



Byron Shire Council

## **Planning Proposal 26.2021.6.1**

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

#### **103 Yagers Lane, Skinners Shoot**

**Version #4**

**Date: July 2023  
#E2023/73028**

## Document History

<b>Doc No.</b>	<b>Date</b>	<b>Details Comments eg Resolution No.</b>
E2022/91546	September 2022	V1 Draft Planning Proposal – reported to 13 October 2022 Council meeting for gateway
E2022/105026	October 2022	V2 Gateway Version - Council resolution 22-560 to send Planning Proposal to DPE for gateway determination – amendment to correct minor typographical errors
E2023/45585	May 2023	V3 Public Exhibition Version – amended to include additional information required by Gateway Determination
E2023/73028	July 2023	V4 Post Public Exhibition Version – amended to include additional information to address flooding issues raised by SES during exhibition period

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## Part 1 Introduction

### 1.1 Objective and intended outcomes

The objective of this planning proposal is to seek a dwelling entitlement for Lot 8 DP 8385 by amending Part 6 of Byron Local Environmental Plan (LEP) 2014 to include additional local provisions.

### 1.2 Subject land

This Planning Proposal relates to 103 Yagers Lane, Skinners Shoot legally described as Lot 8 DP 8385, as shown below in Figure 1.



Figure 1: Subject land

The land is zoned RU2 Rural Landscape in accordance with LEP 2014 (Figure 2).



Figure 2: Land zone map under LEP 2014

The land has an area of approximately 9.11 hectares and the street address is 103 Yagers Lane, Skinners Shoot.

The land contains two (2) existing unapproved dwellings. The land formerly contained a piggery which has been decommissioned for several years. The former piggery sheds remain on the site with some of the sheds being approved for use as a plant nursery with another building on the site being approved as a place of assembly.

The site is adjoined to the south by the disused rail corridor and to the east by an electricity substation – access to the substation is via the subject site from Yagers Lane. The lands adjoining to the northeast, north, northwest and west consist of rural dwellings and small scale agricultural pursuits.

### 1.3 Background

Action No. 22 of the *Byron Shire Rural Land Use Strategy 2017* (BSRLS) recommends investigation into a strategic framework for resolving dwelling entitlement issues. This strategy was endorsed by the NSW DPIE in July 2018. This action provides the strategic basis for the subject planning proposal.

Further, Council resolution 20-283 at the Ordinary Planning meeting of 18 June 2020 provides that a planning proposal may be lodged to seek a dwelling entitlement for land containing existing (as of 18 June 2020) unauthorised dwellings but has no dwelling entitlement. This resolution references the “Unauthorised Residential Accommodation Policy” which, via Council Resolution 21-448 dated 28 October 2021, has been converted to a guideline document for internal use by staff to outline the process for reactive investigations initiated by complaints and owner-initiated actions.

To support this planning proposal the following studies were provided by the applicant:

- Preliminary Contaminated Land Assessment
- On-site Wastewater Management Assessment

## Part 2 Explanation of provisions

The planning proposal seeks to include an additional local provision in Part 6 of Byron LEP 2014 to permit a dual occupancy (detached) on Lot 8 DP 8385 with development consent.

## Part 3 Justification

### Section A Need for the planning proposal

**Q1. Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?**

Yes. This Planning Proposal is the result of Action No. 22 of the *Byron Shire Rural Land Use Strategy 2017* (BSRLS) which recommends investigation into a strategic framework for resolving dwelling entitlement issues. This strategy was endorsed by the NSW DPIE in July 2018. This action provides the strategic basis for the subject planning proposal.

22.	Investigate a strategic framework for resolving dwelling entitlement issues.	Co	Leader Regulator	Landholders	Investigation outcomes reported to Council	ST
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**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 obtaining a dwelling entitlement to permit a dual occupancy (detached) on Lot 8 DP 8385 with development consent.

### 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 2036 and the North Coast Regional Plan 2041)?**

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 following actions have been identified as relevant to this proposal.

Table 1. Relevant actions from the North Coast Regional Plan 2036

Action	Comment
2.1 Focus development to areas of least biodiversity sensitivity in the region and implement the ‘avoid, minimise, offset’ hierarchy to biodiversity, including areas of high environmental value.	The proposal will not impact area of high environmental value. There are two clumps of Camphor Laurel located along the southern boundary which are located approximately 60m from the nearest existing dwelling. There are also two small clumps of vegetation mapped as subtropical rainforest that are located on



Action	Comment
	<p>the western and northern boundaries at a minimum distance of approximately 180m to the nearest dwelling.</p>
<p>3.1 Reduce the risk from natural hazards, including the projected effects of climate change, by identifying, avoiding and managing vulnerable areas and hazards.</p>	<p>Flood modelling information available to Council indicates that the majority of the site (including the site of the existing dwelling) is not inundated during the Probable Maximum Flood (PMF).</p> <p>Access to the site during a flood is compromised as Yagers Lane and Skinners Shoot Road are inundated during flood events, however there is no need to evacuate during a flood given the site has land above the PMF.</p> <p>The land is mapped as bush fire prone land and contains vegetation mapped as Category 1 (high risk), Category 2 (low risk), Category 3 (medium risk) and a vegetation buffer area.</p> <p>The existing dwellings are located within Vegetation Category 3 (medium risk) with the hazard being identified as grassland. The existing dwellings are located a minimum of 60m from vegetation identified as Category 1 (high risk).</p> <p>The existing dwellings each include an existing Asset Protection Zone (APZ). The existing APZs may need to increase in size to comply with Planning for Bushfire Protection 2019 but this can reasonably be achieved without having a significant ecological impact.</p>
<p>16.2 Ensure Aboriginal communities are engaged throughout the preparation of local growth management strategies and local environmental plans.</p>	<p>The Jali and Tweed Byron LALCs and the Arakwal Corporation will be consulted as part of the public exhibition of the planning proposal following a gateway determination.</p>
<p>18.2 Undertake Aboriginal cultural heritage assessments to inform the design of planning and development proposals so that impacts to Aboriginal cultural heritage</p>	<p>The Jali and Tweed Byron LALCs and the Arakwal Corporation will be consulted as</p>

Action	Comment
are minimised and appropriate heritage management mechanisms are identified.	part of the public exhibition of the planning proposal following a gateway determination.  An AHIMS search undertaken by the applicant did not identify any aboriginal sites or places within proximity of the subject site.
21.2 Maximise the cost-effective and efficient use of infrastructure by directing development towards existing infrastructure or promoting the co-location of new infrastructure.	The formalisation of a 'dwelling entitlement' for the two existing dwellings on the rural property does not require any significant additional infrastructure provision.

