

Byron Shire Council

Planning Proposal 26.2022.1.1

Amendment of Byron Local Environmental Plan 2014

Multiple Occupancies and Rural Community Title

Post Exhibition Version

**Date: August 2022
#E2022/73196**



Document History

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Part 1 Introduction

1.1 Objective and intended outcomes

The objective of this planning proposal is to amend Byron LEP 2014 to enable secondary dwellings and dual occupancies to be permitted with consent on rural Multiple Occupancies (MO) and Community Title (CT) sites. The planning proposal is a result of a Council resolution and seeks to provide a small amount of additional housing within rural communities. The need for the planning proposal is emphasised by the current housing crisis in the shire with the intended outcome resulting in additional dwellings without significantly impacting the environment, farm land or public infrastructure.

1.2 Background

Prior to preparation of this planning proposal and the below mentioned resolutions a housekeeping planning proposal (26.2021.6.1) was exhibited that sought to clarify that the existing controls do not enable dual occupancies and secondary dwellings in rural MO and CT communities. This amendment received 232 objections with majority of these submissions stating that Council should enable additional dwellings on these rural community sites in light of the current housing affordability crisis. There were 10 submissions of support for the clarification of the current controls. This amendment was removed from the housekeeping planning proposal due to the volume of objections and has generated interest in the community and Councillors around the possibility of providing additional dwellings in these communities.

Multiple occupancy developments have historically and continue to have a maximum number of dwellings based on Byron LEP 2014 Clause 4.2B and the suitability of the site as outlined in Byron DCP 2014 Chapter D2. The DCP has a number of prescriptive measures relating to the siting and clustering of house sites, environmental repair and the land carrying capacity for house sites taking into account effluent disposal, access, bushfire management, topography and environmental impact. Conversion of a multiple occupancy to community title is possible under clause 4.1B and typically results in the approved MO house sites converting to individual CT lots and a shared neighbourhood lot.

Council has recently made two resolutions (21-221 and 21-275) relating to rural MO and CT development. Resolution 21-221 requested a report exploring the possibilities, hurdles, and opportunities for continuing Multiple Occupancies and Community Title as a pathway to providing more options for accessible and affordable housing in the Byron Shire.

Resolution 21-275 requested that Council investigates ways to enable a workable pathway to facilitate secondary dwellings on Multiple Occupancies and to facilitate secondary dwellings and/or dual occupancies on Community Titles.

As a result of the above-mentioned resolutions a report was presented to Council on 4 November 2021 where Council resolved ([21-498](#)) as follows.

1. Notes the staff update on Resolution 21-221 Multiple Occupancies and Rural Workers Cottages & Resolution 21-275 MOs and CTs - pathway for secondary dwellings and dual occupancies.

2. Requests staff to prepare and submit a planning proposal to the Department of Planning Industry and Environment for Gateway Determination to amend clauses 4.1B and 4.2B Byron Local Environmental Plan 2014 to:
 - i. remove the restriction of one dwelling per neighbourhood lot and make any other necessary changes to permit dual occupancy and secondary dwellings on existing Multiple Occupancy and rural Community Title development; and
 - ii. update where relevant the assessment criteria for Multiple Occupancy and rural Community Title development.

This planning proposal has been prepared in response to part '2' of the above-mentioned Council resolution.

Clause 4.1B – Minimum subdivision lot size for multiple occupancy or rural community title developments

This clause applies to land outlined by a thick purple line (Community Title) on the Multiple Occupancy and Community Title Map, or containing an existing approved multiple occupancy (MO) or rural community title (CT). Community Title subdivisions contain multiple individual lots and a shared community lot.

Clause 4.1B enables the conversion of a MO to a CT through subdivision. Clause 4.1B restricts the number of residential CT lots created based on the number of dwelling sites approved under the MO, while also restricting the number of dwellings per CT lot to one(1). Consequently secondary dwellings and dual occupancies cannot be constructed on these individual lots despite these uses being permitted within the zone.

Development approval for CT subdivisions typically include conditions enforcing one dwelling per lot in accordance with 4.1B(3)(c).

Clause 4.2B - Maximum number of dwelling houses or dual occupancies on multiple occupancy or rural landsharing community developments

This clause applies to land outlined by a thick green line on the Multiple Occupancy and Community Title Map (i.e. only applies to mapped Multiple Occupancies).

