



Planning Proposal 26.2017.5.1
for Amendment of Byron Local Environmental Plan 2014
- Byron Bay Town Centre Planning Control Review

Byron Shire Council

Pre Gateway Version – Additional permitted and temporary uses

Date: 27 November 2017

Document History

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Part 1 Introduction

Objective and intended outcomes

The objective of this Planning Proposal is to amend Byron Local Environmental Plan (LEP) 2014 to introduce various planning provisions applicable to the subject land in parts of Byron Bay Town Centre.

The intended outcomes of the amendments to the LEP are:

1. To specify additional permitted uses with consent under Schedule 1 on land at:
 - a. Byron Bay Rail Corridor State Heritage land (Zone SP2 Infrastructure- Rail Corridor) to permit Markets and other temporary, creative pop-up activities that cannot otherwise be approved as Exempt Development; and
 - b. Lawson Street South Car Park (Zone SP2 Infrastructure - Car Park) to permit Markets.
2. To permit Single Temporary Events and Ceremonies in Schedule 2 as Exempt Development in public reserves, public roads, car parks, community land, showgrounds, church grounds, Crown land or other appropriate outdoor areas.
3. To amend the maximum period under Clause 2.8 Temporary use of land from 14 days to 52 days in any period of up to 12 months to permit temporary events.

Property details and existing zones

This Planning Proposal relates specifically to land currently zoned SP2 Infrastructure, located at Byron Bay Town Centre, legally identified as follows:



Figure 1 – Subject Land

Site Name	Zone	Legal Description	Owner
Byron Bay Rail Corridor	Zone SP2 Infrastructure (Rail corridor)	Lot 4729 in DP 1228104 Lot 1 in DP 1001454	County Rail Infrastructure Authority
Lawson Street South Car Park	Zone SP2 (Car Park)	Lot 3 in DP 827049	Byron Shire Council

Table 1 – Subject Land Property details

Proposed amendments to Schedule 2 and Clause 2.8 apply across the whole of Byron Shire.

Background

Byron Bay Town Centre Masterplan (masterplan) was adopted by Council on 9 June 2016.

The purpose of the proposed amendment to the LEP is to implement planning controls that align with the strategic direction of the masterplan.

Following a period of extensive community engagement throughout 2015-2016, the masterplan and an 'implementation plan' was agreed based on the outcomes of the masterplan process. The implementation plan to commence a 20 year delivery period includes steps required to fulfil the place principles, town centre strategies and key projects identified by the Council and community during the development of the masterplan.

The 5 key planning priorities in the implementation plan of the masterplan include:

1. Establishment of a Byron Bay Leadership Team
2. Preparation of a Byron Bay Development Control Plan
3. Amendments to the Local Environmental Plan to reflect the Master Plan
4. Preparation of a detailed Access and Movement Study and Strategy
5. Development of a Byron Bay Facilities Asset Management Plan

A complete copy of Byron Bay Town Centre Masterplan is enclosed is available [online](#).

Council has undertaken a review of planning controls in and around Byron Bay Town Centre within the following wider area:

- a northern boundary along the north coast railway corridor and Main Beach;
- an eastern boundary to Massinger Street;
- a western boundary aligned with the approved Butler Street bypass around Gordon Street, Butler Reserve and to Kendal Street; and
- a southern boundary along Browning Street and across Jonson Street following the alignment of the approved road reserve to connect with the approved Butler Street bypass.



Figure 2 – Planning Control Review Area

This Planning Proposal will enable the delivery of projects identified in the masterplan and is the first of a number of proposed amendments to the LEP that are being prepared and lodged for Gateway determination in order of priority.

The proposed amendments are intended to ensure permissibility of appropriate land uses that maintains the character of Byron Bay Town Centre. New exempt development provisions are proposed to introduce simpler development approval processes for low impact, 'pop-up' events and activities, where appropriate.

Part 2 Explanation of provisions

2.1 Planning Proposal

This Planning Proposal seeks to amend Clause 2.8 Temporary use of land; Schedule 1 Additional Permitted Uses and Schedule 2 Exempt Development in Byron LEP 2014.

The purpose of this planning proposal is to enable uses identified in the Byron Bay Town Centre Masterplan and facilitate development of key projects:

This primarily relates to land currently zoned SP2 Infrastructure (Rail Corridor and Car Park), located at Byron Bay Town Centre.

New exempt development provisions and changes to Clause 2.8 relate to low impact temporary events and ceremonies on public reserves or other suitable locations throughout Byron Shire.

2.2.1 Amendment to Clause 2.8 Temporary Use of Land

Amend the number of days specified in Clause 2.8 by deletion of 14 days and replacing it with 52 days, as follows:

2.8 Temporary use of land

(1) The objective of this clause is to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.

(2) Despite any other provision of this Plan, development consent may be granted for development on land in any zone for a temporary use for a maximum period of ~~44~~ 52 days (whether or not consecutive days) in any period of 12 months.

(3) Development consent must not be granted unless the consent authority is satisfied that:

(a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other applicable environmental planning instrument, and

(b) the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and

(c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and

(d) at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.

(4) Despite subclause (2), the temporary use of a dwelling as a sales office for a new release area or a new housing estate may exceed the maximum number of days specified in that subclause.

(5) Subclause (3) (d) does not apply to the temporary use of a dwelling as a sales office mentioned in subclause (4).

2.2.2 Schedule 1 Additional Permitted Uses

To allow additional permitted uses with consent under Schedule 1 on certain land at Lawson Street South Car Park (Zone SP2 Car Park) and Byron Bay Rail Corridor (Zone SP2 Rail Corridor) to permit temporary, creative pop-up activities that cannot otherwise be approved on State Heritage land as Exempt Development in the LEP.

The following amendment is proposed:

4. Use of certain land at Lawson Street Car Park and Byron Railway Precinct, Byron Bay

(1) This clause applies to land at Lawson Street South Car Park being Lot 3, DP 827049 and Byron Rail Line and Station Precinct being Lot 1, DP 1001454 and Part of Lot 4729, DP 1228104 (extending from Lawson Street to the south west corner of Lot 8, DP 617509).

