





Ballina Shire Council

Planning Proposal – March 2013

Lot 1 DP 1173776, 40 Blue Seas Parade, Lennox Head

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Final



Introduction

Summary of Planning Proposal

This planning proposal relates to the eastern part of Lot 1 DP 1173776, 40 Blue Seas Parade, Lennox Head, as shown on the site identification map in Appendix 1. The land is owned by DM and RD Dosser and comprises a total area of 1162m², (with the subject land being the eastern portion of approximately 640m²). This parcel is the result of a recent consolidation of allotments arising from the purchase of part of a Crown road reserve with an adjacent parcel (Lot 10 DP 1168665) which formed the most northern lot of the approved Coastal Grove subdivision at Lennox Head.

The subject site is currently zoned part R2 Low Density Residential zone and part RU1 Primary Production, under the terms of the Ballina Local Environmental Plan 2012 (BLEP 2012), as shown in Appendix 2. Due to an anomaly with the mapping of the subject site boundary and the corresponding zone boundary, part of the subject Lot is also identified as a "deferred matter" under the terms of BLEP 2012.

It is proposed that the R2 Low Density Residential Zone be applied to the subject land within Lot 1 DP 1173776. This will be consistent with the adjoining residential zone applied to the Coastal Grove subdivision under the Ballina LEP 2012. The proposed zoning under the BLEP 2012 is provided in Appendix 3.

Planning Context

The application of a residential zone to the subject land is generally consistent with both Council and State Government urban land release planning policy. The following provides an overview of the proposed amendment with respect to key planning policy documents.

Far North Coast Regional Strategy (FNCRS)

The subject land is identified as a 'proposed future urban release area'. Accordingly, the application of a residential zone to the land is consistent with this strategy.

Ballina Shire Growth Management Strategy 2012 (GMS)

The subject land is recognised as a strategic urban growth area under the policy and as such, the application of a residential zone to the land is consistent with the policy.

Lennox Head Structure Plan

Whilst the subject land is not identified as a candidate release area under the structure plan, it directly adjoins the existing and planned urban area in the vicinity of Blue Seas Parade. This is not considered to be a significant inconsistency, particularly as the subject land is identified under the higher order FNCRS and the GMS as a potential urban area.

Ballina LEP 2012

The subject land is zoned part R2 Low Density Residential and part RU1 Primary Production under the provisions of the Ballina LEP 2012. The Lot Size Map under the Ballina LEP 2012 applies a 600m² minimum lot size to the portion of the site zoned R2 Low Density, whilst a 40ha minimum lot size is applied to the portion of the site zoned RU1 Primary Production. The RU1 zoned part of the site is also identified on the Strategic Urban Growth Areas Map as being a “strategic urban growth area”.

The RU1 zoned portion of the subject land was previously zoned 1(d) Rural (Urban Investigation) Zone under the terms of the Ballina LEP 1987. Council has typically applied rural zones under its Ballina LEP 2012 to areas previously zoned 1(d) as there is no zone equivalent to the 1(d) zone under the standard instrument. Under this approach, potential urban release areas are identified in the relevant strategic planning policy documents.

During the mapping of zone boundaries for BLEP 2012, a small portion of Lot 1 DP 1173776 was not included within the RU1 Primary Production zone. This portion of land, previously zoned 1(d) Rural (Urban Investigation) pursuant to Ballina LEP 1987, became a “deferred matter” following the commencement of the BLEP 2012. It is proposed that this small portion be included within the R2 Low Density Residential zone, consistent with the site boundary of the subject Lot.

Part 1 - Objectives or Intended Outcomes

The objective of this planning proposal is to rezone the subject land to a low density residential zone, consistent with that of the adjoining Coastal Grove subdivision.

Part 2 - Explanation of the Proposal

This planning proposal relates to land described as Lot 1 DP 1173776, 40 Blue Seas Parade, Lennox Head.

The eastern portion of Lot 1 DP 1173776 is zoned RU1 Primary Production (the western part of the site is subject to a proposed R2 Low Density Residential zone) under the terms of the terms of the Ballina LEP 2012. This planning proposal seeks to rezone the eastern portion of Lot 1 DP 1173776 to an R2 Low Density Zone to enable future development of the land for residential purposes under LEP.

An amendment to the Minimum Lot Size Map and the Strategic Urban Growth Areas Map under the Ballina LEP 2012 is also proposed. In relation to the Minimum Lot Size Map, the RU1 zoned area is subject to a 40ha subdivision standard. It proposed that a 600m² minimum lot size be applied to the land consistent with the surrounding locality. Should the site be rezoned, its nomination on the Strategic Urban Growth Areas Map will also be adjusted, with the land no longer being identified as a strategic urban growth area. The proposed changes are illustrated in Appendix 3.

The LEP amendment request prepared on behalf of the proponent has demonstrated that the site is relatively unconstrained and is capable of supporting low density residential use.

A full environmental assessment was undertaken in association with the adjoining Coastal Grove development. A limited environmental assessment was undertaken of the subject land in association with purchase of the Crown Road Reserve which investigated the site history and past land uses. The contamination assessment that was undertaken in association with the Coastal Grove development included an assessment of the western portion of the subject lot (already zoned residential) and suggested that the land had not been used for any potentially contaminating land uses in the past. The remaining portion of the subject lot comprises the former road reserve. Based on its former land use, it is unlikely that this land has been previously used for a potential contaminating use. Accordingly, it has been determined that no further contamination assessment is required.

The subject land is located within a buffer to Category 2 Bushfire Prone Land. The subject land has sufficient area to suitably accommodate an appropriate asset protection zone from any future dwelling. The subject planning proposal was referred to the NSW Rural Fire Service (RFS) and the RFS raises no objection to the rezoning of the land due to bush fire hazards (Appendix 8).

Services have been provided to the subject land in association with the adjoining Coastal Grove subdivision. Accordingly, services are acceptable to support a future residential use.

A copy of the information submitted by the proponent is contained in Appendix 6.

Part 3 - Justification

Section A - Need for the Planning Proposal

1. Is the planning proposal a result of any strategic study or report?

The subject land is identified in the Far North Coast Regional Strategy 2006 (FNCRS) as being a "Proposed Future Urban Land Release Area".

The subject land is identified as having potential for urban development through nomination as a 'strategic urban growth area' under the Ballina Shire Growth Management Strategy 2012. The subject land was previously zoned 1(d) Rural (Urban Investigation) zone under the Ballina LEP 1987.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

As noted above, the proposal for the application of a residential zone is consistent with a range of strategic planning studies that identify the site for future urban investigation. The LEP amendment request and supporting documentation which informed the preparation of this planning proposal demonstrate that this process is the best means to enable development for future residential use.

3. Is there a net community benefit?

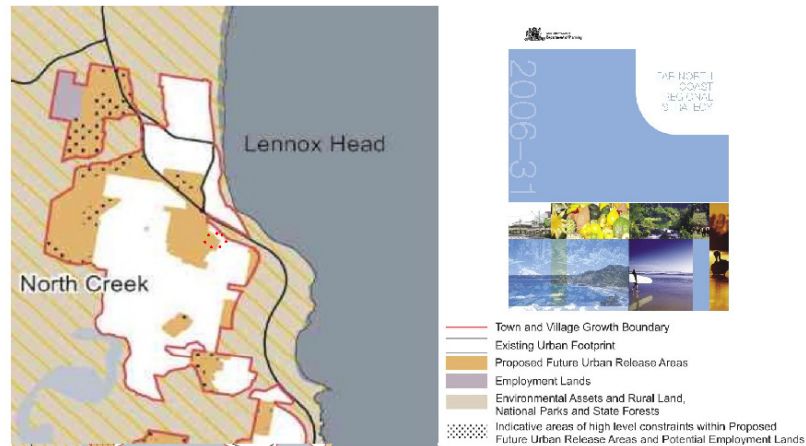
The following net community benefits will be achieved by the planning proposal:

- Additional economic activity generated by the development of the land for urban purposes, and
- Additional land available for residential development and ancillary (home-based) commercial uses.

Section B - Relationship to the Strategic Planning Framework

4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The proposal is consistent with the FNCRS, which provides the regional framework for the consideration of rezoning land for urban purposes in Ballina Shire. The FNCRS identifies the subject land as being a “Proposed Future Release Area” within the ‘Town & Village Growth Boundary Map – Sheet 3, as shown in the excerpt below).



Accordingly, investigation of the subject land for future urban development through the statutory rezoning process, involving assessment of the land’s capability to accommodate urban development is consistent with the regional planning framework.

5. Is the planning proposal consistent with the local council’s Community Strategic Plan, or other local strategic plans?

The planning proposal is consistent with the following key local plans:

Ballina Shire Growth Management Strategy 2012 (GMS)

The purpose of the Ballina Shire Growth Management Strategy is to provide the framework for managing population and employment growth in Ballina Shire over the planning period of 2012-2031.

The strategy sets out local growth management arrangements for each of the shire's urban localities. These outline the desired future character of the particular locality, identify key locality objectives and proposed actions to give effect to those objectives.

As previously noted, the subject land is recognised as a strategic urban growth area under the policy and as such, the application of a residential zone to the land is consistent with the policy.

6. Is the planning proposal consistent with applicable State Environmental Planning Policies?

Yes, the proposal is generally consistent with applicable State Environmental Planning Policies (SEPP). A SEPP checklist for the planning proposal is contained in Appendix 4.

7. Is the planning proposal consistent with the applicable Ministerial Directions (S. 117 directions)?

Yes, the proposal is consistent with the relevant Section 117 Directions. A Section 117 Direction checklist for the Planning Proposal is contained in Appendix 5.

Section C - Environmental, Social and Economic Impact

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

The site is predominately cleared. The northern portion of the site along the escarpment is dominated by bitou bush.

Consequently, this planning proposal and subsequent development of the subject land is not expected to result in any adverse impacts on any critical habitat, threatened species, populations or ecologically communities.

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

Other potential environmental effects of the proposal are as follows:

- Potential for contamination;
- Slope stability;
- Bushfire hazard; and
- Visual impacts.

These and other issues have been addressed in the information prepared by the proponent that that accompanies the LEP amendment request (Appendix 6).

The site is located directly adjoining Coastal Grove residential subdivision. As this land is currently un-developed residential zoned land, there will be negligible impact on the residential amenity of the future neighbourhood arising from the proposed rezoning.

Additionally, given that the site has been identified in a number of strategic plans for the shire as having urban development potential, the potential for urban development outcomes on the subject land has been in the public domain for a significant period of time.

Further, the proposed zone represents a minor rounding off due to a recent consolidation of land.

10. How has the planning proposal adequately addressed any social and economic effects?

The proposed rezoning of the eastern portion of the land does not raise any social implications.

The land is already adequately serviced and will therefore have negligible economic impacts in relation to the provision of infrastructure.

11. Is there adequate public infrastructure for the planning proposal?

A future development on the subject land can be economically serviced with the full range of infrastructure.

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

The NSW Rural Fire Service has been consulted in accordance with the Department of Planning & Infrastructure's gateway determination for the proposed LEP amendment (Appendix 7). The RFS raises no objection to the subject planning proposal proceeding (Appendix 8) and notes as follows:

'...that having the entire area of Lot 1 available for a future dwelling will allow greater opportunity for an appropriate design response and provision of appropriate bushfire protection measures (including construction and asset protection zones) to be tailored for the site with respect to the surrounding bushfire hazard'.

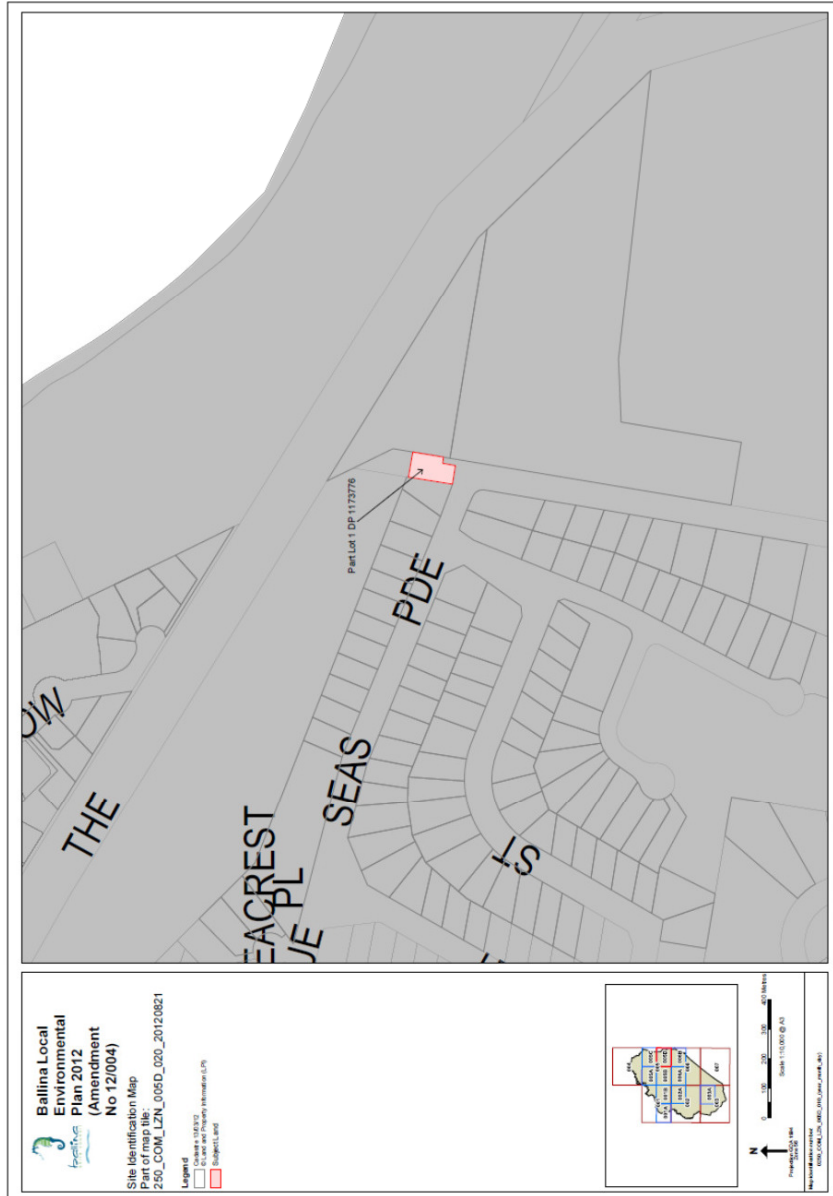
Section D - Community Consultation

Extensive community consultation was undertaken during the preparation and exhibition of the *Ballina LEP 1987* in the mid 1980s. This process involved the introduction of the 1(d) Rural (Urban Investigation) Zone. The subsequent land release strategies, including the GMS 2012 were also subject to community engagement processes.

The planning proposal was formally exhibited between 13 February 2013 and 13 March 2013 in accordance with the Department of Planning and Infrastructure's Gateway Determination (Appendix 7). Surrounding residents were notified of the proposal as part of the exhibition process. No submissions were received in response to the public exhibition of this planning proposal.

