



Attachment '1'

Planning Meeting Report – December 2020

Draft Residential Strategy

Submissions Review Report



Acknowledgement to Country

Byron Shire Council recognises the traditional owners of this land, the Bundjalung of Byron Bay, Arakwal people, the Widjabal people, the Minjungbul people and the wider Bundjalung Nation.

We recognise that the most enduring and relevant legacy Indigenous people offer is their understanding of the significance of land and their local, deep commitment to place.

The Byron Shire Residential Strategy respects and embraces this approach by engaging with the community and acknowledging that our resources are precious and must be looked after for future generations.

INFORMATION ABOUT THIS DOCUMENT

Document History

| Doc No. | Date Amended | Details/Comments eg Resolution No. |
|----------------|---------------------|---|
| 2020/37962 | | Version 1 for consideration by Council |

Further Document Information and Relationships

List here the related legislation, strategies, or other documents that have a bearing on this Review and that may be useful reference material for users of this document.

Related legislation, strategies and other documents

- [NSW Environmental Planning and Assessment Act 1979](#)
- [North Coast Regional Plan 2036](#)
- [Byron Shire Draft Residential Strategy exhibition version](#)
- [Byron Shire Council Community Participation Plan](#)

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1. Purpose

Council is preparing a Residential Strategy (the Strategy) to provide a policy framework and action plan to guide residential development in our urban areas over the next 20 years.

The Strategy relates to future urban housing in Bangalow, Brunswick Heads, Byron Bay, Mullumbimby, New Brighton, Ocean Shores, South Golden Beach, Suffolk Park and Sunrise.

The Strategy is the result of three years of planning, research and community consultation. This has included the Housing Needs Report, the Housing Summit, targeted community engagement, the Accessible Housing Project, the Housing Roundtable and the Housing Charrette. Overall, this collection of work clearly indicated that a healthy supply of housing for a range of incomes, lifestyle choices, household types and life stages is needed to maintain our community diversity and social cohesion.

Council on 13 December 2018 resolved (Res: **18-823**) to exhibit a draft Residential Strategy and background documents, noting that the documents were working drafts requiring further refinements prior to public exhibition.

Exhibited occurred from 28 August – 11 October 2019, engagement focused on housing issues and the Strategy policy, directions and actions. The feedback has assisted in its finalisation.

Amongst the submissions received were 19 landowner requests for their land to be designated as a possible residential area in the Strategy. Council considered these requests at the 18 June 2020 planning meeting where it resolved (Res: **20-276**) to support six additional areas and further exhibit these lands.

This report provides:

- an overview of the entire exhibition engagement process
- summary of key issues raised in August 2019 exhibition submissions (not previously reported to Council)
- summary of key issues raised in submission on additional sites as exhibited in August 2020
- outline of final Strategy and background report updates informed by these submissions.

2. Overview of engagement

An Engagement Plan for the Strategy was endorsed by Council (13 December 2018) that identified a need to:

- a) Inform the wider community on the following:
 - why we need a residential strategy?
 - how the residential strategy has been being prepared?
 - what has informed the strategy *policies* and *directions* to guide future housing supply?
- b) Inform and build awareness in the community about key elements of the strategy, namely:
 - the issues and priorities around future housing supply for our diverse demography

- the case for greater housing choice, diversity and accessibility, and mechanisms to deliver this
 - the importance of respecting local character whilst supporting a shift towards more diverse housing types
 - planning actions to implement the strategy
 - future monitoring and review.
- c) Invite the wider community to provide feedback on the draft strategy findings, local character narratives and planning actions.

Engagement built on earlier targeted engagement used to inform the draft Strategy content. Diagram 1 summarises the pathway taken in looking at important issues.

It involved three steps:

- Shaping our neighbourhoods (May 2019)
- Full exhibition (28 August – 11 October 2019)
- Additional land exhibition (1 - 31 August 2020).

'Shaping our neighbourhoods' (May 2019) – focused on draft residential local character narratives. The exhibition version of the Strategy incorporated feedback from the 'Shaping our Neighbourhoods' community consultation.

The full exhibition took place over a six week period involving the following activities and methods of communication:

- notification letters to surrounding Councils, Tweed Byron Local Aboriginal Land Council, the Arakwal and state government agencies
- public media, Council website, Facebook page and an e-newsletter to advertise engagement
- provision of information including the Strategy and appendices, FAQ and infosheets, and information on how to lodge a submission
- access to staff at Farmers markets stalls
- one-on-one meetings and responses to emails & phone calls.

The Strategy and background report updates identified in this report respond to matters raised in submissions during exhibition together with pertinent updates pertaining to Council work post exhibition.

As an example:

In early 2020, Council sought to move forward with draft Strategy action 18 — the placement of the residential character narratives in Development Control Plan 2014 (DCP) — in readiness for the Low Rise Housing Diversity Code (former Low Rise Medium Density Code). Feedback received on Strategy narratives has informed the DCP provisions.

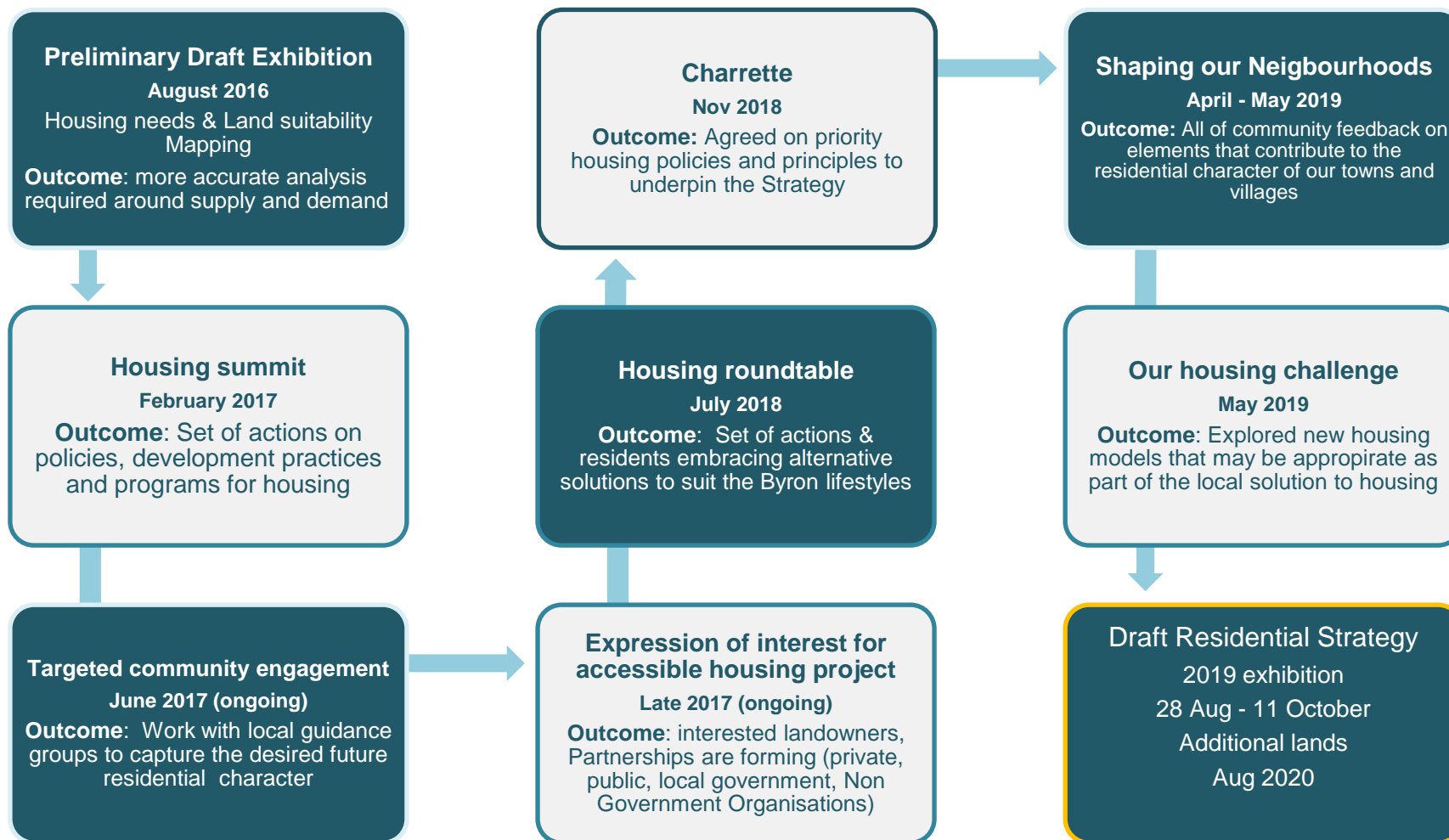


Diagram1. Pathway

E2020/ 37962

3. 2019 Exhibition

3.1 Submission Profile

A total of 66 submissions were received - grouped into two types:

- State government and traditional owner agencies
- Community groups and broader community members.

A number of submissions were received in the weeks following the formal exhibition period. These are also addressed in this report.

This section is organised in the above order.

Staff plan to notify where practical, all submitters of this report's consideration by Council.

3.2 Snapshot of frequently raised matters

The feedback focused on the policy directions as contained in the draft Strategy with the following points in common:

- Supporting the Strategy's focus on building communities
- Planning for climate change in particular flood and stormwater management
- Coordinating land use planning with infrastructure provision
- Protecting certain areas such as koala habitat and agricultural land from development
- A juxtaposition between those seeking to limit rather than manage growth
- How to better manage the impacts of short term holiday rental on housing supply for residents.

3.3 State government and traditional owner agencies matters

The following agencies were formally notified:

- NSW Department of Planning, Industry and Environment – Division of Planning Divisions(DP)
- NSW Department of Planning, Industry and Environment - Biodiversity and Conservation Division (BCD)
- NSW Department of Primary Industries (DPI)
- NSW Road and Maritime Services (RMS)
- Bundjalung of Byron Bay Aboriginal Corporation (BOBBAC) (Arakwal)
- Rous County Council
- Adjoining Councils – Tweed Shire, Ballina Shire and Lismore City.

