



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

Dear Mr Arnold

Thank you for the opportunity for the Department of Planning, Industry and Environment to provide comments on the Byron Shire Draft Residential Strategy.

I would like to acknowledge Council's efforts and commitment to strategic planning in preparing the draft strategy.

When finalising the strategy, Council should ensure that it is consistent with the North Coast Regional Plan 2036 (NCRP), State Environmental Planning Policies, and section 9.1 Ministerial Directions 2019. It is suggested that the following issues be specifically considered by Council:

- the investigation areas for future growth are all affected by primary constraints such as flooding, mapped important farmland, cultural heritage, acid sulfate soils and bushfire risk. These areas should clearly be identified in the strategy as being only for investigation. Further investigations would then be undertaken to support any future rezoning within these areas to confirm the suitability of land for residential uses; and
- identified future urban growth areas should be consistent with the NCRP urban growth area boundaries or include a further assessment against Urban Growth Area Variation Principles and the North Coast Settlement Planning Guidelines 2019. Any potential inconsistencies should be detailed and justified in Council's submission of the final strategy for the Department's approval.

Considering that land in the Byron Shire is heavily constrained, and that the future development of some investigation sites may not be supported, it would be useful for the Strategy to also discuss alternative options for future housing.

The draft Strategy lists an action to prepare an affordable housing contributions scheme under SEPP 70. Until its feasibility has been determined, it would be preferable for this action to refer to an 'investigation' of a scheme. It would also be helpful for the strategy to use consistent language about the SEPP, for example 'affordable housing' rather than 'accessible housing'. It is expected that the affordable housing contributions scheme will be consistent with the Department's Guideline for Developing an Affordable Housing Contribution Scheme, and that Council will

provide the Department with the evidence and assumptions used to determine the affordable housing contribution rate.

The draft Strategy indicates that Council wants to ensure that slope is a consideration (along with minimum lot size) for assessing low rise medium density proposals under complying development and to advocate to the State Government to amend the SEPP to incorporate slope and locational considerations. There are already controls in place in the Code that address sloping sites such as calculating height from the existing ground level to allow a building to be designed to step up/down along the slope and allowing cut and fill provisions. The Low Rise Medium Density Design Guide, which supports the Code, provides advice for designers to address sloping sites.

The draft Strategy addresses local character under Directions 3.1 and 3.2, however there is no reference to the Department's Local Character and Place Guideline and the steps required to identify local character areas. It is recommended that Council references the Guideline and, if they wish to identify local character areas, adhere to Part 2 of the Guideline. Department staff are available to discuss identifying and mapping local character areas with Council if required.

In addition to these requirements, the strategy also needs to be updated to:

- provide a rationale for the urban housing target that also identifies impediments or opportunities for its delivery, for example a clarification on whether yields will be impacted if the Low-Rise Medium Density Code lot size is increased or if an alternate zoning plan for West Byron is proposed;
- demonstrate how the proposal is consistent with the NCRP action to deliver 40 per cent of new housing in the form of dual occupancies, apartment, townhouses or dwellings on lots less than 400m² by 2036;
- explain how the strategy will relate to Council's Local Strategic Planning Statement;
- consider aligning future reviews and updates of the strategy with Council's Community Strategy Plan and Local Strategic Planning Statement programs;
- include a justification for the action to rezone land fronting Shirley Street in Byron Bay to SP3 Tourist zone;
- include Site 13 if considered appropriate, and discuss its consistency against the policy framework;
- provide more details on the consistency of Site 31 with the Coastal Management SEPP and of Site 6 with planning for bushfire protection requirements and consistency with Coastal Management SEPP;
- provide more details on the infrastructure networks' capacity and sequencing to cater for the projected growth; and
- refer to section 9.1 Directions, rather than section 117 Directions.

In preparing the final strategy, it is recommended that Council consult all relevant state agencies.

I look forward to the Department and Council continuing to work together towards the finalisation of the strategy. If you wish to discuss this matter in further detail, please contact Ms Renee Trezise, Northern Region office on 6670 8656.

Yours sincerely

-12-2019

Jeremy Gray
Director, Northern Region
Planning and Assessment



Department of Primary Industries

OUT19/13849

General Manager
Byron Shire Council
PO Box 219
Mullumbimby NSW 2482

Attention: Natalie Hancock
Natalie.Hancock@byron.nsw.gov.au

Dear Sir/Madam

Byron Shire Draft Residential Strategy

Thank you for the opportunity to provide comment on the Byron Shire Draft Residential Strategy. The NSW Department of Primary Industries (NSW DPI) Agriculture provides advice to consent authorities about the protection and growth of agricultural industries and the resources upon which these industries depend to provide economic growth.

