



Planning Proposal BSCPP 14/003

June 2014

Aspects Estate Dual Occupancy Lots

Lots 29 & 31 DP 1121058

1 Libby Lane & 200 North Creek Road, Lennox Head

14/34293 Final

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Planning Proposal – June 2014
Aspects Estate, Lennox Head

INTRODUCTION

Summary of Planning Proposal

This planning proposal relates to two residential lots created as part of the Aspects Estate at Lennox Head. The lots are described as Lots 29 and 31 in DP 1121058 and are identified as 1 Libby Lane and 200 North Creek Road, Lennox Head.

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

As detailed in Figure 1, the subject land is currently zoned R2 Low Density Residential under the *Ballina Local Environmental Plan 2012* (BLEP 2012). The planning proposal seeks to amend the BLEP 2012 to apply the R3 Medium Density Residential zone enabling each lot to be developed for the purposes of a dual occupancy. The proposed amended zone for the subject land reflects the subdivision approval granted in Development Application 2006/815 (DA 2006/815) which designated each of the subject sites as being suitable for “duplex” (dual occupancy) development. The proposal will result in amendments to the Land Zoning Map and the Minimum Lot Size Map to reflect the above changes.

The subject lots were approved by Council in DA 2006/815 on 15 December 2006 as being suitable for development for duplex (dual occupancy) purposes and were created upon the registration of DP 1121058 on 20 December 2007. The need for the planning proposal has arisen due to a request from the landowner of Lot 29 to amend the BLEP 2012 to reflect the intended development outcomes associated with the subdivision approval for the land. During preparation of the Draft Ballina Local Environmental Plan 2010, it was Council’s intent to apply the R3 Medium Density Residential zone to all lots previously identified in Council’s Development Control Plan (DCP) as suitable for duplex (dual occupancy) development. The subject lots were erroneously omitted from inclusion in this transfer process.

The NSW Planning and Infrastructure (P&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 A.

Planning Context

Ballina Local Environmental Plan 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);
- 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 zoned R2 Low Density Residential under the terms of the BLEP 2012 as detailed in Figure 1 below.

A copy of the approved lot layout identifying the approved duplex (dual occupancy) sites in the Aspects Estate (DA 2006/815) is provided in Figure 2. It should be noted that a third lot in the original development (Lot 6) is also designated as suitable for duplex development. Lot 6 is not included in this proposal as duplex development and subsequent subdivision has already been undertaken on the lot (prior to the commencement of the BLEP 2012) and the application of the R3 zone is not necessary in the circumstances.

This planning proposal also seeks to amend the lot size provisions for the subject lots from a minimum of 600m² to a minimum of 800m² consistent with the standard approach to land within the R3 Medium Density Residential zone.

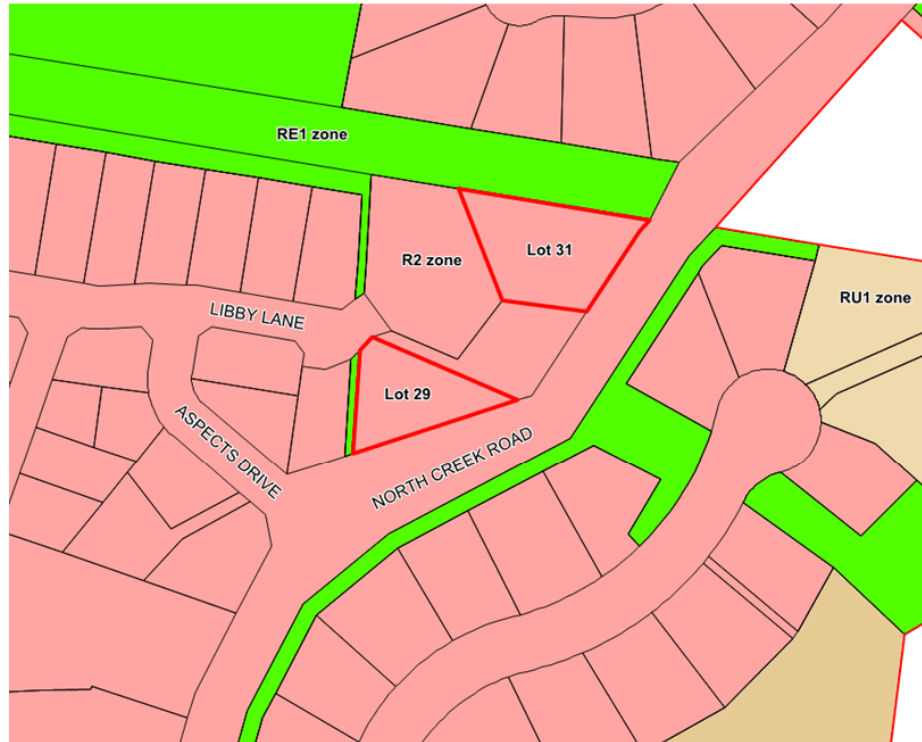


Figure 1. Land to which the planning proposal relates

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.

