



IRF 24/2168

Gateway determination report – PP-2024-1890

Amend Byron LEP 2014 to introduce a Byron
Affordable Housing Contribution Scheme 02

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Acknowledgment of Country

The Department of Planning, Housing and Infrastructure 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
Attachment A – Planning Proposal – Gateway version #1 – August 2024
Attachment B – Gateway determination
Attachment C – Letter to Council

Relevant reports and plans

Attachment D- Draft Byron Affordable Housing Contribution Scheme (AHCS) No 2 – July 2024

Attachment E – Byron Shire Council AHCS 02 – Housing Needs Assessment – May 2024

Attachment F - Byron Shire Council AHCS 02 – Viability Assessment Report – June 2024

Attachment G – AHCS mapped areas – property details

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Byron Shire
PPA	Byron Shire Council
NAME	Amend Byron LEP 2014 to introduce Byron Affordable Housing Contribution Scheme 02
NUMBER	PP-2024-1890
LEP TO BE AMENDED	Byron Local Environmental Plan (LEP) 2014
ADDRESS	Various lots located at Bangalow, Brunswick Heads, Mullumbimby and Suffolk Park
DESCRIPTION	Various (refer to planning proposal maps and AHCS)
RECEIVED	3/09/2024
FILE NO.	IRF 24/2168
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

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 amend Byron LEP 2014 to introduce a second Affordable Housing Contribution Scheme (AHCS 02) into clause 6.18.

The planning proposal does not seek to introduce AHCS maps into Byron LEP. Maps showing the AHCS 02 areas will be created as part of subsequent LEP amendments when the subject lands are rezoned.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

To achieve the intended outcomes, this planning proposal will amend clause 6.18(6) of the Byron LEP 2014 so that the definition of 'Byron Affordable Housing Scheme' refers to the original scheme dated 11 August 2022 (AHCS 01) and the one detailed in this planning proposal (AHCS 02).

It is important to note that the planning proposal aims to enable contributions for affordable housing to be levied in the future if a land parcel identified in the draft AHCS 02 is rezoned. The planning

proposal does not seek to amend the zone or any other development standard applying to the land identified in the draft AHCS 02.

Any change to the zone or other development standards for land in AHCS 02 will be subject to a separate planning proposal which is supported by strategic merit and site-specific investigations. As with Planning Proposal PP-2021-7395 which introduced AHCS 01 into Byron LEP 2014, it is considered appropriate that the proposed draft AHCS 02 maps are not included in this LEP amendment but retained in the planning proposal for illustration / exhibition purposes only. It is recommended that the Gateway determination be conditioned accordingly.

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

1.4 Site description and surrounding area

The planning proposal seeks to amend clause 6.18 of Byron LEP 2014 so that it references draft AHCS 02 along with the existing AHCS 01. This clause is proposed to apply to development on any land shown in the draft AHCS 02 maps (Figures 1-10). It is recommended that the Resilient Lands B2 site shown in Figure 1 should not be included in the draft AHCS 02. This is discussed further in section 1.5 of this report.

The planning proposal has provided specific individual property details for those lots mapped within the draft AHCS 02. Council is however in the process of compiling these details and it is considered appropriate that the Gateway be conditioned that the planning proposal include these details prior to public exhibition.

The land zoning, adjoining / surrounding land uses and site-specific constraints of the mapped areas vary. The draft AHCS 02 summarises these details for each mapped area with a further broad analysis provided in section 3.3.

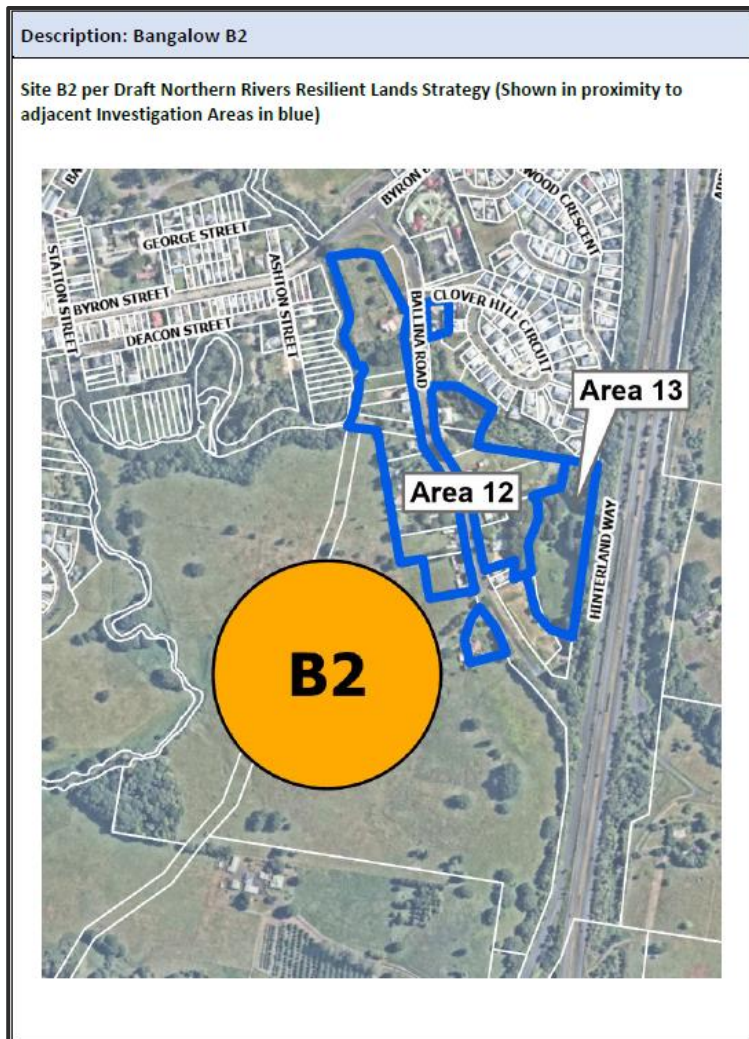


Figure 1 - Bangalow B2 Contribution Area – 33ha (source: draft AHCS 02)

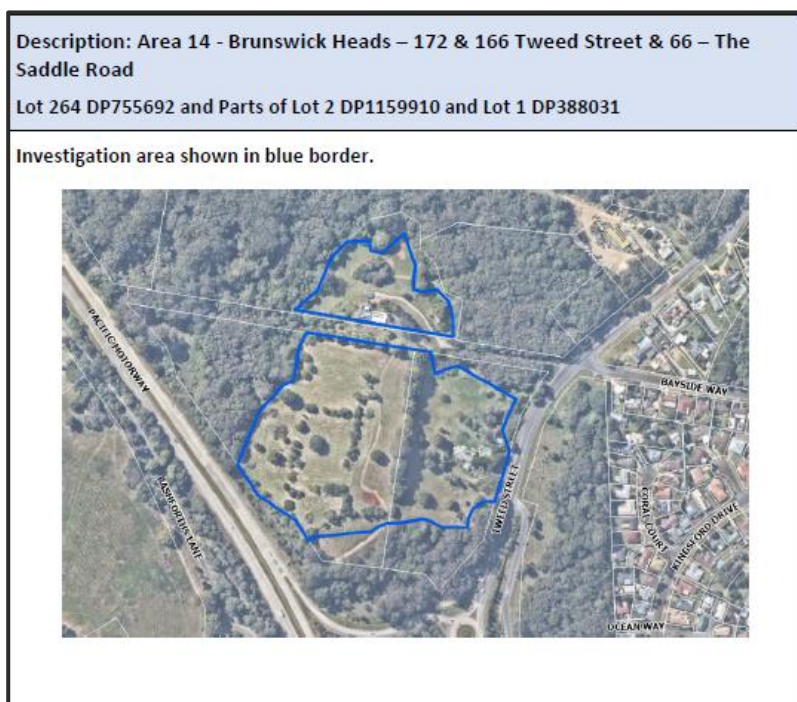


Figure 2 - Area 14 - Brunswick Heads 6.9ha (source: draft AHCS 02)

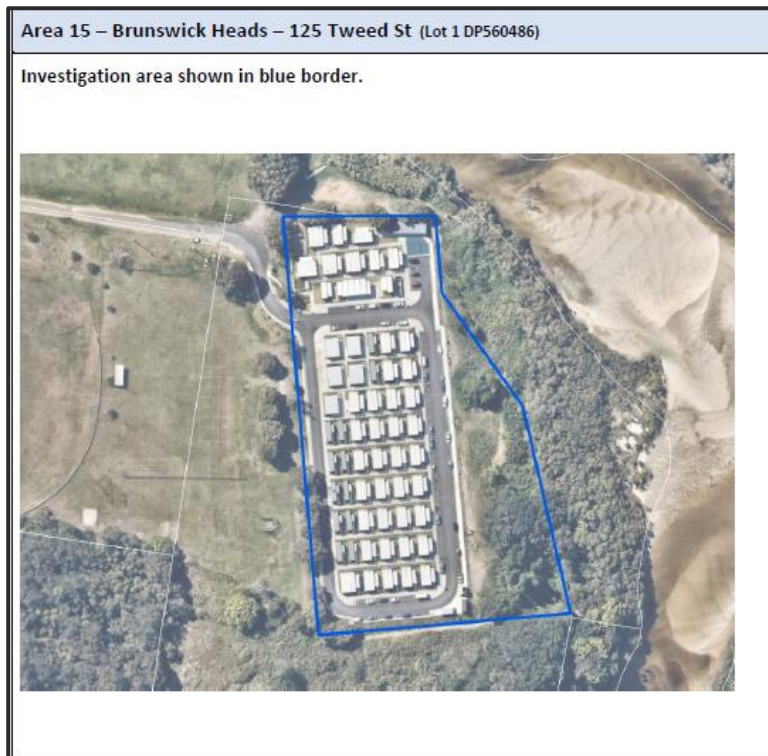


Figure 3 – Area 15 – Brunswick Head - 2.13ha (source: draft AHCS 02)

