



Mr Mark Arnold
General Manager
Byron Shire Council
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Via email: council@byron.nsw.gov.au
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Dear Mr Arnold

Planning proposal PP_2020_BYRON_006_00 (PP-2020-2720) 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 rezone land and amend associated development standards at Bayshore Drive, Byron Bay.

As delegate of the Minister for Planning and Public Spaces, 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 4.1 Acid Sulfate Soils 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 Secretary to comply with the requirements of relevant section 9.1 Directions 2.2 Coastal Management, 2.6 Remediation of Contaminated Lands, 4.3 Flood Prone Land, 4.4 Planning for Bushfire Protection and 5.10 Implementation of Regional Plans. Council should ensure this occurs prior to the plan being made.

I have considered Council's request to be the local plan-making authority and have determined not to condition the Gateway for Council to be the local plan-making authority as the proposal is implementing E zones.

The amending local environmental plan is to be finalised within nine (9) 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, Industry and Environment to draft and finalise the LEP should be made eight 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 enquiries about this matter, I have arranged for Ms Carlie Boyd to assist you. Ms Boyd can be contacted on 6643 6404.

Yours sincerely



8/3/2021

Monica Gibson
Executive Director
Local and Regional Planning
Planning and Assessment

Encl: Gateway determination

Gateway Determination

Planning proposal (Department Ref: PP_2020_BYRON_006_00 / PP-2020-2720):
to rezone land and amend associated development standards for environmental and tourist purposes at Bayshore Drive, Byron Bay.

I, the Executive Director, Local and Regional Planning at the Department of Planning, Industry and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Byron Local Environmental Plan (LEP) 2014 to rezone land and amend associated development standards for environmental and tourist purposes at Bayshore Drive, Byron Bay should proceed subject to the following conditions:

1. Prior to agency consultation and public exhibition, Council is to:
 - (a) prepare a preliminary contamination investigation report;
 - (b) amend the planning proposal as follows:
 - i. update the proposed minimum lot size map and proposed zone map to resolve any minimum lot size and zone boundary anomalies, including the application of a one hectare minimum lot size to all proposed SP3 Tourist Zone land;
 - ii. include the current and proposed versions of each map required to be amended to facilitate the planning proposal;
 - iii. remove the landowner requested map and agreed E zone review map;
 - iv. clarify and confirm the proposed height of building changes; and
 - v. clarify throughout the document that a 2 hectare minimum lot size is proposed for the proposed E4 zone.
2. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
 - (b) the planning proposal 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 6.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment, 2018).

3. Consultation is required with the following public authorities/organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:

- NSW Rural Fire Service
- NSW Biodiversity and Conservation Division
- Tweed Byron Local Aboriginal Land Council
- Heritage NSW

Each public authority/organisation 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 3.34(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).
5. The time frame for completing the LEP is to be **9 months** following the date of the Gateway determination.

Dated 8th day of March 2021.



Monica Gibson
Executive Director
Local and Regional Planning
Planning and Assessment
Department of Planning, Industry and
Environment

Delegate of the Minister for Planning
and Public Spaces