



New South Wales

Byron Local Environmental Plan 1988 (Amendment No 97)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*. (G01/00114/PC)

ANDREW REFSHAUGE, M.P.,

Minister for Planning

2002 No 930

Clause 1 Byron Local Environmental Plan 1988 (Amendment No 97)

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1 Name of plan

This plan is *Byron Local Environmental Plan 1988 (Amendment No 97)*.

2 Aims of plan

This plan aims:

- (a) to amend the provisions of *Byron Local Environmental Plan 1988* that permit dwelling-houses in non-urban zones to assist in the effective operation of that plan, and
- (b) to enable the subdivision of land within Zone No 7 (f2) (the Urban Coastal Land Zone) under that plan, if Byron Council is satisfied that the allotments subdivided will be used for a public purpose or the subdivision involves a boundary adjustment where no additional lots are created, and
- (c) to amend the definitions of *bed and breakfast establishment* and *existing holding* to assist in the effective operation of that plan.

3 Land to which plan applies

This plan applies to all land within the local government area of Byron under *Byron Local Environmental Plan 1988*.

4 Amendment of Byron Local Environmental Plan 1988

Byron Local Environmental Plan 1988 is amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 4)

[1] Clause 14 Residential areas and rural villages

Omit “, 2 (v) and 7 (f2)” from clause 14 (1). Insert instead “and 2 (v)”.

[2] Clause 14 (7)

Omit the subclause.

[3] Clause 15 Dwelling-houses

Omit clause 15 (2). Insert instead:

(2) In subclause (2A), *existing holding* means:

- (a) an allotment, lot or portion in existence on the relevant day that was not on that day held in the same ownership as any adjoining or adjacent allotment, lot or portion, and that has not been subdivided since that day, or
- (b) each area of land comprised of all adjoining or adjacent allotments, lots or portions that were held in the same ownership on the relevant day, and that have not been subdivided since that day.

In this definition, *relevant day* means:

- (a) in the case of land formerly subject to *Interim Development Order No 1—Shire of Byron*, 8 November 1968, or
- (b) in the case of land formerly subject to *Interim Development Order No 1—Municipality of Mullumbimby*, 9 November 1973.

(2A) Consent may be granted to the erection of a dwelling-house on land to which this clause applies only if there is no dwelling already on the land and only if the land is:

- (a) an existing holding, or
- (b) an allotment created in accordance with clause 11, 11B, 12 (3) or 13, or
- (c) a lot or portion referred to in Schedule 7, or

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Schedule 1 Amendments

(d) if a deposited plan is referred to in Schedule 7 without reference to any particular lot or lots in it, any of the lots in the deposited plan.

(2B) However, subclause (2A) does not prevent consent being granted to the erection of a dwelling-house on land described in that subclause that has been affected only by the following:

- (a) a minor boundary adjustment, such as to rectify an encroachment on an allotment,
- (b) a consolidation of lots, but not so as to reduce the area of the land on which the dwelling-house will be erected,
- (c) excision of part of the land if the part is to be acquired by a public authority,
- (d) excision of part of the land if the Council is satisfied the part is, or is intended to be, used for a public purpose.

[4] **Clause 32 Development within Zone No 7 (f2) (Urban Coastal Land Zone)**

Omit "Director" from clause 32 (3). Insert instead "Director-General".

[5] **Clause 32 (5)**

Insert after clause 32 (4):

- (5) The Council must not consent to the subdivision of land within Zone No 7 (f2) other than:
 - (a) a subdivision under the *Strata Schemes (Freehold Development) Act 1973*, or
 - (b) a subdivision to excise an allotment that is, or that the Council is satisfied is intended to be, used for a public purpose, or
 - (c) a subdivision that, in the opinion of the Council, is only a boundary adjustment where no additional lots are created.

[6] **Dictionary**

Omit the definition of *bed and breakfast establishment*. Insert instead:

bed and breakfast establishment means a lawfully erected dwelling-house:

- (a) that provides temporary home-style or farm-stay guest accommodation for the short-term traveller, and
- (b) in which not more than 6 guests would be accommodated, and
- (c) that contains no more than 3 bedrooms used for guest accommodation, and
- (d) that has a total floor area not exceeding 300m² (excluding separate garages, sheds or the like).

[7] Dictionary, definition of “existing holding”

Omit the definition.