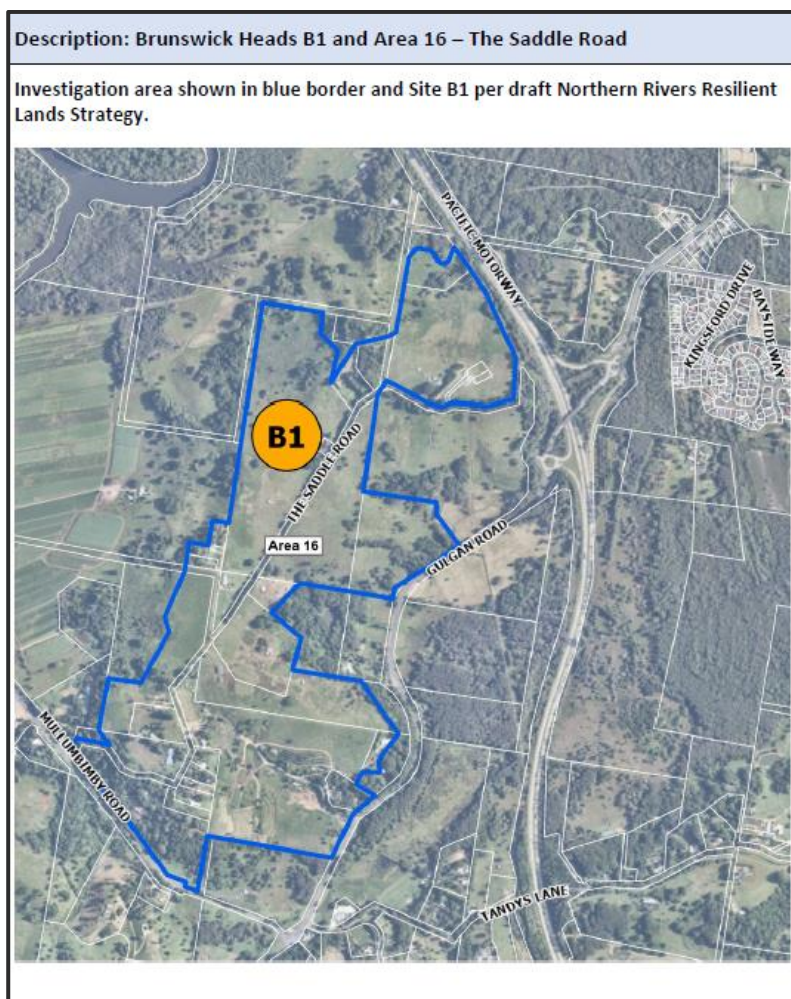


Figure 4 - B1 & Area 16 - Brunswick Heads – 100ha (source: draft AHCS 02)

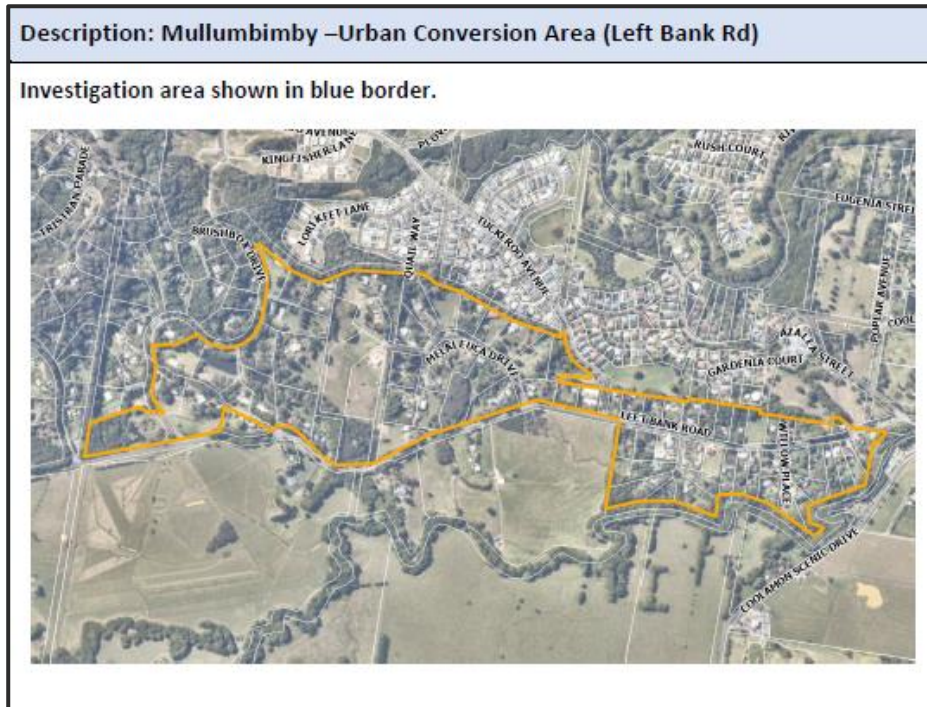


Figure 5 - Mullumbimby - Urban Conversion Area – 23.35ha (source: draft AHCS 02)

