

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

Our ref: PP_2016_BYRON_005_00 (16/06890)
Your ref: 26.2013.3.1- #E2016/30045

Attention: Fiona Sinclair

Dear Mr Gainger

Planning proposal to amend Byron Local Environmental Plan 2014

I am writing in response to your Council's letter dated 10 May 2016 requesting a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 (the Act) in respect of the planning proposal to rezone Lots 93 and 94 DP 1216681, Tallowood Ridge, Mullumbimby, for residential, rural and public recreation purposes and to undertake associated development standard amendments.

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, as delegate of the Secretary, the planning proposal's inconsistencies with S117 Directions 1.2 Rural Zones, 1.3 Mining, Petroleum Production and Extractive Industries, 2.1 Environment Protection Zones, 3.1 Residential Zones, 4.1 Acid Sulfate Soils, 4.2 Mine Subsidence and Unstable Land, 4.3 Flood Prone Land and 6.2 Reserving Land for Public Purposes are of minor significance. In relation to S117 Direction 6.2 Reserving Land for Public Purposes, I have agreed to the changes to the zoning of land for public purposes on the basis that the relevant amendment will result in an increase in the amount of land zoned for public recreation in Mullumbimby. No further approval is required in relation to these Directions.

Council may still need to obtain the agreement of the Department's Secretary to comply with the requirements of S117 Direction 4.4 Planning for Bushfire Protection. Council should ensure this occurs 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 not 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.

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 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 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 Ms Gina Davis of the Department's regional office to assist you. Ms Davis can be contacted on (02) 6701 9687.

Yours sincerely



27 May 2016

Craig Diss
Acting Director Regions, Northern
Planning Services

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

Gateway Determination

Planning proposal (Department Ref: PP_2016_Byron_005_00): to rezone Lots 93 and 94 DP 1216681, Tallowood Ridge, Mullumbimby, for residential, rural and public recreation purposes and to undertake associated development standard amendments.

I, the Acting Director Regions, Northern, 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 rezone Lots 93 and 94 DP 1216681, Tallowood Ridge, Mullumbimby, for residential, rural and public recreation purposes and to undertake associated development standard amendments should proceed subject to the following conditions:

1. Council is to consult with the NSW Rural Fire Service as per the requirements of s117 Direction 4.4 Planning for Bushfire Protection and amend the planning proposal, if necessary to take into consideration any comments made prior to undertaking community consultation.
2. Prior to community consultation, the planning proposal is to be amended to reflect the correct property description of the subject land.
3. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:
 - (a) the planning proposal and must be made publicly available for a minimum of **28 days**;
 - (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); and
 - (c) Any mapping material must meet the specifications in the current *Standard Technical Requirements for Spatial Datasets and Maps* (Department of Planning and Environment 2015).
4. Consultation is required with the following public authorities under section 56(2)(d) of the Act and/or to comply with the requirements of relevant S117 Directions:
 - NSW Office of Environment and Heritage
 - Local Aboriginal Land Council
 - Department of Primary Industries - Agriculture

Each public authority 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.

5. 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).
6. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated 27 day of May 2016



Craig Diss
Acting Director Regions, Northern
Planning Services
Department of Planning and
Environment

Delegate of the Minister for Planning

WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Byron Shire 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_2016_BYRON_005_00	Planning proposal to rezone Lots 93 and 94 DP 1216681, Tallowood Ridge, Mullumbimby, for residential, rural and public recreation purposes and to undertake associated development standard amendments.

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 27 May 2016



Craig Diss
Acting Director Regions, Northern
Planning Services
Department of Planning and Environment

Delegate of the Minister for Planning

Attachment 5 – Delegated plan making reporting template

Reporting template for delegated LEP amendments

Notes:

- Planning proposal number will be provided by the Department of Planning and Environment following receipt of the planning proposal
- The Department of Planning and Environment will fill in the details of Tables 1 and 3
- RPA is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the RPA should add additional rows to **Table 2** to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the Department of Planning and Environment with the RPA's request to have the LEP notified

Table 1 – To be completed by Department of Planning and Environment

Stage	Date/Details
Planning Proposal Number	PP_2016_BYRON_005_00
Date Sent to DoP&E under s56	10 May 2016
Date considered at LEP Review Panel (if applicable)	n/a
Gateway determination date	27 May 2016

Table 2 – To be completed by the RPA

Stage	Date/Details	Notified Reg Off
Dates draft LEP exhibited		
Date of public hearing (if held)		
Date sent to PCO seeking Opinion		
Date Opinion received		
Date Council Resolved to Adopt LEP		
Date LEP made by GM (or other) under delegation		
Date sent to DoP&E requesting notification		

Table 3 – To be completed by Department of Planning and Environment

Stage	Date/Details
Notification Date and details	

Additional relevant information: