

Report No. 13.11 PLANNING - 26.2022.3.1 Planning Proposal - Stage 4 C zone Implementation Program

Directorate: Sustainable Environment and Economy

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5 **File No:** I2024/427

Summary:

The purpose of this report is to present the Stage 4 Planning Proposal (Attachment 1) for Council's endorsement to enable submission to the Department of Planning, Industry & Environment (the Department) for Gateway determination.

10 The implementation of Environmental Zones commenced in 2018 and is being delivered in a number of stages. To date Stages 1 -3 are complete and have collectively resulted in a **net gain of 1,420ha of C2 Environmental Conservation zones** on private land, when compared to areas previously zoned 7a, 7b, 7k & 7j in Byron LEP 1988.

15 Stage 4 is the subject of this report and seeks to apply approximately 35 ha of C1 National Parks and Nature Reserves, 625 ha of C2 Environmental Conservation, 270 ha of C3 Environmental Management and 0.04 ha of C4 Environmental Living zones to a mix of land owned by public authorities and our traditional owners and custodians, as well as private land deferred from the Stage 3 planning proposal (by the Department) to allow for further site investigations as part of this review. Stage 4 also applies to non-
20 environmental zones where applicable.

The Stage 4 Planning Proposal (PP4) also amends other LEP 2014 maps such as Minimum Lot Size, Height of Building, Floor Space Ratio, Drinking Water Catchment, Acid Sulfate Soils and Multiple Occupancy & Community Title Maps.

25 In relation to private land, there are forty (40) properties where landowner agreement on proposed C zones either could not be reached or no response was provided. Eighteen (18) of these already have an existing environmental zone under LEP 1988 (namely 7a Wetlands, 7b Coastal Habitat and or 7k Habitat). An analysis of the outstanding 'Not Agreed' Stage 3 sites deferred by the Department, including landowners' reasons for not agreeing and Council's response to these, is contained in Attachment 2.

30 **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
35 been called by the mover and seconder of all motions relating to this report.

RECOMMENDATION:

That Council:

- 5 1. **Submits the Planning Proposal contained in Attachment 1 (E2024/32968) to the NSW Department of Planning, Housing and Infrastructure for Gateway determination;**
2. **Pending Gateway determination, undertakes public exhibition of the Planning Proposal and consults with government agencies in accordance with the Gateway determination; and**
- 10 3. **Receives a Report outlining the exhibition outcomes.**

Attachments:

- 1 26.2022.3.1 - Planning Proposal Stage 4 C zone Implementation Program, E2024/32968 
- 2 26.2022.3.1 Summary of Outstanding 'Not Agreed' Stage 3 sites deferred by the Department
15 - C-Zones PP4 FINAL, E2024/9396 
- 3 Form of Special Disclosure of Pecuniary Interest, E2012/2815 

Report

Council at its 22 March 2018 Ordinary Meeting resolved (**Res 18-188**) to implement the Department's 'Northern Councils E Zone Review Final Recommendations Report' in several stages to deliver more timely and effective outcomes for affected landowners. An overview of the latest staged implementation program is shown in Figure 1 below.

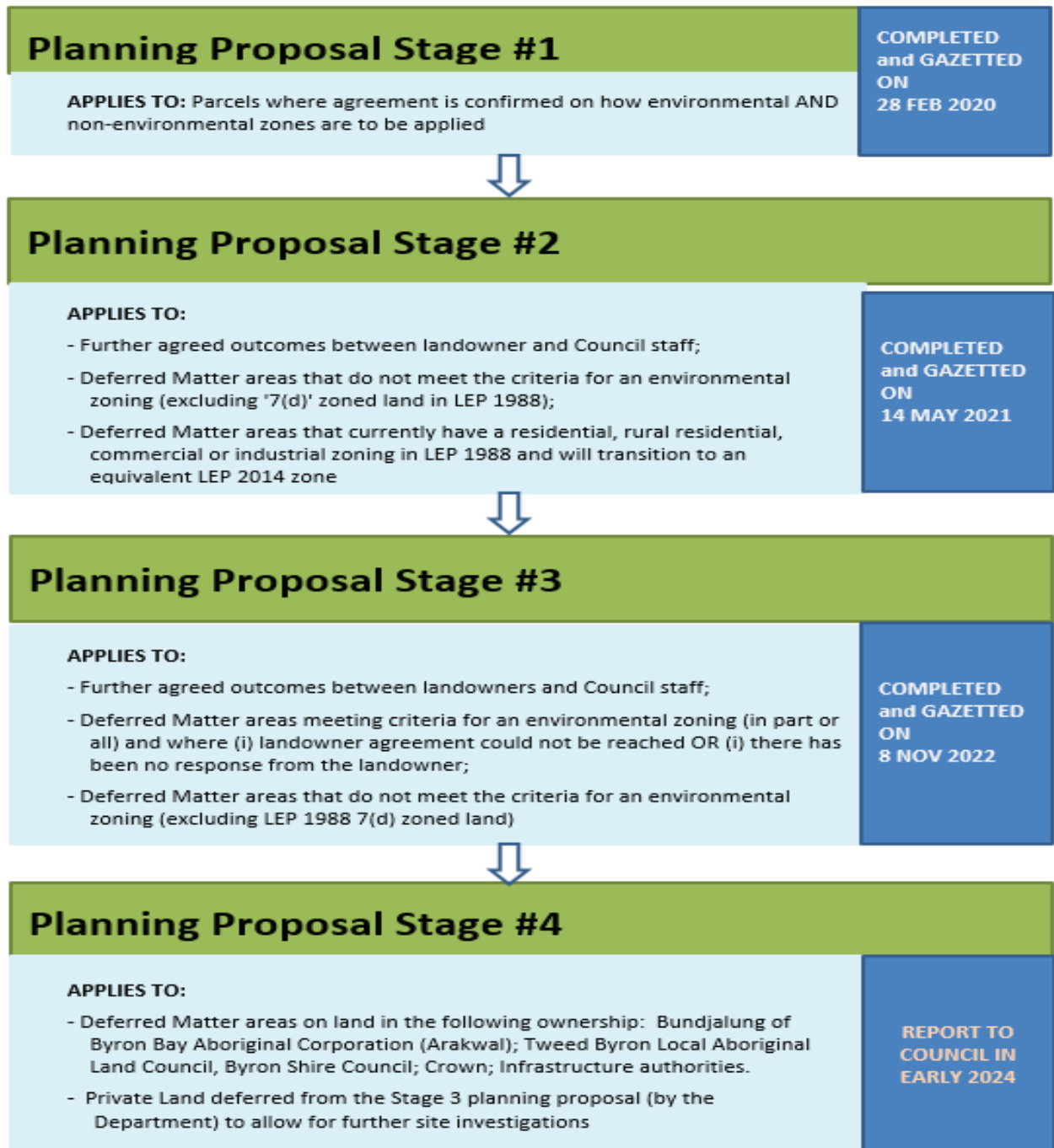


Figure 2: Staging Program to apply environmental and other zones on certain land in Byron LEP 2014

Stage 1 Planning Proposal (PP1)

5 PP1 applied environmental and non-environmental zones to 64 properties in the Shire based on agreed outcomes. This included approximately 340 ha of *C2 Environmental Conservation* zones and 60 ha of *C3 Environmental Management* zones (formerly E2 and E3 respectively).

Status: completed and gazetted on 28 February 2020.

Stage 2 Planning Proposal (PP2)

10 PP2 applied environmental and non-environmental zones to 619 properties in the Shire based on agreed outcomes. Approximately 1,485 ha of *C2 Environmental Conservation* zones and 400 ha of *C3 Environmental Management* zones (formerly E2 and E3 respectively) are applied in PP2. It also amends other LEP 2014 maps such as Minimum Lot Size, Height of Building, Drinking Water Catchment and Acid Sulfate Soils Maps.

