



Planning Proposal 26.2016.4.1
Amendment of Byron Local Environmental Plan 2014
Rural Function Centres

Byron Shire Council

Pre Gateway Version #1

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Document History

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Table of Contents

Part 1 Introduction..... 1

1.1 **Objective and intended outcomes 1**

1.2 **Background..... 1**

Part 2 Explanation of provisions..... 2

2.1 **Proposed Local Provision..... 2**

Part 3 Justification 3

Section A Need for the planning proposal..... 3

Q1 Is the planning proposal a result of any strategic study or report?..... 3

Section B Relationship to strategic planning framework 4

Q5. Is the planning proposal consistent with the applicable State Environmental Planning Policies (SEPPs)? 5

Section C Environmental, social and economic impact 24

Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats will be adversely affected as a result of the proposal? 24

Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed? 24

Q9. How has the planning proposal adequately addressed any social and economic effects? 24

Section D State and Commonwealth interests 24

Q.10 Is there adequate public infrastructure for the planning proposal? 24

Q.11 What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination..... 24

Part 4 Mapping..... 24

Part 5 Community consultation..... 24

Part 6 Project timeline..... 25

Summary and conclusions 25

Appendix A Proposed LEP Amendments..... 26

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 provide an approval mechanism for function centres on land zoned RU2 Rural Landscape.

In particular, the intended outcomes of the amendments are:

1. The addition of function centre as a land use permitted with development consent in the RU2 Rural Landscape Zone; and
2. The addition of a new local provision which outlines development standards and matters for consideration relating to applications for function centres in the RU2 zone.

Details of the suggested LEP amendments are outlined in **Appendix A**.

1.2 Background

Council has recently prepared a Rural Land Use Strategy. In part, that Strategy addresses rural function centres, recommending the following action:

Investigate the potential for allowing ‘wedding venues’ (a type of function centre) in rural zones and, where appropriate, planning provisions to ensure their location, scale and operation are compatible with the rural setting.

The action follows the growth of the wedding industry in Byron Shire, which has included a significant expansion of activities in rural areas.

In recent years, Council has received complaints regarding a number of unauthorised wedding venues in the rural parts of the Shire, resulting in a variety of compliance actions. A number of development applications have also been dealt with, the majority of which have been withdrawn or refused.

Under the current provisions of Byron Local Environmental Plan 2014, wedding venues, which are defined as *functions centres* for the purpose of the LEP, are prohibited in all rural zones.

Previous development applications have therefore been lodged under Clause 2.8 of the LEP, which allows consideration of any use of land on a temporary basis, even if that use is otherwise prohibited, subject to a range of merit considerations, including the potential for adverse amenity impacts.

A previous Land & Environment Court judgement in relation to a wedding venue approval in Hawkesbury Shire has highlighted the absolute nature of the controls included in Clause 2.8 (which is a Standard Template LEP provision).

Council cannot approve a temporary use under that clause unless it is satisfied that (amongst other things) there will not be **any** adverse impacts on the amenity of the neighbourhood [**emphasis added**].

The key finding of the judgement was that this is absolute, i.e. Council cannot turn its mind to whether a potential adverse impact might be acceptable in the circumstances; if an adverse impact is identified, Council is prevented from granting approval.

Consultation with wedding industry representatives, and with rural residents previously impacted by unauthorised events, suggests that, on appropriate sites, the adverse impacts of rural events can be managed, through an approval process that combines a range of site location and event management criteria.

At the ordinary meeting of 23 November 2017, Council resolved (**17-594**):

That Council, for the purposes of community consultation:

1. *Prepare a draft Planning Proposal to amend Byron Local Environmental Plan 2014 to insert a clause permitting function centres with consent in zones RU1, RU2 and R5 subject to a range of controls which will manage impacts on existing residents.*

2. *Conduct information sessions in all rural communities where the proposal may have affect.*
3. *Issue a media release and Council website post at least two weeks prior to the first information session to advise the community of the planning proposal with notice of all information sessions.*
4. *Following completion of the information sessions and other community consultation, a report be received by Council with a review of the community meetings and consultation.*

Following this resolution, Council undertook community information sessions across the Shire, and generated web-based opportunities for public comment.

The aim of the community engagement was to get input from the community as to how Council should manage the issue of rural function centres, particularly relating to wedding venues.

171 individual survey responses were received. In addition, approximately 80 people attended the community information sessions and approximately 20 individual submissions were received.

Overall, it is clear that the community is somewhat divided about whether to permit function centres in the rural zone. In response to that survey question 63% of respondents said function centres should be permissible in rural zones, with 37% saying they should remain prohibited.

The concerns expressed as reasons to retain the current prohibition included:

- the ability for Council to monitor and police compliance with approval conditions;
- the potential loss of productive farmland;
- erosion of the rural character and amenity; and
- the commercialisation of rural land.

Based on the survey responses and the discussions at the community information sessions, there was general agreement, at least among those who accepted the premise of permitting and controlling rural function centres, that the controls should include provisions that define the suitability of sites as well as controls relating to the management of events.

There was widespread agreement that management of noise and traffic was the key to limiting the disturbance to neighbours.

There was also widespread acknowledgement of the positive benefits of the wedding industry, in terms of employment and expenditure, and a recognition that, on appropriate sites, it is possible for events to be managed to minimise or avoid disturbance to neighbours.

Part 2 Explanation of provisions

The purpose of this Planning Proposal is to provide an approval mechanism for function centres on land zoned RU2 Rural Landscape.

In particular, the intended outcomes of the amendments are:

1. The addition of function centre as a land use permitted with development consent in the RU2 Rural Landscape Zone; and
2. The addition of a new local provision which outlines development standards and matters for consideration relating to proposals for function centres in the RU2 zone.

Details of the suggested LEP amendments are outlined in **Appendix A**.

2.1 Proposed Local Provision

The intention of the proposed clause outlined in **Appendix A** is to guide the approval process for rural function centres by outlining:

- the characteristics that will determine suitable sites; and

- the management measures that will be required to ensure that functions and events minimise or avoid disturbance to neighbours.

Part 3 Justification

Section A Need for the planning proposal

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

Yes. This Planning Proposal is the result of the Byron Shire Rural Land Use Strategy.

The Rural Land Use Strategy addresses rural function centres, recommending the following action:

Investigate the potential for allowing ‘wedding venues’ (a type of function centre) in rural zones and, where appropriate, planning provisions to ensure their location, scale and operation are compatible with the rural setting.

The Rural Land Use Strategy sets out a 20-year strategic framework to guide future land zoning and use, protection and/ or development of:

Our Rural Environment

Our Rural Economy

Our Rural Community

Our Rural Infrastructure

The primary focus of the Strategy in relation to *Our Rural Economy* is the protection, promotion and facilitation of agriculture. The Strategy also recognises, however, that rural tourism activities are an important part of the rural economy of the Shire.

In this regard, some of the relevant Policy Directions adopted for the Strategy include:

- *Future rural tourist development will build on and complement our agricultural industry, reinforcing the predominant use of the rural area for agricultural production while maintaining the rural character and take into consideration increased road traffic impacts; and*
- *Future rural tourist development will be located and designed to avoid adverse visual or noise impacts.*

This Planning Policy and the proposed amendments to LEP 2014 have been developed to further these Policy Directions. In particular, the permissibility of function centres will apply only to the RU2 zone. Function centres will remain a prohibited land use on land zoned RU1 Primary Production, maintaining the focus of that zone on farming and directly ancillary land uses.

It is also proposed that the importance of State and Regionally Significant Farmland will be recognised by requiring that farming continues on such land, rather than being replaced by the sole use of sites for function centre.

This Planning Proposal is also in response to a current enforcement issue in the Shire whereby weddings and events have been operating illegally in rural areas and impacting on the rural amenity.

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

Yes. The Planning Proposal is considered the best means of achieving a balance of allowing the continuation of rural functions, particularly weddings, while maintaining and protecting rural character, amenity and agricultural productivity and potential.

Alternative Options

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

Table 1: Alternative Options Considered:

Status Quo – Function Centres remain prohibited in Rural Zones

Function centres are currently prohibited on land zoned RU1 Primary Production and RU2 Rural Landscape.

They are permissible with consent on land zoned RU5 Village.

Council has been aware of a number of unauthorised function centres (wedding venues) located within both RU1 and RU2. Some of these venues have generated significant complaints relating to neighbourhood disturbance, and Council has undertaken compliance/enforcement action on a number of occasions.

It is clear that there is a continuing strong demand for rural weddings in particular.

Within RU1 and RU2, the only approval option available is by way of Clause 2.8 Temporary Use of Land.

The provisions of that clause, as outlined above, are restrictive, and it is unlikely that many sites would be able to satisfactorily demonstrate that functions would not result in *any* adverse impacts on the neighbourhood.

It is likely, however, that there are a number of sites where functions could be managed in a way that generate *minimal* or *acceptable* impacts.

[Example: at the community discussions leading to this Planning Proposal, a rural resident talked about a wedding venue located near her rural home (located approx. 350m away). She noted that, if she were in her yard while an event is underway, she could hear music etc in the distance, but not at levels that were annoying to her; and that from inside her house the music was not audible]

The LEP currently contains no controls, standards or guidance to define what would be acceptable for a rural function centre. In the absence of that, Council will continue to react to complaints.

Given the strength of the demand for the use, stopping the use totally would require significant compliance / enforcement resources. It would also deny legitimate opportunities for continuation of the industry.

Function Centre permissible in RU1 and RU2

The RU1 zone is for land with the highest level of agricultural value. The primary objective is to facilitate meaningful primary production.

The Rural Land Strategy recognises the importance of agriculture to the Shire and contains policy directions aimed at protecting and promoting that production.

Permitting function centres in the RU1 zone has the potential to result in a loss of primary production, given that the economic returns from functions appear to be significantly greater than those associated with primary production.

Section B Relationship to strategic planning framework

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

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

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

The table below summarises the key Policy Directions relevant to rural function centres in Byron Shire:

Table 2: North Coast Regional Plan Policy Directions:

<p><i>Direction 8: Promote the growth of tourism</i></p> <p><i>Event, dining and accommodation options in rural areas should only be considered where they complement and are consistent with prime agricultural pursuits</i></p> <p>See comments above – the Planning Proposal is consistent with this, in that it will not permit function centres to establish on land with the highest agricultural value, and will require that use to be undertaken in conjunction with real primary production on Regionally Significant Farmland.</p>
<p><i>Direction 11: Protect and enhance productive agriculture lands</i></p> <p><i>The most important farmland has been identified and mapped to support long-term agricultural production</i></p> <p><i>Encouraging greater diversity in the agricultural sector – for example, through agritourism and the processing and packaging of produce and associated retail services – can make the sector more sustainable</i></p> <p>The Planning Proposal strikes a balance between allowing rural tourism, primarily in the form of wedding events, on secondary quality agricultural land, while protecting higher quality land for agricultural purposes.</p>
<p><i>Direction 14: Provide great places to live and work</i></p> <p>In the rural context, the quiet amenity is a strong part of what makes the hinterland of the Shire a great place to live.</p> <p>The Planning Proposal provides a balanced solution to allowing the wedding/ function industry to operate in the Shire while protecting the rural amenity, ensuring that the rural areas continue to be great places to live.</p>

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

See information above (Q1) regarding consistency with Council's draft Rural Land Use Strategy.

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

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

Table 3: SEPPs

State Environmental Planning Policy (SEPP)	Compliance of Planning Proposal
SEPP 44 – Koala Habitat Protection	Byron Shire contains areas of core koala habitat. The Planning Proposal recognises the value of that land by including a control specifying that event sites cannot be approved unless the consent authority has considered the potential impacts on habitat areas.
SEPP (Rural Lands) 2008 <i>the promotion and</i>	The Rural Planning Principles contained at Clause 7 of the SEPP are addressed below: This Planning Proposal provides a balance of providing for

State Environmental Planning Policy (SEPP)	Compliance of Planning Proposal
<i>protection of opportunities for current and potential productive and sustainable economic activities in rural areas</i>	function centre uses in rural parts of the Shire, while protecting the agricultural value of rural land, by restricting the use to RU2 Rural landscape and requiring that a function centre is secondary to primary production on land mapped as regionally Significant farmland.
<i>recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State</i>	As above
<i>recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development</i>	As above
<i>in planning for rural lands, to balance the social, economic and environmental interests of the community</i>	As above – achieving this balance is the key objective of this Planning Proposal.
<i>the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land</i>	The Planning Proposal recognises these values by including a control specifying that event sites cannot be approved unless the consent authority has considered the potential impacts on natural resources and areas of high environmental value.
<i>the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities</i>	Not directly applicable
<i>the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing</i>	Not directly applicable
<i>ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-</i>	See other sections of this Planning Proposal.

State Environmental Planning Policy (SEPP)	Compliance of Planning Proposal
<i>General</i>	

Q6. Is the planning proposal consistent with applicable Ministerial Directions (s9.1 Directions)?

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

Table 4: Consistency with Local Planning Directions

Direction	Application	Relevance to this planning proposal	Consistency
1. Employment and Resources			
1.1 Business and Industrial Zones	Applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).	This Planning Proposal does not affect land within an existing or proposed business or industrial zone.	Not applicable
1.2 Rural Zones	Applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary). The objective of this direction is to protect the agricultural production value of rural land. Under this direction a planning proposal must: (a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. (b) not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).	This Planning Proposal provides a balance of providing for function centre uses in rural parts of the Shire, while protecting the agricultural value of rural land, by restricting the use to RU2 Rural landscape and requiring that a function centre is secondary to primary production on land mapped as Regionally Significant Farmland.	Consistent

Direction	Application	Relevance to this planning proposal	Consistency
1.3 Mining, Petroleum Production and Extractive Industries	<p>Applies when a relevant planning authority prepares a planning proposal that would have the effect of:</p> <ul style="list-style-type: none"> (a) prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or (b) restricting the potential development of resources of coal, other minerals, 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>This Planning Proposal does not have any effect on the potential for mining, petroleum production or extraction of materials and resources.</p>	<p>Not applicable</p>
1.4 Oyster Aquaculture	<p>Applies when a relevant planning authority prepares any planning proposal that proposes a change in land use which could result in:</p> <ul style="list-style-type: none"> (a) adverse impacts on a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate”, or (b) incompatible use of land between oyster aquaculture in a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate” and other land uses. 	<p>This Planning Proposal has no effect on a Priority Oyster Aquaculture Area or other related uses.</p>	<p>Not applicable</p>
1.5 Rural Lands	<p>The objectives of this direction are to:</p> <ul style="list-style-type: none"> (a) protect the agricultural production value of rural land; (b) facilitate the orderly and economic development of rural lands for rural and related purposes. <p>Applies when:</p> <ul style="list-style-type: none"> (a) a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary), or (b) a relevant planning authority prepares a planning 	<p>This Planning Proposal provides a balance of providing for function centre uses in rural parts of the Shire, while protecting the agricultural value of rural land, by restricting the use to RU2 Rural landscape and requiring that a function centre is secondary to primary production on land mapped as Regionally Significant Farmland.</p> <p>The Rural Planning Principles are addressed in Table 3 above.</p>	<p>Consistent</p>

Direction	Application	Relevance to this planning proposal	Consistency
	<p>proposal that changes the existing minimum lot size on land within a rural or environment protection zone.</p> <p>A planning proposal to which clauses (a) and (b) apply must be consistent with the Rural Planning Principles listed in <i>State Environmental Planning Policy (Rural Lands) 2008</i>.</p>		
2. Environment and Heritage			
2.1 Environment Protection Zones	A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.	The proposed new local provision contains a clause requiring consideration of events and important koala habitat.	Consistent
2.2 Coastal Protection	<p>This direction applies to land that is within the coastal zone, as defined under the Coastal Management Act 2016 – comprising the coastal wetlands and littoral rainforests area, coastal vulnerability area, coastal environment area and coastal use area – and as identified by the State Environmental Planning Policy (Coastal Management) 2018.</p> <p>This direction applies when a relevant planning authority prepares a planning proposal that applies to land identified above.</p> <p>A planning proposal must include provisions that give effect to and are consistent with:</p> <ul style="list-style-type: none"> (a) the objects of the Coastal Management Act 2016 and the objectives of the relevant coastal management areas; (b) the NSW Coastal Management Manual and associated Toolkit; (c) NSW Coastal Design Guidelines 2003; and (d) any relevant Coastal Management Program that has been certified by the Minister, or any Coastal Zone Management Plan under the 	<p>This Planning Proposal does not preclude consideration of the Coastal Zone matters for applications on any land that is identified as coastal zone under the State Environmental Planning Policy (Coastal Management) 2018.</p> <p>In the normal course of development assessment, State Environmental Planning Policy (Coastal Management) 2018 will be assessed as part of a development application process.</p>	Consistent

Direction	Application	Relevance to this planning proposal	Consistency
	<p>Coastal Protection Act 1979 that continues to have effect under clause 4 of Schedule 3 to the Coastal Management Act 2016, that applies to the land.</p> <p>A planning proposal must not rezone land which would enable increased development or more intensive land-use on land:</p> <ul style="list-style-type: none"> (a) within a coastal vulnerability area identified by the State Environmental Planning Policy (Coastal Management) 2018; or (b) that has been identified as land affected by a current or future coastal hazard in a local environmental plan or development control plan, or a study or assessment undertaken: <ul style="list-style-type: none"> (i) by or on behalf of the relevant planning authority and the planning proposal authority, or (ii) by or on behalf of a public authority and provided to the relevant planning authority and the planning proposal authority. <p>A planning proposal for a Local Environmental Plan may propose to amend the following maps, including increasing or decreasing the land within these maps, under the State Environmental Planning Policy (Coastal Management) 2018:</p> <ul style="list-style-type: none"> (a) Coastal wetlands and littoral rainforests area map; (b) Coastal vulnerability area map; (c) Coastal environment area map; and (c) Coastal use area map. <p>Such a planning proposal must be supported by evidence in a relevant Coastal Management Program that has been certified by the Minister, or by a Coastal</p>		

