



New South Wales

Byron Local Environmental Plan 1988 (Amendment No 126)

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*. (G00/00158/PC)

FRANK SARTOR, M.P.,
Minister for Planning

2005 No 661

Clause 1 Byron Local Environmental Plan 1988 (Amendment No 126)

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1 Name of plan

This plan is *Byron Local Environmental Plan 1988 (Amendment No 126)*.

2 Aims of plan

The aims of this plan are:

- (a) to rezone the land to which this plan applies from partly Zone No 1 (d) (the Investigation Zone) and partly Zone No 7 (b) (the Coastal Habitat Zone) to Zone No 5 (a) (the Special Uses Zone) under *Byron Local Environmental Plan 1988*, and
- (b) to allow, with the consent of Byron Shire Council, the carrying out of development for the purposes of an Aboriginal cultural centre on the land to which this plan applies, and
- (c) to ensure Byron Shire Council is satisfied that the land to which this plan applies will be remediated to a standard suitable for development in accordance with the *Environmental Planning and Assessment Act 1979*, *State Environmental Planning Policy No 55—Remediation of Land* and the *Contaminated Land Management Act 1997*.

3 Land to which plan applies

This plan applies to land in the local government area of Byron, being Lot 452, DP 48493, Lighthouse Road, Byron Bay, as shown edged heavy black, coloured yellow and lettered “Cultural Centre and Offices” on the map marked “Byron Local Environmental Plan 1988 (Amendment No 126)” deposited in the office of Byron Shire Council.

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] Clauses 39–39B

Insert after clause 38B:

39 Precinct plan for certain land

- (1) This clause applies to the land to which item 51 of Schedule 8 applies.
- (2) Before consent is granted pursuant to clause 29 to development for a purpose described in item 51 of Schedule 8, a draft precinct plan for development of the land is to be prepared by, or on behalf of, the owner of the land following consultation with the council.
- (3) The draft precinct plan:
 - (a) is to be in the form of a document (consisting of written information, maps and diagrams) that describes the development referred to in item 51 of Schedule 8 in greater detail than is set out in the item, and
 - (b) is to include an outline of long-term proposals for development of the entire site for which the precinct plan is required, and
 - (c) is to address, illustrate and explain how the proposals referred to in paragraph (b) address the matters set out in subclause (4) that are relevant to the proposals (but is not limited to doing so).
- (4) The matters referred to subclause (3) (c) are the following:
 - (a) design principles drawn from an analysis of the site and its context,
 - (b) phasing of development,
 - (c) distribution of land uses, including open space and environmental restoration areas,
 - (d) subdivision pattern,
 - (e) building envelopes and built form controls,
 - (f) bushfire protection measures and plans,
 - (g) infrastructure provision,
 - (h) remediation of the site,
 - (i) pedestrian, cycle and road access and circulation network, with particular regard to public transport servicing,

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- (j) parking provision,
 - (k) provision of other facilities,
 - (l) impact on, and improvements to, the public domain,
 - (m) landscaping and stormwater infiltration areas,
 - (n) identification and conservation of native flora and fauna habitat on the site, including any threatened species, populations or ecological communities,
 - (o) the principles of ecologically sustainable development.
- (5) After considering a draft precinct plan, the council:
- (a) may adopt the precinct plan without variation, or
 - (b) may adopt the precinct plan with such variations as it considers appropriate, or
 - (c) may reject the draft precinct plan.
- (6) When a precinct plan is adopted, the council must place a notice to that effect in a newspaper circulating in the locality.
- (7) A precinct plan may be amended or replaced by a subsequent precinct plan.

39A Site remediation for certain land

- (1) This clause applies to the land to which item 51 of Schedule 8 applies.
- (2) Site area remediation works are to be carried out on the land in accordance with the requirements of the *Environmental Planning and Assessment Act 1979*, *State Environmental Planning Policy No 55—Remediation of Land* and the *Contaminated Land Management Act 1997* at no cost to the council.
- (3) All consents, permissions or other approvals required under the *Environmental Planning and Assessment Act 1979*, *State Environmental Planning Policy No 55—Remediation of Land* and the *Contaminated Land Management Act 1997* for the carrying out of the remediation works must be obtained.
- (4) Prior to the commencement of the remediation works, a remediation action plan, a works program and a validation monitoring program in respect of the works must be submitted to the council.

39B Site audit for certain land

- (1) This clause applies to the land to which item 51 of Schedule 8 applies.

- (2) Before granting consent to development for a purpose set out in item 51 of Schedule 8, the council may require a site audit to be carried out in respect of the land by a site auditor accredited under the *Contaminated Land Management Act 1997* by the Department of Environment and Conservation and the site audit report and site audit statement in relation to the site audit to be furnished to, and approved by, the council.
- (3) The council may refuse to approve the site audit report and site audit statement if the site audit statement does not contain the following findings in relation to the site audit:
 - (a) that the soil, gas, groundwater, surface water and soil stability issues have been appropriately managed,
 - (b) that the land has been successfully remediated and is suitable for development for the purpose for which the consent is being sought.

[2] Schedule 8 Land referred to in clause 29

Insert in appropriate order:

- 51 Lot 452, DP 48493, Lighthouse Road, Byron Bay, as shown edged heavy black, coloured yellow and lettered "Cultural Centre and Offices" on the map marked "Byron Local Environmental Plan 1988 (Amendment No 126)", the purpose of any of the following: Aboriginal cultural centre, visitors centre, museum, meeting rooms, training rooms, restaurant, shops, light industrial workshops, tourist information office, offices, outdoor cooking area, open air theatre, bus station, food shop, dwelling-house for the purposes of an onsite caretaker, car parking and uses ancillary to those purposes, but only if:
 - (a) a precinct plan for the development of the land has been submitted to the council and adopted and notified by the council pursuant to clause 39, and
 - (b) the precinct plan referred to in paragraph (a) has, as its key objective, the establishment on the land of an integrated facility:
 - (i) consistent with the Indigenous Land Use Agreement between the Arakwal Aboriginal Corporation and the New South Wales Government, and
 - (ii) the dominant use of which is as an Aboriginal cultural centre, and

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- (c) the consent authority is satisfied that the development of the land is to be consistent with the provisions of the precinct plan referred to in paragraph (a), and
- (d) the consent authority is satisfied that, in accordance with clause 39A, the land has been remediated and is suitable for development for the purpose for which the consent is being sought, and
- (e) if a site audit is required under clause 39B in respect of the land, the site audit report and site audit statement relating to the site audit have been approved by the council.

[3] Dictionary

Insert in appropriate order in the definition of *the map*:

Byron Local Environmental Plan 1988 (Amendment No 126)

BY AUTHORITY
