

APPENDICES

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Guidelines 2023

Appendix 1 – Section 9.1 Direction Checklist

1. Planning Systems

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
1.1 Implementation of Regional Plans	<p>Planning proposals must be consistent with a Regional Plan released by the Minister for Planning. A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Planning Secretary (or an officer of the Department nominated by the Secretary), that:</p> <ul style="list-style-type: none"> (a) the extent of inconsistency with the Regional Plan is of minor significance, and (b) the planning proposal achieves the overall intent of the Regional Plan and does not undermine the achievement of the Regional Plan’s vision, land use strategy, goals, directions or actions. 	The planning proposal is generally consistent with the planning framework set out under the North Coast Regional Plan 2041 — in particular, ‘Objective 3: Protect regional biodiversity and areas of high environmental value’.	Consistent
1.2 Development of Aboriginal Land Council Land	Applies when preparing a planning proposal for land shown on the Land Application Map of chapter 3 of the State Environmental Planning Policy (Planning Systems) 2021.	(not currently applicable to Byron Shire)	Not applicable
1.3 Approval and Referral Requirements	<p>A planning proposal must:</p> <ul style="list-style-type: none"> (a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and (b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of: <ul style="list-style-type: none"> i. the appropriate Minister or public authority, and 	The planning proposal does not introduce any new concurrence or consultation provisions or any additional designated development types.	Not applicable

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	ii. the Planning Secretary (or an officer of the Department nominated by the Secretary), prior to undertaking community consultation in satisfaction of Schedule 1 to the EP&A Act		
1.4 Site Specific Provisions	Applies when preparing a planning proposal that will allow a particular development to be carried out.	Does not apply to this planning proposal.	Not applicable
1.4A Exclusion of Development Standards from Variation	Applies when a planning proposal authority prepares a planning proposal that proposes to introduce or alter an existing exclusion to clause 4.6 of a Standard Instrument LEP or an equivalent provision of any other environmental Planning Instrument	Does not apply to this planning proposal.	Not applicable

3. Biodiversity and Conservation

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
3.1 Conservation Zones	<p>(1) A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.</p> <p>(2) A planning proposal that applies to land within a conservation zone or land otherwise identified for environment conservation/protection purposes in a LEP must not reduce the conservation standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with Direction 9.2 (2) of "Rural Lands".</p>	This planning proposal seeks to rezone various land to a Conservation zone (C Zone). The rezoning will not reduce conservation standards that will apply to the land.	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
3.2 Heritage Conservation	<p>A planning proposal must contain provisions that facilitate the conservation of:</p> <ul style="list-style-type: none"> (a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area, (b) Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974, and (c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people 	Does not apply to planning proposal.	Not applicable
3.3 Sydney Drinking Water Catchments	Not applicable to Byron Shire	Not applicable to Byron Shire	Not applicable
3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	<p>A planning proposal that introduces or alters an C2 Environmental Conservation or C3 Environmental Management zone or an overlay and associated clause must apply that proposed C2 Environmental Conservation or C3 Environmental Management zone, or the overlay and associated clause, in line with the Northern Councils E Zone Review Final Recommendations.</p>	<p>The proposed environmental zones are consistent with the criteria and supporting recommendations contained in the 'Northern Councils E Zone Review Final Recommendations' report.</p>	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
3.5 Recreation Vehicle Areas	A planning proposal must not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the Recreation Vehicles Act 1983).	The Planning Proposal does not enable land to be developed for the purpose of a recreation vehicle area.	Consistent
3.6 Strategic Conservation Planning	Not applicable to Byron Shire	Not applicable to Byron Shire	Not applicable
3.7 Public Bushland	Not applicable to Byron Shire	Not applicable to Byron Shire	Not applicable
3.8 Willandra Lakes Region	Not applicable to Byron Shire	Not applicable to Byron Shire	Not applicable
3.9 Sydney Harbour Foreshores and Waterways Areas	Not applicable to Byron Shire	Not applicable to Byron Shire	Not applicable
3.10 Water Catchment Protection	Not applicable to Byron Shire	Not applicable to Byron Shire	Not applicable

