mcauleys Ln, Myocum 2482 NSW Section 96 Modification - minor amendments to dimensions of shed Section 96 Modification - minor amendments to dimensions of shed

2.5 Strategic Planning Context

2.5.1 North Coast Regional Plan 2036 (NCRP)

Direction 24 of the NCRP relates to the delivery of well-planned rural residential housing areas and provides that *“New rural residential housing will not be permitted in the coastal strip, unless the land is already zoned for this purpose, or is identified in a Department endorsed current or future local growth management strategy (or rural residential land release strategy)”*.

The NCRP describes the *coastal strip* as being east of the Pacific Highway alignment, with the subject land thus not being situated in the *coastal strip*.

The relevant action is Action 24.1 which is to:

“24.1 Facilitate the delivery of well-planned rural residential housing areas by:

- *identifying new rural residential areas in a local growth management strategy or rural residential land release strategy endorsed by the Department of Planning and Environment; and*
- *ensure that such proposals are consistent with the Settlement Planning Guidelines: Mid and Far North Coast Regional Strategies (2007) or land release criteria (once finalised.”*

As detailed below in **Section 2.4.2**, the subject land is identified as Priority Site 1 for Rural Lifestyle Living Opportunities and is mapped as “Potential ‘R5 Large Lot Residential’ expansion areas” under the Byron Shire Rural Land Use Strategy 2017.

Under the circumstances, the proposed application of a large lot residential zone (R5) and a respective minimum lot size/subdivision standard and an area of “multiple occupancy and community title” is consistent with the provisions of the NCRP.

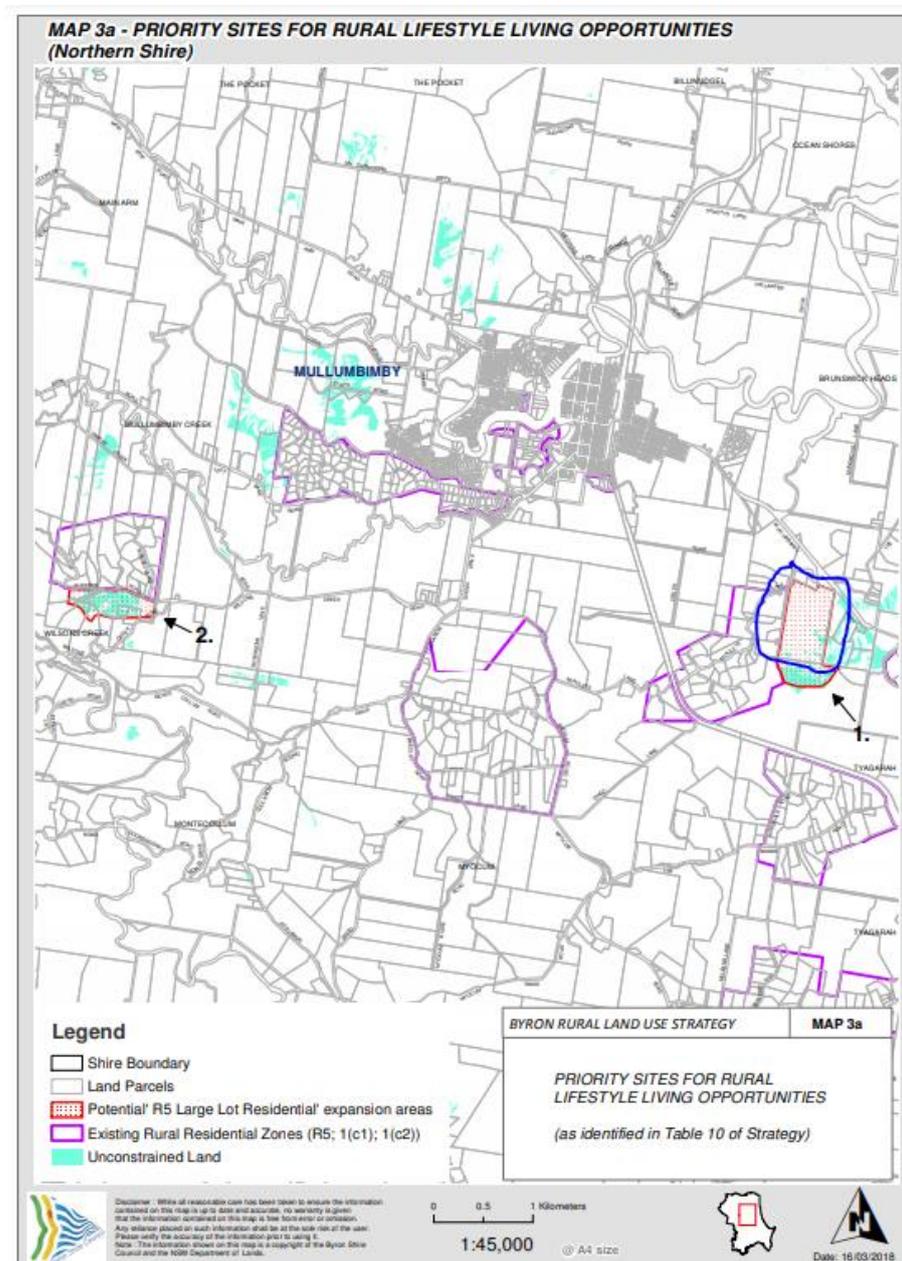
2.5.2 Byron Shire Rural Land Use Strategy 2017 (BSRLUS)

