

## *Planning Proposal 22/010*

# » *Attached Dual Occupancy Wollongbar*

***Ballina Shire Council acknowledges that we are here on the land of the Bundjalung people. The Bundjalung are the traditional owners of this land and are part of the oldest surviving continuous culture in the world.***



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# 1. Executive Summary

## 1.1 Summary of Planning Proposal

This planning proposal seeks to amend the Ballina Local Environmental Plan 2012 (BLEP 2012) to permit dual occupancy (attached) development on certain R2 zoned lots at Wollongbar having a minimum area of 900m<sup>2</sup>.

Proposed amendments to Ballina Shire DCP 2012 will further limit attached dual occupancy to those lots that have a slope of 20% or less.

The planning proposal has been prepared in response to the outcomes of the Wollongbar Planning and Environmental Study, and the adopted Strategic Action No.6 within the Wollongbar Strategic Plan 2019 - 2039.

Dual occupancy (attached) development would be enabled on approximately 150 lots as a consequence of this planning proposal and associated DCP amendments.

## 1.2 Background

The Council adopted the Wollongbar Strategic Plan 2019-2039 at its Ordinary Meeting held on 27 June 2019. This strategic plan was informed by the outcomes of the Wollongbar Planning and Environmental Study.

The Wollongbar Strategic Plan is used to guide Council's strategic planning and decision making relating to Wollongbar in the period 2019 to 2039. The recommendations and strategic actions identified in the plan reflect the community's vision for the future development of Wollongbar to 2039.

Ensuring that Wollongbar continues to grow to facilitate well planned housing choice and employment opportunities is one of three locality objectives contained within the Wollongbar Strategic Plan. Strategic Action No. 5 within the plan provides as follows:

*Initiate a planning proposal to permit attached dual occupancy development within the established (outside of WUEA) R2 Low Density Residential zone upon lots having a minimum area of 900m<sup>2</sup> and slope of 20% or less.*

The proposed amendments to Ballina LEP 2012 are intended to be similar to amendments made to Schedule 1 Additional Permitted Uses – Use of Certain land at Alstonville (Amendment No. 43 dated 13/12/2019).

## 1.3 Land to Which the Planning Proposal Applies

This planning proposal applies to land at Wollongbar, located generally outside of the Wollongbar Urban Expansion Area (WUEA), zoned R2 Low Density Residential under the provisions of Ballina LEP 2012 with a minimum lot area of 900m<sup>2</sup>.

## 1.4 Council Resolutions

Council considered the scoping proposal to permit dual occupancy (attached) development at Wollongbar, at its Ordinary meeting held on 23 February 2023. The Council resolved as follows [Minute No. 230223/14/14]:

1. *That Council endorses the Wollongbar Attached Dual Occupancy Scoping Proposal, as contained in Attachment 1 to this report, for submission to the Department of Planning and Environment.*
2. *That, subject to a Scoping Meeting confirming the nature and scope of proposed amendments, Council endorses the preparation of a Planning Proposal consistent with the scoping proposal for submission to the Department of Planning and Environment for a Gateway determination.*
3. *That upon an affirmative Gateway determination being received from the Department of Planning and Environment, the procedural steps associated with progression of the planning proposal be undertaken, including public exhibition.*
4. *That the Department of Planning and Environment be advised that Council wishes to exercise its delegated plan making functions for this LEP amendment.*
5. *That draft amendments to Ballina DCP 2012, Section 3.3 of Chapter 4, as contained in Attachment 2, be exhibited concurrently with the planning proposal.*
6. *That the planning proposal and draft DCP amendments be reported to Council for further consideration following completion of the public exhibition process.*

A copy of the report considered by the Council is contained in Appendix Two.

## 1.5 Scoping Proposal

The Department of Planning and Environment (DPE) advised council on 23 March 2023 that a scoping meeting was not required prior to the lodgement of the Planning Proposal.

A copy of the letter from the DPE is contained within Appendix Four.

## 1.6 Gateway Determination

(Insert details in exhibition version of planning proposal)

## 2. Objectives & Intended Outcomes

### Objective

The objective of this planning proposal is to amend the Ballina LEP 2012 to enable dual occupancy (attached) development to be carried out on certain lots at Wollongbar.

### Intended outcome

- Provision of addition housing opportunities.
- Provision of additional housing choice options.
- Maximise use of existing infrastructure in established residential areas.
- Reduce pressure for new greenfield housing sites.

## 3. Explanation of Provisions

### Objective

When drafting amendments to Ballina LEP 2012, and Ballina Shire DCP 2012, the objective was to ensure that the provisions applicable to Wollongbar are similar to those applicable to Alstonville.

Wollongbar and Alstonville are both plateau villages which have been subject to similar strategic planning processes.

### Intended outcome

Amend Ballina LEP 2012 by including as an additional permitted use within Table 1 of the LEP dual occupancy (attached) on certain lots within the R2 zone in Wollongbar that have a minimum area of 900m<sup>2</sup>.

Amend the Ballina LEP 2012 Additional Permitted Uses Map to show the area impacted by this planning proposal as Area O.

Appendix Six contains a draft amendment to Ballina LEP 2012.

Amendments to Ballina Shire DCP 2012 will further restrict dual occupancy (attached) development to those lots having a slope of 20% or less.

Draft amendments to Ballina Shire DCP 2012 are contained within Appendix Seven.

### 3.1 Mapping Overview

Mapping associated with this planning proposal incorporates most of the Wollongbar village located outside of the WUEA. It includes all but one property zoned R2 Low Density Residential. Within this area dual occupancy (attached) development is proposed to be permitted with consent on R2 zoned land subject a minimum lot size of 900m<sup>2</sup>.

The R2 zoned property excluded is a service station site located at 246 – 250 Lismore Road, Wollongbar. This property has been excluded as it is contaminated land listed in Council's Contaminated Land Register.

