



Planning Proposal 18/003

» *Attached Dual Occupancy Wardell*

March 2019 (V4 – Exhibition) 19/23623

ballina
shire council



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1. Introduction

1.1 Summary of Planning Proposal

This planning proposal seeks to amend the Ballina Local Environmental Plan (LEP) 2012 to permit attached dual occupancy development within the non-flood prone areas of Wardell Village located in the R2 Low Density Residential zone.

The planning proposal has been prepared in response to the outcomes of the Wardell Planning and Environmental Study and Strategic Action No. 23 within the Wardell Strategic Plan 2015-2035.

1.2 Background

The Council adopted the Wardell Strategic Plan 2015-2035 at its Ordinary Meeting held on 28 January 2016 [Minute No. 280116/10]. This strategic plan is informed by the outcomes of the Wardell Planning and Environmental Study. The Wardell Strategic Plan is used to guide Council's strategic planning and decision making relating to Wardell Village and surrounds within the period of 2015 to 2035. The plan details a number of strategies to guide the future development of Wardell Village to 2035.

The Wardell Planning and Environmental Study supports the concept of permitting attached dual occupancy development in the R2 zoned areas in the non-flood prone area of Wardell village. Dual occupancy development is considered to provide for small scale development opportunities within the existing village. This form of development also makes more efficient use of existing infrastructure such as water and sewerage services and road networks.

Strategic Action No. 23 of the Wardell Strategic Plan provides for Council to '*consider the desirability, and an appropriate mechanism, for permitting attached dual occupancy development within the R2 zoned, non-flood prone areas of Wardell Village.*'

The Flood Planning Standard adopted to define the lands suitability for attached dual occupancy development is land not subject to the 1:100 year ARI Flood for 2100 climate change conditions.

1.3 Land to Which the Planning Proposal Applies

This planning proposal relates to land parcels located within Wardell Village that are zoned R2 Low Density Residential under the Ballina LEP 2012 that are not subject to the 2100 1:100 year ARI flood level for climate change conditions.

1.4 Council Resolutions

Council considered this planning proposal at its Ordinary Meeting held on 13 December 2018. The Council resolved as follows [Minute No. 131218/1]:

1. *That Council endorses the Wardell Attached Dual Occupancy Planning Proposal (BSCPP 18/003 – Attached Dual Occupancy Wardell), as contained in Attachment 2 to this report.*
2. *That Council submit this planning proposal to the NSW Department of Planning and Environment for Gateway determination.*
3. *That the Department of Planning and Environment be advised that Council is seeking to exercise its delegated plan making functions for this LEP amendment.*
4. *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.*
5. *That the planning proposal be reported to the Council for further consideration following the completion of the community consultation phase.*

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

1.5 Gateway Determination

A Gateway determination allowing the planning proposal to proceed to public exhibition subject to conditions was issued on 6 March 2019.

A copy of the Gateway determination is contained within Appendix 4.

2. Objectives & Intended Outcomes

The objective and intended outcome of this planning proposal is to amend the Ballina LEP 2012 to enable attached dual occupancy development to be carried out on certain lots within Wardell Village.

3. Explanation of Provisions

3.1 The Proposal

Dual occupancy development is currently prohibited within the R2 Low Density Residential zone. The planning proposal seeks to permit, with consent, attached dual occupancy development at Wardell on land that is non-flood prone land and located within the R2 Low Density Residential zone.

The manner in which the LEP amendment will be drafted so as to permit, with development consent, attached dual occupancy development within that part of the R2 zone not affected by the 2100 1:100 year ARI flood level will be a matter for the NSW Parliamentary Counsel to consider following the exhibition of the planning proposal. There are a number of options available to secure the desired outcome which includes a local clause, an additional permitted use or a planning overlay specifically for dual occupancy lots.

3.2 Relationship to the Low Rise Medium Density Housing Code

In 2018 the State Government introduced the Low Rise Medium Density Housing Code (the Code) which contains development standards to allow one and two storey dual occupancies, manor houses and multi-dwelling housing (terraces and townhouses/villas) to be carried out under a fast-track complying development approval. The Code does not currently apply to Ballina Shire.

