



*Planning Proposal – Byron Local
Environmental Plan 2014*

**Conservation Zone (C Zones)
Implementation Program – Stage 4**



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26.2022.3.1

Document History

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1. Introduction and Background

1.1. Summary of Planning Proposal

This planning proposal seeks to integrate land identified as “deferred matters” into Byron Local Environmental Plan (LEP) 2014, and includes the application of environmental zones to certain “non-Deferred Matter” areas already included in LEP 2014. Appropriate zones are proposed having regard for the applicable legislative requirements, Northern Councils E Zone Review Final Recommendations Report (2015), associated s9.1 Ministerial Direction 3.4 and previous Council resolutions.

This planning proposal 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 to 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.

1.2. Project Background

The ‘Northern Councils E Zone Review Final Recommendations Report’ was published in October 2015. Council subsequently resolved to proceed with a ‘staged’ program to amend Byron LEP 2014 in order to implement the Finals Recommendations Report. Stages 1 - 3 have been completed and gazetted. However in Stage 3 the Department deferred 22 of the 31 sites to give Council an opportunity to supplement the aerial photography with a further verification methods (eg physical site investigations).

1.3. Land to Which the Planning Proposal Applies

This planning proposal (Stage 4 of Council's C zone implementation program) relates to certain 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. Of the 22 ‘Stage 3’ sites deferred by the Department, agreed outcomes have not been reached on 11 of these.

Overall, Stage 4 incorporates 1,492 land parcels, of which 1,050 are road reserves.

The subject lands are located throughout the shire as depicted in Figure 1 below.