Multiple Occupancies comprise only a single lot that is shared among multiple owners. Clause 4.2B enables multiple dwellings to be constructed on such a lot.

Clause 4.2B limits the number of dwellings for MOs to 1 dwelling per 3 hectares up to a maximum of 15 dwellings on the lot, or the number shown for that lot on the Multiple Occupancy and Community Title Map (where applicable).

A *secondary dwelling* is defined in Byron LEP 2014 as a self-contained dwelling that—

- (a) is established in conjunction with another dwelling (the principal dwelling), and
- (b) is on the same lot of land as the principal dwelling, and

(c) is located within, or is attached to, or is separate from, the principal dwelling.

Based on the standard definition of secondary dwellings, they must be contained on the same lot of land as the principal dwelling. As a consequence of this definition, there can only ever be one secondary dwelling permitted on a MO lot because a MO must be on a single lot. The secondary dwelling would form part of the total dwelling count under 4.2B.

Dual occupancy (attached) is defined in Byron LEP 2014 as two dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling

An attached dual occupancy currently can be constructed on a MO, however this will count as two dwellings when calculating the dwelling count under 4.2B.

An MO could convert to a CT under the proposed amendments to clause 4.1B and each CT lot could submit an application for a dual occupancy or secondary dwelling.

Council's current controls restricting dual occupancies and secondary dwellings on rural communities have been in place to minimise unplanned rural expansion and minimise impacts on farmland, the environment and infrastructure. Additional dwellings are only possible on rural community titles due to the above mentioned standard definitions.

Rural MOs and CTs in the shire generally have less than the 15 dwelling maximum presented in clause 4.2B due to the carrying capacity of the sites and controls within the DCP. The required clustering of MO dwelling sites and the CT lots resulting from subdivision also means that any new dwellings will be in close proximity to existing approved dwellings and is unlikely to have a significant impact on the rural environment or services.

Part 2 Explanation of provisions

To achieve the intent part '2' of resolution 21-498 amendments to clauses 4.1B and 4.2B are proposed.

It is proposed to amend clause 4.1B to remove the restriction of one dwelling per lot. This would enable a rural CT lot to submit a development application for a dual occupancy or secondary dwelling.

It is proposed to amend clause 4.2B to clarify that only a single dual occupancy or secondary dwelling can be permitted on a Multiple Occupancy. The title of 4.2B is also proposed to be amended to clarify the application of the clause.

During public exhibition, Department of Primary Industries recommended that 4.1B is strengthened by ensuring proposals for additional dwellings demonstrate measures to mitigate against potential adverse impacts on agricultural production or land use conflict with agricultural operation undertaken on neighbouring land.

A new part within 4.1B, 4 (c) has been included after exhibition as recommended by Department of Primary Industries.

The proposed draft amendments are shown highlighted in **yellow** below. These amendments are in draft form and will be subject to review by Parliamentary Counsel and may be subject to change.

Proposed Policy Amendments

4.1B Minimum subdivision lot size for multiple occupancy or rural community title developments

- (1) The objective of this clause is to permit the subdivision of land to which this clause applies for a multiple occupancy or a rural community title.
- (2) This clause applies to land—
 - (a) outlined by a thick purple line on the [Multiple Occupancy and Community Title Map](#), or
 - (b) containing an existing approved multiple occupancy or rural community title.
- (3) The size of any lot resulting from the subdivision of land to which this clause applies may be less than the minimum lot size shown on the [Lot Size Map](#) in relation to that land if—
 - (a) the total number of neighbourhood lots (within the meaning of the *Community Land Development Act 1989*) located on the land following the subdivision does not exceed—
 - (i) the number nominated for that land as shown on the [Multiple Occupancy and Community Title Map](#), or

- (ii) the number of dwelling sites approved under the development consent for the multiple occupancy or rural community title, and
 - (b) there will be at least one lot comprising association property (within the meaning of that Act) located within that land following the subdivision that comprises land to be used for the purposes of a recreation area, environmental facility or agriculture, and
 - ~~(c) there is no more than one dwelling erected on each neighbourhood lot.~~
- (4) Development consent must not be granted under subclause (3) unless the consent authority is satisfied that—
- (a) appropriate management measures are in place that will ensure the protection and enhancement of the landscape, biodiversity and rural setting of the land, and
 - (b) improved social and economic outcomes can be achieved.
 - ~~(c) mitigation measures are in place to minimise potential adverse impacts on agricultural production and adjoining land use conflicts where appropriate.~~
- (5) In this clause, **approved multiple occupancy or rural community title** means development for the purposes of a multi dwelling housing or community scheme (being a subdivision within the meaning of the *Community Land Development Act 1989*) and for which development consent has been granted.

4.2B Maximum number of dwelling houses, secondary dwellings or dual occupancies on multiple occupancy or rural landsharing community developments

- (1) The objectives of this clause are as follows —
- (a) to permit—
 - (i) people to collectively own a single lot of land and use it as their principal place of residence, and
 - (ii) the erection of multiple dwellings on the lot and the sharing of facilities and resources, and
 - (iii) the collective environmental repair and management of the lot, and
 - (iv) the pooling of resources to economically develop a wide range of communal rural living opportunities,
 - (b) to facilitate closer rural settlement in a clustered style in a manner that—
 - (i) protects the environment, and
 - (ii) does not create any unreasonable demand for the provision of services or any unreasonable demand for the uneconomic provision of services.

- (2) This clause applies to land outlined by a thick green line on the [Multiple Occupancy and Community Title Map](#).
- (3) Development may be carried out with consent for the erection of more than one dwelling house or, **a single** dual occupancy (attached) **or secondary dwelling** on such a lot provided that—
 - (a) if there is a number shown for that lot on the Multiple Occupancy and Community Title Map—the total number of dwellings on the lot will not exceed the number marked for that lot on that Map, or
 - (b) if there is no number shown for that lot on that Map—there will not be less than 3 dwellings, and not more than 1 dwelling for every 3 hectares, up to a maximum of 15 dwellings, on the lot.
- (4) Development consent must not be granted under subclause (3) unless the consent authority is satisfied that—
 - (a) there will be appropriate management measures in place that will ensure the protection of the landscape, biodiversity and rural setting of the land, and
 - (b) the development is complementary to the rural and environmental attributes of the land and its surrounds.

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?

No. This planning proposal is initiated from Council resolution [21-498](#).

The proposal aims to enable a small amount of additional housing within rural communities with the need for additional housing types such as secondary dwellings and dual occupancies emphasised by the current housing crisis in the shire.

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

Yes. Byron LEP 2014 currently restricts secondary dwellings and dual occupancies on MO and rural CT sites. Only a planning proposal can amend the relevant parts in Byron LEP 2014.

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)?

The North Coast Regional Plan 2036 has four overarching goals and 25 directions for achieving these goals within the region. Goal 4 'Great housing choice and lifestyle options' is the most relevant goal in this case. The plan describes the need for a greater variety of housing that meets the needs of residents on a range of incomes. The plan acknowledges the importance of suitable housing densities in the right locations to create a more compact urban footprint and protect significant environmental areas.

The relevant directions and actions are discussed below.

Direction 23: Increase housing diversity and choice

Action 23.2 - Develop local growth management strategies to respond to changing housing needs, including household and demographic changes, and support initiatives to increase ageing in place:

Council has developed the Byron Rural Land Use Strategy 2017 which is the relevant strategy in this case. This strategy was endorsed by DPIE in 2018 and is due for review at the end of 2022. The strategy does not currently support or facilitate increased densities on rural MOs or CTs (i.e. beyond the current provisions in Byron LEP 2014). It could be argued that the demand for housing and housing prices have increased significantly since the Rural Land Use Strategy was developed and this is a key driver for this planning proposal.

Direction 25: Deliver more opportunities for affordable housing

Action 25.1 - Deliver more opportunities for affordable housing by incorporating policies and tools into local growth management strategies and local planning controls that will enable a greater variety of housing types and incentivise private investment in affordable housing:

Secondary dwellings and dual occupancies could enable additional housing in existing rural communities. There is currently no mechanism to ensure that the additional dwellings would be provided as a more affordable form of housing in rural areas.

Q4. Will the planning proposal give effect to Council's endorsed local strategic planning statement, or other local strategic plan?

Byron Local Strategic Planning Statement (LSPS) supports housing diversity and affordability with housing growth in the right locations. There are no specific priorities or actions for additional dwelling opportunities in rural MO or CT communities.

