

Byron Shire Council

Planning Proposal 26.2022.8.1

Amendment of Byron Local Environmental Plan 2014

Planning proposal to permit events at the Cavanbah Centre without the need to obtain development consent.

Part Lot 3 DP 706286

249 Ewingsdale Road, Byron Bay

V3 Exhibition Version (#E2023/1080)

Date: March 2023



**BYRON
SHIRE
COUNCIL**

Planning proposal to permit events at the Cavanbah Centre without the need to obtain development consent. (#E2023/1080) | March 2023

Document History

Doc No.	Date	Details Comments eg Resolution No.
E2022/93749	September 2022	Planning Proposal Cavanbah Events (version 1 Gateway)
E2023/1080	January 2023	Planning Proposal Cavanbah Events (version 2 Gateway)
E2023/1080	March 2023	Planning Proposal Cavanbah Events (version 3 Post Gateway and Exhibition Version)

Contents

Part 1 Introduction.....	4
Objective and intended outcomes.....	4
Property details and existing zones	4
Background	6
Part 2 Explanation of provisions	7
Part 3 Justification.....	8
Section A Need for the planning proposal	8
Section B Relationship to strategic planning framework.....	10
Section C Environmental, social and economic impact	53
Section D State and Commonwealth interests	54
Part 4 Mapping.....	57
Part 5 Community consultation.....	57
Part 6 Project timeline	58
Summary and conclusions	58

Part 1 Introduction

Objective and intended outcomes

The objective of this planning proposal is to permit events on certain Council controlled land without the need to obtain development consent.

Property details and existing zones

This planning proposal relates to the subject land as follows:

- Part of the Cavanbah Centre site, being that land zoned RE1 Public Recreation in the eastern half of Lot 3 DP 706286 located at 249 Ewingsdale Road (Figure 1).



Figure 1: Subject land at 249 Ewingsdale Road, Byron Bay

- The Cavanbah Centre land that is the subject of this planning proposal is currently zoned RE1 Public Recreation under Byron LEP 2014. Other parts of the same lot that are not affected by this planning proposal are zoned part RU2 Rural Landscape under Byron LEP 2014, and part 6A Open Space and 7K Habitat under Byron LEP 1988 (Figure 2).



Figure 2: Cavanbah Centre existing land use zones under Byron LEP 2014 and Byron LEP 1988

The Cavanbah land is affected by Class 2 and Class 3 acid sulfate soils (ASS) (Figure 3).

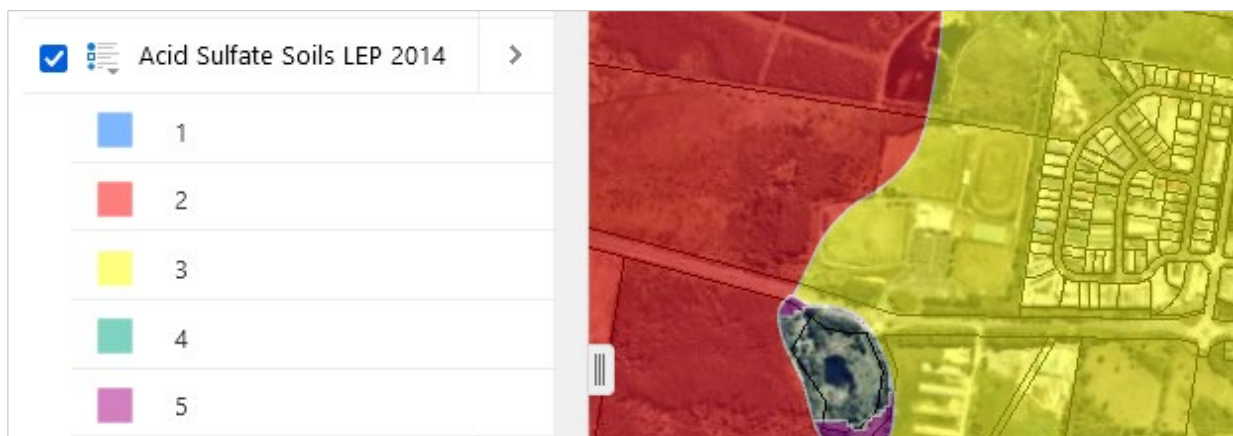


Figure 3: ASS layer as mapped under Byron LEP 2014

Background

The Cavanbah Centre sporting fields, access and car parking were approved in 2009 under Part 5 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), pursuant to (then) SEPP (Infrastructure) 2007, and were subject to a Review of Environmental Factors (REF). It did not include approval to use the site for outdoor/indoor entertainment, even though it did discuss these uses in supporting documentation such as the traffic assessment.

The multi-purpose building (described in the approval as a “Multi-purpose stadium – Byron Regional Sport and Cultural Complex”) was approved under Part 4 of the EP&A Act, with development consent issued in September 2010.

Council has a history of using the Cavanbah Centre for hosting events such as:

- Byron Bay Writers Festival 2016 – 2017
- Uplift Festival 2013 – 2018
- A Day in the Bay Community Event 2018

In February 2018, Council issued an approval for “markets” (Development Application No 10.2017.399.1). It limits the overall number and location of market stalls on the site and stipulates the number of car parking spaces to be available for market customers. The market consent runs with the land to date. Council successfully hosted weekly farmers’ markets at the Cavanbah Centre car park when the Butler Street bypass project was using the Butler Street reserve as a construction depot.

Low impact performance of live music or arts can already be undertaken as exempt development inside the multi-purpose stadium pursuant to SEPP (Exempt and Complying Development Codes) 2008, but they can only take place outside the stadium with development consent.

All surrounding LGAs (Tweed, Ballina, Lismore) already permit events on Council land without development consent.

Part 2 Explanation of provisions

The planning proposal seeks to amend Byron LEP 2014 to permit events such as low impact performance of live music or arts without Council consent on land owned by Council at 249 Ewingsdale Road, Byron Bay. The assessment and permission for any such event would be dealt with under the *Local Government Act 1993*.

This outcome will be achieved by adding a new item to Schedule 2 Exempt Development. No mapping changes are required.

The proposed wording of the Schedule 2 amendment is as follows:

Schedule 2 Exempt development

Function Centres on land owned or managed by Council

Applies to that part of Lot 3 DP 706286 zoned RE1 Public Recreation

Must not include the erection of a permanent structure on the land

Must not include clearing of native vegetation

Must have obtained all required approvals

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

It is considered that this is the most suitable standard LEP definition that will allow events to be held on council land to which this clause applies without the need for development consent. Other approvals under the *Local Government Act 1993* may be required.

Function centres are currently permitted with consent in the RE1 zone.

This clause will be subject to review by parliamentary counsel and may change.

Part 3 Justification

Section A Need for the planning proposal

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

Yes. In 2017, the “Plan of Management Community Land – Cavanbah Centre” (PoM) was adopted by Council. It specifically identifies the range of uses that can be carried out at the site and includes outdoor and indoor entertainment.

An extract from the PoM is as follows:

<i>Building or location</i>	<i>Purpose/use</i>	<i>Authorised scale of development</i>
<i>Whole of the Cavanbah Centre site</i>	<i>Sport, Recreation and General Community Use</i>	<p><i>Development authorised for embellishments on the site, including, but not limited to:</i></p> <ul style="list-style-type: none"> <i>Sports fields (football – all codes, athletics, netball, basketball, hockey and tennis)</i> <i>Drainage and irrigation</i> <i>Picnic and shade facilities</i> <i>Playground equipment</i> <i>Lighting</i> <i>Walkway/cycleways</i> <i>Minor earthworks</i> <i>Landscaping</i> <i>Fencing</i> <i>Sporting goalposts and netting</i> <i>Spectator seating</i> <i>Storage facilities</i> <i>Primitive camping</i> <i>Training camps</i> <i>Aquatic centre</i> <i>Wellness centre</i> <i>Skate park</i> <i>BMX track</i>

<i>Building or location</i>	<i>Purpose/use</i>	<i>Authorised scale of development</i>
		<ul style="list-style-type: none"> • <i>Markets</i> • <i>Outdoor/indoor entertainment</i> • <i>Cycleway – criterion track</i>

Figure 4 identifies that part of the site that is subject to the PoM.



Figure 4: Area subject to the “Plan of Management Community Land – Cavanbah Centre”

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

The planning proposal is the best means to achieve the objective of permitting low impact performance of live music or arts on part of the Cavanbah Centre land owned by Council without development consent.

Section B Relationship to strategic planning framework

1. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (in this case, the North Coast Regional Plan 2041 (NCRP))?

The Cavanbah Centre is located immediately adjacent to the Byron Bay Urban Growth Area boundary on the western edge of town (Figure 5).



Figure 5: NCRP urban growth area for Byron Bay

The NCRP 2041 is a high level strategic document that sets a 20 year strategic land use planning framework for the region, aiming to protect and enhance the regions assets and plan for a sustainable future.

The vision for the North Coast is healthy and thriving communities, supported by a vibrant and dynamic economy that builds on the region's strengths and natural environment. Strategy 19.3 is most relevant within the NCRP 2041 which is to encourage the use of council owned land for temporary community events and creative practices where appropriate by reviewing development controls.

It is considered that this planning proposal to enable temporary events on Council owned land as exempt development is consistent with the NCRP.

2. Is the planning proposal consistent with the local Council's Community Strategic Plan, or other local strategic plan?

Planning proposal to permit events at the Cavanbah Centre without the need to obtain development consent. (#E2023/1080) | March 2023

Byron Council adopted a Local Strategic Planning Statement (LSPS) in September 2020, which was subsequently endorsed by DPIE. The LSPS aims to “*Support a strong, diversified and sustainable economy based on Byron Shire’s unique character, landscapes and important farmland*” (page 47). A relevant Economic Priority Action (page 48) is “*TA1. Facilitate and support sustainable development of our business community.*” Allowing appropriate sites to be used for events will support the business community.

This planning proposal is consistent with the adopted LSPS.

Council adopted a 10 year + Community Strategic Plan 2032 (CSP). The plan is based on five key themes, being Effective Leadership, Inclusive Community, Nurtured Environment, Ethical Growth, and Connected Infrastructure.

CSP Key Theme	CSP Objective	CSP Strategy
Effective Leadership	We have effective decision making and community leadership that is open and informed	Using a planning proposal that is publicly exhibited to allow events without development consent is consistent with the following item: 1.2 Engage, inform, and involve community in decision making.
Inclusive Community	We have an inclusive and active community where diversity is embraced and everyone is valued	Allowing diverse events without development consent is consistent with the following items: 2.1 Foster opportunities to express, celebrate and participate in arts and cultural activity 2.2 Enhance safety and contribute to the physical, mental, and spiritual health and wellbeing of the community 2.3 Respect Aboriginal culture, value cultural knowledge, and acknowledge history 2.4 Enrich lifelong learning and education and support services to help young people thrive

CSP Key Theme	CSP Objective	CSP Strategy
Nurtured Environment	We nurture and enhance the natural environment	<p>Confining events without development consent to land zoned RE1 is consistent with the following items:</p> <p>3.1 Partner to nurture and enhance biodiversity, ecosystems, and ecology</p> <p>3.2 Deliver initiatives and education programs to encourage protection of the environment</p> <p>3.3 Protect the health of coastline, estuaries, waterways, and catchments</p>
Ethical Growth	We manage growth and change responsibly	<p>Allowing events without development consent is consistent with the following items:</p> <p>4.1 Manage responsible development through effective place and space planning</p> <p>4.3 Promote and support the local economy</p> <p>4.4 Foster sustainable visitation and manage the impacts of tourism on the Shire</p> <p>4.5 Support a resilient community that can adapt and respond to change</p>
Connected Infrastructure	We have connected infrastructure, transport, and facilities that are safe, accessible, and reliable.	<p>Allowing events open to the public without development consent is consistent with the following item:</p> <p>5.4 Provide accessible community facilities and open spaces</p>

On this basis, the planning proposal is consistent with Council's CSP.

3. 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:

SEPP (Resilience and Hazards) 2021

Compliance of Planning Proposal

SEPP (Resilience and Hazards) 2021 applies to the Cavanbah Centre land because it is partly mapped as being within 100 metres of a Coastal Wetland (Figure 6). However, it is not mapped as being within the Coastal Environment, Coastal Use or Littoral Rainforest areas. The subject land has minimal environmental values itself because it is substantially cleared grassland and sporting facilities. The site has already been set up to protect:

(a) *the biophysical, hydrological or ecological integrity of the adjacent coastal wetland..., and maintain or improve:*

(b) *the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland....*

This planning proposal will permit use of the site for events that are not subject to the coastal wetland buffer provisions of the SEPP. It is highly unlikely that a future event will impact on the adjacent coastal wetlands.

