

## Gateway Determination

**Planning proposal (Department Ref: PP\_2018\_BYRON\_001\_00):** to introduce an R1 General Residential zone and diverse housing provisions into the Byron LEP 2014 and rezone part of Lot 22 DP 1073165, Stuart Street, Mullumbimby from RE1 Public Recreation to R1 General Residential and, for the land being rezoned, apply a 200m<sup>2</sup> minimum lot size, reclassify the land and apply the diverse housing provisions.

I, the Director Regions, Northern 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 (LEP) 2014 to introduce an R1 General Residential zone and diverse housing provisions into the Byron LEP 2014 and rezone part of Lot 22 DP 1073165, Stuart Street, Mullumbimby from RE1 Public Recreation to R1 General Residential and, for the land being rezoned, apply a 200m<sup>2</sup> minimum lot size, reclassify the land and apply the diverse housing provisions, should proceed subject to the following conditions:

1. The planning proposal is to be amended, prior to public exhibition, to remove those sections of the planning proposal where it is proposed to introduce provisions requiring a proportion of developments to be used for the purpose of affordable housing.
2. Prior to public exhibition the planning proposal is to be amended as follows
  - a. include maps which show;
    - i. the existing and proposed MLS;
    - ii. the area of land proposed to be reclassified via a Part Lots Reclassification Map; and
    - iii. how the mapping will identify that the proposed diverse housing provisions will apply to the land.
  - b. if a Key Sites Map is proposed, how this map will designate the land subject to the diverse housing provisions as distinct from other lands that may be added to the Key Sites Map for purposes not related to the provision of diverse housing;
  - c. the Explanation of Provisions for the proposed diverse housing controls is to clarify to the type and scale of development to which the proposed diverse housing provisions will apply; and
  - d. detail of the public reserve status and the interests in the land and the implications of the reclassification of the land on these interests is to be included in Appendix 3.
3. Prior to public exhibition the following site investigations are to be undertaken and included with the material used for public exhibition:
  - a. further investigation of the potential for contamination of the land through a soil sampling and assessment program that concentrates on

the areas identified as having the greatest potential for contamination in the Preliminary Contaminated Land Assessment report prepared by Greg Alderson and Associates dated August 2017;

- b. additional site investigations for the presence of Hairy-joint Grass, Missionary Nutgrass, and the Common Planigale as identified in the Ecological Assessment dated July 2017;
  - c. an aboriginal cultural heritage assessment for the site; and
  - d. an acid sulfate soils study.
4. Prior to public exhibition, and following completion of the updates to the planning proposal as required in conditions 1 – 3 above, consultation is required with the following public authorities and organisations under section 3.34(2)(d) of the Act and to comply with the requirements of relevant section 9.1 Directions:
- NSW Office of Environment and Heritage;
  - NSW State Emergency Service; and
  - Local Aboriginal Land Council.

Each public authority/organisation is to be provided with a copy of the Planning Proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

5. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
- (a) the planning proposal must be made publicly available for a minimum of **28 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 section 5.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment 2016).
6. The draft Byron Shire Open Space and Recreation Needs Analysis is to be publicly exhibited concurrently with the planning proposal since the proposal to reclassify and rezone the subject land relies on the conclusions reached by the draft Byron Shire Open Space and Recreation Needs Analysis.
7. The draft Byron Shire Open Space and Recreation Needs Analysis is to be finalised and adopted by Council before it requests the Department to finalise the LEP amendment.
8. 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 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).

9. The time frame for completing the LEP is to be **18 months** following the date of the Gateway determination.

Dated 30 day of May 2018.



**Jeremy Gray**  
**Director Regions, Northern**  
**Planning Services**  
**Department of Planning and**  
**Environment**

**Delegate of the Minister for Planning**