



Planning Proposal
for Amendment of Byron Local Environmental Plan 2014
Additional Permitted Uses – The Farm
Ewingsdale Road, Ewingsdale

Byron Shire Council
Authority Ref: 26.2016.6.1

Public Exhibition Version

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Document History

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Part 1 Introduction

Objectives and intended outcomes

The objectives of this Planning Proposal are to amend Byron Local Environmental Plan 2014 (LEP 2014) to:

1. provide an approval pathway for existing land uses that are associated with farming activities at The Farm, which are prohibited in the RU1 zone and outside of the terms of existing approvals; and
2. alter the zoning of a 20m wide strip of land along the Ewingsdale Road frontage of the property to SP2 Infrastructure (Classified Road).

The intended outcomes of the amendment to the LEP are that the SP2 Infrastructure zone would be applied via an amendment to the Land Zoning Map, and that a new local clause will be added to Part 6 of the LEP listing additional land uses that will be permitted on the site with consent, within a mapped **Farming Precinct** and a mapped **Rural Activities Precinct** at the property.

To support the new local clause, Chapter E5 of Byron Development Control Plan 2014 is proposed to be amended by the addition of a new section relating to The Farm, setting out heads of consideration for the nominated uses, to address issues of scale and potential impact and ensure that any approved uses have, and maintain, an essential association with the primary production undertaken on the land.

Other than the 20m wide strip of land along the Ewingsdale Road frontage, the amendment to the LEP will not alter the existing RU1 Primary Production zoning of the land.

Property details and existing zone

The property known as The Farm is located at Lot 1 DP 780234 and Lot 5 DP 848222, at the corner of Ewingsdale Road and Woodford Lane, Byron Bay. The whole of the land is currently zoned RU1 Primary Production under Byron Local Environmental Plan (LEP) 2014.

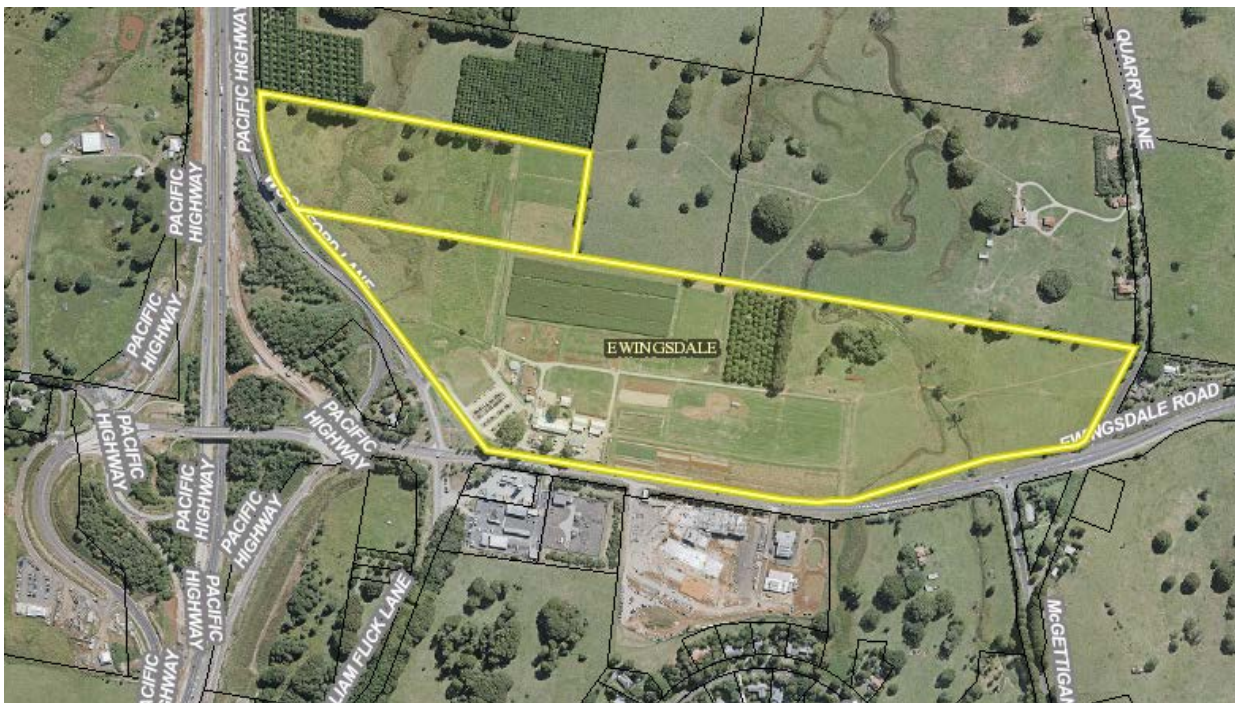


Figure 1 Subject land

Background

The property contains a working farm and a cluster of buildings in the south-west part of the site, housing a restaurant and a number of individual businesses, generally associated with the farming activities.

Farming at the site is being undertaken by individual 'share farmers', who each lease plots within the site, averaging 0.5-1.0ha. The approved and proposed uses within the building cluster are designed to provide an on-site market for the produce grown on the land.

This model provides small-scale farmers with a viable and affordable opportunity to get started in agriculture, and the provision of an on-site market for their goods provides a financial incentive and return.

The commercial operators, particularly the restaurant operators, work with the farmers to ensure that there is a diversity of products grown on-site and work to plan future plantings to maintain appropriate seasonal crops.

A secondary objective of the operation is food education, and The Farm offers vocational training events for farmers as well as farm tours for school groups, families and individuals, aimed at exposing the wider community to agriculture.

The following two Development Consents have been issued:

DA 10.2013.626.1 – Cheese Making Facility and Farm Café; approved 22 May 2014

Approved uses: Restaurant / café;
Roadside stall;
Gelato/ coffee bar;
Cheese making facility (not constructed);
Car parking for 45 cars, 2 buses, 1 loading bay and 13 bicycles spaces, with new access from Woodford Lane; and
On-site waste water system.

DA 10.2015.151.1 – Agricultural Training Facility, Plant Nursery and Farm Produce Kitchen; approved 12 November 2015

Approved uses: Change of use of previously approved Rural Workers' Dwelling to "agricultural training facility";
Change of use of a small existing shed and its curtilage to a plant nursery;
An extension of the existing food preparation / kitchen area associated with the café/ restaurant partly into the area previously approved for cheese making;
Car parking to provide for a total of 199 cars, 2 buses, 1 loading bay and 20 bicycles spaces; and
Upgrade to on-site wastewater system.

Activities at The Farm have been subject to a number of previous Council resolutions, primarily relating to additional unauthorised land uses, or uses extending beyond the parameters of the existing approvals.