Direction	Application	Relevance to this planning proposal	Consistency
	Zone Management Plan under the Coastal Protection Act 1979 that continues to have effect under clause 4 of Schedule 3 to the Coastal Management Act 2016.		
2.3 Heritage Conservation	<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 <i>National Parks and Wildlife Act 1974</i>, and</p> <p>(c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.</p>	The Planning Proposal does not alter the existing heritage provisions of the LEP.	Not directly applicable.
2.4 Recreation Vehicle Areas	<p>A planning proposal must not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the <i>Recreation Vehicles Act 1983</i>):</p> <p>(a) where the land is within an environment protection zone,</p> <p>(b) where the land comprises a beach or a dune adjacent to or adjoining a beach,</p> <p>(c) where the land is not within an area or zone</p>	This Planning Proposal does not enable land to be developed for the purpose of a vehicle recreation area (within the meaning of the <i>Recreation Vehicles Act 1983</i>):	Not applicable

Direction	Application	Relevance to this planning proposal	Consistency
	<p>referred to in paragraphs (4)(a) or (4)(b) unless the relevant planning authority has taken into consideration:</p> <ul style="list-style-type: none"> (i) the provisions of the guidelines entitled <i>Guidelines for Selection, Establishment and Maintenance of Recreation Vehicle Areas, Soil Conservation Service of New South Wales, September 1985</i>, and (ii) the provisions of the guidelines entitled <i>Recreation Vehicles Act, 1983, Guidelines for Selection, Design, and Operation of Recreation Vehicle Areas, State Pollution Control Commission, September 1985</i>. 		
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	<p>A planning proposal that introduces or alters an E2 Environmental Conservation or E3 Environmental Management zone or an overlay and associated clause must:</p> <ul style="list-style-type: none"> (a) apply the proposed E2 Environmental Conservation or E3 Environmental Management zones, or the overlay and associated clause, consistent with the Northern Councils E Zone Review Final Recommendations. 	This Planning Proposal does not introduce or alter an E2 or E3 Zone or Environmental Overlays.	Not applicable
3. Housing, Infrastructure and Urban Development			
3.1 Residential Zones	<p>This direction applies when a relevant planning authority prepares a planning proposal that will affect land within:</p> <ul style="list-style-type: none"> (a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary), (b) any other zone in which significant residential development is permitted or proposed to be permitted. 	This Planning Proposal does not affect land within a residential zone or land where residential accommodation is permitted or proposed to be permitted.	Not applicable

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

Direction	Application	Relevance to this planning proposal	Consistency
	<p>facilitate the retention of the existing caravan park.</p> <p>In identifying suitable zones, locations and provisions for manufactured home estates (MHEs) in a planning proposal, the relevant planning authority must:</p> <ul style="list-style-type: none"> (a) take into account the categories of land set out in Schedule 2 of SEPP 36 as to where MHEs should not be located, (b) take into account the principles listed in clause 9 of SEPP 36 (which relevant planning authorities are required to consider when assessing and determining the development and subdivision proposals), and (c) include provisions that the subdivision of MHEs by long term lease of up to 20 years or under the Community Land Development Act 1989 be permissible with consent. 		
3.3 Home Occupations	<p>Planning proposals must permit home occupations to be carried out in dwelling-houses without the need for development consent.</p>	<p>This Planning Proposals does not seek to amend current Byron LEP 2014 provisions that permit home occupations to be carried out in dwelling houses without the need for development consent.</p>	Not applicable
3.4 Integrating Land Use and Transport	<p>Applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.</p> <p>A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:</p> <ul style="list-style-type: none"> (a) <i>Improving Transport Choice – Guidelines for planning and development</i> (DUAP 2001), and 	<p>This Planning Proposal does not relate to land zoned for urban purposes.</p>	Not applicable

Direction	Application	Relevance to this planning proposal	Consistency
	<p>(b) <i>The Right Place for Business and Services – Planning Policy</i> (DUAP 2001).</p> <p>The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:</p> <ul style="list-style-type: none"> (a) improving access to housing, jobs and services by walking, cycling and public transport, and (b) increasing the choice of available transport and reducing dependence on cars, and (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and (d) supporting the efficient and viable operation of public transport services, and (e) providing for the efficient movement of freight 		
3.5 Development Near Licensed Aerodrome	<p>Applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome.</p> <p>The main requirements of the Direction are that Council considers the Obstacle Limitation Surface (OLS) as defined by that Department of the Commonwealth for residential purposes, and does not increase residential densities in areas where the ANEF, as from time to time advised by that Department of the Commonwealth, exceeds 25.</p>	This Planning Proposal will not create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome.	Not applicable
3.6 Shooting Ranges	<p>Applies when a relevant planning authority prepares a planning proposal that will affect, create, alter or remove a zone or a provision relating to land adjacent to and/or adjoining an existing shooting range.</p> <p>A Planning Proposal must not seek to rezone land</p>	This Planning Proposal does not relate to land adjacent to and/or adjoining an existing shooting range.	Not applicable

Direction	Application	Relevance to this planning proposal	Consistency
	adjacent to and/or adjoining an existing shooting range that has the effect of permitting more intensive land uses in the area.		
4. Hazard and Risk			
4.1 Acid Sulfate Soils	<p>Applies when a relevant planning authority prepares a planning proposal that will apply to land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps.</p> <p>A council shall not prepare a draft LEP that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the council has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils.</p>	The Planning Proposal does not alter the application of the Acid Sulfate Soils provisions in Byron LEP 2014.	Not directly applicable
4.2 Mine Subsidence and Unstable Land	<p>Applies when a relevant planning authority prepares a planning proposal that permits development on land that:</p> <ul style="list-style-type: none"> (a) is within a mine subsidence district, or (b) has been identified as unstable in a study, strategy or other assessment undertaken: <ul style="list-style-type: none"> (i) by or on behalf of the relevant planning authority, or (ii) by or on behalf of a public authority and provided to the relevant planning authority. 	Byron Shire is not in a mine subsidence district and the land affected by this planning proposal has not been identified as unstable land.	Not applicable
4.3 Flood Prone Land	<p>Applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.</p> <p>A planning proposal must include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the <i>Floodplain</i></p>	The Planning Proposal does not alter the application of provisions in Byron LEP 2014 relating to flood prone land.	Not directly applicable

Direction	Application	Relevance to this planning proposal	Consistency
	<p><i>Development Manual 2005</i> (including the <i>Guideline on Development Controls on Low Flood Risk Areas</i>).</p> <p>A planning proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environment Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone.</p> <p>A planning proposal must not contain provisions that apply to the flood planning areas which:</p> <ul style="list-style-type: none"> (a) permit development in floodway areas, (b) permit development that will result in significant flood impacts to other properties, (c) permit a significant increase in the development of that land, (d) are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or (e) permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, buildings or structures in floodways or high hazard areas), roads or exempt development. <p>A planning proposal must not impose flood related development controls above the residential flood planning level for residential development on land, unless a relevant planning authority provides adequate justification for those controls to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).</p> <p>For the purposes of a planning proposal, a relevant planning authority must not determine a flood planning level that is inconsistent with the Floodplain</p>		

Direction	Application	Relevance to this planning proposal	Consistency
	Development Manual 2005 (including the <i>Guideline on Development Controls on Low Flood Risk Areas</i>) unless a relevant planning authority provides adequate justification for the proposed departure from that Manual to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).		
4.4 Planning for Bushfire Protection	<p>Applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land.</p> <p>In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made.</p> <p>A planning proposal must:</p> <ul style="list-style-type: none"> (a) have regard to <i>Planning for Bushfire Protection 2006</i>, (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and (c) ensure that bushfire hazard reduction is not prohibited within the APZ. <p>A planning proposal must, where development is proposed, comply with the following provisions, as appropriate:</p> <ul style="list-style-type: none"> (a) provide an Asset Protection Zone (APZ) incorporating at a minimum: <ul style="list-style-type: none"> (i) an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for 	<p>This Planning Proposal will allow consideration of functions and events on some land that is mapped as being bushfire prone.</p> <p>In the normal course of development assessment, bushfire protection measures will be assessed as part of a development application process.</p>	Consistent

Direction	Application	Relevance to this planning proposal	Consistency
	<p>development and has a building line consistent with the incorporation of an APZ, within the property, and</p> <p>(ii) an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road,</p> <p>(b) for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the planning proposal permit Special Fire Protection Purposes (as defined under section 100B of the <i>Rural Fires Act 1997</i>), the APZ provisions must be complied with,</p> <p>(c) contain provisions for two-way access roads which link to perimeter roads and/or to fire trail networks,</p> <p>(d) contain provisions for adequate water supply for fire fighting purposes,</p> <p>(e) minimise the perimeter of the area of land interfacing the hazard which may be developed,</p> <p>(f) introduce controls on the placement of combustible materials in the Inner Protection Area.</p>		
5 Regional Planning			
5.1 Implementation of Regional Strategies	<p>This direction applies to land to which the following regional strategies apply:</p> <p>(a) South Coast Regional Strategy (excluding land in the Shoalhaven LGA)</p> <p>(b) Sydney–Canberra Corridor Regional Strategy</p>	Not Applicable	Not applicable

