

Mr K Grainger  
General Manager  
Byron Shire Council  
PO Box 219  
Mullumbimby NSW 2482

Our ref: PP\_2016\_BYRON\_001\_00 (15/17459)  
Your ref: 26.2015.6.1 #E2015/74905

Dear Mr Grainger

### **Planning proposal to amend Byron Local Environmental Plan 1988**

I am writing in response to your Council's letters dated 30 November 2015 and 10 December 2015 requesting a Gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the planning proposal to undertake various policy amendments relating to the West Byron Urban Release Area.

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

I have also agreed, as delegate of the Secretary, the planning proposal's inconsistencies with S117 Directions 3.1 Residential Zones and 4.1 Acid Sulfate Soils are justified in accordance with the terms of the Directions.

Council may still need to obtain the agreement of the Department's Secretary to comply with the requirements of S117 Direction 4.4 Planning for Bushfire Protection. Council should ensure this occurs prior to the plan being made.

Plan making powers were delegated to councils by the Minister 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 not to issue an authorisation for Council to exercise delegation to make this plan.

The amending Local Environmental Plan (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 for the Department of Planning and Environment to draft and finalise the LEP should be made a minimum 8 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 section 54(2)(d) of the Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, I have arranged for Mr Luke Blandford of the Department's Northern Region office to assist you. Mr Blandford can be contacted on (02) 6641 6612.

Yours sincerely



22 January 2016

**Brett Whitworth**  
**Acting Executive Director, Regions**  
**Planning Services**

Encl:  
Gateway Determination

## Gateway Determination

***Planning proposal (Department Ref: PP\_2016\_BYRON\_001\_00): to undertake various policy amendments relating to the West Byron Urban Release Area.***

I, the Acting Executive Director, Regions, at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the *Byron Local Environmental Plan (LEP) 1988* to undertake various policy amendments relating to the West Byron Urban Release Area should proceed subject to the following conditions:

1. The planning proposal is required to be revised prior to community consultation.

This is to include:

- (a) updating Part 2 – Explanation of Provisions, to remove draft Clause 72A and Clause 85(6A) and replaced with a plain English description of the proposed LEP provisions and reasoning behind each proposed provision;
- (b) updating Part 3 – Justification – Section C, to include further discussion and plans regarding the likely servicing arrangements, potential impacts and environmental protection measures associated with the proposed amendment to permit infrastructure and earthworks in all zones throughout the Release Area; and
- (c) an A3 wider locality and site map.

Council is to provide the Department with a copy of the material for community consultation for approval, as required by section 57(2) of the Act.

2. Consultation is required with the NSW Rural Fire Service (RFS) prior to public exhibition under section 56(2)(d) of the Act and to comply with the requirements of S117 Direction 4.4 Planning for Bushfire Protection.

The NSW RFS is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

3. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:
  - (a) the planning proposal must be made publicly available for a minimum of 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 (Planning & Environment 2013)*.



4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the 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).
5. The timeframe for completing the LEP is to be 9 months from the week following the date of the Gateway determination.

Dated 22nd day of January 2016

**Brett Whitworth**  
**Acting Executive Director, Regions**  
**Planning Services**  
**Department of Planning and Environment**

**Delegate of the Minister for Planning**