

# Planning Proposal

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## Skennars Head Coastal Village

PREPARED FOR  
**WaveBreak Properties Pty Ltd**

PREPARED BY  
**Elton Consulting**

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

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Prepared by **Debrah Barr**

Reviewed by

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**Jenny Rudolph**

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# 1 Introduction

## 1.1 Purpose of the Report

This Planning Proposal provides an outline and justification for the proposed rezoning of Dr Stewart's Land, Skennars Head, located mid-way between East Ballina and Lennox Head, to provide for a new residential neighbourhood, a neighbourhood centre, recreational reserves and open space. The Planning Proposal seeks the Department of Planning and Infrastructure's support to commence the process to prepare an amendment to the two in-force Ballina Local Environmental Plans, 1987 and 2012.

This Planning Proposal has been proposed in accordance with Section 55 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and the relevant Department of Planning Guidelines, including *A Guide to Preparing Local Environmental Plans* and *A Guide to Preparing Planning Proposals*.

In accordance with the Department of Planning Guidelines *A Guide to Preparing Local Environmental Plans* this Planning Proposal comprises the following sections:

- A Statement of the Objectives (**Section 3, Part 1**);
- An Explanation of the Provisions that are to be included in the proposed amended LEP (**Section 3, Part 2**);
- The Justification for those objectives, outcomes and provisions and the process for their implementation (**Section 3, Part 3**); and
- Details of the Community Consultation that is to be undertaken on the Planning Proposal (**Section 4, Part 4**).

This stage of the Planning Proposal seeks consent from the Joint Regional Planning Panel for exhibition. As outlined in *A Guide to Preparing Planning Proposals*, the Planning Proposal will evolve throughout the course of preparing the amending LEP as relevant sections will be updated and amended in response to the outcomes of consultation. The proposed technical studies which have been undertaken are described in **Part 3 – Justification** of this Planning Proposal.

Accompanying this Planning Proposal are studies and advice listed below:

Report Name	Consultant	Date Prepared
Correspondence	Department of Planning and Infrastructure	25 September 2012 and 21 December 2012
Urban Design Report in Support for Rezoning	BDA Architecture	9 October 2008
Visual Assessment Report	CivicMatters	March 2008
Visual Assessment Report	LandPartners	July 2008
Landscape Structure Plan Report	LandPartners	February 2007
Archaeological Test Excavations	Davies Heritage Consultants Pty Ltd	October 2007
Stage 1 – Site Contamination Assessment	Gilbert + Sutherland Agricultural and Environmental Scientists	May 2007
Flora and Fauna Assessment	Australian Wetlands Consulting Pty Ltd	May 2013
Traffic Impact Assessment	Carter Rytenskild Group (CRG)	20 August 2007
Preliminary Bush Fire Assessment	LandPartners	20 December 2007
Concept Environmental Management Plan	LandPartners	April 2008
Geotechnical Investigation Coast Road Skennars Head	Soil Surveys	October 2006

Agricultural Land Capability Assessment	Gilbert + Sutherland Agricultural and Environmental Scientists	November 2006
Engineering Report for Rezoning Application	Cardno	15 October 2008
Mosquito Impact Assessment April 2004 – October 2006 Mosquito Buffer Effectiveness Study	Mosquito Consulting Services Pty Ltd	Undated
Environmental Noise Impact Assessment	Carter Rytenskild Group (CRG)	2 February 2009
Skennars Head – Overview of Social and Economic Issues	Elton Consulting	25 January 2008

## 1.2 Background

A rezoning application for the WaveBreak Properties land in Skennars Head was lodged with Ballina Council in 2008. The original proposal included land located on both the western and eastern sides of The Coast Road.

However, WaveBreak Properties, the proponent, did not control the land on the eastern side of The Coast Road. Control of this land remained with Dr Stewart, the landowner, and did not form part of the subject site. As such, the land on the eastern side of The Coast Road was formally removed from the Planning Proposal in 2011. In late 2011, Council signed a lease agreement with the landowner, Dr Stewart, for the use of part of the land east of The Coast Road, for use of a car park.

At its meeting on 15 December 2011, the Council resolved to rescind a previous determination to cease further processing of the Draft LEP Amendment, subject to two conditions, namely to enable the land to the east of The Coast Road to be dedicated to Council and to enter into a Voluntary Planning Agreement for certain works and dedication of land to the west of The Coast Road.

Having regard to the rezoning proposal being with Council for over 3 years, a formal request was made to the Minister of Planning and Infrastructure, that the Director General or a Joint Regional Planning Panel be made as the relevant planning authority to progress the preparation of the Planning Proposal and draft Local Environmental Plan.

The Minister, by letter dated 25 September 2012, advised that he has determined to appoint the Joint Regional Planning Panel as the relevant planning authority to finalise this matter (contained within **Annexure A**). Furthermore, Director General Requirements (DGRs) were issued in relation to this Planning Proposal on 21 December 2012 (contained within **Annexure A**). The DGRs required the following be provided prior to placing the Planning Proposal on exhibition:

- An updated environmental study to:
  - Exclude those parts of Lots 1 and 2 DP 784864 which are east of The Coast Road;
  - Make reference to the zones contained in the Standard LEP rather than the Ballina LEP 1987; and
  - Include an update of the flora and fauna report prepared by LandPartners dated December 2007, reference BA040015, which incorporates the additional fauna surveys during the summer months which is recommended by the 2007 study.
- A revised planning proposal which:
  - Excludes those parts of Lots 1 and 2 DP 784864 which are east of The Coast Road;
  - Makes reference to the zones contained in the Standard LEP rather than the Ballina LEP 1987;
  - Complies with the Department’s ‘A Guide to Preparing Planning Proposals’; and
  - Maps which show the land use zones proposed for the site. It is not necessary that these maps comply with the department’s guideline *Standard technical requirements for LEP maps*. I will arrange for Standard LEP maps to be prepared for exhibition of the planning proposal.

## 2 Site Context and Characteristics

### 2.1 Site Identification

The Planning Proposal relates to the property which is generally known as no. 305 Coast Road, Skennars Head, between East Ballina and Lennox Head. The land is commonly known as 'Dr Stewart's land'.

The property descriptions and site areas are identified in the table below. **Figure 1** overleaf depicts the location of each of the lots within the subject site.

**Table 1: Site descriptions**

<b>Property Descriptions</b>	<b>Area (Hectares)</b>
Part Lot 2 DP 784864	Estimated 44.75
Lot 1 DP 184117	37.87
Lot 1 DP 449851	13.54
Lot 66 DP 755684	16.19
Lot 50 DP 755684	16.19
Part Lot 1 DP 784864	Estimated 11.39
Lot 76 DP 755684	16.19
Part Lot 59 DP 827785	Approximately 0.67
Road Reserves (excluding Coast Road)	Estimated 6.34
<b>Total Area</b>	<b>162.96</b>



Figure 1: Lot Boundaries

**2.2 Site Context**

The subject site is located within the local government area of Ballina. Lennox Head is to the north of the subject area, with Ballina being to the west and East Ballina being to the south. The subject site is immediately south of the existing Headlands Estate residential area.

Headlands Drive provides access to the southern end of the existing Headlands Estate residential area and to the northern end of the subject sites. Headlands Drive intersects with The Coast Road at the north-east corner of the subject area. The Headlands Estate mainly comprises single detached residential dwellings on large allotments. The Estate also contains two schools, one primary and one secondary.

To the immediate east of the site, on the eastern side of The Coast Road, is Sharpes Beach. The land on which the car park associated with the Beach is located is owned by the same owner, that is Dr & Mrs Stewart, as the subject land, and is leased to the Council on a 99 year lease agreement.

A detailed site context is provided below in **Figures 2, 3 and 4**.







Figure 4 Site Plan (source: google maps)

### 2.3 Existing Land Use Zoning

Under the newly adopted Ballina Local Environmental Plan 2012 (BLEP), the subject site is affected by the following zones (see **Figure 5** overleaf):

- RU1 Primary Production
- RU2 Rural Landscape
- Deferred Matter (the land on the outer edges of the subject land are zoned 'Deferred Matter' as the Minister for Planning and Infrastructure issued a media release on 20 September 2012 providing that the use of the Environmental E2 and E3 zones on land clearly rural in nature would be excised from plans while the Department of Planning and Infrastructure review the use of these controls. This review has not yet been finalised. Furthermore, these 'Deferred Matter' areas rely on the controls contained within the Ballina Local Environmental Plan 1987)

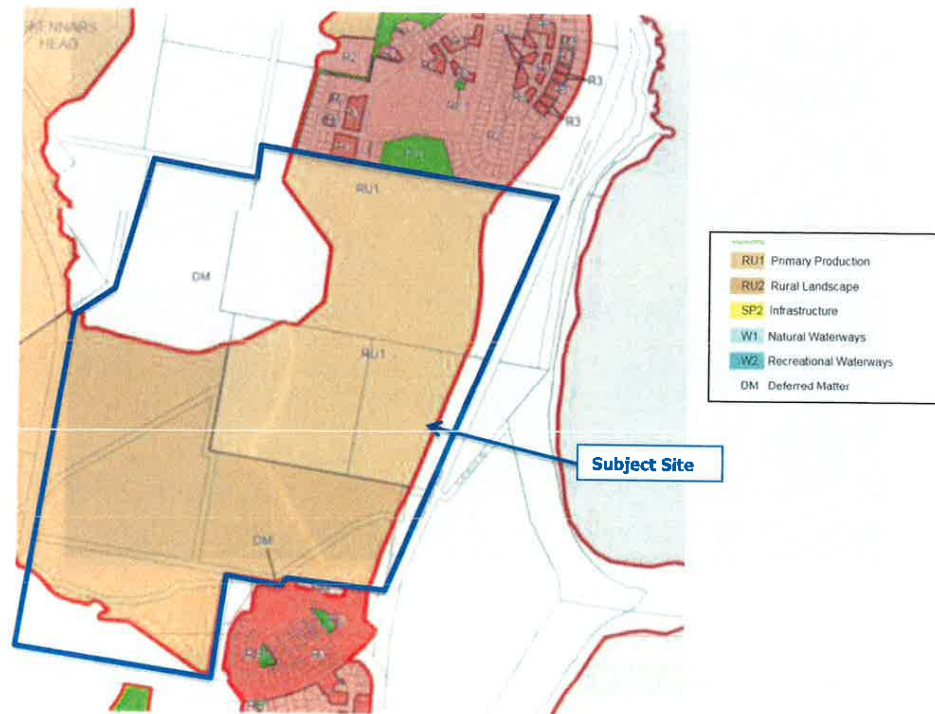


Figure 5 Extant zoning under BLEP 2012

### 3 Planning Proposal

This section contains the Planning Proposal, which has been prepared in accordance with the NSW Department of Planning and Infrastructure's *Guide to Preparing Planning Proposals* (2012).

The Planning Proposal contains four parts:

- **Part 1** – Objectives of the proposed LEP
- **Part 2** – Explanation of provisions
- **Part 3** – Justification
- **Part 4** – Maps
- **Part 5** – Community Consultation.

## Part 1 – Objectives of the Proposed LEP

### 3.1 Objectives of the Planning Proposal

The objectives of the Planning Proposal are to:

- Facilitate the creation of a new urban residential neighbourhood, a neighbourhood shop, community facilities, road construction, stormwater drainage and public open space;
- Realign the zone boundaries to more accurately reflect, conserve and protect the full extent of the significant wetlands vegetation communities;
- Promote the development of sustainable high quality urban design and urban development;
- Conserve areas of Aboriginal cultural significance;
- Establish a planning and management framework for a rural, ecological and visual green belt across the south of the subject site;
- Maintain rural pursuits (that is farming practices) on those parts of the land that are unsuitable for urban or conservation purposes or intensive landscape management; and
- Protect areas of high visual sensitivity from inappropriate development.

### 3.2 Vision for the Site

An Urban Design Report has been prepared by BDA Architecture (refer to **Annexure B**). The Report provides the following vision statement and design principles which have been applied to the proposal:

*The vision for Skennars Head Coastal Village is:*

*To create a sustainable community in a scenic beach side location, integrated with the surrounding neighbourhoods and its bush setting.*

*It will be a liveable neighbourhood that promotes a walkable environment and a health and active lifestyle. It will encourage a casual and relaxed beach lifestyle with a safe village atmosphere.*

*It will protect and enhance the character and ambience of the natural environment with design responses driven by the preservation and rehabilitation of environmental protection areas, responsive landscape design and the provision of an interconnected network of passive and active open spaces.*

*The Skennars Head Coastal Village aims to create an authentic place achieved through carefully designed village centre, housing and community infrastructure, integrated with landscape solutions that enhance the characteristics of the site.*

*The built form must be responsive to the natural environment and local climatic conditions and shall adopt a palette of colours and materials sympathetic to Skennars Head landscape.*

*It will provide diversity of housing type and tenure to respond to the aspirations and needs of the local community and its demographic changes.*

*It will create a sense of place where local residents will be empowered to own their own community. The urban framework will facilitate the building of a unique social structure providing spaces and homes that maximises encounters to stimulate social interaction but also ensuring areas of privacy.*

### 3.3 Concept Plan

A preliminary concept plan has been prepared by BDA Architects (refer to **Annexure B**) based on the policy setting, preliminary studies and objectives for the site. It will continue to be refined as further technical investigations are undertaken and the Planning Proposal progresses.

The preliminary concept plan shows the proposed uses to be located within the developable area on the subject site. Key features of the plan include:

- The proposed development will be contained within the central part of the north of the subject site;
- The developable area comprises approximately 20% (35ha over a total 168ha site) of the overall site;
- The developable area is surrounded by green buffer zones (to be zoned 'Deferred Matter');
- Residents will be able to access existing and proposed community and open space facilities, including neighbourhood parks, local shops (with a gross floor area of approximately 2,000sqm), schools, beach and public transport, which are between 200m and 400m walk;
- The internal road network will be interconnected to facilitate easy accessibility through walking, bicycle riding, driving and public transport; and
- The proposal will promote social diversity and equality through a range of lot sizes and housing types.

Excerpts of the proposed concept plan are provided overleaf in **Figures 6** and **7**.

### 3.4 Visual Assessment

A Visual Assessment was undertaken by CIVICMatters (refer to **Annexure C**) to produce a visual analysis and constraints mapping adjacent to Headlands Estate residential development. The assessment concludes that:

*As the viewpoints move along the road, the ability to 'view' the site and the extent of that view changes. However, in most cases, the extent of the view into the site is limited due to topography or vegetation. Further, if travelling by vehicle along the road, the duration, another factor sometimes used in determining the impact on an observer, is considerably short-term in that the motorists are travelling at 80 km/hr.*

*Final analysis shows that it would be possible through appropriate mitigation measures such as landscaping, dwelling type and mass and material finishes to lessen, if not alleviate, the perceived visual impact of the proposed development. These mitigation measures have been set out in both the Urban Design Report and Landscape Structure Plan Report that accompany this visual assessment report as part of the rezoning application.*

This Visual Assessment was supplemented by a study undertaken by LandPartners (refer to **Annexure D**). LandPartners assessed the context of the site, as perceived by a viewer on foot, bicycle or within a vehicle. The images prepared indicate both the existing condition and indicative proposed development from different observation points. They highlight the predicted impact of views from publicly accessible locations and the cumulative impact of the proposed development as part of the larger pattern of development that affects the visual amenity of The Coast Road.



Figure 6. Proposed Structure Plan (source BDA Architects)



3.5 Landscape Structure Plan

A Landscape Structure Plan was prepared by LandPartners (refer to **Annexure E**) to accompany the Planning Proposal. The aim of the Landscape Structure Plan is to *provide a high quality development which supplements the existing Skennars Head development with local infrastructure, including passive and active open space areas, continued pedestrian and bicycle networks and a much needed community hub which is lacking in the existing development. The village landscape is broken into key species zones to reflect the changing nature of the endemic landscape from coastal to littoral rainforest and wetland species.*

The proposed Landscape Structure Plan has been formed around the five 'Coastal Design Guidelines for NSW' principles. These principles include:

1. Define the footprint and boundary of the settlement
2. Connect open spaces in and around the settlement
3. Protect the natural edges of the settlement
4. Reinforce the street pattern
5. Appropriate buildings for a coastal context, plus appropriate development that relates to the site's natural features and to its location within the settlement.

Following the implementation of these principles, the landscape structure plan indicated below in **Figure 8** has been developed.



Figure 8 Proposed Landscape Structure Plan - Principles



## Part 2 – Explanation of Provisions

This Planning Proposal seeks to amend the Ballina Shire Council LEP 2012, and the Ballina Local Environmental Plan 1987, by implementing the proposed concept plan and objectives outlined in the previously in this report.

### 3.6 Amendment of Land Use Zonings

The proposed rezoning would affect a large portion of the subject site area. The proposed zones would include:

- **Zone R2 Low Density Residential** – this zone would allow for the development of low density residential allotments within the northern part of the site, adjacent to the Headlands Estate.

The objectives of this zone seek:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide for development that is compatible with the character and amenity of the surrounding neighbourhood.*
- *To provide for development that meets the social and cultural needs of the community.*
- *To encourage development that achieves the efficient use of resources such as energy and water.*

The proposed rezoning accords with the above listed objectives through the provision of much needed residential accommodation. The proposal will enable the creation of a variety of lot sizes which will be able to accommodate different housing types and cater for all sectors of the community.

The following uses, amongst others, are permitted with consent: Bed and breakfast accommodation, dwelling houses, secondary dwellings and shop top housing.

- **Zone B1 Neighbourhood Centre** – this zone would allow the development of a neighbourhood shops (with a gross floor area of approximately 2,000sqm) to cater for the needs of the future residential population, including shop top housing within the north-eastern part of the site.

The objectives of this zone seek:

- *To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.*
- *To maintain a distinct retail hierarchy as identified in Council's strategic planning framework.*
- *To ensure adequate provision of infrastructure to support neighbourhood shopping facilities.*
- *To ensure a safe and accessible built environment.*
- *To encourage development that recognises natural, cultural and built heritage.*
- *To encourage development that is compatible with the character of the neighbourhood.*

The proposal complies with the objectives of this zone by providing an opportunity for the establishment of neighbourhood shops and facilities that will cater for both the proposed residential community as well as the established community at Headlands Estate.

The following uses, amongst others, are permitted with consent: business premises, community facilities, dwelling houses, health consulting rooms, medical centres, neighbourhood shops, and shop top housing. Furthermore, commercial premises are not prohibited uses, and they would allow the creation of shops and food and drink premises.

- **Zone RU2 Rural Landscape** – this zone would allow the continuing use and extension of the existing farmland within the south-western portion of the subject site.

The objectives of this zone seek:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To maintain the rural landscape character of the land.*
- *To provide for a range of compatible land uses, including extensive agriculture.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within the zone and land uses within adjoining zones.*
- *To enable small-scale tourist-orientated development that is compatible with the rural nature of the land.*
- *To encourage development that involves restoration or enhancement (or both) of the natural environment if consistent with the production and landscape character of the land.*
- *To enable development that does not adversely impact on the natural environment, including habitat and waterways.*
- *To ensure that there is not unreasonable or uneconomic demands (or both) for the provision of public infrastructure.*

The proposal complies with these objectives by protecting the existing farmland from future rezoning.

- **Deferred Matter** – to align with the Minister for Planning and Infrastructure’s current excision of the Environmental E2 and E3 zones from the Ballina Council area. Parts of the subject site will be rezoned to conserve and preserve the environmental and archaeological elements that are located within the confines of the site’s boundaries.

Where the subject land is to be rezoned for urban or rural purposes but is currently deferred from Ballina Local Environmental Plan 2012, and therefore subject to Ballina Local Environmental Plan 1987, that land will be zoned either R2 or RU2 under Ballina Local Environmental Plan 2012 and the 1987 Local Environmental Plan will cease to apply to that land. The remainder of the land deferred from Local Environmental Plan 2012, and not proposed to be zoned either R2 or RU2, will retain the zoning under Local Environmental Plan 1987 which is 7(a) Environmental Protection (wetlands) in the west and south of the site, and 7(d) Environmental Protection (Scenic/Escarpment) along the eastern boundary.

It is the expectation of the Planning Proposal that those parts of the subject land which possess significant environmental or archaeological elements will have an E2 Environmental Conservation zone applied to them when the review of environmental zones in North Coast LEPs is completed.

The objectives of the E2 Environmental Conservation Zone are:

- *To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.*
- *To prevent development that could destroy, damage or otherwise have an adverse effect on those values.*

No development is permitted within this zone.

The proposal complies with the objectives of this zone by preventing development from occurring within the north-western and south-western corners of the site where the majority of the threatened species of flora and fauna are located. Furthermore, this zone will be applied to the land to the south of the proposed developable area, north of the existing Angels Beach community, where suspected Potential Archaeological Deposits (PADs) are located.

Plan indicating the location and extent of the proposed zones are provided below in **Part 4- Mapping**. One plan indicates the proposed rezoning using the current terminology of 'Deferred Matter' whilst the other indicates the proposed rezoning inserting the E2 Environmental Conservation Zone.

### 3.7 Proposed Minimum Lot Sizes

The Planning Proposal seeks to create lots in the R2 Low Density Residential and B1 Neighbourhood Centre zones with a minimum area of 400sqm within the proposed developable area. The proposed minimum lot size seeks to differentiate between the products that already exist within the Headlands Estate and Angels Beach

Estate and meet a market demand for smaller properties adjoining the proposed neighbourhood centre. The creation of smaller lots around the neighbourhood centre would also increase the diversity of housing types and provide the opportunity for affordable housing options in a part of the developable area which is highly accessible and is close to local services.

Lots within the RU2 Rural Landscape and E2 Environmental Conservation/Deferred Matter zones would have a minimum area of 40ha.

Drawings indicating the location and extent of these minimum lot areas are provided below in **Part 4 – Mapping**.

### 3.8 Proposed Heights of Buildings

The Planning Proposal seeks to allow buildings with a maximum height of 8.5 metres over the entire site. Drawings indicating the location and extent of these heights are depicted below in **Part 4 – Mapping**.

### 3.9 Proposed Floor Space Ratios

The proposed residential development will be consistent with the current requirements for dwelling houses pursuant to Clause 4.4(2A), which provides a floor space ratio of 0.5:1.

With regard to the neighbourhood shops, a floor space ratio of 0.8:1 is proposed.

Drawings indicating the location and extent of the floor space ratio controls are contained within **Part 4 – Mapping**.

## Part 3 – Justification

This section sets out the justification for the Planning Proposal to change the zoning and provide direction for the preparation of development controls on the subject land.

In accordance with Part 3 of the NSW Department of Planning and Infrastructure's guidelines, this section contains:

- *A response is provided to each of the specific questions listed;*
- *The level of justification provided is proportionate to the impact the Planning Proposal will have;*
- *Where a question is not considered relevant to the Planning Proposal, this is stated and the reason why the question is not relevant is briefly explained;*
- *In those cases where it is considered necessary to undertake technical studies or investigations to justify different aspects of the Planning Proposal, the issues giving rise to the need for these studies or investigations are identified in the Planning Proposal;*
- *In general, these studies or investigations have not been carried out, but instead await the initial gateway determination to confirm the studies or investigations required and the process for continuing the assessment of the proposal, including whether it will need to be resubmitted following completion of the studies or investigations;*
- *Where technical studies or investigations have been carried out, their findings and consequences are described in the Planning Proposal under the relevant heading in the justification and the complete study or investigation is submitted separately as appendices.*

Section A – Need for the Planning Proposal

**Q1: Is the Planning Proposal a result of any strategic study or report?**

The Planning Proposal is not being submitted as a result of any direct strategic study or report by Government. However, the subject area has been identified within Ballina Urban Land Release Study as an area which may accommodate future urban redevelopment and be subject of a rezoning application.

The Planning Proposal accords with the objectives and actions contained within the strategic policies which affect the change of use of the subject land to contain a developable urban area. This confirms that there is a sound basis to rezone the site for new future uses, including residential dwellings, a neighbourhood centre and environmental protection.

**Q2: Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

The Planning Proposal is the best and most efficient means of achieving the objectives for the site. The Planning Proposal facilitates the:

- Opportunity to make strategic use of the lands to meet State, regional and local strategies;
- Creation of a developable area to accommodate residential allotments, a neighbourhood centre and associated infrastructure, such as roads and stormwater management;
- Realignment of the existing environmental protection areas to more accurately reflect the full extent of the natural environment which has been identified for conservation purposes;
- Conservation of potential archaeological deposits;
- Retention of existing farmland; and
- Provision of a variety of residential allotments to meet housing demand and provide housing choice to address affordable housing issues.

The only available mechanism to achieve these objectives is through a rezoning process to enable a change in the controls affecting development at the subject site. The zones being sought within the confines of the site are R2 Low Density Residential, B1 Neighbourhood Centre, RU2 Rural Landscape and Deferred Matter (E2 Environmental Conservation).

Section B – Relationship to Strategic Planning Framework

**Q3: 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 Planning Proposal is consistent with the objectives and actions contained within NSW 2021 and the Far North Coast Regional Strategy. A detailed discussion of how the Planning Proposal accords with these strategies is provided below in **Table 2**.

**Table 2: State and Regional Strategies**

Strategy	Comment																		
<b>NSW 2021</b>	Enabling the future rezoning of the subject to accommodate residential, community and conservation uses will help implement some of the key objectives of NSW 2021.																		
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<b>Far North Coast Regional Strategy</b>	<p>The NSW Department of Planning and Infrastructure's Far North Coast Regional Strategy (FNCRS) is the strategic land use planning framework to guide the sustainable growth of the Far North Coast over the next 25 years. The Strategy predicts a population growth of 60,400 between 2006 and 2031 in the far north coast of NSW. In order to accommodate this growth, an additional 51,000 dwellings will be required.</p> <p>According to the FNCRS, Ballina is identified as an emerging major centre in the region and furthermore, the subject area is identified as a future urban release area.</p>																		

- The proposal responds to the predictions of population by:
- Combining with the existing Headlands Estate to ultimately accommodate between 1,500 to 2,000 people;
  - Developing a walkable and sustainable community that is in close proximity to public transport, community facilities including schools, neighbourhood shops, employment opportunities and areas of open space;
  - Integrating well with the existing Headlands Estate by extending the internal road network and sharing of services and facilities; and
  - Providing some small-scale commercial opportunities through the neighbourhood centre.

**NSW Coastal Policy** The NSW Coastal Policy directs coastal zone management, planning and conservation in NSW and encourages ecologically sustainable development for the state’s coastal zone.

The proposal seeks to conserve and enhance the natural environment, particularly at the north-west and south-west corners of the site (ESD). The extant environmental protected areas, at the site’s north-west, will be enlarged as part of this proposal to actually reflect the nature of vegetation that is present. The protected area within the south-west corner will also be preserved. Furthermore, a tract of land, running the length of the site adjoining The Coast Road will be protected as an environmental zone (or ‘Deferred Matter’) to offer visual protection between the proposal residential neighbourhood and the traffic along this road.

**Q4. Is the Planning Proposal consistent with a council’s local strategy or other local strategic plan?**

The Planning Proposal is consistent with Ballina Shire’s Local Strategies, as indicated in **Table 3** below.

**Table 3: Local Strategies**

<b>Strategy</b>	<b>Comment</b>	
<b>People, Place, Prosperity: a framework for a more sustainable Ballina Shire 2025</b>	The proposed rezoning will encourage a more sustainable Ballina Shire and a healthier community. The proposal will also enable the community to make good use of existing resources and existing and proposed community facilities.	
	1.2.1 A built environment contributing to health and wellbeing	The proposed residential area has been designed to resemble a village-like environment, where local services and facilities are within walking distance of the residential neighbourhood, a sense of community is created and enforced through creative and interesting design measures and providing open spaces and recreational areas that meet community requirements.
	1.2.2 A diverse and prosperous economy	A variety of allotments will be created facilitating housing choice and affordability. The new allotments will also be located near to existing public transport services.
	1.2.3 A healthy natural environment	A neighbourhood centre will be created in the north-east corner of the proposed neighbourhood. This will create an opportunity for a local business to meet local needs of the future and existing residents in Skennars Head.
	1.2.4 Diverse and balanced use of our land	The current environmental protection zone within the north-west corner of the site will be extended to more accurately reflect the location of the extant natural vegetation. Further, a scenic protection buffer will be created along The Coast Road boundary of the subject site.
	1.2.5 People attaining health and wellbeing	The proposed rezoning will enhance the mixture of urban and rural land uses, will protect the distinctive views enjoyed and will create a sense of open space.
	1.2.6 Resilient and adaptable	The rezoning creates opportunities for residents to walk to local focal points, including the proposed recreational reserve in the north of the site and Sharpes Beach, and to cycle around through the integration of the proposed road network with that existing within the Headlands Estate.
	The design of the residential area includes opportunities for communal meeting places and will be integrated with the	

	communities	existing community at Headlands Estate to form a cohesive community.
	1.2.7 Responsible and efficient use of resources	A significant portion of the existing agricultural land located within the central portion of the subject area will be retained for farming purposes. The proposed rezoning intends to ensure an efficient re-use of the land, and thus provide a balance of a variety of uses including farming, environmental protection, archaeological conservation and residential.
<b>Ballina Urban Land Release Study</b>		The area is dominated with medium density along the coast and low density to the west of The Coast Road. This proposal seeks to rezone the land to allow for the development of low density residential dwellings, and would therefore be consistent with the existing development pattern of the western side of The Coast Road.
	B.1 – East Ballina (extends through to Skennars Head Road to the north)	The subject area was formerly zoned 1(d) Rural (Urban Investigation) Zone. The Ballina Urban Land Release Study predicted that the land in East Ballina subject to this zone would create approximately 2,600 dwellings. The proposal seeks to provide approximately 300 allotments in the first stage increasing to between 500 and 600 dwellings in stage 2. This will accommodate an overall population of between 1,200 and 1,400. However, in order to facilitate the development of residential dwellings, a rezoning would need to be undertaken.
<b>Ballina Shire Council Growth Management Strategy</b>	Skennars Head is identified as an area <i>comprising the existing 'Headlands Estate' and future development of land south of Headlands Estate and west of The Coast Road.</i>	
	<b>Key Issues</b>	<b>Comment</b>
	Need to maintain visual breaks between Skennars Head and East Ballina to the south and Lennox Head to the north	The proposed rezoning maintains a 400m visual break in development between Skennars Head and East Ballina through the retention of the existing farmland and environmental protection/heritage conservation areas within the southern portion of the site
	Need to protect key natural environments and areas with indigenous cultural heritage values	Key natural environmental areas along the western and eastern flanks of the site will be protected through the preservation and extension of the environmental conservation zone, E2 Environmental Conservation (currently indicated as Deferred Matter). Further, an area at the south-eastern corner of the subject site which contains potential archaeological deposits will be protected also under the E2 Environmental Conservation Zone.
	Land of commercial facilities to provide day to day convenience items.	Neighbourhood shops will be created at the north-eastern corner of the subject site to cater for the day to day convenience needs of the existing and future residents.
	Vehicular access to the Coast at both Headlands Drive and Skennars Head Road problematic at peak times.	A roundabout at the new intersection of Sharpes Car park, entry to the site and The Coast Road would be included as part of the future development to help alleviate problems accessing The Coast Road during peak times.
	Poor pedestrian/cycleway linkages to both East Ballina and Lennox Head.	Proposed pedestrian/cycleway links would be constructed within the proposed rezoning and along the eastern boundary of the subject site to provide access to East Ballina and Sharpes Beach.
	Major road corridors are a substantial consideration in planning for future growth – including upgrades to	Pursuant to a Voluntary Planning Agreement or conditions of consent, a new roundabout will be constructed at the intersection of Headlands Drive and The Coast Road to ameliorate traffic issues along The Coast Road.



	intersections on The Coast Road	
	Rezoning process underway for land to the south of Headlands Estate (LEP Amendment 90).	This Planning Proposal seeks to finalise and obtain determination by the JRPP for what was previously known as LEP 1987 Amendment 90.
	The Lennox Head area contains Aboriginal, European and other non-Aboriginal heritage sites/values.	The site contains an area which has potential archaeological deposits within its south-eastern corner. This part of the subject land will be rezoned for environmental conservation purposes in order to ensure that the deposits remain in situ.
<b>Lennox Head Community Aspirations Strategic Plan</b>	The subject site is located immediately south of the boundaries identified within this Plan. The Plan states that <i>for the purposes of this Strategic Plan, however, Skennars Head is being considered as part of the broader Lennox Head district.</i>	
	<b>Strategic Action</b>	<b>Comment</b>
	Urban Growth	The proposal retains the visual buffer and development void between the residential dwellings and East Ballina.
	Community Infrastructure	A new neighbourhood park in the north-eastern corner of the subject site would be created through the concept plan design. The designs of the internal roads and allotment layout have been devised to ensure a safe and walkable community, where surveillance can be undertaken through both passive and active means.
	Environment	The existing wetlands which are located within the north-western portion of the subject site would be protected and expanded to fully conserve and preserve their full extent. Additional environmental protection zones would be located within the south-western corner along Angels Beach Drive and within the south-eastern corner along The Coast Road (which also includes the potential archaeological deposits). Further studies relating to mosquito buffers, bushfire planning, stormwater management and heritage technical studies have been undertaken for this Planning Proposal. Appropriate management plans will be prepared and implemented to ensure appropriate preservation and conservation of these areas.
	Housing and Development Form	This application would involve the creation of low density residential allotments which would cater for the demand for affordable housing and housing choice within the Ballina Shire.
	Transport and Accessibility	The internal road and pathway network is designed to encourage walking and cycling around the new neighbourhood, to Headlands Estate, East Ballina and Sharpes Beach.
	Commercial and Economic Development	A new neighbourhood centre will be created as part of the overall concept plan design. This centre will cater for the convenience needs of residents on a day-to-day basis.
<b>Lennox Head Structure Plan</b>	The Plan states that: <i>Area T is located outside of the scope of the study area for the Lennox Head Structure Plan. However, it is illustrated on the Structure Plan Map in the interest of providing information as to where other urban development may occur in the vicinity of Lennox Head.</i> <i>... the Structure Plan does not nominate preferred land uses, or changes to the zoning of Area T at this time.</i>	
	Area T – South of Headlands Estate, Skennars Head	The Plan does however indicate, through the preparation of a Landscape and Visual Analysis over the area, that the existing visual buffer between Lennox Head and East Ballina needs to be maintained. This Planning Proposal seeks to accord with this requirement by providing environmental protection areas and retaining the existing farmland within the southern portion of the subject site which would ensure the continued visual separation between Lennox Head and East Ballina.

**Q5: Is the Planning Proposal consistent with applicable state environmental planning policies?**

The Planning Proposal accords with the relevant State Environmental Planning Policies and deemed State Environmental Planning Policies (formerly known as Regional Environmental Plans).

**State Environmental Planning Policies**

**Table 4** below indicates the consistency of the Planning Proposal with the State Environmental Planning Policies (SEPPs).

**Table 4: Consistency with SEPPs**

State Environmental Planning Policy	Consistency / Response
1 – Development Standards	Not relevant
	Yes.
4 – Development without Consent and Miscellaneous Complying Development	The Planning Proposal will not contain provisions that will conflict or obstruct the application of the SEPP.
6 – Number of Storeys	Not relevant
	Yes.
14 – Coastal Wetlands	The Planning Proposal seeks to realign the zone boundary to reflect the existing wetlands vegetation communities.
19 – Bushland in Urban Areas	Not relevant
21 – Caravan Parks	Not relevant
22 – Shops and Commercial Premises	Not relevant
26 – Littoral Rainforests	Not relevant
29 – Western Sydney Recreation Area	Not relevant
30 – Intensive Agriculture	Not relevant
32 – Urban Consolidation (Redevelopment of Urban Land)	Not relevant
33 – Hazardous and Offensive Development	Not relevant
36 – Manufactured Home Estates	Not relevant
39 – Spit Island Bird Habitat	Not relevant
41 – Casino Entertainment Complex	Not relevant
44 – Koala Habitat Protection	Not relevant
47 – Moore Park Showground	Not relevant
50 – Canal Estate Development	Not relevant
52 – Farm Dams and Other Works in Land and Water Management Plan Areas	Not relevant
	Yes.
55 – Remediation of Land	A Stage 1 Preliminary Site Contamination Assessment has been undertaken. The Investigation concludes that <i>each of the potentially contaminating activities identified by this Stage 1 (Preliminary) Site Contamination Assessment... would appear to be manageable</i> . If required, a Stage 2 (Detailed) Site Contamination Assessment would be undertaken at Development Application stage to establish how management can be undertaken.
59 – Central Western Sydney Economic and Employment Area	Not relevant
60 – Exempt and Complying Development	Not relevant
62 – Sustainable Aquaculture	Not relevant
	Yes.
64 – Advertising and Signage	The Planning Proposal will not contain provisions that will conflict or obstruct the application of the SEPP.
65 – Design Quality of Residential Flat Development	Not relevant

70 – Affordable Housing	Not relevant Yes.  This SEPP strives <i>inter alia</i> to protect and manage the natural, cultural, recreational and economic attributes of the NSW coast.  The Planning Proposal is consistent with the aims of the SEPP in that it:
71 – Coastal Protection	<ul style="list-style-type: none"> <li>• Is located on land which has been identified in regional and local strategies as being suitable for rezoning and urban development;</li> <li>• Has topography which can be easily serviced to support residential development;</li> <li>• Will not overshadow the coastal foreshore or result in the loss of views to the foreshore from any public place;</li> <li>• Creates a visual buffer between the proposed residential development adjoining Headlands Estate and East Ballina to the south;</li> <li>• Seeks to improve the existing natural habitat through regeneration and replanting of endemic species in strategic areas around the site;</li> <li>• Seeks to rationalise the existing area of farmland for farming purposes in the southern portion of the site; and</li> <li>• Protects and conserves the potential archaeological deposits in situ.</li> </ul>
State and Regional Development 2011	Not relevant
Sydney Drinking Water Catchment 2011	Not relevant
Urban Renewal 2010	Not relevant
	Yes.
Affordable Rental Housing 2009	The Planning Proposal will not contain provisions that will conflict or obstruct the application of the SEPP.
Western Sydney Parklands 2009	Not relevant
	Yes.
Exempt and Complying Development Codes 2008	The Planning Proposal will not contain provisions that will conflict or obstruct the application of the SEPP.
Western Sydney Employment Area 2009	Not relevant
	Yes.
Rural Lands 2008	The Planning Proposal seeks to retain a large portion of the farmland currently zoned RU2 Rural Landscape. The proposed rezoning will not affect the minimum subdivision lot size or the ability of a lot to accommodate a dwelling.
Kosciusko National Park – Alpine Resorts 2007	Not relevant
	Yes.
Infrastructure 2007	The Planning Proposal seeks to construct a new roundabout at the intersection of The Coast Road and Headlands Drive to provide access to all services and facilities required for urban and residential development.
Temporary Structures 2007	Not relevant
Mining, Petroleum Production and Extractive Industries 2007	Not relevant
Sydney Region Growth Centres 2006	Not relevant
Major Development 2005	Not relevant at this stage, but will relate to the

	accompanying Development Application for the subdivision of the subject site following the successful rezoning application.
Development on Kurnell Peninsula 2005	Not relevant
Building Sustainability Index: BASIX 2004	Yes.
Housing for Seniors or People with a Disability 2004	The Planning Proposal will not contain provisions that will conflict or obstruct the application of the SEPP. Yes.
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**Deemed State Environmental Planning Policies**

The North Coast Regional Environmental Plan (NCREP), which is a deemed State Environmental Planning Policy, applies to the land which has a deferred status pursuant to the Ballina Local Environmental Plan 2012 which falls within the confines of Planning Proposal. The NCREP provides provisions relating to plan preparation. **Table 5** below demonstrates that the Planning Proposal complies with the requirements of the NCREP.

**Table 5: Consistency with North Coast Regional Environmental Plan (NCREP)**

Clause	Details	Comment / Response
7 Plan preparation – prime crop or pasture land	A draft local environmental plan applying to prime crop or pasture land should: (a) identify and include land in an agricultural protection zone and contain provisions that: (i) prevent the subdivision of land within the zone for purposes other than commercial farming, (ii) set minimum allotment sizes which maintain the concept of a minimum area capable of efficient, sustainable agricultural production in the long term, (iii) separate land zoned for residential use from land zoned or used for agricultural use or for intensive animal industries, and (iv) prohibit development which is incompatible with the objectives of this Division, and (v) rezone prime crop or pasture land for purposes other than agricultural only after a detailed analysis of the agricultural capability of the land and adjoining land has been carried out, and (b) in relation to any prime crop or pasture land not identified and included in an agricultural protection zone in paragraph (a): (i) include provisions that retain the land for commercial farming purposes, and (ii) set minimum lot sizes which are sufficient to maintain commercial farming in the long term.	The Planning Proposal will rationalise the majority of the existing farmland located in the south of the site. This area will remain zoned RU2 Rural Landscape. Some of the existing farmland within the eastern part of the site will be rezoned for conservation purposes to protect the suspected Potential Archaeological Deposits (PADs). This area will be rezoned 'Deferred Matter'.
14 – Plan preparation – wetlands or fishery habitats	A draft local environmental plan for land containing rivers, streams, wetland or fishery habitats should: (a) include wetlands, fishery habitats and sufficient land to separate adjoining land uses from the wetlands and fishery habitats in an environment protection zone, and (b) include provisions to require the	The subject site contains areas of wetlands within the north west of the site. The Planning Proposal involves realigning the existing zone boundary to more accurately reflect the location of these wetlands.

	<p>council's consent for development such as agricultural uses, the clearance of vegetation, the filling or draining of land and the construction of levees in the environment protection zone referred to in paragraph (a), and (c) be prepared only after consideration of any environmental audit or water quality study prepared by the Department of Water Resources or the Environment Protection Authority and relating to the land.</p>	
<p>32A Plan preparation – coastal lands</p>	<p>(1) This clause applies to land within the region to which the NSW Coastal Policy 1997 applies.                  (2) A draft local environmental plan which applies to any such land should:                  (a) include provisions that give effect to and are consistent with the NSW Coastal Policy 1997, and                  (b) (repealed)                  (c) prohibit development of buildings or other structures, except those required for erosion control works or beach management, on dunes, beaches or headlands not occupied by buildings or other structures, and                  (d) when development applications are being determined, require consideration of the possibility of higher sea levels cause by climatic change, and                  (e) include provisions to the effect that the council must not consent to the carrying out of development on a headland on which buildings are already situated, except where:                  (i) the height and scale of any buildings that will result from carrying out the development will be no greater than those of the buildings already on the headland,                  (ii) an environmental assessment has been carried out including an assessment of the visual impact of the proposed buildings from other headlands within sight of the headland on which the development is proposed to be carried out, and                  (iii) the proposed development is considered by the council to have a low environmental impact.</p>	<p>The provisions of the Planning Proposal are consistent with the NSW Coastal Policy 1997. Furthermore, a visual assessment of the Planning Proposal has been undertaken to ensure no undue impacts on the existing and surrounding environment.</p>
<p>38 Plan preparation – urban land release strategy</p>	<p>(1) The council should not prepare a draft local environmental plan which permits development that, in the opinion of the council, constitutes significant urban growth unless it has adopted an urban land release strategy for the whole of its local government area.                  (2) A draft local environmental plan referred to in subclause (1) should be generally consistent with the strategy referred to in that subclause.                  (3) The strategy referred to in subclause (1) shall:                  (a) be based on a land release program and population projections,                  (b) give preference to development resulting in urban growth on land that adjoins other land which is already by used for urban purposes and is the most economic to service,                  (b1) to provide for development of land which is unsuitable for urban growth due to its</p>	<p>Council has adopted the Ballina Urban Land Release Strategy (BULRS). The subject site is identified for future development purposes under this Strategy. The Planning Proposal is consistent with the BULRS.</p>

agricultural capability or which adjoins land that is currently used for agriculture,  
 (c) not include for development land that is unsuitable due to any environmental hazard unless the council has made an assessment of the risk and considered it to be minor or alternatively has made provision for the control or reduction of that hazard,  
 (d) not include for development land which has conservation value or which has heritage, environmental or cultural significance,  
 (e) have regard to the rural character and heritage significance of villages and small coastal settlements and the need to maintain that character and significance, and  
 (f) provide substantial buffer areas between coastal urban centres to avoid uninterrupted coastal development  
 (4) The council must ensure that a copy of the strategy adopted under subclause (1):  
 (a) is available, without charge, for public inspection and comment at the office of the council during normal office hours, and  
 (b) is, immediately after it is adopted, forwarded by the council to such public authorities as, in the opinion of the council, have responsibilities reasonably requiring them to be aware of the strategy.

