

Planning Services

Gateway Determination Report

LGA	Ballina Shire Council
RPA	Ballina Shire Council
NAME	Ballina Shire Council – Amendment to Ballina LEP 2012 to rezone and amend the minimum lot size of Lot 1, Section 15, DP 759050, 17 Bath St, Wardell to facilitate residential development and remove the Strategic Urban Growth Area affectation and associated buffer areas on surrounding land.
NUMBER	PP_2017_BALLI_008_00
LEP TO BE AMENDED	Ballina LEP 2012
ADDRESS	17 Bath St, Wardell
DESCRIPTION	Lot 1, Section 15, DP 759050 & surrounding SUGA buffer land
RECEIVED	11/08/2017
FILE NO.	17/11246
QA NUMBER	qA417183
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

INTRODUCTION

Description of Planning Proposal

The Planning Proposal aims to amend Ballina LEP 2012 to rezone Lot 1, Section 15, DP 759050, 17 Bath St, Wardell from RU2 Rural Landscape to R2 Low Density Residential, amend the minimum lot size from 40ha to 600m2 and remove the Strategic Urban Growth Area affectation from the subject land and associated buffer areas from the surrounding land.

Site Description

Lot 1, Section 15, DP 759050, 17 Bath St, Wardell

Surrounding Area

This allotment is located within the township of Wardell. To the south, east and west is residential land, dominated by single dwellings on larger residential allotments. To the north is vegetated land identified as deferred land.

Summary of Recommendation

Approval subject to conditions.

PROPOSAL

Objectives or Intended Outcomes

The Planning Proposal has adequately outlined the objectives and intended outcomes which are to:

- rezone Lot 1, Section 15, DP 759050, 17 Bath St, Wardell from RU2 Rural Landscape to R2 Low Density Residential;
- amend the current minimum lot size of 40ha and replace with a new minimum lot size of 600m²;
- remove the Strategic Urban Growth Area affectation from the subject land and associated buffer areas from surrounding land.

Explanation of Provisions

The explanation of provisions adequately addresses the intended outcome of the proposal which has been detailed above.

Mapping

The proposed amendment to BLEP 2012 will involve changes to the land zoning (LZN), minimum lot size (LSZ) and Strategic Urban Growth Area (SGA) Maps. Thumbnail versions of the relevant existing and proposed maps have been included in the planning proposal. These are considered adequate for exhibition purposes.

NEED FOR THE PLANNING PROPOSAL

The Planning Proposal has been the direct result of the 2015 Wardell Planning and Environment Study (WPES). This study incorporated an evaluation of the Strategic Urban Growth Areas (SUGA's) at Wardell in regards to their suitability for urban development. It found that the subject site was suitable and would support 2-3 low density residential lots. The planning proposal is the most appropriate and only mechanism available to rezone the land to meet the recommendation of the WPES.

STRATEGIC ASSESSMENT

State

The Planning Proposal does not contain any matters of state significance.

Regional / District

The North Coast Regional Plan 2036 (NCRP)

The Planning Proposal is consistent with the NCRP as the site is designated as an Investigation area – Urban Land located within an Urban Growth Area. It is also consistent with Goal 4 of the NCRP as it supports 'greater housing choice and lifestyle options'.

Local

The Planning Proposal has been the direct result of the 2015 Wardell Planning and Environment Study (WPES). It is not considered to be inconsistent with any Council strategy and plan.

Section 117(2) Ministerial Directions

The Planning Proposal is considered to be consistent with all relevant directions apart from the following;

1.2 Rural Zones

This direction requires that a planning proposal must not rezone land from a rural zone to residential, business, industrial, village or tourist. The Planning Proposal proposes to rezone the subject land from RU2 Rural Landscape to R2 Low Density Residential.

The planning proposal is considered to be justifiably inconsistent with this direction as the subject land has been designated an Investigation Area – Urban land under the NCRP 2036 and is located within a designated Urban Growth Area. The proposal is also consistent with the strategic actions in the Ballina Shire Growth Management Strategy and WSEP.

1.5 Rural Land

This direction requires that a planning proposal must be consistent with the Rural Planning and Rural Subdivision Principles as listed in SEPP (Rural Lands) 2008. This direction applies to the proposal as it affects rural land.

The planning proposal is considered to be justifiably inconsistent with this direction as the subject land has been designated an Investigation Area – Urban land under the NCRP 2036 and is located within a designated Urban Growth Area. The proposal is also consistent with the strategic actions in the Ballina Shire Growth Management Strategy and WPES.

4.1 Acid Sulfate Soils

The proposal is inconsistent with this direction as it proposes an intensification of use on land identified as containing acid sulfate soils and is not supported by a study assessing the appropriateness of the land. Any development would be subject to Council's acid sulfate provisions under the LEP and any potential impact would be addressed at the development application stage. Development for the purpose of low density residential is unlikely to have any significant impact on acid sulfate soils. The proposal's inconsistency with this direction can be justified as minor significance.

4.4 Planning for Bushfire Protection

The Planning Proposal applies to land that may be mapped as bushfire prone. The direction provides that the RPA must consult with the Commissioner of the NSW Rural Fire Service (RFS), and the draft plan must include provisions relating to bushfire control. The Gateway determination will be conditioned to require consultation with the RFS before public exhibition. Until this consultation has occurred, the inconsistency of the proposal with the direction remains unresolved. If written advice is obtained from the Commissioner of the NSW RFS and no objection is raised, then the inconsistency may be justified in accordance with the terms of the Direction.

State Environmental Planning Policies

SEPP 55 – Remediation of Land

The Planning Proposal has not provided sufficient information in regards to potential site contamination to determine the suitability of the land for residential purposes. In accordance with Council's Management of Contaminated Land Policy, Council will require the submission of a Preliminary Site Investigation and Detailed Site Investigation post Gateway. The Gateway determination should be conditioned accordingly.

The Planning Proposal is considered to be consistent with all other relevant SEPP's.

SITE SPECIFIC ASSESSMENT

Social

The Planning Proposal is unlikely to result in any detrimental social impacts within the LGA. It has the potential to create a net community benefit through an increase in housing supply and choice.

Environmental

It is not considered that the planning proposal will have any adverse impact on critical habitat or threatened species, population or ecological communities or their habitats. The subject land does not contain any land mapped as High Environmental Value under the NCRP 2036. Further assessment in this regard however will be required at the development assessment stage of the proposal.

The subject land is mapped as containing bushfire prone land and will therefore require the submission of a Bushfire Threat Assessment Report post Gateway. Referral will also be required to the NSW Rural Fire Service. The Gateway determination will be conditioned accordingly.

The subject land contains Class 4 acid sulfate soils. Any future development applications will therefore be subject to the relevant provisions under Ballina LEP 2012.

The land is not prone to flooding or landslip.

The Planning Proposal has not provided sufficient information to determine potential site contamination. A detailed report will be required as part of the Gateway determination.

Economic

It is anticipated that the Planning Proposal will have a positive economic impact within the LGA as it has the potential to increase housing supply and affordability.

Infrastructure

The provision and funding of state infrastructure is not necessary for this proposal.

Heritage

Council have yet to determine the heritage value of the existing residence on the site and will therefore require a heritage assessment post Gateway. The Gateway determination should be conditioned accordingly.

CONSULTATION

Community

Council has indicated a 28 day public exhibition/community consultation period. As the Planning Proposal only relates to matters of local interest and is low impact in nature, a 14 day exhibition period is considered adequate. Nothing prevents Council undertaking a longer period should they consider it necessary.

The proposal will be notified in the local newspaper, letters sent to adjoining land owners and a notice placed on Council's website. Council has also indicated that it will consult with the Jali Local Aboriginal Land Council.

This level of consultation is appropriate in these circumstances.

Agencies

The Office of Environment and Heritage (OEH) were provided with an opportunity to make comment on the proposal prior to the Gateway determination. OEH have stated that they have no issues with the proposal, however recommend that consultation be undertaken with the Jali Local Aboriginal Land Council following the Gateway determination.

Council have proposed consultation with the NSW Rural Fire Service, Office of Environment and Heritage and the Jali Local Aboriginal Land Council.

This consultation is considered adequate.

TIMEFRAME

Council have provided a project time line which proposes submission to the Department in approximately nine (9) months. This timeframe is considered adequate.

DELEGATION

The RPA has requested an Authorisation to exercise delegation for this proposal. It is recommended that an Authorisation for delegation be issued in this instance as this proposal does not contain matters of State or regional significance.

CONCLUSION

The Planning Proposal is supported to proceed subject to conditions. Support for the Planning Proposal is based on the following:

- It meets the adequacy criteria by providing appropriate objectives and intended outcomes; a suitable explanation of the provisions and justification for the proposal; outlines appropriate community consultation; provides a project timeline; and an evaluation for the delegation of plan making functions.
- It is consistent with all relevant s117 directions and SEPP's apart from 4.4 Planning for Bushfire Protection which will be determined before the plan is made,
- It is not inconsistent with the North Coast Regional Plan 2036,
- It is unlikely to have any detrimental impact on the environment or the socio-economic welfare of the Local Government Area,
- It has the potential to address the Shire wide need for greater housing supply and affordability; and
- Site specific issues can be adequately addressed at the development application stage.

RECOMMENDATION

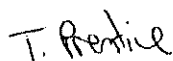
It is recommended that the delegate of the Secretary:

1. Agree the proposal is consistent with all relevant section 117 Directions apart from the ones listed below; and
2. Agree any inconsistencies with Section 117 Directions;
 - 1.2 Rural Zones,
 - 1.5 Rural Land, and
 - 4.1 Acid Sulfate Soilsare justified in accordance with the terms of the Direction; and

3. Note the outstanding inconsistency with Section 117 Direction 4.4 Planning for Bushfire Protection.

It is recommended that the delegate of the Minister for Planning, determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be made available for community consultation for a minimum of 14 days.
2. Consultation is required with the following public authorities:
 - NSW Rural Fire Service
 - Office of Environment and Heritage
 - Jali Local Aboriginal Land Council
3. Prior to consultation with agencies the following additional studies are to be carried out. These studies are to be placed on exhibition with the Planning Proposal.
 - Heritage assessment;
 - Bushfire Threat Assessment; and
 - Site contamination Assessment
4. The timeframe for completing the LEP is to be 9 months from the date of the Gateway determination.
5. Given the nature of the planning proposal, Council should be authorised to exercise delegation to make this plan.



30/8/17

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30/08/2017

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