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PLANNING PROPOSAL/LEP AMENDMENT REQUEST

Submission to Ballina Shire Council

Lot 2 DP 620838
No. 9 Byron Bay Road, Lennox Head

for:
Estate of William Michael Condon

May 2017

*Planning Proposal/LEP Amendment Request
Lot 2 DP 620838
9 Byron Bay Road, Lennox Head*

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Planning Proposal/LEP Amendment Request
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1 Introduction

This section introduces the proposal and provides a general overview of the project.

1.1 Background

This submission comprises a Planning Proposal/LEP Amendment Request which explains the intended effect of, and provides justification for, a proposed amendment to the Ballina Local Environmental Plan 2012 (BLEP).

The proposed amendments relate to land described as Lot 2 DP 620838, No. 9 Byron Bay Road, Lennox Head and involves:

- rezoning the land to R2 – Low Density Residential Zone; and
- replacing the 40ha minimum lot size with a 600m² minimum lot size.

The proposed R2 zone is the same zone as the adjoining/adjacent land in Ocean Breeze Drive and the recently rezoned Reservoir Hill site. The 600m² minimum lot size standard is the same as that recently applied to the adjoining sections of the Reservoir Hill site.

This Planning Proposal has been prepared having regard to Section 55 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and:

- Planning Proposals – A Guide to Preparing Planning Proposals (Department of Planning and Environment, August 2016)
- Planning Proposals and Local Environmental Plan Amendments: Process Guidelines v3.0 (Ballina Council, 23 June 2015)

This submission comprises and supports the Phase 1: LEP Amendment Initiation process of the Planning Proposal and addresses all of the information on Council's *Planning Proposal/LEP Amendment Request – Proponent & Proposal Information Form*.

This submission has been prepared on behalf of the Executors of the Estate of William Michael Condon, being Mark Condon and Jeanette Hills.

There is no Political Donations and Gifts Disclosure required to accompany this request.

1.2 Structure and Scope of Report

This LEP Amendment Initiation Request contains the following:

- Section 2** Context and characteristics of subject land.
- Section 3** A statement of the **Objectives and Intended Outcomes** of the proposed LEP amendment (Section 2, Part 1).
- Section 4** An **Explanation of the Provisions** that are to be included in the proposed LEP amendment (Section 2, Part 2).
- Section 5** The **Justification** for those objectives, outcomes and provisions and the process for their implementation (Section 3, Part 2).
- Section 6** Details of the **Community Consultation** in respect of the Planning Proposal (Section 4, Part 2).
- Section 7** Conclusion

A number of appendices form part of this request being:

- Appendix A** Aerial photograph of subject and adjoining land
- Appendix B** Copy of deposited plan
- Appendix C** Copy of submission to BSCPP 14/002 – Reservoir Hill, Lennox Head

1.3 Background

Ardill Payne & Partners prepared a submission on behalf of Mr Mark Condon by letter dated 13th May 2016 in respect of Planning Proposal

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BSCPP 14/002 – Reservoir Hill, Lennox Head (Lots 1 & 2 DP 517111, North Creek Road, Lennox Head), with a copy of such being provided at **Appendix C**.

This letter advised Council that Mr Condon was not objecting to Planning Proposal BSCPP 14/002, but advised that Mr Condon “.. wants to ensure that his property maintains formal dual road frontage, and specifically maintain an existing frontage to Hutley Drive road reserve. Mr Condon is currently exploring the opportunity for rezoning of his land to enable future residential subdivision and development, and the retention of this road reserve and access opportunity is considered to be of critical importance to such...”.

2 Context and Characteristics of Subject Land

This section describes the subject land and identifies the geographical context of the site and its relationship to the surrounding locality.

2.1 Property Details

This Planning Proposal relates to a single lot which is described in real property terms as Lot 2 DP 620838, is commonly known as No. 9 Byron Bay Road, Lennox Head and has an area of 9735m².

An aerial photograph of the subject and adjoining land is provided at **Appendix A**. A copy of the deposited plan is provided at **Appendix B**.

Existing on the land is a dwelling house and ancillary structures and improvements. Vehicular access to the site is via an existing bitumen driveway to Byron Bay Road which is a constructed urban road with a bitumen seal, kerb and gutter and a concrete footpath for the full property frontage.