4. Resilience and Hazards

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
4.1 Flooding	This direction applies when preparing a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.	Does not apply to planning proposal.	Not applicable
4.2 Coastal Management	This direction applies when a planning proposal authority prepares a planning proposal that applies to land that is within the coastal zone, as defined under the Coastal Management Act 2016 — comprising the coastal wetlands and littoral rainforests area, coastal vulnerability area, coastal environment area and coastal use area - and as	The application of environmental zones to certain land that contains wetland and/or littoral rainforest communities, and that meets the criteria contained within the NSW Government's Northern Councils E Zone Review Final Recommendations Report, is consistent with the relevant objectives and provisions of this direction. This includes consistency with the	Consistent.

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	identified by chapter 2 of the <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> .	relevant requirements set out in the NSW Coastal Design Guidelines 2023 assessment checklist (See Appendix 5).	
4.3 Planning for Bushfire Protection	<p>(1) In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 3.34 of the Act, and prior to undertaking community consultation in satisfaction of clause 4, Schedule 1 to the EP&A Act, and take into account any comments so made.</p> <p>(2) A planning proposal must:</p> <ul style="list-style-type: none"> (a) have regard to Planning for Bushfire Protection 2019, (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and (c) ensure that bushfire hazard reduction is not prohibited within the Asset Protection Zone (APZ). 	<p>The proposal will result in the alteration to some planning provisions affecting bush fire prone land. This results from changes to zoning and associated planning controls, which are intended to reflect the characteristics of the land and current and planned land use. [Note: LEP 2014 cl 5.11 permits bush fire hazard reduction work authorised by the Rural Fires Act 1997 to be carried out on any land without development consent.]</p> <p>Consultation will be undertaken with the NSW Rural Fire Service in accordance with this Direction, following receipt of a gateway determination.</p>	Consistent (subject to consultation with the NSW Rural Fire Service).
4.4 Remediation of Contaminated Land	<p>This direction applies to:</p> <ul style="list-style-type: none"> (a) land that is within an investigation area within the meaning of the Contaminated Land Management Act 1997, (b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out, (c) the extent to which it is proposed to carry out development on it for residential, educational, 	<p>The planning proposal does not seek to intensify development or expand range of permissible land uses on affected lands, but instead apply a more restrictive C2/C3 zoning and/or like-for-like transition of 1988 LEP to 2014 LEP zones.</p> <p>A high-level assessment was carried out in accordance with the Contaminated Land Planning Guidelines for rezoning' proposed across large areas of rural land. The assessment found that one or more</p>	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>recreational or childcare purposes, or for the purposes of a hospital – land:</p> <p>i. in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and</p> <p>ii. on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).</p> <p>(1) A planning proposal authority must not include in a particular zone (within the meaning of the local environmental plan) any land to which this direction applies if the inclusion of the land in that zone would permit a change of use of the land, unless:</p> <p>(a) the planning proposal authority has considered whether the land is contaminated, and</p> <p>(b) if the land is contaminated, the planning proposal authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used, and</p> <p>(c) if the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, the planning proposal authority is satisfied that the land will be so remediated before the land is used for that purpose.</p>	<p>of the following categories applies to land affected by this planning proposal:</p> <ul style="list-style-type: none"> • No change in dwelling permissibility based on new zone/s proposed • Not identified in Council’s register of unhealthy building land, or where identified — the proposed zoning does not seek to intensify development or expand range of permissible land uses on affected lands • Affected by a dip site or dip site buffer, but no change in dwelling permissibility based on new zone/s proposed • Land containing an existing approved dwelling in an urban area and currently zoned ‘environmental’ (eg. 7B), where a small portion of the environmental zoned area is proposed to be replaced by a residential zone to reflect primary use. <p>Based on the assessment findings above, and in accordance with the Contaminated Land Planning Guidelines for across large areas of rural land, a more detailed contamination assessment is not warranted at this stage and the suitability of the land for any future proposed uses can be appropriately assessed if/when specific proposals are made.</p>	

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>In order to satisfy itself as to paragraph 1(c), the planning proposal authority may need to include certain provisions in the local environmental plan.</p> <p>(2) Before including any land to which this direction applies in a particular zone, the planning proposal authority is to obtain and have regard to a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines</p>		
4.5 Acid Sulfate Soils	<p>Applies when preparing a planning proposal that will apply to land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps held by the Department of Planning and Environment.</p> <p>A relevant planning authority must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the relevant planning authority has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils. The relevant planning authority must provide a copy of any such study to the Planning Secretary prior to undertaking community consultation in satisfaction of clause 4 of Schedule 1 to the Act.</p>	<p>Some land to which this Planning Proposal is affected by acid sulfate soils.</p> <p>However the Planning Proposal is unlikely lead to intensification of land uses proposed on land identified on the Acid Sulfate Soils Planning Maps. Council will consider acid sulfate soils if it receives a development application for affected land in accordance with existing clause 6.1 of Byron LEP 2014.</p>	Consistent
4.6 Mining Subsidence and Unstable Land	<p>This direction applies when a relevant planning authority prepares a planning proposal that permits development on land that is within a declared mine subsidence district in the Coal Mine Subsidence</p>	Does not apply to planning proposal.	Not applicable

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	Compensation Regulation 2017 pursuant to section 20 of the Coal Mine Subsidence Compensation Act 2017, or has been identified as unstable in a study, strategy or other assessment undertaken by or on behalf of the relevant planning authority or by or on behalf of a public authority and provided to the relevant planning authority.		

5. Transport and Infrastructure

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
5.1 Integrated Land Use Transport	<p>This direction applies when preparing a planning proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.</p> <p>1) A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:</p> <p>(a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and</p> <p>(b) The Right Place for Business and Services – Planning Policy (DUAP 2001).</p>	This proposal will not result in any negative impacts on accessibility or transport movements.	Consistent
5.2 Reserving Land for Public Purposes	A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Planning Secretary (or an officer of the Department nominated by the Secretary).	Does not apply to this planning proposal.	Not applicable

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
5.3 Development Near Regulated Airports and Defence Airfields	Applies when preparing a planning proposal that will create, alter or remove a zone or a provision relating to land near a regulated airport which includes a defence airfield.	Does not apply to this planning proposal.	Not applicable
5.4 Shooting Ranges	Applies when preparing a planning proposal that will affect, create, alter or remove a zone or a provision relating to land adjacent to and/ or adjoining an existing shooting range	Does not apply to this planning proposal.	Not applicable

6. Housing

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
6.1 Residential Zones	<p>Applies when preparing a planning proposal that will affect land within an existing or proposed residential zone (including the alteration of any existing residential zone boundary).</p> <p>(1) A planning proposal must include provisions that encourage the provision of housing that will:</p> <ul style="list-style-type: none"> (a) broaden the choice of building types and locations available in the housing market, and (b) make more efficient use of existing infrastructure and services, and (c) reduce the consumption of land for housing and associated urban development on the urban fringe, and (d) be of good design. <p>(2) A planning proposal must, in relation to land to which this direction applies:</p> <ul style="list-style-type: none"> (a) contain a requirement that residential development is not permitted until land is 	<p>The application of a residential zone (R2 Low Density Residential, R3 Medium Density Residential or R5 Large Lot Residential) in this proposal will largely retain the same provisions as the adjoining residential zone.</p> <p>Clause 6.6 of Byron LEP 2014 already applies essential services provisions to development in residential zones.</p>	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and (b) not contain provisions which will reduce the permissible residential density of land.		
6.2 Caravan Parks and Manufactures Home Estates	Applies when a planning proposal affects land for Caravan Parks and Manufactured Home Estates.	The proposal will not result in any reduction in the existing availability of land for caravan parks or manufactured home estates.	Consistent

7. Industry and Employment

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
7.1 Employment Zones	<p>This direction applies to all relevant planning authorities when preparing a planning proposal that will affect land within an existing or proposed Employment zone (including the alteration of any existing Employment zone boundary). For the purpose of this Direction, Employment zones means the following zones.</p> <ul style="list-style-type: none"> • Employment • Mixed Use • W4 Working Waterfront • SP4 Enterprise • SP5 Metropolitan Centre <p>A planning proposal must:</p> <p>(a) give effect to the objectives of this direction,</p> <p>(b) retain the areas and locations of Employment zones,</p>	Does not apply to planning proposal.	Not applicable