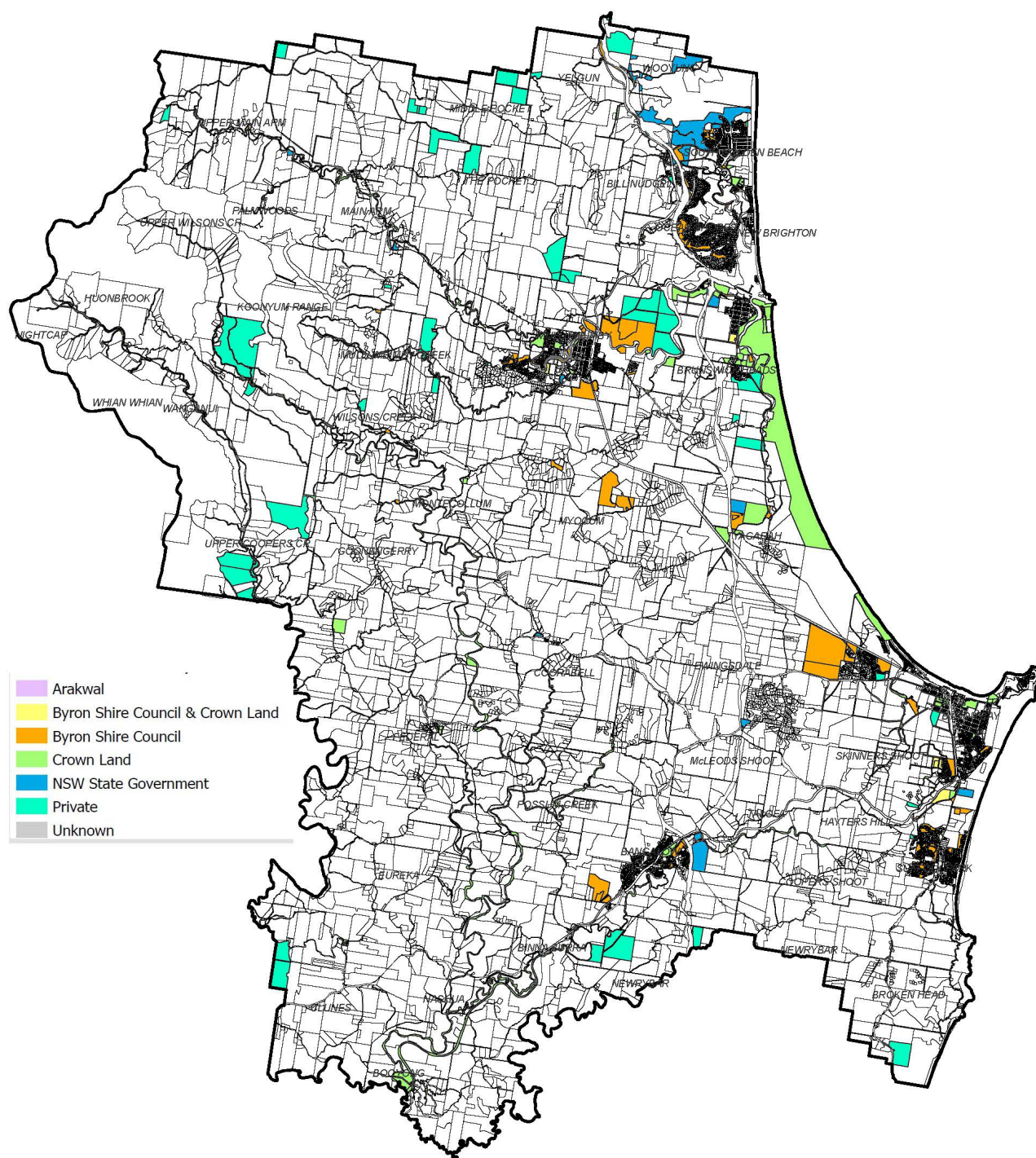


Figure 1: Map showing affected land parcel categories – Byron Shire

1.4. Summary of previous stages and current planning proposal

Stage 1 Planning Proposal (PP1)

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)

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.

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).

Status: completed and gazetted on 8 November 2022.

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

PP4 seeks to apply environmental and non-environmental zones to 1,492 land parcels, of which 1,050 are road reserves. 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 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.

A visual overview of the staged planning proposal program is presented in section 1.7 below.

1.5. Gateway Determination

[To be completed following Gateway determination]

1.6. C Zone Implementation: Context and Application

The application of environmental zones (C zones) in Byron Shire must be consistent with the *Northern Councils E Zone Review Final Recommendations Report* prepared by the former Department of Planning and Environment. This report is supported by Section 9.1 Ministerial Direction 3.4 to ensure the application of C zones and mapped planning controls are consistent with the final recommendations report.

Council's application of C zones (formerly 'E zones') to 'deferred' and 'non-deferred' land is informed by the following key elements of the *Final Recommendations Report*.

(i) Primary use of land

The *Final Recommendations Report* defines "primary use" of the land as the main use for which the land has been used for the last two (2) years.

For land that Council has verified as consistent with the vegetation criteria for an environmental zone, an C2 or C3 zone will generally be applied if the primary use of the land is confirmed to be environmental conservation (C2) or environmental management (C3).

The primary use of the land may vary across a particular property depending on the characteristics of the land. This means that land which is currently zoned rural could continue to have a rural zone, but may have parts of that land which have attributes that meet the criteria for an C2 or C3 zone mapped accordingly.

It is not necessary to determine the primary use of land already within an existing environmental zone such as 7(a), 7(b), 7(j) and 7(k) under the Byron LEP 1988.

For purposes of this planning proposal, the primary land use has been assessed by Council in consultation with affected landowners (namely public authorities; traditional owners, private landowners).

(ii) Verifying the C zone criteria

An C zone or other mapped planning controls can be applied to land where the presence of attributes that meet the criteria have been verified by using one or a combination of the following:

- Biodiversity field inspections and ground surveys conducted by an appropriately qualified person.
- Flora and fauna reports conducted by a suitably qualified person (field work must be less than five years old).
- Review of current (not more than five years old) high resolution digital aerial photography verified by another one of these verification techniques.
- Aboriginal heritage field inspections and ground surveys conducted by an appropriately qualified person or someone with extensive field experience.
- Cultural heritage reports conducted by a suitably qualified person and in accordance with current guidelines.
- Consultation with Aboriginal cultural knowledge holders in relation to culturally significant lands in accordance with current guidelines.

It is not mandatory to apply a C zone if the land has been verified to meet the criteria.

(iii) Transferring previous environmental protection (7) zones

Land that is currently zoned *7(a) Wetlands Zone*, *7(b) Coastal Habitat Zone*, *7(j) Scientific Zone* or *7(k) Habitat Zone* under the Byron LEP 1988 may be transferred to an C2 or C3 zone once the attributes of the land have been verified against the criteria.

As mentioned above, it is not necessary to determine the primary use of land already within an existing environmental zone such as 7(a), 7(b), 7(j) and 7(k) under the Byron LEP 1988.

(iv) Voluntarily revegetated land

Land that has been voluntarily revegetated will not have an C2 or C3 zone applied to it without the landowner's agreement, unless the revegetation was undertaken with grant funding that required ongoing protection of the vegetation.

However, the landowner's agreement is not required if a Vegetation Overlay Map is applied to this revegetated land to identify matters that need to be considered when assessing future development applications on this land.

(v) Public, private and Indigenous-owned land inconsistent with the criteria

Public- and Indigenous-owned 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 and agreed to in consultation with affected landowners.

Private land may be zoned C2 or C3, despite being inconsistent with the criteria, if it is consistent with a negotiated development outcome (eg master plan, rezoning, development consent or designated offset areas) or with the agreement of the landowner.

(vi) Zoning of State and regionally significant farmland

When zoning State or regionally significant farmland, council must have regard for the primary use of the land before applying a C zone or a rural zone. Notwithstanding this, the primary use of land principle does not apply to land currently zoned for environmental protection.

(vii) Application of multiple zones to a single property (split zoned lots)

More than one zone can be applied to properties where the characteristics of different areas of the land reflect different uses of the land.

(viii) Mapped planning controls and associated clauses

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 (also known as an “overlay”) such as a Vegetation Overlay Map.

In the case of vegetation overlay map, this will not duplicate C2 or C3 zones.

NOTE: Council will consider the use of Vegetation and/or Riparian Overlay maps in subsequent stages of the C zone implementation program .

(ix) Scenic protection and aesthetic values

Council is not permitted to use scenic or aesthetic values as an attribute for the application of an C zone or mapped planning controls.

(x) Permissibility of agriculture in C zones

Extensive agriculture is to be listed as permissible with consent in the C2 zone and permissible without consent in the C3 zone.

The C3 zone can encompass areas where extensive agriculture occurs, such as understorey grazing or flood refuge.

1.7. C Zone Implementation Program and Staging Overview

Council at its 22 March 2018 Ordinary Meeting adopted a staged ‘planning proposal’ program to amend Byron LEP 2014 to implement the Department’s ‘Northern Councils E Zone Review Final Recommendations Report’. The staging, which has since been revised, is shown in Figure 2 below.

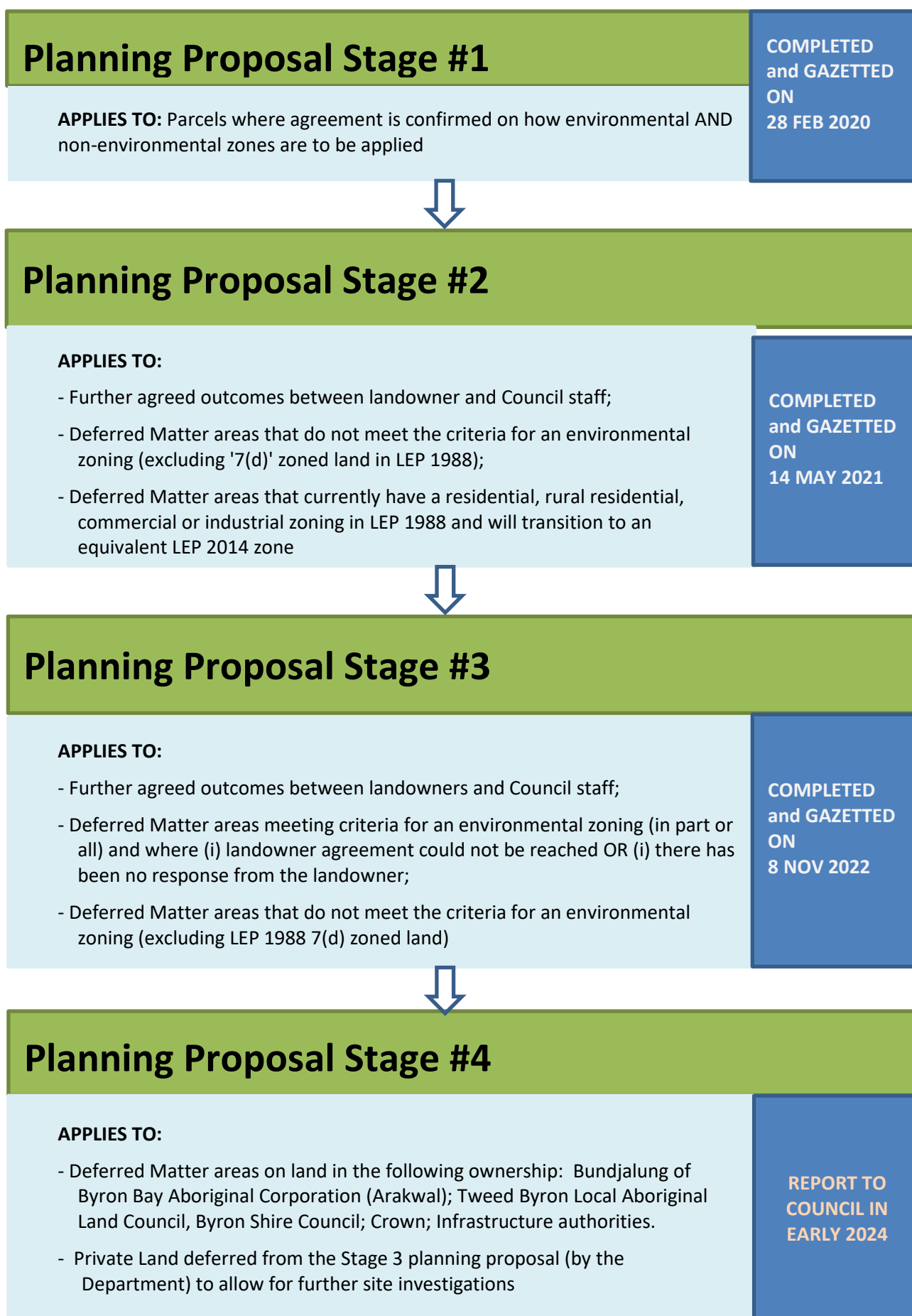


Figure 2: Staging Program to apply environmental and other zones on certain land in Byron LEP 2014

2. Objectives & Intended Outcomes

The overarching objective of this planning proposal is to implement Stage 4 of Council's C Zone implementation program (as shown in Figure 2 above). In addition to applying further agreed outcomes between landowners and Council staff, Stage 4 relates to certain 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.

3. Explanation of Provisions

It is intended to achieve the Stage 4 implementation through the following means:

- Apply C zones to land identified as meeting the criteria set out under the Northern Councils E Zone Review Final Recommendations Report.
- Apply relevant urban, rural and special uses zones to other land that does not meet the criteria for application of conservation protection zones as set out under the Northern Councils E Zone Review Final Recommendations Report.
- Apply the following consequential mapping to the subject land (where applicable): Height of Building; Minimum Lot Size; Floor Space Ratio; Acid Sulfate Soil; Drinking Water Catchment; and Multiple Occupancy and Community Title.
- For land currently identified as Deferred Matter, amend the Land Application Map to incorporate the land under the Byron LEP 2014.

Public-owned and Indigenous-owned 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 and has been agreed to in consultation with affected landowners.

3.1. C2 and C3 Zone Land Use Provisions

Conservation zones ('C zones') are designed to recognise and protect land that has important environmental value. An overview of the existing C2 and C3 zones for Byron Shire, as introduced in the Stage 1 planning proposal, is provided below.

C2 Environmental Conservation

The C2 zone primarily applies to areas of high ecological, scientific or cultural value that should be protected for environmental conservation purposes, whilst allowing a limited range of land uses that are compatible with the environmental values of such areas. Examples of high ecological or scientific values in Byron Shire include: littoral rainforest, coastal wetlands, endangered ecological communities, threatened species habitat and over-cleared vegetation communities. The C2 zone has been applied to these and other suitable areas that meet the set criteria in the *Final Recommendations Report*.

The C2 zone provides for a limited range of permissible land uses recognizing: (i) its targeted application to areas of high ecological or scientific value; and (ii) current land use permissibilities in the 7(a), 7(b), 7(j) and 7(k) zones under the Byron LEP 1988.

The current C2 zone provisions in Byron LEP 2014 are as follows.

Zone C2 Environmental Conservation

1 Objectives of zone

- To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.
- To prevent development that could destroy, damage or otherwise have an adverse effect on those values.

2 Permitted without consent

Environmental protection works.

3 Permitted with consent

Environmental facilities; Extensive agriculture; Oyster aquaculture; Recreation areas; Roads.

4 Prohibited

Business premises; Hotel or motel accommodation; Industries; Multi dwelling housing; Pond-based aquaculture; Recreation facilities (major); Residential accommodation; Residential flat buildings; Restricted premises; Retail premises; Seniors housing; Service stations; Tank-based aquaculture; Warehouse or distribution centres; Any other development not specified in item 2 or 3.

C3 *Environmental Management*

The C3 zone provides for the recognition, management and protection of environmental values whilst providing for a range of land uses compatible with those values. This may include land containing riparian / estuarine vegetation, or rare, endangered, and vulnerable forest ecosystems, bushfire asset protection zones or where established agricultural activities occur within vegetated areas that meet the C2 criteria. This zone allows for a wider range of land use activities that are compatible with these attributes.

The current C3 zone provisions in Byron LEP 2014 are as follows.

