



**Planning Proposal 26.2016.4.1**  
**Amendment of Byron Local Environmental Plan 2014**  
**Rural Event Sites**

Byron Shire Council

**Post Exhibition**

**Date: May 2020**

***Document History***

Doc No.	Date Amended	Details Comments e.g. Resolution No.
E2018/86967	October 2018	Public Exhibition Version
E2019/31936	June 2019	Amendments to draft clause and new local definition- Post Exhibition Version
E2019/44807	June 2019	Amendment following Council resolution 19-275 – addition of RU1
E2019/89016	December 2019	Update in accordance with amended Gateway Determination – re-exhibition version
E2020/ 26186	May 2020	Update following exhibition

## Table of Contents

<b>Part 1</b>	<b>Introduction .....</b>	<b>1</b>
1.1	Objective and intended outcomes .....	1
1.2	Background .....	1
1.3	Council Decisions .....	2
<b>Part 2</b>	<b>Explanation of provisions .....</b>	<b>4</b>
2.1	Proposed Local Provision .....	4
2.2	Other amendments .....	4
2.3	Development Control Plan .....	5
<b>Part 3</b>	<b>Justification .....</b>	<b>6</b>
<b>Section A</b>	<b>Need for the planning proposal .....</b>	<b>6</b>
Q1	Is the planning proposal a result of any strategic study or report? .....	6
Q2.	Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way? .....	7
<b>Section B</b>	<b>Relationship to strategic planning framework.....</b>	<b>8</b>
Q3.	Is the planning proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (in this case the North Coast Regional Plan 2036)? .....	8
Q4.	Is the planning proposal consistent with a council's local strategy or other local strategic plan? .....	9
Q5.	Is the planning proposal consistent with the applicable State Environmental Planning Policies (SEPPs)? .....	9
Q6.	Is the planning proposal consistent with applicable Ministerial Directions (s9.1 Directions)? .....	9
<b>Section C</b>	<b>Environmental, social and economic impact .....</b>	<b>27</b>
Q7.	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? .....	27
Q8.	Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed? .....	27
Q9.	How has the planning proposal adequately addressed any social and economic effects? .....	27
<b>Section D</b>	<b>State and Commonwealth interests.....</b>	<b>27</b>
Q.10	Is there adequate public infrastructure for the planning proposal? .....	27
Q.11	What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination .....	27
<b>Part 4</b>	<b>Mapping .....</b>	<b>29</b>
<b>Part 5</b>	<b>Community consultation.....</b>	<b>29</b>
<b>Part 6</b>	<b>Project timeline.....</b>	<b>30</b>
	<b>Summary and conclusions .....</b>	<b>30</b>
	<b>Appendices</b>	
Appendix A	Proposed LEP Amendments .....	31
Appendix B	Proposed DCP Amendment.....	32

## Part 1 Introduction

### 1.1 Objective and intended outcomes

The objective of this Planning Proposal is to permit *Rural Event Sites* in the RU2 Rural Landscape zone, allowing a maximum of 20 events per calendar year over a period of three (3) years.

The underlying purpose is to provide an approval mechanism for this land use on certain rural land, in a way that provides for a level of certainty for the events industry while protecting the rural amenity of neighbourhoods.

For the purposes of this Proposal, *Rural Event Sites* refers to the temporary use of properties within this rural zone, where weddings and other similar gatherings and/or events are held for commercial purposes.

The proposed amendments provide a temporary land use approval, for a specified number of annual events over a three (3) year approval period.

Subject to demonstrated satisfactory operation (i.e. operation that does not disturb neighbours or detrimentally impact on rural amenity), proponents would be able to seek further three (3) year approvals.

The Planning Proposal seeks to achieve this by inserting a new local provision into the LEP, containing the approval mechanism and a local definition of *rural event site*.

Concurrently, Council is preparing an amendment to Byron Development Control Plan 2014 (DCP 2014) to outline a range of planning controls to ensure that commercial *rural event sites* will be located and managed so that events do not result in disturbance of adjoining land owners or adverse impacts on rural amenity, farming or areas of high environmental value.

This Planning Proposal does not address 'one-off' private events within the rural area, for which approvals are not required.

Details of the suggested LEP amendments are outlined in **Appendix A** and explained further below. The proposed DCP amendments are outlined in **Appendix B**.

### 1.2 Background

Council has recently prepared a Rural Land Use Strategy. In part, that Strategy addresses *Rural Event Sites*, recommending the following action:

*Investigate the potential for allowing 'wedding venues' in rural zones and, where appropriate, planning provisions to ensure their location, scale and operation are compatible with the rural setting.*

The action follows the growth of the wedding industry in Byron Shire, which has involved a significant expansion of activities in rural areas.

In recent years, Council has received complaints regarding a number of unauthorised wedding venues in the rural parts of the Shire, resulting in a variety of compliance actions. A number of development applications have also been dealt with, the majority of which have been withdrawn or refused.

Under the current provisions of Byron Local Environmental Plan 2014, commercial wedding venues, which are defined as *function centres* for the purpose of the LEP, are prohibited in the RU1 Primary Production and RU2 Rural Landscape zones, and permitted with consent in the RU5 Village zone. *Rural Event Site* does not yet exist as a separate definition in the LEP.

Within the Byron Shire hinterland, previous development applications have been lodged under Clause 2.8 of the LEP, which allows consideration of any use of land on a temporary basis, even if that use is otherwise prohibited, subject to a range of merit considerations, including the potential for adverse amenity impacts.

A previous Land & Environment Court judgement in relation to a wedding venue approval in Hawkesbury Shire has highlighted the absolute nature of the controls included in Clause 2.8 (which is a Standard Template LEP provision).

Council cannot approve a temporary use under that clause unless it is satisfied that (amongst other things) there will not be **any** adverse impacts on the amenity of the neighbourhood [**emphasis added**].

The key finding of the judgement was that this is absolute, i.e. Council cannot turn its mind to whether a potential adverse impact might be acceptable in the circumstances; if an adverse impact is identified, Council is prevented from granting approval.

Consultation with wedding industry representatives, and with rural residents previously impacted by unauthorised events, suggests that, on appropriate sites, the adverse impacts of rural events can be managed, through an approval process that combines a range of site location and event management criteria.

### 1.3 Council Decisions

At the ordinary meeting of 23 November 2017, Council resolved (**17-594**):

*That Council, for the purposes of community consultation:*

1. *Prepare a draft Planning Proposal to amend Byron Local Environmental Plan 2014 to insert a clause permitting function centres with consent in zones RU1, RU2 and R5 subject to a range of controls which will manage impacts on existing residents.*
2. *Conduct information sessions in all rural communities where the proposal may have affect.*
3. *Issue a media release and Council website post at least two weeks prior to the first information session to advise the community of the planning proposal with notice of all information sessions.*
4. *Following completion of the information sessions and other community consultation, a report be received by Council with a review of the community meetings and consultation.*

Following this resolution, Council undertook community information sessions across the Shire, and generated web-based opportunities for public comment.

The aim of the engagement was to get input from the community as to how Council should manage the issue of rural events, particularly relating to wedding venues.

171 individual survey responses were received. In addition, approximately 80 people attended the community information sessions and approximately 20 individual submissions were received.

Overall, it was clear that the community is divided about whether to permit commercial event venues in the rural zones. In response to that direct question, 63% of respondents said event venues should be permitted in rural zones, with 37% saying they should remain prohibited.

The concerns expressed as reasons to retain the current prohibition included:

- the potential for disturbance to rural residents;
- the ability for Council to monitor and police compliance with approval conditions;
- the potential loss of productive farmland;
- erosion of the rural character and amenity; and
- the commercialisation of rural land.

Based on the survey responses and the discussions at the community information sessions, there was general agreement, at least among those who accepted the premise of permitting and controlling commercial event venues, that the controls should include provisions that define the suitability of sites as well as controls relating to the management of events.

There was widespread agreement that management of noise and traffic was the key to limiting the disturbance to neighbours.

There was also widespread acknowledgement of the positive benefits of the wedding industry, in terms of employment and expenditure, and recognition that, on appropriate sites, it is possible for events to be managed to minimise or avoid disturbance to neighbours.

The community feedback was reported to Council in June 2018, where it was resolved that Council (**18-404**):

1. *Forward the Planning Proposal at Attachment 2 (#E2018/46690) with the following amendment to 6(10) 2 (c) and (d), to the NSW Department of Planning and Environment for a Gateway determination, to amend Byron Local Environmental Plan 2014 to permit function centres in the RU2 Rural Landscape Zone with development consent and subject to appropriate controls relating to site suitability and management.*
  - 6(10) 2 (c) *ensure that all amplified music will cease no later than 8.00pm; and*
  - 6(10) 2 (d) *ensure that all event attendees will be off-site no later than 8.30pm; and*
2. *In keeping with the commitment to value, protect and enhance farming in the Shire, not proceed with allowing function centres in the RU1 Primary Produce Zone.*
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.*
4. *Investigate the possibility of implementing a registration system for approved rural function centres, and report back to Council as part of the post-exhibition reporting*

Gateway Determination was obtained for that Planning Proposal and a second round of community engagement was undertaken in November/ December 2018.

The engagement demonstrated that divided opinions remain; some respondents remain of the view that the wedding industry is an important part of the Shire that can be managed to avoid disturbance to neighbours; while others are strongly opposed to such activities in the rural hinterland, concerned that it will not be possible to ensure that disturbance is avoided or minimised.

Concerns were also raised about the broad-scale definition for *function centre* – many residents expressed concern that the definition might allow for larger scale commercial functions such as exhibition and convention centres, which were not considered appropriate for rural areas in the Byron Shire.

In response, modifications to the Planning Proposal were recommended involving a new local definition of *rural event site*.

Council considered the public's submissions at its Planning Meeting of 20 June 20-19 and resolved (**19-275**):

1. *That Council forward the amended Planning Proposal (Attachment 1 E2019/23021) to NSW Department of Planning, Industry and Environment for an amended Gateway Determination, to provide an approval mechanism for rural event sites in the RU2 Rural Landscape Zone and RU1 Primary Production Zone.*
2. *That, following Gateway, if required, the Planning Proposal be publicly exhibited for a period of 28 day; and following this time a further report be put to Council.*
3. *That Council review existing planning provisions relating to restaurants in the rural zones, to ensure that the controls adequately protect rural amenity and prevent disturbance to neighbours*

#### 1.4 Amended Gateway Determination

Based on the most recent Council resolution, the Department of Planning, Industry & Environment issued an amended Gateway Determination. The primary modifications are:

1. Allow the Planning Proposal to continue on the basis of the proposed local definition of rural event site;

2. Remove the reference to permitting rural events site on land zoned RU1 Primary Production; and
3. Remove the proposed detailed provisions from the LEP local provision and include them within the Byron Development Control Plan (DCP).

## Part 2 Explanation of provisions

The purpose of this amended Planning Proposal is to permit rural event sites in the RU2 Rural Landscape zone, allowing a maximum of 20 events per calendar year over a period of three (3) years.

Under the land use definitions contained within Byron Local Environmental Plan 2014, a property that is set up to host weddings or other events on a commercial basis would be defined as a *function centre*, which means:

*a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility*

Based on concerns expressed regarding the broad nature of that land use definition, the new local clause proposed in this Planning Proposal will include a new definition of *Rural Event Site*, which will refer specifically to weddings and other events (including parties etc.) that are small scale and occur in a rural environment on a commercially operated site.

The provisions are intended to establish a 'rolling approvals' process, whereby development consent may be granted for a rural event site on land within Zone RU2 Rural Landscape for a maximum of 20 events per calendar year over a period of three (3) years

Details of the suggested LEP amendments are outlined in **Appendix A**.

Associated local provisions are also proposed to be included in the Byron Development Control Plan 2014, to provide development standards that will be applicable to rural event sites. The proposed DCP provisions are contained in **Appendix B**.

### 2.1 Proposed Local Provision

The proposed local clause is outlined in **Appendix A**. The final wording of this clause will be subject to legal drafting by the Parliamentary Counsel.

The intention is to create a mechanism that provides a temporary land use approval, for a specified maximum number of annual events over a three (3) year approval period.

Subject to demonstrated satisfactory operation (i.e. operation that does not disturb neighbours or result in a detrimental impact on rural amenity), proponents would be able to seek further three (3) year approvals.

The proposed provisions will establish that, notwithstanding other provisions of the LEP, development consent may be granted for development on land within Zone RU2 Rural Landscape for a *Rural Event Site*, up to a maximum of 20 events per calendar year over a period of three (3) years.

For the purpose of this clause, Rural Event Site is defined as:

*the temporary use of a building or defined area within a property zoned RU2 Rural Landscape, where weddings and other similar gatherings/ events are held for commercial purposes for a maximum number of events in a three (3) year period, with a maximum of 150 attendees per event, but does not include convention centres or exhibition centres or music festivals.*

### 2.2 Other amendments

This Planning Proposal also intends to amend the existing provisions of clause 4.6 Exceptions to development standards, by adding the following item into clause 4.6(8):



d. Clause 6.XX

The intention is to ensure that the provisions within the proposed new local clause cannot be varied.

### 2.3 Development Control Plan

To provide additional control and guidance relating to rural event sites, a new chapter of the Byron Development Control Plan 2014 is proposed.

