



OUT21/3471

General Manager  
Byron Shire Council  
PO Box 219  
MULLUMBIMBY NSW 2482

Attention: Sam Tarrant  
[starrant@byron.nsw.gov.au](mailto:starrant@byron.nsw.gov.au)

Dear Sir/Madam

**Planning Proposal 26.2020.6.1 – Housekeeping amendment to Byron Local Environmental Plan 2014.**

Thank you for the opportunity to provide advice on the above proposal as per your email dated 17 March 2021. The NSW Department of Primary Industries (NSW DPI) Agriculture provides advice to consent authorities about the protection and growth of agricultural industries and the resources upon which these industries depend.

DPI Agriculture has reviewed the Planning Proposal and provides no objections to the 12 amendment items identified. Further comments on relevant items likely to impact rural lands or agricultural activities are provided below:

***Item 1: Controlling secondary dwellings and dual occupancies on multiple occupancy and rural community title developments***

DPI Agriculture has a firm position on the permissibility of detached dual occupancies and secondary dwellings in rural areas as highlighted to council in previous correspondence, however, given the permissibility already exists, the intent of the amendment relating to the control of these developments in rural community title developments is supported. This will enable a strategic consideration of the entire development site rather than on an adhoc basis.

***Item 3: Insert a minimum lot size for Attached Dwellings in R2 and R3 zones and Dual Occupancies (detached) in the R5 zone - Clause 4.1E***

DPI Agriculture supports the inclusion of a minimum lot size for Dual Occupancies (detached) in the R5 zones. 4000m<sup>2</sup> is currently used for RU1 and RU2 zones within Clause 4.1E and it is reasonable that this is also applied to R5 to minimise dwelling density in rural areas.

***Item 4 - Include Zone E3 Environmental Management in the application of Clause 4.2A AND include E2 Environmental Conservation and E3 Environmental Management in 4.1D***

DPI supports the inclusion of E3 in the application of Clause 4.2 given dual occupancies are already permitted with consent in this zone and the application of Clause 4.2 will ensure strengthened provisions around these types of development.

DPI Agriculture provides no objection to the inclusion of E2 and E3 under Clause 4.1D given the other rural zones to which this clause applies.

***Item 5 - Include roadside stalls in Schedule 2 Exempt development***

DPI Agriculture provides no objection to the inclusion of roadside stalls under Schedule 2 Exempt development given the criteria provided under this schedule.

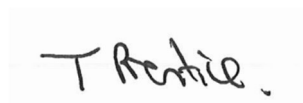
We also suggest Council consider whether a setback for car parking or the application of another land use conflict mitigatory measure to the neighbouring boundary may also be appropriate to reduce land use conflict risk with neighbouring properties. It is also noted this matter is currently being considered in an Agribusiness Exhibition of Intended Effects on exhibition by the Department of Planning, Industry and Environment.

***Item 6 - Introduce Artisan Food and Drink Industry as a permissible use with consent in RU2 Rural Landscape zone.***

DPI Agriculture provides no objection to the introduction of artisan food and drink industry as a permissible use within the RU2 Rural Landscape zone. We would welcome the opportunity to work with council on developing heads of consideration for this land use to ensure land use conflict risk potential is minimised.

Should you wish to discuss this matter further, please contact Agricultural Land Use Planning Officer, Selina Stillman, on 0412 424397.

Yours sincerely



16/4/21

**Tamara Prentice**  
**Manager, Agricultural Land Use Planning**



16 April 2021

File No: NTH14/00036/05  
Your Ref: 26.2020.6.1

The General Manager  
Byron Shire Council  
PO Box 219  
MULLUMBIMBY NSW 2482

Attention: Sam Tarrant  
[Sam.tarrant@byron.nsw.gov.au](mailto:Sam.tarrant@byron.nsw.gov.au)

Dear Sir,

**RE: Review of Planning Proposal 26.2020.6.1 - Amendment to Byron LEP 2014 Housekeeping Amendments**

Reference is made to your email dated 17 March, 2021 requesting comment from Transport for NSW (TfNSW) in relation to the abovementioned planning proposal.

**Roles and Responsibilities**

The key interests of TfNSW are for the safety and efficiency of the transport network, the integrity of State infrastructure and the integration of land use and transport in accordance with *Future Transport Strategy 2056*.

Byron Bay and surrounding areas are serviced by a number of classified roads, including the Pacific Highway (HW 10) which is a classified (State) road and Ewingsdale Road (MR 545) which is a classified (Regional) road under the *Roads Act 1993* (the Act). Byron Shire Council is the roads authority for all public roads (other than freeways or Crown roads) in the local government area pursuant to Section 7 of the Roads Act. TfNSW can exercise roads authority functions for classified roads in accordance with the Roads Act and concurrence is required prior to any Council approval of works on these roads under section 138 of the Act.

**Transport for NSW Response**

TfNSW understands that the Planning Proposal is intended to make some housekeeping amendments to the Byron PEP (2014). We have reviewed the referred information and provide the following comments to assist Council in finalising the proposed amendment.

1. We have previously provided comment to Council during the preparation of a number of strategic planning documents; particularly those related to residential development and employment strategies within the Shire as well as those related to specific uses such as roadside stalls and the Artisan Food and Drink Industry provisions. We note that with the proposed amendments Council has considered, and included where appropriate comments made by TfNSW. We thank you for that and raise no objection to the amendments proposed.

2. It is also noted that certain amendments are proposed to change mapping within the Shire, including the rezoning of a number of lots/partial lots owned by TfNSW along the Pacific Highway. Those lots have been identified by this Agency as surplus lots. The amendments propose that the lots be moved from the SP2 Zone to the prevailing zone of the lot. These changes are viewed in a positive light, and it is understood that discussion has been on-going with the Property sections of TfNSW in respect to such amendments. It is requested that copies of the final mapping be provided to us in due course.

If you have any further enquiries regarding the above comments please do not hesitate to contact Cheryl Sisson, Development Services Case Officer or the undersigned on (02) 6640 1362 or via email at: [development.northern@transport.nsw.gov.au](mailto:development.northern@transport.nsw.gov.au)

Yours faithfully,



for Matt Adams  
Team Leader, Development Services  
Community and Place | Region North  
Regional & Outer Metropolitan  
Transport for NSW