On 25 August 2016, Council resolved (in part):

(16-465)

- *That Council staff undertake a Compliance Audit of the existing operation, particularly in relation to compliance with conditions of approval for DA 10.2013.626.1, and, as a result of the audit, prepare a detailed Audit Action Plan.*
- *That Council invites The Farm to lodge a joint Planning Proposal, Master Plan and Development Application, within 60 days of the date of this resolution, to regularise unauthorised activities and uses on the land*

In accordance with this resolution, The Farm's planning consultants lodged a Development Application (10.2016.698.1) and a Planning Proposal (26.2016.6.1) in late October 2016.

DA 10.2016.698.1 proposed:

- Change of Use of the approved "cheese making facility" to agricultural produce industry and industrial retail outlet (bakery); and
- Change of use of the existing approved dwelling house for use as ancillary offices for the existing approved restaurant and farm.

The application for a Planning Proposal (26.2016.6.1) sought "a site-specific amendment to Byron Local Environmental Plan 2014 (LEP 2014) to update Schedule 1 to permit certain additional land uses on the subject land, including:

- retail premises - shop/ food and drink premises;
- information and education facility;
- recreation facility (indoor); and
- business premises".

Following assessment of the applications and discussions with proponents, development application 10.2016.698.1 was withdrawn on 19 April 2017. The applicants also agreed to amend the Planning Proposal application such that it now deals only with existing land uses at the site. The updated Planning Proposal application was submitted on 23 August 2017.

At the meeting of 26 October 2017, Council considered a report on the matter and resolved, in part, **(17-514)**:

1. *That Council support the application for a Planning Proposal and authorise the Director SEE to negotiate with the applicant to facilitate the preparation of a Planning Proposal at the applicant's cost.*
2. *That Council's support of the Planning Proposal is withdrawn in the event that a costs agreement for the processing of the Planning Proposal not be executed within 28 days of the date of this resolution ie close of business 23 November 2017.*
3. *That the Planning Proposal deal only with the following uses on the site:*
 - *Wholesale Bakery*
 - *Agricultural training/education facilities*
 - *Administration offices*
 - *Small-scale information centre*

and that it be reported back to Council at the meeting of December 2017 for further deliberation prior to it being forwarded to the NSW Dept of Planning and Environment for a Gateway Determination.

The Planning Proposal was prepared in accordance with that resolution and, at its meeting of 14th December 2017, Council resolved **(17-671)**:

1. *Agree to initiate the Planning Proposal to amend Byron LEP 2014 (Attachment 1) for the reasons outlined in this report.*
2. *Forward the Planning Proposal to the NSW Department of Planning and Environment for a Gateway Determination.*
3. *Agree that staff can proceed to public exhibition of the Planning Proposal and government agency consultation based on the Gateway determination issued by the NSW Department of Planning and Environment, and report back to Council as part of post-exhibition reporting.*

The Planning Proposal has been prepared in response to this resolution and with reference to the Department of Planning and Environment's Guidelines "A guide to preparing planning proposals" and "A guide to preparing local environmental plans".

Part 2 Explanations of Provisions

The planning proposal seeks to amend Byron LEP 2014 in the following two ways:

1. Adding a new local clause that contains provisions providing an approval mechanism for the land uses nominated below the subject land.

The proposed provisions will:

- identify a 'Rural Activity Precinct' and a 'Farming Precinct' over the subject site, which will be identified on a Local Provisions Map;
- describe the purpose and extent of the Rural Activity Precinct, which is to provide commercial outlets for farming products grown on site and opportunities for the community to learn about and appreciate farming;
- permit the following land uses with consent in the Rural Activity Precinct;
 - a. artisan food and drink industry, being a bakery;
 - b. development for the purposes of an information and education facility, being areas utilised for the provision of small group training;
 - c. development for the purposes of office premises, utilised solely for the management of agricultural or ancillary businesses that are conducted on the property; and
 - d. development for the purposes of an industrial training facility, being for the display of information relating to the property and its uses, or as a gathering point for individuals and groups undertaking training, education or recreational activities at the site.
- describe the purpose and extent of the Farming Precinct, which will be to preserve the bulk of the property for primary production and facilitate innovative community farming models, and provide opportunities for agricultural education/appreciation and low scale recreational activities that are directly related to the primary production on the site;
- permit the following additional land uses with consent in the Farming Precinct;
 - a. farm field days and exhibitions;
 - b. farm tours for educational purposes, including individuals, school groups and other groups (limited to 30 people or 50 students in the case of a school group at a time);

The additional LEP provisions will establish an approval mechanism for a number of existing site uses, which are occurring on the land outside of the existing Development Consents.

These uses are not currently permissible with consent in the RU1 Primary Production Zone.

Council considers that these uses, being carried out in the context of the operation of the Farm – i.e. associated with the existing primary production activities – are of low impact and can be supported on the property.

Appendix A contains a suggested new local provision, to be added to Byron LEP 2014 and a preliminary Local Clause Map.

2. Rezoning a 20m wide strip of land along the Ewingsdale Road frontage of the property from RU1 Primary Production, to SP2 Infrastructure (Classified Road).

This zoning ‘reserves’ the land for future acquisition under the Land Acquisition (Just Terms Compensation) process.

Transport for NSW Roads and Maritime have been working with Council to determine and develop road upgrades in the locality that will remedy existing traffic congestion issues. This has involved discussions with the owners / operators at The Farm, as the existing land uses contribute to existing congestion issues.

It is clear that a widening of the western section of Ewingsdale Road will form part of the road upgrade solutions and therefore the SP2 zoning provides for that occurrence once the upgrades are ready to implement.

Appendix A contains a current land zoning map and a proposed land zoning map demonstrating the proposed area of the SP2 zone.

The new local clause will be supported by an amendment to Byron DCP 2014, to add a new section into Chapter E5 – Certain locations in Byron Bay and Ewingsdale. This new section, contained at **Appendix B**, provides additional standards and controls that will apply to the land uses permitted by the LEP amendment.

Part 3 Justification

Section A – Need for the Planning Proposal

Q1. Is the planning proposal a result of any strategic study or report?

No. The Planning Proposal proposes a local clause amendment to the LEP to address existing uses at land known as The Farm, which have commenced and/or expanded without authorisation.

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

The land uses proposed to be permitted on this property are currently prohibited in the RU1 Primary Production Zone, with the exception of *industrial training facility*.

The following alternatives have been considered:

1. Amend RU1 zoning table to add the uses to item 3 – Permitted with consent:

This option would permit the subject land uses within any land in the Shire zoned RU1. The intention of this proposal is address the existing uses being carried out on The Farm, based on the unique nature of the land uses on the site, primarily noting the close association between on-site farming and the non-farming uses.

2. Change the zone of the subject site:

The merits of the existing non-farming land use are that they retain an essential association with the agricultural enterprises being undertaken on the land. That agricultural use should remain the dominant land use, with the non-farming uses being undertaken to ensure that the individual smaller-scale framing enterprises remain feasible.

Changing to a non-farming zone would potentially alter this balance, allowing expansion on non-farming uses without an essential association with primary production on-site.