2.2 Other matters

Preliminary planning investigations in respect of the subject land confirm that the land is:

- **not** mapped as being subject to SEPP 14
- **not** mapped as being subject to SEPP 26 or being within 100m buffer to SEPP 26
- **not** mapped as being bushfire prone
- **not** likely to be contaminated as a consequence of existing or prior land uses (existing long-standing residential use – occupied dwelling house)
- **not** is mapped as being subject to the 1 in 100 year flood event or tidal inundation
- **not** mapped as being subject to acid sulfate soils (Sheet ASS_005 – BLEP 2012)
- **not** identified as being or containing an item of environmental heritage (per Schedule 5 of the Ballina LEP 2012)
- **not** identified as including or comprising critical habitat as prescribed in the *Threatened Species Conservation Act 1995* or Part 7A of the *Fisheries Management Act 1994*

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- **not** identified as being affected by the operation of Sections 38 or 39 of the *Coastal Protection Act 1979*
- **not** affected by any road widening or realignment proposal under either Division 2 of Part 3 of the *Roads Act 1993*, any environmental planning instrument or any resolution of Council
- **not** identified as being subject to acquisition by a public authority under the provisions of any environmental planning instrument, deemed or draft environmental planning instrument
- **not** affected by any noise contours (ANEF) of the Ballina Byron Gateway Airport
- contained wholly within the Obstacle Limitation Surface (OLS) of the Ballina Byron Gateway Airport

2.3 Strategic Planning Context

2.3.1 Far North Coast Regional Strategy 2006-31 (FNCRS)

The subject land is mapped in the FNCRS as being a 'Proposed Future Urban Release Area'.

Under the circumstances, the proposed application of a residential zone is consistent with the Strategy.

2.3.2 Lennox Head Structure Plan (2004) (LHSP)

The LHSP provides a framework to ensure that the growth and development of Lennox Head occurs in a co-ordinated and integrated manner.

The subject land is mapped on Figure 2 – Structure Plan – Summary Map as part of Candidate Release Area I, with Section 3.3.10 of the LHSP stating that:

"... the Structure Plan recognises that Area I appears to be suited to accommodating future urban development. Should detailed assessment (via the rezoning process) confirm this to be the case residential development comprising a range of low and medium density housing (L1, L2, D & M1 pursuant to DCP No. 1) is the preferred use for this site."

The subject land is not mapped as being subject to or containing any “constraints” as shown on Figure 1 – Opportunities & Constraints of the LHSP.

2.3.3 Ballina Shire Growth Management Strategy 2012 (GMS)

The subject land adjoins a mapped “strategic urban growth area”, being the land to which Planning Proposal BSCPP 14/002 (Reservoir Hill, Lennox Head) applies.

The land is represented on the Lennox Head map as being characterised by existing urban development.

This is not considered to be an inconsistency, particularly due to the fact that the land is shown as being within an existing urban area and as a consequence of the land being identified for future urban purposes under both the FNCRS and the LHSP.

2.3.4 North Coast Regional Plan 2036 (NCRP)

The subject land is mapped on Figure 13: Urban Growth Area Map for Ballina Local Government Area as an “Urban Growth Area” under the NCRP.

Under the circumstances, the proposed application of a residential zone is consistent with the provisions of the NCRP.

2.4 Relevant Provisions of BLEP 2012

The subject land is mapped under the BLEP 2012 as follows:

- RU1 – Primary Production Zone
- AB2 – 40ha minimum lot size/subdivision standard
- 8.5m maximum building height

3 Objectives or Intended Outcomes of Proposed LEP

3.1 Objectives of Planning Proposal

The objective of the Planning Proposal is to rezone the subject land to an urban residential zone and to apply a minimum lot size that will enable the land to be subdivided into minimum 600m² lots, and to enable the construction of dwelling houses on the vacant lots at some future time (and subject to a separate approval process).

3.2 Possible Future Subdivision

The subject land has an area of 9735m² and it is proposed to apply an R2 – Low Density Residential Zone with a 600m² minimum lot size.

Based purely on a 600m² lot size and approximately 150m² of road per lot, the site could yield in the order of 13 lots. It should be noted that this yield is purely a hypothetical numerical and has not been calculated having regard to any of the characteristics of the site.

The locality is serviced by all necessary reticulated public infrastructure services, including:

- potable water supply
- sewerage disposal
- electricity
- telecommunications
- constructed urban roads (including stormwater)

Any future new lots would be able to be connected to and serviced by such systems.

4 Explanation of Provisions

4.1 Explanation of Proposed Amendments

The proposed amendments to the BLEP 2012 involve:

- rezoning the lot from RU1 – Primary Production Zone to R2 – Low Density Residential Zone; and
- applying a 600m² minimum lot size to the land.

The proposed R2 zone is the same zone as the adjoining/adjacent land in Ocean Breeze Drive and the recently rezoned Reservoir Hill site. The 600m² minimum lot size standard is the same as that recently applied to the adjoining sections of the Reservoir Hill site.

5 Justification for the Proposed Amendments

5.1 Section A – Need for the planning proposal

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

The subject land is identified in the Far North Coast Regional Strategy as “proposed future urban release area” and as “Candidate Release Area I” under the Lennox Head Structure Plan.

The land is also mapped as an “urban growth area” under the North Coast Regional Plan.

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

The proposed application of a residential zone is consistent with these strategic planning documents that identify the land for future urban investigation/use.

It is submitted that an LEP amendment is the best (and only) way in which to achieve the proposed outcomes, as the proposal relates expressly to land use zoning and subdivision.

3. *Is there a net community benefit?*

The net community benefit that will result from the proposal is:

- additional economic activity generated by the development of the land for urban residential purposes
- additional land available for residential and related development

5.2 Section B – Relationship to strategic planning framework

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

As detailed elsewhere in this Planning Proposal, the proposal is consistent with the Far North Coast Regional Strategy.

The Planning Proposal involves changes to the zoning and minimum lot size standards to enable future subdivision (and construction of new dwelling houses).

The Planning Proposal will provide for increased housing opportunities which will assist in accommodating the projected local and regional population increase.

The Planning Proposal is thus consistent with the FNCRS. The information contained in this Planning Proposal document confirms and supports the capability of the land to accommodate urban residential development, which is thus consistent with the regional planning framework.

5. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

Lennox Head Structure Plan 2004 (LHSP)

The subject land is mapped on Figure 2 – Structure Plan – Summary Map as part of Candidate Release Area I which the Strategy confirms:

- is land that appears to be suited to accommodating future urban development
- that contingent upon detailed assessment (via the rezoning process) confirming this to be the case, the preferred use is residential development comprising a range of low and medium density housing

Ballina Shire Growth Management Strategy 2012 (GMS)

The subject land adjoins a mapped “strategic urban growth area”, being the land to which Planning Proposal BSCPP 14/002 (Reservoir Hill, Lennox Head) applies.

The land is represented on the Lennox Head map as comprising existing urban development.

6. Is the planning proposal consistent with applicable state environmental planning policies?

There are a number of SEPP’s that are of relevance to the proposal, details of which are as follows:

SEPP Title	Compliance of Planning Proposal
SEPP (Rural Lands) 2008	<p>The subject land is currently zoned RU1. The proposed rezoning of the lot to a residential zone will not compromise or prejudice the use of the subject and adjoining land for agricultural purposes, due primarily to the characteristics, existing use, adjoining use and small size of the lot.</p> <p>The application of a residential zone will not result in increased land use conflicts with adjoining agricultural land as a consequence of the siting of the existing and future dwellings, the character of the adjoining and surrounding land (being primarily urban residential) and the limited potential for agricultural use of the adjoining land.</p> <p>It is therefore submitted that the Planning Proposal is consistent with the provisions of this SEPP.</p>
SEPP 44 – Koala Habitat Protection	<p>The subject land is a small (9735m²) rural residential type lot that is devoid of significant native vegetation and is not likely to contain any Koala food trees. The subject land is not mapped as containing or being proximate to core Koala habitat on Figure 8: Cora Koala Habitat of the Ballina Shire Koala Management Strategy (March 2016).</p> <p>It is therefore submitted that the Planning Proposal is consistent with the provisions of and is not contrary to the intent of the SEPP.</p>
SEPP 55 – Remediation of Land	<p>Clause 6(1) of this SEPP requires the planning authority when preparing a Draft LEP to consider whether the land is contaminated and whether the land is suitable for such purpose (as not being contaminated or requiring remediation to make it suitable). The subject land is a small rural residential lot (9735m²) that has and continues to be used for residential purposes and does not have any current or historical usage that would have contaminated the land. Further, the land does not adjoin and is not proximate to any intensive horticulture or other potentially contaminating uses, and it is submitted that there would be no requirement for any detailed contamination investigation to support Phase 2.</p> <p>It is therefore submitted that the Planning Proposal is consistent with the provisions of and is not contrary to the intent of the SEPP.</p>
SEPP 71 – Coastal	<p>The subject land is physically and spatially removed from any coastal</p>

Protection	foreshore area. The future subdivision and residential development of the land will not have any adverse or tangible impacts on any part of the coastal foreshore or any public land. It is therefore submitted that the Planning Proposal is consistent with the provisions of and is not contrary the intent of the SEPP.
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7. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Section 117 of the *EP & A Act 1979* provides directions that relevant planning authorities must have regard to when preparing planning proposals for new LEPs. The following table identifies which of these directions are applicable to the proposed rezoning and how the Planning Proposal is consistent with their provisions.

Direction Number	Compliance of Planning Proposal
1. Employment and Resources	
1.1 Business and Industrial Zones	Does not apply to Planning Proposal.
1.2 Rural Zones	Complies – The subject land is mapped as ‘Proposed Future Urban Release Area’ (Town and Village Growth Boundary Map – Sheet 3 – Ballina) of the FNCRS and is thus able to be justified as a consequence of the FNCRS.
1.3 Mining, Petroleum Production and Extractive Industries	Does not apply to Planning Proposal.
1.4 Oyster Aquaculture	Does not apply to Planning Proposal.
1.5 Rural Lands	Complies – comments in respect of the Rural Lands SEPP are provided in Section 5.2 of this Planning Proposal. Further, the proposed rezoning is of relatively minor significance and is consistent with the FNCRS 2006-31 in that part of the lot is mapped as a ‘Proposed Future Urban Release Area’.
2. Environment and Heritage	
2.1 Environmental Protection Zones	Does not apply to Planning Proposal.
2.2 Coastal Protection	Complies – the proposal is considered to be of a relatively minor nature, resulting in a possible maximum of 13 lots (and future houses). The subject land is physically and spatially removed from any coastal foreshore area and is not subject to flooding, tidal inundation, acid sulfate soils, or any damaging coastal processes. The proposal will not have any impact on any coastal foreshore land (public or private).
2.3 Heritage Conservation	Complies – the subject land is not identified as containing or comprising a heritage item or place (per Schedule 5 of the BLEP 2012).
2.4 Recreation Vehicle Areas	Does not apply to Planning Proposal.

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3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	Complies – adequate public infrastructure is available in the immediate locality to service the existing lot and possible new lots (contingent upon consent being granted to future subdivision). The proposal will facilitate urban development which is able to connect to and make use of existing infrastructure services.
3.2 Caravan Parks and Manufactured Home Estates	Does not apply to Planning Proposal.
3.3 Home Occupations	Complies – home occupations are permitted without consent in the R2 zone under the BLEP 2012.
3.4 Integrated Land Use and Transport	Complies – the land is identified in the 'Proposed Future Urban Release Area' of the FNCRS. The proposal will facilitate development which is able to make use of existing roads and transport services.
3.5 Development Near Licensed Aerodromes	Complies – the proposal does not create or alter a zone in the vicinity of the Ballina Airport, with the eastern end of the runway being approx. 3.7km to the south-west. The land is within the OLS of the airport, however, there is adjoining/adjacent land and buildings that are higher than the subject land. There were no issues with Air Services Australia, CASA or the Ballina Airport in respect of BSCPP 14/002, parts of which are of a comparable elevation to the subject land. The subject land is not impacted by the ANEF contours for the airport.
3.6 Shooting Ranges	Does not apply to Planning Proposal.
4. Hazard and Risk	
4.1 Acid Sulphate Soils	Does not apply to Planning Proposal.
4.2 Mine Subsidence and Unstable Land	Does not apply to Planning Proposal.
4.3 Flood Prone Land	Does not apply to Planning Proposal.
4.4 Planning for Bushfire Protection	Does not apply to Planning Proposal.
5. Regional Planning	
5.1 Implementation of Regional Strategies	Complies – the land is identified as a 'Proposed Future Urban Release Area' under the FNCRS.
5.2 Sydney Drinking Water Catchments	Does not apply to Planning Proposal.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Complies – The land is mapped in the "Northern Rivers Farmland Protection Project – Final Recommendations", February 2005 as "regionally significant farmland" with a "significant non-contiguous farmland" overlay. Notwithstanding such, the land is mapped as a 'Proposed Future Urban Release Area' under the FNCRS 2006-31. Pursuant to Subclause (2) of Direction 5.3, land identified as such is excluded from the requirements of the Direction. It can also be justified against Section 4 of the Final Recommendations Report which states that urban development could be considered on regionally significant farmland if all seven of the following criteria apply: 1. The proposal is for an infill urban area that will be part of Lennox Head and is not a disjointed suburb. Council has

	<p>consistently included this land as a future urban area, and it is surrounded by existing zoned and mostly developed residential land.</p> <ol style="list-style-type: none"> 2. The subject land is effectively contained in the Lennox Head urban area and is well serviced with roads and reticulated water and sewerage services. 3. It will not be a wedge into regionally significant farmland because it is surrounded on all sides by roads and existing or approved residential development. The land is not used for any productive purpose and will thus will not be lost from production. Allowing development on this site will not disrupt the use of any other farmland. 4. The 9735m² is not being used for any productive agricultural purpose (particularly cane or beef). The land is not critical to the viability of either the sugar or beef industry. No agricultural infrastructure or transport routes will be affected by this site being used for residential development. 5. No impacts arising from the development of this site will compromise sugar cane production or grazing being carried out on other significant farmland in the broader area. 6. The land is not flood affected or subject to any other significant hazard. <p>In this case, all seven criteria have been met by the planning proposal.</p>
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Does not apply to the Planning Proposal.
5.5 Development in the Vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	Revoked 18 June 2010.
5.6 Sydney to Canberra Corridor	Revoked 10 July 2008
5.7 Central Coast	Revoked 10 July 2010
5.8 Second Sydney Airport: Badgerys Creek	Does not apply to the Planning Proposal.
5.9 North West Rail Link Corridor Strategy	Does not apply to the Planning Proposal.
6. Local Plan Making	
6.1 Approval and Referral Requirements	Complies – does not introduce any new concurrence or consultation provisions or any additional designated development types.
6.2 Reserving Land for Public Purposes	Does not apply to the Planning Proposal.
6.3 Site Specific Provisions	Complies – seeks to apply the existing R2 land use zone and standards that are compatible with the residential development of the site and adjoining land.
7. Metropolitan Planning	
7.1 Implementation of the Metropolitan Plan for Sydney 2036	Does not apply to Planning Proposal.
7.2 Implementation of Greater Macarthur Land Release Investigation	Does not apply to Planning Proposal.

5.3 Section C – Environmental, social and economic impact

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

As evidenced from the aerial photograph at **Appendix A**, the subject land is largely cleared, containing a house and ancillary structures and improvements, with mown grass and domestic type landscaping.

The subject land is not likely to contain any critical habitat or threatened species, populations or ecological communities.

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

The subject land is not mapped as being subject to flooding, acid sulfate soils or damaging coastal processes and is not mapped as being bushfire prone.

The land is in a locality that is mapped as being high mosquito risk. The whole of the towns of Lennox Head and Ballina are situated in such an area and it has not been Council's practice to preclude urban residential development in such areas as a consequence of mosquito risk.

In accordance with Council's current controls and strategies (Section 3.6 – Mosquito Management, Chapter 2 – General and Environmental Considerations, DCP 2012), any future dwellings will be required to contain effective screening to all windows, external doors and other openings to habitable rooms (would be conditioned at DA stage for future houses).

10. How has the planning proposal adequately addressed any social and economic effects?

The proposed rezoning (and construction of future houses) may have impacts on the landscape and scenic character of the locality but would not have any significant amenity impacts on adjacent dwellings and residents. These matters would have to be addressed in more detail should the Planning Proposal proceed to Phase 2.

The subject land is already connected to all necessary reticulated public infrastructure services and thus there are no significant economic issues with the servicing of any future lots.

5.4 Section D – State and Commonwealth interests

11. Is there adequate public infrastructure for the planning proposal?

The existing locality is connected to and serviced by all necessary reticulated public infrastructure services. There is sufficient capacity for any proposed new lots to be efficiently and economically connected to and serviced by such services.

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

The views of the Department of Planning & Infrastructure and other relevant Governmental bodies would be obtained should Council resolve to enable the Planning Proposal to proceed.

6 Community Consultation

There has not been any community consultation undertaken in respect of this Planning Proposal at this point in time.

It is likely that a requirement for community consultation will be contained in any Gateway Determination, with such community consultation and advertising having to be duly undertaken by Council in the further processing of this Planning Proposal.

7 Scope of Engagement

This Planning Proposal has been prepared by Ardill Payne & Partners (APP) on behalf of the Executors of the Estate of William Michael Condon (being Mark Condon and Jeannette Hills) for lodgement with Ballina Shire Council and is not to be used for any other purpose or by any other person or corporation.

This report has been prepared from the information provided to us and from other information obtained as a result of enquiries made by us. APP accepts no responsibility for any loss or damage suffered howsoever arising to any person or corporation who may use or rely on this document for a purpose other than that described above.

No part of this report may be reproduced, stored or transmitted in any form without the prior consent of APP.

APP declares that it does not have, nor expects to have, a beneficial interest in the subject project.

To avoid this advice being used inappropriately it is recommended that you consult with APP before conveying the information to another who may not fully understand the objectives of the report. This report is meant only for the subject site/project and should not be applied to any other.

8 Appendices

- Appendix A** Aerial photograph of subject and adjoining land
- Appendix B** Copy of deposited plan
- Appendix C** Copy of submission to BSCPP 14/002 – Reservoir Hill,
Lennox Head

APPENDIX A

Appendix A
Aerial photograph of subject
and adjoining land

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9.3 LEP Amendment Request - 9 Byron Bay Road, Lennox Head.DOC

Aerial photograph of subject and adjoining land



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APPENDIX B

Appendix B
Copy of deposited plan

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Ref:8116 / Sgr:1

PLAN FORM 1 WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION OFFICE USE ONLY

<p>Council Clerk's Certificate</p> <p>I hereby certify that -</p> <p>(a) the requirements of the Land Development Act, 1958 have been complied with for the purposes of the registration of this plan;</p> <p>(b) the requirements of the Land Development Act, 1958, as amended, have been complied with for the purposes of the registration of this plan;</p> <p>(c) the requirements of the Land Development Act, 1958, as amended, have been complied with for the purposes of the registration of this plan;</p> <p>(d) the requirements of the Land Development Act, 1958, as amended, have been complied with for the purposes of the registration of this plan;</p> <p>(e) the requirements of the Land Development Act, 1958, as amended, have been complied with for the purposes of the registration of this plan;</p> <p>(f) the requirements of the Land Development Act, 1958, as amended, have been complied with for the purposes of the registration of this plan;</p> <p>(g) the requirements of the Land Development Act, 1958, as amended, have been complied with for the purposes of the registration of this plan;</p> <p>(h) the requirements of the Land Development Act, 1958, as amended, have been complied with for the purposes of the registration of this plan;</p> <p>(i) the requirements of the Land Development Act, 1958, as amended, have been complied with for the purposes of the registration of this plan;</p> <p>(j) the requirements of the Land Development Act, 1958, as amended, have been complied with for the purposes of the registration of this plan;</p> <p>(k) the requirements of the Land Development Act, 1958, as amended, have been complied with for the purposes of the registration of this plan;</p> <p>(l) the requirements of the Land Development Act, 1958, as amended, have been complied with for the purposes of the registration of this plan;</p> <p>(m) the requirements of the Land Development Act, 1958, as amended, have been complied with for the purposes of the registration of this plan;</p> <p>(n) the requirements of the Land Development Act, 1958, as amended, have been complied with for the purposes of the registration of this plan;</p> <p>(o) the requirements of the Land Development Act, 1958, as amended, have been complied with for the purposes of the registration of this plan;</p> <p>(p) the requirements of the Land Development Act, 1958, as amended, have been complied with for the purposes of the registration of this plan;</p> <p>(q) the requirements of the Land Development Act, 1958, as amended, have been complied with for the purposes of the registration of this plan;</p> <p>(r) the requirements of the Land Development Act, 1958, as amended, have been complied with for the purposes of the registration of this plan;</p> <p>(s) the requirements of the Land Development Act, 1958, as amended, have been complied with for the purposes of the registration of this plan;</p> <p>(t) the requirements of the Land Development Act, 1958, as amended, have been complied with for the purposes of the registration of this plan;</p> <p>(u) the requirements of the Land Development Act, 1958, as amended, have been complied with for the purposes of the registration of this plan;</p> <p>(v) the requirements of the Land Development Act, 1958, as amended, have been complied with for the purposes of the registration of this plan;</p> <p>(w) the requirements of the Land Development Act, 1958, as amended, have been complied with for the purposes of the registration of this plan;</p> <p>(x) the requirements of the Land Development Act, 1958, as amended, have been complied with for the purposes of the registration of this plan;</p> <p>(y) the requirements of the Land Development Act, 1958, as amended, have been complied with for the purposes of the registration of this plan;</p> <p>(z) the requirements of the Land Development Act, 1958, as amended, have been complied with for the purposes of the registration of this plan;</p>	<p>Surveyor's Certificate</p> <p>I, WARREN JOHN DIGGINS of 3 CHERRY STREET, BALLINA do hereby certify that the survey registered in this plan is correct and has been made in accordance with the Survey Practice Regulations, 1978, and as required by the Survey Act, 1958, as amended.</p> <p>WARREN JOHN DIGGINS Surveyor 23RD MAY 1981 12761^{MM}</p>	<p>PLAN OF</p> <p style="text-align: center;">SUBDIVISION OF LOT 14 D.P. 588291</p> <p>81/89</p> <p>Mon./Shire : BALLINA Locality : LENNOX HEAD</p> <p>Parish : BALLINA County : ROUS</p> <p>Reduction Ratio 1:1250 Lengths are in metres</p>	<p>D.P. 620838</p> <p>Registered: 25-11-1981</p> <p>CA: No 1981/66 OF 29-6-1981</p> <p>Tith System : TORRENS</p> <p>Purpose : SUBDIVISION</p> <p>Ref. Map : TINTENBAR SHT 4</p> <p>Last Plan : D.P. 588291</p>
<p>Signatures and names of persons intending to dedicate public roads or to create public reserves, drainage reserves, easements or restrictions as to water.</p> <p><i>N.W. London</i> <i>G.Y. London</i> <i>Abb. Bonds</i></p> <p>SIGNED for and on behalf of THE COMMONWEALTH OF AUSTRALIA by an officer holding or performing the duties of the office of Principal Legal Officer, Position N° 1056, Property and Agreements Section, Deputy Crown Solicitors Office, New South Wales, in the presence of ---</p> <p>an officer of the Attorney-General's Department</p>		<p style="text-align: center;">D.P. 517111</p>	
<p>81/115 122 SURVEYOR'S REFERENCE (REG. N° 20903) R.S.M.</p>		<p>Plan Drawing only to appear in this space</p>	

