

## Gateway Determination

**Planning proposal (Department Ref: PP-2022-3871):** to introduce the C2 Environmental Conservation and C3 Environment zones into the Ballina LEP 2012, amend associated clauses, and rezone Lot 1 DP 124173 for conservation purposes and amend associated development standards.

I, the Executive Director, Local and Regional Planning at the Department of Planning and Environment, as delegate of the Minister for Planning, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Ballina Local Environmental Plan 2012 to introduce the C2 Environmental Conservation and C3 Environment zones into the Ballina LEP 2012, amend associated clauses, and rezone Lot 1 DP 124173 for conservation purposes and amend associated development standards should proceed subject to the following conditions and be completed within six months from the date of Gateway determination:

### Gateway Conditions

1. The planning proposal is to be amended to:
  - utilise one consistent property description;
  - include all the proposed changes within the explanation of provisions;
  - retain the existing R2 Low Density Residential zone and minimum lot size for the area approved for trial fill pads under DA 2019/233, as the primary use of the land is not for environmental management or conservation, unless landowner agreement for the proposed change can be obtained;
  - remove the proposed change to clause 4.1C, as rural workers dwelling is not a use sought to be permitted in the C3 Zone land use table;
  - correctly orientate the proposed minimum lot size map;
  - remove the reference to the Building Height Allowance map in Part 4 Mapping;
  - include current and proposed FSR maps;
  - correctly reference section 9.1 Ministerial Direction 5.3 from 'Flooding' to 'Development Near Regulated Airports and Defence Airfields'.
2. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
  - (a) the planning proposal is categorised as complex as described in the *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021) and must be made publicly available for a minimum of 28 days;
  - (b) the planning proposal 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 *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021).

- (c) Consistent with the recommendations of the E Zone Review, Council must ensure that any landowner whose land is proposed to have a conservation zone applied, is notified in writing of the planning proposal and consultation arrangements;
- (d) When Council has considered the submissions received during public exhibition and has endorsed the final planning proposal, the landowners whose land will be subject to a conservation zone must be notified in writing of Council's decision and advised that they have 28 days to notify the Department if they would like the Chief Planner (or equivalent) to review the proposed zoning of their property.
3. Consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the Act and/or to comply with the requirements of applicable directions of the Minister under section 9 of the EP&A Act:
- Department of Primary Industries – Agriculture,
  - Department of Primary Industries – Fisheries,
  - NSW Rural Fire Service,
  - Heritage NSW,
  - Jali Local Aboriginal Land Council,
  - Biodiversity Conservation Division,
  - NSW State Emergency Service,
  - Biodiversity Conservation Trust.
- Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal and given at least 40 days to comment on the proposal.
4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the EP&A 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).
5. The final planning proposal is to detail how the E Zone application process for the property has been satisfied in accordance with the review recommendations.

Dated 15th day of December 2022.



**Malcolm McDonald**  
**Executive Director**  
**Local and Regional Planning**  
**Department of Planning and Environment**  
  
**Delegate of the Minister for Planning**