



Office of the Director General

Mr Ken Gainger
General Manager
Byron Shire Council
PO Box 219
MULLUMBIMBY NSW 2482

Dear Mr Gainger,

Planning proposal to amend Byron Local Environmental Plan (LEP) 1988 or draft Byron LEP 2012

I am writing in response to your Council's letter dated 11 January 2013 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 rezone land at 95 Old Bangalow Road, Byron Bay from 1(a) General Rural Zone to 2(t) Tourist Area Zone and 7(b) Coastal Habitat Zone under Byron Local Environmental Plan (LEP) 1988 or SP3 Tourist Zone and for environmental purposes under draft Byron LEP 2012.

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

I have also agreed the planning proposal's inconsistencies with S117 Directions 1.2 Rural Zones and 1.5 Rural Lands are of minor significance. No further approval is required in relation to these Directions.

The Minister delegated his plan making powers to councils in October 2012. It is noted that Council has requested to be issued with delegation for this planning proposal. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan.

The amending LEP is to be finalised within 9 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office 6 weeks prior to the projected publication date. A copy of the request should be forwarded to the department for administrative purposes.

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 regional office of the department on 02 6641 6600

Yours sincerely,


Richard Pearson
Acting Director General

Gateway Determination

Planning proposal (Department Ref: PP_2013_BYRON_001_00): to rezone land at 95 Old Bangalow Road, Byron Bay for tourism and environmental purposes.

I, the Director General, Department of Planning and Infrastructure 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 Local Environmental Plan (LEP) 1988 to rezone land at 95 Old Bangalow Road, Byron Bay from 1(a) General Rural Zone to 2(t) Tourist Area Zone and 7(b) Coastal Habitat Zone or amend the draft Byron LEP 2012 to rezone the land to SP3 Tourist Zone and for environmental purposes should proceed subject to the following conditions:

1. Prior to undertaking public exhibition, Council is to prepare and exhibit a land zoning map showing the proposed zoning of the subject land under draft Byron LEP 2012.
2. It is noted that a flora and fauna survey, soil contamination report and a traffic impact assessment has been prepared to accompany the development application for the subject site. Council is to place this additional information on public exhibition with the planning proposal.
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 must be made publicly available for **28 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 5.5.2 of *A Guide to Preparing LEPs (Department of Planning & Infrastructure 2012)*.
4. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - Transport for NSW

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).



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6. The timeframe for completing the LEP is to be **9 months** from the week following the date of the Gateway determination.

Dated 28 day of February 2013.



Richard Pearson
Acting Director General
Delegate of the Minister for Planning and
Infrastructure



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WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Byron Shire Council is authorised to exercise the functions of the Minister for Planning and Infrastructure under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2013_BYRON_001_00	Planning Proposal to rezone land at 95 Old Bangalow Road, Byron Bay from 1(a) General Rural Zone to 2(t) Tourist Area Zone and 7(b) Coastal Habitat Zone under Byron Local Environmental Plan (LEP) 1988 or SP3 Tourist and for environmental purposes under draft Byron LEP 2012.

In exercising the Minister's functions under section 59, the Council must comply with the Department's "A guideline for the preparation of local environmental plans" and "A guide to preparing planning proposals".

Dated 28 February 2013

A handwritten signature in blue ink, appearing to read "Richard Pearson".

Richard Pearson
ACTING DIRECTOR GENERAL
Department of Planning and Infrastructure

Attachment 5 – Delegated plan making reporting template

Reporting template for delegated LEP amendments

Notes:

- Planning proposal number will be provided by the department following receipt of the planning proposal
- The department will fill in the details of Tables 1 and 3
- RPA is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the RPA should add additional rows to **Table 2** to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the department's publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the department with the RPA's request to have the LEP notified

Table 1 – To be completed by the department

Stage	Date/Details
Planning Proposal Number	PP_2013_BYRON_001_00
Date Sent to Department under s56	11/01/2013
Date considered at LEP Review Panel	24/01/2013
Gateway determination date	28/02/2013

Table 2 – To be completed by the RPA

Stage	Date/Details	Notified Reg Off
Dates draft LEP exhibited		
Date of public hearing (if held)		
Date sent to PCO seeking Opinion		
Date Opinion received		
Date Council Resolved to Adopt LEP		
Date LEP made by GM (or other) under delegation		
Date sent to DP&I requesting notification		

Table 3 – To be completed by the department

Stage	Date/Details
Notification Date and details	

Additional relevant information: