



Planning Proposal BSCPP 13/011

January 2014

Ballina Heights Estate, Stage 7a

Lots 330 – 359 DP 1189179

Nos. 4-14 O'Rourke Street, Nos. 1-21 Cullen Court &
Nos. 3-5 Walsh Place, Cumbalum

14/4879 Final

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Planning Proposal – January 2014
Ballina Heights Estate, Stage 7a

INTRODUCTION

Summary of Planning Proposal

This planning proposal relates to 30 recently registered lots comprising Stage 7a of the Ballina Heights Estate. These lots are described as Lots 330 – 359 DP 1189179 and are located off O'Rourke Street, Cullen Court and Walsh Place, Cumbalum.

The location of the subject land is shown in Figure 1 below.

As detailed in Figure 1, the subject land is currently zoned part B2 Local Centre, part R2 Low Density Residential and part R3 Medium Density Residential under the *Ballina Local Environmental Plan 2012* (BLEP 2012). The planning proposal seeks to amend the BLEP 2012 to apply the R2 Low Density Residential zone to the entirety of the site with the exception of two lots which are proposed to be zoned R3 Medium Density Residential. The proposed amended zonings for the subject land reflect the landowner's preferred development outcomes for the site and are in accordance with the subdivision approval granted in Development Application 2003/413 (DA 2003/413). The proposal will result in amendments to the Land Zoning Map to reflect the above changes.

As a result of the above rezoning, the planning proposal will also necessitate revision to the Floor Space Ratio Map, the Height of Buildings Map and the Lot Size Map. This is due to the removal of the B2 Local Centre zone from the subject land and the application of consistent development controls with respect to the R2 and R3 zones.

Although the subject lots were approved by Council in DA 2003/413 on 3 June 2010 (via a modification under section 96 of the *Environmental Planning and Assessment Act 1979*), they have only recently been registered (in DP 1189179 on 8 November 2013). The need for the planning proposal has arisen due to a request to amend the BLEP 2012 to reflect the intended development outcomes associated with a subdivision approval for the land. The approved lots were not assessed in relation to zoning as part of the preparation of the BLEP 2012 as they were not created at the time the plan was prepared.

The proposed amendment to the BLEP 2012 was considered by Council at its Ordinary Meeting on 28 November 2013 where it was resolved to proceed with the proposal. A copy of the business paper and the Council's resolution is provided in Appendix A.

The Department of Planning and Infrastructure (DP&I) 'planning proposal gateway' has determined under section 56(2) of the *Environmental Planning & Assessment Act 1979* (EP&A Act) that the subject planning proposal may proceed conditionally. Further, the Gateway determination has authorised the Council to exercise delegation to finalise the LEP amendment, should the Council resolve to proceed with the planning proposal following public exhibition. A copy of the Gateway determination, including the authorisation to exercise delegation, is provided in Appendix B.

Planning Context

Ballina Local Environmental Plan 2012

The BLEP 2012 provides for the following residential zones:

- B2 Local Centre – for a range of local retail, business, entertainment and community uses
- R2 Low Density Residential Zone – for low density residential development forms including dwellings and secondary dwellings (and other compatible uses);
- 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).

The subject land is currently partly zoned B2 Local Centre, R2 Low Density Residential and R3 Medium Density Residential under the terms of the BLEP 2012 as detailed in Figure 1 below.

The subject land comprises Stage 7a of the Ballina Heights Estate and is nominated in the associated development consent (DA 2003/413 as amended) to include the following:

- 28 x low density residential lots; and
- 2 x medium density (dual occupancy) residential lots.

A copy of the approved proposed lot layout for Stage 7a in DA 2003/413 is provided in Figure 2 below which identifies the 30 residential lots. The two dual occupancy lots are identified on this plan as “duplex sites” and are marked with a D. It should be noted that the registered lot numbers differ from those shown on the lot layout in Figure 2.

Currently the site also has varying floor space ratio, height of buildings and lot size provisions based on the existing land use zones. This planning proposal seeks to remove the floor space ratio provisions for the site and adjust the height of buildings and lot size provisions to reflect the standards applied to the adjoining R2 Low Density Residential and R3 Medium Density Residential areas. These standards consist of a maximum building height of 8.5m and a minimum lot size of 600m² (for R2 lots) and 800m² (for R3 lots).

Ballina Shire Growth Management Strategy 2012

The Ballina Shire Growth Management Strategy 2012 provides the strategic planning context for urban development in Ballina Shire. The development of the land, to which the planning proposal relates, is consistent with Council's Growth Management Strategy.

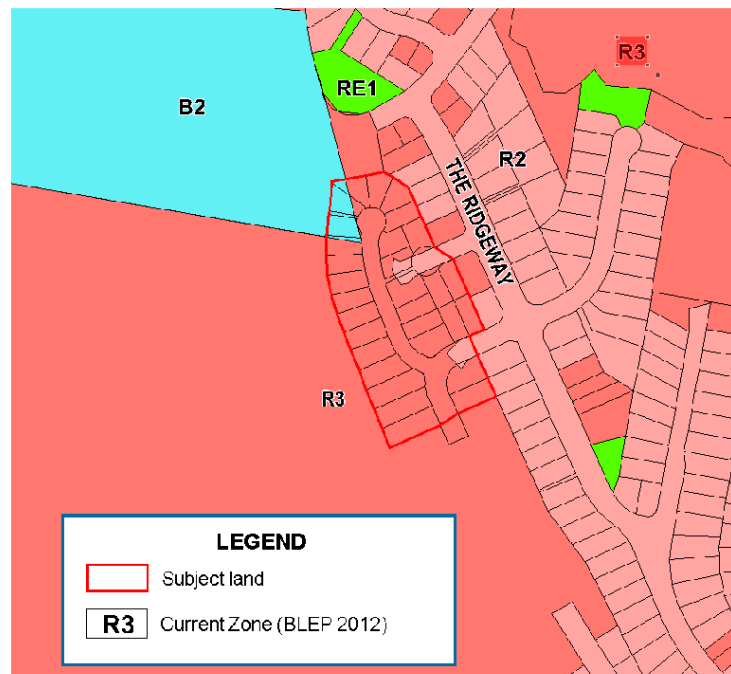
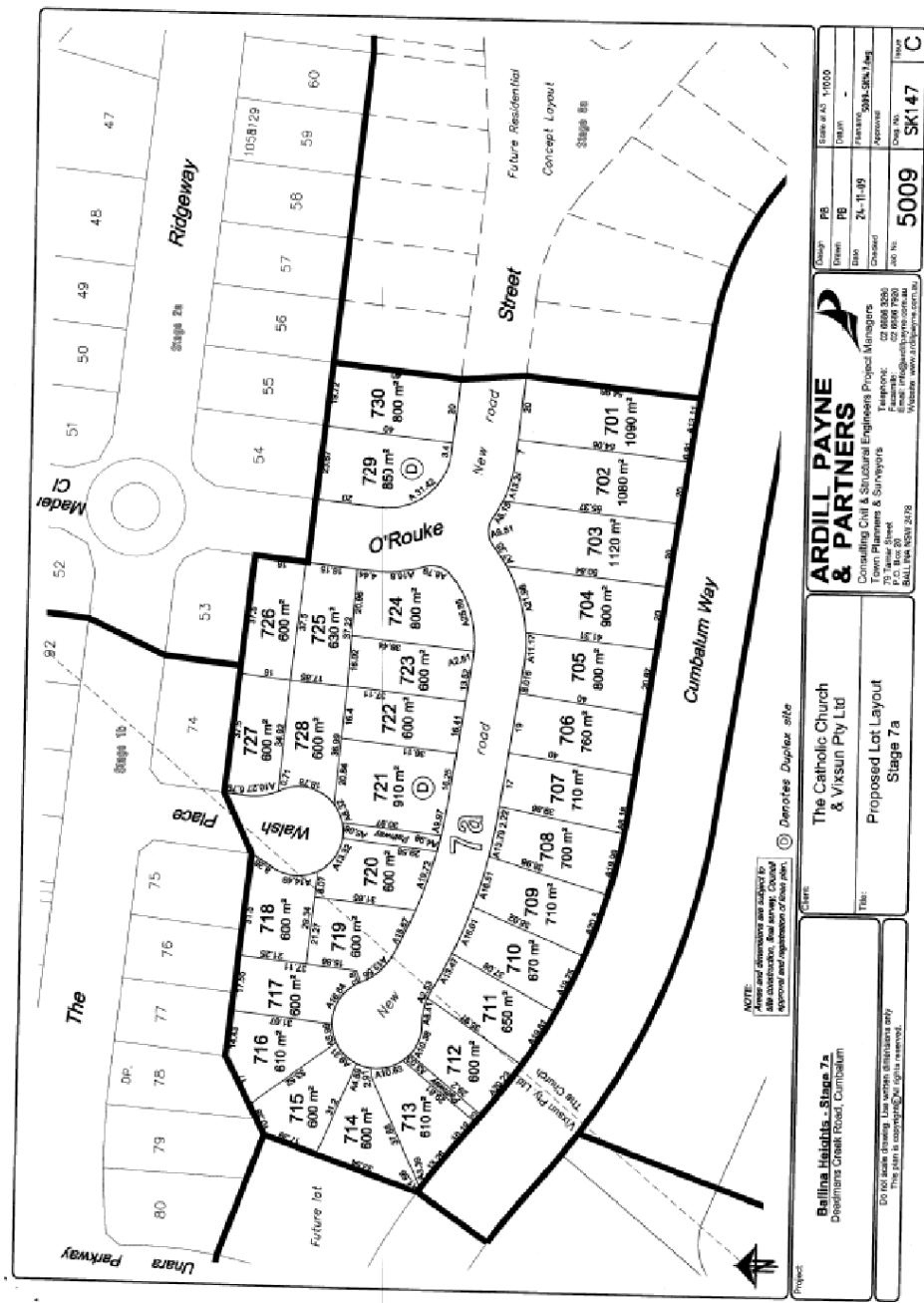


Figure 1. Land to which the planning proposal relates



PART 1 – OBJECTIVES & INTENDED OUTCOMES

The objective of this planning proposal is to acknowledge the residential development outcomes intended for the land by identifying allotments created for the purpose of low density development by way of zoning. The proposal seeks to apply a land use zoning arrangement that is consistent with the development approval issued for subdivision of the land.

PART 2 – EXPLANATION OF THE PROPOSAL

This planning proposal relates to 30 recently registered residential allotments of land located in Cumbalum and identified as Lots 330 – 359 DP 1189179. The subject land is currently in the ownership of the developers of the Ballina Heights Estate, being the Roman Catholic Church and Vixsun Pty Ltd.

As detailed in Figure 1, the subject land is currently zoned part B2 Local Centre, part R2 Low Density Residential and part R3 Medium Density Residential Zone under the terms of the Ballina LEP 2012.

The subject land comprises Stage 7a of the Ballina Heights Estate and is nominated in the associated development consent (DA 2003/413 as amended) to include the following:

- 28 x low density residential lots; and
- 2 x medium density (dual occupancy) residential lots.

The planning proposal seeks to acknowledge the existing approval by the application of residential zonings to the land that match the outcomes envisaged under the subdivision approval.

It is proposed to apply the R2 Low Density Residential zone to the entire area subject to this planning proposal with the exception of the previously identified “duplex lots” which are proposed to be zoned R3 Medium Density Residential. The application of the R2 Low Density Residential zone to the majority of the site will permit only dwellings and secondary dwellings on the land with development consent which is consistent with the landowner's preferred development outcomes for the site and in accordance with the subdivision approval granted in DA 2003/413. The two lots proposed to be zoned R3 Medium Density Residential will allow future development of those lots for dual occupancy development which is also consistent with the landowner's preferred development outcomes for the site and in accordance with the subdivision approval granted in DA 2003/413.

It is also proposed to adjust other development standards applied to the land under the provisions of the BLEP 2012. These result from the removal of the B2 Local Centre zone and seek to ensure the standards are consistent with those of the adjoining established residential area. It is proposed to apply a standard 8.5m maximum building height to the site via the Height of Buildings Map. The lots proposed to be zoned R2 Low Density Residential will have a minimum lot size of 600m² applied while the two lots proposed to be zoned R3 Medium Density Residential will have a minimum lot size of 800m². There will be no mapped applicable floor space ratio provision for the subject site.

PART 3 – JUSTIFICATION

Section A - Need for the Planning Proposal

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

The proposal is not the result of any strategic study or report.

The need for the planning proposal has arisen as a result of the processes associated with the implementation of the Ballina LEP 2012. The subject lots were not created at the time the land was zoned under the LEP. As such, the lots approved in the subdivision under DA 2003/413 were not assessed in relation to zoning at the time the LEP was prepared.

The proposal is consistent with Ballina LEP 2012 and the Ballina Shire Development Control Plan 2012 (including previous iterations of these plans).

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

Yes, the planning proposal is the most appropriate means of securing the intended development outcomes for the land into the future.

Section B - Relationship to the Strategic Planning Framework

3. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The proposal is consistent with the Far North Coast Regional Strategy (FNCRS), which provides the regional framework for the consideration of policy development and the overall vision of the future. The proposal is not in conflict with the outcomes or actions of the strategy.

4. Is the planning proposal consistent with the local Council's Community Strategic Plan, or other local strategic plans?

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

Ballina Local Environmental Plan 2012

Prior to the making of the BLEP 2012, the subject land was zoned 2(b) Residential (Village Area) Zone under the terms of the *Ballina Local Environmental Plan 1987* (BLEP 1987). The land was originally zoned for residential purposes (under the BLEP 1987) in 2000 as part of the Ballina Heights Estate development. Development consent (in DA 2003/413) was granted to subdivide the land under the provisions of the BLEP 1987.

The subject land is currently zoned part B2 Local Centre, part R2 Low Density Residential and part R3 Medium Density Residential under the terms of the Ballina LEP 2012.

In relation to the subject site, the Ballina LEP 2012 provides for the following zones:

- B2 Local Centre – for a range of local retail, business, entertainment and community uses;
- 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 – provides for a broad range of residential development forms including dual occupancies, residential flat buildings, multi dwelling housing and the like (and other compatible uses).

The subdivision of the land was granted consent in DA 2003/413 (as amended) and involved the creation of the following residential allotments:

- 28 x low density residential lots; and
- 2 x medium density (dual occupancy) residential lots.

This planning proposal seeks to acknowledge the above approval by the application of appropriate residential zoning to the land that reflects the approval.

Ballina Shire Growth Management Strategy 2012

The Ballina Shire Growth Management Strategy 2012 provides the strategic planning context for urban development in Ballina Shire. The development of the land, to which the planning proposal relates, is consistent with this strategy.

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

Yes, the proposal is generally consistent with applicable State Environmental Planning Policies (SEPP).

6. Is the planning proposal consistent with the applicable Ministerial Directions (S. 117 directions)?

Yes, the proposal is consistent with the relevant Section 117 Directions. A Section 117 Direction checklist for the planning proposal is contained in Appendix C.

Section C - Environmental, Social and Economic Impact

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

The subject land is part zoned for business purposes (B2 Local Centre zone), part zoned for low density residential development (R2 Low Density Residential zone) and part zoned for the purpose of medium density residential development (R3 Medium Density zone). The planning proposal seeks to clarify the development intentions for the land to achieve an overall low density residential outcome. The development of the land for residential purposes has recently taken place in accordance with development consent granted in DA 2003/413 and as such, the planning proposal is unlikely to have any greater environmental impact than has already been envisaged in relation to the subdivision approval and current zone arrangement.

- 8. Are there any other likely environmental effects as a result of the planning proposals and how are they proposed to be managed?**

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

- 9. How has the planning proposal adequately addressed any social and economic effects?**

As a consequence of its relatively minor nature, no broad positive or negative social or economic impacts are likely to arise as a result of the planning proposal.

Section D - State and Commonwealth interests.

- 10. Is there adequate public infrastructure for the planning proposal?**

The planning proposal does not create the need for any additional public infrastructure.

- 11. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?**

No agency consultation was required by the Gateway determination.

