

9.2 Ballina LEP 1987 - Amendment No.90 - Stewart Farm.DOC

Chronology of Key Decisions

Draft Ballina LEP Amendment No.90 Stewart Farm, Skennars Head

May 2005: Council declined an initial request to rezone only Lot 2 DP 784864 on the basis that it preferred to consider the future land use outcomes in the locality more broadly.

December 2006: Council resolved to commence Amendment No.90 in relation to a broader area of the Stewart Farm. The request for the rezoning of the land was made by WaveBreak Properties Pty Ltd. Council's decision referred to the facilitation of urban development and improved environmental outcomes over the land.

January 2009: Draft Local Environmental Study completed, but several significant issues required further address by the proponent (WaveBreak Properties).

July 2011: Council considered the progress of Amendment No.90 at its Ordinary Meeting and resolved to hold a confidential workshop in relation to the matter.

September 2011: Confidential workshop held, with lease arrangements for land east of The Coast Road and further progress of the LEP amendment considered.

November 2011: Council considered the progress of Amendment No.90 at its Ordinary Meeting and resolved to cease further processing of the amendment due to uncertainties with respect to land dedication, scenic land values, infrastructure liability, difficulties in negotiations with the proponent and outstanding fees.

December 2011: Council considered a rescission motion relating to the November decision at its Ordinary Meeting and resolved to enable the LEP amendment to proceed but subject to address of several items including dedication to Council of the land on the eastern side of the Coast Road which is currently zoned 7(f) and forms part of Lots 1 & 2 in DP 784864.

May 2012: Council considered the progress of the LEP amendment as it was evident that agreement could not be obtained in relation to the dedication of land east of The Coast Road in accordance with Council's December resolution. Council resolved to re-affirm its December 2011 resolution requiring dedication of land east of The Coast Road. Council also resolved that in the event the dedication matter could not be addressed in accordance with the resolution, that the rezoning process would cease.

June 2012: Council staff met with Dr and Mrs Stewart to convey Council's resolution and to seek confirmation of Dr and Mrs Stewart's position with respect to the dedication of land east of The Coast Road into public ownership as part of the rezoning of land associated with the draft LEP amendment. Dr and Mrs Stewart indicated that they were not willing to provide for the dedication of the land into Council's ownership

July 2012: Council advised the Department of Planning and Infrastructure of its May 2012 resolution and requested that the Minister for Planning and Infrastructure discontinue draft Ballina LEP Amendment No.90.

July 2012: Council rescinded its May 2012 decision and resolved to enable the progress of the LEP amendment subject to dedication of the land in the vicinity of the Sharpes Beach car park that is leased to Council within a maximum period of 20 years.

August 2012: Department of Planning and Infrastructure advised Council by telephone that the Minister for Planning and Infrastructure intends to intervene in the LEP amendment process in order to enable the matter to progress. In providing this advice, the Department offered Council the opportunity to review its previous decision before the Minister makes a final decision.





Planning & Infrastructure

Office of the Director General



12/07525

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

Dear Mr Hickey

Planning Proposal PP_2010_BALLI_002_00 – Gateway Determination extension

I refer to your request on 5 April 2012 seeking an extension of time to complete the Planning Proposal PP_2010_BALLI_002_00 at the Stewart Farm, Coast Road, Skennars Head and providing a timetable for proposed completion of the project.

I have determined as the delegate of the Minister, in accordance with section 56(7) of the Environmental Planning and Assessment Act, 1979, to amend the Gateway Determination dated 19 October 2010 for PP_2010_BALLI_002_00 by extending the time for completion by an additional nine months. The Planning Proposal is now due for completion by 25 February 2013.

However in view of the difficulties being experienced in dealing with the land east of the Coast Road, that land should be deleted from the planning proposal to let the matter progress. On this basis I am of the opinion that the matter should proceed to exhibition as soon as possible. I would expect that this could occur within ten weeks of this letter.

I note Council's decision not to proceed with the rezoning should the land owner not agree to the dedication of the land east of the Coast Road. If this occurs you are required under section 58(4) of the Environmental Planning and Assessment Act, 1979 to request the Minister not proceed with this matter.

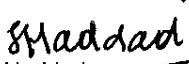
Given the time taken to progress this matter it is requested that a progress report on the current status of the Planning Proposal be submitted to the Department every two months. This will enable the Department to monitor progress, provide assistance if required or determine if any further action is required.

