

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

Our ref: IRF22/3079

Via email: council@byron.nsw.gov.au
starrant@byron.nsw.gov.au

Dear Mr Arnold

Planning proposal PP-2022-2959 to amend Byron Local Environmental Plan 2014

I am writing in response to the planning proposal you have forwarded to the Minister under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the planning proposal to introduce a 20ha minimum lot size for rural tourist accommodation in the RU1 and RU2 zones and to reduce the number of permitted farm-stay accommodation bedrooms from 12 to 8.

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

Council's goal to ensure rural tourist and visitor accommodation is located appropriately is supported. However, the proposed 20ha minimum lot size for tourist and visitor accommodation could have a significant impact on the tourism sector and is not supported at the present time. It is noted that the planning proposal did not include a suitable economic impact analysis of the change or consideration of consistency with the recently released agri-tourism reforms.

The proposal has however been supported to proceed with a heads of consideration clause, or amendment of existing clause 6.8 of the Byron LEP 2014 to ensure key matters are addressed before the Council can grant consent. I look forward to Council working with the Department's Northern Region in drafting a suitable clause for public exhibition.

I have also agreed, as delegate of the Secretary, the inconsistency of the planning proposal with applicable directions of the Minister under section 9.1 of the EP&A Act 4.1 Flooding, 4.2 Coastal Management, 4.4 Remediation of Contaminated Land, 4.5 Acid Sulfate Soils and 9.2 Rural Lands is justified in accordance with the terms of the Direction.

Council will still need to obtain the agreement of the Secretary to comply with the requirements of relevant applicable directions of the Minister under section 9.1 of the EP&A Act 4.3 Planning for Bushfire Protection. Council should ensure this occurs prior to the LEP being made.

Considering the nature of the planning proposal I have determined that Council may exercise local plan-making authority functions in relation to the planning proposal.

Council should aim to commence the exhibition of the planning proposal as soon as possible. Should Council seek to make a proposed LEP, the request to draft the LEP should be made directly to Parliamentary Counsel's Office well in advance of the date the LEP is projected to

be made. A copy of the request should be forwarded to the Department of Planning and Environment.

The NSW Government has committed to reduce the time taken to complete LEPs. To meet these commitments, the Minister may appoint an alternate planning proposal authority if Council does not meet the timeframes outlined in the gateway determination.

The Department's categorisation of planning proposals in the *Local Environmental Plan Making Guideline* (Department of Planning and Environment, 2021) is supported by category specific timeframes for satisfaction of conditions and authority and Government agency referrals, consultation, and responses. Compliance with milestones will be monitored by the Department to ensure planning proposals are progressing as required.

Should you have any enquiries about this matter, I have arranged for Mr Jon Stone to assist you. Mr Stone can be contacted on 5788 1488.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'M. McDonald', is positioned above the typed name.

25 October 2022

Malcolm McDonald
Executive Director
Local and Regional Planning

Encl: Gateway determination