



IRF23/2508

## Gateway determination report – PP-2023-1744

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Former Mullumbimby hospital site

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# Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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**Table 1 Reports and plans supporting the proposal**

Relevant reports and plans
Biodiversity Assessment – Earth Scapes Consulting, 17 April 2023
Flooding and Stormwater Assessment – BMT, 3 August 2023
Contamination Summary – Tim Fitzroy and Associated, 28 July 2023
Bushfire Assessment – Bushfire Certifiers, 4 July 2023
Infrastructure Capability Audit – Planit Consulting, 15 August 2023
Transport Strategy – Planit Consulting, 9 August 2023

# 1 Planning proposal

## 1.1 Overview

**Table 2 Planning proposal details**

<b>LGA</b>	<b>Byron Shire Council</b>
<b>PPA</b>	<b>Byron Shire Council</b>
<b>NAME</b>	<b>Former Mullumbimby Hospital Site (130 dwellings)</b>
<b>NUMBER</b>	<b>PP-2023-1744</b>
<b>LEP TO BE AMENDED</b>	<b>Byron Local Environmental Plan (LEP) 2014</b>
<b>ADDRESS</b>	<b>Azalea Street, Left Bank Road and Reservoir Street, Mullumbimby</b>
<b>DESCRIPTION</b>	<b>Lot 188 DP 728535, Lot 1 DP 1159861 and Lot 138 DP 755722</b>
<b>RECEIVED</b>	<b>17/08/2023</b>
<b>FILE NO.</b>	<b>EF23/11260</b>
<b>POLITICAL DONATIONS</b>	<b>There are no donations or gifts to disclose and a political donation disclosure is not required</b>
<b>LOBBYIST CODE OF CONDUCT</b>	<b>There have been no meetings or communications with registered lobbyists with respect to this proposal</b>

## 1.2 Objectives of planning proposal

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

The objective of the planning proposal is to facilitate residential, community and environmental land uses on the former Mullumbimby hospital site.

The objectives of this planning proposal are clear and adequate.

## 1.3 Explanation of provisions

The planning proposal seeks to amend the Byron LEP 2014 per the changes below.

### 1.3.1 Site rezoning

**Table 3 Current and proposed controls for the planning proposal area**

Control	Current	Proposed
Zone	SP2 Infrastructure	Part R1 General Residential (3.5ha) Part E2 Environmental Conservation (0.21ha)
Height of Buildings	9m	11.5m

There is currently no Minimum Lot Size or Floor Space Ratio development standards over the site. Council does not propose to introduce these controls because it is considered future development can be adequately managed through design provisions in a site specific Development Control Plan.

### 1.3.2 Incorporation of the R1 General Residential zone

Council proposes to introduce the R1 General Residential zone into the Byron LEP 2014. It is considered that the draft land use table is in accordance with the requirements of the Standard Instrument Principal Local Environmental Plan (SILEP) and relevant practice notes.

However, the objectives for the new R1 General Residential zone identified in the proposed land use table include only those prescribed by the SILEP. It is understood Council may seek to include additional objectives for the zone and it is recommended that Part 2 of the planning proposal include discussion about the zone objectives and what specific objectives could be included. A condition to this effect has been included in the Gateway determination.

### 1.3.3 Schedule 1 Additional permitted uses

A range of additional permitted uses (APUs) are proposed for the site to include land uses which are considered to be appropriate on the land but will not have wider application in the R1 zone. The aim is to provide flexibility for future development.

APUs may only be used in exceptional circumstances. Therefore, it is recommended that Council amend the planning proposal to include all zone appropriate land uses in the R1 General Residential land use table and retain only a few, agreed upon, land uses in Schedule 1 of the Byron LEP 2014. Conditions to this effect have been included in the Gateway determination.

### 1.3.4 Additional proposed controls

**Table 4 Additional proposed controls**

Proposed control	Comment
Identify the land on the Affordable Housing Contribution Scheme Map so that clause 6.8 of the Byron LEP 2014 applies to the land.	Byron LEP 2014 Amendment No 35 introduced local planning controls applicable to land identified on the Affordable Housing Contribution Scheme Map. At time of making the plan, no land was identified on the maps. This was to occur progressively at the rezoning stage where land was identified in the Affordable Housing Contribution Scheme. This land is identified as an Affordable Housing Contribution Area within the Affordable Housing Contribution Scheme.
Identify the land on the Design Excellence Map so that clause 6.13 of the Byron LEP 2014 applies to the land.	This clause currently applies to land in Byron Bay town centre. Council proposes to expand this provision to apply to any land identified on the Design Excellence Map to ensure that future development contributes to the natural, cultural, visual and built character values of a locality.

### 1.3.5 Consequential amendments to Byron LEP 2014

**Table 5 Consequential amendments to Byron LEP 2014**

Clause	Required amendment	Comment
2.1	Add R1 General Residential to include a new zone in the Byron LEP 2014.	This is within the intent of the proposal.
4.1E	Apply a minimum lot size of 800m <sup>2</sup> for attached dwellings, manor houses, multi dwelling housing and residential flat buildings in the R1 zone.	Council does not propose a minimum lot size for the site but proposes changes to clause 4.1E to apply an 800m <sup>2</sup> minimum lot size for attached dwellings, manor houses, multi dwelling housing and residential flat buildings. As there is no justification to apply a minimum lot size to these forms of residential accommodation, but not to others, an amendment to clause 4.1E is not supported. It is recommended that the planning proposal be revised to remove this proposed provision, or that Council provide satisfactory justification of a minimum lot size for these uses. A condition to this effect has been included in the Gateway determination.
6.9	Apply to R1 General Residential zone.	This aligns with the existing arrangements under the Byron LEP 2014 and is within the intent of the proposal.

Clause	Required amendment	Comment
6.13	Remove references to Byron Bay town centre.	This is within the intent of the proposal.
6.17	Apply to R1 General Residential zone.	This is within the intent of the proposal.
Schedule 2	Apply to R1 General Residential zone.	This aligns with the existing arrangements under the Byron LEP 2014 and is within the intent of the proposal.

Part 2 of the planning proposal does not address the consequential amendments discussed in Table 5 above. The consequential amendments have been listed in the appendices to the planning proposal, together with draft wording prepared by Council for the clauses and schedules to be amended.

It is recommended that the explanation of provisions for the site be updated to identify the full suite of changes as a result of the proposed rezoning. Further, as the objectives and intended outcomes of the planning proposal will form the basis for drafting the LEP by Parliamentary Counsel, it is not necessary for Council to include draft wording in the appendices. Therefore, it is also recommended that a condition is imposed on the Gateway determination to require that Appendices C and D are removed prior to community consultation.

## 1.4 Site description and surrounding area

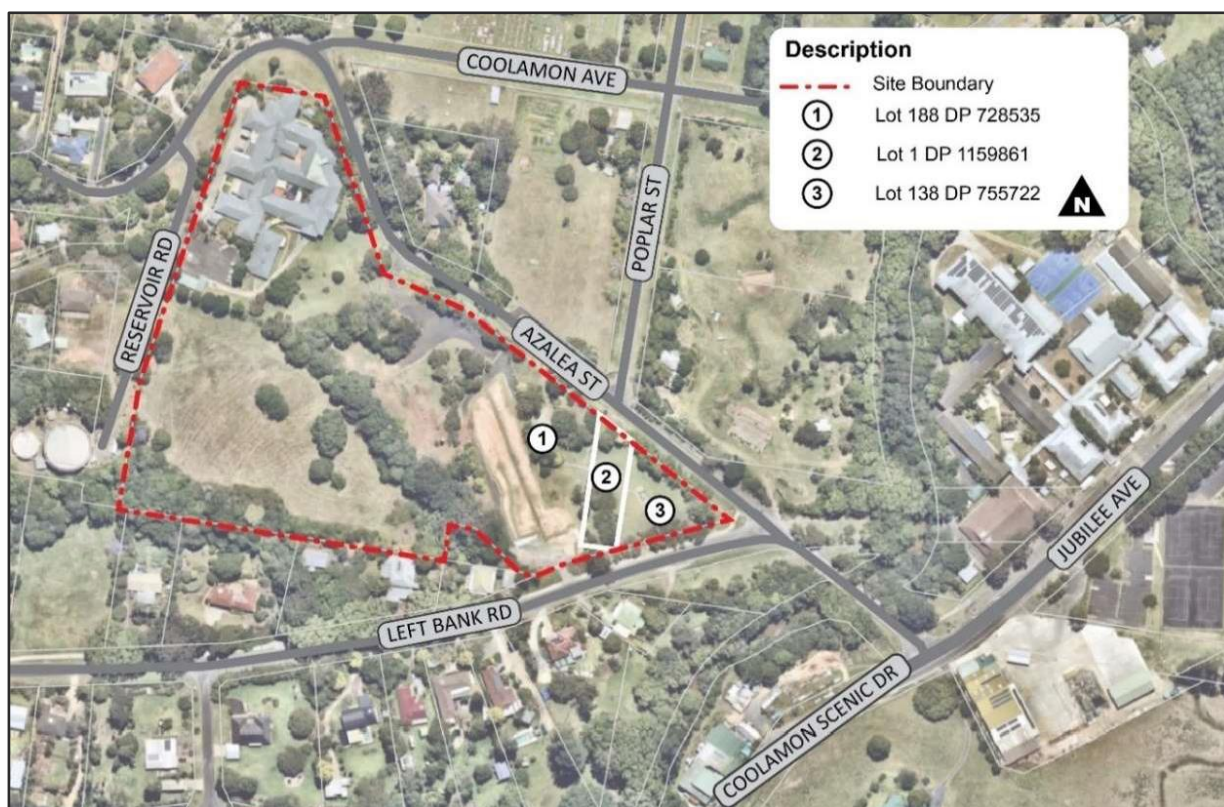
The subject site is approximately 4.4 hectares in area located near the centre of Mullumbimby. The land is owned by Byron Shire Council and is classified as operational land under the Local Government Act 1993.

The site was formerly the Mullumbimby hospital. All hospital buildings have been demolished and the site remediated following discovery of contamination materials during the demolition process.

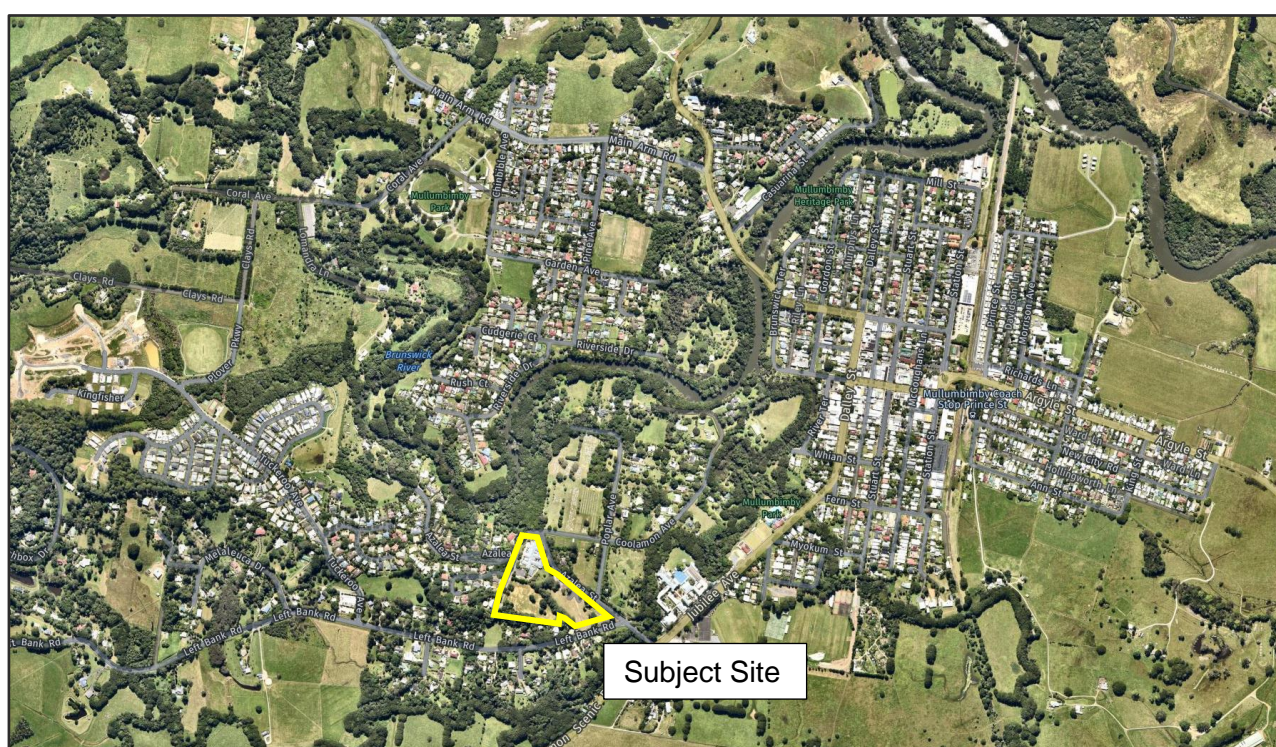
There is an aged care facility on the northern part of Lot 188. It is not proposed to amend the zoning or development standards on the land covering the aged care facility. There are no other buildings on the remainder of the site.

The site is predominately cleared with some areas of mature vegetation, including mapped High Environmental Vegetation (HEV) in the south-west corner of Lot 188.





**Figure 1 Subject site (source: Planning Proposal)**



**Figure 2 Site context (source: Nearmap)**



## 1.5 Mapping

The planning proposal includes mapping showing the existing and proposed changes to the Byron LEP 2014.

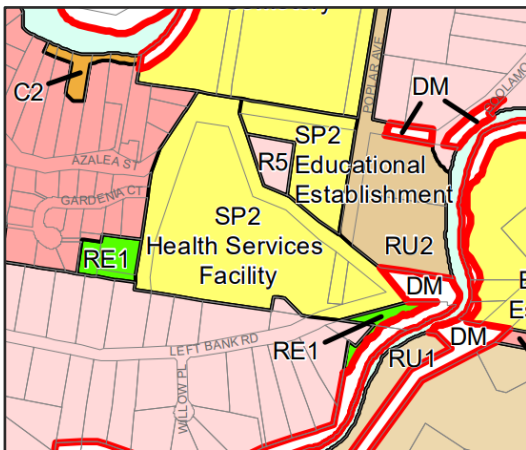
The proposal involves amendments to the following map sheets:

- Land Zoning: LZN\_002BA (Figures 3 and 4)
- Height of Buildings: HOB\_002 (Figures 5 and 6)

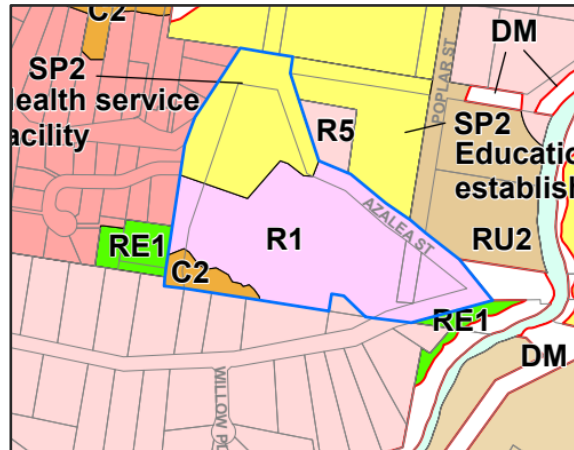
The proposal seeks to include the following new map sheets:

- Affordable Housing Contribution Scheme: ACHS\_002BA (Figure 7)
- Design Excellence: DEX\_002BA (Figure 8)
- Additional Permitted Use: APU\_002B (Figure 9)

Maps consistent with the Department's Standard Technical Requirements will need to be prepared before the making of the LEP amendment.



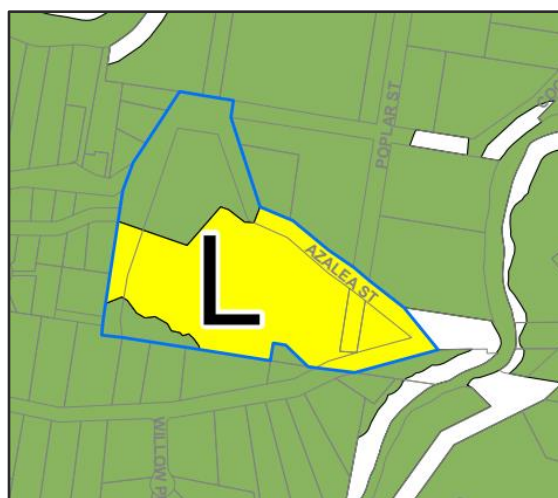
**Figure 3 Extract of current zoning map**  
(Source: planning proposal)



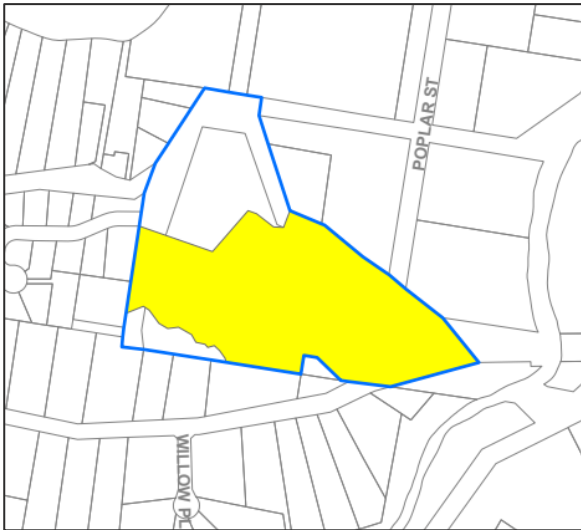
**Figure 4 Extract of proposed zoning map**  
(Source: planning proposal)



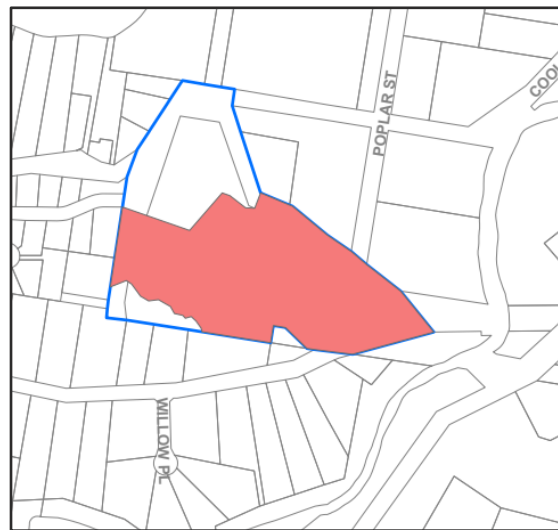
**Figure 5 Extract of Current height of building map – 9m**  
(Source: ePlanning Spatial viewer)



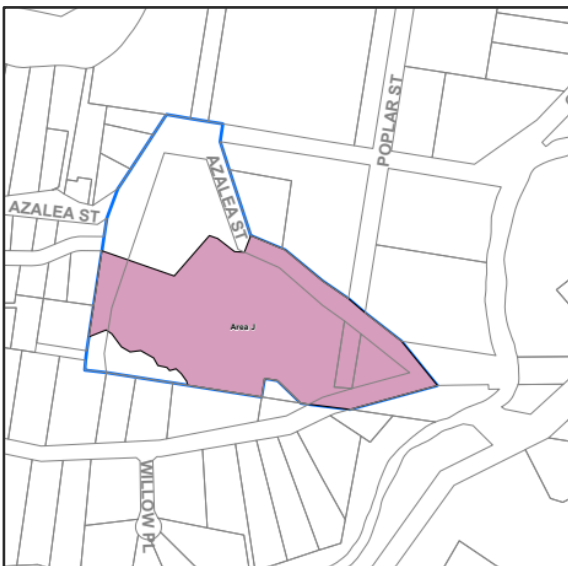
**Figure 6 Extract of proposed height of building map – 11.5m**  
(Source: planning proposal)



**Figure 7 Extract of proposed Affordable Housing Contribution Scheme Map**  
(Source: planning proposal)



**Figure 8 Extract of proposed Design Excellence Map**  
(Source: planning proposal)



**Figure 9 Extract of proposed Additional Permitted Uses Map**  
(Source: planning proposal)

## 1.6 Background

The Mullumbimby & District War Memorial Hospital opened in 1968 and served the community until 2016, when the Byron Central Hospital opened. Byron Shire Council purchased the site from the NSW Government in 2018. In 2018, the Mullumbimby Hospital Site Project Reference Group was established to provide recommendations to Council on the best use of the site.

Demolition of the hospital and site remediation commenced in 2019. Parts of the site had asbestos contamination. Remediation of the site included capping of an area where the former hospital buildings were primarily located. Implications of this will be discussed later in the report.

## 2 Need for the planning proposal

This planning proposal is needed to achieve the community's visions for the site and to deliver housing in the Byron Shire local government area (LGA).

Byron Shire LGA has geographical, economic and social characteristics that are impacting the affordability and availability of its housing, including purchase prices and rental costs that outweigh those in surrounding regional LGAs and many LGAs within metropolitan Sydney.

Council has committed to enable the delivery of the LGA's forecast housing demand to 2041, being 4,522 new dwellings. Given the scale of the housing crisis facing the region, Council must increase housing supply and diversity to help support community needs, including the needs of an ageing population, the ongoing reduction in household size and the delivery of social and affordable housing.

The planning proposal is considered the best mechanism to achieve appropriate zoning of the land and subsequent development controls on the site. Changes are recommended to the planning proposal to ensure it achieves a balance between flexibility on the site, in terms of appropriate land uses, and certainty for the community as to what type of development will be permissible on the land.

## 3 Strategic assessment

### 3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the North Coast Regional Plan 2041.

**Table 6 Regional Plan assessment**

Regional Plan Objectives	Justification
Objective 1: Provide well located homes to meet demand	<p>This objective aims to address the demand for housing on the North Coast and promotes infill development and housing diversity. The proposal is consistent with this objective as the site is within the urban growth area defined by the North Coast Regional Plan 2041. It will also help contribute to the diversity of housing choices available in Mullumbimby, encourages the efficient use of land and infrastructure and contributes toward the region's overall 40% multi dwelling / small lot housing target.</p> <p>The development of this site is anticipated to deliver between 100–130 dwellings in a variety of typologies.</p>
Objective 2: Provide for more affordable and low-cost housing	<p>This objective aims to deliver and maintain affordable housing and promote housing affordability. The proposal is consistent with this objective as it seeks to deliver housing diversity and to include the site on the Affordable Housing Contribution Scheme Map so that clause 6.8 of the Byron LEP 2014 applies and a 20% contribution can be collected under the Byron Shire Affordable Housing Contribution Scheme.</p>

Objective 3: Protect regional biodiversity and areas of high environmental value	This objective recognises the North Coast is the most biologically diverse region in NSW. The proposal is consistent with this objective as it proposes to rezone a 2100m <sup>2</sup> area of HEV (Figure 11) within the site comprising Lowland Rainforest to C2 Environmental Conservation.
Objective 4: Understand, celebrate and integrate cultural heritage	This objective recognises the rich history of the region. The Residential Strategy identifies that Aboriginal cultural sensitivities are a matter for further investigation as part of any planning proposal. Council proposes to consult with the Arakwal Corporation and Tweed Byron Local Aboriginal Land Council and it is recommended this be confirmed as a condition of the Gateway determination.
Objective 5: Management and improve resilience to shocks and stresses, natural hazards and climate change	<p>This objective aims to help reduce natural disaster risk. The land is mapped as bushfire prone and a small portion of the site, on the corner of Azalea Street and Left Bank Road is impacted by the Probable Maximum Flood (PMF) event (Figure 12).</p> <p>Consultation will be undertaken with the NSW Rural Fire Service (RFS) in accordance with Ministerial Direction 4.3 to confirm the suitability of the proposal having regard to bushfire risk. Given the minor impact of flooding on the site, it is considered that the Bryon LEP 2014 contains appropriate flood planning controls to manage future development.</p>
Local Government Narrative	<p>This proposal is consistent with the Local Government Narrative in the Regional Plan, in particular:</p> <ul style="list-style-type: none"> <li>• investigate opportunities for increased housing diversity and density, encompassing multi-unit dwellings and innovative housing models in appropriate locations;</li> <li>• prioritise the delivery of affordable housing to support the local workforce and healthy and diverse communities; and</li> <li>• encourage design-led and collaborative placemaking initiatives to support healthy lifestyles and create liveable and inclusive places.</li> </ul>

## 3.2 Northern Councils E Zone Review Final Recommendations

The proposal seeks to apply a C2 Environment Conservation zone to part of the land in accordance with the Northern Councils E Zone Final Recommendations (E Zone Policy).

Attachment A of this Report outlines a checklist for consistency with the E Zone Policy and this should be read in conjunction with the information to follow.

The E zone policy states that C2 and C3 zones will only be applied if the primary use of the land is considered to be environmental conservation (C2) or environmental management (C3) and the land contains attributes which meet one or more of the criteria for a C2 or C3 zone (outlined in Tables 1 and 2 of the E Zone Policy).

However in the case of public land, a C2 or C3 zone may be applied despite being inconsistent with the criteria, if the primary use of the land is environmental conservation or environmental management. The primary use of the land is the main use for which the land has been used for the last two years and may vary across a particular property depending on the characteristics of the land.

The site attributes have been confirmed by the Biodiversity Assessment (dated 17 April 2023) prepared by Earth Scapes Consulting. This report identifies the south western corner of the land contains vegetation which meets the diagnostic criteria for threatened ecological communities under Lowland Rainforest on floodplain under the NSW Biodiversity Conservation Act and also meets criteria for the critically endangered Lowland Rainforest under the federal Environment Protection and Biodiversity Conservation Act 1999 (Figure 10).

