



Chronology of Council Resolutions and Activity
Ballina Waterways/ Burns Point Ferry Road

Date	Action
November 1995	Council resolved to prepare an amendment to the Ballina Local Environmental Plan for the area "bounded generally by the Pacific Highway, Emigrant Creek, the Richmond River and Burns Point Ferry Road, with the purpose of the plan being to facilitate the urban development of the site".
June - July 1997	Exhibition of draft amendment 39 to the Ballina Local Environmental Plan 1987.
June 1999	Amended concept plan submitted by Steel & Associates Pty Ltd that attempted to address community and public authority submissions to the public exhibition.
July 1999	Council resolved to exhibit the revised rezoning proposal.
September 1999	Exhibition of the revised proposal deferred pending submission of further geotechnical information.
1999 - 2005	Ongoing work relating to resolving technical issues on the site.
November 2005	Rezoning request received seeking support from Council to rezone the land to facilitate residential development in the northern half of the site, with the remainder of the area to be zoned for environmental protection purposes. The request was worded as if it were a fresh application (i.e. not reliant on the previous decisions of Council) and an application fee was paid.
January 2006	<p>Council resolved as follows:</p> <ol style="list-style-type: none"> 1. <i>That the Council proceed to commence the formal processing of the requested amendment to the Ballina Local Environmental Plan 1987 relating to Lot 4 DP 537417 with the matter to be the subject of a further report to the Council providing additional technical detail with respect to the proposed amendment.</i> 2. <i>The Council workshop proposed on developer agreements will further define Council's expectations with respect to this particular development and the potential for a marina.</i> <p>The report included the following statement:</p> <p><i>This report is essentially to inform the Council with respect to whether or not it is considered the request is consistent with the adopted criteria for the commencement of formal processing, and to seek direction from the Council as to whether the formal processing of the request should commence.</i></p> <p><i>It is important to note that the commencement of the formal amendment process in no way binds the Council to rezone the land. Commencement of the process merely means that more detailed technical assessment of the proposal will start. Should Council wish to continue consideration of this proposed amendment, the next step will be the presentation of a more detailed report to the Council regarding the technical aspects of the proposal based on an initial review of the material provided by the proponent.</i></p> <p>The Council resolution was not forwarded to the Department of Planning under S54(4) of the Act.</p> <p>The following advice was provided to the proponent:</p> <p><i>Please note that Council's consideration of the matter to date stops short of a decision to prepare a draft local environmental plan, as required under Section 54 of the Environmental Planning and Assessment Act.</i></p> <p>This is the origin of draft LEP Amendment No.93.</p>

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<p>July 2006</p>	<p>Council considered an update report concerning the rezoning. The report advised that there were a range of constraints over the land which were still being assessed. Council resolved as follows:</p> <p><i>That the report concerning the current status of the request for rezoning of Allotment 1 DP 537417 Burns Ferry Road, West Ballina be received and noted.</i></p>
<p>October 2008</p>	<p>Response from Landpartners (formerly Aspect North) to Council's list of issues, withdrawing the concept plan and requesting:</p> <ul style="list-style-type: none"> • That the 4.76 ha area adjacent to the Pacific Highway be rezoned for urban development. • The potential to explore further development options over the balance of the land be preserved by maintaining the current zone or equivalent and that it be considered for urban expansion in the Urban Land Release Strategy.
<p>December 2008</p>	<p>Council resolved as follows:</p> <p><i>That in respect to the subject land matters Council resolves to proceed with option two as identified in the body of this report.</i></p> <p>Option 2 is reproduced below:</p> <ol style="list-style-type: none"> 1. Advise the various land owners that Council is supportive of rezoning the 4.76 ha area of the Ballina Waterways site adjacent to the Pacific Highway and the immediately adjoining lands for urban purposes as part of the comprehensive Draft Local Environmental Plan, provided that: <ol style="list-style-type: none"> a. An integrated rezoning strategy is provided in conjunction with the Ferry Boat Motel site. b. The proposed zoning facilitates the development of the land for low key tourist accommodation, aged care, manufactured home estate, business or low key/impact industrial or a mix, rather than conventional residential allotments. c. A zoning strategy includes areas to be set aside for environmental protection, compensatory environmental measures and strategies for long term maintenance of environmental protection areas. d. The owners of the Ballina Waterways and former Ferry Boat Motel site provide commitments towards access being provided to and across the site in accordance with the NSW Roads & Traffic Authority recommendations i.e. extension of Kalinga Street across the site to give alternative access to Emigrant Lane. e. A planning agreement is provided that outlines all undertakings/proposals that cannot be secured or delivered via the proposed zoning; or <p>(Note: It is envisaged that the owners of the adjoining Emigrant Lane Properties would be contacted to ascertain their preference for the future zoning of their land.)</p>

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	<p>The Report to Council included the following advice:</p> <p><i>Council has the ability to include the subject land and the other adjoining land in a draft plan under the terms of Council's original resolution at its Ordinary Meeting held on 23 November 1995:</i></p> <p><i>"to prepare a local environmental plan to amend the provisions of the Ballina Local Environmental Plan 1987. The amending plan shall apply to that area in West Ballina bounded generally by the Pacific Highway, Emigrant Creek, the Richmond River and Burns Point Ferry Road, with the purpose of the plan being to facilitate the urban development of the site".</i></p> <p><i>Recent advice from the Department of Planning suggests that Council can continue to act on this original resolution if it wishes to prepare a draft plan for this land. Council will, however, need to obtain a Section 65 Certificate from the Director-General of Planning for the public exhibition of a draft plan.</i></p> <p><i>If Council is to support any rezoning of part of the land for urban purposes, it may have to be undertaken as part of the comprehensive new Draft Local Environmental Plan, given the timing of both matters.</i></p>
July 2009	<p>Consideration of the amendment proceeded under draft LEP Amendment No.39.</p> <p>Presentation to Councillors by SJ Connelly concerning revised concept for the site.</p>
March 2010	<p>Draft Ballina Local Environmental Plan 2010 placed on public exhibition proposing entire site to be zoned R2 Rural Landscape.</p>
April 2010	<p>Council request for clarification regarding proponent's progress in relation to the amendment. Request sought clarification in relation to the following:</p> <ol style="list-style-type: none"> <i>whether or not your client intends to proceed with the current rezoning request; and</i> <i>should your client still be proceeding with the rezoning proposal, the likely timeframe for the submission of the required technical information connected to the rezoning.</i> <p>No specific response was received.</p>
May 2010	<p>Council request to Department of Planning for entry of LEP amendment no.39 into the Gateway planning system. Amendment could not continue under the previous LEP amendment system.</p>
June 2010	<p>Department of Planning advice that conversion of the existing draft to a planning proposal under the Gateway system was not supported. This advice closed the consideration of the LEP amendment request (39) previously presented to Council.</p>
October 2010	<p>Advice from SJ Connelly that Part 3A submission lodged with Department of Planning. Council advised of a mixed urban/ environmental concept for the land (including biobanking).</p>
May/ June 2011	<p>Project identified as not being received into the Part 3A assessment system under reforms to Part 3A.</p>
September 2011	<p>Draft Ballina Local Environmental Plan 2011 placed on public exhibition proposing entire site to be zoned E2 Environmental Conservation.</p>
December 2011	<p>Submission received from SJ Connelly in relation to proposed environmental conservation zoning for the site in Draft Ballina Local Environmental Plan 2011. In response, Council resolved to grant the proponent additional time to prepare a rezoning proposal and to zone part of the site rural in accordance with its December 2008 resolution. This resolution included the applicable land use zoning for the site would be reviewed in 12 months.</p>

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May 2012	LEP amendment request received to rezone Lot 1 DP 522558 (former Ferry Boat Motel site) to allow medium density residential development.
July 2012	LEP amendment request received from SJ Connelly to rezone Lot 4 DP 537419 (Ballina Waterways site) comprising a mix of urban and environmental conservation land uses (including biobanking).
September 2012	LEP amendment request for Lot 1 DP 522558 (former Ferry Boat Motel site) reported to Council with recommendation to proceed with preparation of a planning proposal for Lot 1 only. Proposal for Lot 4 to be assessed and reported separately.
October 2012	Council request to SJ Connelly for additional information in relation to rezoning proposal for Lot 4, including request for proponent agreement to engage third party ecological consultant to review ecological characteristics of site. No specific response received.
February 2013	Ballina Local Environmental Plan 2012 is made and zones the 4.76 hectare area (identified in the December 2008 Council resolution) as RU2 Rural Landscape. The remainder of the site (proposed for E2 Environmental Conservation under the Draft LEP) is deferred and remains zoned 1(b) – Rural (Urban Investigation) as per the Ballina Local Environmental Plan 1987.
June 2013	Matter reported to Council for direction as to how to proceed in relation to current proposal having regard to Council's previous (December 2011) resolution and the proponent's failure to respond to Council's October 2012 correspondence.

Author	SJ Connelly CPP on behalf of Ballina Waterways
Issue Category	Site specific
	Lot 4 DP 537419 Burns Point Ferry Road, West Ballina
Submission No.	16, 16a
Issue Summary	Objects to proposed E2 Environmental Conservation zone and seeks application on an RU2 Rural Landscape zone and retention of identification of the land as having potential for urban purposes.

Assessment

The Burns Point Ferry Road site has been the subject of extensive history and considerations by Council over a prolonged period of time since 1995. Despite extensive studies, the land has not been considered by Council to be suitable for the application of an urban zone to date. Given the prolonged opportunity that has been available to the landholder to demonstrate the urban suitability of the land, that the current 1(d) Rural (Urban Investigation) zoning only acknowledges that land is to be investigated to determine its urban suitability as well as the known environmental values of the site, the draft LEP 2011 proposes an E2 zone over the entire land parcel.

The landholder's submission suggests a development concept for the site that involves mixed industrial, commercial and residential uses at the Pacific Highway end of the property and environmental conservation over the remainder of the land supported by a biobanking scheme. Significantly, the area proposed for urban uses substantially extends beyond the 4.7ha area identified by Council in 2008 for the focus of further investigations into urban land uses. With respect to the 2008 resolution, Council resolved as follows :

Advise the various land owners that Council is supportive of rezoning the 4.76 ha area of the Ballina Waterways site adjacent to the Pacific Highway and the immediately adjoining lands for urban purposes as part of the comprehensive Draft Local Environmental Plan, provided that:

- a. An integrated rezoning strategy is provided in conjunction with the Ferry Boat Motel site.*
- b. The proposed zoning facilitates the development of the land for low key tourist accommodation, aged care, manufactured home estate, business or low key/impact industrial or a mix, rather than conventional residential allotments.*
- c. A zoning strategy includes areas to be set aside for environmental protection, compensatory environmental measures and strategies for long term maintenance of environmental protection areas.*
- d. The owners of the Ballina Waterways and former Ferry Boat Motel site provide commitments towards access being provided to and across the site in accordance with the NSW Roads & Traffic Authority recommendations i.e. extension of Kalinga Street across the site to give alternative access to Emigrant Lane.*
- e. A planning agreement is provided that outlines all undertakings/proposals that cannot be secured or delivered via the proposed zoning; or*

A core constraint to the future urban use of the land is the ecological values attributable to the land. In particular, information provided on the landholder's behalf as part of the previous rezoning proposal indicates the presence of endangered ecological communities in the form of coastal salt marsh, freshwater wetland and swamp oak open forest over the majority of the site. There are no large areas of the

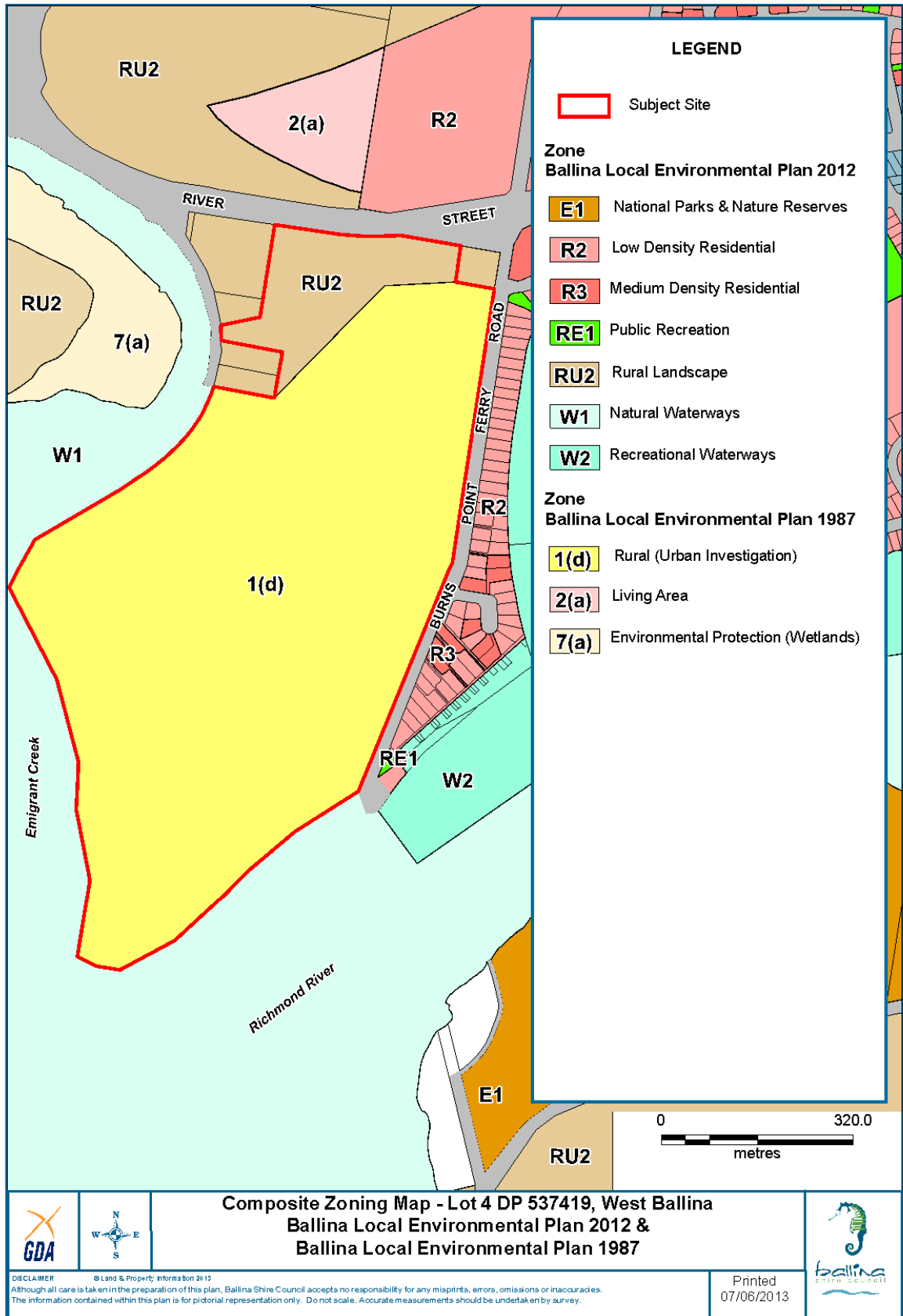
site free of these attributes fronting either the Pacific Highway or Burns Point Ferry Road.

The concept of utilising development outcomes to support enhanced conservation outcomes over part of the site via the use of biobanking is considered to have merit (in considering the biobanking concept, it should be noted that biobanking can still be undertaken in relation to land zoned E2 Environmental Conservation). However, there does not appear to be an obvious potential development footprint that does not impact on identified endangered ecological communities. Furthermore, ecological values are not the only consideration for future development of the land, with matters such as flooding, geotechnical conditions and access being important considerations. It is acknowledged that investigative work has been undertaken to respond to these issues.

The landholder has previously met with Council and indicated a desire for more time to establish a proposal for the land use on the site. Although the parameters set out in Council's 2008 resolution have not been met, it is open to Council to provide additional time for the landholder to prepare a suitable rezoning application. If this approach is supported by Council, it is recommended that the draft LEP be amended to identify an RU2 Rural Landscape zone over the area the subject of the 2008 resolution (being approximately 4.7 ha in the northern portion of the site - see page 23 submission 16a). Under this approach, the RU2 zoned area would also be identified in the Strategic Urban Growth Area map under the LEP. It is recommended that this arrangement be reviewed in 12 months time, with a view to applying a suitable environmental protection zone to the land if an urban zoning framework has not been resolved by way of an LEP amendment.

An alternative course of action available to Council is to adhere to the zoning arrangement that has been applied in the most recent iteration of the draft plan (i.e. an E2 zone over the entire site).

Recommendation	Amend draft LEP to reflect area for potential urban development as outlined above. The land use zone applicable to the site is to be reviewed in 12 months time.
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REVISION
A: 27/06/23 Annual Typings and add National

Note:
All dimensions and areas are approximate only and are subject to survey and Council approval.
Dimensions have been rounded to the nearest 0.1 metric.
Areas have been rounded down to the nearest 0.1.
The boundaries shown on this plan should not be used by final detailed engineers design.

Source Information:
Site boundaries: Topographic Survey Plans
Additional information: DDCS
Environment constraints: Peter Parker.

CLIENT
S J CONNELLY

PROJECT
PROPOSED SUBDIVISION

BURNS POINT ALLOTMENT LAYOUT

Land Owner
Dohy

Date
27 FEB 2023

Drawn by
L.S. WARD

Check by
2487/28 Pro

APPROVED BY
BALLINA SHIRE COUNCIL

Locality
WEST BALLINA

Site Reference
293

Scale
1:1000

Sheet
A1

Plan Ref
24337-08

Rev
A

RPS

RPS Appraisal Cost Pty Ltd
RPS 140 201 550
RPS 140 502 793
Ballina Design
RPS Environmental Services
RPS Planning Services
RPS Valuers QLD 4006
RPS 140 502 793
RPS 140 502 793



Fig. 1: Proposed BioBank development site, 1.2 ha of swamp she-oak proposed for removal (Lot 3 DP 537419, Photo: Nearthmap 29 February 2012)

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