



# Planning Proposal

## Byron Bay Town Centre

Amendment of Byron Local Environmental Plan 2014

Byron Shire Council 26.2017.6.1

April 2021 Post Public Exhibition Version

## Document History

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## **Part 1 Introduction**

### **1.1 Objective and intended outcomes**

The objective of this Planning Proposal is to amend Byron Local Environmental Plan (LEP) 2014 to address various planning provisions that apply to the Byron Bay Town Centre. The original version of this Planning Proposal was submitted to the Department and received a gateway determination on 18 June 2019. After a second gateway approval and formal consultation with the community, changes have been made to the original proposal and are reflected in the Planning Proposal outlined below.

The intended outcomes of the amendments to the LEP are:

1. To promote mix used development including residential housing on top of compatible commercial ground uses, while maintaining the small town village feel of the town centre.
2. To ensure that new development of a significant scale in Byron Bay Town Centre achieves principles of Design Excellence and, through the highest standard of architectural, urban and landscape design; delivers ecologically sustainable and resilient buildings and public places.

These amendments will be supported by proposed changes to Byron Development Control Plan 2014, to include controls that cannot be included in the LEP, to address:

- the number of storeys compatible with the character of the town centre and minimum floor to ceiling heights specific to permissible land uses;
- fine grain architecture to reduce bulky development and restrict building lengths relative to street widths;
- design controls to support design excellence, sustainable design and heritage.

### **1.2 Subject land**

This Planning Proposal relates to land in the Byron Bay town centre, currently zoned B2 Local Centre, bordered in red below.



**Subject Land**

## 1.3 Background

The Byron Bay Town Centre Masterplan (masterplan) was adopted by Council on 9 June 2016.

The purpose of this proposed amendment to the LEP is to implement planning controls that align with the strategic direction of the masterplan. An original version of the Planning Proposal was submitted to the Department and received gateway determination on 18/06/2019. Following the exhibition period, changes were made to the Planning Proposal in response to community feedback. Those changes were further exhibited from the 1 to the 28 March 2021. This further updated version of the planning proposal reflects the changes made following feedback in the second formal exhibition period.

Following a period of extensive community engagement throughout 2015-2016, the masterplan and an 'implementation plan' were agreed, based on the outcomes of the masterplan process. The implementation plan outlines a 20 year delivery period, which includes steps required to fulfil the place principles, town centre strategies and key projects identified by the Council and community during the development of the masterplan.

The 5 key priorities identified in the implementation plan include:

1. Establishment of a Byron Bay Leadership Team;
2. Preparation of a Byron Bay Development Control Plan;
3. Amendments to the Local Environmental Plan to reflect the masterplan;
4. Preparation of a detailed Access and Movement Study and Strategy and
5. Development of a Byron Bay Facilities Asset Management Plan.

A complete copy of Byron Bay Town Centre Masterplan is available [online](#).

Council has undertaken a review of existing planning controls in and around the Byron Bay Town Centre, within the area currently zoned B2 Local Centre.

This Planning Proposal introduces new provisions to ensure design excellence, including activation of commercial frontages, architectural and design specifications and the introduction of a Design Excellence Panel.

## Part 2 Explanation of provisions

This Planning Proposal relates to land zoned B2 Local Centre; located within the Byron Bay town centre. The Planning Proposal seeks to introduce Design Excellence provisions, along with an Active Street Frontages provision and a Height Allowances Provision. The planning proposal seeks to remove Floor Space Ratio controls in this area.

## 2.1 Minor Map corrections

This planning proposal will correct an anomaly within the Height of Buildings Map in relation to two properties at the southern end of Jonson Street, known as Lot 1 DP 1267388 and Lot 9 DP 818197.

As shown in the extract of the Height of Building Map below, the northern part of the two lots has a maximum height of 9.0m, with the remainder of the lots at 11.5m.

It is not apparent why this is mapped this way. The land immediately north of the two lots was previously acquired by Council for the Town Centre Bypass, but there is no apparent planning reason that would require a lower building height for part of the land.

The planning proposal seeks to rectify this minor mapping error, by including those parts of the property boundary currently mapped 9m to 11.5m.



- 9 m
- 11.5 m

The Height of Buildings Map will be updated to account for this change.

## 2.2 Building Height Allowance Map

Parts of the town centre are flood prone. In those areas, the ground floor level of new development must be set at or above the **Flood Planning Level**, which is derived from a detailed flood study of the Belongil Creek catchment. The adopted level accounts for longer term sea level rise.

The result is that, within flood prone areas, ground floor levels will need to be set above existing ground levels (varying from 0.4-1.2m). As the definition of building height is based on a measurement above existing ground level, development in these flood prone areas is unreasonably restricted.

The extent of flood prone land in the Town Centre is highlighted below.

A new clause is therefore proposed to be added to LEP 2014 to address this, by providing that, in these cases, building height can be measured from a specified Australian Height Datum (AHD) level, which is the 2050 Flood Planning Level, rather than from existing ground level.

The new clause is outlined in **Appendix 1** and a new Building Height Allowance Map is contained in **Appendix 2**, specifying the applicable AHD levels across the flood prone parts of the Town Centre.



**Extent of flood prone land in Town Centre**

The Building Height Allowance would be applied south of Lawson Street, therefore excluding the small area of flood prone land between Lawson Street and Bay Lane. This will ensure that the minor height increase provided by the clause will not result in buildings with a peak height visible from the beachfront to the north.



## 2.3 Local Provisions

This Planning Proposal recommends a number of new Additional Local Provisions to be added to Part 6 of Byron LEP 2014:

1. A local provision relating to **design excellence**. The provision:
  - (a) specifies that development consent must not be granted to development to which this clause applies unless, in the opinion of the consent authority, the proposed development exhibits design excellence; and
  - (b) sets out a range of matters to be addressed, to the satisfaction of the consent authority, to determine whether a development exhibits 'design excellence', including:
    - sustainable design principles such as sunlight, wind, natural ventilation, privacy, adaptability etc;
    - materials, design and detailing appropriate for the building type and location;
    - the building responds to the site and its surroundings;
    - the design of the development will improve the quality and amenity of the public domain;
    - mixed-use development includes communal areas and design techniques to allow for the occupants to be socially cohesive;
    - the proposed development avoids clutter in the public domain and coordinates shared utility infrastructure and domestic and commercial waste management;
    - the development will not impact on views or landmarks;
    - arrangements have been made to ensure that the proposed design is carried through to the completion of the development, including commitments to achieve certification under a nationally recognised sustainable rating system; and

and for 'significant development' only:

- (a) whether the development has been endorsed by the Byron Design Excellence Panel as exhibiting design excellence;

NB: 'Significant development' for the purposes of this clause is:

- a building with a gross floor area of 500m<sup>2</sup> or more
- any development that will be referred under the Act to the Joint Regional Planning Panel; or
- residential accommodation resulting in 10 or more dwellings; or
- any development that proposes alterations and additions, redevelopment or demolition of a heritage listed item; or
- pubs; or
- small bars (nightclubs) within the meaning of the Liquor Act 2007; or
- function centres; or

- new buildings
- any other development deemed by Council to be significant

2. A local provision relating to active street frontages, which:

- aims to attract pedestrians along certain streets by ensuring the ground floor usage is active;
- applies to all streets and lanes shown on a (new) active street frontages map (see **Appendix 2**);
- specifies that the consent authority cannot approve the erection of a building, or a change of use of a building, on land to which this clause applies unless the consent authority is satisfied that the building will have an active street frontage after its erection or change of use; and
- describes that a building has an active street frontage if all premises on the ground floor of the building facing the street or laneway are used for the purposes of child care centres; commercial premises; community facilities; educational establishments; information and education facilities; medical centres; or public administration buildings.

## Part 3 Justification

### Section A Need for the planning proposal

#### Q1 Is the planning proposal a result of any strategic study or report?

Yes. This Planning Proposal is part of the implementation of the Byron Bay Town Centre Masterplan (masterplan), which was adopted by Council in June 2016, following a period of extensive community engagement throughout 2015-2016. A copy is available online here: [Byron Bay Town Centre Masterplan](#)

The masterplan identifies the need to review planning controls, including amendments to the Byron LEP 2014 and Byron DCP 2014, to support the following strategic land use planning outcomes:

- A pedestrian prioritised centre that supports and integrates alternate modes of transport and creates opportunities for car parking facilities on the edge of the town centre and public transport facilities on the western side of the north coast rail corridor, close to Butler Reserve;
- An increased mix of uses in the town centre, by encouraging a multi-functional economy that supports diverse activities, including local businesses, local living, and local development opportunities. Benefits of mixed use living in the centre of town include reduce need for car use, increased housing options, and increased activity, vibrancy, and safety.
- Preservation of Byron Bay's eclectic village character through high quality design, increased density and ensuring that the maximum height of buildings does not exceed 3 storeys.

- Strategies for the built form and aesthetics in Byron Bay Town Centre that are consistent with the village character.

The Masterplan seeks the creation of a varied centre that minimises big bulky buildings, with particular emphasis on improving street definition within the town centre and along the rail corridor.

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

Yes. The Planning Proposal is considered the best means of achieving the stated objectives, to ensure permissibility of appropriate land uses, revised development standards to increase the viability of high quality design, and future development in Byron Bay Town Centre.

This Planning Proposal introduces new local clauses to provide statutory design excellence requirements, including sustainability, diversity and mixed use, increased density and activation of commercial frontages.