For the individual uses that are currently prohibited, therefore, the proposed new local provision provides the best means of achieving the intended outcomes stating in Part 1 of this proposal.

Under the terms of Development Consent 10.2015.151.1, development for the purposes of *industrial training facility* is limited to one existing building on the site.

Development for this purpose is included in the suggested new local clause to provide parameters under which that would be considered acceptable within the development on this site.

The farming use of the land remains the primary focus of activities at the site, and the planning proposal aims to reinforce that by ensuring that any approved use has an essential association with existing agricultural/ primary production activities undertaken within the **Farming Precinct** at the site, or enables or enhances agricultural production at the site.

Q3. Is there a net community benefit?

The Net Community Benefit (NCB) Criteria are identified in the NSW Government’s publication *Draft Centres Policy, 2009*, which states that the Net Community Benefit Test should be used to assess the merits of rezoning in the following circumstances:

- proposals to develop within an existing centre where the current zoning does not permit the use
- proposals to develop outside an existing centre where the current zoning does not permit the use
- proposals to create a new centre.

Assessment against the Net Community Benefit Assessment Criteria is not appropriate for a planning proposal that deals with a rural land uses in the RU1 zone.

Section B – Relationship to strategic planning framework

Q4. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy?

The subject site is not located within the Urban Growth Area boundary under the *North Coast Regional Plan 2036 (NCRP)*. It is within the ‘coastal strip’ as identified in that plan.

The planning proposal is consistent with the following *Regional Priorities*, identified for Byron Shire within the Regional Plan:

- *Support a strong and diversified economy based on Byron Shire’s unique character, landscapes and important farmland.*
- *Encourage new opportunities for agribusiness, particularly in relation to organic and boutique food production.*

The NCRP also contains principles that should be addressed for land that is outside that Urban Growth Area. The following table addresses these principles in relation to the planning proposal:

Urban Growth Variation Principles	
<p>Policy The variation needs to be consistent with the objectives and outcomes in the <i>North Coast Regional Plan 2036</i> and any relevant Section 117 Directions and State Environmental Planning Policies, and should consider the intent of any applicable local growth management strategy.</p>	<p>Goal 1: The most stunning environment in NSW <u>Principle 2: Manage the sensitive coastal strip</u> The site is not contiguous with the urban growth area boundary. However, the planning proposal does not facilitate urban or rural residential development. <u>Principle 3: Provide great places to live and work in a unique environment</u> The planning proposal will assist in maintaining The Farm as a place to work, associated with farming activities at the site.</p> <p>Goal 2: A thriving, interconnected economy <u>Direction 11: Protect and enhance productive agricultural lands</u> <u>Action 11.4: Encourage niche commercial, tourist and</u></p>

Urban Growth Variation Principles	
	<p><i>recreation activities that complement and promote a stronger agricultural sector, and build the sector’s capacity to adapt to changing circumstances.</i></p> <p>The planning proposal seeks to ensure that future commercial and/ or tourism uses of the land retain an essential association with the farming activities undertaken at the site.</p> <p>In this way, future uses will compliment existing agriculture, and also facilitate new and additional smaller-scale farming ventures.</p> <p>S117 Directions and State Environmental Planning Policies are addressed below.</p>
<p>Infrastructure The variation needs to consider the use of committed and planned major transport, water and sewerage infrastructure, and have no cost to government.</p> <p>The variation should only be permitted if adequate and cost-effective infrastructure can be provided to match the expected population.</p>	<p>The planning proposal addresses existing land uses, which are serviced by way of an on-site wastewater management system. There have been a number of recent upgrades to the system and the proponent has demonstrated that the system is operating in accordance with the terms of its approval, and that it has adequate capacity to service the uses at the site. A detailed Wastewater report is attached to this Planning Proposal at Appendix C.</p> <p>The site is well-located in terms of transport routes, although investigations are currently underway to plan for future upgrades of adjacent intersections, including the motorway interchange. The Traffic Report contained at Appendix D addresses the potential impacts associated with traffic from this development.</p> <p>Significant traffic congestion is experienced at the roundabout and on Ewingsdale Road. While traffic generated by The Farm is not the sole reason for this congestion, it is a contributor. As such, preliminary discussions involving the proponents, Council and RMS have indicated a need for a variety of road improvement upgrades to address the congestion, and the need for The Farm to contribute to those solutions.</p> <p>The proponents have therefore agreed to the SP2 Infrastructure (classified road) zoning to be applied as part of this Planning Proposal, to ‘reserve’ the land across the Ewingsdale Road frontage of the site for future widening of that road.</p> <p>Reticulated water supply is available by way of a Rous County Council main, and is augmented by rainwater capture.</p>
<p>Environmental and farmland protection The variation should avoid areas:</p> <ul style="list-style-type: none"> • of high heritage value 	<p>While there are a number of heritage items in the locality, the site itself does not contain any items of areas with heritage value.</p>
<ul style="list-style-type: none"> • of high environmental value 	<p>The site contains some areas of environmental value, in and around Simpsons Creek, located in the eastern</p>

Urban Growth Variation Principles	
<ul style="list-style-type: none"> mapped as important farmland, unless consistent with the interim variation criteria prior to finalising the farmland mapping review 	<p>sector.</p> <p>The uses facilitated by the planning proposal are located away from the Simpsons Creek riparian area. The Farm management has implemented significant riparian revegetation works adjacent to Simpsons Creek.</p> <p>See discussion below</p>
<p>Land use conflict The variation must be appropriately separated from incompatible land uses, including agricultural activities, sewage treatment plants, waste facilities and productive resource lands.</p>	<p>The potential for land use conflicts, associated with uses in the rural activities precinct, can be managed by controls on the nature and scale of development within that precinct and by the provision of appropriate buffers within the subject land.</p> <p>A Land Use Conflict Risk Assessment has been prepared in relation to the proposal, and is contained at Appendix E.</p> <p>The buffer recommendations contained in that report have been incorporated in the draft DCP amendments, with a 5m wide strip of land along the full length of the property boundary adjoining farming land to be provided as a landscaped buffer. Activities authorised by this Planning Proposal will only be permitted outside of that buffer area.</p>
<p>Avoiding risk The variation must avoid physically constrained land identified as:</p> <ul style="list-style-type: none"> flood prone bushfire prone highly erodible having a severe slope having acid sulfate soils 	<p>The site is not flood prone.</p> <p>The site is not bushfire prone.</p> <p>The slopes of the site do not present erosion risks.</p> <p>The site does not have severe slopes.</p> <p>The site does not contain acid sulfate soils.</p>
<p>Heritage The variation must protect and manage Aboriginal and non-Aboriginal heritage.</p>	<p>There are no known Aboriginal or non-Aboriginal heritage areas.</p>
<p>Coastal area Only minor and contiguous variations to urban growth areas in the coastal area will be considered due to its environmental sensitivity and the range of land uses competing for this limited area.</p>	<p>The planning proposal does not propose to alter the existing RU1 zone other than for a 15m wide strip along the Ewingsdale Road frontage.</p>

Important Farmland Interim Variation Principles	
Agricultural capability	The land does have agricultural capability and is currently used for farming. The planning proposal seeks to facilitate non-agricultural

Important Farmland Interim Variation Principles	
	uses that are directly associated with the existing agriculture.
Land use conflict	<p>The land adjoins an existing farm to the north, which is used for macadamias and cattle. The owners of that land have concerns regarding the potential impacts of The Farm’s non-agricultural uses on his ability to farm.</p> <p>In the main, these concerns can be addressed by:</p> <ul style="list-style-type: none"> • controls on the nature and scale of land uses permitted within the Rural Activities Precinct; • the provision of appropriate buffers between the two properties; • ensuring that all disposal areas for treated wastewater flow away from the adjoining property; and • ensuring that The Farm has appropriate management measures in place to address biosecurity risks. <p>These concerns are considered further in the LUCRA contained at Appendix E.</p>
Environment and Heritage	<p>The proposed land uses will not have an adverse impact on areas of high environmental value or Aboriginal or historic heritage significance.</p> <p>Environmental enhancement works have been undertaken in conjunction with The Farm uses in the riparian area of Simpsons Creek that have improved the environmental value of that creek.</p>
Avoiding Risk	The proposal raises no issues in regard to environmental risks.

Q5. Is the planning proposal consistent with Council’s local strategy or other local strategic plan?

Council has recently adopted a Rural Land Use Strategy. One of the key policy directions in that strategy is the protection of important farmland and support for farming and rural industry.

The planning proposal is consistent with this policy direction in that it aims to ensure that farming remains the dominant use of the land, with uses within the activities precinct only permitted where they maintain an essential association with the onsite agriculture.

In 2012, Council adopted a 10 year + Community Strategic Plan 2022 (CSP). The plan is based on five key themes being Corporate Management, Economy, Environment, Community Infrastructure, Society and Culture. Three of those themes or objectives are relevant to this Planning Proposal:

<i>Economy:</i> <i>A sustainable and diverse economy which provides innovative employment and investment opportunities in harmony with our ecological and social aims</i>	The Planning Proposal supports the economy through creating employment linked to agriculture. It has the potential to create economic growth and demand without major ecological or social concerns.
<i>Environment:</i> <i>Our natural and built environment is improved for each generation</i>	The Planning Proposal assists the environment to be maintained and protected for future generations by restricting development to the scale currently operating at the site. The Planning Proposal does not facilitate expansion of non-agricultural activities or land uses.
<i>Society and Culture:</i> <i>Resilient, creative and active communities with a strong sense of local identity and</i>	The land uses at The Farm are linked to innovative agricultural enterprises, that allow for farmers to get a start in the industry.

place	
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The CSP is undergoing review. On the basis of recent community engagement, it is now underpinned by the following four vision components:


<i>Our community is empowered to be creative, innovative and listened to as we shape the future way of living that we want</i>	The land uses at The Farm are linked to innovative agricultural enterprises, that allow for farmers to get a start in the industry. The existing uses facilitated by this Planning Proposal are a key part of the overall business model, providing an on-site market for the agricultural products grown on the land.
<i>While we strongly protect our Shire; its natural environment, lifestyle, diversity and community spirit, we welcome visitors and the contribution they make to our culture</i>	The Farm is a valued destination for residents and visitors, primarily to the approved restaurant. The farm tours, which will be facilitated by this Planning Proposal, provide for an additional visitor experience, which showcases the local area’s agricultural expertise.
<i>Our future is sustainable, we have the services and infrastructure we need to thrive, and we encourage and support local business and industry</i>	The Planning Proposal facilitates local business.
<i>We foster the arts and cultural activities, respect and acknowledge our first peoples and celebrate and embrace diverse thinking and being</i>	Not directly applicable.

On this basis the Planning Proposal is consistent with Council’s CSP.

Q6. Is the planning proposal consistent with applicable State Environmental Planning Policies?

The State Environmental Planning Policies (SEPP) relevant to this planning proposal are addressed below.

SEPP	Compliance of Planning Proposal
SEPP 44 Koala Habitat Protection	The site does not contain any koala habitat.
SEPP 55 Remediation of Land	Preliminary site investigations were undertaken in association with previous development proposals for the site, demonstrating that the land is suitable for the uses approved.
SEPP (Coastal Protection) 2018	The Coastal Wetland mapping has been extended from the previous SEPP 14 mapping and now covers watercourses in the coastal zone. As such, the low lying area of the site and the eastern watercourse are mapped as Coastal Wetland under this SEPP (see below)

		<p>The Planning Proposal does not facilitate any uses of the site that would physically impact these wetland areas.</p>
<p>SEPP (Primary Production and Rural Development) 2019</p>	<p>The Planning Proposal is consistent with the objectives of this SEPP as they are intended to facilitate the “orderly economic use and development of lands for primary production”.</p>	

Q7. Is the planning proposal consistent with applicable local planning directions issued by the Minister (s9.1 directions)?

Unless otherwise noted the Planning Proposal is consistent with applicable Ministerial Directions as follows:

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
1. Employment and Resources			
1.1 Business and Industrial Zones	Applies when a relevant planning authority prepares 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.	N/A
1.2 Rural Zones	<p>Applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary).</p> <p>Under this direction a planning proposal must:</p> <ul style="list-style-type: none"> (a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. (b) not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village). 	<p>The Planning Proposal does not aim to change the existing rural zoning of the site to a residential, business, industrial, village or tourist zone.</p> <p>The Proposal does not alter lot size or density provisions.</p>	Consistent.

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
1.3 Mining, Petroleum Production and Extractive Industries	<p>Applies when a relevant planning authority prepares a planning proposal that would have the effect of:</p> <ul style="list-style-type: none"> (a) prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or (b) restricting the potential development of resources of coal, other minerals, petroleum 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>Nothing in this Planning Proposal will prohibit or restrict exploration or mining or the extraction of other material.</p>	N/A
1.4 Oyster Aquaculture	<p>Applies when a relevant planning authority prepares any planning proposal that proposes a change in land use which could result in:</p> <ul style="list-style-type: none"> (a) adverse impacts on a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate”, or (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>The Planning Proposal does not impact on any Priority Oyster Aquaculture Areas (POAA).</p>	N/A
1.5 Rural Lands	<p>Applies when:</p> <ul style="list-style-type: none"> (a) a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary), or (b) a relevant planning authority prepares a planning proposal that changes the existing minimum lot size on land within a rural or environment protection zone. <p>A planning proposal to which clauses (a) or (b) apply must be address the provisions in Part 4 of the Direction</p>	<p>The Principles outlined in part 4 of this Direction are addressed in the table below. It is considered that the Planning Proposal is consistent with all of the relevant rural planning provisions.</p>	Consistent

<p>Part 4: A planning proposal must:</p>	
<p><i>be consistent with any applicable strategic plan, including regional and district plans endorsed by the Secretary of the Department of Planning and Environment, and any applicable local strategic planning statement</i></p>	<p>Council has not yet adopted a local strategic planning statement. Consistencies with the relevant local strategy is addressed above.</p>
<p><i>consider the significance of agriculture and primary production to the State and rural communities</i></p>	<p>The Planning Proposal is consistent in that it provides a mechanism that will ensure the continuing viability of the innovative, small scale farming model undertaken on the site.</p> <p>Permitting agricultural education / training uses will provide for opportunities to educate the wider community about the importance of agriculture.</p>
<p><i>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</i></p>	<p>The planning proposal does not facilitate any uses that have the potential in negatively impact such values.</p>
<p><i>consider the natural and physical constraints of the land, including but not limited to, topography, size, location, water availability and ground and soil conditions</i></p>	<p>As above.</p>
<p><i>promote opportunities for investment in productive, diversified, innovative and sustainable rural economic activities</i></p>	<p>The Planning Proposal is consistent in that it provides a mechanism that will ensure the continuing viability of the innovative, small scale farming model undertaken on the site.</p>
<p><i>support farmers in exercising their right to farm</i></p>	<p>As above – also local controls within the proposed addition to Byron DCP will ensure that potential land use conflicts with adjoining farming activities will be avoided.</p>
<p><i>prioritise efforts and consider measures to minimise the fragmentation of rural land and reduce the risk of land use conflict, particularly between residential land uses and other rural land uses</i></p>	<p>As above.</p>
<p><i>consider State significant agricultural land identified in State Environmental Planning Policy (Primary Production and Rural Development) 2019 for the purpose of ensuring the ongoing viability of this land</i></p>	<p>The land is not identified as State Significant.</p>
<p><i>consider the social, economic and environmental interests of the community</i></p>	<p>The planning proposal provides a mechanism that will ensure the continuing viability of the innovative, small scale farming model undertaken on the site, which will have positive</p>

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
2. Environment and Heritage			
2.1 Environment Protection 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 environment protection 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 alter or remove any environment protection zone.	N/A
2.2 Coastal Management	Direction applies when a relevant planning authority prepares a planning proposal that applies to land in the coastal zone.	The land affected by this Proposal is located outside of the coastal zone.	N/A
2.3 Heritage Conservation	<p>A planning proposal must contain provisions that facilitate the conservation of:</p> <p>(a) Items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area,</p> <p>(b) Aboriginal objects or Aboriginal places that are protected under the <i>National Parks and Wildlife Act 1974</i>, 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>	This Planning Proposal does not impact on any areas or items of heritage significance.	N/A

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
2.4 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 <i>Recreation Vehicles Act 1983</i>).	The proposal does not enable land to be developed for the purpose of a recreation vehicle area.	N/A
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	This direction applies when a planning proposal introduces or alters an E2 or E3 zones or environmental overlays	The proposal does not involve any environmental zones or overlays	N/A
3. Housing, Infrastructure and Urban Development			
3.1 Residential Zones	This direction applies when a relevant planning authority prepares a planning proposal that will affect land within: (a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary), (b) any other zone in which significant residential development is permitted or proposed to be permitted.	The planning proposal does not affect residential zoned land.	N/A
3.2 Caravan Parks and Manufactured Home Estates	Applies when a relevant planning authority prepares a planning proposal that identifies suitable zones, locations and provisions for caravan parks.	Not applicable to this planning proposal.	N/A
3.3 Home Occupations	Planning proposals must permit home occupations to be carried out in dwelling-houses without the need for development consent.	This proposal does not alter home occupation provisions in Byron LEP 2014.	N/A
3.4 Integrating Land Use and Transport	Applies when a relevant planning authority prepares 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 to this planning proposal.	N/A
3.5 Development Near Licensed Aerodrome	Applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome.	The planning proposal will not alter provisions on land in the vicinity of the Tyagarah aerodrome.	N/A
3.6 Shooting ranges	Applies when a relevant planning authority prepares a planning proposal that will impact on land adjacent to an existing shooting range.	Not applicable to this planning proposal.	N/A

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
3.7 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.	Not applicable to this planning proposal.	N/A
4. Hazard and Risk			
4.1 Acid Sulfate Soils	Applies when a relevant planning authority prepares 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.	The land is not mapped as being affected by Acid Sulfate Soils.	N/A
4.2 Mine Subsidence and Unstable Land	Applies when a relevant planning authority prepares a planning proposal that permits development on land that is within a mine subsidence district.	This proposal does not impact on any mine subsidence area.	N/A
4.3 Flood Prone Land	Applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.	The land is not flood prone.	N/A
4.4 Planning for Bushfire Protection	Applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land.	The land is not identified as being Bushfire Prone.	N/A
5. Regional Planning			
5.1 Implementation of Regional Strategies	Planning proposals must be consistent with a regional strategy released by the Minister for Planning.	See above.	Consistent.
5.2 Sydney Drinking Water Catchments	Applies when a relevant planning authority prepares a planning proposal that applies to the hydrological catchment.	The proposal is not within this catchment.	N/A

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	The planning proposal must not rezone land mapped as State or regionally significant farmland under the Northern Rivers Farmland Protection Project for an urban use.	The land is mapped as Regionally Significant Farmland. The planning proposal does not propose to alter the existing RU1 Primary Production zoning other than a small section adjacent to Ewingsdale Road to reserve this area for future road widening. The draft provisions will ensure that non-farming uses are only permitted where there is an essential association with agriculture on the land.	Consistent
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Applies to a planning proposal for land in the vicinity of the existing and/or proposed alignment of the Pacific Highway, with provisions for “within town” and out-of-town” segments. For “out-of-town” segments, the proposal must provide that: <i>new commercial or retail development must not be established near the Pacific Highway if this proximity would be inconsistent with the objectives of this Direction;</i> <i>development with frontage to the Pacific Highway must consider the impact the development has on the safety and efficiency of the highway;</i>	There are existing traffic congestion issues which affect the Pacific Highway. Traffic from the unauthorised uses at The Farm, while not the sole cause or significant contributor to this congestion, nonetheless contributes to traffic volumes at the Highway interchange, which is currently experiencing capacity issues. Council and RMS are currently working on road upgrades in this locality which will address these issues. Zoning of the Ewingsdale Road frontage of the site to SP2 Infrastructure (classified road) will ‘reserve’ that land for future road widening, which has been identified as part of the upgrade solutions.	Consistent
5.10 Implementation of Regional Plans	A planning proposal must be consistent with a Regional Plan released by the Minister for Planning.	See Section B above	Consistent
6. Local Plan Making			
6.1 Approval and Referral Requirements	A planning proposal must: (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	The planning proposal will not include provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority.	N/A

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of:</p> <ul style="list-style-type: none"> (i) the appropriate Minister or public authority, and (ii) the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General), <p>prior to undertaking community consultation in satisfaction of section 57 of the Act, and</p> <p>(c) not identify development as designated development unless the relevant planning authority:</p> <ul style="list-style-type: none"> (i) can satisfy the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and (ii) has obtained the approval of the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act. 		
<p>6.2 Reserving Land for Public Purposes</p>	<p>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 Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General).</p>	<p>Preliminary discussions with Transport for NSW Roads and Maritime indicate support for the proposed SP2 Infrastructure (classified road) zoning along the Ewingsdale Road frontage of the property.</p>	<p>Consistent</p>
<p>6.3 Site Specific Provisions</p>	<p>Applies when a relevant planning authority prepares a planning proposal that will allow a particular development to be carried out.</p> <p>A planning proposal that will amend another environmental planning</p>	<p>The planning proposal will facilitate nominated development to be carried out. Specific controls are proposed in relation to those uses, to ensure that they remain</p>	<p>Justifiably inconsistent.</p>

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>instrument in order to allow a particular development proposal to be carried out must either:</p> <p>(a) allow that land use to be carried out in the zone the land is situated on, or</p> <p>(b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or</p> <p>(c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.</p> <p>A planning proposal must not contain or refer to drawings that show details of the development proposal.</p>	<p>consistent with the primary production zoning of the land.</p> <p>It is considered that the additional local clause is the appropriate mechanism in this case, rather than changing the zoning of the land, in order to retain the overall agriculture focus and objectives for the site</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 amendments proposed will not adversely affect critical habitat or threatened species, populations or ecological communities, or their habitats.

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

There are negligible environmental effects likely as a result of the minor amendments and corrections outlined in this Planning Proposal.

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

The maintenance of land uses at the site which facilitate and support the existing agricultural activities results in a number of social and economic benefits for the locality, area and region.

Section D – State and Commonwealth interests

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

There is adequate public road infrastructure provision at the moment, but planning is underway for the future upgrade of the local road network in this area, which will benefit the site. The Traffic report contained at **Appendix D** addresses, among other things, potential impacts on adjoining State road infrastructure.

Q11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

Transport for NSW Roads and Maritime has been involved in this Planning Proposal in relation to the proposed SP2 Infrastructure zone and future upgrade solutions to the local and State road network.

Other agencies will have an opportunity to input following Gateway Determination.

Part 4 Mapping

Finalisation of the Planning Proposal will involve an update to the **Land Zoning Map** and introduce a **Local Provisions Map** linked to the new proposed clause. This map will specifically reference the clause and illustrate the site and the location and extent of the nominated activity precincts. A draft local provisions map and land zoning map is contained at **Appendix A**.

Part 5 Community Consultation

Land owner and community engagement will continue to be an important component of this planning proposal process. Engagement activities to date have included:

- Site meetings and discussions with The Farm management, with both Councillors and staff;
- On-site meetings with the adjoining farmers / land owners;
- Discussions with local Ewingsdale residents.

In addition to any consultation requirements that may come with a Gateway Determination, the following activities are also proposed:

- Dialogue and meetings with The Farm management and their representatives to ensure that Council's objectives continue to be clearly communicated and understood;
- Provision of supporting reports etc. to adjoining farmers and meetings with those land owners (at their farm) to ensure Council continues to understand and respond to their issues of concern;
- Attendance at meetings of the Ewingsdale Progress Association to keep members informed throughout the process and ensure that Council staff and Councillors remain aware of local issues and concerns; and
- Wider consultation with the Byron community.

Part 6 Project Timelines

An indicative project timeline is provided in the table below:

Plan making step	Estimated Completion
Gateway Determination	March 2020
Government Agency consultation	April 2020
Public Exhibition Period	April 2020(30 days)
Submissions Assessment	June 2020
Council assessment of planning proposal & exhibition outcomes	June 2020
Submission of endorsed LEP amendment to Parliamentary Counsel for drafting (delegated authority)	July 2020
Council to make the LEP amendment (delegated authority)	September 2020
Forwarding of LEP amendment to Department of Planning & Environment for notification (if delegated)	October 2020

Conclusion

This Planning Proposal seeks to introduce a new local clause into Byron LEP 2014 to provide for a range of land uses at The Farm, Ewingsdale, that are ancillary to and supportive of the farming activities being carried out on the land. It will also apply a zoning of SP2 Infrastructure (Classified Road) to a 20m wide strip of land along the Ewingsdale Road frontage of the property.

The specific provisions will ensure that primary production remains the dominant use of the land, and that the additional uses will have and maintain an essential association with that farming. These uses provide an on-site market for the produce and assist to ensure the ongoing viability of the agricultural activities.

Issues associated with potential land use conflicts can be addressed during the planning proposal process, primarily through the provision on appropriate buffers within the site.

This Planning Proposal will not impact on environmental areas nor create unreasonable demand on urban infrastructure.

This Planning Proposal will have positive social and economic effects by offering additional agricultural employment and trading opportunities for local people and businesses.

The proposed LEP amendments are generally consistent with the North Coast Regional Plan 2036 and Council's Rural land Use Strategy. An assessment of the planning proposal indicates that it is consistent with relevant SEPPs and all relevant s9.1 Directions.

There is sufficient information to enable Council to support the planning proposal and forward it to the Department of Planning and Environment for a Gateway determination.

Appendix A Proposed LEP Amendments

The following clause is proposed to be added to Section 6 of Byron LEP 2104:

6.xx Use of certain land at The Farm, Ewingsdale Road, Ewingsdale

(1) *This clause applies to land at Ewingsdale Road, Ewingsdale (known as The Farm) being Lot 1, DP 780234 and Lot 5, DP 848222, and identified as “Area F” on the Local Provisions Map.*

(2) *The purpose of the **Rural Activity Precinct** shown on the Local Provisions Map is to provide commercial outlets for farming products grown on site and opportunities for the community to learn about and appreciate farming.*

It applies to the part of the land containing a cluster of existing buildings, located in the south-west corner of the property (see Map).

(3) *Within the **Rural Activity Precinct** shown on the Local Provisions Map, development for the following purposes is permitted with consent:*

(a) *Development for the purposes of an artisan food and drink industry, being a bakery;*

(b) *Development for the purposes of an information and education facility, being areas utilised for the provision of small group training;*

(c) *Development for the purposes of office premises, utilised solely for the management of agricultural or ancillary businesses that are conducted on the property; and*

(d) *Development for the purposes of an information and training facility, being for the display of information relating to the property and its uses, or as a gathering point for individuals and groups undertaking training, education or recreational activities at the site.*

(4) *The purpose of the **Farming Precinct** shown on the Local Provisions Map is to preserve the bulk of the property for primary production and facilitate innovative community farming models.*

*It applies to all areas outside of the **Rural Activity Precinct**.*

(5) *The secondary purpose of the **Farming Precinct** is to provide opportunities for agricultural education/ appreciation and low-scale recreational activities that are directly related to primary production.*

(6) *Within the **Farming Precinct** shown on the Local Provisions Map, development for the following purposes is permitted with consent:*

(a) *Farm field days and exhibitions;*

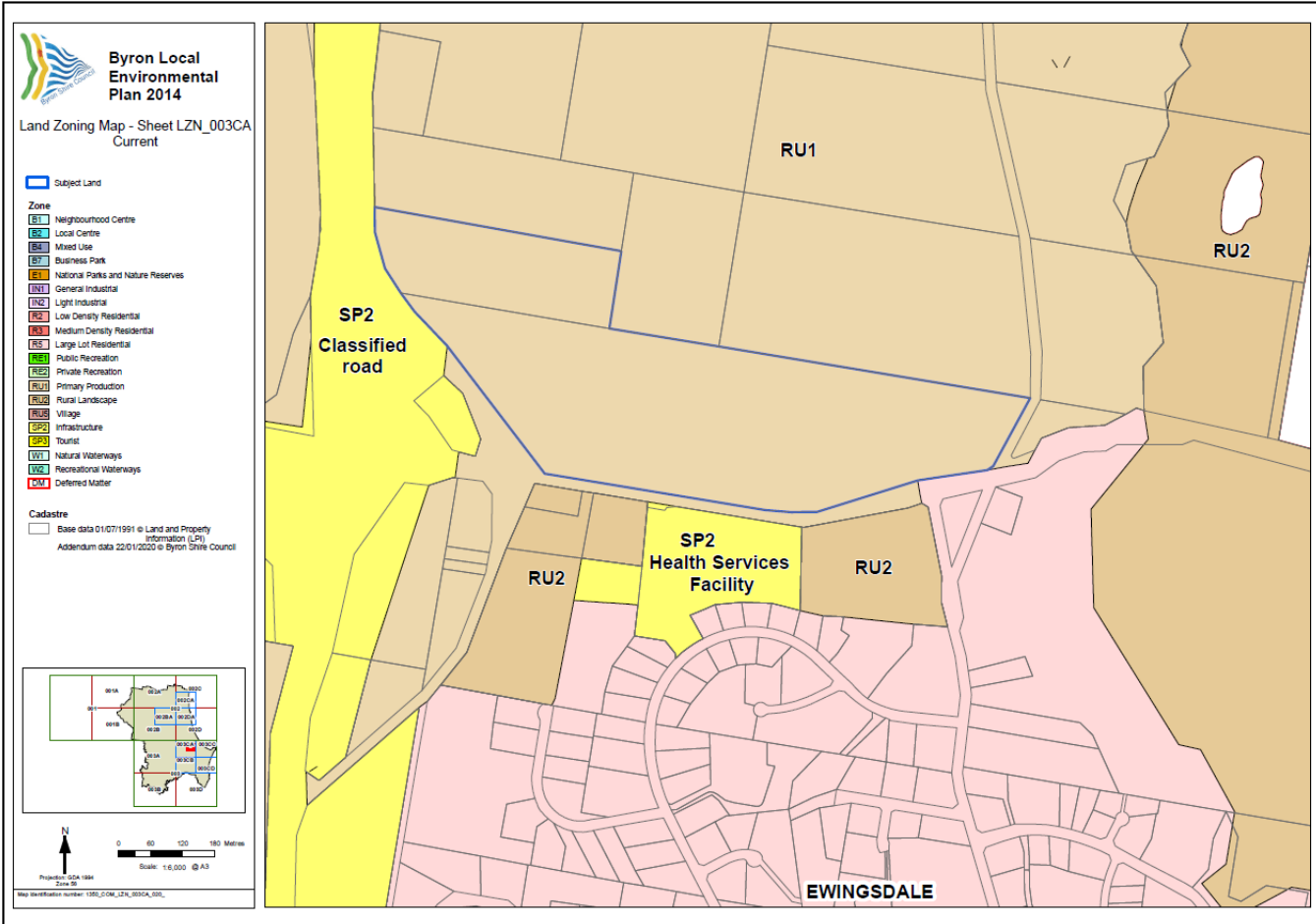
(b) *Farm tours for educational purposes, including individuals, school groups, and other groups of up to 30 people at a time.*

Local Provisions Map

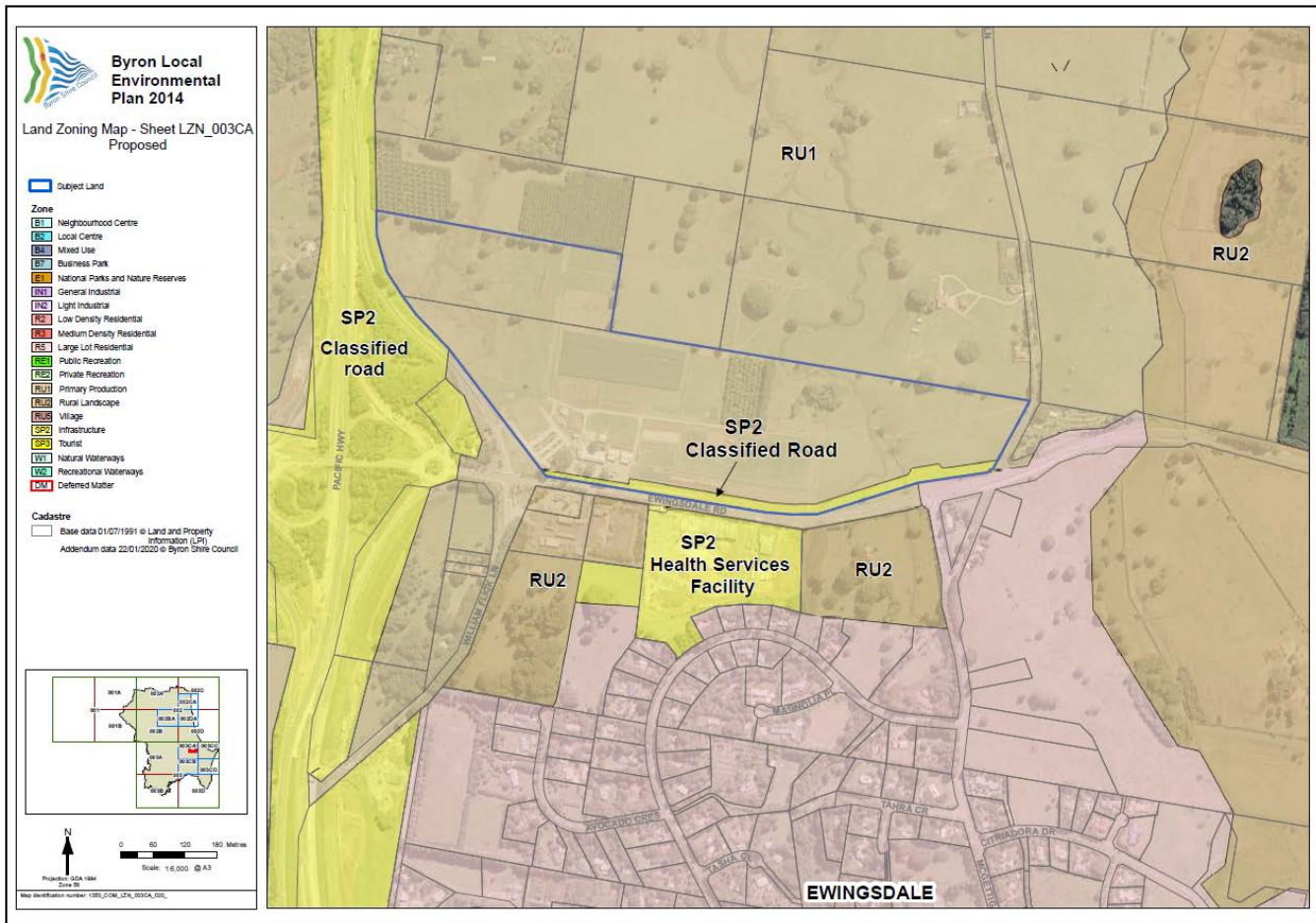
This will be the first Local Provisions Map in the Byron LEP 2014.



Current Zoning



Proposed Zoning



Appendix B Suggested DCP Amendment

E5.8 The Farm

E5.8.1 Where this Section Applies

This section applies to land at Ewingsdale Road, Ewingsdale, known as The Farm; being Lot 1, DP 780234 and Lot 5, DP 848222, as shown on the **Local Provisions Map** within Byron Local Environmental Plan 2014.

Clause 6.xx of the Byron Local Environmental Plan 2014 specifies a number of land uses that are permissible on the site, which are additional to those permitted in the zoning table to the LEP.

The provisions in this Part of Chapter E5 relate to the land uses permitted in that Clause. They do not apply to other land uses permitted within the RU1 Primary Production zone.

In the event of any inconsistency between this Section and other Chapters in this DCP, the provisions of this Section shall prevail.

E5.8.2 Objective of this Section

The objective of this Section is to outline planning controls to regulate the additional land uses permitted under the provisions of Clause 6.xx of Byron Local Environmental Plan 2014.

E5.8.3 Rural Activity Precinct

The location and extent of the Rural Activity Precinct is shown on the **Local Provisions Map** within Byron Local Environmental Plan 2014. It applies to the part of the land containing a cluster of existing buildings, located in the south-west corner of the property.

Objectives:

The objective of the Rural Activity Precinct is to provide commercial outlets for farming products grown on site and opportunities for the community to learn about and appreciate farming

Performance Criteria:

1. Land uses within the Rural Activity Precinct should have a direct connection with farming pursuits being undertaken on the property; and
2. The nature and scale of land uses should not result in conflicts with farming activities on adjacent properties.

Prescriptive Measures:

1. An artisan food and drink industry, being a bakery, must be located within an existing building, and used for the preparation and sale of bread and other bakery goods, provided that a majority of the products contain ingredients sourced directly from the property;
2. An information and education facility, must utilise areas within existing buildings or their immediate curtilage, and provide small group training where that training is related to agriculture or rural industry, excluding training relating to marketing and/ or administration aspects of agriculture;
3. Development consent must not be granted for any use within the Rural Activity Precinct shown on the **Local Provisions Map** within Byron Local Environmental Plan 2014, unless Council is satisfied that:
 - (a) the use has an essential association with existing agricultural/ primary production activities undertaken within the **Farming Precinct** at the site, or enables or enhanced agricultural production on the site;
 - (b) the use will not limit the operation and/ or expansion of adjoining and nearby agricultural uses;

- (c) wastewater generated by the proposed use will be within the treatment and disposal capacity of the approved on-site wastewater management system;
- (d) there are no new or additional buildings proposed on the site;
- (e) traffic generated by the proposed use will not result in total peak hour trips (i.e. from the site as a whole), exceeding 200 trips outside of school holiday periods or 350 trips during holiday periods;
- (f) individual events undertaken within agricultural training/ education facilities involve a maximum of 30 people, with the exception of school groups, which can have more participants; and
- (g) there will be no more than 1 training/ education event per week within the agricultural training/ education facilities.

E5.8.4 Farming Precinct

The location and extent of the Farming Precinct is shown on the **Local Provisions Map** within Byron Local Environmental Plan 2014. It applies to all of the property outside of the Rural Activity Precinct.

Objectives:

The objective of the Farming Precinct is to provide for primary production on the land and opportunities for the community to learn about and appreciate farming.

Performance Criteria:

1. Land uses within the Farming Precinct should have a direct connection with farming pursuits being undertaken on the property; and
2. The nature and scale of land uses should not result in conflicts with farming activities on adjacent properties.

Prescriptive Measures:

1. Development consent must not be granted for a farm field day or exhibition within the **Farming Precinct** shown on the **Local Provisions Map** within Byron Local Environmental Plan 2014, unless Council is satisfied that:
 - (a) there are a maximum of 4 such events in any calendar year;
 - (b) there are no more than 100 people attending any individual event;
 - (c) events are scheduled such that event traffic avoids morning and afternoon peak hour periods;
 - (d) events will not occur concurrently with any use of the agricultural training / education facilities within the Rural Activities Precinct;
 - (e) a Noise Management and Monitoring Plan has been prepared for each event, including:
 - details to ensure adequate measures, roles and responsibilities are in place to ensure that event noise remains inaudible above background levels at nearby dwellings;
 - assessment of expected noise impacts;
 - detailed examination of all feasible and reasonable management practices that will be implemented to minimise noise impacts
 - strategies to promptly deal with and address noise complaints. This should include any records that should be kept in receiving and responding to any noise complaints;
 - details of performance evaluating procedures (for example, sound checks on amplified public address systems);
 - procedures for notifying nearby residents living within 1 kilometre of the property of forthcoming events, times that they are likely to notice noise emanating from the site and

the contact details for the onsite manager for complaints and queries to be made, and responded to;

- operational details about the use of any noise monitoring equipment to record sound pressure levels around the property;
 - name and qualifications of person who prepared the report; and
 - protocols for the monitoring of the event, including a requirement that a report be provided to Council following the event.
2. A continuous strip of land, with a minimum width of 5m, is to be provided along all boundaries that adjoin privately owned farm land. That 5m strip is to be densely landscaped to provide a visual screen between the properties.

Appendix C Wastewater Report

NOTE – REMAINDER OF APPENDICES NOT INCLUDED IN THIS VERSION

Appendix D Traffic Report

Appendix E LUCRA

Appendix F Social Impact Assessment

Appendix G Economic Impact Assessment