Direction	Application	Relevance to this planning proposal	Consistency
5.2 Sydney Drinking Water Catchments	Applies when a relevant planning authority prepares a planning proposal that applies to the hydrological catchment.	Not Applicable	Not applicable
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	The planning proposal must not rezone land mapped as State or Regionally significant farmland under the Northern Rivers Farmland Protection Project for an urban use.	This Planning Proposal does not propose alteration of existing zoned. By excluding function centre use from RU1 zoned land, the Proposal ensures that State Significant Farmland will not be impacted by function use. Within the RU2 zone, the recommended local provision requires that a function centre is secondary to primary production on land mapped as Regionally Significant Farmland.	Consistent
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Not Applicable	Not Applicable	Not applicable
5.5 -5.7 Revoked	-	-	Not applicable
5.8 Second Sydney Airport: Badgerys Creek	Not Applicable	Not Applicable	Not applicable
5.9 North West Rail Link Corridor Strategy	Not Applicable	Not Applicable	Not applicable
5.10 Implementation of Regional Plans	Planning proposals must be consistent with a Regional Plan released by the Minister for Planning.	The consistency of this Planning Proposal with the North Coast Regional Plan is addressed in Section B above.	Consistent
6. Local Plan Making			
6.1 Approval and Referral Requirements	A planning proposal must: (a) minimise the inclusion of provisions that require the concurrence, consultation or referral of	The planning proposal does not propose the inclusion of any concurrence, consultation or referral provisions.	Consistent

Direction	Application	Relevance to this planning proposal	Consistency
	<p>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> <ul style="list-style-type: none"> (i) the appropriate Minister or public authority, and (ii) the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General), <p>prior to undertaking community consultation in satisfaction of section 57 of the Act, and</p> <p>(c) not identify development as designated development unless the relevant planning authority:</p> <ul style="list-style-type: none"> (i) can satisfy the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and (ii) has obtained the approval of the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act. 		

Direction	Application	Relevance to this planning proposal	Consistency
6.2 Reserving Land for Public Purposes	A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General).	This proposal does not create, alter or reduce existing zonings or reservations of land for public purposes.	Consistent
6.3 Site Specific Provisions	<p>Applies when a relevant planning authority prepares a Planning Proposal that will allow a particular development to be carried out.</p> <p>A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either:</p> <ul style="list-style-type: none"> (a) allow that land use to be carried out in the zone the land is situated on, or (b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or (c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended. <p>A planning proposal must not contain or refer to drawings that show details of the development proposal.</p>	This Planning Proposal does not relate to a specific development.	Not applicable

Section C Environmental, social and economic impact

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

No. The Planning Proposal recommends a local provision requiring that the potential for biodiversity impacts need to be considered prior to approval of any function centre in the RU2 zone.

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

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

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

The Planning Proposal provides a balance between the continued economic benefits associated with the wedding industry and the protection of rural amenity.

Section D State and Commonwealth interests

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

Yes.

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

State and Commonwealth public authorities have not been formally involved in this particular Planning Proposal prior to Gateway determination. At this early stage, it appears unlikely that there will be any issues of interest to Commonwealth authorities. State government authorities will be consulted during the public exhibition period.

In accordance with the Gateway Approval, the following public authorities will be consulted:

Public authority/stakeholder	Issue requiring comment
Department of Primary Industry Agriculture	Impacts on farming land.
NSW Rural Fire Service	Section 117(4.4) of the <i>Environmental Planning and Assessment Act 1979</i> , Ministerial Direction 4.4 requires consultation with the Commissioner of the NSW Rural Fire Service.
Office of Environment and Heritage	Consideration of ecological issues, Aboriginal and European heritage.

Part 4 Mapping

The Planning Proposal will not affect any Byron maps.

Part 5 Community consultation

The community engagement that has led to this Planning Proposal is summarised above.

Council will exhibit the Planning Proposal in accordance with a Gateway Determination, including, as a minimum:

- a newspaper advertisement that circulates in the Byron LGA, which is the area affected by the Planning Proposal;
- updates to the web sites of Byron Shire Council and the Department of Planning and Environment,
- letters to relevant State Agencies; and
- notification to those who made submissions to the pre-Gateway community engagement.

Part 6 Project timeline

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

Estimated completion	Plan making step
July 2018	Request for Gateway Determination.
August 2018	Gateway Determination and public exhibition.
Sept-Oct 2018	Consideration of submissions and reporting to Council.
November 2018	Planning Proposal to Department with request to make the Plan.

Summary and conclusions

This Planning Proposal seeks to amend Byron Local Environmental Plan (LEP) 2014 to provide an approval mechanism for function centres on land zoned RU2 Rural Landscape.

It recommends the addition of a new local provision to outline development standards and matters for consideration relating to applications for function centres in the RU2 zone, to identify suitable sites for such a land use and specify management measures that will minimise impacts, particularly disturbance to residents.

The proposed amendments relate only to land within the RU2 Rural Landscape zone. Function centres are not proposed to be permitted on land zoned RU1 Primary Produce, to ensure that this land use will not compromise prime farming land in the Shire.

The Planning Proposal has been informed by extensive community engagement.