The new chapter, which will relate to applications for a rural event site on land zoned RU2 will outline the following:

- (1) Development consent must not be granted for a Rural Event Site unless the consent authority is satisfied that:
  - (a) the proposal is supported by a site specific acoustic assessment, prepared by a suitably qualified person, quantifying existing background noise levels and noise levels predicted for events in relation to all nearby dwellings, and demonstrating that the use of the property for events will not result in the generation of offensive noise, as defined in the *Protection of the Environment Operations Act 1997*;
  - (b) a Traffic Impact Assessment has been prepared, addressing traffic numbers, impact on local roads, access and on-site parking, demonstrating that the use of the site for a Rural Event Site will not result in unacceptable adverse impacts on the safety or efficiency of local traffic or the amenity of the neighbourhood;
  - (c) a Land Use Conflict Risk Assessment has been prepared demonstrating that the use of the site for a Rural Event Site will not result in any land use conflict in relation to adjoining or nearby farming activities or preclude future farming activities;
  - (d) no clearing of native vegetation is required for the Rural Event Site;
  - (e) the Rural Event Site is not located in or immediately adjacent to areas of high Aboriginal cultural heritage significance.
- (2) Applications for development consent for a temporary Rural Event Site must include an Events Management Plan, which contains (as a minimum) provisions that:
  - (a) provide for all event guests (other than the bridal party) to be transported to and from each event by bus, suitable to the road network to be utilised for transportation to the event; and
  - (b) ensure that all amplified music will cease no later than 10:00pm; and
  - (c) ensure that all event attendees (other than those residing on site) will be off-site no later than 11:00pm, other than those staying overnight on the premises; and
  - (d) outline measures that will be in place to ensure predicted noise levels are not exceeded at nearby dwellings; and
  - (e) provide for the monitoring of noise generated at events and annual compliance reporting to Council; and
  - (f) provide for the notification of nearby residents, including contact details for an appropriate management person who must be on-site and contactable during each event and provision of a sign, located so that it can be viewed from a public space outside of the property notifying the name and contact phone number of the management person; and
  - (g) ensure that adequate arrangements are in place to manage wastewater and general waste for each event; and
  - (h) manage the potential noise/ amenity impacts associated with any persons staying overnight at the site at the conclusion of the function; and
  - (i) prohibit the use of fireworks, helicopters and/or other comparable activities known to cause disturbance to livestock and/or farming activities.



- (3) In deciding whether to grant consent for a temporary Rural Event Site, the consent authority must consider:
- (a) the maximum number of events permitted in any calendar year; and
  - (b) the potential loss of farming on the property, particularly where part or all of the site is mapped as State and/ or Regionally Significant Farmland; and
  - (c) the potential impact on areas of environmental value, whether on the property the subject of the Rural Event Site or on adjacent and nearby land, including koala habitat; and
  - (d) whether a trial period is appropriate; and
  - (e) the need for a biosecurity management plan.

A condition of approval will be applied for all development consents for Rural Event Sites specifying that development consent would cease if three substantiated complaints were received in relation to functions at the site within a twelve-month period.

## Part 3 Justification

### Section A Need for the planning proposal

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

Yes. This Planning Proposal is the result of the Byron Shire Rural Land Use Strategy.

The Rural Land Use Strategy addresses *Rural Event Sites*, recommending the following action:

*Investigate the potential for allowing ‘wedding venues’ in rural zones and, where appropriate, planning provisions to ensure their location, scale and operation are compatible with the rural setting.*

The Rural Land Use Strategy sets out a 20-year strategic framework to guide future land zoning and use, protection and/ or development of:

*Our Rural Environment*

*Our Rural Economy*

*Our Rural Community*

*Our Rural Infrastructure*

The primary focus of the Strategy in relation to *Our Rural Economy* is the protection, promotion and facilitation of agriculture. The Strategy also recognises, however, that rural tourism activities are an important part of the rural economy of the Shire.

In this regard, some of the relevant Policy Directions adopted for the Strategy include:

- *Future rural tourist development will build on and complement our agricultural industry, reinforcing the predominant use of the rural area for agricultural production while maintaining the rural character and take into consideration increased road traffic impacts; and*
- *Future rural tourist development will be located and designed to avoid adverse visual or noise impacts.*

This Planning Proposal, and the proposed amendments to LEP 2014, have been developed to further these Policy Directions.

This Planning Proposal is also in response to a current enforcement issue in the Shire whereby weddings and events have been operating illegally in rural areas and impacting on the rural amenity.

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

Yes. The Planning Proposal is considered the best means of achieving a balance of allowing the continuation of rural events, particularly weddings, while maintaining and protecting rural character, amenity and agricultural productivity and potential.

The new definition is considered the best means of limiting approval to the types of events that are considered appropriate for the rural area, namely, small scale weddings and events that host no more than 150 attendees.

**Alternative Options**

Various options were considered and discussed during preparation of the Planning Proposal, as summarised below:

**Table 1: Alternative Options Considered:**

***Status Quo – Rural Event Sites Definition not Created, Rural Event Sites remain prohibited in Rural Zones***

Function centres are currently prohibited on land zoned RU1 Primary Production and RU2 Rural Landscape. There is currently no definition for Rural Event Sites.

Function centres are permissible with consent on land zoned RU5 Village.

Council has been aware of a number of unauthorised Rural Event Sites (wedding venues) located within both RU1 and RU2. Some of these venues have generated significant complaints relating to neighbourhood disturbance, and Council has undertaken compliance/enforcement action on a number of occasions. Some sites have been operating without complaint.

It is clear that there is a continuing strong demand for weddings in the rural areas of Byron Shire.

On land zoned RU1 or RU2, the only approval option currently available is by way of Clause 2.8 Temporary Use of Land.

The provisions of that clause are restrictive, and it is unlikely that many sites would be able to satisfactorily demonstrate that functions would not result in *any* adverse impacts on the neighbourhood.

It is likely, however, that there are a number of sites where events could be managed in a way that generate *minimal* or *acceptable* impacts.

*[Example: at the community discussions leading to this Planning Proposal, a rural resident talked about a wedding venue located near her rural home (located approx. 350m away). She noted that, if she were in her yard while an event is underway, she could hear music etc in the distance, but not at levels that were annoying to her; and that from inside her house the music was not audible. While the wedding venue is having an impact; the indications are that it would be considered an acceptable impact.]*

The LEP currently contains no controls, standards or guidance to define what would be acceptable for a rural event venue. In the absence of that, Council will continue to react to complaints.

Given the strength of the demand for the use, not proceeding with an approval mechanism for rural events will not prevent events from taking place. The current situation would remain, with Council required to take enforcement action in respect of unauthorised event venues following receipt of complaints.

Stopping the rural events totally would require significant compliance / enforcement resources. It would also deny legitimate opportunities for continuation of the industry and result in significant economic impacts on current industry participants.

***Function centre a permissible use, without a new local clause***

It would be possible to list *function centre* as a permissible land use within RU1 and/ or RU2, without adding a new local provision or a new definition for *Rural Event Site*. Each application for such a use would then need to be assessed on its merits, in accordance with the provisions of Section 4.15 of the Act.

Relying on the standard template *function centre* definition could result in inappropriate development of large scale events or exhibition or function centres, which would negatively impact on rural amenity.

The intention of a new local LEP clause, supported by DCP standards/ provisions, is to establish clear parameters for the approval mechanism, designed to provide a balance between supporting the industry and ensuring that rural residents are not disturbed by commercial activities. Proceeding without adopting local development provisions provides no guidance to either the community or the industry.

***Rural Events Site defined in new local clause; relating to land zoned RU2; mechanism for permanent approval***

Rather than adding the standard template definition of function centre to the list of development that is permitted with consent in the RU2 zones, it is recommended that a more specific local definition of *rural event site* be included in the proposed new local LEP provision.

This could restrict the range of potential land uses that might be permitted, such as conference centres, exhibitions centres and the like, which are included within the *function centre* definition.

The adoption of a local LEP provision could provide an approval mechanism that would not necessarily be limited in time or by a specified number of annual events.

This option provides certainty for the wedding/ event industry. It does not provide any opportunity to trial event use to ensure that such use will not result in disturbance to neighbours.

***Rural Events Site defined in new local clause; relating to land zoned RU2; mechanism for temporary approval (preferred option)***

This is the preferred option. In addition to relying on a specific land use definition, the option of temporary approvals allows for ongoing assessment of sites to ensure that operations do not result in local amenity impacts.

**Section B Relationship to strategic planning framework****Q3. Is the planning proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (in this case the North Coast Regional Plan 2036)?**

Yes. The Planning Proposal is consistent with the [North Coast Regional Plan 2036](#), which is a 20-year blueprint for the future of the North Coast. The NSW Government's vision for the North Coast is to create the best region in Australia to live, work and play thanks to its spectacular environment and vibrant communities.

The table below summarises the key Policy Directions relevant to *Rural Event Sites* in Byron Shire:

**Table 2: North Coast Regional Plan Policy Directions:*****Direction 8: Promote the growth of tourism***

*Event, dining and accommodation options in rural areas should only be considered where they complement and are consistent with prime agricultural pursuits*

The proposed LEP amendment is supported by DCP provisions requiring consideration of impacts on farming, particularly where land is mapped as Regionally Significant Farmland.

***Direction 11: Protect and enhance productive agriculture lands***

*The most important farmland has been identified and mapped to support long-term agricultural production*

*Encouraging greater diversity in the agricultural sector – for example, through agritourism and the processing and packaging of produce and associated retail services – can make the sector more sustainable*

The proposed LEP amendment and associated DCP provisions provide a balance between allowing rural tourism, primarily in the form of wedding events, on secondary quality agricultural land, while protecting higher quality land for agricultural purposes.

***Direction 14: Provide great places to live and work***

In the rural context, the quiet amenity is a strong part of what makes the hinterland of the Shire a great place to live.

The proposed LEP amendment and associated DCP provisions provide a balanced solution to allowing the wedding/ event industry to operate in the Shire while protecting rural amenity, ensuring that the rural areas continue to be great places to live.

**Q4. Is the planning proposal consistent with a council's local strategy or other local strategic plan?**

See information above (Q1) regarding consistency with Council's Rural Land Use Strategy.

**Q5. Is the planning proposal consistent with the applicable State Environmental Planning Policies (SEPPs)?**

The State Environmental Planning Policies relevant to this Planning Proposal are as follows:

**Table 3: SEPPs**

<b>State Environmental Planning Policy (SEPP)</b>	<b>Compliance of Planning Proposal</b>
SEPP 44 – Koala Habitat Protection	Byron Shire contains areas of core koala habitat. The Planning Proposal recognises the value of that land by including a control specifying that event sites cannot be approved unless the consent authority has considered the potential impacts on habitat areas.
SEPP (Primary Production and Rural Development) 2019	The proposed LEP amendment and associated DCP provisions are consistent with the aim of this SEPP to reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources.

**Q6. Is the planning proposal consistent with applicable Ministerial Directions (s9.1 Directions)?**

Yes. Consistency with the Local Planning Directions is assessed in Table 4.

**Table 4: Consistency with Local Planning Directions**

Direction	Application	Relevance to this planning proposal	Consistency
<b>1. Employment and Resources</b>			
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).	This Planning Proposal does not affect land within an existing or proposed business or industrial zone.	Not applicable
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>The objective of this direction is to protect the agricultural production value of rural land.</p> <p>Under this direction a planning proposal must:</p> <ul style="list-style-type: none"> <li>(a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.</li> <li>(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).</li> </ul>	This Planning Proposal does not seek to rezone rural land nor does it contain provisions that alter permissible densities.	Not applicable

Direction	Application	Relevance to this planning proposal	Consistency
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"> <li>(a) prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or</li> <li>(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.</li> </ul>	This Planning Proposal does not have any effect on the potential for mining, petroleum production or extraction of materials and resources.	Not applicable
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"> <li>(a) adverse impacts on a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate”, or</li> <li>(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.</li> </ul>	This Planning Proposal has no effect on a Priority Oyster Aquaculture Area or other related uses.	Not applicable
1.5 Rural Lands	<p>The objectives of this direction are to:</p> <ul style="list-style-type: none"> <li>(a) protect the agricultural production value of rural land;</li> <li>(b) facilitate the orderly and economic development of rural lands for rural and related purposes.</li> </ul> <p>Applies when:</p> <ul style="list-style-type: none"> <li>(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</li> </ul>	<p>The proposed LEP amendment and associated DCP provisions include provisions aimed at ensuring that:</p> <ul style="list-style-type: none"> <li>• future events will not result in any land use conflict in relation to adjoining or nearby farming activities or preclude future farming activities; and</li> <li>• the potential loss of farming on the property, particularly where part or all of the site is mapped as Regionally Significant Farmland, will be an important consideration in assessing all future applications.</li> </ul>	Consistent

Direction	Application	Relevance to this planning proposal	Consistency
	<p>existing rural or environment protection zone boundary), or</p> <p>(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> <p>A planning proposal to which clauses (a) and (b) apply must:</p> <p>(a) 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</p> <p>(b) consider the significance of agriculture and primary production to the State and rural communities</p> <p>(c) identify and protect environmental values, including but not limited to, maintaining biodiversity, the protection of native vegetation, cultural heritage, and the importance of water resources</p> <p>(d) consider the natural and physical constraints of the land, including but not limited to, topography, size, location, water availability and ground and soil conditions</p> <p>(e) promote opportunities for investment in productive, diversified, innovative and sustainable rural economic activities</p> <p>(f) support farmers in exercising their right to farm</p>	<p>Individual requirements of this Direction are addressed below:</p> <p>See above – Proposal is consistent with Regional Plan and Council's Local Rural Land Use Strategy.</p> <p>See above - provisions are also included requiring applicants to demonstrate that their proposals will not impact on local farming activities.</p> <p>Provisions are included to require applicants to demonstrate that their proposals will not impact on important areas of biodiversity value.</p> <p>Such considerations would be a normal part of assessment of applications that would be made subsequent to the LEP amendment.</p> <p>Proposed LEP amendment achieves this by providing for low scale rural tourism activities on suitable sites.</p> <p>Provisions are included to protect existing and future farming activities.</p>	