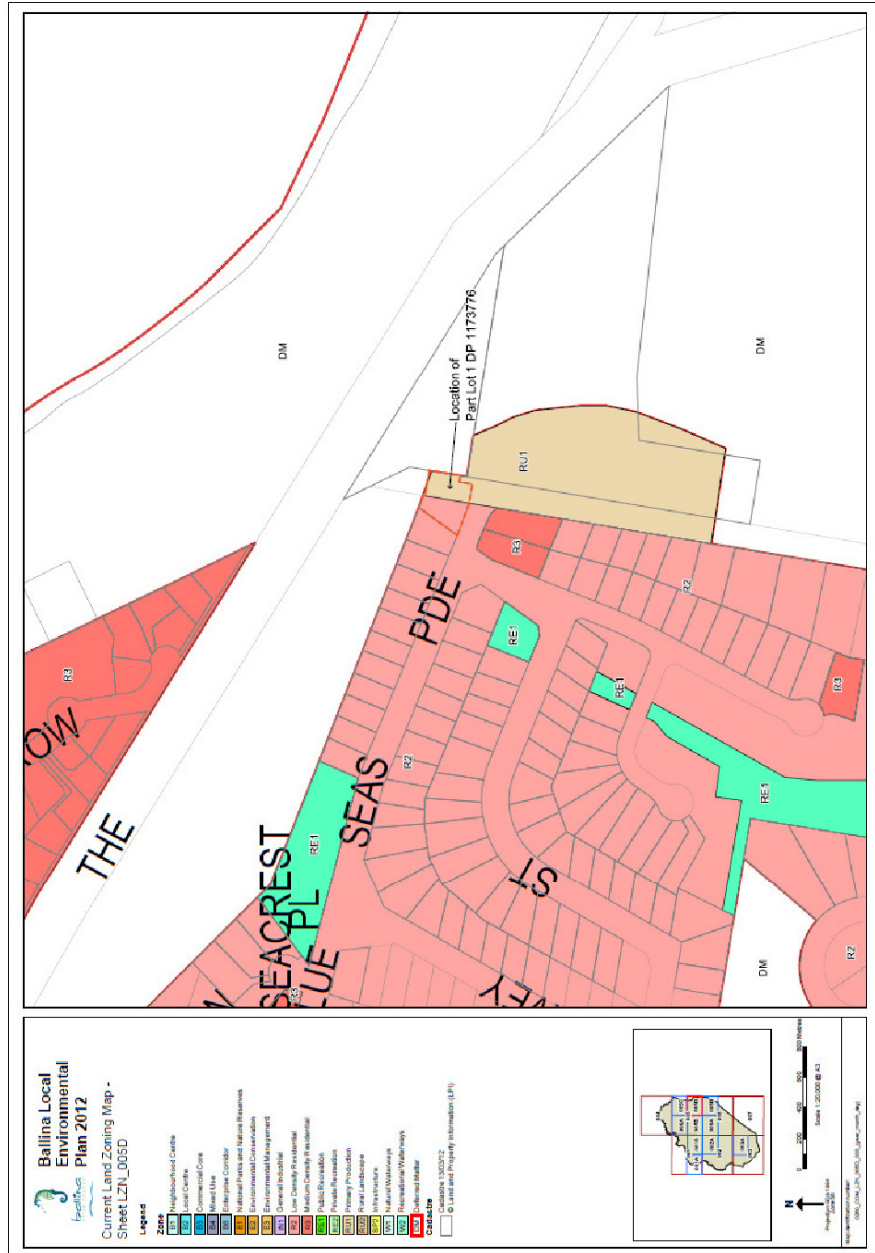
Appendices

Appendix 1 – Site Identification Map



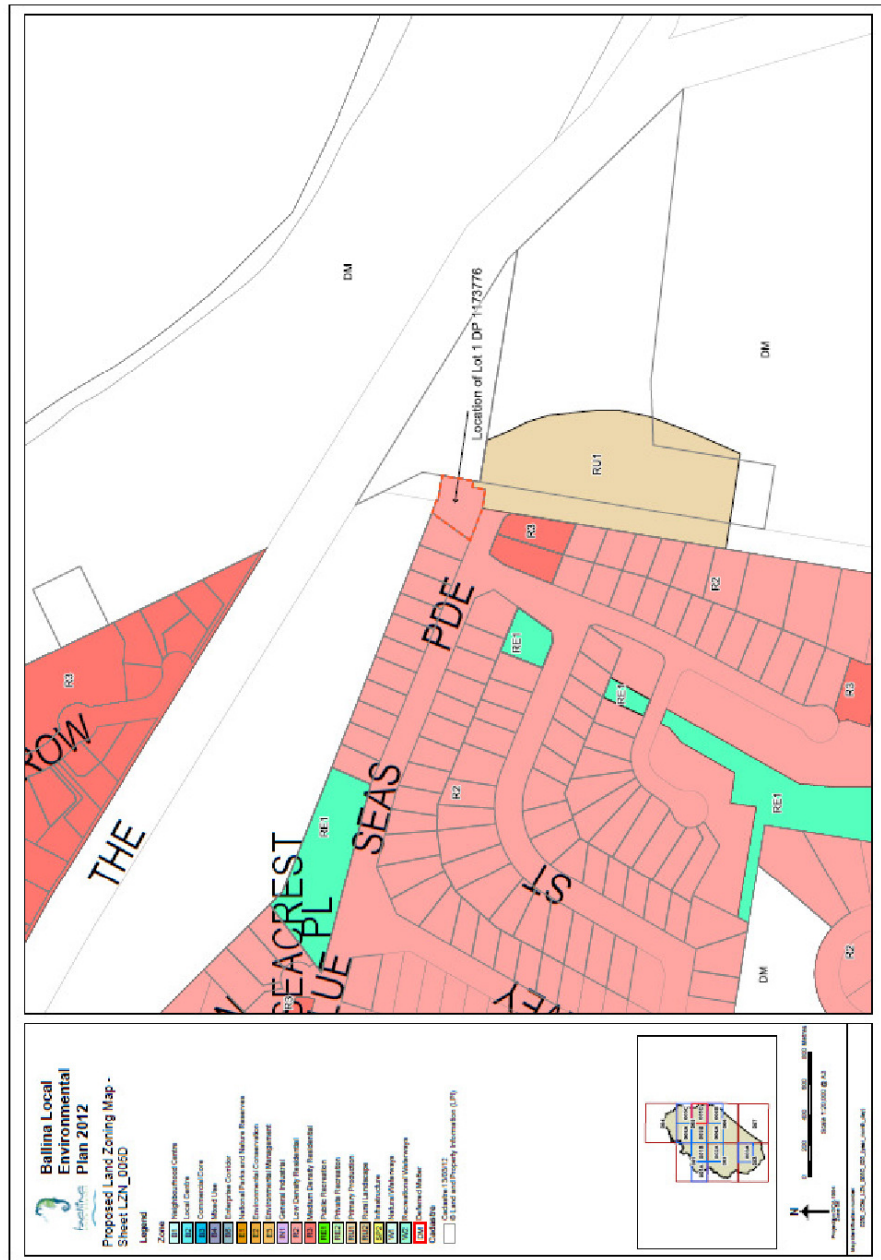
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Appendix 2 – Current Zoning - Ballina LEP 2012



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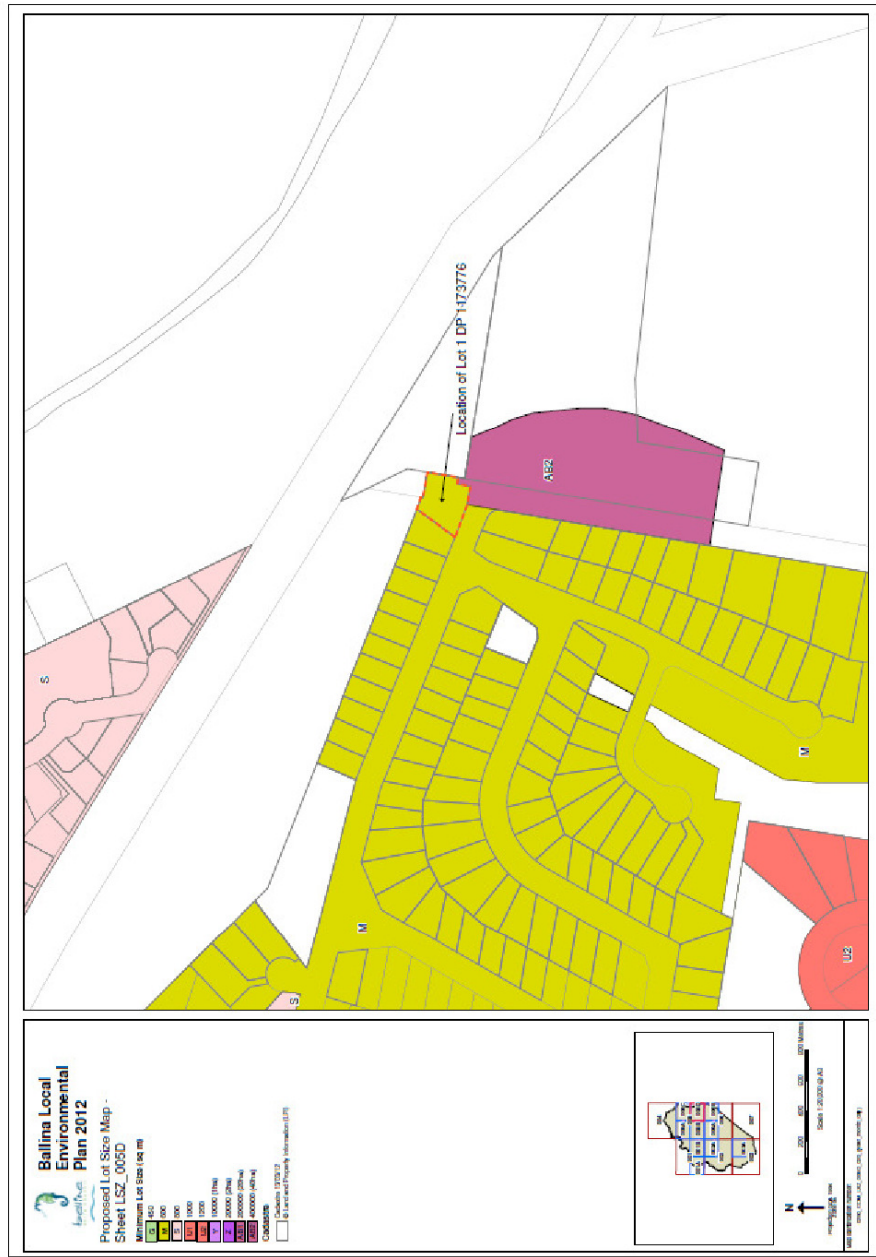
Appendix 3 – Proposed Amendments - Ballina LEP 2012



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 Planning Proposal - March 2013 - Lot 1 DP 1173776, Blue Seas Parade, Lennox Head

Appendix 4 – State Environmental Planning Policy Checklist

State Environmental Planning Policy Checklist
 Planning Proposal – Blue Seas Parade, Lennox Head

SEPP Title	Compliance of Planning Proposal
SEPP (Affordable Rental Housing) 2009	Consistent.
SEPP (Exempt and Complying Development Codes) 2008	Consistent.
SEPP (Rural Lands) 2008	Consistent.
SEPP (Infrastructure) 2007	Consistent.
SEPP (Temporary Structures) 2007	Consistent.
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	Consistent.
SEPP (Major Development) 2005	Consistent.
SEPP (Building Sustainability Index: BASIX) 2004	Consistent.
SEPP (Housing for Seniors or People with a Disability) 2004	Consistent.
SEPP No. 1 - Development Standards	Consistent.
SEPP No. 4 - Development without Consent and Miscellaneous Complying Development	Consistent.
SEPP No. 6 - Number of Storeys in a Building	Consistent.
SEPP No. 14 - Coastal Wetlands	Consistent.
SEPP No. 15 - Rural Land-Sharing Communities	Consistent.
SEPP No. 21 - Caravan Parks	Consistent.
SEPP No. 22 - Shops and Commercial Premises	Consistent.
SEPP No. 26 - Littoral Rainforests	Consistent.
SEPP No. 30 - Intensive Agriculture	Consistent.
SEPP No. 32 - Urban Consolidation (Redevelopment of Urban Land)	Consistent.

9.2 Planning Proposal BSCPP12/001 - 40 Blue Seas Parade..DOC

SEPP Title	Compliance of Planning Proposal
SEPP No. 33 - Hazardous and Offensive Development	Consistent.
SEPP No. 36 - Manufactured Home Estates	Consistent.
SEPP No. 44 - Koala Habitat Protection	Consistent.
SEPP No. 50 - Canal Estates	Consistent.
SEPP No. 55 - Remediation of Land	Consistent.
SEPP No. 60 - Exempt and Complying Development	Consistent.
SEPP No. 62 - Sustainable Aquaculture	Consistent.
SEPP No. 64 - Advertising and Signage	Consistent.
SEPP No. 65 - Design Quality of Residential Flat Development	Consistent.
SEPP No. 71 - Coastal Protection	Consistent.
North Coast Regional Environmental Plan (NCREP) (deemed SEPP)	Consistent. <i>Note: The NCREP now has the status of a SEPP. This SEPP provides local government with state and regional policy guidelines for the preparation of local environmental plans and for certain types of development. The plan sets the basis for new urban and rural development.</i>

Appendix 5 – Section 117 Direction Checklist

Section 117 Direction Checklist Planning Proposal – Blue Seas Parade, Lennox Head
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TABLE 1 – SECTION 117 DIRECTIONS		
DIRECTION NO.	REQUIREMENTS	COMMENTS
1. Employment and Resources		
1.1 Business and Industrial Zones	Applies to Ballina Shire. Does not apply to Draft Plan.	
1.2 Rural Zones	In summary, this Direction provides that Draft LEPs shall retain existing zones and provisions relating to the control of traffic generating developments or access to major roads and shall not rezone rural land for urban purposes unless the land has been identified in a Strategy, is justified by an Environmental Study or is in accordance with an approved Regional Strategy.	Consistent. The proposed residential area is identified in the Ballina Shire Growth Management Strategy and the Far North Coast Regional Strategy for urban development.
1.3 Mining, Petroleum Production and Extractive Industries	Applies to Ballina Shire. Does not apply to Draft Plan.	
1.4 Oyster Aquaculture	Applies to Ballina Shire. Does not apply to Draft Plan.	
1.5 Rural Land	In summary, this Direction provides that a planning proposal must be consistent with the Rural Planning Principles listed in State Environmental Planning Policy (Rural Lands) 2008. The Policy further provides that a planning proposal may be inconsistent with the terms of the Direction only if the relevant planning authority can satisfy the Director General of the Department of Planning that the provisions of the proposal are justified by a strategy which gives consideration to the objectives of the Direction of identifies the land which is the subject of a planning proposal or is approved by the Director General of the Department of Planning or is of minor significance.	Consistent. This rezoning is of a relatively minor scale and is consistent with the Far North Coast Regional Strategy.
2. Environment and Heritage		
2.1 Environmental Protection Zones	Applies to Ballina Shire. Does not apply to Draft Plan.	
2.2 Coastal Protection	In summary this Direction provides that a Draft LEP shall give effect to and be consistent with the Coastal Management Manual 1990, the NSW Coastal Policy 1997 and the Coastal Design Guidelines 2003.	Consistent. The proposal is considered to be minor in nature and will only result in an additional residential lot within an already approved residential subdivision. The proposal will not impact on public foreshore access.


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TABLE 1 – SECTION 117 DIRECTIONS		
DIRECTION NO.	REQUIREMENTS	COMMENTS
2.3 Heritage Conservation	In summary this Direction provides that a Draft LEP shall contain provisions to facilitate the conservation of items of environmental heritage significance and aboriginal objects, areas of aboriginal heritage significance or aboriginal places.	Consistent. There are no items of environmental or cultural heritage identified by Council within the site that are considered to warrant specific LEP based protection based on the information currently available.
2.4 Recreation Vehicle Areas	Applies to Ballina Shire. Does not apply to Draft Plan.	
3. Housing, Infrastructure and Urban Development		
3.1 Residential Zones	In summary, this Direction provides that Draft LEPs shall contain requirements that broaden the choice of building types and locations, make more efficient use of existing infrastructure and services, reduce the consumption of land for housing and associated urban development, are of good design, not permit residential development until the land is adequately services and not contain provisions which will reduce the permissible residential density of the land.	Consistent. Adequate infrastructure is available to service the lot. The proposed rezoning will improve the configuration of an already approved lot within an existing residential subdivision. This will enable a more efficient use of the land.
3.2 Caravan Parks and Manufactured Home Estates	Applies to Ballina Shire. Does not apply to Draft Plan.	
3.3 Home Occupations	In summary, this Direction provides that a Draft LEP shall permit home occupations to be carried out in dwelling houses without the need for development consent.	Consistent.
3.4 Integrated Land Use and Transport	In summary, this Direction provides that a Draft LEP shall locate zones for urban purposes and include provisions that give effect to or are consistent with the aims, objectives and principles of Improving Transport Choice – Guidelines for Planning and Development (DUAP 2001) and The Right Place for Business and Services – Planning Policy (DUAP 2001). The Direction also provides that a Draft LEP may be consistent with the Direction if the land has been identified in the Strategy prepared by Council and approved by the Director General or, the rezoning is justified by an Environmental Study or the rezoning is in accordance with the relevant regional strategy.	Consistent. The land is identified in the Ballina Shire Growth Management Strategy and the Far North Coast Regional Strategy. Additionally, the site is located within an already approved residential subdivision which is considered to have access to public transport.
3.5 Development Near Licensed Aerodromes	Applies to Ballina Shire. Does not apply to Draft Plan.	