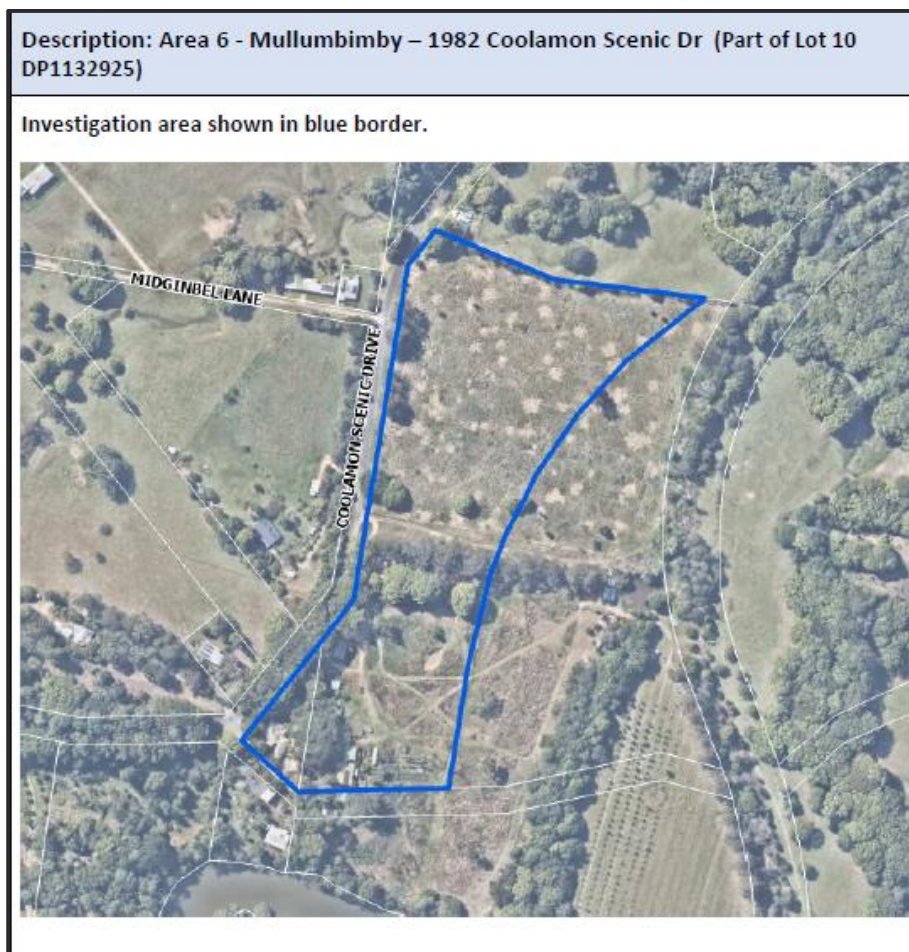


Figure 6 - Area 6 – Mullumbimby – 5.4ha (source: draft AHCS 02)

Description: Area 7 - Mullumbimby – 1862 Coolamon Scenic Drive (Lot 12 DP578826)

Investigation area shown in blue border.



Figure 7 - Area 7 – Mullumbimby - 6ha (source: draft AHCS 02)

Description: Area 8 - Mullumbimby – 1897 Coolamon Scenic Dr (Part of Lot 4 DP874348)

Investigation area shown in blue border.

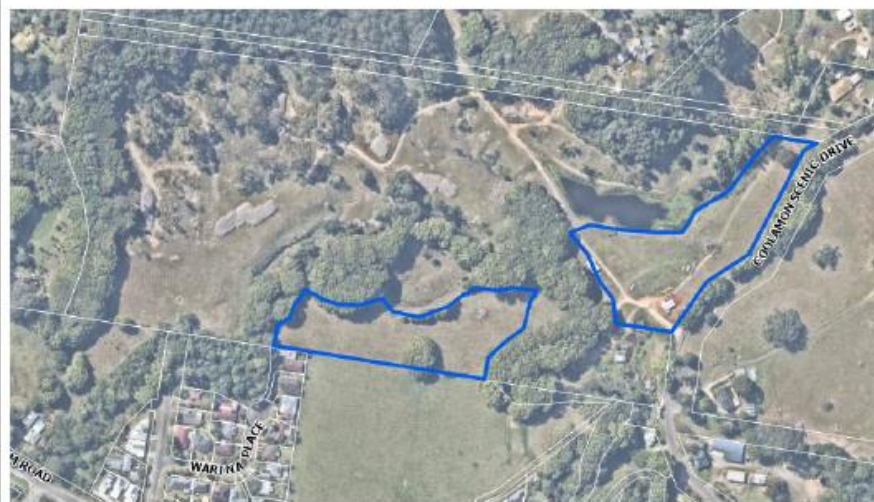


Figure 8 - Area 8 - Mullumbimby - 2.2ha (source: draft AHCS 02)

Description: Area 10 - Mullumbimby – Azalea St (Lot 1 DP209440 & Lot 1 DP209440)

Investigation area shown in blue border.



Figure 9 - Area 10 Mullumbimby - 1.57ha (source: draft AHCS 02)

Description: Area 19 – Suffolk Park – 64 Corkwood Crescent (Part of Lot 85 DP 1198641)

Investigation area shown in blue border.



Figure 10 - Area 19 Suffolk Park – 3500m² (source: draft AHCS 02)

1.5 Mapping

The planning proposal does not propose any mapping amendments to Byron LEP 2014.

Amendments to Byron LEP 2014 mapping will comprise part of any future planning proposals prepared to rezone the land.

1.5 Background

The Byron Shire AHCS 01 came into effect in January 2023 through the introduction of clause 6.18 within Byron LEP 2014 and PP-2021-7395. The scheme provides details about how, where and at what rate development contributions can be collected from landowners for affordable housing and currently applies to the areas of Mullumbimby, Bangalow and Byron Bay.

This planning proposal seeks to introduce the draft AHCS 02 to capture the additional Investigation Areas identified in the recently adopted and Department approved Byron Shire Residential Strategy 2041. This scheme expands on the Byron AHCS 01 to provide the background requirements and operational detail in the contribution areas identified.