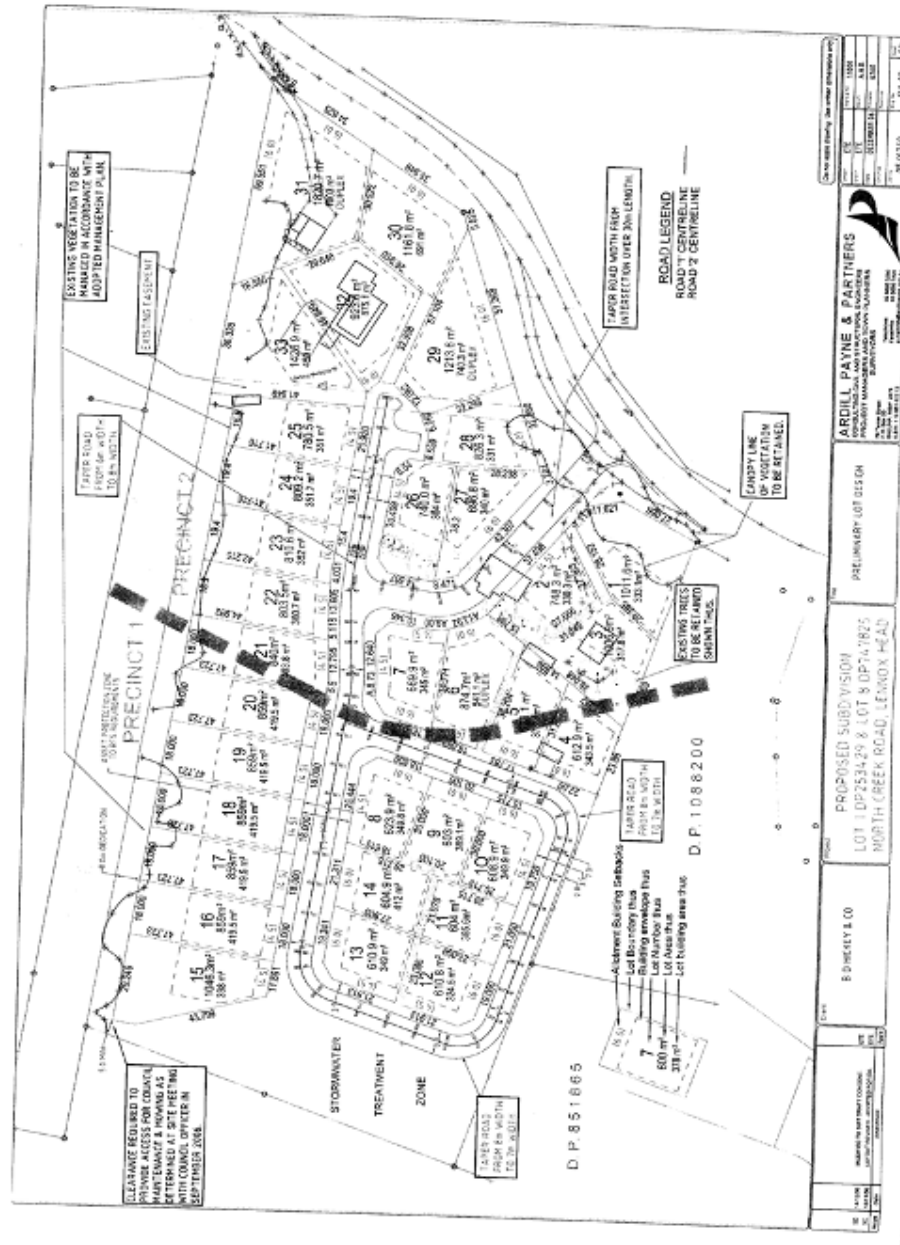


Figure 2. Approved Lot Configuration – DA 2006/815

PART 1 – OBJECTIVES & INTENDED OUTCOMES

The objective of this planning proposal is to acknowledge the residential development outcomes intended for the land at the time of subdivision approval by identifying allotments created for the purpose of medium density development (dual occupancy) by way of zoning.

PART 2 – EXPLANATION OF THE PROPOSAL

This planning proposal relates to two allotments within the Aspects Estate development. The lots are identified in the table below.

Address	Owner	Lot/DP
1 Libby Lane, Lennox Head	PJ & VD Moloney	Lot 29 DP 1121058
200 North Creek Road, Lennox Head	PA & GD Crane	Lot 31 DP 1121058

As detailed in Figure 1, the subject land is currently zoned R2 Low Density Residential under the terms of the Ballina LEP 2012.

The planning proposal seeks to acknowledge the existing approval by the application of the R3 Medium Density Residential zone to the land that facilitates the dual occupancy development outcomes envisaged under the subdivision approval.

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 subject lots were omitted from inclusion in areas zoned for medium density (dual occupancy) development during the preparation and drafting of the Ballina LEP 2012. The proposal seeks to rectify the omission of the lots that were been previously acknowledged as being suitable for medium density (dual occupancy) development as part of the subdivision approval for the land.

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.

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(a) Living Area Zone under the terms of the *Ballina Local Environmental Plan 1987* (BLEP 1987). Dual occupancy development was permissible in the 2(a) zone. Development consent (DA 2006/815) was granted to subdivide the land under the provisions of the BLEP 1987. The approved subdivision plans for DA 2006/815 applies the "duplex" (dual occupancy) designation to the subject lots.

The subject land is currently zoned R2 Low Density Residential under the terms of the Ballina LEP 2012. Dual occupancy development is not permissible in the R2 zone.

This planning proposal seeks to acknowledge the terms of the subdivision approval in DA 2006/815 by applying the R3 Medium Density Residential zone to the land. Dual occupancy development is permissible in the R3 zone.

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 B.

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 currently zoned for low density residential development (R2 Low Density Residential zone) and is within an established residential area. The planning proposal seeks to clarify the development intentions for the land and to enable future dual occupancy development. 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?

Consultation will be undertaken with relevant agencies during the public exhibition stage of the LEP amendment.

PART 4 – MAPPING

This planning proposal seeks to change the zoning of the subject land from R2 Low Density Residential to R3 Medium Density Residential. This change will affect the Land Zoning Map and associated minimum lot size standards on the Lot Size Map.

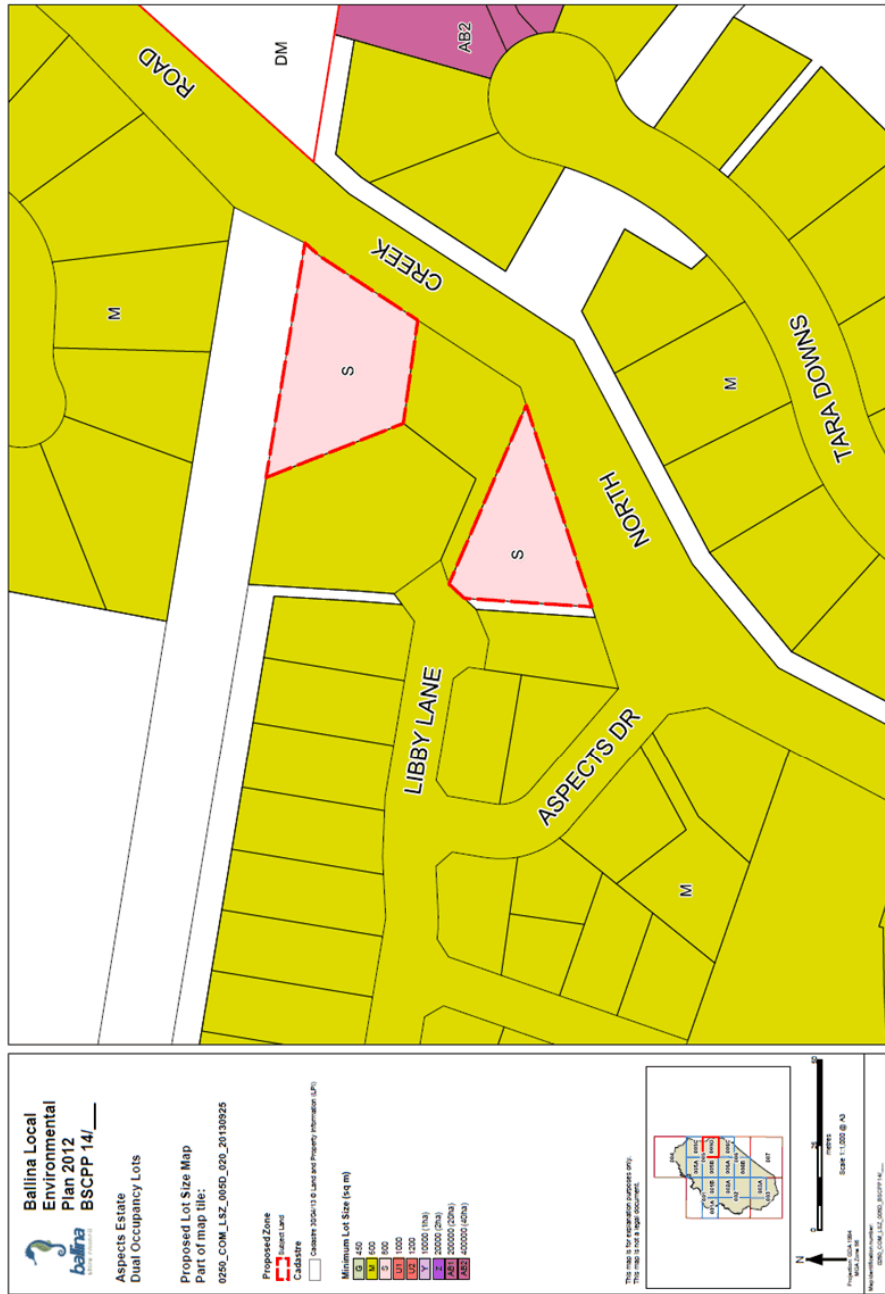
The following maps have been prepared to support this planning proposal and its desired land use and development outcomes:

- Map 1 – Site Identification Map;
- Map 2 – Proposed Land Zoning Map (Extract from Sheet LZN_005D);
- Map 3 – Proposed Lot Size Map (Extract from Sheet LSZ_005D).

Copies of the full draft amended map tiles referenced above maps are included in Appendix D.



Map 1 – Site Identification Map



Map 5 – Proposed Amended Lot Size Map

PART 5 – COMMUNITY CONSULTATION

The Gateway determination issued for this planning proposal required the public exhibition of the proposal documents for a minimum of 14 days. The proposal was exhibited from 7 May 2014 to 23 May 2014 in accordance with the Gateway determination and the terms of the *Environmental Planning and Assessment Act 1979*. In accordance with the Gateway determination, the proposal was also referred to the NSW Rural Fire Service for comment.

The Rural Fire Service issued a response dated 29 May 2014 advising they have no objections to the proposal. A copy of the Rural Fire Service's response is provided in Appendix C.

Two submissions raising objections to the proposal were received in response to the public exhibition. The issues raised were considered by Council at its Ordinary Meeting held on 26 June 2014.

PART 6 – TIMELINE

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

Plan Making Step	Estimated Completion (Before)
Gateway Determination	April 2014
Government Agency Consultation	May 2014
Public Exhibition Period	May 2014
Public Hearing	N/A
Submissions Assessment	May 2014
RPA Assessment of Planning Proposal and Exhibition Outcomes	May 2014
Submission of Endorsed LEP to P&I for Finalisation	June 2014
RPA Decision to Make the LEP Amendment (if delegated)	June 2014
Forwarding of LEP Amendment to P&I for Notification (if delegated)	June 2014

APPENDICES

Appendix A – Gateway determination



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

Our ref: PP_2014_BALLI_002_00
 Your ref: 14/20654



Dear Mr Hickey

Planning proposal to amend Ballina Local Environmental Plan 2012

I am writing in response to your Council's letter dated 31 March 2014 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 rezone Lots 29 and 31 in DP 1121058 at Aspects Estate, Lennox Head, from R2 Low Density Residential to R3 Medium Density Residential and amend the Minimum Lot Size from 600m² to 800m².

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.

Council may still need to obtain the agreement of the Director General to comply with the requirements of S117 Direction 4.4 Planning for Bushfire Protection. Council should ensure this occurs prior to the plan being made. As the land is in proximity to land mapped as bushfire prone land, Council is required to consult the NSW Rural Fire Service. Until this has occurred, the consistency of the proposal with the Direction remains unresolved.

The Minister delegated his plan making powers to councils in October 2012. I note that Council has requested to be issued with delegation for this planning proposal. 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 6 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 Planning and Infrastructure 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

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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, I have arranged for Ms Claire Purvis of the Planning and Infrastructure regional office to assist you. Claire can be contacted on (02) 6641 6611.

Yours sincerely

 10 April 2014
Stephen Murray
General Manager, Northern Region
Growth Planning and Delivery




Gateway Determination

Planning proposal (Agency Ref: PP_2014_BALLI_002_00): to rezone Lots 29 and 31 in DP 1121058 at Aspects Estate, Lennox Head, to R3 Medium Density Residential and amend the Minimum Lot Size map.

I, the General Manager, Northern Region at 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 zone Lots 29 and 31 in DP 1121058 at Aspects Estate, Lennox Head, from R2 Low Density Residential to R3 Medium Density Residential and amend the Minimum Lot Size from 600m² to 800m², 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 (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 (Planning & Infrastructure 2013)*.
2. Consultation is required with the NSW Rural Fire Service under section 56(2)(d) of the EP&A 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 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 **6 months** from the week following the date of the Gateway determination.