Table 1: Government agency submissions and response details key matters in agency submissions, together with a staff response.

In responding to these issues the following changes should be reflected in the final Residential Strategy:

Strategy Updates (St)

St(a) amend terms to use language consistent with state terminology:

- ‘affordable housing’ rather than ‘accessible housing’
- ‘possible area for residential’ with ‘investigation areas’

St(b) include a new subsection section under Direction 1.2 listing investigation areas with actions referenced to corresponding investigation area profiles in an Appendix containing:

- indicative image of area
- a brief description of strengths
- housing diversity, character and affordability contribution
- key issues requiring investigation such as environmental and cultural heritage matters
- infrastructure planning such as flooding and stormwater management
- staging – if relevant

St(c) renumber investigation areas in a logical sequence.

St(d) update dwelling capacity and land supply analysis including consideration of short term rental accommodation demands on private housing supply

St(e) include reference to state government guidelines in actions, where relevant

St(f) revise draft strategy action # 22. relating to zone change investigations for Shirley Street north, Byron Bay to give consideration to the implications of a zone change on land use entitlements

St(g) add a bullet point under ‘Why Does Byron Shire Need A Strategy’ relating to ensuring residential development is directed to areas of least biodiversity value so as to limit adverse impacts on the biodiversity, coastal and aquatic habitats and water catchments and help reduce development costs and time frames.

St(h) add a Protocol framework for participatory working with the Aboriginal community and revise text to better reflect the Arakwal’s unique connection to their ancestral lands.

Background report (BR)

BR(a) update Background report state policy consistency check to include any new investigation areas as supported by Council

BR(b) update dwelling, population and infrastructure network capacity information to reflect investigation and infill area changes.

Table 1 – Government agency submissions and response

| Matter number | Government agency, matter raised & staff response |
|--|--|
| <u>DPIE – Planning Division (DPIE – PD)</u> | |
| <p>1</p> <p>Matter raised</p> <p>Submission identified the need for the Strategy and/or background information to be consistent with state policy positions and use of language including:</p> <ul style="list-style-type: none"> – State environmental planning polices (SEPP) – <i>Environmental Planning and Assessment Act 1979</i> Section 9.1 Directions – North Coast Regional Plan 2036 (NCRP) – Urban Variation Principles – North Coast Settlement Planning Guidelines – Use of the term ‘affordable housing’ rather than ‘accessible housing’. <p>Staff response</p> <p>As part of the Background Report a state government policy consistency check has been undertaken for investigation areas. This check determined the Strategy investigation areas as exhibited are generally consistent with state policy.</p> <p>Clarification was sought from DPIE-PD on the application of the recently released North Coast Settlement Planning Guidelines.</p> <p>The Department advised that as the draft Strategy was exhibited prior to the Department of Planning, Industry and Environment's release of the planning guidelines on 23 October 2019, compliance with the guidelines is not mandatory for those investigation areas exhibited.</p> <p>Section 5 of this report addresses requests by landowners for additional land to be included in the Strategy as an investigation area. As these lands were not part of the full exhibition they have been assessed against the North Coast Settlement Planning Guidelines.</p> <p>Updates</p> <p>Background report BR (a) update to include the state policy consistency check for new investigation areas supported by Council.</p> <p>Final Strategy St (a) amend terms to use language consistent with state terminology i.e. ‘affordable housing’ rather than ‘accessible housing’.</p> | |
| <p>2</p> <p>Matter raised</p> <p>Strategy to identify matters requiring further investigation (including infrastructure capacity and sequencing) in support of any future rezoning of those areas that sit outside the urban growth areas identified in the NCRP. This</p> | |

| Matter number | Government agency, matter raised & staff response |
|---------------|---|
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to include exhibited areas 6, 13 & 31. This matter was also raised by the DPIE – BCD. Provide further clarity for areas affected by primary constraints such as flooding.

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| Staff response | The replacement of the term ‘possible area for residential’ with ‘investigation areas’ would be consistent with the NCRP and Council’s local strategic planning statement terminology. |
| DPIE-PD | Noting that further investigations are required as part of a planning proposal, the inclusion of further information under Direction 1.2 on investigation areas and actions with a cross reference to investigation area profiles in an Appendix would be beneficial. The profile could contain: |
| <i>Cont’d</i> | <ul style="list-style-type: none"> – description of investigation area – preferred housing mix – key matters requiring further investigation at the planning proposal or development assessment stage – service and infrastructure programing requirements as relevant – provisions to exclude high risk flood land and where relevant, include flooding and stormwater management as a matter for further investigation. <p>Updates:</p> <p>Final Strategy St (a) amend term ‘possible area for residential’ with ‘investigation area’.</p> <p>Final Strategy St (b) include a new subsection under Direction 1.2 listing investigation areas with actions referenced to investigation area profiles in an Appendix.</p> <p>Final Strategy St (c) renumber the investigation areas in a logical numerical sequence.</p> |

3 Matter raised

Strategy or supporting information to be updated in its appraisal of the land and housing delivery impediments or opportunities having regard to more recent data, policy or legislative changes including:

- rational for the housing target
- Low Rise Medium Density (LRMD) Code including justification for the planning proposal lot sizes for manor house in relation to the LRMDC
- NCRP action to deliver 40% of new housing as this form or dwellings on lots less than 400m² by 2036

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| Staff response | The delivery of a minimum housing supply of 3150 dwellings by 2036 is set by the North Coast Regional Plan. The NCRP minimum supply figure does not allow for housing stock used for short term rental accommodation (STRA). For |
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| Matter number | Government agency, matter raised & staff response |
|-------------------------------------|--|
| <p>DPIE-PD</p> <p><i>Cont'd</i></p> | <p>the revised final Strategy it was determined that a range of 2990 – 3,420 additional dwellings should be the target for the urban areas, consistent with the NCRP and encouraging new housing to be in proximity to established urban areas and recent state and Council policy work on STRA.</p> <p>The revised final Strategy identifies land with potential capacity for 3250 – 3,355 additional dwellings.</p> <p>Council supports the NSW government’s initiatives to deliver greater diversity and supply of medium density housing stock, but for Byron Shire this must be in the right locations to manage population change, housing affordability and pressure to secure future housing to meet our community needs and circumstances.</p> <p>The capacity for the Strategy to meet with the state policy position on 40% as low rise medium density development is affected by whether the State will support the inclusion of greenfield lot size typology, mix and layout provisions in the Byron LEP, as proposed under draft Strategy Action 10.</p> <p>The requirement for justification of planning proposal ‘minimum lot sizes’ for manor house is not considered relevant as the minimum lot size changes have now been gazetted into LEP 2014.</p> <p>Updates:</p> <p>Final Strategy St (d) and Background Report BR (b) update dwelling capacity and land supply analysis to reflect:</p> <ul style="list-style-type: none"> – dwelling calculations based on Byron Shire’s LEP 2014 minimum lot sizes for low rise medium density development – any revised investigation areas – consideration of short term rental accommodation demands on private housing supply and capacity to exclude on affordable housing land – infrastructure network capacity and sequencing associated with any updated dwelling projections. |
| <p>4</p> | <p>Matter raised</p> <p>Clarify where a Strategy action references a process for which there is a state government guideline, such as SEPP 70 Affordable housing contribution scheme or identification of local character areas, such guidelines are to be referred to in the delivery of the action.</p> |
| <p>Staff response</p> | <p>This is a reasonable request to implement.</p> <p>Updates:</p> <p>Final Strategy St (e) include reference to state government guidelines in actions, where relevant.</p> |

| Matter number | Government agency, matter raised & staff response |
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| 5 | <p>Matter raised</p> <p>Include justification for an action to rezone Shirley Street to SP3 Tourist zone.</p> |
| <p>Staff response</p> <p>DPIE-PD</p> <p><i>Cont'd</i></p> | <p>The Shirley Street action states 'investigate' rather than amend the LEP. Landowners in the possible area of investigation were notified as a first step in this investigation during the exhibition of the strategy. Six landowners made a submission expressing concern such as zone may restrict the future use of their properties. This response supports the need for the matter to remain as an investigative action requiring further engagement with the landowners in this area on the pros and cons of a zone change, before any final decision is made.</p> <p>Updates:</p> <p>Final strategy St (f) (draft strategy action # 22.) - revise the zone change investigations for Shirley Street north, Byron Bay to give consideration to the implications on the land use entitlements.</p> |
| 6 | <p><u>DPIE – Biodiversity Conservation Division (BCD)</u></p> <p><i>The BCD 'commend the Byron Shire Council for the preparation of a Draft Residential Strategy (henceforth referred to as 'the strategy') that strives to deliver housing for a range of lifestyle choices, incomes and life stages, while at the same time minimising impacts on the natural environment. The strategy seeks to take into account the hazards that operate now and into the future and to respect the traditional owners of the land of the Byron Shire in determining the future location of residential settlement in the shire.'</i></p> <p>Matter raised</p> <ul style="list-style-type: none"> a) support for the strategy directing residential development to areas of least biodiversity values b) the vision be revised to include reference to ensuring future locations for residential development will only be selected where they would not impact on areas of high environmental value, or significant Aboriginal cultural heritage values, or where natural hazards operate now and/or into the future c) a similar comment be include for housing in rural areas d) suggest the 'suitable-for-use principles' be given effect in the strategy particularly for investigation areas (new release land) and additional investigations be required as part of the determination of suitable residential land. |
| <p>Staff response</p> | <ul style="list-style-type: none"> a) Noted and supported b) Noted – these comments are captured in a more simplified wording in the strategy Vision. More detail is currently provided in Policy 1. 'suitable-for-use principles'. Under final strategy updates St (b), issues specific to each investigation area to be added as applicable. |

| Matter number | Government agency, matter raised & staff response |
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| DPIE – Biodiversity Conservation Division (BCD) Cont'd | <p>c) Noted – however not considered appropriate to include in the strategy as this in a policy position relating housing delivery under the Rural Land Use Strategy (RLUS). The RLUS addresses these matters. No change required.</p> <p>d) Noted – most investigations are typically funded and undertaken by the landowner as part of a site-specific planning proposal or development application. Under final strategy update St (b) the actions to deliver and investigation area requirements will be cross referenced.</p> <p>The final strategy use of ‘investigation areas’ is consistent with state government requirements for a Local Growth Management Strategy. Importantly it needs to be noted that a parcel’s inclusion in strategy does not automatically mean it will be zoned for residential purposes and any subsequent rezoning application will require a detailed assessment and public notification. This stepped assessment approach has the benefit of:</p> <ul style="list-style-type: none"> – placing the cost of more detailed investigations with the land developer rather than being carried by the community upfront – providing a safety net for changes in ‘land management’ information and techniques that may come into play between the adoption of the strategy and a proponent seeking to rezone the land. <p>Updates:</p> <p>Final strategy St (g) – add the wording suggested by DPIE –BCD under ‘<i>Why Does Byron Shire Need A Residential Strategy.</i>’</p> |