The Residential Strategy identifies the approaches and actions to deliver housing in the Byron LGA to meet the changing needs of the community to 2041. It also provides the strategic justification for the rezoning of land for urban purposes.

The Strategy was conditionally approved by the Department on 17 June 2024. The following condition is relevant to this planning proposal:

“proposed Resilient Lands Site B2 at Bangalow is supported only for preliminary strategic investigations to address the settlement planning principles of the North Coast Regional Plan 2041 in relation to Important Farmland and is to be considered further as part of Council's mid-point 2026/27 strategy review.”

The B2 site has been included in the draft AHCS 02. It is considered the land should not be identified in the draft AHCS 02 at this time. This site may be considered for a future inclusion subject to satisfaction of the outstanding matters. The draft AHCS 02 and planning proposal will need to be updated prior to public exhibition to reflect this change. A condition has been imposed on the Gateway determination in this regard.

It should also be noted that the final Resilient Land Strategy has been released by the NSW Reconstruction Authority and site B2 has not been identified as a priority site (it had been identified in the draft strategy for exhibition but has been removed by the NSWRA after further review).

1.5.1 Housing Policy Team comments

The draft AHCS 02 (July 2024), BSC AHCS 02 - Housing Needs Assessment (May 2024) and Byron Shire Council AHCS 02 – Viability Assessment Report (June 2024) were reviewed by the Department's Housing Policy team prior to the planning proposal being lodged. The team provided comments for Council's consideration in preparation of the final draft AHCS 02 version submitted with the planning proposal.

It is considered that the draft AHCS 02 has addressed the majority of issues raised by Housing Policy, and those issues that remain unresolved are able to be adequately addressed through conditioning of the Gateway determination with changes required prior to exhibition of the planning proposal and supporting documents. The unresolved matters are discussed in Table 3 below.

Table 3 – Department comments & council response

DPHI (Housing Policy) Initial feedback (pre-Gateway lodgement)	Council Response	DPHI (Housing Policy) feedback (post Gateway lodgement)
<p>Suffolk Park and Mullumbimby precincts appear to be constrained by small lot size and heavy vegetation. Given this and the requirement for infrastructure, it is unclear how many dwellings would be able to be dedicated under the scheme. A monetary contribution may however be suitable in these instances.</p>	<p>The draft AHCS 02 provides for a monetary contribution where the contribution required is less than 75% of minimum lot size.</p>	<p>The draft ACHS 02 states that where there is a shortfall in the area of lots to be dedicated equivalent to less than 75% of the minimum lot size, the applicant may elect to meet the shortfall through a monetary contribution determined in accordance with Section 2.4 or through the dedication of an additional lot.</p>
<p>It is questioned whether Area 19 at 64 Corkwood Crescent, Suffolk Park is appropriate to include in the draft ACHS 02 as it will only deliver a maximum of 3 dwellings under an assumed high yield scenario.</p>	<p>The draft ACHS 02 provides for a monetary contribution where the contribution required is less than 75% of the area of a minimum lot.</p>	<p>Allowing for land less than the minimum lot size where there is a shortfall would be contradictory to the minimum lot size LEP controls.</p> <p>The draft ACHS 02 needs to make it clear that a monetary contribution can be provided in-lieu where there is a shortfall. It is considered appropriate that the Gateway be conditioned to ensure draft AHCS 02 section 2.2 (e) is amended prior to exhibition to detail that where there is a shortfall in the area of lots to be dedicated equivalent to less than 75% of the minimum lot size, the applicant may elect to meet the shortfall through a monetary contribution determined in accordance with Section 2.4 only.</p>
<p>The investigation areas that have not been approved by the Department for inclusion in the Residential Strategy should be removed from the draft ACHS 02. These sites may be considered for a future scheme subject to satisfaction of all relevant matters and inclusion in the Residential Strategy.</p>	<p>Council has indicated the map for Area 6 will be updated to align with the approved Residential Strategy. Council does not respond to the proposed Resilient Lands Site B2 at Bangalow.</p>	<p>The proposed Resilient Lands Site B2 at Bangalow has been supported only for preliminary strategic investigations to address the settlement planning principles of the North Coast Regional Plan 2041 in relation to Important Farmland and is to be considered further as part of Council's mid-point 2026/27 strategy review. As such, it is appropriate that the Gateway determination is conditioned for it to be removed from draft ACHS 02 prior to exhibition.</p>

