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Our ref: PP_2011_BYRON_008_00 (11/18029)
Your ref: PLN560080 #1144500

Mr Graeme Faulkner
General Manager
Byron Shire Council
PO Box 219
MULLUMBIMBY NSW 2482

Dear Mr Faulkner,

Re: Planning proposal to provide a dwelling entitlement under Schedule 7 of Byron LEP 1988 for Lot 2 DP 537488, 2 Tickles Road, Upper Coopers Creek

I am writing in response to your Council's letter dated 27 September 2011 requesting a Gateway Determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to amend the Byron Shire Local Environmental Plan 1988 to provide a dwelling entitlement under Schedule 7 for Lot 2 DP 537488, 2 Tickles Road, Upper Coopers Creek.

As delegate of the Minister for Planning and Infrastructure, I have now determined that the planning proposal should proceed subject to the conditions in the attached Gateway Determination.

Considering the proximity of the subject land to a decommissioned cattle dip site and the fact that the positioning of a potential dwelling on the subject land is not fixed, Council is to undertake a site contamination assessment in accordance with the provisions of State Environmental Planning Policy (SEPP) 55 – Remediation of Land. The planning proposal is to be updated to include the site contamination assessment report for public exhibition.

To achieve consistency with S117 Direction 4.4 Planning for Bushfire Protection, Council is to consult with the Commissioner of the NSW Rural Fire Service and to take any comments into account in the planning proposal prior to public exhibition.

The Director General's delegate has agreed that the planning proposal's inconsistency with S117 Directions 1.2 Rural Zones and 5.1 Implementation of Regional Strategies is of minor significance. No further approval is required in relation to these Directions.

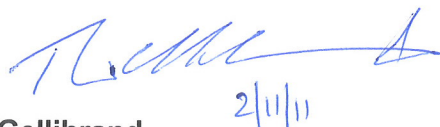
The amending Local Environmental Plan (LEP) is to be finalised within 6 months of the week following the date of the Gateway Determination. Council should aim to commence the exhibition of the Planning Proposal within four (4) weeks from the week following this determination, provided the further assessment and consultation with the Rural Fire Service has been undertaken as required by the Gateway determination. Council's request for the Department to draft and finalise the LEP should be made six (6) weeks prior to the projected publication date.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the

Minister may take action under s54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, please contact Jenny Johnson of the Northern Regional Office of the Department on 02 6641 6614.

Yours sincerely,



Tom Gellibrand
Deputy Director General
Plan Making & Urban Renewal

Gateway Determination

Planning Proposal (Department Ref: PP_2011_BYRON_008_00): to provide a dwelling entitlement under Schedule 7 of Byron LEP 1988 for Lot 2 DP 537488, 2 Tickles Road, Upper Coopers Creek.

I, the Deputy Director General, Plan Making & Urban Renewal as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the Byron Shire Local Environmental Plan (LEP) 1998 to provide a dwelling entitlement under Schedule 7 for Lot 2 DP 537488, 2 Tickles Road, Upper Coopers Creek should proceed subject to the following conditions:

1. Council is to consult with the Commissioner of the NSW Rural Fire Service and to take any comments into account in the planning proposal prior to public exhibition, in order to satisfy the requirements of S117 Direction 4.4 Planning for Bushfire Protection.
2. Council is to undertake a site contamination assessment in accordance with the provisions of State Environmental Planning Policy (SEPP) 55 – Remediation of Land. The planning proposal is to be updated to include the site contamination assessment report for the purposes of public exhibition.
3. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal is classified as low impact as described in *A Guide to Preparing LEPs (Department of Planning 2009)* and must be made publicly available for **14 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 4.5 of *A Guide to Preparing LEPs (Department of Planning 2009)*.
4. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - NSW Rural Fire Service

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

5. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it

may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

6. The timeframe for completing the LEP is to be **6 months** from the week following the date of the Gateway determination.

Dated 2nd day of November 2011.



Tom Gellibrand
Deputy Director General
Plan Making & Urban Renewal
Delegate of the Minister for Planning and
Infrastructure