I, Bruce Richard Davies, Under Secretary for Lands and Registrar General for New South Wales, certify that this negative is a photograph made as a permanent record of a document in my custody this 127th November, 1981

Bruce Richard Davies

APPENDIX C

Appendix C

Copy of submission to
BSCPP 14/002 – Reservoir
Hill, Lennox Head

22

*Planning Proposal/LEP Amendment Request
Lot 2 DP 620838
9 Byron Bay Road, Lennox Head*

ARDILL PAYNE
& Partners
www.ardillpayne.com.au e:info@ardillpayne.com.au
ABN: 51 808 558 977
bscpp 14/002 - condon submission (may 2016)

E-MAILED
12.5.2016
TO KLAUS KERZINGER



13 May 2016

The General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478

Attn: Mr Klaus Kerzinger

Dear Klaus

re: **BSCPP 14/002 – Reservoir Hill, Lennox Head**
Lots 1 & 2 DP 51711, North Creek Road, Lennox Head

Ardill Payne & Partners has been commissioned by Mr Mark Condon to prepare a submission in respect of the subject Planning Proposal which is currently on public exhibition until the 13th May 2016.

Mr Condon owns Lot 2 DP 620838, No. 9 Byron Bay Road, Lennox Head which is separated from the land that is subject of the Planning Proposal by the Hutley Drive road reserve ('paper road'), as shown below:



Source: SixMaps (13 May 2016)

Engineers | Planners | Surveyors | Environmental | Project Management

BALLINA
45 River Street
PO Box 20
BALLINA NSW 2478
Ph: 02-6686 3280

BRISBANE
Level 1, The Design Bank
89 Grey Street
SOUTH BRISBANE QLD 4101
Ph: 07-3123 6675

GUNNDAH
Germane House,
285 Conadilly Street,
GUNNDAH NSW 2380
Ph: 02-6742 9955

2.
bscpp 14.002 - condon submission (may 2016)
13 May 2016

This submission has been prepared based on the exhibition documentation provided on Council's web-page titled Documents on Exhibition. As detailed in such, the Planning Proposal proposes to rezone the subject land to part R2 – Low Density Residential and part R3 – Medium Density Residential and to apply a minimum lot size/subdivision standard of 600m² to both the R2 and R3 zoned land.

From the exhibition documentation, it is evident that the Planning Proposal is also proposing to rezone that section of the Hutley Drive road reserve which adjoins Mr Condon's land to part R2 and part R3 and to apply a 600m² lot size.

Mr Condon is not objecting to the proposed residential zoning of Lots 1 & 2 or the Hutley Drive road reserve, however wants to ensure that his property maintains formal dual road frontage, and specifically maintains an existing frontage to the Hutley Drive road reserve. Mr Condon is currently exploring the opportunity for rezoning of his land to enable future residential subdivision and development, and the retention of this road reserve and access opportunity is considered to be of critical importance to such.

Notwithstanding that the "Current Indicative Subdivision Layout Plan" is indicative at this point in time, significant concerns are raised in respect of the proposed alignment of the eastern extension of Hutley Drive (which does not adjoin and actually veers away from Mr Condon's land) and the notation on the plan "Proposed Closed Road (Subject of Voluntary Planning Agreement)". Mr Condon will likely strenuously object to the closure and purchase of the road reserve, should it be deleterious to or compromise the future development opportunities for his land.

Council is therefore requested to consider the progress of the subject Planning Proposal in the context of preserving and/or providing formal public road frontage to his land.

Should you require any further information, please contact me on 6686 3280 or pauls@ardillpayne.com.au.

