



Ms Liz Jeremy  
General Manager  
Bellingen Shire Council  
PO Box 117  
BELLINGEN NSW 2454

**COPY**

Dear Ms Jeremy

**Planning Proposal PP\_2017\_BELLI\_002\_00 to amend Bellingen Local  
Environmental Plan 2010**

I am writing in response to Council's request for a Gateway determination under Section 56 of the *Environmental Planning and Assessment Act 1979* (the Act) of 30 November 2017 in respect of the Planning Proposal to make secondary dwellings, dual occupancies (attached), eco-tourist facilities, some forms of tourist and visitor accommodation, and rural industries permissible with consent in the E4 Environmental Living zone and include farm buildings in the E4 zone as exempt development.

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, as delegate of the Secretary, the Planning Proposal's inconsistency with Section 117 Direction 2.3 Heritage Conservation are justified in accordance with the terms of the Direction. No further approval is required in relation to this Direction.

Council may still need to obtain the agreement of the Department's Secretary to comply with the requirements of relevant Section 117 Directions 4.3 Flood Prone Land and 4.4 Planning for Bushfire Protection after consultation with the State Emergency Services and NSW Rural Fire Service has been completed. Council should ensure this occurs prior to the plan being made.

I note that Council's advice that its ongoing infrastructure program and improvements in flood warning systems means that the E4 Environmental Living zone may not need to be as restrictive as it currently is. In light of these matters, it is suggested that Council reconsider the appropriateness of the E4 zone and objectives to the land when it is reviewing its growth management strategy or other aspects of its strategic planning framework in the future:

Plan making powers were delegated to Councils by the Minister in October 2012. It is noted that Council has requested to be issued with delegation for this planning

proposal. 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 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.

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 further enquiries about this matter, I have arranged for Mr Paul Garnett to assist you. Mr Garnett can be contacted on (02) 6641 6607.

Yours sincerely



12-12-2017

**Jeremy Gray**  
**Director Regions, Northern**  
**Planning Services**

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



## Gateway Determination

**Planning Proposal (Department Ref: PP\_2017\_BELLI\_002\_00):** to make secondary dwellings, dual occupancies (attached), eco-tourist facilities, some forms of tourist and visitor accommodation, and rural industries permissible with consent in the E4 Environmental Living zone and include farm buildings in the E4 zone as exempt development.

I, the Director Regions, Northern, 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 Bellingen Local Environmental Plan (LEP) 2010 to make secondary dwellings, dual occupancies (attached), eco-tourist facilities, some forms of tourist and visitor accommodation and rural industries permissible with consent in the E4 Environmental Living zone and include farm buildings in the E4 zone as exempt development, should proceed subject to the following conditions:

1. Prior to community consultation the planning proposal is to be amended so that the references to permitting 'home businesses' with consent in the planning proposal are removed as 'home businesses' are already permissible with consent in the E4 zone;
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**; 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 local environmental plans* (Department of Planning and Environment 2016).
3. Consultation is required with the following public authorities / organisations under section 56(2)(d) of the Act and/or to comply with the requirements of relevant Section 117 Directions:
  1. NSW State Emergency Service;
  2. NSW Department of Primary Industries - Water;
  3. NSW Rural Fire Service;
  4. NSW Office of Environment and Heritage; and
  5. Local Aboriginal Land Council.

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

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 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** following the date of the Gateway determination.

Dated *12* day of *DECEMBER* 2017.



**Jeremy Gray**  
**Director Regions, Northern**  
**Planning Services**  
**Department of Planning and**  
**Environment**

**Delegate of the Minister for Planning**



**COPY**

**WRITTEN AUTHORISATION TO EXERCISE DELEGATION**

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

Number	Name
PP_2017_BELLI_002_00	Planning proposal to make secondary dwellings, dual occupancies (attached), eco-tourist facilities, some forms of tourist and visitor accommodation and rural industries permissible with consent in the E4 Environmental Living zone and include farm buildings in the E4 zone as exempt development.

In exercising the Minister's functions under Section 59 of the EP&A Act, the Council must comply with the Department's "A guide to preparing local environmental plans 2016" and "A guide to preparing planning proposals 2016".

Dated *12 DECEMBER* 2017

**Jeremy Gray**  
Director Regions, Northern  
Planning Services  
Department of Planning and Environment

**Delegate of the Secretary  
of the Department of Planning and Environment**



## Attachment 5 – Delegated plan making reporting template

### Reporting template for delegated LEP amendments

#### Notes:

- Planning proposal number will be provided by the Department of Planning and Environment following receipt of the planning proposal
- The Department of Planning and Environment will fill in the details of Tables 1 and 3
- RPA is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the RPA should add additional rows to **Table 2** to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the Department of Planning and Environment with the RPA's request to have the LEP notified

**Table 1 – To be completed by Department of Planning and Environment**

Stage	Date/Details
Planning Proposal Number	PP_2017_BELLI_002_00
Date Sent to DP&E under s56	30 November 2017
Date considered at LEP Review Panel (if applicable)	N/A
Gateway determination date	

**Table 2 – To be completed by the RPA**

Stage	Date/Details	Notified Reg Off
Dates draft LEP exhibited		
Date of public hearing (if held)		
Date sent to PCO seeking Opinion		
Date Opinion received		
Date Council Resolved to Adopt LEP		
Have changes been made to the draft LEP after obtaining final PC opinion?	YES NO	
Date LEP made by GM (or other) under delegation		
Date sent to DPE requesting notification		

**Table 3 – To be completed by Department of Planning and Environment**

Stage	Date/Details
Notification Date and details	

#### Additional relevant information: