



Planning & Environment

Mr P Hickey
General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478

Our ref: PP_2014_BALLI_008_00 (14/18384)
Your ref: BSCPP 14/009

Dear Mr Hickey

Planning proposal to amend Ballina Local Environmental Plan 2012

I am writing in response to your Council's letter dated 28 October 2014 and additional information dated 11 November 2014 requesting a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to rezone land at Ballina Heights Estate from B2 Local Centre and R3 Medium Density Residential to R2 Low Density Residential and RE1 Public Recreation and amend relevant planning controls and maps accordingly.

As delegate of the Minister for Planning, I have now determined the planning proposal should proceed subject to the conditions in the attached Gateway determination.

I have also agreed the planning proposal's inconsistencies with S117 Directions 1.1, 2.1, 3.1 and 5.3 are justified in accordance with the terms of the directions. In relation to S117 Direction 6.2 Reserving Land for Public Purposes, I have agreed to the creation of land for public purposes on the basis that the land is identified for public open space and is or will be dedicated to Council. No further approval is required in relation to these Directions.

Council may still need to obtain the agreement of the Department's Secretary to comply with the requirements of relevant S117 Directions 3.5 and 4.4 after consultation with the relevant agencies. Council should ensure this occurs prior to the plan being made.

Plan making powers were delegated to councils by the Minister in October 2012. It is noted that Council has now accepted this delegation however has not sought delegation in this instance as some of the subject land is owned by Council. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan.

The amending Local Environmental Plan (LEP) is to be finalised within 9 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office 6 weeks prior to the projected publication date. A copy of the request should be forwarded to the Department of Planning and Environment for administrative purposes.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the

Minister may take action under section 54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, I have arranged for Mr Paul Garnett of the Department's regional office to assist you. Mr Garnett can be contacted on (02) 6641 6607.

Yours sincerely

 17 November 2014
Stephen Murray
General Manager, Northern Region
Planning Services

Encl:
Gateway Determination
Written Authorisation to Exercise Delegation
Attachment 5 – Delegated Plan Making Reporting Template



Planning & Environment

Gateway Determination

Planning proposal (Department Ref: PP_2014_BALLI_008_00): to rezone land at Ballina Heights Estate From B2 Local Centre and R3 Medium Density Residential to R2 Low Density Residential and RE1 Public Recreation and amend relevant planning controls and maps accordingly.

I, the General Manager, Northern Region at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the EP&A Act that an amendment to the Ballina Local Environmental Plan (LEP) 2012 to rezone land at Ballina Heights Estate from B2 Local Centre and R3 Medium Density Residential to R2 Low Density Residential and RE1 Public Recreation and amend relevant planning controls and maps accordingly, should proceed subject to the following conditions:

1. Council is to consult with the NSW Rural Fire Service as per the requirements of S117 Direction 4.4 Planning for Bushfire Protection and amend the planning proposal, if necessary, to take into consideration any comments made prior to undertaking public exhibition.
2. Council is to consult with the Commonwealth Civil Aviation Safety Authority as per the requirements of S117 Direction 3.5 Development Near Licensed Aerodromes and amend the planning proposal, if necessary, to take into consideration any comments made prior to undertaking public exhibition.
3. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal is classified as low impact as described in *A Guide to Preparing LEPs (Department of Planning and Environment 2013)* and must be made publicly available for a minimum of **14 days**; and
 - (b) the relevant planning 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 LEPs (Department of Planning and Environment 2013)*.
4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A 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).
5. The timeframe for completing the LEP is to be **9 months** from the week following the date of the Gateway determination.

Dated 17th day of November 2014.

Stephen Murray
General Manager, Northern Region
Planning Services
Department of Planning and Environment

Delegate of the Minister for Planning



Planning & Environment

WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Ballina Shire Council is authorised to exercise the functions of the Minister for Planning under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2014_BALLI_008_00	Planning proposal to rezone land at Ballina Heights Estate from B2 Local Centre and R3 Medium Density Residential to R2 Low Density Residential and RE1 Public Recreation and amend relevant planning controls and maps accordingly.

In exercising the Minister's functions under section 59, the Council must comply with the Department of Planning and Environment's "*A guide to preparing local environmental plans*" and "*A guide to preparing planning proposals*".

Dated 17th November 2014

Stephen Murray
General Manager, Northern Region
Planning Services
Department of Planning and Environment