TABLE 1 – SECTION 117 DIRECTIONS		
DIRECTION NO.	REQUIREMENTS	COMMENTS
4. Hazard and Risk		
4.1 Acid Sulphate Soils	Direction requires Councils to consider the Acid Sulphate Soils Planning Guidelines and include provisions which are consistent with the Acid Sulphate Soils Model Local Environmental Plan.	Consistent. The study site does not contain Acid Sulphate Soils.
4.2 Mine Subsidence and Unstable Land	Applies to Ballina Shire. Does not apply to Draft Plan.	
4.3 Flood Prone Land	Applies to Ballina Shire. Does not apply to Draft Plan.	
4.4 Planning for Bushfire Protection	In summary, this Direction provides that in the preparation of a Draft LEP a Council shall consult with the Commissioner of the Rural Fire Service and take into account any comments made. In addition, the Draft LEP is required to have regard to Planning for Bushfire Protection, 2001 among other things.	Consistent. The Rural Fire Service (RFS) was consulted in accordance with the Gateway Determination. The RFS raises no objections to the planning proposal proceeding.
5. Regional Planning		
5.1 Implementation of Regional Strategies	This Direction provides that when a Council prepares a Draft LEP the Plan shall be consistent with a Regional Strategy released by the Minister for Planning.	Consistent. The site is identified in the Far North Coast Regional Strategy as a proposed future urban release area.
5.2 Sydney Drinking Water Catchments	Does not apply to Ballina Shire.	
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Applies to Ballina Shire. Does not apply to Draft Plan.	
5.4 Commercial and Retail Development	Applies to Ballina Shire. Does not apply to Draft Plan.	
5.5 Development in the vicinity of Ellalong Paxton and Millfield (Cessnock LGA).	Does not apply to Ballina Shire	
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	Repealed	
5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	Repealed	
5.8 Second Sydney Airport: Badgerys Creek	Does not apply to Ballina Shire	

TABLE 1 – SECTION 117 DIRECTIONS		
DIRECTION NO.	REQUIREMENTS	COMMENTS
6. Local Plan Making		
6.1 Approval and Referral Requirements	In summary, this Direction provides that a Draft LEP shall minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or Public Authority, not contain these provisions unless Council has obtained approval from the relevant Authority and not identify development as designated development unless certain prerequisites can be met.	Consistent.
6.2 Reserving Land for Public Purposes	This Direction provides that a Draft LEP shall not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant Authority among other things.	Consistent.
6.3 Site Specific Provisions	This Direction provides that a Draft LEP that amends another Environmental Planning Instrument in order to allow a particular development proposal shall either allow that land use to be carried out in the zone that the land is situated on or rezone the site to an existing zone already applying in the Environmental Planning Instrument that allows that land use without imposing any development standards or requirements in addition to those already existing or allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal Planning Instrument being amended.	Consistent.
7. Metropolitan Planning		
7.1 Implementation of the Metropolitan Strategy	Does not apply to Ballina Shire	

Appendix 6 – LEP Amendment Request – SAKE Development



18 April 2012

ABN 69 117 633 119

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

41 Byron Street
COOGEE NSW 2034
ABN 69 117 633 119

F: 02 9719 3166
M: 0425 277 039

Attn: Matthew Wood

Dear Mr Wood

Preliminary Planning Proposal, Blues Seas Parade Lennox Head

Further to our recent discussions, I am writing on behalf of the landowners, DM and RD Dossor (the Dossors), regarding their now consolidated allotment of land which was part of the former Crown road reserve and Lot 10 within the Coastal Grove Development. The Dossors are seeking to prepare a planning proposal for the subject land to "tidy up" the two zones that apply to their consolidated site.

The allotment is now known as Lot 1 in DP 1173776 and was consolidated and registered with NSW Land and Property Office on 27 March 2012. It covers an area of 1,162sqm. I have attached for your information the certificate of title and plan of consolidation of Lot 1 in DP 161550 and Lot 10 in DP1168665 (see Attachments 1 and 2).

In preparing this preliminary submission, SAKE Development has reviewed Council's "Process Guidelines for Planning Proposals and LEP Amendments" dated March 2011 and is also familiar with the NSW Department of Planning's "guide to preparing planning proposals". This letter is therefore Step 1 in the process and forms part of the LEP Amendment Initiation, formally advising council of the basic concept to rectify a minor zoning anomaly for the subject land. SAKE Development would also be pleased to prepare a draft planning proposal if this concept is endorsed.

Background

The Dossors applied to the former Department of Lands to close and purchase the Crown road (application number W411174) on the 25 September 2008. The Land and Property Management Authority agreed to the sale and the land was transferred and registered to the Dossors on 24 March 2011. The closure of the public road also appeared in the Government Gazette No 20 on 25 February 2011.

The Dossors then sought to consolidate Lot 10 in DP 1168665 that formed part of the Coastal Grove development with the former Crown road allotment to create a more suitable sized building block for the Lennox Head market. The plan of consolidation was registered on 27 March 2012. The consolidated allotment now has two proposed zonings under the Draft Ballina LEP 2011 (see attachment 3).

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SAKE Development Pty Ltd
ABN 69 117 633 119



SAKE Development lodged a rezoning request late last year as part of the second round exhibition of the Draft Ballina LEP 2011 to consider rezoning the former Crown road land to a low density residential zone (R2), similar to Lot 10. Council's resolution of December 2011 noted that further assessment of site constraints would likely to be required and that the owners could undertake a separate planning proposal accompanied by a more detailed assessment of site constraints.

Preliminary Environmental Assessment of the Consolidated Allotment

A full environmental assessment of Lot 10 within the Coastal Grove development occurred and a limited environmental assessment was undertaken for the purchase of the Crown road reserve from the former Department of Lands. A discussion of the key environmental matters is provided below, to support a low density zoning, which would be embellished as part of a planning proposal submission:

- In terms of visual impact, the land forms the end of a row of housing along the escarpment. The addition of one dwelling house on the consolidated allotment is considered very minor and the Visual Assessment completed by HASSELL for the Coastal Grove development determined the visual impact as low. The land is also below the ridgeline (RL 60) and any future dwelling will be setback in line with existing housing.
- In terms of contamination, comprehensive Phase 1 and 2 Environmental Site Assessments were completed by Coffey Geosciences Pty Ltd for the Coastal Grove development to assess the potential for contamination to exist on the site from previous and current land uses, and to provide recommendations on the need for remediation as required. The assessments examined Lot 10. The Phase 1 environmental site assessment was initially carried out and information was obtained by a number of methods including a site walk over by an experienced geoscientist, historical title search reviews and a review of aerial photographs. The site history revealed a low risk that the site had been exposed to contamination from current and past land uses.

On this basis, it was considered that the shed, formerly located to the north of the Coastal Grove site, was the main area of environmental concern due to the potential storage of normal farm chemicals and therefore sampling was targeted to this area. Targeted sampling occurred across the site (the contamination assessment included a bore hole test on Lot 10 – sample H1), and concentrated in the area near the shed. Soil samples were tested for a suite of contaminants including:

- > Heavy Metals (arsenic, cadmium, chromium, copper, lead, nickel, zinc, and mercury);
- > Organochlorine Pesticides (OCPs);
- > Total Petroleum Hydrocarbons (TPH);
- > Benzene, Toluene, Ethyl-benzene, Xylene (BTEX);
- > Poly-Aromatic Hydrocarbons (PAH).

The Phase 1 samples indicated that concentrations of the chemicals of concern were below the adopted guideline criteria for human health. Only one sample taken near the shed had a zinc concentration which mildly exceeded the provisional phytotoxicity criteria. A Phase 2 Assessment of the shed and surrounds was therefore completed and measures were put in place to remediate this area.

Based on this information, it is considered highly unlikely that the former Crown road reserve would contain contamination based on its site history and land use, as an area of former road reserve that was basically inaccessible and land locked. No agricultural practices have occurred on this land, which has simply been maintained as a reserve. Notwithstanding, as part of any planning proposal submission, SAKE Development would engage a suitably qualified contamination consultant to review this aspect more closely and ensure any further residential development would meet the requirements of SEPP 55 – Remediation of Land.

- In terms of slope stability, Lot 10 was categorized as zone 1 with a very low to low risk of slope instability. The land is therefore least constrained in terms of slope stability hazard and suitable for residential development.
- In terms of bushfire hazard and ecological constraints, the site is located in a low bushfire hazard area. The area to the north along the escarpment contains bitou bush and does not contain littoral rainforest in the immediate area. An appropriate asset protection zone and buffer would be provided to support a dwelling on the site. An asset protection zone would be provided from the edge of the escarpment.
- In terms of servicing, both water and sewer are available to Lot 10 and therefore the subject land.

Draft Ballina LEP 2011

We therefore believe that the subject land can support low density residential development and the future urban investigation zone recognized this. As the Dossors have now consolidated the allotments to create one single residential allotment, this would remove any ambiguity and uncertainty associated with cross zonings and future questions about the location of a dwelling house.

We also note that council has not adopted Clause 5.3 – development near zone boundaries in the Standard LEP Instrument in the draft Ballina LEP which would have provided some future flexibility for any dual or cross zonings. Whilst the current draft zoning, RU1 Primary Production, does permit the erection of a dwelling house, the minimum lot size provision would cause uncertainty.

We therefore request that a single consistent zone apply across Lot 1 in DP 1161550 to remove this dual zoning anomaly. It is considered that rezoning this land from 1 (d) Urban Investigation to R2 Low Density Residential is suitable. It is further considered that this land can support low density housing, particularly from a visual impact and bushfire threat perspective, and that services are available to support a dwelling house. We trust that Council will review this matter favourably and proceed with the planning proposal for the subject land.

Please feel free to contact me if you require any further information.

Yours faithfully



Sarah Kelly
Director

Attachment 1 – Photos of the Subject Land



View from Crown Reserve looking west across the consolidated allotment, Lot 1 in DP 1173776. Note the land is clear of vegetation, level and grassed.



View from the consolidated lot looking east toward the Crown Reserve.

LAND AND PROPERTY INFORMATION NSW - INTEGRATED TITLING SYSTEM

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on 28/3/2012 7:16:20 AM

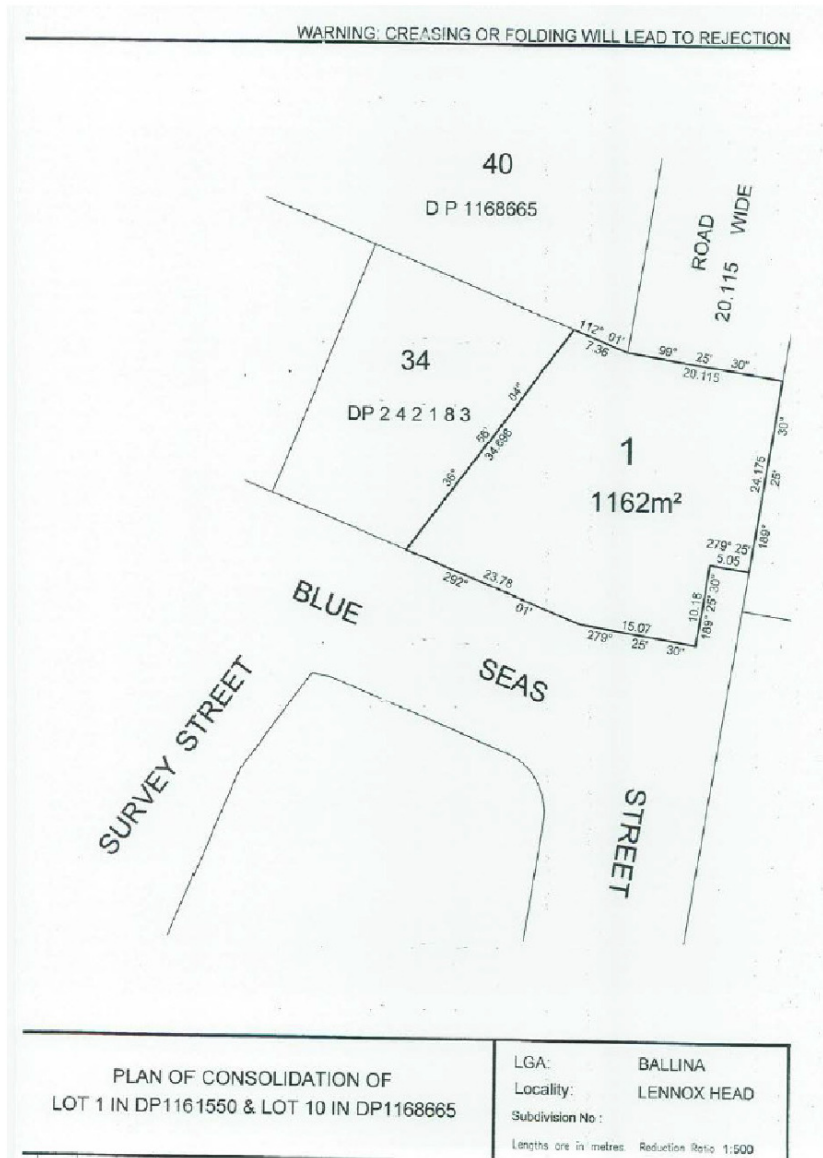
1W DAVID MALCOM DOSSOR
1306/61 MACQUARIE STREET
SYDNEY 2000

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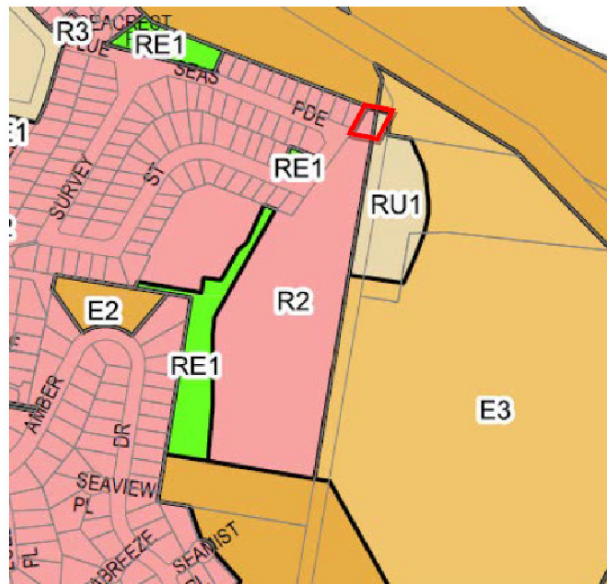
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PRODUCED ON: .
REFERENCE:
PRODUCED FOR: CONNECTION TO DP1173776

CERTIFICATE(S) OF TITLE: 1
MULTI PAGE CERTIFICATE(S) OF TITLE: 0

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Attachment 3 Proposed Dual Zonings – Draft Ballina LEP 2011



Approximate location of dual zones, R2 Low Density and RU1 Primary Production.

