

Byron Shire Council

Planning Proposal 26.2023.2.1

Amendment of Byron Local Environmental Plan 2014

Former Mullumbimby Hospital Site

Public Exhibition Version

Document Register

Doc No.	Date	Details
E2023/18967	17 August 2023	Draft Planning Proposal for Gateway Determination
E2023/116614	30 November 2023	Planning Proposal for Public Exhibition

Contents

Part 1	Introduction	2
1.1	Objective and intended outcomes	2
1.2	Subject land	4
1.3	Background.....	6
	Development vision.....	6
	Community intent.....	6
Part 2	Explanation of provisions	10
	Land Use Objectives.....	10
	Environmental Objectives	11
	Built Form and Development Intensity Objectives	11
	Other Sustainability Objectives	12
	Minor Consequential Amendments	12
Part 3	Justification.....	15
Section A	Need for the planning proposal.....	15
Section B	Relationship to strategic planning framework	18
Section C	Environmental, social and economic impact.....	41
Section D	Infrastructure.....	45
Section E	State and Commonwealth Interests.....	48
Part 4	Mapping.....	49
Part 5	Community consultation.....	55
Part 6	Project timeline	56
	Conclusion	57
	Appendix A – Equiry By Design Options	58
	Appendix B – Residential Strategy Extract.....	61

Part 1 Introduction

1.1 Objective and intended outcomes

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

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

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

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

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

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

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

A draft planning proposal was submitted in August 2023 to the Department of Planning and Environment for the purpose of obtaining a gateway determination. A determination was received on 3 November 2023 and the planning proposal has been updated to address points raised within that determination prior to community consultation.

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

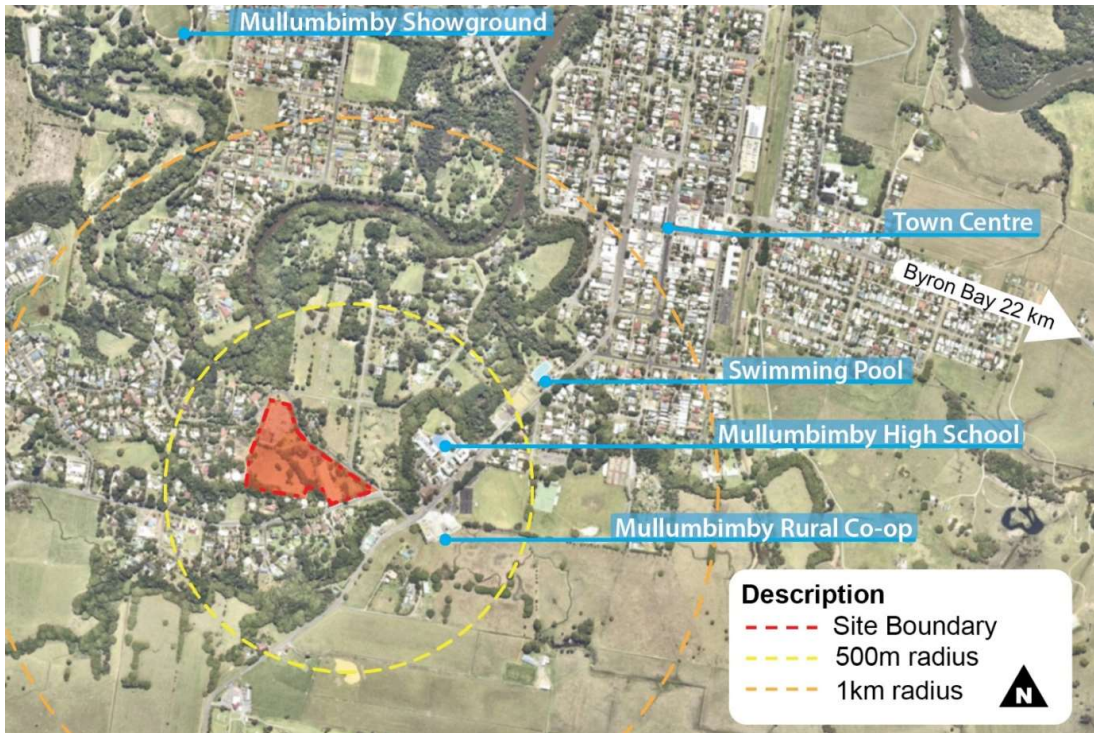
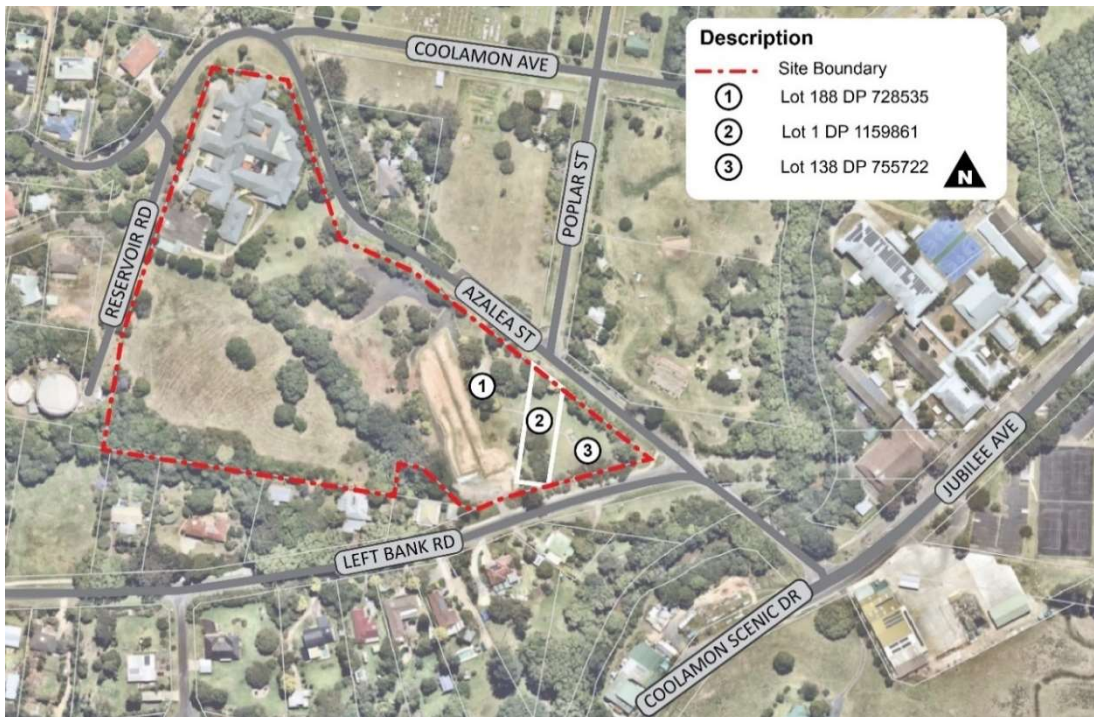


Figure 2: Subject Site Plan showing the site boundary and lots of the former Mullumbimby Hospital site



1.2 Subject land

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

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

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

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

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

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

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

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

There are no other buildings on the site.

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

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



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



1.3 Background

Development vision

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

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

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

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

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

Community intent

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

Council resolutions

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

Mullumbimby Hospital Site Project Reference Group (2017-2018)

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

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

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

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

Site Strategy and Urban Design Protocol (2022)

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

The purpose of the document is to:

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

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

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

Enquiry by Design Process (2023)

An Enquiry by Design (EbD) process has progressed alongside the planning proposal. The EbD was held over 2 days, 13 & 14 November at the Mullum Civic Hall with key stakeholders. Prior to the event an open community drop-in session was held on 11 November to gather further community knowledge and advice. Both events were centred around five key themes:

1. Transport and Access
2. Housing and Built Form
3. Blue and Green Infrastructure
4. Climate
5. People and Culture

The purpose of the EbD process was to ensure knowledge held by key stakeholders influences the design process and fosters stakeholder ownership of the outcomes.

The EbD culminated in 3 development concept design options for the site. These concept designs will inform a feasibility assessment, with the preferred option to inform the development of a site-specific Development Control Plan chapter.

The concept designs have also been used to confirm the mix of uses proposed in this planning proposal and to consider how the land can be developed responsive to the remediation cap and associated Environmental Management Plan.

The options summary from the EbD is included at Appendix A. The outcomes are consistent with this planning proposal.

Technical studies

The following technical studies support this planning proposal.

