



IRF23/1081

Gateway determination report – PP-2023-876

To permit dual occupancies (attached) with consent on certain land at Wollongbar

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Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Planning Proposal 22/010 – Attached Dual Occupancy Wollongbar (Ballina Shire Council)
Wollongbar Strategic Plan 2019-2039
Wollongbar Planning and Environmental Study

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Ballina Shire Council
PPA	Ballina Shire Council
NAME	To permit dual occupancies (attached) with consent on certain land at Wollongbar
NUMBER	PP-2023-876
LEP TO BE AMENDED	Ballina LEP 2012
ADDRESS	Identified properties in Wollongbar
DESCRIPTION	Various
RECEIVED	1/05/2023
FILE NO.	IRF23/1081
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

1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the planning proposal are to enable dual occupancy (attached) development to be carried out on certain lots at Wollongbar, where these lots meet certain stipulated parameters, including:

- being identified within a specified area, and
- having a minimum area of 900m².

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The planning proposal seeks to amend the Ballina LEP 2012 by including dual occupancy (attached) as an additional permitted use with consent on R2 Low Density Residential zoned land on certain lots within a defined area in Wollongbar that have a minimum area of 900m².

An additional permitted uses map will be utilised in the LEP to identify where the associated clause applies. This is consistent with the approach adopted for Amendment No. 43 to the Ballina LEP

2012 which applied a similar dual occupancy control to Alstonville. Alstonville and Wollongbar are closely located, plateau villages and as such this approach is supported and is considered to provide a consistent approach for both localities.

Council indicates that additional controls to further control dual occupancy (attached) will be achieved through associated amendments to the development control plan (DCP). Specifically, these amendments will restrict attached dual occupancies to lots with a slope of 20 per cent or less. Council indicates that the draft DCP will be exhibited concurrently with the exhibition for this planning proposal. This approach is supported, however does not form a specific part of this planning proposal and is a separate process to be managed by Council.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved. While a draft clause has been included, this is considered as acceptable as the final legal drafting will be undertaken by Parliamentary Counsel and the proposal notes the draft nature of this clause.

1.4 Site description and surrounding area

Wollongbar is located on the Alstonville plateau in the Ballina LGA. Wollongbar is located approximately 17 km west of Ballina, 1.5km west of Alstonville and 21km east of Lismore on the North Coast of NSW.

The planning area applies to R2 Low Density Residential zoned land located within the existing urban footprint of Wollongbar, outside the Wollongbar Urban Expansion Area (WUEA). The WUEA is identified in the Wollongbar Planning and Environmental Study and informs the Wollongbar Strategic Plan 2019-2039 (discussed in further detail later in this report).

The WUEA was established in 2002 and applies to land surrounding the original village footprint of Wollongbar. This planning proposal applies specifically to the original village footprint as shown in **Figure 1**.

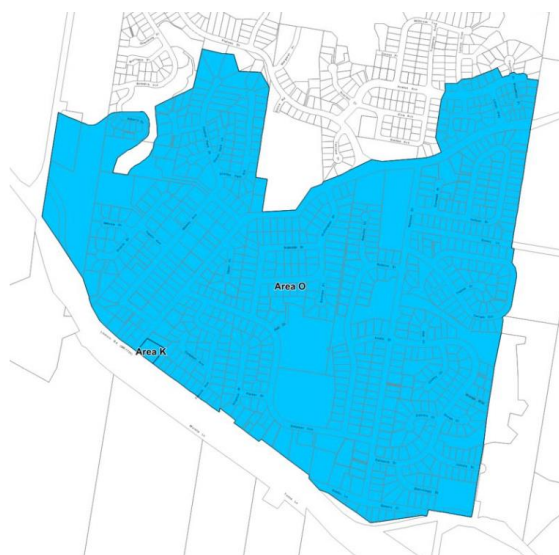


Figure 1 Planning Area (source: Ballina Shire Council's Planning Proposal)

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the Ballina LEP 2012 maps (see **Figure 1** above). It is noted the map includes "Area K", being an existing service station, which is an already established additional permitted use under the LEP. The proposal

notes this land has been excluded the planning proposal. It is considered appropriate that for clarity during public exhibition, that Figure 1 be amended to remove Area K prior to exhibition.

2 Need for the planning proposal

The planning proposal is the result of Ballina Shire Local Strategic Planning Statement. Planning Priority 6 of the LSPS identifies the importance of considering and increasing housing choice options such as attached dual occupancy.

The planning proposal is the best means of achieving the objectives or intended outcomes of the proposal, to permit dual occupancy (attached) development on certain lots at Wollongbar.

3 Strategic assessment

3.1 Regional Plan

The planning proposal is consistent with the North Coast Regional Plan 2041.

In particular, the Regional Plan outlines a key priority for Ballina Shire to:

- Deliver housing at Cumbalum, Kinvara, Wollongbar and Lennox Head; and
- Support the delivery of housing supply and greater diversity in strategic and local centres, including higher density housing within and close to Ballina CBD.

The proposal has the potential to deliver an additional 153 homes within the established Wollongbar village footprint. Greater housing diversity will also be achieved in this local centre, through the inclusion of dual occupancy (attached) development as permissible with consent on certain land within Wollongbar.

3.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

Table 6 Local strategic planning assessment

Local Strategies	Justification
Local Strategic Planning Statement 2020 – 2040	The planning proposal is consistent with the LSPS, as outlined above. The planning proposal seeks to incorporate dual occupancy (attached) as an additional permitted use on certain land in Wollongbar. This will facilitate housing choice options, supported by existing local council strategies, the Wollongbar Planning and Environmental Study and Wollongbar Strategic Plan 2019 – 2023.
Ballina Growth Management Strategy	<p>The BGMS identifies that a greater number of medium-density units are required to meet changing housing needs to support the falling average household size. The BGMS also identifies that a low scale residential character is sought to be maintained for Wollongbar.</p> <p>The permissibility of attached dual occupancy on larger lots is in keeping with the low residential character for the locality, whilst also ensuring development for medium density dwellings to address housing supply and diversity. The BGMS is a Department endorsed local strategy.</p>
Wollongbar Planning and Environmental Study and the Wollongbar Strategic Plan 2019-2039	<p>The Wollongbar Planning and Environmental Study informed the directions and actions identified under the Wollongbar Strategic Plan 2019 – 2039. The Wollongbar Strategic Plan supports the initiation of a planning proposal to permit attached dual occupancy development within the established (outside of WUEA) R2 Low Density Residential zone upon lots having minimum area of 900m² and slope of 20% or less.</p> <p>It is noted that neither the WPES nor the WSP are locally endorsed strategies.</p>

3.3 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 7 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.4 Site Specific Provisions	No – Minor Inconsistency	<p>The proposal is considered inconsistent with this Direction as it requires that a planning proposal allow a particular development to be carried out on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.</p> <p>The proposal seeks to allow dual occupancies (attached) on certain land in Wollongbar, where the lot has a minimum area of 900m².</p> <p>The inconsistency is minor as there is an existing similar control applied to certain land in Alstonville, which is another village near Wollongbar. Additionally, the proposal facilitates the broad objectives of the LSPS and the North Coast</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
		<p>Regional Plan 2041 and is supported by local strategic planning documents.</p> <p>The 900m² will assist to ensure the local character of the villages of the Ballina Shire is maintained, whilst allowing for housing supply and diversity in appropriate, planned locations.</p>
3.2 Heritage Conservation	No – Minor Inconsistency	<p>Council notes that the proposal is inconsistent with this Direction as an item of heritage significance is located within the planning area. The inconsistency is of minor significance as the controls stipulated under clause 5.10 of the Ballina LEP 2012 will continue to ensure protection of the item, despite the additional permitted use applying to this lot.</p>
4.3 Planning for Bushfire Protection	Unresolved	<p>Part of the planning area is identified as bushfire prone land. As such, referral is required to the NSW Rural Fire Service. It is not considered appropriate to comment on the consistency with this Direction until after this consultation has been undertaken. Therefore, the inconsistency with this Direction will remain outstanding until the consultation is undertaken and a submission has been received.</p>

3.4 State environmental planning policies (SEPPs)

The proposal is broadly consistent with all relevant SEPPs.

4 Site-specific assessment

4.1 Environmental

The following table provides an assessment of the potential environmental impacts associated with the proposal.

Table 9 Environmental impact assessment

Environmental Impact	Assessment
Contamination	Council has considered the planning area for potential contamination and excluded 246 – 250 Lismore Road, Wollongbar, (Area K discussed above) which is deemed by the local register to be potentially contaminated. This approach is supported.
Bushfire Prone Land	The planning area is part identified as bushfire prone land. Consultation with the NSW RFS is required as part of the Gateway determination to ensure the appropriateness of the proposal.
Flooding	The land is not identified as being flood prone.
Biodiversity	Due to the developed nature of the planning area, any impact to HEV is considered unlikely. Further, any site-specific consideration to any potential environmental impact can also be adequately addressed at future development stages if needed.

4.2 Social and economic

The proposal is considered to have a net positive benefit regarding social and economic impacts. The proposal will facilitate housing supply and density within an established urban area of the Ballina LGA, which is supported by the strategic planning framework.

Whilst Wollongbar is surrounded by land identified as important agricultural farmland, the planning area is located within the existing urban footprint and the impact is considered minimal. For lots on the urban fringe that seek an attached dual occupancy, site specific consideration to any potential land use conflict and mitigation strategies can be addressed at future development stages.

4.3 Infrastructure

The planning area relates to an existing urban footprint within the established village of Wollongbar. Council indicate that the planning proposal is not considered to create the need for additional public infrastructure and that existing infrastructure, including water, sewer and electricity is adequate to cater for the future development facilitated by this planning proposal.

Further, the existing, established road network provides appropriate access. It is noted that Lismore Road, a classified road, is in proximity to the planning area and may provide access to some lots situated along this road, within the planning area. Site specific consideration will need to be given at a future development stage in this regard.

5 Consultation

5.1 Community

Council proposes a community consultation period of 28 days.

The proposal is a 'basic' planning proposal, as categorised by the LEP Making Guidelines (September 2022). It is recommended Council exhibit the proposal for 10 working days.

The proposal is consistent with a Department endorsed local strategy, being the Ballina Growth Management Strategy.

Further, Council's LSPS and the North Coast Regional Plan 2041 are both considered to support the approach adopted by Council and Council has undertaken local strategic planning processes to guide this decision.

The period for a basic proposal as outlined by the Guidelines are recommended, to facilitate an expedited amendment and contribute to housing supply and diversity on the North Coast. As such, it is considered appropriate, given the minor nature of the proposal, to allow for an exhibition period of 10 working days in accordance with the recommendations of the LEP Making Guidelines.

5.2 Agencies

Council has nominated the NSW Rural Fire Service be consulted about the planning proposal.

It is recommended the NSW RFS be consulted on the planning proposal and given 30 days to comment.

6 Timeframe

Council proposes a six month time frame to complete the LEP.

A time frame of six months is recommended to ensure it is completed in line with the Department's commitment to reduce processing times.

7 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

As the planning proposal is minor in nature and is supported by the wider strategic planning framework it is Department recommended that Council be authorised to be the local plan-making authority for this proposal.

8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- The proposal is consistent with the North Coast Regional Plan 2041,
- The proposal is consistent with the Ballina Local Strategic Planning Statement 2020 – 2040,
- The proposal is consistent with the Ballina Growth Management Strategy 2012,
- The proposal will facilitate additional housing supply and diversity in an appropriate location.

Based on the assessment outlined in this report, the proposal must be updated before consultation to:

- include an additional map, which denotes the planning area only

9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Directions 1.4 Site Specific Provisions and 3.2 Heritage Conservation are minor or justified and
- Note that the consistency with section 9.1 Directions 4.3 Planning for Bushfire Protection is unresolved and will require justification.

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

1. The planning proposal is to be updated to:
 - include an additional map, which denotes the planning area only
2. Consultation is required with the following public authorities:
 - NSW Rural Fire Service
3. The planning proposal should be made available for community consultation for a minimum of 10 working days.
4. The timeframe for completing the LEP is to be six months from the date of the Gateway determination.
5. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.



9/5/23

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