

Byron LEP 2014 Tyagarah Airport Additional Permitted Uses

Proposal Title : **Byron LEP 2014 Tyagarah Airport Additional Permitted Uses**

Proposal Summary : **The planning proposal seeks to amend Schedule 1 of Byron Local Environment Plan 2014 to list heliport as an additional permitted use and to amend the Lot Size Map to apply minimum lot sizes that enables subdivision which reflects the current lease boundaries.**

PP Number : **PP_2016_BYRON_004_00** Dop File No : **16/01003**

Proposal Details

Date Planning Proposal Received : **17-Mar-2016** LGA covered : **Byron**

Region : **Northern** RPA : **Byron Shire Council**

State Electorate : **BALLINA** Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

Location Details

Street : **95 Yarun Rd**

Suburb : **Tyagarah** City : **Tyagarah** Postcode : **2481**

Land Parcel : **Lot 2 DP 749851, Lot 1 DP 713023 (subdivided for lease purposes into Lots 4 & 5 DP 805678), Lot 6 DP 836887, Lots 8 & 9 DP 856832 and Lot 49 DP 881232**

DoP Planning Officer Contact Details

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Land Release Data

Growth Centre : Release Area Name :

Regional / Sub Regional Strategy : **Far North Coast Regional Strategy** Consistent with Strategy : **Yes**

Byron LEP 2014 Tyagarah Airport Additional Permitted Uses

MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	
No. of Lots :	0	No. of Dwellings (where relevant) :	0
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 :		A similar planning proposal was previously submitted seeking to permit additional airport related development on the site. After Council was advised that some of those provisions are already allowed under provisions in SEPP (Infrastructure), the planning proposal was revised and re-submitted in its current form.	
External Supporting Notes :		The proposal intends to facilitate the use of the site by helicopters.	
		The proposed changes to the Lot Size Map will enable existing lots created for lease purposes, and the existing internal roadway, to be formalised.	

Adequacy Assessment

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

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

Comment : **The objectives of the proposal are to amend Schedule 1 of Byron Local Environmental Plan 2014 to permit a heliport as an additional permitted use for the Tyagarah Airport site and to amend the Minimum Lot Size Map as it applies to the site, to reduce the applicable minimum lot size to reflect the 'lease lots' previously created.**

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

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

Comment : **To achieve its intended outcomes the planning proposal seeks to amend Schedule 1 of the Byron LEP 2014 to add the following:**

6. Use of certain lands at Yarun Road, Tyagarah

This clause applies to land at Yarun Road Tyagarah, being Lot 2 DP749851, Lot 1 DP 713023, Lot 6 DP836887, Lots 8 & 9 DP856832 and Lot 49 DP881232.

Development for the purpose of a heliport is permitted with consent.

The proposal will also amend the Byron LEP 2014 Lot Size Map to apply a minimum lot

size of 1,000 sqm to the subject land.

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

1.2 Rural Zones

1.5 Rural Lands

2.1 Environment Protection Zones

2.2 Coastal Protection

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

6.1 Approval and Referral Requirements

6.3 Site Specific Provisions

3.6 Shooting Ranges

Is the Director General's agreement required? **Yes**

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

d) Which SEPPs have the RPA identified?

SEPP No 44—Koala Habitat Protection

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 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? **Yes**

If No, explain :

See the 'assessment' section.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

The Planning Proposal includes a map which identifies the site boundaries and current land use zones.

It is appropriate for the planning proposal to be amended to include an Additional Permitted Uses Map which shows where on the subject land the additional uses will be permitted.

Detailed mapping of the proposed amendment to the Lot Size Map and Additional Permitted Uses Map will be required to be prepared before public exhibition.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

The proposal provides an indicative community consultation timeframe of 28 days. This is considered to be appropriate given the nature of the proposal.

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 proposed provisions;**
- 3. Providing an adequate justification for the proposal;**
- 4. Indicating that community consultation of the proposal will be undertaken; and**
- 5. Providing a project timeframe which suggests completion by August 2016 (6 months).**

Delegation

- Council has requested delegation to finalise the proposal and an evaluation checklist has been provided. It is considered that these functions should be delegated to Council as the issues in this proposal are of local significance.

Timeline

- Council has indicated a 6 month time frame to finalise the plan. Providing a 9 month time frame on the Gateway determination is considered appropriate to ensure suitable time to update the proposal, undertake community consultation and review all submissions.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation
to Principal LEP :

The Byron LEP 2014 came into effect in July 2014. This proposal seeks to amend Byron LEP.

Assessment Criteria

Need for planning
proposal :

The proposal has arisen from an Aviation Option Report prepared by The Airport Group - Australian Airports Association (2013) which identified that the financial viability of the current operations may be at risk in the future and recommended ratification of existing occupancy arrangements and further development of the existing land.

The proposal is also needed to reflect the existing nature and future likely uses of Tyagarah Airport into the provisions of Byron LEP 2014.

