

Byron Shire Council

## **Planning Proposal 26.2024.11.1**

### **Amendment of Byron Local Environmental Plan 2014**

### **Additional Permitted Uses on certain lots, Byron Arts & Industry Estate**

**Pre Gateway Version #1**

**Date: March 2025  
#E2024/150938**



**BYRON  
SHIRE  
COUNCIL**

### Document History

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E2024/150938	February 2024	Draft Planning Proposal for Gateway submission

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## Part 1 Introduction

### 1.1 Objective and intended outcomes

The objective of this planning proposal is to allow Additional Permitted Uses on certain lots within Zone E4 General Industrial, located on Centennial Circuit in the Byron Arts and Industry Estate. This will serve two functions:

- Satisfy the employment zones translation principle that if a use was permitted previously, then it should remain permitted
- Resolve any potential need to rely on existing use rights once the savings provisions expire.

The planning proposal will allow five (5) additional land uses that were previously permitted on land permitted zoned B7 Business Park, but not included in the E4 General Industrial zone that currently applies to the land. This change will better align with the existing land uses in this precinct and responds to submissions received in response to DPHI's public exhibition of the 'Employment Zones' Subject land.

This Planning Proposal relates to the northwestern area of the E4 General Industrial Zone shown with a yellow border in Figure 1.



Figure 1: Subject land, Centennial Circuit, Byron Arts and Industry Estate.

The subject area contains 30 land parcels and is located on Centennial Circuit within the Byron Arts and Industry Estate (BAIE). Centennial Circuit joins Bayshore Drive, the primary access into the BAIE from Ewingsdale Road.

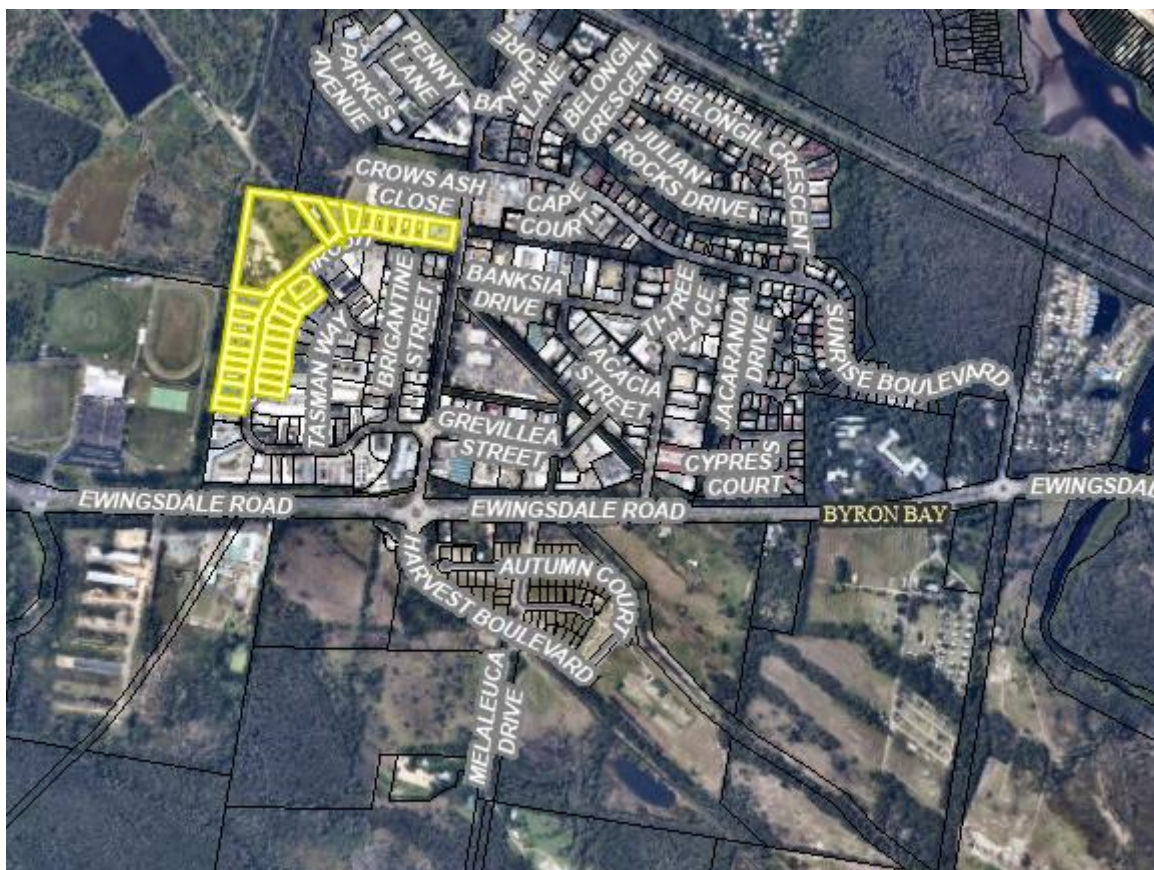


Figure 2: Surrounding area, Byron Arts and Industry Estate.

Figure 2 shows the BAIE and surrounding area, the site is adjoined to the north by the TAFE NSW Connected Learning Centre, to the west is Byron Bay Integrated Water Management Reserve and the Cavanbah Sports and Cultural Centre.

## 1.2 Background

In 2022, the NSW Department of Planning, Housing and Infrastructure (DPHI) introduced [employment zones reform](#) to all local government areas in NSW. The simplified employment zones framework is designed to be more compatible with the future of work, while facilitating the delivery of strategic plans and planning priorities. The updated framework replaced existing business and industrial zones in [Byron LEP 2014](#) with consolidated employment zones.

Council was consulted by DPHI in 2021 and provided feedback to the department following a review of the proposed land use reforms and their application in Byron Shire. The new employment zones framework was [adopted](#) (**Res. 22-169**) at the Council meeting of 28 April 2022, and came into effect in April 2023. Savings and transitional provisions were included, allowing existing land use permissibility until April 2025 to allow Councils time to finalise required LEP amendments.

Council [resolved](#) (**Res. 24-283**) at the Ordinary meeting of 15 August 2024 to allow additional permitted uses on certain lots within Zone E4 General Industrial, located on Centennial Circuit of the Byron Arts and Industry Estate.



## Part 2 Explanation of provisions

This planning proposal seeks to include additional permitted uses on certain lots in the E4 General Industrial Zone which were previously zoned B7 Business Park due to existing land uses not being permitted, or considered appropriate in the E4 Zone.

It is proposed to amend [Schedule 1 Additional permitted uses](#) and the corresponding [Additional Permitted Uses Map](#) in LEP 2014 to include the proposed uses highlighted **red** in the table 1 below.

The lots listed below in Table 2 seen bordered in yellow in Figure 1, will be added to the LEP 2014 Additional Permitted Uses Map.

Table 1. Current and Proposed Additional Permitted Land Uses Zone E4 General Industrial.

<b>Current:</b> <a href="#">Zone E4 General Industrial</a>	<b>Proposed:</b> Zone E4 General Industrial (Additional permitted uses highlighted in <b>red</b> )
<b>2. Permitted without consent</b> Environmental protection works	<b>2. Permitted without consent</b> Environmental protection works
<b>3. Permitted with consent</b>  Depots; Freight transport facilities; Garden centres; General industries; Goods repair and reuse premises; Hardware and building supplies; Industrial retail outlets; Industrial training facilities; Landscaping material supplies; Light industries; Liquid fuel depots; Local distribution premises; Markets; Neighbourhood shops; Oyster aquaculture; Plant nurseries; Rural supplies; Specialised retail premises; Take away food and drink premises; Tank-based aquaculture; Timber yards; Vehicle sales or hire premises; Warehouse or distribution centres; Any other development not specified in item 2 or 4	<b>3. Permitted with consent</b>  <b>Business premises;</b> Depots; Freight transport facilities; Garden centres; General industries; Goods repair and reuse premises; Hardware and building supplies; <b>Health services facilities;</b> Industrial retail outlets; Industrial training facilities; Landscaping material supplies; Light industries; Liquid fuel depots; Local distribution premises; Markets; Neighbourhood shops; <b>Office Premises;</b> Oyster aquaculture; <b>Passenger transport facilities;</b> Plant nurseries; <b>Recreation areas;</b> Rural supplies; Specialised retail premises; Take away food and drink premises; Tank-based aquaculture; Timber yards; Vehicle sales or hire premises; Warehouse or distribution centres; Any other development not specified in item 2 or 4
<b>4. Prohibited</b> Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Commercial	<b>4. Prohibited</b> Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Commercial

<b>Current:</b> <a href="#">Zone E4 General Industrial</a>	<b>Proposed:</b> Zone E4 General Industrial (Additional permitted uses highlighted in <b>red</b> )
premises; Correctional centres; Eco-tourist facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Health services facilities; Heavy industrial storage establishments; Helipads; Highway service centres; Home-based child care; Home businesses; Home occupations; Home occupations (sex services); Industries; Jetties; Marinas; Mooring pens; Moorings; Open cut mining; Passenger transport facilities; Recreation areas; Recreation facilities (major); Recreation facilities (outdoors); Registered clubs; Research stations; Residential accommodation; Rural industries; Sex services premises; Tourist and visitor accommodation; Truck depots; Water recreation structures; Water supply systems; Wharf or boating facilities	premises; Correctional centres; Eco-tourist facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; <b>Health services facilities</b> ; Heavy industrial storage establishments; Helipads; Highway service centres; Home-based child care; Home businesses; Home occupations; Home occupations (sex services); Industries; Jetties; Marinas; Mooring pens; Moorings; Open cut mining; <b>Passenger transport facilities</b> ; <b>Recreation areas</b> ; Recreation facilities (major); Recreation facilities (outdoors); Registered clubs; Research stations; Residential accommodation; Rural industries; Sewage treatment plants; Tourist and visitor accommodation; Truck depots; Water recreation structures; Water supply systems; Wharf or boating facilities

Table 2. Lots previously zoned B7 Business Park.

<b>Parcel Location</b>	<b>Lot Details</b>
2 Centennial Circuit	Lot 9 DP812667
8 Centennial Circuit	Lot 7 DP812667
6 Centennial Circuit	SP76166
10 Centennial Circuit	Lot 6 DP812667
12 Centennial Circuit	Lot 5 DP812667
14 Centennial Circuit	Lot 4 DP812667
16 Centennial Circuit	Lot 3 DP812667
18 Centennial Circuit	Lot 2 DP812667
22 Centennial Circuit	Lot 1 DP794202
20 Centennial Circuit	Lot 1 DP812667

<b>Parcel Location</b>	<b>Lot Details</b>
46 Centennial Circuit	Lot 134 DP1068567
50 Centennial Circuit	Lot 133 DP1068567
52 Centennial Circuit	SP84694
54 Centennial Circuit	Lot 106 1034055
56 Centennial Circuit	Lot 105 1034055
66 Centennial Circuit	SP86471
71 Centennial Circuit	SP82403
64 Centennial Circuit	Lot 97 DP872822
60 Centennial Circuit	SP70409
58 Centennial Circuit	SP91634
69 Centennial Circuit	SP74316
67 Centennial Circuit	Lot 110 DP1034055
65 Centennial Circuit	SP68919
63 Centennial Circuit	SP88259
61 Centennial Circuit	SP71432
59 Centennial Circuit	SP74173
57 Centennial Circuit	SP108308
55 Centennial Circuit	SP74335
53 Centennial Circuit	SP80872
15 Wollongbar Street	Lot 126 1047396



## Part 3 Justification

### Section A Need for the planning proposal

**Q1. Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?**

No. This Planning Proposal is the result of the NSW Department of Planning, Housing and Infrastructure's (DPHI) introduced Employment zones reform which replaced the business and industrial zones in the Byron LEP 2014 in April 2023. However, the planning proposal is consistent with Council's endorsed LSPS (as discussed in Q4 below).

**Q2. Is the planning proposal the best means of achieving the objective or intended outcomes, or is there a better way?**

Yes. A planning proposal is the best and only way for the additional permitted uses to be added to the updated employment zones.

### Section B Relationship to strategic planning framework

**Q3. Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (in this case the North Coast Regional Plan 2041)?**

Yes. The planning proposal is consistent with the North Coast Regional Plan 2041, which is a 20-year blueprint for the future of the North Coast. The NSW Government's 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'.

The site is identified as 'existing employment land' within the 'urban growth area' defined by the North Coast Regional Plan. It is also within the 'coastal strip' defined by the Plan.

The planning proposal is consistent with the following objectives in the NCRP:

- Objective 12: Create a diverse visitor economy.
- Objective 14: Deliver new industries of the future.
- Objective 16: Increase active and public transport usage.
- Objective 18: Plan for sustainable communities.
- Objective 20: Celebrate local character

The planning proposal aligns with the Byron Shire local government narrative described in the Plan, especially:

- Support a resilient and innovative economy based on Byron Shire's unique character, landscapes and important farmland, and
- Empower communities to shape the local economy in a manner that creates diverse and inclusive employment opportunities.

**Q4. Is the planning proposal consistent with a LSPS that has been endorsed by the Planning Secretary or other local strategy or strategic plan?**

Yes, the planning proposal is consistent with the following local plans and strategies:

**Byron Shire Community Strategic Plan (2032)**

The Byron Shire Community Strategic Plan 2032 is a whole-of-Byron Shire document that has been developed following in-depth community engagement to understand the community's collective vision, aspirations, and priorities. The Community Strategic Plan guides Council activities over the next ten years.

This planning proposal aligns strongly with the community objective 4: Ethical Growth – We manage growth and change responsibly through strategic objective 4.3: Promote and support the local economy.

**Byron Shire Local Strategic Planning Statement (2020)**

The Byron Shire Local Strategic Planning Statement presents a 2036 framework for future land use within the shire. It outlines four key priority areas for the Byron Shire including: a sustainable shire, a liveable shire, a thriving shire and a connected shire.

This planning proposal aligns especially with the priority 'A Thriving Shire' and links to the following priority actions:

Thriving Priority 1, Support a strong diversified and sustainable economy based on Byron Shire's unique character, landscapes and important farmland

Thriving Priority 4, Deliver an adequate supply of employment land.