(2) Development for the purposes of a portable or demountable single storey structure or temporary activity including a creative workspace, shared office space or retail activity that is not a food and drink premises is permitted with development consent.

(3) Development for the purposes of markets is permitted with development consent.

It is necessary to re-number clauses currently listed under Schedule 1 of Byron LEP 2014.

2.2.3 Schedule 2 Exempt Development

Exempt development involving minor work that has little environmental impact can be carried out in most parts of the Byron Shire. In many cases a particular development will be prevented from being exempt development because of its location in environmentally sensitive areas, national parks and some land containing heritage items.

Most exempt development in NSW is controlled by the [State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008](#) (the Codes SEPP).

Schedule 2 of the LEP 2014 includes standards and requirements for locally exempt development types that do not repeat or contradict the Codes SEPP.

The Planning Proposal will permit Single Temporary Events and Ceremonies as Exempt Development in public reserves, public roads, car parks, community land, showgrounds, church grounds, Crown land or other appropriate outdoor areas:

Single *temporary* events and ceremonies Proposed [adapted from Bega Valley and Ballina]

- (1) Must be located in a public reserve, **public road**, car park, community land, showgrounds, church grounds, Crown land or other appropriate outdoor area.*
- (2) Must be:*
 - (a) a community event; or*
 - (b) a commercial event including pop-up trading for retail or other commercial purposes, such as operation of a street market; or*
 - (c) outdoor dining associated with and adjacent to a lawfully approved restaurant or cafe;*
- (3) May include associated storage areas and truck lay-by areas for vehicles not exceeding 4.5 tonnes or a lesser weight limit if specified in a plan of management applicable to the land.*
- (4) Must obtain all necessary approvals, including but not limited to local approval, under the [Local Government Act 1993](#) and if on a public road, may require approval under section 138 of the [Roads Act 1993](#).*
- (5) Must not restrict any car parking, vehicular or pedestrian access required to be provided by a condition of development consent applying to the land, unless that parking and access is on land owned, controlled or managed by a council or public authority.*
- (6) Must not include the erection of a permanent structure on the land.*
- (7) Must not include the clearing or disturbance of native vegetation.*
- (8) Maximum period—52 days (whether or not consecutive days) in any period of 12 months.*
- (9) Must always have consent in writing of the owner of the land on which the event is to be carried out and if a council or public authority has the control or management of the land, the consent in writing of the council or public authority.*

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 the Byron Bay Town Centre Masterplan (Masterplan). The Masterplan was adopted by Council in June 2016, following a period of extensive community engagement throughout 2015-2016. A copy is available online here: [Byron Bay Town Centre Masterplan](#).

The Masterplan identifies the need to introduce new planning controls including amendments to the Byron LEP 2014 and Byron DCP 2014 to support the following strategic land use planning outcomes:

- A pedestrian prioritised centre that supports and integrates alternate modes of transport and creates opportunities for car parking facilities on the edge of the town centre and public transport facilities on the western side of the north coast rail corridor, close to Butler Reserve;
- Increased mix of uses in the town centre by encouraging a multi-functional economy that supports diverse activities including local businesses, local living, and local development opportunities;
- Preserves Byron Bay's eclectic village character through high quality design, increased density (floor space) and ensuring the maximum height of buildings is increased where appropriate and does not exceed 3 storeys.

Other relevant land use plans and studies:

Draft conceptual landscape plans for the Railway Corridor and relocated weekly farmers are being finalised on behalf of Council in consultation with various interest groups including market traders and the Byron Bay Leadership Teams.

A Conservation Management Strategy (CMS), for the State Heritage listed Byron Bay Railway Station and Yard, will inform and manage the heritage aspects of future use of the land.

The Byron Bay Town Centre Access and Movement Strategy, prepared between July and October 2017 by MRCagney on behalf of Council provides a strategic evidence basis for proposed changes that will increase walkability and access to services and amenities in the town centre. This Strategy and associated implementation plan was prepared in direct consultation with community representatives including the Byron Bay Town Centre Leadership Team, business traders, property owners, and community groups.

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 the objective of ensuring permissibility of temporary land uses. The Planning Proposal will simplify approval processes for low impact events and activities on public land and other suitable locations in Byron Shire.

Alternative Options

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

Clause 2.8 Temporary use of land

Clause 2.8 Temporary use of land is an optional provision identified in the [Standard Instrument Local Environmental Plan Order 2006](#). If an optional provision is adopted, it is to be adopted in the form (and in accordance with the directions) set out in this instrument. The only optional part of this clause that can be amended is sub clause (2):

(2) Despite any other provision of this Plan, development consent may be granted for development on land in any zone for a temporary use for a maximum period of 52 [or another number] days (whether or not consecutive days) in any period of 12 months.

Direction. Other specific exceptions to subclause (2) may be added.

The proposed amendment is consistent with these drafting directions and no other options are considered legally or technically possible.

Schedule 1 Amendment – Markets etc.

Markets and temporary events and activities added to *Schedule 1 Additional Permitted Uses* applicable to specific lots zoned SP2 Infrastructure (Rail Corridor) and (Car Park). **(Preferred Option).**

- Additional permitted uses in Schedule 1 of the Byron LEP 2014 ensures a site specific approach to allow uses only on this land zoned SP2 Infrastructure, specifically referenced by legal descriptions.
- This approach enables permissibility of compatible activities on land that is leased or managed by council:
 - The rail corridor has not been in use for over a decade and Council has leasing arrangements in progress to use the land for a range of low impact purposes.
 - The car park is owned by Council and its location suited to weekly farmers markets.

Alternative Option:

Amendment of the land use table for *SP2 Infrastructure* is not possible under the drafting requirements of the [Standard Instrument Local Environmental Plan Order 2006](#).

The principle permissible use on land zoned SP2 is 'The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose.'

Changing the land use table to permit markets and temporary activities is therefore not a preferred option as this would apply to all land zone SP2 Infrastructure.

Schedule 2 - Single temporary events and ceremonies

Amend *Schedule 2 Exempt Development* to permit *Single temporary events and Ceremonies* **(Preferred Option)**

- The inclusion of Exempt Development provisions is an effective means of achieving the objective of simplifying development approvals for *Single temporary events and Ceremonies* in appropriate locations.

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008](#)

specifies exempt development under that Policy. The Policy has State-wide application. This Schedule contains additional exempt development not specified in that Policy. Amendment to Schedule 2 is the only means of allowing single temporary events and ceremonies on the land specified by the clause and to meet the local requirements of Council.

Alternative Option:

A local provision to permit temporary activities and events without development consent on public reserves was considered, as adopted by Coffs Harbour LEP. This approach is not considered suitable as it would not streamline approvals processes for Council, as development would still need to be assessed under Part 5 of the EP&A Act 1979.

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.

To achieve this vision the Government has set four goals for the region:

- The most stunning environment in NSW
- A thriving, interconnected economy
- Vibrant and engaged communities
- Great housing choice and lifestyle options.

Byron Bay is not identified as a regional centre under the *North Coast Regional Plan*; however it is recognised for its spectacular natural environment and an important regional tourist destination for the purposes of investment in upgrades to Ballina-Byron Gateway Airport and supporting associated economic growth in the region.

It recognises that the area is integrated with a burgeoning South East Queensland, including Coolangatta Airport, and that hinterland and rural communities are making the most of the increasing global demand for their high-quality agricultural products and that coastal communities are building relationships and leveraging opportunities from the Pacific Highway upgrade.

Byron Shire is known for its natural beauty and character. Unique environmental features such as the Arakwal National Park and the Cape Byron Marine Park will continue to draw domestic and international tourists, contribute to attractive lifestyles and grow the local economy.

Byron Shire is one of Australia's most visited local government areas, with stunning beaches, beautiful hinterland and vibrant centres like Byron Bay. Communities are centres of creativity, provide boutique retail, food and accommodation options, essential services, and offer a unique lifestyle. These factors continue to increase the attractiveness of Byron Bay to visitors and new residents and this has a significant effect on the demand for urban land uses. The NSW Government recognises that tourism can both benefit and increase pressure on the environment and smaller communities.

Byron has a strong economy based on the tourism, creative arts, agricultural, food manufacturing and health sectors. The plan particularly recognises the opportunity to intensify creative industries in Byron that will foster employment and economic activity. Continuing connectivity improvements to Lismore, Ballina, Tweed and South East Queensland through the Pacific Highway upgrade and digital technology will support future economic growth and opportunities.

In summary, this Planning Proposal particularly relates to the following regional priorities:

- Support a strong and diversified economy based on Byron Shire's unique character, landscapes and important farmland.
- Manage and support growth in Byron Bay.
- Maximise opportunities associated with the growth of South East Queensland.

This Planning Proposal will streamline approval processes for events and activities that will support locally grown trade including creative industries and farmers markets. It will contribute to a thriving interconnected economy by increasing opportunities for markets and events in partnership with the community of Byron Bay.

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

On 22 June 2017 Byron Shire Council adopted its [Community Strategic Plan 2027](#) (CSP) - *Linking together our people, our place, our purpose - Byron Shire 2027* ((Resolution 17-268).

All councils are required to prepare a CSP under the NSW Integrated Planning and Reporting Framework. The CSP is the highest level of strategic planning undertaken by a council and its community. Its purpose is to identify the community's main priorities and aspirations for the future, and to plan a clear set of strategies for achieving these goals. The CSP considers the issues and pressures that may affect the community over the next 10 years.

Linking together our people, our place, our purpose - Byron Shire 2027 is built around five key themes. All themes and aims are interconnected and therefore relevant to this Planning Proposal:

<p>Corporate Management... <i>Effective leadership and ethical and accountable decision making.</i></p>	<p>Public land management requires ethical and accountable decision making that will meet the needs of the local community. Working with the community, Council develops plans and strategies using a range of effective communication methods. Council directly engage the community and support transparent and accountable Council decision making.</p> <p>To progress the Byron Bay Town Centre Masterplan (BBTCMP) after its adoption, Council resolved to establish a Leadership Team for a period of 12 months, subject to review and extension by Council to:</p> <ul style="list-style-type: none"> ▪ provide advice and direction on the delivery of the BBTCMP actions; ▪ identify and actively facilitate, where appropriate, opportunities for partnerships and community collaboration; ▪ provide oversight on the timely delivery of actions that are responsive to community needs, acknowledging that the actions of the BBTCMP are flexible and adaptable. <p>The use of land affected by this Planning Proposal is a result of continued engagement with the Byron Bay Leadership Team, Market Traders and Property owners in Byron Bay Town Centre.</p>
<p>Economy... <i>A sustainable and diverse economy which provides innovative employment and investment opportunities in harmony with our ecological and social aims.</i></p>	<p>The Planning Proposal supports the economy through streamlining processes for approval of temporary pop-up trade in accessible locations. This will create further economic growth and respond to demand in creative industries and farmers markets without major ecological or social concerns.</p>
<p>Community Infrastructure... <i>Services and infrastructure that sustains, connects and integrates our</i></p>	<p>The Planning Proposal builds on existing services and infrastructure. Water and sewerage is available. Further environmental improvements and</p>

<i>communities and environment</i>	development of public transport and car parking in suitable locations will be enabled through activation of fragmented and underutilised land with temporary and low impact activities. This provides an opportunity to increase public access and use of land in Byron Bay Town Centre.
Society and Culture... <i>Resilient, creative and active communities with a strong sense of local identity and place</i>	Byron Bay Town Centre continues to be a place of growth and diversity where local people can live and work and will be more resilient to outside pressure such as a down turn in tourism. The Planning Proposal implements the Place Principles in Byron Bay Town Centre Masterplan.
Environment... <i>Our natural and built environment is improved for each generation</i>	The Planning Proposal assists the environment to be maintained and protected for future generations by restricting development to existing urban land with no major environmental significance. The Planning Proposal will facilitate improvements to the Byron Rail corridor for low impact temporary use whilst protecting its heritage significance.