7

Department of Primary Industry

The DPI noted that ‘*generally, the strategy focuses on developing infill areas and considerations for low-medium density residential developments within existing residential or approved residential areas, and avoiding valued assets including important farmland for new release areas. DPI Agriculture is supportive of this strategic approach.*’

Matter raised

- a) management of Areas 5 & 6 (old sites 16 and 17) Mullumbimby to avoid potential incremental creep of changing land use
- b) need for a Land Use Conflict Risk Assessment (LUCRA) at planning proposal stage
- c) provision of a rural zoned buffer on the land being developed may assist with future land use conflict considerations and the risk of further encroachment into important farmland.
- d) potential increased flood risk to farmland from residential development.

| Matter number | Government agency, matter raised & staff response |
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| Staff response | a) – c) Noted – Under the final strategy update St (b) , the matters raised to be included as part of key investigation issues as relevant. |
| DPI | d) The Saltwater Precinct Mullumbimby flood and stormwater management and modelling determined future development will involve different subdivision layouts, housing designs and earthwork grading. Peak flood level impacts on mainstream flooding caused by the proposed works in the 1% AEP event, in general, are limited to less than 0.02 m offsite; however, some local impacts are present north of the co-op in the sport fields and on the community garden. Impacts greater than 0.01 m are limited to open space areas. No change required. |
| <i>Cont'd</i> | |

8 Department of Transport - Roads and Maritime Services (RMS)

The key interest for RMS are the safety and efficiency of the road network, traffic management, integrity of infrastructure and the integration of land use and transport.

Matter raised

- a) additional land releases that directly impact the Ewingsdale Road and Pacific Highway interchange may not be supported until improvements are realised.
- b) a traffic impact assessment (TIA) is required for any proposed new release areas and zonings that increase the density of approved development
- c) supports the encouragement of short-distance localised trips to employment areas.
- d) support for public transport and active transport modes such as walking and cycling.

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| Staff response | Noted: a) & b) Noted – Under the final strategy update St (b) , the matters raised to be included as part of key investigation issues as relevant. c) The residential investigation areas are generally within a short-distance (i.e. localised trip) of existing and Business and Industrial Lands Strategy investigation areas. No change required. d) This is captured under ‘liveable neighbourhood’ provisions. The investigation areas are accessible to public transport routes and/or active transport modes such as walking and cycling paths. No change required. |
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9 Bundjalung of Byron Bay Aboriginal Corporation (Arakwal)

Matter raised

- a) Access to land for housing - Supportive of the strategy as part of a pathway

| Matter number | Government agency, matter raised & staff response |
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for meaningful involvement of the traditional owners in providing future housing. The submission stated that many Aboriginal and Torres strait households meet the definition of being in acute housing stress. In particular, the submission requested inclusion of the following policy positions for future Aboriginal housing to:

- i. Council investigate making some of its land available for affordable housing for Arakwal people.
- ii. Council prioritise provision of Indigenous housing on Council land identified for affordable housing
- iii. Council give priority to housing for Arakwal people who meet the affordable housing criteria in an affordable housing to be provided on Council land'.

The BOBBAC also requested a briefing on the outcomes of Council's current investigations on affordable housing tenure/funding models when this information is public available.

- b) Connection to country – Requested more emphasis on the importance of cultural heritage mapping particularly as part of the consideration of investigation areas for residential development. The submission also provided revised wording for strategy text referring to connection to country such as in the character narratives.

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| Staff response | <p>The matters raised by the Arakwal are relevant. Council's response could help reduce disadvantage among Aboriginal and Torres Strait Islander people with respect to life expectancy, child mortality, access to early childhood education, educational achievement, and employment outcomes.</p> <ol style="list-style-type: none"> a) Access to land for housing - housing stability gives Aboriginal and Torres Strait Islander families the opportunity to pursue other social or economic goals. Byron Shire Council acknowledges that housing is a foundational issue in closing the gap on Indigenous disadvantage. An inability to live locally on Country compounds the impacts of dislocation. Draft strategy Action 15 (as exhibited) required preparation of an Affordable Housing Contribution Scheme under SEPP that include consideration of: <ol style="list-style-type: none"> “e) <i>providing accessible housing opportunities for Bundjalung people working in the Shire (possibly under a community-owned 'land trust' arrangement) to better connect to and live on Country</i>” <p>The recently adopted Affordable Housing Contribution Policy is considered to be an appropriate starting point for Council to work with the Arakwal to identify opportunities and levers to achieve additional housing on Country.</p> b) Council has a statutory obligation for environmental and heritage protection |
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| Matter number | Government agency, matter raised & staff response |
|--|--|
| <p>Bundjalung of Byron Bay Aboriginal Corp. (Arakwal)</p> <p><i>Cont'd</i></p> | <p>under the <i>Commonwealth Native Title Act 1993</i> and NSW state cultural heritage legislation. The preservation of cultural practices, traditional sites, significant places and expressions of cultural identity are fundamental to Indigenous health and social and emotional wellbeing and hence important to the Closing the Gap, a term arising from the Council of Australian Government's pledge to close key gaps in health, education and employment in response to the Social Justice Report 2005.</p> <p>The process of cultural heritage appraisal and mapping requires resources, time and funds, both Council and the Bundjalung of Byron Bay Aboriginal Corporation (Arakwal).</p> <p>A protocol has been identified as a means for starting this process and enabling guidance for all parties concerned – Arakwal, Council, community, developers and government agencies until such time as the mapping has been completed. A protocol has been prepared in consultation with Arakwal officers.</p> <p>Updates:</p> <p>Final strategy St (h) a Protocol framework for participatory working with the Aboriginal community to be included and text revised to better reflect the Arakwal's unique connection to their ancestral lands.</p> |
| <p>10</p> | <p><u>Rous County Council</u></p> <p>Matter raised</p> <p>Rous County Council appraised the projected dwellings 2036 against their current planning forecast and advised it to be comfortably within the Rous peak day forecast, noting however that the peak day forecasts for network planning were still under review.</p> |
| <p>Staff response</p> | <p>Noted – staff are assisting the consultants undertaking a network planning review on behalf of Rous with information on potential population growth and land use changes. No change required.</p> |
| <p>11</p> | <p><u>Tweed Shire Council</u></p> <p>Matter raised</p> <p>Welcomes RS linkages to the NCRP housing projections as well as the commitment to deliver increased housing choice, diversity and equity while protecting the local character and neighbourhood community feel.</p> <p>TSC shares Byron Shire's concern that short term rental accommodation is impacting housing accessibility, affordability and community cohesion on the</p> |

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| Matter number | Government agency, matter raised & staff response |
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North Coast.

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| Staff response | Noted. Council staff regularly liaise with planning staff from adjoining Councils on housing issues affecting the North Coast region. |
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3.4 Community feedback and response

A total of 59 submissions were received made up of private individuals, landowners seeking inclusion in the Strategy and community groups. It should be noted that locality based community group submissions do not always represent the views of all community members in their focus area. Respondent community groups:

- Bangalow Progress Association
- Brunswick Heads Chamber of Commerce
- Byron Residents Group
- Mullumbimby Residents Association.

In addition to the above, during *shaping our neighbourhoods* discussion the following community groups also provided input on the narratives:

- Wategos Beach Progress Association
- Bangalow guidance group
- Brunswick Valley Historical Society Inc.

Submissions indicated general support for the Strategy, noting its delivery has involved a substantive level of community consultation. Strong messaging focused on a process going forward of providing opportunities for communities to have direct input in developing a shared vision for their neighbourhood. It was clear from this exhibition and the shaping our neighbourhood open for discussion, that the community seeks a Strategy focused on the uniqueness of each of our towns and villages and one that works with local communities to address:

- 'perceptions' of the capacity for towns/villages to cope with additional housing
- associated issues such as climate change, biodiversity, schools, traffic, age of servicing infrastructure, housing for workers and tourism impacts.

Table 2: Community submissions summary and response details key matters raised in community submissions, together with a staff response.

In responding to these issues following changes should be reflected in the final Residential Strategy in addition to those under Section 4.2 of this report:

Strategy (lettering format continued from agency based recommended changes)

- St(j)* revise intentional community definitions and include the criteria previously contained in the separate appendices as a Strategy Appendix.
- St(k)* remove residential character narratives removed from the final strategy as they have progressed to Byron Shire DCP 2014 provisions.
- St(l)* add to the key worker list: cleaners, property maintenance (handymen, plumbers, carpenters, electricians, garden maintenance).

In addition to the above, improvements will be made to both documents to assist with usability.

