

land, extractive resources, towns, villages and cultural amenities) for the purpose of promoting the social and economic welfare of the community, protecting ecological and cultural heritage and achieving a better environment,

(b) the promotion and coordination of the orderly and economic use and development of land,

(c) the provision and coordination of community services and facilities,

(d) the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities and their habitats, and

(e) the provision of increased opportunity for public involvement and participation in environmental planning and assessment.

(2) Objectives

The objectives of this plan are:

- (a) to enhance individual and community (social and economic) well-being by following a path of economic development that safeguards the welfare of future generations,
- (b) to provide for equity within and between generations, and
- (c) to protect biodiversity, and re-establish and enhance essential ecological processes and life support systems.

(3) Guiding principles

The objectives can be achieved through the implementation of the following guiding principles:

- (a) The precautionary principle. The precautionary principle means that where there are threats of serious or irreversible damage to the community's ecological, social or economic systems, a lack of complete scientific evidence should not be used as a reason for postponing measures to prevent environmental degradation. In some circumstances this will mean actions will need to be taken to prevent damage even when it is not certain that damage will occur.
- (b) The principle of intergenerational equity. This principle means that the present generation must ensure that the health, integrity, ecological diversity, and productivity of the environment is at least maintained or preferably enhanced for the benefit of future generations.
- (c) The principle of conserving biological diversity and ecological integrity. This principle aims to protect, restore and conserve the native biological diversity and enhance or repair ecological processes and systems.
- (d) The principle of improving the valuation and pricing of social and ecological resources. This principle means that the users of goods and services should pay prices based on the full life cycle costs (including the use of natural resources at their replacement value, the ultimate disposal of any wastes and the repair of any consequent damage).
- (e) The principle of eliminating or reducing to harmless levels any discharge into the air, water or land of substances or other effects arising from human activities that are likely to cause harm to the environment.
- (f) The principle of encouraging a strong, growing and diversified economy that promotes local self reliance, and recognises and strengthens the local

community and its social capital in ways that safeguard the quality of life of future generations.

(g) The principle of providing credible information in open and accountable processes to encourage and assist the effective participation of local communities in decision making.

Comment: These provisions of the LEP have been addressed comprehensively in the proposed concept:

- Guiding principles have been applied.
- The development is orderly and economic, in the sense that the land is suitably zoned, is identified in land release strategies, and will not be developed until sewerage services become available.
- Community services and facilities are available. The development may provide additional incentive for improvement in local services, particularly public transport.
- The environment will be protected through avoidance of significant habitat, retention of mature vegetation, and reinstatement of habitat for threatened species in degraded parts of the site.
- The precautionary principle is satisfied in that there are no threats of serious or irreversible damage.
- Intergenerational equity is facilitated by the provision of additional housing stock. This is particularly important for local families whose newly independent children do not want to leave the area to find their own home.
- Biological diversity and ecological integrity will be conserved by avoiding sensitive areas and recreating habitat for threatened species (namely the Wallum Froglet).
- The valuation and pricing of resources is not adversely affected.
- Pollution will be controlled through adaptation of local hydrology to improve drainage performance, coupled with sediment and erosion controls.
- The development will encourage the development of the Bayside community and the local economy.
- The information provided in this environmental assessment is credible and will be subject to due process of assessment and exhibition for comment.

The development is in accordance with the Aims, objectives and guiding principles of the LEP.

Clause 9 – zone objectives and development control table

Comment: The area proposed for subdivision is zoned 2(a) Residential Zone under Byron LEP 1988 (Refer to Fig. 12) The subject site also contains land zoned 7(b) Environmental Protection (Coastal Habitat) and a small area of 7(a) Environmental Protection (Wetlands), neither of which are proposed to be subdivided. On Council LEP mapping, the site is shown at bottom right of Map Tile 410 and bottom left of Map Tile 411.

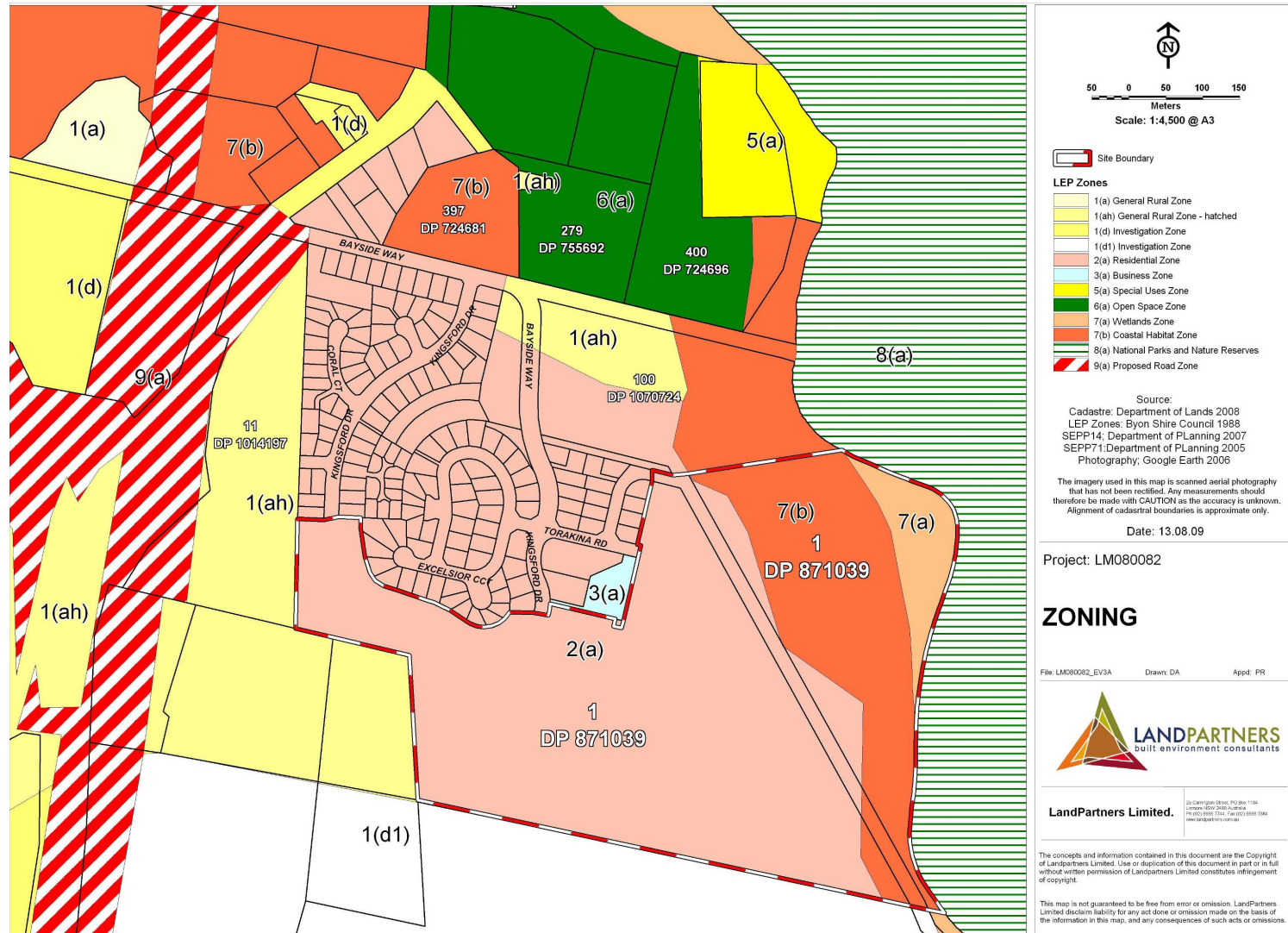


Figure 12. Zoning plan

Ref No LM080082.000

Urban Design – Surveying – Urban Planning – Environmental Consulting – Civil & Structural Engineering – Mapping & Spatial Information

LANDPARTNERS

Minor public amenities such as footpaths and barbecue tables are proposed in the southeast corner of the site. This will improve the amenity of a popular access point to the Simpsons Creek foreshore. Access to foreshores and improvement of foreshore amenity is in accordance with SEPP 71 and urban design guidelines.

The long term ownership and management of land in the 7(b) zone, including land between the residential area and Simpson's Creek – was unresolved at the time of lodgement. There are also unresolved questions about the construction of facilities within 50 metres of the creek. The 7(b) zone extends further than 50 metres from the creek, but public facilities as proposed would be located on cleared land and are unlikely to have any adverse environmental impacts. These works would constitute an "environmental facility" which is permissible with consent in the 7(b) zone:

environmental facilities means a structure or work which provides for:

- (a) nature or scientific study or display facilities such as walking tracks, cycleways, board walks, observation decks, bird hides or the like, or
- (b) environmental management or restoration facilities such as those for bush regeneration, swamp restoration, erosion and run off prevention works, dunal restoration or the like.

No works or activities are proposed in the 7(a) Environmental Protection (Wetlands) zone.

Clause 36 Development adjoining wetland

- (1) This clause applies to land adjoining or contiguous to land within Zone No 7 (a).
- (2) A person shall not clear, drain, excavate or fill land to which this clause applies without the consent of the council.
- (3) The council shall not consent to the carrying out of development on or adjoining or contiguous to land within Zone No 7 (a) unless it has taken into consideration:
 - (a) the likely effects of the development on the flora and fauna found in the wetland,
 - (b) the likely effects of the development on the water table, and
 - (c) the effect on the wetlands of any proposed clearing, draining, excavating or filling.

Comment: The land proposed for subdivision is within a property that also contains land within Zone 7(a). "Adjoining" or "contiguous" are not defined in the LEP. The 7(a) zone and the 2(a) Residential zones are separated by land zoned 7(b) Coastal Habitat.

Environmental assessments indicate that, subject to appropriate design and construction of stormwater treatment and disposal systems, wetlands will not be affected by the proposed development.

Clause 45 Provision of services

(1) The Council shall not consent to the carrying out of development on any land to which this plan applies unless it is satisfied that prior adequate arrangements have been made for the provision of sewerage, drainage and water services to the land.

Comment: Clause 45 is the main reason that a Concept Plan has been pursued for the past few years, because sewerage services were not available to the development.

Byron Shire Council has now built a new sewerage treatment plant to replace the existing plants servicing Brunswick Heads and Mullumbimby. The new plant is operational.

There are no areas of non-compliance with Byron Local Environmental Plan 1988.

4.2 Far North Coast Regional Strategy

The FNCRS provides strategic support for urban land release areas. The subject site is identified as an existing urban area because it is zoned 2(a) Residential under the Byron LEP (refer to Fig. 13 – FNCRS Town and Village Growth Boundary Map – Sheet 2 – Byron).

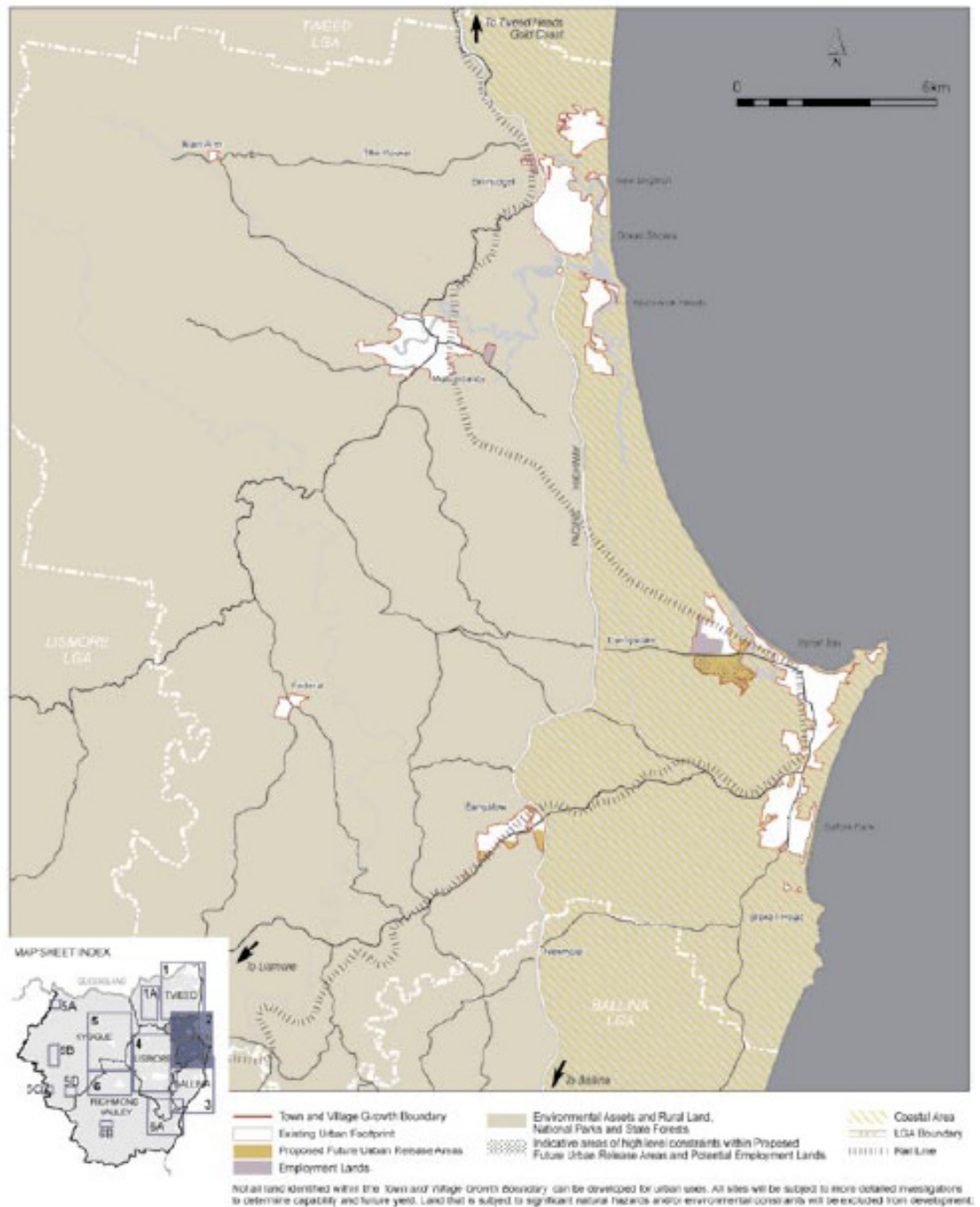


Figure 13. FNCRS Town and Village Growth Boundary Map – Sheet 2 – Byron

In addition to identifying land release areas, the FNCRS provides some guidance on urban settlement design:

Chapter 7 Settlement and Housing:

Councils will plan for a range of housing types of appropriate densities, location and suitability that are capable of adapting and responding to the ageing of the population.

Comment: This directs the actions of Councils (*"Councils will plan..."*) but it is relevant to consider the provision of *"a range of housing types..."* This matter is addressed in detail in the sections of this report that address design guidelines.

The proposed Concept Plan will favour detached dwelling-houses. The majority of lot sizes are between 450m² and 800 m².

Under the NSW Housing Code, secondary dwellings are permissible on lots over 450m².

Under the 1988 Byron LEP, dual occupancy is permissible on lots over 800m².

There is a large medium density lot next to the adjoining 3(a) Business Zone which will accommodate 15 to 20 dwellings. This Concept Plan is silent on the built form and land title of medium density developments; these are matter for future applicants to pursue.

Seniors living developments are permissible in the 2(a) Residential Zone under the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability).

Chapter 8 "Settlement Character and Design":

This Chapter contains the following relevant actions:

- *New development should be designed to respond to the subtropical climate of the Region through best practice in water and energy efficient design, and use of landscaping and building materials.*
- *New development should be designed to reflect and enhance the natural, cultural, visual and built character and values of the local and regional landscape.*
- *New and changing urban areas should provide access to natural features such as coastal foreshore and riparian land in a manner that is consistent with the maintenance of their ecological values.*
- *New and changing settlement areas should incorporate open space that is accessible to the public, which provides opportunities for recreation, nature conservation, social interaction, and for visual enhancement and amenity.*

Comment: Water and energy efficiency are provided for in the subdivision design by orientation of lots, within environmental constraints. The development will facilitate access to the Simpsons Creek estuary, which is a coastal foreshore by providing an access road and car parking close to an existing access to the creek.

Water and energy efficiency of housing will be addressed at construction stage, through the NSW Housing Code, BASIX and the BCA.

An existing park next to the preschool will provide for some recreational use. Local sportsfields are located approximately 800m north of the site and are easily accessible on foot or by bike. The Byron Regional Sports and Cultural Centre currently under construction is 12km (about 10 minutes drive) to the south.

Future ownership of, and public access to, an area of bushland at the east of the site is yet to be resolved. This area has the potential to provide some amenity for residents.

Chapter 8 also contains "Neighbourhood Planning Principles":

- *A range of land uses to provide the right mix of houses, jobs, open space, recreational space and green space.*
- *Easy access (including public transport where viable) to major town centres with a full range of shops, recreational facilities and services along with smaller village centres and neighbourhood shops.*
- *Jobs available locally and regionally, reducing the demand for transport services.*
- *Streets and suburbs planned so that residents can walk to shops for their daily needs.*
- *A wide range of housing choices to provide for different needs and different incomes. Traditional houses on their own block will be available along with smaller, lower maintenance homes, units and terraces for older people and young singles or couples.*
- *Conservation lands in and around the development sites, to help protect biodiversity and provide open space for recreation.*

Comment: The development is a residential subdivision of land that is zoned for that purpose. On-site employment will be available in the form of home occupations and home-based businesses. The additional population is expected to incrementally stimulate economic activity and employment in the region.

Substantial areas of open space and green space will be provided in conservation areas and reserves in visible and accessible locations. Biodiversity will be protected in conservation areas and multi-function reserves.

The proposed housing choice is in response to market choice, which indicates strong preference for detached housing in this locality. Nonetheless, provision has been made for some dual occupancy and medium density development to broaden the choice.

A grid network of streets will provide residents with choice of walking routes.

The development of a shop in the adjoining 3(a) Business zone will depend on commercial viability, which will be largely dependent on population catchment and accessibility. A shop may not be viable until all of the houses are built, and it may not be viable without ancillary residential development (i.e. shop top housing).

There are no areas of non-compliance with the Far North Coast Regional Strategy.

4.3 Settlement Planning Guidelines for the Far North Coast

These guidelines support the FNCRS. Several of the "land release" provisions are not relevant because the subject land is already zoned 2(a) Residential. The relevant provisions are:

Land Release:

7. Future development should be strategically planned by providing a timely release of adequate and appropriately located land to address the specific dwelling targets and housing mix identified in the regional strategies. Future rural residential development should be planned for as part of council's total dwelling targets.

8. Future development, particularly in the major centres, should be planned to effect a shift in the new dwelling mix to achieve 60% single dwellings and 40% multi-unit housing across the region to meet the future demographic needs of smaller households and an ageing population.

Comment: Brunswick Heads is not a major centre, and the land release area is small, so the 60/40 ratio should not be rigidly applied. The Department of Planning's sub-markets assessment (Macroplan, 2008) indicates demand for smaller dwellings and diversity in dwelling type.

The proposed subdivision will provide approximately 167 residential lots, approximately 16 medium density dwellings and a similar number of dual occupancies.

Medium density development can be provided in a variety of forms including the conventional residential flat building, terrace houses on small lots, and villas.

9. Future development should:

- strengthen the hierarchy of settlement identified in the regional strategies, support and maintain strong multi-functional business centres, minimise urban sprawl, and maximise infrastructure and service efficiencies;*
- be planned to create communities within the hierarchy of settlement. Consideration should be given to the ultimate geographical extent and population target for each community that is to be formed or built upon, and the staging/timing by which it is proposed to reach that position;*
- provide for a mix of houses, jobs and open space;*
- be appropriately located in relation to its scale, nature or type of development; the ability to provide the necessary infrastructure and services; the need for access and to ensure effective traffic management;*

- *in the case of residential development, provide for a variety of dwelling types and a choice in location, form and affordability; and*
- *enable mixed uses and home-based employment in residential or village zonings where appropriate.*

Comment: The development will extend upon an existing residential subdivision, and will utilise land zoned 2(a) Residential. It is an appropriate scale and type of residential development for the locality.

A "*variety of dwelling types and choice in location, form and affordability*" is facilitated by varied lot sizes, and provision is made for medium density development and dual occupancy development in the proposed layout and lot sizes.

The affordability of land is likely to vary across the site due to (a) lot size, (b) proximity to scenic areas and amenities, and (c) the surrounding development pattern i.e. several lots at the edge of natural areas will have fewer neighbouring residential lots.

Home occupations are permissible without consent, and home industries are permissible with consent in the 2(a) Residential zone.

The new shirewide (Standard Instrument) LEP may facilitate additional employment opportunities through the permissibility of "home businesses" in residential zones:

home business means a business carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling that does not involve:

- (a) the employment of more than 2 persons other than those residents, or
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or
- (c) the exposure to view, from any adjacent premises or from any public place, of any unsightly matter, or
- (d) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling to indicate the name of the resident and the business carried on in the dwelling), or
- (e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building,

but does not include bed and breakfast accommodation, home occupation (sex services) or sex services premises.

