



## Ballina Shire Council

### Cumbalum Ridge - Precinct A

#### Planning Proposal - November 2011 (formerly Amendment 105 to Ballina LEP 1987)

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## Introduction

### Summary of Planning Proposal

This Planning Proposal applies to land referred to as "Precinct A" of the Cumbalum Urban Release Area (CURA) as shown on the locality map is provided at **Appendix 1**.

Precinct B of the CURA is the subject of a separate planning proposal

Land ownership within Precinct A comprises a number of separate holdings as outlined in the following table:

Landholding	Lots	Area (Hectares)	%
Vixsun Pty. Ltd.	Lot 1 DP1077982 & Lot 284 DP1141745	23.0	6.1
Sheather	Lot 79 DP755684, Lot 85 DP755684, Part 18 DP 1022777 & Part 190 DP1063589	58.8	15.7
Intrapac	Lot 20 DP1022777	35.5	9.5
Barlow	Lot 150 DP755684, Lot 333 DP755684, Lot 3 DP517149 & Lot 3 DP82662	87.8	23.5
Catholic Church	Lot 1 DP1077982	4.9	1.3
Road reserve		11.1	3.0
<i>Total area that is the subject of LES</i>		<i>221.0</i>	<i>59.1</i>
Potter	Lot 1 DP880178	34.4	9.2
Johnstone	Lot 2 DP880178	15.7	4.2
Brown	Lot 21 DP1022777	16.5	4.4
Beddoes	Lot 1 DP771794	31.7	8.5
Thomson	Lot 2 DP771794	16.7	4.5
Road reserve		6.2	1.7
<i>Total area excluded from LES</i>		<i>152.8</i>	<i>40.9</i>
<b>Total Area</b>		<b>373.8</b>	<b>100.0</b>

A Local Environmental Study (LES) has been prepared for the subject land and accompanies this planning proposal. Whilst it has been Council's intention to have all lands within Precinct A assessed for urban suitability concurrently, a number of landholders have declined to provide information sufficient to enable this to occur. The landholdings that have not been included in the LES are identified as such in the table above and by cross hatching on Figure 1 in **Appendix 1**. Whilst it is Council's preference to have all the land within Cumbalum Precinct A assessed and considered as a part of the planning proposal, it is not considered to be critical in these circumstances as these properties are all located on the periphery of the precinct. It is recommended that these areas be identified in the Strategic Urban Growth Area Map (under the terms of the BLEP 2011) and be retained as a candidate urban investigation area in Council's Local Growth Management Strategy. Should future investigations provide an appropriate resolution of technical issues, the residential envelope for Precinct A may be expanded accordingly.

For the purpose of infrastructure planning the development potential of all lands subject to this planning proposal have been included in Council's Infrastructure Delivery Plan.

Pursuant to the *Ballina Local Environmental Plan 1987* the site currently contains land zoned 1(d) Rural (Urban Investigation) Zone.

In the terms of the draft Ballina LEP 2011, prepared in accordance with the standard instrument, the proposed zones are:

- R2 Residential Low Density Residential Zone - for those parts of the site suitable for urban development at a low residential density (of single detached dwellings);
- R3 Medium Density Residential Zone - for those parts of the site suitable for urban development at a medium residential density (permitting a broader range of dwelling types);
- RU2 Rural Landscape Zone - for those parts of the site not suitable for residential development and that do not have the environmental attributes suitable for an environmental protection zone. These areas may accommodate ancillary urban uses such as open space, community facilities and stormwater infrastructure;
- E2 Environmental Protection Zone - for those parts of the site that have environmental attributes worthy of protection;
- E3 Environmental Management Zone - for those parts of the site having characteristics suitable for the environmental management zone (including scenic values, urban buffering, steep slopes and habitat corridor values).

In the terms of the Ballina LEP 1987 the proposed zones are:

- 2(b) Village Area Zone - for those parts of the site suitable for urban development;
- 1(b) Rural (Secondary Agricultural Land) Zone - for parts of the existing 1(d) areas not suitable for urban development and that do not have the environmental attributes suitable for an environmental protection zone. These areas may accommodate ancillary urban uses such as open space, community facilities and stormwater infrastructure;
- 7(a) Environmental Protection (Wetlands) Zone - to add to the existing 7(a) zoning to reflect the on-ground extent of wetland vegetation; and
- 7(l) Environmental Protection (Habitat) Zone - to add to the existing 7(l) zoning to reflect on the on-ground extent of land having high habitat values.

A recommended zoning plan, prepared under the terms of the draft Ballina Local Environmental Plan 2011 and under the terms of the Ballina Local Environmental plan 1987 are provided as **Appendix 2**. Plans showing the proposed changes to the draft Ballina LEP 2011 map set relating to lot size (LSZ), Heritage (HER), Strategic Urban Growth Areas (SGA) and Urban Release Areas (URA) are also provided in **Appendix 2**.

The draft planning proposal was reported to Council at the Ordinary Meeting held 24 November 2011. A copy of the report is provided in **Appendix 3** of this planning proposal.

## Planning History to Date

Council planning and negotiations on the possible rezoning of this site have been underway since 1993. This work has involved the following inter-related matters:

- Rezoning the land from 1(b) Rural (Secondary Agricultural Land) Zone to 1(d) Rural (Urban Investigation) Zone (1993);
- Council identifying the land for urban investigation in the Ballina Shire Urban Land Release Strategy (1996);
- Council adopting an urban structure plan (Cumbalum Structure Plan 2006);
- Council commencing the preparation of draft LEP Amendment No.105; and
- The preparation of a Local Environmental Study.

A brief summary of each of these elements is provided below.

### Rezoning from 1(b) to 1(d)

In 1993 Council recognized that some of the subject land had potential for urban development and was concerned to avoid inappropriate development from occurring in the area prior to urban investigations being undertaken. Consequently the subject land was rezoned from 1(b) Rural (Secondary Agriculture) to 1(d) Rural (Urban Investigation). The objectives of the 1(d) zone are outlined in Part B of this planning proposal.

### Identified in ULRS

The subject land was first identified in Council's Urban Land Release Strategy (ULRS) for urban investigation in 1996. The latest version of the ULRS (ULRS-2000) maintains this designation.

### Cumbalum Structure Plan (2006)

The Ballina LEP 1987 1(d) zone objectives include a requirement that Council prepare an urban structure plan prior to the land being considered for rezoning to permit urban development.

Accordingly, Council prepared the Cumbalum Structure Plan (CSP), which involved a broad assessment of the environmental capabilities of the land and consultation with landholders, State agencies and the broader community. The CSP was adopted by Council in July 2006. A key element of the CSP, which arose from the broad land use suitability investigations undertaken, is that future development of the Cumbalum Ridge should occur as two (possibly three) distinct 'development nodes' or villages. In the planning context these villages are represented as Precinct A and Precinct B of the Structure Plan (with the possibility of Precinct C in the longer-term). This approach is also consistent with the 'Region of Villages' settlement hierarchy outlined in the Far North Coast Regional Strategy (FNCRS), prepared by the then NSW Department of Planning.

### Draft Local Environmental Plan (Draft Amendment No.105 to BLEP 1987)

Council resolved at its Ordinary Meeting held on 23 August 2007 to commence the process of preparing a draft Local Environmental Plan (LEP) and supporting Local Environmental Study (LES) to facilitate a range of urban and environmental outcomes over the proposal area. The resolution and accompanying report are contained in **Appendix 4**.

Council notified the Department of its decision under Section 54 of the Act in a letter dated 31 August 2007. The Department's response dated 21 September 2007 directed that a LES be prepared for the site. A copy of the Department's letter is provided at Appendix A of the Local Environmental Study provided in **Appendix 7** of this Planning Proposal.

Subsequently, the NSW Government introduced amendments to the Environmental Planning and Assessment Act 1979 provisions relating to the preparation of Local Environmental Plans. The consequence of these amendments is that the rezoning process now comprises a draft planning proposal under the terms of the Act. A draft planning proposal for Precinct A was submitted to the Department of Planning and Infrastructure (DP&I) in October 2010 and endorsed by the DP&I in November 2010. The DP&I established a timeframe for the finalisation of the planning proposal of nine (9) months to August 2011. Council received an extension from the DP&I in August 2011 of an additional six (6) months, to February 2012.

The former requirements (including the Director General's specifications for the Local Environmental Study) were set aside by the transition to the new planning proposal arrangements. Notwithstanding, Council proceeded with the preparation of the LES to inform



the delineation of land use zones. This was done to ensure that the rezoning recommendations reflect an objective and thorough assessment of the land's suitability for urban development.

### Local Environmental Study

Following Council's Section 54 decision the proponent prepared technical documentation to support the rezoning request. This information was subjected to several rounds of peer-review by consultants acting on Council's behalf, and by relevant Council staff.

The technical studies that accompany the Local Environmental Study include the following:

- Geotechnical capability (including foundation hazards);
- Ecological impacts (flora and fauna);
- Mosquito hazards;
- Bush fire hazards;
- Contaminated land;
- Agricultural land values;
- Aboriginal heritage;
- Non-Aboriginal heritage;
- On-site stormwater issues;
- Off-site stormwater issues;
- Road noise impacts;
- Visual impact and scenic protection; and
- Flooding.

The key recommendations of the LES include the following:

- Parts of Cumbalum Precinct A have the capacity to accommodate urban development. These areas are predominantly elevated, relatively flat grasslands with minimal tree cover (other than isolated trees and vegetated fence lines);
- Parts of Cumbalum Precinct A have steep slopes that may be subject to potential instability. These areas (having slopes generally greater than 18 degrees or having localised instability) have been excluded from proposed residential zoning;
- Western parts of Cumbalum Precinct A, adjacent to the Pacific Highway, are impacted by road noise. These areas are recommended to retain a rural zoning. It is anticipated that these areas may accommodate ancillary non-residential land uses such as community and sporting facilities. Further, these areas are identified as having potential for further investigation in relation to urban uses at a later stage. Further information regarding this issue is provided below.
- Substantial discussion was had with the proponents during the preparation of the LES with respect to the proposal to place stormwater infrastructure in areas affected by Endangered Ecological Communities (EECs) and land identified as having potential archaeological value. The LES recommends that stormwater infrastructure be located outside of these areas, in adjacent non-urban zones (RU2 Rural Landscape and E3 Environmental Management under the terms of the draft Ballina LEP 2011). Further information regarding this issue is provided below.
- Areas that have significant habitat values are recommended for environmental protection zoning;



- Aboriginal and European heritage items are proposed for heritage listing in the LEP. A potential indigenous archaeological site is recommended for inclusion in an environmental protection zone;
- The application of the E3 Environmental Management Zone has been recommended for parts of the site that are otherwise constrained for urban development (such as due to flooding or steep slopes) and otherwise have scenic value and/or value as an urban buffer between Cumbalum Precinct A and Precinct B. In this respect the application of the E3 zone is consistent with its application between Alstonville and Wollongbar under the draft Ballina LEP 2011. These areas also align with potential wildlife corridor areas, particularly in the location of the Sandy Flat floodway;
- The implications of buffering to ecological areas, bushfire hazard and access issues have also played a part in the delineation of recommended land use zones.

Further details regarding the urban capability assessments and infrastructure are provided in the accompanying Local Environmental Study provided in **Appendix 7**. Additional information relating to road noise impacts, stormwater impacts and infrastructure delivery issues are further outlined below.

#### *Road noise impacts*

Parts of the study area are affected by road noise generated from vehicles on the adjacent Pacific Highway. The road noise assessments, included in the LES, indicate that individual building treatments would be required in this area to meet acceptable acoustic standards (Environmental Criteria for Road Traffic Noise, NSW EPA 1999), including requiring closure of all doors and windows and the use of double-glazing and mechanical ventilation (air conditioning). The LES argues that these ameliorative measures would not represent a sustainable development outcome. Consequently, these areas have not been identified for residential zoning and are recommended to have a rural zone applied, but retain the opportunity for future investigation for urban development.

Given the above, these areas are recommended to be identified in the Strategic Urban Growth Area Map (under the terms of the BLEP 2011) and be retained as a candidate urban investigation area in Council's Local Growth Management Strategy. Should future investigations provide an appropriate resolution of this issue, the residential envelope may be expanded accordingly.

Further, it is anticipated that parts of the noise affected area may be appropriate for the location of community facilities and sporting facilities, although only "small footprint" uses can be accommodated due to moderate slopes in that area.

#### *Stormwater impacts*

The location and design of stormwater infrastructure was the subject of protracted deliberations during the preparation of the LES. These deliberations, involving the proponents, Council staff and the (then) NSW Department of Environment and Climate Change, were not able to provide full resolution of stormwater issues associated with future development. It is noted that detailed design of the proposed subdivision and associated stormwater infrastructure will be required to comprehensively conclude this matter. However, the detailed design of stormwater infrastructure is beyond the scope of the rezoning process.

Notwithstanding, the LES process has identified that technical solutions to stormwater treatment and retention are available, subject to confirmation through detailed design at the development assessment stage. Consequently, the LES has sought to ensure that sufficient area is set aside

to accommodate stormwater infrastructure in non-urban zones adjacent to proposed development areas. Should detailed investigations identify that additional land is required to accommodate stormwater treatment, this would need to be provided within the areas nominated for residential development.

Conversely, it is noted that if parts of the proposed RU2 zone on the eastern portion of Cumbalum Precinct A are identified, through the DA process, to be surplus to requirements for stormwater infrastructure, this area may be appropriate for additional residential development, subject to a future and separate planning proposal process. Consequently, this area, being the proposed RU2 zoned area on the eastern portion of Cumbalum Precinct A, is recommended to be identified in the Strategic Urban Growth Area Map (under the terms of the draft Ballina LEP 2011) and be retained as a candidate urban investigation area in Council's Local Growth Management Strategy. Should future investigations provide an appropriate resolution of this issue, the residential envelope may be expanded accordingly.

Further, the LES is not able to definitely conclude that future development will not have adverse impacts on downstream properties, including private properties and the Ballina Nature Reserve. Notwithstanding, it is noted that detailed investigations at development assessment stage is the appropriate time to provide the necessary level of detail to resolve this issue. Council's Engineers anticipate that an adequate technical solution can be provided. Monitoring of surface and ground water is now being undertaken by the proponent to provide additional baseline information for future assessments at development application stage.

Additional to the above, it is noted that a number of issues, relevant to the approval of stormwater infrastructure in non-urban zones, remain with respect to the NSW Government's Standards Instrument LEP. These issues are further discussed elsewhere in this planning proposal.

### *Infrastructure Delivery*

Following the Council's adoption of the Cumbalum Structure Plan (2006) Council prepared an Infrastructure Delivery Plan (IDP) which was finalised in June 2011. A copy of the IDP is provided as **Appendix 8** to this planning proposal. The IDP includes consideration of roads, water and sewerage infrastructure as well as open space and community facilities for the Cumbalum Urban Release Area (CURA) as a whole. The future management of passive open space areas that might be dedicated to Council is also discussed. Further information regarding infrastructure delivery to Cumbalum Precinct A is provided elsewhere in this planning proposal.

## **Part 1 - Objectives or Intended Outcomes**

The objectives or intended outcomes of this planning proposal are to:

1. rezone part of the land within Precinct A of the Cumbalum Urban Release Area to enable its development for low to medium density residential purposes; and
2. rezone the portions of the site not suited to urban development to a range of rural and environmental protection zones reflective of the various environmental attributes applicable to these areas.



## Part 2 - Explanation of the Proposal

This planning proposal applies to land commonly referred to as "Precinct A" within the Cumbalum Urban Release Area (CURA) located to the north of Ballina. Under the terms of the *Ballina Local Environmental Plan 1987* the site currently contains land zoned 1(d) Rural (Urban Investigation) Zone. The land is located adjacent to the Ballina Heights Estate, a residential subdivision of approximately 750 lots currently undergoing staged development.

The planning proposal involves rezoning land that is currently zoned 1(d) Rural (Urban Investigation). In the terms of the draft Ballina LEP 2011, prepared in accordance with the standard instrument, the proposed zones are:

- R2 Residential Low Density Residential Zone - for those parts of the site suitable for urban development at a low residential density (of single detached dwellings);
- R3 Medium Density Residential Zone - for those parts of the site suitable for urban development at a medium residential density (permitting a broader range of dwelling types);
- RU2 Rural Landscape Zone - for those parts of the site not suitable for residential development and that do not have the environmental attributes suitable for an environmental protection zone. These areas may accommodate ancillary urban uses such as open space, community facilities and stormwater infrastructure;
- E2 Environmental Protection Zone - for those parts of the site that have environmental attributes worthy of protection;
- E3 Environmental Management Zone - for those parts of the site having characteristics suitable for the environmental management zone (including scenic values, urban buffering, steep slopes and habitat corridor values).

Additional to the Land Zoning Map (LZN) in the comprehensive standard LEP, the planning proposal proposes the amendment of a number of the other maps that support the Council's new instrument. The implications of the Cumbalum Precinct A draft Planning Proposal with respect to the other supporting maps of the comprehensive LEP are outlined in the following table.

LEP Map	Purpose	Comment
Lot Size Map (LSZ)	Establishes minimum lot size for subdivision of land.	<i>Amendment proposed</i> - minimum lot size overlay will need to reflect the minimum lot sizes outlined in Section 10.2 of the LES.
Height of Buildings (HOB)	Establishes maximum height of buildings.	8.5m standard proposed, consistent with other residential areas in Ballina Shire.
Building Height Allowance Map (BHA)	Provides variation allowance to building height standard in areas subject to flood filling.	No minimum fill level nominated as no residential development areas are proposed in flood affected areas.
Floor Space Ratio Map (FSR)	Establishes floor space ratio standards for certain land parcels.	No FSR nominated (consistent with draft LEP 2011)
Land Reserved for Acquisition (LRA)	Identifies land for acquisition	No land reservations nominated.
Heritage Map (HER)	Identifies items of environmental heritage subject to the LEP.	<i>Amendment proposed</i> - Handmade stone wall in south east corner of Precinct A nominated as a heritage item (Wall 1).
Acid Sulfate Soils Planning Map	Identifies different classes of acid sulfate soils risk for	Adopt ASS risk classes as per draft LEP 2011.



(ASS)	reference with respect to acid sulfate soils consent requirements.	
Drinking Water Catchments Map (WCM)	Identifies drinking water catchments subject to specific assessment considerations.	Not applicable as the study area is not within an urban drinking water catchment.
Flood Planning Map (FPM)	Identifies land on the floodplain that is subject to specific considerations in development assessment.	Maintain the flood planning map as per draft LEP 2011.
Strategic Urban Growth Area Map (SGA)	Identifies land considered to have urban development potential to enable review of potential use as part of development assessment process.	<i>Amendment proposed</i> - An amended SGA map to reflect the recommendations of the LES and identify areas outside the LES investigation areas to be retained as potential urban growth areas.
Urban Release Area Map (URA) - New Map	Identifies new release areas subject to cl.6.3 of the draft LEP 2011.	<i>New map proposed</i> - Identify land proposed for residential zoning as an urban release area.

As outlined above, the following maps have been prepared to support the rezoning:

- Minimum Lot Size Map (LSZ)
- Heritage Map (HER)
- Strategic Urban Growth Area Map (SGA)
- Urban Release Area Map (URA)

The above maps are provided in **Appendix 2** of this Planning Proposal.

It is anticipated that the subject rezoning would, if it proceeds, occur concurrent with, or following the gazettal of, the comprehensive Ballina LEP 2011. Notwithstanding, if the comprehensive LEP 2011 does not advance in a suitable fashion, the amendment may occur in relation to the Ballina LEP 1987.

Consequently, a map showing the recommended zoning regime under the terms of the Ballina LEP 1987 is provided in **Appendix 2** as outlined below:

- 2(b) Village Area Zone - for those parts of the site suitable for urban development;
- 1(b) Rural (Secondary Agricultural Land) Zone - for parts of the existing 1(d) areas not suitable for urban development and that do not have the environmental attributes suitable for an environmental protection zone. These areas may accommodate ancillary urban uses such as open space, community facilities and stormwater infrastructure;
- 7(a) Environmental Protection (Wetlands) Zone - to add to the existing 7(a) zoning to reflect the on-ground extent of wetland vegetation; and
- 7(l) Environmental Protection (Habitat) Zone - to add to the existing 7(l) zoning to reflect on the on-ground extent of land having high habitat values.

### *Special provisions*

There are no special LEP provisions proposed as a part of the Cumbalum Precinct A Planning Proposal at this time. It is noted, however, that a special provision may be required to address stormwater issues discussed elsewhere in this proposal, subject to further consultation with the DP&I regarding the Standard Instrument LEP.

### *Standards Instrument issues*

It is noted that a number of issues remain with respect to the application of the Standard Instrument to future development areas. These issues include:

- The capacity to excise residual rural allotments as part of future urban subdivision where the residual lot would be less than the minimum lot size nominated on the minimum lot size map. The Standard Instrument LEP is inflexible in this regard. Council staff continue to liaise with the DP&I in relation to the comprehensive Ballina LEP 2011 process, seeking resolution to this issue.
- Stormwater infrastructure is not a defined land use in the Standard Instrument. Drainage, although defined, is not a land use for the purpose of the land use tables. Consequently, stormwater infrastructure may be defined as 'any other purpose' or as an ancillary use for the purpose of the land use zones. This has the implication of making stormwater treatment a prohibited land use in the non-urban zones of the shire, depending on how the infrastructure is categorised. It is argued that it is more appropriate to identify, in the first instance, locations for stormwater infrastructure in non-urban zones to manage development expectations in relation to future subdivision applications (i.e. separation of areas for stormwater management from residential zones provides clear direction in relation to its location and scope);
- The minimum lot size map in the comprehensive Ballina LEP 2011 may need to be amended following subdivision works to enable subdivision of residual and rural lots that relate to the delivery of urban development and clarify the intended development opportunities associated with future lots. It is noted, however, that the DP&I advises that this type of LEP amendment/planning proposal process should be more procedurally routine under the new plan making provisions of the Act. The DP&I has also been requested by Council, as part of the comprehensive LEP renewal process, to amend the standard instrument LEP to enable such subdivision to occur within the provisions of the LEP, without the need for a further planning proposal.

### *Development Control Plan*

Council considers it desirable to have information available with the public exhibition material that describes the intended development controls to apply to future subdivision and building works. Notwithstanding, the introduction of the new comprehensive LEP has major implications for the content and structure of Council's Development Control Plan. Effectively, it must be re-written. Consequently, following the resolution of the comprehensive LEP process, Council's Strategic and Community Services Group will be proceeding to review the Development Control Plan in detail to ensure it conforms to the structure provided by the Standard Instrument LEP and the Housing Code SEPP. It is intended that this review will seek to simplify the structure and range of development controls that apply and, where appropriate, achieve consistency across the shire, with respect to the range of residential development controls.

Regrettably, a draft development control plan has not been prepared to inform public exhibition of the subject Planning Proposal. However, in the case of Cumbalum Precinct A, it is noted that the development controls to apply would likely be generally consistent with those provided in The Ballina Combined Development Control Plan Policy Statement 14 - Ballina Heights.

## Part 3 - Justification

### Section A - Need for the Planning Proposal

#### 1. Is the Planning Proposal a result of any strategic study or report?

The Cumbalum Urban Land Release Area is identified for urban investigation in the Ballina Urban Land Release Strategy (2000) and the Far North Coast Regional Strategy (2006). The subject land was further considered in the Cumbalum Structure Plan (2006), which involved a broad investigation of the urban capability of the land and highlighted the range of issues to be addressed in further detail through the rezoning process.

A significant number of studies and investigations have been undertaken in respect to the proposal area, which have all been peer reviewed by a planning consultant engaged by Council. These studies and investigations form the basis of a Local Environmental Study (LES) which is provided as **Appendix 7** to this Planning Proposal. The LES indicates that parts of the subject site appear to be suited for future urban development in accordance with the framework proposed in the planning proposal.

#### 2. Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The LES that informs this planning proposal indicates that parts of the subject land have the capacity to accommodate future urban development. The LES indicates that the planning proposal, together with suitable mechanisms for the delivery of infrastructure to the site, will provide the best means by which the objectives above can be achieved.

#### 3. Is there a net community benefit?

The following net community benefits will be achieved by the planning proposal:

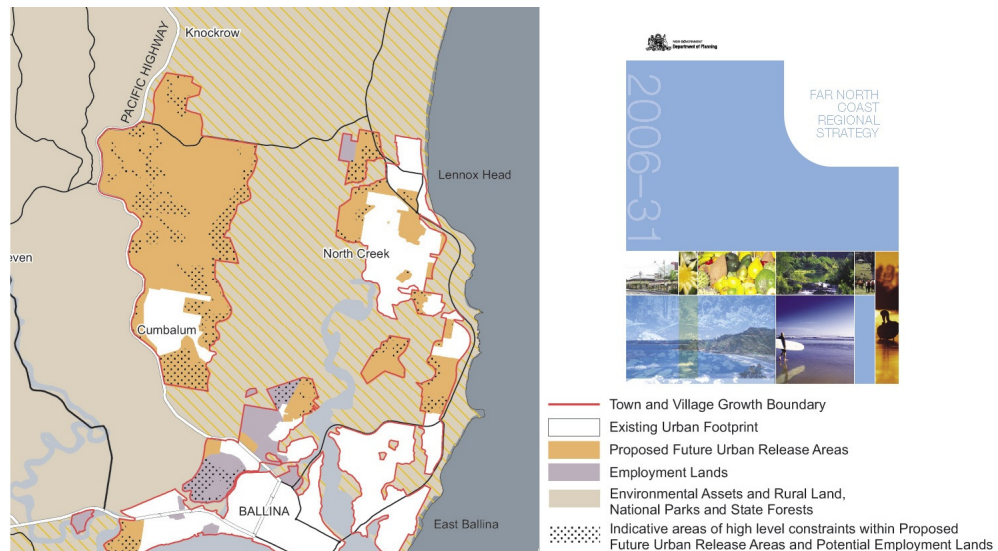
- additional economic activity generated by the development of land for urban purposes;
- additional land available for residential development and ancillary commercial uses;
- opportunity for the enhancement and protection of core environmental values in the proposal area; and
- additional open space and community facilities associated with future development.

### Section B - Relationship to the 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)?

Yes, the Far North Coast Regional Strategy (FNCRS) provides the regional framework for the consideration of rezoning land for urban purposes in Ballina Shire. The FNCRS identifies the subject land as a 'Proposed Future Urban Release Area' within the 'Town & Village Growth Boundary' for Ballina Shire (refer Town and Village Growth Boundary Map - Sheet 3, excerpt below).





Of these areas the draft Strategy states:

*'Not all land identified within the Town and Village Growth Boundary can be developed for urban uses. All sites will be subject to more detailed investigations to determine capability and future yield. Land that is subject to significant natural hazard and/or environmental constraints will be excluded from development'.*

The investigation of the subject land for future urban development through the statutory rezoning process is consistent with the regional planning framework.

## 5. Is the Planning Proposal consistent with the local council's Community Strategic Plan, or other local strategic plans?

Yes, the planning proposal is consistent with the following local plans:

### Ballina Local Environmental Plan 1987

The subject land is currently zoned 1(d) Rural (Urban Investigation) Zone under the terms of the *Ballina Local Environmental Plan 1987*. The primary zone objectives are:

- a to identify land which may be needed in the future and will be thoroughly investigated with respect to its suitability or otherwise for urban land uses and the environmental consequences associated with the land's release for urban purposes;
- b to regulate the subdivision and use of land so as to prohibit development which could prejudice the possible future release of land within this zone for urban purposes; and
- c to ensure that the release of land for urban purposes, by rezoning, shall not take place unless –
  - (i) urban structure planning has been completed by Council;
  - (ii) the Council reviews urban suitability investigations for individual planning units, and detailed land use allocations for each planning unit have been determined by the Council;
  - (iii) sufficient demand exists for the release of urban land; and

- (iv) *appropriate urban infrastructure and facilities are available to the land or can be provided to the land in a manner which does not create an unreasonable or uneconomic demand, or both, for the provision or extension of such services.*

Ballina Urban Land Release Strategy 2000 (ULRS-2000)

Ballina Urban Land Release Strategy 2000 (ULRS-2000) provides the Departmental endorsed urban land release strategy for the Ballina local government area. It has been prepared in accordance with the provisions of clause 38 of the North Coast Regional Environmental Plan 1988 (the REP). The land release program contained within the Strategy has been agreed with the former Department of Infrastructure Planning and Natural Resources as required by subclause 38(3) of the REP.

The strategic approach adopted in ULRS-2000 relates to the following:

- Ongoing commitment to Council's existing zoning strategy;
- Providing an adequate land supply for various market segments;
- Achieving and maintaining reasonable developer competition in the marketplace;
- Ensuring the timely and economic provision of services;
- Masterplan rezoning followed by staged subdivision release; and
- Planning over a 5-20 year timeframe.

ULRS-2000 identified rezoning of the subject land to commence in the medium term (ie within 5-10 years of the year 2000). Work undertaken by Council to date is consistent with this timeframe.

Cumbalum Structure Plan (2006)

The objectives of the 1(d) zone under Council's LEP include a requirement that Council prepare an urban structure plan prior to the consideration of the land for rezoning to permit urban development.

Accordingly, Council prepared the Cumbalum Structure Plan (CSP), which involved a broad assessment of the environmental capabilities of the land and consultation with landholders, agencies and the broader community. The preparation of the Structure Plan, by Council, took into consideration the presence of environmental constraints, natural and cultural values and urban design. A key feature of the Structure Plan is a number of development principles, encapsulating best practice guidelines for urban development in the region. Rezoning and development proposals will need to demonstrate consistency with these development principles.

The CSP was adopted by Council in July 2006. A key element of the CSP, which arose from the broad land use suitability investigations undertaken, is that future development of the Cumbalum Ridge should occur as two (possibly three) distinct 'development nodes' or villages. In the planning context, these villages are represented as Precinct A and Precinct B of the Structure Plan (with the possibility of Precinct C in the longer-term). This approach is also consistent with the 'Region of Villages' settlement hierarchy outlined in the FNCRS.

It is noted that Council received strong endorsement from the Department of Planning and other State Government agencies for the approach and framework delivered by the Structure Plan, particularly in relation to the use of precincts/villages as the basis for the plan, for the consideration of visual and social amenity and the relationship of the plan with the regional planning context.

The consideration of the subject land for rezoning to permit urban development is consistent with the Cumbalum Structure Plan.

*Ballina Shire Council Community Strategic Plan 2010-2025*

The vision of the Ballina Shire Council Community Strategic Plan 2010-2025 is "a shire that provides a healthy lifestyle, a prosperous natural environment and a community with a strong sense of place". The objectives to achieve the vision are:

- A built environment contributing to health and wellbeing;
- A diverse and prosperous economy;
- A healthy natural environment;
- Diverse and balanced use of our land;
- People attaining health and wellbeing;
- Resilient and adaptable communities;
- Responsible and efficient use of resources; and
- Transparent and accountable governance.

The Planning Proposal has the potential to meet a number of these objectives.

**6. Is the Planning Proposal consistent with applicable State Environmental Planning Policies?**

Yes. A number of State Environmental Planning Policies (SEPP) are relevant to the development of the Planning Proposal. A SEPP checklist for the Planning Proposal is contained in **Appendix 5**.

**7. Is the Planning Proposal consistent with the applicable Ministerial Directions (S. 117 directions)?**

Yes. A number of Section 117 Directions are relevant to the development of the Planning Proposal. A Section 117 Directions checklist for the Planning Proposal is contained in **Appendix 6**.

**Section C - Environmental, Social and Economic Impact**

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

The LES includes a comprehensive assessment of the ecological values of the proposal area. Work to date indicates that the proposal area contains a number of threatened flora species and endangered ecological communities and is utilized by a number of threatened fauna species. The threatened flora species and the endangered ecological communities are largely proposed to be protected via environmental protection zones. These zonings will also assist in the conservation and protection of the threatened fauna species. A range of ameliorative measures have also been identified to address some potential adverse impacts of the planning proposal and improve some of the environmental values of the site.

It is noted above, the LES is not able to definitely conclude that future development will not have adverse impacts on downstream properties, including private properties and the Ballina Nature Reserve. Notwithstanding, it is noted that detailed investigations at development assessment stage is the appropriate time to provide the necessary level of detail to resolve this issue. Council's Engineers anticipate that an adequate technical solution can be provided. Monitoring



of surface and ground water is now being undertaken by the proponent to provide additional baseline information for future assessments at development application stage.

Importantly, the area proposed for residential development is generally cleared grazing land without significant environmental constraints.

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

Other potential environmental effects of the proposal are as follows:

- a. visual impact of development;
- b. impact on known items of heritage significance and potential archaeological deposits;
- c. slope instability hazards for future residents;
- d. road traffic noise on future residents; and
- e. disposal and treatment of stormwater.

These and other issues have been assessed and ameliorative measures proposed via the LES.

**10. How has the Planning Proposal adequately addressed any social and economic effects?**

The rezoning of more land for urban purposes will have positive social and economic effects. In particular, the development of the land for housing will assist in meeting regional dwelling targets.

**11. Is there adequate public infrastructure for the Planning Proposal?**

As outlined above, Council has prepared an Infrastructure Delivery Plan (IDP) for the Cumbalum Urban Release Area (including both Precinct A and Precinct B). The purpose of the IDP is to:

- Outline the broader (infrastructure) planning context for future urban growth, with respect to infrastructure provision including existing Development Servicing Plans (DSPs), infrastructure works programs and Development Contributions Plans. The IDP references these plans which establish the:
  - commitment of infrastructure delivery by Council at key stages; and
  - requirements/expectations for infrastructure delivery by developers at key stages.
- Identify infrastructure contingencies and bottlenecks where these exist;
- Outline the assumed sequence and timing for future development; and
- Outline funding options available outside of Development Servicing and Contributions Plans.

The IDP was prepared to inform the rezoning process with respect to the capacity of the area to be serviced, as well as form the basis for the consideration of the mechanisms by which such infrastructure will be provided. Delivery mechanisms could include development contributions plans for roads and open space & community facilities (prepared pursuant to s.94 of the Environmental Planning and Assessment Act 1979), development servicing plans for water and sewer (prepared pursuant to s.64 of the Local Government Act 1993) and/or voluntary planning agreements. Where intended as an approach, the latter mechanism must be proposed by the development and accepted by the Council.

Council's Civil Services Group has advised that infrastructure internal to the Cumbalum Urban Release Area (CURA) should be provided in association with future development, rather than being incorporated into Council's statutory infrastructure plans. This is consistent with Council's existing development contributions plans as well as Council's present review of the water and sewer development servicing plans.

The alternative to securing such infrastructure via Council development contributions plans & servicing plans is for the developer/s to offer to provide this infrastructure via a voluntary planning agreement or agreements. Given that such agreements can be made to be binding on future landowners, this approach would enable Council to be satisfied that adequate arrangements are in place for the provision of public infrastructure. In considering this approach it should be noted that the development areas include a number of smaller development interests. The provision of a binding agreement on all development parties is also critical to ensuring that infrastructure sizing reflects the ultimate needs of the development area as a whole, and that servicing is undertaken in an economical, equitable and efficient manner.

The proponents of Cumbalum Precinct A (and Precinct B) have previously advised Council that they are not in a position to offer a voluntary planning agreement and as such they have requested that Council incorporate the CURA into Council's development contributions and servicing plans. It is noted, however, that for Council to consider the incorporation of CURA infrastructure into development servicing plans and development contribution plans further work is required by Council's Civil Services Group on this matter.

The Council will need to be satisfied, prior to the finalisation of the planning proposal, that the risks to Council / ratepayers associated with this approach are acceptable and that the balance of costs to benefits is in the public interest. This further work includes undertaking preliminary costing of the infrastructure items identified in the IDP, followed by the consideration of cost apportionment (between developers) and funding and recoupment matters, having regard for the NSW Government's current cap on development contributions (S.94).

Council has recently engaged consultancy GHD Pty. Ltd. to undertake the preliminary costing of infrastructure items, however, this information is not available at the time of writing to inform this planning proposal.

The resolution of infrastructure delivery options, involving the consideration of the above issues, requires further engagement with the elected Council by Council's Civil Services Group. Ideally, a voluntary planning agreement and/or draft development contributions plans (for roads and open space) and development services plans (for water and sewer) would form part of the exhibition material to accompany the public exhibition of the draft LEP (Planning Proposal). This would enable the community and agencies to appreciate the implications of future development on the environmental values of the shire and the potential financial impost for the Council. Despite Council's preference that this information be available beforehand, it is the matter has been progressed to public exhibition due to the completion of the LES for the precinct and the expressed demands of the DP&I.