It is considered that the land meets the criteria for a C2 zone and the primary use of this portion of the site is for environmental conservation. The planning proposal does not address the Northern Councils E Zone Review Final Recommendations. As such, it is recommended that a condition be imposed to require the planning proposal is updated prior to public exhibition.



**Figure 10 Lowland Rainforest (Threatened Ecological Community)**

### 3.3 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 7 Local strategic planning assessment**

Local Strategies	Justification
Local Strategic Planning Statement	The proposal aligns with Priority 3 – Support housing diversity and affordability with housing growth in the right locations. It also links to Local Action 9 – Investigate and implement planning controls to encourage an increase in the supply of affordable and inclusive housing stock.



Byron Shire Residential Strategy (2020)	<p>The Residential Strategy was adopted by Council in December 2020. This Strategy has not been endorsed by the Department of Planning and Environment. The proposal is consistent with the Residential Strategy which identifies the former Mullumbimby hospital site as Investigation Area 3.</p> <p>The Residential Strategy identifies the key issues for further investigation as part of the planning proposal to change the zoning of the land. These issues include:</p> <ul style="list-style-type: none"> <li>• HEV;</li> <li>• coastal management;</li> <li>• biodiversity; and</li> <li>• Aboriginal cultural heritage sensitivities.</li> </ul> <p>These matters are discussed under the relevant sections of this report.</p> <p>Council is currently exhibiting a Housing Options Paper which will inform a refresh of the Residential Strategy. The land is also identified in the Housing Options Paper as an Investigation Area</p>
Byron Shire Council Affordable Housing Contribution Scheme (2022)	<p>The Byron Shire Council Affordable Housing Contribution Scheme (2022) provides details about how, where, and at what rate development contributions can be collected from landowners for affordable housing.</p> <p>The Affordable housing contribution areas in Mullumbimby have a target of 20% contribution to affordable housing of the developed residential land. The land is identified as an Affordable Housing Contribution Area within the Affordable Housing Contribution Scheme. This proposal seeks to add the land to the Affordable Housing Contribution Scheme Map so that Clause 6.18 of the Byron Shire LEP 2014 applies.</p>
Byron Shire Community Strategic Plan 2032	<p>The planning proposal aligns with objective 4.2 – Support housing diversity in appropriate locations across the Shire.</p>

## 3.4 Section 9.1 Ministerial Directions

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

**Table 8 9.1 Ministerial Direction assessment**

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plans	No	As the Residential Strategy identifies that Aboriginal cultural sensitivities are a matter for further investigation as part of any planning proposal, it is considered this direction should remain unresolved until Council has consulted with the Arakwal Corporation and Tweed Byron Local Aboriginal Land Council.

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
4.1 Flooding	No – minor inconsistency	<p>This direction applies as the proposal alters a zone or provision that affects flood prone land. The planning proposal is supported by a Flood Assessment that identifies a small portion in the eastern corner of the site is inundated by the PMF event (Figure 12).</p> <p>The proposal is inconsistent with the direction as it does not include provisions that give effect to the specified NSW flood policies, manuals and guidelines.</p> <p>The inconsistency is considered to be of minor significance given the small area involved in the PMF event and the ability for Council, as landowner, to plan for and control future uses in this part of the site.</p> <p>While access to an urban centre is not available in a range of flood events, the Byron LEP 2014 contain provisions that allow this matter to be adequately addressed at the development application stage.</p>
4.2 Coastal Management	No	<p>This direction applies as the site is located in a coastal zone, as defined under the Coastal Management Act 2016 and is identified as a coastal use area (Figure 11).</p> <p>The proposal is inconsistent with the direction as it does not include provisions that give effect to the specified NSW coastal management policies, manuals and guidelines.</p> <p>It is considered this direction should remain unresolved until Council has consulted with the Division of Biodiversity and Conservation (BCD) in relation to coastal management.</p>
4.3 Planning for Bushfire Protection	No	<p>This direction applies because the planning proposal affects land that is mapped as bushfire prone. Consultation with the Commissioner of the NSW Rural Fire Service is required to be undertaken following a Gateway Determination. The direction will remain unresolved until consultation has occurred.</p> <p>The Bushfire Assessment supporting the planning proposal notes that the site is considered capable of supporting future residential development incorporating the required APZ setbacks and other bushfire protection measures.</p>



Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
4.4 Remediation of Contaminated Land	No	<p>Parts of the site have required remediation from asbestos contamination from the former hospital buildings. A management area (Figure 13) has been identified that has been capped to prevent exposure to the contamination. Recommended land uses of this area are limited.</p> <p>The proposal is inconsistent with this Direction as clause 1(b) requires that if the land is contaminated, the planning proposal authority must be satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used.</p> <p>An Enquiry by Design process will progress alongside the planning proposal process to develop detailed Concept Plans. Until the proposed future land uses have been confirmed, it is considered this direction should remain unresolved.</p>
5.2 Reserving Land for Public Purposes	No – minor inconsistency	<p>This direction applies as the planning proposal will reduce existing zoning or reservations for public purposes.</p> <p>This inconsistency is considered to be of minor significance as the current zone does not reflect the land's current circumstances due to change of ownership and demolition of the hospital buildings.</p>

### 3.5 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs.

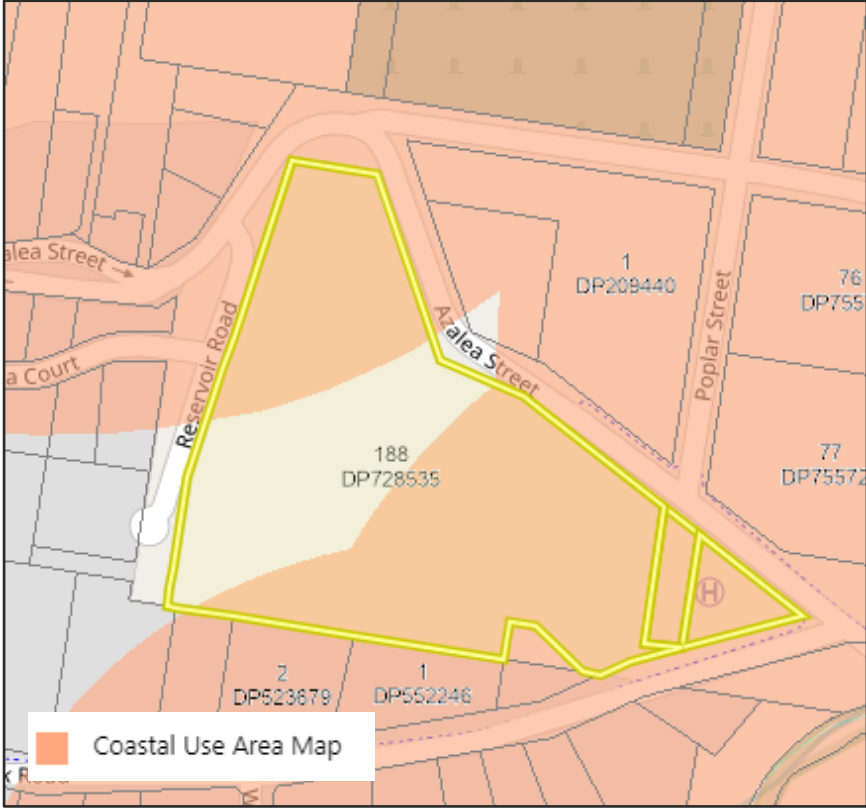
## 4 Site-specific assessment

### 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
----------------------	------------

Koala Habitat	<p>A Biodiversity Assessment was prepared to accompany the planning proposal. It found that the vegetation on site is a mix of planted trees associated with previous landscaping on the site, invasive species, weeds and an area of subtropical rainforest in the south-east of the site. The report concludes the site does not constitute koala habitat.</p>
Coastal Management	<p>The land is within a coastal environmental area. The Residential Strategy identifies further investigations are required as part of the planning proposal to change the zoning of the land in relation to coastal management. The matters for investigation identified include:</p> <ul style="list-style-type: none"> <li>• the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment;</li> <li>• coastal environmental values and natural coastal processes;</li> <li>• the water quality of the marine estate; and</li> <li>• marine vegetation, native vegetation and fauna and their habitats.</li> </ul> <p>It is recommended that consultation is undertaken with the BCD in relation to coastal management. It is also recommended that Council update the planning proposal prior to exhibition to address the coastal management considerations identified by its Residential Strategy.</p>  <p>The map shows a yellow-outlined site (DP728535) located near a reservoir. The site is surrounded by various land parcels, some of which are labeled with their DP numbers: DP209440, DP7559, DP75572, DP523679, and DP552246. The map also shows streets: Azalea Street, Reservoir Road, and Poplar Street. A legend indicates that the orange-shaded areas represent the Coastal Use Area Map.</p>