12. Future development, particularly at the residential/agricultural and the residential/industrial interfaces, should be planned for and managed so any potential conflict is minimised in relation to adjacent land uses.

Comment: There are no adjoining agricultural or industrial land uses so the potential for conflicting land uses is negligible.

Urban design and heritage:

13. Future development should recognise, protect and be compatible with any unique topographic, natural or built cultural features essential to the visual setting, character, identity, or heritage significance of the area or settlement that it is to be located in.

Comment: The design of the development has taken due regard to the environmental attributes of the land:

- No tree removal on land zoned for conservation.
- Avoidance of development in significant vegetation areas in the 2(a) zone, particularly at the eastern and western edges of the subdivision.
- Drainage management utilises existing natural drainage areas. A channelized watercourse is to be modified and rehabilitated to improve habitat values and to expand stormwater treatment and disposal arrangements.
- The majority of environmentally significant vegetation within the urban footprint is contained on road reserves or drainage reserves.
- Where large trees are located on residential lots, those lots are large enough to accommodate buildings without tree removal.
- Wallum froglet habitat is retained and expanded.

14. Future development should reflect high quality design that is compatible with the local and regional attributes which make up the region's character, such as climate, landscape, history, topography, and existing built environment.

Comment: The Concept Plan is silent on this matter as there is sufficient design guidance in existing documents such as the NSW Housing Code, the North Coast Urban Design Guidelines and Council DCP's.

15. Future development should be designed to ensure there is public access to an adequate supply of appropriately located public open space and recreation areas, to provide for a range of recreational uses and visual amenity.

Comment: Public open space for the Bayside community is already provided in the existing central park, just outside the site. Section 94 contributions to Council will provide for embellishment of open space in due course. High levels of visual amenity will be provided by:

- Areas of bushland surrounding the urban area
- Access to Simpsons Creek
- Retention of water drainage swales, with pedestrian access
- Retention of mature trees in road reserves and large lots

16. Future development should contribute to an open space network across the local government area that is designed to:

- encourage and maintain pedestrian movement and public access to community resources or public places (such as watercourses, beaches etc.);*
- and*
- to reflect each site's natural features and requirements for drainage and water quality maintenance, and nature conservation and biodiversity protection.*

Comment: Pedestrian movement to public areas is facilitated by provision of streets and footpaths, several of which are strategically located alongside natural areas to provide visual amenity.

17. Future development should encourage walkability and allow for easy access to public places, local shops, services and transport and lead residents to the service centre.

Comment: The terrain is flat. Walkability will be facilitated by footpaths connecting residential areas with open spaces and the centre of the Bayside estate, which contains a park and has an area of land zoned for commercial uses such as a neighbourhood shop.

18. Aboriginal cultural and community values should be considered in the planning for future development.

Comment: Cultural heritage has been investigated in accordance with guidelines. There are no cultural values on the site which affect the proposed subdivision. Refer to Appendix F - Cultural Heritage Assessment for details. The heritage themes identified in Council's Community Based Heritage Study do not apply to the site.

Infrastructure provision:

19. Future development should only be permitted where it can be provided with adequate, cost effective physical and social infrastructure to match the expected population for each settlement. In rural areas this may require the development being able to provide stand alone services.

Comment: The development, even when combined with the existing Bayside area, will not be of sufficient scale to warrant "stand alone services" apart from the existing pre-school.

Social infrastructure is available in Brunswick Heads and in the region – refer to Section 8.9.

Higher order services are located in larger centres such as Ballina, Lismore and South East Queensland.

Local sportsfields are located within 800m of the site, and regional sportsfields are under construction approximately 12km to the south at Byron Bay.

A site has been purchased by the State government for a sub-regional hospital near Byron Bay, approximately 10km to the south.

Feedback received during community consultation indicated that local primary school capacity may be limited. The Department of School Education may wish to comment on this matter during the formal consultation period.

20. Future development should strengthen the efficient use of infrastructure, services and transport networks and not overburden existing services elsewhere.

Comment: The development will utilise existing infrastructure and services and, when sewage treatment capacity becomes available, will not overburden services.

21. Future development should be designed and located to minimise the need to travel; to maximise opportunity for efficient public transport and pedestrian access options; and to encourage energy and resource efficiency.

Comment: The location of the development is dictated by the availability of zoned land. The completed Bayside estate will not achieve sufficient population to generate an employment zone so residents will need to travel to services and opportunities in Brunswick Heads and elsewhere in the region.

22. Future development should be designed and located to have well connected and accessible urban areas increasing the opportunity for public transport, cycling and walking for residents and visitors.

Comment: The development contains open spaces and a network of footpaths that will provide access and amenity. The street network is a logical extension of existing streets and will support bus services. The flat terrain, low traffic volumes and provision of footpaths will create favourable conditions for cycling and walking.

23. Future development should be designed and located to avoid placing further local traffic demand on the Pacific Highway.

Comment: The location of the 2(a) Residential Zone is established by the Byron LEP 1988.

Local traffic is able to travel from Bayside to nearby Brunswick Heads and Mullumbimby without going on the Pacific Highway. Travel further afield, such as to Byron Bay and regional centres (Tweed Heads, SEQ, Lismore, Ballina), will require travel on the Pacific Highway and other regional roads, which is an appropriate use of the regional road hierarchy.

24. Future development should not contribute to ribbon/strip development nor impact on the safety and efficiency of major or arterial roads.

Comment: The location of the 2(a) Residential Zone is established by the Byron LEP. The Bayside area is in a well defined location and is a logical and anticipated expansion of the existing urban development. The proposed development does not constitute ribbon development and will not impact on the safety and efficiency of the Pacific Highway.

The site has a single access (Bayside Way) to what is now the "Old Pacific Highway". The Old Pacific Highway has capacity for the anticipated additional traffic.

Traffic consultants for the project advise that the Type C intersection of Bayside Way and the Old Pacific Highway has capacity for the expected additional traffic (refer to Traffic Impact report by TTM – Appendix M). Feedback received during community consultation revealed some concerns about the capacity of this intersection. TTM's assessment is that the intersection is in accordance with design standards and does not warrant a roundabout.

25. Future development should provide sufficient buffering distances and/or technological solutions between proposed development and existing or proposed major infrastructure, including rail corridors and airports.

Comment: The capacity of the highway is discussed in the traffic report. There is no other major infrastructure nearby.

26. Future development should be designed and located to maximise total water cycle management and minimise impacts on the environment.

Comment: The development has been designed to utilise existing water drainage flow paths and minimise disturbance to the environment. Remodelling of the channelized watercourse at the centre/west of the site will have beneficial environmental outcomes. Refer to Appendix D for an assessment of surface and groundwater management issues, and Appendix L for a stormwater management concept.

Settlement Planning Guidelines – Schedule 1 issues:

Schedule 1 of the Guidelines establishes a process for managing the environmental impacts of development. The land is already zoned for residential development. The active provisions are therefore contained in Steps 2 to 4 of Schedule 1:

Step 2 – avoid impacts and hazards

On land assessed and confirmed by Step 1 as being:

1. High Risk

Planning principle: settlement should not be located in areas of high risk of environmental impact or hazard.

Development should be directed to unconstrained land(s) within the release area. In the occasional and justifiable circumstance where part of a proposal will be located on land identified as high risk because of the presence of biodiversity values, natural hazard impacts or other physical limitations, the development must be planned to minimise these impacts and provide appropriate offsets. These may include protecting and enhancing the long term viability of priority vegetation and/or rehabilitating degraded priority areas. Justification of this approach should be based on social and economic grounds.

This approach is to be undertaken in consultation with the relevant government agency. The appropriate mitigating and compensatory actions will apply at the relevant stage in the planning process, see Steps 3 and 4.

2. Medium Risk

Planning principle: settlement should avoid areas of medium risk of environmental impact or hazard wherever possible. The majority of the development should be directed to the least constrained land within the release area.

In the justifiable circumstance where this cannot be achieved appropriate mitigating and compensatory actions will be required to be incorporated at the relevant stage in the planning process, see Steps 3 and 4.

3. Low Risk

Settlement may proceed according to the requirements of these Guidelines.

Comment: Assessments indicate that the land contains areas of high, medium and low risk from an ecological perspective. The development footprint avoids high risk areas and is confined to areas of medium and low risk. Refer to the Flora and Fauna report - Appendix C for details.

Step 3 – mitigating actions

Where development of high and medium risk land is unavoidable and justified, appropriate mitigating actions will be applied at the appropriate stage in the planning process. Table 1 outlines these actions and identifies the stage in the planning process at which they should apply.

The development avoids ecological high risk areas. The impact of development on areas of medium risk has been mitigated by:

- buffers distance
- use of perimeter roads
- adapting the lot layout to minimise tree removal
- large residential lots in some areas of significant vegetation

The following partial extract of Table 1 from the Settlement Planning Guidelines pertains to biodiversity values.

Table 1. Mitigating actions

Risk	Mitigating action and stage
ENVIRONMENTAL FEATURE – LAND WITH EXISTING HIGH BIODIVERSITY VALUE	
<p>Development of land with biodiversity values – direct and indirect impacts:</p> <p>Site impacts</p> <ul style="list-style-type: none"> <input type="checkbox"/> vegetation and habitat loss <input type="checkbox"/> species loss <p>Local area impacts</p> <ul style="list-style-type: none"> <input type="checkbox"/> reduced connectivity of vegetation and habitats <input type="checkbox"/> increased edge effects on local remnants from incompatible land uses <input type="checkbox"/> changed management regimes for local vegetation remnants (particularly fire management) <input type="checkbox"/> increased predation ranges from domestic animals <input type="checkbox"/> increased ignition sources for fires <input type="checkbox"/> increased distribution centres for environmental weeds <input type="checkbox"/> increased rates of soil erosion and local pollution 	<p>Local growth management strategy</p> <ul style="list-style-type: none"> <input type="checkbox"/> Locate development footprints outside existing vegetation wherever possible <input type="checkbox"/> Locate development footprints to provide adequate buffers, maintain local connectivity and reduce fragmentation of local remnants <input type="checkbox"/> Retain representative vegetation and habitats on land adjoining the development footprint within the settlement area <input type="checkbox"/> Provide asset protection zones within development footprints in bushfire prone areas <p>Local environmental plans/development assessment</p> <ul style="list-style-type: none"> <input type="checkbox"/> Establish an ongoing management program for retained areas of vegetation <input type="checkbox"/> Establish a monitoring and compliance program to ensure implementation of management targets <input type="checkbox"/> Secure retained vegetation by formal agreement, covenant or environment protection zoning <input type="checkbox"/> Restrict ownership of domestic animals capable of attacking wildlife in local natural habitats where relevant <input type="checkbox"/> Restrict use of invasive plants in gardens capable of dispersing to local natural habitats where relevant

Mitigating actions are proposed as follows:

- In order to avoid and minimise environmental impacts, the development footprint utilises disturbed land that is zoned 2(a) residential. This land consists of Low closed wet and dry heath communities and is currently subject to an approved slashing regime. In total, 16.83 hectares (54%) of the site will be subject to development. However, most development will occur in areas of already cleared and disturbed land.
- A Vegetation Management Plan will be prepared for the Subject site. The plan will outline both mitigation and compensatory strategies. The plan will set out a strategy for the rehabilitation and management of the Environmental Protection Zones on the Subject site (i.e. the areas covering approximately 11.5 ha between the development footprint and Simpson's creek) and outline a compensatory replacement planting strategy to offset the loss of the ecologically significant trees.

Step 4 – compensatory actions

Where development of high or medium risk land is unavoidable, and the impacts cannot be mitigated through step 3, appropriate compensatory actions will be applied at the relevant stage in the planning process. Table 2 outlines these actions and identifies the stage they should apply if the impacts cannot be mitigated.

Table 2. Compensatory actions

Risk	Compensatory action and stage
ENVIRONMENTAL FEATURE– LAND OF EXISTING HIGH BIODIVERSITY VALUE	
<p>Development of land with biodiversity values – direct and indirect impacts:</p> <p>Site impacts</p> <ul style="list-style-type: none"> <input type="checkbox"/> vegetation and habitat loss <input type="checkbox"/> species loss <p>Local area impacts</p> <ul style="list-style-type: none"> <input type="checkbox"/> reduced connectivity of vegetation and habitats <input type="checkbox"/> increased edge effects on local remnants from incompatible land uses 	<p>Local growth management strategy</p> <ul style="list-style-type: none"> <input type="checkbox"/> Identify broad areas where compensation activity is to be undertaken <p>Local environmental plans/development assessment</p> <ul style="list-style-type: none"> <input type="checkbox"/> Offset any vegetation clearing by: <ul style="list-style-type: none"> ➤ land re-vegetation or vegetation enhancement consistent with the principles of offset in the <i>Regional Conservation Plan</i>; or ➤ the purchase of biodiversity credits identified through a bio-banking assessment and agreement under the <i>Threatened Species Conservation Amendment (Biodiversity Banking) Act 2006</i> <input type="checkbox"/> Establish an ongoing management program for re-vegetated and enhanced areas to achieve identified targets <input type="checkbox"/> Establish a monitoring and compliance regime to ensure implementation of management targets <input type="checkbox"/> Secure re-vegetated and enhanced areas by formal agreement, covenant or environment protection zoning

Proposed compensatory actions are as follows:

- As stated above, a Vegetation Management Plan will be prepared for the 7(b) zone and undeveloped 2(a) zone. This area is in quite good condition and is likely to regenerate naturally. The plan will outline both mitigation and compensatory strategies. The plan will set out a strategy for the rehabilitation and management of the Environmental Protection Zones on the Subject site and outline a compensatory replacement planting strategy to offset the loss of the ecologically significant trees.
- All Koala and Glossy black cockatoo food trees impacted by the development will be replaced at a ratio of 2:1.
- To mitigate the loss of habitat for the Wallum froglet, an area of constructed Wallum froglet habitat is proposed within Park 1 and 2 (as shown on Fig. 17 – Section 7.1.1.2). These areas will be incorporated into the Stormwater management plan and will result in the net gain of almost 3000m² of

Wallum froglet habitat. A Wallum Froglet Compensatory Management Plan will guide the construction and management of this habitat.

- Environmentally sensitive areas within the existing 2(a) residential zone, at the eastern and western fringes of the development, may be rezoned for environmental protection in the impending shirewide LEP.

There are no areas of non-compliance with the Settlement Planning Guidelines.

4.4 State Environmental Planning Policy No. 44 Koala Habitat

Koalas have been sighted in the locality and on the site. The development footprint has been designed to avoid impacts on koala habitat.

The ecological assessment proposes mitigation measures to compensate for removal of any koala food trees.

Refer to Flora & Fauna Assessment in Appendix C for details.

4.5 State Environmental Planning Policy – Major Development

This application is being progressed under Part 3A of the EP & A Act based on the provisions of Item 1 of Schedule 2 of SEPP Major Development:

1 Coastal areas

- (1) Development within the coastal zone for any of the following purposes:
 - (b) subdivision for residential purposes of land that is not in the metropolitan coastal zone (unless it is wholly or partly in a sensitive coastal location) into more than 100 lots,

The planning process has proceeded in accordance with legislative requirements. A preliminary assessment was lodged in 2006 and Director-General's Requirements for environmental assessment have been issued. Studies have been undertaken in accordance with those requirements.

The subject proposal is based on merit assessment of, and response to, site-specific environmental factors and contemporary urban design requirements.

4.6 North Coast Regional Environmental Plan

The NCREP now has the legal status of a SEPP. It contains basic provisions pertaining to residential development:

Clause 43 – Development control—residential development

- (1) The council shall not grant consent to development for residential purposes unless:
- (a) it is satisfied that the density of the dwellings have been maximised without adversely affecting the environmental features of the land,
 - (b) it is satisfied that the proposed road widths are not excessive for the function of the road,
 - (c) it is satisfied that, where development involves the long term residential use of caravan parks, the normal criteria for the location of dwellings such as access to services and physical suitability of land have been met,
 - (d) it is satisfied that the road network has been designed so as to encourage the use of public transport and minimise the use of private motor vehicles, and
 - (e) it is satisfied that site erosion will be minimised in accordance with sedimentation and erosion management plans.

Comment: The proposal complies with points (a), (b), (d) and (e) of this Clause. Point (c) does not apply. Design details will be addressed at DA stage. At a conceptual level:

- Density has been maximised within environmental constraints.
- Road widths are in accordance with AUSSPEC and relate to the size of the subdivision. The road network will support the use of bus services.
- Walkability is facilitated by the street network and connection to the potential future neighbourhood shop.
- An erosion and sedimentation control concept has been prepared.

Clause 66 – Development control—adequacy of community and welfare services

Before granting consent to a development application for the subdivision of land intended for residential or rural residential purposes, the council shall consider the adequacy of community and welfare services available to the land and take into account the results of that consideration.

Comment: Community and welfare services are available in Brunswick Heads. The combined population of the existing development and the proposed subdivision will not be sufficient to warrant provision of services within Bayside Brunswick.

There are no areas of non-compliance with the North Coast Regional Environmental Plan.

4.7 Development Control Plans

The assessment rules for the development are established by the DGR's, which do not require conformity with development control plans. The following information is provided in order demonstrate reasonable consistency with the objectives of local planning controls. The DCP applies to development applications, but the Concept Plan does not go to that level of detail. The following commentary on DCP matters is therefore brief and conceptual, rather than detailed and specific.

4.7.1 Bayside DCP No. 6

This DCP was adopted by Byron Shire Council in 1992. It provides a conceptual layout plan and various provisions pertaining to subdivision design. Many of those provisions are outdated or have been superseded by authoritative documents including the Far North Coast Regional Strategy, NSW Coastal Design Guidelines, Settlement Planning Guidelines, North Coast Design Guidelines, and Planning for Bushfire Protection.

Because of the passage of time and the emergence of more contemporary planning guidelines, the provisions of this DCP are addressed *en globo* rather than in specific detail.

The objectives and planning controls of this DCP are as follows:

To facilitate and provide guidelines for the development of the Bayside Brunswick Estate consistent with the provisions of the Byron LEP 1988.

To promote innovative residential and subdivision development of a high design quality and a variety of housing types, maximising the retention of environmental quality and utilisation of the land.

To encourage medium density residential development through group dwellings, etc., in an appropriate location to take advantage of the natural setting of the land and reduce the land cost component of housing in the Brunswick Heads locality.

To identify in stages the type and density of development of the land in order to meet resident and developer expectations as to the future character of each neighbourhood or stage.

To efficiently utilise the level topography and local services to provide a variety of residential accommodation suitable to meet the requirements of the aged, e.g. serviced apartments, garden villas, hostels, nursing home, retirement village, mobile home park, etc.

To establish a movement system, by a hierarchy of roads, bikeways and walkways, which recognises the topography and maximises access to open space and shopping/community facilities for residents.

To provide an adequate flow of stormwater along drainage lines, integrated and developed in conjunction with the open space and walkway network, and ensuring the maintenance of water quality and control of saltation (sic) and pollution in Simpsons Creek.

To protect and preserve any attractive or significant feature of the environment.

To facilitate the future provision of a controlled pedestrian access into the Tyagarah Nature Reserve and thence to the beach by way of delineating the eastern approach point for a footbridge.

2.2 Areas of nature conservation significance

Performance standard

Retain and protect significant features of natural environmental significance. In particular, the applicant shall demonstrate that the stands of significant vegetation shown on Map 1 will not be degraded, in both the long and short term, as a consequence of development activity.

Specific control

Areas of very significant vegetation identified on Map 1 shall be preserved in any development of the site. Such vegetation shall have a 35 metre protection buffer and drainage patterns shall not be altered in the vicinity of such vegetation.

The 7(a) and 7(b) areas should be retained as common property within the community/neighbourhood or precinct plan or strata plan of Residential 2(a) land development to the west.

For all significant vegetation and habitat areas within zones 7(a) and 7(b), a plan of management shall be prepared and submitted for consideration in any development application involving subdivision or residential buildings on Residential 2(a) land immediately to the west of and adjoining any 7(a) or 7(b) zoned land. Such plan of management should include:

- i) pedestrian access arrangements and control of domestic animal intrusion;*
- ii) location of facilities such as seating, fencing; and*
- iii) bush fire hazard reduction and radiation zones with a 20 metre minimum setback to any building and land within 10 metres of the existing dense vegetation to common private land with maintenance of access for fire fighting vehicles and personnel (refer to DCP No.1 (Part M) – Bushfire Mitigation).*

2.3 Estate amenity

Performance Standard

Retain and protect, as is reasonably possible, all larger trees located within the body of the site for the purpose of retaining the general character of Brunswick Heads' local landscape, identifying and enhancing the residential amenity of the estate generally. Structural mass landscaping should also be implemented immediately upon completion of site development construction activity.

Specific control

Prior to construction activity beginning for any stage, all existing trees having a girth circumference of 400 mm or greater (measured at waist height) shall be tagged and numbered.

Council's planning Manager shall, after on-site inspection in the company of the developer (or agent), determine those trees to be retained.

The developer shall lodge with Council, at the time of the submission of civil engineering plans for each stage, a structural landscape plan providing for the provision of site planting at the minimum rate of 4 trees/lot. Species shall be drawn preliminarily from those marked by a '' symbol in the appendix to this plan.*

2.4 Local open space

Performance standard

Active open space for children's playing areas and community sporting facilities of meaningful proportions shall be provided within easy walking distance of residential areas.

Passive open space shall be defined throughout the estate primarily in the form of a dual use open space/drainage and bikeway corridor, to enhance the residential amenity of the estate.

Specific control

Open space shall be provided generally in accordance with the concept illustrated in Map 1. The provision of possible public open space shall not be in less than 2.5 ha/1,000 persons. This calculation may include part of the land designated for dual use drainage or utility service purposes provided that such land is:

- I. Above the wet invert, paved channel or ponds
- II. Has a minimum gradient of 1:6; and
- III. Has a minimum width of 30 metres, and is accessible.

The design of the drainage corridor system shall incorporate the meandering of the concrete paving and channel within the reserve with some use of trees and shrubs within largely mowable areas to introduce a more natural look.

Active or structured open space is to be provided at the rate of 0.5 ha/1,000 persons or contribution in lieu towards the cost of providing active or structured open space.

Ownership and management of the 7(a) or 7(b) land to be organised with adjoining land ownership parcels as common land via Community titles/Strata Titles Act common property. Council will not accept as a "specific control" land zoned 7(a) or 7(b) for the calculation of open space. Council will consider long term care, control and management of some sections of 7(a) or 7(b) land adjacent to drainage systems to enable limited public walkway access to Simpsons Creek.

2.5 Rooding and movement systems

Performance Standard

(a) Roads within the site shall:

Be sited and designed to be efficient and practical having regard to the principle specific in Byron DCP No 1 (part B) – subdivision, and the Australian Model Code for Residential Development.

Be restricted to the existing single access point (Bayside Way) to the Pacific Highway.

Provide for the "relocation" of the existing Crown road traversing the site.

Provide for future road access to adjoining land to south and west, and to a potential parking area close to preferred site for a footway bridge across Simpsons Creek to Tyagarah Nature Reserve.

(B) Pedestrian Movement shall:

Provide easy walking access within and external to the site whilst minimising conflict with motor vehicle traffic, primarily by utilising the dual use open space/drainage corridor.

Specific Control

The primary estate roading and pedestrian movement routes shall be provided generally in accordance with Map 1. The final alignment of the routes being subject to the completion of engineering drawings to the satisfaction of Council's Planning Manager in consultation with Council's Engineering Services Manager.

A 40 kph minimum design speed is acceptable for the local access roads and 50 kph minimum design speed for the collector road (main loop road and extension to Bayside Way).

2.6 Residential Density and Integration

Performance Standard

Site development shall be carried out in a manner which provides for innovative and traditional development forms (eg house site subdivision and medium density development)

and higher yield style development eg Australian Model Code for residential Development or Community Titles Development Act integrated/cluster housing.

Specific Control

The preferred broad development type is shown on Map 1, with medium density housing closer to the preferred site of the neighbourhood shops and integrated community subdivision adjacent to the vegetated areas zoned 7(a) and 7(b) located on the eastern side of the area.

Generally, at least 10% of dwellinghouse subdivision lots should have an area of less than 450 square metres (refer clause B5.3 of DCP No 1 (part B) – subdivision), and at least 10% of the area of the residential component of the estate should be allocated for medium density housing.

2.8 Nature Reserve Access

Performance Standard

A pedestrian access by the way of a future footbridge and walkway into and across the northern end of the Tyagarah Nature Reserve is a desirable amenity enabling controlled pedestrian access to the beach integrated with the design of the road/walkway/open space and residential subdivision development on the eastern part in the DCP area, and enabling such facility to be constructed at no cost to the public.

The preferred access point is as shown on Map1 and is subject to approval and lease by the National Parks and Wildlife Service.

The preferred footbridge access point is to be included within the common area of a significant integrated Community Titles or Strata Titles Act Development to the west and to be subject to public right of access.

2.9. Stormwater Drainage and Utility Services

Performance Standard

Provision of an integrated corridor system of open space, trunk drainage's, bikeways/walkways and utilities as appropriate is sought in the locations shown on Map 1.

Specific Control

Drainage system to be designed with swills (sic) approximately 20 metres wide providing for overload flow for 1%flood, with low-flow drainage design may be acceptable to Council provided that Council is satisfied that the system minimises silt build-up and maintenance, and maximising hydraulic performance. Engineering and landscape plan details for the dual use drainage/open space corridors 30 metres wide are incorporate batters of a minimum 1:6 slope, some meandering of the invert and the channel within the corridor, and include details as to edge treatment, water quality (sediment, nutrient and pollutant reduction measures), walkways/bikeway and judicious planting of trees within the corridor.

Drainage system design should not involve disturbance of any areas of 7(a) or 7(b) zoned land which have not suffered recent clearing or disturbance as at July 1991.

Water supply and sewer – PWD design standards.

Compliance with Byron DCP No. 6 Bayside Brunswick:

There are areas of justifiable variation from this DCP:

- The footbridge over Simpsons Creek is now untenable due to the environmental and administrative obstacles posed by the Tyagarah Nature Reserve and the Cape Byron Marine Park (Simpsons Creek). Access to the creek will not be impeded, and public enjoyment of the foreshore will be supported by provision of pedestrian access and car parking.
- The prospect of mandating the 7(a) and 7(b) zoned land being common property in a community- or strata-titled development is an unreasonable imposition and is not proposed. The long term ownership of this land is yet to be resolved.
- Road design must now address the requirements of "Planning for Bushfire Protection" and AUSSPEC engineering guidelines.
- The subdivision layout in the DCP is basically redundant for various reasons including ecological factors, bushfire planning requirements and contemporary urban design.

Otherwise, the development concept is consistent with the DCP with regard to:

- The objectives of the DCP
- Conservation of significant habitat areas
- Minimum lot sizes
- Provision for medium density development
- Tree retention
- Dual use open space & drainage areas
- Provision of pedestrian paths
- Maintaining connectivity with the Crown road reserve at the east of the site.
- Provision of a park area at the southeast near Simpsons Creek
- Provision of stormwater drainage areas within the subdivision

4.7.2 Byron DCP 2002

Part B of this shirewide DCP contains planning controls for subdivision.

B2. DESIGN GUIDELINES

B2.1 General

What are the Objectives of this Part?

The objectives of this Part of the DCP are:

- *To promote subdivision development which is of a high design standard and which minimises impact on the environment*
- *To provide for a variety of housing needs reflecting the growing diversity of household types, incomes and lifestyles*
- *To encourage the use of innovative design and engineering principles which enhance the physical environment and the social fabric*
- *To optimise the provision of infrastructure services in the most efficient and effective manner*
- *To ensure the continued supply of agriculturally viable land.*

Comment: The proposal satisfies these objectives.

B2.2 Guidelines

Comment: The DCP refers to the North Coast Design Guidelines of 1989 which have been superseded by the NSW Coastal Design Guidelines (2006), the Settlement Planning Guidelines for the Mid and Far North Coast (2007), and the North Coast Urban Design Guidelines (2008).

B2.3 Site design

The following natural factors are to be given full consideration in the overall site design of any proposed subdivision:

- climate control (wind and sun)*
- landform*
- aspect and views*
- geology and soils*
- drainage*
- vegetation*

Site design should integrate the effects of these factors with consideration of the humanmade environment with which the subdivision interacts. This will include consideration of the effects of, and the impacts on these human-made elements:

- accessibility to urban centres*
- accessibility to community and recreational facilities*
- road and transport networks*
- site access*
- physical and human services*
- built environment in the vicinity*
- existing buildings and improvements on the site*

Comment: Natural assets have been thoroughly assessed and the development has been designed accordingly.

B2.4 Climate control

Comment: Lot layout has had to respond to environmental features including north/south drainage lines and significant trees.

B2.5 Aspect

Lots with a main north-south axis (from 20°W to 30°E) give the most flexibility in the siting of dwellings_(D) and reduce problems of overshadowing. Lots with a main east-west axis may need to be wider than normal.

Lots with a NW-SE or NE-SW axis are less favourable and may need to be specially designed or larger than normal to allow the siting of a house which is not parallel to the boundaries.

Comment: The majority of lots are oriented as required, but in some areas lot layout has had to adapt to ecological or topographical features. Future housing will need to satisfy BASIX and other relevant planning provisions regarding energy efficiency.

B2.6 Rural areas

Comment: Not applicable.

B2.7 Tree preservation

Subdivision road layout should be designed around significant stands of trees which may be located within reserves or within the subdivision layout such that dwelling construction may be achieved without causing any undue interference with existing trees.

Comment: The development has been assessed with regard to relevant environmental legislation. The subdivision design avoids significant stands of trees, and puts many trees in road reserves. Unavoidably some trees are located on residential lots, but where possible these trees have been located close to lot boundaries to reduce the likelihood of removal.

B2.8 Landscaping

Applicants should refer to Part H - Landscape, of this DCP for information regarding landscape design and maintenance.

Comment: A landscape concept is proposed – refer to Appendix I for details.

B2.9 Street signs

Comment: This matter will be addressed at DA stage. However at this stage it is relevant that the proposed road layout makes it difficult to connect the two ends of Kingsford Drive. It would make sense to change the name of the eastern stub of Kingsford Drive to "Bayside Way", which will then continue into the proposed subdivision (refer to detailed discussion on Appendix K – Subdivision Design, Character & Servicing Report).

B3. DEVELOPMENT GUIDELINES

B3.2 Road hierarchy

Comment: This provision, and its associated references and diagram of cul-de-sac development pattern, is not in accordance with contemporary urban design practice which favours a grid-based street system in urban areas. The proposed road layout provides appropriate levels of service and access for cars and pedestrians; the road hierarchy outside the urban area is unaltered.

B3.3 Local and minor roads

Comment: The proposed street network provides for multi-modal use and serviceability.

B3.4 Road pavement

Comment: This will be addressed at DA stage.

B3.5 Public open space and public reserves

Public open space within a subdivision must form part of a pedestrian/cycleway network which connects residential areas and other facilities.

- There must be a functional hierarchy of open space to ensure leisure activities for a wide variety of people;*
- Open space must be safe to use for access or leisure;*
- It must enhance the function and appearance of the subdivision;*
- It must act as a landscape-linking element; and*
- Only land which is in a suitable location and which is able to be used for active or passive recreation will be considered to meet the requirements for public open space. Council will consider proposals to dedicate environmentally sensitive land as public open space.*

Comment: Public open space areas are located according to environmental constraints and opportunities. Active open space is provided outside the site, at the central park area at the corner of Bayside Way and Torakina Street, at the local sportsfields 800m to the north, and regional sportsfields currently under construction at Byron Bay.

B3.6 Lot size

The Council wishes to encourage a range of allotment_(D) sizes to meet the needs, affordability and preferences of different household types. Therefore this plan provides for a range of lot sizes in each subdivision to be integrated throughout the development.

The advantages of smaller lot sizes can include:

- greater choice for home owners*
- more efficient use of land*
- less site maintenance*
- more affordable land*

However, as the size of the site is reduced, good site planning and the relationship between sites become increasingly important to ensure that each dwelling_(D) site has an appropriate aspect, useable private open space and protection from overshadowing and overlooking.

No more than two battle axe allotments_(D) may be accessed by one access corridor. The access corridor shall be excluded from the minimum allotment_(D) area calculation.

Comment: The current shirewide minimum lot size of 600m² is challenging in terms of affordability and housing choice, and in terms of efficient utilisation of the scarce supply of developable land. The proposed subdivision provides lots down to 450m², located close to the centre of the completed Bayside development. Refer to DCP Section B5.1 under.

B3.7 Lot frontage

Comment: Adequate dimensions and frontages are proposed.

B3.8 Stormwater drainage

Comment: Stormwater drainage has been designed at a conceptual level in accordance with AUSSPEC. The detail will be addressed at DA stage.

B5. URBAN SUBDIVISION

B5.1 Element – Lot Size

Type of lot	Minimum lot area
<i>General lot</i>	<i>600 m²</i>
<i>Corner lot</i>	<i>650 m²</i>
<i>Hatchet-shaped lot</i>	<i>800 m² (excluding access handle)</i>
<i>Hatchet-shaped lot adjacent to public reserve</i>	<i>650 m² (excluding access handle)</i>
<i>Fan-shaped lot (minimum frontage 7m)</i>	<i>650 m²</i>

Comment: These lot sizes were adopted more than 15 years ago and are now somewhat antagonistic to housing affordability and housing choice. The proposed subdivision will provide 87 lots smaller than 600m² – 20 of these will be between 450 and 500m² and 67 between 550 and 600m². This is reasonable and is consistent with the DCP objectives.

B5.2 Element – Allotment Layout

Comment: Lot layout responds to environmental features. Environmental disturbance has been minimised.

B5.3 Element – Allotment Design

Comment: All lots are capable of accommodating a dwelling house. Where lots contain existing trees, the trees have been located close to lot boundaries to reduce the likelihood of removal. There is one hatchet shaped lot, which has the necessary 5 metre frontage to the street.

B6. ROADS – URBAN AREAS

B6.1 Element – Road Design and Construction

Comment: Most streets have 17m wide reserves with 8.0m pavement. The culs-de-sac have 6.0m pavement due to the low number of lots serviced.

B6.2 Element – Footpath and Nature Strip

Comment: Footpaths have been provided in accordance with expected usage patterns and amenity. The detailed dimensions will be addressed at DA stage.

B6.3 Element – Access Design

Comment: This will be addressed at DA stage.

B7. URBAN SERVICES

B7.1 Element – Drainage Control

Comment: Allotment and street drainage will be constructed as part of conventional subdivision construction practice. Stormwater drainage has been designed to utilise existing drainage areas. A channelized watercourse at the west of the site will be modified to recreate natural conditions and improve drainage for the development.

B7.2 Element – Utility Services

Comment: All urban services are available and will be provided as shown on Fig.4 (Water and sewer services concept plan). Reticulated gas is not available in the area.

B7.3 Element – Sewer

Comment: Sewerage services are not currently available as the local treatment plant is operating beyond capacity. Council is currently building a new STP, which is expected to be operational in early 2011. This is the only issue preventing an application for subdivision of the land. An application for subdivision will probably be submitted as soon as treatment capacity is available. On-site disposal is not proposed and is not required given the timing of the new STP.

B7.4 Element – Water

Comment: Reticulated water supply is available and will be provided to all lots.

B7.5 Element – Geotechnical Report

Comment: A geotechnical report has been prepared – see Appendix B. A more specific report will be submitted at DA stage if required.

Areas of non-compliance with Byron DCP 2002:

The development complies with the objectives and provisions of DCP 2002 with the exception of minimum lot size. On this point the DCP is somewhat inconsistent – it articulates the objectives and benefits of small lots but stipulates a minimum lot size of 600m². The proposal is consistent with the objectives of the DCP, but proposes 87 lots smaller than 600m² in order to provide diverse choice and to facilitate affordability and efficient use of land.

4.7.3 Byron DCP No. 21 Social Impact

Council has been consulted in the course of preparing this environmental assessment. No significant social servicing issues have arisen.

The proposed development is consistent with the objectives of this DCP which are:

- To assist in achieving cohesive, sustainable and resilient communities within the Shire;
- To enhance consistency, certainty and transparency in Council's assessment of the positive and negative social impacts of proposed development;
- To maximise the positive social impacts of development such as improved access, amenity, affordable housing provision, employment opportunity and safety; and
- To minimise the negative social impacts of development such as increased traffic congestion, restriction of access to facilities, services and transport, loss of employment opportunity, loss of existing affordable housing stock, loss of public safety or perceived public safety.

CPTED principles have been applied with regard to passive surveillance, access control for public land, territorial reinforcement of private and public space, and space management by public authorities.

The proposed development supports the considerations of the DCP with regard to the elements of transport, safety, diversity, amenity, employment and culture.

Refer to Section 8.9 for a social impact analysis.

4.8 Proposed Draft Shirewide LEP 2008

In 2008 a draft Local Environmental Plan was reported to Council. This plan has not advanced to exhibition and is not considered a draft plan under Section 79C.

Key points about the "pre-draft" LEP:

1. It proposes to reduce the area of residential zoned land on the site by approximately one-third (refer to Fig. 14).
2. Compared to the existing 2(a) zone boundary, the R2 Low Density Residential zone at the southeast of the site is on the western side of the drainage swale. Land east of the proposed zone boundary is to be zoned E2 Environmental Conservation.
3. The proposed minimum lot sizes (refer to Fig. 15) are:
 - 300m² at the north of the site, close to the commercial zone
 - 500m² over the majority of the R2 zone

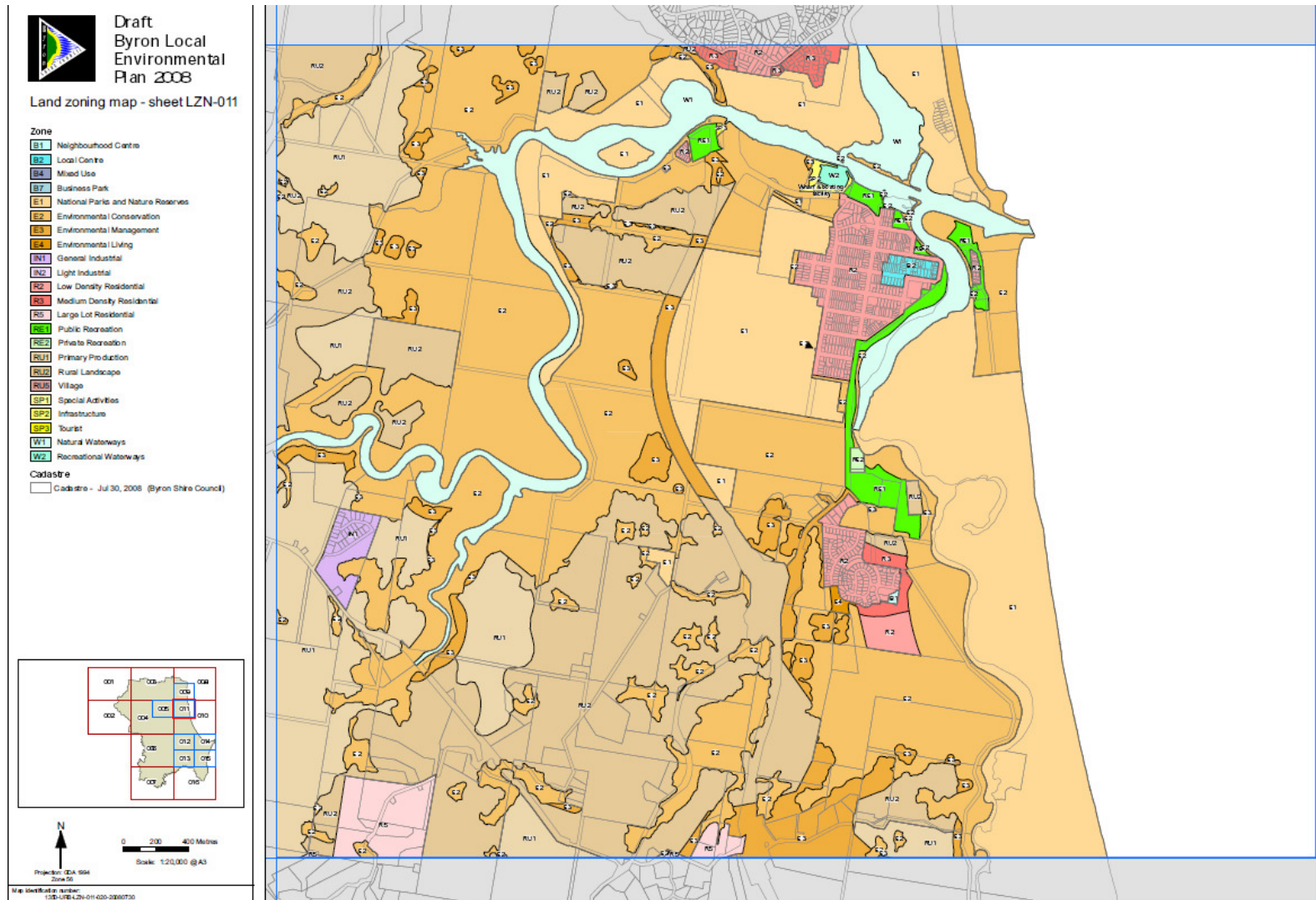
- 2500m² at the west
 - 40 hectares in environmental zones
4. Council has considered the methodology for environmental zones several times, most recently in December 2010. The plan is not imminent or certain.

The Local Environmental Study supporting the pre-draft LEP has been assessed by ecologists on the project team.

