

## Appendix 4 – Gateway Determination

A copy of the Gateway determination is included below.

## Gateway Determination

***Planning proposal (Department Ref: PP\_2019\_BYRON\_002\_00): to undertake stage 2 of Council's environmental zone implementation program and incorporate certain land into Byron Local Environmental Plan 2014.***

I, the Executive Director, Regions, at the Department of Planning and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to Byron Local Environmental Plan (LEP) 2014 to undertake stage 2 of Council's environmental zone implementation program and incorporate certain land into Byron Local Environmental Plan 2014 should proceed subject to the following conditions:

1. Prior to public exhibition the planning proposal is to be amended as follows:
  - (a) section 1.3 is to be corrected to clarify that the proposal now applies to 618 land parcels;
  - (b) section 3.1 (last paragraph on page 11) is to be amended to clarify that the proposed E2 and E3 land use tables will be added to Byron LEP 2014 through the Stage 1 planning proposal;
  - (c) the discussion on section 9.1 direction 1.5 Rural Land in Appendix 1 is to be updated to reflect the revised direction which no longer refers to SEPP (Rural Lands) 2008; and
  - (d) the maps in Appendix 5 of the planning proposal are to be amended to ensure all polygons which depict proposed zones and development controls are labelled clearly and correctly.
2. As part of the public exhibition process, Council is to ensure that any landowner whose land is proposed to have an E zone applied to it is to be notified in writing of the planning proposal and the public exhibition arrangements.
3. 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).

4. When Council has considered the submissions received during public exhibition and has endorsed the final planning proposal, landowners whose land will be subject to an E zone are to be notified in writing of Council's decision and advised that they have 28 days to notify the Department of Planning and Environment to request a review of the proposed zoning of their property.
5. Consultation is required with the following public authorities under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:
  - NSW Rural Fire Service;
  - Office of Environment and Heritage;
  - NSW Department of Primary Industries
  - the Local Aboriginal Land Council; and
  - NSW Division of Resources and Geoscience.

Each public authority 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.

6. 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).
7. The time frame for completing the LEP is to be **12 months** following the date of the Gateway determination.

Dated 19<sup>th</sup> day of June 2019.

  
**Stephen Murray**  
Executive Director, Regions  
Planning Services  
Department of Planning and  
Environment

**Delegate of the Minister for Planning  
and Public Spaces**