

Byron Shire Council

## **Planning Proposal 26.2024.10**

### **Amendment of Byron Local Environmental Plan 2014**

### **Affordable Housing Contributions Scheme**

**Gateway Version #1**

**Date: August 2024**

**#E2024 / 132963**

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# Contents

Part 1	Introduction .....	4
1.1	Objective and intended outcomes .....	4
1.2	Background.....	4
Part 2	Explanation of provisions .....	5
Part 3	Justification .....	11
Section A	Need for the planning proposal.....	11
Section B	Relationship to strategic planning framework .....	11
Section C	Environmental, social and economic impact .....	30
Section D	Infrastructure .....	31
Section E	State and Commonwealth Interests.....	31
Part 4	Mapping .....	32
Part 5	Community consultation.....	32
Part 6	Project timeline .....	32
Conclusion	.....	33

# Part 1 Introduction

## 1.1 Objective and intended outcomes

The objective of this planning proposal is to amend Byron Local Environmental Plan (LEP) 2014 to introduce a second Byron Shire Affordable Housing Contribution Scheme (AHCS 02). The purpose of the AHCS 02 is to capture additional residential investigation areas, as identified in the recently endorsed Byron Shire Residential Strategy 2041, which were not included in AHCS 01.

The planning proposal seeks to amend local planning controls to include lands identified in the AHCS 02 when the subject land is rezoned. Where viable, the planning controls seek to secure a portion of residential development, either through contribution of land, land and associated dwellings and or equivalent monetary contributions for affordable housing in accordance with AHCS 02. Future AHCS 02 maps will be created in LEP 2014 as part of subsequent LEP amendments for individual land parcels at the rezoning stage.

### **Delegation of plan making functions**

Due to the potentially contentious nature of the planning proposal Council is not seeking the role of local plan-making authority to exercise the delegations issued by the Minister under Section 3.36 of the Environmental Planning & Assessment Act 1979 in relation to the making of the amendment.

## 1.2 Background

The Byron Shire Affordable Housing Contribution Scheme (AHCS) 01 came into effect in January 2023 through the introduction of [Clause 6.18](#) within the Byron LEP 2014. The Scheme provides detail about how, where, and at what rate development contributions can be collected from landowners for affordable housing and currently applies to the areas of Mullumbimby, Bangalow, and Byron Bay.

The Scheme is activated when land is upzoned to introduce planning controls that aim to facilitate development, therefore will increase the value of the land. A form of contribution will be determined by Council at the time of development and may include:

- Fit for purpose land within the development,
- Monetary contribution, and/or
- Dwellings within the development

This planning proposal seeks to introduce the Byron Shire Affordable Housing Contribution Scheme (AHCS 02) to capture the additional investigation areas identified in the recently adopted and endorsed [Byron Shire Residential Strategy 2041](#).

The following documents have been attached to support this planning proposal for AHCS 02;

- Draft Affordable Housing Contribution Scheme 02 (Attachment 1)
- Housing Needs Assessment (Attachment 2)
- Viability Assessment Report (Attachment 3)

The purpose of introducing the AHCS02 is outlined in Section 1.1. This Scheme expands on the [Byron Shire Affordable Housing Contribution Scheme 01](#) to provide the background requirements and operational detail for development in the contribution areas identified.

The draft AHCS02 and accompanying documents were [reported to the Council meeting of August 1, 2024](#), where it was resolved ([24-355](#)) to prepare and submit this planning proposal for gateway determination.

The planning proposal has been prepared in accordance with Division 3.4 of the *Environmental Planning and Assessment Act 1979*. It is also in accordance with relevant Department of Planning, Housing and Infrastructure Industry “Local Environmental Plan Making Guideline”.

## Part 2 Explanation of provisions

[Clause 6.18](#) ‘Affordable housing contribution for certain development in affordable housing contribution areas’ was introduced into the Byron LEP 2014 when the first scheme came into effect in January 2023.

To achieve the intended outcomes the planning proposal seeks to amend Clause 6.18 (6) to include references to both Schemes (01 and 02).

### **Comparing the methodologies for AHCS 01 and AHCS 02**

The two schemes have applied a similar approach for viability testing. Instead of using the spreadsheet template provided by the Affordable Housing Viability Tool, both schemes adapted spreadsheet models to test the viability of land development in several different areas before and after an affordable housing contribution. The viability test was similar in both cases, namely: Does the potential sales revenue from lot sales exceed the land costs plus development costs (including finance costs and an allowance for profit) before and after affordable housing charges?

AHCS 02 uses the detailed development costs described in the current scheme (AHCS 01) after inflating them by an appropriate index, whilst using a slightly different approach in estimating land values (AHCS 01 used a regression model, whilst AHCS 02 used average sales values).

To enable easier comparison of costs and revenues between areas, AHCS 02 provides the data outputs on a per lot basis. AHCS 02 also introduced a concept called the “viability buffer”. This is to ensure that with an affordable housing contribution, there is a sufficient buffer to enable a developer to absorb some unexpected costs. AHCS 01 implicitly allowed for this scenario by undertaking viability tests at affordable housing contribution rates in excess of the mandated charges (e.g. in the Byron Bay area the AHCS 01 analysis tested for a 75% affordable housing contribution). AHCS 02 makes the viability buffer an explicit consideration.

### **Affordable Housing Contribution Scheme Areas**

Future AHCS 02 maps will be created in LEP 2014 as part of subsequent LEP amendments for individual land parcels at the rezoning stage and will apply to the lots of land detailed in the draft Affordable Housing Contribution Scheme 02. Please refer to the table below for included properties.

Affordable Housing Contribution Scheme 02 Affordable Contribution Area	Parcel Location	Lot details
Area 14 Brunswick Heads	166 Tweed St	Lot 264 DP755692
Area 14 Brunswick Heads	172 Tweed St	Part of Lot 1 DP388031
Area 14 Brunswick Heads	The Saddle Road	Part of Lot 2 DP 1159910
Area 15 Brunswick Heads	125 Tweed St	Lot 1 DP 560486
Area B1 Brunswick Heads	132 The Saddle Road	Lot 32 DP 1018929
Area 16 Brunswick Heads	66 The Saddle Road	Lot 2 DP 1159910
	41 Bashforth Lane	Lot 1/1159910
	84 The Saddle Road	Lot 31/1018929
	82 The Saddle Road	Lot 1/583377
	28 Henderson Lane	Lot 4/583200
	26 Henderson Lane	Lot 3/583200
	20 Henderson Lane	Lot 1/575565
	206 The Saddle Road	Lot 3/810118
	224 The Saddle Road	Lot PT1/363848
	251 The Saddle Road	Lot 1/859817
	219 The Saddle Road	Lot 4/810118
	187 The Saddle Road	Lot 3/631177
	247 Gulgan Road	Lot 11/580670
	233 Gulgan Road	Lot 1/530852
	239 The Saddle Road	Lot 6/587709
	237 The Saddle Road	Lot 4/582169
	235 The Saddle Road	Lot 3/582169
	225 The Saddle Road	Lot 1/529317
	233The Saddle Road	Lot 2/529317

Affordable Housing Contribution Scheme 02 Affordable Contribution Area	Parcel Location	Lot details
	220 The Saddle Road	Lot 2/580144
	175 The Saddle Road	Lot 2/631177
	163 The Saddle Road	Lot 1/631177
	174 The Saddle Road	Lot 1/555377
Mullumbimby Urban Conversion Area – Left Bank Rd	1 A Left Bank Road	Lot 2/362941
	1 Left Bank Road	Lot 1/250382
	3 Left Bank Road	Lot 2/250382
	5 Left Bank Road	Lot 3/250382
	7 Left Bank Road	Lot 4/250382
	9 Left Bank Road	Lot 5/250382
	11 Left Bank Road	Lot 6/250382
	1 Willow Place	Lot 7/250382
	2 Willow Place	Lot 8/250382
	3 Willow Place	Lot 9/250382
	4 Willow Place	Lot 10/250382
	13 Left Bank Road	Lot 11/250382
	15 Left Bank Road	Lot 12/250382
	17 Left Bank Road	Lot 13/250382
	19 Left Bank Road	Lot 17/253840
	21 Left Bank Road	Lot 18/253840
	1 Possum Wood Place	Lot 20/253840
	2 Possum Wood Place	Lot 11/1095383
	3 Possum Wood Place	Lot 12/1095383
	4 Possum Wood Place	Lot 23/253840

Affordable Housing Contribution Scheme 02 Affordable Contribution Area	Parcel Location	Lot details
	5 Possum Wood Place	Lot 24/253840
	29 Left Bank Road	Lot 27/253840
	27 Left Bank Road	Lot 26/253840
	25 Left Bank Road	Lot 25/253840
	23 Left Bank Road	Lot 19/253840
	2 Left Bank Road	Lot 1/43806
	2 Left Bank Road	Lot 2/552246
	4 Left Bank Road	Lot 1/552246
	12 Left Bank Road	Lot 2/523679
	16 Left Bank Road	Lot 1/605822
	18 Left Bank Road	Lot 8/793261
	20 Left Bank Road	Lot 7/793261
	22 Left Bank Road	Lot 6/793261
	24 Left Bank Road	Lot 5/793261
	26 Left Bank Road	Lot 4/793261
	28 Left Bank Road	Lot 3/793261
	30 Left Bank Road	Lot 2/793261
	32 Left Bank Road	Lot 1/793261
	34 Left Bank Road	Lot 1/809788
	36 Left Bank Road	Lot 6/847017
	38 Left Bank Road	Lot 2/1007401
	6 Melaleuca Drive	1/1007401
	Tuckeroo Ave	32/1169053
	10 Melaleuca Drive	3/809788
	16 Melaleuca Drive	4/809788



Affordable Housing Contribution Scheme 02 Affordable Contribution Area	Parcel Location	Lot details
	20 Melaleuca Drive	5/809788
	28 Melaleuca Drive	12/1182245
	30 Melaleuca Drive	7/809788
	32 Melaleuca Drive	8/809788
	8 Davidson Place	2/1242188
	72 Brushbox Drive	23/860664
	74 Brushbox Drive	22/860664
	86 Brushbox Drive	21/1178680
	70 Brushbox Drive	24/860664
	66 Brushbox Drive	25/860664
	56 Brushbox Drive	28/860664
	28 Brushbox Drive	29/860664
	16 Brushbox Drive	22/1216095
	10 Brushbox Drive	21/1216095
	58 Brushbox Drive	27/860664
	60 Brushbox Drive	26/860664
	172 Left Bank Road	1/788775
	170 Left Bank Road	2/788775
	160 Left Bank Road	31/810717
	12 Davidson Place	3/1242188
	11 Davidson Place	4/1242188
	9 Davidson Place	5/1242188
	10 Davidson Place	1/1242188
	36 Melaleuca Drive	9/809788
	48 Melaleuca Drive	10/809788

Planning Proposal Affordable Housing Contribution Scheme 02 \_ E2024/132963

Affordable Housing Contribution Scheme 02 Affordable Contribution Area	Parcel Location	Lot details
	52 Melaleuca Drive	11/809788
	130 Left Bank Road	12/809788
	51 Melaleuca Drive	13/809788
	41 Melaleuca Drive	14/809788
	25 Melaleuca Drive	15/809788
	21 Melaleuca Drive	16/809788
	9 Melaleuca Drive	17/807114
Area 6 Mullumbimby	1982 Coolamon Scenic Drive	Part of Lot 10 DP 1132925
Area 7 Mullumbimby	1862 Coolamon Scenic Drive	Lot 12 DP 578826
Area 8 Mullumbimby	1897 Coolamon Scenic Drive	Part of Lot 4 DP 874348
Area 10 Mullumbimby	Azalea Street	Lot 1/209440
	12 Azalea Street	Lot 2/209440
Area 19 Suffolk Park	64 Corkwood Crescent	285/1198641

## 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, the planning proposal aligns with objectives and actions of the Byron Shire Local Strategic Planning Statement as outlined in Question 4 (below).the planning proposal is also supported by the following planning documents:

- Draft Affordable Housing Contribution Scheme 02 (Attachment 1)
- Housing Needs Assessment (Attachment 2)
- Viability Assessment Report (Attachment 3)

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

The proposed clause allows Council to secure affordable housing contributions drawn from the increase in land value generated by an upzoning.

In this regard, the planning proposal is the only means to achieve the intended outcome as amendments to Byron LEP 2014 are required.

### 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 (NCRP), the 20-year blueprint for the future of the North Coast.

Objective 2 of the NCRP is to 'Provide for more affordable and low-cost housing'. It seeks to improve housing affordability in the north coast and notes the challenges off the local housing market.

The NCRP also highlights regional priorities for Local Government Areas (LGA) in the North Coast. The planning proposal is aligned with the following 'Byron Shire Local Government Narratives'.

Regional Priorities: Deliver housing equitably to meet the needs of the community.

Housing and Place: 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 endorsed local strategies and plans:

#### The Byron Shire Local Strategic Planning Statement (LSPS)

The overarching strategic planning document for Byron Shire Council, the LSPS presents a 2036 vision and framework for land use within the Byron Shire. The LSPS sets out four key themes and 30 planning priorities.

The planning proposal aligns with LSPS theme 'Our Liveable Shire' which seeks to implement '*housing diversity and affordability with housing growth in the right locations.*'

Our Liveable Shire Priority Actions include LA9 '*Investigate and implement planning controls to encourage an increase in the supply of affordable and inclusive housing stock.*'

#### Byron Shire Community Strategic Plan 2032

Developed in consultation with the Byron Shire community, the long-term community aspirations for the future direction of Byron Shire have been captured in the Community Strategic Plan as five community objectives, underpinned with 25 strategies.

The planning proposal aligns with the objective 'Ethical Growth. We manage growth and change responsibly' and the corresponding strategy to 'Enable housing diversity and support people experiencing housing insecurity'.

#### Byron Shire Residential Strategy 2041

The recently endorsed Residential Strategy sets a policy framework for how and where future housing will be delivered in and around Byron Shire's urban residential areas over the next 20 years.

It contains four key policy directions, the planning proposal aligns with 'Policy 2 Improved housing choice, diversity & affordability', which seeks to '*support variable lot size and housing types to encourage innovation, adaptability and liveability as well as targeted housing for lower income groups.*' This policy is supported by corresponding directions and actions, those related to the planning proposal are outlined below;

- Direction 2.3 – Enable opportunities for affordable housing: Even with accelerated delivery of new housing, the extremely high cost of the current market means that housing will remain unaffordable for many in the area. Access to subsidised or alternative housing options remains a high and ongoing priority.
  - Action 10 - Investigate expanding or applying new affordable housing contribution mechanisms over all new rezoned areas, and other planning control uplift opportunities, to maximise the capture of affordable housing opportunities over time.
  - Action 11 - Continue to seek contributions to affordable housing through the application of Council's Affordable Housing Contribution Policy.
  - Action 12 - Continue to be an active participant in the support and delivery of affordable housing in the Byron Shire.

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

Yes, the proposal is consistent with the NSW Housing Strategy 2041 (released in 2021). This strategy sets a statewide 20-year vision reflected in the four pillars of supply, diversity, affordability, and resilience of housing.