Zone C3 Environmental Management

1 Objectives of zone

- To protect, manage and restore areas with special ecological, scientific, or cultural values.
- To provide for a limited range of development that does not have an adverse effect on those values.
- To encourage passive recreation, environmental education and an understanding of natural systems where these activities will not have a detrimental effect on land within the zone.

2 Permitted without consent

Environmental protection works; Extensive agriculture; Home-based child care; Home occupations.

3 Permitted with consent

Bed and breakfast accommodation; Boat launching ramps; Boat sheds; Building identification signs; Business identification signs; Camping grounds; Community facilities; Dual occupancies; Dwelling houses; Eco-tourist facilities; Emergency services facilities; Environmental facilities; Farm buildings; Farm stay accommodation; Flood mitigation works; Forestry; Home businesses; Home industries; Horticulture; Jetties; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Recreation areas; Roads; Tank-based aquaculture; Veterinary hospitals; Wharf or boating facilities.

4 Prohibited

Industries; Local distribution premises; Multi dwelling housing; Residential flat buildings; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3.

3.2. Application of C2 or C3 Zones

The application of C zones to land in the shire is based on the former Department of Planning and Environment's Northern Councils E Zone Final Recommendations Report and the associated s9.1 Ministerial Direction (3.4) under the *Environmental Planning and Assessment Act 1979*. Land proposed to be zoned C2 or C3 must contain one or more of the criteria listed in tables 1 and 2 of the Department's *Final Recommendations Report* (as reproduced below) and where applicable, be based on the primary land use.

Table 1: Criteria for Application of Conservations Zones (formerly Environmental Zones)

Criteria	Description
C2 Environmental Conservation	
SEPP 26 Littoral Rainforests.	Land mapped as littoral rainforest in accordance with the statewide policy for littoral rainforest protection (<i>State Environmental Planning Policy 26 – Littoral Rainforests</i>).
SEPP 14 Coastal Wetlands.	Land mapped as coastal wetlands in accordance with the statewide policy for coastal wetland protection (<i>State Environmental Planning Policy 14 – Coastal Wetlands</i>).
Endangered Ecological Communities (EECs) listed under the <i>Threatened Species Conservation Act 1995</i> and/ or the <i>Environment Protection and Biodiversity Conservation Act 1999</i> .	Land containing vegetation communities listed as Endangered Ecological Communities under the <i>Threatened Species Conservation Act 1995</i> (TSC) ¹ and the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (EPBC) ² . The <i>Far North Coast Regional Conservation Plan</i> ³ lists the following vegetation communities as examples of EECs that currently exist on the Far North Coast: <i>Byron Bay Dwarf Graminoid Heath Community, Coastal Cypress Pine Forest, Coastal Saltmarsh, Freshwater Wetlands in Coastal Floodplains, Littoral Rainforest, Lowland Rainforest on Floodplains, Subtropical Coastal Floodplain Forest, Swamp Oak Floodplain Forest, Swamp Sclerophyll Forest on Coastal Floodplains, Themeda grassland on Seaciffs and Coastal Headlands, White Gum Yellow Gum Blakely's Red Gum Woodland, and White Gum Moist Forest.</i>
Key Threatened Species Habitat.	This criterion includes: <ul style="list-style-type: none"> • old-growth forests where the overstorey or canopy trees are in the late mature stage of growth⁴; • areas of predicted high conservation value for forest fauna assemblages, refugia, endemic forest fauna or endemic invertebrates⁵, and • habitats for threatened species or endangered populations that cannot withstand further loss where the threatened species or endangered population is present⁶.
Over-cleared vegetation communities.	Land comprising: <ol style="list-style-type: none"> 1. over-cleared vegetation communities, where more than 70% of the original (pre 1750) extent of the native vegetation type has been cleared⁷ and 2. native vegetation in over-cleared Mitchell landscapes⁸. The <i>Far North Coast Regional Conservation Plan</i> lists the following as examples of: <ul style="list-style-type: none"> • Over-cleared vegetation communities on the Far North Coast⁹: <ul style="list-style-type: none"> – Rainforests, Wet sclerophyll forests (shrubby and grassy subformations), Dry sclerophyll forests (shrubby and shrub/grass subformations), Grassy woodlands, Grasslands (Themeda australis sod tussock), Heathlands, Forested wetlands, Freshwater wetlands, Saline wetlands; and • Over-cleared Mitchell landscapes⁹: <ul style="list-style-type: none"> – Byron–Tweed Alluvial Plains, Byron–Tweed Coastal Barriers, Clarence–Richmond Alluvial Plains and Upper Clarence Channels and
Culturally significant lands.	Areas of culturally significant lands such as Aboriginal object sites, Aboriginal places of heritage significance, and other significant objects identified by the local Aboriginal community ¹⁰ .