The objectives of the Code are to provide a broader range of housing options to suit changing lifestyle needs and to improve housing affordability by increasing the supply of housing across NSW. The Code is accompanied by a design guide for development applications that contains best practice controls and design standards to ensure a consistent approach to the good design of medium density housing across NSW.

The Ballina Shire local government area (LGA) is one of 50 LGAs that have been temporarily deferred from the Code until 1 July 2019. Council is yet to consider its position in respect to whether it will be seeking to be deferred from the Code after 1 July 2019. In the absence of the Code provisions, Ballina Shire Development Control Plan 2012 – Chapter 4 – Residential and Tourist Development will provide the development controls applicable to dual occupancy development.

The Low Rise Medium Density Housing Code will only apply to dual occupancy development permitted within the R2 zone by the proposed planning amendment in the event that Council is not exempted from the Codes provisions after 1 July 2019. The Code will then also apply to low rise medium density housing development within the R3 Medium Density Residential zone.

3.3 Mapping Overview

At this stage there is no mapping proposed to support the proposed LEP amendment.

This planning proposal will directly impact approximately 87 lots which are zoned R2 Low Density Residential and are not affected by the 1:100 year ARI flood level for 2100 climate change conditions. These lots are outlined in blue on the map contained within Diagram One below.

Diagram One – Lots identified as being impacted by the planning proposal (outlined in blue)



4. Justification

4.1 Section A – Need for the Planning Proposal

Q1 Is the planning proposal a result of any strategic study or report?

Yes. The planning proposal has been prepared in response to the outcomes of the Wardell Planning and Environment Study 2015 (WPES) and the Wardell Strategic Plan 2015 - 2035. Strategic Action No. 23 within the plan provides that Council *‘Consider the desirability, and an appropriate mechanism, for permitting attached dual occupancy development within the R2 zoned, non-flood prone areas of Wardell Village’*.

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

The planning proposal is the appropriate mechanism for achieving the intended development outcomes for the subject land.

4.2 Section B – Relationship to Strategic Planning Framework

Q3 Is the planning proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies)?

The planning proposal is consistent with the North Coast Regional Plan 2036 (NCRP), which provides the regional framework for the consideration of policy development and the overall vision of the future.

The NCRP encourages housing diversity through an action which stipulates that 40 per cent of new housing is to be delivered in the form of dual occupancies, apartments, townhouses, villas or dwellings on lots less than 400 square metres by 2036. The proposal is consistent with the following directions of the NCRP:

- *Direction 20: Maintain the region’s distinctive built character*
- *Direction 22: Deliver greater housing supply*
- *Direction 23: Increase housing diversity and choice*

Q4 Is the planning proposal consistent with a council’s local strategy or other local strategic plan?

The planning proposal is consistent with the following key local plans:

Ballina Shire Council Community Strategic Plan 2017 – 2027

The planning proposal is consistent with the elements and specified outcomes contained within Council’s Community Strategic Plan 2017-2027 as indicated in the table below:

Element and Reference	Outcomes	Benefits
PE3 Prosperous Economy	Improve liveability in the shire	
PE3.1	Support residential development that delivers services close to home	Lower cost of living
PE3.2	Facilitate and provide affordable infrastructure	More affordable housing
PE3.3	Improve connectivity within the shire	Reduced transport costs
HE3 Healthy Environment	Our built environment blends with the natural environment	
HE3.1	Develop and implement plans that balance the built environment with the natural environment	More people are satisfied with our management of development

Ballina Shire Growth Management Strategy 2012 (BSGMS)

The planning proposal is consistent with the following growth management principles for future urban development within the shire as outlined in the BSGMS:

- Support the desired identity, character and amenity of the shire and its communities;
- Facilitate greater housing choice through an adequate mixture of dwelling types;
- Support the regional settlement hierarchy of cities and towns surrounded by villages and smaller rural hamlets;
- Minimise the exposure of new and existing residential areas to environmental hazards;
- Integrate urban development with key infrastructure and services;
- Provide for a functional urban environment that is compatible with environmental characteristics and community expectations; and
- Provide for affordable housing stock.

