



Notice of Environmental & Sustainability Committee Meeting

Notice is hereby given that a Environmental & Sustainability Committee Meeting will be held in the Ballina Shire Council Chambers, 40 Cherry Street Ballina on **Tuesday 11 December 2012 commencing at 4.00 pm.**

Business

1. Apologies
2. Election of Chair
3. Declarations of Interest
4. Deputations
5. Committee Reports

A handwritten signature in black ink, appearing to read 'Paul Hickey', with a long horizontal line extending from the end of the signature.

Paul Hickey
General Manager

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1. Apologies
 2. Election of Chair
 3. Declarations of Interest
 4. Deputations
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1. Apologies

2. Election of Chair

The Committee should elect a new Chair and decide if the term for the Chair should be 12 months or the term of the current Council (ie until September 2016). Either option is acceptable.

3. Declarations of Interest

4. Deputations

5.1 Cumbalum Precinct A Planning Proposal

5. Committee Reports

5.1 Cumbalum Precinct A Planning Proposal

Delivery Program Strategic Planning

Objective To invite the Council to consider options for the finalisation of the Cumbalum Precinct A Planning Proposal.

Background

Council has been engaged in the consideration of the Cumbalum Precinct A Planning Proposal since mid 2007. The consideration of the subject planning proposal has come about as a consequence of the following:

- The Cumbalum Urban Release Area has been identified in the Council's, and the State Government's, strategic planning framework as a potential future urban growth area since the mid 1990s;
- Rezoning land for urban purposes is required to secure the long-term land supplies needed to accommodate the projected population growth of the shire;
- That the rezoning of additional land for urban purposes would support competition in the land development marketplace and contribute to improving housing affordability in the shire and the region; and
- To provide development and living opportunities on land that is relatively unconstrained by environmental hazards and to reduce development pressure along the coast.

In November 2011, Council resolved to exhibit the planning proposal for public comment [Minute No. 241111/8]. Consequently, the Cumbalum Precinct A Planning Proposal was publicly exhibited for a period of 78 days from 12 January 2012 to 30 March 2012.

Following the conclusion of the public exhibition period, the planning proposal was reported to the Environmental and Sustainability Committee of the Council held on 17 July 2012. The Minutes of the Committee were considered at the Ordinary Meeting of the Council held on 26 July 2012. The Council resolved, at the Ordinary Meeting, as follows in relation to this matter [Minutes No. 260712/4]:

1. *That Council proceed to finalise the Cumbalum Precinct A Planning Proposal, subject to the following:*
 - a) *The proponents providing a signed Voluntary Planning Agreement (or agreement is reached on a suitable alternative mechanism) that satisfies the Council's requirements with respect to securing future infrastructure delivery obligations; and*

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- b) Council's Civil Services Group advising that a stormwater management system can be designed that is capable of servicing the subject land, without having an adverse impact on downstream private properties and ecology.*
- 2. That where items 1(a) and 1(b) are not resolved in a period of three months, the matter be reported to Council for further consideration.*
- 3. That Council pursue the relevant State Government agency regarding the renewal of the maintenance regime of the drainage system within the Ballina Nature Reserve.*

The purpose of this report is to present information to the Council in relation to items 1(a), 1(b) and 3 above and to seek the Council's direction with respect to the finalisation of this matter. It is noted in this regard that the majority of planning matters relating to the subject planning proposal have previously been considered and resolved by the Council. The two exceptions to this are funding for infrastructure delivery to service future development, and potential downstream stormwater impacts. These comprise the key subject matter for this report and its recommendations.

Further detailed background information regarding the subject planning proposal, including the planning history and context, public exhibition processes and analysis of the submissions received during the public exhibition phase of the planning proposal is provided in the report presented to the Meeting of the Environmental and Sustainability Committee of the Council held on 17 July 2012 (Attachment 1). The public submissions received in relation to the public exhibition of the planning proposal, that comprised the attachments to the July Meeting, have been made available on Councillor ipads.

Key Issues

- Strategic land use planning
- Long-term supply of residential zoned land
- Growth management
- Infrastructure delivery
- Environmental constraints
- Affordable housing

Information

The planning proposal process, involving also the preparation of a Local Environmental Study, has identified that parts of the subject land have characteristics which make it suitable to accommodate urban development, subject to the resolution of the following outstanding matters:

- Agreement on an appropriate funding mechanism for the delivery of urban infrastructure to support the development of the land, that does not place an inappropriate burden on the Council and the Ballina Shire community; and

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- Confirmation that the development of the land would not have the inevitable consequence of adversely impacting on downstream properties due to increased stormwater.

Further information relating to the above outstanding matters is provided below.

Infrastructure Delivery

The infrastructure for the Cumbalum Urban Release Area (Precinct A & Precinct B) has been excluded from Council's Section 94 Development Contributions Plans for roads, open spaces and community facilities and from Council's Section 64 Plans for water and sewerage, except in relation to contributions for head-works (water & sewerage) and shire-wide contributions for roads and open spaces & community facilities. Council's Civil Services Group has previously advised that the reasons for the exclusion of the Cumbalum Urban Release Area (CURA) specific infrastructure from these plans include the following:

- The delivery of infrastructure through Council's plans risk the network being constructed in an inefficient manner due to the potential for restrictions to be imposed by landowners (individual landowners may or may not be involved in the development to be serviced by a particular item of infrastructure). Council's recent experience in the Wollongbar Urban Expansion Area is noted;
- Council's ability to meet its obligations may be limited due to the potential for protracted negotiations with landholders;
- Council is subject to financial risk if the cost to provide the infrastructure is greater than the amount levied by the developer charge. It is noted that the developer charge is based on reference rates and site investigations undertaken well in advance of detailed design work being undertaken; and
- In the case of Section 94 Development Contributions Plans, the State Government's 'Contributions Cap' of \$20,000 per allotment limits Council's ability to adequately recoup infrastructure costs through developer contributions.

Further, Council's Civil Services Group notes in relation to water and sewer charges:

Section 64 charges for water and sewer are primarily for contribution toward head-works and shared infrastructure that caters for demand beyond the scope of the development. Where a development needs infrastructure that only provides for the needs of the development, the provision of those assets are the responsibility of the developer. It is the responsibility of the developer to design and construct infrastructure to meet the needs of their development and Council is not in a position to understand the proposed development or needs of the development in relation to water and wastewater infrastructure prior to the submission of detailed designs and plans. As such it would be impossible for Council to incorporate fair and reasonable costing into any Developer Service Plan that would not entail unnecessary risk on either the developer and /or Council.

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Were a Section 64 Plan to be prepared for the CURA development that incorporated all infrastructure, the developer would bear the cost of providing the infrastructure and this would reflect in the charges. Without a detailed plan of what is proposed to be included in the development Council would be forced to be unnecessarily conservative which may lead to higher charges and inefficient designs.

Consequently, it has been the Council's preference that alternative arrangements be pursued to ensure the land can be adequately serviced in the future without placing an unreasonable burden on the public. Despite this matter being raised with the proponents on numerous occasions during the preparation of the planning proposals, it was not able to be resolved prior to the public exhibition of the planning proposal.

To address this matter, Council sought to arrive at an alternative arrangement for securing the provision of infrastructure. Consequently, Council had a draft Voluntary Planning Agreement (VPA) prepared which incorporates the following:

- Identification of infrastructure to be provided in association with the future development of the land, including arterial roads, drinking and recycled water supply, sewerage infrastructure, open spaces and community facilities;
- Identification of the parties responsible for undertaking specific works and the timing for the delivery of those works; and
- Identification of the obligations of the parties, as landholders, to allow the creation of easements and the dedication of land, to facilitate the developers' obligations.

It is noted that the VPA makes reference to the obligations of the parties to the agreement separately, as developer and as landholder, as the 'developer' involved in a particular stage of development may be obligated to deliver infrastructure located on another's landholding that is not the subject of that stage of development. This arrangement seeks to ensure there are no impediments to the logical and efficient extension of development and supporting infrastructure.

It is noted that the negotiation of a Voluntary Planning Agreement for Precinct B has been successfully concluded, and consequently the Precinct B VPA was recently placed on public exhibition. The Precinct B VPA and planning proposal are the subject of a separate report in this agenda.

As noted above, the Council's July resolution relating to this matter provided for the finalisation of the Precinct A Planning Proposal subject to (among other things):

- a) The proponents providing a signed Voluntary Planning Agreement (or agreement is reached on a suitable alternative mechanism) that satisfies the Council's requirements with respect to securing future infrastructure delivery obligations; and*

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Following the Council's July Meeting, a draft Voluntary Planning Agreement, prepared on the basis of the agreement drafted for Precinct B, was presented to the Precinct A proponents for their consideration. In response, the development proponents for Precinct A have presented Council with an alternative approach in correspondence dated 12 October 2012 (provided as Attachment 2 to this report).

Ardill Payne & Partners argue that a Voluntary Planning Agreement is not a suitable mechanism for the delivery of infrastructure to Precinct A on the basis of the following:

- Difficulties in reaching the agreement among the parties within the development group, that the VPA would necessitate, due to the number of landholders and their differences with respect to development yield;
- Reluctance of the landholders to have the agreement registered to land titles due to potential implications for mortgage arrangements and property transfers;
- A view that landholders developing later in the process will be disadvantaged due to infrastructure obligation "triggers" in the VPA;
- Uncertainty associated with the potential for infrastructure requirements to change over time;
- Potential difficulties in obtaining the agreement of all landholders should amendment of the agreement be required;
- That the incorporation of Precinct A into Council's s.94 and s.64 plans is consistent with Council's 'south to north rollout' strategy for the Cumbalum Ridge (as per Council's Urban Land Release Strategy 2000);
- That the VPA for Precinct A was not negotiated in accordance with the Council's Voluntary Planning Agreement Policy, as the VPA was only presented to the proponents by the Council after the public exhibition of the planning proposal and not through a process of negotiation.

It is noted that many of the above objections reflect the necessity, if a VPA is supported, for the developers to enter into agreements with each other to facilitate the orderly development of the area as a whole. It is acknowledged, however, that such agreement may be difficult to achieve. Notwithstanding, it could be argued that reaching agreement is wholly within their power, if they were sufficiently motivated to do so.

With respect to negotiations over the preparation of the VPA, the infrastructure items included in the draft VPA provided to the Precinct A proponents reflect the work previously undertaken with the involvement of all parties with respect to the preparation of the Cumbalum Infrastructure Delivery Plan.

Further, it is noted that the landholders are under no obligation to sign the VPA, just as the Council is under no obligation to rezone the land if the land cannot be adequately serviced by urban infrastructure or to include the land in Council's s.94 and s.64 plans if it is uneconomical for the Council to do so.

Ardill Payne & Partners' submission seeks the Council's support to include Precinct A within Council's development contributions regime (Section 94 and 64), as an 'alternative mechanism' with respect to the Council's July resolution. It is noted that the reliance on s.94 and s.64 has, to date, not been considered desirable for the reasons outlined above.

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Notwithstanding the above, the following section further considers the implications, for the Council, of including Precinct A in Council's development servicing and contributions planning framework.

In relation to this matter Council's Civil Services Group advises as follows:

Ardill Payne & Partners have requested that Council consider an 'alternative mechanism' for the provision of infrastructure for CURA Precinct A, in place of the proposed Voluntary Planning Agreement (VPA). The alternative proposal would involve: new Section 94 contribution plans for roads, community facilities and open spaces; and amendment to Council's Section 64 Development Servicing Plans for sewer and water provision.

Fundamentally, this proposed 'alternative mechanism' is how the development of Ballina Heights has occurred to date. Consequently, this approach has the inherent issues for Council in dealing with multiple landowners, holding financial risk if infrastructure costs are greater than contributions received and needing to ensure sufficient funds are available to provide infrastructure to coincide with the development timetable.

The infrastructure required by the development is the same whether provided via a VPA or through s.94 and s.64 plans. Under s.94 and s.64 plans, the Council collects funds from developers and delivers the infrastructure, while the VPA would require the developer to provide infrastructure at predetermined stages of the development, mostly as 'works-in-kind'.

The advantages for the developer of relying on s.94 and s.64 plans relate to the contribution plans setting a predetermined fixed rate of contributions that are payable, in stages, as development occurs. Consequently, under s.94 and s.64 plans, the developer does not bear the financial risk or holding costs associated with forward funding items of infrastructure. Because of this, s.94 and s.64 plans are typically developed on a conservative basis and have a built-in contingency to cover financial variations that may occur over time.

The disadvantage for Council on reliance on contribution plans is that Council carries an increased risk that there won't be sufficient funds available when the time comes to provide infrastructure, sometimes in advance of development occurring. It has been generally considered that developers should bear these risks rather than the community. Further, it is noted that these developments typically take place over many years, often involving many development stages. A further disadvantage, for all parties, is that contributions plans can be inflexible to such changes and the process to amend the plans can be protracted, compared with the capacity to amend a VPA with the agreement of the parties involved.

As noted above, whilst the infrastructure that is to be provided is the same whether it is funded via a VPA or a s.94 plan, the key issue difference is that there is a transfer of risk, from the developer to the Council/community. The key risks for Council, associated with the incorporation of Precinct A into Council's development contributions regime, include the following:

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- *Construction risk – the risk that construction costs will rise over the life of the plan, at a greater rate than anticipated;*
- *Yield risk – the risk that the ultimate yield of the development is lower than that projected, leading to less funds being collected;*
- *Rate of development risk – the risk that development will occur at a slower rate than projected, leading to higher debt servicing costs if loan funds are utilised; and*
- *Legislative risk – the risk that changes in the legislative arrangements with respect to development contributions leaves Council exposed to unforeseen costs.*

Notwithstanding, if Council was to accept the alternative mechanism proposed by Ardill Payne & Partners, there are several critical matters that would need to be resolved prior to the rezoning being finalised. These matters are the amendment of Council's s.94 and s.64 plans (or the preparation of stand-alone plans for Precinct A) and making a request to the NSW Government to have the cap on development contributions lifted or removed.

Development contributions (levied under s.94) are currently capped by State Government Ministerial Directive (issued under s.94E of the Environmental Planning and Assessment Act 1979) to a total of \$20,000 per new subdivision lot. An avenue is available, however, within the Ministerial Directive for this cap to be either lifted to a total of \$30,000 per lot or removed all together. It is noted that such dispensation has been granted in other similar circumstances, most locally for the Moonee and West Coffs Release Areas in Coffs Harbour. This would, however, require the assent of the Minister.

Existing s.94 contributions (roads, open space and community facilities combined) that future development in Precinct A will be required to pay under existing plans are \$15,549 per lot. As will be noted below, the incorporation of the additional infrastructure items required as a consequence of the future development of Precinct A into Council's s.94 plans would result in per lot contributions of approximately \$38,722 per lot, well exceeding the \$20,000-\$30,000 contributions cap. As a consequence, the incorporation of Precinct A into Council's contributions plans would require the Ministers' approval to remove Precinct A from being subject to the contributions cap. Without such Ministerial approval Council would incur an unfunded liability in the order of \$7.4 - \$15.9 Million if Precinct A was incorporated into Council's s.94 contributions plans (depending on the level of the cap in the range of \$20,000 - \$30,000).

Further details regarding the infrastructure that would need to be incorporated into s.94 and s.64 plans and the implications of this on the contributions payable, are provided below. The cost estimates on which the following are based are derived from the CURA Section 94 Preliminary Cost Estimates – December 2011 report prepared by GHD, on Council's behalf.

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s. 94 – Roads Contributions

The roads in Precinct A required to service future development are Ballina Heights Drive, Sandy Flat Road & works at the Pacific Highway. The upgrades or extensions to these roads could be included into a contributions plan, on the basis of a continued south to north rollout of development. Precinct A is currently part of Area 16 in the Ballina Shire Roads Contributions Plan 2010 and attracts a contribution of \$10,673 per lot for shire wide roads. The implications, in terms of contributions payable per lot, associated with the incorporation of Precinct A into the roads plan are set out below:

- If Ballina Heights Drive was to be included in the s.94 roads plan, an additional contribution of \$9,261 per lot would be payable.*
- The south to north rollout will require Sandy Flat Road to be upgraded as Precinct A develops. If Precinct B was not to proceed and Precinct A was fully developed, then Precinct A would need to wholly provide the Sandy Flat Road upgrades. If Sandy Flat Road was to be included in a s.94 plan, an additional contribution of \$5,847 per lot would be required; and*
- Upgrade works required to the Pacific Highway Ross Lane and Cumbalum interchanges are estimated at an additional contribution of \$1,706 per lot.*

In summary, total roads contributions in addition to the existing s.94 roads plan contributions are estimated at \$16,814 per lot for Precinct A.

s. 94 - Open Space & Community Facilities Contributions

The current Open Space & Community Facilities contributions, as per the Ballina Shire Contributions Plan 2008, for Area 16 are \$4,714 per lot.

The estimated cost associated with the inclusion of Precinct A open space and community facilities would require an additional contribution of \$6,359 per lot.

s. 64 - Water & Sewer Charges

Combined water and sewer (s.64) charges applicable under Council's Development Servicing Plans (DSPs) for Precinct A are currently \$9,692 per lot with an additional Rous charge of \$8,628 per lot, making a total of \$18,320 per lot.

Delivery of the additional items identified for Precinct A in the Cumbalum Infrastructure Delivery Plan (IDP), that are not currently in the DSP, would require additional contributions of \$6,300 per lot. The total s.64 charges for Precinct A would, therefore, come to a total of \$24,620 per lot. It is noted, however, that water and sewer charges are levied under s.64 of the Local Government Act 1993 and are, therefore, not subject to the State Government's cap on s.94 developer contributions.

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It is also noted that notwithstanding the absence of a statutory cap on contributions that may be levied under s.64, the financial and project risk related issues for Council, associated with incorporating Precinct A into Council's s.64 plans, remain.

Procedure for inclusion of Precinct A into Council's contributions regime

Having regard for the issues identified above, the incorporation of the above infrastructure items for Precinct A into Council's contributions regime (s.94 & s.64 plans) would require the following:

- Obtaining Ministerial approval to omit Cumbalum Precinct A from the application of the State Government cap on development contributions;*
- The drafting, exhibition and adoption of s.94 and s.64 plans, involving either the amendment of existing plans or the preparation of stand-alone plans; and*
- The determination of development staging that supports an orderly extension and upgrading of infrastructure which does not leave Council unduly exposed to providing infrastructure when minimal funds have been collected.*

In order to protect these arrangements and minimise the associated risks for Council (outlined above) these items would need to be in place prior to the lodgement of applications for the development of the land to ensure that any future development consents can refer to the adopted plans. If Council is unable to secure Ministerial approval for exemption from the contributions cap, and appropriate s.94 and s.64 plans are not in place, the development consent process could seek to require infrastructure delivery via conditions of consent, however, the developer has the ability to contest such consent conditions in the court.

Further, such an outcome would likely result in Council being required to make up a short-fall of costs in circumstances where a higher standard of service is required than can reasonably be required of a particular development stage or application. Examples of this could include the provision of arterial road infrastructure in instances where the development stage, the subject of the development consent, does not alone require the provision of a road to that standard. Another example would be the provision of community facilities required to service multiple stages of development, but for which no single stage exceeds the threshold for such facilities reasonably being provided. The real potential for this sort of outcome to occur was recently demonstrated in the case of the Wollongbar Expansion Area link road.

In conclusion, Council's Civil Services Group advises that a Voluntary Planning Agreement remains Council's preferred approach for the funding of infrastructure delivery. Notwithstanding, the incorporation of Precinct A into Council's contributions regime remains an option available to the Council. This option would, however, require that the Minister exempt Precinct A from the application of the State Government's cap on s.94 development contributions, to avoid an unreasonable cost burden on the Council and the community. In considering the contributions approach, it is important to recognise that this transfers financial risks associated with infrastructure

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delivery to the Council and local community, whereas a VPA attributes such risks to the developer of the land.

In terms of infrastructure staging, it is noted that clauses 6.2 and 6.3 of the draft Ballina Standard Instrument Local Environmental Plan provide additional, although limited, mechanisms to facilitate adequate arrangements being in place for the provision of infrastructure. This matter is addressed further elsewhere in this report.

Stormwater Management

It is noted that the planning proposal process has, to date, relied largely on the provision of technical information by the development proponents that has been peer reviewed by Council staff and Council's consultants in relation to the Local Environmental Study (prepared by GHD Pty Ltd). As indicated in the attached Environmental and Sustainability Committee Report of 26 July 2012, concerns have remained regarding the adequacy of the stormwater management information provided, particularly in relation to the capacity of downstream properties to receive increased stormwater volumes.

To assist the Council in its understanding of the stormwater management issues, flooding and drainage consultants WBM BMT have been engaged by the Council to undertake stormwater assessments involving the modelling of the following development scenarios, in comparison to a base-case scenario of no development occurring:

- Development of Precinct A
- Development of Precinct B
- Development Precinct A and Precinct B
- Development of Precinct A and Precinct B factoring in projected +90cm sea-level rise by the year 2100.

The modelling tested the above scenarios for a representative 'wet year' and representative 'dry year' based on historical rainfall information. The modelling outputs are a series of maps with data expressed in terms of the percentage increase/decrease of time inundated, relative to the base case scenario (of no development & no sea-level rise).

The results of the stormwater modelling are provided as Attachment 3 to this report (attached under separate cover). It is noted that the WBM report relates also the Cumbalum Precinct B Planning Proposal which is the subject of a separate business paper report.

The WBM report includes the following observations, under the Precinct A (alone) post-development scenario:

- *Most of the Ballina Nature Reserve and wider modelled area experiences less than 1% change in inundation during either the representative wet or dry years;*
- *The representative wet year shows a slight reduction in inundation duration compared with the representative dry year. It is expected that the proposed development allows slightly faster overland flow travel times, which enables more surface water to drain from the wetland*

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area prior to the emergence of groundwater at the base of the Cumbalum Ridge;

- Immediately to the east of Ballina Heights and the CURA-A, there are localised areas of increased and decreased inundation duration. The highly localised nature of the impacts in this area makes it difficult to draw any conclusive proof that flooding is likely to increase as a result of the CURA-A development; and
- Similarly, immediately to the north of the CURA-A, there are localised areas of increased and decreased inundation duration. The highly localised nature of the impacts in this area makes it difficult to draw any conclusive proof that inundation is likely to increase as a result of the CURA-A development.

The WBM report includes the following observations, under the Precinct A & Precinct B (combined) post-development scenario:

- Most of the Ballina Nature Reserve and wider modelled area experiences less than 1% change in inundation during either the representative wet or dry years;
- Both the wet and dry years show a wider area of reduced inundation duration across most of the Ballina Nature Reserve compared with the isolated CURA-A and CURA-B scenarios. The reduction is mostly less than 2% and is more pronounced during the wet year. It is expected that the proposed development allows slightly faster overland flow travel times, which enables more surface water to drain from the wetland area prior to the emergence of groundwater at the base of the Cumbalum Ridge;
- Immediately to the east of Ballina Heights and the CURA-A, and immediately to the north of the CURA-A, there are localised areas of increased and decreased inundation duration. The highly localised nature of the impacts in this area makes it difficult to draw any conclusive proof that inundation is likely to increase as a result of the combined CURA-A and CURA-B developments; and
- Along Ross Lane, there appears to be a trend for inundation duration to decrease during the representative wet year.

The WBM report includes the following observations, for the Precinct A & Precinct B & predicted sea-level rise (combined) post-development scenario:

- Most of the Ballina Nature Reserve and modelled area to the east of the Cumbalum Ridge is likely to experience an increase in flood inundation duration by more than 10% as a result of 900mm sea level rise;
- During the dry year, there are isolated areas of higher ground where inundation duration will not change by more than 2%. During the wet year, these 'islands' are likely to observe an increase in inundation duration by up to 5%; and
- Sandy Flat is likely to only experience significant change during wetter years.

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In conclusion the WBM report states:

In all development scenarios, the modelling has shown there to be less than 1% change in inundation duration across most of the low lying ground at the base of the Cumbalum Ridge. In most cases, there appears to be a slight trend for inundation duration to decrease as a result of development. This minor decrease (generally less than 2%) is likely to be attributed to the change in response times of the various hydrologic processes involved. Urbanisation will typically result in a larger proportion of water reaching the bottom of the Cumbalum Ridge via surface runoff, than via sub-surface flow. Therefore, water will reach the low lying ground quicker, allowing it to be released into North Creek sooner, and before the groundwater flow re-emerges as springs.

It is possible that urbanisation can cause localised areas of increased inundation, however, the accuracy of the topographic data and the inherent modelling uncertainties have not detected such changes.

The independent stormwater assessment of development scenarios undertaken by WBM does not demonstrate that significant adverse impacts would be an inevitable result of urban development occurring in Cumbalum Precinct A. The drainage dynamics of the nature reserve and adjoining properties are affected by a range of factors. Significantly, the report indicates that predicted sea-level rise is likely to have a much more notable effect on the inundation of public and private land in the locality. Importantly, however, the modelling also indicates that the Cumbalum development precincts lie outside of the area affected by this predicted sea-level rise impact.

Notwithstanding the above, the limitations of the model are acknowledged, in that the outcomes of development cannot be entirely or perfectly predicted. Consequently, further consideration of stormwater matters will need to be undertaken at future stages of the development assessment process involving further refinement of stormwater treatment and mitigation strategies and the analysis of their potential impacts on more localised areas. In this regard, it may be advantageous for the landholders/proponents to actively seek and collate data in advance of any development application should the land be rezoned.

Drain Maintenance

In relation to the Council's resolution (point 3) regarding maintenance of the drainage system within the Ballina Nature Reserve, Council wrote to the NSW Office of Environment and Heritage, National Parks & Wildlife Service (NPWS) (as Landowner) and Richmond River Country Council (RRCC) (responsible for drainage maintenance within the reserve). The advice received from these agencies is provided as Attachments 4 and 5 to this report. Further, Council staff met with officers of the NPWS and OEHL to solicit further advice regarding this matter on 31 October 2012. Additionally, Council also received advice on this matter, in correspondence from the Minister for the Environment in response to inquires made by Mr Don Page MP dated, 11 November 2012, which is provided as Attachment 6 to this report.

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The basis of the advice provided, verbally and in writing, is as follows:

- The only legal drains within the reserve ('Drain Line "C"' and 'The Union Drain') are located in the northern portion of the nature reserve near Ross Lane. Consequently these drains are not thought to significantly effect drainage in the southern portion of the nature reserve;
- A number of other drains constructed without authorisation, prior to the gazettal of the nature reserve, have been closed and rehabilitated;
- Many of the issues with drainage within and adjacent to the reserve appear to be associated with the low elevation of the land, being in some cases below mean sea-level. As a consequence, further drainage works may be ineffective in facilitating improved drainage;
- The potential for dredging natural watercourses within the reserve, proposed by one landholder within the vicinity, is severely restricted by practicality, legislative protections for national parks, wetlands and the environment generally, and by having questionable (possibly negative) impacts with respect to facilitating drainage of the reserve.

It is further noted that the Ballina Nature Reserve Plan of Management (2003) states, in relation to this matter:

"The network of drains was constructed through the Reserve to allow for agricultural production on wetlands and low-lying lands. During periods of heavy rain, floodwaters may cover low-lying farmlands for extended periods. Some nearby landholders would like to re-excavate the drains to promote quicker removal of floodwaters. Of concern, however, is the effect excavation may have on the release of acid-sulphate waters into North Creek and the potential impacts such works may have on the hydrology and, in turn, the ecology of the Reserve wetlands. "Improved" drainage could significantly threaten the natural values of the Reserve and North Creek".

It is also noted that both agencies advised Council staff that, from an ecological perspective, additional water retained within the reserve could have beneficial impacts for the reserve via the amelioration of acid sulphate soils.

Status of the Ballina Standard Instrument LEP and Local Planning Framework

Liaison with the State Government regarding finalisation of the Ballina Standard Instrument Local Environmental Plan is ongoing. It is anticipated that Ministerial approval of the plan is imminent, albeit with the likelihood that the E2 and E3 zones will be deferred from the plan until an independent review of Far North Coast local councils' application of E zones has been concluded. Further information regarding the implications of the deferral of E zones, with respect to the subject planning proposal, is provided below.

Due to the timing and progress of the Ballina Standard Instrument LEP and consequential review of Council's Development Control Plan, a stand-alone DCP for the Cumbalum Urban Release Area has not been prepared. However, general provisions for development are provided for in the (recently exhibited) draft Ballina Shire Development Control Plan. Further, it is noted

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that provisions of the Ballina Standard Instrument LEP (clauses 6.2 and 6.3 as presently drafted) require that consent (for development of land in a new release area) not be granted unless:

- The Council is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required (clause 6.2); and
- A development control plan has been prepared for the land that provides for a range of matters including: development sequencing; transport hierarchy; landscaping; recreation; stormwater management; environmental hazards; and urban design and density controls (among other matters) (clause 6.3).

Clause 6.2 appears to provide some security to the Council with respect to ensuring that adequate arrangements are in place for the provision of infrastructure regardless of who the consent authority may be in relation to future development applications.

With respect to clause 6.3 of the draft Ballina LEP 2011, which requires that a DCP must be prepared prior to the granting of development consent, it is noted that section 74D of the Environmental Planning and Assessment Act 1979 allows that such a DCP may be drafted by the development proponents with Council having only 60 days to adopt the plan (with or without amendments) before a development application can be lodged, notwithstanding the requirement of the clause. This timing may be extended by 60 days if further information is required of the proponent to finalise the DCP.

Given the above and the intended planning outcomes (i.e. a new village), a development control plan for the Cumbalum Urban Release Area would, if the rezoning proceeds, be given a high priority in Council's work program. In the meantime, the general provisions of Council's new DCP framework will apply to the area, provided the new DCP is adopted for implementation.

The Minister's decision to defer the application of E zones from the Ballina Standard Instrument LEP would mean, for the purpose of the subject planning proposal, that the new Standard Instrument LEP would not apply to land proposed to be zoned E2 or E3 under the Precinct A planning proposal. As a consequence, the 1(d) Rural (Urban Investigation) Zone under the Ballina LEP 1987 would prevail in these areas by default.

Further, any related provisions relating to land deferred from the draft LEP would not have effect, on the basis of the Department's latest advice. Council may, however, request that aspects of the planning proposals be implemented via the Standard Instrument LEP and other aspects (those relating to proposed E2 and E3 zone areas) be implemented via amendment to the Ballina LEP 1987, through equivalent zones and provisions. It is not clear, however, whether the Department would be amenable to such a request. If such a request was declined, the removal of the environmental protection zones from the Ballina Standard Instrument LEP would have the following additional implications:

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- The planning proposal would not, by means of environmental protection zoning, achieve the environmental outcomes recommended by the Local Environmental Study. Those parts of the subject land that Council had proposed to be zoned E2 Environmental Conservation Zone would be deferred from the new plan, and consequently, the 1(d) Rural (Urban Investigation) Zone under the Ballina LEP 1987 would prevail;
- Proposed heritage items, that are located in areas proposed for Environmental Protection zoning, would not be listed as heritage items in the LEP; and
- The proposed E3 Environmental Management Zone, applied in a manner consistent with the Alstonville-Wollongbar Urban Buffer, would not have effect. As a result the protections afforded by the E3 zone, relating to inappropriate development opportunities (such as those provided for in the Seniors Living SEPP on rural land located adjacent to urban zones), would not apply.

As a consequence, it is recommended that, should Council resolve to proceed with the subject planning proposal, the Department be requested to implement the planning proposal via amendment to both the Ballina Standard Instrument LEP (for land in the proposed urban and rural zones) and the Ballina LEP 1987 (for land in proposed environmental protection zones. The inclusion of environmentally sensitive land in environmental protection zones is consistent with the following Ministerial Directions, made pursuant to s.117 of the Act:

- No. 2.1 Environmental Protection Zones states *'A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas'*.
- No. 5.1 Implementation of Regional Strategies states *'Planning proposals must be consistent with a regional strategy released by the Minister for Planning'*.

In relation to Direction 5.1, the Far North Coast Regional Strategy (FNCRS) applies to Ballina Shire. On this matter the FNCRS includes the following relevant actions:

- Environment and Natural Resources – Actions – *'Local environmental plans will protect and zone land with State or regional environmental, agricultural, vegetation, habitat, waterway, wetland or coastline values'*;
- Settlement and Housing – Actions – *'Local environmental plans [will]... contain the spread of urban development, efficiently utilise existing services and infrastructure and protect areas of high conservation value'*; and
- Settlement and Housing – Actions – *'Local environmental plans will maintain interurban breaks between existing and new settlements'*;

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As the recommendations relating to the allocation of zones, presented here, have been the result of an extensive and rigorous local environmental study and plan process there does not appear to be any justification for the environmental zoning recommendations of the subject planning proposal not being implemented by the Department, given that there is a mechanism available (BLEP 1987). The proposed zoning arrangement represents a balancing of the site assessment and issues analysis and as such, it is considered optimal for the full package of zones to be implemented.

It is also noted that the Cumbalum planning proposals rely on the location of stormwater infrastructure within several non-urban zones including the RU2 Rural Landscape Zone and E3 Environmental Management Zone. Council has previously been advised regarding inadequacies of the NSW Government's Standard Instrument LEP with regard to stormwater management matters. The difficulty with this is that stormwater management is not presently a defined land use for the purpose of the plan and is therefore not permissible in non-urban zones as it currently stands.

The permissibility of stormwater infrastructure, in the Standard Instrument LEP, has been the subject of ongoing discussions between Council staff and the Department. Although not certain, it appears that this issue will be resolved prior to the new LEP coming into effect. It is noted, however, that should the environmental zones in the new plan be deferred by the Minister, as foreshadowed, aspects of the subject planning proposal will need to be incorporated into the Ballina LEP 1987 via the insertion of an enabling clause. This would ensure that stormwater infrastructure is permissible on rural land subject to a proposed E3 Environmental Management zone (not areas proposed E2 Environmental Conservation Zone).

State Government's Timeframe for Finalisation

As Councillors will be aware, the NSW Government sets timeframes for Council's completion of planning proposals. Due to the complex nature of the Cumbalum planning proposals, Council has requested extensions to the Government's timeframes over time. In granting its latest timeframe extension the Department, in its letter dated 5 September 2012 (provided as Attachment 7 to this report), advised as follows:

The Planning Proposals are now due for completion by 19 February 2013 (Precinct A) and 22 February 2013 (Precinct B). Council is required to submit the planning proposals to the department within three months (expiring 19 or 22 November 2012), to allow sufficient time for legal drafting and finalisation within the six month period.

If Council does not submit the proposals within this timeframe, the department will consider a recommendation to the Minister that an alternate relevant planning authority be appointed. In this regard, Council should consider whether it could progress the proposals more rapidly by forwarding them to the department to commence legal drafting prior to the final adoption of the Voluntary Planning Agreements.

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As the above indicates, the Department is considering recommending to the Minister that an alternative planning authority be appointed to finalise the Cumbalum planning proposals if Council does not finalise the planning proposals immediately. Further, the above indicates that the Department appears unconcerned to ensure that infrastructure matters are adequately resolved prior to the matter being finalised.

It is also noted that Council staff understand that the Department's considerable interest in this matter is, at least in part, the result of strong representations made by the local Member for Ballina and Minister for Local Government Don Page MP, on behalf of the Precinct B proponents.

Council's intention to date has been to ensure that a development control plan and contributions plans are in place prior to the finalisation of the subject planning proposal. However, given the above and the following reasons, this position appears to be no longer sustainable:

- Baseline planning controls are now provided for in the draft Ballina Shire Development Control Plan;
- As outlined above, clause 6.2 of the Ballina Standard Instrument LEP makes provision that consent shall not be granted unless the Council is satisfied that public utility infrastructure is available or that adequate arrangements are in place;
- As outlined above, clause 6.3 of the Ballina Standard Instrument LEP makes provision for a development control plan being in place, that addresses a range of matters relating to the subdivision of new release areas, prior to the granting of consent for the development of the land (albeit with limitations due to section 74D of the Act, as outlined above);
- The apparent intention of the State Government to rezone the land, despite any reservations of the Council with respect to potential adverse property impacts and uncertainty regarding infrastructure delivery, as outlined above; and
- The risk that, where the Department intervenes, issues of importance to Council may not be addressed by the Department in the same way that Council would have considered the matters.

Notwithstanding, the preparation of development contributions plans may be required in order to obtain the Minister's approval for lifting the contributions cap. This will involve some considerable further delay. Consequently, it is recommended that the proponents be invited to express, in writing to the Minister, their support for the lifting of the contributions cap, along with an indication that they accept further delay in order to achieve an equitable public interest outcome with respect to this matter.

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Summary Comments

As has been previously reported to the Council, Cumbalum Precinct A has comprised an important component of Council's, and the State Government's, urban growth strategy for the shire, and the region, for a considerable period. The urban suitability investigations undertaken as part of the Local Environmental Study prepared as the basis of the planning proposal have identified that parts of the precinct have physical capabilities appropriate to accommodate urban development.

The majority of planning matters relating to this planning proposal have previously been considered and resolved by the Council, with the exception of the following, which are the subject of the present report:

- Infrastructure delivery - that an appropriate mechanism is in place to provide for the efficient delivery of infrastructure to service future development without placing an unreasonable burden on the public for the extension of those services; and
- Stormwater management – determining that stormwater volumes arising from the future development of the land will not have adverse impacts on downstream private and public properties or the environment.

In relation to stormwater impacts, the assessment undertaken by WBM, does not demonstrate that significant adverse impacts would be likely as a result of urban development occurring in Cumbalum Precinct A, in terms of either property impacts or ecology. Notwithstanding, it is acknowledged that the potential impacts associated with stormwater management require that these matters be considered, and carefully addressed further, at future stages of the development process.

With respect to infrastructure delivery matters, Council's Engineers have advised that, subject to the Minister acceding to exempt Cumbalum Precinct A from the NSW Government's cap on (s.94) development contributions, the incorporation of Precinct A into Council's s.94 and s.64 plans may be accommodated. Importantly though, the rezoning would likely have substantial negative financial consequences for the Council and the ratepayers of Ballina Shire in the absence of the Minister's agreement regarding the exemption of Precinct A from the contributions cap.

Consequently, should this option be pursued, it is recommended that the planning proposal not be referred to the Department for finalisation until advice is received that the Minister will accede to Council's request.

Whilst the incorporation of Precinct A into Council's development contributions regime would represent an acceptable planning outcome in this instance, due to the significant financial implications for the Council, the provision of a Voluntary Planning Agreement (VPA) by the development proponents remains the overriding staff preference with regard to this matter. The basis of this preference is that a VPA would provide for the delivery of infrastructure required directly as a consequence of the future development of the land, that does not otherwise service the existing population of the shire, in a manner that would not require the Council to accept the associated financial risks of s.94 and s.64 plans, outlined above.

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In pursuing the above course of action, it is important to acknowledge that, on the basis of the Department's most recent advice, the Minister may remove the subject planning proposal from the Council's administration, due to the delay in the finalisation of this matter. Further, it is noted that a decision by the Council to defer the consideration of this matter for any reason would likely invite the Department's immediate intervention.

Council has sought to ensure that the subject comprehensive rezoning process addresses all relevant social, environmental and economic issues in a manner which reasonably safeguards the environment, public health, minimises financial risk to the ratepayers of Ballina Shire and ensures that future residents have the benefit of appropriate services and infrastructure. This has been the basis of Council's approach to date. As outlined above, it appears that the substantial impediments to the progress of the planning proposal can be overcome, subject to the measures outlined in this report.

Summary Points

In summary, the Precinct A Planning Proposal, involving the rezoning of land zoned 1(d) Rural (Urban Investigation) Zone, under the terms of the Ballina LEP 1987, to a mixture of residential, environmental and rural zones:

- is consistent with the strategic planning framework for Ballina Shire and the North Coast Region;
- is supported by detailed environmental assessments undertaken through, and subsequent to, the local environmental study and plan process; and
- is able to be supported by appropriate urban infrastructure, subject to the recommendations outlined in this report, in a manner that will not place an inappropriate burden on the public.

Sustainability Considerations

- **Environment**

The rezoning of land for urban purposes has environmental implications for the land and the locality, though processes undertaken demonstrate that these impacts are manageable under the circumstances.

- **Social**

The provision of additional residential development would contribute to the changing social environment of Ballina Shire and provide existing and future residents with greater housing choice. Development may also place additional demands on Council and other government and non-government organisations for the provision of social services and urban infrastructure. However, it is noted that development of this land will be consistent with the Council's and the Government's endorsed and established urban land release strategies.

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- **Economic**

The increase in population arising from future development of the subject land may contribute to the economic development of the locality and the shire, via the additional aggregate demand in the economy, construction activity and the provision of labour resources to local businesses.

Legal / Resource / Financial Implications

The rezoning of land for residential purposes would enable landowners to lodge development applications for residential subdivision and development of the land.

As outlined in the above report, subject to this matter proceeding at this time, further consideration would need to be given, at development application stage, to the potential downstream impacts associated with increased stormwater volumes, including the potential for increased 'nuisance' flooding on downstream private properties. As noted above, there could be legal implications, under civil law, for the future consent authority should development consent be granted and significant adverse downstream impacts occur.

The rezoning of the subject land, in the absence of either a Voluntary Planning Agreement being in place or the Minister agreeing to exemption of the land from the application of the NSW Government's cap on development contributions, could have significant legal and financial implications for the Council.

Consequential actions arising from the finalisation of the subject planning proposal, relating to the preparation, exhibition and further reporting associated with Council's development contributions plans and development control plan, can be accommodated within existing resources.

Consultation

This matter has been the subject of extensive consultation with landholders, Government and non-Government agencies and the broader community. Council has met the requirements of the *Environmental Planning and Assessment Act 1979* in carrying out its community engagement initiatives for the planning proposal.

Options

1. Discontinue the subject planning proposal.

This approach would involve:

Council discontinuing the Precinct A Planning Proposal on the grounds that Council is not satisfied that adequate arrangements can be made for the provision of essential infrastructure to service the development in a way that would not impose an inappropriate burden on the Council for the provision of that infrastructure.

This option is not recommended on the basis that:

5.1 Cumbalum Precinct A Planning Proposal

- a) The rezoning investigations undertaken to date indicate that parts of the subject land have a capability to accommodate urban development in a manner that would have minimal impact on the environment; and
 - b) Alternative mechanisms for the delivery of infrastructure that would facilitate the development of the land without placing an inappropriate economic burden on the public remain available.
2. Defer the subject planning proposal until such time as an alternative mechanism has been agreed upon for the provision of infrastructure that would not place an inappropriate burden on the public.

This option would involve:

Council deferring the Precinct A Planning Proposal until such time as the proponents can satisfy the Council that adequate arrangements can be made for the provision of essential infrastructure to service the development in a way that would not impose an inappropriate burden on the Council for the provision of that infrastructure.

This option is recommended on the basis of the significant financial risk implications for the Council associated with proceeding to rezone the land in the absence of acceptable arrangements being in place for the provision of infrastructure that is required only as a consequence of the future development of the subject land, and that would not otherwise service the existing population of the shire or other development. Notwithstanding, the provision of a Voluntary Planning Agreement by the development proponents would appear, in the view of staff, to adequately address these concerns. Under this option, the development proponents would be given additional time to consider this matter.

It is acknowledged that, on the basis of the Department's latest advice, this option may result in the Department of Planning and Infrastructure recommending to the Minister for Planning that an alternative planning authority be appointed. Such an outcome would result in Council losing further management of the rezoning process.

3. Proceed subject to an agreement from the Minister for Planning to lift the contributions cap.

This approach would involve:

- Council inviting the Precinct A landholders to confirm, in writing to the Minister, that they support the lifting of the State Government's Development Contributions Cap above the \$30,000 per allotment and that they accept further delay in relation to this matter is required to achieve an acceptable outcome.
- Following the receipt of written support from the Precinct A landholders, Council seeking, from the Minister for Planning, an exemption for the Cumbalum Precinct A Urban Release Area from the State Government's cap on developer contributions, via listing under Schedule 1 to the Ministerial Direction made pursuant to Section 94E of the Environmental Planning and Assessment Act 1979; and

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- Following receipt of advice from the Minister that the Government will accede to this request and the completion of appropriate steps to confirm the exemption, Council referring the Precinct A Planning Proposal to the Department of Planning and Infrastructure to be made.

If inclined to pursue this option, it is recommended that the approach also incorporates the following:

- That in finalising the Precinct A Planning Proposal, the Department of Planning and Infrastructure be requested to implement the rezoning as follows:
 - As amendment to the Ballina Standard Instrument LEP - Those parts of the planning proposal that relate to land proposed to be zoned R2, R3 & RU2; and
 - As amendment to the Ballina LEP 1987 – Those parts of the planning proposal that relate to land proposed to be zoned E2 & E3, via equivalent zones and provisions;
- That Council immediately commence the review of relevant section 94 and 64 plans to incorporate the Cumbalum Precinct A Strategic Urban Release Area into Council's development contributions regime.
- That Council immediately commence the preparation of a development control plan, for the Cumbalum Precinct A Strategic Urban Release Area, that addresses those matters set out in clause 6.3 of the Ballina Standard Instrument LEP.

If this option was pursued and the Minister was unable to agree to a lifting of the contributions cap in advance of the completion of the required s.94 and s.64 plans, it is recommended that Council withhold submission of the planning proposal for completion pending certainty regarding the status of the contributions cap. This may necessitate Council's completion of new s.94 and s.64 plans.

If Council is of the view that it should proceed to rezone the land, this approach is considered to be the best available option to address the infrastructure related issues identified in this report (without further consideration of a voluntary planning agreement).

RECOMMENDATIONS

1. That Council defer the Precinct A Planning Proposal until such time as the proponents can satisfy the Council that adequate arrangements can be made for the provision of essential infrastructure to service the development in a way that would not impose an inappropriate burden on the Council for the provision of that infrastructure.

Attachment(s)

1. Environmental & Sustainability Committee 17 July 2012 - REPORT Cumbalum Precinct A Planning Proposal
2. Ardill Payne & Partners - Proposed alternative arrangement for infrastructure delivery - Cumbalum Precinct A Planning Proposal
3. Cumbalum Ridge: Inundation Investigation for Ballina Nature Reserve and Adjacent Properties, prepared by WBM on behalf of Council dated December 2011 (Under separate cover)
4. Letter from NSW National Parks - Drain maintenance in Ballina Nature Reserve
5. Letter from Richmond River County Council - Drain maintenance in Ballina Nature Reserve
6. Letter from Minister for the Environment to Don Page MP dated 11 November 2012 in relation to drain maintenance in Ballina Nature Reserve
7. Letter from NSW Department of Planning & Infrastructure - Extension of time to complete Cumbalum planning proposals - Gateway Determination

5.1 Cumbalum Precinct A Planning Proposal

4.1 Cumbalum Precinct A Planning Proposal

Delivery Program Strategic Planning

Objective To report on the submissions received in response to the public exhibition of the Cumbalum Precinct A Planning Proposal and seek direction with respect to the progress of the planning proposal.

Background

Council has been engaged in the consideration of the Cumbalum Precinct A Planning Proposal since mid 2007. In November 2011, Council resolved to exhibit the planning proposal for public comment [Minute No. 241111/8]. In response to Council's resolution, the Cumbalum Precinct A Planning Proposal was publicly exhibited for a period of 78 days from 12 January 2012 to 30 March 2012. The initial 42 day exhibition period was extended by resolution of the Council for a further 36 days (to the end of March 2012).

Additional consultation activities undertaken during the exhibition period included the following:

- Public information session held at the Lennox Head Cultural and Community Centre on Saturday 10 March (attended by an estimated 180 people)
- Landholder briefing sessions held during the evening of 25 January 2012 at Council's Customer Service Centre
- "Drop in" session with Council's strategic planning and engineering staff held at Council's Customer Service Centre from 3pm to 7pm on 29 February 2012 and
- Numerous meetings on request with Council staff.

By way of broader background to this matter, the key milestones in the subject planning proposal process are outlined below:

- August 2007 - Council resolved to commence the rezoning process, in accordance with (then) s54 of the Environmental Planning and Assessment Act 1979. At that time any technical documentation that had been prepared by the proponents had not been submitted to Council.
- May 2008 - Proponents (represented by consultancy Ardill Payne & Partners) submitted technical documents supporting their rezoning request;
- December 2008 - GHD (on Council's behalf) completed first round peer review of technical documents;
- February 2010 - Proponents lodged revised technical documents in response to Council's/GHD's peer review;

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- April 2010 - GHD (on Council's behalf) completed second round peer review of technical documents. A number of matters were identified as requiring further consideration.
- July 2010 - Proponents lodged additional information relating to slope stability, acid sulfate soils, stormwater and road traffic noise.
- Information relating to the proposed stormwater treatment and disposal strategy was the subject of further discussion between the proponents, Council and the (then) NSW Department of Environment and Climate Change. The outcome of these discussions was that further information was prepared by the proponent relating to the potential impacts of increased stormwater flows on adjacent downstream private landholdings and on the Ballina Nature Reserve and adjacent SEPP14 wetlands. This information went through several rounds of review and revision. These revised reports, along with additional information relating to road noise impacts, were finalised and submitted to Council in August 2011.
- October 2011 - finalisation of Local Environmental Study by GHD (on Council's behalf).
- November 2011 - Report to Ordinary Meeting of the Council. Council resolved to publicly exhibit the planning proposal.

Further background to this matter is provided in the report presented to Council its November 2011 Ordinary Meeting (Item 9.1).

Key Issues

- Strategic land use planning
- Long-term supply of residential zoned land
- Growth management
- Infrastructure delivery
- Environmental constraints
- Affordable housing

Information

Planning Context

Far North Coast Regional Strategy (FNCRS-2006)

The Far North Coast Regional Strategy (FNCRS) provides the regional framework for the consideration of the rezoning of 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 as follows).

5.1 Cumbalum Precinct A Planning Proposal



Of these areas the 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 (planning proposal) process is consistent with the regional planning framework.

Ballina LEP 1987

The subject land is currently zoned 1(d) Rural (Urban Investigation) 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.*

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With respect to the matters described in subclause c, the following is noted:

- i. Urban structure planning was undertaken by Council via the preparation and adoption (in 2006) of the Cumbalum Structure Plan;
- ii. The review of urban suitability investigations is the purpose of the Local Environmental Study prepared for the area;
- iii. Council seeks to ensure that there is an adequate "buffer" of zoned land available for development to facilitate housing choice, provide competition in the land development market and potentially improve housing affordability.

The proponents are seeking the rezoning of Cumbalum Precinct A due to staging and servicing considerations. It is noted that while Ballina Shire is currently reasonably well supplied with undeveloped residential zoned land (having in the order of 300 hectares of vacant residential zoned land), recent land development rates have been modest due to a number of factors including infrastructure limitations and the financial failure of a number of land development companies.

From this perspective, there appears to be sufficient residential demand in the short to medium term, relative to the real supply of development-ready sites, to support the rezoning of additional land in Cumbalum Precinct A.

- iv. The subject of the adequacy of infrastructure and facilities is addressed elsewhere in this report.

Ballina Urban Land Release Strategy 2000 (ULRS-2000)

The Ballina Urban Land Release Strategy 2000 (ULRS) provides the Department of Planning and Infrastructure 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 the ULRS 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;
- masterplanned rezoning followed by staged subdivision release; and
- planning over a 5-20 year timeframe.

The ULRS identified rezoning investigations 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.

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Cumbalum Structure Plan (2006)

The objectives of the 1(d) zone under the Ballina LEP 1987 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 CSP, by Council, took into consideration the presence of environmental constraints, natural and cultural values and urban design. A key feature of the CSP is the identification of a number of development principles, encapsulating best practice guidelines for urban development in the region. Rezoning and development proposals should 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 Cumbalum 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 then Department of Planning and other State Government agencies for the approach and framework delivered by the CSP, 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.

Submissions

To assist the Council, the submissions received during the prolonged public exhibition period have been divided into the following categories:

- public submissions - submissions received from members of the public;
- landholder submissions - submissions received from persons (or their representatives) that have an interest in the land that is the subject of the planning proposal; and
- Government agency submissions

Following the summary of the submissions, this report provides further information regarding the matters raised in the submissions.

Public submissions

Twenty-nine submissions relating to Cumbalum Precinct A were received from members of the public during the public exhibition period. Thirteen submissions (45%) expressed *support* for the Precinct A planning proposal and sixteen submissions (55%) expressed *opposition*. A number of the

5.1 Cumbalum Precinct A Planning Proposal

submissions related comments to both the Precinct A and the Precinct B planning proposals. To assist in reporting these matters, the public submissions have been divided and distributed to Councillors under separate cover as follows:

- **Attachment 1** - submissions relating to Precinct A only;
- **Attachment 2** - submissions relating to Precinct B only;
- **Attachment 3** - submissions relating to Precinct A and B.

It is noted that of the submissions expressing *support* for the Precinct A planning proposal, three submissions related comments only to Precinct A and ten related comments to both Precinct A and Precinct B.

It is also noted that of the submissions expressing *opposition* to the Precinct A planning proposal, one submission related comments only to Precinct A and fifteen related comments to both Precinct A and Precinct B.

Issues most frequently cited in *support* of the Precinct A planning proposal include the following:

- promoting economic development (9 submissions)
- housing affordability (6 submissions)
- stimulating employment (4 submissions)
- reducing land supply pressures on the coast (3 submissions)
- consistency with Council policy (2 submissions)
- additional services & facilities to be provided in association with future development (2 submissions)

Issues most frequently cited in *opposition* to the Precinct A planning proposal include the following:

- population pressure / over-development / impacts on existing amenity / social impacts (10 submissions)
- flooding and drainage impacts (9 submissions)
- public infrastructure costs and implications (9 submissions)
- impacts on Lennox Head (8 submissions)
- impacts on Ross Lane (8 submissions)
- impacts on flora and fauna (5 submissions)
- impacts on agricultural land (4 submissions)
- density of development (4 submissions)

The issues raised in the public submissions (outlined above) are addressed in further detail elsewhere in this report.

Landholder / site-specific submissions

A number of submissions were received from landholders within Precinct A. These submissions provide site-specific information and/or represent the views of those landholders having a direct interest in the planning proposal,

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and so are presented separately here for the Council's consideration. The landholder submissions have been distributed to Councillors under separate cover as **Attachment 4**.

The landholder submissions received include the following:

- Beddoes - landholder in the residual area of Precinct A not the subject of the local environmental study;
- Potter - landholder in the residual area of Precinct A not the subject of the local environmental study;
- Johnstone - landholder in the residual area of Precinct A not the subject of the local environmental study;
- Precinct A proponents - Consultant submission prepared by Ardill Payne & Partners, and two submissions received from members of the Sheather Family, landholders within Precinct A.

Beddoes

Mr Beddoes is landholder of Lot 1 DP 771794, Sandy Flat Road, located to the east of the proposed urban zoning in Precinct A.

The subject landholding was originally included in the planning proposal study area, however technical information required to assess the development capabilities of the land has not been provided. In the preparation of the Local Environmental Study, Council sought to facilitate landholders providing this information, however these attempts were not supported. Consequently, these landholders (which also include the Potter, Johnstone and Thomson landholdings) were not included in the LES study area, and consequently the land was not included in the recommended zoning plan. The land was included, however, in the proposed Strategic Urban Growth Area map under Council's Draft Ballina LEP 2011 and is identified as having potential for urban development in Council's draft Growth Management Strategy. This is to allow future consideration of the urban potential of the land, in due course.

Two of the submissions received from Mr Beddoes raise concerns regarding the Precinct A Planning Proposal relating primarily to stormwater management issues. A separate submission also provides views regarding the development of the Ballina Heights subdivision, which has been included here to provide context to Mr Beddoes planning proposal submissions.

Stormwater impacts associated with the proposal are considered further elsewhere in this report.

Potter

Mr and Mrs Potter are landholders of Lot 1 DP880178, Sandy Flat Road, located to the east of the proposed urban zoning in Precinct A.

As noted above, in relation to the Beddoes submission, information in support of the urban investigation of this property has not been provided to support the preparation of the Local Environmental Study. Consequently, the land is proposed to be identified as warranting investigation for future urban development in Council's urban planning framework documents.

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The submission received from the Potter family raises a number of concerns regarding the planning proposal. These concerns include:

- Stormwater management issues; and
- Flora and fauna impacts and viability of proposed mitigation strategies.

Stormwater impacts associated with the proposal are considered further elsewhere in this report.

In relation to the viability of proposed flora and fauna impact mitigation strategies, it is noted that the purpose of the rezoning process is to determine the broader impact of the urban development of the land. The development consent process will refine many of the features of the proposal currently before the Council, with respect to detailed mitigation strategies. It is not intended that the rezoning process be comprehensive or conclusive with respect to mitigation measures to be employed in association with future development proposals. These matters will be considered further at development assessment stage when a greater level of design detail is available.

Johnstone

Mr and Mrs Johnstone are landholders of Lot 2 DP 880178, Sandy Flat Road, located to the east of the proposed urban zoning in Precinct A.

As noted above, in relation to the Beddoes and Potter submissions, information in support of the urban investigation of this property has not been provided to support the preparation of the Local Environmental Study. Consequently, the land is proposed to be identified as warranting investigation for future urban development in Council's urban planning framework documents.

The submissions received from the Johnstone family raises a number of concerns regarding the planning proposal. These concerns include:

- impacts of development on the loss of agricultural land;
- impacts on flora and fauna; and
- hydrological impacts (relating to stormwater management).

Information relating to the matters raised above are addressed further elsewhere in this report.

Proponents for Precinct A

The following submissions were received representing the development interests of Precinct A landholders:

- Ardill Payne & Partners;
- Joy Sheather, landholder of Lot 2 DP 1171927; and
- Michael Sheather, member of Sheather family.

The submission received from Ardill Payne & Partners, on behalf of landholders, relates to three key matters, namely:

- road Noise;

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- stormwater Management; and
- proposed lot size standards.

The matters raised in the Ardill Payne & Partners submission are discussed further elsewhere in this report.

The submission received from Mrs Sheather (Precinct A landholder) includes a signed petition in support of the Precinct A planning proposal. It is noted that Mrs Sheather lodged an additional signed petition in opposition to the Precinct B planning proposal. This second petition is provided in association with the Precinct B planning proposal which is reported separately in this Business Paper.

The submission received from Mr Sheather (member of landholder family) comprises a general submission in support for the Precinct A planning proposal.

Government agency submissions

Submissions to the Precinct A planning proposal were received from the following Government agencies:

- NSW Rural Fire Service.
- NSW Office of Environment and Heritage.
- NSW Department of Transport - Roads & Maritime Services.
- NSW Department of Education & Communities.
- NSW Department of Primary Industries, Fisheries.
- NSW Department of Primary Industries, Catchments & Lands.
- NSW Department of Finance & Services and Housing NSW.
- NSW State Emergency Service.
- Rous Water.

A number of issues raised by the agency's submissions related to one or both of the Cumbalum planning proposals. The Government agency submissions have been distributed to Councillors under separate cover as **Attachment 5**. The matters raised by these agencies, that relate to the Precinct A planning proposal, are outlined and addressed in the following table.

Agency / Issue	Response
NSW Department of Primary Industries	
Raises concerns with potential impacts of stormwater management measures on fisheries habitat, noting that stormwater management issues were unresolved at the time of the exhibition.	Stormwater management issues are addressed in detail elsewhere in this report.
Raises concerns relating to the location and maintenance of stormwater management devices and sewerage pump stations.	These matters are more appropriately addressed at development assessment stage.
Refers to DPI Fisheries guidelines which recommend 50-100m development buffers	It is noted that the proposed urban footprint is located

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Agency / Issue	Response
to wetland areas.	approximately 420m, at its nearest point, from mapped SEPP 14 Wetlands that extend from the Ballina Nature Reserve onto adjacent private land.
NSW Department of Education & Communities	
Advises that on the basis of the Department's assessment, additional public school site and/or infrastructure is not required.	Noted.
NSW Roads & Maritime Services	
Notes that the designs of future works at the Ross Lane and Cumbalum interchanges do not include the duplication of the lanes or roundabouts. Advises that these upgrade works will be required at appropriate staging in association with any future development.	Noted. Infrastructure delivery matters are addressed elsewhere in this report.
Notes that some future residential lots may be affected by road noise. Advises that any mitigation measures to limit the impact of Pacific Highway road noise is the responsibility of the proponent.	Noted. Road noise issues are addressed elsewhere in this report.
Rous Water	
Raises a number of matters relating to the transfer of a number of existing Rous Water retail customers to become customers of Ballina Shire Council in association with planned water supply augmentation works.	Noted. This matter can be considered further at the development application stage.
Office of Environment & Heritage	
Supports the zone plan, but would not support stormwater infrastructure being placed in environmental protection zones.	It is noted that the Ardill Payne & Partners proposal has included, and continues to propose the location of stormwater infrastructure in the proposed E2 Environmental Protection Zone. However, this proposal is not supported by the accompanying LES or by this report. Notwithstanding, sufficient land has been identified to accommodate stormwater infrastructure outside the proposed environmental protection zone.
Strongly supports the proposal to zone the sensitive sand rise which contains the Aboriginal Object site Sheather 1 as E2.	Noted. This site is that identified (and referred to above) by Ardill Payne & Partners as a stormwater infiltration site. The draft instrument proposes to zone the land E2 and on this basis

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Agency / Issue	Response
	not permit stormwater infrastructure.
Recommends that the design of the proposed link road connecting Precincts A and B ensures the road remains trafficable during major flood events.	This matter can be considered further at development application stage and in association with the design and construction of the link road.
Strongly recommends that Council be assured that the proposed setback from the Pacific Highway for any development on the western side of the proposed precinct is sufficient to ameliorate noise levels now and in future so that 'standard' construction measures will be adequate to provide internal and external living areas that meet noise standards.	This matter is addressed elsewhere in this report. It is noted, however, that the planning proposal, as exhibited provides adequate separation from road noise to require only standard dwelling construction techniques within land proposed for residential zoning.
<p>With respect to the Ballina Nature Reserve, OEH:</p> <ol style="list-style-type: none"> 1. Notes that best practice Water Sensitive Urban Design within the site may adequately prevent adverse hydraulic impact on downstream properties including Ballina Nature Reserve. 2. Requests that Council consider whether a commitment to managing weed proliferation in Ballina Nature Reserve due to reduced water quality could be incorporated into future development consents. 	<p>Noted</p> <p>Noted. This matter can be considered further at development assessment stage.</p>
NSW Rural Fire Service	
Raises no objection to the planning proposal proceeding but makes note of a number of matters to be considered in relation to the future development of the land.	The matters raised will be considered further at development assessment stage.
NSW Department of Primary Industries, Catchments and Lands	
Notes several matters relating to the possible closure of Crown road reserves in association with future development.	This matter can be considered further at development assessment stage.
NSW Department of Finance & Services and Housing NSW	
This combined Government agency submission provides information relating to affordable housing in Ballina Shire.	The information provided does not relate directly to the planning proposal.

An acknowledgement letter was received from SES, however, no submission was received.

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Key issues

Population Pressure / Social Impacts and Impacts on Lennox Head

As noted above, a number of the submissions refer to the potential impacts of population growth on the existing amenity of Ballina Shire. Concerns are raised that future development would result in over-population leading to negative social impacts and the congestion of public facilities, including beaches and parking facilities. A number of the submissions made such comments specifically in relation to the urban area of Lennox Head.

With respect to pressure on public facilities, it is noted that population growth that would be facilitated by this planning proposal is anticipated to occur progressively over at least a 15 to 20+ year timeframe. This period should allow the level of public services and facilities to expand to accommodate the projected population. It is noted, in this regard, that any future development in the Cumbalum Release Area will make financial contributions to Council towards regional and district sporting and community facilities. Further, the potentially expanded rate base may also provide further opportunities with respect to the range and standard of public facilities available within Ballina Shire over the longer term.

Predictions of adverse social impacts associated with increasing population are difficult to support given the range of factors at play in social change. Notwithstanding, with respect to the perspective of population growth as a negative in itself, it is noted that the current policies of State and Federal Governments facilitate continued population growth in Australia and the State of New South Wales. The challenge for Ballina Shire is how to respond to population growth occurring in the community more generally. In this respect, restricting population growth could also have its own set of adverse social impacts, associated with housing (un)affordability and increased social inequality.

Further, the existing structure of economic development and employment in Ballina Shire (and the North Coast Region more broadly) is to a large extent reliant on the strength of the construction and building industry. In the absence of a ready transition to a different economic foundation, a sharp restriction of development opportunities could result in a difficult and costly adjustment to the structure of industry, investment and employment in Ballina Shire, with its own set of adverse social implications.

Impacts on Ross Lane

Comments regarding the impact of the planning proposal on Ross Lane are made in submissions that refer to both Precinct A and B. Due to the higher level of relatedness of Precinct B to Ross Lane these comments are taken to relate primarily to the Precinct B planning proposal which is the subject of a separate report in this Business Paper.

Flora and Fauna impacts

A number of the submissions raised concerns regarding the potential impact of development on flora and fauna present on the land and adjacent wetlands. Flora and fauna impacts have been the subject of detailed considerations during the preparation of the Local Environmental Study. These

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considerations, including buffering from key habitat areas, were factors carefully considered in the determination of the proposed zoning of the land. Further, considerations of stormwater related impacts have assessed potential flora and fauna impacts on downstream environments. It is noted that the submission received from the NSW Office of Environment and Heritage include the following:

"The 'Flora and Fauna Assessment Proposed Rezone of Precinct A Pacific Highway Cumbalum' dated February 2010 and the addendum dated June 2010 have been reviewed by OEH against the draft zone plan. It is noted that almost all areas supporting high conservation values have been placed in an E2, E3 or RU2 zone; that is, not within the developable footprint. Although some individual plants of Hairy Joint Grass are in areas zoned for residential uses there appear to be sufficient numbers and habitat retained in areas zoned for non-urban uses to ensure that the species is maintained in the landscape. The zone plan is supported."

Consequently, it is suggested that flora and fauna matters have been the subject of detailed assessment in the preparation of the subject planning proposal. The proposed zoning arrangement reflects the known ecological considerations relevant to the Precinct A area.

Impacts on Agricultural Land

A number of the submissions noted that the subject land is identified in the NSW Government's Northern Rivers Farmland Protection Project as comprising 'Regionally Significant Farmland'. However, the Farmland Protection Project makes specific exemptions, from the development restrictions that otherwise apply to State and Regional Farmland, for land identified by councils in their local growth management strategies. As the land within the Cumbalum Urban Release Area is identified in Council's growth management framework, the restrictions on the development of 'regional farmland' do not apply in this case.

Notwithstanding the above, an assessment of agricultural values was undertaken as part of the Local Environmental Study of the subject land. This assessment concluded that the subject land had limited agricultural value due to *'unfavourable topography and soil type, issues of practical land use management, and ultimately low long-term enterprise sustainability'*. Consequently, the agricultural value of the land is not identified as a significant constraint to the development of the land.

Density of Development

A number of the submissions raised concerns with the amount of proposed 'medium density' development shown on the exhibited plans. Importantly, the nomination of the least constrained land for medium density zoning is a response to the structure of the standard instrument LEP. Only 'dwelling houses' and 'secondary dwellings' (granny flats) are permissible within the R2 Low Density Zone. A broader range of development types (including medium density dwellings, neighbourhood shops, community facilities and a limited range of other non-residential land uses) are permissible in the R3 Medium Density Zone. As detailed design and lot configuration is not known at this stage, the medium density zoning has been applied to the least constrained land to provide flexibility in housing outcomes at subdivision stage.

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It is noted that under the standard instrument LEP, the 'zone map' (LZN) regulates the range of residential development types permissible, whereas a separate 'minimum lot size map' (LSZ) stipulates the minimum lot size standard that applies on the land. In the case of Cumbalum Precinct A, 450m² has been nominated as the minimum lot size standard in the R3 Medium Density zone. Notwithstanding, it is anticipated that future subdivision will utilise a range of lot sizes and configurations to align the development to demand in the marketplace.

Further, the NSW Government's Far North Coast Regional Strategy 'density target' for local councils seeks to achieve a development mix of 60% single dwellings and 40% multi-unit dwellings. In support of this State Government objective, Council's draft Ballina Shire Growth Management Strategy includes an objective that future 'greenfield' developments should achieve a gross neighbourhood dwelling density of 15 dwellings per hectare, to maximise the efficient development of scarce land resources and to minimise urban sprawl. The achievement of this target will require the development of a mixture of low and medium density development types in new residential estates.

The submission by the planning consultants for Precinct A, Ardill Payne & Partners, requests that Council allow the creation of 'smaller rural residential style allotments' on the residual parcels of the precinct that are proposed for zoning as E2 Environmental Protection Zone and E3 Environmental Management Zone. It is noted that the creation of residual allotments associated with residential subdivision, under the terms of the standard instrument LEP, is problematic. Council continues to pursue this matter with the Department of Planning and Infrastructure to come to a logical and efficient outcome.