This planning proposal aims to contribute to a resilient economic future for the Byron Shire by ensuring that a diversity of businesses can continue to grow and thrive in the BAIE.

**Byron Business and Industrial Lands Strategy (2020)**

The Byron Business and Industrial Lands Strategy aims to create business centres and industrial areas that work for people, commerce and the environment. The strategy identifies the BAIE as the largest industrial estate in the Shire.

The strategy presents 5 directions to deliver this aim:

Direction 1: Enable business centres to retain an individual identity and fulfil their potential.

Direction 2: Improve the use of existing industrial areas for industrial and urban services

Direction 3: Secure a sustainable long-term supply of suitable industrial lands

Direction 4: Promote an attractive investment environment with people-friendly industrial areas and business centres

Direction 5: Improve infrastructure in business centres and industrial areas.

The planning proposal aligns closely with Directions 1, 2 and 4.

### **Byron Arts & Industry Estate Precinct Plan (2019)**

The purpose of the Precinct Plan is to present a shared vision for the BAIE, and a high-level road map to achieving that vision.

The 20-year vision: The BA&IE celebrates diversity and has stayed true to its rich history of making, testing and experimenting.

Theme 4 Land Use identifies the three different planning zones in place at the time:

- B4 Mixed Use applies to Habitat and Sunrise Tavern
- B7 Business Park in the northwest
- IN2 Light Industrial makes up the balance.

The plan acknowledges that the eclectic range of land uses contributes to the precinct's vibrancy.

This planning proposal supports the aims of the precinct plan, to ensure that the BAIE maintains its diversity while addressing the needs of different businesses.

### **Draft Byron Shire Business, Industry and Visitor Economy Strategy (2035)**

Council is currently finalising the above strategy which is combining our business sectors under one strategy. The Business, Industry, and Visitor Economy Strategy is being developed to provide a clear direction for a resilient, adaptable, and sustainable economy.

The planning proposal aligns with the following key themes of the Draft strategy:

#### **Foster Business Engagement**

- Encourage innovation and sustainability.
- Support regional engagement.

#### **Celebrate Our Business and Brand Identity**

- Promote our innovative and circular business environment.
- Celebrate our towns and villages.

#### **Plan for a Sustainable Economy**

- Ensure spaces for businesses and residents.
- Streamline regulatory processes.
- Leverage major redevelopment sites.
- Augment infrastructure.

### **Q5. Is the planning proposal consistent with any other applicable State and regional studies or strategies?**

As the planning proposal is the result of the NSW Employment Zones Reform, it is not inconsistent with any State and regional study or strategy.

### **Q6. Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPPs)?**

The planning proposal seeks to make minor amendments to maintain existing uses within the subject area. Therefore, the planning proposal does not preclude to application of, and is consistent with, relevant State Environmental Planning Policies.

**Q7. Is the planning proposal consistent with the applicable Ministerial Directions (s.9.1 directions)?**

Consistency with the Local Planning Directions is assessed in the tables below.

## 1. Planning Systems

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
1.1 Implementation of Regional Plans	<p>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> <p>(a) the extent of inconsistency with the Regional Plan is of minor significance, and</p> <p>(b) the planning proposal achieves the overall intent of the Regional Plan and does not undermine the achievement of the Regional Plan's vision, land use strategy, goals, directions or actions.</p>	<p>The subject site is mapped 'existing employment land' within the Urban Growth Area.</p> <p>The planning proposal seeks to add additional permitted uses to the nominated area to ensure consistency with previous zone of B7 Business Park, resulting from its replacement with E4 under the NSW Governments employment zones reform.</p> <p>The planning proposal is consistent with the relevant NCRP vision and objectives.</p>	Consistent
1.2 Development of Aboriginal Land Council Land	Applies when preparing a planning proposal for land shown on the Land Application Map of chapter 3 of the State Environmental Planning Policy (Planning Systems) 2021.	Not currently applicable to Byron Shire.	Not applicable
1.3 Approval and Referral	<p>A planning proposal must:</p> <p>(a) minimise the inclusion of provisions that</p>	The planning proposal will not include provisions that require the concurrence, consultation or referral of development applications to a Minister or	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
Requirements	<p>require the concurrence, consultation or referral of development applications to a Minister or public authority, and</p> <p>(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:</p> <ul style="list-style-type: none"> <li>i. the appropriate Minister or public authority, and</li> <li>ii. the Planning Secretary (or an officer of the Department nominated by the Secretary),</li> </ul> <p>prior to undertaking community consultation in satisfaction of Schedule 1 to the EP&amp;A Act, and</p> <p>(c) not identify development as designated development unless the relevant planning authority:</p> <ul style="list-style-type: none"> <li>i. can satisfy the Planning Secretary (or an officer of the Department nominated by the Secretary)</li> </ul> <p>that the class of development is likely to have a significant impact on the environment, and</p> <ul style="list-style-type: none"> <li>ii. has obtained the approval of the Planning Secretary (or an officer of the Department</li> </ul>	<p>public authority.</p> <p>It also does not identify development as designated development.</p>	