It is further noted that the IDP identifies that some significant infrastructure items are required to service future development, particularly in relation to Cumbalum Precinct B which is the subject of a separate planning proposal. Of particular note, this infrastructure includes the duplication of the highway overpass at the Ross Lane interchange with the recently constructed Pacific Highway and a number of additional intersection upgrades.

It is noted that Council's current strategic urban development policy framework provided by the Ballina Urban Land Release Strategy 2000 comprises the progressive roll-out of development within the CURA from south to north. In this respect the staging of residential development of Precinct A is consistent with this strategy.





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

Council has engaged with the Department of Planning and Infrastructure (DP&I) and the Office of Environment and Heritage (OEH) during the preparation of the LES. However, formal consultation will be undertaken with other agencies during the exhibition of the planning proposal and associated supporting documentation.

**Section D - Community Consultation**

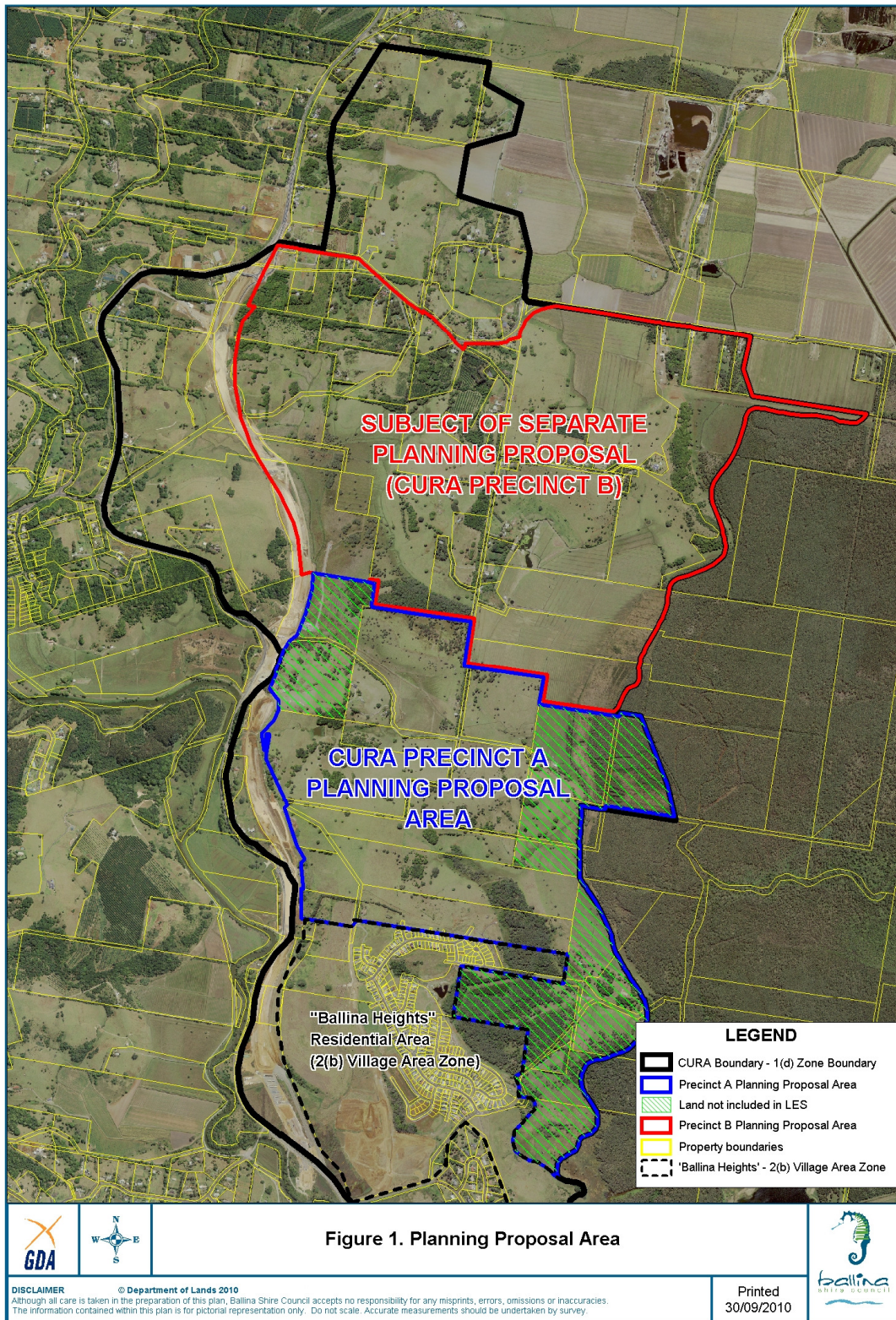
Extensive community consultation was undertaken during the preparation and exhibition of the *Ballina Local Environmental Plan 1987* in the mid 1980s. This process involved the introduction of the *1(d) Rural (Urban Investigation) Zone*. The subsequent Urban Land Release Strategy 2000 and Cumbalum Structure Plan (2006) were also subject to community engagement processes.

Council has not undertaken any community consultation concerning this specific planning proposal. It is anticipated that this will occur as part of the formal exhibition of the planning proposal.

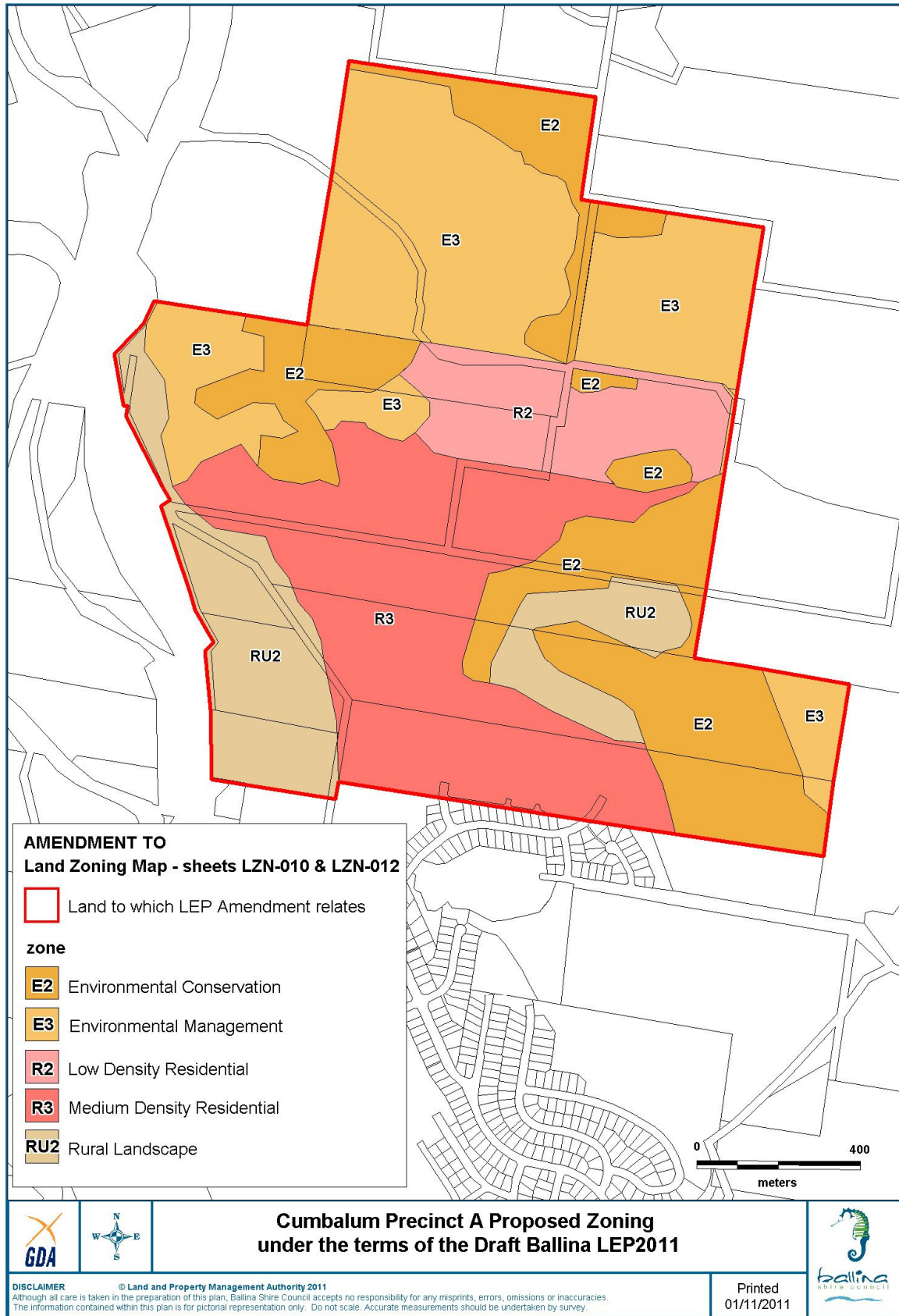
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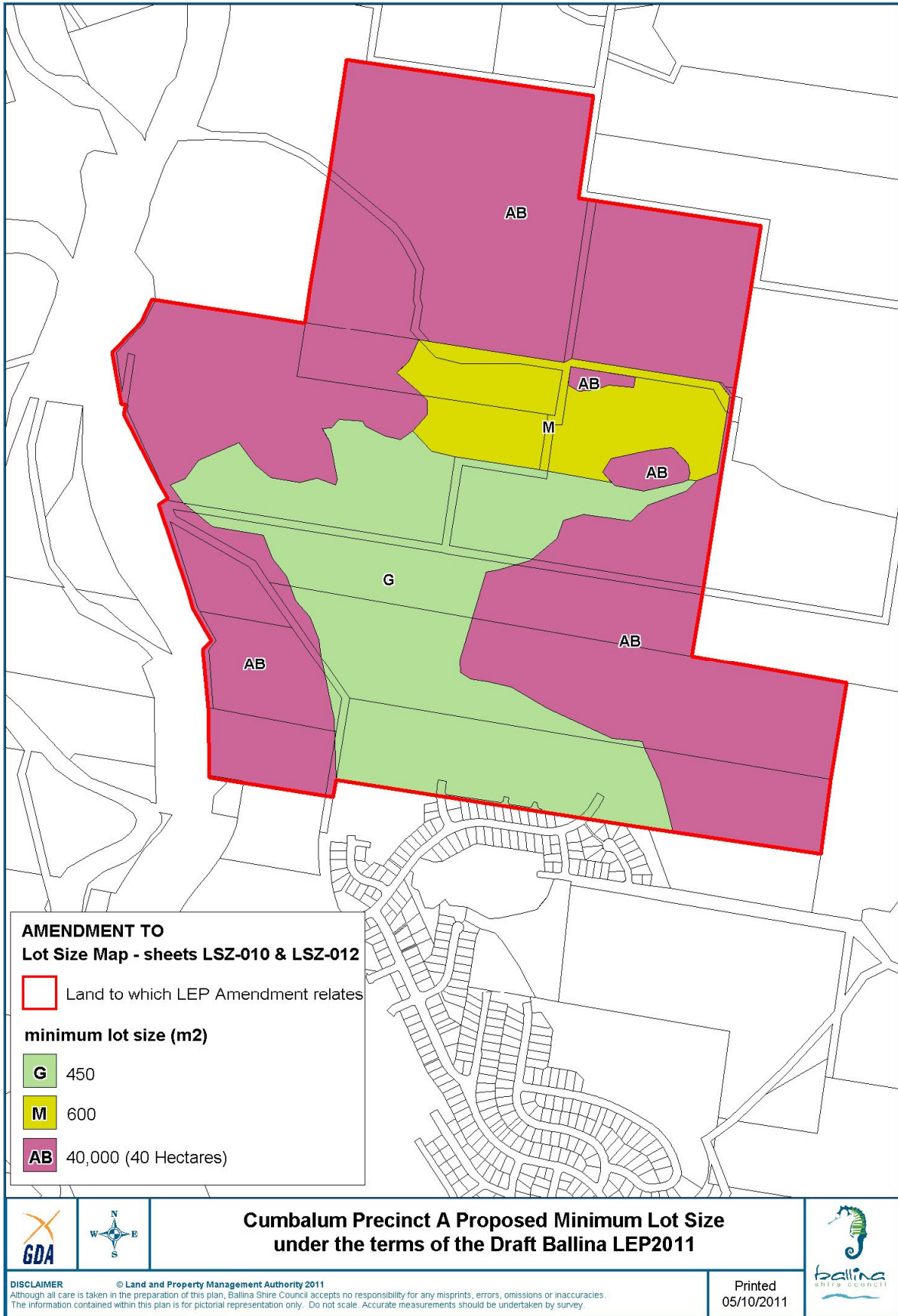
# Appendices