39 Plan preparation – retail, commercial and business activities	<p>A draft local environmental plan should not provide for the establishment of significant retail, commercial or business development unless:</p> <p>(a) the expansion is adjacent to or adjoins the existing commercial centre, or                  (b) if the expansion is not adjacent to or adjoining the existing centre, that development is in accordance with a commercial, retail expansion strategy prepared by the council, published for public discussion and:                  (i) is available, without charge, for public inspection and comment at the office of the council during normal office hours, and                  (ii) is, immediately after it is adopted, forwarded by the council to such public authorities as, in the opinion of the council, have responsibilities reasonably requiring them to be aware of the strategy.</p>	The proposed neighbourhood centre will accommodate local convenient day-to-day shopping needs of the existing residents in Headlands Estate and future residents of the subject site.
40 Plan preparation – urban zones	<p>A draft local environmental plan applying to urban areas should adopt the following principles:</p> <p>(a) zoning should be simple and flexible                  (b) provisions for flexible zone boundaries may apply to any zones except environmental protection zones,                  (c) detailed guidelines within the broad zone parameters should be identified in a development control plan, and                  (d) the principle of minimising energy use, in particular in the design of the buildings and effective transport systems.</p>	The proposed zones already exist within the Ballina LEP 2012 and are appropriate within the context of the Planning Proposal.
42 Plan preparation – principles for housing	<p>(1) A draft local environmental plan to permit dwellings in urban areas should incorporate provisions that:                  (a) allow the alteration or addition of a dwelling</p>	The Planning Proposal seeks to adopt the R2 Low Density Residential zone over the northern part of the site which

	<p>so as to create 2 dwellings in either attached or detached form,                  (b) allow a wide range of housing types and densities,                  (c) separate residential development from other incompatible development, including agricultural activity on adjoining land,                  (d) required that development for residential purposes should not take place until the council is satisfied that the land on which any dwellings are to be erected is adequately serviced with water and sewage disposal facilities,                  (e) retain existing provisions to enable a dwelling to be erected on an existing allotment, and                  (f) permit the use of manufactured home estates for permanent occupation.                  (2) A draft local environmental plan that will permit dwellings to be erected in urban areas should not:                  (a) require development consent for a dwelling-house in a residential zone, except where there are special environmental or hazard considerations, or                  (b) specify a minimum allotment size for residential zones.</p>	would permit these forms of residential development.
43 Plan preparation – residential development	<p>(1) The council shall not grant consent to development for residential purposes unless:                  (a) it is satisfied that the density of the dwellings have been maximised without adversely affecting the environmental features of the land,                  (b) it is satisfied that the proposed road widths are not excessive for the function of the road,                  (c) it is satisfied that, where development involves the long term residential use of caravan parks, the normal criteria for the location of dwellings such as access to services and physical suitability of land have been met,                  (d) it is satisfied that the road network has been designed so as to encourage the use of public transport and minimise the use of private motor vehicles,                  (e) it is satisfied that site erosion will be minimised in accordance with sedimentation and erosion management plan.</p>	As above re-Clause 42
45 Plan preparation – hazards	<p>(1) A draft local environmental plan should not permit development for tourism, rural housing or urban purposes on land subject to the following hazards, namely:                  (a) coastal process,                  (b) flooding or poor drainage,                  (c) dangers arising from potential or actual acid sulphate soils,                  (c1) dangers arising from contaminated land                  (c2) geological or soil instability,                  (d) bush fire.                  (e) aircraft noise at levels of more than 25 (measured according to the Australian Noise Exposure Forecast)                  (f) air or water pollution, or airborne pollution, within 400m of sewage treatment works,                  (g) disposal of septic effluent,                  (h) existing offensive or hazardous industries, and</p>	<p>The Planning Proposal is affected by subclauses (b), (c), (c1), and (d).</p> <p>The proposed developable area within the northern part of the site is not affected by acid sulphate soils or contamination.</p> <p>Preliminary studies have identified that land along the western boundary of the proposed residential area is prone to flooding. The concept plan identifies these areas as drainage reserves and no development will occur there.</p> <p>With regard to bush fire, a</p>

	<p>(i) high tension electrical power lines, unless the council has made an assessment of the extent of the hazard and included provisions in the plan to minimise adverse impact.</p> <p>(2) (repealed)</p> <p>(3) In the event of a bush fire hazard being identified for land on which dwellings are proposed to be permitted, the council shall not permit the development unless it is satisfied that arrangements where appropriate have been made to:</p> <p>(a) Require the creation of a perimeter road or reserve which circumscribes the hazard side of the land intended for that development,</p> <p>(b) Require the creation of a fire radiation zone located on the bushland side of perimeter road,</p> <p>(c) Specify minimum building setbacks for buildings that will be erected on allotments adjoining the perimeter road,</p> <p>(d) Set standards for the use of fire retardant materials for buildings and building construction, and</p> <p>(e) Provide fire trails which link with individual access roads or a through road.</p> <p>(4) (repealed)</p>	<p>buffer between the SEPP 14 wetlands/forest area within the north-western part of the zone will be established to help protect the proposed residential area from the potential bushfire hazard.</p>
<p>45A Plan preparation – flood liable land</p>	<p>(1) This clause applies to flood liable land within the meaning of the Floodplain Development Manual.</p> <p>(2) A draft local environmental plan should:</p> <p>(a) not alter the zoning of flood liable land the zoning of which is described as special use – flood liable, rural, open space, scenic protection, conservation, environment protection, water catchment or coastal lands protection, or similarly describe, to a zone described as residential, business, industrial, special use, village or similarly described, and</p> <p>(b) not contain provisions which apply to flood liable land and which:</p> <p>(i) permit an intensification of development on that land, or</p> <p>(ii) are likely to result in an increase in the need for flood mitigation measures (including emergency measures), infrastructure or services, or</p> <p>(iii) permit development to be carried out without development consent, except development for the purpose of agriculture which does not include landfill, drainage canals, fences, buildings or structures in the following places:</p> <p style="padding-left: 40px;">Floodways, High hazard flood fringe, High hazard flood storage areas,</p> <p>as defined in the Floodplain Development Manual.</p> <p>unless justified by a floodplain management plan prepared by the council in accordance with the Floodplain Development Manual.</p> <p>(3) A draft local environmental plan should:</p> <p>(a) zone land identified in accordance with the principles contained in the Floodplain Development Manual as high hazard flood liable</p>	<p>Parts of the subject site are flood liable. The flood liable area would be included within a drainage reserve.</p>



	<p>or as floodway so as to reflect its potential for flooding, and                  (b) provide that the erection of new buildings on any such land be restricted.</p>	
47 Plan preparation and development control – principles for commercial and industrial development	<p>(1) Before preparing a draft local environmental plan relating to commercial or industrial development, the council should take into consideration the following principles:                  (a) strong multi-functional town centres should be maintained to focus the drawing power of individual businesses and maintain the integrity of the main business area by only zoning land for further commercial or retail development where that development adjoins or is adjacent to the existing town centre,                  (b) provisions contained in local environmental plans relating to retail, commercial, business and industrial zones should be flexible, especially to enable the development light service industry near the central business district,                  (c) there should be an adequate supply of zoned industrial land located where it is physically capable of development for industrial purposes, is not environmentally fragile and can be serviced at a reasonable cost.                  (d) Repealed                  (2) Before granting consent for industrial development, the council must take into consideration the principle that land used for such development should be located where it can be adequately serviced by the transport system and is accessible from urban areas.</p>	<p>The proposal involves the creation of a neighbourhood centre within the north-east corner of the site. The neighbourhood centre will cater for convenient day to day shopping needs of the residential population. It will therefore not compete with the existing centres in Ballina and Lennox Head. No industrial development is proposed.</p>
53 Plan preparation – primary arterial roads	<p>(1) A draft local environmental plan applying to a primary arterial road should identify that road and contain provisions to promote the safety and efficiency of the road.                  (2) The provision referred to in subclause (1) should:                  (a) restrict access on to the road except at specially constructed intersections,                  (b) where through traffic is in conflict with local traffic, make provision for traffic to bypass major urban areas, and                  (c) control advertising signs and structures adjacent to or adjoining roads where, in the opinion of the council, safety, scenic or visual amenity would be impaired by the erection of those signs or structures.                  (3) Repealed.</p>	<p>The Coast Road is identified as an arterial road. To help improve safety and efficiency, the speed limit of The Coast Road was reduced from 100km/hour to 80km/hour at the end of 2011.                  A detailed assessment of the safety and efficiency of the road is provided within the Traffic Report prepared by CRG Consultants. Access to The Coast Road is only available from Headlands Drive. The Traffic Report proposes the construction of a new roundabout at the intersection of The Coast Road and Headlands Drive to improve the level of service, accessibility and safety for drivers and pedestrians/cyclists.</p>
54 Plan preparation – secondary arterial roads	<p>A draft local environmental plan applying to a secondary arterial road or other main or arterial roads should contain provisions that:                  (a) restrict direct access to the main or arterial road and require that access is obtained from a side road or a service road or land,                  (b) segregate through and local traffic in existing developed areas,                  (c) prohibit development which is adjacent to or</p>	<p>Headlands Drive provides access to The Coast Road along the northern boundary of the developable area.</p>

	<p>adjoining a road on which traffic operates at high speed if, in the opinion of the council, safety would be impaired by the development, and</p> <p>(d) prohibit advertising signs and structures adjacent to or adjoining roads where, in the opinion of the council, safety, scenic or visual amenity would be impaired by the erection of those signs or structures.</p>	
56 Plan preparation – land in the vicinity of aerodromes	<p>(1) In the preparation of a draft local environmental plan involving land in the vicinity of an aerodrome licensed under the Civil Aviation Regulations of the Commonwealth, the council should:</p> <p>(a) include provision to control the height of buildings to avoid obstructions and potential hazards to air navigation,</p> <p>(b) include provisions to prohibit residential development on land affected by aircraft noise levels greater than 25 ANEF (measured in accordance with the Australian Noise Exposure Forecast), and</p> <p>(c) include provisions to minimise the risk of obstacles to aircraft, such as bird strike, by requiring consent for development in the vicinity of any such aerodromes which may increase such risk.</p> <p>(2) Before preparing a draft local environmental plan referred to in subclause (1), the council should consider the most recent contour plan indicating the Australian noise exposure forecast in the vicinity of the aerodrome.</p> <p>(3) In this clause:  <b>Australian noise exposure forecast</b> has the meaning given to that expression in the Australian Standard entitled AS 2021-1994 (<i>Acoustics – Aircraft noise intrusion – Building siting and construction</i>) published by Standards Australia in February 1994.  <b>Contour plan</b> means the noise exposure plan (of the particular locality concerned) within the meaning of Australian Standard AS 2021-1985 prepared by the Commonwealth Civil Aviation Authority or other appropriate Commonwealth authority.</p>	<p>Land proposed for residential development is approximately 3km east of the Ballina aerodrome, and is south of the extended centre line of the runway. Chapter 4, Ballina Shore DCP, indicates that the land is not affected by ANEF contours.</p>
56A Plan preparation – bus services	<p>In the preparation of a draft local environmental plan involving an alteration to the zoning of land which could give rise to the need for bus services or the revision of existing bus services, the council should take into consideration the guidelines in <i>Technical Bulletin 19 – Planning for Bus Services</i> (Published in 1989 by the Department of Planning and the Ministry of Transport at that time) to ensure that the draft plan allows for the provision of an adequate and efficient bus route system.</p>	<p>The proposal will generate additional demand and patronage for the existing bus services which cater for the existing residents of Headlands Estate. The proposal will facilitate bus services to be accommodated within the new residential neighbourhood, and link to the existing routes.</p>
58 Plan preparation – servicing urban areas	<p>A draft local environmental plan should not permit development for urban purposes unless the council is satisfied that:</p> <p>(a) the proposed development will make the most economic use of existing services,</p> <p>(b) where the proposed development is adjacent to an existing urban area and that urban area</p>	<p>The rezoning will utilise and extend upon existing services, including water, sewer and electricity reticulation. The proposal will provide reticulated water and sewer to all allotments. Construction</p>

will be substantially increased, the provision of a reticulated water and sewer system will be provided at reasonable cost to each lot,  
 (c) the proposed development is located in an area which is consistent with the findings of any urban land release strategy prepared for the local government area or, where no such strategy has been prepared, the proposed development is located in the area to which services can be provided most readily,  
 (d) consideration has been given to the identification of effluent disposal and discharge points,  
 (e) domestic water catchment areas and water storage areas are not likely to be polluted as a result of the proposed development, and  
 (f) consideration has been given to the provision of public transport facilities, pedestrian and cycleways.

costs will be reasonable in view of prevailing topography and proximity to existing services. Headworks charges to connect water and sewage treatment plant and reticulation systems will be levied by the Council in accordance with adopted servicing plans. A dual reticulation network will be built into the subject site, in preparation for connection to recycled water when Ballina Shire Council eventually provides that service. The rezoning is consistent with the Ballina Urban Release Strategy 2000. Reticulated sewage will be provided throughout the developable area. This network will connect to the existing network and pumping station in the Headlands Estate. Sewage will be transferred to the Lennox Head Sewage Treatment Plants for treatment and disposal. The land is not in a domestic water catchment area. Contemporary stormwater quality controls will be incorporated in the development at subdivision stage. The road hierarchy will be designed to accommodate bus services and pedestrian/cycle pathways.

61 Plan preparation – health and education facilities	<p>A draft local environmental plan should not zone land for residential purposes on either urban or rural land unless:</p> <p>(a) the council is satisfied that:</p> <p>(i) there is adequate access available from the proposed development to both health and education facilities, and</p> <p>(ii) the proposed development is so located as to make the best use of existing health and education facilities, and</p> <p>(b) where the expected future population is unable to be accommodated by the existing health and educational facilities in the region, the council:</p> <p>(i) has identified, in a draft local environmental plan, sites for the location of health and education facilities, or</p> <p>(ii) identifies such sites in a subsequent development control plan.</p>	<p>The future residents of the proposed neighbourhood will be able to access the existing educational facilities in the Headlands Estate, including both the existing primary and secondary schools. Furthermore, there are existing health and education facilities in Ballina and Lennox Head which are both within close proximity, by car and public transport, to the subject site.</p>
65 Plan preparation – provision of community, welfare and child care services	<p>(1) A draft local environmental plan should:</p> <p>(a) not zone land for residential purposes (including rural residential) unless the council has made an assessment of the need for additional community and welfare services and is satisfied that the plan contains adequate provisions to enable the provision of those</p>	<p>The proposed R2 Low Density Residential and B1 Neighbourhood Centre zones allow for the establishment of child care centres. A child care centre, St Anne’s, has been established in the</p>

	<p>services, and                  (b) include child care centres as a land use which is permissible with the council's consent in all rural, residential and business zones.                  (2) Repealed.</p>	<p>Headlands Estate, adjoining the Holy Family Primary School. Additional community and welfare services are available in Lennox Head and Ballina and will be able to accommodate the future residents from this proposed neighbourhood.</p>
78 Plan preparation – public recreation areas	<p>(1) A draft local environmental plan should include provisions which:                  (a) identify areas of potential active or passive recreational use in both urban and rural areas,                  (b) identify a range of recreational environments located in the vicinity of existing and proposed residential development,                  (c) permit recreational uses in a wide range of zones and not only in open space zones,                  (d) identify land for use by the general public to gain access to water bodies and foreshores, and                  (e) manage access to water bodies or foreshores where the environmental features of the area are likely to be damaged by increased public access.                  (2) Repealed</p>	<p>The proposal includes a new neighbourhood park within the north-eastern corner of the subject site, adjacent to the intersection of The Coast Road and Headlands Drive. Additional areas of passive recreation will be provided within the conservation areas scattered throughout the site, including along the length of the site adjoining The Coast Road.</p>
80 Plan preparation – existing zones for public open space	<p>(1) A draft local environmental plan should not substantially reduce existing reservations or zonings of land for public open space.                  (2) For the purposes of subclause (1), the extent of any such reduction should be considered from the point of view of the total area zoned or reserved for open space within the whole of council's area as at the date on which the council decides to prepare the draft plan.</p>	<p>The proposed rezoning will not affect land which is currently zoned for public open space. In fact, it will increase the amount of land available for public open space through the dedication of land for public recreation and open space uses.</p>

**Q6: Is the Planning Proposal consistent with applicable Ministerial Directions (s.117 directions)?**

Pursuant to Section 117 of the *Environmental Planning and Assessment Act 1979*, the Minister for Planning and Infrastructure issues directions that relevant planning authorities must follow when preparing planning proposals for new LEPs. **Table 6** indicates which of these directions are applicable to the proposed rezoning and how the proposal is consistent with them.

**Table 6: Consistency with Ministerial Directions (S.117 Directions)**

Direction	Objective	Comment / Response
<b>1</b>	<b>Employment and Resources</b>	
1.1 Business and Industrial Zones	<p>(a) Encourage employment growth in suitable locations,                  (b) Protect employment land in business and industrial zones, and                  (c) Support the viability of identified strategic centres.</p>	<p>The proposal includes an area earmarked for a future neighbourhood centre. This centre will cater for convenient day-to-day needs of the future residents of Skennars Head, and the existing residents of Headlands Estate. The centre will not impact on the viability of existing business centres in Lennox Head and Ballina.</p>
1.2 Rural Zones	<p>Protect the agricultural production value of rural land.</p>	<p>The Planning Proposal is inconsistent with Clause 4(a) which provides that land from a rural zone shall not be rezoned to a residential, business, industrial, village or tourist zone.</p>

		However, Clause 5 permits inconsistency with that clause in certain circumstances. One of these circumstances is when the land is included within a strategy. The subject site is contained within the Ballina Urban Release Strategy and the Far North Coast Regional Strategy which identify the site as being one for future residential development. These strategies therefore enable the Planning Proposal to be consistent with this Direction.
1.3 Mining, Petroleum Production and Extractive Industries	Ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive minerals are not compromised by inappropriate development.	Not relevant.
1.4 Oyster Aquaculture	(a) Ensure that Priority Oyster Aquaculture Areas and oyster aquaculture are adequately considered when preparing a planning proposal, (b) To protect Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area from land uses that may result in adverse impacts on water quality and consequently, on the health of oysters and oyster consumers.	Not relevant.
1.5 Rural Lands	(a) Protect the agricultural production value of rural land, (b) Facilitate the orderly and economic development of rural lands for rural and related purposes.	A significant portion of the existing area of farmland will be retained which will enable the continuation of farming practices at the subject site.
<b>2 Environment and Heritage</b>		
2.1 Environment Protection Zones	Protect and conserve environmentally sensitive areas.	The existing environmental conservation area (currently zoned "Deferred Matter") at the north-west corner of the subject site will be realigned to protect the entire extent of the wetlands vegetation communities in the study area. The proposed extension of the environmental zone is consistent with the strategic planning objectives affecting the site. Additional areas at the south-western corner of the site will be retained for environmental purposes and a tract of land, ranging in width between 50m and 100m, running parallel along the eastern boundary of the site will provide for visual landscape.
2.2 Coastal Protection	Implement the principles in the NSW Coastal Policy.	The study area is contained within the coastal zone. The proposal complies with the requirements of the NSW Coastal Policy, the Coastline Management Manual and the Coastal Design Guidelines. The subject site is included

