



IRF23/2917

## Gateway determination report – PP-2023-2414

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Amendment to Schedule 5 of Byron LEP 2014 to  
include additional local heritage items

November 23

Published by NSW Department of Planning and Environment

[dpie.nsw.gov.au](http://dpie.nsw.gov.au)

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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
Planning proposal for gateway determination (Oct 2023)
Report to council (planning) meeting and resolution (Oct 2023)
Planning proposal application form PP-2023-2414
Planning proposal submission form PP-2023-2414

# 1 Planning proposal

## 1.1 Overview

**Table 2 Planning proposal details**

<b>LGA</b>	Byron Shire
<b>PPA</b>	Byron Shire Council
<b>NAME</b>	Amendment to Schedule 5 of Byron LEP 2014 to include additional local heritage items
<b>NUMBER</b>	PP-2023-2414
<b>LEP TO BE AMENDED</b>	Byron Local Environmental Plan 2014
<b>ADDRESS</b>	Various sites throughout the local government area
<b>DESCRIPTION</b>	Various sites
<b>RECEIVED</b>	30/10/2023
<b>FILE NO.</b>	IRF23/2917
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

## 1.2 Objectives of planning proposal

The objective of the planning proposal is to protect and conserve seventeen (17) items of local heritage significance within the Byron Shire Local Government Area to ensure future development is sympathetic and recognises the heritage values of these items.

The planning proposal (**Attachment A**) contains objectives and intended outcomes that adequately explain the intent of the proposal.

## 1.3 Explanation of provisions

The planning proposal seeks to amend the Byron LEP 2014 to:

- revise Part 1 Heritage Items in Schedule 5 of the LEP to add seventeen (17) new individual and group local heritage items (**Table 2**); and
- revise the Byron LEP 2014 Heritage Map to include the new Part 1 items.

The proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

**Table 2 Proposed new 17 local heritage items**

BLEP Item ID	Item Name	Street Address
I188	Group of dwellings	17, 18, 20, 21, 23 and 26 Charlotte Street, Bangalow
I189	Dwelling	7 Leslie Street, Bangalow
I190	Group of dwellings and former Temperance Hall	9, 11, 13, 15, 17, 19 and 25 Lismore Road, Bangalow
I191	War Memorial	Reserve, Fawcett Street, Brunswick Heads
I192	Foreshore reserves and Norfolk pine cultural plantings	Foreshore reserve, Brunswick Heads
I193	Housie shed and former ambulance shed	Tom Kendall Park, Brunswick Heads <u>Note:</u> incorrectly described in the planning proposal as Banner Park
I194	South Arm bridge	Road reserve, Brunswick Heads
I195	Boulevard plantings and Pioneer Memorial Park	Tweed Street, Brunswick Heads
I196	Brunswick Picture House	30 Fingal Street, Brunswick Heads
I197	Commercial building	26 Mullumbimbi Street, Brunswick Heads
I198	Commercial building	28 Mullumbimbi Street, Brunswick Heads
I199	Pair of cottages	40 and 42 Cowper Street, Bryon Bay
I200	'Carabeen' office/former dwelling	The Farm, 11 Ewingsdale Road, Ewingsdale
I201	'Bellevue'	22 Coolamon Scenic Drive, Mullumbimby
I202	'Wiloona'	5 Main Arm Road, Mullumbimby
I203	Cottage and dairy bales	221 Coolamon Scenic Drive, Coorabell
I204	'Longfield'	175 Wilsons Creek Road, Wilsons Creek

If the Gateway is supported to proceed, it is recommended that heritage inventory sheets with statements of significance for each of the proposed items be included with the exhibition material to aid the community's understanding of the proposal.

A condition to this effect is recommended for inclusion in the Gateway determination.

## 1.4 Site description and surrounding area

The proposal applies to various properties across a range of locations throughout the Byron Shire as shown in **Figure 1**.

The proposed heritage items are outlined in section 1.3 of this report and in the planning proposal. The subject items are mapped in the planning proposal and shown in **Figures 2 to 24**.



Figure 1 - Locality of proposed new heritage items (source: DPE Land iQ spatial viewer)



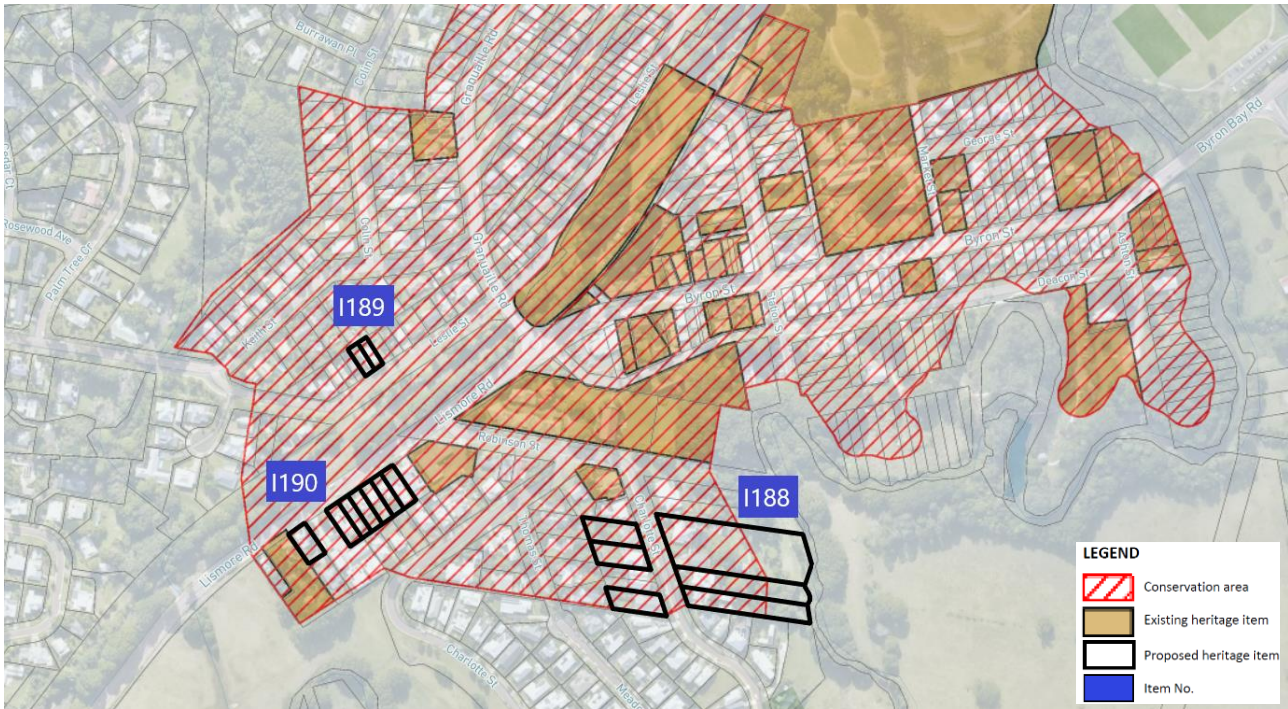


Figure 2 - Bangalow locality map (source: DPE Land iQ spatial viewer)



Figure 3 - I188 - Group of dwellings, Charlotte Street  
(source: planning proposal)



Figure 4 - I189 - Dwelling, Leslie Street  
(source: planning proposal)



Figure 5 - I190 - Group of dwellings and former Temperance Hall, Lismore Road (source: planning proposal)



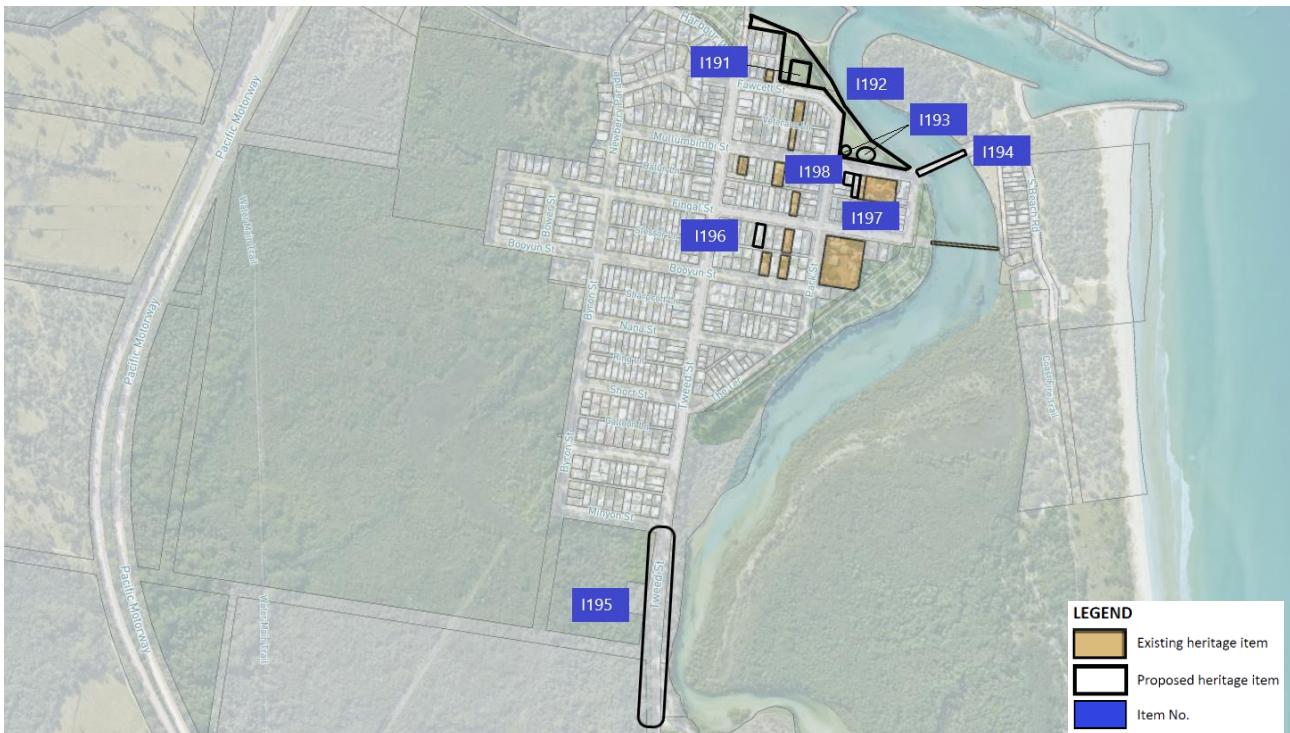


Figure 6 - Brunswick Heads locality map (source: DPE Land iQ spatial viewer)

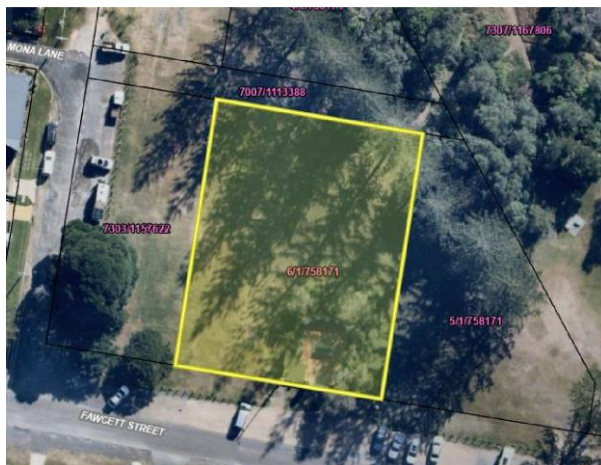


Figure 7 - I191 - War Memorial, Fawcett Street (source: planning proposal)



Figure 8 - I192 - Foreshore reserves and Norfolk pine cultural plantings (source: planning proposal)



Figure 9 - I193 - Housie shed and former ambulance shed, Tom Kendall Park (source: planning proposal)

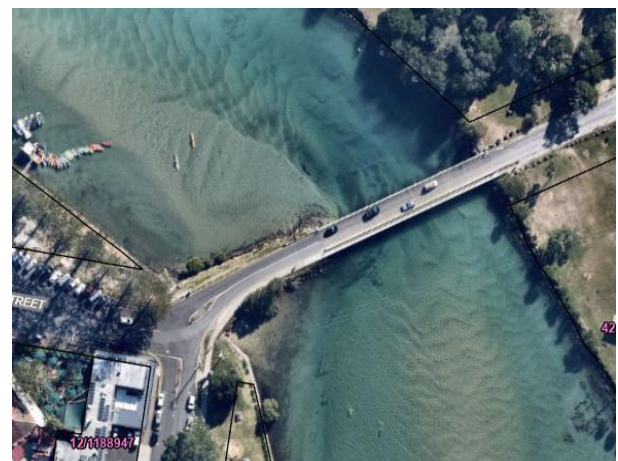


Figure 10 - I194 - South Arm bridge (source: planning proposal)





Figure 11 - I195 - Boulevard plantings and Pioneer Memorial Park, Tweed Street (source: planning proposal)



Figure 12 - I196 - Brunswick Picture House, Fingal Street (source: planning proposal)



Figure 13 - I197 - Commercial building, Mullumbimbi Street, (source: planning proposal)



Figure 14 - I198 - Commercial building, Mullumbimbi Street (source: planning proposal)

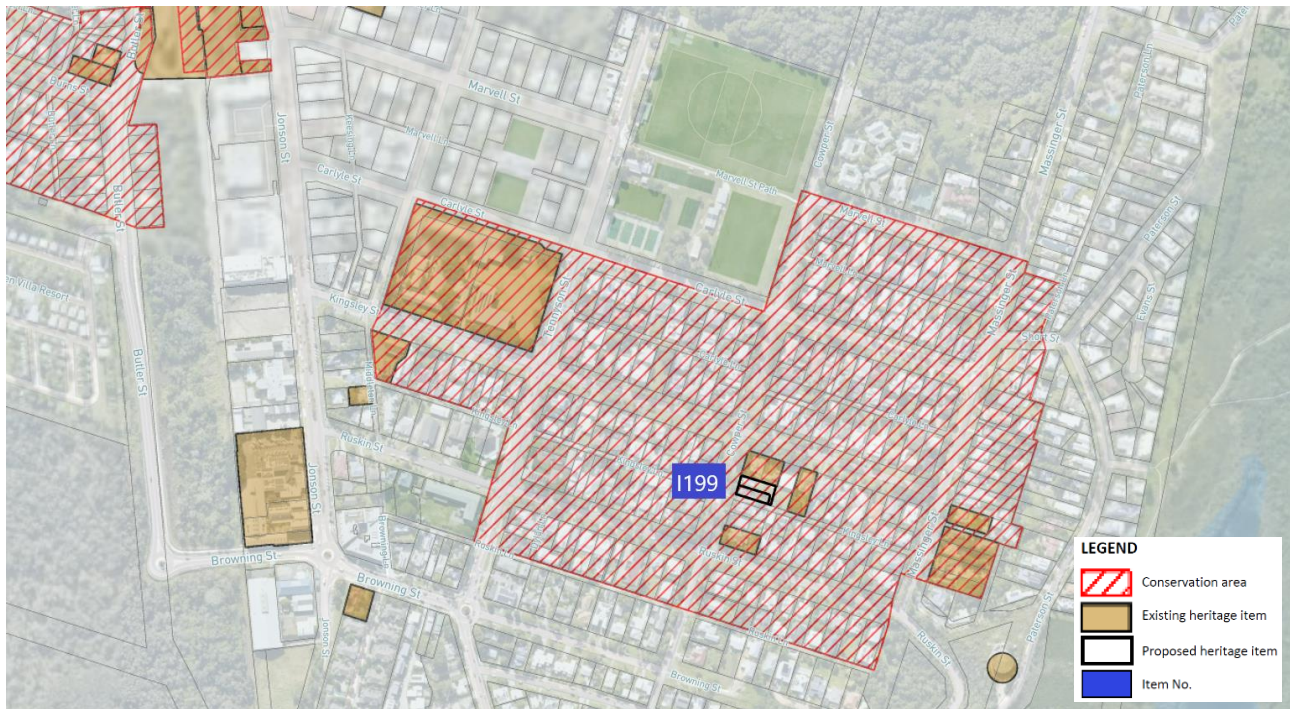


Figure 15 - Byron Bay locality map (source: DPE Land iQ spatial viewer)



Figure 16 - I199 - Pair of cottages, Cowper Street (source: planning proposal)



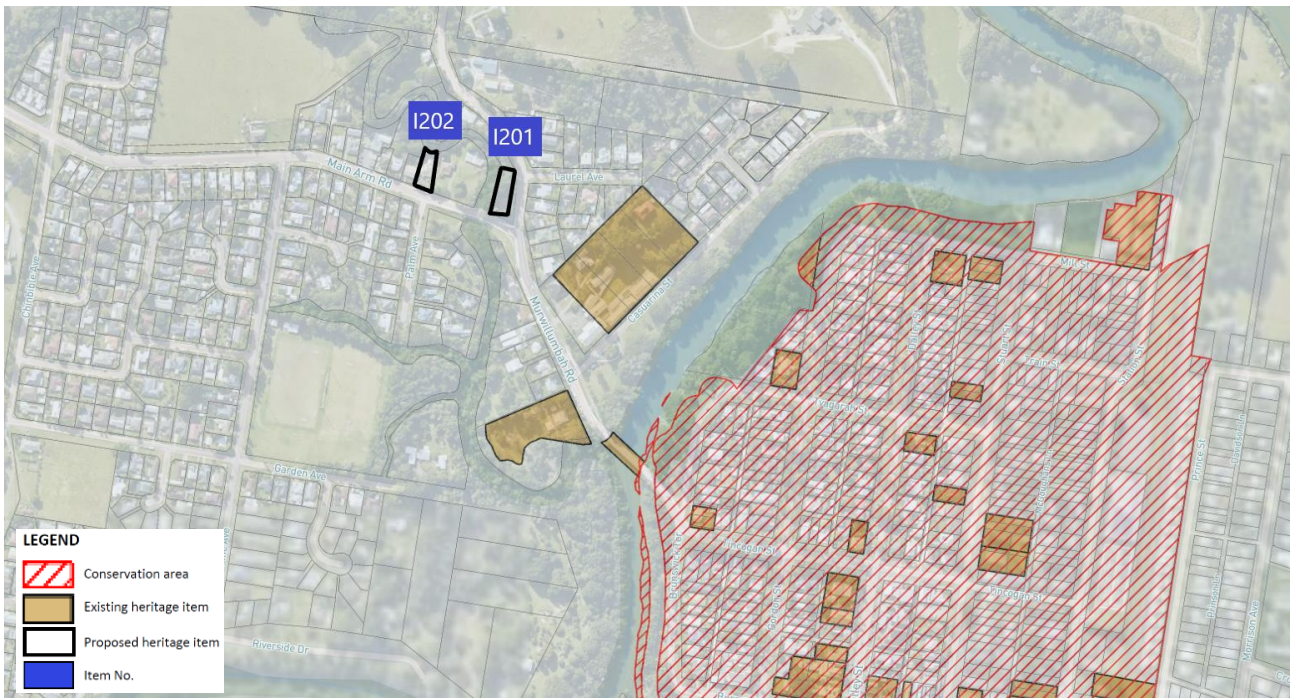


Figure 17 - Mullumbimby locality map (source: DPE Land iQ spatial viewer)

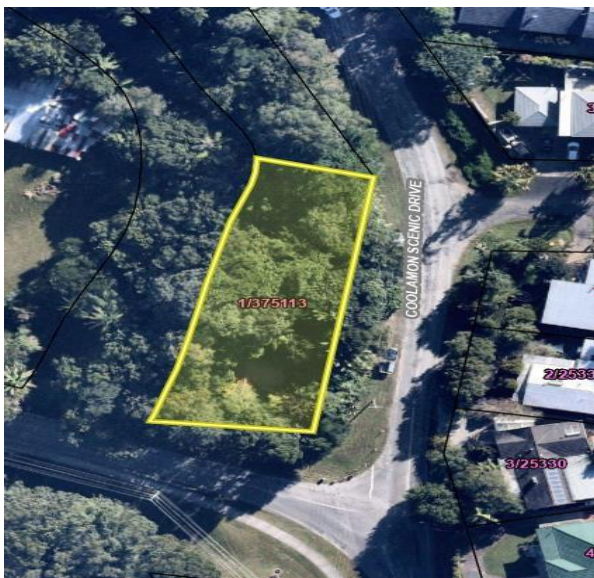


Figure 18 - I201 - 'Bellevue', Coolamon Scenic Drive (source: planning proposal)



Figure 19 - I202 - 'Wiloona', Main Arm Road (source: planning proposal)



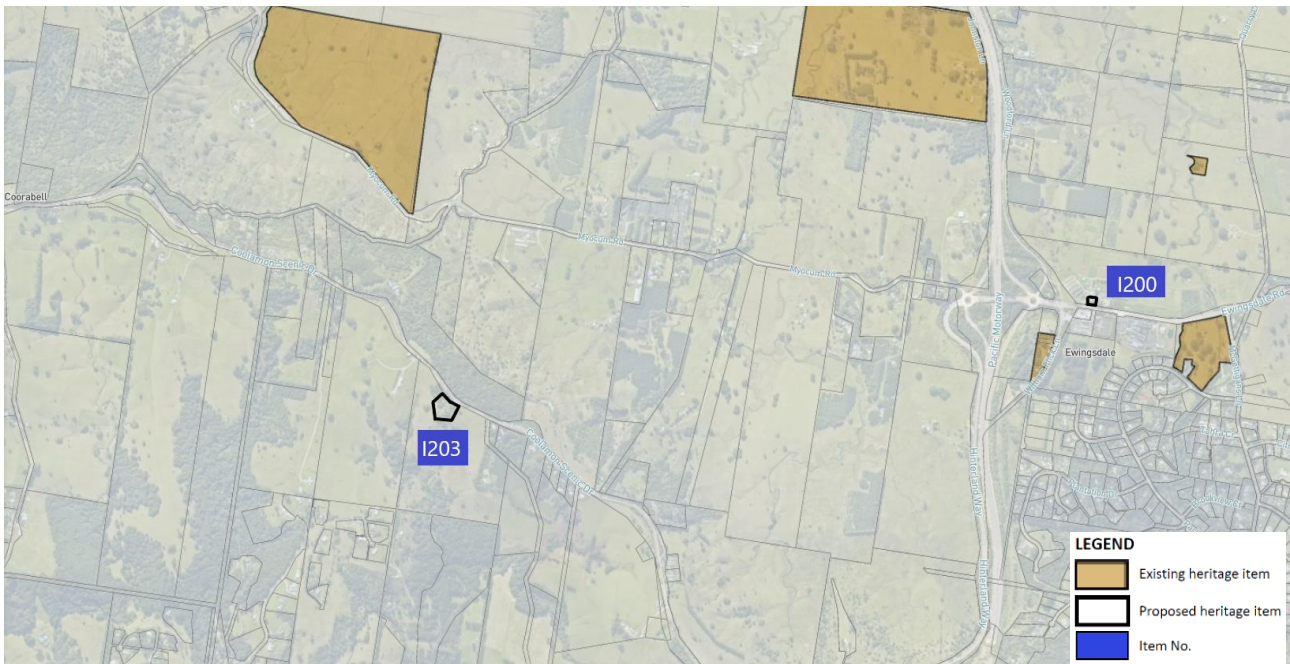


Figure 20 - Ewingsdale and Coorabell locality map (source: DPE Land iQ spatial viewer)



Figure 21 - I200 - 'Carabeen' office/former dwelling, Ewingsdale Road (source: planning proposal)



Figure 22 - I203 - Cottage and dairy bales, Coolamon Scenic Drive (source: planning proposal)



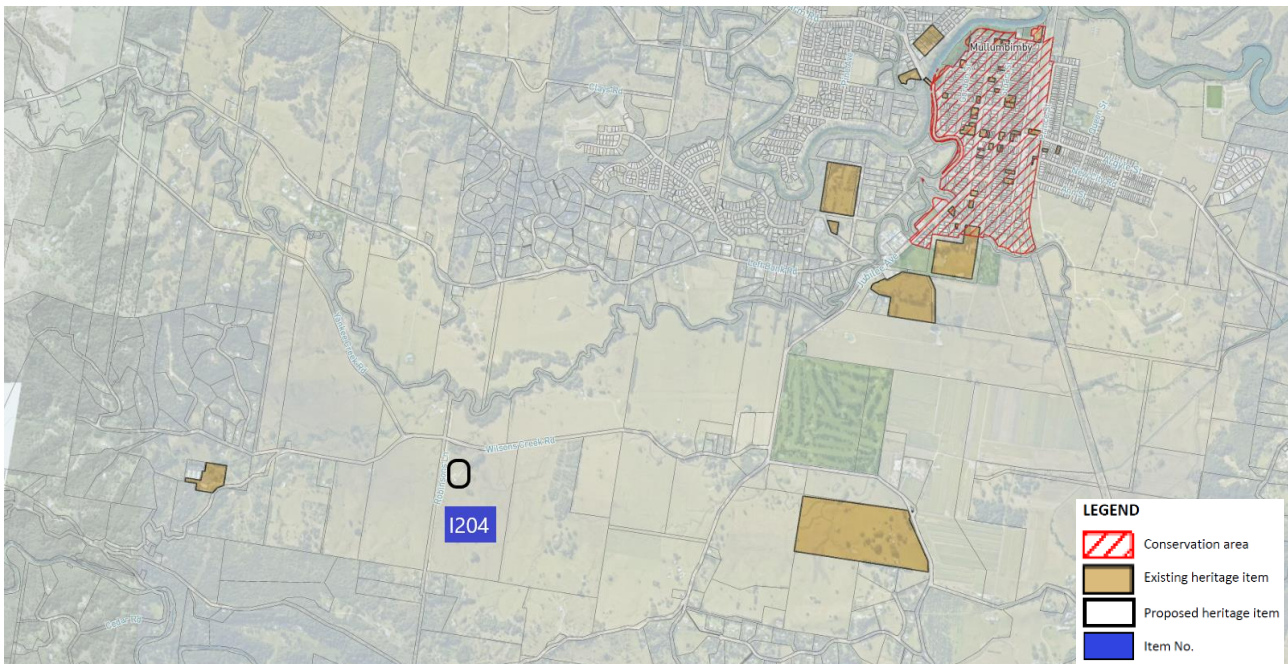


Figure 23 - Wilsons Creek locality map (source: DPE Land iQ spatial viewer)



Figure 24 - I204 - 'Longfield', Wilsons Creek Road (source: planning proposal)

## 1.5 Mapping

As shown above, the planning proposal includes site plans for the proposed new items. It also includes a table to identify the Byron LEP 2014 heritage map sheets requiring amendments.

