

PLANNING PROPOSAL

**Amend Byron Bay Local Environmental Plan 2014
Part of the Former Broken Head Quarry, Suffolk Park, NSW, 2481**

Prepared for:

Winten Property Pty Ltd

Representing Crisjoy Pty Ltd ATF Lighthouse Unit Trust

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BASIS OF REPORT

This report has been prepared by SLR Consulting Australia Pty Ltd (SLR) with all reasonable skill, care and diligence, and taking account of the timescale and resources allocated to it by agreement with Winten Property Pty Ltd (the Client). Information reported herein is based on the interpretation of data collected, which has been accepted in good faith as being accurate and valid.

This report is for the exclusive use of the Client. No warranties or guarantees are expressed or should be inferred by any third parties. This report may not be relied upon by other parties without written consent from SLR.

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DOCUMENT CONTROL

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1 Introduction

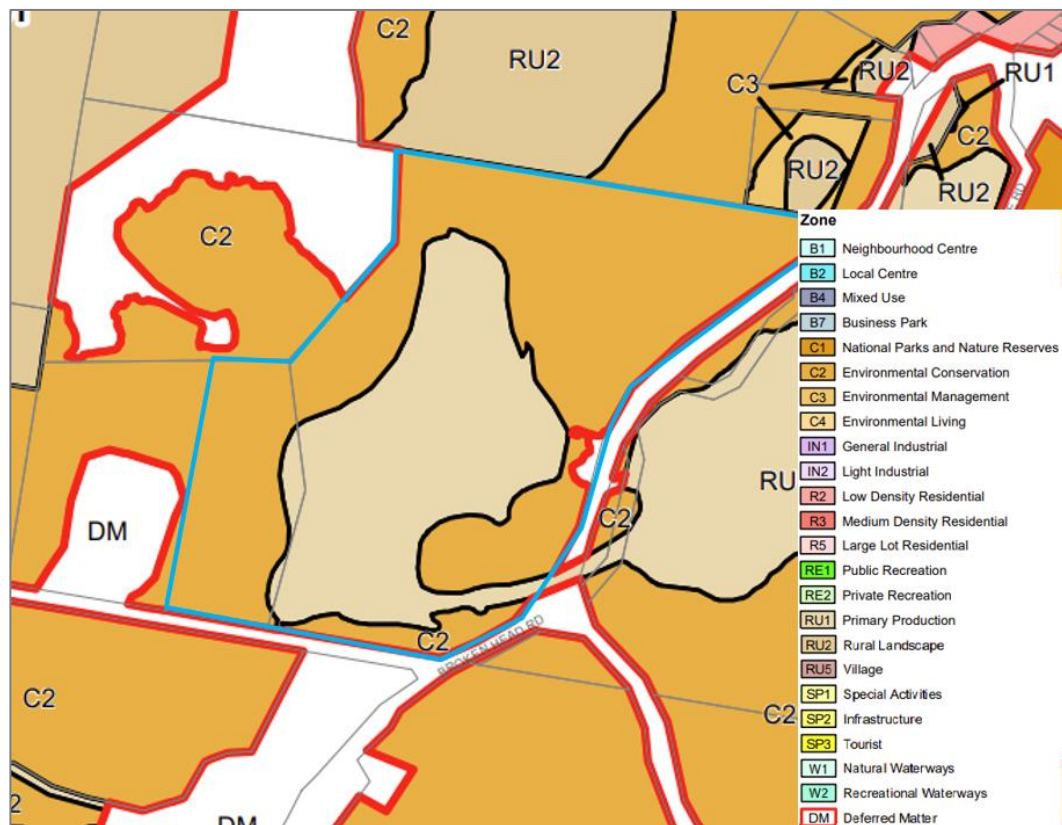
This Planning Proposal (PP) report has been prepared by SLR Consulting (SLR) on behalf of the Winten Property Group (Winten) in support of a request to Byron Shire Council (Council) for the rezoning of part of the former Broken Head Quarry site to R2 Low Density Residential. The rehabilitated Broken Head Quarry (BHQ) is bisected by Broken Head Road, with the eastern portion of the BHQ site comprising an approximate area of 24.52 hectares (ha) and the western portion of the BHQ site comprising an approximate area of 27.8ha. Only the western portion of the site is the subject of this rezoning request under this PP. The area the subject of this PP has been rehabilitated in accordance with an agreement between the Quarry owners and the NSW Department of Planning and Environment (DPE).

The site has a split zoning, being RU1 Primary Production and C2 Environmental Conservation under the Byron Local Environmental Plan 2014 (LEP 2014)(see **Figure 1**). The original intention of the Planning Proposal was to rezone the existing RU1 zoned portions of the site to RU5 Village zone and the previously DM Deferred Matter zoned portion of the site was proposed to be rezoned to C2 Environmental Conservation. The rezoning was intended to be aligned with the Draft Byron Rural Land Use Strategy (draft dated August 2016, Council reference: E2016/80648) as it was noted that the site was earmarked as a *“possible rural residential subject to further assessment.”* However, the *North Coast Regional Plan 2041* (Regional Plan) has been recently gazetted (December 2022). The Regional Plan requires that all future rural residential rezoning be confined to areas outside the Coastal Strip (the Coastal Strip is defined in the Regional Plan as all land east of the Pacific Highway).

Furthermore, the Regional Plan states that one of the key Region’s objectives is to enable new housing to *“maximise the use of existing and new infrastructure and provide greater access to jobs, services and lifestyle opportunities”*, with a strong emphasis of targeting 40% dwellings within the Region being small lot/townhouse/apartments to address the significant housing shortfall in the Region. Therefore, the PP now seeks a residential rezoning rather than a rural residential zoning to bring it into alignment with the Regional Plan.

A meeting with the Byron Shire Council’s Strategic Planners, Steve Daniels and Alex Caras, took place on the 28 September 2022, to discuss the possible rezoning of part of the BHQ site. During the meeting Council’s Strategic Team noted their support for the prohibition of future rural residential rezonings within the Coastal Strip. The PP therefore seeks to rezone the RU1 zoned land on the western side of Broken Head Road to R2 Low Density Residential.

Figure 1 Zoning Map Extract (LZN_003CD)



This PP report explains the intended effect of, and justification for this proposed amendment to LEP 2014. It has been prepared in accordance with Division 3.4 of the Environmental Planning and Assessment Act 1979 (EP&A Act 1979) and the relevant DPE guidelines, including the updated 'A Guide to Preparing Planning Proposals' and 'A Guide to Preparing Local Environmental Plans' (as updated September 2022).

The report contains the following sections:

- Introduction;
- Background and summary details of the PP;
- Part 1 - A Statement of Objectives or Intended Outcomes of the PP;
- Part 2 - Explanation of the Provisions that are to be included in the PP;
- Part 3 - Justification of the Objectives, Outcomes and Provisions, and the process for their implementation;
- Part 4 – Mapping;
- Part 5 - Details of the Community Consultation that is to be undertaken in relation to the PP;
- Part 6 - Project Timeline; and
- Conclusion.

2 Summary

Table 1 provides a summary of relevant background information related to the site.

Table 1 Western Portion of Broken Head Quarry Site Summary

Subject Land	Broken Head Quarry
Lot & DP:	Lot 1 in DP 123302 Lot 2 DP 700806
Proponent:	Winten Property Group Pty Ltd Representing Crisjoy Pty Ltd ATF Lighthouse Unit Trust
Total Area:	27.8ha
Total Cleared Area:	Approximately 8.3ha
Existing Zoning:	RU1 Primary Production and C2 Environmental Conservation
Proposed Amendment:	Rezone RU1 Primary Production zoned portion of the land to R2 Low Density Residential.
Site Constraints	Bushfire Prone Land Coastal Environmental Area Coastal Wetlands Ecological

2.1 BHQ Site Location

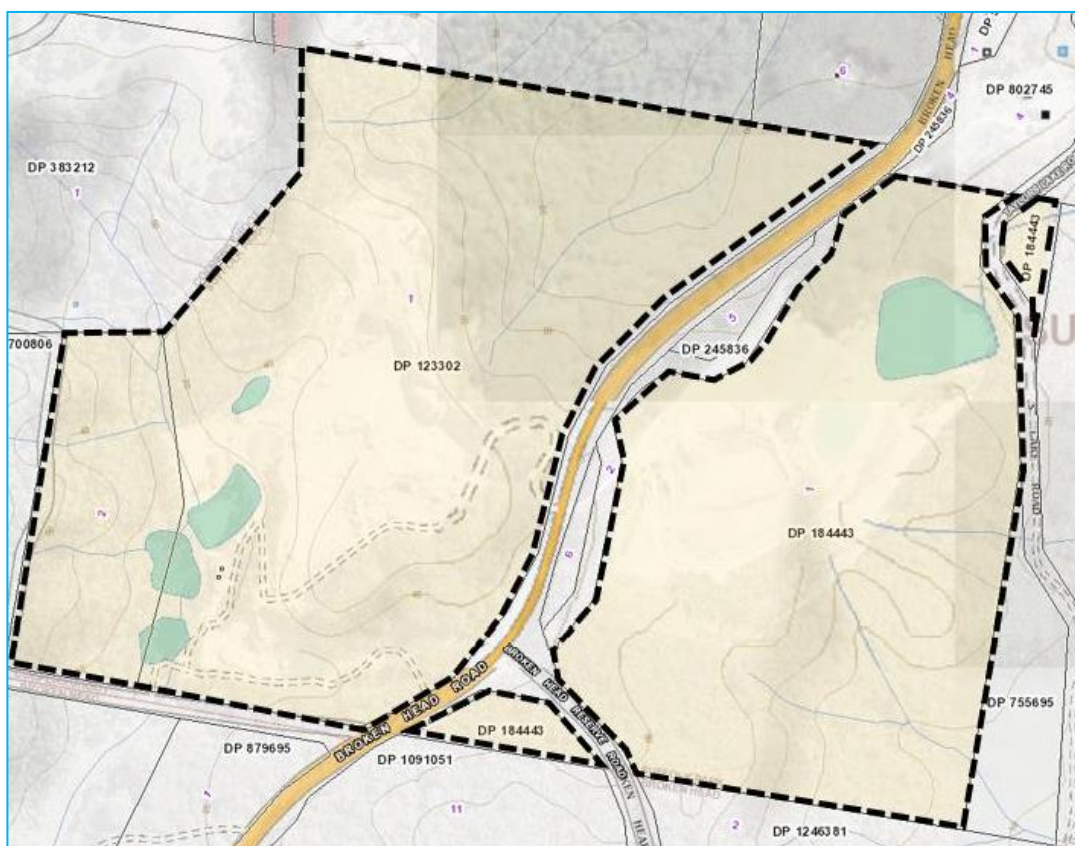
The BHQ site is located on Broken Head Road, Suffolk Park NSW 2481. The BHQ site is located within the Byron Shire Local Government Area (LGA). The BHQ site has a total area of 52.32ha and is located approximately six kilometres (km) south of Byron town centre. **Figure 2** contains an aerial photograph of the BHQ site and shows this site in relation to Byron Bay and Suffolk Park.

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As documented in **Table 1**, the site comprises Lot 1 DP 123302 and Lot 2 DP 700806. **Figure 3** provides a cadastral plan of the BHQ site. This PP only relates to the two (2) lots west of Broken Head Road.

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Figure 3 Cadastral Plan (Source: Six Maps)



2.3 Surrounding Development

The site is located amongst dense vegetation, with some rural residential development located to the south west of the western portion of the site which gain road access from Natural Lane. Notable destinations within the vicinity of the site include:

- Suffolk Park local/neighbourhood centre approximately 950m north of the site;
- Byron Bay High School & St Finbarr's Catholic Primary School approximately 3.8km north of the site;
- Byron Bay township approximately 6.2km north of the site;
- Broken Head beach approximately 1.8km east of the site; and
- Ballina Airport approximately 26.5km south of the site.

2.4 Quarry Rehabilitation

The site was considered in the 2019 Draft Byron Shire Residential Strategy as an "Area of Interest" (Draft Strategy Appendix C, site 36) for possible residential development, but was dismissed "until rehabilitation requirements are met". Since the draft report was issued, BHQ has negotiated a detailed plan for rehabilitation with DPE's Compliance Branch and has implemented that plan. The agreed rehabilitation works are now in a very advanced state. The rehabilitation process has been conducted in a transparent manner with monthly report available on the BHQ website (see <http://www.brokenheadquarry.com.au/rehabilitation>).

3 Part 1 - Objectives or Intended Outcomes

The primary objective of this PP is to amend the Byron LEP 2014 to rezone the RU1 Primary Production portion of the site to R2 Low Density Residential. The secondary objective of this PP is to facilitate the development of the disturbed area of the site to create future residential lifestyle living opportunities, close to the Byron town centre.

The intended outcome of this PP is to convert cleared and rehabilitated land in an accessible location close to Suffolk Park and Byron Bay township into residential development. This type of development will generate positive social and economic outcomes without any significant detrimental environmental impacts.

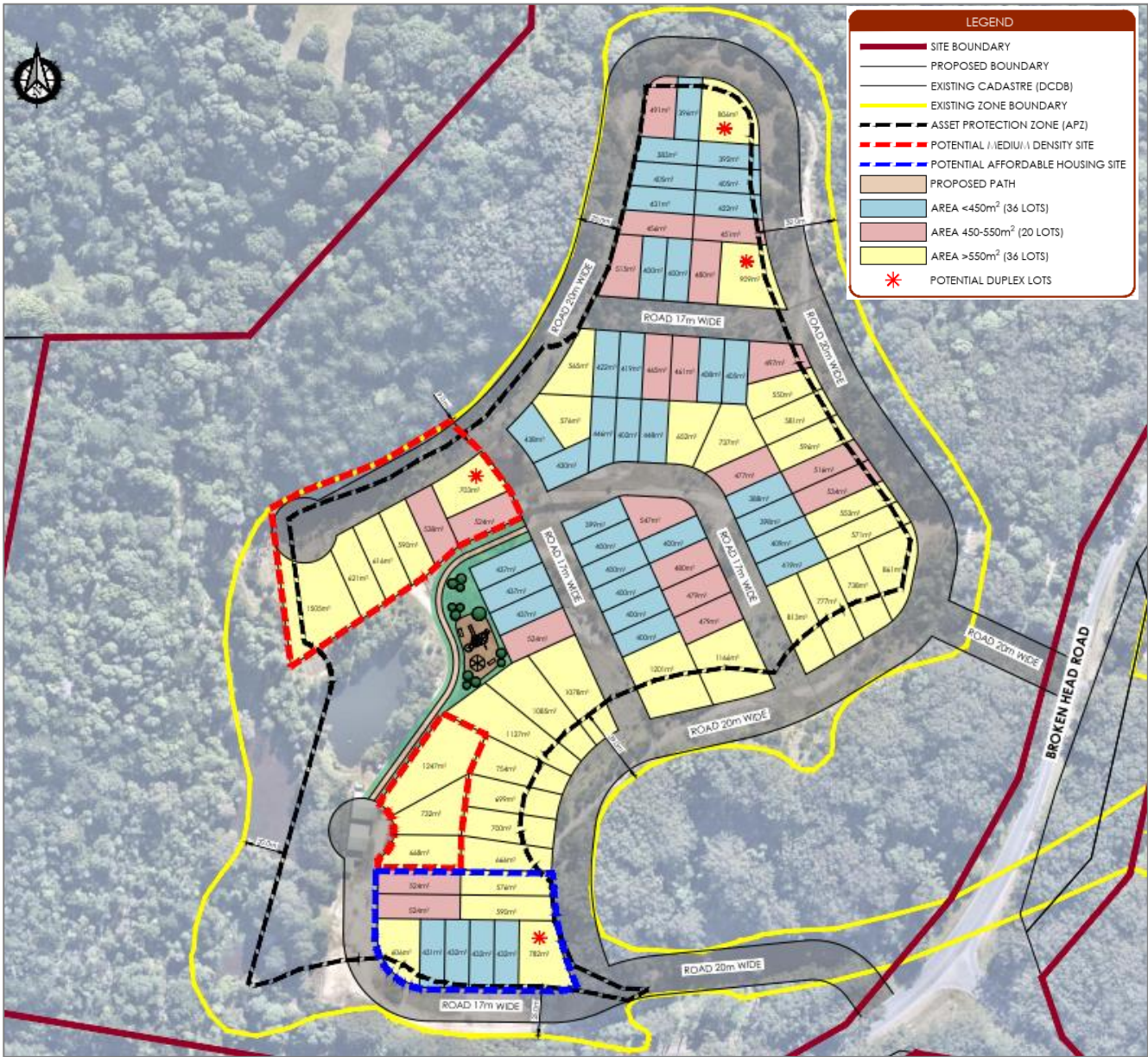
Table 2 summarises the changes proposed by this PP.

Table 2 Intended Outcome

	Existing Provisions of Byron LEP 2014	Proposed Provisions of Byron LEP 2014
Land Use Zoning	RU1 Primary Production	R2 Low Density Residential
Minimum Lot Size	40ha	400sqm
Height of Buildings	9m	9m
Floor Space Ratio	Not Adopted	0.6

Figure 4 reflects a conceptual plan of the overall intended development outcomes for the site. Approximately 96 dwellings are envisaged by this conceptual plan.

Figure 4 Conceptual Residential Subdivision (Source: ADW Johnson, October 2022)



4 Part 2 - Explanation of the Provisions

The objectives of this PP will be achieved by:

- Amending the Byron LEP 2014 Land Zoning Map (LZN_003CD) in respect of part of the former Broken Head Quarry site to reflect a change of zone from RU1 Primary Production zone to R2 Low Density Residential;
- Amending the Byron LEP 2014 Minimum Lot Size Map (LSZ_003CD) to reflect a change of minimum lot size from 40ha to 400m²; and
- Amending the Byron LEP 2014 Floor Space Ratio Map (FSR_003CD) to reflect a maximum Floor Space Ratio of 0.6:1.

5 Part 3 - Justification

5.1 Section A – Need for the Planning Proposal

Q1. Is the planning proposal a result of an endorsed local strategic planning instrument, strategic study or report?

The PP is a result of the Broken Head Quarry site being decommissioned and rehabilitated so it can now be considered as a potential site for residential development. In the site's rehabilitated state, the cleared area is considered viable to facilitate future residential development. It is noted that the Regional Plan acknowledges the need for a greater housing supply in the region. The Regional Plan states the North Coast *"is projected over the next 20 years that a minimum 41,300 extra homes will be needed to meet population growth,"* and acknowledges that recent population growth and housing demand could be higher than these predictions. In addition, the Regional Plan proposes prohibiting rural residential development within the coastal strip. Therefore, given the need for additional housing supply and the close proximity of the site to Byron Bay town centre, the site provides an exciting opportunity for a new urban area serviced by existing infrastructure.

Only one urban area investigation area is identified for the Byron LGA under the Regional Plan. With the anticipated demand for housing supply in the Byron LGA, additional urban areas are going to be required in future. Having been rehabilitated in accordance with an agreement between the quarry owners and the DPE, it is now an appropriate time to seek a rezoning to facilitate the future residential development of this site.

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

Yes, a change of zoning with appropriate changes to the minimum lot size controls and FSR within the Byron LEP 2014 is considered the most appropriate means of enabling the site to be optimised for residential development.

The site currently sits vacant, having been rehabilitated. The current zoning (RU1 Primary Production and C2 Environmental Conservation) with a minimum lot size of 40ha may have been appropriate for the site when it was used as a quarry. With the quarry now decommissioned and rehabilitated, it is evident that the current zoning is not appropriate as it does not recognise the inherent development potential of the site given its strategic location as it is close to Suffolk Park, Byron Bay and Broken Head Beach.

The proposed zoning amendment to a R2 Low Density Residential zone, will create an opportunity for residential allotments to be created in a location approximately one kilometre from local retail and commercial outlets and supporting services. The creation of a residential estate on the site is not achievable given the current RU1 zoning.

The proposed zoning amendment of RU1 Primary Production Zone to the R2 Low Density Residential Zone which is proposed would facilitate the development of the site in the manner illustrated in **Figure 4** thereby significantly adding to the supply of a variety of housing typologies within close proximity to established urban areas within Suffolk Park. This change of zoning is considered the most appropriate way to achieve the objectives and intended outcomes for the site by efficiently utilising existing infrastructure.

5.2 Section B - Relationship to Strategic Planning Framework

Q3. Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?

North Coast Regional Plan 2041

The Regional Plan is a 20-year blueprint for the future of the North Coast. The Regional Plan recognises that the Region's population will grow and that the provision of a wide range of housing typologies is going to be required to accommodate this population growth. The Regional Plan covers all facets of land use planning, including employment areas, town centres, housing and related infrastructure, the natural environment and hazards. The Regional Plan sets out three (3) main goals which are further broken down into objectives and strategies.

The Regional Plan's relevant goals and objectives indicate that residential development should avoid areas of significant environmental, landscape and resource value. The Regional Plan identifies that the anticipated population growth will equate to more than 41,300 new homes needing to be constructed in the region. There is a high demand for new housing within the Byron LGA, however, the Regional Plan only identifies one (1) urban land investigation area within the Byron LGA.

Although the Regional Plan only identifies one site within the Byron LGA for urban land investigation (refer to **Figure 5**), the Regional Plan highlights a regional priority for Byron as *'Investigate opportunities for increased housing diversity and density, encompassing multi-unit dwellings and innovative housing models in appropriate locations.'* Although not identified within the Regional Plan as an urban investigation area, it is considered that the proposed rezoning of the site to R2 Low Density Residential is aligned with the Regional Plan and will provide increased housing diversity and density in a high demand area. Furthermore, the site and this PP offers an opportunity to increase the housing supply in an area which has sufficient servicing infrastructure capacity to cater for the residential development of the site.

The PP is aligned with the objectives and strategies of the Regional Plan. Refer to **Table 3** and **Table 4** for an assessment against the Regional Plan's objectives and strategies. As this PP seeks a variation from the existing identified urban investigation growth areas, an assessment against the *Settlement Planning Guidelines* (**Table 5**) and *Urban Growth Area Variation Principles Assessment* (**Table 6**) is presented in the following pages.

Figure 5 Urban Growth Area Map for Byron Local Government Area (Source: North Coast Regional Plan 2036)

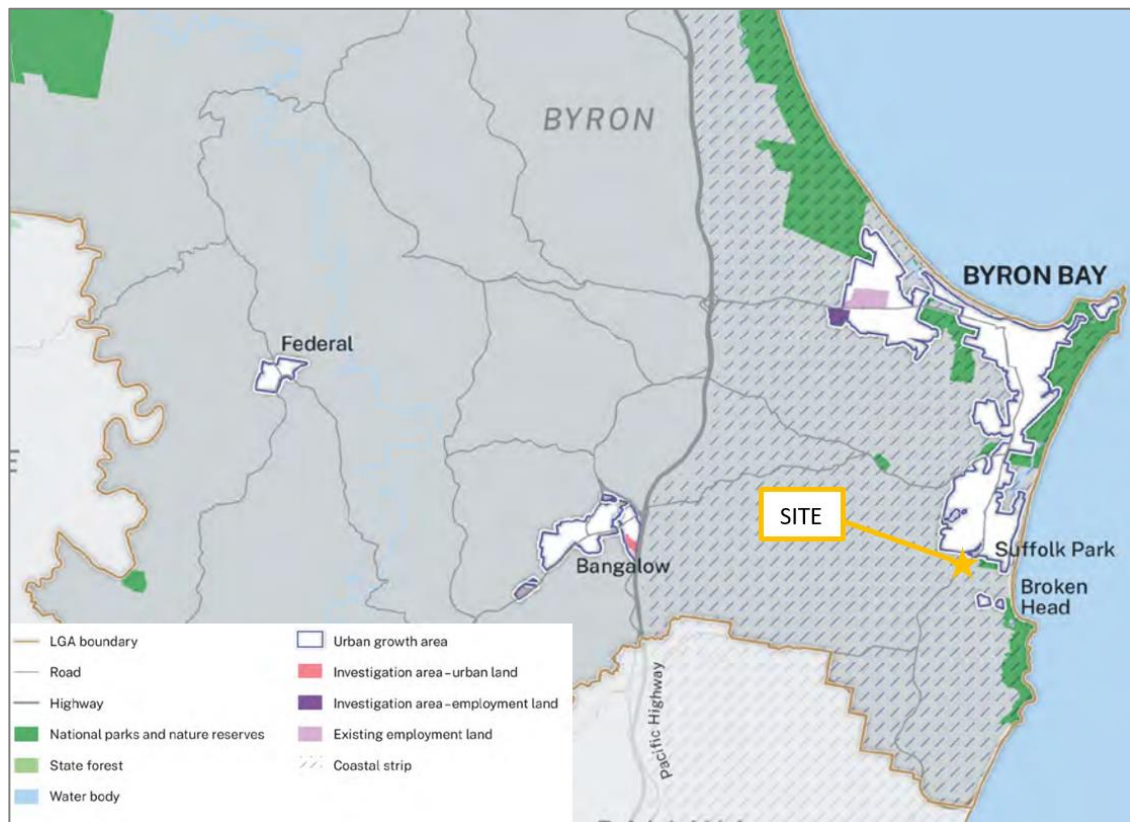


Table 3 Assessment Against Relevant Objectives and Strategies of NCRP 2041:

Plan Objectives	Proposal	Compatible
Objective 1: Provide well located homes to meet demand		
<p>Strategy 1.1</p> <p>A 10 year supply of zoned and developable residential land is to be provided and maintained in Local Council Plans endorsed by the Department of Planning and Environment.</p>	<p>The site is well placed to contribute to supply of developable residential land that is close to existing urban land and is able to be readily serviced.</p>	Yes
<p>Strategy 1.2</p> <p>Local Council plans are to encourage and facilitate a range of housing options in well located areas.</p>	<p>The site sits to the south of the existing Suffolk Park urban area. Once rezoned, development of the site will be able to facilitate a variety of housing options in an area with ready access to services and amenities.</p>	Yes
<p>Strategy 1.3</p> <p>Undertake infrastructure service planning to establish land can be feasibly serviced prior to rezoning.</p>	<p>A Water and Sewer Services report has been prepared by Ardill Payne and Partners for the BHQ site (Appendix B). The investigation found that there are no constraints in terms of provision of sewer and water utilities to the site.</p>	Yes

Plan Objectives	Proposal	Compatible
<p>Strategy 1.4</p> <p>Councils in developing their future housing strategies must prioritise new infill development to assist in meeting the region's overall 40% multi-dwelling / small lot housing target and are encouraged to work collaboratively at a subregional level to achieve the target.</p>	The residential development of the site would assist in achieving this 40% multi- dwelling/ small lot housing target as set out in this strategy.	Yes
<p>Strategy 1.5</p> <p>New rural residential housing is to be located on land which has been approved in an existing strategy endorsed by the Department of Planning and Environment and is to be directed away from the coastal strip.</p>	Rural residential development is not proposed.	N/A
<p>Strategy 1.6</p> <p>Councils and LALCs can partner to identify areas which may be appropriate for rural land sharing on Country.</p>	As rural land sharing is not proposed this strategy is not applicable.	N/A
Objective 2: Provide for more affordable and low cost housing		
	As outlined in the concept plan (Figure 4), provisions have been made to include affordable housing within the development. An annotated and more detailed concept plan is provided at Appendix D .	Yes
Objective 3: Protect and enhance important environmental assets		
<p>Strategy 3.1</p> <p>Strategic planning and local plans must consider opportunities to protect biodiversity values by:</p> <ul style="list-style-type: none"> • focusing land-use intensification away from HEV land and implementing the 'avoid, minimise and offset' hierarchy in strategic plans, LEPs and planning proposals. • ensuring any impacts from proposed land use intensification on adjoining reserved lands or land that is subject to a conservation agreement are assessed and avoided • encouraging and facilitating biodiversity certification by Councils at the precinct scale for high growth areas and by individual land holders at the site scale, where appropriate 	The proposal seeks to rezone the disturbed land of the previous quarry to an appropriate residential zone. This land has now been rehabilitated and holds minimal environmental value as it has been significantly disturbed via quarrying. This area has been chosen to avoid and minimise the impacts on the surrounding sensitive environmental areas.	Yes

Plan Objectives	Proposal	Compatible
<ul style="list-style-type: none"> • updating existing biodiversity mapping with new mapping in LEPs where appropriate • identifying HEV land within the rezoning footprint at planning proposal stage through site investigations • applying appropriate mechanisms such as conservation zones and Biodiversity Stewardship Agreements to protect HEV land within a planning area and considering climate change risks to HEV assets • developing or updating koala habitat maps to strategically conserve koala habitat to help protect, maintain and enhance koala habitat • considering marine environments, water catchment areas and groundwater sources to avoid potential development impacts. 		
<p>Strategy 3.2</p> <p>In preparing local and strategic plans Councils should:</p> <ul style="list-style-type: none"> • embed climate change knowledge and adaptation actions • consider the needs of climate refugia for threatened species and other key species 	<p>Portions of the site are identified on the Biodiversity Values Map. The proposed residential rezoning will allow the existing cleared areas to be developed for housing with minimal impact to the existing biodiversity values on the site. The proposed rezoning area is currently cleared land that is considered to hold minimal environmental value and is unlikely to be utilised by threatened species as a climate refuge</p>	Yes
Objective 16: Increase active and public transport usage		
<p>Strategy 16.1</p> <p>Encourage active and public transport use by:</p> <ul style="list-style-type: none"> • prioritising pedestrian amenity within centres for short everyday trips • providing a legible, connected and accessible network of pedestrian and cycling facilities 	<p>The aim of the PP is to provide for residential development which is located approximately one kilometre from Suffolk Park shops. This close proximity to an existing neighbourhood centre zone will enable pedestrian activity for short everyday trips. Furthermore, the proponent is prepared to enter into a Voluntary Planning Agreement (VPA) to construct a pedestrian and cycle path from the site to the Suffolk Park shops. This path would improve the connection between the new residential area to the Suffolk Park neighbourhood centre.</p>	Yes

Plan Objectives	Proposal	Compatible
<ul style="list-style-type: none"> • delivering accessible transit stops and increasing convenience at interchanges to serve an ageing customer • incorporating emerging anchors and commuting catchments in bus contract renewals • ensuring new buildings and development include end of trip facilities • integrating the active transport network with public transport facilities • prioritising increased infill housing in appropriate locations to support local walkability and the feasibility of public transport stops. 		
<p>Strategy 16.2</p> <p>Local plans should encourage the integration of land use and transport and provide for environments that are highly accessible and conducive to walking, cycling and the use of public transport and encourage active travel infrastructure around key trip generators.</p>	<p>As mentioned above, the proponent is willing to enter into a VPA to construct a future cycle and pedestrian path along the Broken Head Road reservation, connecting the new residential area with the Suffolk Park neighbourhood centre. This path will encourage everyday walking and cycling.</p>	<p>Yes</p>

Table 4 Objective 18 Plan for Sustainable communities Local Government Narrative – Byron Assessment

Item	Criteria	Response
Regional Priorities	Support a resilient and innovative economy based on Byron Shire's unique character, landscapes and important farmland.	The proposed residential rezoning and the future development of the site will provide an outcome consistent with the unique character of the Byron area and will not be contradictory to this objective.
	Manage and support sustainable growth.	Providing additional residential land close to an existing urban area (Suffolk Park) and services supports the vision of sustainable growth.
	Acknowledge native title interests and Aboriginal land rights, support a partnership approach with Aboriginal landowners and native title holders and preserve aboriginal cultural heritage assets, built, natural and intangible	Aboriginal heritage has been considered during this process, with a AHIMS search undertaken for the site. The AHIMS search did not reveal any Aboriginal places or items within the proposed rezoning footprint. Due to the heavily disturbed nature of the portion of the site to be rezoned, there is a very low likelihood of disturbing any places or objects of Aboriginal significance. Further investigations would be undertaken at the development application stage.
	Deliver housing equitably to meet the needs of the community	The R2 low density zoning provides the potential to deliver a variety of lot sizes and housing outcomes to cater for a variety of needs within the community, including affordable housing.
	Support Byron Shire's visitor economy by fostering sustainable visitation.	N/A
Liveable and Resilient	Support the shire's net zero target including zero waste to landfill through a circular economy.	N/A
	Deliver mitigation and adaptation measures in response to climate change.	N/A

Item	Criteria	Response
	Support environmentally sustainable development that is responsive to natural hazards	A Strategic Bushfire Assessment has been prepared illustrating that the site is capable of being developed in accordance with the bushfire protection measures required in Planning for Bushfire Protection 2019.
	Protect and enhance local biodiversity through partnerships and management of environmental assets and ecological communities.	The rezoning seeks to utilise the existing disturbed area of the site and minimise impacts to the existing undisturbed bushland areas.
Productive and Connected	Maximise opportunities associated with the growth of South East Queensland.	N/A
	Deliver additional employment land at West Byron and other investigation sites in the Shire.	N/A
	Sustain important farmland by encouraging regenerative farming practices and localised food production.	NA
	Encourage opportunities for agribusiness and agritourism, particularly in relation to organic and boutique food production	N/A
	Empower communities to shape the local economy in a manner that creates diverse and inclusive employment opportunities.	N/A
Housing and Place	Investigate opportunities for increased housing diversity and density, encompassing multi-unit dwellings and innovative housing models in appropriate locations.	The R2 Low Density Zone enables a diverse range of housing opportunities. Under Byron LEP 2014, there are a range of dwelling options that are permitted with consent, including attached dwellings, dual occupancy, multi dwelling homes and boarding houses.
	Prioritise the delivery of affordable housing to support the local workforce and healthy and diverse communities.	The proposal does not conflict with this objective.

Item	Criteria	Response
	Encourage design-led and collaborative placemaking initiatives to support healthy lifestyles and create liveable and inclusive places.	This objective can be encompassed in the strategic design of the subdivision.
	Deliver Place Plans for villages, towns and key precincts that define the community's vision and the priority projects that work towards that aspiration.	The proposed residential zoning will not be contrary to this objective.
Smart, Connected and Accessible (Infrastructure)	Foster stronger connections and alignment with Northern Rivers subregion and South East Queensland.	N/A
	Sustainably manage infrastructure need and delivery to accommodate Byron Shire's permanent and temporary visitor populations.	The land is able to be adequately serviced with reticulated water and sewerage services. Development of the land will result in capital being invested into the region and provide opportunities for road upgrades and improved community amenities.

Table 5 Appendix A – Settlement Planning Guidelines Assessment

Key Strategy Aims	Principles	Response	Compliance
Identify growth needs and opportunities	<p>Land use strategies will:</p> <p>a. Establish the need for any planned areas of urban growth, based on Department of Planning and Environment (DPE) population projections. Councils may wish to use the full range of population scenarios to give an idea of the different possible futures that might arise. Councils also have the option of using population projections from other sources, provided DPE's projections are included as a baseline.</p>	<p>The Byron LGA is one of the fastest growing regional LGAs in NSW. NSW DPE population projections predict that the Byron LGA population will increase from 35,993 to 44,583 by 2041. The 2021 Australian Census, released by the Australian Bureau of Statistics (ABS), revealed the average number of people per household in the Byron LGA in 2021 was 2.5. Utilising the DPE population projections for the LGA and the ABS statistics on the average persons per household, an additional 3,436 new dwellings would need to be constructed by 2041 in the LGA. The intended outcome of the PP is to enable 92 dwellings to be constructed. This new residential area is located on the fringes of Suffolk Park and will provide a new residential area to cater for some of the Byron LGA's housing demand.</p>	Yes
	<p>b. Include a land use supply and demand overview, including an estimate of supply in developed or developing areas. Rural residential development will be considered a component of residential supply.</p>	<p>According to the Byron Residential Strategy, the total dwelling capacity as at 2036 is projected to be 19,275 for the Byron LGA, with 3,732 dwellings being identified as additional new dwellings. Since this strategy was prepared, the LGA has experienced severe flooding which led to the completion of the Council discussion paper <i>"After the Floods."</i> In this discussion paper it acknowledges that existing methods and plans for development may need to be revisited and <i>"re-establishing where future urban growth can occur outside of the predicted flood impact areas."</i> It acknowledges that some of the targeted urban growth areas are and will continue to be impacted by flooding, therefore, the stated capacity of 3,732 new dwellings is likely to be revised downwards, reducing the LGA's future dwelling capacity. The site is not identified as being situated within a flood prone land, therefore, this PP would deliver a new flood free residential area, increasing the LGA's future dwelling capacity.</p>	Yes

Key Strategy Aims	Principles	Response	Compliance
	c. Provide a summary of growth options, including urban infill and no growth options. Where practical, consider growth options outside the LGA.	The Byron Shire Residential Strategy 2020 identified that through infill development an additional 707 new dwellings could be developed. The additional dwellings created through infill development would not satisfy the projected housing demand. There are urban investigation areas in the Ballina LGA (south of Byron) which have been identified as urban growth areas. These areas have been identified to service the future projected population demand for the Ballina LGA and therefore, would not deliver the housing required for the future demand of the Byron LGA.	Yes
	d. Identify urban growth planning priorities based on an assessment of supply and demand and the relative suitability and serviceability of areas for urban growth.	The existing and future housing demand on the Byron LGA has been outlined above. The rehabilitated quarry is suitable for future residential growth as the existing sewer and water infrastructure has the capacity to service up to 93 residential lots at the site. Refer to the Water and Sewer Services Report at Appendix B for further details.	Yes
Identify and direct suitable land to accommodate planned growth	Where urban growth is proposed: e. New greenfield areas should be located adjacent to existing urban settlements to minimise travel and promote sustainability.	The site is located on the fringes of an existing urban area, with Suffolk Park neighbourhood centre being approximate one kilometre north of the site. The proponent is prepared to enter into a Voluntary Planning Agreement to construct a pedestrian pathway/cycleway along Broken Head Road from the site to the shopping precinct in Suffolk Park.	Yes
	f. New greenfield areas must be able to be serviced by community services and key infrastructure, including water, sewer, road and waste services.	A Water and Sewer Services report was prepared by Ardill Payne and Partners (Appendix B). The investigation found that there are no constraints in terms of provision of sewer and water infrastructure to the site.	Yes
	g. New greenfield areas should avoid land that is affected by key constraints, such as areas of high environmental value, high water quality sensitivity, cultural, and heritage significance and/or areas affected by natural hazards such as flooding or high bushfire risk.	The proposed residential area would utilise some of the existing cleared areas of the former Broken Head Quarry and would minimise impact on the surrounding environmental area. A strategic bushfire study has been prepared demonstrates that compliance with Planning for Bushfire 2019 can be achieved. Refer to the Bushfire Report at Appendix C for further details.	Yes

Key Strategy Aims	Principles	Response	Compliance
	h. New greenfield areas should avoid and manage the potential for land use conflicts with existing and likely future adjoining use and infrastructure, including road and rail freight corridors, important farmland, and productive resource lands.	The proposed greenfield area would not be likely to have any conflicts with surrounding land uses.	Yes
Determine the required structure for future development	Where urban growth is proposed: i. Structure Plans should be considered to provide a framework to coordinate development in new greenfield areas.	Refer to the Concept Plan in Figure 4 .	Yes
	j. New greenfield areas should be located to provide links to adjoining areas to ensure new areas are well integrated and maximise efficiency and shared use of services and facilities	The site is located in close proximity to the Suffolk Park urban area. Its close proximity would mean that future residents could utilise the existing services at Suffolk Park, which would provide a sustained economic boost for the local businesses.	Yes
	k. Planning should provide for a mix of compatible land uses and create walkable communities consistent with the settlement hierarchy.	The proponent is willing to enter into a Voluntary Planning Agreement to construct a pedestrian pathway/cycleway along Broken Head Road from the site to the shopping precinct in Suffolk Park. This will assist in creating walkable communities, with the residents able to walk and/ or cycle to Suffolk Park for their everyday needs.	Yes
	l. Planning should provide for local services that meet the day-to-day needs of residents, including areas for open space and recreation	The Concept Plan (see Figure 4) proposes an open space area within the development site. The final layout of the road network, etc is yet to be finalised, however, it will provide ready access to open space and recreation areas including a children's outdoor playground.	Yes
	m. The location and scale of new employment zones should not undermine the viability of existing centres and the maintenance of strong multi-functional central business precincts.	N/A this PP is not for employment zones	Yes

Key Strategy Aims	Principles	Response	Compliance
Encourage locally responsive, sustainable design	Land use strategies and plans will: n. Recognise, protect and be compatible with any unique topographic, natural or built cultural features essential to the visual setting, character, identity, or heritage significance of the area.	The PP and future development will take into account the existing nature of the area. The PP intends to minimise impact on the surrounding environmental lands, by focussing on the disturbed land of the former BHQ.	Yes
	o. Ensure the latest and best available information in relation to hazards and climate change is taken into account to identify urban growth areas.	The Strategic Bushfire Study (Appendix C) included a climate change resilience factor in its assessment and recommendations. During the DA process further information regarding climate change and hazards will be provided.	Yes
	p. Support a variety of dwelling types and a choice in location, form and affordability.	The PP will enable a variety of dwelling choices and lots sizes. Furthermore, areas within the site have been identified for affordable housing.	Yes
	q. Locate development to promote clustering of compatible land uses that support catalyst investments to maximise social and economic benefits.	The site is located in close proximity to Suffolk Park and is only a 10 minute drive and 21 minute cycle from the centre of Byron Bay. The close proximity to these existing urban areas will enable the sharing of services.	Yes
	r. Design and locate rural residential release areas to promote clustering.	N/A – this PP is not for rural residential development	Yes
	s. Design and locate development to maximise total water cycle management and promote passive environmental design principles. Water sensitive urban design techniques should be incorporated into the design of dwellings, streets, parking areas, subdivisions and multi-unit, commercial and industrial developments.	Water Sensitive Design Principles will be incorporated and outlined at the DA stage of the development.	Yes
	t. Provide for local services that meet the day-to-day needs of residents and areas for open space and recreation.	The Concept Plan has identified locations within the site for open space and recreational areas. Although not finalised, the open space areas will improve the amenity of the residents and provide areas for outdoor activities.	Yes

Key Strategy Aims	Principles	Response	Compliance
	u. Design and locate development to minimise the need to travel, maximise the opportunity for efficient public transport, active transport, and pedestrian access options, and encourage energy and resource efficiency.	As stated above, the site is located in close proximity to Suffolk Park and is only a 10 minute drive from the Byron Bay centre. The close location of the site reduces travel for the residents and enables the opportunity for active transport in the form of walking and cycling for the residents.	Yes

Table 6 Appendix B – Urban Growth Variation Principles Assessment

Item	Criteria	Comment
Policy	The variation needs to be consistent with the objectives and outcomes in the North Coast Regional Plan 2041 and should consider the intent of any applicable Section 9.1 Direction, State Environmental Planning Policy and local growth management strategy.	The PP is aligned with the objectives of the Regional Plan (refer to Table 3) and the applicable Section 9.1 Directions (refer to Appendix A).
Infrastructure	The variation needs to consider the use of committed and planned major transport, water and sewerage infrastructure, and have no cost to government. The variation should only be permitted if adequate and cost effective infrastructure can be provided to match the expected population.	A Water and Sewer Services report was prepared by Ardill Payne and Partners (Appendix B). The investigation found that there are no constraints in terms of provision of sewer and water infrastructure to the site.
Environmental and Heritage	The variation should avoid, minimise and appropriately manage and protect any areas of high environmental value and water quality sensitivity, riparian land or of Aboriginal and non-Aboriginal heritage.	The proposed residential zone will be within the rehabilitated quarry footprint, therefore, minimising impacts on the surrounding environmental areas. An AHIMS search was undertaken and did not identify any Aboriginal objects or places within the development footprint.
Avoiding Risk	Risks associated with physically constrained land are identified and avoided, including: <ul style="list-style-type: none"> • flood prone • bushfire-prone • highly erodible • severe slope, and • acid sulfate soils. 	The site is not impacted by acid sulfate soils and is not located within a flood prone area.

Item	Criteria	Comment
		The site is identified as being situated within a bushfire prone area and as such a SBS was undertaken. The SBS concluded that the bushfire hazard can be successfully mitigated by applying the requirements of PBP 2019, along with some additional measures which build in a climate change resilience factor. The recommended mitigation measures are documented within the SBS enclosed at Appendix C .
Coastal Strip	Only minor and contiguous variations to urban growth areas will be considered within the coastal strip due to its environmental sensitivity and the range of land uses competing for this limited area.	The coastal strip is defined as any land to the east of the Pacific Highway, which the BHQ is located in. The PP will enable a new residential area with its most northern lot boundary 350m from Suffolk Park's most southern urban residential property and approximately one kilometre from the Suffolk Park neighbourhood centre. Due to the close proximity of the site to Suffolk Park, it is considered it that it can function as a logical extension of this urban area. Furthermore, the proposed residential area is proposed on the part of the rehabilitated BHQ which holds minimal environmental values and significance.
Land Use Conflict	The variation must be appropriately separated from incompatible land uses, including agricultural activities, sewerage treatment plants, waste facilities and productive resource lands.	The proposed residential area would be unlikely to have any conflicts with surrounding land uses.

The site and local infrastructure is currently underutilised. With the cessation of quarrying and the recent rehabilitation of the Broken Head Quarry, an opportunity now exists to achieve a sustainable reuse of the site. The proposed residential development is considered be in a strategic location, close to the Byron township and Suffolk Park.

Overall, the PP is aligned with the objectives and planning principles of the NCRP 2041 and generally meets the requirements of the Regional Plan. The proposal provides an opportunity to provide additional housing within the Byron LGA, which is required to achieve the supply needed to meet the predicted demand from an ever increasing population.

Q4. Will the planning proposal give effect to a council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

Byron Shire Residential Strategy 2020

The Byron Shire Residential Strategy 2020 (BSRS) forecast's significant growth in the LGA's population. The BSRS estimates that population growth from a base of 31,570 in 2016 is likely to rise to 37,970 in 2036, an increase of 6,400 or growth of 0.8% per annum. The BSRS concludes that there is supply to accommodate 2,720 dwellings within urban growth areas and an additional 430 dwellings within rural locations with the implied, but unstated conclusion, that this will be adequate to meet forecast demand.

The capacity analysis, summarised in Table 2 of the BSRS, determined that a proportion of land already zoned will assist with meeting future supply. However, based on the summary in Table 2 the current supply of residential zoned land is likely to be insufficient to meet future housing needs (including delivering secure affordable housing). It is acknowledged that the data utilised for the BSRS was based off the 2016 census, which is now outdated due to the 2021 census. The Regional Plan 2041 (utilising 2021 census data with a 2021 population for Byron Shire of 35,993) indicates a larger per annum increase of 1.08% compared to the 2016 Census. This equates to an increase of 8,590 additional residents by 2041 when the total population of the Byron Shire is projected to be 44,583.

In light of the above information and projected demand documented in the Regional Plan, the strategy needs to be updated to consider the addition of new release areas able to supply developable land to accommodate the additional dwellings required.

It is acknowledged that the BSRS cannot be considered a final strategy. While Council adopted the BSRS on 10 December 2020, the DPE requested a peer review of the Strategy and highlighted the need to consider the Draft Regional Plan prior to formally endorsing any strategy. In addition, Council's discussion paper '*After the Floods*' identified targeted urban growth areas that are likely to continue to be impacted by flooding. Therefore, the stated dwelling capacity of the BSRS is likely to be revised downwards, reducing the LGA's future dwelling capacity. The site is not identified as being situated within a flood prone land. Therefore, this PP would deliver a flood free new residential area, increasing the LGA's future dwelling capacity.

DPE has indicated support for a refresh of the Strategy, with greater consideration of the number of future dwellings required to 2041 and documentation of the capacity to meet this target consistent with state policy positions.

Byron Local Strategic Planning Statement

Council has adopted the Byron Local Strategic Planning Statement (LSPS). The LSPS is a comprehensive land use strategy to guide the future growth and development of the Byron LGA. Contrary to typical strategic documents, the LSPS has been designed to recognise change and evolve with the community. Within the Byron LSPS the identified themes and key priorities are:

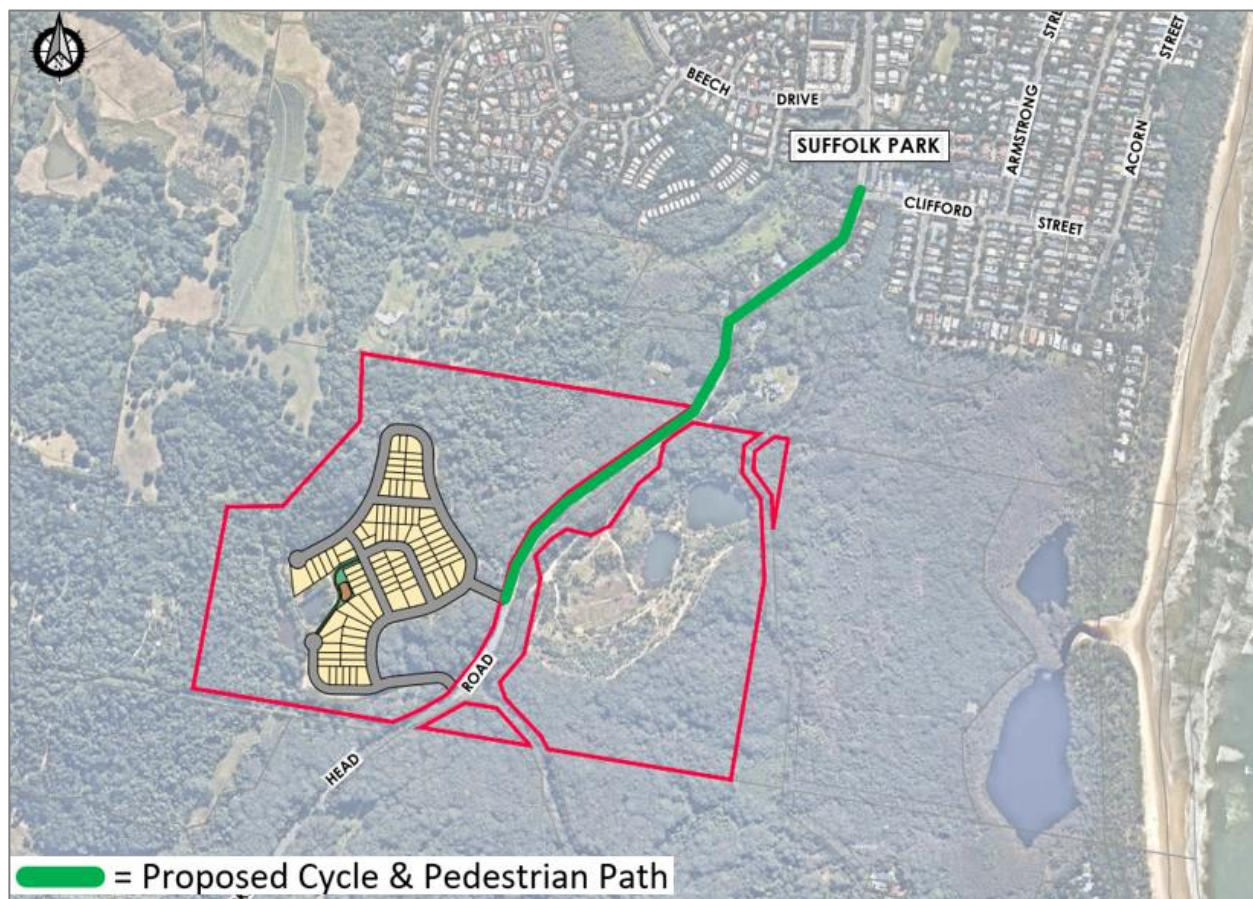
- A Sustainable Shire
- A Liveable Shire
- A Thriving Shire
- A Connected Shire

Under the theme of *A Sustainable Shire* it is recognised that the Byron Shire's environment has been significantly altered by human land uses. It is also recognised that a sustainable natural environment is fundamental to a healthy economy and prosperous economy. The LSPS notes that careful, long term planning is essential to maintain the balance between competing land uses.

As highlighted in this PP, the site has been significantly altered through the process of quarrying. The use as a quarry has now ceased with the site having now been completely rehabilitated. The PP seeks a rezoning of the site so that it can be used for residential development. This PP is considered a sustainable reuse of the site. It will provide much needed additional housing for the projected population growth in the Byron LGA.

A planning priority under the theme of *A Liveable Shire* is to ‘support housing diversity an affordability with housing growth in the right locations’. The intention of this PP is to rezone the site to R2 Low Density Residential, which will enable a diverse mixture of housing typologies to be constructed. Furthermore, the proponent, as illustrated in the Concept Plan (**Appendix D**), would offer affordable housing within the future development. An additional planning priority is to ‘create great places that support and encourage an active, connected community.’ To maximise the connection between the rezoned residential land and Suffolk Park the proponent is prepared to enter into a VPA to construct a shared pedestrian and cycle path along Broken Head Road, from the site to the Suffolk Park shopping precinct. Refer to **Figure 6**, which outlines the proposed path and cycleway on the Concept Plan which would form part of the VPA offer.

Figure 6 Concept Pedestrian and Cycle Path for VPA



Community Strategic Plan

The Byron Community Strategic Plan (CSP), *Our Byron, Our Future*, has been prepared following in-depth community engagement and sets out the LGA's vision, aspirations and priorities until 2028.

Under community objective 4 '*We Manage Growth and Change Responsibly*' is the desire to have the increase in population to be managed in a way which fits in with the current lifestyle and culture of the region. The Byron Shire is known for environmental sustainability and this PP is aligned with this vision. Although a greenfield site, it is a rehabilitated quarry and therefore the disturbed portions of the site have minimal environmental significance. As such, this PP enables the opportunity to provide the Byron LGA with additional housing capacity without significantly impacting the existing environmental areas within the Region. The site has the ability to be connected to existing water and sewer infrastructure required to cater for the future residential development. The site is located adjacent to Broken Head Road which connects the site with Suffolk Park and Byron Bay to the north and Lennox Heads to the south. This close proximity will enable the future residential area to connect with the existing urban areas and provide an opportunity to increase housing supply in the LGA, which in turn would increase housing affordability in the LGA, another desire of the community.

The PP seeks to rezone that part of the site zoned RU1 Primary Production land as the once active quarry has now been decommissioned it is no longer contributing to the local economy. The intended outcome of the PP is to take this underutilised site and create opportunities for residential development and in the process positively impacting on the local economy.

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

The proposal is generally consistent with applicable SEPPs, as outlined in the **Table 7**.

Table 7 State Environmental Planning Policies

Title	Consistency with Planning Proposal
Planning Systems 2021	Not applicable
Biodiversity and Conservation 2021	Not applicable
Resilience and Hazards 2021	<p>The site has been rehabilitated in accordance with an agreement between the Quarry owners and the DPE.</p> <p>The site has been mapped as partially being within a Coastal Environment Area and as partially being within proximity to a Wetlands. Those parts of the site which have not been quarried are protected within a C2 Environmental Conservation zone.</p>
Transport and Infrastructure 2021	Future Development Applications are unlikely to be referred to the TfNSW as 'traffic generating development' given the traffic generation likely from the site.
Industry and Employment 2021	Not applicable
Resources and Energy 2021	Not applicable
Primary Production 2021	Not applicable
Precincts – Eastern Harbour City 2021	Not applicable
Precincts – Central River City 2021	Not applicable
Precincts – Western Parkland City 2021	Not applicable
Precincts – Regional 2021	Not applicable
Housing 2021	This PP seeks to rezone the site to R2 Low Density Residential zone. The Housing SEPPs seeks to enable more affordable and diverse forms of housing within the State. By rezoning the site to R2, it would enable a diverse range of housing types to be permitted with consent under LEP 2014. Future development applications would address this SEPP, however, the intention of this PP is aligned with the Housing SEPP.
Exempt and Complying 2008	In accordance with this SEPP certain minor development would be undertaken as exempt or complying development.
No 65 - Design Quality of Residential Apartment Development	Not applicable

Q6. Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

A review of the applicable Ministerial Directions for environmental planning instruments under section 9.1 (previously section 117) of the Environmental Planning and Assessment Act 1979 has been completed. Refer to **Appendix A** for a full assessment of the proposed rezoning against all Section 9.1 Directives. The conclusion can therefore be reached that the PP is aligned with the relevant Ministerial Directions.

5.3 Section C – Environmental, Social and Economic Impact

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

The likelihood for critical habitat or threatened species, populations or ecological communities, or their habitats, to be adversely affected as a result of the rezoning is considered unlikely due to the fact that the majority of vegetation within the proposed development footprint has been removed as part of previous quarrying activities. The balance of the site contains mainly undisturbed native vegetation which has been identified by Council as containing important environmental values and was recently (30 November 2022) rezoned to C2 Environmental Conservation and is mapped as having biodiversity value (**Figure 7**). This planning proposal recognises the value in the undisturbed vegetation and seeks to rezone the disturbed land only to ensure the ongoing protection and conservation of environmental values on the site.

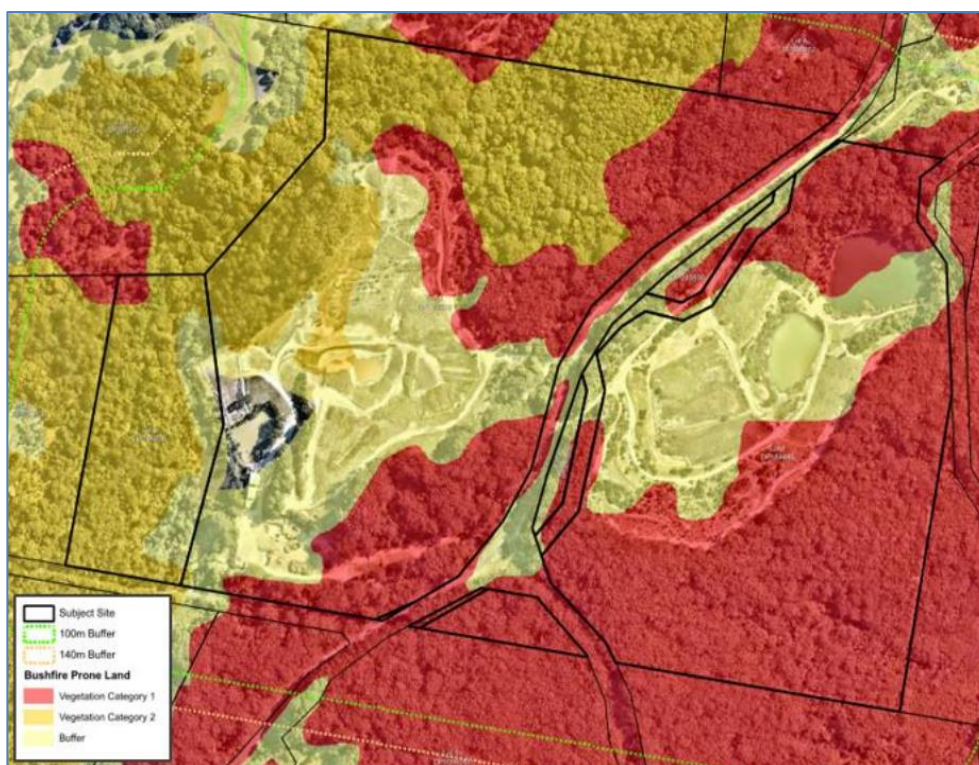
Figure 7 BV Mapping



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

The site has been mapped as being bushfire prone land, refer to **Figure 8**. A Strategic Bushfire Study (SBS) has been prepared by Bushfire Planning Australia to identify the hazards and recommend mitigation measures (**Appendix C**).

Figure 8 Bushfire Prone Land



As presented in **Figure 4**, the indicative lot layout will largely be located within the already clear areas, which is predominately mapped as being within the buffer zone. A small portion of the future subdivision would be located within Vegetation Category 1 and Vegetation Category 2 prone land (refer to **Figure 88**). The SBS concludes that the predominant vegetation surrounding the site is consistent with vegetation formation, which is fragmented by areas of rainforest and tall heath vegetation formations as described in the NSW Rural Fire Service's document Planning for Bushfire Protection 2019 (PBP 2019). The SBS also concludes that the hazard can be successfully mitigated by applying the requirements of PBP 2019, along with some additional measures which build in a climate change resilience factor. The recommended mitigation measures are documented within the SBS (see **Appendix C**). The SBS demonstrates that the site can be developed for residential development consistent with the requirements of Planning for Bush Fire Protection 2019.

The site has not been mapped as containing Acid Sulfate Soils risk class 1 or 2, is not affected by a s9.1 Mineral Resources planning direction and is not flood prone land.

While it is acknowledged that the site contains some environmental constraints, namely the site is mapped as being bushfire prone land and contains dense native vegetation, these constraints are recognised and appropriate mitigation measures can be put in place.

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

This PP is considered to be in the public interest and will contribute towards the achievement of certain objectives of the Regional Plan, the Byron Shire Local Strategic Planning Statement 2020 and Byron Shire Residential Strategy 2020.

The site is considered to be a suitable location for residential development for the following reasons:

- The site has previously been disturbed as a result of sand mining;
- The site is in close proximity to Suffolk Park, an existing urban area;
- The site is located adjacent to a main thoroughfare, being Broken Head Road, which is an arterial road capable of servicing the potential future traffic generated from the site at no additional cost to the community. The cost of any roadworks and intersection upgrades would be met by the proponent;
- The site is approximately one kilometre to the south of the Suffolk Park Neighbourhood Centre;
- Additional population growth within close proximity to the existing neighbourhood centre will aid in boosting the vitality of the businesses, services and facilities;
- Services infrastructure such as water and sewer are all available within close proximity to the site;
- More efficient use of existing services and infrastructure; and
- The Australian Government National Housing Finance and Investment Corporation advised that for every \$1 Million of residential building construction output supports around \$2.9 Million of industry output across the broader community and jobs across the economy.

In addition to the supply of additional land for residential purposes, the proposed rezoning intent is to construct the subdivision and develop the site for residential purposes resulting in other community benefits, including:

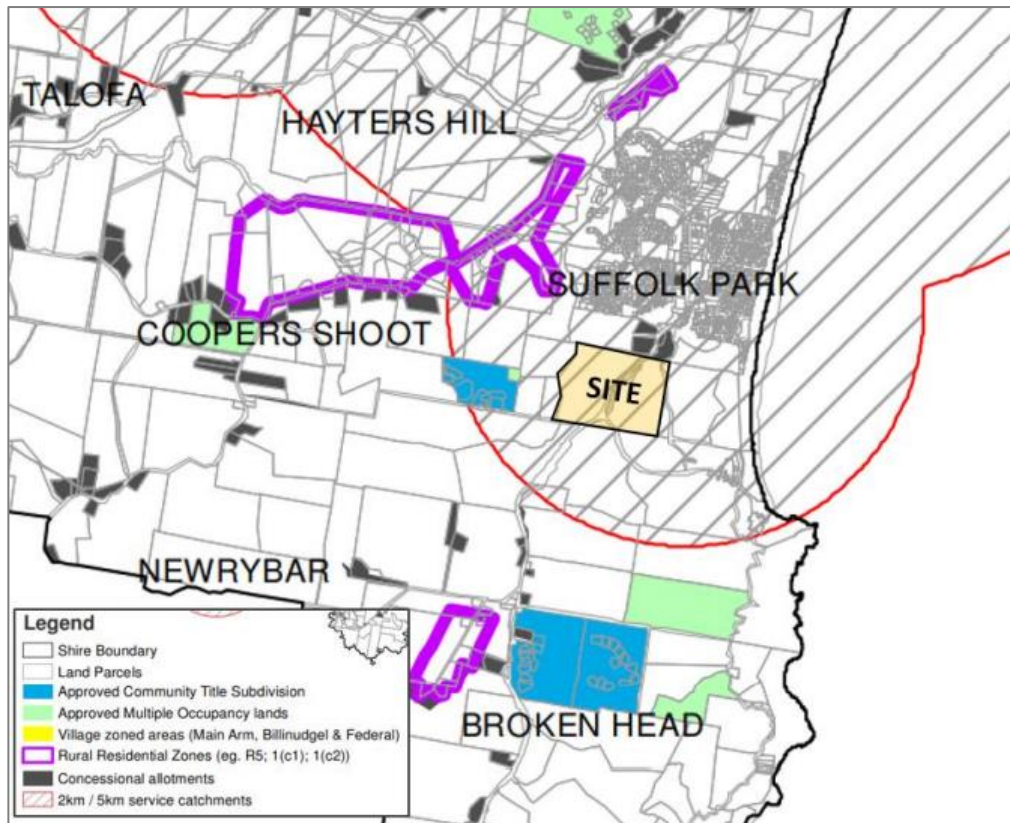
- Community multipurpose building;
- Community open space and facilities for recreation purposes;
- The generation of revenue from Section 7.11 contributions resulting from the future subdivision and residential development to be utilised by Council for future community improvements and benefits; and
- Short term employment opportunities for the locality associated with the residential development of the site.

5.4 Section D – State and Commonwealth Interests

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

The Byron Shire Rural Land Use Strategy 2017 provides a rural settlement pattern map which indicates 2km and 5km service catchments, an extract of this map is provided in **Figure 9**. Although the PP is not intended for rural residential development, the map identifies the site is within the service catchment area.

Figure 9 Existing Rural Settlement Pattern (Byron Shire Rural Land Use Strategy 2017)



A Water and Sewer Services Report has been prepared by Ardill Payne & Partners, refer to **Appendix D**. The report concludes that there are no constraints in providing both water and sewerage services to the site. Up to 93 lots could be effectively serviced with reticulated water and sewer.

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

Apart from contact being made with the NSW Rural Fire Service (RFS) no other State or Commonwealth public authorities have been consulted at this stage. Consultation will be carried out in accordance with the requirements of any gateway determination.

6 Part 4 – Mapping

This planning proposal seeks to amend the following maps with Byron LEP 2014:

- Land Zoning Map
- Lot Size Map
- Floor Space Ratio Map

The following maps illustrate the mapping amendments proposed:

- **Figure 10:** Existing Land Zoning Map
- **Figure 11:** Proposed Land Zoning Map
- **Figure 12:** Existing Lot Size Map
- **Figure 13:** Proposed Lot Size Map
- **Figure 14:** Existing Floor Space Ratio Map
- **Figure 15:** Proposed Floor Space Ratio Map

Figure 10 Existing Land Zoning Map (LZN_003CD)

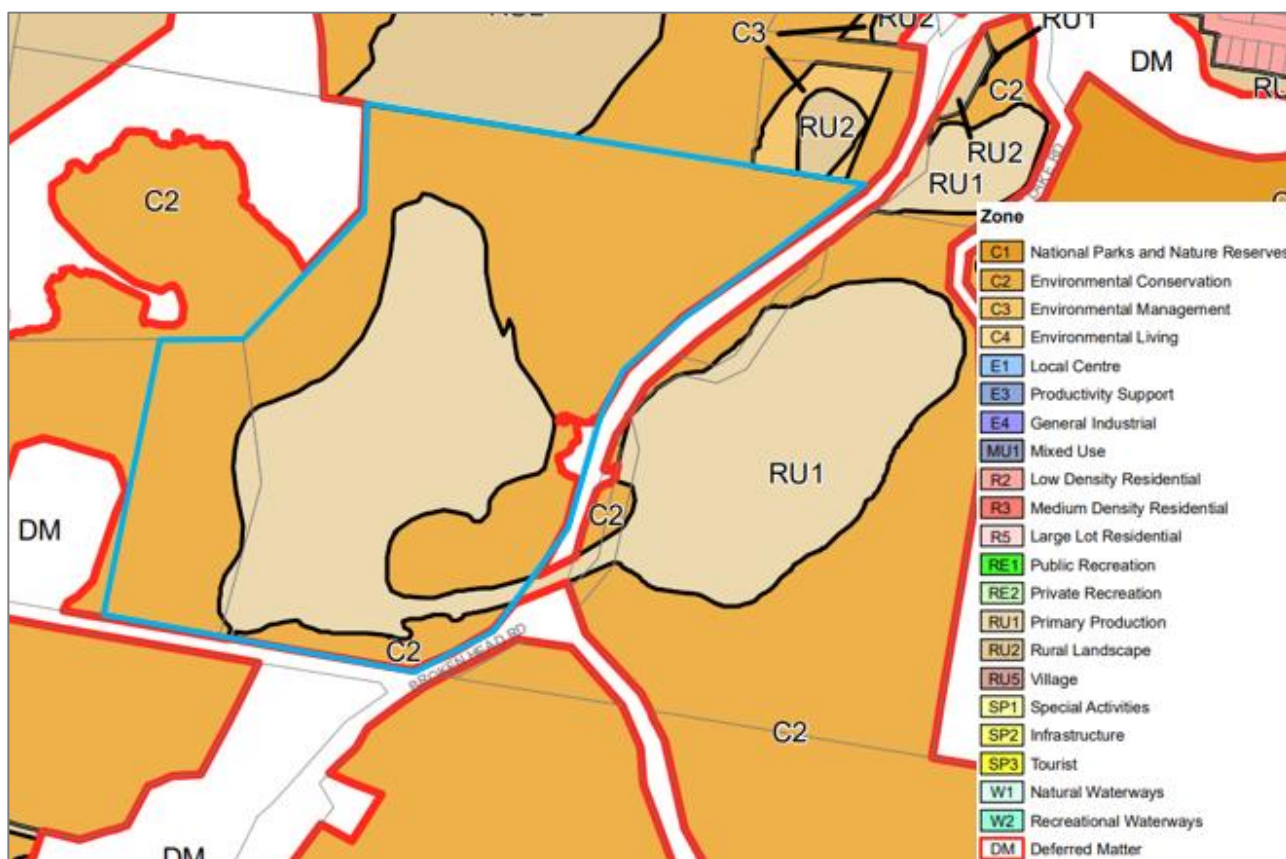


Figure 11 Proposed Land Zoning Map (LZN_003CD)

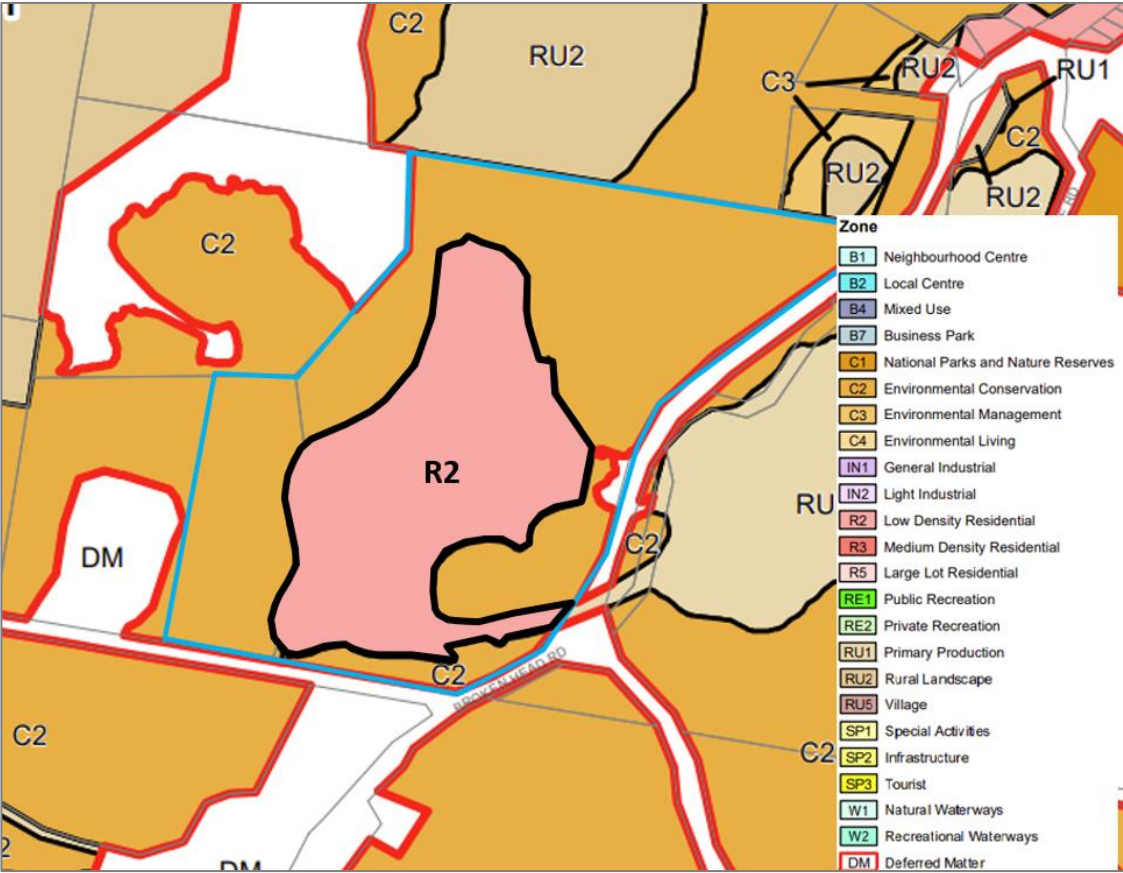


Figure 12 Existing Lot Size Map (LSZ_003CD)

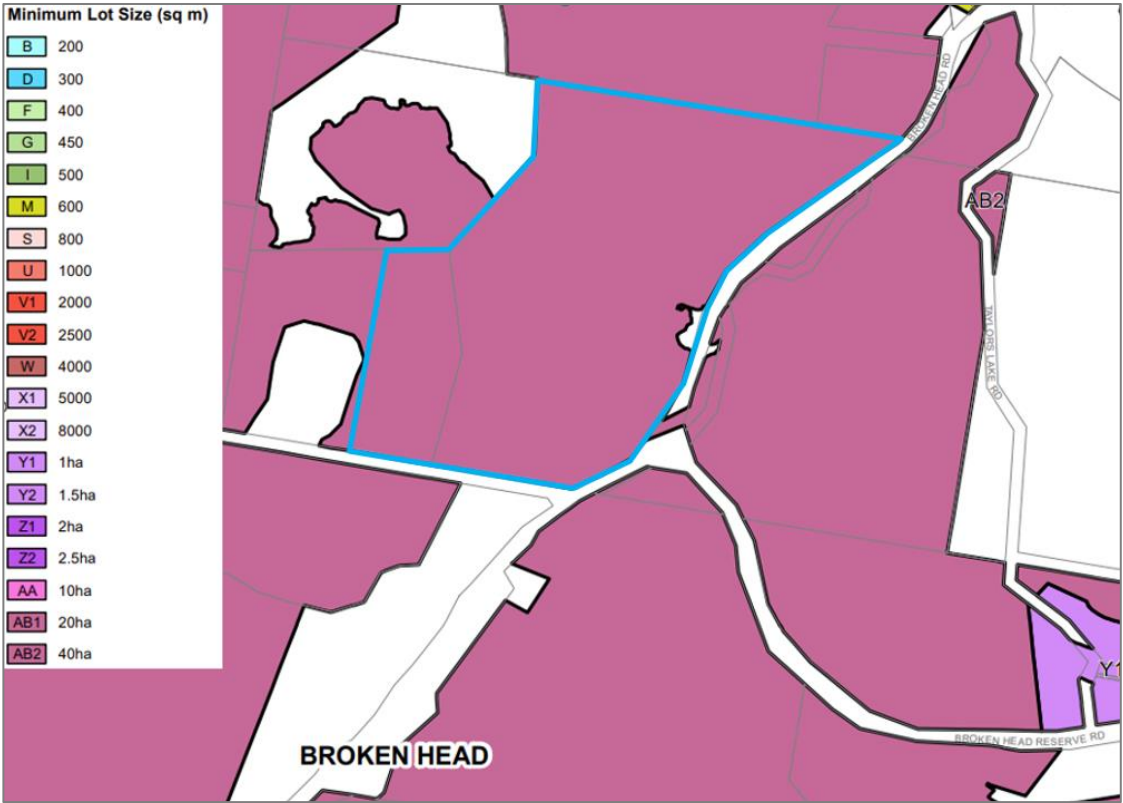


Figure 13 Proposed Lot Size Map (LSZ_003CD)