Direction	Application	Relevance to this planning proposal	Consistency
	<p>(g) prioritise efforts and consider measures to minimise the fragmentation of rural land and reduce the risk of land use conflict, particularly between residential land uses and other rural land uses</p> <p>(h) consider State significant agricultural land identified in <i>State Environmental Planning Policy (Primary Production and Rural Development) 2019</i> for the purpose of ensuring the ongoing viability of this land</p> <p>(i) consider the social, economic and environmental interests of the community.</p>	<p>Nothing in the proposed amendment would result in fragmentation of rural land.</p> <p>Provisions are included to address and prevent land use conflict.</p> <p>There are no areas of State Significant land currently identified in the SEPP.</p> <p>There is State Significant Farmland mapped across the Shire. All of this is contained within land zoned RU1 Primary Production.</p> <p>The proposed LEP amendment will not apply to land zoned RU1.</p> <p>The proposed LEP amendment and associated DCP provisions provide an appropriate balance, allowing economic activity in the rural area in a manner that protects farming and rural amenity.</p>	
<b>2. Environment and Heritage</b>			
2.1 Environment Protection Zones	A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.	The proposed LEP amendment and associated DCP provisions contain a clause requiring consideration of events and important koala habitat.	Consistent
2.2 Coastal Management	<p>This direction applies to land that is within the coastal zone, as defined under the <i>Coastal Management Act 2016</i> – comprising the coastal wetlands and littoral rainforests area, coastal vulnerability area, coastal environment area and coastal use area – and as identified by the <i>State Environmental Planning Policy (Coastal Management) 2018</i>.</p> <p>This direction applies when a relevant planning authority prepares a planning proposal that applies to land identified above.</p> <p>A planning proposal must include provisions that give</p>	<p>This Planning Proposal does not preclude consideration of the Coastal Zone matters for applications on any land that is identified as coastal zone under the <i>State Environmental Planning Policy (Coastal Management) 2018</i>.</p> <p>In the normal course of development assessment, <i>State Environmental Planning Policy (Coastal Management) 2018</i> will be assessed as part of a development application process.</p>	Consistent

Direction	Application	Relevance to this planning proposal	Consistency
	<p>effect to and are consistent with:</p> <ul style="list-style-type: none"> <li>(a) the objects of the Coastal Management Act 2016 and the objectives of the relevant coastal management areas;</li> <li>(b) the NSW Coastal Management Manual and associated Toolkit;</li> <li>(c) NSW Coastal Design Guidelines 2003; and</li> <li>(d) any relevant Coastal Management Program that has been certified by the Minister, or any Coastal Zone Management Plan under the Coastal Protection Act 1979 that continues to have effect under clause 4 of Schedule 3 to the Coastal Management Act 2016, that applies to the land.</li> </ul> <p>A planning proposal must not rezone land which would enable increased development or more intensive land-use on land:</p> <ul style="list-style-type: none"> <li>(a) within a coastal vulnerability area identified by the State Environmental Planning Policy (Coastal Management) 2018; or</li> <li>(b) that has been identified as land affected by a current or future coastal hazard in a local environmental plan or development control plan, or a study or assessment undertaken: <ul style="list-style-type: none"> <li>(i) by or on behalf of the relevant planning authority and the planning proposal authority, or</li> <li>(ii) by or on behalf of a public authority and provided to the relevant planning authority and the planning proposal authority.</li> </ul> </li> </ul>		
2.3 Heritage Conservation	<p>A planning proposal must contain provisions that facilitate the conservation of:</p> <ul style="list-style-type: none"> <li>(a) Items, places, buildings, works, relics, moveable</li> </ul>	The Planning Proposal does not alter the existing heritage provisions of the LEP.	Not directly applicable.

Direction	Application	Relevance to this planning proposal	Consistency
	<p>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>		
2.4 Recreation Vehicle Areas	<p>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>):</p> <p>(a) where the land is within an environment protection zone,</p> <p>(b) where the land comprises a beach or a dune adjacent to or adjoining a beach,</p> <p>(c) where the land is not within an area or zone referred to in paragraphs (4)(a) or (4)(b) unless the relevant planning authority has taken into consideration:</p> <p>(i) the provisions of the guidelines entitled <i>Guidelines for Selection, Establishment and Maintenance of Recreation Vehicle Areas, Soil</i></p>	<p>This Planning Proposal does not enable land to be developed for the purpose of a vehicle recreation area (within the meaning of the <i>Recreation Vehicles Act 1983</i>):</p>	Not applicable

Direction	Application	Relevance to this planning proposal	Consistency
	<p><i>Conservation Service of New South Wales, September 1985, and</i></p> <p>(ii) the provisions of the guidelines entitled <i>Recreation Vehicles Act, 1983, Guidelines for Selection, Design, and Operation of Recreation Vehicle Areas, State Pollution Control Commission, September 1985.</i></p>		
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	<p>A planning proposal that introduces or alters an E2 Environmental Conservation or E3 Environmental Management zone or an overlay and associated clause must:</p> <p>(a) apply the proposed E2 Environmental Conservation or E3 Environmental Management zones, or the overlay and associated clause, consistent with the Northern Councils E Zone Review Final Recommendations.</p>	This Planning Proposal does not introduce or alter an E2 or E3 Zone or Environmental Overlays.	Not applicable
<b>3. Housing, Infrastructure and Urban Development</b>			
3.1 Residential Zones	<p>This direction applies when a relevant planning authority prepares a planning proposal that will affect land within:</p> <p>(a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary),</p> <p>(b) any other zone in which significant residential development is permitted or proposed to be permitted.</p> <p>A planning proposal must include provisions that encourage the provision of housing that will:</p> <p>(a) broaden the choice of building types and locations available in the housing market, and</p> <p>(b) make more efficient use of existing infrastructure</p>	This Planning Proposal does not affect land within a residential zone or land where residential accommodation is permitted or proposed to be permitted.	Not applicable

Direction	Application	Relevance to this planning proposal	Consistency
	<p>and services, and</p> <p>(c) reduce the consumption of land for housing and associated urban development on the urban fringe, and</p> <p>(d) be of good design.</p> <p>A planning proposal must, in relation to land to which this direction applies:</p> <p>(a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and</p> <p>(b) not contain provisions which will reduce the permissible residential density of land.</p>		
3.2 Caravan Parks and Manufactured Home Estates	<p>Applies when a relevant planning authority prepares a planning proposal.</p> <p>In identifying suitable zones, locations and provisions for caravan parks in a planning proposal, the relevant planning authority must:</p> <p>(a) retain provisions that permit development for the purposes of a caravan park to be carried out on land, and</p> <p>(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.</p> <p>In identifying suitable zones, locations and provisions for manufactured home estates (MHEs) in a planning proposal, the relevant planning authority must:</p>	This Planning Proposal does not seek to identify suitable zones locations and provision for caravan parks.	Not applicable