Responses to the pre-draft LEP and LES:

1. Ecological assessment indicates that land at the southeast of the site, in the proposed E2 zone and within the current 2(a) zone, can be developed subject to the use of perimeter roads, conservation of the swale area and areas at the edge of the 2(a) zone, and appropriate design of drainage systems.
2. The retention of the scribbly gum community at the west of the site will be achieved through two large lots (7,300m² and 9,000m²) rather than subdivided into 2,000m² lots.
3. The minimum lot sizes in the pre-draft LEP are not substantially different to those proposed in the Concept Plan. The 500m² does not synchronise with the NSW Housing Code which allows for complying development down to 450m². The 300m² synchronises with the proposed amendments to the NSW Housing Code, and small lots are one possible outcome for the proposed medium density lot.
4. The E4 zone at the west may be appropriate for areas of land in the two large lots.

This Concept Plan may be considered as a submission to inform Council's consideration of the draft LEP.



Ref No LM080082.000

LANDPARTNERS

Urban Design – Surveying – Urban Planning – Environmental Consulting – Civil & Structural Engineering – Mapping & Spatial Information

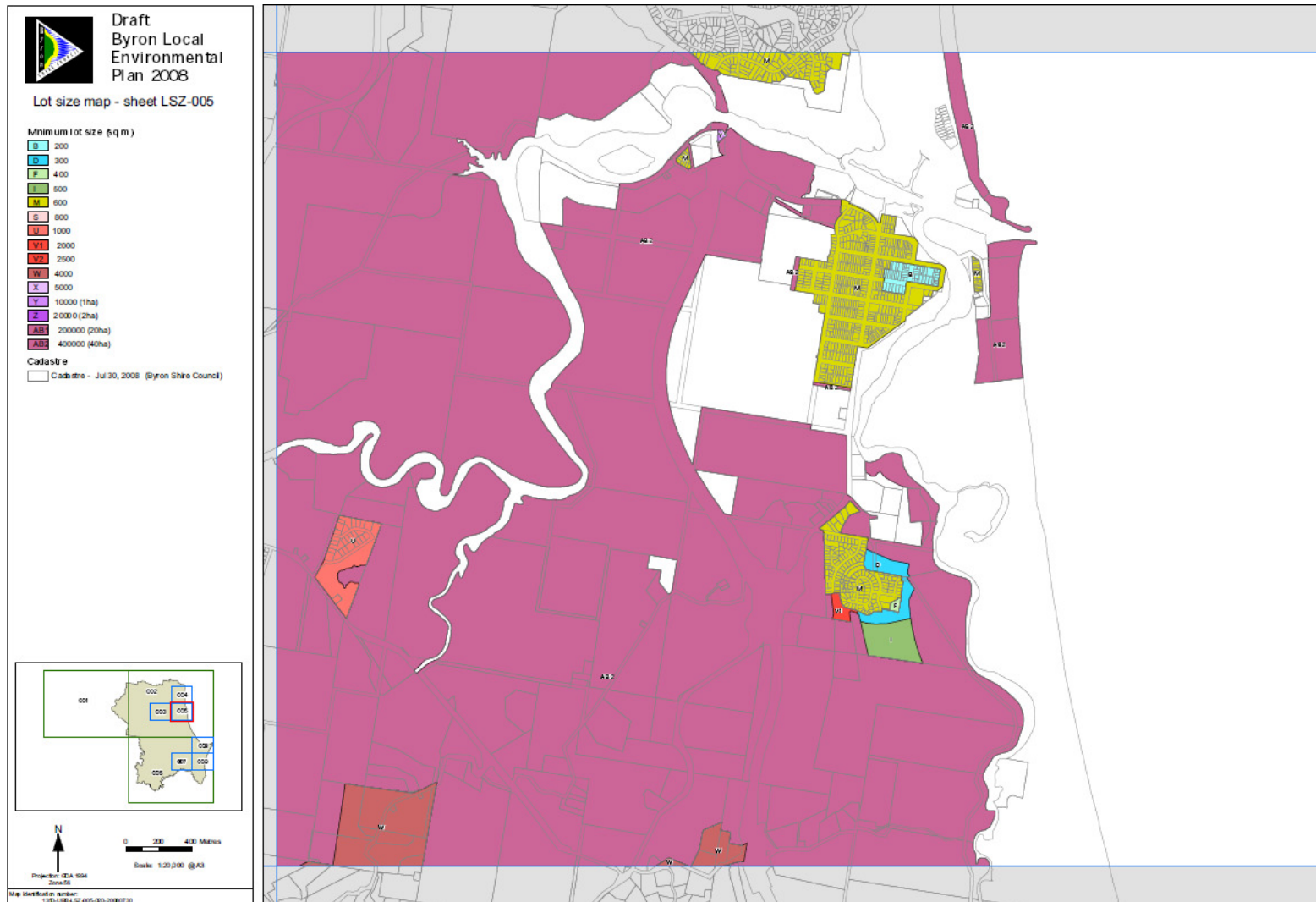


Figure 15. Proposed minimum lot size map (Draft LEP 2008)

5. Consistency with the Act

5. Consideration of the consistency of the project with the objects of the Environmental Planning and Assessment Act 1979.

Section 5 of the Act states:

The objects of this Act are:

(a) to encourage:

(i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,

Comment: the development provides appropriate management of the ecological attributes of the land and provides residential development on appropriately zoned land, thus supporting the social and economic welfare of the community.

(ii) the promotion and co-ordination of the orderly and economic use and development of land,

Comment: the development is in accordance with relevant planning instruments and strategies and will be developed in an orderly manner. The conceptual design of the subdivision provides for an economic use and development of land.

(iii) the protection, provision and co-ordination of communication and utility services,

Comment: communication and utility services will be provided in an orderly manner, in accordance with a logical staging program that extends from existing urban services.

(iv) the provision of land for public purposes,

Comment: A public park was dedicated for public purposes in the first stages of Bayside Brunswick. There are large areas of bushland at the east of the site, between the residential area and Simpsons Creek. It would be appropriate for some areas within the subdivision to be dedicated as drainage reserves, but the long term ownership of undeveloped land is not yet fully resolved.

- (v) the provision and co-ordination of community services and facilities, and

Comment: The development will be serviced by existing community services and facilities in Brunswick Heads. The development will support the viability of the child care centre that is already operating in Bayside Brunswick.

- (vi) the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and

Comment: The proposed development and related environmental management is in accordance with relevant design guidelines and protects the environmental attributes of the site.

- (vii) ecologically sustainable development, and

Comment: This is addressed in other parts of this report. The proposed development achieves ecologically sustainable development by protecting ecological assets and biodiversity and providing for housing supply on suitable land that is zoned for the purpose.

- (viii) the provision and maintenance of affordable housing, and

Comment: The affordability of housing in the development will be achieved by providing small lots and lots that provide for diverse housing choice. SEPP Affordable Housing applies.

- (b) to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and

Comment: This is an administrative matter.

- (c) to provide increased opportunity for public involvement and participation in environmental planning and assessment.

Comment: Subclause (c) has been addressed by consulting with local residents and Council on the proposal prior to lodgement, in accordance with DoP guidelines for consultation on major projects. There will be further opportunities for public involvement during the exhibition period.

6. EPBC Act

Ecological assessment indicates that the proposal does not involve matters of National Environmental Significance under the *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act).

Refer to Appendix C for the detailed Flora and Fauna assessment.

7. Potential Impacts and Statement of Commitments

7.1 Potential Impacts

Potential impacts are assessed in individual reports (see Appendices) and in detail in Section 7.1.1 - Site suitability and potential impacts.

In general terms, the potential impacts and mitigating measures have been identified as follows:

Ecology: The development footprint avoids sensitive habitat areas, including patches of significant native vegetation and individual trees. Within the development footprint, the street alignments and lot layout retain the majority of significant trees in the 2(a) zone in drainage reserves, road reserves, or on large lots.

Bushfire hazard: The development requires the use of mitigation and management approaches identified in Planning for Bushfire Protection including perimeter roads, asset protection zones.

Traffic: The development will generate additional traffic on Bayside Way and Kingsford Drive, within the capacity of those streets. Improvements are recommended for the intersection of Bayside Way and the Old Pacific Highway.

Subdivision Construction: Construction of the subdivision has the potential to adversely impact on the amenity of adjoining residents. A management plan addressing traffic movements, machinery noise, dust suppression, etc. will be required.

Water quality: The treatment and disposal of stormwater is essential to the health of sensitive receiving environments, including wallum froglet habitat, watercourses and Simpson's Creek. Water Sensitive Urban Design techniques have been applied to the proposed redesign of the existing main drain. Stormwater retention areas and flow paths have been designed to provide wallum froglet habitat.

Drainage: It is a challenging site for stormwater drainage due to the lack of fall and the high water table. The subdivision has been divided into drainage catchments which will be achieved by bulk earthworks at construction stage.

Mitigating measure to address potential impacts are outlined in the Draft Statement of Commitments (Section 7.2).

7.1.1 Site Suitability and Potential Impacts

2.3 Assess and demonstrate the suitability of the site in terms of integration and compatibility of the proposed land uses and community facilities (schools, aged care, residential properties, hospitals, parks) and potential impacts such as access arrangements for each use, traffic, buffers, density controls, noise impacts and suitability of the proposed development with the surrounding area.

Comment: The proposal is an anticipated development in the 2(a) Residential zone, and is compatible with the existing residential settlement pattern at Bayside Brunswick. The development is designed and located to be compatible with the neighbourhood node that contains an operating child care centre and park. The subdivision has been designed to facilitate easy pedestrian access to the existing but as yet undeveloped 3(a) Business zone, which may accommodate a neighbourhood shop if there is sufficient economic support.

Potential impacts on the surrounding area have been minimised. The existing and proposed road hierarchy is designed to accommodate additional traffic in accordance with standards. Inevitably some of the western lots will utilise Kingsford Drive through the existing residential area, but the majority of traffic will utilise Bayside Way which is a substantial roadway, easily capable of accommodating the expected additional traffic.

Environmental interaction is managed by buffer distances, perimeter roads and footpaths. Boundary fences should be provided to lots backing on to the internal reserves to prevent encroachment onto environmentally sensitive public land.

The following sections are drawn from specialist reports appended to this environmental assessment.

7.1.1.1 Geotechnical Capability

The geotechnical capability of the site is addressed in detail in Appendix B - Geotechnical Engineering Assessment. The following is a précis of this report.

