

Byron Shire Council

Planning Proposal 26.2023.2.1

Amendment of Byron Local Environmental Plan 2014

Former Mullumbimby Hospital Site

Gateway Version #1

Document Register

Doc No.	Date	Details Comments eg Resolution No.
E2023/18967	17 August 2023	Draft Planning Proposal for Gateway Determination

Contents

Part 1	Introduction	2
1.1	Objective and intended outcomes	2
1.2	Subject land	4
1.3	Background.....	6
	Development vision.....	6
	Community intent	6
Part 2	Explanation of provisions	8
	Land Use Objectives	8
	Environmental Objectives	8
	Built Form and Development Intensity Objectives	9
	Other Sustainability Objectives	9
Part 3	Justification	12
Section A	Need for the planning proposal.....	12
Section B	Relationship to strategic planning framework	15
Section C	Environmental, social and economic impact.....	37
Section D	Infrastructure	39
Section E	State and Commonwealth Interests.....	42
Part 4	Mapping.....	43
Part 5	Community consultation.....	49
Part 6	Project timeline	50
Conclusion		51
Appendix A – Land Use Table R1		52
Zone R1 General Residential (Proposed)		52
Appendix B – Additional Permitted Uses		53

Additional Permitted Uses clause (Proposed)	53
Appendix C – Design Excellence	54
Design Excellence clause (Proposed).....	54
Appendix D- Consequential LEP Amendments	56
Clause 2.1 Land use zones (Part 2) (Proposed).....	56
Clause 4.1E Minimum lot sizes for certain residential accommodation (Part 4) (Proposed)	56
Clause 6.9 Location of sex services premises (Part 6 Additional local provisions, Division 1 Miscellaneous) (Proposed)	57
Clause 6.17 Affordable housing in residential and business zones (Part 6 Additional local provisions, Division 2 Affordable housing) (Proposed)	58
Schedule 2 Exempt Development (Proposed).....	58
Appendix E – Residential Strategy Extract.....	60
Area 3 - Mullumbimby - Azalea St old hospital	60

Part 1 Introduction

1.1 Objective and intended outcomes

The objectives of this planning proposal are to amend the Byron Local Environmental Plan 2014 (LEP) to facilitate the provision of residential and community uses on the former Mullumbimby Hospital site.

The subject land is rare flood-free land in Mullumbimby that has the potential to deliver much needed housing, community facilities and services. The rezoning has strong strategic alignment with community intent for the site, local strategies, the North Coast Regional Plan, the 2022 NSW Flood Inquiry outcomes, and the recommendations of the Short-Term Rental Accommodation Planning Commission.

The site is Council owned and classified as 'operational land' as per the Local Government Act 1993.

The planning proposal to amend the Byron LEP is seeking to enable a high quality residential and community precinct over the former Mullumbimby Hospital site.

To achieve this, it is proposed to make the following updates to the Byron LEP.

- Change the Land Use Zone over part of the site from SP2 Infrastructure (Health Services Facility) to R1 General Residential and a small area to C2 Environmental Conservation.
- Increase the Height of Buildings development standard over part of the site from 9m to 11.5m.
- Introduce Additional Permitted Uses for the site to facilitate complimentary and site-specific uses.
- Introduce an Affordable Housing Contributions Scheme Map over the development area that links to the Byron Shire Affordable Housing Contributions Scheme.
- Include the site in the Design Excellence provisions.
- Make other minor consequential LEP amendments to align with the above.

Note that the intention is to also make an amendment to the Byron Development Control Plan 2014 that will provide site specific design guidelines for the precinct.

Figure 1: Context Plan showing the site and its proximity to the town centre, recreation and community facilities

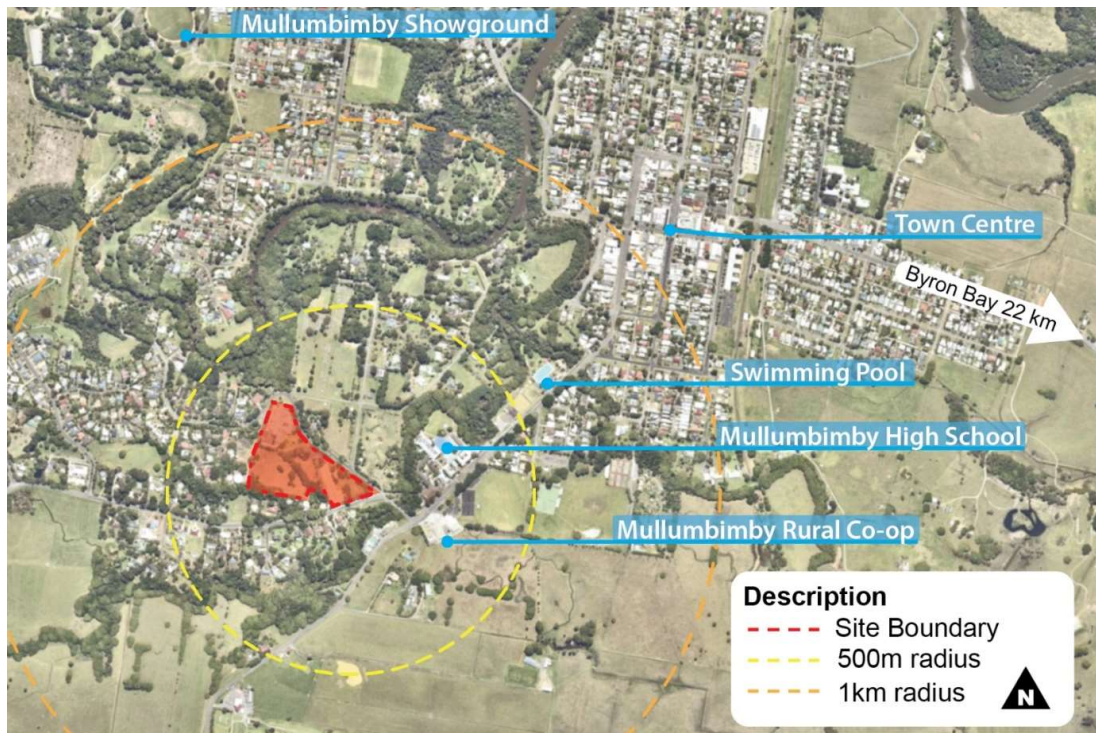
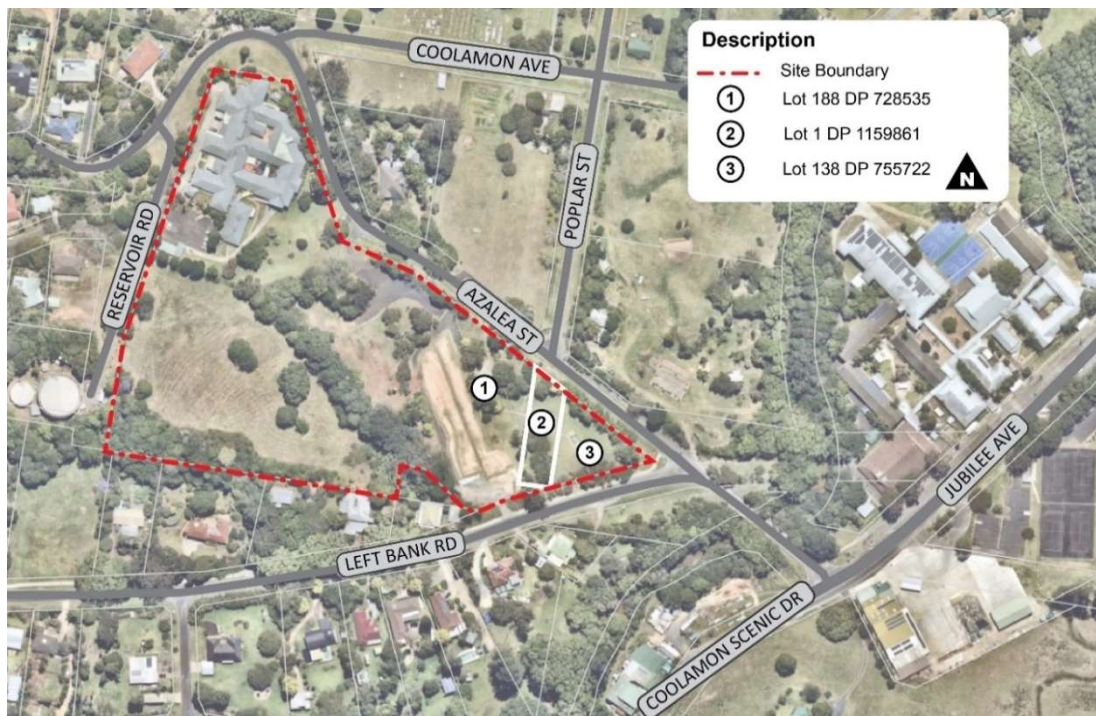


Figure 2: Subject Site Plan showing the site boundary and lots of the former Mullumbimby Hospital site



1.2 Subject land

This planning proposal relates to land in Mullumbimby legally described as below and as shown in Figure 1 and Figure 2.

Lot Description	Area
Lot 188 DP728535	40,947m ²
Lot 1 DP1159861	1,331m ²
Lot 138 DP755722	1,819m ²
Total	44,097m²

The subject site is approximately 4.4 hectares (10.9 acres) of Council owned land located near the centre of town and close to regional schools and services.

The site is Council owned and classified as 'operational land' as per the Local Government Act 1993.

The site is currently zoned SP2 Infrastructure (Health Services Facility) and has a height of buildings development standard of 9m.

The former Mullumbimby Hospital buildings have been demolished. The site has been remediated following discovery of contamination materials during the demolition process.

There is an aged care facility (known as 'Coolamon Villas') on the northern part of Lot 188.

There is an approved development consent over Lot 188 to create a separate lot for the aged care facility. The aged care site is proposed to be 9,011m². This will leave an area of approximately 31,936m² remaining on Lot 188 and approximately 35,086m² overall.

There are no other buildings on the site.

The site is predominately cleared with some areas of mature vegetation – including mapped High Environmental Vegetation in the south-west corner of Lot 188.

Image: Photo of subject site looking from the south-east corner (with approx. site boundary)



Image: Photo of subject site looking from the south-west corner (with approx. site boundary)



1.3 Background

Development vision

A vibrant mixed-use neighbourhood located just 15-minutes' walk to the centre of Mullumbimby and close to regional schools and services.

A living village, home to a diverse, creative and inclusive community – especially those who have been priced out of other areas of Byron Shire. This has been made possible by the provision of a range dwelling types, including affordable, attainable and accessible housing.

Community facilities and public spaces provide a place where the local community comes to meet, create, reflect and celebrate together. Facilities support local initiatives, art and culture, work and education needs through a variety of flexible spaces and options.

A beautiful, green neighbourhood with a rich character that draws inspiration from the local Mullumbimby culture and the special history of the site. It expresses the sustainability and resilience principles that are central values to the Byron Shire community.

The precinct is well connected by bus, bicycle routes and walking paths to the centre of town, nearby schools, recreation spaces and community facilities.

Community intent

Local support for the project dates back many years. The following plans and reports outline clear community intent for residential and community development on the former Mullumbimby Hospital site.

Council resolutions

The Byron Shire Council Meeting on 22 June 2023 endorsed the scope for this planning proposal as per Resolution (23-298). At this meeting Council authorised staff to finalise and forward a planning proposal (informed by the Site Strategy and Urban Design Protocol and technical studies) to the Department of Planning and Environment for the purpose of obtaining a gateway determination, and to exhibit the planning proposal in accordance with the gateway requirements.

Mullumbimby Hospital Site Project Reference Group (2017-2018)

The Mullumbimby Hospital Site Project Reference Group was established to provide recommendations to Council on the best use of the site.