S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	nominated by the Secretary) prior to undertaking community consultation in satisfaction of Schedule 1 to the EP&A Act.		
1.4 Site Specific Provisions	<p>Applies when preparing a planning proposal that will allow a particular development to be carried out.</p> <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>The planning proposal does not seek to allow a particular development to be carried out or impose any development standards or requirements in addition to those already contained in Byron LEP 2014.</p> <p>In this case, the planning proposal is adding additional permitted uses to accommodate existing permissible uses within the former B7 Business Park zone, prior to the implementation of the NSW Governments employment zone reforms which transitioned this area to E4 General Industrial zone.</p> <p>The Savings and Transitional provisions recognising land uses previously permitted in B7 zone expire on 26 April 2025.</p>	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	(2) A planning proposal must not contain or refer to drawings that show details of the proposed development.		
1.5 – 1.22	Not applicable to Byron Shire	Not applicable	Not applicable


### 3. Biodiversity and Conservation


S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
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 an conservation 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>	The Planning Proposal does not affect land within a conservation zone.	Not applicable

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
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 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 National Parks and Wildlife Act 1974, 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 area has no European heritage items located on it.</p> <p>BLEP14 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>	Consistent
3.3 Sydney Drinking Water Catchments	Not applicable to Byron Shire	Not applicable	Not applicable

<b>S. 9.1 Direction</b>	<b>Application</b>	<b>Relevance to this planning proposal</b>	<b>Consistency</b>
3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	A planning proposal that introduces or alters an C2 Environmental Conservation or C3 Environmental Management zone or an overlay and associated clause must apply that proposed C2 Environmental Conservation or C3 Environmental Management zone, or the overlay and associated clause, in line with the Northern Councils E Zone Review Final Recommendations.	This planning proposal does not alter or introduce Environmental/Conservation zones.	Not applicable
3.5 Recreation Vehicle Areas	A planning proposal must not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the Recreation Vehicles Act 1983).	Not applicable	Not applicable
3.6 Strategic Conservation Planning	This direction applies to all relevant planning authorities when preparing a planning proposal that relates to land that, under the State Environmental Planning Policy (Biodiversity and Conservation) 2021, is identified as avoided land or a strategic conservation area.	Not applicable	Not applicable
3.7 – 3.10	Not applicable to Byron Shire	Not applicable	Not applicable

#### 4. Resilience and Hazards

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
4.1 Flooding	<p>This direction applies when preparing a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.</p> <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 Floodplain Development Manual 2005 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</p>	<p>This planning proposal is adding additional permitted uses that were in the former B7 Business Park zone, prior to the implementation of the NSW Governments employment zone reforms which transitioned this area to E4 General Industrial zone. The Savings and Transitional provisions recognising land uses previously permitted in B7 zone expire on 26 April 2025.</p> <p>Parts of the subject area are identified as a flood prone in Council's Flood Mapping, as shown below.</p> 	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>which:</p> <ul style="list-style-type: none"> <li>(a) permit development in floodway areas,</li> <li>(b) permit development that will result in significant flood impacts to other properties,</li> <li>(c) permit development for the purposes of residential accommodation in high hazard areas,</li> <li>(d) permit a significant increase in the development and/or dwelling density of that land,</li> <li>(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,</li> <li>(f) permit development to be carried out without development consent except for the purposes of exempt development or agriculture. Dams, drainage canals, levees, still require development consent,</li> <li>(g) are likely to result in a significantly 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</li> <li>(h) permit hazardous industries or hazardous storage establishments where hazardous materials cannot be effectively contained during</li> </ul>	<p>Future Flood Planning Level – 1:100 ARI + 0.5m freeboard + CC to 2100</p>  <p>Flood Prone Land susceptible to flooding by the PMF event</p> <p>Any new proposals or development in this area would be required to address <a href="#">clause 5.21 Flood planning</a> in Byron LEP 2014.</p>	



S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>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> <p>(b) permit development that will result in significant flood impacts to other properties,</p> <p>(c) permit a significant increase in the dwelling density of that land,</p> <p>(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,</p> <p>(e) are likely to affect the safe occupation of and efficient evacuation of the lot, or</p> <p>(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</p>		

