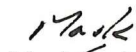


Mr Mark Arnold
General Manager
Byron Shire Council
PO Box 219
MULLUMBIMBY NSW 2482


Dear Mr Arnold

**Planning proposal PP_2018_BYRON_008_00 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 make various changes to the planning controls applicable to the Byron Bay town centre.

As delegate of the Minister for Planning, I have now determined that the planning proposal should proceed subject to the conditions in the enclosed Gateway determination.

The conditions proposed include that the removal of the proposed exception of buildings greater than three storeys from clause 4.6. This is not supported due to inconsistency with *Practice Note 08-001 Height and Floor Space Ratio*. Pitched and varied roof forms may be promoted through inclusion in the design excellence clause, enabling amendments to the height of building to be considered on merit where sufficiently justified.

The proposed clause 6.13(5) requires car parking to be provided in accordance with the applicable development control plan (DCP). DCPs are a guideline that should not be given statutory weight in an LEP. A condition has been applied that the proposed clause 6.13(5) be removed from the planning proposal prior to public exhibition or that the proposed clause is amended to include an intention to apply the car parking rates specified in the DCP.

I have agreed, as delegate of the Secretary, that the planning proposal's inconsistencies with section 9.1 Directions 1.1 Business and Industrial Zones and 4.1 Acid Sulfate Soils are justified in accordance with the terms of the Directions. No further approval is required in relation to these Directions.

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, 4.3 Flood Prone Land and 4.4 Planning for Bushfire Protection. Council should ensure this occurs prior to the plan being made.

It is noted that Council has requested to be authorised as the local plan-making authority. I have considered the nature of Council's planning proposal and have conditioned the Gateway for Council to be authorised as the local plan-making authority.

The amending local environmental plan (LEP) is to be finalised within 12 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 to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office six weeks prior to the projected publication date. A copy of the request should be forwarded to the Department of Planning and Environment.

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 Jenny Johnson to assist you. Ms Johnson can be contacted on 6643 6414.

Yours sincerely

 18 June 2019
Stephen Murray
Executive Director, Regions
Planning Services

Encl: Gateway determination
Authorised plan-making reporting template