



Planning Proposal BSC25/09 (PP-2025-1690)

» Detached Dual Occupancies in Zone 7(c)

Ballina Local Environmental Plan 1987

Date: September 2025 (V3 Public Exhibition)

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Contents

Contents	1
1. Introduction	1
1.1 Summary	1
1.2 Background to Planning Proposal.....	1
1.3 Council Resolutions.....	2
1.4 Gateway Determination	2
2. Planning Proposal.....	3
Part 3 – Justification	7
Section A – Need for the planning proposal.....	7
Section B – Relationship to strategic planning framework	8
Section C – Environmental, social and economic impact	8
Section D – Infrastructure (Local, State and Commonwealth)	9
Section E – State and Commonwealth Interests	9
Part 4 – Mapping	10
Part 5 – Community Consultation.....	10
Part 6 – Timeline	11
Appendix 1 – Council Reports	12
Appendix 2 – Gateway	13
Appendix 3 – Section 9.1 Direction Checklist.....	14

1. Introduction

1.1 Summary

This Planning Proposal seeks to add a new clause into the Ballina Local Environmental Plan 1987 that will allow detached dual occupancies to be permitted with consent within Zone 7(c) Environmental Protection (Water Catchment). The wording of the proposed clause is provided at Part 2 – Explanation of Provisions. Attached dual occupancy is currently permissible with consent in Zone 7(c).

The proposed clause replicates the current planning controls for detached dual occupancies on land zoned RU1 Primary Production and RU2 Rural Landscape within the Ballina LEP 2012, with the inclusion of an additional subclause that aims to protect scenic amenity and rural character. It also contains a provision to ensure dwellings cannot be subdivided onto separate titles.

1.2 Background to Planning Proposal

Ballina Shire has a total land area of 49187 hectares. Currently 11907 hectares (24%) of the Shire is deferred from the Ballina Local Environmental Plan 2012 (BLEP2012) and the provisions of the 1987 LEP continue to apply in these Deferred Matter (DM) areas.

In 2017, Ballina Council resolved to transition DM areas that do not have an underlying environmental zone to LEP 2012 and to retain areas with an underlying environmental zone within LEP 1987. This remains the policy position of Ballina Shire Council.

Also in 2017, Council amended BLEP 2012 to allow detached dual occupancies in zones RU1 Primary Production and RU2 Rural Landscape where they are consistent with requirements set out in Clause 4.2A.

Detached dual occupancies are not permitted within any zone under LEP 1987. This has created a disparity between the two LEPs and Ballina Council included an action within its Delivery and Operational Plan to '*Investigate the permissibility of dual occupancies on land zoned for an environmental purpose.*' A report to Council is provided as Appendix 1 to this Planning Proposal which looked at the merit of allowing detached dual occupancies in the following zones:

- *Zone No 7 (a) Environmental Protection (Wetlands) Zone*
- *Zone No 7 (c) Environmental Protection (Water Catchment) Zone*
- *Zone No 7 (d) Environmental Protection (Scenic/Escarpment) Zone*
- *Zone No 7 (d1) Environmental Protection (Newrybar Scenic/ Escarpment) Zone*
- *Zone No 7 (f) Environmental Protection (Coastal Lands) Zone*
- *Zone No 7 (i) Environmental Protection (Urban Buffer) Zone*
- *Zone No 7 (l) Environmental Protection (Habitat) Zone,*

as well as areas zoned C2 Environmental Conservation and C3 Environmental Management in the BLEP 2012.

The resolution of Council at its Ordinary meeting on 28 August 2025 was to amend the 1987 LEP to allow detached dual occupancies within Zone 7(c) Environmental Protection (Water Catchment), consistent with the requirements for areas zoned RU1 and RU2 land in BLEP 2012.

The rationale is that there are sufficient planning controls in place manage impacts upon the water catchment area and measures can be put in place to minimise scenic impacts. Furthermore, the landscape in these areas is largely cleared agricultural land, predominantly used for grazing and macadamia production and is identified as 'important farmland' within the North Coast Regional Plan. As such the 7(c) zone is akin to a rural zone and does not have significant biodiversity values in the same way that most of the other '7' zones do. As such, the Council resolution and this planning proposal seek to facilitate additional housing in rural areas of the Ballina Shire where it is considered appropriate.

1.3 Council Resolutions

Council resolved at its Ordinary meeting of August 28, 2025 (280225/9), as follows:

1. *That Council prepare a planning proposal to amend the Ballina Local Environmental Plan 1987 to allow an application pathway for detached dual occupancies within Zone 7(c) Environmental Protection (Water Catchment), including insertion of the following clause:*
 - (a) *the development will not impair the use of the land or adjoining land for agriculture or rural industries, and*
 - (b) *each dwelling will use the same vehicular point of access to and from a public road, and*
 - (c) *the land is physically suitable for the development, and*
 - (d) *the land will accommodate the on-site disposal and management of sewage for each dwelling, and*
 - (e) *the development will not have an adverse impact on the scenic amenity or character of the rural environment.*
2. *The planning proposal is to be submitted to the Department of Planning, Housing and Infrastructure for a Gateway Determination.*
3. *Upon an affirmative Gateway Determination, the procedural steps associated with progression of the planning proposal be undertaken, including consultation with Rous County Council and the relevant State Government Agencies, along with public exhibition.*
4. *That the Department of Planning, Housing and Infrastructure be advised that Council wishes to exercise its delegated plan making functions for this LEP amendment.*
5. *That Councillors receive a briefing on the Zone 7(c) Environmental Protection Water Catchment area.*

1.4 Gateway Determination

A Gateway Determination was issued on September 23, 2025 and is provided as Appendix 2 under a separate cover. Changes to the planning proposal have been made as required by the conditions of the Gateway.

2. Planning Proposal

Section 3.33(2) of the *Environmental Planning and Assessment Act 1979* (the Act) outlines requirements that must be provided when preparing PPs. The following sections provide details of the Planning Proposal (PP) as it relates to Section 3.33(2) of the Act.

Part 1 – Objectives and intended outcomes

The objective of this planning proposal is to amend Ballina LEP 1987 to allow detached dual occupancies as permitted with consent within *Zone No 7 (c) Environmental Protection (Water Catchment) Zone*.

The intended outcome is to allow this form of rural housing within the 7(c) zoned area and to make the planning requirements consistent with the provisions for land zoned RU1 and RU2 under the BLEP 2012.

Part 2 – Explanation of provisions

The planning proposal seeks to amend the Ballina Local Environmental Plan 1987 (BLEP 1987) to allow detached dual occupancies as a form of housing that is permitted with consent within *Zone No 7 (c) Environmental Protection (Water Catchment)*. The proposed amendment is to be consistent with requirements for detached dual occupancies in areas zoned RU1 and RU2 within the Ballina Local Environmental Plan 2012 (BLEP 2012).

The proposed amendment is to insert a new clause BLEP 1987, as follows:

14A Detached Dual Occupancy

- (1) *This clause applies to land within Zone No 7 (c) Environmental Protection (Water Catchment) Zone.*
- (2) *Where, in pursuance of this plan, development for the purposes of a dwelling-house may be carried out on an allotment of land to which this clause applies, a person may, with the consent of the Council, construct a detached dual occupancy where Council is satisfied that —*
 - (a) *the development will not impair the use of the land or adjoining land for agriculture or rural industries, and*
 - (b) *each dwelling will use the same vehicular point of access to and from a public road, and*
 - (c) *the land is physically suitable for the development, and*
 - (d) *the land will accommodate the on-site disposal and management of sewage for each dwelling, and*
 - (e) *the development will not have an adverse impact on the scenic amenity or character of the rural environment.*
- (3) *A person must not subdivide land on which development has been carried out in pursuance of this clause if the subdivision would permit the separate ownership of each dwelling.*

The final wording of the proposed amendments will be determined in conjunction with the NSW Parliamentary Counsel's Office.

The areas of land zoned 7(c) are shown below in yellow in Figure 1, alongside land that is mapped within a drinking water catchment and subject to provisions of Clause 7.4 (Drinking

Water Catchments) in BLEP 2012. More detailed maps of land zoned 7(c) are provided in Figures 2-5.

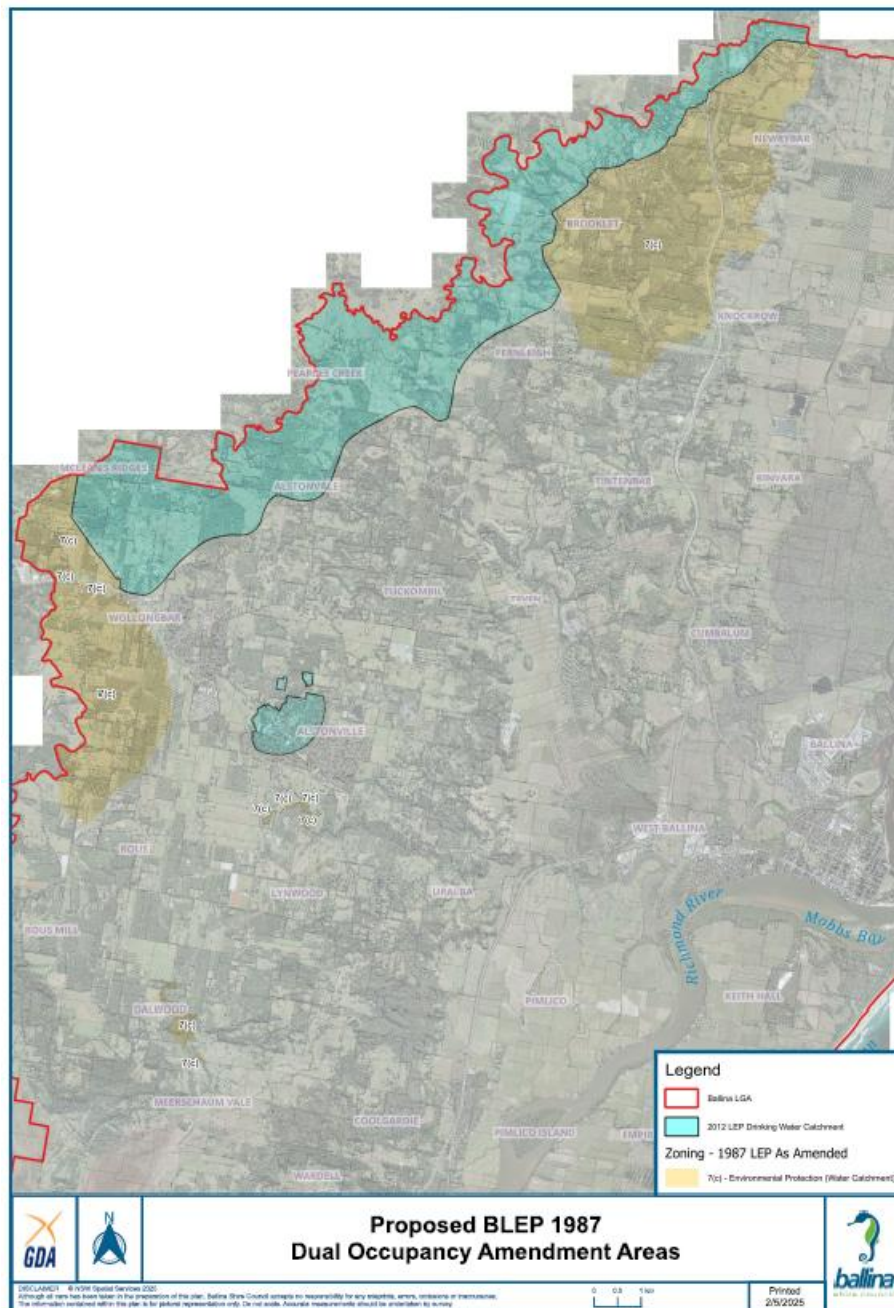


Figure 1: Areas zoned 7(c) in BLEP 1987 and areas subject to CI 7.4 in BLEP 2012

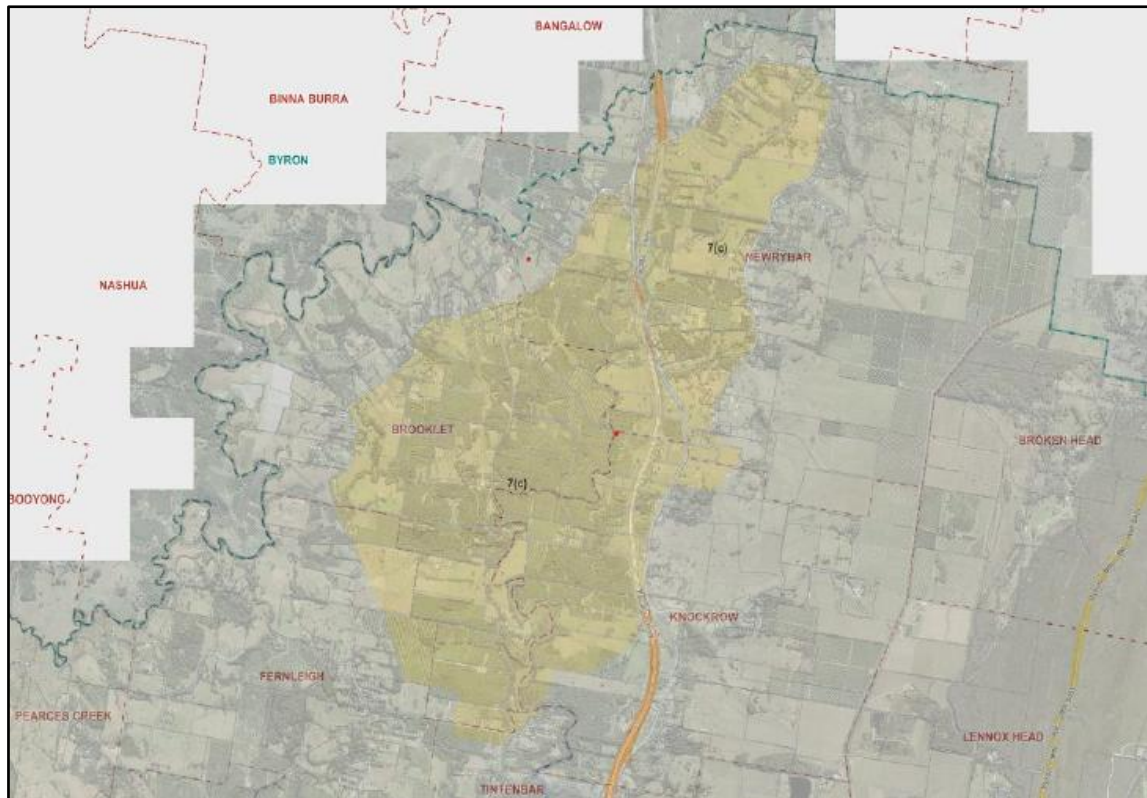


Figure 2: Northern area Zone 7(c) in BLEP 1987.

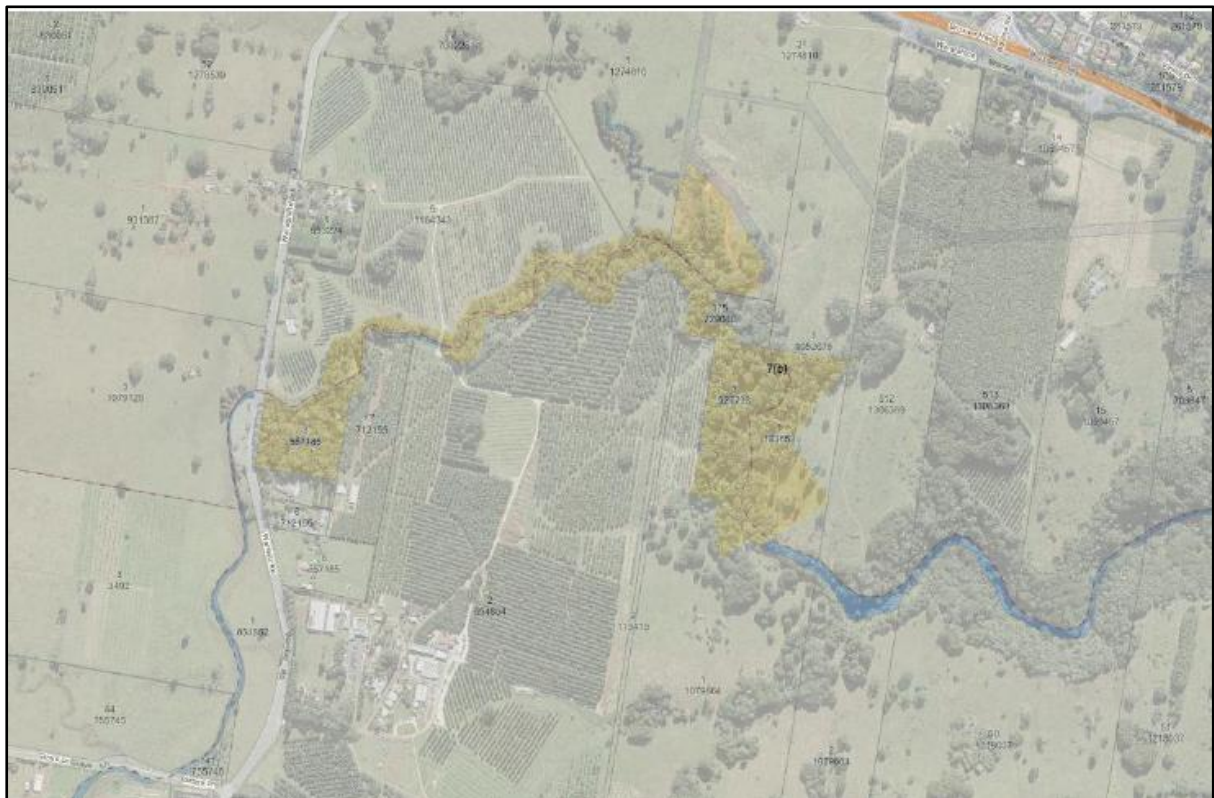


Figure 3: Lynwood area Zone 7(c) in BLEP 1987.

