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The General Manager
Byron Shire Council
PO Box 219
MULLUMBIMBY NSW 2482

Your Ref: 26.2017.5.1
Our Ref: R18/585
DA18030612087 AB

ATTENTION: Rob van Lersel

12 April 2018

Dear Mr van Lersel

Agency Comment:- Byron Local Environment Plan 2014 Planning Proposal; part Lot 4729 DP1228104, lot 1 DP1001454, Lots 3&7 DP827049 Byron Bay Town Centre

I refer to your letter dated 5 March 2018 seeking advice for the above Planning Instrument in accordance with the 'Environmental Planning and Assessment Act 1979'.

The NSW Rural Fire Service (NSW RFS) understands the planning proposal will amend Byron LEP 2014 in the following manner:

- *Amend Schedule 1 Additional Permitted Uses and Map to permit the following additional uses (only with development consent):*
 - *temporary commercial activities including shared office space, retail or creative industries work spaces, except for cafes and /or food and drink premises, that have minimal environmental and/or amenity impacts;*
 - *portable or demountable single-storey structures to house those activities; and*
 - *markets.*
- *Amend Schedule 2 Exempt Development to permit the following activities as exempt development:*
 - *nominated one-off events and ceremonies where they are carried out on public land including one-off community event or commercial event, such as the laneway activation.*
- *Amend Clause 2.8 Temporary use of land*

²Ref 2 The NSW RFS notes that part of the subject land is mapped bush fire prone by Byron Shire Council. Further Council intends to permit some exempt activities within the area mapped bush fire prone.

As such, the NSW RFS cannot support the planning proposal and provides the following comment:

Council should either

- a. Exclude any proposed exempt development activities on mapped bush fire prone land by including an additional statement in schedule 2 – “does not apply on mapped bush fire prone land” or
- b. Council should exclude that land mapped bush fire prone land from its Byron town centre ‘additional permitted uses’ map’.

For any queries regarding this correspondence please contact Alan Bawden on 1300 NSW RFS.

Yours Sincerely

John Ball

Manager – Planning and Environment Services North

The RFS has made getting information easier. For general information on 'Planning for Bush Fire Protection, 2006', visit the RFS web page at www.rfs.nsw.gov.au and search under 'Planning for Bush Fire Protection, 2006'.



General Manager
Byron Shire Council
PO Box 219
Mullumbimby NSW 2482

Attention: Mr Rob van Iersel – Major Project Planning

Our Ref: DOC18/195021
Your Ref: 26.2017.5.1

Dear Mr Arnold

General Manager
Byron Shire Council
PO Box 219
Mullumbimby

Re: Planning Proposal 26.2017.5.1 - Amendment 2014 – Byron Bay Town Centre Planning Control

Attention: Mr Rob van Iersel

Thank you for your letter about the Planning Proposal and your comments from the Office of Environment and Heritage. We will provide input.

Dear Mr Arnold

Re: Planning Proposal 2014 – Byron Bay Town Centre Planning Control

Thank you for your letter about the Planning Proposal and your comments from the Office of Environment and Heritage. We will provide input.

As Gateway Determination was issued on 25 January 2014, the Office of Environment and Heritage (OEH) understands our response to the *Environmental Planning and Assessment Act 1979*.

We acknowledge that the Planning Proposal aims to amend the Byron Bay Town Centre Masterplan, as adopted on 9 June 2016, and the LEP 2014 seeking to change land uses within a portion of the railway corridor near the subject land. We acknowledge that the Planning Proposal aims to amend the Byron Bay Town Centre Masterplan, as adopted on 9 June 2016, and the LEP 2014 seeking to change land uses within a portion of the railway corridor near the subject land. We acknowledge that the Planning Proposal aims to amend the Byron Bay Town Centre Masterplan, as adopted on 9 June 2016, and the LEP 2014 seeking to change land uses within a portion of the railway corridor near the subject land.

The OEH advises that this response relates to our biodiversity (including threatened species, populations and communities) and the Byron Bay Town Centre Masterplan, as adopted on 9 June 2016, and the LEP 2014 seeking to change land uses within a portion of the railway corridor near the subject land. We acknowledge that the Planning Proposal aims to amend the Byron Bay Town Centre Masterplan, as adopted on 9 June 2016, and the LEP 2014 seeking to change land uses within a portion of the railway corridor near the subject land.

We have reviewed the Planning Proposal and advised the OEH of our comments. We have also referred this matter to our Heritage Division for comment. Although the intent of the Planning Proposal is only temporary in nature, it will result in the interference with anthropogenic impacts resulting from increased public use of the subject land.

The OEH acknowledges the planned consultation with statutory authorities as part of the public consultation process. We have also referred this matter to our Heritage Division for comment. Although the intent of the Planning Proposal is only temporary in nature, it will result in the interference with anthropogenic impacts resulting from increased public use of the subject land.

2018 and use intensification to be enabled by the Planning Proposal, there is insufficient information on the likelihood of adverse impacts on threatened entities, the State Environmental Planning Policy No. 14 Coastal Wetland (SEPP 14) and on areas of mapped High Environmental Value under the North Coast Regional Plan. We note that the Planning Proposal, has excluded the mapped SEPP 14 wetland area from Figure 3 Additional Permitted Uses Map APU_003CC, however an ecological buffer to the SEPP 14 wetland should also form part of the exclusion area.

The OEH recommends that prior to finalising the Planning Proposal the council should:

1. Ensure an appropriate level of consultation is undertaken with the Aboriginal knowledge-holders and Aboriginal statutory authorities and provide this to the OEH for review.
2. Consider excluding areas of biodiversity value from the proposed Additional Permitted Uses Map for the railway corridor as set out below:
 - a. areas mapped as High Environmental Value under the North Coast Regional Plan where those values are confirmed in the planning area,
 - b. areas containing threatened ecological communities and/or threatened species habitat,
 - c. the SEPP14 wetland as well as a suitable ecological buffer to the wetland, which should be of sufficient width to minimise any potential direct or indirect impacts on the wetland arising from the additional permitted uses proposed.

If you have any further questions about this issue, Ms Rachel Binskin, Senior Conservation Planning Officer, Regional Operations, OEH, can be contacted on 6659 8247 or at rachel.binskin@environment.nsw.gov.au.

Yours sincerely

**Senior Team Leader Planning, North East Branch
Regional Operations**

Conta

By email:

By email: rob.vaniersel@byron.nsw.gov.au



New South Wales

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File No: SF18/24630

Ref No: DOC18/197972

www.heritage.nsw.gov.au

~~Helping the community conserve our heritage~~ Additional permitted uses to be included in the BLEP 2014. However, please note that any works and/or changes within the SHR curtilage would require an approval from the Heritage Council of NSW under the *Heritage Act 1977*.

- Schedule 2 Exempt Development

It is recommended that the following clause be added within the draft clause *Single temporary events and ceremonies* in Schedule 2 of BLEP 2014

(3) Must not be located on a heritage item or within a heritage conservation area.

If you have any questions regarding the above matter please contact Vibha Upadhyay, Heritage Programs Officer, Statewide Programs at the Heritage Division, Office of the Environment and Heritage by telephone on 02 98738587 or email at

Yours sincerely

A handwritten signature in black ink, appearing to read 'J Smith'.

TIM SMITH OAM
Director Heritage Operations
Heritage Division
Office of Environment & Heritage

As delegate of the Heritage Council of NSW

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