The site is not within the Urban Growth Area as contained in the North Coast Regional Plan 2036.

At the time of issue of the Gateway Determination for this Planning Proposal on 24 November 2022, the draft North Coast Regional Plan 2041 (now no longer in draft form and published on 22 December 2022) was also required to be considered.

Table 2. Consistency with the North Coast Regional Plan 2041

Requirement	Comment
GOAL 1 – Liveable, sustainable and resilient	
Objective 1 – Provide well located homes to meet demand.	The proposal is consistent with this objective providing for a detached dual occupancy within close proximity to existing infrastructure and services.
Objective 2 – Provide for more affordable and low cost housing	Not applicable
Objective 3 – Protect regional biodiversity and areas of high environmental value	The proposed provision of a dwelling entitlement for the subject land is consistent with protecting areas of high environmental value. The areas of the site containing environmental significance will be protected and enhanced.

Requirement	Comment
Objective 4 – Understand, celebrate and integrate Aboriginal culture	Consistent. The proposal is not considered likely to impact on areas of Aboriginal cultural heritage.
Objective 5 – Manage and improve resilience to shocks and stresses, natural hazards and climate change	Consistent. The existing dwellings are not inundated in the probable maximum flood and the proposal can adequately address potential bushfire hazard.
Objective 6 – Create a circular economy	Not applicable
Objective 7 – Promote renewable energy opportunities	Not applicable
Objective 8 – Support the productivity of agricultural land	Consistent. The proposal provides for the ongoing use of the subject land.
Objective 9 – Sustainably manage and conserve water resources	The proposed site development will adequately address water management.
Objective 10 – Sustainably manage the productivity of our natural resources	Not applicable
GOAL 2 – Productive and Connected	
Objective 11 – Support cities and centres and coordinate the supply of well-located employment land	Not applicable
Objective 12 – Create a diverse visitor economy	Not applicable
Objective 13 – Champion Aboriginal self-determination	Not applicable
Objective 14 – Deliver new industries of the future	Not applicable

Requirement	Comment
Objective 15 – Improve state and regional connectivity	Not applicable
Objective 16 – Increase active and public transport usage	Not applicable
Objective 17 – Utilise new transport technology	Not applicable
GOAL 3 – Growth Change and Opportunity	
Objective 18 – Plan for sustainable communities	Not applicable
Objective 19 – Public spaces and green infrastructure support connected and healthy communities	Not applicable
Objective 20 – Celebrate local character	Not applicable
Local Government Narratives	
Byron Shire Council	
Regional Priorities	
<ul style="list-style-type: none"> <li>• Support a resilient and innovative economy based on Byron Shire’s unique character, landscapes and important farmland.</li> <li>• Manage and support sustainable growth.</li> <li>• Acknowledge native title interests and Aboriginal land rights, support a partnership approach with Aboriginal landowners and native title holders and preserve aboriginal</li> </ul>	Consistent

Requirement	Comment
<p>cultural heritage assets, built, natural and intangible.</p> <ul style="list-style-type: none"> <li>• Deliver housing equitably to meet the needs of the community.</li> <li>• Support Byron Shire’s visitor economy by fostering sustainable visitation.</li> </ul>	
<p>Liveable and Resilient</p>	
<ul style="list-style-type: none"> <li>• Support the shire’s net zero target including zero waste to landfill through a circular economy.</li> <li>• Deliver mitigation and adaptation measures in response to climate change.</li> <li>• Support environmentally sustainable development that is responsive to natural hazards.</li> <li>• Protect and enhance local biodiversity through partnerships and management of environmental assets and ecological communities.</li> </ul>	<p>Consistent. The proposal is environmentally sustainable and the site has been subject to substantial works to remove weeds and improve the environmental value of the land.</p>
<p>Productive and Connected</p>	
<ul style="list-style-type: none"> <li>• Maximise opportunities associated with the growth of South East Queensland.</li> <li>• Deliver additional employment land at West Byron and other investigation sites in the Shire.</li> <li>• Sustain important farmland by encouraging regenerative farming practices and localised food production.</li> <li>• Encourage opportunities for agribusiness and agritourism, particularly in relation to organic and boutique food production.</li> </ul>	<p>Consistent. The site provides opportunities for potential agribusiness and agritourism.</p>

Requirement	Comment
<ul style="list-style-type: none"> <li>• Empower communities to shape the local economy in a manner that creates diverse and inclusive employment opportunities.</li> </ul>	
<p>Housing and Place</p>	
<ul style="list-style-type: none"> <li>• Investigate opportunities for increased housing diversity and density, encompassing multi-unit dwellings and innovative housing models in appropriate locations.</li> <li>• Prioritise the delivery of affordable housing to support the local workforce and healthy and diverse communities.</li> <li>• Encourage design-led and collaborative placemaking initiatives to support healthy lifestyles and create liveable and inclusive places.</li> <li>• Deliver Place Plans for villages, towns and key precincts that define the community’s vision and the priority projects that work towards that aspiration.</li> </ul>	<p>Consistent. The proposal provides for increased housing supply in the rural area.</p>
<p>Smart, Connected and Accessible (Infrastructure)</p>	
<ul style="list-style-type: none"> <li>• Foster stronger connections and alignment with the Northern Rivers subregion and South East Queensland.</li> <li>• Sustainably manage infrastructure need and delivery to accommodate Byron Shire’s permanent and temporary visitor populations.</li> </ul>	<p>Not applicable</p>

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

The Byron Shire Local Strategic Planning Statement (LSPS) has been created to capture the community’s land use planning priorities to 2036 and was endorsed by DPE in September 2020.

