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**PLANNING CERTIFICATE PURSUANT TO
SECTION 10.7(2) ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979**

Property: 28 Cavvanbah Street BYRON BAY 2481
Description: LOT: 4 SEC: 54 DP: 758207
Parish: Byron
County: Rous
Parcel No: 112570

1. Names of relevant planning instruments and DCPs

- (1) The name of each environmental planning instrument that applies to the carrying out of development on the land.**

Byron Local Environmental Plan 2014

State Environmental Planning Policies – refer to Annexure 1

Coastal Management SEPP 2018 (whole of lot)

- (2) The name of each proposed environmental planning instrument that will apply to the carrying out of development on the land and that is or has been the subject of community consultation or on public exhibition under the Act (unless the Director-General has notified the council that the making of the proposed instrument has been deferred indefinitely or has not been approved).**

Draft State Environmental Planning Policies – refer to Annexure 1

Planning Proposals – refer to Annexure 2.

- (3) The name of each development control plan that applies to the carrying out of development on the land.**

Byron Shire Development Control Plan (DCP) 2014.



TRADITIONAL HOME OF
THE BUNDJALUNG PEOPLE

ALL COMMUNICATIONS TO BE
ADDRESSED TO THE GENERAL MANAGER
PO Box 219 Mullumbimby NSW 2482 (70-90 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

2. Zoning and land use under relevant LEPs

For each environmental planning instrument or proposed instrument referred to in clause 1 (other than a SEPP or proposed SEPP) that includes the land in any zone (however described):

- (a) the identity of the zone
- (b) the purpose for which the instrument provides that development may be carried out within the zone without the need for development consent,
- (c) the purposes for which the instrument provides that development may not be carried out within the zone except with development consent,
- (d) the purposes for which the instrument provides that development is prohibited within the zone,
- (e) whether any development standards applying to the land fix minimum land dimensions for the erection of a dwelling-house on the land and, if so, the minimum land dimensions fixed,
- (f) whether the land includes or comprises critical habitat,
- (g) whether the land is in a conservation area (however described),
- (h) whether an item of environmental heritage (however described) is situated on the land.

BYRON LOCAL ENVIRONMENTAL PLAN 2014

2(a) – (d) Land zoning & permissibility of development

Zone R3 Medium Density Residential

1 Objectives of zone

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

2 Permitted without consent

Environmental protection works; Home-based child care; Home occupations

3 Permitted with consent

Attached dwellings; Bed and breakfast accommodation; Boarding houses; Business identification signs; Centre-based child care facilities; Community facilities; Group homes; Home industries; Multi dwelling housing; Neighbourhood shops; Oyster aquaculture; Places of public worship; Respite day care centres; Roads; Seniors housing; Serviced apartments; Tank-based aquaculture; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Biosolids treatment facilities; Boat building and repair facilities; Boat launching ramps; Boat sheds; Camping grounds; Car parks; Cemeteries; Charter and tourism boating facilities; Commercial premises; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Electricity generating works; Entertainment facilities; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Function centres; Heavy industrial storage establishments; Helipads; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries;

Information and education facilities; Jetties; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Passenger transport facilities; Pond-based aquaculture Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Research stations; Restricted premises; Rural industries; Rural workers' dwellings; Service stations; Sewage treatment plants; Sex services premises; Signage; Storage premises; Tourist and visitor accommodation; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Veterinary hospitals; Warehouse or distribution centres; Waste or resource management facilities; Water recreation structures; Water recycling facilities; Water supply systems; Wharf or boating facilities; Wholesale supplies

Regard must be had for other clauses in Byron Local Environmental Plan 2014, which may affect the purpose for which development may be carried out.

- 2(e) The dimensions of the land have no bearing as to whether or not a dwelling-house may be erected on the land.
- 2(f) The land does not include or comprise critical habitat
- 2(g) The land is not in a conservation area
- 2(h) An item of environmental heritage is not situated on the land

2A. Zoning and land use under State Environmental Planning Policy (Sydney Region Growth Centres) 2006

Not applicable

3. Complying Development

- (1) **The extent to which the land is land on which complying development may be carried out under each of the codes for complying development because of the provisions of clauses 1.17A (1) (c) to (e), (2), (3) and (4) and 1.19 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.**
- (2) **The extent to which complying development may not be carried out on that land because of the provisions of clauses 1.17A (1) (c) to (e), (2), (3) and (4) and 1.19 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.**

Complying development under General Housing Code

Because of the provisions of clause 1.19 of SEPP (Exempt & Complying Development Codes) 2008, complying development may not be carried out on any part of the land as the land is wholly land that is identified by Byron Shire Development Control Plan 2014 as being or affected by a coastal erosion hazard.

Complying development under the Greenfield Housing Code

Complying development may not be carried out on any part of the land due to the land not being within the Greenfield Housing Code Area.

Note:

Development on land subject to both the Housing Code and the Greenfield Housing Code may be assessed as complying development under either code. This will change on 15 December 2019. From this date, complying development may only take place under the Greenfield Housing Code.

Complying development under the Rural Housing Code

Complying development may not be carried out on any part of the land due to the zoning of the land.

Complying development under the Commercial & Industrial (New/Additions) Code

Complying development may not be carried out on any part of the land due to the zoning of the land.

Complying development under the Container Recycling Facilities Code

Complying development may not be carried out on any part of the land due to the zoning of the land.

Complying development under the General Development Code and Housing Alterations Code

Complying development may be carried out on any part of the land.

Complying development under the Commercial and Industrial Alterations Code, Subdivision Code, Demolition Code and Fire Safety Code

Complying development may be carried out on any part of the land.

4. Repealed 3/4/18

4A. Repealed 3/4/18

- 4B. Annual charges for coastal protection services under Local Government Act 1993 for coastal protection services that relate to existing coastal protection works. Whether the owner (or any previous owner) of the land has consented in writing to the land being subject to annual charges under section 496B of the Local Government Act 1993 for coastal protection services that relate to existing coastal protection works (within the meaning of section 553B of that Act).**

Council is not aware of such a consent.

- 5. Mine subsidence
whether or not the land is proclaimed to be a mine subsidence district within the meaning of section 15 of the Mine Subsidence Compensation Act 1961.**

The land is not proclaimed to be a mine subsidence district.

- 6. Road widening and road realignment
whether or not the land is affected by any road widening or road realignment under:**

- (a) Division 2 of Part 3 of the Roads Act 1993, or**

Not affected

- (b) any environmental planning instrument, or**

Not affected

- (c) any resolution of the council**

Not affected

7. Council and other public authority policies on hazard risk restrictions whether or not the land is affected by a policy:

- (a) adopted by the council, or
- (b) adopted by any other public authority and notified to the council for the express purpose of its authority being referred to in planning certificates issued by the council, that restricts the development of the land because of the likelihood of land slip, inundation, subsidence, acid sulphate soils or any other risk (other than flooding).

- (a) The land is affected by a policy adopted by the council that restricts the development of the land because of the likelihood of land slip, bushfire, tidal inundation, subsidence, acid sulphate soil and any other risk (other than flooding) known as:

Management of Contaminated Land Policy No 5.61.

Acid Sulfate Soils - Class 5 - Refer to Byron Local Environmental Plan 2014.

Coastal erosion hazard area - Refer to Byron Shire Development Control Plan 2014

- (b) The land is not affected by a policy adopted by another public authority and notified to the council for the express purpose of its adoption by that authority being referred to in planning certificates issued by the council that restricts the development of the land because of the likelihood of land slip, bushfire, tidal inundation, subsidence, acid sulphate soil and any other risk (other than flooding).

7A. Flood related development controls information

- (1) **Whether or not development on that land or part of the land for the purposes of dwelling houses, dual occupancies, multiple dwelling housing or residential flat buildings (not including development for the purposes of group homes or seniors housing) is subject to flood related development controls.**

The land or part of the land is subject to flood related development controls.

- (2) **Whether or not development on that land or part of the land for any other purpose is subject to flood related development controls.**

The land or part of the land is subject to flood related development controls.

8. Land reserved for acquisition

Whether or not any environmental planning instrument or proposed environmental planning instrument referred to in clause 1 makes provision in relation to the acquisition of the land by a public authority, as referred to in section 3.15 of the Act.

BYRON LOCAL ENVIRONMENTAL PLAN 2014

No provision is made for acquisition of the land.

PROPOSED ENVIRONMENTAL PLANNING INSTRUMENT

Not applicable.

9. Contributions plans

The name of each contributions plan applying to the land.

Applications lodged after 21 November, 2001 and prior to 1 January 2013 are subject to contributions levied in accordance with the Byron Shire Council Section 94 Development Contributions Plan 2005 (incorporating Amendment No 1) for community facilities, open space, roads, car parking, cycleways, civic and urban improvements, shire support facilities and administration. The Byron Shire Council Section 94 Development Contributions Plan 2005 (incorporating Amendment No 1) remains in force for the purposes of collection of contributions levied under its terms.

Applications lodged after 1 January 2013 are subject to contributions levied in accordance with the Byron Shire Developer Contributions Plan 2012 (Amendment No 2). The plan is split into two parts, Part A being the Byron Section 94 plan that applies to all residential development and Part B being the Byron Section 94A plan that applies to all non residential development.

9A. Biodiversity certified land

The land is not biodiversity certified land.

10. Biodiversity stewardship sites

The land is not a biodiversity stewardship site under a biodiversity stewardship agreement under Part 5 of the Biodiversity Conservation Act 2016

10A. Native vegetation clearing set asides

The land does not contain a set aside area under section 60ZC of the Local Land Services Act 2013

11. Bush fire prone land

None of the land is bush fire prone land.

12. Property vegetation plans

A property vegetation plan under the Native Vegetation Act 2003 or private native forestry plan under the Local Land Services Act 2013 does not apply to the land.

13. Orders under Trees (Disputes Between Neighbours) Act 2006

Whether an order has been made under the Trees (Disputes Between Neighbours) Act 2006 to carry out work in relation to a tree on the land (but only if the council has been notified of the order).

An order under the Trees (Disputes Between Neighbours) Act 2006 has not been made.

14. Directions under Part 3A

No direction by the Minister pursuant to section 75P (2) (c1) of the Environmental Planning & Assessment Act is in force.

15. Site compatibility certificates for infrastructure, schools or TAFE establishments

- (a) Council is not aware of any current site compatibility certificates (infrastructure, schools or TAFE establishments) in respect of proposed development on the land.

- (b) No terms referred to in clause 18(2) of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* have been imposed as conditions of consent to a development application for the land granted after 11 October 2007.

16. Site compatibility certificates for infrastructure, schools or TAFE establishments

Council is not aware of any valid site compatibility certificate (infrastructure, schools or TAFE establishments) in respect of proposed development on the land.

17. Site compatibility certificates and conditions for affordable rental housing

- (1) Council is not aware of any current site compatibility certificate (affordable rental housing) in respect of proposed development on the land.
- (2) No terms referred to in clause 17(1) or 37(1) of *State Environmental Planning Policy (Affordable Rental Housing) 2009* have been imposed as conditions of consent to a development application in respect of the land.

18. Paper subdivision information

- (1) The name of any development plan adopted by a relevant authority that applies to the land or that is proposed to be subject to a consent ballot.
- (2) The date of any subdivision order that applies to the land.
- (1) Not applicable.
- (2) Not applicable.

19. Site verification certificates

Council is not aware of a current site verification certificate in respect of the land.

NOTE: The following matters are prescribed by section 59 (2) of the *Contaminated Land Management Act 1997* as additional matters to be specified in a planning certificate:

- (a) that the land to which the certificate relates is significantly contaminated – if the land (or part of the land) is significantly contaminated land at the date when the certificate is issued,
- (b) that the land to which the certificate relates is subject to a management order – if it is subject to such an order at the date when the certificate is issued,
- (c) that the land to which the certificate relates is the subject of an approved voluntary management proposal – if it is the subject of such an approved proposal at the date when the certificate was issued,
- (d) that the land to which the certificate relates is subject to an ongoing maintenance order – if it is subject to such an order at the date when the certificate is issued,
- (e) that the land to which the certificate relates is the subject of a site audit statement - if a copy of such a statement has been provided at any time to the local authority issuing the certificate.

- (a) The land (or part of the land) is not significantly contaminated as at the date this certificate is issued.

Note: the answer given above only relates to "significantly contaminated" land as defined under the Contaminated Land Management Act 1997. If Council holds sufficient information about whether or not land is contaminated land (as defined under Schedule 6 of the Environmental Planning and Assessment Act 1979), this information will be given in the 10.7(5) certificate.

- (b) The land is not subject to a management order as at the date this certificate is issued.
- (c) The land is not the subject of an approved voluntary management proposal as at the date this certificate is issued.
- (d) The land is not subject to an ongoing maintenance order as at the date this certificate is issued.
- (e) The land is not the subject of a site audit statement as at the date this certificate is issued.

20. Loose-fill asbestos insulation

The land does not include any residential premises (within the meaning of Division 1A of Part 8 of the *Home Building Act 1989*) that are listed on the register that is required to be maintained under that Division.

21. Affected building notices and building product rectification orders

- (1) Council is not aware of any affected building notice (within the meaning of Part 4 of the *Building Products (Safety) Act 2017*) that is in force with respect to the land.
- (2) Council is not aware of any outstanding notice of intention to make a building product rectification (within the meaning of the *Building Products (Safety) Act 2017*) having been given with respect to the land.

Any statement made or information given in this certificate does not relieve the property owner of obtaining Council's approval required under the *Local Government Act 1993*, the *Environmental Planning & Assessment Act 1979* as amended, or any other Act.

Mark Arnold
General Manager



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