



IRF23/2633

Alteration of Gateway determination report – PP-2023-876

To permit dual occupancies (attached) with consent on certain land at Wollongbar

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Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Planning Proposal Attached Dual Occupancy Wollongbar (V2 Exhibition)

1 Planning proposal

1.1 Original Gateway determination

Ballina Shire Council has prepared a planning proposal to permit dual occupancies (attached) with consent on certain land at Wollongbar.

The Gateway determination issued on 19 May 2023 (**Attachment C**) determined that the proposal should proceed subject to conditions.

1.2 Council has revised the planning proposal

Council has submitted a revised planning proposal (**Attachment D**) to resolve matters raised by the NSW Rural Fire Service in submissions.

In its original submission to Council (**Attachment E**), the NSW RFS outlined that Council should demonstrate that these lots can comply with Planning for Bushfire Protection 2019 Guidelines or exclude those lots unable to comply from the LEP amendment.

Council consulted with NSW RFS following the receipt of this submission, presenting several options to resolve the situation. Council sought to find an appropriate solution that satisfied NSW RFS concerns but did not require an amendment to the planning area.

The preferred option, following this discussion, was to include within the Ballina LEP 2012 a clause similar to clause 1.19A of the Codes SEPP. This proposed clause will only apply to attached dual occupancy development at Wollongbar.

The NSW RFS has subsequently confirmed that they have no concerns or issues with the revised proposal in relation to bushfire (**Attachment F**).

It is considered that the revised planning proposal and the RFS written advice adequately address the inconsistency of the proposal with section 9.1 Direction 4.3 Planning for Bushfire Protection.

The process undertaken to resolve matters raised by NSW RFS has taken significant time to resolve and Council has requested an additional three-month extension to complete the LEP. Council have indicated the following amended project timeline to complete the outstanding steps:

Plan making step	Estimated completion
Gateway determination	Completed May 2023
Agency consultation	Completed September 2023
Public exhibition period	Completed August 2023
Submission/s assessment	October 2023
Council report	October 2023
Legal Drafting	November 2023 – January 2024
Map Checking	November 2023 – January 2024
LEP amendment notification	February 2024

Given Council intend to prepare the report for the October 2023 meeting, it is considered appropriate that only an additional one month until 19 December 2023 is provided to still encourage Council to

finalise the amendment as quickly as possible. It is also recommended that Council commence legal drafting and map checking process prior to the Council meeting to expedite the process.

1.3 LEP Making Guidelines

This proposal was initially categorised as a ‘basic’ planning proposal pursuant to the LEP Making Guidelines. Based on the submission from the NSW RFS, it can no longer be considered a ‘basic’ planning proposal as it is not considered to meet the requirements for a “minor” housekeeping amendment.

It is more appropriate following the comments of the NSW RFS to classify this proposal as a ‘standard’ planning proposal. As such, the proposed one-month extension is considered to meet the timeframe requirements as outlined under the LEP Making Guidelines. A one-month extension to 19 December 2023 is also within the 225-day standard timeframe and does not need approval from the Department’s Active Management Meeting.

2 Community consultation

Community consultation occurred between 25 July and 25 August 2023, a period of 31 days in total which meets the minimum exhibition requirements for a standard planning proposal. It is considered that the revised planning proposal does not require further community consultation as the amendments are in response to matters raised in submissions and only seek to clarify the bushfire planning requirements that will apply at the development stage.

During community consultation, no public submissions were received. As previously discussed, Council consulted with the NSW RFS in accordance with condition 3 of the Gateway determination. Council has resolved all issues raised in agency submissions, as outlined above.

3 Recommendation

It is recommended that the delegate of the Secretary:

- **agree** that the inconsistency of planning proposal PP-2023-876 with section 9.1 Direction 4.3 Planning for Bushfire Protection is justified in accordance with the terms of the Direction.

It is recommended that the delegate of the Minister:

- **agree** under section 3.34(7) of the *Environmental Planning and Assessment Act 1979* (the Act) to alter the Gateway determination for planning proposal no. PP-2023-876 in accordance with the Alteration of Gateway determination document (**Attachment A**), which in summary involves the following:
 - amendment to the proposal to address matters raised by the NSW Rural Fire Service; and
 - extend the timeframe for completion of the LEP.
- **agree** under schedule 1, clause 4 of the Act that no additional community consultation is required;
- **sign** the Alteration of Gateway determination (**Attachment A**); and
- **sign** the letter to Ballina Shire Council (**Attachment B**).



4/10/23

(Signature)

(Date)

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Attachments

Attachment	
A	Alteration of Gateway determination
B	Letter to Council
C	Gateway determination
D	Revised planning proposal
E	NSW RFS Submission 28 June 2023
F	NSW RFS Submission 27 September 2023