Consistency with strategic planning framework :

Far North Coast Regional Strategy (the Strategy)

The proposal is considered to be generally consistent with the actions and outcomes outlined in the FNCRS. The subject land is not identified for future employment land uses in the Strategy. However, the Strategy notes that there is a need to strengthen the economic activity and associated employment in existing industry sectors as well as encourage diversification into new and emerging job opportunities. The development of aviation related industries around the existing airstrip is considered to be consistent with this principle.

The Strategy also contains an action that the planning for commercial and industrial land uses must be integrated with the supply of relevant infrastructure and transport. Certain development related to the existing airport are currently permitted under the SEPP (Infrastructure), and it is considered appropriate that development for a heliport is allowed in the vicinity of the existing infrastructure and outside the urban areas.

SEPPs

The proposal is consistent with the provisions of all applicable SEPP's relevant to the site.

SEPP (Infrastructure)(I-SEPP)

The I-SEPP allows for development for the purposes of passenger terminals, freight facilities, hangars for aircraft storage, maintenance and repair, and premises for retail, business, recreational, residential or industrial uses ancillary to air transport facilities (including airports) with consent. Minimum Lot Size Amendments sought by the planning proposals are consistent with the objectives of the I-SEPP as they will formalise existing lease arrangements for ancillary uses that are permitted under the SEPP.

Under the I-SEPP heliports are only permitted without consent if they are carried out on, or on behalf of, a public authority. Council's intention is to facilitate the creation of a private heliport for the Tyagarah Airport. As such Council has included a provision for heliport as an additional permitted use to facilitate this land use.

SEPP44

The proposal is considered to be consistent with SEPP 44 as the proposed additional uses are likely to be developed on existing cleared land and any impact on vegetation will be subject to a koala plan of management at the development application stage.

SEPP (Rural Lands)

This SEPP outlines Rural Planning Principles to guide development on rural land. The proposal is consistent with this SEPP as the subject land is not identified as regionally or state significant farmland and has been used for some time as an airport with ancillary uses.

S117 Directions

A number of 117 Directions are applicable to the planning proposal. Any identified inconsistency is considered to be justified, as detailed below.

Direction 2.1 Environment Protection Zones requires that a planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas. The proposal applies to areas of land identified as environmentally sensitive koala habitat. These areas will be protected and conserved through consolidation into a single lot to be retained by Council as Community Land.

The proposal does not reduce the environmental protection standards that apply to the subject land. Any tree clearing that does occur from future development as a result of this proposal will be subject to native vegetation offset planting regimes at the DA stage.

Part of Lot 49 DP 881232 and Lot 1 DP 713023 are currently deferred from the Byron LEP 2014. The Minister's Final Recommendation Report for Northern Councils E-Zone Review has been issued and therefore Council may apply E zones to land that meets the criteria. However it is considered appropriate that application of an E-zone can occur as part of a separate Planning Proposal which considers all the deferred land in the wider locality.

For these reasons it is considered that the environmental impacts are of minor significance and that the proposal is not inconsistent with the Direction.

Direction 3.5 Development Near Licensed Aerodromes provides that a planning authority must consult with the Department of Commonwealth responsible for aerodromes and the lessee of the aerodrome and take into consideration the Obstacle Limitation Surface as defined by that Department of the Commonwealth. This consultation will be recommended as a condition of any Gateway determination. Any inconsistency will need to be addressed after this consultation has occurred.

Direction 3.6 Shooting Ranges provides that a proposal must not seek to affect, alter or rezone land adjacent to an existing shooting range that intensifies development permitted under the existing zone or permit land uses that are incompatible with the noise impacts of the shooting range. The proposed development will increase the range of activities undertaken in proximity to a shooting range located on an adjacent lot. The inconsistency with the Direction is considered to be of minor significance as aviation related land use has historically existed adjacent to the shooting range without incident and the additionally permitted heliport is not inappropriate.

Direction 4.1 Acid Sulfate Soils is relevant to the proposal. The Direction provides that a planning proposal must not propose an intensification of land uses on land containing acid sulfate soils (ASS). The subject land contains Class 3 ASS. The planning proposal advises that a preliminary assessment has been prepared and concludes that the ASS risk can be appropriately managed on the site. Additionally, provisions exist within the Byron LEP 2014 to address the potential impact on ASS at the development application stage. It is therefore considered that the inconsistency of the proposal is of minor significance and has been justified in accordance with the terms of the Direction.

Direction 4.3 Flood Prone Land applies to this proposal as it seeks to permit development in 'floodway' areas. The inconsistency is justified as being of minor significance in accordance with the terms of the Direction as a flood assessment report has been prepared for the proposal in accordance with the Floodplain Development Manual 2005. The assessment found that the site is within a 'high flood hazard' location but is not classed as a 'floodway' due to low flow velocities. It is considered that the proposed development is compatible with the flood hazard and will not result in significant flood impacts on other properties.

