



IRF25/656

Gateway determination report – PP-2025-476

Allow additional permitted uses on certain land in the
Byron Arts and Industry Estate, with consent (0
homes, 0 jobs)

March 25

Published by NSW Department of Planning, Housing and Infrastructure

dpie.nsw.gov.au

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Acknowledgment of Country

The Department of Planning, Housing and Infrastructure acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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Table 1 - Reports and plans supporting the proposal

Relevant reports and plans
Council report and resolution – Ordinary Council Meeting 15 August 2024
Planning proposal – Gateway request version (Mar 2025)

1 Planning proposal

1.1 Overview

Table - 2 Planning proposal details

LGA	Byron
PPA	Byron Shire Council
NAME	Allow additional permitted uses on certain land in the Byron Arts and Industry Estate, with consent (0 homes, 0 jobs)
NUMBER	PP-2025-476
LEP TO BE AMENDED	Byron Local Environmental Plan 2014
ADDRESS	Centennial Circuit and Wollongbar Street, Byron Bay
DESCRIPTION	Various properties
RECEIVED	14/03/2025
FILE NO.	IRF25/656
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objective of the proposal is to continue allowing five specific land uses on certain properties located in the Byron Arts and Industry Estate, Byron Bay, with consent. The intended outcome is to ensure that the proposed land uses, which were previously permitted under the former B7 Business Park zoning, remain permissible.

The objectives of this planning proposal are considered to be generally clear and adequate.

1.3 Explanation of provisions

The planning proposal seeks to amend Schedule 1 'Additional permitted uses' (APU) and the corresponding APU map of the Byron LEP 2014 to permit, with consent, 'business premises', 'health services facilities', 'office premises', 'passenger transport facilities', and 'recreation areas' on land previously zoned B7 in the Byron Arts and Industry Estate.

The proposal currently illustrates these changes in the E4 General Industrial land use table which is unclear and could cause confusion during consultation. It is recommended that the land use table

be removed and the explanation of provisions be amended to more clearly identify which additional land uses will be included in Schedule 1 Additional Permitted Uses of the LEP.

1.4 Site description and surrounding area

The site consists of 31 properties zoned E4 General Industrial, located in the northwestern part of the Byron Arts and Industry Estate, approximately 1km from the Byron town centre (see Figures 1–3). This area of the estate includes a number of commercial and industrial buildings, occupied by a mix of small businesses.

To the north, the site adjoins a TAFE NSW Connected Learning Centre, and to the west, it is adjacent to the Byron Bay Integrated Water Management Reserve and the Cavanbah Sports and Cultural Centre. Vehicular access to the site is provided via Ewingsdale Road to the south.

The site is mapped as containing a minor area of potential high environmental value land (Figure 4) and is impacted by flood (Figure 5), bushfire (Figure 6), and class 5 acid sulfate soils.

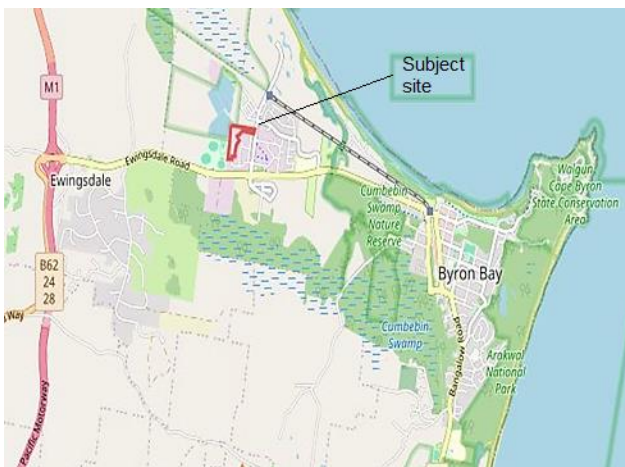


Figure 1 – Locality plan (source: Northern spatial viewer)



Figure 2 – Subject site (source: Northern spatial viewer)

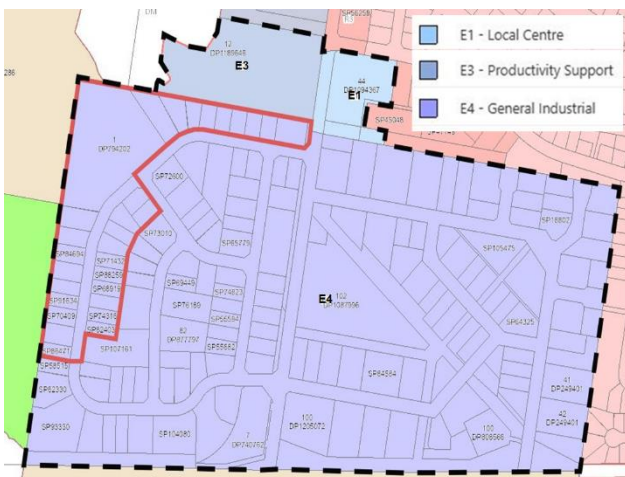


Figure 3 – Current zoning in context of the Byron Arts and Industry Estate (source: Northern spatial viewer)



Figure 4 – Potential high environmental value land (source: Northern spatial viewer)

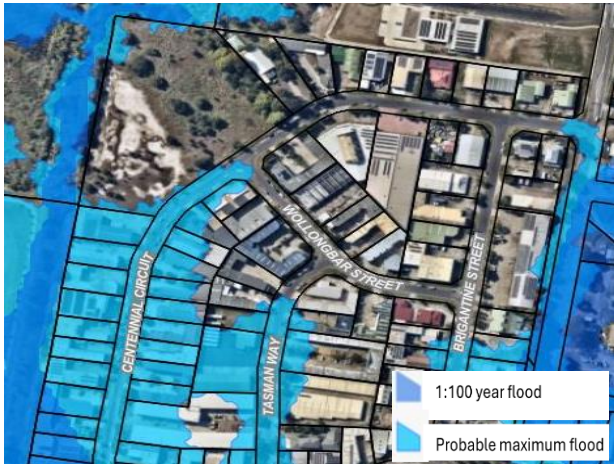


Figure 5 – 1:100 year and probable maximum flood (PMF) extents (source: Byron Shire Council Online Mapping)

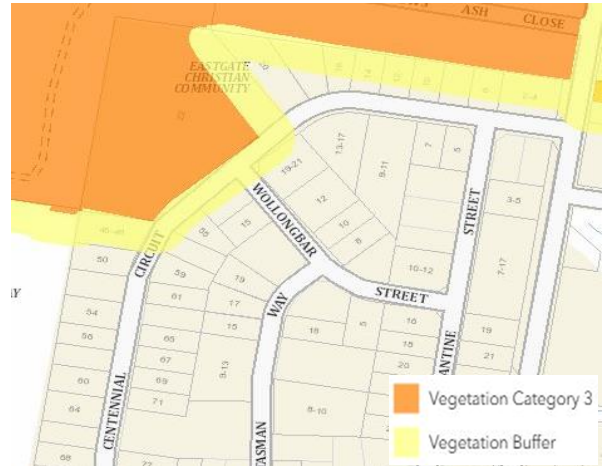


Figure 6 – Bushfire prone land (source: ePlanning spatial viewer)

Part 2 of the planning proposal lists the properties within the site as follows:

Property description	Street address
Lot 9 DP812667	2 Centennial Circuit
SP76166	6 Centennial Circuit
Lot 7 DP812667	8 Centennial Circuit
Lot 6 DP812667	10 Centennial Circuit
Lot 5 DP812667	12 Centennial Circuit
Lot 4 DP812667	14 Centennial Circuit
Lot 3 DP812667	16 Centennial Circuit
Lot 2 DP812667	18 Centennial Circuit
Lot 1 DP812667	20 Centennial Circuit
Lot 1 DP794202	22 Centennial Circuit
Lot 134 DP1068567	46 Centennial Circuit
Lot 133 DP1068567	50 Centennial Circuit
SP84694	52 Centennial Circuit
SP80872	53 Centennial Circuit
Lot 106 DP1034055	54 Centennial Circuit
SP74335	55 Centennial Circuit
Lot 105 DP1034055	56 Centennial Circuit
SP108308	57 Centennial Circuit
SP91634	58 Centennial Circuit
SP74173	59 Centennial Circuit
SP70409	60 Centennial Circuit
SP71432	61 Centennial Circuit
SP88259	63 Centennial Circuit
Lot 97 DP872822	64 Centennial Circuit

Property description	Street address
SP68919	65 Centennial Circuit
SP86471	66 Centennial Circuit
Lot 110 DP1034055	67 Centennial Circuit
SP74316	69 Centennial Circuit
SP82403	71 Centennial Circuit
Lot 126 DP1047396	15 Wollongbar Street

The list of properties in the proposal should be updated prior to agency and community consultations to include Lot 22 DP 812667, Centennial Circuit, which has been accidentally omitted. Part 1 of the proposal should also be revised to specify a total of 31 (not 30) properties. Appropriate conditions are recommended for inclusion in the Gateway determination.

1.5 Mapping

The proposal includes a site map showing the subject land. The existing and proposed APU maps should however also be included and an appropriate condition is recommended for the Gateway determination.

The final LEP mapping will need to comply with the Standard Technical Requirements for Standard Instrument LEP Maps prior to the amendment being finalised.

1.6 Background

The Department of Planning, Housing and Infrastructure completed the Employment Zones reform in December 2021, which involved translating the state's former Business and Industrial zones into new Employment zones.

Previously, the proposed APUs were allowed, with consent, under the B7 zoning of the subject site. However, after the Employment Zones reform, the B7 zone was translated to an E4 zone, which no longer permitted these uses.

As part of the reform, the Department included a savings and transitional provision in the Standard Instrument LEP Order 2006. This provision allows for the retention of permissibility under the former Business and Industrial zones for a two-year period, which will end on 26 April 2025.

2 Need for the planning proposal

Council has initiated this planning proposal in response to the Department's Employment Zones reform, which changed the site's zoning from B7 to E4 and removed the permissibility of the five proposed APUs.

As previously noted, the Standard Instrument LEP Order 2006 includes a savings and transitional provision allowing permissibility retention under the previous Business or Industrial zoning for two years until 26 April 2025. During this period, the Department has indicated that proponents can apply for a Schedule 1 APU amendment, or councils can update their land use tables, to align with the new zoning.

The proposed APUs could be implemented by amending the E4 land use table of Byron LEP 2014. However, the Council has advised that this option is not preferred, as the proposed APUs are not considered appropriate for the entire E4 zone which is an amalgamation of various zones under the former Byron LEP 1988.

Therefore, as proposed, a Schedule 1 APU amendment is the most effective and appropriate way to achieve Council's intended outcome.

3 Strategic assessment

3.1 Regional Plan

The planning proposal is considered to be generally consistent with the goals, objectives and overall intent of the North Coast Regional Plan 2041. While it will allow certain uses such as business premises and offices premises that may not normally be associated with an E4 General Industrial zone, it is considered satisfactory in the circumstances noting that the uses have been permissible already on the land for a number of years under the former business park zoning.

3.2 Local

The proposal confirms that it aligns with the Byron Shire Local Strategic Planning Statement 2020, as it supports a diverse range of businesses in the Byron Arts and Industry Estate, essential for fostering a resilient economic future for the Shire.

Additionally, the proposal is considered to align with the Byron Business and Industrial Lands Strategy 2020, the Byron Arts and Industry Estate Precinct Plan 2019, the Byron Shire Community Strategic Plan 2032, and the Draft Byron Shire Business, Industry and Visitor Economy Strategy 2035.

3.3 Section 9.1 Ministerial Directions

The planning proposal is considered to be consistent with all relevant section 9.1 Directions except as discussed below:

Table 4 - s9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
4.1 Flooding	Justifiably inconsistent	<p>The proposal is inconsistent with this direction as part of the site is subject to flooding in a 1:100 year event and the PMF (see Figure 5) and does not include provisions that give effect to the NSW Flood Prone Land Policy, the principles of the Floodplain Development Manual 2005, the Considering Flooding in Land Use Planning Guidelines 2021, or any adopted flood study and or floodplain risk management plan.</p> <p>This inconsistency is considered to be of minor significance as the proposal is a consequential amendment resulting from the Department's Employment Zones reform and does not seek to increase development potential beyond what was previously permitted under the former B7 zoning of the site. Additionally, any potential flood issues related to future development can be adequately addressed in a subsequent development application.</p>
4.3 Planning for Bushfire Protection	Unresolved	<p>The planning proposal is potentially inconsistent with this direction as it applies to land identified as being bushfire prone. This direction requires that Council consult with the</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
		Commissioner of the NSW Rural Fire Service following the issue of a Gateway determination. Until this consultation has occurred the inconsistency of the proposal with this direction remains unresolved.
4.5 Acid Sulfate Soils	Justifiably inconsistent	<p>The proposal is inconsistent with this direction as the site is affected by Class 5 acid sulfate soils and is not supported by an acid sulfate soils study.</p> <p>This inconsistency is considered to be of minor significance as the proposal is a consequential amendment resulting from the Department's Employment Zones reform and does not seek to increase development potential beyond what was previously permitted under the former B7 zoning of the site. Additionally, the LEP already contains acid sulfate soil provisions that can ensure this issue is adequately addressed in a subsequent development application.</p>

3.4 State environmental planning policies (SEPPs)

The planning proposal is considered to be consistent with all relevant SEPPs.

4 Site-specific assessment

4.1 Environmental

The proposal is not expected to have any significant environmental impacts. Any constraints to future development, such as potential high environmental values, flooding, bushfire, acid sulfate soils, and the like, can be addressed at the development application stage and controlled through existing provisions of the Byron LEP 2014 and Council's Development Control Plan.

4.2 Social and economic

The proposal involves a minor consequential amendment in response to the department's Employment Zones reform and is not considered likely to result in any adverse social or economic impacts.

4.3 Infrastructure

There is no demand for public infrastructure arising from this planning proposal. Any proposed future development will require an assessment of the availability and adequacy of service infrastructure needed to support a proposal.

5 Consultation

5.1 Community

Council does not specify a proposed community consultation period.

A period of 10 working days is considered appropriate consistent with the Department's LEP Making Guideline (August 2023) for a basic LEP and forms part of the conditions of the Gateway determination.

5.2 Agencies

Council has nominated that the NSW Rural Fire Service, the Tweed Byron Local Aboriginal Land Council, and the Arakwal Corporation be consulted on the planning proposal. This is considered reasonable and it is recommended that these agencies be given 30 working days to comment.

6 Timeframe

Council proposes a 6 month timeframe to complete the LEP.

This aligns with the LEP Plan Making Guidelines (August 2023) benchmark timeframe for a basic LEP and advice to this effect is recommended in the Gateway determination.

7 Local plan-making authority

Council has advised that it would like to exercise its functions as a local plan-making authority.

As the planning proposal is of local significance and is generally consistent, or justifiably inconsistent with the State, regional and local planning framework, it is recommended that Council be authorised to be the local plan-making authority for this proposal.

8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- the proposal comprises a minor consequential amendment in response to the Department's Employment Zones reform and implementation;
- the proposal will assist in ensuring the ongoing development and operation of the Byron Arts and Industry Estate as intended; and
- the proposal is generally consistent, or justifiably inconsistent with the State, regional and local planning framework.

Based on the assessment outlined in this report, the proposal must be updated before agency and community consultation to:

- revise Part 1 to correct the stated number of properties affected by the proposal;
- revise Part 2 to remove the land use table and only specify the uses to be included in Schedule 1 and also include Lot 22 DP 812667, Centennial Circuit, in Table 2; and
- include the existing and proposed LEP Additional Permitted Use maps to illustrate the proposed change.

9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistency with section 9.1 Directions 4.1 Flooding and 4.5 Acid Sulfate Soils is minor or justified; and
- Note that the consistency with section 9.1 Direction 4.3 Planning for Bushfire Protection is unresolved and will require justification.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to conditions.

The following conditions are recommended to be included on the Gateway determination:

1. Prior to agency and community consultations, the planning proposal is to be updated to:
 - revise Part 1 to correct the stated number of properties affected by the proposal;
 - revise Part 2 to remove the land use table and only specify the uses to be included in Schedule 1 and also include Lot 22 DP 812667, Centennial Circuit, in Table 2; and
 - include existing and proposed LEP Additional Permitted Use maps to illustrate the proposed change.
2. Consultation is required with the following public authorities for a minimum of 30 working days:
 - NSW Rural Fire Service
 - Tweed Byron Local Aboriginal Land Council
 - Arakwal Corporation
3. The planning proposal should be made available for community consultation for a minimum of 10 working days.

Given the nature of the planning proposal, it is recommended that the Gateway authorise council to be the local plan-making authority and that the LEP be completed within 6 months of the date of the Gateway determination.



2 April 2025

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3 April 2025

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