



ENGINEERS PLANNERS SURVEYORS ENVIRONMENTAL PROJECT MANAGEMENT

8152 - planning proposal submission (nov 2017)

30 November 2017

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

Attention: Leah Toole

Dear Leah

re: LEP Amendment Request – Lot 3 DP 525783, No. 23 Compton Drive, East Ballina

Refer to prior communications in respect of the subject matter and in particular to the following:

- our letter dated 22nd November 2016 and our Rezoning Submission dated November 2016
- Council's Planning Proposal – Ballina Local Environmental Plan 2012 – Deferred Matters Integration – Stage 2 (March 2017 (V1, Council Initiation) 17/2092)
- Council's letter dated 31st May 2017
- our meeting on the 4th September 2017 with Matthew Wood and Sharon Barrie

As a consequence of Council's resolution at its Ordinary Meeting on the 27th April 2017 (Minute No. 270417/12) and further to discussions during our 4th September meeting, Ms Barrie and Mr Moon have decided to make a formal "stand-alone" request to Ballina Council to rezone the subject land from part 2(a) – Living Area and part 7(d) – Environmental Protection (Scenic/Escarpment) Zone under the BLEP 1987 to R2 – Low Density Residential Zone under the BLEP 2012.

This proposed zoning change to R2 is as per our November 2016 Rezoning Submission (attached), which submitted that an "E" zone was not appropriate for the subject land having regard to the findings and recommendations of the Northern Councils E-Zone Review – Final Recommendations Report.

Further to our Rezoning Submission, it is requested that the Planning Proposal also includes a request to amend the minimum lot size/subdivision standard from 40ha to 600m² which is the same standard that has been applied to the adjoining/adjacent lots on the southern side of Hill Street.

As detailed in Council's Planning Proposal – Ballina Local Environmental Plan 2012 – Deferred Matters Integration – Stage 2 (March 2017 (V1, Council Initiation) 17/2092), it was Council's Strategic Planners' position that an R2 zone was appropriate for the subject land.

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It is submitted that there is sufficient information contained in our November 2016 Planning Proposal document, which coupled with the work already undertaken by Council's Strategic Planners in the Deferred Matters Integration – Stage 2, to explain the planning proposal in the context of both:

- 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)

Attached herewith is:

- completed Planning Proposal/LEP Amendment Request Proponent & Proposal Information Form that has been signed by the land owners
- a cheque for \$3690.00 being the Stage 1 Commencement fee as advised by Mr Wood's email dated 4th September 2017 (copy attached)
- 1 x paper and 1 x CD copies of APP's Rezoning Submission – Lot 3 DP 525783, No. 23 Compton Drive, East Ballina, dated November 2016.

I trust that Council will favourably consider this Planning Proposal.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Paul Snellgrove'.

Paul Snellgrove

ARDILL PAYNE & PARTNERS

\\01.jobs\2100\8199\8152-planning advice\23 compton drive\03 town planning\8152 - planning proposal submission (nov 2017).docx

**Planning Proposal / LEP Amendment Request
Proponent & Proposal Information Form**

Lodge Applications at Ballina Shire Council • 40 Cherry Street • Ballina (Mon-Fri 8.15am to 4.30pm)
mail PO Box 450 Ballina 2478 • dx 27789 • f 02 6686 7035 • e council@ballina.nsw.gov.au
t 02 6686 4444 • w www.ballina.nsw.gov.au • abn 53 929 887 369



This form is to be completed and submitted when a request for an LEP amendment or planning proposal is lodged with Council.

Proponent Details

All correspondence will be forwarded to this name and address unless alternative details are specified below.

Proponent's Name AS PER BELOW

Address

Postal Address

Telephone (w) (h) Mobile

Email Address Fax

Signature Date

Consultant / Representative Details

Details of consultants/representatives acting on behalf of the proponent are required. Please nominate whether the consultant/representative will be the principal contact for the proposal.

Name ARDILL PAYNE & PARTNERS

Address PO BOX 20 BALLINA

Telephone (w) 66863280 Mobile Fax 66863280

Email Address PAULS@ARDILLPAYNE.COM.AU

Please tick if consultant/representative is to be the principal point of contact with Council.

Description of the Land

Property descriptions of all land holdings the subject of the LEP amendment request/planning proposal are required. Additional properties the subject of the proposal should be documented in the additional information field at the end of the form.

Property Address 23 COMPTON DRIVE EAST BALLINA

Lot/Portion 3 Section - DP 525783

Property Address

Lot/Portion Section DP

Property Address

Lot/Portion Section DP

Office Use Only		
Proposal Name: <input type="text"/>	Type: <input type="checkbox"/> Major <input type="checkbox"/> Minor	Pre-Lodgement Discussion: <input type="checkbox"/> Y <input type="checkbox"/> N
Fee Paid: <input checked="" type="checkbox"/> Y <input type="checkbox"/> N Amount: \$ <u>3 690.00</u>	Date Received: <u>11/2/17</u>	Receipt No: <u>881484</u>
Code 6, Job No: 20001.1001.061		

Landholder Details and Consent

Details of all landholders are to be provided. If landholders do not sign this form, evidence of the consent of landholders for the nomination of their landholding as part of the LEP amendment/planning proposal is required in conjunction with this form. Space is provided at the end of this form for additional landholder details.

Owner's Name(s) **SHARON BARRIE + KRISTIAN MOON**

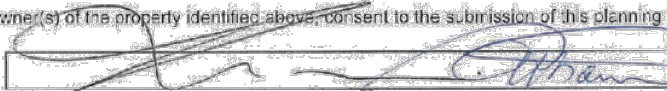
Address **31 PINE AVE EAST BALLINA**

Lot/Portion **3** Section **-** DP **525783**

Telephone (w) (h) Mobile **0415 841 466**

Email Address **EXAM @ BIRPOND .COM** Fax

I/we being the owner(s) of the property identified above, consent to the submission of this planning proposal/LEP amendment.

Signature  Date

Summary of the LEP Amendment Request / Planning Proposal

Brief outline of the concept or idea underpinning the LEP amendment request / planning proposal.

0400 66 0000 K@ KRISTIANMOON.COM

PETER ATTACHED REZONING SUBMISSION

DATED NOVEMBER 2018

List of Information Provided in Support of the LEP Amendment Request / Planning Proposal

REFER ATTACHED REASONING SUBMISSION
DATED NOVEMBER 2016

Privacy Protection Notice

The completed application form contains personal information which is being collected for the purpose of assessing this LEP amendment request/planning proposal. Please be aware that information contained in this documentation is public information and may be accessed by other government agencies, service providers, the general community or other organisations. The information will be processed by Council officers and may be made available to public enquiries under the Government Information (Public Access) Act. The information will be stored in Council's electronic document management system.

Disclosure of Political Donations and Gifts

A person who submits an LEP amendment request/planning proposal to Council is required to disclose the following reportable political donations and gifts (if any) made by any person with a financial interest in the proposal within the period commencing two years before the request is made and ending when the proposal is determined:

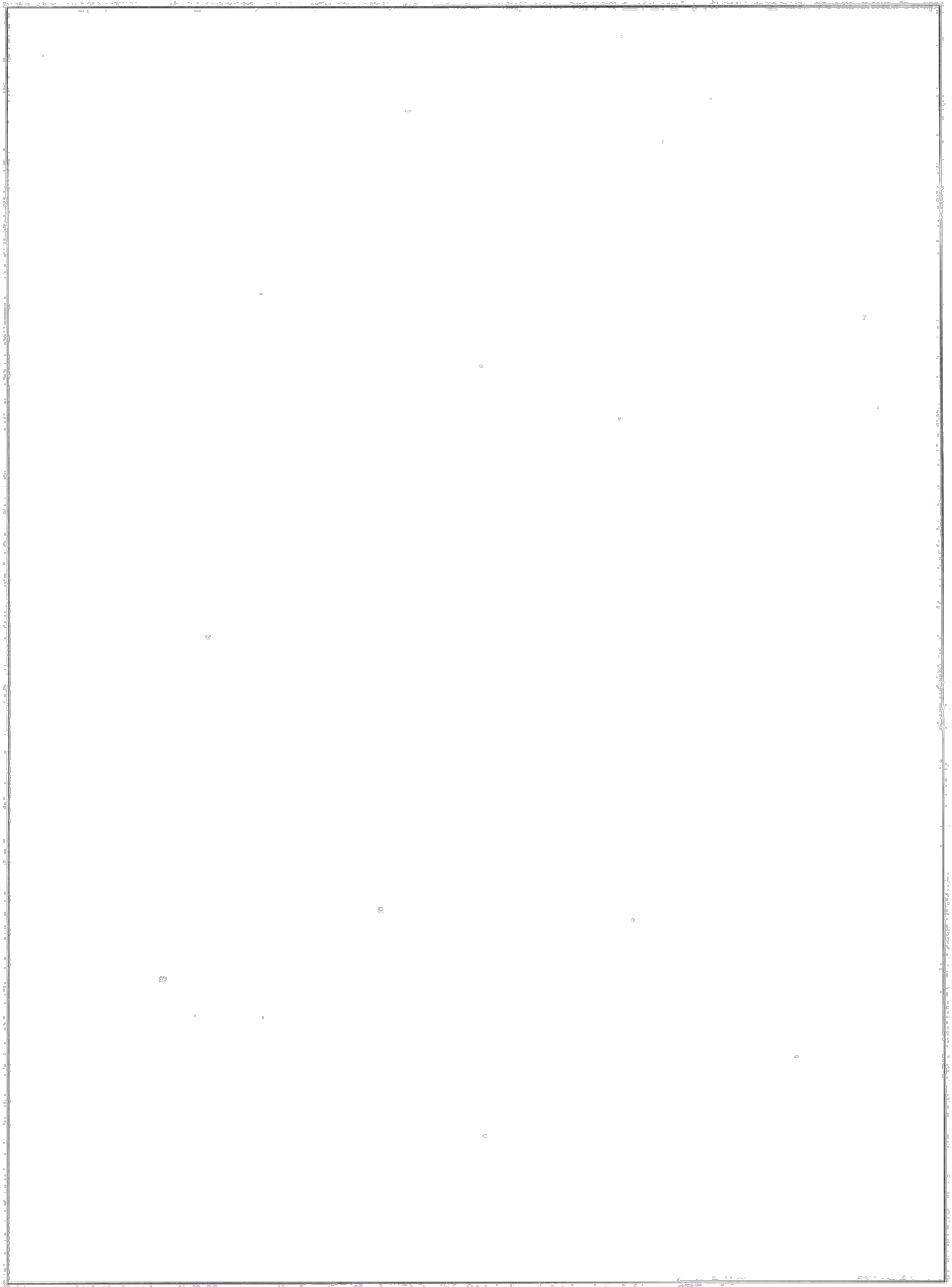
- All reportable political donations made to any Ballina Shire Councillor; and
- All gifts made to any local Councillor or employee of Ballina Shire Council.

