

Ballina LEP 2012 - Amendment to allow for dual occupancy development on certain land at Lennox Head

Proposal Title :	Ballina LEP 2012 - Amendment to allow for dual occupancy development on certain land at Lennox Head		
Proposal Summary :	The planning proposal will rezone land from R2 Low Density Residential to R3 Medium Density Residential for certain properties in Kell Mather Drive; and Morton Way at Lennox Head. ("Elevation Estate") This will enable the land that is nominated in the respective development approvals as comprising dual occupancy lots to be considered for dual occupancy development, with development consent. The planning proposal also includes the application of a minimum lot size of 800 sqm for subdivision of the subject land.		
PP Number :	PP_2013_BALLI_002_00	Dop File No :	13/07575

Proposal Details

Date Planning Proposal Received :	01-May-2013	LGA covered :	Ballina
Region :	Northern	RPA :	Ballina Shire Council
State Electorate :	BALLINA	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	Kell Mather Drive		
Suburb :	Lennox Head	City :	Postcode : 2478
Land Parcel :	Lot 182, Lot 183 and Lot 184 DP 1165078 and Lot 168 DP 1166175; and DA Consent No 2008/628 within existing Lot 177 DP 1172682		
Street :	Morton Way		
Suburb :	Lennox Head	City :	Postcode : 2478
Land Parcel :	DA Consent No 2007/503 within existing Lot 20 DP1121759 and Lot 3 DP253428		

Ballina LEP 2012 - Amendment to allow for dual occupancy development on certain land at Lennox Head

DoP Planning Officer Contact Details

Contact Name : **Jennifer Vallis**
Contact Number : **0266416606**
Contact Email : **jenny.vallis@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Simon Scott**
Contact Number : **0266861284**
Contact Email : **simons@ballina.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name : **James Clark**
Contact Number : **0266416604**
Contact Email : **jim.clark@planning.nsw.gov.au**

Land Release Data

Growth Centre :		Release Area Name :	
Regional / Sub Regional Strategy :	Far North Coast Regional Strategy	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	
No. of Lots :	7	No. of Dwellings (where relevant) :	7
Gross Floor Area :	0	No of Jobs Created :	0
The NSW Government Lobbyists Code of Conduct has been complied with :	Yes		
If No, comment :	The Department of Planning Code of Practice in relation to communication and meetings with lobbyists has been complied with to the best of the Region's knowledge.		
Have there been meetings or communications with registered lobbyists? :	No		
If Yes, comment :	Nothern Region has not met any lobbyists in relation to this proposal, nor has Northern Region been advised of any meeting between other Departmental officers and lobbyists concerning this proposal.		

Supporting notes

Internal Supporting Notes :

External Supporting Notes : **Ballina Shire Council has identified that several allotments with development approval under Ballina LEP 1987 for dual occupancy were not designated as such in the Ballina LEP 2012. As the subject lots were not created at the time the new LEP was made , they were not recognised as being for dual occupancy purposes under the new LEP . This proposal corrects this by the application of a R3 zone.**

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **The objectives and intended outcomes of the planning proposal are adequately expressed for the proposed amendment.**

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **The planning proposal provides a clear explanation of the intended provisions to achieve the objectives and intended outcomes. An expansion of the address to include the street names may help locating the subject properties and land.**

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

Is the Director General's agreement required? **No**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

e) List any other matters that need to be considered :

Have inconsistencies with items a); b) and d) being adequately justified? **Yes**

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **Council has provided amendments to Ballina LEP 2012 maps showing R3 land zoning and amendment to lot size for the subject land.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council has advised that as this is a minor matter, 14 days for public exhibition will be adequate. This is acceptable.**

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment : **The planning proposal satisfies the adequacy criteria by:**
1. Providing appropriate objectives and intended outcomes;
2. Providing a suitable explanation of the provisions proposed for the LEP to achieve

Ballina LEP 2012 - Amendment to allow for dual occupancy development on certain land at Lennox Head

- the outcomes;
3. Providing an adequate justification for the proposal;
 4. Outlining that community consultation will be undertaken; and
 5. Providing a project timeline.