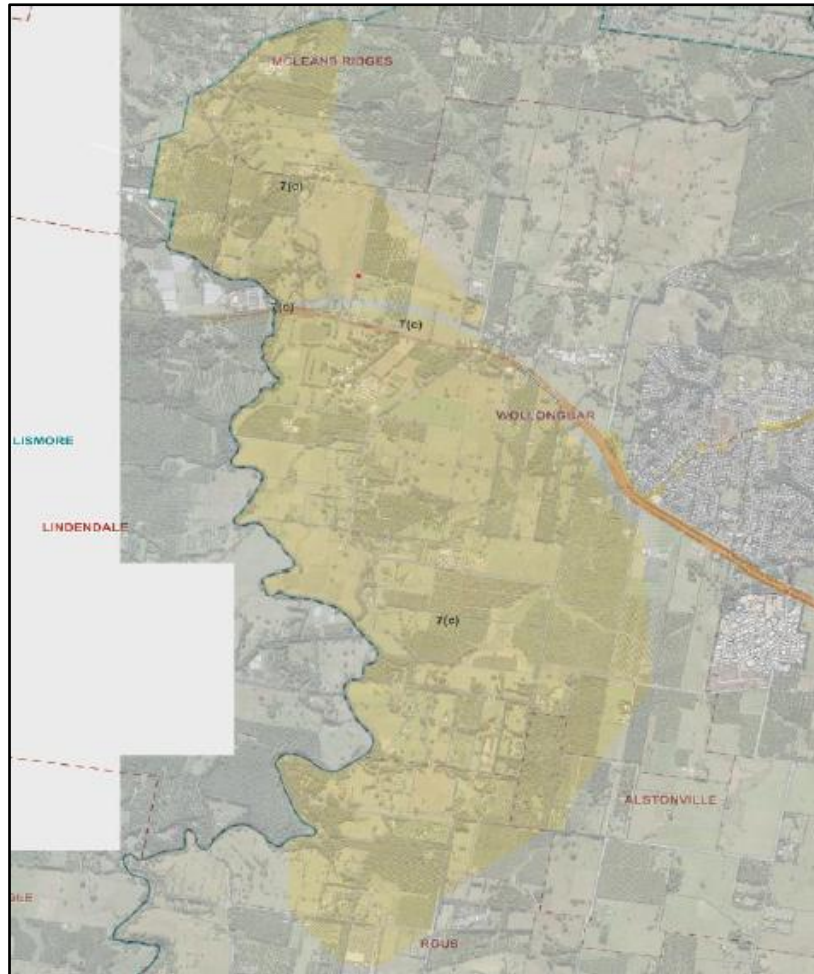


Figure 4: Eastern area Zone 7(c) in BLEP 1987.

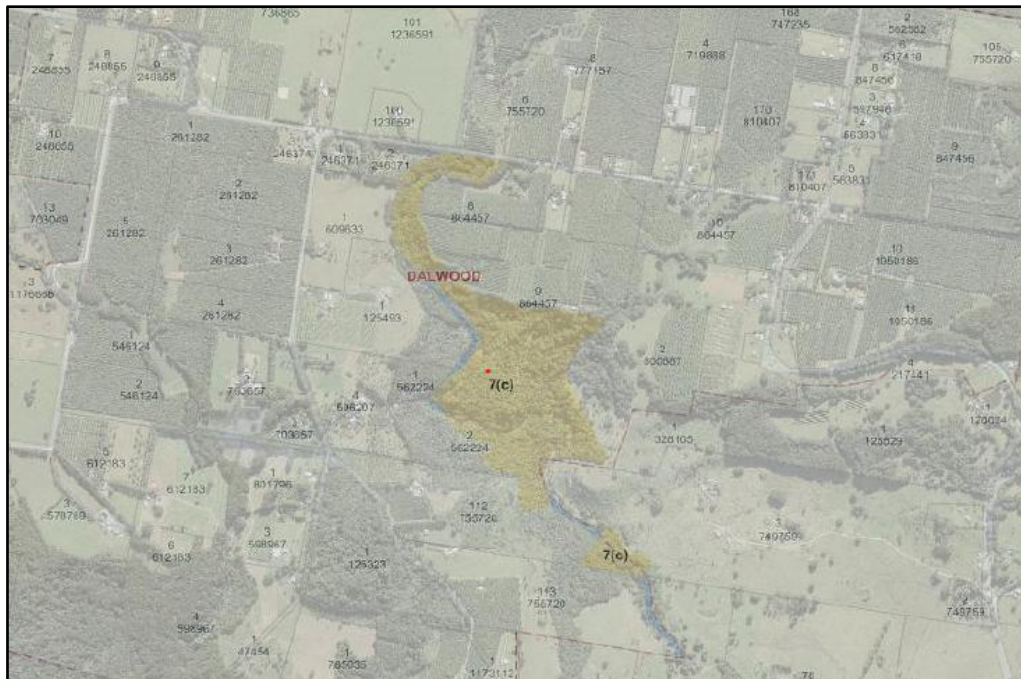


Figure 5: Dalwood area Zone 7(c) in BLEP 1987.