Appendix 7 – DP&I Gateway Determination



Office of the Director General

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

Dear Mr Hickey,

Planning proposal to amend Ballina Local Environmental Plan (LEP) 1987 or draft Ballina LEP 2012

I am writing in response to your Council's letter dated 31 October 2012 requesting a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to amend the Ballina Local Environmental Plan (LEP) 1987 or draft Ballina LEP 2012 to rezone land at Blue Seas Parade, Lennox Head for residential purposes.

As delegate of the Minister for Planning and Infrastructure, I have now determined that the planning proposal should proceed subject to the conditions in the attached Gateway determination.

I have also agreed that the planning proposal's inconsistencies with S117 Direction 1.2 Rural Zones are of minor significance. No further approval is required in relation to this Direction.

The amending Local Environmental Plan (LEP) is to be finalised within 12 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible to meet the 12 month timeframe. Council's request for the department to draft and finalise the LEP should be made six (6) weeks prior to the projected publication date.

The NSW State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under s54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, please contact Jenny Johnson of the regional office of the department on 02 6641 6600.

Yours sincerely,

Sam Haddad
Sam Haddad
Director General
21/11/2012

Contact: Jenny Johnson
Phone: (02) 6641 6600
Fax: (02) 6641 6601
Email: Jenny.Johnson@planning.nsw.gov.au
Postal: Locked Bag 9022, Grafton NSW 2460

Our ref: PP_2012_BALLI_005_00 (12/17745)
Your ref: LEP Amendment Request – Blue Seas Parade, Lennox Head

Bridge Street Office: 23-33 Bridge Street, Sydney NSW 2000 Telephone: (02) 9228 6111
GPO Box 39 Sydney NSW 2001 Facsimile: (02) 9228 6455
DX 22 Sydney Website: www.planning.nsw.gov.au

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Planning Proposal - March 2013 - Lot 1 DP 1173776, Blue Seas Parade, Lennox Head



Gateway Determination

Planning proposal (Department Ref: PP_2012_BALLI_005_00): to amend either the Ballina Local Environmental Plan (LEP) 1987 or draft Ballina Local Environmental Plan 2012 to rezone land at Lennox Head for residential purposes.

I, the Director General, Department of Planning and Infrastructure as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to rezone land at Lot 1 DP 1173776, Blue Seas Parade, Lennox Head from 1(d) Rural (Urban Investigation) to 2(a) Residential (Living Area) under Ballina Local Environmental Plan (LEP) 1987 or to R2 Low Density Residential under the draft Ballina LEP 2012 and apply a 600m² minimum lot size should proceed subject to the following conditions:

1. Prior to commencing public exhibition, Council is to update the planning proposal maps to clearly identify the subject land and the proposed zoning of the site under Ballina LEP 1987 and draft Ballina LEP 2012.
2. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal must be made publicly available for **28 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 4.5 of *A Guide to Preparing LEPs (Department of Planning 2009)*.
3. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - NSW Rural Fire Service

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.
4. Council is to consult with the Commissioner of the NSW Rural Fire Service as per the requirements of S117 Direction 4.4 Planning for Bushfire Protection. Council is to amend the planning proposal, if necessary, to take into consideration any comments prior to the commencement of public exhibition.
5. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

BALLINA PP_2012_BALLI_005_00 (12/17745)





6. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated 21st day of November 2012.

S Haddad
Sam Haddad
Director General
Delegate of the Minister for Planning and
Infrastructure

BALLINA PP_2012_BALLI_005_00 (12/17745)

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Planning Proposal - March 2013 - Lot 1 DP 1173776, Blue Seas Parade, Lennox Head

Appendix 8 – Advice from the NSW Rural Fire Service

All communications to be addressed to:

Headquarters
NSW Rural Fire Service
Locked Mail Bag 17
GRANVILLE NSW 2142

Headquarters
NSW Rural Fire Service
15 Carter Street
HOMEBUSH BAY NSW 2127

Telephone: (02) 8741 5555
e-mail: csc@rfs.nsw.gov.au

Facsimile: (02) 8741 5550



RECORDS
SCANNED
30 JAN 2013
Doc No.....
Batch No.....

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

Your Ref: BSCPP 12/004
Our Ref: L12/0003
DA13010886059 PC

Attention: Mr Matthew Wood

18 January 2012

Dear Mr Wood,

Planning Proposal BSCPP 12/004 – Blue Seas Parade, Lennox Head

I refer to your letter dated 17 December 2012 seeking the NSW Rural Fire Service comments under section 56 of the Environmental Planning and Assessment Act 1979 for the above mentioned Planning Proposal.

The NSW Rural Fire Service (RFS) notes that the subject land is identified as bush fire prone land on the Ballina Shire Bush Fire Prone Land Map. Development applications for all development on bush fire prone lands will be required to comply with either Section 79BA of the *Environmental Planning and Assessment Act 1979* or Section 100B of the *Rural Fires Act 1997* depending upon the nature of the proposed development. Due to the nature of the surrounding land (particularly the steep downward slope to the north and north-east), a performance based assessment would be required for any proposed future development on the land in order to satisfy the above requirements.

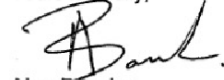
Notwithstanding the above, it is understood that the western portion of the site is proposed for rezoning to zone R2 Low Density Residential under Draft Ballina LEP 2012 and that under that Plan, the subject lot would have potential for a dwelling within the R2 zone. It is also understood that gazettal of Draft Ballina LEP 2012 is imminent.

As such, the RFS raises no objection to the Planning Proposal proceeding to rezone the eastern portion of Lot 1 to zone R2 Low Density Residential. In doing so it is noted that having the entire area of Lot 1 available for a future dwelling will allow greater opportunity for an appropriate design response and provision of appropriate bushfire protection measures (including construction and asset protection zones) to be tailored for the site with respect to the surrounding bushfire hazard.

1 of 2

For any enquiries regarding this correspondence please contact Paul Creenaune on 6655 7002.

Yours faithfully,



Alan Bawden
Team Leader – Development Assessment & Planning

The RFS has made getting additional information easier. For general information on *Planning for Bush Fire Protection 2006*, visit the RFS web page at www.rfs.nsw.gov.au and search under *Planning for Bush Fire Protection 2006*.

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Planning Proposal - March 2013 - Lot 1 DP 1173776, Blue Seas Parade, Lennox Head