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

The [Byron Bay and Suffolk Park Settlement Strategy 2002](#) summarises the development potential of Byron Bay and particularly recognises various constraints including:

- Severance of the town of Byron Bay by the North Coast railway line, and the lack of crossings of this line;
- Traffic and parking congestion in town centres; particularly inadequate capacity to cater for through traffic (bypass of Byron Bay town centre is required);
- Stormwater drainage limitations;
- Flora and fauna impacts;
- Acid sulfate soils and peat;
- Limited availability of job opportunities, cost and availability of serviced residential land;
- Physical/ecological constraints to expansion;
- Extent of comparable investment and job opportunities in other nearby centres;
- Flooding/floodplain management; and
- Tourism impacts.

The planning proposal will address urban constraints through activation of the disused railway corridor, encouraging local trade and enabling essential transport infrastructure on the edge of Byron Bay Town Centre for use by local residents, traders and tourists.

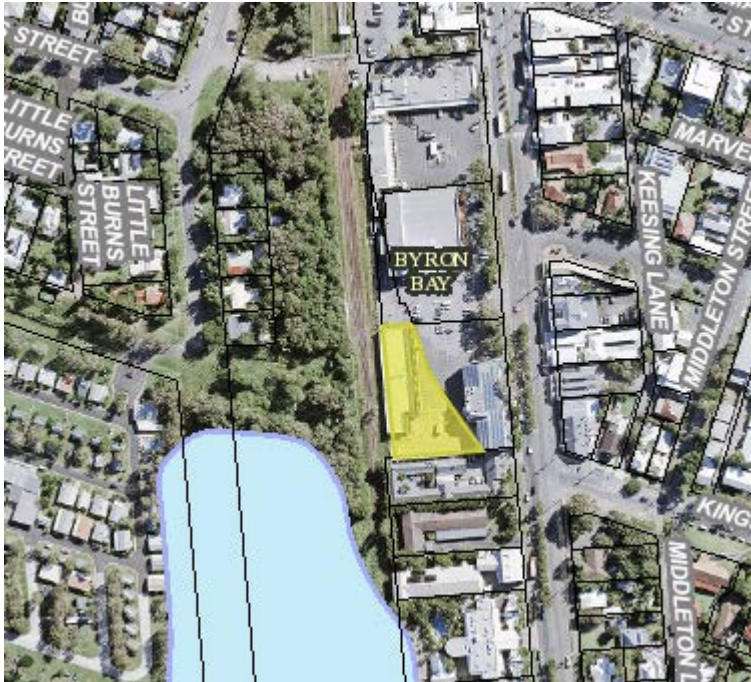
All of these activities will be further enabled by improved traffic circulation subject to completion of the Butler Street bypass project, which has progressed significantly in the past year. Approval from the Land and Environment Court for the southern part of the proposed road is complete and project management underway for approval and delivery of the remainder of the route is underway.

The planning proposal will not directly affect the delivery of housing supply. However, it is noted that Council is developing a Residential Strategy to set a clear vision and policy framework for the Shire's urban residential lands and will provide a framework for managing future growth.

Council does not currently have an adopted employment lands strategy. The Planning Proposal will diversify options for start up trade and creative industries to be located in more affordable temporary premises closer to Byron Bay Town Centre.

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:

State Environmental Planning Policy (SEPP)	Compliance of Planning Proposal
SEPP 14 Coastal Wetlands	<p>Land affected by SEPP 14 Coastal Wetlands is contained mostly within the Deferred Matters under LEP 2014. The land on the railway corridor affected by SEPP 14 will be excluded from the site specific additional permitted uses by reference to the wording proposed in schedule 1, as follows:</p> <p><i>Byron Rail Line and Station Precinct being Lot 1, DP 1001454 and Part of Lot 4729, DP 1228104 (extending south to the boundary with the rear of Lot 8, DP 617509)</i></p>  <p>Reference: Screenshot of location of Lot 8 in DP 617509 in relation to the SEPP 14 Coastal Wetlands layer.</p> <p>Land identified in the Draft SEPP Coastal Management – Coastal Wetlands layer are not proposed to be amended by this Planning Proposal.</p> <p>The Planning Proposal complies with SEPP 14.</p>
SEPP 44 – Koala Habitat Protection	<p>SEPP 44 specifies that in order for a forested area to be classified as koala habitat, a minimum of 15% of the trees must be species of trees that provide food for koalas.</p> <p>The closest land mapped by Council as tertiary Koala habitat is to the west of Butler Reserve and this area is not proposed to be rezoned by this Planning Proposal.</p> <p>The Planning Proposal is considered to be consistent with SEPP 44.</p>
SEPP 55 – Remediation of Land	<p>Council does consider that the land affected by this planning proposal at the Byron Bay Railway Corridor has a known history of uses associated with a previously active railway corridor.</p>

State Environmental Planning Policy (SEPP)	Compliance of Planning Proposal
	<p>A preliminary assessment is being undertaken and Council is satisfied that the land can be made suitable for the proposed non- sensitive low impact uses.</p> <p>It is not anticipated that the Gateway Determination will require land remediation information prior to public exhibition because rezoning of land does not permit new sensitive uses on land known to be contaminated.</p>
SEPP 71 – Coastal Protection	<p>The subject land is located in the SEPP 71 Coastal Policy and Coastal Buffer Layer.</p> <p>The planning proposal is consistent with the aims of this policy and all other relevant matters for consideration, including:</p> <ul style="list-style-type: none"> • <i>the suitability of potential development given its type, location and design and its relationship with the surrounding area,</i> • <i>measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats, measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats</i> • <i>existing wildlife corridors and the impact of development on these corridors,</i> • <i>the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,</i> • <i>measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,</i> • <i>likely impacts of development on the water quality of coastal waterbodies,</i> • <i>the conservation and preservation of items of heritage, archaeological or historic significance,</i> • <i>the means to encourage compact towns and cities.</i>
SEPP (Exempt and Complying Development Codes) 2008	<p>Schedule 2 of LEP 2014 includes standards and requirements for locally exempt development types that do not repeat or contradict the Codes SEPP. The Planning Proposal will permit Single Temporary Events and Ceremonies as Exempt Development in public reserves, public roads, car parks, community land, showgrounds, church grounds, Crown land or other appropriate outdoor areas under Schedule 2 of the LEP.</p>
SEPP Infrastructure (2007)	<p>This Planning Proposal will permit the development of Markets and other temporary uses on land zoned SP2 Infrastructure under Schedules 1 and 2 of the LEP. This Planning Proposal does not contradict or repeat the Infrastructure SEPP.</p>
SEPP (Vegetation in Non-Rural Areas) 2017	<p>There is nothing in this Planning Proposal that affects the provisions of the Vegetation in Non-Rural Areas SEPP, which is applicable to urban land zoned under the Byron LEP 2014 including:</p> <p>Zone RU5 Village, Zone R2 Low Density Residential, Zone R3 Medium Density Residential, Zone R5 Large Lot Residential,</p>