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>(c) not reduce the total potential floor space area for employment uses and related public services in Employment Zones.</p> <p>(d) not reduce the total potential floor space area for industrial uses in E4, E5 and W4 zones, and</p> <p>(e) ensure that proposed employment areas are in accordance with a strategy that is approved by the Planning Secretary.</p>		
7.2 Reduction in non-hosted short-term rental accommodation period	This direction applies to Byron Shire Council when the council prepares a planning proposal to identify or reduce the number of days that non-hosted short-term rental accommodation may be carried out in parts of its local government area.	Does not apply to planning proposal.	Not Applicable
7.3 Commercial and Retail Development along the Pacific Highway, North Coast	Applies to land in the vicinity of the existing and/or proposed alignment of the Pacific Highway.	Does not apply to planning proposal.	Not Applicable

8. Resources and Energy

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
8.1 Mining, Petroleum Production and Extractive Industries	<p>This direction applies to all relevant planning authorities when preparing a planning proposal that would have the effect of:</p> <p>(a) prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or</p> <p>(b) restricting the potential development of resources of coal, other minerals, petroleum or</p>	<p>The proposal contains twenty-seven (27) parcels where a C2 Environmental Conservation Zone and/or C3 Environmental Management Zone are proposed within a s9.1 mineral “transition area”. Only one (1) road reserve is within an ‘Identified Resource’ area.</p> <p>In accordance with the requirements of this direction, Council will consult with the Director-</p>	Inconsistent.

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.	<p>General of Department of Primary Industries (DPI) during exhibition of this planning proposal to clarify the development potential of these resources and DPI's position on the proposed C zones on these sites.</p> <p>Further information about these sites is contained in Appendix 2.</p>	

9. Primary Production

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
9.1 Rural Zones	Applies when a planning proposal will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary). A planning proposal must not rezone land from a rural zone to a residential, business, industrial, village or tourist zone	<p>The planning proposal does not seek to rezone land from a rural zone to a residential, business, industrial, village or tourist zone, nor contain provisions that will increase the permissible density of land within a rural zone.</p> <p>Whilst the planning proposal does include the rezoning of certain rural land to an environmental zone (C2 or C3), this is proposed in accordance with the NSW Government's Northern Councils E Zone Review Final Recommendations Report and associated Ministerial Direction 3.4 (see below).</p> <p>The planning proposal also provides for extensive agriculture as a permissible land use in both the C2 and C3 zones enabling certain agricultural activities on the land.</p>	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
9.2 Rural Lands	<p>Applies when a planning proposal:</p> <ul style="list-style-type: none"> (a) will affect land within an existing or proposed rural or conservation zone (including the alteration of any existing rural or conservation zone boundary) or (b) changes the existing minimum lot size on land within a rural or conservation zone. <p>A planning proposal must:</p> <ul style="list-style-type: none"> (a) be consistent with any applicable strategic plan, including regional and district plans endorsed by the Planning Secretary, and any applicable local strategic planning statement (b) consider the significance of agriculture and primary production to the State and rural communities (c) identify and protect environmental values, including but not limited to, maintaining biodiversity, the protection of native vegetation, cultural heritage, and the importance of water resources (d) consider the natural and physical constraints of the land, including but not limited to, topography, size, location, water availability and ground and soil conditions (e) promote opportunities for investment in productive, diversified, innovative and sustainable rural economic activities (f) support farmers in exercising their right to farm (g) prioritise efforts and consider measures to minimise the fragmentation of rural land and reduce the risk of land use conflict, particularly 	<p>Consistent with the relevant objectives and provisions of this direction.</p> <p>Furthermore:</p> <ul style="list-style-type: none"> – The planning proposal has been prepared having regard for State Environmental Planning Policy (Primary Production and Rural Development) 2019 and the NSW Government’s Northern Councils E Zone Review Final Recommendations Report. <p>Extensive agriculture is identified a permissible land use in both the C2 and C3 zones, enabling certain agricultural activities on the land.</p>	Consistent

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
	<p>between residential land uses and other rural land use</p> <p>(h) consider State significant agricultural land identified in chapter 2 of the State Environmental Planning Policy (Primary Production) 2021 for the purpose of ensuring the ongoing viability of this land</p> <p>(i) consider the social, economic and environmental interests of the community.</p> <p>(2) A planning proposal that changes the existing minimum lot size on land within a rural or conservation zone must demonstrate that it:</p> <p>(a) is consistent with the priority of minimising rural land fragmentation and land use conflict, particularly between residential and other rural land uses</p> <p>(b) will not adversely affect the operation and viability of existing and future rural land uses and related enterprises, including supporting infrastructure and facilities that are essential to rural industries or supply chains</p> <p>(c) where it is for rural residential purposes:</p> <p>i. is appropriately located taking account of the availability of human services, utility infrastructure, transport and proximity to existing centres.</p> <p>ii. is necessary taking account of existing and future demand and supply of rural residential land.</p>		

S. 9.1 Direction	Application	Relevance to this planning proposal	Consistency
9.3 Oyster Aquaculture	Applies when preparing a planning proposal in 'Priority Oyster Aquaculture Areas'	Does not apply to planning proposal.	Not applicable
9.4 Farmland of State and Regional Significance on the NSW Far North Coast	Applies to land mapped as mapped as State significant farmland, regionally significant farmland, or significant non-contiguous farmland.	The proposal does not propose the rezoning of identified significant farmland for urban, residential or rural residential purposes.	Consistent

Appendix 2 – Overview of Land Affected by s. 9.1 Direction ‘1.3 – Mining, Petroleum Production and Extractive Industries’

(For consultation with the Director-General of Department of Primary Industries in accordance with this direction.)

LZN Map Sheet Ref	Parcel ID	Property Address	Lot / DP Number (where applicable)	Current Zoning	Proposed zoning	Resource Type	Owner	Area (Ha)
002D	168310	Tandys Lane Brunswick Heads	Lot 381 DP 720451	7A, 7B	C2	Potential Resource	Crown Land	0.03
003CC	CLRD2581	Road Reserve		7B, 7A	C2	Transition Area	Crown - Road Reserve	0.46
003CA	CLRD2647	Road Reserve		7A, 5A	C2	Transition Area	Crown - Road Reserve	2.08
002D	CLRD2671	Road Reserve		7B, 1A	C2	Potential Resource	Crown - Road Reserve	0.17
002D	CLRD3061	Road Reserve		1A	C2	Transition Area	Crown - Road Reserve	0.46
002D	CLRD3064	Road Reserve		1A	C2	Identified Resource	Crown - Road Reserve	0.21
002D	CLRD3066	Road Reserve		1C1	C2	Transition Area	Crown - Road Reserve	0.31
002B	CLRD3093	Road Reserve		1A	C2	Transition Area	Crown - Road Reserve	0.29
002D	CLRD4511	Road Reserve		1A	C2	Potential Resource	Crown - Road Reserve	0.82
002D	CLRD4521	Road Reserve		7B	C2	Potential Resource	Crown - Road Reserve	1.98
002D	CLRD4525	Road Reserve		7B	C2	Potential Resource	Crown - Road Reserve	0.74
002D	CLRD4526	Road Reserve		1D, 7B	C2	Potential Resource	Crown - Road Reserve	0.03
002B	CLRiv4540	Road Reserve		1A	C2	Transition Area	Crown Land - River	0.89
003CC	ez472	Road Reserve		7B	C2	Transition Area	BSC - Road Reserve	0.81

LZN Map Sheet Ref	Parcel ID	Property Address	Lot / DP Number (where applicable)	Current Zoning	Proposed zoning	Resource Type	Owner	Area (Ha)
002D	STRD2672	Road Reserve		7B	C2	Potential Resource	NSW State Government - Road Reserve	1.13
002D	89260	146 Tandys Lane Brunswick Heads	Lot 152 DP 755692	RU2, 1a, 1D, 7a, 7b	C2, RU2	Potential Resource	Private	19.3
003CC	CLRD2612	Road Reserve		7B	C3	Transition Area	Crown - Road Reserve	0.77
003CC	CLRD2617	Road Reserve		1A	C3	Transition Area	Crown - Road Reserve	0.25
002B	CLRD3091	Road Reserve		1A, RU2	C3	Transition Area	Crown - Road Reserve	0.48
002A	CLRD3169	Road Reserve		RU2, 1A	C3	Transition Area	Crown - Road Reserve	0.56
002A	CLRD3176	Road Reserve		1A	C3	Transition Area	Crown - Road Reserve	0.05
002B	ez432	Road Reserve		1A	C3	Transition Area	BSC - Road Reserve	1.96
002A	ez521	Road Reserve		1A	C3	Transition Area	BSC - Road Reserve	1.72
002D	ez561	Road Reserve		7B	C3	Potential Resource	BSC - Road Reserve	0.35
003CC	184220	Raywards Lane Skinners Shoot	Lot 402 DP 728193	7A, 7B, 1A	C3, RU2	Transition Area	Crown Land	2.14
002D	94860	45 Wallum Pl Byron Bay	Lot 2 DP 706286	5A, 7A, 7B, SP2, RU2	C3, RU2, SP2	Transition Area	Byron Shire Council	39.25
002D	184030	Pacific Highway Tyagarah	Lot 407 DP 728640	7B, 1A, RU2	C3, SP2, RU2	Potential Resource	Byron Shire Council	2.87

Appendix 3 – Gateway Determination

Copy of the Gateway determination (see below)

Gateway Determination

Planning proposal (Department Ref: PP-2024-1194): *Byron Shire Conservation Zone (C Zone) Implementation Program – Stage 4*

I, the Director, Hunter and Northern Region at the Department of Planning, Housing and Infrastructure, 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 2014 to implement the Byron Shire Conservation Zones (C Zones) program – Stage 4 should proceed subject to the following Gateway conditions.

The LEP should be completed on or before 12 months from the date of Gateway determination.

Gateway Conditions

1. Prior to exhibition, the planning proposal is to be amended prior to exhibition to:
 - (a) clearly articulate the Explanation of Provisions for the planning proposal, currently contained under the Objectives section of the proposal;
 - (b) determine the correct number of land parcels affected; and
 - (c) address the requirements of Section 9.1 Ministerial direction 4.2 Coastal Management, specifically completing section 3.2 of the NSW Coastal Design Guidelines and associated checklist.
2. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
 - (a) the planning proposal is categorised as complex as described in the *Local Environmental Plan Making Guideline* (Department of Planning and Environment, August 2023) and must be made publicly available for a minimum of 30 working days; and
 - (b) the planning proposal 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 *Local Environmental Plan Making Guideline* (Department of Planning and Environment, August 2023).
 - (c) Consistent with the recommendations of the E Zone Review, Council must ensure that any landowner whose land is proposed to have a conservation zone applied, is notified in writing of the planning proposal and consultation arrangements;
 - (d) When Council has considered the submissions received during public exhibition and has endorsed the final planning proposal, the landowners whose land will be subject to a conservation zone must be notified in writing of Council's decision and advised that they have 28 days to notify the Department to undertake an independent review of the proposed zoning of their property.

3. Consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the Act and/or to comply with the requirements of applicable directions of the Minister under section 9 of the Act:

- Biodiversity Conservation and Science Group
- National Parks and Wildlife Service
- NSW Rural Fire Service
- Department of Primary Industries
- NSW Mining, Exploration and Geoscience
- Tweed Byron LALC
- Bundjalung of Byron Bay Aboriginal Corporation (Arakwal)

Each authority is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal and given at least 40 working days to comment on the proposal.

4. 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).
5. The final planning proposal is to detail how the E Zone application process for each property has been satisfied in accordance with the review recommendations.

Dated 13 June 2024



Craig Diss
Acting Director, Hunter and Northern
Region
Local Planning and Council Support
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Delegate of the Minister for Planning and
Public Spaces