**Figure 11 Extract of Coastal Use Area Map (source: (Source: ePlanning Spatial viewer)**

Endangered Ecological Community	<p>The Biodiversity Assessment found that there is an area of threatened 'Lowland Rainforest on Floodplain' in the south-west corner of the site. This is an Endangered Ecological Community and is proposed to be rezoned as C2 Environmental Conservation to ensure its ongoing protection. This is considered to be an appropriate approach and is supported.</p> <p>The report contains recommendations to avoid and minimise impacts to native vegetation, including:</p> <ul style="list-style-type: none"> <li>• protect and retain the area of Lowland rainforest with a buffer;</li> <li>• ecological setback to the boundary of the vegetation community;</li> <li>• protect and retain possible habitat trees;</li> <li>• protect the planted coolamon trees;</li> <li>• rezone the lowland rainforest to C2 Environmental Conservation;</li> <li>• incorporate potential bushfire risk mapping information once completed; and</li> <li>• prepare a VMP of biodiversity conservation management plan.</li> </ul> <p>BCD has reviewed the proposal and recommended Council consider future ownership and management of the proposed C2 Environment Conservation land. It has also suggested the coolamon trees could be included within the retirement village lot to provide for ongoing management. Council has indicated it will consider ownership and management of these areas as the design for the site is progressed.</p>
Remediation of Contaminated Land	<p>As discussed previously, parts of the site have required remediation from asbestos contamination from the former hospital buildings. A contamination Assessment Summary supports this proposal. It describes all the remediation work that has been undertaken on the site to date. A Site Audit Statement, as required under the Contaminated Land Management Act 1997, concludes that subject to compliance with an environmental management plan, the site is suitable for the following uses:</p> <ul style="list-style-type: none"> <li>• day care centre, preschool, primary school;</li> <li>• residential with minimal opportunity for soil access, including units;</li> <li>• secondary school;</li> <li>• park, recreational open space, playing field; and</li> <li>• commercial/industrial.</li> </ul> <p>The Site Audit Statement also states it has been prepared with the intention to exclude freehold residential land use as a permissible use. Freehold residential development is described as individual freehold lots for a dwelling house or dual occupancy.</p> <p>An environmental management plan (EMP) has been prepared for a portion of the site and includes procedures to manage and mitigate risks associated with future use of the site. It includes a management area, shown in orange in Figure 13. The management area covers the land that has been remediated and capped to ensure encapsulation of asbestos impacted soils. This capping is a passive management system that is generally not considered appropriate for residential developments particularly if intrusive works at the site may create an unacceptable risk from the residual contamination.</p>

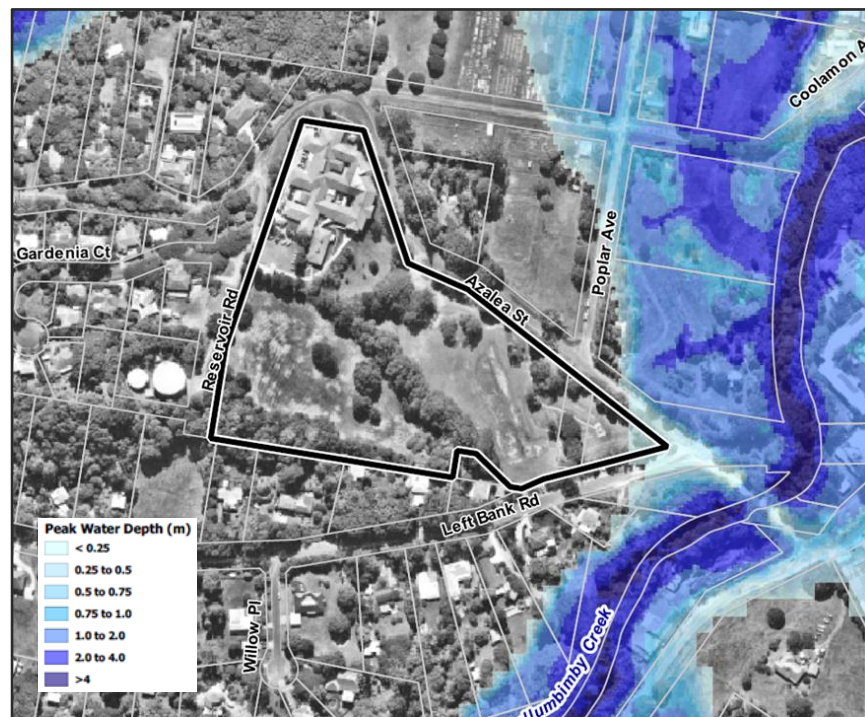
## Flooding

A Flooding and Stormwater Assessment supports the proposal. The report identifies the site is elevated above the PMF, except for a small portion of the far eastern corner (Figure 12). However, the land will be isolated from the Mullumbimby township during rare and extreme flood events due to inundation of the Azalea Street bridge. The report indicates the duration of the isolation may extend from around 12 to 20 hours.

The Azalea Street bridge would be unpassable at a 1% AEP, 0.2% AEP and PMF flood events due to the depth of inundation and high velocity providing for higher hazard flood waters.

The report concludes there may be a need for some residents to evacuate prior to the onset of flooding to assist others or to access personal supports. It is indicated there are multiple rainfall and water level gauges in the region and in the vicinity of the site to assist in the early provision of data to assist if evacuation is required.

The Byron LEP 2014 contains provisions that allow this matter to be adequately addressed at the development application stage. However, it is recommended that the planning proposal is updated prior to community consultation to consider the safe and efficient evacuation of people in the event of a flood. It is also recommended that consultation with the NSW State Emergency Service be undertaken.



**Figure 12 Probable maximum flood: Peak flood Depth (source: Flooding and Stormwater report)**

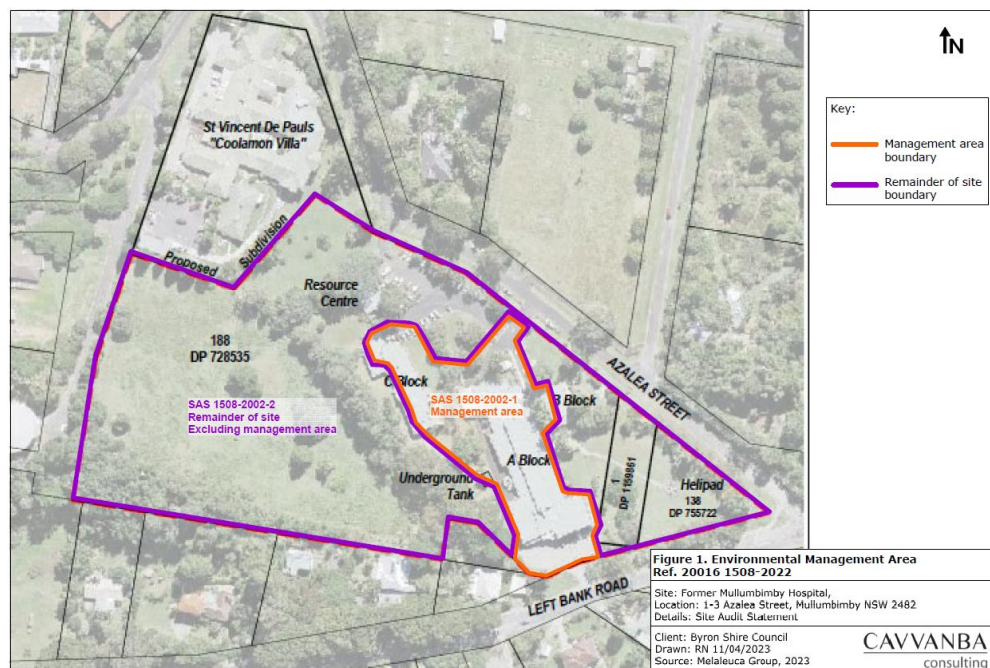
## Contamination

Council's Contamination Summary that supports the planning proposal notes that given the residual friable asbestos and the landform of the site whereby intrusive works are considered likely, development such as individual freehold residential lots for 'dwelling house' or 'dual occupancy' should not be permitted within this area of the site.

The Contamination Summary also notes that Council will also amend their Development Control Plan to include site specific controls that will ensure all development proposals are submitted to Council for review whereby Council will verify that either the proposal will result in remediation of the site (and thereby the EMP would no longer be required), or the future land uses will not impact on the integrity of the capping, the environmental management plan will be enforced and will not be in conflict with the validation statement.

The NSW Environmental Protection Agency (EPA) provided comment on the proposal and highlighted the importance of ensuring that the integrity of the capping layer is not compromised during any future development of this area. In addition, it encouraged Council to consider a more restrictive zoning or planning controls as a more proactive and efficient way to protect the integrity of the capping layer without the need for restrictive development consent conditions.

Council recognises the final design will need to take into consideration the asbestos cap. An Enquiry by Design process will progress alongside the planning proposal process to develop and evaluate the preferred options for the land. The outcome of this process will determine whether certain provisions to limit particular development in the Management Area are necessary.



**Figure 13 Environmental Management Area (source: Contamination Summary)**

## 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
Affordable Housing	<p>The proposal seeks to identify the land on the Affordable Housing Contribution Scheme Map so the Byron Shire Affordable Housing Contribution Scheme applies. This ties in with Council and the Department's goal of delivering more affordable housing with Byron Shire.</p> <p>Council's Affordable Housing Contribution Scheme provides detail about how, where, and at what rate development contributions can be collected from landowners for affordable housing. The Affordable housing contribution areas in Mullumbimby have a target of 20% contribution to affordable housing of the developed residential land. This Scheme is activated though Clause 6.18 of the Byron Shire LEP 2014.</p>
Housing typology	<p>The rezoning and subsequent redevelopment of this site has the potential to provide a range of housing typologies and densities. The proposed land uses on the site support this by providing a range of residential accommodation types. This, as well as the affordable housing provisions will enable a wide range of residential types on this site.</p> <p>Council does not propose a minimum lot size for the site but proposes changes to amend clause 4.1E to apply an 800m<sup>2</sup> minimum lot size for attached dwellings, manor houses, multi dwelling housing and residential flat buildings. As there is no justification to apply a minimum lot size to these forms of residential accommodation, but not to others, an amendment to clause 4.1E is not supported. It is recommended that the planning proposal be revised to remove this proposed provision, or that Council provide satisfactory justification of a minimum lot size for these uses. A condition to this effect has been included in the Gateway determination.</p>
Community Uses	<p>The objective of this proposal is to facilitate the provision of a range of residential and community uses, including public spaces. A wide range of proposed land uses in the zone support this intent.</p>
Land Uses	<p>Council has deliberately included a wide range of land uses that would be permissible on the site through the future R1 General Residential zone and the proposed inclusion of APUs. Council has indicated these will be refined during the community consultation process and an Enquiry by Design process running concurrently with the planning proposal.</p> <p>As APUs may only be used in exceptional circumstances, it is recommended that Council amend the planning proposal to include all zone appropriate land uses in the R1 General Residential land use table and only retain a few, agreed upon, land uses in Schedule 1 of the Byron LEP 2014. A condition to this effect has been included in the Gateway determination.</p>

## 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
Transport	<p>A Transport Strategy has been prepared to support this planning proposal. It identifies that development of this site would not result in significant adverse effects on traffic flows within the vicinity of the site and that impacts can be adequately mitigated.</p> <p>Transport for NSW (TfNSW) has reviewed the proposal and has encouraged Council to ensure there is connection of site with bikes, shared paths and the transport network. It was also identified that further discussion is required with TfNSW in relation to extension of the bus route.</p>
Water and Sewer	<p>An Infrastructure Capability Audit supports this proposal. It identifies the site can be readily serviced by both the existing water supply network and the existing gravity sewer network without the need to undertake any pipeline or network augmentations for an estimated development yield of approximately 130ET.</p> <p>It concluded that the water and sewer infrastructure servicing capacity is suitable for the proposed development to proceed, subject to a satisfactory outcome being identified/agreed with Rous Water to address the overall Mullumbimby water supply capacity constraints.</p>
Stormwater	<p>A Flooding and Stormwater Assessment supports the proposal. The report identifies that any future development will likely require the provision of overland flow paths, easements, and a stormwater quality treatment system. The shape and landform of the site promotes drainage towards Azalea Street which is the current lawful point of discharge. It is considered that the management of stormwater from the site is achievable, and any offsite impacts can be mitigated.</p>

## 5 Consultation

### 5.1 Community

The planning proposal is categorised as standard under the LEP Making Guidelines (August 2023). Accordingly, a community consultation period of 20 working days is recommended and this forms part of the conditions to the Gateway determination.

Council has also identified the exhibition period will include the following ways for people to have their say:

- drop-in session in Council office/foyer Mullumbimby
- one-on-one meetings with community members and local professionals (as requested)
- phone calls with community members (as requested)
- presentation to the Housing and Affordability Advisory Committee
- presentation to the Place Planning Collective Mullumbimby representatives
- 'Your Say' survey form to gather written feedback.

In addition, Council has proposed to undertake an Enquiry by Design process, which will be independent to the proposal, but run concurrently with it to further explore and capture the

community's desired future use of the land. This process will be able to be incorporated into the planning proposal to refine the proposal. It is recommended that the outcomes of the Enquiry by Design process be discussed, and potential incorporated into the planning proposal.

## 5.2 Agencies

Council has nominated the public agencies to be consulted about the planning proposal. As the proposal is a key housing site for Mullumbimby, the Department and Council engaged with a number of Government agencies following the request for a Gateway determination. This included representatives from the Department of Planning and Environment (Northern Region team and Biodiversity & Conservation Division), Department of Education, Environment Protection Authority and Transport for NSW. All were provided with the opportunity to provide formal comments on the proposal prior to issue of the Gateway determination.

Further to the consultation that has already occurred, it is recommended the following agencies / organisations are consulted and given 30 working days to comment:

- Arakwal Corporation
- Tweed Byron Local Aboriginal Land Council
- NSW Rural Fire Service
- Biodiversity and Conservation Division
- NSW State Emergency Service

## 6 Timeframe

Council proposes a 6 month time frame to complete the LEP.

The LEP Plan Making Guidelines (August 2023) establishes maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised as standard.

The Department recommends the LEP is completed within 6 months of the gateway determination date in line with its commitment to reducing processing times and having regard to the benchmark times. A condition to the above effect is recommended in the Gateway determination.

## 7 Local plan-making authority

Consistent with the former Secretary's letter to Byron Shire Council of 1 March 2016, which specified plan making delegations, an authorisation to act as the Local Plan-Making authority is not to be issued where a planning proposal seeks to apply an E Zone to land. This is to ensure a consistent approach to the finalisation of rezoning decisions consistent with the E Zone Review Final Recommendations Report. It is recommended that Council is not authorised to act as the Local Plan-Making authority.

## 8 Assessment summary

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

1. It will increase housing supply and diversity that helps support community needs, including the needs of an ageing population, the ongoing reduction in household size and the delivery of social and affordable housing.
2. It encourages the efficient use of the land and infrastructure and help deliver new and diverse housing and community land uses.
3. It promotes increased density within the existing urban growth boundary and contributes to the region's overall 40% multi dwelling / small lot housing target.



4. It will help contribute to the delivery of the 4,522 new houses required to meet forecast demand for the 20 year period to 2041.

As discussed in the report, the proposal should be updated to:

- (a) rationalise the proposed additional permitted uses and incorporate all zone suitable land uses into the proposed R1 General Residential land use table;
- (b) include appropriate objectives for the R1 General Residential zone;
- (c) provide further justification and reasoning to support the introduction of any proposed additional permitted uses;
- (d) remove or provide further justification and reasoning to support the application of minimum lot sizes for certain forms of residential accommodation through the amendment to clause 4.1E;
- (e) include discussion about the outcomes of the Enquiry by Design process for the site that will progress alongside the planning proposal process;
- (f) include discussion in relation to the coastal management matters and Aboriginal cultural sensitivities identified for consideration by the Byron Shire Residential Strategy for the site;
- (g) address the Northern Councils E Zone Review Final Recommendations;
- (h) consider the safe and efficient evacuation of people in the event of a flood; and
- (i) delete Appendices C and D and include a list of the consequential amendments proposed to the Byron LEP 2014 in Part 2 of the planning proposal.

## 9 Recommendation

It is recommended the delegate of the Secretary:

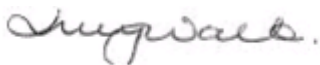
- **agree** that any inconsistencies with section 9.1 Directions 4.1 Flooding and 5.2 Reserving Land for Public Purposes is minor; and
- **note** that the consistency with section 9.1 Directions 1.1 Implementation of Regional Plans, 4.2 Coastal Management, 4.3 Planning for Bushfire Protection and 4.4 Remediation of Contaminated Land are unresolved and will require justification.

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

The following conditions are recommended to be included on the Gateway determination:

1. Prior to community consultation, the planning proposal is to be updated to:
  - (a) rationalise the proposed additional permitted uses and incorporate all zone suitable land uses into the proposed R1 General Residential land use table;
  - (b) include appropriate objectives for the R1 General Residential zone;
  - (c) provide further justification and reasoning to support the introduction of any proposed additional permitted uses;
  - (d) remove or provide further justification and reasoning to support the application of minimum lot sizes for certain forms of residential accommodation through the amendment to clause 4.1E;
  - (e) include discussion about the outcomes of the Enquiry by Design process for the site that will progress alongside the planning proposal process;
  - (f) include discussion in relation to the coastal management matters and Aboriginal cultural sensitivities identified for consideration by the Byron Shire Residential Strategy for the site;
  - (g) address the Northern Councils E Zone Review Final Recommendations;
  - (h) consider the safe and efficient evacuation of people in the event of a flood; and

- (i) delete Appendices C and D and include a list of the consequential amendments proposed to the Byron LEP 2014 in Part 2 of the planning proposal.
2. Prior to community consultation, the planning proposal is to be revised to address Condition 1 above and forwarded to the Minister's delegate for review and approval.
3. Consultation is required with the following public authorities:
  - Arakwal Corporation
  - Tweed Byron Local Aboriginal Land Council
  - NSW Rural Fire Service
  - Biodiversity and Conservation Division
  - NSW SES
4. The planning proposal should be made available for community consultation for a minimum of 20 working days.
5. Given the nature of the proposal, Council should not be authorised to be the local plan making authority.
6. The timeframe for the LEP to be completed is within 6 months of the gateway determination date.



03.11.2023

\_\_\_\_\_  
(Signature)\_\_\_\_\_  
(Date)

Lucy Walker  
Manager, Local & Regional Planning, Northern Region



3/11/2023

\_\_\_\_\_  
(Signature)\_\_\_\_\_  
(Date)

Jeremy Gray  
Director, Northern Region

Assessment officer

Jon Stone  
Senior Planning Officer, Northern Region  
02 5778 1488

# Attachment A

## Consistency with Northern Councils E Zone Review Final Recommendations

Recommendation	Key Issues	Comment
<p><b>1. When will E Zones be applied?</b></p> <ul style="list-style-type: none"> <li>C2 and C3 zones will only be applied if the primary use of the land is considered to be environmental conservation (C2) or environmental management (C3) and the land contains attributes which meet one or more of the criteria for an C2 or C3 zone (Tables 1 and 2).</li> <li>An C4 zone can be applied if the land contains attributes that are consistent with the Department's Practice Note PN09-002 Environment Protection Zones.</li> </ul>	<p>Does the proposed zone meet the primary use of land test?</p> <p>Is an C4 zone proposed and is it consistent with PN09-002.</p>	<p>Complies.</p> <p>Based on the information provided it is considered that the land meets the criteria for a C2 zone and that the primary use of this portion of the site is generally for environmental conservation.</p> <p>An C4 zone is not proposed as part of this planning proposal.</p>
<p><b>2. How will the Primary use of land be determined?</b></p> <ul style="list-style-type: none"> <li>The primary use of the land is the main use for which the land has been used for the last two (2) years.</li> <li>This may mean that land which is currently zoned rural will continue to have a rural zone, but it may have parts of that land which have attributes that meet the criteria for an C2 or C3 zone included in a mapped planning control.</li> <li>The primary use of the land may vary across a particular property depending on the characteristics of the land. This may result in more than one zone being applied to the land.</li> <li>The primary use of land will be identified during the</li> </ul>	<p>Is the verification methodology for determining the primary use of land consistent with the Secretary's letter of 1 March 2016?</p>	<p>Complies.</p> <p>The proposal is considered to comply with the requirements of the Secretary's letter of 1 March 2016.</p> <p>The planning proposal does not address the Northern Councils E Zone Review Final Recommendations. As such, it is recommended that a condition be imposed to require the planning proposal is updated prior to public exhibition.</p>

preparation of a planning proposal.		
<p><b>3. What are the E Zone Criteria?</b></p> <p>C2 Criteria</p> <ul style="list-style-type: none"> <li>• SEPP 26 Littoral Rainforest</li> <li>• SEPP 14 Coastal Wetlands</li> <li>• Endangered Ecological Communities</li> <li>• Key Threatened Species Habitat</li> <li>• Over-cleared vegetation communities</li> <li>• Culturally significant lands</li> </ul> <p>C3 Criteria</p> <ul style="list-style-type: none"> <li>• Riparian and estuarine vegetation</li> <li>• Rare endangered and vulnerable forest ecosystems</li> <li>• Native vegetation on coastal foreshores</li> </ul>	<p>Does land meet the E Zone criteria in Tables 1 and 2?</p> <p>Which criterion does the land satisfy to have an E zone applied to it?</p>	<p>Complies.</p> <p>To verify attributes, Council has relied on the biodiversity field inspections and ground surveys conducted by an appropriately qualified person and recorded in the Biodiversity Assessment prepared by Earth Scapes Consulting.</p> <p>This report confirms the land contains vegetation which meets the diagnostic criteria for threatened ecological communities under Lowland rainforest on floodplain under the NSW Biodiversity Conservation Act and also meets criteria for the critically endangered Lowland Rainforest under the federal Environment Protection and Biodiversity Conservation Act 1999.</p> <p>The E Zone Policy specifies that supporting flora and fauna reports will only be acceptable where the fieldwork is not more than five years old. The assessment is dated April 2023 and as a result is within the five- year timeframe provided.</p>
<p><b>4. What is the procedure for applying an C2 or C3 zone?</b></p> <ul style="list-style-type: none"> <li>• Councils will assess land against the E zone criteria and consider the primary use of the land before proposing an C2 or C3 zone.</li> <li>• An C2 or C3 zone can only be applied to land with a primary use of environmental conservation or environmental management and, which has attributes that have been verified to meet the E zone criteria.</li> <li>• If the land has attributes that meet the C2 criteria, however the primary use of the land is environmental</li> </ul>	<p>Has Council satisfied the procedure for Applying E Zones?</p>	<p>Complies.</p> <p>Council has provided supporting information to verify the attributes of the land in accordance with the E Zone criteria. Council will however need to include further information within the planning proposal to confirm the primary use of land.</p>

<p>management rather than environmental conservation, a council may apply an C3 zone.</p> <ul style="list-style-type: none"> <li>• If a council believes the primary use of the land does not warrant an E zone, and the land meets the E zone criteria, then a LEP Map and associated clauses can be applied.</li> <li>• The E zones will not include buffers to the vegetation attributes that meet the E zone criteria.</li> </ul>		
<p><b>How is the E Zone Criteria verified?</b></p> <ul style="list-style-type: none"> <li>• An C2 or C3 zone or other mapped planning controls cannot be applied to land unless the attributes that meet the C2 or C3 criteria have been verified on that land.</li> <li>• Verification of the presence of attributes that meet the C2 or C3 criteria on the site must be undertaken by one or a combination of the following: <ul style="list-style-type: none"> <li>- biodiversity field inspections and ground surveys conducted by an appropriately qualified person.</li> <li>- Aboriginal heritage field inspections and ground surveys conducted by an appropriately qualified person or someone with extensive field experience and in accordance with the <i>Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW</i>, NSW Department of Environment, Climate Change &amp; Water (2010).</li> <li>- supporting flora and fauna reports conducted by a suitably qualified person and guided by the <i>Draft Framework for Biodiversity Assessment</i>, NSW Office of Environment and Heritage (2014) and the <i>Draft Threatened Biodiversity Survey and Assessment: Guidelines for Developments and Activities</i>, NSW Department of Environment and Conservation (2004). Such reports will only be acceptable where the field work is not more than five years old.</li> <li>- review of current (not more than five years old) high resolution digital aerial photography that has been</li> </ul> </li> </ul>	<p>Has the presence of attributes which meet the criteria been verified by one or more of the methods listed in Recommendation 5?</p>	<p>Complies.</p> <p>To verify attributes, Council has relied on the biodiversity field inspections and ground surveys conducted by an appropriately qualified person and recorded in the Biodiversity Assessment prepared by Earth Scapes Consulting.</p> <p>This report confirms the land contains vegetation which meets the diagnostic criteria for threatened ecological communities under Lowland rainforest on floodplain under the NSW Biodiversity Conservation Act and also meets criteria for the critically endangered Lowland Rainforest under the federal Environment Protection and Biodiversity Conservation Act 1999.</p> <p>The E Zone Policy specifies that supporting flora and fauna reports will only be acceptable where the fieldwork is not more than five years old. The assessment is dated April 2023 and as a result is within the five- year timeframe provided.</p>

<p>verified by another one of these verification techniques.</p> <ul style="list-style-type: none"> <li>- supporting cultural heritage reports conducted by a suitably qualified person and in accordance with a <i>Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW</i>, NSW Department of Environment, Climate Change &amp; Water (2011).</li> <li>- consultation with Aboriginal cultural knowledge holders in regard to culturally significant lands in accordance with a <i>Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW</i>, NSW Department of Environment, Climate Change &amp; Water (2011).</li> </ul>		
<p><b>6. Transferring Environmental Zones.</b></p> <ul style="list-style-type: none"> <li>• The areas of land to which the current environmental protection zones listed in the Table 3 (below) apply, may be zoned C2 or C3 once councils have verified the attributes of the land against the criteria.</li> </ul> <p>Ballina LEP 1987 7(a) Environmental Protection (Wetlands) 7(l) Environmental Protection (Habitat)</p> <p>Byron LEP 1988 7(a) Environmental Protection (Wetlands) 7(b) Environmental Protection (Coastal Habitat) Environmental Protection (Scientific) 7(k) Environmental Protection (Habitat)</p> <p>Lismore LEP 2000 7(a) Environment Protection (Natural Vegetation and Wetlands) 7(b) Environment Protection (Habitat)</p> <p>Tweed LEP 2000 7(a) Environmental Protection (Wetlands and Littoral Rainforest)</p>	<p>Is the land already zoned one of the existing “7” zones in Table 3?</p>	<p>Not applicable.</p> <p>Land zoned 7(a) Environmental Protection (Wetlands), 7(b) Environmental Protection (Coastal Habitat), Environmental Protection (Scientific) 7(k) or Environmental Protection (Habitat) under the Byron LEP 1988 does not comprise part of this proposal.</p>

<p>7(l) Environmental Protection (Habitat)</p> <p>Kyogle Council should apply a rural zone, equivalent to the zone in the superseded Interim Development Order, to the land which was proposed to be zoned C2 or C3 and was deferred from the Kyogle LEP 2012, until such time as investigations are completed to identify appropriate E zones or additional mapped planning controls.</p>		
<p><b>7. Public and Private Land inconsistent with the criteria.</b></p> <ul style="list-style-type: none"> <li>Public land may be zoned C2 or C3 despite being inconsistent with the criteria if the primary use of the land is environmental conservation or environmental management.</li> <li>Private land may be zoned C2 or C3 despite being inconsistent with the criteria, only if it is consistent with a negotiated development outcome (master plan, rezoning, development consent, designated offset areas) or at the request of the landowner.</li> </ul>	<p>If an E zone has been applied to public land inconsistent with the criteria, is the primary use environmental conservation or environmental management?</p> <p>If an E zone has been applied to private land inconsistent with the criteria, is it the result of a negotiated development outcome or at the request of the landowner?</p>	<p>Complies.</p> <p>The proposal relates to public land. It is not considered that a C Zone has been applied to public land inconsistent with the criteria.</p> <p>Notwithstanding, the planning proposal does not address the Northern Councils E Zone Review Final Recommendations. As such, it is recommended that a condition be imposed to require the planning proposal is updated prior to public exhibition.</p>

<p><b>8. Voluntarily revegetated land.</b></p> <ul style="list-style-type: none"> <li>Land which has been voluntarily revegetated by the current landowner, will not have an C2 or C3 zone applied to it without the agreement of the current landowner providing: <ul style="list-style-type: none"> <li>the revegetation has been actively undertaken and is not the result of natural regrowth;</li> <li>active revegetation includes a combination of planting, seeding, weed control, fencing, removing stock, watering, ripping, mulching and soil improvement to encourage the natural regeneration of native vegetation; and</li> <li>the primary use of the land is agriculture.</li> </ul> </li> <li>Land which has been voluntarily revegetated can be included on a Vegetation Map without the agreement of the current landowner if the attributes have been verified to meet the criteria for an C2 or C3 zone and the primary use of the land is environmental conservation or environmental management.</li> <li>If revegetation has been undertaken with the support of grant funding, and a condition of that funding was the ongoing conservation or management of the vegetation, then an C2 or C3 zone may be applied to the land.</li> </ul>	<p>Is any voluntarily revegetated land affected by this planning proposal?</p> <p>Does it comply with the requirements?</p>	<p>Not applicable.</p> <p>It is not considered that the primary use of the land is agriculture.</p>
<p><b>9. Zoning of State and regionally significant farmland.</b></p> <ul style="list-style-type: none"> <li>When zoning State or regionally significant farmland, councils will have to take account of the primary use of the land before applying an E zone or a rural zone.</li> </ul>	<p>Has the zoning of State or Regionally significant farmland taken into account the primary use of land test?</p>	<p>Not applicable.</p> <p>Land subject of this proposal is not identified as state or regionally significant farmland.</p>



<p><b>10. Application of multiples zones to a single property (split zoned lots).</b></p> <ul style="list-style-type: none"> <li>• More than one zone can be applied to properties where the characteristics of different areas of the land reflect the different primary uses of the land.</li> <li>• Councils should consider the suitability of alternative zones or including the land on a Vegetation Map when considering more than one zone for a property.</li> <li>• As a general principle, the use of multiple zones on a property should be minimised as far as possible.</li> </ul>	<p>Are multiple zones applied to a single property?</p> <p>Do these zones reflect the primary use of the land?</p>	<p>Complies.</p> <p>Multiple zones have been applied to the subject property. The Department has considered the suitability of the proposed zones and support progressing the planning proposal with the land zones proposed.</p>
<p><b>11. Application of the C4 Zone in Byron Council.</b></p> <ul style="list-style-type: none"> <li>• Byron Shire Council is to prepare a planning proposal to apply a suitable residential zone to that land where an C4 zone was proposed under the draft Byron LEP.</li> </ul>	<p>Does the proposal apply to land proposed to be zoned C4 in Byron LGA?</p> <p>Is the proposal applying a suitable residential zone to this land?</p>	<p>Not applicable.</p> <p>The proposal does not apply to land proposed to be zoned C4.</p>

<p><b>12. Application of additional mapped planning controls.</b></p> <ul style="list-style-type: none"> <li>• Matters of public health, safety, risk and hazard such as drinking water catchments, flooding, coastal risk areas and land subject to strict development controls such as steep land may be included in a LEP Map.</li> <li>• A LEP Map is not to be used for areas of scenic protection or aesthetic values.</li> <li>• Land that has been verified to meet the criteria for an C2 or C3 zone where the primary use of the land is not environmental conservation or environmental management may be included in a mapped planning control, such as a Vegetation Map.</li> </ul>	<p>Does the proposal seek to introduce overlays or other mapped planning controls?</p> <p>Do the mapped planning controls apply to matters of public health, safety, risk and hazard?</p> <p>Do the mapped planning controls apply to land with attributes which meet the E zone criteria but does not have a primary use of land that warrants an C2 or C3 zone?</p>	<p>Not applicable.</p> <p>The proposal does not seek to introduce overlays or other mapped planning controls.</p>
<p><b>13. Aesthetic Value.</b></p> <ul style="list-style-type: none"> <li>• Councils on the Far North Coast will not be permitted to use scenic values as an attribute for the application of an C2 or C3 zone or mapped planning controls.</li> </ul>	<p>Has aesthetic value been used as an attribute for the application of an E zone?</p>	<p>Complies.</p> <p>Aesthetic value has not been used as a criterion for applying a proposed E zone.</p>

<p><b>14. Permissibility of agriculture in E Zones.</b></p> <ul style="list-style-type: none"> <li>• Extensive agriculture is to be listed as permissible with consent in the C2 zone for all Far North Coast LEPs.</li> <li>• Extensive agriculture is to be listed as permissible without consent in the C3 zone for all Far North Coast LEPs.</li> </ul>	<p>Is extensive agriculture permissible without consent in the C3 zone?</p> <p>Is extensive agriculture permissible with consent in the C2 zone?</p>	<p>Not applicable.</p> <p>The proposal does not seek to amend the existing C2 or C3 zone tables.</p>
<p><b>15. Coastal Zone Management.</b></p> <ul style="list-style-type: none"> <li>• Far North Coast councils are to use a Coastal Risk Map and associated clause to manage land affected by coastal hazards.</li> </ul>	<p>Has a Coastal Risk Map and associated clause been used to manage land affected by coastal hazards?</p>	<p>Not applicable.</p> <p>The planning proposal does not propose any controls to manage any land affected by coastal hazards.</p>

<p><b>16. Section 117 Ministerial Direction</b></p> <ul style="list-style-type: none"><li>• A Section 117 Ministerial Direction specific to applying E zones and mapped planning controls in Far North Coast LEPs will ensure the consistent application of the final recommendations of the Northern Councils E Zone Review for Ballina, Byron, Kyogle, Lismore and Tweed Local Government Areas.</li></ul>	<p><i>Environmental Overlays in Far North Coast LEPs.</i></p>	<p>Based on the information provided it is considered that the proposal is consistent with Direction 3.4. Notwithstanding, further assessment of primary land use will need to be included within the planning proposal in relation to the primary use test.</p>
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