

Ballina LEP 2012 – Rezoning of Stage 7a of Ballina Heights Estate.

Proposal Title : **Ballina LEP 2012 – Rezoning of Stage 7a of Ballina Heights Estate.**

Proposal Summary : **The planning proposal seeks to amend Ballina LEP 2012 by rezoning 28 lots in stage 7a of Ballina Heights Estate from R3 Medium Density Residential and B2 Local Centre to R2 Low Density Residential.**

PP Number : **PP_2013_BALLI_011_00** Dop File No : **13/20027**

Proposal Details

Date Planning Proposal Received : **05-Dec-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 : **4-14 O'Rourke St**

Suburb : **Cumbalum** City : **Ballina** Postcode : **2478**

Land Parcel : **Lots 330-359 DP 1189179**

Street : **1-21 Cullen Court**

Suburb : **Cumbalum** City : **Ballina** Postcode : **2478**

Land Parcel : **Lots 330-359 DP 1189179**

Street : **3-5 Walsh Place**

Suburb : **Cumbalum** City : **Ballina** Postcode : **2478**

Land Parcel : **Lots 330 - 359 DP 1189179**

DoP Planning Officer Contact Details

Contact Name : **Paul Garnett**
Contact Number : **0266416607**
Contact Email : **paul.garnett@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Lachlan Sims**
Contact Number : **0266861284**
Contact Email : **lachlans@ballina.nsw.gov.au**

DoP Project Manager Contact Details

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

Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
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) :	Residential
No. of Lots :	28	No. of Dwellings (where relevant) :	28
Gross Floor Area :	0	No of Jobs Created :	0
The NSW Government Lobbyists Code of Conduct has been complied with :	Yes		
If No, comment :			

Have there been
meetings or
communications with
registered lobbyists? : **No** || If Yes, comment : | |

Supporting notes

Internal Supporting
Notes :

External Supporting
Notes : **The planning proposal will give Council the ability to reduce the residential density over
the subject land to be consistent with a current development approval for the subdivision.**

Adequacy Assessment

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

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

Comment : **The Statement of objectives adequately describes the intention of the planning proposal. The proposal seeks to amend the Ballina LEP 2012 by rezoning the subject land to achieve consistency with the development approval for the subdivision of the land. The development consent enabled subdivision for low density residential purposes and therefore the proposal seeks to rezone 28 approved lots from predominantly R3 Medium Density Residential to R2 Low Density Residential.**

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

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

Comment : **The explanation of provisions adequately addresses the intended method of achieving the objectives of the planning proposal. The proposal seeks to amend the LEP by altering the zoning, maximum building height and minimum lot size development standards for the land on the relevant maps, and removing a floor space ratio over part of the site currently zoned B2 Local Centre.**

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

1.1 Business and Industrial Zones

* May need the Director General's agreement

3.1 Residential Zones

5.1 Implementation of Regional Strategies

6.1 Approval and Referral Requirements

Is the Director General's agreement required? **Yes**

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

d) Which SEPPs have the RPA identified? **N/A**

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 : **See the assessment section of his report.**

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **The planning proposal contains maps which adequately show the site, the current zone and the proposed zone, building height and minimum lot size and the change to the floor space ratio.**

Maps which comply with the Standard Technical Requirements for LEP Maps have also been provided.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **The planning proposal does not nominate a community consultation strategy. However Council's covering letter identifies the proposal as being of a minor nature and recommends a consultation period of 14 days. This approach is considered to be appropriate.**

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 :

Time Line

The planning proposal includes a project timeline which estimates the completion of the planning proposal in March 2014. To ensure the RPA has adequate time to complete exhibition, reporting, map preparation and legal drafting it is recommended that a time frame of 9 months is appropriate.

Delegation.

Council has indicated it is prepared to accept an Authorisation to exercise delegation for this proposal. An Evaluation Criteria For the Delegation of Plan Making Functions has been provided. The proposal is considered to be consistent with the strategic planning framework and of local planning significance. It is recommended that an Authorisation for the execution of delegation be issued.

Overall Adequacy

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 the outcomes.
3. Providing an adequate justification for the proposal.
4. Outlining a proposed community consultation program.
5. Providing a project time line
6. Completing the evaluation criteria for the delegation of plan making functions.

Proposal Assessment

Principal LEP:

Due Date :

Comments in
relation to Principal
LEP :

The Ballina LEP 2012 commenced in February 2013. This planning proposal seeks an amendment to the Ballina LEP 2012.

Assessment Criteria

Need for planning
proposal :

The proposal is not a result of a strategic study or report. The land was originally zoned 2(b) Residential (Village Area) under the Ballina LEP 1987, in 2000. In June 2010 development consent was granted for the 30 lots which constitute the subject land (approximately 2.5ha). The approval was for 28 low density residential lots and 2 medium density lots for dual occupancy development. The lots were not registered until 8 November 2013.

Since the lots were not created when the Ballina LEP 2012 was being prepared, the R3 Medium Density Residential zone was applied to the land. Council was applying the R3 across undeveloped urban release areas throughout the local government area, to enable flexibility in future development of new urban areas.

The R3 zone is now inconsistent with the approved low density residential subdivision as the R3 zone requires larger lot sizes and permits the development of all forms of residential accommodation with consent. This was not envisaged at the development

application stage by either the proponent or the neighbouring land owners. The proponent has requested that the land be rezoned to reflect the approved subdivision, to ensure the land is developed as planned, and to allay the concerns of neighbouring land owners who had not envisaged medium density development on land adjoining their properties.

The proposal to rezone 28 of the 30 lots to R2 Low Density Residential and retain two R3 zoned lots for dual occupancy developments will be consistent with the approved subdivision and will reflect the character of the surrounding residential area.

While the current R3 zone would still permit the development of the land for low density residential development, the rationalisation of the zones across the site will give prospective purchasers and neighbouring properties certainty in the development potential of the land.

The proposed rezoning and rationalisation of development controls is the best means of achieving the intent of the planning proposal.

Consistency with strategic planning framework :

Far North Coast Regional Strategy (FNCRS).

The proposal to rezone the subject land to R2 Low Density Residential is not inconsistent with the FNCRS. The subject land is located within the town and village growth boundary for Cumbalum. The subdivision has been finalised and the lots registered and no significant additional infrastructure is necessary. The land is not adversely affected by natural hazards, does not contain significant native vegetation and its location within the Cumbalum village would utilise the existing traffic and pedestrian infrastructure.

The FNCRS sets dwelling targets for each local government area (LGA). For the Ballina LGA an additional 8400 dwellings are estimated to be required by 2031. The rezoning of 28 lots of the subject land from R3 Medium Density Residential to R2 Low Density Residential will reduce the potential residential density of the subject land. Under the provisions of the Ballina LEP 2012 all forms of residential accommodation are permissible with consent in the R3 zone. In the R2 zone, only boarding houses, dwelling houses, secondary dwellings and seniors housing are permissible with consent.

There is a significant area of undeveloped R3 Medium Density zoned land adjacent to the subject land (approximately 64ha) which has the potential to provide for higher density residential development housing options. The rezoning of the nearby Cumbalum Precincts A and B is soon to be finalised and will create approximately 135ha of R3 zoned land which will contribute to the estimated 3000 residential lot yield for this area. The proposal to rezone 28 lots of the subject land to R2 Low Density Residential will not have a significant adverse impact on the ability to achieve the housing targets for the Ballina LGA.

Consistency with Council's Local Strategies.

The subject land is identified as undeveloped urban zoned land in the Ballina Shire Growth Management Strategy 2012. Since the adoption of the Strategy the subdivision of the land has been finalised. The Strategy includes the need to provide a diversity of residential opportunities within the various urban settlements and distinct housing markets. It is considered that the rezoning of the land to R2 Low Density Residential is not inconsistent with this Strategy.

SEPPs

The planning proposal states that the proposal is not inconsistent with any State environmental planning policies (SEPPs). While many SEPPs apply to the subject the proposal to rezone the land is not inconsistent with these SEPPs.

S117 Directions.

The following S117 directions are applicable to the proposal, 1.1 Business and Industrial Zones, 2.1 Environmental Protection Zones, 2.3 Heritage Conservation, 3.1 Residential Zones, 3.2 Caravan Parks and Manufactured Home Estates, 3.3 Home Occupations, 3.4 Integrating Land Use and Transport, 5.1 Implementation of Regional Strategies, 6.1 Approval and Referral Requirements, 6.2 Reserving Land for Public Purposes, and 6.3 Site Specific Provisions.

Of the above s117 Directions the proposal is considered to be inconsistent with Directions 1.1 and 3.1.

Direction 1.1 Business and Industrial Zones is relevant to the proposal. The direction provides that a planning proposal must protect employment land in business and industrial zones and retain areas of existing business zones.