If the Gateway is supported, it is recommended that the planning proposal be amended to include improved mapping for Items I192 and I195 (figures 8 and 11 in this report) to better align with the cadastre for these sites. A condition to this effect is recommended for inclusion in the Gateway Determination.

The final LEP mapping will need to comply with the Standard Technical Requirements for Standard Instrument LEP maps prior to finalisation of the amendment.

## 2 Need for the planning proposal

The planning proposal is Council initiated and responds to Council's adopted LGA-wide Heritage Strategy (2020-2024) and assessment of the proposed new items undertaken by Council's Heritage Advisor. The proposal also responds to early consultation undertaken with landowners by Council.

The planning proposal is considered to be the best means for achieving the objectives and intended outcomes which will ensure that there are appropriate legislative and regulatory planning controls to protect and conserve the heritage significance of the items.

## 3 Strategic assessment

### 3.1 Regional Plan

The proposal to list new local heritage items is considered to be consistent with the overall intent of the North Coast Regional Plan 2041.

Objectives 1 and 2 of the regional plan encourage well-located homes to meet demand and provide for more affordable and low-cost housing. It is considered that the proposal will not significantly impact upon the delivery of housing supply, choice and affordability. The proposed amendment to Schedule 5 of the LEP to include 17 additional heritage items impacts only a small number of affected properties and will not hinder the delivery of housing supply.

Objective 20 of the regional plan provides for the conservation and interpretation of heritage values as key components of place-based planning leading to a better understanding of how heritage influences and shapes communities. The proposal is consistent with this objective as it facilitates protection of proposed heritage sites through inclusion in the heritage schedule ensuring a continuing contribution to the identity of the Byron Shire LGA.

### 3.2 Local

The proposal states that it is consistent with the following local plans and strategies. It is also considered to be consistent with the priorities of Council's Community Strategic Plan, as stated in **Table 3**.

**Table 3 Local strategic planning assessment**

Directions	Justification
Byron Shire Local Strategic Planning Statement (LSPS) 2020	The proposal is consistent with the LSPS, in particular <i>Liveable Planning Priority 1 - Support and celebrate our heritage, vibrant culture and diverse lifestyles</i> . The planning proposal is consistent with the Priority and objectives of the LSPS in that it will facilitate the ongoing protection of heritage sites within the LGA.
Byron Shire Heritage Strategy 2020-2024	The planning proposal is consistent with the objectives of Council's Heritage Strategy, in particular, <i>Objective 2 - Identify Heritage Items in the Byron Shire and list them in the Local Environmental Plan</i> .

Directions	Justification
Byron Shire Community Strategic Plan (CSP) 2032	The planning proposal is consistent with Byron Shire's CPS's priorities, in particular, <i>Goal 4 – We manage growth and change responsibly, Objective 4.1 Manage responsible development through effective place and space planning</i> . The planning proposal seeks to protect heritage sites within the Byron Shire LGA and therefore, is consistent with the CSP.

### 3.3 Section 9.1 Ministerial Directions

The planning proposal is considered to be consistent with all relevant section 9.1 Directions except as discussed in **Table 4**.

**Table 4 Section 9.1 Ministerial Direction assessment**

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
4.3 Planning for Bushfire Protection	Unresolved	<p>This direction is relevant to the proposal as some the sites are, or in proximity to, land that is mapped as bushfire prone.</p> <p>The direction requires that Council must consult with the Commissioner of the NSW Rural Fire Service (RFS). Pending consultation with the RFS, this direction remains unresolved.</p>
9.2 Rural Lands	Justifiably inconsistent	<p>The planning proposal is inconsistent with this direction as it affects land within an existing rural and environmental zone and is unable to demonstrate compliance with all the relevant planning principles listed in the direction.</p> <p>This inconsistency is considered to be of minor significance as the listing of new local heritage items in existing rural and environmental zones is not considered likely to increase the potential for rural land use conflict or fragmentation and is consistent with the regional and local planning framework.</p>

### 3.4 State environmental planning policies (SEPPs)

The planning proposal is considered to be consistent with all relevant SEPPs. Whilst the proposed new heritage items may be excluded from some of the approval options under SEPP (Exempt and Complying Development 2008), alternative development pathways exist and will ensure that heritage significance is considered.