The proposal addresses the Byron Shire Local Strategic Planning Statement as per the following:

Theme – A Sustainable Shire

Planning Priority	Actions	Comment
<p>1. Protect and enhance our biodiversity, ecosystems and ecology.</p>	<p>SA1. Review and update LEP and DCP to reflect High Environmental Value vegetation mapping and implement Environmental Zones in accordance with State Government requirements.</p> <p>SA2. Review and update Byron Shire Biodiversity Conservation Strategy, and implement priority actions.</p> <p>SA3. Finalise Shire wide Integrated Pest Management Strategy, and implement priority actions.</p> <p>SA4. Implement Koala Plan of Management (KPoM) and Flying Fox Camp Management Plan.</p>	<p>The site does not include any mapped High Environmental Value Vegetation or koala habitat.</p>
<p>2. Strive to become a Sustainable community.</p>	<p>SA5. Work towards Council's zero emissions target.</p> <p>SA6. Support community environmental and sustainability projects.</p>	<p>These actions are not relevant to this Planning Proposal.</p>

Planning Priority	Actions	Comment
<p>3. Adapt to climate change and build resilience.</p>	<p>SA7. Develop a Climate Emergency Plan.</p> <p>SA8. Work in collaboration with local community, nongovernment organisations, NRJO and State Government to deliver priority adaption actions in the Shire.</p>	<p>These actions are not relevant to this Planning Proposal.</p>



Theme – A Liveable Shire

Planning Priority	Actions	Comment
<p>1. Support and celebrate our heritage, vibrant culture and diverse lifestyles.</p>	<p>LA1. Prepare a new Arts and Culture Policy to provide a strategic framework for arts and culture in Byron Shire and opportunities for people to be involved in the design and development of public art, space design and cultural interpretation.</p> <p>LA2. Prepare Cultural Heritage predictive mapping for integration into business activities, planning policies and related provisions to protect Aboriginal Heritage.</p> <p>LA3. Update Council’s Community Participation Plan (‘Strategic Planning’ section) to include specific engagement strategies with local Aboriginal communities.</p> <p>LA4. Develop local heritage studies in consultation with the local Aboriginal community, and adopt appropriate measures in planning strategies and local plans to identify, protect and conserve Aboriginal heritage.</p>	<p>The proposal requires consultation with Jali LALC, Tweed Byron LALC and Arakwal Corporation.</p>
<p>2. Create great places that support and encourage an active, healthy and connected community.</p>	<p>LA5. Deliver Open Space and Recreational services in line with Community Solutions Panel values.</p> <p>LA6. Investigate opportunities in the local planning framework (LEP and DCP provisions) to support liveable</p>	<p>A Voluntary Planning Agreement equivalent to Developer contributions will be paid to Byron Shire Council which will support open space and recreation facilities.</p>

Planning Priority	Actions	Comment
	neighbourhood principles when assessing new subdivision and infill development proposals.	
3. Support housing diversity and affordability with housing growth in the right locations.	<p>LA7. Finalise draft Byron Shire Residential Strategy and implement relevant priority actions.</p> <p>LA8. Prepare and implement planning controls to define and regulate Short Term Rental Accommodation in the Byron Shire.</p> <p>LA9. Investigate and implement planning controls to encourage an increase in the supply of affordable and inclusive housing stock.</p>	The formalisation of a dwelling entitlement for the subject property will support existing housing within the site.

#### Theme – A Thriving Shire

Planning Priority	Actions	Comment
1. Support a strong, diversified and sustainable economy based on Byron Shire's unique character, landscapes and important farmland.	<p>TA1. Facilitate and support sustainable development of our business community.</p> <p>TA2. Finalise and Implement Sustainable Visitation Strategy to guide tourism over the next 10 years.</p>	These actions are not relevant to this Planning Proposal.
2. Develop and implement strategies to support agriculture, agribusiness and farmers.	TA3. Finalise and Implement Agriculture and Agribusiness Action Plan.	The 9 hectare property has limited agricultural productivity. The site is not identified as being of high agricultural value.

Planning Priority	Actions	Comment
3. Promote and support local business development, education and employment opportunities.	<p>TA4. Develop principles/criteria for assessing appropriate locations for knowledge and creative industries.</p> <p>TA5. Develop principles/criteria for assessing appropriate locations for industry anchors, such as health and education.</p>	These actions are not relevant to this Planning Proposal.
4. Deliver an adequate supply of employment land through local growth management strategies and local environmental plans to support jobs growth.	TA6. Finalise Business & Industrial Lands Strategy and implement priority Actions.	These actions are not relevant to this Planning Proposal.

Theme – A Connected Shire

Planning Priority	Actions	Comment
1. Ensure infrastructure delivery is aligned with planned growth.	<p>CA1. Prepare infrastructure new works program in line with Community Solutions Panel values.</p> <p>CA2. Finalise Towards Zero Byron Shire Integrated Waste Management and Resource Recovery Strategy and implement priority actions.</p> <p>CA3. Finalise North Byron Catchment Flood Risk Management Strategy and implement priority actions.</p>	The subject property is not identified as being significantly affected by flooding.

Planning Priority	Actions	Comment
2. Lead partnerships to develop a network of sustainable transport	<p>CA4. Prepare an Integrated Transport and Movement Plan for the Shire.</p> <p>CA5. Investigate, in association with key stakeholders, opportunities to activate a Multiuse Rail Corridor, including potential funding sources and other activation mechanisms.</p>	While the site adjoins the rail corridor along its southern boundary the subject Planning Proposal will not have any significant impact on any future planning in relation to the rail corridor.
3. Support community wellbeing with appropriate community infrastructure.	CA6. Ensure ongoing maintenance and upgrade of inclusive community infrastructure in line with Community Solutions Panel values.	These actions are not relevant to this Planning Proposal.
4. Provide essential services and reliable infrastructure which meet an acceptable community standard.	CA7. Review and update Section 7.11 Contributions Plan for our Shire’s towns, villages and rural localities.	The Planning Proposal includes a Voluntary Planning Agreement equivalent to Developer contributions for the existing dual occupancy (detached).

In 2022, Council adopted a 10 year + *Community Strategic Plan 2032* (CSP). The plan is based on five key community objectives and their relevance to the subject planning proposal is discussed below:

Effective Leadership: We have effective decision making and community leadership that is open and informed	The planning proposal is required to be placed on public exhibition and any submissions made will be taken into consideration when making a determination.
Inclusive Community: We have an inclusive and active community where diversity is embraced and everyone is valued	The subject site is approximately 4km from Byron Bay. Although this is somewhat remote from services such as schools, shops, and health facilities this is often the case in rural residential lifestyle based communities.

