

Sydney  
t (02) 9387 2600  
PO Box 1488  
Level 6, 332-342 Oxford St  
Bondi Junction NSW 1355  
f (02) 9387 2557  
consulting@elton.com.au  
www.elton.com.au  
ABN 56 003 853 101



16 February 2012

Mr Matthew Wood  
Manager Strategic Planning  
Ballina Shire Council  
P.O. Box 450  
Ballina NSW 2478

Dear Matthew,

**Re: Draft Ballina Local Environmental Plan Amendment No 90 - Proposed Rezoning of 'Dr. Stewarts Land' at Skennars Head to the West of the Coast Road**

I refer to Council's letter dated 5 January 2012 and apologise for the delay in replying, however it was due to our client being away for most of the month. I also refer to our telephone discussion on 10 January 2012 wherein we discussed:-

- The specific actions in relation to the resolution, and
- The potential timeframe to undertake all necessary actions to achieve the resolution

I confirm our understanding that Council is likely to only progress resolution 2 of the Council resolution once the items as outlined in 1(a) to (d) have been dealt with or significantly progressed. I also confirm our understanding that in relation to resolution 2, and after demonstrating progress of items in resolution 1, Council will request your consultants to review the Local Environmental Study (LES) studies and provide an outline of the scope of works to be updated, as well as an estimated cost to update the LES report. It is however anticipated by Council that resolution 2 could be undertaken within 2-3 months prior to reporting to Council.

This letter provides a response to the letter received by Council dated 5 January 2012 as well as indicates significant progress on the actions related to the Council resolution. We therefore request Council to progress the LES and provide a scope of work, costs and timeframe to update and undertake the work. This is important to ensure the exhibition and making of the LEP occurs within the timeframe set by the Department of Planning and Infrastructure.

***Voluntary Planning Agreement (VPA)***

We understand that Council will only proceed with the exhibition of the rezoning subject to specific issues being included within the Voluntary Planning Agreement. We can confirm the following:-

***Resolution 1a):***

WaveBreak Properties confirms that the environmental protection land zoned - 7(d) that forms part of Lot 2 DP 784864 and located on the western side of The Coast Road will be dedicated to Council as



part of the LEP Amendment No 90. The timing and process can be discussed between the parties and confirmed through legal documentation.

*Resolution 1b):*

WaveBreak accepts Council's commitment to contribute \$100,000 (excl GST) and subject to annual CPI adjustments, to the cost of works for the reconstruction of Headlands Drive access and roundabout.

*Resolution 1c):*

Attached is a report prepared by Cardno titled *Skennars Head Engineering Report for Rezoning Application revision C, 15 October 2008*. This report address the issues raised in the by the Department of Environment and Climate Change (as they were known) in a letter dated 22 August 2008 and the Department of Primary Industries (as they were known) in a letter dated 21 August 2008. In particular the report addresses the following:-

- Positioning of the treatment devices in relation to the location of the Sedge Grass community: The stormwater treatment areas will be positioned above the location of the Sedge Grass, which is approximately the Q50 flood line (refer to figure 6.0 in the report)
- Impact on functionality as the treatment devices are below the 1.79 AHD flood height contour: Flood advice included as an appendices to the report indicates that the 1:100 year AHD is 1.6m. The bio retention areas will be above this level as shown in figure 6.0A of the report.
- All infrastructure should be located outside of zone 7(a). The figures included in the report indicate that bioretention treatment areas, sewer and water will be located outside of the zone.
- Stormwater should be treated to a level that will ensure quality, quantity, and velocity of flows into the wetland are maintained or improved to protect the long term viability of this environmentally sensitive area: The report sets out a water quality improvement strategy
- 

We seek direction from Council as to whether this addresses resolution 1 (c). If not we seek direction on what information Council is seeking to meet this resolution.

*Resolution 1d):*

As indicated previously to Council, WaveBreak Properties do not have authorisation over this land. However detailed discussions with Dr and Mrs Stewart as well as discussions with their legal representative have occurred. We understand that Council and Dr and Mrs Stewart have signed a Deed of Agreement for Lease of part of Lot 2 DP 784854 and boundary adjustment to part of Lot 1 DP784864. As per the Deed of Agreement for Lease, we understand that the subdivision and registration of title will occur providing security of title for Council.

WaveBreak Properties does seek reconsideration and withdrawal of this requirement, and believes that a voluntary planning agreement could be placed on public exhibition with the DLEP.



***Further Processing of Draft LEP Amendment and LES study***

*Resolution 2*

We acknowledge that as the Relevant Planning Authority, Council will process the LEP amendment within the terms of the *Environmental Planning and Assessment Act 1979*, and supported by the principles of Council's guidelines.

We understand that the LES study for the site was undertaken over all land on the east and west side of The Coast Road and therefore will provide a holistic perspective to the community. The LEP Amendment No 90 zoning boundary is therefore not changed.

WaveBreak Properties is of the view that the LES studies are complete; however due to the time lapse it may be necessary for the flora and fauna study to be updated. We await Council's confirmation of the studies to be updated and the related scope of works, in order that the updated assessment can be undertaken. The studies can then be resubmitted to Council for peer review and completion of the Local Environmental Study by Geolink.

**Conclusion**

We request Council view this letter as commitment to progress forward.

We trust that Council takes the above into consideration and continues to progress the LEP amendment. We look forward to working with you further.

Yours sincerely

Jenny Rudolph  
Associate Director  
[jennyr@elton.com.au](mailto:jennyr@elton.com.au)

Sydney  
t (02) 9387 2600

PO Box 1488  
Level 6, 332-342 Oxford St  
Bondi Junction NSW 1355  
f (02) 9387 2557  
consulting@elton.com.au  
www.elton.com.au  
ABN 56 003 853 101

7 May 2012

Mr Matthew Wood  
Manager Strategic Planning  
Ballina Shire Council  
P.O. Box 450  
Ballina NSW 2478



Dear Matthew,

**Re: Draft Ballina Local Environmental Plan Amendment No 90 - Proposed Rezoning of 'Dr. Stewarts Land' at Skennars Head to the West of the Coast Road**

I refer to our recent discussions in relation to progressing the proposed rezoning of the abovementioned land.

As indicated previously to Council, WaveBreak Properties do not have authorisation over the land to the east of The Coast Road, even though the Council resolution links the land on both west and east of The Coast Road through its resolution.

However, WaveBreak have had further detailed discussions with Dr and Mrs Stewart in relation to the Council recommendation of last year. Dr and Mrs Stewart have informed WaveBreak Properties that they are completely supportive of the rezoning of the land on the west of The Coast Road. Dr and Mrs Stewart however indicated that they have signed a Deed of Agreement for Lease of part of Lot 2 DP 784854 and boundary adjustment to part of Lot 1 DP784864. They understood that this provides security of title and outcomes for Council.

WaveBreak Properties does seek reconsideration and withdrawal of this requirement (resolution 1d) for the rezoning of the land, and believes that a voluntary planning agreement without that requirement can be placed on public exhibition with the Draft LEP.

We trust that Council takes the above into consideration and continues to progress the LEP amendment. We look forward to working with you further.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jenny Rudolph'.

Jenny Rudolph  
Director  
[jennyr@elton.com.au](mailto:jennyr@elton.com.au)



9.1 **Ballina LEP 1987 - Amendment No.90 - Stewart Farm, Skennars Head.DOC**

Amendment No.90 Potential Zone Arrangement (subject to change following completion of environmental study) - 2009 Draft Local Environmental Study

