## Responses to **Questions on Notice**

Received at the 25 February 2021 **Ordinary Meeting of Council** 

**Mark Arnold General Manager** 

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1	Planning Proposals to rezone rural land for residential purposes as a Residential Zone

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#### **QUESTIONS WITH NOTICE**

### **Question with Notice No. 1**

# Planning Proposals to rezone rural land for residential purposes as a Residential Zone

5 File No:

12021/370

At Council's Ordinary Meeting held on 25 February 2021, Matthew O'Reilly asked the following question which was taken on notice:

Can Council please advise whether Planning Proposals to rezone rural land for residential purposes as a Residential Zone are permitted under the Byron Business and Industrial Land Strategy or may only take place under the Byron Residential Land Strategy and whether either of these two Strategies have been formally approved by the Department of Industry, Planning and the Environment?

#### **Response Director Sustainable Environment and Economy:**

As noted on Council's website:

- The Business and Industrial Lands Strategy was approved by the Department of Planning Industry and Environment (DPIE) in October 2020.
- Council adopted the Residential Strategy at 10 December 2020 Planning meeting.
  The Strategy has been forwarded to the NSW Department of Planning Industry and Environment (DPIE) for final endorsement.

These two local growth management strategies underpin the Byron Shire Local Strategic Planning Statement (endorsed by the DPIE in September 2020).

The NSW *Environmental Planning and Assessment Act 1979 (the Act)* governs the planning proposal process. Division 3.4 Environmental planning instruments—LEP - 3.33 *Planning proposal authority to prepare explanation of and justification for proposed instrument—the planning proposal* clarifies what constitutes a planning proposal.

'Before an environmental planning instrument is made under this Division, the planning proposal authority is required to prepare a document that explains the intended effect of the proposed instrument and sets out the justification for making the proposed instrument (the **planning proposal**).'

As to when a planning proposal is 'permitted' (to use the questioner's wording), the legislation is silent on a need for the *planning proposal authority* (which may be a Council) to delineate on accepting a planning proposal request on the basis of a relationship to a local growth management strategy.

Division 3.4 Clause 3.33 (2) however does state amongst other matters that a planning proposal is to include the following—

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(c) the justification for those objectives, outcomes and provisions and the process for their implementation (including whether the proposed instrument will give effect to the local strategic planning statement of the council of the area and will comply with relevant directions under section 9.1) [the Act Division 9.1 Ministerial and other enforcement powers]

https://www.planning.nsw.gov.au/-/media/Files/DPE/Directions/ministerial-direction-s9-1-consolidated-list-environment-planning-and-assessment-2021-02.pdf?la=en

To further help understanding the planning proposal process the NSW Department of Planning and Environment's website provides 'A guide to preparing planning proposals'.

https://www.planning.nsw.gov.au/Plans-for-your-area/Local-Planning-and-Zoning/~/media/0DC6DBBCCED34FAD8CFFF87174928B44.ashx

Council's web site also includes a link to the above website.

https://www.byron.nsw.gov.au/Services/Building-development/Building-and-Development-Services/Planning-Proposal