State Environmental Planning Policy (SEPP)	Compliance of Planning Proposal
	<p>Zone B1 Neighbourhood Centre, Zone B2 Local Centre, Zone B4 Mixed Use, Zone B7 Business Park, Zone IN1 General Industrial, Zone IN2 Light Industrial, Zone SP2 Infrastructure, Zone SP3 Tourist, Zone RE1 Public Recreation, Zone RE2 Private Recreation.</p>
<p>SEPP (Coastal Management) 2016 – Public Consultation Draft</p>	<p>The Coastal Management SEPP will consolidate and improve current coastal-related SEPPs. It will replace SEPP 14 (Coastal Wetlands), SEPP 26 (Littoral Rainforests) and SEPP 71 (Coastal Protection) and ensure that future coastal development is appropriate and sensitive to our coastal environment, and that we maintain public access to beaches and foreshore areas.</p> <p>The coastal use area applies land affected by this Planning Proposal. The proposed permissible uses are not considered to adversely impact the Coastal use area.</p> <p>The Planning Proposal is located outside the Coastal Wetlands Area. Proposed permissible temporary uses in the Coastal wetland 100m buffer located on part of the SP2 Railway Corridor are not considered to significantly impact on the Coastal Wetlands.</p> <p>Part of the coastal hazard area is located between Lawson St and Byron Street, zoned SP2 Infrastructure. Proposed permissible temporary uses in this Planning Proposal are consistent with the need to consider anticipated impacts of coastal processes and coastal hazards.</p>

Q6. Is the planning proposal consistent with applicable Ministerial Directions (s117 Directions)?

Yes. Consistency with the s117 (2) Directions is assessed in the following table:

Consistency with S117(2) Local Planning Directions

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
1. Employment and Resources			
1.1 Business and Industrial Zones	<p>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).</p> <p>The objectives of this direction are to:</p> <ul style="list-style-type: none"> (a) encourage employment growth in suitable locations, (b) protect employment land in business and industrial zones, and (c) support the viability of identified strategic centres. <p>A planning proposal must:</p> <ul style="list-style-type: none"> (a) give effect to the objectives of this direction, (b) retain the areas and locations of existing business and industrial zones, (c) not reduce the total potential floor space area for employment uses and related public services in business zones, (d) not reduce the total potential floor space area for industrial uses in industrial zones, and (e) ensure that proposed new employment areas are in accordance with a strategy that is approved by the Director-General of the Department of Planning. 	<p>This Planning Proposal will not directly affect land within an existing Business Zone.</p> <p>It does propose to permit new uses on land adjacent to Byron Bay Town Centre which is a business zone.</p> <p>The proposed use will permit a range of uses that are complementary to the adjoining business zone objectives.</p>	Consistent
1.2 Rural Zones	Applies when a relevant planning authority prepares a	This Planning Proposal does not affect land within an	Consistent

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>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"> (a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. (b) not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village). 	existing or proposed rural zone.	
1.3 Mining, Petroleum Production and Extractive Industries	<p>Applies when a relevant planning authority prepares a planning proposal that would have the effect of:</p> <ul style="list-style-type: none"> (a) prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or (b) restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development. 	This Planning Proposal does not have any effect on the potential for mining, petroleum production or extraction of materials and resources.	Consistent
1.4 Oyster Aquaculture	<p>Applies when a relevant planning authority prepares any planning proposal that proposes a change in land use which could result in:</p> <ul style="list-style-type: none"> (a) adverse impacts on a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate”, or (b) incompatible use of land between oyster aquaculture in a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate” and other 	This Planning Proposal has no effect on a Priority Oyster Aquaculture Area or other related uses.	Consistent

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	land uses.		
1.5 Rural Lands	<p>Applies when:</p> <p>(a) a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary), or</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 be consistent with the Rural Planning Principles listed in <i>State Environmental Planning Policy (Rural Lands) 2008</i>.</p> <p>A planning proposal to which clause (b) applies must be consistent with the Rural Subdivision Principles listed in <i>State Environmental Planning Policy (Rural Lands) 2008</i>.</p>	This Planning Proposal will have no effect on land within a rural or environment protection zone.	Consistent
2. Environment and Heritage			
2.1 Environment Protection Zones	<p>A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.</p> <p>A planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with clause (5) of Direction 1.5 “Rural Lands”.</p>	This Planning Proposal will have no effect on land within an environment protection zone or land otherwise identified for environment protection purposes.	Consistent

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
2.2 Coastal Protection	<p>This Direction applies when a relevant planning authority prepares a planning proposal that applies to land in the coastal zone.</p> <p>A planning proposal must include provisions that give effect to and are consistent with:</p> <ul style="list-style-type: none"> (a) the NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997, (b) the Coastal Design Guidelines 2003, (c) the manual relating to the management of the coastline for the purposes of section 733 of the <i>Local Government Act 1993</i> (the NSW Coastline Management Manual 1990). 	<p>The Planning Proposal applies to land in the Coastal Zone. Byron LEP 2014 currently includes compulsory provisions under Clause 5.5 Development within the coastal zone to provide for the protection of the coastal environment; implement the principles in the NSW Coastal Policy (1997) and is consistent with the Coastal Design Guidelines (2003) and the NSW Coastline Management Manual (1990).</p>	Consistent
2.3 Heritage Conservation	<p>A planning proposal must contain provisions that facilitate the conservation of:</p> <ul style="list-style-type: none"> (a) Items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area, (b) Aboriginal objects or Aboriginal places that are protected under the <i>National Parks and Wildlife Act 1974</i>, and (c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people. 	<p>The Planning Proposal relates to conservation heritage items at Byron Bay Railway Station and yard group .</p> <p>A search of the NSW Aboriginal Heritage Information Management System (AHIMS), undertaken on 19 October 2017, did not identify any Aboriginal sites or places in or near land within a 50 metre buffer of land affected by proposed additional permitted uses, being the Lawson Street South Car Park and Byron Bay Railway Precinct.</p> <p>Byron LEP 2014 currently includes compulsory provisions under Clause 5.10 that facilitate conservation of heritage.</p>	Consistent

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
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 Conservation Service of New South Wales, September 1985</i>, and</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>	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>):	N/A
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.	N/A
3. Housing, Infrastructure and Urban Development			
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</p>	This Planning Proposal does not affect land within a residential zone or land where residential accommodation is permitted or proposed to be	N/A

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>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 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>	permitted.	
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</p>	This Planning Proposal does not seek to identify suitable zones locations and provision for caravan parks.	N/A


S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>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> <ul style="list-style-type: none"> (a) take into account the categories of land set out in Schedule 2 of SEPP 36 as to where MHEs should not be located, (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 (c) include provisions that the subdivision of MHEs by long term lease of up to 20 years or under the <i>Community Land Development Act 1989</i> be permissible with consent. 		
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.	N/A
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. 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> <ul style="list-style-type: none"> (a) <i>Improving Transport Choice – Guidelines for planning and development</i> (DUAP 2001), and 	<p>This Planning Proposal will facilitate the temporary use of land, which is zoned for urban purposes. This will be achieved through the provision of additional permitted uses and exempt development and does not create, alter or remove a zone. The underlying objectives of the applicable zone will prevail.</p>	Consistent

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<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 achieve the following planning objectives:</p> <ul style="list-style-type: none"> (a) improving access to housing, jobs and services by walking, cycling and public transport, and (b) increasing the choice of available transport and reducing dependence on cars, and (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and (d) supporting the efficient and viable operation of public transport services, and (e) providing for the efficient movement of freight 		
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.	N/A
3.6 Shooting Ranges	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.	This Planning Proposal does not relate to land adjacent to and/or adjoining an existing shooting range.	N/A

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction								
	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.										
4. Hazard and Risk											
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>	<p>The Planning Proposal is located on land affected by Acid Sulfate Soils Class 3 as shown on the Acid Sulfate Soils Map in Byron LEP 2014.</p> <p>The Planning Proposal to permit additional uses is not expected to result in intensification of land use compared to the current underlying permissible land uses and significant disturbance of soils of more than 1 metre would be assessed under the provisions of Byron LEP 2014.</p> <p>Byron LEP 2014 provisions under Clause 6.1 Acid Sulfate Soils limits the type of activities and work on land affected by acid sulfate soils management, as follows:</p> <table><tr><th>Class of land</th><th>Works</th></tr><tr><td>1</td><td>Any works.</td></tr><tr><td>2</td><td>Works below the natural ground surface. Works by which the watertable is likely to be lowered.</td></tr><tr><td>3</td><td>Works more than 1 metre below the natural ground surface. Works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface.</td></tr></table>	Class of land	Works	1	Any works.	2	Works below the natural ground surface. Works by which the watertable is likely to be lowered.	3	Works more than 1 metre below the natural ground surface. Works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface.	Consistent
Class of land	Works										
1	Any works.										
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S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
		<p>4 Works more than 2 metres below the natural ground surface. Works by which the watertable is likely to be lowered more than 2 metres below the natural ground surface.</p> <p>5 Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.</p>	
4.2 Mine Subsidence and Unstable Land	Applies when a relevant planning authority prepares a planning proposal that permits development on land that: (a) is within a mine subsidence district, or (b) has been identified as unstable in a study, strategy or other assessment undertaken: (i) by or on behalf of the relevant planning authority, or (ii) by or on behalf of a public authority and provided to the relevant planning authority.	Byron Shire is not in a mine subsidence district and the land affected by this planning proposal has not been identified as unstable land.	N/A
4.3 Flood Prone Land	Applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land. 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</i>	The Planning Proposal is located on Flood Prone Land (1:100 Year Flood) and within the Belongil Creek Flood Planning Area. The Planning Proposal therefore alters additional permitted provisions on land within a flood planning area, however, it does not rezone land within the flood planning area to a residential, business,	Consistent

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p><i>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 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"> (a) permit development in floodway areas, (b) permit development that will result in significant flood impacts to other properties, (c) permit a significant increase in the development of that land, (d) are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or (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. <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</i></p>	<p>industrial, special use or special purpose zone.</p> <p>The requirements of Direction 4.3 are addressed under Byron LEP 2014, that currently contains provisions under Clause 6.3 Flood planning and 6.4 Floodplain risk management, to:</p> <ul style="list-style-type: none"> • to minimise the flood risk to life and property associated with the use of land, • to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change, • to avoid significant adverse impacts on flood behaviour and the environment. • to enable evacuation of land subject to flooding above the flood planning level, • to protect the operational capacity of emergency response facilities and critical infrastructure during extreme flood events. <p>This planning proposal does not impose new flood planning related development controls or flood planning levels.</p>	

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p><i>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 Director-General).</p>		
<p>4.4 Planning for Bushfire Protection</p>	<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"> (a) have regard to <i>Planning for Bushfire Protection 2006</i>, (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and (c) ensure that bushfire hazard reduction is not prohibited within the APZ. <p>A planning proposal must, where development is proposed, comply with the following provisions, as appropriate:</p> <ul style="list-style-type: none"> (a) provide an Asset Protection Zone (APZ) incorporating at a minimum: <ul style="list-style-type: none"> (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 (ii) an Outer Protection Area managed for hazard 	<p>This Planning Proposal will affect land that is partially in the bushfire vegetation buffer with some parts of the SP2 Zoned land in close proximity to Category 1 vegetation.</p>  <p>Council will consult with the Commissioner of the</p>	<p>Consistent</p>

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>reduction and located on the bushland side of 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 firefighting 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>	<p>NSW Rural Fire Service (RFS) following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57.</p> <p>It is expected that because the Planning Proposal does not facilitate residential development or similar inappropriate development in hazardous areas, a Bushfire Safety Authority, under the Rural Fires Act 1997, will not be required.</p> <p>And that the RFS shall indicate any relevant Asset Protection Zone to be provided as part of any new development in response to agency consultation.</p>	
5 Regional Planning			
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	N/A
5.2 Sydney Drinking Water Catchments	Applies when a relevant planning authority prepares a planning proposal that applies to the hydrological catchment.	Not Applicable	N/A

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	The planning proposal must not rezone land mapped as State or regionally significant farmland under the Northern Rivers Farmland Protection Project for an urban use.	The Planning Proposal affects land entirely within a 'Committed Urban Use' on the Northern Rivers Farmland Protection Maps, and is therefore not classified as either Regionally or State Significant farmland.	Consistent
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Not Applicable	Not Applicable	N/A
5.5 -5.7 Revoked	-	-	N/A
5.8 Second Sydney Airport: Badgerys Creek	Not Applicable	Not Applicable	N/A
5.9 North West Rail Link Corridor Strategy	Not Applicable	Not Applicable	N/A
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
6. Local Plan Making			
6.1 Approval and Referral Requirements	A planning proposal must: (a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and (b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of:	The planning proposal does not propose the inclusion of any concurrence, consultation or referral provisions.	Consistent

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<ul style="list-style-type: none"> (i) the appropriate Minister or public authority, and (ii) the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General), <p>prior to undertaking community consultation in satisfaction of section 57 of the Act, and</p> <ul style="list-style-type: none"> (c) not identify development as designated development unless the relevant planning authority: <ul style="list-style-type: none"> (i) can satisfy the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and (ii) has obtained the approval of the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act. 		
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"> (a) allow that land use to be carried out in the zone the land 	This Planning Proposal will allow additional permitted land uses without imposing any development standards or requirements in addition to those already contained in the Byron LEP 2014; the principal environmental planning instrument being amended.	Consistent

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>is situated on, or</p> <p>(b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or</p> <p>(c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.</p> <p>A planning proposal must not contain or refer to drawings that show details of the development proposal.</p>		

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 Planning Proposal does not seek to amend planning provisions relating to areas which are known to be ecologically significant land identified for Environmental Protection Purposes. However, site specific flora and fauna studies have not been undertaken to confirm that there is no critical habitat or threatened species, populations or ecological communities on the subject land.

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 Planning Proposal could have strong positive social and economic effects by offering additional employment and market trading opportunities for local people and businesses. It will provide economic benefits through increasing the efficient use of developable lands in close proximity to an existing centre, as well as employment opportunities during construction.

A search of the NSW Aboriginal Heritage Information Management System (AHIMS), undertaken on 19 October 2017, did not identify any Aboriginal sites or places in or near land within a 50 metre buffer of land affected by proposed additional permitted uses, being the Lawson Street South Car Park and Byron Bay Railway Precinct.

It is important that more information is known about the potential for Aboriginal heritage significance before the Planning Proposal proceeds to public exhibition. Liaison with the local Aboriginal community is also required.

Section D State and Commonwealth interests

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

Yes the Planning Proposal relates to land in an existing urban area with access to essential infrastructure.

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

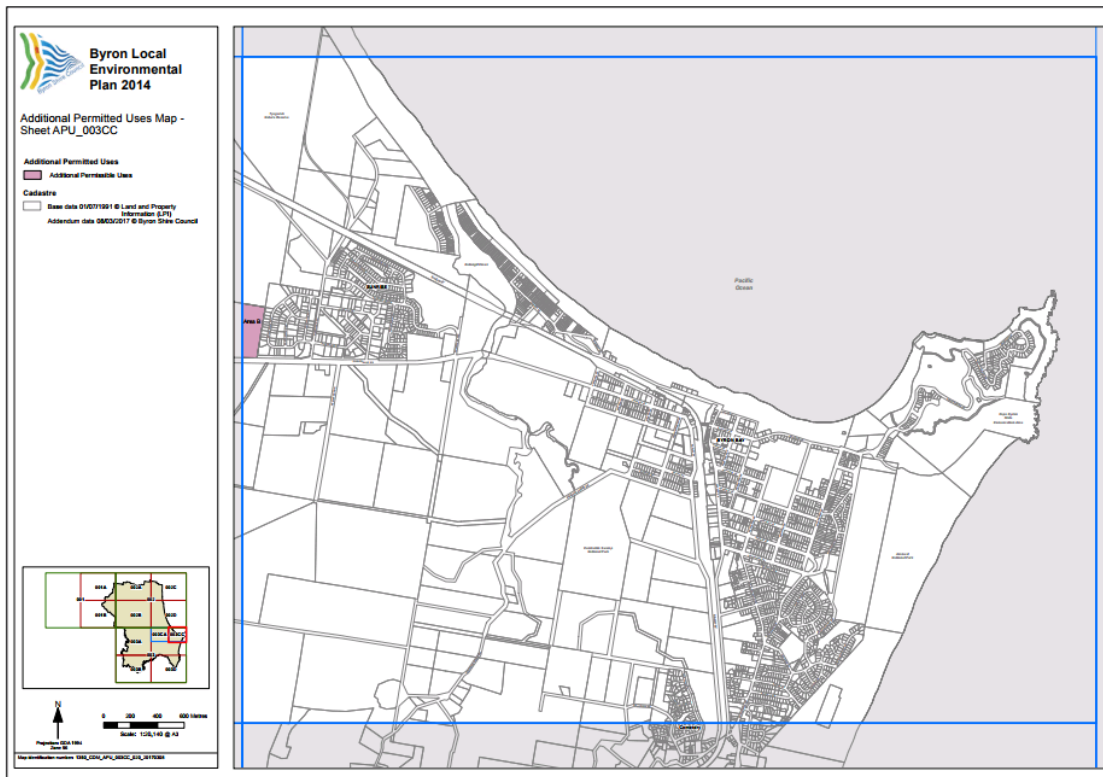
State and Commonwealth public authorities have not been formally involved in this particular Planning Proposal as it is yet to receive Gateway Approval. At this early stage it appears unlikely that there will be any issues of interest to Commonwealth authorities. State government authorities will be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

