



Planning Proposal – May 2016

Greenwood Place, Lennox Head

**Lot 12 DP 581159 and part Lot 21, DP 1007134, Greenwood
Place, Lennox Head**

Exhibition 16/37558

Appendix 5 – Report to the Council on 26 February 2015**9.2 LEP Amendment Request - Greenwood Place, Lennox Head****9.2 LEP Amendment Request - Greenwood Place, Lennox Head****Delivery Program Strategic Planning**

Objective To present the Council with a proposal to amend the Ballina Local Environmental Plan 2012 to rezone land located at Lot 12 DP 581159 and part Lot 21 DP 1007134 being land located on the north eastern corner of Byron Bay Road and Greenwood Place, Lennox Head and to seek direction in relation to the further progress of the matter.

Background

In December 2014, Council received a request to amend the provisions of the Ballina Local Environmental Plan 2012 (the BLEP 2012). The request would have the effect of rezoning the land described above from zone RU2 Rural Landscape to zone R3 Medium Density under the instrument and apply a 450m² minimum lot size for future development.

The LEP amendment request relates to land contained within a Strategic Urban Growth Area as identified on maps which form a part of BLEP 2012.

The proponent is the Trustees of the Roman Catholic Church, Diocese of Lismore who are also the owners of Lot 12 DP 581159. This lot is located on the corner of Byron Bay Road and Greenwood Place, Lennox Head. The planning proposal also includes part of the adjoining Lot 21 DP 1007134 which is owned by the Condon family.

The Condon family was notified by Council staff that a planning proposal had been submitted and was invited to make comment. At the time of preparing this report a response had not been received.

The LEP amendment request is contained in Attachment One. The land the subject of this LEP amendment request is illustrated in the site plan contained in Attachment Two.

This report provides an overview of the LEP amendment request and seeks the Council's authorisation for the preparation of a planning proposal to progress the amendment.

Key Issues

- Suitability of land for residential zoning and development.
- Minimum applicable lot size.

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Information

Zoning – Ballina LEP 2012 and Ballina LEP 1987

The subject land is zoned RU2 Rural Landscape under the provisions of the Ballina Local Environmental Plan 2012 (BLEP 2012). That part of Lot 21 which does not form a part of this LEP amendment request is designated as a deferred matter under the provisions of BLEP 2012 and retains its 1(d) Rural (Urban Investigation) zone under the provisions of Ballina LEP 1987.

Attachment Three contains a map which shows the zones that apply to the subject land.

The LEP amendment request relates to land which is designated as a Strategic Urban Growth Area (SUGA) under the provisions of BLEP 2012. The subject land has an area of approximately 2.1 hectares and a frontage of approximately 91.4 metres to Greenwood Place and 180 metres to Byron Bay Road.

A minimum 40 hectare lot size is currently applicable to the subject land. The proponent's original submission indicates that a minimum lot size of 450m² for future development was proposed.

Subsequent discussions with the proponent's planning consultant, Mr Stephen Connelly – Planners North, resulted in a subdivision concept plan being submitted which provides for a future minimum residential lot size of 600m².

The subdivision concept plan also provides a connection with Blue Horizon Drive and incorporates an additional lot (Lot 8) which is located partly outside the boundaries of the SUGA area. In total the plan indicates that 21 residential lots are proposed with lot sizes ranging from 600m² to 680m².

In respect to one lot, and the connection to Blue Horizon Drive, being located partly outside the boundary of the SUGA area this is considered to be acceptable at this stage of the rezoning process. Roads are a permitted use within the 1(d) Rural (Urban Investigation) zone under the provisions of Ballina LEP 1987.

A road connection as proposed would improve connectivity for the proposed subdivision, as well as the existing residential area to the north, and is therefore seen as a potential positive feature of this proposal.

Conversely, established residents in Blue Horizon Drive may be opposed to the development generally, and to a proposed road connection in particular, as they see their existing quiet enjoyment being diminished. This would be a matter for the Council's future deliberation if the planning proposal is initiated.

The proposed additional lot shown on the subdivision concept plan is also considered to be a minor issue at this stage of the process. If ultimately found to be reasonable, following consideration of land constraints, it will result in the rezoning of approximately 400m² more land than currently contained within the SUGA area.

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Should the Council resolve to prepare a planning proposal then the issue of the additional lot located partly outside of the designated SUGA area will be able to be further considered.

This would be factored in as an adjustment to the initial LEP amendment request made by Planners North when preparing the planning proposal documentation for Council to review.

Attachment Four contains the subdivision concept plan.

The proponent's planning consultant was advised through discussion that a 450m² minimum lot size would not be supported at a Council staff level having regard to applicable land constraints such as topography and landslip risk affectation.

In this respect, lot sizing in the range of 600 to 800m², pending further investigation of site constraints, is considered to be more appropriate.

An 800m² minimum lot size is currently applicable to the residential lots which adjoin the subject land along its northern boundary and a 600m² minimum lot size is applicable to residential lots to the west of the subject site.

The submitted subdivision concept plan, and minimum 600m² minimum lot size, requires further investigation as to appropriateness but is considered reasonable at this stage of the rezoning process. Investigation of land constraints impacting on the land such as topography, landslip affectation and any buffer areas required to rural land uses will ultimately be used to determine whether a minimum lot size of 600m² is able to be supported.

Ballina Shire Growth Management Strategy (GMS)

The subject land is identified as a strategic urban growth area under the Council's adopted GMS (aside from the proposed Lot 8 and Blue Horizon Drive road connection as discussed above).

Given that the site is identified as a potential future urban area, the proposed rezoning for residential purposes is generally consistent with Council's local urban planning framework.

Lennox Head Structure Plan (LHSP)

Part of the subject land (Lot 12, DP 581159) is designated as a Candidate Release Area within the LHSP. Whilst the LHSP map did not extend the Candidate Release Area over part Lot 21 DP 1007134 there is a clear intent, within the written structure plan document, to extend the Candidate Release Area up to the then existing stand of Banksia trees, located east of Greenwood Place, upon Lot 21.

It is the line of trees located on Lot 21 which subsequently formed the eastern most extremity of the SUGA designated area within BLEP 2012.

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Far North Coast Regional Strategy 2006 (FNCRS)

The subject land (aside from the proposed Lot 6 and Blue Horizon Drive road connection as discussed above) is located within a proposed future urban release area and is also indicated as being within an area of high level constraints under the FNCRS.

The proposed rezoning for residential purposes is consistent with this strategy, subject to constraints being able to be mitigated. Constraints in this case consist of potential land slip susceptibility and in respect to the seaward side of the hill (not part of this planning proposal) its visual significance.

Site Assessment

The proponent has not examined applicable land constraints in any significant detail. A more detailed site investigation will be required post Gateway determination. This investigation will be required to include the issues detailed in the table below which have been identified as being of relevance to this planning proposal:

Issue	Comment
Coastal Zone Impacts and Visual Amenity Impacts	<p>The subject land is located within the coastal zone.</p> <p>Consideration of relevant matters as specified in Clause 8 of SEPP 71 - Coastal Protection and Appendix C – Table 3 of the NSW Coastal Policy is required. This includes issues associated with visual impacts.</p> <p>The Coastal Zone Design Guidelines 2003 are also required to be considered. Consideration of potential building envelopes and subdivision lot design will be required.</p>
Due Diligence Aboriginal Heritage Assessment	Cultural heritage significance associated with the land requires assessment.
Ecological Matters	Potential flora and fauna impacts require assessment.
Geotechnical Investigation	This is covered in the landslip consideration below. Soils are prone to erosion, and mass movement of soil has previously been an issue with the past development of nearby land.
Land Contamination	Site history is unclear, although it appears the land has been used for grazing for 50 years. A preliminary site investigation is warranted.

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Issue	Comment
Land Slip	<p>The subject land is located within an area identified as being susceptible to land slip (Coffey Partners Pty Ltd). More detailed investigation is required to determine the degree of risk associated with landslip and its impact on any potential residential subdivision.</p> <p>The Roman Catholic Church land is designated as a Category 3 landslip area. Site levels vary from approximately 22m to 38m AHD according to the 2 metre contour map.</p> <p>The Condon land is designated as a Category 1 landslip susceptible area. Site levels across the whole of this land vary from 0m to 56m AHD, but levels for the land which forms a part of this planning proposal vary from approximately 30 to 42m AHD.</p>
Land Use Conflicts	<p>The compatibility of non-intensive agricultural land uses, if proposed to be continued upon part Lot 21, with residential uses proposed for Lot 12 and part Lot 21 requires consideration. A basic Land Use Conflict Risk Assessment (LUCRA) should be undertaken to determine the extent of any buffer areas required if agricultural uses such as cattle grazing are proposed. Clarification from the proponent in respect to this matter is required.</p>
Mosquito Management	<p>An entomologist's report may be required which demonstrates compliance with DCP 2012 – Chapter 2, Section 3.8 – Mosquito Management.</p>
Road Noise Issues	<p>An assessment related to road noise impact issues is required to be prepared in accordance with the provisions of the NSW Road Traffic Noise Policy. The required acoustic report will ensure that any acoustic walls, mounds, setbacks or other attenuation measures are able to be incorporated into the future subdivision development, having regard to proposed minimum lot sizes.</p>
Traffic and Access	<p>Assessment is required to determine the optimal arrangements for site access considering both Greenwood Place and Blue Horizon Drive. Consideration of traffic impacts on the surrounding residential area is also required.</p>
Services and Stormwater Management Report	<p>A stormwater management report will be required which examines issues related to on-site stormwater detention and location of bio filtration areas if proposed, and associated points of discharge. A concept sewer design which is able to demonstrate a satisfactory connection to the existing network is also required.</p>

Sustainability Considerations

- **Environment**

The subject land is substantially cleared of trees and contains predominately grass and weed species. The significance of this vegetation, as well as the impact of any proposed subdivision on adjoining flora and fauna communities, would be required to be assessed further if the planning proposal proceeds.

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At this stage the proponent has indicated that as the site has been used for agricultural purposes for some five decades no critical habitat or threatened species exist on the site. Whilst this may well be the case, no supporting specialist advice has been submitted to support this statement.

- **Social**
The potential for adverse social impact is considered to be limited given the infill nature of the proposed LEP amendment request.
- **Economic**
Economic impacts associated with the release of additional residential land in a desirable location are considered to be positive.

Legal / Resource / Financial Implications

There are no significant resourcing or financial implications associated with the further processing of the LEP amendment. Subject to the Council's decision, the next step in the process would be to prepare a planning proposal suitable for submission to the Department of Planning and Environment (DP&E) for Gateway determination.

Following a favourable Gateway determination the applicant would be requested to submit additional information which addresses identified land constraint issues, as generally referred to above.

Council's adopted fees and charges associated with LEP amendments would be applied to the further processing of the request.

Consultation

There has been no consultation undertaken, with either the community or government agencies, in relation to this LEP amendment request to date as the matter is in the initial phase.

Should the matter proceed, an affirmative Gateway determination will advise of consultation requirements with government agencies and the community. Community engagement would then occur following assessment of the required additional information, and in accordance with the Gateway determination.

Options

1. Proceed to prepare a planning proposal for the application of an R3 Medium Density Residential zone to the subject land.

This approach would authorise the preparation of a planning proposal for Gateway determination. The proposal would be reported to the Council for further consideration prior to its submission to the Gateway panel.

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While it is considered that additional information is required to finally determine the most appropriate minimum lot size, and future subdivision configuration, the land the subject of the LEP amendment request appears to be generally suitable for a medium density residential zoning to enable a range of residential land uses. The planning proposal to be prepared for submission to the DP&E would identify that further investigation of land constraints would be required to confirm the suitability of the 600m² minimum lot size as shown on the subdivision concept plan. It would also be prepared to include the area of the proposed Lot 8 and the Blue Horizon Drive road connection as part of the area proposed for residential development to enable further assessment of these matters.

This option is the preferred and recommended approach, given the site's strategic planning context as referred to earlier in this report.

2. Defer or amend the planning proposal.

This approach is not recommended given:

- the proposed rezoning is substantially limited to an area which has been designated as a Strategic Urban Growth Area (SUGA) in Ballina LEP 2012 and within the Ballina Shire Growth Management Strategy; and
- the proposed LEP amendment is generally consistent with Council's strategic land use planning framework for the locality.

Council could, however, determine at this stage that it will not support the rezoning of approximately 400m² of land located outside the SUGA area (the proposed Lot 8) or the road link to Blue Horizon Drive and require the subdivision concept plan to be amended prior to the planning proposal being prepared. Equally, this same decision could be made later, once the Council has had the benefit of receiving a further report relating to the various technical issues, and has received community feedback, particularly from nearby residents, following formal public exhibition of the planning proposal.

3. Cease further action in relation to the planning proposal.

For the same reasons outlined in relation to Option 2, this approach is not recommended.

Importantly, the Council can elect to discontinue a planning proposal at other stages of the LEP amendment process if considered appropriate. That said however, and as the Council is aware, certain recourse procedures are now available to proponents if they were dissatisfied with such a Council decision.

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RECOMMENDATIONS

1. That Council prepare a planning proposal for the application of an R3 Medium Density Residential zone over Lot 12 DP 581159 and that part of Lot 21 DP 1007134 designated as a Strategic Urban Growth Area in Ballina LEP 2012 as well as incorporating the road link to Blue Horizon Drive and the area of the proposed Lot 8.
2. That the subdivision potential and associated minimum lot size for the possible future development of Lot 12 DP 581159 and part of Lot 21 DP 1007134 be determined following assessment of additional technical information.
3. That for the purpose of supporting further investigation, the planning proposal is to identify a minimum lot size for subdivision of 600 m².
4. That a further report be presented to the Council documenting the planning proposal prior to its submission for Gateway determination.

Attachment(s)

1. LEP Amendment Request
2. Site Plan
3. Current Zoning Plan
4. Subdivision Concept Plan

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9.2 LEP Amendment Request - Greenwood Place, Lennox Head

9.2 LEP Amendment Request - Greenwood Place, Lennox Head

26/02/15 RESOLVED

(Cr Paul Worth/Cr Susan Meehan)

1. That Council prepare a planning proposal for the application of an R2 Residential zone over Lot 12 DP 581159 and that part of Lot 21 DP 1007134 designated as a Strategic Urban Growth Area in Ballina LEP 2012 as well as incorporating the road link to Blue Horizon Drive and the area of the proposed Lot 8.
2. That the subdivision potential and associated minimum lot size for the possible future development of Lot 12 DP 581159 and part of Lot 21 DP 1007134 be determined following assessment of additional technical information.
3. That for the purpose of supporting further investigation, the planning proposal is to identify a minimum lot size for subdivision of 800 m².
4. That a further report be presented to the Council documenting the planning proposal prior to its submission for Gateway determination.

FOR VOTE - Cr David Wright, Cr Jeff Johnson, Cr Keith Williams, Cr Susan Meehan, Cr Ken Johnston, Cr Paul Worth and Cr Robyn Hordern

AGAINST VOTE - Cr Sharon Cadwallader, Cr Keith Johnson and Cr Ben Smith

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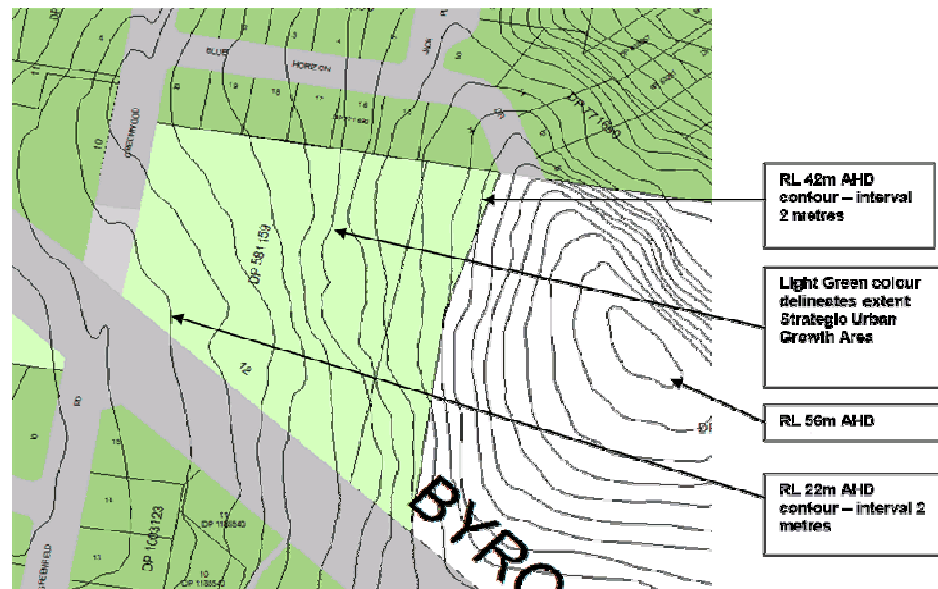
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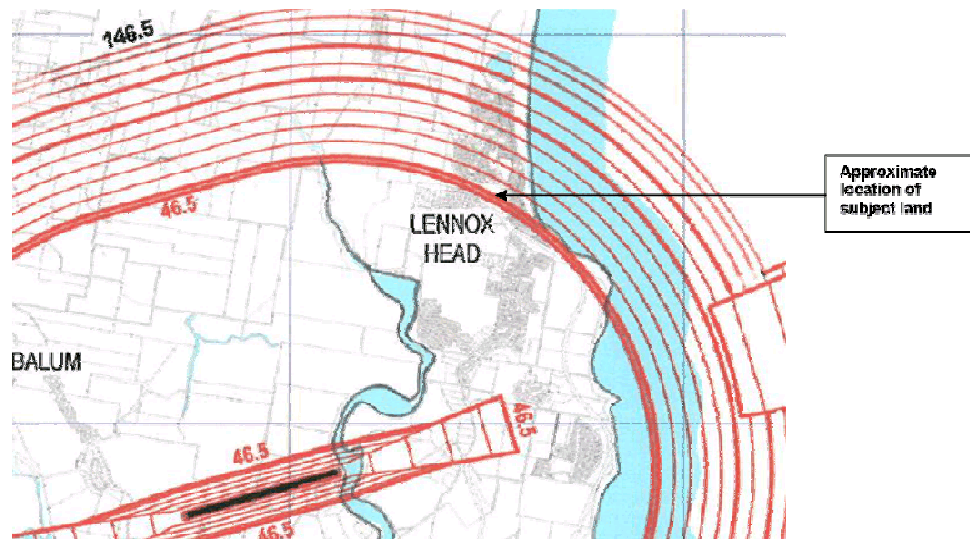
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Appendix 6 – Extract from Site Contour Map and Obstacle Limitation Surface Map

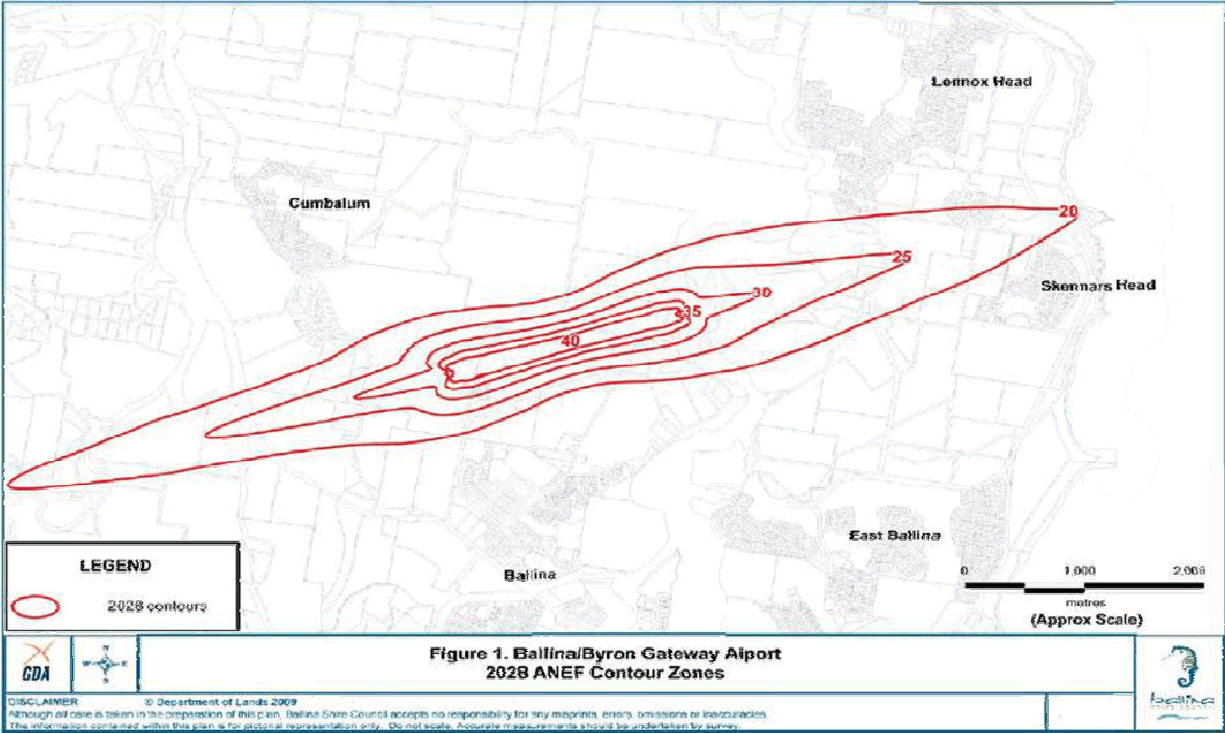
Extract from Site Contour Map



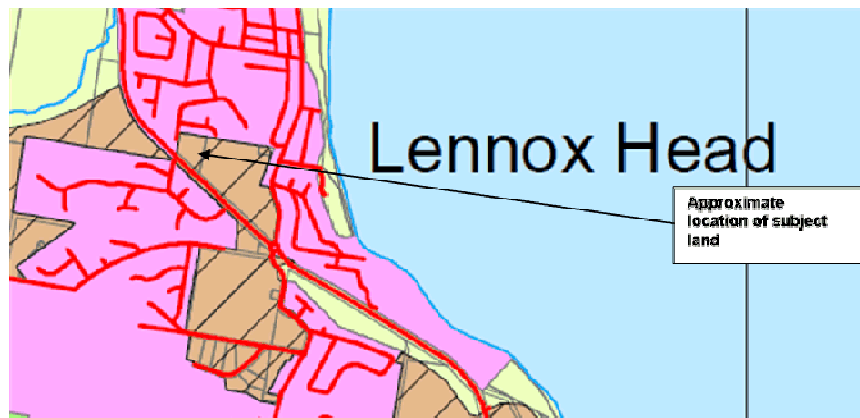
Extract from Existing Obstacle Limitation Surface Map No 11

















Appendix 7 – 2028 ANEF Contour Map



Appendix 8 - Extract from Northern Rivers Farmland Protection Project 2005



LEGEND

- | | | | |
|---|--|---|-------------------------------------|
|  | State Significant Farmland | | |
|  | Regionally Significant Farmland | | |
|  | Significant Non-Contiguous Farmland | | |
|  | Other Rural Land | | |
|  | Committed Urban Uses and Rural-Residential Zones | | |
|  | National Parks, State Forests | | |
|  | Land outside Northern Rivers Catchment Management Area | | |
|  | Highways |  | Land Parcel Boundary |
|  | Major Roads |  | Catchment Management Board Boundary |
|  | Railways |  | Local Government Boundary |
|  | Watercourses | | |

Appendix 9 – Subdivision Concept Plans

Plan 1 - 600m² Minimum Lot Size Proposal



Plan 2 - Mixed 600m² and 800m² Minimum Lot Size Proposal



Plan 3 - 800m² Minimum Lot Size Proposal



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Appendix 10 – Report to Council 26 March 2015

9.2 LEP Amendment - Greenwood Place, Lennox Head

9.2 LEP Amendment - Greenwood Place, Lennox Head

Delivery Program Strategic Planning

Objective To present the Council with a planning proposal to amend the Ballina Local Environmental Plan 2012 to rezone an area predominantly designated as a Strategic Urban Growth Area located on the north - eastern corner of Greenwood Place and Byron Bay Road Lennox Head to R2 Low Density Residential.

Background

The Council, at its Ordinary Meeting held on 26 February 2015, considered a request to amend the Ballina Local Environmental Plan 2012 (Ballina LEP 2012), relating to land owned by the Roman Catholic Church and the Condon family (Lot 12 DP 581159 and part Lot 21 DP 1007134).

The original LEP amendment request sought the rezoning of this land from RU2 Rural Landscape to R3 Medium Density Residential zone.

The LEP amendment request relates to land predominantly contained within a Strategic Urban Growth Area (SUGA) as identified on maps which form a part of BLEP 2012.

A very small section of the site, as subsequently identified in a subdivision concept plan, is located outside of the SUGA area and forms part of a deferred matter area under Ballina LEP 2012.

This land retains its 1(d) Rural (Urban Investigation) zone under the provisions of Ballina LEP 1987. Its inclusion within the planning proposal is required so as to facilitate a possible road access to Blue Horizon Drive.

In relation to this matter, the Council resolved as follows [Minute No.260215/10]:

1. That Council prepare a planning proposal for the application of an R2 Residential zone over Lot 12 DP 581159 and that part of Lot 21 DP 1007134 designated as a Strategic Urban Growth Area in Ballina LEP 2012 as well as incorporating the road link to Blue Horizon Drive and the area of the proposed Lot 8.
2. That the subdivision potential and associated minimum lot size for the possible future development of Lot 12 DP 581159 and part of Lot 21 DP 1007134 be determined following assessment of additional technical information.
3. That for the purpose of supporting further investigation, the planning proposal is to identify a minimum lot size for subdivision of 800 m².
4. That a further report be presented to the Council documenting the planning proposal prior to its submission for Gateway determination.

The planning proposal has now been prepared and forms Attachment One to this report.

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9.2 LEP Amendment - Greenwood Place, Lennox Head

The purpose of this report is to seek the Council's endorsement of the planning proposal for submission to the Department of Planning and Environment (DP&E) to obtain a Gateway determination.

Established practice in relation to this type of LEP amendment is for the Council to receive the planning proposal documentation for consideration (following initial commencement of an LEP amendment process) with a view to determining whether the matter should progress to Gateway determination.

Key Issues

- Suitability of land for residential zoning and development.
- Minimum applicable lot size.

Information

The planning proposal applies an R2 Low Density Residential zone to the subject land with a minimum lot size of 800m². Provision is also made to alter the boundaries of the Strategic Urban Growth Area and associated buffers which arise following the rezoning of the subject land.

At this stage of the process a number of site specific studies and assessments have been identified as being required. These are listed below and should be required to be prepared post Gateway determination and prior to public exhibition of the proposal:

- Contaminated Land Assessment,
- Coastal Zone Impacts and Visual Amenity Impacts Assessment,
- Geotechnical Assessment (Landslip),
- Due Diligence Aboriginal Heritage Assessment,
- Services and Stormwater Management Report,
- Land Use Conflict Risk Assessment,
- Flora and Fauna Assessment,
- Mosquito Management Report, and
- Road Noise Impact Assessment Report.

These technical studies will be prepared by or on behalf of the property owners and presented to Council for assessment and review. Costs incurred by Council (including payment for peer review of the studies) will be borne by the landowners.

The proponents initially requested a 450m² minimum lot size be applied to the future subdivision of the land. Following discussion with the proponent a subdivision concept plan was submitted which incorporated 21 lots in a lot size range from 600m² to 680m².

The report to the Council's Ordinary Meeting on 26 February 2015 indicated that a lot size range between 600m² to 800m², pending further investigation of site constraints, was considered to be more appropriate.

In respect to minimum lot sizes, the Council subsequently resolved that an 800m² minimum lot size is to be identified within the planning proposal.

9.2 LEP Amendment - Greenwood Place, Lennox Head

The Council however, also resolved that potential and associated minimum lot size for the possible future development of Lot 12 DP 581159 and part of Lot 21 DP 1007134 be determined following assessment of additional technical information.

Consistent with Council's resolution the attached planning proposal makes provision for an 800m² minimum lot size over the subject site. It also indicates that final determination of the applicable minimum lot size will be made following the detailed assessment of site constraints post public exhibition.

Subsequent to the above Council resolution, the proponent has submitted two subdivision concept plans, one of which provides for a minimum lot size of 800m² and the other for a part 600m² and part 800m² minimum lot size scheme.

The relative merits of these options cannot be determined at this stage until specialist reports dealing with site constraints are submitted and assessed.

Whilst 800m² has been nominated as the minimum lot size by the Council at this stage of the process it may also be the case that a larger minimum may be required depending, for example, on the extent of buffer areas (if any) required to the adjoining rural zoned land. Similarly, justification for a lot size below 800m² for part of the site may also be established.

The proponent's revised subdivision concept plans form Attachment Two to this report.

The attached planning proposal indicates that the LEP amendment request is generally consistent with the applicable strategic planning framework, including the Far North Coast Regional Strategy 2006, the Ballina Shire Growth Management Strategy and the Lennox Head Structure Plan.

Applicable State Government environmental planning policies and directions under section 117 of the Environmental Planning and Assessment Act are also addressed. No barriers to this LEP amendment request progressing to Gateway determination have been identified.

Sustainability Considerations

▪ **Environment**

The subject land is substantially cleared and contains mainly grass and weed species. Whether any of this vegetation and associated site fauna is of environmental value is proposed to be subject to further assessment. The assessment will be required to undertaken prior to public exhibition if the planning proposal proceeds further.

It is also noted that a visual impact assessment of possible future development will be undertaken, due to the land's elevation and prominence.

▪ **Social**

There is a variety of social issues to consider in relation to the proposal, including implications for scenic and amenity values. These matters can be assessed in detail prior to public exhibition if the planning proposal proceeds further.

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- **Economic**

The proposal has the potential to result in a number of positive economic impacts associated with construction and infrastructure. These matters can be further considered prior to public exhibition.

Legal / Resource / Financial Implications

There are no specific legal implications associated with this proposed LEP amendment at this time.

In the event that Council wishes to advance this proposal, the proponent will be required to meet various processing costs, in accordance with the Council's adopted schedule of fees and charges.

Progress of this matter can be accommodated within the Strategic and Community Facilities Group work program.

Consultation

Consultation with relevant Government agencies will be required post Gateway, and following the submission of technical reports. The agency proposed to be consulted at this stage is the Department of Primary Industries.

Options

1. Endorse the planning proposal for submission to the DP&E for Gateway determination.

This is the preferred and recommended option.

The proposed LEP amendment primarily provides for the rezoning of an area identified as a Strategic Urban Growth Area within Ballina LEP 2012. It is also consistent with the applicable strategic planning framework established for Lennox Head. A potential additional benefit arising from this amendment request will be improved road access connectivity between Greenwood Place and Blue Horizon Drive. However, more may be said about this when neighbouring property owners have been consulted through a formal public exhibition process.

The issue of applicable minimum lot size is proposed to be further addressed through the examination of site constraints and associated technical reports. The planning proposal as prepared however, incorporates a minimum lot size of 800m² for the site.

In relation to this matter the Council will also have further opportunity to consider the proposal prior to the matter being finalised and after public exhibition following Gateway determination.

2. Require the proponent to submit additional information for incorporation into the planning proposal prior to submission to the DP&E for Gateway determination.

This approach is not recommended given:

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9.2 LEP Amendment - Greenwood Place, Lennox Head

- the additional information identified consists primarily of specialist reports. Council's approach has been to require these once the LEP amendment request has obtained the greater certainty associated with a Gateway determination.
- the proposal is generally consistent with the applicable strategic planning framework and relevant State Government directions.

3. Cease or defer processing of the LEP amendment request.

The Council may decline or defer the consideration of the requested LEP amendment. For the same reasons outlined in relation to Option 2, this approach is not recommended.

Importantly, the Council can elect to discontinue a planning proposal at other stages of the LEP amendment process if considered appropriate. That said however, certain recourse procedures are now available to proponents if they were dissatisfied with such a Council decision.

Delegation of Plan Making Functions

The Gateway submission to DP&E is required to address whether the Council is proposing to exercise plan-making delegations in finalising the LEP amendment. This means staff would liaise directly with Parliamentary Counsel to finalise the drafting of the amendment for implementation following public exhibition and the Council "signing off" the proposal.

Although there are resourcing implications for Council (more staff time in processing), it is recommended that the Council provide an indication at this stage that it is proposing to exercise its delegation in this instance. Under this approach, the Council would make its final decision on whether to exercise its delegations at the time of deciding on the finalisation of the amendment post public exhibition.

RECOMMENDATIONS

1. That Council authorises the submission of a planning proposal, to amend the Ballina Local Environmental Plans 1987 and 2012, to apply an R2 Residential zone over Lot 12 DP 581159 and part of Lot 21 DP 1007134, and alter the Strategic Urban Growth Area boundaries including buffer areas, as indicated in maps which form a part of the planning proposal, to the Department of Planning and Environment for review and Gateway determination.
2. The planning proposal to make provision for the proposed R2 zone being subject to a minimum lot size of 800m² and the ultimate minimum lot size being subject to further investigation and determination by the Council after public exhibition.
3. That upon an affirmative Gateway determination being received, the procedural steps associated with the 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.

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9.2 LEP Amendment - Greenwood Place, Lennox Head

5. That the Department of Planning and Environment be advised that, at this stage of the process, it is the Council's intention to exercise its delegated plan making functions.

Attachment(s)

1. Attachment One - Planning proposal
2. Attachment Two - Subdivision Concept Plans

260315/13 RESOLVED

(Cr Paul Worth/Cr Ben Smith)

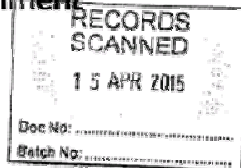
1. That Council authorises the submission of a planning proposal, to amend the Ballina Local Environmental Plans 1987 and 2012, to apply an R2 Residential zone over Lot 12 DP 581159 and part of Lot 21 DP 1007134, and alter the Strategic Urban Growth Area boundaries including buffer areas, as indicated in maps which form a part of the planning proposal, to the Department of Planning and Environment for review and Gateway determination.
2. The planning proposal to make provision for the proposed R2 zone being subject to a minimum lot size of 800m² and the ultimate minimum lot size being subject to further investigation and determination by the Council after public exhibition.
3. That upon an affirmative Gateway determination being received, the procedural steps associated with the 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.
5. That the Department of Planning and Environment be advised that, at this stage of the process, it is the Council's intention to exercise its delegated plan making functions.

FOR VOTE - All Councillors voted unanimously

Appendix 11 – Gateway Determination 14 April 2015



**Planning &
Environment**



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

Our ref: PP_2015_BALLI_004_00 (15/05827)
Your ref: Greenwood Place Lennox Head (1668)

Dear Mr Hickey

Planning proposal to amend Ballina Local Environmental Plan 2012

I am writing in response to your Council's letter dated 1 April 2015 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 Lot 12 DP 581159 and part of Lot 21 DP 1007134, Greenwood Place, Lennox Head from RU2 Rural Landscape to R2 Low Density Residential (Ballina LEP 2012) and part of Lot 21, DP 1007134, Greenwood Place, Lennox Head from 1(d) Rural (Urban Investigation) (Ballina LEP 1987) to R2 Low Density Residential (Ballina LEP 2012) to permit residential development.

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

I have also agreed, as delegate of the Secretary, the planning proposal's inconsistencies with S117 Directions 1.2 Rural Zones, 1.5 Rural Lands and 5.3 Farmland of State and Regional Significance on the NSW Far North Coast are justified and of minor significance. No further approval is required in relation to these Directions.

Council will still need to obtain the agreement of the Department's Secretary to comply with the requirements of S117 Direction 4.2 Mine Subsidence and Unstable Land. Council should ensure this occurs prior to the plan being made.

Plan making powers were delegated to councils by the Minister 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 12 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 of Planning and Environment 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

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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, I have arranged for Ms Gina Davis of the Department's regional office to assist you. Ms Davis can be contacted on (02) 6701 9687.

Yours sincerely

 14 April 2016
Stephen Murray
General Manager, Northern Region
Planning Services

Encl:
Gateway Determination
Written Authorisation to Exercise Delegation
Attachment 2 – Delegated Plan Making Reporting Template



Planning &
Environment

Gateway Determination

Planning proposal (Department Ref: PP_2015_BALLI_004_00): to rezone Lot 12 DP 581159 and part of Lot 21 DP 1007134, Greenwood Place, Lennox Head from RU2 Rural Landscape to R2 Low Density Residential (Ballina LEP 2012) and part of Lot 21, DP 1007134, Greenwood Place, Lennox Head from 1(d) Rural (Urban Investigation) (Ballina LEP 1987) to R2 Low Density Residential (Ballina LEP 2012) to permit residential development.

I, the General Manager, Northern Region at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) that an amendment to the Ballina Local Environmental Plan (LEP) 2012 to rezone Lot 12 DP 581159 and part of Lot 21 DP 1007134, Greenwood Place, Lennox Head from RU2 Rural Landscape to R2 Low Density Residential (Ballina LEP 2012) and part of Lot 21, DP 1007134, Greenwood Place, Lennox Head from 1(d) Rural (Urban Investigation) (Ballina LEP 1987) to R2 Low Density Residential (Ballina LEP 2012) to permit residential development should proceed subject to the following conditions:


1. Prior to undertaking public exhibition the following studies need to be completed:
 - Coastal Zone Impacts and Visual Amenity Impacts assessment;
 - Contaminated Land Assessment;
 - Due Diligence Aboriginal Heritage assessment;
 - Flora and Fauna assessment;
 - Geotechnical Assessment (Landslip);
 - Mosquito Management Assessment;
 - Road Noise Assessment;
 - Services and Stormwater Management Assessment; and
 - Land Use Conflict Risk Assessment.
2. Following the preparation of the studies in condition (1) Council should determine an appropriate minimum lot size and prepare a map for public exhibition in accordance with the Standard Technical Requirements for LEP Maps. Council is to provide the Department with a copy of the material for community consultation for approval, as required by section 57(2) of the EP&A Act.
3. Prior to undertaking public exhibition the proposal is to be amended to include a draft Land Application Map and Height of Building Map incorporating the land to be rezoned from 1(d) Rural (Urban Investigation). These maps are to be prepared in accordance with the Standard Technical Requirements for LEP Maps.
4. Consultation is required with the following public authorities and agencies prior to public exhibition under section 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant S117 Directions:
 - NSW Primary Industries
 - Office of Environment and Heritage

PP_2015_BALLI_004_00 (15/09/27)

Each public authority and agency 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.

5. Community consultation is required under sections 56(2)(c) and 57 of the EP&A Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **28 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 and Infrastructure 2013)*.
6. A public hearing is not required to be held into the matter by any person or body under section 56(2)(c) 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).
7. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated 14th day of April 2015


 Stephen Murray
 General Manager, Northern Region
 Planning Services
 Department of Planning and Environment
 Delegate of the Minister for Planning

PP_2015_BALL1_904_00(15/05927)



**Planning &
Environment**

WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Ballina Shire Council is authorised to exercise the functions of the Minister for Planning 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_2015_BALLI_004_00	Planning proposal to rezone Lot 12 DP 581159 and part of Lot 21 DP 1007134, Greenwood Place, Lennox Head from RU2 Rural Landscape to R2 Low Density Residential (Ballina LEP 2012) and part of Lot 21, DP 1007134, Greenwood Place, Lennox Head from 1(d) Rural (Urban Investigation) (Ballina LEP 1987) to R2 Low Density Residential (Ballina LEP 2012) to permit residential development.

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

Dated *14 April* 2015

Stephen Murray
General Manager, Northern Region
Planning Services
Department of Planning and Environment

Delegate of the Minister for Planning

PP_2015_BALLI_004_00 (1505827)

Attachment 5 – Delegated plan making reporting template**Reporting template for delegated LEP amendments****Notes:**

- Planning proposal number will be provided by the Department of Planning and Environment following receipt of the planning proposal
- The Department of Planning and Environment 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 publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the Department of Planning and Environment with the RPA's request to have the LEP notified

Table 1 – To be completed by Department of Planning and Environment

Stage	Date/Details
Planning Proposal Number	PP_2015_BALLI_004_00
Date Sent to DoP&E under s56	1 April 2015
Date considered at LEP Review	N/A
Gateway determination date	14 April 2015

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 DoP&E requesting notification		

Table 3 – To be completed by Department of Planning and Environment

Stage	Date/Details
Notification Date and details	

Additional relevant information:



Alteration of Gateway Determination

Planning proposal (Department Ref: PP_2015_BALLI_004_00)

I, the Acting Director Regions, Northern at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(7) of the *Environmental Planning and Assessment Act 1979* (the Act) to alter the Gateway determination dated 14 April 2015 for the proposed amendment to the Ballina Local Environmental Plan 2012 as follows:

1. Delete condition 7:

"7. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination."

and replace with a new condition 7:

"7. The planning proposal is to be completed by 21 April 2017."

Dated **23** day of **March** 2016

A handwritten signature in black ink, appearing to read 'Craig Diss'.

**Craig Diss
Acting Director Regions, Northern
Planning Services
Department of Planning and Environment**

Delegate of the Minister for Planning

BallinaPP_2015_BALLI_004_00(1505827)

Appendix 12 – Coastal Zone Impacts and Visual Amenity Impacts Assessment

(Under Separate Cover)

Appendix 13 – Due Diligence Aboriginal Cultural Heritage Assessment

(Under Separate Cover)

Appendix 14 - Flora and Fauna Assessment

(Under Separate Cover)

Appendix 15 – Geotechnical Assessment (Landslip)

(Under Separate Cover)

Appendix 16 – Contaminated Land Assessment

(Under Separate Cover)

Appendix 17 – Land Use Conflict Risk Assessment

(Under Separate Cover)

Appendix 18 – Mosquito Management Assessment

(Under Separate Cover)

Appendix 19 – Road Noise Assessment

(Under Separate Cover)

Appendix 20 – Services and Stormwater Management Assessment

(Under Separate Cover)

Appendix 21 – Gap Analysis Report

Gap Analysis Report

**Planning Proposal
Greenwood Place Lennox Head**

Prepared for Ballina Shire Council

1. INTRODUCTION

rob van iersel + environmental planner has been engaged by Ballina Shire Council to undertake a gap analysis and peer review of documentation relating to a rezoning request which proposes an expansion of the existing residential area at Greenwood Place, Lennox Head.

PURPOSE OF THIS REPORT

The purpose of this report is to:

- summarise the key technical issues associated with the proposal;
- summarise a review of the documentation submitted by the proponent in support of the proposal; and
- identify any gaps or deficiencies in that information and the additional information required in that event.

BACKGROUND

Resolution and Gateway Determination

The most recent Council decision regarding the proposal was on 26 March 2015, where Council resolved:

1. *That Council authorises the submission of a planning proposal, to amend the Ballina Local Environmental Plans 1987 and 2012, to apply an R2 Residential zone over Lot 12 DP 581159 and part of Lot 21 DP 1007134, and alter the Strategic Urban Growth Area boundaries including buffer areas, as indicated in maps which form a part of the planning proposal, to the Department of Planning and Environment for review and Gateway determination.*
2. *The planning proposal to make provision for the proposed R2 zone being subject to a minimum lot size of 800m² and the ultimate minimum lot size being subject to further investigation and determination by the Council after public exhibition.*
3. *That upon an affirmative Gateway determination being received, the procedural steps associated with the 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.*
5. *That the Department of Planning and Environment be advised that, at this stage of the process, it is the Council's intention to exercise its delegated plan making functions.*

A Gateway Determination was made on 14 April 2015. It provides the following description of the proposal:

To rezone Lot 12 DP 581159 and part Lot 21 DP 1007134, Greenwood Place, Lennox Head from RU2 Rural Landscape to R2 Low Density Residential (Ballina LEP 2012) and part Lot 21 DP 1007134, Greenwood Place, Lennox Head from 1(d) Rural (Urban Investigation) (Ballina LEP 1987) to R2 Low Density Residential (Ballina LEP 2012) to permit residential development.

The relevant conditions associated with this determination are listed below. They inform my review of the adequacy of the documentation submitted in support of the proposal:

1. *Prior to undertaking public exhibition the following studies need to be completed:*
 - *Coastal Zone Impacts and Visual Amenity Impacts Assessment;*
 - *Contaminated Land Assessment;*
 - *Due Diligence Aboriginal Heritage Assessment;*
 - *Flora and Fauna Assessment;*
 - *Geotechnical Assessment (Landslip);*
 - *Mosquito Management Assessment;*
 - *Road Noise Assessment;*
 - *Services and Stormwater Management Assessment; and*

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- *Land Use Conflict Risk Assessment.*
- 2. *Following the preparation of the studies in condition (1) Council should determine an appropriate minimum lot size and prepare a map for public exhibition in accordance with the Standard Technical Requirements for LEP Maps. Council is to provide the Department with a copy of the material for community consultation for approval, as required by section 57(2) of the EP&A Act.*
- 3. *Prior to undertaking public exhibition the proposal is to be amended to include a draft Land Application Map and Height of Buildings Map incorporating the land to be rezoned from 1(d) Rural (Urban Investigation). These maps are to be prepared in accordance with the Standard Technical Requirements for LEP Maps.*
- 4. *Consultation is required with the following public authorities and agencies prior to public exhibition under section 56(2)(d) of the EP&A Act and/ or to comply with the requirements of relevant S117 Directions:*
 - *NSW Primary Industries*
 - *Office of Environment and Heritage**Each public authority 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.*

Relevant Strategic Plans

Far North Coast Regional Strategy

The subject land is located within a proposed future urban release area and is also indicated as being within an area of high level constraints under the FNCRS. The proposed rezoning for residential purposes is consistent with this strategy, subject to constraints being able to be mitigated. Constraints in this case consist of potential land slip susceptibility and in respect to the sea ward side of the hill (not part of this planning proposal) its visual significance.

Ballina Shire Growth Management Strategy 2012

The Ballina Shire Growth Management Strategy 2012 (GMS) provides the strategic planning context for urban development in Ballina Shire.

The subject land is identified as a strategic urban growth area under the GMS. The proposed rezoning for residential purposes is therefore consistent with Council's GMS

Lennox Head Structure Plan

The subject land forms part of Candidate Release Area H2 within the Lennox Head Structure Plan.

Area H2 referred to the south-western portion of the "the hill behind the Lennox Head Village Centre" site, described as the land located generally between Greenwood Place and the existing stand of Banksia trees. Subject to more detailed assessment (via the rezoning process) to confirm the area H2 as suitable for development, the Lennox Head Structure Plan proposed the following:

This area was proposed to be a combination of low and medium density residential development (L2 and M1 pursuant to Ballina DCP No.1) is the preferred use for this site. Any such development would need to ensure adequate buffering for road traffic noise and be well screened from the Coast Road. Access to area H2 is to be via Greenwood Place. A built form of light weight construction with little or no excavation to minimise disruption to the landform, is considered appropriate for this site. Any buildings on this site shall have a building height lower than the red roof of the duplex building to north of site at 14 Blue Horizon Drive, so as to minimise the visual impact of development in this area.

The minimum subdivision lot size applicable within an L2 area was 800m². In an M1 area, the minimum subdivision lot size was also 800m² for a dwelling or 600m² for dual occupancy.

The area to the east of area H2, designated as being retained / preserved as landscape / open space within the structure plan, has significant scenic amenity value. These qualities ultimately lead to an environmental zone being applied to this land in the draft Ballina Local Environmental

Plan. This land is currently designated as a deferred matter within Ballina LEP 2012 and retains its 1(d) Rural (Urban Investigation) zoning under the provisions of Ballina LEP 1987.

REZONING SUBMISSION

The planning proposal is supported by a report, prepared on behalf of the land owner by Planners North, dated October 2015. The report provides an identification and assessment of the site, a description of the rezoning proposal, and a discussion of site development issues. It provides the information required to address the relevant conditions of the Gateway determination (see above).

A Planning Proposal has also been prepared, which examines the proposal in relation to relevant Environmental Planning Instruments, Section 117 Directions and other statutory planning requirements.

