



**Planning Proposal
for Amendment of Byron Local Environmental Plan 2014
- 268 Ewingsdale Road (ex Sunnybrand Site), Byron Bay**

Byron Shire Council

Authority ref: 26.2015.7.1

V2 Gateway Version (Revised) (#E2016/92533)

Date: October 2016

Document History

Doc No.	Date Amended	Details Comments eg Resolution No.
E2016/63449		Planning Proposal Gateway Version
E2016/92533	October 2016	Planning Proposal Gateway Version (Revised)

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Part 1 Introduction

Objective and intended outcomes

The objective of this Planning Proposal is to rezone the subject land on the western edge of Byron Bay to provide for additional industrial development. It will also modify related Byron LEP 2014 planning controls to match the proposed industrial use of the land.

Property details and existing zones

This Planning Proposal relates to land located at 268 Ewingsdale Road, on the western edge of Byron Bay, described as part Lot 181 in Deposited Plan 755695. It also affects a Crown Land drainage reserve that traverses north east / south west through Lot 181 and is described as part Lot 7022 Deposited Plan 1113424 (Figure 1).

Lot 181 is approximately 17.4 hectares in area and has a 422 metre frontage to Ewingsdale Road (inclusive of the drainage reserve). The land has:

- an eastern boundary to the West Byron proposed development area and some freshwater wetlands,
- a western boundary with the Island Quarry reserve and some freshwater wetlands,
- a southern boundary to some freshwater wetlands,

It currently contains the remains of a decommissioned chicken processing factory and associated waste treatment infrastructure. It also contains two chicken growing sheds and associated roads and hard stand areas from previous chicken sheds.

There is some planted native vegetation (used for screening) at the Ewingsdale frontage to the site and some scattered remnant vegetation in other locations. There is a range of sedgeland in low lying areas throughout the site, including between the hardstand areas that once housed the chicken sheds. The freshwater wetlands at the rear of the site and on its boundaries are identified in SEPP 14 Coastal Wetlands.



Figure 1: Subject land

The land is currently zoned part RU2 Rural Landscape and part Deferred Matter under Byron LEP 2014 (Figure 2). The Deferred Matter land remains zoned part Rural 1(a) General Rural and part 7 (a) Wetlands zone under LEP 1988 as a result of Byron Shire not being permitted to include E2 and E3 zones in its 2014 LEP. About 13 hectares of the subject land is zoned RU2 and this is the part that the applicant has requested be amended by this Planning Proposal.



Figure 2: Current zoning map, Byron LEP 2014 and LEP 1988 (and SEPP 14 area in blue)

Background

Since the early 1970's the subject land has been the location of the Sunnybrand (and then Inghams) chicken processing plant and its associated waste disposal infrastructure. It also contained 8 chicken growing sheds and some hard stand areas. These uses ceased in 2014. The variety of structures and hard stand areas that remain on the site are currently used by a grocery wholesale firm, an organic produce firm, pool supplies, bus and crane storage and a gymnasium. Most of the site remains vacant.

It is a heavily disturbed site that is relatively flat and flood prone in a 1 in 5 year event or greater. It contains open drains that carry surface water to the freshwater wetlands at the rear and sides of the site. These wetlands empty into Belongil Creek. The main drain through the site carries water from the site as well as water that passes under Ewingsdale Road coming from the sports centre and industrial land across the road. It is identified as containing acid sulfate soils class 2 and 3. It is affected by bushfire hazard and buffers.

The site is currently accessed from the middle of its frontage to Ewingsdale Road using a formalised intersection with turning lanes. It could also be accessed from the nearby roundabout on Ewingsdale Road that currently serves the Regional Sports Facility as there is an unmade Crown road the runs along the north western boundary of the site that links through to the roundabout. This unmade road is heavily vegetated.

The drainage reserve on Lot 7022 DP 1113424 that traverses the site does not appear to be used for drainage. The applicant has had contact with the Crown about this land. The ownership and use of this land needs to be resolved before the proposed rezoning is finalised.

Part 2 Explanation of provisions

The Planning Proposal seeks to amend the existing zones under Byron LEP 2014 to permit industrial development on approximately 13 hectares of the subject site.

The Planning Proposal will rezone approximately 13 hectares of the existing RU2 Rural Landscape zone to IN2 Light Industrial zone. The balance of the subject land will remain as a Deferred Matter under LEP 2014 and subject to its current mix of zones under LEP 1988. No change is proposed to the existing height of building control which will remain at 9 metres.

The Planning Proposal will also:

- Change the LEP 2014 maps regarding Floor Space Ratio controls to apply an FSR of 0.9:1 to the IN2 zone,
- Change the LEP 2014 maps regarding Minimum Lot Sizes to apply a 2000m² MLS to the IN2 zone.