Status: completed and gazetted on 14 May 2021.

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Stage 3 Planning Proposal (PP3)

PP3 applied environmental and non-environmental zones to over 2,200 properties in the Shire, which included approximately 4,740 ha of *C2 Environmental Conservation* zones and 816 ha of *C3 Environmental Management* zones (formerly E2 and E3 respectively).

20 Status: completed and gazetted on 8 November 2022.

Stage 4 Planning Proposal (PP4) – subject of this report

25 This planning proposal (Attachment 1) represents Stage 4 of a staged program to integrate the remainder of deferred matters into the Byron LEP 2014, with exception of Coastal 7(f1) and 7(f2) zones and the 7(d) Scenic Escarpment zone, which will be considered under a separate process in consultation with the State Government.

Stage 4 includes land owned by public authorities and our traditional owners and custodians, as well as private land deferred from the Stage 3 planning proposal (by the Department) to allow for further site investigations as part of this review.

30 Of the 22 'Stage 3' sites deferred by the Department, agreed outcomes have not been reached on 11 of these. An analysis of these properties, including landowners' reasons for not agreeing and Council's response to these, is contained in Attachment 2.

35 Overall, Stage 4 applies environmental and non-environmental zones to 1,494 land parcels, of which 1,050 are road reserves (State, Crown or Council). The proposed environmental zones comprise approximately 35 ha of *C1 National Parks and Nature Reserves*, 625 ha of *C2 Environmental Conservation*, 270 ha of *C3 Environmental Management* and 0.04 ha of *C4 Environmental Living* zones.

CONSULTATION AND ENGAGEMENT TO DATE

Council undertook an early engagement program from early 2022 with the following stakeholders:

- 5 - Bundjalung of Byron Bay Aboriginal Corporation (Arakwal); Tweed Byron Local Aboriginal Land Council, Byron Shire Council; Crown Lands; Infrastructure authorities (e.g. TfNSW) and other state agencies (e.g. Dept of Education).
- Private Land deferred from the Stage 3 planning proposal to allow for further site investigations and or land not captured in Stages 1-3
- 10 The Feedback received has informed the proposed zoning of the respective land parcels in this planning proposal.

RECOMMENDATION

- 15 It is recommended that Council endorse the E zone Stage 4 Planning Proposal (Attachment 1) to enable submission to the Department of Planning, Housing & Infrastructure for Gateway determination.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
3: Nurtured Environment	3.2: Deliver initiatives and education programs to encourage protection of the environment	3.2.3: Planning - Plan to improve the quality of the natural environment	3.2.3.5	Continue the E zone review program (Action No.9 from Rural Land Use Strategy)

Legal/Statutory/Policy Considerations

- 20 The process of applying C zones (previously E zones) and mapped overlays in Byron LEP 2014 is being undertaken in accordance with Section 117 Direction 3.4 – *Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs*. This direction specifically requires that a planning proposal that introduces or alters an *E2 Environmental Conservation* or *E3 Environmental Management Zone*, or an overlay and associated
- 25 clause must be consistent with the *Northern Councils E Zone Review Final Recommendations*.

Financial Considerations

5 The remaining 2023/24 budget for the E zone Implementation program will most likely be exhausted before Stage 4 is completed in 2024 and as such, a budget bid has been included in the Draft 2024/25 Budget (the subject of a separate report to this Council meeting).

Consultation and Engagement

Staff undertook an early engagement program from early 2022 with the following stakeholders:

- 10
- Bundjalung of Byron Bay Aboriginal Corporation (Arakwal); Tweed Byron Local Aboriginal Land Council, Byron Shire Council; Crown; Infrastructure authorities.
 - Private Land deferred from the Stage 3 planning proposal (by the Department) to allow for further site investigations

The Feedback received has informed the proposed zoning of the respective land in this planning proposal.

- 15 Further 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.