The associated Action Plan (2021-2022) sets priorities, including maximising the impact of government-owned land and working with local government and communities to achieve housing objectives.

The planning proposal will contribute to the achievement of the strategy by increasing the provision for affordable housing.

**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
SEPP (Housing) 2021	Consistent. The planning proposal has regard to the principles of the SEPP, which identifies the need for affordable housing across the whole of the State, this includes the precincts identified in the <i>Affordable Housing Contribution Scheme 02</i> .

**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
1.1 Implementation of Regional Plans	<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</p>	<p><b>Consistent</b></p> <p>As outlined above the planning proposal is consistent with the North Coast Regional Plan 2041.</p>

<b>S. 9.1 Direction</b>	<b>Application</b>	<b>Relevance to this planning proposal</b>
	the Regional Plan's vision, land use strategy, goals, directions or actions.	
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.	<b>Not applicable</b>  (not currently applicable to Byron Shire)
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&amp;A Act</p>	<b>Consistent</b>  The planning proposal does not require concurrence, consultation or referral of a Minister or public authority and will be required to obtain a Gateway Determination prior to exhibition.
1.4 Site Specific Provisions	Applies when preparing a planning proposal that will allow a particular development to be carried out.	Not applicable

### 3. Biodiversity and Conservation

S. 9.1 Direction	Application	Relevance to this planning proposal
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 lot size for a dwelling in accordance with clause (5) of Direction 1.5 “Rural Lands”.</p>	<p><b>Consistent</b></p> <p>The planning proposal will give effect to the Byron Shire Affordable Housing Contribution Scheme 02. The scheme will be activated when subsequent planning proposals to rezone land identified in the scheme are lodged. Where applicable, these planning proposals will consider provisions that facilitate the protection and conservation of environmentally sensitive areas.</p>
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</p>	<p><b>Not applicable</b></p>



S. 9.1 Direction	Application	Relevance to this planning proposal
	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	
3.3 Sydney Drinking Water Catchments	Not applicable to Byron Shire	<b>Not applicable</b>
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.	<b>Not applicable</b>
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).	<b>Not applicable</b>

#### 4. Resilience and Hazards

S. 9.1 Direction	Application	Relevance to this planning proposal
4.1 Flooding	This direction applies when preparing a planning proposal that creates, removes or alters a zone	<p><b>Consistent</b></p> <p>The planning proposal will give effect to the Byron Shire Affordable Housing Contribution</p>

<b>S. 9.1 Direction</b>	<b>Application</b>	<b>Relevance to this planning proposal</b>
	or a provision that affects flood prone land.	Scheme 02. The scheme will be activated when a planning proposal to rezone under the scheme comes into effect. Where applicable, any planning proposal submitted to rezone land identified in the Scheme will assess flood prone land under the relevant planning framework at the time.
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.	<b>Not applicable</b>
4.3 Planning for Bushfire Protection	<p>(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&amp;A Act, and take into account any comments so made.</p> <p>(2) A planning proposal must:</p> <ul style="list-style-type: none"> <li>(a) have regard to Planning for Bushfire Protection 2019,</li> <li>(b) introduce controls that avoid placing inappropriate developments in hazardous areas, and</li> <li>(c) ensure that bushfire hazard reduction is not prohibited within the Asset Protection Zone (APZ).</li> </ul>	<p><b>Consistent</b></p> <p>The planning proposal will give effect to the Byron Shire Affordable Housing Contribution Scheme 02. The scheme will be activated when a planning proposal to rezone under the scheme comes into effect. Any planning proposal submitted to rezone land identified in the Scheme will consider the relevant Bushfire Protection provisions at the time.</p>

<b>S. 9.1 Direction</b>	<b>Application</b>	<b>Relevance to this planning proposal</b>
<p>4.4 Remediation of Contaminated Land</p>	<p>This direction applies to:</p> <ul style="list-style-type: none"> <li>(a) land that is within an investigation area within the meaning of the Contaminated Land Management Act 1997,</li> <li>(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,</li> <li>(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: <ul style="list-style-type: none"> <li>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</li> <li>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).</li> </ul> </li> </ul> <p>(1) A planning proposal authority must not include in a particular zone (within the meaning of the local environmental plan) any 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> <ul style="list-style-type: none"> <li>(a) the planning proposal authority has considered</li> </ul>	<p><b>Consistent</b></p> <p>The planning proposal will give effect to the Byron Shire Affordable Housing Contribution Scheme 02. The scheme will be activated when a planning proposal to rezone under the scheme comes into effect. Any planning proposal submitted to rezone land identified in the Scheme will consider the relevant Contaminated Land provisions at the time.</p>

S. 9.1 Direction	Application	Relevance to this planning proposal
	<p>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 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</p>	<p><b>Consistent</b></p> <p>The planning proposal will give effect to the Byron Shire Affordable Housing Contribution Scheme 02. The scheme be activated when a planning proposal to rezone under the scheme comes into effect. Any planning proposal submitted to</p>

<b>S. 9.1 Direction</b>	<b>Application</b>	<b>Relevance to this planning proposal</b>
	<p>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>rezone land identified in the Scheme will consider the relevant Acid Sulfate Soils provisions at the time.</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 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.</p>	<p><b>Not applicable</b></p>

## 5. Transport and Infrastructure

S. 9.1 Direction	Application	Relevance to this planning proposal
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><b>Consistent</b></p> <p>The planning proposal will give effect to the Byron Shire Affordable Housing Contribution Scheme 02. The scheme will be activated when a planning proposal to rezone under the scheme comes into effect. Any planning proposal submitted to rezone land identified in the Scheme will consider the relevant Integrated Land Use Transport provisions at the time.</p>
5.2 Reserving Land for Public Purposes	<p>A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Planning Secretary (or an officer of the Department nominated by the Secretary).</p>	<p><b>Not applicable</b></p>
5.3 Development Near Regulated Airports and Defence Airfields	<p>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.</p>	<p><b>Not applicable</b></p>

<b>S. 9.1 Direction</b>	<b>Application</b>	<b>Relevance to this planning proposal</b>
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	<b>Not applicable</b>

## 6. Housing

<b>S. 9.1 Direction</b>	<b>Application</b>	<b>Relevance to this planning proposal</b>
6.1 Residential Zones	<p>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).</p> <p>(1) A planning proposal must include provisions that encourage the provision of housing that will:</p> <ul style="list-style-type: none"> <li>(a) broaden the choice of building types and locations available in the housing market, and</li> <li>(b) make more efficient use of existing infrastructure and services, and</li> <li>(c) reduce the consumption of land for housing and associated urban development on the urban fringe, and</li> <li>(d) be of good design.</li> </ul> <p>(2) A planning proposal must, in relation to land to which this direction applies:</p> <ul style="list-style-type: none"> <li>(a) contain a requirement that residential development is not permitted until land is adequately serviced (or</li> </ul>	<p><b>Consistent</b></p> <p>The planning proposal will give effect to the Byron Shire Affordable Housing Contribution Scheme 02. The scheme will be activated when a planning proposal to rezone under the scheme comes into effect. Any planning proposal submitted to rezone such land will consider provisions that affect land within existing or proposed Residential Zones.</p>

S. 9.1 Direction	Application	Relevance to this planning proposal
	<p>arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and</p> <p>(b) not contain provisions which will reduce the permissible residential density of land.</p>	
6.2 Caravan Parks and Manufactures Home Estates	Applies when a planning proposal affects land for Caravan Parks and Manufactured Home Estates.	<b>Not applicable</b>

## 7. Industry and Employment

S. 9.1 Direction	Application	Relevance to this planning proposal
7.1 Business and Industrial Zones	<p>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).</p> <p>A planning proposal must:</p> <p>(a) give effect to the objectives of this direction,</p> <p>(b) retain the areas and locations of existing business and industrial zones,</p> <p>(c) not reduce the total potential floor space area for employment uses and related public services in business zones,</p> <p>(d) not reduce the total potential floor space area for industrial uses in industrial zones, and</p>	<b>Not applicable</b>



<b>S. 9.1 Direction</b>	<b>Application</b>	<b>Relevance to this planning proposal</b>
	(e) ensure that proposed new employment areas are in accordance with a strategy that is approved by the Planning Secretary.	
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.	<b>Not applicable</b>
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.	<b>Not applicable</b>

## 8. Resources and Energy

S. 9.1 Direction	Application	Relevance to this planning proposal
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>	<b>Not applicable</b>

## 9. Primary Production

S. 9.1 Direction	Application	Relevance to this planning proposal
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>	<p><b>Consistent</b></p> <p>The planning proposal will give effect to the Byron Shire Affordable Housing Contribution Scheme 02. The scheme be activated when a planning proposal to rezone under the scheme comes into effect. Land identified in the Scheme is also identified in the Residential Strategy 2041, as endorsed by the Department of Planning Housing and Infrastructure. Any planning proposal submitted to rezone rural land will be required to justify the rezoning from Rural to Urban</p>

S. 9.1 Direction	Application	Relevance to this planning proposal
9.2 Rural Lands	<p>Applies when a planning proposal:</p> <ul style="list-style-type: none"> <li>(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</li> <li>(b) changes the existing minimum lot size on land within a rural or conservation zone.</li> </ul> <p>A planning proposal must:</p> <ul style="list-style-type: none"> <li>(a) be consistent with any applicable strategic plan, including regional and district plans endorsed by the Planning Secretary, and any applicable local strategic planning statement</li> <li>(b) consider the significance of agriculture and primary production to the State and rural communities</li> <li>(c) identify and protect environmental values, including but not limited to, maintaining biodiversity, the protection of native vegetation, cultural heritage, and the importance of water resources</li> <li>(d) consider the natural and physical constraints of the land, including but not limited to, topography, size, location, water availability and ground and soil conditions</li> <li>(e) promote opportunities for investment in productive, diversified, innovative and sustainable rural economic activities</li> </ul>	<p><b>Consistent</b></p> <p>See comments in 9.1 above.</p>

S. 9.1 Direction	Application	Relevance to this planning proposal
	<p>(f) support farmers in exercising their right to farm</p> <p>(g) prioritise efforts and consider measures to minimise the fragmentation of rural land and reduce the risk of land use conflict, particularly between residential land uses and other rural land use</p> <p>(h) consider State significant agricultural land identified in chapter 2 of the State Environmental Planning Policy (Primary Production) 2021 for the purpose of ensuring the ongoing viability of this land</p> <p>(i) consider the social, economic and environmental interests of the community.</p> <p>(2) A planning proposal that changes the existing minimum lot size on land within a rural or conservation zone must demonstrate that it:</p> <p>(a) is consistent with the priority of minimising rural land fragmentation and land use conflict, particularly between residential and other rural land uses</p> <p>(b) will not adversely affect the operation and viability of existing and future rural land uses and related enterprises, including supporting infrastructure and facilities that are essential to rural industries or supply chains</p> <p>(c) where it is for rural residential purposes:</p> <p>i. is appropriately located taking account of the availability of human</p>	

<b>S. 9.1 Direction</b>	<b>Application</b>	<b>Relevance to this planning proposal</b>
	<p>services, utility infrastructure, transport and proximity to existing centres</p> <p>ii. is necessary taking account of existing and future demand and supply of rural residential land.</p>	
9.3 Oyster Aquaculture	Applies when preparing a planning proposal in 'Priority Oyster Aquaculture Areas'	<b>Not applicable</b>
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.	<p><b>Consistent</b></p> <p>The planning proposal will give effect to the Byron Shire Affordable Housing Contribution Scheme 02. The scheme will be activated when a planning proposal to rezone under the scheme comes into effect. Any planning proposal submitted to rezone Important Farmland will be required to justify the against the "Urban Growth Area Variation Principles" in the North Coast Regional Plan.</p>

## 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. Any future rezoning of land identified on the Affordable Housing Contribution Area map will be subject to a separate planning proposal that considers potential adverse impacts on critical habitat or threatened species, populations or ecological communities, or their habitats.