The Draft Strategy provides a comprehensive analysis of the diversity of housing needs and demand within the Byron Shire over the next 20 years.

Generally, the strategy focuses on developing infill areas and considerations for low-medium density residential developments within existing residential or approved residential areas, and avoiding valued assets including important farmland for new release areas. DPI Agriculture is supportive of this strategic approach.

There are however some locations of important farmland that have been identified as new release areas adjacent to the urban areas that DPI would not consider to meet the Interim Important Farmland Variation Criteria as required as per the *North Coast Regional Plan 2036* due to the size and contiguity with adjacent farmland. Of particular concern are sites 16 and 17 at Mullumbimby.

The removal of this land from primary production potential creates an incremental creep of changing land use upon this important resource. This is considered inconsistent with the *North Coast Regional Plan 2036* and *NSW Right to Farm Policy* that seek to strengthen land use planning outcomes for agriculture and direct development away from important farmland. Whilst the strategic intent of identifying lands adjacent to urban areas is supported, the risk of continued encroachment onto this valued asset is a concern. Additionally, the link road that has been indicatively mapped may potentially sterilise the agricultural land to the south of these sites.

Key considerations for all sites adjoining agricultural land include land use conflict risk and potential for increased flood risk for adjoining agricultural land from the imposing residential development. This will require further consideration at the planning proposal stage should identified release areas be adopted and proceed into the future. A Land Use Conflict Risk Assessment (LUCRA) should be requested at this stage.

It is also important to consider the impact that rezoning land for residential purposes may have on adjoining agricultural land. The provision of a rural zoned buffer on the land being developed may assist with future land use conflict considerations and the risk of further encroachment into important farmland.

It is understood that Byron Shire LGA is heavily constrained for future development and as such housing demand may require a regional land use approach in the future.

Should you wish to discuss this matter further, please contact Agricultural Land Use Planning Officer, Selina Stillman, on 0412 424397.

Yours sincerely



15/10/19

Tamara Prentice

Manager – Agricultural Land Use Planning



Our Ref: DOC19/754301-10

Your Ref: #E2018/62508

General Manager
Byron Shire Council
PO Box 219
Mullumbimby NSW 2482

Attention: Ms Natalie Hancock

Dear Mr Arnold

RE: Public Exhibition of Byron Shire Council's Draft Residential Strategy

Thank you for your letter dated 23 August 2019 about the Draft Residential Strategy prepared for the Byron Shire seeking comments from the Biodiversity and Conservation Division (BCD) of the Environment, Energy and Science Group in the NSW Department of Planning, Industry and Environment. I appreciate the opportunity to provide input and apologise for the delay in responding.

The BCD was formerly part of the Office of Environment and Heritage, but now forms part of a Group that has responsibilities relating to biodiversity (including threatened species and ecological communities, or their habitats), Aboriginal cultural heritage, National Parks and Wildlife Service estate, climate change, sustainability, flooding, coastal and estuary matters.

We commend the Byron Shire Council for the preparation of a Draft Residential Strategy (henceforth referred to as 'the strategy') that strives to deliver housing for a range of lifestyle choices, incomes and life stages, while at the same time minimising impacts on the natural environment. The strategy seeks to take into account the hazards that operate now and into the future and to respect the traditional owners of the land of the Byron Shire in determining the future location of residential settlement in the shire.

We have reviewed the documents supplied and have made five recommendations to ensure the strategy and its supporting vision and actions consider areas of high environmental value and significant Aboriginal cultural heritage values, as well as natural hazards such as bushfire, flood and coastal hazards in determining possible areas for future residential settlement. These recommendations are discussed in **Attachment 1** to this letter.

In summary, the BCD recommends:

1. The following statement be included as an additional dot point on page 5 of the strategy, headed by the statement '*We need a progressive residential strategy to:*'
 - Ensure residential development is directed to areas of least biodiversity value, as per the requirements of the North Coast Regional Plan. Not only would this limit adverse impacts on the shire's biodiversity, coastal and aquatic habitats and water catchments, but it also reduces planning and development costs and timeframes and enables more timely decision making.

2. The vision be revised to include reference to ensuring future locations for residential development will only be selected where they would not impact on areas of high environmental value, or significant Aboriginal cultural heritage values, or where natural hazards such as bushfire, flood and coastal hazards operate now and/or into the future.
3. While we support the intention to provide the remaining dwellings required in rural areas, we suggest that Planning Action 1 on page 23 of the strategy be revised to state *'While the balance of dwellings are to be provided in rural areas, new residential development should only occur at sites that are unencumbered by high environmental values, natural hazards (such as flooding, coastal erosion or bushfire) and Aboriginal cultural heritage constraints'*.
4. To ensure the suitable-for-use principles are given effect by the strategy:
 - i. The strategy should include a Planning Action requiring the suitability of possible areas for urban development to be determined. The suitability of these sites should be determined by reference to the 'Urban residential suitable-for-use principles' listed at Direction 1.2 (page 24) of the strategy.
 - ii. The strategy should also make it clear that should future investigations identify the presence of significant constraints, this is likely to necessitate the removal of the identified lots from the strategy.
 - iii. The suitability assessment should be undertaken in the short term, to ensure any modifications to the strategy are made in a timely manner and to minimise the establishment of expectations by land owners and the community.
5. For each town or village where residential development is proposed in rural areas (i.e. beyond infill), the following be inserted into the relevant town or village 'Key residential planning issues, community ideas and initiatives' table:

'Identify suitability of identified future development area/s for residential development based on the 'suitable-for-use principles' listed at Direction 1.2 of the strategy.'

If you have any questions about this advice, please do not hesitate to contact Ms Nicky Owner, Senior Conservation Planning Officer, at nicky.owner@environment.nsw.gov.au or 6659 8254.

Yours sincerely

21 October 2019

DIMITRI YOUNG
Senior Team Leader Planning, North East Branch
Biodiversity and Conservation

Enclosure: Attachment 1: Detailed BCD Comments – Public Exhibition of Byron Shire Council's Draft Residential Strategy

Attachment 1: Detailed BCD Comments – Public Exhibition of Byron Shire Council's Draft Residential Strategy

Background

The Byron Shire Council's Draft Residential Strategy (henceforth referred to as 'the strategy') is a local growth management strategy setting a 20-year policy framework for the provision of residential land and urban housing in Bangalow, Byron Bay, Brunswick Heads, Mullumbimby, New Brighton, Ocean Shores, South Golden Beach, Suffolk Park and Sunrise.

According to the council, the final strategy strives to deliver a sustainable and appropriate housing supply to meet the community's future needs.

Why does Byron need a residential strategy?

The BCD is of the view that the section of the strategy '*Why does Byron need a residential strategy*' would benefit from the inclusion of additional points to demonstrate its needs are consistent with the requirements of the North Coast Regional Plan.

BCD Recommendation 1:

We suggest the following statement be included as an additional dot point on page 5 of the strategy, headed by the statement 'We need a progressive residential strategy to:'

- Ensure residential development is directed to areas of least biodiversity value, as per the requirements of the North Coast Regional Plan. Not only would this limit adverse impacts on the shire's biodiversity, coastal and aquatic habitats and water catchments, but it also reduces planning and development costs and timeframes and enables more timely decision making.

The Strategy's Vision

BCD Recommendation 2:

We suggest the vision be revised to include reference to ensuring future locations for residential development will only be selected where they would not impact on areas of high environmental value, or significant Aboriginal cultural heritage values, or where natural hazards such as bushfire, flood and coastal hazards operate now and/or into the future.

The BCD supports the intention for the council to begin to house residents using sensitive and appropriate infill development in established urban areas. This is known to reduce impacts on the natural environment and have many community benefits.

The strategy also states that infill development will be supplemented by a limited number of new urban growth areas. We understand new growth areas will be required to ensure the Byron Shire can accommodate the anticipated population growth and housing demand documented in the NCRP. Based on our review of the strategy, it appears that a small number of possible residential areas have been identified in various locations across the shire.

Policy 1 – Providing land for future housing

Direction 1.1: The majority of our Shire's future housing will be in urban towns and villages.

As stated, we support the council's intention to provide approximately 70% of new dwellings as infill development in existing towns and urban villages by 2036.

BCD Recommendation 3:

While we support the intention to provide the remaining dwellings required in rural areas, we suggest that Planning Action 1 on page 23 of the strategy be revised to state *'While the balance of dwellings are to be provided in rural areas, new residential development should only occur at sites that are unencumbered by high environmental values, natural hazards (such as flooding, coastal erosion or bushfire) and Aboriginal cultural heritage constraints'*.

While this point is covered at Direction 1.2, the inclusion of this statement as part of Direction 1.1 sets council's intention for new housing to have minimal environmental impact and for the community to be shielded from natural hazards, clear from the outset of the strategy.

Direction 1.2: Land for housing will be suitable for the use.

We support the suitable-for-use principles outlined at Direction 1.2 of the strategy. The BCD commends the council and the community participants for the inclusion of principles that will minimise impacts on the natural environment, take into account the hazards that operate now and into the future, and respect the traditional owners of the land of the Byron Shire. However, these principles are not given effect via a relevant Planning Action.

BCD Recommendation 4:

To ensure the suitable-for-use principles are given effect:

- i. The strategy should include a Planning Action requiring the suitability of possible areas for urban development to be determined. The suitability of these sites should be determined by reference to the 'Urban residential suitable-for-use principles' listed at Direction 1.2 (page 24) of the strategy.
- ii. The strategy should also make it clear that should future investigations identify the presence of significant constraints, this is likely to necessitate the removal of the identified lots from the strategy.
- iii. The suitability assessment should be undertaken in the short term, to ensure any modifications to the strategy are undertaken in a timely manner and to minimise the establishment of expectations by land owners and the community.

Policy 2 – Improved housing choice, diversity and equity

The BCD supports the proposed highly efficient use of land, including the focus on infill development and such measures as reducing minimum lot sizes, to provide the variety of housing the community demands.

Residential character narratives context

BCD Recommendation 5:

For each town or village where residential development is proposed in rural areas (i.e. beyond infill) we recommend the following be inserted into the relevant town or village 'Key residential planning issues, community ideas and initiatives' table:

'Identify suitability of identified future development area/s for residential development based on the 'suitable-for-use principles' listed at Direction 1.2 of the strategy.'

File No: NTH16/00110/05
Your Ref: #E2019/62473

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

Attention: Natalie Hancock

Dear Madam,

Re: Review of Draft Residential Strategy – Various Locations Byron Bay Shire

I refer to your letter dated 26 August 2019 requesting comment from Roads and Maritime Services in relation to the abovementioned Draft Residential Strategy (the Strategy).

Roles and Responsibilities

The key interests for Roads and Maritime are the safety and efficiency of the road network, traffic management, the integrity of infrastructure and the integration of land use and transport.

The Pacific Highway (HW 10) is a classified (State) road and Ewingsdale Road (MR 545) is a classified (Regional) road under the *Roads Act 1993* (the Act). Byron Shire Council is the roads authority for all public roads (other than freeways or Crown roads) in the local government area pursuant to Section 7 of the Roads Act. Roads and Maritime can exercise roads authority functions for classified roads in accordance with the Roads Act and concurrence is required prior to any Council approval of works on these roads under section 138 of the Act.

It is emphasised that the comments provided below are based on the currently exhibited Draft Residential Strategy. They are not to be interpreted as binding upon Roads and Maritime and may change should the adopted Strategy differ from that exhibited, or following formal assessment of any planning proposal/development application referred by the relevant local planning authority.

Roads and Maritime Response

Roads and Maritime has reviewed the referred information and provides the following comments to assist Council in finalising the Strategy.

1. We have previously provided comment to Council during the preparation of a number of strategic planning documents. The comments contained in those letters (6 February 2018 and 19 September 2019) remain relevant to the current Strategy. In particular, the following paragraphs should be noted:

“Roads and Maritime support for any release area likely to impact on the Pacific Highway interchanges will be contingent upon Council identifying the scope of infrastructure works and proposed funding sources required to support any proposed release area. All future works on the classified roads will need to be designed and constructed in accordance with the current Austroads Guidelines, Australian Standards and Roads and Maritime Supplements.

It is noted that Council and Roads and Maritime are working toward medium to longer term infrastructure improvements for Ewingsdale Road and the interchange with the Pacific Highway due to current traffic and safety issues being experienced during peak times. It is reasonable to assume that additional land releases that directly impact this interchange may not be supported

until these medium to longer term improvements are realised.” (From letter dated 6 February 2018)

2. It is noted that the Strategy is a high-order planning document providing a framework for future residential development in the Shire, and that individual planning proposals/development applications will be required to facilitate specific developments. It is understood that these will be provided to Roads and Maritime in due course for comment. At that time, we will be able to assess the impact of the proposal on road networks.
3. A Traffic and Transport Assessment (TIA) for any proposed new release areas and zonings that increase the density of approved development will be required for referral to Roads and Maritime. The TIAs may be prepared in consultation with this Agency; and will need to identify the scope of infrastructure required to accommodate proposed releases and the resulting impact on connections to the Pacific Highway. Any Planning Proposal will need to identify proposed road infrastructure, timing and funding mechanisms required to mitigate impacts on the safety and efficiency of the classified road network.
4. Council is encouraged to develop (or maintain) a long term infrastructure plan, supported by a strategic transport assessment to assist in understanding and planning the future transport and traffic management needs of the area.
5. The need to balance the employment needs and opportunities of the area with the proposed residential accommodation changes is encouraged, to encourage short-distance localised trips instead of longer distance trips to reach more centralised employment nodes.
6. Prior to any further substantial residential development taking access via Ewingsdale Road, Council needs to ensure that the capacity of the road network is sufficient to safely accommodate any increase in traffic. Roads and Maritime would be willing to discuss any such proposals and the associated infrastructure needs with Council at the relevant time.
7. Consideration should continue to be given to connectivity for public transport facilities and active transport modes such as walking and cycling.