Observations or Potential Impacts:

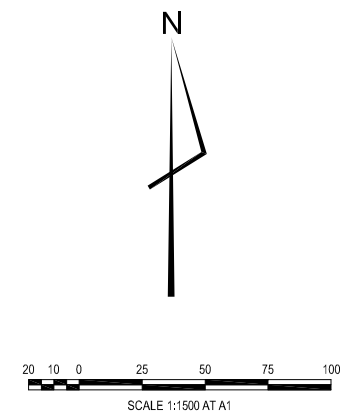
- The geotechnical assessment does not identify impacts from development.
- Standard medium sized earthworks equipment such as D6-D7 tractor and 15-30 tonne excavators will be required.

Recommendations:

- All site preparation and earthworks should be carried out in accordance with AS3798-2007 *'Guidelines on earthworks for residential and commercial developments'* and also include the following:
 - Clearing, stripping and grubbing should be carried out in areas subject to any earthworks. All soils containing grass and root material should be stripped from the construction areas, removed from the site or stockpiled for later use as landscaping material. These materials are not considered suitable for structural fill. Stripping depths will be shallow on this site (0.1 – 0.2m) with possible isolated areas containing deeper organic material.
 - Any depressions formed by the removal of vegetation, underground elements etc should have all disturbed weakened soil cleaned out, backfilled and compacted with suitable fill in a controlled manner;
 - Where fill is to be placed, the exposed ground surface should be inspected to detect any soft or loose material. Loose soils, particularly loose clayey sands, should be compacted to the appropriate requirements or removed and replaced.
 - Fill material is to be placed in layers not exceeding 200mm loose thickness. Where backfill for service trenches is carried out the above layer thickness applies however if vibrating plates are used the layers are to be placed in 100mm loose thickness
 - Material is to be compacted to achieve the following standard Maximum Dry Density (MDD) ratios are determined by AS 1289 Test 2.2.1. These compaction standards are to be confirmed with the local council requirements and earthworks standards at the time of earthworks.
 - Residential Allotments 95%
 - Base Material for roadways 98%
 - Sub-base material for roadways 95%

- Compaction is to be tested as per AS3798 – 2007, Section 8.0 and carried out by a NATA accredited soils laboratory.
- It is recommended that the placement of all structural fill material be inspected, tested and certified as per Level 1 requirements during the earthworks operations to ensure the recommendations in this report are adhered to and that all fill is placed in a controlled manner in accordance with AS 3798 – 2007.
- All permanent batter slopes are required to be protected from erosion and scour by use of appropriate drainage and vegetation.
- Individual site investigations will be required to allow foundation design parameters to be achieved.

These recommendations have been taken into consideration refer to Fig. 16 for bulk earthworks plan.



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D	AMENDED LOT NUMBERS	WF	WF	17.08.11
C	AMENDED LAYOUT	WF	WF	14.05.11
B	CONCEPT SUBMISSION	WF	WF	24.02.11
A	CONCEPT SUBMISSION	WF	WF	01.12.10

Iss	Description	Des	Drw	Date	Appd
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CODLEA Pty Ltd
BAYSIDE BRUNSWICK
PROPOSED URBAN SUBDIVISION
BAYSIDE WAY, BRUNSWICK HEADS
LOT 1 DP 871039

PROPOSED SUBDIVISION
BULK EARTHWORKS AND
CUT/FILL CONCEPT PLAN

Scale: 1:1500 at A1 CAD file: LM080082-DR22D.dwg
Datum: AHD CivilCAD file:-



LandPartners Limited
2a Carrington Street, Lismore
NSW, 2480, Australia
Phone: (02) 6627 5600 Fax: (02) 6621 7664
www.landpartners.com.au

Sheet No.
1 of 1
Dwg. No.
LM080082-DR22
Issue
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7.1.1.2 Flora and Fauna

The ecology of the site is addressed in detail in Appendix C – Flora and Fauna Assessment. The following is a précis of this report.

Observations and/or Potential Impacts

Flora

The flora assessment recorded the following:

- seven (7) broad vegetation communities (refer to Fig. 9 - Appendix C);
- One hundred and sixty-five (165) flora species were identified);
- Three (3) Endangered Ecological Communities (EEC's) were recorded on site (refer Fig. 10 - Appendix C):
 - Swamp Sclerophyll Forest;
 - Swamp Oak Floodplain Forest; and
 - Coastal Saltmarsh.

Significant trees

In accordance with the Byron Shire Council Tree Preservation Order, all trees above 10cm dbh¹ and/or 3m in height on the subject site were surveyed, as shown on Fig. 17 and 18 overleaf.

Fauna

Fauna assessments recorded a total of sixty-one (61) fauna species including nine (9) amphibians, four (4) reptiles, forty-two (42) birds and six (6) mammal species.

Seven (7) Threatened fauna species were recorded:

- Common planigale (*Planigale maculata*);
- Glossy black cockatoo (*Calyptorhynchus lathamii*);
- Grey headed flying fox (*Pteropus poliocephalus*);
- Koala (*Phascolarctos cinereus*);
- Little bentwing bat (*Miniopterus australis*);
- Osprey (*Pandion haliaetus*); and
- Wallum froglet (*Crinia tinnula*).

In addition, a further sixteen (16) Threatened fauna species were considered either *likely* to occur or a *possible* occurrence on the Subject site based on the availability of suitable habitat (These are listed on Table 9 of Appendix C)).

¹ Diameter at breast height

Development of the site will result in the loss of vegetation for the construction of buildings, access roads, driveways and associated infrastructure.

In total, 18.91 hectares (58%) of the site will be subject to development. However, most development will occur in areas of already cleared and disturbed land (70%). There will also be a loss of 141 trees of varying ecological significance (i.e. habitat or food trees for various species). Proposed tree removal and tree retention plans are shown on Fig. 17 & 18 respectively.

Additional impacts on vegetation communities may include:

- Clearance of areas of the Subject site represents a loss of habitat available for dispersal for plants and will reduce visits by pollination and dispersal vectors;
- Disturbance to the Subject site creates opportunities for weeds to colonise. Weeds may be introduced to the site in construction materials or by vehicles. Occupation of the Subject site creates opportunities for weeds to become established. Landscape species may escape to retained areas of vegetation;
- The removal of vegetation from the Subject site represents the loss of organic material from the site;
- Residents may create walking tracks through bushland areas. This may result in direct loss of vegetation, change in vegetation structure and increased opportunities for weeds and disturbance-adapted animal species; and
- Occupation of the site may increase the risk of fire release into the surrounding bushland.

Avoidance of impacts

In order to avoid and minimise environmental impacts, the proposed development has been designed to utilise existing cleared areas. With the exception of some minor incursions into the 7(a) vegetated land the development layout exists within land that has been previously cleared of the majority of native forested vegetation.

The proposed development will have minor effects on the riparian Zone of Simpsons Creek. A large area of land, between the Crown Land Road and Simpsons Creek, will be set aside as a Conservation area. A Vegetation Management Plan (VMP) should be completed for this area which includes land under Environmental Protection Zoning 7a and SEPP 14 Wetlands. The VMP will include measures to reduce the potential indirect impacts of the development such as weeds, humans, feral and domestic animals.

Mitigation/Offsets

The proposed development will reduce movement opportunities for fauna moving east-west through the site. East-west movements currently through the site are likely to be restricted to disturbance adapted species. Movement of fauna north-south on

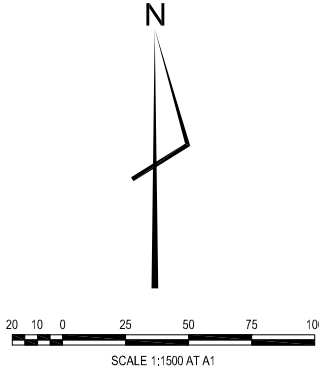
either side of the development footprint (i.e. Pacific Highway Buffer and 7(a) land adjacent to Simpsons Creek) will be maintained.

Approximately, thirteen (13) ha of vegetation will remain unaffected by the proposed development. A large portion of this is intact native vegetation communities with very few weeds. A VMP will outline appropriate management practices which will ensure the integrity of the remaining native vegetation is maintained.

The VMP will provide the following:

- A clear aim and set of objectives for the VMP;
- A set of measurable performance criteria;
- A strategy to rehabilitate/revegetate areas;
- A strategy to control and manage weeds in the retained areas of vegetation (i.e. utilising best practice methods);
- A strategy to encourage natural regeneration after weed control;
- A species list to be used in landscaped areas;
- A species list to be used in rehabilitation/revegetate areas (i.e. providing details of what species will be planted in specific areas and/or vegetation communities e.g. Wallum vegetation);
- A species list that will outline replacement species for significant trees lost including Koala food trees (i.e. replacement numbers will also be provided);
- To improve the value of the subject site as habitat for fauna groups, including wildlife corridors;
- A monitoring and maintenance schedule.

In addition a Wallum Froglet Compensatory Habitat Plan (WFCP) will also be completed which will provide strategies for the creation of artificial "wallum" wetland habitat which will be suitable as core Wallum froglet habitat. This will include regeneration/revegetation works utilising suitable 'aquatic' and 'wallum' native plant species.



- LEGEND**
- Zoning Boundary
 - - - Existing Path
 - - - Proposed Path
 - Proposed Boundary
 - Proposed Watermain
 - Proposed Stormwater Pipe
 - Proposed Lower Pressure Sewer
 - Proposed Gravity Sewer
 - Proposed Froglet Habitat
 - Biofiltration Treatment
 - APZ Boundary
 - Very High Conservation Significance - EEC
- TREES PROPOSED TO BE RETAINED**
- Very High Conservation Significance
 - High Conservation Significance
 - Moderate - High Conservation Significance
 - Moderate Conservation Significance
 - Low - Moderate Conservation Significance
 - Low Conservation Significance
- TREES PROPOSED TO BE REMOVED**
- No Conservation Significance
 - Conservation Significant Trees

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D	Amended Lot Numbers	KGB	WF	17.08.11	-
C	Amended Lot Layout	KGB	WF	08.08.11	-
B	Lot Layout Amended	KGB	GC	30.11.10	-
A	For Discussion	KGB	GC	19.11.10	-

Iss Description Des Drw Date Appd

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BAYSIDE WAY, BRUNSWICK HEADS
LOT 1 DP 871039

PROPOSED SUBDIVISION
LOT LAYOUT AND PROPOSED
TREE REMOVAL PLAN

Scale: 1:1500 at A1 CAD file: LM080082-DR20D.dwg
Datum: AHD CivilCAD file: LM080082 Ver 5.ccx



LandPartners Limited
2a Carrington Street, Lismore
NSW 2480, Australia
Phone: (02) 6627 5800 Fax: (02) 6621 7864
www.landpartners.com.au