

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

Our ref: PP_2014_BYRON_002_00 (14/09289)
Your ref: E2014/28098

Dear Mr Gainger

Planning proposal to amend Byron Local Environmental Plan 1988 and Byron Local Environmental Plan 2014

I am writing in response to your Council's letter dated 2 June 2014 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 reclassify Lot 1 DP 952598, Vallances Road at Mullumbimby from community to operational land.

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.

With the recent making of Byron LEP 2014, part of the land was deferred by the Minister's delegate due to its proposed environmental zoning. This has resulted in part of the land being governed by Byron LEP 2014 and the remaining part by Byron LEP 1988. As a result, amendments to both LEPs will be required to reclassify the land.

Council may still need to obtain the agreement of the Department's Secretary to comply with the requirements of relevant S117 Directions 4.4 Planning for Bushfire Protection and 6.2 Reserving Land for Public Purpose. Council should ensure this occurs prior to the plan being made.

Council is reminded of its obligations for undertaking a public hearing in relation to the proposed reclassification of land in accordance with the Department's Practice Note PN09-003, *Classification and reclassification of public land through a local environmental plan*.

It is noted that Council has identified in the planning proposal that a possible interest applying to the land may be discharged through the reclassification process. Council is to provide information on whether the planning proposal will extinguish any interests on the land prior to the making of the plan. A land title search and information regarding the interests to be discharged is to be provided to the department when Council submits the plan for making.

The amending Local Environmental Plan (LEP) is to be finalised within 12 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 6 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 EP&A 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 Ms Jenny Johnson of the Department's regional office to assist you. Ms Johnson can be contacted on (02) 6641 6614.

Yours sincerely

 16 JUNE 2014
Stephen Murray
General Manager, Northern Region
Office of Growth Planning

Encl:
Gateway Determination

Gateway Determination

Planning proposal (Department Ref: PP_2014_BYRON_002_00): to reclassify Lot 1 DP 952598, Vallances Road at Mullumbimby from community land to operational land.

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 *EP&A Act* that an amendment to the Byron Local Environmental Plan 1988 and Byron Local Environmental Plan 2014 to reclassify Lot 1 DP 952598, Vallances Road at Mullumbimby from community land to operational land should proceed subject to the following conditions:

1. That the planning proposal be amended prior to exhibition by:
 - (a) identifying the need to amend both Byron Local Environmental Plan 1988 and Byron Local Environmental Plan 2014 to reclassify the land; and
 - (b) removing the proposed drafting amendments and providing a plain English explanation of the planning proposal in the Explanation of Provisions;
2. 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 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 Environment 2013)*.
3. Consultation is required with the NSW Rural Fire Service under section 56(2)(d) of the *EP&A Act*. NSW Rural Fire Service 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.
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 *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).
5. The planning proposal be amended prior to submitting the plan to the department to be made by:
 - (a) providing information on whether the planning proposal will extinguish any interests applying to the land; and
 - (b) including appropriate mapping to accompany the proposed LEP amendment.
6. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated 16th day of JUNE 2014.



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

Delegate of the Minister for Planning