

Byron LEP 2014 - General Policy and Housekeeping Amendment

Proposal Title : **Byron LEP 2014 - General Policy and Housekeeping Amendment**

Proposal Summary : **This planning proposal aims to amend various parts of Byron LEP 2014 as part of an annual review of the planning instrument.**

18 separate amendments are proposed.

- A. - Permit recreation facilities (indoor) in the B1 Neighbourhood Centre Zone with consent;**
- B. - Permit secondary dwellings in the R2 Low Density Residential and R5 Large Lot Residential Zones with consent;**
- C. - Permit dual occupancies (detached) in the R5 Large Lot Residential Zone with consent;**
- D. - Permit agriculture in the RU1 Primary Production Zone while prohibiting aquaculture and removing intensive animal agriculture and intensive plant agriculture from the land use table;**
- E. - Prohibit waste or resource management facilities in the B2 Local Centre, B4 Mixed Use and B7 Business Park Zones while removing existing references to resource recovery facility, waste disposal facility, waste or resource transfer station in these land use tables;**
- F. - Permit environmental facilities in the B4 Mixed Use Zone with consent;**
- G. - Permit biosolids treatment facilities, sewage treatment plants and water recycling facilities in the IN1 General Industrial Zone with consent;**
- H. - Prohibit electricity generating works in the IN2 Light Industrial Zone;**
- I. - Permit roads in the W1 Natural Waterways and W2 Recreational Waterways Zones with consent;**
- J. - Insert a new clause in Part 4 Principal Development Standards to enable certain subdivisions less than the minimum lot size if not associated with a dwelling, secondary dwelling or dual occupancy on land zoned RU1 and RU2;**
- K. - Amend the heading to clause 4.1B "Minimum subdivision lot size for multiple occupancy or rural land sharing community developments" to better reflect the content of the clause. The revised heading would be "Minimum subdivision lot size for multiple occupancy or rural community title developments". Amend clause 4.1B to also replace "rural land sharing developments" with "rural community title development/s" wherever it occurs.**
- L. - Amend clause 4.1D relating to the subdivision of lots that involve two or more zones by clarifying the original intent of the clause by removing reference to land zoned R5 Large Lot Residential within the residue land provisions;**
- M. - Permit registered clubs as an additional use on the Cavanbah Sports Centre site at West Byron (Lot 3 DP 706286) by amending Schedule 1;**
- N. - Amend map sheet 'HER 002' and Schedule 5 Environmental Heritage by deleting Heritage item 1173 the former 'Roundhouse' site;**
- O. - Permit a dwelling house on Lot 1 DP 394451, Jones Road, Wooyung;**
- P. - Amend map sheet 'LZN 003D' to correct an error with the zone label for Lot 1 DP 1031848 by changing the label from "educational establishment" to "private education facility and insert a new item in Schedule 1 that would define a private education facility as 'a facility that provides for professional and personal development through a variety of academic, cultural, and vocational programs and includes communal buildings and facilities and accommodation units';**
- Q. - Amend the land zoning (RU2 Rural Landscape to R2 Low Density Residential), minimum lot size (40ha to 600m2) and floor space ratio (0.5:1) for Lot 12 DP 1128095, Lot 11 DP 1128095 and Lot 606 DP 240398, Kulgan Court, Ocean Shores; and**
- R. - Amend the minimum lot size (300m2) for certain land at Bangalow to align with a recent subdivision.**

PP Number : **PP_2015_BYRON_009_00**

Dop File No :

15/15077

Proposal Details

Date Planning Proposal Received :	22-Oct-2015	LGA covered :	Byron
Region :	Northern	RPA :	Byron Shire Council
State Electorate :	BALLINA	Section of the Act :	55 - Planning Proposal
LEP Type :	Housekeeping		

