



Our Ref: DOC20/647238-4

Your Ref: #E2020/52287

General Manager  
Byron Shire Council  
PO Box 219  
Mullumbimby NSW 2482

Attention: Ms Natalie Hancock

Dear Ms Hancock

**RE: Additional investigation areas – Byron Shire draft residential strategy**

Thank you for your letter dated 29 July 2020 about the Byron Shire draft Residential Strategy additional investigation areas 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), National Parks and Wildlife Service estate, climate change, sustainability, flooding, coastal and estuary matters.

On 1 July 2020 Aboriginal cultural heritage (ACH) regulatory functions were transferred from the BCD to Heritage NSW in the Department of Premier and Cabinet. For advice on ACH please contact Heritage NSW at [heritagemailbox@environment.nsw.gov.au](mailto:heritagemailbox@environment.nsw.gov.au).

We have reviewed the documents supplied and advise that, although we have no issues to raise about NPWS estate or historic heritage, several issues are apparent for biodiversity and flooding and inundation. These issues are identified in more detail in **Attachment 1** to this letter.

Following our desktop assessment of the six proposed additional investigation areas, we advise that:

- I. one investigation area contains nil to low mapped biodiversity values (Mullumbimby 1);
- II. four investigation areas (Mullumbimby 2, Mullumbimby 3, Byron Bay 5, and Bangalow 4), contain mapped areas of low to moderate biodiversity values that either wholly or partially intersect these areas; and,
- III. one investigation area (Suffolk Park 6), appears to have significant mapped biodiversity values or a high likelihood to contain or impact on adjacent significant biodiversity values.

The BCD further notes the following summaries in relation to flooding, beach erosion or tidal inundation:

- I. Part of Mullumbimby 1 is wholly within 1:100yr flood extents;
- II. Mullumbimby 2 is affected by the 1:100yr flood extents. The Byron Shire Coastline Hazards Assessment Update (BMT WBM (2013) ), also identifies this investigation area may be

subject to impacts from sea level rise which may result in tidal inundation impacts to the lower areas of the site;

- III. Mullumbimby 3 is flood free (above Probable Maximum Flood extents);
- IV. Flooding is not identified as a constraint for Bangalow 4, however drainage lines occur upstream of this land parcel and will need to be considered in further detail;
- V. Byron Bay, Investigation area Site 5 is affected by 1:100yr flood extents and may also be partially affected by coastal erosion under scenario 2 as outlined in the Byron Shire Coastline Hazards Assessment Update (BMT WBM (2013) ), using the projected 100 year 'best estimate' hazard line. Moreover, this same study identifies that this investigation area may be impacted around 2100 by the projected sea level rise (0.9m) on a high tide equivalent to Mean Higher High Water Springs;
- VI. Suffolk Park site 6 is not affected by flooding.

In relation to flooding, the BCD notes that for investigation areas affected by flooding the assessment needs to cover the implications of flooding over the full range of potential flooding, including the probable maximum flood, as set out in the NSW Government Floodplain Development Manual.

The BCD further notes that the considerations provided above are desktop in origin and that no specific detailed on-ground data has been ascertained for these investigation areas. Additional on-ground assessments undertaken at the site scale that identify biodiversity values and issues relating to flood, erosion or inundation risk, would be required to establish an accurate appraisal of these proposed investigation areas.

Following our desktop review of the proposed additional investigation areas, the BCD recommends that:

1. The sites referred to as Mullumbimby 1, 2 and 3, Bangalow 4, Byron Bay 5 and Suffolk Park 6 should undergo further detailed biodiversity and flood assessments to verify and determine the presence of any land with High Environmental Values (HEV) and any land subject to flooding/erosion and inundation risk, with a view to excluding such land from the residential strategy to the greatest extent possible.
2. Any areas of confirmed HEV land should be protected by the application of an appropriate future land use zone such as the E2 Environmental Conservation zone as part of any future planning proposal.

