



**Planning Proposal 26.2019.8.1
Amendment of Byron Local Environmental Plan 2014
Lot 33 DP 1223152
54 Parrot Tree Place, Bangalow**

Byron Shire Council

Version #1

Date: October 2019
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Document History

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Part 1 Objectives and Intended Outcomes

This Planning Proposal relates to land located at 54 Parrot Tree Place, on the southern edge of Bangalow (refer to Figure 1). The land is described as part Lot 33 in Deposited Plan 1223152, Parish of Byron and County of Rous.

The land is currently zoned both RU1 – Primary Production and R2 – Low Density Residential pursuant to the Byron Local Environmental Plan 2014 (LEP 2014).

This Planning Proposal seeks to rezone part of the subject land from RU1 – Primary Production to R2 – Low Density Residential as shown in Figure 1. The amendment is sought to rectify an anomaly where the R2 zone boundary was created in accordance with the 400 metre buffer to the sewer treatment plant located to the south west of the site. A recent survey has indicated that the original 400 metre buffer line was incorrect. The survey plan is contained in the appendix and Figure 2 demonstrates the relationship between the proposed additional residential zoning and the Bangalow sewer treatment plant. Council's engineers have indicated that there are no plans to extend the sewer treatment plant to the east across Maori Creek.

This Planning Proposal includes amendments to the property zoning, the minimum lot size and floor space ratio controls in keeping with the adjacent residential land. The changes relate to an area of approximately 690m² in size.

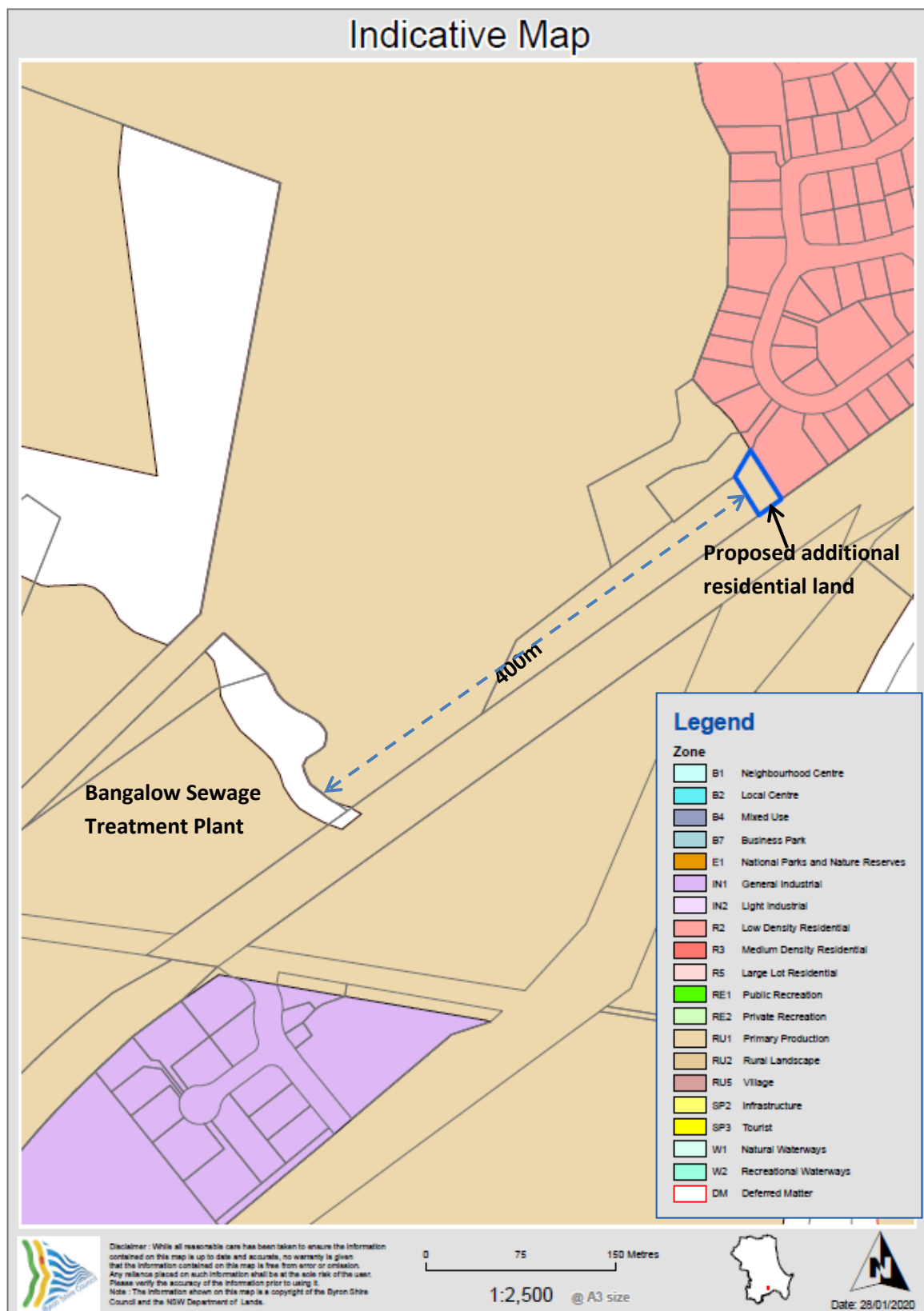
Indicative maps of the proposed changes are provided in Appendix 1. A biodiversity assessment and contamination assessment are attached to this Planning Proposal to support the rezoning.

This Planning Proposal has been prepared with reference to the Department of Planning and Environment's Guidelines "A Guide to Preparing Planning Proposals" and "A Guide to Preparing Local Environmental Plans".

Figure 1: Existing and proposed R2 low density zoning boundary



Figure 2: Indicative Map showing the distance between the Bangalow STP and the proposed additional residential land



Part 2 Explanation of provisions

Table 1 displays the proposed amendments as well as the rationale for the proposed change. The changes are relatively minor in nature and are proposed to reflect the surveyed 400 metre buffer from the sewer treatment plant located to the south west of the property. Indicative mapping of the proposed changes are contained in the Appendix.

Table 1: Proposed LEP amendments and supporting rationale.

Item	Amendment Proposed	Rationale
1	Amendment of the Byron LEP 2014 Zone Map – Sheet LZN_003CB to amend the zoning of part of Lot 33 DP1223152 as illustrated in Figure 4 in the Appendix.	To amend the zoning of part of Lot 33 DP 1223152 from RU1 to R2 to reflect the actual position of the 400-metre sewer treatment plant buffer to residential development.
2	Amendment of the Byron LEP 2014 Lot Size Map – Sheet LSZ_003CB to amend the minimum lot size of part of Lot 33 DP1223152 as illustrated in Figure 4 in the Appendix.	To amend the minimum lot size of part of Lot 33 DP 1223152 from 40 hectares to 300m2 to reflect the actual position of the 400-metre sewer treatment plant buffer to residential development and the adjoining residential minimum lot size.
3	Amendment of the Byron LEP 2014 Floor Space Ratio Map – Sheet FSR_003CB to amend the Floor Space Ratio of part of Lot 33 DP1223152 as illustrated in Figure 4 in the Appendix.	To extend the maximum floor space ratio map requiring a maximum FSR of 0.5:1 of part of Lot 33 DP 1223152 to reflect the actual position of the 400-metre sewer treatment plant buffer to residential development and the adjoining residential FSR.

Part 3 Justification

Section A Need for the planning proposal

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

The Planning Proposal is not the result of any strategic study undertaken by Council, it has been initiated by the applicant. It is supported by a detail survey demonstrating that the 400 metre buffer line to the sewer treatment plant to the south west was originally mapped in the incorrect location. This Planning Proposal seeks to rectify this error and will provide additional residential land within an existing residential subdivision.

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

The planning proposal is the best means to achieve the objective of permitting residential development on part of the land concerned.

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)?

Part of the subject site is located within the Urban Growth Area boundary under the North Coast Regional Plan 2036 (NCRP). The part of the land proposed to be rezoned is located immediately adjacent to the Urban Growth Area. The land is not identified as being located within the 'coastal strip'.

The Planning Proposal is consistent with the following Regional Priorities identified for the Byron Shire:

- Identify additional urban and employment investigation areas to secure future housing and employment land supply.
- Support a strong and diversified economy based on Byron Shire's unique character, landscapes and important farmland.

The Regional Plan has a number of Directions of relevance to the current Planning Proposal:

Direction 1: Deliver environmentally sustainable growth

As discussed above, the land proposed to be rezoned is not located within the Town and Village Growth Boundary of Byron Council (it is directly adjacent to it). This Direction provides guidelines to vary urban growth areas as new information becomes available or to fix anomalies. The proposal is considered to fix an anomaly as the location of the buffer to the sewer treatment plant was incorrectly identified due to GIS irregularities. A survey has been undertaken to locate the boundary of the sewer treatment plant and rectify the 400 metre buffer.

Any variation must be in accordance with the Urban Growth Area Variation Principles provided within NCRP 2036. Compliance with these principles is provided below in Table 2.

Direction 3: Manage Natural Hazards and Climate Change

The subject land is not mapped as being flood prone or bushfire prone on Council mapping.

Direction 11: Protect and enhance productive agricultural lands.

The subject land is mapped as being Regionally Significant Farmland under the Northern Rivers Farmland Protection Project. This direction recognises that agricultural production may not be suitable on some small pockets of mapped important farmland. An assessment against Appendix B: Important Farmland Interim Variation Criteria is provided below in Table 3.