It is acknowledged that the creation of small rural residential style allotments on the edge of the residential footprint in new release areas may have advantages associated with providing the consolidation of environmental management areas into a small number of landholdings which enjoy dwelling entitlements, thus providing land management 'ownership' and oversight.

Despite this, it is noted that rural residential subdivision has not been permissible in Ballina Shire since 1996. The potential for adverse outcomes to arise with such development and for wider opportunity for this style of land use, suggests that further consideration from an in-principle policy position is warranted. Consequently, it is recommended that the request from Ardill Payne & Partners to permit smaller rural residential style allotments within the residue parcels of the land be declined, at this time. As a separate process Council may consider whether such an approach, for residual parcels in greenfield release areas generally, should be enabled via development of a policy position of the Council. Such a process could consider matters such as the following:

- Access and interface issues (including potential for land use conflict) associated with adjacent residential development;
- Appropriate allotment size and configuration to achieve effective and efficient land use management of environmental assets, located on residual parcels; and
- Appropriate ownership arrangements based on criteria to identify where such land parcels would ideally be placed in public ownership (Council or Crown), private ownership or other arrangement (such as community title).

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Details regarding the above matters are currently unknown, with respect to the Precinct A planning proposal (and may not be known until the residential subdivision components are better advanced). Given this and in the absence of a clear policy position on the matter, the rural residential style lots proposed are not recommended at this time. Council may wish to further consider this matter from a policy perspective as a part of its Growth Management Strategy.

Stormwater Management

As previously reported to Council, stormwater management matters have been the subject of detailed and lengthy deliberations involving Council staff (and Council's consultants), landholders, the Precinct A proponents and the (now) NSW Office of Environment and Heritage. Stormwater issues relating to this planning proposal can be divided into on-site and off-site issues. These are outlined further below.

On-site Stormwater Issues

The proponents for Precinct A have included in their submission to the Council as part of the public exhibition, additional information relating to stormwater management issues.

It is noted that the Precinct A proponents have nominated in their previous submissions to Council, and continue to nominate in their latest submission, the location of stormwater treatment devices in two sensitive locations, namely:

- an existing farm dam that has vegetation comprising an Endangered Ecological Community (referred to as *EEC1* in the accompanying documentation); and
- a ridge of sand identified as a potential Aboriginal Archaeological Site (referred to as *Infiltration Area B2* in the accompanying documentation).

Council's concerns regarding this matter were reflected in the exhibited planning proposal by setting aside sufficient land to accommodate stormwater infrastructure outside these sensitive areas. In relation to the area referred to as 'EEC1', Council previously raised concerns with the proposal to use this area as a stormwater detention device due to potential ecological impacts and maintenance difficulties. With respect to this matter, Council's engineers have advised as follows:

"The APP report has not addressed our previous concerns regarding the ongoing maintenance difficulties associated with having stormwater treatment areas located within the EEC. We previously requested that all detention should be located upstream of the EEC as it is unlikely that Council will be able to undertake any maintenance activities within the EEC areas in the future. The detention modelling in the revised APP report still includes provision of a significant volume of detention within area EEC1. All detention and treatment devices for the development shall need to be located outside the environmentally sensitive areas to ensure Council has access for maintenance purposes in the future.

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In addition to this issue, EEC1 in its existing state already provides detention capacity that benefits the downstream properties. Given that this has been in place at the site for a considerable amount of time the volume of detention already provided by the existing berm should be considered the existing base case in regards to the detention volume requirements associated with any development of the site. This further supports the requirement that the area surrounding EEC1 be zoned RU2 for the purpose of providing stormwater detention and treatment devices.

With respect to the 'sand ridge' that comprises a potential Aboriginal archaeological site, the proponent has previously provided written support from the JALI Local Aboriginal Land Council for the 'capping' of the area with 'geo-textile fabric' and fill material and the construction of contour banks to facilitate surface infiltration. With respect to this aspect of the proposal the following comments from Council's engineers are noted.

The report has also only provided limited additional information to justify the infiltration capacity of the proposed infiltration area B2. It confirms that the groundwater, even in the elevated area where P20 is located, is very close to the surface and therefore has questionable infiltration capacity during wet periods. The surface level at P20 is RL 3.65m AHD with the water logger data (limited data available) indicating groundwater levels ranging from 3.0m to 3.6m AHD. The report refers to an infiltration area at or above natural surface which will be created via bunding at this location. Given that the infiltration capacity of this area is questionable, particularly during wet periods, any allowance for detention at this location would need to be based on the construction of a formalised basin on the surface of the site. The concept of infiltrating stormwater from the development is supported however the detention requirements need to be provide via a formalised basin on the surface. Whilst this would satisfy the engineering requirements of the development it may not be a desirable outcome given the historic significance of the Aboriginal site."

With respect to the potential Aboriginal archaeological significance of that site, Council's Cultural Development Officer advises as follows:

The potential significance of this site has been emphasised by Everick's Cultural Heritage Assessment (January 2010) and by Council's own Aboriginal Cultural Heritage mapping process (2011). Notwithstanding the option posed to 'cap' the sand ridge, a comprehensive impact assessment has not been provided documenting how this option may/does not pose harm to the site. This step must be undertaken not only to determine whether any is harm posed, but also whether an Aboriginal Heritage Impact Permit (AHIP) would be required to proceed with this action. These steps are a requirement of the National Parks and Wildlife Act and regulations regarding the management of Aboriginal cultural heritage sites.

Due to the sensitive nature of these areas they have both been nominated, in the exhibited planning proposal, for zoning as E2 Environmental Protection Zone. The E2 zoning would preclude the use of the land for stormwater treatment under the terms of the draft Ballina Local Environmental Plan 2011. It is noted that the submission from the Office of Environment and Heritage

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strongly supports the proposed zoning of the sand rise that comprises a potential Aboriginal archaeological site as E2 Environmental Protection Zone, and that stormwater infrastructure not be permissible within the E2 Zone. In light of the above, it is recommended that the planning proposal, with respect to this matter, be unchanged.

Having regard for the above, Council's Civil Services Group has assessed the proposal and is satisfied that sufficient land is available to accommodate conventional urban stormwater management measures that do not rely on the use of the two sensitive areas referred to above, subject to detailed considerations at development application stage.

Off-site Stormwater Issues

The off-site, or 'down-stream', stormwater issues associated with the subject planning proposal are complicated by the following factors:

- Conventional stormwater management practice focuses on the 'conveyance' of stormwater - that is on achieving post-development flow rates that are consistent with pre-development. This conventional focus is based on the assumption that receiving waters are free-draining;
- The subject locality has naturally elevated groundwater levels, emanating from Ballina Nature Reserve and adjoining wetlands;
- Groundwater levels in and around Ballina Nature Reserve have been rising, and are expected to continue to rise over time, due in part to the lack of maintenance of the man-made drainage network within the Nature Reserve;
- The potential for sea-level rise to increase groundwater levels in the area over time, particularly during high tide events. This may have implications for the design levels of stormwater outlets; and
- The presence of private properties located between the subject land and the Ballina Nature Reserve.

Four private properties are located downstream of Precinct A, adjacent to the Ballina Nature Reserve. These are shown on the map provided as **Attachment 6** of this report.

It is noted that the submissions received from both the NSW Office of Environment and Heritage (OEH) and Department of Primary Industries (DPI), Fisheries acknowledge drainage issues in and around the Ballina Nature Reserve as a key factor in the drainage dynamics of the locality. The OEH states:

'It is noted that the water levels in BNR are dictated to a larger extent by tides in North Creek than by inflows from the local catchments. The tides restrict outflows and thus the inflow due to runoff from local catchments cannot move rapidly through the Nature Reserve. For this reason increased flood levels in the North Creek floodplain due to climate change, sea level rise in particular, may have a larger impact on the hydrology of the Nature Reserve in the longer term.'

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Further, the Department of Primary Industries (DPI), Fisheries submission advised as follows:

'DPI Fisheries can accept the assertion in the assessment documentation that the rising groundwater levels are attributable to the lack of maintenance of the constructed drainage network within the Nature Reserve. DPI Fisheries highlights though, that objectives of the Ballina Nature Reserve Plan of Management do not appear to accommodate ongoing maintenance of the constructed drainage network now located within the Reserve. Rather two objectives seek to:

- *"Conserve the diversity of habitat types within the Reserve, with particular emphasis on the protection of the wetland habitat"; and*
- *"seek to maintain a hydrological regime in the Reserve that maintains Reserve ecosystems".*

It would appear that in effect the Ballina Nature Reserve is reverting to its pre-settlement wetland condition as the man-made drainage network becomes increasingly silted. It is noted that this may result in increased periods of inundation for landholdings adjoining the nature reserve, regardless of the development outcome for the land.

With respect to the impact of the proposal on the downstream ecology of the Ballina Nature Reserve and adjoining SEPP14 wetlands, the Office of Environment and Heritage notes in its submission:

'The modelling approach for Precinct A, using DRAINS software to determine stormwater discharges, is considered appropriate. It reflected the changes in increased impervious area due to urbanisation and resulted in shorter response time and increased discharges from the sites. The modelling indicates that the post development discharges can be attenuated to pre development state by employing best practice Water Sensitive Urban Design within the site and this may be enough to prevent adverse hydraulic impact on downstream properties including BNR.'

The above comments suggest that OEH is satisfied the assessments to date and the (future) development assessment process should provide sufficient protections for downstream plant ecology. The above position also aligns with that provided by Council's consultants GHD, responsible for the preparation of the Precinct A Local Environmental Study.

It is noted that officers of the OEH have previously advised that Council should keep in mind the purpose of the Ballina Nature Reserve which relates to the need to protect the broad representation of wetland species. The OEH officers advised that distributional change within the reserve should not be considered a problem in itself, provided this broader representation of wetland species is maintained. This advice appears consistent with the broader position of the State Government with respect to discontinuing maintenance of the man-made drainage network within the reserve which itself is likely leading to changes in species distribution.

Contrasting with the above, Council's Environmental Scientist provides an alternative view, noting:

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A significant threat to environmental integrity of [the downstream] HCV ecosystems is stormwater discharge arising from the adjacent urban zoned land. The predicted adverse impacts result from altering the existing hydrology of the catchment by altering wetting and drying hydroperiods, frequency of inundation, and altering groundwater levels etc.

It is for these reasons that the "Alteration to the natural flow regimes of rivers, streams, floodplains & wetlands" is listed as a key threatening process under the TSC Act (1995).

The proposed stormwater strategy is largely an end of source stormwater treatment train that will increase the frequency and volume of stormwater entering the subject EECs. The long-term impact on the receiving vegetation communities is unknown, however, it would be expected that the changes in hydrology will lead to increased die back of the existing forested wetland communities and likely changes to the species composition of the Freshwater wetland EEC. The impact of increased storm water on native forested wetlands is evident in other historical developments around East Ballina (i.e. Chickiba Wetland).

Aside from potential ecological impacts associated with increased stormwater volumes, the following comments from Council's Civil Services Group staff regarding potential nuisance impacts on neighbouring private properties are significant.

"Whilst I am satisfied that, if zoned as per the above recommendations, any future development of Precinct A would be able to provide a suitable treatment train to meet the requirements of Council's DCP Chapter 13 [Stormwater Management] that there will be no net increase in the average annual load of stormwater pollutants and peak discharge flow rates above that occurring under the existing conditions, I cannot state with certainty that the development will not affect the level of flooding being experienced by the downstream properties. Whilst the provision of a suitable drainage and detention system will not increase the peak flow rates from the development, these systems will extend the time over which stormwater is discharged from the site therefore potentially altering the hydrology of the catchment through the downstream properties. This would not have a significant impact on the properties downstream of the development if these properties were serviced by a drainage system with a high conveyance capacity. Unfortunately, the drainage system servicing these properties has limited conveyance capacity which appears to be reducing with time due to a lack of maintenance of the downstream drainage systems within the Ballina Nature Reserve.

The residents downstream of the Precinct A catchment have expressed concerns that stormwater from the proposed development will exacerbate the existing nuisance flooding issues they are experiencing on parts of their properties. They have suggested that the drainage systems within the downstream wetland areas owned by Council and NSW National Parks & Wildlife are no longer maintained to the same extent they were only a few decades ago. DPI Fisheries has stated in writing that it accepts the assertion that rising groundwater levels in the area are attributable to the reduction in maintenance of the drainage system within the Ballina Nature Reserve. The Management Plan for the Nature Reserve does not

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appear to accommodate the ongoing maintenance of the drainage network located within the Reserve. Rather, it states that maintenance will only be undertaken as necessary to conserve the wetland habitat and ecosystems. It is therefore likely that properties between Precinct A and the Nature Reserve will experience increased flooding in the future due to a reduction in the conveyance capacity of the downstream drainage systems.

In addition to these issues the Office of Environment & Heritage has suggested that the water levels in the Nature Reserve are dictated, to a large extent, by tides in North Creek and are anticipated to increase due to sea level rise in the future. They state that the drainage capacity through the Nature Reserve is anticipated to be reduced in the future due to the effects of sea level rise.

The hydrology of this entire catchment is very complex to model given the influence of tidal effects, sea level rise, groundwater flows and the conveyance capacity of the downstream Ballina Nature Reserve. Whilst the proposed rezoning application is consistent with contemporary stormwater design standards and the stormwater design requirements of Council's DCP the approval of such a development within the eastern catchment of Precinct A will alter the hydrology within this catchment. Whilst this will not involve an increase in the peak discharge flow rates from the development it will extend the period of time over which stormwater is discharged from the site. What affect all of these changes will have on the existing nuisance flooding issues experienced by properties downstream of the proposed development is difficult to predict. This issue was raised with representatives of Ardill Payne & Partners during previous verbal discussions however a full catchment model has not been provided...."

The implication of the above is that, should the planning proposal proceed, and land be rezoned for urban uses, the future consent authority would need to carefully consider the potential for an increase in nuisance flooding to occur for downstream private properties. Nuisance flooding impacts here include an increase in the period of soil 'wetness' following major rainfall events and consequential longer term changes in vegetation cover and ground conditions which may impact on the continued 'enjoyment' or economic use of the land. It is noted that there could be legal implications, under civil law, for the future consent authority should such impacts be ultimately demonstrated.

It is noted, however, that the stormwater modelling undertaken has been conservative in approach and has assumed limited upstream infiltration within the proposed development area. Consequently, a greater emphasis on stormwater infiltration higher in the urbanised catchment, at detailed development design stage, could lesson the volume of runoff and therefore reduce downstream impacts.

Uncertainty surrounding this aspect of the development proposal presents a challenge for Council. The impact of increased stormwater volume on downstream ecology is unknown and the concerns of downstream private property owners regarding this aspect of the proposal appear justified. It is unclear to what extent these impacts are occurring as a result of reduced drainage maintenance within the Ballina Nature Reserve, regardless of the development outcome for the land. Further, it is noted that any such impacts

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may be exacerbated by potential sea-level rise associated with climate change. Given these implications, this matter has significant implications for the options and recommendations presented in this report.

The need to have this matter addressed as a part of the planning proposal process has been communicated to the proponents on numerous occasions. Council attempted to achieve collaborative approach between the Precinct A and Precinct B proponents for a catchment-wide hydrological study, during the preparation of the Local Environmental Studies, however regrettably this was not able to be achieved.

It is noted that Council is currently involved in a project, the Newrybar Drainage and Mitigation Study, being directed by the Richmond River County Council and the NSW Office of Environment and Heritage with the assistance of Council's flooding and drainage consultants BMT WBM that may provide further information regarding this matter.

Road Noise

The road noise assessments undertaken in association with the preparation of the planning proposal and accompanying Local Environmental Study identified road noise as an issue impacting development opportunities in the western part of Precinct A, adjacent to the Pacific Highway Ballina Bypass.

Those assessments relied largely on road noise modelling, as the Ballina Bypass was not in operation at the time. The proponent has provided an updated report with their submission that includes noise monitoring with the Ballina Bypass in operation. The results of this recent monitoring are generally consistent with the previous modelling that was undertaken to inform the planning proposal.

The road noise assessments have identified that approximately 12.3 hectares of land, that may otherwise be considered as suitable for urban development, is affected by noise levels that exceed the relevant guidelines (NSW Road Noise Policy, March 2011). Consequently, the exhibited planning proposal proposes to zone noise affected land as RU2 Rural Landscape Zone, and identify that area within Council's urban planning framework as a potential urban area, to enable the urban zoning of the land to be considered further at a later stage.

The relevant State Government guideline criteria for external day time noise is 60dB(A) and external night time level of 55dB(A). With respect to this criteria the guideline refers to the World Health Organisation report (2009) which recommends a long-term night-time external noise level of 40dB(A) with an interim target of 55dB(A). The report notes that the interim target is only intended as an intermediate step in localised situations as *'health impacts, particularly on vulnerable groups are apparent at this noise level'*. The reports also note however that *'maximum internal noise levels below 50-55 dB(A) are unlikely to awaken people from sleep'*.

The assessment identifies that, due to the topography of the land, noise barriers would not be effective. The assessments suggest, and the submission by Ardill Payne and Partners argues, that the relevant internal noise criteria could be met via the following design responses:

5.1 Cumbalum Precinct A Planning Proposal

- Acoustic building shell treatments involving use of appropriate building materials;
- Habitable room openings fronting, or at 90 degrees to, the road need to be closed. Consequently, cross fresh air ventilation would need to be achieved via the building design having openings for habitable rooms on frontages that are not noise affected. Alternatively, air-conditioning or mechanical ventilation would be required; and
- Building design to locate non-habitable rooms (such as garage, laundry and bathroom) adjacent to the noise source. In the case of Precinct A it is the western elevation that would be most noise affected. The proponent's submission notes: *"It is conventional and practical house design in sub-tropical areas, for the western sides/elevations of dwellings to comprise reduced openings and glazing so as to reduce potential adverse impacts from afternoon summer sun. In this respect it is also common practice to place less heat sensitive rooms...on the western side of the dwelling. This practice is consistent with the building layout principles of the Interim Guidelines and will achieve both noise and radiant heat minimise outcomes"*.

From the information submitted it would appear that with reliance on individual building acoustic treatments, the guidelines for internal noise criteria are achievable. However, Council is invited to consider whether the measures required to achieve these criteria are appropriate in the circumstances, having regard to the following:

- The noise criteria are based on the assumption of existing dwellings. The relevant guidelines also identify a number of long-term strategies to address road noise impacts including (but not limited to) *"ideally locating residential development away from major roads"*;
- Although dwelling design (through the arrangement of habitable and non-habitable rooms) may assist in reducing noise impacts, future dwellings could nonetheless require the closure of doors and windows with reliance on air-conditioning to address road noise impacts. Such an approach would not appear to represent a sustainable development outcome;
- The enjoyment of an "outdoor lifestyle" is a common expectation for residents of the sub-tropical North Coast. The proposed mitigation measures could limit opportunities for residents in noise affected areas to have such expectations met. Consequently, if residential development was permitted in noise affected areas, Council could expect to receive representations from future homebuilders for Council to relax noise-mitigating development standards, and then subsequently receive requests from future residents for Council and the RMS to mitigate road noise impacts through civil engineering measures (which would likely be, as noted above, ineffective under the circumstances);
- The cost of the proposed mitigation measures would be borne by future home owners, possibly requiring specialised architectural advice, construction materials and additional running costs;
- Residential development may be enabled under complying development provisions, limiting the ability for the relevant noise mitigation standards to

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be applied. Although exemptions to the application of complying development are possible, there is no certainty such an exception could be achieved at this time as the agreement of the State Government is required.

The following comments, made in the submission received from the NSW Office of Environment and Heritage, should also be noted:

'OEH strongly recommends that Council be assured that the proposed setback is sufficient to ameliorate noise levels now and in future so that 'standard' construction measures will be adequate to provide internal and external living areas that meet noise standards. Council should be mindful that the Pacific Highway will remain the major heavy transport route between Sydney and Brisbane. Increased freight movements, including 'B-triples', are proposed for the Pacific Highway within 20 years. The road in the vicinity of precincts A and B has a relatively steep grade, which may result in increased noise from both acceleration and compressing braking. Notwithstanding that, according to the consultant's report, trucks may comprise only 12% of the total traffic volume, heavy truck movements make up to 40-50% of the night-time traffic along the Pacific Highway.'

Further, the revised road noise report has been reviewed by Council's Environmental Health Officers who provide the following advice:

'As this proposal is at the rezoning stage it is considered better practice to require the lot layout and design take into account matters such as potential noise impacts and not locate residential lots in locations that will result in a loss of amenity and will require Council to burden the lots created in a way that will limit individual design options and cost future developers of those lots to address the impact'.

On the basis of the above, it is recommended that the draft planning proposal as it relates to this matter be unchanged.

Infrastructure Delivery

The Cumbalum Urban Release Areas are not included in Council's Section 94 Development Contributions Plans for roads and community facilities or in Council's Section 64 Plans for Water and Sewerage. Council's Civil Services Group advises the reasons for the exclusion of the Cumbalum Urban Release Area (CURA) from these plans include the following:

- The delivery of infrastructure through Council's plans risk the network being constructed in an inefficient manner due to the potential for restrictions to be imposed by landowners (individual landowners may or may not be involved in the development to be serviced by a particular item of infrastructure). Council's recent experience in the Wollongbar Urban Expansion Area is noted;
- Council's ability to meet its obligations may be limited due to the potential for protracted negotiations with landholders;
- Council is subject to financial risk if the cost to provide the infrastructure is greater than the amount levied by the Developer Charge. It is noted that

5.1 Cumbalum Precinct A Planning Proposal

the Developer Charge is based on reference rates and site investigations undertaken well in advance of detailed design work being undertaken; and

- In the case of Section 94 Development Contributions Plans, the State Government's 'Contributions Cap' of \$20,000 per allotment limits Council's ability to adequately recoup infrastructure costs through developer contributions.

Further, Council's Engineers note in relation to water and sewer charges:

Section 64 charges for water and sewer are primarily for contribution toward head-works and shared infrastructure that caters for demand beyond the scope of the development. Where a development needs infrastructure that only provides for the needs of the development, the provision of those assets are the responsibility of the developer. It is the responsibility of the developer to design and construct infrastructure to meet the needs of their development and Council is not in a position to understand the proposed development or needs of the development in relation to water and wastewater infrastructure prior to the submission of detailed designs and plans. As such it would be impossible for Council to incorporate fair and reasonable costing into any Developer Service Plan that would not entail unnecessary risk on either the developer and /or Council.

Were a Section 64 Plan to be prepared for the CURA development that incorporated all infrastructure, the developer would bare the cost of providing the infrastructure and this would reflect in the charges. Without a detailed plan of what is proposed to be included in the development Council would be forced to be unnecessarily conservative which may lead to higher charges and inefficient designs.

Consequently, alternative arrangements are required to ensure the land can be adequately serviced without placing an unreasonable burden on the public. Despite this matter being raised with the proponents on numerous occasions during the preparation of the planning proposals, this matter was not able to be resolved prior to the public exhibition of the planning proposal.

To address this matter, Council has sought to arrive at an alternative arrangement for securing the provision of infrastructure, during the public exhibition phase of the planning proposal. Consequently, Council has had a Voluntary Planning Agreement (VPA) prepared which sets out the following:

- Identifies infrastructure to be provided in association with the future development of the land, including arterial roads, drinking and recycled water supply, sewerage infrastructure, open spaces and community facilities;
- Identifies the parties responsible for undertaking specific works and the timing for the delivery of those works; and
- Identifies the obligations of the parties, as landholders, to allow the creation of easements and the dedication of land, to facilitate the developers' obligations.

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It is noted that the VPA makes reference to the obligations of the parties to the agreement separately, as developer and as landholder, as the 'developer' involved in a particular stage of development may be obligated to deliver infrastructure located on another's landholding, that is not the subject of that stage of development. This arrangement seeks to ensure there are no impediments to the logical and efficient extension of development and supporting infrastructure.

Due to the complex nature of such agreements, the VPA is still being formulated at the time of drafting this report. Consequently, the proponents have not been in a position to review the agreement and advise whether the terms of the agreement reflect their position with respect to infrastructure delivery obligations outlined therein. It is noted that the VPA must be a voluntary 'offer' by the developer to undertake obligations contained in the agreement. However, Council is able to formulate a VPA that, subject to the proponent's agreement, can then form the voluntary offer of the proponent. If agreed to, it is considered that the VPA will satisfy the need to ensure that adequate arrangements are in place for the provision of infrastructure to service future development, without placing an inappropriate burden on the public. In the absence of such agreement, an alternative strategy would need to be found to ensure adequate arrangements are in place for the provision of infrastructure.

If acceptable to all parties (including the Council) the VPA will need to be publicly exhibited, for a period of no less than 28 days, in accordance with the requirements of the *Environmental Planning and Assessment Act 1979*. Following the exhibition period, the VPA would be reported to the elected Council for its further consideration. These steps would need to occur before the finalisation of the planning proposal.

Representations by the NSW Department of Planning and Infrastructure

The NSW Department of Planning and Infrastructure has, on a number of occasions, made robust representations to Council to expedite the processing of the Cumbalum (Precinct A and Precinct B) planning proposals. Council has been at pains to convey to the Department the substantial matters, specifically infrastructure delivery and stormwater, that in Council's view must be resolved prior to the matter proceeding. It is conceivable in light of those representations that, should there be further delay in relation to this matter, the Minister may see fit to 'call-in' the Cumbalum planning proposals and have the matter resolved by an alternative authority, such as the Department of Planning and Infrastructure itself or a Joint Regional Planning Panel.

Summary Comments

As outlined in the above report, Cumbalum Precinct A has comprised an important component of Council's, and the State Government's, urban growth strategy for the shire, and the region, for a considerable period. The urban suitability investigations undertaken as part of the Local Environmental Study prepared as the basis for the planning proposal have identified that parts of the precinct have physical capabilities appropriate to accommodate urban development, subject to the resolution of the following:

- Infrastructure delivery - that an appropriate mechanism is in place to provide for the efficient delivery of infrastructure to service future

5.1 Cumbalum Precinct A Planning Proposal

development without placing a burden on the public for the extension of those services;

- Ecological impacts associated with increased stormwater volumes - in particular the potential for adverse impacts to occur in the Ballina Nature Reserve and adjacent SEPP14 Wetlands; and
- Nuisance impacts associated with increased stormwater volume - relates to the potential for downstream private properties to experience nuisance flooding impacts as a result of stormwater discharge due to the development of land higher in the catchment.

In relation to infrastructure delivery, as outlined above, the Precinct A Voluntary Planning Agreement, if acceptable to the proponents and the Council, appears to provide an appropriate mechanism for securing (in a financial and legal sense) the delivery of infrastructure.

In relation to the potential for adverse ecological impacts to occur as a result of increased stormwater volume, differing perspectives have been offered by those knowledgeable in the field regarding the extent of the problem, its potential for mitigation and the stage at which a comprehensive resolution is required (rezoning vs development assessment). The views of the Office of Environment and Heritage, Council's LES consultants GHD and Council's Environmental Scientist are provided above. On the basis of the information available, it is considered that ecological matters can be adequately addressed at the development application stage in the event that the planning proposal proceeds in its exhibited form (provided that stormwater management matters are adequately addressed - see below).

Given the level of uncertainty associated with stormwater management matters, this report recommends this issue requires further consideration prior to finalising the subject planning proposal.

The matter of the potential for adverse 'nuisance' type flooding impacts to occur to downstream private properties is potentially more sensitive to change in hydrology. In this instance, relatively minor changes to soil moisture and/or vegetation type could lead to adverse 'nuisance' impacts, by constraining landowners' current use of their land for purposes such as grazing. Such changes can be seen, if determined by a court, as creating an *"unreasonable interference with the use and enjoyment of a[nother] person's land"*. Civil liabilities may apply should such impacts ultimately occur, where such an outcome was seen as inevitable as a result of the consent authority's decision. Despite the fact that such impacts do not appear, at this stage, to be inevitable, a high degree of uncertainty remains with respect to this matter, as evidenced by the comments by Council's engineers provided above. At the rezoning stage, Council needs to have a reasonable level of confidence that a solution can be found at development application stage. The advice to date, from Council's engineers, is that Council is not confident that a technical solution can be found, due to the particular circumstances of this case.

Consequently, one of the options presented below is for the rezoning to proceed but subject to Council's engineers being satisfied that stormwater management issues can be resolved adequately at development application stage.

Sustainability Considerations

- **Environment**

The rezoning of land for urban purposes has environmental implications for the land and the locality.

- **Social**

The provision of additional residential development would contribute to the changing social environment of Ballina Shire and provide existing and future residents with greater housing choice. Development may also place additional demands on Council and other government and non-government organisations for the provision of social services and urban infrastructure. However, it is noted that development of this land will be consistent with Council's endorsed and established urban land release strategy.

- **Economic**

The increase in population arising from future development of the subject land may contribute to the economic development of the locality and the shire, via the additional aggregate demand in the economy, construction activity and the provision of labour resources to local businesses.

Legal / Resource / Financial Implications

The rezoning of land for residential purposes would enable landowners to lodge development applications for residential subdivision and development of the land.

As outlined in the above report, subject to this matter proceeding at this time, further consideration would need to be given, at development application stage, to the potential downstream impacts associated with increased stormwater volumes, including the potential for increased 'nuisance' flooding on downstream private properties. As noted above, there could be legal implications, under civil law, for the future consent authority should development consent be granted and adverse downstream impacts occur, as foreshadowed.

Consultation

As outlined in the above report, this matter has been the subject of extensive consultation with landholders, government and non-government agencies and the broader community. Council has met the requirements of the *Environmental Planning and Assessment Act 1979* in carrying out its community engagement initiatives for the planning proposal.

Options

The following options are presented for the Council's consideration:

1. Proceed to finalise the Precinct A planning proposal following agreement regarding infrastructure provision without further assessment of stormwater management matters.

5.1 Cumbalum Precinct A Planning Proposal

That Council proceed to finalise the Cumbalum Precinct A Planning Proposal, subject to the proponents providing a signed Voluntary Planning Agreement (or agreement is reached on a suitable alternative mechanism) that satisfies the Council's requirements with respect to securing future infrastructure delivery obligations. This approach would also involve Council advising the proponents that Council expects that a greater level of information, relating to stormwater management, to be provided to favourably determine a development application for the residential subdivision of the land.

If this option is pursued, and a planning agreement progressed, a finalised Precinct A Voluntary Planning Agreement would be placed on public exhibition for a period of 28 days. The outcomes of the exhibition would be reported to the elected Council for further deliberation prior to finalisation of the planning proposal.

Due to the uncertainty that remains with respect to stormwater management matters, this option is not recommended.

2. Proceed to finalise the Precinct A planning proposal following agreement regarding infrastructure provision and subject to further assessment of stormwater management matters.

That Council proceed to finalise the Cumbalum Precinct A Planning Proposal, subject to the following:

- a. The proponents providing a signed Voluntary Planning Agreement (or agreement is reached on a suitable alternative mechanism) that satisfies the Council's requirements with respect to securing future infrastructure delivery obligations; and
- b. Council's Civil Services Group advising that it is satisfied that a stormwater management system can be designed that is capable of servicing the subject land, without having an unreasonable adverse impact on downstream private properties and ecology.

This option is recommended for the following reasons:

- Cumbalum Precinct A forms a key component of Council's, and the State Government's, strategic planning framework for urban growth in the shire, and the region;
- The urban suitability investigations undertaken as part of the Local Environmental Study prepared as the basis for the planning proposal has identified that parts of the precinct have physical capabilities appropriate to accommodate urban development; and
- There remains the potential to resolve the outstanding matters outlined above within a reasonable timeframe.

3. Discontinue the processing of the Precinct A planning proposal.

That Council discontinue the planning proposal process due to matters raised in the public submissions received during the planning proposal exhibition period and on the basis that stormwater management and infrastructure provision have not be addressed sufficient to enable the rezoning of the land.

5.1 Cumbalum Precinct A Planning Proposal

This option is not recommended for the following reasons:

- Cumbalum Precinct A forms a key component of Council's, and the State Government's, strategic planning framework for urban growth in the shire, and the region;
- The urban suitability investigations undertaken as part of the Local Environmental Study prepared as the basis for the planning proposal has identified that parts of the precinct have physical capabilities appropriate to accommodate urban development; and
- There remains the potential to resolve the outstanding matters outlined in this report within a reasonable timeframe; and
- Council has committed substantial resources over a period of five years to progress this matter to this point, consequently, maintaining the current process is seen as preferable to recommencing or restarting the process at a later date, if the Council is inclined to support the rezoning process as a matter of principle.

It is noted there is potential for the Minister for Planning and Infrastructure to become involved in the progress of the planning proposal should be Council pursue this option.

RECOMMENDATIONS

1. That Council proceed to finalise the Cumbalum Precinct A Planning Proposal, subject to the following:
 - a) The proponents providing a signed Voluntary Planning Agreement (or agreement is reached on a suitable alternative mechanism) that satisfies the Council's requirements with respect to securing future infrastructure delivery obligations; and
 - b) Council's Civil Services Group advising that a stormwater management system can be designed that is capable of servicing the subject land, without having an adverse impact on downstream private properties and ecology.
2. That where items 1(a) and 1(b) are not resolved in a period of three months, the matter be reported to Council for further consideration.

Attachment(s)

1. Public submissions relating to Precinct A only (Under separate cover)
2. Public submissions relating to Precinct B only (Under separate cover)
3. Public submissions relating to Precinct A and B (Under separate cover)
4. Landholder submissions (Under separate cover)
5. Government agency submissions (Under separate cover)
6. Map identifying downstream properties located adjacent to the Ballina Nature Reserve (Under separate cover)

ARDILL PAYNE
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12 October 2012

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

RECORDS SCANNED
15 OCT 2012
Doc No.....
Batch No.....



Attention: Mr Simon Scott – Strategic Services Group

Dear Sir/Madam

**RE: CUMBALUM PRECINCT A PLANNING PROPOSAL
INFRASTRUCTURE DELIVERY**

We refer to discussions on 8 October 2012 between:

- Bill Payne from our office with Messrs Paul Hickey, John Truman, Rod Willis, Paul Wilson, Andrew Swan and Simon Scott from Council
- Paul Snellgrove from our office, Steve Connelly from SJ Connelly CPP Pty Limited and Shelley Smulevich from Intrapac Projects Limited with Messrs Steve Barrier and Simon Scott from Council;

in relation to the provision of infrastructure as referred to in the Council Resolution on July 2012.

1. Background.

We note Council resolved on 26 July 2012 to proceed to finalise the Cumbalum Precinct A Planning Proposal subject to a number of matters including:

"The proponents providing a signed Voluntary Planning Agreement (or agreement is reached on a suitable alternative mechanism) that satisfies Council's requirements with respect to securing future infrastructure delivery obligations; and ..."

The area comprising Cumbalum Precinct A (CURA-A) is owned by six (6) land owners being:

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- (i) Vixsun Pty Limited as to the land comprised in Lot 284 DP 1141745
- (ii) The Trustees of the Roman Catholic Church for the Diocese of Lismore as to the land comprised in Lot 1 DP 1077982
- (iii) Intrapac Projects Pty Limited as to the land comprised in Lot 20 DP 1022777
- (iv) Mrs Joy Sheather as to the land comprised in Lot 2 DP 1171927, Part Lot 18 DP 1022777 and Part Lot 190 DP 1063589
- (v) Mrs ME Smith, Ms R Barlow and Miss JM Barlow as to the land comprised in Lot 150 DP 755684, Lot 333 DP 755684, Lot 3 DP 517149 and Lots 2 & 3 DP 823662
- (vi) Ballina Shire Council as to the land comprised in Lot 1 DP 1171927 ("Sheather reservoir site")

The proposed amended draft Voluntary Planning Agreement ("VPA") was received from you by e-mail on 11 September 2012. We subsequently provided a copy of it to the CURA-A land owners and have met with them to discuss it.

2. Proposed "Suitable Alternative Mechanism".

The land owners have all obtained independent legal and town planning advice in respect to the VPA and firmly believe that the alternative mechanism detailed below is preferable to the proposed VPA.

The wording of the Council Resolution referred to above provides that agreement can be reached with Council as to a suitable alternative mechanism to the VPA in order to secure infrastructure required to service the urbanisation of CURA A.

The alternative mechanism proposed by us is to:

- (a) Undertake an amendment to the Ballina Shire Contributions Plan 2008 in a manner comparable to that undertaken for the Wollongbar Urban Expansion Area – being the preparation of a specific section relating to CURA-A.
- (b) Prepare an amendment to the provisions of Policy Statement No. 14 – Ballina Heights Estate of the Combined DCP 2006 to include the CURA-A rezoning area and to identify the infrastructure servicing provisions. Section 3.2 of Policy Statement No. 14 relates to infrastructure provision and provides development controls for infrastructure internal and external to the site.

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- (c) Continue to rely on the provisions of Clause 30 of the EP & A Model Provisions 1980 (as adopted by Clause 6 of the BLEP 1987) when determining future development applications which provides consent not be granted to the carrying out of development unless appropriate water supply and facilities for the removal or disposal of sewage and drainage are available or that arrangements satisfactory to Council have been made.
- (d) Upon adoption of the Draft BLEP 2011 rely on the provisions of Clauses 6.2 and 7.1 of the Draft BLEP which are similar to the existing Clause 30 requirements.
- (e) Impose conditions of consent on development applications for urban subdivision for the provision of requisite infrastructure services, commensurate with those required to service the proposed subdivision.

The CURA-A landowners acknowledge that the total amount of contributions payable under the proposed amended Contributions Plan will likely exceed the \$20,000.00 developer contributions cap that has been imposed by the NSW Department of Planning and Infrastructure.

The landowners agree to Council applying to the Minister (with their written support) for approval to an agreed higher contribution amount in respect of CURA-A.

We have prepared a draft of the proposed new section to be inserted into the Ballina Shire Contributions Plan 2008 for CURA-A and are happy to work with Council's officers to complete the document.

It is submitted the alternative mechanism proposed above will provide for the practical, feasible and achievable infrastructure services delivery to CURA-A in a manner comparable to the method which has successfully worked in the Shire for many years and which is largely premised on the south to north extension of the Ballina Heights Estate (which is the first part of CURA-A).

3. CURA-A Land Owners Issues with the Proposed VPA.

The proposed alternative mechanism detailed above was the method that was anticipated by us as meeting Council's infrastructure delivery obligations and is consistent with Council's approval to recent rezoning applications and the method of infrastructure delivery in the adjoining Ballina Heights Estate.

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The proposed VPA is not suitable to the CURA-A land owners for the following reasons:

A. Number of land owners – respective financial positions.

- As indicated above the land comprised within CURA-A is owned by six (6) distinct land owners (now including Council as a consequence of the purchase of Lot 1 DP 1171927 for a reservoir site).
- The owners are all in different financial positions and have different aspirations for the development and use of their land.
- The CURA-A Planning Proposal was based on an extended timetable of development in anticipation that land would, in accordance with the long-standing strategic planning for the locality, be developed from a south to north strategy.
- It is possible that the current owners of the land will not be the owners at the time that the land is developed.
- It is unreasonable to expect all the existing land owners enter into a VPA which will require:
 - (i) the registration of the VPA on the title to their properties (Clause 16); and
 - (ii) significantly limit their rights to dispose of the property (Clause 17).
- The VPA would require the consent of any existing Mortgagee and is likely to significantly impede any land owner entering into further mortgage arrangements whether necessary to develop their land or for any other purpose.

B. Physical Infrastructure Provisions.

- Clause 7 of the VPA obligates each current land owner to be responsible for the "works" in accordance with the "Timing" in Schedule 3. This arrangement penalises the land owner lodging the Development Application which comprises the stated number of Lots which might trigger the particular infrastructure obligation.
- In general terms the "Timing" mechanism in Schedule 3 penalises the land owners who are developing their land later in the development process.

C. Calculation of Monetary Contributions.

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- No. 17 in Schedule 3 of the VPA provides for the calculation of contributions on a per hectare of net developable area and penalises land owners with fewer and/or larger Lots.

D. Probability of Change to Infrastructure Requirements.

- It is anticipated that the development of the land comprised in CURA-A may, subject to usual market forces, take 10-20 years to complete.
- The experience we have had with the adjoining Ballina Heights Estate is that it is likely there will be significant physical alterations to the current plans included in the rezoning documentation.
- These alterations may include the proposed staging, required infrastructure, and location and size of Lots within CURA-A.
- It is also likely the current configuration and requirements of CURA-B will alter significantly.
- In those circumstances the particular infrastructure identified in Schedule 3 may be required to be altered. For example, if the projected development yield of CURA -B alters significantly, then the district playing fields location may vary.

E. Alteration or Amendment to the VPA.

- In the event of significant changes to the Lot layout, staging or timing of the development of the land within CURA-A, the VPA does not make it clear whether all existing land owners are required to be a party to any alteration.

F. Compliance with Council's Planning Agreement Policy.

- A VPA was not contemplated by the land owners or by us at the time of the lodgement of the documents relating to the proposed rezoning of CURA-A.
- The rezoning process has been in place for in excess of eight (8) years and the documents have been prepared in accordance with Council's previous Urban Land Release Strategy.

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- Significant funds have been expended by our clients in obtaining Consultants Reports comprising the Rezoning Application.
- There was no indication from Council of its proposed VPA until June/July 2012. The Environmental Planning and Assessment Amendment (Development Contributions) Act 2005 introduced the statutory system of Planning Agreements. If Council had proposed a VPA as the preferred method of providing infrastructure then this could have been raised at any time since the introduction of the legislation.
- Council's Planning Agreement Policy was not adopted until 28 June 2012. The entire method of imposition of the VPA and some of its content is inconsistent with Council's policy.

For example:

- (i) The "Background" provisions anticipate a VPA will arise as a result of negotiation; and
 - (ii) "Procedures Relating to the Use of Planning Agreements"
– 1.48 – *"... the system is based on principles of fairness, co-operation, full disclosure, early warning and agreed working practices and timetables"*.
- If the land owners had been given reasonable notice that Council required a VPA at this rezoning stage of the development process they would have had the opportunity to consider the cost and other implications of their involvement and would have been provided with the reasonable opportunity, both between themselves and with Council, to consider and negotiate its terms.
 - The method of the imposition of the VPA on the land owners could be interpreted as akin to the circumstances identified in the ICAC Report - February 2012 - "Anti Corruption Safe Guards and the New South Wales Planning System" – pages 10 & 11 where the ICAC noted:

"...the ability of a Planning Authority to indirectly pressure developers to enter into a VPA also has the potential to distort the planning process and undermine the principle of certainty. The removal of nexis for VPA's means a Planning Authority can pursue planning contributions that are not commensurate with the scale of the development; for example, by seeking more open space than identified by an open space needs study. Further, if a Planning Authority uses indirect pressure to compel a developer to enter into a VPA, a perception will arise that it is no longer able to assess a Development Application impartially because it has an interest in seeing the associated development or planning proposal realised".

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- We also refer you to Part 4 – Best Practice Guidelines of the Planning Agreements – Practice Note issued 19 July 2005 by the Department of Infrastructure Planning and Natural Resources, which identifies there may be circumstances where there has been insufficient analysis of the likely planning impacts of proposed development by a Planning Authority to a proposed VPA and also identifies the potential for an imbalance of bargaining power between the Planning Authority and the developer.
- We raise these issues only to suggest the infrastructure provisions referred to in Schedule 3 may be preliminary to the requirements of both CURA-A and CURA-B and the alternative method proposed in 2. above is preferable, in respect of CURA-A.

4. General

There are major differences between CURA-A and CURA-B in respect of:

- (i) the number of parties involved; and
- (ii) the infrastructure servicing provision and mechanism.

and the particular circumstances of CURA-B may have made a VPA the only viable option in respect of that land.

For the reasons outlined above we believe the method proposed in 2 above is a "suitable alternative mechanism" to meet Council's requirements identified in its resolution of 26 July last.

We suggest that because of the:

- (i) need to complete the rezoning process;
- (ii) CURA-A land owner's and Council's desire to ensure appropriate infrastructure delivery;
- (iii) size and scale of the proposed development;
- (iv) issues identified by both the CURA-A land owners and Council including those referred to in this letter and the VPA; and
- (v) importance of the development to the local area;

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8.

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12 October 2012

that a workshop be organised to provide for the writer and Bill Payne from this firm, Steve Connelly, Shelley Smulevich and Jenny Rudolph (of Elton Consulting who is assisting Intrapac Projects Limited) and members of the Council's Strategic Services Group to resolve any issues Council may have in respect of the mechanism proposed above.

It may be also beneficial to subsequently hold a workshop to which the elected Councillors attend so issues they may have be resolved.

We await your response.

Yours faithfully



Paul Snellgrove
ARDILL PAYNE

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**Office of
Environment & Heritage**
NSW National Parks & Wildlife Service



Our reference: FIL08/2585
Contact: Liz Dargin, 6627 0213

Simon Scott
Strategic Planner
Ballina Shire Council
PO Box 450
BALLINA NSW 2478



Dear Simon,

Re: Ballina Nature Reserve

Thank you arranging and attending a meeting between Ballina Shire Representatives (Simon Scott and Matthew Wood) and Office of Environment and Heritage representatives (Mark Pittavino, Toong Chin and Liz Dargin) on 31/10/12, about the management of drainage within Ballina Nature Reserve.

The primary purpose of the Plan of Management for Ballina Nature Reserve is to outline the management objectives of the reserve. The management of the drains within the nature reserve is addressed within the plan. The only approved drains within the nature reserve are the Union Drain (North Creek) and Drainline C (NR1), please see attached map. Richmond River County Council has management responsibility for the above mentioned drains.

Should you have any enquiries in regarding this matter please contact me on 6627 0200.

Yours sincerely

MARK PITTAVINO
Manager Richmond River Area
Northern Rivers Region
Coastal Branch
National Parks and Wildlife Service

02/11/2012

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Our Ref: MW/AS: 1573/05 (89542) (41175)

17 September 2012

Mr Matthew Wood
Manager Strategic Planning
Strategic & Community Services Group
Ballina Shire Council
PO Box 450
BALLINA NSW 2478



Dear Matthew

Thank you for your letter regarding the maintenance of drainage in the Ballina Nature Reserve (BNR). I can advise that Richmond River County Council (RRCC) assumed responsibility for maintenance of Drain Line 'C' in the reserve following the dissolution of the Newrybar Drainage Union in 2000. RRCC prepared a maintenance proposal for National Parks and Wildlife Service for on-going maintenance works.

The rainfall over the past three years has led to prolonged wet conditions in the swamp; in particular the BNR. RRCC maintenance staff sprays weeds in the drain when access is possible. I can report that spraying was undertaken three weeks ago and the drain is clear of weeds.

It should be understood that the drainage issue for the farmers is not the function of Drain Line 'C', but a wider problem that is directly related to the low elevation of the cane properties near Ross Lane and prolonged rainfall. RRCC is well aware of the Newrybar area's issues and has undertaken extensive and detailed flood modelling to identify some management options that may alleviate drainage or identify the actual realities of flooding in the area.

In respect to the comment from DPI Fisheries on maintenance works resulting in higher groundwater levels, I can only refer to the information above and do not quite understand their rationale for the comment. I can say that higher groundwater levels in the BNR would be a benefit to the wider management of the acid sulphate soils in the area and that higher groundwater in swamp land such as this is a natural state.

I can also advise that I have met onsite with landholders a number of times, most recently last week with Alan Anderson and Col Dorey. Both agreed that Drain Line "C" was in good condition, but were more of the understanding that the problem lay further to the south-west, possibly in the

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Postal address: PO Box 230, Lismore NSW 2480
ABN: 60 591 934 541

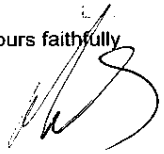
Sandy Flat area and RRCC does not have any assets there. They were also concerned about the proposed development in the catchment and stormwater runoff exacerbating the drainage problem.

The reality with areas like the Newrybar Swamp is that they are swamps and hold water, and over the past three years we have experienced some of the wettest years on record. Colleagues from other councils along the coast have found the same with farmers in low-relief areas petitioning councils about the standing water on their properties.

Without pre-empting the findings of the flood modelling mentioned above, it may shed some light on the movement of water across the Newrybar area, but this does not mean that greater drainage will be realised.

I hope that the forgoing information is of some assistance.

Yours faithfully



Michael Wood
Floodplain Services Manager



The Hon. Robyn Parker MP
Minister for the Environment
Minister for Heritage

MD12/4521

15 NOV 2012

The Hon Don Page MP
Minister for Local Government
Minister for the North Coast
Member for Ballina
PO Box 1018
BALLINA NSW 2478

Don,
Dear Minister

Thank you for your letter regarding drainage issues in Ballina Nature Reserve. I appreciate you bringing the concerns of your constituents to my attention.

As you may be aware, Ballina Nature Reserve falls within the Newrybar Swamp catchment. I am advised that there are two approved drains (Union Drain and Drainline C) within the nature reserve.

Both these drains were constructed by Richmond River County Council prior to the gazettal of the nature reserve in 1975. The Plan of Management for the nature reserve recognises the pre-existing use of these drains for flood mitigation purposes and that Richmond River County Council retains management responsibility for the drains.

Since the gazettal of the nature reserve, other drains which were constructed without authorisation have been closed and rehabilitated. This work was done in collaboration with the Richmond River County Council.

I am further advised that Richmond River County Council, with technical support from the Office of Environment and Heritage (OEH), is currently undertaking a drainage study of the Newrybar Swamp catchment, including the nature reserve. To date, the study has found that given the reserve is the lowest point of the wetland, any further draining works within the nature reserve would be ineffective in alleviating flooding.

I understand that OEH is aware of the concerns of local landholders and of development issues being considered by Ballina Shire Council. OEH recently offered to meet with Council regarding drainage management within the nature reserve and is currently awaiting a response.

I trust this information is of assistance.

Yours sincerely

Robyn Parker MP
Minister for the Environment

Level 32, Governor Macquarie Tower, 1 Farrer Place, Sydney NSW 2000
Phone: (61 2) 9228 5253 Fax: (61 2) 9228 5763 Email: office@parker.minister.nsw.gov.au



Planning &
Infrastructure

Office of the Director General

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

Dear Mr Hickey

Planning Proposals PP_2010_BALLI_013_00 and PP_2010_BALLI_014_00 – Gateway Determination extension

I refer to your request on 13 August 2012 seeking an extension of time to complete the Planning Proposals PP_2010_BALLI_013_00 and PP_2010_BALLI_014_00 for the Cumbalum Release area.

I have determined as the delegate of the Minister, in accordance with section 56(7) of the Environmental Planning and Assessment Act, 1979, to amend the Gateway Determination dated 15 February 2011 for PP_2010_BALLI_013_00 and 12 February 2011 for PP_2010_BALLI_014_00 by extending the time for the completion of the Planning Proposals each by an additional six (6) months.

The Planning Proposals are now due for completion by 19 February 2013 (Precinct A) and 22 February 2013 (Precinct B). Council is required to submit the planning proposals to the department within three months (expiring 19 or 22 November 2012), to allow sufficient time for legal drafting and finalisation within the six month period.

If Council does not submit the proposals within this timeframe, the department will consider a recommendation to the Minister that an alternate relevant planning authority be appointed. In this regard, Council should consider whether it could progress the proposals more rapidly by forwarding them to the department to commence legal drafting prior to the final adoption of the Voluntary Planning Agreements.

Please contact Jim Clark of the department's Northern Regions Office if you wish to discuss the matter.

Yours sincerely

SHaddad
Sam Haddad
Director General

5/9/2012.

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5.2 Cumbalum Precinct B Planning Proposal

5.2 Cumbalum Precinct B Planning Proposal

Delivery Program Strategic Planning

Objective To invite the Council to consider options for the finalisation of the Cumbalum Precinct B Planning Proposal.

Background

Council has been engaged in the consideration of the Cumbalum Precinct B Planning Proposal since mid 2007. The consideration of the subject planning proposal has come about as a consequence of the following:

- The Cumbalum Urban Release Area has been identified in the Council's, and the State Government's, strategic planning framework as a potential future urban growth area since the mid 1990s;
- Rezoning land for urban purposes is required to secure the long-term land supplies needed to accommodate the projected population growth of the shire;
- That the rezoning of additional land for urban purposes would support competition in the land development marketplace and contribute to improving housing affordability in the shire and the region; and
- To provide development and living opportunities on land that is relatively unconstrained by environmental hazards and to reduce development pressure along the coast.

In November 2011, Council resolved to exhibit the planning proposal for public comment [Minute No. 241111/9]. Consequently, the Cumbalum Precinct B Planning Proposal was publicly exhibited for a period of 78 days from 12 January 2012 to 30 March 2012.

Following the conclusion of the public exhibition period, the planning proposal was reported to the Environmental and Sustainability Committee of the Council held on 17 July 2012. The Minutes of the Committee were considered at the Ordinary Meeting of the Council held on 26 July 2012. The Council resolved, at the Ordinary Meeting, as follows in relation to this matter [Minutes No. 260712/5]:

1. *That Council proceed to finalise the Cumbalum Precinct B Planning Proposal, subject to the following:*
 - a) *The proponents providing a signed Voluntary Planning Agreement (or agreement is reached on a suitable alternative mechanism) that satisfies the Council's requirements with respect to securing future infrastructure delivery obligations and that ensures a minimum contribution in the case that Ross Lane is realigned; and*

5.2 Cumbalum Precinct B Planning Proposal

- b) Council's Civil Services Group advising that it is satisfied that a stormwater management system can be designed that is capable of servicing the subject land, without having an unreasonable adverse impact on downstream private properties and ecology.*
2. *That where items 1(a) and 1(b) are not resolved in a period of three months, the matter be reported to Council for further consideration.*
 3. *That Council amend the planning proposal in accordance with the table of minor amendments contained in this report.*
 4. *That Council receive a further report regarding the urban suitability of the land identified in the Precinct B Planning Proposal as being affected by Road Noise, located to the south of Ross Lane. The report is to consider the advantages and disadvantages of preparing a separate planning proposal to facilitate urban development of the land.*
 5. *That Council receive a report on the long term upgrade options for Ross Lane, along with funding options.*

The purpose of this report is to present information to the Council in relation to items 1(a), 1(b), 3, 4 & 5 above and to seek the Council's direction with respect to the finalisation of this matter. It is noted in this regard that the majority of planning matters relating to the subject planning proposal have been considered and resolved by the Council. The two exceptions to this are funding for infrastructure delivery and potential downstream stormwater impacts, which comprise the key subject matter for this report and its recommendations.

Further detailed background information regarding the subject planning proposal, including the planning history and context, public exhibition processes and submissions received during the public exhibition phase of the planning proposal are provided in the report presented to the Meeting of the Environmental and Sustainability Committee of the Council held on 17 July 2012 (Attachment 1). The public submissions received in relation to the public exhibition of the planning proposal, that comprised the attachments to the July Meeting, have been made available on Councillor ipads.

It is noted that the July Council resolution provided for a number of minor amendments to be made to the proposed zoning map, as a consequence of the consideration of submissions received during the public exhibition of the Precinct B Planning Proposal, as outlined in the table provided on pages 69 to 70 of the July 2012 Environmental & Sustainability Committee Meeting agenda report (Item 3 of the Council Resolution). The amended plan is provided as Attachment 2 to this report. It is noted that the amended zoning plan has a number of consequential, though minor, implications for other maps in the Ballina Standard Instrument LEP map set (lot size map, urban release areas map).

Key Issues

- Strategic land use planning
- Long-term supply of residential zoned land

5.2 Cumbalum Precinct B Planning Proposal

- Growth management
- Infrastructure delivery
- Environmental constraints
- Affordable housing

Information

The planning proposal process, involving also the preparation of a Local Environmental Study, has identified that parts of the subject land have characteristics which make it suitable to accommodate urban development, subject to the resolution of the following outstanding matters:

- Agreement on an appropriate funding mechanism for the delivery of urban infrastructure to support the development of the land, that does not place an inappropriate burden on the Council and the Ballina Shire community; and
- Confirmation that the development of the land would not have the inevitable consequence of adversely impacting on downstream properties due to increased stormwater.

Further information relating to the above outstanding matters is provided below.

Infrastructure Delivery

The Council has previously been advised that the Cumbalum Urban Release Area (Precinct A & Precinct B) has been excluded from Council's Section 94 Development Contributions Plans for roads, open space and community facilities and from Council's Section 64 Plans for water and sewerage, other than contributions for head-works (water & sewerage) and shire-wide contributions for roads and open spaces & community facilities. Council's Civil Services Group has previously advised that the reasons for the exclusion of the Cumbalum Urban Release Area (CURA) specific infrastructure from these plans include the following:

- The delivery of infrastructure through Council's plans risk the network being constructed in an inefficient manner due to the potential for restrictions to be imposed by landowners (individual landowners may or may not be involved in the development to be serviced by a particular item of infrastructure). Council's recent experience in the Wollongbar Urban Expansion Area is noted;
- Council's ability to meet its obligations may be limited due to the potential for protracted negotiations with landholders;
- Council is subject to financial risk if the cost to provide the infrastructure is greater than the amount levied by the developer charge. It is noted that the developer charge is based on reference rates and site investigations undertaken well in advance of detailed design work being undertaken; and

5.2 Cumbalum Precinct B Planning Proposal

- In the case of Section 94 Development Contributions Plans, the State Government's 'Contributions Cap' of \$20,000 per allotment limits Council's ability to adequately recoup infrastructure costs through developer contributions.

Further, Council's Civil Services Group notes in relation to water and sewer charges:

Section 64 charges for water and sewer are primarily for contribution toward head-works and shared infrastructure that caters for demand beyond the scope of the development. Where a development needs infrastructure that only provides for the needs of the development, the provision of those assets is the responsibility of the developer. It is the responsibility of the developer to design and construct infrastructure to meet the needs of their development and Council is not in a position to understand the proposed development or needs of the development in relation to water and wastewater infrastructure prior to the submission of detailed designs and plans. As such it would be impossible for Council to incorporate fair and reasonable costing into any Developer Service Plan that would not entail unnecessary risk on either the developer and /or Council.

Were a Section 64 Plan to be prepared for the CURA development that incorporated all infrastructure, the developer would bear the cost of providing the infrastructure and this would reflect in the charges. Without a detailed plan of what is proposed to be included in the development Council would be forced to be unnecessarily conservative which may lead to higher charges and inefficient designs.

It is noted in this regard, that Council's Civil Services Group estimates that the total cost of fully incorporating Cumbalum Precinct B into Council's s.94 contributions plans at approximately \$90 million. Further, the State Government's cap on development contributions would, if maintained, present Council with an unfunded liability in the order of \$29.6 to \$38.1 million that could not be collected via development contributions. Even if the contributions cap was lifted, in this case, the total funding liability (in terms of the holding costs on debt and the associated risk) for the Council is considered prohibitive.

Consequently, it has been the Council's preference that alternative arrangements be pursued to ensure the land can be adequately serviced without placing an unreasonable burden on the public. Despite this matter being raised with the proponents on numerous occasions during the preparation of the planning proposals, it was not able to be resolved prior to the public exhibition of the planning proposal.

To address this matter, Council sought to arrive at an alternative arrangement for securing the provision of infrastructure. Prior to the July Ordinary Meeting, the proponents for Precinct B indicated a willingness to enter into a voluntary planning agreement as a means of resolving infrastructure delivery matters. Consequently, the Council's July resolution provided for the finalisation of the Precinct B Planning Proposal subject to (among other things):

5.2 Cumbalum Precinct B Planning Proposal

- a) *The proponents providing a signed Voluntary Planning Agreement (or agreement is reached on a suitable alternative mechanism) that satisfies the Council's requirements with respect to securing future infrastructure delivery obligations; and*

Following the Council's July Meeting, negotiations with respect to the Precinct B Voluntary Planning Agreement (VPA) were successfully concluded, between the development proponents and Council staff. The VPA was signed by the proponents and presented to the Council. Consequently, the VPA was placed on public exhibition for a period of 28 days (20 September – 19 October 2012), in accordance with the *Environmental Planning and Assessment Act 1979* and Regulations. The Precinct B VPA is provided as Attachment 3 to this report.

The Cumbalum Precinct B VPA incorporates the following:

- Identification of infrastructure to be provided in association with the future development of the land, including arterial roads, drinking and recycled water supply, sewerage infrastructure, open spaces and community facilities;
- Identification of the parties responsible for undertaking specific works and the timing for the delivery of those works; and
- Identification of the obligations of the parties, as landholders, to allow the creation of easements and the dedication of land, to facilitate the developers' obligations.

It is noted that the VPA makes reference to the obligations of the parties to the agreement separately, as developer and as landholder, as the 'developer' involved in a particular stage of development may be obligated to deliver infrastructure located on another's landholding, that is not the subject of that stage of development. This arrangement seeks to ensure there are no impediments to the logical and efficient extension of development and supporting infrastructure.

It is the view of Council's Engineers that, from a technical perspective, the VPA, if fully implemented, would address the need to ensure that adequate arrangements are in place for the provision of infrastructure.

It is noted that item 1(a) of the Council's July resolution seeks to insure that the VPA includes "...a *minimum contribution in the case that Ross Lane is realigned*". The lack of detail regarding the scope of works and associated costs for these works has meant that it has not been possible to incorporate such contributions into the VPA, at this time. Notwithstanding, it is noted that Council's existing s.94 Roads Contributions Plan currently includes works for the realignment of Ross Lane, albeit not to the degree that has been contemplated in relation the Precinct B planning proposal. Further, Council's Civil Services Group advises that future realignment works for Ross Lane would be more appropriately addressed via amendment to Council's s.94 Roads Contribution Plan. It is proposed that this will occur during the 2013/14 financial year.

5.2 Cumbalum Precinct B Planning Proposal

Submissions to the VPA

Council received one (1) submission in response to the public exhibition of the Precinct B VPA, from Mr Steve Connelly on behalf of Mr Ken Kaehler, owner of land in the western portion of the Precinct B study area, adjacent to the Pacific Highway (Ballina Bypass). The submission is provided as Attachment 4 to this report. The submission objects to the VPA on the grounds that Mr Kaehler should have been a party to the agreement as his landholdings are within Precinct B and the subject planning proposal would 'radically change' the zoning of the land. Mr Connelly argues that two additional provisions should be inserted into the VPA to the effect of:

- compensating Mr Kaehler for his land providing 'eco-system services' to the proposed development; and
- including a provision in the VPA which would guarantee that the land is not adversely impacted due to increased stormwater runoff from the proposed development.

It should be noted that, for the purposes of the draft Ballina Standard Instrument LEP preparation process, all land in the shire which had active rezoning processes occurring were zoned RU1 Primary Production or RU2 Rural Landscape Zone, in order to allow detailed site investigations to occur through the relevant planning proposal processes. The Local Environmental Study for Precinct B investigated the development potential of the land and found that potential limited largely due to excessive road noise (from the Pacific Highway) and flooding.

Further, it is noted that the Council resolved, at its July 2012 Ordinary Council Meeting, to amend the exhibited zoning map to more closely align the proposed E2 Environmental Conservation Zone boundaries with the High Conservation Vegetation present on that property, in order to more accurately reflect the environmental characteristics of the land. The remaining 'rural' (non-vegetated) parts of the property are proposed to be zoned E3 Environmental Management Zone which permits a range of rural and agricultural land uses that are consistent with the current and historic use of that land. It is unclear how this action could be interpreted as Mr Kaehler's land providing 'ecosystem services' to the benefit of the proposed development.

As outlined elsewhere in this report, due to the anticipated deferral of the E2 and E3 zones from the Ballina Standard Instrument LEP, it is recommended that Council request the Department that aspects of the planning proposal that relate to environmental protection zones be implemented via amendment to the Ballina LEP 1987.

With respect to stormwater management matters, including potential impacts to Mr Kaehler's land from increased runoff, it is noted that Council is concerned to mitigate such potential adverse impacts from occurring through proper consideration of this matter at rezoning stage and, if rezoning proceeds, through the assessment and conditioning of future development proposals. Accordingly, the matter of potential stormwater impacts arising in relation to the subject proposed development is addressed elsewhere in this report.

5.2 Cumbalum Precinct B Planning Proposal

Registration of the VPA

Fundamental to the viability of the VPA, as a means of ensuring that infrastructure can be provided without placing an unreasonable burden on the public, is that the VPA can be made to endure as landholdings change hands from time to time. Acknowledging this, section 93H(3) of the *Environmental Planning and Assessment Act 1979* provides that:

- (3) *A planning agreement that has been registered by the Registrar-General under this section is binding on, and is enforceable against, the owner of the land from time to time as if each owner for the time being had entered into the agreement"*

Clause 16 of the Precinct B VPA states that the parties agree to the VPA being registered to the title of the land. Significantly, however, the Act makes provision for planning agreements to be registered to the title of the land provided that all parties with an interest in the land agree that it be so registered. Further, clause 17 of the VPA obligates the landholder, if the land is sold, to have the obligations under the agreement assigned to the new owner.

The registration of the VPA to the title of the land is vital to ensuring that the obligations made under the agreement can be sustained should other parties, that are not signatories to the VPA, obtain the land through court proceedings, or by other means that are not accompanied by the transfer of the VPA obligations to the new owners (pursuant to cl.17 of the VPA). The VPA is critical, in this case, as it is a mechanism to ensure the delivery of substantial infrastructure requirements to a new village in a manner that avoids an unreasonable cost liability for the broader community.

As a consequence of the uncertainty associated with the various development interests in Precinct B, and of the need for all parties with an interest in the land to consent to the registration of the VPA to the land titles, it is recommended that the subject planning proposal process not be finalised until such time as the VPA has been registered to the respective land titles.

It is noted that requiring the registering of the VPA against individual titles as a condition of finalisation of the planning proposal provides a clear indication to all those with an interest in the land, that the registration of the agreement is in their respective interests, as well as being in the public interest. This 'nexus' of interest may not be as clear, for those parties, should the land be rezoned prior to registration. Moreover, rezoning of the land prior to the registration of the VPA to the land titles may mean that the registration process becomes more difficult or cannot be achieved as the rezoning is a clear incentive to the relevant parties to act.

Notwithstanding the above, it is noted that should the VPA be registered to the title of the land, the agreement appears to provide a suitable mechanism for ensuring the adequate provision of infrastructure to service future development without placing an undue burden on the public. In light of the above, Council is invited to execute the agreement, by affixing the Council seal to the Precinct B Voluntary Planning Agreement. Whilst this gives effect to the agreement between the parties, it does not negate the importance or need for registration of the VPA to the land titles to ensure the agreement applies to potential future landholders.

5.2 Cumbalum Precinct B Planning Proposal

Amendments required to Council's infrastructure contributions plans

It should be noted that several aspects of infrastructure delivery are not addressed by the VPA and will require further action and commitments from the Council, with respect to amending Council's contributions plans. These are set out below:

- A major item of infrastructure to be delivered via the VPA is upgrade works that will ultimately be required to the Ross Lane Interchange with the Pacific Highway. The traffic study prepared to inform the Infrastructure Delivery Plan for the Cumbalum Urban Release Area identified the need to add additional lanes on both roundabouts and the overbridge at Ross Lane. These works are estimated to cost in the order of \$10,840,000. The traffic study indicated that the future share of future traffic accessing the highway interchange is attributable 72% to the CURA developments and 28% to 'background' shire existing population plus natural growth. Consequently, approximately \$2,173,248 of works would not be recouped, via the VPA or otherwise, from the CURA developments.
- Additionally, again in regard to the above Pacific Highway works, approximately 13.9 hectares of 'developable land' in Precinct B is owned by parties other than the major developers who are to be parties to the VPA. Consequently, a development contributions plan for this aspect of the future infrastructure would be required to levy the smaller developers within Precinct B for contributions towards these works; and
- Land acquisition costs for road widening on Ross Lane - Council's existing Roads Plan assumes that future road widening will be achieved via land dedications undertaken in association with future development. However, under the present planning proposal a number of landholdings along Ross Lane do not enjoy any development opportunities. Consequently, land acquisition costs will need to be incorporated into the Roads Plan.

Further, it is noted that approximately 14.5 hectares of land (in 13 separate allotments) of the developable portion of Precinct B is not the subject of the Precinct B VPA, by virtue of land ownership. The VPA makes provision for the sizing and capacity of essential infrastructure to be such that these small allotments can be ultimately accommodated, subject to individual property owners making arrangements at the time of development to connect to trunk main infrastructure once capacity is available.

Council may consider the inclusion of these small allotments into Council's development contributions plans, in order to achieve equity in the delivery of infrastructure to Precinct B, in its forthcoming contribution plan reviews. Further, the development control plan that is to be prepared, in a manner consistent with clause 6.3 of the draft Ballina Standard Instrument LEP, will further clarify matters of development sequencing and infrastructure delivery.

Stormwater Management

It is noted that the planning proposal process has, to date, relied largely on the provision of technical information by the development proponents that has been peer reviewed by Council staff and Council's consultants in relation to the Local Environmental Study (prepared by GHD Pty Ltd). As indicated in the attached Environmental and Sustainability Committee Report of 26 July 2012, concerns have remained regarding the adequacy of the stormwater

5.2 Cumbalum Precinct B Planning Proposal

management information provided, particularly in relation to the capacity of downstream properties to receive increased stormwater volumes.

To assist the Council in its understanding of the stormwater management issues, flooding and drainage consultants WBM BMT have been engaged by the Council to undertake stormwater assessments involving the modelling of the following development scenarios, in comparison to a base-case scenario of no development occurring:

- Development of Precinct A
- Development of Precinct B
- Development Precinct A and Precinct B
- Development of Precinct A and Precinct B factoring in projected 2100 sea-level rise of +90cm.

The modelling tested the above scenarios for a representative 'wet year' and representative 'dry year' based on historical rainfall information. The modelling outputs are a series of maps with data expressed in terms of the percentage increase/decrease of time inundated, relative to the base case scenario (of no development & no sea-level rise).

The results of the stormwater modelling are provided as Attachment 5 (distributed under separate cover). It is noted that the WBM report relates also the Cumbalum Precinct A Planning Proposal which is the subject of a separate report in this business paper.

The WBM report includes the following observations, for the Precinct B (alone) post-development scenario:

- *Most of the Ballina Nature Reserve and wider modelled area experiences less than 1% change in inundation during either the representative wet or dry years;*
- *Both the wet and dry years show a reduction in inundation duration in the northern half of the study area (i.e. north of Deadmans Creek). The reduction is mostly less than 2% and is more pronounced during the wet year. It is expected that the proposed development allows slightly faster overland flow travel times, which enables more surface water to drain from the wetland area prior to the emergence of groundwater at the base of the Cumbalum Ridge;*
- *Immediately to the south of the CURA-B, there are localised areas of increased and decreased inundation duration. The highly localised nature of the impacts in this area makes it difficult to draw any conclusive proof that inundation is likely to increase as a result of the CURA-B development; and*
- *Along Ross Lane, there appears to be a trend for inundation duration to decrease during the wet year.*

The WBM report includes the following observations, for the Precinct A & Precinct B (combined post-development scenario):

- *Most of the Ballina Nature Reserve and wider modelled area experiences less than 1% change in inundation during either the representative wet or dry years;*

5.2 Cumbalum Precinct B Planning Proposal

- *Both the wet and dry years show a wider area of reduced inundation duration across most of the Ballina Nature Reserve compared with the isolated CURA-A and CURA-B scenarios. The reduction is mostly less than 2% and is more pronounced during the wet year. It is expected that the proposed development allows slightly faster overland flow travel times, which enables more surface water to drain from the wetland area prior to the emergence of groundwater at the base of the Cumbalum Ridge;*
- *Immediately to the east of Ballina Heights and the CURA-A, and immediately to the north of the CURA-A, there are localised areas of increased and decreased inundation duration. The highly localised nature of the impacts in this area makes it difficult to draw any conclusive proof that inundation is likely to increase as a result of the combined CURA-A and CURA-B developments; and*
- *Along Ross Lane, there appears to be a trend for inundation duration to decrease during the representative wet year.*

The WBM report includes the following observations, for the Precinct A & Precinct B & predicted sea-level rise (combined) post-development scenario:

- *Most of the Ballina Nature Reserve and modelled area to the east of the Cumbalum Ridge is likely to experience an increase in flood inundation duration by more than 10% as a result of 900mm sea level rise;*
- *During the dry year, there are isolated areas of higher ground where inundation duration will not change by more than 2%. During the wet year, these 'islands' are likely to observe an increase in inundation duration by up to 5%; and*
- *Sandy Flat is likely to only experience significant change during wetter years.*

In conclusion the WBM report states:

In all development scenarios, the modelling has shown there to be less than 1% change in inundation duration across most of the low lying ground at the base of the Cumbalum Ridge. In most cases, there appears to be a slight trend for inundation duration to decrease as a result of development. This minor decrease (generally less than 2%) is likely to be attributed to the change in response times of the various hydrologic processes involved. Urbanisation will typically result in a larger proportion of water reaching the bottom of the Cumbalum Ridge via surface runoff, than via sub-surface flow. Therefore, water will reach the low lying ground quicker, allowing it to be released into North Creek sooner, and before the groundwater flow re-emerges as springs.

It is possible that urbanisation can cause localised areas of increased inundation, however, the accuracy of the topographic data and the inherent modelling uncertainties have not detected such changes.

5.2 Cumbalum Precinct B Planning Proposal

In summary, the above independent stormwater assessment of development scenarios undertaken by WBM does not demonstrate that significant adverse impacts would be an inevitable result of urban development occurring in Cumbalum Precinct A. The drainage dynamics of the nature reserve and adjoining properties are affected by a range of factors. Significantly, the report indicates that predicted sea-level rise is likely to have a much more notable effect on the inundation of land in the locality. Importantly, however, the modelling also indicates that the Cumbalum development precincts lie outside of the area affected by this predicted sea-level rise impact.

Notwithstanding the above, the limitations of the model are acknowledged, in that the outcomes of development cannot be entirely or perfectly predicted. Consequently, further consideration of stormwater matters will need to be undertaken at future stages of the development assessment process involving further refinement of stormwater treatment and mitigation strategies and the analysis of their potential impacts on more localised areas.

Status of the Ballina Standard Instrument LEP and Local Planning Framework

Liaison with the State Government regarding finalisation of the Ballina Standard Instrument Local Environmental Plan is ongoing. It is anticipated that the Minister's finalisation of the plan is imminent, albeit with the likelihood that the E2 and E3 zones will be deferred from the plan until an independent review of Far North Coast local councils' application of E zones has been concluded. Further information regarding the implications of the deferral of E zones, with respect to the subject planning proposal, is provided below.

Due to the timing and progress of the Ballina Standard Instrument LEP and consequential review of Council's Development Control Plan, a stand-alone DCP for the Cumbalum Urban Release Area has not been prepared. Basic residential controls are provided for, however, in the (recently exhibited) draft Ballina Shire Development Control Plan. Further, it is noted that provisions of the Ballina Standard Instrument LEP (clauses 6.2 and 6.3 as currently drafted) require that consent (for development of land in a new release area) not be granted unless:

- The Council is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required (clause 6.2); and
- A development control plan has been prepared for the land that provides for a range of matters including: development sequencing; transport hierarchy; landscaping; recreation; stormwater management; environmental hazards; and urban design and density controls (among other matters) (clause 6.3).

Clause 6.2 appears to provide some security to the Council with respect to ensuring that adequate arrangements are in place for the provision of infrastructure regardless of who the consent authority may be in relation to future development applications. Clause 6.2 would not however, in the view of Council's legal counsel, protect a refusal by the Council if infrastructure capacity was available, by virtue of development undertaken by another party to the VPA. The avoidance of such an outcome is a further argument for

5.2 Cumbalum Precinct B Planning Proposal

requiring the registration of the VPA to the titles of the land, prior to the rezoning being made.

With respect to clause 6.3 of the draft Ballina LEP 2011, which requires that a DCP must be prepared prior to the granting of development consent, it is noted that section 74D of the *Environmental Planning and Assessment Act 1979* allows that such a DCP may be drafted by the development proponents with Council having only 60 days to adopt the plan (with or without amendments) before a development application can be lodged, notwithstanding the requirement of the clause (with a possible extension of a further 60 days for the provision of additional information).

A clause has been inserted into the Precinct B VPA to require that the developer not take advantage of section 74D of the Act. Notwithstanding, such protection would not hold if the land, the subject of the VPA, was to transfer to another party without the obligations of the VPA being also transferred (which is the risk should the VPA not be registered to the title of the land). The avoidance of such an outcome is a further argument for requiring the registration of the VPA to the titles of the land, prior to the rezoning being made.

In any case, subject to the outcome of the Council and the Department's consideration of this matter, a development control plan for the Cumbalum Urban Release Area would, if the rezoning proceeds, be given a high priority in Council's work program.

The Minister's decision to defer the application of E zones from the Ballina Standard Instrument LEP would mean, for the purpose of the subject planning proposal, that the new Standard Instrument LEP would not apply to land proposed to be zoned E2 or E3 under the Precinct B Planning Proposal. As a consequence, the 1(d) Rural (Urban Investigation) Zone under the Ballina LEP 1987 would prevail in these areas by default. Further, any related provisions relating to land deferred from the draft LEP would not have effect, on the basis of the Department's latest advice.

Council may, however, request that aspects of the planning proposals be implemented via the Standard Instrument LEP and other aspects (those relating to proposed E2 and E3 zone areas) be implemented via amendment to the Ballina LEP 1987, through equivalent zones and provisions. It is not clear whether the Department would be amenable to such a request. If such a request was declined, the removal of the environmental protection zones from the Ballina Standard Instrument LEP would have the following additional implications:

- The planning proposal would not, by means of environmental protection zoning, achieve the environmental outcomes recommended by the Local Environmental Study. Those parts of the subject land that Council had proposed to be zoned E2 Environmental Conservation Zone would be deferred from the new plan, and consequently, the 1(d) Rural (Urban Investigation) Zone under the Ballina LEP 1987 would prevail. It is noted that the application of environmental protection zones in the eastern portion of the study area was proposed, in part, to assist the protection of Brolga nesting site/s in the locality;

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- Proposed heritage items, that are located in areas proposed for Environmental Protection zoning, would not be listed as heritage items in the LEP; and
- The proposed E3 Environmental Management Zone, applied in a manner consistent with the Alstonville-Wollongbar Urban Buffer, would not have effect. As a result the protections afforded by the E3 zone, relating to inappropriate development opportunities (such as those provided for in the Seniors Living SEPP on rural land located adjacent to urban zones), would not apply.

As a consequence, it is recommended that should Council resolve to proceed with the subject planning proposal, the Department be requested to implement the planning proposal via amendment to both the Ballina Standard Instrument LEP (for land in the proposed urban and rural zones) and the Ballina LEP 1987 (for land in the proposed environmental protection zones). The inclusion of environmentally sensitive land in environmental protection zones is consistent with the following Ministerial Directions, made pursuant to s.117 of the Act:

- No. 2.1 Environmental Protection Zones states *'A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas'*.
- No. 5.1 Implementation of Regional Strategies states *'Planning proposals must be consistent with a regional strategy released by the Minister for Planning'*.

In relation to Direction 5.1, the Far North Coast Regional Strategy (FNCRS) applies to Ballina Shire. On this matter the FNCRS includes the following relevant actions:

- Environment and Natural Resources – Actions – *'Local environmental plans will protect and zone land with State or regional environmental, agricultural, vegetation, habitat, waterway, wetland or coastline values'*;
- Settlement and Housing – Actions – *'Local environmental plans [will]... contain the spread of urban development, efficiently utilise existing services and infrastructure and protect areas of high conservation value'*; and
- Settlement and Housing – Actions – *'Local environmental plans will maintain interurban breaks between existing and new settlements'*.

As the recommendations relating to the allocation of zones, presented here, have been the result of an extensive and rigorous local environmental study and plan process, there does not appear to be any justification for the environmental zoning recommendations of the subject planning proposal not being implemented by the Department, given that there is a mechanism available (BLEP 1987). The proposed zoning arrangement represents a balancing of the site assessment and issues analysis and as such, it is considered optimal for the full package of zones to be implemented.

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It is also noted that the Cumbalum planning proposals rely on the location of stormwater infrastructure within several non-urban zones including the RU2 Rural Landscape Zone and E3 Environmental Management Zone. Council has previously been advised regarding inadequacies of the NSW Government's Standard Instrument LEP with regard to stormwater management matters. The difficulty with this is that stormwater management is not presently a defined land use for the purpose of the plan and is therefore not permissible in non-urban zones as it currently stands.

The permissibility of stormwater infrastructure, in the Standard Instrument LEP, has been the subject of ongoing discussions between Council staff and the Department. Although not certain, it appears that this issue will be resolved prior to the new LEP coming into effect. It is noted, however, that should the environmental zones in the new plan be deferred by the Minister, as foreshadowed, aspects of the subject planning proposal will need to be incorporated into the Ballina LEP 1987 via the insertion of an enabling clause, to ensure that stormwater infrastructure is permissible on rural land subject to a proposed E3 Environmental Management zone (not areas proposed E2 Environmental Conservation Zone).

State Government's Timeframe for Finalisation

As Councillors will be aware, the NSW Government sets timeframes for Council's completion of planning proposals. Due to the complex nature of the Cumbalum planning proposals, Council has requested extensions to the Government's timeframes over time. In granting its latest timeframe extension the Department, in its letter dated 5 September 2012 (provided as Attachment 6 to this report), advised as follows:

The Planning Proposals are now due for completion by 19 February 2013 (Precinct A) and 22 February 2013 (Precinct B). Council is required to submit the planning proposals to the department within three months (expiring 19 or 22 November 2012), to allow sufficient time for legal drafting and finalisation within the six month period.

If Council does not submit the proposals within this timeframe, the department will consider a recommendation to the Minister that an alternate relevant planning authority be appointed. In this regard, Council should consider whether it could progress the proposals more rapidly by forwarding them to the department to commence legal drafting prior to the final adoption of the Voluntary Planning Agreements.

As the above indicates, the Department is considering recommending to the Minister that an alternative planning authority be appointed to finalise the Cumbalum planning proposals if Council does not finalise the planning proposals immediately. Further, the above also indicates that the Department appears unconcerned to ensure that infrastructure matters are adequately resolved prior to the matter being finalised.

It is also noted that Council staff understand that the Department's considerable interest in this matter is, at least in part, the result of strong representations made by the local Member for Page and Minister for Local Government Don Page, on behalf of the Precinct B proponents.

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Council's intention to date has been to ensure that a development control plan and contributions plans be in place prior to the finalisation of the subject planning proposal. However, given the above and for the following reasons, this position appears to be no longer sustainable:

- Baseline planning controls are now provided for in the draft Ballina Shire Development Control Plan;
- As outlined above, clause 6.2 of the Ballina Standard Instrument LEP makes provision that consent shall not be granted unless the Council is satisfied that public utility infrastructure is available or that adequate arrangements are in place;
- As outlined above, clause 6.3 of the Ballina Standard Instrument LEP makes provision for a development control plan being in place, that addresses a range of matters relating to the subdivision of new release areas, prior to the granting of consent for the development of the land;
- The apparent intention of the State Government to rezone the land, despite any reservations of the Council with respect to potential adverse property impacts and uncertainty regarding infrastructure delivery, as outlined above; and
- The risk that, where the Department intervenes, issues of importance to Council may not be addressed by the Department in the same way that Council would have considered the matters.

Other matters

Item 4 of the Council's July resolution on this matter stated:

4. *That Council receive a further report regarding the urban suitability of the land identified in the Precinct B Planning Proposal as being affected by road noise, located to the south of Ross Lane. The report is to consider the advantages and disadvantages of preparing a separate planning proposal to facilitate urban development of the land.*

In response, Council's Strategic and Community Services Group propose to await the conclusion of investigations to be conducted by, or on behalf of, Council's Civil Services Group regarding the long term upgrade options for Ross Lane, before advancing this item of the Council's resolution. Currently, a time line for this work to be undertaken is not known.

Item 5 of the Council's July Resolution on this matter stated:

5. *That Council receive a report on the long term upgrade options for Ross Lane, along with funding options.*

This matter will be subject of a further report to the Council, from Council's Civil Services Group, in due course.

5.2 Cumbalum Precinct B Planning Proposal

Summary Comments

As has been previously reported to the Council, Cumbalum Precinct B has comprised an important component of Council's, and the State Government's, urban growth strategy for the shire, and the region, for a considerable period. The urban suitability investigations undertaken as part of the Local Environmental Study prepared as the basis for the planning proposal have identified that parts of the precinct have physical capabilities appropriate to accommodate urban development, subject to the resolution of the following:

- Infrastructure delivery - that an appropriate mechanism is in place to provide for the efficient delivery of infrastructure to service future development without placing an unreasonable burden on the public for the extension of those services; and
- Stormwater management – determining that stormwater volumes arising from the future development of the land will not have adverse impacts on downstream private properties or the environment.

In relation to stormwater impacts, the assessment undertaken by WBM regarding this matter does not demonstrate that significant adverse impacts would be likely as a result of urban development occurring in Cumbalum Precinct B, in terms of either private or public property impacts, or ecology. Notwithstanding, it is acknowledged that the potential impacts associated with stormwater management require that these matters be considered, and carefully addressed further, at future stages of the development process.

With respect to infrastructure delivery matters, Council's Engineers have advised that, subject to the registration of the VPA on the titles of the land, the VPA appears to provide for adequate arrangements being in place for the provision of infrastructure required as a consequence of future development.

Critical in this respect, however, is that the registration of the VPA to the respective titles of the land occurs prior to rezoning taking effect, for the reasons outlined in this report. As a consequence, it is recommended that the subject planning proposal not be referred to the Department of Planning and Infrastructure, to be finalised, until such time as the VPA has been registered to the titles of the land, as agreed by the respective parties (provided for by clause 16 of the VPA).

In the absence of a Voluntary Planning Agreement being in place, it does not appear that any alternative infrastructure delivery options are available that would not involve the imposition of significant costs on the Council and the ratepayers of Ballina Shire. Consequently, the full implementation of the VPA is considered fundamental to the public interest with respect to rezoning the subject land.

In pursuing the above course of action it is important to acknowledge that, on the basis of the Department's most recent advice, the Minister may remove the subject planning proposal from the Council's administration due to delay in the finalisation of this matter. Further, it is noted that a decision by the Council to defer the consideration of this matter for any reason would likely invite the Department's immediate intervention.

5.2 Cumbalum Precinct B Planning Proposal

Council has sought to ensure that the subject rezoning process addresses all relevant social, environmental and economic issues in a manner which reasonably safeguards the environment, public health, minimises financial risk to the ratepayers of Ballina Shire and ensures that future residents have the benefit of appropriate services and infrastructure. This has been the basis of Council's approach to date. As outlined above, it appears that the substantial impediments to the progress of the planning proposal can be overcome, subject to the measures outlined in this report.

Summary Points

In summary, the Precinct B Planning Proposal, involving the rezoning of land zoned 1(d) Rural (Urban Investigation) Zone, under the terms of the Ballina LEP 1987, to a mixture of residential, commercial, environmental and rural zones:

- is consistent with the strategic planning framework for Ballina Shire and the North Coast Region;
- is supported by detailed environmental assessments undertaken through, and subsequent to, the local environmental study and plan process; and
- is able to be supported by appropriate urban infrastructure, subject to the recommendations outlined in this report, in a manner that will not place an inappropriate burden on the public.

Sustainability Considerations

- **Environment**

The rezoning of land for urban purposes has environmental implications for the land and the locality. However, the procedures undertaken to date have identified measures to be employed to mitigate harm to the environment.

- **Social**

The provision of additional residential development would contribute to the changing social environment of Ballina Shire and provide existing and future residents with greater housing choice. Development may also place additional demands on Council and other Government and non-Government organisations for the provision of social services and urban infrastructure. However, it is noted that development of this land will be consistent with Council's and the Government's endorsed and established urban land release strategy.

- **Economic**

The increase in population arising from future development of the subject land may contribute to the economic development of the locality and the shire, via the additional aggregate demand in the economy, construction activity and the provision of labour resources to local businesses.

Legal / Resource / Financial Implications

The rezoning of land for residential purposes would enable landowners to lodge development applications for residential subdivision and development of the land.

5.2 Cumbalum Precinct B Planning Proposal

The Voluntary Planning Agreement provides legal protections to the Council in ensuring that infrastructure delivery obligations are performed by the future developers of the land, without placing an unreasonable burden on the public for the extension of urban infrastructure and facilities.

As outlined in the above report, subject to this matter proceeding at this time, further consideration would need to be given, at development application stage, to the potential downstream impacts associated with increased stormwater volumes, including the potential for increased 'nuisance' flooding on downstream private properties. As noted above, there could be legal implications, under civil law, for the future consent authority should development consent be granted and significant adverse downstream impacts occur.

The rezoning of the subject land, in the absence of an enforceable Voluntary Planning Agreement being in place, could have significant legal and financial implications for the Council.

Consequential actions arising from the finalisation of the subject planning proposal, relating to the preparation, exhibition and further reporting associated with Council's development control plan, can be accommodated within existing resources.

Consultation

As outlined in the above report, this matter has been the subject of extensive consultation with landholders, Government and non-Government agencies and the broader community. Council has met the requirements of the *Environmental Planning and Assessment Act 1979* in carrying out its community engagement initiatives for the planning proposal and associated voluntary planning agreement.

Options

1. That Council defer or discontinue the subject planning proposal.

It is noted that, on the basis of the Department's latest advice, this option would likely see the Department of Planning and Infrastructure recommend to the Minister for Planning that an alternative planning authority be appointed. Such an outcome would result in Council losing further control over the rezoning process. In light of the Departments' recent dealings on planning matters, there appears to be a substantial risk that such intervention would not be in the interests of the Council or the ratepayers of Ballina Shire.

2. Proceed to finalise the planning proposal subject to registration of the VPA to the relevant land titles.

This option would involve the following:

Council executing the Cumbalum Precinct B Voluntary Planning Agreement by affixing the Council Seal.

5.2 Cumbalum Precinct B Planning Proposal

Following receipt of advice from the NSW Land and Property Information (Land Titles Office) that the Precinct B Voluntary Planning Agreement has been registered to the respective titles of the land, Council referring the Precinct B Planning Proposal to the Department of Planning and Infrastructure to be made.

In finalising the Precinct B Planning Proposal, it is also recommended that the Department of Planning and Infrastructure be requested to implement the rezoning as follows:

- As amendment to the Ballina Standard Instrument LEP - Those parts of the planning proposal that relate to land proposed to be zoned R2, R3 & RU2; and
- As amendment to the Ballina LEP 1987 – Those parts of the planning proposal that relate to land proposed to be zoned E2 & E3, via equivalent zones and provisions.

Council immediately commencing the review of relevant section 94 plans to incorporate aspects of infrastructure delivery not addressed by the Precinct B Voluntary Planning Agreement, as outlined in the Council report.

Council immediately commencing the preparation of a development control plan, for the Cumbalum Precinct B Strategic Urban Release Area, that addresses those matters set out in clause 6.3 of the Ballina Standard Instrument LEP.

This option is recommended on the basis of the following:

- That the comprehensive rezoning investigations undertaken to date indicate that parts of the subject land have a capability to accommodate urban development in a manner that would have minimal impact on the environment; and
- That adequate protections are in place, subject to the registration of the VPA, to ensure that the provision of infrastructure can occur without placing an inappropriate burden on the public.

RECOMMENDATIONS

1. That Council execute the Cumbalum Precinct B Voluntary Planning Agreement by affixing the Council Seal.
2. That following receipt of advice from NSW Land and Property Information that the Precinct B Voluntary Planning Agreement has been registered to the respective titles of the land, Council refer the Precinct B Planning Proposal to the Department of Planning and Infrastructure to be made.
3. That in finalising the Precinct B Planning Proposal, the Department of Planning and Infrastructure be requested to implement the rezoning as follows:
 - As amendment to the Ballina Standard Instrument LEP - Those parts of the planning proposal that relate to land proposed to be zoned R2, R3 & RU2; and
 - As amendment to the Ballina LEP 1987 – Those parts of the planning proposal that relate to land proposed to be zoned E2 & E3, via equivalent zones and provisions.
4. That Council immediately commence the review of relevant section 94 plans to incorporate aspects of infrastructure delivery not addressed by the Precinct B Voluntary Planning Agreement, as outlined in the Council report.
5. That Council immediately commence the preparation of a development control plan, for the Cumbalum Precinct B Strategic Urban Release Area, that addresses those matters set out in clause 6.3 of the Ballina Standard Instrument LEP.

Attachment(s)

1. Environmental & Sustainability Committee 17 July 2012 - REPORT Cumbalum Precinct B Planning Proposal
2. Revised Cumbalum Precinct B Zone Map (LZN)
3. Precinct B Voluntary Planning Agreement
4. Submission - SJ Connelly - Objection to Cumbalum Precinct B Voluntary Planning Agreement (VPA) on behalf of Ken Kaehler
5. Cumbalum Ridge: Inundation Investigation for Ballina Nature Reserve and Adjacent Properties, prepared by WBM on behalf of Council dated December 2011. (Under separate cover)
6. NSW Department of Planning & Infrastructure - Granting of extension of time to complete Cumbalum planning proposals - Gateway Determination

5.2 Cumbalum Precinct B Planning Proposal

ATTACHMENT – REPORT FROM ENVIRONMENTAL & SUSTAINABILITY COMMITTEE 17 JULY 2012

4.2 Cumbalum Precinct B Planning Proposal

Delivery Program Strategic Planning

Objective To report on the submissions received in response to the public exhibition of the Cumbalum Precinct B Planning Proposal and seek direction with respect to the progress of the planning proposal.

Background

Council has been engaged in the consideration of the Cumbalum Precinct B Planning Proposal since mid 2007. In November 2011, Council resolved to exhibit the planning proposal for public comment [Minute No. 241111/9]. In response to Council's resolution, the Cumbalum Precinct B Planning Proposal was publicly exhibited for a period of 78 days from 12 January 2012 to 30 March 2012. The initial 42 day exhibition period was extended by resolution of the Council for a further 36 days (to the end of March 2012).

Additional consultation activities undertaken during the exhibition period included the following:

- Public information session held at the Lennox Head Cultural and Community Centre on Saturday 10 March (attended by an estimated 180 people)
- Landholder briefing sessions held during the evening of 25 January 2012 at Council's Customer Service Centre
- "Drop in" session with Council's strategic planning and engineering staff held at Council's Customer Service Centre from 3pm to 7pm on 29 February 2012 and
- Numerous meetings on request with Council staff.

By way of broader background to this matter, the key milestones in the subject planning proposal process are outlined below:

- August 2007 - Council resolved to commence the rezoning process, in accordance with (then) s54 of the Environmental Planning and Assessment Act 1979. At that time any technical documentation that had been prepared by the proponents had not been submitted to Council
- April 2009 - Proponents (represented by consultancy Landpartners Pty. Ltd.) submitted technical documents supporting their rezoning request
- November 2009 - Consultants GHD (on Council's behalf) completed first round peer review of technical documents
- September 2010 - Proponents lodged revised technical documents in response to Council's/GHD's peer review

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- December 2010 - GHD (on Council's behalf) completed second round peer review of technical documents. A number of matters were identified as requiring further consideration.
- Information relating to the proposed stormwater treatment and disposal strategy was the subject of further discussion between the proponents, Council and the (then) NSW Department of Environment and Climate Change. The outcome of these discussions was that further information was prepared by the proponent relating to the potential impacts of increased stormwater flows on adjacent downstream private landholdings and on the Ballina Nature Reserve and adjacent SEPP14 wetlands. This information went through several rounds of review and revision. Further information regarding this issue is provided below. These revised reports, along with additional information relating to Aboriginal cultural heritage matters, bushfire management, flooding and road noise impacts were finalised and submitted to Council in August 2011.
- November 2011 - Report to Ordinary Meeting of the Council. Council resolved to publicly exhibit the planning proposal.

Further background to this matter is provided in the report presented to Council at its November 2011 Ordinary Meeting (Item 9.2).

Key Issues

- Strategic land use planning
- Long-term supply of residential zoned land
- Growth management
- Infrastructure delivery
- Environmental constraints
- Affordable housing

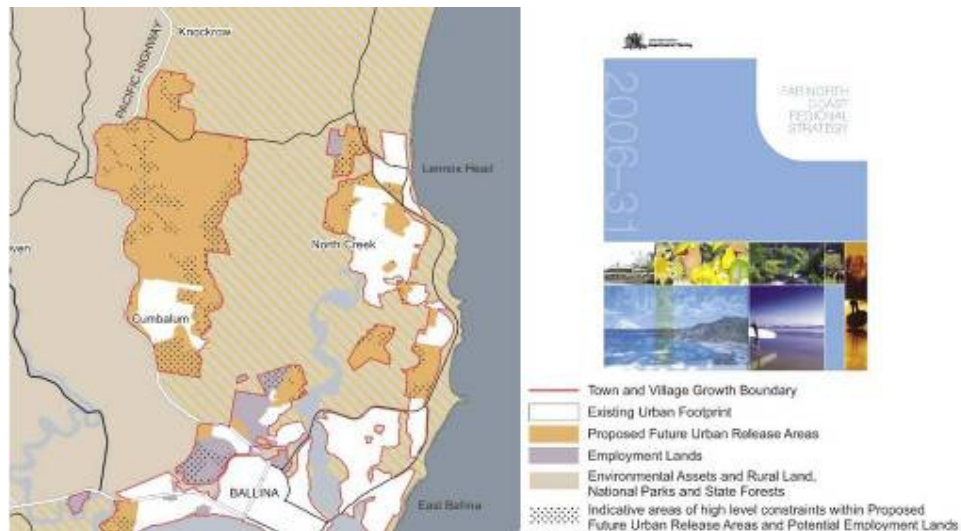
Information

Planning Context

Far North Coast Regional Strategy (FNCRS-2006)

The Far North Coast Regional Strategy (FNCRS) provides the regional framework for the consideration of the rezoning of 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 as follows).

5.2 Cumbalum Precinct B Planning Proposal



Of these areas the 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 (planning proposal) process is consistent with the regional planning framework.

Ballina LEP 1987

The subject land is currently zoned 1(d) Rural (Urban Investigation) 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.*

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With respect to the matters described in subclause c, the following is noted:

- i. Urban structure planning was undertaken by Council via the preparation and adoption (in 2006) of the Cumbalum Structure Plan;
- ii. The review of urban suitability investigations is the purpose of the Local Environmental Study prepared for the area;
- iii. Council seeks to ensure that there is an adequate "buffer" of zoned land available for development to facilitate housing choice, provide competition in the land development market and potentially improve housing affordability.

It is noted that while Ballina Shire is currently reasonably well supplied with undeveloped residential zoned land (having in the order of 300 hectares of vacant residential zoned land), recent land development rates have been modest due to a number of factors including infrastructure limitations and the financial failure of a number of land development companies.

From this perspective, there appears to be sufficient residential demand in the short to medium term, relative to the real supply of development-ready sites, to support the rezoning of additional land in Cumbalum Precinct B.

- iv. The subject of the adequacy of infrastructure and facilities is addressed elsewhere in this report.

Ballina Urban Land Release Strategy 2000 (ULRS-2000)

The Ballina Urban Land Release Strategy 2000 (ULRS) provides the Department of Planning and Infrastructure 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 the ULRS 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;
- masterplanned rezoning followed by staged subdivision release; and
- planning over a 5-20 year timeframe.

The ULRS identified rezoning investigations 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.

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Cumbalum Structure Plan (2006)

The objectives of the 1(d) zone under the Ballina LEP 1987 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 CSP, by Council, took into consideration the presence of environmental constraints, natural and cultural values and urban design. A key feature of the CSP is the identification of a number of development principles, encapsulating best practice guidelines for urban development in the region. Rezoning and development proposals should 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 Cumbalum 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 then Department of Planning and other State Government agencies for the approach and framework delivered by the CSP, 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.

Submissions

To assist the Council, the submissions received during the prolonged public exhibition period have been divided into the following categories:

- Public submissions - submissions received from members of the public;
- Landholder submissions - submissions received from persons (or their representatives) that have an interest in the land that is the subject of the planning proposal; and
- Government agency submissions.

Following the summary of the submissions, this report provides further information regarding the matters raised in the submissions.

Public submissions

Seventy-five submissions relating to Cumbalum Precinct B were received from members of the public during the public exhibition period. Fifty one submissions (68%) expressed *support* for the Precinct B planning proposal and twenty four submissions (32%) expressed *opposition*.

5.2 Cumbalum Precinct B Planning Proposal

A number of the submissions related comments to both the Precinct A and the Precinct B planning proposals. To assist in reporting these matters, the public submissions have been divided and distributed to Councillors under separate cover as follows:

- **Attachment 1** - submissions relating to Precinct A only;
- **Attachment 2** - submissions relating to Precinct B only;
- **Attachment 3** - submissions relating to Precinct A and B.

It is noted that of the submissions expressing *support* for the Precinct B planning proposal, forty one submissions related comments only to Precinct B and ten related comments to both Precinct A and Precinct B.

It is also noted that of the submissions expressing *opposition* to the Precinct B planning proposal, nine submissions related comments only to Precinct B and fifteen related comments to both Precinct A and Precinct B. It is noted that a petition was also provided by one of the Precinct A development proponents, in opposition to the Precinct B planning proposal.

Issues most frequently cited in *support* of the Precinct B planning proposal include the following:

- housing affordability (35 submissions)
- promoting economic development (15 submissions)
- additional services & facilities to be provided in association with future development (10 submissions)
- stimulating employment (8 submissions)
- reducing land supply pressures on the coast (6 submissions)
- consistency with Council policy (2 submissions)

Issues most frequently cited in *opposition* to the Precinct B planning proposal include the following:

- public infrastructure costs and implications (16 submissions)
- population pressure / over-development / impacts on existing amenity / social impacts (14 submissions)
- impacts on Lennox Head (14 submissions)
- impacts on Ross Lane (13 submissions)
- flooding and drainage impacts (11 submissions)
- impacts on flora and fauna (8 submissions)
- density of development (5 submissions)
- impacts on agricultural land (4 submissions)

The issues raised in the public submissions (outlined above) are addressed in further detail elsewhere in this report.

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Landholder / site-specific submissions

A number of submissions were received from landholders within or directly adjacent to Precinct B. These submissions provide site-specific information and/or represent the views of those landholders having a direct interest in the planning proposal, and so are presented separately here for the Council's consideration. The landholder submissions have been distributed to Councillors under separate cover as **Attachment 4**.

The landholder submissions received include the following:

- Beddoes - landholder in the residual area of Precinct A, not the subject of the Precinct A planning proposal
- Berntsen - landholder in Precinct B, on land that is the subject of the Precinct B Local Environmental Study area
- George - landholder in Precinct B, on land that is the subject of the Precinct B Local Environmental Study
- Hayter - landholder adjacent to the study area
- Kaehler - landholder in Precinct B, on land that is the subject of the Precinct B Local Environmental Study
- Freihaut, Pitt & New Nederlands - landholder in Precinct B, on land that is the subject of the Precinct B Local Environmental Study area
- Knox - landholder adjacent to Precinct B
- Lavis, Lavis & Ramsay - landholder in Precinct B, on land that is the subject of the Precinct B Local Environmental Study
- Mead - landholder in Precinct B, on land that is the subject of the Precinct B Local Environmental Study
- Mearns - landholder in Precinct B, on land that is the subject of the Precinct B Local Environmental Study
- Miller - landholder in Precinct B, on land that is the subject of the Precinct B Local Environmental Study
- Morton - landholder in Precinct B, on land that is the subject of the Precinct B Local Environmental Study
- Planning Resolutions - representative of Precinct B proponents
- Potter - landholder in the residual area of Precinct A, not the subject of the Precinct A planning proposal
- Robinson - landholder in Precinct B, on land that is the subject of the Precinct B Local Environmental Study and
- Roads and Maritime Services - landholder of several residual parcels from the Ballina Bypass of the Pacific Highway.

Beddoes

Mr Beddoes is landholder of Lot 1 DP 771794, Sandy Flat Road, located to the south of Precinct B and to the east of Precinct A. Mr Beddoes also made a number of submissions in relation to the Precinct A planning proposal.

Mr Beddoes' Precinct B submission raises the following issues:

- Concerned that the development of Precinct B will adversely impact his land through increased stormwater. Notes that drains direct water from Precinct B through his property;

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- Questions where fill is to be found for those parts of Precinct B that are proposed to be filled;
- Notes a conflict between the proposed Precinct B habitat corridor located within Precinct A, that is nominated for other uses by Precinct A;
- Raises concerns with the proximity of proposed stormwater management devices to a Brolga nesting site adjacent to the Ballina Nature Reserve; and
- Notes that Council's strategic planning framework calls for a south to north roll out of development and questions whether there is an immediate need for the Precinct B to be rezoned at this time.

The matters raised above are considered further elsewhere in this report.

Berntsen

Mr Berntsen is landholder of Lot 10 DP612318, Dufficys Lane, located within the proposed urban footprint within Precinct B. The Precinct B planning proposal proposes this land be zoned a mixture of E2 Environmental Protection Zone, E3 Environmental Management Zone and R3 Medium Density Residential Zone.

Mr Berntsen's submission supports the rezoning process for Precinct B.

George

Mr and Mrs George are landholders of Lot 1 DP540904, McLeish Road, located to the north west of the proposed urban footprint within Precinct B. The Precinct B planning proposal proposes this land be zoned RU2 Rural Landscape Zone. The Local Environmental Study identifies this land as otherwise having potential to accommodate urban development except for the presence of significant road noise impacts. Consequently, the planning proposal also recommends that the land (and surrounding properties similarly affected) be identified on 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. This was done to allow, should future investigations provide an appropriate resolution of this issue, for the residential envelope to be expanded accordingly.

The George's submissions raise the following issues:

- Concerned with the safety of Ross Lane, arguing that upgrading Ross Lane as proposed will only make these issues worse. Argues for the straightening of Ross Lane to provide a viable long-term solution to Ross Lane issues;
- Concerned that land on McLeish Road that is otherwise suitable for residential development has been excluded in order to 'buffer' the proposed residential zoned area from road noise; and
- Concerned that the use of McLeish Road as a future access road for residential development would have adverse impacts on existing residents, who are to enjoy no development opportunities as a result of the rezoning.

The matters raised above are considered further elsewhere in this report.

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Hayter

Mr Hayter is the landholder of several lots of land adjacent to Emigrant Creek located to the west of the Ballina Bypass, in the proximity of Sandy Flat. Councillors will be aware of Mr Hayter's knowledge and involvement in floodplain management matters in Ballina Shire over a long period of time.

Mr Hayter's submissions raise concerns with the potential impact of increased fill in the floodplain, on his property and land elsewhere in the floodplain.

This matter is considered further elsewhere in this report.

Kaehler

Mr Kaehler is landholder of Lot 10 DP1173458 located within the western portion of Precinct B. The Local Environmental Study for Precinct B recommends zoning the land a mixture of E2 Environmental Protection Zone and E3 Environmental Management Zone.

Mr Kaehler's submission, prepared by SJ Connelly Pty Ltd, raises the following issues:

- Argues that the land should be excluded from the rezoning process as it is not involved in any way with the urbanisation of the adjacent land;
- Concerned that the application of the E2 Environmental Protection zone has been undertaken in an inconsistent manner with the method used in the draft Ballina LEP 2011;
- Concerned that the environmental mapping utilised in the delineation of zones is inconsistent with other mapping available for the locality;
- Concerned with the apparent weighting of environmental constraints in the delineation of zones that are proposed for the land; and
- Concerned with the nomination of the land, by the Precinct B proponents, as a 'habitat corridor'.

The matters raised above are considered further elsewhere in this report.

Freihaut, Pitt & New Nederlands

Three submissions were received relating to Lot 3 DP251148, McLeish Road located to the north west of the proposed urban footprint within Precinct B. The Precinct B Planning Proposal proposes this land be zoned RU2 Rural Landscape Zone. The Local Environmental Study identifies this land as otherwise having potential to accommodate urban development except for the presence of significant road noise impacts. Consequently, the planning proposal also recommends that the land (and surrounding properties similarly affected) be identified on 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. This was done to allow, should future investigations provide an appropriate resolution of this issue, for the residential envelope to be expanded accordingly.

The submissions relating to this property raises the following issues:

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- Requests that the land be included in the residential footprint and be zoned to permit medium density residential development;
- Concerned with the proposal to exclude the land from the residential footprint due to road noise. Argues that building construction measures can adequately ameliorate the issue. Cites other examples in Ballina Shire (e.g. Ferngrove Estate) where such a solution has been accepted by the Council;
- Argues for the straightening of Ross Lane, to improve the safety of the road, with the effect that road noise impacts on the land would also be lessened;
- Notes that ecological reports prepared to inform the LES nominated the land as an area of active 'Hairy Jointgrass Management'. [It is noted this was done when that property was in the ownership of one of the key development proponents]. The submission argues that the land should not be obligated to manage Hairy Jointgrass when no development opportunities are being provided;
- Argues that only a small part of the land is noise affected and then only marginally above the relevant noise criteria;
- Argues that Council should seek to maximise the yield of the precinct to spread infrastructure costs and thus improve affordability outcomes and to maximise the use of scarce land resources; and
- Argues that residential development on the other side of McLeish Road would have adverse amenity impacts on the enjoyment of the land.

The matters raised above are considered further elsewhere in this report.

Knox

Mr and Mrs Knox are landholders of Lot 2 DP633144, Ross Lane, located in the north eastern corner of the precinct, adjacent to Ross Lane. The planning proposal proposes to zone the land a mixture of E2 Environmental Protection Zone and E3 Environmental Management Zone.

The Knox's submission raises the following issues:

- Concerned that the development of Precinct B will adversely impact their land through increased stormwater and impacts of filling on the floodplain. It is noted that Deadmans Creek traverses the property and the property is regularly flooded when floodwaters cross Ross Lane; and
- Concerned with the potential amenity impacts of the proposal on their continued enjoyment of their rural lifestyle.

The matters raised above are considered further elsewhere in this report.

Lavis, Lavis & Ramsay

Terry Lavis, Jan Lavis and Bill Ramsay are owners of Lot 2 DP553504, McLeish Road, located to the north west of the proposed urban footprint within Precinct B. The Precinct B planning proposal proposes this land be zoned RU2 Rural Landscape Zone. The Local Environmental Study identified this land as otherwise having potential to accommodate urban development except for the presence of significant road noise impacts. Consequently, the

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planning proposal also recommends that the land (and surrounding properties similarly affected) be identified on 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. This was done to allow, should future investigations provide an appropriate resolution of this issue, for the residential envelope to be expanded accordingly.

The submission relating to this property raises the following issues:

- Requests that the land be included in the residential footprint and be zoned to permit low and medium density residential development;
- Concerned with the proposal to exclude the land from the residential footprint due to road noise;
- Argues against the proposed upgrading of Ross Lane to accommodate future development, particularly the proposal to widen Ross Lane to four lanes on it's existing alignment, due to road safety concerns and the need for land resumptions;
- Argues for the straightening of Ross Lane, to improve the safety of the road, with the effect that road noise impacts on the land would also be lessened;
- Concerns over the effect of the rezoning on the valuation of adjacent land;
- Argues that Council's decision on the strategy for Ross Lane has not been transparent.

The matters raised above are considered further elsewhere in this report.

Mead

Ms Mead is the landholder of Lot 3 DP 553504, McLeish Road, located to the north west of the proposed urban footprint within Precinct B. The Precinct B planning proposal proposes this land be zoned RU2 Rural Landscape Zone. The Local Environmental Study identified this land as otherwise having potential to accommodate urban development except for the presence of significant road noise impacts. Consequently, the planning proposal also recommends that the land (and surrounding properties similarly affected) be identified on 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. This was done to allow, should future investigations provide an appropriate resolution of this issue, for the residential envelope to be expanded accordingly.

Ms Mead's submission raises the following issues:

- Concerned with proposed road upgrades to Ross Lane - due to potential impact on amenity of existing rural residents;
- Argues for the straightening of Ross Lane - to improve road safety and rural amenity;
- Concerned with the proposed use of McLeish Road as an access road for Precinct B - due to potential amenity impacts on existing residents;
- Requests that the land be zoned to permit residential development to occur, arguing that further testing of road noise impacts will disprove the extent of the problem;

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The matters raised above are considered further elsewhere in this report.

Mearns

Mr and Mrs Mearns are landholders of Lot 1 DP531233, McLeish Road, located to the north west of the proposed urban footprint within Precinct B. The Precinct B Planning Proposal proposes this land be zoned partly R3 Medium Density Residential and partly RU2 Rural Landscape Zone. The Local Environmental Study identified the part of the land proposed to be zoned RU2 as otherwise having potential to accommodate urban development except for the presence of significant road noise impacts. Consequently, the planning proposal also recommends that the land (and surrounding properties similarly affected) be identified on 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. This was done to allow, should future investigations provide an appropriate resolution of this issue, for the residential envelope to be expanded accordingly.

The Mearns' submission raises the following issues:

- Concerned with road safety issues on Ross Lane - citing personal experience with two members of the family being involved, several years ago, in a serious car accident on Ross Lane;
- Concerned with the proposal to exclude parts of the land from the residential footprint due to road noise. Argues that building construction measures can adequately ameliorate the issue. Cites other examples in Ballina Shire (e.g. Ferngrove Estate) where such a solution has been accepted by the Council;
- Argues that living with road noise is a lifestyle choice and financial consideration of the buyer;
- Argues for the straightening of Ross Lane, to improve the safety of the road, with the effect that road noise impacts on the land would also be lessened;
- Concerned that Council has not provided adequate justification for the current strategy to undertake road improvements on Ross Lane on the existing alignment, as opposed to straightening the alignment; and
- Requests that all of the land parcel be included in the residential footprint and be zoned to permit medium density residential development;

The matters raised above are considered further elsewhere in this report.

Miller

Mr and Mrs Miller are landholders of Lot 2 DP251148, McLeish Road, located to the north west of the proposed urban footprint within Precinct B. The Precinct B planning proposal proposes this land be zoned RU2 Rural Landscape Zone. The Local Environmental Study identified this land as otherwise having potential to accommodate urban development except for the presence of significant road noise impacts. Consequently, the planning proposal also recommends that the land (and surrounding properties similarly affected) be identified on the Strategic Urban Growth Area Map (under the

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terms of the BLEP 2011) and be retained as a candidate urban investigation area in Council's Local Growth Management Strategy. This was done to allow, should future investigations provide an appropriate resolution of this issue, for the residential envelope to be expanded accordingly.

The Miller's submission raises the following issues:

- Concerned with the proposal to exclude parts of the land from the residential footprint due to road noise. Argues that building construction measures can adequately ameliorate the issue. Cites other examples in Ballina Shire (e.g. Ferngrove and North Angel's Beach Estates) where such a solution has been accepted by the Council; and
- Suggests that reducing road speeds (on Ross Lane) would also reduce road noise impacts.

The matters raised above are considered further elsewhere in this report.

Morton

Mr and Mrs Morton are landholders of Lot 2 DP247535, Ross Lane, located to the north west of the proposed urban footprint within Precinct B. The Precinct B planning proposal proposes this land be zoned part E3 Environmental Management Zone and part RU2 Rural Landscape Zone. The Local Environmental Study identifies the parts of this land proposed to be zoned RU2 as otherwise having potential to accommodate urban development except for the presence of significant road noise impacts. Consequently, the planning proposal also recommends that those parts of the land (and surrounding properties similarly affected) be identified on 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. This was done to allow, should future investigations provide an appropriate resolution of this issue, for the residential envelope to be expanded accordingly.

The Morton's submission raises the following issues:

- Suggests that sufficient demand does not exist to justify the rezoning of additional residential land;
- Concerned with the potential impacts of development on Lennox Head; and
- Concerned regarding potential amenity impacts on them as residents in the locality.

The matters raised above are considered further elsewhere in this report.

Robinson

Dr Robinson is part owner of Lot 1 DP618742, Sandy Flat Road, located within the proposed urban footprint within Precinct B. The Precinct B planning proposal proposes this land be zoned a mixture of E2 Environmental Protection Zone, E3 Environmental Management Zone and R3 Medium Density Residential Zone.

Dr Robinson's submission supports the rezoning process for Precinct B subject to the following:

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- That further assessment is undertaken into stormwater management matters;
- That Ross Lane is straightened and made safer for the additional traffic anticipated; and
- That companion animals are not banned in new estates.

The matters raised above are considered further elsewhere in this report.

Planning Resolutions

Planning Resolutions Pty Ltd, acting on the behalf of the major development proponents, provided a submission to the planning proposal making a number of amendment requests based on site specific comments. These are outlined below:

- Zoning of Richard Walsh's house - the planning proposal proposes the land around the house be zoned a mixture of E2 Environmental Protection (due to the presence of littoral rainforest) and E3 Environmental Management Zone (due to visual prominence). Noting the highly modified nature of the site, the submission requests that the R3 Medium Density Zone be applied;
- Land south of Scanlan Lane - Requests that Council amend the planning proposal to zone a small ridge of land R3 Medium Density from the proposed E3 Environmental Management Zone;
- South western slope land facing Pacific Highway - Requests that an area of land that the LES has shown to be otherwise suitable for housing except for road noise impacts be included in the residential footprint;
- Land adjacent to Ross Lane - Requests that an area of land that the LES has shown to be otherwise suitable for housing except for road noise impacts be included in the residential footprint;
- North eastern slope land adjacent to Dufficys Lane - Requests that an area of land be included in the residential footprint, on the basis of the land is not sufficiently steep to be excluded from development;

Additional information regarding stormwater management and infrastructure delivery were the subject of separate communications.

The matters raised above are considered further elsewhere in this report.

Potter

Mr and Mrs Potter are landholders of Lot 1 DP880178, Sandy Flat Road, located to the south of Precinct B and to the east of Precinct A.

The Potters' Precinct B submission raises the following issues:

- Concerned that the development of Precinct B will adversely impact their land, and the adjacent Ballina Nature Reserve, through increased stormwater. Notes that drains direct water from Precinct B through their property;
- Concerned with the proposal to fill parts of the site to enable residential development to occur;

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- Notes a conflict between the proposed Precinct B habitat corridor located within Precinct A, that is nominated for other uses by Precinct A; and
- Concerned with the costs and environmental impacts associated with infrastructure delivery to Precinct B.

The matters raised above are considered further elsewhere in this report.

Roads and Maritime Services - landholder submission

A submission was received from NSW Roads and Maritime Services, as landholder of several residual parcels of land from the Ballina Bypass Project. The submission simply requests that *'the RMS would like to accrue any benefits of the planning proposals to both residues on the eastern side of the Bypass'*. It is noted that the land parcels referred to in the RMS submission do not, as a result of the planning proposal, enjoy any increased development opportunities or entitlements.

Government agency submissions

Submissions to the Precinct B planning proposal were received from the following Government agencies:

- NSW Rural Fire Service.
- NSW Office of Environment and Heritage.
- NSW Department of Transport - Roads & Maritime Services.
- NSW Department of Education & Communities.
- NSW Department of Primary Industries, Fisheries.
- NSW Department of Primary Industries, Catchments & Lands.
- NSW Department of Finance & Services and Housing NSW.
- NSW State Emergency Service.
- Rous Water.

A number of issues raised by the agency's submissions related to one or both of the Cumbalum planning proposals. The Government agency submissions have been distributed to Councillors under separate cover as **Attachment 5**. The matters raised by these agencies, that relate to the Precinct B planning proposal are outlined and addressed in the following table.

Agency / Issue	Response
NSW Department of Primary Industries	
Raises concerns with the development of Regionally Significant Farmland and potential for rural-urban land use conflict.	It is suggested these comments by DPI are out of step with the State Government's Policy with respect to State and Regional Farmland. Land identified in Council's urban growth strategies is exempted from development restrictions imposed on mapped farmland areas.

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Agency / Issue	Response
	Assessments undertaken in association with the planning proposal have suggested that the agricultural value of the land is limited and is not a significant impediment to the development of the land.
Raises concerns with potential impacts of stormwater management measures on fisheries habitat, noting that stormwater management issues were unresolved at the time of the exhibition.	Stormwater management issues are addressed in detail elsewhere in this report.
Raises concerns relating to the location and maintenance of stormwater management devices and sewerage pump stations.	These matters are more appropriately addressed at development assessment stage.
Refers to DPI Fisheries guidelines which recommend 50-100m development buffers to wetland areas.	It is noted that the proposed urban footprint is located approximately 200m, at its nearest point, from mapped SEPP 14 Wetlands that extend from the Ballina Nature Reserve onto adjacent private land.
NSW Department of Education & Communities	
Advises that on the basis of the Department's assessment, additional public school site and/or infrastructure will be required.	Noted. The location of a school site has been nominated by the proponent, to the north of the proposed Precinct A and B sporting fields. It is noted, however, that the particular site nominated is only partly owned by the proponents and is also now partly identified for the location of playing fields. Notwithstanding, the location of such education facilities generally in that locality would be consistent with the Department's criteria. It is anticipated that the State Government may require land dedications to facilitate future education facilities via the State contributions clause of the Ballina LEP (6.1. Arrangements for designated State public infrastructure).
NSW Roads & Maritime Services	
Notes that the designs of future works at the Ross Lane and Cumbalum	Noted. Infrastructure delivery matters are addressed

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Agency / Issue	Response
interchanges do not include the duplication of the lanes or roundabouts. Advises that these upgrade works will be required at appropriate staging in association with any future development.	elsewhere in this report.
Notes that some future residential lots may be affected by road noise. Advises that any mitigation measures to limit the impact of Pacific Highway road noise is the responsibility of the proponent.	Noted. Road noise issues are addressed elsewhere in this report.
Rous Water	
Raises a number of matters relating to the transfer of a number of existing Rous Water retail customers to become customers of Ballina Shire Council in association with planned water supply augmentation works.	Noted. This matter can be considered further at the development application stage.
Office of Environment & Heritage	
Supports the proposed zone plan. Notes that high conservation value areas and most areas supporting threatened species have been zoned either RU2 or an environmental protection zone and supports the 200m buffer to the Brolga nesting site.	Noted.
Requests that further investigation of threatened species impacts be undertaken if Council reviews areas currently proposed to be zoned RU2 Rural Landscape Zone for road noise and stormwater purposes, in the future.	Areas that are recommended to be retained as Strategic Urban Growth Areas may be subject to future urban suitability investigations, if road noise and stormwater matters can be addressed. These investigations would include threatened species assessments.
Acknowledges the work undertaken in relation to the investigation of Aboriginal cultural heritage values and supports the protection afforded to the area known as PAD2 through the application of an E2 Environmental Protection Zone.	Noted.
Recommends that the design of the proposed link road connecting Precincts A and B ensures the road remains trafficable during major flood events.	This matter can be considered further at development application stage and in association with the design and construction of the link road.
Notes the exclusion of road noise affected land from the development footprint. Strongly recommends that Council be assured that the proposed setback from Ross Lane and the Pacific Highway for any development is sufficient to ameliorate noise levels now and in future so that 'standard' construction measures will be adequate to provide internal and external	This matter is addressed elsewhere in this report. It is noted, however, that the planning proposal as exhibited provides adequate separation from road noise to require only standard dwelling construction techniques within land proposed for residential

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Agency / Issue	Response
living areas that meet noise standards.	zoning.
<p>With respect to the Ballina Nature Reserve, OEH:</p> <ol style="list-style-type: none"> Notes that best practice Water Sensitive Urban Design within the site may adequately prevent adverse hydraulic impact on downstream properties including Ballina Nature Reserve. Notes that further more detailed investigation and design will be required at subdivision stage; and Requests that Council consider whether a commitment to managing weed proliferation in Ballina Nature Reserve due to reduced water quality could be incorporated into future development consents. 	<p>Noted.</p> <p>This matter can be considered further at development assessment stage.</p>
NSW Rural Fire Service	
Raises no objection to the planning proposal proceeding but makes note of a number of matters to be considered in relation to the future development of the land.	The matters raised will be considered further at development assessment stage.
NSW Department of Primary Industries, Catchments and Lands	
Notes several matters relating to the possible closure of Crown road reserves in association with future development.	This matter can be considered further at development assessment stage.
NSW Department of Finance & Services and Housing NSW	
This combined Government agency submission provides information relating to affordable housing in Ballina Shire.	The information provided does not relate directly to the planning proposal.

An acknowledgement letter was received from SES, however, no submission was received.

Key issues

Population Pressure / Social Impacts and Impacts on Lennox Head

As noted above, a number of the submissions refer to the potential impacts of population growth on the existing amenity of Ballina Shire. Concerns are raised that future development would result in over-population leading to negative social impacts and the congestion of public facilities, including beaches and parking facilities. A number of the submissions made such comments specifically in relation to the urban area of Lennox Head.

With respect to pressure on public facilities, it is noted that population growth that would be facilitated by this planning proposal is anticipated to occur progressively over at least a 15 to 20+ year timeframe. This period should allow the level of public services and facilities to expand to accommodate the projected population. It is noted, in this regard, that any future development in the Cumbalum Release Area will make financial contributions to Council

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towards regional and district sporting and community facilities. Further, the potentially expanded rate base may also provide further opportunities with respect to the range and standard of public facilities available within Ballina Shire over the longer term.

Predictions of adverse social impacts associated with increasing population are difficult to support given the range of factors at play in social change. Notwithstanding, with respect to the perspective of population growth as a negative in itself, it is noted that the current policies of State and Federal Governments facilitate continued population growth in Australia and the State of New South Wales. The challenge for Ballina Shire is how to respond to population growth occurring in the community more generally. In this respect, restricting population growth could also have its own set of adverse social impacts, associated with housing (un)affordability and increased social inequality.

Further, the existing structure of economic development and employment in Ballina Shire (and the North Coast Region more broadly) is to a large extent reliant on the strength of the construction and building industry. In the absence of a ready transition to a different economic foundation, a sharp restriction of development opportunities could result in a difficult and costly adjustment to the structure of industry, investment and employment in Ballina Shire, with its own set of adverse social implications.

Impacts on Ross Lane

As outlined above, a number of issues relating to Ross Lane featured strongly in the public submissions and in a number of the site specific submissions received during the public exhibition period. The key issues raised include the following:

- Safety concerns relating to the posted speed limit and alignment of existing bends;
- Concerns that the proposal to upgrade Ross Lane on its existing alignment will not adequately address safety concerns;
- Concerns with the impact of road widening and land acquisitions for properties fronting Ross Lane, many of which do not enjoy any development opportunities as a consequence of the planning proposal;
- Concerns relating to road noise impacts, which affects the development potential of some land located in proximity to Ross Lane. It is noted that road noise impacts are discussed elsewhere in this report; and
- A number of the submissions recommended straightening the western section of Ross Lane (to the north of the current alignment) as a preferred outcome, to address the above issues.

Council Civil Services Group advises that the current design capacity of Ross Lane is 16,000 vehicles per day (vpd). Traffic assessments undertaken to inform the preparation of an 'Infrastructure Delivery Plan' for the Cumbalum Urban Release Area indicated that the projected future traffic flows along Ross Lane following the ultimate development of Precinct B, are as follows:

- Ross Lane west of future link road intersection - projected at 32,900 vpd; and

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- Ross Lane east of future link road intersection - projected at 15,400-21,100 vpd.

The consequence of these projected traffic flows is that upgrade works will be required to Ross Lane to accommodate future development, primarily in the form of road widening on the existing alignment, to four lanes west of the future link road intersection. East of the future link road intersection would remain as two lanes, with some widening, on the existing alignment. This work will require some resumption of parts of properties fronting Ross Lane to accommodate additional pavement width and facilitate minor improvements to bends. A number of additional intersections along Ross Lane would be required subject to further detailed design at subdivision stage.

Detailed road design has not been undertaken at this stage, as this will occur closer to when development application assessments are undertaken and when the upgrade works are required.

With respect to the standard and safety of Ross Lane, Council's Engineers advise as follows:

Council acknowledges the existing alignment of Ross Lane is not ideal and that future works on the existing alignment will not bring the road up to the ideal formation for a rural arterial road. Notwithstanding, an acceptable road standard can be achieved within the existing alignment, with road widening and minor improvements to bends and road surface. The option of straightening Ross Lane has been considered but not pursued further due to the following:

- *A straightened alignment would traverse a significant number of additional properties not currently affected by Ross Lane;*
- *The cost of works would likely be significant due to the extent of earthworks and engineering works required, land acquisitions costs and the need to maintain property accesses; and*
- *A straightened alignment would negotiate a slope of in excess of 16% which is well in excess of the general requirements (~10%) for a rural arterial road.*

Infrastructure funding and delivery issues are addressed elsewhere in this report.

Flora and Fauna Impacts

A number of the submissions raised concerns regarding the potential impact of development on flora and fauna present on the land and adjacent wetlands. Flora and fauna impacts have been the subject of detailed considerations during the preparation of the Local Environmental Study. These considerations, including buffering from key habitat areas, were factors carefully considered in the determination of the proposed zoning of the land.

The Brolga (*Grus rubicunda*), listed as 'vulnerable' under the *Threatened Species Conservation Act* (1995), has been identified nesting in the eastern part of Precinct B adjacent to the Ballina Nature Reserve. It is understood Brolgas' habitat preference is for open sedgeland with minimal tree cover. In order to mitigate adverse impacts associated with urban development, a minimum 200m buffer was applied between the urban footprint and Brolga

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nesting habitat. It is noted, however, that the total buffer distance between the Brolga nesting habitat and the edge of the proposed residential zone is approximately 400m due to the location of stormwater detention devices (open shallow basins) and planted Melaleuca wetlands (to facilitate the evapotranspiration of stormwater).

Notwithstanding the proposed buffering, Council's Environmental Scientist remains concerned that proposed stormwater management measures may adversely impact on the Brolga due to the alternation of hydrology and changes in land cover (from open grassland to planted Melaleuca wetlands).

Ecological impacts associated with stormwater management are addressed elsewhere in this report. Potential impacts on Brolga due to changes to land cover will depend, ultimately, on detailed stormwater design considerations. Consequently, it is suggested that such matters are more appropriately considered as a part of the development assessment process. It is noted an area in the order of 27 hectares has been set aside for the design of stormwater detention and evapotranspiration. It is anticipated that detailed design of this area may accommodate features that are compatible with at least parts of the area continuing to function as Brolga foraging habitat (open stormwater detention areas).

It is noted that the submission received from the NSW Office of Environment and Heritage included the following:

"OEH has reviewed the Flora and Fauna Report 'Precinct B' Cumbalum dated June 2010, and addenda dated January and July 2011. It is noted that high conservation value areas and most areas supporting threatened species have been zoned either as RU2 or an environmental protection zone. This is supported. Should the zone of the noise-affected areas be reviewed in future, review of threatened species impacts should also be undertaken. In addition, OEH supports the provision of a sizable buffer of about 200m to the Brolga nesting site, albeit mainly due to the land being constrained by poor drainage and proposed for stormwater infrastructure. Again, if the rural zone is reviewed in future, potential impacts on threatened species should be taken into account"

A number of the submissions received noted that habitat corridors have been nominated, in the documentation provided by the Precinct B proponent, on land that is not in the ownership or control of the proponents. Council requested information from the proponents in how such corridors were proposed to be secured, but this information has not been forthcoming. It is noted, however, that in relation to the provision of habitat corridors at this point in the process, it is sufficient to ensure that adequate space is provided for the mapped corridors to function to extent that they currently do. Should ecological rehabilitation works be identified as being required through the development assessment stage, in order to mitigate the impacts of the development, then the proponents will need to demonstrate how this is to be achieved. It is further noted that the LES has identified that significant native vegetation removal is not required to facilitate development of the subject land.

Consequently, it is suggested that flora and fauna matters have been the subject of appropriately detailed assessment in the preparation of the subject

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planning proposal. The proposed zoning arrangement reflects the known ecological considerations relevant to the Precinct B area.

Impacts on Agricultural Land

A number of the submissions note that the subject land is identified in the NSW Government's Northern Rivers Farmland Protection Project as comprising 'Regionally Significant Farmland'. Further the submission from the NSW Department of Primary Industries states that:

Whilst the area has some constraints to agriculture, such as slope, the Department would regard this area as supporting land suitable for sustainable agricultural production and subtropical horticulture. The site is surrounded by highly productive agricultural farms, it supports fertile soil and has good access to markets. Therefore the removal of this land for urban development will further erode land available for agricultural production and the rural value of the area.

The Northern Rivers Farmland Protection Project makes specific exemptions, from the development restrictions that otherwise apply to State and Regional Farmland, for land identified by councils in their local growth management strategies. As the land within the Cumbalum Urban Release Area is identified in Council's growth management framework, the restrictions on the development of 'regional farmland' do not apply in this case.

Notwithstanding the above, an assessment of agricultural values was undertaken as part of the Local Environmental Study of the subject land. This assessment concluded that the subject land had limited agricultural value due to:

'unfavourable topography and soil type, issues of practical land use management, and ultimately low long-term enterprise sustainability. Collectively therefore the site is comprised of marginal agricultural land that has low value or rating for agricultural purposes. The removal of the land from agricultural production will not therefore significantly affect the production potential of the wider agricultural region'.

Consequently, the agricultural value of the land is not identified as a significant constraint to the development of the land.

Density of Development

A number of the submissions raise concerns with the amount of proposed 'medium density' development shown on the exhibited plans. Importantly, the nomination of the least constrained land for medium density zoning is a response to the structure of the standard instrument LEP. Only 'dwelling houses' and 'secondary dwellings' (granny flats) are permissible within the R2 Low Density Zone. A broader range of development types (including medium density dwellings, neighbourhood shops, community facilities and a limited range of other non-residential land uses) are permissible in the R3 Medium Density Zone. As detailed design and lot configuration is not known at this stage, the medium density zoning has been applied to the least constrained land to provide flexibility in housing outcomes at subdivision stage.

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It is noted that under the standard instrument LEP, the 'zone map' (LZN) regulates the range of residential development types permissible, whereas a separate 'minimum lot size map' (LSZ) stipulates the minimum lot size standard that applies on the land. In the case of Cumbalum Precinct B, 450m² has been nominated as the minimum lot size standard in the R3 Medium Density zone. Notwithstanding, it is anticipated that future subdivision will utilise a range of lot sizes and configurations to align the development to demand in the marketplace.

Further, the NSW Government's Far North Coast Regional Strategy 'density target' for local councils seeks to achieve a development mix of 60% single dwellings and 40% multi-unit dwellings. In support of this State Government objective, Council's draft Ballina Shire Growth Management Strategy includes an objective that future 'greenfield' developments should achieve a gross neighbourhood dwelling density of 15 dwellings per hectare, to maximise the efficient development of scarce land resources and to minimise urban sprawl. The achievement of this target will require the development of a mixture of low and medium density development types in new residential estates.

Stormwater Management

As previously reported to Council, stormwater management matters have been the subject of detailed and lengthy deliberations involving Council staff (and Council's consultants), landholders, the Precinct B proponents and the (now) NSW Office of Environment and Heritage. Further, Councillors will recall that the proponents were invited to provide further information to the Council during the public exhibition period regarding stormwater management matters in order to satisfy Council's engineers that a technical solution to stormwater management is available.

Stormwater issues relating to this planning proposal can be divided into on-site and off-site issues. These are outlined further below.

On-site Stormwater Issues

The proponents for Precinct B have included in their submission to Council as part of the public exhibition, additional information relating to stormwater management issues, prepared by Australian Wetlands Consulting Pty. Ltd. (AWC).

This additional information related partly to a request to reduce the area set aside in the exhibited planning proposal for stormwater management measures. The area originally set aside was determined by Council's LES consultants GHD utilising information provided by the proponent, but applying conservative assumptions. Following a further review of the information submitted by the proponent, requesting the area set aside for stormwater infrastructure be reduced, Council's engineers have advised as follows:

- *The AWC report recommends that the stormwater detention\infiltration\bioretention areas should only be considered at or above a height of RL 2.0m AHD. I agree with this recommendation as any basin lower than this level will potentially be permanently inundated due to high groundwater levels. If this occurs the basins will not provide the required detention capacity. The Cardno sketch submitted with the AWC report indicates that the infiltration basins will be constructed at existing*

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surface level. All stormwater basins shall need to be filled such that the base of the basin has a minimum height of RL 2.0m AHD.

- The AWC report also suggests that only 5.6 ha will be required to evapotranspire the additional runoff associated with the development of Catchment D. I cannot support the rationale behind the evapotranspiration calculations within the AWC report (evapotranspiration of two 1 year ARI events over a twelve month period). I believe that the GHD assessment more accurately reflects the evapotranspiration requirements of the proposed development. This assessment recommended the provision of a 17.24ha vegetated area to evapotranspire the stormwater detention associated with Catchment D. The 17.24 ha evapotranspiration area was used to create the draft zone map produced by Council dated 08/11/2011.
- The R3 urban areas adjacent to the basins shall be required to be filled to a minimum finished level of RL 2.3m AHD in accordance with Council's Flood Level Policy. As noted above the stormwater basins shall also be required to be filled to a minimum RL of 2.0m AHD. Given the significant size of the area proposed to be filled I recommended that an assessment be undertaken to ensure that sufficient fill resources are available within the region to accommodate the proposed development.
- The final rezoning reports to Council should re-emphasize that at DA stage Council will be seeking a treatment train which extends throughout the whole catchment including the R3 areas higher up the development. The treatment train shall need to include treatment devices within the lots, roads and public reserves.
- Considering the above, it is recommended that the draft zone map produced by Council dated 08/11/2011 is acceptable, should the rezoning be approved, on the basis that it is confirmed that sufficient fill resources are available to accommodate the proposed fill areas.

Having regard for the above, Council's Civil Services Group is satisfied that sufficient land has been set aside in the planning proposal to accommodate conventional urban stormwater management measures.

With respect to the volume of fill required to accommodate the above, an estimate of the volume of fill required to achieve finished levels above the 1 in 100 year flood level has been undertaken, to accommodate 14 hectares of land within the urban footprint and 7 hectares of land for stormwater detention purposes. It is noted these areas were included in flood modelling which indicated the level of impact being within acceptable levels. The fill volume required is estimated to be in the order of 137,000m³ (or approximately 230,000 tonnes). An audit of mineral resources undertaken by NSW Industry & Investment (May 2011) estimates the availability of sand materials within Ballina Shire, as follows:

Quarry	Total Estimated Resource (tonnes)	Comments as provided by NSW Industry & Investment

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Quarry	Total Estimated Resource (tonnes)	Comments as provided by NSW Industry & Investment
Pick's Pit	2,000,000	Resource (current consent) > 100,000 tonnes and life probably approximately 10 years, depending on production. Potential resource up to 2 M tonnes with extraction depth comparable to nearby operations. Worked in conjunction with Newrybar Pit.
Newrybar Pit	3,000,000	Resource (current consent) > 200,000 tonnes and life probably approximately 10 years, depending on production. Potential resource up to 3 M tonnes with extraction depth comparable to nearby operations. Worked in conjunction with Pick's Pit.
South Ballina Quarry	544,000	Quarry has mainly supplied fine sand for specialist applications such as grouting and rendering. Existing pit virtually depleted. Recent approval to develop a 544,000 tonnes resource along dune to south to supply processed sand.
Lennox Head Quarry	150,000	Resource approximately 150,000 tonnes. Life 15 years (consent), but much less at recent production rate of up to 120,000 tonnes per annum. Production variable over life. Recent proposals for intensification and expansion.

The audit indicates there is approximately 5.7 million tones of sand material available within currently operating quarries in Ballina Shire. Consequently, the fill materials required for Precinct B represents approximately 4% of the current sand resources. These figures do not include longer-term potential mineral resources or resources within the region but outside Ballina Shire. It is noted, also, that other low-lying parts of Precinct B may require the application of additional fill materials for engineering purposes, rather than for flood mitigation.

Off-site Stormwater Issues

The off-site, or 'down-stream', stormwater issues associated with the subject planning proposal are complicated by the following factors:

- Conventional stormwater management practice focuses on the 'conveyance' of stormwater - that is on achieving post-development flow rates that are consistent with pre-development. This conventional focus is based on the assumption that receiving waters are free-draining;
- The subject locality has naturally elevated groundwater levels, emanating from Ballina Nature Reserve and adjoining wetlands;

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- Groundwater levels in and around Ballina Nature Reserve have been rising, and are expected to continue to rise over time, due in part to the lack of maintenance of the man-made drainage network within the Nature Reserve;
- The potential for sea-level rise to increase groundwater levels in the area over time, particularly during high tide events. This may have implications for the design levels of stormwater outlets; and
- The presence of private properties located between the subject land and the Ballina Nature Reserve.

Four private properties, located downstream of Precinct B adjacent to the Ballina Nature Reserve, have been identified as being particularly susceptible to changes in hydrology referred to above. These properties are shown on the map provided as **Attachment 6** of this report.

It is noted that the submissions received from both the NSW Office of Environment and Heritage (OEH) and Department of Primary Industries (DPI), Fisheries acknowledge drainage issues in and around the Ballina Nature Reserve as a key factor in the drainage dynamics of the locality. The OEH states:

'It is noted that the water levels in BNR are dictated to a larger extent by tides in North Creek than by inflows from the local catchments. The tides restrict outflows and thus the inflow due to runoff from local catchments cannot move rapidly through the Nature Reserve. For this reason increased flood levels in the North Creek floodplain due to climate change, sea level rise in particular, may have a larger impact on the hydrology of the Nature Reserve in the longer term.'

Further, the Department of Primary Industries (DPI), Fisheries submission advised as follows:

'DPI Fisheries can accept the assertion in the assessment documentation that the rising groundwater levels are attributable to the lack of maintenance of the constructed drainage network within the Nature Reserve. DPI Fisheries highlights though, that objectives of the Ballina Nature Reserve Plan of Management do not appear to accommodate ongoing maintenance of the constructed drainage network now located within the Reserve. Rather two objectives seek to:

- *"Conserve the diversity of habitat types within the Reserve, with particular emphasis on the protection of the wetland habitat"; and*
- *"seek to maintain a hydrological regime in the Reserve that maintains Reserve ecosystems"*.

It would appear that in effect the Ballina Nature Reserve is reverting to its pre-settlement wetland condition as the man-made drainage network becomes increasingly silted. It is noted that this may result in increased periods of inundation for landholdings adjoining the nature reserve, regardless of the development outcome for the land.

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With respect to the impact of the proposal on the downstream ecology of the Ballina Nature Reserve and adjoining SEPP14 wetlands, the Office of Environment and Heritage notes in its submission:

'The modelling approach for Precinct A, using DRAINS software to determine stormwater discharges, is considered appropriate. It reflected the changes in increased impervious area due to urbanisation and resulted in shorter response time and increased discharges from the sites. The modelling indicates that the post development discharges can be attenuated to pre development state by employing best practice Water Sensitive Urban Design within the site and this may be enough to prevent adverse hydraulic impact on downstream properties including BNR

Similarly for Precinct B, the increased stormwater flows due to the proposed development may be able to be ameliorated on-site. Further detailed investigation and design will be required at subdivision stage.'

The above comments suggest that OEH is satisfied the assessments to date and the (future) development assessment process should provide sufficient protections for downstream plant ecology. The above position also aligns with that provided by Council's consultants GHD, responsible for the preparation of the Precinct B Local Environmental Study.

It is noted that officers of the OEH have previously advised that Council should keep in mind the purpose of the Ballina Nature Reserve which relates to the need to protect the broad representation of wetland species. The OEH officers advised that distributional change within the reserve should not be considered a problem in itself, provided this broader representation of wetland species is maintained. This advice appears consistent with the broader position of the State Government with respect to discontinuing maintenance of the man-made drainage network within the reserve which itself is likely leading to changes in species distribution.

Contrasting with the above, Council's Environmental Scientist provides an alternative view, noting:

'A significant threat to the environmental integrity of these [downstream] HCV ecosystems is stormwater discharge arising from the adjacent urban zoned land.

The applicant's consultants acknowledge that unless a range of mitigation strategies are imposed, stormwater discharge from the south eastern catchment will have an adverse impact on the receiving downstream EECs and SEPP 14 Wetland. The predicted adverse impacts result from altering the existing hydrology of the catchment by altering wetting and drying hydroperiods, frequency of inundation and altering groundwater levels etc.

It is for these reasons that the "Alteration to the natural flow regimes of rivers, streams, floodplains & wetlands" is listed as a key threatening process under the TSC Act (1995).

*To mitigate against these predicted adverse ecological impacts the applicant **originally** proposed to capture and amongst other measures infiltrate/ transpire all rainfall events up to a 1 year storm event. However,*

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the recently submitted Stormwater Investigations Report (March 2012) Australian Wetlands Consulting (AWC) now proposes to infiltrate a maximum of "two 1 year storm events per year". A full twelve months is then required to transpire these two 1 year storm events into the atmosphere. Based on the applicant's consultant, storm events of a maximum of 272mm will be treated via this process (infiltration/evapotranspiration). Given that Ballina has an average rainfall of approximately 1850mm the infiltration/ evapotranspiration field will harvest approximately 15% of the catchment's average rainfall. The changed hydrology of the catchment is considered to have increased die back of the existing forested wetland communities and likely changes to the species composition of the Freshwater wetland EEC. The impact of increased storm water on native forested wetlands is evident in other historical developments around East Ballina. (i.e. Chickiba Wetland)'.

Aside from potential ecological impacts associated with increased stormwater volumes, the following comments from Council's Civil Services Group staff regarding potential nuisance impacts on neighbouring private properties are significant.

*"Whilst I am satisfied that, if zoned as per the above recommendations, any future development of Precinct B would be able to provide a suitable treatment train to meet the requirements of Council's DCP Chapter 13 [Stormwater Management] that there will be no net increase in the average annual load of stormwater pollutants and **peak discharge flow rates** above that occurring under the existing conditions, I cannot state with certainty that the development will not affect the level of flooding being experienced by the downstream properties. Whilst the provision of a suitable drainage and detention system will not increase the peak flow rates from the development, these systems will extend the time over which stormwater is discharged from the site therefore potentially altering the hydrology of the catchment through the downstream properties. This would not have a significant impact on the properties downstream of the development if these properties were serviced by a drainage system with a high conveyance capacity. Unfortunately, the drainage system servicing these properties has limited conveyance capacity which appears to be reducing with time due to a lack of maintenance of the downstream drainage systems within the Ballina Nature Reserve.*

The residents downstream of the Precinct B catchment have expressed concerns that stormwater from the proposed development will exacerbate the existing nuisance flooding issues they are experiencing on parts of their properties. They have suggested that the drainage systems within the downstream wetland areas owned by Council and NSW National Parks & Wildlife are no longer maintained to the same extent they were only a few decades ago. DPI Fisheries has stated in writing that it accepts the assertion that rising groundwater levels in the area are attributable to the reduction in maintenance of the drainage system within the Ballina Nature Reserve. DPI Fisheries Management Plan for the Nature Reserve does not appear to accommodate the ongoing maintenance of the drainage network located within the Reserve. Rather, it states that maintenance will only be undertaken as necessary to conserve the wetland habitat and ecosystems. It is therefore likely that properties between Precinct B and the Nature Reserve will experience increased

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flooding in the future due to a reduction in the conveyance capacity of the downstream drainage systems.

In addition to these issues the Office of Environment & Heritage has suggested that the water levels in the Nature Reserve are dictated, to a large extent, by tides in North Creek and are anticipated to increase due to sea level rise in the future. They state that the drainage capacity through the Nature Reserve is anticipated to be reduced in the future due to the effects of sea level rise.

The hydrology of this entire catchment is very complex to model given the influence of tidal effects, sea level rise, groundwater flows and the conveyance capacity of the downstream Ballina Nature Reserve. Whilst the proposed rezoning application is consistent with contemporary stormwater design standards and the stormwater design requirements of Council's DCP the approval of such a development within the eastern catchment of Precinct B will alter the hydrology within this catchment. Whilst this will not involve an increase in the peak discharge flow rates from the development it will extend the period of time over which stormwater is discharged from the site. What affect all of these changes will have on the existing nuisance flooding issues experienced by properties downstream of the proposed development is difficult to predict. This issue was raised with the applicants consultants during previous verbal discussions however a full catchment model has not been provided...."

The implication of the above is that, should the planning proposal proceed, and land be rezoned for urban purposes, the future consent authority would need to carefully consider the potential for an increase in nuisance flooding to occur for downstream private properties. Nuisance flooding impacts here include an increase in the period of soil 'wetness' following major rainfall events and consequential longer-term changes in vegetation cover and ground conditions which may impact on the continued 'enjoyment' or economic use of the land. It is noted that there could be legal implications, under civil law, for the future consent authority should such impacts be ultimately demonstrated.

It is noted, however, that the stormwater modelling undertaken has been conservative in approach and has assumed limited upstream infiltration within the proposed development area. Consequently, a greater emphasis on stormwater infiltration higher in the urbanised catchment, at detailed development design stage, could lesson the volume of runoff and therefore reduce downstream impacts.

Uncertainty surrounding this aspect of the development proposal presents a challenge for Council. The impact of increased stormwater volume on downstream ecology is unknown and the concerns of downstream private property owners regarding this aspect of the proposal appear justified. It is unclear to what extent these impacts are occurring as a result of reduced drainage maintenance within the Ballina Nature Reserve, regardless of the development outcome for the land. Further, it is noted that any such impacts may be exacerbated by potential sea-level rise associated with climate change. Given these implications, this matter has significant implications for the options and recommendations presented in this report.

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The need to have this matter addressed as a part of the planning proposal process has been communicated to the proponents on numerous occasions. Council attempted to achieve a collaborative approach between the Precinct A and Precinct B proponents for a catchment-wide hydrological study, during the preparation of the Local Environmental Studies. However, regrettably this was not able to be achieved.

It is noted that Council is currently involved in a project, the Newrybar Drainage and Mitigation Study, being directed by the Richmond River County Council and the NSW Office of Environment and Heritage with the assistance of Council's flooding and drainage consultants BMT WBM that may provide further information regarding this matter.

Road Noise

The road noise assessments undertaken in association with the preparation of the planning proposal and accompanying Local Environmental Study identified road noise as an issue impacting development opportunities in parts of Precinct B adjacent to Ross Lane and within proximity to the Pacific Highway Ballina Bypass.

The road noise assessment identified that approximately 38 Hectares of land, that may otherwise be considered as suitable for urban development, is affected by noise levels that exceed the relevant guidelines (NSW Road Noise Policy, March 2011). Consequently, the exhibited planning proposal proposes to zone noise affected land as RU2 Rural Landscape Zone, and identify that area within Council's urban planning framework as a potential urban area, to enable the urban zoning of the land to be considered further at a later stage.

It is noted that a number of submissions received from smaller landholders, located generally in the vicinity of McLeish Road, raise concerns regarding the implications of road noise on the development capacity of their properties. Several of these landholders presented an additional road noise assessment report. In this regard it should be noted that the ameliorative measures proposed to address road noise impacts are the same as those contained in the report prepared to inform the Local Environmental Study.

The relevant State Government guideline criteria for external day time noise is 60dB(A) and external night time level of 55dB(A). With respect to this criteria the guideline refers to the World Health Organisation report (2009) which recommends a long-term night-time external noise level of 40dB(A) with an interim target of 55dB(A). The report notes that the interim target is only intended as an intermediate step in localised situations as *'health impacts, particularly on vulnerable groups are apparent at this noise level'*. The reports also note however that *'maximum internal noise levels below 50-55 dB(A) are unlikely to awaken people from sleep'*.

The assessments suggest that the relevant internal noise criteria could be met via the following design responses:

- Acoustic building shell treatments involving use of appropriate building materials;
- Habitable room openings fronting, or at 90 degrees to, the road need to be closed. Consequently, cross fresh air ventilation would need to be

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achieved via the building design having openings for habitable rooms on frontages that are not noise affected. Alternatively, air-conditioning or mechanical ventilation would be required; and

- Building design to locate non-habitable rooms (such as garage, laundry and bathroom) adjacent to the noise source.

From the information submitted it would appear that with reliance on individual building acoustic treatments, the guidelines for internal noise criteria are achievable. However, Council is invited to consider whether the measures required to achieve these criteria are appropriate in the circumstances, having regard to the following:

- The noise criteria are based on the assumption of existing dwellings. The relevant guidelines also identify a number of long-term strategies to address road noise impacts including (but not limited to) *"ideally locating residential development away from major roads"*;
- Although dwelling design (through the arrangement of habitable and non-habitable rooms) may assist in reducing noise impacts, future dwellings could nonetheless require the closure of doors and windows with reliance on air-conditioning to address road noise impacts. Such an approach would not appear to represent a sustainable development outcome;
- The enjoyment of an "outdoor lifestyle" is a common expectation for residents of the sub-tropical North Coast. The proposed mitigation measures could well limit opportunities for residents in noise affected areas to have such expectations met. Consequently, if residential development was permitted in noise affected areas, Council could expect to receive representations from future homebuilders for Council to relax noise-mitigating development standards, and then subsequently receive requests from future residents for Council and the RMS to mitigate road noise impacts through civil engineering measures (which would likely be, as noted above, ineffective under the circumstances);
- The cost of the proposed mitigation measures would be borne by future home owners, possibly requiring specialised architectural advice, construction materials and additional running costs;
- Residential development may be enabled under complying development provisions, limiting the ability for the relevant noise mitigation standards to be applied. Although exemptions to the application of complying development are possible, there is no certainty such an exception could be achieved at this time as the agreement of the State Government is required.

The following comments, made in the submission received from the NSW Office of Environment and Heritage, should also be noted:

'OEH strongly recommends that Council be assured that the proposed setback is sufficient to ameliorate noise levels now and in future so that 'standard' construction measures will be adequate to provide internal and external living areas that meet noise standards. Council should be mindful that the Pacific Highway will remain the major heavy transport route between Sydney and Brisbane. Increased freight movements, including

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'B-triples', are proposed for the Pacific Highway within 20 years. The road in the vicinity of precincts A and B has a relatively steep grade, which may result in increased noise from both acceleration and compressing braking. Notwithstanding that, according to the consultant's report, trucks may comprise only 12% of the total traffic volume, heavy truck movements make up to 40-50% of the night-time traffic along the Pacific Highway.

Further, the revised road noise report has been reviewed by Council's Environmental Health Officers who provide the following advice:

"As this proposal is at the rezoning stage it is considered better practice to require the overall subdivision layout and design to take into account matters such as potential noise impacts. This would involve creating buffers and not locating residential lots in locations that will result in a loss of amenity for future dwellings and will require Council to burden any residential lots created in these locations in a way that will limit individual design options and cost future owners of those lots to address the impact individually."

On the basis of the above, it is recommended that the draft planning proposal as it relates to this matter be unchanged.

Infrastructure Delivery

The delivery of infrastructure to the Cumbalum Urban Release Area (CURA) is to involve several aspects, as outlined below:

- Development Contributions Plans - (s.94 plans) - future development will pay contributions towards regional sporting and community facilities and shire-wide roads contributions (currently \$15,098 per lot);
- Development Servicing Plans - (s.64 Plans) - future development will pay for sewerage headworks and contributions towards drinking and recycled water mains and reservoirs (currently \$9,411 per lot). Rous Water charges are currently an additional \$8,377 per lot; and
- Infrastructure that is otherwise to service only development within the CURA (Precinct A and Precinct B), has not been included in Council's Development Contributions Plans or Development Servicing Plans.

Council's Civil Services Group advises that the reasons for excluding infrastructure that only services the CURA from these plans include the following:

- The delivery of infrastructure through Council's plans risk the network being constructed in an inefficient manner due to the potential for restrictions to be imposed by landowners (individual landowners may or may not be involved in the development to be serviced by a particular item of infrastructure). Council's recent experience in the Wollongbar Urban Expansion Area is noted.
- Council's ability to meet its obligations may be limited due to the potential for protracted negotiations with landholders.
- There is significant uncertainty regarding the design and cost of works to be included in the plans. It is noted that the Developer Charge is based

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on reference rates and site investigations undertaken well in advance of detailed design work being undertaken.

- Council is subject to financial risk if the cost to provide the infrastructure is greater than the amount levied by the Developer Charge. Due to this uncertainty any plans that are prepared would need to load this risk into the plans, which ultimately adds cost to the contribution rate; and
- In the case of Section 94 Development Contributions Plans, the State Government's 'Contributions Cap' of \$20,000 per allotment limits Council's ability to adequately recoup infrastructure costs through developer contributions.

Cost estimates prepared for Council's Civil Services Group for items of infrastructure that are required wholly to service the CURA and that have, therefore, been excluded from Council's current infrastructure plans are as follows:

- Works excluded from section 94 Development Control Plans - \$21,000 per lot and
- Works excluded from s.64 Development Servicing Plans - \$6,300 per lot.

It is noted that the total contributions that would apply if all infrastructure required to service the CURA was included in Council's s.94 plans would be in the order of \$36,098 per lot. As indicated above, this would exceed the amount that Council can levy under s.94 (due to the State Government's Cap) by between \$11,098 and \$16,098 per lot, a shortfall of approximately \$37-54 million at current estimates for all Precinct A and Precinct B infrastructure. It is noted that these figures incorporate a cost contingency but not finance costs.

Consequently, alternative arrangements (other than Development Contributions Plans and Development Servicing Plans) are required to ensure the land can be adequately serviced without placing an unreasonable burden on the public. Despite this matter being raised with the proponents on numerous occasions during the preparation of the planning proposals, this matter was not able to be resolved prior to the public exhibition of the planning proposal.

During the public exhibition period, the Precinct B proponents provided a draft Voluntary Planning Agreement (VPA) to Council to provide an alternative arrangement for securing the provision of infrastructure, at the developers' cost. This VPA has been reviewed by Council staff and legal advice obtained from Dr Lindsay Taylor of Lindsay Taylor Lawyers. A number of deficiencies with the original draft VPA were identified during this review, relating to legal drafting and the need for improved clarity with respect to the developers' obligations. Presently the VPA is being redrafted, by Dr Taylor, to address these issues.

The Voluntary Planning Agreement (VPA) sets out the following:

- Identifies infrastructure to be provided in association with the future development of the land, including arterial roads, drinking and recycled water supply, sewerage infrastructure, open spaces and community facilities;

5.2 Cumbalum Precinct B Planning Proposal

- Identifies the parties responsible for undertaking specific works and the timing for the delivery of those works; and
- Identifies the obligations of the parties, as landholders, to allow the creation of easements and the dedication of land, to facilitate the developers' obligations.

It is noted that the VPA makes reference to the obligations of the parties to the agreement separately, as developer and as landholder, as the 'developer' involved in a particular stage of development may be obligated to deliver infrastructure located on another's landholding, that is not the subject of that stage of development. This arrangement seeks to ensure there are no impediments to the logical and efficient extension of development and supporting infrastructure.

Due to the complex nature of such agreements, the VPA is still being formulated at the time of drafting this report. Consequently, the proponents have not been in a position to review the agreement and advise whether the terms of the agreement reflect their position with respect to infrastructure delivery obligations outlined therein. It is noted that the VPA must be a voluntary 'offer' by the developer to undertake obligations contained in the agreement. However, Council is able to formulate a VPA that, subject to the proponents' agreement, can then form the voluntary offer of the proponent. If agreed to, it is considered that the VPA will satisfy the need to ensure that adequate arrangements are in place for the provision of infrastructure to service future development, without placing an inappropriate burden on the public. In the absence of such agreement, an alternative strategy would need to be found to ensure adequate arrangements are in place for the provision of infrastructure.

If acceptable to all parties (including the Council) the VPA will need to be publicly exhibited, for a period of no less than 28 days, in accordance with the requirements of the *Environmental Planning and Assessment Act 1979*. Following the exhibition period, the VPA would be reported to the elected Council for its further consideration. These steps would need to occur before finalisation of the planning proposal.

As previously communicated to the Council, it is understood that the Precinct B proponents are under significant financial pressure and are keen, therefore, to have the planning proposal proceed to finalisation as soon as possible. Consequently, they have suggested Council consider an interim arrangement whereby the developer would make an offer in writing to enter into a VPA to the Council's satisfaction and that this would be tied to the title of the land in some way. Staff have made inquiries regarding such an option and it is understood such an option is available, under the following terms:

- Section 93(1)(3) of the EP&A Act provides that a condition of consent that requires a VPA to be entered into can be imposed if an offer to enter into a VPA is made in association with a rezoning process that would enable the development application to be made; and
- The agreement may be tied to the title of the land by way of a "Restriction as to User".

5.2 Cumbalum Precinct B Planning Proposal

The disadvantages of such an arrangement, compared with a VPA are as follows:

- This arrangement would defer the preparation of a VPA until development application stage;
- The Council may not be the consent authority for future development and is not, therefore, in control of the assessment outcome and so ultimately cannot guarantee the required condition of consent is imposed;
- The need to tie the agreement to the land, via in this case a Section 88B 'restriction as to user' would still involve delays. The planning proposal would not be finalised until this had been completed; and
- Being tied to the development consent process, via a condition of consent, the requirement to enter into a VPA may be subject to the judgement of a court, which may not be in the Council's interests.

Consequently, this interim option is not considered appropriate, under the present circumstances.

As outlined above, the VPA obliges future developers of the land to deliver infrastructure items in accordance with the agreement. The majority of obligations are in the form of undertaking physical works. However, upgrade costs associated with the Pacific Highway (outlined below) are proposed to be in the form of monetary obligations.

It should be noted that several aspects of infrastructure delivery are not covered by the VPA and will require further action and commitments from the Council, with respect to amending Council's Roads Contributions Plan (Roads Plan). These are set out below:

- A major item of infrastructure to be delivered via the VPA is upgrade works that will ultimately be required to the Ross Lane Interchange of the Pacific Highway. The traffic study prepared to inform the Infrastructure Delivery Plan identified the need to add additional lanes on both roundabouts and the overbridge at Ross Lane. These works are estimated to cost in the order of \$10,840,000. The traffic study indicated that the future share of future traffic accessing the highway interchange is attributable 72% to the CURA developments and 28% to 'background' shire existing population plus natural growth. Consequently, approximately \$2,173,248 of works would not be recouped, via the VPA or otherwise, from the CURA developments.
- Additionally, again in regard to the above Pacific Highway works, approximately 13.9 hectares of 'developable land' in Precinct B is owned by parties other than the major developers that are to be parties to the VPA. Consequently, a development contributions plan for this aspect of the future infrastructure would be required to levy the smaller developers within Precinct B for contributions towards these works; and
- Land acquisition costs for road widening on Ross Lane - Council's existing Roads Plan assumes that future road widening will be achieved via land dedications undertaken in association with future development. However, under the present planning proposal a number of landholdings along Ross Lane do not enjoy any development opportunities. Consequently, land acquisition costs will need to be incorporated into the Roads Plan.

5.2 Cumbalum Precinct B Planning Proposal

The above items will need to be incorporated into Council's relevant development contributions plans.

Staff are concerned and disappointed that infrastructure delivery matters have not been resolved prior to this point. Council has attempted throughout the planning proposal process to facilitate a resolution of this matter. Early in the process, Council held meetings with the Precinct A and Precinct B proponents, December 2006 and March-April 2007, to encourage the proponents to work together and present to Council a strategy for the delivery of infrastructure. When this was not forthcoming Council facilitated and funded the preparation of an Infrastructure Delivery Plan (IDP), finalised in June 2011, which identifies the items of infrastructure required to service future development.

It was anticipated that the IDP would form the basis of an offer, from the proponents, of a Voluntary Planning Agreement. Unfortunately, such an offer was only forthcoming from the Precinct B proponents following the Council's resolution to publicly exhibit the planning proposal. The delay in responding to this matter has meant that further delay in the processing of the subject planning proposal is unavoidable, due to statutory obligations for public exhibition processes associated with voluntary planning agreements.

The Need for the Development

It is noted that some Councillors have previously commented, in deliberations regarding this matter, that further information regarding whether sufficient demand exists to support the rezoning of additional land at this time.

Councillors have previously been advised that Ballina Shire currently has in the order of 300 hectares of undeveloped residential zoned land, which comprises a projected supply of approximately 15 years (from 2012) assuming all the land is developed steadily over that period. These zoned land supplies include land in the Lennox Head, Wollongbar and Ballina Heights areas. Additional potential land supplies are identified in Council's growth management framework, including land in Lennox Head, Skennars Head and Cumbalum, the subject of this report, although these areas require rezoning to become available.

The addition of proposed urban zoned land in Cumbalum Precinct A would add only the equivalent of a further three years supply (assuming the total dwelling demand for Ballina Shire). The addition of land supplies in Cumbalum Precinct B would accommodate the equivalent of a further eight years supply. It is not anticipated that all of the Cumbalum Urban Release Area would be developed in 11 years, however, as a range of housing development opportunities exist in Ballina Shire, including some infill development. Notwithstanding, these figures underline the implications of over-reliance on only a small number of development opportunities to accommodate projected housing demand.

It is noted that Council's strategic planning framework indicates a preference for a south to north roll out of development within the Cumbalum Urban Release Area, due particularly to the desire to achieve the efficient delivery of infrastructure. Notwithstanding, Council has proceeded with the subject planning proposal on the basis that it is advantageous to maintain an

5.2 Cumbalum Precinct B Planning Proposal

adequate 'buffer' of urban zoned land, provided that infrastructure delivery issues can be adequately addressed.

The reasons for maintaining an adequate land supply 'buffer' to accommodate dwelling demand include the following:

- To accommodate the 'time lags' that are inherent in the land development process due to the time required to investigate, rezone, design, approve and develop land;
- To avoid over-reliance on any one development or area, due to potential for issues to arise that may inhibit land release, such as infrastructure capacity, developer finance or approval process; and
- To maintain adequate competition in the marketplace to avoid incentives for developers to 'drip-feed' land on to the market.

Arguments against providing too numerous development opportunities include the following:

- It may compromise the efficient and cost-effective extension of infrastructure if 'leap-frogging' development occurs;
- Excessive competition may lead to low rates of development that lengthens the time new residents are without facilities that require higher levels of demand such as playing fields, community facilities and local shops.

Representations by the NSW Department of Planning and Infrastructure

The NSW Department of Planning and Infrastructure has, on a number of occasions, made robust representations to Council to expedite the processing of the Cumbalum (Precinct A and Precinct B) planning proposals. Council has been at pains to convey to the Department the substantial matters, specifically infrastructure delivery and stormwater, that in Council's view must be resolved prior to the matters proceeding. It is conceivable in light of those representations that, should there be further delay in relation to this matter, the Minister may see fit to 'call-in' the Cumbalum planning proposals and have the matter resolved by an alternative authority, such as the Department of Planning and Infrastructure itself or a Joint Regional Planning Panel.

Minor amendments to the plan

As outlined above, Council received a number of submissions requesting that amendments be made to the proposed zoning. Based on the submissions, a number of zoning amendments are recommended, if the Council is otherwise satisfied to proceed with the Precinct B planning proposal. The following table sets out these amendment requests received along with the Council staff response and identification of recommended changes.

Amendment Request	Recommended change	Rationale
Kaehler Request that E2 Environmental Protection Zoning be amended in a manner more consistent with the draft Ballina Shire LEP 2011.	Yes	It is proposed that the E2 zone line be amended to more closely follow the vegetation line, in a manner consistent with the draft Ballina LEP

5.2 Cumbalum Precinct B Planning Proposal

Amendment Request	Recommended change	Rationale
It is requested that the RU2 Rural Landscape Zone be applied to all cleared areas.	No	2011. However, it is proposed that where land is removed from the E2 zone that the E3 Environmental Management Zone be applied. It is noted that the E3 has been applied to land adjacent to the Precinct B urban footprint in a manner consistent with the Alstonville-Wollongbar urban buffer.
Freihaut, Pitt & New Nederlands Requests that land identified as being affected by road noise, but being otherwise unconstrained, be included in the residential zone footprint.	No	As noted elsewhere in this report, reliance on building treatments to mitigate road noise impacts is not considered appropriate under the circumstances.
Mead Requests that land identified as being affected by road noise, but being otherwise unconstrained, be included in the residential zone footprint.	No	As noted elsewhere in this report, reliance on building treatments to mitigate road noise impacts is not considered appropriate under the circumstances.
Mearns Requests that land identified as being affected by road noise, but being otherwise unconstrained, be included in the residential zone footprint.	No	As noted elsewhere in this report, reliance on building treatments to mitigate road noise impacts is not considered appropriate under the circumstances.
Miller Requests that land identified as being affected by road noise, but being otherwise unconstrained, be included in the residential zone footprint.	No	As noted elsewhere in this report, reliance on building treatments to mitigate road noise impacts is not considered appropriate under the circumstances.
Planning Resolutions Zoning of Richard Walsh's house - the planning proposal proposes the land around the house be zoned a mixture of E2 Environmental Protection (due to the presence of littoral rainforest) and E3 Environmental Management Zone (due to visual prominence). Noting the highly modified nature of the site, the submission requests that the R3 Medium Density Zone be applied.	Yes	Due to the highly modified nature of the vegetation the E2 may not be appropriate. Consequently, it is proposed that the Re Medium Density Residential Zone be applied, to the parts of the lot shown as being not otherwise affected by environmental constraints in the Local Environmental Study.

5.2 Cumbalum Precinct B Planning Proposal

Amendment Request	Recommended change	Rationale
Land south of Scanlan Lane - Requests that Council amend the planning proposal to zone a small ridge of land R3 Medium Density from the proposed E3 Environmental Management Zone.	Yes	This area appears to have been excluded due to the straightness of the zone line. However, the zone line could logically be extended to include this area within the urban footprint. Consequently, it is recommended that a small area of land be changed from E3 Environmental Management Zone to R3 Medium Density Residential.
South western slope land facing Pacific Highway - Requests that an area of land that the LES has shown to be otherwise suitable for housing except for road noise impacts be included in the residential footprint.	No	As noted elsewhere in this report, reliance on building treatments to mitigate road noise impacts is not considered appropriate under the circumstances.
Land adjacent to Ross Lane - Requests that an area of land that the LES has shown to be otherwise suitable for housing except for road noise impacts be included in the residential footprint	No	As noted elsewhere in this report, reliance on building treatments to mitigate road noise impacts is not considered appropriate under the circumstances.
North eastern slope land adjacent to Dufficys Lane - Requests that an area of land be included in the residential footprint, on the basis of the land is not sufficiently steep to be excluded from development.	No	Contrary to the statement made in the submission, this area is within the class of slope identified in the geotechnical reports as being subject to land slip hazard.

It is noted that where zone amendments are recommended, there would be consequential amendments required to other maps in the draft Ballina LEP 2011 map set.

Summary Comments

As outlined in the above report, Cumbalum Precinct B has comprised an important component of Council's, and the State Government's, urban growth strategy for the shire, and the region, for a considerable period. The urban suitability investigations undertaken as part of the Local Environmental Study prepared as the basis for the planning proposal have identified that parts of the precinct have physical capabilities appropriate to accommodate urban development, subject to the resolution of the following:

5.2 Cumbalum Precinct B Planning Proposal

- Infrastructure delivery - that an appropriate mechanism is in place to provide for the efficient delivery of infrastructure to service future development without placing a burden on the public for the extension of those services;
- Ecological impacts associated with increased stormwater volumes - in particular the potential for adverse impacts to occur in the Ballina Nature Reserve and adjacent SEPP14 Wetlands; and
- Nuisance impacts associated with increased stormwater volume - relates to the potential for downstream private properties to experience nuisance flooding impacts as a result of stormwater discharge due to the development of land higher in the catchment.

In relation to infrastructure delivery, as outlined in the above report the Precinct B Voluntary Planning Agreement, if acceptable to the proponents and the Council, appears to provide an appropriate mechanism for securing (in a financial and legal sense) the delivery of infrastructure, subject to the proponents' agreement.

In relation to the potential for adverse ecological impacts to occur as a result of increased stormwater volume, differing perspectives have been offered by those knowledgeable in the field regarding the extent of the problem, its potential for mitigation and the stage at which a comprehensive resolution is required (rezoning vs development assessment). The views of the Office of Environment and Heritage, Council's LES consultants, GHD, and Council's Environmental Scientist are provided above. On the basis of the information available, it is considered that ecological matters can be adequately addressed at the development application stage in the event that the planning proposal proceeds in its exhibited form (provided that stormwater management related matters are adequately addressed - see below).

Given the level of uncertainty associated with stormwater management matters, this report recommends that this issue requires further consideration prior to finalising the subject planning proposal.

The matter of the potential for adverse 'nuisance' type flooding impacts to occur to downstream private properties is potentially more sensitive to change in hydrology. In this instance, relatively minor changes to soil moisture and/or vegetation type could lead to adverse 'nuisance' impacts, by constraining landowners' current use of their land for purposes such as grazing. Such changes can be seen, if determined by a court, as creating an *"unreasonable interference with the use and enjoyment of a[nother] person's land"*. Civil liabilities may apply should such impacts ultimately occur, where such an outcome was seen as inevitable as a result of the consent authority's decision. Despite the fact that such impacts do not appear, at this stage, to be inevitable, a high degree of uncertainty remains with respect to this matter, as evidenced by the comments by Council's engineers provided above. At the rezoning stage, Council needs to have a reasonable level of confidence that a solution can be found at development application stage. The advice to date, from Council's engineers, is that Council is not confident that a technical solution can be found, due to the particular circumstances of this case.

5.2 Cumbalum Precinct B Planning Proposal

Consequently, one of the options presented below is for the rezoning to proceed but subject to Council's engineers being satisfied that stormwater management issues can be resolved adequately at development application stage.

Sustainability Considerations

- **Environment**

The rezoning of land for urban purposes has environmental implications for the land and the locality.

- **Social**

The provision of additional residential development would contribute to the changing social environment of Ballina Shire and provide existing and future residents with greater housing choice. Development may also place additional demands on Council and other Government and non-Government organisations for the provision of social services and urban infrastructure. However, it is noted that development of this land will be consistent with Council's endorsed and established urban land release strategy.

- **Economic**

The increase in population arising from future development of the subject land may contribute to the economic development of the locality and the shire, via the additional aggregate demand in the economy, construction activity and the provision of labour resources to local businesses.

Legal / Resource / Financial Implications

The rezoning of land for residential purposes would enable landowners to lodge development applications for residential subdivision and development of the land.

As outlined in the above report, subject to this matter proceeding at this time, further consideration would need to be given, at development application stage, to the potential downstream impacts associated with increased stormwater volumes, including the potential for increased 'nuisance' flooding on downstream private properties. As noted above, there could be legal implications, under civil law, for the future consent authority should development consent be granted and adverse downstream impacts occur, as foreshadowed.

Consultation

As outlined in the above report, this matter has been the subject of extensive consultation with landholders, government and non-government agencies and the broader community. Council has met the requirements of the *Environmental Planning and Assessment Act 1979* in carrying out its community engagement initiatives for the planning proposal.

Options

The following options are presented for the Council's consideration:

5.2 Cumbalum Precinct B Planning Proposal

1. Proceed to finalise the Precinct B planning proposal following agreement regarding infrastructure provision without further assessment of stormwater management matters.

That Council proceed to finalise the Cumbalum Precinct B Planning Proposal, subject to the proponents providing a signed Voluntary Planning Agreement (or agreement is reached on an alternative suitable mechanism) that satisfies the Council's requirements with respect to securing future infrastructure delivery obligations. This approach would also involve Council advising the proponents that Council expects that a greater level of information, relating to stormwater management, to be provided to favourably determine a development application for the residential subdivision of the land.

If this option is pursued, and a planning agreement progressed, a finalised Precinct B Voluntary Planning Agreement would be placed on public exhibition for a period of 28 days. The outcomes of the exhibition will be reported to the elected Council for further deliberation prior to finalisation of the planning proposal.

Due to the uncertainty that remains with respect to stormwater management matters, this option is not recommended.

2. Proceed to finalise the Precinct B planning proposal following agreement regarding infrastructure provision and subject to further assessment of stormwater management matters.

That Council proceed to finalise the Cumbalum Precinct B Planning Proposal, subject to the following:

- a. The proponents providing a signed Voluntary Planning Agreement (or agreement is reached on a suitable alternative mechanism) that satisfies the Council's requirements with respect to securing future infrastructure delivery obligations; and
- b. Council's Civil Services Group advising that it is satisfied that a stormwater management system can be designed that is capable of servicing the subject land, without having an unreasonable adverse impact on downstream private properties and ecology.

This option is recommended for the following reasons:

- Cumbalum Precinct B forms a key component of Council's, and the State Government's, strategic planning framework for urban growth in the shire, and the region;
- The urban suitability investigations undertaken as part of the Local Environmental Study prepared as the basis for the planning proposal has identified that parts of the precinct have physical capabilities appropriate to accommodate urban development; and
- There remains the potential to resolve the outstanding matters outlined above within a reasonable timeframe.

3. Discontinue the processing of the Precinct B planning proposal.

5.2 Cumbalum Precinct B Planning Proposal

That Council discontinue the planning proposal process due to matters raised in the public submissions received during the planning proposal exhibition period and on the basis that stormwater management and infrastructure provision have not been addressed sufficient to enable the rezoning of the land.

This option is not recommended for the following reasons:

- Cumbalum Precinct B forms a key component of Council's, and the State Government's, strategic planning framework for urban growth in the shire, and the region;
- The urban suitability investigations undertaken as part of the Local Environmental Study prepared as the basis for the planning proposal has identified that parts of the precinct have physical capabilities appropriate to accommodate urban development; and
- There remains the potential to resolve the outstanding matters outlined in this report within a reasonable timeframe; and
- Council has committed substantial resources over a period of five years to progress this matter to this point, consequently, maintaining the current process is seen as preferable to recommencing or restarting the process at a later date, if the Council is inclined to support the rezoning process as a matter of principle.

It is noted there is potential for the Minister for Planning and Infrastructure to become involved in the progress of the planning proposal should be Council pursue this option.

RECOMMENDATIONS

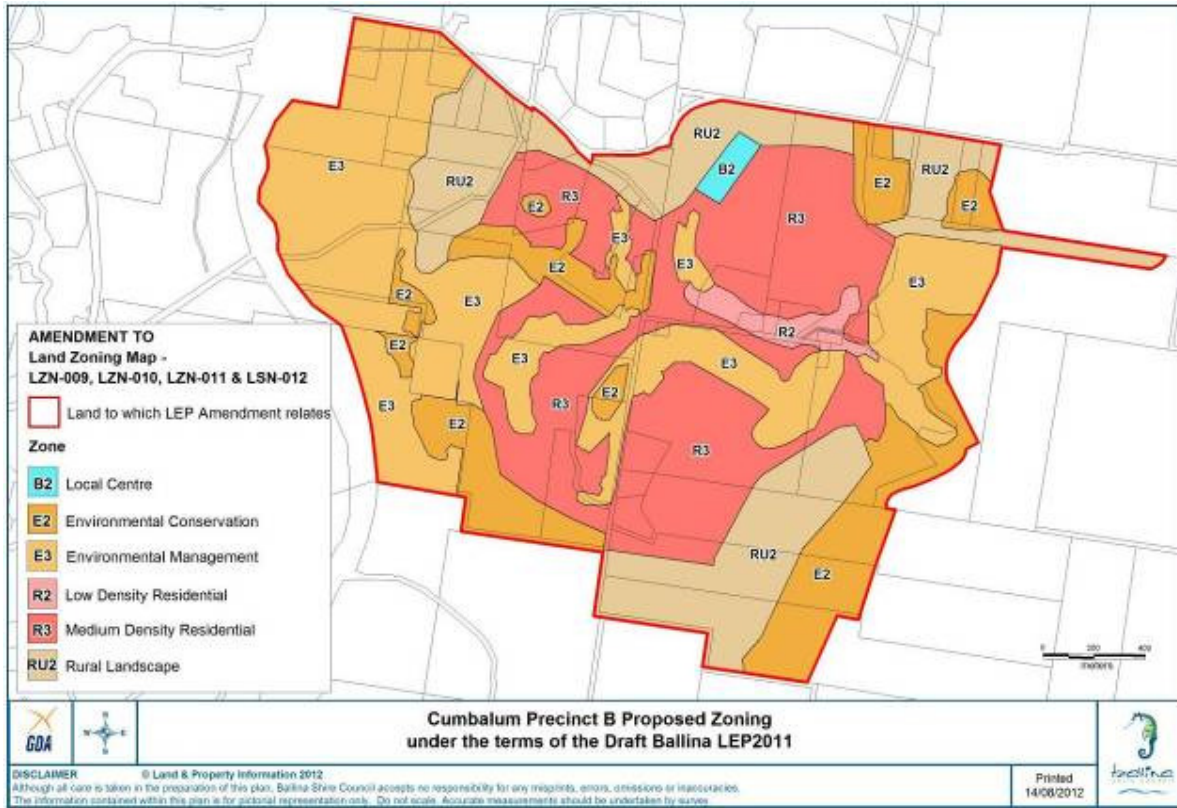
1. That Council proceed to finalise the Cumbalum Precinct B Planning Proposal, subject to the following:
 - a) The proponents providing a signed Voluntary Planning Agreement (or agreement is reached on a suitable alternative mechanism) that satisfies the Council's requirements with respect to securing future infrastructure delivery obligations; and
 - b) Council's Civil Services Group advising that it is satisfied that a stormwater management system can be designed that is capable of servicing the subject land, without having an unreasonable adverse impact on downstream private properties and ecology.
2. That where items 1(a) and 1(b) are not resolved in a period of three months, the matter be reported to Council for further consideration.
3. That Council amend the planning proposal in accordance with the table of minor amendments contained in this report.

5.2 Cumbalum Precinct B Planning Proposal

Attachment(s)

1. Public submissions relating to Precinct A only (Under separate cover)
2. Public submissions relating to Precinct B only (Under separate cover)
3. Public submissions relating to Precinct A and B (Under separate cover)
4. Landholder submissions (Under separate cover)
5. Government agency submissions (Under separate cover)
6. Map identifying downstream properties located adjacent to the Ballina Nature Reserve (Under separate cover)

5.2 Cumbalum Precinct B Planning Proposal



DATED 2012

BETWEEN

ZALI INVESTMENTS PTY LTD ACN 124 161 128

AND

CROMDALE DEVELOPMENTS PTY LTD ACN 146 911 202

AND

RM WALSH LAND HOLDINGS PTY LTD ACN 095 255 502

AND

OWEN LYNN AND MARGARET LYNN

AND

NEWRYBAR DEVELOPMENTS PTY LTD ACN 147 410 580

AND

DENCANNON PTY LTD ACN 145 591 448

AND

BYRON BAY LAND DEVELOPMENT PTY LTD ACN 106 666 648

AND

BALLINA SHIRE COUNCIL

"Council"

CUMBALUM PRECINCT B VOLUNTARY PLANNING AGREEMENT

s93F of the *Environmental Planning and Assessment Act 1979*

CLEARY HOARE

Solicitors

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NEWSTEAD QLD 4006 SYDNEY NSW 2000
Tel: 07 3230 5222 Tel: 02 9262 5550

12/36294

VOLUNTARY PLANNING AGREEMENT

THIS AGREEMENT is made on the _____ day of _____ 2012.

BETWEEN: ZALI INVESTMENTS PTY LTD ACN 124 161 128 (**Zali**)

AND: CROMDALE DEVELOPMENTS PTY LTD ACN 146 911 202 (**Cromdale**)

AND: RM WALSH LAND HOLDINGS PTY LTD ACN 095 255 502 (**RM Walsh**)

AND: OWEN LYNN

AND: MARGARET LYNN (together, **Lynn**)

AND: NEWRYBAR DEVELOPMENTS PTY LTD ACN 147 410 580 (**Newrybar**)

AND: DENCANNON PTY LTD ACN 145 591 448 (**Dencannon**)

AND: BYRON BAY LAND DEVELOPMENT PTY LTD ACN 106 666 648 (**Byron Bay Land**)

AND: BALLINA SHIRE COUNCIL, corner Tamar and Cherry Streets, Ballina NSW 2478 (**Council**)

BACKGROUND:

- A. The Landowner is the owner of the Land.
- B. The Landowner wishes to carry out the Development if the LEP takes effect.
- C. The Landowner is prepared to make Development Contributions to the Council under s93F of the Act in connection with the making of the LEP and the carrying out of the Development in accordance with this Agreement.
- D. The Developer will enter into further and more detailed arrangements with the Council, as necessary, relating to the implementation of this Agreement in connection with any further necessary Application for a Development Consent to carry out the Development.

OPERATIVE PROVISIONS

1. **Definitions & Interpretation**

1.1 In this Agreement the following definitions apply:

Act means the *Environmental Planning and Assessment Act 1979* (NSW).

1236364

Application means a development application within the meaning of Part 4 of the Act.

CURA A means the Cumbalum Urban Release Area A as set out in the **Infrastructure Delivery Plan**.

CURA B means the Cumbalum Urban Release Area B as set out in the **Infrastructure Delivery Plan**.

CURA Link Road means the road marked as such on the Map.

Defects Liability Period means the period of 180 days on and from the date on which the Council accepts the hand-over of a Work under Clause 12 of this Agreement.

Development means any development, within the meaning of the Act, carried out on the Land and which is only permissible as a result of the making of the LEP.

Development Consent has the same meaning as in the Act.

Development Contribution means a monetary contribution, the dedication of land free of cost, the carrying out of work, or the provision of any other material public benefit, or any combination of them, to be used for, or applied towards, a public purpose.

Final Lot means a lot to be created in the Development for separate occupation and disposition not being:

- (a) a lot created by a subdivision of the Land that is to be dedicated or otherwise transferred to the Council, or
- (b) a lot created by a subdivision of the Land which may be further subdivided.

GST has the same meaning as in the GST Law.

GST Law has the meaning given to that term in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any other Act or regulation relating to the imposition or administration of the GST.

Infrastructure Delivery Plan means the Council's document entitled '*Report on the Cumbalum Urban Release Area – Infrastructure Delivery Plan*' dated June 2011, which is contained in **Schedule 2**.

Item means an item in Column 1 of the Table in **Schedule 3**.

Just Terms Act means the *Land Acquisition (Just Terms Compensation) Act 1991*.

Land means the land shown shaded in grey on the Map, as further specified or described in Column 2 of the Table in Part 2 of **Schedule 1**.

Landowner means the entity or person named in Column 1 of the Table in Part 2 of Schedule 1 in respect of the corresponding part of the Land noted in Column 2 of the

Table in Part 2 of Schedule 1 and, unless otherwise stipulated or limited by context, means such entities and persons jointly and severally

LEP means a local environmental plan within the meaning of the Act that makes the Development permissible on the Land.

Map means the map in Part 3 of Schedule 1.

Manual means the *Northern Rivers Local Government Development & Design Manual*.

Net Developable Area means, in respect of land described in Column 2 of the Table in Part 2 of Schedule 1, the number of hectares specified in Column 4 of that Table corresponding to that land.

Party means a party to this agreement, including their respective successors and assigns.

Provision means any Provision by the required Developer under this Agreement.

Public Facility means a public amenity, a public service, a public facility, public land, public infrastructure, a public road, a public work, or any other act, matter or thing that meets a Public Purpose.

Public Purpose means any purpose that benefits the public or a section of the public, including but not limited to a purpose specified in s93F(2) of the Act.

Rectification Notice means a notice in writing that identifies a defect in a work and requires rectification of the defect within a specified period of time.

Registrar-General has the same meaning as in the *Real property Act 1900*.

Regulation means the *Environmental Planning and Assessment Regulation 2000*.

Responsible Landowner in relation to an Item means the Landowner described in Column 5 of the Table in Schedule 3 corresponding to that Item.

Stage means a stage approved by a Development Consent for the Development or otherwise agreed in writing between the Parties.

Subdivision Certificate has the same meaning as in the Act, and includes a 'strata certificate' under the *Strata Schemes (Freehold Development) Act 1973* and the *Strata Schemes (Leasehold Development) Act 1986*.

Work means the physical result of any building, engineering or construction work in, on, over or under land required to be carried out by the Developer under this Agreement.

1.2 In the interpretation of this Agreement, the following provisions apply unless the context otherwise requires:

1.2.1 Headings are inserted for convenience only and do not affect the interpretation of this Agreement.

- 1.2.2 A reference in this Agreement to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in Sydney.
- 1.2.3 If the day on which any act, matter or thing is to be done under this Agreement is not a business day, the act, matter or thing must be done on the next business day.
- 1.2.4 A reference in this Agreement to dollars or \$ means Australian dollars and all amounts payable under this Agreement are payable in Australian dollars.
- 1.2.5 A reference in this Agreement to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
- 1.2.6 A reference in this Agreement to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced.
- 1.2.7 A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Agreement.
- 1.2.8 An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.
- 1.2.9 Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
- 1.2.10 A word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and a reference to any gender denotes the other genders.
- 1.2.11 References to the word 'include' or 'including' are to be construed without limitation.
- 1.2.12 A reference to this Agreement includes the agreement recorded in this Agreement.
- 1.2.13 A reference to a party to this Agreement includes a reference to the servants, agents and contractors of the party, and the party's successors and assigns.
- 1.2.14 Any schedules, appendices and attachments form part of this Agreement.
- 1.2.15 A reference to 'the reasonable satisfaction of the Council' means the reasonable satisfaction of the General Manager of the Council.
- 1.2.16 A reference to a matter being 'determined by the Council' means the matter being determined by the General Manager of the Council, acting reasonably.

2. Application of this Agreement

This Agreement applies to the Development.

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3. **Status of this Agreement**
 - 3.1 This Agreement commences when it has been executed by all of the Parties.
 - 3.2 A Landowner is under no obligation to make the Development Contributions to the Council in accordance with this Agreement unless all of the following events have occurred:
 - 3.2.1 the LEP takes effect,
 - 3.2.2 Development Consent is granted to the Development or any part of it, and
 - 3.2.3 the Landowner carries out the Development.
4. **Further Agreements Relating to this Agreement**
 - 4.1 A Landowner is not to make an Application for a Development Consent to carry out the Development unless prior reasonable arrangements have been made between the Landowner and the Council relating to the detailed implementation of any provisions of this Agreement requiring the Landowner to make Development Contributions in relation to the Development.
 - 4.2 The Parties may, at any time, enter into such other agreements or arrangements relating to the subject matter of this Agreement as they consider to be necessary or desirable in order to give effect to this Agreement.
 - 4.3 An agreement or arrangement referred to in clause 4.1 or 4.2 is not to alter any matter for which provision is made in the Table in Schedule 3 and is not to be otherwise inconsistent with this Agreement.
 - 4.4 Without limiting Clause 4.1 or 4.2, an agreement or arrangement referred to in those clauses may make provision for:
 - 4.4.1 the particulars of any Public Facility required by this Agreement to be made available for a Public Purpose,
 - 4.4.2 the location at which a Public Facility is to be provided and the time at which and the manner in which it will be made available,
 - 4.4.3 the particulars of any work required by this Agreement to be undertaken by the Landowner, and
 - 4.4.4 the time at which and the manner in which a Work is to be handed over to the Council.
 - 4.5 A Landowner is not to prepare a development control plan, pursuant to s74D(3) of the Act or a make a staged development application under s83C(2) of the Act without the Council's written consent.
 - 4.6 A Landowner is not to lodge an Application for the subdivision of Land unless the Application specifies the number of Final Lots that are intended to be ultimately accommodated on the lots to be created as a result of the subdivision.

5. **Application of s94, s94A and s94EF of the Act to the Development**

- 5.1 This Agreement does not exclude sections 94, 94A or 94EF of the Act to the Development.
- 5.2 The benefits in this Agreement are excluded from being taken in consideration under s94 of the Act.

6. **Council's Obligations**

- 6.1 If Council does not itself carry out the works for the Public Purpose to which Item 19 is to be applied, the Council is to transfer any Development Contributions received by the Council for that Item to the Roads and Maritime Services (RMS) or any other public authority that will carry out those works, subject to an agreement requiring the RMS or the public authority, as the case may be, to expend such amounts for those works.

7. **Provision of Development Contributions under this Agreement**

- 7.1 Subject to this Agreement, a Responsible Landowner in respect of an Item is to make the Development Contributions comprising that Item specified in the Table to **Schedule 3** in accordance with this Agreement.
- 7.2 A Development Contribution referred to in Clause 7.1 is to be made:
- 7.2.1 in accordance with the specification in Column 1 of that Table,
 - 7.2.2 for the Public Purpose referred to in Column 2 of that Table in relation to the relevant Public Facility,
 - 7.2.3 in the form specified in Column 3 of that Table in relation to the relevant Public Facility, and
 - 7.2.4 in the manner and at the time specified in Column 3 of that Table.
- 7.3 Notwithstanding anything in this Agreement, if the Table to Schedule 3 has the effect that the Landowner required to make a Development Contribution is a Landowner who proposes only to undertake a strata subdivision, then the Landowner responsible for making the Development Contribution is the Landowner who created the lot which is to be the subject of the strata subdivision, if such a Landowner is a party to this Agreement.
- 7.4 A Development Contribution made under this Agreement is made and accepted in full and final satisfaction of all costs and expenses required to be borne by the Landowner of and incidental to the Provision of the Public Facility to which it relates.

8. **Application of Development Contributions by the Council**

- 8.1 The Landowner acknowledges that:
- 8.1.1 a Development Contribution made by the Landowner under this Agreement is to be applied towards the Public Facility for which it is made and at the locations, in the manner and to the standards required by or under this Agreement, and

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8.1.2 each such Public Facility is to be available for the Public Purpose relating to that facility and may be made available in the manner that best meets the demand for the facility created by the Development.

9. **Monetary Contributions**

- 9.1 A monetary Development Contribution is made for the purposes of this Agreement when cleared funds are deposited by means of electronic funds transfer into a bank account nominated by the Council.
- 9.2 The Landowner is to give the Council not less than 2 business days written notice of:
- 9.2.1 its intention to pay a monetary Development Contribution,
 - 9.2.2 the Public Facility to which the monetary Development Contribution relates, and
 - 9.2.3 the amount proposed to be paid.
- 9.3 Monetary Development Contributions are to be indexed quarterly in accordance with the following formula:

$$\frac{\$CA \times \text{Current CPI}}{\text{Base CPI}}$$

Base CPI

Where:

\$CA is the monetary Development Contribution per hectare of the Net Developable Area specified in this Agreement.

Current CPI is the *Consumer Price Index (All Groups Index) for Sydney* as published by the Australian Statistician at the time the monetary Development Contributions are made.

Base CPI is the *Consumer Price Index (All Groups Index) for Sydney* as published by the Australian Statistician at the date of this Agreement.

10. **Dedication of Land**

- 10.1 The Landowner referred to in Column 5 of the Table in Schedule 3 in respect of Items 10 to 19 inclusive, is to dedicate the land specified in Column 3 of the Table for those Items at the times set out in Column 4 of that Table for those Items.
- 10.2 A Development Contribution comprising the dedication of land is made for the purposes of this Agreement when:
- 10.2.1 a deposited plan is registered in the register of plans held with the Registrar-General that dedicates land as a public road (including a temporary public road) under the *Roads Act 1993* or creates a public reserve or drainage reserve under the *Local Government Act 1993*, or

- 10.2.2 the Council is given an instrument in registrable form under the *Real Property Act 1900* that is effective to transfer title to the land to the Council when registered.
- 10.3 To enable for the registration of an instrument of transfer referred to in Clause 10.1, the Landowner is to:
- 10.3.1 produce to the Land and Property Information the certificates of title to land to be dedicated under this Agreement or a direction allowing the certificates of title to be used for that purpose, and
- 10.3.2 give to the Council an irrevocable undertaking to deliver to the Council the certificates of title if that certificate or certificates are released to the Landowner by the Land and Property Information.
11. **Carrying Out & Hand-over of Work**
- 11.1 A Development Contribution comprising the carrying out of a Work is made for the purposes of this Agreement when the Council accepts the hand-over of the Work.
- 11.2 The Landowner is to hand-over a Work to the Council by the time specified in Column 4 of the Table in Schedule 3 corresponding to the Item of Work.
12. **Rectification of Defects**
- 12.1 The Landowner must, at its own cost, comply with any Rectification Notice given to it by the Council during the Defects Liability Period to the reasonable satisfaction of the Council.
- 12.2 The Landowner acknowledges that any costs incurred by the Council as a result of the Landowner's non-compliance with a Rectification Notice may be recovered by the Council as a debt due in a court of competent jurisdiction.
13. **Security for obligation to dedicate land**
- 13.1 If the Landowner does not dedicate land required to be dedicated under this Agreement at the time at which it is required to be dedicated or at all, the Landowner consents to the Council compulsorily acquiring the land for compensation in the amount of \$1 without having to follow the pre-acquisition procedures under the Just Terms Act.
- 13.2 Council is to only acquire land pursuant to clause 13.1 if to do so is reasonable having regard to the circumstances surrounding the failure by the Landowner to dedicate the land required to be dedicated under this Agreement.
- 13.3 Clause 14.1 constitutes an agreement for the purposes of s30 of the Just Terms Act.
- 13.4 If, as a result of the acquisition referred to in clause 13.1, the Council must pay compensation to any person other than the Landowner, the Landowner must reimburse the Council for that amount, upon a written request being made by the Council.
- 13.5 Except as otherwise agreed between the Parties, the Landowner must ensure that the land to be dedicated under this Agreement is free of all encumbrances and affectations (whether registered or unregistered and including without limitation any

charge or liability for rates, taxes and charges), on both the date that the Landowner is liable to transfer that land to the Council under this Agreement, and the date on which the Council compulsorily acquires the whole or any part of that land in accordance with the Just Terms Act.

- 13.6 The Landowner indemnifies and keeps indemnified the Council against all claims made against the Council as a result of any acquisition by the Council of the whole or any part of the Land.
- 13.7 The Landowner is to promptly do all things necessary, and consents to the Council doing all things necessary, to give effect to this clause 13, including without limitation:
- 13.7.1 signing any documents or forms;
 - 13.7.2 giving land owner's consent for lodgement of any Development Application;
 - 13.7.3 producing certificates of title to the Registrar-General under the Real Property Act; and
 - 13.7.4 paying the Council's costs arising under this clause 13.
- 13.8 Notwithstanding clause 13.5, if, despite having used its best endeavours, the Landowner cannot ensure that the land to be dedicated is free from all encumbrances and affectations, then the Landowner may request that Council agree to accept the land subject to those encumbrances and affectations, but the Council may withhold its agreement in its absolute discretion.

14. Access to Land

- 14.1 A Landowner is to permit the Council, its officers, employees, agents and contractors to enter the part of the Land owned or controlled by the Landowner at any time, upon reasonable prior notice, in order to inspect, examine or test any Work or to remedy any breach by the Landowner relating to the carrying out of a Work.
- 14.2 A Landowner is to permit another Landowner to enter Land owned or controlled by the Landowner for the purposes of enabling the other Landowner to carry out any Work under this Agreement that is required to be carried out on such land or to perform any other obligation imposed on the other Landowner by or under this Agreement.

15. Enforcement

- 15.1 Without limiting any other remedies available to the Parties, this Agreement may be enforced by either Party in any court of competent jurisdiction.
- 15.2 For the avoidance of doubt, nothing in this Agreement prevents:
- 15.2.1 a Party from bringing proceedings in the Land and Environment Court to enforce any aspect of this Agreement or any matter to which this Agreement relates,

15.2.2 the Council from exercising any function under the Act or any other Act or law relating to the enforcement of any aspect of this Agreement or any matter to which this Agreement relates.

16. Registration of this Agreement

16.1 The Parties agree to register this Agreement on the title to the Land.

16.2 Upon execution of this Agreement, the Landowner is to provide the Council with the following documents to enable registration of this Agreement:

16.2.1 an instrument requesting registration of this Agreement on the title to the Land in registrable form duly executed by the Landowner; and

16.2.2 the written irrevocable consent of each person referred to in s93H(1) of the Act to that registration; and

16.2.3 the certificate of title for the Land.

16.3 The Parties are to do such things as are reasonably necessary to remove any notation relating to this Agreement from the title to the Land:

16.3.1 in so far as the part of the Land concerned is a Final Lot,

16.3.2 in relation to any other part of the Land, once the Landowner has completed its obligations under this Agreement to the reasonable satisfaction of the Council or this Agreement is terminated or otherwise comes to an end for any reason whatsoever.

17. Sale of the Land

17.1 The Landowner agree not to sell the Land or part of the Land, other than a Final Lot created pursuant to a Development Consent granted for the Development, assign the Landowner's rights or obligations under this Agreement to any person, or novate this Agreement to any person unless:

17.1.1 the Landowner has at no cost to the Council, first procured the execution by the person with whom it is dealing of a Deed in favour of the Council on terms to the reasonable satisfaction of the Council,

17.1.2 the Council, by notice in writing to the Landowner, has stated that evidence satisfactory to it has been produced by the Landowner to show that the purchaser of the Land or part, or the assignee or novatee is reasonably capable of performing its obligations under the Deed referred to in Clause 17.1.1, and

17.1.3 the Landowner is not in breach of this Agreement.

17.2 The Landowner is not obliged to procure the agreement referred to in clause 17.1.1 if that part of the Land being sold is a Final Lot.

18. Review of this Agreement

18.1 The Parties, acting in good faith and using their best endeavours, agree to review this Agreement every 3 years, and otherwise if either party is of the opinion that any

change of circumstance has occurred that materially affects the operation of this Agreement.

18.2 For the purposes of Clause 19.1, the relevant changes include (but are not limited to) any change to a law that restricts or prohibits or enables the Council or any other planning authority to restrict or prohibit any aspect of the Development.

18.3 A failure by a Party to agree to take action requested by the other Party as a consequence of a review of this Agreement is not a dispute for the purposes of clauses 19 and 20.

19. **Dispute Resolution – expert determination**

19.1 This clause applies to a dispute under this Agreement which relates to a matter that can be determined by an appropriately qualified expert.

19.2 Any dispute between the Parties as to whether a dispute to which this clause applies can be determined by an appropriately qualified expert is to be referred to the Chief Executive Officer of the professional body that represents persons with the relevant expertise for determination, which is to be final and binding on the Parties.

19.3 Such a dispute is taken to arise if one Party gives another Party a notice in writing specifying particulars of the dispute.

19.4 If a notice is given under clause 19.3, the Parties are to meet within 14 days of the notice in an attempt to resolve the dispute.

19.5 If the dispute is not resolved within a further 28 days, the dispute is to be referred to the President of the NSW Law Society to appoint an expert for expert determination.

19.6 The expert determination is binding on the Parties except in the case of fraud or misfeasance by the expert.

19.7 Each Party is to bear its own costs arising from or in connection with the appointment of the expert and the expert determination.

20. **Dispute Resolution - Mediation**

20.1 This clause applies to any dispute under this Agreement other than a dispute to which clause 19 applies.

20.2 Such a dispute is taken to arise if one Party gives another Party a notice in writing specifying particulars of the dispute.

20.3 If a notice is given under clause 20.2, the Parties are to meet within 14 days of the notice in an attempt to resolve the dispute.

20.4 If the dispute is not resolved within a further 28 days, the Parties must mediate the dispute in accordance with the Mediation Rules of the Law Society of New South Wales as set out in Schedule 4 or such amended or other Rules that are current at the time the dispute is mediated, and must request the President of the Law Society, or the President's nominee, to select a mediator.

20.5 If the dispute is not resolved by mediation within a further 28 days, or such longer period as may be necessary to allow any mediation process which has been

commenced to be completed, then the Parties may exercise their legal rights in relation to the dispute, including by the commencement of legal proceedings in a court of competent jurisdiction in New South Wales.

21. Notices

21.1 Any notice, consent, information, application or request that must or may be given or made to a Party under this Agreement is only given or made if it is in writing and sent in one of the following ways:

21.1.1 delivered or posted to that Party at its address set out in **Schedule 5**.

21.1.2 faxed to that Party at its fax number set out in **Schedule 5**.

21.1.3 emailed to that Party at its email address set out in **Schedule 5**.

21.2 If a Party gives the other Party 3 business days notice of a change of its address, fax number or email, any notice, consent, information, application or request is only given or made by that other Party if it is delivered, posted, faxed or emailed to the latest address or fax number.

21.3 Any notice, consent, information, application or request is to be treated as given or made if it is:

21.3.1 delivered, when it is left at the relevant address,

21.3.2 sent by post, 2 business days after it is posted,

21.3.3 sent by fax, as soon as the sender receives from the sender's fax machine a report of an error free transmission to the correct fax number, or

21.3.4 sent by email and the sender does not receive a delivery failure message from the sender's internet service provider within a period of 24 hours of the email being sent.

21.4 If any notice, consent, information, application or request is delivered, or an error free transmission report in relation to it is received, on a day that is not a business day, or if on a business day, after 5pm on that day in the place of the Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next business day.

22. Costs

The Landowner agrees to pay the Council's reasonable costs not exceeding \$20,000 of preparing, negotiating, executing and stamping this Agreement and any document related to this Agreement.

23. Entire Agreement

This Agreement contains everything to which the Parties have agreed in relation to the matters it deals with. No Party can rely on an earlier document, or anything said or done by another Party, or by a director, officer, agent or employee of that Party, before this Agreement was executed, except as permitted by law.

24. Further Acts

Each Party must promptly execute all documents and do all things that another Party from time to time reasonably requests to effect, perfect or complete this Agreement and all transactions incidental to it.

25. Governing Law and Jurisdiction

This Agreement is governed by the law of New South Wales. The Parties submit to the non-exclusive jurisdiction of its courts and courts of appeal from them. The Parties will not object to the exercise of jurisdiction by those courts on any basis.

26. Joint and Individual Liability and Benefits

Except as otherwise set out in this Agreement, any agreement, covenant, representation or warranty under this Agreement by 2 or more persons binds them jointly and each of them individually, and any benefit in favour of 2 or more persons is for the benefit of them jointly and each of them individually.

27. No Fetter

Nothing in this Agreement shall be construed as requiring Council to do anything that would cause it to be in breach of any of its obligations at law, and without limitation, nothing shall be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

28. Representations and Warranties

The Parties represent and warrant that they have power to enter into this Agreement and comply with their obligations under the Agreement and that entry into this Agreement will not result in the breach of any law.

29. Severability

If a clause or part of a clause of this Agreement can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Agreement, but the rest of this Agreement is not affected.

30. Modification

No modification of this Agreement will be of any force or effect unless it is in writing and signed by the Parties to this Agreement.

31. Waiver

The fact that a Party fails to do, or delays in doing, something the Party is entitled to do under this Agreement, does not amount to a waiver of any obligation of, or breach of obligation by, another Party. A waiver by a Party is only effective if it is in writing. A written waiver by a Party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

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32. **GST**

32.1 In this clause:

Adjustment Note, Consideration, GST, GST Group, Margin Scheme, Money, Supply and Tax Invoice have the meaning given by the GST Law.

GST Amount means in relation to a Taxable Supply the amount of GST payable in respect of the Taxable Supply.

GST Law has the meaning given by the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

Input Tax Credit has the meaning given by the GST Law and a reference to an Input Tax Credit entitlement of a party includes an Input Tax Credit for an acquisition made by that party but to which another member of the same GST Group is entitled under the GST Law.

Taxable Supply has the meaning given by the GST Law excluding (except where expressly agreed otherwise) a supply in respect of which the supplier chooses to apply the Margin Scheme in working out the amount of GST on that supply.

32.2 Subject to clause 32.4, if GST is payable on a Taxable Supply made under, by reference to or in connection with this Agreement, the Party providing the Consideration for that Taxable Supply must also pay the GST Amount as additional Consideration.

32.3 Clause 32.2 does not apply to the extent that the Consideration for the Taxable Supply is expressly stated in this Agreement to be GST inclusive.

32.4 No additional amount shall be payable by the Council under clause 32.2 unless, and only to the extent that, the Council (acting reasonably and in accordance with the GST Law) determines that it is entitled to an Input Tax Credit for its acquisition of the Taxable Supply giving rise to the liability to pay GST.

32.5 If there are Supplies for Consideration which is not Consideration expressed as an amount of Money under this Agreement by one Party to the other Party that are not subject to Division 82 of the *A New Tax System (Goods and Services Tax) Act 1999*, the Parties agree:

32.5.1 to negotiate in good faith to agree the GST inclusive market value of those Supplies prior to issuing Tax Invoices in respect of those Supplies;

32.5.2 that any amounts payable by the Parties in accordance with clause 32.2 (as limited by clause 32.4) to each other in respect of those Supplies will be set off against each other to the extent that they are equivalent in amount.

32.6 No payment of any amount pursuant to this clause 32, and no payment of the GST Amount where the Consideration for the Taxable Supply is expressly agreed to be GST inclusive, is required until the supplier has provided a Tax Invoice or Adjustment Note as the case may be to the recipient.

32.7 Any reference in the calculation of Consideration or of any indemnity, reimbursement or similar amount to a cost, expense or other liability incurred by a

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party, must exclude the amount of any Input Tax Credit entitlement of that party in relation to the relevant cost, expense or other liability.

32.8 This clause continues to apply after expiration or termination of this Agreement.

33. **Explanatory Note Relating to this Agreement**

33.1 The Appendix contains the Explanatory Note relating to this Agreement required by Clause 25E of the Regulation.

33.2 Pursuant to Clause 25E(7) of the Regulation, the Parties agree that the Explanatory Note in the Appendix is not to be used to assist in construing this Planning Agreement.

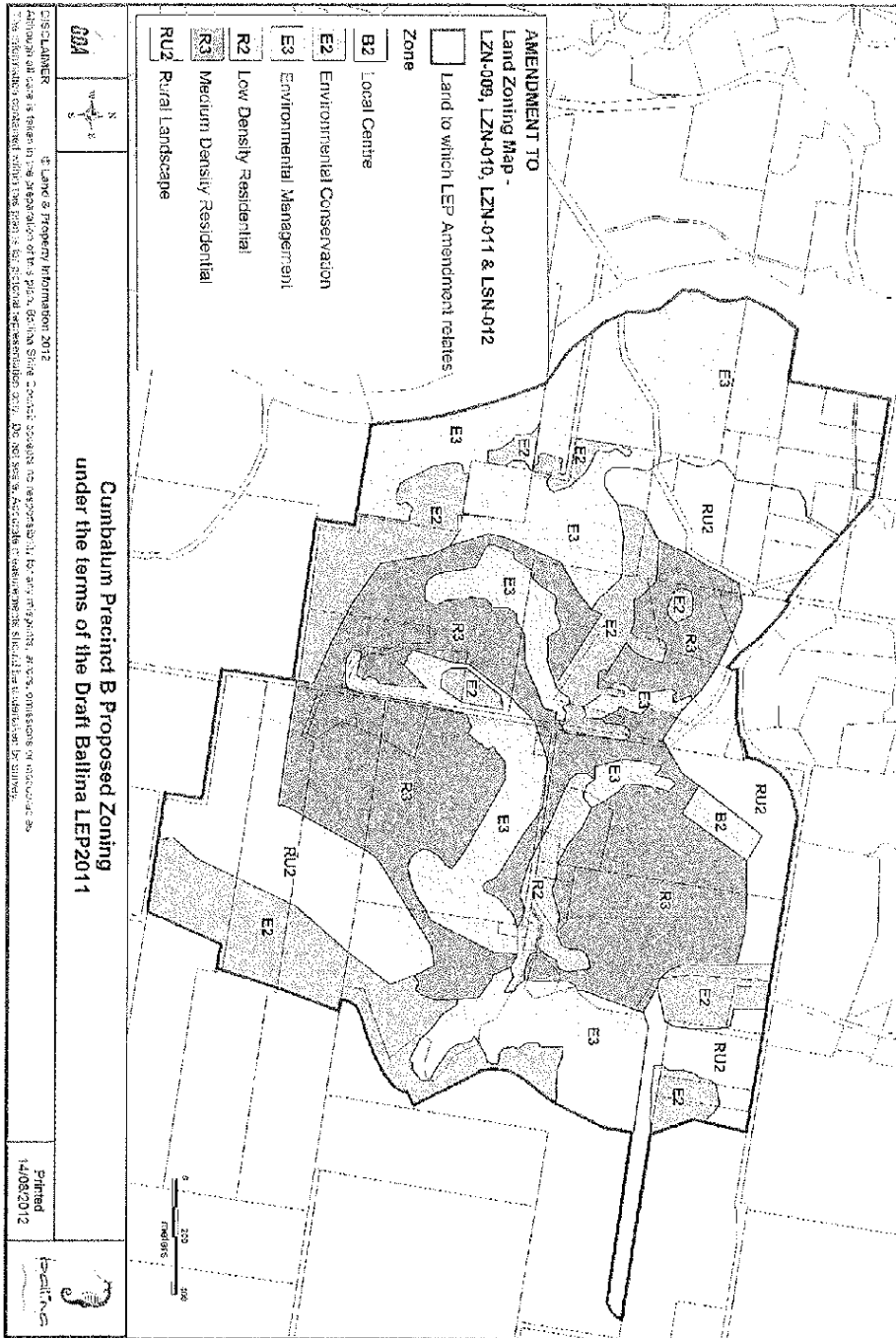
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SCHEDULE 1

PART 1

CUMBALUM PRECINCT B PROPOSED ZONING MAP

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SCHEDULE 1

PART 2

LANDOWNER AND LAND FOR DEVELOPMENT

Column 1	Column 2	Column 3	Column 4
Landowner	Land	Address	Net Developable Area
Cromdale	Lot 3 DP 618742	94 Dufficys Lane, Lennox Head NSW 2478	15.19 hectares
RM Walsh	Lot 8 DP 612318	4 Dufficys Lane, Lennox Head NSW 2478	5.16 hectares
Zali	Lot 2 DP 618742	223 Sandy Flat Road, Cumbalum	4.18 hectares
Lynn	Lot 18 DP 873873	Lot 18 Sandy Flat Road, Tintenbar NSW 2478	3.66 hectares
Lynn	Lot 19 DP 873873	Lot 19 Sandy Flat Road, Tintenbar NSW 2478	0.10 hectares
Lynn	Lot 20 DP 873873	Lot 20 Sandy Flat Road, Tintenbar NSW 2478	8.56 hectares
Lynn	Lot 21 DP 873873	Lot 21 Sandy Flat Road, Tintenbar NSW 2478	26.99 hectares
Newrybar	Lot 3 DP 1020436	246 Ross Lane, Lennox Head NSW 2478	30.57 hectares
Newrybar	Lot 4 DP 1020436		
Newrybar	Lot 11 DP1127111		
Dencannon	Lot 101 DP1123404	88 Dufficys Lane, Lennox Head NSW 2478	14.35 hectares
Byron Bay Land	Part Lot 60 DP 1136918 being the western part of that lot that comprises 34.55 ha in area	47 Dufficys Lane, Lennox Head NSW 2478	20.73 hectares
Byron Bay Land	Lot 10 DP 1127111	65 Scanlan Lane, Tintenbar NSW 2478	0.82 hectares

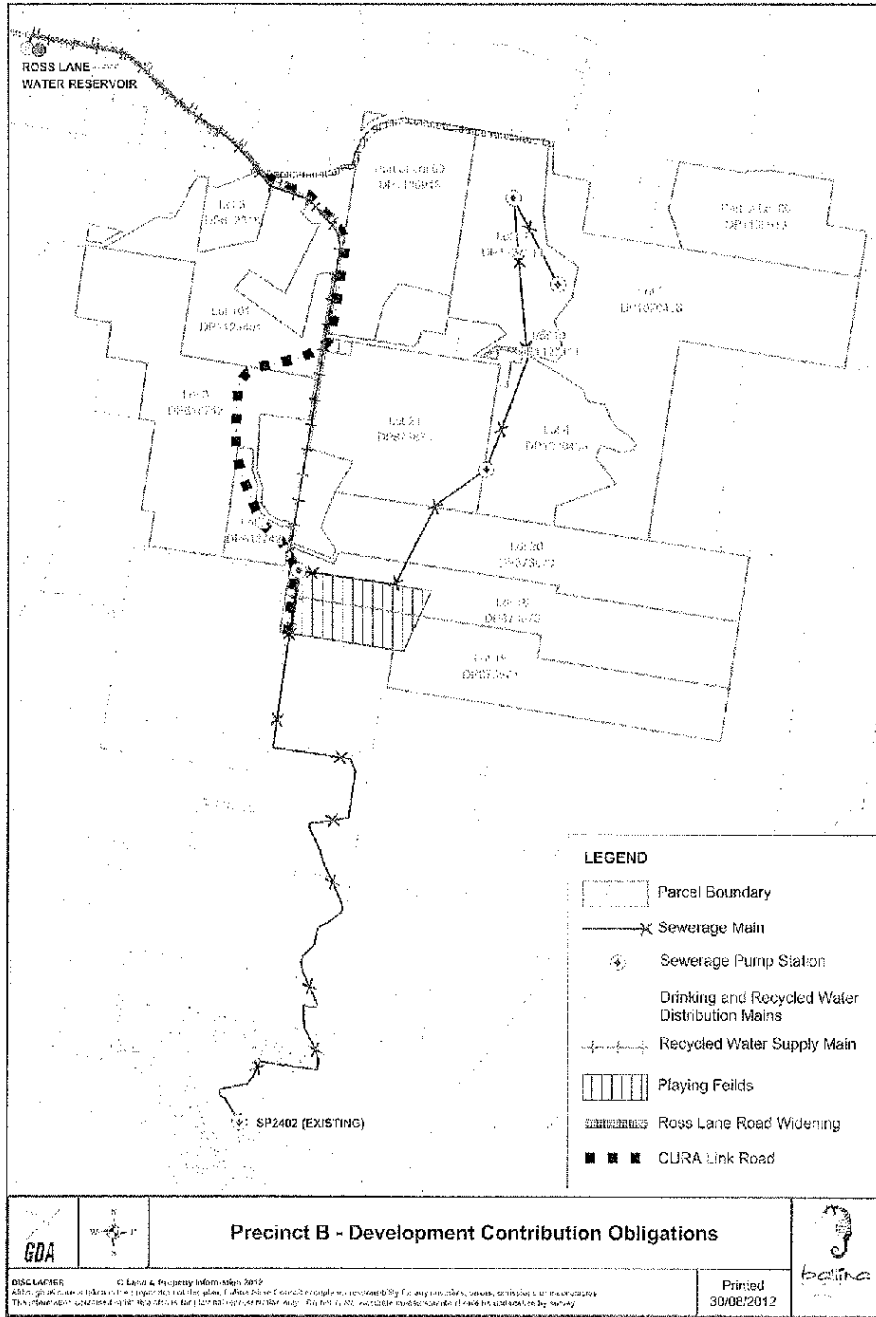
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SCHEDULE 1

PART 3

MAP

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SCHEDULE 2

INFRASTRUCTURE DELIVERY PLAN

12/36364



Ballina Shire Council
Report on Cumbalum Urban
Release Area
Infrastructure Delivery Plan

June 2011
Revision 0



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Abbreviations

AOS	Active Open Space
BHE	Ballina Heights Estate
BLEP	Ballina Local Environmental Plan
BRWMP	Ballina Recycled Water Master Plan ('Master Plan')
BSC	Ballina Shire Council ('Council')
CURA	Cumbalum Urban Release Area
DCP	Development Control Plan
DSP	Development Servicing Plan
EIS	Environmental Impact Statement
EMP	Environmental Management Plan
ET	Equivalent Tenement
IDP	Infrastructure Delivery Plan
LEP	Local Environmental Plan
LES	Local Environmental Study
MBR	Membrane Bioreactor
NCUPS	North Coast Urban Planning Strategy
NSWPW	New South Wales Public Works
POS	Passive Open Space
RWTP	Recycled Water Treatment Plant ¹
SPS	Sewage Pump Station
UDR	Urban Dual Reticulation
ULRS	Urban Land Release Strategy
UOS	Urban Open Space
VPA	Voluntary Planning Agreement
Vpd	Vehicles per day
W&SIPR	Water and Sewerage Infrastructure Planning Report
WWTP	Waste Water Treatment Plant

¹ Receives wastewater and treats it to a recycled water standard for reuse.



Executive Summary

The purpose of the IDP is to consolidate and clarify the infrastructure requirements, commitments and expectations that relate to future development of the Cumbalum Urban Release Area (CURA) comprising Precinct A, Precinct B and Ballina Heights Estate.

A substantial portion of Ballina Heights Estate has been developed to date with infrastructure planning generally in place to accommodate the residential and commercial and community uses proposed. Council has received and is processing rezoning submissions from the development proponents of land within both Precinct A and Precinct B of the CURA (each having separate landholder interests and separate rezoning submissions).

Council has prepared this IDP to ensure appropriate urban infrastructure and facilities are available to the CURA or can be provided to the CURA in a manner which does not create an unreasonable or uneconomic demand, or both, for the provision or extension of such services.

This IDP includes consideration of roads, water and sewerage infrastructure as well as open space and community facilities for CURA. The management of passive open space areas that might be dedicated to Council is also discussed. The summary of findings for each type of infrastructure is discussed herein.

Roads

The road layout proposed for Precinct A and B is considered achievable, however the following points need to be carefully considered in preparing subdivision and external connection design layouts:

- ▶ The number of intersections from Precinct B to Ross Lane should be rationalised;
- ▶ In some instances it may not be possible to strictly meet the Geometric Road Design Specifications of the Northern Rivers Local Government Design Manual due to local topography. Any deviations from the manual will need to be clearly identified in future design plans for Council's consideration;
- ▶ The Sandy Flat Road upgrade should be designed with a form that seeks to direct as much Precinct A north bound traffic and Precinct B south bound traffic to Tamarind Drive (formerly old Pacific Highway) as possible. This may involve straightening out the Sandy Flat Road alignment to provide a more direct route. The Sandy Flat Road intersection with Tamarind Drive may reach capacity and function below the intended design standard; and
- ▶ Internal subdivision layouts should take account of the road noise and access amenity of allotments proposed to adjoin sub-arterial roads. Local streets crossing perpendicular to sub-arterial roads (i.e. four-way intersections) should be avoided.

Water Supply

Following the completion of the new Knockrow Service Reservoir by Rous Water (anticipated in 2012), and the Ballina Heights Reservoir (2012) (including approval and realignment of the existing DN375 supply main) there is little impediment foreseen to the implementation of the intended water supply strategy for Precinct A.

Completion of the new Knockrow Service Reservoir, new bulk supply main from Knockrow Reservoir and the new Ross Lane Reservoir and booster pump infrastructure are limiting factors in the provision of water supply for Precinct B (refer to Appendix F).

Recycled Water

Following determination of the EIS by Council for the recycled water infrastructure, and the subsequent construction of the Ballina Heights Recycled Water Reservoir and bulk supply main (2012), there is little impediment foreseen to the implementation of the recycled water supply strategy for Precinct A.

In addition to the above works, construction of the new Ross Lane Recycled Water Reservoir and an extension of the bulk supply main from Ballina Heights are limiting factors in the provision of recycled water supply for Precinct B (refer to Appendix G).



Sewerage

The ability to provide a sewer service to CURA is severely restricted until the upgrade of Ballina RWTP is completed and flows from BHE SPS 2402 can be diverted direct to this RWTP. Since the completion of the optimisation upgrade of Lennox Head RWTP there may be interim capacity for development of Lot 284 DP1141745 within the southern portion of Precinct A, subject to the timing of other Ballina Heights development.

Following commissioning of the Ballina RWTP and diversion of the Ballina Heights rising mains, the remaining limitations for Precinct A are the necessary upgrade of two catchment pump stations as detailed in Table 20 and the construction of BHE-PS3 as the primary pump station servicing BHE and Precinct A.

Post the upgrade of the Ballina RWTP, the ability to service Precinct B remains restricted by the capacity of PS 2402, and particularly the capacity of the Ballina Heights rising mains to Ballina RWTP. Council's preferred servicing strategy allows for utilisation of existing infrastructure capacity in Precinct A / BHE in the initial development stages for Precinct B. However, the availability of existing capacity would depend on the progress of development in Precinct A and BHE.

The allowance of a rising main corridor through or around the perimeter of Precinct A and BHE will also be necessary to service Precinct B. Refer to Figure 6A, Appendix H for the intended sewerage servicing strategy.

Open Space

New and augmented regional open space and recreation facilities are included within the BSC Contributions Plan (2008) and the rates of provision will be applied accordingly; refer to Table 23. However, local and district parks and playing fields/courts required to meet the demands of development in CURA will be addressed by other contribution arrangements outside of this Plan. Specific inclusions for CURA are detailed in Section 9.1.1.

Council's desired outcome for Cumbalum's Active Open Space (AOS) is the provision of playing fields, outdoor courts and amenities for Precinct A and B adjacent to each other to the north of Sandy Flat floodway² on the northern end of Lot 150 DP755684 (Barlow's property – Precinct A) and Lot 19 DP873873 (Lynn's property – Precinct B) respectively. It is recommended that proponents for each precinct come to an arrangement to provide different field and court types to avoid duplication and create a variety of sporting options. The facilities chosen should also reflect the demands identified for particular venues within the district and shire.

Dedications of areas of undevelopable land (including steep land), are not recognised for inclusion within the dedication of land for open space. It is Council's preferred option that undevelopable land will be created as a community title lot in a community title scheme that has sufficient financial capacity to maintain these areas.

Community Facilities

Specific district community facilities (halls and community centres) for CURA will be addressed by other contribution arrangements outside of the Plan. However, for the purposes of this IDP the minimum standard for district community facilities has been applied as specified in the Community Facilities Standards contained in the Community Facilities Strategy (BSC, 2008); refer to Table 24.

Options for Delivery of Contribution Plan Infrastructure

Items of infrastructure included in the DSP's and Contribution Plans may be provided by Council, with developers contributing through payment of development contributions.

Alternatively, subject to agreement with Council, developers could construct items of infrastructure and receive credits on development contributions otherwise payable. In this circumstance the works would be detailed in a Project Brief including a detailed cost estimate of the works that would otherwise be contributed too. Council will oversee the design and construction of such works. Typically Council will condition the levying of contributions and where the developer wishes to construct the works they would approach Council, outlining their proposal to do so.

² Subject to demonstrated flood immunity, negligible impact on flooding and ecological values.

5.2 Cumbalum Precinct B Planning Proposal



Options for the delivery and funding of infrastructure not currently captured by a contribution or development servicing plan can be dealt with through implementation of Planning Agreements. Council may enter an agreement with an individual developer or a development corporation. Infrastructure items currently fully or partially sitting outside of Development Servicing and Contribution Plans are outlined in Table 1 below.

Table 1 Summary of Items Currently Outside of Contributions Plans

Trunk Item	Outside of:	Comment
Roads – Ballina Heights Drive (Precinct A)	Roads Contributions Plan (2010)	Excluded as the works meet the criteria outlined in Section 10.3
Roads – North-South link road (Precinct B)	Roads Contributions Plan (2010)	
Roads – Duplication of Cumbalum Interchange roundabouts	Roads Contributions Plan (2010)	Potential works documented as part of later CURA Traffic Study (Cardno, 2011)
Roads – Duplication of Ross Lane Interchange roundabout and Pacific Highway overpass	Roads Contributions Plan (2010)	
Roads – Precinct B connections to Ross Lane	Roads Contributions Plan (2010)	
Water Supply – Precinct A	Water DSP (2004)	Arrangement required to service proposal differs to 2004 DSP allowance. Works that meet the criteria outlined in Section 10.3 are proposed to be excluded in revised DSP, subject to exhibition and Council adoption processes
Water Supply – Precinct B	Water DSP (2004)	
Recycled Water – Precinct A	Sewerage DSP (2004)	
Recycled Water – Precinct B	Sewerage DSP (2004)	Not included in 2004 DSP. Works that meet the criteria outlined in Section 10.3 are proposed to be excluded in revised DSP, subject to exhibition and Council adoption processes
Sewerage – Precinct A	Sewerage DSP (2004)	Arrangement required to service proposal differs to 2004 DSP allowance. Works that meet the criteria outlined in Section 10.3 are proposed to be excluded in revised DSP, subject to exhibition and Council adoption processes
Sewerage – Precinct B	Sewerage DSP (2004)	
Open Space - local and district parks and playing fields/courts (Precinct A and B)	BSC Contributions Plan (2008)	Rates of provision documented in the BSC Contributions Plan can be used for guidance.



1. Introduction

1.1 Planning Context

Ballina Shire Council resolved at its Ordinary Meeting held on 23 August 2007 to initiate the rezoning process for land within the Cumbalum Urban Release Area (CURA). The land, identified on the map in Appendix A labelled 'Cumbalum Urban Release Area precinct boundaries for the purpose of rezoning', includes lands identified as 'Precinct A' and 'Precinct B' of the CURA as identified in Council's Cumbalum Structure Plan.

The CURA, comprising approximately 1,400 hectares of land³, was first identified as having potential for future urban development in 1995 when it was identified in the NSW Government's North Coast Urban Planning Strategy (NCUPS). The subject land was subsequently identified in Council's Urban Land Release Strategy and zoned 1(d) Rural (Urban Investigation) Zone in the Ballina Local Environmental Plan 1987. More recently, the area was identified in the NSW Government's Far North Coast Regional Strategy as a potential future release area.

It is noted that the zone objectives of the 1(d) urban investigation zone include:

(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.

Pursuant to the provisions of the Ballina LEP with respect to the 1(d) zone objectives and in the pursuit of good planning, Council prepared an urban structure plan for the locality (adopted July 2006). The Cumbalum Structure Plan involved a broad assessment of land suitability and identified key planning issues, development objectives and identified potential development precincts within the broader study area. This work identified the potential for two (possibly three) distinct urban localities (referred to as Precincts A, B and C). Key issues identified in the Cumbalum Structure Plan relating to potential future development, that require detailed consideration at rezoning stage, include land slip, flooding, habitat values and the impacts of the Ballina Bypass of the Pacific Highway (construction underway).

Council sought and received from the Department of Planning specifications for the preparation of a Local Environmental Study (LES) for the CURA. The Department's LES specifications direct Council to address a number of matters, including the following:

- ▶ Assessment of environmental hazards including flooding, soft soils, acid soils and slope hazard;
- ▶ Assessment of environmental values including flora and fauna, visual amenity, and agricultural values of the subject land and of adjacent rural land; and
- ▶ Details regarding the delivery and coordination of water supply, sewerage and roads infrastructure.

The Cumbalum Structure Plan, endorsed by Council and the NSW Department of Planning, identifies the need for an Infrastructure Delivery Plan (IDP) to be prepared for the CURA as part of rezoning investigations.

1.1.1 Rezoning Status

Council has received rezoning submissions from the development proponents of land within both Precinct A and Precinct B of the CURA (each having separate landholder interests and separate rezoning submissions). Council

³ Inclusive of Precincts A, B and C.



has engaged a consultant to prepare a separate Local Environmental Study (LES), for each precinct. The LES preparation process is staged as shown in the flow diagram provided in Appendix B, with Precinct A and Precinct B presently at Stage 4.

1.2 IDP Purpose

The purpose of the IDP is to **consolidate and clarify the infrastructure requirements, commitments and expectations** that relate to future development of the CURA (Precinct A and Precinct B)⁴, as a basis for Development Contribution Plans and Developer Agreements.

1.3 IDP Scope

This IDP includes consideration of roads, water and sewerage infrastructure as well as open space and community facilities for CURA. The management of passive open space areas that might be dedicated to Council is also discussed.

For the above mentioned infrastructure the scope 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.

1.4 IDP Approach

The approach for preparation of this IDP has been:

- ▶ Reviewing existing documentation relating to the matter including State and local strategic plans, development servicing plans, relevant infrastructure studies and technical reports lodged with rezoning submissions;
- ▶ Considering the key social and environmental issues, relevant to the provision of infrastructure;
- ▶ To determine the scale and scope of infrastructure required and/or offered as part of the rezoning/development proposal including active and passive open space areas that might be dedicated to Council;
- ▶ Identifying what additional engineering details are required and how and by whom (Council or development proponents) the information is obtained;
- ▶ Instigate a hold point until the completion of broader infrastructure planning & design work;
- ▶ Use the information available to document the draft IDP as per the Scope defined in Section 1.3;
- ▶ Meet with representatives of the Department of Planning, to confirm the approach is acceptable to the Department;
- ▶ Obtain internal review comments on the draft and revise where necessary;
- ▶ Obtain feedback from rezoning proponents on the advanced draft; and
- ▶ Prepare the final IDP.

⁴ For the purposes of this IDP, Precinct C of CURA is excluded as no rezoning proposal has been submitted to date.



2. CURA Description

The Cumbalum Urban Release Area is located approximately 7.5km northwest of Ballina and 5.5km west of Lennox Head (BSC Structure Plan, 2006). The area extends along the Cumbalum Ridge generally from the northern extent of Ballina Heights residential estate to Ross Lane in the north.

The area consists of a series of elevated ridges that run along the coastal escarpment of the boundary of the Alstonville Plateau and the Richmond Valley Floodplain. The ridgeline is dissected by the Sandy Flat floodplain which runs in an east-west orientation near the centre of the study area (BSC Structure Plan, 2006).

The land which is the subject to this IDP is known as 'Precinct A' and 'Precinct B' and is identified on the map in Appendix A labelled 'Cumbalum Urban Release Area precinct boundaries for the purpose of rezoning'.

2.1 Precinct A

The land which is the subject of the rezoning application within Precinct A occupies approximately 228 hectares between the northern extent of 'Ballina Heights' and the northern extent of Sandy Flat floodplain, and between Ballina Nature Reserve (eastern extent) and the new Pacific Motorway alignment (western extent). The constituent lots are summarised in Table 2 below.

Table 2 Precinct A Lot Areas

Owner	Lot	DP	Area (ha)
Vixsun Pty Ltd	1	1077982	9.1
	284	1141745	22.8
Sheather	79	755684	32.4
	85	755684	16.2
	Part 18	1022777	17.0
	Part 190	1063589	7.4
Intrapac	20	1022777	35.6
Barlow	150	755684	16.2
	333	755684	40.1
	3	517149	7.5
	3	823682	23.7
Total Area			227.9

2.1.1 Other lots excluded from the rezoning proposal

It is acknowledged that the structure plan precinct boundary includes additional properties within Precinct A however the owners do not wish to be involved with the current rezoning process. Portions of these properties may have potential for residential development in the future and for the purpose of infrastructure sizing Council has estimated an equivalent tenement allowance (see 'Precinct A – Potential' in Table 8).

2.1.2 Structure Plan

Figure 6 - Precinct A Concept Land Use (Structure) Plan is included in Appendix C (APP, 2010). For the purposes of understanding the integration with Ballina Heights, Figure 2A – Ballina Heights Concept Landscaping and Feature Plan is also provided in Appendix C. The following land uses have been proposed for Precinct A:



- ▶ Mixed use residential area and density;
- ▶ Large lot residential;
- ▶ Environmental protection;
- ▶ Small lot farms;
- ▶ Aged care facility; and
- ▶ Open Space.

Generally the layout is described by APP (Rezoning Submission, 2008) as:

- ▶ Future urban (village style) development comprising for varying housing densities, commercial and special uses consistent with zone 2(b) – Village Area Zone of the current Ballina Local Environmental Plan (BLEP).
- ▶ Larger rural residential lots that provide an interface between urban areas and the adjacent rural lands and to assist in separating and defining the village footprints. These lots could combine environmental living lots that would enable low impact residential development in areas with certain ecological, scientific or aesthetic values.
- ▶ Open space and/or environmental protection zones over land of higher ecological and corridor value.

2.1.3 Staging

The staging sequence is not defined for the development footprint, however APP indicate the development proponents wish to develop the Vixsun property (Lot 284 DP114745) directly adjoining the northern end of Ballina Heights first. This area is proposed to comprise mixed use residential lots and open space.

APP (2009) states that the rezoning “will provide the ability for the Cumbalum Ridge to be developed in a south to north direction...which will enable the efficient and economic roll out and delivery of public infrastructure and services...” Therefore stages are most likely to proceed from south to north.

2.1.4 Yields

The lot layouts shown in the conceptual lot layout diagram are for an average density outcome with lot sizes generally around 600m² (APP, 2010). Section 5.6, Table 5.2 of APP revised Infrastructure Services Plan details the following Lot densities shown in Table 3 below. Yield estimates for each scenario have been calculated on the basis of 2.7 equivalent persons (EP) per lot⁶ (equivalent tenement (ET)).

Table 3 Precinct A – Indicative lot, dwelling and population yield for Average and High Density Scenarios

Scenario	Indicative residential lot yield	Indicative dwelling yield*	Indicative population yield (@ 2.7 persons/dwg)
Average Density	675	705	1904
High Density	858	896	2419
Mean value of above scenarios	767	801	2162

*Indicative dwelling yield includes provision for Duplexes. Estimated on the ratio of indicative residential lot yield to dwelling yield of 1.044 per Table 1 – Ballina Heights Land Use Budget – Zoned Areas in BSC Combined DCP, Chapter 1 Urban Land, Policy Statement 14 – Ballina Heights Estate (Draft 2010).

It is evident from Table 3 that a population ranging from approximately 1900 to 2400 persons is estimated for the average and high density lot yield scenarios respectively.

⁶ As per table 2.1 of BSC Contributions Plan 2008.



2.2 Precinct B

Precinct B occupies approximately 473 hectares of land between the northern extent of Sandy Flat floodplain and Ross Lane (northern extent), and between Ballina Nature Reserve (eastern extent) and the new Pacific Motorway alignment (western extent) (LandPartners Sustainability Planning Report v1, 2009).

The constituent lot areas by ownership are summarised in Table 4 below. Properties identified in the Table are also presented in *Precinct B Investigation Area Land Ownership* (APP, January 2009) contained in Appendix C. Note the ownership situation is currently uncertain due to recent and pending land sales.

Table 4 Precinct B Lot Areas

Owner	Area (ha)
Bullenah Community Developments	123.0
Byron Bay Property Development	186.2
Owen Lynn Properties	164.2
Total Area	473.4

2.2.1 Other lots excluded from the rezoning proposal

It is noted that the structure plan precinct boundary includes additional properties within Precinct B (to the south of Ross Lane) however the owners do not wish to be involved with the current rezoning process. Additionally the Structure Plan includes a portion of land to the north of Ross Lane within Precinct B that has been deferred from consideration at this time. Some of these properties may have potential for residential development in the future and for the purpose of infrastructure sizing Council has estimated an equivalent tenement allowance (see 'Precinct B – potential' (south of Ross Lane) and 'Precinct B – deferred (north of Ross Lane)' in Table 8).

2.2.2 Structure Plan

The *Precinct B Structure Plan* is included in Appendix C (LandPartners, 2010). The following landuses have been proposed:

- Lower Density Residential;
- Medium Density Residential;
- Business;
- Retail;
- Community;
- Light Industrial;
- Open Space / Bushland;
- Active Open Space;
- Stormwater Retention Areas; and
- Wildlife Corridor.

Generally the layout is described by LandPartners (Planning Report v2, 2009) as:

- Main village centre near Ross Lane on the edge of the plain and the foot of the northeastern facing slope. Located to capitalise on movement economy with position in relation to the retail population catchment and street network;
- Northwest Duffcys Lane Neighbourhood Centre located on a main through road to Ross Lane, servicing the northwest catchment, with corner store medium density residential and small business;



- ▀ Sandy Flat Neighbourhood Centre on the link road to Precinct A, with primary school, local shop, community facilities and playing fields; and
- ▀ Medium density development in walking distance of the village centre and along main traffic arteries.

2.2.3 Staging

The staging of the development is proposed to follow the sequence outlined in Table 5 below and the *Draft Preliminary Staging Plan* (LandPartners, 2009) contained in Appendix C.

Table 5 Precinct B Preliminary Staging Sequence

Stage	Location description
1	Light industrial on Ross Lane to the north-east of the precinct
1N	Retail, Business, Medium density residential adjacent Ross Lane in the north-east of the precinct – referred to above as 'Main Village'
1S	Retail, Medium density residential, Low density residential to the east of 'Cumbalum Way' in the south-east of the precinct – Sandy Flat Neighbourhood Centre
2N	Medium density residential, Low density residential in the mid north of the precinct
2Sa, 2Sb	Medium density residential, Low density residential in the south of the precinct
3N	Retail, Business, Medium density residential, Low density residential, adjacent Ross Lane in the north-west of the precinct – referred to above as Northwest Duffcys Lane Neighbourhood Centre
3S	Low density residential in the east of the precinct
4	Medium density residential, Low density residential in the mid west of the precinct
5	Low density residential in the west of the precinct
6	Medium density residential, Low density residential in the north west of the precinct

- ▀ It is evident from the preliminary staging layout that development of Stage 1 is proposed in the north and south of the precinct. Therefore it is likely that the majority of water and sewerage infrastructure outlined in the DSP's will need to be provided in full to service the development.

2.2.4 Yields

LandPartners (2010) have provided maximum estimated lot yields for Precinct B.

Table 6 Precinct B – Maximum Estimated Dwelling Yields

Minimum lot sizes (m ²)	Gross area (ha)	Dwelling density per ha	No. of dwellings
300	62.2	22	1,370
450	88.3	15	1,320
600	31.5	11	350
900	4.5	25	110
Total	186.5	...	3,150

This yields an average (maximum) density of 16.9 dwellings per hectare. LandPartners (2010) indicate that a range of factors are likely to decrease the maximum lot yield including:



- ▶ The provision of infrastructure;
- ▶ Site specific subdivision design requirements;
- ▶ Developer preference for larger lots; and
- ▶ Land being withheld from the market.

However, an average density scenario has not been provided to account for the likely decrease in maximum lot yield. For the purposes of consistency, the ratio of average to maximum yields for Precinct A (0.79) has been used to estimate an average yield for Precinct B. Yield estimates for each scenario have been calculated on the basis of 2.7 equivalent persons (EP) per lot⁶ (equivalent tenement (ET)).

Table 7 Precinct B – Dwelling and population yield for Average and High Density Scenarios

Scenario	Indicative dwelling yield	Indicative population yield (@ 2.7 persons/dwg)
Average Density	2,478	6,691
High Density	3,150	8,505
Mean value of above scenarios	2,814	7,598

2.3 Ballina Heights

The Ballina Heights Estate – Development Control Plan (Draft 2010) includes a revised landuse budget in Table 1 of the document. The data from this table is summarised in Table 8 below. For the purposes of deriving an infrastructure servicing strategy for all of CURA these values have been adopted.

2.4 Estimated CURA Population

The estimated population for CURA includes:

- ▶ Ballina Heights Estate at ultimate development;
- ▶ Precinct A rezoning at ultimate development;
- ▶ Precinct B rezoning at ultimate development;
- ▶ Summerhill Crescent current development[#].

For the purposes of infrastructure planning the population is also considered to include:

- ▶ Land within Precinct A, but excluded from the current rezoning with development potential;
- ▶ Land within Precinct B, but excluded from the current rezoning with development potential; and
- ▶ The deferred portion of Precinct B to the north of Ross Lane.

The indicative population yield for CURA is summarised in Table 8 below.

⁶ As per table 2.1 of BSC Contributions Plan 2008.



Table 8 CURA Indicative Population Yield

CURA Component	Approximate land area (ha)	Indicative residential lot yield	Indicative dwelling yield* (ET)	Indicative population yield (2.7 persons/dwg)
Summerhill Crescent [#]	...	35	35	95
BHE	211	1,035	1,081	2919
Precinct A [^]	228	767	801	2163
Precinct A – potential	4	19	20	54
Precinct B	473	2,695	2,814	7598
Precinct B – potential (south of Ross Lane)	24	120	125	338
Precinct B – deferred (north of Ross Lane)	46	229	239	646
Total	986	4900	5115	13813

[#]Figures based on those derived in Table 3.

*Indicative dwelling yield includes provision for Duplexes. Estimated on the ratio of indicative residential lot yield to dwelling yield of 1.044 per Table 1 – Ballina Heights Land Use Budget – Zoned Areas in BSC Combined DCP, Chapter 1 Urban Land, Policy Statement 14 – Ballina Heights Estate (Draft 2010).

[#]The recent low pressure sewerage system installation only has capacity for approximately 35ET. Augmentation of the sewerage system would be necessary to achieve dual occupancy development.

For the purposes of planning for future infrastructure the values in this table have been adopted for this delivery plan.



3. Development Servicing Plans

3.1 What are DSPs / Contribution Plans?

Development Servicing Plans (DSP) / Contribution Plans are documents that detail developer contributions to be levied on development areas utilising a service provider's infrastructure such as water, sewerage and roads infrastructure. DSP's also provide timing and expenditures for implementation of capital works and outline standards of service.

3.2 What are Development Contributions?

Development contributions are contributions made by those undertaking development approved under the EP&A Act toward the provision of public services and public amenities. Development contributions are addressed under Divisions 6 and 6A of Part 4 of the EP&A Act.

There are different classes of development contributions provided for under the EP&A Act:

- ▶ Special infrastructure contributions;
- ▶ Local infrastructure contributions, which may be either Section 64 contributions (see Section 3.5), Section 94 contributions or section 94A fixed rate levies;
- ▶ Contributions included in voluntary planning agreements; and
- ▶ Contributions toward the provision of affordable housing.

Section 94 of the EP&A Act authorises a consent authority responsible for determining a development application to grant consent to the proposed development subject to a condition:

- ▶ Requiring the payment of a monetary contribution; or
- ▶ The dedication of land free of cost; or
- ▶ A combination of them towards the provision of public amenities and public services (public facilities) to meet the development.

A condition may only be imposed under section 94 towards the future provision of public facilities:

- ▶ If the proposed development will or is likely to require the provision of, or increase the demand for, public facilities within the local government area; and
- ▶ To require a reasonable dedication or monetary contribution for the provision, extension or augmentation of the public facilities concerned.

A condition may be imposed under section 94 towards the recoupment of the cost of public facilities previously provided if:

- ▶ The consent authority has, at any time, provided public facilities within the local government area in preparation for or to facilitate the carrying out of development in the area, and
- ▶ Development for which development consent is sought will, if carried out, benefit from the provision of those public facilities.

3.3 Ballina Shire Contributions Plan

New residential development is expected to occur in the Shire in the future with Cumbalum Ridge anticipated to contribute the major share of population growth and demand on public facilities. Cumbalum Ridge is expected to contribute an additional 7770 persons by 2026 (BSC Contributions Plan, 2008).

The BSC Contributions Plan (2008) enables Council to levy Section 94 contributions for certain public amenities and services including Open Space and Community Facilities where new development will or is likely to increase the demand for these facilities.



3.3.1 Open Space

The Open Space Strategy (BSC, June 2008) identified that Council will need to facilitate the provision of a range of local, district and regional level open space and recreation facilities to meet expected demand, including:

1. New local parks and embellishment of new and existing local parks;
2. New district parks and embellishment of new and existing district parks;
3. New playing fields, outdoor sports courts and other active recreation facilities; and
4. New and augmented regional open space and recreation facilities.

Council will require contributions from developers under the Contributions Plan (BSC, 2008) toward the provision of facilities and services identified by the Plan for CURA. Contributions may be monetary, works in kind, land dedications or a combination of these. Any works in kind would require prior approval and agreement with Council.

For CURA local and district parks and playing fields/courts (Items 1 – 3 above) are not included in Table 1.2.1 of the current BSC Contributions Plan.

3.3.2 Community Facilities

The Community Facilities Strategy (BSC, June 2008) identified that Council will need to facilitate the provision of a range of district and regional level community facilities to meet expected demand, including:

1. New and augmented multipurpose halls and community centres;
2. New performing arts spaces;
3. New public exhibition spaces;
4. New facilities for surf lifesaving;
5. Additional library area and books;
6. Additional floor area for civic administration purposes; and
7. New community support floor area.

For CURA district community facilities (Item 1 above - halls and community centres), are not included in Table 1.2.1 of the current BSC Contributions Plan. For an overview of open space and community facility contributions applicable to Precinct A and B refer to Section 9 of this report.

3.4 Rous Water Development Servicing Plan – Bulk Supply Services

The Rous Water Development Servicing Plan (2008) covers water supply developer charges for the provision of bulk water to the areas serviced by the Rous Water bulk supply service scheme in accordance with Section 64 of the Local Government Act 1993. The contribution levied by the DSP is collected through the imposition of conditions of consent by the constituent Council (BSC).

Future capital works have been identified by Rous Water for new system assets, renewals and improved level of service (LOS). With reference to future demand created on the supply system by Cumbalum, Rous Water is in the process of initiating construction of a new 10ML reservoir at Knockrow for completion by 2011.

3.5 BSC Water Supply and Sewerage Infrastructure – Development Servicing Plans

The BSC Water Supply Infrastructure DSP (2004) and Sewerage Infrastructure DSP (2004) outline timing and expenditures for implementation of water supply and sewerage works. The plans also detail developer charges for the provision of water supply and sewerage to the areas serviced by Council's supply scheme in accordance with Section 64 of the Local Government Act 1993.

The DSP's state that they will be updated every 5 to 6 years and at the time of completing the IDP Council was in the process of revising the DSP's to ensure currency. The revision will incorporate recycled water infrastructure



provision in the Water DSP enabling Council to recover expenditure for this expanded scheme. The revision of the DSP's will have implications for the provision of future infrastructure for CURA.

As of March 2011 the revised Sewerage DSP (GHD) had been submitted to Council for comment. Following review, the revised Sewerage DSP will be subject to a public exhibition and adoption by Council.

For detail on water supply and sewerage capital works required for servicing CURA refer to Section 6 and Section 8 of this report, respectively.

3.6 Ballina Shire Roads Contributions Plan

The adopted BSC Roads Contributions Plan came into effect in March 2010. This Plan is principally concerned with the imposition of conditions of consent requiring development contributions for local infrastructure under Section 94 of the EP&A Act.

The Plan identifies necessary future road works within a works schedule which includes a number of items specifically relevant to CURA, as detailed below:

Item 20

- ▶ Ross Lane Improvements – West (between potential Cumbalum Way connection and the Pacific Highway interchange);
- ▶ Ross Lane Improvements – East (between potential Cumbalum Way connection and the Coast Road);
- ▶ Ross Lane Improvements – East (Land Component).

The specific improvements are detailed in Appendix III, Technical Background Report Volume 2, Item 20 - Ross Lane Improvements and Cost Estimate Study (Cardno, 2009) and are discussed further in Section 5.5 of this report. The BSC Contributions Plan (BSC, 2010) indicates that funding will not be available for the improvements to Ross Lane for 10-15 years, that is, 2020 – 2025.

Items 31 – 33 and 34

- ▶ Ballina Heights Drive⁷ (Stage 1 only – Ballina Heights); and
- ▶ Cumbalum Interchange.

Information regarding the basis of the cost estimate for the above items is provided in *Appendix III, Technical Background Report Volume 2, Items 31-33 - Cumbalum North-South link Cost Estimate Study* (Cardno, 2009) and *Item 34 – Cumbalum Interchange* (Cardno, 2009). The BSC Contributions Plan (BSC, 2010) indicates that funding will be available for Stage 1 of Ballina Heights Drive within the next 1-5 years, that is, 2010 – 2015. These works are discussed further in Section 5.1 of this report.

3.6.1 Remainder of Ballina Heights Drive / North-South link road

The remainder of Ballina Heights Drive (north of Ballina Heights) and the North-South link road (within Precinct B) has not been considered in the Shire wide Roads Contribution Plan. Council reasoned if CURA does not proceed then there would be no need for the remainder of Ballina Heights Drive or the North-South link road to be constructed as it is not recognised as a future need for Shire wide road users. Following rezoning approval, the road alignment is intended to be constructed and funded as part of future developments.

⁷ Referenced in Ballina Shire Contributions Plan as Cumbalum North-South Link.



4. Background Infrastructure Reports

4.1 Ballina Strategic Road Network Study Update, CEO 2007

The *Ballina Strategic Road Network Update* was developed to assess the future transport demands and road infrastructure needs for the Shire. The information was then used by BSC to prepare the Roads Contributions Plan. The median population projections for Cumbalum provided for the traffic model (by Council) are:

- ▶ 2,850 in 2016; and
- ▶ 7,490 in 2026.

This strategic model estimated traffic loads for the primary road network in the vicinity of CURA, including a sub arterial connection known as the Cumbalum N-S link between Ross Lane and the Pacific Highway (via Deadman's Creek Road).

4.2 CURA Traffic Study, CEO 2011

The CURA Traffic Study was commissioned by BSC to ensure adequate consideration of likely traffic flows from Precinct B and the subsequent interactions with Precinct A, Ballina Heights and the external road network. The purpose of the study was to inform this IDP and the Local Environmental Studies for Precinct A and Precinct B identified urban release areas as part of assessing the rezoning proposals. For a summary of the findings of the Study refer to Section 5.4.3

4.3 Water and Sewerage Infrastructure Planning Report, GHD 2004

The *Water and Sewerage Infrastructure Planning Report (W&SIPR)* was prepared to determine capital works development strategies to meet the water supply and sewerage needs of the Shire and to assist in the preparation of the 2004 DSP's.

The W&SIPR details the adopted projected dwelling growth for Cumbalum (Figure 2-12) to 2033, which is presented in below. It is important to note that the development footprints allowed for in the W&SIPR are smaller than the urban footprints proposed to be developed for Precinct A and B.

Table 9 Projected Dwelling Growth for Cumbalum in W&SIPR (GHD, 2004)

Location	Period	Equivalent Tenements (ET)	Total ET's
Ballina Heights	2003 – 2008	400	
	2008 – 2013	400	
	2013 – 2018	200	
	2003 – 2033	60	1060
Precinct A	2013 – 2018	200	
	2018 – 2023	400	
	2023 – 2028	80	680
Precinct B	2023 – 2028	320	
	2028 – 2033	400	720
All	2003 – 2033		2460

Based on BSC's adopted dwelling occupancy rate of 2.7 persons per ET, the projected population allowed for in the DSP's is approximately **6640 persons**.



4.3.1 2004 DSP Allowance

The DSP catchments allowed for Precinct A and Precinct B in the DSP are smaller than the development footprints proposed in the rezoning submissions. Consequently when comparing equivalent tenements in Table 8 with Table 9 it is evident that the yield for Precinct A is less than that proposed and significantly less for Precinct B.

Further, since the adoption of the DSP in 2004, yield densities for future urban areas have generally increased due to changes in policy direction, led by the NSW State Government, to achieve sustainable planning outcomes. The proposal for Precinct B includes yields considerably greater than experienced to date for Ballina Heights.

4.4 Sewerage Infrastructure Planning – Summary of Updates (GHD, draft 2011)

This technical report outlines the updates to the previous sewerage planning work based on the latest population projections and servicing strategies adopted by Council and forms the basis of the 2011 DSP calculations.

Updates addressed include:

- ▶ Population Projections across the catchments in accordance with latest development information;
- ▶ Sewerage model updates to be reflective of recent works;
- ▶ Recent amendments to sewerage servicing strategies, such as work completed for Cumbalum and Ballina RWTP diversion works; and
- ▶ Review of capital works schedule in accordance with the revised population projections and service strategies.



Infrastructure Servicing Strategy

5. Roads

Council's urban design goal for CURA is to provide a permeable road network through a network of multiple collector streets and connections to the external road network.

Major Roads proposed to service the CURA development include:

- ▶ Ballina Heights Drive south of Sandy Flat (formally Cumbalum Way) (Collector / Sub Arterial);
- ▶ North-South link road north of Sandy Flat (Collector / Sub Arterial);
- ▶ Unara Parkway (Collector);
- ▶ Ross Lane (Arterial);
- ▶ Tamarind Drive (formally the old Pacific Highway) (Arterial);
- ▶ Sandy Flat Road (Collector); and
- ▶ Deadmans Ck Road (Collector, however proposed to be diverted and access to Tamarind Drive closed).

The history and proposed function of these roads is discussed below.

5.1 Ballina Heights Drive and North-South Link Road

Ballina Heights Drive and the North-South link road has been part of Council's traffic strategy for CURA since the rezoning and approval of the Ballina Heights development. It is anticipated that Ballina Heights Drive and the North-South link road will provide the spine arterial road within CURA to link Ballina Heights with Precinct B across Sandy Flat (BSC, 2006).

The intent of Ballina Heights Drive and the North-South link road is to:

- ▶ Distribute traffic to Tamarind Drive and Ross Lane for wider distribution;
- ▶ Provide an interconnection between Ballina Heights, Precinct A and Precinct B for localised traffic movements; and
- ▶ Act as the primary public transport route for CURA.

To minimise adverse amenity impacts such as noise, Council envisage that the design of the road network and particularly Ballina Heights Drive and the North-South link road would encourage trips to:

- ▶ Ballina (for Precinct B residents) to be via Ross Lane or Sandy Flat Road and the Pacific Highway / Tamarind Drive;
- ▶ The north (for Ballina Heights and Precinct A residents) via the Eastern Cumbalum Roundabout or the Sandy Flat intersection with Tamarind Drive.

The first stage (southern end) of Ballina Heights Drive has been relocated to the north since the approval of Ballina Heights development. This relocation was due to:

- ▶ The need for a flood way in the vicinity of Deadman's Creek Road, and subsequent closure of the road to the old highway; and
- ▶ The need to link into the Ballina Bypass / Ballina Heights Drive Interchange which was relocated further to the north to avoid soft soils.



5.1.1 Ballina Heights Drive

The current layout of Ballina Heights Drive within Ballina Heights and the proposed Ballina Heights Drive Interchange are presented in *Figure 5.1 – Precinct A Catchments and Major Roads* and the *Proposed Ballina Heights Drive, Pacific Highway Interchange* respectively, included in Appendix D.

The first stage (southern end) of Ballina Heights Drive has been relocated to the north since the approval of Ballina Heights development. This relocation was due to:

- ▶ The need for a flood way in the vicinity of Deadman's Creek Road;
- ▶ The need to link into the Eastern Cumbalum roundabout (on Tamarind Drive) and interchange (Pacific Highway) which was relocated further to the north to avoid soft soils.

A south bound (left turn) slip lane from Ballina Heights Drive to Tamarind Drive has been designed by Ardill Payne and Associates to facilitate heavy vehicle movements which would otherwise have difficulty negotiating a southbound turn via the Ballina Heights Drive Interchange.

The construction standard for Ballina Heights Drive is a two-lane road with a central median from the roundabout interchange until the intersection with Unara Parkway. The proposed design configuration reflects the need to ultimately convey > 3000vpd.

5.1.2 Ballina Heights Drive (central)

Precinct A proponents propose Ballina Heights Drive to extend to the north and then loop around the knoll to the east and connect back onto Sandy Flat Road. The alignment has been proposed in this manner due to limited options due to grade restrictions (12% maximum) and heritage constraints (APP, January 2010). The gradients are in accordance with the requirements for a Collector road specified in the Northern Rivers Local Government road design guidelines. The pavement width is proposed to be 11m wide. It is expected that this standard will be adopted as a minimum for development from south to north.

For the proposed road alignments for Precinct A and long section of Ballina Heights Drive refer to *Major Collector Roads Dwg No REZ11* (APP, 2009) and *SK16 - Plan and Long Section, Proposed Cumbalum Way (Ballina Heights Drive)*, respectively in Appendix D.

5.1.3 North-South link road

The North-South link road extends from Sandy Flat Road through the northern part of Precinct A (past proposed open space areas) into Precinct B, ultimately connecting onto Ross Lane at the existing location of the Duffcrys Lane intersection. Precinct B proponents propose the road to be of a Collector road standard with an 11m pavement width. The approximate location envisaged for the North-South link road through Precinct B is illustrated on *Location of Works – Cumbalum / Lennox Head* in Appendix D.

A plan and long section has also been prepared for North-South link road ('Road 1') within Precinct B (see *SK47-49 Precinct B Indicative Road Network* in Appendix D). The long section illustrates a maximum grade of 12% for the collector road.

5.2 Unara Parkway

Unara Parkway has been part of Council's traffic strategy for the CURA since the rezoning and approval of the Ballina Heights development. Unara Parkway was primarily formed to act as a collector road for the northeast portion of Ballina Heights and connects to Ballina Heights Drive, providing access to the future Ballina Heights village centre. The current construction standard of Unara Parkway is an 11m carriage way.

Precinct A proponents propose to extend Unara Parkway to the north east to open up access to the eastern portion of Precinct A. Due to areas of potentially significant indigenous heritage value on the eastern perimeter of the site, in the proximity of the original rezoning alignment, Unara Parkway is no longer proposed as a link road to Sandy Flat Road. The current arrangement is for a connection back to Ballina Heights Drive before it descends to Sandy Flat Road.



5.3 Sandy Flat Road

Sandy Flat Road is an existing rural road that is accessed from Tamarind Drive at Sandy Flat. It provides access to rural properties to the east of the Highway. It also extends to the north terminating midway through Precinct B, however the road reserve continues to link in with Duffcys Lane from the north.

The proponents of Precinct A and B propose to utilise the east-west portion of Sandy Flat Road for access to Tamarind Drive. The road will require upgrading for its full length to a minimum collector road standard. The north-south portion of Sandy Flat Road is proposed to form the Cumbalum N-S link between Precinct A and B.

The construction of the Ballina Bypass has seen the intersection to Tamarind Drive upgraded, Refer to *Sandy Flat Road Intersection Layout* in Appendix D. The RTA have confirmed the Sandy Flat Road intersection with Tamarind Drive has been designed for 2000-3000vpd⁸ (Cardno, 2009).

5.4 Traffic Assessment of Internal Roads

5.4.1 The Ballina Strategic Road Network Update (CEO, 2007)

The Ballina Strategic Road Network Update considered traffic loads from Ballina Heights, Precinct A and Precinct B. The road configuration in this model was a direct Cumbalum N-S link that deduced 8023 vpd north of Sandy Flat Road and 6081vpd south of Sandy Flat Road at 2026 (Table 5.2 CEO, 2007).

5.4.2 Precinct A Rezoning Submission (APP, 2010)

APP (2010) state that their study provides similar numbers to those generated by the CEO model except at the northern end of Precinct A, as CEO's assumption of a higher priority link road to the north generates higher numbers. Further APP (2010) note that Ballina Heights Drive would require classification as a Distributor (>3000vpd) and this would require substantial earthworks to regrade the steep land at the northern end of Precinct A to provide a complying road design.

5.4.3 CURA Traffic Study (CEO, 2011)

The above traffic assessments provided some information on potential traffic flows through CURA but did not provide adequate consideration of likely traffic flows from Precinct B, and the subsequent interactions with Precinct A, Ballina Heights or the external road network. Subsequently Council engaged CEO to undertake the Study to define these interactions, inform this IDP and to resolve the following:

- ▶ Is the Sandy Flat intersection capacity exceeded given the projected traffic generation;
- ▶ Is the Collector classification of Unara Parkway appropriate
- ▶ Is the provision of Ballina Heights Drive as a collector road north of the Unara Parkway intersection appropriate;
- ▶ What is the standard of road required for the Precinct A – Precinct B link road;
- ▶ What is the modelled traffic generation for Ross Lane;
- ▶ What are the required intersection forms for Ross Lane;
- ▶ What recommendations can be made regarding the speed zone of Ross Lane in light of traffic loads, intersections and curve radii;
- ▶ What intersection treatments are achievable for the proposed upgrade concept (i.e. combination of roundabouts, left-in/left-out only).

In addition to these outcomes, the study sought to provide a general overview of the traffic conditions expected in the general area surrounding the CURA.



Comparison of Traffic Assessment Findings

A traffic study comparison included in APP (2010) compares their study with that of CEO (2007). The APP results for a high density scenario and worst case of splits (Option 3B, APP 2010) are included in Table 10 below, whilst the associated plan (Figure 5.1 - Traffic Catchments and Major Roads, APP 2010) is provided in Appendix D. The findings of CEO (2007) and CEO (2011) have been included in the table for comparison.

Table 10 Precinct A Traffic Study Comparison (Ultimate)⁹

Node	Node Location	Proposed Classification ¹⁰	APP – Option 3B ¹¹	CEO (2007) ¹²	CEO (2011)
A	Sandy Flat / old Pacific Highway intersection	Collector	1100*	2620	4500
B	Precinct A and B link	Collector	1270*	8023	10900
C	Ballina Heights Drive (Northern end of Precinct A)	Collector	2370	8389	9900
D	Ballina Heights Drive (mid section of Precinct A)	Collector	3557	Not modelled	7000 [#]
E	Ballina Heights Drive (Southern end of Precinct A)	Distributor	8453	6081	13200
F	Ballina Heights Drive Interchange	Distributor	9297	6707	14700
G	Unara Parkway intersection with Ballina Heights Drive	Collector	3527	Not modelled	Not defined
H	Unara Parkway (south)	Collector	2541	Not modelled	2990 [#]
I	Unnamed link road between Deadmans Ck Rd and Ballina Heights Dr	Distributor	4077	Not modelled	5200

Table Notes:

*Excludes Precinct B component

[#]CEO model assumed Unara Parkway would take majority of traffic (7000vpd vs 2990vpd for Ballina Heights Drive). As the eastern perimeter road extending from Unara Parkway is unlikely to proceed, this route will be less desirable for through traffic.

Items in red exceed the preliminary road classifications proposed in rezoning submissions.

It is evident from the comparison that CEO (2011) predicts traffic loads significantly greater than those previously modelled. This is due to a number of factors; most notably APP's assessment did not include allowance for Precinct B loads on Sandy Flat Road or the Precinct A and B link. Consequently CEO (2011) have accounted for internal trips from Precinct B to A and vice-versa. The other significant factor is the proposed development yield for Precinct B being greater than previously accounted for in past assessments.

⁹ APP Options 1, 2 and 3A assume an average density (with different splits) as per the APP proposed Concept Landuse Plan

¹⁰ Distributor = > 3000vpd, Collector = up to 3000vpd

¹¹ Option 3B assumes a high density scenario and likely worst case scenario of splits

¹² Base Case (Pacific Highway works within Ballina island, Ballina bypass, old Pacific Highway) plus North-South link road.



Nevertheless, the CEO (2011) report identifies internal road network and intersection forms to the external network that would cater for the predicted worst case traffic scenario. The report identifies that roads thought to be suitably classified as collector roads (Ballina Heights Drive, Unara Parkway, Sandy Flat Road and Unara Parkway) should be constructed to sub-arterial standard to cater for projected traffic volumes. However the actual cross section of these roads may vary, depending on the intended function from a hierarchy perspective. The *CURA Road Hierarchy Plan – Figure 4.36* from CEO (2011) is provided in Appendix D.

5.5 Ross Lane

Ross Lane is an arterial Road that links the Coast Road to Tamarind Drive and the Ballina Bypass. The current design capacity of Ross Lane is 16,000vpd (Section 4.7, Cardno 2009). The future load at 2016 has been modelled at 12,800vpd (Table 5.1, CEO 2007). Ultimate loads have been modelled by CEO in their 2007 study and in the 2011 CURA Traffic Study. The traffic loads are presented in Table 11 below.

Table 11 Ross Lane Ultimate Traffic Loads

Ross Lane	Table 5.2, CEO, 2007 (vpd)	Figure 4.37, CEO, 2011 (vpd)
West of North-South link road (Duffcys Lane) Intersection	20,350	32,900
Between North-South link road (Duffcys Lane) Intersection and proposed Precinct B town centre connection	Not modelled	21,100
East of proposed Precinct B town centre connection	16,250	15,400

Threshold volumes adopted in the *Ballina Strategic Road Network Study Update* (CEO, 2007) for upgrading roads from two lanes to four lanes are:

- ▶ 20,000vpd – roads with no access; and
- ▶ 17,000vpd – roads with some access.

Therefore it is evident that Ross Lane – West will require a four (4) lane upgrade prior to 2026.

5.5.1 Ross Lane Improvements

Council commissioned a *Ross Lane Improvement and Cost Estimate Study* (Cardno, August 2009) for the purpose of forward planning infrastructure needs and inclusion of construction costs in the Roads Contribution Plan (BSC, 2010). The Plan identifies funding will be available for the improvement works between 2020 – 2025.

The Appendix III to the Plan details the following works (Cardno, August 2009):

- ▶ West of the North-South link road intersection through to the Pacific Highway, the estimate allows for the addition of two extra traffic lanes to the existing cross section to provide 4 x 3.5m traffic lanes, and 2 x 2.5m shoulders of which 1.5m is sealed.
- ▶ East of the North-South link road intersection through to The Coast Rd, the estimate allows for additional pavement width to provide 2 x 3.5m traffic lanes and 2 x 2.5m shoulders of which 1.5m is sealed.
- ▶ The proposed intersection between Ross Lane and the North-South link road connection is not included in this estimate (or design).
- ▶ Some of the existing road bends will require a new alignment based on the minimum design radius for specific speeds as defined in the relevant Austroads guide for the design of rural roads. Bends proposed for realignment are to the east of the proposed intersection of the North-South link road within the existing 100km/hr zone.



- ▶ In some cases, particularly at the Western end of Ross Lane, the existing radius is close to or exceeds the absolute minimum radius (for an 80km/h zone). In these particular cases, no allowance for improving the alignment has been made in the current works schedule of the Roads Contributions Plan.
- ▶ Allowance has been made for the construction of concrete box culverts at approximate CH.3820 to bridge a total drainage width of approximately 21m.

The proposed layout of Ross Lane is illustrated in *Ross Lane – Road Layout and Cross Sections Sheets 1 to 3* in Appendix D.

Intersections

In addition to the above works the CURA Traffic Study (CEO, 2011) details the following upgrades:

- ▶ Ross Lane Interchange east and west roundabouts – additional lane;
- ▶ Ross Lane interchange overpass bridge – duplication;
- ▶ Ross Lane/Mc Leish Rd Intersection #1 – two lane roundabout;
- ▶ Ross Lane/Dufficys Lane Intersection #2 – signalised intersection;
- ▶ Ross Lane Intersection #3 – two lane roundabout;
- ▶ Ross Lane Intersection #4 – two lane roundabout;
- ▶ Ross Lane/Newrybar Swamp Rd Intersection #5 – single lane roundabout; and
- ▶ Ross Lane Intersection #6 – unsignalised intersection.

For further details on the upgrades and adopted intersection geometries to cater for future traffic loads refer to *Intersection Geometry - Figures 4.1 and 4.2* (CEO, 2011) in Appendix E.

Improvement Implications for Rezoning

With reference to the proposed layout of Ross Lane and considering the potential rezoning of land to the south of the road alignment, the following points are noted:

- ▶ The speed environment for the portion of road between the Pacific Highway interchange and the north eastern boundary of Precinct B needs assessment in light of:
 - Accommodation of up to six intersections with Ross Lane (as proposed by Precinct B proponents);
 - Consideration of existing radius¹³ being below the minimum standard (for 80km/hr zone); and
 - Potential noise/amenity issues for future development fronting Ross Lane.
- ▶ The overall road width of the four lane section is proposed to be 19m including the road shoulder but excluding the road verge. The current road reserve width is typically 20m and it is likely that it would need to be in the order of double this width to accommodate the widening and verges. Therefore it is probable that some form of road resumption will be required on the southern and northern sides of Ross Lane, between the Pacific Highway interchange and the north eastern boundary of Precinct B.
- ▶ The increased difficulty of realigning the road down the track, following additional development in the immediate vicinity;
- ▶ The cost vs. benefit of constructing a new four lane road below current road design standards. It is noted that Austroads (2009) Part 3: Geometric Design (p138) requires a radius in the order of 400m¹³.
- ▶ Minimum pavement widening does not appear to have been considered. As an example, for a 160m radius in an 80km/hr zone with a 3.5m lane width, Austroads (2009) Part 3 specifies a pavement widening of 0.5m for the track of a semitrailer within a lane.

¹³ Allowing V of 90km/hr (80+10), super elevation of 3% and assumed friction factor of 0.13.



- ▶ Whether the road should function as an arterial, i.e. maintain 80km zone for entire length, minimise the number of intersection and driveway connections, and provide an efficient route between the Highway and the Coast Road.

Options for Council to consider include:

1. Keep the alignment concept documented in the BSC Contributions Plan, and reduce the speed zone for approximately 1.5 km along the frontage of Precinct B to allow multiple intersection connections as considered in the CURA Traffic Study (CEO, 2011);
2. Keep the alignment concept documented in the BSC Contributions Plan, maintain the 80km zone with exception of a reduction to one or two primary connections to Precinct B, provide provisional signage for corners below the minimum design standard;
3. Realign the road to meet the 80km/hr design standard reflecting the intent of the alignment to function as an arterial road and provide on / off ramps for one or two primary connections to Precinct B.

It is noted that all of the above options will require resumption. The extent to which resumption is required would be determined when Council undertakes detailed design of the road. Council does not consider it necessary to commence this process until the development horizon of Precinct B is known.

Notwithstanding the above options, Council's preference is to reduce the number of intersections to Ross Lane from Precinct B and maintain an 80km/hr zone wherever possible. The implications for intersection connections, road alignment, and road noise impact need to be considered by Precinct B proponents and allowed for in the rezoning proposal, in consultation with Council.

5.6 Local Roads, Street lighting, Cycleways, Footpaths and Bus shelters

The design of other collector and local roads, street lighting, cycleways, footpaths and bus shelters is to be proposed by the developer at Development Assessment (DA) stage and assessed by Council.

To provide confidence that the provision of cycleways and footpaths can be reasonably accommodated to accepted engineering standards on steep slopes within Precinct B, Council requested an example of a road layout be prepared on a steep portion of the site. Cardno provided this data as part of a revised submission to Council and this has been considered acceptable (with some minor alterations) in preparation of the draft LES for Precinct B.

5.7 Infrastructure Summary

The road layout proposed for Precinct A and B is considered achievable, however the following points need to be carefully considered in preparing subdivision and external connection design layouts:

- ▶ The number of intersections from Precinct B to Ross Lane should be rationalised;
- ▶ In some instances it may not be possible to strictly meet the Geometric Road Design Specifications of the Northern Rivers Local Government Design Manual due to local topography. Any deviations from the manual will need to be clearly identified in future design plans for Council's consideration;
- ▶ The Sandy Flat Road upgrade should be designed with a form that seeks to direct as much Precinct A north bound traffic and Precinct B south bound traffic to Tamarind Drive (formerly old Pacific Highway) as possible. This may involve straightening out the Sandy Flat Road alignment to provide a more direct route. The Sandy Flat Road intersection with Tamarind Drive may reach capacity and function below the intended design standard; and
- ▶ Internal subdivision layouts should take account of the road noise and access amenity of allotments proposed to adjoin sub-arterial roads. Local streets crossing perpendicular to sub-arterial roads (i.e. four-way intersections) should be avoided.