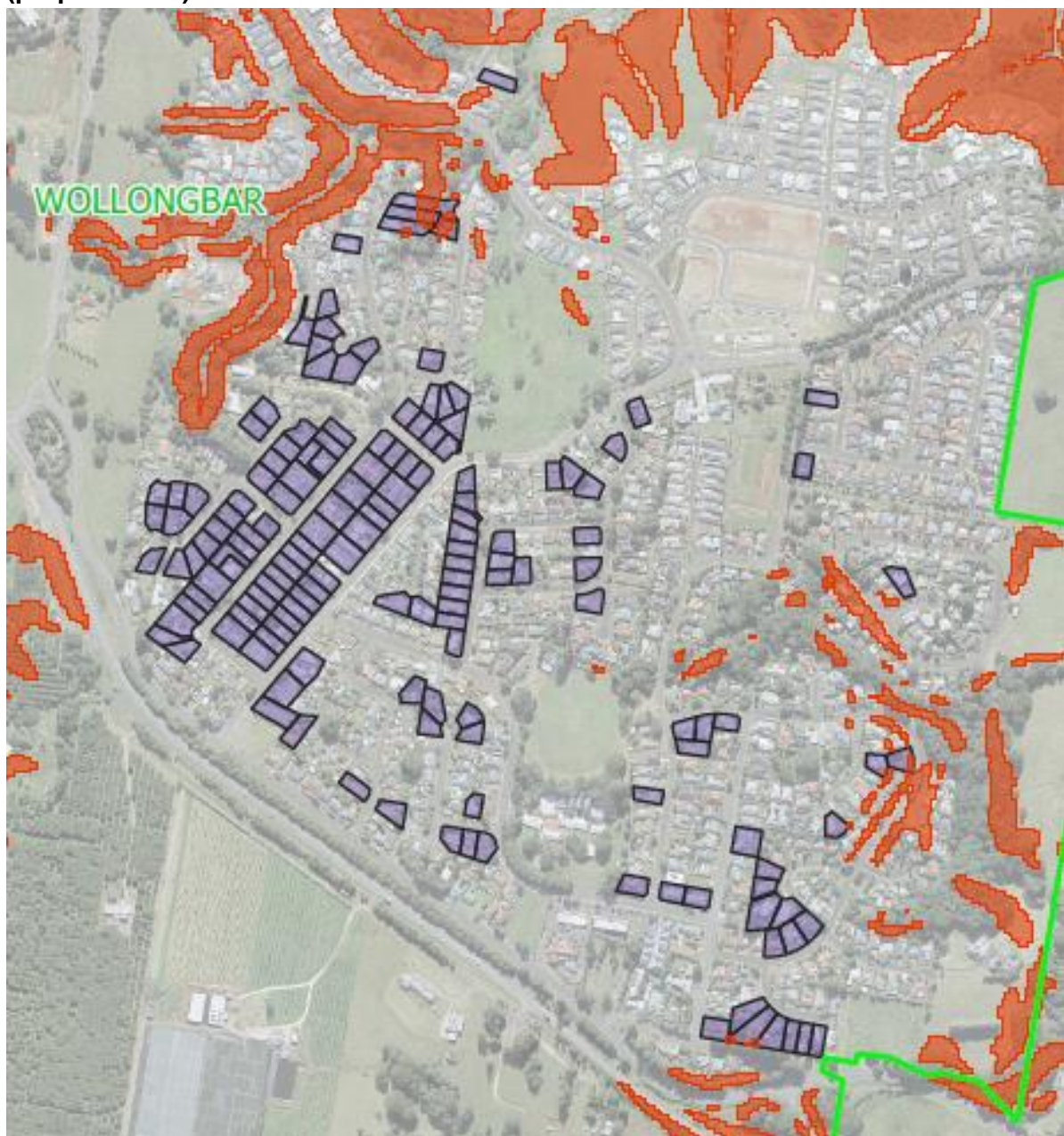


It was initially proposed to include a map which showed the lots subject to this planning proposal. 153 lots were identified as meeting the proposed dual controls of lot size (LEP control) and land slope (DCP control). These lots are shown by the purple colour on the map contained within Diagram One below.

Mapping such lots is not favoured due to difficulties associated with identifying lots that do not meet the proposed slope criteria and the potential exclusion of future lots created through subdivision and land consolidation.

The proposed mapping approach is the same as applied at Alstonville (Amendment No. 43 BLEP2012).

**Diagram One – Lots initially identified as being impacted by the planning proposal (purple colour)**





## 4. Justification

### 4.1 Section A – Need for the Planning Proposal

**Q1 Is the planning proposal a result of an endorsed LSPS, strategic study or report?**

Yes.

#### **Ballina Shire Local Strategic Planning Statement 2020 – 2040 (BSLSPS)**

Planning Priority 6 contained within the BSLSPS states:

*Planning Priority 6 – Incorporate housing choice options such as attached dual occupancy when preparing place based strategic plans.*

An extract from the BSLSPS, relating to Planning Priority 6, is contained within Appendix Eight.

#### **Wollongbar Planning and Environment Study 2019 (WPES) and the Wollongbar Strategic Plan 2019 - 2039.**

The planning proposal has been prepared in response to the outcomes of the Wollongbar Strategic Plan 2019 - 2039.

Ensuring that Wollongbar continues to grow to facilitate well planned housing choice and employment opportunities is one of three locality objectives contained within the Wollongbar Strategic Plan. Strategic Action No. 5 provides as follows:

*Initiate a planning proposal to permit attached dual occupancy development within the established (outside of WUEA) R2 Low Density Residential zone upon lots having a minimum area of 900m<sup>2</sup> and slope of 20% or less.*

#### **Ballina Shire Growth Management Strategy 2012 (BSGMS)**

Indicates that a greater number of medium-density dwelling units will be required to meet changing housing needs and the associated falling average household size (p54).

In respect to Wollongbar a locality objective is to maintain the low scale residential character of the village.

Attached dual occupancy development of larger residential lots is consistent with the low scale residential character objective nominated for Wollongbar in 2012.

**Q2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

The planning proposal and associated proposed DCP amendments are the appropriate mechanism for achieving the intended development outcomes for the subject land.

## 4.2 Section B – Relationship to Strategic Planning Framework

### Q3 Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?

The planning proposal is consistent with the North Coast Regional Plan 2041 (NCRP), which provides the regional framework for the consideration of policy development and the overall vision of the future.

The NCRP encourages housing diversity and choice to improve affordability, help meet the needs of an ageing population and support the ongoing reduction of household size (See p17 NCRP).

Strategy 1.2 of the NCRP states:

*Local Council plans are to encourage a range of housing options in well located areas.*

Specifically for Ballina Shire the NCRP contains an objective to:

*Support the delivery of housing supply and greater diversity in strategic and local centres, including higher density housing within and close to Ballina CBD.*

### Q4 Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategic plan?

Yes – The Ballina Shire Local Strategic Planning Strategy was adopted by Council on 28 May 2020.

On 20 July 2020 the Acting Deputy Secretary, Local Government, Planning and Policy advised council that:

*The Department supports Ballina Shire Council's LSPS (June 2020) as being generally consistent with the North Coast Regional Plan 2036, noting that further work is proposed (including a Local Housing Strategy and review of the Ballina Shire Local Growth Management Strategy) which will further support the LSPS and inform future updates.*

The review of the Ballina Shire Housing Strategy is currently taking place and is envisaged will be finalised in late 2023.

The way this planning proposal is consistent with the LSPS has been detailed in the answer to Question 1.

### Q5 Is the planning proposal consistent with any other applicable State and regional studies or strategies?

The planning proposal is consistent with:

Far North Coast Regional Strategy 2006 – 2031. This strategy notes that:

*Housing types vary throughout the Region, with most multi-unit dwellings found in coastal areas, particularly in the major regional centres of Tweed Heads and Ballina. Decreasing occupancy rates and changing demand from traditional single detached*

*housing to multi-unit dwelling types means that the provision of a variety of housing forms is needed in appropriate locations. (p25)*

**Q6 Is the planning proposal consistent with applicable SEPPs?**

The SEPPs referenced in the table below have been considered.

SEPP	Consistency Statement
<b>SEPP (Biodiversity and Conservation)2021</b>	<p><b>Consistent</b></p> <p>The SEPP applies as the land to which this planning proposal applies is located within a non-rural area, and within a zone specified by the SEPP.</p> <p>Vegetation management works within the affected area are regulated by Ballina Shire DCP 2012 Chapter 2A as permitted by clause 2.9 of the SEPP.</p> <p>No changes to the regulatory regime applicable to vegetation management works within the area subject to this planning proposal are proposed.</p>
<b>SEPP (Building Sustainability Index:BASIX) 2004</b>	<p><b>Consistent</b></p> <p>Dual occupancy (attached) is a BASIX building which is subject to the provisions of this SEPP.</p>
<b>SEPP (Exempt and Complying Development Codes) 2008</b>	<p><b>Consistent</b></p> <p><b>Low Rise Housing Diversity Code</b> is considered to apply to dual occupancy (attached) development that meets the various requirements of the SEPP.</p> <p><b>Subdivision Code</b></p> <p>Strata subdivision of dual occupancy (attached) is permitted in certain circumstances.</p>

<b>SEPP (Housing) 2021</b>	<b>Consistent</b>
<b>SEPP (Industry and Employment)</b>	<b>Does not apply</b>
<b>SEPP (Design Quality of Residential Apartment Development)</b>	<b>Does not apply</b>
<b>SEPP (Resources and Energy) 2021</b>	<b>Not relevant</b>
<b>SEPP (Sustainable Buildings)</b>	<b>Consistent</b> (Commences on 1/10/2023)
<b>SEPP (Resilience and Hazards) 2021</b>	<b>Does not apply</b> Land not within the coastal zone.
<b>SEPP (Transport and Infrastructure) 2021</b>	<b>Consistent</b>

**Q7 Is the planning proposal consistent with applicable Ministerial Directions (s9.1 directions)?**

A Section 9.1 Direction checklist for the planning proposal is contained in Appendix Three.

The assessment of the planning proposal against the applicable s9.1 Directions has not found any unjustified inconsistencies.

#### **4.3 Section C – Environmental, Social and Economic Impact**

**Q7 Is there any likelihood that critical habitat or threatened species, population or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

The land affected by this planning proposal is zoned for the purposes of low-density residential development (single detached dwellings and secondary dwellings) and is within an established residential area. The planning proposal will enable development for two attached dwellings to occur on each lot that meets the minimum lot size criteria.

The planning proposal is considered unlikely to have any greater environmental impact than is anticipated from the development of the land under the current zoning arrangement.

**Q8 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

No significant adverse environmental impacts are likely to arise as a result of the planning proposal.

**Q9 Has the planning proposal adequately addressed any social and economic effects?**

The social and economic impacts of the planning proposal are considered to be generally positive and were addressed in the Wollongbar Planning and Environmental Study.

#### **4.4 Section D – State and Commonwealth Interests**

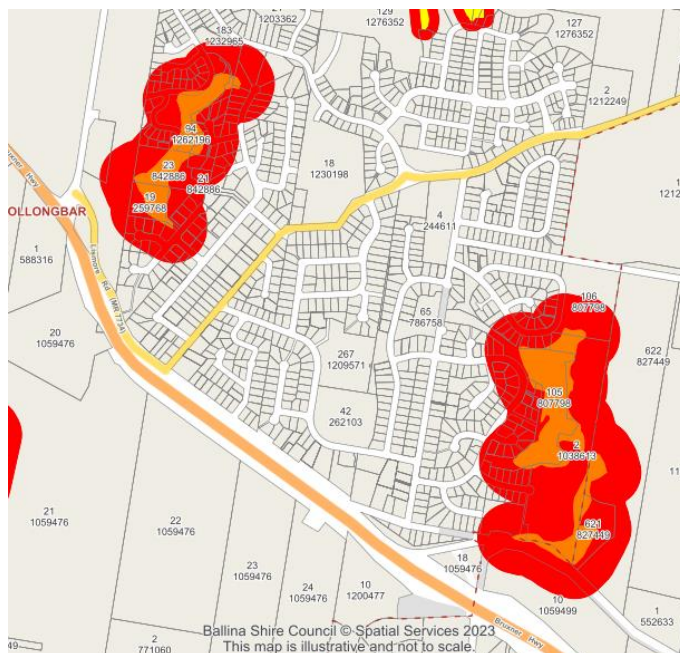
**Q10 Is there adequate public infrastructure for the planning proposal?**

The planning proposal is not considered to create the need for any additional public infrastructure. Existing infrastructure such as water and sewerage services are considered adequate to cater for the limited future development proposed to be facilitated by this planning proposal.

**Q11 What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?**

It is proposed to consult with the NSW Rural Fire Service (RFS) following Gateway determination, and prior to community consultation, as required by s9.1 Direction 4.3, as part of the land affected by the planning proposal is Bushfire prone Land.

Diagram below shows Bushfire Prone Land affectation – Category 1 Vegetation and Buffer.





## 5. Mapping

Mapping associated with this planning proposal is contained within Appendix One.

## 6. Community Consultation

This planning proposal and associated draft DCP amendments are proposed to be exhibited for a minimum 28 day period in accordance with the requirements of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*.

A 28 day period is the minimum period specified for DCP amendments (Refer Schedule 1 EP&A Act).

## 7. Timeline

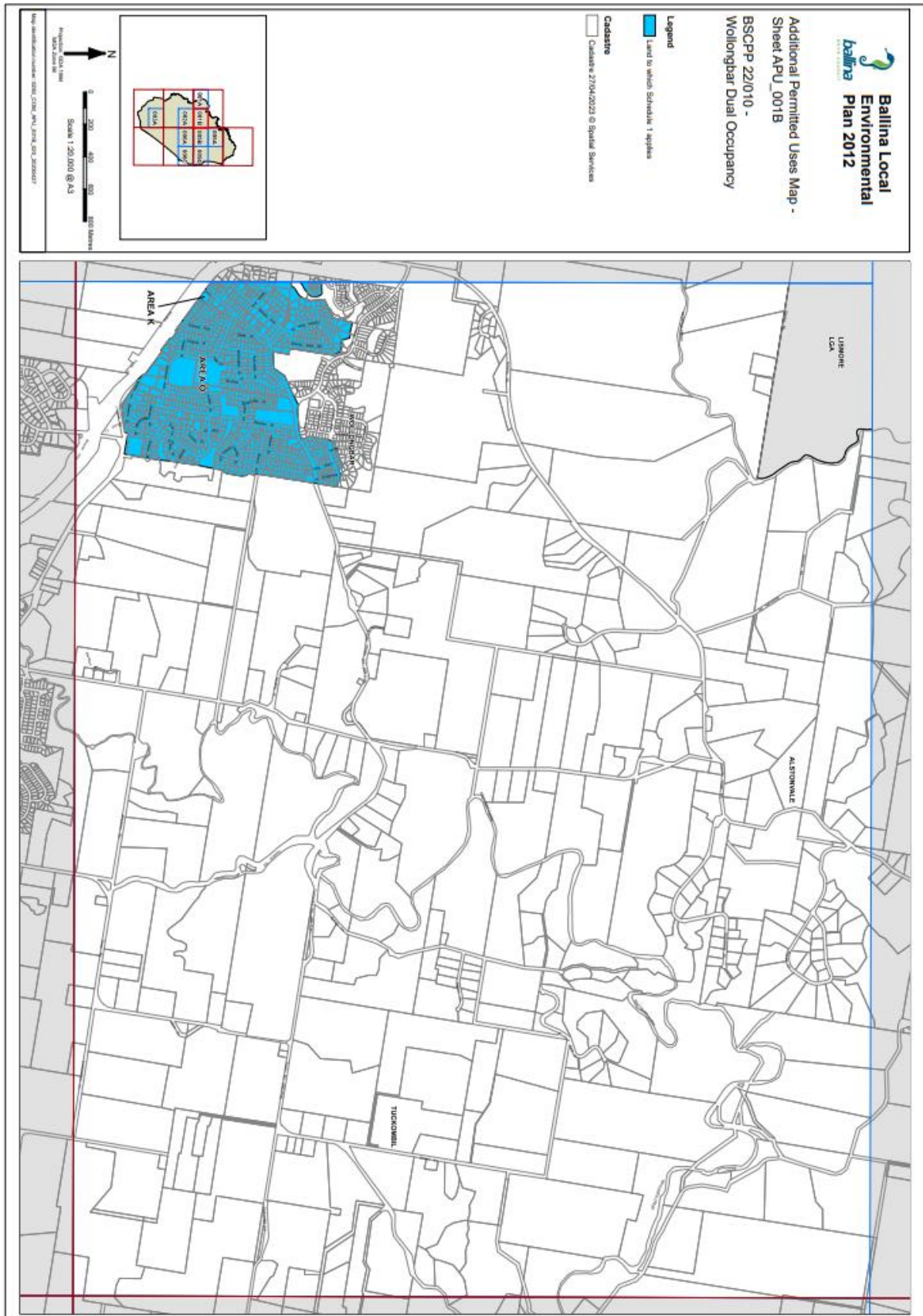
The proposed timeline for completion of the planning proposal is as follows:

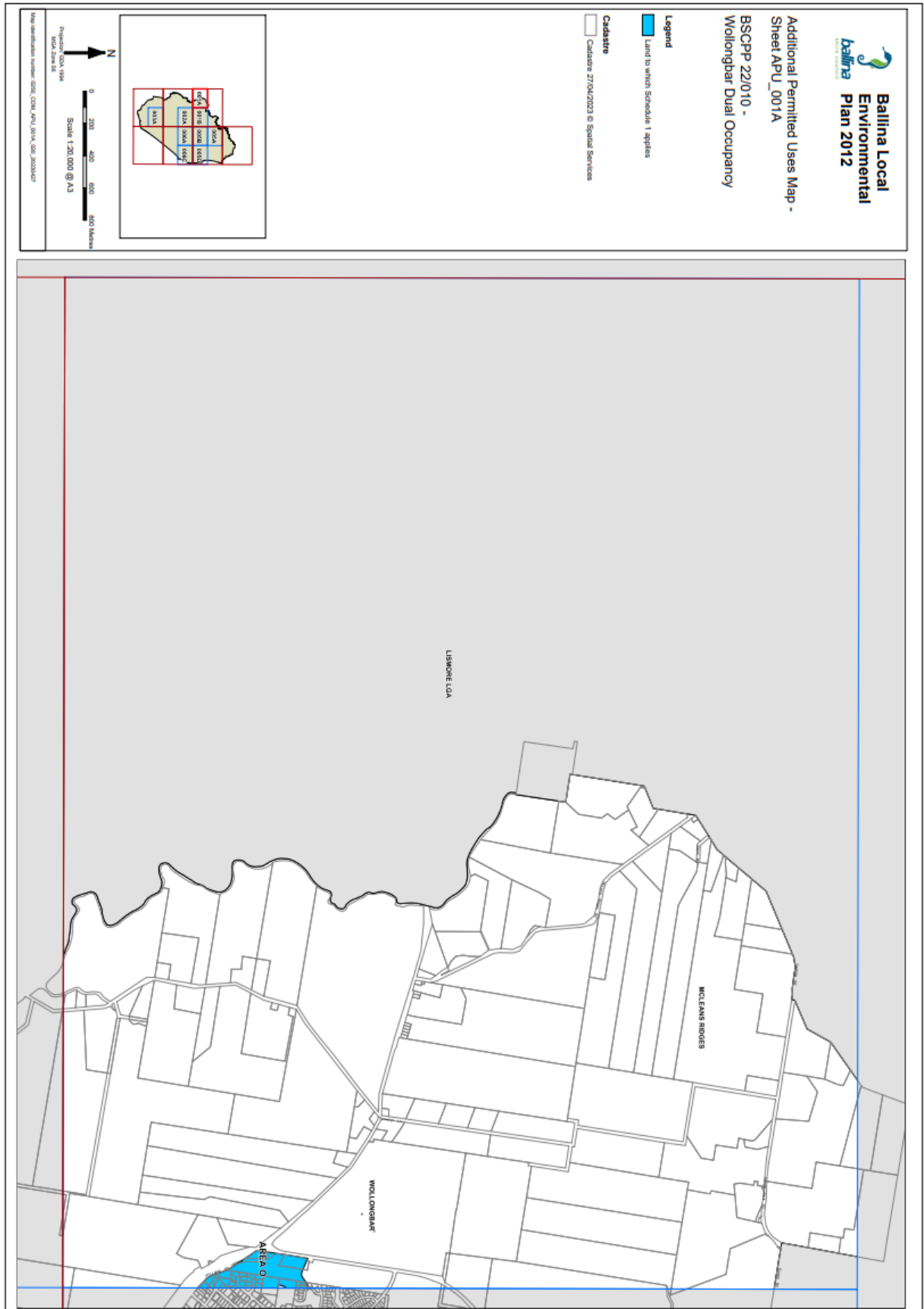
Plan Making Step	Estimated Completion (Ending)
Gateway Determination	May 2023
Government Agency Consultation	May 2023
Public Exhibition Period	June 2023
Public Hearing	N/A
Submissions Assessment	July 2023
Local Plan Making Authority (LPMA) Assessment of Planning Proposal and Exhibition Outcomes	August - September 2023
LPMA Decision to Make the LEP	September 2023
Forwarding of LEP Amendment to DPE for Notification / Gazettal	October 2023

Council has resolved to exercise its delegated plan making functions as the Local Plan Making Authority for this proposed LEP amendment.

## 8. Appendices

## Appendix One – Maps





## Appendix Two – Council Reports

### 8.4 Planning Proposal and DCP Amendments - Dual Occupancy in R2 Low Density Zone, Wollongbar

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### 8.4 Planning Proposal and DCP Amendments - Dual Occupancy in R2 Low Density Zone, Wollongbar

**Section** Strategic Planning

**Objective** To invite Council to initiate a Planning Proposal and associated Development Control Plan amendments to enable attached dual occupancy residential development on various properties in the R2 Zone in Wollongbar.

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#### Background

Council adopted the Wollongbar Strategic Plan 2019-2039 at the 28 May 2019 Ordinary meeting.

The actions in the Strategy reflect the community's vision for the future development of Wollongbar.

One of the key locality objectives of the Plan is *'ensuring that Wollongbar continues to grow so as to facilitate well-planned housing choice and employment opportunities'*.

Within this objective, Strategic Action No. 6 is *'Initiate a planning proposal to permit attached dual occupancy development within the established (outside of WUEA) R2 Low Density Residential zone upon lots having a minimum area of 900m<sup>2</sup> and slope of 20% or less'*.

Attached dual occupancy development can increase housing diversity and choice within established areas of Wollongbar.

This concept was endorsed through the adoption of the Wollongbar Strategic Plan.

This report seeks Council's authorisation to initiate a planning proposal that would amend Ballina Local Environmental Plan 2012 to implement Strategic Action No. 6.