The report concludes that rezoning of the land, as proposed, is appropriate, providing the following justification:

The subject land has been "on the books" for residential rezoning for some three decades. The proposal is consistent with a raft of strategic planning including:

- *Ballina Local Environmental Plan 1987 1(d) Urban Investigation Zone designation;*
- *Lennox Head Community Aspirations Strategic Land Use Plan, 2002;*
- *Lennox Head Structure Plan of 2004;*
- *Ballina Shire Affordability Housing Strategy of 2010;*
- *Ballina Shire Growth Management Strategy of 2012. This plan sets out Council's framework for managing population growth in the shire and identifies the land as appropriate for residential rezoning. This plan was endorsed by the Department of Planning and Infrastructure in May 2013;*
- *Far North Coast Regional Strategy; and*
- *Ballina Shire Community Strategic Plan.*

Further, zoning amendment as proposed is generally consistent with relevant State Environmental Planning Policies and the Directions issued by the Minister under Section 117 of the Environmental Planning and Assessment Act.

Having regard to the above strategic planning context and further research completed post-gateway approval, we respectfully submit that this Planning Proposal is another step forward in the orderly and economic development of the Shire and warrants support.

2. THE PLANNING PROPOSAL

The planning proposal relates to land located at Lennox Head, adjacent to the intersection of Byron Bay Road and Greenwood Place. The site comprises Lot 12 DP 581158 and part Lot 21 DP 1007134.

The proposal seeks to amend Ballina Local Environmental Plan 2012 (BLEP 2012) by rezoning the land from RU2 Rural Landscape to R2 Low Density Residential. It also seeks to amend Ballina Local Environmental Plan 1987 (BLEP 1987), which currently applies to a small part of the site at its eastern edge, by including that area within BLEP 2012 with a zoning of R2 Low Density Residential.

In addition to the zoning change, the proposal requests that the following LEP Maps be amended:

- Lot Size Map, with the application of a 600m² minimum lots size over the land;
- Building Heights Map, by applying a maximum height of 8.5m over the land; and
- Strategic Urban Growth Area Map, by removing the land from this map.

3. RELEVANT PLANNING ISSUES

GATEWAY ISSUES

The primary issues associated with the rezoning of the land as proposed are those outlined in the Gateway determination (14 April 2015):

- *Coastal Zone Impacts and Visual Amenity Impacts assessment;*
- *Contaminated Land Assessment;*
- *Due Diligence Aboriginal heritage assessment;*
- *Flora and Fauna assessment;*
- *Geotechnical Assessment (Landslip);*
- *Mosquito Management Assessment;*
- *Road Noise Assessment;*
- *Services and Stormwater Management Assessment; and*
- *Land Use Conflict Risk Assessment.*

These issues have been addressed on behalf of the proponent in the report prepared by Planners North, dated October 2015.

Coastal Zone and Visual Amenity

The report notes that, while the site is located within the coastal zone, it is some 500m landward of, and elevated well above, the active beach zone. As such, the site is unlikely to be affected by coastal processes, and visual amenity is the primary consideration.

The rezoning submission is supported by a Visual Amenity Assessment, prepared by design team ink, dated July 2015.

The visual assessment has been completed within the context of SEPP 71 matters for consideration; the NSW Coastal Policy 1997; the NSW Coastal Zone Design Guidelines 2009; and the Lennox Head Structure Plan 2004.

The design team ink report provides a detailed analysis of the existing visual amenity, and analyses the nature of the site as viewed from various public vantage points within the coastal zone. In order to minimise the impact to the proposed development from key viewing locations, the following specific measures have been recommended by design team ink:

- *In addition to compliance with the Ballina Shire Council LEP maximum building heights and DCP building height planes, the maximum finished height of any part of the roof of a building on any lot should not be above the level of the highest part of the roof of the duplex located at 14 Blue Horizon Drive.*
- *The design of the building on proposed lots 7 and 18 should ensure that no parts of the building can be seen from any part of the village centre, Pat Morton Lookout, Lennox Headland, the coastal reserve or above the crest of the hill behind Lennox Head.*
- *Acoustic treatments along the Coast Road should result in a soft landscape outcome where vegetation is the predominant element.*
- *A vegetated screen at least 5m wide should be incorporated along the entire southern edge of the development and wrap up the eastern boundary for a distance of at least 45m. The screen should be planted with locally native species to achieve an overall screening height of at least 8.5m above natural ground level.*
- *Street trees of at least 6m mature height should be included within the subdivision.*
- *Planting of trees and shrubs to visually screen to a height of 6m should be included within the Greenwood Place road reserve in front of Lot 9 to prevent views into the urban lots from the Coast Road.*
- *Strengthen the ecological integrity and potential longevity of the patch of mixed Banksia vegetation to the east of the Site by undertaking weed management and planting over a 2 year period. Fencing of this vegetation to protect from livestock is recommended.*

Gap Analysis Report
Residential Expansion – Greenwood Place, Lennox Head

- *Minimise 'sky-glow' from lighting by selecting luminaires which emit off-white light. Ensure all street lighting is facing downwards and includes glare shields.*
- *A built form of light weight construction with little or no excavation to minimize disruption to the landform, is considered appropriate for the site.*

The report notes that the existing visual character of the site will change from rural to urban, but that, subject to adoption of the recommendations, the urban development of the site will not result in significant detrimental impacts on the visual amenity of the locality. Importantly, the report notes that development within the zoned area will not intrude into the skyline when the hillside is viewed from the Lennox Head Village Centre.

The design team ink report includes the recommendation originally contained within the Lennox Head Structure Plan that:

Any buildings on this site shall have a building height lower than the red roof of the duplex building to north of site at 14 Blue Horizon Drive, so as to minimise the visual impact of development in this area

The site levels adjacent to the site at 14 Blue Horizon Drive are at around the same level as that adjoining property, or slightly lower. The remainder of the site is lower in elevation.

The BLEP 2012 Height of Buildings Map specifies a maximum height of 8.5m for buildings on the site. It is considered that this existing control will be adequate to ensure that the objectives regarding visual impact can be achieved. This can be confirmed at development application stage.

On the basis of the assessment, *Coastal Zone Impacts and Visual Amenity Impacts* do not present an impediment to the rezoning of the site, and no further information is required at this stage of the process.

Contaminated Land

The rezoning submission is supported by advice from Coffey Geotechnics Pty Ltd, dated June 2015, addressing both geotechnical and contamination issues. The advice is based on a review of their previous assessments, undertaken in 2008.

The 2008 investigation was a Phase 1 Environmental Site Assessment (ESA) of the whole of the land.

The Phase 1 ESA found that the site (Lot 21 DP1007134 and Lot 12 DP581159) has been used for cattle grazing since at least the 1960's to the present day. The larger portion of the site, Lot 21, has been owned by the Condon family since 1964. The smaller portion of the site, Lot 12, has been owned by the Roman Catholic Church since 1976 and the Condon family from 1964 to 1976. Based on information provided by the titles search, it appears that the site has been owned by farmers since being granted between 1880 and 1890.

The ESA also involved collection and analysis of soils samples from across the site.

The results of the laboratory testing showed manganese concentrations exceeding the adopted soil investigation levels for human health and provisional phytotoxicity in numerous samples (13 of 19 samples). It is considered that these manganese concentrations are representative of natural background levels and are derived from weathering of the parent basalt rock material common in this area. Generally, basalt contains between 5% and 12% Manganese Oxide (MgO wt%). Manganese is considered to be relatively non-toxic to animals, but can be toxic to plants at higher levels. Manganese is more commonly known for causing nuisance problems in water supplies with the staining of washing and bathroom fixtures

The remaining samples showed concentrations of other contaminants below the adopted soil investigation levels.

Gap Analysis Report
Residential Expansion – Greenwood Place, Lennox Head

The Phase 1 ESA identified no areas of environmental concern (AECs). Based on the findings of the Phase 1 ESA, and sampling and analysis of the soils, it is considered that the site has a low potential for contamination.

On the basis of this report, Contaminated Land does not present an impediment to the rezoning of the site, and no further information is required at this stage of the process.

Aboriginal Heritage

A Cultural Heritage Due Diligence Assessment was undertaken by Everick Heritage Consultants Pty Ltd in August 2015. The assessment included consultation with the Jali Local Aboriginal Land Council (LALC), including a site walk undertaken with a Jali Sites Officer familiar with the places of significance within the Ballina and Lennox Head areas.

No Aboriginal Objects or places were located during the inspection and Jali LALC did not indicate that any places of significance were known to exist within any parts of the project area.

The assessment also notes:

The known distribution of Aboriginal sites throughout the region is clustered on the estuary, wetlands, sand dunes and sand sheets of the coastal plain between the Richmond River and Broken Head. Little evidence of Aboriginal cultural heritage has been found on low hills composed of basalt derived soils between the shoreline and Newrybar wetlands on which the Project Area is located and the vast expanse of low hills broadly described as the Astorville plateau to the west. The exception within the area defined above has been sand based soil conditions as exist in the Angels Beach estates where Aboriginal cultural heritage has been extensive in terms of the numbers, variety and contents of Aboriginal sites.

The assessment further notes that the site has a history of high levels of ground disturbance over the majority of its surface. As such, the report suggests that further archaeological works within the site would not be warranted.

They note, however, that the Jali LALC have recommended that their representative be on site during future ground disturbance.

The assessment has been reviewed by the NSW Office of Environment and Heritage (OEH), who support the conclusions of the report.

On the basis of this report, *Aboriginal Heritage* does not present an impediment to the rezoning of the site, and no further information is required at this stage of the process.

Flora and Fauna Assessment

Peter Parker Environmental Consultants Pty Ltd have undertaken the flora and fauna assessment to support the proposed rezoning. The assessment included vegetation surveys undertaken in 2008 and 2015. It concludes:

The site is dominated by exotic grasses and shrubs and is ecologically insignificant. The rezoning and subsequent subdivision will not have a significant effect on threatened species, their habitats or endangered ecological communities.

The assessment also included targeted searches for Hairy Joint Grass (*Arthaxon hispidus*), a threatened plant species known in the area. It was not found on the site.

The assessment also examined the potential for fauna habitat and concluded that no significant habitat exists on the site.

In reviewing the assessment, the NSW Office of Environment and Heritage (OEH) noted that the footprint of the planning proposal adjoins a patch of vegetation to the east, but that the report has not identified nor assessed the significance of this vegetation. There is potential that the intensification of land use that will follow a rezoning could result in indirect impacts to this vegetation.

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Gap Analysis Report
Residential Expansion – Greenwood Place, Lennox Head

Given that the vegetation is, however, outside of the area proposed to be rezoned, it is considered that the issue relates to the provision of an appropriate buffer, based on an assessment of its biodiversity values. That assessment can be dealt with at development application stage.

Council's Environmental Scientist has also reviewed the ecological assessment, noting:

In relation to the protection of the vegetation growing in the eastern portion of the development site, it is considered although the vegetation is in a degraded state any future development for the site should ensure the vegetation is retained, buffered and rehabilitated. As a consequence, the applicants preferred subdivision layout that includes Lot 18 is not supported. The proposed acoustic barrier should be designed to ensure it does not have any impact on any native vegetation growing near its alignment. This issue has not been assessed by in the FFR.

The issues raised regarding lot layout and design of acoustic barrier can be determined at Development Application stage.

It was also noted that site inspections have confirmed the south western portion of the site represents a surface intersection with the groundwater. The development of this area will require further consideration to ensure the groundwater will not affect the constructability of the subdivision.

This is also an issue that can be adequately addressed at development application/ design stage, and does not prevent the progress of the planning proposal.

On the basis of the report submitted, therefore, biodiversity does not present an impediment to the rezoning of the site, and no further information is required at this stage of the process.

Geotechnical

The rezoning submission is supported by a Geotechnical Investigation Report, prepared by Coffey Geotechnics Pty Ltd. The report notes that a previous detailed assessment of the land was undertaken in 2008, associated with a proposed rezoning of a wider site. Their review of the 2008 report notes that there have not been any changes since 2008 that would warrant further detailed analysis.

The 2008 investigations included the test holes across the site, with laboratory tests carried out to assess the material parameters of the site's soils. It also included a slope hazard assessment.

The review of the 2008 report allowed Coffey geotechnics to conclude that the Assessed Landslide Risk to property is very low.

On the basis of this report, Geotechnical issues do not present an impediment to the rezoning of the site, and no further information is required at this stage of the process.

Mosquito Management

The rezoning submission is supported by a Mosquito Impact Assessment report prepared by Mosquito Consulting Services Pty Ltd, dated July 2015.

The assessment notes that the site does not contain any mosquito breeding habitat and that the closest known mosquito hazard/ breeding area is located on Henderson land, at least 400m to the west. It further notes that Byron Bay Road provides at least 30m separation from other potential mosquito sites, and concludes that the site is not likely to be subject to significant mosquito risk.

On the basis of this report, Mosquito Management does not present an impediment to the rezoning of the site, and no further information is required at this stage of the process.

Road Noise Assessment

CRG Acoustics have provided a report, dated July 2015 to support the proposed rezoning. The report notes:

In undertaking the detailed assessment, unattended road traffic noise measurements were conducted for the site; and through 3D road traffic noise modelling, future road noise impacts from The Coast Road were produced. The 3D road noise model incorporates the site and surrounding land topography and road grades which play an important role in the propagation of traffic noise to the subject site.

Based on the noise measurements, future traffic predictions and future noise modelling, the report recommends the construction of an acoustic barrier/ earth mound height of 2.0m along the Coast Road frontage of the site. It notes, however, that appropriate building shell treatment will be required for future dwellings, both at ground and first floor levels.

Based on this report, it is reasonable to conclude that successful noise reduction treatments can be determined, and the detail of such treatment can be developed, based on further detailed assessment, at future subdivision application stage.

On the basis of this report, Road Noise does not present an impediment to the rezoning of the site, and no further information is required at this stage of the process.

Services and Stormwater Management

GeoLINK have provided a Services Report to support the rezoning.

Water Supply

The report notes that there is an existing water supply service in the vicinity of the site, with a supply main running in a north-south direction along Greenwood Place, along the western boundary of the site and across the Coast Road to Greenfield Road. Other mains exist within the Coast Road.

The site is within the area proposed to receive recycled water from the Ballina Shire recycled water network. As such, the development needs to be designed and constructed with a dual water supply. The recycled water supply is not yet available at the site.

The 'peak day' water demand has been calculated, based on anticipated subdivision yields, at 30 kL/day for drinking water and 21 kL/day for recycled water. The 'peak instantaneous' water demand is calculated as 2.8 L/s for both drinking water and recycled water.

The potential for future development of the subject site was taken into account in the development of Council's Development Servicing Plan (DSP) – Water Supply Infrastructure. The site was identified as site 'LH5' in the DSP and assigned an estimated demand of 30 ET. The suggested subdivision layouts provided to support the rezoning are significantly less than 30ET.

No upgrades to the existing water supply network are required as a result of the proposed development, aside from those already planned and costed as part of the DSP.

Sewerage

There is an existing sewerage network in the area, with three existing sewage pumping stations that could be used. All wastewater from Lennox Head is ultimately transferred to the Lennox Head Sewage Treatment Plant, located west of Skennars Head.

The proposed development would generate an additional design load of approximately 2.08 L/s to the existing sewerage network. This comprises a peak dry weather flow of 0.81 L/s, groundwater infiltration flow of 0.04 L/s and an inflow and infiltration flow of 1.24 L/s.

The potential for future development of the subject site was taken into account in the development of Council's Development Servicing Plan (DSP) – Wastewater Infrastructure. The site was identified as site 'LH5' in the DSP and assigned an estimated demand of 30 ET. The suggested subdivision layouts provided to support the rezoning are significantly less than 30ET.

GAP Analysis Report
Residential Expansion – Greenwood Place, Lennox Head

Depending on connection to one of the three existing pumping stations, there would either be no or minimal upgrades to existing infrastructure. Details of that connection can be addressed at subdivision stage and do not impede the rezoning of the land.

Stormwater

There are existing stormwater pit and pipe networks in the vicinity of the site that could be used to service the site.

In order to gain development approval, subdivision of the site would need to demonstrate that peak stormwater flows leaving the site in the post-development situation do not exceed the predevelopment peak flows.

A standard stormwater collection and conveyance system would be suitable for the proposed development. This would comprise kerb inlet pits and underground pipes for conveyance of minor storm flows, combined with overland flow paths along the roads for conveyance of major storm flows.

Based on the potential allotment layouts prepared in support of the rezoning, the development is likely to have impervious surfaces (i.e. roof, road pavement) covering approximately 35 – 50% of the site.

The potential allotment layouts identify a 'proposed detention' area in the south-western corner of the site. This implies that the proposed approach to stormwater management would be the provision of a stormwater basin to provide detention and treatment of stormwater at this location.

On-Site Stormwater Detention may no longer be required pursuant to Council's contemporary Stormwater Management Standard for Development. It is apparent, however, that stormwater will be able to be managed in accordance with Council's requirements. This can be a matter for design at Development Application stage.

Electricity

There is an existing overhead power line running along the western boundary of the site. An electricity pole with a transformer is located approximately in the location of the proposed road connection to Greenwood Place.

It is likely that the existing transformer would need to be upgraded, but there are no apparent impediments to that upgrade.

Telecommunications

An existing network is in place and can accommodate the anticipated development.

On the basis of GeoLINK's report, *Servicing and Stormwater* do not present an impediment to the rezoning of the site, and no further information is required at this stage of the process.

Land Use Conflict Risk

The Land Use Conflict Risk Assessment (LUCRA) prepared by Land & Fire Assessments Pty Ltd dated June 2015 considers two potential subdivision layout options and addresses Council's DCP requirements.

The potential for conflict arises as the residue of Lot 21 (land east of the subject site) will remain as cleared land with low scale cattle grazing. Having residential lots abutting rural lands used for cattle grazing can raise a number of land use conflicts for future residents.

The LUCRA demonstrates that the potential for conflict can be managed through the subdivision design process, to provide appropriate buffers between residential lots and the adjoining rural land.

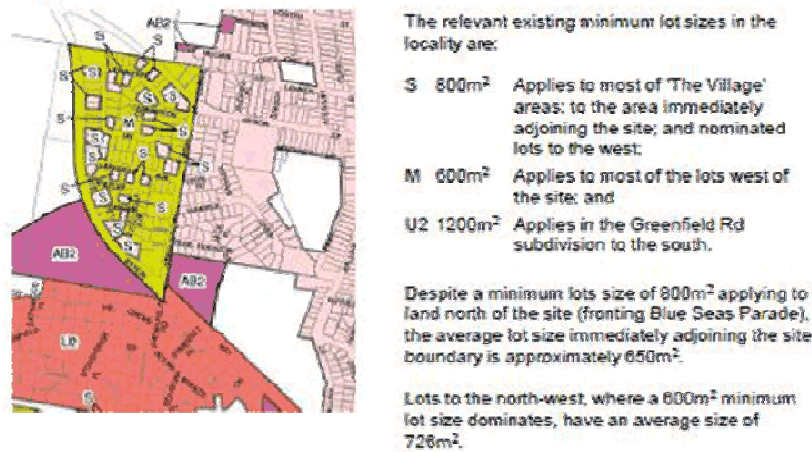
As such, Land Use Conflict does not present an impediment to the rezoning of the site, and no further information is required at this stage of the process.

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RESIDENTIAL LOT SIZE

The figure below is an extract from the Ballina Local Environmental Plan 2012 Lot Size Map for this locality.



Council's resolution of 26 March 2015 suggested a minimum lot size of 800m² for the site, but indicated that the ultimate lot size could be considered following public exhibition.