The BSRLUS was approved by the Department of Planning and Environment in June 2018 with the final document being dated July 2018. The BSRLUS replaced the 1998 Byron Rural Settlement Strategy.

As shown below, the subject land is identified as a priority site for rural lifestyle living opportunities (Site 1) in both Table 10 and Map 3a of the BSRLUS:

Table 10: Priority sites for future rural lifestyle living opportunities

Map 3 Reference	Locality	Potential Dwelling Yield (c)	Intersection requiring assessment
1.	McAuleys lane / Bilin Road, Myocum	25-45	Intersection of McAuleys Lane and Mullumbimby Road
2.	Wilsons Creek / Alidenes Rd	15-30	Intersection of Alidenes Road and Wilsons Creek Road
3.	Coopers Shoot Road, Coopers Shoot	- (a)	Not applicable
4.	Linnaeus Estate site Broken Head Road, Broken Head	- (b)	Not applicable
TOTAL (approximate)		40-75 dwellings	



Section 4.2 of the Strategy, ‘Process for implementing Land Release Program enabling future rural lifestyle living opportunities’, provides that:

“The sites identifies in the Table 10 and Maps 3, 3a and 3b are in a rural zone that does not permit Large Lot Residential Subdivision (Sites 1-3) or conversion to Rural Community Title Subdivision (Site 4).

With exception of certain land parcels identified in the Byron LEP 2014 ‘Multiple Occupancy and Community Title Map’, the above opportunities can only be realised by amending Byron LEP 2014, by a process known as a Planning Proposal. As discussed in Section 4.1 above, landowners in sites ‘1’ and ‘2’ must undertake an intersection ‘capacity and functionality’ assessment prior to commencing the Planning Proposal process. This is necessary to determine the nature and cost of any required road intersection upgrades to accommodate future development of these sites, which must be funded by the respective landowners....”.

This Planning Proposal has thus been prepared in accordance with the above and proposes to:

- rezone part of the subject land to R5 – Large Lot Residential Zone to enable the R5 zoned land to be subdivided and developed for large lot residential purposes
- map the remaining part of the subject land to (via a thick purple line) to allow a community title subdivision (containing 6 x neighbourhood lots and 1 x association property lot)

As required by the above and particularly in respect of Site 1, an intersection assessment/analysis has been undertaken and is provided in the Traffic Impact Assessment at **Appendix E**. Further to the above, a Road Safety Audit has also been carried out of McAuleys Lane (between Mullumbimby Road and Myocum Road), with a copy of such being provided at **Appendix D**.

As shown on the plans at **Appendix C** and particularly the concept subdivision plan, it is expected that the proposal will yield in the order of:

- 33 x large residential lots
- 6 x neighbourhood/community title lots
- 1 x association/community title lot

Under the circumstances, the proposed application of a large lot residential zone and respective lot size/subdivision standard and an area of “multiple occupancy and community title” land is consistent with the provisions of the BSRLUS.

2.6 Relevant Provisions of BLEP 2014

The subject land is mapped under the BLEP 2014 as follows:

- part RU2 – Rural Landscape Zone and part E2 – Environmental Conservation Zone
- 9m maximum building height
- 40ha lot size

3. Objectives and Intended Outcomes of Proposed LEP Amendment

3.1 Objectives of Planning Proposal

The objective of the Planning Proposal is to enable the future subdivision of the subject land to create/permit large lot residential and community title lots (and the construction of future dwellings thereon) involving:

- rezone part of the RU2 zoned area of the subject land to R5 – Large Lot Residential Zone and to apply a minimum lot size commensurate with the adjoining R5 – Large Lot residential zoned lands to the west and south-west to enable the land to be subdivided and developed for future larger lot residential purposes
- to permit part of the subject land to be subdivided and developed for future community title subdivision purposes (possible indicative yield of 6 x neighbourhood lots and 1 x association property lot)

The small areas of E2 zoned land on the subject land will be retained as existing. It is intended that these small isolated areas will be contained in a number of the larger residential lots and the 1 x association lot in conjunction with any future development application for subdivision.