A reference to a reportable political donation made to a 'Councillor' includes a reference to a donation made at the time the person was a candidate for election to the Council.

Significant penalties apply to non-disclosure. For more information and to obtain a political donations and gifts disclosure statement go to the Department of Planning and Infrastructure website at www.planning.nsw.gov.au.

Is a disclosure statement to accompany your application? Yes No

Additional Information



Paul Snellgrove

From: Matthew Wood <Matthew.Wood@ballina.nsw.gov.au>
Sent: Monday, 4 September 2017 4:42 PM
To: Paul Snellgrove
Subject: LEP Amendment Fees 17/18

Hi Paul,

Further to our meeting today, the fees expected to be applicable in relation to an LEP amendment for Ms Barrie's land at Compton Drive are as follows (no GST is applicable):

Stage 1 Commencement: \$3,690

Stage 2 Planning Proposal: \$6,130

Stage 3 Processing: \$12,650 (plus any third party costs incurred by Council). This is on the basis that specialist reports will be required in relation to geotechnical conditions and bushfire.

Let me know if you would like to discuss this further.

Regards, Matt.

Matthew Wood
Manager Strategic Planning



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p: (02) 6686 1289 | f: 02 6686 7035 | m: 0409 090 431



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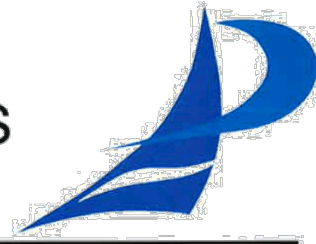
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ARDILL PAYNE & PARTNERS

Civil & Structural Engineers – Project Managers – Town Planners – Surveyors



REZONING SUBMISSION

Subject land:
Lot 3 DP 525783
23 Compton Drive, East Ballina

For:
Sharon Barrie & Kristian Moon

November 2016

Document Control Sheet

Filename:	8152 – Rezoning Submission (Nov 2016).doc
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Client:	Sharon Barrie and Kristian Moon
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	Name	Signed	Name	Signed
0	Dwayne Roberts		Paul Snellgrove	
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1 Introduction

1.1 Background

Ardill Payne and Partners (APP) has been engaged by Sharon Barrie and Kristian Moon to provide Town Planning services in respect of Lot 3 DP 525783, No. 23 Compton Drive, particularly to provide advice in respect of:

- site constraints (eg flooding, bushfire, acid sulfate soils etc)
- current applicable planning controls (including relevant LEPs, SEPPs and DCPs)
- planning pathways for securing a dwelling entitlement and/or obtaining consent for a dwelling house on the land

There have been numerous communications (letters, emails and discussions) with Council's Town Planners Matthew Wood, Andrew Smith and Anthony Peters and the Department of Planning's Luke Blandford in respect of the subject land.

Numerous communications from Council (including Section 149 Certificate No. 8322) have confirmed that the land is mapped as "DM – Deferred Matter" under the BLEP 2012 and thus remains subject to the provisions of the BLEP 1987, being zoned thereunder as:

- part 2(a) – Living Area Zone
- part 7(d) – Environmental Protection (Scenic/Escarpment) Zone

A formal dwelling entitlement search letter was sent to Council (dated 23rd May 2016), seeking detailed investigation into and a formal response from Council about such. Council provided a response by letter dated 28th June 2016 which confirmed that the land does not have a dwelling entitlement pursuant to Clause 12(3) of the BLEP 1987

Council at its Ordinary Meeting of the 27th October 2016 resolved to accept the funding offer from the NSW Department of Planning and Environment to support the integration of the "DM – Deferred Matters" into the BLEP 2012, with the 7(d)/7(d1) zones being scheduled for commencement in February 2017.

A number of appendices form part of this report being:

Appendix A Aerial photograph of subject and adjoining land

Appendix B Copy of Certificate of Title and 2006 survey plan showing boundaries and improvements (as at 29.11.2006)

1.2 DA/BA/CC History

A search of Council's records (including DA's Online on the 4th July 2016) has revealed the following applications that have been determined by Council over the subject land:

- DA 1991/7256 – Alterations to restaurant
- DA 1996/3049 – Additions to restaurant (approved 31st July 1995)
- DA 1999/22 – Extensions to existing restaurant (approved 8th July 1998)
- DA 2013/189 – Alterations/additions to commercial building (retail/wholesale) (refused 7th June 2013)
- DA 2013/211 – Alterations/additions to existing restaurant involving partial demolition of existing building and it reconstruction and refurbishment of existing verandah area contained in the road reserve (approved 10th October 2013)

DA 2013/211 is an active “deferred commencement” consent that will lapse on the 10th October 2018 unless building, engineering or construction works relating to the building or work are physically commenced on the subject land (pursuant to Section 95 of the EP & A Act 1979).

2 The Site and Its Context

2.1 Subject Land

The subject land is described in real property terms as Lot 3 DP 525783 and is commonly known as No. 23 Compton Drive, East Ballina.

A locality plan is provided at **Appendix A** with a Copy of Certificate of Title and 2006 survey plan showing boundaries and improvements (as at 29.11.2006) being provided at **Appendix B**.

The subject land is irregular in shape with a frontage of 20.73m to Compton Drive and an area of 537.5m². Existing on the land is a single storey timber and F/C building, which is currently vacant and has previously been used as a restaurant/café.



Extract: Google Maps (22nd November 2016)

As detailed on the plan at **Appendix B**, part of the existing building and other associated improvements encroach into adjoining Lot 1 DP 781542 (which is owned by Ballina Council) and the Compton Drive road reserve.

2.2 Constraints

Preliminary planning investigations (including reference to Council's Section 149 Certificate No. 8322) have confirmed the following:

2.2.1 Acid Sulfate Soils

The subject land is mapped on Council's Acid Sulfate Soils Planning Maps as being Class 5 Acid Sulfate Soils. Consent is required on Class 5 land for works within 500m of adjacent Class 1, 2, 3 or 4 land that is below 5m AHD and by which the watertable is likely to be lowered below 1m AHD on adjacent Class 1, 2, 3 or 4 land.

2.2.2 Bushfire

The subject land is mapped as being bushfire prone as a consequence of Vegetation Category 2 vegetation + 30m buffer.

2.2.3 Geotechnical

The subject land is situated in an area identified by Coffey & Partners (March 1986) as having a medium to high risk of instability.

2.3 Adjoining and Surrounding Land Uses

As evidenced on the aerial photograph at **Appendix A**, the subject land is situated in a residential area that is characterised by a mix of residential uses, open space/parks, stands of bushland vegetation and Shaws Bay.

2.4 Other matters

The subject land is **not**:

- mapped as being subject to the 1 in 100 year flood event
- mapped as being subject to coastal hazards or processes
- identified as being or containing an item of environmental heritage under Part 1 of Schedule 5 of the Ballina LEP 2012

- identified as being within a heritage conservation area under Part 2 of Schedule 5 of the BLEP 2012
- identified as being an archaeological site under Part 3 of Schedule 5 of the BLEP 2012
- identified as including or comprising critical habitat as prescribed in the Threatened Species Conservation Act 1995 of Part 7A of the Fisheries Management Act 1994
- identified as being affected by the operation of Sections 38 or 39 of the Coastal Protection Act 1979
- 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
- identified as being subject to acquisition by a public authority under the provisions of any environmental planning instrument, deemed or draft environmental planning instrument
- mapped as containing SEPP 14 – Coastal Wetlands
- mapped as containing SEPP 26 – Littoral Rainforest
- likely to be contaminated as a consequence of its restaurant/café use, however, due to the age of the building, there is the potential for asbestos and lead paint to be contained in the building

3 Statutory and Policy Planning

3.1 Environmental Planning Instruments (EPIs)

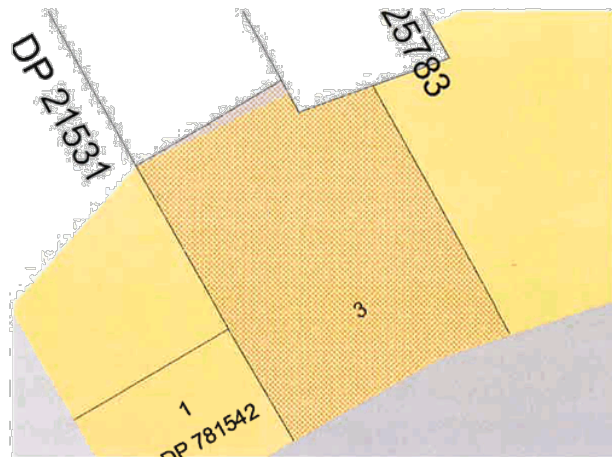
This section identifies and provides comment on the EPIs that are of relevance to the subject land.

3.1.1 Ballina Local Environmental 1987 (BLEP 1987)

As detailed in Section 149 Certificate No. 8322, the subject land is zoned part 2(a) – Living Area and part 7(d) – Environmental Protection (Scenic/Escarpment) Zone under the BLEP 1987.

Below is an extract from the BLEP 1987 that was provided by Council via email dated 4th April 2016 which shows the zoning over the land. The pink is the 2(a) zone and the beige is the 7(d) zone.

Council's 28th June letter advised that there is approx. 8.5m² of 2(a) zoned land out of the 537.5m² total lot area.



As evidenced on the Certificate of Title provided at **Appendix B**, the subject lot was registered on the 19th October 1967 and was subject of the Shire Clerk's Certification, Subdivision No. 11-18/1966 (dated 11th August 1966).

As advised in Council's 28th June 2016 letter, the subject land does not enjoy a dwelling entitlement pursuant to any of the relevant Clause 12(3) criteria of the BLEP 1987.

Clause 16 of the BLEP 1987 applies to land within 50m of a boundary between any 2 zones, except Zone No. 7(a), 7(f) or 7(l) and provides that Council may grant consent to any development that may be carried out in any adjoining zone.

Subclause (3) provides that consent must not be granted to such unless in the opinion of the Council, the carrying out of the development is desirable due to design, ownership, servicing or similar requirements relating to the optimum development of the land.

Notwithstanding the above, the use of Clause 16 has no effect as a consequence of Clause 13 of SEPP 71 – Coastal Protection and therefore cannot be utilised (refer **Section 3.1.3** below).

3.1.2 Ballina Local Environmental 2012 (BLEP 2012)

The BLEP 2012 came into effect on the 4th February 2013. The land is mapped under the BLEP 2012 as "DM – Deferred Matter" and therefore, the land remains subject of the provisions of the Ballina LEP 1987.

The subject land was proposed to be zoned E3 – Environmental Management Zone under the Draft BLEP 2011 (as exhibited). The BLEP 2012 does not apply to the land.

3.1.3 State Environmental Planning Policy No. 71 – Coastal Protection (SEPP 71)

SEPP 71 applies to the subject land as it is situated within the "coastal zone" (Clause 4). The land is mapped as being a "Sensitive Coastal Location" as it is within 100m of Shaws Bay.

Clause 16 of SEPP 71 relates to flexible zone provisions and provides that a provision in an environmental planning instrument that allows development within a zone to be

consented to as if it were in a neighbouring zone (or similar provision) has no effect.

This clause therefore appears to be such that precludes the use of Clause 16 of the BLEP 1987.

3.2 Northern Councils E Zone Review – Final Recommendations Report

In 2012, the Minister for Planning and Infrastructure, announced a review of the application of environmental zones (E zones) and environmental overlays in Local Environmental Plans (LEPs) on the Far North Coast (including Ballina Council).

The Final Recommendations Report was published in October 2015 and articulates the manner in which Councils are required deal with the “DM – Deferred Matters” and how to apply environmental protection zones to land.

Below are extracts from the Final Recommendations report, which will have to be considered by Council in applying any future zoning regime to the subject land.

3. Final Recommendations

Application of E Zones

1 When will E zones be applied?

- 1. E2 and E3 zones will only be applied if the primary use of the land is considered to be environmental conservation (E2) or environmental management (E3) and the land contains attributes which meet one or more of the criteria for an E2 or E3 zone (Tables 1 and 2).
- 2. An E4 zone can be applied if the land contains attributes that are consistent with the Department's Practice Note PN09-002 Environment Protection Zones.

2 How will the primary use of the land be determined?

- 1. The primary use of the land is the main use for which the land has been used for the last two (2) years. This may mean that land which is currently zoned rural will continue to have a rural zone but it may have parts of that land which have attributes that meet the criteria for an E2 or E3 zone included in a mapped planning control.
- 2. The primary use of the land may vary across a particular property depending on the characteristics of the land. This may result in more than one zone being applied to the land.
- 3. The primary use of land will be identified during the preparation of a planning proposal.

3 What are the E zone Criteria?

- The land proposed to be zoned E2 or E3 must contain one or more of the criteria listed in Tables 1 and 2.

4 What is the procedure for applying an E2 or E3 zone to land?

- 1. Councils will assess land against the E zone criteria and consider the primary use of the land before proposing an E2 or E3 zone.
- 2. An E2 or E3 zone can only be applied to land with a primary use of environmental conservation or environmental management and, which has attributes that have been verified to meet the E zone criteria.
- 3. If the land has attributes that meet the E2 criteria, however the primary use of the land is environmental management rather than environmental conservation, a council may apply an E3 zone.
- 4. If a council believes the primary use of the land does not warrant an E zone, and the land meets the E zone criteria, then a LEP Map and associated clauses can be applied.
- 5. The E zones will not include buffers to the vegetation attributes that meet the E zone criteria.

Table 1: E2 zone Criteria

Criteria	Description
SEPP 26 Littoral Rainforests.	Land mapped as littoral rainforest in accordance with the statewide policy for littoral rainforest protection (State Environmental Planning Policy 26 – Littoral Rainforests).
SEPP 14 Coastal Wetlands.	Land mapped as coastal wetlands in accordance with the statewide policy for coastal wetland protection (State Environmental Planning Policy 14 – Coastal Wetlands).
Endangered Ecological Communities (EECs) listed under the Threatened Species Conservation Act 1995 and/or the Environment Protection and Biodiversity Conservation Act 1999.	Land containing vegetation communities listed as Endangered Ecological Communities under the Threatened Species Conservation Act 1995 (TSC) and the Environment Protection and Biodiversity Conservation Act 1999 (EPBC). The Far North Coast Regional Conservation Plan ³ lists the following vegetation communities as examples of EECs that currently exist on the Far North Coast: Byron Bay Dwarf Graminoid Heath Community, Coastal Cypress Pine Forest, Coastal Saltmarsh, Freshwater Wetlands in Coastal Floodplains, Littoral Rainforest, Lowland Rainforest, Lowland Rainforest on Floodplains, Subtropical Coastal Floodplain Forest, Swamp Oak Floodplain Forest, Swamp Sclerophyll Forest on Coastal Floodplains, Themeda grassland on Seacliffs and Coastal Headlands, White Gum Yellow Gum Blakey's Red Gum Woodland, and White Gum Moist Forest. Other vegetation communities may be added consistent with these Acts in the future.
Key Threatened Species Habitat.	This criterion includes: <ul style="list-style-type: none"> • old-growth forests where the overstorey or canopy trees are in the late mature stage of growth; • areas of predicted high conservation value for forest fauna assemblages, refugia, endemic forest fauna or endemic invertebrates⁴; and • habitats for threatened species or endangered populations that cannot withstand further loss where the threatened species or endangered population is present⁵.
Over-cleared vegetation communities.	Land comprising: <ol style="list-style-type: none"> 1. over-cleared vegetation communities, where more than 70% of the original (pre 1750) extent of the native vegetation type has been cleared⁶ and 2. native vegetation in over-cleared Mitchell landscapes⁷. <p>The Far North Coast Regional Conservation Plan lists the following as examples of: <ul style="list-style-type: none"> • Over-cleared vegetation communities on the Far North Coast⁸: <ul style="list-style-type: none"> • Rainforests, Wet sclerophyll forests (shrubby and grassy subformations), Dry sclerophyll forests (shrubby and shrub/grass subformations), Grassy woodlands, Grasslands (Themeda australis sod tussock), Heathlands, Forested wetlands, Freshwater wetlands, Saline wetlands; and • Over-cleared Mitchell landscapes⁹: <ul style="list-style-type: none"> • Byron-Tweed Alluvial Plains, Byron-Tweed Coastal Barriers, Clarence-Richmond Alluvial Plains and Upper Clarence Channels and Floodplains. </p>
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 ¹⁰ .

