

Byron Shire Council

## **Planning Proposal 26.2023.7.1**

### **Amendment of Byron Local Environmental Plan 2014 and Byron Local Environmental Plan 1988**

### **West Byron Transition to Local Environmental Plan 2014**

**Pre Gateway Version #1**

**Date: November 2023  
#E2023/76729**



**BYRON  
SHIRE  
COUNCIL**

**Document History**

Doc No.	Date	Details Comments e.g. Resolution No.
E2023/76729	August 2023	Draft Planning Proposal: West Byron Transition to Byron Local Environmental Plan 2014

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# Part 1 Introduction

## 1.1 Objective and intended outcomes

The objectives of this planning proposal are to rezone the land located within the West Byron Bay Urban Release Area (WBURA) currently zoned under the Byron Local Environmental Plan 1988 (LEP 1988) into the Byron Local Environmental Plan 2014 (LEP 2014) Zones, and to transition the relevant provisions of Part 4 West Byron Bay Site of the LEP 1988 into the Byron Local Environmental Plan 2014 (LEP 2014).

The amendments include policy and mapping changes with details of each amendment presented in part 2.

## 1.2 Subject land

This Planning Proposal relates to land in the West Byron Bay Urban Release Area legally described as the following land, and within the [Land Application Area West Byron Urban Release Area](#) shown below in Figure 1.

Lot	DP
5	1269369
2	818403
2	878549
10	1143215
1	1237582
2	1237582
1	542178
7020	1113431
2	551947
3	551947

Lot	DP
6	1269369
1	520063
2	542178
227	755695
1	1166535
9	111821
229	755695
1	780242

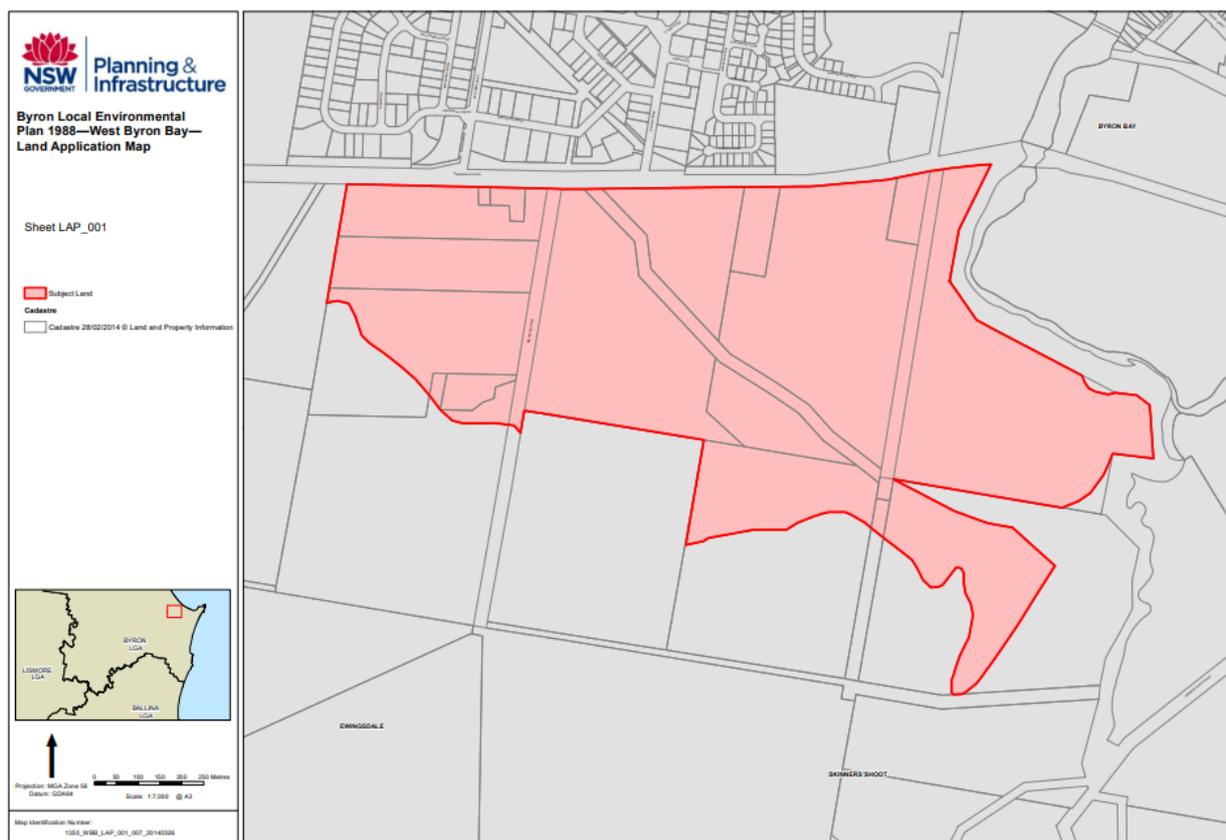


Figure 1: West Byron Urban Release Area - Land Application Area Map

The WBURA is currently a deferred matter zoning under the Byron Local Environmental Plan 2014 (LEP 2014), the area is currently zoned under the LEP 1988 a mixture of R2 Low Density Residential, R3 Medium Density Residential, B1 Neighbourhood Centre, E2 Environmental Conservation, E3 Environmental Management, RE1 – Public Recreation, IN2- Light Industrial.

The Urban Release Area contains number of single dwellings, and the Belongil Fields Caravan Park. A significant area of this land release area has been approved for subdivision for residential purposes being development consents 10.2017.201.1 and 10.2017.661.1.

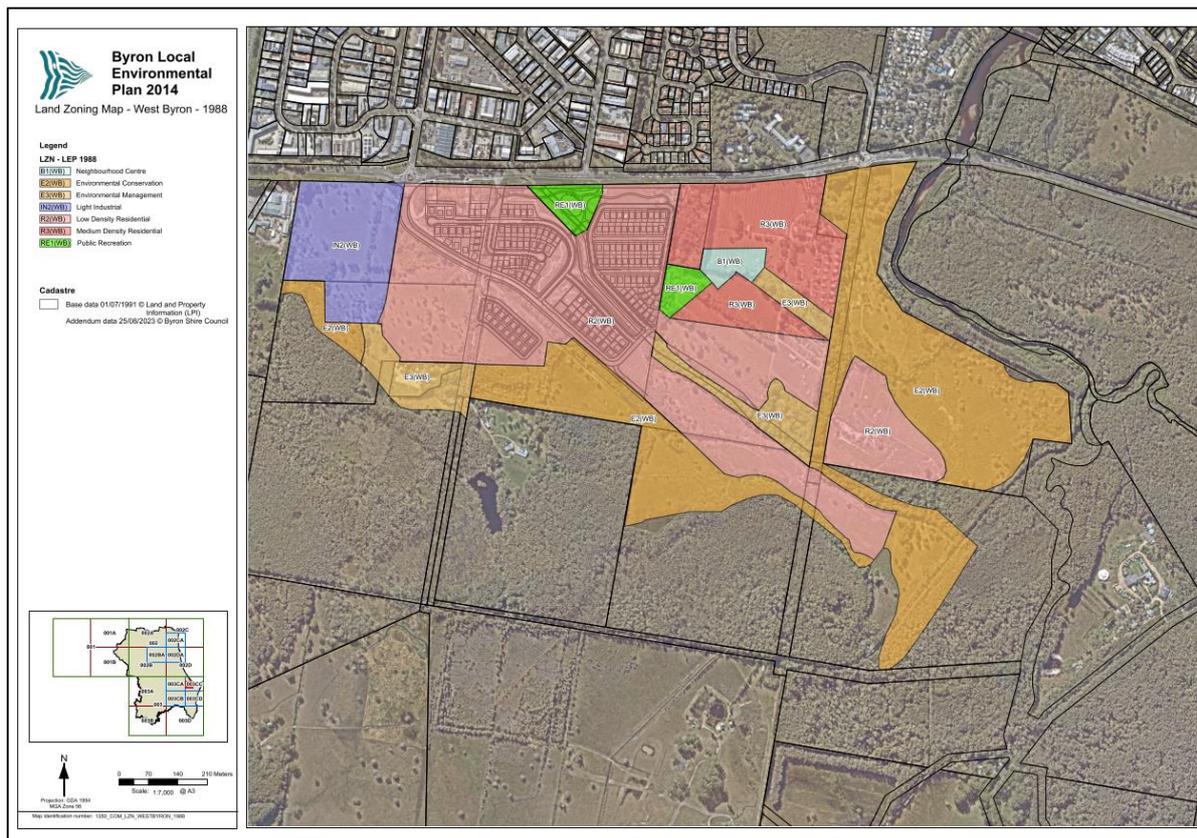


Figure 2: Current LEP 1988 Zone map

### 1.3 Background

At the 28 March 2019 Planning Meeting Council Resolved 19-137 that Council proceed with the preparation of a planning proposal to rezone the West Byron Urban Release Area (WBURA) as per the Alternate Zoning Map for submission to the Department of Planning for gateway determination. Following that resolution of Council, The Land and Environment Court acting as the consent authority, has issued two (2) Development Consents for the subdivision of the land and as a result, the subdivision layout is inconsistent with the alternate zoning map as previously considered by Council, and the current land zoning as gazetted under the LEP 1988.

## Part 2 Explanation of provisions

There are 6 items presented within this planning proposal, including a number of policy and mapping amendments. The amendments are presented in the below tables.

The proposed drafting and mapping of each amendment is contained within Appendix 1 and 2. The drafting will be subject to review by Parliamentary Counsel and may change.

Table 1. Policy Amendments

Item #	Amendment	Reasoning
1	<u>Byron LEP 1988</u> : Deletion of Part 4 West Byron Bay Site	The entirety of the land to which this part applies is proposed to be transitioned to Byron Local Environmental Plan 2014, and this part will no longer apply to any land within the Shire (under LEP 1988).
2	<u>Byron LEP 2014</u> : amend Clause 4.1E Minimum lot sizes for certain residential accommodation to include additional provisions specific to WBURA.	<p>The current Clause 82 (LEP 1988) allows for greater residential density for dual occupancy developments, than Clause 4.1C (LEP 2014).</p> <p>This inconsistency between Clause 82 and 4.1C would result in an inconsistency with Ministerial Direction Focus Area 6. Direction 6.1 Housing as the rezoning would otherwise result in a provision that would reduce the permissible residential density of the land.</p> <p>It is proposed to create an additional in Section 4.1E that includes the provisions of table of Clause 82(2) as only applicable to the West Byron Bay site to ensure the permissible residential density is not reduced.</p>
3	<u>Byron LEP 1988</u> : Transition the provisions of Clause 83 into the LEP 2014 by way of creating a new 'equivalent' clause.	<p>This Clause aims to enable the construction of Integrated Housing within the West Byron Urban Release Area.</p> <p>This provision is unique to the current provisions that apply to the Urban Release Area.</p> <p>this ensures consistency with Ministerial Direction Focus Area 6. Direction 6.1 Housing this planning proposal does not</p>

Item #	Amendment	Reasoning
		contain provisions that will reduce the permissible residential density of land.
4	<u>Byron LEP 2014:</u> Create a self-repealing savings provision for the changes this planning proposal will create.	To provide certainty for any development application lodged currently, or made during, but not finally determined during the planning proposal process, and will ensure that any Development Application made during the processing of this planning proposal does not create new or additional planning considerations that were not in force at the date of lodgement of that application.

Table 2. Mapping amendments

Item #	Amendment	Reasoning
1	Transition the WBURA: <ul style="list-style-type: none"> <li>- LEP 1988 zone maps to equivalent zoning and map sheet under the Byron LEP 2014;</li> <li>- other (consequential) LEP 1988 maps into Byron LEP 2014.</li> </ul>	The current land zonings within the West Byron are deferred under the 2014 LEP. However the zonings are directly equivalent to zones within the 2014. Therefore all relevant LEP 1988 maps will be transitioned into Byron LEP 2014.
2	Rezone an area of Lot 2 DP 542178 that is currently zoned B1 Neighbourhood Centre to E1 Local Centre	Because the West Byron Urban Release Area was deferred matter zoning when the Department of Planning and Environment’s Employment Zone reform was undertaken this area was not included.  The development consent for the subdivision of the land includes an area of B1 Neighbourhood centre zoned land. In accordance with the Equivalent Zone tables prepared by the Department of Planning and Environment, <i>E1 Local Centre</i> is the equivalent land use zone as part of this review.  This change affects an area of Lot 2 DP 542178.

Item #	Amendment	Reasoning
3	<p>Rezone an area of Lot 5 DP 1269369 and a part of Lot 2 DP 818403 that is currently zoned IN2 Light Industrial to <i>E4 General Industrial</i></p>	<p>Because the West Byron Urban Release Area was deferred matter zoning when the Department of Planning and Environment’s Employment Zone reform was undertaken, this area was not included.</p> <p>The development consent for the subdivision of the land includes an area of <i>IN2 Light Industrial</i> zoned land. in accordance with the Equivalent Zone tables prepared by the Department of Planning and Environment, <i>E4 General Industrial</i> is the equivalent land use zone as part of this review.</p>

## 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?**

No. This is a standalone Planning Proposal made as the result of a Council resolution, and two development consents granted by the Land and Environment Court for the subdivision of the land. The amendments proposed relate to both mapping and policy and are specific to West Byron Urban Release Area and seek to align the land zoning to the approved subdivision layout as approved by the L&E Court.

The changes are consistent with the Byron Residential Strategy as the provision of the residential land within the Urban Release Area was taken into account the capability of Byron Shire to meet the dwelling land supply targets.

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

Yes. The a Planning Proposal is the best way to amend the Byron Local Environmental Plans.

### 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)?**

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 regions strengths and natural environment.

The Planning proposal also seeks to amend the existing policy in relation to the minimum lot size for certain types of residential development. this includes the retention of site-specific provisions that will ensure that this Planning Proposal will not reduce the permissible residential density within the residential zoned land within the West Byron Urban Release Area.

The Planning Proposal will rezone land already identified and approved for residential subdivision into the LEP 2014. And is located within the Byron Urban Growth Boundary. No land that is to be rezoned is located within mapped important farmland. The Planning Proposal is consistent with the vision of objectives of the plan as it does not reduce the amount of developable land currently approved for residential, commercial, or industrial land uses. The proposed changes to the industrial and business zoned land are consistent with the recent Employment Zone reform as commenced 26 April 2023 and seeks to rezone current business and industrial zoned land to the equivalent land use as identified by the Department for the Byron Shire within the West Byron Bay site.

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

Byron Shire LSPS was endorsed by Department of Planning in 2019. Ensuring Byron Local Environmental Plans are current and responsive is considered consistent with the objectives of Byron Shire LSPS.

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

Not applicable

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

State Environmental Planning Policy (SEPP)	Compliance of Planning Proposal
Biodiversity and Conservation 2021	<p>This planning proposal does not reduce conservation standards and is consistent with the aims chapters 3 and 4. Additionally the Likely impact of Koala habitat of this proposal has been considered during the development consents issued for the subdivision of the land.</p> <p>Council’s Comprehensive Koala Plan of Management contains mapped koala habitat on the land however this plan was adopted after the development consents for the subdivision of the land and did not apply at the time of issuing that consent.</p> <p>Future development of the land will be subject to the provisions of chapter 2.</p> <p>Chapters 5, 6 and 13 do not apply to the land.</p>
Housing 2021	<p>This planning proposal does not seek to reduce the permissible density of residential development within the land.</p> <p>Future development on the land may be subject to the provisions of this SEPP. The Planning Proposal does not seek to rezone additional lands that would allow for residential development, rather it seeks to transition the existing land into the LEP 2014 which will allow for greater applicability of the SEPP.</p>

<b>State Environmental Planning Policy (SEPP)</b>	<b>Compliance of Planning Proposal</b>
<p>Industry and Employment 2021</p>	<p>Chapter 2 of this policy does not apply to the Byron Shire.</p> <p>Future development within land affected by this planning proposal will be subject to the provisions of Chapter 3 in relation to advertising and signage. This future development would be subject to Development Consent, or be permissible without development consent under the SEPP (Exempt and Complying Codes) 2008.</p> <p>This Planning Proposal is consistent with the aims and objectives of this SEPP.</p>
<p>No 65 – Design Quality of Residential Apartment Design</p>	<p>While not directly related to the changes proposed. The proposed rezoning and transition of this area into the 2014 LEP development standards may allow for development that would be subject to the application of this policy to occur within the West Byron Urban Release Area.</p> <p>This Planning Proposal does not interfere with the aims and objectives of this policy. Future Development within the Land affected would be assessed at that time.</p>
<p>Resilience and Hazards 2021</p>	<p>Chapter 2 Coastal Management</p> <p>The land is mapped within the Coastal Management SEPP area. The Development consent issued for the land took into account the then draft SEPP coastal Management 2018.</p> <p>Chapter 4 Remediation of land The potential for site contamination would have been considered as part of the Minister’s original zoning of the land under the State Significant Site pathway.</p> <p>This likelihood was also assessed during the assessment of the two Development Consents issued for the land a detailed investigation was required as part of the consideration for the development consent and, a remediation action plan was required as a condition of consent for the land. and suitably addressed the objectives of this chapter.</p> <p>This planning proposal does not contradict the objectives of this SEPP.</p>

<b>State Environmental Planning Policy (SEPP)</b>	<b>Compliance of Planning Proposal</b>
Sustainable Buildings 2022	<p>This SEPP has been endorsed but is to commence on October 1, 2023. The planning proposal does not contradict the objectives of this SEPP.</p> <p>Future development within the area will be subject to the requirements of this Policy, and this Planning Proposal raises no inconsistencies with the policy.</p>
(Building Sustainability Index) BASIX	<p>This SEPP is to be repealed on 1 October 2023 with commencement of SEPP Sustainable Buildings 2022. This Planning Proposal is consistent with the policy.</p>
Transport and Infrastructure 2021	<p>This Planning proposal does not contradict or repeat the provisions of the Transport and Infrastructure SEPP.</p>

**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
<p>1.1 Implementation of Regional Plans</p>	<p>Planning proposals must be consistent with a Regional Plan released by the Minister for Planning.</p> <p>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:</p> <p>(a) the extent of inconsistency with the Regional Plan is of minor significance, and</p> <p>(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.</p>	<p>The mapping and policy amendments proposed are consistent with the objectives of the North Coast Regional Plan 2041.</p> <p>The Amendments proposed allow for the land zoning and applicable planning controls to be consistent with the approved development consents. The amendments allow for the utilisation of up-to-date controls to be applicable to future development of the West Byron Urban Release Area.</p>	<p>Consistent</p>
<p>1.2 Development of Aboriginal Land Council Land</p>	<p>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.</p>	<p>(not currently applicable to Byron Shire)</p>	<p>Not applicable</p>

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
1.3 Approval and Referral Requirements	<p>A planning proposal must:</p> <ul style="list-style-type: none"> <li>(a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and</li> <li>(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:                             <ul style="list-style-type: none"> <li>i. the appropriate Minister or public authority, and</li> <li>ii. the Planning Secretary (or an officer of the Department nominated by the Secretary),</li> </ul>                             prior to undertaking community consultation in satisfaction of Schedule 1 to the EP&amp;A Act                         </li> </ul>	Not applicable	Not applicable
1.4 Site Specific Provisions	Applies when preparing a planning proposal that will allow a particular development to be carried out.	The planning proposal seeks to transition an existing site-specific planning provision for the West Byron Urban Release Area that allow for Integrated housing to be constructed into the LEP 2014. This site-specific provision is currently in force as applicable to the land and is only retaining a current provision. The change proposed does not alter the current development	Justifiably inconsistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
		<p>standards or requirements of how this provision currently would operate.</p> <p>Further, the control is permissive and allows additional development to be carried out on the land and allows for the existing residential density to be preserved, and is consistent with Ministerial Direction 6.1.</p> <p>It is also proposed as part of this proposal to create a self-repealing savings provision for the zoning change to ensure that landowners affected by this planning proposal can continue to use the current development rights in the interim period should they choose to develop their land. So that these changes would not take affect any development application currently under assessment.</p>	
<p>Exclusion of Development Standards from Variation</p>	<p>Applies when a planning proposal authority prepares a planning proposal that proposes to introduce or alter an existing exclusion to clause 4.6 of a Standard Instrument LEP or an equivalent provision of any other environmental Planning Instrument</p>	<p>The planning proposal does not propose to exclude a development standard from variation under clause 4.6 of the Byron LEP 2014</p>	<p>Consistent</p>

**3. Biodiversity and Conservation**

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
3.1 Conservation Zones	<p>(1) A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.</p> <p>(2) A planning proposal that applies to land within a conservation zone or land otherwise identified for environment conservation/protection purposes in a LEP must not reduce the conservation 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 accordance with Direction 9.2 (2) of "Rural Lands".</p>	<p>This planning proposal does not reduce conservation standards.</p> <p>Expansion to the conservation zone areas within the West Byron Bay Site does not include any rural land affected by Direction 9.2(2) of "Rural Lands"</p>	Consistent
3.2 Heritage Conservation	<p>A planning proposal must contain provisions that facilitate the conservation of:</p> <p>(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,</p>	<p>The planning proposal does not impact existing heritage provisions within Byron LEP.</p>	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>(b) Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974, and</p> <p>(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</p>		
3.3 Sydney Drinking Water Catchments	Not applicable to Byron Shire	N/A	N/A
3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	<p>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.</p>	<p>The planning proposal introduces new areas that are proposed to be zoned C2 or C3 and amendments to the areas already zoned as C2 or C3.</p> <p>These changes are consistent with the E Zone Review Final Recommendations and the subdivision consent issued by the Land and Environment Court for the “Harvest Estate” subdivision Development consent reference 10.2017.201.1.</p>	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
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 a recreational 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.	This planning proposal does not amend any flood planning provisions or increase development on flood prone land.  Development consent for the subdivision of this land has already been granted which took into account flood planning provisions.	Consistent
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.	This planning proposal does not amend any provisions or enable additional development within the coastal zone.	Consistent.
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	The planning proposal does not enable an increase in development on bushfire prone land.	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>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&amp;A Act, and take into account any comments so made.</p> <p>(2) A planning proposal must:</p> <p>(a) have regard to Planning for Bushfire Protection 2019,</p> <p>(b) introduce controls that avoid placing inappropriate developments in hazardous areas, and</p> <p>(c) ensure that bushfire hazard reduction is not prohibited within the Asset Protection Zone (APZ).</p>	<p>Development consent for the subdivision of land was granted that included General Terms of Approval issued under Section 100B of the Rural Fires Act. For the large majority of land affected by this Planning proposal bushfire has been taken into account when the land was approved for subdivision.</p> <p>The planning proposal will be referred to RFS as part of the public exhibition process.</p>	
<p>4.4 Remediation of Contaminated Land</p>	<p>This direction applies to:</p> <p>(a) land that is within an investigation area within the meaning of the Contaminated Land Management Act 1997,</p> <p>(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>This planning proposal does not enable additional development on contaminated land. The development consents issued for the subdivision of land took into account the likelihood of site contamination. The site suitability for rezoning was also considered during the State Significant</p>	<p>Consistent</p>

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>(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:</p> <ul style="list-style-type: none"> <li>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</li> <li>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).</li> </ul> <p>(1) A planning proposal authority must not include in a particular zone (within the meaning of the local environmental plan) any 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:</p> <ul style="list-style-type: none"> <li>(a) the planning proposal authority has considered whether the land is contaminated, and</li> <li>(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</li> </ul>		

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>purposes for which land in the zone concerned is permitted to be used, and</p> <p>(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.</p> <p>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.</p> <p>(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 carried out in accordance with the contaminated land planning guidelines</p>		
<p>4.5 Acid Sulfate Soils</p>	<p>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.</p> <p>A relevant planning authority must not prepare a planning proposal that proposes an</p>	<p>This planning proposal does not enable additional development on land mapped as containing acid sulfate soils.</p> <p>As part of the development consents issued for the subdivision of the land, the site is required to be filled to achieve compliance with flood planning</p>	<p>Consistent</p>

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>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.</p>	<p>controls and will not be likely to encounter potential acid sulfate soils.</p> <p>The potential to encounter acid sulfate soils was also considered during the development applications for the subdivision of the land.</p>	
<p>4.6 Mining Subsidence and Unstable Land</p>	<p>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 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.</p>	<p>The planning proposal does not apply to land within a mine subsidence district or land identified as unstable.</p>	<p>Consistent</p>

5. Transport and Infrastructure

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
<p>5.1 Integrated Land Use Transport</p>	<p>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.</p> <p>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:</p> <p>(a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and</p> <p>(b) The Right Place for Business and Services – Planning Policy (DUAP 2001).</p>	<p>The area has already been zoned for residential purposes. The planning proposal is consistent with the Court approved subdivision layout and zoning and is consistent with this direction.</p>	<p>Consistent</p>
<p>5.2 Reserving Land for Public Purposes</p>	<p>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).</p>	<p>The proposal seeks to rezone parts of land for public purposes to RE1 and RE2. This rezoning is required as a result of the subdivision development consents approvals which required this land be dedicated to Council for public purposes as RE1, or utilised as private recreation for other parts of the subdivision as RE2.</p>	<p>Justifiably inconsistent</p>

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
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	<p>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).</p> <p>(1) A planning proposal must include provisions that encourage the provision of housing that will:</p> <p>(a) broaden the choice of building types and locations available in the housing market, and</p>	<p>The planning proposal seeks to amend maps and policies applying to residential land.</p> <p>The proposal does not contain requirements 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 or contain provisions which will reduce the permissible residential density of land.</p> <p>This planning proposal seeks to align the zoning of the land in accordance with the development</p>	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>(b) make more efficient use of existing infrastructure and services, and</p> <p>(c) reduce the consumption of land for housing and associated urban development on the urban fringe, and</p> <p>(d) be of good design.</p> <p>(2) A planning proposal must, in relation to land to which this direction applies:</p> <p>(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</p> <p>(b) not contain provisions which will reduce the permissible residential density of land.</p>	<p>consents issued for the land and by doing so do retain the permissible residential density of the land.</p> <p>The West Byron Urban Release area currently does not have a floor space ratio control (FSR) applied under a LEP other than for dual occupancy development. This planning proposal does not seek to introduce a FSR control or map for this area and will effectively increase the density by allowing more flexibility in the provision of residential development to assist with achieving the planned residential density within the urban release area.</p>	
<p>6.2 Caravan Parks and Manufactures Home Estates</p>	<p>Applies when a planning proposal affects land for Caravan Parks and Manufactured Home Estates.</p>	<p>The planning proposal will rezone a part of an existing caravan park to a mixture of R3 Medium Density Residential, C3 Environmental Management and E1 Local Centre. The proposal is consistent with the direction as the zone changes do not alter the current land use zoning, only the instrument by which they are applied. Other than for changes created by the Employment Zones reform but do not</p>	<p>Justifiably inconsistent</p>

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
		fundamentally change the permissibility of the existing caravan park.	

**7. Industry and Employment**

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
7.1 Employment Zones	<p>This direction applies to all relevant planning authorities when preparing a planning proposal that will affect land within an existing or proposed Employment zone (including the alteration of any existing Employment zone boundary). For the purpose of this Direction, Employment zones means the following zones.</p> <ul style="list-style-type: none"> <li>• Employment</li> <li>• Mixed Use</li> <li>• W4 Working Waterfront</li> <li>• SP4 Enterprise</li> <li>• SP5 Metropolitan Centre</li> </ul> <p>A planning proposal must:</p> <p>(a) give effect to the objectives of this direction,</p> <p>(b) retain the areas and locations of Employment zones,</p>	<p>The planning proposal seeks to rezone land from IN2 and B1 to E4 General Industrial and E1 Local Centre.</p> <p>The rezoning of the land to the employment zones is consistent with the equivalent land zones as identified within <a href="http://www.nsw.gov.au">Equivalent zone tables (nsw.gov.au)</a>.</p> <p>The rezoning retains the areas and locations of Employment zones, and does not reduce or modify the zone area of the existing light industrial or local centre zoned land.</p> <p>This planning proposal does not seek to modify any floor space ratio controls.</p>	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>(c) not reduce the total potential floor space area for employment uses and related public services in Employment Zones.</p> <p>(d) not reduce the total potential floor space area for industrial uses in E4, E5 and W4 zones, and</p> <p>(e) ensure that proposed employment areas are in accordance with a strategy that is approved by the Planning Secretary.</p>		
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	<p>This direction applies to all relevant planning authorities when preparing a planning proposal that would have the effect of:</p> <p>(a) prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or</p> <p>(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.</p>	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).	Not applicable. This planning proposal does not affect land within an existing or proposed rural zone.	Not applicable

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>A planning proposal must not rezone land from a rural zone to a residential, business, industrial, village or tourist zone</p>		
<p>9.2 Rural Lands</p>	<p>Applies when a planning proposal:</p> <ul style="list-style-type: none"> <li>(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</li> <li>(b) changes the existing minimum lot size on land within a rural or conservation zone.</li> </ul> <p>A planning proposal must:</p> <ul style="list-style-type: none"> <li>(a) be consistent with any applicable strategic plan, including regional and district plans endorsed by the Planning Secretary, and any applicable local strategic planning statement</li> <li>(b) consider the significance of agriculture and primary production to the State and rural communities</li> <li>(c) identify and protect environmental values, including but not limited to, maintaining biodiversity, the protection of native</li> </ul>	<p>This planning proposal will have the effect of increasing the extent of conservation zones across the West Byron Bay Urban Release area and increasing the minimum lot size within the C2 zoned land.</p> <p>An extension to the existing C2 Environmental Conservation zone is proposed within the two Large lots within the South-east of the land. the application of these zones is consistent with the preservation of the adjacent wetland.</p>	<p>Consistent</p>

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>vegetation, cultural heritage, and the importance of water resources</p> <p>(d) consider the natural and physical constraints of the land, including but not limited to, topography, size, location, water availability and ground and soil conditions</p> <p>(e) promote opportunities for investment in productive, diversified, innovative and sustainable rural economic activities</p> <p>(f) support farmers in exercising their right to farm</p> <p>(g) prioritise efforts and consider measures to minimise the fragmentation of rural land and reduce the risk of land use conflict, particularly between residential land uses and other rural land use</p> <p>(h) consider State significant agricultural land identified in chapter 2 of the State Environmental Planning Policy (Primary Production) 2021 for the purpose of ensuring the ongoing viability of this land</p> <p>(i) consider the social, economic and environmental interests of the community.</p>		

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>(2) A planning proposal that changes the existing minimum lot size on land within a rural or conservation zone must demonstrate that it:</p> <p>(a) is consistent with the priority of minimising rural land fragmentation and land use conflict, particularly between residential and other rural land uses</p> <p>(b) will not adversely affect the operation and viability of existing and future rural land uses and related enterprises, including supporting infrastructure and facilities that are essential to rural industries or supply chains</p> <p>(c) where it is for rural residential purposes:</p> <p>i. is appropriately located taking account of the availability of human services, utility infrastructure, transport and proximity to existing centres.</p> <p>ii. is necessary taking account of existing and future demand and supply of rural residential land.</p>		
9.3 Oyster Aquaculture	Applies when preparing a planning proposal in 'Priority Oyster Aquaculture Areas'	Not applicable.	Not applicable

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
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. The land is not mapped as State significant farmland, regionally significant farmland, or significant non-contiguous farmland.	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?**

The West Byron Urban Release Area has been approved for greenfield subdivision development comprising Residential, Industrial and Employment lands. A large part of the Urban Release Area is covered by two development consents for subdivision.

When development consent was issued for the subdivision of the lands, these Development Applications took into account the likely impact of critical habitat, threatened species or ecological communities or their habitats. This planning proposal does not seek to enable an increase in development, but will retain the footprint of the existing approved subdivisions.

The planning proposal will increase the Conservation zoned land throughout the site currently the areas that will be rezoned to C2 include areas currently zoned as 7(a) Wetlands Zone and 1(d) Investigation Zone under the LEP 1988. This land is located adjacent to existing C2 zoned land and in some instances appears to be minor mapping errors that resulted in land not being zoned in full. These areas are isolated from the existing residential zoned land. No land was previously rural zoned and will assist in minimising any likely impact on habitat.

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

The proposal does not allow enable an increase in development beyond what has been approved by Development Consents applicable to the land and is not anticipated to have any adverse environmental effects. Approval for the subdivision of the land considered the likely environmental impacts were considered when Approval for the Subdivision of the land was granted.

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

The development application process considered the likely impact of the subdivision may have on European or Aboriginal cultural heritage to the land. The planning proposal is not anticipated to have any adverse social or economic impacts. The proposal will enable the construction of additional housing, business and industrial opportunities within a greenfield setting.

## Section D Infrastructure

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

Yes, Approval of the subdivision of the land was subject to pre-requisite conditions that were to be satisfied prior to the approval of those Development Consents. In addition the existing Clauses 99 and 100 of the LEP 2014 required arrangements of State public infrastructure, and Public utility infrastructure. As well as the essential infrastructure required for each lot created by the subdivision approval.

## 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 has yet to occur with state agencies. Consultation should be undertaken with the following state agencies.

- NSW Rural Fire Service

Further consultation with other state agencies will be undertaken in accordance with the gateway determination.

## Part 4 Mapping

The Planning proposal will transition the Byron LEP 1988 Maps into Byron LEP 2014, as they relate to the West Byron Bay Urban Release Area.

The following maps will be required to be inserted into the Byron LEP 2014 map sheets:

- LAP\_001

Amendments also will be required to the following Byron LEP 2014 Map sheets.

- LZN\_003CC
- HOB\_003CC
- LSZ\_003CC
- ASS\_003CC

The existing and proposed maps are contained in Appendix 1.

## Part 5 Community consultation

Community consultation will be conducted in accordance with the Gateway determination.

Notification of the exhibited planning proposal will include:

- updates to Council’s website
- referral to relevant State agencies
- notification in writing to affected landowners.

## Part 6 Project timeline

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

Plan making step	Estimated completion
Gateway Determination	November-December 2023
Agency Consultation	Jan – Feb 2024
Public Exhibition Period	March 2024
Submissions Assessment	April 2024
Council Report / Submission of endorsed LEP to DPIE for finalisation (non-delegated)	May 2024
Submission of endorsed LEP amendment to Parliamentary Counsel for drafting (delegated authority)	June – July 2024
<del>Council to make the LEP amendment (delegated authority)</del>	July 2024
LEP amendment notification	July 2024

## Conclusion

This Planning Proposal seeks to

- (i) amend the West Byron Urban Release Area (WBURA) zones in Byron LEP 1988 to reflect the court approved subdivisions for Harvest Estate (development consent 10.2017.201.1) and Site R&D (Development Consent 10.2017.661.1); and
- (ii) transition all relevant LEP 1988 maps and site-specific provisions into Byron Local Environmental Plan 2014 (LEP 2014).

As part of the transition process, the Planning Proposal seeks to delete Part 4 of the Byron Local Environmental Plan 1988 in its entirety.

Finally, the Planning Proposal will also bring forward two existing site-specific provisions within the LEP 1988 into the LEP 2014 for the West Byron Urban Release Area Land.

No further specific studies are required to accompany the Planning Proposal as the impacts of the rezoning has been considered as part of either the original state significant site rezoning, or as part the Development Application process for the subdivision of the land.

By aligning the land use zoning of this land in accordance with the development consents issued for the subdivision of the land and will assist in further housing opportunities within the Byron Shire

There is sufficient information to seek a Gateway determination and proceed to public exhibition.

# Appendix 1

Existing mapping to be brought into the LEP 2014 maps.

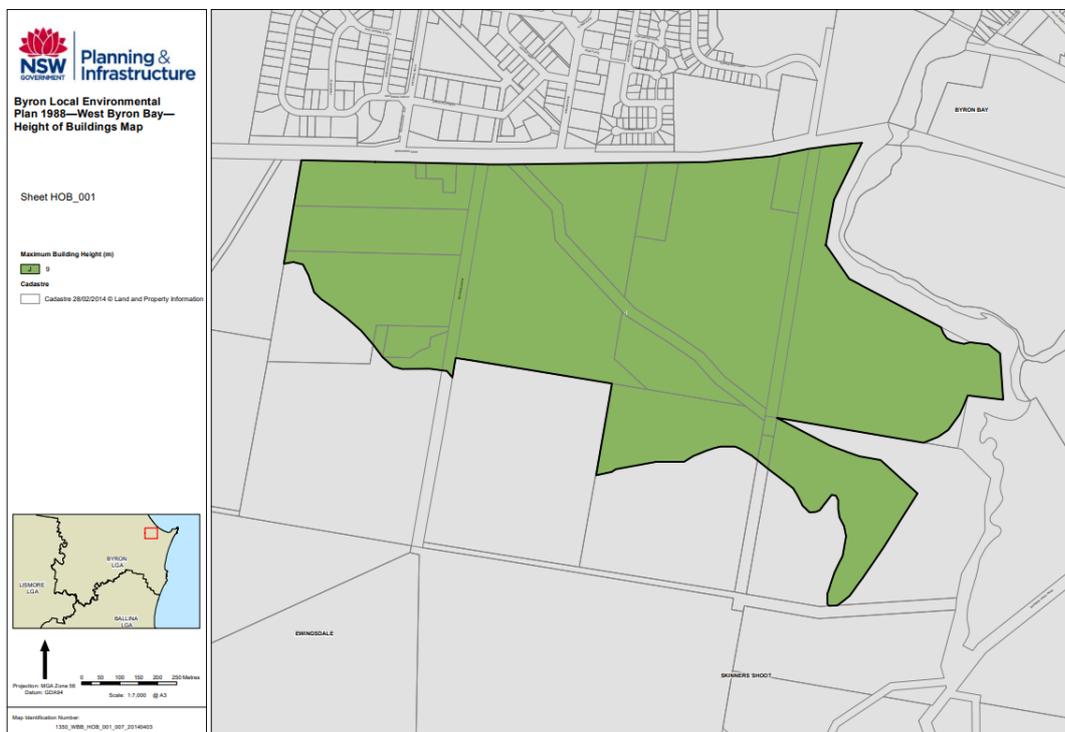


Figure 3: West Byron Urban Release Area - Height of buildings map

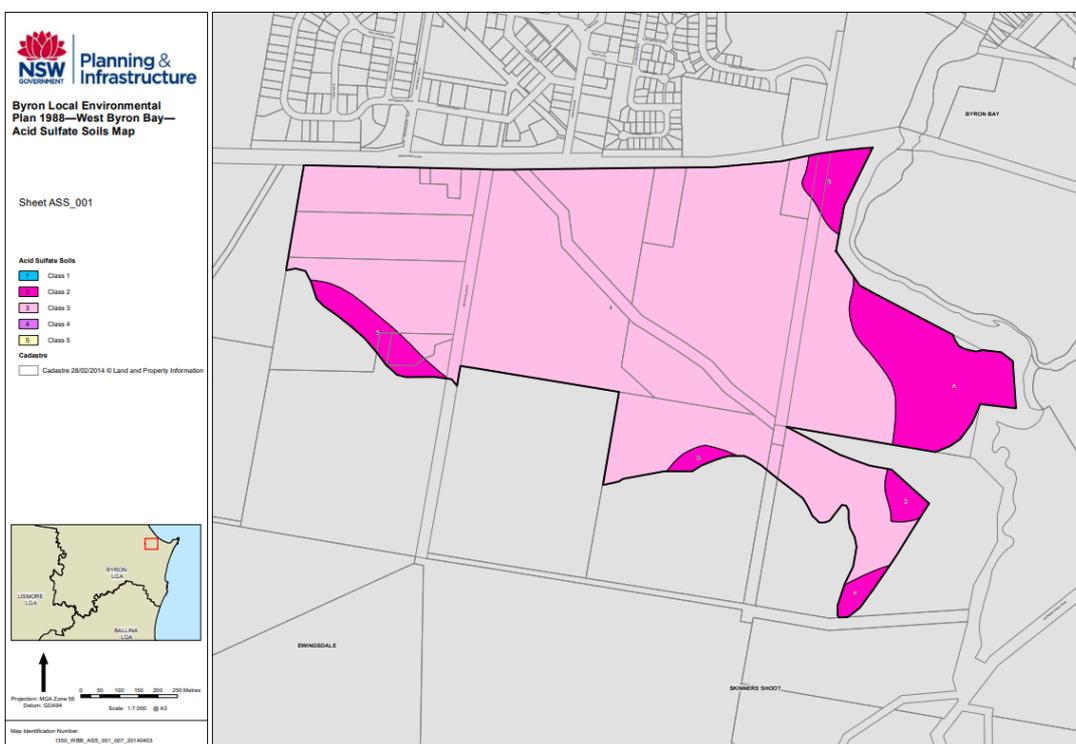


Figure 4: West Byron Urban Release Area - Acid Sulfate Soils map.