Table 12 CURA Roads Infrastructure Summary

Road Item	Service Area	Service Level (ultimate)		Service Date
		Vpd*	category	
Cumbalum Interchange	Ballina Heights	14700	Sub-arterial	2012
Ballina Heights Drive (south)	Ballina Heights	13200	Sub-arterial	2011
Ballina Heights Drive (Precinct A)	Northern end of Precinct A	9900	Sub-arterial	unknown
North-South link road	Precinct A open space / Precinct B connection to Sandy Flat Road	10900	Sub-arterial	unknown
North-South link road (Precinct B)	Precinct B	7900	Sub-arterial	unknown
Unara Parkway extension	Precinct A	2900	Collector / sub-arterial	unknown
Ross Lane Improvements - East	Precinct B	15400	arterial	2020-2025
Ross Lane Improvements - West	Precinct B	32900	arterial	2020-2025
Ross Lane/Mc Leish Rd Intersection #1 – two lane roundabout;	Precinct B	2100	collector	unknown
Ross Lane/Duffcys Lane Intersection #2 – signalised intersection;	Precinct B	9100	sub-arterial	unknown
Ross Lane Intersection #3 – two lane roundabout;	Precinct B	unknown	collector	unknown
Ross Lane Intersection #4 – two lane roundabout;	Precinct B	unknown	collector	unknown
Ross Lane/Newrybar Swamp Rd Intersection #5 – single lane roundabout; and	Precinct B	1800	collector	unknown
Ross Lane Intersection #6 – unsignalised intersection.	Precinct B	unknown	collector	unknown
Sandy Flat Road	Precinct A and B	4500	sub-arterial	unknown
Sandy Flat Road intersection	Precinct A and B	4500	sub-arterial	2011

* Figures from CEO (2011).



6. Water Supply (Potable)

6.1 Rous Water Source and Reservoir

Bulk water for the combined Ballina and Lennox Head water supply is currently supplied to Ballina Shire Council by Rous Water from its Rocky Creek and Emigrant Creek dams. Water is initially pumped to the Knockrow Balance Tank and then transferred by a network of gravity trunk mains to Council's various water service reservoirs and reticulation networks.

Rous Water is planning to replace the existing Knockrow Balance Tank (approx 1 ML capacity) with a new Knockrow Service Reservoir (approx 10 ML capacity). The increase in storage capacity at this location will dramatically increase the sustainable rate at which bulk water can be supplied to the combined Ballina / Lennox Head water supply scheme. Completion of the reservoir is essential to cater for additional demand arising from the CURA development. Detailed Design of the reservoir was completed by GHD in March 2010. Construction of the reservoir is anticipated to commence during the 2011 – 12 financial year.

The location of the Knockrow Reservoir is illustrated on *SK01 – Precinct B Water Supply Strategy* in Appendix F.

6.2 BSC Reservoirs

Construction of two additional water service reservoirs are planned to service CURA.

6.2.1 Ballina Heights Reservoir

The proposed 1.8ML Ballina Heights Reservoir will service Precinct A, Ballina Heights Estate (Ballina Heights is currently serviced by a temporary reservoir) and Summerhill Crescent (currently supplied directly off the Rous Water main). An allowance of 1948ET was used for reservoir sizing purposes (NSWPW, 2009) as illustrated in below.

Table 13 BHE Reservoir ET Allowance

Location	Equivalent Tenements (ET) in NSWPW (2009)	Adopted Equivalent Tenements (ET)
Ballina Heights	900	1081 [^]
Precinct A	980	801 [^]
Precinct A – Potential	...	20 [^]
Summerhill Crescent*	68 [#]	68
Total	1948	1970

*Summerhill Crescent currently supplied directly off DN375 supply main.

[#] ET allowance from NSWPW (2009) allows for supply of dual occupancies under BSC LEP (1987), however the low pressure sewerage system is limited to approximately 35ET.

[^]ET values derived in Table 8.

It is noted that the Total ET adopted by NSWPW compares well with the values adopted for this study.

It is anticipated that the Ballina Heights Reservoir will be constructed in conjunction with a non-potable reservoir to be installed on the same site. The estimated timeframe for construction completion of both reservoirs is 2012 (pers. comm. Rod Dawson and Don Chesworth 27/01/2010).

APP illustrates the proposed location of the Ballina Heights Reservoir and the existing reservoir on Dwg No REZ7, *Cumbalum Urban Release Area A – Water Reticulation* included in Appendix F.



6.2.2 Existing BH Temporary Reservoir

APP (Memo to BSC, 22 December 2009) have identified that Lot 284 DP1141745 within the southern portion of Precinct A (known as Quinlan Farm) is owned by the Ballina Heights developers who have a program to release 120 lots in 2011 (subject to rezoning and development approval). APP note the majority of this land can be supplied by the existing temporary reservoir up to completion of the new reservoir in 2012. The rationale being that between now and 2012 there is surplus capacity in the temporary reservoir that has been allocated to Ballina Heights Stages which will not require supply in that timeframe. See Dwg No. REZ7 (Appendix F) for an illustration of the area within Lot 284 that APP have identified as serviceable by the temporary reservoir.

6.2.3 Ross Lane Reservoir

The proposed Ross Lane Service Reservoir is planned to service Precinct B as detailed in GHD (2004b). The approximate location of proposed Ross Lane Reservoir is illustrated in SK01 – Precinct B Water Supply Strategy in Appendix F.

The BSC Water DSP (2004b) estimated that the Ross Lane Reservoir would be in the order of 2ML in capacity and would be necessary by 2025/26. No concept design has been undertaken at this stage. Analysis of future demand, modelling of supply and scheme sizing will be required for the anticipated infrastructure provision.

Based on the information in Table 8 the estimated ET allowance for the Ross Lane Reservoir is provided in Table 14 below.

Table 14 Ross Lane Reservoir ET Allowance

Location	Adopted Equivalent Tenements (ET)
Precinct B	2,814
Precinct B – potential (south of Ross Lane)	125
Precinct B – deferred (north of Ross Lane)	239
Total	3178

6.2.4 High Level Zones (HLZ)

Council's Water DSP (2004b) identifies high level zones within Precinct A and B in proximity to the proposed reservoirs needing to be serviced by booster pumps to achieve adequate supply pressure. These pump works are likely to be undertaken in conjunction with reservoir construction.

6.3 Bulk Supply Mains

6.3.1 Precinct A and Ballina Heights

It is anticipated that the Ballina Heights Service Reservoir will be supplied via the existing DN375 water main (currently a Rous Water asset) that runs parallel to the existing Pacific Highway alignment (pers. comm. NSW Public Works email to BSC dated 11/01/2010). Recent modelling by NSWPW has determined that duplication of the existing main to supply the Ballina Heights Service Reservoir is no longer necessary due to the reduced potable demand forecast following full implementation of urban recycled water reuse.

APP illustrate on Dwg No. REZ7 (Appendix F) that they propose a realignment of the DN375 main from just south of the Sandy Flat intersection to the temporary reservoir site in Ballina Heights. The purpose of the realignment is to service the new Ballina Heights Reservoir whilst also locating the main within proposed road reserves to remove service conflicts with proposed house lots.

As the DN375 main is a Rous Water asset this relocation may require approval from Rous Water (depending on the handover timeframe to Council) as part of the design and construction of the new reservoir. The relocated



main may need to be installed as a DN450 to compensate for the head loss over the greater distance (subject to design).

6.3.2 Precinct B

A new DN375 bulk supply main is proposed to be constructed from the upgraded Knockrow reservoir to the new Ross Lane Reservoir (pers. comm. Don Chesworth 27/01/2010). The supply to Ross Lane Reservoir will require approximately 1.75km of 375mm main from Knockrow to Ross Lane (pers. comm. NSW Public Works email to BSC dated 22/12/2009). The timeframe for construction would be concurrent with the Ross Lane Reservoir construction, which is identified in the Water DSP (2004b) as 2025/26.

6.4 Distribution Mains

6.4.1 Precinct A and Ballina Heights

Council's DSP (GHD, 2004b) for water services details the construction of a DN300 distribution main (WD-01) to the east from the new Ballina Heights Reservoir to service Precinct A and Ballina Heights. This main is then proposed to continue south to service Ballina Heights. Given that APP propose to realign the Rous Water DN375 supply main to the new BHE Reservoir and then to the existing temporary reservoir in BHE, the conceptual layout in the DSP would be superseded.

Precinct A is proposed to be serviced off a DN200 main (WD-02) directed to the north from WD-01 (see Figure 3 (GHD, 2004b) Appendix F). Due to the proposed layout of Precinct A the location of the distribution mains vary from that conceptually identified in the Water DSP.

As shown in Table 13, the ET allowance for sizing the Ballina Heights Reservoir slightly exceeds the allowance in the Water DSP.

6.4.2 Precinct B

For Precinct B Council's DSP for water services outlines the decommissioning of the existing DN200 in Ross Lane to be replaced by a new DN200 (WD-03) on the southern side of Ross Lane from the future Ross Lane Reservoir (WR-02) (see Figure 2 (GHD, 2004b) Appendix F).

Precinct B proponents have indicated that they intend to provide water supply in line with the DSP proposal (see SK01 – Precinct B Water Supply Strategy in Appendix F).

Note: Council requests allowance be made by Precinct A and B proponents for a potential link main across Sandy Flat to link the Ross Lane water supply system with the Ballina Heights water supply system.

6.5 Subdivision Water Reticulation

The design and construction of water reticulation infrastructure is to be proposed by the developer at Development Assessment (DA) stage and assessed by Council. Infrastructure works conducted internal to a site by developers should make due allowance for future development on adjacent land identified for potential development. This would include sizing pipes and/or making allowance for augmentation, provision of easements and provision of connection points for upstream flows. An agreement between landholders may be required to achieve this.

6.6 Summary

Following the completion of the new Knockrow Service Reservoir by Rous Water (anticipated in 2012), and the Ballina Heights Reservoir (2012) (including approval and realignment of the existing DN375 supply main) there is little impediment foreseen to the implementation of the intended water supply strategy for Precinct A.

Completion of the new Knockrow Service Reservoir, new bulk supply main from Knockrow Reservoir and the new Ross Lane Reservoir and booster pump infrastructure are limiting factors in the provision of water supply for Precinct B.

5.2 Cumbalum Precinct B Planning Proposal



The CURA Conceptual Servicing Plan in Appendix F includes the overall proposed alignment of the potable water transfer main and reservoir locations.

Table 15 Precinct A - Water Infrastructure Summary

Item	Item Description	Service Area	Service Level (ultimate)	Service Date
Source / WTP	Rocky Creek and Emigrant Creek dams	Ballina, Lennox Head	...	Existing
Bulk Reservoir	Knockrow 10ML	Ballina, Lennox Head	...	2012
Bulk Supply Main	Realignment of existing DN375 Main from Knockrow	Ballina, Cumbalum	...	2012
Supply Reservoir	New 1.8ML reservoir to replace temporary reservoir at the northern end of Ballina Heights (WR-01)	Ballina Heights, Summerhill Crescent, Precinct A (part of DSP Area C, Ballina - Release Area 2)	1970ET	2012
Booster Pumps	HLZ Booster Pumps	Precinct A	...	2012
Distribution mains	New DN200 (WD-02) distribution main	Precinct A	...	Unknown
Subdivision mains	Subdivision Reticulation Mains	Ballina Heights, Precinct A	...	Unknown

Table 16 Precinct B - Water Infrastructure Summary

Item	Item Description	Service Area	Service Level (ultimate)	Service Date
Source / WTP	Rocky Creek and Emigrant Creek dams	Ballina, Lennox Head	...	Existing
Bulk Reservoir	Knockrow 10ML	Ballina, Lennox Head	...	2011
Bulk Supply Main	New DN375 Bulk Supply Main from Knockrow to Ross Lane	Ross Lane, Precinct B	...	2026
Supply Reservoir	Future reservoir (WR-02) 2ML	Ross Lane, Precinct B (part of DSP Area C, Ballina - Release Area 2)	3178 ET	2026
Booster Pumps	HLZ Booster Pumps (WP-09)	Precinct B	...	2026
Distribution mains	Decommission existing DN200 in Ross Lane. New DN200 (WD-03) on southern side of Ross Lane from future reservoir (WR-02)	Ross Lane, Precinct B	...	2026
Subdivision mains	Subdivision Reticulation Mains	Precinct B	...	Unknown



7. Recycled Water Supply

In 2002-2003 BSC undertook comprehensive community consultation which led to the adoption of the Ballina Shire Urban Water Management Strategy (UWMS) in 2003. The Ballina - Lennox Head Recycled Water Master Plan provides an outline of the likely recycled water reuse targets, quantities and management strategies until 2026.

The implementation of the Master Plan is a staged process. The Ballina - Lennox Head Recycled Water Master Plan Environmental Impact Statement (EIS) (NSW Water Solutions, 2009) presents the environmental impact investigations undertaken on aspects of the Master Plan which have been identified as being at a stage where there is sufficient detail to assess.

The proposed works relevant to CURA that are to be determined by BSC, following exhibition of the EIS, under Part 5 of the Environmental Planning & Assessment Act (EP&A Act) are the:

- ▶ Ultimate Upgrade of Ballina WWTP to a RWTP with a capacity of 30,000 EP;
- ▶ Diversion works to redirect some wastewater flows that are currently directed to Lennox Head RWTP to the Ballina RWTP;
- ▶ Construction and commissioning of one or more Recycled Water Treatment Plants (RWTPs);
- ▶ Construction of the following recycled water infrastructure:
 - Ballina Heights recycled water reservoir (adjacent the potable water reservoir on the same site);
 - Pipeline from Ballina RWTP to Ballina Heights recycled water reservoir;
- ▶ Suitability of the use of the recycled water for urban dual reticulation.

7.1 RWTP

Council has resolved that the preferred technology for the proposed upgrade of the Ballina WWTP is conversion to an MBR plant. An MBR is able to produce recycled water of a suitable quality (tertiary standard) for Urban Dual Reticulation or Urban Open Space reuse (NSW Water Solutions, 2009). Therefore a separate water reclamation plant is not required. Council has awarded the design and construction of the Ballina MBR plant. It is anticipated that construction will commence in mid 2011 with completion by 2013.

7.2 Bulk Supply Main and Reservoirs

A bulk supply main is proposed to be installed from the Ballina RWTP to a new Ballina Heights Recycled Water Reservoir (adjacent to the new potable reservoir) at an approximate chainage of 5.0 km (NSW Water Solutions, 2009) to service Ballina Heights and Precinct A and Precinct B.

The pipeline is proposed to run parallel with the existing Ballina Heights sewerage rising mains (under the Ballina Heights cycleway) until the south eastern corner of Summerhill Crescent where it will continue to follow the cycleway alignment up to the top of the ridgeline.

It has recently been determined that the fill for the cycleway along the alignment of mains within the floodplain disrupts flood flows within the floodplain. Council is currently considering measures to ameliorate such flooding impacts. Design of the recycled water rising main will need to consider this issue as well as minimising impacts on sensitive vegetation and construction in soft soils. Additionally the design will need to consider fitting the pipe within the reserve alignment and allowing for a potential future sewerage main required to service Precinct B.

Figures 5-2, 5-6 and 5-7 (from the EIS) illustrating the proposed alignment of the Ballina Heights recycled water transfer main are presented in Appendix G. It is anticipated the Ballina Heights Recycled Water Reservoir and bulk supply main will be constructed by 2012.



The recycled water transfer main for Precinct B is proposed to be an extension of the main from the Ballina Heights Recycled Water Reservoir. The chainage of the main will be approximately 10.5km at the proposed Ross Lane site (NSW Water Solutions, 2009).

The developers of Precinct A will need to make allowance for a corridor to accommodate this line within proposed road reserve and through several proposed residential allotments. The line is proposed to continue through the north-south alignment of Sandy Flat Road reserve to Dufficys Lane. Precinct B developers will need to make allowance for the corridor required between the end of the constructed portion of Sandy Flat Road to the intersection of Scanlan Lane.

The Ross Lane Recycled Water Reservoir is proposed on the eastern side of the Pacific Highway and the southern side of Ross Lane on the same site as the future potable water supply reservoir (See *Figure 5-4* from the EIS in Appendix G). It is anticipated to have a capacity of 2.8ML and the reservoir and supply main is not expected to be required until around 2018 (NSW Water Solutions, 2009). No concept design has been undertaken at this stage. Analysis of future demand, modelling of supply and scheme sizing will be required for the anticipated infrastructure provision.

7.3 Subdivision Reticulation Mains

The design and construction of recycled water reticulation infrastructure for urban dual reticulation (UDR) and urban open space (UOS) reuse is to be proposed by the developer at Development Assessment (DA) stage and assessed by Council.

Infrastructure works conducted internal to a site by developers should make due allowance for future development on adjacent land identified for potential development. This would include sizing pipes and/or making allowance for augmentation, provision of easements and provision of connection points for upstream flows. An agreement between landholders may be required to achieve this.

7.4 Recycled Water for UOS

The Concept Design Report (Commerce, 2009) presents estimated reuse areas, irrigation demands and timing for future development of the CURA as summarized in Table 17 below. The locations of the areas described in the table are illustrated in *Figure 5-4* (from the EIS) in Appendix G.

Table 17 Future UOS Areas and Demand for CURA

Future UOS Areas	UOS Area Reuse Area (ha)	Day	Day	Day
		Irrigation Demand 2013	Irrigation Demand 2020	Irrigation Demand 2026
Possible (could occur at 2010 to 2016)				
Cumbalum/Ballina Heights School Ballina Cumbalum	9.24	0.38	0.38	0.38
Cumbalum /Ballina Heights Open Space Ballina	18.96	0.78	0.78	0.78
Cumbalum/Structure Plan Open Space Ballina Cumbalum	3.17	0.13	0.13	0.13
Future (could occur between 2016 and 2026)				
Cumbalum/Structure Plan Open Space Ballina/Cumbalum	4.15	0	0	0.17
Cumbalum/Structure Plan Open Space Ballina/Cumbalum	8.13	0	0	0.33
Cumbalum/Structure Plan Golf Course Ballina/Cumbalum	45	0	0	1.85

It is evident from a comparison of *Figure 5-4* (irrigation areas derived from the Cumbalum Structure Plan) with the proposed structure plans for Precinct A and B that the open space areas that may be available for future UOS



Irrigation have been refined. Specifically the area identified in the Cumbalum Structure Plan as potentially suitable as a golf course is now proposed to be occupied by community and residential land uses.

7.5 Summary

Following determination of the EIS by Council for the recycled water infrastructure, and the subsequent construction of the Ballina Heights Recycled Water Reservoir and bulk supply main (2012), there is little impediment foreseen to the implementation of the recycled water supply strategy for Precinct A.

In addition to the above works, construction of the new Ross Lane Recycled Water Reservoir and an extension of the bulk supply main from Ballina Heights are limiting factors in the provision of recycled water supply for Precinct B.

The CURA Conceptual Servicing Plan in 0 includes the overall proposed alignment of the recycled water transfer main and reservoir locations.

Table 18 Precinct A - Recycled Water Supply Infrastructure Summary

Item	Item Description	Service Area	Service Level (ultimate)	Service Date
RWTP / Storage	Ballina RWTP	Cumbalum, Ballina	30000 ET	2012
Bulk Supply Main	Ballina Heights recycled water rising main	Ballina Heights, Summerhill Crescent, Precinct A, Precinct B	5148 ET	2012
Supply Reservoir	3.5ML reservoir directly adjacent to new potable reservoir (WR-01) at the northern end of Ballina Heights	Ballina Heights, Summerhill Crescent, Precinct A	1970 ET	2012
Reuse Mains	Subdivision Reticulation Mains	Precinct A	...	Unknown

Table 19 Precinct B - Recycled Water Supply Infrastructure Summary

Item	Item Description	Service Area	Service Level (ultimate)	Service Date
RWTP / Storage	Ballina RWTP	Cumbalum, Ballina	30000 ET	2012
Bulk Supply Main	Ballina Heights recycled water rising main	Precinct B	3178 ET	2018
Supply Reservoir	2.8ML reservoir directly adjacent to new potable reservoir (WR-02)	Ross Lane, Precinct B	3178 ET	2018
Reuse Mains	Subdivision Reticulation Mains	Precinct B	...	Unknown



7.6 Recycled Water Infrastructure for an Alternative Development Sequence

7.6.1 Scenario

For the scenario where development of the CURA was out of sequence with a south to north progression, the development proponent/s for Precinct B would require an alternative recycled water servicing proposal. Options for alternative recycled water servicing (that are considered with alternative sewerage servicing) are discussed below.

7.6.2 Option 1 – Ballina Heights Recycled Water Reservoir

- ▶ Install a temporary package RWTP on the eastern side of Precinct B;
- ▶ Treat wastewater to a tertiary standard to meet the recycled water obligation;
- ▶ Pump recycled water to the Ballina Heights Recycled Water Reservoir; and
- ▶ Decommission the temporary package RWTP when connection to the Ballina Heights recycled water main is available.

Option 1 Issues

- ▶ Council prefers connection of Precinct B to the reticulated sewerage system.
- ▶ Discharge of treated effluent toward the Ballina Nature Reserve is highly unlikely due to the sensitive environment.
- ▶ In the circumstance where a package RWTP was proposed, ultimately Council will not accept the management and maintenance of this infrastructure. Therefore construction would be temporary in nature and would require decommissioning at the point where connection to the Ballina Heights recycled water main was available.
- ▶ Significant upfront capital cost for a Package RWTP and associated infrastructure, which will only be temporary with limited opportunity for cost recovery. There may be potential to incorporate the pump station into the sewerage system at a later time.

7.6.3 Option 2 – Install subdivision recycled water reticulation with interim potable supply

- ▶ Install the Precinct B sewerage rising main back to the Ballina RWTP¹⁴;
- ▶ Commission the Ballina RWTP to treat the contribution from Precinct B to a suitable standard for reuse throughout the shire;
- ▶ Install recycled water reticulation mains and prime with potable water (as per current Ballina Heights arrangement) and the capacity of the Ross Lane potable supply reservoir is capable of meeting the interim additional demand; and
- ▶ Connect Precinct B to the recycled water supply following construction of the Ross Lane Recycled Reservoir and the main from Ballina Heights to Ross Lane.

Option 2 Issues

- ▶ Wastewater needs to be treated to a tertiary standard in order for the development to meet the 80% reuse target set by the Master Plan. If recycled water generated from Precinct B cannot be used for UDR and UOS within Precinct B, the recycled water supply is likely to be surplus to Council's needs.
- ▶ Option 2 assumes the capacity of the Ross Lane potable supply reservoir is capable of meeting the interim additional demand.

¹⁴ Refer to Section 8.3 - Precinct B System



7.6.4 Summary

In the circumstance where development occurred out of sequence with a south to north progression and the Ross Lane Recycled Water Infrastructure was not immediately available, Council would need to assess alternative proposals on their merit upon submission however, subject to an acceptable design, Option 2 is Council's interim preference.



8. Sewerage (South to North Progression)

The W&SIPR (GHD, 2004c) and sewerage DSP (GHD, 2004a) identify a sewer servicing strategy for CURA whereby sewage is progressively directed southward by a series of sewage pump stations, rising mains and gravity trunk mains; ultimately discharging to the existing Ballina Heights Estate sewage pump station (BHE SPS 2402)¹⁵. The adoption of such a strategy favours a progressive release of land from the southern part of the Precinct A towards the north.

The *Sewerage Infrastructure Planning - Summary of Updates* draft Report (GHD, March 2011) continues this scenario, whilst taking account of revised yields for Precinct A and B and system changes since 2004.

8.1 Existing Sewerage System Limitations

Given the above strategy, there are two criteria which will determine the feasibility of providing sewerage services to the CURA. These are:

- ▶ The current and future transfer capacity of the existing Ballina Heights sewage pump station (SPS) and rising main; and
- ▶ The reserve treatment capacity of the existing WWTP receiving this flow.

8.1.1 Transfer Capacity of Ballina Heights SPS

At present, the Ballina Heights SPS pumps sewage directly to the Lennox Head RWTP, utilising a connection between the end of the Ballina Heights rising main and the West Ballina rising main. The interconnection of these two rising mains is located adjacent to North Creek Road, North Ballina.

Council has recently constructed (2009) a new North Ballina SPS, located near the current interconnection of the two mains referred to above. As part of the pump station construction works the Ballina Heights rising main now discharges to the collection chamber of the new pump station. This pump station then pumps the combined flow from Ballina Heights and the new North Ballina catchment to the Lennox Head RWTP via a new link to the West Ballina rising main.

Upon completion of the upgrade of Ballina RWTP, it is planned that the Ballina Heights rising main would divert flows from the existing Ballina Heights transfer mains DN225 and DN300, to the Ballina RWTP. The rising mains would be approximately 1.5 km in length (NSW Water Solutions, 2009). See *Figure 5-2* in Appendix G for the proposed extension of the BH rising mains to the Ballina RWTP.

The commissioning of the North Ballina SPS, has allowed a moderate increase in the capacity of the system. However, this is sufficient to cater for several additional stages of Ballina Heights Estate only and is insufficient to cater for the whole of Ballina Heights. It is stressed that this relates to the design capacity of the new North Ballina SPS and is independent of any increases in the capacity of the Ballina Heights SPS (2402) and rising main which may otherwise be possible¹⁶.

Following completion of the upgrading of Ballina RWTP and the associated diversion of the Ballina Heights rising main to this RWTP, there will be a significant increase in the transfer capacity of BHE SPS 2402 and rising main. Further increases in this capacity may also be possible, through augmentation of the BHE SPS 2402 and rising main.

¹⁵ Referred to in the DSP as Cumbalum sewage pump station.

¹⁶ When setting the design parameters for North Ballina SPS, consideration was given to the recommendations of the ULRS and W&SIPR and projected growth in Ballina Heights. The design flow for the North Ballina SPS was set on the basis of likely projected growth for the period prior to completion of the upgrade of Ballina RWTP.



8.1.2 Reserve Treatment Capacity of Ballina and Lennox Head RWTP

The 'optimisation' upgrade of Lennox RWTP was completed in early 2011 with a moderate increase in reserve capacity now available. The Ballina WWTP is operating near maximum capacity; however this will be resolved following construction of the new Ballina RWTP, scheduled for completion in 2012.

Until the upgrade of Ballina RWTP is completed, the existing WWTP is unable to accept any additional flows apart from those arising from 'infill' development within its current catchment. Consequently, there is no possibility of carrying out the proposed diversion of the Ballina Heights SPS rising main from North Ballina to the Ballina RWTP until this upgrade is complete. In the interim, the pumping of flows from Ballina Heights to Lennox Head RWTP will continue.

The moderate increase in capacity of the Lennox Head RWTP roughly coincides with the increase in transfer capacity of the Ballina Heights SPS (post upgrade of the North Ballina SPS). However, this moderate increase in both transfer and treatment capacity is effectively earmarked for growth in Ballina Heights in the period prior to diversion of flows from Ballina Heights to Ballina RWTP.

The increase in reserve capacity for Lennox Head RWTP following diversion of flows from Ballina Heights and West Ballina to Ballina RWTP will in turn be utilised to cater for future growth from Pacific Pines and other new developments in the Lennox Head catchment.

8.2 Precinct A and Ballina Heights System

APP (2010) has adapted rising main and pump station layouts from the Sewerage DSP (see Figure 7, GHD, 2004a) to suit the proposed development layout for Precinct A and anticipated catchments (see Dwg No.REZ6 provided in Appendix H). The infrastructure details are summarised below¹⁷:

- ▶ Upgrade existing PS 2402 (2015/2016);
- ▶ Utilise PS 2404 ('A1') (Unara Parkway, constructed in 2009) and DN250 rising main to PS 2402;
- ▶ New SPS1 ('A2') (2020/2021);
- ▶ New DN300 gravity main flowing to SPS1 ('A2') (2020/2026);
- ▶ New DN200 rising main from SPS2 ('A3') to DN300 gravity main (2025/2026);
- ▶ New SPS2 ('A3') (2025/2026) for abovementioned rising main; and
- ▶ Diversion of Ballina Heights trunk main connection from North Ballina trunk main to the future Ballina RWTP trunk main (as discussed in Section 8.1.2).

8.2.1 Staging Proposal for Precinct A

APP have identified that Lot 284 DP1141745 within the southern portion of Precinct A (known as Quinlan Farm) is owned by the Ballina Heights developers who have a program to release 120 lots on this land in 2011 (subject to rezoning and development approval). The purpose of this release is to provide additional 'high end' house blocks on the ridgeline prior to releasing other stages within Ballina Heights to the south.

APP has advised that the ultimate sewage load from land zoned at Ballina Heights was approximately 1000 ET's. The current BHE load is approximately 300 ET's and based on maximum recorded house rate construction the BHE load would be approximately 400 ET by June 2012. The limiting factor in the BHE system is the Lennox Head RWTP treatment capacity being able to accept a maximum flow of 450ET from BHE prior to the switch over to the upgraded Ballina RWTP (estimated early 2013). APP estimate the maximum load from the Quinlan farm would be between 50-100 ET up to June 2012 (now likely to be later than this) and the maximum BHE / Precinct A

¹⁷ Pipe diameters are indicative only and are based on the equivalent tenement assumptions adopted in the Sewerage DSP (GHD, 2004a). Timeframe references are from the DSP (GHD, 2004a). Pump station references are from the Sewerage DSP (GHD, 2004a) whilst labels in brackets are those given by APP (2010).



Stage 1 combined load would be in the order of 450 ET. Subject to rezoning approval, DA approval and timing, the existing Council sewerage system should be able to accommodate this load.

8.2.2 Precinct A - System Limitations

PS 2401 was constructed to cater for residents on the western side of the ridge of BHE. Due to an additional 96 residential lots proposed in the most northern portion of PS 2401 catchment, the ultimate capacity of this pump station would be exceeded. An upgrade will be required for this pump station.

PS 2404 (Unara Parkway) was constructed in 2009 to cater for approximately 36 lots in the most northeast corner of BHE. The ultimate design capacity is 160 ET which allows for an additional four stages of 30 lots (120 ET total) on the Quinlan property (pers. comm. Don Chesworth, BSC, 22/02/10). APP proposes to 'piggy back' flow from future pump stations 'A2', 'A3' and 'A4' through PS 2404 to PS 2402. This equates to approximately an additional 435 ET above the design capacity of PS 2404 (refer 'A1' on APP Dwg No REZ6, Appendix H).

Sewerage system limitations that have been identified for Precinct A (in bold) are summarised in Table 20 below.

Table 20 Precinct A Sewerage System Limitations

Infrastructure Item	APP Reference	Current Design Capacity (ET)	Ultimate Loading at completion of Precinct A (ET)
PS 2404 (Unara Parkway)	A1	160	595
PS 2401	BHE-PS1	44 ¹	620
PS 2402	BHE-PS2	137 ¹	1675
DN225 from PS 2402	BHE-PS2	550 ²	450 ²
DN300 from PS 2402	BHE-PS2	1350	1225
Tandem DN225 and DN300 from PS 2402	BHE-PS2	1900	1675
Tandem DN225 and DN300 from future BHE-PS3	BHE-PS3	1900	1825 (1902)⁴
Tandem DN225 and DN300 including Summerhil Crescent	n/a	1900	1859 (1937)⁵

¹From PRF100 Assessment (SSC, 2007)

²Council requires switchover from DN225 to DN300 to occur at 450 ET.

³Capacities from APP Dwg No REZ6 Rev A

⁴Adopted figure from **Table 6** is 1902ET (1351 + 801 + 20ET) which places the dual rising mains from BHE-PS3 at capacity.

⁵Adopted figure from **Table 6** of 1902ET plus 35ET for Summerhil Crescent which places the dual rising mains from BHE-PS3 slightly above capacity. The allowance of 35ET for Summerhil Crescent assumes the current system is at capacity.

8.2.3 Council's Preference for Precinct A / BHE Servicing Strategy

APP's configuration proposes flows being pumped from BHE-PS3 to PS 2402 and then into the Ballina RWTP. Instead of pumping the most southern catchment of Ballina Heights north (BHE-PS3) and then south again, Council would prefer BHE-PS3 to become the primary pump station for BHE and Precinct A. Therefore PS 2402 would pump to BHE-PS3.

This provides the following advantages:

- Reduces the residency time of flows from catchment BHE-PS3;



- Allows BHE-PS3 to be designed for ultimate flows from all of BHE and Precinct A and would require PS 2402 to be upgraded to approximately 1700ET (subject to design and excludes any future loading from Precinct B).

In addition, residency times and associated septicity issues for the northern portion of the Precinct A system need to be considered due to 'piggy backing' between pump stations.

Table 21 below summarises the sewerage infrastructure requirements and Figure A6 (from *Sewerage Infrastructure Planning – Summary of Updates* draft report GHD, 2011) in 0 summarises the overall provision of sewerage infrastructure.

Table 21 Precinct A – Sewerage Infrastructure Summary

Infrastructure Item	APP Reference	Service Area	Ultimate Loading at completion of Precinct A (ET)	Service Date
PS 4	A4	PS 4 catchment	10	2020
RM/GM from PS 4 to PS 3	n/a	PS 4 catchment	10	2020
PS 3	A3	PS 3,4 catchments	300	2020
RM/GM from PS 3 to PS 2	n/a	PS 3, 4 catchments	300	2020
PS 2	A2	PS 2, 3, 4 catchments	465	2015
RM from PS 2 to PS 2404	n/a	PS 2, 3, 4 catchments	465	2015
PS 2404 (Unara Parkway)	A1	PS 1, 2, 3, 4 catchments	595	Existing
RM from PS 2404 to PS 2402	n/a	PS 1, 2, 3, 4 catchments	595	Existing
PS 2401	BHE-PS1	PS 2401 catchment	620	Existing
RM from PS 2401 to PS 2402	n/a	PS 2401 catchment	620	Existing
PS 2402	BHE-PS2	PS 1, 2, 3, 4, 2401, 2402 catchments	1675	Existing
DN225 RM from PS 2402	BHE-PS2	PS 1, 2, 3, 4, 2401, 2402 catchments	450 ²	Existing
DN300 RM from PS 2402	BHE-PS2	PS 1, 2, 3, 4, 2401, 2402 catchments	1225	Existing
Tandem DN225 and DN300 RMs from PS 2402	BHE-PS2	PS 1, 2, 3, 4, 2401, 2402 catchments	1675	Existing
BHE-PS3	BHE-PS3	PS 1, 2, 3, 4, 2401, 2402, BHE-PS3 catchments	1825 (1902) ⁴	2015
Tandem DN225 and DN300 from future BHE-PS3	BHE-PS3	PS 1, 2, 3, 4, 2401, 2402, BHE-PS3 catchments	1825 (1902) ⁴	Existing
Tandem DN225 and DN300 including Summerhill Crescent	n/a	PS 1, 2, 3, 4, 2401, 2402, BHE-PS3, Summerhill Crescent catchments	1860 (1937) ⁵	Existing
Diversion of Ballina Heights DN225 and DN300 trunk main connections from North Ballina trunk main to the future Ballina RWTP trunk main	n/a	PS 1, 2, 3, 4, 2401, 2402, BHE-PS3, Summerhill Crescent catchments	1860 (1937) ⁵	2012
Ballina RWTP	n/a	Cumbalum, Ballina	30000	2012

²Council requires switchover from DN225 to DN300 to occur at 450 ± 1

³Capacities from APP Dwg No RC26 Rev A

⁴Adopted figure from Table 3 is 1902LT (1061 + 601 + 20ET) which places the dual rising mains from BHE-PS3 at capacity.

⁵Adopted figure from Table 8 of 1902ET plus 39ET (lots) for Summerhill Crescent which places the dual rising mains from BHE-PS3 slightly above capacity.



8.3 Precinct B System

The Sewerage DSP details Precinct B being within DSP Area B – Ballina STW – Release Area 3 (see Figure 7, GHD, 2004a). Cardno (2008) has adapted the DSP infrastructure configuration to suit their proposed layout as illustrated in *Precinct B in SK02 – Precinct B Proposed Sewer Strategy* provided in Appendix H.

Assuming the upgrade of Ballina RWTP and rising main diversion has been completed, Cardno propose to the following pump station and trunk main works to service Precinct B:

- ▶ Upgrade existing PS 2402;
- ▶ New rising main to PS 2402 through the eastern portion of Precinct A;
- ▶ New pump station (labelled 'PS1') within Lot 1 880178 (within Precinct A);
- ▶ New rising main to 'PS1' across Sandy Flat;
- ▶ New pump station (labelled 'PS2') within Lot 150 755884 (within Precinct A);
- ▶ New rising main to 'PS2';
- ▶ New SPS3 in the location proposed by the DSP (2004);
- ▶ New rising main and gravity main to SPS3;
- ▶ New SPS4 in the location proposed by the DSP (2004);
- ▶ New rising main and gravity main to SPS4.

8.3.1 Precinct B System Limitations

Department of Commerce (2009) confirm the existing rising main from Ballina Heights is a DN225 pipeline that has been sized to cater for growth up to the fourth stage of Ballina Heights Estate development. A parallel DN300 main has also been constructed in anticipation of catering for the sewage flows eventuating from Ballina Heights and Cumbalum Ridge through development Stages 5 to 8 (Precinct A).

APP have identified that the dual BHE rising mains have a total capacity of approximately 1900ET (DN225 maximum 550 ET, DN300 maximum 1350 ET). This capacity is reached for all of BHE and Precinct A development (on average density yields).

Council's Water and Sewerage section have verified that the capacity of the dual rising mains is limited in the order of 1900ET (DN225 maximum 550 ET, DN300 maximum 1350 ET). The Sewerage DSP allows an ultimate upgrade of PS 2402 to 2460 ET including 720 ET for Precinct B. However based on the densities proposed by proponents of Precinct B, the contribution may be in the order of an additional 3178 ET. Even considering future DSP upgrades, the Precinct A and BHE system are inadequate to accommodate this flow.

To accommodate the Precinct B at ultimate development a dedicated pipeline will be required to PS 2402 (and a further augmentation of PS 2402). Thereafter the dedicated pipeline will need to continue to the Ballina RWTP.

Design and Construction Limitations

It has recently been determined that the fill for the Ballina Heights cycleway along the alignment of mains within the floodplain disrupts flood flows within the floodplain. Council is currently considering measures to ameliorate such flooding impacts. Design of a new sewerage main or replacement of one of the existing mains will need to consider this issue as well as minimising impacts on sensitive vegetation and construction in soft soils. Additionally the design will need to consider the available room within the reserve alignment as the reserve width is constrained.

8.3.2 Council's Preference for Precinct B Servicing Strategy

Given the greenfield development location, transfer infrastructure from Cumbalum B through to the Ballina RWTP has been identified in a number of stages. These stages have been outlined through development of the



Sewerage Infrastructure Planning – Summary of Updates draft report (GHD, 2011) and associated SewerCAD modelling.

Stage 1: (2015) Connection of preliminary development loads

Connection into the existing DN300 rising main between Ballina Heights (SP2402) and the Ballina RWTP in the initial development stages (2015) has been identified for Cumbalum B. This allows utilisation of existing infrastructure capacity in the initial development stages.

An initial DN300 rising main is proposed to be constructed between Cumbalum B and PS2402 to facilitate this connection.

Stage 2: 2020 Development Horizon

Upon development of Cumbalum A, the existing DN300 main is required to service the PS2402 catchment. This has been identified to occur by the 2020 development horizon.

A DN450 main from PS2402 through to the Ballina RWTP is proposed to be constructed by 2020 to allow this to occur.

Stage 3: 2030 Development Horizon

A duplicate rising main to the DN300 main constructed in 2015 between Cumbalum B and SP2402 is required in 2030 to meet the projected development loads. This has been sized to allow common rising main operation, with a DN375 main identified as sufficient to meet the ultimate catchment development projections.

Implications for Precinct A Rezoning

To accommodate this servicing strategy for Precinct B a pipeline corridor / easement will be necessary through or around the perimeter of Precinct A and along the eastern perimeter of BHE. Council suggests that Precinct A proponents make a corridor allowance for this future rising main in consultation with Precinct B proponents.

Table 22 below summarises the sewerage infrastructure requirements and Figure A6 (from *Sewerage Infrastructure Planning – Summary of Updates* draft report GHD, 2011) in Appendix H summarises the overall provision of sewerage infrastructure.



Table 22 Precinct B – Sewerage Infrastructure Summary

Infrastructure Item	Cardno Reference	Service Area	Ultimate Loading at completion of Precinct B (ET)*	Service Date
PMP-188 and RM	n/d	PMP-188 catchment	n/d	Post 2030
PS 8 and RM / GM	n/d	PS 8, PMP-188, PMP-189 catchments	n/d	2015
PS 7 and RM	PS4	PS 7, 8, PMP-188, PMP-189 catchments	n/d	2015
PS 6	PS3	PS 6, 7, 8, PMP-188, PMP-189 catchments (Precinct B)	3178	2015
RM1 from PS 6 to PS 2402	n/d	Precinct B (initial development)	Proportion of 3178	2015
RM2 from PS 6 to PS 2402	n/d	Precinct B (residual development)	Proportion of 3178	2030
Augmentation of PS 2402	Cumbalum PS	Augmentation for Precinct B loads	n/d	2015 - 2020
RM from PS 2402 to Ballina RWTP	n/d	Precinct B	n/d	2020

8.3.3 Subdivision Reticulation Mains

The design and construction of sewerage reticulation infrastructure is to be proposed by the developer at Development Assessment (DA) stage and assessed by Council.

Infrastructure works conducted internal to a site by developers should make due allowance for future development on adjacent land identified for potential development. This would include sizing pipes and/or making allowance for augmentation, provision of easements and provision of connection points for upstream flows. An agreement between landholders may be required to achieve this.

8.3.4 Summary

The ability to provide a sewer service to CURA is severely restricted until the upgrade of Ballina RWTP is completed and flows from BHE SPS 2402 can be diverted direct to this RWTP. Since the completion of the optimisation upgrade of Lennox Head RWTP, there may be interim capacity for development of Lot 284 DP1141745 within the southern portion of Precinct A, subject to the timing of other Ballina Heights development.

Following commissioning of the Ballina RWTP and diversion of the Ballina Heights rising mains, the remaining limitations for Precinct A are the necessary upgrade of two catchment pump stations as detailed in Table 20 and the construction of BHE-PS3 as the primary pump station servicing BHE and Precinct A.

Post the upgrade of the Ballina RWTP, the ability to service Precinct B remains restricted by the capacity of PS 2402, and particularly the capacity of the Ballina Heights rising mains to Ballina RWTP. Council's preferred servicing strategy allows for utilisation of existing infrastructure capacity in Precinct A / BHE in the initial development stages for Precinct B. However, the availability of existing capacity would depend on the progress of development in Precinct A and BHE.



The allowance of a rising main corridor through or around the perimeter of Precinct A and BHE will also be necessary to service Precinct B.

8.4 Sewerage Infrastructure for an Alternative Development Sequence

8.4.1 Scenario

For the scenario where development in the CURA is out of sequence with that assumed in the W&SIPR, that is where development is proposed to occur in a manner other than as a south to north progression, the development proponent/s for Precinct B would require an alternative sewerage servicing proposal. Options that have been raised during the rezoning process are discussed below.

8.4.2 Option 1 – Package RWTP

- ▶ Install a temporary package RWTP on the eastern side of Precinct B;
- ▶ Treat waste water to a tertiary standard to meet the recycled water obligation;
- ▶ Pump recycled water to the Ballina Heights Recycled Water Reservoir; and
- ▶ Decommission the temporary package RWTP when rising main to PS2402 is constructed, augmentation of PS2402 is undertaken and the additional rising main to Ballina RWTP is complete.

Option 1 Issues

- ▶ Significant upfront capital cost for Package RWTP and associated infrastructure, which will only be temporary.
- ▶ In the circumstance where a package treatment plant was proposed, ultimately Council will not accept the management and maintenance of this infrastructure. Therefore construction would be temporary in nature and would require decommissioning at the point where a reticulated connection was available.
- ▶ Discharge of treated effluent to the Ballina Nature Reserve is highly unlikely due to the sensitive environment.
- ▶ Wastewater needs to be treated to a tertiary standard in order for the development to meet the 80% reuse target set by the Master Plan.
- ▶ Treated effluent would need to be directed to the Ballina Heights Recycled Water Reservoir. This would require similar pump station and rising main infrastructure as required for sewerage servicing anyway.

8.4.3 Option 2 – Construct Residual Infrastructure in Precinct A

- ▶ Construct residual infrastructure back to the most northerly location of infrastructure in Precinct A for initial stages of Precinct B only;

Option 2 Issues

- ▶ The funding for this infrastructure would be the responsibility of Precinct B proponents unless an arrangement for partial funding of the infrastructure was reached with Precinct A proponents.
- ▶ Infrastructure sizing would need to be for the ultimate development scenario as staging is not preferred.
- ▶ Ultimate sizing with low flows brings the potential for septicity issues related to long residency times which would need to be investigated.
- ▶ The location of the infrastructure in the northern end of Precinct A and across Sandy Flat would need to be determined with easements in place potentially before adjoining development stages are constructed.

8.4.4 Summary

In the circumstance where development occurred out of sequence with a south to north progression, Council's preference would be for implementation of Option 2, subject to a full design investigation specific to the system circumstance, prior to lodgement of DA.



9. Open Space

The requirements for open space and recreation facilities as a result of the expected development of the shire are documented in the Open Space Strategy (BSC, 26 June 2008).

The Open Space Strategy identified that Council will need to facilitate the provision of a range of local, district and regional level open space and recreation facilities to meet expected demand, including:

1. New local parks and embellishment of new and existing local parks;
2. New district parks and embellishment of new and existing district parks;
3. New playing fields, outdoor sports courts and other active recreation facilities; and
4. New and augmented regional open space and recreation facilities.

As per Table 1.2.1 of the Contributions Plan, local and district parks and playing fields/courts (Items 1 – 3 above) to meet the demands of development in CURA will be addressed by other contribution arrangements outside of this Plan. However, for the purposes of this IDP the minimum standard for local and district parks and playing fields/courts has been applied as specified in the Open Space Standards contained in the Open Space Strategy. Table 23 below outlines the expected open space provision for Cumbalum.

9.1 Active Open Space

BSC's Combined Development Control Plan (DCP) Chapter 1 (Urban Land) – Part 4 (Policy Statements), Policy Statement No 4 – Urban Subdivision (see Appendix I) defines following the standards for provision of open space in new residential subdivisions:

- ▶ A dedication of land for district playing fields and outdoor courts; and
- ▶ The construction of full sized playing fields and courts.

Types of fields and outdoor courts may include:

- ▶ Full size cricket / AFL fields (estimated area 150m x 420m for 2 x full fields);
- ▶ Full size rugby / soccer fields (2 within cricket / AFL field);
- ▶ Cricket nets;
- ▶ Netball / basketball / tennis facilities.

The DCP identifies the provision of playing fields and outdoor courts in close proximity to schools and integration with local or district parks where possible to enhance appeal and diversity of opportunity.

Facilities required by Policy Statement 4 include:

- ▶ Club house;
- ▶ Amenities;
- ▶ Change rooms;
- ▶ Lighting; and
- ▶ Car parking¹⁸.

¹⁸ See the specifications in the policy statement for additional detail.



9.1.1 Desired Outcomes for AOS

Sandy Flat

Council's desired outcome for Cumbalum's AOS is the provision of playing fields, outdoor courts and amenities for Precinct A and B adjacent to each other to the north of Sandy Flat floodway¹⁹ on the northern end of Lot 150 DP755684 (Barlow's property – Precinct A) and Lot 19 DP873873 (Lynn's property – Precinct B) respectively. The advantages include:

- ▶ Central location for both Precincts;
- ▶ Relatively flat land;
- ▶ Located on proposed link road with good access opportunities; and
- ▶ Collocation provides economic sense for canteens and clubhouses whilst also affording efficiency of maintenance.

It is recommended that proponents for each precinct come to an arrangement to provide different field and court types to avoid duplication and create a variety of sporting options. The facilities chosen should also reflect the demands identified for particular venues within the district and shire.

It is important to note that the location proposed has considered both precincts are appropriate to be rezoned and will be viable in the short to medium term.

Specific Provision for Precinct A

The specific provision for Precinct A has been considered in preparation of the 1st Cut LES:

- ▶ District playing fields at Sandy Flat (15 ha combined with Precinct B) including:
 - Club house with amenities
 - Car parking
- ▶ The following district facilities on the western side of the development:
 - 6 tennis courts in a cluster
 - 6 netball courts in a cluster
 - Club house with amenities
 - Car parking
 - Skate park (1000m²)
 - Community garden (4000m²)
 - Community hall (1000m²)
 - Pre School / extended day care (2000m²)
- ▶ 2 or 3 local parks (2000m² each)

Specific Provision for Precinct B

- ▶ The specific requirements for Precinct B include the shared provision of District playing fields at Sandy Flat (15 ha combined with Precinct A) including:
 - Club house with amenities
 - Car parking

The specific provision of district facilities and local parks remains the subject of consideration for the 1st Cut LES.

¹⁹ Subject to demonstrated flood immunity, negligible impact on flooding and ecological values.



9.2 Passive Open Space

9.2.1 Local Parks

Policy Statement 4 details the following attributes for local parks:

- ▶ Within 400 metres of all residents and safe access without major road crossings;
- ▶ Access via more than one street;
- ▶ Integrate with Local shopping and community facilities;
- ▶ Integrate with cycle and footpaths;
- ▶ Parks will be sited to take advantage of natural features such as foreshore areas or where there is significant vegetation when applicable;
- ▶ Link with wildlife corridors and flora and fauna protection areas to provide transition between natural and residential development;
- ▶ At least 2,000m² should be level to gently sloping land; and
- ▶ Play equipment and soft fall to meet relevant Australian Standards.

Facilities required by Policy Statement 4 include:

- ▶ Seating;
- ▶ Play equipment;
- ▶ Pathway;
- ▶ Shade trees or structures;
- ▶ Litter bins; and
- ▶ Safety fencing as appropriate.

9.2.2 District Parks

Policy Statement 4 details the following attributes for district parks:

- ▶ Preferably within 5 kms of all residents;
- ▶ Integrate, where possible with other community facilities, community centres, outdoor sports facilities;
- ▶ Located such that traffic causes minimal disruption to residential areas;
- ▶ May be highly modified/developed or incorporate significant natural features;
- ▶ Access to public transport; and
- ▶ Play equipment and soft fall to meet relevant Australian Standards.

Facilities required by Policy Statement 4 include:

- ▶ Seating;
- ▶ Play equipment;
- ▶ Pathway;
- ▶ Shade trees or structures;
- ▶ BBQ facilities
- ▶ Litter bins;
- ▶ Safety fencing as appropriate;
- ▶ Sealed parking;
- ▶ Toilets and amenities; and



Table 23 Open Space and Recreation Provision

Open space / recreation facility	Minimum standards	rate	Precinct A	Precinct B	unit	Other planning specifications
Local parks	0.33 hectares per 1,000 population	0.33	0.71	2.51	ha	Minimum size 2,000 square metres.
	Embellishment cost equivalent of 1.5 playgrounds per 1,000 population	1.5	3.2	11.4	playgrounds	All residents to be within 400 metres of a local park.
District parks	0.5 hectares per 1,000 population	0.5	1.08	3.80	ha	Centrally located reserves that may include picnic and social/recreation facilities including picnic shelters, walking opportunities, public art and play equipment etc. Planning undertaken on a 'district' catchment basis.
District Playing fields and outdoor courts	1.7 hectares per 1,000 population	1.7	3.68	12.92	ha	Minimum 4 ha site for each facility.
	1.2 full size playing fields per 1,000 population, which includes allowance for sports courts	1.2	2.6	9.1	fields	Planning undertaken on a 'district' catchment basis.
	1.0 courts per 1,000 population	1.0	2.2	7.6	courts	
Regional open space facilities	Regional OS Facilities Contribution	\$ 990.00	\$627,163.00	\$2,203,362.00	\$ per Population	Contribution to centralised sporting and recreation facilities.
	Admin Contribution	\$ 11.00	\$23,789.70	\$83,575.80	\$ per Population	Planning undertaken on a Shire-wide catchment basis.
			\$650,972.70	\$2,286,937.80	Contribution	

Table Assumptions:

	Precinct A	Precinct B
ET	801	2814
Population	2162	7598



9.2.3 Undevelopable Land

Large areas of land being set aside for environmental/bush regeneration, bushfire buffers and stormwater drainage etc. are referred to as undevelopable land. Dedications of areas of undevelopable land (including steep land), are not recognised for inclusion within the dedication of land for open space.

Due to the potential cumulative maintenance burden imposed on Council where such land is accepted, some qualifications and condition guidelines are presented within Section 2.9 of the *BSC Open Space Strategy* as follows:

- ▶ Undevelopable land will be kept in large contiguous areas to ensure there is a consistent maintenance regime to improve environmental outcomes.
- ▶ Environmental protection areas will be rehabilitated.
- ▶ An applicant will provide details on how undevelopable land will be maintained in perpetuity and who will be responsible for the management (This may be in the form of an Environmental Management Plan (EMP), Bushfire Management Plan (BMP), Stormwater Management Plan etc.).
- ▶ Demonstrated appropriate levels of rehabilitation, development and embellishment to minimise maintenance.
- ▶ Council will only accept the dedication of undevelopable land where it can be demonstrated that the public benefit outweighs the on-going maintenance burden. The provision of public access will be an important consideration in making this judgement.

There is also the need to ensure that undevelopable lands are appropriately managed irrespective of whether Council becomes the management authority.

It is Council's preferred option that undevelopable land will be created as a community title lot in a community title scheme that has sufficient financial capacity to maintain these areas. It must be demonstrated that undevelopable land will not end up in Council's ownership through unpaid rates.

The dedication of land that adequately addresses the above points could be undertaken through implementation of a Planning Agreement.

9.3 Open Space Management

9.3.1 Depot Land

The provision of land for an open space maintenance depot is considered appropriate for the expected population of Cumbalum and associated open space area to be dedicated. Land for a depot would be best integrated with district playing fields facilities.

9.3.2 AOS Maintenance

Policy Statement 4 requires the developer to maintain and improve the surface of playing fields and associated facilities until they are available for public use.

9.3.3 POS Maintenance

The developer is required to maintain and improve the surface of parks and associated facilities, and ensure the establishment of trees and gardens during the 'maintenance period'. Handover of maintenance duties would only occur after Council conducts an 'off maintenance' inspection and is satisfied that the works have been completed and maintained in accordance with the conditions of consent.

9.3.4 Undevelopable Land

As discussed in Section 9.2.3, Council will only accept the dedication of undevelopable land where it can be demonstrated that the public benefit outweighs the on-going maintenance burden.

Cumbalum (especially Precinct B) has large areas of undevelopable land due to:



- Hairy Joint Grass (native threatened species);
- Slopes above 25%;
- Remnant rainforest and/or other threatened species; and
- Bushfire buffer areas.

Often a combination of the above constraints occurs simultaneously.

Following Peer Review of the proponent's technical documentation to support rezoning, Council has had discussions with the proponents in consultation with DECC to understand the maintenance burdens associated primarily with Hairy Joint Grass. Issues include:

- A lack of knowledge on the ability to translocate Hairy Joint Grass;
- The need for maintenance to include slashing which is often not possible on steep slopes where the grass often is found;
- The difficulty in maintaining grassland without slashing due to weed infestation such as camphor laurels;
- The difficulty of upholding the environmental value of native grassland (or other threatened species) within private residential allotments;
- In the case of allowing cattle to graze the grassland to maintain:
 - The potential landuse conflict between residential development and cattle and the need to include buffer offsets;
 - The need for large contiguous areas for grazing viability that have some partially level areas.

Given the difficulties associated with this undevelopable land Council is reluctant to accept dedication of areas that have a combination of Hairy Joint Grass and steep slopes. However, the proponents need to demonstrate an appropriate management regime irrespective of whether Council becomes the management authority.

9.4 Community Facilities

The Community Facilities Strategy identified that Council will need to facilitate the provision of a range of district and regional level community facilities to meet expected demand, including:

1. New and augmented multipurpose halls and community centres;
2. New performing arts spaces;
3. New public exhibition spaces;
4. New facilities for surf lifesaving;
5. Additional library area and books;
6. Additional floor area for civic administration purposes; and
7. New community support floor area.

9.4.1 District Facilities

As per table 1.2.1 of the Contributions Plan, district community facilities (Item 1 above - halls and community centres), will be addressed by other contribution arrangements outside of the Contributions Plan for development of CURA. However, for the purposes of this IDP the minimum standard for district community facilities has been applied as specified in the Community Facilities Standards contained in the Community Facilities Strategy. Table 24 below outlines the expected contributions for Cumbalum.



Multipurpose Hall

It is evident from Table 24 that a multipurpose hall (and a suitable and dedication to accommodate each facility) will need to be provided for both Precinct A and Precinct B with the approximate GFA's²⁰. Each hall must have:

- ▶ Division into two separate spaces, suitable for activities of local groups;
- ▶ At least 2 offices for groups or visiting services;
- ▶ A capability for use for vacation and after-school care (including play areas);
- ▶ Kitchen, storage and amenities; and
- ▶ Access for the disabled.

It is possible that the GFA required for both Precinct A and B could be combined into one conjoined facility, however the specific mechanism for achieving this outcome would need to be considered prior to lodgement of the development application.

9.4.2 Shire Wide (Regional) Facilities

As per table 1.2.1 of the Contributions Plan, a monetary contribution will be required towards Shire wide facilities (Items 2 – 7 listed in Section 9.4) for development of Cumbalum Ridge. An estimate of the relevant contribution (09/10 rates) towards such facilities is provided in Table 24.

²⁰ GFA is estimated from approximate rezoning yield. Actual GFA to be determined upon development approval.



Table 24 Community Facilities Provision

Community Facility	Minimum standards	rate	Precinct A	Precinct B	unit	Other planning specifications
Multi-purpose halls	105 m ² GFA per 1,000 population Minimum size of 250 m ² GFA with an auditorium size of approximately 170 m ² Planning undertaken on a 'district' catchment basis	105	191.4	567.0	m ²	Hall to have the following components: ⇒ A meeting hall, which is able to be divided into two separate spaces, suitable for activities of local groups ⇒ At least 2 offices for groups or visiting services ⇒ A capability for use for vacation and after-school care (incl play areas) ⇒ Kitchen storage and amenities ⇒ Access for the disabled
Shire Wide Community Facilities	Shire Wide Contribution	\$3,237,561.90	\$11,373,906.60	\$3,237,561.90	\$ per Population	Contribution to performing arts space, exhibition space, surf lifesaving facilities, libraries and books, Shire administration centre, community support facilities, child care facilities.
	Admin Contribution	\$41,091.30	\$144,358.20	\$41,091.30	\$ per Population	
		\$3,278,653.20	\$11,518,264.80	\$3,278,653.20	Contribution	

Table Assumptions:

	Precinct A	Precinct B
ET	801	2614
Population	2162	7598

Contribution is estimated from approximate rezoning yield and 09/10 rates published in BSC Contributions Plan Amendment No 1. Actual contribution to be calculated on applicable rates at the time of assessment.

9.4.3 Community Gardens

Community gardens are unique forms of public open space managed by the community for the production of food and to contribute to the achievement of a sustainable urban environment.

Council has recently adopted a Community Gardens Policy (March 2010) to provide direction on how Council will facilitate the establishment and management of community gardens on Council owned and controlled land public land.

In formulating the structure of Precinct A and B, Council encourages the dedication of land meets the site selection criteria within the draft policy for later potential use for community gardens.



10. Infrastructure Funding and Delivery

10.1 Funding Implementation Options

The following funding implementation options exist for provision of trunk infrastructure at Cumbalum:

- ▶ DSP's for water and sewerage infrastructure (Section 64);
- ▶ Development Contribution Plan for road, open space and community infrastructure (Section 94); and
- ▶ Planning Agreements. Council may enter an agreement with:
 - An individual developer; or
 - A Development Corporation.

An overview of the DSP's and Developer Contribution Plan's relevant to CURA is provided in Section 3 of this report. A description of Planning Agreements follows.

10.1.1 Planning Agreements

Alternatively, or in addition to the levying of Section 64 or 94 contributions, a council may negotiate a voluntary planning agreement with a developer (or development corporation) for the provision of local infrastructure.

Council may be prepared to negotiate planning agreements with relevant parties for the provision of community infrastructure in relation to major developments. Such agreements may address the substitution of, or be in addition to, the direct contributions required under a contributions plan. Any draft planning agreement shall be subject to any provisions of or Ministerial directions made under the EP&A Act or EP&A Regulation relating to planning agreements.

10.2 Funding via Contributions

10.2.1 Road Contributions

Precinct A and B developers will be levied for shire wide road contributions as a condition of development consent in accordance with the Roads Contributions Plan. The contributions will be applied to the development on the basis of approved mix of development types according to Table 1.2 – Contribution Rates Summary Schedule in BSC (2010). These contributions will be committed to the proposed works outlined in the Roads Contributions Plan, including Items 20, 31-33 and 34 related to Ross Lane and Ballina Heights Drive. For CURA road items funded through contributions refer to the current Roads Contribution Plan.

10.2.2 BSC Water Supply, Recycled Water and Sewerage Infrastructure Contributions

Precinct A and B developers will be levied for shire wide water supply, recycled water and sewerage contributions as a condition of development consent in accordance with the DSP's. The contributions will be applied to proposed works outlined in the respective DSP's on the basis of approved lots (ET's). Note; the 2004 Sewerage DSP does not currently include recycled water infrastructure for Precinct B.

It is anticipated that the revised DSP's will be exhibited and adopted by Council in the 2011 – 2012 financial year.

10.2.3 Rous Water Contributions

Precinct A and B developers would contribute towards the cost of the provision of bulk supply assets including the new Knockrow Service Reservoir through payment of development contributions to Rous Water. These contributions are separate to development contributions payable to Ballina Shire Council. The contribution levied by the DSP is collected by Rous Water through the imposition of conditions of consent by the constituent Council (BSC).



10.2.4 Open Space Contributions

The provision of a range of local, district and regional level open space and recreation facilities to meet expected demand is incorporated into development contributions detailed within the Ballina Shire Contributions Plan. Precinct A and B developers will be levied for shire wide open space contributions as a condition of development consent in accordance with the Plan.

New and augmented regional open space and recreation facilities are included within the Contributions Plan. However, as per Table 1.2.1 of the Plan, local and district parks and playing fields/courts required to meet the demands of development in CURA will be addressed by other contribution arrangements outside of this Plan. The level of provision will be in accordance with the Open Space Strategy (BSC, 2008). For estimated CURA open space contributions refer to Table 23.

10.2.5 Community Facilities Contributions

The provision of a range of district and regional level community facilities to meet expected demand is incorporated into development contributions detailed within the Ballina Shire Contributions Plan. Precinct A and B developers will be levied for shire wide community facility contributions as a condition of development consent in accordance with the Plan.

As per Table 1.2.1 of the Contributions Plan, district community facilities for CURA will be addressed by other contribution arrangements outside of the Plan. The level of provision will be in accordance with the Community Facilities Strategy (BSC, 2008). For estimated CURA community facilities contributions refer to Table 24.

10.2.6 Options for Delivery of Contribution Plan Infrastructure

Provided by Supply Authority

Items of infrastructure included in the DSP's and Contribution Plans may be provided by Council, with developers contributing through payment of development contributions.

Provision by Developer

Alternatively, subject to agreement with Council, developers could construct items of infrastructure and receive credits on development contributions otherwise payable. In this circumstance the works would be detailed in a Project Brief including a detailed cost estimate of the works that would otherwise be contributed too. Council will oversee the design and construction of such works.

Typically Council will condition the levying of contributions and where the developer wishes to construct the works they would approach Council, outlining their proposal to do so.

10.3 Funding and Delivery of Infrastructure outside the DSPs / Contribution Plans

Historically Council's approach to the provision of trunk infrastructure has been to incorporate the funding and delivery into a Section 64 or Section 94 plan, placing the onus on Council to effectively plan the scale and timing of said infrastructure. However, where the following criteria can be met, Council will require trunk infrastructure delivery by the developer where it:

- Can be provided through an individual or landholder agreement;
- Is principally required to service a future rezoning area only, with no benefit to the remainder of the shire's community; and
- Can be designed and constructed entirely by the developer in accordance with Council's design standards with minimal input required from Council i.e. minimal need to incorporate other Council service areas into the design.



10.3.1 Implications of DSP Revision

Due to the changes proposed to CURA infrastructure delivery detailed in this IDP, particularly for sewerage infrastructure for Precinct B, the existing DSP's have been partially superseded and may not provide a comprehensive means to implement future CURA infrastructure.

Council's Water and Sewerage DSP's are currently undergoing revision as part of Council's commitment to review developer charges and proposed infrastructure implementation after a period of 5 to 6 years. The DSP revision is being undertaken on the basis of the criteria specified above, and consequently there will be changes to the extent of infrastructure included in the DSP's. In the case of CURA, it is Council's intention that growth requiring augmentation of Council's existing infrastructure is generally proposed to be included in the revised DSP's whereas items that meet the criteria outlined in Section 10.3 above would be excluded.

In the interim period before the revised DSP's are exhibited and endorsed by Council, development proponents can liaise with Council to determine if the existing DSP's provide an adequate approach to funding a particular item or alternatively negotiate a position on funding. Infrastructure items currently fully or partially sitting outside of Development Servicing and Contribution Plans are outlined in Table 25 below.

Table 25 Summary of Items Currently Outside of Contributions Plans

Trunk Item	Outside of:	Comment
Roads – Ballina Heights Drive (Precinct A)	Roads Contributions Plan (2010)	Excluded as the works meet the criteria outlined in Section 10.3
Roads – North-South link road (Precinct B)	Roads Contributions Plan (2010)	
Roads – Duplication of Cumbalum Interchange roundabouts	Roads Contributions Plan (2010)	Potential works documented as part of later CURA Traffic Study (Cardno, 2011)
Roads – Duplication of Ross Lane Interchange roundabout and Pacific Highway overpass	Roads Contributions Plan (2010)	
Roads – Precinct B connections to Ross Lane	Roads Contributions Plan (2010)	
Water Supply – Precinct A	Water DSP (2004)	Arrangement required to service proposal differs to 2004 DSP allowance. Works that meet the criteria outlined in Section 10.3 are proposed to be excluded in revised DSP, subject to exhibition and Council adoption processes
Water Supply – Precinct B	Water DSP (2004)	
Recycled Water – Precinct A	Sewerage DSP (2004)	
Recycled Water – Precinct B	Sewerage DSP (2004)	Not included in 2004 DSP. Works that meet the criteria outlined in Section 10.3 are proposed to be excluded in revised DSP, subject to exhibition and Council adoption processes
Sewerage – Precinct A	Sewerage DSP (2004)	Arrangement required to service proposal differs to 2004 DSP allowance. Works that meet the criteria outlined in Section 10.3 are proposed to be excluded in revised DSP, subject to exhibition and Council adoption processes
Sewerage – Precinct B	Sewerage DSP (2004)	
Open Space - local and district parks and playing fields/courts (Precinct A and B)	BSC Contributions Plan (2008)	Rates of provision documented in the BSC Contributions Plan can be used for guidance.



10.3.2 Options for Delivery of Infrastructure

As part of the preparation of this IDP, Council has identified a number of options for infrastructure provision for CURA. Where infrastructure has been identified that is not included within a Contributions Plan, Council will need to be satisfied prior to rezoning that the infrastructure can be provided in a timely, coordinated manner and at minimal risk to the public purse. The infrastructure requirements will also need to be clearly articulated to ensure that existing and future parties with an interest in the land are fully aware of the requirements. The following options have been considered.

Planning Agreements

The provision of infrastructure required by the IDP would be documented in Voluntary Planning Agreement/s (VPA) prepared and adopted pursuant to section 93F of the *EP&A Amendment (Development Contributions) Act 2005*. The VPAs would be offered by the developer and, subject to Council agreeing with the contents, exhibited for comment in accordance with the Act. Following adoption, the terms of the VPA are bound to the title of the land.

Single Planning Agreement

A single VPA could be prepared documenting all commitments by the developer concerning the provision of the required infrastructure by the IDP and the LES. This would be exhibited concurrently with the rezoning documentation. Whilst a single agreement provides certainty for all parties involved, it also requires a considerable level of detail to be resolved relatively early in the land development process.

Multiple Staged Planning Agreements

A broad VPA could be prepared and exhibited at rezoning stage (VPA 1). This document would broadly commit to meet the infrastructure requirements documented in the IDP and LEP, but would not contain details concerning the provision of said infrastructure.

Following approval of the rezoning, any future development proposal would need to address the items addressed by VPA 1. This could be achieved by way of subsequent Planning Agreement/s detailing the specific infrastructure requirements reflected in the subdivision development application. Additionally specific infrastructure requirements included in the subsequent Planning Agreement would be cross referenced in the Conditions of Consent (subject to approval).

10.3.3 Conditions of Consent

Infrastructure that is required to service a subdivision stage and will ultimately become a Council asset but is not considered 'capital works' infrastructure, will be imposed by Council as a condition of consent. The developer would be required to design and construct these works to the satisfaction of Council. Such infrastructure generally includes:

- ▶ Local roads;
- ▶ Footpaths, cycleways and bus shelters;
- ▶ Potable water reticulation mains;
- ▶ Recycled water reticulation mains;
- ▶ Sewerage mains and collections; and
- ▶ Interallotment drainage.



11. References

- Ardill Payne & Partners (May 2008) *Cumbalum Ridge Rezoning Application – Precinct A*
- Ardill Payne & Partners (January 2010) *Cumbalum Ridge Rezoning Application Revision – Precinct A*
- Ballina Shire Council (July 2006) *Cumbalum Structure Plan – Volume 1*
- Ballina Shire Council (December 2006) *Landholder Group (CURA) Workshop One: Minutes*
- Ballina Shire Council (October 2008) *Ballina Shire Contributions Plan*
- Ballina Shire Council (March, 2010) *Ballina Shire Roads Contributions Plan*
- Ballina Shire Council (March, 2010) *Contributions Plan Amendment No. 1*
- Ballina Shire Council (2010) *Draft Community Gardens Policy*
- Cardno Eppell Olsen (September 2007, Adopted February 2008), *Ballina Strategic Road Network Update*
- Cardno Eppell Olsen (March 2011), *Cumbalum Urban Release Area, Ballina Shire – Traffic Study*
- GHD (May 2004a) *Ballina Shire Council Sewerage Infrastructure – Development Servicing Plans*
- GHD (May 2004b) *Ballina Shire Council Water Supply Infrastructure – Development Servicing Plans*
- GHD (May 2004c) *Ballina Shire Council Water and Sewerage Infrastructure Planning Report*
- GHD (March 2011) *Sewerage Infrastructure Planning – Summary of Updates draft report*
- Hydrosphere Consulting (April 2009) *Rous Water Development Servicing Plan – Bulk Supply Services*
- LandPartners (2009) *Cumbalum Precinct B Rezoning Request*
- New South Wales Department of Commerce (Water Solutions) (April 2009) *Concept Design for Catchment Diversion Works North Ballina, Ballina Heights and West Ballina SPS; Part of the Ultimate Upgrade of the Ballina Lennox Head Wastewater Scheme*
- New South Wales Public Works (December 2009) *Ballina Heights – Cumbalum Comparative Cost Estimation for Dual Supply Reservoirs & High Level Zone Options*
- NSW Water Solutions, Department of Services, Technology and Administration (September 2009) *Ballina - Lennox Head Recycled Water Master Plan, Environmental Impact Statement*
- Phillips Group (April 2008) *Ballina Shire Council – Ballina Recycled Water Communication and Education Plan*



Appendix A

Cumbalum Urban Release Area

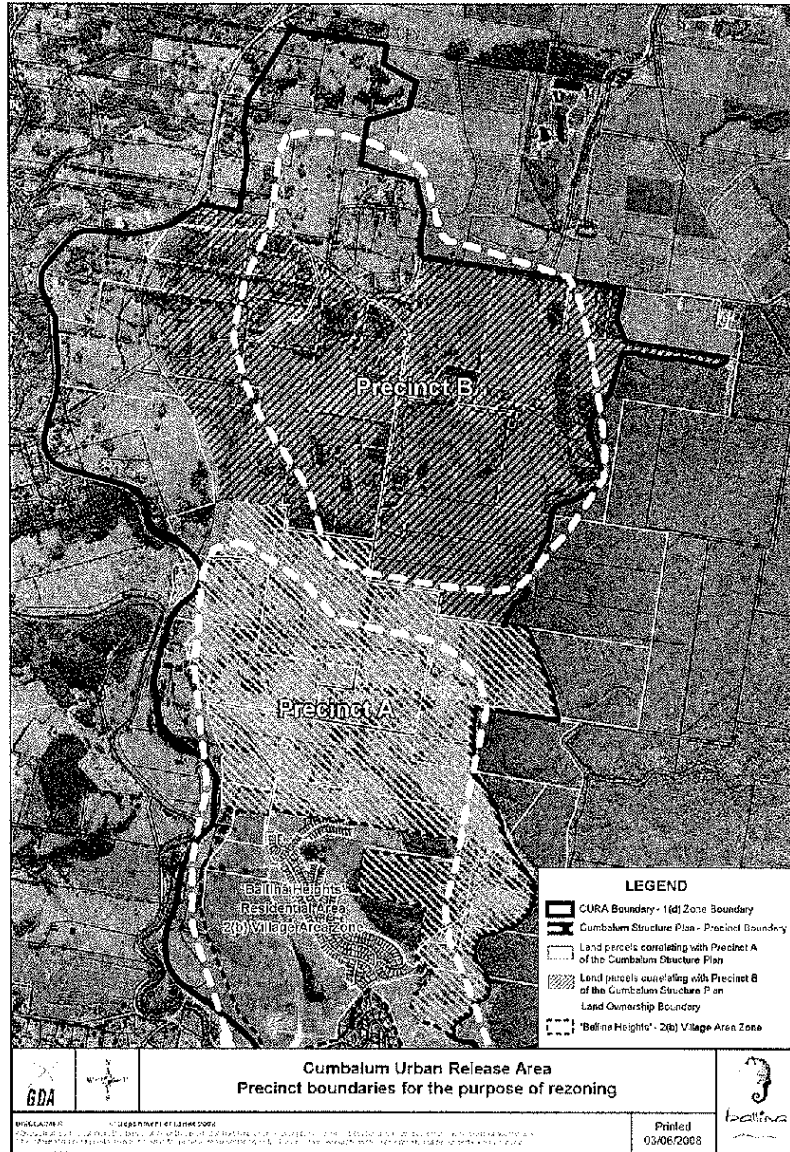
Precinct Boundaries Map

Structure Plan Map

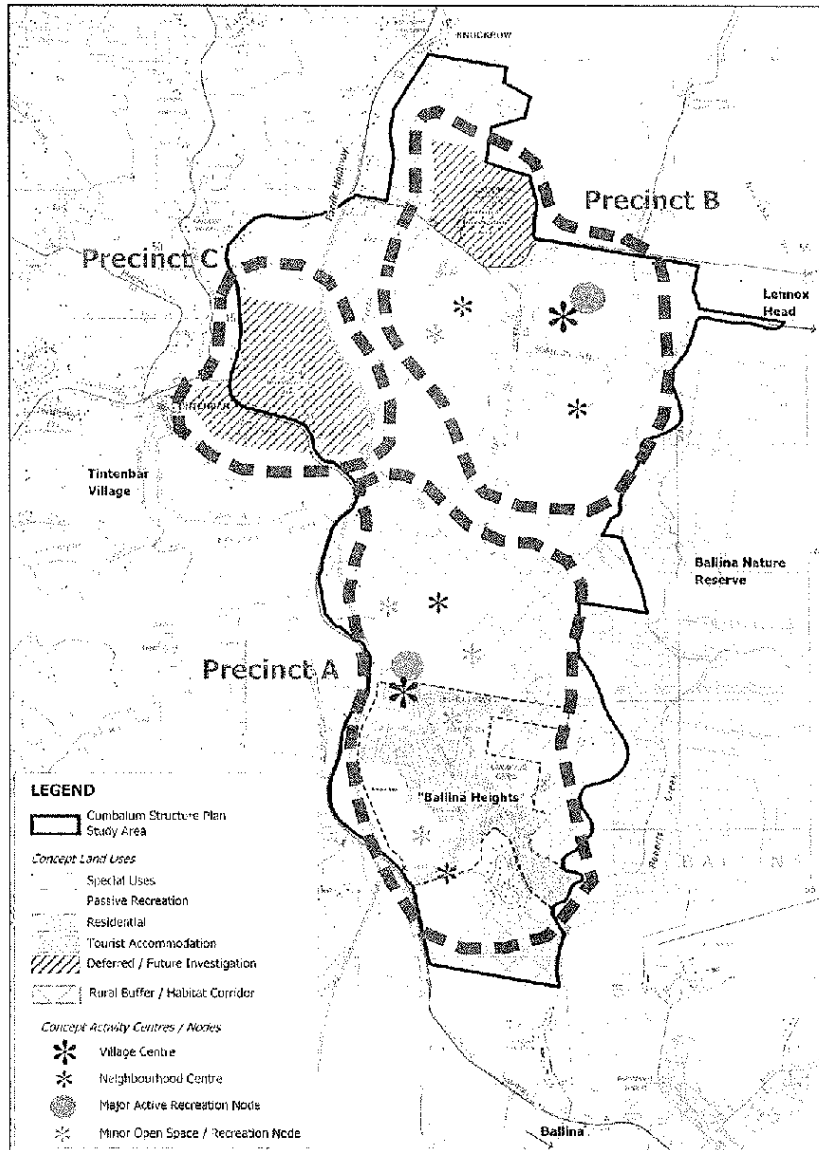
22/14929/1632

Cumbalum Urban Release Area
Infrastructure Delivery Plan

ATTACHMENT 1: LOCALITY PLAN



ATTACHMENT 2: CUMBALUM STRUCTURE PLAN - CONCEPT PLAN



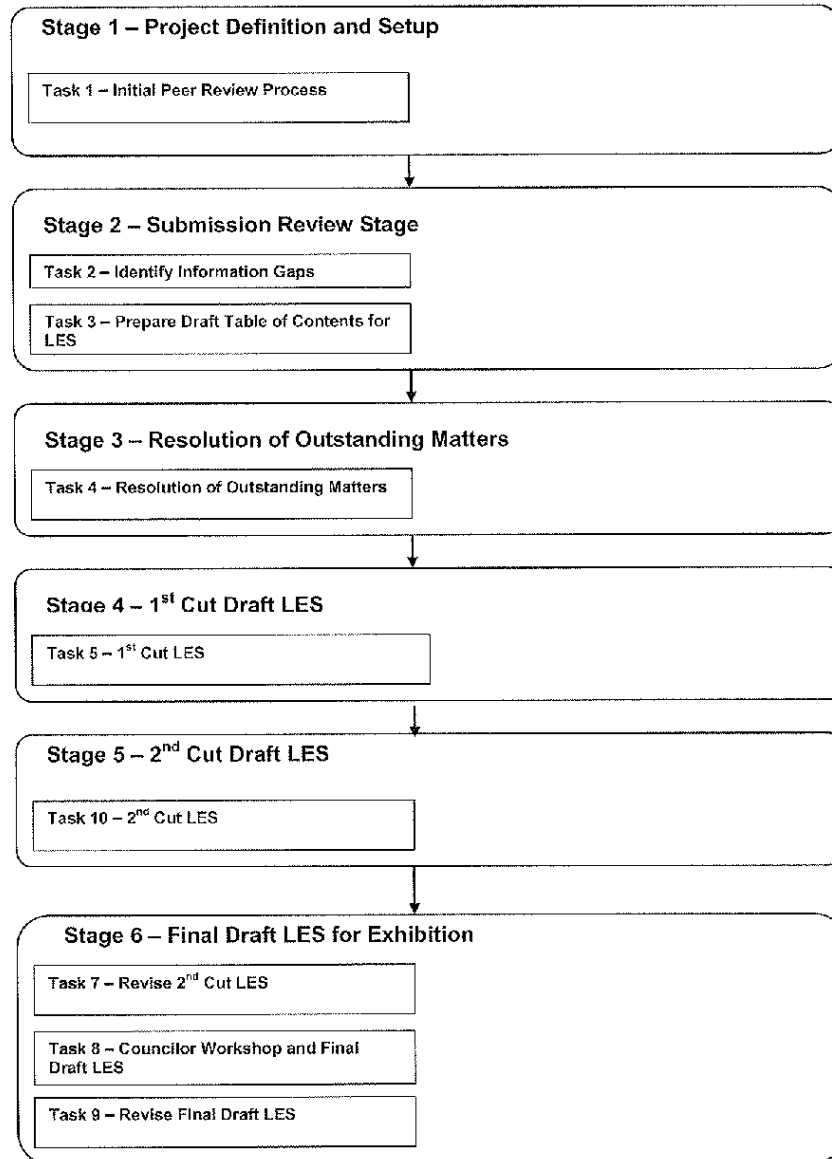


Appendix B
LES Flow Diagram

22/14929/1832

Cumbalum Urban Release Area
Infrastructure Delivery Plan

Methodology / Milestone Flow Chart





Appendix C

Structure and Staging Plans

Figure 2A - Ballina Heights Concept Landscaping & Feature Plan

Precinct A Structure Plan (APP, 2010)

Precinct B Structure Plan (LandPartners, 2010)

Precinct B Staging Plan

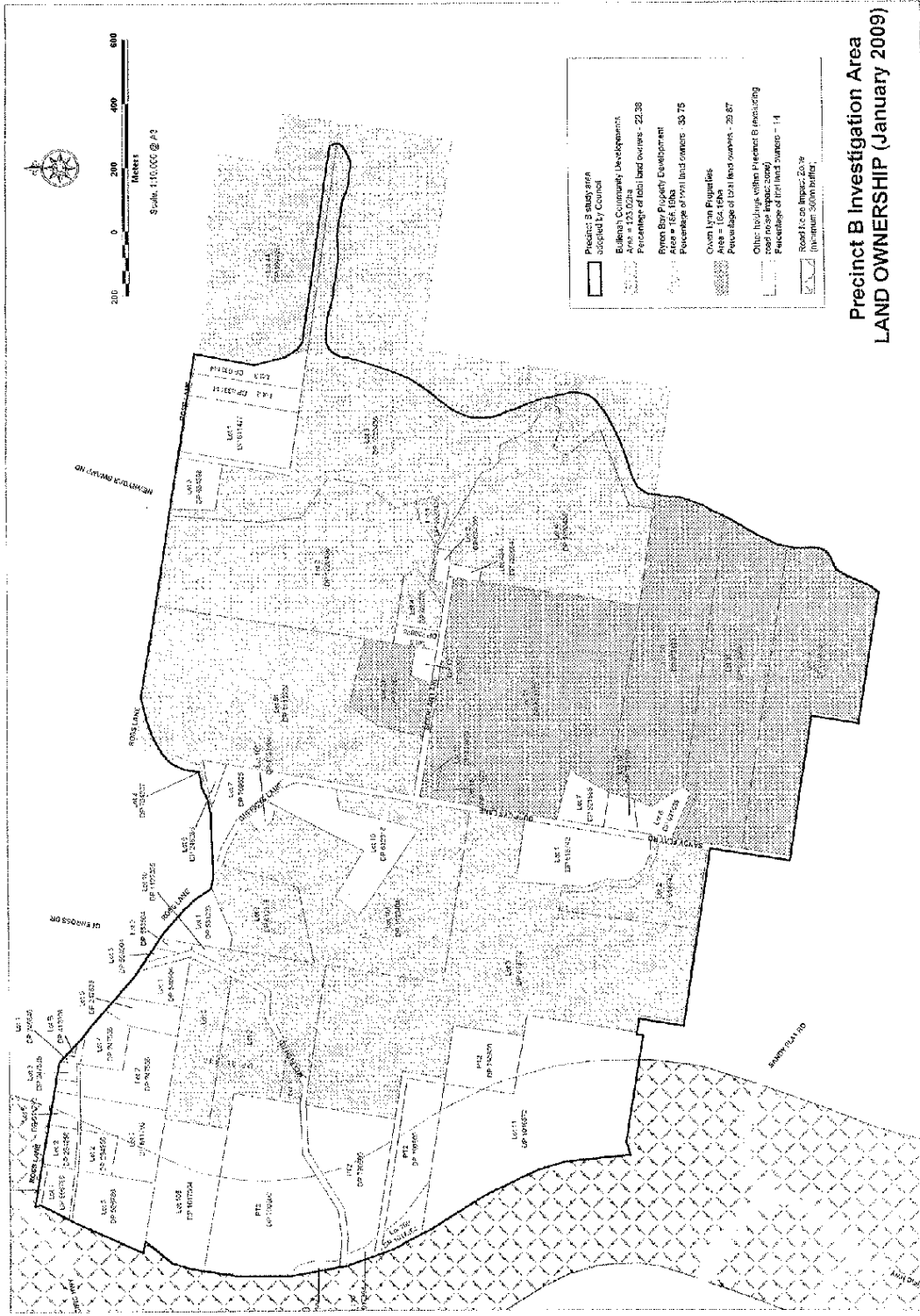
Precinct B Land Ownership Plan

22/14929/1032

Cumbalum Urban Release Area
Infrastructure Delivery Plan



Figure 3





Appendix D

Road Infrastructure Plans

Figure 5.1 - BH / Precinct A Traffic Catchment and Major Roads

REZ11 - BH / Precinct A Major Collector Roads

SK16 - Plan and Long section Cumbalum Way (Ballina Heights Drive)

SK148 - Proposed Cumbalum Way (Ballina Heights Drive) Interchange

Proposed Sandy Flat Intersection Design

Location of Works - Cumbalum

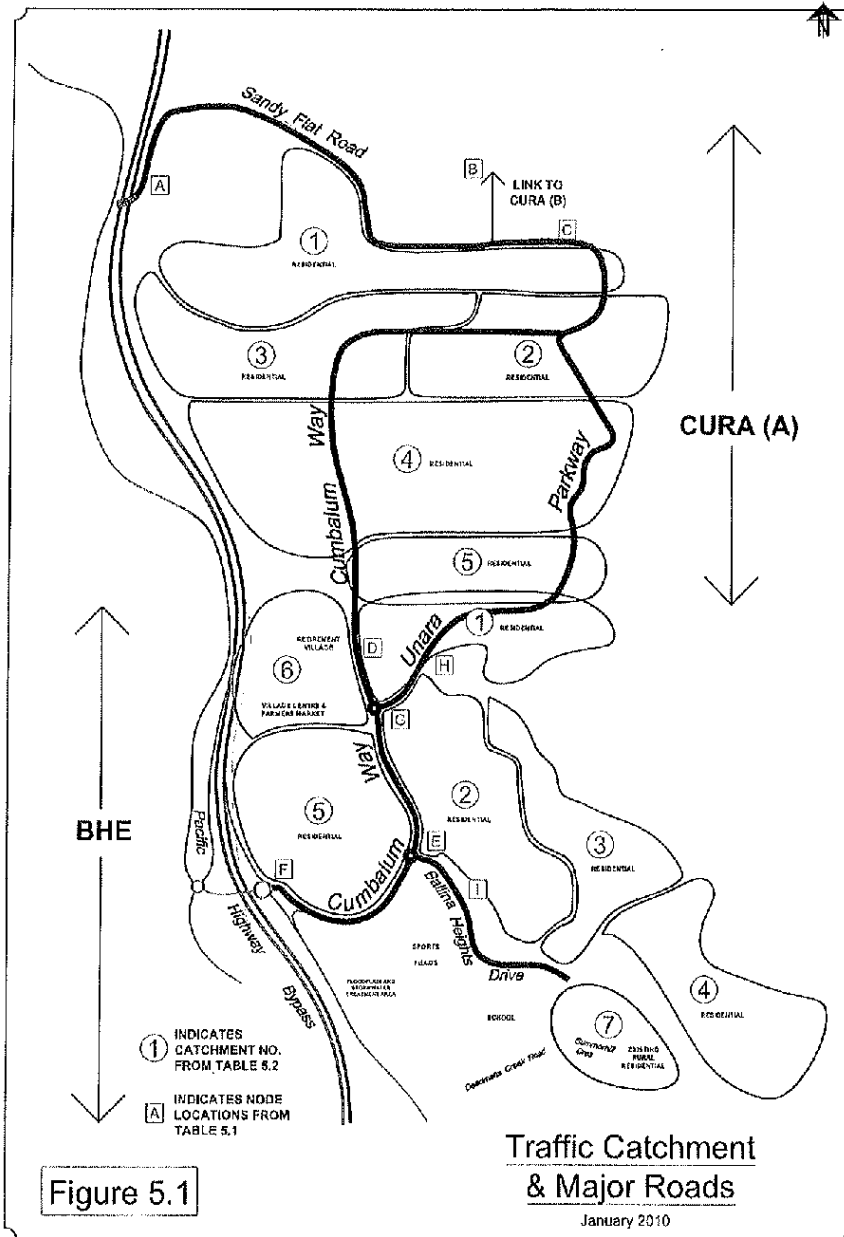
SK03 – Precinct B Indicative Major Road Network Plan

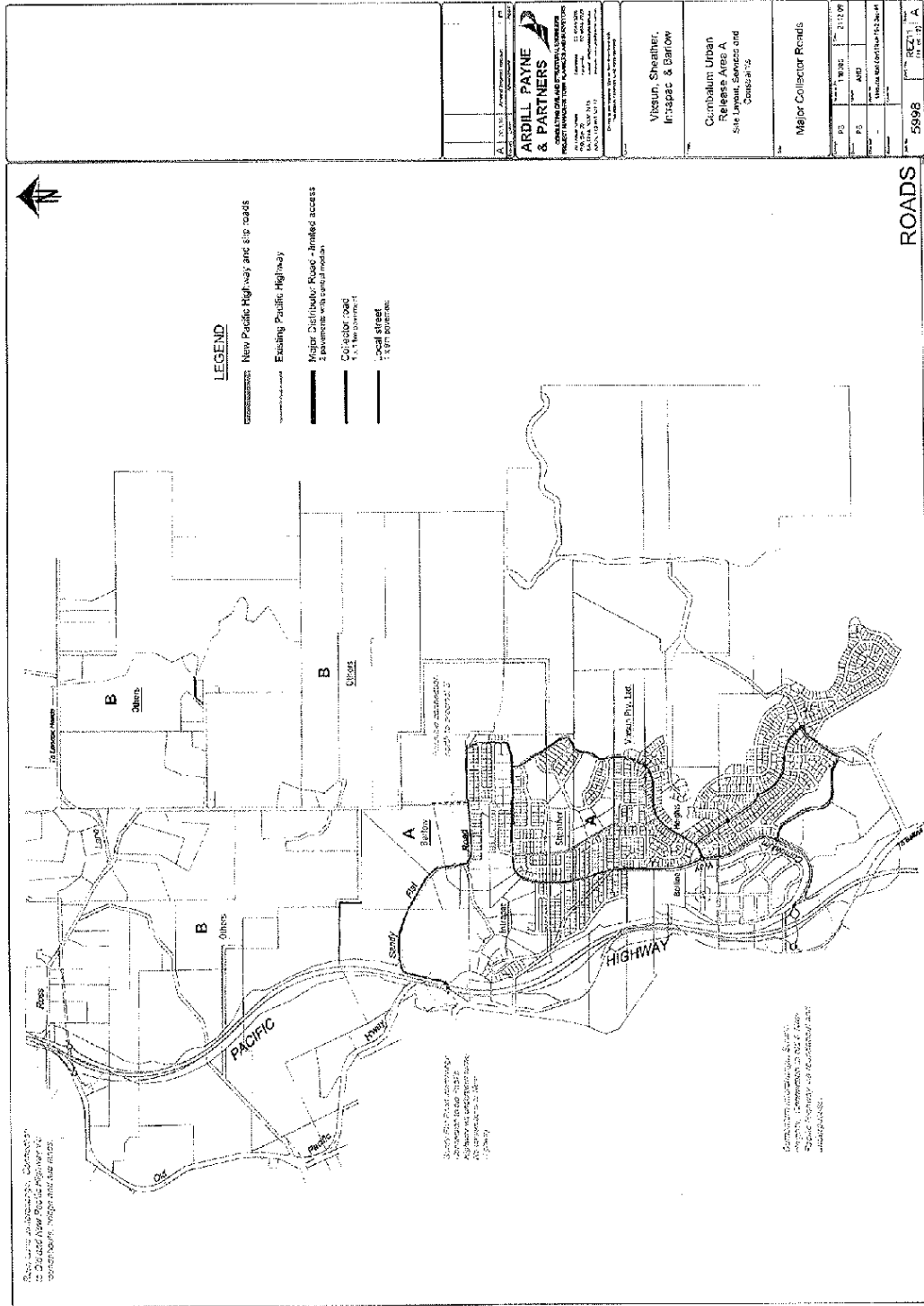
SK47 – Precinct B Indicative Road Network

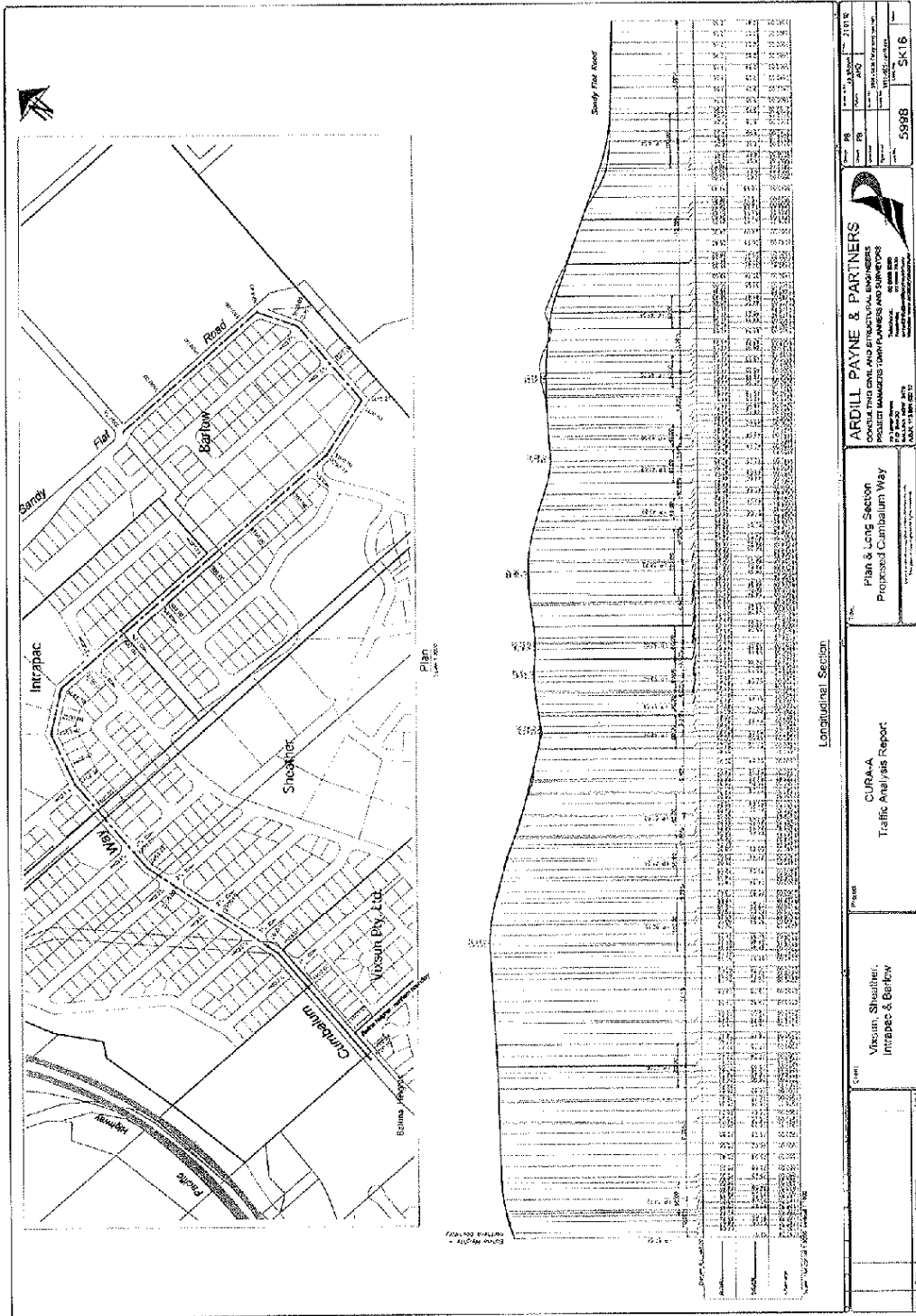
SK48/49 – Precinct B Road 1 Long section

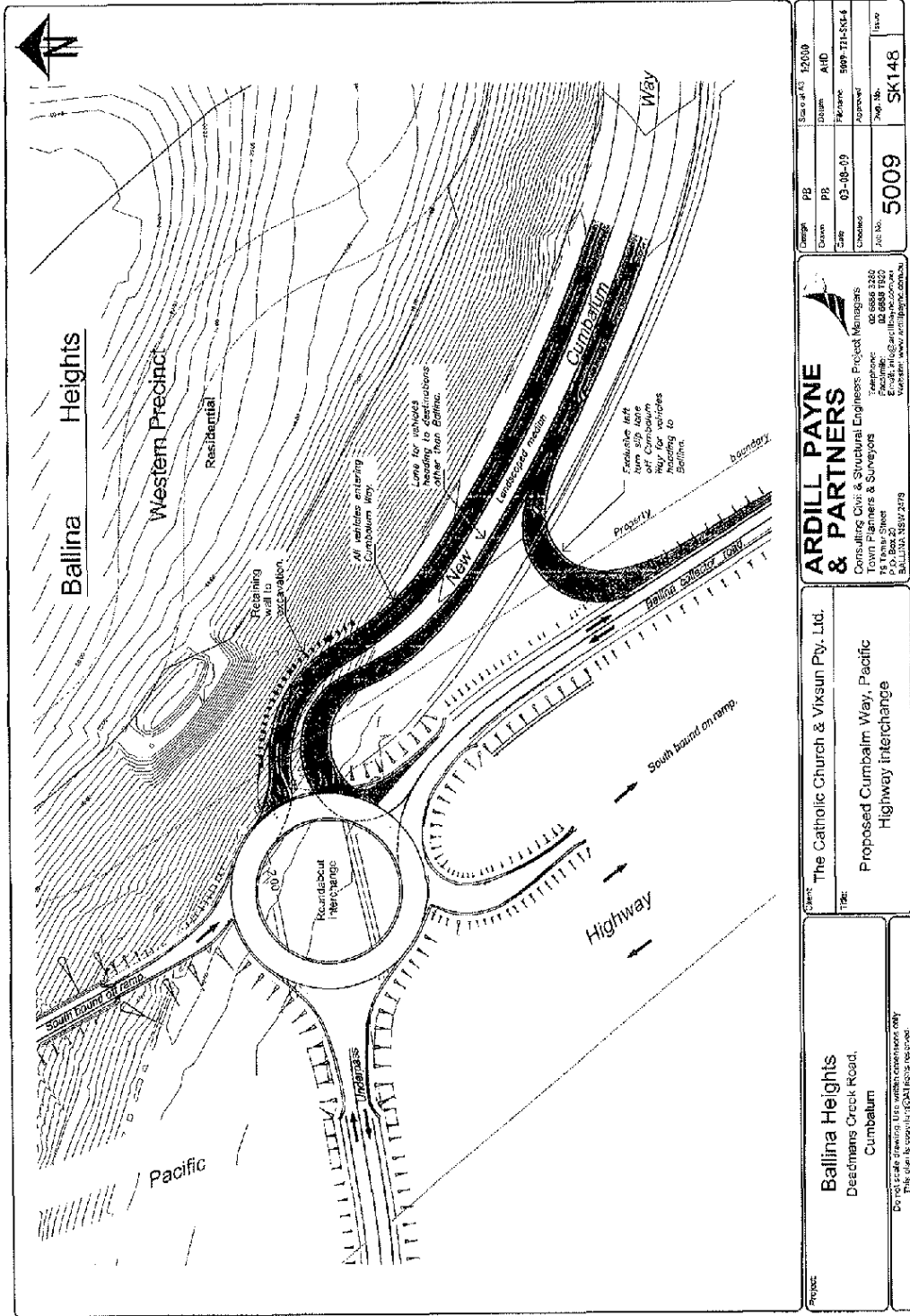
22/14929/1632

Cumbalum Urban Release Area
Infrastructure Delivery Plan









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Drawn	PB	Date	AHD
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Checked		Approved	
Job No.	5009	Page No.	SK148
		Issue	

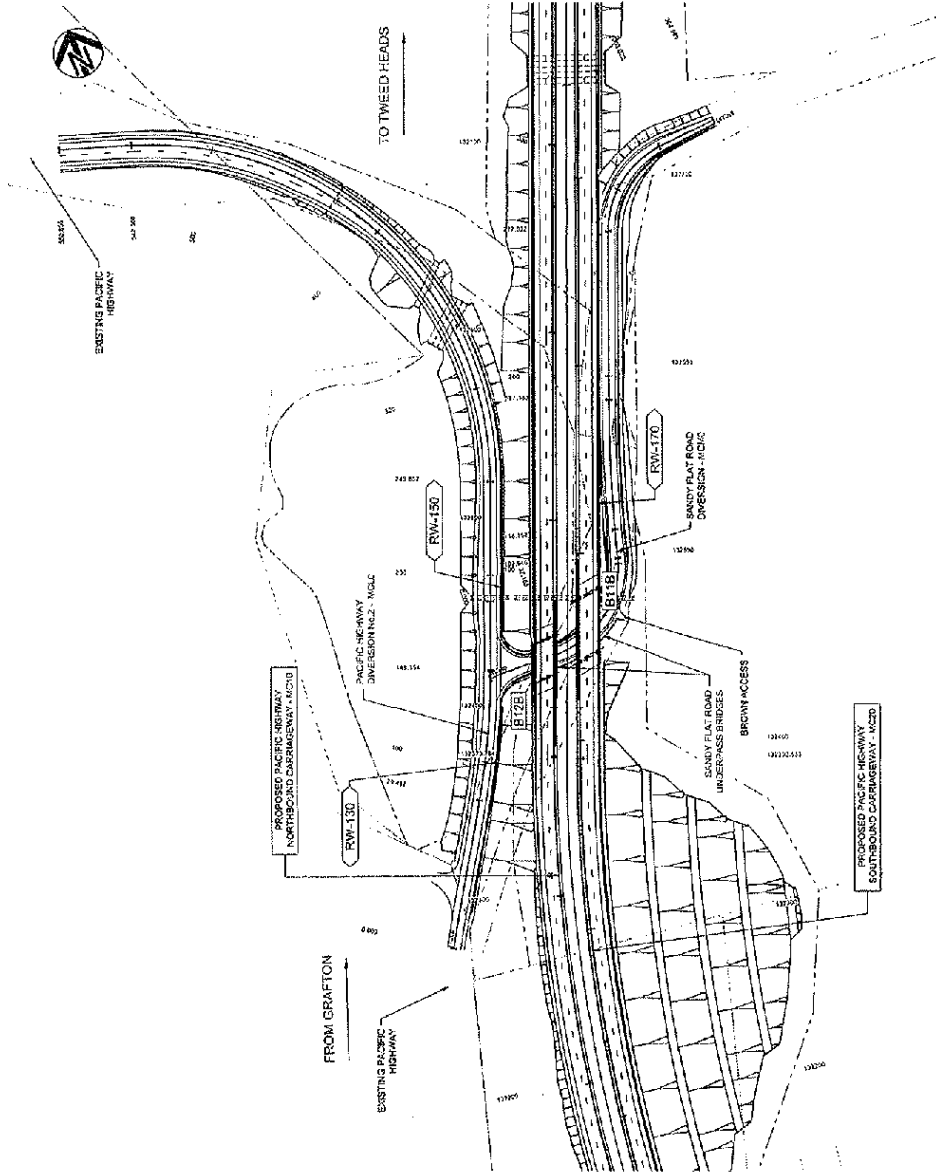
ARDILL PAYNE & PARTNERS
 Consulting Civil & Structural Engineers, Project Managers
 Telephone: 02 6544 3336
 Fax: 02 6544 3333
 Email: info@ardillpayne.com.au
 Website: www.ardillpayne.com.au
 P.O. Box 23
 Ballina NSW 2480

Client: The Catholic Church & Vixsun Pty. Ltd.
 Title: Proposed Cumbalum Way, Pacific Highway interchange

Project: Ballina Heights
 Deadmans Creek Road,
 Cumbalum
 Do not scale drawing. Use with care/attention only.
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LEGEND

	ROAD CONTROL LINE
	PROJECT BOUNDARY
	EXISTING PROPERTY BOUNDARY
	EXISTING ROADS AND TRACKS
	SA WAREAM SAFETY BARRIER
	SHR SAFETY BARRIERS
	TYPE B BARRIER
	RETAINING WALL - REFERENCE ONLY (REFER RETAINING WALL DRAWINGS)
	RETAINING WALL NUMBER (REFER RETAINING WALL DRAWINGS)
	BRIDGE INFRASTRUCTURE NUMBER (REFER BRIDGE DRAWINGS)
	UNDERPASS INFRASTRUCTURE NUMBER (REFER UNDERPASS DRAWINGS)
	CONCRETE CURB WITH HEADWALLS (REFER DRAINAGE DRAWINGS)
	BASIN (REFER DRAINAGE DRAWINGS)

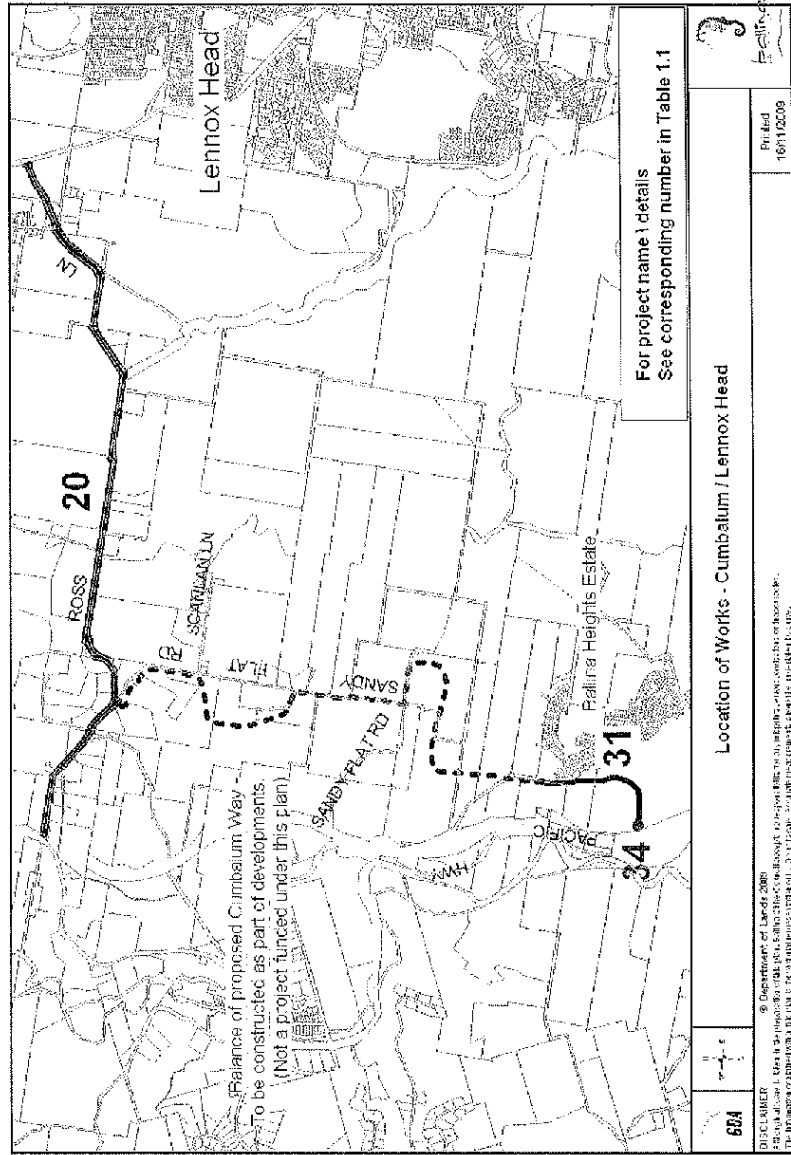


INFORMATION DOCUMENT
080219_SANDY_FLAT_ROAD_INTERSECTION

SANDY FLAT ROAD INTERSECTION
SHEET 1

ISSUED FOR INFORMATION ONLY
REVISED: 12/11/12

Ballina Shire Roads Contributions Plan 2010
FINAL DRAFT JAN 2010





NOTES:
 1. ALL HIGHWAYS SUBJECT TO FUTURE INVESTIGATION AND DESIGN.

LEGEND:

- PRECINCT A
- PRECINCT B
- PRECINCT B BOUNDARY
- PROPOSED HIGHWAY BYPASS
- PROPOSED LOCAL ROAD
- PROPOSED FUTURE MAJOR ROAD NETWORK



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BULLENAH COMMUNITY DEVELOPMENTS

PRECINCT B
CUMBALUM
 INDICATIVE MAJOR ROAD NETWORK PLAN

REVISED	DATE
1	11/08
2	12/08
3	03/11/08

PROJECT NO. B1006102

SKETCH No. SK03(03/11/08)

INDICATIVE MAJOR ROAD NETWORK PLAN



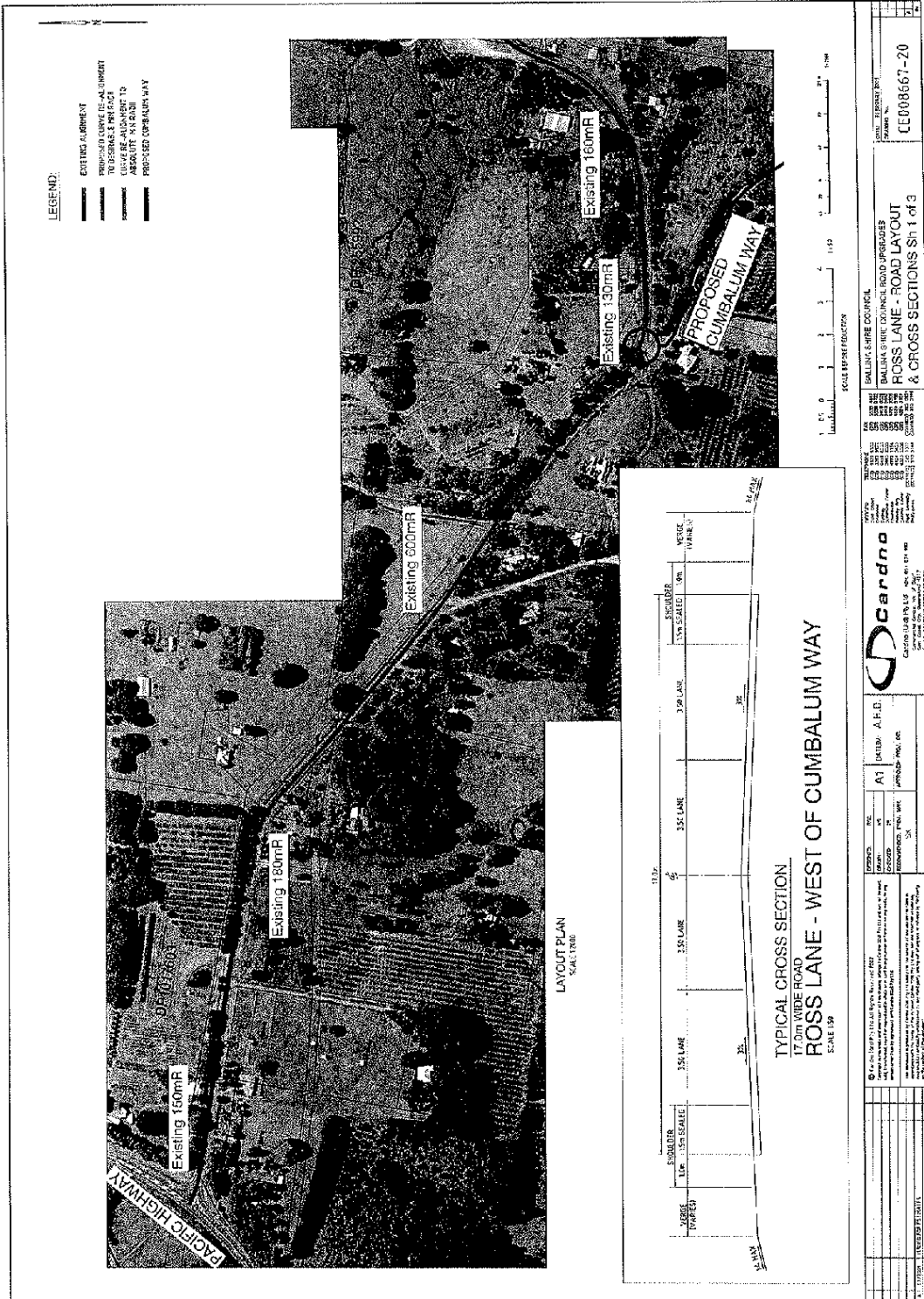
Appendix E

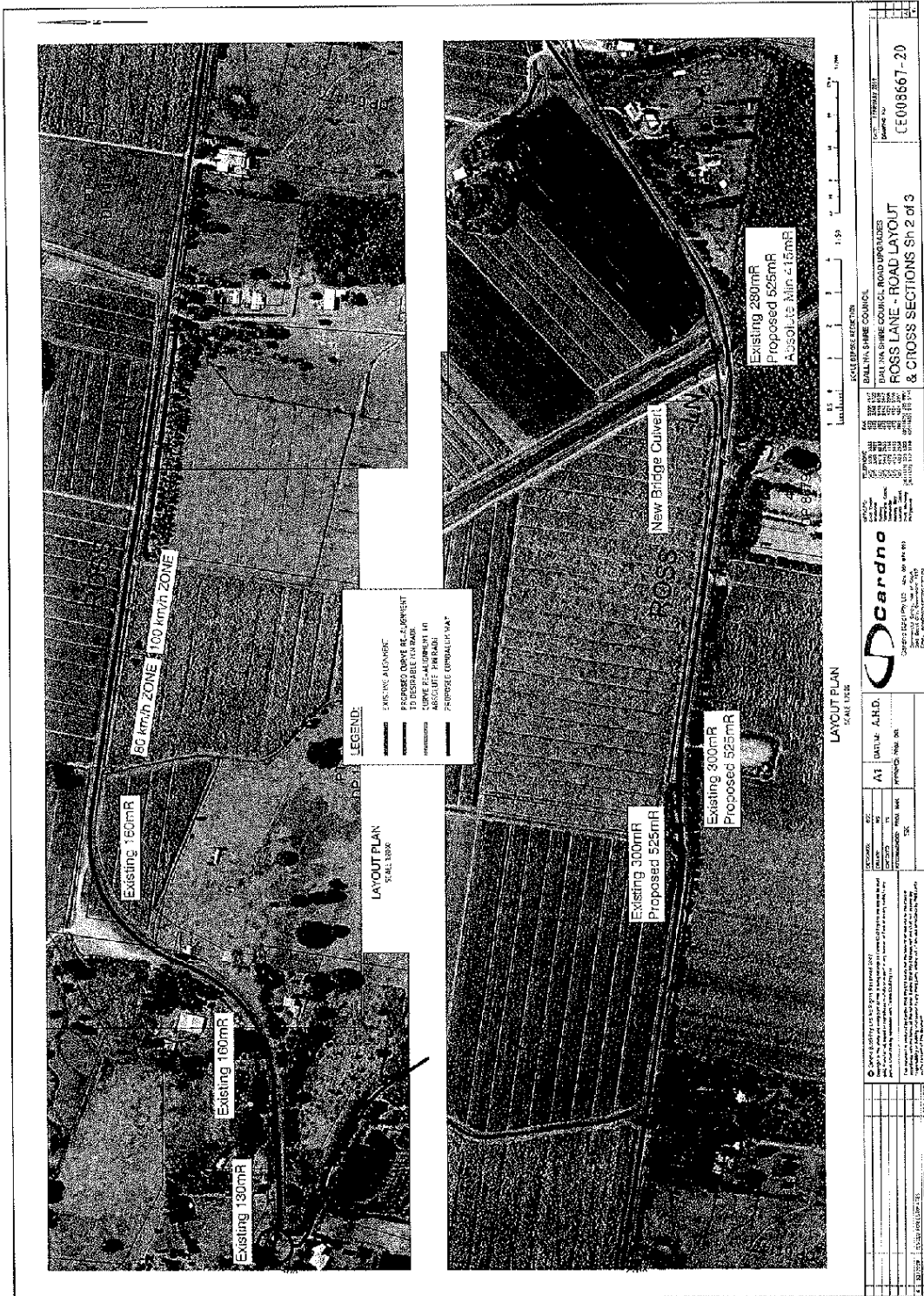
Ross Lane Improvements

Ross Lane - Road Layout and Cross Sections

22/14529/1832

Cumbalum Urban Release Area
Infrastructure Delivery Plan







Appendix F

Water Supply Infrastructure Plans

SK01 – Precinct B Water Supply Strategy

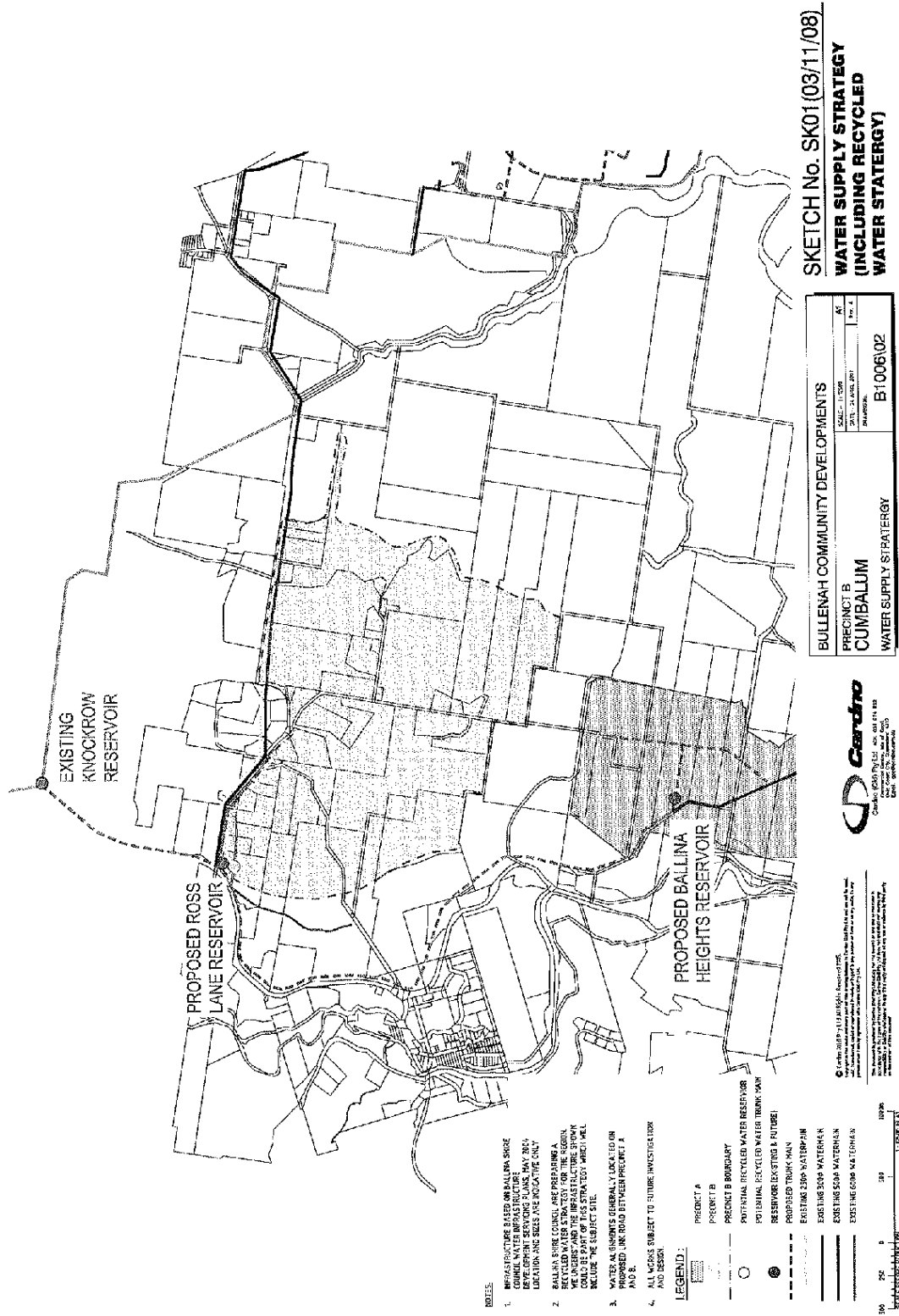
REZ7 – Precinct A Water Reticulation

DSP (2004) Water Supply Plans

CURA Conceptual Servicing Plan - Water

22/14929/1832

Cumbalum Urban Release Area
Infrastructure Delivery Plan



NOTES:

1. INFRASTRUCTURE BASED ON BALLINA SHIRE COUNCIL WATER INFRASTRUCTURE MAPS. LOCATIONS SHOWN ARE INDICATIVE ONLY.
2. BALLINA SHIRE COUNCIL ARE PREPARING A WATER MAINS AND TRUNK MAINS NETWORK. THE LOCATIONS AND THE INFRASTRUCTURE SHOWN COULD BE PART OF THIS STRATEGY WHICH WILL INCLUDE THE SUBJECT SITE.
3. WATER MAINS ARE GENERALLY LOKATED ON PROPOSED LINK ROAD BETWEEN PROJECT A AND B.
4. ALL WORKS SUBJECT TO FUTURE INVESTIGATION AND DESIGN.

LEGEND:

- PROJECT A
- PROJECT B
- PRECINCT B BOUNDARY
- POTENTIAL RECYCLED WATER TRUNK MAIN
- POTENTIAL RECYCLED WATER TRUNK MAIN RESERVOIR (EXISTING & FUTURE)
- PROPOSED TRUNK MAIN
- EXISTING 2000 WATERMAIN
- EXISTING 5000 WATERMAIN
- EXISTING 5000 WATERMAIN
- EXISTING 5000 WATERMAIN

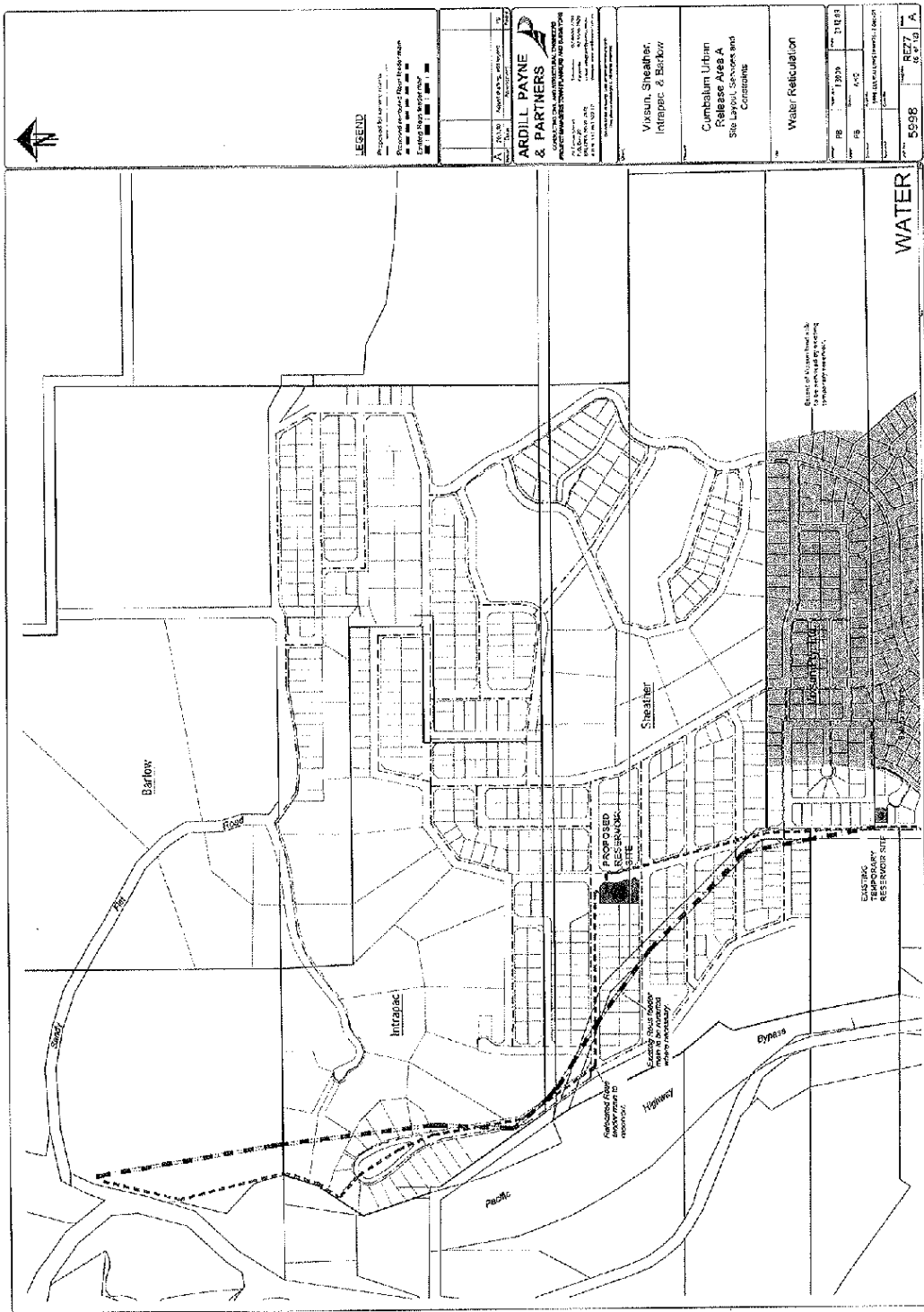
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SKETCH No. SK01 (03/11/08)
**WATER SUPPLY STRATEGY
 (INCLUDING RECYCLED
 WATER STRATEGY)**

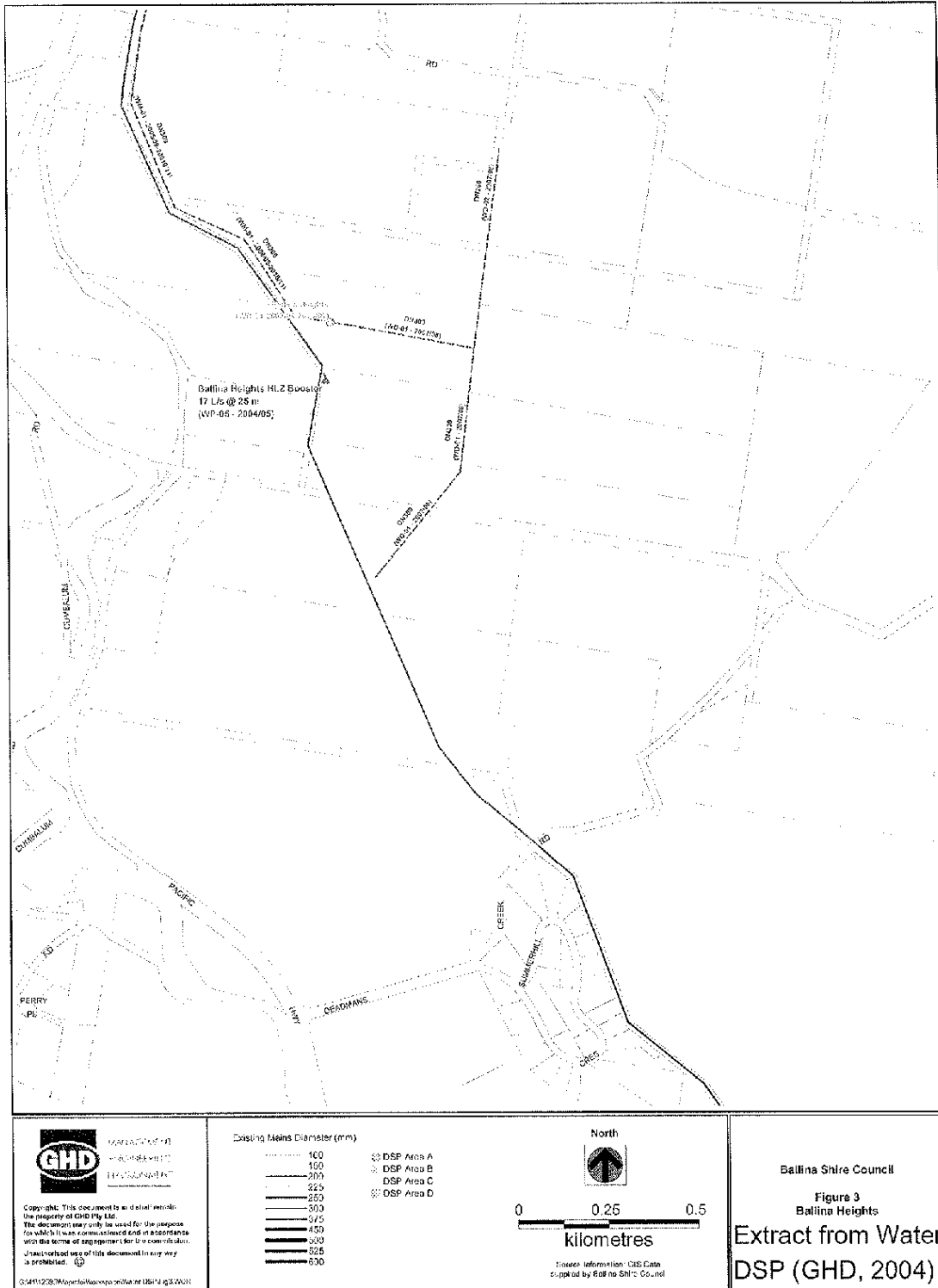
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PRECINCT B CUMBALUM	PROJECT NO. B1006102		
WATER SUPPLY STRATEGY			

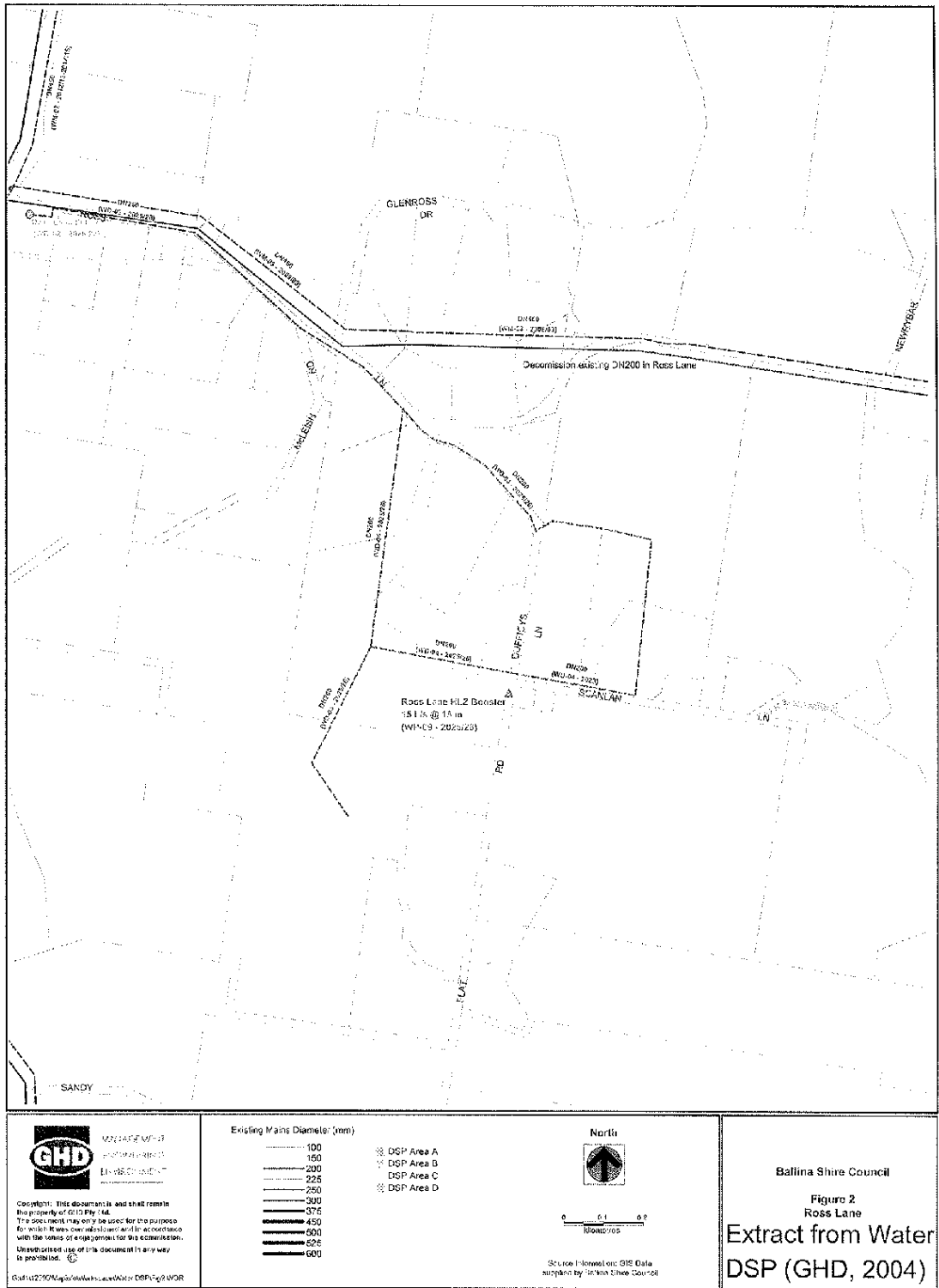


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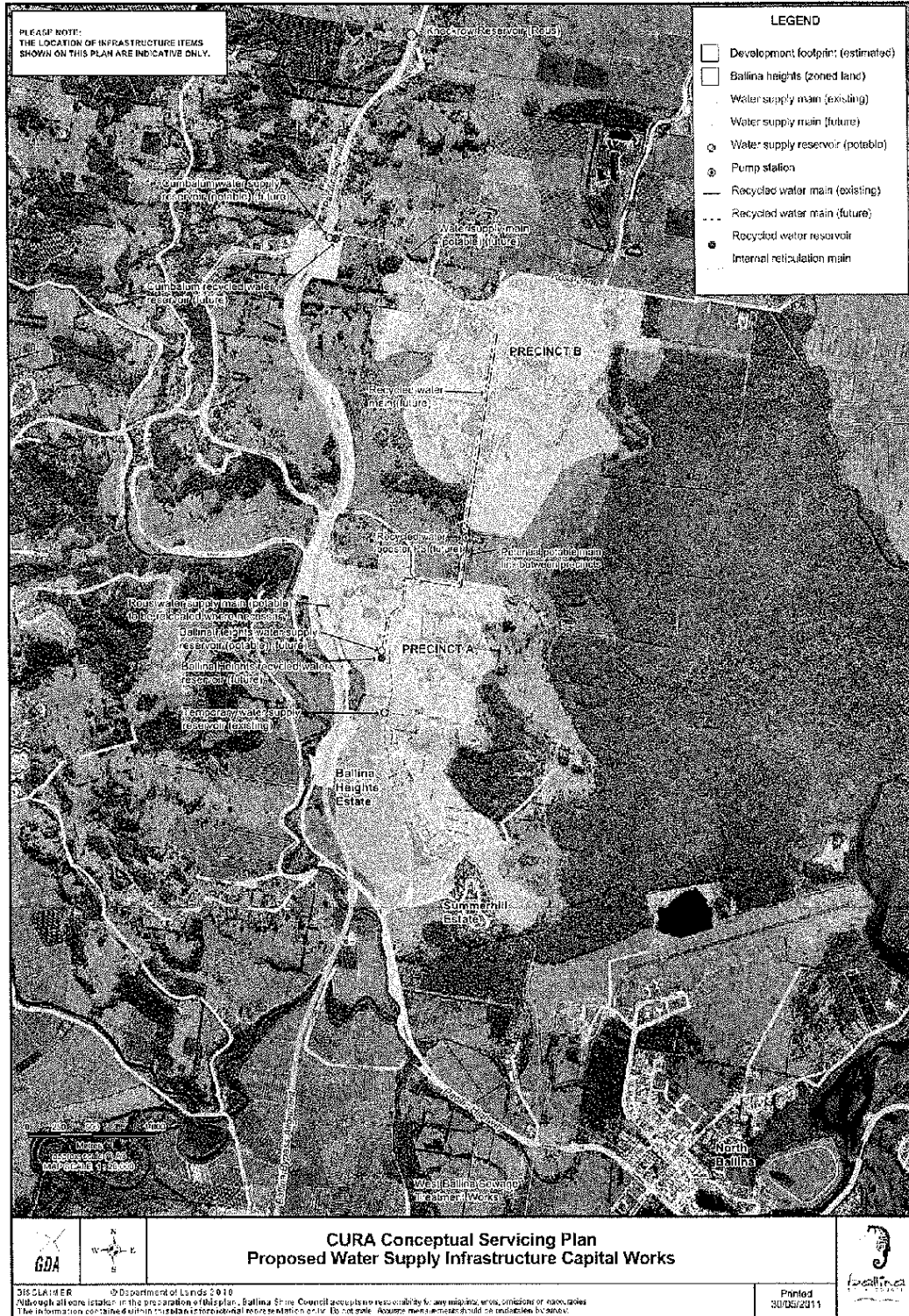