Direction 22: Deliver greater housing supply

The proposal seeks to increase the housing supply of Bangalow by enabling the site to be rezoned for residential purposes. As identified in Figure 10 of the NCRP 2036, the Byron LGA will require a minimum of 3,150 additional houses by 2036. The proposal will assist in the attainment of this goal.

The NCRP contains principles (Appendix A of NCRP) that should be addressed for land that is outside that Urban Growth Area. The following table addresses these principles in relation to the Planning Proposal.

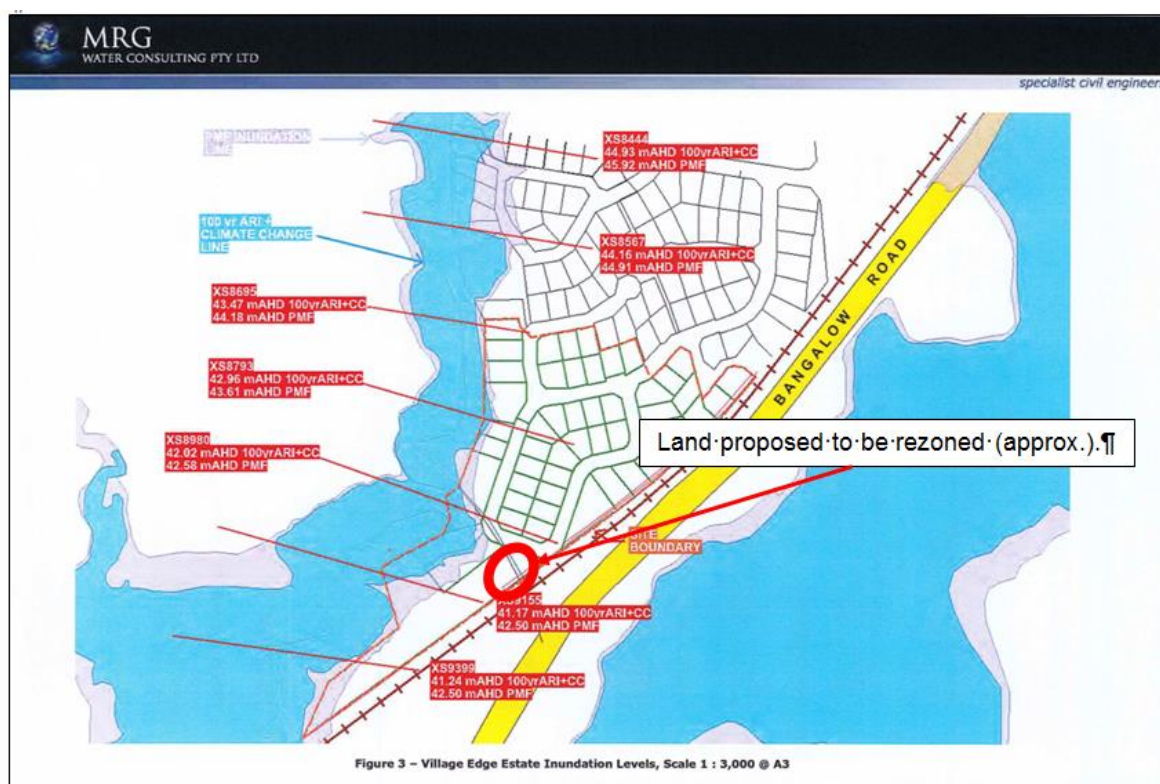
Table 2: Urban growth area variation principles

Urban Growth Area Variation Principles	
Policy The variation needs to be consistent with the objectives and outcomes in the North Coast Regional Plan 2036 and any relevant Section 9.1 Directions and State Environmental Planning Policies, and should consider the intent of any applicable local growth management strategy	Compliance with the relevant provisions of the NCRP 2036, S9.1 Directions and SEPPs is provided within the Planning Proposal report. Variations, where necessary, have been justified and are summarised as follows: • The proposal will provide for greater housing supply and increased housing diversity within the Byron Shire. It is a priority of the NCRP 2036 to deliver new housing and enhance the variety of housing options in the Shire. • Direction 1 of the NCRP 2036 provides guidelines to vary urban growth areas as new information becomes available or to fix anomalies. In this regard, the new information available is in the form of a survey to correctly place the 400 metre sewer treatment plant buffer. • The variation sought as per Direction 1 is warranted given the proximity of the site to existing urban infrastructure and the relative, ease of servicing, the site for residential purposes. See Infrastructure for more details. • The rural use of the land has been abandoned for a significant period of time and residential use of the land is considered its best and most efficient use. • The subject site provides for additional land to increase the availability of residential land within Bangalow to meet the immediate projected housing targets. It also provides for an optimal use of infrastructure that currently services

	the land.
Infrastructure The variation needs to consider the use of committed and planned major transport, water and sewerage infrastructure, and have no cost to government. The variation should only be permitted if adequate and cost effective infrastructure can be provided to match the expected population.	• The land is adjacent to existing residential land and in close proximity to available services. • The land is well suited to residential development given the close proximity to these existing services. In this regard, the land can be easily serviced by water, sewer, telecommunications and electricity demonstrating consistency with S9.1 Direction 3.1 Housing, Infrastructure and Urban Development. Council engineers have indicated that the additional residential area will not constrain the water and sewage services for this area. • Given the above availability of services, the land is able to be readily serviced without the need for cost prohibitive infrastructure extensions.
Environmental and farmland protection The variation should avoid areas: • of high environmental or heritage value; and • mapped as important farmland, unless consistent with the interim variation criteria prior to finalising the farmland mapping review.	• The site has been historically cleared and modified and comprises a grassy paddock dominated by Kikuyu with Couch and common agricultural weeds. The Biodiversity Assessment provided in Attachment 1 concludes that “the proposed rezoning will not impact on any significant biodiversity matters due to the cleared and modified nature of the site and lack of native vegetation and fauna habitat.” • Whilst the land is mapped as Regionally Significant Farmland, the land has not supported agricultural activities for a significant period of time due to the small size and irregular shape of the land. Additionally, the land has historically been attached to an allotment identified for residential development. As such the proposal will not occupy productive agricultural land. • The proposal’s consistency with the interim variation criteria prior to finalising the farmland mapping review is provided below in Table 3.
Land use conflict The variation must be appropriately separated from incompatible land uses, including agricultural activities, sewage treatment plants, waste facilities and productive resource lands.	The land is located immediately adjacent to an existing urban environment being residential allotments, roads and stormwater infrastructure. Grazing land is located approximately 100 metres to the west of the land proposed to be rezoned. As indicated

	within the detail survey provided within this Planning Proposal, the cadastral boundary to the sewer treatment plant is located 400 metres from the proposed land to be rezoned to R2. As a result, no land use conflicts are considered likely.
Avoiding risk The variation must avoid physically constrained land identified as: • flood prone; • bushfire prone; • highly erodible; • having a severe slope; and • having acid sulfate soils.	The subject land is not mapped as being bushfire prone or having the potential for acid sulfate soils. No evidence of erosion events or land slip are located on the land. The land does not have a severe slope. In regards to flood prone lands, the original development application that approved the adjoining residential subdivision was subject to a flood study. As indicated in Figure 3 below, the location of the land proposed to be rezoned is not mapped as being Flood Prone.
Heritage The variation must protect and manage Aboriginal and non Aboriginal heritage.	The site does not contain items of Local Environmental Heritage pursuant to the Byron LEP 2014 mapping. An AHIMS search was undertaken over the site which did not identify any registered Aboriginal sites on the land or within proximity to it.
Coastal area Only minor and contiguous variations to urban growth areas in the coastal area will be considered due to its environmental sensitivity and the range of land uses competing for this limited area.	The land is not located within the coastal strip.

Figure 3: Flood Mapping (source: Detailed Flood Study Report – MRG Water Consulting PTY LTD)



Given the land is mapped as being Regionally Significant Farmland, an assessment against Appendix B: Important Farmland Interim Variation Criteria from the North Coast Regional Plan 2036 is provided below.

Table 3: Important farmland interim variation criteria.

Important Farmland Interim Variation Criteria	
Land may be suitable for uses other than farmland if:	
Agricultural The land is isolated from other important farmland and is not capable of supporting sustainable agricultural production.	Given the size of the land and its irregular shape, agricultural activities are limited. Farmland in the general locality is typically utilised for low input cattle grazing. The property consists of 1.172 hectares and is isolated from adjoining farmland, both physically and by ownership, therefore, the land's capacity to be efficiently farmed is diminished. This small addition of residential land will be the only encroachment in this area as the remaining land is constrained by the 400meter STP buffer.
Land use conflict The land use does not increase the likelihood of conflict and does not impact on	The land is located immediately adjacent to an existing urban environment being residential allotments, roads and stormwater

current or future agricultural activities in the locality.	infrastructure. Grazing land is located approximately 100 metres to the west of the land proposed to be rezoned. As indicated within the detail survey provided within this Planning Proposal, the cadastral boundary to the sewer treatment plant is located 400 metres from the proposed land to be rezoned to R2. As a result, no land use conflicts are considered likely.
Infrastructure The delivery of infrastructure (utilities, transport, open space, communications and stormwater required to service the land is physically and economically feasible at no cost to State and Local Government.	As discussed above, the land is located within proximity to all existing services and the land can be easily serviced by water, sewer, telecommunications and electricity.
Environment and heritage The proposed land uses do not have an adverse impact on areas of high environmental value, Aboriginal or historic heritage significance.	The site does not contain items of Local Environmental Heritage pursuant to the Byron LEP 2014 mapping. An AHIMS search was undertaken over the site which did not identify any registered Aboriginal sites on the land or within proximity to it.
Avoiding risk Risks associated with physically constrained land are identified and avoided, including: • flood prone; • bushfire-prone; • highly erodible; • severe slope; and • acid sulfate soils.	The subject land is not mapped as being bushfire prone or having the potential for acid sulfate soils. No evidence of erosion events or land slip are located on the land. The land does not have a severe slope. In regards to flood prone lands, the original development application that approved the adjoining residential subdivision was subject to a flood study. As indicated in Figure 3 above, the location of the land proposed to be rezoned is not mapped as being Flood Prone.

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

Council has adopted the Community Strategic Plan 2028 (CSP). The CSP is underpinned by four key visions. These visions are to be achieved by five key community objectives. This Planning Proposal is in accordance with these community objectives as per below:

Table 4: Consistency with the Community Strategic Plan

Community Objective	Response
We have infrastructure, transport and	As discussed previously throughout this Planning

services that meet our expectations	Proposal, the land proposed to be rezoned is capable of being serviced via the existing utility service connections within proximity to the site. The minor nature of the proposal i.e. an additional 690m ² of residential land, will not have a significant impact upon the transport network in the locality.
We cultivate and celebrate our diverse cultures, lifestyle and sense of community	The proposal will allow for additional residential development which will assist in maintaining the sense of the Bangalow community via the provision of additional housing choices. The land is not identified as containing Aboriginal sites.
We protect and enhance our natural environment	As discussed throughout this Planning Proposal and as provided in the Biodiversity Assessment in Attachment 1, the proposal will not impact on any significant biodiversity matters as the land has been extensively cleared.
We manage growth and change responsibly	Whilst the proposal will create additional residential land, the minor nature of the proposal is considered to fit in with the current lifestyle of Bangalow and is congruent with the existing local aesthetics of Bangalow.
We have community led decision making which is open and inclusive	Council will commence community consultation in accordance with the Gateway determination. For the purposes of public notification, the planning proposal is not considered to be low impact as outlined in the NSW DPE's 'A Guide to Preparing Local Environmental Plans' because it is inconsistent with some Section 9.1 Directions. A 28-day public exhibition period is recommended. Notification of the exhibited planning proposal will include: • a newspaper advertisement that circulates in the Byron LGA, which is the area affected by the planning proposal; and • the web sites of Byron Shire Council and the NSW DPIE. The supporting studies and information supplied with the planning proposal submission will also be included in the exhibition material.

The Planning Proposal is broadly consistent with the Bangalow Village Plan and the draft Residential Strategy which encourage housing diversity and utilising existing land to deliver extra housing in the Shire. As this site is relatively small scale and integrates with an existing residential area it is considered to be consistent with the direction of future housing within Byron Shire.

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

Majority of State Environmental Planning Policies (SEPPs) are not applicable to this planning proposal. The State Environmental Planning Policies relevant to this planning proposal are as follows:

State Environmental Planning Policy (SEPP)	Compliance of Planning Proposal
SEPP 44 Koala Habitat Protection	As discussed within the Biodiversity Assessment provided in Attachment 1, the site does not contain Koala Habitat.
SEPP 55 Remediation of Land	A Preliminary Contaminated Land Assessment was prepared over the site for the previous residential subdivision (refer Attachment 2). This assessment included soil sampling in the area proposed to be rezoned and concluded <i>“the soils on the subject site do not represent a risk to human health or the environment from soil contamination.”</i>

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

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

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
1. Employment and Resources			
1.1 Business and Industrial Zones	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)	This Planning Proposal does not relate to business or industrial zones.	N/A
1.2 Rural Zones	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). The objective of this direction is to protect the agricultural production value of rural land. Under this direction a planning proposal must: (a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.	The land is mapped as being Regionally Significant Farmland. However, as discussed earlier in this Planning Proposal, the land has not been utilised for agricultural production for a significant period of time due to the size and irregular shape of the land. Furthermore, compliance with Appendix B of the NCRP 2036 relating to farmland variation criteria is provided within this Planning Proposal. The planning proposal will remove a rural zone and replace it with a residential zone. This replacement is minor and considered to fix a mapping anomaly being the incorrect location of the sewer treatment plant buffer. The inconsistency with this direction is justified based on the minor significance of the amendment.	Justifiably Inconsistent
1.3 Mining, Petroleum Production and Extractive Industries	Applies when a relevant planning authority prepares a planning proposal that would have the effect of: (a) prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or (b) restricting the potential development of resources of coal, other minerals,	This planning proposal will not prohibit or restrict exploration or mining or the extraction of other material.	N/A

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	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.		
1.4 Oyster Aquaculture	Applies when a relevant planning authority prepares any planning proposal that proposes a change in land use which could result in: (a) adverse impacts on a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate”, or (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.	Priority Oyster Aquaculture Areas (POAA) exist in the lower parts of the Brunswick River. However, there is minimal likelihood that the planning proposal will have adverse impacts on them as this site is well removed from the Brunswick River catchment.	Consistent
1.5 Rural Lands	The objectives of this direction are to: (a) protect the agricultural production value of rural land; (b) facilitate the orderly and economic development of rural lands for rural and related purposes. Applies when: (a) a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary), or (b) a relevant planning authority prepares a planning proposal that changes the existing minimum lot size on land within a	A Planning Proposal can be inconsistent with this Direction if it is considered to be of minor significance. As discussed throughout this report, the proposal relates to the rezoning of approximately 690m² of rural zoned land. This land is not currently utilised for agricultural production and given its size and irregular shape is not considered capable of supporting purposeful agricultural production. The inconsistency with this direction is justified based on the minor significance of the amendment.	Justifiably Inconsistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	rural or environment protection zone. A planning proposal to which clauses (a) and (b) apply must be consistent with the Rural Planning Principles listed in State Environmental Planning Policy (Rural Lands) 2008.		
2. Environment and Heritage			
2.1 Environment Protection Zones	The objective of this direction is to protect and conserve environmentally sensitive areas. A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas. A planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (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 "Rural Lands".	This planning proposal does not alter or remove any environment protection zone.	Consistent
2.2 Coastal Protection Zones	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. A planning proposal must include provisions that give effect to and are consistent with: (a) the objects of the Coastal Management	The subject land is not located within the coastal zone.	N/A

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	Act 2016 and the objectives of the relevant coastal management areas; (b) the NSW Coastal Management Manual and associated Toolkit; (c) NSW Coastal Design Guidelines 2003; and (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. A planning proposal must not rezone land which would enable increased development or more intensive land-use on land: (a) within a coastal vulnerability area identified by the State Environmental Planning Policy (Coastal Management) 2018; or (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: (i) by or on behalf of the planning proposal authority and the planning proposal authority, or (ii) by or on behalf of a public authority and provided to the planning proposal authority. A planning proposal for a Local Environmental		

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	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: (a) Coastal wetlands and littoral rainforests area map; (b) Coastal vulnerability area map; (c) Coastal environment area map; and (d) Coastal use area map 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.		
2.3 Heritage Conservation	A planning proposal must contain provisions that facilitate the conservation of: (a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area, (b) Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974, and (c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared	The site does not contain items of Local Environmental Heritage pursuant to the Byron LEP 2014 mapping. An AHIMS search was undertaken over the site which did not identify any registered Aboriginal sites on the land or within proximity to it.	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.		
2.4 Recreation Vehicle Areas	A planning proposal must not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the Recreation Vehicles Act 1983): (a) where the land is within an environmental protection zone, (b) where the land comprises a beach or a dune adjacent to or adjoining a beach, (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: (i) the provisions of the guidelines entitled Guidelines for Selection, Establishment and Maintenance of Recreation Vehicle Areas, Soil Conservation Service of New South Wales, September, 1985, and (ii) the provisions of the guidelines entitled Recreation Vehicles Act, 1983, Guidelines for Selection, Design, and Operation of Recreation Vehicle Areas, State Pollution Control Commission, September 1985	This Planning Proposal does not enable the land to be developed for the purpose of a recreation vehicle area.	N/A

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	This direction applies when a relevant planning authority prepares a planning proposal: (a) that introduces or alters an E2 Environmental Conservation or E3 Environmental Management zone; (b) that introduces or alters an overlay and associated clause.	This planning proposal does not introduce an environmental zone or overlay. No Deferred Matter zones are located on the land.	N/A
3. Housing, Infrastructure and Urban Development			
3.1 Residential Zones	This direction applies when a relevant planning authority prepares a planning proposal that will affect land within: (a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary), (b) any other zone in which significant residential development is permitted or proposed to be permitted. A planning proposal must include provisions that encourage the provision of housing that will: (a) broaden the choice of building types and locations available in the housing market, and (b) make more efficient use of existing infrastructure and services, and (c) reduce the consumption of land for housing and associated urban development on the urban fringe, and (d) be of good design. A planning proposal must, in relation to land to which this direction applies: (a) contain a requirement that residential development is not permitted until land is	The Planning Proposal involves the application of a zoning framework consistent with residential development within the immediate locality. The R2 Low Density Residential zone provides for a variety of residential and other compatible land uses including dwellings, dual occupancies and multi dwelling housing. The subject site is adjacent to existing residential development and is easily serviced. As discussed within this report, the proposal will not have a significant impact on the natural environment or resource lands.	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and (b) not contain provisions which will reduce the permissible residential density of land		
3.2 Caravan Parks and Manufactured Home Estates	In identifying suitable zones, locations and provisions for caravan parks in a planning proposal, the relevant planning authority must: (a) retain provisions that permit development for the purposes of a caravan park to be carried out on land, and (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 In identifying suitable zones, locations and provisions for manufactured home estates (MHEs) in a planning proposal, the relevant planning authority must: (a) take into account the categories of land set out in Schedule 2 of SEPP 36 as to where MHEs should not be located, (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 (c) include provisions that the subdivision of	This planning proposal will not alter the permissibility of caravan parks or manufactured home estates on the subject land.	N/A

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	MHEs by long term lease of up to 20 years or under the Community Land Development Act 1989 be permissible with consent.		
3.3 Home Occupations	Planning proposals must permit home occupations to be carried out in dwelling houses without the need for development consent.	This planning proposal will not alter the permissibility of home occupations on the subject land.	Consistent
3.4 Integrating Land Use and Transport	This direction 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: (a) <i>Improving Transport Choice – Guidelines for planning and development</i> (DUAP 2001), and (b) <i>The Right Place for Business and Services – Planning Policy</i> (DUAP 2001).	The subject site is located within an existing residential area and has frontage to the existing road network. The surrounding road network is considered capable of accommodating the future residential development of the land.	Consistent
3.5 Development Near Regulated Airports and Defence Airfields	This direction applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to land near a regulated airport which includes a defence airfield.	The land is not located near a regulated airport.	N/A
3.6 Shooting Ranges	This direction applies when a relevant planning authority prepares a planning proposal that will affect, create, alter or remove a zone or a provision relating to land adjacent to and/ or adjoining an existing shooting range. A planning proposal must not seek to rezone land adjacent to	No shooting ranges are located within the vicinity of the land.	N/A

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	and/ or adjoining an existing shooting range that has the effect of: (a) permitting more intensive land uses than those which are permitted under the existing zone; or (b) permitting land uses that are incompatible with the noise emitted by the existing shooting range.		
4. Hazard and Risk			
4.1 Acid Sulfate Soils	This direction 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. A relevant planning authority must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the relevant planning authority has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils. The relevant planning authority must provide a copy of any such study to the Director General prior to undertaking community consultation in satisfaction of section 57 of the Act.	The land is not mapped as containing acid sulfate soils.	N/A
4.2 Mine Subsidence and Unstable Land	This direction applies to land that: (a) is within a Mine Subsidence District proclaimed pursuant to section 15 of the Mine Subsidence Compensation Act 1961, or	This planning proposal does not impact on any mine subsidence area.	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	(b) has been identified as unstable land. This direction applies when a relevant planning authority prepares a planning proposal that permits development on land that: (a) is within a mine subsidence district, or (b) has been identified as unstable in a study, strategy or other assessment		
4.3 Flood Prone Land	This direction 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. 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 Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk Areas). A planning proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone. A planning proposal must not contain provisions that apply to the flood planning areas which: (a) permit development in floodway areas, (b) permit development that will result in significant flood impacts to other properties, (c) permit a significant increase in the development of that land, (d) are likely to result in a substantially increased requirement for government	As discussed above, the location of the land proposed to be rezoned is not mapped as being Flood Prone.	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	spending on flood mitigation measures, infrastructure or services, or (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. 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). 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 Guideline on Development Controls on Low Flood Risk Areas) unless a relevant planning authority provides adequate justification for the proposed departure from that Manual to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).		
4.4 Planning for Bushfire Protection	This direction applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land. In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW	The land is not mapped as containing bushfire prone land.	N/A

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	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, A planning proposal must: (a) have regard to Planning for Bushfire Protection 2006, (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and (c) ensure that bushfire hazard reduction is not prohibited within the APZ. A planning proposal must, where development is proposed, comply with the following provisions, as appropriate: (a) provide an Asset Protection Zone (APZ) incorporating at a minimum: (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 (ii) an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road, (b) for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved,		

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	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 Rural Fires Act 1997), the APZ provisions must be complied with, (c) contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks, (d) contain provisions for adequate water supply for firefighting purposes, (e) minimise the perimeter of the area of land interfacing the hazard which may be developed, (f) introduce controls on the placement of combustible materials in the Inner Protection Area.		
5. Regional Planning			
5.1 Implementation of Regional Strategies	This direction applies to land to which the following regional strategies apply: (a) South Coast Regional Strategy (excluding land in the Shoalhaven LGA) (b) Sydney–Canberra Corridor Regional Strategy	N/A	N/A
5.2 Sydney Drinking Water Catchments	Applies when a relevant planning authority prepares a planning proposal that applies to the hydrological catchment.	N/A	N/A
5.3 Farmland of State and Regional Significance on the NSW Far North	This applies to Byron Shire Council except within areas contained within the “urban growth area” mapped in the North Coast Regional Plan 2036. A planning proposal must not:	A Planning Proposal can be inconsistent with this Direction if it is consistent with the North Coast Regional Plan. The Planning Proposals consistency with the NCREP is discussed above	Justifiably Inconsistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
Coast	(a) rezone land identified as “State Significant Farmland” for urban or rural residential purposes. (b) rezone land identified as “Regionally Significant Farmland” for urban or rural residential purposes. (c) rezone land identified as “significant non-contiguous farmland” for urban or rural residential purposes.	under Question 3.	
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	This Direction applies when a relevant planning authority prepares a planning proposal for land in the vicinity of the existing and/or proposed alignment of the Pacific Highway. A planning proposal that applies to land located on “within town” segments of the Pacific Highway must provide that: (a) new commercial or retail development must be concentrated within distinct centres rather than spread along the highway; (b) development with frontage to the Pacific Highway must consider impact the development has on the safety and efficiency of the highway; and (c) for the purposes of this paragraph, “within town” means areas which, prior to the draft local environmental plan, have an urban zone (eg: “village”, “residential”, “tourist”, “commercial”, “industrial”, etc) and where the Pacific Highway speed limit is less than 80km/hour. A planning proposal that applies to land located on “out-of-town” segments of the Pacific Highway	The land is not located within proximity to the Pacific Highway.	N/A

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	must provide that: (a) new commercial or retail development must not be established near the Pacific Highway if this proximity would be inconsistent with the objectives of this Direction; (b) development with frontage to the Pacific Highway must consider the impact the development has on the safety and efficiency of the highway; and (c) for the purposes of this paragraph, “out-of-town” means areas which, prior to the draft local environmental plan, do not have an urban zone (eg: “village”, “residential”, “tourist”, “commercial”, “industrial”, etc) or are in areas where the Pacific Highway speed limit is 80km/hour or greater.		
5.5 – 5.8 Revoked	-	-	-
5.9 North West Rail Link Corridor Strategy	Not Applicable to Byron Shire	N/A	N/A
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
6. Local Plan Making			
6.1 Approval and Referral Requirements	A planning proposal must: (a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and (b) not contain provisions requiring concurrence, consultation or referral of a	No referral or concurrence requirements are proposed within the Planning Proposal. It does not identify development as designated development.	N/A

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	Minister or public authority unless the relevant planning authority has obtained the approval of: (i) the appropriate Minister or public authority, and (ii) the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), prior to undertaking community consultation in satisfaction of section 57 of the Act, and (c) not identify development as designated development unless the relevant planning authority: (i) can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and (ii) has obtained the approval of the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act.		

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
6.2 Reserving Land for Public Purposes	A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General).	The planning proposal does not create, alter or reduce existing zonings or reservations of land for public purposes.	N/A
6.3 Site Specific Provisions	This direction applies when a relevant planning authority prepares a planning proposal that will allow a particular development to be carried out. A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either: (a) allow that land use to be carried out in the zone the land is situated on, or (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 (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. A planning proposal must not contain or refer to drawings that show details of the development proposal.	The planning proposal will not facilitate any particular development to be carried out. The planning proposal does not refer to drawings that show details of a development proposal	N/A

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 Planning Proposal is over land that has been extensively cleared and modified and comprises a grassy paddock dominated by Kikuyu and common agricultural weeds. No significant trees or shrubs occur within the land. A Biodiversity Assessment has been prepared by GeoLink and is Attached to this Planning Proposal. This Assessment concluded that *“the proposed rezoning will not impact on any significant biodiversity matters due to the cleared and modified nature of the site and lack of native vegetation and fauna habitat.”*

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

No. The minor nature of the proposal coupled with the limited environmental values and constraints presented by the land will result in negligible environmental effects.

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

The rezoning of the land for residential purposes will have positive social and economic effects, and in particular the development of the land for housing will assist in meeting regional dwelling targets identified within the NCRP 2036. The community benefit associated with the proposed development will be found in the provision of additional housing to service the future population needs of the Byron LGA.

The additional following social and economic benefits will be provided:

- **Creation of local employment opportunities through new jobs and multiplier effect on the local economy** – The construction of any future dwelling houses will provide an increase in local employment opportunities that will have flow-through effects through tradespeople to suppliers and capacity for increased retail expenditure.
- **Increase in housing supply and choice** – The rezoning will enable the construction of additional dwellings which may be either owner occupied or leased thereby contributing to the housing stock within the existing Bangalow urban catchment area.
- **Demand for community services in the locality** – It is envisaged that the future residential occupation of any lots created will increase the demand for services in the locality by virtue of the resultant increase in population. The subject site is accessible and within good proximity to existing services within the Bangalow township which contains a diverse range of community facilities together with retail, administrative, health, education, transport, open space and sporting services.

Section D State and Commonwealth interests

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

The Planning Proposal involves a relatively modest 'greenfield' type development adjacent to an existing residential precinct. No significant impacts are expected with respect to State and Commonwealth infrastructure services.

With respect to local service infrastructure subject land is located immediately adjoining an urban environment and is in close proximity to reticulated water, sewer, telecommunications, electricity and stormwater drainage networks. Following rezoning, any future development will need to secure connection to the required infrastructure services. In this regard, we note that reticulated water, sewer, drainage, electricity and telecommunication infrastructure are all available in close proximity to the subject site.

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

State and Commonwealth public authorities will be consulted after Gateway Determination.

Part 4 Mapping

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

- Land Zoning Map – Sheet LZN_003CB;
- Lot Size Map – Sheet LSZ_003CB; and
- Floor Space Ratio Map – Sheet FSR_003CB.

Draft LEP Mapping is provided in the appendix.

Part 5 Community consultation

Council will commence community consultation in accordance with the Gateway Determination. For the purposes of public notification, the planning proposal is not considered to be low impact as outlined in the NSW DPE's A guide to preparing local environmental plans because it is inconsistent with some Section 9.1 Directions. A 28-day public exhibition period is recommended.

Notification of the exhibited planning proposal will include:

- a newspaper advertisement that circulates in the Byron LGA, which is the area affected by the planning proposal; and
- the web sites of Byron Shire Council and the NSW DPIE.

The supporting studies and information supplied with the planning proposal submission will also be included in the exhibition material.

Part 6 Project timeline

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

Plan making step	Estimated completion
Gateway Determination	March 2020
Agency Consultation	April 2020
Public Exhibition Period	May 2020
Submissions Assessment	June 2020
Submission of endorsed LEP amendment to Parliamentary Counsel for drafting (delegated authority)	August 2020
Council to make the LEP amendment (delegated authority)	September 2020
LEP amendment notification	October 2020

Conclusion

This Planning Proposal seeks to amend the Byron LEP 2014 to rezone approximately 690m² of land to R2 – Low Density Residential. It will also amend the minimum lot size map and floor space ratio map applicable to the subject land.

The proposal is sought to rectify the location of the 400 metre buffer from the sewer treatment plant to the south west of the site. In this regard, a survey has been undertaken to correctly position the buffer which has resulted in additional land suitable for residential development.

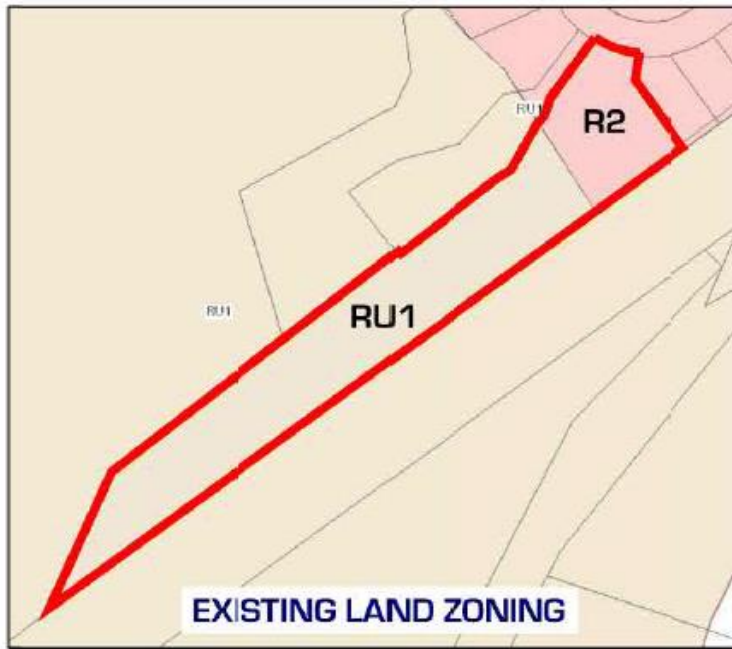
The land has availability to all necessary services and the extension to these services is not considered cost prohibitive.

The proposal is minor in nature and will not create an unreasonable or uneconomic demand on public services and infrastructure.

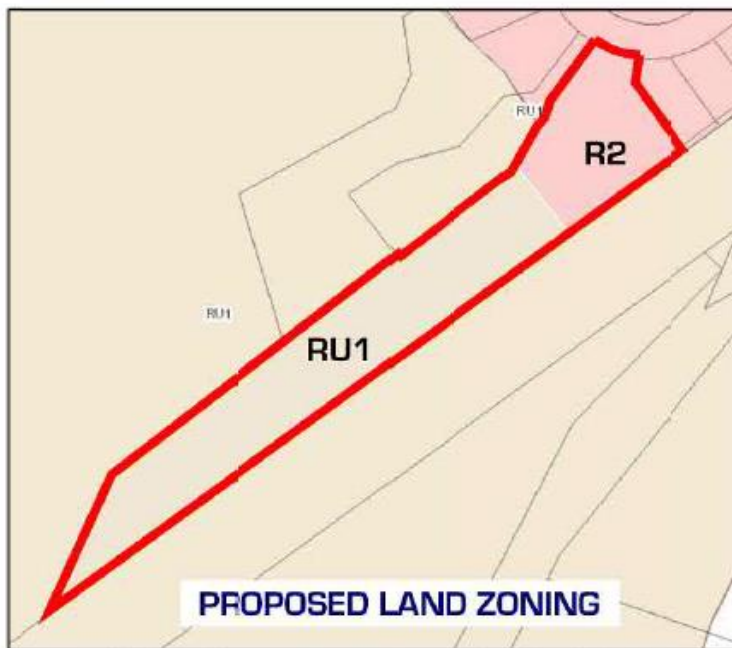
This Planning Proposal provides sufficient information to support the proposal and forward it to the Department of Planning, Infrastructure and Environment for a Gateway Determination.

Appendix

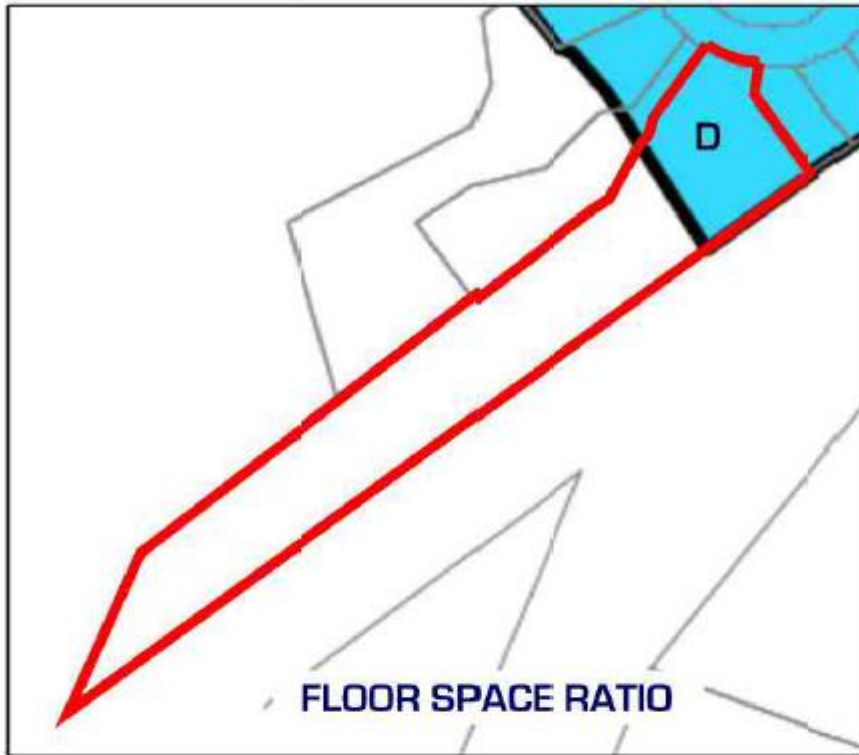
Figure 4: Draft LEP mapping of proposed changes



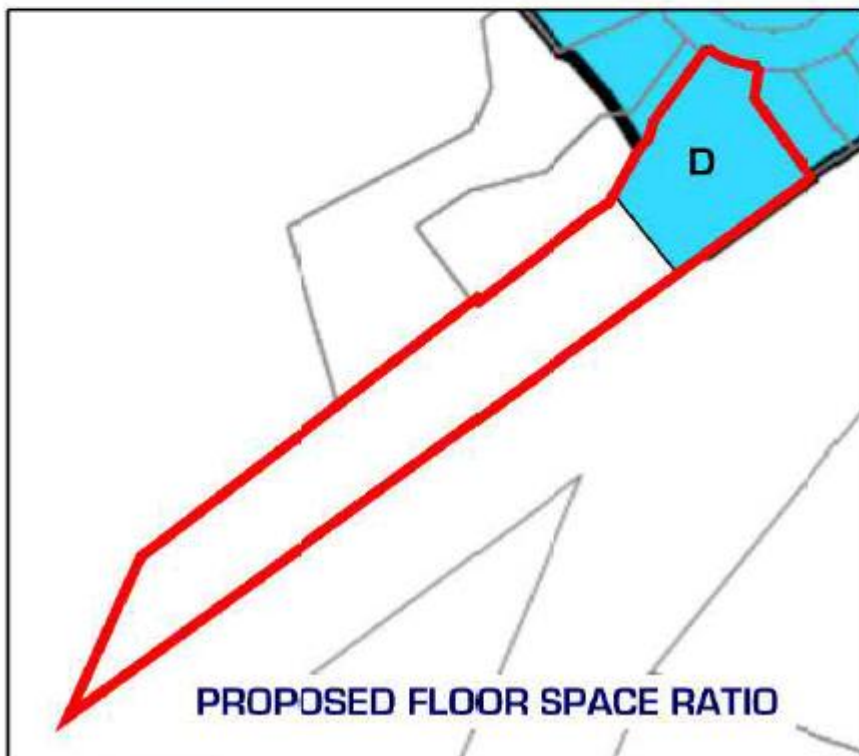
RU1 PRIMARY PRODUCTION



RU1 PRIMARY PRODUCTION **RU2** LOW DENSITY RESIDENTIAL



D 0.5



D 0.5



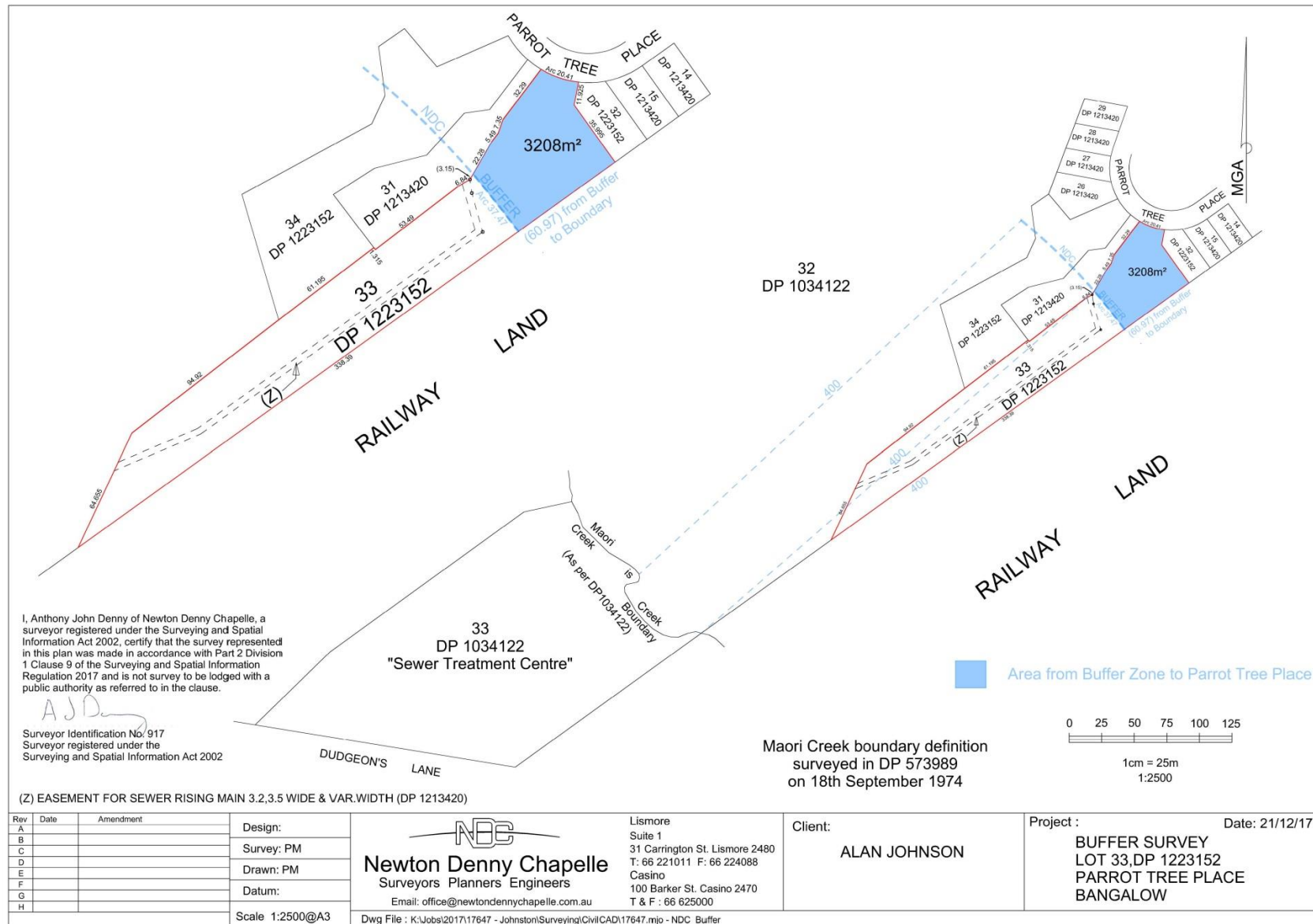
AB2 40Ha **D** 300m²



D 300m²

Survey Plan

Attached



Biodiversity and Contaminated Land Assessment

Attached

ATTACHMENT 1

Biodiversity Assessment

29 July 2019
Ref No.: 3231-1042

Fiery Developments
c/- Newton Denny Chappelle
PO Box 1138
LISMORE NSW 2480

Attention: Adrian Zakaras

Dear Adrian

Lot 33 DP1223152 Parrot Tree Place Bangalow – Biodiversity Assessment

This letter presents the results of a Biodiversity Assessment undertaken to assess potential impacts to biodiversity values from the proposed adjustment to the zoning of Lot 33 DP1223152 Parrot Tree Place Bangalow.

The assessment focused on investigating the extent of native vegetation or habitat for threatened species or communities listed in the *Biodiversity Conservation Act 2016* (BC Act) or *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). The site does not contain land mapped as being of biodiversity value in the *Biodiversity Values Map and Threshold Tool*.

Vegetation

The site has been historically cleared and modified and comprises a grassy paddock dominated by Kikuyu (*Cenchrus clandestinum*), with Couch (*Cynodon dactylon*) and common agricultural weeds (eg. Fireweed *Senecio madagascariensis*, Clover *Trifolium repens*, Flatweed *Hypochaeris radicata*). No significant trees or shrubs occur. Along the eastern portion of the southern boundary with the adjacent railway corridor a narrow landscape planting occurs over a distance of approximately 70 metres. Brown Kurrajong (*Commersonia bartramia*) and Lilly Pillies (*Syzygium* spp.) dominate the planting, with infrequent other species including Silky Oak (*Grevillia robusta*), Cudgerie (*Flindersia schottiana*) and Cheese Tree (*Glochidion ferdinandi*).

Threatened flora

No threatened flora species occur at the site.

Threatened communities

Vegetation at the site is not characteristic of any Threatened Ecological Communities listed in the BC Act or EPBC Act.

Threatened fauna

No habitat for threatened fauna occurs. The lack of vegetation/habitat at the site precludes foraging or roosting/breeding opportunities for threatened fauna. No preferred Koala food trees occur.

Fauna habitat features

No significant fauna features (hollow-bearing trees, active nests or dreys) occur.

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www.geolink.net.au

Impacts of the proposal

The proposed rezoning will not impact on any significant biodiversity matters due to the cleared and modified nature of the site and lack of native vegetation and fauna habitat.

Statutory matters

The following environmental instruments were reviewed with regard to the proposal:

- State Environmental Planning Policy (SEPP) 44 - Koala Habitat Protection
- *Biodiversity Conservation Act 2016*
- *Environment Protection and Biodiversity Conservation Act 1999*.

SEPP 44

The site does not support any single schedule 2 feed trees listed in the Policy. On this basis the site does not support potential Koala habitat and the Policy does not apply

Biodiversity Conservation Act 2016

The site does not provide habitat for any threatened species or communities. Tests of significance ('five-part tests') under Section 7.3 of the BC Act are therefore not required.

Environment Protection and Biodiversity Conservation Act 1999

The proposal would be unlikely to impact on any Matters of Environmental Significance with regard to threatened species and communities or their habitats.

I trust this information is sufficient. Please contact me if you require further information.

Yours sincerely

GeoLINK



Ian Colvin

Senior Ecologist

ATTACHMENT 2

Contamination Assessment

1

Introduction

Black EARTH Environmental has been requested by *PICAMORE Pty Ltd* through *GeoLINK* to undertake a preliminary SEPP55 investigation for land described in real property terms as Part Lot 77 DP1031773, Parrot Tree Place, Bangalow. The land is currently zoned for agricultural use. The proponents of the land wish to proceed with rezoning the land to allow for future residential development in line with the Bangalow Village Settlement Strategy adopted in November of 2003.

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) relates to contaminated land issues. Clause 7(1) of SEPP 55 requires that a Council cannot approve an application for rezoning of land unless it has duly considered whether such land is contaminated.

This report has been prepared to assist Council in making that decision.

1.1 Scope of Work

This assessment has been undertaken to determine the relative risk associated with the rezoning of the land for residential development with respect to soil contamination. The tasks involved in undertaking this assessment were to:

- Identify the land use history of the site, with particular attention to any uses that may have led to potential contamination
- assess the site condition and surrounding environment to determine any visual signs of contamination, sensitive local environments or potential contamination "hot spots"
- based on the above, determine if soil sampling is required and if so, design a soil sampling pattern for the subject site
- analyse individual samples for a range of potential contaminants in relation to the environmental and health investigation levels recommended by the ANZECC guidelines (ANZECC, 1992) in addition to those recommended by NEPC guidelines (NEPC, 1999) to confirm if the presence of any contaminants represents a risk for future rezoning.