Criteria	Description
C3 Environmental Management	
Riparian and estuarine	Land comprising riparian and estuarine vegetation on waterfront land, defined under the NSW Water
Rare, Endangered and	Land comprising areas of rare, endangered and vulnerable forest ecosystems as defined by the Joint
Native vegetation on coastal foreshores.	Native vegetation on land with frontage, or adjoining or adjacent to, a beach, estuary, coastal lake, headland, cliff or rock platform.

- 1 threatened/communities/nsw-act
- 2 <http://www.environment.nsw.gov.au/threatenedspeciesapp/default.aspx?keywords>
- 3 Far North Coast Regional Conservation Plan, NSW Environment Climate Change and Water, 2010, p24
- 4 <http://www.epa.nsw.gov.au/resources/pnf/OGRFreviewFieldIdent.pdf>
- 5 Scotts, D 2003, Key Habitats and Corridors for Forest
- 6 Fauna: A Landscape Framework for Conservation in North- east New South Wales, NPWS Occasional Paper no. 32,
- 7 National Parks and Wildlife Service, Sydney, NSW.
- 8 NSW Office of Environment and Heritage 'Threatened Species Profiles Database' <http://www.bionet.nsw.gov.au>
- 9 Keith, DA 2006, Ocean Shores to Desert Dunes the Native Vegetation of New South Wales and the ACT, Department of Environment and Climate Change, Hurstville.
- 10 Mitchell, PB 2002, 'NSW Ecosystems Study: Background and Methodology', report prepared for National Parks and Wildlife Service, Hurstville, NSW and Far North Coast Regional Conservation Plan, NSW Environment Climate Change and Water, 2010, p27.
- 11 Far North Coast Regional Conservation Plan, NSW Environment Climate Change and Water, 2010, p26
- 12 Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW, NSW Department of Environment, Climate Change & Water (2011)

Verification of site attributes that meet the C2 or C3 criteria has been undertaken by one or more of the following techniques:

- biodiversity field inspections and ground surveys conducted by an appropriately qualified person;
- supporting flora and fauna reports conducted by a suitably qualified person and guided by the *Draft Framework for Biodiversity Assessment*, NSW Office of Environment and Heritage (2014) and the *Draft Threatened Biodiversity Survey and Assessment: Guidelines for Developments and Activities*, NSW Department of Environment and Conservation (2004). Note: the field work underpinning such reports is not more than five years old.
- review of current (not more than five years old) high resolution digital aerial photography that has been verified by another one of the above verification techniques.

This planning proposal includes some proposed C2/C3 areas which do not meet the above criteria but are part of an agreed outcome with the landowner. This is consistent with the Department's Final Recommendations Report which indicates that *'private land may be zoned E2 or E3 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'*.

Primary Use of Land

With respect to the primary use of land, Council has considered the characteristics of land and zoning application having regard to aerial photography, visual inspections undertaken

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and other property information (eg. farmland rating) available to Council. For land containing attributes that meet the criteria for an C2 or C3 zone, an initial assessment of primary land use was undertaken using Council records to identify the following land use categories:

- *Environmental*: generally applies to land: currently zoned 7(a), 7(b), 7(j) and 7(k) under the Byron LEP 1988; containing attributes that meet the criteria for an C2 or C3 zone; and where commercial agricultural activities are not carried out. Such areas can be actively or passively managed for environmental purposes.

It is not necessary to determine the primary use of land already within an existing environmental zone such as 7(a), 7(b), 7(j) and 7(k) under the Byron LEP 1988.

- *Agriculture*: applies to that part of land used for commercial agricultural activities including intensive livestock agriculture, intensive plant agriculture and extensive agriculture (e.g. grazing). This mainly includes land with a current commercial farmland rating or land assessed as being eligible for such a rating.
- *Other*: remaining areas not covered by the above categories.

Where applicable, further assessment of primary land use has been undertaken in consultation with those landowners included in this planning proposal.

3.3. Application of Natural and Recreational Waterway Zones

The Byron LEP 2014 contains two waterway zones. An overview of both zones is provided below.

The *W1 Natural Waterways* zone is generally intended for natural waterways that are to be protected for their ecological values. In Byron LGA this includes marine park waterways such as the Brunswick River, as well as Tallow and Belongil Creeks.

The *W2 Recreational Waterways* zone is generally intended for non-natural waterways capable of accommodating water-based recreation, boating and water transport, and development associated with fishing industries, such as natural water-based aquaculture and recreational fishing.

This planning proposal applies both of the above zones to a small number of council-owned and Crown land parcels

3.4. Application of Rural Zones

The Byron LEP 2014 contains two rural zones applicable to land used for agricultural purposes as well as areas identified for future investigation and areas of extractive and mineral resources. An overview of the two rural zones is provided below.

The *RU1 Primary Production* zone provides for the identification and management of land suitable for most kinds of primary production. It is suitable for application to higher quality farmland that supports a variety of agricultural activity including extensive agriculture, horticulture and intensive livestock agriculture.

The *RU2 Rural Landscape* zone provides for the management of rural land that also may be suitable for primary production, but has landscape values or is identified as having some agricultural limitations. It is generally suitable for application to rural areas not identified for inclusion in the RU1 zone or an environmental protection zone.

The methodology for the application of rural zones in LEP 2014 was generally based on one or more of the following considerations: conversion of existing Byron LEP 1988 rural zones; cadastral boundaries; and data and mapping relating to agricultural classification and significance produced by the NSW Department of Primary Industries and the [former](#) NSW Department of Planning and Environment.

Where the characteristics of the land warrant the application of a rural zone, such zones have been applied in this planning proposal based on the predominant surrounding rural zone(s) for consistency.

3.5. Application of Residential Zones and Employment Zones

This relates to the application of the *R2 Low Density Residential Zone*, *R3 Medium Density Residential Zone*, or *R5 Large Lot Residential Zone* in the planning proposal. The application of these zones on council-owned or Crown land was mainly to reflect operational needs consistent with adjoining zoning and or to transition an equivalent residential zoning from the Byron LEP 1988.

The application of General Industrial (E4), Local Centre (E1) or Mixed Use (MU1) zones to certain council-owned land parcels has been applied where consistent with existing/future operational uses and or zoning of adjoining land.

3.6. Application of Special Purpose (SP) Zones

The intent of the SP2 Infrastructure zone is to provide for specific uses (including ancillary or some other compatible uses) on identified sites to support the provision and retention of key infrastructure. Such sites are highly unlikely to be used for a different purpose in the future. The zone also serves to identify the location of such uses clearly to the community.

It is proposed to apply the SP2 zone over a number of council-owned and Crown land parcels to reflect their operational needs and or corresponding Plan/s of Management.

3.7. Application of Recreation (RE) Zones

The RE1 Public Recreation and RE2 Private Recreation zones have been applied over a number of council-owned and Crown land parcels to reflect their operational needs, zoning of adjoining land and or corresponding Plan/s of Management.

3.8. 'Multiple Occupancy and Community Title' maps

This planning proposal identifies two (2) sites for inclusion on the on the LEP 2014 'Multiple Occupancy and Community Title (MOCT Map', as follows:

- Part of Lot 2 DP772174 - 11 Garrong Road, Goonengerry – the land has an old 'multiple occupancy' approval for six dwellings and community building under the former SEPP 15. To reflect the site's high environmental values, only the far NE part of the land is proposed for inclusion on the MOCT map in LEP 2014 (MOCT_002B). The land also will be zoned a mix of C2 Environmental Conservation and C3 Environmental Management based on previous site visit by Council staff.
- Council Road Reserve along Main Arm Road, Main Arm – this road reserve adjoins existing land identified on the LEP 2014 'Multiple Occupancy and Community Title Map'. It was originally included in the draft LEP 2012 MOCT Map (MOC_002), but was deferred pending the outcome of the state government's review of environmental zones for all Far North Coast councils.

These maps are contained in Appendix 5.

4. Justification

4.1. Section A – Need for the Planning Proposal

Q1 Is the planning proposal a result of any strategic study or report?

Yes, the Northern Councils E Zone Review Final Recommendations Report published by the Department of Planning and Environment in October 2015. This report outlines the criteria for the application of Conservation zones (formerly “E” zones) to deferred matters previously identified as an C zone but excluded from the new plan (Byron LEP 2014).

The planning proposal is also informed by Council’s Shire wide vegetation mapping review (updated 2021) and primary land use assessment.

Q2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. A planning proposal is the appropriate and only mechanism to integrate deferred matters into the Byron LEP 2014.

4.2. Section B – Relationship to Strategic Planning Framework

Q3 Is the planning proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies)?

The proposal is consistent with the North Coast Regional Plan 2041 which sets a 20-year strategic land use planning framework for the region, aiming to protect and enhance the region’s assets and plan for a sustainable future.

Q4 Is the planning proposal consistent with a council’s local strategy or other local strategic plan?

The planning proposal is consistent with the overall vision of Council’s Community Strategic Plan and a key objective of the community “to nurture and enhance our natural environment”.

The proposal is also consistent with the framework and relevant actions contained in Council’s *Biodiversity Conservation Strategy 2020 - 2030* and *Rural Land Use Strategy 2017*.

Q5 Is the planning proposal consistent with applicable State Environmental Planning Policies?

The proposal is considered to be generally consistent with applicable State Environmental Planning Policies (SEPPs) — namely the relevant aims contained in *State Environmental Planning Policy (Biodiversity and Conservation) 2021* and *State Environmental Planning Policy (Resilience and Hazards) 2021*.

In addition, it is consistent with the requirements of Chapter 4 in *State Environmental Planning Policy (Resilience and Hazards) 2021* (formerly *SEPP 55 – Remediation of Land*). The provisions relating to planning proposals have now been replaced by Section 9.1 Direction ‘4.4’, which is addressed in Appendix 1.

Q6 Is the planning proposal consistent with applicable Ministerial Directions (s9.1 directions)?

The proposal is consistent with the relevant Section 9.1 Directions, with exception of direction 8.1 – *Mining, Petroleum Production and Extractive Industries*. A Section 9.1 Direction checklist for the planning proposal is contained in Appendix 1.

4.3. Section C – Environmental, Social and Economic Impact

Q7 Is there any likelihood that critical habitat or threatened species, population or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The amendments contained in this proposal are not expected to impact adversely on critical habitats, threatened species, populations or ecological communities or their habitats.

Q8 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No significant adverse environmental impacts are likely to arise as a result of the planning proposal.

Q9 Has the planning proposal adequately addressed any social and economic effects?

The proposal will facilitate the provision of a more efficient and effective land use planning framework. The proposed zonings in Stage 4 will provide public authorities and private landowners with certainty around the permissible land uses on their land. In addition, the integration of 'Deferred Matter' land into the Byron LEP 2014 will simplify the planning controls for future development proposals. For these reasons the social and economic impacts associated with the proposal are considered to be positive.

4.4. Section D – Infrastructure

Q10. Is there adequate public infrastructure for the planning proposal?

The planning proposal does not seek to intensify development or expand range of permissible land uses on affected lands, but instead apply a more restrictive C2/C3 zoning and/or like-for-like transition of 1988 LEP to 2014 LEP zones. As such, the planning proposal does not create the need for any additional public infrastructure.

4.5. Section E – State and Commonwealth Interests

Q11 What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

Consultation will be undertaken with relevant agencies as required by the Gateway determination during the public exhibition stage of the LEP amendment.

5. Mapping Overview

The planning proposal will necessitate updates to the following Byron LEP 2014 maps:

- Land Zoning Map;
- Lot Size Map;
- Floor Space Ratio Map;
- Height of Buildings Map;
- Acid Sulfate Soil Map;
- Drinking Water Catchment Map;
- Multiple Occupancy and Community Title Map; and
- Land Application Map

The LEP mapping and supporting information for affected land parcels are contained in Appendix 4.

6. Community Consultation

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

- Bundjalung of Byron Bay Aboriginal Corporation (Arakwal); Tweed Byron Local Aboriginal Land Council, Byron Shire Council; Crown; Infrastructure authorities.
- Private landowners 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.

The proposal will be exhibited in accordance with the Gateway determination and the terms of the *Environmental Planning and Assessment Act* 1979. This includes any required consultation with public authorities under section 3.34 of the Act and/or to comply with the requirements of relevant S9.1 Directions. Affected landowners also will be notified in writing of the proposal and the community consultation arrangements prior to the public exhibition period.

7. Project Timeline

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

Plan Making Step	Estimated Completion (Before)
Gateway Determination	June 2024
Government Agency Consultation	July 2024
Public Exhibition Period	Aug/Oct 2024
Public Hearing	N/A
Submissions Assessment	Nov/Dec 2024
Submissions report to Council	Feb 2025
Submission of Endorsed LEP to DP&I for Finalisation	March/April 2025
RPA Decision to Make the LEP Amendment (if delegated)	N/A [#]
Forwarding of LEP Amendment to DP&I for Notification (if delegated)	N/A [#]

[#] Consistent with earlier stages, Council is not proposing to exercise plan finalisation functions under delegation.