

Byron Shire Council

Planning Proposal 26.2022.9.1

Heritage Amendments to Byron Local Environmental Plan 2014

Post Public Exhibition Version #4

Date: June 2024

#E2024/60938



**BYRON
SHIRE
COUNCIL**

Document History

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Contents

Part 1	Introduction	3
1.1	Objective and intended outcomes	3
1.2	Background.....	4
Part 2	Explanation of provisions	6
Part 3	Justification	7
Section A	Need for the planning proposal.....	7
Section B	Relationship to strategic planning framework	7
Section C	Environmental, social and economic impact	28
Section D	Infrastructure	28
Section E	State and Commonwealth Interests.....	28
Part 4	Mapping	31
Part 5	Community consultation.....	32
Part 6	Project timeline	35
Conclusion	36
Appendix 1	37

Part 1 Introduction

1.1 Objective and intended outcomes

The objective of this planning proposal is to amend Byron LEP 2014 by the addition of 17 heritage items in Part 1 of Schedule 5 Environmental Heritage. The new heritage items are listed below and can be found in Appendix 1.

1. Group of Dwellings - 17, 18, 20, 21, 26 Charlotte Street, Bangalow (23 Charlotte Street deleted)
2. Deleted
3. Group of Dwellings - 9, 11, 13, 15, 17, 25 Lismore Road, Bangalow (19 Lismore Road deleted)
4. Deleted
5. Deleted
6. Deleted
7. Deleted
8. Deleted
9. Deleted
10. 26 Mullumbimbi Street, Brunswick Heads
11. 28 Mullumbimbi Street, Brunswick Heads
12. Pair of Cottages - 40 and 42 Cowper Street, Byron Bay
13. Carabene (The Farm) - 11 Ewinsdale Road, Ewinsdale
14. Deleted
15. Deleted
16. 221 Coolamon Scenic Drive, Coorabell
17. 175 Wilsons Creek Road, Wilsons Creek

1.2 Background

The planning proposal presents additional items to be considered for inclusion in Schedule 5 of Byron LEP 2014. The items presented have been endorsed by the Heritage Advisory Committee and private landowners have been consulted. Pre consultation has also occurred with properties owners identified within what was previously included being the proposed Brunswick Heads Heritage Conservation Area. Formal consultation will occur once a gateway determination is received.

The items have been assessed by Council’s Heritage Advisor for their suitability of listing within Byron LEP 2014.

The Planning Proposal was deferred at the 8 December Council (Planning) Meeting which included the addition of a Heritage Conservation Area within Brunswick Heads. Following discussion at a Councillor workshops the options to proceed with a planning proposal for items listings only and remove the addition of a heritage conservation area was presented at the 12 October Council (Planning) Meeting. This option was recommended to proceed for gateway determination.

The Planning Proposal was publicly exhibited and Government Agencies were consulted in accordance with the Gateway Determination. The public exhibition period commenced on 14 March 2024 and concluded on 17 April 2024. Subsequent to exhibition/consultation the Planning Proposed is amended by deleting the following items/sites.

Item No	Description
Private properties	
1	23 Charlotte Street, Bangalow (1 of 6 dwellings in Item 1)
2	7 Leslie Street, Bangalow
3	19 Lismore Road, Bangalow (1 of 7 dwellings in Item 3)
9	30 Fingal Street, Brunswick Heads
14	24 Coolamon Scenic Drive, Mullumbimby
15	5 Main Arm Road, Mullumbimby
Crown/Council	
4	War Memorial Reserve – Lot 6 Sec 1, DP 758171, Brunswick Heads (Crown Land)
5	Foreshore Reserve, Brunswick Heads (Crown Land)
6	Housie Shed & former Ambulance Shed, Banner Park Reserve Lot 406 DP 728643, Brunswick Heads (Crown Land)
7	South Arm Bridge Road Reserve (Council owned asset)
8	Boulevard plantings and Pioneer Memorial Park Tweed Street, Brunswick Heads (Crown Land)

Part 2 Explanation of provisions

The proposed outcome will be achieved by amendment of Byron Local Environmental Plan 2014 by adding items to Schedule 5 as outlined in Appendix 1 and identifying the items on the appropriate Heritage LEP Maps.

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?

The Planning Proposal is consistent with the objectives of Byron Heritage Strategy 2020-2024, Item 2 'to identify places of heritage significance both Indigenous and Non Indigenous, buildings, sites, natural items, cultural landscapes, archaeological and moveable items in Byron Shire and implement measures to protect their integrity and significance.'

It is also consistent with Byron Shire's Local Strategic Planning Statement adopted in September 2020 which includes Planning Priorities which seek to celebrate and protect historic heritage.

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

Yes. Amending the Byron Local Environmental Plan 2014 is the only way to achieve the objectives of the 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 2036)?

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 region's strengths and natural environment.

The Planning Proposal is supported by Strategy 12.1 of the North Coast Regional Plan 2041. Where Council strategic planning and local plans should consider opportunities to '*protect heritage, biodiversity and agriculture to enhance cultural tourism, agri-tourism and eco-tourism*'

The planning proposal is also considered consistent with Objective 20: Celebrate local character of the North Coast Regional Plan 2041.

Heritage is distinct from local character, although there are often common elements between a conservation area and a place with a valued or distinctive local character.

Managing heritage is not just about managing the material culture of the past, it is also about understanding how heritage influences and shapes communities today

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heritage is not just about managing the material culture of the past, it is also about understanding how heritage influences and shapes communities today.

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 Planning Proposal is consistent with Byron Shire Council's adopted Community Strategic Plan (2028) which sets out under Society and Culture objectives to celebrate our unique diverse lifestyles and collective community culture. This links to a sense of belonging and links to cultural heritage and recognised heritage value of places within the Shire.

The proposal is consistent with Planning Priorities of the Byron LSPS.

SP2 To strive to become a sustainable community (heritage conservation is highly consistent with sustainability)

LP1 Support and celebrate our heritage, vibrant culture and diverse lifestyles.

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

The items are of local significance and the planning proposal seeks to conserve the heritage values of the area.

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
State Environmental Planning Policy (Transport and Infrastructure) 2021	State bodies are required to consult with Council on development with impacts on Council related infrastructure and local heritage.
State Environmental Planning Policy (Biodiversity and Conservation) 2021	The proposed heritage items raise no conflicts with the provisions for protection of native vegetation and habitat.
State Environmental Planning Policy (Resilience and Hazards) 2021	Flooding, Bushfire are acknowledged general risks to the LGA area and would need to be assessed in relation to any development. The protection of heritage items raise no potential conflicts with risk management.

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 consistent with the North Coast Regional Plan 2041. To celebrate buildings of local heritage significance in ‘Objective 20 Celebrate local character’.</p>	<p>Consistent</p>
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>	<p>Not currently applicable to Byron Shire.</p>	<p>Not applicable</p>

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), prior to undertaking community consultation in satisfaction of Schedule 1 to the EP&A Act 	<p>The planning proposal does not create provisions that require concurrence or referral.</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>The planning proposal does not allow a particular type of development.</p>	<p>Not applicable</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 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 planning proposal does not reduce environmental conservation standards.	Consistent
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>	The planning proposal seeks to identify additional items to facilitate the heritage conservation of the Byron Shire.	Consistent.

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	Not applicable.	Not applicable
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.	The planning proposal does not introduce or alter any Environmental Conservation zones.	Not applicable

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).	The planning proposal does not enable land to be used for a recreation vehicle area.	Consistent
6.3 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	This direction applies when preparing a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.	The planning proposal does not increase development in flood prone areas or impact any of the existing flood planning provisions.	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.	The planning proposal does not increase or enable development in the coastal zone.	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
<p>4.3 Planning for Bushfire Protection</p>	<p>(1) In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 3.34 of the Act, and prior to undertaking community consultation in satisfaction of clause 4, Schedule 1 to the EP&A Act, and take into account any comments so made.</p> <p>(2) A planning proposal must:</p> <ul style="list-style-type: none"> (a) have regard to Planning for Bushfire Protection 2019, (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and (c) ensure that bushfire hazard reduction is not prohibited within the Asset Protection Zone (APZ). 	<p>The planning proposal does not increase or enable development on bushfire prone land.</p>	<p>Consistent</p>
<p>4.4 Remediation of Contaminated Land</p>	<p>This direction applies to:</p> <ul style="list-style-type: none"> (a) land that is within an investigation area within the meaning of the Contaminated Land Management Act 1997, 	<p>The planning proposal does not enable any particular development to be carried out on contaminated land.</p>	<p>Consistent</p>

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

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<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 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>Applies when preparing a planning proposal that will apply to land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps held by the Department of Planning and Environment.</p> <p>A relevant planning authority must not prepare a planning proposal 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>	The planning proposal does not enable any particular development to be carried out on land mapped as containing Acid Sulfate Soils.	Consistent
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	The planning proposal does not permit development on land within a declared mine district or identified as unstable.	Not applicable

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	of a public authority and provided to the relevant planning authority.		

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 planning proposal does not enable additional development and is not inconsistent with the applicable transport guidelines and policy.	Consistent
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	The planning proposal create, alter or reduce existing zonings or provisions of land for public purposes.	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	Secretary (or an officer of the Department nominated by the Secretary).		
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 planning proposal does not apply to land near a regulated airport.	Not applicable
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 planning proposal does not apply to land near a 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).</p> <p>(1) A planning proposal must include provisions that encourage the provision of housing that will:</p>	The planning proposal seeks to conserve the heritage value of several buildings within the shire. The planning proposal is considered consistent with this direction.	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>(a) broaden the choice of building types and locations available in the housing market, and</p> <p>(b) make more efficient use of existing infrastructure and services, and</p> <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.	The planning proposal does not alter land or provisions applying to caravan parks or manufactured home estates.	Consistent

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. 	<p>The planning proposal includes land within the business zone. The planning proposal does not reduce the floor space for employment uses or impact the business zones function.</p>	<p>Consistent.</p>
7.2 Reduction in non-hosted short-term rental	<p>This direction applies to Byron Shire Council when the council prepares a planning proposal to identify or reduce the number of days that</p>	<p>Not applicable.</p>	<p>Not applicable</p>

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.	Not applicable

8. Resources and Energy

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
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>	Not applicable.	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 proposal will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary).</p> <p>A planning proposal must not rezone land from a rural zone to a residential, business, industrial, village or tourist zone</p>	The planning proposal does not rezone land or increase the density of rural land.	Consistent
9.2 Rural Lands	<p>Applies when a planning proposal:</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>	The planning proposal does not rezone land or increase the density of rural land.	Consistent

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

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

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>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'	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 planning proposal does not rezone any 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?

The addition of items in Schedule 5 will have no adverse impacts upon natural habitat.

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

The addition of items in Schedule 5 will have no adverse environmental impacts. The effect of the planning proposal is to positively protect the heritage significance and values of places within the Byron Shire Council area for future generations. There are no proposals which would have a negative environmental impact.

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

No identified negative social or economic effects are likely to occur as a result of the Planning Proposal. The Planning Proposal is aimed at protecting significant places and items for future generations. This is likely to have positive social and economic impacts. Areas of high heritage values are usually synonymous with sought after places for living and tourism. The proposal was initiated by the community run Brunswick Heads Progress Association and Chamber of Commerce seeking to protect the values of the village which are enjoyed by residents and visitors alike. The various individual and group items have been identified through some owner requests or by community awareness and supported through Councils Heritage Advisory Committee at a preliminary stage.

Residents and owners were consulted at a pre LEP stage and a public exhibition has been held of the draft proposal, the heritage report and findings. Individual letters were sent out to all property owners in the area seeking feedback. Results showed predominant support for the proposal of items listings.

Section D Infrastructure

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

The planning proposal does not create the need for any additional public 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?

Government agencies were consulted in accordance with the Gateway Determination and a summary of the consultation is provided below.

Submission Issues	Staff comment
New South Wales Rural Fires Service	The NSW RFS has considered the information submitted and subsequently raise no concerns or issues in relation to bush fire.
Heritage NSW	Heritage NSW has considered the information submitted and subsequently raise no concerns or issues.
Crown Lands	<p>Crown Lands has no objections, however, has requested that additional requirements for items 4, 5, 6, 7 & 8 are addressed. Details provided below.</p> <p>a) War Memorial Reserve, Fawcett Street, Brunswick Heads Crown Lands requested that Council must seek advice from its Native Title manager in relation to Native Title requirements or implications. Advice has been sought but not received at the time of writing.</p> <p>b) Foreshore reserves and Norfolk pine cultural plantings Crown Lands requested: Cadastral mapping corrections; Lot 7007 DP 1113388 is under Aboriginal Land Claim and formal consultation is required with the claimant body; and Council must seek advice from its Native Title manager in relation to Native Title requirements or implications. Advice has been sought but not received at the time of writing.</p> <p>c) Housie shed and former ambulance shed Crown lands has requested: the Planning Proposal be amended to describe the site as “Tom Kendall Park” and not “Banner Park”; formal consultation with Reflections Holidays as the reserve manager of Lots 416 DP 28666 and Lot 408 DP 728643; and Council must seek advice from its Native Title manager in relation to Native Title requirements or implications. Advice has been sought but not received at the time of writing.</p> <p>The Planning proposal correctly identifies the site containing the Housie shed and former ambulance shed as Banner Park. Tom Kendall Park is located within New Brighton and this change has not been incorporated into the Planning Proposal.</p> <p>d) South Arm bridge Crown Lands has requested: that Byron Shire Council must investigate status and easement requirements relevant to this asset to ensure legal occupation, as the bridge is not a DPHI - Crown Lands asset; and Council must seek advice from its Native Title manager in relation to Native Title requirements or implications. Advice has been sought but not received at the time of writing.</p> <p>e) Boulevard plantings and Pioneer Memorial Park Crown Lands has requested: Council must seek advice from its Native Title manager in relation to Native Title requirements or implications; formal consultation with the Tweed Byron LALC in relation to any native title claims over Lot 587 DP 755692, Lot 398 DP 724682; and</p>

Submission Issues	Staff comment
	<p>consultation with Reflections Holidays (Crown Land Manager of Lot 416 DP 28666).</p> <p>Tweed Byron LALC have been consulted in relation to any native title claims over Lot 587 DP 755692, Lot 398 DP 724682. No response received at the time of writing.</p> <p>Staff comment and justification for recommendation</p> <p>Further consultation for the Crown land sites and the Council owned bridge could potentially 'derail' the progress of the entire heritage planning proposal due to non-compliance with the tight time frames of the Gateway Determination. There is no imminent risk associated with not progressing the heritage listing for these publicly owned sites at this stage. In the unlikely event that circumstances change and there were to be imminent risk of, say development pressure, Council can always apply for an 'Interim Heritage Order' for the subject properties.</p> <p>Recommendation</p> <p>Delete the four Crown land sites and the Council owned South Arm Bridge (Items 4, 5, 6, 7 & 8) from this planning proposal.</p>
<p>NSW Department of Climate Change, Energy, the Environment and Water</p>	<p>Raises no specific concerns or objections in relation to this proposal.</p>

Part 4 Mapping

Amendments will be required to the following Byron LEP 2014 map sheets to reflect the additional heritage items:

Map sheet	Relevant items
Sheet HER_002DA	10 & 11 (Items 4, 5, 6, 7, 8 & 9 deleted)
Sheet HER_002	Part 17
Sheet HER_002BA	Part 17 (Items 14 & 15 deleted)
Sheet HER_003	13 & 16
Sheet HER_003CC	12
Sheet HER_003CBB	1 & 3 (Item 2 deleted)

Note. This mapping table has been amended post exhibition in accordance with Section 1.2 of this report.

Errors have also been corrected post exhibition as follows:

- Item 16 is in Sheet HER_003 and not Sheet HER_002;
- There is no Item 19 and this has been deleted from Sheet HER_002BA
- Item 17 is partly in Sheet HER_002 and partly in Sheet HER_002BA and not in Sheet HER_003

Part 5 Community consultation

Pre consultation has occurred with landowners of potential heritage items.

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

The Planning Proposal was publicly exhibited, in accordance with the Gateway Determination, from 14 March 2024 to 17 April 2024. The Table below provides a brief submissions analysis. The reasons for objection included but are not limited to: concern the property was not worthy of heritage listing; cost of maintenance; complexity of seeking approval for minor work such as painting; and concern about impact on property values.