Yours faithfully



Paul Snellgrove
Ardill Payne & Partners

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BALLINA
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GUNNEDAH
Germane House
285 Conadilly Street
GUNNEDAH, NSW 2380
Ph: 02-6742 9955

Attachment Two – North Coast Regional Plan 2036 Considerations

Urban Growth Area Variation Principles

Principle	Requirement	Comment
Policy	The variation needs to be consistent with the objectives and outcomes in the <i>North Coast Regional Plan 2036</i> and any relevant Section 117 Directions and State Environmental Planning Policies, and should consider the intent of any applicable local growth management strategy.	<p>The proposal is considered to be generally consistent with the directions and actions contained within North Coast Regional Plan 2036, applicable S117 Directions and SEPPs when viewed in the context that what is proposed is infill development consistent with the Lennox Head Strategic Plan and located within a designated Urban Growth Area.</p> <p>The proposal is also consistent with the intent of the Ballina Shire Growth Management Strategy (LGMS). A Strategic Action for Lennox Head requires the maintenance of a commitment to the development framework established by the Lennox Head Community Aspirations Strategic Plan and the Lennox Head Structure Plan (LHSP). It is noted that the LHSP incorporates Lot 2 within Candidate Release Area I. Its subsequent omission as a Strategic Urban Growth Area from the LGMS and Ballina LEP 2012 is considered to have resulted from an oversight as opposed to a Council policy position.</p>
Infrastructure	<p>The variation needs to consider the use of committed and planned major transport, water and sewerage infrastructure, and have no cost to government.</p> <p>The variation should only be permitted if adequate and cost-effective infrastructure can be provided to match the expected population.</p>	<p>The future subdivision of Lot 2 for residential purposes based on a minimum lot size standard of 600m² can be accommodated by existing water and sewer infrastructure located in close proximity to this site.</p> <p>All infrastructures required for a future residential subdivision of Lot 2 will be required to be provided by the land developer at no cost to government.</p>
Environmental and farmland protection	<p>The variation should avoid areas:</p> <ul style="list-style-type: none"> • of high environmental or heritage value; • mapped as important farmland, unless consistent with the interim variation criteria prior to finalising the farmland mapping review. 	<p>Lot 2 is not considered to be located within an area of high environmental or heritage value based on information currently available to Council.</p> <p>Lot 2 is designated as Important Farmland being classified as Non Contiguous Regionally Significant Farmland. Lot 2 conforms to the interim variation criteria – see attached assessment.</p> <p>It should be noted that Lot 2 with an area of less than 1ha is isolated from other farmland with adjoining land to the west and south being zoned for residential purposes. Given the small size of Lot 2 and its inability to be consolidated with other land designated as Important Farmland it is considered that this land cannot viably support primary production related activities.</p>
Land use conflict	<p>The variation must avoid physically constrained land identified as:</p> <ul style="list-style-type: none"> • flood prone; • bushfire-prone; • highly erodible; • having a severe slope; and • having acid sulfate soils. 	Lot 2 is not constrained by any of the nominated land constraints.
Heritage	The variation must protect and manage Aboriginal and non-Aboriginal heritage.	There is no evidence currently available that the site contains items of Aboriginal or non-Aboriginal heritage.
Coastal area	Only minor and contiguous variations to urban growth areas in the coastal area will be considered due to its environmental sensitivity and the range of land uses competing for this limited area.	The proposal is located within the Lennox Head Urban Growth Area as designated on the map accompanying the <i>North Coast Regional Plan 2036</i> .

Important Farmland Interim Variation Criteria

Land may be suitable for uses other than farmland if:		
Principle	Requirement	Comment
Agricultural capability	The land is isolated from other important farmland and is not capable of supporting sustainable agricultural production	Lot 2 is designated as Important Farmland being classified as Non Contiguous Regionally Significant Farmland. Lot 2 conforms to the interim variation criteria – see attached assessment. It is noted that Lot 2 has an area of less than 1ha and is isolated from other farmland. Adjoining land to the west and south is zoned for residential purposes. Given the small size of Lot 2 and its inability to be consolidated with other land designated as Important Farmland it is considered that this land cannot viably support primary production related activities.
Land use conflict	The land use does not increase the likelihood of conflict and does not impact on current or future agricultural activities in the locality	No potential for land use conflict arises given that adjoining land is zoned for residential purposes.
Infrastructure	The delivery of infrastructure (utilities, transport, open space, communications and stormwater) required to service the land is physically and economically feasible at no cost to State and Local Government	Infrastructure to support the proposed future residential subdivision of Lot 2 is already available and can be further augmented at no cost to government.
Environment and heritage	The proposed land uses do not have an adverse impact on areas of high environmental value, and Aboriginal or historic heritage significance	Based on information currently available the proposal is unlikely to give rise to any adverse impact on areas of high environmental value, and Aboriginal or historic heritage significance. The significance of the sites ecological characteristics and its Aboriginal cultural heritage value will be required to be further investigated post Gateway determination.
Avoiding risk	Risks associated with physically constrained land are identified and avoided, including: • flood prone; • bushfire-prone; • highly erodible; • severe slope; and • acid sulfate soils.	Lot 2 is not constrained by any of the nominated land constraints.