Byron Rural Land Use Strategy 2017 is the local governing strategy for rural lifestyle living opportunities and managing development in the rural areas.

Section 3.3.4 of the Byron Rural Land Use Strategy discusses Multiple Occupancy and Community Title. This section notes that new MOs and CTs should only be enabled in areas identified within the maps of the strategy and where acceptable standards of road infrastructure can be provided at no cost to the wider community. There is no specific action relating to increasing the density of existing rural MOs or CTs.

Byron Rural Land Use Strategy includes a number of policy directions which are relevant to permitting additional dwellings on rural land. One of Our Rural Economy policy directions states that *'future rural development will be located to ensure the protection of existing agricultural land uses and to protect viability of high quality agricultural land'*. Our Rural Environment includes a direction *'future rural lifestyle living opportunities will serve to repair and enhance the land's natural values in a manner which more than offsets the full impact of the site's population and pressures on the environment.'* Byron DCP requires dwellings to be clustered together to minimise impacts to valuable agricultural land and environmental values. MOs and CTs are to include vegetation management plans and are subject to environmental repair and enhancement requirements. Additional dwellings on rural CT sites are unlikely to significantly impact agricultural land or the environment and can be considered consistent with the relevant policy directions.

One of the policy directions for Our Rural Community is *'future rural lifestyle living opportunities will contribute to a local, diverse housing mix.'* There is currently a housing shortage within the shire. The addition of secondary dwellings or dual occupancies within the rural CT developments will provide a small addition to the available housing in the rural areas.

Our Rural Infrastructure includes a direction that *'future rural lifestyle living opportunities will be clustered to minimise development footprint and disturbance, maximise opportunities for environmental repair and ensure efficient service provision.'* This is consistent with the controls for MOs and CT contained with Byron DCP and can be effectively addressed with any subsequent development application.

Our Rural Infrastructure also includes policy directions that *future rural development will be located in areas with reliable and safe road access, particularly should the need for*

evacuation arise and future rural development should be located within 5km of a major town service centre containing a high school. This planning proposal will enable additional dwellings on already existing rural community sites rather than enable new sites.

There are approximately 37 approved rural community titles, with many of these located more than 5km from a major town containing a high school and having variable road access conditions. While many of the localities may not be consistent with these policy directions, the additional dwellings will only be permitted on existing rural communities. Subsequent development applications for additional dwellings will consider access, parking and traffic impacts.

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)?

No State Environmental Planning Policies are directly applicable to the planning proposal.

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	Planning proposals must be consistent with a Regional Plan released by the Minister for Planning.	The consistency of this Planning Proposal with the North Coast Regional Plan is addressed in Section B above.	Substantially consistent
1.2 Development of Aboriginal Land Council Land	This direction applies to all relevant planning proposal authorities 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.	Not applicable	Not applicable
1.3 Approval and Referral Requirements	<p>A planning proposal to which this direction applies 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>	Not applicable	Not applicable

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<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 		
1.4 Site Specific Provisions	<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> <ul style="list-style-type: none"> (a) allow that land use to be carried out in the zone the land is situated on, or (b) rezone the site to an existing zone already in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or (c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended. 	Not applicable	Not applicable

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	(2) A planning proposal must not contain or refer to drawings that show details of the proposed development.		
1.5 – 1.17	Not applicable to Byron Shire	Not applicable	Not applicable

2. 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 a conservation zone or land otherwise identified for environment conservation/protection purposes in a LEP must not reduce the conservation 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 Direction 9.2 (2) of “Rural Lands”.</p>	Byron Shire has Environmental Conservation and Environmental Management zones for protecting environmentally sensitive areas. Dual occupancies and secondary dwellings would only be suitable in zones where they are currently permitted with consent.	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
3.2 Heritage Conservation	<p>(1) 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>	The planning proposal does not conflict with the existing heritage provisions of this direction. Site-specific heritage matters would be considered at the more detailed development application stage.	Consistent
3.3 Sydney Drinking Water Catchment	Not applicable	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	This direction applies when a relevant planning authority prepares a planning proposal within the Ballina, Byron, Kyogle, Lismore and Tweed local government areas that introduces or alters an C2 Environmental Conservation or C3 Environmental Management zone or introduces or alters an overlay and associated clause.	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. Resilience and Hazards

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
4.1 Flooding	This direction applies to all relevant planning authorities that are responsible for flood prone land when preparing a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.	<p>The planning proposal does not create, remove or alter any zones.</p> <p>It is possible that some existing CT sites are mapped as flood prone. Any resulting development applications will be assessed against councils existing LEP and DCP flood planning controls, as well as any adopted flood study</p>	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
		and/or floodplain risk management plan (where applicable).	
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 3 of the State Environmental Planning Policy (Resilience and Hazards) 2021.	<p>There are no rural MOs or CTs within the coastal zone. Some sites may be mapped as containing or in proximity to coastal wetlands or littoral rainforests under the Coastal SEPP. The planning proposal does not enable development in a specific location. Any subsequent development application would need to consider the Coastal SEPP where applicable.</p> <p>The planning proposal does not conflict with the existing provisions of the Coastal Management SEPP.</p>	Consistent
4.3 Planning for Bushfire Protection	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>It is likely that some of the sites captured by this planning proposal are mapped as bushfire prone land.</p> <p>The location of any additional dwellings enabled by this planning proposal can only be determined at the development application stage and will need to be supported by bushfire reports and be consistent with Planning for Bushfire Planning Protection 2019.</p>	Justifiably inconsistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
4.4 Remediation of Contaminated Land	<p>This direction applies when a planning proposal authority prepares a planning proposal that 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, (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, (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: <ul style="list-style-type: none"> i. in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and ii. on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge). 	<p>This planning proposal does not apply to a specific site. Contaminated land would be considered during any subsequent development application.</p>	<p>Consistent</p>

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
4.5 Acid Sulfate Soils	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.	The planning proposal does not relate to a specific land parcel. Where applicable, Council will consider acid sulfate soils if it receives a development application for affected land in accordance with existing clause 6.1 of Byron LEP 2014.	Consistent
4.6 Mine 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.	Not applicable	Not applicable

4. Transport and Infrastructure

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
5.1 Integrated Land Use and Transport	This direction applies to all relevant planning authorities 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.	Not applicable	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)/	Not applicable	Not applicable
5.3 Development Near Regulated Airports and Defence Airfields	This direction applies to all relevant planning authorities 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.	Not applicable	Not applicable
5.4 Shooting Ranges	This direction applies to all relevant planning authorities when preparing a planning proposal that will affect, create, alter or remove a zone or a provision relating to land adjacent to and/ or adjoining an existing shooting range.	Not applicable	Not applicable

5. Housing

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
6.1 Residential Zones	This direction applies to all relevant planning authorities 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 or proposed to be permitted.	Not applicable	Not applicable
6.2 Caravan Parks and Manufactured Home Estates	<p>In identifying suitable zones, locations and provisions for caravan parks in a planning proposal, the relevant planning authority must:</p> <ul style="list-style-type: none"> (a) retain provisions that permit development for the purposes of a caravan park to be carried out on land, and (b) retain the zonings of existing caravan parks, or in the case of a new principal LEP zone the land in accordance with an appropriate zone under the Standard Instrument (Local Environmental Plans) Order 2006 that would facilitate the retention of the existing caravan park. 	Not applicable	Not applicable

6. Industry and Employment

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
7.1 Business and Industrial Zones	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).	Not applicable	Not applicable
7.2 Reduction in non-hosted short-term rental accommodation period	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 may be carried out in parts of its local government area.	Not applicable	Not applicable
7.3 Commercial and Retail Development along the Pacific Highway, North Coast	This direction applies when a relevant planning authority prepares a planning proposal for land within those council areas on the North Coast that the Pacific Highway traverses, being those council areas between Port Stephens Shire Council and Tweed Shire Council, inclusive, and that applies to land in the vicinity of the existing and/or proposed alignment of the Pacific Highway.	Not applicable	Not applicable

7. 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 that is likely to be incompatible with such development.</p>	Not applicable	Not applicable

8. Primary Production

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
9.1 Rural Zones	A planning proposal must not rezone land from a rural zone to a residential, business, industrial, village or tourist zone	Not applicable	Not applicable