The evaluation criteria form for the delegation of plan making functions has not been completed as Council has advised that it sees no advantage in seeking delegation. However, this is a minor, low impact proposal and Council should be using its delegation for this matter.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation
to Principal LEP :

Ballina LEP 2012 was published on 25 January 2013. The proposal seeks an amendment to the recently made LEP

Assessment Criteria

Need for planning
proposal :

The need for the planning proposal has arisen as a result of the processing and timing of the Ballina LEP 2012, the subdivision works and lot creation for the subject land having occurred during implementation of the LEP. Council has reported that during the preparation of the comprehensive Ballina LEP existing residential allotments with low density received an R2 Low Density Residential zone and existing duplex and medium density lots received an R3 Medium Density Residential zone.

Council has identified several allotments with development approval in Lennox Head and intended for dual occupancy that have not been designated as such in the Ballina LEP 2012. As the subject lots were not created at the time the land was considered for zoning they were not recognised as being for dual occupancy purposes under the Ballina LEP 2012. The subject land was zoned R2, it is proposed to rezone the land R3 to enable dual occupancy development to occur. It is also proposed to change the minimum lot size for subdivision from 600sqm to 800sqm for consistency with lot size standards applied in similar circumstances in Lennox Head.

The planning proposal is considered the most appropriate means of enabling the dual occupancy to occur on this land.

Even though the planning proposal allows infill development on land already zoned for urban purposes and corrects a zoning anomaly, the proposal is inconsistent with section 117 direction 4.4 requiring consultation with the NSW Rural Fire Service. This inconsistency will remain until Council consults with the RFS.

Consistency with
strategic planning
framework :

The planning proposal is consistent with the Far North Coast Regional Strategy as the subject land falls within the Town and village Growth Boundary on the Ballina - Lennox Head Map extract.

Council has advised the proposal is also consistent with the Council's Ballina Shire Growth Management Strategy 2012. Land within proposed urban release areas, for which allotments had not been created, were generally zoned R3 under the new Ballina LEP to allow the subdivision development assessment process to determine the appropriate mixture of low and medium density within these areas. Council considers that the application of the R3 zoning is, therefore, consistent with the planning context for the land. This is acceptable.

Environmental social
economic impacts :

Council has advised that due to the minor nature of the proposal, no significant adverse environmental impact and no broad positive or negative social or economic impacts are likely to arise. As the proposal is a local, minor matter on land that is already approved for

Ballina LEP 2012 - Amendment to allow for dual occupancy development on certain land at Lennox Head

residential development the environmental, social and economic impacts have already been considered during this process.

Assessment Process

Proposal type : **Minor** Community Consultation Period : **14 Days**

Timeframe to make LEP : **6 Month** Delegation : **RPA**

Public Authority Consultation - 56(2)(d) : **NSW Rural Fire Service**

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Ballina Shire Council_01-05-2013_Planning Proposal	Proposal Covering Letter	Yes
Dual Occuparcy Lots Lennox Head - s56_.pdf	Proposal	Yes
Planning Proposal Lennox Head.pdf	Proposal	No
Council Report for Council Meeting 24-04-2013.pdf	Map	No
FNCRS Map Extract Ballina - Lennox Head.pdf		

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

Additional Information : **It is recommended that:**

- 1) The planning proposal be supported subject to conditions;
- 2) The planning proposal be publicly exhibited for a period of 14 days;
- 3) Council should consult with the NSW Rural Fire Service during community consultation?;
- 4) The planning proposal is to be completed within 6 months;

Ballina LEP 2012 - Amendment to allow for dual occupancy development on certain land at Lennox Head

5) The Director General (or an officer nominated by the Director General) agree that the inconsistency with S117 Direction 4.4 Planning for Bushfire Protection remains outstanding and will require justification following consultation with the NSW Rural Fire Service;

6) An Authorisation and on to exercise delegation to make the plan be issued to the RPA for this planning proposal

Supporting Reasons :

The reason for the Gateway Determination is to correct an anomaly that occurred during implementation of the Ballina LEP 2012 such that it was not clear that dual occupancy development was permissible on the subject land.

Signature:



Printed Name:

JIM CLARK

Date:

3 May 2013