Submission Issues	Staff comment
Bangalow	
23 Charlotte St, Bangalow Landowner does not support listing. Considers the existing Bangalow Conservation Area is a good middle ground.	Recommendation Remove 23 Charlotte Street, Bangalow from this planning proposal.
7 Leslie Street, Bangalow Landowner does not support listing. Stormwater concerns regarding proposed listing.	The listing of 7 Leslie Street would not impact on the stormwater drainage of Leslie Street or prevent owners from upgrading drainage in this area. Recommendation Remove 7 Leslie Street, Bangalow from this planning proposal.
19 Lismore Road, Bangalow Landowner objection to the proposed listing.	Recommendation Remove 19 Lismore Road, Bangalow from this planning proposal.
Bangalow - general Support for the proposed listings by the Bangalow Community Association.	Comments noted. Eleven of the proposed fourteen houses in Bangalow publicly exhibited for listing are still recommended for inclusion in the planning proposal.
7 Leslie Street, Bangalow The shed described below was removed from 7 Leslie St Bangalow shortly after the	Comments noted.

Submission Issues	Staff comment
<p>new owners moved in. They then added a 'pod' temporary building at the rear in a clashing turquoise colour. This highlights the importance of heritage classification.</p>	<p>The owner of 7 Leslie Street objected to the proposed listing. A recommendation for 7 Leslie Street appears elsewhere in Table 2.</p>
Brunswick Heads	
<p>30 Fingal Street, Brunswick Heads</p> <p>Landowner objection to the proposed listing.</p>	<p>Recommendation</p> <p>Remove 30 Fingal Street (the Brunswick Picture House) from this planning proposal.</p>
<p>Brunswick Heads - general</p> <p>Support for all 8 items proposed from Brunswick Heads.</p>	<p>Comments noted.</p> <p>To progress the planning proposal in accordance with Gateway timeframe, the 4 Crown land sites and the Council owned South Arm Bridge are proposed for deletion from this planning proposal. The 2 of the 3 privately owned sites in Brunswick Heads proposed for listing remain as part of the planning proposal. Recommendations for Brunswick Heads sites appear elsewhere in Tables 2 & 3.</p>
<p>Brunswick Heads</p> <p>The Memorial World War 1 tree plantings in the Terrace Reserve are worthy of listing.</p>	<p>Comments noted.</p> <p>It is not proposed to include any additional items in this planning proposal due to tight Gateway time constraints. Additional heritage items can be considered in future heritage studies and planning proposals.</p>
<p>Brunswick Heads - general</p> <p>The Brunswick Heads Progress Association supports the inclusion of Brunswick Heads heritage items.</p>	<p>Comments noted.</p> <p>To progress the planning proposal in accordance with Gateway timeframe, the 4 Crown land sites and the Council owned South Arm Bridge are proposed for deletion from this planning proposal. The 2 of the 3 privately owned sites in Brunswick Heads proposed for listing remain as part of the planning proposal. Recommendations for Brunswick Heads sites appear elsewhere in Tables 2 & 3.</p>
<p>Brunswick Heads - general</p> <p>Support for the Brunswick Heads listings.</p> <p>Request the following additional listings in Brunswick Heads:</p> <ul style="list-style-type: none"> • Gum tree opposite pub in Banner Park 	<p>Comments noted.</p> <p>To progress the planning proposal in accordance with Gateway timeframe, the 4 Crown land sites and the Council owned South Arm Bridge are proposed for deletion from this planning proposal. The 2 of the 3 privately owned sites in Brunswick Heads proposed for listing remain as part of the planning proposal. Recommendations for</p>

Submission Issues	Staff comment
<ul style="list-style-type: none"> • Norfolk pines in Memorial Park • Cypress pines in southern precinct of The Terrace • All laneways • Pedestrian bridge across Simpsons Creek 	<p>Brunswick Heads sites appear elsewhere in Tables 2 & 3.</p> <p>It is not proposed to include any additional items in this planning proposal due to tight Gateway time constraints. Additional heritage items can be considered in future heritage studies and planning proposals.</p>
<p>Brunswick Heads Norfolk Pines (Foreshore Crown Reserve)</p> <p>Brunswick Valley Historical Society do not support listing of Norfolk Pines in Foreshore Crown Reserve.</p> <ul style="list-style-type: none"> • Prejudice option to revert to the original native flora. • Legacy of destruction of indigenous flora 	<p>Comments noted.</p> <p>To progress the planning proposal in accordance with Gateway timeframe, the 4 Crown land sites and the Council owned South Arm Bridge are proposed for deletion from this planning proposal. Recommendations for Brunswick Heads Crown Land sites appear in Table 3.</p>
<p>Brunswick Heads</p> <p>Support for all the proposed listings in Brunswick Heads.</p>	<p>Comments noted.</p> <p>To progress the planning proposal in accordance with Gateway timeframe, the 4 Crown land sites and the Council owned South Arm Bridge are proposed for deletion from this planning proposal. The 2 of the 3 privately owned sites in Brunswick Heads proposed for listing remain as part of the planning proposal. Recommendations for Brunswick Heads sites appear elsewhere in Tables 2 & 3.</p>
Byron Bay	
<p>40 Cowper St, Byron Bay</p> <p>Conditional support for listing by landowner, contingent upon financial assistance for building preservation. Otherwise, objects.</p>	<p>Council offers annual heritage grants to assist with costs of maintenance.</p> <p>This submission is considered as support from the landholder for the inclusion of 40 Cowper Street, Byron Bay in planning proposal.</p>
<p>40 & 42 Cowper Street, Byron Bay</p> <p>Support for listing of 40 & 42 Cowper Street Byron Bay.</p>	<p>Comments noted.</p>
Mullumbimby	
<p>5 Main Arm Rd, Mullumbimby</p> <p>Landowner does not support listing.</p>	<p>Recommendation</p> <p>Remove 5 Main Arm Road, Mullumbimby from this planning proposal.</p>

Submission Issues	Staff comment
24 Coolamon Scenic Drive, Mullumbimby Landowner objection to the proposed listing.	<p>Recommendation</p> Remove 24 Coolamon Scenic Drive, Mullumbimby from this planning proposal.
24 Coolamon Scenic Drive, Mullumbimby Brunswick Valley Historical Society consider this house unworthy of inclusion as a 'heritage item'. The house was erected in 1947 from the remains of another house salvaged from Tyagarah.	Comments noted. It is recommended elsewhere in this table that this site is removed from the planning proposal.
General	
General support for planning proposal Support for new Shire Wide Heritage Study.	Comments noted.

Part 6 Project timeline

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

Plan making step	Estimated completion
Gateway Determination	November 2023
Agency Consultation	March/April 2024
Public Exhibition Period	March/April 2024
Submissions Assessment	June 2024
Submission of endorsed LEP amendment to Parliamentary Counsel for drafting (delegated authority)	June/July 2024
GIS mapping completed	July 2024

Council to make the LEP amendment (delegated authority)	August 2024
LEP amendment notification	August 2024

Conclusion

The planning proposal is considered to be consistent with relevant statutory and policy provisions and seeks to amend Byron Local Environmental Plan 2014 through the addition of seventeen heritage items (including two groups) to Schedule 5 Environmental Heritage.

Appendix 1

Appendix 1 – Proposed additional items to be inserted in Schedule 5 Environmental Heritage, Part 1 Heritage Items.

Note. The Schedule 5 details have been amended post exhibition in accordance with Section 1.2 of this report. This involves the deletion of items or part items as well as amending proposed item numbers accordingly.

	Locality	Name of Item	Address	Property Description	Significance	Proposed Item Number
1	Bangalow	Group of dwellings	17, 18, 20, 21, 26, Charlotte Street (23 Charlotte Street deleted)	Lot 345 DP 1239742, Lot 6 DP 4302, Lot 8 DP 4302, Lot 10 DP 4302, Lot 11 DP 4302 (Lot 7 DP 4302 deleted)	Local	I188



Figure 1. Map highlighting area of Item 1 (Note. 23 Charlotte Street (Lot 7 DP 4302) deleted from Planning Proposal)

Planning Proposal – Heritage Amendments (E2023/106720)

	Locality	Name of Item	Address	Property Description	Significance	Proposed Item Number
2						

Note. Item 2 (7 Leslie Street, Bangalow) deleted from Planning Proposal

	Locality	Name of Item	Address	Property Description	Significance	Proposed Item Number
3	Bangalow	Group of dwellings and former Temperance Hall	9, 11, 13, 15, 17, 25, Lismore Road (19 Lismore Road deleted)	Lot 3 DP 24009, Lot 4 DP 24009, Lot 5 DP 24009, Lot 1 DP 933383, Lot 1 DP 1120819 (Lot C DP 376877 deleted)	Local	I189 (No. change from I190 to I189)