Table 3: Community submissions summary and response

(matter numbering continued from Table 1.)

| Matter raised number | Section of the Strategy, community matters raised & staff response |
|-----------------------------|---|
| 12. | <p><u><i>Strategy Introduction, Our residents, household and housing types & Vision</i></u></p> <p>Matter raised</p> <ul style="list-style-type: none">a) Suggested as Byron Shire Council has individualised the land use strategies by land use such as rural, urban residential and business and industry, it is important that the Local Strategic Planning Statement (LSPS) integrates and reiterates all of the key strategic priorities.b) Suggested that more in depth statistical data should have been provided for postcode 2479 (this related to the Bangalow locality).c) Suggested a local growth management strategy should have accompanied the Residential Strategy.d) Raised that the draft Strategy contains a lot of cross referencing to other documents and the background report is not user friendly. |
| Staff response | <ul style="list-style-type: none">a) Council's recently adopted local strategic planning statement is a single document for the whole council area. It clearly articulates the planning priorities and actions, how they fit within a local context and where they are occur. This includes addressing the implications of regulating short term holiday rental via a planning proposal to provide a regulatory framework to better manage short term holiday rental. No change required.b) The community has access to the Byron Shire id. Profile website containing useful statistical information at a small area level. This information is regularly refreshed with community, social and economic |

| Matter raised number | Section of the Strategy, community matters raised & staff response |
|---|--|
| <p>Strategy Introduction, Our residents, household and housing types & Vision</p> <p>Cont'd</p> | <p>data and forecasting for the Shire. No change required.</p> <p>c) The Residential Strategy is the local growth management strategy for future urban residential housing. No change required.</p> <p>d) It is acknowledged the draft Strategy and background reports are large documents and contain cross references to other documents. In the final documentation where possible edits will be made to assist useability.</p> |

Policy 1: providing land for future housing

Direction 1: the majority of our Shire's future housing will be in urban towns and villages

13. **Matter raised:** relating to growth and dwelling numbers

- a) Dwelling supply benchmarks received both support and opposition. It was suggested that further rational for the projected number of dwellings to be provided and that Council should challenge the dwelling targets set in the North Coast Regional Plan.
- b) A position was put forward that statistics on dwellings delivered should be based on a timeframe that commencing with the superseded 2006 Far North Coast Regional Strategy and include rural areas dwellings. Furthermore, a view was put forward that as the number of houses built to date allegedly exceeds the FNCRS requirements, then the Strategy should not seek to deliver additional housing.
- c) Comments were made that it is unclear how the Strategy is meeting the 'ecologically sustainable development (ESD) principles'.
- d) It was suggested the final Strategy should include details around the timing of delivery of housing, affordable housing and associated infrastructure capabilities, capacity such as sewerage, water, roads, stormwater and flood management .

Staff response

- a) Under the *Environmental Planning and Assessment Act 1979* (Part 3 Division 3.1 Section 3.3) Regional Plans set the framework, vision and direction for strategic planning and land use planning at a regional level. The North Coast Regional Plan (NCRP) and the Strategy cannot control population growth, so the aim is to responsibly manage and guide the growth sustainably. The population of Byron Shire is forecast to grow by some 6400 people, which means additional homes are required. Dwelling supply is a core component of the NCRP recommending a minimum additional housing supply of 3150 dwellings by 2036 for Byron Shire. In doing so the Strategy sets a policy direction to deliver the bulk of additional housing in the established urban areas. This approach is

| Matter raised number | Section of the Strategy, community matters raised & staff response |
|--|---|
| <p>Matter raised: 'relating to growth and dwelling numbers'</p> <p><i>Cont'd</i></p> | <p>consistent with the NCRP. No change required.</p> <p>b) The use of FNCRS 2006 dwelling numbers is not appropriate as the NCRP 2036 supersedes this document.</p> <p>Prepared in consultation with the community, the Strategy plans for this growth. A core policy of the Strategy is to use land efficiently; however on balancing with the community's expectations of low scale development that respects existing character, the Shire's growth cannot be entirely accommodated in our existing urban areas. The Strategy proposes to deliver homes using a mix of greenfield and infill land generally aligning with the NCRP's directives including :</p> <ul style="list-style-type: none"> - meeting the minimum dwelling supply requirement (an estimated range of 3,250 – 3,355 dwellings could be provided in urban areas) - the majority of new housing provided within the existing designated urban growth boundary (over 80%). - new release (investigation area) housing being required to support greater choice, diversity and affordability. <p>The removal of dwelling forecasts and identification of land supply would not prevent population increasing, but would negatively affect how the Shire supports its future growth and our ability to effective plan for it. No change required.</p> <p>c) It is acknowledged that ESD is a long-standing and internationally recognised concept, recognised under NSW legislation. ESD requires the effective integration of economic, environmental, social and equity considerations in decision-making processes. ESD aims to provide for the needs of present generations without compromising the ability of future generations to meet their own needs. Council's Community Strategic Plan, Community Participation Plan, draft Residential Strategy, Business and Industrial Lands Strategy, Rural Land use Strategy and the overarching draft Local Strategic Planning Statement are some of the numerous tools the Council uses to advance ESD principles.</p> <p>Reflecting on the principle's messages, the Strategy supports:</p> <p><i>Inter-generational equity</i></p> <p>It profiles our community, seeking to address both inter-generational and intra-generational issues such as:</p> <ul style="list-style-type: none"> - for our traditional owners, the Arakwal, supporting avenues to live on and care for Country and a protocol to guide the development assessment process based on respect and understanding of connection to Country - better representation for younger generation housing with support for housing supply models outside the market place bubble and affordable housing - targets for adaptable housing enabling more effectively use of housing |

Matter raised number

Section of the Strategy, community matters raised & staff response

stock and potentially better suited to diverse family household units and an aging population.

Matter raised: 'relating to growth and dwelling numbers'

Cont'd

Conservation of biological diversity and ecological integrity

The Strategy is the overarching framework to manage growth and relies on local planning instrument to implement/regulate this framework.

The Strategy supports more compact urban settlement and increased reliance on infill to help deliver energy efficiency, adaptable, diverse and affordable homes and urban villages within walking distance of business centres. Together setting a platform for a more self-sufficient Shire, where residents/workers do not have to move/live outside the Shire to find the housing they require.

Improved valuation, pricing and incentive mechanisms

The Strategy supports incentive structures, including market mechanisms, to enable those best placed to maximise the affordable housing benefits for the community.

Infill can facilitate development appropriate to SEPP affordable rental housing (a short term 10 year rental supply) and investigation areas, if viable, can deliver affordable housing contributions (e.g. rental housing supply in perpetuity) as per Council **Res19-636: Meeting 12 Dec 2019:**

4. *That Council support consideration of Residential Strategy new release investigation lands for inclusion under the SEPP 70 Affordable housing contribution scheme.*

d) The means of infrastructure delivery and consumption are perpetually evolving as evidenced by recent changes in management of waste, emissions, energy generation and water cycles. The Strategy identifies anticipated dwelling supply and population growth by urban area and this information will assist with infrastructure planning to achieve and orderly and sustainable growth and change.

Under final Strategy update **St (b)**, additional information on the investigation areas will be provided on supporting affordable housing and infrastructure planning and delivery.

Matter raised number

Section of the Strategy, community matters raised & staff response

Direction 2: land for housing will be suitable for use

14. **Matter raised:** specific to investigation lands

The Strategy's refinement of possible investigation lands post the preliminary residential strategy was supported. However a number of submissions raised the adequacy in the depth of analysis in determining investigation areas citing that more detail analysis is required.

Staff response

The investigation areas were informed by site suitability analysis and community input during the preliminary investigation and draft Strategy exhibition stages.

Matter raised:
specific to investigation lands

A regional priority for Byron Shire under the NCRP is to *identify additional urban and employment investigation areas to secure future housing and employment land supply*. To deliver, Council is required to:

- develop a local growth management strategy that identifies urban growth areas
- prepare land release criteria to assess appropriate locations for residential uses.

Cont'd

It is accepted that greater guidance could be provided on the extent of the investigation areas and criteria for assessment. Final Strategy update **St (b)** addresses this.

The use of 'investigation areas' is consistent with state government requirements for a Local Growth Management Strategy. Importantly, it needs to be noted that a parcel's inclusion in a Strategy does not automatically mean it will be zoned for residential and any subsequent rezoning application will require a detailed assessment and public notification.

This stepped assessment approach has the benefit of placing the cost of more detailed investigations with the land developer rather than being carried by the community upfront and providing a safety net for changes in 'land management' information and techniques that may come in to play between the adoption of the Strategy and a proponent seeking to rezone the land.

15. **Matter raised:** specific to particular investigation lands

a) Mullumbimby Saltwater Precinct area

(a precinct identified in the Mullumbimby Master Plan and containing strategy investigation areas 5,6,7 & 8)

Concern was express over measure for flood management including:

Matter raised number

Section of the Strategy, community matters raised & staff response

- level of flood investigations, including studies being made available to the Mullumbimby community for comment prior to Strategy finalisation
- land is flood prone and in areas high hazard
- capacity to evacuate future residents in a flood event
- insurance premium costs.

b) Mullumbimby 3 Poplar St

Concern over stormwater overflow and flood management noting land is effected by drainage paths/intermittent waterways.

c) Bangalow Rankin Drive

Support was given to the Rankin Drive investigation area as is close to town. It was put forward that standard Torren title may not be appropriate to the adjacent Byron Shire heritage list house, the local character and heritage context and location's visual prominence in Bangalow. Supportive of a proposed affordable housing development area at the lower end of the proposed zoning area.

Staff response

Matter raised: specific to particular investigation lands

Cont'd

- a) A more detailed flood management study has been undertaken for the Saltwater Creek Precinct Mullumbimby. The study encompassed the investigation areas along the southern and south-eastern perimeter of the Mullumbimby urban area. This investigation considered the most appropriate areas for residential development given the flooding characteristics of the locality and the catchment.

Modelling indicated that all areas contain land which is deemed developable when considering the impact on regional flood levels and Council's flood-related development controls for new land release areas. Due to the low lying nature of some of the areas, it may be necessary to raise the land to a level that meets the flood planning level. Modelling indicates that a cut to fill balance may be achievable, however its viability is dependent on the soil quality onsite, which is currently unknown. Some channel works may be required to achieve the development footprint proposed. In the coming weeks this study will be placed on Council's website and a copy will accompany the final Strategy when submitted to the DPIE – Planning Division as part of the planning proposal for Lot 22. As land progresses to a rezoning there will be an opportunity for further community input on this document. **No change required.**

- b) As part of final Strategy update **St(b)**, land having high flood hazard (where known) is excluded from development, with flooding and stormwater management included as matters for further investigation.
- c) Noted, any rezoning will provide an opportunity for further community input. **No change required.**

Matter raised number

Section of the Strategy, community matters raised & staff response

16. **Matter raised:** specific to zoned vacant and pipeline
- a) Support was given to the Strategy ensuring small scale unconstrained parcels can proceed in short term.
 - b) It was suggested as Bayside, Brunswick Heads has only one entry and exit with limited visibility consideration be given to a roundabout and additional cycleways.

Staff response

Noted: **No change required.**

17. **Matter raised:** specific to the Bangalow and the Liveable Neighbourhood Principle – interconnected and permeable:

A position was put that the activation of the railway corridor as a walking/cycling track and the implementation of the PAMP and Bike Plan infrastructure upgrades should occur in advance of the implementation of this Strategy.

Staff response

This request is not practical. A delay in finalization of the Strategy due to the rail corridor activation in Bangalow would have significant implications for housing in all urban areas and be inconsistent with state requirements for Council to deliver local growth management strategies. **No change required.**

18. **Matter raised:** specific to additional investigation areas

In addition to the exhibited investigation areas 19 proponents/ landowners sought to have land identified as an investigation area in the Strategy.

Staff response

An assessment of these sites was provided in a separate report to the June 2020 Council Planning meeting where six sites were supported of possible inclusion and further exhibition. Section 5 of this report addresses the submissions received on these additional lands as possible investigation areas.

Policy 2 Improved housing choice, diversity and equity

19. Support was given to the inclusion of intentional communities, consisting of co-housing and ecovillages in the Strategy as part of the mix of housing with a suggestion to elevate the background report appendix criteria to the Strategy together with the definitions.

A submission was received suggesting the inclusion in the Residential

Matter raised number

Section of the Strategy, community matters raised & staff response

Strategy possible rural ecovillage lands in proximity to Mullumbimby, Bangalow, Ocean Shores, Billinudgel and Byron Bay.

Staff response

Any proposal to identify lands for possible ecovillages should be considered as part of a future review of the Rural Land Use Strategy. This would require a consideration of consistency with the state policy including regionally significant farmland, RLUS policy, infrastructure provisions and community engagement.

Updates:

Final Strategy update **St (j)**, review intentional community definitions and include the draft criteria as a Strategy – Appendix (previously in a separate Appendix).

20. Direction 2.3: Encourage use of low rise medium density housing types other than the detached house

Matter raised

- a) General support was given to the Strategy approach of increase reliance on infill and low rise medium density housing.
- b) A consistent message of the importance for infill design to blend into the local streetscape/ character.
- c) Concern was expressed over NSW Government's Low Rise Medium Density Housing Code – fast track complying development including and different development standards such as onsite parking to those for development assessment and lack of opportunity for local community input on a development.
- d) Concern was expressed over the appropriateness manor houses in areas of heritage character, such as Bangalow.
- e) Concern was expressed over potential impacts generated by additional dwellings and residents exacerbating existing issues such as overcrowded on-street parking and privacy.
- f) General support was given to the Byron Shire LEP minimum lot size for manor houses and terraces being consistent with other existing medium density development.
- g) It was put forward that the Suffolk Park: The Clifford St /Broken Head Road intersection has capacity issues that need to addressed if area is to take more medium density housing.

| Matter raised number | Section of the Strategy, community matters raised & staff response |
|----------------------|--|
| Staff response | <p>a) The residential character narratives now form part of the Byron Shire DCP so to provide greater clarity to developers on the unique attributes of our urban residential areas. No change required.</p> <p>b) Noted: No change required.</p> <p>c) & d) It would appear that within the community there are varying levels understanding as to the relationship between the Strategy and the Low Rise Medium Density Code (now named the Low Rise Housing Diversity Code).</p> <p>The Low Rise Medium Density Housing Code (SEPP Exempt and Complying Development Codes) 2008 came into effect across Byron Shire on 1 July 2020. It will be important to work with the community to improve understanding of development assessment processes to be introduced under the new Code. No change required.</p> <p>e) Council should continue in discussions with the DPIE (planning division) on these aspects where the design criteria in the complying development design criteria do not align with community expectations such onsite parking ratios. No change required.</p> <p>f) Noted: Minimum lot sizes are now in effect in LEP 2014 – No change required.</p> <p>g) Noted: No change required.</p> |

Policy 3: Housing that reflect the local in our places (comments are by individual town or village (note some comments may overlap with other policy areas.)

Matters raised listed by locality

(this section only raises new matters not identify above)

| | |
|------------|---|
| Staff note | <p>The following captures community comments that were made on the residential character narratives. It also captures a response in relation to these comments. The exhibited narrative for the draft DCP chapters reflected the response. As the narratives are adopted into DCP 2014 they have been removed from Strategy to avoid any inconsistencies.</p> <p>Updates:</p> <p>Final strategy update St (k), remove residential character narratives as they have progressed to Byron Shire DCP 2014 provisions.</p> <p>Draft Strategy Action 18 to remain as renumbered Strategy action 21. Further work is identified as part of action’s delivery to develop a residential <i>Style Guide</i>.</p> |
|------------|---|

| Matter raised number | Section of the Strategy, community matters raised & staff response |
|-----------------------------|---|
| 21. | <p>Brunswick Heads narrative</p> <p>A position was put forward that forest buffer between the suburb and the Old Pacific Highway and new Pacific Highway helps manage highway noise and vehicle emission and was essential to help protect the koala corridor linking the Brunswick Heads Nature Reserve with the Tyagarah Nature Reserve. It was indicated that this corridor provides habitat and protection not only to koalas but also to wallabies, goannas, long-nosed potoroos and a variety of other wildlife, including important bird habitat.</p> |
| Staff response | Brunswick Heads narrative was amended to include an additional point supporting the retention of this buffer. |
| 22. | <p>Mullumbimby narrative</p> <p>The heritage conservation area provisions of the LEP and DCP should be referenced in the narrative and shown on the maps.</p> |
| Staff response | The Strategy is a high order document and relies on the LEP and DCP provide greater development control guidance. The Mullumbimby narrative was amended to make the Mullumbimby Conservation Area provisions more clear. |
| 23. | <p>Bangalow narrative</p> <ul style="list-style-type: none"> a) Put forward housing that enables older residents to downsize to affordable retirement and independent living should be a high priority b) Supports given to the provision of live/work housing for Bangalow's creative and professional workforce. c) Put forward that Council should explore with local churches opportunities to increase the stock of authentic managed social housing for very-low income earners in Bangalow. d) The Bangalow Progress Association welcomes the Bundjalung community and supports any initiative they may take to create culturally sensitive housing in Bangalow e) Put forward that Council and landowners are encouraged to consult closely and early with the community on new housing f) Concern expressed with the 3 storey height for 'urban village' pockets and 'high density' of 20 dwellings /ha. g) Suggest a need to provide guidance to avoid outcomes such as the prefabricated house in Ballina Road, which do not suit the streetscape. |

| Matter raised number | Section of the Strategy, community matters raised & staff response |
|-----------------------|---|
| Staff response | <p>a) & d) noted No change required.</p> <p>e) The community participation plan encourages this outcome. No change required.</p> <p>f) The density of 20 dwellings / ha is consistent with the directions of the NCRP. Urban village pockets have not been identified for Bangalow. No change required.</p> <p>g) The Strategy Bangalow narrative provides guidance for Ballina Road. No change required.</p> |
| 24. | <p>Sunrise area narrative</p> <p>a) Put forward that many of the descriptions for Suffolk Park could apply to Sunrise such as ‘leafy streets have wide grassing nature strips’ and low density coastal residential character is accentuated by landscape qualities.’</p> <p>b) Put forward that the transitional area shown on Figure 15 similarly does not align with how Suffolk Park has been indicated.</p> |
| Staff response | <p>These are valid points. The potential lots and transitional area are now reduced as a result of the gazetted LEP minimum lot size changes for low rise medium density development – manor houses and terraces.</p> <p>The Sunrise narrative was revised to reflect input from local residents; this included a reduction in the area shown as transitional (yellow shading) on draft Strategy Figure 15.</p> <p>In addition the following updates were made to the narratives:</p> <ul style="list-style-type: none"> • revised to reflect Arakwal input as noted in Table 1 – matter #9. • Byron Arts and Industrial Estate description has been removed from the narrative as a precinct plan is being developed for this area by Council. |
| 25. | <p><u><i>Policy 4 Make our neighbourhoods local</i></u></p> <p>Matter raised</p> <p>a) Suggested Strategy should address to tourism with:</p> <ul style="list-style-type: none"> – factor in the use of private dwellings for tourist accommodation in the overall housing need equation – i.e. Short Term Rental Accommodation clearly identified land release program for tourism uses – associated location maps – land supply and demand audit. |

| Matter raised number | Section of the Strategy, community matters raised & staff response |
|------------------------------|---|
| | <p>b) Put forward that an action to change the zoning of Shirley St area to a tourism zone could compromise the rights of permanent resident as the permitted uses differ between the zones.</p> |
| <p>Staff response</p> | <p>a) Accepted that this is a valid point recognised by the NSW government. In the final Strategy update St (d), land and supply analysis has considered the demands placed on housing by short term rental accommodation.</p> <p>The Strategy provides an overarching framework that supports housing delivery and the Sustainable Visitation Strategy (SVS) is part of an overarching framework to manage tourism. Together they rely on the LEP and DCP to provide greater development control guidance and land use regulation.</p> <p>In reference to the SVS:</p> <ul style="list-style-type: none"> - an accommodation audit was completed and is included in the SVS - visitor forecasts may need to be revised, which includes visitor nights (in light of the impacts of Covid-19). It is accepted that the Shire has a large number of forecasted visitor nights and a potential for accommodation shortage. A review of the visitor forecast is currently underway. - strategies and actions are being explored in the SVS relating to planning for tourism. Regularly monitor tourism trends and evaluate planning controls to ensure the visitor economy and community are considered. <p>No change required.</p> <p>b) Accepted that this is a valid point for the Shirley Street area. Under final Strategy update St (f) draft Strategy action # 22. - a zone change investigations for Shirley street north, Byron Bay action to be revised to consider the implications of a zone change on land owner use entitlements.</p> |
| <p>26.</p> | <p>Matter raised: terminology</p> <p>Put forward that cleaners, property maintenance (handymen, plumbers, carpenters, electricians, garden maintenance) should be added to the key workers list.</p> |
| <p>Staff response</p> | <p>Supported.</p> <p>Updates :</p> <p>Final Strategy St (l) – add cleaners, property maintenance (handymen, plumbers, carpenters, electricians, garden maintenance) to the key workers list.</p> |

The following matters raised regarding consultation are more pertinent to the Community Participation Plan and for noting only.