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

No. Any future rezoning of land identified as an Affordable Housing Contribution Area will be subject to a separate planning proposal that considers any likely environmental effects.

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

Yes, the planning proposal will give effect to the Byron Shire Affordable Housing Contribution Scheme 02, which has the following relevant objectives:

- I. Facilitate the provision of affordable housing options within the Byron Shire Council area to meet the needs of very low, low and moderate income households so as to promote diversity, equity, liveability and sustainability;
- II. Recognise affordable housing as critical infrastructure to support sustainable and diverse communities and economic growth in the Byron Shire;
- III. Contribute to meeting the housing needs of very low to moderate income

Also, the attached documents that support the planning proposal for the AHCS 02 respond to the social and economic effects of providing affordable housing, namely:

- Draft Affordable Housing Contribution Scheme 02 (Attachment 1)
- Housing Needs Assessment (Attachment 2)
- Viability Assessment Report (Attachment 3)

Economic modelling demonstrates the proposed AHCS will be viable due to value uplift because of changes in planning controls.

## Section D Infrastructure

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

Any future rezoning of land identified as an Affordable Housing Contribution Area in this Scheme will be subject to a separate planning proposal that considers public infrastructure requirements.

Land chosen to be included on the Affordable Housing Contribution on the Affordable Housing Contribution Scheme maps has been considered as 'investigation areas' under the recently endorsed Byron Shire Residential Strategy 2041. The Residential Strategy has helped to inform public infrastructure planning and delivery including local government (such as roads, water and sewer infrastructure and provisioning for climate change resilience), regional (such as Rous County Council water security forward planning) and state infrastructure delivery (such as Department of Education and schools).

## 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?**

No preliminary consultation has been undertaken with Commonwealth public authorities or State agencies regarding this planning proposal, except for the Department of Planning, Housing and Infrastructure's Regional Office, who have reviewed draft documents and provided preliminary advice to inform preparation of this planning proposal.

## Part 4 Mapping

No mapping amendments are required for this planning proposal at this stage. The Affordable Housing Contribution Scheme maps will be adopted as part of the subsequent LEP amendments for individual land parcels at the rezoning stage.

## Part 5 Community consultation

Community consultation for the planning proposal will be conducted in accordance with the Gateway determination.

Notification of the exhibited planning proposal will include:

- updates to Council's website
- referral to relevant State agencies
- notification in writing to affected landowners.

## Part 6 Project timeline

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

<b>Plan making step</b>	<b>Estimated completion</b>
Gateway Determination	September 2024
Agency Consultation	September / October 2024
Public Exhibition Period	November / December 2024
Submissions Assessment	December 2024
Submission of endorsed LEP to DPIE for finalisation (non-delegated)	January 2025
Submission of endorsed LEP amendment to Parliamentary Counsel for drafting (delegated authority)	N/A
LEP amendment notification	Feb 2025



## Conclusion

This planning proposal seeks to introduce a reference of Byron Shire Affordable Housing Contribution Scheme 2 into Clause 6.18 of the Byron LEP 2014.

This planning proposal provides a framework for the application of affordable housing contributions when land is being developed. This framework is underpinned by the Byron Shire Affordable Housing Contributions Policy and the Byron Shire Affordable Housing Contribution Scheme.

## Attachments

See separate documents:

Attachment 1 – Draft Affordable Housing Contribution Scheme 02

Attachment 2 - Housing Needs Assessment

Attachment 3 - Viability Assessment Report