Dated 10 day of April 2014.


Stephen Murray
General Manager, Northern Region
Growth Planning and Delivery
Planning and Infrastructure

Delegate of the Minister for Planning and Infrastructure

Ballina PP_2014_BALLI_002_00 (14/06369)



WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Ballina 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_2014_BALLI_002_00	Planning proposal to rezone land at Lots 29 and 31 in DP 1121058 at Aspects Estate, Lennox Head, from R2 Low Density Residential to R3 Medium Density Residential and amend the Minimum Lot Size from 600m ² to 800m ² .

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 *10 April* 2014


Stephen Murray
General Manager, Northern Region
Growth Planning and Delivery
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 agency following receipt of the planning proposal
- The agency 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 agency's publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the agency with the RPA's request to have the LEP notified

Table 1 – To be completed by the agency

Stage	Date/Details
Planning Proposal Number	PP 2014 BALLI 002 00
Date sent to Agency under s56	03/04/2014
Date considered at LEP Review Panel (if applicable)	N/A
Gateway determination date	10/04/14

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 P&I requesting notification		

Table 3 – To be completed by the agency

Stage	Date/Details
Notification Date and details	

Additional relevant information:


Appendix B – Section 117 Direction Checklist

Section 117 Direction Checklist	
Planning Proposal Lots 29 & 30 DP 1121058	
No. 1 Libby Lane & No. 200 North Creek Road, Lennox Head	
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 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 land is currently R2 Low Density Residential. It is proposed to rezone the subject land to 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.
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.
4.4 Planning for Bushfire Protection	Lot 31 in the subject proposal falls within 30 metres of identified Category 2 bushfire prone land and as such the provisions of Planning for Bushfire Protection apply. As a result, the proposal was referred to the NSW Rural Fire Service for comment subject to the requirements of the Gateway determination. The Rural Fire Service issued a response on 29 May 2014 advising they have no objections to the proposal (see Appendix C).
5. Regional Planning	
5.1 Implementation of Regional Strategies	Consistent. The subject land is contained within the urban footprint identified in the strategy.
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.

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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 C – Rural Fire Service Response



NSW RURAL FIRE SERVICE

General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478

Attention: **Mr Lachlan Sims**

29 May 2014

RECORDS
SCANNED
11 JUN 2014

Your ref: BSCPP 14/003
Our Ref: L12/0003
DA 14042391864

Doc No.....
Batch No.....

Dear Mr Sims

Agency Comment: Ballina Planning Proposal for Lots 29 & 31 DP 1121058 Aspects Estate Lennox Head

I refer to your letter dated 17 April 2014 seeking advice for the above Planning Proposal in accordance with the 'Environmental Planning and Assessment Act 1979'.


The Rural Fire Service (RFS) understands the Planning Proposal seeks to amend Ballina LEP 2012 by rezoning lots 29 & 31 DP 1121058 from R2 Low Density Residential to R3 Medium Density Residential.

The RFS notes that lot 29 is not mapped bush fire prone land by Ballina Shire Council. Lot 31 is mapped bush fire prone land and has an approved multiple dwelling development in-situ. Further the lot(s) when created, were required to comply with a Bush Fire Safety Authority dated 1 December 2006.

The RFS has no objection to the the Planning Proposal proceeding and as no changes are recommended to the Planning Proposal as submitted.

For any queries regarding this correspondence please contact Alan Bawden on 1300 NSW RFS.