Location Details

Street :			
Suburb :		City :	Postcode :
Land Parcel :	Parts of this Planning Proposal apply to the whole of the LGA		
Street :	Ewingsdale Road		
Suburb :		City : West Byron	Postcode : 2482
Land Parcel :	Lot 3 DP 706286 - Item M - Cavanbah Sports Centre		
Street :	Orana Road		
Suburb :		City : Ocean Shores	Postcode : 2482
Land Parcel :	Formerly Lot 530, DP 238451 - Item N - Former 'Roundhouse' Heritage item		
Street :	Jones Road		
Suburb :		City : Wooyung	Postcode : 2482
Land Parcel :	Lot 1, DP 394451 - Item O - Dwelling		
Street :	The Coast Road		
Suburb :		City : Byron Bay	Postcode : 2482
Land Parcel :	Lot 1, DP 1031848 - Item P - Linnaeus Estate		
Street :	Kulgan Court		
Suburb :		City : Ocean Shores	Postcode : 2482
Land Parcel :	Lot 12 DP 1128095, Lot 11 DP 1128095 and Lot 606 DP 240398 - Item Q - Rezone land		
Street :	Parrot Tree Place		
Suburb :		City : Bangalow	Postcode : 2482
Land Parcel :	Formerly Lot 12, DP 1189289 - Item R - Change to Minimum lot size		

DoP Planning Officer Contact Details

Contact Name : **Jon Stone**
Contact Number : **0267019688**
Contact Email : **jon.stone@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Julie Francombe**
Contact Number : **0266267118**
Contact Email : **Julie.Francombe@byron.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name :
Contact Number :
Contact Email :

Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :		Consistent with Strategy :	
MDP Number :		Date of Release :	
Area of Release (Ha) :	0.86	Type of Release (eg Residential / Employment land) :	N/A
No. of Lots :	0	No. of Dwellings (where relevant) :	1
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of
Conduct has been
complied with : **Yes**

If No, comment : **The Department of Planning and Environment's Code of Practice in relation to communications and meetings with lobbyists has been complied with to the best of the Region's knowledge.**

Have there been meetings or
communications with
registered lobbyists? : **No**

If Yes, comment : **The Northern Region office has not met any lobbyists in relation to this proposal, nor has the Region been advised of any meeting between other officers within the agency and lobbyists concerning this proposal.**

Supporting notes

Internal Supporting
Notes :

External Supporting
Notes : **Since the Byron LEP 2014 has been in force, Council has identified a number of housekeeping type changes or adjustments that are needed to improve the operation and accuracy of the plan.**

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **The objectives and intended outcomes of the proposal are provided and adequately expressed.**

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **The Planning Proposal provides a clear explanation of the intended provisions to achieve the objectives and intended outcomes. This includes a series of maps and written justification for each proposed amendment. The proposal includes 18 amendments to the LEP.**

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.1 Business and Industrial Zones

1.2 Rural Zones

1.5 Rural Lands

2.2 Coastal Protection

2.3 Heritage Conservation

3.1 Residential Zones

3.4 Integrating Land Use and Transport

3.5 Development Near Licensed Aerodromes

4.1 Acid Sulfate Soils

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

5.3 Farmland of State and Regional Significance on the NSW Far North Coast

Is the Director General's agreement required?

c) Consistent with Standard Instrument (LEPs) Order 2006 :

d) Which SEPPs have the RPA identified?

SEPP No 55—Remediation of Land

SEPP No 71—Coastal Protection

SEPP (Rural Lands) 2008

e) List any other matters that need to be considered :

An assessment of the applicable S117 Directions and SEPPs is provided within the 'Assessment' section of this planning team report.

Have inconsistencies with items a), b) and d) being adequately justified?

If No, explain :

See the 'Assessment' section of this planning team report

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

The Planning Proposal has included maps that identify a number of the site specific amendments. A copy of these individual maps in 'A3' should be made available during exhibition. The following additional maps should also be included prior to community consultation:

- proposed lot size map and floor space ratio changes for Amendment Q (Kulgan Court, Ocean Shores).

- identification map for Amendment M (Cavanbah Sports Centre, West Byron); and

- identification map for Amendment O (Jones Rd, Wooyong).

Revised maps which comply with the Department's 'Standard Technical Requirements for LEP Maps' will also need to be prepared before the LEP can be made.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **The Planning Proposal has indicated a 28 day community consultation period. The cover letter submitted with the Planning Proposal indicated that exhibition period is warranted as the nature of the proposal is not 'low impact'.**

The housekeeping amendment involves generally only minor changes and amendments that are not inconsistent with the existing strategic framework. The proposal is therefore considered to be 'low impact' and a 14 day community consultation period is recommended.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment : **The Planning Proposal satisfies the adequacy criteria by:**

- 1. Providing appropriate objectives and intended outcomes;**
- 2. Providing a suitable explanation of the provisions proposed by the Planning Proposal to achieve the outcomes;**
- 3. Providing an adequate justification for the proposal;**
- 4. Providing maps which suitably identify the site and intended outcomes;**
- 5. Outlining a proposed community consultation program including a 28 day public exhibition period; and**
- 6. Providing a project timeframe which suggests completion within 6 months.**

Timeline

- **The Planning Proposal includes a project timeline which estimates completion by March 2016 (6 months). Due to potential delays around the Christmas Period, it is considered that a 9 month time frame would be more appropriate. This does not restrict Council from finalising the LEP amendment sooner.**

Delegation.

- **Council has requested delegation to finalise the proposal and an evaluation checklist has been provided. As the issues in this proposal are of local significance, delegation to Council is considered appropriate.**

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **Byron LEP 2014 came into effect in July 2014. This proposal amends Byron LEP 2014.**

Assessment Criteria

Need for planning proposal : **A review of each proposed modification and how they will be incorporated into Byron LEP 2014 is provided below:**

AMENDMENT A. - Insert recreation facilities (indoor) in the B1 Neighbourhood Centre land use table as permissible with consent - The B1 Neighbourhood Centre zone affects land at Bayside Brunswick, Bayshore Drive, West Byron and the Suffolk Park shopping centre. The amendment will permit uses such as gyms, bowling alleys and the like. Recreation facilities (indoor) are not inconsistent with the objective of the zone. This amendment to the LEP is considered appropriate.

AMENDMENT B. - Insert secondary dwellings in the R2 Low Density Residential and R5 Large Lot Residential land use tables as permissible with consent - Secondary dwellings are currently prohibited in the R2 and R5 Zones of the LEP but are permitted with consent under the State Environmental Planning Policy (Affordable Rental Housing) 2009 in both these zones. This amendment will align the LEP with the SEPP. This amendment to the LEP is considered appropriate.

AMENDMENT C. - Make dual occupancies (detached) in the R5 Large Lot Residential land use table as permissible with consent - Council recently amended the LEP to permit dual occupancies and secondary dwellings in the RU1 Primary Production and RU2 Rural Landscape zones. Council now wish to extend this to include dual occupancies (detached) in the R5 Large Lot Residential Zone. The addition of this landuse will provide additional housing choice and flexibility of residential accommodation styles within this zone. This amendment to the LEP is considered appropriate.

AMENDMENT D. - Insert agriculture in the RU1 Primary Production land use table as permissible with consent. Insert aquaculture as a prohibited use. Delete intensive animal agriculture and intensive plant agriculture from permissible with consent. This proposed change to the land use table will not alter what land uses are permissible in the zone but it will make it consistent with the land use table of the RU2 Rural Landscape zone and clearer to the public as to what uses require consent. This amendment to the LEP is considered appropriate.

AMENDMENT E. - Insert waste or resource management facilities as a prohibited use in the B2 Local Centre, B4 Mixed Use and B7 Business Park land use tables. Delete any references to resource recovery facility, waste disposal facility, waste or resource transfer station in these land use tables wherever they occur. It would appear that the inclusion of these landuses in the Business Zones of the LEP was a drafting error in the preparation of the Byron LEP 2014. The removal of this landuse is not inconsistent with the objective of the zones. This amendment to the LEP is considered appropriate.