¹ <http://www.environment.gov.au/biodiversity/threatened/communities/nsw-act>

² <http://www.environment.nsw.gov.au/threatenedspeciesapp/default.aspx?keywords>

³ Far North Coast Regional Conservation Plan, NSW Environment Climate Change and Water, 2010, p24.

⁴ <http://www.epa.nsw.gov.au/resources/pnl/OGREreview/eldident.pdf>

⁵ Scotts, D. 2003, Key Habitats and Corridors for Forest Fauna: A Landscape Framework for Conservation in North-east New South Wales, NPWS Occasional Paper no. 32, National Parks and Wildlife Service, Sydney, NSW.

⁶ NSW Office of Environment and Heritage Threatened Species Profiles Database <http://www.bionet.nsw.gov.au>

⁷ Keith, DA 2006, Ocean Shores to Desert Dunes the Native Vegetation of New South Wales and the ACT, Department of Environment and Climate Change, Hurstville.

⁸ Mitchell, PB 2002, NSW Ecosystems Study: Background and Methodology, report prepared for National Parks and Wildlife Service, Hurstville, NSW and Far North Coast Regional Conservation Plan, NSW Environment Climate Change and Water, 2010, p27.

⁹ Far North Coast Regional Conservation Plan, NSW Environment Climate Change and Water, 2010, p26.

¹⁰ Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW, NSW Department of Environment, Climate Change & Water (2011)

Table 2: E3 zone Criteria

Criteria	Description
Riparian and estuarine vegetation and wetlands.	Land comprising riparian and estuarine vegetation on waterfront land, defined under the NSW Water Management Act 2000, or wetland areas other than those mapped as SEPP 14 Coastal Wetlands. Waterfront land is defined under the NSW Water Management Act 2000 as the bed of any river, lake or estuary and any land within 40 metres of the river banks, lake shore or estuary mean high water mark.
Rare, Endangered and Vulnerable Forest Ecosystems.	Land comprising areas of rare, endangered and vulnerable forest ecosystems as defined by the Joint ANZEC/MCFFA National Forest Policy Statement Implementation Subcommittee (JANIS) (Commonwealth of Australia 1997).
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.

Having regard to the above, it is apparent that an E2 or E3 zone would not be possible over the subject land.

Below is an extract from the DoP's Practice Note PS 09-002 – Environment Protection Zones which confirms when an E4 zone is applicable and that “dwelling houses” are mandatory permitted uses with consent within the zone. As per PS 09-002, it is submitted that an E4 zone would also not be appropriate due to the fact that the subject land does not:

- contain existing low impact residential development
- have any special ecological, scientific or aesthetic values

Attachment 1 – Additional zone considerations

E4 Environmental Living

Application

This zone will be typically applied to existing low impact residential development. This may include areas already zoned for rural residential that have special conservation values. Where lands have higher conservation values and fewer intended land uses than the E4 zone, an E2 or E3 zone may be appropriate.

Regional councils should distinguish carefully between the E4 zone, the RU4 Rural Small Holdings and R5 Large Lot Residential zones to address environmental, agricultural and residential land capabilities respectively.

Where small holdings undertake agricultural production such as viticulture or cropping such as growing berries, the RU4 zone should be considered. If there are few environmental considerations, then R5 may be the appropriate zone.

Objectives

The mandatory zone objectives seek to provide for low-impact residential development in areas with special ecological, scientific or aesthetic values and to ensure that residential development does not have an adverse effect on those values.

Any additional objectives should reflect local characteristics and not duplicate the matters covered in the core objectives.

Uses

Mandatory uses

The zone permits dwelling houses (with consent) and home occupations (without consent).

In accordance with the direction for this zone, councils must permit environmental protection works and roads with or without consent in the zone.

Additional uses

Councils can specifically list additional uses to be permitted in the zone at items 2 and 3. The direction for this zone allows home industries to be permitted if desired (they would otherwise be prohibited under the term industries).

Care should be taken to select uses that are in keeping with the special conservation values of the land and complement low impact residential development. Additional uses that may be suitable (as permitted with consent), depending on location, include but are not limited to:



- bed and breakfast accommodation
- building identification signs and business identification signs
- caravan park
- community facility
- dwelling house
- eco-tourism³
- environmental facility
- home business, home industry and home-based child care
- information and education facility
- kiosk
- recreation area
- secondary dwellings, e.g. attached to the principal dwelling
- tourist and visitor accommodation.

Additional uses that are generally unsuitable in the zone include:

- business premises
- office premises
- residential accommodation (other than dwelling houses and secondary dwellings)
- retail premises
- rural industry
- storage premises

Other considerations

Where environmental capabilities are the primary concern on land that may be zoned R5 Large Lot Residential, RU4 Rural Small Holdings or E4 Environmental Living, preference should be given to the E4 zone.

³ The draft definition of 'eco-tourism development' means nature-based tourism development with a primary focus on the education, interpretation, cultural understanding and appreciation of the natural environment that is managed to be ecologically sustainable.

4 Rezoning Proposal

It is requested that as part of the integration of the 7(d)/7(d1) zones into the BLEP 2012, that Council apply an R2 – Low Density Residential Zone to the subject land, with the following justification being provided for such:

- As per the final recommendations from the Department's report for the Northern Council's E Zone Review, the application of an E2 or E3 zone would **NOT** be possible as the subject land does **NOT** satisfy the E2 and E3 zone criteria in Tables 1 and 2 respectively.
- As per the final recommendations from the Department's report for the Northern Council's E Zone Review, the application of an E4 zone would **NOT** be appropriate as the subject land does **NOT** comply with the applicability provisions contained in the Department of Planning's Practice Note PN 09-002 for the E4 – Environmental Living Zone
- The location and characteristics of the subject land and the adjacent/adjoining land uses are such that would **NOT** be appropriate for the application of the following zones:
 - RU1 – Primary Production
 - RU2 – Rural Landscape
 - B1 – Neighbourhood Centre
 - B2 – Local Centre
 - B3 – Commercial Core
 - B4 – Mixed Use
 - B5 – Business Development
 - B6 – Enterprise Corridor
 - IN1 – General Industrial
 - SP2 – Infrastructure
 - RE1 – Public Recreation
 - RE2 – Private Recreation
 - E1 – National Parks and Nature Reserves
 - W1 – Natural Waterways
 - W2 – Recreational Waterways
- Having regard to the above and the zones contained in the "standard instrument" it is submitted that, effectively by default, that the most appropriate zone is a residential zone, and in particular the R2 – Low Density Residential Zone.

- The use of the land for residential purposes (dwelling house) is such that would have significantly lesser/reduced impacts on the natural and man-made environment than the existing approved restaurant (and the yet to be completed alterations/additions approved under DA 2013/211).
- The use of the subject land for residential purposes would be more compatible with the existing adjacent/adjoining residential uses (dwelling houses and residential flat buildings) than that of a restaurant, particularly from an amenity and land use conflict perspective.
- If the land was rezoned for residential purposes, there is scope for the existing consents over the land to be surrendered, contingent upon consent being granted for residential development thereon.

Having regard to the above, it is respectfully submitted that an R2 – Low Density Residential Zone is appropriate for the subject land and that Council duly apply such zone during the 7(d)/7(d1) rezoning process.

5 Scope of Engagement

This submission has been prepared by Ardill Payne & Partners (APP) on behalf of Sharon Barrie and Kristian Moon in respect of Lot 3 DP 525783, No. 23 Compton Drive, East Ballina.

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.

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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.