If you have any further enquiries regarding the above comments please do not hesitate to contact Cheryl Sisson, Development Assessment Officer on (02) 6640 1362 or via email at: development.northern@rms.nsw.gov.au

Yours faithfully,

~Matt Adams
Manager Land Use Assessment, Northern
9 October 2019

Our ref: SC/VG: 2714/19 (120020) (52257)

Your ref: #E2019/62528

27 September 2019

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

Dear Sir

Submission to Draft Byron Shire Residential Growth Strategy 2019

Thank you for your letter dated 26 August 2019 and the opportunity to review and provide comments on the Draft Byron Shire Residential Growth Strategy 2019. Rous County Council (Rous) has reviewed the Strategy in terms of the impacts on the regional bulk water supply to Byron Shire.

Rous undertakes augmentation planning of the bulk water supply network to meet forecast demands in the *Rous Water Long-Term Peak Day Demand Forecast 2013*. This forecast was developed based on water connection growth projections from the Constituent Councils, including Byron Shire.

We have reviewed the projected dwellings as at 2036 in the Draft Byron Shire Residential Growth Strategy 2019 (Figure 7) against our current planning forecasts. This comparison is presented below. We have assumed all projected residential dwellings will be connected to town water.

Local Areas	Projected Residential Dwellings - Draft Byron Shire Residential Growth Strategy 2019	Projected Residential Dwellings - Rous Water Long-Term Peak Day Demand Forecast 2013	
	2036	2030	2060
Bangalow	1056	1245	1405
Brunswick Heads	1334	1191	1384
Byron Bay, Sunrise and Suffolk Park [^]	5938	7009	8144
Mullumbimby	2590	*	*
Ocean Shores, South Golden Beach and New Brighton	3476	2837	3343

[^]Byron Bay and Suffolk Park projected dwellings have been combined.

*Rous does not currently supply Mullumbimby.

The 2036 projected dwellings for Bangalow and Byron Bay supply points are comfortably within the Rous 2030 Peak Day forecast and has been allowed for in current augmentation planning.

The 2036 projected dwelling growth for Brunswick Heads and Ocean Shores outpaces the current peak day forecast used for network planning. However, following the recent completion of a 375mm water main to Brunswick Heads and Ocean Shores reservoirs, Rous has reassessed the supply capacity and we have sufficient capacity in the existing infrastructure to meet the forecast 2060 Peak Day demand and beyond.

Rous will be updating the peak day forecast used for network planning in the coming months. This will incorporate updated connection projections from the local Councils.

In conclusion, Rous advises the projected dwelling growth in the Draft Byron Shire Residential Growth Strategy 2019 is generally within the Peak Day forecast and has been allowed for in current augmentation planning. Or where the projected dwelling growth outpaces the peak day forecast, we have sufficient capacity in the existing bulk water supply infrastructure to meet the increased water demand.

Should you have any questions, please contact Council's Asset Planning Engineer, Samuel Curran, on (02) 6623 3800.

Yours faithfully

Andrew Logan
Planning Manager

25 September 2019

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Please address all communications
to the General Manager

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Email Address: nhancock@byron.nsw.gov.au

Dear Natalie

Byron Shire Council – Draft Residential Strategy

Tweed Shire Council appreciates the opportunity as an adjoining local authority to comment on the draft Byron Shire Residential Strategy, currently on public exhibition.

Council has reviewed the draft strategy and welcomes its linkages to the North Coast Regional Plan housing projections as well as the commitment to deliver increased housing choice, diversity and equity while protecting the local character and neighbourhood community feel.

Council shares Byron Shire's concern that short term rental accommodation is impacting housing accessibility, affordability and community cohesion on the North Coast given the region's desirability as a place to live as well as visit. We would be interested to hear feedback on the success of the proposed 90 day threshold including the challenges of implementation and enforcement in the future.

We wish you every success with the finalisation and implementation of the draft strategy and broader growth management initiatives.

Yours faithfully

Robyn Eisermann
Acting Unit Co-ordinator Strategic Planning & Urban Design