Ballina Local Environmental Plan 2012 (BLEP 2012)

The BLEP 2012 provides for the following residential zones:

- R2 Low Density Residential Zone – for low density residential development forms including dwellings and secondary dwellings (and other compatible uses); and
- R3 Medium Density Residential Zone – for a broad range of residential development forms including dual occupancies, residential flat buildings, multi dwelling housing and the like (and other compatible uses).

This planning proposal relates to part of the R2 Low Density Residential zone under the provisions of the BLEP 2012 located within Wardell Village not impacted by the 2100 1:100 year ARI flood level.

Dual occupancy development is currently only permissible in the R3 Medium Density Residential zone.

Rather than alter the zoning of the identified properties, the planning proposal seeks to increase housing choice by permitting dual occupancy development on R2 zoned lots not affected by the flooding constraint.

Q5 Is the planning proposal consistent with applicable State Environmental Planning Policies?

The planning proposal is generally consistent with applicable State Environmental Planning Policies (SEPPs).

Q6 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.

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 subject land is currently zoned for low density residential development (single detached dwellings and secondary dwellings) and is located within an established residential area. The planning proposal will enable development for attached dual occupancy development to occur with development consent. The planning proposal is 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 Wardell 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 a demand for additional public infrastructure. Existing infrastructure such as water and sewerage are considered to be adequate to cater for future development generated by this planning proposal.

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

Consultation will be undertaken with the NSW Rural Fire Service as required by the Gateway determination during the public exhibition stage of the LEP amendment.

5. Mapping

No mapping is proposed to support the planning proposal at this stage. Council will be guided by Parliamentary Counsel following public exhibition as to the manner in which the proposed LEP amendment will be drafted. This may include mapping required as a consequence of this process.

6. Community Consultation

This proposal will be exhibited in accordance with the Gateway determination and the terms of the *Environmental Planning and Assessment Act 1979*. It is anticipated that a minimum public notification period of 28 days will be applied to this planning proposal.

7. Timeline

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

Plan Making Step	Estimated Completion (Before)
Gateway Determination	March 2019
Government Agency Consultation	April 2019
Public Exhibition Period	April - May 2019
Public Hearing	N/A
Submissions Assessment	June 2019
RPA Assessment of Planning Proposal and Exhibition Outcomes	July 2019
Submission of Endorsed LEP to DP&E for Finalisation	July 2019
RPA Decision to Make the LEP Amendment (if delegated)	July 2019
Forwarding of LEP Amendment to DP&I for Notification (if delegated)	July 2019

Council is seeking to exercise plan finalisation functions under delegation.

8. Appendices

Appendix One – Maps

No mapping has been prepared at this stage (pre Gateway).

Appendix Two – Council Reports

9.3 Planning Proposal - Attached Dual Occupancy, Wardell

Delivery Program	Strategic Planning
Objective	To invite the Council to initiate a planning proposal to permit attached dual occupancy development upon certain land in Wardell.

Background

Council, at its Ordinary Meeting held on 28 January 2016 resolved to adopt the Wardell Strategic Plan 2015-2035 [Minute No. 280116/10]. The recommendations and strategic actions identified in the strategic plan reflect the Wardell community's vision for the future development of their township to 2035.

A copy of the Wardell Strategic Plan 2035 (WSP 2035) is contained within Attachment 1 to this report.

Ensuring that future development is staged, progressive and affordable is one of five locality objectives contained within the WSP 2035.

Strategic Action No. 23 provides for Council to consider the desirability, and an appropriate mechanism, for permitting attached dual occupancy development on land within the R2 Low Density Residential zone under the Ballina Local Environmental Plan 2012, and that is not identified as being flood prone.

This action aims to provide opportunities for small scale residential development within the existing township.

The purpose of this report is to seek the Council's authorisation to initiate a planning proposal to enable attached dual occupancy residential development to be considered, with development consent, on allotments of land that meet these criteria.

A draft planning proposal has been prepared for the Council's consideration and is contained within Attachment 2 to this report.

Key Issues

- Implementing Wardell Strategic Plan 2035
- Urban consolidation
- Residential development potential and housing affordability

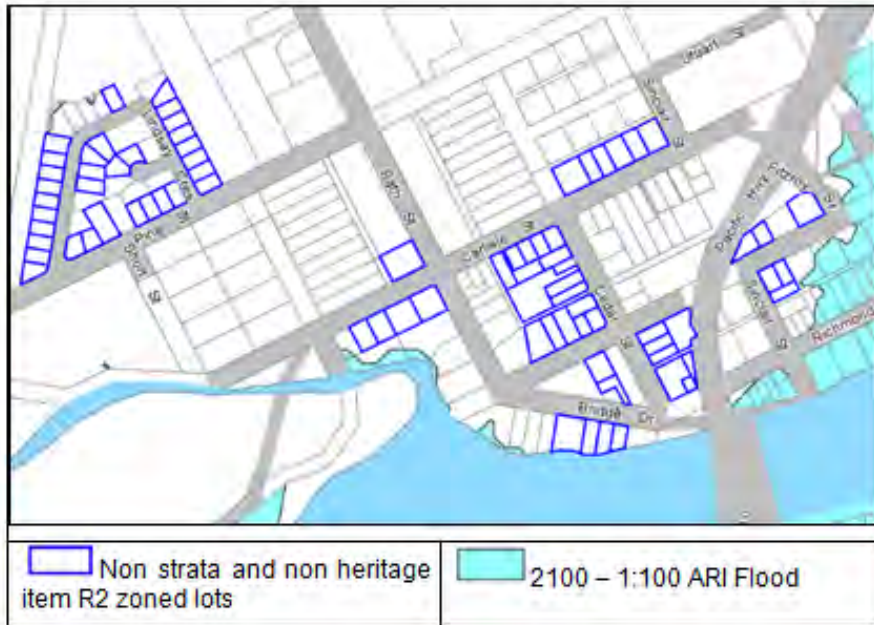
Information

Subject Land

Staff has assessed that this planning proposal would apply to approximately 78 allotments which are zoned R2 Low Density Residential and which have been identified as not being affected by the 2100 1:100 year ARI flood level.

These lots are outlined in blue on the map contained within Diagram One as follows

Diagram One – Location of Non Strata / Non Heritage Lots Affected by Planning Proposal



The locality objectives for Wardell, as outlined in the Ballina Shire Growth Management Strategy 2012, support the maintenance of the heritage and low-scale character of the township, and the facilitation of further development opportunities consistent with the desired future character of the township, as identified in the strategic plan.

9.3 Planning Proposal - Attached Dual Occupancy, Wardell

The North Coast Regional Plan 2036, which provides the regional framework for the consideration of policy development and the overall vision for the future, encourages housing diversity by specifying that 40 per cent of new housing is to be delivered in the form of dual occupancies, apartments, townhouses, villas or dwellings on lots less than 400m² in area by 2036.

Providing for future development as outlined in the planning proposal contained in Attachment 2 is consistent with the strategic objectives of the Wardell Strategic Plan, Council's Growth Management Strategy and the North Coast Regional Plan 2036.

Ballina LEP 2012 and Development Control Plan 2012

The R2 Low Density Residential zone located in Wardell does not currently permit dual occupancy development.

The manner in which an LEP amendment is required to be drafted so as to permit, with consent, attached dual occupancy development on land within that part of the R2 zone not affected by the 2100 1:100 year ARI flood level will be a matter for the NSW Parliamentary Counsel to consider following the exhibition of the planning proposal.

There are a number of options available to secure the desired outcome.

These include the insertion of a new local clause in Council's LEP, an additional permitted use or a planning overlay applying to specific dual occupancy lots.

Unlike the Alstonville Attached Dual Occupancy Planning Proposal (reported elsewhere in this Business Agenda) which seeks to limit attached dual occupancy development to lots 900m² in area or larger, and incorporates DCP controls to restrict development on slope affected sites, no such provisions are proposed for Wardell.

This is because there was broader community acceptance in Wardell, during the community consultation phases associated with the draft planning and environmental study and strategic plan, for broader application of attached dual occupancy permissibility.

There are also fewer significant slope constraints within Wardell township.

Ballina DCP 2012 - Chapter 4 Residential and Tourist Development (DCP Chapter 4) contains provisions related to dual occupancy development, including a minimum lot size of 450m² for attached dual occupancy development, which will apply to Wardell following the LEP amendment being finalised.

DCP Chapter 4 is proposed to be amended to clarify that the existing provisions for attached dual occupancy development (450m² minimum lot size and 12 metre minimum frontage) will also apply to the R2 zone at Wardell.

This matter will be dealt with as part of the DCP Chapter 4 amendments associated with the Alstonville planning proposal which is reported separately to this meeting.

9.3 Planning Proposal - Attached Dual Occupancy, Wardell

Council is invited to endorse the attached planning proposal for referral to NSW Department of Planning and Environment for Gateway determination.

Following the Gateway determination, the planning proposal is proposed to be placed on public exhibition in accordance with the Gateway requirements and then reported back to the Council for further consideration and/or endorsement.

Sustainability Considerations

- **Environment**
The proposal is not likely to have any significant implications from an environmental perspective as it is confined to existing zoned and largely already developed residential lots.
- **Social**
The proposal is considered to have overall positive social impacts resulting from the provision of additional housing.
- **Economic**
The proposal has the potential to result in a number of positive economic impacts associated with construction and occupation of additional dwellings.

Legal / Resource / Financial Implications

Initiating and processing a planning proposal to permit attached dual occupancy development in the circumstances outlined can be managed within existing resources.

This matter is included in the current Strategic and Community Facilities Group work program.

It is also proposed to seek delegation from the Department of Planning and Environment to enable the processing of the proposed LEP amendment to finalisation.

Consultation

It is envisaged that following referral to the NSW Department of Planning and Environment the planning proposal, if allowed to advance, will be placed on exhibition for community feedback in accordance with the Gateway determination. The period of public exhibition proposed is not less than 28 days.

Options

The following options are presented for the Council's consideration.

1. Council may resolve to proceed to submit the planning proposal to the NSW Department of Planning and Environment for Gateway determination.

9.3 Planning Proposal - Attached Dual Occupancy, Wardell

This is the preferred and recommended option as it will enable the planning proposal to progress to the next step in the LEP amendment process which is to enable a review 'in principle' by the NSW Department of Planning and Environment. Taking this action is consistent with Council's adopted planning strategy for Wardell.

2. Council may resolve to defer consideration of the planning proposal.

It is open to Council to request additional information should there be matters that require additional investigation or clarification. This could then be referred back to the Council in a subsequent report or take the form of a Councillor briefing.

3. Council may resolve to decline to support the planning proposal and take no further action.

This option is not recommended at this stage of the process as the consideration of a mechanism for permitting attached dual occupancy development, within the R2 zoned, non-flood prone areas of Wardell is an adopted strategy of the Wardell Strategic Plan 2035.

RECOMMENDATIONS

1. That Council endorses the Wardell Attached Dual Occupancy Planning Proposal (BSCPP 18/003 – Attached Dual Occupancy Wardell), as contained in Attachment 2 to this report.
2. That Council submit this planning proposal to the NSW Department of Planning and Environment for Gateway determination.
3. That the Department of Planning and Environment be advised that Council is seeking to exercise its delegated plan making functions for this LEP amendment.
4. 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.
5. That the planning proposal be reported to the Council for further consideration following the completion of the community consultation phase.

Attachment(s)

1. Wardell Strategic Plan 2035
2. BSCPP 18/003 - Draft Planning Proposal - Attached Dual Occupancy Wardell

9.3	<u>Planning Proposal - Attached Dual Occupancy, Wardell</u>
	<p data-bbox="427 232 727 262">131218/1 RESOLVED</p> <p data-bbox="427 286 858 315">(Cr Sharon Cadwallader/Cr Ben Smith)</p> <ol data-bbox="427 340 1249 797" style="list-style-type: none"><li data-bbox="427 340 1249 423">1. That Council endorses the Wardell Attached Dual Occupancy Planning Proposal (BSCPP 18/003 – Attached Dual Occupancy Wardell), as contained in Attachment 2 to this report.<li data-bbox="427 434 1249 495">2. That Council submit this planning proposal to the NSW Department of Planning and Environment for Gateway determination.<li data-bbox="427 506 1249 589">3. That the Department of Planning and Environment be advised that Council is seeking to exercise its delegated plan making functions for this LEP amendment.<li data-bbox="427 600 1249 712">4. 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.<li data-bbox="427 723 1249 797">5. That the planning proposal be reported to the Council for further consideration following the completion of the community consultation phase. <p data-bbox="427 808 1249 891">FOR VOTE - Cr David Wright, Cr Phillip Meehan, Cr Sharon Parry, Cr Eoin Johnston, Cr Stephen McCarthy, Cr Nathan Willis, Cr Keith Williams, Cr Sharon Cadwallader and Cr Ben Smith</p> <p data-bbox="427 898 799 918">AGAINST VOTE - Cr Jeff Johnson</p>

Appendix Three – Section 9.1 Direction Checklist

Section 9.1 Direction Checklist Planning Proposal – Attached Dual Occupancy, Wardell	
Direction No.	Compliance of Planning Proposal
1. Employment and Resources	
1.1 Business and Industrial Zones	Does not apply to planning proposal.
1.2 Rural Zones	Does not apply to planning proposal.
1.3 Mining, Petroleum Production and Extractive Industries	Does not apply to planning proposal.
1.4 Oyster Aquaculture	Does not apply to planning proposal.
1.5 Rural lands	Consistent. The planning proposal does not affect land within an existing rural or environmental protection zone.
2. Environment and Heritage	
2.1 Environment Protection Zones	Justifiably Inconsistent. The planning proposal does not involve the development of land identified as being of environmental significance. However some lots impacted by this planning proposal are located within areas identified as Koala habitat areas under the adopted Ballina Shire Koala Management Strategy 2016. The delegate for the Secretary Department of Planning has determined that this inconsistency is justifiable in accordance with the terms of the direction.
2.2 Coastal Protection	Consistent. The subject lots are located within the coastal zone. The proposal is considered to be consistent with the objects of the <i>Coastal Management Act 2016</i> , NSW Coastal Management Manual, NSW coastal Design Guidelines and the SEPP (Coastal Management) 2018. The planning proposal is considered to have minor significance.
2.3 Heritage Conservation	Justifiably inconsistent. The following sites within Wardell are of local heritage significance (Ballina LEP 2012), are located within the R2 zone and are impacted by this planning proposal: <ul style="list-style-type: none"> • 186 – Wardell Post Office • 187 – Police Station • 191 – Catholic Precinct: Church, Convent/ Mercy Centre, Presbytery, St Patrick's School Clause 5.10 of Ballina LEP 2012 contains provisions which require consideration of heritage matters at the DA stage. The delegate for the Secretary Department of Planning has determined that this inconsistency is justifiable in accordance with the terms of the direction.
2.4 Recreation Vehicle Areas	Consistent. The planning proposal does not involve the development of land for the purpose of a recreation vehicle area.
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	Does not apply to planning proposal.