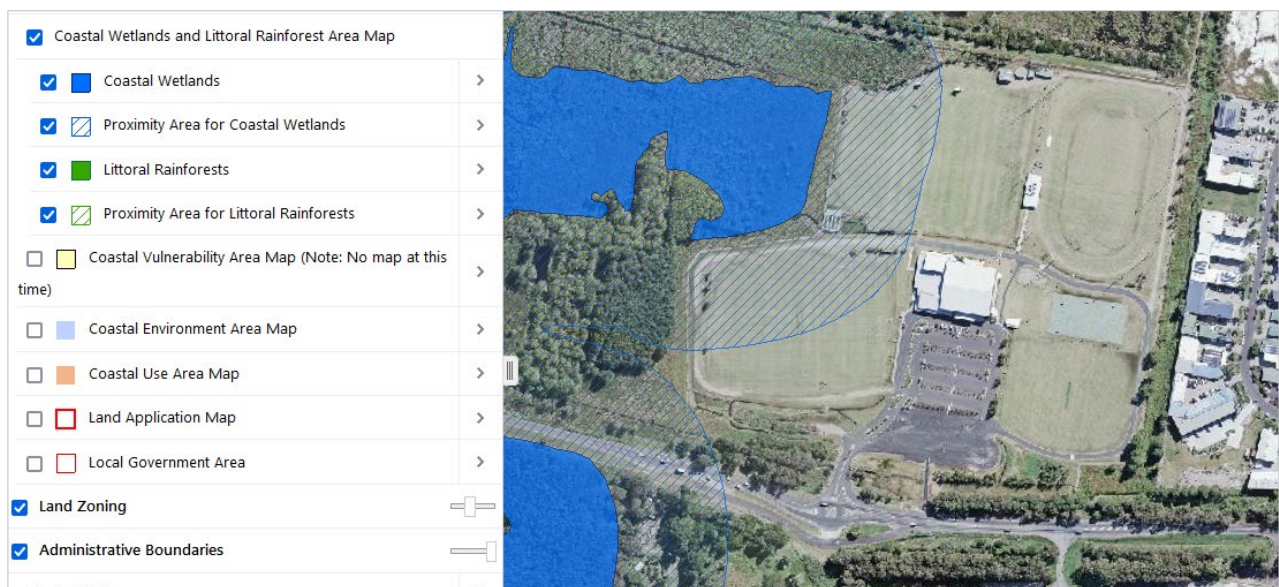


Figure 6: Coastal wetlands mapped under SEPP (Resilience and Hazards) 2021

The planning proposal is consistent with this SEPP.

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

Consistency with the s9.1 Directions is assessed in the following tables:

Focus area 1: Planning Systems

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
1.1 Implementation of Regional Plans	<p>All planning proposals must be consistent with a Regional Plan released by the Minister for Planning.</p> <p>A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Planning Secretary (or an officer of the Department nominated by the Secretary), that:</p> <ul style="list-style-type: none"> (a) the extent of inconsistency with the Regional Plan is of minor significance, and (b) the planning proposal achieves the overall intent of the Regional Plan and does not undermine the achievement of its vision, land use strategy, goals, directions or actions. 	<p>This planning proposal affects land subject to the North Coast Regional Plan (NCRP).</p> <p>The Cavanbah Centre is located immediately adjacent to the Byron Bay Urban Growth Area boundary on the western edge of town.</p> <p>The NCRP is a high level strategic document that does not directly address the issue of permitting events on public land. However, making this process less onerous is consistent with achieving the vision for the North Coast, including “a thriving, interconnected economy” and a “vibrant and engaged community” (page 8).</p>	Consistent

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
1.2 Development of Aboriginal Land Council land	Applies to all relevant planning proposal authorities when preparing a planning proposal for land shown on the Land Application Map of chapter 3 of the <i>State Environmental Planning Policy (Planning Systems) 2021</i> .	This planning proposal does not apply to Aboriginal Land Council land	N/A
1.3 Approval and Referral Requirements	<p>A planning proposal must:</p> <ul style="list-style-type: none"> (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: <ul style="list-style-type: none"> i. the appropriate Minister or public authority, and ii. the Planning Secretary (or an officer of the Department nominated by the Secretary), 	This planning proposal does not introduce any of these matters.	N/A

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	<p>prior to undertaking community consultation in satisfaction of Schedule 1 to the EP&A Act, and</p> <p>(c) not identify development as designated development unless the relevant planning authority:</p> <ul style="list-style-type: none"> i. can satisfy the Planning Secretary (or an officer of the Department nominated by the Secretary) that the class of development is likely to have a significant impact on the environment, and ii. has obtained the approval of the Planning Secretary (or an officer of the Department nominated by the Secretary) prior to undertaking community consultation in satisfaction of Schedule 1 to the EP&A Act. 		
1.4 Site Specific Provisions	Applies when a relevant planning authority prepares a planning proposal that will allow a particular development to be carried out.	<p>This planning proposal will allow events to be carried out without development consent on a specific site.</p> <p>It will not alter the zone of any land.</p>	Justifiably inconsistent

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	<p>(1) A planning proposal that will amend another environmental planning instrument in order to allow particular development to be carried out must either:</p> <p>(a) allow that land use to be carried out in the zone the land is situated on, or</p> <p>(b) rezone the site to an existing zone already 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>(2) A planning proposal must not contain or refer to drawings that show details of the development.</p>	<p>It will include two requirements, being – no permanent structures and no clearing of native vegetation. These are included to ensure that temporary events do not modify the subject land permanently.</p> <p>The planning proposal does not contain any drawings.</p> <p>All three surrounding LGAs have similar provisions in their LEPs.</p> <p>It is justifiably inconsistent with this Direction.</p>	

Focus area 3: Biodiversity and Conservation

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
3.1 Conservation Zones	<p>(1) A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.</p> <p>(2) A planning proposal that applies to land within a conservation zone or land otherwise identified for environment conservation/protection purposes in a LEP must not reduce the conservation 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 Direction 9.2 (2) of “Rural Lands”.</p>	<p>This planning proposal does not alter or remove any environment protection zone. No environmental standards will be reduced by the proposed LEP changes.</p> <p>The land at the Cavanbah Centre zoned RE1 Public Recreation does not contain environmentally sensitive areas.</p> <p>The events likely to occur will be low impact and temporary.</p>	Consistent
3.2 Heritage Conservation	<p>A planning proposal must contain provisions that facilitate the conservation of:</p> <p>(a) Items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to</p>	<p>The Cavanbah site has no European heritage items located on it (or nearby) that are listed in Byron LEP 2014. It is not subject to a Heritage Conservation Area.</p> <p>It has two Aboriginal sites located in proximity to it, but neither are actually on</p>	Consistent

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	<p>an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area,</p> <p>(b) Aboriginal objects or Aboriginal places that are protected under the <i>National Parks and Wildlife Act 1974</i>, and</p> <p>(c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.</p>	<p>the subject land and neither will be affected by events being held on the site. Aboriginal heritage is discussed in more detail in Section C of this planning proposal.</p> <p>Byron LEP 2014 already contains clauses that facilitate the conservation of Aboriginal and European heritage in Byron Shire. Sites and relics are also protected under State legislation.</p> <p>The planning proposal is consistent with this Direction.</p>	
3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	Applies when a relevant planning authority prepares a planning proposal that introduces or alters an C2 Environmental Conservation or C3 Environmental	This planning proposal does not introduce or alter an environmental zone on the subject land.	N/A

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	<p>Management zone or introduces or alters an overlay and associated clause.</p> <p>A planning proposal must apply the proposed C2 Environmental Conservation or C3 Environmental Management zone, or the overlay and associated clause, in line with the <i>Northern Councils C Zone Review Final Recommendations</i>.</p>		
3.5 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> <ul style="list-style-type: none"> (a) where the land is within a conservation zone, (b) where the land comprises a beach or a dune adjacent to or adjoining a beach, (c) where the land is not within an area or zone referred to in paragraphs (a) or (b) unless the relevant planning authority has taken into consideration: 	<p>This planning proposal does not enable land to be developed for the purpose of a recreation vehicle area.</p>	N/A

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	<ul style="list-style-type: none"> i. the provisions of the guidelines entitled <i>Guidelines for Selection, Establishment and Maintenance of Recreation Vehicle Areas</i>, Soil Conservation Service of New South Wales, September 1985, and ii. the provisions of the guidelines entitled <i>Recreation Vehicles Act 1983, Guidelines for Selection, Design, and Operation of Recreation Vehicle Areas</i>, State Pollution Control Commission, September 1985. 		

Focus area 4: Resilience and Hazards

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
4.1 Flooding	Applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.	The Cavanbah land area subject to this planning proposal is partly flood affected. However, the site is not a floodway or high hazard area.	Justifiably inconsistent

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	<p>(1) A planning proposal must include provisions that give effect to and are consistent with:</p> <p>(a) the NSW Flood Prone Land Policy,</p> <p>(b) the principles of the Floodplain Development Manual 2005,</p> <p>(c) the Considering flooding in land use planning guideline 2021, and</p> <p>(d) any adopted flood study and/or floodplain risk management plan prepared in accordance with the principles of the <i>Floodplain Development Manual 2005</i> and adopted by the relevant council.</p> <p>(2) A planning proposal must not rezone land within the flood planning area from Recreation, Rural, Special Purpose or Conservation Zones to a Residential, Business, Industrial or Special Purpose Zones.</p> <p>(3) A planning proposal must not contain provisions that apply to the flood planning area which:</p>	<p>This planning proposal will not rezone any land.</p> <p>It will not:</p> <ul style="list-style-type: none"> • facilitate development that leads to significant flood impacts on other land; • permit residential development of any density; • permit high risk uses such as child care facilities, hospitals, etc; • permit hazardous industries, etc; or • result in increased requirements for government spending on emergency management services. <p>This planning proposal will permit events such as low impact performance of live music or arts on certain Council land as exempt development. These uses are temporary, often outdoors and are not likely to be held if flood events are forecast.</p>	

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	<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 development for the purposes of residential accommodation in high hazard areas, (d) permit a significant increase in the development and/or dwelling density of that land, (e) permit development for the purpose of centre-based childcare facilities, hostels, boarding houses, group homes, hospitals, residential care facilities, respite day care centres and seniors housing in areas where the occupants of the development cannot effectively evacuate, (f) permit development to be carried out without development consent except for the purposes of exempt development or agriculture. Dams, 	<p>This planning proposal is consistent with the principles of the <i>Floodplain Development Manual 2005</i>.</p> <p>The planning proposal will permit certain uses on the Cavanbah Centre site as exempt development. This is justifiably inconsistent with this Direction because these exempt uses are temporary, will not impact on flood behaviour and are easily abandoned if floods are predicted.</p>	

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	<p>drainage canals, levees, still require development consent,</p> <p>(g) are likely to result in a substantially increased requirement for government spending on emergency management services, flood mitigation and emergency response measures, which can include but are not limited to the provision of road infrastructure, flood mitigation infrastructure and utilities, or</p> <p>(h) permit hazardous industries or hazardous storage establishments where hazardous materials cannot be effectively contained during the occurrence of a flood event.</p> <p>(4) A planning proposal must not contain provisions that apply to areas between the flood planning area and probable maximum flood to which Special Flood Considerations apply which:</p> <p>(a) permit development in floodway areas,</p>		

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	<ul style="list-style-type: none"> (b) permit development that will result in significant flood impacts to other properties, (c) permit a significant increase in the dwelling density of that land, (d) permit the development of centre-based childcare facilities, hostels, boarding houses, group homes, hospitals, residential care facilities, respite day care centres and seniors housing in areas where the occupants of the development cannot effectively evacuate, (e) are likely to affect the safe occupation of and efficient evacuation of the lot, or (f) are likely to result in a significantly increased requirement for government spending on emergency management services, and flood mitigation and emergency response measures, which can include but not limited to road infrastructure, flood mitigation infrastructure and utilities. 		

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	(5) For the purposes of preparing a planning proposal, the flood planning area must be consistent with the principles of the <i>Floodplain Development Manual 2005</i> or as otherwise determined by a Floodplain Risk Management Study or Plan adopted by the relevant council.		
4.2 Coastal Management	<p>Applies when a planning proposal authority prepares a planning proposal that applies to land that is within the coastal zone, as defined under the <i>Coastal Management Act 2016</i> – comprising the coastal wetlands and littoral rainforests area, coastal vulnerability area, coastal environment area and coastal use area – and as identified by chapter 2 of the <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i>.</p> <p>(1) A planning proposal must include provisions that give effect to and are consistent with:</p> <p>(a) the objects of the <i>Coastal Management Act 2016</i> and the</p>	<p>The Cavanbah site is partly affected by Coastal Wetland buffer mapping; however, it is not affected by Coastal Use area or Coastal Environment area mapping or Coastal Vulnerability mapping. It is not affected by Littoral Rainforest mapping.</p> <p>In relation to the relevant objects of the <i>Coastal Management Act 2016</i>, the planning proposal:</p> <ul style="list-style-type: none"> • is integrated and co-ordinated coastal planning; • will not negatively impact on public access, amenity, use and safety; • supports sustainable coastal economies; and • will not negatively impact on the natural character, scenic value, 	Consistent

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	<p>objectives of the relevant coastal management areas;</p> <p>(b) the NSW Coastal Management Manual and associated Toolkit;</p> <p>(c) NSW Coastal Design Guidelines 2003; and</p> <p>(d) any relevant Coastal Management Program that has been certified by the Minister, or any Coastal Zone Management Plan under the <i>Coastal Protection Act 1979</i> that continues to have effect under clause 4 of Schedule 3 to the <i>Coastal Management Act 2016</i>, that applies to the land.</p> <p>(2) A planning proposal must not rezone land which would enable increased development or more intensive land-use on land:</p> <p>(a) within a coastal vulnerability area identified by chapter 2 of the <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i>; or</p>	<p>biological diversity and ecosystem integrity and resilience.</p> <p>The subject land is not affected by current or future coastal hazards. Council does not have a certified Coastal Management Program.</p> <p>The Cavanbah site is affected by a small area of buffer to a coastal wetland but is not a coastal wetland area itself. This planning proposal will not enable increased development on coastal wetlands.</p>	

