

Gateway Determination

Planning Proposal (Department Ref: PP_2017_BALLI_007_00): to rezone Lot 1 and Lot 2 DP 620838 Byron Bay Road, Lennox Head to R2 Low Density Residential zone, and amend the Minimum Lot Size to 600m².

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 Ballina Local Environmental Plan (LEP) 2012 to rezone Lot 1 and Lot 2 DP 620838 Byron Bay Road, Lennox Head to R2 Low Density Residential zone, and amend the Minimum Lot Size to 600m² should proceed subject to the following conditions:

1. Council is to obtain and have regard to a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines, prior to the plan being made.
2. Council is to obtain and have regard to a detailed ecological assessment of the sites flora and fauna characteristics, prior to public consultation.
3. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:
 - (a) the Planning Proposal is classified as low impact as described in *A guide to preparing local environmental plans* (Department of Planning and Environment 2016) and must be made publicly available for a minimum of **14 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 local environmental plans* (Department of Planning and Environment 2016).
4. 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:

Civil Aviation Safety Authority
Lessee of the aerodrome
Office of Environment and Heritage
Department of Primary Industries (Agriculture)



Each public authority/organisation 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.

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** following the date of the Gateway determination.

Dated *16* day of *OCTOBER* 2017.

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

Delegate of the Minister for Planning

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_BALLI_007_00
Date Sent to DP&E under s56	26 September 2017
Date considered at LEP Review Panel (if applicable)	N/A
Gateway determination date	16-10-2017

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:



WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Ballina 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_BALLI_007_00	Planning Proposal to rezone Lot 1 and Lot 2 DP 620838 Byron Bay Road, Lennox Head to R2 Low Density Residential zone, and amend the Minimum Lot Size to 600m ² .

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 *16 OCTOBER* 2017

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

Delegate of the Secretary
of the Department of Planning and Environment



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

Dear Mr Hickey,

Planning Proposal PP_2017_BALLI_007_00 to amend Ballina Local Environmental Plan 2012

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) and additional information received on 26 September 2017 in respect of the Planning Proposal to rezone Lot 1 and Lot 2 DP 620838 Byron Bay Road, Lennox Head to R2 Low Density Residential zone, and amend the Minimum Lot Size to 600m².

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 Directions 1.2 Rural Zones and 2.3 Heritage Conservation are justified in accordance with the terms of the Direction. No further approval is required in relation to this these Direction.

Council may still need to obtain the agreement of the Department's Secretary to comply with the requirements of relevant Section 117 Direction 3.5 Development Near Licensed Aerodromes. 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 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 Ms Heidi Naylor to assist you. Ms Naylor can be contacted on (02) 6641 6604.

Yours sincerely



16-10-2017

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

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