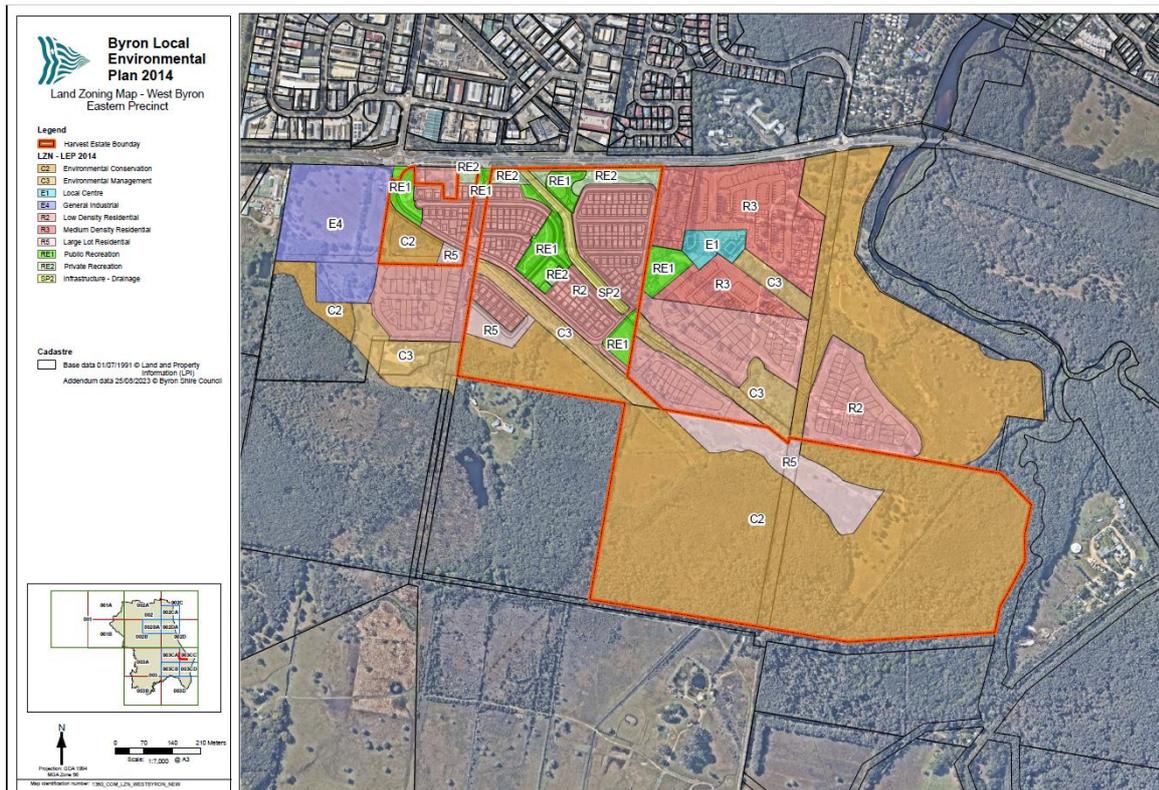


Figure 5: Proposed LEP 2014 zoning map, showing subdivision layout as approved by development consent 10.2017.201.1

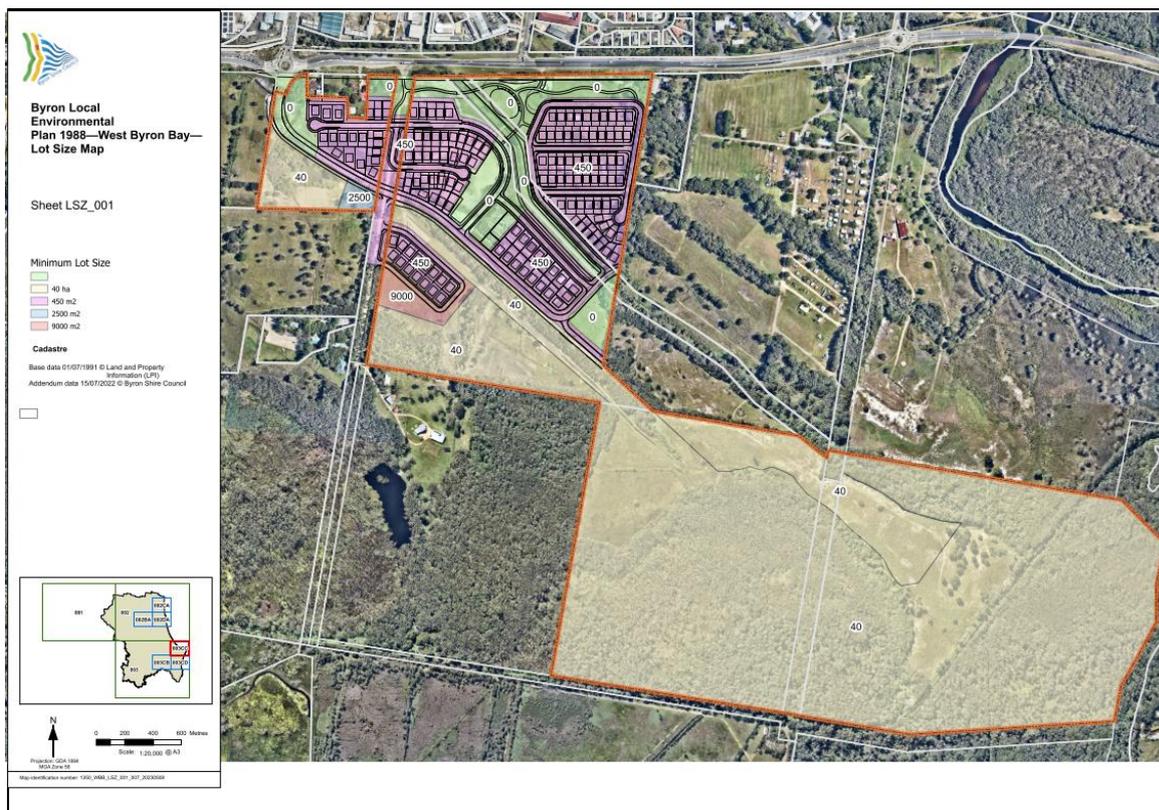


Figure 6: Proposed LEP 2014 minimum lot size map, showing subdivision layout as approved by development consent 10.2017.201.1