Nurtured Environment: We nurture and enhance the natural environment	The planning proposal ensures the environment will be nurtured and enhanced by restricting development to land with no major environmental significance.
Ethical Growth: We manage growth and change responsibly	The planning proposal seeks to obtain a dwelling entitlement for an existing dual occupancy (detached) only. This will formalise existing development on the site and will not result in any growth in development.
Connected Infrastructure: We have connected infrastructure, transport, and facilities that are safe, accessible and reliable	The site has road access with direct frontage to Yagers Lane. Electricity, water and sewage disposal are available to the site.

On this basis, the planning proposal is consistent with Council’s CSP.

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

Not applicable.

**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 (Resilience and Hazards) 2021	<p>Chapter 4 Remediation of Land</p> <p>A Preliminary Contaminated Land Assessment prepared by Greg Alderson &amp; Associates dated May 2022 and submitted with this planning proposal provides that soil sampling results for heavy metals and organochlorines/organophosphates were below the Health Investigation Levels (HIL) in accordance with the National Environment Protection (Assessment of Site Contamination) Measure. Reporting was conducted in accordance with NSW EPA <i>Consultants Reporting on Contaminated Land – Contaminated Land 2020</i></p> <p>The subject building envelope is considered to be suitable for residential land use.</p>

State Environmental Planning Policy (SEPP)	Compliance of Planning Proposal
SEPP (Primary Production) 2021	<p>Chapter 2 Primary Production and Rural Development</p> <p><i>The aims of this Chapter are as follows:</i></p> <ul style="list-style-type: none"> <li>(a) <i>to facilitate the orderly economic use and development of lands for primary production,</i></li> <li>(b) <i>to reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources,</i></li> <li>(c) <i>to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,</i></li> <li>(d) <i>to simplify the regulatory process for smaller-scale low risk artificial waterbodies, and routine maintenance of artificial water supply or drainage, in irrigation areas and districts, and for routine and emergency work in irrigation areas and districts,</i></li> <li>(e) <i>to encourage sustainable agriculture, including sustainable aquaculture,</i></li> <li>(f) <i>to require consideration of the effects of all proposed development in the State on oyster aquaculture,</i></li> <li>(g) <i>to identify aquaculture that is to be treated as designated development using a well-defined and concise development assessment regime based on environment risks associated with site and operational factors.</i></li> </ul> <p>The subject land is zoned RU2 Rural Landscape under Byron LEP 2014. The land does not contain any regionally or state significant farmland. The planning proposal seeks to permit a dual occupancy (detached) on the land subject to development consent. The land has an area of approximately 9 hectares and, given this relatively small size, the granting of a dwelling entitlement to the land will not have any significant impact on its agricultural viability.</p> <p>This planning proposal is consistent with the SEPP.</p>
SEPP (Biodiversity and Conservation) 2021	<p>Chapter 3 Koala Habitat Protection 2020</p> <p><i>This Chapter aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living</i></p>

State Environmental Planning Policy (SEPP)	Compliance of Planning Proposal
	<p><i>population over their present range and reverse the current trend of koala population decline—</i></p> <p><i>(a) by requiring the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat, and</i></p> <p><i>(b) by encouraging the identification of areas of core koala habitat, and</i></p> <p><i>(c) by encouraging the inclusion of areas of core koala habitat in environment protection zones.</i></p> <p>Council vegetation mapping does not indicate that the land contains potential koala habitat and the planning proposal is therefore consistent with the aims of this chapter.</p>

**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> <ul style="list-style-type: none"> <li>(a) the extent of inconsistency with the Regional Plan is of minor significance, and</li> <li>(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.</li> </ul>	<p>The subject site is located outside of the Urban Growth Area boundary under the North Coast Regional Plan 2036 (NCRP). It is located in the coastal strip being located east of the Pacific Highway and is therefore inconsistent with the NCRP.</p> <p>This inconsistency can be justified because it is:</p> <ul style="list-style-type: none"> <li>(a) of minor significance (the proposal seeks a dwelling entitlement to legitimise an existing dual occupancy (detached) only); and</li> <li>(b) the planning proposal achieves the overall intent of the NCRP and does not undermine the achievement of its vision, land use strategy, goals, directions or actions.</li> </ul>	Justifiably inconsistent
1.2 Development of Aboriginal Land Council Land	Applies when preparing a planning proposal for land shown on the Land Application Map of chapter 3 of the State Environmental Planning Policy (Planning Systems) 2021.	The site is not included on the Land Application Map.	Not applicable



S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
1.3 Approval and Referral Requirements	<p>A planning proposal must:</p> <p>(a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and</p> <p>(b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of:</p> <p>i. the appropriate Minister or public authority, and</p> <p>ii. the Planning Secretary (or an officer of the Department nominated by the Secretary),</p> <p>prior to undertaking community consultation in satisfaction of Schedule 1 to the EP&amp;A Act, and</p> <p>(c) not identify development as designated development unless the relevant planning authority:</p> <p>i. can satisfy the Planning Secretary (or an officer of the Department nominated by the Secretary)</p>	<p>This planning proposal will require a future development application for use of the existing dual occupancy (detached). A future development application will require the concurrence of Essential Energy in accordance with Clause 2.48 of SEPP (Transport and Infrastructure) 2021 given that the site is located immediately adjacent to an electricity substation. A future development application may also require referral to RFS as the site is mapped as bush fire prone land.</p> <p>The proposal does not identify development as designated development.</p>	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>that the class of development is likely to have a significant impact on the environment, and</p> <p>ii. has obtained the approval of the Planning Secretary (or an officer of the Department nominated by the Secretary) prior to undertaking community consultation in satisfaction of Schedule 1 to the EP&amp;A Act.</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>(1) A planning proposal that will amend another environmental planning instrument in order to allow particular development to be carried out must either:</p> <p>(a) allow that land use to be carried out in the zone the land is situated on, or</p> <p>(b) rezone the site to an existing zone already 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</p> <p>(c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already</p>	<p>This planning proposal does seek to allow a particular development to be carried out, being the use of an existing dual occupancy (detached).</p> <p>In this case, the planning proposal is seeking an additional local provision to Part 6 of LEP 2014 to permit a dual occupancy (detached) with consent on Lot 8 DP 8385, which is consistent with this Direction.</p> <p>The planning proposal does not contain or refer to drawings that show details of the proposed development.</p>	Justifiably inconsistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>contained in the principal environmental planning instrument being amended.</p> <p>(2) A planning proposal must not contain or refer to drawings that show details of the proposed development.</p>		
1.5 – 1.17	Not applicable to Byron Shire	Not applicable	Not applicable


