



Planning Proposal – Ballina Local Environmental Plan 2012

» *Deferred Matters Integration – Stage 2*



40 cherry street • po box 450 • ballina nsw 2478
t 02 6686 4444 • f 02 6686 7035 • e council@ballina.nsw.gov.au

ballina.nsw.gov.au

DISCLAIMER © Land & Property Information 2017. Although all care is taken in the preparation of plans within this document, Ballina Shire Council accepts no responsibility for any misprints, errors, omissions or inaccuracies. The information contained within this plan is for pictorial representation only. Do not scale. Accurate measurements should be undertaken by survey.

Contents

1. Introduction and Background	5
1.1 Summary of Planning Proposal	5
1.2 Project Background.....	5
1.3 Land to Which the Planning Proposal Applies	6
1.4 Council Decisions	8
1.5 Gateway Determination	9
1.6 Deferred Matter Integration Program and Staging Overview.....	10
2. Objectives & Intended Outcomes	11
3. Explanation of Provisions.....	12
3.1 Application of E Zones	12
3.2 Deferred Land within Wollongbar Urban Expansion Area (Zoning).....	14
3.3 Deferred Land within East Ballina in the Vicinity of Shaws Bay (Zoning)	15
3.4 Additional Permitted Uses.....	15
3.5 Heritage Conservation	16
3.6 Mapping Overview	17
4. Justification.....	18
4.1 Section A – Need for the Planning Proposal.....	18
4.2 Section B – Relationship to Strategic Planning Framework.....	18
4.3 Section C – Environmental, Social and Economic Impact	19
4.4 Section D – State and Commonwealth Interests	19

5. Mapping.....	20
6. Community Consultation	21
7. Project Timeline	21
Appendices.....	22

Appendix 1 – s.117 Direction Checklist

Appendix 2 – Council Resolutions

Appendix 3 – Gateway Determination

Appendix 4 – Mapping

1. Introduction and Background

1.1 Summary of Planning Proposal

This planning proposal seeks to integrate land identified as “deferred matters” into Ballina Local Environmental Plan (LEP) 2012. Appropriate zones (including environmental zones) are proposed having regard for legislative requirements, the NSW Department of Planning and Environment’s Northern Councils E Zone Review Final Recommendations Report 2015, the associated s.117 Ministerial Direction and Council’s resolution of 27 October 2016.

This planning proposal is Stage 2 of a staged program to integrate all deferred matters into the Ballina LEP 2012.

1.2 Project Background

Ballina Shire Council engaged in the preparation of a comprehensive local environmental plan (LEP) under the State Government’s Standard LEP Instrument program between 2006 and 2013. This planning process was underpinned by a comprehensive and sustained community engagement program and considerable and careful deliberation by the elected Council and staff over a prolonged period.

Council resolved to endorse a new draft LEP for the shire in December 2011 and subsequently sought finalisation and implementation of the draft plan through the NSW Department of Planning and Environment. Prior to Council’s draft plan being finalised by the Department (it had received endorsement from the Department’s regional office in Grafton), the then Minister for Planning, the Hon. Brad Hazzard made a decision to initiate a review of environmental protection zones in five local government areas on the Far North Coast.

The consequence of the Minister’s decision was that Council’s comprehensive LEP was only partly made, with areas identified as having environmental values excluded from the plan. These areas remain subject to the provisions of the Ballina LEP 1987 (being the instrument the new plan was to replace).

The Department indicated that the “E zone review” would be completed by March 2013, however, it was not able to meet this timeframe. An interim report on the application of the E zones prepared by the State Government’s Consultants, Parsons Brinkerhoff, was published for exhibition and comment in May 2014. Council responded to this with the identification of an extensive suite of shortcomings, errors and omissions within the report. This report has not been updated, nor the issues identified by Council addressed for the public record.

In October last year, some three years after the Minister’s announcement and two and a half years late, the Department published its final recommendations report for the Northern Councils E Zone Review. The review recommendations do not align with Council’s endorsed draft LEP from 2011 or with 30 years of environmental protection zoning history and identified environmental attributes and values in the Ballina Shire local government area.

Notwithstanding the above, Council has resolved to proceed to integrate the deferred areas into the Ballina LEP 2012 in line with the Department’s Northern Councils E Zone Review Final Recommendations Report.

At its Ordinary Meeting held on 15 December 2016 Council considered a planning proposal to initiate Stage 1 of its deferred matter integration program. Stage 1 seeks to integrate land currently zoned 7(c) Environmental Protection (Water Catchment) under Ballina LEP 1987, including other contiguous deferred areas, into the Ballina LEP 2012. Stage 1 also establishes a framework for future stages through the introduction of land use tables and a local clause.

With respect to the above, Council resolved as follows [Minute No. 151216/9]:

1. *That Council endorses, for Gateway determination, the introduction of land use tables for the E2 Environmental Conservation and E3 Environmental Management zones and a local clause addressing environmental considerations into the Ballina Local Environmental Plan 2012 in accordance with the planning proposal contained in Attachment One.*
2. *That Council endorses, for Gateway determination, the application of land use zones and associated planning provisions in relation to the land identified within Stage 1 of the deferred matter integration program as contained in Attachment One.*
3. *That Council submits the planning proposal contained in Attachment One to the NSW Department of Planning and Environment for review and Gateway Determination.*
4. *That upon an affirmative Gateway determination being received from the Department of Planning and Environment, the procedural steps associated with progression of the planning proposal be undertaken.*
5. *That Council receive a further report on Stage 1 of the deferred matters integration program following the completion of the public exhibition of the planning proposal.*

As a result of the above resolution the planning proposal for Stage 1 was submitted to the Department of Planning and Environment on 21 December 2016 for review and Gateway determination. Stage 1 received a Gateway determination enabling the matter to proceed to the public exhibition phase of the plan making process in March 2017.

1.3 Land to Which the Planning Proposal Applies

This planning proposal (Stage 2 of Council's deferred area integration program) relates to land currently zoned 7(d) Environmental Protection (Scenic/ Escarpment) and 7(d1) Environmental Protection (Newrybar Scenic/ Escarpment) under the Ballina Local Environmental Plan 1987 as well as areas of adjacent land. The land that is the subject of Stage 2 is located in nine separate areas of the shire as depicted in Figure 1. For ease of reference, the nine areas have been classified from 2A to 2I.

It should be noted however that land identified in Stage 2I is not mapped as a deferred area but is included in Stage 2 to correct an anomaly with respect to heritage mapping only. Refer to section 3.8 of this report for further information.

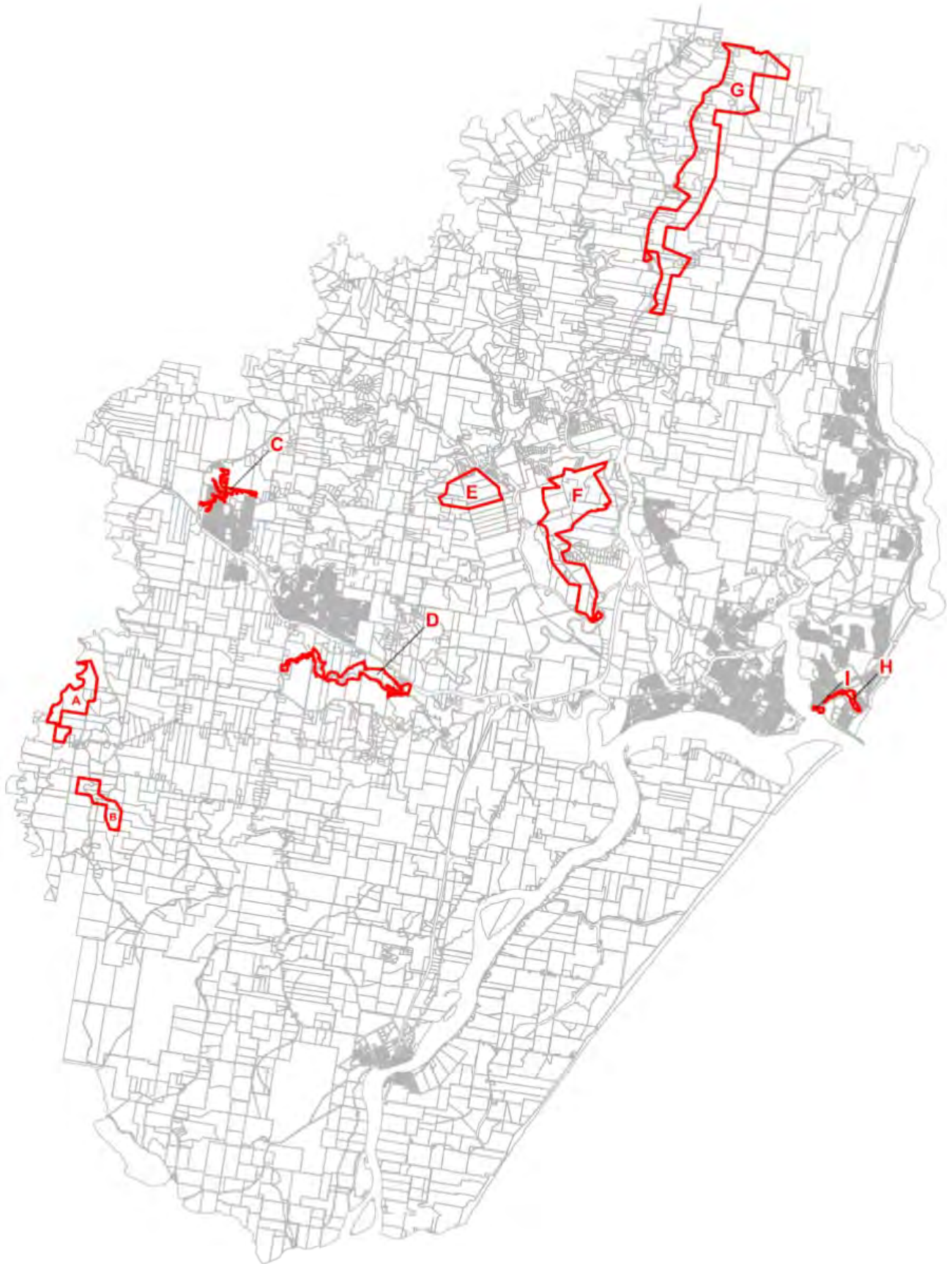


Figure 1: Land to Which the Planning Proposal Applies – Stage 2, Areas 2A – 2I

1.4 Council Decisions

At its Ordinary Meeting held on 28 April 2016, Council resolved to adopt a staged program to address the deferred matters and to seek funding support from the Department of Planning and Environment to assist with the integration process [Minute No. 280416/11]. The staged approach provided for the integration of over 50% of the deferred areas into the BLEP 2012 within a two year period.