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

Part 2 Explanation of provisions

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

Land Use Objectives

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

Proposed LEP amendments to support these objectives

- Change the land use zone for approximately 3.5ha of the site from SP2 Infrastructure (Health Service Facility) to R1 General Residential. This would introduce a new zone to the Byron Shire LEP 2014 and would enable a range of residential and community uses that are desired for the site. Figures 3 and 4 show the area proposed to be rezoned. The table below includes draft objectives for the R1 General Residential zone.
- Include a range of permissible land uses in a R1 General Residential zone as shown in the table below.
- Introduce a new Additional Permitted Uses clause in Schedule 1 of the LEP that includes other low impact non-residential uses that are appropriate for this site specifically. These land uses are shown in the table below.
- Introduce an Affordable Housing Contributions Scheme Map over the development area of the site that links to the Byron Shire Affordable Housing Contributions Scheme which targets a 20% contribution.

Objectives of the R1 General Residential zone	<ul style="list-style-type: none"> • To provide for the housing needs of the community. • To provide for a variety of housing types and densities. • To enable other land uses that provide facilities or services to meet the day to day needs of residents. • To maximise the delivery of housing while being responsive to environmental values and amenity of adjoining land uses.
Permitted without consent in the R1 General Residential zone	Home occupations; Home-based child care; Environmental protection works; Flood mitigation works
Permitted with consent in the R1	Attached dwellings; Boarding houses; Building identification signs; Car parks; Centre-based child care facilities; Community facilities; Dwelling houses; Early education and care facilities; Environmental

General Residential zone	facilities; Emergency services facilities; Exhibition homes; Group homes; Health services facilities; Hostels; Home business; Home industries; Multi dwelling housing; Neighbourhood shops; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Public administration building; Recreation areas; Residential accommodation; Residential flat buildings; Respite day care centres; Roads; Semi-detached dwellings; Seniors housing; Sewerage systems; Shop top housing; Tank-based aquaculture
Additional Permitted Uses on this site	Creative industry; Information and education facilities; Markets; Restaurant or cafe

Notes:

- The objectives and land uses shown in the table above are indicative only and will be refined following consideration of public submissions and additional consultative processes.
- Some of the land uses are mandated by the Standard Instrument (Local Environmental Plans) Order 2006 and must be included in the R1 Zone.

Environmental Objectives

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

Proposed LEP amendment to support this objective

- Change approximately 0.21ha of the site to C2 Environmental Conservation to protect high environmental value vegetation. Figures 3 and 4 show the area proposed to be rezoned.

Built Form and Development Intensity Objectives

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

Proposed LEP amendments to support these objectives

- Change the Height of Buildings development standard over part of the site from 9m to 11.5m. Figures 5 and 6 show the area proposed to have changes to the height of building provisions.
- Amend the existing LEP clause relating to Design Excellence so that it also applies to the site.

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

Other Sustainability Objectives

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

These objectives will be supported via amendment to the Byron Shire Development Control Plan 2014

Minor Consequential Amendments

Several minor consequential LEP amendments will be required to reflect the insertion of the new R1 General Residential Zone. The proposed changes are detailed in the table below.

Clause 2.1 Land use zones (Part 2)	Under 'Residential Zones' add R1 General Residential
Clause 6.9 Location of sex services premises (Part 6 Additional local provisions, Division 1 Miscellaneous)	Include R1 General Residential (at point 2.a.i)
Clause 6.13 Design excellence – Byron town centre	Remove references to Byron Bay town centre
Clause 6.17 Affordable housing in residential and business zones (Part 6 Additional local provisions, Division 2 Affordable housing)	Include R1 General Residential (at point 2)
Schedule 2 Exempt Development	Under 'Strata subdivision of a lawfully erected building' add R1 General Residential (at point 1)

Figure 3 - Existing zoning*

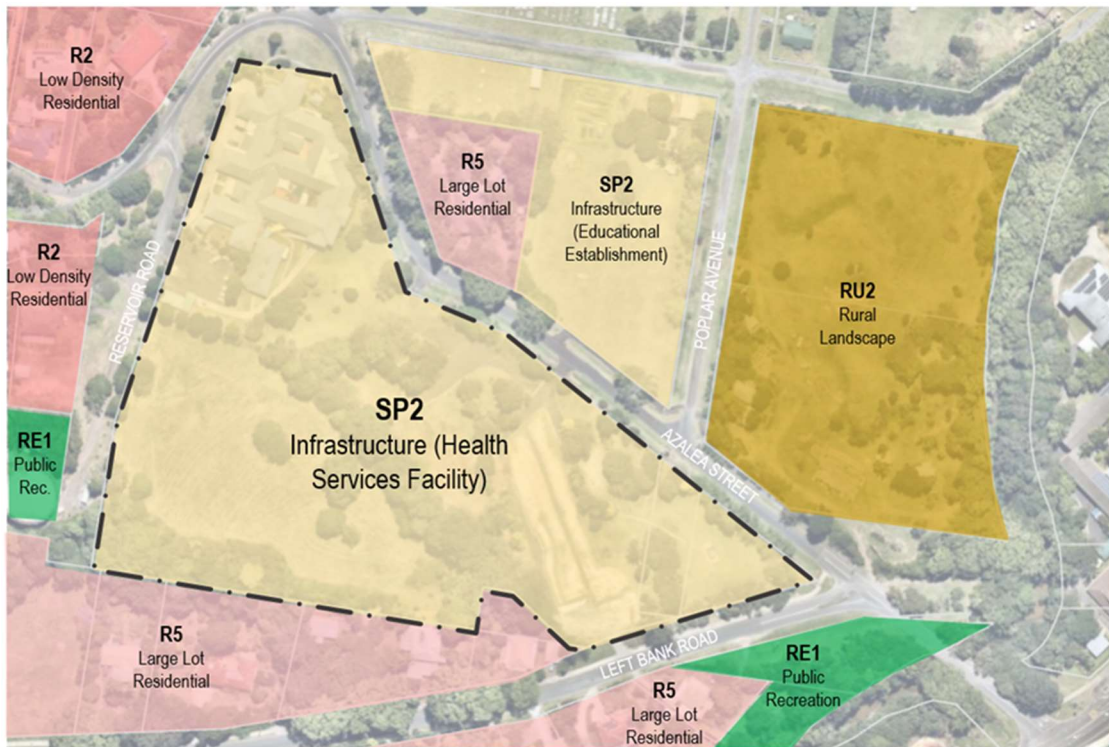
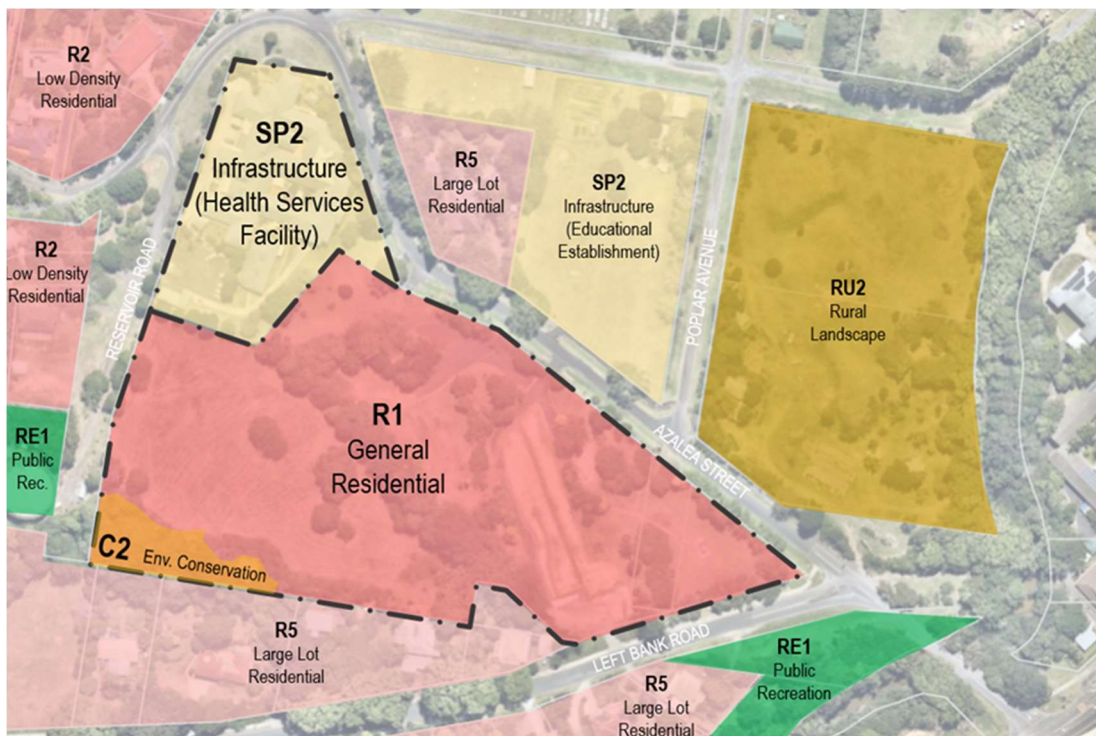


Figure 4 - Proposed zoning*



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

Figure 5 – Existing Height of Buildings*

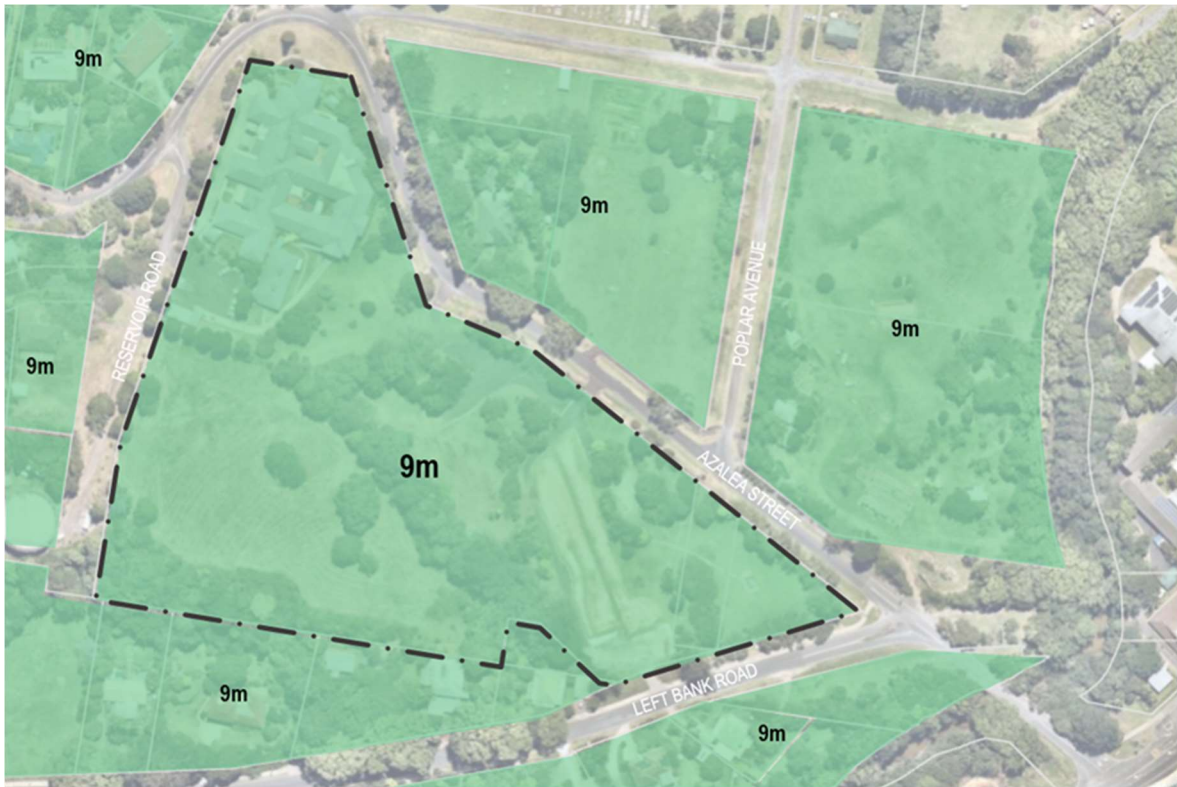
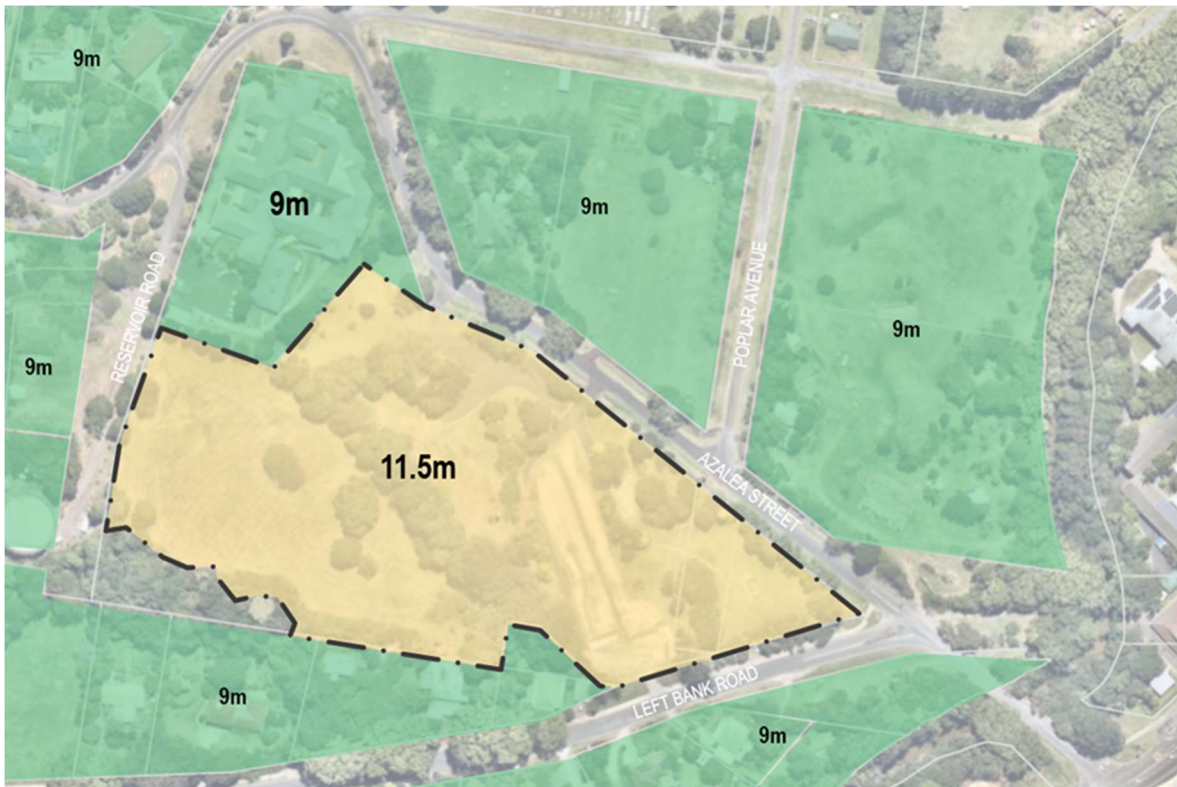


Figure 6 – Proposed Height of Buildings*



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

Part 3 Justification

Section A Need for the planning proposal

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

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

Byron Shire Residential Strategy (2020)

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

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

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

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

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

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

Byron Shire Local Strategic Planning Statement (2020)

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

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

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

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

Byron Shire Council Affordable Housing Contribution Scheme (2022)

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

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

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

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

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

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

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

After the Floods Discussion Paper

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

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

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

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

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

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

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

Section B Relationship to strategic planning framework

Q3. Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (in this case the North Coast Regional Plan 2041)?

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

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

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

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

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

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

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

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

Byron Shire Community Strategic Plan 2032

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

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

Our Mullumbimby Masterplan (2019)

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

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

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

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

Northern Councils E Zone Review Final Recommendations

The proposal seeks to apply a C2 Environment Conservation zone to part of the land in accordance with the Northern Councils E Zone Final Recommendations (E Zone Policy).

The E zone policy states that C2 and C3 zones will only be applied if the primary use of the land is considered to be environmental conservation (C2) or environmental management (C3) and the land contains attributes which meet one or more of the criteria for a C2 or C3 zone (outlined in Tables 1 and 2 of the E Zone Policy).

However in the case of public land, a C2 or C3 zone may be applied despite being inconsistent with the criteria, if the primary use of the land is environmental conservation or environmental management. The primary use of the land is the main use for which the land has been used for the last two years and may vary across a particular property depending on the characteristics of the land.

The site attributes have been confirmed by the Biodiversity Assessment (dated 17 April 2023) prepared by Earth Scapes Consulting. This report identifies the south western corner of the land contains vegetation which meets the diagnostic criteria for threatened ecological communities under Lowland Rainforest on floodplain under the NSW Biodiversity Conservation Act and also meets criteria for the critically endangered Lowland Rainforest under the federal Environment Protection and Biodiversity Conservation Act 1999.