### 3. Biodiversity and Conservation

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
3.1 Conservation Zones	<p>(1) A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.</p> <p>(2) A planning proposal that applies to land within an 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>	The subject land does not contain any environmentally sensitive areas.	Not applicable

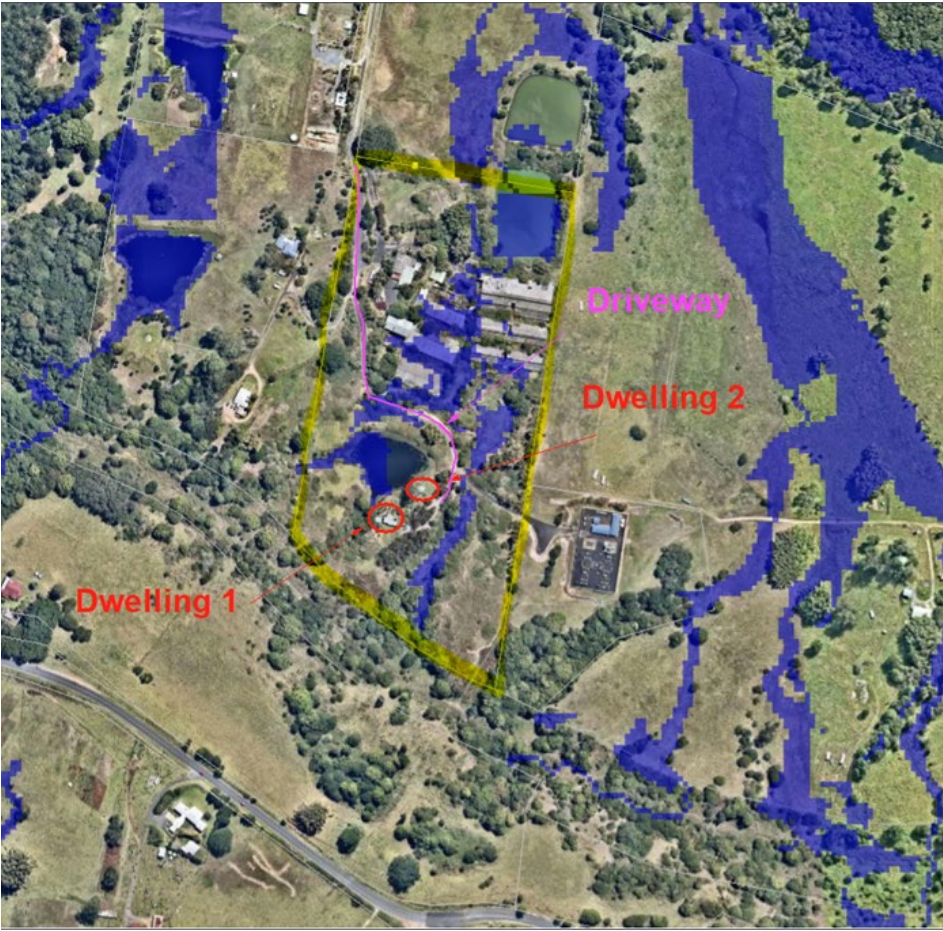
S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
3.2 Heritage Conservation	<p>A planning proposal must contain provisions that facilitate the conservation of:</p> <p>(a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area,</p> <p>(b) Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974, and</p> <p>(c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey 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>	<p>The site has no European heritage items located on it.</p> <p>An AHIMS search undertaken by the applicant did not identify any aboriginal sites or places within proximity of the subject site.</p> <p>BLEP14 already contains clauses that facilitate the conservation of Aboriginal and European heritage in Byron Shire. Sites and relics are also protected under State legislation.</p>	Consistent
3.3 Sydney Drinking Water Catchments	Not applicable to Byron Shire	Not applicable	Not applicable

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
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 alter or introduce Environmental/Conservation zones.	Not applicable
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).	Not applicable	Not applicable
3.6 Strategic Conservation Planning	This direction applies to all relevant planning authorities when preparing a planning proposal that relates to land that, under the State Environmental Planning Policy (Biodiversity and Conservation) 2021, is identified as avoided land or a strategic conservation area.	Not applicable	Not applicable

#### 4. Resilience and Hazards


S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
4.1 Flooding	<p>This direction applies when preparing a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.</p> <p>(1) A planning proposal must include provisions that give effect to and are consistent with:</p> <p>(a) the NSW Flood Prone Land Policy,</p> <p>(b) the principles of the Floodplain Development Manual 2005,</p> <p>(c) the Considering flooding in land use planning guideline 2021, and</p> <p>(d) any adopted flood study and/or floodplain risk management plan prepared in accordance with the principles of the Floodplain Development Manual 2005</p>	<p>Flood modelling information available to Council indicates that the majority of the site (including the site of the existing dwellings) is not inundated during the 1% flood event or the Probable Maximum Flood (PMF).</p> <p><u>1% flood event</u></p> 	Consistent

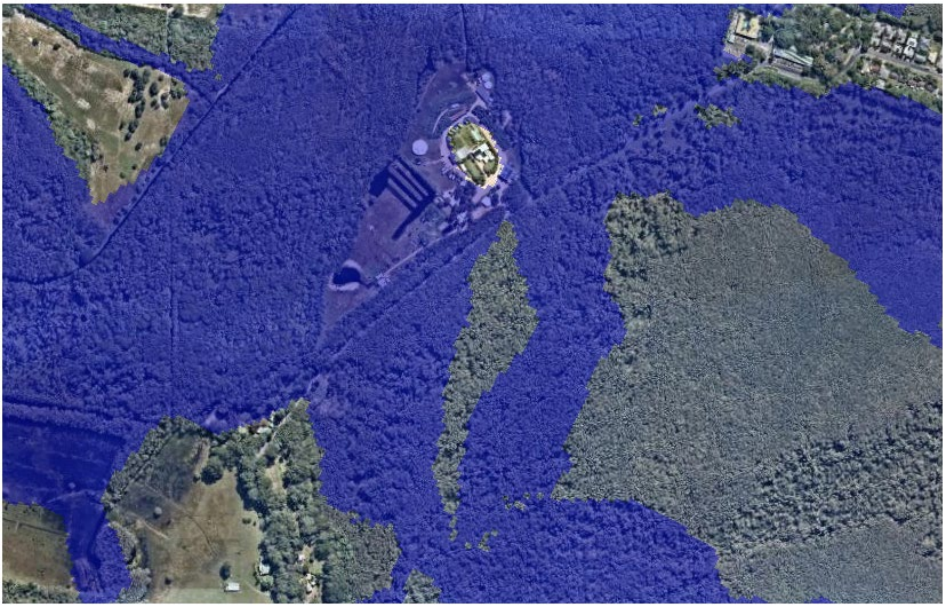


S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>and adopted by the relevant council.</p> <p>(2) A planning proposal must not rezone land within the flood planning area from Recreation, Rural, Special Purpose or Conservation Zones to a Residential, Business, Industrial or Special Purpose Zones.</p> <p>(3) A planning proposal must not contain provisions that apply to the flood planning area which:</p> <ul style="list-style-type: none"> <li>(a) permit development in floodway areas,</li> <li>(b) permit development that will result in significant flood impacts to other properties,</li> <li>(c) permit development for the purposes of residential accommodation in high hazard areas, (d) permit a significant increase in the development and/or dwelling density of that land, (e) permit development for the</li> </ul>	<p><b>PMF Flood Event</b></p> 	


S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>purpose of centre-based childcare facilities, hostels, boarding houses, group homes, hospitals, residential care facilities, respite day care centres and seniors housing in areas where the occupants of the development cannot effectively evacuate,</p> <p>(f) permit development to be carried out without development consent except for the purposes of exempt development or agriculture. Dams, drainage canals, levees, still require development consent,</p> <p>(g) are likely to result in a significantly increased requirement for government spending on emergency management services, flood mitigation and emergency response measures, which can include but are not limited to the provision of road infrastructure, flood mitigation infrastructure and utilities, or</p>	<p>Council does not have any available information regarding the inundation of Yagers Lane however there is information available regarding the inundation of Skinners Shoot Road which is estimated to be restricted for more than nine hours from at least the five year event.</p> <p>Although vehicular access to the site becomes isolated from at least the five year event due to flooding of Skinners Shoot Road (and presumably Yagers Lane), the existing dwellings are not inundated by the PMF and therefore residents of the dwellings are able to shelter during a flood event without the need to evacuate.</p> <p>In January 2023, the Department of Planning and Environment proposed to use shelter-in-place as one part of helping ensure people are safe during floods. A draft shelter-in-place guideline was on exhibition for public comment from 17 January until 28 February 2023.</p> <p>It is noted that one of the key conditions of the draft guideline to satisfy is that "... duration for flood inundation is less than six hours". However, given internal access and habitable structures on the site are not affected by such inundation (i.e. only affects vehicle access offsite via Skinners Shoot Road / Yagers Lane), shelter-in-place is still considered to be a reasonable and practical response in the circumstances.</p> <p>Given that this is not a new urban release area and the (unauthorised) dwellings already exist on the site and are not inundated by the PMF, the planning proposal does not present an intolerable increase in risk to life, health or property.</p>	



S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>(h) permit hazardous industries or hazardous storage establishments where hazardous materials cannot be effectively contained during the occurrence of a flood event.</p> <p>(4) A planning proposal must not contain provisions that apply to areas between the flood planning area and probable maximum flood to which Special Flood Considerations apply which:</p> <p>(a) permit development in floodway areas,</p> <p>(b) permit development that will result in significant flood impacts to other properties,</p> <p>(c) permit a significant increase in the dwelling density of that land,</p> <p>(d) permit the development of centre-based childcare facilities, hostels, boarding houses, group homes,</p>	<p><b>6 Hours</b></p> <p>6 hours:</p> 	

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>hospitals, residential care facilities, respite day care centres and seniors housing in areas where the occupants of the development cannot effectively evacuate,</p> <p>(e) are likely to affect the safe occupation of and efficient evacuation of the lot, or</p> <p>(f) are likely to result in a significantly increased requirement for government spending on emergency management services, and flood mitigation and emergency response measures, which can include but not limited to road infrastructure, flood mitigation infrastructure and utilities.</p> <p>(5) For the purposes of preparing a planning proposal, the flood planning area must be consistent with the principles of the</p>	<p><b>15 hours</b></p> <p>15 hours:</p> 	



S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>Floodplain Development Manual 2005 or as otherwise determined by a Floodplain Risk Management Study or Plan adopted by the relevant council.</p>	<p>The dams and drainage lines on the land are identified below.</p> 	

<b>S. 9.1 Direction</b>	<b>Application</b>	<b>Relevance to this planning proposal</b>	<b>Consistency</b>
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 - comprising the coastal wetlands and littoral rainforests area, coastal vulnerability area, coastal environment area and coastal use area - and as identified by chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.	The site is not subject to chapter 2 of State Environmental Planning Policy (Resilience and Hazards) 2021.	Not applicable
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	<p>The land is mapped as bush fire prone land and contains vegetation mapped as Category 1 (high risk), Category 2 (low risk), Category 3 (medium risk) and a vegetation buffer area.</p> <p>Council staff will consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination.</p> <p>The existing dwellings are located within Vegetation Category 3 (medium risk) with the hazard being identified as grassland. The existing dwellings</p>	Justifiably Inconsistent (referral to RFS is required)

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>consultation in satisfaction of clause 4, Schedule 1 to the EP&amp;A Act, and take into account any comments so made.</p> <p>(2) A planning proposal must:</p> <ul style="list-style-type: none"> <li>(a) have regard to Planning for Bushfire Protection 2019,</li> <li>(b) introduce controls that avoid placing inappropriate developments in hazardous areas, and</li> <li>(c) ensure that bushfire hazard reduction is not prohibited within the Asset Protection Zone (APZ).</li> </ul> <p>(3) A planning proposal must, where development is proposed, comply with</p>	<p>are located a minimum of 60m from vegetation identified as Category 1 (high risk).</p> <p>The existing dwellings each include an existing Asset Protection Zone (APZ). The existing APZs may need to increase in size to comply with Planning for Bushfire Protection 2019 but this can reasonably be achieved without a having a significant ecological impact.</p> <p>The planning proposal does not propose further development and only seeks the opportunity to obtain consent for use of existing buildings.</p>	

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>the following provisions, as appropriate:</p> <p>(a) provide an Asset Protection Zone (APZ) incorporating at a minimum:</p> <p>i. an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for 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</p>		

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>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 Rural Fires Act 1997), the APZ provisions must be complied with,</p> <p>(c) contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks,</p> <p>(d) contain provisions for adequate water supply for firefighting purposes,</p> <p>(e) minimise the perimeter of the area of land</p>		

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>interfacing the hazard which may be developed,</p> <p>(f) introduce controls on the placement of combustible materials in the Inner Protection Area.</p>		
4.4 Remediation of Contaminated Land	<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</p>	<p>A report has been submitted with the planning proposal prepared by Greg Alderson &amp; Associates dated May 2022 which provides that soil sampling results for heavy metals and organochlorines/organophosphates were below the Health Investigation Levels (HIL) in accordance with NEPM (2013) Table 1 A (1) Column A – ‘Standard’ Residential with garden/accessible soil (home grown produce &lt;10% fruit and vegetable intake (no poultry), also includes childcare centres, preschools and primary schools. Reporting was conducted in accordance NSW EPA Consultants Reporting on Contaminated Land – Contaminated Land 2020.</p> <p>The building envelopes occupied by the existing dwellings are considered suitable for residential use.</p>	Consistent



S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>residential, educational, recreational or childcare purposes, or for the purposes of a hospital – land:</p> <p>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</p> <p>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> <p>(1) A planning proposal authority must not include in a particular zone (within the meaning of the local environmental plan) any</p>		

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>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> <p>(a) the planning proposal authority has considered whether the land is contaminated, and</p> <p>(b) if the land is contaminated, the planning proposal authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used, and</p> <p>(c) if the land requires remediation to be made suitable for any purpose for which land in that</p>		

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

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
4.5 Acid Sulfate Soils	<p>This direction applies to all relevant planning authorities that are responsible for land having a probability of containing acid sulfate soils when preparing a planning proposal that will apply to land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps held by the Department of Planning and Environment.</p> <p>(1) The relevant planning authority must consider the Acid Sulfate Soils Planning Guidelines adopted by the Planning Secretary when preparing a planning proposal that applies to any land identified on the Acid Sulfate Soils Planning Maps as having a probability of acid sulfate soils being present.</p> <p>(2) When a relevant planning authority is preparing a planning</p>	The Acid Sulfate Soils Planning Maps held by the Department of Planning and Environment do not apply to the land.	Not applicable

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>proposal to introduce provisions to regulate works in acid sulfate soils, those provisions must be consistent with:</p> <p>(a) the Acid Sulfate Soils Model LEP in the Acid Sulfate Soils Planning Guidelines adopted by the Planning Secretary, or</p> <p>(b) other such provisions provided by the Planning Secretary that are consistent with the Acid Sulfate Soils Planning Guidelines.</p> <p>(3) 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</p>		

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>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) Where provisions referred to under 2(a) and 2(b) above of this direction have not been introduced and the relevant planning authority is preparing a planning proposal that proposes an intensification of land uses on land identified as having a probability of acid sulfate soils on the Acid Sulfate Soils Planning Maps, the planning proposal must contain provisions consistent with 2(a) and 2(b).</p>		

<b>S. 9.1 Direction</b>	<b>Application</b>	<b>Relevance to this planning proposal</b>	<b>Consistency</b>
4.6 Mining Subsidence and Unstable Land	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.	This planning proposal does not impact on any mine subsidence area.  The site is not identified as being potentially unstable.	Not applicable

## 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>	The land is not located within an existing or proposed urban zone.	Not applicable
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).	The planning proposal does not relate to public land.	Not applicable
5.3 Development Near Regulated Airports and Defence Airfields	Applies when preparing a planning proposal that will create, alter or remove a zone or a provision relating to land near a regulated airport which includes a defence airfield.	The land is not near a regulated airport that includes a defence airfield.	Not applicable



S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
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	The land is not adjacent to, or adjoining, an existing shooting range.	Not applicable

## 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), or any other zone in which significant residential development is permitted.</p> <p>(1) A planning proposal must include provisions that encourage the provision of housing that will:</p> <ul style="list-style-type: none"> <li>(a) broaden the choice of building types and locations available in the housing market, and</li> <li>(b) make more efficient use of existing infrastructure and services, and</li> </ul>	The land is not located in a residential zone or a zone in which significant residential development is permitted.	Not applicable

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 Manufactured Home Estates	Applies when a planning proposal affects land for Caravan Parks and Manufactured Home Estates.	Not applicable	Not applicable

## 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"> <li>(a) give effect to the objectives of this direction,</li> <li>(b) retain the areas and locations of existing business and industrial zones,</li> <li>(c) not reduce the total potential floor space area for employment uses and related public services in business zones,</li> <li>(d) not reduce the total potential floor space area for industrial uses in industrial zones, and</li> <li>(e) ensure that proposed new employment areas are in accordance with a strategy that is approved by the Planning Secretary.</li> </ul>	The land is not within an existing or proposed business or industrial zone.	Not applicable
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 non-hosted short-term rental accommodation	Not applicable	Not applicable

<b>S. 9.1 Direction</b>	<b>Application</b>	<b>Relevance to this planning proposal</b>	<b>Consistency</b>
accommodation period	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.	The land is not within the vicinity of the Pacific Highway.	Not applicable

## 8. Resources and Energy

<b>S. 9.1 Direction</b>	<b>Application</b>	<b>Relevance to this planning proposal</b>	<b>Consistency</b>
8.1 Mining, Petroleum Production and Extractive Industries	<p>This direction applies to all relevant planning authorities when preparing a planning proposal that would have the effect of:</p> <p>(a) prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or</p> <p>(b) restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use</p>	<p>The planning proposal will not have the effect of prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials.</p> <p>The planning proposal will not restrict the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance.</p>	Not applicable

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	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	<p>Applies when a 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).</p> <p>A planning proposal must:</p> <p>(a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.</p> <p>(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)</p>	<p>The planning proposal does not propose rezoning.</p> <p>The planning proposal seeks to obtain a dwelling entitlement to allow for consent to be sought for the use of an existing dual occupancy (detached) in the RU2 zone.</p> <p>This will theoretically increase the density of the land as the land does not have a dwelling entitlement and the existing dual occupancy (detached) is unauthorised. This is considered to be an increase in permissible density that is of minor significance.</p> <p>This Planning Proposal is the result of Action No. 22 of the Byron Shire Rural Land Use Strategy 2017 (BSRLS) which recommends investigation into a strategic framework for resolving dwelling entitlement issues. This strategy was endorsed by the NSW DPIE in July 2018. This action provides</p>	Justifiably inconsistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
		<p>the strategic basis for the subject planning proposal.</p> <p>The BSRLS is consistent with the objective of this direction to protect the agricultural production value of rural land.</p> <p>The subject land is not specifically identified in the BSRLS but is generally recognised by Action No. 22.</p>	
9.2 Rural Lands	<p>This direction applies when a relevant planning authority prepares a planning proposal for land outside the local government areas of lake Macquarie, Newcastle, Wollongong and LGAs in the Greater Sydney Region (as defined in the Greater Sydney Commission Act 2015) other than Wollondilly and Hawkesbury, that:</p> <p>(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</p> <p>(b) changes the existing minimum lot size on land within a rural or conservation zone.</p> <p>A planning proposal must:</p> <p>(a) be consistent with any applicable strategic plan, including regional and district plans</p>	<p>The planning proposal will affect land within an existing rural zone.</p> <p>This Planning Proposal is the result of Action No. 22 of the <i>Byron Shire Rural Land Use Strategy 2017</i> (BSRLS) which recommends investigation into a strategic framework for resolving dwelling entitlement issues. This strategy was endorsed by the NSW DPIE in July 2018. This action provides the strategic basis for the subject planning proposal.</p> <p>The subject site is located outside of the Urban Growth Area boundary under the North Coast Regional Plan 2036 (NCRP). It is located in the coastal strip being located east of the Pacific Highway and is therefore inconsistent with the NCRP.</p>	Justifiably inconsistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>endorsed by the Planning Secretary, and any applicable local strategic planning statement</p> <p>(b) consider the significance of agriculture and primary production to the State and rural communities</p> <p>(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</p> <p>(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</p> <p>(e) promote opportunities for investment in productive, diversified, innovative and sustainable rural economic activities</p> <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>This inconsistency can be justified because it is:</p> <p>(a) of minor significance (the proposal seeks a dwelling entitlement to legitimise an existing dual occupancy (detached) only); and</p> <p>(b) the planning proposal is consistent with the objectives of this direction.</p> <p>The proposal will not have any significant impact on the environment or cultural heritage.</p> <p>The proposal does not result in any fragmentation of rural land and does not present any significant land use conflict.</p> <p>The proposal has demonstrated consistency with the Byron Shire Local Strategic Planning Statement.</p> <p>The land is not mapped as state or regionally significant farmland.</p>	

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



S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	ii. is necessary taking account of existing and future demand and supply of rural residential land.		
9.3 Oyster Aquaculture	Applies when preparing a planning proposal in 'Priority Oyster Aquaculture Areas'	Not applicable	Not applicable
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 land is not mapped as State significant farmland, regionally significant farmland, or significant non-contiguous farmland.	Not applicable

## 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. The planning proposal seeks to permit a dual occupancy (detached) with development consent on land zoned RU2. The dual occupancy already exists with significant Asset Protection Zones already established around each dwelling.

It is highly unlikely that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the planning proposal.

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

No. The planning proposal ultimately seeks development consent for the use of an existing dual occupancy (detached) which will not result in any significant physical change to the land.

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

The planning proposal will have minimal social and economic effects as the site already contains an existing dual occupancy (detached). The site also contains an approved plant nursery though any cumulative impacts arising from this planning proposal are considered to be minimal.

## Section D Infrastructure

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

The existing public road network via Yagers Lane and Skinners Shoot Road is suitable to accommodate the minimal additional traffic generated by a dual occupancy (detached) without any need for upgrades to be undertaken.

## 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?**

The Gateway determination has yet to be issued. It is anticipated that the following authorities and agencies will be consulted during public exhibition of the planning proposal:

- Rural Fire Service
- Essential Energy
- Tweed Byron LALC
- Jali LALC
- Arakwal Corporation

## Part 4 Mapping

No mapping amendments are required for this planning proposal.

## Part 5 Community consultation

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

Notification of the exhibited planning proposal will include:

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

## Part 6 Project timeline

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

<b>Plan making step</b>	<b>Estimated completion</b>
Gateway Determination	December 2022
Agency Consultation	February – March 2023
Public Exhibition Period	February – March 2023
Submissions Assessment	June 2023
Submission of endorsed LEP to DPIE for finalisation	July 2023
LEP amendment notification	September 2023

## Conclusion

This planning proposal seeks to amend Byron Local Environmental Plan (LEP) 2014 to permit a dual occupancy (detached) with development consent on Lot 8 DP 8385, 103 Yagers Lane Skinners Shoot.

The land contains an existing dual occupancy (detached) without a dwelling entitlement and has been constructed and used without consent.

The planning proposal is supported by a preliminary contaminated land study and an on-site wastewater management assessment. These studies conclude that the site is suitable for the use of the existing dual occupancy (detached).

The planning proposal has been placed on public exhibition in accordance with the Gateway Determination and has been amended where appropriate to address submissions.

It is appropriate that the planning proposal be sent to the NSW DPE for finalisation.

# Appendix

Appendix 1 – [Preliminary Contaminated Land Assessment](#) (E2022/91565)

Appendix 2 – [On-Site Wastewater Management Assessment](#) (E2022/91586)