AMENDMENT F. - Delete environmental facilities as a prohibited use in the B4 Mixed Use land use table - Council has identified that in its drafting of the Byron LEP 2014 it inadvertently listed environmental facilities as both permitted and prohibited in the B4 Mixed Use zone. Council has confirmed that environmental facilities were meant to be permitted with consent in the zone. This amendment will make environmental facilities a permitted land use within the B4 zone. This amendment to the LEP is considered appropriate.

AMENDMENT G. - Delete biosolids treatment facilities, sewage treatment plants and water recycling facilities from the prohibited section of the IN1 General Industrial land use table - Biosolids treatment facilities, sewage treatment plants and water recycling facilities are currently prohibited in the IN1 General Industrial zone of the LEP but are permitted with consent under the State Environmental Planning Policy (Infrastructure) 2007. This

amendment will align the LEP with the SEPP. This amendment to the LEP is considered appropriate.

AMENDMENT H. - Insert electricity generating works as a prohibited use in the IN2 Light Industrial land use table - During the preparation of the Byron LEP 2014 Council sought to prohibit electricity generating works in the IN2 Light Industrial zone. However, electricity generating works are a permitted landuse in the IN2 zone in accordance with the State Environmental Planning Policy (Infrastructure) 2007. As a result the landuse was made permissible with consent by Parliamentary Counsel in the final drafting of the Byron LEP 2014. This amendment to the LEP is therefore not supported as it would create a situation where an LEP is inconsistent with the SEPP. This matter has been discussed with Council staff who have agreed that this matter should be removed from the proposal.

AMENDMENT I. - Insert roads in the W1 Natural Waterways and W2 Recreational Waterways land use tables as permissible with consent - During the preparation of the Byron LEP 2014 Council inadvertently prohibited roads (which includes bridges) in the W1 Natural Waterways and W2 Recreational Waterways zones. Council is seeking to rectify this by including roads in the landuse tables for the W1 and W2 zones as permitted with consent. This approach is consistent with adjoining LGAs. This amendment to the LEP is considered appropriate.

AMENDMENT J. - Insert a new clause in Part 4 Principal Development Standards to enable certain subdivisions less than the minimum lot size if not associated with a dwelling, secondary dwelling or dual occupancy on land zoned RU1 and RU2 - This clause would provide greater flexibility for the subdivision of rural land where an approved land use, other than a dwelling house, dual occupancy or secondary dwelling, is sought to be subdivided from an original lot. Similar clauses exist in other LEPs within the Northern Region. The inclusion of such a clause is considered appropriate.

AMENDMENT K. - Amend the heading to clause 4.1B "Minimum subdivision lot size for multiple occupancy or rural land sharing community developments" to better reflect the content of the clause. The revised heading would be "Minimum subdivision lot size for multiple occupancy or rural community title developments". Amend clause 4.1B to also replace "rural land sharing developments" with "rural community title development/s" wherever it occurs - This proposed amendment will not impact upon the intent, objectives or operation of the existing clause. It will provide greater clarity given the map series referred to in the clause is named the "Multiple Occupancy and Community Title Map". This amendment to the LEP is considered appropriate.

AMENDMENT L. - Amend clause 4.1D relating to the subdivision of lots that involve two or more zones by clarifying the original intent of the clause by removing reference to land zoned R5 Large Lot Residential within the residue land provisions. This clause relates to the subdivision of land where a lot has two or more zones that apply to it. The current clause includes reference to land zoned R5 Large Lot Residential. The current clause requires a subdivision to include all R5 land within the residue parcel. This was not the original intent of the clause and it is proposed to remove the reference to R5 zoned land in the residue land provisions. This amendment is considered appropriate.

AMENDMENT M. - Permit registered clubs as an additional use on the Cavanbah Sports Centre site at West Byron (Lot 3 DP 706286) by amending Schedule 1 - Council has identified an opportunity to facilitate commercial opportunities at the Cavanbah Sports Centre in West Byron. Council wish to enable users of the facilities and sporting ovals,

including football clubs, the opportunity to utilise the site in the manner of a registered club. Council only want this site to have that opportunity rather than across all land zoned RE1 Public Recreation, hence its proposed inclusion in Schedule 1 - additional permitted uses. The land is classified partly operational and part community. Council has advised no reclassification of land is required. This amendment to the LEP is considered appropriate.

AMENDMENT N. - Amend map sheet 'HER 002' and Schedule 5 Environmental Heritage by deleting Heritage item 1173 the former 'Roundhouse' site - Council proposes to remove this item from the LEP Schedule and Heritage Map series because the heritage item (the 'Roundhouse') has been demolished and the land subdivided for residential purposes. This amendment to the LEP is considered appropriate as the heritage item is no longer in existence.

AMENDMENT O. - Permit a dwelling house on Lot 1 DP 394451, Jones Road, Wooyung - Lot 1 is a 5.2 ha lot that was registered in 1955 as a lawful subdivision. It is one of four lots of a similar size at the end of Jones Road and the only one of the three without a dwelling entitlement. It is zoned part RU2 Rural Landscape and part deferred matter (7k – (Habitat Zone) under Byron LEP 1988). The land does not have a dwelling entitlement as dwelling houses are not permissible in the Byron LEP 1988 7(k) Habitat zone and consent cannot be granted to a dwelling under Byron LEP 2014 due to the operation of Clause 4.2A (3)(c).

The land was part of Amendment 51 to Byron LEP 1988 which was the subject of a Commission of Enquiry in 1998. In that LEP amendment the 3 adjoining lots were given dwelling entitlements through additional use provisions. During the preparation of the Byron LES 2008 and subsequent LEP 2014 the property owner requested a dwelling entitlement through the submission process.

In July 2014 Council's Director of Planning advised the owner "The inability for consent to be granted for a dwelling house on the subject lot under Byron LEP 2014 (despite Council supporting such an outcome) has resulted from re-drafting of Clause 4.2A since the time that the draft LEP was first prepared (as guided by the LES). Given these circumstances an amendment to allow consent to be granted for a dwelling house on the subject lot will be included in one of the first amendments to Byron LEP 2014."

Council has also advised that "the Commission of Enquiry Final Report, Local Environmental Study – Environmentally Sensitive Lands – North Ocean Shores – 1996 and Council reports for Amendment 51 were reviewed in order to find a reason why the subject lot was not given a dwelling entitlement in Amendment 51. No such reason was found nor was there any mention of the other lots that were given dwelling entitlements. It seems that perhaps the subject lot was omitted for a dwelling entitlement by mistake – although this is hard to confirm given the lack of information about the other lots that were identified for dwelling entitlements in Amendment 51."

As no reason can be established why this lot was excluded from having a dwelling, it is considered reasonable that a dwelling be permitted based on the 3 similar adjoining lots having been granted the ability to erect a dwelling and as the lot was lawfully created in 1955 to a size intended for rural residential purposes.

Council has identified that the land contains an Aboriginal site that is listed on the AHIMS Register. This site will need further investigation prior to the finalisation of this Planning Proposal. A preliminary contaminated land assessment and further information relating to the potential bushfire hazard of the site will also be required prior to finalisation of the Proposal. This amendment is considered appropriate subject to the required studies confirming the site is suitable for development.

The Planning Proposal indicates the method of providing a dwelling entitlement to this

land would be via an amendment to Schedule 1 - Additional Permitted Uses. This approach is supported in this instance as a change to the minimum lot size map is not possible as part of the land is deferred under Byron LEP 2014.

AMENDMENT P. - Amend map sheet 'LZN 003D' to correct an error with the zone label for Lot 1 DP 1031848 by changing the label from "educational establishment" to "private education facility and insert a new item in Schedule 1 that would define a private education facility as 'a facility that provides for professional and personal development through a variety of academic, cultural, and vocational programs and includes communal buildings and facilities and accommodation units' - This site incorporates the Linnaeus Estate. In 1998 the Land and Environment Court (and later Council with amendments) gave consent to this site to be used for a private education facility with ancillary accommodation units and ancillary infrastructure. It is not a school or a tertiary institution constituted under an Act and as a result it relies on "existing use rights".