The planning proposal will permit the erection of attached dual occupancy development on lots in Wollongbar that are zoned R2 Low Density Residential, where the lot has an area of 900m<sup>2</sup> or more and a slope of less 20% or less.

A suite of DCP amendments to support the change are also proposed.

#### Key Issues

- Implementing the Wollongbar Strategic Plan 2019-2039
- Housing choice
- Strata subdivision of approved dual occupancy



#### 8.4 Planning Proposal and DCP Amendments - Dual Occupancy in R2 Low Density Zone, Wollongbar

##### Discussion

###### *Wollongbar Dual Occupancy*

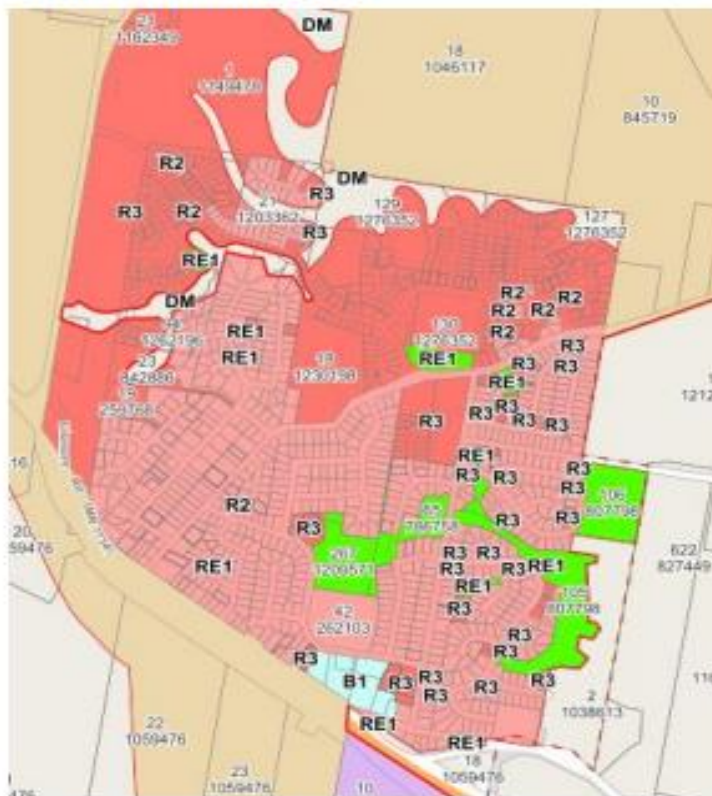
The proposed planning amendments relate to land at Wollongbar that is zoned R2 Low Density Residential, which is shown in light pink in Figure 1.

The proposed amendments are based on Strategic Action No. 6 of the Wollongbar Strategic Plan 2039, which is:

*'Initiate a planning proposal to permit attached dual occupancy development within the established (outside of WUEA) R2 Low Density Residential zone upon lots having a minimum area of 900m<sup>2</sup> and slope of 20% or less'.*

Within the R2 area there are 153 lots which have an area of 900m<sup>2</sup> or more and a slope of 20% or less; shown highlighted in Figure 2.

**Figure 1 Wollongbar Zoning**



#### 8.4 Planning Proposal and DCP Amendments - Dual Occupancy in R2 Low Density Zone, Wollongbar

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**Figure 2 Lots zoned R2 with 900m<sup>2</sup> or more**



Schedule 1 of BLEP 2012 specifies additional permitted uses. Item 8 within the Schedule was previously added to permit attached dual occupancy on certain lots in the R2 zone in Alstonville. It states:

**8. Use of certain land at Alstonville**

- (1) *This clause applies to land at Alstonville identified as "Area L" on the Additional Permitted Uses Map, being—*
  - (a) *a lot that has an area of at least 900m<sup>2</sup>, and*
  - (b) *located within Zone R2 Low Density Residential.*
- (2) *Development for the purpose of dual occupancy (attached) is permitted with development consent.*

This item was inserted into the LEP following adoption of the Alstonville Strategic Plan 2037.

Implementation of Action 6 of the Wollongbar Strategic Plan 2039 can be achieved by the following minor amendment to this item (additions shown in red underlined text):

#### **8.4 Planning Proposal and DCP Amendments - Dual Occupancy in R2 Low Density Zone, Wollongbar**

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##### **8. Use of certain land at Alstonville and Wollongbar**

- (1) *This clause applies to land at Alstonville identified as "Area L" on the Additional Permitted Uses Map, and land at Wollongbar identified as "Area N" on the Additional Permitted Uses Map, being—*
  - (a) *a lot that has an area of at least 900m<sup>2</sup>, and*
  - (b) *located within Zone R2 Low Density Residential.*
- (2) *Development for the purpose of dual occupancy (attached) is permitted with development consent.*

Additional Permitted Uses Map Sheet APU\_001B would be amended to show the R2 zoned land in Wollongbar as "Area N".

The effect of this amendment would be to allow landowners of the affected lots to apply for development consent for attached dual occupancy development on their lots.

##### *Scoping Proposal*

Given that this would be a Council-initiated planning proposal, recent changes introduced by the Department of Planning and Environment (DPE) require that a Scoping Proposal be prepared and submitted as a first step in the LEP amendment process.

A draft Scoping Proposal is contained in Attachment 1 to this report.

After lodgment of the Scoping Proposal, DPE will arrange a Scoping Meeting to discuss the proposal.

In this case, the Scoping Meeting should be very straightforward, aimed at confirming that the amendments proposed provide the most efficient way to implement the strategic action from the Wollongbar Strategic Plan.

Once DPE provide written notes of the Scoping Meeting, a planning proposal can be finalised and submitted for Gateway determination.

##### *DCP Amendments*

Various Chapters of the Ballina Development Control Plan (DCP) 2012 contain controls relating to attached dual occupancy development in Alstonville and Wardell. The relevant sections of the DCP will be amended to include Wollongbar, providing density, built form and design controls for such development.

A note will be added specifying that attached dual occupancy development in Wollongbar will only be considered on lots which have a slope of 20% or less.

Draft updates to the DCP are contained in Attachment 2.

##### *Strata Subdivision in Zone R2*

The strata subdivision of approved dual occupancy is permissible with development consent in all land use zones under Ballina LEP 2012.



#### **8.4 Planning Proposal and DCP Amendments - Dual Occupancy in R2 Low Density Zone, Wollongbar**

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Clause 4.1B of the LEP specifies that, in a number of zones including R2 Low Density Residential, the size of any lot created by way of a strata subdivision must be no less than the minimum lot size specified in the LEP for that locality.

Across most of the R2 zoned land in the Shire, the minimum lot size is 600m<sup>2</sup>.

This means, therefore, that the strata subdivision of an approved dual occupancy development could only be approved where each strata lot will have an area of 600m<sup>2</sup>.

In practical terms, therefore, dual occupancy on land zoned R2 Low Density residential can only be "strata'd" where it is built on a lot that has at least 1,200m<sup>2</sup> in area.

There are very few, if any, lots of this size in the R2 zone within Wollongbar (or Alstonville or Wardell – i.e. where dual occupancy is permitted).

The inability to subdivide an approved dual occupancy may be acting as a deterrent to the take up of this "soft" increase in density.

In Alstonville, for example, where attached dual occupancy is permissible with consent in the R2 zone on lots of 900m<sup>2</sup> or greater, there has only been one application for such development in the last 12 months.

Amending clause 4.1B of the LEP to remove reference to the R2 Low Density Residential Zone could remove this deterrent, by allowing the strata subdivision of an approved dual occupancy without the need to comply with a minimum lot size.

It would be important, however, to ensure that the resulting number and scale of dual occupancy developments do not significantly impact on the character of the towns and lead to unintended amenity impacts.

There will need to be an appropriate balance between facilitating and promoting increased housing density and maintaining character. Appropriate built form controls will be important.

It is considered, therefore, that allowing the subdivision of dual occupancies in the R2 zone should be examined strategically, as part of the current work being undertaken for the upcoming Housing Strategy.

This approach was discussed as part of the Councillor briefing held on 30 January 2023.

In this way, Council can make informed choices about housing densities in existing low density residential areas.

#### **Delivery Program Strategy / Operational Plan Activity**

The proposed LEP amendment is directly consistent with *HE3.1 Implement plans that balance the built environment with the natural environment*, specifically *HE3.1b Implement Wollongbar Strategic Plan*.

#### **8.4 Planning Proposal and DCP Amendments - Dual Occupancy in R2 Low Density Zone, Wollongbar**

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##### **Community Consultation Policy**

A planning proposal would be publicly exhibited in accordance with the requirements of a Gateway Determination and in accordance with Council's Community Participation Plan.

##### **Financial / Risk Considerations**

The planning proposal can be prepared and processed using existing staff resources.

##### **Options**

###### *Option 1 – Prepare a Scoping Proposal and subsequent Planning Proposal*

This is the preferred option. The amendments proposed will implement an action from Council's adopted Wollongbar Strategic Plan 2039. This plan was endorsed following rigorous community engagement.

The amendments to BLEP 2012 and DCP 2012 aim to increase housing diversity and choice within Wollongbar in a manner that will have a relatively low impact on the character of the town.

If the planning proposal is progressed, it is recommended that Council seeks to progress the matter under its delegated plan making functions.

###### *Option 2 – Decline to proceed with the recommended amendments*

As indicated above, the amendments implement an action from an endorsed strategic plan. In adopting the Wollongbar Strategic Plan 2039, Council reflected the community's vision for the future of their town.

Not implementing the recommended options will limit housing diversity and choice in established areas of Wollongbar, therefore this option is not recommended.

###### *Option 3 – Defer consideration of the matter*

Council could defer consideration of this matter to receive additional information.

Council recently received a briefing on this matter on 30 January 2023, which provided an opportunity for discussion and consideration of the proposed amendments. This option is not recommended for this reason and other reasons presented in Option 1.

##### **RECOMMENDATIONS**

1. That Council endorses the Wollongbar Attached Dual Occupancy Scoping Proposal, as contained in Attachment 1 to this report, for submission to the Department of Planning and Environment.



**8.4 Planning Proposal and DCP Amendments - Dual Occupancy in R2 Low Density Zone, Wollongbar**

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2. That, subject to a Scoping Meeting confirming the nature and scope of proposed amendments, Council endorses the preparation of a Planning Proposal consistent with the scoping proposal for submission to the Department of Planning and Environment for a Gateway determination.
3. That upon an affirmative Gateway determination being received from the Department of Planning and Environment, the procedural steps associated with progression of the planning proposal be undertaken, including public exhibition.
4. That the Department of Planning and Environment be advised that Council wishes to exercise its delegated plan making functions for this LEP amendment.
5. That draft amendments to Ballina DCP 2012, Section 3.3 of Chapter 4, as contained in Attachment 2, be exhibited concurrently with the planning proposal.
6. That the planning proposal and draft DCP amendments be reported to Council for further consideration following completion of the public exhibition process.

**Attachment(s)**

1. BSCPP 22 010 - Wollongbar Dual Occupancy Scoping Proposal
2. BSCPP 22 010 - Draft DCP Amendments - Wollongbar Dual Occupancy

**8.4 Planning Proposal and DCP Amendments - Dual Occupancy in R2 Low Density Zone, Wollongbar**

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**230223/1 Resolved**

(Cr Stephen McCarthy/Cr Jeff Johnson)

1. That Council endorses the Wollongbar Attached Dual Occupancy Scoping Proposal, as contained in Attachment 1 to this report, for submission to the Department of Planning and Environment.
  2. That, subject to a Scoping Meeting confirming the nature and scope of proposed amendments, Council endorses the preparation of a Planning Proposal consistent with the scoping proposal for submission to the Department of Planning and Environment for a Gateway determination.
  3. That upon an affirmative Gateway determination being received from the Department of Planning and Environment, the procedural steps associated with progression of the planning proposal be undertaken, including public exhibition.
  4. That the Department of Planning and Environment be advised that Council wishes to exercise its delegated plan making functions for this LEP amendment.
  5. That draft amendments to Ballina DCP 2012, Section 3.3 of Chapter 4, as contained in Attachment 2, be exhibited concurrently with the planning proposal.
  6. That the planning proposal and draft DCP amendments be reported to Council for further consideration following completion of the public exhibition process.
- FOR VOTE - All Councillors voted unanimously.

**8.4 Planning Proposal and DCP Amendments - Dual Occupancy in R2 Low Density Zone, Wollongbar**

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ABSENT. DID NOT VOTE - Cr Nigel Buchanan and Cr Eva Ramsey

## Appendix Three – Section 9.1 Direction Checklist

Section 9.1 Direction Checklist Planning Proposal – Dual Occupancy (attached), Wollongbar	
Direction No.	Compliance of Planning Proposal
<b>1. Focus area 1: Planning Systems</b>	
1.1 Implementation of Regional Plans	Consistent with North Coast Regional Plan 2041. Refer answer to Question 3.
1.2 Development of Aboriginal Land Council land	Does not apply.
1.3 Approval and Referral Requirements	Consistent
1.4 Site Specific Provisions	Justifiably inconsistent. The planning proposal introduces a minimum lot size of 900m <sup>2</sup> for dual occupancy (attached) development at Wollongbar. It is submitted that the requirement is justifies as the minimum lot size standard is already applicable to dual occupancy (attached) development at Alstonville.
<b>Focus area 1: Planning Systems – Place-based</b>	
Direction 1.5 to 1.22 do not apply to Ballina Shire.	
<b>Focus Area 3: Biodiversity and Conservation</b>	
3.1 Conservation Zones	Consistent. The planning proposal proposes does not apply to environmentally sensitive areas. The planning proposal does not apply to land within a conservation zone.
3.2 Heritage Conservation	Justifiably Inconsistent. Clause 5.10 and Schedule 5 of Ballina LEP 2012 contains heritage conservation provisions. This planning proposal also applies to Lot 1, DP 1127557, 32 Smiths Lane Wollongbar which has an area of 1458m <sup>2</sup> . This property contains a Federation house known as "Laurel Hill" and is listed within Schedule 5 – Heritage Items, of BLEP2012. It is considered that the heritage provisions contained within BLEP2012 will provide sufficient protection for this item.
3.3 Sydney Drinking Water Catchments	Does not apply
3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	Does not apply The planning proposal does not propose to introduce or alter a C2 or C3 zone or introduce or alter an overlay and associated values.
3.5 Recreation Vehicle Areas	Consistent
3.6 Strategic Conservation Planning	Does not apply The planning proposal does not apply to land identified as <i>avoided land</i> or a <i>strategic conservation area</i> under the provisions of State Environmental Planning Policy (Biodiversity and Conservation) 2021.
3.7 Public Bushland	Does not apply
3.8 Willandra Lakes Region	Does not apply
3.9 Sydney Harbour Foreshores and Waterways Area	Does not apply