The Department initially indicated that no funding assistance would be provided but has now changed its position and has offered Council \$40,000 to support the integration program. This offer was also made to Lismore, Byron and Tweed councils through NOROC and is conditional upon the integration occurring in a shorter timeframe than that envisaged by Council's initial endorsed program. The funding offer, including an adjusted staging program to shorten the timeframe of the integration of deferred matters, was accepted by Council at its Ordinary Meeting of 27 October 2016 [Minute No. 271016/10]. The associated adjusted staging program is shown in Table 1.

Table 1: Planned Staging for Integration of Deferred Areas into Ballina LEP 2012

Stage	Start	Conclude
1 7(c) Environmental Protection (Water Catchment) 3,157 ha (23%)	November 2016	November 2017
2 7(d) Environmental Protection (Scenic/ Escarpment) and 7(d1) Environmental protection (Newrybar Scenic/ Escarpment) 1,356 ha (10%)	February 2017	February 2018
3 7(a) Environmental Protection (Wetlands) and 7(l) Environmental Protection (Habitat) 3,826 ha (28%)	April 2017	July 2018
4 7(i) Environmental Protection (Urban Buffer) 613 ha (4.5%)	May 2017	May 2018
5 7(f) Environmental Protection (Coastal Lands) 1,155 ha (8.5%)	June 2017	June 2018
Progressive Mixture of rural zones (areas proposed for 'new' E zones in Draft BLEP 2012) 3,563 ha (26%)	Integrate with other stages as appropriate.	Integrate with other stages as appropriate.

The adjusted staged approach aims to complete the integration program over a two year period. Planning proposals for each stage will be initiated before the 30 June 2017 and it is anticipated that each stage will conclude at the nominated time, however this will be dependent on other factors that may arise during the processing of each planning proposal.

1.5 Gateway Determination

To be completed following Gateway determination.

1.6 Deferred Matter Integration Program and Staging Overview

Council initially adopted a staged program at its April 2016 Ordinary Meeting to implement the deferred matters into the Ballina Local Environmental Plan 2012 (LEP) over a three year period. However, to enable acceptance of the funding support from the Department of Planning and Environment an accelerated staging program was adopted by Council at its October 2016 meeting. The adjusted staging program as shown in Figure 2 provides for planning proposals for each stage to be lodged with the Department by June 2017.

Stage 1 of the Deferred Matters Integration Program has progressed to the Gateway determination stage of the plan making process.

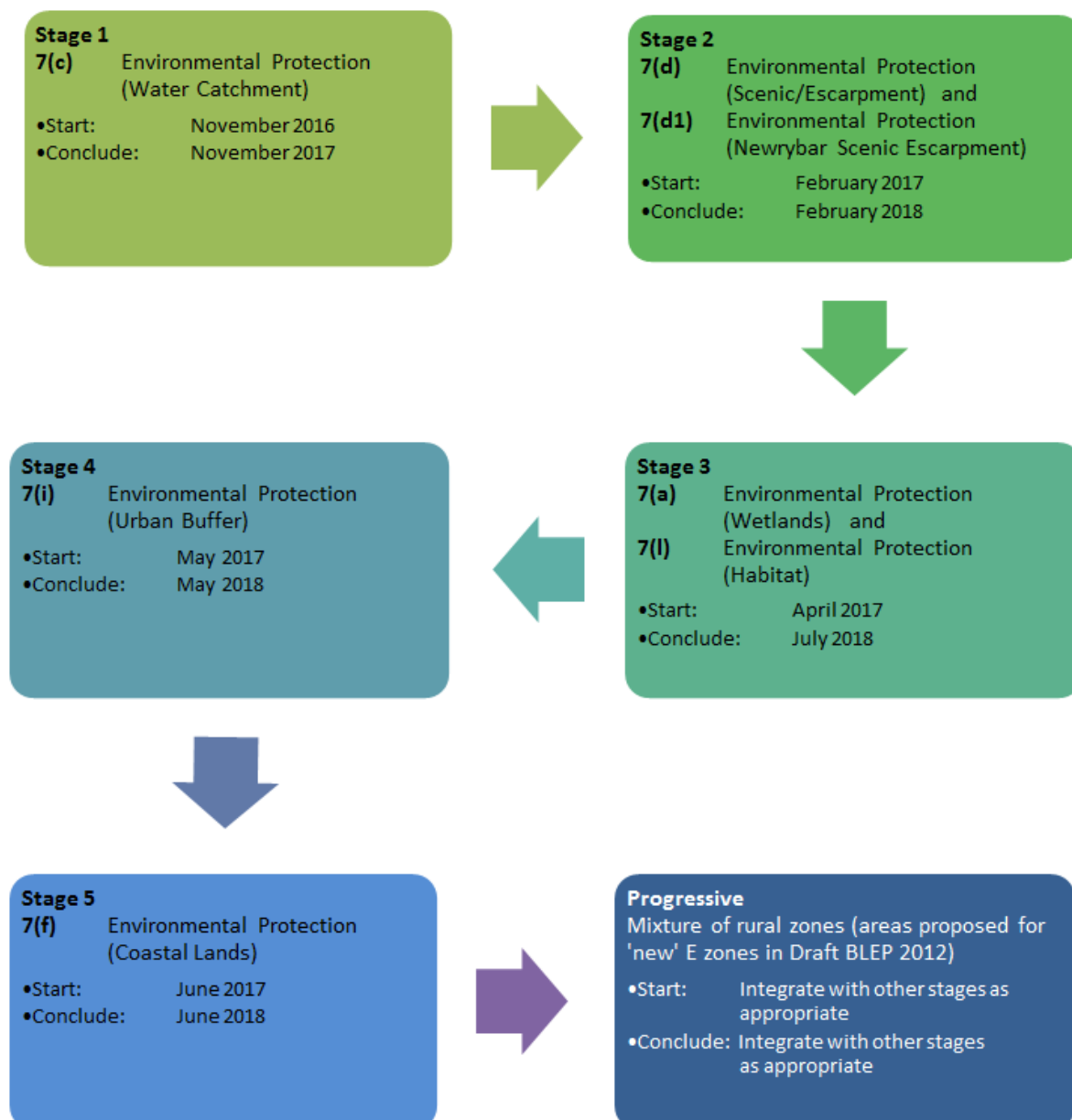


Figure 2: Staging Program for Integration of Deferred Areas into Ballina LEP 2012

2. Objectives & Intended Outcomes

The overarching objective of this planning proposal is to implement Stage 2 of the deferred matters integration program as adopted by Council at its Ordinary Meeting of 27 October 2016. Stage 2 involves the integration into the Ballina Local Environmental Plan (LEP) 2012 of land predominately zoned 7(d) Environmental Protection (Scenic/ Escarpment) and 7(d1) Environmental Protection (Newrybar Scenic/ Escarpment) under Ballina LEP 1987. This stage also includes other adjacent areas that were identified for environmental zones under Council's adopted plan (prior to the State Government's decision to defer these areas from the Ballina LEP 2012) and address of an anomaly relating to a heritage item at East Ballina.

More specifically this planning proposal seeks to achieve the integration of the deferred matters as shown in Figure 1 into the Ballina LEP 2012 and apply zoning, development standards and other planning provisions to the land shown in Figure 1 under the terms of the Ballina LEP 2012 through the following (noting that zone tables and a natural areas and habitat clauses have been addressed through Stage 1 of the integration program):

- Apply environmental protection zones to land identified as meeting the criteria set out under the Northern Councils E Zone Review Final Recommendations Report.
- Apply rural and residential zones to other land that does not meet the criteria for application of environmental protection zones as set out under the Northern Councils E Zone Review Final Recommendations Report.
- Apply height of building, minimum lot size, building height allowance, acid sulfate soils, flooding, strategic urban growth area and heritage provisions to the land, where applicable.
- Recognise existing commercial activities at Lynwood through application of additional permitted uses provisions under the Ballina LEP 2012.
- Adjust the Land Application Map to incorporate the land under the Ballina LEP 2012.

3. Explanation of Provisions

In considering the proposed land use zones and associated planning provisions in relation to the land the subject of Stage 2, it is important to note that the land use tables for the E2 Environmental Conservation Zone and the E3 Environmental Management Zone along with a natural areas and habitat provisions is addressed in the deferred matters integration Stage 1 planning proposal.

3.1 Application of E Zones

The application of E zones to deferred land in the shire is based on the Department of Planning and Environment's Northern Councils E Zone Final Recommendations Report and the associated s.117 Ministerial Direction under the *Environmental Planning and Assessment Act 1979*.

Land proposed to be zoned E2 or E3 must contain one or more of the criteria listed in tables 1 and 2 of the Department's Final Recommendations Report. The criteria is summarised in Table 2 below.

Table 2: Criteria for Application of Environmental Zones

Criteria	Description
E2 Environmental Conservation	
SEPP26 Littoral Rainforests	Land mapped as littoral rainforest in accordance with the SEPP26 provisions.
SEPP14 Coastal Wetlands	Land mapped as coastal wetlands in accordance with the SEPP14 provisions.
Endangered Ecological Communities (EECs)	Land containing vegetation communities listed as EECs under the <i>Threatened Species Conservation Act 1995</i> and the <i>Environment Protection and Biodiversity Conservation Act 1999</i> .
Key Threatened Species Habitat	This criterion includes: <ul style="list-style-type: none"> old-growth forests where overstorey/canopy trees are in the late mature stage of growth; areas of predicted high conservation value for forest fauna or endemic invertebrates; and habitats for threatened species or endangered populations that cannot withstand further loss where the threatened species or endangered population is present.
Over-cleared vegetation communities	Land comprising: <ul style="list-style-type: none"> over-cleared vegetation communities where more than 70% of the original (pre 1750) extent of the native vegetation type has been cleared; and native vegetation in over-cleared Mitchell landscapes.
Culturally significant lands	Areas of culturally significant lands such as Aboriginal object sites, Aboriginal places of heritage significance and other significant objects identified by the local Aboriginal community.

Criteria	Description
E3 Environmental Management	
Riparian and estuarine vegetation and wetlands	Land comprising: <ul style="list-style-type: none"> riparian and estuarine vegetation on waterfront land (the bed of any river, lake or estuary and any land within 40m of the river banks, lake shore or estuary mean high water mark); or wetland areas other than those mapped as SEPP14 areas.
Rare, endangered and vulnerable forest ecosystems	Land comprising areas of rare, endangered and vulnerable forest ecosystems as defined by JANIS (<i>refer to Appendix 1 of the Department's Final Recommendations Report</i>).
Native vegetation on coastal foreshores	Native vegetation on land with frontage, or adjoining or adjacent to, a beach, estuary, coastal lake, headland, cliff or rock platform.

With respect to the primary use of land, Council has considered the characteristics of land and zoning application having regard for aerial photography, visual inspections undertaken and other property information available to Council. Further to this, Council intends to invite land owners of properties where an environmental protection zone is proposed to engage with Council pre public exhibition of the planning proposal to discuss the proposed environmental protection zoning, thereby providing an opportunity for further consideration of the primary use of land.

Council's approach is designed to provide landholders with an opportunity to review proposed environmental protection zoning outcomes and provide additional information or raise concerns for examination in advance of the public exhibition phase.

With respect to the application of environmental protection zones to land within Stage 2, key attributes of the land relevant to the E zone criteria referenced above are outlined in Table 3.

Table 3: Environmental Characteristics of Land Within Stage 2

Stage	Environmental Characteristics
2A	Presence of a 3 rd order watercourse.
2B	Presence of 2 nd order watercourse.
2C	Presence of 2 nd order watercourse and Lowland Subtropical Rainforest EEC vegetation. Current environmental protection zone under the Ballina LEP 1987 is an outcome associated with the rezoning of the Wollongbar Urban Expansion Area. Also includes various land parcels subject to revegetation and restoration requirements under conditions of development consent.
2D	Presence of 2 nd order watercourse and Lowland Subtropical Rainforest EEC vegetation. Also includes parcels of public land subject to Government funded revegetation and restoration works.
2E	Presence of Lowland Subtropical Rainforest EEC vegetation.
2F	Presence of Lowland Subtropical Rainforest and Floodplain EEC vegetation and mapped SEPP 14 areas. Presence of a 4 th order watercourse.
2G	Presence of Lowland Subtropical Rainforest EEC vegetation. Also includes various land parcels subject to revegetation and restoration requirements under conditions of development consent.

Stage	Environmental Characteristics
2H	<p>Presence of a substantive area littoral rainforest (not presently mapped under SEPP 26). The vegetation communities conform to the Littoral Rainforest EEC (TSC Act) as well as the critically endangered Littoral Rainforest and Coastal Vine Thickets community (EPBC Act). Three threatened plant species have also been recorded in this area: Scented Acronychia (<i>Acronychia littoralis</i> – endangered TSC/EPBC Act), Sweet Myrtle (<i>Gossia fragrantissima</i> – endangered TSC/EPBC Act) and Magenta Lilly Pilly (<i>Syzygium paniculatum</i> – vulnerable TSC/EPBC Act).</p> <p>Also includes a land parcel subject to revegetation and restoration requirements under conditions of development consent and parcels of public land subject to Government funded revegetation and restoration works.</p>

3.2 Deferred Land within Wollongbar Urban Expansion Area (Zoning)

As a result of Ballina LEP 1987 Amendment No. 38, land within the Wollongbar Urban Expansion Area (WUEA) was rezoned to part 2(b) Village Area Zone, part 7(d) Environmental Protection (Scenic/ Escarpment) Zone and part 6(a) Open Space Zone in 2002.

Environmentally significant land was identified during the rezoning process and was zoned 7(d). This land generally comprises steeper, vegetated gullies (potentially geologically hazardous) and watercourses. At the time of rezoning, the vegetation comprised areas of remnant riparian and rainforest vegetation in various states of condition. The intent of the strategic framework for this area was to provide passive open space within the 7(d) zone in addition to land zoned 6(a) Open Space, and to prohibit residential development within the 7(d) zone due to the significant environmental constraints of the land.

In 2012 Council adopted its partly made comprehensive LEP under the State Government's Standard Instrument LEP program and the majority of the land identified for urban purposes was subsequently transitioned to equivalent zones, being R3 and RE1. Land in the 7(d) zone however was excluded from the new plan as a result of the Minister for Planning's decision to review environmental protection zones in five local government areas on the Far North Coast.

The Wollongbar Urban Expansion Area is currently an expanding greenfield urban release area. As such, some of the land identified for environmental protection under the 1987 LEP has come into public ownership following residential subdivisions. Other areas still remain in public ownership.

Given that the land associated with the deferred matter is a considered outcome associated with the rezoning of an urban release area, this land has been identified for application of an E2 Environmental Conservation where ecological values consistent with the E zone criteria are present or revegetation works are required as a condition of development consent, with the remainder of the land identified for an E3 Environmental Management Zone on the basis that environmental protection zoning has been established previously as an outcome of a rezoning process.

The proposed E3 zone is consistent with the Department's Final Recommendations Report which indicates that *'private land may be zoned E2 or E3 despite being inconsistent with the criteria, only if it is consistent with a negotiated development outcome (master plan, rezoning, development consent, designated offset areas) or at the request of the landowner'*.

3.3 Deferred Land within East Ballina in the Vicinity of Shaws Bay (Zoning)

The majority of deferred land located within Stage 2H, where indicated on the mapping in Appendix 4, is proposed to be zoned E2 based on the characteristics of the vegetation in the area. Much of the land is also public land.

The subject area (East Ballina) has also been identified as having a medium to high risk of instability as described in the 1986 report prepared by Coffey & Partners titled '*Geotechnical Zoning Survey for Slope Instability within the Residential Areas of Ballina Shire*'. The report recommends geotechnical investigation is required prior to any development occurring in the study area due to the high risk of landslip and slope instability.

With respect to private land that is not suitable for the application of an environmental zone, it is proposed to apply the R2 zone as identified on the mapping in Appendix 4. However, given the topography, geotechnical and other constraints identified within this area (landslip, bush fire), further investigation will be required in relation to the land proposed to be zoned R2 to demonstrate the suitability of the application of an R2 zone. A minimum lot size of 40ha is proposed in relation to the land zoned R2 to limit the subdivision potential of the land consistent with the current planning provisions that apply. When considering the R2 zone, it is important to note that the Standard Instrument combined with the outcomes of the State Government's E zone review have left limited options for Council in relation to the zoning of this land. The R2 zone is being considered in this context.

In respect of the property located at No. 23 Compton Drive, East Ballina Council is in receipt of a rezoning submission that proposes the land be rezoned to R2 Low Density Residential. A copy of the submission is available under separate cover. The site contains an existing single storey building which is currently vacant and has been previously used as a restaurant and café. Part of the existing building and attached verandah awning encroaches onto the adjoining Council reserve to the west and the Compton Drive road reserve to the southeast (see survey plan included in the rezoning submission at Appendix 5).

The landowner submission also indicates a separate approach has been made to Council's Commercial Services Section requesting consideration of the sale of part of the adjoining reserve (Lot 1 DP 781542) to the owners of the subject land contingent upon this lot also being rezoned for residential purposes.

In addition to the above, an RE1 Public Recreation Zone with no minimum lot size for subdivision is proposed over Council owned land along Compton Drive (in the western part of Area 2H).

3.4 Additional Permitted Uses

Schedule 1 of the BLEP 2012 (and associated Clause 2.5) refers to specific land parcels where additional permitted uses may be undertaken despite other provisions of the LEP. The listing of premises in this schedule provides clarity and definition around the uses permitted on certain land to avoid ambiguity.

The Summerland House with No Steps (Lot 2 DP 554804) located at 253 Wardell Road, Lynwood is listed in Schedule 1 of the BLEP 2012 and is identified as 'Area B' on the Additional Permitted Uses (APU) map as follows:

Development for the purposes of a function centre, garden centre, kiosk, plant nursery, respite day care centre, restaurant or cafe and warehouse and distribution centre is permitted with development consent.

Parts of the northern portion of the site adjacent to Duck Creek are currently zoned 7(c) Environmental Protection (Water Catchment) Zone under Ballina LEP 1987 and will be integrated into Ballina LEP 2012 during Stage 2. It is recommended that 'Area B' on the APU map be extended to incorporate the remaining portion of land relating to Lot 2 DP 554804.

3.5 Heritage Conservation

Items and places of environmental heritage significance in Ballina Shire have been identified based on the findings of the Draft Shire Wide Community Based Heritage Study (2008). Clause 5.10 of BLEP 2012 aims to conserve the heritage significance of heritage items and heritage conservation areas within the shire, including the associated fabric, settings and views, by outlining the matters for consideration with respect to development involving heritage items or within heritage conservation areas.

General heritage items and archaeological sites that have been identified as having local significance are listed in Schedule 5 of BLEP 2012 and are shown on the Heritage Map.

The properties listed in Table 4 are identified for inclusion in Schedule 5 of BLEP 2012. This is consistent with Council's originally proposed approach to these properties during its LEP renewal program (2006-2012).

It should be noted that the land identified in Stage 2I is not mapped as a deferred area however it has been included in this planning proposal to correct an anomaly with respect to heritage mapping. The land within Stage 2I is zoned under Ballina LEP 2012 and is included in Schedule 5 under Part 3 – Archaeological sites (Item number A3), however, the land is also to be listed as Item number I55 in Part 1 – Heritage Items.

Table 4: Items for inclusion in BLEP 2012 Schedule 5 Environmental Heritage

Stage	Suburb	Item name	Address	Property description	Significance	Item no.
2H	East Ballina	Saw Mill site at Shaws Bay	Compton Drive	Lots 1-6 DP 1127820	Local	A2
2I	East Ballina	Historic Shaws Bay precinct	East Ballina	Lot 1 DP 604570, Lots 2-5 Sec 88 DP 758047, Lots 5 & 6 Sec 87 DP 758047, Lot 7015 DP 1064316, Lot 7022 DP 1050837	Local	I55

3.6 Mapping Overview

An overview of the affected map sets and the changes being introduced in relation to this planning proposal is provided in Table 5. The maps are provided in Appendix 4.

Table 5: Proposed changes to map sets for Stage 2 – Areas 2A to 2I

Map Set	Proposed Change								
	2A	2B	2C	2D	2E	2F	2G	2H	2I*
Land Use Zoning Map	RU & E	RU & E	E	RU & E	RU & E	RU & E	RU & E	R, RE and E	-
Lot Size Map	20ha 40ha	40ha	40ha	40ha	40ha	40ha	40ha	40ha and Nil	-
Height of Buildings Map	8.5m								-
Acid Sulfate Soils Map	-	-	-	-	√	√	√	√	-
Flood Planning Map	-	-	-	-	√	√	-	-	-
Additional Permitted Uses Map	-	-	-	#	-	-	-	-	-
Heritage Map	-	-	-	-	-	-	-	&	&
Strategic Urban Growth Area Map	-	-	-	-	-	-	√	-	-
Building Height Allowance Map	-	-	-	-	-	√	-	-	-
Land Application Map	Inclusion of deferred land under the BLEP 2012								-

Key:

RU (Rural Zone), E (Environmental Protection Zone), R (Residential Zone), RE (Public Recreation Zone)

* Stage 2I is not deferred land and is only included in relation to heritage mapping (see section 3.5)

- No change

√ Refer to maps in Appendix 4

Refer to map in Appendix 4 and Section 3.4

& Refer to map in Appendix 4 and Section 3.5

4. Justification

4.1 Section A – Need for the Planning Proposal

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

Yes, the Northern Councils E Zone Review Final Recommendations Report published by the Department of Planning and Environment in October 2015. This report outlines the criteria for the application of environmental zones (“E” zones) to deferred matters previously identified as an E zone but excluded from the new plan (Ballina LEP 2012).