The planning proposal seeks to rezone part of the subject land (approximately 1400m²) from B2 Local Centre to R2 Low Density Residential. The direction provides that the planning proposal may be inconsistent with the terms of the direction if it is justified by a strategy or study or is of minor significance.

The area of B2 zoned land has already been developed for residential allotments as part of a low density residential subdivision. The B2 zone is therefore inappropriate for the subject land. There is a large area of undeveloped B2 zoned land (approximately 7.7ha) adjoining the subject land which is available for commercial development for the

Cumalum area. The loss of only 1400sqm of B2 zoned land is considered to be of minor significance in the context of the Cumalum urban area. It is therefore considered that the inconsistency is justified in accordance with the terms of the direction.

Direction 3.1 Residential Zones is relevant to the proposal. The direction provides that a planning proposal must not reduce the permissible residential density of land.

The proposal seeks to rezone the subject land from part B2 Local Centre and part R3 Medium Density Residential to R2 Low Density Residential. The R2 zone does not permit as wide a range of residential accommodation as the R3 zone. However as previously discussed there is a significant area of undeveloped R3 zoned land adjoining the subject site which will provide adequate medium density housing opportunities. The R2 zone also permits the development of secondary dwellings which can provide a low cost low density residential option.

The Direction provides that the proposal may be inconsistent with the terms of the direction if the inconsistency is justified by a strategy or study or is of minor significance. The rezoning of 28 lots from R3 to R2 is considered to be of minor significance in the context of the housing supply for Ballina Shire, and therefore the inconsistency is justified in accordance with the terms of the direction.

The proposal is otherwise consistent with S117 Directions.

Environmental social
economic impacts :

The subject land is urban zoned land which is cleared of significant native vegetation and has been developed as a residential subdivision. There is no likelihood that the proposal will adversely affect critical habitat or threatened species, populations or ecological communities or their habitats.

The planning proposal has already been developed as a low density residential subdivision and no adverse environmental impacts are expected from the proposed rezoning of the land. The relatively small size of the site and the continuation of urban land uses will not result in significant social or economic impacts from the proposed rezoning.

Assessment Process

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

Timeframe to make **9 months** Delegation : **RPA**
LEP :

Public Authority
Consultation - 56(2)
(d) :

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

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

If no, provide reasons : **The planning proposal should proceed for the following reasons;**
1. The proposal to rezone 28 lots of the subject land from part B2 Local Centre and part R3 Medium Density Residential is not inconsistent with the Far North Coast Regional Strategy, and the inconsistencies with the S117 directions are of minor significance.
2. The proposal will ensure the zoning of the land is consistent with the low density residential subdivision which has been approved and constructed over the site.

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

If Yes, reasons :

Ballina LEP 2012 – Rezoning of Stage 7a of Ballina Heights Estate.

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_Cover_Letter_for_LEP 2012 Amendment - Ballina Heights Estate Stage 7a Cumbalum.pdf	Proposal Covering Letter	Yes
Planning Proposal - Ballina Heights Estate Stage.pdf	Proposal	Yes

Planning Team Recommendation

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

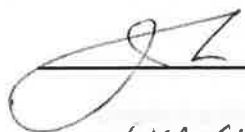
S.117 directions: **1.1 Business and Industrial Zones**
 3.1 Residential Zones
 5.1 Implementation of Regional Strategies
 6.1 Approval and Referral Requirements

Additional Information : **It is recommended that;**
 1. **The planning proposal should proceed as a 'routine' planning proposal.**
 2. **A community consultation period of 14 days is necessary.**
 3. **The planning proposal is to be completed within 9 months.**
 4. **A written authorisation to exercise delegation is issued to Ballina Shire Council.**
 5. **A delegate of the Director General agree that the inconsistency of the proposal with S117 Directions 1.1 and 3.1,are justified in accordance with the terms of the direction.**

Supporting Reasons : **The reasons for the recommendation are as follows;**
 1. **The proposal to rezone 28 lots of the subject land from part B2 Local Centre and part R3 Medium Density Residential is not inconsistent with the Far North Coast Regional Strategy, and the inconsistencies with the S117 directions are of minor significance.**
 2. **The proposal will ensure the zoning of the land is consistent with the low density residential subdivision which has been approved and constructed over the site.**

Signature: _____

Printed Name: _____



JIM CLARK

Date: _____

12 December 2013