Section 9.1 Direction Checklist	
Planning Proposal – Dual Occupancy (attached), Wollongbar	
Direction No.	Compliance of Planning Proposal
3.10 Water Catchment Protection	Does not apply to planning proposal. The land the subject of this planning proposal is not located within a regulated catchment within the meaning of State Environmental Planning Policy (Biodiversity and Conservation) 2021.
<b>Focus Area 4: Resilience and Hazards</b>	
4.1 Flooding	Does not apply to planning proposal. The land the subject of this planning proposal is not <i>flood prone land</i> .
4.2 Coastal Management	Does not apply to planning proposal. The land the subject of this planning proposal is not located within the <i>coastal zone</i> as defined by the Coastal Management Act 2016 – section 5.
4.3 Planning for Bushfire Protection	Justifiably Inconsistent. Part of the subject land is mapped as Bushfire Prone Land. The subject land is within an existing residential area containing fully constructed urban roads and a reticulated water supply system (including fire hydrants). The proposal will be referred to the Commissioner of the NSW Rural Fire Service for comment as required by the terms of this Direction following Gateway determination.
4.4 Remediation of Contaminated Land	Consistent Council's Contaminated Land Register was checked to determine whether any properties subject to this planning proposal were listed as contaminated land and unsuitable for residential development. One property of concern was found which was excluded from the map contained within Appendix One. Details are as follows: 246 – 250 Lismore Road (Lot 2 DP 527953) service station site which has been partially decontaminated but not suitable for residential use.
4.5 Acid Sulfate Soil	Does not apply. The land the subject of this planning proposal is not land shown on the Acid Sulfate Soils Planning Maps
4.6 Mine Subsidence and Unstable Land	Does not apply. The land the subject of this planning proposal is not within a declared mine subsidence district.
<b>Focus Area 5. Transport and Infrastructure</b>	
5.1 Integrated Land Use and Transport	Consistent This planning proposal proposes to alter a provision relating to existing zoned urban land and for this reason this Direction is considered to apply. Concentrating the potential for additional residential development within an existing centre is consistent with Principle 1 of the Accessible Development Principles nominated in <i>Improving Transport Choice – Guidelines for planning and development</i> . Development categories to which <i>The Right Place for Business and Services – Planning Policy</i> , applies do not relate to development proposed to be permitted by this planning proposal.

<b>Section 9.1 Direction Checklist</b>	
<b>Planning Proposal – Dual Occupancy (attached), Wollongbar</b>	
<b>Direction No.</b>	<b>Compliance of Planning Proposal</b>
5.2 Reserving Land for Public Purposes	Not relevant. This planning proposal does not propose to reserve land for a public purpose or remove an existing public purpose reservation.
5.3 Development near Regulated Airports and Defence Airfields	Not relevant The land the subject of this planning proposal is not located near a regulated airport or defence airfield.
5.4 Shooting Ranges	Not relevant The land the subject of this planning proposal is not located near an existing shooting range.
<b>Focus area 6: Housing</b>	
6.1 Residential Zones	Consistent This planning proposal aims to increase residential density within an existing residential zone. Clause 7.7 Essential services of Ballina LEP 2012 contains provisions relating to adequacy of services.
6.2 Caravan Parks and Manufactured Home Estates	Not relevant This planning proposal does not seek to alter any provisions relating to caravan parks or manufactured home estates.
<b>Focus area 7: Industry and Employment</b>	
7.1 Employment Zones	Not relevant This planning proposal does not relate to employment zones.
7.2 Reduction in non-hosted short term rental accommodation period	Does not apply
7.3 Commercial and Retail Development along the Pacific Highway, North Coast	Not relevant The land to which this planning proposal relates is not near the Pacific Highway.
<b>Focus area 8: Resources and Energy</b>	
8.1 Mining, Petroleum Production and Extractive Industries	Not relevant
<b>Focus area 9: Primary Production</b>	
9.1 Rural Zones	Does not apply
9.2 Rural Lands	Does not apply
9.3 Oyster Aquaculture	Does not apply



## Appendix Four – Scoping & Gateway Determination



Department of Planning and Environment

Mr Paul Hickey  
General Manager  
Ballina Shire Council  
PO Box 450  
BALLINA NSW 2478

Our ref: EF22/16317

Via email: [council@ballina.nsw.gov.au](mailto:council@ballina.nsw.gov.au)  
[klaus.kerzinger@ballina.nsw.gov.au](mailto:klaus.kerzinger@ballina.nsw.gov.au)

Dear Mr Hickey

### Wollongbar Dual Occupancy Scoping Proposal

I am writing in response to your letter dated 17 March 2023 regarding the Wollongbar Dual Occupancy Scoping Proposal.

The intent of the Scoping Proposal to amend Ballina Local Environmental Plan (BLEP) 2012 Additional Permitted Uses Map to include the area of Wollongbar zoned R2 Low Density Residential appears consistent with Objective 2 – Strategic Action 6 of the Wollongbar Strategic Plan 2039. It is recommended however that any future Planning Proposal to enable this amendment to Ballina LEP include details that address the following:

- consistency with relevant local strategic documents apart from the Wollongbar Strategic Plan *ie*: Ballina LSPS, Ballina Growth Management Strategy etc
- consistency with relevant regional strategic planning documents *ie*: North Coast Regional Plan 2041 (please note that this document is no longer in draft version);
- consistency with relevant state legislation *ie*: SEPP's and s9.1 Directions;
- mapping that clearly illustrates existing and proposed changes to BLEP 2012;
- proposed community consultation *ie*: agencies/organisations;
- a detailed timeline; and
- an indication of whether Council is seeking to act as the Local Plan Making Authority.

Due to the relatively straightforward nature of the changes being proposed to BLEP 2012 by this Scoping Proposal, it is not considered necessary that a scoping meeting be held prior to lodgement of the Planning Proposal.

Should you have any further enquiries, please feel free to contact me on [gina.davis@planning.nsw.gov.au](mailto:gina.davis@planning.nsw.gov.au) or 02 5778 1487.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Gina Davis'.

Gina Davis  
Senior Planner, Northern Region

## Appendix Five – NSW Rural Fire Service Advice

## Appendix Six – Draft Amendment Ballina LEP 2012

It is suggested that an appropriate amendment would be through the Additional Permitted Use provisions of the LEP and insert the following clause within Schedule 1 – Additional Permitted Uses:

### **8. Use of certain land at Alstonville and Wollongbar**

- (1) This clause applies to land at Alstonville identified as “Area L” on the Additional Permitted Uses Map, and land at Wollongbar identified as “Area N” on the Additional Permitted Uses Map, being—
  - (a) a lot that has an area of at least 900m<sup>2</sup>, and
  - (b) located within Zone R2 Low Density Residential.
- (2) Development for the purpose of dual occupancy (attached) is permitted with development consent.

The Additional Permitted Uses Map Sheet APU\_001B is also proposed to be amended to show the R2 zoned land at Wollongbar as “Area N”.