6 Appendices

- Appendix A** Aerial photograph of subject and adjoining land
- Appendix B** Copy of Certificate of Title and 2006 survey plan showing boundaries and improvements (as at 29.11.2006)

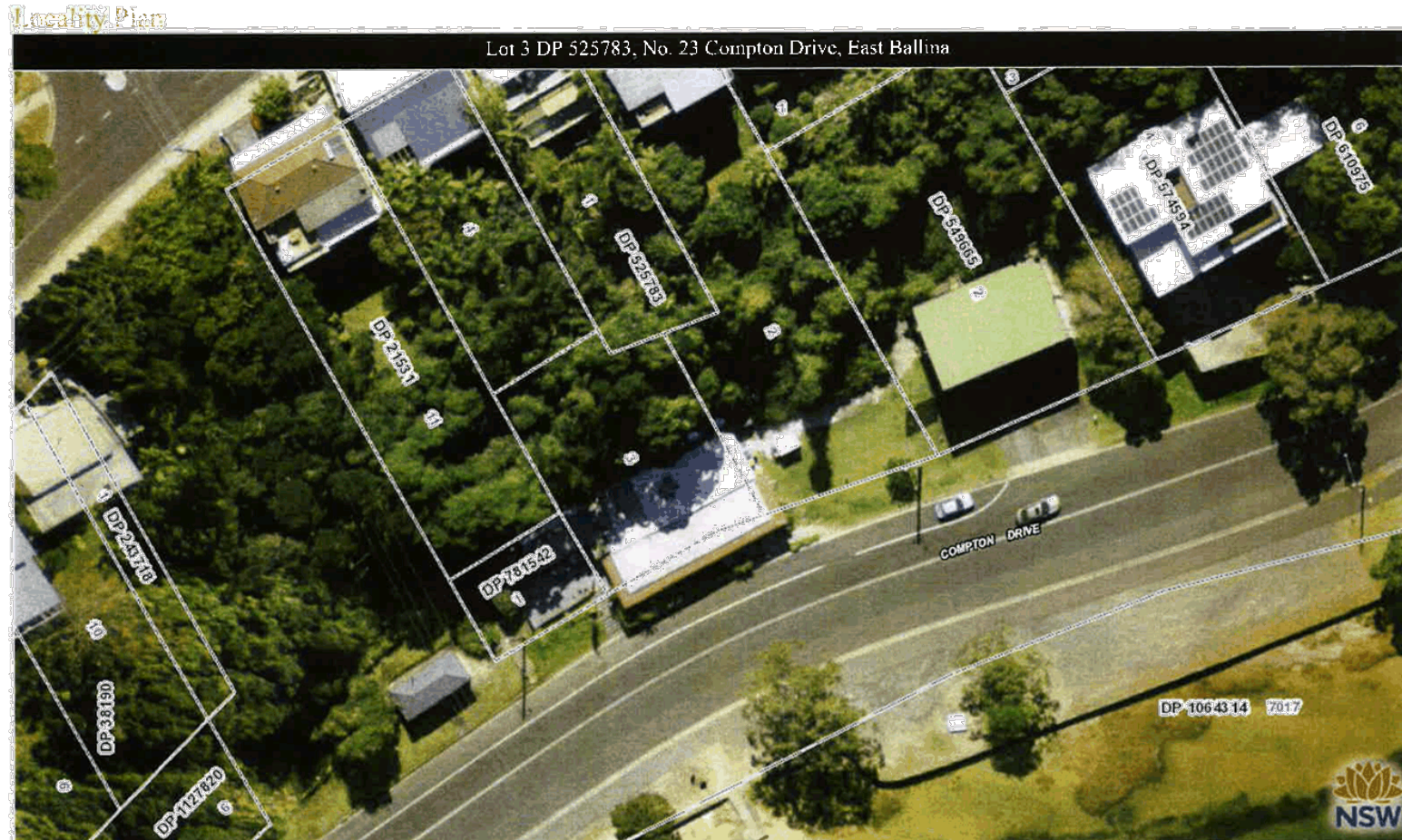
APPENDIX A

Appendix A
Aerial photograph of subject
and adjoining land

Rezoning Submission
Lot 3 DP 525783
23 Compton Drive, East Ballina

Page 17

9.1 LEP Amendment Request - 23 Compton Drive, East Ballina.DOC

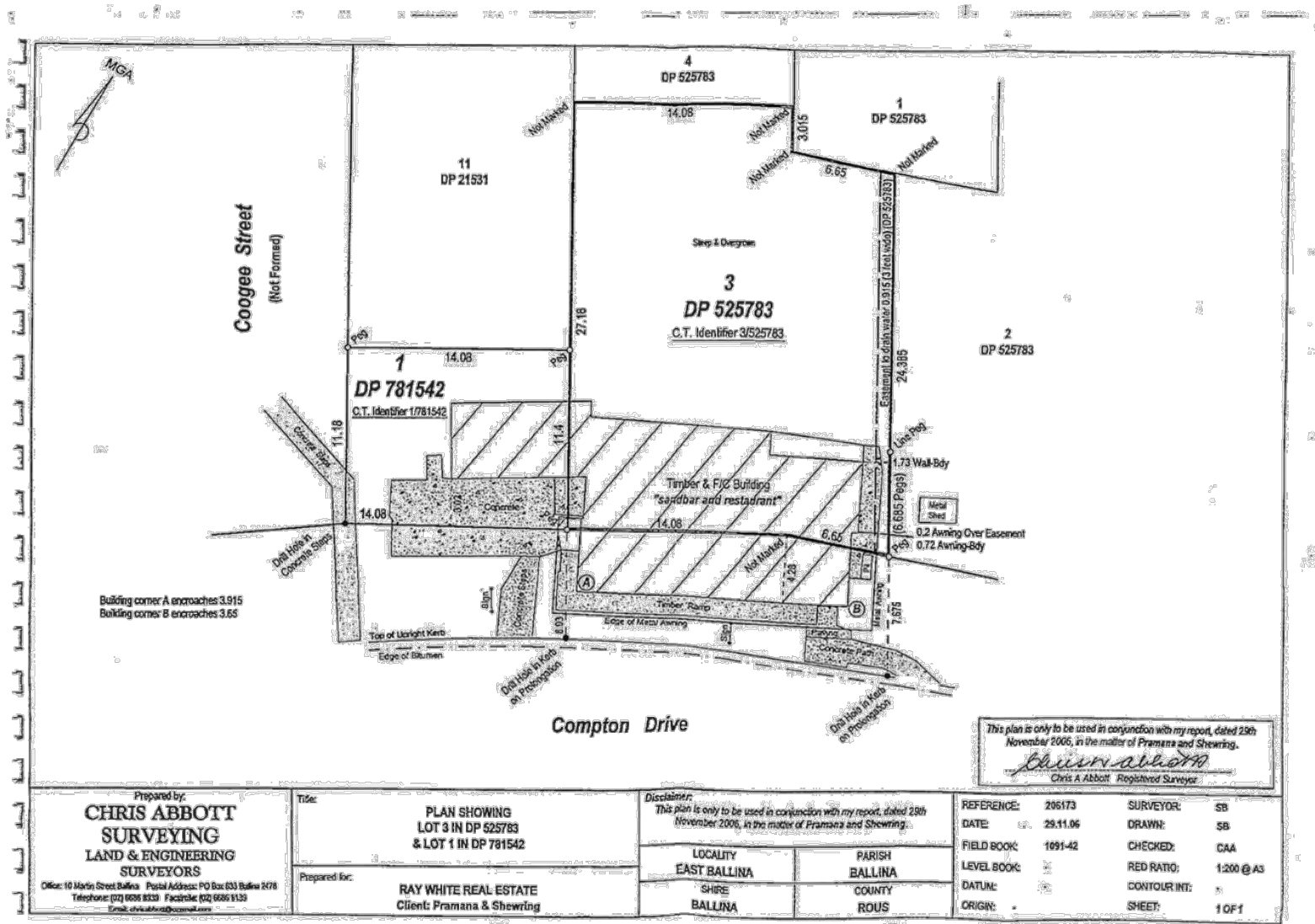


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APPENDIX B

Appendix B
Copy of Certificate of Title
and 2006 survey plan
showing boundaries and
improvements (as at
29.11.2006)

9.1 LEP Amendment Request - 23 Compton Drive, East Ballina.DOC



Prepared by: CHRIS ABBOTT SURVEYING LAND & ENGINEERING SURVEYORS Office: 10 Martin Street Ballina Postal Address: PO Box 633 Ballina 2478 Telephone: (07) 6636 8333 Facsimile: (07) 6636 9133 Email: chrisabbott@ccornell.com	Title: PLAN SHOWING LOT 3 IN DP 525783 & LOT 1 IN DP 781542	Disclaimer: This plan is only to be used in conjunction with my report, dated 29th November 2006, in the matter of Pramana and Shewing.		REFERENCE: 206173	SURVEYOR: SB
		Prepared for: RAY WHITE REAL ESTATE Client: Pramana & Shewing	LOCALITY EAST BALLINA	PARISH BALLINA	DATE: 29.11.06
		SHIRE BALLINA	COUNTY ROUS	FIELD BOOK: 1091-42	CHECKED: CAA
				LEVEL BOOK:	RED RATIO: 1:200 @ AS
				DATUM:	CONTOUR INT:
				ORIGIN:	SHEET: 1 OF 1

9.1 LEP Amendment Request - 23 Compton Drive, East Ballina.DOC

Reg: R105099 / Doc: CT 10822-236 CT / Rev: 04-Feb-2011 / Sts: OK, SC / Prt: 04-Feb-2018 09:37 / Pgs: ALL / Seq: 1 of 2
 Ref: / Src: X

NEW SOUTH WALES
 Crown Grants Volume 2870 Folio 17
 Volume 2911 Folio 26
 Prior Titles Volume 3161 Folio 78
 Volume 8045 Folio 224

CERTIFICATE OF TITLE
 REAL PROPERTY ACT, 1900, as amended.



10822236

Vol. 10822 Fol. 236



ID Edition issued 24-6-1968.

I certify that the person described in the First Schedule is the registered proprietor of the undermentioned estate in the land within described subject nevertheless to such exceptions encumbrances and interests as are shown in the Second Schedule.

