



qB184273

12/01952

Department Generated Correspondence (Y)

Contact: Paul Garnett
Phone: (02) 6641 6600
Fax: (02) 6641 6601
Email: Paul.Garnett@planning.nsw.gov.au
Postal: Locked Bag 9022, Grafton NSW 2460

Our ref: PP_2012_NAMBU_001_00 (12/01101)
Your ref: SF1699

Mr Michael Coulter
General Manager
Nambucca Shire Council
PO Box 177
MACKSVILLE NSW 2447

Dear Michael,

Re: Planning proposal to amend clause 5.4(9) of the Nambucca LEP 2010 to limit the size of secondary dwellings and to list "Secondary dwellings" as permissible with consent in zones RU1 Primary Production and RU2 Rural Landscape.

I am writing in response to your Council's letter dated 22 December 2011 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 amend Clause 5.4(9) of the Nambucca Local Environmental Plan 2010 to limit the size of secondary dwellings to 50% of the total floor area of the principal dwelling, or 60m² whichever is the greater; and to list "Secondary dwellings" as permissible with consent in zones RU1 Primary Production and RU2 Rural Landscape.

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

The Director General's delegate has also agreed that the planning proposal's inconsistencies with S117 Directions 3.1 Residential Zones and 4.1 Acid Sulfate Soils are of minor significance. No further approval is required in relation to these Directions. Council has not provided sufficient justification for the planning proposal's inconsistency with S117 Directions 1.2 Rural Zones, 1.5 Rural Lands, and 5.1 Implementation of Regional Strategies in relation to the proposal to include Secondary dwellings in rural zones. Council is required to provide additional justification for the planning proposal against these S117 Directions and to place this additional material on exhibition with the planning proposal.

In regards to the planning proposal's inconsistencies with S117 Direction 4.4 Planning for Bushfire Protection, Council is to consult with the Commissioner of the NSW Rural Fire Service prior to undertaking community consultation and take into account any comments made as per the requirements of the Local Planning Direction.

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 within four (4) weeks from the week following this determination. Council's request for the Department to draft and finalise the LEP should be made six (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 s54(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, please contact Paul Garnett of the Regional Office of the Department on 02 6641 6600.

Yours sincerely,

Handwritten signature of Tom Gellibrand in black ink, with the date 25/1/12 written below it.

Tom Gellibrand
Deputy Director General
Plan Making & Urban Renewal

Gateway Determination

Planning Proposal (Department Ref: PP_2012_NAMBU_001_00): to amend clause 5.4(9) of the Nambucca LEP 2010 to limit the size of secondary dwellings and to list "Secondary dwellings" as permissible with consent in zones RU1 Primary Production and RU2 Rural Landscape.

I, the Deputy Director General, Plan Making & Urban Renewal as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the Nambucca Local Environmental Plan 2010 to amend clause 5.4(9) to limit the size of secondary dwellings to 50% of the total floor area of the principal dwelling, or 60m² whichever is the greater; and list "Secondary dwellings" as permissible with consent in zones RU1 Primary Production and RU2 Rural Landscape should proceed subject to the following conditions:

1. 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 must be made publicly available for **28 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 4.5 of *A Guide to Preparing LEPs (Department of Planning 2009)*.
2. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - NSW Rural Fire Service

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.
3. Council is to provide additional information in relation the planning proposal's consistency with S117 Directions 1.2 Rural Zones, 1.5 Rural Lands, and 5.1 Implementation of Regional Strategies in relation to the proposal to include Secondary dwellings in Rural zones. Council is required to provide additional justification for the planning proposal against these S117 Directions and to place this additional material on exhibition with the planning proposal.
4. Council is to consult with the Commissioner of the NSW Rural Fire Service prior to undertaking community consultation and take into account any comments made as per the requirements of S117 Direction 4.4 Planning for Bushfire Protection.
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 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).



6. The timeframe for completing the LEP is to be **9 months** from the week following the date of the Gateway determination.

Dated 25th day of January 2012

Tom Gellibrand
Deputy Director General
Plan Making & Urban Renewal
Delegate of the Minister for Planning and
Infrastructure