



## Department of Planning, Housing and Infrastructure

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

Our ref: IRF24/688

Via email: [council@byron.nsw.gov.au](mailto:council@byron.nsw.gov.au)  
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Dear Mr Arnold

### **Planning proposal (PP-2023-1376) 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 rezone land at Rankin Drive, Bangalow for residential purposes.

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

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 Act, Directions 4.1 Flooding, 9.1 Rural Zones, 8.1 Mining, Petroleum Production and Extractive Industries, 9.1 Rural zones and 9.2 Rural Lands are minor or justified. 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 applicable directions of the Minister under section 9.1 of the Act, 11.1 Implementation of Regional Plans, 3.1 Conservation Zones, 4.3 Planning for Bushfire Protection and 9.4 Farmland of State and Regional Significance on the NSW Far North Coast. Council should ensure this occurs prior to the LEP being made.

It should be noted that the Gateway determination requires that the triangular area of land located in the eastern corner of Lot 11 DP 807867 be removed from the proposal. This land is inconsistent with the area identified for urban development in the Byron Shire Residential Strategy, is affected by flood issues and lies outside the area that an affordable housing contribution can be levied under the Byron Shire Affordable Housing Contribution Scheme. It is understood that Council may be interested in increasing the area of land on the site proposed to be zoned R3 Medium Density Residential to accommodate any potential loss of dwelling delivery due to the removal of this land. Should Council resolve to seek such a change, a Gateway alteration can be submitted to the Department for consideration.

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.

The amending local environmental plan (LEP) is to be finalised on or before 9 months from the date of Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request for the Department of Planning,

Housing and Infrastructure to draft and finalise the LEP should be made eight weeks in advance of the date the LEP is projected to be made.

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, Housing and Infrastructure, August 2023) 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 Ms Gina Davis to assist you. Ms Davis can be contacted on 5778 1487.

Yours sincerely



4/7/24

**Craig Diss**  
**Acting Director, Hunter and Northern Region**  
**Local Planning and Council Support**

Encl: Gateway determination