PART 4 – MAPPING

As detailed above, this planning proposal seeks to adjust the zoning of the subject land to remove the B2 Local Centre zone and adjust the areas affected by the R2 Low Density Residential and R3 Medium Density Residential zones to provide an R2 Low Density Residential zoning over the majority of the site. Two lots are proposed to be zoned R3 Medium Density Residential in accordance with the desired land use outcomes of the landowner and the development consent granted for the subdivision of the land.

Based on this, the following maps have been prepared to support this planning proposal and its desired land use and development outcomes.

- Map 1 – Site Identification Map;
- Map 2 – Proposed Amended Land Zoning Map (Sheet LZN_005B);
- Map 3 – Proposed Amended Floor Space Ratio Map (Sheet FSR_005B);
- Map 4 – Proposed Amended Height of Buildings Map (Sheet HOB_005); and
- Map 5 – Proposed Amended Lot Size Map (Sheet LSZ_005B).

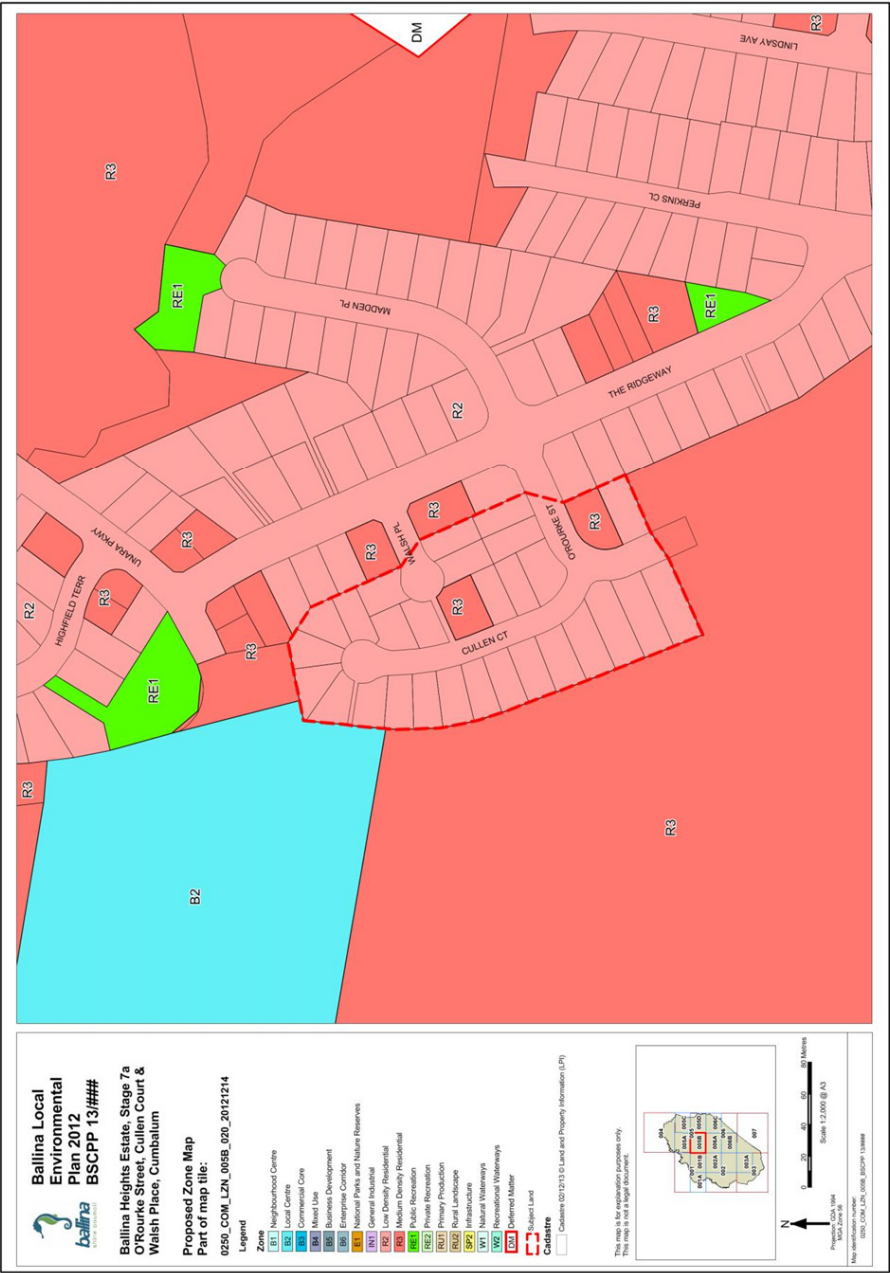
In addition to the above maps, Appendix D contains a full set of standard instrument LEP map tiles showing the proposed amendments.



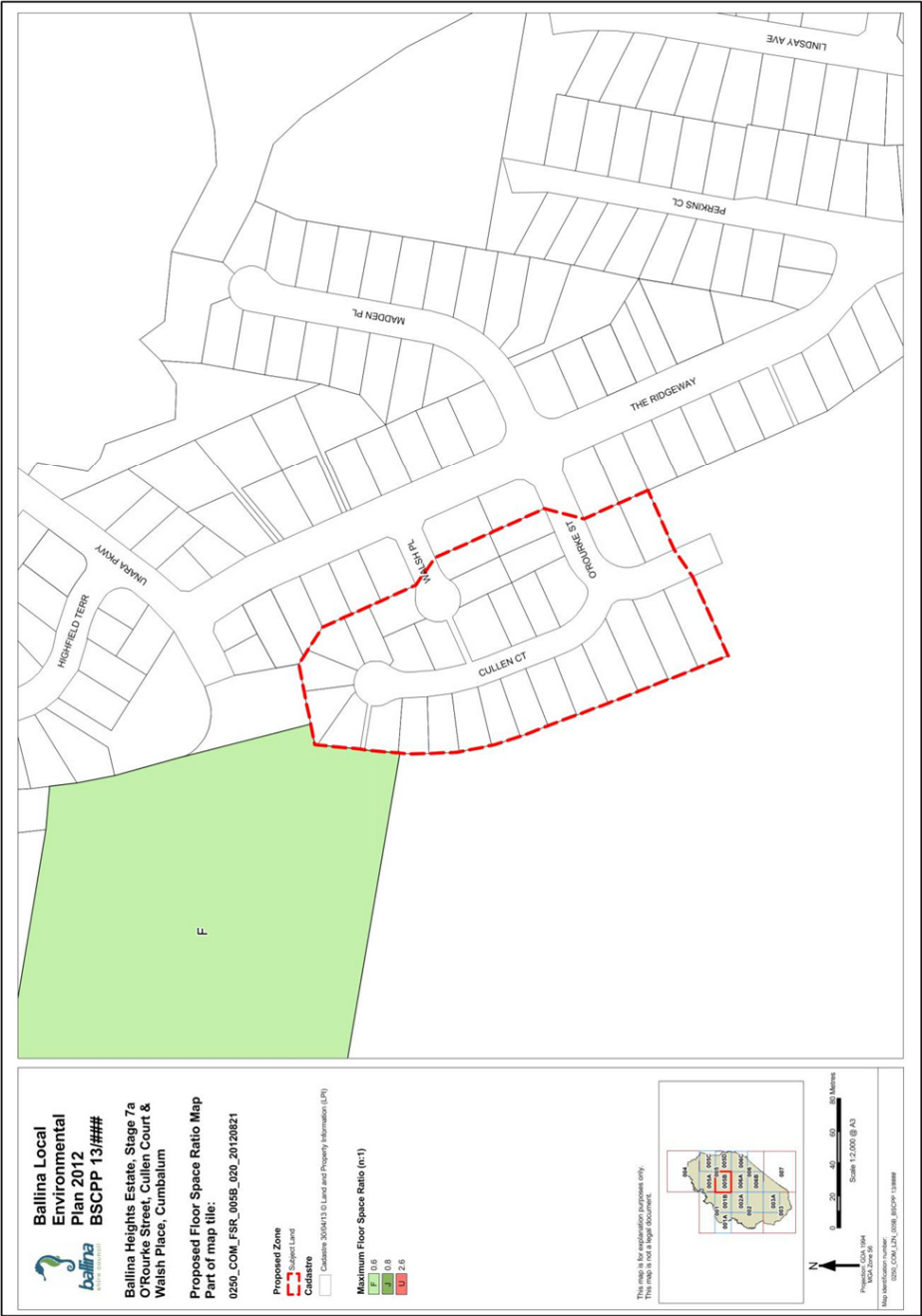
Map 1 – Site Identification Map

Planning Proposal – January 2014
Ballina Height Estate, Stage 7a

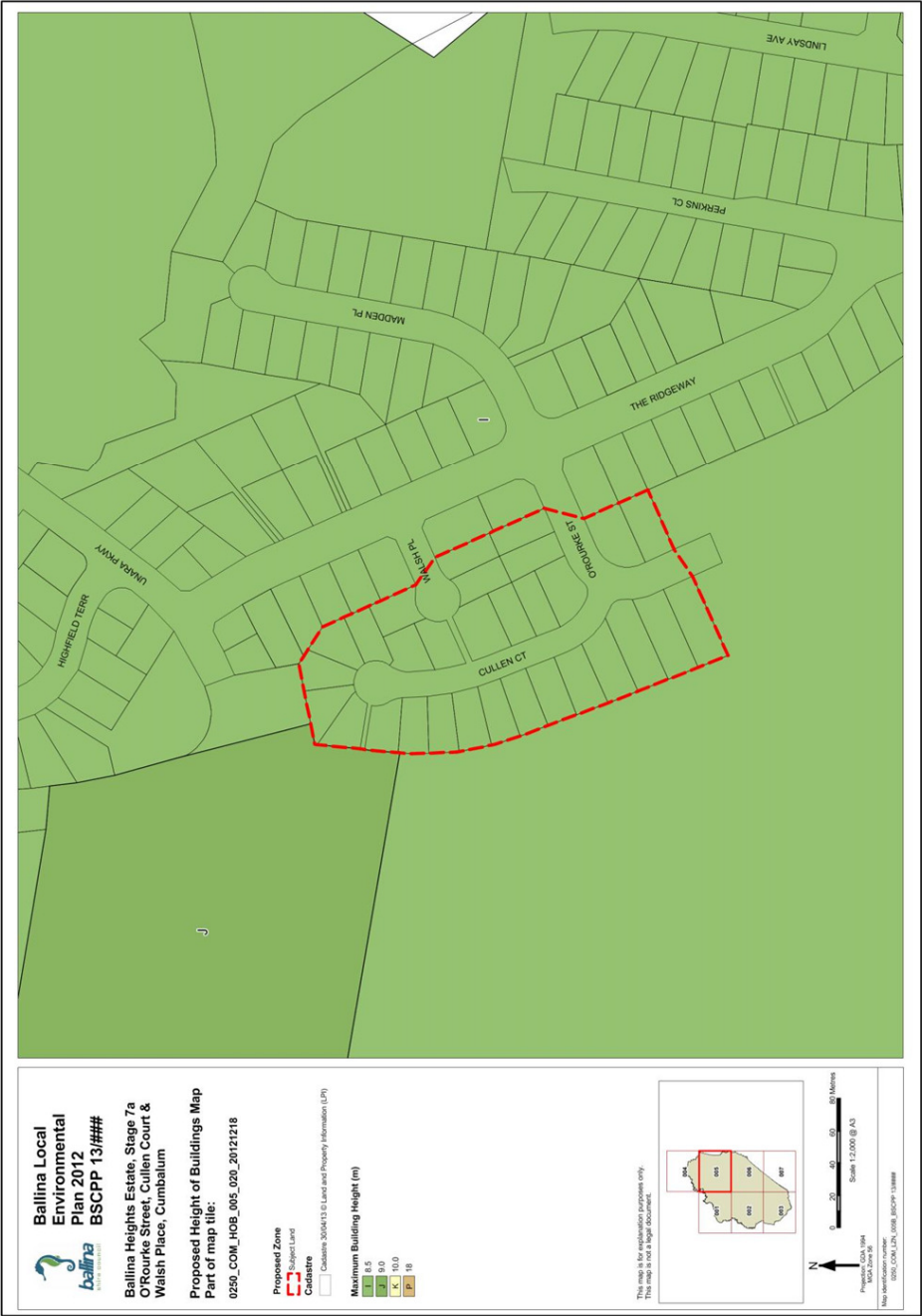
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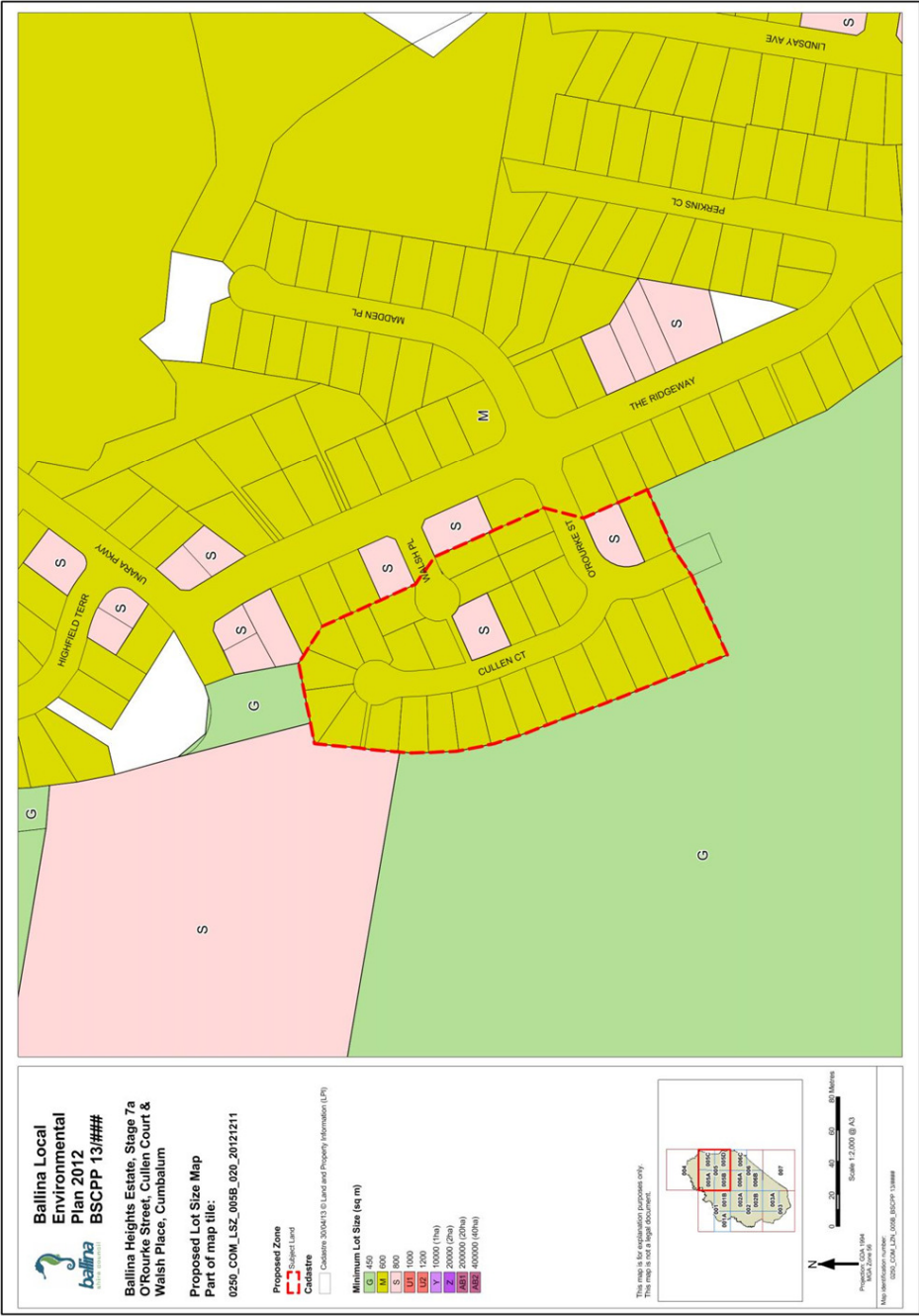
Map 2 – Proposed Amended Land Zoning Map



Map 3 – Proposed Amended Floor Space Ratio Map



Map 4 – Proposed Amended Height of Buildings Map



Map 5 – Proposed Amended Lot Size Map

PART 5 – COMMUNITY CONSULTATION

This planning proposal was placed on public exhibition from 8 January 2014 to 24 January 2014 in accordance with the Gateway determination and the terms of the *Environmental Planning and Assessment Act 1979*. A copy of the Gateway determination is provided in Appendix B.