Section 9.1 Direction Checklist Planning Proposal – Attached Dual Occupancy, Wardell	
Direction No.	Compliance of Planning Proposal
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	Consistent. The planning proposal that proposes to permit attached dual occupancy development in Wardell on non-flood prone land is considered to be consistent with this direction. The proposal will increase housing choice and make more efficient use of existing infrastructure and services whilst minimising the impacts on the environment and resource lands.
3.2 Caravan Parks and Manufactured Home Estates	Consistent. The planning proposal will not result in any reduction in the existing availability of land for caravan parks of manufactured home estates.
3.3 Home Occupation	Consistent. The proposal will not affect any existing permissibility or exemptions for home occupations.
3.4 Integrating Land Use and Transport	Consistent. The planning proposal which proposes to permit attached dual occupancies within the R2 zone is considered to be of minor significance.
3.5 Development near Licensed Aerodromes	Does not apply to planning proposal. The land is not located within the Obstacle Limitation Surface (OLS) and the Australian Noise Exposure Forecast (ANEF) for the Ballina Byron Gateway Airport.
3.6 Shooting Ranges	Does not apply to this planning proposal.
4. Hazard and Risk	
4.1 Acid Sulfate Soils	Justifiably inconsistent. The subject land is identified as being affected by acid sulfate soils (Class 4) on the Ballina LEP 2012 Acid Sulfate Soil Map. Clause 7.1 of Ballina LEP 2012 contains provisions which require the consideration of Acid Sulfate Soil impact at the DA stage. The delegate for the Secretary Department of Planning has determined that this inconsistency is justifiable in accordance with the terms of the direction.
4.2 Mine subsidence and Unstable Land	Does not apply to this planning proposal. The subject lands are not identified as being unstable land.
4.3 Flood Prone Land	Consistent. The planning proposal does not apply to flood prone land.
4.4 Planning for Bushfire Protection	Inconsistent. The majority of lots impacted by this planning proposal are located upon bushfire prone land. Consultation will be undertaken with the NSW Rural Fire Service post Gateway determination. The agreement of the Secretary Department of Planning is required in respect to this inconsistency prior to the proposed planning amendment being finalised.
5. Regional Planning	
5.1 Implementation of Regional Strategies (Revoked 17 October 2017)	Revoked.

Section 9.1 Direction Checklist	
Planning Proposal – Attached Dual Occupancy, Wardell	
Direction No.	Compliance of Planning Proposal
5.2 Sydney Drinking Water Catchments	Does not apply to planning proposal.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Does not apply to planning proposal. The subject lots have not been mapped as State Significant Farmland, Regionally Significant Farmland or Significant non-contiguous Farmland.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Does not apply to this planning proposal.
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Revoked 18 June 2010)	Revoked.
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008)	Revoked.
5.7 Central Coast (Revoked 10 July 2008)	Revoked.
5.8 Second Sydney Airport: Badgerys Creek	Does not apply to planning proposal.
5.9 North West Rail Link Corridor Strategy	Does not apply to planning proposal.
5.10 Implementation of Regional Plans	Consistent. The planning proposal is considered to be consistent with the North Coast Regional Plan 2036 as the subject land is located within a designated Urban Growth Area. The planning proposal is considered to achieve the overall intent of the regional strategy and supports the achievement of its vision, land use strategy, policies, outcomes and actions.
6. Local Plan Making	
6.1 Approval and Referral Requirements	Consistent. The planning proposal does not introduce any new concurrence or consultation provisions or any additional designated development types.
6.2 Reserving Land for Public Purposes	Consistent. The planning proposal does not create, alter or reduce existing zonings or reservations of land reserved for public purposes.
6.3 Site Specific Provisions	Consistent. The planning proposal is consistent with this Direction as it seeks to allow a land use that is compatible with the residential development of the site.
7. Metropolitan Planning	
7.1 Implementation of A Plan for Growing Sydney	Does not apply to planning proposal.
7.2 Implementation of greater Macarthur Land Release Investigation	Does not apply to planning proposal.
7.3 Parramatta Road Corridor Urban Transformation Strategy	Does not apply to planning proposal.
7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	Does not apply to planning proposal.
7.5 Implementation of Greater Parramatta Priority growth Area Interim Land Use and Infrastructure Implementation Plan	Does not apply to planning proposal.
7.6 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Does not apply to planning proposal.
7.7 Implementation of Glenfield to Macarthur Urban Renewal Corridor	Does not apply to planning proposal.