## 4 Site-specific assessment

### 4.1 Environmental

No adverse environmental effects impacts are anticipated due to the proposed heritage listings.

## 4.2 Social and economic

The planning proposal is unlikely to result in any significant adverse social impacts. The additional heritage listed sites will provide the community with greater certainty regarding heritage significance, ongoing protection and additional consideration through future development proposals. Additionally, the public exhibition of the proposal will provide opportunity for the wider community to consider whether the proposed heritage listings are appropriate and should be supported.

There may be a minor economic impact to landowners of the identified sites, as the heritage listing of the properties could require specialist heritage studies or advice to form part of any future development application. However, the proposal does not preclude any future development of the properties such as change of use, alterations, additions or adaptation.

## 4.3 Heritage

The planning proposal relates to local heritage matters and Council taking measures to protect the heritage significance within its LGA is supported. It is noted however, the planning proposal is not supported by an evidence base outlining the heritage significance of the items, areas and places, upon which the proposal relies.

If the Gateway is supported to proceed, it is recommended that heritage inventory sheets with statements of significance for each of the proposed items, as assessed against the NSW Heritage criteria for local listings, be included with the exhibition material to address this gap.

## 4.4 Infrastructure

As the planning proposal only seeks to list additional local heritage items, no additional burden to existing state or local infrastructure is anticipated.

# 5 Consultation

## 5.1 Community

Council proposes community consultation in accordance with the Gateway determination. As the planning proposal is considered to be a standard proposal under the LEP Making Guidelines (Aug 2023), a community consultation period of 20 working days is recommended and forms part of the conditions of the Gateway determination.

To ensure that landowners are provided with suitable opportunities to provide feedback on the proposal, a condition is recommended to require notification to all affected landowners during the formal exhibition period.

## 5.2 Agencies

Council does not specifically raise which agencies will be consulted in the planning proposal. However, Council has nominated via the planning portal to consult with Heritage NSW.

It is recommended that in addition to Heritage NSW, the following agencies also be consulted and given 30 working days to comment:

- NSW Rural Fire Services (as required under section 9.1 direction 4.3 Planning for Bushfire Protection); and



- Crown Lands (given they have ownership or management interests in some of the proposed sites).

## 6 Timeframe

Council proposes a 10 month time frame to complete the LEP.

The LEP Plan Making Guidelines (Aug 2023) establishes maximum benchmark timeframes for planning proposals by category. As previously noted, this planning proposal is categorised as a standard proposal.

Completion of the LEP within 9 months of the date of the Gateway determination is recommended in line with the benchmark timeframes. A notation to this effect is recommended for inclusion in the Gateway determination.

If the Gateway is supported, it is recommended that it be accompanied by guidance for Council in relation to meeting key milestone dates to ensure the LEP is completed within the benchmark timeframes.

## 7 Local plan-making authority

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

As the planning proposal addresses matters of local heritage significance only, it is recommended that Council be authorised to be the local plan-making authority for this proposal.

## 8 Assessment summary

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

- it will facilitate protection of the new items identified as having heritage value in the Byron Shire LGA; and
- it is consistent with the requirements of the North Coast Regional Plan 2041 and Council's Local Strategic Planning Statement to protect the region's cultural heritage.

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

- revise the mapping for proposed Items I192 and I195 (figures 8 and 11 in this report) to clearly identify the boundaries of these sites; and
- include heritage inventory sheets with statements of significance for each of the proposed items, as assessed against the NSW Heritage criteria for local listings.

## 9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Direction 9.2 Rural Lands are minor or justified; and
- Note that the consistency with section 9.1 Directions 4.3 Planning for Bushfire Protection is unresolved and will require justification.



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

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

1. The planning proposal is to be updated before agency and community consultation to:
  - revise the mapping for proposed Items I192 and I195 (figures 8 and 11 in this report) to clearly identify the boundaries of these sites; and
  - include heritage inventory sheets with statements of significance for each of the proposed items, as assessed against the NSW Heritage criteria for local listings.
2. Consultation is required with the following public authorities and given 30 working days to comment:
  - Heritage NSW
  - NSW Rural Fire Service
  - Department of Planning and Environment - Crown Lands
3. The planning proposal should be made available for community consultation for a minimum of 20 working days.
4. Council is to notify all landowners affected by the planning proposal during community consultation.
5. Given the nature of the planning proposal, Council should be authorised to be the local plan-making authority.
6. The Gateway note that the LEP should be completed within 9 months of the date of the Gateway determination.



13/11/23

(Signature)

(Date)

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13/11/2023

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