There is no proposed change to the existing mapped building height applying to the subject land.

3.2 Possible Future Uses

As shown on the plans at **Appendix C**, the potential likely lot yield is as follows, with a future dwelling likely to be constructed on each of the proposed lots (and thus used for residential purposes), with the exception of the 1 x association property lot (which will be used for open space/rehabilitation/environmental purposes):

- 33 x large lot residential lots and new public roads in the proposed R5 zoned land
- 6 x neighbourhood and 1 x association property lot and a new private road in the proposed thick purple line

4. Explanation of Provisions of Proposed LEP Amendment

4.1 Explanation of Proposed Amendments

The proposed amendments to the BLEP 2014 involve:

- rezoning part of the RU2 – Rural Landscape zoned land to R5 – Large Lot Residential Zone; and
- changing the existing AB2 – 40ha minimum lot size for the proposed R5 zoned land to part W – 4000m², part Z2 – 2.5ha, and part 10 ha minimum lot size; and
- amending the Multiple Occupancy and Community Title Map (Sheet MOC_002) so that part of the subject land is outlined by a thick purple line and is thus able to be subdivided to create 6 x neighbourhood lots and 1 x association property lot

The proposed zone and development controls listed above are commensurate with other R5 zoned land and community title subdivisions within other rural areas of the Shire.

This planning proposal does not propose to alter the existing E2 zone boundaries or maximum building height provisions.

5. Justification for the Proposed LEP Amendment

5.1 Section A – Need for the planning proposal

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

The subject land is specifically identified in the Byron Shire Rural Land Release Strategy 2017 as being a priority site (Site 1) for rural lifestyle living opportunities, being mapped as “*Potential ‘R5 Large Lot Residential’ expansion areas*”.

The Byron Shire rural community resides in a range of household types and settlement patterns. Large lot residential known as ‘conventional rural residential’ is a type of rural housing choice where people can connect with surrounding farmland and natural areas to support and strengthen rural villages. The subject site has been identified as a priority site for conventional large lot residential subdivision.

The lot has been identified as being sufficiently unconstrained in a location that will build on and make more efficient use of existing infrastructure.

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

The Byron Shire Rural Land Use Strategy 2017 provides that the rezoning process is the appropriate path to facilitate large lot residential subdivision and development of priority sites for future rural lifestyle living opportunities identified within the strategy.

It is submitted that an LEP amendment is the best (and only) way in which to achieve the proposed outcomes of the Strategy, as the proposal relates expressly to land use zoning and future residential type subdivision.

5.2 Section B – Relationship to strategic planning framework

3. *Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?*

As detailed in **Section 2.4.1**, the proposal is consistent with the provisions of the North Coast Regional Plan 2036 and in particular Direction 24 which relates to the delivery of well-planned rural residential housing areas and provides that *“New rural residential housing will not be permitted in the coastal strip, unless the land is already zoned for this purposes, or is identified in a Department endorsed current or future local growth management strategy (or rural residential land release strategy)”*.

The proposal will satisfy and comply with Action 24.1 which is to:

“24.1 Facilitate the delivery of well-planned rural residential housing areas by:

- *identifying new rural residential areas in a local growth management strategy or rural residential land release strategy endorsed by the Department of Planning and Environment; and*
- *ensure that such proposals are consistent with the Settlement Planning Guidelines: Mid and Far North Coast Regional Strategies (2007) or land release criteria (once finalised.”*

The Planning Proposal is consistent with the provisions of the NCRP largely as a consequence of the preparation and endorsement of the Byron Shire Rural Land Use Strategy 2017 by Council and the Department of Planning (as detailed below).

4. Will the planning proposal give effect to a Council’s endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

Byron Shire Rural Land Use Strategy 2017

As detailed in **Section 2.4.2**, the subject land is identified as Priority Site 1 for Rural Lifestyle Living Opportunities and is mapped as “Potential ‘R5 Large Lot Residential’ expansion areas” under the Byron Shire Rural Land Use Strategy 2017, which has been endorsed by the Department of Planning.

The Planning Proposal will provide additional land that is able to be subdivided and developed for rural residential purposes, providing a mixture of large residential lots and community title lots to meet future demand for this type of housing for the next planning period.

The Planning Proposal is thus consistent with the BSRLUS. The information contained in this Planning Proposal document confirms and supports the capability of the land to accommodate rural residential development, which is thus consistent with the regional planning framework.

Local Strategic Planning Statement

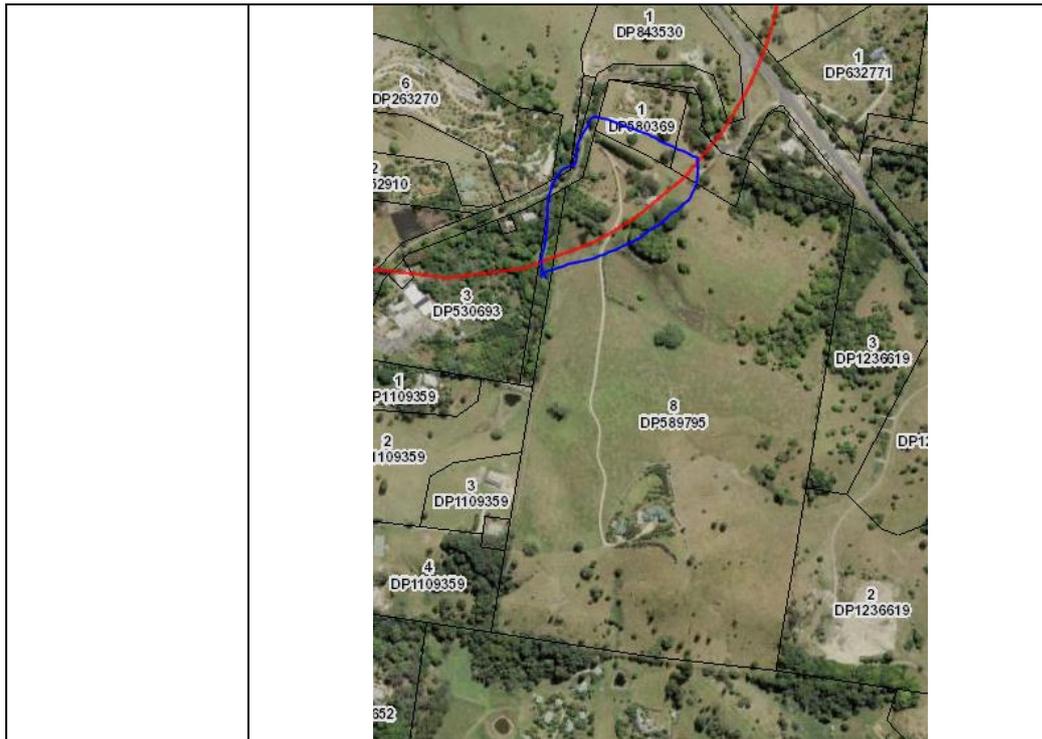
The planning proposal will contribute to the diversity of housing supply by enabling large lot residential subdivision and community title subdivision in a location that is in walking distance to public transport services on Mullumbimby Rd, proximal to the townships of Mullumbimby and Brunswick Heads, and a short distance to the M1 motorway.

The proposal is consistent with the LSPS land use priorities and actions for a liveable Shire by enabling the delivery of well-planned rural residential housing area.

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

There are a number of SEPP's that are of relevance to the proposal, details of which are as follows:

SEPP Title	Compliance of Planning Proposal
SEPP 55 – Remediation of Land	<p>Local Planning Direction 2.6 – Remediation of Contaminated Land requires the planning authority when preparing a planning proposal to consider whether the land is contaminated and whether the land is suitable for such purpose (ie is not contaminated or requires remediation to make it suitable).</p> <p>The subject land is a 34.82ha rural lot that contains a dwelling house and has and continues to be used for cattle grazing and does not have any current or historical usage that would have likely contaminated the land. Further, the land does not adjoin and is not proximate to any intensive horticulture or other potentially contaminating uses.</p> <p>A Preliminary Site Investigation (SEPP 55) is provided at Appendix I and it is therefore concluded that the Planning Proposal is consistent with the provisions of and is not contrary to the intent and objectives of the SEPP and Local Planning Direction 2.6.</p>
SEPP (Koala Habitat Protection) 2019	<p>This SEPP applies to Byron Shire and is within the North Coast Koala Management Area. As detailed above in Section 2.2.2, parts of the subject land are mapped as “Koala Development Application Map” and “Site Investigation Area for Koala Plans of Management Map”. As a consequence of such, an ecological assessment has been undertaken and is provided at Appendix H, which has assessed the proposed LEP amendment under the provisions of SEPP-KHP.</p>
SEPP (Coastal Management) 2018	<p>As shown below in blue, only the north-western corner of the subject land is situated in “coastal zone” and is thus subject to the provisions of SEPP-CM.</p>



Extract: SEPP (Coastal Management) 2018 – maps

The subject land is **NOT** mapped under the SEPP mapping as being/containing:

- Coastal Wetlands and Littoral Rainforest Area and/or proximity area thereto
- Coastal Vulnerability Area (no map at this time)
- Coastal Use Area

The above section of the land shown in blue is mapped as being/containing “Coastal Environment Area” and thus the provisions of Division 3 – Coastal Environment Area, *Clause 13 – Development on land within the coastal environment area* will apply and will have to be considered by the consent authority when assessing any future development application made over the subject land.

The nature of the proposed rezoning and concept subdivision layout, having regard the location and character of the subject land is considered to be such that is not contrary to the intent and objectives (and development control considerations) of the SEPP.

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

Section 9.1 of the *EP & A Act 1979* provides directions that relevant planning authorities must have regard to when preparing planning proposals for new LEPs. The following table identifies which of these directions are applicable to the proposed rezoning and how the Planning Proposal is consistent with their provisions.

Direction Number	Compliance of Planning Proposal
Employment and Resources	
1.1 Business and Industrial Zones	Does not apply to the Planning Proposal.

1.2 Rural Zones	Complies – The subject land is mapped as Priority Site for Rural Lifestyle Living Opportunity (Site 1), being “Potential ‘R5 Large Lot Residential’ Expansion Area” under the Byron Shire Rural Land Release Strategy 2017 and is thus able to be justified as a consequence such.
1.3 Mining, Petroleum Production and Extractive Industries	Does not apply to Planning Proposal.
1.4 Oyster Aquaculture	Does not apply to the Planning Proposal.
1.5 Rural Lands	Complies – The subject land is mapped as Priority Site for Rural Lifestyle Living Opportunity (Site 1), being “Potential ‘R5 Large Lot Residential’ Expansion Area” under the Byron Shire Rural Land Release Strategy 2017 and is thus able to be justified as a consequence such.
Environment and Heritage	
2.1 Environmental Protection Zones	Complies – The proposal will not change or reduce the existing E2 zone boundaries over the subject land and will not change or reduce the environmental protection standards applying to the land.
2.2 Coastal Management	<p>Complies – The proposal does not involve the rezoning of any land that would enable increased development or more intensive land-use on land:</p> <p><i>(a) within a coastal vulnerability area identified by the State Environmental Planning Policy (Coastal Management) 2018; or</i></p> <p><i>(b) that has been identified as land affected by a current or future coastal hazard in a local environmental plan or development control plan, or a study or assessment undertaken:</i></p> <p><i>(i) by or on behalf of the relevant planning authority and the planning proposal authority, or</i></p> <p><i>(ii) by or on behalf of a public authority and provided to the relevant planning authority and the planning proposal authority.</i></p> <p>The subject land is physically and spatially removed from any coastal foreshore area and is not subject to any damaging coastal processes. Further the subject land is not mapped as containing acid sulfate soils or being subject to flooding or tidal inundation. The proposal will not have any impact on any coastal foreshore land (public or private).</p> <p>The Planning Proposal is not inconsistent with the terms of this direction.</p>
2.3 Heritage Conservation	<p>Complies – The subject land is not identified as being or containing an item of environmental heritage per Schedule 5 of the BLEP 2014.</p> <p>Further, an AHMIS search was undertaken for the subject land + 200m buffer (refer Appendix K) which confirmed:</p> <ul style="list-style-type: none"> - Zero Aboriginal sites are recorded in or near the above location. - Zero Aboriginal places have been declared in or near the above location.
2.4 Recreation Vehicle Areas	Does not apply to the Planning Proposal.
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	Complies – The proposal will not change or reduce the existing E2 zone boundaries over the subject land and will not introduce or alter any overlay or associated clause applying to the land. The proposal will not introduce any E3 zone over the subject land.
2.6 Remediation of Contaminated Land	Complies – A Preliminary Site Investigation (SEPP 55) has been prepared and is provided at Appendix I .
Housing, Infrastructure and Urban Development	
3.1 Residential Zones	Complies – The subject land is mapped as Priority Site for Rural Lifestyle Living Opportunity (Site 1), being “Potential ‘R5 Large Lot Residential’ Expansion Area” under the Byron Shire Rural Land Release Strategy 2017 and is thus able to be justified as a consequence such.
3.2 Caravan Parks and Manufactured Home Estates	Does not apply to the Planning Proposal.
3.3 Home Occupations	Complies – Home occupations are permitted without consent in the R5 zone under the BLEP 2014.
3.4 Integrated Land Use and Transport	Complies – The subject land is mapped as Priority Site for Rural Lifestyle Living Opportunity (Site 1), being “Potential ‘R5 Large Lot Residential’ Expansion Area” under the Byron Shire Rural Land Release Strategy 2017 and is thus able to be justified as a consequence such.
3.5 Development Near Regulated Airports and Defence Airfields	Does not apply to the Planning Proposal.
3.6 Shooting Ranges	Does not apply to the Planning Proposal.
3.7 Reduction in non-hosted short term rental accommodation period	Does not apply to the Planning Proposal.

Hazard and Risk	
4.1 Acid Sulphate Soils	Does not apply to the Planning Proposal – The subject land is not mapped as containing acid sulfate soils.
4.2 Mine Subsidence and Unstable Land	Does not apply to the Planning Proposal.
4.3 Flood Prone Land	Does not apply to the Planning Proposal – The subject land is not mapped as being subject to flooding.
4.4 Planning for Bushfire Protection	Complies – As a consequence of the subject land being partly mapped as being bushfire prone, a Bushfire Assessment has been prepared having regard to Planning for Bushfire Protection 2019 and is provided at Appendix F .
Regional Planning	
5.1 Implementation of Regional Strategies	Revoked 17 April 2017.
5.2 Sydney Drinking Water Catchments	Does not apply to the Planning Proposal.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Complies – The subject land is mapped as Priority Site for Rural Lifestyle Living Opportunity (Site 1), being “Potential ‘R5 Large Lot Residential’ Expansion Area” under the Byron Shire Rural Land Release
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Does not apply to the Planning Proposal.
5.5 Development in the Vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	Revoked 18 June 2010.
5.6 Sydney to Canberra Corridor	Revoked 10 July 2008.
5.7 Central Coast	Revoked 10 July 2008.
5.8 Second Sydney Airport: Badgerys Creek	Revoked 20 August 2018.
5.9 North West Rail Link Corridor Strategy	Does not apply to the Planning Proposal.
5.10 Implementation of Regional Plans	<p>Complies - Direction 24 of the NCRP provides for the delivery of well-planned rural residential housing areas. This planning is facilitated by the identification of new rural residential areas in a local growth management strategy or rural residential land release strategy endorsed by the Department of Planning and Environment.</p> <p>The subject land is mapped as Priority Site for Rural Lifestyle Living Opportunity (Site 1), being “Potential ‘R5 Large Lot Residential’ Expansion Area” under the Byron Shire Rural Land Release. The development is consistent with this Action of the NCREP.</p>
5.11 Development of Aboriginal Land Council land	Does not apply to the Planning Proposal.
Local Plan Making	
6.1 Approval and Referral Requirements	Complies – The proposal does not introduce any new concurrence or consultation provisions or any additional designated development types.
6.2 Reserving Land for Public Purposes	Does not apply to the Planning Proposal.
6.3 Site Specific Provisions	Complies – The proposal seeks to apply an R5 zone to the land that is the same as the adjoining R5 zoned land. This will enable a subsequent application for the subdivision of the land into appropriate sized Lots consistent with the minimum lot size identified by this planning proposal.
Metropolitan Planning	
7.1 Implementation of A Plan for Growing Sydney	Does not apply to the Planning Proposal.
7.2 Implementation of Greater Macarthur Land Release Investigation	Revoked 28 November 2019.
7.3 Parramatta Road Corridor Urban Transformation Strategy	Does not apply to the Planning Proposal.
7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	Does not apply to the Planning Proposal.
7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Does not apply to the Planning Proposal.

7.6 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Does not apply to the Planning Proposal.
7.7 Implementation of Glenfield to Macarthur Urban Renewal Corridor	Does not apply to the Planning Proposal.
7.8 Implementation of the Western Sydney Aerotropolis Plan	Does not apply to the Planning Proposal.
7.9 Implementation of Bayside West Precincts 2036 Plan	Does not apply to the Planning Proposal.
7.10 Implementation of Planning Principles for the Cooks Cove Precinct	Does not apply to the Planning Proposal.
7.11 Implementation of St Leonards and Crows Nest 2036 Plan	Does not apply to the Planning Proposal.
7.12 Implementation of Greater Macarthur 2040	Does not apply to the Planning Proposal.

5.3 Section C – Environmental, social and economic impact

7. 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?

As evidenced from the aerial photograph at **Appendix A**, the subject land is largely cleared with some scattered paddock trees and some stands of vegetation generally in the northern part of the site.

As detailed above in **Section 2.2.2**, the subject land contains some potential Koala habitat and areas of high conservation value.

As a consequence of such, an ecological assessment has been prepared (refer **Appendix H**) which concluded that:

- *The site covers an area of approx. 35ha and is predominantly cleared, highly disturbed and dominated by exotic species throughout most vegetation communities and through all structural layers.*
- *The site contains several identified vegetation community associations which include:*
 - *approx. 26.7ha of low constraint exotic grazing pasture with minimal ecological value*
 - *approx. 5.7ha of low to moderate condition Subtropical Rainforest with Camphor Laurel*
 - *approx. 1.2ha with freshwater wetland vegetation*
 - *approx. 1.4ha of planted native and exotic species as windrows, landscaping or cultivated orchard*

- *It has been calculated that with the protection of freshwater wetlands, native vegetation and stream order buffers, over 70% of the site is considered low constraint.*
- *Most vegetation at the site is considered to have low to moderate ecological value or provide low to moderate wildlife habitat as it is predominantly exotic pasture grasses or regrowth exotic vegetation (dominated by Camphor Laurel) occurring in small isolated fragments.*
- *Subtropical Rainforest species occur across the site with species such as Brush Box, Hoop Pine, and Ficus spp. being most abundant. 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.*
- *Wetlands with characteristics analogous to the EEC Freshwater Wetlands on Coastal Floodplains of the New South Wales North Coast, Sydney Basin and South East Corner Bioregions have been identified from the rezoning proposal area. It is considered that as these are likely a direct result of anthropogenic modification, and/or not located on the coastal floodplain and are therefore unlikely to satisfy the EEC criteria.*
- *Three (3) threatened flora species listed in Schedule 1 of the Biodiversity Conservation Act 2016 were recorded during site surveys. These were Scrub Turpentine (*Rhodamnia rubescens*), Durobby (*Syzygium moorei*) and Rough-shelled Bush Nut (*Macadamia tetraphylla*). 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. Additionally, several species identified in the BAM Calculator as having the potential to occur have specified survey periods unable to be satisfied for the purposes of this report. Additional surveys may be warranted for those species.*
- *Additional fauna surveys may be warranted for species identified as having the potential to occur as generated by the BAM Calculator if the BOS is triggered, particularly Little Bent-winged Bat (*Miniopterus australis*), Large Bent-winged Bat (*Miniopterus orianae oceanensis*) and Southern myotis (*Myotis macropus*).*
- *Koala feed trees (as per Schedule 2 of SEPP Koala Habitat Protection 2019) occur at the site and as Clause 9(1) of the SEPP applies, the development assessment requirements of core Koala habitat is triggered. Therefore the survey methods according to Appendix C of the Guidelines must be applied to the site in the preparation of a development application to establish if the development constitutes a Tier 1 or Tier 2 development, and whether the preparation of a Koala Assessment Report is required.*
- *As the site contains predominantly cleared low constraint land and low condition vegetation, and contains limited habitat features, any impacts from future development would be able to be sufficiently mitigated as to be unlikely to result in significant impacts for threatened fauna listed under the NSW Biodiversity Conservation Act 2016 or the Environmental Protection and Biodiversity Conservation Act 1999.*
- *The subsequent subdivision and development would be reasonably expected to be able to be accommodated with minimal impacts to native vegetation by utilising existing cleared agricultural areas of low ecological value.*

- *Potential impacts of the construction and occupation phases of the proposal would be able to be mitigated sufficiently to ensure that direct and indirect impacts on biodiversity values would be negligible.*
- *The proposal would also be reasonably expected to be able to incorporate strategies to mitigate direct and indirect impacts, enable regeneration, and off-set on-site to achieve a net improvement in site biodiversity values.*
- *Based on these key points it is considered from an ecological perspective, that the site is entirely suitable for the proposal and subsequent development. The impacts of any vegetation loss would be able to be suitably offset on site to*

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

As a consequence of the planning works and investigations that were undertaken by Council during the preparation of the Byron Shire Rural Land Use Strategy, it was confirmed that the subject land is relatively unconstrained. However, there are a number of relatively minor constraints applying to the subject land which are not considered to be such that would be fatal to or significantly prejudice the proposed rezoning viz:

- Some small scattered areas of the subject land are mapped as being bushfire prone, with the bulk of the mapped areas being “vegetation buffer” and some small areas being Vegetation Category 1 and 2 vegetation. As a consequence of such, a Bushfire Assessment under PBP 2019 has been prepared and is provided at **Appendix F**.
- The subject land is dissected by a number of watercourses (being “blue lines” on the topographic maps). Any future subdivision and development of the subject land will increase impervious areas/surfaces on the subject land and thus there will be an increase in the type and quantum of stormwater generated at/by the site. As a consequence of such, a Stormwater Management Strategy has been prepared and is provided at **Appendix J**.
- There will not be any changes to or impacts on any of the existing E2 zoned land and the vegetation contained therein.

Provided at **Appendix I** is a Preliminary Site Investigation (SEPP 55) which concluded that:

- *A desktop review of available information and a site visit 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.*

- *Based on the sample data collected (nine primary surface soil samples) and the absence of contamination at the site, no further investigation is deemed warranted.*
- *A review of laboratory data against the data quality indicators outlined in this report, demonstrate that the data is representative and satisfactory for use in the assessment.*
- *The site is considered to be suitable for its intended use.*

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

The development of a future subdivision and construction of dwelling houses on the new lots (contingent upon the rezoning) will have positive social and economic impacts in the locality and broader region through the provision of additional large lot residential lots that will meet the identified demand for and will provide further choice and diversity in housing stock and will have significant resultant multiplier impacts on the local economy and an increase in Council's rate base.

Further, the proposal is consistent with the provisions of BSRLUS 2017 which was subject to detailed community consultation (including numerous public exhibitions) and Councillor involvement and is also consistent with the provisions of the NCRP 2036 and the NSW Settlement Planning Guidelines.

Reticulated public infrastructure services (electricity and telephone) are available in the immediate locality and there are no significant economic issues with the servicing of any future development. Each future lot will have to be serviced by on-site potable water supply (likely roof-water storage tanks) and on-site wastewater management disposal (refer **Appendix H**).

5.4 Section D – State and Commonwealth interests

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

The existing locality is connected to and serviced by a constructed public road system (refer Road Safety Audit at **Appendix D** and Traffic Impact Assessment at **Appendix E**) and reticulated electricity and telephone services. There is sufficient capacity for any proposed large residential type lots to be efficiently and economically connected to and serviced by such services.

The subject land and immediate locality is not connected to/serviced by reticulated water or sewerage systems and thus any future dwelling houses on future lots would have to be serviced by on-site potable water supply (likely roof-water storage tanks) on-site wastewater management and disposal (refer **Appendix G**).

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

The views of the Department of Planning, Infrastructure and Environment and other relevant state and Commonwealth bodies will be obtained in line with the Gateway Determination. Consultation is recommended with following agencies:

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

6. Mapping Supporting Proposed LEP Amendment

Provided at **Appendix C** is a set of maps that show the existing and proposed zoning and minimum lot size mapping for the subject property, as well as conceptual subdivision layouts over the property (including concept roads).

An aerial photograph of the subject and adjoining land is also provided at **Appendix A** with a copy of the deposited plan being provided at **Appendix B**.

7. Community Consultation

There has not been any community consultation undertaken in respect of this Planning Proposal at this point in time.

It is likely that a requirement for community consultation will be contained in any Gateway Determination, with such community consultation and advertising having to be duly undertaken by Council in the further processing of this Planning Proposal.

It is recommended that this planning proposal is placed on public exhibition for a minimum of 28 days and a notification letter is sent to all adjoining landowners prior to exhibition. Public exhibition will be in accordance with Byron Community Participation Plan and the Gateway determination.

8. Project timeline

The expected timeline for the completion of this planning proposal is as follows:

Estimated completion	Task
November 2021	Gateway determination received from DPE
December - September 2021/22	Voluntary Planning Agreement drafted. Public exhibition and agency consultation
September – October 2022	Analysis of public submissions and report to Council
October 2022	Decision by Council to support the proposal and submit to NSW DPIE under delegation for finalisation.

9. Appendices

Appendix A	Locality Plan
Appendix B	Copy of deposited plan
Appendix C	Planning proposal plans
Appendix D	Road safety audit
Appendix E	Traffic impact assessment
Appendix F	Bushfire assessment
Appendix G	On-site wastewater report
Appendix H	Ecological assessment
Appendix I	Preliminary site investigation (SEPP 55)
Appendix J	Stormwater management strategy
Appendix K	AHIMS search results
Appendix L	Design road safety audit

APPENDIX A

Appendix A: Locality plan

APENDIX B

Appendix B: Copy of deposited plan

APPENDIX C

APPENDIX D

Appendix D: Road safety audit

APPENDIX E

APPENDIX F

APPENDIX G

Appendix G: On-site wastewater report

APPENDIX H

APPENDIX I

Appendix I: Preliminary site investigation (SEPP 55)

APPENDIX J

APPENDIX K

Appendix K: AHIMS search results

APPENDIX K

Appendix K: AHIMS search results

APPENDIX L

Appendix L: Design road safety audit