5.2 Cumbalum Precinct B Planning Proposal





5.2 Cumbalum Precinct B Planning Proposal





Appendix G
Recycled Water Infrastructure Plans

22/14929/1832 Cumbalum Urban Release Area
Infrastructure Delivery Plan

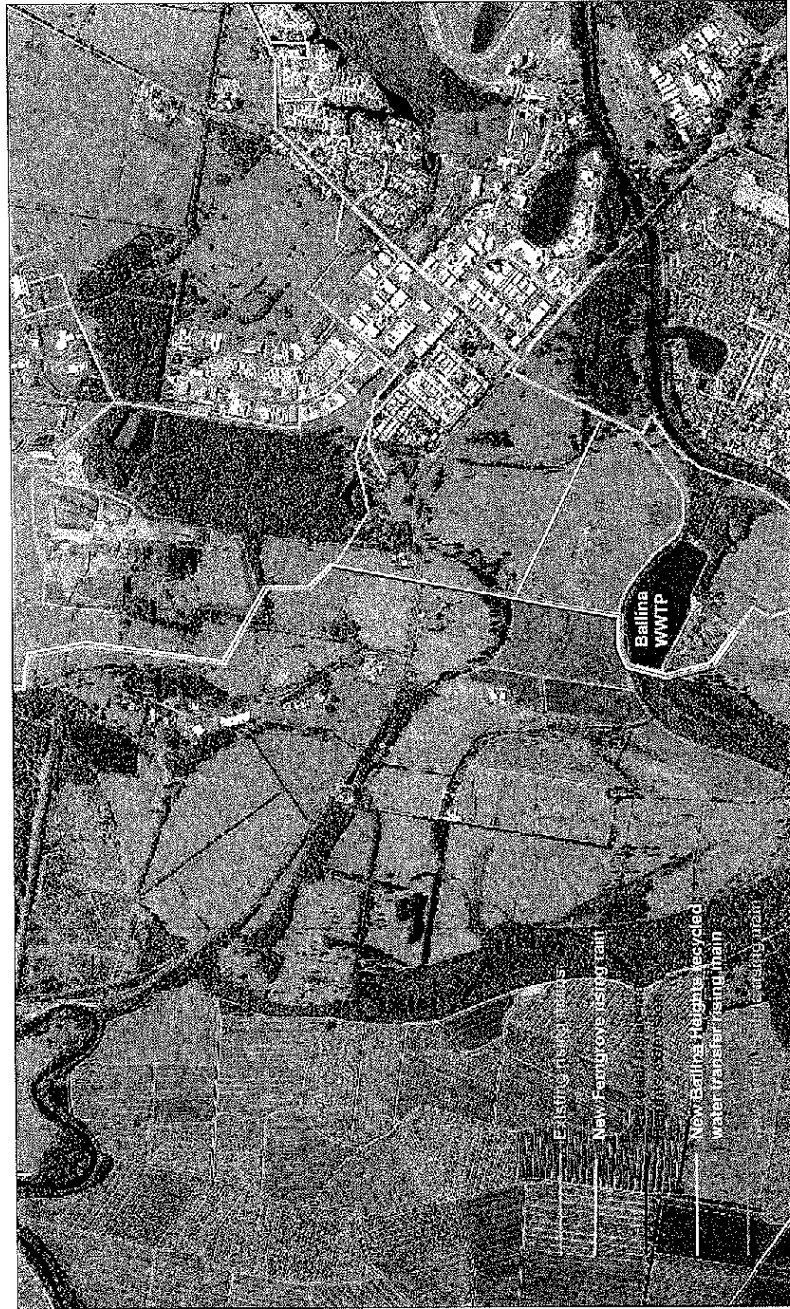
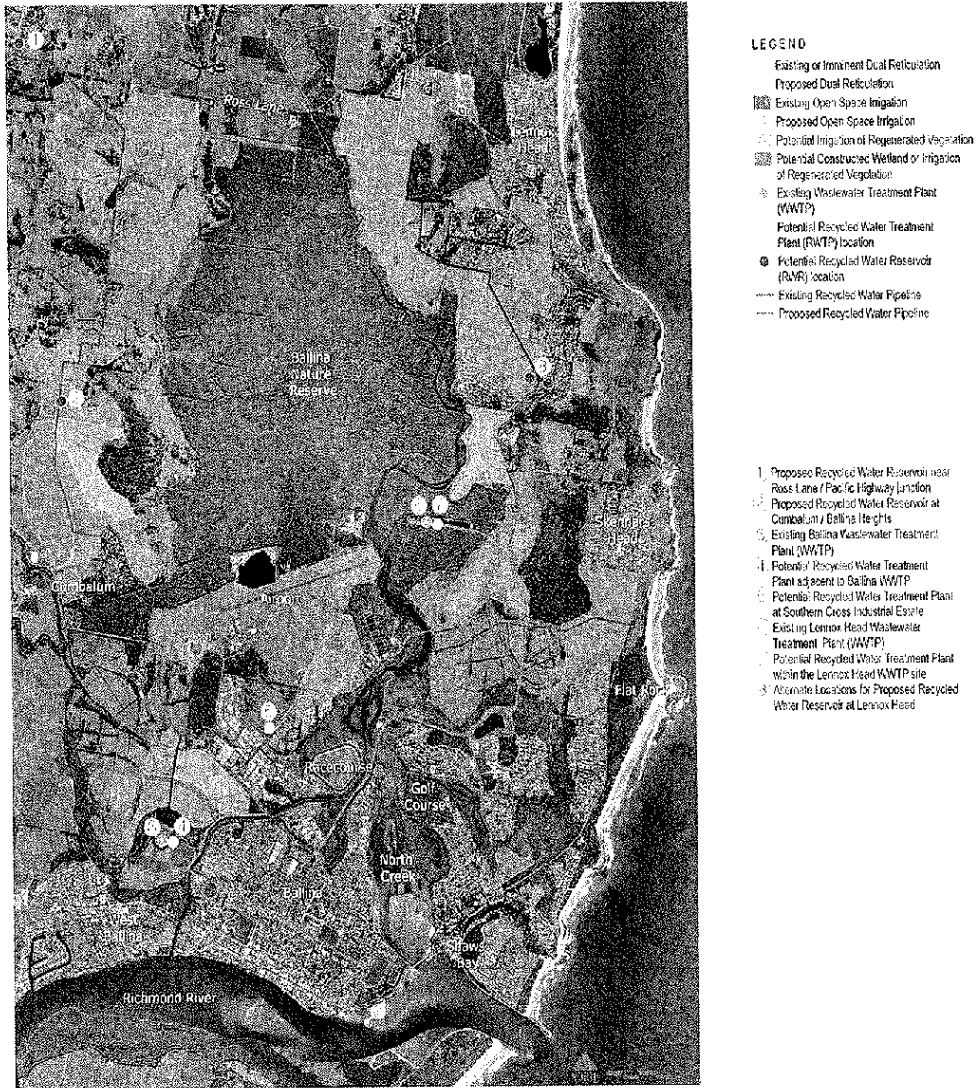


Figure 5-2

Scope of the Proposed Works



Source: Watertalk (2009)

Figure 5-4 Existing and Potential UOS, UDR and Vegetation Regeneration Areas

Scopia of the Proposed Works



Figure 5-6: Ballina Heights Reservoir Location

Page 106

Ballina-Lennox Head Recycled Water Master Plan
Environmental Impact Statement
Report No. DC08174



Figure 5-7: Ballina Heights Rising Main



Appendix H

Sewerage Infrastructure Plans

REZ 6 - Sewer Zones

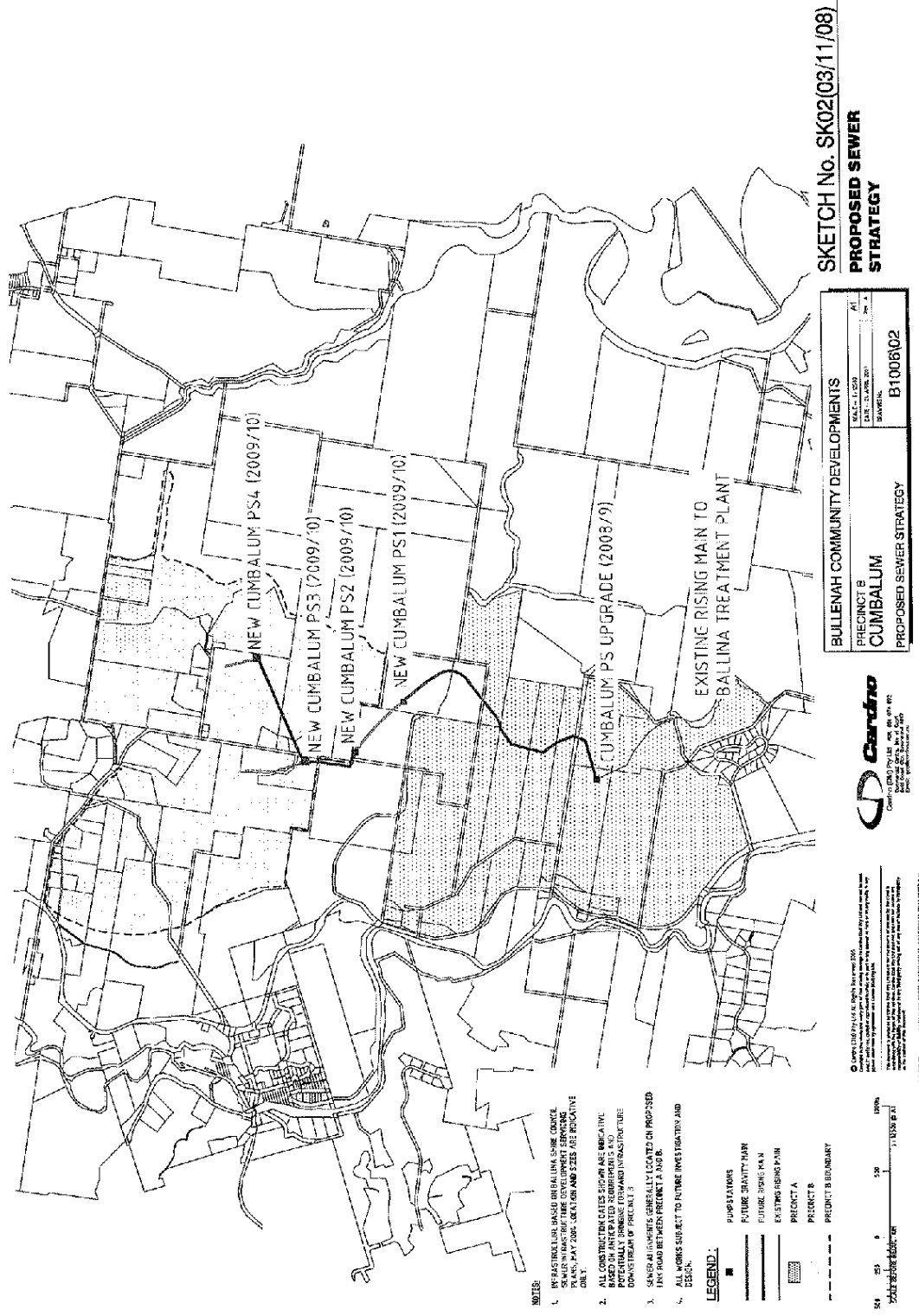
SK02 – Proposed Sewer Strategy

Sewer DSP (2004) Plan

Figure 6A – Cumbalum (GHD, 2011)

22/14926/1032

Cumbalum Urban Release Area
Infrastructure Delivery Plan



SKETCH No. SK02(03/11/08)
PROPOSED SEWER STRATEGY

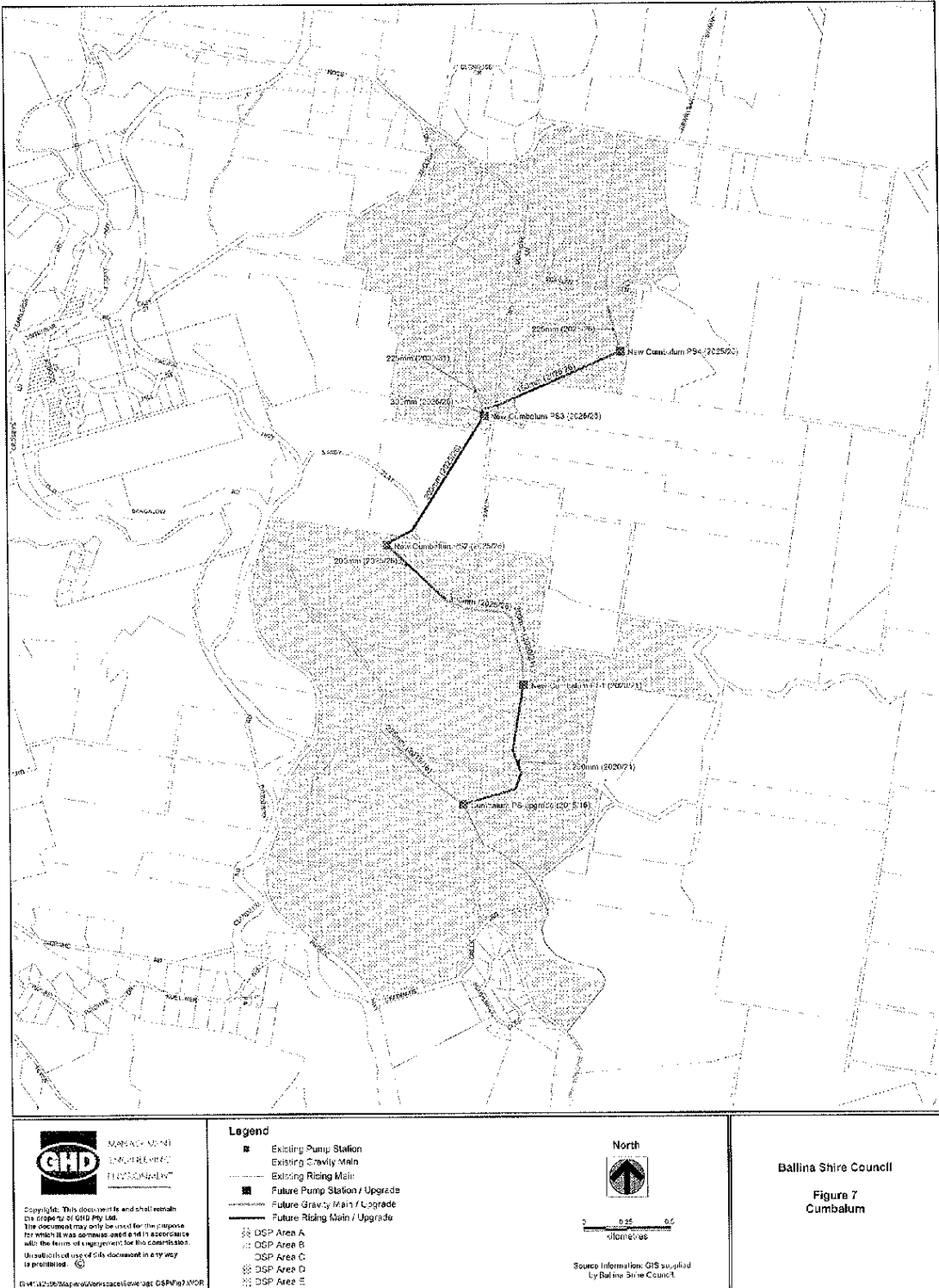
BULLENAH COMMUNITY DEVELOPMENTS	
PRECINCT B CUMBALUM	DATE: 11 JUNE 2007 DRAWN BY: BAWREAL
PROPOSED SEWER STRATEGY	B1006102



- NOTES:**
1. INVESTIGATIONS BASED ON BALLINA SHIRE COUNCIL SEWER NETWORK THAT DEVELOPMENT SERVING PRECINCT B MAY OCCUR. LOCATION AND SIZE ARE INDICATIVE ONLY.
 2. ALL CONSTRUCTION CIRCLES SHOWN ARE INDICATIVE. PRECINCT B DEVELOPMENT ARE POTENTIALLY SERVING FORWARD INFRASTRUCTURE DOWNSTREAM OF PRECINCT B.
 3. SANITARY SERVICES GENERALLY LOCATED ON PROPOSED FMS ROAD BETWEEN PRECINCT A AND B.
 4. ALL WORKS SUBJECT TO FUTURE INVESTIGATION AND DESIGN.

- LEGEND:**
- PUMP STATIONS
 - FUTURE GRAVITY MAIN
 - FUTURE RISING MAIN
 - EXISTING RISING MAIN
 - PRECINCT A
 - PRECINCT B
 - PRECINCT B BOUNDARY

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Appendix I
DCP Extract

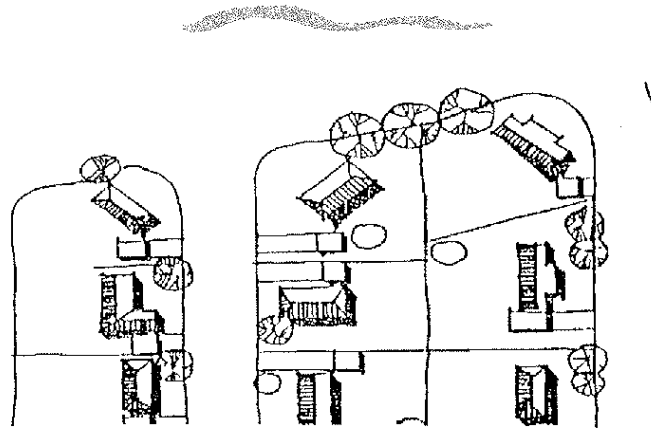
Policy Statement No. 4 Urban Subdivision

22/14929/1832

Cumbalum Urban Release Area
Infrastructure Delivery Plan

Ballina Shire Combined Development Control Plan
Chapter 1 – Urban Land

**Policy Statement No. 4
Urban Subdivision**



CONTENTS

1. PREAMBLE
2. RELATED STATUTES, REFERENCES AND PUBLICATIONS
3. BACKGROUND TO POLICY
4. DESIGN PRINCIPLES
5. OPEN SPACE
6. ENGINEERING REQUIREMENTS
7. INTEGRATED SUBDIVISION
8. CONSULTATION

5.2 Cumbalum Precinct B Planning Proposal

Amend. No.	Main Purpose of Plan / Amendment	Date of Council's Resolution to adopt	Effective From
PRINCIPLE PLAN	Combined Council's former DCPs (other than the Exempt and Complying Development DCP) into a single document. Also introduced new planning controls for the Ballina Town Centre. Prepared in response to NSW Legislative Reforms concerning DCPs	24/08/06	1/10/06
Amendment No. 6	Insertion of Section 5 dealing with open space standards	28 June 2008	10 July 2008

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POLICY STATEMENT NO. 4 URBAN SUBDIVISION

1. PREAMBLE AND CITATION

- 1.1 This component of the Ballina Shire Combined DCP relates to the resubdivision of urban zoned land.
- 1.2 This part of the plan may be cited as Policy Statement No. 4 Urban Subdivision.

2. RELATED STATUTES AND REFERENCE PUBLICATIONS

- o Local Government Act, 1993.
- o Streets Where We Live - New South Wales Department of Environment and Planning, Traffic Authority and Land Commission (1983).
- o New Choices in Housing/Guidelines for Cost-Effective Residential Development - Department of Housing and Construction
- o Technical Bulletin No. 15 - Residential Development Standards - N.S.W. Department of Environment & Planning (1982).
- o Ballina Council Subdivision Code
- o Northern Rivers Local Government Development and Design Manual
- o Northern Rivers Local Government Construction Manual

3. BACKGROUND TO POLICY

Ballina Local Environmental Plan 1987 does not limit the size and shape of land to be provided for varying housing forms, but identifies the need to regulate the subdivision and use of land to permit housing and ancillary development where the scale, type and traffic generating characteristics of the developments are compatible with the character and amenity of surrounding residential areas.

Having regard to the above, Council in giving consideration to applications for residential subdivision, will be mindful of the type of development which is likely to occur and will have regard for the existing subdivision pattern in the locality.

Standards for the type and shape of residential allotments may be seen as a reflection of:

- (a) Resident needs - lot capacity for accommodation of a dwelling and surrounds, with potential for expansion;
- (b) Neighbours needs - particularly privacy and access to sunlight;
- (c) Public health and safety - building separation for light and ventilation, retardation of the spread of fire and access for emergency vehicles;
- (d) Economy - efficient land use for access and services;
- (e) Choice - provision for different and varied housing and development types and changes in development needs over time.
- (f) Predictability - clarity of rules which allows developers to proceed with confidence, and owners to gain some measure of security against change;
- (g) Environment - retention of trees and natural features, achievable landscaping capacity, minimisation of adverse external impacts, and regard for amenity of the area.

4. DESIGN PRINCIPLES

With the above objectives in mind, Council has adopted the following design principles for subdivisions, which are illustrated in **Diagram No. 1**:

4.1 Residential Areas

Allotments created for residential development shall generally have a minimum area of 600m² with a minimum frontage of 18m.

Irregular Shaped Allotments (or fan-shaped) as occur at the end of cul-de-sacs are to be at least 15m wide, measured at the front building line for standard depth blocks. For lots of greater than standard depth, the absolute minimum road frontage is to be 4m and a minimum lot width of 15m is to be provided 20m from the front boundary.

Hatchet shaped allotments are generally not desirable. Acceptable situations for battleaxe allotments may occur when:

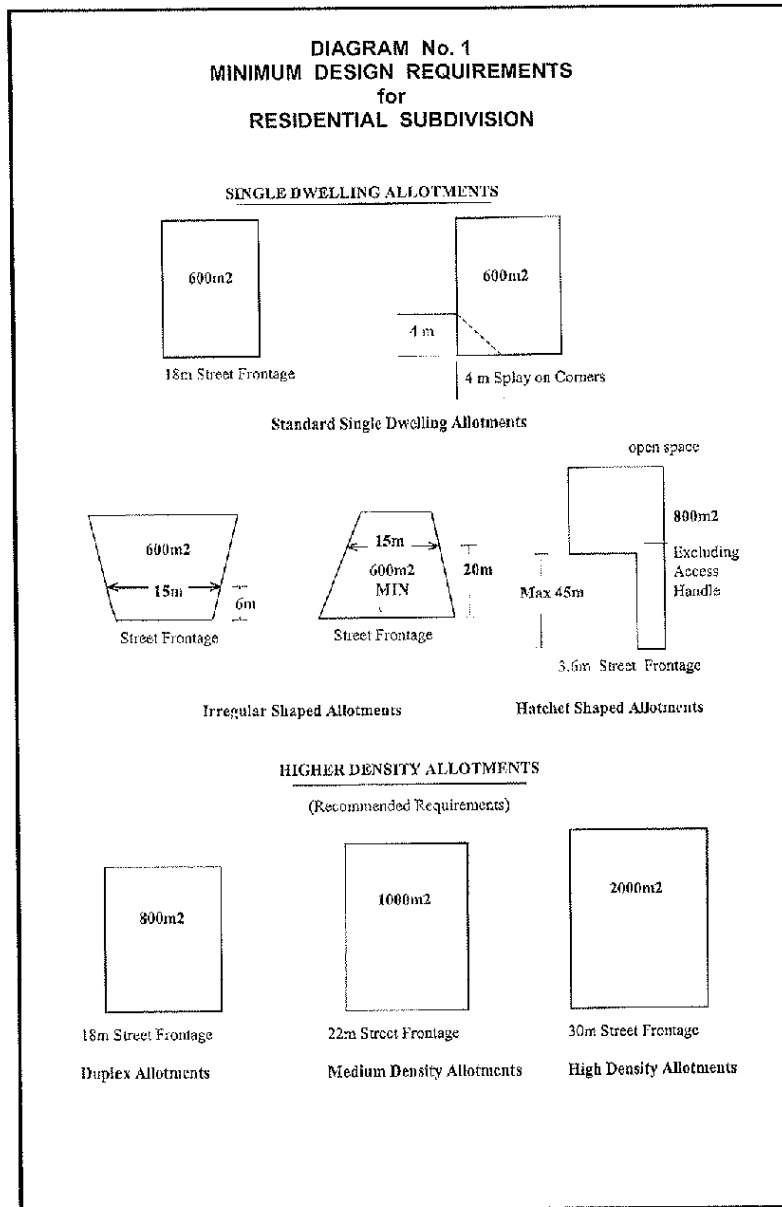
- (a) the allotment fronts a public reserve area or waterway; and,
- (b) the level of the land is such that the rear allotment is sufficiently above the front allotment to permit an attractive outlook.

The minimum area of a battleaxe lot is 800m², excluding the access handle, which is to be a minimum of 3.6m wide and to extend no further than 45m from the road alignment.

Multiple battleaxe lots will be allowed only when:

- (a) access ways, paved to Council's specification, are provided over the battleaxe handles;
- (b) Council is satisfied that access cannot be reasonably provided with the construction and dedication of a public road by the subdivider;
- (c) the lots comply with the requirements above.

Corner allotments are to incorporate a suitable splay section to facilitate traffic sight distances, generally 4.0m but varying in accordance with the angle of the intersection. The minimum frontage of corner lots is to be 20m.



4.2 Unit Sites

It is evident that the maximum density of units allowed under this plan becomes easier to achieve with each additional unit and on larger sites, having regard to landscaped open space, setback, car parking and height restriction requirements. As the number of units in a proposal increases, the amount of landscaped open space and driveway area per unit decreases. Experience has been that in most cases the 600m² subdivision minimum for urban lots is only sufficient for the siting of a dwelling or a dual occupancy development.

For residential buildings containing three or four units a lot with a minimum area of 1000m² with a minimum frontage/width of 22m is considered desirable.

For high density development proposals, a minimum aggregated allotment area of 2000m² is considered necessary.

These recommended minimum frontage/widths are critical for typical flat proposals because of side boundary setback requirements and the dimensions of manoeuvring areas required to allow vehicles to enter and leave in a forward direction.

4.3 Commercial Areas

No minimum areas are stipulated, however, the dimensions should be suited to the type of activity proposed. The developer must take into account car parking requirements and height restrictions. To be able to provide on-site parking with spaces parallel to the street frontage with single aisle width, a car park area requires a minimum width of 13 metres to allow for vehicular manoeuvring room.

4.4 Industrial Areas

When preparing a proposal for an industrial subdivision, a study of the anticipated traffic flow patterns within the area should be undertaken and suitable routes for distributor roads should be established.

No minimum areas and dimensions for industrial allotments are specified by Council, however because of the need to provide setbacks for vehicular access purposes, a minimum area of 1,000m² is desirable. Each proposal should cater for the type of industry intended for the estate and submissions will be assessed in this manner.

Allotment shapes should be designed to permit easy access to the rear. Generally a frontage to depth ratio of between 1:2 and 1:3 is desirable, with the lots being regular and rectangular where possible.

4.5 Subdivision to Rear Lanes

The subdivision of land whereby a vacant allotment is created which has a frontage to a lane only, is unacceptable. This policy relates not only to the subdivision of land but also to the strata subdivision of a building and has been adopted to ensure suitable access is afforded to all allotments to postal and garbage services and the like.

4.6 Vacant Strata Lots

Where staged residential development of allotments involving rear service lanes is proposed, it is Council's practise not to allow the creation of vacant allotments of land having only lane frontage. That is, the residential building is to be constructed and completed prior to the final plan of subdivision release.

Council may, however, approve of the creation of vacant strata lots where development consent has been granted for the erection of a building thereon and the strata plan is accompanied by a concept plan in a development contract showing the dimensions and design of the approved building.

5. OPEN SPACE

The provision of open space in new residential subdivisions shall be in accordance with the following standards, either being provided directly as a consequence of development or by way of a Section 94 Contribution Plan.

Ballina Shire Combined Development Control Plan

Space Type	Quantity	Location/Distribution	Size	Facilities	Quantum of Provision	Other Attributes
Local Park	Sufficient to meet location and size criteria. May form part of the 0.33 ha/1000 persons	Within 500 metres of all residents and safe access without major road crossings.	Min size of 2,000m ² , exclusive of any drainage/stormwater management reserves and serves up to 800 people	<ul style="list-style-type: none"> Seating Play equipment Pathway Shade trees or structures Litter bins Safety fencing as appropriate 	<ul style="list-style-type: none"> 1.5 playground equipment sets with shade structures & safe fall area per 1000 persons. 	<ul style="list-style-type: none"> Access via more than one street; Integrate with Local shopping and community facilities; Integrate with cycle and footpaths; Parks will be sited to take advantage of natural features such as foreshore areas or where there is significant vegetation when applicable; Link with wildlife corridors and flora and fauna protection areas to provide transition between natural and residential development; and At least 2,000m² should be level to gently sloping land Play equipment and soft fall to meet relevant Australian Standards
District Park	Sufficient to meet location and size criteria. May form part of the 0.5ha/1,400 persons	Preferably within 5 kms of all residents	<ul style="list-style-type: none"> Large enough to accommodate a large range of informal opportunities (while possibly protecting and enhancing significant natural features, visual qualities, heritage items) Should be large enough to support large numbers of people in social groups Min size of 1.0 ha – with 3 or more hectares preferred. 	<ul style="list-style-type: none"> Seating Play equipment Pathway Shade trees or structures Litter bins Safety fencing as appropriate Sealed parking Toilets and amenities BBQ facilities 	<ul style="list-style-type: none"> Integrate, where possible with other community facilities, community centres, outdoor sports facilities; Located such that traffic causes minimal disruption to residential areas; and May be highly modified/developed or incorporate significant natural features. Access to public transport. Play equipment and soft fall to meet relevant Australian Standards 	

Ballina Shire Combined Development Control Plan

<p>Sporting Fields</p>	<p>Approximately 1.7 ha per 1,000 people.</p>	<p>Located in close proximity to schools.</p>	<p>Minimum of 4 hectares to allow grouping of sports fields to maximise land efficiency and reduce embellishment costs through economies of scale (shared use of amenities, parking, etc)</p>	<ul style="list-style-type: none"> • Club house • Amenities • Change rooms • Lighting • Car parking 	<p>1.2 large winter playing field (Rugby) per 10000 persons. 1.2 tennis, netball or basket ball court per 1000 persons</p> <ul style="list-style-type: none"> • 30 car parks for each of the 1st 2 winter playing fields, 20 thereafter • 20 car parks for each of the 1st 2 netball/basketball courts, 15 there after • 4 car parks per tennis court <p>1 clubhouse per 4 winter playing fields and per 6 courts</p>	<ul style="list-style-type: none"> • Integrate with Local or district parks where possible – to enhance appeal and diversity of opportunity. <p>See further detailed on playing field & court specifications</p>
<p>Regional Facilities</p>	<p>Approximately 0.3 ha per 1,000 people.</p>		<p>Range of higher order facilities that satisfy Shire wide needs, including minimum 10 hectares site centralised Playing Fields in Ballina. Other major Shire wide recreational facilities include upgrading of the Ballina-Lennox Head Coastal Reserve, Construction of the Coastal cycleway, Regional Skate Park, Provision and upgrading of Regional Riverside Parks etc.</p>	<ul style="list-style-type: none"> • Grandstand • Indoor sporting facilities • Athletics track • Club house • Amenities • Change rooms • Lighting • Car parking • Landscaping • Cycleways • Embellishment • Boosting facilities 	<ul style="list-style-type: none"> • Provision of Centralised sporting facility in Ballina with good access from main road network • Development and implementation of Precinct Plan for Coastal Reserve. 	

PLAYING FIELD & COURT SPECIFICATIONS

Plans

Engineering and/or building plans shall be submitted for all required open space facilities for Council approval.

Playing Fields

Specifications for playing fields:

- a. 1.2 large winter playing field (Rugby) per 1000 persons
- b. The size of the fields shall accommodate a full sized turf pitch cricket oval in summer and two rectangular full sized fields for winter sports (ie rugby league, union soccer).
- c. The orientation of the fields is to be between true north and 15 degrees east of north.
- d. The playing fields, curtilage and site on which facilities are to be located shall be developed and filled to a minimum of 1 in 10 year ARI for stormwater.
- e. All fills shall suitably for the purpose and be free of contaminates.
- f. The playing fields shall be domed with an optimum surface slope of 1 in 70.
- g. The playing surface shall consist of a free draining topsoil of nominal 150mm depth and within a pH range of 6.0-7.0. The free draining topsoil shall be laid upon a further 150mm of free draining sand medium.
- h. Construction shall commence 2 growing seasons before fields are required/proposed for use.
- i. A fully automated pop-up sprinkler irrigation system, associated controller unit and quick coupling valves shall be installed.
- j. The grass cover shall be of species suitable for the site.
- k. Field lighting shall be provided in accordance to the Australian Standards.

Courts

- Tennis, netball or basket ball court per 1000 persons
- Netball, Tennis and basketball Courts shall be of a hard paved surface
- Court lighting shall be provided in accordance to the Australian Standards.
- Access

The playing fields shall be serviced by a sealed access road.

Parking

Parking shall generally be provided at the following rates

- 30 car parks each for 1st 2 winter playing fields , 20 thereafter
- 20 car parks each for 1st 2 netball/ basketball courts, 15 there after
- 4 car parks per tennis court

All car parking shall be sealed to Council's standards. Additional all weather overflow car parking to be provided depending on needs

Amenities buildings

An amenities building shall be required that provides a minimum of:

- a. Male and Female ablution (WC's & Showers) facilities. Number of toilets & showers will be dependant on the number of fields/courts.
- b. Two designated lockable storage rooms of nominated dimensions 4m x 4 m per sport (variable depending on number of sports using facility)

5.2 Cumbalum Precinct B Planning Proposal

Ballina Shire Combined Development Control Plan

- c. An awning/verandah for the perimeter of the building.
- d. A canteen.
- e. The building being constructed such that a second storey is capable of being erected.

Clubhouses

- 1 clubhouse per 4 winter playing fields
- 1 clubhouse per 6 courts
- Orientation to suit site

Dedication

The areas nominated as reserves/open spaces shown on the approved plan for structured open space are to be dedicated to Council at no cost to Council at the time playing fields and/or courts are finished.

Maintenance

The developer shall maintain and improve the surface of playing fields and associated facilities until they are available for public use.

6. ENGINEERING REQUIREMENTS

All subdivision proposals shall be designed and constructed in accordance with the requirements and standards specified in the following documents.:

- Northern Rivers Local Government Development and Design Manual.
- Northern Rivers Local Government Construction Manual; and
- Council's "Subdivision Code" available from Civil Services Group. This document is particularly relevant to the subdivision of "en globo" land.

7. INTEGRATED SUBDIVISION

Integrated housing development means the subdivision of land and the development of detached dwellings for which development consent is given by the Council at the same time.

Whilst a lesser allotment size is permitted under the provisions of the Building Code of Australia, Council specifies a preference for each lot having a minimum area of 400m² for integrated subdivision.

A development application for consent to carry out integrated housing development must be accompanied by:

- a) the proposed plan of subdivision and location of each dwelling house; and,
- b) a plan indicating the proposed location of each dwelling house on the allotment and the location of all windows, doors and the like in each dwelling house.

Before granting consent to an application for an integrated housing project the Council must be satisfied that:

5.2 Cumbalum Precinct B Planning Proposal

- a) there will be adequate privacy within the development for the occupants of each new dwelling and for existing dwellings on neighbouring allotments;
- b) there will be adequate access to natural light for each dwelling;
- c) the floor space ratio of each dwelling will not exceed 0.5:1 (a floor space ratio of 0.5:1 means that the total floor area of dwellings must not be greater than half the area of the allotment); and,
- d) there are adequate water, sewerage and drainage services for each proposed dwelling house.

As is the case for the determination of all development applications, these requirements apply in addition to the matters contained in Section 79C of the Environmental Planning and Assessment Act, 1979.

The provisions in the Policy for integrated housing developments will supplement existing minimum allotment size or minimum width or depth requirements specified in earlier sections of this policy statement.

When any land has been approved for integrated housing development, land must be developed in accordance with the floor plan, site location, window and door location for which development approval has been given. This applies unless the Council is satisfied that any variations will not reduce the amenity. Under the Building Code of Australia, walls with no windows can be constructed along one boundary with no side setbacks. With careful design, and allotment orientation the site can be used to great benefit to provide for private open space. Such a successful design approach can include placing passageways and utility areas along the windowless walls, the orientation of living areas to private open space to the north or east and the use of light wells and courtyards.

Council will only approve the subdivision of an integrated housing development with exterior walls on or within 0.9 metres of the boundary where a maintenance easement is provided over the adjoining land.

8. CONSULTATION

It is considered desirable that potential urban subdivision applicants and/or their professional representatives consult with Council's Town Planning and Engineering Staff prior to the lodgement of a formal development application.

12/36364

SCHEDULE 3

CUMBALUM URBAN RELEASE AREA – PRECINCT B
DEVELOPMENT CONTRIBUTIONS

12/26364

Column 1 Contribution Item	Column 2 Public Purpose	Column 3 Nature / Extent	Column 4 Timing	Column 5 Responsible Landowner
Carrying Out of Works				
1. District playing fields	Open space & recreation	<p>District playing fields located in the area marked as 'Playing Fields' on the Map.</p> <p>The following facilities are to be provided for every 300 Final Lots:</p> <ul style="list-style-type: none"> • 1 Playing Field; • 1 Court; • Clubhouse and amenities; • Public (road) access; and • Car parking. <p>The facility is to occupy a minimum area of 1.4 hectares and is to be designed and located to make efficient use of the site and so as to be capable of being expanded through future stages of the development such that each open space facility will comprise a minimum area of 4 hectares. The location of playing fields is to be sufficient to accommodate the projected total development yield of CURA B, as defined in Table 8 of the Infrastructure Delivery Plan and as determined by the Council.</p> <p>The type of court to be provided shall be that specified in writing by the Council.</p> <p>The facility is to be provided on a common site with CURA A and arrangements are to be made to avoid duplication and to create a variety of</p>	<p>Works to be completed prior to the issue of:</p> <p>a) the Subdivision Certificate that creates the 300th Final Lot or a lot which has the capacity to accommodate (as determined by the Council) the 300th Final Lot, whichever occurs first, and</p> <p>b) each Subdivision Certificate that creates a subsequent Final Lot that is a multiple of 300, or a lot which has the capacity to accommodate (as determined by the Council) a subsequent Final Lot that is a multiple of 300, whichever occurs first.</p>	<p>A Landowner that applies for a Subdivision Certificate referred to in Column 4.</p>

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Column 1 Contribution Item	Column 2 Public Purpose	Column 3 Nature / Extent	Column 4 Timing	Column 5 Responsible Landowner
		<p>sporting options.</p> <p>Playing fields to be constructed and maintained, to a standard acceptable to the Council, for a minimum of two years prior to the creation the Final Lots to which facility relates.</p> <p>Further details of works are provided in Section 9 - Open Space of the Infrastructure Delivery Plan.</p>		
2. District parks	Open space & recreation	<p>District parks, for passive recreation, are to be provided comprising a minimum area of 4050m² per 300 Final Lots.</p> <p>District parks are to be embellished, to the Council's satisfaction, and may include walking paths, picnic shelters, BBQ facilities and play equipment.</p> <p>Further details of works are provided in Section 9 - Open Space of the Infrastructure Delivery Plan.</p>	<p>Works to be completed prior to the issue of:</p> <p>a) the Subdivision Certificate that creates the 300th Final Lot or a lot which has the capacity to accommodate (as determined by the Council) the 300th Final Lot, whichever occurs first, and</p> <p>b) each Subdivision Certificate that creates a subsequent Final Lot that is a multiple of 300, or a lot which has the capacity to accommodate (as determined by the Council) a subsequent Final Lot that is a multiple of 300, whichever occurs first.</p>	A Landowner that applies for a Subdivision Certificate referred to in Column 4.
3. Local parks	Open space & recreation	<p>Local parks are to be provided at a rate of 1 park, comprising a minimum area of 2100m², per 240 Final Lots.</p> <p>Local parks are to be embellished with</p>	<p>Works to be completed prior to the issue of:</p> <p>a) the Subdivision Certificate that creates the 240th Final Lot or a lot which has the capacity</p>	A Landowner that applies for a Subdivision Certificate referred to in Column 4.

12/06/14

Column 1 Contribution Item	Column 2 Public Purpose	Column 3 Nature / Extent	Column 4 Timing	Column 5 Responsible Landowner
4. Multi-purpose Hall	Community Facilities	<p>play equipment to the reasonable satisfaction of the Council.</p> <p>Parks shall be located such that all residences will be within 400m of a local park.</p> <p>Further details of works are provided in the Section 9 – Open Space of the Infrastructure Delivery Plan.</p>	<p>to accommodate (as determined by the Council) the 240th Final Lot, whichever occurs first, and</p> <p>b) each Subdivision Certificate that creates a subsequent Final Lot that is a multiple of 240, or a lot which has the capacity to accommodate (as determined by the Council) a subsequent Final Lot that is a multiple of 240, whichever occurs first.</p>	<p>A Landowner that applies for a Subdivision Certificate referred to in Column 4.</p>
5. Roads - arterial intersections	Roads and traffic management	<p>Community halls are to be provided comprising a minimum size of 250m² GHA per 880 Final Lots. Each hall is to include an auditorium comprising a minimum of 170m², car parking and landscaping.</p> <p>Community halls are to be centrally located.</p> <p>Further details of works are provided in Section 9 – Open Space of the Infrastructure Delivery Plan.</p>	<p>Works to be completed prior to the issue of:</p> <p>a) the Subdivision Certificate that creates the 880th Final Lot or a lot which has the capacity to accommodate (as determined by the Council) the 880th Final Lot, whichever occurs first, and</p> <p>b) each Subdivision Certificate that creates a subsequent Final Lot that is a multiple of 880, or a lot which has the capacity to accommodate (as determined by the Council) a subsequent Final Lot that is a multiple of 880, whichever occurs first.</p>	<p>A Landowner that applies for a Subdivision Certificate referred to in Column 4.</p>
		<p>Construct intersections on Ross Lane, as follows:</p> <ul style="list-style-type: none"> Two lane roundabout to arterial road 	<p>Works to be completed prior to the issue of a Subdivision Certificate that creates a Final Lot at any stage in the</p>	<p>A Landowner that applies for a Subdivision Certificate referred to in Column 4.</p>

Column 1 Contribution Item	Column 2 Public Purpose	Column 3 Nature / Extent	Column 4 Timing	Column 5 Responsible Landowner
		<p>standard at McLetch Road intersection;</p> <ul style="list-style-type: none"> • Signalised intersection to arterial road standard at Duffeys Lane intersection; and • Any further intersections with Ross Lane required as a consequence of the Development. <p>or, in the circumstance that Ross Lane is realigned, works to an equivalent standard and scope as determined by the Council in writing.</p> <p>Further details of works are provided in Section 5 – Roads of the Infrastructure Delivery Plan.</p>	<p>Development where the Council advises the Landowner in writing that the intersection works, or part thereof, are required.</p>	
6. Roads – sub arterial/distributor	Roads and traffic management	<p>Construct CURA Link Road as shown on the Map to minimum distributor road standard as defined in the Manual.</p> <p>Further details of works are provided in the Infrastructure Delivery Plan - Section 5 – Roads.</p>	<p>Works to be completed prior to the issue of the Subdivision Certificate that creates the 600th Final Lot in the Development.</p>	<p>The Landowner that applies for the Subdivision Certificate referred to in Column 4.</p>
7. Sewerage – mains and pump stations	Sewerage management	<p>The construction of sewerage mains and pump stations in the locations marked as 'Sewerage Main' and 'Sewerage Pump Station' as shown on the Map, to achieve conveyance to SP2402 (as shown in the Infrastructure Delivery Plan).</p> <p>Capacity to be sufficient to accommodate ultimate development of CURA B, as defined in Table 8 of the Infrastructure Delivery Plan and as determined by the Council.</p>	<p>Works to be completed prior to the issue of a Subdivision Certificate that creates Final Lots at any stage in the Development where the Council advises the Landowner in writing that the works, or part thereof, are required.</p>	<p>The Landowner that applies for the Subdivision Certificate referred to in Column 4.</p>

Column 1 Contribution Item	Column 2 Public Purpose	Column 3 Nature / Extent	Column 4 Timing	Column 5 Responsible Landowner
8. Drinking water distribution mains	Water supply	<p>Where sewerage mains are to be located on land not under the ownership or control of the parties to this agreement the developer is to obtain the necessary rights to construct the main on the land.</p> <p>The design and construction of mains is to be undertaken to achieve the integration of services (including drinking and recycled water, sewer, electricity and telecommunications), where possible and to the reasonable satisfaction of the Council.</p>	Works to be completed prior to the issue of the Subdivision Certificate that creates the 1 st Final Lot in the Development.	The Landowner that applies for the Subdivision Certificate referred to in Column 4.
	<p>The construction of Drinking Water Distribution Mains from the future Ross Lane Water Reservoir, generally as shown on the Map.</p> <p>Capacity to be sufficient to accommodate ultimate development of CURA B, as defined in Table 8 of the Infrastructure Delivery Plan and as determined by the Council.</p> <p>Where drinking water distribution mains are to be located on land not under the ownership or control of the parties to this agreement the developer is to obtain the necessary rights to construct the main on the land.</p> <p>The design and construction of mains is to be undertaken to achieve the integration of services (including drinking and recycled</p>			

Column 1 Contribution Item	Column 2 Public Purpose	Column 3 Nature / Extent	Column 4 Timing	Column 5 Responsible Landowner
Dedication of Land and registration of easements 9. Playing fields	Open space & recreation	Dedication of a minimum of 1.4 hectares of land, as shown on the Map on which Item 1 is located. The land on which Item 1 is located is to capable of accommodating the expansion of the facility through future stages of the development such that each open space facility will comprise a minimum area of 4 hectares.	On registration of: a) the plan of subdivision that creates the 300 th Final or a lot which has the capacity to accommodate (as determined by the Council) the 300 th Final Lot, whichever occurs first, and b) each plan of subdivision that creates a subsequent Final Lot that is a multiple of 300, or a lot which has the capacity to accommodate (as determined by the Council) a subsequent Final Lot that is a multiple of 300, whichever occurs first.	Landowner of: • Lot 18 DP 873873 and • Lot 19 DP 873873.
	Open space & recreation	Dedication of land on which Item 2 is located.	On registration of: a) the plan of subdivision that creates the 300 th Final Lot or a lot which has the capacity to accommodate (as determined by the Council) the 300 th Final Lot, whichever occurs first, and	Landowner of land on which Item 2 is located.
10. District parks	Open space & recreation	Dedication of land on which Item 2 is located.	On registration of: a) the plan of subdivision that creates the 300 th Final Lot or a lot which has the capacity to accommodate (as determined by the Council) the 300 th Final Lot, whichever occurs first, and	Landowner of land on which Item 2 is located.

Column 1 Contribution Item	Column 2 Public Purpose	Column 3 Nature / Extent	Column 4 Timing	Column 5 Responsible Landowner
11. Local parks	Open space & recreation	Dedication of land on which Item 3 is located.	On registration of: a) the plan of subdivision that creates the 240 th Final Lot or a lot which has the capacity to accommodate (as determined by the Council) the 240 th Final Lot, whichever occurs first, and b) each plan of subdivision that creates a subsequent Final Lot that is a multiple of 240, or a lot which has the capacity to accommodate (as determined by the Council) a subsequent Final Lot that is a multiple of 240, whichever occurs first.	Landowner of land on which Item 3 is located.
12. Multi-purpose Hall	Community facilities	Dedication of land on which item 4 is located.	On registration of: a) the plan of subdivision that creates the 880 th Final Lot, or a lot which has the capacity to accommodate (as determined by the Council) the 880 th Final Lot, whichever occurs first, and b) each plan of subdivision that	Landowner of land on which Item 4 is located.

Column 1 Contribution Item	Column 2 Public Purpose	Column 3 Nature / Extent	Column 4 Timing	Column 5 Responsible Landowner
			creates a subsequent Final Lot that is a multiple of 880, or a lot which has the capacity to accommodate (as determined by the Council) a subsequent Final Lot that is a multiple of 880, whichever occurs first.	
13. Roads - Arterial Road	Roads and traffic management	(a) Dedication of land to accommodate the widening of Ross Lane. (b) Dedication of land on which Item 5 (Ross Lane intersections) are located.	Upon receipt of a request from the Council for the dedication of the land for the purpose of Ross Lane road widening. On registration of the Plan of Subdivision relating to the Subdivision Certificate referred to in Column 4 corresponding to Item 5.	Landowner of: <ul style="list-style-type: none"> • Lot 8 DP 612318, • Lot 3 DP 1020436, • Lot 11 DP 1127111, and • Lot 60 DP 1136918.
14. Roads - Sub arterial/distributor	Roads and traffic management	Dedication of public road corridor of distributor standard for the CURA Link Road, as shown on the Map on which Item 6 is located.	Within 90 days of the completion of Item 6	Landowner of: <ul style="list-style-type: none"> • Lot 3 DP 618742 • Lot 8 DP 612318 • Lot 2 DP 618742 • Lot 18 DP 873873, • Lot 19 DP 873873 • Lot 101 DP 1123404 • Lot 60 DP 1136918.
15. Sewerage trunk main easements	Sewerage management	Creation of a minimum 3m wide easement (subject to asset depth) in favour of the Council registered on the title to the land on which Item 7 is located.	Within 90 days of the completion of Item 7.	Landowner of: <ul style="list-style-type: none"> • Lot 18 DP 873873, • Lot 19 DP 873873, • Lot 20 DP 873873, • Lot 21 DP 873873, • Lot 4 DP 1020436, • Lot 11 DP 1127111, • Lot 60 DP 1136918 , and • Lot 10 DP 1127111.

12/26/84

Column 1 Contribution Item	Column 2 Public Purpose	Column 3 Nature / Extent	Column 4 Timing	Column 5 Responsible Landowner
16. Sewerage pump stations	Sewerage management	Dedication of land on which Item 7 (pump stations) is located. Where development is staged, temporary easements for access and electricity are to be provided, where required by the Council in writing.	Within 90 days of the completion of Item 7.	Landowner of: <ul style="list-style-type: none"> • Lot 18 DP 873873, • Lot 4 DP 1020436, and • Lot 11 DP 1127111
17. Drinking water distribution main easement	Water supply management	Creation of a minimum 3m wide easement (subject to asset size & depth) in favour of the Council registered on the title to the land on which Item 8 is located.	Within 90 days of the completion of Item 8.	Landowner of: <ul style="list-style-type: none"> • Lot 8 DP 612318, and • Lot 101 DP 1123404.
18. Recycled water supply main easement	Water supply management	Creation of a minimum 3m wide easement (subject to asset depth) in favour of the Council as shown on the Map.	Within 90 days of the receipt of a written request from the Council for the creation of an easement for recycled water mains.	Landowner of: <ul style="list-style-type: none"> • Lot 8 DP 612318; • Lot 101 DP 1123404; • Lot 18 DP 873873; and • Lot 19 DP 873873
Monetary Contribution				
19. Monetary Contribution	Various	<p>\$53,860 per hectare of the Net Developable Area to be paid to the Council and applied towards the following public purposes in the following proportions:</p> <p>\$3,572 per hectare of the Net Developable Area for the Upgrade to Eastern Roundabout of the Pacific Highway Cumbalum Interchange</p> <p>\$14,286 per hectare of the Net Developable Area for the Upgrade to Eastern and Western Roundabouts of the Pacific Highway Ross Lane Interchange</p> <p>\$36,002 per hectare of the Net</p>	Immediately prior to the issue of the Subdivision Certificate for the creation of Final Lots in per hectare contributions of \$53,860.	A Landowner that applies for a Subdivision Certificate referred to in Column 4.

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Column 1 Contribution Item	Column 2 Public Purpose	Column 3 Nature / Extent	Column 4 Timing	Column 5 Responsible Landowner
		Developable Area for the Duplication of Over-bridge of the Pacific Highway Ross Lane Interchange		

12/5/2014

SCHEDULE 4

Law Society of NSW – Mediation Rules

Functions of the Mediator

1. The mediator will assist the parties to explore options for and, if possible, to achieve the expeditious resolution of their dispute (“the Dispute”) by agreement between them.
2. The mediator will not make decisions for a party or impose a solution on the parties.
3. The mediator will not, unless the parties agree in writing to the contrary, obtain from any independent person advice or an opinion as to any aspect of the Dispute and then only from such person or persons and upon such terms as are agreed by the parties.

Conflicts of Interest

4. The mediator must disclose to the parties to the best of the mediator’s knowledge any prior dealings the mediator has had with either of them and any interest the mediator has in the Dispute.
5. If in the course of the mediation the mediator becomes aware of any circumstances that might reasonably be considered to affect the mediator’s capacity to act impartially the mediator will immediately inform the parties of those circumstances. The parties will then confer and if agreed continue with the mediation before the mediator.

Co-operation in the Mediation

6. The parties must co-operate with the mediator and each other during the mediation to achieve a mutually satisfying outcome to their dispute.
7. Each party must use its best endeavours to comply with reasonable requests made by the mediator to promote the efficient and expeditious resolution of the Dispute.

Authority and Representation

8. If a party is a natural person, the party must attend the mediation conference. If a party is not a natural person it must be represented at the mediation conference by a person with full authority to make agreements binding on it settling the Dispute.
9. Each party may also appoint one or more other persons including legally qualified persons to assist and advise the party in the mediation and to perform such roles in the mediation as the party requires.

Conduct of the Mediation

10. Subject to Rule 21, the mediation, including all preliminary steps, will be conducted in such manner as the mediator considers appropriate having due regard to the nature and circumstances of the Dispute, the agreed goal of an efficient and expeditious resolution of the Dispute and the view of each party as to the conduct of the mediation.

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11. The mediation conference shall be held within fourteen (14) days of the selection of the mediator or within such other period as the parties may agree.
12. Without limiting the mediator's powers under Rule 10 the mediator may give directions as to:
 - 12.1 Preliminary conferences prior to the mediation conference.
 - 12.2 The exchange of experts' reports, the meeting of experts and the subsequent preparation of a joint experts' report with a view to identifying areas of agreement, narrowing the area of disagreement and clarifying briefly the reasons for disagreement.
 - 12.3 The exchange of brief written outlines of the issues involved.
 - 12.4 Service on the mediator prior to the mediation conference of any such reports and outlines.

Communication between the Mediator and a Party

13. The mediator may meet as frequently as the mediator deems appropriate with the parties together or with a party alone and in the latter case the mediator need not disclose the meeting to the other party.
14. The mediator may communicate with any party orally and/or in writing.
15. Subject to Rule 16, any document relied upon by a party and provided to the mediator must immediately be served by the party on the other party.
16. Information, whether oral or written, disclosed to the mediator by a party in the absence of the other party may not be disclosed by the mediator to the other party unless the disclosing party permits the mediator to do so.

Confidential Information

17. A party may prove objective facts, whether or not confidential, by direct evidence in any proceedings in respect of the Dispute. Subject to that, all confidential information disclosed during the mediation, including the preliminary steps:
 - 17.1 may not be disclosed except to a party or a representative of that party participating in the mediation or if compelled by law to do so; and
 - 17.2 may not be used for a purpose other than the mediation.

Privilege

18. Subject to Rule 25, the following will be privileged and will not be disclosed in or relied upon or be the subject of a subpoena to give evidence or to produce documents in any arbitral or judicial proceedings in respect of the Dispute:
 - 18.1 Any settlement proposal, whether made by a party or the mediator.
 - 18.2 The willingness of a party to consider any such proposal.
 - 18.3 Any admission or concession or other statement or document made by a party.

18.4 Any statement or document made by the mediator.

Subsequent Proceedings

- 19. The mediator will not accept appointment as an arbitrator in or act as an advocate in or provide advice to a party to any arbitral or judicial proceeding relating to the Dispute.
- 20. Neither party will take action to cause the mediator to breach Rule 19.

Termination

- 21. A party may terminate the mediation immediately by giving written notice to each other party and to the mediator at any time during or after the mediation conference.
- 22. The mediator may immediately terminate the engagement as mediator by giving written notice to the parties of that termination, if, after consultation with the parties, the mediator forms the view that the mediator will be unable to assist the parties to achieve resolution of the Dispute. The mediation will not be terminated in that event unless a party gives notice to that effect to each other party. The parties must appoint another mediator, where the mediation is not terminated.
- 23. The mediation will be terminated automatically upon execution of a settlement agreement in respect of the Dispute.

Settlement

- 24. If settlement is reached at the mediation conference, the terms of the settlement must be written down and signed by the parties and the mediator before any of the participants leave the mediation conference.

Enforcement

- 25. In the event that part or all of the Dispute is settled either party will be at liberty:
 - 25.1 To enforce the terms of the settlement by judicial proceedings.
 - 25.2 In such proceedings to adduce evidence of and incidental to the settlement agreement including from the mediator and any other person engaged in the mediation.

Exclusion of Liability and Indemnity

- 26. The mediator will not be liable to a party except in the case of fraud by the mediator for any act or omission by the mediator in the performance or purported performance of the mediator's obligations in the mediation.
- 27. The parties shall jointly and severally indemnify the mediator against all claims, except in the case of fraud by the mediator, arising out of or in any way referable to any act or omission by the mediator in the performance or purported performance of the mediator's obligations in the mediation.

Costs

- 28. The parties will share equally and will be jointly and severally liable to the mediator for the mediator's fees for the mediation. The mediator may, at any time and from time to time, require each party to deposit with the mediator such sum as the mediator considers

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appropriate to meet the mediator's anticipated fees and disbursements. The mediator may decline to embark upon or continue the mediation until all such deposits are made.

29. If the mediation does not result in an agreement to resolve the Dispute, the costs of the mediation will be costs in the cause.

SCHEDULE 5

Contact for Notices

Zali:

Attention: **Zali Investments Pty Ltd ACN 124 161 128**
Address: 65 Scanlan Lane, LENNOX HEAD NSW 2478
Fax Number: (02)66879062
Email: rmw21@bigpond.com

Cromdale:

Attention: **Cromdale Developments Pty Ltd**
Address: PO Box 1255, BYRON BAY NSW 2481
Fax Number: (02)66857685
Email: owen@byronbaypro.com.au

RM Walsh:

Attention: **RM Walsh Land Holdings Pty Ltd**
Address: 65 Scanlan Lane, LENNOX HEAD NSW 2478
Fax Number: (02)66879062
Email: rmw21@bigpond.com

Lynn:

Attention: **Owen Lynn & Margaret Lynn**
Address: PO Box 1255, BYRON BAY NSW 2481
Fax Number: (02)66857685
Email: owen@byronbaypro.com.au

Newrybar:

Attention: **Newrybar Developments Pty Ltd**
Address: 65 Scanlan Lane, LENNOX HEAD NSW 2478
Fax Number: (02)66879062
Email: rmw21@bigpond.com

Dencannon:

Attention: **Dencannon Pty Ltd**
Address: 65 Scanlan Lane, LENNOX HEAD NSW 2478
Fax Number: (02)66879062
Email: rmw21@bigpond.com

Byron Bay Land:

Attention: **Byron Bay Land Development Pty Ltd**
Address: 65 Scanlan Lane, LENNOX HEAD NSW 2478
Fax Number: (02)66879062
Email: rmw21@bigpond.com

Council:

Attention: **Ballina Shire Council**
Address: PO Box 450
BALLINA NSW 2470
Fax Number: (02) 6686 7035
Email: council@ballina.nsw.gov.au

EXECUTED AS FOLLOWS:

EXECUTED by ZALI INVESTMENTS PTY LTD ACN 124 161 128 in accordance with its Constitution

)
) *Robert Walsh*
)

EXECUTED by RM WALSH HOLDINGS PTY LTD ACN 067 001 852 in accordance with its Constitution

)
) *Robert Walsh*
)

EXECUTED by BYRON BAY LAND DEVELOPMENTS PTY LTD ACN 106 666 648 in accordance with its Constitution

)
) *Robert Walsh*
)

EXECUTED by DENCANNON PTY LTD ACN 145 591 448 in accordance with its Constitution

)
) *John Walsh*
)

SIGNED by OWEN LYNN in the presence of:

)
) *Owen Lynn*
)

Witness *Angela wetcher*
Outler

SIGNED by MARGARET LYNN in the presence of:

)
) *M. Lynn*
)

Witness *Angela wetcher*
Outler

EXECUTED by CROMDALE DEVELOPMENTS PTY LTD ACN 146 911 202 in accordance with its Constitution

)
) *Owen Lynn*
)

EXECUTED by NEWRYBAR DEVELOPMENTS PTY LTD ACN 147 410 580 in accordance with its Constitution

)
) *[Signature]*
)

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Signed for and on behalf of BALLINA SHIRE)
COUNCIL)
)

Per:
(authorised signatory)

1206164

Appendix
(Clause 33)

Environmental Planning and Assessment Regulation 2000
(Clause 25E)

Explanatory Note

Draft Voluntary Planning Agreement (VPA)

Under s93F of the Environmental Planning and Assessment Act 1979

Parties

Ballina Shire Council of corner Tamar and Cherry Streets, Ballina, NSW 2478 (**Council**)

Zali Investments Pty Ltd of 65 Scanlan Land, Lennox Head, NSW 2478 (**Zali**)

Cromdale Developments Pty Ltd of PO Box 1255, Byron Bay, NSW 2481 (**Cromdale**)

RM Walsh Land Holdings Pty Ltd of 65 Scanlan Land, Lennox Head, NSW (**RM Walsh**)

Owen Lynn

Margaret Lynn of PO Box 1255, Byron Bay, NSW 2481 (**together, Lynn**)

Newrybar Developments Pty Ltd of 65 Scanlan Land, Lennox Head, NSW 2478 (**Newrybar**)

Dencannon Pty Ltd of 65 Scanlan Land, Lennox Head, NSW 2478 (**Dencannon**)

Byron Bay Land Development Pty Ltd of 65 Scanlan Land, Lennox Head, NSW 2478 (**Byron Bay Land**)

30. Description of Subject Land

The land shown shaded in grey on the Map, as further specified or described in Column 2 of the Table in Part 2 of Schedule 1

31. Description of Development

Any development, within the meaning of the Act, carried out on the Land and which is only permissible as a result of the making of the LEP

32. Summary of Objectives, Nature and Effect of the Draft VPA

The objective of the Draft VPA is to secure the delivery, at the Landowner's cost, of a range of urban infrastructure to service demand brought about by the development of the Land.

The Draft VPA is a planning agreement under s93F of the *Environmental Planning and Assessment Act 1979 (Act)* under which Development Contributions (as defined in clause 1.1 of the Draft VPA) are made by the Landowner for various public purposes (as defined in s93F(3) of the Act).

The Draft VPA:

- relates to the carrying out by the Landowner of development on the Land
- does not exclude the application of s 94, s94A or s94EF of the Act to the Development,

- requires monetary Development Contributions,
- requires the carrying out of specified Works including roads, water supply works, sewerage works and establishment of district and local parks, by the Landowner,
- requires the Council to apply monetary Development Contributions made under the agreement towards the specified purpose for which they were made and at the location, in the manner and to the standard (if any) specified in the agreement,
- imposes obligations on the Landowner in relation to the carrying out of specified Works, the handing over of those Works to the Council and the rectification of defects in those Works.
- is to be registered on the title to the Land,
- imposes restrictions on the Parties transferring the Land or part of the Land other than Final Lots or assigning an interest under the agreement,
- provides two dispute resolution methods for a dispute under the agreement, being expert determination and mediation,
- provides that the agreement is governed by the law of New South Wales, and
- provides that the A New Tax System (Goods and Services Tax) Act 1999 (Cth) applies to the agreement.

33. Assessment of the Merits of the Draft VPA

33.1 The Planning Purposes Served by the Draft VPA

The Draft VPA:

- reasonably promotes the orderly and economic use and development of the Land to which the agreement applies.
- provides land for public purposes, and
- provides increased opportunity for public involvement and participation in environmental planning and assessment of the Development

33.2 How the Draft VPA Promotes the Public Interest

The Draft VPA promotes the public interest by promoting the objects of the Act as set out in s5(a)(ii)-(v) and 5(c) of the Act

It also provides for local development in a manner that ensures that the costs associated with infrastructure delivery are borne by those parties that benefit from same.

33.3 Councils – How the Draft VPA promotes the Council’s Charter

The Draft Planning Agreement promotes the elements of the Council's charter by:

- providing services and facilities for the community,
- ensuring that public facilities provided by the Landowner under the agreement are transferred to and managed by the Council or are otherwise subject to the Council's control,
- providing a means that allows the wider community to make submissions to the Council in relation to the agreement.

33.4 All Planning Authorities – Whether the Draft VPA conforms with the Authority's Capital Works Program

The Planning Agreement does not affect or conflict with Council's Capital Works Program.

33.5 Whether the Draft VPA specifies that certain requirements must be complied with before issuing of a construction certificate, occupation certificate or subdivision certificate

This Draft Planning agreement contains requirements that must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued, being:

- carrying out of work,
- payment of monetary Development Contributions

Dated:

Signed on behalf of the Council:

Signed on behalf of the Developer:

Jean Walsh
Duncan P/L

Richard Walsh Richard Walsh Richard Walsh
Zak: Investment Ben Walsh Byron Bay land
Holding Perchomets

Ann Lynne
Cromdale Perchomets P/L

Nancy Barr Perchomets P/L

ML M. Lynne

Witness
Angela wetzler
Wetzler

13/06/14

S J CONNELLY CPP 

19 October 2012
Our Ref: SJC1277-204

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

Attention: Mr Simon Scott

Dear Sir,

**Re: Objection to the Voluntary Planning Agreement for
Precinct B**

I provide town planning advice to Mr Ken Kaehler and family in relation to land being Lot 102 DP 1017364. Council will recall that I made an objection on behalf of my client to the rezoning of the Precinct B land. The thrust of my objection was twofold. Firstly, that land well in excess of that required to properly designate the vegetated part of the subject property had been proposed to be zoned for environmental protection. Secondly, that the balance of the Kaehler land should not be zoned for environmental protection purposes but should be zoned for general rural purposes as proposed under the Ballina Draft Local Environmental Plan 2011. Council in its wisdom has resolved to remap the vegetated areas but kept the environmental protection zoning in place over the rural part of the land.

My client objects to the exhibited Voluntary Planning agreement on the basis that my client should have been a party to the agreement. The reason they should have been a party to the agreement is that their land is the subject of the rezoning the subject of the VPA and their zoning is being radically changed like other parties to the VPA. Accordingly I submit that their involvement is quite appropriate.

When they become involved in the agreement they will seek for 2 additional provisions to be added to the agreement. Firstly, because the Kaehler farm is effectively providing ecosystem support services for the urban rezoning of part of the land the subject to the VPA, the Kaehler's should be compensated for the loss in value of their land in accordance with the principles set out in the Just Terms Compensation Act, by the benefiting party under the rezoning. Secondly, but just as importantly, the quantity and quality of stormwater runoff from the development onto the Kaehler land should be the subject of a special provision in the VPA. Put simply, my clients want to ensure that the runoff hydrograph relevant to their property is guaranteed to be unchanged by the development of land further to the east.

6 Byron Street
LENNOX HEAD NSW 2478
PO BOX 538

Telephone
02 6687 7171
Facsimile
02 6687 7067
Voice Message
02 9475 0889
Email Facsimile
02 9475 0889



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Finally, my clients have asked me to make it explicit, as I did before in terms of the submission to the LEP exhibition, that in principle the owners of Lot 102 DP 1017364 have no objection to the rezoning of land eastward of their property for urban purposes. However, they do object to their property being collaterally affected by the rezoning in a manner which causes both a significant down zoning of their land and a heightened potential for adverse stormwater drainage/flooding impacts.

Should Council require any additional information or wish to clarify any matter associated with this object, please feel free to contact the writer at any time.

Yours faithfully



Stephen J Connelly FPIA
Certified Practising Planner

 J CONNELLY CPP
email: steve@connelly.com.au
mobile: 0419 237 962



**Planning &
Infrastructure**

Office of the Director General

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

Dear Mr Hickey

Planning Proposals PP_2010_BALLI_013_00 and PP_2010_BALLI_014_00 – Gateway Determination extension

I refer to your request on 13 August 2012 seeking an extension of time to complete the Planning Proposals PP_2010_BALLI_013_00 and PP_2010_BALLI_014_00 for the Cumbalum Release area.

I have determined as the delegate of the Minister, in accordance with section 56(7) of the Environmental Planning and Assessment Act, 1979, to amend the Gateway Determination dated 15 February 2011 for PP_2010_BALLI_013_00 and 12 February 2011 for PP_2010_BALLI_014_00 by extending the time for the completion of the Planning Proposals each by an additional six (6) months.

The Planning Proposals are now due for completion by 19 February 2013 (Precinct A) and 22 February 2013 (Precinct B). Council is required to submit the planning proposals to the department within three months (expiring 19 or 22 November 2012), to allow sufficient time for legal drafting and finalisation within the six month period.

If Council does not submit the proposals within this timeframe, the department will consider a recommendation to the Minister that an alternate relevant planning authority be appointed. In this regard, Council should consider whether it could progress the proposals more rapidly by forwarding them to the department to commence legal drafting prior to the final adoption of the Voluntary Planning Agreements.

Please contact Jim Clark of the department's Northern Regions Office if you wish to discuss the matter.

Yours sincerely

Shaddad
Sam Haddad
Director General

5/9/2012.

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