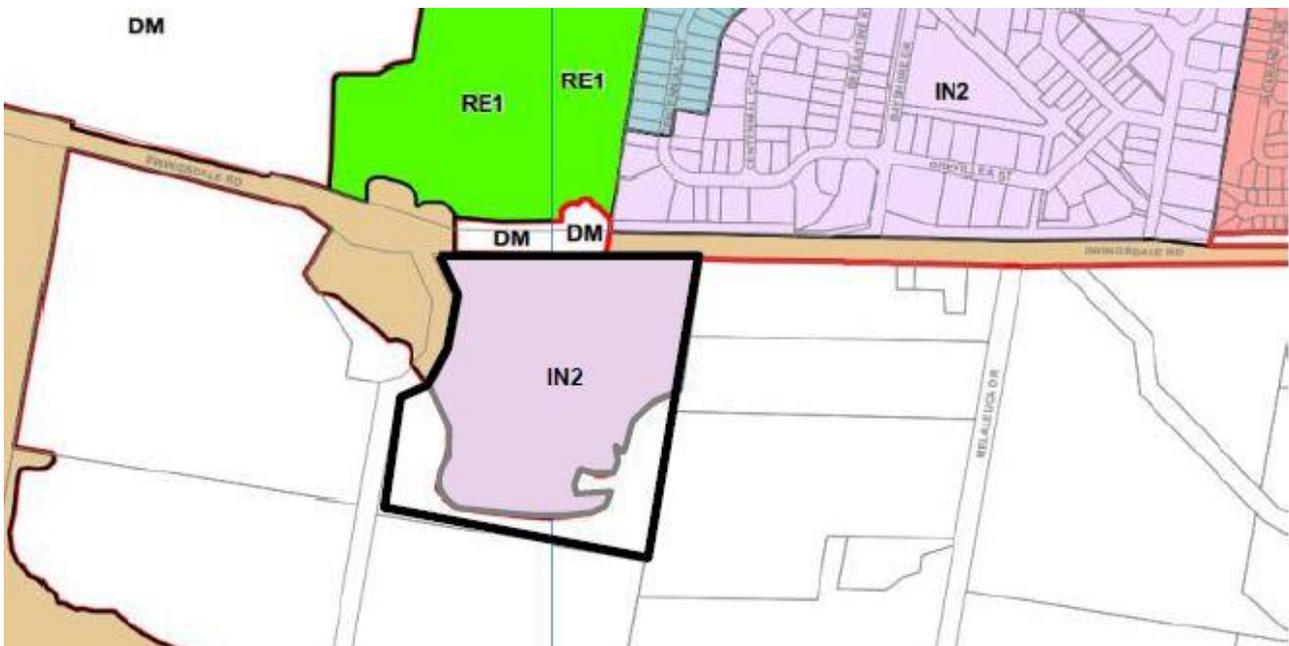


Figure 3 Proposed Land Zoning Map

Part 3 Justification

Section A Need for the planning proposal

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

The Planning Proposal is not the result of any strategic study undertaken by Council. It has been initiated by the applicant. It is supported by a strategic overview of industrial land supply and demand in the LGA undertaken on behalf of the applicant. The supply and demand assessment concludes that Byron Shire is facing a shortage of industrial zoned land now or in the near future and needs additional land to be rezoned to avoid making this shortage worse.

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 providing additional land for industrial use in Byron Shire.

3 Is there a net community benefit?

The Net Community Benefit (NCB) Criteria are identified in the NSW Government's publication *Draft Centres Policy, 2009*, which states that the Net Community Benefit Test should be used to assess the merits of rezoning in the following circumstances:

- proposals to develop within an existing centre where the current zoning does not permit the use
- proposals to develop outside an existing centre where the current zoning does not permit the use
- proposals to create a new centre.

The main focus of the NCB test is to ensure that centres remain compact and viable, and linked to existing and proposed transport networks (particularly public transport).

Assessment against the Net Community Benefit Assessment Criteria is not appropriate for a planning proposal that deals with the expansion of an existing industrial area.

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 Far North Coast Regional Strategy)?

The subject site is located outside of the Town and Village Growth Boundary areas under the *Far North Coast Regional Strategy* (December 2006). It is not listed as a "proposed future urban release area" or as "Employment Lands". The FNCRS does not identify any options for future employment lands in Byron Shire.

However, the proposal specifically responds to the following FNCRS actions:

- *The Regional Strategy requires that Councils identify sufficient new commercial and industrial land to match the needs of the growing economy (page 38)*
- *Use of existing vacant industrial land should be considered prior to release of any major new industrial areas (page 37)*

- *Councils should plan for future industrial needs within existing urban areas and take into accounts economic markets, SEQ pressure for employment lands, lifestyle opportunities and transport improvements (page 36)*

The subject land is immediately adjacent to a zoned industrial area (West Byron) and across the road from the zoned Byron Arts and Industry Estate. It is a logical extension to an existing urban area and not a freestanding new area. It will add to the stock of zoned industrial land which is limited, yet clearly in demand. It will assist Council to match zoned industrial land with the needs of its growing economy. It will not cause oversupply problems that will affect other zoned employment lands. It will be a step towards planning for industrial needs as a logical response to the loss of a significant local employer (the chicken processing factory) in 2014.

The FNCRS states on page 28 that a minor adjustment or variation to the Town and Village Growth Boundary may be considered based on the efficient use of infrastructure, avoidance of environmental constraints and natural resources and reinforcement of settlement hierarchy.

The key infrastructure inputs into industrial land are reticulated water and sewerage, transport and access, energy and communications. The subject land was used as a chicken processing factory and was the single largest consumer of water in the Shire. With the closure of the chicken processing factory in 2014 there is now ample reticulated water capacity to service the proposed industrial area. In relation to reticulated sewerage the site is not currently connected to the Council system. However, Council engineers advised in 2015:

“A design for sewerage connection was prepared some years ago for an on-site sewage pump station and rising main to the sewage treatment plant but work did not proceed. Capacity is currently available at the Byron STP subject to approvals, hydraulic assessments and payment of infrastructure (s64) contributions.”

In relation to transport and access the site has a long frontage to Ewingsdale Road that includes access to an existing roundabout constructed to service the Cavanbah Community and Sports Centre. This roundabout could easily be adapted to provide a safe and efficient point for vehicles to enter and leave the site. This roundabout is approximately 2.5 kilometres from the Pacific Motorway which can then provide access to regional air and rail services. The subject land also has a 240 metre common boundary on its eastern edge with a 7.5 hectare piece of industrial land that was rezoned as part of the West Byron Release Area. The subject land could and should be linked by “through” roads to this land and then to a proposed second roundabout at the intersection of Ewingsdale Road and Bayshore Drive. The joining of these lands would allow employment lands traffic to access both sides of Ewingsdale Road without driving along it.

The key energy source for new industrial land would be reticulated electricity, though the opportunities for self-generated solar power from industrial roof tops is expanding. Reticulated electricity is available to the subject land via the existing chicken factory connections. Additional reticulation infrastructure would be required.

In terms of communication infrastructure the subject land is identified on the NBN web site as already having access to a fixed wireless NBN service. It is also connected to standard telephone lines that run along Ewingsdale Road.

The subject land is not known to contain any significant natural resources and is not mapped as State or regional farm land. It is highly disturbed by its past land use, however a detailed flora and fauna assessment is still required prior to public exhibition and this may influence the final industrial zone boundaries. The site will

need to be filled to above the flood planning level with fill depths ranging up to 1.3 metres to achieve a finished surface level of RL 2.9 metres AHD. A flood impact study assessing the catchment impacts of the filling of the proposed IN2 area is required prior to public exhibition. An assessment is also needed of how much fill is required and where it might come from. It is reasonable that these studies be undertaken after a gateway determination but prior to public exhibition. The filling of the site will decrease the likelihood of disturbing the acid sulfate soils that underlay the area. It will also be an opportunity to address drainage across the site and install surface water control structures that will improve water quality entering nearby wetlands. Bushfire buffers can be implemented on disturbed land to separate future industrial development from this hazard. The size of this site will assist in addressing the constraints that affect it.

The town of Byron Bay/ Suffolk Park is the largest urban area in the settlement hierarchy of Byron Shire but it has a relatively small industrial area at the Byron Arts and Industry Estate (38 hectares) that has less than 5% land vacancy. Use of the subject land for employment land purposes is going to reinforce the position of Byron Bay/ Suffolk Park in the LGA settlement hierarchy as a local service centre. It is the last piece of land on the south side of Ewingsdale Road that can reasonably be used for urban purposes while still being part of the urban fabric of Byron Bay. The disused Island Quarry and associated wetlands and native vegetation would prevent further expansion in a westerly direction. If all of the 13 hectares is zoned IN2 (it is likely that further studies could reduce this area) then this would be a 28% expansion of the existing 45 hectares of zoned industrial land in West Byron and the Byron Arts and Industry Estate (combined). It represents a 17% expansion of the entire area of industrial zoned in the Shire (77 hectares).

On this basis, the Planning Proposal is considered to be consistent with the objectives and actions of the FNCRS although it is not consistent with the Town and Village Growth Boundary mapping in the FNCRS.

A minor variation to the Town and Village Growth Boundary mapping in the FNCRS is warranted as the use of this land for industrial purposes is an efficient use of existing and planned infrastructure; it is unlikely to create environmental concerns or sterilise valuable resources; it is likely that the constraints on the site can be addressed; and it reinforces rather than undermines the settlement hierarchy of Byron Shire and fits into the urban fabric of Byron Bay.

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

The Byron Bay and Suffolk Park Settlement Strategy (2002) does not address supply and demand for industrial development or preferred locations for future industry. Council does not currently have an adopted employment lands strategy.

In 2012 Council adopted a 10 year + *Community Strategic Plan 2022 (CSP)*. The plan is based on five key themes being Corporate Management, Economy, Environment, Community Infrastructure, Society and Culture. Four of those themes or objectives are relevant to this Planning Proposal:

<p>Economy: <i>A sustainable and diverse economy which provides innovative employment and investment opportunities in harmony with our ecological and social aims</i></p>	<p>The Planning Proposal supports the economy through creating employment lands on a disused chicken processing plant site on the edge of existing and proposed industrial development. It has the potential to create economic growth and demand without major</p>
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	ecological or social concerns.
Environment: <i>Our natural and built environment is improved for each generation</i>	The Planning Proposal assists the environment to be maintained and protected for future generations by restricting development to land with no major environmental significance. Environmental repair can be an outcome of future development of the site. Future development would include major improvements to water quality leaving the site (compared to historic situation).
Community Infrastructure: <i>Services and infrastructure that sustains, connects and integrates our communities and environment</i>	The Planning Proposal builds on, and is linked to a proposed industrial expansion area (West Byron) and the existing Arts and Industry Estate. Water and sewerage is available to service the subject land.
Society and Culture: <i>Resilient, creative and active communities with a strong sense of local identity and place</i>	The subject site adjoins the township of Byron Bay and will create an additional place where local people can work. The chicken processing plant supported up to 300 employees in its peak and the site does not currently support any jobs. Increasing employment land makes a community more resilient to outside pressure such as a down turn in tourism.

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:

State Environmental Planning Policy (SEPP)	Compliance of Planning Proposal
SEPP 14 Coastal Wetlands	Part of Lot 181 (in the south east and south west corners) is affected by SEPP 14 Coastal Wetlands. These areas are fully contained within the Deferred Matters under LEP 2014 and are not proposed to be rezoned by this Planning Proposal. The Planning Proposal complies with SEPP 14.
SEPP 44 – Koala Habitat Protection	SEPP 44 specifies that in order for a forested area to be classified as koala habitat, a minimum of 15% of the trees must be species of trees that provide food for koalas. No site specific flora and fauna study has been undertaken for the site. The land at the rear of Lot 181 is mapped by Council as tertiary Koala habitat and this area is not proposed to be rezoned by this Planning Proposal. Although there is a known Koala population at West Byron it is highly unlikely to be using this largely cleared site. However, the Gateway Determination should be conditioned to require a detailed flora and fauna

State Environmental Planning Policy (SEPP)	Compliance of Planning Proposal
	<p>assessment prior to public exhibition.</p> <p>The Planning Proposal cannot be regarded as consistent with this SEPP at this stage</p>
<p>SEPP 55 – Remediation of Land</p>	<p>A Section 149 Zoning Certificate issued by Byron Shire Council on 14 October 2014 indicates that:</p> <p><i>“Council is aware that the site has a land use history as a poultry abattoir and poultry growing sheds. Council records indicate that the past land uses place the site in a high risk category for land contamination. Restrictions imposed by State Legislation and Council’s Management of Contaminated Land Policy 5.61 will need to be considered in respect of any proposal to develop, remediate or rezone the land.”</i></p> <p>The Contract for Sale is also accompanied by a Preliminary Site Investigation Report prepared by Easterly Point Environmental dated November 2014. The Executive Summary of the Report states that:</p> <p><i>“The site history and physical evidence at this site did not identify a significant contamination potential, however it is not possible to ascertain the specific contamination status of the site without further detailed assessment. Nevertheless, based on the site history and findings, it is considered that the POEO Act Licence can be surrendered, as in regard to contamination, no significant issues were identified which would warrant regulation by the EPA under the POEO Act or the CLM Act. Whereas asbestos containing materials (ACMs) have been identified based on the site inspection, these are not understood to be extensive, and assuming a commercial/industrial land use can be managed onsite.”</i></p> <p>At this stage there is insufficient information to be certain that the site is not contaminated. Or that if it is contaminated that it can be remediated to an appropriate standard. On this basis the Planning Proposal does not comply with this SEPP.</p> <p>However, the applicant is proposing the land be used for industrial purposes as opposed to more sensitive uses such as residential. It is reasonable that further detailed assessment be a condition of any Gateway Determination. This work would need to be supplied to Council’s satisfaction prior to public exhibition. It will need to show that the land proposed to be zoned IN2 is either free from contamination or can be remediated to appropriate standards.</p> <p>It is anticipated that the Gateway Determination will be conditioned to require detailed land contamination and</p>

State Environmental Planning Policy (SEPP)	Compliance of Planning Proposal
	remediation information prior to public exhibition.
SEPP 71 – Coastal Protection	The subject land is located outside of the coastal zone and this SEPP does not apply.
SEPP (Rural Lands) 2008	<p><i>The aims of this Policy are as follows:</i></p> <ul style="list-style-type: none"> <i>(a) orderly and economic use and development of rural lands,</i> <i>(b) regard to Rural Planning Principles and the Rural Subdivision Principles,</i> <i>(c) to implement measures designed to reduce land use conflicts,</i> <i>(d) to identify State significant agricultural land</i> <i>(e) to amend provisions of other environmental planning instruments relating to concessional lots in rural subdivisions.</i> <p>This Planning Proposal is consistent with this SEPP. No State significant agricultural land occurs on the subject land. The Planning Proposal intends to expand an industrial area rather than promote a change in rural lot size or rural dwelling permissibility. It will not have a significant impact on surrounding rural land. This matter is discussed in more detail in the following S.117Directions.</p>

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

Consistency with the s117 Directions is assessed in the following table:

Consistency with S117(2) Directions

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
<p>1.1 Business and Industrial Zones</p>	<p>Applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).</p> <p>The objectives of this direction are to:</p> <ul style="list-style-type: none"> (a) encourage employment growth in suitable locations, (b) protect employment land in business and industrial zones, and (c) support the viability of identified strategic centres. <p>A planning proposal must:</p> <ul style="list-style-type: none"> (a) give effect to the objectives of this direction, (b) retain the areas and locations of existing business and industrial zones, (c) not reduce the total potential floor space area for employment uses and related public services in business zones, (d) not reduce the total potential floor space area for industrial uses in industrial zones, and (e) ensure that proposed new employment areas are in accordance with a strategy that is approved by the Director -General of the Department of Planning. 	<p>The Planning Proposal is consistent with the objectives of the Direction as follows:</p> <p>The success of the Byron Arts and Industry estate is testimony to the area on the western edge of Byron Bay being a suitable location for industrial development. The subject land has been used for a specific rural industry for decades indicating it is also physically capable of employment related land use. If the rezoning proceeds it will not undermine the existing (largely full) Arts and Industry estate. It should be developed in conjunction with the undeveloped West Byron IN2 zoned land next door. The viability of the nearest major regional centres (Ballina, Lismore and Tweed) will not be affected by the planned expansion of IN2 land in this location. This Planning Proposal will not reduce any areas zoned for business or industry. It will not alter floor space available for services in business zones. This Planning Proposal will not reduce the total floor space for industry in industrial zones. It will make more floor space available over time. However this Planning Proposal is not in accordance with an approved employment lands strategy as Byron Shire does not have such a strategy. On this basis the Planning Proposal is inconsistent with this Direction. The Direction allows that an inconsistency can be justified <i>“by a study (prepared in support of the planning proposal) which gives consideration to the objective of this direction”</i></p>	<p>Justifiably inconsistent</p>

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
		<p>This Planning Proposal is supported by the <i>Assessment of Industrial Land in Byron Shire (June 2016)</i> supplied by the applicant. This report and the other supporting information does address the objectives of this Direction.</p>	
<p>1.2 Rural Zones</p>	<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>The objective of this direction is to protect the agricultural production value of rural land.</p> <p>Under this direction a planning proposal must:</p> <ul style="list-style-type: none"> (a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. (b) not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village). 	<p>Approximately 13 hectares of the existing RU2 Rural Landscape zone will change to IN2 Light Industrial. On this basis the Planning Proposal is inconsistent with this Direction.</p> <p>No detailed information has been provided on the agricultural production value of the subject land. It is not identified as State or regionally significant farmland under the Northern Rivers Farmland Protection Project. However it did for many years support 8 large poultry sheds that produced tens of thousands of chickens each year for processing in the adjacent plant. This intensive livestock industry generated a lot of complaints about odour. Before the processing plant was closed down this aspect of the agricultural production was already being relocated to rural locations more remote from urban areas. It is highly unlikely that a new intensive livestock industry would now be approved on this land.</p> <p>Overall, the loss of an isolated area of about 13 hectares of low quality agricultural land is a minor impact on the overall amount of land available for agriculture in Byron Shire and the Northern Rivers. About 4 hectares (of that 13 hectares) has been lost from agricultural production since the 1970's as a result of the chicken processing plant infrastructure. It is unlikely the site will be rehabilitated (infrastructure and hard stand removal) for a low</p>	<p>Justifiably inconsistent</p>

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
		<p>value form of agriculture such as grazing. It is more likely that it will remain as a largely underused site for the foreseeable future.</p> <p>The inconsistency is therefore considered to be of minor significance. It is justifiable on this basis.</p>	
<p>1.3 Mining, Petroleum Production and Extractive Industries</p>	<p>Applies when a relevant planning authority prepares a planning proposal that would have the effect of:</p> <p>(a) prohibiting the mining of coal or other minerals, production of petroleum, or 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>	<p>Rezoning of an area of RU2 zoned land to IN2 will prevent the use of that part of the land for mining or extractive industry. There is no extractive material evident on-site which will be prevented from exploitation by this rezoning. The basalt outcrop on the adjacent land has been exploited in the past and abandoned (Island Quarry site) and is unlikely to be recommissioned given its current community use.</p> <p>The inconsistency is considered to be of minor significance.</p>	<p>Justifiably inconsistent</p>
<p>1.4 Oyster Aquaculture</p>	<p>Applies when a relevant planning authority prepares any 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 Aquaculture Area or a “current oyster aquaculture lease in the national parks estate” and other land uses.</p>	<p>Priority Oyster Aquaculture Areas (POAA) exist in the Brunswick River, however the subject land is not in the Brunswick Catchment and there is no likelihood the Planning Proposal will have an adverse impact on them.</p>	<p>Consistent</p>
<p>1.5 Rural Lands</p>	<p>Applies when:</p> <p>(a) a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or</p>	<p>This Planning Proposal is consistent with the Rural Planning Principles listed in <i>State Environmental Planning Policy (Rural Lands) 2008</i> as follows:</p> <p>(a) <i>the promotion and protection of opportunities for current and potential productive and sustainable</i></p>	<p>Justifiably inconsistent</p>

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>environment protection zone boundary), or</p> <p>(b) a relevant planning authority prepares a planning proposal that changes the existing minimum lot size on land within a rural or environment protection zone.</p> <p>A planning proposal to which clauses (a) and (b) apply must be consistent with the Rural Planning Principles listed in <i>State Environmental Planning Policy (Rural Lands) 2008</i>.</p> <p>A planning proposal to which clause (b) applies must be consistent with the Rural Subdivision Principles listed in <i>State Environmental Planning Policy (Rural Lands) 2008</i>.</p>	<p><i>economic activities in rural areas</i></p> <p>The Planning Proposal will not affect any land identified as State or regionally significant farmland in the Northern Rivers Farmland Protection Project.</p> <p>The 13 hectare area proposed to be rezoned from RU2 to IN2 is isolated from the nearest agricultural lands by SEPP 14 wetlands. These wetlands limit the potential for landuse conflicts at the zone boundaries. They also limit the potential for the subject land to be used in conjunction with other agricultural land in the catchment.</p> <p>Byron Council supports productive and sustainable rural activities throughout its rural areas. The conversion of this land to industrial uses will mean that it will no longer be rural. However, parts of this land have been subject to rural industry since the 1970's and the previous intensive chicken growing can no longer take place due to odour complaints from the residents of nearby urban areas. As a community grows the need for employment lands also grows and the highest and best use of this land is now to transition to industrial. The impact of this will not extend to other rural land as the edges of this site are defined by freshwater wetlands.</p> <p>(b) <i>recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State</i></p> <p>The agricultural use of this relatively small and isolated 13 hectare site is limited. Large parts of the site are affected by hardstand and industrial infrastructure that would not be conducive to grazing</p>	

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
		<p>or cropping. The site does not have the high quality red soils of nearby Ewingsdale that are suitable for horticulture or market gardens. The chicken growing sheds are no longer viable so close to urban areas due to odour issues. The growth of Byron Bay in a westerly direction has narrowed the options for retaining this land in agricultural use.</p> <p><i>(c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development</i></p> <p>With the demise of the chicken growing sheds and then the chicken processing factory the potential for rural land uses on this site to benefit State and rural communities is limited.</p> <p><i>(d) in planning for rural lands, to balance the social, economic and environmental interests of the community</i></p> <p>Once this land is rezoned to IN2 it will be lost from rural production. However, having an ongoing supply of industrial land is a social and economic benefit to all of Byron Shire and inevitably comes at the expense of removing rural land from production. However, given its limited current and future agricultural productivity the socio economic benefits of employment lands outweigh the benefits of keeping this land rural.</p> <p><i>(e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land</i></p> <p>The Planning Proposal does not intend to zone any</p>	

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
		<p>land currently known to have ecological significance to IN2. Further ecological work is required to confirm this is the case. There are areas of regrowth freshwater wetlands in various locations across the site and these need to be assessed. The areas of ecological significance at the rear of the site will remain deferred matters and be subject to LEP 1988. The two other known constraints to the site are ASS and flooding. Both these can be addressed more closely at the development stage. It is likely the land will need to be filled. It is unlikely this fill can come from the site given the presence of ASS. At the inspection of 11 July 2016 it was noted that a wastewater pond on the site was being filled with material brought on to the site. Filling should not be undertaken without Council approval and proper assessment. The applicant will also need to confirm that the amount of fill required for this site is available in a reasonable distance to the site.</p> <p>It is anticipated that the Gateway Determination will be conditioned to require more detailed information on flooding, land filling requirements and ASS prior to public exhibition.</p> <p>(f) <i>the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities</i></p> <p>No rural housing opportunities will be created or lost through this Planning Proposal.</p> <p>(g) <i>the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing</i></p>	

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
		<p>Rural housing is not part of this Planning Proposal.</p> <p><i>(h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General</i></p> <p>The Planning Proposal is consistent with objectives and actions of the FNCRS although it is not consistent with the Town and Village Growth Boundary mapping in the FNCRS.</p> <p>Council does not currently have an adopted employment lands strategy.</p>	
<p>2 Environment and Heritage</p>			
<p>2.1 Environment Protection Zones</p>	<p>A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.</p> <p>A planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with clause (5) of Direction 1.5 "Rural Lands".</p>	<p>The Planning Proposal does not alter or remove any environment protection zone. No environmental standards will be reduced by the proposed LEP changes.</p> <p>However, the Gateway Determination should be conditioned to require a detailed flora and fauna assessment prior to public exhibition.</p>	<p>Consistent</p>
<p>2.2 Coastal Protection</p>	<p>This Direction applies when a relevant planning authority prepares a planning proposal that applies to land in the coastal zone.</p> <p>A planning proposal must include provisions that give effect to and are consistent with:</p> <p>(a) the NSW Coastal Policy: A Sustainable Future for the</p>	<p>The land affected by this Planning Proposal is located immediately west of the coastal zone in Byron Shire. This Direction does not apply.</p>	<p>N/A</p>

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>New South Wales Coast 1997, (b) the Coastal Design Guidelines 2003, (c) the manual relating to the management of the coastline for the purposes of section 733 of the <i>Local Government Act 1993</i> (the NSW Coastline Management Manual 1990).</p>		
<p>2.3 Heritage Conservation</p>	<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 <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 applicant states “<i>The site is highly disturbed. No items or places of cultural significance are known to occur on the site.</i>” No further information is provided to support this claim and there is no evidence of contact with the LALC or the Arakwal Corporation.</p> <p>An AHIMS search undertaken in July 2016 with a 200 metre buffer around the site indicates that there is a registered site on or within 200 metres of Lot 181. It is important that more information is known about the potential Aboriginal heritage significance of this site before the Planning Proposal proceeds to public exhibition. Liaison with the local Aboriginal community is also required.</p> <p>The Gateway Determination should be conditioned to require an Aboriginal Archaeological assessment including liaison with the local Aboriginal community prior to public exhibition.</p>	<p>Inconsistent</p>

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
<p>2.4 Recreation Vehicle Areas</p>	<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 an environment protection 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 (4)(a) or (4)(b) unless the relevant planning authority has taken into consideration: <ul style="list-style-type: none"> (i) the provisions of the guidelines entitled <i>Guidelines for Selection, Establishment and Maintenance of Recreation Vehicle Areas, Soil Conservation Service of New South Wales, September 1985</i>, and (ii) the provisions of the guidelines entitled <i>Recreation Vehicles Act, 1983, Guidelines for Selection, Design, and Operation of Recreation Vehicle Areas, State Pollution Control Commission, September 1985</i>. 	<p>The Planning Proposal does not enable land to be developed for the purpose of a recreation vehicle area.</p>	<p>N/A</p>
<p>3 Housing, Infrastructure and Urban Development</p>			
<p>3.1 Residential Zones</p>	<p>This direction applies when a relevant planning authority prepares a planning proposal that will affect land within:</p> <ul style="list-style-type: none"> (a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary), (b) any other zone in which significant residential development is permitted or proposed to be permitted. <p>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 	<p>This Planning Proposal will not affect any provisions on land within an existing or proposed residential zone. Nor will it affect residential zone boundaries.</p>	<p>N/A</p>

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>services, and</p> <p>(c) reduce the consumption of land for housing and associated urban development on the urban fringe, and</p> <p>(d) be of good design.</p> <p>A planning proposal must, in relation to land to which this direction applies:</p> <p>(a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and</p> <p>(b) not contain provisions which will reduce the permissible residential density of land.</p>		
<p>3.2 Caravan Parks and Manufactured Home Estates</p>	<p>Applies when a relevant planning authority prepares a planning proposal.</p> <p>In identifying suitable zones, locations and provisions for caravan parks in a planning proposal, the relevant planning authority must:</p> <p>(a) retain provisions that permit development for the purposes of a caravan park to be carried out on land, and</p> <p>(b) retain the zonings of existing caravan parks, or in the case of a new principal LEP, zone the land in accordance with an appropriate zone under the Standard Instrument (Local Environmental Plans) Order 2006 that would facilitate the retention of the existing caravan park.</p> <p>In identifying suitable zones, locations and provisions for manufactured home estates (MHEs) in a planning proposal, the relevant planning authority must:</p> <p>(a) take into account the categories of land set out in Schedule 2 of SEPP 36 as to where MHEs should not</p>	<p>This Planning Proposal does not seek development for the purposes of a caravan park or manufactured homes estate, nor does it impact upon any land that does permit development for the purposes of a caravan park or manufactured homes estate.</p>	<p>N/A</p>

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>be located,</p> <p>(b) take into account the principles listed in clause 9 of SEPP 36 (which relevant planning authorities are required to consider when assessing and determining the development and subdivision proposals), and</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>		
<p>3.3 Home Occupations</p>	<p>Planning proposals must permit home occupations to be carried out in dwelling-houses without the need for development consent.</p>	<p>This Planning Proposal does not alter home occupation provisions in Byron LEP 2014.</p>	<p>N/A</p>
<p>3.4 Integrating Land Use and Transport</p>	<p>Applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes. A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:</p> <p>(a) <i>Improving Transport Choice – Guidelines for planning and development</i> (DUAP 2001), and</p> <p>(b) <i>The Right Place for Business and Services – Planning Policy</i> (DUAP 2001).</p> <p>The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:</p> <p>(a) improving access to housing, jobs and services by walking, cycling and public transport, and</p> <p>(b) increasing the choice of available transport and</p>	<p>This Planning Proposal will zone land for industrial purposes.</p> <p>The right place for business and services suggests that locating trip-generating activities near one another and by supporting a network of mixed-use centres to accommodate these activities, people can avoid unnecessary travel.</p> <p>This land adjoins the proposed West Byron industrial area and is immediately opposite the Arts and Industry Estate. These proximities will reduce travel for freight and employees. The new residential area of West Byron is walking and cycling distance from the subject land as is the Sunrise residential area.</p> <p>The frontage to Ewingsdale Road, (potentially via the existing roundabout) provides the site with good direct road access. It is also accessible to the Pacific Highway (2.6 km to the west) without travelling through any built up areas. This will assist with freight movement in and out of the Shire.</p>	<p>Consistent</p>

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>reducing dependence on cars, and</p> <p>(c) reducing travel demand including the number of trips generated by 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>	<p>Public transport (buses) currently use Ewingsdale Road and this may assist future employees to access the site. A bike path currently links Byron Bay to Ewingsdale and runs past the site.</p> <p>The Planning Proposal generally meets the objectives of the Direction.</p>	
<p>3.5 Development Near Licensed Aerodrome</p>	<p>Applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome.</p> <p>The main requirements of the Direction are that Council considers the Obstacle Limitation Surface (OLS) as defined by that Department of the Commonwealth for residential purposes, and does not increase residential densities in areas where the ANEF, as from time to time advised by that Department of the Commonwealth, exceeds 25.</p>	<p>The Planning Proposal will not alter provisions that affect land located in the vicinity of any aerodrome.</p>	<p>N/A</p>
<p>3.6 Shooting Ranges</p>	<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>A Planning Proposal must not seek to rezone land adjacent to and/or adjoining an existing shooting range that has the effect of permitting more intensive land uses in the area.</p>	<p>There are no shooting ranges in the vicinity of this Planning Proposal.</p>	<p>N/A</p>
<p>4 Hazard and Risk</p>			
<p>4.1 Acid Sulfate Soils</p>	<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>The land to which this Planning Proposal will apply is affected by acid sulfate soils. The applicant has not produced an acid sulfate soils study in compliance with this Direction.</p>	<p>Inconsistent</p>

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>A council shall not prepare a draft LEP that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the council has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils.</p>	<p>Byron LEP 2014 contains clause 6.1 to address ASS in any future DA but this Direction requires Council to be confident that the change of land use is appropriate in this case.</p> <p>An acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils will need to be undertaken prior to public exhibition.</p>	
<p>4.2 Mine Subsidence and Unstable Land</p>	<p>Applies when a relevant planning authority prepares a planning proposal that permits development on land that:</p> <ul style="list-style-type: none"> (a) is within a mine subsidence district, or (b) has been identified as unstable in a study, strategy or other assessment undertaken: <ul style="list-style-type: none"> (i) by or on behalf of the relevant planning authority, or (ii) by or on behalf of a public authority and provided to the relevant planning authority. 	<p>This Planning Proposal does not impact on any mine subsidence area. The area is relatively flat and has no history of being unstable.</p>	<p>N/A</p>
<p>4.3 Flood Prone Land</p>	<p>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.</p> <p>A planning proposal must include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i> (including the <i>Guideline on Development Controls on Low Flood Risk Areas</i>).</p> <p>A planning proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environment Protection Zones to a Residential, Business, Industrial, Special Use or Special</p>	<p>Most of the land to be zoned IN2 in this Planning Proposal is flood prone in a 5 Year ARI event or greater. Although it is low lying, it is not a known floodway.</p> <p>The applicant indicates they would be filling the proposed IN2 zoned land to a level of 2.9m AHD, which equates to the 1% AEP design flood event with provisions for the 2050 Climate Change planning horizon (as per Belongil Creek Floodplain Risk Management Plan, 2015).</p> <p>However, they have not produced a flood study to allow Council to assess the impacts of any filling on</p>	<p>Inconsistent</p>

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>Purpose Zone.</p> <p>A planning proposal must not contain provisions that apply to the flood planning areas which:</p> <ul style="list-style-type: none"> (a) permit development in floodway areas, (b) permit development that will result in significant flood impacts to other properties, (c) permit a significant increase in the development of that land, (d) are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or (e) permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, buildings or structures in floodways or high hazard areas), roads or exempt development. <p>A planning proposal must not impose flood related development controls above the residential flood planning level for residential development on land, unless a relevant planning authority provides adequate justification for those controls to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).</p> <p>For the purposes of a planning proposal, a relevant planning authority must not determine a flood planning level that is inconsistent with the Floodplain Development Manual 2005 (including the <i>Guideline on Development Controls on Low Flood Risk Areas</i>) unless a relevant planning authority provides adequate justification for the proposed departure from that Manual to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).</p>	<p>this or other land. Nor have they indicated where the fill will come from for the 13 hectare site.</p> <p>Council acknowledges that the provisions of existing clause 6.3 of the Byron LEP 2014 will apply at development stage. However the application cannot be regarded as consistent with this direction based on available information.</p> <p>A flood impact study assessing the appropriateness of the change of land use and the filling of the proposed IN2 area is required prior to public exhibition. An indication of how much fill is required and where it might come from is also required prior to public exhibition.</p>	

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
<p>4.4 Planning for Bushfire Protection</p>	<p>Applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land.</p> <p>In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made.</p> <p>A planning proposal must:</p> <ul style="list-style-type: none"> (a) have regard to <i>Planning for Bushfire Protection 2006</i>, (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and (c) ensure that bushfire hazard reduction is not prohibited within the APZ. <p>A planning proposal must, where development is proposed, comply with the following provisions, as appropriate:</p> <ul style="list-style-type: none"> (a) provide an Asset Protection Zone (APZ) incorporating at a minimum: <ul style="list-style-type: none"> (i) an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and (ii) an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road, (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 	<p>The forest and remnant vegetation located at the rear and near the boundaries of the subject site is classified as bushfire prone land.</p> <p>A Bushfire Hazard Report has not been undertaken.</p> <p>This Direction will not be resolved until consultation with the Rural Fire Service has been undertaken. The consultation cannot take place until a bushfire hazard assessment has been undertaken. Council will conduct that consultation during notification of the Planning Proposal, and any recommendations from the Rural Fire Service will be incorporated in the Planning Proposal.</p> <p>A bushfire hazard assessment reviewing the appropriateness of the change of land use given the presence of bushfire prone land and how it will be addressed in terms of buffers, etc will need to be undertaken prior to public exhibition.</p>	<p>Inconsistent</p>

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	<p>Rural Fire Service. If the provisions of the planning proposal permit Special Fire Protection Purposes (as defined under section 100B of the <i>Rural Fires Act 1997</i>), the APZ provisions must be complied with,</p> <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. 		
<p>5 Regional Planning</p>			
<p>5.1 Implementation of Regional Strategies</p>	<p>Planning proposals must be consistent with a regional strategy released by the Minister for Planning.</p>	<p>Planning Proposal is not within the town and village growth boundary identified in the FNCRS and falls outside of any proposed future urban land release or employment land areas. On this basis it is inconsistent with the strategy.</p> <p>However, it is consistent with objectives and actions of the FNCRS and will not impact adversely on environmentally significant land. The constraints on the site including flooding, bushfire buffers and acid sulfate soils can be addressed and the site is large enough to deal with stormwater that should improve water quality entering nearby wetlands.</p> <p>It is not considered that the Planning Proposal prejudices the rezoning of any other urban release areas under the FNCRS, nor would it impact adversely on state or regional agricultural land. It can be adequately serviced with urban infrastructure including reticulated water and sewerage and has</p>	<p>Justifiably Inconsistent</p>

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
		<p>excellent access to energy, road transport (via an existing roundabout on Ewingsdale Road) and communications (NBN).</p> <p>The existing and projected level of demand for employment land in Byron Shire will exceed supply within the next five years based on a medium demand assumption. The subject land (if all 13 hectares is zoned IN2) represents a 17% increase in industrial land across Byron Shire.</p> <p>It will be able to connect by road directly with an existing piece of IN2 land rezoned as part of the West Byron Land Release Area. This will take pressure off Ewingsdale Road in terms of short trips between industrial estates and allow the subject land to have a connection to the Byron Arts and Industry Estate without travelling along Ewingsdale Road.</p> <p>Commencing the rezoning process now will allow Council to comply with the FNCRS action (page 38) <i>“The Regional Strategy requires that Councils identify sufficient new commercial and industrial land to match the needs of the growing economy”</i>.</p> <p>The Planning Proposal would not undermine the FNCRS vision, land use strategy, policies, outcomes or actions. It is a logical addition to the urban zoned land on the western edge of Byron Bay.</p> <p>In this case the inconsistency with the FNCRS is justified.</p>	
5.2 Sydney Drinking Water Catchments	Applies when a relevant planning authority prepares a planning proposal that applies to the hydrological catchment.	The Planning Proposal is not within this catchment.	N/A
5.3 Farmland of	The planning proposal must not rezone land mapped as	None of the subject land is identified as State or	Consistent

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
State and Regional Significance on the NSW Far North Coast	State or regionally significant farmland under the Northern Rivers Farmland Protection Project for an urban use.	regionally significant farmland under the Northern Rivers Farmland Protection Project.	
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	<p>A Planning Proposal that applies to land located on “within town” segments of the Pacific Highway must provide that:</p> <ul style="list-style-type: none"> (a) new commercial or retail development must be concentrated within distinct centres rather than spread along the highway, (b) development with frontage to the Pacific Highway must consider the impact the development has on the safety and efficiency of the highway. (c) For the purposes of this paragraph, “within town” means areas which, prior to the draft local environmental plan, have an urban zone (eg “village”, “residential”, “tourist”, “commercial”, “industrial”, etc) and where the Pacific Highway speed limit is less than 80 km/hour. <p>A planning proposal that applies to land located on “out-of-town” segments of the Pacific Highway must provide that:</p> <ul style="list-style-type: none"> (a) new commercial or retail development must not be established near the Pacific Highway if this proximity would be inconsistent with the objectives of this Direction, (b) development with frontage to the Pacific Highway must consider the impact the development has on the safety and efficiency of the highway. (c) For the purposes of this paragraph, “out-of-town” means areas which, prior to the draft local environmental plan, do not have an urban zone (eg “village”, “residential”, “tourist”, “commercial”, “industrial”, etc) or are in areas where the Pacific Highway speed limit is 80 km/hour or greater. 	This Planning Proposal does not affect commercial or retail uses in proximity to the Pacific Highway.	N/A

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
6. Local Plan Making			
6.1 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 Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General), prior to undertaking community consultation in satisfaction of section 57 of the Act, and (c) not identify development as designated development unless the relevant planning authority: <ul style="list-style-type: none"> (i) can satisfy the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and (ii) has obtained the approval of the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act. 	<p>The Planning Proposal will not include provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority. It does not identify development as designated development.</p>	N/A

S117 Direction	Application	Relevance to this planning proposal	Consistency with direction
6.2 Reserving Land for Public Purposes	A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General).	The Planning Proposal does not alter or reduce existing zonings or reservations of land for public purposes.	N/A
6.3 Site Specific Provisions	<p>Applies when a relevant planning authority prepares a Planning Proposal that will allow a particular development to be carried out.</p> <p>A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either:</p> <ul style="list-style-type: none"> (a) allow that land use to be carried out in the zone the land is situated on, or (b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or (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>A planning proposal must not contain or refer to drawings that show details of the development proposal.</p>	<p>The Planning Proposal does seek to allow a particular development to be carried out, ie a new industrial estate.</p> <p>The Planning Proposal does not impose any development standards or requirements in addition to those already contained in the principal environmental planning instrument. It uses an existing zone in Byron LEP 2014.</p>	Consistent

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?

The Planning Proposal does not seek to rezone areas subject to LEP 1988 which are known to be ecologically significant. However, site specific flora and fauna studies have not been undertaken to confirm that there is no critical habitat or threatened species, populations or ecological communities on the subject land. There has been no assessment of the unmade road reserve adjacent to the site (next to IQ quarry) that is intended to link the site to the Ewingsdale roundabout. This road reserve is known to contain high conservation vegetation.

If a Gateway Determination is issued it should be conditional on a detailed flora and fauna assessment being undertaken prior to public exhibition. The final IN2 zone boundary may need to be modified to reflect the findings of this work.

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

The subject site was previously used for a chicken processing plant and growing sheds as well as on site waste water treatment and disposal. There are large drains on the site and an important wetland immediately adjacent to the site that receives water from these drains. A new industrial area would need to address water quality and quantity issues from the outset to protect adjacent wetlands and Belongil Creek. The maintenance of a drain through this property to transport water from the northern side of Ewingsdale Road to Belongil Creek is also an important consideration. If the future industrial uses are established and undertaken correctly there should be a net reduction of environmental impacts compared to the previous chicken processing with on-site waste water disposal.

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

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

An AHIMS search undertaken in July 2016 with a 200 metre buffer around the site indicates that there is a registered Aboriginal site on or within 200 metres of Lot 181. It is important that more information is known about the potential Aboriginal heritage significance of this site before the Planning Proposal proceeds to public exhibition. Liaison with the local Aboriginal community is also required.

The Gateway Determination should be conditioned to require an Aboriginal cultural heritage assessment including liaison with the local Aboriginal community prior to public exhibition. This should cover all of the site and the unmade road reserve between the subject land and IQ quarry

Section D State and Commonwealth interests

1 Is there adequate public infrastructure for the planning proposal?

At this early stage the precise water and sewer demands of the area to be rezoned IN2 are not known. The site was once the single largest water use in Byron Shire and

therefore it is likely to have adequate water supply “credits” to cater for the likely industrial land use.

The site is not connected to reticulated sewerage and no entitlement currently exists. Connection to sewerage will need to occur if the IN2 zone proceeds. Council engineers advised in 2015:

“A design for sewerage connection was prepared some years ago for an on-site sewage pump station and rising main to the sewerage treatment plant but work did not proceed.

Capacity is currently available at the Byron STP subject to approvals, hydraulic assessments and payment of infrastructure (s64) contributions.”

If a Gateway Determination is issued it should be conditional on a detailed water and sewerage assessment being undertaken prior to public exhibition.

Site and locality drainage is also an important issue that needs to be addressed. The current site is poorly drained and also takes water from across Ewingsdale Road. The future use of this site will need to make provision for getting this water through the site after it has been filled.

Traffic is a considerable issue with this site that has not been adequately addressed by the applicant. The current arrangement to access the site is unlikely to be suitable for an additional 13 hectares of IN2 land with a variety of traffic generating uses possible. The likely solution is to access the nearby roundabout on Ewingsdale Road near the IQ quarry site and provide an internal link between the subject land and the recently rezoned West Byron industrial area. However, there has been no analysis of traffic generation from the site or its impacts on Ewingsdale Road and the nearby roundabout.

If a Gateway Determination is issued it should be conditional on a detailed traffic impact assessment being undertaken prior to public exhibition. This will need to assess the potential for linkages back through the West Byron industrial land.

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

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

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

Public authority/stakeholder	Issue requiring comment
NSW Rural Fire Service Office of Environment and Heritage	Section 117 of the <i>Environmental Planning and Assessment Act 1979</i> , Ministerial Direction 4.4 requires consultation with the Commissioner of the NSW Rural Fire Service. Consideration of ecological and Aboriginal heritage issues relevant to the site as well as flooding and acid sulfate soils.

Public authority/stakeholder	Issue requiring comment
Department of Primary Industries	Agricultural land.
Roads and Maritime Authority	Ewingsdale Road traffic and intersection impacts.

Part 4 Mapping

The Planning Proposal affects an area of land that spans multiple maps. On that basis it will need to amend the following maps:

Amend map sheet LZN 003CC and LZN 003CA

Amend map sheet LSZ 003CC and LZN 003

Amend map sheet FSR 003CC and create map FSR 003CA

No amendment is required for Height of Building maps (remains at 9 metres).

A summary of the key mapping criteria are as follows:

Zone	Minimum Lot Size	Height of Buildings	FSR
IN2	2000 m ²	9.0 m	0.9:1

Part 5 Community consultation

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

Notification of the exhibited Planning Proposal will include:

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

Part 6 Project timeline

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

Estimated completion	Plan making step
August 2016	Decision by Council to support the amended Planning Proposal and send for Gateway Determination by Department of Planning and Environment.
October 2016	Gateway Determination issued by Department of Planning and Environment.
November 2016 to June 2017	Applicant to prepare studies required prior to public exhibition.
July / August 2017	Council reviews the studies and decides if an amended Gateway Determination is required. Possible peer review required.
September 2017	Public exhibition of Planning Proposal. Government agency consultation.
October 2017	Analysis of public submissions. Preparation of Council report.

November 2017	Endorsed Planning Proposal submitted to Department of Planning and Environment for finalisation.
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Summary and conclusions

This Planning Proposal seeks to rezone about 13 hectares of rural land to IN2 Light Industrial to permit it to be used for industrial purposes. The areas of deferred land at the rear of the site will remain subject to LEP 1988.

The Planning Proposal does not include technical studies and reports that support the proposed rezoning, suggesting that they be deferred until after Council and the Department of Planning and Environment have indicated support for the matter to proceed through the gateway process. The completed studies would then be required prior to public exhibition.

The applicant has provided an industrial land study that justifies the Planning Proposal proceeding based on a demand and supply analysis that shows the LGA probably has a deficit of industrial zoned land right now, and definitely will in five years time. This is likely to be the case.

If the site can be economically serviced with urban infrastructure then the employment land would contribute to the local economy without causing concern regarding social services. The site is underused in its current rural zone. Given the site history an industrial estate is likely to be the most appropriate use for at least part of the land.

The Planning Proposal will have no adverse impact on significant agricultural lands. The issue of flooding impacts (including filling and drainage), traffic, water and sewerage, bushfire hazard, acid sulfate soils, ecology, Aboriginal heritage and land contamination will all need to be dealt with in site specific studies to be exhibited with the Planning Proposal.

The proposed zoning changes align with the objectives of the Far North Coast Regional Strategy although the land is not mapped as an urban growth area. Council does not currently have an adopted employment lands strategy.

The lack of supporting studies means that the Planning Proposal is inconsistent with a number of relevant SEPPs. It is also inconsistent with some of the relevant s117 Directions. In some cases the inconsistencies can be justified. In others there is not sufficient information and more studies are required.

On balance it is agreed that Council should support the Planning Proposal and forward it to the Department of Planning and Environment for a Gateway Determination. This should be conditional on a suite of additional studies being undertaken. The outcomes of those studies may influence what land may ultimately be included in the IN2 zone.