



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

Our ref: PP_2015_BYRON_004_00 (15/11818)
Your ref: 26.2015.4.1 - #E2015/47043

Attention: Chris Larkin

Dear Mr Gainger

Planning proposal to amend Byron Local Environmental Plan 2014

I am writing in response to your Council's letter dated 31 July 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 alter the land use tables in Byron Local Environmental Plan (LEP) 2014 for the RU1 Primary Production, RU2 Rural Landscape and B4 Mixed Use Zones in relation to tourist and visitor accommodation, to alter the development controls on the size of bed and breakfast establishments and to schedule single-bedroom bed and breakfast establishments as exempt development.

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 the planning proposal's inconsistencies with section 117 Directions 1.1 Business and Industrial Zones, 1.5 Rural Lands, 4.1 Acid Sulfate Soils and 4.3 Flood Prone Land are justified and are of minor significance. No further approval is required in relation to these Directions.

Council is to consult with the NSW Rural Fire Service in accordance with S117 Direction 4.4 Planning for Bushfire Protection. Council may still need to obtain the agreement of the Department's Secretary to comply with this Direction 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 to issue an authorisation for Council to exercise delegation to make this plan.

As this planning proposal is related to another proposal concerning short term rental accommodation, if a Gateway determination to proceed is issued for that proposal, I suggest that community consultation for both proposals is undertaken concurrently.

The amending LEP is to be finalised within 9 months of the week following the date of the Gateway determination. Subject to the comment above, 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 of Planning and Environment's Northern Region Office 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 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 Jim Clark to assist you. Jim can be contacted on (02) 6601 6604.

Yours sincerely

 10 August 2015
Stephen Murray
General Manager, Northern Region
Planning Services

Encl:
Gateway Determination
Written Authorisation to Exercise Delegation
Attachment 5 – Delegated Plan Making Reporting Template

Gateway Determination

Planning proposal (Department Ref: PP_2015_BYRON_004_00): to alter the land use tables in Byron Local Environmental Plan 2014 for the RU1 Primary Production, RU2 Rural Landscape and B4 Mixed Use Zones in relation to tourist and visitor accommodation, to alter the development controls on the size of bed and breakfast establishments and to schedule single-bedroom bed and breakfast establishments as exempt development.

I, the General Manager, Northern Region 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) 2014 to alter the land use tables for the RU1 Primary Production, RU2 Rural Landscape and B4 Mixed Use Zones in relation to tourist and visitor accommodation, to alter the development controls on the size of bed and breakfast establishments and to schedule single-bedroom bed and breakfast establishments as exempt development should proceed subject to the following conditions:

1. 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 (Department of Planning and Infrastructure 2013)*.
2. Consultation is required with the following public authorities and agencies prior to public exhibition under section 56(2)(d) of the Act and/or to comply with the requirements of relevant S117 Directions:
 - NSW Rural Fire Service;
 - NSW Department of Primary Industries - Agriculture; and
 - the Office of Environment and Heritage.

Each public authority and agency 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. 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 or if reclassifying land).



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

Dated *10th* day of *August* 2015


Stephen Murray
General Manager, Northern Region
Planning Services
Department of Planning and Environment

Delegate of the Minister for Planning

WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Byron Council is authorised to exercise the functions of the Minister for Planning 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_2015_BYRON_004_00	Planning proposal to alter the land use tables in Byron Local Environmental Plan 2014 for the RU1 Primary Production, RU2 Rural Landscape and B4 Mixed Use Zones in relation to tourist and visitor accommodation, to alter the development controls on the size of bed and breakfast establishments and to schedule single-bedroom bed and breakfast establishments as exempt development.

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

Dated

10 August

2015



Stephen Murray
General Manager, Northern Region
Planning Services
Department of Planning and Environment

Delegate of the Minister for Planning