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	<p>(b) that has been identified as land affected by a current or future coastal hazard in a local environmental plan or development control plan, or a study or assessment undertaken:</p> <ul style="list-style-type: none"> i. by or on behalf of the relevant planning authority and the planning proposal authority, or ii. by or on behalf of a public authority and provided to the relevant planning authority and the planning proposal authority. <p>(3) A planning proposal must not rezone land which would enable increased development or more intensive land-use on land within a coastal wetlands and littoral rainforests area identified by chapter 2 of the <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i>.</p>		
4.3 Planning for Bushfire Protection	Applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to, land mapped as bushfire prone land.	The Cavanbah site is not affected by bushfire hazard vegetation but is affected by a bushfire buffer at its southern, northern and western edges. The sports	Justifiably inconsistent (referral to RFS is required)

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	<p>(1) 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 3.34 of the Act, and prior to undertaking community consultation in satisfaction of clause 4, Schedule 1 to the EP&A Act, and take into account any comments so made.</p> <p>(2) A planning proposal must:</p> <p>(a) have regard to Planning for Bushfire Protection 2019,</p> <p>(b) introduce controls that avoid placing inappropriate developments in hazardous areas, and</p> <p>(c) ensure that bushfire hazard reduction is not prohibited within the APZ.</p> <p>(3) A planning proposal must, where development is proposed, comply with the following provisions, as appropriate:</p>	<p>fields are mowed grassland and have no hazard rating.</p> <p>A Bushfire Hazard Report has not been provided with this planning proposal and is not warranted.</p> <p>The planning proposal will not result in inappropriate development in hazardous areas. All events will be temporary and any associated structures will be demountable, eg tents or stages.</p> <p>The planning proposal will not prohibit bushfire hazard reduction.</p> <p>The planning proposal will still need to be referred to the Rural Fire Service and the inconsistency remains until that occurs.</p>	

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	<p>(a) provide an APZ incorporating at a minimum:</p> <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 reduction and located on the bushland side of the perimeter road, <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</i></p>		

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	<p><i>Act 1997</i>), the APZ provisions must be complied with,</p> <ul style="list-style-type: none"> (c) contain provisions for two-way access roads which link to perimeter roads and/or to fire trail networks, (d) contain provisions for adequate water supply for firefighting purposes, (e) minimise the perimeter of the area of land interfacing the hazard which may be developed, (f) introduce controls on the placement of combustible materials in the Inner Protection Area. 		
4.4 Remediation of Contaminated Land	<p>Applies when a relevant planning authority prepares a planning proposal to:</p> <ul style="list-style-type: none"> (a) land that is within an investigation area within the meaning of the <i>Contaminated Land Management Act 1997</i>, (b) land on which development for a purpose referred to in Table 1 to the contaminated land planning 	<p>This planning proposal will not alter any land use zones.</p> <p>The Cavanbah site has no history of contamination from past land use.</p>	Consistent

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	<p>guidelines is being, or is known to have been, carried out,</p> <p>(c) the extent to which it is proposed to carry out development on it for residential, educational, recreational or childcare purposes, or for the purposes of a hospital – land:</p> <p>i. in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and</p> <p>ii. on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).</p> <p>(1) A planning proposal authority must not include in a particular zone (within the meaning of the LEP) any land to which this direction applies if the inclusion of the land in that zone</p>		

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	<p>would permit a change of use of the land, unless:</p> <ul style="list-style-type: none"> (a) the planning proposal authority has considered whether the land is contaminated, and (b) if the land is contaminated, the planning proposal authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used, and (c) if the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, the planning proposal authority is satisfied that the land will be so remediated before the land is used for that purpose. <p>(2) Before including any land to which this direction applies in a particular zone, the planning proposal authority is to obtain and have regard to a report specifying the findings of a preliminary investigation of the land</p>		

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	carried out in accordance with the contaminated land planning guidelines.		
4.5 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 relevant planning authority must not prepare a planning proposal 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 relevant planning authority has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils. The relevant planning authority must provide a copy of any such study to the Planning Secretary prior to undertaking community consultation in satisfaction of clause 4 of Schedule 1 to the Act.</p>	<p>The Cavanbah land is affected by Class 2 and Class 3 acid sulfate soils (ASS).</p> <p>This planning proposal will not result in an intensification of land use.</p> <p>It is highly unlikely that staging events on a temporary basis will result in significant soil disturbance.</p>	Consistent

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
4.6 Mine Subsidence and Unstable Land	Applies when a relevant planning authority prepares a planning proposal that permits development on land that is within a declared mine subsidence district, or has been identified as unstable in a study, strategy or other assessment undertaken by or on behalf of the relevant planning authority or by or on behalf of a public authority and provided to the relevant planning authority.	This planning proposal does not impact on any mine subsidence area. Neither is the site steep or potentially unstable.	Consistent

Focus area 5: Transport and Infrastructure

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
5.1 Integrating Land Use and Transport	Applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes. (1) A planning proposal must locate zones for urban purposes and include	This planning proposal does not create alter or remove any zones.	N/A

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	<p>provisions that give effect to and are consistent with the aims, objectives and principles of:</p> <ul style="list-style-type: none"> (a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and (b) The Right Place for Business and Services – Planning Policy (DUAP 2001). <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 		

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	<p>development and the distances travelled, especially by car, and</p> <p>(d) supporting the efficient and viable operation of public transport services, and</p> <p>(e) providing for the efficient movement of freight.</p>		
5.2 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 Planning Secretary (or an officer of the Department nominated by the Secretary).	This planning proposal does not alter an existing zone or reservation of land for public purposes.	N/A
5.4 Shooting Ranges	<p>Applies when a relevant planning authority prepares a planning proposal that will affect, create, alter or remove a zone or a provision relating to land adjacent to and/or adjoining an existing shooting range.</p> <p>(1) A planning proposal must not seek to rezone land adjacent to and/or</p>	There are no shooting ranges in the vicinity of this planning proposal.	N/A

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	<p>adjoining an existing shooting range that has the effect of:</p> <p>(a) permitting more intensive land uses than those which are permitted under the existing zone; or</p> <p>(b) permitting land uses that are incompatible with the noise emitted by the existing shooting range.</p>		

Focus area 6: Housing

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
6.1 Residential Zones	Applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed residential zone (including the alteration of any existing residential zone boundary), or any other zone in which significant residential development is permitted or proposed to be permitted.	This planning proposal does not involve any residential land and will not permit residential accommodation as a land use.	N/A

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	<p>(1) A planning proposal must include provisions that encourage the provision of housing that will:</p> <ul style="list-style-type: none"> (a) broaden the choice of building types and locations available in the housing market, and (b) make more efficient use of existing infrastructure and services, and (c) reduce the consumption of land for housing and associated urban development on the urban fringe, and (d) be of good design. <p>(2) A planning proposal must, in relation to land to which this direction applies:</p> <ul style="list-style-type: none"> (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 		

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	(b) not contain provisions which will reduce the permissible residential density of land.		
6.2 Caravan Parks and Manufactured Home Estates	<p>(1) In identifying suitable zones, locations and provisions for caravan parks in a planning proposal, the relevant planning authority must:</p> <p>(a) retain provisions that permit development for the purposes of a caravan park to be carried out on land, and</p> <p>(b) retain the zonings of existing caravan parks, or in the case of a new principal LEP, zone the land in accordance with an appropriate zone under the <i>Standard Instrument (Local Environmental Plans) Order 2006</i> that would facilitate the retention of the existing caravan park.</p> <p>(2) In identifying suitable zones, locations and provisions for manufactured home estates (MHEs) in a planning proposal, the relevant planning authority must:</p>	This planning proposal will not alter the permissibility of caravan parks or manufactured home estates on any land.	N/A

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	<p>(a) take into account the categories of land set out in Schedule 6 of <i>State Environmental Planning Policy (Housing) 2021</i> as to where MHEs should not be located,</p> <p>(b) take into account the principles listed in clause 125 of <i>State Environmental Planning Policy (Housing) 2021</i> (which relevant planning authorities are required to consider when assessing and determining the development and subdivision proposals), and</p> <p>(c) include provisions that the subdivision of MHEs by long term lease of up to 20 years or under the <i>Community Land Development Act 1989</i> be permissible with consent.</p>		

Focus area 7: Industry and Employment

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
7.1 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>(1) A planning proposal must:</p> <p>(a) give effect to the objectives of this direction,</p> <p>(b) retain the areas and locations of existing business and industrial zones,</p> <p>(c) not reduce the total potential floor space area for employment uses and related public services in business zones,</p> <p>(d) not reduce the total potential floor space area for industrial uses in industrial zones,</p> <p>(e) ensure that proposed new employment areas are in accordance</p>	<p>This planning proposal will not affect land within an existing or proposed business or industrial zone.</p>	N/A

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	with a strategy that is approved by the Planning Secretary.		
7.2 Reduction in non-hosted short-term rental accommodation period	Applies to Byron Shire Council when the council prepares a planning proposal to identify or reduce the number of days that non-hosted short-term rental accommodation may be carried out in parts of its local government area.	This planning proposal will not impact on non-hosted short-term rental accommodation.	N/A
7.3 Commercial and Retail Development along the Pacific Highway, North Coast	<p>Applies when a relevant planning authority prepares a planning proposal for land on the North Coast that the Pacific Highway traverses, and land in the vicinity of the existing and/or proposed alignment of the Pacific Highway.</p> <p>The objectives of this direction are to:</p> <ul style="list-style-type: none"> (a) protect the Pacific Highway's function, that is to operate as the North Coast's primary inter- and intra-regional road traffic route, (b) prevent inappropriate development fronting the highway, 	This planning proposal does not affect commercial or retail uses in proximity to the Pacific Highway.	N/A

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	<ul style="list-style-type: none"> (c) protect public expenditure invested in the Pacific Highway, (d) protect and improve highway safety and highway efficiency, (e) provide for the food, vehicle service and rest needs of travellers on the highway, and (f) reinforce the role of retail and commercial development in town centres, where they can best serve the populations of the towns. 		

Focus area 8: Resources and Energy

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
8.1 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 	This planning proposal will not alter or restrict mining or extractive industries on any land.	N/A

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	<p>winning or obtaining of extractive materials, or</p> <p>(b) restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.</p>		

Focus area 9: Primary Production

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
9.1 Rural Zones	<p>Applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary).</p> <p>(1) A planning proposal must:</p>	<p>A small part of the Cavanbah site is zoned RU2 Rural Landscape but it is not affected by this planning proposal.</p> <p>This planning proposal will not rezone or alter the zone boundary of any existing rural zone.</p>	Consistent

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	(a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.		
9.2 Rural Lands	<p>Applies when a relevant planning authority prepares a planning proposal that:</p> <p>(a) will affect land within an existing or proposed rural or conservation zone (including the alteration of any existing rural or conservation zone boundary), or</p> <p>(b) changes the existing minimum lot size on land within a rural or conservation zone.</p> <p>(1) A planning proposal must:</p> <p>(a) be consistent with any applicable strategic plan, including regional and district plans endorsed by the Planning Secretary, and any applicable local strategic planning statement</p>	<p>A small part of the Cavanbah site is zoned RU2 Rural Landscape but it is not affected by this planning proposal.</p> <p>This planning proposal will not alter any zones or change the minimum lot size for any zone. It will not affect any significant agricultural land or exacerbate any rural land use conflicts. No rural residential uses are proposed.</p>	Consistent

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	<ul style="list-style-type: none"> (b) consider the significance of agriculture and primary production to the State and rural communities (c) identify and protect environmental values, including but not limited to, maintaining biodiversity, the protection of native vegetation, cultural heritage, and the importance of water resources (d) consider the natural and physical constraints of the land, including but not limited to, topography, size, location, water availability and ground and soil conditions (e) promote opportunities for investment in productive, diversified, innovative and sustainable rural economic activities (f) support farmers in exercising their right to farm (g) prioritise efforts and consider measures to minimise the fragmentation of rural land and reduce the risk of land use conflict, 		

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	<p>particularly between residential land uses and other rural land use</p> <p>(h) consider State significant agricultural land identified in chapter 2 of the <i>State Environmental Planning Policy (Primary Production) 2021</i> for the purpose of ensuring the ongoing viability of this land</p> <p>(i) consider the social, economic and environmental interests of the community.</p> <p>(2) A planning proposal that changes the existing minimum lot size on land within a rural or conservation zone must demonstrate that it:</p> <p>(a) is consistent with the priority of minimising rural land fragmentation and land use conflict, particularly between residential and other rural land uses</p> <p>(b) will not adversely affect the operation and viability of existing and future rural land uses and related enterprises, including supporting infrastructure and facilities that are</p>		

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	<p>essential to rural industries or supply chains</p> <p>(c) where it is for rural residential purposes:</p> <ul style="list-style-type: none"> i. is appropriately located taking account of the availability of human services, utility infrastructure, transport and proximity to existing centres ii. is necessary taking account of existing and future demand and supply of rural residential land. <p>A planning proposal to which clause (b) applies must be consistent with the Rural Subdivision Principles listed in clause 5.16 of Byron LEP 2014.</p> <p>The Rural Subdivision Principles require that the following matters are to be taken into account:</p> <ul style="list-style-type: none"> (a) the existing uses and approved uses of land in the vicinity of the development, (b) whether or not the development is likely to have a significant impact on 		