1.2 Summary

Previous site owners and managers were contacted and an oral site history can be obtained back as far as 1957. The oral site history provided indicates that the site has never been used for any other purpose than cattle grazing, no pesticides or herbicides have been used on the subject site, there is no records of the site ever having a registered cattle dip located on it or within 200m of the site and no crops were ever grown on the site succeeding 1957.

Although the site is considered to represent a very low risk of soil contamination, soil sampling was undertaken to ensure that if contamination was contained within the soils it would be identified prior to rezoning. A total of 21 soil samples were taken from across the

site. Analysis of the samples show contaminant levels well below the relevant ANZECC and NEPC guideline limits.

It was concluded that the site does not represent a risk to human health or the environment through soil contamination and on this basis the land is suitable for rezoning for residential development.

2 Site Description and History

2.1 Site Location

The site is located approximately 1.25 km south west of the centre of Bangalow and approximately 2.2km south west of the southern interchange with the Pacific Highway. The site is on the limits of existing residential development within Bangalow and adjoins existing developed land to the north and east. The site is divided into three separate portions by the roads Parrot Tree Place and Ivory Curl Place. The main portion is 5.8 Ha in size and is irregular in shape. The remaining portions are approximately 0.5 and 0.3 ha in size and predominately rectangular in shape. A site locality diagram is provided in **Exhibit 2.1**. An aerial showing the subject site in detail is provided in **Exhibit 2.2**.

2.2 Topography, Soils and Geology

The site is on gently undulating terrain. The highest point on the site is approximately RL 51 meters and occurs within the eastern third of the site. A large tree is growing at the highest point of the site. The lowest point of the site, at approximately RL 44 meters, is located at the most western point. A small named creek, Paddy's creek, meanders along the western boundary of the site and for a small section is partly located on the site.

The site predominately drains to the west and into Paddy's creek. A small portion of the most eastern part of the site drains eastwards under the railway line and Lismore road into Byron creek located to the south east of the site. All slopes on the site are generally less than 10% and no slumping or mass movements were observed to have occurred.

The soils of the area are mapped by Morand (1994) as being moderately deep, well drained Krasnozems over Lismore Basalts. The soils are a self mulching dark reddish brown with a clay loam texture. The soils are highly suitable for agricultural pursuits, being well structured and having a high nutrient storage capacity. Field observations taken while on site were consistent with the soil descriptions and mapping provided by Morand (1994).

A small mound was observed in the northeastern section of the site. The mound appeared to be comprised of local natural soils being consistent in color and texture with no large or obvious foreign material observed to be present within the mound. It was concluded however, that the stockpile was not naturally occurring and had been placed there some time within the past. Conversation with the current owner, Allan Johnston, indicated that the stockpile was placed there during the development of the adjacent residential area and comprised of native soils moved from another part of the site.

2.3 Surrounding Environment

Existing residential development is located to the north and east, the disused railway line abounds the site to the south with rural grazing land to the west.

2.4 Site History

The site is currently owned by *PICAMORE Pty Ltd.* who bought the site in 1993 and developed the surrounding residential area shortly thereafter. Prior to the purchase by *PICAMORE Pty Ltd.*, the site was owned and managed by Mr Alexander Herrmann.

Mr Alexander Frederick Herrmann owned the property for approximately 6 years prior to October 1993 when he sold it to *PICAMORE Pty Ltd.* Alexander's sister (name unknown) owned the property prior to these 6 years for a period of approximately 30 years (i.e. from approximately 1957). During the time that his sister owned the property, Alexander Herrmann was the primary manager, managing the property on behalf of his sister who lived in the USA for these 30 years. The daughter of Alexander Herrmann was contacted with regard to the site and its history and was able to verbally confirm that the land was solely used as cattle grazing, was never used to grow commercial crops during the years that her father ran the property and she had no recollection of chemicals ever being used in large quantities by her father on the property.

A search of the Department of Primary Resources dip site register was undertaken to determine if any dip sites had been located on or near the property. The database indicates that there has never been a cattle dip site on the property, or within close proximity of the property. The closest dip site was off Rifle Range road approximately 700 meters from the site.

Beyond 1957, limited site history can be readily obtained. The site history is therefore not considered to be sufficiently conclusive to rule out the risk of contamination of soil on the subject site. However, it should be noted that the site history would suggest the risk of contamination of soils on the site is extremely limited and highly unlikely.

In accordance with the SEPP55 Guidelines, soil sampling should be undertaken to confirm that the soils on the site do not pose a risk to human health or the environment through past contamination if site history cannot categorically.

Exhibit 2.1 Site Locality

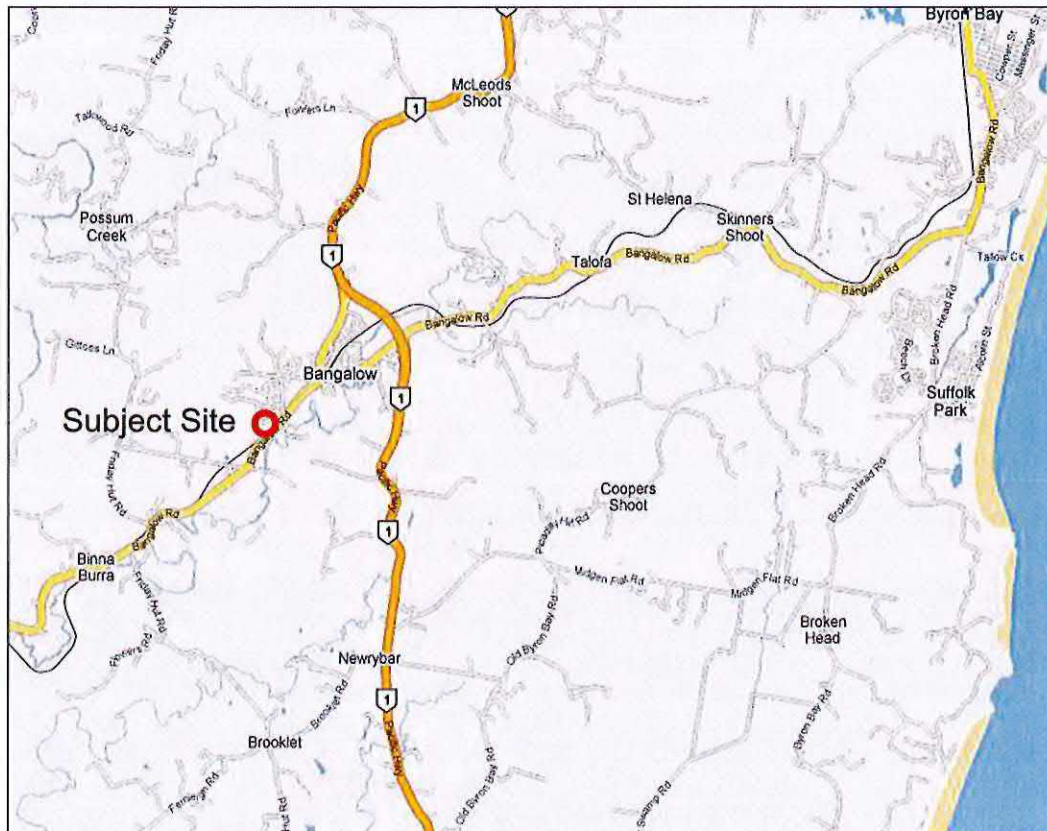


Exhibit 2.2 Subject Site



Source: Google Earth

Boundary location approximated only from cadastral information. No reliance should be placed on boundary locations.

Key:

 Site boundary (approximate only)

3 Site Soil Investigations

3.1 Soil Sampling

The following sampling, analysis and data quality objectives have been adopted for this site investigation:

- to confirm the soils on the subject site do not pose a risk to human health or the environment through soil contamination
- to employ quality assurance when sampling, assessing and during evaluation of the subject soils
- to ensure that decontamination techniques are applied during the sampling procedure and that no cross contamination of samples occurs.

Table A (*Contaminated Sites Sampling Design Guidelines*, NSW EPA 1995) was taken into consideration when designing the sampling program. The potential for development and topography of the site were also considered when deciding the most appropriate sampling pattern for the subject site. Given that site history from 1957 indicates there to be a very limited potential for contamination of the site to have occurred, a reduced sampling density was applied to the site. A sampling density of 3.2 samples per hectare was adopted requiring the collection of approximately 20 individual samples. A systematic sampling pattern which covered the majority of the developable area of the site was adopted.

Due to the presence of an unnatural soil mound located on the site, an addition sample was taken from the mound to ensure the mound did not represent a risk of contamination. In total, 21 individual soil samples were collected at the locations indicated in **Exhibit 3.1**. 20 of these soil samples were then composited into five discrete composite samples for analysis. Sample no. CS5, taken from the soil mound observed to be on site, was analysed as a single sample and not combined into a composite sample.

Given the site history, proposed rezoning and the characteristics of the soils in the locality (i.e., deep, well drained, Krasnozem soils), it was not considered necessary to conduct soils sampling at depth. Thus, for the preliminary soil sampling investigation, surface soil samples only were taken. The sampling pattern and density adopted is considered sufficient to ensure that should soil contamination be present on the site, it will be detected. All samples were collected at the same depth of 100-200mm below surface and were of equal size (200mL). A small garden spade was used to collect each sample, which was washed and dried prior to the collection of the next sample.

The preliminary soil investigation was undertaken on the 9 February 2007. The weather was sunny and clear with a slight north easterly wind blowing.

3.2 Analysis

All samples were sealed, stored in a chilled esky and delivered to Environmental Analysis Laboratory (NATA Registered) within the Southern Cross University, Lismore. Samples were then composited by EAL staff in accordance with laboratory procedures before being processed for analysis. When compositing samples, results from each composite sample

must be multiplied by the number of sub-samples (in this case, four) to provide an upper limit estimate of the concentration in any one of the sub-samples. Results are provided in **Section 3.5**.

3.3 Quality Assurance

All sampling was undertaken using the same quality assurance methodology. Prior to the site inspection, the equipment was thoroughly washed and decontaminated. During the sampling procedure the equipment was washed before each soil sample was taken to ensure there was no cross- contamination. A chain of custody form, which identified the sample identification code, the collection date and the type of analysis to be undertaken was fully completed and despatched with the samples.

3.4 Assessment Criteria

The ANZECC Guidelines are the accepted guidelines in Australia and New Zealand for establishing "threshold" levels in relation to soil contamination. These threshold levels suggest further investigation is required if levels are exceeded. The NEPC guidelines further expand on the ANZECC threshold limits based on health and environmental risk assessments for a variety of land uses including residential with varying levels of accessible soil risks, open space, commercial and industrial.

The investigation threshold levels identified by "*ANZECC Guidelines for the Assessment and Management of Contaminated Sites*" are provided below and were used to identify if high levels of contaminants exist at the site:

▪ Lead	300 mg/kg
▪ Arsenic (total)	100 mg/kg
▪ Cadmium	20 mg/kg
▪ PCB (total)	1 mg/kg

In addition, the results were compared to the following Health-Based investigation levels identified by "*NEPC Guideline on Health Based Investigation Levels*":

▪ OC (Aldrin + Dieldrin)	10 mg/kg
▪ OC (DDT+DDD+DDE)	200mg/kg

Exhibit 3.1 Soil Sampling Locations



Key:

- Site soil sampling points

3.5 Results

The laboratory soil analysis reports containing the full results are provided in **Appendix A**. A summary of the results and comparison to the guideline limits is provided below in **Table 3.1**.

Table 3.1 Sampling Results

Analyte	Single Sample Threshold (mg/kg)	Composite Sample Threshold (mg/kg)	CS1 (1.1,1.2, 1.3,1.4)	CS2 (2.1,2.2, 2.3,2.4)	CS3 (3.1,3.2, 3.3,3.4)	CS4 (4.1,4.2, 4.3,4.4)	CS5	CS6 (6.1, 6.2, 6.3, 6.4)
Lead	<300	<75	9.4	9.8	7.7	11.9	13.7	8.8
Arsenic	<100	<25	1.6	1.8	2.0	2.2	1.9	2.7
Cadmium	<20	<5	0.3	0.4	0.4	0.4	0.3	0.3
PCB's	<1	<0.25	nd	nd	Nd	nd	nd	nd
OC's	<10	<2.5	nd	nd	Nd	nd	nd	nd
OP's (DDT+DDD+DDE)	<200	<50	nd	nd	Nd	nd	nd	nd

nd - no detection

As can be seen from the above table, exceedances of threshold values for further investigation were not detected. All samples returned result well below the threshold investigation limits.

4 Conclusions

Verbal historic information regarding the subject site could be obtained as far back as 1957. Historic information indicated that the site has only ever been grazed by cattle and has been free of potentially contaminating activities. However, the historic information gathered was not considered to be conclusive or sufficient to categorically indicate the site does not pose a risk of soil contamination. In addition, the activity of cattle grazing, which has been historically carried out on the site, is listed under Table 1 of the SEPP55 guidelines as a potentially contaminating activity. Soil sampling was therefore undertaken to confirm if any contaminating chemicals were present within the soil at the subject site.

The results of soil sampling undertaken at the site indicate that the soils on the subject site do not represent a risk to human health or the environment from soil contamination. Soil sampling results indicate that the site is unlikely to contain any significant levels of contamination for arsenic, lead, cadmium, organochlorines, organophosphate or Polychlorinated Biphenyls (PCB's). Concentrations in the samples taken were well below ANZECC and NEPC investigation threshold limits.

Further investigation on the subject site is therefore not warranted under the SEPP55 guidelines and the site is considered suitable for rezoning with regards to the potential for soil contamination.

Should there be any questions relating to this report please do not hesitate to contact the undersigned for further clarification.

Regards,



Cameron Black
Environmental Engineer

References

Australia and New Zealand Environment and Conservation Council (ANZECC), 1992, *Australian and New Zealand Guidelines for the Assessment and Management of Contaminated Sites*, Australia and New Zealand Environment and Conservation Council.

D. T. Morand, 1994. Soil Landscapes of the Lismore/Ballina 1:100,000 Sheet.

Environment Protection Authority, 1995, *Contaminated Sites Sampling Design Guidelines*, Environment Protection Authority, Sydney.

National Environment Protection Council (NEPC), 1999, *National Environment Protection (Assessment of Site Contamination) Measure 1999*, National Environment Protection Council.

Usage Note

Black EARTH Environmental declares that it does not have, nor expects to have, a beneficial interest in the subject project.

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Appendix A

Laboratory Analysis Results

RESULTS OF SOIL ANALYSIS (Page 1 of 1)

21 soil samples supplied by Black Earth Environmental on 9th February, 2007 - Lab Job No. E6902
Soil samples supplied were composited by EAL into 5 composite samples for analysis
Analysis requested by Cameron Black Your Job.: Picamore site

ANALYTE	METHOD REFERENCE	Composite 1 site 1.1,1.2, 1.3,1.4 E6902/1	Composite 2 site 2.1,2.2, 2.3,2.4 E6902/2	Composite 3 site 3.1,3.2, 3.3,3.4 E6902/3	Composite 4 site 4.1,4.2, 4.3,4.4 E6902/4	Individual site 5 E6902/5	Composite site 6,6.1,6.2, 6.3,6.4 E6902/6	Composite Acceptable Limit Column 1 See note 1	Individual Acceptable Limit Column 1 See note 1	Background Range See note 2
SILVER (mg/Kg DW)	a	0.6	0.9	1.6	1.4	1.1	0.8	na	na	na
ARSENIC (mg/Kg DW)	a	1.6	1.8	2.0	2.2	1.9	2.7	<25	<100	0.2-30
LEAD (mg/Kg DW)	a	9.4	9.8	7.7	11.9	13.7	8.8	<75	<300	<2-200
CADMIUM (mg/Kg DW)	a	0.3	0.4	0.4	0.4	0.3	0.3	<5	<20	0.04-2.0
CHROMIUM (mg/Kg DW)	a	98	96	126	154	174	144	..	..	..
COPPER (mg/Kg DW)	a	28	31	34	33	35	33	<250	<1000	1-190
MANGANESE (mg/Kg DW)	a	1274	1351	1151	791	1225	1288	..	..	..
NICKEL (mg/Kg DW)	a	36	47	42	38	41	40	<150	<600	2-400
SELENIUM (mg/Kg DW)	a	<0.5	<0.5	<0.5	<0.5	<0.5	<0.5	na	na	na
ZINC (mg/Kg DW)	a	146	176	241	221	194	188	<1750	<7000	2-180
MERCURY (mg/Kg DW)	a	0.38	0.38	2.63	1.06	0.81	0.63	<3.75	<15	0.001-0.1
IRON (% DW)	b	10.5	9.9	11.0	11.5	11.3	10.3	na	na	na
ALUMINIUM (% DW)	b	5.6	5.4	5.4	5.5	6.2	5.9	na	na	na
PESTICIDE ANALYSIS SCREEN										
DDD, DDE, DDT (mg/Kg)	c	<0.02	<0.02	<0.02	<0.02	<0.02	<0.02	<50	<200	<0.02
Other Organochlorine Pesticides (mg/Kg)	c	<0.02	<0.02	<0.02	<0.02	<0.02	<0.02	<2.5	<10	<0.02
Organophosphate Pesticides (mg/Kg)	c	<0.1	<0.1	<0.1	<0.1	<0.1	<0.1	..	..	<0.1
PCB's (mg/Kg)	c	<0.2	<0.2	<0.2	<0.2	<0.2	<0.2	<2.5	<10	<0.2

METHODS REFERENCE

- ^{1,3}Nitric/HCl digest - APHA 3120 IC/PMS
- ^{1,3}Nitric/HCl digest - APHA 3120 IC/POES
- Analysis sub-contracted - results attached

NOTES

- Column 1 ' Residential with gardens and accessible soil including childrens daycare centres, preschools, primary schools, town houses or villas' (NSW EPA 1998)
- Environmental Soil Quality Guidelines, Page 40, ANZECC, 1992.

Additional NOTES

DW = Dry Weight

Organochlorine pesticide (OC's) screen:

(Aldrin, Cis-chlordane, Trans-chlordane, HCB, DDD, DDE, DDT, Alpha-BHC, Beta-BHC, Delta-BHC, Lindane, Dieldrin, Endrin, Heptachlor, Heptachlor epoxide, Alpha-endosulfan, Beta-endosulfan, Endosulfan sulfate, Methoxychlor)

Organophosphorus pesticide (OP's) screen:

(Dichlorvos, Phosdrin, Demeton (total), Ethoprop, Monocrotophos, Phorate, Dimethoate, Diazinon, Disulfoton, Methyl parathion, Chlorpyrifos, Ronnel, Parathion, Stirofos, Prothiofos, Azinophos methyl, Coumaphos, Fenitrothion, Fenthion, Malathion)

PCB's = Polychlorinated Biphenyls

(Arochlor 1016, 1232, 1242, 1248, 1254, 1260)

na = no guidelines available

checked:.....