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
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>The planning proposal applies to existing rural MOs and CTs, some of which may contain important farmland and or environmental values.</p> <p>Enabling additional dwellings on these sites may impact part of the sites ability for farming or have environmental impacts, but the impact is likely to be minimal as a dispersed settlement pattern is not supported. At the same time, additional housing in these communities could enable new residents to assist in the shared agricultural duties or environmental repair of the sites.</p> <p>Development applications for additional dwellings would consider environmental impacts and siting impacts on an individual application basis.</p>	Justifiably inconsistent
9.3 Oyster Aquaculture	<p>This direction applies to any relevant planning authority when preparing a planning proposal in 'Priority Oyster Aquaculture Areas' and oyster aquaculture outside such an area as identified in the NSW Oyster Industry Sustainable Aquaculture Strategy (2006) ("the Strategy"), when proposing a change in land use which could result in:</p> <p>(a) adverse impacts on a 'Priority Oyster Aquaculture Area' or a "current oyster</p>	Not applicable	Not applicable

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>aquaculture lease in the national parks estate”, or</p> <p>(b) incompatible use of land between oyster aquaculture in a ‘Priority Oyster Aquaculture Area’ or a “current oyster aquaculture lease in the national parks estate” and other land uses.</p>		
<p>9.4 Farmland of State and Regional Significance on the NSW Far North Coast</p>	<p>Applies to land:</p> <p>(a) mapped as</p> <ul style="list-style-type: none"> i. State significant farmland, or ii. regionally significant farmland, or iii. significant non-contiguous farmland, <p>(b) on the set of four maps held in the Department of Planning and Environment marked “Northern Rivers Farmland Protection Project, Final Map 2005 (Section 117(2) Direction)”</p>	<p>The planning proposal does not propose to rezone land, only enable secondary dwellings and dual occupancies to be permitted with consent on rural MO or CT sites.</p>	<p>Consistent</p>

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 potential additional dwellings facilitated by this planning proposal are unlikely to have a significant impact on threatened species or ecological communities. The siting of any additional dwelling is not known until the development application stage.

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

The environmental impacts from additional dwellings can be assessed and minimised through the development application process. Council has DCP controls relating to biodiversity impacts and siting of development envelopes in rural communities. These controls include requirements for environmental repair and management for MOs and CTs.

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

The planning proposal will enable a small additional amount of rural housing in our rural areas. The current need for additional housing is the primary driver of Council resolution 21-498 and this planning proposal. Additional dwellings will result in additional traffic and other impacts in the rural areas, which would need to be assessed on a case-by-case basis at the DA stage.

A previous housekeeping planning proposal (26.2021.6.1) sought to clarify that the current planning controls do not permit secondary dwellings or dual occupancies on rural MO or CT sites. This amendment received 232 objections with majority of these submissions stating that Council should enable additional dwellings on these rural community sites. There were 10 submissions of support for the clarification of the current controls. Based on the volume of submissions it could be argued that there is general community support for this current proposal.

Section D State and Commonwealth interests

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

There are varying levels of public infrastructure used to facilitate existing MOs and CTs in the rural parts of the shire. The capacity of existing road infrastructure would need to be assessed on a case-by-case basis at the DA stage and the applicable 7.11 contributions levied.

Q12. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

There has yet to be any consultation with public authorities or agencies. State and Commonwealth public authorities will be consulted after Gateway determination.

Part 4 Mapping

No mapping amendments are required for this planning proposal.

Part 5 Community consultation

Community consultation was conducted in accordance with the Gateway determination.

The planning proposal was exhibited from 20 June to 22 July 2022. A report outlining the exhibition period and submissions received is tabled for the 8 September planning meeting.

Part 6 Project timeline

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

Plan making step	Estimated completion
Gateway Determination	May 2022
Agency Consultation	June 2022
Public Exhibition Period	June 2022
Submissions Assessment and report to Council	September 2022
Submission of endorsed LEP amendment to Parliamentary Counsel for drafting (delegated authority)	October 2022
Council to make the LEP amendment (delegated authority)	November 2022
LEP amendment notification	November 2022

Conclusion

Byron Shire Council has initiated a planning proposal to modify its 2014 LEP to provide a planning pathway for enabling dual occupancies and secondary dwellings on rural Multiple Occupancy and Community Title sites.

The planning proposal has been prepared and submitted for a gateway determination as a result of Council resolution 21-498. A gateway determination was received on 3 May 2022.

It is considered that the proposed amendments are consistent or can be justified with the relevant council and state strategies and policies.