The following table provides a summary of the relevant public authorities, which in the opinion of Council, should be consulted in accordance with the Gateway Approval:

Public authority/stakeholder	Issue requiring comment
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.
Office of Environment and Heritage	Consideration of ecological and Aboriginal heritage as well as flooding and Coastal Planning.
Roads and Maritime Authority	Consideration of use of land adjoining the proposed Butler Street Bypass; being a duplication of Main Road 545 (MR545).
Transport for NSW	Consideration of use of land within and adjoining the Byron Bay Rail Corridor.

Part 4 Mapping

The Planning Proposal affects Byron LEP 2014 Additional Permitted Uses Map - Sheet APU_003CC. Council will need to prepare spatial data to amend the map in accordance with the NSW [Standard Technical Requirements for spatial datasets and maps](#):



This map will need to be amended to include the following land:

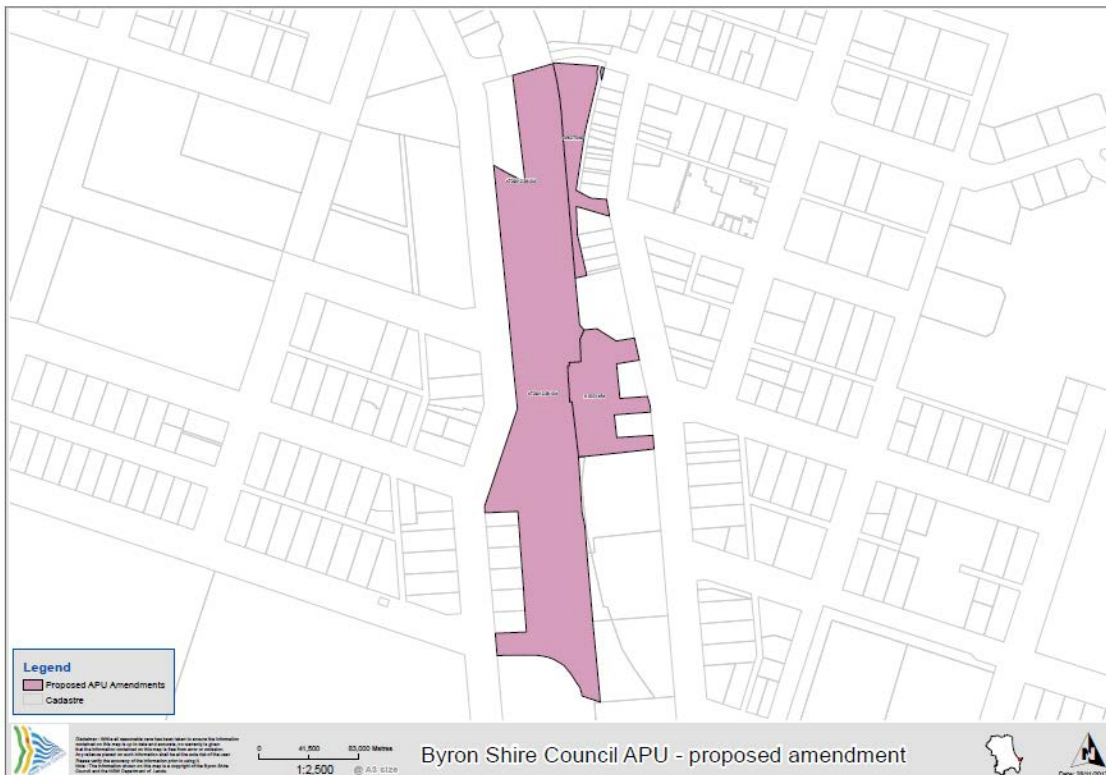


Figure 3: Current and Proposed Additional Permitted Uses Map APU_003CC

Part 5 Community consultation

Council will commence community consultation in accordance with the Gateway Determination. For the purposes of public notification, the Planning Proposal is not considered to be low impact as outlined in the Department of Planning and Environment's *A guide to preparing local environmental plans*. A **28 day public exhibition period** is recommended.

Notification of the exhibited Planning Proposal will include:

- a newspaper advertisement that circulates in the Byron LGA, which is the area affected by the Planning Proposal.
- the web sites of Byron Shire Council and the Department of Planning and Environment.

Part 6 Project timeline

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

Estimated completion	Plan making step
November 2017	Decision by Council to support the Planning Proposal and send for Gateway Determination by Department of Planning and Environment (DPE).
January 2018	Complete mapping details etc. prior to public exhibition.
February 2018	Gateway Determination issued by DPE.
March 2018	Public exhibition of Planning Proposal. Government agency consultation.
April 2018	Analysis of public submissions. Preparation of Council report.
May 2018	Endorsed Planning Proposal submitted to DPE for finalisation.

Summary and conclusions

This Planning Proposal seeks to permit additional uses and exempt development on the subject land to implement the strategic objectives in the Byron Bay Town Centre Masterplan.

This Planning Proposal will not impact on environmental areas and is entirely serviced by urban infrastructure.

This Planning Proposal will have positive social and economic effects by offering additional employment and trading opportunities for local people and businesses. Numerous social and economic benefits are likely through increasing the efficient temporary use of developable land on the edge of an existing centre.

The proposed changes are consistent with the North Coast Regional Plan 2036 and Council's Community Strategic Plan 2027. The land is identified as an existing urban area. An assessment of the planning proposal indicates that it is consistent with relevant SEPPs. It is consistent with all relevant s117 Directions.

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