Source: GeoLINK Date: March 2009

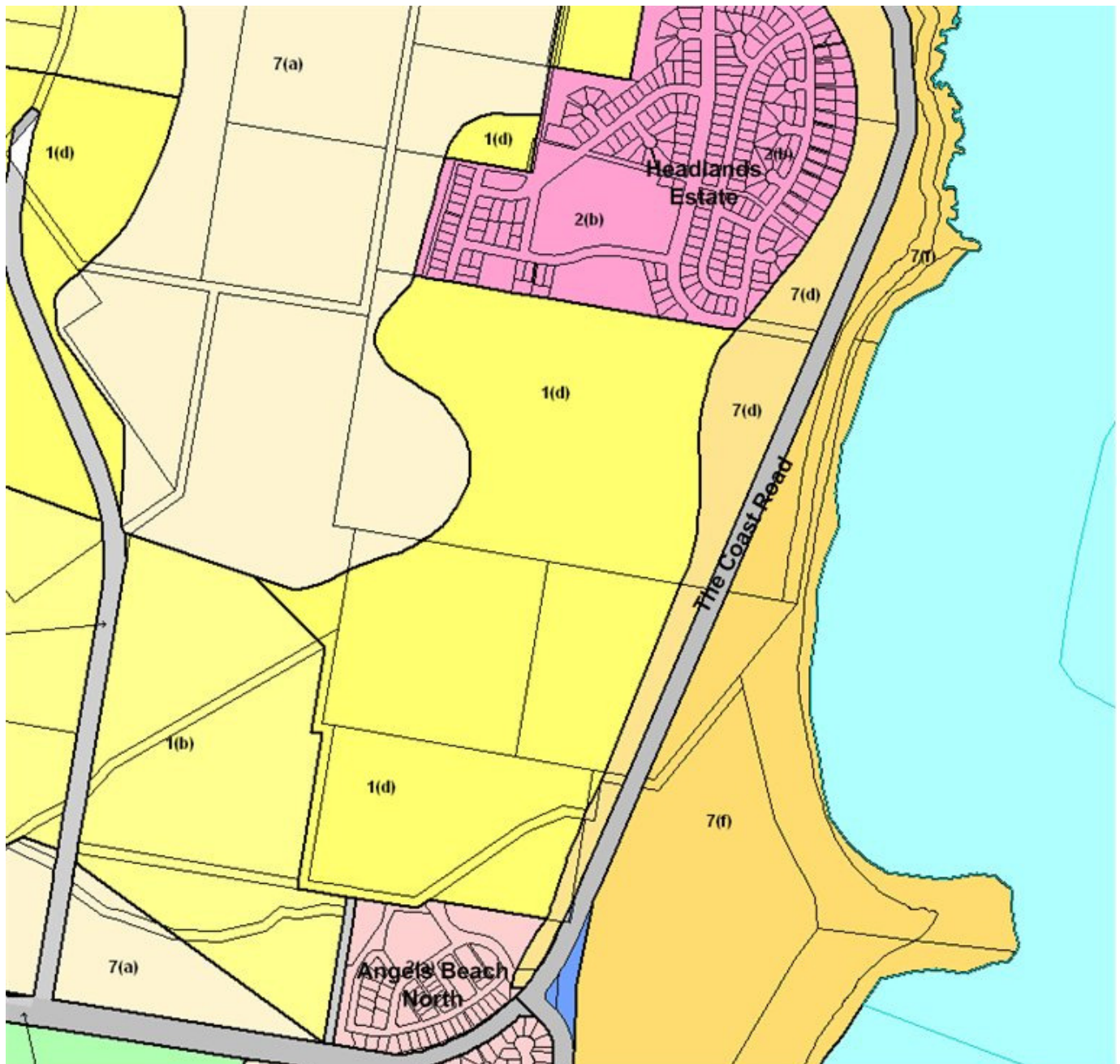


LEGEND

- 1(b) Rural (Secondary Agricultural Land)
- 2(b) Residential (Village Area)
- 7(a) Environmental Protection (Wetlands)
- 7(d) Environmental Protection (Scenic/Escarpment)
- 7(f) Environmental Protection (Coastal Lands)
- 7(l) Environmental Protection (Habitat)

9.1 **Ballina LEP 1987 - Amendment No.90 - Stewart Farm, Skennars Head.DOC**

Ballina Local Environmental Plan 1987 Land Use Zoning - Amendment No.90 Study Area



Zones

- 1(b) Rural (Secondary Agricultural Land)
- 1(d) Rural (Urban Investigation)
- 2(a) Living Area
- 2(b) Village Area
- 7(a) Environmental Protection (Wetlands)
- 7(d) Environmental Protection (Scenic/Escarpment)
- 7(f) Environmental Protection (Coastal Lands)