The proponent has provided two concept layout plans, shown below; one based on an 800m² lot subdivision approach, which yields 14 lots, and another based on a minimum 600m² lot area, yielding 18 lots.

The final subdivision pattern would need to be further refined at Development Application stage.



However, both layouts are considered to be generally consistent with the existing subdivision pattern and residential character of the locality.

Gap Analysis Report
Residential Expansion – Greenwood Place, Lennox Head

A yield based on 600m² minimum lot size optimises the use of the land, and could therefore be supported. It is recommended that both lot size options be included in the public exhibition of the planning proposal, to allow for community comment regarding the issue.

4. CONCLUSION

Based on the assessment of the documentation submitted in support of the planning proposal, no further information is required prior to the public exhibition of the proposed rezoning.

Rob van Iersel

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Planning Proposal – May 2016
Greenwood Place Lennox Head

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Appendix 22 – Public Authority Responses



Our Ref: DOC15/449153
Your Ref: BSCPP 15/004 Greenwood Place (Trin 1668)

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

Attention: Mr Klaus Kerzinger – Strategic and Community Facilities Group

Dear Mr Hickey

Re: Planning Proposal BSCPP 15/004 – Greenwood Place, Lennox Head

Thank you for your letter dated 5 November 2015 regarding the Greenwood Place Lennox Head Planning Proposal requesting comments from the Office of Environment and Heritage (OEH) on the adequacy of the Fauna and Flora Assessment and the Aboriginal cultural heritage Assessment. I appreciate the opportunity to provide input and apologise for the delay in responding.

We have reviewed the documents supplied and advise that, although we have no further concerns about Aboriginal cultural heritage, a number of issues are apparent with respect to the assessment for biodiversity as detailed in **Attachment 1** to this letter.

In summary, the OEH recommends that prior to exhibiting the planning proposal, the council should clarify the significance of the vegetation to the east of the planning area and, if necessary, adjust the planning proposal to ensure that future development enabled by the rezoning does not indirectly impact any significant biodiversity values which may immediately adjoin the planning area.

If you have any further questions about this issue, Mr Clyde Treadwell, Conservation Planning Officer, on 6659 8288, or via email clyde.treadwell@environment.nsw.gov.au. Please note that Clyde works Tuesday to Friday each week.

Yours sincerely

 10 December 2015

DIMITRI YOUNG
Senior Team Leader Planning, North East Region
Regional Operations

Contact officer: CLYDE TREADWELL
6659 8288

Enclosure: Detailed OEH Comments – Planning Proposal Greenwood Place Lennox Head

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Coffs Harbour NSW 2450
Tel: (02) 6659 8200 Fax: (02) 6651 5355
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www.environment.nsw.gov.au

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Attachment 1: Detailed OEH Comments – Planning Proposal Greenwood Place Lennox Heads**The Proposal**

The planning proposal (PP) is to amend the existing planning controls in the Ballina Local Environmental Plan 2012 to facilitate use of the land for R3 Medium Density Residential purposes consistent with the zoning of the land to the immediate north of the site.

The PP report provides two alternatives for future subdivision, either of which may ultimately be applied for in a development application or some other option that accords with the proposed zoning may be determined to be more appropriate at the time of eventual development of the site. The PP report shows an option with a residential subdivision of 18 allotments and another with a residential subdivision of 14 allotments.

Aboriginal cultural heritage

The OEH has reviewed the response to our letter of 12 May 2015 from the perspective of Aboriginal cultural heritage. We note that the Aboriginal cultural heritage assessment carried out was conducted in accordance with the Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales. However, the Due Diligence process is not appropriate for strategic planning proposals and is intended for use only when ground disturbing works are proposed at a specific location. The Due Diligence process is intended to identify only the presence, or likely presence, of Aboriginal objects and is not suited to capturing any intangible values that may be present at any location. The OEH notes that in our letter of response to the gateway determination (12 May 2015) clear reference was made that it is *critical that tangible and intangible Aboriginal cultural heritage is fully assessed and considered*. On the basis of the above information the OEH has the following comments to make.

The OEH notes that an archaeological assessment was carried out over the subject lands in 2004 and as part of that assessment some consultation with the Jali Local Aboriginal Land Council (LALC) was undertaken. As a general rule the OEH considers that any archaeological assessment conducted more than five years ago is likely to be inadequate in identifying Aboriginal cultural heritage constraints for a proposal. However, as referenced by Everick, given the findings of the large number of studies undertaken in the surrounding areas since 2004 that Aboriginal cultural heritage is not associated with basalt-derived soils such as those in the planning area, further archaeological investigation for the planning proposal is not warranted.

The OEH recognises that as a result of that assessment and consultation process and the subsequent information provided by Everick, including further consultation with Jali LALC, neither Aboriginal objects nor any areas of intangible cultural significance have been identified in the planning area.

The OEH also notes the request by Jali LALC to monitor works on site in order to identify any Aboriginal objects that may be present. We understand that the current referral involves a rezoning only and no specific works are being assessed therefore these comments are not relevant at this stage of the process.

Biodiversity

The OEH notes that the footprint of the planning proposal adjoins a patch of vegetation to the east. We also note that this land to the east is part of a "deferred matter" which may have arisen from a decision in 2012 by the former Minister for Planning and Infrastructure to defer the creation of environmental protection zones within standard instrument local environmental plans for the Far North Coast Region of NSW (including Ballina) and to undertake a review of the application of such zones.

The ecological report has not identified or discussed this patch of vegetation so its significance is unknown, even though the intensification of the land use associated with the rezoning will increase the indirect impacts to this area.

The OEH encourages planning proposals that are based on robust environmental assessment of the land supported by the latest environmental data. As a general guide, environmental assessment reports should not predate planning or development proposals by two to three years.

The planning area is also within the 10/50 vegetation clearing area which has the potential to allow clearing outside of the current rezoning footprint into adjoining areas such as the patch of vegetation to the east.

The OEH maintains that areas of high conservation value should be protected from inappropriate land uses through the application of appropriate and effective environmental protection zoning provisions, which are now available to council. Hence, the OEH recommend that the land to the east of the PP area is investigated and a suitable land use zone is applied.

Recommendation:

- Council should clarify the significance of the vegetation to the east of the planning area and, if necessary, adjust the planning proposal to ensure that future development enabled by the rezoning does not indirectly impact any significant biodiversity values which may immediately adjoin the planning area.

In considering development proposals OEH promotes the 'avoid mitigate and offset' approach for impacts on biodiversity. Consideration should be given to the in-situ protection of the habitat of threatened species and ecological communities identified on the sites subject to the Planning Proposal and for a suitable vegetated buffer to be provided between these areas and the proposal to reduce indirect impacts. The avoidance of biodiversity impacts will reduce offset requirements for any future development proposals.

If the in-situ protection of the biodiversity features of the individual sites is not achievable through avoiding these areas, the OEH recommends that these features are appropriately offset.

All impacts to biodiversity should be offset, regardless of whether it has been determined to be significant or not. Further, the OEH does not accept opinion based verification of the suitability of a proposed offset. The OEH requires greater certainty that acceptable environmental outcomes will be achieved. The OEH advocates that all impacts on biodiversity should be adequately offset in a transparent and repeatable manner.

The proposed offset should accord with the 'OEH principles for the use of biodiversity offsets in NSW'.

These principles have been developed by the OEH to provide the framework for considering biodiversity impacts and appropriate offset requirements and can be accessed at: <http://www.environment.nsw.gov.au/biodiversityoffsets/oehoffsetprinciples.htm>

A suitable metric should be used to calculate the biodiversity values of the losses and gains associated with the proposal in a repeatable and transparent way. Without a suitable metric the offsetting discussion and negotiation will be arbitrary. We recommend use of the BioBanking Assessment Methodology to identify the type and quantum of offsets needed to compensate for the direct and indirect impacts of the proposal on biodiversity.

The OEH is also willing to assist council in determining a suitable offset for the proposal to ensure biodiversity values are improved or maintained.



Department of
Primary Industries

OUT15/33699

30 November 2015

General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478

Attention: Klaus Kerzinger

Dear Sir/Madam

Re: Planning Proposal – BSCPP 15/004, Greenwood Place, Lennox Head – LUCRA Review

I refer to your email of 5 November 2015 regarding the submission of a Land Use Conflict Risk Assessment (LUCRA) for the rezoning of Lot 12 DP581159 and part Lot 21 DP1007134, Greenwood Place, Lennox Head. Thank you for the opportunity to provide further comments on this proposal with respect to the LUCRA. Department of Primary Industries (DPI) Agriculture has reviewed the LUCRA document and provides the following comments:

The 'Living and Working in Rural Areas' handbook (Learnmonth *et al* 2007) provides a recommended minimum buffer distance between residential areas and grazing of stock of 50m. Site specific factors will also play a role in determining the most appropriate level of separation and/or approach to conflict avoidance.

The LUCRA for the proposal indicates a separation distance of 15m between the proposed development and the residual agricultural land to the east. Additionally, layout option one for the development locates residential land immediately adjacent to the grazing land with a vegetative buffer of 5m. The adequacy of these distances/ conflict avoidance tools will be subject to the site specific information, e.g. topography. The LUCRA indicates that the higher knoll and existing vegetation on the residual grazing land will reduce the level of conflict risk between the two land uses. The potential for reduced impacts due to the topography is a consideration for council given your knowledge of the site. Any presence of vegetation on the adjoining agricultural land should not be a factor for consideration of buffer adequacy as it is the responsibility of the imposing development to provide due diligence in reducing the potential for land use conflict on the existing agricultural operation.

Should you require clarification on any of the information contained in this response, please contact me on (02) 66261215 or Alex Wells on (02) 66503125.

Yours Sincerely

Selina Stillman
Agricultural Resource Management Officer – North Coast

NSW Department of Primary Industries
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