## Appendix Seven – Draft Amendments Ballina Shire DCP 2012

## Proposed Amendments to Ballina DCP 2012 – Attached Dual Occupancy in Wollongbar

Proposed amendments are shown in red text below

Draft Amendment to Chapter 2 – General and Environmental Considerations:

- Amend the following text within the Note in Part 3.5 Land Slip / Geotechnical Hazard:



**Note:**

Attached dual occupancy development within the R2 Low Density Residential Zone in Alstonville and Wollongbar upon lots having a slope gradient of greater than 20% is deemed to be an inappropriate form of development having regard to land slip risk factors and the degree of site works (cut and fill / retaining walls) required.

Draft Amendments to Chapter 3 – Urban Subdivision:

- Amend Table 3.1 in Part 3.2.1 Minor Subdivision Control Elements; Element G: Minimum Lot Size and Shape:

Table 3.1 – Lot Size Requirements				
Built Form	Zone	Min. Lot Size	Min. Lot Width	Requirements
<i>Detached Dwelling Houses</i>	R2, R3	450m <sup>2</sup>  550m <sup>2</sup> – per corner lot	12m	Irregular shaped lots to contain a building envelope nominating rectangle with minimum dimensions of 10m x 15m
<i>Dual Occupancies</i>	R3	450m <sup>2</sup> – per attached dual occupancy  600m <sup>2</sup> – per detached dual occupancy	12m	Must be capable of containing a building envelope nominating rectangle with minimum dimensions of 10m x 15m
<i>Dual Occupancy (Attached)</i>	R2 (Alstonville & Wollongbar)	900m <sup>2</sup>	12m	20% maximum slope gradient permitted
<i>Dual Occupancy (Attached)</i>	R2 (Wardell)	450m <sup>2</sup> – per attached dual occupancy	12m	Must be capable of containing a building envelope nominating rectangle with minimum dimensions of 10m x 15m
<i>Semi-Detached Dwellings</i>	R3	300m <sup>2</sup> per dwelling	10m	Integrated development requirements



Table 3.1 – Lot Size Requirements				
Built Form	Zone	Min. Lot Size	Min. Lot Width	Requirements
				(Chapter 4 Section 3.2)
<i>Attached Dwellings</i>	R3	300m <sup>2</sup> per dwelling	10m	Integrated development requirements (Chapter 4 Section 3.2) Parent lot to be nominated at the subdivision stage Dwellings to be accessed via rear laneway
<i>Multi Dwelling Housing</i>	R3	1000m <sup>2</sup>	10m	Density provisions regarding site area per unit are provided in Chapter 4
<i>Residential Flat Buildings</i>	R3	1000m <sup>2</sup>	On merit	Density provisions regarding site area per unit are provided in Chapter 4

Draft Amendments to Chapter 4 – Residential and Tourist Development:

- Amend Table 4.6 in Part 3, Element N – Minimum Lot Area and Width:

Table 4.6 - Minimum Lot Areas and Width for Residential Accommodation		
Type of Residential Accommodation	Zone	Minimum Lot Area
<i>Dwelling House</i>	R2, R3	450m <sup>2</sup> 550m <sup>2</sup> – corner lots
<i>Dual Occupancy</i>	R3	450m <sup>2</sup> - attached 600m <sup>2</sup> - detached
<i>Dual Occupancy (Attached) (Alstonville &amp; Wollongbar)</i>	R2	900m <sup>2</sup> and width of 12 metres at the building line
<i>Dual Occupancy (Attached) (Wardell)</i>	R2	450m <sup>2</sup> and width of 12 metres at the building line
<i>Semi-Detached Dwelling (per dwelling)</i>	R3	300m <sup>2</sup>
<i>Attached Dwelling (per dwelling)</i>	R3	300m <sup>2</sup>
<i>Multi Dwelling Housing</i>	R3	1000m <sup>2</sup>
<i>Residential Flat Building</i>	R3	1000m <sup>2</sup>

Draft Amendments to Part 3.3 Attached Dual Occupancy (incorporating retention of existing dwellings)

### 3.3.1 Application

Applies to:	
Location/s:	Certain lots within the Zone R2 at Alstonville, <b>Wollongbar</b> and Wardell (Refer Ballina LEP 2012 Schedule 1)
Development Type/s:	Applications for <i>attached dual occupancy</i> development which seek to retain an existing <i>dwelling</i>

### 3.3.2 Background

Ballina LEP 2012 was amended to permit *attached dual occupancy* development upon certain lots within the R2 zone at Alstonville, **Wollongbar** and Wardell. The amendments permit new purpose built *attached dual occupancy* development. They also permit the incorporation of existing dwellings within the *attached dual occupancy* development. Section 3.3 addresses amenity impacts associated with the retention of existing *dwellings* as part of *attached dual occupancy development*.

## Appendix Eight – Extract from Ballina Shire Strategic Planning Statement

Ballina Shire Council – Living in Paradise Our Vision Our Future Local Strategic Planning Statement

planning themes  
**prosperous economy** cont.



### PLANNING PRIORITY 6

**Incorporate diverse housing choice options, including infill development options, when preparing placed based strategic plans.**

#### RATIONALE

It is predicted that by 2040 28% of Ballina Shire's population will be aged 65 or over. This is an increase on the 25% aged 65 and over in 2016 and the 19.3% in the same age category in 2001. In 2001 there were 7,149 people aged 65 and over living in Ballina Shire which is predicted to increase to nearly 15,000 people in 2040.

As our population continues to age, they will also be seeking more choice in the type of housing that they want to live in. The ability to be able to age in place and live in suitable residential accommodation will assume a high level of importance for many of the Shire's residents. A diversity of housing types helps cater to the housing needs of people at different stages of their lives.

Housing choice has not kept pace with the changes in the demographic profile of Ballina Shires residents. In 2001, 67.25% of the Shire's occupied private dwellings (10,041 houses) consisted of separate dwellings. By 2016 separate housing had increased to 69.2% (11,223) and other forms of housing had remained relatively static at 4,894 occupied private dwellings compared to 4,836 dwellings in 2001.

This planning priority aims to encourage greater housing choice through the review of housing supply options which considers the balance between greenfield and infill housing supply over time. A diverse range of housing choice options, relative to preferred outcomes in each locality within the shire, will be incorporated within

place based strategic plans. Options such as permitting dual occupancy development upon certain R2 zone land, increasing the amount land zoned for R3 Medium Density, and reviewing densities within existing R3 zoned areas will be considered.

Housing supply options beyond 2040 should be examined to ensure a platform exists for additional residential development in the period beyond the current housing supply capacity.

#### MEASURES

- Housing Choice Options incorporated within plans
- Number of housing choice initiatives implemented

#### ACTIONS TO SUPPORT PLANNING PRIORITY 6 (OPERATING PLAN ACTIVITY (OPA))

- 6.1 Monitor and review uptake of housing choice initiatives incorporated within existing place based strategic plans. **(Medium Term)**
- 6.2 Incorporate housing choice option strategies within placed based strategic plans. **(Short Term)**
- 6.3 Implement through planning proposals or DCP amendments housing choice initiatives incorporated within place based strategic plans. **(Ongoing)**
- 6.4 Prepare a Housing Strategy as part of the review of the local growth management strategy. **(Short term)**