

Byron LEP 2014 – Rezone part of lots 231, 232 and 233 DP1194657 from RU1 to R2

Proposal Title : **Byron LEP 2014 – Rezone part of lots 231, 232 and 233 DP1194657 from RU1 to R2**

Proposal Summary : **The proposal seeks to rezone part of lots 231, 232 and 233 DP1194657 from RU1 Primary Production to R2 Low Density Residential and apply a floor space ratio of 0.5:1 and a minimum lot size of 600sqm for inclusion in the adjoining Bangalow urban area.**

PP Number : **PP_2015_BYRON_008_00** Dop File No : **15/15154**

Proposal Details

Date Planning Proposal Received : **12-Oct-2015** LGA covered : **Byron**

Region : **Northern** RPA : **Byron Shire Council**

State Electorate : **BALLINA** Section of the Act : **55 - Planning Proposal**

LEP Type : **Precinct**

Location Details

Street : **Granuaille Crescent**

Suburb : City : **Bangalow** Postcode : **2479**

Land Parcel : **Lots 231, 232 and 233 DP1194657**

DoP Planning Officer Contact Details

Contact Name : **Daniel Summerhayes**

Contact Number : **0266416614**

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RPA Contact Details

Contact Name : **Julie Francombe**

Contact Number : **0266267118**

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DoP Project Manager Contact Details

Contact Name : **Jim Clark**

Contact Number : **0266416604**

Contact Email : **jim.clark@planning.nsw.gov.au**

Land Release Data

Growth Centre : **N/A** Release Area Name :

Regional / Sub Regional Strategy : **Far North Coast Regional Strategy** Consistent with Strategy : **No**

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MDP Number :

Date of Release :

Area of Release (Ha)

Type of Release (eg

Residential

:

Residential /

Employment land) :

No. of Lots :

0

No. of Dwellings

5

(where relevant) :

Gross Floor Area :

0

No of Jobs Created :

0The NSW Government **Yes**

Lobbyists Code of

Conduct has been

complied with :

If No, comment :

The Department of Planning and Infrastructure's Code of Practice in relation to meeting with lobbyists has been complied with to the best of the Region's knowledge.

Have there been

No

meetings or

communications with

registered lobbyists? :

If Yes, comment :

Northern Region has not met with any lobbyists in relation to this proposal, nor has Northern Region been advised of any meeting between other Departmental officers and lobbyists regarding this proposal.**Supporting notes**

Internal Supporting

Notes :

External Supporting

Notes :

Adequacy Assessment**Statement of the objectives - s55(2)(a)**Is a statement of the objectives provided? **Yes**

Comment :

The statement of objectives adequately describes the intention of the proposal. The proposal seeks to rezone part of lots 231, 232 and 233 DP1194657 from RU1 to R2 and apply a floor space ratio of 0.5:1 and a minimum lot size of 600sqm to include the land in the Bangalow urban area.**Explanation of provisions provided - s55(2)(b)**Is an explanation of provisions provided? **Yes**

Comment :

The explanation of provisions provided by Council details how the objectives of the proposal will be achieved.**The objectives of the proposal will be achieved by amending Byron LEP 2014 to:**

- rezone the land R2 Low Density Residential;**
- adopt a floor space ratio of 0.5:1 for the subject land on the Floor Space Ratio map; and**
- apply a minimum lot size of 600 square metres for the subject land on the Minimum Lot Size map.**

Justification - s55 (2)(c)a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

1.2 Rural Zones

* May need the Director General's agreement

1.5 Rural Lands

3.1 Residential Zones
3.4 Integrating Land Use and Transport
5.1 Implementation of Regional Strategies
5.3 Farmland of State and Regional Significance on the NSW Far North Coast
6.1 Approval and Referral Requirements

Is the Director General's agreement required? **No**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified? **SEPP No 55—Remediation of Land
SEPP (Rural Lands) 2008**

e) List any other matters that need to be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain : **See the assessment section of this report.**

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment : **The planning proposal includes a map which adequately identifies the properties that are the subject of the proposal. Updates to the Land Zoning, Lot Size and Floor Space Ratio Map are not yet finalised. These will be finalised prior to community consultation of the proposal. A condition requiring Council to finalise appropriate mapping prior to community consultation will be included on the Gateway Determination.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **The RPA considers that the proposal is a low impact proposal, as such, a 14 day public exhibition period has been requested.**

The RPA has indicated that the exhibited planning proposal will be notified by:
- Newspaper advertisement; and
- Notification on Council's website.

It is considered a fourteen (14) day community consultation period is acceptable for public examination and comment on the proposal.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment : **The planning proposal satisfies the adequacy criteria by:**
1. Providing appropriate objectives and intended outcomes;
2. Providing a suitable explanation of the provisions proposed for the LEP to achieve the outcomes;
3. Providing an adequate justification for the proposal;
4. Outlining a proposed community consultation program;
5. Providing a project time line, which proposes a completion time of 6 months.
6. Providing a completed evaluation criteria for the delegation of plan making functions recommending that delegations be issued. This is acceptable.

Time Line

The planning proposal includes a project timeline which estimates the completion of the planning proposal in March 2016. This is considered appropriate in relation to the minor scale of the proposal. A 9 month time-frame is recommended given consideration of the Christmas and New Year working period and requirement to generate new maps for the proposal.

Delegation.

Council has indicated it is prepared to accept an Authorisation to Exercise Delegation for this proposal. An Evaluation Criteria for the Delegation of Plan Making Functions has been provided. The proposal is of local planning significance and is generally consistent with the strategic planning framework. It is recommended that an Authorisation to Exercise Delegation be issued.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation
to Principal LEP :

The Byron LEP 2014 is in force. This planning proposal seeks an amendment to the Byron LEP 2014.

Assessment Criteria

Need for planning
proposal :

The proposal is not a result of a strategic study or report. The proposal seeks to include the 3,170sqm of subject land in the existing Bangalow urban area. The subject land is remnant agricultural land which adjoins residential land to the west, south and east, the Bangalow Reservoir site is located to the North. The lots are of insufficient size to be considered productive agricultural land. The current rural zoning also permits a wide range of uses that have the potential to generate land use conflict with neighbouring residential properties. The proposal represents a logical 'rounding off' of the Bangalow Urban Area.

The subject land is well suited to the proposed R2 zoning being immediately adjacent to the existing urban area of Bangalow. The land is not flood or fire prone, does not support any significant vegetation and is serviced by water, sewer, stormwater, telecommunication and sealed road infrastructure.

The proposal to rezone the land is the most appropriate means of achieving the intent of the planning proposal. The rezoning will limit land use conflict in the vicinity of an established residential area and provide additional capacity for infill development to occur.

Consistency with
strategic planning
framework :

Far North Coast Regional Strategy (FNCRS)

The proposal is generally consistent with the actions and outcomes outlined in the FNCRS.

The FNCRS provides that proposals that seek to rezone land outside of the Town and Village Growth Boundary for urban purposes in the non-coastal area must be assessed against the Sustainability Criteria contained in Appendix 1 of the FNCRS. The proposal is located outside the Bangalow Town and Village Growth Boundary.

It is considered that assessment against the Sustainability Criteria does not preclude the subject land from being rezoned for urban purposes. The proposal is a logical extension to the Bangalow Urban Area, has ready access to services and infrastructure and is consistent with the environmental capacity of the land. In terms of the strategy the proposal can be considered a 'minor rounding off'.

Consistency with Council's Local Strategies

Bangalow Settlement Strategy 2003:

The Bangalow Settlement Strategy 2003 is the current Council approved strategy for Bangalow.

The proposal is inconsistent with the Bangalow Settlement Strategy as the proposal seeks to rezone land outside of the urban investigation areas to R2 Low Density Residential. The proposal contains justification for seeking to rezone land outside of the urban investigation areas. The inconsistency with the Strategy is considered to be acceptable for the reasons discussed previously in this report relating to the consistency with the FNCRS.

Byron Shire Council Community Strategic Plan 2022:

The proposal is consistent with the relevant goals of Council's Community Strategic Plan 2022.

Consistency with SEPPs

The proposal is consistent with the provisions of all applicable SEPPs relevant to the site with the exception of a minor inconsistency with SEPP (Rural Lands) 2008.

SEPP (Rural Lands) 2008 outlines Rural Planning Principles for consideration as part of S.117 Directions when rezoning land. Minor inconsistencies exist against some of the Rural Planning Principles which require recognition of the importance of rural lands and agriculture, and promotion and protection of opportunities for agriculture. The proposal seeks to rezone regionally significant farmland for residential purposes. The subject land itself is a legacy of a previous rezoning in which it was deemed too steep to be rezoned for residential development. The proposed rezoning constitutes the 'rounding off' of a residential area as the remnant rural land has been significantly fragmented from other rural lands, adjoins residential land on three sides and is of insufficient size to be productive. The proposal is consistent with clause 7 (h) as the proposal is considered consistent with the Sustainability Criteria for non-coastal rural residential land as prescribed by the FNCRS. Given this circumstance the proposal is considered consistent with the SEPP.

S117 Directions

The following S117 directions are applicable to the proposal; 1.2 Rural Zones, 1.5 Rural Lands, 3.1 Residential Zones, 3.4 Integrating Land Use and transport, 5.1 Implementation of Regional Strategies, 5.3 Farmland of State and Regional Significance on the NSW Far

North Coast.

The proposal is considered consistent with all relevant S117 Directions except in relation to:

1.2 Rural Zones

This Direction provides that a planning proposal must not rezone land from a rural to a residential zone. The proposal seeks to rezone land from RU1 Primary Production to R2 Low Density Residential, however the inconsistency is justifiable as the proposal is justified by a strategy, the FNCRS, as provided for by the Direction.

1.5 Rural Lands

This Direction provides that a planning proposal that will affect land in a rural zone must be consistent with the Rural Planning Principles in SEPP (Rural Lands) 2008. The Direction also provides that a proposal may be inconsistent with its prescribed terms if they are of minor significance. It is considered that the proposal inconsistency with Rural Planning Principles in SEPP (Rural Lands) 2008 is of minor significance as previously outlined in this report.

5.3 Farmland of State and Regional Significance

This Direction provides that a planning proposal must not rezone land identified as 'Regionally Significant Farmland' for urban or rural residential purposes. The inconsistency with this Direction is unable to be addressed under the provisions of the Direction as the proposal is not consistent with Section 4.2 of the Northern Rivers Farmland Protection Project (NRFPP) - Final Recommendations.

It is considered that the rezoning relates to minor amendment and will not result in any significant loss of usable agricultural land or introduce new land use conflicts. In light of this, it is not considered necessary that the land be retained for agricultural purposes or that the Direction be satisfied in this instance.

Environmental social
economic impacts :

No adverse environmental impacts are expected to result from the proposed rezoning of the land.

The rounding off of the urban zone will provide for the consolidation of this unused land with adjoining residential development.

Assessment Process

Proposal type : **Routine** Community Consultation Period : **14 Days**

Timeframe to make LEP : **9 months** Delegation : **RPA**

Public Authority
Consultation - 56(2)(d)
:

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

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Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Planning Proposal and Supporting documentation.pdf	Proposal	No

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 1.2 Rural Zones
- 1.5 Rural Lands
- 3.1 Residential Zones
- 3.4 Integrating Land Use and Transport
- 5.1 Implementation of Regional Strategies
- 5.3 Farmland of State and Regional Significance on the NSW Far North Coast
- 6.1 Approval and Referral Requirements

Additional Information : It is **RECOMMENDED** that the General Manager, as delegate of the Minister for Planning, determine under section 56(2) of the EP&A Act that the proposal to rezone land parts of Lots 231, 232 and 233 DP1194657 from RU1 to R2 under the Byron Local Environmental Plan 2014 should proceed as a minor planning proposal subject to the following conditions:

1. 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 14 days;
(b) A3 maps of each of the proposed LEP Map Amendments should be produced and made publicly available with the planning proposal during exhibition; and
(c) 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 local environmental plans (Planning and Infrastructure, 2013).

2. No public hearing is required to be held into the matter 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).

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

4. Council be authorised to use the Minister's plan making functions under sections 59(2), (3) & (4) of the Environmental Planning and Assessment Act 1979.

5. Section 117 Directions - It is recommended that:

(a) The Secretary's delegate can be satisfied that the planning proposal's inconsistency

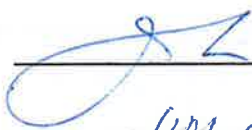
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with section 117 Directions 1.2 Rural Zones and 1.5 Rural Lands is justifiable under the provisions of the Directions.

Supporting Reasons : The reasons for the above recommendations for the planning proposal are as follows:

1. Rezoning the land to urban will allow for the logical consolidation of unused rural land with the adjoining residential area.
2. The recommended conditions to the Gateway are required to provide adequate consultation, accountability and progression.

Signature:



Printed Name:

JIM CLARK

Date:

21 October 2015

Team Leader, Local Planning