The Project Reference Group consisted of twenty-one community representatives and Councillors who undertook a 12-month participatory planning process in 2017 and 2018.

The Project Reference Group recommendations relating to uses for the site, design, and governance can be seen in the Council Report 22 November 2018 ([Resolution 18-721](#)).

All endorsed recommendations from the Project Reference Group have been included in the Site Strategy and Urban Design Protocol (described below).

Site Strategy and Urban Design Protocol (2022)

The Site Strategy and Urban Design Protocol for the former Mullumbimby Hospital site describes the history, vision, objectives, and urban design principles for the site.

The purpose of the document is to:

- confirm the vision and objectives for the development of the site;
- outline the design aspirations for the site;
- inform the scope of a planning proposal over the site, and;
- provide a basis for a staging and delivery plan.

The document relies heavily on the work and process previously undertaken by the Mullumbimby Hospital Project Reference Group. It also considers the latest information regarding the site remediation works following the demolition of the old hospital buildings.

Community consultation was carried out for the Site Strategy and Urban Design Protocol. It was endorsed at the Council meeting on 15 December 2022 ([Resolution 22-737](#)).

Technical studies

The following technical studies support this planning proposal.

- Transport Strategy (date 9 August 2023) by PLANIT Consulting
- Infrastructure Capability Audit (date 15 August 2023) by PLANIT Consulting
- Flooding and Stormwater Assessment (date 3 August 2023) by BMT
- Biodiversity Assessment (date 17 April 2023) by Earth Scapes Consulting
- Bushfire Assessment (date 4 July 2023) by Bushfire Certifiers
- Contamination Summary (date 28 July 2023) by Tim Fitzroy and Associates

Part 2 Explanation of provisions

The explanation of provisions provides a detailed statement of how the objectives are to be achieved by means of amending the Byron Local Environmental Plan 2014 (LEP).

Land Use Objectives

1. To enable a vibrant mixed-use neighbourhood with diverse housing, community facilities and appropriate supporting services and environments.
2. To provide a range of dwelling types, including affordable, attainable and accessible housing.
3. To support the provision of community facilities and public spaces where the local community comes to meet, create, reflect and celebrate together.
4. To support the provision of facilities that support local initiatives, art and culture, work and education needs.

Proposed LEP amendments to support these objectives	Reference
Change the land use zone for the approximately 3.5ha of the site to R1 General Residential. This would be a new zone for the Byron Shire LEP and would enable the residential and community uses that are desired for the site and would likely be appropriate in other future R1 locations.	Refer Appendix A for R1 Land Use Table Refer Part 4 Land Zoning Map
Introduce Additional Permitted Uses for other low impact non-residential uses that are appropriate for this site specifically.	Refer Appendix B for proposed clause Refer Part 4 Additional Permitted Uses Map
Introduce an Affordable Housing Contributions Scheme Map over the development area of the site that links to the Byron Shire Affordable Housing Contributions Scheme which targets a 20% contribution.	Refer Part 4 Affordable Housing Contributions Scheme Map

Environmental Objectives

5. To support a beautiful, green neighbourhood with a rich character that draws inspiration from the local Mullumbimby culture and the special history of the site.

Proposed LEP amendments to support these objectives	Reference
Change approximately 0.21ha of the site to C2 Environmental Conservation to project high environmental value vegetation.	Refer Part 4 Land Zoning Map

Built Form and Development Intensity Objectives

6. To support neighbourhood scale development that responds to the built and natural context of the site.
7. To maximise the provision of housing on the site (and thereby affordable housing).
8. To discourage single dwelling allotments and dual occupancy development which is seen as under development of the site.
9. To be of exemplary, high-quality design, especially architectural, landscape and urban design.

Proposed LEP amendments to support these objectives	Reference
Change the Height of Buildings development standard over part of the site from 9m to 11.5m.	Refer Part 4 Height of Buildings Map
Amend the existing LEP clause relating to Design Excellence so that it also applies to the site.	Refer Appendix C for proposed clause Refer Part 4 Byron Design Excellence Map

Note that there is currently no Minimum Lot Size (MLS) or Floor Space Ratio (FSR) development standards over the site. It is not proposed to introduce a MLS or FSR to the site as the built form and development can be adequately managed through design provisions in a site specific Development Control Plan amendment.

Other Sustainability Objectives

10. To ensure remediated land is developed safely in accordance with the Environmental Management Plan for the site.
11. To support sustainability and resilience principles that are central values to the Byron Shire community.
12. To support a well connected precinct with bus, bicycle routes and walking paths to the centre of town, nearby schools, recreation spaces and community facilities.
13. To have an appropriate level of public space that is high-quality, varied and adaptable.

Proposed LEP amendments to support these objectives	Reference
NA – these will be supported via amendment to the Byron Shire Development Control Plan 2014	NA

Note

There will also be minor consequential LEP amendments needed to align with the above (for example to Clause 2.1; 4.1E; 6.9; 6.17; Schedule 2). These are detailed in Appendix D.

Figure 3 - Existing zoning*

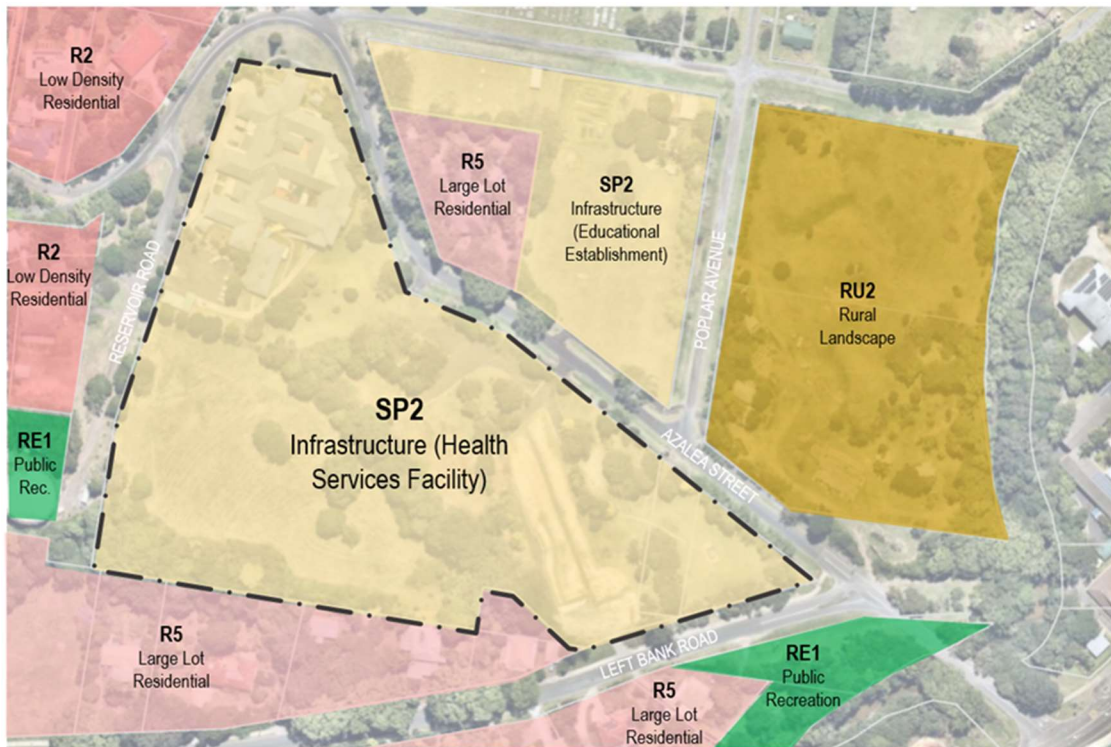
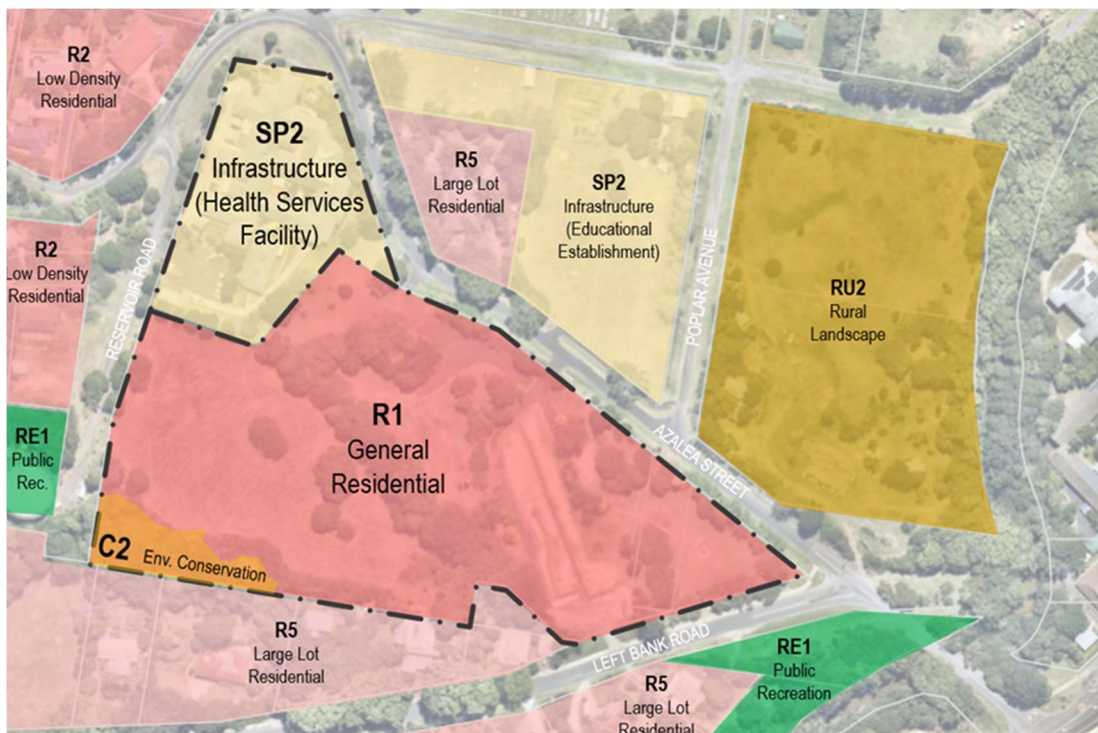


Figure 4 - Proposed zoning*

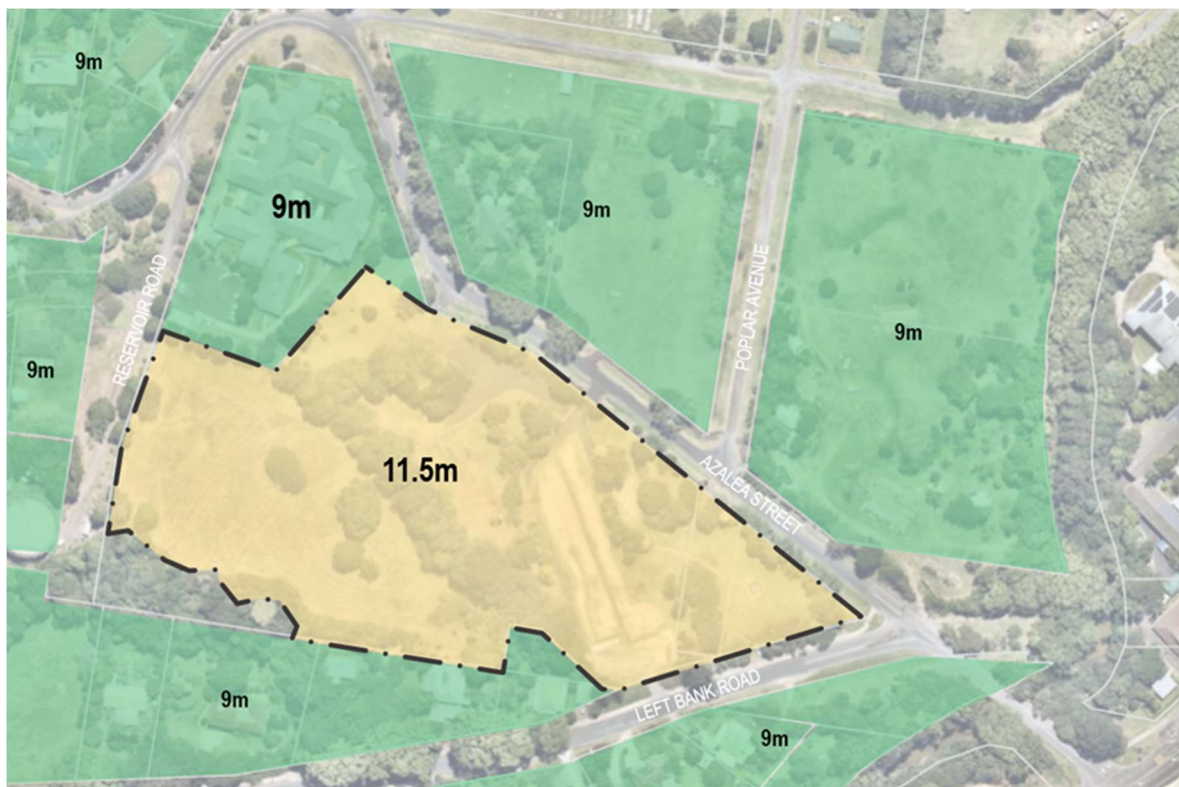


*These maps are for illustrative purposes only. For proposed LEP maps refer to Part 4.

Figure 5 – Existing Height of Buildings*



Figure 6 – Proposed Height of Buildings*



*Note these maps are for illustrative purposes only. For proposed LEP maps refer to Part 4.

Part 3 Justification

Section A Need for the planning proposal

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

Yes. This planning proposal is consistent with the following key strategies:

Byron Shire Residential Strategy (2020)

The Residential Strategy sets a clear vision and policy framework for how Byron Shire delivers future housing in the next 20 years. Within the strategy, urban growth investigation areas have been identified as part of securing a sustainable long-term supply of suitable residential lands. The former Mullumbimby Hospital site is identified as Investigation Area 3. An extract from the Residential Strategy relating to Area 3 is provided at Appendix E.

The planning proposal furthers the potential to deliver diverse and affordable housing in the Shire, close to key services and amenities, in line with the aims of the Byron Shire Residential Strategy.

The planning proposal is consistent with the following directions in the Byron Shire Residential Strategy.

- 1.1: The majority of our Shire's future housing will be in urban towns and villages
- 1.2: Land for housing will be suitable for the use
- 1.3: New subdivisions and infill will support the attributes of liveable neighbourhoods
- 2.1: Enable opportunities for innovative new residential forms and models that give a sense of place, promote environmental stewardship and encourage social, economic and cultural diversity and equity
- 2.2: Facilitate and promote growth in the proportion of rental and to-buy housing aimed at the lower end of the market, including those with very low incomes
- 2.3: Encourage use of low-rise medium density housing types other than the detached house
- 2.4: Support 'urban village' pockets of mixed-use activities close to business centres

The planning proposal is consistent with the following local planning actions from the strategy:

3. Support the examination of opportunities for sensitive (i.e. reflects the 'local' in our places) urban infill, redevelopment and increased densities in appropriate locations to make good use of urban land.
11. Implement a new R1 General Residential zone to facilitate diverse, affordable, adaptable and easy-live housing located with good access to a range of facilities and services to meet residents' day-to-day needs.
18. Consider affordable housing as a first option, when investigating the best use of lands owned by Council.

Byron Shire Local Strategic Planning Statement (2020)

The Byron Shire Local Strategic Planning Statement presents a 2036 framework for future land use within the shire. It outlines four key priority areas for the Byron Shire including: a sustainable shire, a connected shire, a liveable shire, a thriving shire.

This planning proposal aligns especially with the Priority 3 – Support housing diversity and affordability with housing growth in the right locations.

It also links to Action LA9 – Investigate and implement planning controls to encourage an increase in the supply of affordable and inclusive housing stock.

The planning proposal aims to ensure a diverse range of housing in close proximity to services and amenities and is therefore in alignment with the above.

Byron Shire Council Affordable Housing Contribution Scheme (2022)

The Affordable Housing Contribution Scheme provides detail about how, where, and at what rate development contributions can be collected from landowners for affordable housing.

Affordable housing contribution areas in Mullumbimby have a target of 20% contribution to affordable housing of the developed residential land.

This Scheme is triggered by Clause 6.18 of the Byron Shire LEP 2014.

Byron Shire Council Affordable Housing Policy (2020) and Procedure (2020)

The Byron Shire Affordable Housing Contribution Policy (AHCP) provides a framework to advocate for, facilitate, provide and manage affordable housing contributions in Byron Shire.

The accompanying Procedures document is intended to assist with implementation of the policy and sets in more detail how Council intends to operate the contribution framework in Byron Shire.

AHCP Statement of Intent 14 guides the Residential Strategy to set a minimum affordable housing contribution rate for areas based on Council's understanding of development feasibility. The Procedures identify the target for the Mullumbimby hospital site as land housing contribution area: 30% of the additional dwellings or total gross floor area that is to be used for residential uses.

After the Floods Discussion Paper

The planning proposal is consistent with the [After the Floods Discussion Paper](#) which was commissioned by Council to inform future residential planning in the Shire and was based on extensive community consultation. The planning proposal aligns with pillar three 'Build Elsewhere' and is consistent with the following guiding principle:

Principle 3.1: Well sited future settlements – Fundamental to siting future settlements is that they are not flood prone and they are well-connected

- Future settlements need to be located and constructed in ways that mitigate future risks of climate change from an all-hazards perspective.

- They need to be located outside flood prone areas, but not be isolated from existing communities and the services that future residents will need.
- Connections between new and existing settlements should take advantage of sustainable transport methods, including rail corridors.
- A focus on areas around Mullumbimby, given its flood constraints, may be needed.

The After the Flood Discussion Paper was reported to Council on 15 December 2022.

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

Yes. The planning proposal is considered the best means of achieving the planning objectives as set out in Part 2. It is also considered to be the most transparent way to clearly define the intended future of the site for the local community.

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 (in this case the North Coast Regional Plan 2041)?

Yes. The planning proposal is consistent with the North Coast Regional Plan 2041, which is a 20-year blueprint for the future of the North Coast. The NSW Government's vision for the North Coast is 'Healthy and thriving communities supported by a vibrant and dynamic economy that builds on the region's strengths and natural environment'.

The site is within the 'urban growth area' defined by the North Coast Regional Plan. It is also not within the 'coastal strip' defined by the Plan.

The planning proposal is consistent with the following objectives in the NCRP:

- Objective 1: Provide well located homes to meet demand
- Objective 2: Provide for more affordable and low-cost housing
- Objective 3: Protect regional biodiversity and areas of high environmental value

The planning proposal aligns with the Byron Shire local government narrative described in the Plan, especially:

- investigate opportunities for increased housing diversity and density, encompassing multi-unit dwellings and innovative housing models in appropriate locations, and;
- prioritise the delivery of affordable housing to support the local workforce and healthy and diverse communities.

Q4. Is the planning proposal consistent with a LSPS that has been endorsed by the Planning Secretary or other local strategy or strategic plan?

Yes. The planning proposal is consistent with the following local plans and strategies in addition to those previously identified in Question 1.

Byron Shire Community Strategic Plan 2032

The Byron Shire Community Strategic Plan 2032 is a whole-of-Byron Shire document that has been developed following in-depth community engagement to understand the community's collective vision, aspirations, and priorities. The Community Strategic Plan guides Council activities over the next ten years.

This planning proposal aligns strongly with the community objective of Ethical Growth - We manage growth and change responsibly. It also aligns with objective 4.2 – Support housing diversity in appropriate locations across the Shire.

Our Mullumbimby Masterplan (2019)

The Our Mullumbimby Masterplan sets out a vision and principles to guide sustainable growth and change in Mullumbimby over the next 10 years. It is one of Byron Shire's 'Place Plans' – as referenced in the North Coast Strategic Plan (refer page 88). It was prepared in consultation with the Our Mullumbimby (community) Guidance Group.

The planning proposal aligns specifically with Action 28 – Create a mixture of diverse and affordable housing on the hospital site, along with community facilities.

- Ensure any development on the hospital site is in accordance with the outcomes of the Mullumbimby Hospital Site Project Reference Group.
- Create physical and cultural connections between the site and the centre of town, to ensure a lively place, that is easily accessible on foot and by bike, for a wide range of people.

Q5. Is the planning proposal consistent with any other applicable State and regional studies or strategies?

NSW Flood Inquiry Outcomes

In March 2022 the NSW Government commissioned an expert inquiry into the preparation for and causes of, response to and recovery from the 2022 flood event across NSW. The report contains 28 recommendations based on the findings of the inquiry. The proposed LEP amendment is consistent with the following recommendations.

Recommendation 20 – floodplains as assets

- The planning proposal is consistent with this recommendation from the flood inquiry as it encourages diverse housing on a site that is free from flood and will link this to nearby flood prone sites through active transport.

Recommendation 21 – simplify the planning system disaster provisions

- The site is located out of a flood zone and even in the PMF is likely to be largely unaffected. This site proposes an 11.5m height limit and no FSR or minimum lot size in order to maximise development on the site. This is important as it seeks to provide safe, flood free housing to a community that was impacted by the 2022 flood events.

Recommendation 24 – housing, especially social housing

- The former Mullumbimby Hospital site is intended to be a site to provide affordable and diverse housing and other complimentary uses outside of a flood zone. The site will maximise the provision of housing for community on a site that also contains complimentary community uses in line with the adopted Site Strategy and Urban Design Protocol. The site is near to the existing Mullumbimby town centre and all the services it has to offer.

Independent Planning Commission Short Term Rental Accommodation Recommendations

The planning proposal is consistent with the recently released NSW Independent Planning Commission's recommendations on Short Term Rental Accommodation in the Byron Shire.

Housing supply – Recommendation 4

The NSW Government should continue to work with Council to identify and utilise every available mechanism to support:

- a) the urgent release of more land for housing development within Byron Shire (including the potential for infill development in Byron Bay)

- b) the timely delivery of new housing supply;
- c) the delivery of increased affordable, diverse, social and crisis accommodation; and
- d) protection of lessees.

The planning proposal is consistent with this recommendation as it supports the release of more land for housing development in the Byron Shire and the timely delivery of that housing. It should be noted that the site is flood free and well connected to existing services and amenities.

Q6. Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPPs)?

The State Environmental Planning Policies relevant to this planning proposal are as follows.

State Environmental Planning Policy (SEPP)	Compliance of Planning Proposal
Resilience and Hazards	SEPP Resilience and Hazards (2021) applies to the site. It is mapped both in the Coastal Use and Coastal Environment mapping. If developed in accordance with the statutory requirements development is unlikely to cause adverse impact on the biophysical, hydrological and ecological environment. The extent of the development will be governed by the proposed development standards and the design excellence clause. The Flooding and Stormwater Assessment, Biodiversity Assessment and Bushfire Report all consider the site capable of supporting future residential development.
Exempt and Complying Development	It is anticipated that following the planning proposal, some development may be complying or exempt development under the SEPP. The planning proposal does not inhibit this.
Biodiversity and Conservation	The Biodiversity Assessment notes that this SEPP does not apply.
Koala Habitat Protection	This SEPP does not apply as the site does not include core koala habitat.
Remediation of Land	Key extracts from the Contamination Summary (date 28 July 2023) by Tim Fitzroy and Associates are provided below.

	Investigations, remediation and validation have culminated in the segregation of the site into a management area where asbestos contamination has been capped, and the remainder of the site. This is shown on Figure 1 in the Contamination Summary. The management area consists of Lot 138 DP 755722, Lot 1 DP1159861, and Part Lot 188 DP 728535. The resultant segregation requires limitations on development within the management area, as described in the associated Environmental Management Plan (EMP) and the Site Audit Statement (SAS). The SAS has been prepared with the intention to exclude freehold residential land use as a permissible use. The auditor agrees that the management area of the site is suitable for the following landuses with the implementation of the EMP attached to the SAS: • Day care centre, preschool, primary school; • Secondary school; • Residential land use with minimal opportunities for soil access (HILs B); • Public open spaces (HILs C); and/or • Commercial land use (HILs D). These landuses are described in the environmental management plan prepared for the site by Melaleuca Group, which is attached to the SAS. The remainder of the site outside of the management area is suitable for the following landuses: • Day care centre, preschool, primary school; • Secondary school; • Residential with garden/accessible soil (home grown produce <10% fruit and vegetable intake and no poultry; includes childcare centres, preschools, primary schools (HILs A); • Residential with minimal opportunities for soil access (HILs B); • Public open spaces (HILs C); and/or • Commercial land use (HILs D).
--	---

Q7. Is the planning proposal consistent with the applicable Ministerial Directions (s.9.1 directions)?

Consistency with the Local Planning Directions is assessed in the following tables:

1. Planning Systems

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
1.1 Implementation of Regional Plans	Planning proposals must be consistent with a Regional Plan released by the Minister for Planning. A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Planning Secretary (or an officer of the Department nominated by the Secretary), that: (a) the extent of inconsistency with the Regional Plan is of minor significance, and (b) the planning proposal achieves the overall intent of the Regional Plan and does not undermine the achievement of the Regional Plan's vision, land use strategy, goals, directions or actions.	The site is within the 'urban growth area' defined by the North Coast Regional Plan. It is also not within the 'coastal strip' defined by the Plan. The planning proposal aligns with the objectives in the Plan, especially: • Objective 1: Provide well located homes to meet demand • Objective 2: Provide for more affordable and low-cost housing The planning proposal aligns with the Byron Shire local government narrative described in the Plan, especially: • Investigate opportunities for increased housing diversity and density, encompassing multi-unit dwellings and innovative housing models in appropriate locations • Prioritise the delivery of affordable housing to support the local workforce and healthy and diverse communities	Consistent

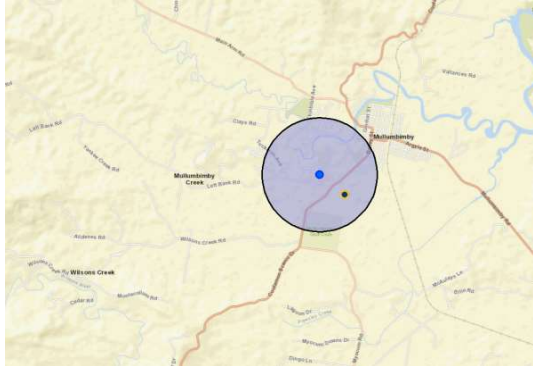
S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
1.2 Development of Aboriginal Land Council Land	Applies when preparing a planning proposal for land shown on the Land Application Map of chapter 3 of the State Environmental Planning Policy (Planning Systems) 2021.	Not currently applicable to Byron Shire	Not applicable
1.3 Approval and Referral Requirements	A planning proposal must: (a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and (b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of: i. the appropriate Minister or public authority, and ii. the Planning Secretary (or an officer of the Department nominated by the Secretary), prior to undertaking community consultation in satisfaction of Schedule 1 to the EP&A Act	The planning proposal will not include provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority. It does not identify development as designated development.	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
1.4 Site Specific Provisions	Applies when preparing a planning proposal that will allow a particular development to be carried out.	The planning proposal does not seek to allow a particular development to be carried out or impose any development standards or requirements in addition to those already contained in Byron LEP 2014. In this case, the planning proposal is introducing a new zone into Byron LEP 2014 that will be available for application to other sites, as well as introduces other consequential LEP maps.	Consistent

3. Biodiversity and Conservation

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
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 conservation zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in	A Biodiversity Assessment (date 17 April 2023) has been carried out by Earth Scapes Consulting as required under the Environmental Planning and Assessment Act 1979 as the site contains High Environmental Value (HEV) vegetation and/or red flags. The assessment recommends retention and protection of the lowland rainforest (EEC). The planning proposal recommends including the HEV area in Zone C2 Environmental Conservation.	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	accordance with clause (5) of Direction 1.5 “Rural Lands”.		
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 to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area, (b) Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974, and (c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people	The planning proposal does not include the conservation of European heritage at the site. There are two sites in the vicinity of the subject land that are mapped as Heritage Items in the LEP. This includes a house (‘Summerset’) on Azalea Street and the Mullumbimby Cemetery on Poplar Avenue (refer figure below). Any development on the subject site will be required to consider these in accordance with Byron DCP 2014 Chapter C1 – Non-indigenous Heritage. Figure 7: LEP Heritage Items near the site 	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
		An Aboriginal Heritage Information Management System (AHIMS) search was conducted for the site and found an Aboriginal site within 1 km of the subject land. The Aboriginal site is shown in the figure below. The planning proposal provisions are unlikely to impact on this Aboriginal site identified. Figure 8: AHIMS search result map  Initial communication with TBLALC and Bundjalung of Byron Bay Arakwal Corporation has been established and these groups will be consulted throughout the process.	
3.3 Sydney Drinking Water Catchments	Not applicable to Byron Shire	Not applicable	Not applicable

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	A planning proposal that introduces or alters an C2 Environmental Conservation or C3 Environmental Management zone or an overlay and associated clause must apply that proposed C2 Environmental Conservation or C3 Environmental Management zone, or the overlay and associated clause, in line with the Northern Councils E Zone Review Final Recommendations.	A Biodiversity Assessment (date 17 April 2023) has been carried out by Earth Scapes Consulting as required under the Environmental Planning and Assessment Act 1979 as the site contains High Environmental Value (HEV) vegetation and/or red flags. The assessment recommends retention and protection of the lowland rainforest (EEC). The planning proposal recommends including the HEV area in Zone C2 Environmental Conservation. In line with the Northern Councils E Zone Review Final Recommendations this zone has not been applied to any potential buffer ("The E zones will not include buffers to the vegetation attributes that meet the E zone criteria" pg12).	Consistent
3.5 Recreation Vehicle Areas	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).	The planning proposal does not enable land to be developed for the purpose of a recreation vehicle area.	Consistent

4. Resilience and Hazards

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
4.1 Flooding	This direction applies when preparing a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.	The Flooding and Stormwater Assessment (date 3 August 2023) by BMT notes the following: • Flood mapping illustrates that the site has a low propensity for regional flooding in frequent or rare events and is only partly inundated during the Probable Maximum Flood (PMF) event in the mostly easterly extent of the site. • On the basis that the site is only marginally inundated at its most eastern extent for an extreme flood event, the natural existing level of the site exceeds Councils typical requirements for this type of development. It is suggested that a flood impact study would not be required to assess impacts of the development for regional flood events based on Council's current DCP requirements.	Not applicable
4.2 Coastal Management	This direction applies when a planning proposal authority prepares a planning proposal that applies to land that is within the coastal zone, as defined under the Coastal Management Act 2016.	The site is mapped as Coastal Use Area under the Resilience and Hazards SEPP. The proposal is consistent with the following objectives: (a) to protect and enhance the scenic, social and cultural values of the coast by ensuring that—	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
		(i) the type, bulk, scale and size of development is appropriate for the location and natural scenic quality of the coast, and (ii) adverse impacts of development on cultural and built environment heritage are avoided or mitigated, and (iii) urban design, including water sensitive urban design, is supported and incorporated into development activities, and (iv) adequate public open space is provided, including for recreational activities and associated infrastructure, and (v) the use of the surf zone is considered, (b) to accommodate both urbanised and natural stretches of coastline.	
4.3 Planning for Bushfire Protection	(1) In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 3.34 of the Act, and prior to undertaking community consultation in satisfaction of clause 4, Schedule 1 to the EP&A	No gateway determination has been made yet. However once made, Council will consult with relevant authorities. The Bushfire Assessment (date 4 July 2023) by Bushfire Certifiers prepared for the planning proposal notes that the site is considered capable of supporting future residential development	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	Act, and take into account any comments so made. (2) A planning proposal must: (a) have regard to Planning for Bushfire Protection 2019, (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and (c) ensure that bushfire hazard reduction is not prohibited within the Asset Protection Zone (APZ).	incorporating the required APZ setbacks and other bushfire protection measures. The report establishes that compliant asset protection zones can be achieved for future residential development and associated community infrastructure on the land to be rezoned. Generally, from a bushfire perspective the proposed rezoning is not considered to have an adverse impact on the surrounding land uses and will not increase pressure on existing land use although impact of increased traffic in a bushfire event (evacuation) is unknown at this stage and will need to be demonstrated. The site is considered capable of supporting future residential development incorporating the required APZ setbacks and other bushfire protection measures. The report has regard to the Planning for Bushfire Protection 2019 requirements and notes considerations for asset protection zones and property access. These will need to be taken into account as design and planning progresses.	

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
4.4 Remediation of Contaminated Land	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, (c) the extent to which it is proposed to carry out development on it for residential, educational, recreational or childcare purposes, or for the purposes of a hospital – land: i. in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and ii. on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge). (1) A planning proposal authority must not include in a particular zone (within the meaning of the local environmental plan) any	Key extracts from the Contamination Summary (date 28 July 2023) by Tim Fitzroy and Associates are provided below. Investigations, remediation and validation have culminated in the segregation of the site into a management area where asbestos contamination has been capped, and the remainder of the site. This is shown on Figure 1 in the Contamination Summary. The management area consists of Lot 138 DP 755722, Lot 1 DP1159861, and Part Lot 188 DP 728535. The resultant segregation requires limitations on development within the management area, as described in the associated Environmental Management Plan (EMP) and the Site Audit Statement (SAS). The SAS has been prepared with the intention to exclude freehold residential land use as a permissible use. The auditor agrees that the management area of the site is suitable for the following land uses with the implementation of the EMP attached to the SAS: • Day care centre, preschool, primary school; • Secondary school; • Residential land use with minimal opportunities for soil access (HILs B); • Public open spaces (HILs C); and/or	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	land to which this direction applies if the inclusion of the land in that zone would permit a change of use of the land, unless: (a) the planning proposal authority has considered whether the land is contaminated, and (b) if the land is contaminated, the planning proposal authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used, and (c) if the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, the planning proposal authority is satisfied that the land will be so remediated before the land is used for that purpose. In order to satisfy itself as to paragraph 1(c), the planning proposal authority may need to include certain provisions in the local environmental plan. (2) Before including any land to which this direction applies in a particular zone, the planning proposal authority is to obtain and have regard to a report specifying the findings of a preliminary investigation of the land	- Commercial land use (HILs D). These landuses are described in the environmental management plan prepared for the site by Melaleuca Group, which is attached to the SAS. The remainder of the site outside of the management area is suitable for the following landuses: - Day care centre, preschool, primary school; - Secondary school; - Residential with garden/accessible soil (home grown produce <10% fruit and vegetable intake and no poultry; includes childcare centres, preschools, primary schools (HILs A); - Residential with minimal opportunities for soil access (HILs B); - Public open spaces (HILs C); and/or - Commercial land use (HILs D).	

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	carried out in accordance with the contaminated land planning guidelines		
4.5 Acid Sulfate Soils	Applies when preparing a planning proposal that will apply to land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps held by the Department of Planning and Environment. A relevant planning authority must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the relevant planning authority has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils. The relevant planning authority must provide a copy of any such study to the Planning Secretary prior to undertaking community consultation in satisfaction of clause 4 of Schedule 1 to the Act.	No part of the land is mapped as containing Acid Sulfate Soils.	Not applicable
4.6 Mining Subsidence and Unstable Land	This direction applies when a relevant planning authority prepares a planning proposal that permits development on land that is within a declared mine subsidence district in the Coal Mine Subsidence Compensation Regulation 2017 pursuant to section 20 of the Coal Mine Subsidence Compensation Act 2017, or has	Not applicable	Not applicable

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	been identified as unstable in a study, strategy or other assessment undertaken by or on behalf of the relevant planning authority or by or on behalf of a public authority and provided to the relevant planning authority.		

5. Transport and Infrastructure

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
5.1 Integrated Land Use Transport	This direction applies when preparing a planning proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes. 1) A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of: (a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and (b) The Right Place for Business and Services – Planning Policy (DUAP 2001).	This planning proposal supports low-medium density development in a location close to services and amenities. The site is well placed to provide active transport options to the surrounds through walking/cycling paths and public transport links. A Transport Strategy (date 9 August 2023) by PLANIT Consulting was commissioned as a part of this planning proposal. The assessment determined that the planning proposal would not result in significant adverse effects on traffic flows within the vicinity of the site and that impacts can be adequately mitigated.	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
5.2 Reserving Land for Public Purposes	A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Planning Secretary (or an officer of the Department nominated by the Secretary).	This land was previously used for the Mullumbimby Hospital and was sold to Byron Shire Council in 2018 by NSW Health. At the time of sale, a range of suitable uses were identified. This planning proposal seeks to formalise these uses under the planning scheme.	Consistent
5.3 Development Near Regulated Airports and Defence Airfields	Applies when preparing a planning proposal that will create, alter or remove a zone or a provision relating to land near a regulated airport which includes a defence airfield.	Not applicable	Not applicable
5.4 Shooting Ranges	Applies when preparing 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	Not applicable	Not applicable

6. Housing

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
6.1 Residential Zones	Applies when preparing a planning proposal that will affect land within an existing or proposed residential zone (including the alteration of any existing residential zone boundary).	This planning proposal encourages diverse housing and an efficient use of space through the R1 zoning an 11.5m height allowance.	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	(1) A planning proposal must include provisions that encourage the provision of housing that will: (a) broaden the choice of building types and locations available in the housing market, and (b) make more efficient use of existing infrastructure and services, and (c) reduce the consumption of land for housing and associated urban development on the urban fringe, and (d) be of good design. (2) A planning proposal must, in relation to land to which this direction applies: (a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and (b) not contain provisions which will reduce the permissible residential density of land.	The existing site is serviced. The planning proposal does not decrease the possible density on the site. The Infrastructure Capability Audit (date 15 August 2023) by PLANIT Consulting notes the following. The existing water and sewer infrastructure the site can be readily serviced by both the existing water supply network and the existing gravity sewer network without the need to undertake any pipeline or network augmentations for an estimated development yield of approximately 130ET. Therefore, from a water and sewer servicing capacity we believe this site is suitable for the proposed development to proceed. This is subject to a satisfactory outcome being identified/agreed with Rous Water to address the overall Mullumbimby water supply capacity constraints.	
6.2 Caravan Parks and Manufactures Home Estates	Applies when a planning proposal affects land for Caravan Parks and Manufactured Home Estates.	Not applicable	Not applicable

7. Industry and Employment

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
7.1 Business and Industrial Zones	This direction applies to all relevant planning authorities when preparing a planning proposal that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).	Not applicable	Not applicable
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.	Not applicable	Not applicable
7.3 Commercial and Retail Development along the Pacific Highway, North Coast	Applies to land in the vicinity of the existing and/or proposed alignment of the Pacific Highway.	Not applicable	Not applicable

8. Resources and Energy

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
8.1 Mining, Petroleum Production and Extractive Industries	This direction applies to all relevant planning authorities when preparing 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 by permitting a land use that is likely to be incompatible with such development.	Not applicable	Not applicable

9. Primary Production

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
9.1 Rural Zones	Applies when a planning proposal will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary). A planning proposal must not rezone land from a rural zone to a residential, business, industrial, village or tourist zone	Not applicable	Not applicable

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
9.2 Rural Lands	Applies when a planning proposal: (a) will affect land within an existing or proposed rural or conservation zone (including the alteration of any existing rural or conservation zone boundary) or (b) changes the existing minimum lot size on land within a rural or conservation zone.	Not applicable	Not applicable
9.3 Oyster Aquaculture	Applies when preparing a planning proposal in 'Priority Oyster Aquaculture Areas'	Not applicable	Not applicable
9.4 Farmland of State and Regional Significance on the NSW Far North Coast	Applies to land mapped as mapped as State significant farmland, regionally significant farmland, or significant non-contiguous farmland.	Not applicable	Not applicable

Section C Environmental, social and economic impact

Q8. 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?

No.

The site is not mapped on the Biodiversity Values Map.

A Biodiversity Assessment was undertaken for the site by Earthscapes Consulting Pty Ltd in April 2023 and has been included with this planning proposal. The Biodiversity Assessment found that the vegetation on site is a mix of landscaping, planted trees, invasive species and weeds. There is an area of subtropical rainforest in the south-east of the site.

It was deemed that the site did not constitute koala habitat.

The assessment found that there is an area of threatened Lowland Rainforest on Floodplain in the south-west corner of the site (see image below).

The assessment recommended that the lowland rainforest (endangered ecological community) in the south-west of the site be protected and have a buffer from any future development.

This area is proposed to be rezoned as C2 Environmental Conservation to ensure its ongoing protection.

Figure 9: Endangered Ecological Community (EEC) Map



Q9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Although it is impossible to rule out any other environmental impacts, there are unlikely to be any significant environmental effects as a result of the planning proposal. The site is largely cleared, has been remediated, and can ensure suitable disposal of stormwater. The technical studies reinforce the capability of the site in this regard.

The site has been remediated and signed off with a Site Audit Statement as outlined in the Contamination Assessment Summary. The Environmental Management Plan outlines a range of management actions to ensure that the site remains safe for use over time. These include regular inspections to ensure that the capping is maintained, limits to uses over the capped area and guidelines to ensure the safety of any workers onsite should construction occur.

The area of remnant vegetation in the southwest corner of the site is to be retained and protected with a C2 Environmental Conservation zoning.

Q10. Has the planning proposal adequately addressed any social and economic effects?

The planning proposal is the next step in a long process that has been driven by community needs and desires in Mullumbimby. This site has a long history of cultural and social significance. The site is now intended to provide a range of housing and community facilities.

The planning proposal assists with this in the following ways.

- Ensuring that the zoning is fit for purpose and allows for a range of community uses that support housing.
- Ensuring that the zoning facilitates a range of housing, particularly focussing on medium density housing that is less common in the Byron Shire.
- Ensuring that the site has a considerable yield of affordable housing, without negatively impacting on surrounding neighbours, through considered development standard controls.
- Ensuring that design on the site is of the highest standard, and complements the social, cultural context of Mullumbimby.

Over 50% of households in the Byron Shire are in housing stress – some of the highest housing stress in the state. The planning proposal seeks to improve conditions by providing a range of additional housing to support a diverse population. The site is ideally located close to services and Mullumbimby township, and on flood-free lands.

The ability to provide some community facilities on the site will ensure that the site is not just housing, but that it encourages a positive social atmosphere, opportunities for ‘encounter’ and facilities for the local population to use daily.

This will also assist in creating a lively and diverse neighbourhood that complements the surrounding town.

The construction of this housing would also provide valuable work and employment for local workers. Once they are completed, they are intended to support a local worker population, not provide accommodation for short term rental.

Section D Infrastructure

Q11. Is there adequate public infrastructure for the planning proposal?

Transport

The Transport Strategy (date 9 August 2023) by PLANIT notes the following in relation to adequate transport infrastructure.

- The proposal would constitute a 'moderate' to 'high' impact with an increase in car trips of 46-63 trips/h and 32-66 trips/h during the AM and PM peak respectively.
- Currently, roads in the vicinity of the site operate at the upper end of their capacities.
 - The key intersections within the vicinity of the site have adequate capacity to accommodate the rezoning proposal;
 - Upgrading the Scenic Drive/ Jubilee Avenue/ Azalea Street intersection to a roundabout would result in a small improvements in traffic flow.
- No significant history of adverse safety was identified within the road network within the direct vicinity of the site. However, regular congestion seems to occur.
 - It is hypothesised that the root cause of this congestion is the school zone located north of the Scenic Drive/ Jubilee Avenue/ Azalea Street intersection. Further investigation into the cause and potential solution is required.
- It is anticipated that compared to typical subdivision standards, traffic within the future site will be relatively modest. The internal road hierarchy will likely be:
 - 1x Central Road within the site to 'local street' standards;
 - Remaining roads within the site to be to 'access street' 'laneway' standards;
 - Where suitable, roads to be laid out as shared zones; and
 - The design of the future road hierarchy should be supported by a Local Area Traffic management (LATM) plan.
- It is anticipated that a minimum of 2x access points are required to service the site, including at least one access point onto Left Bank Road.
- It is envisioned that parking demand shall be met through a combination of designated resident-only parking areas, private garages attached to occupancies and visitor parking via internal on-street parking throughout the site and designated visitor parking areas.
- To adequately support the affordable housing component of the proposal, a public transport strategy is required. It is proposed that a bus stop is incorporated into the future design of the site; and
- Further provisions for alternative means of transport to be incorporated into future design include:

- A suitable internal pedestrian circulation network;
 - Continuation of pedestrian and cyclist networks external of the site;
 - Carpooling/ rideshare provisions; and
 - Suitable resident bicycle storage.
- Implementation upgrades within Mullumbimby as identified and proposed in the Byron Shire Bike Plan are recommended to provide suitable connectivity between the subject site and the town centre.
 - Based on Planit's assessment, it was determined that the rezoning proposal would not result in significant adverse effects on traffic flows within the vicinity of the site and that impacts can be adequately mitigated.

Infrastructure

The Infrastructure Capability Audit (date 15 August 2023) by PLANIT notes the following in relation to adequate water and sewer infrastructure.

- The existing water and sewer infrastructure the site can be readily serviced by both the existing water supply network and the existing gravity sewer network without the need to undertake any pipeline or network augmentations for an estimated development yield of approximately 130ET. Therefore, from a water and sewer servicing capacity we believe this site is suitable for the proposed development to proceed.
- This is subject to a satisfactory outcome being identified/agreed with Rous Water to address the overall Mullumbimby water supply capacity constraints.

Stormwater

The Flooding and Stormwater Assessment (date 3 August 2023) by BMT notes the following in relation to suitable management of stormwater for the site.

- The site will likely require the provision of overland flow paths (and associated easements) to safeguard against their future development. As future land forming and drainage design are likely to occur, the provision of overland flow paths should be reconsidered at later design stages.
- The site will require the provision of stormwater quality treatment systems to achieve Council requirements and objectives. There is unlikely to be any major restrictions on this being satisfactorily achieved and preliminary MUSIC modelling and site design has been undertaken to assist in considerations of site design approaches and space allocations. Generally, while the site is steep there remain a variety of approaches to capture, convey and treat stormwater which would be suited to the Site. The shape of the Site promotes drainage towards Azalea Street which would remain the logical lawful point of discharge.
- The requirements of stormwater quantity management (i.e. peak flow mitigation) are as yet unknown. Mullumbimby Creek downstream from the Site is tidal and Council's guidelines do not require that OSD be provided for Site that discharges via a trunk drainage system to a tidal waterway. The implications of not providing on-site OSD

are that peak flow volumes downstream of the site will be increased due to the substantial change in Site imperviousness that will occur during development. A review of the capacity of Council's existing drainage systems along Azalea St connecting to Mullumbimby Creek will be required to ensure that they do not lead to nuisance flooding on adjoining lots or impacts to the trafficability of Azalea Street. Any required works to Mullumbimby Creek to support an upgrade and drainage systems and outlets, etc, would require the requisite approvals from external agencies.

Section E State and Commonwealth Interests

Q12. What are the views of state and Commonwealth public authorities consulted in order to inform the Gateway determination?

Consultation will occur with state and commonwealth authorities in accordance with the gateway determination. It is likely that this will include:

- Arakwal Corporation & Tweed Byron Local Aboriginal Land Council
- NSW Biodiversity Conservation division
- NSW Rural Fire Services
- Transport NSW
- NSW Department of Education
- Heritage – Environment NSW
- NSW Environment Protection Authority

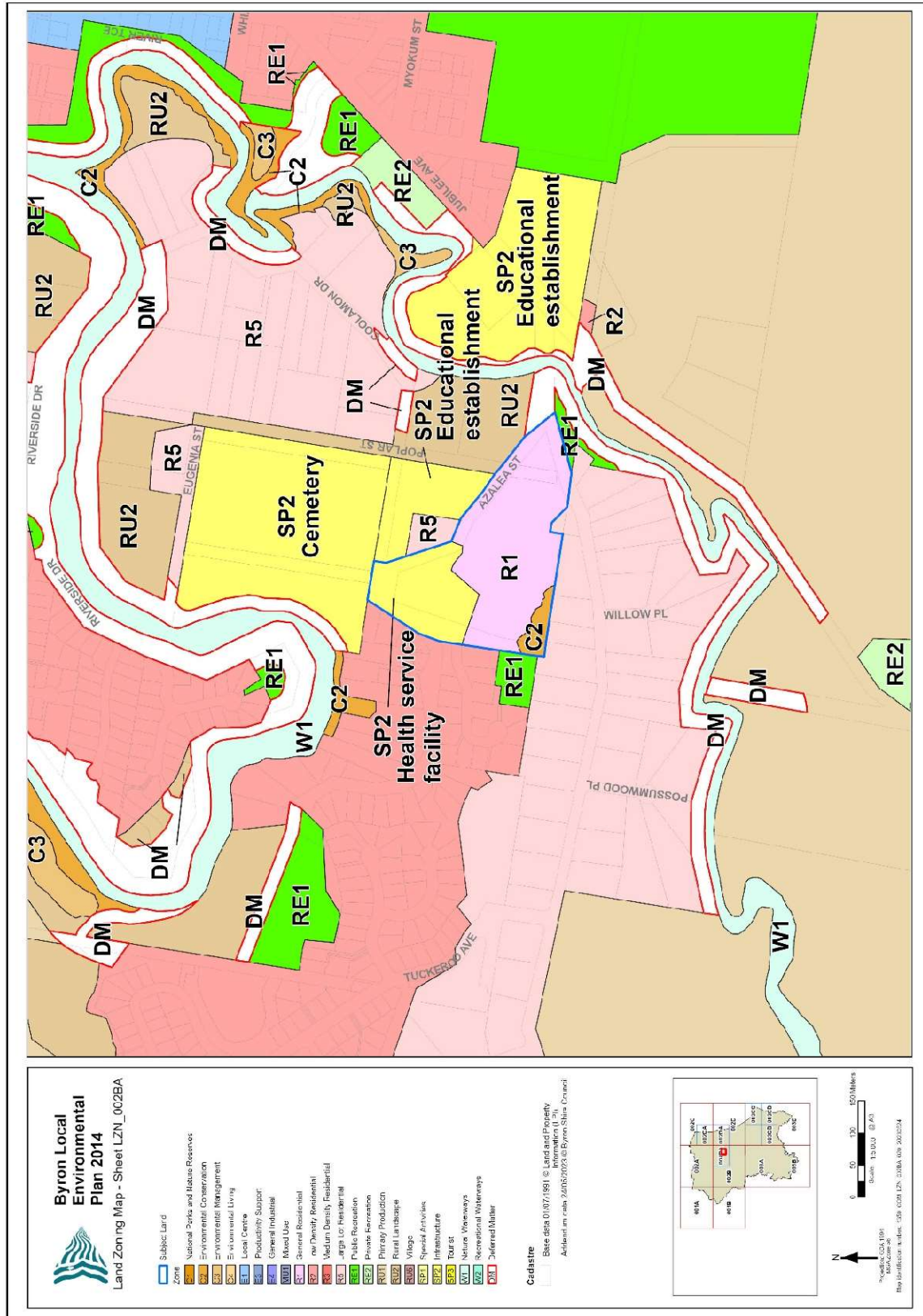
Part 4 Mapping

Amendments will be required to the following Byron LEP 2014 map sheets:

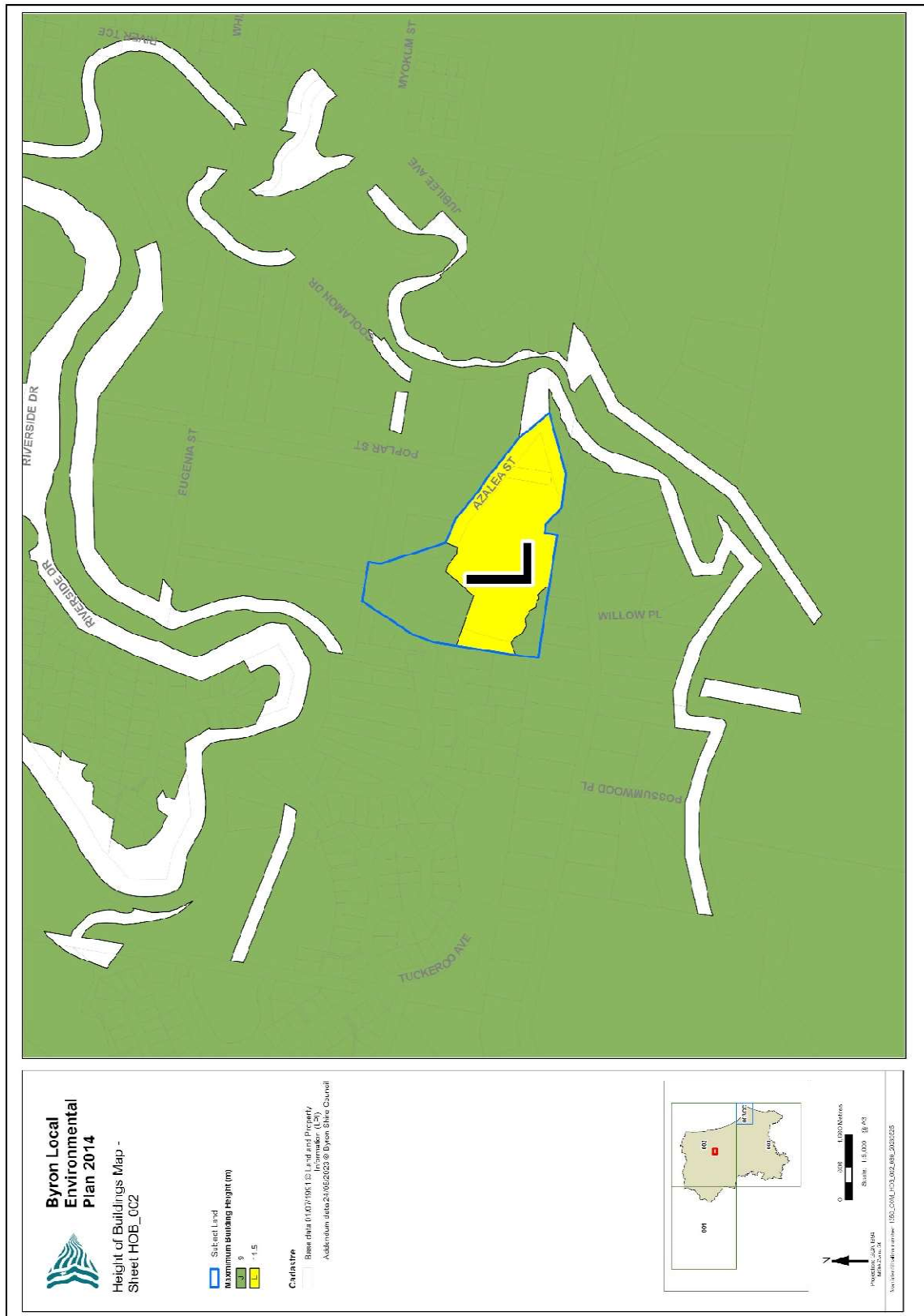
- Land Zoning Map
- Height of Buildings Map
- Design Excellence Map
- Affordable Housing Contributions Scheme Map
- Additional Permitted Uses Map

The proposed changes are included over the following pages.

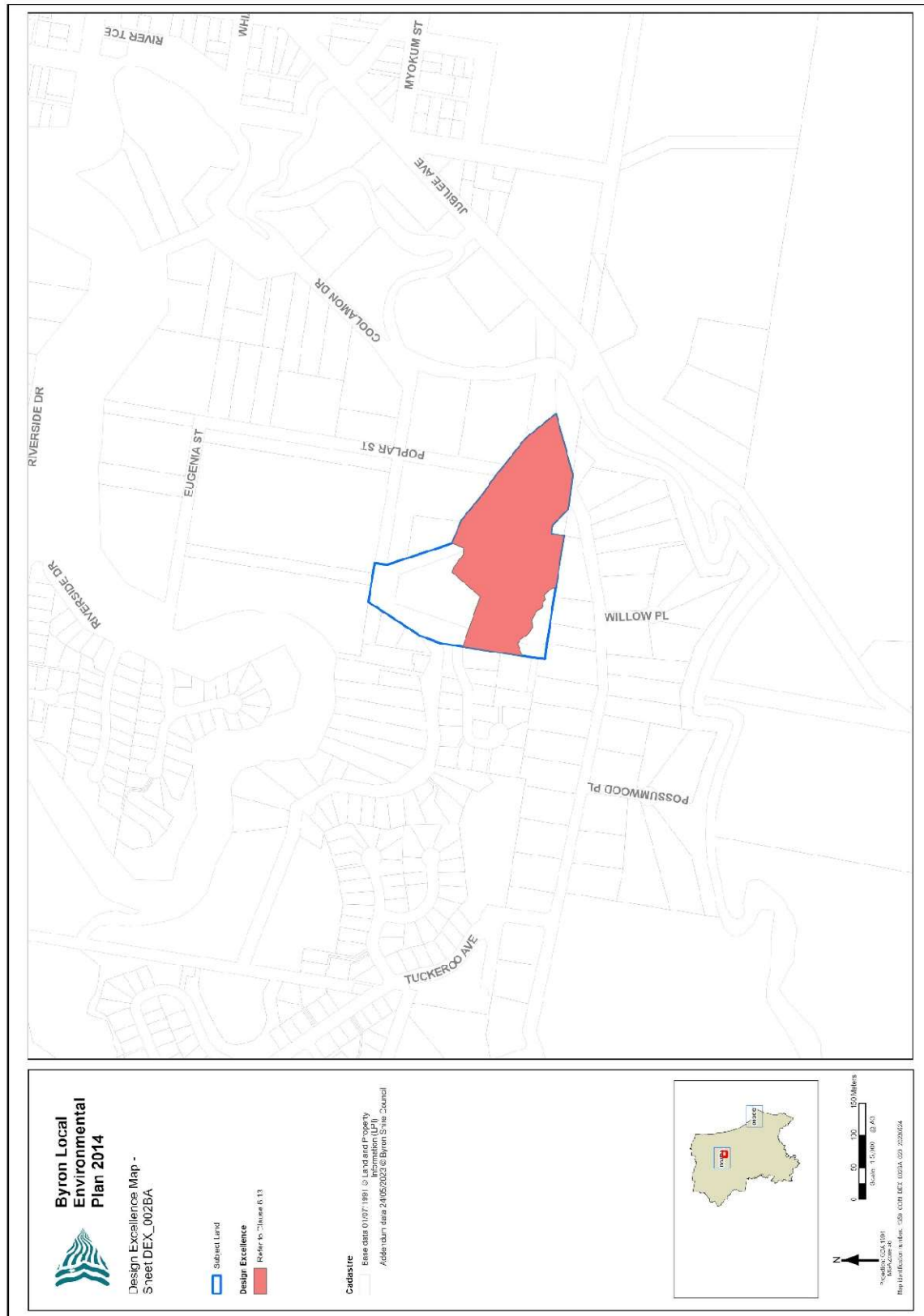
Land Zoning Map (Proposed)



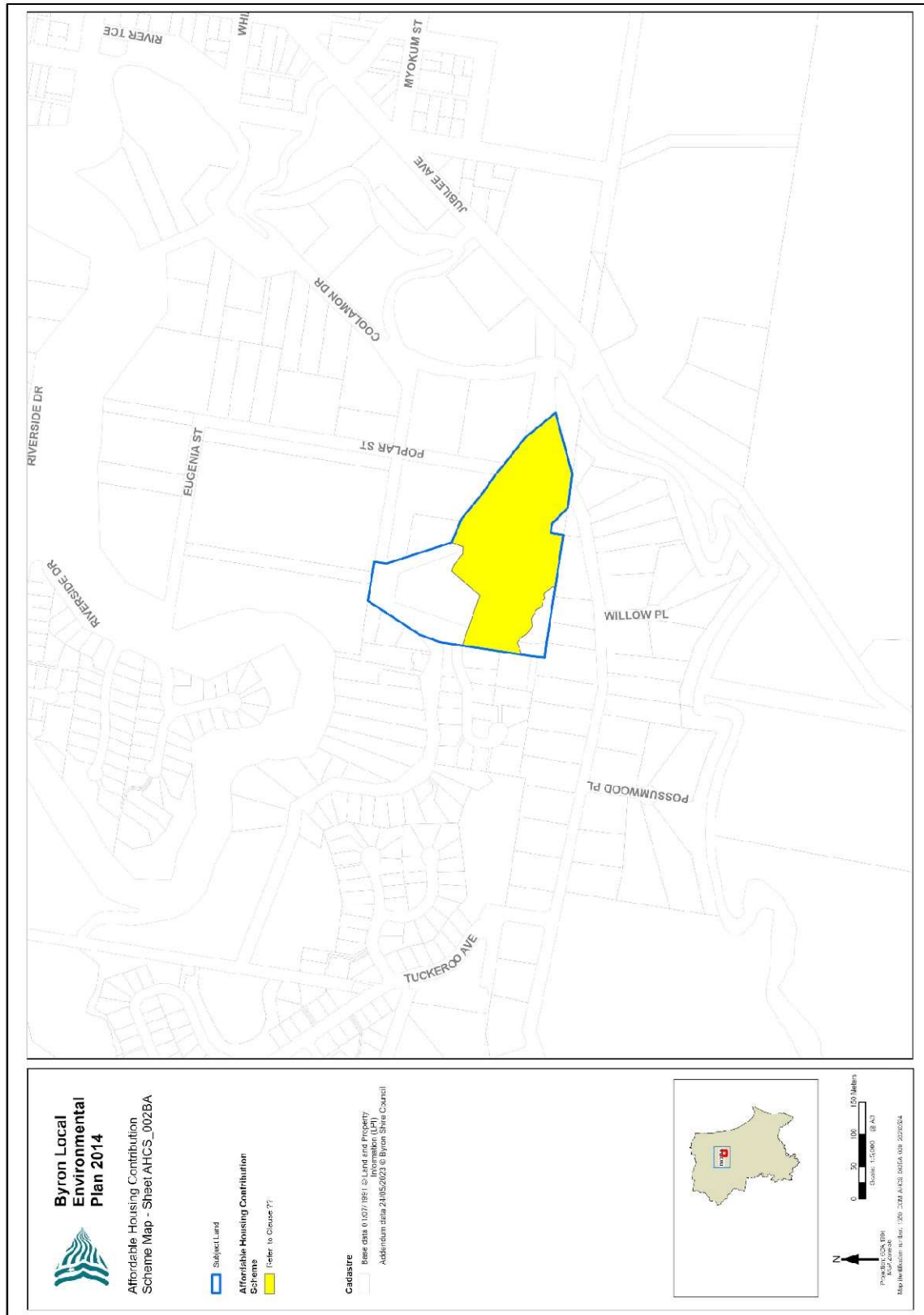
Height of Buildings Map (Proposed)



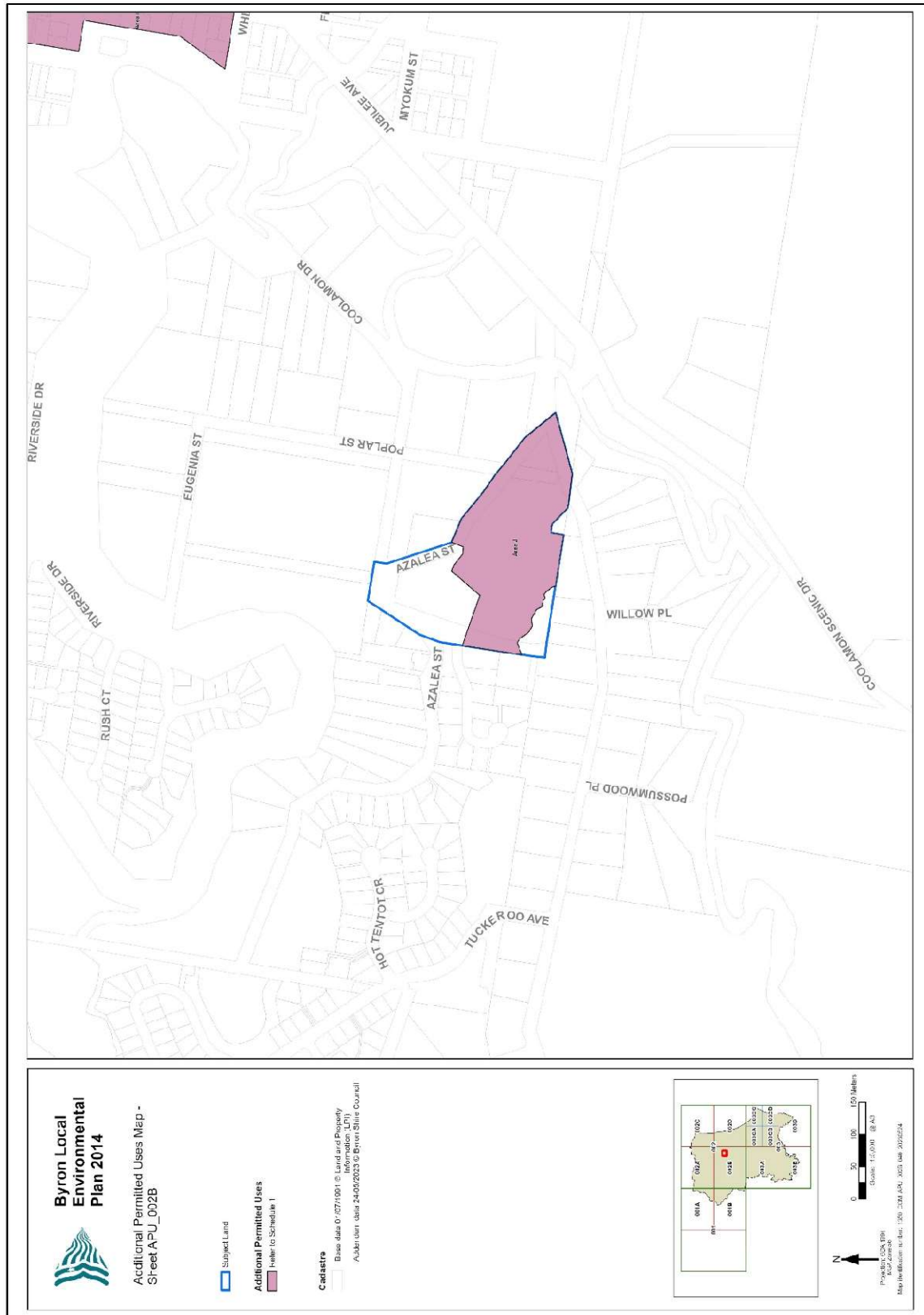
Design Excellence Map (Proposed)



Affordable Housing Contributions Scheme Map (Proposed)



Additional Permitted Uses Map (Proposed)



Part 5 Community consultation

Community consultation will be conducted in accordance with the gateway determination at a minimum.

The exhibition period will include the following ways for people to have their say:

- drop-in session in Council office/foyer Mullumbimby
- one-on-one meetings with community members and local professionals (as requested)
- phone calls with community members (as requested)
- presentation to the Housing and Affordability Advisory Committee
- presentation to the Place Planning Collective Mullumbimby representatives
- Your Say survey form to gather written feedback
- formal advice from state agencies

Promotion of the exhibition period by:

- public notice on Byron Shire Council website
- advertisement in the local newspaper ('The Echo')
- letter box drop to adjoining neighbours
- email notification to relevant community and business groups
- email notification to previous members of the Project Reference Group and to the Mullumbimby Hospital Action Group
- social media posts
- invitation to Arakwal Corporation and the Tweed Byron Local Aboriginal Land Council
- media release
- radio interview and promotion if available
- letters/emails to state agencies

Part 6 Project timeline

The proposed timeline for the completion of the Planning Proposal is as follows:

Plan making step	Estimated completion
Gateway Determination	September 2023
Agency Consultation	October – November 2023
Public Exhibition Period	October – November 2023
Submissions Assessment report to Council	December 2023
Submission of endorsed LEP amendment to Parliamentary Counsel for drafting (delegated authority)	January 2024
Council to make the LEP amendment (delegated authority)	February 2024
LEP amendment notification	March 2024

Conclusion

This Planning Proposal seeks to amend Byron Local Environmental Plan 2014 to enable development of the former Mullumbimby Hospital site for a range of housing types and complimentary community uses, with a focus on affordable housing for the site.

The proposed provisions allow for responsiveness to the site constraints and maximises the potential for affordable, attainable and diverse housing on this rare, well-sited parcel in Mullumbimby – with access to existing amenities and services. There is a dire need for this type of housing in the Northern Rivers region following the flood event in 2022 and the existing housing crisis. Being a Council owned piece of land, the former Mullumbimby Hospital site offers a unique opportunity to deliver valuable housing for the community.

The site design will be reinforced through the introduction of the design excellence provisions and a site specific Development Control Plan (yet to be drafted). These will ensure that the site maximises development yields whilst sensitively responding to adjoining properties and the existing amenity the surrounding residential area.

Appendix A – Land Use Table R1

In Land Use Table, add Zone R1 General Residential as follows.

Note that the black text below are provisions that must be included as per the NSW Standard Instrument – Principal Local Environmental Plan. The red text are provisions that are proposed to be included in the R1 zone.

Zone R1 General Residential (Proposed)

Direction—

The following must be included as either “Permitted without consent” or “Permitted with consent” for this zone—

Roads

1 Objectives of zone

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

2 Permitted without consent

Home occupations; Home-based child care; Environmental protection works; Flood mitigation works

3 Permitted with consent

Attached dwellings; Boarding houses; Centre-based child care facilities; Community facilities; Dwelling houses; Group homes; Hostels; Multi dwelling housing; Neighbourhood shops; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Residential flat buildings; Respite day care centres; Roads; Semi-detached dwellings; Seniors housing; Shop top housing; Tank-based aquaculture;

4 Prohibited

Any other development not specified in 2 or 3.

Appendix B – Additional Permitted Uses

Additional Permitted Uses clause (Proposed)

In Schedule 1 Additional permitted uses, add Clause 12 as follows.

12 Use of certain land at the former Mullumbimby Hospital site

(1) This clause applies to land at the former Mullumbimby Hospital site, identified as “Area J” on the Additional Permitted Uses Map, originally being Lot 6, DP 619293, Lot 188 DP728535, Lot 1 DP1159861 and Lot 138 DP755722.

(2) Development for the purpose of the following uses is permitted with development consent: Building identification signs; Business premises; Car parks; Early education and care facilities; Environmental facilities; Emergency services facilities; Exhibition homes; Function centres; Health services facilities; Home business; Home industries; Information and education facilities; Kiosks; Light industries; Markets; Office premises; Public administration building; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Residential accommodation; Restaurant or café; Roadside stalls; Sewerage systems; Shops; Small bar; Takeaway food and drink premises

Appendix C – Design Excellence

Design Excellence clause (Proposed)

In Part 6 Additional local provisions, Division 1 Miscellaneous, amend Clause 6.13 as shown in red text below:

6.13 Design excellence —~~Byron Bay town centre~~

- (1) The objective of this clause is to ensure that development exhibits design excellence that contributes to the natural, cultural, visual and built character values of ~~Byron Bay town centre~~ **areas shown on the Design Excellence Map.**
- (2) This clause applies to development involving the erection of a new building or alterations to an existing building on land identified as “Design excellence” on the Design Excellence Map.
- (3) Development consent must not be granted for development to which this clause applies unless the consent authority considers that the development exhibits design excellence.
- (4) In considering whether the development exhibits design excellence, the consent authority must consider whether—
 - (a) the building incorporates sustainable design principles, including in relation to the following—
 - (i) sunlight,
 - (ii) natural ventilation,
 - (iii) wind,
 - (iv) reflectivity,
 - (v) visual and acoustic privacy,
 - (vi) safety and security,
 - (vii) resource, energy and water efficiency, durability and adaptability, and
 - (b) a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved, and
 - (c) the proposed development responds well to the environmental and built characteristics of the site and achieves an acceptable relationship with other buildings on the same site and on neighbouring sites, and
 - (d) the form and external appearance of the development will improve the quality and amenity of the public domain, including by encouraging social activity and casual surveillance in public places, streets and laneways, and
 - (e) the configuration and design of public access and communal recreational areas within the residential areas—

- (i) incorporate exemplary and innovative treatments, and
 - (ii) promote a sociable village atmosphere, and
- (f) the development minimises street clutter and provides ease of movement and circulation of pedestrian, cycle, vehicular and service access, and
- (g) the development coordinates shared utility infrastructure and waste management to minimise disruption at street level in public spaces, and
- (h) the development appropriately addresses the following matters—
 - (i) heritage issues and streetscape constraints,
 - (ii) minimisation of bulk and massing, and modulation of, buildings,
 - (iii) pedestrian, cycle, vehicular and service access and circulation requirements.
- (5) In addition to subclause (3), development consent must not be granted to the following development unless the Design Excellence Panel has endorsed the development as exhibiting design excellence—
 - (a) the erection of a new building,
 - (b) alterations or additions to an existing building that—
 - (i) result in an increase of 500 square metres or more in the gross floor area of the building, or
 - (ii) change the use of 500 square metres or more of gross floor area of the building,
 - (c) development that is declared under State Environmental Planning Policy (Planning Systems) 2021, Chapter 2 to be regionally significant development for the purposes of the Act,
 - (d) development that involves 10 or more dwellings,
 - (e) development that involves alterations or additions to, or demolition of, a heritage item,
 - (f) development for the purposes of pubs, small bars or function centres.
- (6) In this clause—

The ~~Byron~~ Design Excellence Panel means a panel, consisting of 2 or more persons, established by the consent authority for the purposes of this clause.

Appendix D- Consequential LEP Amendments

A range of consequential LEP amendments will be required to reflect the insertion of the new R1 General Residential Zone. The proposed changes are detailed below in red text.

Clause 2.1 Land use zones (Part 2) (Proposed)

Add R1 General Residential as follows (in red text):

Residential Zones

R1 General Residential

R2 Low Density Residential

R3 Medium Density Residential

R5 Large Lot Residential

Clause 4.1E Minimum lot sizes for certain residential accommodation (Part 4) (Proposed)

Add provisions for R1 General Residential as follows (in red text):

- (1) The objective of this clause is to achieve planned residential density in certain zones.
- (2) Development consent may be granted to development on a lot in a zone shown in Column 2 of the table to this clause for a purpose shown in Column 1 of the table opposite that zone, if the area of the lot is equal to or greater than the area specified for that purpose and shown in Column 3 of the table.
- (3) In this clause, **manor house** has the same meaning as in clause 1.5 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

Note—

Clause 3B.1A of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* provides that development for the purposes of manor houses is permitted with development consent in Zones R2 and R3.

Column 1	Column 2	Column 3
Attached dwelling	Zone R2 Low Density Residential	1,000 square metres
Attached dwelling	Zone R1 General Residential, Zone R3 Medium Density Residential	800 square metres
Dual occupancy (attached)	Zone R2 Low Density Residential, Zone R3 Medium Density Residential	800 square metres

Dual occupancy (attached)	Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU5 Village, Zone R5 Large Lot Residential	4,000 square metres
Dual occupancy (detached)	Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone R5 Large Lot Residential	4,000 square metres
Dual occupancy (detached)	Zone R2 Low Density Residential, Zone R3 Medium Density Residential	800 square metres
Manor house	Zone R2 Low Density Residential	1,000 square metres
Manor house	Zone R1 General Residential, Zone R3 Medium Density Residential	800 square metres
Multi dwelling housing	Zone R2 Low Density Residential	1,000 square metres
Multi dwelling housing	Zone R1 General Residential, Zone R3 Medium Density Residential	800 square metres
Residential flat building	Zone R1 General Residential, Zone R3 Medium Density Residential	800 square metres

Clause 6.9 Location of sex services premises (Part 6 Additional local provisions, Division 1 Miscellaneous) (Proposed)

Add provisions for R1 General Residential as follows (in red text):

- (1) The objective of this clause is to minimise land use conflicts and adverse amenity impacts by providing a reasonable level of separation between sex services premises, specified land uses and places regularly frequented by children.
- (2) In deciding whether to grant development consent to development for the purposes of sex services premises, the consent authority must consider the following—
 - (a) whether the premises will be located on land that adjoins, is directly opposite or is separated only by a local road from land—
 - (i) in **Zone R1 General Residential**, Zone R2 Low Density Residential, Zone R3 Medium Density Residential or Zone RE1 Public Recreation, or
 - (ii) used for the purposes of a centre-based child care facility, a community facility, a school or a place of public worship,
 - (b) the impact of the proposed development and its hours of operation on any place likely to be regularly frequented by children—
 - (i) that adjoins the development, or
 - (ii) that can be viewed from the development, or
 - (iii) from which a person can view the development.

Clause 6.17 Affordable housing in residential and business zones (Part 6 Additional local provisions, Division 2 Affordable housing) (Proposed)

Add provisions for R1 General Residential as follows (in red text):

- (1) The objectives of this clause are as follows—
 - (a) to increase the supply of affordable housing,
 - (b) to provide accommodation to support a diverse residential population inclusive of all income groups in Byron,
 - (c) to ensure a housing mix and tenure choice including affordable housing,
 - (d) to ensure affordable housing is—
 - (i) identified by the Council as in demand, and
 - (ii) located close to transport and services appropriate to the intended households.
- (2) This clause applies to land in the following zones—
 - (a) **Zone R1 General Residential**
 - ~~(a)~~(b) Zone R2 Low Density Residential,
 - ~~(b)~~(c) Zone R3 Medium Density Residential,
 - ~~(c)~~(d) Zone B2 Local Centre,
 - ~~(d)~~(e) Zone B4 Mixed Use.
- (3) Development consent must not be granted for the purposes of residential accommodation on, or to the subdivision of, land to which this clause applies unless the consent authority has considered the need for—
 - (a) providing, maintaining or retaining affordable housing, and
 - (b) imposing conditions relating to providing, maintaining or retaining affordable housing including—
 - (i) imposing covenants, and
 - (ii) the registration of restrictions on users.

Schedule 2 Exempt Development (Proposed)

Add provisions for R1 General Residential as follows (in red text):

Strata subdivision of a lawfully erected building

(1) Must be of a building situated in Zone RU5 Village, **Zone R1 General Residential**, Zone R2 Low Density Residential, Zone R3 Medium Density Residential, Zone E1 Local Centre, Zone E3 Productivity Support Zone, E4 General Industrial or Zone MU1 Mixed Use.

(2) Must not be the strata subdivision of a boarding house.

(3) Must not be a development lot under the *Strata Schemes (Freehold Development) Act 1973*.

(4) Must not be development that requires a Bushfire Safety Authority under section 100B of the *Rural Fires Act 1997*.

Appendix E – Residential Strategy Extract

This is an extract from Byron Shire Residential Strategy (2020) pages 85-86

Area 3 - Mullumbimby - Azalea St old hospital

Description: Part of Lot 188 DP 728535, Lot 1 DP 1159861 & Lot 138 DP 755722	
Investigation area shown in blue border	
	
Approximate developable land: 3 ha	
Strengths/advantages • already contained in the NCRP urban growth area • within an existing residential area • good proximity to employment areas • on existing public transport route • outside the 1:100 year floodplain • determined to be a viable affordable housing contribution area	
Housing diversity, character and affordability	
Preferred zone	R1 General Residential, R2 Low Density Residential and/or R3 Medium Density Residential

Housing mix and density target	Caters for a range of residential types including dwelling houses, dual occupancies and multi dwelling housing reflecting local housing needs and at a density generally between 30 and 37 dwellings per hectare. (after allowance for roads and parks etc.).
Lot size typology, mix and layout	Generally consistent with Strategy Section 3 – Policy 2: Table 5 (Column 2B) and Diagram 2.
Affordable provision	Aimed at achieving an affordable housing contribution rate of 30% of the additional lots or developable area whichever the greater that is to be used for residential uses in accordance with Strategy Appendix D Affordable housing and social housing criteria.
Integration with local character	Structure plan to accompany a planning proposal. Development design respects and reflects Mullumbimby's low scale 'country town' feel and landscape character.
Key issues and further investigations required as part of a planning proposal to change zoning of the land	
- land to be excluded from residential development: - contains HEV vegetation - under consideration for designated as Environmental Zone - if developed would adversely impact on areas of high environmental value - mapped as bushfire vegetation category 1 - SEPP Coastal Management - this Policy applies to land within the coastal zone. The land is within a coastal environmental area. As part of a planning proposal the potential impact to following need to be addressed: - the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment, - coastal environmental values and natural coastal processes, - the water quality of the marine estate - marine vegetation, native vegetation and fauna and their habitats - address Aboriginal cultural heritage sensitivities - Koala Habitat Protection SEPP - biodiversity and ecological sensitivities including land shown on the koala 'Site Investigation Area' map (where applicable)	

Infrastructure Planning	
Staging	Stage 2 - progress to a planning proposal for inclusion in a residential zone post June 2024. Staging of land release to coordinate with infrastructure delivery with delivery.
North Byron Flood Risk Management Study and Plan	Flood and stormwater drainage study required.
Movement and access	Assessment and management of traffic flow impacts onto Azalea Avenue and active transport linkages to adjacent residential areas.
Water and sewer	Water and sewerage infrastructure capacity and ability to connect to existing infrastructure. Possible area for improved water security by water recycling.¹