



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

Our ref: PP_2013_BALLI_010_00 (13/18181)
Your ref: 13/65558

Dear Mr Hickey

Planning proposal to amend Ballina Local Environmental Plan 2012

I am writing in response to your Council's letter dated 29 October 2013 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 clarify building height allowance provisions of clause 4.3A, Ballina Local Environmental Plan 2012.

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

The Gateway determination includes a condition that Ballina LEP 2012 Building Height Allowance Map be amended as required to support the intent of the planning proposal. This condition acknowledges a map change may be required to achieve the proposal's outcomes. A further condition is imposed that the planning proposal when exhibited should clearly outline, through the objectives and explanation of the provisions, that the intended outcome is to allow building height in flood-prone areas to be referenced from a defined fill height rather than existing ground level.

The Minister delegated his plan making powers to councils 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 6 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 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, please contact Claire Purvis of the regional office of the department on (02) 6641 6611.

Yours sincerely

 14 November 2013
Stephen Murray
Regional Director
Northern Region
Planning Operations and Regional Delivery

Gateway Determination

Planning proposal (Department Ref: PP_2013_BALLI_010_00): to clarify building height allowance provisions of clause 4.3A.

I, the Regional Director, Northern Region at the Department of Planning and Infrastructure 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 Ballina Local Environmental Plan (LEP) 2012 to clarify building height allowance provisions of clause 4.3A 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 is classified as low impact as described in *A Guide to Preparing LEPs (Department of Planning & Infrastructure 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 & Infrastructure 2013)*.
2. No consultation is required with public authorities under section 56(2)(d) of the EP&A Act.
3. 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).
4. The timeframe for completing the LEP is to be 6 months from the week following the date of the Gateway determination.
5. The Ballina LEP 2012 Building Height Allowance Map should be amended as required to support the intent of the planning proposal.
6. The planning proposal is to be amended prior to exhibition to clearly outline, through the objectives and explanation of the provisions that the intent of the planning proposal is to allow building height in flood-prone areas to be referenced from a defined fill height rather than existing ground level.

Dated 14th day of November 2013.



Stephen Murray
Regional Director
Northern Region
Planning Operations and Regional Delivery
Department of Planning and Infrastructure

**Delegate of the Minister for Planning and
Infrastructure**



WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Ballina Council is authorised to exercise the functions of the Minister for Planning and Infrastructure 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_2013_BALLI_010_00	Planning proposal to clarify building height allowance provisions of clause 4.3A (Amendment No 9)

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

Dated *14th November* 2013

Stephen Murray
Regional Director
Northern Region
Planning Operations and Regional Delivery
Department of Planning and Infrastructure

Attachment 5 – Delegated plan making reporting template

Notes:

- Planning proposal number will be provided by the department following receipt of the planning proposal
- The department 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 department's publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the department with the RPA's request to have the LEP notified

Table 1 – To be completed by the department

Stage	Date/Details
Planning Proposal Number	PP_2013_BALLI_010_00
Date Sent to Department under s56	29/10/2013
Date considered at LEP Review Panel	N/A
Gateway determination date	14/11/2013

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		
Date LEP made by GM (or other) under delegation		
Date sent to DP&I requesting notification		

Table 3 – To be completed by the department

Stage	Date/Details
Notification Date and details	

Additional relevant information: