

Gateway Determination

Planning proposal (Department Ref: PP_2017_BALLI_001_00): for stage one of the integration of deferred land into the Ballina LEP 2012.

I, the Executive Director Regions, at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Ballina Local Environmental Plan (LEP) 2012 for stage one of the integration of deferred land into the Ballina LEP 2012 should proceed subject to the following conditions:

1. Prior to community or agency consultation:
 - (a) section 1.6 *Deferred Matter Integration Context and Interpretation* of the planning proposal is to be omitted or amended to ensure that there are no inconsistencies with the Final Recommendations or that there is nothing that could lead to misunderstanding the intent of the Final Recommendations;
 - (b) section 3.5 *Introduction of Natural Areas and Habitat Heads of Consideration Provision* of the planning proposal is to be amended to include a plain English description and to clarify that it will only apply to land within the identified E or W Zones; and
 - (c) Council is to ensure that any land owner whose land is proposed to have an E zone applied is to be notified in writing of the planning proposal and the proposed community consultation arrangements, and is requested to confirm the primary use of the land, with the planning proposal to be amended accordingly.

Council is to forward the amended planning proposal for review.

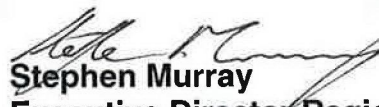
2. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **28 days**;
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals 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 2016)*; and
 - (c) written notice of the public exhibition of the planning proposal is to be sent to all land owners whose land is the subject of this planning proposal.
3. Consultation is required with the following public authorities under section 56(2)(d) of the Act and/or to comply with the requirements of relevant S117 Directions:
 - Rural Fire Service;
 - Office of Environment and Heritage.

- Department of Primary Industries;
- Local Aboriginal Land Council; and
- Rous County Council.

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

4. When Council has considered the submissions received during community consultation and has endorsed the final planning proposal, land owners whose land will be subject to an E zone are to be notified in writing of the Council's decision and advised that they have 28 days to notify the Department if they wish to request the Chief Planner to review the proposed zoning of their property.
5. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the 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).
6. The timeframe for completing the LEP is to be **9 months** from the week following the date of the Gateway determination.

Dated *9th* day of *March* 2017



Stephen Murray
Executive Director Regions
Planning Services
Department of Planning and
Environment

Delegate of the Minister for Planning



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

Our ref: PP_2017_BALLI_001_00 (17/01020)
Your ref: BSCPP 17/001 (16/109261)

Dear Mr Hickey

Planning proposal to amend Ballina Local Environmental Plan 2012

I am writing in response to your Council's letter dated 21 December 2016 and subsequent information provided on 2 February 2017, requesting a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 (the Act) in respect of the planning proposal for stage one of the integration of deferred land into the Ballina LEP 2012.

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.

Council will still need to obtain the agreement of the Department's Secretary to comply with the requirements of S117 Directions 2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs, 4.4 Planning for Bushfire Protection and 6.2 Reserving Land for Public Purposes. 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 accepted this delegation. Consistent with the Secretary's letter of 1 March 2016 and to ensure a consistent approach to the finalisation of zoning decisions in accordance with the *Northern Councils E Zone Review Final Recommendations*, planning proposals which seek to apply an E zone or an overlay will remain with the Department. I have therefore decided not 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 for the Department of Planning and Environment to draft and finalise the LEP should be made 6 weeks prior to the projected publication date.

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 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 Northern Region office to assist you. Mr Garnett can be contacted on (02) 6641 6607.

Yours sincerely

 9 March 2017
Stephen Murray
Executive Director Regions
Planning Services

Encl: Gateway Determination