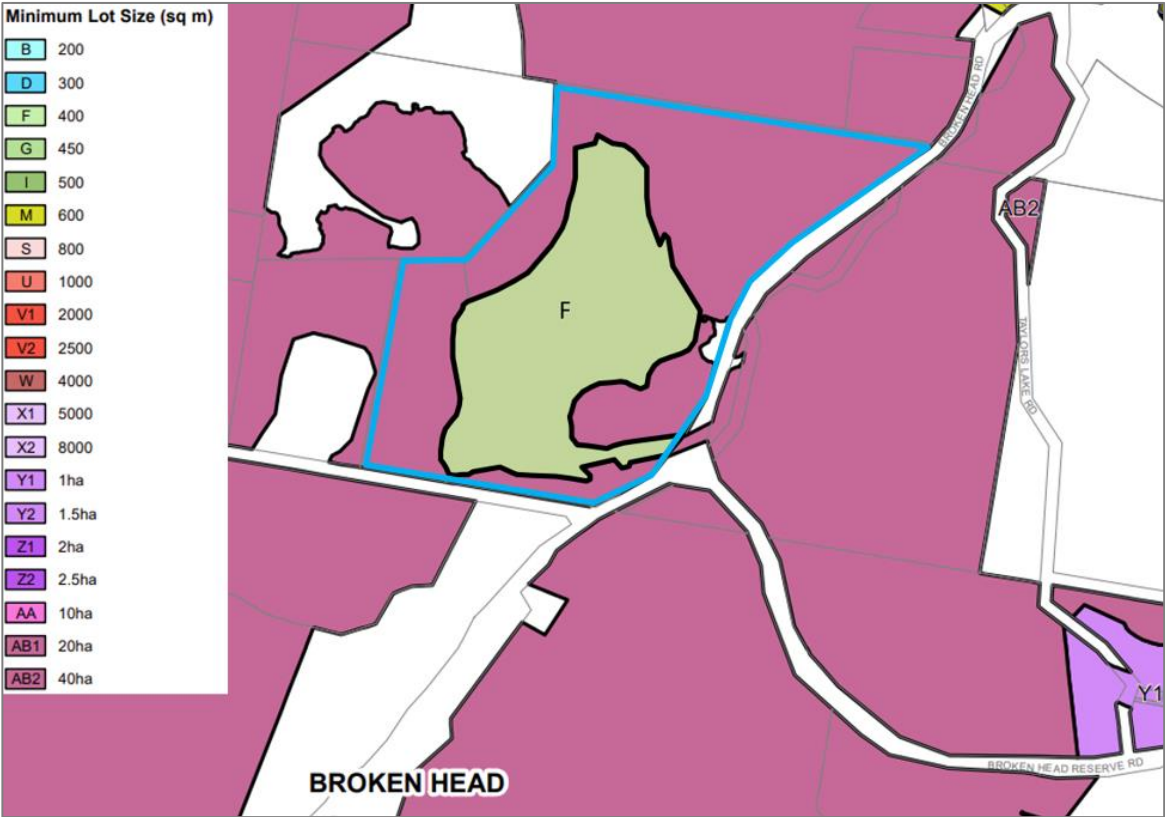


Figure 14 Existing Floor Space Ratio Map (FSR_003CD)

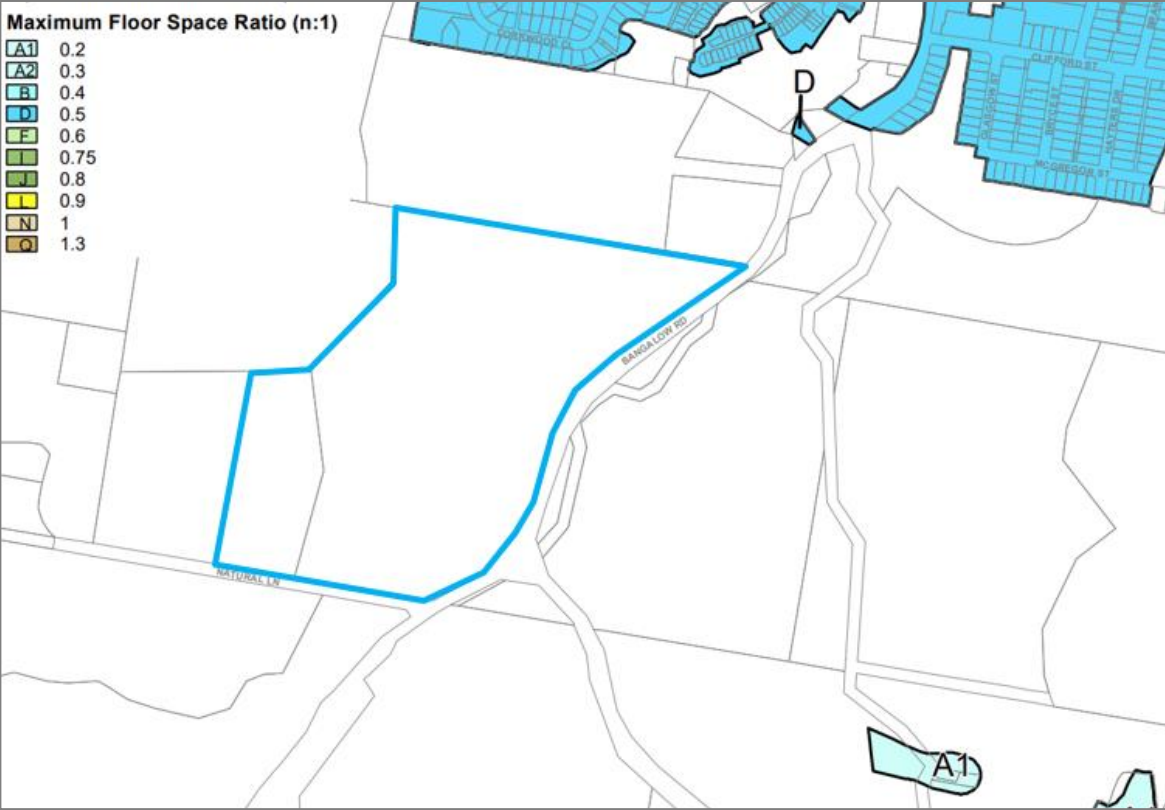
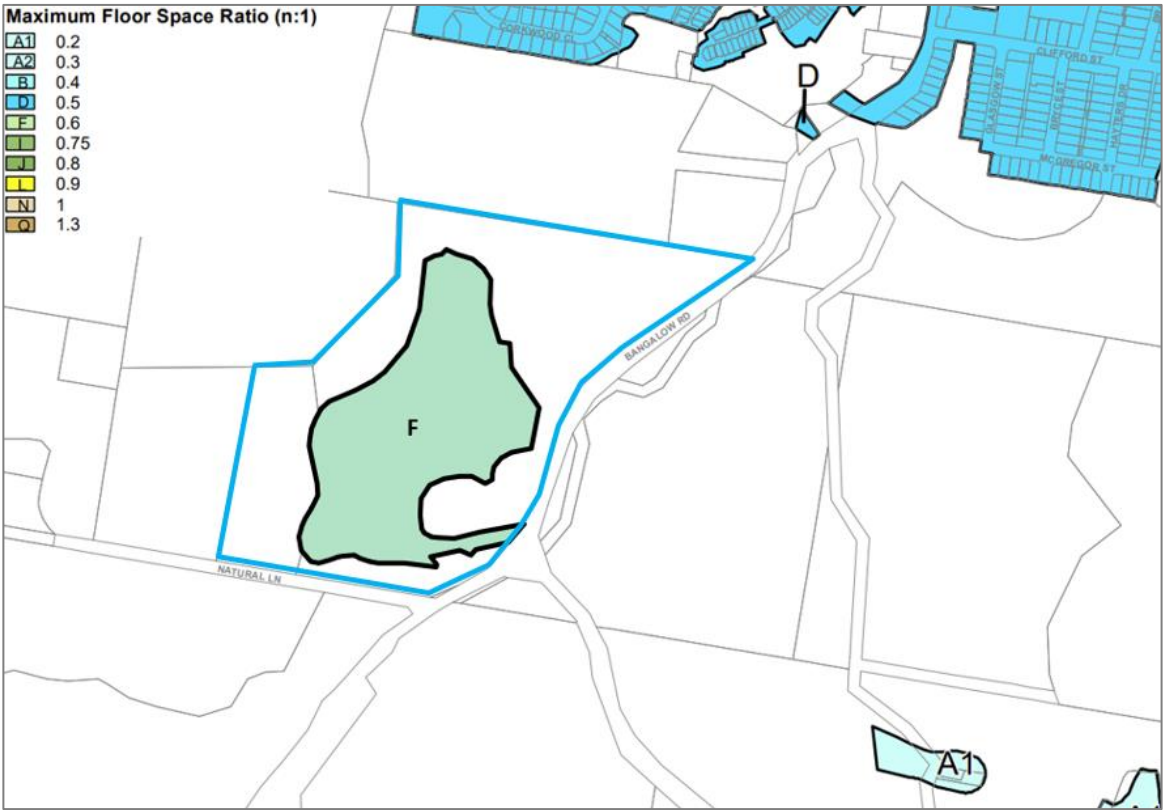


Figure 15 Proposed Floor Space Ratio Map (FSR_003CD)



7 Part 5 – Community Consultation

In accordance with 'A guide to preparing local environmental plans', published by the Department of Planning, the proposed to amendment Byron LEP 2014 as detailed in this report, should be publicly exhibited for a 28-day period.

The public exhibition should be notified through a local newspaper advertisement at the beginning of the 28-day period, be placed on Council's website as well as letters being written to any potentially affected and adjoining landowners.

8 Part 6 – Project Timeline

Table 8 outlines the projected timeframes for the PP.

Table 8 - Project Timeline

Part 6 - Project Timeline	
March 2023	Lodge Planning Proposal with Byron Shire Council
May 2023	Byron Shire Council meeting to consider the Planning Proposal
July 2023	Gateway determination
Aug 2023	Anticipated timeframe for the completion of required technical information.
April/ Sept 2023	Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)
October 2023	Public exhibition period
November 2023	Date for public hearing, if required
November 2023	Timeframe for consideration of submissions and lodgement of any additional information required
December 2023	Preparation of Council report / consideration of submissions following public exhibition
February 2024	Consideration of report by Council (Council meeting)
March 2024	Date of submission to the Department to finalise the LEP
April 2024	Anticipated date to make the plan (if delegated)
May 2024	Anticipated gazettal date

9 Conclusion

This PP to amend LEP 2014 will enable the reuse of land in an accessible location for the purposes of a new residential area. The proposed amendment will enable the future development of approximately 100 dwellings which will add to the supply of housing in close proximity to Suffolk Park.

The PP aligns with the themes, key priorities and objectives of the Regional Plan, Byron Shire Residential Strategy and the Byron Local Strategic Planning Statement. It is recognised that within these strategic documents that the Byron LGA is experiencing significant population growth and that over the next 20 years there are going to be challenges with delivery of the required residential land to meet the future housing demand, especially when taking into consideration the findings of Council's discussion paper *'After the Floods'*.

The creation of this new residential area which has the capacity to be connected to existing water and sewer infrastructure to cater for up to 100 dwellings, can assist in providing the housing supply required to meet the future housing demand. Additionally, the site is located outside of any flood prone area and it has been demonstrated through the Strategic Bushfire Study that the site can be developed for housing consistent with the requirements of Planning for Bush Fire Protection 2019. While it is acknowledged that the site contains some environmental constraints, these constraints are recognised and appropriate mitigation measures can be put in place. Furthermore, through a VPA a shared cycle and pedestrian path can be constructed along Broken Head Road, which will enhance connectivity between this new residential precinct and Suffolk Park, thereby encouraging more sustainable methods of transport.

Amending LEP 2014 as proposed will enable the reuse of the site for a residential purposes. The development of the site for residential purposes will assist in meeting the demand for a variety of housing and create employment opportunities.

This PP has considered the site's constraints, land use history and potential use, relevant Council strategic planning documents and the relevant s9.1 directions issued by the Minister and concluded that the proposed amendment to LEP 2014 is well justified. It is therefore requested that Council resolve to support the rezoning of the site from RU1 Primary Production to R2 Low Density Residential and forward it to the DPE seeking a Gateway Determination.

Appendix A:

Consistency with Section 9.1 Directives

Section 9.1 Directions	Assessment
1. Planning Systems	
1.1 Implementation of Regional Plans This direction applies when a relevant planning authority prepares a planning proposal.	This planning proposal is generally consistent with the Regional Plan as detailed in Section B of this report.
1.2 Development of Aboriginal Land Council land This direction applies to all relevant planning proposal authorities when preparing a planning proposal for land shown on the Land Application Map of chapter 3 of the State Environmental Planning Policy (Planning Systems) 2021.	N/A
1.3 Approval and Referral Requirements This direction applies to all relevant planning authorities when preparing a planning proposal.	N/A
1.4 Site Specific Provisions This direction applies when a relevant planning authority prepares a planning proposal that will allow a particular development to be carried out.	As this PP relates to rezoning it is consistent with the aims and objectives of the direction.
3. Biodiversity and Conservation	
3.1 Conservation Zones A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas. A planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land.	This PP recognises the site's environmental values, with the intention to facilitate the protection and conservation of the existing environmental sensitive areas in and around the site by rezoning an area of the former BHQ, which is already disturbed land.
3.2 Heritage Conservation A planning proposal must contain provisions that facilitate the conservation of: (a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance; (b) Aboriginal objects or Aboriginal places; and (c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes.	N/A – There are no known Aboriginal objects or places of significance are within the disturbed areas of the site.
3.3 Sydney Drinking Water Catchment This Direction applies when a relevant planning authority prepares a planning proposal that applies to land within the Sydney drinking water catchment.	N/A – Byron LGA is not listed as a relevant LGA.
3.4 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs A planning proposal that introduces or alters an E2 Environmental Conservation or E3 Environmental Management zone or an overlay and associated clause must: (a) apply the proposed E2 Environmental Conservation or E3 Environmental Management zones, or the overlay and associated clause, consistent with the Northern Councils E Zone Review Final Recommendations.	N/A

Section 9.1 Directions	Assessment
<p>3.5 Recreation Vehicle Area</p> <p>A planning proposal must not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the Recreation Vehicles Act 1983).</p>	<p>N/A – This PP will not enable land to be developed for the purpose of a recreation vehicle area.</p>
<p>3.6 Strategic Conservation Planning</p> <p>This direction applies to all relevant planning authorities when preparing a planning proposal that relates to land that, under the State Environmental Planning Policy (Biodiversity and Conservation) 2021, is identified as avoided land or a strategic conservation area.</p>	<p>N/A</p>
<p>4. Resilience and Hazards</p>	
<p>4.1 Flood Prone Land</p> <p>This direction applies to Planning Proposals on land affected by flooding.</p>	<p>N/A – The site is not identified as being flood prone.</p>
<p>4.2 Coastal Management</p> <p>The objective of this direction is to protect and manage coastal areas of NSW.</p>	<p>The site has been mapped as being partially within a Coastal Environment Area and as partially being within proximity to Wetlands.</p> <p>It is noted that a planning proposal must include provisions that give effect to and are consistent with the Coastal Management Act 2016. A planning proposal must not rezone land which would enable increased development or more intensive land use on land within a coastal vulnerability area identified by Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021 or land affected by a current or future coastal hazard. A planning proposal must not rezone land which would enable increased development on land within a coastal wetlands and littoral rainforests area identified by the Coastal Management SEPP.</p> <p>The objectives of the Coastal Management Act 2016 are to manage the coastal environment of New South Wales in a manner consistent with the principles of ecologically sustainable development for the social, cultural and economic well-being of the people of the State. The primary purpose of this PP is to rezone the RU1 portion of the site to a R2 Low Density Residential Zone. It is considered that future development in the R2 zone will be consistent with the objective of the Coastal Management Act 2016 in that this future development will not impact coastal environmental values and natural coastal processes nor impact the integrity and resilience of existing ecological environments. The intent of this PP is to enable future development within the already disturbed areas.</p>

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<p>4.3 Planning for Bushfire Protection</p> <p>This direction applies when a Planning Proposal that will affect or is in proximity to land mapped as bushfire prone land.</p>	<p>The proposed development footprint within the site is adjoined by bushfire prone land but this area itself has low bushfire risk because its vegetation coverage is minimal. A SBS was prepared which concluded that the site was suitable to accommodate a residential subdivision subject to the inclusion of appropriate Asset Protection Zones varying from 9 to 39m in width (refer to Appendix C). While there is a risk of fires in the bushland, this risk is reduced in the quarried areas. The SBS concluded that the site was suitable for future residential development subject to compliance with recommended mitigation measures in line with PBP 2019</p>
<p>4.4 Remediation of Contaminated Land</p> <p>This direction applies to: (a) land that is within an investigation area within the meaning of the Contaminated Land Management Act 1997, (b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,</p>	<p>In accordance with Table 1 of the contaminated land planning guidelines, mining and extractive industries are considered a land use that may cause contamination. It should be noted that the quarry use at the site has ceased and rehabilitation has been undertaken in accordance with an agreement made between the owner and DPE.</p>
<p>4.5 Acid Sulfate Soils</p> <p>This direction applies when a Planning Proposal relates to land that is mapped as having a probability of containing ASS.</p>	<p>N/A – The site is not identified as containing acid sulfate soils.</p>
<p>4.6 Mine Subsidence and Unstable Land</p> <p>This direction applies to Planning Proposals on land that is within a mine subsidence district or identified in a study as being unstable land.</p>	<p>N/A – The site is not identified as being within a mine subsidence area.</p>
<p>5. Transport and Infrastructure</p>	
<p>5.1 Transport and Infrastructure</p> <p>This direction applies to Planning Proposals that create, alter or remove a zone relating to land zoned for residential, business, industrial, village or tourist.</p>	<p>This PP is aligned with the objectives and principles of <i>Improving Transport Choice – Guidelines for planning and development</i> as it seeks to improve cycle and pedestrian access through a VPA. Furthermore, the proposed R2 zoned land is within 950m of Suffolk Park and is located adjacent to Broken Head Quarry, a major arterial road. Any road upgrading and intersection works would be undertaken at the expense of the proponent.</p>
<p>5.2 Reserving Land for Public Purposes</p> <p>This direction applies when a relevant planning authority prepares a planning proposal.</p>	<p>N/A – This PP will not create or alter existing zoning or reservation of land for a public purposes.</p>
<p>5.3 Development Near Regulated Airports and Defence Airfields</p> <p>This direction applies to Planning Proposals that will create, alter or remove a zone or provision relating to land in the vicinity of a licensed aerodrome.</p>	<p>N/A – The site is not within close proximity to any licensed aerodromes.</p>
<p>5.4 Shooting Ranges</p> <p>This direction applies when a relevant planning authority prepares a planning proposal that will affect, create, alter or remove a zone or a provision relating to land adjacent to and/ or adjoining an existing shooting range.</p>	<p>N/A – The PP will not affect, create, alter or remove a zone or provision relating to an existing shooting range.</p>

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6. Housing	
6.1 Residential Zones This direction applies when a relevant planning authority prepares a planning proposal that will affect land within: (a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary), (b) any other zone in which significant residential development is permitted or proposed to be permitted.	This PP applies to land in which residential development is proposed to be permitted. The intention of this PP is facilitate the sustainable reuse of rehabilitated land to for a wide range of housing typologies. The location of the site in close proximity to Suffolk Park means that it has good access to existing infrastructure and services. It is therefore considered this PP aligns with this direction.
6.2 Caravan Parks and Manufactured Home Estates This direction applies when a relevant planning authority prepares a planning proposal.	N/A – This PP does not pertain to development for the purposes of a caravan park or manufactured home estate.
7. Industry and Employment	
7.1 Business and Industrial Zones This direction applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed business or industrial zone (including the alterations of any existing business or industrial zone boundary).	N/A – This PP will not affect land within an existing or proposed business or industrial zone.
7.2 Reduction in non-hosted short-term rental accommodation period This direction applies to Byron Shire Council when the council prepares a planning proposal to identify or reduce the number of days that non-hosted short-term rental accommodation may be carried out in parts of its local government area.	N/A – The PP does not apply to non-hosted short term rental accommodation.
7.3 Commercial and Retail Development along the Pacific Highway This Direction applies when a relevant planning authority prepares a planning proposal for land in the vicinity of the existing and/or proposed alignment of the Pacific Highway.	N/A – the site is not located along the Pacific Highway.
8. Resources and Energy	
8.1 Mining, Petroleum Production and Extractive Industries This direction applies when a relevant planning authority prepares a planning proposal that would have the effect of (a) prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or (b) restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance.	N/A – This PP does not involve any changes to mining, petroleum production and extractive industries.
9. Primary Production	
9.1 Rural Zones This direction applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural zone.	The PP seeks to alter the current RU1 Primary Productions zone to a R2 Low Density Residential zone.

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	<p>The objective of this direction is to protect the agricultural production value of rural land. The site was utilised as a quarry for the many years. Up until the cessation of the quarry, the site and its use as a quarry satisfied the objectives of the current RU1 zoning. The site can now be considered for other potential development not consistent with the RU1 zoning.</p> <p>Under this direction a planning proposal must not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. This planning proposal seeks to rezone the site to R2 Low Density Residential. A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can be satisfied that the provisions of the planning proposal that are inconsistent can be justified by a strategy which:</p> <p>Considers the objectives of this direction,</p> <ul style="list-style-type: none"> • Identifies the land which is the subject to the planning proposal, • Is approved by the Director-General of the Department of Planning, • Can be justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this direction, or • In accordance with relevant Regional Strategy, Regional Plan or Sub-Regional Strategy, or • Is of minor significance. <p>The site's agricultural potential is very low because of its poor soil fertility. In its natural state it was underlain by sandy soils which have low chemical fertility and are highly erodible. Cropping potential has been further diminished by the removal of the original soil. The land site currently underutilised and with the cessation of quarrying and the rehabilitation of the Broken Head Quarry, provides an opportunity to achieve a sustainable residential reuse of the site.</p>
<p>9.2 Rural Lands</p> <p>This direction applies when:</p> <p>(a) a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary) or</p> <p>(b) a relevant planning authority prepares a planning proposal that changes the existing minimum lot size on land within a rural or environment protection zone.</p>	<p>This PP seeks to rezone currently rural zoned land and subsequently alter the minimum lot size and floor space ratio to correspond and ensure consistency with the proposed R2 Low Density Residential zoning.</p> <p>Under this direction a relevant authority must ensure that a planning proposal is: - Consistent with any applicable strategic plan, including regional and district plans as well as any applicable local strategic planning statement,</p> <ul style="list-style-type: none"> • Consider the significance of agriculture and primary production to the State and rural communities,

Section 9.1 Directions	Assessment
	<ul style="list-style-type: none"> • Identify and protect environmental values, • Consider the natural and physical constraints of the land, • Promote opportunities for investment in productive, diversified, innovative and sustainable rural economic activities, • Support farmers in exercising their right to farm, prioritise efforts and consider measures to minimize the fragmentation of rural land and reduce the risk of land use conflict between residential land uses and other rural land uses, • Consider State Environmental Planning Policy (Primary Production and Rural Development) 2019 for the purpose of ensuring ongoing viability of the land, and • Consider the social, economic and environmental interests of the community. <p>This PP is considered to be generally consistent with the applicable strategic plans, as addressed in Section B. In preparing this PP due consideration has been given to identifying the environmental values that pertain to the site and highlight how these values can be maintained and protected. It is considered that this PP will not result in the fragmentation of rural lands but rather a revitalisation of a former quarry site for residential purposes and in turn increase the dwelling capacity within the LGA.</p>
<p>9.3 Oyster Aquaculture</p> <p>This direction applies when a relevant planning authority prepares any planning proposal that proposes a change in land use which could result in:</p> <p>(a) adverse impacts on a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate”; or</p> <p>(b) incompatible use of land between oyster aquaculture in a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate” and other land uses.</p>	<p>N/A – This PP will not have any effect on oyster aquaculture.</p>
<p>9.4 Farmland of State and Regional Significance on the NSW Far North Coast</p> <p>This Direction will apply when a relevant planning authority prepares a planning proposal for land mapped as:</p> <p>(a) State significant farmland, or</p> <p>(b) regionally significant farmland, or</p> <p>(c) significant non-contiguous farmland, on the set of four maps held in the Department of Planning and Environment marked “Northern Rivers Farmland Protection Project, Final Map 2005 (Section 117(2) Direction)”.</p>	<p>N/A – Byron Shire Council is not listed as a relevant Council area.</p>

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