Section 9.1 Direction Checklist Planning Proposal – Attached Dual Occupancy, Wardell	
Direction No.	Compliance of Planning Proposal
7.8 <i>There is no information relating to 7.8</i>	<i>There is no information relating to 7.8</i>
7.9 Implementation of Bayside West Precincts 2036 Plan	Does not apply to planning proposal.
7.10 Implementation of Planning Principles for the Cooks Cove Precinct	Does not apply to planning proposal.

Appendix Four – Gateway Determination



PP_2018_BALLI_006_00(IRF18/7200)

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

Dear Mr Hickey

Planning proposal PP_2018_BALLI_006_00 to amend Ballina Local Environmental Plan 2012 to permit attached dual occupancy development on certain R2 zoned lots at Wardell

I am writing in response to Council's request for a Gateway determination under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the planning proposal to permit attached dual occupancy development on certain R2 zoned lots at Wardell.

As delegate of the Minister for Planning, I have now determined that the planning proposal should proceed subject to the conditions in the enclosed Gateway determination.

I have also agreed, as delegate of the Secretary, the planning proposal's inconsistencies with section 9.1 Directions 2.1 Environment Protection Zones, 2.3 Heritage Conservation and 4.1 Acid Sulfate Soils are justified in accordance with the terms of the Direction. No further approval is required in relation to these Directions.

Council may still need to obtain the agreement of the Secretary to comply with the requirements of relevant section 9.1 Direction 4.4 Planning for Bushfire Protection. Council should ensure this occurs prior to the plan being made.

It is noted that Council has requested to be authorised as the local plan-making authority. I have considered the nature of Council's planning proposal and have conditioned the Gateway for Council to be authorised as the local plan-making authority.

The amending local environmental plan (LEP) is to be finalised within six months of the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office six weeks prior to the projected publication date. A copy of the request should be forwarded to the Department of Planning and Environment.

The state government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing

clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 3.32(2)(d) of the Act if the time frames outlined in this determination are not met.

Should you have any further enquiries about this matter, I have arranged for Ms Alison Parr to assist you. Ms Parr can be contacted on 6641 6612.

Yours sincerely



6-3-2019

Jeremy Gray
Director Regions, Northern
Planning Services

Encl: Gateway determination
Authorised plan-making reporting template



Gateway Determination

Planning proposal (Department Ref: PP_2018_BALLI_006_00): to amend Ballina Local Environmental Plan 2012 to permit attached dual occupancy development on certain R2 zoned lots at Wardell

I, the Director Regions, Northern at the Department of Planning and Environment, as delegate of the Minister for Planning, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Ballina Local Environmental Plan (LEP) 2012 to permit attached dual occupancy development on certain R2 zoned lots at Wardell should proceed subject to the following conditions:

1. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
 - (a) the planning proposal is classified as low impact as described in *A guide to preparing local environmental plans* (Department of Planning and Environment 2016) and must be made publicly available for a minimum of **14 days**; and
 - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment 2016).
2. Consultation is required with the NSW Rural Fire Service under section 3.34(2)(d) of the Act. NSW Rural Fire Service is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 21 days to comment on the proposal.
3. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
4. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:
 - a. the planning proposal authority has satisfied all the conditions of the Gateway determination;
 - b. the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
 - c. there are no outstanding written objections from public authorities.

5. The time frame for completing the LEP is to be **6 months** following the date of the Gateway determination.

Dated 6 day of March 2019.



Jeremy Gray
Director Regions, Northern
Planning Services
Department of Planning and
Environment

Delegate of the Minister for Planning