- suggested that the DA tracker as not being user friendly
- put forward that Council and landowners consult closely and early with the community on new housing.

4. Additional lands Exhibition 2020

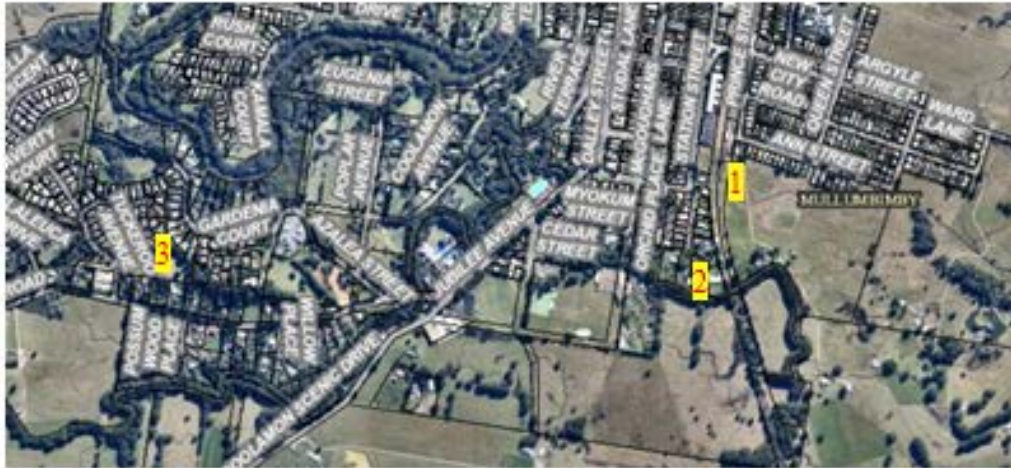
The purpose of this exhibition was to provide the community and government agencies with an overview of the six (6) possible additional investigation areas as listed in Table 3 and shown on Figure 1; and to invite comment.

The public exhibition of additional investigation areas took place in August 2020. A total of 27 submissions were received - grouped into two types:

- Community groups and broader community members.
- State government as listed below:
 - NSW Department of Planning, Industry and Environment - Division of Planning Divisions(DPIE- PD)
 - NSW Department of Planning and Environment - Biodiversity and Conservation Division (DPIE -BCD)
 - Transport for NSW (TNSW)
 - NSW Department of Primary Industries (DPI).

Table 3: Site Summary – Additional Lands Exhibition

| Site # | Site Description |
|--------|--|
| Site 1 | 20 Prince St Mullumbimby (part of Lot 12 DP 527314) |
| Site 2 | 152 Stuart St, Mullumbimby & 124, 127, 130, 132, 134 Station St, Mullumbimby (Lot 1 DP1256460, Lot 1 DP803292, Lot 2 DP1256460, Lot 2 DP803292, Lot 4 DP837851, Lot 5 DP1111848) |
| Site 3 | Part of Lot PT32/1169053 located east of Tuckeroo Avenue, Mullumbimby |
| Site 4 | 31 Ballina Road (Lot 2 DP 1260751) previously part of 21 Ballina Road Bangalow (Lot 3 DP1220608) |
| Site 5 | Part of Lot 350 DP 755695, Ewingsdale Road, Byron Bay |
| Site 6 | Part 64 Corkwood Cr, Suffolk Park (Lot 285 DP1198641) |



Mullumbimby



Bangalow



Byron Bay



Suffolk Park

Table 4 addresses submissions on a site by site basis together with a staff response and where appropriate, a recommendation.

In responding to these issues the recommendations are summarised as follows:

1. That Council does not support the following land being included as a Residential Strategy investigation area:

- a. Lot 1 DP1256460, 152 Stuart Street, Mullumbimby due to high hazard flooding and contamination constraints
- b. any further expansion of part of Lot 350 DP 755695 located on Ewingsdale Road, Byron Bay (Strategy investigation area '10'), as exhibited August 2019
- c. Lot 285 DP 1198641, 64 Corkwood Crescent, Byron Bay as:
 - i. a review of the relevant history has identified that landowners previously seeking a change to the 7(d) Scenic Escarpment zone boundaries have been consistently advised that this can only be considered as part of a Shire wide study and
 - ii. consultation with the Department of Planning, Industry, and Environment on potential land use constraints determined that the wider range and density of permissible uses in a residential zone could adversely impact on the significant mapped biodiversity values on this and adjacent land.

2. That the final draft Strategy updates include:

(Strategy update lettering continued from Section 4 of this report)

St(l) Site 1 (20 Prince Street, Mullumbimby) to be merged with the adjoining investigation area

St(m) the inclusion of:

- a. Lot 1 DP803292, Lot 2 DP1256460, Lot 2 DP803292, Lot 4 DP837851, Lot 5 DP1111848; 124, 127 and 130 – 134 Station Street, Mullumbimby identified only for a review of minimum lot size provisions and not a zone change due to flooding and access limitations, and is to be included in the Saltwater Creek Precinct structure planning
- b. “acoustic impacts” in the Strategy Action relating to the Saltwater Precinct structure plan considerations, in relation to traffic management
- c. the following additional wording in the profile for Investigation Area Part of Lot 350 DP 755695, Ewingsdale Road, Byron Bay: *“final development footprint will be determined following further flood assessment. Any variations must be in accordance with the North Coast Regional Plan Urban Growth Area Variation Principles (Appendix A) and will need to be considered and justified through a strategic planning or rezoning process. Only minor and contiguous variations to urban growth areas in the coastal strip will be considered due to its environmental sensitivity and the range of land uses competing for this limited area”.*

Table 4: Matters Raised & Staff Response – Additional Lands Exhibition

| Site # | Matters Raised & Staff Response |
|-----------|---|
| All Sites | <p>General Comments (State Agency submissions)</p> <p><u>Biodiversity Conservation Division (DPIE)</u></p> <p>a) Sites 1 – 6 (all exhibited sites) should undergo further detailed biodiversity and flood assessments to verify and determine the presence of any land with High Environmental Values (HEV) and any land subject to flooding/erosion and inundation risk, with a view to excluding such land from the Strategy to the greatest extent possible.</p> <p>Any areas of confirmed HEV land should be protected by the application of an appropriate future land use zone such as the E2 Environmental Conservation zone as part of any future planning proposal.</p> <p><u>Transport for NSW (TNSW)</u></p> <p>b) TNSW notes that the additional areas identified for inclusion as residential will be treated as Investigation Areas only. They are not proposed for rezoning this time, and criteria have been set for consideration and investigation in the future. As such, TNSW has no issue with the additional lands proposed.</p> <p>Further comments were made reiterating previous advice regarding;</p> <ul style="list-style-type: none"> • The need to ensure sustainable transport networks are in place to support additional housing in the Byron Shire • Council is encouraged to work collaboratively with State government in identifying infrastructure needs to support growth in line with the Regional Plan. • A coordinated approach to the provision of appropriate road infrastructure is needed as it would be inappropriate (and cost-prohibitive) to expect one single developer to fund any significant upgrades required. • the employment strategies should reflect the level of increased residential accommodation proposed, to take pressure of the ‘regional’ road network and encourage short-length trips (via car or public transport). <p><u>Department of Primary Industries (DPI)</u></p> <p>c) The inclusion of sites 2, 3, 4, 5 and 6 as additional investigation areas in the Strategy raise no concerns for agriculture or agricultural land and resources. (Comments specific to Site 1 are addressed below)</p> |
| | <p>Staff Response</p> <p>a) Noted. Land identified as an investigation area in the Strategy has undergone an initial assessment, and it is appropriate that further detailed</p> |

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| <p>All sites Cont'd</p> | <p>assessment be undertaken at the planning proposal stage at the expense of the applicant.</p> <p>During public exhibition of the planning proposal, State agencies are invited to review the proposal and accompanying studies, and submit further comment for Council's consideration.</p> <p>b) Noted. These matters have been previously addressed.</p> <p>c) Noted.</p> <p>No changes are required</p> |
| <p>Site 1</p> | <p>Matters Raised (State Agency submissions)</p> <p><u>Department of Planning, Industry & Environment (DPIE)</u></p> <p>a) Additional Site 1 should be considered in conjunction with Site 16 in the exhibited draft Residential Strategy. The potential impact of future residential development on regionally significant farmland will be a key consideration in relation to these sites at the planning proposal stage, should Council proceed to the investigation stage. Council is encouraged to consult with NSW Department of Primary Industries – Agriculture regarding the impact on regionally significant farmland.</p> <p><u>Department of Primary Industries (DPI)</u></p> <p>b) The inclusion of site 1 as an additional investigation area in the Strategy may not be appropriate. In a letter of 15 October 2019, DPI advised that sites 16 and 17 would not meet the Interim Important Farmland Variation Criteria as required in the North Coast Regional Plan 2036 due to their size and contiguity with adjacent farmland. DPI notes that additional site 1 has been included due to it adjoining proposed investigation area 16.</p> |
| | <p>Staff Response:</p> <p>a) Noted and supported.</p> <p>b) Land identified as an investigation area in the Strategy has undergone an initial assessment, and it is appropriate that further detailed assessment be undertaken at the planning proposal stage at the expense of the applicant.</p> <p>An assessment against the Interim Important Farmland Variation Criteria would be undertaken at the planning proposal stage, and further consultation with DPI would take place during the planning proposal exhibition period.</p> <p>Updates:</p> <p>Final Strategy Site 1, 20 Prince Street to be merged with the adjoining investigation area as suggested</p> |

| | |
|----------------------|---|
| <p>Site 2</p> | <p>Matters Raised (State Agency submissions)</p> <p><u>Department of Planning, Industry & Environment (DPIE)</u></p> <p>a) The DPIE supports Council's ongoing consideration of additional Site 2, subject to consideration of primary constraints such as flooding, mapped important farmland, cultural heritage, acid sulfate soils and bushfire risk.</p> <p>Matters Raised (Community submissions)</p> <p>b) Affordable housing is better delivered by reducing fees for secondary dwellings, and improving public transport.</p> <p>c) Affordable housing is better delivered by limiting Airbnb.</p> <p>d) There are many large properties of 100acres which could be divided into 1 or 2 acre blocks. Council should start looking at options outside the existing township to address the issue of poor planning which has resulted in multiple dwellings being allowed on existing blocks.</p> <p>e) The increase in potential dwelling yield / traffic generation has not been provided. It is argued that increased traffic, on street parking and noise generated by additional vehicles will impact on residential amenity.</p> <p>There would also be a lot more traffic at the intersection with Fern St & Station St. The existing road is in poor condition and the intersection is already problematic, with numerous people not understanding who should give way and this has led to several near miss accidents.</p> <p>f) The submission identified that the land is flood prone and argues that development will result in offsite impacts. The submission notes that the North Byron flood study has not been completed, therefore constraints cannot be identified.</p> <p>It is also argued that the cost of stormwater infrastructure has not been considered.</p> |
| | <p>Staff Response</p> <p>a) Noted. The land is identified as a potential investigation area. It is appropriate that further detailed investigations take place at the planning proposal stage at the expense of the applicant. Further consultation with State agencies to be undertaken during the public exhibition period.</p> <p>b) Secondary dwellings can provide additional rental options, however they cannot be purchased as standalone dwellings. Individual property valuations are likely to increase if a property includes a secondary dwelling, thus compounding affordability issues for those trying to purchase a home. It is necessary to provide a range of housing options for both the rental market and purchasing market in order to meet the housing needs of the community.</p> |

Site 2
Cont'd

Although improvements to public transport are supported, such improvements would not impact on housing supply and affordability. Improving public transport amenity is more likely to support higher property valuations.

- c) Short term rental accommodation (such as Airbnb) is one of many factors influencing the affordability of housing in Byron Shire. At the time of writing, Council staff are preparing a planning proposal to introduce local regulation for short term rental accommodation in Byron Shire. A Council report is currently scheduled for consideration at the 19 November Council (Planning) Meeting.
- d) The adopted Rural Land Use Strategy does not support the suggestion of the submitter. Community feedback during the preparation of the Residential Strategy strongly supports the majority of new housing being supplied in existing urban areas via infill development. A key focus of the Strategy is to deliver a diversity of housing options and lot sizes. This policy position is articulated in the draft Strategy, Policy 2 - *Improved housing choice, diversity and equity*.

Policy 2 is complimentary to [The North Coast Regional Plan 2036](#), Direction 23: *Increase housing diversity and choice*. Action 23.1 of the Regional Plan (Page 56) requires Councils to:

Encourage housing diversity by delivering 40 per cent of new housing in the form of dual occupancies, apartments, townhouses, villas or dwellings on lots less than 400 square metres, by 2036.

- e) The potential dwelling yield for the exhibited land is approximately 15 additional dwellings. However, staff recommend removal of 152 Stuart St, Mullumbimby (Lot 1 DP1256460) from the investigation area; this is due to limited development potential as a result of high hazard flooding and contamination constraints. Removal of this lot will result in a marginal reduction to the overall dwelling yield.

It is further recommended that due to the overall limited developable area and overall constraints, an urban residential zone would not be appropriate. It is suggested that the large lot residential zone be retained with a review of the minimum lot size. The draft Strategy and Mullumbimby Masterplan have actions supporting the preparation of a structure plan for the investigation areas to the south and east (referred to as the Saltwater Precinct). As this land's is in physical proximity to this area and stormwater and access interrelated it is recommended that the scope of this structure plan be extend to include this area.

- f) In accordance with **Res 19-147**, a flood study for the Saltwater precinct has been prepared by WMA Water and will soon be placed on public exhibition. This study, as well as the North Byron Flood Study have been prepared by WMA Water and are complimentary.

Any future planning proposal to rezone the site would need to provide an update to the flood study already undertaken for the Saltwater precinct by

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| <p>Site 2 Cont'd</p> | <p>including the site in the overall development footprint and modelling.</p> <p>The estimated cost of stormwater infrastructure cannot be determined until this study has been completed. In any case, the viability of developing the site is a matter for the landowner's consideration.</p> <p>Recommendations and updates:</p> <p>1.a. That Council does not support the inclusion of Lot 1 DP1256460, 152 Stuart Street, Mullumbimby as an investigation area due to high hazard flooding and contamination constraints.</p> <p>2. The final Strategy St (m) updates include:</p> <ul style="list-style-type: none"> a. Lot 1 DP803292, Lot 2 DP1256460, Lot 2 DP803292, Lot 4 DP837851, Lot 5 DP1111848; 124, 127 and 130 – 134 Station Street, Mullumbimby identified only for a review of minimum lot size provisions and not a zone change due to flooding and access limitations, and is to be included in the Saltwater Creek Precinct structure planning b. the inclusion of “acoustic impacts” in Strategy Action relating to the Saltwater Precinct structure plan considerations, in relation to traffic management |
| <p>Site 3</p> | <p>Matters Raised (State Agency submissions)</p> <p><u>Department of Planning, Industry & Environment (DPIE)</u></p> <ul style="list-style-type: none"> a) The DPIE supports Council's ongoing consideration of additional Site 3, subject to consideration of primary constraints such as flooding, mapped important farmland, cultural heritage, acid sulfate soils and bushfire risk. b) There is an expectation that the land would only be developed as R5, not urban residential. Lower density would maintain the semi rural/bush outlook. c) The site is part of a 'green belt' for the overall estate development. Residents expected that this land would be retained as parkland. Contributes to required open space as part of the overall development. d) Lower density would allow better management of drainage. The land features a natural watercourse and provides a drainage function for blocks in Golden Penda Place, Azalea Street, Left Bank Road and Gardenia Court; this would be compromised by an increase in hard surfaces. Development may exacerbate local flooding at the entrance of Tuckeroo Rd off Left Bank Rd. |
| | <p>Staff Response</p> <ul style="list-style-type: none"> a) Noted. The land is identified as a potential investigation area. It is appropriate that further detailed investigations take place at the planning proposal stage at the expense of the applicant. Further consultation with State agencies to be undertaken during the public exhibition period. |

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| <p>Site 3 Cont'd</p> | <p>b) The zoning of land is not in perpetuity. Land can be rezoned if deemed suitable for the proposed use.</p> <p>c) The land is not designated as a public reserve and there are no restrictions on the lot requiring that the land be used for recreational / open space purposes. The land does not have a recreational zoning, it is currently zoned <i>R5 Large Lot Residential</i>.</p> <p>d) It is noted that the lot is burdened by a drainage easement. Future investigations at the planning proposal stage would need to include a stormwater management plan and flood impact assessment for Council's consideration. The function of a planning proposal is to determine if the land is suitable for the proposed use and to undertake detailed investigations where necessary.</p> <p>No changes are required to Council Resolution 20-276 Planning meeting 18 June to update the RS to include part of Lot PT 32/1169053 located east of Tuckaroo Avenue Mullumbimby.</p> |
| <p>Site 4</p> | <p>Matters Raised (State Agency submissions)</p> <p><u>Department of Planning, Industry & Environment (DPIE)</u></p> <p>a) The DPIE supports Council's ongoing consideration of additional Site 4, subject to consideration of primary constraints such as flooding, mapped important farmland, cultural heritage, acid sulfate soils and bushfire risk.</p> <p>Matters Raised (Community submissions)</p> <p>b) The submission identifies a range of constraints that will need to be addressed as part of any future development. These include visual and acoustic considerations as a result of higher densities and proximity to the highway, the presence and protection of HEV vegetation, topographical considerations such as slope, the presence of a riparian corridor, and infrastructure servicing considerations.</p> <p>c) Although the challenging terrain imposes limits on residential use, the applicant may offer a development proposal based on an affordable housing contribution. This scenario would result in a concentration of higher density housing in a single enclave encompassed by 17 and 31 Ballina Road. However, an affordable housing project is unlikely to be viable when the land contribution cost is added to high infrastructure costs and limits on the developable area from buffer zones and water courses.</p> <p>d) Potential outcome where Bangalow is adversely affected by the long-term consequences of multiple cheaply constructed dwellings in a noisy and polluted area that may not fit an affordable housing purpose. This inequity would result in unhappy renters and ultimately create serious social issues - an outcome certainly not in the public interest.</p> |

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| <p>Site 4 Cont'd</p> | <p>Staff Response</p> <p>a) Noted. The land is identified as a potential investigation area. It is appropriate that further detailed investigations take place at the planning proposal stage at the expense of the applicant. Further consultation with State agencies to be undertaken during the public exhibition period.</p> <p>b) Noted. It is suggested that acoustic considerations be added to the list of key issues and further investigations required as part of a planning proposal to change the zoning of the land.</p> <p>c) Any affordable housing contribution is unlikely to exceed 20% of the development. In addition Strategy Policy 2 (Table 5) requires a mix of lot sizes and housing typologies for investigation areas in the Strategy, therefore the required density outcome will not simply be a concentration of high density housing.</p> <p>Demonstrating the viability of an affordable housing contribution requires detailed investigations at the planning proposal stage and is a matter for future consideration.</p> <p>d) As noted above, any affordable housing contribution is unlikely to exceed 20% of the development. Affordable housing is subject to the same construction standards as any other development and is subject to the same development standards with regard to residential amenity and local character. Providing a percentage of housing at a price point that is affordable for people who live and work in the Shire (i.e. young people, key workers, the elderly, single parent families etc.) is an inclusive action that promotes social equity, it does not undermine it.</p> <p>No changes are required to Council Resolution 20-276 Planning meeting 18 June to update the Strategy to include 31 Ballina Road, Bangalow.</p> |
| <p>Site 5</p> | <p>Matters Raised (State Agency submissions)</p> <p><u>Department of Planning, Industry & Environment (DPIE)</u></p> <p>a) It is recommended that Council review the suitability of additional Site 5 for residential development in consultation with the Department of Planning Industry and Environment – Biodiversity Conservation Division prior to identifying these sites in the Strategy. It will be necessary to establish that primary constraints can be addressed for these sites to justify a variation to the Urban Growth Area boundary in the Coastal Area.</p> <p><u>Transport for NSW (TNSW)</u></p> <p>b) The submission recommends that the undeveloped area of land available for residential development on Ewingsdale Road needs to balance the need and timing against the provision of safe and efficient road networks.</p> <p>c) The landowner has submitted that the draft Strategy does not need to identify an increased area for residential zoning.</p> |

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| | <p>Proposals being prepared for the land include a range of land uses which do not necessarily fit neatly within the Strategy. It is also noted that the site adjoins the existing Byron Bay urban area and therefore has the potential benefit to from the “rounding off” of the existing urban area in accordance with the provisions of the North Coast Regional Plan 2036.</p> <p>d) The landowner proposes that further work will be undertaken in relation to the flooding constraint affecting the site. This further flood assessment which will more precisely inform the suitable development footprint for the land.</p> <p>e) The landowners requests that a note be inserted into the Residential Strategy to state that the final footprint will be determined following further flood assessment. It is also noted that the review of the development potential of the land will proceed on the basis of the provisions of the North Coast Regional Plan 2036 in relation to rounding off of existing urban areas.</p> |
| | <p>Staff Response</p> <p>1) Council has sought comment from the Biodiversity Conservation Diversion (DPIE) during exhibition. The comments received are noted.</p> <p>Land identified as an investigation area in the Strategy has undergone an initial assessment, and it is appropriate that further detailed assessment be undertaken at the planning proposal stage at the expense of the applicant.</p> <p>During public exhibition of the planning proposal, BCD will be invited to review the proposal and accompanying studies, and submit further comment for Council’s consideration.</p> <p>2) A traffic and transport study would be required to accompany any planning proposal for the site. Site 5 is no longer recommended for inclusion (see reasoning below), however the need for a transport study is at the planning proposal stage is relevant to the remaining investigation area identified on the same lot.</p> <p>3) Noted. Given that the landowner is not seeking a development outcome for the additional land that is suitable for a residential zone, the request to remove the additional exhibited land from the investigation area is supported.</p> <p>That part of the land currently included as an investigation area in the Residential Strategy is located outside the existing NCRP 2036 urban growth boundary. Any future planning proposal to rezone the land must demonstrate consistency with the NCRP 2036 <i>Urban Growth Area Variation Principles</i> and will need to be considered and justified through the rezoning process.</p> <p>The same requirement applies if the landowner lodges a proposal to develop parts of the land outside of the proposed investigation area, the NCRP 2036 <i>Urban Growth Area Variation Principles</i> will need to be satisfied.</p> |

Site 5
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In general, only minor and contiguous variations to urban growth areas in the coastal strip will be considered due to its environmental sensitivity. Active and passive community open spaces may be located outside the urban growth areas.

- 4) Noted. Further investigations pertaining to flooding have been identified in the list of key issues and further investigations required as part of a planning proposal to change the zoning of the land.
- 5) A note in the Strategy stating that the final footprint will be determined following further flood assessment is supported.

Staff recommendation and updates:

1.b. That Council does not support any further expansion of the Lot 350 DP 755695 investigation area, located on Ewingsdale Road, Byron Bay, as exhibited in August 2019.

2. The final Strategy St (m) updates include:

- c. inclusion of the following additional wording in the profile for Investigation Area Part of Lot 350 DP 755695, Ewingsdale Road, Byron Bay: *“final development footprint will be determined following further flood assessment. Any variations must be in accordance with the North Coast Regional Plan Urban Growth Area Variation Principles (Appendix A) and will need to be considered and justified through a strategic planning or rezoning process. Only minor and contiguous variations to urban growth areas in the coastal strip will be considered due to its environmental sensitivity and the range of land uses competing for this limited area”.*

Site 6

Matters Raised (State Agency submissions)

Department of Planning, Industry & Environment (DPIE)

- a) It is recommended that Council review the suitability of additional Sites 5 and 6 for residential development in consultation with the Department of Planning Industry and Environment – Biodiversity Conservation Division prior to identifying these sites in the Strategy. It will be necessary to establish that primary constraints can be addressed for these sites to justify a variation to the Urban Growth Area boundary in the Coastal Area.

Matters Raised (Community submissions)

- b) The land is currently zoned 7(d) Scenic Escarpment. Council must consider, when making its decision on whether to add 64 Corkwood to the Investigation Area, whether the future buildings and associated “roads” will accord with the scenic qualities of the Shire.

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| | <p>c) The site is highly constrained and rezoning requires consideration of bushfire, traffic, biodiversity and its role as a farmland buffer. Further consideration is also required regarding parking options and drainage impacts.</p> <p>d) The current construction of a significantly sized dual occupancy building in zone 7(d) is contrary to the objectives of the zoning of the development area.</p> <p>e) The applicant argues that the site is suitable for low density residential accommodation (<i>R2 Low Density Residential zone</i>) due to its access to infrastructure and services, and given the site contains a partially constructed attached dual occupancy with ancillary shed and swimming pool.</p> <p>f) The applicant acknowledged that any further development potential would be extremely limited due to existing sensitive vegetation on the site, bushfire and stormwater constraints.</p> |
| | <p>Staff Response</p> <p>a) Council has sought comment from the Biodiversity Conservation Division (DPIE) during exhibition. The comments received are noted. However, it is not recommended that Council support inclusion of this land as an investigation area in the Strategy for reasons noted below.</p> <p>b) The E Zone review and the Rural Land Use Strategy engagement processes identified a need for a suitable replacement zone to the <i>7(d) Scenic Escarpment Zone</i> (LEP 1988). An informal public exhibition of the proposed replacement <i>RU6 Transition Zone</i> was undertaken in late 2018 and the findings reported to Council on 23 September 2019. Council resolved (19-447):</p> <ol style="list-style-type: none"> 1. <i>That Council maintain the existing LEP 1988 zone, 7(d) Scenic Escarpment, in locations that do not qualify for an environmental zoning, until such time as a suitable replacement LEP 2014 zone is supported by the Department of Planning, Industry & Environment.</i> 2. <i>That Council place the preparation of a planning proposal to introduce a new LEP 2014 zone, RU6 Transition, on hold pending further discussions with the DPIE and other Councils within the region.</i> <p>The report noted that many land owners questioned the merit of existing 7(d) Scenic Escarpment zoning on their land, generally due to the land being located below ridge lines and lacking visual prominence. Rather than being rezoned to RU6, many of the landowners argued that a more appropriate rural or residential zoning be applied in these locations.</p> <p>The report also noted that although there is merit in undertaking a future review of the current 7(d) zone boundaries, this constitutes a significant body of work beyond the E-Zone review process and would need to be considered in the DP/OP and budget process.</p> <p>The consistent message provided to all owners of land zoned <i>7(d) Scenic</i></p> |

Site 6
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Escarpment seeking rezoning to a rural or residential zone has been that *7(d) Scenic Escarpment* zone boundaries will only be considered as part of a Shire wide study with a consistent methodology that is supported by Council, the community and the DPIE.

A spot rezoning of this land is in contrast to that message, and would set a precedent for other landowners to come forward with planning proposals to rezone *7(d) Scenic Escarpment* zoned land to a rural or residential zone. This invites an ad-hoc, piecemeal approach to strategic planning in the absence of an 'evidence-based framework being in place .

Therefore, it is recommended that Council not support inclusion of this land as an investigation area in the Residential Strategy,

- c) It is noted that the site's developable area is limited and that a residential zoning would allow for a wider range and density of urban land uses than those currently permitted under the *7(d) Scenic Escarpment* zoning.

As such, it is not recommended that Council include the subject land in the Strategy due the *7(d) Scenic Escarpment* zoning of the land and related issues noted above in points (a) and (b).

- d) The merits of any existing development approval for a dual occupancy on the site are considered under the development assessment and approvals process. It should be noted that attached dual occupancies are currently permitted in the *7(d) Scenic Escarpment* zone with development consent.
- e) The partially constructed attached dual occupancy is permitted under the existing *7(d) Scenic Escarpment* zone. This development has been approved under the current zone and does not justify rezoning of the land to an *R2 Low Density Residential* zone.
- f) Noted. The extremely limited development potential of the site, coupled with the existing approved dual occupancy does not suggest a need to rezone the land to an *R2 Low Density Residential* zone.

Staff Recommendation

1.c. That Council does not support Lot 285 DP 1198641, 64 Corkwood Crescent, Byron Bay as a Residential Strategy investigation area, as:

- i) a review of the relevant history has identified that landowners previously seeking a change to the *7(d) Scenic Escarpment* zone boundaries have been consistently advised that this can only be considered as part of a Shire wide study and
- ii) consultation with the Department of Planning, Industry, and Environment on potential land use constraints determined that the wider range and density of permissible uses in a residential zone could adversely impact on the significant mapped biodiversity values on this and adjacent land.

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| Other | <p>Matters Raised (Community submissions)</p> <p>a) The consideration of minimum lot sizes in the R5 zone of Ewingsdale (also known as the McGettigan’s Lane area) has not been included in the Strategy.</p> |
| | <p>Staff Response</p> <p>a) Investigation of this matter has been captured as Action 21 under the Rural Land Use Strategy.</p> <p>The Strategy relates to residential zones R1, R2, and R3. Matters relating to land zoned R5 are dealt with under the Rural Land Use Strategy.</p> <p>No changes required.</p> |