In February 2015, Council considered a proposal to rezone all of the subject land to zone E2 Environmental Conservation under Byron LEP 2014 and include all of the subject land in Schedule 1 of Byron LEP 2014 to permit a community title subdivision to create 33 small lots for the purposes of dwellings and a single community lot for the remainder of the land. Council did not support the proposal but did resolve to amend the SP1 zone label on Lot 1 DP 1031848 to refer to a private education facility, and amend Schedule 1 to define private education facility and specifically permit it as a use on the subject land.

Private Education Facility is not a defined term in the Standard Instrument and may not be appropriate as a zoning map label for this site. The Linnaeus Estate is considered best defined under the Byron LEP 2014 as a 'mixed use development'. This proposal is considered appropriate subject to the following amended wording:

"Amend map sheet LZN 003D to change the zone label for Lot 1 DP 1031848 from "educational establishment" to better reflect the existing mixed use nature of the site and that Schedule 1 be amended to include Lot 1 DP 1031848, The Coast Road, Broken Head (The Linnaeus Estate) being a mixed use development comprising a Private Education Facility with ancillary facilities that provides for professional and personal development through a variety of academic, cultural, and vocational programs and includes communal buildings and facilities and accommodation units."

This matter has been discussed with Council staff who have agreed that this matter should be amended and that the final wording of the amendment and SP1 Zone label be determined in consultation with Parliamentary Counsel.

AMENDMENT Q. - Amend the land zoning (RU2 Rural Landscape to R2 Low Density Residential), minimum lot size (40ha to 600m²) and apply a floor space ratio (0.5:1) for Lot 12 DP 1128095, Lot 11 DP 1128095 and Lot 606 DP 240398, Kulgan Court, Ocean Shores - The land is currently zoned RU2 Rural Landscape because it was previously in a rural investigation zone in the former LEP. The land was proposed to be a road corridor but that proposal has been abandoned and the majority of the land sold into private ownership. Council has approved a senior's housing development on the subject land. It encompasses three irregular shaped lots with a combined area of approximately 8600m². Two extremely narrow lots (approximately 600mm wide) are owned by Council and the larger lot is privately owned. It is proposed to rezone the subject land R2 Low Density Residential, amend the minimum lot size to 600m² and the floor space ratio to 0.5:1 consistent with the adjoining urban land. The site is not used for agriculture, nor has potential for agricultural production and contains no significant habitat. It has been subject to a preliminary contamination assessment under SEPP 55 and is not likely to be contaminated from past land use. It is not known to contain any Aboriginal sites or cultural significance. This amendment to the LEP is considered appropriate.

AMENDMENT R. - Amend the minimum lot size (300m²) for certain land at Bangalow (formerly Lot 12 DP1189289) to align with a recent subdivision - A medium density residential subdivision was approved on the site prior to the commencement of the Byron LEP 2014. The approved subdivision pattern does not match the minimum lot size provisions as shown on the LEP Maps or the Byron DCP. This amendment is considered appropriate as it will align the provisions of the LEP with the approved use of the land.

Consistency with
strategic planning
framework :

FAR NORTH COAST REGIONAL STRATEGY (FNCRS)

The proposal does not result in the rezoning of any land outside of the Town and Village Urban Growth Boundaries. The proposal is consistent with the overarching aims, objectives and intent of the Strategy.

STATE ENVIRONMENTAL PLANNING POLICIES

The planning proposal is consistent or justifiably inconsistent with the applicable State Environmental Planning Policies. The relevant SEPP's that require particular consideration are SEPP 55 Remediation of Land, SEPP (Rural Lands) 2008 and SEPP 71 Coastal Protection.

SEPP 55 Remediation of Land

Clause 6(1) of SEPP 55 requires that a Council cannot approve a rezoning application unless it has duly considered whether such land is contaminated.

