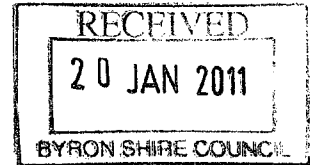




Environment, Climate Change & Water



The General Manager
Byron Shire Council
PO Box 219
MULLUMBIMBY NSW 2482

Your reference: PLN560005#1042665
Our reference: AL3003069
Contact: Toong Chin, 66270233

Attention: Mr Matthew Walker

18 January 2011

Dear Mr Walker

Planning Proposal to amend the Byron Local Environmental Plan 1988 to rezone land in Bangalow (Part of Lot 1 DP 127485) to Residential 2(a) Zone

I refer to your letter of early January 2011 seeking comments from the Department of Environment, Climate Change and Water (DECCW) in relation to the above proposal.

General comments

It is noted that Council's correspondence dated 8 November 2007 (your reference PLN559000/#720613) requested comments from the former Department of Environment and Climate Change (DECC) on a number of investigation areas and other sites in Byron Shire proposed for rezoning in the new shire-wide Local Environmental Plan (LEP). DECC's correspondence dated 30 November 2007 stated that:

"Areas 1, 3, 4, 6 and 7 have been reviewed. DECC has no objections to Council's proposals to generally rezoning these areas for urban land uses, with environmentally sensitive areas placed in E2 Environmental Conservation (or a 7) zone."

No background reports were included in Council's correspondence then; thus only a general response was provided. It is noted that there is no background information provided with the current planning proposal as well. Although the planning proposal mentions a draft Local Environmental Study being prepared in 2008, and discusses flood and potential contamination issues, no information relating to flora and fauna or Aboriginal cultural heritage has been provided. Further, the proposed development footprint has been altered from that previously identified in both Council's strategy and the Department of Planning's Far North Coast Regional Strategy. Thus it is unclear whether these aspects have been addressed for the entire area proposed to be zoned for residential purposes.

Notwithstanding that the site has been cleared and farmed for many years, even basic information about the trees within the area proposed to be rezoned, and whether consultation with the local Aboriginal community has been undertaken, should have been included in the

planning proposal. For example, DECCW's Aboriginal Heritage Information Management System has records of object sites in the vicinity, including in cleared farmland. Even if the trees within the development footprint are Camphor Laurel, these mature trees can still provide habitat for wildlife.

It is recommended that Council ensure that sufficient information is available to be able to justify making a determination that there are no environmentally or culturally sensitive areas within the area proposed to be zoned for residential uses. More detailed assessment, if necessary, could be undertaken at development application stage. Otherwise, DECCW reiterates its previous advice that it has no objections to the planning proposal.

Should you wish to discuss the above comments further, please contact Estelle Blair of our Planning and Aboriginal Heritage Section on 6659 8256.

Flooding Consideration

Part of the site is subject to flooding from Byron Creek. A flood study, undertaken by consultant MRG Water Consulting, assessed the level of flood risk on the site and found that the additional area within Area 6, if filled to the 1 in 100 year flood level can be accommodated with negligible flood impact to the surrounding area.

An assessment of the probable maximum flood also found that the additional area will not become isolated as evacuation would be possible via Thomas Street and Charlotte Street.

The consultant has acknowledged that the accuracy of the assessment could be improved if additional historical flood data come to hand. Model calibration from a more significant flood (bigger than a 1 in 10 year) coupled with 2-dimensional hydraulic modelling of the study area would improve the accuracy of the assessment. Council is encouraged to commence collating historical flood information for Byron Creek and when sufficient data exists undertake a detailed flood study for Bangalow. This study should also include the impact of climate change on flooding.

As it stands, the methodology used and the flood levels calculated in the consultant's report is satisfactory for the purpose of this exercise.

Should you wish to discuss matters concerning flooding further, please call me on the contact number above.

Yours sincerely



TOONG CHIN
Senior Natural Resource Officer
Urban and Coastal Water Programs, North Coast
Waters Wetlands and Coast Division