

Correspondence received from Department of Planning, Industry and Environment



PP_2018_BALLI_003_00 / IRF20/5229

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

Via email: council@ballina.nsw.gov.au
klaus.kerzinger@ballina.nsw.gov.au

Dear Mr Hickey

Planning proposal PP_2018_BALLI_003_00 – Alteration of Gateway Determination

I refer to your correspondence of 5 November 2020 in relation to an extension of time and revisions to planning proposal PP_2018_BALLI_003_00 that seeks to rezone part of Lot 1 DP 781542 and part of Lot 3 DP 525783, 23 Compton Drive, East Ballina.

I have determined as the delegate of the Minister, in accordance with section 3.34(7) of the *Environmental Planning and Assessment Act 1979*, to alter the Gateway determination dated 6 June 2018 for PP_2018_BALLI_003_00 (since altered) and that no further community consultation is required under Schedule 1, clause 4 of the Act as the changes are considered to be minor in nature. The Alteration of Gateway determination is enclosed. Due to the length of time since the issue of the original Gateway determination in 2018, it should be noted that the Department is unlikely to support any further extensions of time to complete the proposal.

I note in your correspondence of 5 November 2020 Council has requested the Department to obtain an opinion from Parliamentary Counsel. To assist this process, Council is required to upload relevant maps and a map cover sheet associated with the proposal to the portal for technical checking. It would be appreciated if Council could notify the Regional Office once this has been completed.

I also refer to your request for the Secretary's agreement that the inconsistency of the above proposal with section 9.1 Direction 4.4 Planning for Bushfire Protection is justified. I have considered this matter, and as a delegate of the Secretary, I have agreed that the inconsistency is justified in accordance with the terms of the Direction.

If you have any questions in relation to this matter, I have arranged for Ms Helen Willis to assist you. Ms Willis can be contacted on 5778 1489.

Yours sincerely

19/11/2020

Jeremy Gray
Director, Northern Region
Local and Regional Planning

Encl: Alteration of Gateway Determination

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Alteration of Gateway Determination

Planning proposal (Department Ref: PP_2018_BALLI_003_00)

I, Director, Northern Region, at the Department of Planning, Industry and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(7) of the *Environmental Planning and Assessment Act 1979* to alter the Gateway determination dated 6 June 2018 (since altered) for the proposed amendment to the Ballina Local Environmental Plan 2012 as follows:

1. Change the description of the planning proposal

From

"Planning proposal (Department Ref: PP_2018_BALLI_003_00): to rezone part of Lot 1 DP 781542 and part of Lot 3 DP 525783, 23 Compton Drive, East Ballina from 7(d) Environmental Protection (Scenic/Escarpment) to R2 Low Density Residential, apply a 600m² minimum lot size and 8.5m maximum building height to the land being rezoned R2 and make consequent changes to the Land Application Map and Acid Sulfate Soils Map in the Ballina LEP 2012.

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 rezone part of Lot 1 DP 781542 and part of Lot 3 DP 525783, 23 Compton Drive, East Ballina from 7(d) Environmental Protection (Scenic/Escarpment) to R2 Low Density Residential, apply a 600m² minimum lot size and 8.5m maximum building height to the land being rezoned R2 and make consequent changes to the Land Application Map and Acid Sulfate Soils Map in the Ballina LEP 2012 should proceed subject to the following conditions:"

To

"Planning proposal (Department Ref: PP_2018_BALLI_003_00): to rezone part of Lot 1 DP 781542 and part of Lot 3 DP 525783, 23 Compton Drive, East Ballina from 7(d) Environmental Protection (Scenic/Escarpment) to R2 Low Density Residential, apply a 600m² minimum lot size to part of Lot 3 DP 525783 and 6m maximum building height to the land being rezoned R2 and make consequent changes to the Land Application Map and Acid Sulfate Soils Map in the Ballina LEP 2012.

I, the Director, Northern Region at the Department of Planning, Industry and Environment, as delegate of the Minister for Planning and Public Spaces, have

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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 rezone part of Lot 1 DP 781542 and part of Lot 3 DP 525783, 23 Compton Drive, East Ballina from 7(d) Environmental Protection (Scenic/Escarpment) to R2 Low Density Residential, apply a 600m² minimum lot size to part of Lot 3 DP 525783 and 6m maximum building height to the land being rezoned R2 and make consequent changes to the Land Application Map and Acid Sulfate Soils Map should proceed subject to the following conditions:"

2. Delete condition 5:

"5. The time frame for completing the LEP is by 6 December 2020."

and replace with:

"5. The time frame for completing the LEP is by 6 April 2021."

Dated 19 day of November 2020.



Jeremy Gray
Director, Northern Region
Local and Regional Planning
Department of Planning, Industry and
Environment

Delegate of the Minister for Planning
and Public Spaces

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4.8 23 Compton Drive, East Ballina

4.8.1 Application

Applies to:	
Location/s:	23 Compton Drive, East Ballina (as shown on the Special Area Controls Map – Residential - Sheet _SR_006_020).
Development Type/s:	<i>Residential accommodation.</i>

4.8.2 Planning Objectives

- a. To ensure that site hazards are considered as part of the development application process;
- b. To ensure compliance with Planning for Bushfire Protection (2019);
- c. To delineate the extent of the site subject to a requirement for a Vegetation Management Plan (VMP);
- d. To delineate the location of the building envelope for a dwelling house;
- e. To ensure that residential development on the site does not significantly impact the environmental qualities associated with the site and does not adversely compromise the visual character of this escarpment location.

4.8.3 Development Controls

A. Element - Geotechnical and Engineering Assessment

- i. Applications for development on the site must be accompanied by a geotechnical assessment. The assessment is to be prepared by a qualified geotechnical engineer.
- ii. Applications for development must demonstrate that the findings of the assessment have been considered in relation to the structural design of the proposed development.



Note:

Previously prepared geotechnical assessments for the site and submitted as part of the site rezoning process are available for viewing from council. Reference CM19/77074 should be quoted when seeking access to these documents.

B. Element - Bushfire Asset Protection Zone

- i. A 4 metre wide bushfire Asset Protection Zone (APZ) is required in the location indicated in Appendix E. The APZ shall be capable of being managed as an inner protection area, as per the requirements detailed in Planning for Bushfire Protection (2019).
- ii. Future residential accommodation on the site shall be constructed to a minimum Bushfire Attack Level (BAL) 29 as per the requirements detailed in Planning for Bushfire Protection (2019).



Note:

Future development assessment is subject to assumed consultation under S4.14 of the Environmental Planning and Assessment Act 1979. It shall be supported with certification from a suitable qualified consultant that the development proposed complies with the requirement listed in Element B and Planning for Bushfire Protection 2019.

C. Element – Building Envelope

- i. The area within Lot 3 DP 525783 (Lot 3) able to be built upon is restricted to that area indicated as the building envelope area in Appendix E.
- ii. No part of Lot 1 DP 781542 is incorporated within the building envelope area.

D. Element – Ecological Considerations

- i. The compensatory planting ratio required for the site is a minimum of 10:1. This ratio has been set having regard to the EEC vegetation required to be removed to enable the APZ, referenced in Element B, to be provided.
- ii. Development applications for residential accommodation on the site shall be accompanied by an ecological assessment report prepared by an appropriately qualified and experienced professional. The report shall contain details of the type and quantity of vegetation impacted by the development as well the area occupied by such vegetation. The calculation of area is also to incorporate tree canopy impacts as a consequence of the APZ requirements contained in Element B.
- iii. Tests of Significance under s7.3 of the Biodiversity Conservation Act 2016 are to be prepared, and incorporated within the ecological assessment report, for all impacted EECs and threatened species.

- iv. A Vegetation Management Plan (VMP) is required to be submitted with the development application. The VMP is to be prepared in respect to those areas required as offsets for EEC vegetation impacted by the development.
- v. The required compensatory planting area to offset the impact on EEC vegetation shall include that part of the site indicated within Appendix E as the area subject to the Vegetation Management Plan. If this area is insufficient then additional areas in close proximity to the site shall be incorporated as determined by council.

E. Element – Additional Development Controls

- i. Building Height is limited to 6 metres as shown on the Ballina LEP 2012 Building Height Map. One residential storey above excavated car parking and storage is permitted within the building envelope area.
- ii. The building line setback to Compton Drive is 0 metres.
- iii. Waste management and demolition requirements are specified in Ballina Development Control Plan 2012 – Chapter 2 – Section 3.7 Waste Management. The following additional requirements also apply:
 - The footpath adjacent to Lot 3 is to be restored to council's satisfaction following demolition of building works.
 - Restoration to include a 2.5% cross fall, topsoil and turfing for pedestrian accessible sections of the footpath.
- iv. Remediation of contaminated land on Lot 3 is to be carried out to a standard for the land to be used for residential development. Remediation is to be carried out in accordance with applicable environmental standards as well as Council's Policy for the Management of Contaminated Land and Asbestos Management Policy.



Note:

1. Lot 3 is contaminated land listed in council's Contaminated Land Register. Asbestos (chrysotile) is present on Lot 3 and is understood to be associated with the existing building on this lot.
2. Restrictions as to user under the provisions of s88B of the Conveyancing Act 1919 have been registered on the title of Lot 3 DP 525783. The restrictions relate to the following matters:
 - Area subject to Vegetation Management Plan;
 - Area designated as an Asset Protection Zone;
 - Area designated as a Building Envelope; and
 - Single residential storey building requirement above car parking.

Appendix E