**Alternative Options**

Various options were considered and discussed during preparation of the Planning Proposal, as summarised below:

**Zoning and Land Use Options Considered**

Retaining existing B2 zoning (preferred)

The preferred option is to retain the existing B2 zoning, removing FSR and introducing Active Street frontages, Design Excellence controls and the DCP to get better design outcomes in the Byron Bay town centre.

Rezoning B2 Local Centre to B4 Mixed Use

This would permit residential flat buildings in the Byron Bay Town Centre, which could significantly undermine its role as the largest business centre in Byron Shire. This was not considered to be acceptable.

Rezoning B2 Local Centre to B3 Commercial Core

A new B3 Commercial Core zone could differentiate the Byron Bay Town Centre from smaller centres in Byron Shire and provide a shift in focus by adjustments to the land use types permitted with consent.

This option was exhibited for public comment in the previous version of the planning proposal.

Most of the uses listed above were recommended to be prohibited as they are uses that require large sites/ spaces, which would prevent the achievement of a finer grain town centre.

Following the second formal exhibition of the planning proposal, a strong desire to retain the existing B2 zoning emerged from community submissions.

Retaining the existing B2 zoning still allows Council to introduce the Design Excellence Provisions and Active Street frontages map, and allows for the application of the locality specific DCP.

Given the strong community preference for retaining this zoning and the relatively minor impact a zoning change would have at this time, the B2 Zoning is recommended to remain.

## **Height of Buildings Options Considered**

### Alternative #1 (preferred option)

- No Retention of existing 11.5m maximums
- On land shown in the Building Height Allowance Map, building height measurements to be taken from the flood planning level rather than existing ground level.
- Add a three storey maximum and floor to ceiling controls in the DCP

This alternative will retain the existing maximum building heights in the Byron LEP 2014, but will allow for better design outcomes through the use of the DCP provisions.

### Alternative # 2:

- No change to the current 9m and 11.5m maximums.
- No additional supporting height controls.

Through the Masterplan, the Byron Bay community expressed a very strong preference to maintain the maximum three-storey building height limit.

Unfortunately, the Standard template LEP does not facilitate building height control by way of storeys. The 11.5m development standard, measured from ground level to the top of the building, is the approximation to three storeys adopted in BLEP 2014.

### Alternative # 3:

- 12.5m in core part of the town centre located south of Lawson Street, to allow for 3 storey mixed use building with a floor to ceiling height of 4 metres on the ground/first floor and at least 2.7m on the upper storey (residential), plus allowance for a hipped roof.
- 9.4m on other land in town centre, north of Lawson Street and in the southern end of Jonson Street, to allow 2 storeys with 4m ground floor to ceiling height and 2.7m ceiling height (residential) above.

This alternative would result an increased and negative impact to the human scale of the town currently valued by the community. It opens the potential for development that provides reduced floor to ceiling heights to achieve more 4 storeys within the 12.5m limit.

### Alternative #4

- Retention of the existing 11.5m maximum building height control.

- Extension of the area to which 11.5m applies to include the northern side of Lawson Street to Bay Lane, from Jonson Street to the west and east until Middleton Street.
- On land shown in the Building Height Allowance Map, building height measurements to be taken from the flood planning level rather than existing ground level.
- Add a three-storey maximum and floor to ceiling controls in the DCP.

This option was recommended in the public exhibition version of the planning proposal. The community expressed significant opposition to the increase in heights in the block between Lawson, Jonson, Middleton Street and Bay lane.

### **Floor Space Ratio (FSR) – Options**

In relation to FSR, a number of options were considered.

#### Retain existing FSR of 1.3:1

This option would seek to retain the existing FSR of 1.3:1. Community feedback strongly opposed any changes to FSR and a preliminary analysis by staff indicated that the current FSR was not significantly limiting development in the town centre.

#### Remove FSR

The initial public exhibition proposed removal of FSR as a development control applicable to the town centre, on the basis that, by itself, it is a poor control of bulk and scale.

Community concern was raised, and the subsequent exhibition version of the planning proposal proposed retention of the existing FSR of 1.3:1. At this stage removing the FSR is not recommended.

#### Increase FSR from 1.3:1 to 1.5:1

This option would mean an increase in FSR overall but would continue existing issues around trying to 'fit' development to a prescribed number rather than trying to maximise good design outcomes on a site. For this reason this option is not recommended.

### **Active Frontage Options Considered**

The Department of Planning and Environment has prepared a model local clause for Active Street Frontages and provides general information about its application in Local Environmental Plans, including:

- *Continuous business or retail land uses that open directly to the footpath provide active, people oriented street frontages.*
- *It enhances public security and passive surveillance and improves the amenity to the public domain by encouraging pedestrian activity.*
- *It can also assist in supporting the economic viability of the centre where this provision will apply.*
- *Activity areas are usually formed along streets or as a node around, for example, major transport infrastructure. For that reason it is recommended that this provision does not apply across any one zone, but only along the streets (or parts of a street or streets) and pedestrian links where a concentration of business and/or retail is encouraged.*

- *This clause must be justifiable and applied only where it will not constrain uses able to respond to changing economic drivers.*
- *Only the B3 Commercial core and B4 Mixed Use zones are considered suitable for inclusion into this model clause.*
- *It is considered that there is no need to control the land use of the first floor of development to which this clause applies. The amenity of residential upper levels may be addressed as part of the merit assessment process.*
- *If councils want to include design criteria for the ground floor uses, this can be included in the DCP.*

This planning proposal adopts this model clause as it applies to the B2 Local Centre zone in Byron Bay town centre and no other option was considered.

The draft active frontage clause will be applied to land shown in the draft Active Frontages Map (see **Appendix 2**).

### **Design Excellence Options Considered**

In 2017, the NSW Government Architect exhibited '*Better Placed - A design led approach: developing an Architecture and Design Policy for New South Wales*'. The Draft Policy outlines a series of seven distinct principles applicable at any scale:

1. Contextual, local and of its place
2. Sustainable, efficient and durable
3. Equitable, inclusive and diverse
4. Enjoyable, safe and comfortable
5. Functional, responsive and fit for purpose
6. Value-creating and cost effective
7. Distinctive, visually interesting and appealing

The role of design is a major contributing process in planning and development assessment. This Planning Proposal has reviewed and adapted Design Excellence provisions as a local provision that will apply to all development in the B2 Local Centre Zone in the Byron Bay town centre. This is the most effective means of achieving the objectives of this clause. No other option was considered.

Council is also proposing to implement a design excellence clause to development in the B2 Local Zone. A Design Excellence Policy has been drafted and exhibited to support this.

## **Section B                      Relationship to strategic planning framework**

### **Q3. Is the planning proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (in this case the North Coast Regional Plan 2036)?**

Yes. The Planning Proposal is consistent with the [North Coast Regional Plan 2036](#), which is a 20-year blueprint for the future of the North Coast. The NSW Government's vision for

the North Coast is to create the best region in Australia to live, work and play thanks to its spectacular environment and vibrant communities.

To achieve this vision the Government has set four goals for the region:

- *The most stunning environment in NSW*
- *A thriving, interconnected economy*
- *Vibrant and engaged communities*
- *Great housing choice and lifestyle options.*

Byron Bay is not identified as a regional centre under the North Coast Regional Plan. However, it is recognised for its spectacular natural environment and an important regional tourist destination for the purposes of investment in upgrades to Ballina-Byron Gateway Airport and supporting associated economic growth in the region.

It recognises that the area is integrated with a burgeoning South East Queensland, including Coolangatta Airport, and that hinterland and rural communities are making the most of the increasing global demand for their high-quality agricultural products and that coastal communities are building relationships and leveraging opportunities from the Pacific Highway upgrade.

Byron Shire is known for its natural beauty and character. Unique environmental features such as the Arakwal National Park and the Cape Byron Marine Park will continue to draw domestic and international tourists, contribute to attractive lifestyles and grow the local economy.

Byron Shire is one of Australia's most visited local government areas, with stunning beaches, beautiful hinterland and vibrant centres like Byron Bay. Communities are centres of creativity, provide boutique retail, food and accommodation options, essential services, and offer a unique lifestyle. These factors continue to increase the attractiveness of Byron Bay to visitors and new residents and this has a significant effect on the demand for urban land uses. The NSW Government recognises that tourism can both benefit and increase pressure on the environment and smaller communities.

Byron has a strong economy based on the tourism, retail, creative arts, agricultural, food manufacturing and health sectors. The plan particularly recognises the opportunity to intensify creative industries in Byron that will foster employment and economic activity. Continuing connectivity improvements to Lismore, Ballina, Tweed and South East Queensland through the Pacific Highway upgrade and digital technology will support future economic growth and opportunities.

In summary, this Planning Proposal particularly relates to the following regional priorities:

- Support a strong and diversified economy based on Byron Shire's unique character, landscapes and important farmland.
- Manage and support growth in Byron Bay.
- Maximise opportunities associated with the growth of South East Queensland.

This Planning Proposal is particularly relevant to supporting a strong economy to support tourism and the needs of local residents and is entirely consistent with the North Coast Regional Plan.

#### **Q4. Is the planning proposal consistent with a council's local strategy or other local strategic plan?**

Byron Shire Council has recently adopted Our Byron Our Future. Our Community Strategic Plan 2028 (CSP).

The CSP is the highest level of strategic planning undertaken by a council and its community. Its purpose is to identify the community's main priorities and aspirations for the future, and to plan a clear set of strategies for achieving these goals. The CSP considers the issues and pressures that may affect the community over the next 10 years.

Based on extension community engagement, the Plan contains five key community objectives, which are addressed below in relation to this Planning Proposal.

##### **1. We have infrastructure, transport and services that meet our expectations**

The Planning Proposal builds on existing services and infrastructure. Water and sewerage is available. Further environmental improvements will be enabled through activation of fragmented and underutilised land. This provides an opportunity to increase pedestrian movement in Byron Bay Town Centre.

##### **2. We cultivate and celebrate our diverse cultures, lifestyle and sense of community**

The Planning Proposal supports the economy through strengthening the role and function of Byron Bay Town Centre to support local business growth.

The Planning Proposal will facilitate the approval of mixed use development in Byron and development standards that will enhance the viability of development that meets the day to day or local residents.

This Planning Proposal will create further economic growth and respond to demand without major ecological or social concerns.

##### **3. We protect and enhance our natural environment**

The Planning Proposal assists the environment to be maintained and protected for future generations by restricting development to existing urban land with no major environmental significance.

##### **4. We manage growth and change responsibly**

Byron Bay Town Centre will continue to be a place of growth and diversity where local people can live and work and will be more resilient to outside pressure such as a down turn in tourism. The Planning Proposal implements the Place Principles of the Byron Bay Town Centre Masterplan.

##### **5. We have community led decision making which is open and inclusive**

To progress the Byron Bay Town Centre Masterplan after its adoption, Council established a Town Centre Leadership Group to:

- provide advice and direction on the delivery of the Masterplan actions;
- identify and actively facilitate, where appropriate, opportunities for partnerships and community collaboration;
- provide oversight on the timely delivery of actions that are responsive to community needs, acknowledging that the actions of the Masterplan are flexible and adaptable.




The use of land affected by this Planning Proposal is a result of continued engagement with the Town Centre Leadership Group, Community members and Property owners in Byron Bay Town Centre, as well as with the wider community.

On this basis the Planning Proposal is consistent with Council's CSP.

**Q5. Is the planning proposal consistent with the applicable State Environmental Planning Policies (SEPPs)?**

The State Environmental Planning Policies relevant to this Planning Proposal are as follows:

State Environmental Planning Policy (SEPP)	Compliance of Planning Proposal
<p>SEPP (Coastal Management) 2018</p>	<p>The whole of the Town Centre is within land mapped as Coastal Use Area.</p> <p>The proposed changes to the LEP have no direct implications in regard to this Area, as they will not facilitate development that would result in adverse impacts on the matters outlined in the SEPP in relation to the Coastal Use Area.</p> <p>Fringes areas within the Town Centre are mapped as being in proximity to Coastal Wetlands (see below).</p>  <p>The proposed changes to the LEP will not facilitate development of a nature and scale that would adversely impact on the hydrology or</p>

<b>State Environmental Planning Policy (SEPP)</b>	<b>Compliance of Planning Proposal</b>
	ecological integrity of the adjacent wetlands.
SEPP (Exempt and Complying Development Codes) 2008	Schedule 2 of LEP 2014 includes standards and requirements for locally exempt development types that do not repeat or contradict the Codes SEPP. The Planning Proposal does not alter existing exempt development provisions.
SEPP (Infrastructure) 2007	This Planning Proposal does not contradict or repeat the provisions of the Infrastructure SEPP.
SEPP (Koala Habitat Protection) 2019	There is no Koala habitat mapped by Council in the area affected by this Planning Proposal. The Planning Proposal is not inconsistent with SEPP.
SEPP 55 – Remediation of Land	Council is aware that certain land parcels will have a known history including radioactive sands. The proposed changes will not introduce new permissible sensitive uses on land known to be contaminated.
SEPP 65 – Design Quality of Residential Apartment Development	SEPP 65 will continue to apply to mix use buildings that meet the thresholds established. The provisions proposed do not create any inconsistencies with the SEPP provisions or associated guidelines.
SEPP (Vegetation in Non-Rural Areas) 2017	There is nothing in this Planning Proposal that affects the provisions of the Vegetation in Non-Rural Areas SEPP, which is applicable to urban land zoned under the Byron LEP 2014.

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

Consistency with the s 9.1 Directions is assessed in the following table:

<b>S 9.1 Direction</b>	<b>Application</b>	<b>Relevance to this planning proposal</b>	<b>Consistency with direction</b>
<b>1. Employment and Resources</b>			
1.1 Business and Industrial Zones	<p>Applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).</p> <p>The objectives of this direction are to:</p> <ul style="list-style-type: none"> <li>(a) encourage employment growth in suitable locations,</li> <li>(b) protect employment land in business and industrial zones, and</li> <li>(c) support the viability of identified strategic centres.</li> </ul> <p>A planning proposal must:</p> <ul style="list-style-type: none"> <li>(a) give effect to the objectives of this direction,</li> <li>(b) retain the areas and locations of existing business and industrial zones,</li> <li>(c) not reduce the total potential floor space area for employment uses and related public services in business zones,</li> <li>(d) not reduce the total potential floor space area for industrial uses in industrial zones, and</li> <li>(e) ensure that proposed new employment areas are in accordance with a strategy that is approved by the Director-General of the Department of Planning.</li> </ul>	<p>This Planning Proposal will directly affect land within an existing Business Zone.</p> <p>The Planning Proposal will support a range of uses in an existing business zone and is entirely consistent with the objectives of this direction.</p>	Consistent
1.2 Rural Zones	<p>Applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary).</p>	<p>This Planning Proposal does not affect land within an existing or proposed rural zone.</p>	Not applicable

<b>S 9.1 Direction</b>	<b>Application</b>	<b>Relevance to this planning proposal</b>	<b>Consistency with direction</b>
	<p>The objective of this direction is to protect the agricultural production value of rural land.</p> <p>Under this direction a planning proposal must:</p> <ul style="list-style-type: none"> <li>(a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.</li> <li>(b) not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).</li> </ul>		
1.3 Mining, Petroleum Production and Extractive Industries	<p>Applies when a relevant planning authority prepares a planning proposal that would have the effect of:</p> <ul style="list-style-type: none"> <li>(a) prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or</li> <li>(b) restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.</li> </ul>	This Planning Proposal does not have any effect on the potential for mining, petroleum production or extraction of materials and resources.	Not applicable
1.4 Oyster Aquaculture	<p>Applies when a relevant planning authority prepares any planning proposal that proposes a change in land use which could result in:</p> <ul style="list-style-type: none"> <li>(a) adverse impacts on a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate”, or</li> <li>(b) incompatible use of land between oyster aquaculture in a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate” and other land uses.</li> </ul>	This Planning Proposal has no effect on a Priority Oyster Aquaculture Area or other related uses.	Not applicable
1.5 Rural Lands	<p>Applies when:</p> <ul style="list-style-type: none"> <li>(a) a relevant planning authority prepares a planning proposal that will affect land within an existing or</li> </ul>	This Planning Proposal will have no effect on land within a rural or environment protection zone.	Not applicable

<b>S 9.1 Direction</b>	<b>Application</b>	<b>Relevance to this planning proposal</b>	<b>Consistency with direction</b>
	<p>proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary), or</p> <p>(b) a relevant planning authority prepares a planning proposal that changes the existing minimum lot size on land within a rural or environment protection zone.</p> <p>A planning proposal to which clauses (a) and (b) apply must be consistent with the Rural Planning Principles listed in <i>State Environmental Planning Policy (Rural Lands) 2008</i>. A planning proposal to which clause (b) applies must be consistent with the Rural Subdivision Principles listed in <i>State Environmental Planning Policy (Rural Lands) 2008</i>.</p>		
<b>2. Environment and Heritage</b>			
2.1 Environment Protection Zones	<p>A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.</p> <p>A planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with clause (5) of Direction 1.5 “<i>Rural Lands</i>”.</p>	This Planning Proposal will have no effect on land within an environment protection zone or land otherwise identified for environment protection purposes.	Not applicable
2.2 Coastal Management	This direction applies to land that is within the coastal zone, as defined under the Coastal Management Act 2016 - comprising the coastal wetlands and littoral rainforests area, coastal vulnerability area, coastal environment area and coastal use area – and as identified by the State Environmental Planning Policy (Coastal Management) 2018.	<p>The Planning Proposal applies to land in the Coastal Zone.</p> <p>Parts of the Town Centre are mapped within SEPP (Coastal Management) 2018 as Coastal Environment and Coastal Use Area.</p> <p>Fringe areas within the Town Centre are mapped as being in proximity to Coastal Wetlands.</p>	Consistent

<b>S 9.1 Direction</b>	<b>Application</b>	<b>Relevance to this planning proposal</b>	<b>Consistency with direction</b>
		Coastal Vulnerability is not yet mapped.	
	<p>A planning proposal must include provisions that give effect to and are consistent with:</p> <ul style="list-style-type: none"> <li>(a) the objects of the Coastal Management Act 2016 and the objectives of the relevant coastal management areas;</li> <li>(b) the NSW Coastal Management Manual and associated Toolkit;</li> <li>(c) NSW Coastal Design Guidelines 2003; and</li> <li>(d) any relevant Coastal Management Program that has been certified by the Minister, or any Coastal Zone Management Plan under the Coastal Protection Act 1979 that continues to have effect under clause 4 of Schedule 3 to the Coastal Management Act 2016, that applies to the land.</li> </ul>	<p>There is no certified Coastal Management Program yet in place for Byron Bay.</p> <p>Nothing in the Planning Proposal raises substantive issues in relation to the Coastal management Act or the Coastal Management Manual.</p>	
	<p>A planning proposal must not rezone land which would enable increased development or more intensive land-use on land:</p> <ul style="list-style-type: none"> <li>(a) within a coastal vulnerability area identified by the State Environmental Planning Policy (Coastal Management) 2018; or</li> <li>(b) that has been identified as land affected by a current or future coastal hazard in a local environmental plan or development control plan, or a study or assessment undertaken: <ul style="list-style-type: none"> <li>(i) by or on behalf of the planning proposal authority and the planning proposal authority, or</li> <li>(ii) by or on behalf of a public authority and provided to the planning proposal authority.</li> </ul> </li> </ul>	<p>There are no areas of coastal vulnerability mapped in Byron Shire at this time.</p> <p>Coastal hazard precincts were mapped within Part J of Byron DCP 2010. While this DCP still applies to many deferred areas along the Shire's coastline, it does not apply to the Byron Town Centre, which is zoned under BLEP 2014.</p> <p>Byron DCP 2014 does not include coastline hazard mapping.</p> <p>Updated coastal hazard mapping, adopted for the purpose of preparing a Coastline Management Plan (not yet prepared), was undertaken in 2013. That mapping did not include the Town Centre, primarily because of the presence of the existing Jonson Street protection works on the northern end of the main beach car park.</p>	Consistent

<b>S 9.1 Direction</b>	<b>Application</b>	<b>Relevance to this planning proposal</b>	<b>Consistency with direction</b>																									
		Accordingly, the planning proposal will not enable intensification of development in a mapped hazard area.																										
	<p>A planning proposal for a Local Environmental Plan may propose to amend the following maps, including increasing or decreasing the land within these maps, under the State Environmental Planning Policy (Coastal Management) 2018:</p> <ul style="list-style-type: none"> <li>(a) Coastal wetlands and littoral rainforests area map;</li> <li>(b) Coastal vulnerability area map;</li> <li>(c) Coastal environment area map; and</li> <li>(d) Coastal use area map.</li> </ul> <p>Such a planning proposal must be supported by evidence in a relevant Coastal Management Program that has been certified by the Minister, or by a Coastal Zone Management Plan under the Coastal Protection Act 1979 that continues to have effect under clause 4 of Schedule 3 to the Coastal Management Act 2016.</p>	The planning proposal does not propose to change any of the nominated maps.	Consistent																									
2.3 Heritage Conservation	<p>A planning proposal must contain provisions that facilitate the conservation of:</p> <ul style="list-style-type: none"> <li>(a) Items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area,</li> <li>(b) Aboriginal objects or Aboriginal places that are protected under the <i>National Parks and Wildlife Act 1974</i>, and</li> <li>(c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council,</li> </ul>	<p>The Planning Proposal relates to land within Byron Bay Town Centre zoned B2 Local Centre, containing heritage items, identified in Schedule 5 Environmental Heritage of Byron LEP 2014:</p> <table border="1" data-bbox="1265 1086 1942 1431"> <thead> <tr> <th>Item</th> <th>Address</th> <th>Property Description</th> <th>Significance</th> <th>Item no</th> </tr> </thead> <tbody> <tr> <td>Terrace houses</td> <td>27–31 Fletcher Street</td> <td>Lot 1, Section 26, DP 758207</td> <td>Local</td> <td>1069</td> </tr> <tr> <td>Semi-detached cottages</td> <td>33–35 Fletcher Street</td> <td>SP 20654</td> <td>Local</td> <td>1070</td> </tr> <tr> <td>Art Gallery</td> <td>39 Fletcher Street</td> <td>Lot B, DP 302467</td> <td>Local</td> <td>1071</td> </tr> <tr> <td>Commercial facade</td> <td>17–31 Jonson Street</td> <td>Lot 1, DP 171102; Lot 1 DP</td> <td>Local</td> <td>1073</td> </tr> </tbody> </table>	Item	Address	Property Description	Significance	Item no	Terrace houses	27–31 Fletcher Street	Lot 1, Section 26, DP 758207	Local	1069	Semi-detached cottages	33–35 Fletcher Street	SP 20654	Local	1070	Art Gallery	39 Fletcher Street	Lot B, DP 302467	Local	1071	Commercial facade	17–31 Jonson Street	Lot 1, DP 171102; Lot 1 DP	Local	1073	Consistent
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	<p>Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.</p>	<table border="1" data-bbox="1267 268 1944 1050"> <tr> <td></td> <td></td> <td>713659; Lots 4 and 5, DP 11407</td> <td></td> <td></td> </tr> <tr> <td>Great Northern hotel (including decorative tiling)</td> <td>35–43 Jonson Street</td> <td>Lot 2, DP 597016</td> <td>Local</td> <td>1074</td> </tr> <tr> <td>Post Office (former)</td> <td>59–67 Jonson Street</td> <td>Lot 1, DP 736784</td> <td>Local</td> <td>1075</td> </tr> <tr> <td>Byron Bay Community Centre</td> <td>69 Jonson Street</td> <td>Lot 1, DP 524709</td> <td>Local</td> <td>1076</td> </tr> <tr> <td>Former Norco Butter Factory</td> <td>132–144 Jonson Street</td> <td>Lot 1, DP 804082; SP 83280; Lot 6, DP 258071</td> <td>Local</td> <td>1079</td> </tr> <tr> <td>Commercial (including shops, bar and restaurant)</td> <td>5A Lawson Street</td> <td>Lot 2, DP 830504</td> <td>Local</td> <td>1084</td> </tr> <tr> <td>Main Beach Backpackers (all of the building located on the corner of Lawson and Fletcher Streets, which includes the 1929 section of the former Byron Council Chambers building)</td> <td>19–23 Lawson Street</td> <td>Part of Lot 1, DP 876261</td> <td>Local</td> <td>1085</td> </tr> <tr> <td>Timber cottage</td> <td>5 Middleton Lane</td> <td>Lot B, DP 377425</td> <td>Local</td> <td>1089</td> </tr> </table> <p>Byron LEP 2014 currently includes compulsory provisions under Clause 5.10 that requires conservation of heritage, archaeological sites and Aboriginal objects and places.</p> <p>The Planning Proposal does not alter any of the existing heritage controls or protections.</p>			713659; Lots 4 and 5, DP 11407			Great Northern hotel (including decorative tiling)	35–43 Jonson Street	Lot 2, DP 597016	Local	1074	Post Office (former)	59–67 Jonson Street	Lot 1, DP 736784	Local	1075	Byron Bay Community Centre	69 Jonson Street	Lot 1, DP 524709	Local	1076	Former Norco Butter Factory	132–144 Jonson Street	Lot 1, DP 804082; SP 83280; Lot 6, DP 258071	Local	1079	Commercial (including shops, bar and restaurant)	5A Lawson Street	Lot 2, DP 830504	Local	1084	Main Beach Backpackers (all of the building located on the corner of Lawson and Fletcher Streets, which includes the 1929 section of the former Byron Council Chambers building)	19–23 Lawson Street	Part of Lot 1, DP 876261	Local	1085	Timber cottage	5 Middleton Lane	Lot B, DP 377425	Local	1089	
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2.4 Recreation Vehicle Areas	<p>A planning proposal must not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the <i>Recreation Vehicles Act 1983</i>):</p> <p>(a) where the land is within an environment protection zone,</p>	<p>This Planning Proposal does not enable land to be developed for the purpose of a vehicle recreation area (within the meaning of the <i>Recreation Vehicles Act 1983</i>):</p>	Not applicable																																								



<b>S 9.1 Direction</b>	<b>Application</b>	<b>Relevance to this planning proposal</b>	<b>Consistency with direction</b>
	<p>(b) where the land comprises a beach or a dune adjacent to or adjoining a beach,</p> <p>(c) where the land is not within an area or zone referred to in paragraphs (4)(a) or (4)(b) unless the relevant planning authority has taken into consideration:</p> <p>(i) the provisions of the guidelines entitled <i>Guidelines for Selection, Establishment and Maintenance of Recreation Vehicle Areas, Soil Conservation Service of New South Wales, September 1985</i>, and</p> <p>(ii) the provisions of the guidelines entitled <i>Recreation Vehicles Act, 1983, Guidelines for Selection, Design, and Operation of Recreation Vehicle Areas, State Pollution Control Commission, September 1985</i>.</p>		
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	A planning proposal that introduces or alters an E2 Environmental Conservation or E3 Environmental Management zone or an overlay and associated clause must apply the proposed E2 Environmental Conservation or E3 Environmental Management zones, or the overlay and associated clause, consistent with the Northern Councils E Zone Review Final Recommendations.	This Planning Proposal does not introduce or alter an E2 or E3 Zone or Environmental Overlays.	Not applicable
2.6 Remediation of Contaminated Land	A planning proposal that would permit a change of use must not proceed unless the proposal authority has considered whether the land is contaminated.	The planning proposal rezones land from one business zone to another. Nothing in the proposal impacts on the provisions or requirements of SEPP 55.	Consistent
<b>3. Housing, Infrastructure and Urban Development</b>			
3.1 Residential Zones	<p>This direction applies when a relevant planning authority prepares a planning proposal that will affect land within:</p> <p>(a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary),</p> <p>(b) any other zone in which significant residential development is permitted or proposed to be permitted.</p>	This Planning Proposal does not affect land within a residential zone. Residential accommodation is already permitted in the form of shop top housing. New provisions will also support the development of mixed use building types that must achieve principles of Design Excellence in Byron Bay Town Centre; to deliver more ecologically sustainable buildings and	Consistent

<b>S 9.1 Direction</b>	<b>Application</b>	<b>Relevance to this planning proposal</b>	<b>Consistency with direction</b>
	<p>A planning proposal must include provisions that encourage the provision of housing that will:</p> <ul style="list-style-type: none"> <li>(a) broaden the choice of building types and locations available in the housing market, and</li> <li>(b) make more efficient use of existing infrastructure and services, and</li> <li>(c) reduce the consumption of land for housing and associated urban development on the urban fringe, and</li> <li>(d) be of good design.</li> </ul> <p>A planning proposal must, in relation to land to which this direction applies:</p> <ul style="list-style-type: none"> <li>(a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and</li> <li>(b) not contain provisions which will reduce the permissible residential density of land.</li> </ul>	<p>public places that preserve a fine grain village character through the highest standard of architectural, urban and landscape design.</p> <p>Clause 6.6 of Byron LEP 2014 requires development may not be permitted unless the consent authority is satisfied that the site is serviced.</p>	
3.2 Caravan Parks and Manufactured Home Estates	<p>Applies when a relevant planning authority prepares a planning proposal.</p> <p>In identifying suitable zones, locations and provisions for caravan parks in a planning proposal, the relevant planning authority must:</p> <ul style="list-style-type: none"> <li>(a) retain provisions that permit development for the purposes of a caravan park to be carried out on land, and</li> <li>(b) retain the zonings of existing caravan parks, or in the case of a new principal LEP, zone the land in accordance with an appropriate zone under the Standard Instrument (Local Environmental Plans) Order 2006 that would facilitate the retention of the existing caravan park.</li> </ul>	<p>This Planning Proposal does not seek to identify suitable zones locations and provision for caravan parks.</p>	<p>Not applicable</p>

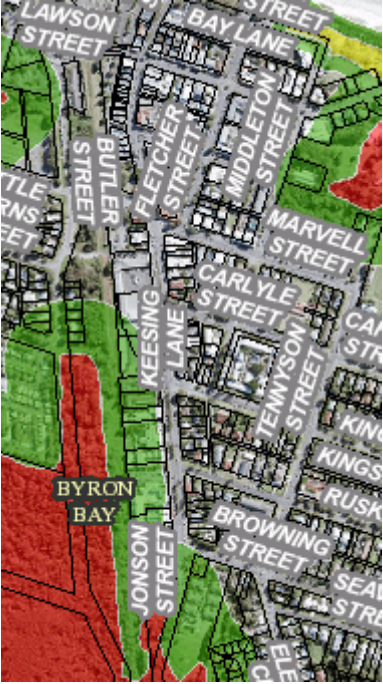
<b>S 9.1 Direction</b>	<b>Application</b>	<b>Relevance to this planning proposal</b>	<b>Consistency with direction</b>
	<p>In identifying suitable zones, locations and provisions for manufactured home estates (MHEs) in a planning proposal, the relevant planning authority must:</p> <ul style="list-style-type: none"> <li>(a) take into account the categories of land set out in Schedule 2 of SEPP 36 as to where MHEs should not be located,</li> <li>(b) take into account the principles listed in clause 9 of SEPP 36 (which relevant planning authorities are required to consider when assessing and determining the development and subdivision proposals), and</li> <li>(c) include provisions that the subdivision of MHEs by long term lease of up to 20 years or under the <i>Community Land Development Act 1989</i> be permissible with consent.</li> </ul>		
3.3 Home Occupations	<p>Planning proposals must permit home occupations to be carried out in dwelling-houses without the need for development consent.</p>	<p>This Planning Proposals does not seek to amend current Byron LEP 2014 provisions that permit home occupations to be carried out without the need for development consent.</p>	Consistent
3.4 Integrating Land Use and Transport	<p>Applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes. A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:</p> <ul style="list-style-type: none"> <li>(a) <i>Improving Transport Choice – Guidelines for planning and development</i> (DUAP 2001), and</li> <li>(b) <i>The Right Place for Business and Services – Planning Policy</i> (DUAP 2001).</li> </ul> <p>The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the</p>	<p>This Planning Proposal will facilitate increased density in the form of mixed use development within Byron Bay Town Centre and will encourage better design and siting of proposed developments, thus contributing to a more pedestrian friendly environment and encouraging alternative forms of transport.</p>	Consistent

<b>S 9.1 Direction</b>	<b>Application</b>	<b>Relevance to this planning proposal</b>	<b>Consistency with direction</b>
	<p>following planning objectives:</p> <ul style="list-style-type: none"> <li>(a) improving access to housing, jobs and services by walking, cycling and public transport, and</li> <li>(b) increasing the choice of available transport and reducing dependence on cars, and</li> <li>(c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and</li> <li>(d) supporting the efficient and viable operation of public transport services, and</li> <li>(e) providing for the efficient movement of freight</li> </ul>		
3.5 Development Near Regulated Airports and Defence Airfields	<p>Applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome.</p> <p>The main requirements of the Direction are that Council considers the Obstacle Limitation Surface (OLS) as defined by that Department of the Commonwealth for residential purposes, and does not increase residential densities in areas where the ANEF, as from time to time advised by that Department of the Commonwealth, exceeds 25.</p>	This Planning Proposal will not create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome.	Not applicable
3.6 Shooting Ranges	<p>Applies when a relevant planning authority prepares a planning proposal that will affect, create, alter or remove a zone or a provision relating to land adjacent to and/or adjoining an existing shooting range.</p> <p>A Planning Proposal must not seek to rezone land adjacent to and/or adjoining an existing shooting range that has the effect of permitting more intensive land uses in the area.</p>	This Planning Proposal does not relate to land adjacent to and/or adjoining an existing shooting range.	Not applicable
3.7 Reduction in non-hosted short term rental accommodation period	This direction applies specifically to Byron Shire Council, but only in relation to a planning proposal to identify or reduce the number of days that non-hosted short-term rental accommodation may be carried out in parts of our	The Planning Proposal does not deal with short term holiday letting.	Not applicable

<b>S 9.1 Direction</b>	<b>Application</b>	<b>Relevance to this planning proposal</b>	<b>Consistency with direction</b>										
	local government area												
<b>4. Hazard and Risk</b>													
<p>4.1 Acid Sulfate Soils</p>	<p>Applies when a relevant planning authority prepares a planning proposal that will apply to land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps.</p> <p>A council shall not prepare a draft LEP that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the council has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils.</p>	<p>The Planning Proposal is located on land affected by Acid Sulfate Soils Class 3 and Class 5 as shown on the <a href="#">Acid Sulfate Soils Map</a> in Byron LEP 2014. A small part of land at 156 Jonson Street, south of Browning Street is identified as Class 2.</p> <p>The Planning Proposal is not expected to result in intensification of land use compared to the current underlying permissible land uses and significant disturbance of soils would be assessed under the relevant classification of works would be assessed under the provisions of Byron LEP 2014.</p> <p>Byron LEP 2014 provisions under Clause 6.1 Acid Sulfate Soils limits the type of activities and work on land affected by acid sulfate soils management, as follows:</p> <table border="0" data-bbox="1263 890 1957 1409"> <thead> <tr> <th data-bbox="1263 890 1458 919"><b>Class of land</b></th> <th data-bbox="1509 890 1599 919"><b>Works</b></th> </tr> </thead> <tbody> <tr> <td data-bbox="1263 930 1285 959">1</td> <td data-bbox="1509 930 1653 959">Any works.</td> </tr> <tr> <td data-bbox="1263 970 1285 999">2</td> <td data-bbox="1509 970 1912 1098">Works below the natural ground surface. Works by which the watertable is likely to be lowered.</td> </tr> <tr> <td data-bbox="1263 1109 1285 1137">3</td> <td data-bbox="1509 1109 1912 1337">Works more than 1 metre below the natural ground surface. Works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface.</td> </tr> <tr> <td data-bbox="1263 1348 1285 1377">4</td> <td data-bbox="1509 1348 1854 1409">Works more than 2 metres below the natural ground</td> </tr> </tbody> </table>	<b>Class of land</b>	<b>Works</b>	1	Any works.	2	Works below the natural ground surface. Works by which the watertable is likely to be lowered.	3	Works more than 1 metre below the natural ground surface. Works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface.	4	Works more than 2 metres below the natural ground	<p>Consistent</p>
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<b>S 9.1 Direction</b>	<b>Application</b>	<b>Relevance to this planning proposal</b>	<b>Consistency with direction</b>
		<p>5</p> <p>surface. Works by which the watertable is likely to be lowered more than 2 metres below the natural ground surface. Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.</p>	
4.2 Mine Subsidence and Unstable Land	<p>Applies when a relevant planning authority prepares a planning proposal that permits development on land that:</p> <p>(a) is within a mine subsidence district, or</p> <p>(b) has been identified as unstable in a study, strategy or other assessment undertaken:</p> <p>(i) by or on behalf of the relevant planning authority, or</p> <p>(ii) by or on behalf of a public authority and provided to the relevant planning authority.</p>	Byron Shire is not in a mine subsidence district and the land affected by this planning proposal has not been identified as unstable land.	Not applicable
4.3 Flood Prone Land	<p>Applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.</p> <p>A planning proposal must include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i> (including the <i>Guideline on Development Controls on Low Flood Risk Areas</i>).</p> <p>A planning proposal must not rezone land within the flood planning areas from Special Use, Special Purpose,</p>	<p>With the exception of land located approximately 3m AHD and above, the Planning Proposal affects land located on Flood Prone Land (1:100 Year Flood) and is within the Belongil Creek Flood Planning Area.</p> <p>The Planning Proposal does not rezone land zoned Special Use, Special Purpose, Recreation, Rural or Environment Protection Zones within the flood planning area to a residential, business, industrial, special use or special purpose zone.</p> <p>The requirements of Direction 4.3 are addressed</p>	Consistent

<b>S 9.1 Direction</b>	<b>Application</b>	<b>Relevance to this planning proposal</b>	<b>Consistency with direction</b>
	<p>Recreation, Rural or Environment Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone.</p> <p>A planning proposal must not contain provisions that apply to the flood planning areas which:</p> <ul style="list-style-type: none"> <li>(a) permit development in floodway areas,</li> <li>(b) permit development that will result in significant flood impacts to other properties,</li> <li>(c) permit a significant increase in the development of that land,</li> <li>(d) are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or</li> <li>(e) permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, buildings or structures in floodways or high hazard areas), roads or exempt development.</li> </ul> <p>A planning proposal must not impose flood related development controls above the residential flood planning level for residential development on land, unless a relevant planning authority provides adequate justification for those controls to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).</p> <p>For the purposes of a planning proposal, a relevant planning authority must not determine a flood planning level that is inconsistent with the Floodplain Development Manual 2005 (including the <i>Guideline on Development Controls on Low Flood Risk Areas</i>) unless a relevant planning authority provides adequate justification for the proposed departure from that Manual to the satisfaction of the Director-General</p>	<p>under Byron LEP 2014, that currently contains provisions under Clause 6.3 Flood planning and 6.4 Floodplain risk management, to:</p> <ul style="list-style-type: none"> <li>• to minimise the flood risk to life and property associated with the use of land,</li> <li>• to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,</li> <li>• to avoid significant adverse impacts on flood behaviour and the environment.</li> <li>• to enable evacuation of land subject to flooding above the flood planning level,</li> <li>• to protect the operational capacity of emergency response facilities and critical infrastructure during extreme flood events.</li> </ul> <p>This Planning Proposal does not impose new flood planning levels and reinforces existing flood planning related development controls.</p>	

<b>S 9.1 Direction</b>	<b>Application</b>	<b>Relevance to this planning proposal</b>	<b>Consistency with direction</b>
	(or an officer of the Department nominated by the Director-General).		
<p>4.4 Planning for Bushfire Protection</p>	<p>Applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land.</p> <p>In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made.</p> <p>A planning proposal must:</p> <ul style="list-style-type: none"> <li>(a) have regard to <i>Planning for Bushfire Protection 2006</i>,</li> <li>(b) introduce controls that avoid placing inappropriate developments in hazardous areas, and</li> <li>(c) ensure that bushfire hazard reduction is not prohibited within the APZ.</li> </ul> <p>A planning proposal must, where development is proposed, comply with the following provisions, as appropriate:</p> <ul style="list-style-type: none"> <li>(a) provide an Asset Protection Zone (APZ) incorporating at a minimum: <ul style="list-style-type: none"> <li>(i) an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and</li> <li>(ii) an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road,</li> </ul> </li> <li>(b) for infill development (that is development within an</li> </ul>	<p>This Planning Proposal will affect land that is primarily in the bushfire vegetation buffer and is in close proximity to vegetation category 1:</p>  <p>Council consulted with the Rural Fire Service (RFS) during the public exhibition in the first iteration of the planning proposal and the RFS had no concerns with the proposed changes.</p>	<p>Consistent</p>



<b>S 9.1 Direction</b>	<b>Application</b>	<b>Relevance to this planning proposal</b>	<b>Consistency with direction</b>
	<p>already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the planning proposal permit Special Fire Protection Purposes (as defined under section 100B of the <i>Rural Fires Act 1997</i>), the APZ provisions must be complied with,</p> <p>(c) contain provisions for two-way access roads which link to perimeter roads and/or to fire trail networks,</p> <p>(d) contain provisions for adequate water supply for fire fighting purposes,</p> <p>(e) minimise the perimeter of the area of land interfacing the hazard which may be developed,</p> <p>(f) introduce controls on the placement of combustible materials in the Inner Protection Area.</p>		
<b>5 Regional Planning</b>			
5.1 Implementation of Regional Strategies	Revoked 17.10.2017	-	-
5.2 Sydney Drinking Water Catchments	Applies when a relevant planning authority prepares a planning proposal that applies to the hydrological catchment.	Not Applicable	Not applicable
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	The planning proposal must not rezone land mapped as State or regionally significant farmland under the Northern Rivers Farmland Protection Project for an urban use.	The Planning Proposal affects land within a 'Committed Urban Use' area on the Northern Rivers Farmland Protection Maps, and is therefore not classified as either Regionally or State Significant farmland.	Not applicable
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Not Applicable	Not Applicable	Not applicable
5.5 -5.7 Revoked	-	-	-

<b>S 9.1 Direction</b>	<b>Application</b>	<b>Relevance to this planning proposal</b>	<b>Consistency with direction</b>
5.8 Second Sydney Airport: Badgerys Creek	Not Applicable	Not Applicable	Not applicable
5.9 North West Rail Link Corridor Strategy	Not Applicable	Not Applicable	Not applicable
5.10 Implementation of Regional Plans	Planning proposals must be consistent with a Regional Plan released by the Minister for Planning.	The consistency of this Planning Proposal with the North Coast Regional Plan is addressed in Section B above.	Consistent
5.11 Development of Aboriginal Land Council Land	At this time, the Direction only applies to nominated land on the NSW Central Coast.	-	Not applicable
<b>6. Local Plan Making</b>			
6.1 Approval and Referral Requirements	<p>A planning proposal must:</p> <p>(a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and</p> <p>(b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of:</p> <p>(i) the appropriate Minister or public authority, and</p> <p>(ii) the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General),</p> <p>prior to undertaking community consultation in satisfaction of section 57 of the Act, and</p> <p>(c) not identify development as designated development unless the relevant planning authority:</p> <p>(i) can satisfy the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General) that</p>	The planning proposal does not propose the inclusion of any concurrence, consultation or referral provisions.	Consistent

<b>S 9.1 Direction</b>	<b>Application</b>	<b>Relevance to this planning proposal</b>	<b>Consistency with direction</b>
	<p>the class of development is likely to have a significant impact on the environment, and</p> <p>(ii) has obtained the approval of the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act.</p>		
6.2 Reserving Land for Public Purposes	<p>A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General).</p>	<p>This proposal does not create, alter or reduce existing zonings or reservations of land for public purposes.</p>	Consistent
6.3 Site Specific Provisions	<p>Applies when a relevant planning authority prepares a Planning Proposal that will allow a particular development to be carried out.</p> <p>A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either:</p> <p>(a) allow that land use to be carried out in the zone the land is situated on, or</p> <p>(b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or</p> <p>(c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.</p> <p>A planning proposal must not contain or refer to drawings that show details of the development proposal.</p>	<p>This Planning Proposal will does not contain any site specific provisions in relation to permissible uses or development standards in addition to those already contained in the Byron LEP 2014; the principal environmental planning instrument being amended.</p>	Consistent



## Section C Environmental, Social and Economic Impact

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

No. The land affected by this Planning Proposal is entirely within an urban business zone. The Planning Proposal does not seek to amend planning provisions relating to areas which are known to be ecologically significant land identified for Environmental Protection Purposes. However, site specific flora and fauna studies have not been undertaken to confirm that there is no critical habitat or threatened species, populations or ecological communities on the subject land.

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

No. All likely known environmental effects are addressed in Section B, Q5 and Q.6 in this Planning Proposal.

**Q9. How has the planning proposal adequately addressed any social and economic effects?**

The Planning Proposal could have strong positive social and economic effects by offering additional employment and trading opportunities for local people and businesses. It will provide housing in Byron Bay Town Centre. Numerous social and economic benefits are likely through increasing the efficient use of developable lands for jobs and mixed used development including housing in an existing centre.

## Section D State and Commonwealth interests

**Q.10 Is there adequate public infrastructure for the planning proposal?**

Yes. The Planning Proposal relates to land in an existing urban area with access to essential infrastructure.

**Q.11 What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination**

State government authorities were consulted during the first public exhibition period.

The following presents an overview of their comments during this period:

Public authority/stakeholder	Issue requiring comment
NSW Rural Fire Service	No concerns in relation to bushfire.
Office of Environment and Heritage	Potential increase to flood risk but this can be mitigated through other measures. No other comments.

Public authority/stakeholder	Issue requiring comment
Roads and Maritime Authority	Support for the aims of reducing cars in the Byron Town Centre however alternative transport is needed. Support for mixed-uses, with re-iteration that further referral to RMS will likely be required as a part of development applications in the affected area.

As a courtesy, agencies were asked for comment again during the second exhibition period, however only the RMS replied, re-iterating their previous comment.

## Part 4 Mapping

The Planning Proposal affects an area of land that spans multiple LEP maps. On that basis, Council will need to prepare spatial data to amend the following maps in accordance with the NSW [Standard Technical Requirements for spatial datasets and maps](#):

1. Amend map sheet HOB – Height of Building Map\_003CC
2. Introduce map sheet ASF – Active Street Frontage Map\_003CC
3. Introduce a map sheet BHA - Building Height Allowance Map\_003CC (amended from initial Planning Proposal)
4. Introduce a map sheet DEX – Design Excellence Map\_003CC

Draft map updated are contained in **Appendix 2**.

## Part 5 Community consultation

Prior to the preparation of this Planning Proposal, the additional and amended clauses, Council carried out community consultation.

The following consultation activities were held:

- Council staff were present at two Farmers Markets,
- Two ‘world café’ style workshops were held whereby approximately 60 community members attended and actively participated,
- Two workshops were held at Byron Bay High school with students from year 9, 10 and 12 participated, and
- Numerous individual meetings were held with those expressing interest or expertise in the subject matter.

It was based on the feedback, advice and concerns heard across these consultations that the decisions within this Planning Proposal were made.

This Planning Proposal has now undergone two formal exhibitions – one in 2019 (25 September to 15 November 2019) and one in 2021 (1-28 March 2021). Throughout these exhibition periods, public notices were put out, media releases were created, the local newspaper ran articles, affected landowners were contacted by mail, facebook posts were shared, and staff held numerous one-on-one conversations with community members who were seeking clarification on the planning proposal.

## Part 6 Project timeline

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

Estimated completion	Plan making step
May 2021	Submissions Report to Council
May 2021	Submission of endorsed LEP amendment to Parliamentary Counsel for drafting.
June 2021	Council to make the LEP amendment
June 2021	Forwarding of LEP amendment to Department of Planning & Environment for notification

## Summary and conclusions

This Planning Proposal seeks to rezone land and introduce development standards and local planning provisions on the subject land to implement the strategic objectives of the Byron Bay Town Centre Masterplan.

This Planning Proposal will not impact on environmental areas and the subject area is entirely serviced by urban infrastructure.

This Planning Proposal will have positive social and economic effects by offering additional employment and trading opportunities for local people and businesses. Numerous social and economic benefits are likely through increasing the efficient use of developable lands for jobs and mixed used development including housing in an existing centre.

The proposed zoning changes are consistent with the North Coast Regional Plan 2036 and Council's Community Strategic Plan 2028. The land is identified as an existing urban area. An assessment of the planning proposal indicates that it is consistent with relevant SEPPs. It is consistent with all relevant s117 Directions.

There is sufficient information to enable Council to support the planning proposal and forward it to the Department of Planning and Environment for a Gateway determination.

## Appendix 1 – Proposed LEP Amendments

All draft clauses presented below will be subject to legal drafting before being published in the Byron LEP 2014.

### Height of Buildings

1. Add the following additional clause and associated Building Height Allowance map

#### **4.3A Exceptions to height of buildings**

- (1) *The objective of this clause is to align building height and flood planning provisions within the Byron Bay Town Centre and provide for a consistent point of reference for the measurement of building heights in flood prone areas.*
- (2) *This clause applies to land identified as “Minimum Level Australian Height Datum (AHD)” on the Building Height Allowance Map.*
- (3) *The maximum height of a building on land to which this clause applies is to be measured from the minimum level AHD permitted for that land on the Building Height Allowance Map.*

2. Amend Height of Buildings Map - Sheet HOB\_003CC to rectify a mapping anomaly relating to Lot 1 DP:1267388 and Lot 9 DP 818197, No. 156 Jonson Street Byron Bay, to apply the 11.5m building height maximum to the whole of these lots.

### Design

1. Add the following local clauses:

**6.xx Design excellence within Byron Bay Town Centre** (local drafting in red text) - adapted from various gazetted Standard Instrument LEPs

- (1) *The objective of this clause is to ensure that development to which this clause applies exhibits the highest standard of architectural and urban design.*
- (2) *This clause applies to development involving the erection of a new building or alterations to an existing building on land zoned **contained within the area identified in the Design Excellence Map** to which this Plan applies*
- (3) *Development consent must not be granted to development to which this clause applies unless the consent authority considers that the development exhibits design excellence.*
- (4) *In determining whether the development exhibits design excellence, the following **matters are to be addressed, to the satisfaction of the consent authority:***
  - (a) *whether the development **embodies** sustainable design principles in terms of sunlight, natural ventilation, wind, reflectivity, visual and acoustic privacy, safety and security and resources, energy and water efficiency, **durability and adaptability;***
  - (b) *whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved;*
  - (c) *how well the development responds to the environmental and built characteristics of the site and achieves an acceptable relationship with buildings on the same site and on neighbouring sites;*
  - (d) *whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain, **encouraging social activity and casual surveillance in public places, streets and laneways;***



- (e) whether the configuration and design of communal access or recreational areas within the residential elements of **mixed use** development incorporate exemplary and innovative treatments and promote a socially **cohesive** urban village atmosphere;
- (f) **the extent to which the development avoids clutter in the public domain and coordinates shared utility infrastructure and domestic and commercial waste management;**
- (g) whether the development detrimentally impacts on view corridors and landmarks;
- (h) whether arrangements have been made to ensure that the proposed design is carried through to the completion of the development **including commitments to achieve certification under a nationally recognised sustainable rating system; and**
- (i) how the development addresses the following matters:
  - (i) heritage issues and streetscape constraints;
  - (ii) bulk, massing and modulation of buildings; and
  - (iii) pedestrian, cycle, vehicular and service access and circulation requirements.

and for 'significant development' only:

- (a) whether the development has been endorsed by the Byron Design Excellence Panel as exhibiting design excellence;

NB: 'Significant development' for the purposes of this clause is:

- a building with a gross floor area of 500m<sup>2</sup> or more
- any development that will be referred under the Act to the Joint Regional Planning Panel; or
- residential accommodation resulting in 10 or more dwellings; or
- any development that proposes alterations and additions, redevelopment or demolition of a heritage listed item; or
- pubs; or
- small bars (nightclubs) within the meaning of the Liquor Act 2007; or
- function centres; or
- new buildings
- any other development deemed by Council to be significant

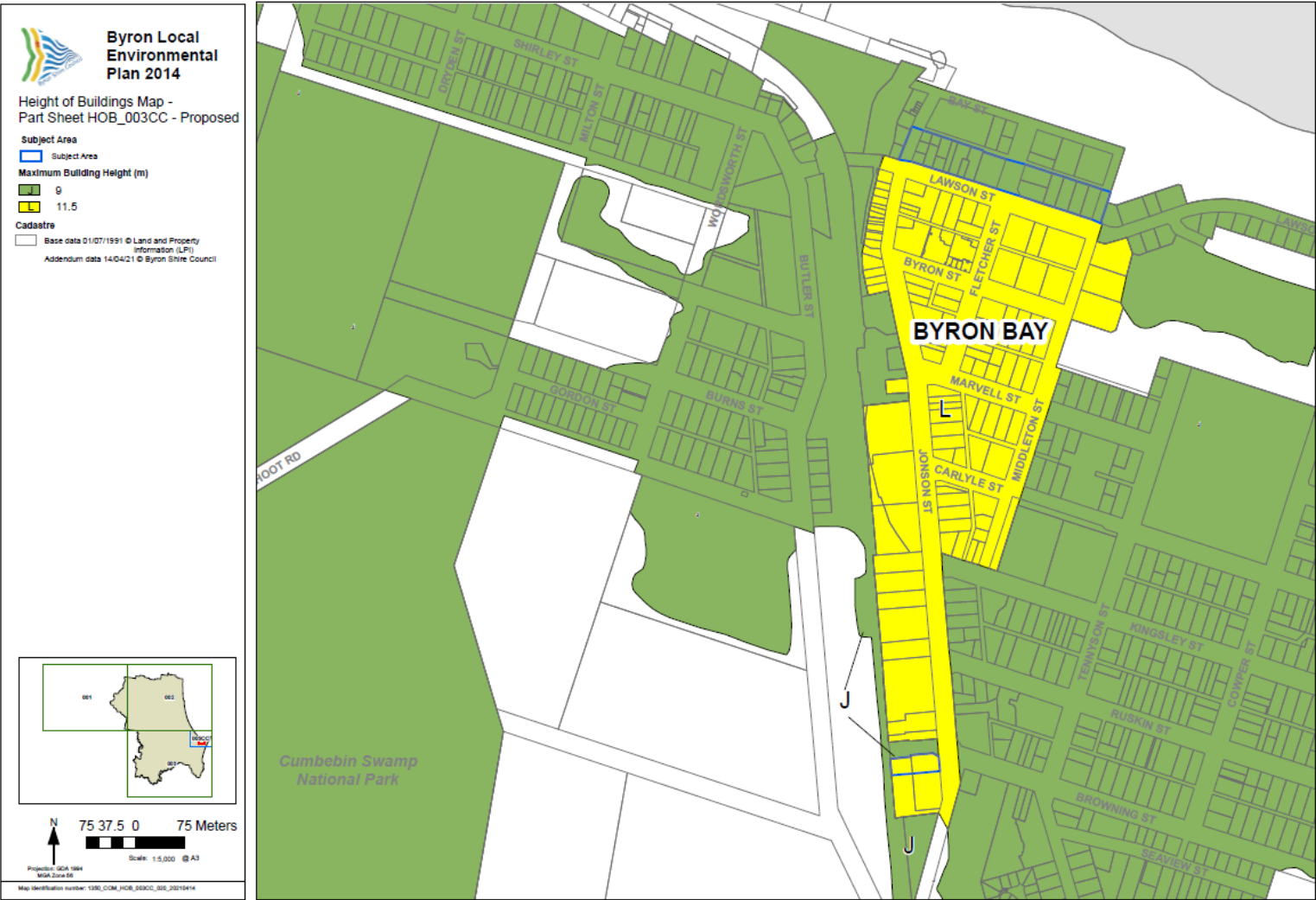
#### **6.xx Active Street Frontages [NSW Model Clause]. *Local Drafting in red font***

- (1) The objective of this clause is to promote uses that attract pedestrian traffic along certain ground floor street frontages in the Byron Bay town centre.
- (2) This clause applies to land identified as 'Active street frontage' on the Active Street Frontages Map.
- (3) Development consent must not be granted to the erection of a building, **significant external alteration** of a building or a change of use of a building, on land to which this clause applies unless the consent authority is satisfied that the building will have an active street frontage after its erection, **significant external alteration** or change of use.
- (4) Despite subclause (3), an active street frontage is not required for any part of a building that is used for any of the following:
  - (a) entrances and lobbies (including as part of mixed use development),
  - (b) access for fire services,
  - (c) vehicle access.
- (5) For the purposes of this clause, a building has an active street frontage if:

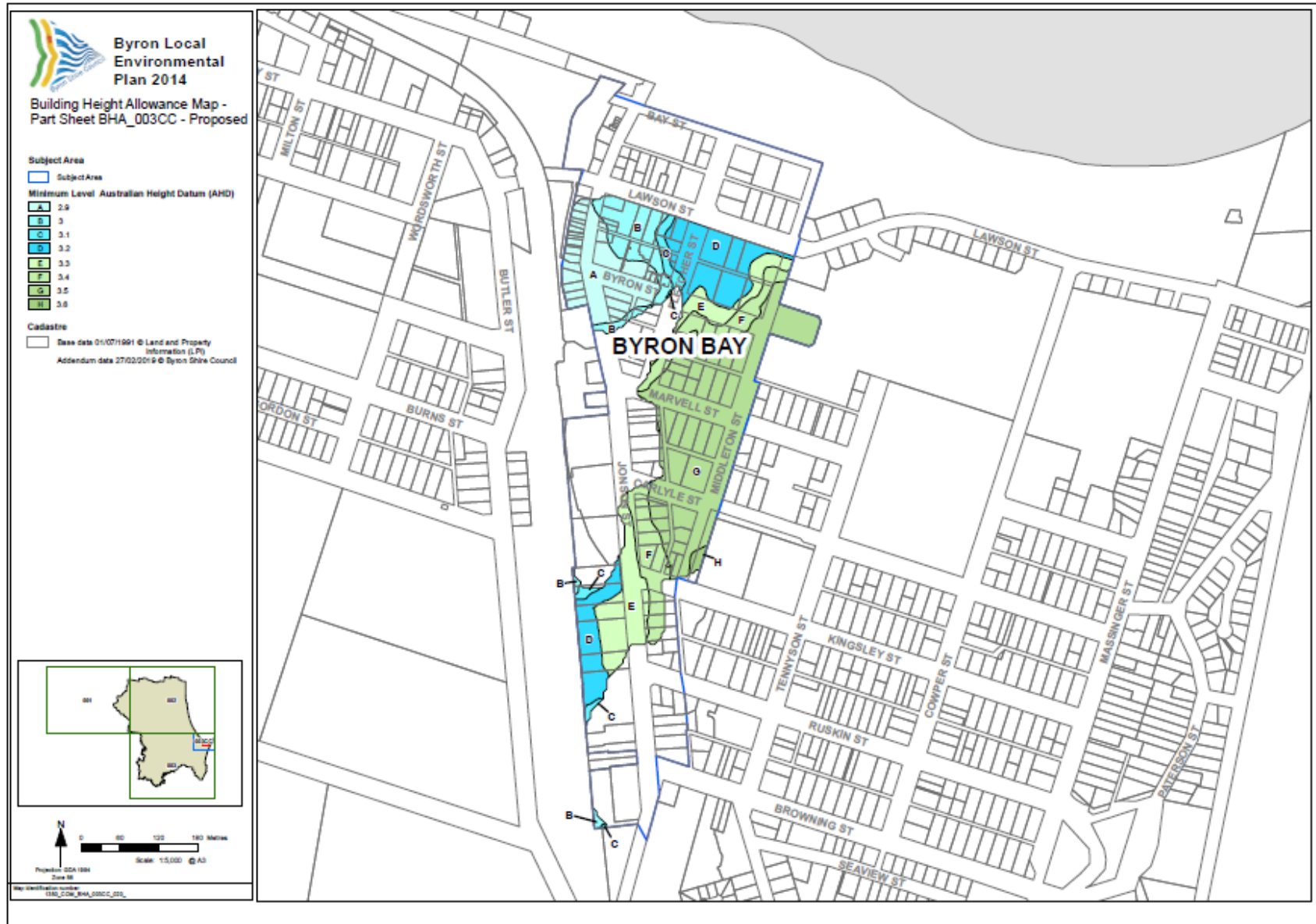
- (a) all premises on the ground floor of the building facing the street are used for the purposes of business premises or retail premises;*
- (b) its street frontage enables direct visual and physical contact between the street and the interior of the building;*
- (c) all premises on the ground floor are built to the street or public place boundary line or create a continuous building edge with adjoining commercial premises;*
- (d) there is no continuous frontage of a single premises beyond 20m, and,*
- (e) all car parking, loading and unloading areas are provided behind buildings.*

# Appendix 2 – Proposed Map Updates

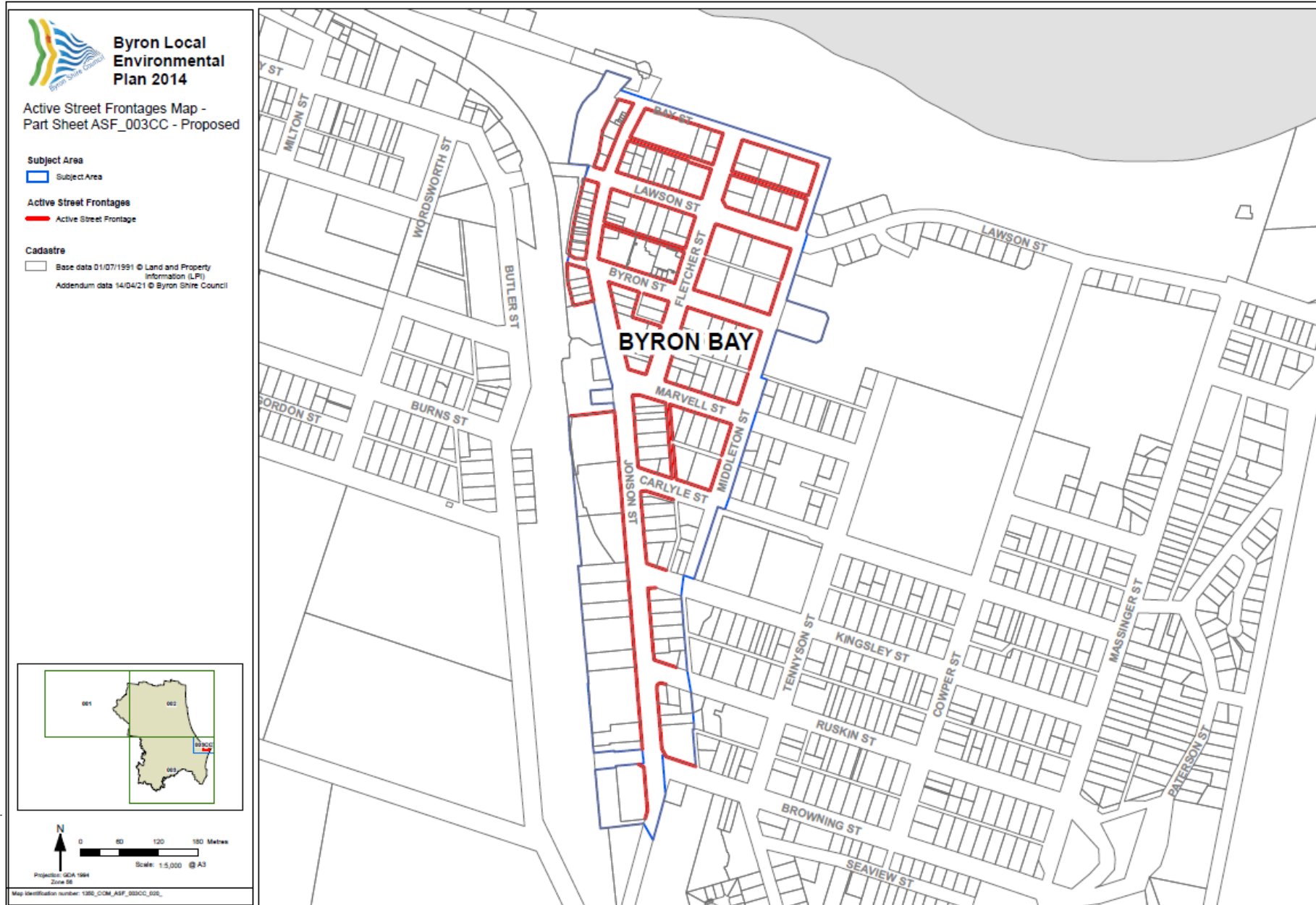
## Proposed Building Heights Map



### Proposed Building Heights Allowance Map



## Proposed Active Street Frontages Map



## Design excellence Map