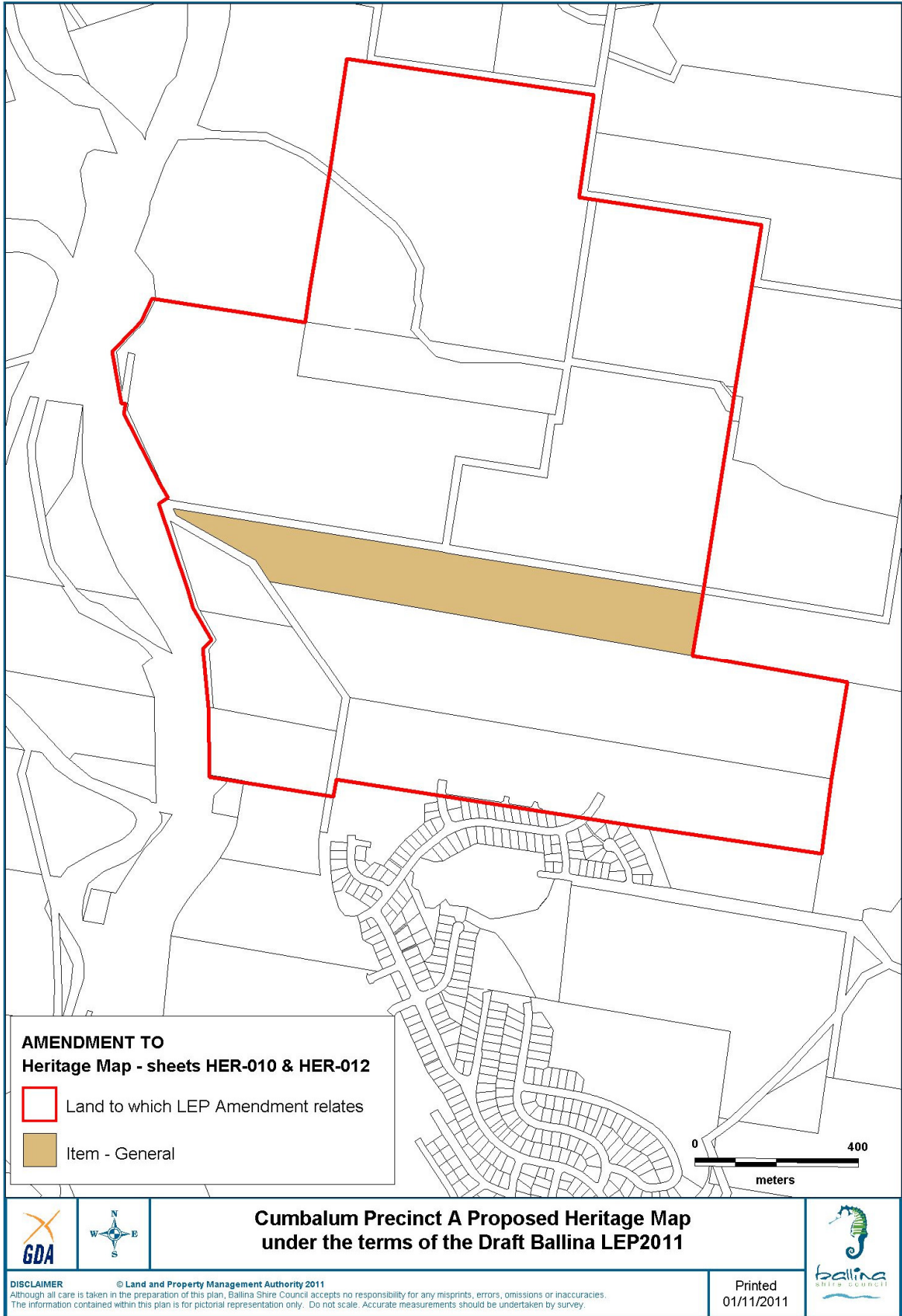
## Appendix 1 - Locality Plan

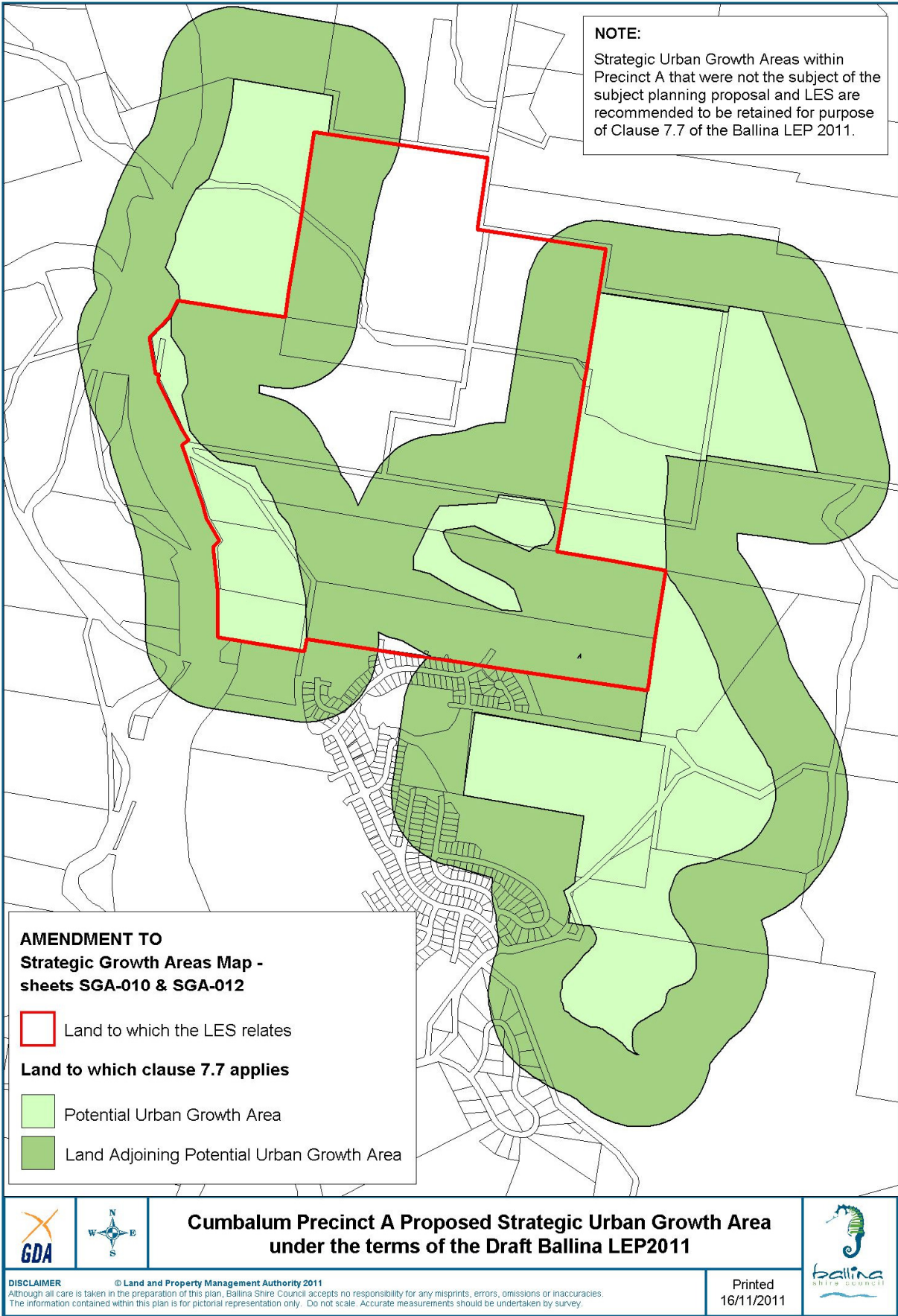


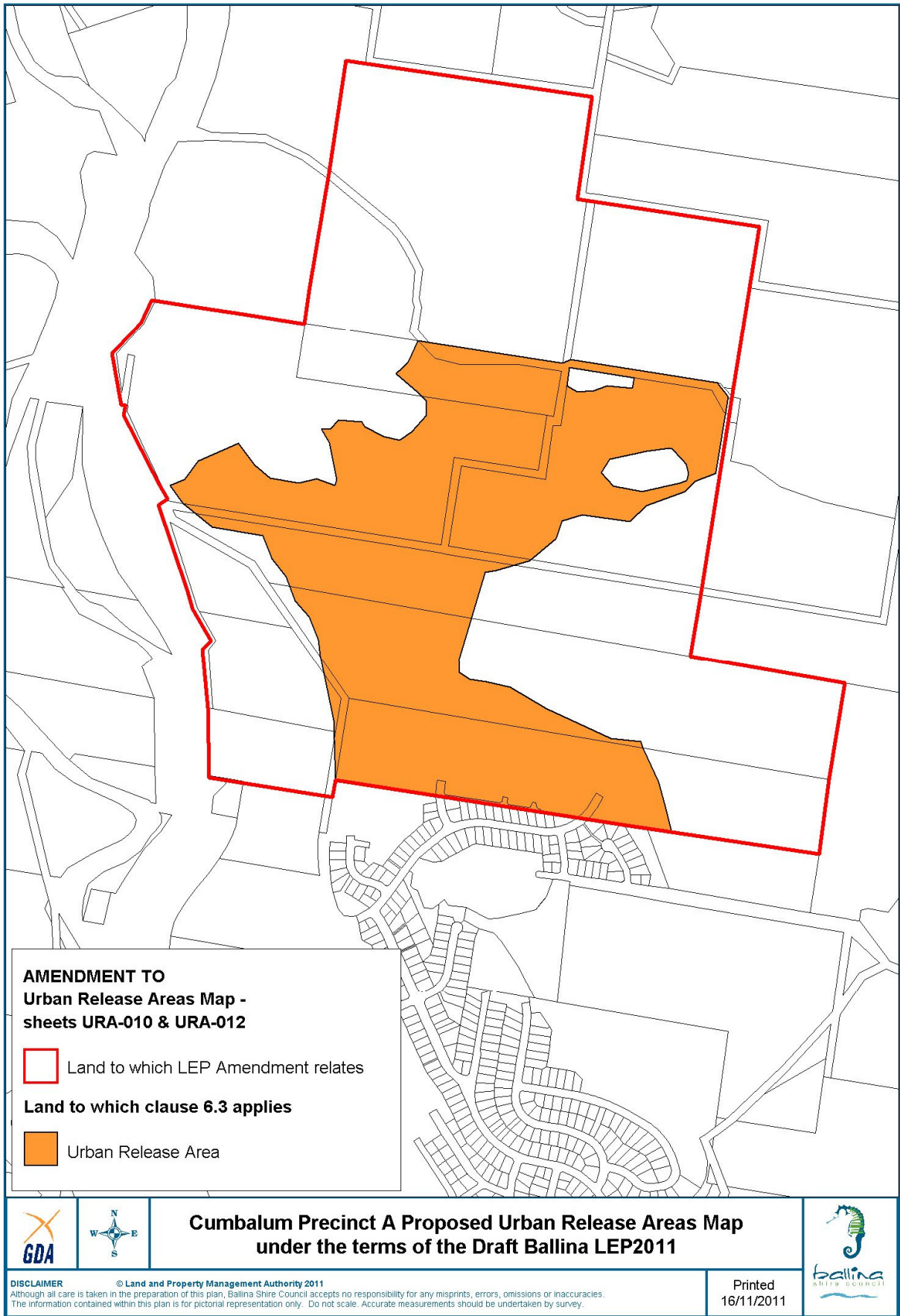
## Appendix 2 - Proposed Amending LEP maps

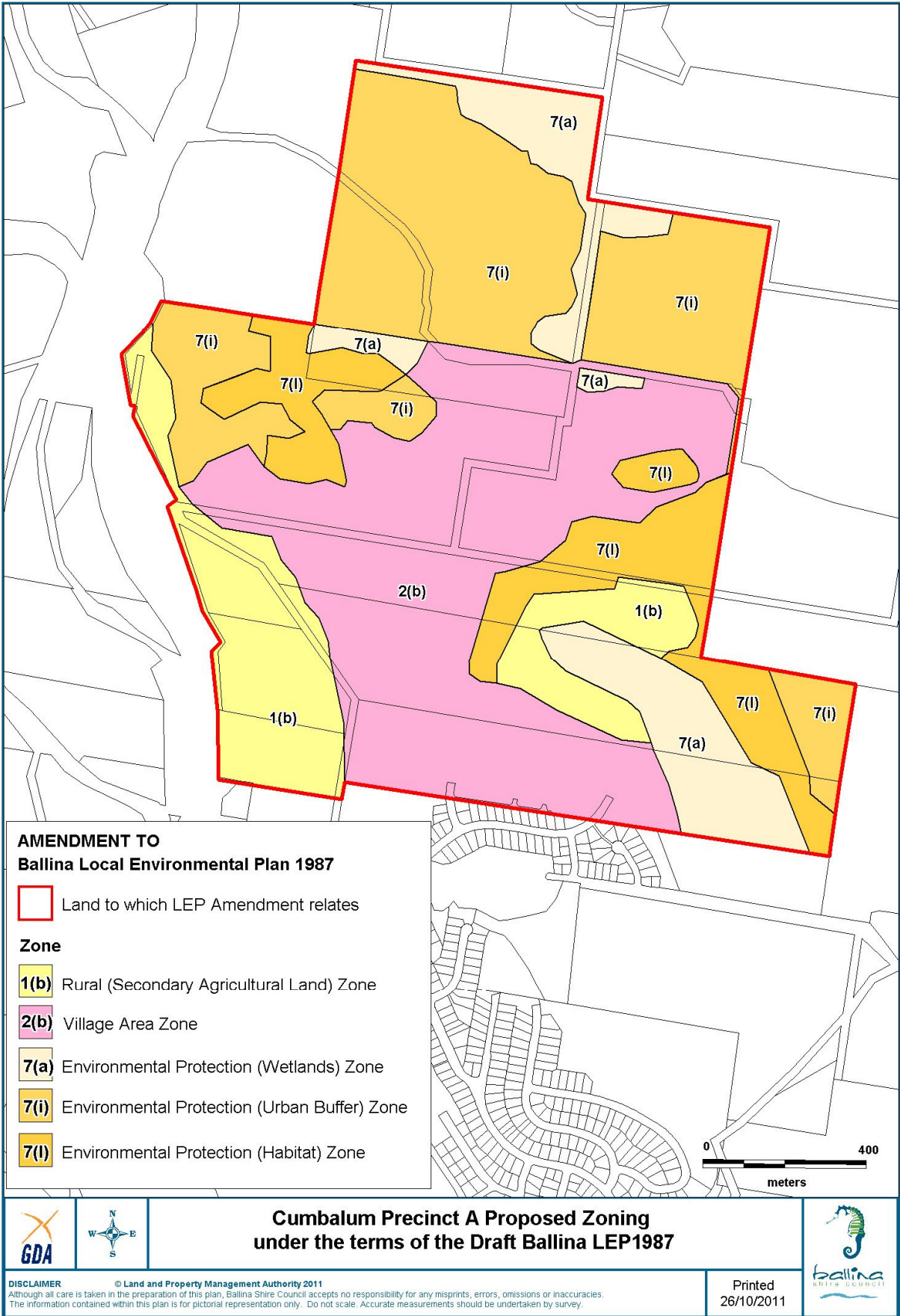














**Appendix 3 - Council Report - 24/11/2011**



## Appendix 4 - Council Resolution and Report - 23/08/2007

MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL  
HELD IN THE COUNCIL CHAMBERS, BALLINA ON  
23/08/07 AT 9.00 A.M.

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### 7.5 Rezoning Requests - Cumbalum Ridge

230807/ 17    **RESOLVED**

(Cr Sharon Cadwallader /Cr Keith Johnson)

That Council:

Initiate the rezoning process, pursuant to Section 54 of the *Environmental Planning and Assessment Act 1979*, independent of the shire-wide LEP Renewal, over landholdings correlating approximately with Precinct A and Precinct B of the Cumbalum Structure Plan, as identified on the map attached to the business paper report Figure 3. It is further recommended that the Council support the requirement for a Local Environmental Study in these circumstances.



**7.5 Rezoning Requests - Cumbalum Ridge**

<b>File Reference</b>	LEP Amendment No.105 - Cumbalum
<b>Sustainability Plan</b>	Diverse and balanced land use
<b>Management Plan</b>	Strategic Planning
<b>Objective</b>	To report to the Council two requests to initiate the rezoning process for land within the Cumbalum Urban Release Area.

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**Background**

*Rezoning Requests*

Council has recently received two requests to initiate the rezoning process for land located in the Cumbalum Urban Release Area (CURA), primarily to enable future development of the land for urban/residential purposes. The Environmental Committee of Council received a report on this matter at its 9 August 2007 Committee Meeting. The documentation supporting the requests for Council to initiate the rezoning process over the land has been circulated to Councillors under separate cover. The lands to which the request applies are identified on the attached map, labelled 'Figure 1. Land to which the rezoning requests apply'.

The requests have been received from:

- Bullenah Community Developments Pty. Ltd. - A development consortium having a direct financial interest in approximately 269.1 hectares of land, predominantly located in the area identified as 'Precinct B' of the Cumbalum Structure Plan (shown by red cross-hatching in attached Figure 1). It is noted that the rezoning request applies to a broad area of land that includes land not owned by Bullenah Community Developments Pty. Ltd. The boundary of the rezoning request is shown by a red line in attached Figure 1 and comprises approximately 641.7 hectares of land in total. The submission, prepared by Landpartners Pty Ltd (Development Consultants) comprises a written report of 16 pages plus appendices, with two supplementary submissions providing additional planning and engineering advice, prepared by Mr David Kanaley (Planning Consultant) & Mr Mark Ricketts (of Cardno) respectively. **This rezoning request will hereafter be referred to as 'Submission 1'.**
- Ardill Payne & Partners - Local Development Consultancy representing five landholders having a combined area of 408.4 Hectares of land, predominantly located in the area identified as 'Precinct A' of the Cumbalum Structure Plan, but with one landholding located in 'Precinct B' (combined area is shown by blue cross-hatching in attached Figure 1). The rezoning request applies to only those landholdings. The submission comprises a written report of 18 pages plus appendices. **This rezoning request will hereafter be referred to as 'Submission 2'.**



### *Processing Rezoning Requests*

Council is reminded that at its Ordinary Meeting held on 8 December 2005 it resolved to only process rezoning requests (initiate rezoning) where “such amendments are clearly and strictly consistent with the exceptional circumstances criteria for consideration of amendments set out by the Department of Planning in relation to the comprehensive LEP review process, or amendments constitute essential ‘housekeeping’”.

At the time, the Department of Planning’s advice in relation to this matter was that:

*‘...local councils are requested to avoid proposing minor amendments to existing local environmental plans, where possible. For amendments to proceed in the transition period, it should be by exception, and Council will need to demonstrate a compelling case. For example, that the amendment is to facilitate an employment generating activity, or existing provisions jeopardise or undermine State Government policy, or that it implements agreed strategic direction for development in the area.’*

Subsequent to this advice, the State Government has provided more detailed ‘assessment criteria’ to be considered in such cases and introduced an ‘LEP Review Panel’ which will assess Council decisions to amend the LEP. The panel will advise the Minister for Planning on whether such amendments should proceed.

The following report assesses the current rezoning requests having regard to Council’s criteria for the processing of rezoning requests and the State Government’s recently introduced ‘LEP Review Panel’ criteria.

### **Key Issues**

- Council has received two requests to initiate the rezoning process over lands in the Cumbalum Urban Release Area (CURA), and that rezoning occur separately from the comprehensive shire-wide LEP Renewal process.
- In determining whether to support the rezoning requests Council should have regard to the appropriate and efficient use of Council resources, compatibility with the LEP Renewal project timeframe and achieving the best planning outcome for the locality.
- Council and the NSW Government have established certain criteria to determine whether rezoning requests should be processed separately from the LEP Renewal. These criteria focus primarily on the whether the requests are consistent with the strategic planning framework for urban land release at both the regional and local levels, and whether the proposals are significant in terms of generating local employment opportunities.
- Should Council resolve to initiate the rezoning process over all or part of the subject land, Council’s decision will be reviewed by the NSW Government’s LEP Panel. In undertaking this review the LEP Panel will have regard to certain established assessment criteria, which are addressed in this report.



### **Sustainability Considerations**

- **Environment**  
Determining the appropriate future zoning of the land has significant implications for the environment of the Cumbalum locality, particularly via transition of parts of the land from non-urban to urban land. Further, achieving an appropriate land use zoning outcome will have long-term implications for the broader environment, with regard to ongoing environmental impacts of urban development on the land.
- **Social**  
Future development of the Cumbalum Urban Release Area has significant implications for the future social wellbeing of the shire community, as outlined elsewhere in this report.
- **Economic**  
The future development of the Cumbalum Urban Release Area will have significant implications for the scale of long-term economic activity in the shire, and contribute to the level of economic activity in the region.

### **Legal / Resource / Financial Implications**

Processing the subject rezoning requests will place additional demands on Council resources, whether the matter is considered separately from the LEP Renewal or is considered as part of the shire-side LEP Renewal process. The matter will be processed by Council's Strategic Services Group.

In the case of processing the rezoning requests separately to (but in parallel with) the LEP Renewal, in conjunction with the preparation of a Local Environmental Study (LES) - some recoupment of costs may be possible from the development proponents, via the engagement (by Council) of a qualified planning consultant at the proponent's cost, to process the submitted documentation and studies (and request additional studies if required) in the preparation of a LES and to make zoning recommendations to Council. These recommendations can then be considered in whatever format is appropriate, as an amendment to the Ballina LEP 1987, for incorporation into the LEP Renewal, or as an amendment to the new generation LEP.

In the case of considering the rezoning requests as part of the LEP Renewal - The demands on Council resources will depend on the timing of the lodgement of detailed documentation by the proponents, and the availability of resources (staff time) to process that material for inclusion in the LEP Renewal, as well as the level of third-party consultation required. Given the timeline for the LEP Renewal and the substantial scale of the proposed rezoning, it is unclear whether the detailed consideration of the matter will be achievable within the framework of the LEP Renewal. Alternatively the rezoning requests can be considered subsequent to the finalisation of the shire-wide LEP Renewal, as an amendment to the revised instrument.

### Consultation

It is noted that the *Submission 1* lands include landholdings not held by the proponent (Bullenah Community Developments Pty. Ltd.). Affected landholders were advised of Council's receipt of the rezoning submission and invited to advise Council whether they object to the initiation of the rezoning process over their land. Two submissions were received from landholders (other than the proponents), which are attached to this report for Councillor's perusal. Both of the submissions object to the initiation of rezoning. Concerns raised in the submissions include:

- that development would exceed the capacity of Ross Lane due to its poor condition and accident history;
- that the distance of the land from Ballina and Lennox Head and the inadequacy of public transport suggests that future development will be 'car-dependent', contrary to what the proposal states will be the case;
- that thorough investigations must to be undertaken, particularly flooding and thus the requirement for a Local Environmental Study (LES) be prepared should not be waived;
- that the proposal will not be consistent with the Cumbalum Structure Plan;
- that development of Precinct B would be premature, as development of Precinct A (Ballina Heights) is not well advanced, essential community infrastructure is not in place and does not yet constitute a 'village' as discussed in the Cumbalum Structure Plan;
- that sufficient vacant residential zoned land is available to accommodate housing demand in Ballina Shire; and
- that development will degrade the qualities of the region that make it an attractive place in which to live.

The issues raised in the above objections are the subject of this report, and centre on whether Council should initiate the rezoning process at this time, and if so whether the requirement for a Local Environmental Study (LES) should be waived. It is noted that many of the issues raised above (such as infrastructure needs and environmental impacts including flooding) will be addressed via the preparation of a LES or non-statutory environmental assessment process. This matter is further discussed below.

It is noted that Council also received a submission from Ardill Payne & Partners in response to the invitation to comment on *Submission 1* prior to their lodgement of the *Submission 2* rezoning request. It is noted that the lands identified in *Submission 1* include several land parcels (not owned by Bullenah Community Developments) that are included in *Submission 2*, being the landholdings of Messrs Lynn and Barlow located in the vicinity of Sandy Flat. This submission is attached to this report for Councillor's perusal. On this basis the Ardill Payne & Partners submission (response to the *Submission 1* rezoning request) suggests that Council should give careful consideration to the orderly roll-out of development, and specifically to Council's ULRS-2000 which provides for a south to north progression of future development in the locality.



### Information

#### *Locality and Setting*

The rezoning requests relate to land, having a total area of approximately 1,050 hectares, located within the Cumbalum Urban Release Area as shown on the attached Figure 1.

*Submission 1* land is situated within the (general) area identified as 'Precinct B' of the Cumbalum Structure Plan. However, the area to which the request applies is broader than that identified in the Structure Plan and includes several parcels of land which lie outside the area identified in the Ballina Urban Land Release Strategy (ULRS-2000) for future urban investigation, referred to as the 'Cumbalum Urban Release Area' (CURA). These additional parcels are located to the south of Ross Lane to the east of the CURA. These additional areas are not proposed for residential purposes but for uses that support urban development (i.e. playing fields).

*Submission 2* land is located predominantly in the (general) area identified as 'Precinct A' of the Cumbalum Structure Plan, but includes one landholding located in 'Precinct B' of the Cumbalum Structure Plan. The submission also applies to land which traverses the nominal boundary between the Precinct A and Precinct B of the Cumbalum Structure Plan, in the vicinity of Sandy Flat.

#### *The Proposals*

Detailed development proposals have not been submitted at this stage. The proponents of both *Submission 1* and *Submission 2* are seeking a decision to commence the rezoning process for the respective areas (pursuant to s.54 of the *Environmental Planning and Assessment Act 1979*). Given the cost implications of undertaking detailed investigations and obtaining specialist advice, it is understood the proponents are seeking some surety that rezoning the subject land will be entertained, in principle, by Council and by the State Government at this time.

*Submission 1*: The documentation supporting Submission 1 states that:

*"The proponent's vision is to form a new village at Cumbalum Ridge in accordance with the 'village style development' envisaged in the Structure Plan and in the Far North Coast Regional Strategy. It is intended to provide a village centre and neighbourhood focus, and a compact residential community with its main facilities and amenities within walking distance for most residents. It is intended to create a diverse settlement pattern and to cater for diverse demographic sectors."*

*Submission 2*: Future development of Precinct A of the Cumbalum Structure Plan essentially involves northward extension of the 'Ballina Heights' subdivision. Although a detailed proposal was not provided in the submission, meetings of Council staff with the proponents suggest an intention to pursue a greater variety in housing product than is currently available in Ballina Heights.



*Land Use Zoning*

The subject land is currently zoned a mixture of 1(d) – Rural (Urban Investigation) Zone, Zone 7(a) Environmental Protection (Wetlands) and Zone 1(a2) Rural (Coastal Lands Agriculture), in the Ballina Local Environmental Plan 1987. The current zoning of the land is shown in the attached figure, labelled 'Figure 2: Current zoning'.

The objectives of the 1(d) zone, which comprise the majority of the subject land are:

- A. *The primary objectives are -*
- (a) *to identify land which may be needed in the future and will be thoroughly investigated with respect to its suitability or otherwise for urban land uses and the environmental consequences associated with the land's release for urban purposes;*
  - (b) *to regulate the subdivision and use of land so as to prohibit development which could prejudice the possible future release of land within this zone for urban purposes; and*
  - (c) *to ensure that the release of land for urban purposes, by rezoning, shall not take place unless -*
    - (i) *urban structure planning has been completed by the council;*
    - (ii) *the council reviews urban suitability investigations for individual planning units, and detailed land use allocations for each planning unit have been determined by the council;*
    - (iii) *sufficient demand exists for the release of urban land; and*
    - (iv) *appropriate urban infrastructure and facilities are available to the land or can be provided to the land in a manner which does not create an unreasonable or uneconomic demand, or both, for the provision or extension of such services.*
- B. *The secondary objective is to regulate the subdivision and use of land to permit development for agriculture and a range of other purposes complementary to the prime objectives, particularly tourist facilities, recreation establishments and recreation facilities, subject to these developments -*
- (a) *maintaining the semi-rural character of the locality;*
  - (b) *by their nature, being compatible with the possible urban development, particularly residential uses, of the land in the locality, in the future; and*
  - (c) *not creating unreasonable and uneconomic demands, or both, for the provisions or extension of public amenities or services.*
- C. *The exception to these objectives is development of land within the zone for public works and services, outside the parameters specified in the primary and secondary objectives.*

The following comments address the subject rezoning submissions having regard to the zone objectives A(c)(i) - A(c)(iv) of the 1(d) zone:

(i) *Structure Planning*

The Cumbalum Structure Plan (CSP) was prepared by Council during 2005-2006 and adopted by Council at the Ordinary Meeting held on 27 July 2006. The Structure Plan is further discussed later in this report.

(ii) *Urban Suitability Investigations*

The CSP involved a broad investigation of land use suitability, and outlined the scale of development potential apparent from those investigations. Additional investigations are required to further refine the planning outcomes outlined in the CSP. In this regard, it is standard practice for councils to review 'urban suitability investigations for individual planning units' during the rezoning process as a basis for making 'detailed land use allocations for each planning unit' by way of an amending plan during the course of the rezoning process.





(iii) Whether Sufficient Demand Exists

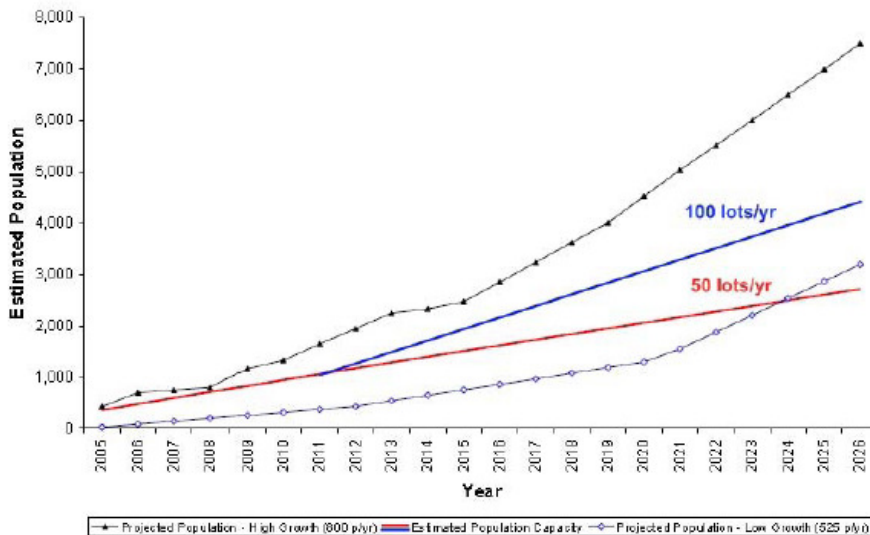
The question of the sufficiency of demand relies on the interplay between the anticipated demand and the adequacy of urban land supplies.

Urban land supplies in Ballina Shire, and the North Coast Region as a whole, are constrained due to:

- limited development opportunities generally, due to the presence of environmental constraints and high value natural resources;
- concentration of ownership of undeveloped residential zoned land;
- (sometimes) a lack of motivation by landowners in realising development potential in a timely manner;
- timelines and uncertainty in obtaining rezoning and development approval.

The Cumbalum Urban Release Area (CURA) was identified in the Far North Coast Regional Strategy (FNCRS 2006) as a regionally significant coastal land release area, as there are few potential land release areas with proximity to the coast in the Far North Coast Region.

The following graph shows the modelled demand and supply situation for the Cumbalum Ridge under two simple assumptions. On the demand side, the upper line shows the anticipated population demand under a high growth scenario and the lower line under a low growth scenario (both assume that the Cumbalum Ridge will accommodate all the anticipated population growth that cannot be accommodated elsewhere in the Shire). On the supply side, the red line shows the population capacity assuming continuation of the current rate of development in the Cumbalum Ridge ('Ballina Heights') (at 50 lots per year), with the blue line showing double the current rate of development (of 100 lots per year) from 2012.



## 7.5 Rezoning Requests - Cumbalum Ridge

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At the broad level, Council's Urban Land Release Strategy (ULRS-2000) informs Council's infrastructure planning for roads, water supply and sewerage. The CURA is identified in the ULRS-2000 and has thus been factored into the various infrastructure plans of Council including the Ballina Road Network Study (which forms the basis of Council's Roads works programs and s.94 Development Contributions Plan) and the Water Reclamation and Augmentation Program (WRAPP) and Development Servicing Plans (DSPs) relating to water and sewer network upgrades. Council's regional bulk water supplier, Rous Water, also refer to the ULRS-2000 for planning upgrades to bulk water supplies.

It should be noted however, that the development of the *Submission 1* land in the short to medium term would be 'out of sequence' with regard to the ULRS-2000 and DSPs for water supply and sewerage, both of which provide for a south-north 'roll-out' of development (Map 2 - 'Indicative Timing for the Release of Land'). Council's Water and Sewer Engineers advise that water and sewer headworks (including planned upgrades to the West Ballina Sewage Treatment Plant in 2010/11) can accommodate urban development in the CURA, but that development of land in Precinct B in the short to medium term would require bringing forward provision of the reticulation network. The proponents of *Submission 1* can be required to provide this infrastructure up-front as a part of future development that might occur out-of-sequence, with the costs (and associated risks) borne by the developers. Similarly, the provision of the arterial road infrastructure may be resolved through the rezoning process, and financed through future development. These arrangements could be formalised via a Voluntary Planning Agreement (VPA) such that no part of the additional costs associated with the early delivery of infrastructure is borne by the Council or the community.

It is noted also that the proponents of *Submission 1* are proposing construction of a temporary package sewage treatment plant, operated by the developer, to service future development prior to the upgrade of the Ballina STP (2010/11), assuming rezoning and development approval processes allow such a development timeline. Such a plant would be decommissioned once scheduled sewerage upgrades are completed and trunk mains are installed and connected to Council's reticulated sewerage system.

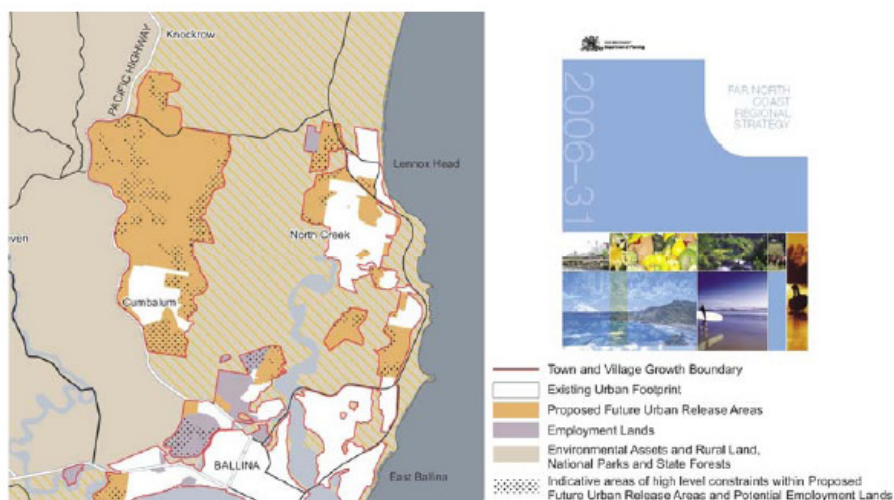
### Strategic Context

#### Far North Coast Regional Strategy (2006)

The Far North Coast Regional Strategy (FNCRS) provides the regional framework for the consideration of rezoning land for urban purposes in Ballina Shire. The FNCRS identifies the subject land (*Submission 1* & *Submission 2*) as a 'Proposed Future Urban Release Area' within the 'Town & Village Growth Boundary' for Ballina Shire (excerpt below).



7.5 Rezoning Requests - Cumbalum Ridge



Of these areas the draft Strategy states:

*'Not all land identified within the Town and Village Growth Boundary can be developed for urban uses. All sites will be subject to more detailed investigations to determine capability and future yield. Land that is subject to significant natural hazard and/or environmental constraints will be excluded from development'.*

It is suggested that investigation of the subject land for future urban development, through the statutory rezoning process, would be consistent with the regional planning framework, as outlined above.

Ballina Urban Land Release Strategy (2000)

The subject land (*Submission 1 & Submission 2*) is identified in the current Ballina Urban Land Release Strategy (ULRS-2000) for future urban investigation. The ULRS-2000 requires that rezonings be consistent with the following key principles:

- i) Ongoing commitment to Council's existing zoning strategy;
- ii) Providing an adequate land supply for various market segments;
- iii) Achieving and maintaining reasonable developer competition in the marketplace;
- iv) Ensuring the timely and economic provision of services;

Assessment of the rezoning requests, with regard to these principles, is outlined below.

<b>i) Ongoing commitment to Council's existing zoning strategy:</b>
Council's zoning strategy is based on the identification of potential future urban lands followed by urban structure planning, the statutory rezoning process, master planning and staged subdivision.
The majority of the subject land is zoned '1(d) Rural (Urban Investigation) Zone' and identified in the ULRS-2000 for future investigation for urban development purposes. The subject land is, therefore, recognised in Council's zoning strategy for future urban investigation.



<p>It is noted that the 'ULRS-2000 Map 2' which outlines the 'Indicative Timing for the Release of Land' suggests that development in the Cumbalum Urban Release Area (CURA) will occur on the basis of development 'roll-out' from south to north, with the following indicative timeframe for the consideration of rezoning proposals:</p> <ul style="list-style-type: none"> <li>- Ballina Heights north 2005</li> <li>- Sandy Flat 2005-2010</li> <li>- Ross Lane 2010-2015+</li> </ul> <p>It is noted that the consideration for rezoning of the land to which <i>Submission 2</i> relates (with the exception of one of the subject landholdings) at this time is consistent with the indicative timing for the release of urban land in the ULRS-2000. It is further noted that <i>Submission 1</i> relates to land in the vicinity of Ross Lane, and would therefore be 'out of sequence' with regard to Council's zoning strategy at this time. It is noted, however, that the 'south-north' strategy (of the ULRS-2000) is largely related to ensuring the efficient provision of essential public infrastructure (particularly water &amp; sewer) to future development. The issue of 'ensuring the timely and efficient provision of infrastructure ' (another of Council's ULRS principles) is discussed below.</p> <p>It is noted that urban structure planning forms a key element of Council's zoning strategy. The indicative timeframe element of Council's zoning strategy (ULRS-2000) was prepared prior to the Council's adoption of the Cumbalum Structure Plan (CSP). Investigations undertaken in the preparation of the CSP suggest that some parts of the Cumbalum Ridge area may have limited development potential (particularly land in the vicinity of Sandy Flat). Development is unlikely, as a result, to occur in a smooth south-north 'roll-out', as anticipated in Map 2 of the ULRS-2000. Rather the CSP suggests that future development will likely occur as two distinct 'development nodes' or 'urban villages', instead of a single large urban mass.</p> <p>It is noted that the FNCRS requires each local council in the Region to prepare a Growth Management Strategy (GMS) to replace existing ULRSs. In the case of Ballina Shire, it is anticipated that this will be done in conjunction, or shortly following, the renewal of the Ballina LEP which is currently underway. The GMS will consider the adequacy of housing supplies and outline how dwelling targets set in the FNCRS for Ballina Shire will be achieved. The GMS will also take into account all relevant information, such as updated demographic data, recent locality-based strategic planning work (such as the CSP, the Lennox Head Structure Plan and Wardell Strategic Plan). Further, changes in demand and supply dynamics in the housing market that have occurred since the year 2000 (when the ULRS-2000 was prepared), maintaining adequate competition in the marketplace and ensuring the adequate and timely provision of essential infrastructure, will be considered in the preparation of the GMS and in determining appropriate development sequencing. Several of these additional matters are further considered below in relation to the subject land.</p> <p>It is suggested, therefore, that consideration of the subject land for urban purposes, through rezoning, would be broadly consistent with Council's zoning strategy, although such consideration of <i>Submission 1</i>, in isolation, would be 'out of sequence' with regard to the ULRS-2000 'Indicative Timing for the Release of Land' (Map 2).</p>
<p><b>ii) Providing an adequate land supply for various market segments:</b></p> <p>The adequacy of urban land supplies has two elements: total supplies relative to demand; and the variety in housing product to accommodate the various segments of the housing market.</p> <p>The matter of demand relative to supply at the broader level is discussed above.</p> <p>Determining the adequacy of housing supply with regard to the various segments of the housing market is challenging, due to the complexity of market structure and the lack of accurate information (such as survey data) on housing preferences.</p>



<p>Notwithstanding, it is reasonable to suggest that increasing competition through facilitating additional development opportunities may increase the range of housing products available in the marketplace and may promote more affordable outcomes. In this regard it is also noted that the <i>Submission 1</i> rezoning request submission suggests that the development proposed <i>'is intended to create a diverse settlement pattern and to cater for diverse demographic sectors'</i>.</p> <p>Given the above it is suggested that the rezoning would be consistent with the ULRS of providing opportunities for adequate land supply for various market segments.</p>
<p><b>iii) Achieving and maintaining reasonable developer competition in the marketplace:</b></p> <p>Holdings of transitional rural-urban land, in Ballina Shire, have tended to be concentrated in a small number of hands (few landholders). Further, the nature of the development industry (requiring significant financing and technical expertise in an environment of limited development opportunities) tends to mean that competition is low. The housing market thus tends, at the local level, to represent an 'oligopoly' (from the Greek for 'few sellers') in terms of market structure. Under such circumstances landholders may have little incentive to develop and release land at a rate that would meet demand and thus achieve the idealised equilibrium market price (of balanced demand and supply), and indeed they may have incentives to do otherwise (by limiting supply or the rate of supply to affect the market price level). It is noted, however, that incentives to develop land at a set rate may exist where developers have substantial holding costs, such as finance commitments or rates.</p> <p>Increasing the competition in the marketplace by increasing the number of developments may lessen this oligopolistic situation to some extent (although arguably only by adding another oligopolist). Although an oligopoly market situation is far from 'perfect competition' it is clearly preferable to a monopoly situation (from the Greek for 'single seller') or one in which there are fewer sellers.</p> <p>Increasing competition may indirectly improve the demand and supply situation by way of increasing the range of housing products available (in terms of 'market segmentation'), and thus provide opportunities to minimise over-consumption of housing. An example of the over-consumption of housing would be a single-person who seeks a modest dwelling but is forced by availability constraints to occupy a three or four bedroom family home. In this regard it is noted above that the <i>Submission 1</i> rezoning request suggests that <i>'it is intended to create a diverse settlement pattern and to cater for diverse demographic sectors'</i>. It is understood that this would involve a diversity of housing forms within the development.</p> <p>The FNCRS requires Council to prepare a Growth Management Strategy (GMS) to replace the Urban Land Release Strategy (ULRS). The GMS will canvas broader development issues including the adequacy of industrial and commercial lands, and residential development including infill development and consideration of development densities. Means of encouraging (or incentivising) developers to release land at a reasonable rate (such as differential rates for undeveloped residential zoned land, sunset clauses on development consents or developer agreements) may be considered in the context of the GMS.</p> <p>Allowing for the release of additional urban lands would, therefore, be consistent with the principle of the URLS-2000 relating to the need to maintain developer competition in the marketplace.</p>



<p><b>v) Ensuring the timely and economic provision of services:</b></p>
<p>As noted above (Land Use Zoning, (iv) The Availability of Infrastructure and Services), the Cumbalum Urban Release Area (CURA) has been 'factored in' to Council's infrastructure strategies. However:</p> <ul style="list-style-type: none"> <li>- The development of the <i>Submission 1</i> land would require the bringing forward of mains infrastructure (including water supply, sewerage and roads) prior to timing provided for in Council's infrastructure plans. As discussed above, this may be facilitated via a Voluntary Planning Agreement (VPA) at the developer's cost/risk, in a manner that <i>does not create an unreasonable or uneconomic demand, or both, for the provision or extension of such services.</i></li> <li>- The development of the <i>Submission 2</i> land would be consistent with Council's infrastructure servicing plans for the locality.</li> </ul> <p>It is suggested, therefore, that the rezoning of the subject land (<i>Submissions 1</i> and <i>2</i>) would not compromise the timely and economic provision of services, subject of course to Council's Civil Services Group being satisfied in relation to the proposed delivery arrangements..</p>

Cumbalum Structure Plan

The objectives of the 1(d) zone under Council's LEP include a requirement that Council prepare an urban structure plan prior to the consideration of the land for rezoning to permit urban development.

Accordingly Council prepared the Cumbalum Structure Plan (CSP), which involved a broad assessment of the environmental capabilities of the land and consultation with landholders, agencies and the broader community. The preparation of the Structure Plan, by Council, took into consideration the presence of environmental constraints, natural and cultural values and urban design. A key feature of the Structure Plan is a number of development principles, encapsulating best practice guidelines for urban development in the region. Rezoning and development proposals will need to demonstrate consistency with these development principles.

The CSP was adopted by Council in July 2006. A key element of the CSP, which arose from the broad land use suitability investigations undertaken, is that future development of the Cumbalum Ridge should occur as two (possibly three) distinct 'development nodes' or villages. In the planning context, these villages are represented as Precinct A and Precinct B of the Structure Plan (with the possibility of Precinct C in the longer-term). This approach is also consistent with the 'Region of Villages' settlement hierarchy outlined in the FNCRS.

It is noted that Council received strong endorsement from the Department of Planning and other State Government agencies for the approach and framework delivered by the Structure Plan, particularly in relation to the use of precincts/villages as the basis for the plan, for the consideration of visual and social amenity and the relationship of the plan with the regional planning context.



### Processing Issues

#### *The Renewal of the Ballina LEP*

Council is in the process of revising the Ballina Local Environmental Plan 1987 (the LEP Renewal Project). Council has, in this regard, already made the decision to initiate the rezoning process over all land in Ballina Shire, with the concurrence of the LEP Review Panel. The Panel has also determined that a Local Environmental Study (LES) will not be required for the shire-wide LEP Renewal.

Council should consider whether the subject rezoning requests should be processed independently (backed by a separate rezoning decision) or be considered during the LEP renewal process, having regard for the appropriate and efficient use of Council resources, compatibility with the LEP Renewal project timeframe and achieving the best planning outcome for the locality.

Council has a number of options available regarding the zoning of the subject land, with regard to the LEP renewal. These options include:

- Considering the zoning of the land as part of the comprehensive renewal of the Ballina LEP, with such consideration to be incorporated into the new LEP - thus Council may resolve to decline the request to have a separate rezoning process occur for the subject land;
- Initiating the rezoning for all or part of the land, with the processing to run concurrent with the LEP renewal - thus Council may resolve to support the request to initiate a separate rezoning process for the subject land. In this case the rezoning process would run 'parallel' with the LEP Renewal project. Following the assessment of all relevant matters the rezoning may:
  - a) if completed before finalisation of the LEP renewal - be finalised as an amendment to the Ballina LEP 1987; or
  - b) if completed at the same time as finalisation of the LEP renewal - be incorporated into the LEP renewal process; or
  - c) if completed after finalisation of the LEP renewal process - be finalised as an amendment to the LEP renewal instrument (amendment to the new LEP).

Processing rezoning proposals inevitably require the dedication of Council resources (predominantly staff time). It can be argued, on this basis, that rather than considering the matter independently, the zoning of the subject land should be considered in the context of the shire-wide LEP renewal. Notwithstanding, it is suggested that initiating the rezoning process at the present time may have several advantages, that may provide for a thorough assessment of all pertinent information relevant to the determination of zoning of the land, prior to the resource intensive phase of the shire-wide LEP. Considering the matter independently to (but parallel with) the LEP renewal process may 'free-up' Council resources later in the LEP renewal process, when those resources are more likely to be fully committed.



## 7.5 Rezoning Requests - Cumbalum Ridge

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It has been common practice for Council to engage a qualified external planning consultant (at the proponent's expense) to prepare a 'peer review' Local Environmental Study (LES) on the behalf of Council (should an LES be required). Whilst still requiring oversight and coordination by Council staff, this arrangement tends to "free-up" Council resources, from what would otherwise be the case. It is noted, with regard to the subject rezoning requests and the LEP Renewal, that such an arrangement may enable documentation and environmental studies submitted by the proponents to be independently assessed (by Council's planning consultant), with the outcomes (zoning recommendations) incorporated into the comprehensive LEP renewal in an efficient and timely manner. It is noted that the alternative - incorporating the consideration of the matter into the comprehensive LEP Renewal - may mean that Council staff will be required to process (without additional assistance) a considerable amount of documentation during a 'high-demand' phase of the LEP Renewal process.

It is also noted that the Department of Planning has waived the requirement for an LES to be prepared in the case of the comprehensive LEP Renewal. This means that if incorporated into the comprehensive LEP Renewal, rezoning the subject land may not (necessarily) demand the same level of detailed information (such as specialist studies) than would be case if the matter is dealt with independently (and a LES was required).

Further, Council is also reminded that the State Government's Standard LEP, on which the LEP renewal must be based, does not include an 'Urban Investigation Zone'. Thus Council will need to give consideration to zoning the subject land to a new zone as part of the LEP Renewal, whether Council resolves to initiate the rezoning process over the subject land at this time or not. Considering the matter at the present time may therefore provide an opportunity to determine the appropriate zoning of the land for incorporation into the shire-wide LEP Renewal.

The rezoning process may take several years to complete, from initiation to referral of the amending plan to the Minister for Planning. It is thus uncertain at this stage when the finalisation of the subject rezoning might occur, and where in relation to the LEP renewal process. Because of this Council may, if it supports the rezoning request, require the subject rezoning process to consider (be compatible with) both the existing LEP (Ballina LEP 1987) as well as the LEP renewal instrument (currently in early stages of preparation). Either or both of the draft instruments could be then exhibited as required depending on the stage at which the amendment is to be finalised, relative to the shire-wide LEP Renewal.

### *LEP Review Panel Criteria*

Councillors will be aware that should Council resolve to initiate the rezoning process of the subject lands separate to the comprehensive review of the Ballina LEP (LEP Renewal), the NSW Government 'LEP Review Panel' will review Council's decision having regard to certain criteria (in this case the Category 3 criteria - Precinct LEP). The following table addresses these criteria in relation to the subject rezoning proposals.





<p><b>1. Will the LEP be compatible with agreed State and Regional strategic direction for development in the area (e.g. land release, strategic corridors, development within 800m of a transit node)?</b></p>
<p>The Far North Coast Regional Strategy (FNCRS-2006) identifies the subject land as being a 'Proposed Future Urban Release Area' within the 'Town &amp; Village Growth Boundary' of Ballina Shire (Sheet 3 of the FNCRS-2006). Land within the 'Town &amp; Village Growth Boundaries' are identified for future urban release, subject to the following caveat:</p> <p><i>'Not all land identified within the Town and Village Boundary can be developed for residential uses. All sites will be subject to more detailed investigations to determine capability and future yield. Land that is subject to significant natural hazards and/or environmental constraints will be excluded from development'.</i></p> <p>Detailed consideration of the above matters is to occur through the statutory rezoning process. Initiating the rezoning process over the subject land is, therefore, consistent with the regional strategic direction of development within the area.</p>
<p><b>2. Will the LEP be consistent with agreed centres and sub-regional planning policy for development in the area?</b></p>
<p>The Ballina Urban Land Release Strategy (URLS-2000) and the Cumbalum Structure Plan (CSP) which were prepared by Ballina Shire Council (the former pursuant to Clause 38 of the North Coast REP) and endorsed by the Department of Planning form the only agreed sub-regional planning policies for the locality.</p> <p>The rezoning of the subject land is consistent with the URLS-2000 in being located with an identified urban release area.</p>
<p><b>3. Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/sub-regional strategy?</b></p>
<p>The land to which the LEP would apply is not identified as being a "global/regional city, strategic centre or corridor" in the Far North Coast Regional Strategy (2006). The land is, however, identified as a 'Proposed Future Urban Release Area' within the 'Town &amp; Village Growth Boundary' of Ballina Shire in the Far North Coast Regional Strategy.</p>
<p><b>4. Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?</b></p>
<p>Development of the Cumbalum Urban Release Area (CURA) will add very substantially to local employment through housing and civil construction work and associated financial services and demand for homewares and building materials. Additionally, it is anticipated that the future development of the CURA will provide for appropriate local commercial and community facilities which will contribute to additional employment, on an ongoing basis.</p> <p>In broader terms, additional urban development is likely to contribute to the generation of permanent employment, through population growth adding to aggregate demand within the local and regional economy.</p>
<p><b>5. Will the LEP facilitate the provision of public transport?</b></p>
<p>The LEP will ensure that future development of the CURA facilitates the efficient provision of public transport to service the future urban locality.</p>
<p><b>6. Will the LEP implement studies and strategic work consistent with State and Regional policies?</b></p>
<p>As outlined above, it is suggested that initiating the rezoning process over the subject land would be consistent with the Regional Policy Context of the area.</p>



## 7.5 Rezoning Requests - Cumbalum Ridge

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The amending LEP will be affected by a number of State Environmental Planning Policies (SEPPs) and Section 117 Ministerial Directions. Initiating the rezoning process over the subject land will enable appropriate resolution of these and other pertinent issues.

On the basis of the above, it is suggested that the subject rezoning is consistent with the LEP Review Panel criteria for the processing of rezoning proposals.

### *Area to which rezoning should apply*

As noted above, the subject rezoning requests apply to two distinct areas within the same locality that have a number of landholders directly and indirectly affected. The Cumbalum Structure Plan (CSP) provides Council's overarching strategy for the consideration of future rezoning of land within the locality. The various options for the rezoning of particular areas presented below are couched, therefore, in terms of the 'Precincts' outlined in the CSP. These are identified, in relation to the subject rezoning submissions and component landholdings, on the attached Figure 2.

It is noted that the land identified in the *Submission 1* rezoning request includes landholdings located wholly outside the 1(d) Rural (Urban Investigation) Zone, being the land located in the north-eastern part of the *Submission 1* area (defined by the heavy red line in attached Figure 1), directly to the south of Ross Lane. It is understood that the proponent wishes to investigate the use of this land for ancillary urban (non-residential) uses, such as playing fields. This area lies outside the 'strategic planning context' for the area, and is not identified for urban investigation at either the state or local level, in either the Far North Coast Regional Strategy, the Ballina Urban Land Release Strategy or the Cumbalum Structure Plan. The information submitted by the proponent (*Submission 1*) does not provide detailed justification for why this area should be included in urban investigations. On this basis it is recommended that this area not be included in urban investigations at this time.

Councillors will be aware that the consent of landholders is not required for Council to rezone land anywhere in the shire. Should Council resolve to initiate the rezoning process at this time, consideration will need to be given to the appropriate boundary of the investigation of future urban potential, and buffer/interface issues with adjacent non-urban land, in order to achieve the optimal planning outcome. It is noted that the proponents of *Submission 1* have indicated to Council staff an intention to undertake environmental assessments of all lands identified in their rezoning request (the area enclosed by the red line of Figure 1). It is suggested that for the purpose of achieving an optimal planning outcome, the rezoning requests before Council should be considered on the basis of the 'precinct' boundaries (broadly) identified in the Cumbalum Structure Plan. This will allow any investigations to be undertaken in a holistic and comprehensive manner, with regard to identifying the extent of future potential urban development in the locality. This would however include a number of land parcels that are not party to either of the subject rezoning requests, including those that have objected to rezoning (discussed above). Notwithstanding, attached Figure 3, labelled 'Figure 3. Precinct boundaries for the purpose of rezoning', identifies the suggested boundaries for the consideration of the rezoning requests based on



cadastral boundaries (refining the precinct boundaries identified in the CSP, which were drawn without regard to landholdings).

Council has a number of options regarding which parts of the CURA it may rezone (initiate the rezoning process over) at this time. These options include the following:

- Initiate the rezoning process for all land located within Precinct A and Precinct B in the Cumbalum Structure Plan - that is both the *Submission 1* & *Submission 2* lands, but delineated as shown on the attached Figure 3 - this may have the benefit of allowing for integrated assessment of future development potential which may improve planning outcomes for the locality. The disadvantages of this option may include:
  - o The potential for conflict in timelines to occur in relation to the resolution of rezoning issues vis-à-vis Precinct A and Precinct B. Council may, however, separate the process at a later stage should this be required, by deferring some elements of LEP amendment; and
  - o The demands on Council resources compared with considering only one Precinct at a time, although some 'economies of scale' may be achievable.
- Initiate the rezoning process over only lands within Precinct B (correlating broadly with the *Submission 1* lands) - this would appear to have the disadvantage of not providing for integrated assessment of future development potential, and would be 'out of sequence' with regard to Council's ULRs-2000 for development roll-out of the CURA; or
- Initiate the rezoning process over only lands within Precinct A (correlating broadly with the *Submission 2* lands) - this would appear to have the disadvantage of not providing for integrated assessment of future development potential, but would be consistent with Council's ULRs-2000 for development roll-out of the CURA.

*Facilitating the adequate, orderly and efficient release of land*

Council has a significant role, and an obligation as the local planning authority, to facilitate the adequate, orderly and efficient release of urban land. Means to supporting this objective include:

- ensuring that the supply of appropriately zoned urban land is sufficient to meet anticipated demand; and
- ensuring that infrastructure is planned and delivered in an efficient and cost-effective manner to service future urban development.

It is noted, however, that the above may not, in themselves, be sufficient to achieve the objective. There are various reasons why land that is zoned and serviceable (with regard to the availability of infrastructure) to enable urban development to occur may not proceed in the timeline anticipated. These include:

- financial problems for the developer;
- difficulties in obtaining development approvals or licenses;
- changes to macroeconomic conditions ('the market'); and
- developers maximising returns by releasing land at a rate that maintains or enhances the market price.

Providing a 'buffer' of appropriately zoned land may assist in maintaining an adequate supply of residential lots available to the market, as well as encouraging developer competition and product variety, as discussed above.



*The requirement that a LES be prepared*

Both proponents (*Submission 1 & Submission 2*) have requested that the requirement that a Local Environmental Study be prepared be waived on the basis of the strategic planning history of the area, the availability of information obtained in the course of preparing the Cumbalum Structure Plan, and infrastructure planning undertaken by Council.

Further argument for a waiver is that the proponents are in the process of undertaking detailed environmental assessments to address matters typically addressed in a LES, and that these will be submitted when detailed rezoning proposals are lodged with Council.

Counter to the above, the following are suggested as arguments against waiver:

- The scale of the rezonings, whether individually or combined, comprise substantial rezonings over a significant area of land that has strategic importance to the both shire and the region in terms of future urban development;
- The locality is subject to a range of environmental hazards (including flooding and land slip hazard) and includes land that has significant environmental value (including visual amenity and biodiversity values);
- The Cumbalum Structure Plan suggests a need to undertake a number of detailed environmental investigations.

It is acknowledged, however, that environmental assessments to address the above may be undertaken independent of the preparation of a statutory Local Environmental Study. The advantages of the LES process, from Council's perspective, include the following:

- Provides a statutory 'safety net' for Council, ensuring perceptions within the community regarding the transparency of the rezoning process are maintained; and
- Facilitates the recoupment of some of Council costs relating to the processing of rezoning requests (engagement of an independent consultant and charging for staff time).

On this basis it is recommended that a LES be required should Council resolve (and the State Government's LEP Review Panel concur) to initiate the rezoning process over the subject lands.

### **Options**

1. Decline the request to initiate the rezoning process over the subject land and direct Council staff to consider the matter in the context of the comprehensive shire-wide LEP Renewal. This option may enable the matter to be dealt with in a comprehensive matter, provided sufficient Council resources are available to consider the matter during the LEP Renewal. It is not clear, however, that such resources will be available during the LEP Renewal process, and thus detailed consideration of the matter may be delayed until after the new generation LEP is introduced. Given the need to facilitate an adequate, orderly and efficient release of land this option is not recommended.



2. Resolve to initiate the rezoning process, pursuant to Section 54 of the *Environmental Planning and Assessment Act 1979*, independent of the shire-wide LEP Renewal, over landholdings correlating with Precinct A of the Cumbalum Structure Plan, as identified on the attached map Figure 3. This option would be consistent with the strategic planning context for the locality, but may have the disadvantage of not facilitating the comprehensive resolution of zoning issues associated with the future development of the Cumbalum Ridge. This option is therefore not recommended.
3. Resolve to initiate the rezoning process, pursuant to Section 54 of the *Environmental Planning and Assessment Act 1979*, independent of the shire-wide LEP Renewal, over landholdings correlating with Precinct B of the Cumbalum Structure Plan, as identified on the attached map Figure 3. It is suggested that this option would be inconsistent with the strategic planning context for the locality with regard to the timing of initiating rezonings. This option is therefore not recommended.
4. Resolve to initiate the rezoning process, pursuant to Section 54 of the *Environmental Planning and Assessment Act 1979*, independent of the shire-wide LEP Renewal, over landholdings correlating with Precinct A and Precinct B of the Cumbalum Structure Plan, as identified on the attached map Figure 3. It is suggested that this option may enable the detailed consideration of zoning issues relating to future development of the Cumbalum Ridge area, having consideration for the integration of future urban infrastructure, in a comprehensive manner without placing an excessive burden on Council resources.

