

## Gateway Determination

***Planning proposal (Department Ref: PP-2020-3915): Stage three of Council's environmental zone implementation program and incorporate certain land into the Byron Local Environment Plan 2014***

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 undertake stage three of Council's environmental zone implementation program and incorporate certain land into the LEP should proceed subject to the following conditions:

1. 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**;
  - (b) As part of the public exhibition process, Council is to ensure that any landowner whose land is proposed to have an E zone applied to it is to be notified in writing of the planning proposal and the public exhibition arrangements; and
  - (c) When Council has considered the submissions received during the public exhibition period and has endorsed the final planning proposal, landowners whose land will be subject to an E Zone are to be notified in writing of Council's decision and advised that they have 28 days to notify the Department to request the Department review the proposed zoning of their property.
2. 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;
  - NSW Department of Primary Industries;
  - the Local Aboriginal Land Council; and
  - NSW Division of Resources and Geoscience.

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.

3. 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).
4. Given the nature of the planning proposal, Council should not be authorised to be the local plan-making authority to make this plan. Consistent with the Secretary's letter of 1 March 2016, delegation for planning matters that relate to the implementation of the Northern Councils E Zone Review Final Recommendations will remain with the Department.
5. Prior to public exhibition the planning proposal is to be amended as follows:
  - (a) Appendix 1 be altered to note that Direction 4.3 Flood Prone Land does apply to the planning proposal;
  - (b) 44 Ti Tree Road, Byron Bay (property ID: 94240) be altered to include an E2 zone over the area of the site mapped as 'Coastal Wetland' under the Coastal Management SEPP;
  - (c) Jones Road, Wooyung (property ID 240028) be altered to be zoned E1 National Parks and Nature Reserves; and
  - (d) Amend Table 5.1 in the planning proposal as follows:
    - i. include a new column to describe each property's complete zoning;
    - ii. update the primary land use of 228 Broken Head Road, Suffolk Park to reflect an Env/Urban instead of Urban Res
    - iii. updated to reflect the proposed R2 zone for 2 Chumbee Ave, Ocean Shores (Property ID: 267760);
    - iv. include a new column to indicate whether the property is identified as state and/or regionally significant farmland.
6. Prior to the plan being finalised the maps in Appendix 5 of the planning proposal are to be amended to ensure all polygons which depict proposed zones and development controls are labelled clearly and correctly and include the individual Height of Building maps in planning proposal.
7. The time frame for completing the LEP is to be 12 months following the date of the Gateway determination.

Dated 8<sup>th</sup> day of February 2021.



**Monica Gibson**  
**Executive Director**  
**Local and Regional Planning**  
**Department of Planning, Industry and**  
**Environment**  
**Delegate of the Minister for Planning**  
**and Public Spaces**

