

Report No. 13.14 PLANNING - 26.2023.5.1 Planning Proposal for 68 Rankin Drive, Bangalow - Rezone land for Housing and to activate the dedication of land to Council for Affordable Housing under the Byron Shire Affordable Housing Contribution Scheme

Directorate: Sustainable Environment and Economy

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File No: I2024/67

Summary:

The purpose of this report is to present to Council an owner-initiated Planning Proposal (Attachment 1) for land known as 68 Rankin Drive, Bangalow, described as Lot 261 DP1262316 and Lot 11 DP807867.

The objective of the Planning Proposal is to amend the Byron LEP 2014 to extend the existing R2 Low Density Residential Zone on the above lots and rezone the eastern portion of the land to R3 Medium Density Residential.

Once rezoned, the future subdivision of the land will provide for larger lots on the steeper western area of the site, along with medium density lots on the flatter eastern area. One of the medium density lots, having an area of 5,645m² of developable land, is intended to be dedicated to Council for affordable housing through Council's Affordable Housing Contributions Scheme (AHCS). This is the first Planning Proposal to activate the Scheme.

It is recommended that the Planning Proposal be forwarded to the Department of Planning, Housing and Infrastructure for a Gateway Determination, subject to recommended updates.

NOTE TO COUNCILLORS:

In accordance with the provisions of S375A of the Local Government Act 1993, a Division is to be called whenever a motion for a planning decision is put to the meeting, for the purpose of recording voting on planning matters. Pursuant to clause 2(a) under the heading Matters to be Included in Minutes of Council Meetings of Council's adopted Code of Meeting Practice (as amended) a Division will be deemed to have been called by the mover and seconder of all motions relating to this report.

RECOMMENDATION:

That Council:

- 5 1. **Notes that the planning proposal in Attachment 1 is the first to activate the Byron Shire Affordable Housing Contribution Scheme, therefore once finalised will:**
- a) **be the first inclusion of land in the Affordable Housing Contribution Scheme – LEP 2014 Map; and**
- 10 b) **result in the dedication of land to Council for affordable housing as part of any future subdivision approval of the land.**
2. **Proceeds with the planning proposal (Attachment 1) which seeks to:**
- a) **amend the Byron LEP 2014 to rezone Lot 261 DP1262316 & Lot 11 DP807867 in Bangalow to extend the existing R2 Low Density Residential Zone and include an R3 Medium Density Residential Zone.**
- 15 3. **Forwards the planning proposal to the Department of Planning, Housing and Infrastructure for a Gateway Determination after making the following updates:**
- a) **inclusion of Floor Space Ratio map applying the following planning controls to the subject land:**
- | Proposed Zone | Floor Space Ratio Map |
|-------------------------------|--|
| R2 Low Density Residential | 0.5:1 (consistent with steeper sloping land in surrounding R2 zone) |
| R3 Medium Density Residential | No FSR to apply (to allow greater flexibility for housing diversity/densities) |
- 20 b) **inclusion of Affordable Housing Contribution Scheme Map identifying the subject land as an “*Affordable housing contribution area*”.**
4. **Pending a positive Gateway determination, undertakes public exhibition of the planning proposal in accordance with the determination requirements; and**
5. **Considers a submissions report post-exhibition that includes any recommended changes to the planning proposal for final adoption.**
- 25

Attachments:

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- 1 26.2023.5.1 Planning Proposal (Nov 2023) - 68 Rankin Drive BANGALOW_PP-2023-1376 - gateway version, E2023/134194
- 2 26.2023.5.1 Bushfire Report (Rezoning) PP-2023-1376, E2023/68415
- 3 26.2023.5.1 Engineering Services Report (July 2023) PP-2023-1376, E2023/68419
- 5 4 26.2023.5.1 Geotech Report_PP-2023-1376, E2024/9912
- 5 5 26.2023.5.1 Contamination Preliminary Site Investigation PP-2023-1376, E2024/9913
- 6 26.2023.5.1 LUCRA Assessment PP-2023-1376, E2024/9914
- 7 26.2023.5.1 Noise Impact Assessment_PP-2023-1376
- 8 26.2023.5.1 Traffic Impact Statement_PP-2023-1376, E2024/9916
- 10 9 26.2023.5.1 Updated Flood maps_PP-2023-1376, E2024/9917
- 10 10 26.2023.5.1 Updated Flood Report_HIA_PP-2023-1376, E2024/9918
- 11 Form of Special Disclosure of Pecuniary Interest, E2012/2815

Report

Background

The landowner previously submitted a [Planning Proposal](#) in May 2021, together with a Voluntary Planning Agreement (VPA) to provide for affordable housing on this site. Council at its 5 August 2021 Planning Meeting resolved ([Res 21-284](#)) to support placing the 2021 Voluntary Planning Agreement on Public Exhibition, subject to further amendments but also resolved:

5. *Understands that should Council choose to proceed with finalising the attached draft VPA ahead of a statutory AHCS being in place, there is no guarantee that 20% of the rezoned land (or any %) will be dedicated for affordable housing purposes.*

6. *Due to 5, Council does not accept any “urban residential” planning proposal pertaining to a non-Council owned and managed investigation area (as identified in the Residential Strategy, until a statutory AHCS is in place for Byron Shire noting that the timeframe for this may be at least six months away.*

7. *Requests the Department of Planning, Industry and Environment finalise its approval of the Byron Residential Strategy and corresponding Affordable Housing Contributions Scheme (AHCS) without further delay.*

The landowner resubmitted a planning proposal on 7 September 2021 (PP-2021-5540) without a Voluntary Planning Agreement, but still retaining an area for affordable housing on a 1ha lot which would have enable the construction of 15 small houses as well as a community garden.

On 29 November 2021, this Planning Proposal was returned requesting further information regarding traffic, flooding and advising that Council’s Residential Strategy has yet to be endorsed by the Department.

The Byron Shire Affordable Housing Contributions Scheme (AHCS) was subsequently adopted in August 2022 and gazetted in the Byron Local Environmental Plan (LEP) 2014 in January 2023.

The Planning Proposal (Attachment 1) and supporting documentation (Attachments 2 – 10) have been updated to address the current legislative planning requirements. Key elements of the planning proposal are presented below.

The Planning Proposal

The Planning Proposal (Attachment 1) relates to land located at 68 Rankin Drive, Bangalow, described as Lot 261 DP1262316 and Lot 11 DP807867 (Figure 1).

The Planning Proposal is a document that explains the intended effect and justification of a proposed amendment to a LEP. The objective of this Planning Proposal is to amend the

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Byron LEP 2014 to extend the existing R2 Low Density Residential Zone on the above lots and rezone the eastern portion of the land to R3 Medium Density Residential.

Once rezoned, future subdivision of the land will provide for larger lots on the steeper western area of the site, and medium density lots on the flatter eastern area. One of the medium density lots is intended to be dedicated to Byron Shire Council for the development of affordable housing through Council's Affordable Housing Contributions Scheme. This is the first Planning Proposal to activate the dedication of land for affordable housing under the Scheme.

The following supporting technical studies and reports were submitted with the Planning Proposal:

- Hydraulic Assessment
- Bushfire Assessment
- Cultural Heritage Assessment
- Engineering Services Report
- Ecological Assessment
- Geotechnical Assessment
- Contaminated Land Assessment
- Land Use Conflict Assessment
- Noise Impact Assessment
- Traffic Impact Statement

The above information has been reviewed by staff and determined to be satisfactory for the purpose of this planning proposal.

Pending a Gateway determination, all supporting studies will be exhibited with the planning proposal and referred to relevant public agencies for comment as per the statutory Gateway requirement.



Figure 1 – Subject Land

The subject land:

- has a total area of 4.014ha
- 5 • is currently zoned a mix of R2 Low Density Residential, RU1 Primary Production and RU2 Rural Landscape
- is located on the northern extremity of the Bangalow residential area and bordered by Satinash Crescent to the west, Hinterland Way to the north and Rankin Drive to the South
- 10 • is situated within the urban growth area identified in the North Coast Regional Plan 2041
- is largely cleared and does not contain environmentally sensitive areas.

Explanation of Provisions

- 15 The following provides a summary of the LEP amendments proposed to support the objectives and intent for this site.

Proposed Zoning

Part of Lot 261 DP126316 is already zoned, and will remain, R2 Low Density Residential.

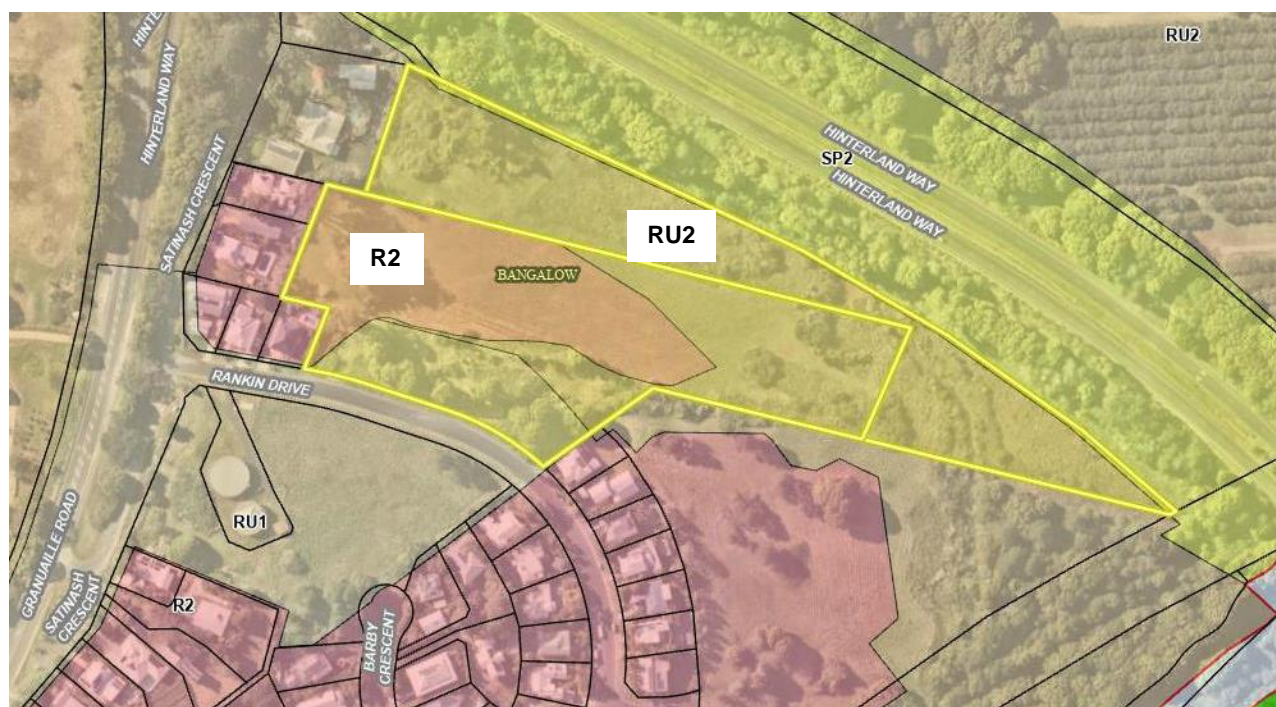


Figure 2 – Current BLEP 2014 Zone Map

The planning proposal will rezone the existing RU2 Rural Landscape and the RU1 Primary Production zones, to a mix of R2 Low Density Residential and R3 Medium Density Residential, as per Figure 3 below.

5

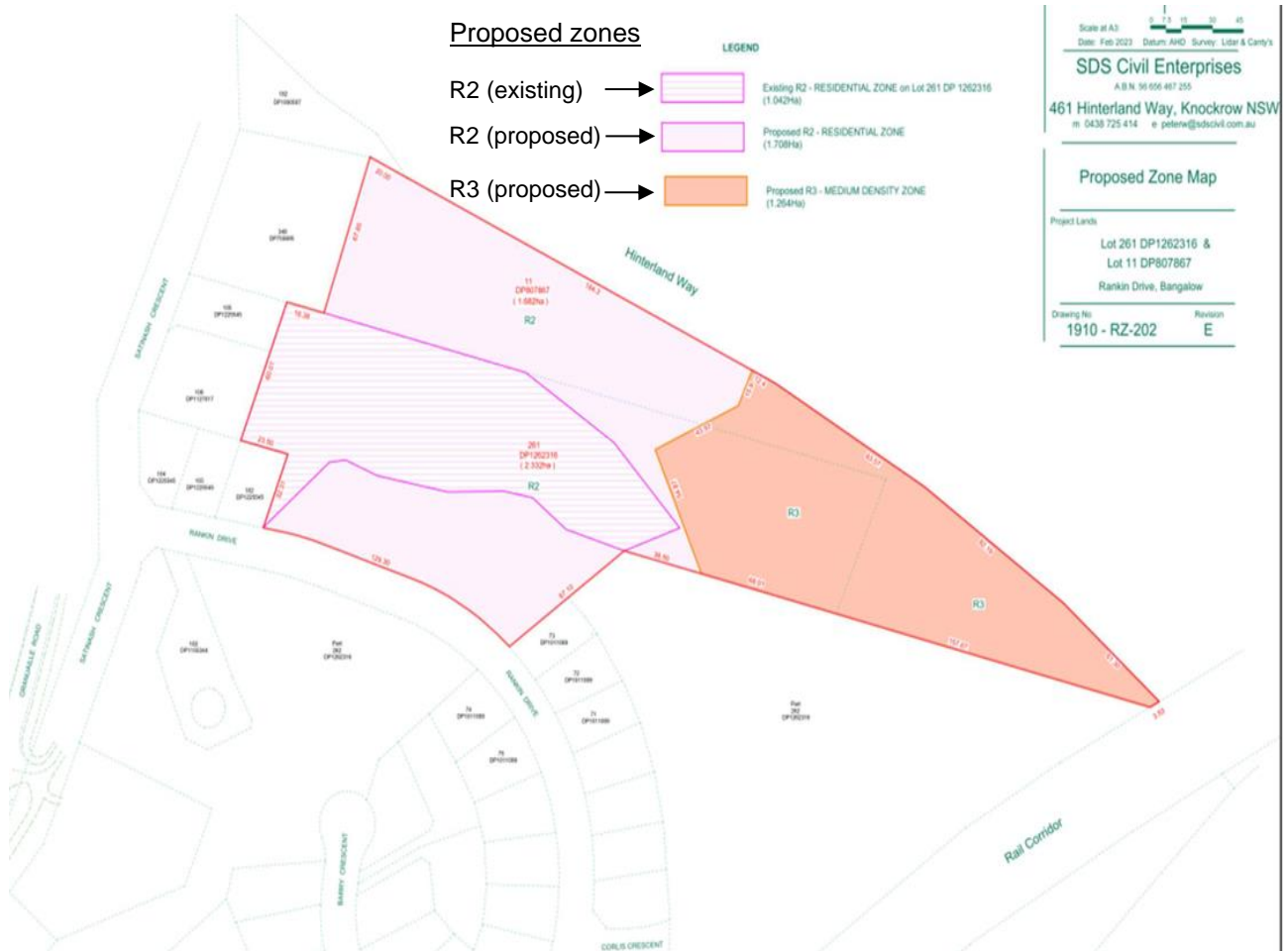


Figure 3 – Proposed BLEP 2014 Zone Map

Lot Size

5 The rezoning of the site will enable a mix of residential lots consistent with those in the surrounding residential area, as well as provide an R3 Medium Density Residential zone.

A Lot Size Map (Figure 4) providing a minimum lot size of 800m² for the steeper areas of the site is proposed, consistent with part of the existing R2 Low Density Residential Zone.

10 The proposed R3 Medium Density Zone will have a minimum lot size of 1,000m² allowing for strata title of smaller housing typologies. This will ensure an increase in housing diversity and density in the area. In addition, part of the medium density area will be dedicated to Byron Shire Council for the development of affordable housing in accordance with the AHCS.

15 Overall, the rezoning of the subject land has the potential to yield 40+ residential dwellings.

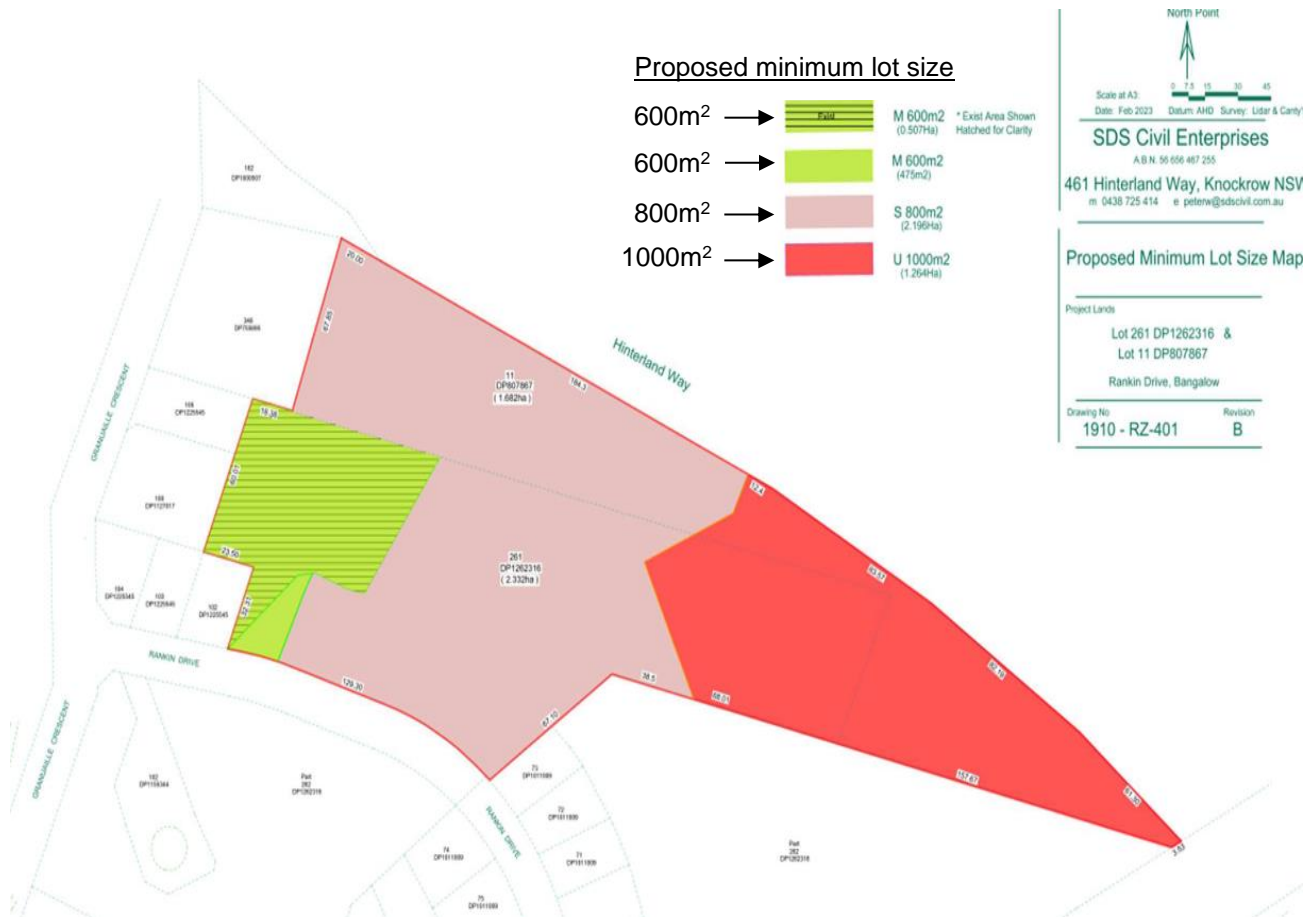


Figure 4 – Proposed Lot Size Map

Height of Buildings and Floor Space Ratio

- 5 The Planning Proposal did not contain maps for Height of Buildings (Hob) or Floor Space Ratio (FSR) for the rezoned land. A 9m HOB already applies to the entire Bangalow catchment, however it is recommended that an FSR map be completed as follows and included in the Planning Proposal prior to submission for Gateway Determination:

Proposed Zone	Floor Space Ratio Map
R2 Low Density Residential	0.5:1 (consistent with steeper sloping land in surrounding R2 zone)
R3 Medium Density Residential	No FSR to apply (to allow greater flexibility for housing diversity/densities)

Relationship to North Coast Regional Plan

The planning proposal is consistent with the North Coast Regional Plan 2041, which is a 20-year blueprint for the future of the North Coast. The subject site is partially within and adjacent the Urban Growth Area for the Village of Bangalow, as identified in the plan.

- 5 The planning proposal demonstrates consistency with the following regional priorities, identified for Byron Shire:
- Manage and support sustainable growth.
 - Deliver housing equitably to meet the needs of the community.
 - Investigate opportunities for increased housing diversity.
 - 10 • Prioritise the delivery of affordable housing to support the local workforce.

Relationship to Housing Options Paper

- 15 The Housing Options Paper, adopted 14 December 2023, was developed to inform the Residential Strategy Refresh. It explores what has changed in the Byron Shire since 2020 and explains how these changes impact the 2020 Residential Strategy. The paper outlines the options for how housing could now be delivered whilst responding to these changes.

The subject land is identified as 'retained investigation land' in the Housing Options Paper.

Relationship to Affordable Housing Contribution Scheme

- 20 Byron LEP Clause [6.18](#) provides that Council may impose a contribution on the subdivision of land in accordance with the Byron Affordable Housing Scheme, as adopted by Council 11 August 2022 and gazetted in January 2023.

Clause 2.1.4 of the Scheme sets out affordable housing contributions for the Bangalow area, being:

- 25 Onsite: 20% of the area of residential lots in the development must be provided as an affordable housing contribution.

Once this Planning Proposal is finalised the AHCS map for Byron LEP 2014 will be updated to include this site.

- 30 As part of any subsequent subdivision approval of the land in accordance with Clause 2.1.4, the owner will be required dedicate to Council an area of 5,645m² (20%) of developable land in the R3 Medium Density Residential Zone.

Key issues

- Flood impacts of development on subject land**

Investigation of flooding impacts and stormwater management measures have been undertaken to ensure the site is suitable for a residential rezoning, as per the Planning Proposal. Staff have reviewed the supporting Hydraulics Assessment and the Stormwater Management information, which have been endorsed together in accordance with the provisions Chapter [B3 – Services](#) and Chapter [C2 – Areas Affected by Flood](#) of Byron DCP 2014, to assist with the residential rezoning of the site.

- Dedication of land under Council's Affordable Housing Contribution Scheme**

In addition to being the first regional Council in New South Wales to have an AHCS in place, is important to note that this is the first Planning Proposal to activate the dedication of land to Council for affordable housing under the AHCS. Given the current housing crisis in the Shire the delivery of affordable housing on this site represents an important milestone for Council.

Conclusion and recommendations

This is the first Planning Proposal to activate the dedication of land to Council for affordable housing under the AHCS. The planning proposal is consistent with the applicable State, regional and local planning framework. Based on the staff assessment of this Planning Proposal, including the supporting reports and studies, it is recommended that it be forward to the Department of Planning, Housing and Infrastructure for Gateway determination, subject to inclusion of the relevant Floor Space Ratio and Affordable Housing Contribution Scheme maps.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
4: Ethical Growth	4.2: Enable housing diversity and support people experiencing housing insecurity	4.2.2: Partnerships and pilots to address housing needs - Investigate partnerships and pilots that deliver an innovative and affordable housing model for the Shire	4.2.2.1	Consider residential rezoning proposals, as identified within existing North Coast Regional Plan growth boundary and the Affordable Housing Contribution Scheme.

Relevant Resolutions

- Res 21-284 (5 August 2021)

Legal/Statutory/Policy Considerations

5 Requirements under the Environmental Planning and Assessment Act and Regulation as applicable.

LEP 2014 [clause 6.18](#) and Byron Shire [Affordable Housing Contributions Scheme](#).

Financial Considerations

Owner initiated Planning Proposals are subject to full cost recovery via Council's Fees and Charges.

10 Consultation and Engagement

Consultation will be carried out in accordance with Council's [Community Participation Plan 2019](#) and as directed by any future gateway determination from the Department of Planning, Housing and Infrastructure.