



New South Wales

# **Byron Local Environmental Plan 2014 (Amendment No 46)**

under the

**Environmental Planning and Assessment Act 1979**

The following local environmental plan is made by the local plan-making authority under the *Environmental Planning and Assessment Act 1979*.

SHANNON BURT, DIRECTOR, SUSTAINABLE ENVIRONMENT AND ECONOMY  
BYRON SHIRE COUNCIL  
As delegate for the local plan-making authority

## **Byron Local Environmental Plan 2014 (Amendment No 46)**

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### **1 Name of plan**

This plan is *Byron Local Environmental Plan 2014 (Amendment No 46)*.

### **2 Commencement**

This plan commences on the day on which it is published on the NSW legislation website.

### **3 Land to which plan applies**

This plan applies to land to which *Byron Local Environmental Plan 2014* applies and certain land which, immediately before the making of this plan, was land identified as deferred matter under *Byron Local Environmental Plan 2014*.

### **4 Maps**

The maps adopted by *Byron Local Environmental Plan 2014* are amended or replaced, as the case requires, by the maps approved by the local plan-making authority on the making of this plan.

## Schedule 1 Amendment of Byron Local Environmental Plan 2014

### [1] Clauses 4.1G and 4.1H

Insert after clause 4.1F—

#### 4.1G Minimum lot sizes for certain residential accommodation—West Byron Bay site

- (1) The objective of this clause is to achieve planned residential density in the West Byron Bay site in certain zones.
- (2) This clause applies to development on land in the West Byron Bay site.
- (3) Development consent must not be granted for development for a purpose specified in Column 1 of the table to this clause in a zone specified in Column 2 for the purpose unless the lot on which the development will be carried out is of at least the area specified for the zone in Column 3.

Column 1	Column 2	Column 3
Dual occupancy (attached)	Zone R2 Low Density Residential	600m <sup>2</sup>
	Zone R3 Medium Density Residential	300m <sup>2</sup>
Dual occupancy (detached)	Zone R2 Low Density Residential	700m <sup>2</sup>
	Zone R3 Medium Density Residential	400m <sup>2</sup>

#### 4.1H Exceptions to minimum subdivision lot sizes for certain residential development—West Byron Bay site

- (1) The objective of this clause is to encourage housing diversity in the West Byron Bay site without adversely impacting residential amenity.
- (2) This clause applies to development on land in the West Byron Bay site in the following zones—
  - (a) Zone R2 Low Density Residential,
  - (b) Zone R3 Medium Density Residential.
- (3) Development consent may be granted to a single development application for development on land to which this clause applies that will result in a lot smaller than the size shown for the land on the Lot Size Map if—
  - (a) the development includes the subdivision of the land into 3 or more lots, and
  - (b) the consent authority is satisfied that a dwelling house, an attached dwelling or a semi-detached dwelling will be erected on each resulting lot, and
  - (c) each resulting lot will be at least—
    - (i) for a lot on which an attached dwelling will be erected—250m<sup>2</sup> for land in Zone R2 Low Density Residential and 150m<sup>2</sup> for land in Zone R3 Medium Density Residential, or

- (ii) for a lot on which a dwelling house will be erected—300m<sup>2</sup> for land in Zone R2 Low Density Residential and 200m<sup>2</sup> for land in Zone R3 Medium Density Residential, or
- (iii) for a lot on which a semi-detached dwelling will be erected—250m<sup>2</sup> for land in Zone R2 Low Density Residential and 150m<sup>2</sup> for land in Zone R3 Medium Density Residential.

**[2] Part 7**

Insert after Part 6—

**Part 7 Urban release areas**

**7.1 Concurrence of Planning Secretary**

- (1) The objective of this clause is to ensure designated State public infrastructure is sufficient to address the impact of intensive subdivision of land in an urban release area.
- (2) This clause applies to the subdivision of land in an urban release area if the subdivision would create a lot smaller than the minimum lot size permitted on the land immediately before the land became, or became part of, an urban release area.
- (3) Development consent must not be granted for the subdivision unless the consent authority has obtained the concurrence of the Planning Secretary.
- (4) In deciding whether to grant concurrence, the Planning Secretary must consider the following—
  - (a) the impact of the subdivision on—
    - (i) existing designated State public infrastructure, and
    - (ii) the need for additional designated State public infrastructure,
  - (b) the cumulative impact of the subdivision with other development that has been, or is likely to be, carried out in surrounding areas on—
    - (i) existing designated State public infrastructure, and
    - (ii) the need for additional designated State public infrastructure,
  - (c) the steps taken to address those impacts, including whether a planning agreement has been, or will be, entered into to contribute to designated State public infrastructure.
- (5) In deciding whether to grant concurrence, the Planning Secretary must also consult the public authorities that the Planning Secretary considers relevant to the development.
- (6) This clause does not apply to subdivision of the following land—
  - (a) land in a region within the meaning of the Act, Division 7.1, Subdivision 4, or land that includes land in a region,
  - (b) a lot that is, in the Planning Secretary's opinion, a residue lot,
  - (c) a lot created by a subdivision of land under a previous development consent granted in accordance with—
    - (i) this clause, or
    - (ii) *Byron Local Environmental Plan 1988*, clause 99, before its repeal,

- (d) a lot proposed to be reserved or dedicated for public open space, public roads, public utility undertakings, educational establishments or other public purposes.
- (7) This clause also does not apply to subdivision that is only for the purposes of rectifying an encroachment on an existing lot.
- (8) In this clause—  
***designated State public infrastructure*** means public facilities or services of the following kinds that are provided or financed by the State, or if provided or financed by the private sector, to the extent of any financial or in-kind contribution by the State—
  - (a) State and regional roads,
  - (b) bus interchanges and bus lanes,
  - (c) regional parks and public spaces,
  - (d) social infrastructure and facilities, including schools, hospitals, emergency services and justice facilities.

## 7.2 Public utility infrastructure

- (1) Development consent must not be granted for development on land in an urban release area unless the consent authority is satisfied—
  - (a) the public utility infrastructure essential for the development is available, or
  - (b) adequate arrangements have been made to ensure the infrastructure will be available when required.
- (2) This clause does not apply to development for the purposes of providing, extending, augmenting, maintaining or repairing public utility infrastructure.
- (3) In this clause—  
***public utility infrastructure*** includes infrastructure for the following—
  - (a) the supply of water,
  - (b) the supply of electricity,
  - (c) the disposal and management of sewage.

## 7.3 Development control plan

- (1) The objective of this clause is to ensure that development on land in an urban release area occurs—
  - (a) in a logical and cost-effective way, and
  - (b) in accordance with a staging plan, and
  - (c) only after a development control plan that includes specified controls has been prepared for the land.
- (2) Development consent must not be granted for development on land in an urban release area unless a development control plan that provides for the matters specified in subclause (3) has been prepared for the land.
- (3) The development control plan must provide for all of the following—
  - (a) a staging plan for the timely and efficient release of urban land, making provision for necessary infrastructure and sequencing,
  - (b) an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,

- (c) an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain,
  - (d) a network of active and passive recreation areas,
  - (e) stormwater and water quality management controls,
  - (f) management of natural and environmental hazards, including bush fire, flooding and site contamination and, in relation to natural hazards, the safe occupation of, and the evacuation from, any affected land,
  - (g) detailed urban design controls for significant development sites,
  - (h) measures to encourage higher density living around transport, open space and service nodes,
  - (i) measures to accommodate and control appropriate neighbourhood commercial and retail uses,
  - (j) suitably located public facilities and services, including provision for appropriate traffic management facilities and parking.
- (4) Subclause (2) does not apply in relation to the following development—
- (a) subdivision for the purposes of a realignment of boundaries that does not create additional lots,
  - (b) subdivision of land if any of the lots proposed to be created are to be reserved or dedicated for public open space, public roads or another public or environmental protection purpose,
  - (c) subdivision of land in a zone in which the erection of structures is prohibited,
  - (d) development of a minor nature only, if, in the consent authority's opinion, the development is consistent with the objectives of the zone in which the development will be carried out.

### [3] Dictionary

Insert in alphabetical order—

***urban release area*** means land identified as “Urban Release Area” on the Urban Release Area Map.

***Urban Release Area Map*** means the Byron Local Environmental Plan 2014 Urban Release Area Map.

***West Byron Bay site*** means land identified as “West Byron Bay site” on the Urban Release Area Map.

## **Schedule 2      Amendment of Byron Local Environmental Plan 1988**

- [1] Clause 64A Exceptions to development standards**  
Omit “situated,” from clause 64A(8)(b). Insert instead “situated.”.
- [2] Clause 64A(8)(c)**  
Omit the paragraph.
- [3] Part 4 West Byron Bay site**  
Omit the part.