We thank you for allowing us to provide comment on these additional investigation areas and we would be happy to provide further advice once the Byron Shire Council has considered all environmental and flooding aspects and additional studies and investigations have been completed.

If you have any questions about this advice, please do not hesitate to contact Mr Paul Houlder, Project Officer Data Support, at paul.houlder@environment.nsw.gov.au or 6670 8679.

Yours sincerely

14 September 2020

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

Enclosure: Attachment 1: Detailed BCD Comments – Desktop assessment of environmental values and flood risk within additional investigation areas



**Attachment 1: Detailed BCD Comments – Desktop assessment of environmental values and flood risk within additional investigation areas**

Mullumbimby 1: 20 Prince St Mullumbimby (part of Lot 12 DP 527314)

Biodiversity Values Map	High Environmental Value Mapping	Koala SEPP (Development Application Area)	TS Records	Other
Nil	Nil	Nil	Nil	Part of investigation area is wholly within 1:100 yr flood extent

Low biodiversity values

Mullumbimby 2: 152 Stuart St, Mullumbimby & 124, 127, 130, 132, 134 Station St, Mullumbimby (Lot 1 DP1256460, Lot 1 DP803292, Lot 2 DP1256460, Lot 2 DP803292, Lot 4 DP837851, Lot 5 DP1111848):

Biodiversity Values Map	High Environmental Value Mapping	Koala SEPP (Development Application Area)	TS Records	Other
Yes - partial	Yes - partial	Yes - partial	Koala	Affected by 1:100 yr flood event; May be subject to future inundation from sea level rise

Low – moderate biodiversity values

Mullumbimby 3: part of Tuckeroo Avenue, Mullumbimby, Lot PT32/1169053

Biodiversity Values Map	High Environmental Value Mapping	Koala SEPP (Development Application Area)	TS Records	Other
Nil	Nil	Yes - partial	Nil	Mapped High Conservation Vegetation (BSC) Mullumbimby 3 is flood free (above Probable Maximum Flood extents)

Low-moderate biodiversity values

Map 2 Potential housing supply lands - Bangalow

Bangalow 4: 21 Ballina Road, Bangalow, Lot 3 DP1220608

Biodiversity Values Map	High Environmental Value Mapping	Koala SEPP (Development Application Area)	TS Records	Other
Nil	Yes - partial	Yes	Nil	No identified flooding constraints though upstream drainage lines requires further consideration

Low-moderate biodiversity values

Investigation Area 5, Byron Bay (Ewingsdale) part of Lot 350 DP 755695

Biodiversity Values Map	High Environmental Value Mapping	Koala SEPP (Development Application Area)	TS Records	Other
No	Yes	Yes - partial	No	Biodiversity Investment Area (25 yr Far North Coast Regional Strategy Partial Swamp Oak TEC SEPP Coastal wetlands (buffer area) Partial coverage of area by Koala SEPP Development Application Map; Partial coverage by High Conservation Land (Byron Shire Council); Affected by 1:100yr flood extents; Possible impact by future coastal erosion and 2100 sea level rise

Moderate biodiversity values

Investigation Area 6, Suffolk Park: 64 Corkwood Cr, Suffolk Park (PT Lot 285 DP1198641)

Biodiversity Values Map	High Environmental Value Mapping	Koala SEPP (Development Application Area)	TS Records	Other
Yes	Yes	Yes	Nil	Partial mapped and adjacent Saving Our Species (SoS) Site (Archidendron hendersonii) OEH mapped Regional Corridor and Key Habitat Vulnerable steep lands; TEC – mapped littoral rainforest (some extant veg remaining in poor condition in investigation area though adjacent extant littoral rainforest in moderate condition) 269 Threatened species (TS) records within 750m – moderate to high likelihood of TS on site, moderate to high Mapped High Conservation Land Byron Shire Council

Moderate-High biodiversity values



OUT20/9854

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General Manager  
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[Natalie.hancock@byron.nsw.gov.au](mailto:Natalie.hancock@byron.nsw.gov.au)

Dear Mr Arnold

### **Additional Investigation Areas – Byron Shire Draft Residential Strategy**

Thank you for your correspondence dated 29 July 2020 inviting comment on proposed additional investigation areas to be included in the Byron Shire Draft Residential Strategy (the Strategy). The NSW Department of Primary Industries (NSW DPI) Agriculture is committed to the protection and growth of agricultural industries, and the land and resources upon which these industries depend.

DPI Agriculture has reviewed the six proposed additional investigation areas. The inclusion of sites 2, 3, 4, 5 and 6 as additional investigation areas in the Strategy raise no concerns for agriculture or agricultural land and resources.

The inclusion of site 1 as an additional investigation area in the Strategy may not be appropriate.

In our letter of 15 October 2019 we advised that DPI Agriculture considered that sites 16 and 17 would not meet the Interim Important Farmland Variation Criteria as required in the *North Coast Regional Plan 2036* due to their size and contiguity with adjacent farmland. It is noted that additional site 1 has been included due to it adjoining proposed investigation area 16.

If Council excludes site 16 from the final Strategy then additional site 1 should also be excluded. However, if Council proceeds with the inclusion of area 16 then it is acknowledged that the inclusion of site 1 would result in the best planning outcome.

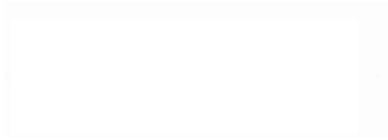
The identification of regionally significant farmland for residential investigation purposes results in the incremental creep of urban land use upon this important resource. This is considered inconsistent with the *North Coast Regional Plan 2036* and *NSW Right to Farm Policy* that seek to strengthen land use planning outcomes for agriculture and direct development away from important farmland. Whilst the strategic intent of identifying new residential investigation areas adjacent to existing urban areas is supported, the continued encroachment onto valuable farmland is not supported.

The key considerations for residential investigation sites adjoining agricultural land are land use conflict risk and potential for increased flood affectation on adjoining agricultural land from new residential development. These issues will require detailed consideration at the planning proposal stage should the identified investigation areas be adopted and proceed. A Land Use Conflict Risk Assessment (LUCRA) will also be necessary at planning proposal stage.

When considering new residential investigation areas which adjoin agricultural land Council should allow for the provision of a rural zoned buffer on the land being developed to mitigate potential future land use conflict and prevent further encroachment into important farmland.

Should you require clarification on any of the information contained in this response, please contact Paul Garnett, Agricultural Land Use Planning Officer, on 0429 864 501 or by email at [landuse.ag@dpi.nsw.gov.au](mailto:landuse.ag@dpi.nsw.gov.au)

Yours sincerely



18/8/20

**Tamara Prentice**  
**Manager Agricultural Land Use Planning**  
**Department of Primary Industries - Agriculture**





Mr Mark Arnold  
General Manager  
Byron Shire Council  
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Via email: [steve.daniels@byron.nsw.gov.au](mailto:steve.daniels@byron.nsw.gov.au)  
[natalie.hancock@byron.nsw.gov.au](mailto:natalie.hancock@byron.nsw.gov.au)

Dear Mr Arnold

Thank you for the opportunity to provide comments on six additional proposed investigation areas in the Byron Shire Draft Residential Strategy.

The Department of Planning Industry and Environment (Planning and Assessment Group) has reviewed the information supplied by Council in the context of the earlier submission from the Department dated 11 December 2019. The comments in this earlier submission remain valid as an updated draft Residential Strategy has not been provided to the Department for review.

The following comments are limited to the additional six investigation areas that have been proposed by Council.

Additional Site 1 should be considered in conjunction with Site 16 in the exhibited draft Residential Strategy. The potential impact of future residential development on regionally significant farmland will be a key consideration in relation to these sites at the planning proposal stage, should Council proceed to the investigation stage. Council is encouraged to consult with NSW Department of Primary Industries – Agriculture regarding the impact on regionally significant farmland.