Amendment Q - (Kulgan Court, Ocean Shores) proposes to rezone land from rural to residential. Council has advised that the previous landowners undertook a preliminary analysis pursuant to SEPP 55 and found there was no evidence of past contamination. It is considered that this proposal is consistent with the SEPP.

Amendment O - (Jones Road) proposes a dwelling entitlement on a single lot in Jones Road. Council has advised that no preliminary analysis for this site has been undertaken. As this land is not being rezoned, the provisions of the SEPP do not apply at this stage, however, the provisions of the SEPP will need to be considered at the development application stage. This is not considered adequate and it is recommended that a preliminary analysis of the site be undertaken prior to the finalisation of this Planning Proposal to ensure the site is appropriate for a dwelling.

SEPP (Rural Lands) 2008

The Rural Planning Principles and Rural Subdivision Principles in the SEPP are required to be considered as part of the S117 directions when a planning proposal affects land in a rural zone or changes the minimum lot size of rural zoned land.

- Amendment D changes the land use table of the RU1 Primary Production zone but will not impact upon the permissible land uses currently outlined in the LEP.
- Amendment J introduces a new clause that impacts upon the subdivision of rural land. The objective of the clause is considered to be consistent with the SEPP.
- Amendment L amends a clause that relates to rural zoned land but the proposed changes will only enhance the operation of the clause and will not impact directly on the subdivision potential of rural land.
- Amendment O proposes a dwelling on land on Jones Road. Although zoned RU2 Rural Landscape, the size of the lot prevents its use for a sustainable agricultural use and the land is not mapped as state or regionally significant farmland. The additional dwelling on this site will not impact upon the agricultural use of surrounding land or fragment any rural land.
- Amendment Q proposes to rezone land from RU2 Rural Landscape to R2 Low Density Residential and change the minimum lot size of the site. The site has an area of 8600m² and is adjacent to an urban area. It is not mapped as state or regionally significant farmland and has a seniors living development approved on the site.

It is not considered that these amendments are inconsistent with the functions of the SEPP (Rural Lands) 2008.

SEPP 71 — Coastal Protection

The aims of the SEPP and the matters for consideration in clause 8 are matters that Council are required to consider on a site specific basis in future development applications and when preparing an LEP Amendment. It is considered that the proposed amendments to the LEP will not significantly affect the operation of the SEPP and are not inconsistent with the matters for consideration. In most cases the potential development in the Coastal area will either be in existing urban areas or relatively small scale. It is considered that

the planning proposal is compliant with the aims of the SEPP.

SECTION 117 DIRECTIONS

The planning proposal is consistent or justifiably inconsistent with the applicable Section 117 Directions. The Planning Proposal is justifiably inconsistent with the following Directions:

1.2 Rural Zones

The proposal seeks to rezone rural land to residential - (Amendment Q). This land is only 8600m², is adjacent to urban land and is not used for agriculture. Council has also recently approved a seniors living development on the site. The inconsistency with the Direction is considered to be of minor significance.

4.1 Acid Sulfate Soils

Council identify that some land to which this planning proposal applies may be affected by acid sulfate soils. The Planning Proposal is inconsistent with this Direction as it is not supported by an Acid Sulfate Soils Study. The Planning Proposal is not expected to lead to a significant intensification of land uses proposed on land identified on the Acid Sulfate Soils Planning Maps. Where necessary, Council can adequately address any acid sulfate soil matters in accordance with cl. 6.1 of Byron LEP 2014 at the development application stage. The inconsistency with the Direction is considered to be of minor significance.

4.3 Flood Prone Land

The Planning Proposal will affect some land that is flood prone. Byron LEP 2014 contains a flood planning clause (Cl 6.3) and a floodplain risk management clause (Cl 6.4) that can ensure this is adequately addressed at the development application stage. Within the residential and business zones, the Planning Proposal will not permit significant development on flood prone land beyond that which is already permitted. There is unlikely to be a significant increase in flooding impacts or demand for flood rescue services as a result of this Planning Proposal. The inconsistency with the Direction is considered to be of minor significance.

Direction 4.4 Planning for Bushfire Protection

Some parts of the land to which this Planning Proposal applies to areas of bushfire prone land. The Direction requires the RPA to consult with the Commissioner of the NSW Rural Fire Service after a Gateway Determination has been issued. Until this consultation has occurred the consistency of the proposal with the Direction remains unresolved.

Environmental social
economic impacts :

The proposed amendments are generally of a minor housekeeping nature and no significant adverse environmental, social or economic impacts are considered likely.

The proposal is considered to have an overall positive environmental, social and economic impact as a result of the improved operation of the Byron LEP 2014

Assessment Process

Proposal type :	Routine	Community Consultation Period :	14 Days
Timeframe to make LEP :	9 months	Delegation :	RPA
Public Authority Consultation - 56(2)(d)	Office of Environment and Heritage NSW Rural Fire Service		

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Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

Heritage

Bushfire

Other - provide details below

If Other, provide reasons :

It is recommended that the following additional studies are undertaken for the land subject to Amendment O (Dwelling on Jones Road) prior to the finalisation of this Planning Proposal.

- Preliminary Contaminated Land Assessment in accordance with SEPP 55;
- An Aboriginal Cultural and Heritage Assessment to determine the suitability of the land for further development; and
- A Bushfire Hazard Study to determine the suitability of the site for a dwelling.

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
2015-10-19 Cover Letter.pdf	Proposal Covering Letter	Yes
2015-10-19 Planning Proposal.pdf	Proposal	Yes
2015-10-19 Council Report.pdf	Proposal	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 1.1 Business and Industrial Zones**
- 1.2 Rural Zones**
- 1.5 Rural Lands**
- 2.2 Coastal Protection**
- 2.3 Heritage Conservation**
- 3.1 Residential Zones**
- 3.4 Integrating Land Use and Transport**
- 3.5 Development Near Licensed Aerodromes**
- 4.1 Acid Sulfate Soils**
- 4.3 Flood Prone Land**
- 4.4 Planning for Bushfire Protection**
- 5.1 Implementation of Regional Strategies**
- 5.3 Farmland of State and Regional Significance on the NSW Far North Coast**

Additional Information : **It is recommended that:**

- 1. The Planning Proposal be supported;**
- 2. The Planning Proposal be exhibited for 14 days;**
- 3. The Planning Proposal be completed within 9 months;**

4. The proposal be amended prior to community consultation by:
 - removing proposed Amendment H (prohibit electricity generating works in the IN2 Light Industrial zone);
 - amending Amendment P (Linnaeus Estate) to remove the reference to the use of 'Private Education Facility' in the proposed SP1 label change;
 - including proposed lot size map and floor space ratio changes for Amendment Q (Kulgan Court, Ocean Shores).
 - including an identification map for Amendment M (Cavanbah Sports Centre, West Byron);
 - including an identification map for Amendment O (Jones Rd, Wooyong); and
 - including A3 size maps in Appendix 1 to enable greater clarity for the public during the exhibition period;
5. That consultation with the NSW Rural Fire Service and Office of Environment and Heritage be undertaken;
6. That prior to finalisation of the Planning Proposal the following additional studies are completed confirming the suitability of the land subject to Amendment O (Jones Rd, Wooyong):
 - preliminary Contaminated Land Assessment;
 - Aboriginal Cultural and Heritage Assessment; and
 - bushfire Hazard Study;
7. That the Secretary's delegate determines that the inconsistencies with s117 Directions 1.2 Rural Zones, 4.1 Acid Sulfate Soils and 4.3 Flood Prone Land are justified as matters of minor significance;
8. That the Secretary's delegate notes that the inconsistency with s117 Direction 4.4 Planning for Bushfire Protection is outstanding until consultation with the NSW Rural Fire Service is complete; and
9. That a written authorisation for Council to exercise its plan making delegations be granted for this matter.

Supporting Reasons : This housekeeping planning proposal is supported as it will improve the operation and accuracy of the plan.

Signature:



Printed Name:

Craig Diss

Date:

30 October 2015