DPHI (Housing Policy) Initial feedback (pre-Gateway lodgement)	Council Response	DPHI (Housing Policy) feedback (post Gateway lodgement)
<p>The viability assessment notes that the traditional approach using the Department affordable housing viability tool has not been used in this instance and instead uses real market transactions to test scenarios.</p> <p>This approach is adequate; however, it differs from the approach used in AHCS 01. It is therefore important for the draft AHCS 02 to demonstrate why a different approach is being used in this instance for the same land in the Byron Shire.</p>	<p>An FAQ will be drafted to be provided with the explanatory material to accompany the Scheme to explain the variation in approach used for AHCS 01 and draft ACHS 02.</p>	<p>Further clarification is required at this stage to demonstrate why a different approach is being used in this instance for the same land in Byron Shire.</p> <p>It is appropriate that the Gateway determination is conditioned to ensure the planning proposal includes an explanation of the approach taken in draft AHCS 02 prior to exhibition.</p>
<p>The final adopted version of draft AHCS 02 should be a consolidated version of ACHS 01 and 02.</p>	<p>Through its Residential Strategy 2041 and supporting policy framework, Council has established a systematic approach to progressively include land within an Affordable Housing Contribution Schemes as and when it is upzoned.</p> <p>This approach provides for the progressive creation of Affordable Housing Contribution Schemes as land is considered for upzoning, based on an appropriate affordable housing contribution framework tailored to the conditions and opportunities relevant to each area.</p> <p>This allows schemes to be responsive to local conditions and circumstances and for the form of contributions to be determined in response to the local context.</p>	<p>Based on Council's advice and due to there being no statutory requirement that the schemes be combined, it is considered acceptable they remain separate. The final wording on the clause 6.18 will need to recognise that two schemes apply in the Byron Shire.</p>

DPHI (Housing Policy) Initial feedback (pre-Gateway lodgement)	Council Response	DPHI (Housing Policy) feedback (post Gateway lodgement)
	<p>By way of illustration, in an established area such as Byron Bay Town Centre, the contribution of residential lots will not in general be viable and contributions in the form of dwellings and/or cash will be more suitable.</p> <p>Given the likely variations in approach, as well the timespan over which Schemes will be introduced, there is little benefit in progressively incorporating Affordable Housing Contribution Areas in a single scheme. Further, inclusion of differing approaches within the single scheme is likely to give rise to confusion.</p>	

2 Need for the planning proposal

The planning proposal is needed to implement the objectives and actions of the Byron Shire Local Strategic Planning Statement (LSPS) which is discussed in more detail in Section 4 below.

The planning proposal provides a framework for the application of affordable housing contributions when land is being developed and aims to meet the substantial and growing need for affordable housing in the community. The purpose is also to capture the additional residential investigation areas identified in the recent Department approved Byron Residential Strategy 2041 which are not included in AHCS 01.

The planning proposal is the only means by which the proposed amendment to Byron LEP 2014 clause 6.18 to enable the inclusion of the draft AHCS 02 can be undertaken.

3 Strategic assessment

3.1 Regional Plan

The planning proposal will assist in delivering Objective 1 – Provide well located homes to meet demand and Objective 2 - Provide for more affordable and low-cost housing of the NCRP 2041.

The planning proposal is also consistent with the Byron Local Government Narrative detailed in the NCRP 2041. This narrative focuses on the uniqueness of the area and the need to create opportunities for strengthening the economy, increase housing diversity and density, prioritise the delivery of affordable housing whilst supporting environmentally sustainable development and protecting and enhancing local biodiversity.

3.2 Local

The planning proposal is considered to be generally consistent with all relevant local planning strategies as discussed below.

Table 6 Local strategic planning assessment

Local Strategies	Justification
Local Strategic Planning Statement	<p>The planning proposal is consistent with the relevant priorities and actions of Council's LSPS. In particular:</p> <ul style="list-style-type: none"> • Priority 3 – Support housing diversity and affordability with housing growth in the right locations. • Action 7 – Finalise draft Byron Shire Residential Strategy and implement relevant priority actions; and • Action 9 - Investigate and implement planning controls to encourage and increase in the supply of affordable and inclusive housing stock.
Byron Residential Strategy 2041	<p>The Byron Shire Residential Strategy was conditionally approved by the Department on 17 June 2024.</p> <p>The strategy aims to exceed the Department's 2022 dwelling forecast of 4,522 by providing an additional 5,257 to 6,346 new dwellings to 2041 with the majority of the growth expected to occur in the areas of Byron Bay/Sunrise, Saddle Road precinct and Mullumbimby. The strategy has identified a number of potential investigation areas. A number of these sites are also identified as an Affordable Housing Area in Council's AHCS 01 and draft AHCS 02.</p> <p>One of the key actions of the strategy is to explore affordable housing contribution mechanisms in new areas for more affordable housing opportunities.</p> <p>As mentioned previously, the Department's conditional endorsement of the Byron Residential Strategy did not include Area B2. Accordingly, it is recommended that this site be excluded from the draft AHCS 02 until the outstanding matters are resolved. It is anticipated that the land could then be included in any future affordable housing contribution schemes once this has occurred or Council could elect to negotiate a voluntary planning agreement with the landowner should a planning proposal to rezone the land proceed earlier.</p> <p>The Byron draft AHCS 02 is considered to be consistent with the key actions and policy directions of the Byron Residential Strategy (as conditionally endorsed).</p>
Byron Shire Affordable Housing Contribution Policy	<p>The AHCP is a Council adopted policy which sets the framework to advocate for, facilitate, provide and manage affordable housing contributions in Byron Shire acquired through a planning agreement or delivered through a SEPP. The policy was adopted by Council on 13 August 2020.</p> <p>Council has confirmed that the planning proposal and draft ACHS are in accordance with the AHCP.</p>

Local Strategies	Justification
Byron Affordable Housing Contribution Scheme (AHCS) 01	<p>The Byron AHCS 01 came into effect in January 2023 through the introduction of clause 6.18 within Byron LEP 2014. The scheme details how, where and at what rate development contributions can be collected from landowners for affordable housing and currently applies to the areas of Mullumbimby, Bangalow and Byron Bay.</p> <p>The scheme is activated when land is upzoned to introduce planning controls that aim to facilitate development, therefore will increase the value of the land. AHCS 01 required that the form of contribution would be determined by Council at the time of development and may include:</p> <ul style="list-style-type: none"> • fit for purpose land within the development, • monetary contribution, and/or • dwellings within the development <p>In their review of the draft Byron AHCS 02 (and associated documents) Housing Policy raised an issue regarding the viability assessment which noted that the traditional approach using the Department affordable housing viability tool has not been used in this instance and instead uses real market transactions to test scenarios. This is a different approach to that used in the Byron AHCS 01. Council have stated that they intend on drafting an FAQ to be provided with the explanatory material to accompany the Scheme to explain the variation in approach between Byron AHCS 01 and 02.</p> <p>It is considered appropriate that the Gateway be conditioned to ensure that an explanation of the different approach taken between Byron AHCS 01 and draft Byron AHCS 02 regarding viability assessment, be included in the planning proposal prior to public exhibition.</p>

3.3 Section 9.1 Ministerial Directions

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

Table 7 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
3.1 Conservation Zones	Justified	<p>The proposal is inconsistent with this Direction as affects land with areas of mapped as potential high environmental value and the planning proposal does not include provisions that facilitate the protection and conservation of environmentally sensitive areas.</p> <p>The inconsistency is considered to be of minor significance as the planning proposal will not rezone or alter the development standards that apply to any land identified in the draft AHCS 02. All sites identified in the draft AHCS 02 will require further site-specific investigation to justify their suitability for rezoning through the planning proposal process</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
3.2 Heritage Conservation	Justified	<p>The proposal is inconsistent with this Direction as it may apply to land that contains Aboriginal objects, Aboriginal places or items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance and the planning proposal does not contain provisions that facilitate their conservation.</p> <p>The inconsistency is considered to be of minor significance as the planning proposal will not rezone or alter the development standards that apply to any land identified in the draft AHCS 02. All sites identified in the draft AHCS 02 will require further site-specific investigation to justify their suitability for rezoning through the planning proposal process.</p>
4.1 Flooding	Justified	<p>The proposal is inconsistent with this Direction as it applies to land mapped or partially mapped as within a flood planning area and/or subject to a PMF flood event.</p> <p>The inconsistency is considered to be of minor significance as the planning proposal will not rezone or alter the development standards that apply to any land identified in the draft AHCS 02. All sites identified in the draft AHCS 02 will require further site-specific investigation to justify their suitability for rezoning through the planning proposal process.</p>
4.2 Coastal Management	Justified	<p>The proposal is inconsistent with this Direction as it affects land that is in a coastal zone and is unable to satisfy all of the requirements of the Direction.</p> <p>The inconsistency is considered to be of minor significance as the Planning proposal will not rezone or alter the development standards that apply to any land identified in the draft AHCS 02. All sites identified in the draft AHCS 02 will require further site-specific investigation to justify their suitability for rezoning through the planning proposal process.</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
4.3 Planning for Bushfire Protection	Unresolved	<p>The proposal is inconsistent with this Direction as it applies to land mapped as bushfire prone land or is in proximity to land mapped as bushfire prone land.</p> <p>The Direction provides that the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service after a Gateway Determination is issued. Until this consultation has occurred, the consistency of the proposal with the Direction remains unresolved.</p>
9.2 Rural Zones	Justified	<p>The proposal is inconsistent with this Direction as it affects land within a rural zone and is unable to satisfy all the requirements of the Direction.</p> <p>The inconsistency is considered to be of minor significance as the planning proposal will not rezone or alter the development standards that apply to any land identified in the draft AHCS 02. All sites identified in the draft AHCS 02 will require further site-specific investigation to justify their suitability for rezoning through the planning proposal process.</p>

3.4 State environmental planning policies (SEPPs)

The planning proposal is considered to be consistent with all relevant SEPPs. Of particular relevance is the following SEPP.

Table 8 Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
Housing State Environmental Planning Policy (Housing SEPP)– Part 2 previously SEPP 70 – Affordable Housing (Revised Schemes)	<p>The Act allows for the collection of contributions for affordable housing where a need for affordable housing is identified in a planning instrument and where:</p> <ul style="list-style-type: none"> the consent authority is satisfied that the proposed development will or is likely to reduce the availability of affordable housing within the area, or the consent authority is satisfied that the proposed development will create a need for affordable housing within the area, or the proposed development is allowed only because of the initial zoning of a site, or the rezoning of a site, or the regulations so provide. 	Yes	<p>The planning proposal contains provisions to require new development on land shown on the maps in the draft AHCS 02 to contribute towards affordable housing.</p> <p>The Guidelines nominate that dedicated land should be held for affordable housing in perpetuity.</p> <p>As discussed in section 1.6 of this report, the planning proposal was reviewed by the Department's Housing Policy team and it is considered that Byron draft AHCS 02 addresses the requirements of the Guidelines.</p>

4 Site-specific assessment

4.1 Environmental

It is unlikely that the planning proposal will result in any negative environmental impacts as the proposal does not seek to rezone or change the current development standards applicable to the land.

Each land parcel will be subject to site specific investigations to determine whether it is appropriate for them to progress to a Planning proposal for rezoning in the future.