Part 3 – Justification

Section A – Need for the planning proposal

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

No, the planning proposal is the result of an investigation and resolution of Council to address a perceived disparity between the 1987 and 2012 LEPs and to facilitate additional rural housing in areas where it is considered appropriate to do so.

The report to Council on this matter is provided as Appendix 1.

There is also a consideration as to how Council addresses unauthorised detached dual occupancies in areas where there is currently no planning pathway to consider the merits of such dwellings.

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

Yes. Various options were considered by Council including transitioning the 7(c) zone to an appropriate rural zone in LEP 2012 and an associated amendment to the Drinking Water catchment Map. These options are addressed in the Council report at Appendix 1.

Council's intent with the planning proposal is to facilitate a minor change to allow 'detached' dual occupancies as well as the currently permissible 'attached' dual occupancies within the 7(c) zone rather than allowing a far greater range of land uses that would be permissible with consent if the zone was transitioned to RU1 (Primary Production) in LEP 2012.

Zone 7(c) currently has a very limited range of permissible uses, specifically:

Bed and breakfast establishments; childcare centres; dwelling-houses; forestry; helipads; home industries; public utility undertakings; retail plant nurseries; roads; telecommunications facilities; utility installations.

Transitioning land in Zone 7(c) to RU1 would permit the following land uses:

Agritourism; Airstrips; Animal boarding or training establishments; Aquaculture; Boat launching ramps; Boat sheds; Car parks; Cellar door premises; Cemeteries; Dual occupancies; Dwelling houses; Environmental facilities; Extractive industries; Farm buildings; Flood mitigation works; Forestry; Helipads; Home businesses; Home industries; Home occupations (sex services); Information and education facilities; Intensive livestock agriculture; Jetties; Markets; Mooring pens; Moorings; Open cut mining; Recreation areas; Recreation facilities (outdoor); Roads; Roadside stalls; Rural industries; Rural supplies; Rural workers' dwellings; Sewerage systems; Signage; Tourist and visitor accommodation; Turf farming; Water recreation structures; Water supply systems

The potential for development applications to be lodged for *agritourism* and *tourist and visitor accommodation* is considered high and not something Council has considered in detail for this area and not something that is desirable as a consequence of seeking to allow an additional form of housing within the 7(c) zoned area. There is also the potential for other unforeseen applications for land uses such

as animal boarding or training establishments, extractive industries, markets, and recreation facilities (outdoor). These are provided as examples of other land uses that Council does not wish to facilitate within the 7(c) area at this time.

Council's view is that a minimal change to LEP 1987 to allow detached dual occupancies is the best means of achieving the intended outcome.

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 North Coast Regional Plan 2041 (NCRP) is the current regional strategy applicable to the Ballina Shire. The relevant objectives of the NCRP are addressed in the table below:

Regional Plan Objective	Comment
Objective 2: Provide for more affordable and low cost housing	This objective supports increasing housing supply to enhance diversity, choice, and affordability; meet the needs of an ageing population; and promote liveable homes that adapt to changing household needs. Allowing detached dual occupancies with consent in the 7(c) zone is considered consistent with this objective.
Objective 3: Protect regional biodiversity and areas of high environmental value	This objective requires development to be appropriately located to avoid adverse impacts on areas of High Environmental Value (HEV). Land within zone 7(c) is predominantly cleared and used for agriculture. Areas around Lynwood and Dalwood do have areas of vegetation that are potentially HEV. Consultation is to be undertaken with DCCEEW to confirm consistency with the objective.
Objective 4: Understand, celebrate and integrate Aboriginal culture	This objective seeks to avoid harm to Aboriginal objects, places, or areas of cultural significance to Aboriginal people. Engagement with Jali LALC will be undertaken with regards to this matter.
Objective 5: Manage and improve resilience to shocks and stresses, natural hazards and climate change	This objective recognises natural hazards affecting the North Coast and aims to minimise associated risks. Consultation with the NSW Rural Fire Service and DCCEEW is to be undertaken
Objective 8: Support the productivity of agricultural land	Objective 8 recognises agriculture as a key industry for the North Coast and promotes the protection of productive land by limiting incompatible land uses and fragmentation. It also highlights the mapping of Important Farmland to support long-term agricultural production and minimise land use conflicts. All 7(c) areas contain mapped Important Farmland and/or BSAL. Potential land use conflicts will be assessed on a case-by-case basis through future Development Applications (DAs). Also, the proposed new clause does

	not enable further subdivision. Consultation is to be undertaken with the Department of Primary Industries.
Objective 9: Sustainably manage and conserve water resources	This objective reinforces the need to protect riverine ecosystems and ensure a secure, resilient supply. The proposal seeks to balance rural housing opportunities with the primary objective of the 7(c) zone to safeguard land essential to the LGA's drinking water supply. Consultation with Rous County Council is to be undertaken.

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

The planning proposal is not a specific action within the currently adopted Ballina Local Strategic Planning Statement (LSPS). However it is consistent with Council's Community Strategy Plan theme (HE3) that *Our built environment is respectful of the natural environment and ecosystem* and was identified as an action in Council's Delivery Program and Operational Plan to 'Investigate the permissibility of dual occupancies on land zoned for an environmental purpose' (LP1.3f).

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

There are no other applicable state or regional strategies or studies.

Q6 Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPPs)?

No SEPPs are directly applicable to the planning proposal.

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

Yes. Several section 9.1 Ministerial Directions are relevant to the planning proposal. A response is provided in the checklist at Appendix 3.

Section C – Environmental, social and economic impact

Q8 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the proposal?

The landscape of the 7(c) zone is largely cleared agricultural land, predominantly used for grazing and macadamia production and is identified as 'important farmland' within the *North Coast Regional Plan 2041*. There are also small pockets of vegetated land zoned 7(c) at Dalwood and Lynwood that are adjacent to local creeks.

The planning proposal seeks to make detached dual occupancies permissible with consent in these areas and includes a subclause that 'the land is physically suitable for the development'. An assessment of suitability and any impacts upon threatened species, their habitats, ecological communities and other biodiversity values will be undertaken as part of any future development application assessment.

Q9 Are there any other likely environmental effects of the planning proposal and how are they proposed to be managed?

Allowing detached dual occupancies has the potential to impact upon water quality in a drinking water catchment, scenic amenity and to create land use conflict with adjoining property.

These issues are currently managed successfully in areas zoned RU1 and RU2 in BLEP 2012 through the considerations that must be addressed in Clause 4.2A, Council's On-Site Sewage Management Strategy and associated guidelines. The same provisions are to apply when assessing application within zone 7(c).

Q10 Has the planning proposal adequately addressed any social and economic effects?

The potential for land use conflict will be assessed on a case-by-case basis through any future development applications.

No other adverse social or economic effects have been identified.

Section D – Infrastructure (Local, State and Commonwealth)

Q11 Is there adequate public infrastructure for the planning proposal?

No additional public infrastructure is required as a result of the planning proposal.

Section E – State and Commonwealth Interests

Q12 What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?

Consultation will be undertaken with relevant agencies as required by the Gateway determination.

Preliminary discussions have occurred with the Conservation Programs, Heritage and Regulation division (CPHR) of the NSW Department of Climate Change, Energy, the Environment and Water. The response was that CPHR would only support an LEP amendment where it can be demonstrated future detached dwellings are unlikely to impact upon biodiversity values and are in flood-free locations.

The proposed amendment only affects properties within zone 7(c), that are not impacted by flooding and are considered to generally have low biodiversity values that can appropriately be assessed through the development application process.

Part 4 – Mapping

There are no proposed mapping amendments as part of the planning proposal.

Part 5 – Community Consultation

This proposal will be exhibited in accordance with the Gateway determination, the terms of the *Environmental Planning and Assessment Act 1979* and Council's Community Participation Plan 2022.

Part 6 – Timeline

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

Plan Making Step	Estimated Completion
Gateway Determination	September 2025
Government Agency Consultation	October 2025
Public Exhibition Period	October – November 2025
Public Hearing	N/A
Local Plan Making Authority (LPMA) Assessment of Planning Proposal and Exhibition Outcomes	November – December, 2025
Submission of Endorsed LEP to DPHI for Finalisation	January - February 2026
Forwarding of LEP Amendment to DPHI for Notification (if delegated)	February – March 2026.