The planning proposal also follows on from extensive study and reporting completed as part of the Ballina LEP renewal program between 2006 and 2012.

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

Yes. A planning proposal is the appropriate and only mechanism to integrate deferred matters into the Ballina LEP 2012.

4.2 Section B – Relationship to Strategic Planning Framework

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

The planning proposal is consistent with the Far North Coast Regional Strategy (2012) which provides the regional framework for the consideration of policy development and the overall vision of the future.

The proposal is also consistent with the North Coast Regional Plan 2036 which is the blueprint for sustainable development in the Far North Coast (and Mid North Coast) for the next 20 years.

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

The planning proposal is consistent with the principles of Council’s Community Strategic Plan and other local strategies in that it seeks to achieve application of a single local environmental plan to the shire consistent with local and State planning policy.

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

The proposal is considered to be generally consistent with applicable State Environmental Planning Policies (SEPPs).

Q6 Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The proposal is consistent with the relevant Section 117 Directions or otherwise inconsistencies arising are considered to be justified. A Section 117 Direction checklist for the planning proposal is contained in Appendix 1.

4.3 Section C – Environmental, Social and Economic Impact

Q7 Is there any likelihood that critical habitat or threatened species, population or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The amendments contained in this proposal are not expected to impact adversely on critical habitats, threatened species, populations or ecological communities or their habitats.

Q8 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

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

Q9 Has the planning proposal adequately addressed any social and economic effects?

The proposal will facilitate the provision of a more efficient and effective land use planning framework. The social and economic impacts associated with the proposal are considered to be positive.

4.4 Section D – State and Commonwealth Interests

Q10 Is there adequate public infrastructure for the planning proposal?

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

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

Consultation will be undertaken with relevant agencies as required by the Gateway determination during the public exhibition stage of the LEP amendment.

5. Mapping

This planning proposal will necessitate updates to the following BLEP 2012 maps:

- Land Zoning Map;
- Lot Size Map;
- Height of Buildings Map;
- Heritage Map;
- Acid Sulfate Soils Map;
- Flood Planning Map;
- Building Height Allowance Map;
- Additional Permitted Uses Map;
- Strategic Urban Growth Area Map; and
- Land Application Map.

6. Community Consultation

This proposal will be exhibited in accordance with the Gateway determination and the terms of the *Environmental Planning and Assessment Act 1979*.

Consultation will occur with land holders and the local Aboriginal land council as part of the community consultation process.

7. Project Timeline

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

Plan Making Step	Estimated Completion (Before)
Gateway Determination	May 2017
Government Agency Consultation	July 2017
Public Exhibition Period	October 2017
Public Hearing	N/A
Submissions Assessment	November 2017
RPA Assessment of Planning Proposal and Exhibition Outcomes	January 2018
Submission of Endorsed LEP to DP&I for Finalisation	February 2018
RPA Decision to Make the LEP Amendment (if delegated)	N/A [#]
Forwarding of LEP Amendment to DP&I for Notification (if delegated)	N/A [#]

[#] Council is not proposing to exercise plan finalisation functions under delegation.

Appendices

Appendix 1 – s.117 Direction Checklist

Section 117 Direction Checklist	
Planning Proposal – Deferred Matters (E Zone Integration) – Stage 2	
Direction No.	Compliance of Planning Proposal
1. Employment and Resources	
1.1 Business and Industrial Zones	Does not apply to planning proposal.
1.2 Rural Zones	<p>Justifiably inconsistent.</p> <p>The planning proposal involves the rezoning of rural land to an environmental zone (E2 or E3). The inconsistency with this Direction is justified given that the E zones are proposed in accordance with the NSW Government's Northern Councils E Zone Review Final Recommendations Report and associated Ministerial Direction.</p> <p>The planning proposal provides for extensive agriculture as a permissible land use in both the E2 and E3 zones enabling certain agricultural activities on the land.</p> <p>The opportunity for the erection of dwelling houses on rural land is consistent with existing provisions of the Ballina LEP 2012.</p> <p>Accordingly, the planning proposal's inconsistency with this direction is considered justifiable under the circumstances.</p>
1.3 Mining, Petroleum Production and Extractive Industries	<p>Consistent.</p> <p>This proposal does not include any amendments that will result in compromising any future extraction of coal, minerals, petroleum or other resources.</p>
1.4 Oyster Aquaculture	Does not apply to planning proposal.
1.5 Rural Land	<p>Consistent.</p> <p>The planning proposal has been prepared having regard for the Rural Planning Principles in the <i>State Environmental Planning Policy (Rural Lands) 2008</i> and the NSW Government's Northern Councils E Zone Review Final Recommendations Report.</p> <p>The planning proposal provides for extensive agriculture as a permissible land use in both the E2 and E3 zones enabling certain agricultural activities on the land.</p>
2. Environment and Heritage	
2.1 Environmental Protection Zones	<p>Justifiably Inconsistent.</p> <p>The planning proposal involves the removal of environmental protection zones from land identified under the Ballina LEP 1987 as having significant environmental attributes. However, the proposed zoning arrangement (including application of environmental protection zones in some areas) is based on the criteria contained within the NSW Government's Northern Councils E Zone Review Final Recommendations Report and the requirements set out in Ministerial Direction 2.5. Given this, the inconsistency is considered to be justified.</p>
2.2 Coastal Protection	<p>Consistent.</p> <p>Land in proximity to the coastline at East Ballina currently zoned for environmental protection purposes is proposed for alternate zones having regard for the Northern Council's E Zone Review outcomes. Although some areas of land currently zoned for scenic and amenity values will no longer be subject to environmental protection zoning, the significant majority of this land will be retained under an environmental protection zone consistent with the requirements of Ministerial Direction 2.5.</p>
2.3 Heritage Conservation	<p>Consistent.</p> <p>The proposed amendments to Schedule 5 of the BLEP 2012 and associated Heritage Map provide for the conservation of items identified as having heritage significance.</p>
2.4 Recreation Vehicle Areas	<p>Consistent.</p> <p>The proposal will not result in any adverse impacts from recreation vehicles on sensitive land or land with significant conservation values.</p>

Section 117 Direction Checklist	
Planning Proposal – Deferred Matters (E Zone Integration) – Stage 2	
Direction No.	Compliance of Planning Proposal
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	Consistent. The proposed environmental zones are consistent with the criteria as outlined in the Northern Councils E Zone Review Final Recommendations.
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	Consistent. The proposal involves the rezoning of land for residential purposes within the Ballina urban area. The proposed residential land will therefore have access to existing infrastructure and services and will not result in any material loss or gain to any existing zoned residential areas. The Ballina LEP 2012 includes an existing provision (Clause 7.7) that requires adequate servicing be in place, or suitable arrangements to have been made for such servicing, before development proceeds.
3.2 Caravan Parks and Manufactured Home Estates	Consistent. This proposal will not result in any reduction in the existing availability of land for caravan parks or manufactured home estates.
3.3 Home Occupations	Consistent. The proposal will not affect any existing permissibility or exemptions for home occupations.
3.4 Integrated Land Use and Transport	Consistent. This proposal will not result in any negative impacts on accessibility or transport movements.
3.5 Development Near Licensed Aerodromes	Does not apply to planning proposal.
3.6 Shooting Ranges	Does not apply to planning proposal.
4. Hazard and Risk	
4.1 Acid Sulfate Soils	Justifiably Inconsistent. The planning proposal involves the rezoning of land that is mapped as containing acid sulfate soils. The Ballina LEP 2012 includes an existing provision (Clause 7.1) that requires consideration of acid sulfate soils in relation to future development applications.
4.2 Mine Subsidence and Unstable Land	Does not apply to planning proposal.
4.3 Flood Prone Land	Justifiably Inconsistent. The planning proposal involves land that is mapped as being flood liable land. Clause 7.3 of the Ballina LEP 2012 includes provisions addressing this matter in relation to future development applications.
4.4 Planning for Bushfire Protection	Justifiably Inconsistent (consultation required with the NSW Rural Fire Service). The proposal will result in the alteration to some planning provisions affecting bush fire prone land. This results from changes to zoning and associated planning controls. The changes to zones and planning controls are intended to reflect the characteristics of the land as well as current and planned land use. Consultation will be undertaken with the NSW Rural Fire Service in accordance with this Direction.
5. Regional Planning	
5.1 Implementation of Regional Strategies	Consistent. The planning proposal is generally consistent with the planning framework set out under the Far North Coast Regional Strategy.

Section 117 Direction Checklist	
Planning Proposal – Deferred Matters (E Zone Integration) – Stage 2	
Direction No.	Compliance of Planning Proposal
5.2 Sydney Drinking Water Catchments	Does not apply to Ballina Shire.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Consistent. The proposal does not propose the rezoning of identified significant farmland for urban, residential or rural residential purposes.
5.4 Commercial and Retail Development	Does not apply to planning proposal.
5.5 Development in the vicinity of Ellalong Paxton and Millfield (Cessnock LGA).	Revoked.
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1	Revoked.
5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	Revoked.
5.8 Second Sydney Airport: Badgerys Creek	Does not apply to Ballina Shire.
5.9 North West Rail Link Corridor Strategy	Does not apply to Ballina Shire.
5.10 Implementation of Regional Plans	Consistent. The proposal is generally consistent with the vision, land use strategy, goals, directions and actions contained in the Far North Coast Regional Strategy and the North Coast Regional Plan 2036.
6. Local Plan Making	
6.1 Approval and Referral Requirements	Consistent. The planning proposal does not introduce any new concurrence or consultation provisions or any additional designated development types.
6.2 Reserving Land for Public Purposes	Consistent. The planning proposal applies a public recreation zone to Council owned land and a road reserve at East Ballina. This approach is consistent with the requirements of the Direction.
6.3 Site Specific Provisions	Does not apply to planning proposal.
7. Metropolitan Planning	
7.1 Implementation of the Metropolitan Strategy	Does not apply to Ballina Shire.
7.2 Implementation of Greater Macarthur Land Release Investigation	Does not apply to Ballina Shire.

Appendix 2 – Council Resolutions

A copy of Council resolutions relating to the planning proposal will be included here.

Appendix 3 – Gateway Determination

A copy of the Gateway determination will be included here.

Appendix 4 – Mapping