4.2 Social and economic

It is anticipated that planning proposal will give effect to the draft AHCS 02, which aims to facilitate the provision of affordable housing options within the Byron Shire LGA to meet the needs of very low, low and moderate income households.

In terms of socio-economic benefits, it is anticipated that the planning proposal will:

- assist in addressing the rental availability and affordability crisis through government funding of social housing;
- provide greater clarity for the community about the affordable rental housing planned in their area; and

- ensure there is certainty and transparency for developers about how affordable housing contributions will be determined, and the contribution rate that will be applied.

The planning proposal is supported by the Byron Shire Council AHCS 02 – Housing Needs Assessment – May 2024 (**Attachment E**) which also highlights the importance of the provision of affordable housing and the economic, social and environmental benefits it creates, particularly as greater housing choice helps labour markets function by improving labour mobility and ensuring sufficient workers are available to support local businesses. This impact is felt both locally and regionally.

It is also noted that the AHCS 02 applies an affordable housing contribution rate of between 10%-20% to the subject lands based on the accompanying viability assessment. This viability assessment estimated an anticipated development 'viability buffer' of between 10%-36% for all the lands even after the application of the housing contribution rate to demonstrate no adverse impact to housing supply or economic viability for landowners / developers.

4.3 Infrastructure

The planning proposal will not directly result in the need for either state or local infrastructure upgrades as the proposal does not seek to rezone or change the current development standards applicable to the land. The need for additional local or state infrastructure will be assessed under any future planning proposal/s for rezoning of the land.

The planning proposal has indicated that land chosen to be included on the Affordable Housing Contribution on the Affordable Housing Contribution Scheme maps has been identified as 'investigation areas' under the recent Department approved Byron Shire Residential Strategy 2041. The Residential Strategy has helped to inform public infrastructure planning and delivery including local government (such as roads, water and sewer infrastructure and provisioning for climate change resilience), regional (such as Rous County Council water security forward planning) and state infrastructure delivery (such as Department of Education and schools).

5 Consultation

5.1 Community

Council proposes a community consultation period of one month.

This is satisfactory and in accordance with the Department's LEP Making Guidelines (August 2023) the exhibition timeframe for a standard planning proposal is 20 working days.

Council has also nominated that they intend to undertake targeted consultation during the exhibition period with:

- affected landowners where possible;
- key community groups; and
- local community housing providers

The exhibition period proposed is considered appropriate and forms to the conditions of the Gateway determination.

5.2 Agencies

The proposal does not specifically raise which agencies will be consulted.

It is recommended the following agencies be consulted on the planning proposal and given 30 working days to comment:

- NSW Rural Fire Service
- Homes NSW

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 a standard.

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

7 Local plan-making authority

Council is not seeking to exercise its functions as a Local Plan-Making authority for this planning proposal due to the potentially contentious nature of the planning proposal.

It is recommended that Council not be authorised to be the local plan-making authority for this proposal to allow the Department to undertake an independent review of the final Council adopted proposal and associated Byron Shire Affordable Housing Contribution Scheme 02.

8 Assessment summary

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

- it is not inconsistent with the NCRP 2041 and will assist in delivering key directions that aim to increase housing diversity and choice and deliver more opportunities for affordable housing;
- it is consistent with the Byron LSPS actions to increase in the supply of affordable and inclusive housing stock;
- it is generally consistent with the Department's Guideline for Developing an Affordable Housing Contribution Scheme and the Council adopted Affordable Housing Contribution Policy.

9 Recommendation

It is recommended the delegate of the Secretary:

- **Agree** that any inconsistencies with section 9.1 Directions 3.1 Conservation Zones, 3.2 Heritage Conservation, 4.1 Flooding, 4.2 Coastal Management and 9.2 Rural Lands are minor or justified; and
- **Note** that the consistency with section 9.1 Direction 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 the following conditions:

- 1) Prior to exhibition, updates are made as follows to:
 - a) The planning proposal to include:
 - (i) a tabulated list of properties that have been mapped as ACHS areas in draft AHCS 02;
 - (ii) an explanation of the different approach and methodology taken in draft AHCS 02 compared to AHCS 01;

b) The draft AHCS 02 to:

- (i) revise section 2.2 (e) to detail that where there is a shortfall in the area of lots to be dedicated equivalent to less than 75% of the minimum lot size, the applicant may elect to meet the shortfall through a monetary contribution determined in accordance with Section 2.4 only; and
- (ii) remove Area B2 as an ACHS area.

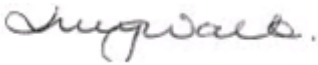
2) Consultation is required with the following public authorities:

- NSW Rural Fire Service
- Homes NSW

3) The planning proposal should be made available for community consultation for a minimum of 20 working days.

4) Given the nature of the Planning proposal, it is recommended that the Gateway not authorise Council to be the local plan-making authority

5) The LEP should be completed within 6 months from the Gateway determination date.



26.09.2024

(Signature)

(Date)

Lucy Walker

Manager, Hunter and Northern Region

Local Planning and Council Support



30/9/24

(Signature)

(Date)

Craig Diss

Acting Director, Hunter and Northern Region

Local Planning and Council Support

Assessment officer

Gina Davis

Senior Planner, Hunter and Northern Region

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