



New South Wales

Bellingen Local Environmental Plan 2010 (Amendment No 2)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning and Infrastructure, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*.

SAM HADDAD

As delegate for the Minister for Planning and Infrastructure

2012 No 190

Clause 1 Bellingen Local Environmental Plan 2010 (Amendment No 2)

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under the

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1 Name of Plan

This Plan is *Bellingen Local Environmental Plan 2010 (Amendment No 2)*.

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 the land to which *Bellingen Local Environmental Plan 2010* applies and, in particular, to land at Bowra Street, Bellingen, being Lot 570, DP 755557.

4 Maps

- (1) Each map adopted by *Bellingen Local Environmental Plan 2010* that is specified in Column 1 of the following table is declared by this Plan to be amended or replaced, as the case requires, by the map specified opposite in Column 2 of the table as approved by the Minister on the making of this Plan:

Column 1	Column 2
Name of map being amended or replaced	Name of amending or replacement map
Bellingen Local Environmental Plan 2010 Land Zoning Map (0600_COM_LZN_006B_020_2010 0622)	Bellingen Local Environmental Plan 2010 Land Zoning Map (0600_COM_LZN_006B_020_2012 0227)
Bellingen Local Environmental Plan 2010 Lot Size Map (0600_COM_LSZ_006_080_201006 22)	Bellingen Local Environmental Plan 2010 Lot Size Map (0600_COM_LSZ_006_080_201203 27)

Column 1	Column 2
Name of map being amended or replaced	Name of amending or replacement map
Bellinghen Local Environmental Plan 2010 Lot Size Map	Bellinghen Local Environmental Plan 2010 Lot Size Map (0600_COM_LSZ_006F_010_20120328)
(2) Each map adopted by <i>Bellinghen Local Environmental Plan 2010</i> that is specified below was approved by the Minister on the making of this Plan:	
Bellinghen Local Environmental Plan 2010 Floor Space Ratio Map (0600_COM_FSR_006F_010_20120327)	

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Schedule 1 Amendment of Bellinghen Local Environmental Plan 2010

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[1] **Clauses 4.4 and 4.5**

Omit the clauses. Insert instead:

4.4 Floor space ratio

- (1) The objectives of this clause are as follows:
 - (a) to confirm the desired density of buildings for different localities.
- (2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

4.5 Calculation of floor space ratio and site area

(1) Objectives

The objectives of this clause are as follows:

- (a) to define *floor space ratio*,
- (b) to set out rules for the calculation of the site area of development for the purpose of applying permitted floor space ratios, including rules to:
 - (i) prevent the inclusion in the site area of an area that has no significant development being carried out on it, and
 - (ii) prevent the inclusion in the site area of an area that has already been included as part of a site area to maximise floor space area in another building, and
 - (iii) require community land and public places to be dealt with separately.

(2) Definition of “floor space ratio”

The *floor space ratio* of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area.

(3) Site area

In determining the site area of proposed development for the purpose of applying a floor space ratio, the *site area* is taken to be:

- (a) if the proposed development is to be carried out on only one lot, the area of that lot, or

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- (b) if the proposed development is to be carried out on 2 or more lots, the area of any lot on which the development is proposed to be carried out that has at least one common boundary with another lot on which the development is being carried out.

In addition, subclauses (4)–(7) apply to the calculation of site area for the purposes of applying a floor space ratio to proposed development.

(4) **Exclusions from site area**

The following land must be excluded from the site area:

- (a) land on which the proposed development is prohibited, whether under this Plan or any other law,
- (b) community land or a public place (except as provided by subclause (7)).

(5) **Strata subdivisions**

The area of a lot that is wholly or partly on top of another or others in a strata subdivision is to be included in the calculation of the site area only to the extent that it does not overlap with another lot already included in the site area calculation.

(6) **Only significant development to be included**

The site area for proposed development must not include a lot additional to a lot or lots on which the development is being carried out unless the proposed development includes significant development on that additional lot.

(7) **Certain public land to be separately considered**

For the purpose of applying a floor space ratio to any proposed development on, above or below community land or a public place, the site area must only include an area that is on, above or below that community land or public place, and is occupied or physically affected by the proposed development, and may not include any other area on which the proposed development is to be carried out.

(8) **Existing buildings**

The gross floor area of any existing or proposed buildings within the vertical projection (above or below ground) of the boundaries of a site is to be included in the calculation of the total floor space for the purposes of applying a floor space ratio, whether or not the proposed development relates to all of the buildings.

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Schedule 1 Amendment of Bellinghen Local Environmental Plan 2010

(9) **Covenants to prevent “double dipping”**

When development consent is granted to development on a site comprised of 2 or more lots, a condition of the consent may require a covenant to be registered that prevents the creation of floor area on a lot (the restricted lot) if the consent authority is satisfied that an equivalent quantity of floor area will be created on another lot only because the site included the restricted lot.

(10) **Covenants affect consolidated sites**

If:

- (a) a covenant of the kind referred to in subclause (9) applies to any land (*affected land*), and
- (b) proposed development relates to the affected land and other land that together comprise the site of the proposed development,

the maximum amount of floor area allowed on the other land by the floor space ratio fixed for the site by this Plan is reduced by the quantity of floor space area the covenant prevents being created on the affected land.

(11) **Definition**

In this clause, *public place* has the same meaning as it has in the *Local Government Act 1993*.

[2] **Dictionary**

Omit “[Not adopted]” from the definition of *Floor Space Ratio Map*.