Figure 3. Map highlighting area of Item 3 (Note. 19 Lismore Road (Lot C DP 376877) deleted from Planning Proposal)

Planning Proposal – Heritage Amendments (E2023/106720)

	Locality	Name of Item	Address	Property Description	Significance	Proposed Item Number
4						

Note. Item 4 (War Memorial Reserve Brunswick Heads) deleted from Planning Proposal

Planning Proposal – Heritage Amendments (E2023/106720)

	Locality	Name of Item	Address	Property Description	Significance	Proposed Item Number
5						

Note. Item 5 (Foreshore Reserves and Norfolk Pine Cultural Plantings, Brunswick Heads) deleted from Planning Proposal

Planning Proposal – Heritage Amendments (E2023/106720)

	Locality	Name of Item	Address	Property Description	Significance	Proposed Item Number
6						

Note. Item 6 (Housie Shed and former Ambulance Shed, Brunswick Heads) deleted from Planning Proposal

Planning Proposal – Heritage Amendments (E2023/106720)

	Locality	Name of Item	Address	Property Description	Significance	Proposed Item Number
7						

Note. Item 7 (South Arm Bridge, Brunswick Heads) deleted from Planning Proposal

Planning Proposal – Heritage Amendments (E2023/106720)

	Locality	Name of Item	Address	Property Description	Significance	Proposed Item Number
8						

Note. Item 8 (Boulevard plantings and Pioneer Memorial Park, Brunswick Heads) deleted from Planning Proposal

Planning Proposal – Heritage Amendments (E2023/106720)

	Locality	Name of Item	Address	Property Description	Significance	Proposed Item Number
9						

Note. Item 9 (Brunswick Picture House, Brunswick Heads) deleted from Planning Proposal

	Locality	Name of Item	Address	Property Description	Significance	Proposed Item Number
10	Brunswick Heads	Commercial Building	26 Mullumbimbi Street	Lot 1 DP371258	Local	I190 (No. change from I197 to I190)



Figure 10. Map highlighting area of Item 10

	Locality	Name of Item	Address	Property Description	Significance	Proposed Item Number
11	Brunswick Heads	Commercial Building	28 Mullumbimbi Street	Lot 1 DP 127212	Local	I191 (No. change from I198 to I191)



Figure 11. Map highlighting area of Item 11

	Locality	Name of Item	Address	Property Description	Significance	Proposed Item Number
12	Byron Bay	Pair of Cottages	40 and 42 Cowper Street	Lot B DP 338529 Lot C DP 338529	Local	I192 (No. change from I199 to I192)



Figure 12. Map highlighting area of Item 12

	Locality	Name of Item	Address	Property Description	Significance	Proposed Item Number
13	Ewingsdale	'Carabene' Office/former dwelling.	The Farm 11 Ewingsdale Road,	Part of Lot 5 DP 848222	Local	I193 (No. change from I200 to I193)



Figure 13. Map highlighting area of Item 13

Planning Proposal – Heritage Amendments (E2023/106720)

	Locality	Name of Item	Address	Property Description	Significance	Proposed Item Number
14						

Note. Item 14 (22-24 Coolamon Scenic Drive) deleted from Planning Proposal

Planning Proposal – Heritage Amendments (E2023/106720)

	Locality	Name of Item	Address	Property Description	Significance	Proposed Item Number
15						

Note. Item 15 (5 Main Arm Road, Mullumbimby) deleted from Planning Proposal

	Locality	Name of Item	Address	Property Description	Significance	Proposed Item Number
16	Coorabell	<i>Cottage and dairy bales</i>	221 Coolamon Scenic Drive, Coorabell	Part of Lot 4 DP 5130	Local	I194 (No. change from I203 to I194)



Figure 16. Map highlighting area of Item 16

	Locality	Name of Item	Address	Property Description	Significance	Proposed Item Number
17	Wilsons Creek	<i>Longfield</i>	175 Wilsons Creek Road, Wilsons creek	Part of Lot 1 DP 170889	Local	I195 (No. change from I204 to I195)



Figure 17. Map highlighting area of Item 17