### Conclusion

Council is invited to consider whether to initiate rezoning over part or all of the subject land, separate to the comprehensive LEP Renewal, or have the matter considered during the LEP Renewal process.

The Cumbalum Urban Release Area (CURA) has been identified for over a decade by Council and the State Government as a major future urban release area, having significance at both the local and regional levels. The subject rezoning requests are consistent, in broad terms, with the strategic planning context for future urban development at both the shire and regional levels, in terms of location and the nature of proposed development.

The determination of appropriate land use zoning will require detailed consideration of the environmental capabilities of the land and the locality, having regard to the needs of future residents and of existing residents of the locality. Further, the detailed consideration of infrastructure delivery, in terms of timing and coordination, will require consideration and consultation between the various parties (landholders, Council and relevant Government agencies). It is suggested that the statutory rezoning process, involving the preparation of a Local Environmental Study, undertaken independently (but in parallel) with the comprehensive LEP Renewal, provides an appropriate framework for the resolution of the above matters in a timely and efficient manner. It is further suggested that such a framework may provide for the timely inclusion of planning recommendations over the land, regarding appropriate land use zoning, for latter inclusion into the shire-wide LEP renewal or new generation LEP.



## RECOMMENDATIONS

That Council:

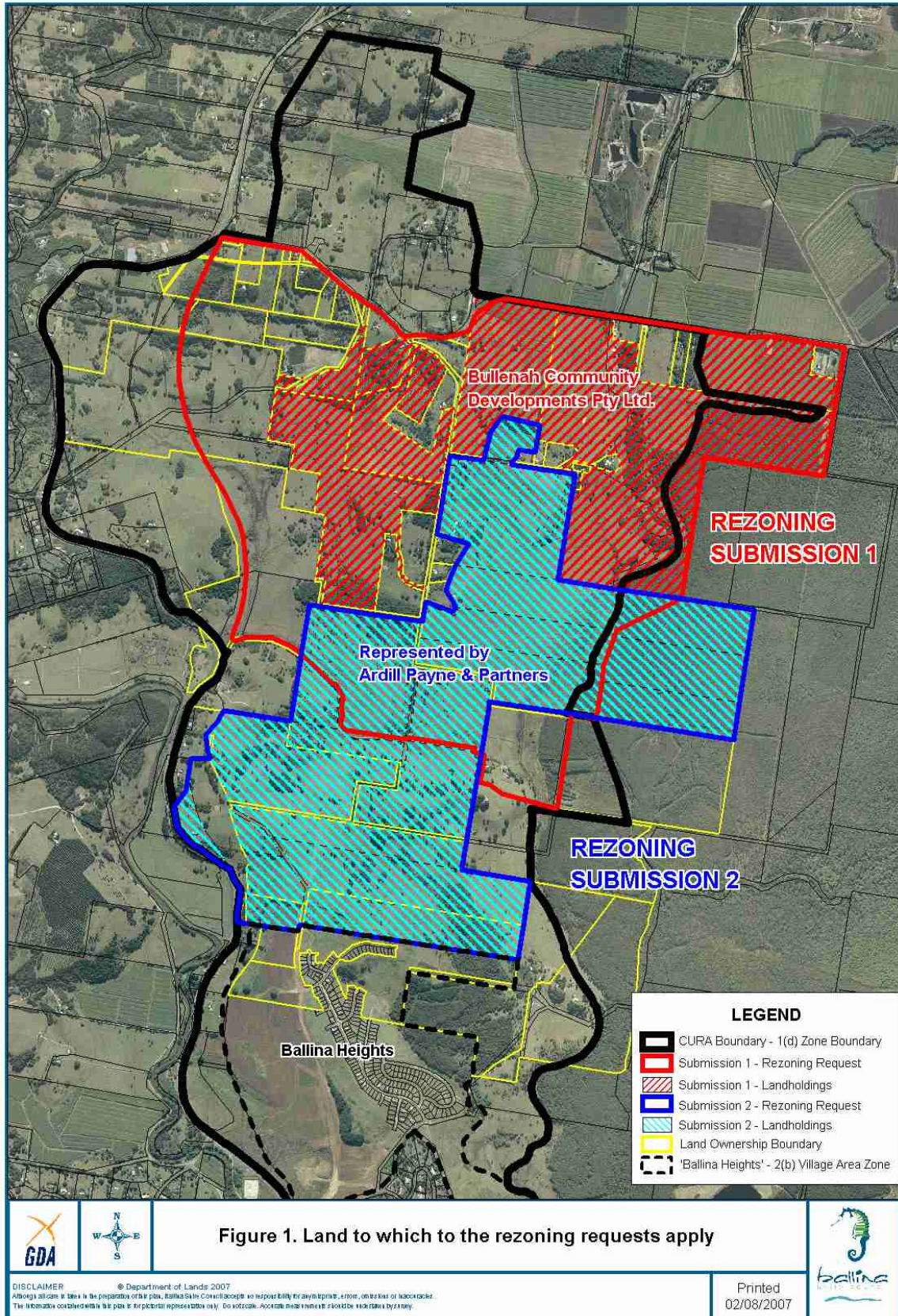
Initiate the rezoning process, pursuant to Section 54 of the *Environmental Planning and Assessment Act 1979*, independent of the shire-wide LEP Renewal, over landholdings correlating approximately with Precinct A and Precinct B of the Cumbalum Structure Plan, as identified on the attached map Figure 3. It is further recommended that the Council support the requirement for a Local Environmental Study in these circumstances.

## Attachment(s)

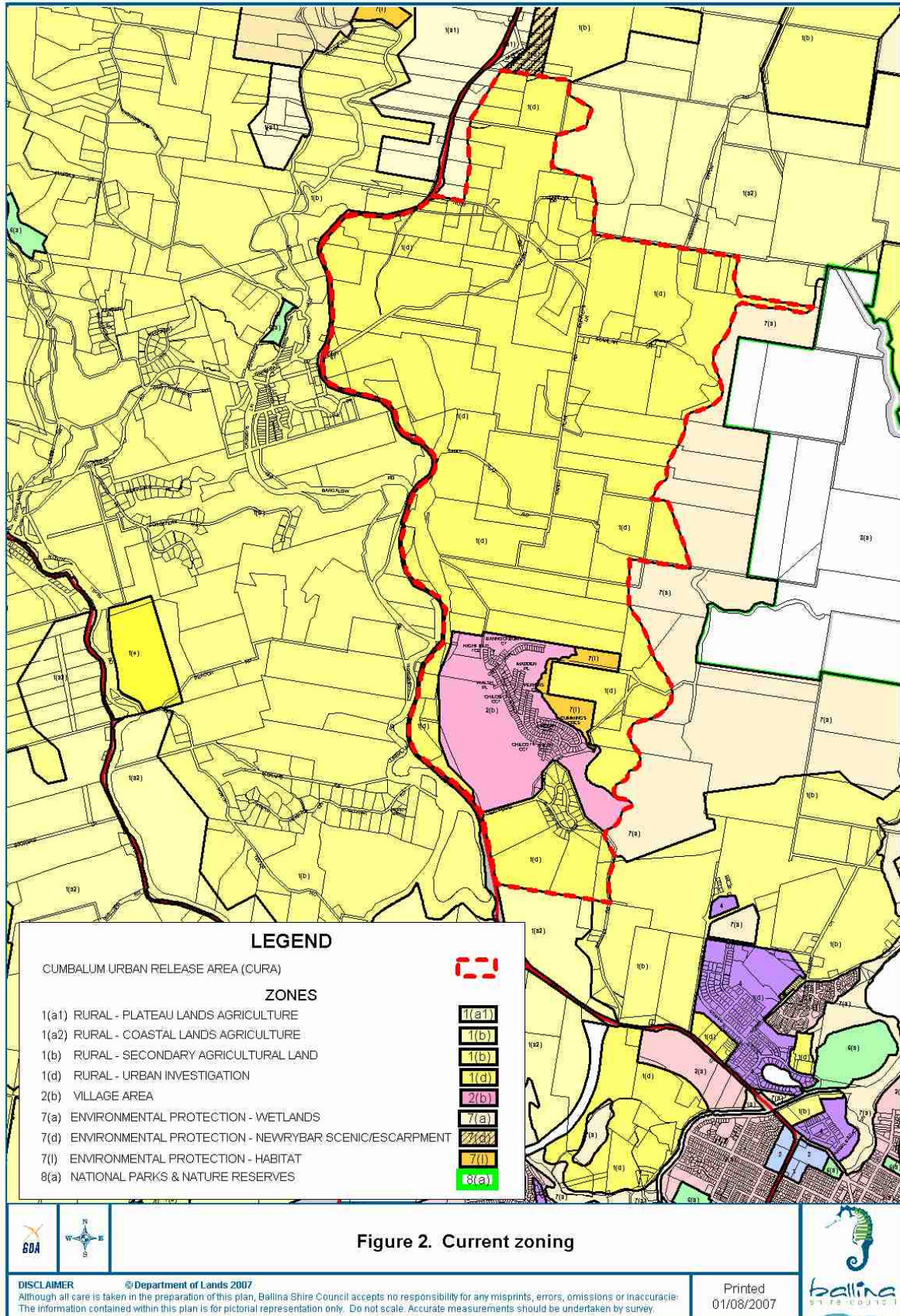
1. Figure 1. Land to which the rezoning requests apply
2. Figure 2. Current Zoning
3. Figure 3. Precinct boundaries for the purpose of rezoning
4. Email correspondence from Gail Greig-Morrison (landholder) regarding Submission 1 request to initiate rezoning.
5. Email correspondence from Robin Moller (landholder) regarding Submission 1 request to initiate rezoning.
6. Correspondence from Ardill Payne & Partners on the behalf of landholders regarding Submission 1 request to initiate rezoning.



**ATTACHMENT 1.**

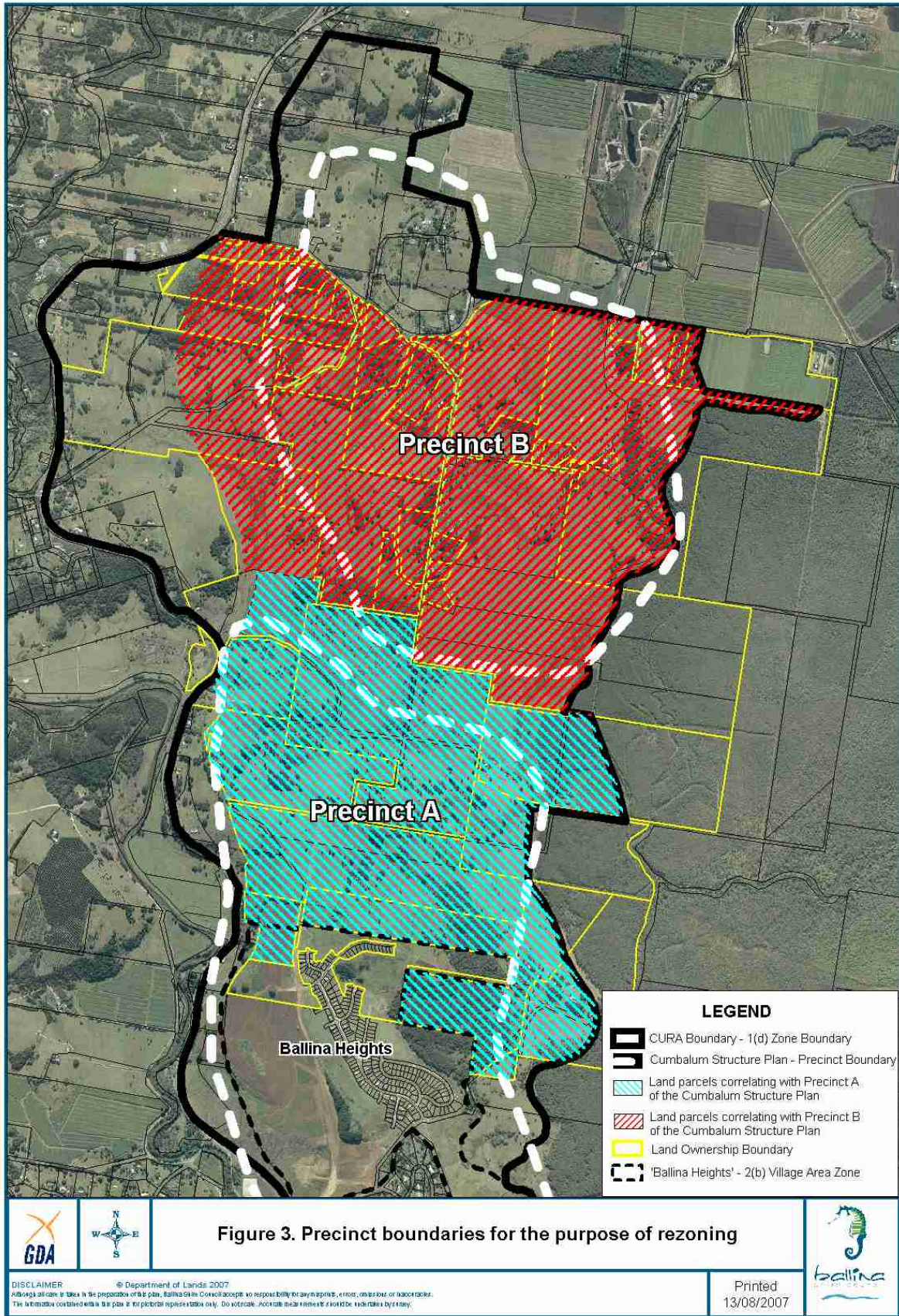


**ATTACHMENT 2.**





**ATTACHMENT 3.**



## ATTACHMENT 4.

Message

Page 1 of 2

**From:** Ballina Shire Council [council@ballina.nsw.gov.au]  
**Sent:** Wednesday, 13 June 2007 2:04:25 PM  
**To:** Lee Hillyard  
**Subject:** FW: REZONING REQUEST FOR LAND IN THE CUMBALUM RIDGE AREA

Jay Ellis  
Ph: (02) 66 86 1228  
Fax:(02) 66 86 7035

-----Original Message-----

**From:** gail morrison [mailto:gailgm@bigpond.com]  
**Sent:** Wednesday, 13 June 2007 12:56 PM  
**To:** simon@ballina.nsw.gov.au  
**Cc:** Ballina Shire Council  
**Subject:** REZONING REQUEST FOR LAND IN THE CUMBALUM RIDGE AREA

Dear Sir,

Thank you for your advices regarding the request received by council for the rezoning of land in Precinct B of Cumbalum Ridge which will have potential impact on my land at Lot 12 DP 858607 - 37 Scanlan's Lane Tintenbar.

I am in receipt of the request document prepared by LandPartners on behalf of Bullen Community Developments Pty Ltd. I am also aware of the contents of the Cumbalum Structure Plan compiled by Council and acknowledge that this land has been identified for future residential development for many years.

The request document in its self is rather vague which does not provide information to support the rezoning, therefore I will confine my comments to the points raised in the Executive Summary of the Rezoning Request.

**ITEM 7** - My understanding the entry to this subdivision will be via Ross Lane & Dufficy's Lane both of which have been identified and recipients of 'BLACK SPOT' funding from the Federal Government. My concern is that Ross Lane is not of a sufficient standard to cope with additional traffic movements that would be generated by a future residential subdivision of any density.

Ross lane has a sad history of many, many accidents, including a recent fatality. It is also subject to regular flooding as well as the surrounding area, which is well documented and was a primary factor why the RTA did not choose Option D as part of the Pacific Highway Route selection.

Council is aware that the Roads and Traffic Authority DO NOT intend to upgrade Ross Lane as part of the Pacific Highway upgrade. This road will also be a major interchange for access to the upgraded Pacific Highway. This will also create increased traffic flow.

Ross Lane currently is less than satisfactory and would benefit from a complete upgrade to raise the road above the flood level as well as a reduction to the speed limit to 80KPH.

The developer will no doubt be responsible for the construction of a turning lane into & out of the proposed development but his is not enough. Council has a responsibility to ensure that ALL the roads under its control are safe for their future ratepayers.

**ITEM 8 & 9** - The developer intends to create a village style, high density, self contained suburb with facilities within walking distance with little reliance on motor vehicles.... Are we talking about the same location..6km to Lennox Head beaches and the only access to north-south public transport, 12km (by car) to Ballina with its major shopping centre facilities. This location is very isolated with the only public transport being the school buses. How will the future residents of this suburb commute to areas of higher employment opportunities like Lismore, Byron Bay, Ballina and surrounds.

**ITEM 14** - Council has the responsibility to ensure that necessary investigation have been undertaken before land is deemed suitable for future residential development. It also need to investigate the flooding impact allowing for the potential effects of severe weather patterns as recently experienced by parts of New South Wales.

Under no circumstances should Council waive the requirements of a Local Environmental Study.

I strongly believe that the request for the commencement to rezone the land in Precinct B is totally premature and should be rejected by Council.

As our elected representatives, you have a obligation to ensure the sustainability of this beautiful area for future generations.

Gail Greig-Morrison  
PO Box 323  
Lennox Head 2478  
6687 8701 (ah)  
6684 3011 (bh)

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14/08/2007



## ATTACHMENT 5.

Page 1 of 1

**From:** Ballina Shire Council [council@ballina.nsw.gov.au]  
**Sent:** Monday, 18 June 2007 8:22:15 AM  
**To:** Lee Hillyard  
**Subject:** FW: LEP Amdt 105-Precinct B Cumberland Ridge

-----Original Message-----

**From:** Robin Moller [mailto:robin\_moller@bigpond.com]  
**Sent:** Sunday, 17 June 2007 2:22 PM  
**To:** Simon Scott  
**Cc:** Ballina Shire Council  
**Subject:** Fw: LEP Amdt 105-Precinct B Cumberland Ridge

Dear Sir

LEPAmdt 105 Precinct B-Cumberland Ridge.

Thank-you for your letter of the 24th May,inviting me to comment on the rezoning request lodged by Bullenah Community Developments P/L which seeks to include my land,being lot 5 DP 730878 scanlan lane

The request document is so vague and general in its dealing with the substantial issues at the heart of this issue that it hardly warrants serious consideration at all.A close reading of the document highlights this.Having been a practicing partner in a major Brisbane legal firm for the majority of my professional career I am familiar with glossy documents of this nature.They look good but in essence avoid the real issue.Council is responsible for ensuring that this request by a developer,whose primary,if not only interest,is making money is properly and responsibly assessed.There is only one chance to get it right and a rubber stamping giving the green light to intensive ridge residential development is exactly the opposite of what the Cumberland Structure plan seeks to achieve and is one of the things that the Environmental Planning and Assessment Act 1979 was enacted to control

I have read the plan,which is in excess of 100 pages plus associated maps and graphs and relevant portions of the EPA Act I presume that all persons at council who are handling this matter and will be voting on it will be thoroughly familiar with it and all the other town planning issues involved !.

The general idea of the plan is to avoid past mistakes of random unplanned residential development scaring one of the most beautiful landscapes in the country with the developer disappearing with it's profits and the council left to deal with the infrastructure problems.Council has one opportunity to get it right and should not rush such a decision.

It is my opinion that Bullenah's request is premature for a number of reasons,namely

1) The Cumberland Structure plan's concept is one of villages.Precinct A is still relatively undeveloped and does not bear any semblance to a village.Large parts of this area remain unsold and the infrastructure that will make this a self contained community is not yet in place.This Precinct is closer to Ballina and the shops ,schools,business centre,social and other facilities but precinct B is considerably further away.If the "village structure" is not in place for Precinct A then it is entirely premature to move on to Precinct B.The plan contemplates Precinct B as connecting to Precinct A when growth in the area requires it,not as an area to be developed at the same time. Town planning principles go against allowing random residential development for the sake of it.

2) Page 11 of vol 1 of the structure plan states"*It is envisaged that prior to Council's consideration of rezoning requests for land within the study area Council's Civil Service Group will prepare a Development Servicing Plan 'DSP'to set the scene for the sequencing of essential infrastructure provision to the area"* Let's just look at one aspect of infrastructure-**Ross Lane**.No development of precinct B can responsibly be allowed with this road.With it's 2 lanes now it has a tragic history of car accidents just handling the traffic that travels it each day.Precinct B plans to throw another 2000 residences adjacent to it from which each day person's will travel to and from work.school,the shops,the beach(that is the attraction of the area)sporting and social facilities,doctors etc not to mention increasing visitors and locals to the area once the upgraded highway is completed. and ross lane becomes the interchanged point for the areaAdd to this that the road is under water up to 60 cm in depth when heavy rains fall,making it impassible.This fact will also impact any future connector road between the two precincts.There is a reason that all the existing entry roads are higher up the ridgeCouncil will have records of the number of times flooding has happened in the past few years .Ross Lane is not handling the current traffic safely and this needs to be fixed before more development can be considered-as the structure plan envisages.

3)To suggest-as the developer does-that the development will not be car dependant is laughable and offensive to one's basic intelligence .The future road issue to service the precincts is far from settled .Persons who live and will live in these precincts will of necessity be car dependant,and particularly Precinct B because of its location.Precinct A is very proximate to Ballina.Precinct B sits out on its own ,away from Ballina and Lennox Head and people will need vehicles each day for work school shopping and the like.Even the idea of housing on the ridge and a village lower down necessitates a car.I live on the ridge and walking to the bottom of my 2 acres and up again is not easy.

4) There are numerous other aspects of infrastructure that need to be properly planned so that Council gets it right.There is only one opportunity and this needs to be settled before private land is rezoned .It would be a financial disaster for council to be required to resume rezoned land at a higher cost because of premature rezoning.

5) There is still significant vacant land that is available for building that already has the appropriate zoning and is capable of meeting the needs of the area at present.There is no evidence that I am aware of to suggest that more land is needed or that a further release of land would make it more affordable.

6)people move to this area in many cases for lifestyle reasons.They are moving out of urban regions to the area for its beauty and open spaces.To allow premature unneeded land for housing destroys the reason people move here .This is one of the objects that the Environmental Planning and Assessment act seeks to control.We surely must learn from the gold coast experience. .

Please ensure that this submission is passed on to the appropriate persons for consideration.I would further be pleased if you could acknowledge receipt of the same and advise by return when Council will be considering this.

Yours Faithfully Robin Moller

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14/08/2007



## ATTACHMENT 6.

This Is A Reprint Of A Scanned Image

# ARDILL PAYNE & PARTNERS

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

ABN 11 386 152 212

Bill Payne BE, MIE Aust. Graeme McKenzie BE, MIE Aust. Evan Elford L & ESD



**PS: 5986, 5998, 6010** Submission to rezoning (Bullenah)

14 June 2007

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

Attn: Mr Simon Scott  
Your Ref: LEP Amdt 105 – Precinct B Cumbalum Ridge

Dear Simon

re: Rezoning request for land in the Cumbalum Ridge area

I refer to Council's letters to O & M Lynn, K Barlow and KL Kaehler dated 28 May 2007.

Council advised that it had received a rezoning request from Bullenah Community Developments Pty Ltd, to rezone land within the Cumbalum Urban Release Area (CURA) to facilitate future urban development. This rezoning request included land owned by Lynn, Barlow and Kaehler for whom APP currently act.

As a consequence of the CURA Landholder Group Workshops, Council's Technical Groups would be aware that Ardill Payne & Partners is in the process of preparing rezoning submissions for large tracts of land in the Cumbalum Ridge area.

We currently act on behalf of the following and have been commissioned by them to prepare rezoning submissions to rezone their land to enable the land to be developed for urban purposes:

- Vixsun Pty Ltd
- Mrs Sheather
- Mrs B Coop
- Mr K Barlow
- Mr O Lynn

The vast bulk of these landowners are long-standing local residents, having owned their land for periods of 30-50 years.

79 Tamar Street  
PO Box 20  
BALLINA NSW 2478

Ph: 02 6686 3280  
Fax: 02 6686 7920  
E-mail: info@ardillpayne.com.au

DataWorks Document Number: 978515

The land that is owned by our clients comprises a number large contiguous parcels (total land area approximately 330ha) that connect with Ballina Heights to the south. A map that identifies the extent and ownership of the land is attached.

APP has commenced planning, design and investigations for the rezoning of these parcels. All requisite specialist sub-consultants have been commissioned and site investigations have been commenced for the following:

- agriculture
- acid sulfate soils
- archaeological/heritage
- bushfire
- contaminated land (SEPP 55)
- flooding
- flora and fauna
- geotechnical/slope stability
- infrastructure servicing
- mosquitoes
- noise
- town planning
- stormwater
- traffic and transport
- urban design

Both we and our clients are fully supportive of commencing the rezoning process for certain lands within the CURA. In an attempt to determine compatible land uses, road system and infrastructure logistics, APP has held some meetings with the consultants working on Bullenah controlled land. Further work is required to resolve these issues and we note there is some departure from previously agreed infrastructure provision in the submission.

Both we and our clients consider that any rezoning review should have regard to the following:

- That the land be rezoned in a planned, logical and co-ordinated manner. This would be best achieved by adhering to Council's long-standing strategic planning for the south to north "roll-out" of land within the broader CURA in accordance with the provisions of the Ballina Urban Land Release Strategy and the Cumbalum Structure Plan.

Both of these strategic planning documents have been scrutinized by the broader community and endorsed by the elected Council. The BULRS has also been endorsed by the NSW Department of Planning as the agreed land release program for the Shire.

- It should be noted that alternatives to this would exist via the provision of road access from Sandy Flat Road, Duffcys Lane and/or Ross Lane. However the provision of conventional infrastructure services is still considered to be most reasonable, logical and economic from the south to the north.

- In considering any rezoning proposal, it is incumbent upon Council to consider the objectives of the 1(d) zone. Primary Objective A(c)(iv) requires specific consideration the provision and delivery of infrastructure and services, viz:

*"(c) to ensure that the release of land for urban purposes by rezoning shall not take place unless –*

*(iv) appropriate urban infrastructure and facilities are available to the land or can be provided to the land in a manner which does not create an unreasonable or uneconomic demand, or both, for the provision or extension of such services."*

The rezoning of the large contiguous parcels of our client's lands will ultimately facilitate the co-ordinated and integrated development of the land and the reasonable and economic delivery of infrastructure and facilities that are existing to and available from Ballina Heights.

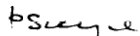
In considering Bullenah's rezoning request, Council is requested to give due regard to the imminent lodgment of rezoning submissions for those land identified on the attached map. At this point in time, we anticipate that these rezoning submissions will be lodged with Council sometime in July 2007.

The rezoning proposal that we will be providing to Council is consistent with the agreed strategic planning for the CURA (agreed by Council, the DoP and the broader community) and will provide for the logical, economic and co-ordinated delivery of appropriate urban infrastructure and facilities.

In closing, should Council accede to Bullenah's request to initiate the rezoning of the land identified in Landpartners's May 2007 submission, it is requested that Council also include all of the land that is owned by our clients that is identified on the attached map.

Should you have any questions in respect of the above, please contact me on 6686 3280.

**Yours faithfully**



**Paul Snellgrove  
Town Planner**





## Appendix 5 - State Environmental Planning Policy Checklist

State Environmental Planning Policy Checklist Planning Proposal - Cumbalum Urban Release Area Precinct A	
SEPP Title	Compliance of Planning Proposal
SEPP (Affordable Rental Housing) 2009	The Planning Proposal is not inconsistent with the provisions of this SEPP.  The full range of residential land uses will be permissible with consent in the area proposed to be zoned 2(b)Village Area.
SEPP (Exempt and Complying Development Codes) 2008	The Planning Proposal is not inconsistent with the provisions of this SEPP.  The Codes SEPP will apply to detached dwellings in the area proposed to be rezoned 2(b) Village Area.
SEPP (Rural Lands) 2008	The subject land is listed as Regionally Significant Agricultural Land. However, the site is identified in the Far North Coast Regional Strategy as a "proposed future urban release area" (refer Town and Village Growth Boundary Map - Sheet 3). Therefore, it is reasonable that a Planning Proposal be considered over the site.
SEPP (Infrastructure) 2007	The Planning Proposal is not inconsistent with the provisions of this SEPP.
SEPP (Temporary Structures) 2007	The Planning Proposal is not inconsistent with the provisions of this SEPP.
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	The Planning Proposal is not inconsistent with the provisions of this SEPP.
SEPP (Major Development) 2005	The Planning Proposal is not inconsistent with the provisions of this SEPP.
SEPP (Building Sustainability Index: BASIX) 2004	The Planning Proposal is not inconsistent with the provisions of this SEPP.
SEPP (Housing for Seniors or People with a Disability) 2004	The Planning Proposal is not inconsistent with the provisions of this SEPP.  The full range of residential land uses will be permissible with consent in the area proposed to be rezoned 2(b)Village Area.
SEPP No. 1 - Development Standards	The Planning Proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 4 - Development without Consent and Miscellaneous Complying Development	The Planning Proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 6 - Number of Storeys in a Building	The Planning Proposal is not inconsistent with the provisions of this SEPP.





SEPP Title	Compliance of Planning Proposal
SEPP No. 14 - Coastal Wetlands	The Planning Proposal is not inconsistent with the provisions of this SEPP. The LES proposes that an environmental protection zone apply to all areas subject to SEPP 14 as well as adjacent wetland communities not covered by the SEPP.
SEPP No. 15 - Rural Land-Sharing Communities	The Planning Proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 21 - Caravan Parks	The Planning Proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 22 - Shops and Commercial Premises	The Planning Proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 26 - Littoral Rainforests	The Planning Proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 30 - Intensive Agriculture	The Planning Proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 32 - Urban Consolidation (Redevelopment of Urban Land)	The Planning Proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 33 - Hazardous and Offensive Development	The Planning Proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 36 - Manufactured Home Estates	The Planning Proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 44 - Koala Habitat Protection	The Planning Proposal is not inconsistent with the provisions of this SEPP. No known koala habitat exists on the subject site.
SEPP No. 50 - Canal Estates	The Planning Proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 55 - Remediation of Land	The Planning Proposal is not inconsistent with the provisions of this SEPP. The provisions of SEPP No. 55 – Remediation of Land have been taken into consideration in the preparation of the LES.
SEPP No. 60 - Exempt and Complying Development	The Planning Proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 62 - Sustainable Aquaculture	The Planning Proposal is not inconsistent with the provisions of this SEPP. The provisions of SEPP No. 62 – Sustainable Aquaculture have been taken into consideration in the preparation of the LES.
SEPP No. 64 - Advertising and Signage	The Planning Proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 65 - Design Quality of Residential Flat Development	The Planning Proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 71 - Coastal Protection	The Planning Proposal is not inconsistent with the provisions of this SEPP and supports the intent of the SEPP.



## Appendix 6 - Section 117 Direction Checklist

Section 117 Direction Checklist Planning Proposal - Cumbalum Urban Release Area Precinct A				
SECTION 117 DIRECTIONS	Application to Ballina Shire	Application of Direction to Draft Plan	Extent of Inconsistency	Justification for inconsistency
<b>1. Employment and Resources</b>				
1.1 Business and Industrial Zones	Yes	No	-	-
1.2 Rural Zones	Yes	Yes	Inconsistent  The planning proposal is inconsistent with Clause 4(a) in that it proposes to rezone land currently zoned for rural purposes to enable for residential/urban use.	Inconsistency justified.  Clause 5(c) enables a planning proposal to be inconsistent with the Direction where the proposal is in accordance with a Regional Strategy.  In this case, the subject site is identified in the Far North Coast Regional Strategy as a "proposed future urban release area" (refer Town and Village Growth Boundary Map - Sheet 3).
1.3 Mining, Petroleum Production and Extractive Industries	Yes	No	-	-
1.4 Oyster Aquaculture	Yes	No	-	-
1.5 Rural Lands	Yes	Yes	Refer to comments in item 1.2, above	Refer to comments in item 1.2, above
<b>2. Environment and Heritage</b>				
2.1 Environment Protection Zones	Yes	Yes	Not inconsistent.  Planning proposal involves an increase in lands zoned for environmental protection purposes.	-
2.2 Coastal Protection	Yes	Yes	Not inconsistent	-

SECTION 117 DIRECTIONS	Application to Ballina Shire	Application of Direction to Draft Plan	Extent of Inconsistency	Justification for inconsistency
2.3 Heritage Conservation	Yes	Yes	Not inconsistent  Archeological assessments have been undertaken as part of the LES. All actual and potential archaeological deposits are located outside of the proposed urban zone. The investigations suggest the potential for aboriginal archeological material within the proposed development areas is minimal. A stone wall is identified as a heritage item for the purpose of the LEP.	-
2.4 Recreation Vehicle Areas	Yes	No	-	-
<b>3. Housing, Infrastructure and Urban Development</b>				
3.1 Residential Zones	Yes	Yes	Not inconsistent.  Full range of residential used permitted with consent in proposed urban zone.  Essential services can be economically extended to service the development.	-
3.2 Caravan Parks and Manufactured Home Estates	Yes	Yes	Not inconsistent.  No caravan parks existing on the subject land. Caravan parks permitted with consent in proposed urban zone.	-
3.3 Home Occupations	Yes	Yes	Not inconsistent.  Home occupations will be permitted as exempt development within proposed urban zone.	



SECTION 117 DIRECTIONS	Application to Ballina Shire	Application of Direction to Draft Plan	Extent of Inconsistency	Justification for inconsistency
3.4 Integrating Land Use and Transport	Yes	Yes	Inconsistent to the extent that transport options will be limited to private vehicles, cycling and limit bus services.	Inconsistency justified.  Development of the site is consistent with the provisions of the Far North Coast Regional Strategy.  Proposed subdivision layout compatible with future provision of bus services. Cumulative increase in coastal population will support increased bus services in the longer term.
3.5 Development Near Licensed Aerodromes	Yes	No	-	-
<b>4. Hazard and Risk</b>				
4.1 Acid Sulfate Soils	Yes	Yes	Not inconsistent.  Parts of the site proposed for development include mapped potential ASS areas. Detailed investigations indicate actual ASS do not occur in the areas proposed for development.	-
4.2 Mine Subsidence and Unstable Land	Yes	No	-	-
4.3 Flood Prone Land	Yes	Yes	Not inconsistent.  The areas proposed for urban development are almost located outside of the floodplain. The development of the site is not inconsistent with the Ballina Flood Study Update 2010.	-
4.4 Planning for Bushfire Protection	Yes	Yes	Not inconsistent.  Fire buffers are proposed to major stands of vegetation.	-
<b>5. Regional Planning</b>				

SECTION 117 DIRECTIONS	Application to Ballina Shire	Application of Direction to Draft Plan	Extent of Inconsistency	Justification for inconsistency
5.1 Implementation of Regional Strategies	Yes	Yes	Not inconsistent  The subject site is identified in the Far North Coast Regional Strategy as a "proposed future urban release area" (refer Town and Village Growth Boundary Map - Sheet 3).	-
5.2 Sydney Drinking Water Catchments	No	No	-	-
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Yes	Yes	Inconsistent.  The planning proposal involves rezoning regionally significant agricultural land to enable urban development.	Inconsistency justified.  The subject site is identified in the Far North Coast Regional Strategy as a "proposed future urban release area" (refer Town and Village Growth Boundary Map - Sheet 3).
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Yes	No	-	-
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	No	No	-	-
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	No	No	-	-
5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	No	No	-	-
5.8 Second Sydney Airport: Badgerys Creek	No	No	-	-
<b>6. Local Plan Making</b>				
6.1 Approval and Referral Requirements	Yes	Yes	Not inconsistent	-
6.2 Reserving Land for Public Purposes	Yes	Yes	Not inconsistent	-
6.3 Site Specific Provisions	Yes	No	-	-

SECTION 117 DIRECTIONS	Application to Ballina Shire	Application of Direction to Draft Plan	Extent of Inconsistency	Justification for inconsistency
7. Metropolitan Planning				
7.1 Implementation of the Metropolitan Strategy	No	No		



## Appendix 7 - Cumbalum Precinct A Local Environmental Study



## Appendix 8 - Cumbalum Infrastructure Delivery Plan

