

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

via email: council@byron.nsw.gov.au
nhancock@byron.nsw.gov.au

Dear Mr Arnold

Planning proposal PP-2021-7395 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) and additional information received on 12 January 2022 in respect of the planning proposal to introduce an affordable housing contribution clause to the Byron LEP 2014.

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 directions of the Minister under section 9.1 of the EP&A Act, 1.5 Rural Lands, 2.1 Environment Protection Zones, 2.2 Coastal Management, 2.3 Heritage Conservation and 4.3 Flooding are minor or justified in accordance with the terms of the Direction. No further approval is required in relation to the Directions.

Council may still need to obtain the agreement of the Secretary to comply with the requirements of section 9.1 direction 4.4 Planning for Bushfire Protection.

I have determined not to authorise Council to be the local plan-making authority due to the potentially contentious nature of the planning proposal and it being the first Affordable Housing Contribution Scheme proposed in regional NSW.

It should be noted that I have conditioned the Gateway to require removal of any references to the prohibition of short term rental accommodation in future affordable housing to better clarify the scope of the proposal and to avoid any confusion in the community.

It is considered that this issue can be more appropriately managed through an arrangement/agreement between Council and the relevant community housing providers rather than through the LEP.

The amending local environmental plan (LEP) is to be finalised within 6 months from the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible.

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, Industry and Environment, 2021) 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



18/2/2022

Monica Gibson
Executive Director
Local and Regional Planning

Encl: Gateway determination

Gateway Determination

Planning proposal (Department Ref: PP-2021-7395): to introduce an affordable housing contribution clause to the Byron LEP 2014

I, the Executive Director at the Department of Planning and Environment, as delegate of the Minister for Planning, 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 introduce an affordable housing contribution should proceed subject to the following conditions:

1. Prior to exhibition, the planning proposal and associated draft Affordable Housing Contribution Scheme are to be updated to:
 - (a) remove all references to the prohibition of short-term rental accommodation in affordable rental housing created under the scheme;
 - (b) remove the proposed amendments to Byron LEP 2014 clause 6.7 Affordable Housing in Residential and Business Zones;
 - (c) identify that the Affordable Housing Contribution Scheme Maps will be adopted as part of subsequent LEP amendments for individual land parcels at the rezoning stage, and are included within the planning proposal only for illustration/exhibition purposes; and
 - (d) ensure all related maps are correctly titled.
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 Guidelines (Department of Planning, Industry and Environment, 2021) 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 Guidelines (Department of Planning, Industry and Environment, 2021).

Exhibition must commence within one month following the date of the Gateway determination.

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 EP&A Act:
 - NSW Rural Fire Service
 - Division of Housing and Property

Each public 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 EP&A 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 planning proposal must be reported to council for a final recommendation no later than four months from the date of the Gateway determination.
6. The timeframe for completing the LEP is to be six months from the date of the Gateway determination.

Dated 18th day of February 2022.



Monica Gibson
Executive Director
Local and Regional Planning
Department of Planning and
Environment

Delegate of the Minister for Planning



File No: # E2022/ 21989
Council PP ref: 26.2020.2.1
Contacts: Natalie Hancock
Ph: (02) 6626 7169

10 March 2022

Monica Gibson
Executive Director
Local and Regional Planning
Department of Planning and Environment

Dear Monica

Planning proposal PP-2021-7395 to amend Byron Local Environmental Plan 2014 – Byron Shire Affordable Housing Contribution Scheme – notification of delay to public exhibition

Council thanks the Department for their understanding re additional time to comply with gateway conditions for PP -2021-7395. Further to our correspondence of 2 March we are now in a situation of having to prioritise staff resources on flood recovery. This, combined with matters raised in the earlier letter means Council will not be able to commence exhibition until May.

Given the above, further to our request of 2 March 2022, I formally request Gateway condition no. 2 - public exhibition commencement timeframe be extended to within 3 months of the gateway determination (dated 18 February).

I am sure you can appreciate the unfolding situation that Council finds itself in, and I look forward to your favourable response in this matter.

Should you need to discuss please do not hesitate to contact me phone 02 6626 7169 or email nhancock@byron.nsw.gov.au.

Yours sincerely

Natalie Hancock
Senior Strategic Planner



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THE BUNDJALUNG PEOPLE

ALL COMMUNICATIONS TO BE
ADDRESSED TO THE GENERAL MANAGER
PO Box 219 Mullumbimby NSW 2482 (70 Station Street)
E: council@byron.nsw.gov.au
P: 02 6626 7000 F: 02 6684 3018
www.byron.nsw.gov.au ABN: 14 472 131 473

Our ref: PP-2021-7395/GA-2022-27

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

via email: council@byron.nsw.gov.au
nhancock@byron.nsw.gov.au

Subject: Planning Proposal PP-2022-784

Dear Mr Arnold

I refer to your letter seeking an extension of time to complete planning proposal PP-2021-7395 to introduce an affordable housing contribution clause to the Byron LEP 2014.

I have determined as the delegate of the Minister, in accordance with section 3.34(7) of the *Environmental Planning and Assessment Act 1979*, to alter the Gateway determination dated 18 February 2022 for PP-2021-7395. The Alteration of Gateway determination is enclosed.

If you have any questions in relation to this matter, I have arranged for Ms Gina Davis to assist you. Ms Davis can be contacted on 5778 1487.

Yours sincerely



16 March 2022

Craig Diss
Acting Director, Northern Region
Local and Regional Planning

Encl: Alteration of Gateway Determination

Alteration of Gateway Determination

Planning proposal (Department Ref:PP-2021-7395)

I, Craig Diss, Acting Director, Northern Region at the Department of Planning and Environment, as delegate of the Minister for Planning and Homes, have determined under section 3.34(7) of the *Environmental Planning and Assessment Act 1979* to alter the Gateway determination dated 18 February 2022 for the proposed amendment to the Byron Local Environmental Plan 2014 as follows:

1. Delete Condition 2:

“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 Guidelines (Department of Planning, Industry and Environment, 2021) 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 Guidelines (Department of Planning, Industry and Environment, 2021).

Exhibition must commence within one month following the date of the Gateway determination.

and replace with a new Condition 2:

“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 Guidelines (Department of Planning, Industry and Environment, 2021) 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 Guidelines (Department of Planning, Industry and Environment, 2021).

Exhibition must commence within three months following the date of the Gateway determination.

2. Delete Condition 5:

“5. The planning proposal must be reported to council for a final recommendation no later than four months from the date of the Gateway determination.

and replace with a new Condition 5:

“5. The planning proposal must be reported to council for a final recommendation no later than six months from the date of the Gateway determination.

3. Delete Condition 6:

“6. The timeframe for completing the LEP is to be six months from the date of the Gateway determination.

and replace with a new Condition 6:

“6. The timeframe for completing the LEP is to be eight months from the date of the Gateway determination.

Dated 15 day of March 2022



Craig Diss
Acting Director, Northern Region
Local and Regional Planning
Department of Planning and Environment

Delegate of the Minister for Planning and Homes