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>utilities.</p> <p>(5) For the purposes of preparing a planning proposal, the flood planning area must be consistent with the principles of the Floodplain Development Manual 2005 or as otherwise determined by a Floodplain Risk Management Study or Plan adopted by the relevant council.</p>		
4.2 Coastal Management	<p>This direction applies when a planning proposal authority prepares a planning proposal that applies to land that is within the coastal zone, as defined under the Coastal Management Act 2016 - 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 State Environmental Planning Policy (Resilience and Hazards) 2021.</p>	<p>The site is not subject to chapter 2 of State Environmental Planning Policy (Resilience and Hazards) 2021 as not within any of the aforementioned SEPP mapping layers.</p>	Not applicable
4.3 Planning for Bushfire Protection	<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&amp;A Act, and take into account any comments so made.</p>	<p>The land is mapped as bush fire prone land and contains vegetation mapped as Vegetation Category 3 (medium risk) and Vegetation Buffer.</p> <p>Consultation with RFS will be undertaken in accordance with Gateway determination requirements.</p>	<p>Justifiably Inconsistent</p> <p>(Consultation with RFS required)</p>

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>(2) A planning proposal must:</p> <ul style="list-style-type: none"> <li>(a) have regard to Planning for Bushfire Protection 2019,</li> <li>(b) introduce controls that avoid placing inappropriate developments in hazardous areas, and</li> <li>(c) ensure that bushfire hazard reduction is not prohibited within the Asset Protection Zone (APZ).</li> </ul> <p>(3) A planning proposal must, where development is proposed, comply with the following provisions, as appropriate:</p> <ul style="list-style-type: none"> <li>(a) provide an Asset Protection Zone (APZ) incorporating at a minimum: <ul style="list-style-type: none"> <li>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</li> <li>ii. an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road,</li> </ul> </li> <li>(b) for infill development (that is development</li> </ul>		

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>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 Rural Fires Act 1997), the APZ provisions must be complied with,</p> <ul style="list-style-type: none"> <li>(c) contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks,</li> <li>(d) contain provisions for adequate water supply for firefighting purposes,</li> <li>(e) minimise the perimeter of the area of land interfacing the hazard which may be developed,</li> <li>(f) introduce controls on the placement of combustible materials in the Inner Protection Area.</li> </ul>		
4.4 Remediation of Contaminated Land	<p>This direction applies to:</p> <ul style="list-style-type: none"> <li>(a) land that is within an investigation area within the meaning of the Contaminated Land Management Act 1997,</li> </ul>	<p>This planning proposal is adding additional permitted uses that were in the former B7 Business Park zone, prior to the implementation of the NSW Governments employment zone reforms which transitioned this area to E4 General Industrial zone. The Savings and Transitional provisions</p>	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>(b) land on which development for a purpose referred to in Table 1 to the contaminated land planning 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 local environmental plan) any land to which this direction applies if the inclusion of the land in that zone would permit a change of use of the land, unless:</p> <p>(a) the planning proposal authority has considered whether the land is contaminated, and</p>	<p>recognising land uses previously permitted in B7 zone expire on 26 April 2025.</p> <p>As the subject lands are already zoned and largely developed for industrial/business purposes, more contaminated land assessments will be required as part of future development applications in this precinct.</p>	

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>(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</p> <p>(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> <p>In order to satisfy itself as to paragraph 1(c), the planning proposal authority may need to include certain provisions in the local environmental plan.</p> <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 carried out in accordance with the contaminated land planning guidelines</p>		
4.5 Acid Sulfate Soils	This direction applies to all relevant planning authorities that are responsible for land having a probability of containing acid sulfate soils when preparing a planning proposal that will apply to land having a probability of containing acid sulfate	The land parcels within the subject area are mapped as Acid Sulfate Soils Class 3. As this planning proposal seeks to maintain existing uses through the application of additional permitted uses	Consistent.



S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>soils as shown on the Acid Sulfate Soils Planning Maps held by the Department of Planning and Environment.</p> <p>(1) The relevant planning authority must consider the Acid Sulfate Soils Planning Guidelines adopted by the Planning Secretary when preparing a planning proposal that applies to any land identified on the Acid Sulfate Soils Planning Maps as having a probability of acid sulfate soils being present.</p> <p>(2) When a relevant planning authority is preparing a planning proposal to introduce provisions to regulate works in acid sulfate soils, those provisions must be consistent with:</p> <p>(a) the Acid Sulfate Soils Model LEP in the Acid Sulfate Soils Planning Guidelines adopted by the Planning Secretary, or</p> <p>(b) other such provisions provided by the Planning Secretary that are consistent with the Acid Sulfate Soils Planning Guidelines.</p> <p>(3) 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</p>	<p>it is consistent with this direction.</p> <p>Future development applications within this precinct will be assessed against <a href="#">clause 6.1</a> – Acid Sulfate Soils of Byron LEP 2014.</p>	

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>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>(4) Where provisions referred to under 2(a) and 2(b) above of this direction have not been introduced and the relevant planning authority is preparing a planning proposal that proposes an intensification of land uses on land identified as having a probability of acid sulfate soils on the Acid Sulfate Soils Planning Maps, the planning proposal must contain provisions consistent with 2(a) and 2(b).</p>		
4.6 Mining Subsidence and Unstable Land	This direction applies when a relevant planning authority prepares a planning proposal that permits development on land that is within a declared mine subsidence district in the Coal Mine Subsidence Compensation Regulation 2017 pursuant to section 20 of the Coal Mine Subsidence Compensation Act 2017, 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	This planning proposal does not impact on any mine subsidence area.	Not applicable

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	public authority and provided to the relevant planning authority.		

## 5. Transport and Infrastructure

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
5.1 Integrated Land Use and Transport	<p>This direction applies when preparing 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.</p> <p>1) 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> <p>(a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and</p> <p>(b) The Right Place for Business and Services – Planning Policy (DUAP 2001).</p>	<p>This planning proposal is adding additional permitted uses that were in the former B7 Business Park zone, prior to the implementation of the NSW Governments employment zone reforms which transitioned this area to E4 General Industrial zone. Therefore this direction is not applicable.</p>	Not applicable
5.2 Reserving Land for Public Purposes	<p>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</p>	<p>The planning proposal does not relate to public land.</p>	Not applicable

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	Secretary (or an officer of the Department nominated by the Secretary).		
5.3 Development Near Regulated Airports and Defence Airfields	Applies when preparing a planning proposal that will create, alter or remove a zone or a provision relating to land near a regulated airport which includes a defence airfield.	The land is not near a regulated airport that includes a defence airfield.	Not applicable
5.4 Shooting Ranges	Applies when preparing 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	The land is not adjacent to, or adjoining, an existing shooting range.	Not applicable

## 6. Housing

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
6.1 Residential Zones	<p>Applies when preparing 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.</p> <p>(1) A planning proposal must include provisions that encourage the provision of housing that will:</p>	The land is not located in a residential zone or a zone in which significant residential development is permitted.	Not applicable

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<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>(2) 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>		
6.2 Caravan Parks and Manufactured Home Estates	Applies when a planning proposal affects land for Caravan Parks and Manufactured Home Estates.	Not applicable	Not applicable

## 7. Industry and Employment

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
7.1 Employment Zones	<p>This direction applies to all relevant planning authorities when preparing a planning proposal that will affect land within an existing or proposed Employment zone (including the alteration of any existing Employment zone boundary).</p> <p>A planning proposal must:</p> <ul style="list-style-type: none"> <li>(a) give effect to the objectives of this direction,</li> <li>(b) retain the areas and locations of Employment zones,</li> <li>(c) not reduce the total potential floor space area for employment uses and related public services in business zones,</li> <li>(d) not reduce the total potential floor space area for industrial uses in E4, E5 and W4 zones, and</li> <li>(e) ensure that proposed employment areas are in accordance with a strategy that is approved by the Planning Secretary.</li> </ul>	<p>This planning proposal meets the objectives of this direction. The proposal is seeking to maintain existing business uses within the Byron Arts and Industry Estate, which is an existing employment land in the North Coast Regional Plan.</p>	Consistent
7.2 Reduction in non-hosted short-term rental accommodation	<p>This direction 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</p>	Not applicable	Not applicable



S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
period	carried out in parts of its local government area.		
7.3 Commercial and Retail Development along the Pacific Highway, North Coast	Applies to land in the vicinity of the existing and/or proposed alignment of the Pacific Highway.	The Byron Arts and Industry Estate is not within close proximity to the Pacific Highway. The subject area of this planning proposal comprises primarily light industrial and commercial land uses.	Not applicable

## 8. Resources and Energy

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
8.1 Mining, Petroleum Production and Extractive Industries	<p>This direction applies to all relevant planning authorities when preparing a planning proposal that would have the effect of:</p> <ul style="list-style-type: none"> <li>(a) prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or</li> <li>(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</li> </ul>	<p>The planning proposal will not have the effect of prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials.</p> <p>The planning proposal will not restrict the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance.</p>	Not applicable

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	development.		

## 9. Primary Production

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
9.1 Rural Zones	<p>Applies when a 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>A planning proposal must:</p> <p>(a) not rezone land from a rural zone to a residential, employment, mixed use, SP4 Enterprise, SP5 Metropolitan Centre, W4 Working Waterfront, village or tourist zone.</p> <p>(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)</p>	The planning proposal pertains to existing employment lands, it does not impact rural zones.	Not applicable

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
9.2 Rural Lands	<p>This direction applies when a relevant planning authority prepares a planning proposal for land outside the local government areas of lake Macquarie, Newcastle, Wollongong and LGAs in the Greater Sydney Region (as defined in the Greater Sydney Commission Act 2015) other than Wollondilly and Hawkesbury, 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>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>(b) consider the significance of agriculture and primary production to the State and rural communities</p> <p>(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</p>	The planning proposal pertains to existing employment lands, it does not impact rural lands.	Not applicable

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>resources</p> <p>(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</p> <p>(e) promote opportunities for investment in productive, diversified, innovative and sustainable rural economic activities</p> <p>(f) support farmers in exercising their right to farm</p> <p>(g) prioritise efforts and consider measures to minimise the fragmentation of rural land and reduce the risk of land use conflict, particularly between residential land uses and other rural land use</p> <p>(h) consider State significant agricultural land identified in chapter 2 of the State Environmental Planning Policy (Primary Production) 2021 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>		

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<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 essential to rural industries or supply chains</p> <p>(c) where it is for rural residential purposes:</p> <p>i. is appropriately located taking account of the availability of human services, utility infrastructure, transport and proximity to existing centres</p> <p>ii. is necessary taking account of existing and future demand and supply of rural residential land.</p>		
9.3 Oyster Aquaculture	Applies when preparing a planning proposal in 'Priority Oyster Aquaculture Areas'	Not applicable	Not applicable
9.4 Farmland of State and Regional Significance on the NSW Far North	This direction applies when a relevant planning authority prepares a planning proposal for land within Ballina Shire, Byron Shire, Kyogle Shire, Lismore City, Richmond Valley and Tweed Shire local government areas, except land identified as	The subject lands are not mapped as regionally significant farmland, but as 'Committed Urban Use or Rural Residential Zone'.	Not applicable

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
Coast	<p>“urban growth areas” mapped in the North Coast Regional Plan 2041 when preparing a planning proposal, that applies to land:</p> <p>(a) mapped as</p> <ul style="list-style-type: none"> <li>i. State significant farmland, or</li> <li>ii. regionally significant farmland, or</li> <li>iii. significant non-contiguous farmland,</li> </ul> <p>(b) on the set of four maps held in the Department of Planning and Environment marked “Northern Rivers Farmland Protection Project, Final Map 2005 (Section 117(2) Direction)”.</p> <p>(1) A planning proposal must not:</p> <p>(a) rezone land identified as “State Significant Farmland” for urban or rural residential purposes.</p> <p>(b) rezone land identified as “Regionally Significant Farmland” for urban or rural residential purposes.</p> <p>(c) rezone land identified as “significant non-contiguous farmland” for urban or rural residential purposes.</p>		

## Section C Environmental, social and economic impact

**Q8. 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 seeks to include additional permitted uses to the subject area to maintain existing uses following the introduction of new employment zones under the NSW Governments employment zones reform.

**Q9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

No. The planning proposal seeks to include additional permitted uses to the subject area to maintain existing uses following the introduction of new employment zones under the NSW Governments employment zones reform.

**Q10. Has the planning proposal adequately addressed any social and economic effects?**

Yes. The planning proposal is demonstrated to align closely with Regional and Local strategies and plans. As the proposal is including additional permitted uses to accommodate existing permissible uses within subject area of the BAIE, it will enable a diversity of business types to continue to operate and grow will have positive social and economic effects immediately and in the future.

## Section D Infrastructure

**Q11. Is there adequate public infrastructure for the planning proposal?**

Access to the subject area is already in place via Centennial Circuit, which has been constructed to a standard suitable for industry. All other urban services are available to the subject area.

## Section E State and Commonwealth Interests

**Q12. What are the views of state and Commonwealth public authorities consulted in order to inform the Gateway determination?**

The Gateway determination has yet to be issued. It is anticipated that the following authorities and agencies will be consulted during public exhibition of the planning proposal:

- Rural Fire Service
- Tweed Byron LALC
- Arakwal Corporation

## Part 4 Mapping

The subject lands will be included in an Additional Permitted Uses map.

## Part 5 Community consultation

Community consultation will be conducted in accordance with the Gateway determination.

Notification of the exhibited planning proposal will include:

- updates to Council's website
- referral to relevant State agencies
- notification in writing to affected landowners

## Part 6 Project timeline

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

Plan making step	Estimated completion
Gateway Determination	March 2024
Agency Consultation	March – April 2024
Public Exhibition Period	April 2024
Submissions Assessment and report to Council	May-June 2024
Submission of endorsed LEP to DPHI for finalisation	July 2024
LEP amendment notification	August 2024



## Conclusion

This planning proposal is in response to the NSW Governments employment zone reforms which came into effect on the 26 April 2023. The proposal seeks to amend [Schedule 1 Additional permitted uses](#) and the corresponding [Additional Permitted Uses Map](#) in LEP 2014, to apply additional permitted uses to an area within the Byron Arts and Industry Estate that was previously zoned B7 Business Park. This area has since transitioned to E4 General Industrial zone. The Savings and Transitional provisions recognising land uses previously permitted in B7 zone expire on 26 April 2025.

The planning proposal is demonstrated to align closely with both regional and local strategic plans and objectives.

It is appropriate that the planning proposal be sent to the NSW DPHI for a Gateway determination so that it can proceed to public exhibition (subject to compliance with any Gateway conditions).