Direction	Application	Relevance to this planning proposal	Consistency
	<p>(a) take into account the categories of land set out in Schedule 2 of SEPP 36 as to where MHEs should not be located,</p> <p>(b) take into account the principles listed in clause 9 of SEPP 36 (which relevant planning authorities are required to consider when assessing and determining the development and subdivision proposals), and</p> <p>(c) include provisions that the subdivision of MHEs by long term lease of up to 20 years or under the Community Land Development Act 1989 be permissible with consent.</p>		
3.3 Home Occupations	Planning proposals must permit home occupations to be carried out in dwelling-houses without the need for development consent.	This Planning Proposals does not seek to amend current Byron LEP 2014 provisions that permit home occupations to be carried out in dwelling houses without the need for development consent.	Not applicable
3.4 Integrating Land Use and Transport	<p>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.</p> <p>A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:</p> <p>(a) <i>Improving Transport Choice – Guidelines for planning and development</i> (DUAP 2001), and</p> <p>(b) <i>The Right Place for Business and Services – Planning Policy</i> (DUAP 2001).</p> <p>The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts</p>	This Planning Proposal does not relate to land zoned for urban purposes.	Not applicable

Direction	Application	Relevance to this planning proposal	Consistency
	<p>achieve the following planning objectives:</p> <ul style="list-style-type: none"> <li>(a) improving access to housing, jobs and services by walking, cycling and public transport, and</li> <li>(b) increasing the choice of available transport and reducing dependence on cars, and</li> <li>(c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and</li> <li>(d) supporting the efficient and viable operation of public transport services, and</li> <li>(e) providing for the efficient movement of freight</li> </ul>		
3.5 Development Near Licensed Aerodrome	<p>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.</p> <p>The main requirements of the Direction are that Council considers the Obstacle Limitation Surface (OLS) as defined by that Department of the Commonwealth for residential purposes, and does not increase residential densities in areas where the ANEF, as from time to time advised by that Department of the Commonwealth, exceeds 25.</p>	This Planning Proposal will not create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome.	Not applicable
3.6 Shooting Ranges	<p>Applies when a relevant planning authority prepares 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.</p> <p>A Planning Proposal must not seek to rezone land adjacent to and/or adjoining an existing shooting range that has the effect of permitting more intensive land uses in the area.</p>	This Planning Proposal does not relate to land adjacent to and/or adjoining an existing shooting range.	Not applicable
4. Hazard and Risk			



Direction	Application	Relevance to this planning proposal	Consistency
4.1 Acid Sulfate Soils	<p>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.</p> <p>A council shall not prepare a draft LEP that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the council has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils.</p>	The Planning Proposal does not alter the application of the Acid Sulfate Soils provisions in Byron LEP 2014.	Not directly applicable
4.2 Mine Subsidence and Unstable Land	<p>Applies when a relevant planning authority prepares a planning proposal that permits development on land that:</p> <ul style="list-style-type: none"> <li>(a) is within a mine subsidence district, or</li> <li>(b) has been identified as unstable in a study, strategy or other assessment undertaken: <ul style="list-style-type: none"> <li>(i) by or on behalf of the relevant planning authority, or</li> <li>(ii) by or on behalf of a public authority and provided to the relevant planning authority.</li> </ul> </li> </ul>	Byron Shire is not in a mine subsidence district and the land affected by this planning proposal has not been identified as unstable land.	Not applicable
4.3 Flood Prone Land	<p>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.</p> <p>A planning proposal must include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i> (including the <i>Guideline on Development Controls on Low Flood Risk Areas</i>).</p> <p>A planning proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environment Protection</p>	The Planning Proposal does not alter the application of provisions in Byron LEP 2014 relating to flood prone land.	Not directly applicable

Direction	Application	Relevance to this planning proposal	Consistency
	<p>Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone.</p> <p>A planning proposal must not contain provisions that apply to the flood planning areas which:</p> <ul style="list-style-type: none"> <li>(a) permit development in floodway areas,</li> <li>(b) permit development that will result in significant flood impacts to other properties,</li> <li>(c) permit a significant increase in the development of that land,</li> <li>(d) are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or</li> <li>(e) permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, buildings or structures in floodways or high hazard areas), roads or exempt development.</li> </ul> <p>A planning proposal must not impose flood related development controls above the residential flood planning level for residential development on land, unless a relevant planning authority provides adequate justification for those controls to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).</p> <p>For the purposes of a planning proposal, a relevant planning authority must not determine a flood planning level that is inconsistent with the Floodplain Development Manual 2005 (including the <i>Guideline on Development Controls on Low Flood Risk Areas</i>) unless a relevant planning authority provides adequate justification for the proposed departure from that Manual to the satisfaction of the Director-General (or an officer of the Department nominated by the</p>		

Direction	Application	Relevance to this planning proposal	Consistency
	Director-General).		
4.4 Planning for Bushfire Protection	<p>Applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land.</p> <p>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 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made.</p> <p>A planning proposal must:</p> <ul style="list-style-type: none"> <li>(a) have regard to <i>Planning for Bushfire Protection 2006</i>,</li> <li>(b) introduce controls that avoid placing inappropriate developments in hazardous areas, and</li> <li>(c) ensure that bushfire hazard reduction is not prohibited within the APZ.</li> </ul> <p>A planning proposal must, where development is proposed, comply with the following provisions, as appropriate:</p> <ul style="list-style-type: none"> <li>(a) provide an Asset Protection Zone (APZ) incorporating at a minimum: <ul style="list-style-type: none"> <li>(i) an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and</li> <li>(ii) an Outer Protection Area managed for hazard reduction and located on the bushland side of</li> </ul> </li> </ul>	<p>This Planning Proposal will allow consideration of events on some land that is mapped as being bushfire prone.</p> <p>In the normal course of development assessment, bushfire protection measures will be assessed as part of a development application process.</p>	Consistent

Direction	Application	Relevance to this planning proposal	Consistency
	<p>the perimeter road,</p> <p>(b) for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the planning proposal permit Special Fire Protection Purposes (as defined under section 100B of the <i>Rural Fires Act 1997</i>), the APZ provisions must be complied with,</p> <p>(c) contain provisions for two-way access roads which link to perimeter roads and/or to fire trail networks,</p> <p>(d) contain provisions for adequate water supply for fire fighting purposes,</p> <p>(e) minimise the perimeter of the area of land interfacing the hazard which may be developed,</p> <p>(f) introduce controls on the placement of combustible materials in the Inner Protection Area.</p>		
<b>5 Regional Planning</b>			
5.1 Implementation of Regional Strategies	<p>This direction applies to land to which the following regional strategies apply:</p> <p>(a) South Coast Regional Strategy (excluding land in the Shoalhaven LGA)</p> <p>(b) Sydney–Canberra Corridor Regional Strategy</p>	Not Applicable	Not applicable
5.2 Sydney Drinking Water Catchments	Applies when a relevant planning authority prepares a planning proposal that applies to the hydrological catchment.	Not Applicable	Not applicable
5.3 Farmland of State and Regional	The planning proposal must not rezone land mapped as State or Regionally significant farmland under the	This Planning Proposal does not propose alteration of existing zones.	Consistent

Direction	Application	Relevance to this planning proposal	Consistency
Significance on the NSW Far North Coast	Northern Rivers Farmland Protection Project for an urban use.	This proposed LEP amendment and associated DCP provisions include provisions aimed at ensuring that: <ul style="list-style-type: none"> <li>future events will not result in any land use conflict in relation to adjoining or nearby farming activities or preclude future farming activities; and</li> <li>the potential loss of farming on the property, particularly where part or all of the site is mapped as Regionally Significant Farmland, will be an important consideration in assessing all future applications.</li> </ul>	
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Not Applicable	Not Applicable	Not applicable
5.5 -5.7 Revoked	-	-	Not applicable
5.8 Second Sydney Airport: Badgerys Creek	Not Applicable	Not Applicable	Not applicable
5.9 North West Rail Link Corridor Strategy	Not Applicable	Not Applicable	Not applicable
5.10 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.	Consistent
<b>6. Local Plan Making</b>			
6.1 Approval and Referral Requirements	A planning proposal must: <ul style="list-style-type: none"> <li>(a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public</li> </ul>	The planning proposal does not propose the inclusion of any concurrence, consultation or referral provisions.	Consistent

Direction	Application	Relevance to this planning proposal	Consistency
	<p>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> <ul style="list-style-type: none"> <li>(i) the appropriate Minister or public authority, and</li> <li>(ii) the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General),</li> </ul> <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"> <li>(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</li> <li>(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.</li> </ul>		

Direction	Application	Relevance to this planning proposal	Consistency
6.2 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 Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General).	This proposal does not create, alter or reduce existing zonings or reservations of land for public purposes.	Consistent
6.3 Site Specific Provisions	<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 instrument in order to allow a particular development proposal to be carried out must either:</p> <ul style="list-style-type: none"> <li>(a) allow that land use to be carried out in the zone the land is situated on, or</li> <li>(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</li> <li>(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>A planning proposal must not contain or refer to drawings that show details of the development proposal.</p> </li></ul>	This Planning Proposal does not relate to a specific development.	Not applicable



## Section C Environmental, social and economic impact

### Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats will be adversely affected as a result of the proposal?

No. The proposed LEP amendment and associated DCP provisions include a local provision requiring that the potential for biodiversity impacts need to be considered prior to approval of any *Rural Event Site*.

### Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No. All likely known environmental effects are addressed in Section B, Q5 and Q.6 in this Planning Proposal.

### Q9. How has the planning proposal adequately addressed any social and economic effects?

The proposed LEP amendment and associated DCP provisions provide a balance between the continued economic benefits associated with the wedding industry and the protection of rural amenity.

## Section D State and Commonwealth interests

### Q.10 Is there adequate public infrastructure for the planning proposal?

Yes.

### Q.11 What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination

State and Commonwealth public authorities have not been formally involved in this particular Planning Proposal prior to Gateway determination. At this early stage, it appears unlikely that there will be any issues of interest to Commonwealth authorities. State government authorities were consulted during the public exhibition period.

In accordance with the Gateway Approval, the following public authorities were consulted:

Public authority/stakeholder	Issue requiring comment	Comment
Department of Primary Industry Agriculture	Impacts on farming land.	<p>Preference to avoid RU1 zones due to the agricultural value of the land.</p> <p>Supports the introduction of further conditions including:</p> <ul style="list-style-type: none"> <li>Proponents are to demonstrate that reasonable consultation has occurred with neighbouring landowners and/or landowners within 1km of the proposal as part of the development application.</li> <li>The development application should include a Land Use Conflict Risk Assessment</li> <li>Where there is an unacceptable land use conflict</li> </ul>

Public authority/stakeholder	Issue requiring comment	Comment
		<p>risk identified, appropriate mitigation measures should be applied, this may include a vegetation buffer established on the proponent's land.</p> <ul style="list-style-type: none"> <li>• Where relevant, a biosecurity management plan should be required that may include signage, guest exclusion areas, etc.</li> <li>• Proponents are to provide a complaints management process as part of the development application</li> </ul> <p>Additionally, it is suggested that the following amendment be made to 3(b) of the local provisions:</p> <ul style="list-style-type: none"> <li>• the potential loss of farming on the property, (add particularly) where part or all of the site is mapped as Regionally Significant Farmland'. This recommendation is made as the potential loss of farming on the property should be a consideration for all rural land not just that which is mapped.</li> </ul>
NSW Rural Fire Service	Section 117(4.4) of the <i>Environmental Planning and Assessment Act 1979</i> , Ministerial Direction 4.4 requires consultation with the Commissioner of the NSW Rural Fire Service.	No objections.
Office of Environment and Heritage	Consideration of ecological issues, Aboriginal and European heritage.	<p>1. Recommendation that prior to finalising the Planning Proposal, the development standard 6.10(1) that states '<i>development consent must not be granted for a function centre on land zoned Rural RU2 Rural Landscape unless the consent authority is satisfied that...f) no tree clearing is required for the function centre</i>', should be strengthened by replacing the word 'tree' with the term 'native vegetation'.</p>

Public authority/stakeholder	Issue requiring comment	Comment
		2. An additional development standard be included to ensure that rural function centres are not constructed in or immediately adjacent to areas of high aboriginal community.
Roads and Maritime Services	Impacts on roads and road safety	<p>Roads and Maritime would have no objection to the proposed amendment.</p> <ul style="list-style-type: none"> <li>On a Regional Classified Road the need for a Section 138 concurrence from Roads and Maritime for a new access or road works should be sought prior to consent. On a State Classified Road a Works Authorisation Deed (WAD) with Roads and Maritime is normally required.</li> <li>It is recommended applications should take into consideration the impacts of the additional traffic on the road networks safety, infrastructure and transport. A Traffic Impact Assessment (TIA) should be undertaken in accordance with Austroads Pt12 – Traffic Impacts of Developments. Austroads warrants should be used to assess the need for any improvements to intersections or accesses. Where identified a Road Safety Audit (RSA) should be undertaken of the travel route. Both of these need to be undertaken by a qualified person.</li> </ul>

## Part 4 Mapping

The Planning Proposal will not affect any Byron LEP maps.

## Part 5 Community consultation

The community engagement that has led to this Planning Proposal is summarised above.

Council exhibited the first Planning Proposal in accordance with a Gateway Determination, including:

- a newspaper advertisement that circulated in the Byron LGA, which is the area affected by the Planning Proposal;
- updates to the web sites of Byron Shire Council and the Department of Planning and Environment,
- letters to relevant State Agencies; and
- notification to those who made submissions to the pre-Gateway community engagement.

In addition, a series of community workshops were held throughout the Shire, providing participants with opportunities to review and comment on the proposed controls.

## Part 6 Project timeline

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

February 2020	Re-exhibition of updated Planning Proposal and consultation with State Agencies in accordance with amended Gateway
May 2020	Submissions report to Council
June 2020	Submission of endorsed LEP amendment to Parliamentary Counsel for drafting

## Summary and conclusions

This Planning Proposal seeks to amend Byron Local Environmental Plan (LEP) 2014 to provide an approval mechanism for *Temporary Use - Rural Event Sites* on land zoned RU2 Rural Landscape.

It recommends the addition of a new local provision to provide the approval mechanism and a new definition of *rural event sites*.

Concurrently with the LEP amendment, Byron DCP 2014 will be amended to outline development standards and matters for consideration relating to applications for *rural event sites*, to identify suitable sites for such a land use and specify management measures that will minimise impacts, particularly disturbance to residents.

The Planning Proposal has been informed by extensive community engagement.

## Appendix A Proposed LEP Amendments

### Additional Local Provision

The following clause is proposed to be added to Part 6 of Byron LEP 2014:

#### 6.11 Temporary Use - Rural Event Site in RU2

- (1) Despite any other provision of this Plan, development consent may be granted for development on land within Zone RU2 Rural Landscape for a Rural Event Site, up to a maximum of 20 events per calendar year over a period of three (3) years.

- (2) In this clause:

**Rural Event Site** means the temporary use of a building or defined area within a property zoned RU2 Rural Landscape, where weddings and other similar gatherings/ events are held for commercial purposes for a maximum number of events in a three (3) year period, with a maximum of 150 attendees per event, but does not include convention centres or exhibition centres or music festivals.

#### Amendment to existing clause 4.6

Add into clause 4.6(8):

- (d) Clause 6.11
-

## Appendix B Proposed DCP Amendment

### Chapter D9 – Rural Event Sites

#### D9.1 Introduction

Under Clause 6.11 of Byron Local Environmental Plan 2014, *rural event site* is defined as:

*the temporary use of a building or defined area within a property zoned RU2 Rural Landscape, where weddings and other similar gatherings/ events are held for commercial purposes for a maximum number of events in a three (3) year period, with a maximum of 150 attendees per event, but does not include convention centres or exhibition centres or music festivals.*

By definition, rural event site is a land use only permissible on land zoned RU2 Rural Landscape.

#### D9.2 Aim of this Chapter

The aim of this chapter is to manage weddings and events of a similar scale held in the Byron Hinterland, to address a history of disturbance to neighbours associated with these unregulated events.

The provisions of this Chapter address the suitability of potential sites and establish minimum standards for the management of events on those sites.

#### D9.3 Application of this Chapter

This Chapter applies to development applications for rural event sites, as defined in Clause 6.XX of the Byron Local Environmental Plan 2014.

#### D9.4 Provisions

##### D9.4.1 Site Suitability

##### Objective

To ensure that rural events are held on sites that are suitable to such events, particularly in relation to the ability to avoid or manage disturbance to the amenity of the neighbourhood.

##### Performance Criteria

1. Use of the property for events will not result in offensive or intrusive noise at neighbouring residences.
2. The local road network has the capacity to accept the additional traffic associated with event use at the site without compromise to safety or efficiency.
3. Event use at the site will not result in land use conflicts with neighbours, particularly in respect of local farming activities.

##### Prescriptive Measures

Development consent must not be granted for a Rural Event Site unless the consent authority is satisfied that:

- (1) the proposal is supported by a site specific acoustic assessment, prepared by a suitably qualified person, quantifying existing background noise levels and noise levels predicted for events in relation to all nearby dwellings, and demonstrating that the use of the property for events will not result in the generation of offensive noise, as defined in the *Protection of the Environment Operations Act 1997*;
- (2) a Traffic Impact Assessment has been prepared, addressing traffic numbers, impact on local roads, access and on-site parking, demonstrating that the use of the site for a Rural Event Site will not result in unacceptable adverse impacts on the safety or efficiency of local traffic or the amenity of the neighbourhood;

- (3) a Land Use Conflict Risk Assessment has been prepared demonstrating that the use of the site for a Rural Event Site will not result in any land use conflict in relation to adjoining or nearby farming activities or preclude future farming activities;
- (4) no clearing of native vegetation is required for the Rural Event Site;
- (5) the Rural Event Site is not located in or immediately adjacent to areas of high Aboriginal cultural heritage significance.

#### **D9.4.2 Management of Events**

##### **Objective**

To ensure that events held on approved sites do not disturb the amenity of the neighbourhood.

##### **Performance Criteria**

1. Use of the property for events will not result in offensive or intrusive noise at neighbouring residences.
2. Event use at the site will not result in land use conflicts with neighbours, particularly in respect of local farming activities.

##### **Prescriptive Measures**

Applications for development consent for a temporary Rural Event Site must include an Events Management Plan, which contains (as a minimum) provisions that:

- (1) provide for all event guests (other than the bridal party) to be transported to and from each event by bus, suitable to the road network to be utilised for transportation to the event; and
- (2) ensure that all amplified music will cease no later than 10:00pm; and
- (3) ensure that all event attendees (other than those residing on site) will be off-site no later than 11:00pm, other than those staying overnight on the premises; and
- (4) outline measures that will be in place to ensure predicted noise levels are not exceeded at nearby dwellings; and
- (5) provide for the monitoring of noise generated at events and annual compliance reporting to Council; and
- (6) provide for the notification of nearby residents, including contact details for an appropriate management person who must be on-site and contactable during each event and provision of a sign, located so that it can be viewed from a public space outside of the property notifying the name and contact phone number of the management person; and
- (7) ensure that adequate arrangements are in place to manage wastewater and general waste for each event; and
- (8) manage the potential noise/ amenity impacts associated with any persons staying overnight at the site at the conclusion of the function; and
- (9) prohibit the use of fireworks, helicopters and/or other comparable activities known to cause disturbance to livestock and/or farming activities.

In deciding whether to grant consent for a temporary Rural Event Site, the consent authority must consider:

- (1) the maximum number of events permitted in any calendar year; and
- (2) the potential loss of farming on the property, particularly where part or all of the site is mapped as State and/ or Regionally Significant Farmland; and
- (3) the potential impact on areas of environmental value, whether on the property the subject of the Rural Event Site or on adjacent and nearby land, including koala habitat; and
- (4) whether a trial period is appropriate; and



(5) the need for a biosecurity management plan.

A condition of approval will be applied for all development consents for Rural Event Sites specifying that development consent would cease if three substantiated complaints were received in relation to functions at the site within a twelve-month period