Direction 4.4 Planning for Bushfire Protection

The subject land is mapped as being bushfire prone. The proponent has provided that previous consultation with NSW Rural Fire Service indicates that, as the planning proposal does not facilitate residential development, a Bushfire Safety Authority, under the Rural Fires Act 1997, will not be required. However the objective of the planning proposal involves allowances for residential development ancillary to the airport development. As the land is bushfire prone consultation with the NSW RFS is required in accordance with the terms of the Direction and is recommended to be conditioned through the Gateway determination.

Environmental social
economic impacts :

No adverse environmental impacts are expected to result from the proposed rezoning of the land. It is noted that all the environmentally sensitive vegetation is to be retained into a single lot to be retained in Council's ownership and classified as community land. Whilst some environmental constraints exist in relation to the provision of on-site sewage infrastructure (high water table), this can be addressed through engineering design at the DA stage.

Byron LEP 2014 Tyagarah Airport Additional Permitted Uses

Assessment Process

Proposal type : **Routine** Community Consultation Period : **28 Days**

Timeframe to make LEP : **9 months** Delegation : **RPA**

Public Authority **NSW Rural Fire Service**
Consultation - 56(2)(d) **Transport for NSW - Roads and Maritime Services**

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. :

If Other, provide reasons :

No additional studies are required given the nature of the proposal.

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
2016-03-17 Tyagarah Airport Planning Proposal_Final Amended Gateway Version.pdf	Proposal	Yes
Tyagarah Airport Planning Proposal - Appendices.pdf	Proposal	Yes

Planning Team Recommendation

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

S.117 directions:

- 1.2 Rural Zones**
- 1.5 Rural Lands**
- 2.1 Environment Protection Zones**
- 2.2 Coastal Protection**
- 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**
- 6.1 Approval and Referral Requirements**
- 6.3 Site Specific Provisions**

3.6 Shooting Ranges

Additional Information :

It is **RECOMMENDED** that the Acting Director Regions, Northern, as delegate of the Minister for Planning, determine under section 56(2) of the EP&A Act that the proposal to amend Schedule 1 of Byron Local Environment Plan 2014 to list heliport as an additional permitted use for the Tyagarah Airport site and amend the Lot Size Map to apply a minimum lot size that reflects current lease boundaries.

1. An additional permitted uses map is to be prepared that clearly shows the land on which heliports will be permitted.

2. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:

(a) the Planning Proposal must be made publicly available for 28 days;

(b) A3 maps of each of the proposed LEP Map Amendments should be produced and made publicly available with the Planning Proposal during exhibition;

(c) the explanation of provisions be amended to clearly define the lots and part lots to which this proposal applies; and

(d) the relevant planning authority must comply with the notice requirements for public exhibition of Planning Proposals and the specifications for material that must be made publicly available along with Planning Proposals as identified in section 5.5.2 of 'A guide to preparing local environmental plans (Planning and Infrastructure, 2013)'.

3. Consultation with the following agencies and organisations is required prior to public exhibition:

- Office of Environment and Heritage;
- NSW Roads and Maritime Services
- Department of the Commonwealth responsible for aerodromes and the Lessee of the aerodrome.

4. No public hearing is required to be held into the matter under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example in response to a submission or if reclassifying land).

5. The timeframe for completing the LEP is to be 9 months from the week following the date of the Gateway determination.

6. Council be authorised to use the Minister's plan making functions under sections 59(2),(3)&(4) of the Environmental Planning and Assessment Act 1979.

7. Section 117 Directions - It is recommended that:

(a) The Secretary's delegate can be satisfied that the Planning Proposal's inconsistencies with s117 Directions 2.1 Environment Protection Zones, 3.6 Shooting Ranges, 4.1 Acid Sulfate Soils and 4.3 Flood Prone Land are of minor significance.

(b) Consultation is required with the NSW Rural Fire Service under section 56(2)(d) of the Act to comply with the requirements of the s117 Direction 4.4. The NSW Rural Fire Service is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

(c) The Secretary's delegate can be satisfied that the Planning Proposal is consistent with all other relevant s117 Directions; and

8. The Planning Proposal is considered to be consistent with all relevant SEPP's.

Supporting Reasons :

The reasons for the above recommendations for the Planning Proposal are as follows:

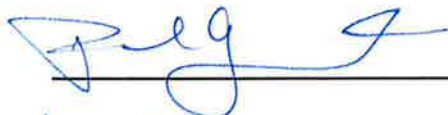
1. Amending Schedule 1 of Byron Local Environment Plan 2014 to permit a heliport for the Tyagarah Airport site and amending the Lot Size Map to apply minimum lot sizes

Byron LEP 2014 Tyagarah Airport Additional Permitted Uses

that reflect the current lease boundaries will support the existing and future development opportunity surrounding the Tyagarah Airport and will strengthen aviation related industries and ancillary uses in the Byron area including recreational tourist activity.

2. The proposal is consistent with the strategic planning framework.

Signature:



Printed Name:

PAUL LAVERTY

Date:

23/3/16

Acting Team Leader
Local Planning