Appendix A Proposed LEP Amendments

Permissibility

The land use table for zone RU2 Rural Landscape is proposed to be amended in the following manner (addition shown in **red** font):

Zone RU2 Rural Landscape

1 Objectives of zone

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To maintain the rural landscape character of the land.
- To provide for a range of compatible land uses, including extensive agriculture.
- To enable the provision of tourist accommodation, facilities and other small-scale rural tourism uses associated with primary production and environmental conservation consistent with the rural character of the locality.
- To protect significant scenic landscapes and to minimise impacts on the scenic quality of the locality.

2. Permitted without consent

Environmental protection works; Extensive agriculture; Home-based child care; Home occupations

3. Permitted with consent

Agricultural produce industries; Agriculture; Airstrips; Animal boarding or training establishments; Business identification signs; Camping grounds; Cemeteries; Centre-based child care facilities; Community facilities; Crematoria; Depots; Dual occupancies; Dwelling houses; Eco-tourist facilities; Environmental facilities; Extractive industries; Farm buildings; Flood mitigation works; Forestry; **Function centres**; Funeral homes; Garden centres; Health consulting rooms; Helipads; Home businesses; Home industries; Hostels; Industrial retail outlets; Industrial training facilities; Information and education facilities; Landscaping material supplies; Livestock processing industries; Neighbourhood shops; Places of public worship; Plant nurseries; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Respite day care centres; Restaurants or cafes; Roads; Roadside stalls; Rural supplies; Rural workers' dwellings; Secondary dwellings; Stock and sale yards; Storage premises; Tourist and visitor accommodation; Transport depots; Truck depots; Veterinary hospitals; Warehouse or distribution centres

4. Prohibited

Aquaculture; Backpackers' accommodation; Hotel or motel accommodation; Serviced apartments; Any other development not specified in item 2 or 3

Additional Local Provision

The following clause is proposed to be added to Part 6 of Byron LEP 2014:

6.10 Function Centres in RU2 Rural Landscape Zone

- (1) Development consent must not be granted for a function centre on land zoned RU2 Rural Landscape unless the consent authority is satisfied that:
 - (a) events will occur in a location that is a minimum of 500m from an existing dwelling house on an adjoining property. Council will consider a variation to the minimum separation distance, but not less than 250m, only where:
 - i. existing topography and vegetation on the land is such that there is not a clear line of sight between the event site and adjacent dwellings; and

- ii. an acoustic assessment clearly demonstrates that event use will not result in unacceptable noise impacts at the neighbouring dwelling;
 - (b) the proposal is supported by a site specific acoustic assessment, prepared by a suitably qualified person, quantifying existing background noise levels and noise levels predicted for events in relation to all nearby dwellings;
 - (c) the subject site is accessed by way of a sealed road with sufficient capacity for the traffic volume and type generated by the function centre, and that buses are able to access and exit the property in a forward direction;
 - (d) the use of the site for events will not result in unacceptable adverse impacts on any adjoining land or the amenity of the neighbourhood, particularly in relation to noise and traffic;
 - (e) the use of the site for events will not result in any land use conflict in relation to adjoining or nearby farming activities or preclude future farming activities; and
 - (f) no tree clearing is required for the function centre.
- (2) Applications for development consent for a function centre must include an Events Management Plan, which contains (as a minimum) provisions that:
- (a) ensure that the majority of event attendees will be transported to and from each event by bus as deemed appropriate to the applicable road network; and
 - (b) require all amplified activities (music, speeches, etc.) to be undertaken within a temporary or permanent structure after 7.00pm; and
 - (c) ensure that all amplified music will cease no later than 10:00pm; and
 - (d) ensure that all event attendees will be off-site no later than 10.30pm; and
 - (e) outline measures that will be in place to ensure predicted noise levels are not exceeded at nearby dwellings; and
 - (f) provide for the monitoring of noise generated at events and six-monthly reporting of results to Council; and
 - (g) provide for the notification of nearby residents prior to each event, including contact details for an appropriate management person who must be on-site and contactable during each event; and
 - (h) ensure that adequate arrangements are in place to manage wastewater and general waste for each event; and
 - (i) manage the potential noise/ amenity impacts associated with any persons staying overnight at the site at the conclusion of the function; and
 - (j) the use of fireworks, helicopters and/or other comparable activities known to cause disturbance to livestock and/or farming activities will be prohibited.
- (3) In deciding whether to grant consent for a function centre on land zoned RU2 Rural landscape, the consent authority must consider:
- (a) the need for a development consent to be limited to a particular period and/or number of events;
 - (b) the potential loss of farming on land that is mapped as either State or Regionally Significant Farmland;
 - (c) the potential impact on areas of environmental value, whether on the function centre site or on adjacent and nearby land, including koala habitat; and
 - (d) the need to impose a condition specifying that development consent would cease if three substantiated complaints were received in relation to functions at the site.
-