Yours sincerely



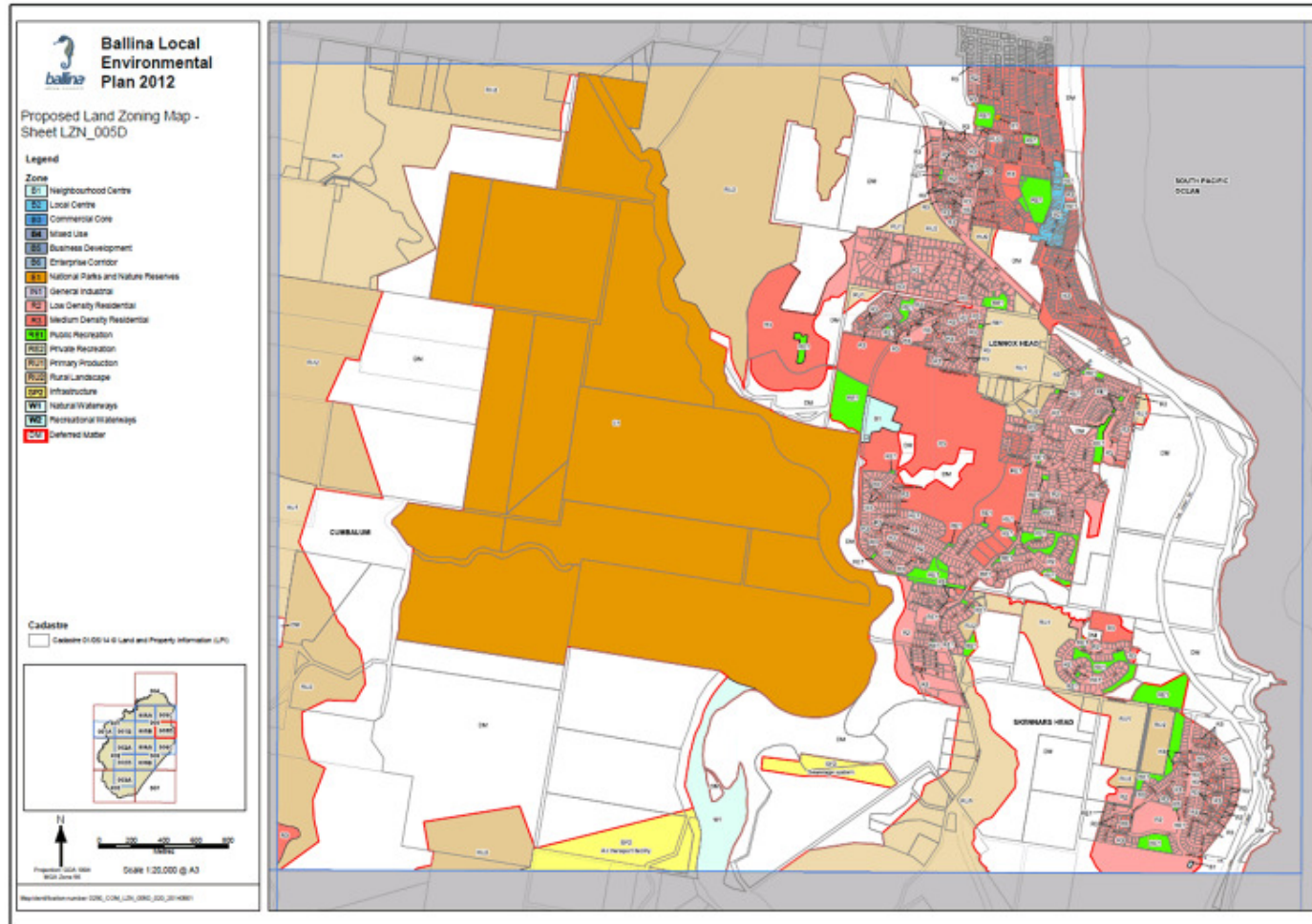
Amanda Moylan
Team Leader - Development Assessment and Planning

The RFS has made getting information easier. For general information on 'Planning for Bush Fire Protection, 2006', visit the RFS web page at www.rfs.nsw.gov.au and search under 'Planning for Bush Fire Protection, 2006'.

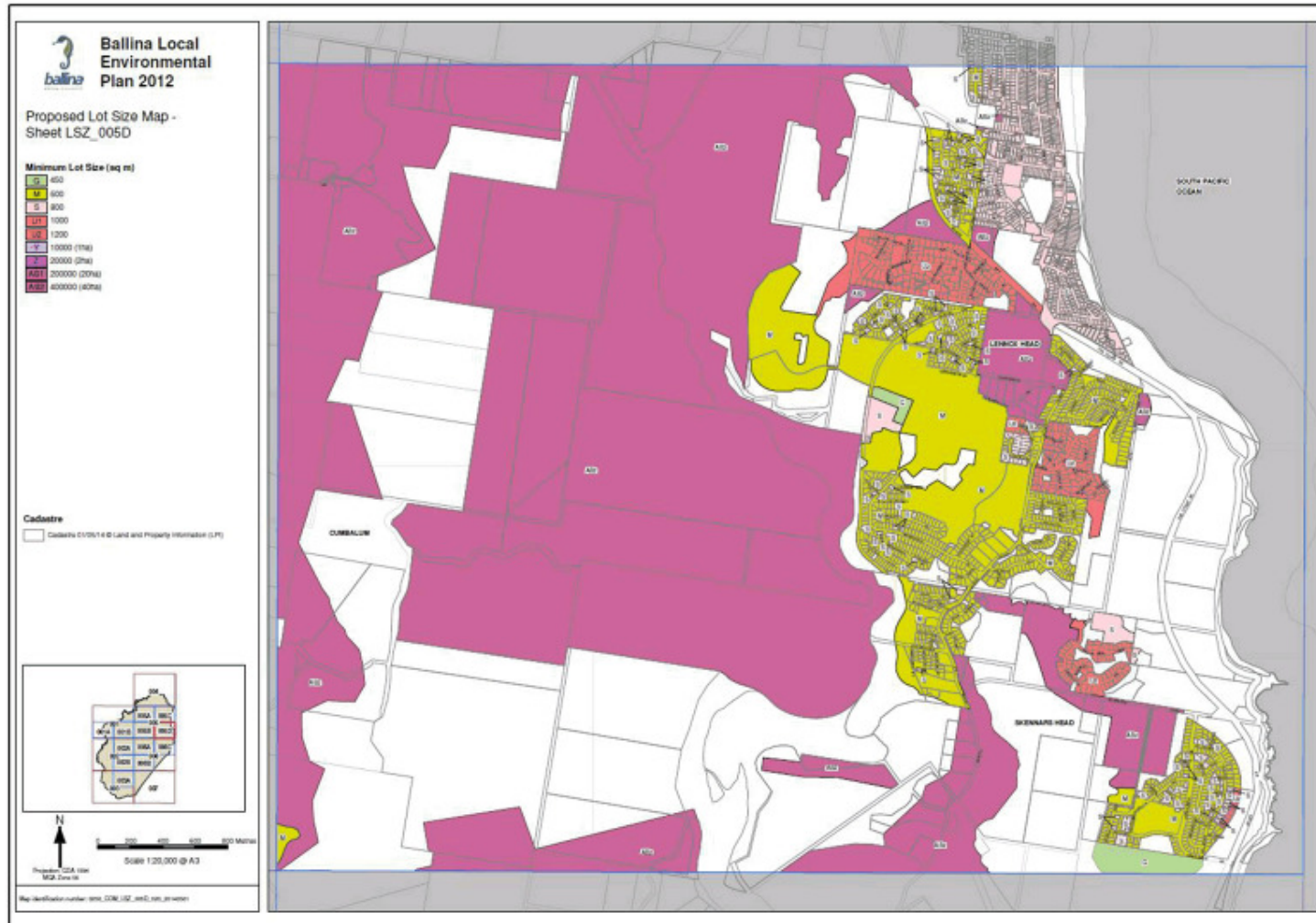
Postal address	Street address	
NSW Rural Fire Service Records Management Locked Bag 17 GRANVILLE NSW 2142	NSW Rural Fire Service Coffs Harbour Customer Service Centre Suite 1, 129 West High Street COFFS HARBOUR NSW 2450	T (02) 6691 0400 F (02) 6691 0499 www.rfs.nsw.gov.au Email: csc@rfs.nsw.gov.au

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Appendix D – Maps



9.5 Planning Proposal (BSCPP14/003) - Dual Occupancy Lots, Lennox Head.DOC





NSW RURAL FIRE SERVICE



General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478

RECORDS
SCANNED
11 JUN 2014
Doc No.....
Batch No.....

Your ref: BSCPP 14/003
Our Ref: L12/0003
DA 14042391864

Attention: Mr Lachlan Sims

29 May 2014

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The RFS notes that lot 29 is not mapped bush fire prone land by Ballina Shire Council. Lot 31 is mapped bush fire prone land and has an approved multiple dwelling development in-situ. Further the lot(s) when created, were required to comply with a Bush Fire Safety Authority dated 1 December 2006.

The RFS has no objection to the the Planning Proposal proceeding and as no changes are recommended to the Planning Proposal as submitted.

For any queries regarding this correspondence please contact Alan Bawden on 1300 NSW RFS.

Yours sincerely

Amanda Moylan

Team Leader - Development Assessment and Planning

The RFS has made getting information easier. For general information on 'Planning for Bush Fire Protection, 2006', visit the RFS web page at www.rfs.nsw.gov.au and search under 'Planning for Bush Fire Protection, 2006'.

Postal address

NSW Rural Fire Service
Records Management
Locked Bag 17
GRANVILLE NSW 2142

Street address

NSW Rural Fire Service
Coffs Harbour Customer Service Centre
Suite 1, 129 West High Street
COFFS HARBOUR NSW 2450

T (02) 6691 0400

F (02) 6691 0499

www.rfs.nsw.gov.au

Email: csc@rfs.nsw.gov.au



56 Green Lane West
Orange N.S.W. 2800
8th May 2014

General Manager
Ballina Shire Council
Ballina N.S.W. 2478

RE: Planning Proposal BSCPP 14/003, Aspects Estate,
Lennox Head
*Lachlan Sims (14/27536)

Today, we received a letter from your council informing us of the planning proposal to amend Ballina Local Environmental Plan 2012 and change the zoning of two residential allotments within the Aspects Estate at Lennox Head. These allotments are identified as lots 29 & 31 in DP1121058 being No 1 Lebbly Lane and No 200 North Creek Rd.

We as the owners of No 2 Lebbly Lane, Lot 30 wish to object very strongly.
*We bought our block in good faith with the understanding that, yes, both those blocks were duplex blocks BUT LOW DENSITY.

To be now informed the reason for rezoning is to change current zoning of the lots from low density to medium density residential is TOTALLY UNFAIR and UNACCEPTABLE. Our block value could be reduced considerably. Our view & total situation ruined. We have paid rates etc. regularly on time, looked after our block on our

2.

visits to Lennox Head and planned for when we might build on our block.
We are totally and strongly against this proposal.

Low density is O.K. and we were aware of this when we purchased our block. We paid a very high price for our land at 2 Sobby Lane and as stated before cannot agree to this latest proposal to Zone 3 Medium Density Residential.

Yours faithfully,

Edna Campbell
of N. H. Campbell

Lachlan Sims
Strategic and Community Facilities Group
Ballina Shire Council
PO Box 450
BALLINA NSW 2478
lachlans@ballina.nsw.gov.au

25 May 2014

RE: Submission to Planning Proposal BSCPP 14/003 – Aspects Estate Dual Occupancy Lots, Lennox Head

Dear Lachlan,

Thank you for speaking with me last Wednesday regarding the subject planning proposal and for allowing me to submit this late submission.

This submission is written in objection to the proposed rezoning of Lots 29 and 31 in DP 1121058 from R2 Low Density Residential to R3 Medium Density Residential.

I understand the purpose of this rezoning is to allow for dual occupancy development in accordance with the DA for the Aspects Estate. I do not object to a provision for this type of development on the subject lots, however I do not believe a rezoning is the best way to achieve this intent.

The R3 zoning allows a number of additional higher intensity uses which the R2 zone does not allow including: seniors housing, multi-dwelling housing, residential flat buildings, backpackers' accommodation, hotel or motel accommodation and serviced apartments.

Compounding this issue is the lack of a requirement applying to the subject lots for a floor space ratio for development, other than a dwelling house, a dual occupancy, a semi-detached dwelling or a secondary dwelling which must not have an FSR of more than 0.5:1 (Clause 4.4 of the LEP). The lack of restriction on FSRs on the subject lots for development (including seniors housing, multi-dwelling housing, residential flat buildings, backpackers accommodation, hotel or motel accommodation and serviced apartments) creates more of an incentive for owners of these lots to develop a higher intensity land use as they can potentially develop much more of the land.

The main issue with this rezoning to an R3 Medium Density zone is that there has been no strategy identifying these lots for medium density residential development. Therefore no community consultation has occurred to this regard or to make clear that there is the possibility that a development application could be approved for a much higher intensity of development than was originally intended for these lots in the original subdivision DA for the Aspects estate. I am aware that Ballina DCP 2012 contains provisions restricting dwelling density in residential zones, however, since the introduction of the *Environmental Planning and Assessment Amendment Bill 2012*, DCP provisions will have no force or effect to the extent that they:

- are the same, or substantially the same, as a provision of an EPI applying to the same land; or
- are inconsistent or incompatible with a provision of any such EPI; or
- have the practical effect of preventing or unreasonably restricting development that is otherwise permissible under any such EPI and that complies with the development standards in any such EPI.

The restriction on dwelling density could be seen as having the effect of preventing that is otherwise permissible under the *Ballina LEP 2012* development (e.g. multi-dwelling housing, residential flat buildings), and therefore it may be argued that these DCP provision have no force.

A possible solution to allowing dual occupancy development on the subject lots, whilst removing the need to rezone the lots to R3 Medium Density Residential, is to list the lots in "Schedule 1 Additional permitted uses" of the *Ballina LEP 2012* to allow this type of development. An example of what could be inserted in schedule 1 is as follows:

Use of certain land at Libby Lane, Lennox Head

(1) This clause applies to land at Libby Lane, Lennox Head, being Lot 29, DP 1121058 and identified as "Area D" on the Additional Permitted Uses Map.

(2) Development for the purposes of a dual occupancy is permitted with development consent.

Use of certain land at North Creek Road, Lennox Head

(1) This clause applies to land at North Creek Road, Lennox Head, being Lot 31, DP 1121058 and identified as "Area E" on the Additional Permitted Uses Map.

(2) Development for the purposes of a dual occupancy is permitted with development consent.

Thank you for your time in reading this submission. Please do not hesitate to contact me if you have any questions.

Yours sincerely,

Tara McGready and Ben McLearn (owners of 8 Libby Lane, Aspects Estate)

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