

Byron Shire Council

Planning Proposal 26.2022.5.1

Amendment of Byron Local Environmental Plan 2014

Rural Tourist Accommodation

Version #3

**Date: May 2023
#E2023/46789**



**BYRON
SHIRE
COUNCIL**

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Part 1 Introduction

1.1 Objective and intended outcomes

The objectives of this planning proposal are to amend Byron Local Environmental Plan (LEP) 2014 to better align the controls for rural tourist accommodation with (i) the objectives of the rural zones and (ii) the corresponding provisions in Byron LEP 1988.

It is intended to amend Byron LEP 2014 to introduce a minimum lot size for rural tourist accommodation and reduce the number of farm stay accommodation bedrooms permitted.

The amendments presented within this planning proposal are supportive of the amendments proposed to the controls within Byron DCP 2014 Chapter D3 Tourist Accommodation.

Details of the suggested LEP amendments are outlined in Part 2.

1.2 Background

At the Planning Meeting of 20 June 2019 Council resolved 19-284 to review and amend Byron Local Environmental Plan 2014 and Byron Development Control Plan 2014 in relation to rural tourism/holiday cabins.

The resolution was made in response to a staff report which noted that the current planning framework for rural tourist accommodation was resulting in development on rural land that is not entirely consistent with the RU1 and RU2 zone objectives.

Council received a report at the Planning Meeting of 10 December 2020 reviewing the existing planning controls for rural tourist accommodation and the patterns of developments resulting from these controls. Council subsequently resolved 20-691 to prepare a planning proposal to amend Byron Local Environmental Plan 2014 and a draft amendment to Byron Development Control Plan 2014, to accord with the recommendations of the Review of Planning Controls for Rural Tourist Accommodation in Appendix 1 (E2020/94209) and to submit the proposal for a gateway determination.

This planning proposal and the supporting draft DCP chapter D3 Tourist Accommodation have been prepared with reference to the review findings (Appendix 1).

The review found that the pattern of such development under LEP 2014 has not always been closely aligned with the objectives for tourism in the Shire's rural zoned areas. In particular, there has been a prevalence of smaller sites being over-developed along with inconsistent outcomes in relation to environmental enhancement and conservation.

The review also identified the need to bring the LEP 2014 framework into closer alignment with that of Byron Local Environmental Plan 1988 ("LEP 1988"), in relation to rural tourist accommodation.

The proposed amendments to Byron DCP 2014 Chapter D3 Tourist Accommodation is attached to this planning proposal (Appendix 2) and was exhibited simultaneously.

This planning proposal was submitted for a gateway determination on 17 August 2022. A gateway was received on 25 October 2022 with conditions to remove the 20ha minimum lot size and consider an alternative clause to manage tourist and visitor accommodation. It was also a condition to include a discussion on the consistency of this proposal with the Agri-tourism reforms and the now effective North Coast Regional Plan 2041.

Clause 6.8 Rural and nature-based tourism development already exists within Byron LEP 2014 to provide considerations for tourism development to be small scale. It is considered that a minimum lot size standard in the LEP provides an effective means for ensuring sites are of an appropriate size and that the primary use remains agricultural or environmental repair to better align with the objectives of the rural zones.

Upon further discussion with Department of Planning it was noted that a 15ha lot size requirement may be considered to minimise land use conflict, provide space for environmental restoration and maintain land for primary production purposes while still providing opportunity for small scale tourist accommodation on appropriate sites.

Based on agency submissions, additional amendments have been made to the drafting.

Part 2 Explanation of provisions

The following amendments are proposed to Byron LEP 2014

1. Introduce a 15 hectare minimum lot size requirement for rural tourist accommodation as an LEP standard. (clause 4.1E)
2. Reduce the number of farm stay accommodation bedrooms permitted from 12 to 8. (clause 5.4 (5))

The drafting of the above amendments is presented below. It is noted that these amendments will be subject to Parliamentary Counsel review.

1. Clause [4.1E](#) Minimum lot size for certain tourist and residential accommodation.

It is proposed to have this clause apply to tourist and visitor accommodation as well as residential accommodation and include the following in the table:

Development type (Column 1)	Zone (Column 2)	Minimum lot area (Column 3)
Tourist and visitor accommodation (Excluding bed and breakfast and farm stay accommodation)	RU1 Primary Production, RU2 Rural Landscape	15 ha

2. Clause [5.4](#) Controls relating to miscellaneous permissible uses

(5) **Farm stay accommodation:** If development for the purposes of farm stay accommodation is permitted under this Plan, the accommodation that is provided to guests must consist of no more than 8 bedrooms.

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?

This planning proposal is the result of a staff review of the current rural tourist accommodation planning controls and council resolutions 19-284 and 20-691.

The proposal is supported by Byron Rural Land Use Strategy which is discussed further under question 4.

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

Yes. The planning proposal is considered the best means of amending the relevant rural tourism controls within Byron LEP 2014. Detailed controls are also presented within draft Byron DCP 2014 Chapter C3 Tourist Accommodation accompanying this planning proposal.

Section B Relationship to strategic planning framework

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

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

The most relevant directions for this planning proposal are discussed below.

Objective 8: Support the productivity of agricultural land – This planning proposal and draft DCP amendments aim to ensure that tourist accommodation does not become the primary use of rural land within Byron Shire. The minimum lot size of 15 hectares ensures there is adequate space on lots for continuing agricultural uses and environmental enhancement and repair. This will help to reduce pressure on and maintain important agricultural land.

Objective 10: Sustainably manage the productivity of our natural resources– ensuring tourism development within the rural areas is sited on appropriate sized lots and of a small scale will help to minimise conflicts with agricultural land uses.

Objective 12: Create a diverse visitor economy – Tourism is an important industry in the north coast and particularly within Byron Shire. Tourist accommodation in the rural areas including holiday cabins, farm stays and eco-tourist facilities will remain as a permissible use. The intent of this amendment is to ensure the scale of tourist accommodation is consistent with the zone objectives and is located on appropriate sites.

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

Byron Shire Local Strategic Planning Statement (LSPS) was endorsed by DPIE in September 2020.

The most relevant key priority within Byron Shire LSPS is to ‘Develop and implement strategies to support agriculture, agri-business and farmers’. Council has subsequently adopted the [Byron Shire Agriculture Action Plan](#) which includes a goal to ensure agriculture remains a major economic contributor to Byron Shires Gross Regional Product (GDP).

The amendments within this planning proposal and DCP seeks to ensure tourist accommodation is small scale and located on appropriately sized lots so that adequate area is available for agriculture uses on our rural land.

‘Protect and enhance our biodiversity, ecosystems and ecology’ is another relevant planning priority within the LSPS. Currently Byron DCP 2014 requires a vegetation management plan and compensatory plantings as part of any development approval for rural tourist accommodation. The review of recent applications found that this was not always possible as smaller lots did not have the space available to fulfil the environmental enhancement requirements. The proposed 15 hectare minimum lot size will ensure sufficient space on sites to contribute to environmental enhancement and not significantly detract from the potential of the site for agriculture uses. This ensures rural tourist accommodation better aligns with the objectives of the rural zones.

It is considered that this planning proposal is consistent with Byron LSPS.

Byron Rural Land Use Strategy (RLUS) was prepared in 2017 to preserve the distinctive character, values and economic capacity of the Shire’s rural areas for future generations and improve planning for all rural land uses in the Shire.

The strategy states the need to ensure tourist and visitor opportunities are compatible with our farms, rural communities and natural environments.

The following actions from the RLUS are relevant to this proposal.

Action 10 – identify opportunities in our local planning framework to improve the capacity for future rural lifestyle living and rural tourism development opportunities to deliver environmental enhancement outcomes.

Applications for rural tourist accommodation are required to provide environmental enhancement as part of their development as specified in Byron DCP 2014. Reviewing applications have shown smaller lots with high number of accommodation buildings are often unable to provide the environmental enhancement required. Introducing a 15 hectare minimum lot size requirement will ensure sufficient space on site for environmental repair and provide more options to avoid or minimise environmental impacts from the development itself.

Action 13 - Identify opportunities in our local planning framework to support and strengthen existing agricultural activities and low scale rural tourism opportunities, particularly those directly associated with primary production and / or improved conservation outcomes.

Applications have interpreted the limits on bedrooms in clause 5.4 to enable 12 separate accommodation buildings resulting in tourist development which is not considered low scale. Reducing the maximum number of bedrooms from 12 to 8 will help to ensure accommodation is low scale and allowing sufficient area to support agriculture activities on the site. Ensuring tourism accommodation remains low scale will also minimise conflicts with adjoining land uses.

It is considered that this planning proposal is consistent with Byron Rural Land Use Strategy.

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

On December 1 2022 several amendments were made to the Exempt and Complying Codes SEPP and Local Environmental Plans to reflect the NSW Agritourism planning reform. The purpose of the reform was to make it easier for farmers to use their land for agritourism to complement their existing businesses.

The reform introduced new LEP definitions including farm gate premises and farm experience premises. Exempt and complying development pathways were introduced for these new land uses as well as farm stay accommodation.

These reforms only relate to rural land with an agricultural nexus being on a commercial farm and ancillary to the farm.

The minimum lot size and bedroom limit presented within this planning proposal is consistent with the agritourism reforms as it seeks to ensure sites have sufficient space for agricultural purposes and that tourist and visitor accommodation are not the primary use of rural land within the shire.

The Agritourism and Farm Stay Accommodation Code sets a minimum lot size development standard of 15ha for the erection of buildings or the alteration or additions to buildings or manufactured homes for complying farm stay development. This ensures this development is on appropriately sized sites, as the accommodation is ancillary to the agricultural component on the land.

Byron LEP 2014 currently permits tourist cabins and farm stay accommodation in the rural zones with the primary difference being the required agricultural nexus for farm stay accommodation. It is considered a 15ha minimum lot size for tourist and visitor accommodation which includes both of these types of buildings is an appropriate control to maintain the agricultural potential of rural land within the shire.

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 Primary Production 2021	This planning proposal seeks to better align tourist accommodation with the objectives of the rural zones and minimises agricultural land use conflicts.
SEPP Exempt and Complying Development Codes) 2008 - Agritourism	This planning proposal is considered to be consistent with the Agritourism reforms within this code. This is further discussed in Q5 above.

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

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

1. Planning Systems

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
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 the Regional Plan’s vision, land use strategy, goals, directions or actions.</p>	<p>The planning proposal is considered consistent with the North Coast Regional Plan 2041. Question 3 above discusses this consistency further.</p>	Consistent
1.2 Development of Aboriginal Land Council Land	<p>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.</p>	Not currently applicable to Byron Shire	N/A

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
1.3 Approval and Referral Requirements	<p>A planning proposal must:</p> <ul style="list-style-type: none"> (a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and (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: <ul style="list-style-type: none"> i. the appropriate Minister or public authority, and ii. the Planning Secretary (or an officer of the Department nominated by the Secretary), <p>prior to undertaking community consultation in satisfaction of Schedule 1 to the EP&A Act</p>	<p>This planning proposal does not contain provisions requiring concurrence with the minister or public authorities.</p>	<p>Consistent</p>
1.4 Site Specific Provisions	<p>Applies when preparing a planning proposal that will allow a particular development to be carried out.</p>	<p>This planning proposal does not enable a particular development to be carried out or contain any site-specific development standards.</p>	<p>N/A</p>

3. Biodiversity and Conservation

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
3.1 Conservation Zones	<p>A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.</p> <p>A planning proposal that applies to land within a conservation zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with clause (5) of Direction 1.5 “Rural Lands”.</p>	This planning proposal does not apply to conservation zones.	N/A
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>	This planning proposal does not propose to alter any heritage conservation provisions.	N/A

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>(b) Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974, and</p> <p>(c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people</p>		
3.3 Sydney Drinking Water Catchments	Not applicable to Byron Shire	N/A	N/A
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.	This planning proposal does not introduce or alter any conservation zones.	N/A

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
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).	This planning proposal does not enable a recreation vehicle area	N/A

4. Resilience and Hazards

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
4.1 Flooding	This direction applies when preparing a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.	This planning proposal does not rezone flood prone land or permit development within flood prone land	Consistent
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.	This planning proposal does not rezone any land or propose any intensification of land uses within the coastal zone	Consistent
4.3 Planning for Bushfire Protection	(1) In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 3.34 of the Act, and prior to undertaking community consultation in	The planning proposal does not introduce any intensification of land uses on bushfire prone land. Consultation with RFS is required for this direction and the planning proposal is considered	Justifiably inconsistent.

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>satisfaction of clause 4, Schedule 1 to the EP&A Act, and take into account any comments so made.</p> <p>(2) A planning proposal must:</p> <p>(a) have regard to Planning for Bushfire Protection 2019,</p> <p>(b) introduce controls that avoid placing inappropriate developments in hazardous areas, and</p> <p>(c) ensure that bushfire hazard reduction is not prohibited within the Asset Protection Zone (APZ).</p>	<p>inconsistent until consultation with RFS has occurred</p>	
<p>4.4 Remediation of Contaminated Land</p>	<p>This direction applies to:</p> <p>(a) land that is within an investigation area within the meaning of the Contaminated Land Management Act 1997,</p> <p>(b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,</p> <p>(c) the extent to which it is proposed to carry out development on it for residential,</p>	<p>The planning proposal does not rezone any land or enable intensification of uses on contaminated land</p>	<p>Consistent</p>

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>educational, recreational or childcare purposes, or for the purposes of a hospital – land:</p> <ul style="list-style-type: none"> 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 ii. on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge). <p>(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"> (a) the planning proposal authority has considered whether the land is contaminated, and (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 		

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>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>		
4.5 Acid Sulfate Soils	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.	The planning proposal does not seek to rezone any land or enable intensification of uses on land containing acid sulfate soils	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>A relevant planning authority must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the relevant planning authority has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils. The relevant planning authority must provide a copy of any such study to the Planning Secretary prior to undertaking community consultation in satisfaction of clause 4 of Schedule 1 to the Act.</p>		
<p>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>The planning proposal does not seek to permit development on land within a declared mine subsidence district or unstable land.</p>	<p>N/A</p>

5. Transport and Infrastructure

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
5.1 Integrated Land Use Transport	<p>This direction applies when preparing a planning proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.</p> <p>1) A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:</p> <p>(a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and</p> <p>(b) The Right Place for Business and Services – Planning Policy (DUAP 2001).</p>	This planning proposal does not create, alter or remove a zone or a provision relating to urban land.	N/A
5.2 Reserving Land for Public Purposes	A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Planning Secretary (or an officer of the Department nominated by the Secretary).	This planning proposal does not create, alter or reduce existing zonings or reservations of land for public purposes.	N/A
5.3 Development Near Regulated	Applies when preparing a planning proposal that will create, alter or remove a zone or a provision	Not applicable	N/A

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
Airports and Defence Airfields	relating to land near a regulated airport which includes a defence airfield.		
5.4 Shooting Ranges	Applies when preparing a planning proposal that will affect, create, alter or remove a zone or a provision relating to land adjacent to and/ or adjoining an existing shooting range	Not applicable	N/A

6. Housing

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
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"> (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 	This planning proposal does not apply to residential zones	N/A

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>(c) reduce the consumption of land for housing and associated urban development on the urban fringe, and</p> <p>(d) be of good design.</p> <p>(2) A planning proposal must, in relation to land to which this direction applies:</p> <p>(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</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.	Not applicable	N/A

7. Industry and Employment

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
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> <ul style="list-style-type: none"> (a) give effect to the objectives of this direction, (b) retain the areas and locations of existing business and industrial zones, (c) not reduce the total potential floor space area for employment uses and related public services in business zones, (d) not reduce the total potential floor space area for industrial uses in industrial zones, and (e) ensure that proposed new employment areas are in accordance with a strategy that is approved by the Planning Secretary. 	This planning proposal does not apply to business or industrial zones.	N/A
7.2 Reduction in non-hosted short-term rental	This direction applies to Byron Shire Council when the council prepares a planning proposal to identify or reduce the number of days that	Not applicable	N/A

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
accommodation period	non-hosted short-term rental accommodation may be carried out in parts of its local government area.		
7.3 Commercial and Retail Development along the Pacific Highway, North Coast	Applies to land in the vicinity of the existing and/or proposed alignment of the Pacific Highway.	Not applicable	N/A

8. Resources and Energy

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
8.1 Mining, Petroleum Production and Extractive Industries	This direction applies to all relevant planning authorities when preparing a planning proposal that would have the effect of: <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 	Not applicable	N/A

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.		

9. Primary Production

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
9.1 Rural Zones	Applies when a planning proposal will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary). A planning proposal must not rezone land from a rural zone to a residential, business, industrial, village or tourist zone	This planning proposal does not alter any rural zoning or increase the permissible density of land within a rural zone.	Consistent
9.2 Rural Lands	Applies when a planning proposal: (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	This planning proposal seeks to better align the existing permissible tourist accommodation provisions with the objectives of the rural zones. No increased development is permitted from this proposal.	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>(b) changes the existing minimum lot size on land within a rural or conservation zone.</p> <p>A planning proposal must:</p> <ul style="list-style-type: none"> (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 (b) consider the significance of agriculture and primary production to the State and rural communities (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 (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 (e) promote opportunities for investment in productive, diversified, innovative and sustainable rural economic activities 	<p>It is proposed to introduce a minimum lot size of 15 hectares for tourist accommodation within the RU1 and RU2 zones. This will minimise land use conflicts and maintain viability of important farmland.</p>	

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<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</p>		

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>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 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'	This planning proposal will not impact any priority oyster aquaculture areas	Consistent
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.	The planning proposal does not rezone any rural land.	Consistent

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. This planning proposal seeks to ensure tourist accommodation is small scale in rural zones. The introduction of the minimum lot size ensures that there is sufficient space for environmental enhancement as required for rural tourist accommodation in Byron DCP.

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

The planning proposal is likely to have positive environmental outcomes as the minimum lot requirement ensures there is adequate space on site to enable environmental enhancement as required in Councils Development Control Plan.

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

The planning proposal will reduce the number of sites where tourist accommodation is permissible in the rural zones. This change is a result of reviewing Councils current planning controls, trends in development applications and their planning outcomes.

The changes will also reduce impacts on rural infrastructure, minimise land use conflicts and maintain the rural character and agricultural capability of the rural areas within the shire.

Rural tourism and tourist accommodation plays an important role in the region, however it needs to be of an appropriate scale and within suitable locations in the Shire.

This planning proposal seeks a balance of maintaining the viability of rural areas for agriculture and protecting the rural amenity while enabling appropriate tourist accommodation in suitable locations.

Section D Infrastructure

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

The planning proposal will reduce the impact on Councils rural infrastructure.

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?

At this time, no public authorities have been consulted with. Consultation with Department of Primary Industries and Rural Fire Service is recommended as part of the gateway determination.

Part 4 Mapping

No mapping amendments are required for this planning proposal.

Part 5 Community consultation

Community consultation was conducted in accordance with the Gateway determination.

The planning proposal was exhibited from 8 March to 21 April 2023. A report outlining the exhibition period and submissions received is tabled for the 8 June Planning Meeting.

Part 6 Project timeline

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

Plan making step	Estimated completion
Gateway Determination	February 2023
Agency Consultation	April 2023
Public Exhibition Period	April 2023
Submissions Assessment	May 2023
Submission of endorsed LEP amendment to Parliamentary Counsel for drafting (delegated authority)	August 2023
Council to make the LEP amendment (delegated authority)	October 2023
LEP amendment notification	November 2023

Conclusion

This planning proposal seeks to amend Byron Local Environmental Plan (LEP) 2014 to better align the controls for rural tourist accommodation with the objectives of the rural zones by;

- 1) Introducing a 15 hectare minimum lot size requirement for rural tourist accommodation.
- 2) Reducing the number of farm stay accommodation bedrooms permitted from 12 to 8. (clause 5.4 (5))

Amendments to Byron Development Control plan are proposed to support the aims of this planning proposal.

This planning proposal is a result of reviewing Councils current planning controls, trends in development applications for rural tourist accommodation and their outcomes. The amendments achieve a balance of maintaining the viability of rural areas for agriculture and protecting the rural amenity while enabling appropriate tourist accommodation in suitable locations.

Appendix

Appendix 1 – Review of Planning Controls for Rural Tourist Accommodation (E2020/94209)

Appendix 2 – Proposed amendments to Byron DCP Chapter D3 Tourist Accommodation
(E2022/34439)

Appendix 3 – Proposed amendments to Byron DCP Part A Preliminary (E2023/50568)