

Mr Mark Arnold  
Acting General Manager  
Byron Shire Council  
PO Box 219  
MULLUMBIMBY NSW 2482

Dear Mr Arnold

**Planning proposal PP\_2018\_BYRON\_001\_00 to amend Byron Local Environmental Plan 2014**

I am writing in response to Council's request for a Gateway determination under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the planning proposal to introduce an R1 General Residential zone and diverse housing provisions into the Byron LEP 2014 and rezone part of Lot 22 DP 1073165, Stuart Street, Mullumbimby from RE1 Public Recreation to R1 General Residential and, for the land being rezoned, apply a 200m<sup>2</sup> minimum lot size, reclassify the land and apply the diverse housing provisions.

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

I have also agreed, as delegate of the Secretary, the planning proposal's inconsistency with section 9.1 Direction 3.1 Residential Zones, is justified in accordance with the terms of the direction. No further approval is required in relation to this Direction.

Council may still need to obtain the agreement of the Department's Secretary to comply with the requirements of relevant section 9.1 Directions 2.1 Environment Protection Zones, 2.3 Heritage Conservation, 4.1 Acid Sulfate Soils, 4.3 Flood Prone Land and 6.2 Reserving Land for Public Purposes once additional site investigations and consultation has been undertaken. Council should ensure this occurs prior to the plan being made.

The Gateway determination requires the removal of the proposed affordable housing provisions from the planning proposal as the inclusion of such provisions is contrary to the *Environmental Planning and Assessment Act 1979*. However, the Department is prepared to discuss with Council the possible mechanism for its inclusion in State Environmental Planning Policy 70 Affordable Housing (Revised Schemes) with a view to introducing provisions into the Byron LEP 2014 to require affordable housing in the future.

I have considered the nature of the proposal and have determined not to condition the Gateway for Council to be the local plan-making authority for the making of this LEP for the reason that the proposal relates to Council owned land and requires the approval of the Governor to discharge interests in the land when it is reclassified.

The amending Local Environmental Plan (LEP) is to be finalised within 18 months of 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 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 3.32(2)(d) of the Act if the time frames outlined in this determination are not met.

Should you have any further enquiries about this matter, I have arranged for Mr Paul Garnett to assist you. Mr Garnett can be contacted on 6641 6607.

Yours sincerely



30-5-2018

**Jeremy Gray**  
**Director Regions, Northern**  
**Planning Services**

Encl: Gateway determination