

9.2 Cumbalum Precinct B Planning Proposal

Attachment 1

1st September 2011

Ballina Shire Council

PO Box 450

Ballina NSW 2478

Dear Councillors,

RE: Precinct B Cumbalum

I am absolutely shocked that your staff have not completed the plan for rezoning and have not placed it out on exhibition and are now in breach of the directive from the Department Director General of NSW Planning.

The land owners of Precinct B have been working with your Council for over six years, we have carried out hundreds of studies NOT only once but twice with each study Pier reviewed, literally, thousand of pages have been written by so called experts they have been checked and rechecked.

The process your staff have taken has cost the land owners million of dollars.

I believe your inefficient staff have little knowledge of the burden they have placed on the land owners. Some 12 months ago the then Minister and the Department of Planning realised that Council were taking too long for the rezoning process.

So they gave a directive on the 18th November 2010. Quote:

"Council is required to finalise the LEP within nine (9) months of the week following the date of this letter. Councils request for the Department to draft and finalise the LEP should be made six (6) weeks prior to the projected publication date. The community consultation period is to be 28 days."

Council have now ignored the departments directive and asked for an extension of time, this is detrimental to the land owners, the whole reason for the departments directive was to place the rezoning in the gateway system, so it created a timetable and an efficient way to handle the rezoning, your staff have totally under performed they don't seem to realise that they have a responsibility to the people that have completed all their studies and that the rezoning plan and report is now 30 days over due on going out on exhibition.

I believe their performance in not complying with their duty is quite a derelict attitude and has placed the land owners in a precarious position.

Regards,



Owen Lynn

PO Box 1255

Byron Bay NSW 2481

Attachment 2

Simon Scott

Cumalalum Precinct B Planning Proposal

2 September 2011

Mr Owen Lynn
PO Box 1255
BYRON BAY NSW 2481

Dear Mr Lynn

Re: Precinct B Cumalalum

I refer to your letter dated 1 September 2011 regarding Council's processing of the Cumalalum Precinct B Planning Proposal.

Firstly, Council acknowledges the status of the subject land as an urban *investigation* area in the strategic urban planning framework provided by Ballina Shire Council and the State Government. Further, Council's Urban Land Release Strategy clearly identifies the Cumalalum locality as a key element in accommodating the Shire's future population growth into the future. Notwithstanding, I note that Council's Urban Land Release Strategy states that '*rigorous environmental assessment is a key component of the rezoning process*' and that '*this assessment is likely to lead to the conclusion that some lands within this zone are unsuitable for urban development*'.

Thus, the purpose of the rezoning process is to identify which parts of the investigation area have capacity to accommodate urban development and those parts that do not. Consequently, Council's focus is on proper process rather than allowing an arbitrary timeframe to dictate the delivery of Council's statutory obligations, as a local planning authority, to assess the matters before it. Once Council is in a position to make an informed decision on this matter all the available information will be reported to the elected Council for its consideration.

With respect to the State Government's timeframe for the processing of planning proposals, I note that the introduction of such timeframes was an element of the NSW Planning Reforms introduced throughout the State. Consequently, these timeframes were placed on all local governments in the State, not just Ballina Shire Council and not only in relation to this matter. I further note that the same timeframe (9 months) was generally placed on all planning proposals regardless of their scale and complexity.

I feel obliged to respond to your claim that Council has displayed unnecessary delay in dealing with this particular matter. I note that of the approximately 48 months from the time Council resolved to commence the preparation of a draft LEP (23 August 2007), the period of time for which Council has been awaiting information from your consultants (who have been replaced during this period) has been approximately 37 ½ months. Thus, I suggest it would be more accurate to state that Council has been processing the planning proposal for a period of 10 ½ months (including the tendering period for the peer review consultants).

I remind you of the following key dates relating to the processing of this rezoning:

- Council (s.54) decision to commence the rezoning process (23 August 2007) - At the time the proponents sought, from Council, an 'in-principle' indication (via a section 54

decision) that Council would be willing to consider the subject rezoning. Any technical studies that may have prepared had not, at that time, been provided to Council;

- Precinct B consultants on your behalf submitted technical documents supporting their rezoning request (24 April 2009) - 20 months after its decision to initiate the rezoning process Council received the proponent's detailed rezoning request;
- Council completed first round peer review of technical documents (11 November 2009) - Council engaged consultancy firm GHD Pty. Ltd. to undertake a 'peer review' of the technical documents supporting the rezoning request, identifying any errors and omissions that needed to be addressed to enable the technical work to be incorporated into a Local Environmental Study (LES) for the site. This review took 6 ½ months to complete (including tendering for consultancy services).
- Precinct B consultants lodged revised technical documents in response to Council's third party peer review (22 September 2010) - Approximately 10 months after Council's peer review was completed, your consultants lodged revised documentation. It is noted that the peer review is undertaken at the proponent's cost, with staged payments prior to the commencement of each stage. The invoice for the next stage of the process was settled on 19 October 2010. Council initiated the second round review of the technical documents the same day.
- The second round review (by GHD) was completed on 17 December 2010. This review identified a number of unresolved issues, including a number of issues raised in the first peer review for which no attempt had been made to resolve. The issues identified that needed further information related to indigenous cultural heritage matters, bushfire management, flooding, road noise impacts and stormwater impacts including downstream impacts on neighbouring private property and on the Ballina Nature Reserve.
- Precinct B consultants (now Planning Resolutions Pty. Ltd.) lodged with Council revised rezoning documents addressing the matters raised in Council's second peer review (on 1 August 2011) - Approximately 7½ months after Council's second peer review was completed.

Council's consultants and relevant technical staff are now reviewing these documents to ensure that the information is robust and adequate for the purposes of the rezoning. Should the documents' adequacy be confirmed, the material will be incorporated into a local environmental study that clearly and transparently outlines the basis for zoning recommendations for the subject land. The study and revised planning proposal will then be reported to the elected Council for consideration.

If you have any enquiries in regard to this matter please contact Simon Scott on telephone 6686 1432 or email simons@ballina.nsw.gov.au.

You will note that I have taken the liberty of forwarding a copy of both your letter and this reply to the regional office of the NSW Department of Planning and Infrastructure to ensure the Department is adequately apprised of the current situation.

Yours faithfully

Paul Hickey
General Manager



Planning & Infrastructure

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

RECORDS SCANNED	11/15709
10 OCT 2011	
Doc No.....	
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Dear Mr Hickey

Cumalum Planning Proposals Precincts A and B (PP_2010_BALLI_013_00 and PP_2010_BALLI_014_00) - Request for Extension of Time

I refer to your letter received 25 August 2011 requesting an extension of time for the Planning Proposals PP_2010_BALLI_014_00 (Precinct A) and PP_2010_BALLI_013_00 (Precinct B) for the Cumalum urban release area.

I have determined as the delegate of the Minister, in accordance with section 56(7) of the Environmental Planning and Assessment Act, 1979, to amend the Gateway Determination dated 12 November 2010 for PP_2010_BALLI_014_00 (Precinct A) and the Gateway Determination dated 15 November 2010 for PP_2010_BALLI_013_00 (Precinct B). The Gateway Determination is amended by extending the time for completion of each Planning Proposal by an additional six (6) months. The Proposals are now due for completion by 19 February 2012 (Precinct A) and 22 February 2012 (Precinct B).

As you are aware the Department has written to you on a number of occasions requesting that the Planning Proposals proceed to public exhibition as a matter of priority. In relation to the concerns raised regarding the time taken to progress these proposals, it is clear that Council has adequate information concerning the Planning Proposals to proceed to public exhibition. In this regard I request that the Planning Proposals be placed on exhibition within six weeks of the date of this letter.

Council is further requested to provide a timetable within two weeks of the date of this letter, indicating how the Proposals are to be finalised in accordance with the amended time-frame.

Council's request for the Department to draft and finalise the Planning Proposal should be made six weeks prior to the projected publication date.

Should you have any further enquiries about this matter, I have arranged for Jim Clark, of the Northern Region office to assist you. Mr Clark can be contacted on telephone number 6641 6604.

Yours Sincerely

Neil McGarrin *5.10.11*
**Acting Deputy Director General
Plan Making and Urban Renewal**

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