Proposed additional Sites 2, 3 and 4 are located within the Urban Growth Area boundary in the *North Coast Regional Plan 2036*. These sites are likely to have some residential development potential, notwithstanding local constraints. The Department has no objection to the possible inclusion of these sites for investigation in the Residential Strategy.

Additional Site 5 is located in the Coastal Area and outside the Urban Growth Area boundary in the Regional Plan. The Site is also located on the fringe of a known coastal erosion risk area. It is recommended that Council consult with the Department of Planning Industry and Environment – Biodiversity Conservation Division to determine whether a review of the 2013 WBM Coastal Processes Study is necessary to accurately assess the level of risk posed to the site from long term



coastal erosion. If there is significant doubt, it is recommended that Council apply the precautionary principle.

Additional Site 6 is located in an established environmental zone, outside the Urban Growth Area in the North Coast Regional Plan. Council will need to demonstrate that there will not be a significant impact from proposed future development on the environmental values of the site to justify a variation to the Urban Growth Area in this case. Council will also need to ensure any future planning proposals are consistent with the Northern Councils E Zone Review Final Recommendations Report.

In summary, the Department supports Council's ongoing consideration of additional Sites 1-4, subject to consideration of primary constraints such as flooding, mapped important farmland, cultural heritage, acid sulfate soils and bushfire risk.

It is recommended that Council review the suitability of additional Sites 5 and 6 for residential development in consultation with the Department of Planning Industry and Environment – Biodiversity Conservation Division prior to identifying these sites in the Residential Strategy. It will be necessary to establish that primary constraints can be addressed for these sites to justify a variation to the Urban Growth Area boundary in the Coastal Area.

As noted in the Department's letter dated 11 December 2019, identified future urban growth areas should be consistent with the Regional Plan 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.

Future development of some investigation sites may not be supported and it would therefore be useful for the Strategy to also discuss alternative options for future housing.

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 Mr Peter Cameron at the Northern Region office on 65885518.

Yours sincerely

24-8-2020

**Jeremy Gray**  
**Director, Northern Region**  
**Local and Regional Planning**

2 September 2020

File No: NTH16/00110/06

Your Ref: E2020/52292

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

Attention: Natalie Hancock

Dear Madam,

**RE: Review of additional investigation areas for the draft Residential Strategy – Mullumbimby, Bangalow and Byron Bay**

I refer to your letter dated 29 July 2020 requesting comment from Transport for NSW (TfNSW) in relation to the abovementioned additions to the Draft Residential Strategy (the Strategy).

TfNSW initial response to the Strategy dated 9 October 2019 identified the classification and importance of surrounding roads and our understanding of the relevant statutory considerations informing our comment. That response provided a number of comments for Council consideration.

It is our understanding that the additional areas identified for inclusion as residential will be treated as Investigation Areas only. They are not proposed for rezoning this time, and criteria has been set for consideration and investigation in the future. As such, TfNSW has no issue with the proposal but reiterates points from our previous correspondence including:

- The proposed new release areas or infill housing area (increased density), if rezoned and developed have the potential to impact on the State and Regional road networks. The need to ensure sustainable transport networks are in place has been identified as a 'theme' on page 22 of the Draft Strategy and it is assumed that this will apply to the future Investigation Areas.
- Council is encouraged to work collaboratively with State government in identifying infrastructure needs to support growth in line with the Regional Plan.
- A coordinated approach to the provision of appropriate road infrastructure is needed as it would be inappropriate (and cost-prohibitive) to expect one single developer to fund any significant upgrades required.
- If housing is to be increased in the villages mentioned in the initial Strategy and those identified as additional areas, the employment strategies should reflect the level of increased residential accommodation proposed, to take pressure of the 'regional' road network and encourage short-length trips (via car or public transport).
- The undeveloped area of land available for residential development on Ewingsdale Road needs to balance the need and timing against the provision of safe and efficient road networks.

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

Yours faithfully,

for Matt Adams  
Manager Land Use Assessment Northern  
Regional NSW and Outer Metropolitan  
Transport for NSW