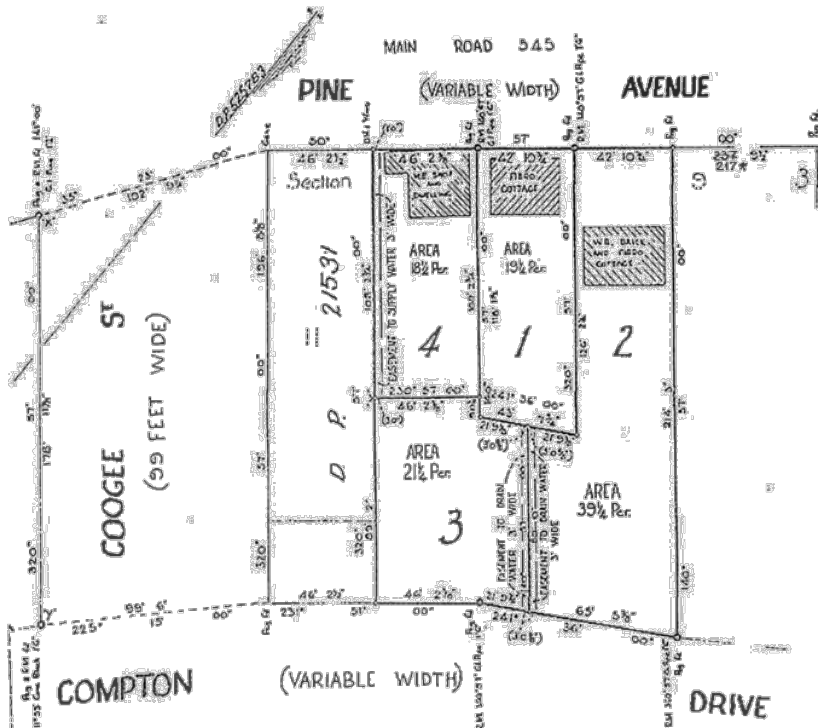
Witness *M. Lint*

J. Larsson
 Registrar General



SEE AUTOMATIC

PLAN SHOWING LOCATION OF LAND



ESTATE AND LAND REFERRED TO

Estate in Fee Simple in Lot 3 in Deposited Plan 525783 at East Ballina in the Municipality of Ballina Parish of Ballina and County of Rous EXCEPTING THEREOUT the minerals reserved by the Crown Grants.

FIRST SCHEDULE (continued overleaf)

~~ARTHUR GRANVILLE LARSON, of Ballina, Storekeeper; and DORIS ELLEN ELIZABETH LARSON, his wife, as tenants in common.~~

SECOND SCHEDULE (continued overleaf)

- 1. Reservations and conditions, if any, contained in the Crown Grants above referred to.
- 2. Mortgage No. 10/1640 of that part of the land above described formerly comprised in Certificate of Title Volume 3161 Folio 78 to Director of War Service Homes Entered 6-1-1965. *Cancelled*
- 3. Covenant created by Transfer No. K808405 affecting part.
- 4. Easement to drain water affecting the part of the land above described 9 feet wide shown in plan hereon created by the registration of Deposited Plan 525783. See K836067.
- 5. Easement for water supply appurtenant to the land above described created by the registration of Deposited Plan 525783. See K836067.

J. Larsson
 Registrar General

NOTE: ENTRIES RULED THROUGH AND AUTHENTICATED BY THE SEAL OF THE REGISTRAR GENERAL ARE CANCELLED.

RENDERS ARE CAUTIONED AGAINST ALTERING OR ADDING TO THIS CERTIFICATE OR ANY NOTIFICATION HEREON

WARNING: THIS DOCUMENT MUST NOT BE REMOVED FROM THE LAND TITLES OFFICE.

Page 1) Vol. 10822 Fol. 236



Planning Proposal 17/012
**» 23 Compton Drive,
East Ballina**

January 2018 (V1. Initiation/ Gateway) 17/99388

ballina
shire council



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1. Introduction

1.1 Summary of Planning Proposal

This planning proposal primarily proposes the rezoning of part of Lot 3 DP 525783 (Lot 3), No. 23 Compton Drive, East Ballina to apply an R2 Low Density Residential zone (R2). A minimum lot size requirement of 600m² is also proposed to apply to the R2 zoned area. Lot 3 has an area of 537.5m² and a frontage of approximately 21m to Compton Drive.

Also incorporated within the planning proposal is the adjacent Council owned land known as Lot 1 DP 781542 which adjoins Lot 3 along its western boundary. The proponent has advised that the landowners are liaising with Council's Commercial Services Group regarding a proposition for Council to consider the sale of all or part of the adjoining Lot 1 contingent upon Lot 1 also being zoned for residential purposes.

Lot 1 has an area of 158m². The application of an R2 Low Density Residential Zone and 600m² minimum lot size is proposed for Lot 1.

Lot 1 is included in this planning proposal subject to further investigation and reporting, particularly in relation to the encroachment of the Coogee Street stairs located in the southwestern corner of Lot 1. There is a prior resolution of the Council to excise the stairs from Lot 1 prior to any future leasing or disposal of Lot 1 to ensure the stairs remain in public ownership and accessible to the community.

This planning proposal will be amended prior to public exhibition to clarify if all or part of Lot 1 is to be rezoned, subject to the proposed disposal of the land being reported to Council under separate cover.

The location of the land is shown in Map 1 contained within Appendix 3.

1.2 Background

Lot 3 is mapped as "Deferred Matter" under the BLEP 2012 and is currently subject to the provisions of the Ballina Local Environmental Plan 1987 (BLEP 1987), being zoned part 2(a) Living Area and part 7(d) Environmental Protection (Scenic/ Escarpment). Lot 3 does not have a dwelling entitlement in accordance with Clause 12(3) of the BLEP 1987 and is subject to a 40 hectare minimum lot size for subdivision standard. Lot 1 is also subject to the 7(d) Environmental Protection (Scenic/ Escarpment) zone under the BLEP 1987.

Existing improvements on Lot 3 comprise a single storey building which is currently vacant and has previously been used as a restaurant/ café. There is an active deferred commencement consent for alterations and additions to the building which will lapse in October 2018 unless works are physically commenced. Part of the existing building and other associated improvements encroach onto Lot 1 and the Compton Drive road reserve.

A request to rezone the subject land was previously submitted to Council in November 2016 and was considered as part of the draft planning proposal for Stage 2 of Council's deferred matters integration program at the March 2017 Ordinary Meeting. At this meeting Council resolved to delay consideration of the planning proposal until after a Councillor briefing on the matter which was subsequently held on 6 April 2017.

The planning proposal for Stage 2, incorporating the rezoning request for No. 23 Compton Drive, East Ballina, was reported to the Council at its Ordinary Meeting held on 27 April 2017. At this meeting the Council resolved to retain all deferred areas that are the subject of

an environmental protection zone under the BLEP 1987 as deferred areas, having the effect that the BLEP 1987 will continue to apply.

As a result of the above resolution of the Council, the land owners have decided to make a formal site specific LEP amendment request. This planning proposal has been prepared in response to the LEP amendment request submitted by Ardill Payne & Partners on 4 December 2017 on behalf of the registered land owners Ms Sharon Barrie and Mr Kristian Moon. A copy of the amendment request is available under separate cover.

1.3 Land to Which the Planning Proposal Applies

This planning proposal primarily relates to part of Lot 3 DP 525783, No. 23 Compton Drive, East Ballina and Lot 1 DP 781542, also known as 23 Compton Drive, East Ballina as shown on the Site Identification Map contained within Appendix 3.

1.4 Council Resolutions

To be completed following Council decision to initiate the amendment.

1.5 Gateway Determination

To be completed following the Gateway determination.

2. Objectives & Intended Outcomes

The objective of this planning proposal is to apply a low density residential zone and a 600m² minimum lot size requirement to all or part of Lot 1 DP 781542 and to part of Lot 3 DP 525783. The intended outcome of this planning proposal is to enable the use of the land for residential purposes.

3. Explanation of Provisions

3.1 The Proposal

This planning proposal seeks to rezone part of Lot 1 and Lot 3 to apply the R2 Low Density Residential zone under the Ballina LEP 2012. The residual land on Lot 3 will remain subject to the provisions of the Ballina LEP 1987, being zoned part 2(a) Living Area and part 7(d) Environmental Protection (Scenic/ Escarpment). The extent of the existing and proposed zoning is shown on the land zoning maps contained in Appendix 3 and in Figure 1.

The proposed residential zone boundary on Lot 3 is indicative only and is subject to further information being submitted by the proponent post-Gateway determination, including a survey plan and ecological and bushfire assessments.

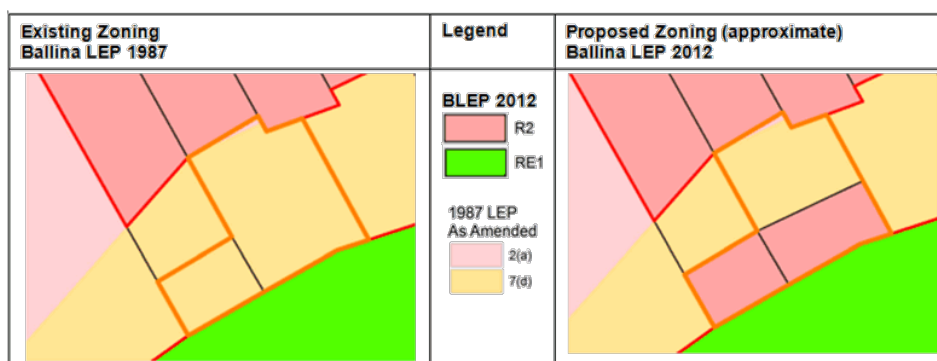


Figure 1: Existing and proposed zoning

The site has access to existing services including water, sewer, electricity and telecommunication facilities.

To facilitate a viable building envelope on the site a reduced front setback will be considered having regard for the constraints of the land, particularly in respect of bushfire and geotechnical issues. If a reduced front setback is determined to be suitable, this will be implemented by way of amendment to the Ballina Shire Development Control Plan 2012, contingent upon the provision of further information to be provided post-Gateway determination.

The proposal seeks to alter the minimum lot size from 40 hectares to 600m² for the land that is ultimately subject to an R2 zone. This is consistent with the applicable minimum lot size

for the adjoining residential lots to the north. The existing and proposed lot size maps are provided in Appendix 3 and shown in Figure 2.

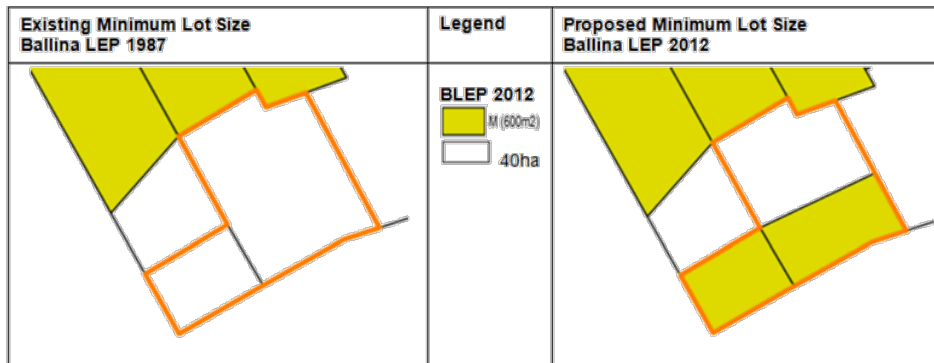


Figure 2: Existing and proposed lot size

3.2 Environmental Assessments

The proponent has not at this stage submitted comprehensive information required to justify the outcomes sought by the planning proposal. It is proposed that this information be required to be prepared and submitted by the proponent following Gateway determination.

It is expected that the following technical information will be required, at a minimum, to support the finalisation of the planning proposal:

- Geotechnical assessment including assessment of land slip hazards;
- Bushfire assessment;
- Ecological values;
- Land contamination; and
- Revised survey plan.

4. Justification

4.1 Section A – Need for the Planning Proposal

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

No, the planning proposal is not the result of any specific strategic study or report. This proposal is a site specific landholder generated request for rezoning of the subject land.

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 an appropriate method to rezone the site as proposed.

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 proposal is considered to be consistent with the *North Coast Regional Plan 2036* particularly in relation to the following directions:

Direction 1: Deliver environmentally sustainable growth – The site is located within an identified Urban Growth Area. The proposal for infill residential development within an existing serviced residential neighbourhood provides for low impact sustainable growth.

Direction 15: Develop healthy, safe, socially engaged and well-connected communities – The proposal will provide for residential development in close proximity to walking and cycling tracks which supports active living principles.

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

Ballina Shire Council Community Strategic Plan 2017-2027

The planning proposal is considered to be generally consistent with the elements and specified outcomes of Council's Community Strategic Plan 2017-2027 as indicated in the table below:

Element and Reference	Outcomes	Benefits
PE3 Prosperous Economy	Improve liveability in the shire	
PE3.1	Support residential development that delivers services close to home	Lower cost of living
PE3.2	Facilitate and provide affordable infrastructure	More affordable housing
HE3 Healthy Environment	Our built environment blends with the natural environment	
HE3.1	Develop and implement plans that balance the built environment with the natural environment	More people are satisfied with our management of development

Ballina Shire Growth Management Strategy 2012 (BSGMS)

The Ballina Shire Growth Management Strategy (BSGMS) provides the strategic planning context for urban development in Ballina Shire. The BSGMS identifies the following key issue of relevance to this planning proposal:

- Limited opportunities for outward expansion. Future development will occur mainly through infill development. Such development will need to be balanced with the generally low scale and coastal character of the locality.

The subject land is situated within an established residential area that is characterised by a mix of residential uses, open space/ parks, stands of bushland vegetation and Shaws Bay. The proposed rezoning of the land is considered to be generally consistent with the locality objectives for East Ballina contained within the BSGMS.

Ballina Local Environmental Plan 2012 (BLEP 2012) and BLEP 1987

The subject land is mapped as "DM – Deferred Matter" under the BLEP 2012 and is therefore subject to the provisions of the BLEP 1987. The land is currently zoned part 2(a) Living Area and part 7(d) Environmental Protection (Scenic/ Escarpment) under the BLEP 1987.

The proposal seeks to apply the R2 Low Density Residential Zone under the BLEP 2012 to part of the land that is currently zoned 7(d). The proposal is considered to be consistent with the objectives of the R2 zone which are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide for development that is compatible with the character and amenity of the surrounding neighbourhood.*
- *To provide for development that meets the social and cultural needs of the community.*
- *To encourage development that achieves the efficient use of resources such as energy and water.*

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

The proposal is considered to be 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. A Section 117 Direction checklist for the planning proposal is provided at Appendix 2.

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 proponent has not yet examined the ecological significance of the subject site. Preliminary information provided by Biolink ecological consultants to Council in relation to the deferred matter area indicates the presence of a substantive area of littoral rainforest that is not presently mapped under *State Environmental Planning Policy No. 26 Littoral Rainforests* (SEPP 26) located on part of both Lot 1 and Lot 3 and on other land within this vicinity (note: more detailed assessment is required to determine the presence of littoral rainforest on Lot 1 and its extent).

The information provided by Biolink to date advises that the vegetation communities conform to the Littoral Rainforest endangered ecological community (EEC) and the critically endangered Littoral Rainforest and Coastal Vine Thickets community as listed under state and federal legislation. Three threatened plant species have also been recorded in this area.

In the event of a positive Gateway determination enabling the planning proposal to proceed, the proponent will be requested to provide an ecological report and further assessment on the ecological values of the site. This will assist in determining the suitability of the land for residential development and the ultimate extent of an R2 zone over the land.

Q8 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 mapped as being bushfire prone land. Following a Gateway determination enabling the proposal to proceed, the planning proposal will be forwarded to the NSW Rural Fire Service for consultation.

The land is also subject to significant geotechnical constraints as both Lots 1 and 3 are situated within an area identified as having a medium to high risk of instability. Located behind the existing building on Lot 3 is a 2 metre high gravity retaining wall that supports a steep slope of the original hillside. Further investigation will be required to assess the slope stability of the land.

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

The potential for adverse social impact is considered to be limited given the infill nature of the proposed LEP amendment request. The use of the land for residential purposes will be compatible with the existing adjacent residential uses, particularly from an amenity and land use conflict perspective.

The social and economic outcomes resulting from the proposed rezoning are considered to be positive.

4.4 Section D – State and Commonwealth Interests

Q10 Is there adequate public infrastructure for the planning proposal?

Infrastructure available to service the site and future residential development comprises the following:

- Electricity
- Water
- Sewer
- Telephone
- Sealed roadway

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

Consultation is proposed to be undertaken with relevant agencies as required by the Gateway determination during the public exhibition stage of the planning proposal. At this stage consultation is proposed to be undertaken with the NSW Rural Fire Service and the Office of Environment and Heritage.

5. Mapping

The following maps have been prepared to support this planning proposal and are contained in Appendix 3:

- Map 1 – Site Plan (Aerial);
- Map 2 – Current Land Zoning Map Ballina LEP 1987;
- Map 3 – Proposed Land Zoning Map Ballina LEP 2012;
- Map 4 – Current Lot Size Map Ballina LEP 2012; and
- Map 5 – Proposed Lot Size Map Ballina LEP 2012.

Maps will be amended as the planning proposal progresses in response to a revised survey plan and detailed site assessment reports.

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*.

7. Timeline

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

Plan Making Step	Estimated Completion (Before)
Gateway Determination	February 2018
Government Agency Consultation	March 2018
Public Exhibition Period	May 2018
Public Hearing	N/A
Submissions Assessment	July 2018
RPA Assessment of Planning Proposal and Exhibition Outcomes	July 2018
Submission of Endorsed LEP to DP&E for Finalisation	August 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.

8. Appendices

Appendix 1 – Gateway Determination

A copy of the Gateway determination will be included here.

Appendix 2 – Section 117 Direction Checklist

Section 117 Direction Checklist	
Planning Proposal – 23 Compton Drive, East Ballina	
Direction No.	Compliance of Planning Proposal
1. Employment and Resources	
1.1 Business and Industrial Zones	Does not apply to planning proposal.
1.2 Rural Zones	Does not apply to planning proposal.
1.3 Mining, Petroleum Production and Extractive Industries	Does not apply to planning proposal.
1.4 Oyster Aquaculture	Does not apply to planning proposal.
1.5 Rural Land	Does not apply to planning proposal.
2. Environment and Heritage	
2.1 Environment Protection Zones	<p>Justifiably Inconsistent.</p> <p>The planning proposal involves the development of land identified as being of environmental significance. The land is presently subject to the 7(d) Environmental Protection (Scenic/ Escarpment) zone under the Ballina LEP 1987.</p> <p>Preliminary information available to Council indicates part of both Lots 1 and 3 contain littoral rainforest (not presently mapped under SEPP 26) which conforms to the Littoral Rainforest EEC and the critically endangered Littoral Rainforest and Coastal Vine Thickets community.</p> <p>The land proposed for rezoning in Lot 1 contains an existing concrete pad. The extent of littoral rainforest on this land is yet to be determined. However, it is not proposed that any area of littoral rainforest on Lot 1 will be zoned for urban purposes.</p> <p>The land proposed to be rezoned within Lot 3 contains an existing building and is clear of vegetation. It is not proposed that any area of littoral rainforest on Lot 3 will be zoned for urban purposes.</p>
2.2 Coastal Protection	<p>Consistent.</p> <p>The subject lot is located within the coastal zone.</p> <p>Clause 5.5 Development within the coastal zone contained within Ballina LEP 2012 is applicable to development proposed within the coastal zone. Clause 5.5 includes provisions that give effect to and are consistent with:</p> <p>(a) the <i>NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997</i>, and</p> <p>(b) the <i>Coastal Design Guidelines 2003</i>, and</p> <p>(c) the manual relating to the management of the coastline for the purposes of section 733 of the <i>Local Government Act 1993</i> (the <i>NSW Coastline Management Manual 1990</i>).</p>
2.3 Heritage Conservation	<p>Consistent.</p> <p>The planning proposal does not involve the development of land on which a heritage item is located, within a heritage conservation area or within the vicinity of a heritage item or conservation area.</p>
2.4 Recreation Vehicle Areas	<p>Consistent.</p> <p>The planning proposal does not involve the development of land for the purpose of a recreation vehicle area.</p>
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	<p>Consistent.</p> <p>The planning proposal does not propose to introduce or alter an E2 Environmental Conservation or E3 Environmental Management zone.</p>
3. Housing, Infrastructure and Urban Development	

Section 117 Direction Checklist	
Planning Proposal – 23 Compton Drive, East Ballina	
Direction No.	Compliance of Planning Proposal
3.1 Residential Zones	Consistent. This proposal involves the rezoning of all or part of Lot 1 and part of Lot 3 from 7(d) Environmental Protection (Scenic/ Escarpment) under BLEP 1987 to R2 Low Density Residential zone under BLEP 2012. The proposed rezoning will provide for infill residential development which can be adequately serviced by existing infrastructure and services. The proposed rezoning will not result in any material loss or gain to any existing zoned residential areas.
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 Integrating 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	Consistent. The subject land is mapped as being Class 5 acid sulfate soils. The Ballina LEP 2012 includes an existing provision (Clause 7.1) that addresses development on land that has the potential for acid sulfate soils.
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	Justifiably Inconsistent. The subject land is mapped as bush fire prone land. Consultation will be undertaken with the NSW Rural Fire Service post Gateway determination.
5. Regional Planning	
5.1 Implementation of Regional Strategies	Revoked.
5.2 Sydney Drinking Water Catchments	Does not apply to Ballina Shire.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Does not apply to planning proposal.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Does not apply to planning proposal.
5.5 Development in the vicinity of Ellalong Paxton and Millfield (Cessnock LGA).	Revoked.

Section 117 Direction Checklist	
Planning Proposal – 23 Compton Drive, East Ballina	
Direction No.	Compliance of Planning Proposal
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 planning proposal is considered to be consistent with the North Coast Regional Plan 2036 as the subject land is located within a designated Urban Growth Area.
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 does not create, alter or reduce existing zonings or reservations of land reserved for public purposes.
6.3 Site Specific Provisions	Consistent. The planning proposal does not relate to a specific development proposal to be carried out nor does it contain or refer to drawings that show details of the development 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.
7.3 Parramatta Road Corridor Urban Transformation Strategy	Does not apply to Ballina Shire.
7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	Does not apply to Ballina Shire.
7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Does not apply to Ballina Shire.
7.6 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Does not apply to Ballina Shire.

Appendix 3 – Maps

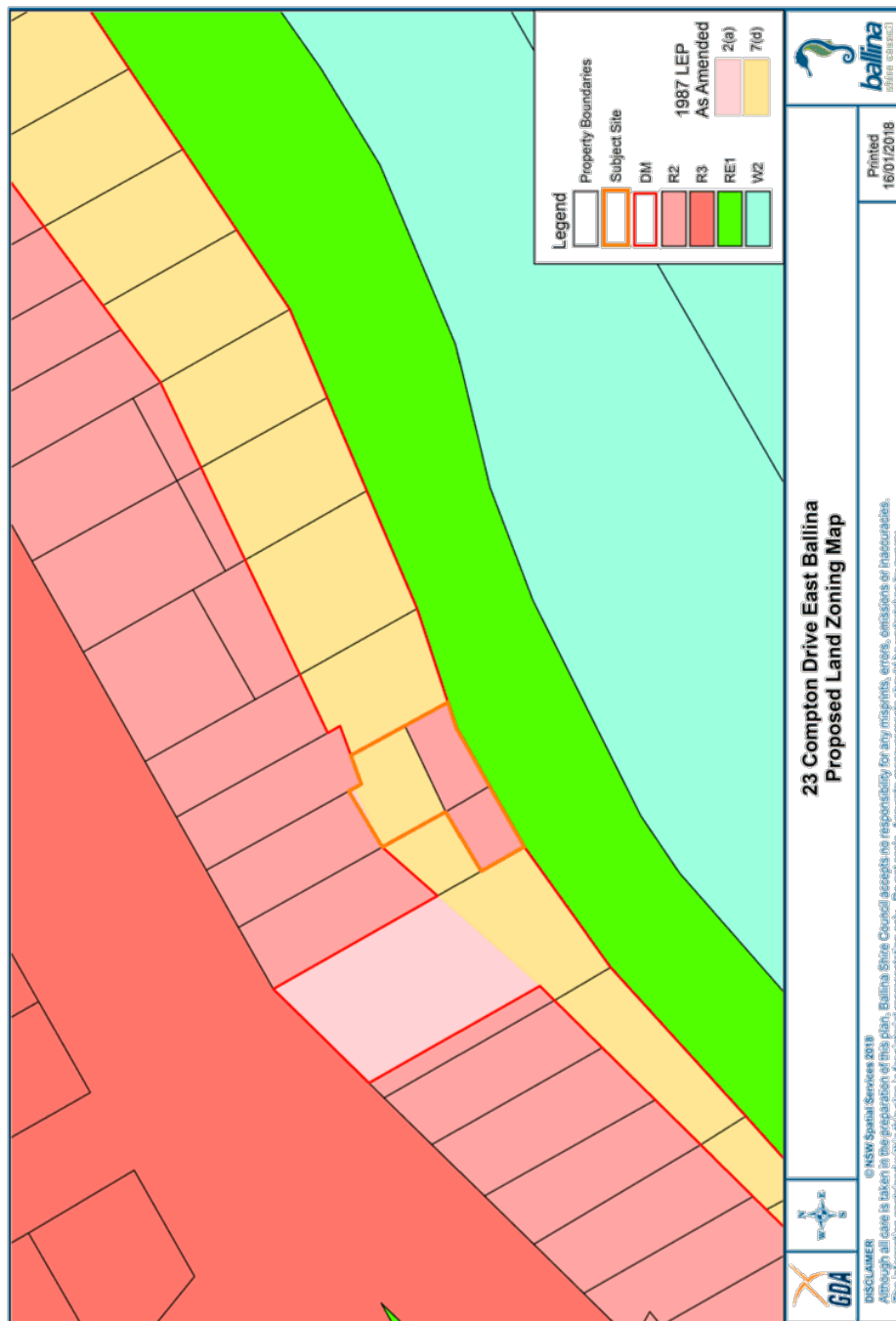
Map 1 – Site Plan (Aerial)



Map 2 – Current Land Zoning Map (Ballina LEP 1987 and Ballina LEP 2012)



Map 3 – Proposed Land Zoning Map Ballina LEP 2012



Map 4 – Current Lot Size Map Ballina LEP 2012



Map 5 – Proposed Lot Size Map Ballina LEP 2012



Appendix 4 – Proponent’s Planning Proposal Submission

Provided under separate cover.

Appendix 5 – Council Resolutions

A copy of the Council resolutions will be included here.