PART 6 – TIMELINE

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

| Plan Making Step | Estimated Completion (Before) |
|---|-------------------------------|
| Gateway Determination | December 2013 |
| Government Agency Consultation | January 2014 |
| Public Exhibition Period | January 2014 |
| Public Hearing | N/A |
| Submissions Assessment | February 2014 |
| RPA Assessment of Planning Proposal and Exhibition Outcomes | February 2014 |
| Submission of Endorsed LEP to DP&I for Finalisation | N/A (delegated) |
| RPA Decision to Make the LEP Amendment (if delegated) | March 2014 |
| Forwarding of LEP Amendment to DP&I for Notification (if delegated) | March 2014 |

APPENDICES

Appendix A – Council Reports and Resolutions

9.3 LEP Amendment Request - Ballina Heights Estate

9. Strategic and Community Facilities Group Reports

9.3 LEP Amendment Request - Ballina Heights Estate

| | |
|-------------------------|--------------------|
| Delivery Program | Strategic Planning |
|-------------------------|--------------------|

| | |
|------------------|--|
| Objective | To invite the Council to initiate a planning proposal to recognise the intended residential development outcome for an approved subdivision located in the Ballina Heights Estate. |
|------------------|--|

Reason for Urgency

Council has been approached by the owners of the Ballina Heights Estate with respect to concerns over the zoning of a number of residential lots that are due to be sold (i.e. settle) on Friday 29 November 2013. The concerns raised by the developers are that under the Ballina Local Environmental Plan 2012 (BLEP 2012) the lots are now zoned:

- R3 Medium Density Residential Zone – provides for a broad range of residential development forms including dual occupancies, residential flat buildings, multi dwelling housing and the like (and other compatible uses) and
- B2 Business Zone – provides for a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local areas

Under the original consent for this subdivision the land was intended to be developed and sold as low density residential (i.e. now R2 in the BLEP 2012 – this provides for low density residential development forms including dwellings and secondary dwellings (granny-flats) as well as other compatible uses).

The developers have concerns that under the BLEP 2012 zoning the land could be developed in a manner different to that originally intended and approved. This could impact on the overall planning for the Ballina Heights Estate along with causing distress for immediate neighbours, who will be anticipating that any adjoining properties will be developed in accordance with the R2 provisions.

In order to address this concern, the developers are asking that Council initiate a planning proposal at the November 2013 Ordinary meeting, as this will allow the Section 149 Certificates that will be issued with the contract for the sale of the land, to note that Council has supported the commencement of a planning proposal process.

With settlement to occur on Friday 29 November 2013 the matter is considered urgent enough to justify the consideration of this late report at the November meeting.

Ballina Shire Council
28/11/13

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9.3 LEP Amendment Request - Ballina Heights Estate

The matter is considered to be of an urgent nature as the land that is the subject of this report is due to be sold (i.e. settle) on Friday 29 November 2013 and following settlement Council will not be in a position to include details of its intentions in respect to this land on the Section 149 Certificates to be issued with the contracts for sale.

A site plan is included in Attachment 1.

Background

The introduction of the BLEP 2012 involved the identification of existing residential allotments with appropriate zoning under the LEP either through application of an R2 Low Density Residential or R3 Medium Density Residential zone. Typically, existing low density lots received an R2 zone and existing duplex and medium density lots received an R3 zone.

Land within proposed urban release areas for which allotments had not been created, such as unreleased land within the Ballina Heights Estate, were generally (but not always, depending on the circumstances) zoned R3 Medium Density Residential under the new plan. This was to allow flexibility in development outcomes and to allow the development assessment process to determine the appropriate mixture of low and medium density residential forms within these areas.

Under this approach, the potential for development of the various residential forms is mainly determined by the size of the allotments created, with reference to development standards provided in the BLEP 2012 and DCP 2012.

Notwithstanding the above, Council was not able to recognise the intended zoning outcome for all lots that had been approved, but not created, during the process of the introduction of the BLEP 2012. This meant that in some cases, where approved lots were not created at the time the LEP zone provisions were applied, those lots were not subject to analysis regarding the most suitable residential zone type on an individual lot basis. This is because the individual lots did not exist in Council's property information system at the time zonings were applied.

In the case of the subject site, approval was granted as part of DA 2003/413 for the creation of 30 residential allotments comprising 28 low density lots and two medium density (duplex) lots. These development outcomes were not included in the BLEP 2012 for the reasons outlined above. As such, the subject site comprises a mix of zones including B2 Local Centre, R3 Medium Density Residential and R2 Low Density Residential. These zones do not reflect the development outcomes as preferred by the developer of the site and contained in the subdivision approval for Stage 7a of the Ballina Heights Estate granted in DA 2003/413.

9.3 LEP Amendment Request - Ballina Heights Estate

The reason for this report is to seek the Council's support to initiate a planning proposal to rectify these issues for the reasons outlined above. Subject to a favourable determination by the Council, a planning proposal will be drafted and submitted to the Department of Planning and Infrastructure for Gateway determination to adjust the zoning of the subject lots on the attached site plan. The planning proposal will seek to apply the R2 Low Density Residential Zone to all lots with the exception of the identified "duplex" lots which will have the R3 Medium Density Residential Zone applied.

In addition to the above, the planning proposal will also incorporate changes to the Lot Size Map to ensure the minimum lot size provisions are adjusted to match the land use zoning in consistency with Council's current adopted standards. Because the subject land is currently partially affected by the B2 Local Centre Zone, adjustments will also be required to the Floor Space Ratio and Height of Buildings map to ensure these controls also reflect Council's current adopted development standards for residential zones.

Should the Council resolve to support the initiation of a planning proposal to address the above issues; staff will prepare a planning proposal for submission to the Department of Planning and Infrastructure for Gateway determination. Following the receipt of an affirmative Gateway determination, the relevant community consultation and public exhibition process will be undertaken with the matter reported to the Council for endorsement following the conclusion of the consultation process and prior to final determination of the proposal.

Key Issues

- Residential development potential.
- Consistency with strategic planning intent and approved subdivision.

Information

The purpose of this report is to seek the Council's support in the initiation of a planning proposal to amend the BLEP 2012 as it relates to the lots identified on the attached site plan. These lots are formally identified as Lots 330-359 in DP 1189176. The land is currently part owned by the Roman Catholic Church and part owned by Vixsun Pty Ltd, being the developers of the Ballina Heights Estate. As noted earlier in this report, the sale of some of these identified lots is imminent and an urgent resolution to the identified zoning discrepancies is sought.

The subject land is currently partly zoned R3 Medium Density Residential, R2 Low Density Residential and B2 Local Centre under the terms of the BLEP 2012.

The land is generally identified for residential development in the Ballina Heights Structure Plan as adopted by Council in Chapter 3 of the DCP 2012. The land comprises Stage 7a of the Ballina Heights Estate and includes 30 residential allotments as approved by Council in DA 2003/413 on 3 June 2010. The intended land uses for the approved lots includes 28 low density residential allotments (generally intended for single dwellings and possible secondary dwellings (granny flats)) and two "duplex" lots (intended for medium density dual occupancy residential development).

9.3 LEP Amendment Request - Ballina Heights Estate

This report recommends that the Council endorse the preparation of a planning proposal for referral to the NSW Government for Gateway determination. The planning proposal would seek to zone the subject land to reflect the development outcomes as detailed above.

Sustainability Considerations

- **Environment**
The rezoning of the land as recommended in this report is, under the circumstances, a minor matter and as such it is not likely to have any significant implications from an environmental, social or economic perspective. The rezoning is consistent with the existing subdivision approval for the land.
- **Social**
As above.
- **Economic**
As above.

Legal / Resource / Financial Implications

The approach recommended in this report is consistent with Council's legal responsibilities as a local planning authority. The matters arising from this report can be attended to within existing resources.

Consultation

It is envisaged that following referral to the Department of Planning and Infrastructure's Gateway panel, the planning proposal, if allowed to advance, will be placed on public exhibition in accordance with the Gateway determination. The period and method of community consultation will be stipulated by the Gateway.

Options

1. That Council resolve to prepare a planning proposal to advance the proposed rezoning and submit the planning proposal to the NSW Department of Planning and Infrastructure for Gateway determination; or
2. That Council not commence the rezoning process.

Option one is the preferred course of action on the basis that it will address the issues outlined in this report and will progress the matter to the next step in the rezoning process. This step involves a review of the proposal by the NSW Department of Planning and Infrastructure and Gateway determination.

It is recommended that Council proceed to the preparation of a planning proposal for submission to the Department of Planning and Infrastructure for Gateway determination primarily because the rezoning provides for consistency in the BLEP 2012 with previous decisions of Council in relation to the subdivision of the subject land. It should be noted that the Gateway determination may or may not allow the rezoning to proceed.

9.3 LEP Amendment Request - Ballina Heights Estate

The primary disadvantage of the planning proposal not proceeding is the inconsistency that arises between the approved and anticipated use of the subject lots and the zoning under the LEP at present.

Where Council proceeds to submit a planning proposal for Gateway determination, Council has the option of requesting delegation of certain plan making functions from the Department. Under these delegations, Council would perform some of the plan making functions that are otherwise completed by the Department. In the subject case, it is recommended that this delegation be sought in order to expedite the rezoning process.

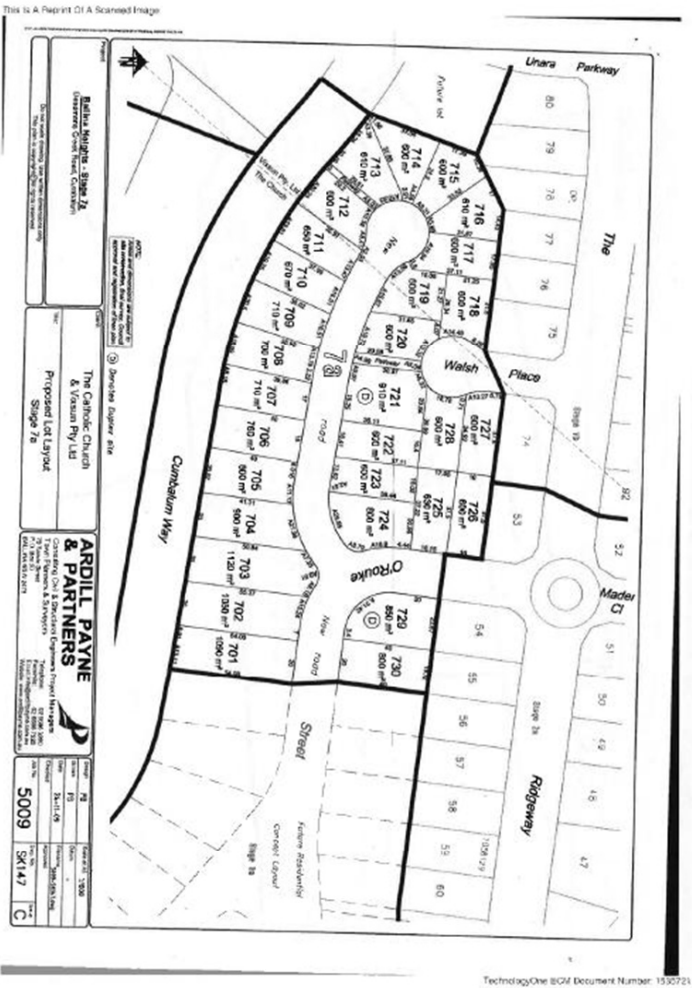
RECOMMENDATIONS

1. That the Council endorses the application of the R2 Low Density Residential zone to 28 lots and the R3 Medium Density Residential zone to two "duplex" lots consistent with the approved subdivision plan for Stage 7a of the Ballina Heights Estate as the basis for a planning proposal (as shown in the site plan contained in attachment 1).
2. That the Council authorises the preparation and submission of a planning proposal relating to the identified residential lots comprising Stage 7a of the Ballina Heights Estate to the NSW Department of Planning and Infrastructure for review and Gateway determination.
3. That upon an affirmative Gateway determination being received from the Department of Planning & Infrastructure, the procedural steps associated with progression of the planning proposal, including public exhibition, be undertaken.
4. That a further report be presented to the Council in relation to this matter following the mandatory community consultation.

Attachment(s)

1. Site Plan

9.3 LEP Amendment Request - Ballina Heights Estate



MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS
40 CHERRY STREET BALLINA,
ON 28/11/13 AT 9.00 AM

Additional Report

281113/10 **RESOLVED**

(Cr Paul Worth/Cr Robyn Hordern)

That Item 9.3 be dealt with as a matter of urgency, as the land that is the subject of this report is due to be sold (i.e. settle) on Friday 29 November 2013 and following settlement Council will not be in a position to include details of its intentions in respect to this land on the Section 149 Certificates to be issued with the contracts for sale.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Cadwallader and Cr Keith Johnson

9.3 LEP Amendment Request - Ballina Heights Estate

281113/11 **RESOLVED**

(Cr Paul Worth/Cr Robyn Hordern)

1. That the Council endorses the application of the R2 Low Density Residential zone to 28 lots and the R3 Medium Density Residential zone to two "duplex" lots consistent with the approved subdivision plan for Stage 7a of the Ballina Heights Estate as the basis for a planning proposal (as shown in the site plan contained in attachment 1).
2. That the Council authorises the preparation and submission of a planning proposal relating to the identified residential lots comprising Stage 7a of the Ballina Heights Estate to the NSW Department of Planning and Infrastructure for review and Gateway determination.
3. That upon an affirmative Gateway determination being received from the Department of Planning & Infrastructure, the procedural steps associated with progression of the planning proposal, including public exhibition, be undertaken.
4. That a further report be presented to the Council in relation to this matter following the mandatory community consultation.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Cadwallader and Cr Keith Johnson

Adjournment

The Mayor declared the meeting adjourned at 1.00pm

The meeting resumed at 1.37pm

Appendix B – Gateway determination



**Planning &
Infrastructure**

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

Our ref: PP_2013_BALLI_011_00 (13/20027)

Your ref: 13/26931

RECORDS
SCANNED

16 DEC 2013

Doc No.....

Batch No.....

Dear Mr Hickey,

Planning proposal to amend Ballina Local Environmental Plan 2012

I am writing in response to Council's letter dated 5 December 2013 requesting a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to amend Ballina LEP 2012 by rezoning 28 lots in stage 7a of Ballina Heights Estate from R3 Medium Density Residential and B2 Local Centre to R2 Low Density Residential, and amending the building height, minimum lot size and floor space ratio development standards accordingly.

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

I have also agreed the planning proposal's inconsistencies with S117 Directions 1.1 Business and Industrial Zones and 3.1 Residential Zones are of minor significance. No further approval is required in relation to these Directions.

The Minister delegated his plan making powers to councils in October 2012. It is noted that Council has now accepted this delegation. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan.

The amending Local Environmental Plan (LEP) is to be finalised within 9 months of the week following 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 6 weeks prior to the projected publication date. A copy of the request should be forwarded to the department for administrative purposes.

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 54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, please contact Paul Garnett of the regional office of the department on 02 6641 6607.

Yours sincerely,

12 December 2013
Stephen Murray

**Regional Director
Northern Region
Planning Operations and Regional Delivery**

Northern Region: 49 Victoria St Grafton NSW 2460 Locked Bag 9022 Grafton NSW 2460
Telephone: (02) 6641 6600 Facsimile: (02) 6641 6601 Website planning.nsw.gov.au



**Planning &
Infrastructure**

Gateway Determination

Planning proposal (Department Ref: PP_2013_BALLI_011_00): to amend Ballina LEP 2012 by rezoning 28 lots in stage 7a of Ballina Heights Estate from R3 Medium Density Residential and B2 Local Centre to R2 Low Density Residential, and amending the building height, minimum lot size and floor space ratio development standards accordingly.

I, the Regional Director, Northern Region at the Department of Planning and Infrastructure as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the Ballina Local Environmental Plan (LEP) 2012 to amend Ballina LEP 2012 by rezoning 28 lots in stage 7a of Ballina Heights Estate from R3 Medium Density Residential and B2 Local Centre to R2 Low Density Residential, and amending the building height, minimum lot size and floor space ratio development standards accordingly, should proceed subject to the following conditions:

1. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal is classified as low impact as described in *A Guide to Preparing LEPs* (Department of Planning & Infrastructure 2013) and must be made publicly available for a minimum of **14 days**; and
 - (b) the relevant planning 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 LEPs* (Department of Planning & Infrastructure 2013).
2. No consultation is required with public authorities under section 56(2)(d) of the EP&A Act.
3. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A 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 timeframe for completing the LEP is to be **9 months** from the week following the date of the Gateway determination.

Dated 12th day of December 2013.


Stephen Murray
 Regional Director
 Northern Region
 Planning Operations and Regional Delivery
 Department of Planning and Infrastructure

**Delegate of the Minister for Planning and
Infrastructure**

Ballina PP_2013_BALLI_011_00 (13/20027)



Planning & Infrastructure

WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Ballina Shire Council is authorised to exercise the functions of the Minister for Planning and Infrastructure under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

| Number | Name |
|----------------------|---|
| PP_2013_BALLI_011_00 | Planning proposal to amend Ballina LEP 2012 by rezoning 28 lots in stage 7a of Ballina Heights Estate from R3 Medium Density Residential and B2 Local Centre to R2 Low Density Residential, and amending the building height, minimum lot size and floor space ratio development standards accordingly. |

In exercising the Minister's functions under section 59, the Council must comply with the Department's "A guide to preparing local environmental plans" and "A guide to preparing planning proposals".

Dated *12 December* 2013


 Stephen Murray
 Regional Director
 Northern Region
 Planning Operations and Regional Delivery
 Department of Planning and Infrastructure

Attachment 5 – Delegated plan making reporting template

Reporting template for delegated LEP amendments

Notes:

- Planning proposal number will be provided by the department following receipt of the planning proposal
- The department will fill in the details of Tables 1 and 3
- RPA is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the RPA should add additional rows to **Table 2** to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the department's publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the department with the RPA's request to have the LEP notified

Table 1 – To be completed by the department

| Stage | Date/Details |
|---|---|
| Planning Proposal Number | PP_2013_BALLI_011_00 |
| Date Sent to Department under s56 | 5 December 2013 |
| Date considered at LEP Review Panel (if applicable) | Proposal considered by Regional Director under delegation |
| Gateway determination date | 12/12/13 |

Table 2 – To be completed by the RPA

| Stage | Date/Details | Notified Reg Off |
|---|--------------|------------------|
| Dates draft LEP exhibited | | |
| Date of public hearing (if held) | | |
| Date sent to PCO seeking Opinion | | |
| Date Opinion received | | |
| Date Council Resolved to Adopt LEP | | |
| Date LEP made by GM (or other) under delegation | | |
| Date sent to DP&I requesting notification | | |

Table 3 – To be completed by the department

| Stage | Date/Details |
|-------------------------------|--------------|
| Notification Date and details | |

Additional relevant information:

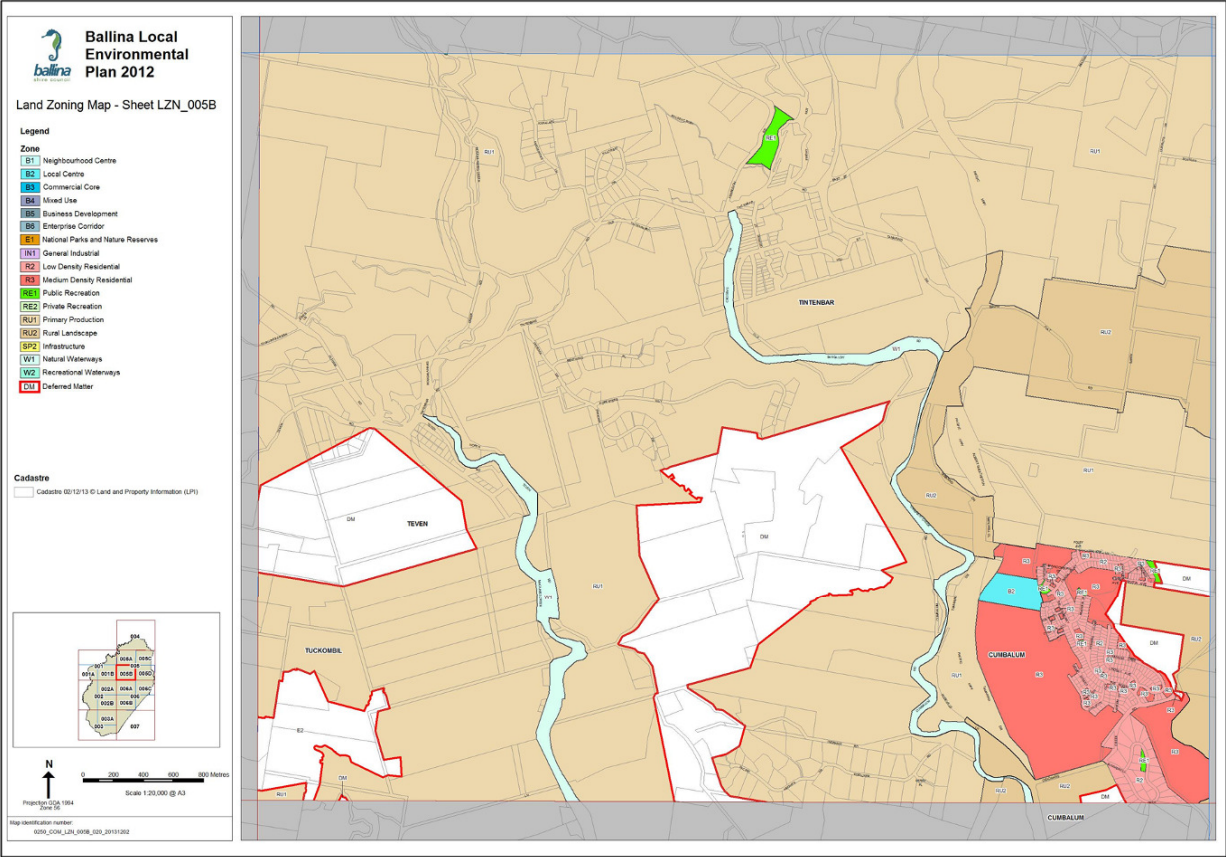
Appendix C – Section 117 Direction Checklist

| Section 117 Direction Checklist Planning Proposal Lots 330-359 DP 1189176 Nos. Nos. 4-14 O'Rourke Street, Nos. 1-21 Cullen Court & Nos. 3-5 Walsh Place, Cumbalum | |
|--|---|
| Direction No. | Compliance of Planning Proposal |
| 1. Employment and Resources | |
| 1.1 Business and Industrial Zones | Consistent. This planning proposal seeks to rezone part of the future commercial precinct within the Ballina Heights Estate. It is proposed to rezone an area of approximately 1325m ² currently zoned B2 Local Centre zoning to R2 Low Density Residential. The reason for the rezoning is to ensure the subject land reflects the desired land use outcomes as preferred by the owner of the land and consistent with the overall structure plan for the Ballina Heights Estate. The rezoning is also consistent with an approved subdivision. An area of approximately 7.63 hectares will remain zoned B2 Local Centre in accordance with the adopted structure plan for the Ballina Heights Estate and will provide for future business and commercial development. |
| 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 Land | Does not apply to planning proposal. |
| 2. Environment and Heritage | |
| 2.1 Environmental Protection Zones | Does not apply to planning proposal. |
| 2.2 Coastal Protection | Does not apply to planning proposal. |
| 2.3 Heritage Conservation | Does not apply to planning proposal. |
| 2.4 Recreation Vehicle Areas | Does not apply to planning proposal. |
| 3. Housing, Infrastructure and Urban Development | |
| 3.1 Residential Zones | Consistent. The subject site is currently predominantly zoned R3 Medium Density Residential. It is proposed to rezone the majority of the site to R2 Low Density Residential with two identified lots being zoned R3 Medium Density to enable dual occupancy development. The rezoning is to ensure the development standards applicable to the subject land are consistent with the approved subdivision and with the existing adjoining residential neighbourhood. |
| 3.2 Caravan Parks and Manufactured Home Estates | Does not apply to planning proposal. |
| 3.3 Home Occupations | Does not apply to planning proposal. |
| 3.4 Integrated Land Use and Transport | Does not apply to planning proposal. |
| 3.5 Development Near Licensed Aerodromes | Does not apply to planning proposal. |
| 3.6 Shooting Ranges | Does not apply to planning proposal. |
| 4. Hazard and Risk | |
| 4.1 Acid Sulphate Soils | Does not apply to planning proposal. |
| 4.2 Mine Subsidence and Unstable Land | Does not apply to planning proposal. |
| 4.3 Flood Prone Land | Does not apply to planning proposal. |

9.6 Planning Proposal 13/011 - Ballina Heights Estate Stage 7a.DOC

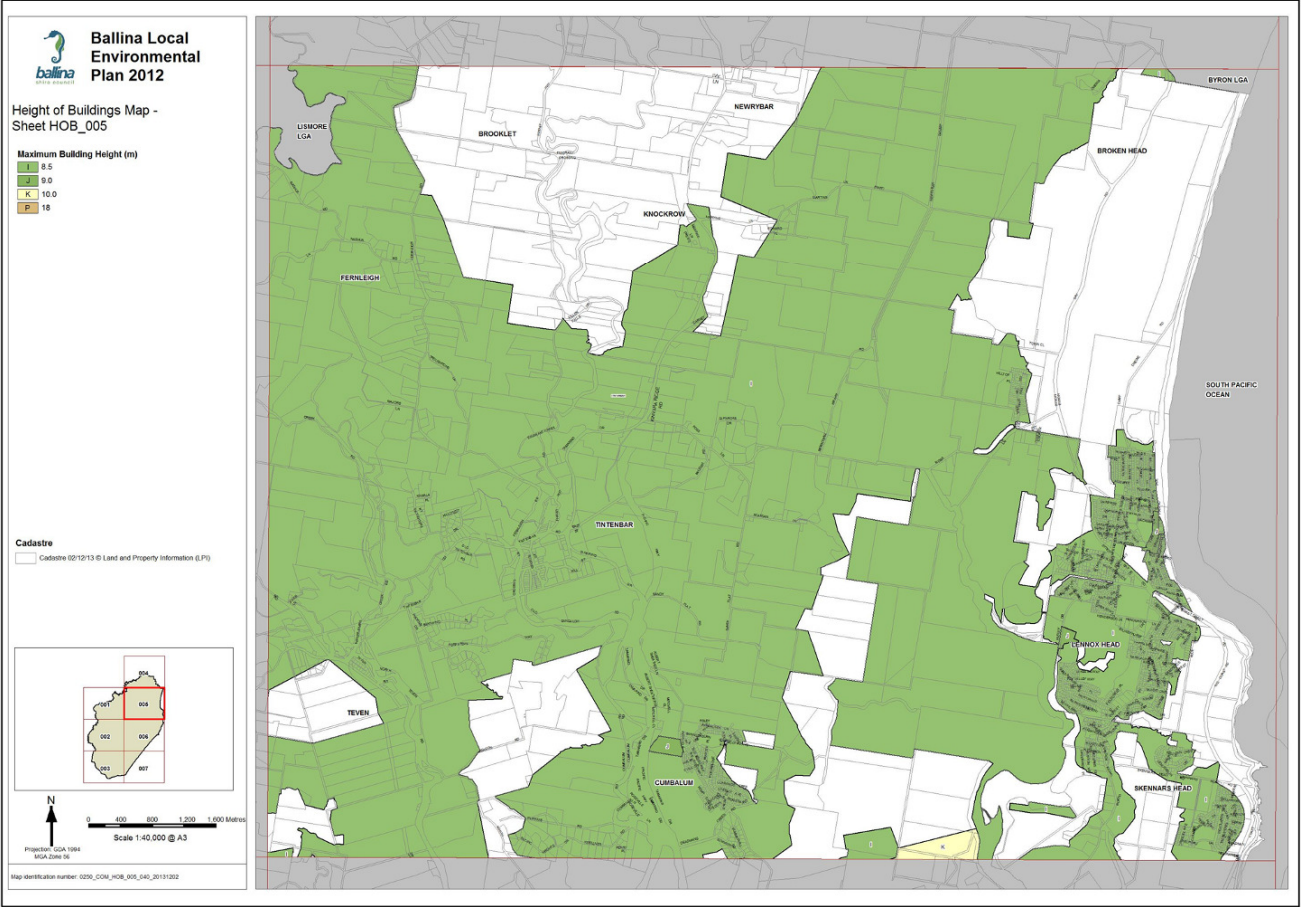
| | |
|---|---|
| 4.4 Planning for Bushfire Protection | Does not apply to planning proposal. |
| 5. Regional Planning | |
| 5.1 Implementation of Regional Strategies | Consistent. The planning proposal applies urban land use zones consistent with the strategy and an approved subdivision. |
| 5.2 Sydney Drinking Water Catchments | Does not apply to Ballina Shire. |
| 5.3 Farmland of State and Regional Significance on the NSW Far North Coast | Does not apply to planning proposal. |
| 5.4 Commercial and Retail Development | Does not apply to planning proposal. |
| 5.5 Development in the vicinity of Ellalong Paxton and Millfield (Cessnock LGA). | Repealed |
| 5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1) | Repealed |
| 5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1) | Repealed |
| 5.8 Second Sydney Airport: Badgerys Creek | Does not apply to Ballina Shire |
| 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 | Does not apply to planning proposal. |
| 6.3 Site Specific Provisions | Does not apply to planning proposal. |
| 7. Metropolitan Planning | |
| 7.1 Implementation of the Metropolitan Strategy | Does not apply to Ballina Shire. |

Appendix D – Standard Instrument LEP Maps - Amendments



9.6







SUBMISSION RE PLANNING PROPOSAL BSCPP 13/011

As residents of 1 O'Rourke St, Cumbalum we are directly impacted by the rezoning of Lot 350 Ballina Heights Estate. This parcel of land is directly behind our existing home, however our concerns over the rezoning of this lot also apply to Lot 358.

By rezoning to medium density, to allow for dual occupancy, it also allows provision for residential unit development etc on the same sites. Whilst the original subdivision provided for dual occupancy and low density housing, anything more concentrated, would not be in accordance with the original intentions of the development and would have a vastly detrimental impact on resale value of existing homes and also on the lifestyle quality of existing residents.

Lot 350 is an odd shape block, joining up with Cullen St. With many blocks now sold, it is likely that O'Rourke St will become a busy access road for the yet to be built new homes. A multiple residential development would only add to the traffic and quite probably have a detrimental effect on noise levels.

Ballina Heights estate is a fantastic low density housing area, beautiful and quiet to live in and I implore Council to consider the needs of existing residents who have purchased before the rezoning application, and limit the building on these two blocks to dual occupancy. This would preserve the original intentions of the developers and the integrity of the estate for current residents.

We are extremely concerned regarding this spot rezoning in terms of both our future enjoyment of the estate and resale values (hearing already that there is a developer waiting to build 8 units on Lot 350 after the proposed zoning change). Anything of this nature would have a very real and immediate adverse impact on our home.

We ask that Council, put credence to our concerns and put something in place should the rezoning be approved, to limit building on the aforementioned lots to dual occupancy.

Craig and Tricia Teys

1 O'Rourke St

0411797605

From: Rob Lannoy
Sent: Tuesday, 14 January 2014 1:26 PM
To: Ballina Shire Council
Subject: Planning Proposal. Ballina Heights.

We are very concerned that your proposed rezoning of Lot 358 which is adjoining to our property at 59 The Ridgeway will alter the amenity of our area. We understand that with the Lot 350 being zoned for a duplex property as before will change the use of this lot to allow more than two units if rezoned to medium density.

We have been here for over 4 years and are very impressed with the quietness of this area and do not wish to see this jeopardised with more intense type development here.

J and R Lannoy

Your Ref.BSCPP 13/011 (14/727)