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	<p>land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the development,</p> <p>(c) whether or not the development is likely to be incompatible with existing or approved uses in the vicinity of the development,</p> <p>(d) any measures proposed by the applicant to avoid or minimise any incompatibility with existing or approved uses in the vicinity of the development.</p>		
9.3 Oyster Aquaculture	<p>Applies when a relevant planning authority prepares a planning proposal that proposes a change in land use which could result in:</p> <p>(a) adverse impacts on a 'Priority Oyster Aquaculture Area' or a "current oyster aquaculture lease in the national parks estate", or</p> <p>(b) incompatible use of land between oyster aquaculture in a 'Priority Oyster</p>	<p>Priority Oyster Aquaculture Area (POAA) exists in the Brunswick catchment, but not in the Belongil catchment where this planning proposal applies.</p>	N/A

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	Aquaculture Area' or a "current oyster aquaculture lease in the national parks estate" and other land uses.		
9.4 Farmland of State and Regional Significance on the NSW Far North Coast	<p>A planning proposal must not:</p> <ul style="list-style-type: none"> (a) rezone land identified as "State Significant Farmland" or (b) rezone land identified as "Regionally Significant Farmland" or (c) rezone land identified as "significant non-contiguous farmland" <p>for urban or rural residential purposes.</p> <p>A planning proposal may be inconsistent with the terms of this direction only if council can satisfy the Planning Secretary (or an officer of the Department nominated by the Secretary) that the planning proposal is consistent with:</p> <ul style="list-style-type: none"> (a) the North Coast Regional Plan 2036, or (b) Section 4 of the report titled <i>Northern Rivers Farmland Protection Project</i> – 	The subject land is not identified as State or regionally significant farmland under the Northern Rivers Farmland Protection Project.	N/A

S9.1 Direction	Application	Relevance to this planning proposal	Consistency with Direction
	<i>Final Recommendations</i> , February 2005, held by the Department of Planning and Environment.		

Section C Environmental, social and economic impact

1. 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. No significant native vegetation remains on that part of the Cavanbah site zoned RE1. There is no likelihood of threatened species, populations or ecological communities being affected by future development on the subject land.

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

No. The subject land is partly flood prone in the 1% ARI design flood (Figure 7). However, the planning proposal will permit events such as low impact performance of live music or arts over short periods. These uses will not impact on flood behaviour, are temporary, often partly outdoors and are not likely to be held if flood events are forecast. They are easily abandoned if floods are predicted.

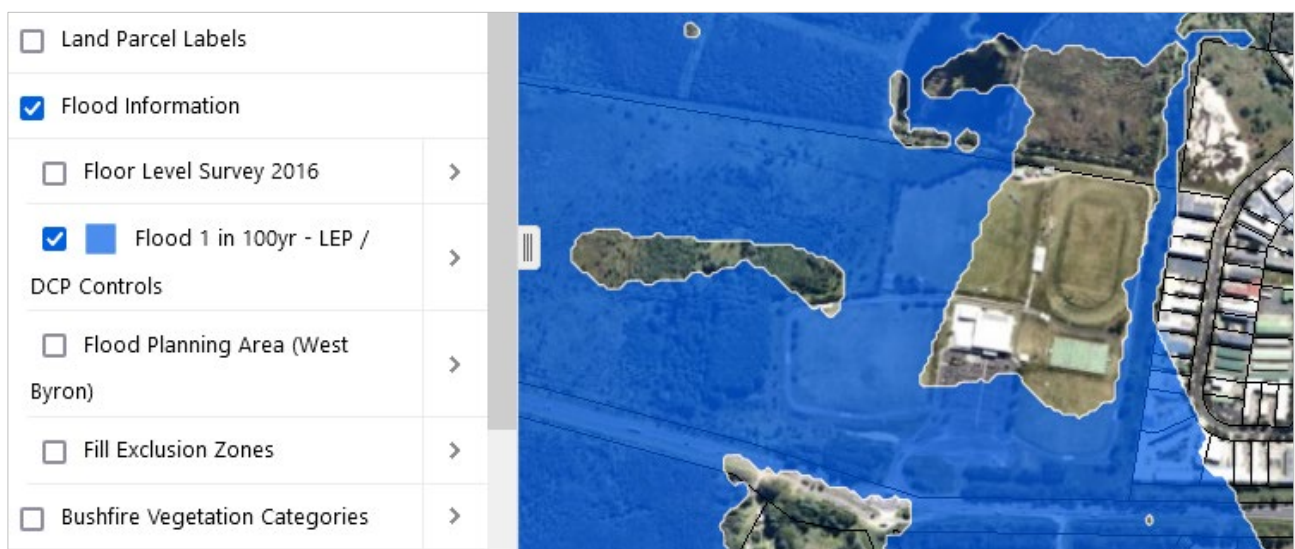


Figure 7: 1% Flood level at Cavanbah site

The subject land is also partly affected by bushfire hazard area mapping (Figure 8). A small part of the land zoned RE1 is classified as vegetation category 3 and is located along the western and south-western edges of the subject land. A 25-metre to 50-metre-wide buffer covers an additional area on the northern, southern and western edges of the subject land.

Events such as low impact performance of live music or arts over short periods will not impact on bushfire hazards. These uses are temporary, often partly outdoors and are not likely to be held if extreme bushfire weather is forecast. Events are easily abandoned if bushfires are predicted.

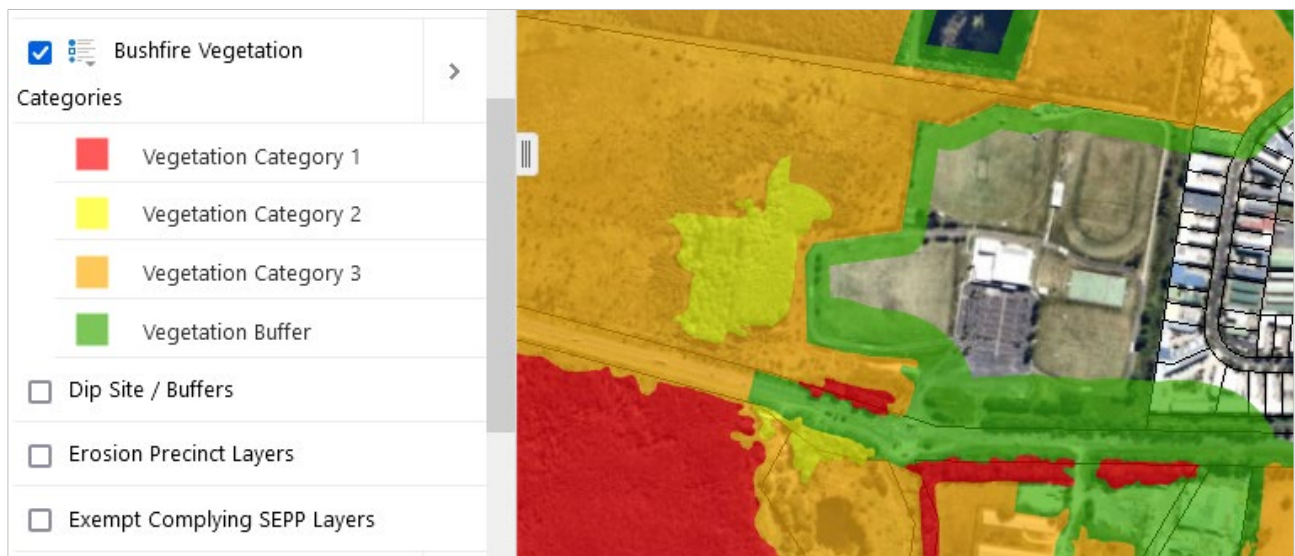


Figure 8: Bushfire hazard mapping for the Cavanbah site

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

The planning proposal will have mostly positive social and economic effects as the subject land can be used by the community and visitors for events that have positive effects on the social welfare of the community as well as stimulating the economy. It is an appropriate location for these uses as has been demonstrated by past events, small festivals and markets that have been held there previously.

The Cavanbah site is separated from the nearest residential land by the Byron Arts and Industry Estate and large areas of rural land. Impacts from events on dwellings are unlikely.

Restrictions on noise, hours of operation and the number of attendees can be imposed on events through the section 68 approvals process. This will limit the impacts on traffic and avoid any parking concerns.

A search of the Aboriginal Heritage Information Management System (AHIMS) identified two sites in proximity to the Cavanbah Centre. One is located in the Byron Arts and Industry Estate, and the other is located south of Ewingsdale Road in proximity to the disused chicken abattoir. Given the Cavanbah site was filled as part of the establishment of sports fields, it is likely that any Aboriginal sites or artefacts which may have been there are now buried. The use of the site for events is unlikely to cause any significant ground disturbance. Impacts on Aboriginal cultural heritage are not anticipated.

Section D State and Commonwealth interests

1 Is there adequate public infrastructure for the planning proposal?

Planning proposal to permit events at the Cavanbah Centre without the need to obtain development consent. (#E2023/1080) | March 2023

The proposed use of the subject land for entertainments and events will rely on existing water and sewer connections as well as power and communications. If additional toilets are required then temporary units can be brought in. Waste can be managed with skip bins and contract services. A glass and can recycling depot is located at the Cavanbah site already.

The Cavanbah site is well connected with walking and cycling tracks in both directions along Ewingsdale Road. Public transport also runs along Ewingsdale Road and eleven bus parking spaces are located in the car park. The site has a dedicated sealed car park with 362 car parking spaces, plus an unsealed overflow area that can be used for an unspecified number of vehicles. Limitations on parking is a key factor that will limit the size of any events at the Cavanbah site.

The subject land has good access to the Pacific Motorway and Byron town centre via Ewingsdale Road. The connection with Ewingsdale Road to the Cavanbah site is a two-lane roundabout. Existing traffic congestion on Ewingsdale Road is a key factor that will limit the size of any events at the Cavanbah site.

There is adequate public infrastructure to accommodate the future use of the subject land as proposed by the planning proposal.

2 What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

The gateway determination has yet to be issued. It is anticipated that the Rural Fire Service, Department of Planning and Environment, and Transport for NSW will be contacted for comment during the public exhibition.

In October 2021, DPE published “Outdoor dining & fun experiences” which proposed changes to the SEPP (Exempt and Complying Development Codes) 2008 that would accomplish what this planning proposal is trying to achieve. These changes have not occurred but it indicates State level support for the concept.

Tweed Byron LALC and the Bundjalung of Byron Bay Arakwal Corporation will be given an opportunity to comment during the public exhibition.

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 in accordance with the gateway requirements.

The following table provides a summary of the relevant public authorities that, in the opinion of Council, should be consulted in accordance with the gateway determination:

Planning proposal to permit events at the Cavanbah Centre without the need to obtain development consent. (#E2023/1080) | March 2023

Public authority/stakeholder	Issue requiring comment
Department of Planning and Environment	Consideration of flooding and strategic planning merit
Transport for NSW	Impacts on Ewingsdale Road (a regional road)
Rural Fire Service	Bushfire issues
Tweed Byron LALC and Arakwal Corporation	Aboriginal cultural heritage and archaeological matters

Part 4 Mapping

The planning proposal will not amend any Byron LEP 2014 maps.

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 NSW DPE's *A guide to preparing local environmental plans* because it is inconsistent with some section 9.1 Directions. A 28-day public exhibition period is recommended.

Notification of the exhibited planning proposal will include the websites of Byron Shire Council and the NSW DPE.

Part 6 Project timeline

The proposed timeline for the completion of the planning proposal is as follows:

Estimated completion	Plan making step
December 2022	Decision by Council to support the planning proposal and submit for gateway determination by the NSW DPE.
February 2023	Gateway determination issued by the NSW DPE.
March 2023	Public exhibition of planning proposal. Further government agency consultation.
June 2023	Analysis of public submissions. Preparation of Council report.
July 2023	Decision by Council to endorse the planning proposal and submit to the NSW DPE under delegation for finalisation.

Summary and conclusions

The planning proposal seeks to amend Byron LEP 2014 to permit function centres and associated events such as low impact performance of live music or arts on land owned or managed by Council, without development consent. The assessment and permission for any such event would be dealt with under the *Local Government Act 1993*. This will be achieved by adding a new item to Schedule 2 Exempt Development. No mapping changes are required. The planning proposal will apply to that part of the Cavanbah Centre at 249 Ewingsdale Road that is zoned RE1 Public Recreation.

The planning proposal will support the economy through encouraging productive use of the subject land. Events can stimulate local economic growth and jobs demand without major ecological or social concerns. Using the site for low-key events can promote community involvement and add to a sense of place.

The planning proposal applies to the RE1 zoned land, which has minimal environmental values, with minimal likelihood of significant environmental impact. The Cavanbah site has good road, cycle and pedestrian access. Water and sewerage are available.

Planning proposal to permit events at the Cavanbah Centre without the need to obtain development consent. (#E2023/1080) | March 2023

The Cavanbah Centre site is partly flood affected; however, it is not in a floodway or high hazard area. It is partly affected by bushfire hazard and buffers. Neither of these constraints will impact on the short-term uses proposed to be exempt development.

SEPP Resilience and Hazards 2021 applies to the subject land because it contains a small area within 100 metres of a coastal wetland. The planning proposal is unlikely to have negative impacts on this area. No native vegetation will be removed as a result of any exempt development.

An assessment of the planning proposal indicates that it is consistent with relevant SEPPs. It is consistent with most of the relevant section 9.1 Directions; and where inconsistencies occur, they can be justified.

The planning proposal is consistent with the North Coast Regional Plan.

It is appropriate that it be sent to the NSW DPE for a gateway determination in order that the planning proposal can proceed to public exhibition (subject to compliance with any gateway conditions).

Further information and studies are not required prior to public exhibition and agency consultation, unless stipulated in the gateway determination.