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

Bridge St Office 23-33 Bridge St Sydney NSW 2000 GPO Box 39 Sydney NSW 2001 DX 22 Sydney
Telephone: (02) 9228 6111 Facsimile: (02) 9228 6191 Website planning.nsw.gov.au

Should you have any further enquiries about this matter, I have arranged for Ms Claire Purvis of the Department's Northern Region office to assist you. Ms Purvis can be contacted on 6641 6611.

Yours sincerely


Sam Haddad
Director General
13/6/2012

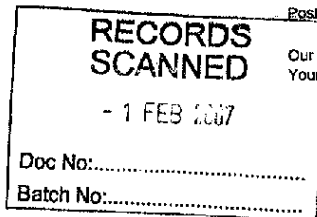


NSW GOVERNMENT
Department of Planning

Office of the Director General

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Mr John Christopherson
General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478



Our ref: G04/00045
Your ref:

Dear Mr Christopherson

Re: Section 54(4) Notification – Draft Amendment 90 to Ballina LEP 1987

I am writing in response to Council's letter dated 18 December 2006 advising, pursuant to section 54(4) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'), of the Council's decision to prepare a draft local environmental plan ('LEP') to rezone part of the land known as the Stewart Farm, located adjacent to the Coast Road at Skennars Head, to allow for residential development in accordance with the Ballina Urban Release Strategy.

The Council should now continue with the preparation of the draft LEP.

Pursuant to section 74(2)(b) of the EP&A Act, Council is directed to comply with sections 57 and 61 of the EP&A Act in respect of the draft LEP. The environmental study should be prepared taking account of the specifications in the attached Schedule.

The Department supports the dedication of all of the 7(f) zoned land as for addition to the adjoining Crown Reserve as part of the rezoning proposal negotiations is supported, to achieve State Government objectives for the land. This should occur now, as a condition of the rezoning being finalised, and not in a staged manner as indicated in the documentation presented. It is noted that the report to Council on this matter refers to the possibility of a voluntary planning agreement (VPA) to deliver some of the outcomes for the site. Council could consider use of the VPA to achieve appropriate landscaping of the 7(d) zoned part of the land.

You will be aware that an instrument of delegation in respect of my LEP making functions was executed on 16 February 2006. Use of the delegation in respect of a draft LEP is conditional on receipt by Council of a Written Authorisation to Exercise Delegation. As an Authorisation is not being issued on this occasion, Council should submit the draft LEP to the Department seeking a section 65 certificate.

Where any applicable section 117 direction requires the Director General to form an opinion or be satisfied as to certain matters, you need to ensure that this issue is addressed in submitting the draft LEP under section 64.

Please forward a copy of the draft plan and any other information to be publicly exhibited in respect of the draft LEP to the Regional Office with advice to the Department as required under section 64 of the Act when seeking a section 65 certificate.

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Should you have any queries in regard to this matter please contact the Regional Office of the Department.

Yours sincerely


Sam Haddad
Director General

25/11/2007.

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SCHEDULE

Environmental Study Specifications – Draft Amendment to Ballina LEP 1987 – Stewart Farm property, Coast Road at Skennars Head

The environmental study must address the following issues:

- The matters for consideration contained in Clause 8 of State Environmental Planning Policy No. 71 and consideration of the impact of the proposed development on the coastal environment.
- Relevant section 117 Directions.
- The issues identified in the Lennox Head Structure Plan for Areas E and F as contained on pages 22 and 23 of the Structure Plan.
- The impact of any potential development on the adjacent State Environmental Planning Policy No 14 - Coastal Wetlands No. 91A included in the proposed rezoning.
- The impact on any endangered species on the site or on land adjacent to the site particularly on the Coastal Wetland and the Littoral Rainforest.
- An assessment of the traffic implications of the potential development on the local road networks in the area particularly the intersection arrangements for the Coastal Road. This assessment should be undertaken in consultation with the Roads and Traffic Authority.
- The effect of the anticipated development on the flooding regime in the locality and any impacts on the proposed development from flooding.
- The provision and funding of necessary infrastructure, including the capacity of services to cater for the expected population from the anticipated development on the land such as sewerage, water, electricity, public transport and social services.
- The potential for the site to contain acid sulfate soils or potential acid sulfate soils.
- Any other matters identified by any government agency including the Department of Primary Industry, Department of Environment and Conservation, Department of Natural Resources, NSW Rural Fire Service and NSW Heritage Council.