Appendix 1 – Council Reports

(Under Separate Cover)

Appendix 2 – Gateway

(Under Separate Cover)

Appendix 3 – Section 9.1 Direction Checklist

Section 9.1 Ministerial Direction Checklist Planning Proposal – PP-2025-359	
Direction No.	Compliance of Planning Proposal
Focus area 1: Planning Systems	
Implementation of Regional Plans	The planning proposal is considered to be generally consistent with the <i>North Coast Regional (2041)</i> as addressed at Section B Q.3 of this report.
Development of Aboriginal Land Council land	Not applicable to this planning proposal.
Approval and Referral Requirements	Consistent. No specific consultation or referral provisions will apply for future development applications.
Site Specific Provisions	Not applicable to this planning proposal.
1.4A Exclusion of Development Standards from Variation	Not applicable to this planning proposal.
Focus area 1: Planning Systems – Place-based	
1.5 to 1.22	These Directions do not apply to Ballina Shire.
Focus area 2: Design and Place	
Focus area 3: Biodiversity and Conservation	
Conservation Zones	Justifiably Inconsistent. The planning proposal applies to an area that has an underlying environmental zone: 7(c) Environmental Protection (Water Catchment). The zoned areas may be considered “environmentally sensitive areas” because they fall within a drinking water catchment. The proposal is considered to be justifiably inconsistent because it is of minor significance in that any potential impacts to the drinking water catchment can be adequately managed through the proposed clause and existing provisions in Council’s On-Site Sewage Management Strategy and associated guidelines.
Heritage Conservation	Not applicable to this planning proposal.
Sydney Drinking Water Catchments	Not applicable to this planning proposal.
Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	Not applicable to this planning proposal.
Recreation Vehicle Areas	Not applicable to this planning proposal.
Strategic Conservation Planning	Not applicable to this planning proposal.
Public Bushland	Does not apply to Ballina Shire.
Willandra Lakes Region	Does not apply to Ballina Shire.
Sydney Harbour Foreshores and Waterways Area	Does not apply to Ballina Shire.
Water Catchment Protection	Does not apply to Ballina Shire.
Focus area 4: Resilience and Hazards	
Flooding	Not applicable to this planning proposal.
Coastal Management	Not applicable to this planning proposal.
Planning for Bushfire Protection	Consistent. 7(c) zoned land does contain areas of mapped bushfire vegetation. Consultation with the RFS as a condition of gateway determination is anticipated.
Remediation of Contaminated Land	Not applicable to this planning proposal.
Acid Sulfate Soils	Not applicable to this planning proposal.
Mine Subsidence and Unstable Land	Not applicable to this planning proposal.

Section 9.1 Ministerial Direction Checklist Planning Proposal – PP-2025-359	
Direction No.	Compliance of Planning Proposal
Focus area 5: Transport and Infrastructure	
Integrating Land Use and Transport	Not applicable to this planning proposal.
Reserving Land for Public Purposes	Consistent. This planning proposal does not create, alter or reduce existing zonings or reservations of land for public purposes.
Development Near Regulated Airports and Defence Airfields	Not applicable to this planning proposal.
Shooting Ranges	Not applicable to this planning proposal.
High pressure dangerous goods pipelines	Not applicable to this planning proposal.
Focus area 6: Housing	
Residential Zones	Not applicable to this planning proposal.
Caravan Parks and Manufactured Home Estates	Not applicable to this planning proposal.
Focus area 7: Industry and Employment	
Employment Zones	Not applicable to this planning proposal.
Reduction in non-hosted short term rental accommodation period	Not applicable to this planning proposal.
Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable to this planning proposal.
Focus area 8: Resources and Energy	
Mining, Petroleum Production and Extractive Industries	Not applicable to this planning proposal.
Focus area 9: Primary Production	
Rural Zones	Not applicable to this planning proposal.
Rural Lands	Consistent. The directions is applicable to the planning proposal in that the 'equivalent zone' for 7(c) in the Standard Instrument LEP is C3 (Environmental Management). The proposal is considered to be consistent in that: (a) It is generally consistent with the <i>North Coast Regional (2041)</i>. (b) It will not significantly impact upon agriculture and primary production. (c) It will not significantly impact upon environmental values. (d) The proposed clause will require the natural and physical constraints of the land to be considered on a case by case basis with any future development application. (e) It supports a sustainable, diversified rural activity. (f) It will not impact upon farmers exercising their right to farm. (g) It will not allow further fragmentation of rural land and any potential land use conflict can be addressed and managed through a development application process. (h) The additional of detached dual occupancies as a permissible use in areas identified as State significant agricultural lands will not have a significant impact upon such lands, and can be managed as is currently the case for areas with an RU1 or RU2 zoning. (i) The proposed clause addresses social, economic and environmental interests in the community.
Oyster Aquaculture	Not applicable to this planning proposal.

Section 9.1 Ministerial Direction Checklist Planning Proposal – PP-2025-359	
Direction No.	Compliance of Planning Proposal
Farmland of State and Regional Significance on the NSW Far North Coast	Consistent. The planning proposal does not seek to rezone any land for an urban or rural residential purpose.