It is considered that the land meets the criteria for a C2 zone and the primary use of this portion of the site is for environmental conservation.

NSW Flood Inquiry Outcomes

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

Recommendation 20 – floodplains as assets

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

Recommendation 21 – simplify the planning system disaster provisions

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

Recommendation 24 – housing, especially social housing

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

Independent Planning Commission Short Term Rental Accommodation Recommendations

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

Housing supply – Recommendation 4

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

- a) the urgent release of more land for housing development within Byron Shire (including the potential for infill development in Byron Bay)
- b) the timely delivery of new housing supply;
- c) the delivery of increased affordable, diverse, social and crisis accommodation; and
- d) protection of lessees.

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

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

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

State Environmental Planning Policy (SEPP)	Compliance of Planning Proposal
Resilience and Hazards	<p>SEPP Resilience and Hazards (2021) applies to the site. It is mapped both in the Coastal Use and Coastal Environment mapping.</p> <p>If developed in accordance with the statutory requirements development is unlikely to cause adverse impact on the biophysical, hydrological and ecological environment.</p>

	<p>The extent of the development will be governed by the proposed development standards and the design excellence clause.</p> <p>The Flooding and Stormwater Assessment, Biodiversity Assessment and Bushfire Report all consider the site capable of supporting future residential development.</p>
Exempt and Complying Development	It is anticipated that following the planning proposal, some development may be complying or exempt development under the SEPP. The planning proposal does not inhibit this.
Biodiversity and Conservation	The Biodiversity Assessment notes that this SEPP does not apply.
Koala Habitat Protection	This SEPP does not apply as the site does not include core koala habitat.
Remediation of Land	<p>Key extracts from the Contamination Summary (date 28 July 2023) by Tim Fitzroy and Associates are provided below.</p> <p>Investigations, remediation and validation have culminated in the segregation of the site into a management area where asbestos contamination has been capped, and the remainder of the site. This is shown on Figure 1 in the Contamination Summary. The management area consists of Lot 138 DP 755722, Lot 1 DP1159861, and Part Lot 188 DP 728535. The resultant segregation requires limitations on development within the management area, as described in the associated Environmental Management Plan (EMP) and the Site Audit Statement (SAS).</p> <p>The SAS has been prepared with the intention to exclude freehold residential land use as a permissible use. The auditor agrees that the management area of the site is suitable for the following land uses with the implementation of the EMP attached to the SAS:</p> <ul style="list-style-type: none"> • Day care centre, preschool, primary school; • Secondary school; • Residential land use with minimal opportunities for soil access (HILs B); • Public open spaces (HILs C); and/or • Commercial land use (HILs D).

	<p>These land uses are described in the environmental management plan prepared for the site by Melaleuca Group, which is attached to the SAS.</p> <p>The remainder of the site outside of the management area is suitable for the following land uses:</p> <ul style="list-style-type: none"> • Day care centre, preschool, primary school; • Secondary school; • Residential with garden/accessible soil (home grown produce <10% fruit and vegetable intake and no poultry; includes childcare centres, preschools, primary schools (HILs A); • Residential with minimal opportunities for soil access (HILs B); • Public open spaces (HILs C); and/or • Commercial land use (HILs D).
--	---

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

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

1. Planning Systems


S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
<p>1.1 Implementation of Regional Plans</p>	<p>Planning proposals must be consistent with a Regional Plan released by the Minister for Planning.</p> <p>A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Planning Secretary (or an officer of the Department nominated by the Secretary), that:</p> <p>(a) the extent of inconsistency with the Regional Plan is of minor significance, and</p> <p>(b) the planning proposal achieves the overall intent of the Regional Plan and does not undermine the achievement of the Regional Plan’s vision, land use strategy, goals, directions or actions.</p>	<p>The site is within the ‘urban growth area’ defined by the North Coast Regional Plan. It is also not within the ‘coastal strip’ defined by the Plan.</p> <p>The planning proposal aligns with the objectives in the Plan, especially:</p> <ul style="list-style-type: none"> • Objective 1: Provide well located homes to meet demand • Objective 2: Provide for more affordable and low-cost housing <p>The planning proposal aligns with the Byron Shire local government narrative described in the Plan, especially:</p> <ul style="list-style-type: none"> • Investigate opportunities for increased housing diversity and density, encompassing multi-unit dwellings and innovative housing models in appropriate locations • Prioritise the delivery of affordable housing to support the local workforce and healthy and diverse communities 	<p>Consistent</p>

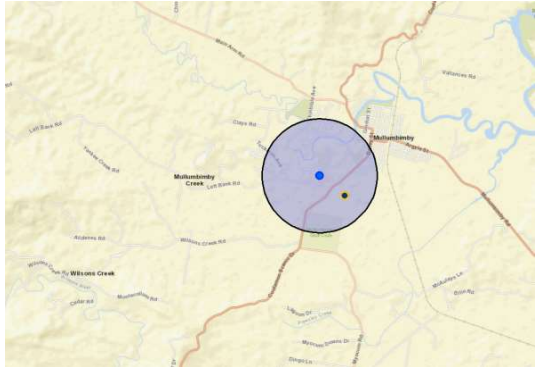
S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
1.2 Development of Aboriginal Land Council Land	Applies when preparing a planning proposal for land shown on the Land Application Map of chapter 3 of the State Environmental Planning Policy (Planning Systems) 2021.	Not currently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

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

3. Biodiversity and Conservation

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

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

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

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	A planning proposal that introduces or alters an C2 Environmental Conservation or C3 Environmental Management zone or an overlay and associated clause must apply that proposed C2 Environmental Conservation or C3 Environmental Management zone, or the overlay and associated clause, in line with the Northern Councils E Zone Review Final Recommendations.	<p>A Biodiversity Assessment (date 17 April 2023) has been carried out by Earth Scapes Consulting as required under the Environmental Planning and Assessment Act 1979 as the site contains High Environmental Value (HEV) vegetation and/or red flags.</p> <p>The assessment recommends retention and protection of the lowland rainforest (EEC).</p> <p>The planning proposal recommends including the HEV area in Zone C2 Environmental Conservation.</p> <p>In line with the Northern Councils E Zone Review Final Recommendations this zone has not been applied to any potential buffer (“The E zones will not include buffers to the vegetation attributes that meet the E zone criteria” pg12).</p>	Consistent
3.5 Recreation Vehicle Areas	A planning proposal must not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the Recreation Vehicles Act 1983).	The planning proposal does not enable land to be developed for the purpose of a recreation vehicle area.	Consistent

4. Resilience and Hazards

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
4.1 Flooding	This direction applies when preparing a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.	<p>The Flooding and Stormwater Assessment (date 3 August 2023) by BMT notes the following:</p> <ul style="list-style-type: none"> • Flood mapping illustrates that the site has a low propensity for regional flooding in frequent or rare events and is only partly inundated during the Probable Maximum Flood (PMF) event in the mostly easterly extent of the site. • On the basis that the site is only marginally inundated at its most eastern extent for an extreme flood event, the natural existing level of the site exceeds Councils typical requirements for this type of development. It is suggested that a flood impact study would not be required to assess impacts of the development for regional flood events based on Council’s current DCP requirements. 	Not applicable
4.2 Coastal Management	This direction applies when a planning proposal authority prepares a planning proposal that applies to land that is within the coastal zone, as defined under the Coastal Management Act 2016.	<p>The site is mapped as Coastal Use Area under the Resilience and Hazards SEPP.</p> <p>The proposal is consistent with the following objectives:</p> <p>(a) to protect and enhance the scenic, social and cultural values of the coast by ensuring that—</p>	Consistent

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

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

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
4.4 Remediation of Contaminated Land	<p>This direction applies to:</p> <p>(a) land that is within an investigation area within the meaning of the Contaminated Land Management Act 1997,</p> <p>(b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,</p> <p>(c) the extent to which it is proposed to carry out development on it for residential, educational, recreational or childcare purposes, or for the purposes of a hospital – land:</p> <p>i. in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and</p> <p>ii. on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).</p> <p>(1) A planning proposal authority must not include in a particular zone (within the meaning of the local environmental plan) any</p>	<p>Key extracts from the Contamination Summary (date 28 July 2023) by Tim Fitzroy and Associates are provided below.</p> <p>Investigations, remediation and validation have culminated in the segregation of the site into a management area where asbestos contamination has been capped, and the remainder of the site. This is shown on Figure 1 in the Contamination Summary. The management area consists of Lot 138 DP 755722, Lot 1 DP1159861, and Part Lot 188 DP 728535. The resultant segregation requires limitations on development within the management area, as described in the associated Environmental Management Plan (EMP) and the Site Audit Statement (SAS).</p> <p>The SAS has been prepared with the intention to exclude freehold residential land use as a permissible use. The auditor agrees that the management area of the site is suitable for the following land uses with the implementation of the EMP attached to the SAS:</p> <ul style="list-style-type: none"> • Day care centre, preschool, primary school; • Secondary school; • Residential land use with minimal opportunities for soil access (HILs B); • Public open spaces (HILs C); and/or 	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>land to which this direction applies if the inclusion of the land in that zone would permit a change of use of the land, unless:</p> <p>(a) the planning proposal authority has considered whether the land is contaminated, and</p> <p>(b) if the land is contaminated, the planning proposal authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used, and</p> <p>(c) if the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, the planning proposal authority is satisfied that the land will be so remediated before the land is used for that purpose.</p> <p>In order to satisfy itself as to paragraph 1(c), the planning proposal authority may need to include certain provisions in the local environmental plan.</p> <p>(2) Before including any land to which this direction applies in a particular zone, the planning proposal authority is to obtain and have regard to a report specifying the findings of a preliminary investigation of the land</p>	<ul style="list-style-type: none"> • Commercial land use (HILs D). <p>These land uses are described in the environmental management plan prepared for the site by Melaleuca Group, which is attached to the SAS.</p> <p>The remainder of the site outside of the management area is suitable for the following land uses:</p> <ul style="list-style-type: none"> • Day care centre, preschool, primary school; • Secondary school; • Residential with garden/accessible soil (home grown produce <10% fruit and vegetable intake and no poultry; includes childcare centres, preschools, primary schools (HILs A); • Residential with minimal opportunities for soil access (HILs B); • Public open spaces (HILs C); and/or • Commercial land use (HILs D). 	

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

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

5. Transport and Infrastructure

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

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

6. Housing

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

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>(1) A planning proposal must include provisions that encourage the provision of housing that will:</p> <ul style="list-style-type: none"> (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. <p>(2) A planning proposal must, in relation to land to which this direction applies:</p> <ul style="list-style-type: none"> (a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and (b) not contain provisions which will reduce the permissible residential density of land. 	<p>The existing site is serviced. The planning proposal does not decrease the possible density on the site.</p> <p>The Infrastructure Capability Audit (date 15 August 2023) by PLANIT Consulting notes the following.</p> <p>The existing water and sewer infrastructure the site can be readily serviced by both the existing water supply network and the existing gravity sewer network without the need to undertake any pipeline or network augmentations for an estimated development yield of approximately 130ET. Therefore, from a water and sewer servicing capacity we believe this site is suitable for the proposed development to proceed.</p> <p>This is subject to a satisfactory outcome being identified/agreed with Rous Water to address the overall Mullumbimby water supply capacity constraints.</p>	
6.2 Caravan Parks and Manufactures Home Estates	Applies when a planning proposal affects land for Caravan Parks and Manufactured Home Estates.	Not applicable	Not applicable

7. Industry and Employment

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
7.1 Business and Industrial Zones	This direction applies to all relevant planning authorities when preparing a planning proposal that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).	Not applicable	Not applicable
7.2 Reduction in non-hosted short-term rental accommodation period	This direction applies to Byron Shire Council when the council prepares a planning proposal to identify or reduce the number of days that non-hosted short-term rental accommodation may be carried out in parts of its local government area.	Not applicable	Not applicable
7.3 Commercial and Retail Development along the Pacific Highway, North Coast	Applies to land in the vicinity of the existing and/or proposed alignment of the Pacific Highway.	Not applicable	Not applicable

8. Resources and Energy

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
8.1 Mining, Petroleum Production and Extractive Industries	<p>This direction applies to all relevant planning authorities when preparing a planning proposal that would have the effect of:</p> <p>(a) prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or</p> <p>(b) restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.</p>	Not applicable	Not applicable

9. Primary Production

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

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

Section C Environmental, social and economic impact

Q8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No.

The site is not mapped on the Biodiversity Values Map.

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

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

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

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

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

Figure 9: Endangered Ecological Community (EEC) Map



The land is within a coastal environmental area. The Residential Strategy identifies further investigations are required as part of the planning proposal to change the zoning of the land in relation to coastal management. The matters for investigation identified include:

- the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment;
- coastal environmental values and natural coastal processes;
- the water quality of the marine estate; and
- marine vegetation, native vegetation and fauna and their habitats.

Consultation with the Division of Biodiversity and Conservation in relation to coastal management will form part of the exhibition period.

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

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

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

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

Flooding has been investigated by the Flooding and Stormwater Assessment (date 3 August 2023) by BMT.

The report identifies the site is elevated above the Probable Maximum Flood, except for a small portion of the far eastern corner. However, the land may become isolated from the Mullumbimby township during rare and extreme flood events due to inundation of the Azalea Street bridge. The report indicates the duration of the isolation may extend from around 12 to 20 hours.

The Azalea Street bridge would be unpassable at a 1% AEP, 0.2% AEP and PMF flood events due to the depth of inundation and high velocity providing for higher hazard flood waters.

The report concludes there may be a need for some residents to evacuate prior to the onset of flooding to assist others or to access personal supports. It is indicated there are multiple rainfall and water level gauges in the region and in the vicinity of the site to assist in the early provision of data to assist if evacuation is required.

The safe and efficient evacuation of people in the event of a flood would need to be consistent with the [Tweed Byron Local Emergency Management Plan \(EMPLAN\)](#) and the [Byron Shire Local Flood Plan](#).

The Flood Plan notes that when there is a risk to public safety, evacuation is the primary strategy in circumstances that may include:

- a) Evacuation of people when their homes or businesses are likely to flood.
- b) Evacuation of people who are unsuited to living in isolated circumstances, due to flood water closing access.
- c) Evacuation of people where essential energy and utility services are likely to fail, have failed or where buildings have been made uninhabitable.
- d) Evacuation of people when their homes or business are at threat of collapse from coastal erosion

Given the information provided in the consultant report, it is likely that flood evacuation measures in a site specific plan would focus on scenario b) above.

The Mullumbimby Ex Services Club is a designated Evacuation Centre under the [Tweed Byron Local Emergency Management Plan \(EMPLAN\)](#) with the Mullumbimby Civic Memorial Hall as a Recovery Centre.

There is currently an audit underway of existing sites under the EMPLAN with representation from Local Emergency Management Officer (LEMO), Byron Shire Council Recovery Staff, Mid North Coast Local Health District, Northern NSW Health, DCJ - Byron/Ballina, WelfAC with reporting/recommendation being put forward to the Local Emergency Management Committee (LEMC) / Local Emergency Operations Controller (LEOCON) for consideration.

It has been recognised that as part of this process alternate existing sites and greenfield sites will be considered.

A site specific Emergency Management and Evacuation Plan will need to be developed for the site that takes into account the above.

The Byron LEP 2014 contains provisions that allow this matter to be adequately addressed at the development application stage.

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

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

The planning proposal assists with this in the following ways.

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

Consultation with Arakwal Corporation & Tweed Byron Local Aboriginal Land Council during the exhibition period is needed to address Aboriginal cultural heritage sensitivities (as noted

in Appendix B – Residential Strategy Extract). Note that representatives from Arakwal Corporation & Tweed Byron Local Aboriginal Land Council attended the Enquiry by Design process (as described in section 1.3). Further consultation will occur as part of planning proposal exhibition period.

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

The planning proposal recommends introducing a new Additional Permitted Uses clause in Schedule 1 of the LEP. This would allow for low impact non-residential uses that are appropriate for this site specifically. This includes the following land use terms: Creative industry; Information and education facilities; Markets, and; Restaurant or café.

The ability to provide some community, arts and education facilities on the site will ensure that the site is not just housing, but that it encourages a positive social atmosphere, opportunities for ‘encounter’ and facilities for the local population to use daily. This will also assist in creating a lively and diverse neighbourhood that complements the surrounding town. This is consistent with the aspirations of the Council endorsed Site Strategy and Urban Design Protocol (2022) and the Project Reference Group recommendations 2018 (as discussed in section 1.3 Background).

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

Section D Infrastructure

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

Transport

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

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

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

Infrastructure

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

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

Stormwater

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

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

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

Section E State and Commonwealth Interests

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

The gateway determination requires consultation with the following public authorities and government agencies:

- Arakwal Corporation
- Tweed Byron Local Aboriginal Land Council
- NSW Biodiversity Conservation division
- NSW Rural Fire Services
- NSW State Emergency Service

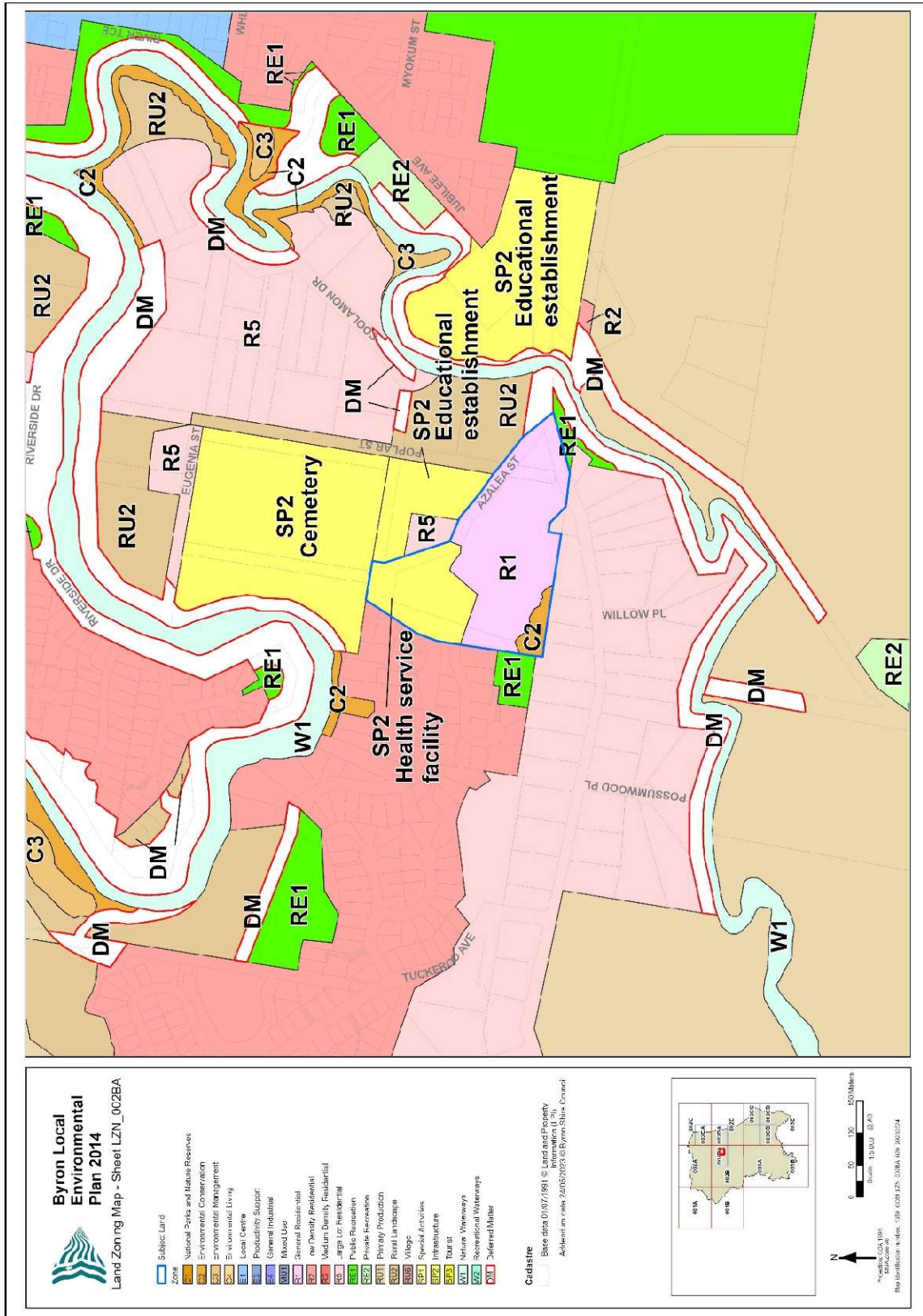
Part 4 Mapping

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

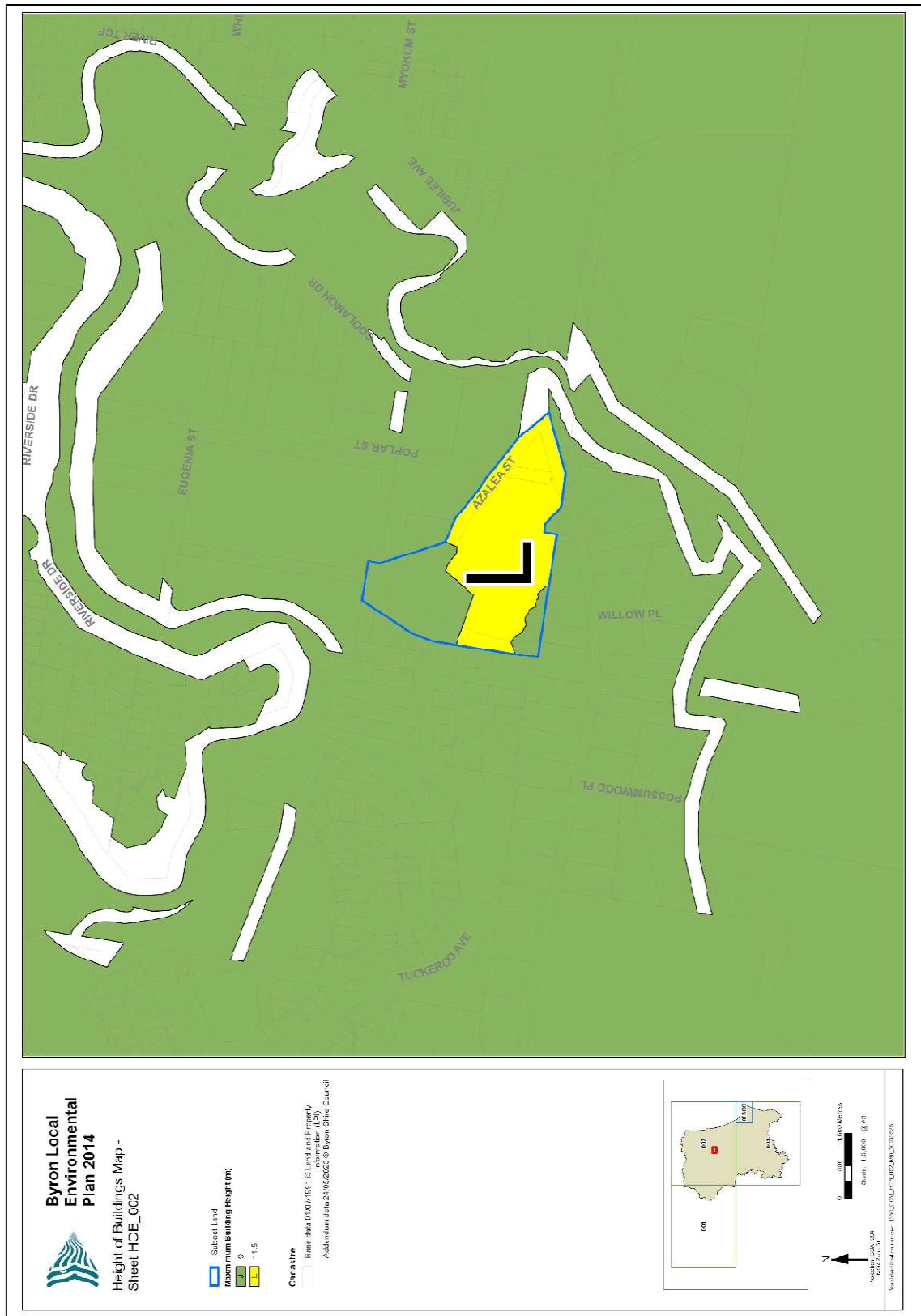
- Land Zoning Map
- Height of Buildings Map
- Design Excellence Map
- Affordable Housing Contributions Scheme Map
- Additional Permitted Uses Map

The proposed changes are included over the following pages.

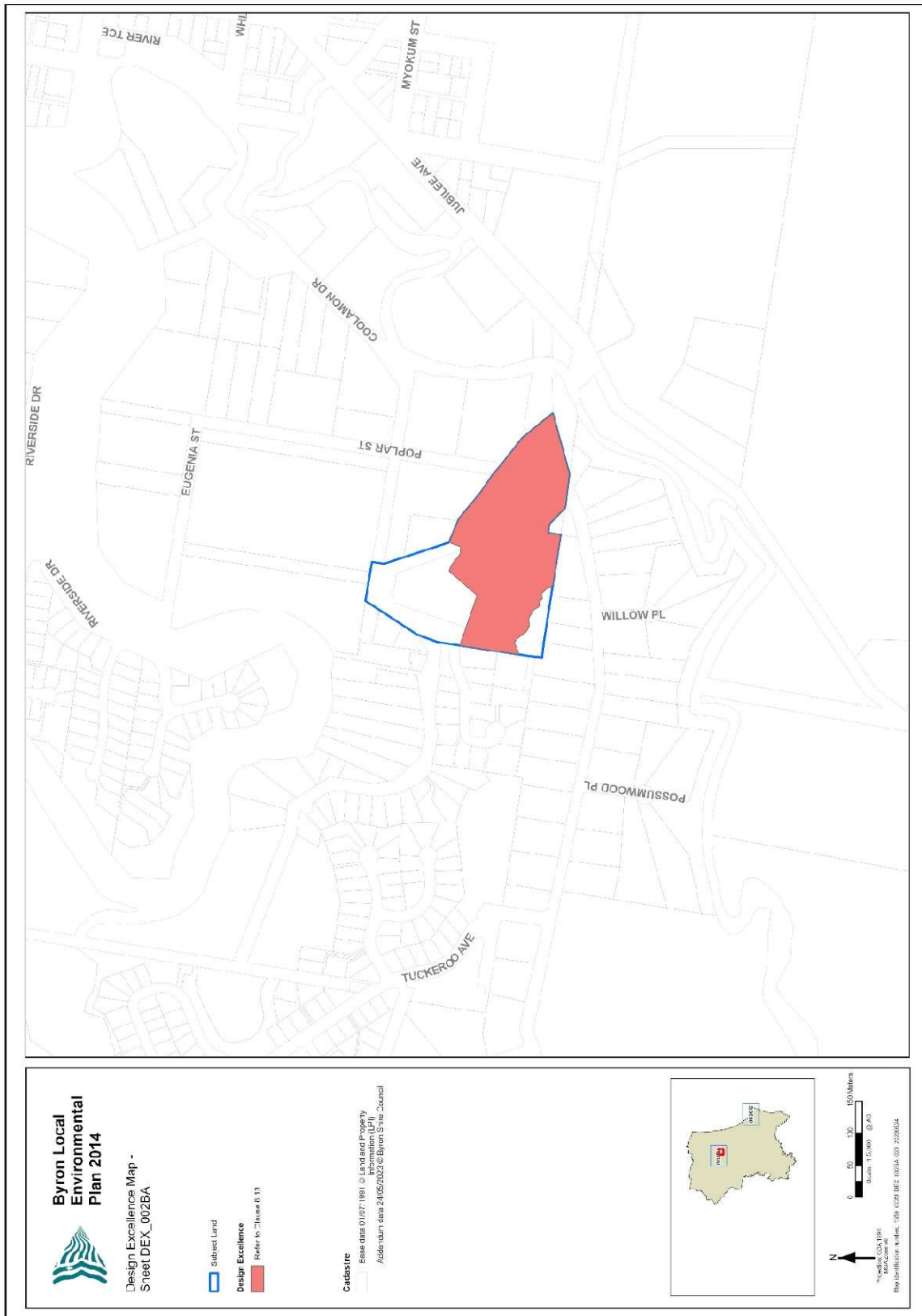
Land Zoning Map (Proposed)



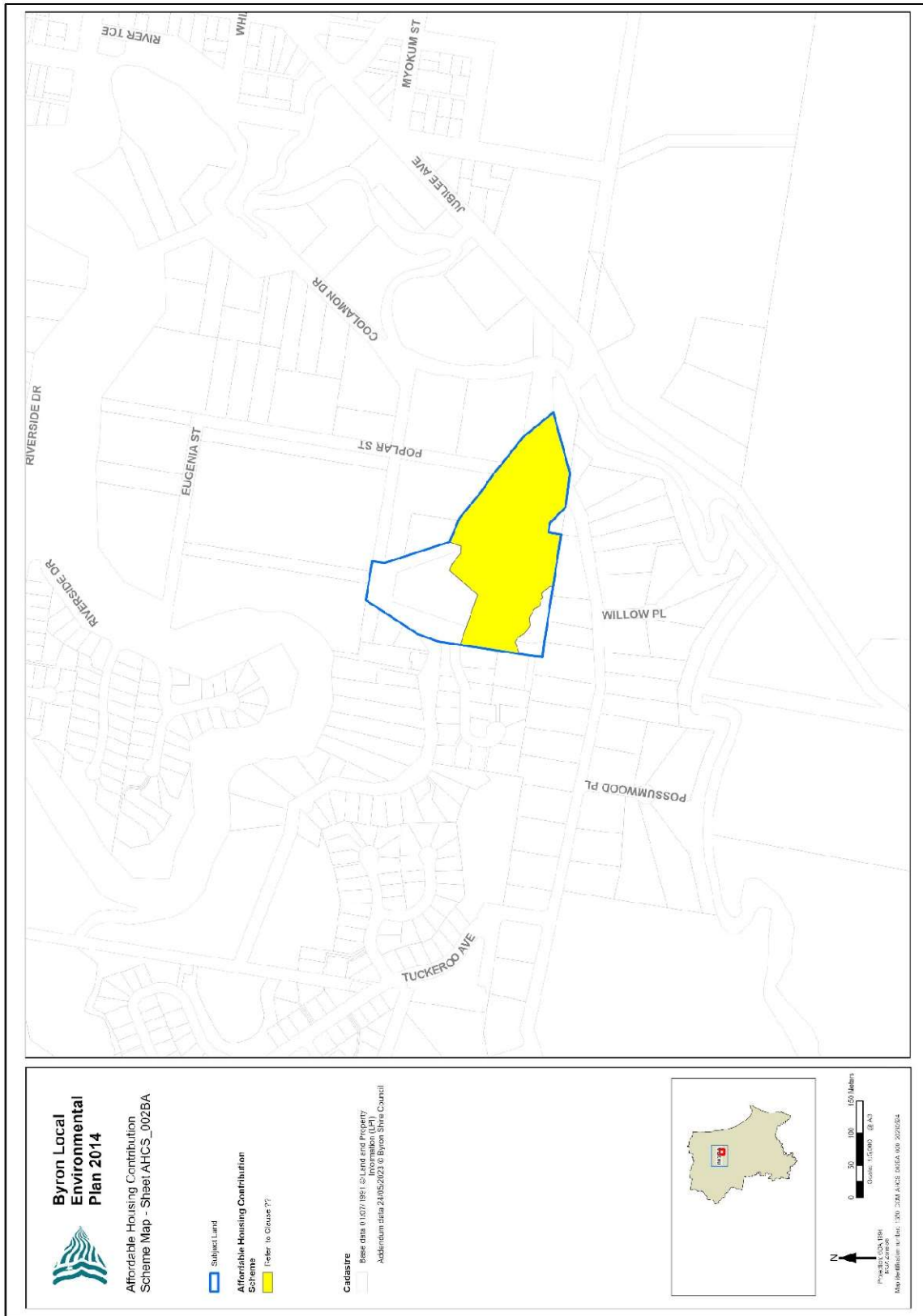
Height of Buildings Map (Proposed)



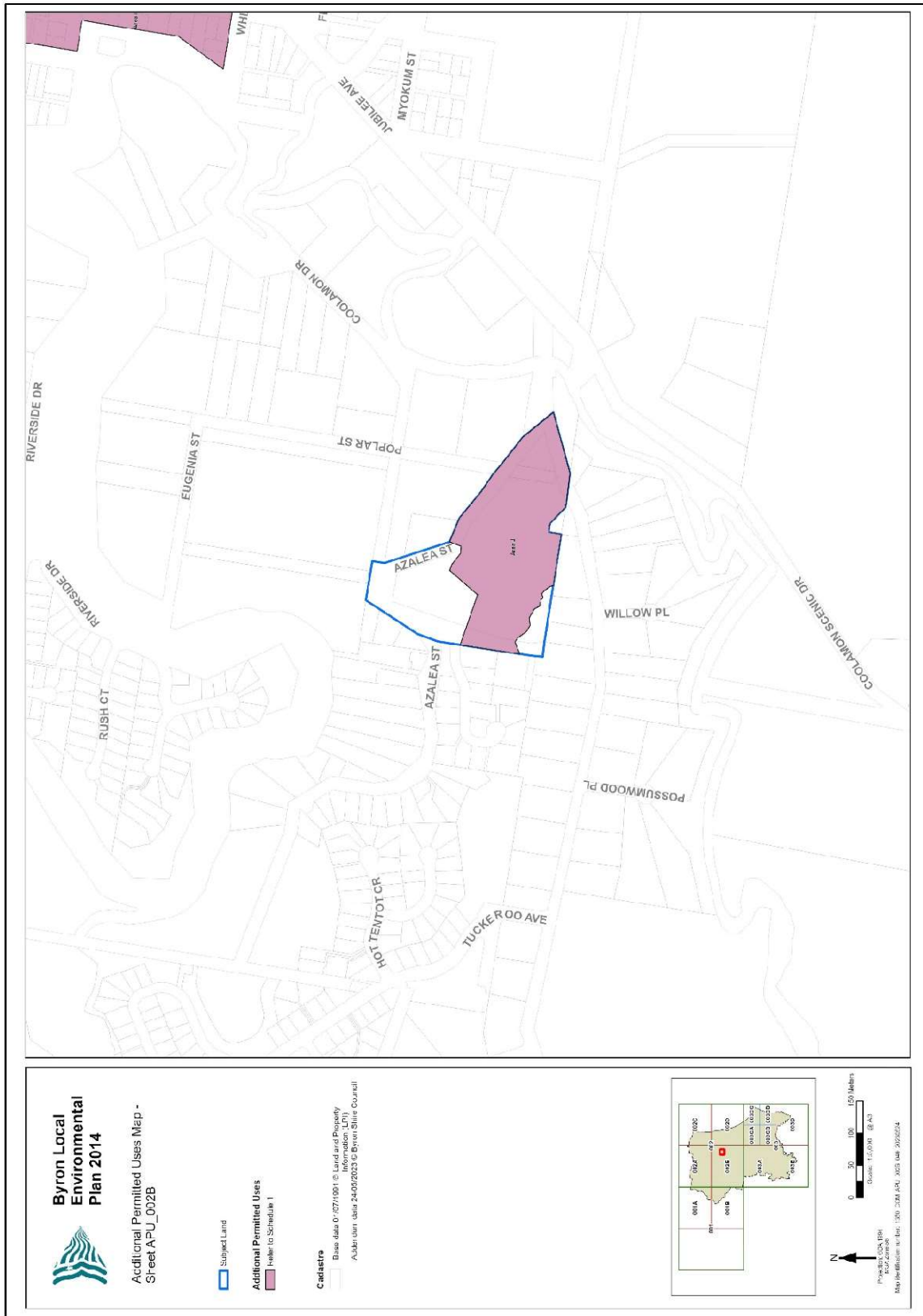
Design Excellence Map (Proposed)



Affordable Housing Contributions Scheme Map (Proposed)



Additional Permitted Uses Map (Proposed)



Part 5 Community consultation

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

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

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

Promotion of the exhibition period by:

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

Part 6 Project timeline

The proposed timeline for the completion of the Planning Proposal is detailed in the table below. As per the Gateway Determination, the LEP should be completed within 6 months of the Gateway Determination date.

Plan making step	Estimated completion
Gateway Determination Received	3 November 2023
Agency Consultation	December 2023 – February 2024
Public Exhibition Period	December 2023 – February 2024
Submissions Assessment report to Council	March 2024
Submit to DPE for GIS and legal drafting	April 2024
LEP amendment notification	May 2024

Conclusion

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
















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

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

Appendix A – Equiry By Design Options

Conceptual Design 1 Enquiry by Design Process

Please note that this is a conceptual plan based on the outcomes of the Mulumimby Hospital Enquiry by Design Process. Further detail about the land use and infrastructure provision will be analysed and tested by Council in the project's next stages.
















- Legend:**
-  Hospital Site Allotment Boundaries
 -  Residential (mixture of 2 - 3 stories, yield of approx. 150 - 200 dwellings)*
 -  Existing Aged Care Facility (retained)
 -  Community facilities and amenities
 -  Community facility above car parking
 -  Mixed-use (commercial and residential)
 -  Open space (including bushfire/ vegetation buffer and high value vegetation)
 -  Stormwater movement and detention areas
 -  Subtropical rainforest (conservation zone)
 -  Main roads
 -  Vehicle movement
 -  Vehicle movement (underneath buildings)
 -  Shared paths (walking and rolling)
 -  Significant location (viewlines and cultural heritage)
 -  Emergency access & pedestrian priority space



*High value existing trees (remnant, high value native, no low-bearing) to be retained within residential areas

Conceptual Design 2 Enquiry by Design Process

Please note that this is a conceptual plan based on the outcomes of the Mulumbimby Hospital Enquiry by Design Process. Further detail about the land use and infrastructure provision will be analysed and tested by Council in the project's next stages.












- Legend:**
-  Hospital Site Allotment Boundaries
 -  Residential (mixture of 2 - 3 stories, yield of approx. 250 - 300 dwellings)*
 -  Existing Aged Care Facility (retained)
 -  Community facilities and amenities
 -  Mixed-use (commercial and residential)
 -  Open space (including bushfire/ vegetation buffer and high value vegetation)
 -  Stormwater movement and detention areas
 -  Subtropical rainforest (conservation zone)
 -  Further investigations into extent of high value vegetation
 -  Main roads
 -  Vehicle movement
 -  Vehicle movement (underneath buildings)
 -  Shared paths (walking and rolling)
 -  Significant location (viewlines and cultural heritage)
 -  Emergency access & pedestrian priority space



*High value existing trees (remnant, high value native, hollow-bearing) to be retained within residential areas

Conceptual Design 3 Enquiry by Design Process

Please note that this is a conceptual plan based on the outcomes of the Mullumbimby Hospital Enquiry by Design Process. Further detail about the land use and infrastructure provision will be analysed and tested by Council in the project's next stages.

- Legend:**
-  Hospital Site Allotment Boundaries
 -  Residential (mixture of 1 - 3 stories, yield of approx. 150 - 200 dwellings)*
 -  Existing Aged Care Facility (retained)
 -  Community facilities and amenities
 -  Open space (including bushfire/vegetation buffer and high value vegetation)
 -  Stormwater movement and detention areas
 -  Subtropical rainforest (conservation zone)
 -  Main roads
 -  Vehicle movement
 -  Shared paths (walking and rolling)
 -  Significant location (viewlines and cultural heritage)




*High value existing trees (remnant, high value native, low-bearing) to be retained within residential areas

Appendix B – Residential Strategy Extract

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

Area 3 - Mullumbimby - Azalea St old hospital

Description: Part of Lot 188 DP 728535, Lot 1 DP 1159861 & Lot 138 DP 755722	
Investigation area shown in blue border	
	
Approximate developable land: 3 ha	
<p>Strengths/advantages</p> <ul style="list-style-type: none"> • already contained in the NCRP urban growth area • within an existing residential area • good proximity to employment areas • on existing public transport route • outside the 1:100 year floodplain • determined to be a viable affordable housing contribution area 	
Housing diversity, character and affordability	
Preferred zone	R1 General Residential, R2 Low Density Residential and/or R3 Medium Density Residential

Housing mix and density target	Caters for a range of residential types including dwelling houses, dual occupancies and multi dwelling housing reflecting local housing needs and at a density generally between 30 and 37 dwellings per hectare. (after allowance for roads and parks etc.).
Lot size typology, mix and layout	Generally consistent with Strategy Section 3 – Policy 2: Table 5 (Column 2B) and Diagram 2.
Affordable provision	Aimed at achieving an affordable housing contribution rate of 30% of the additional lots or developable area whichever the greater that is to be used for residential uses in accordance with Strategy Appendix D [of the Residential Strategy], Affordable housing and social housing criteria.
Integration with local character	Structure plan to accompany a planning proposal. Development design respects and reflects Mullumbimby's low scale 'country town' feel and landscape character.
Key issues and further investigations required as part of a planning proposal to change zoning of the land	
<ul style="list-style-type: none"> • land to be excluded from residential development: <ul style="list-style-type: none"> – contains HEV vegetation – under consideration for designated as Environmental Zone – if developed would adversely impact on areas of high environmental value – mapped as bushfire vegetation category 1 • SEPP Coastal Management - this Policy applies to land within the coastal zone. The land is within a coastal environmental area. As part of a planning proposal the potential impact to following need to be addressed: <ul style="list-style-type: none"> – the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment, – coastal environmental values and natural coastal processes, – the water quality of the marine estate – marine vegetation, native vegetation and fauna and their habitats • address Aboriginal cultural heritage sensitivities • Koala Habitat Protection SEPP - biodiversity and ecological sensitivities including land shown on the koala 'Site Investigation Area' map (where applicable) 	

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