2.3 Heritage Conservation	Conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	within the Ballina Urban Land Release Strategy and the Far North Coast Regional Strategy. Where parts of the subject site have been identified as being unsuitable for urban use, they are proposed to be zoned to an appropriate conservation or agricultural zone. Archaeological test excavations have been undertaken (see <b>Annexure F</b> ). These excavations reveal that there is a high likelihood of Aboriginal relics being found within the south-eastern corner of the site. As such, this portion of the site is identified to be zoned conservation, pursuant to the current zoning of "Deferred Matter".
2.4 Recreation Vehicle Areas	Protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.	Not relevant.
<b>3 Housing, Infrastructure and Urban Development</b>		
3.1 Residential Zones	(a) To encourage a variety and choice of housing types to provide for existing and future housing needs, (b) To make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and (c) To minimise the impact of residential development on the environment and resource lands.	A variety of allotment sizes will be created through the detailed subdivision design following this Planning Proposal which will address the housing needs of the existing and future population. The proposed rezoning will make efficient use of existing infrastructure and services, and provide improvements, for example to the new access round about on The Coast Road and access to Sharpes Beach car park, where necessary. The developable area has been devised through careful investigations to ensure the conservation and protection of the existing natural wetlands and Aboriginal historically significant areas.
3.2 Caravan Parks and Manufactured Home Estates	(a) To provide for a variety of housing types, and (b) To provide opportunities for caravan parks and manufactured home estates.	Not relevant.
3.3 Home Occupations	Encourage the carrying out of low-impact small businesses in dwelling houses.	The proposed residential rezoning will not preclude the establishment of home businesses.
3.4 Integrated Land Use and Transport	(a) Improve access to housing, jobs and services by walking, cycling and public transport, and (b) Increase the choice of available transport and reduce dependence on cars, and (c) Reduce travel demand including the number of trips generated by development and the distances travelled, especially by car, and	The design of the proposal will encourage walking and cycling and the use of public transport. Initiatives may include the provision of pathways in and around the developable area, and the facilitation and ease of

	(d) Support the efficient and viable operation of public transport services, and (e) Provide for the efficient movement of freight.	access for existing public transport services to be extended within the future residential area. These concepts will be detailed in the development application phase.
3.5 Development Near Licensed Aerodromes	(a) To ensure the effective and safe operation of aerodromes, and (b) To ensure that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity, and (c) To ensure development for residential purposes or human occupation, if situated on land within the Australian Noise Exposure Forecast (ANEF) contours of between 20 and 25, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.	The proposed residential area is located approximately 3km east of the Ballina-Byron Gateway Airport. According to Chapter 4 of the Ballina DCP, the site is not affected by ANEF contours which would affect the feasibility of future housing.
3.6 Shooting Ranges	(a) To maintain appropriate levels of public safety and amenity when rezoning land adjacent to an existing shooting range, (b) To reduce land use conflict arising between existing shooting ranges and rezoning of adjacent land, (c) To identify issues that must be addressed when giving consideration to rezoning land adjacent to an existing shooting range.	Not relevant.
<b>4 Hazard and Risk</b>		
4.1 Acid Sulfate Soils	Avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils.	An acid sulphate soils assessment has been undertaken by Gilbert and Sutherland (see <b>Annexure G</b> ). It concludes that the change in land use is appropriate.
4.2 Mine Subsidence and Unstable Land	Prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.	Not relevant.
4.3 Flood Prone Land	(a) To ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i> , and (b) To ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.	The western edge of the proposed R2 Low Density Residential land within the northern part of the site is flood prone. It is intended, as part of this Planning Proposal and future subdivision and development applications, to dedicate this flood prone land to Council as a drainage reserve.
4.4 Planning for Bushfire Protection	(a) To protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and (b) To encourage sound management of bush fire prone areas.	The site is affected by bush fire prone land. Various design measures have been incorporated including Asset Protection Zones involving the placement of single sided roads between urban development and areas of native vegetation. Furthermore, the developable area will be connected to a reticulated water supply which will satisfy firefighting requirements.

<b>5 Regional Planning</b>		
5.1 Implementation of Regional Strategies	Give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.	This report, together with the reports contained within the various Annexures, demonstrates that the Planning Proposal is consistent with the Far North Coast Regional Strategy.
5.2 Sydney Drinking Water Catchment	Protect water quality in the Sydney drinking water catchment.	Not relevant.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	(a) To ensure that the best agricultural land will be available for current and future generations to grow food and fibre, (b) To provide more certainty on the status of the best agricultural land, thereby assisting councils with their local strategic settlement planning, and (c) To reduce land use conflict arising between agricultural use and non-agricultural use of farmland as caused by urban encroachment into farming areas.	Portions of the subject site are defined as 'significant non-contiguous farmland'. Much of the existing farmland in the south of the site will be retained as part of this Planning Proposal. Some of the land is proposed for conservation purposes to protect potential archaeological deposits. There is an allowance for inconsistency with the Direction, as long as the LEP is consistent with: <i>(a) the Far North Coast Regional Strategy, and</i> <i>(b) Section 4 of the report titled Northern Rivers Farmland Protection Project – Final Recommendations, February 2005, held by the Department of Planning.</i> The Planning Proposal is consistent with the Far North Coast Regional Strategy and is also identified within the Ballina Urban Land Release Strategy. The Planning Proposal is therefore considered consistent with the objectives of this Direction.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	(a) To protect the Pacific Highway's function, that is to operate as the North Coast's primary inter- and intra-regional road traffic route, (b) To prevent inappropriate development fronting the highway, (c) To protect public expenditure invested in the Pacific Highway, (d) To protect and improve highway safety and highway efficiency, (e) To provide for the food, vehicle service and rest needs of travellers on the highway, and (f) To reinforce the role of retail and commercial development in town centres, where they can best serve the populations of the towns.	Not relevant.
5.8 Second Sydney Airport: Badgerys Creek	Avoid incompatible development in the vicinity of any future second Sydney Airport at Badgerys Creek.	Not relevant.



<b>6 Local Plan Making</b>		
6.1 Approval and Referral Requirements	Ensure that LEP provisions encourage the efficient and appropriate assessment of development.	The Planning Proposal does not introduce additional concurrence, consultation or referral requirements to a Minister or public authority.
6.2 Reserving Land for Public Purposes	(a) To facilitate the provision of public services and facilities by reserving land for public purposes, and (b) To facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.	The proponent had previously discussed with Council the dedication of some land (wetlands as well as open space area and cycle pathways) to Ballina Shire Council for public purposes. Dedication of some land could be effected via a Section 94 Agreement.
6.3 Site Specific Provisions	Discourage unnecessarily restrictive site specific planning controls.	This proposal seeks to rezone portions of the subject site to enable the creation of urban development and the extension of the existing environmental conservation land. The proposed zones will allow appropriate and relevant land uses to be undertaken without imposing additional development standards to control future development.
<b>7 Metropolitan Planning</b>		
7.1 Implementation of the Metropolitan Plan for Sydney 2036	Give legal effect to the vision, transport and land use strategy, policies, outcomes and actions contained in the Metropolitan Plan for Sydney 2036.	Not relevant.

Section C – Environmental, Social and Economic Impact

**Q7: 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?**

3.10 Flora and Fauna Assessment

In accordance with the Department of Planning and Infrastructure's letter dated 25 September 2012, an updated flora and fauna report (refer to **Annexure H**) has been prepared by Australian Wetlands Consulting. The report assessed the previous study and report prepared by LandPartners (2007) and identifies any additional ecological constraints to the site, particularly with regard to threatened species, populations or communities listed under either the *Threatened Species Conservation (TSC) Act 1995* or the *Environment Protection Biodiversity Conservation (EPBC) Act 1999*.

The report concludes that:

*The proposed residential zoning of the north-east of the site occurs on improved pasture with low ecological values, with environmental protection zones achieving the protection of high quality vegetation/habitat over much of the site. Environmental protection zones proposed would also result in a significant net gain of habitat which would directly benefit a number of threatened fauna known from the site (including the Endangered Bush Stone-curlew). While low-lying areas of the site are retained for rural zonings, they would continue to provide habitat for threatened and migratory shorebirds and other waders and wetland birds as they currently do.*

**Q8: Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?**

The following studies and investigations were undertaken to determine the suitability of the subject site for the Planning Proposal from an environmental impact perspective.

3.11 Traffic Impact Statement

A Traffic Impact Statement has been prepared by Carter Rytenskild Group (refer to **Annexure I**). An assessment on the existing and future capacity of the intersection of The Coast Road and Headlands Drive was undertaken. The assessment found that the intersection is congested during peak traffic periods and would therefore need to be upgraded to facilitate the Planning Proposal. Various treatments were considered, with the most appropriate deemed to be a roundabout which would allow for traffic from The Coast Road, Headlands Drive and Sharpes Beach carpark, and allow for traffic speed to be 80km/hour.

The speed limit along The Coast Road is 80km/hour. The proposed roundabout at the intersection of The Coast Road, Headlands Drive and Sharpes Beach carpark will suitably control the flow and speed of traffic travelling north-south along The Coast Road and those vehicles entering and exiting from Sharpes Beach, the Headlands Estate and the proposed residential community.

The internal road network would encourage a high level of connectivity, through the provision of a loop road around the perimeter of the site. Furthermore, controlled access would be created to Carroll Avenue to the north-western corner of the proposed rezoning to provide access to the existing schools in Headlands Estate.

Furthermore, the internal road network encourages walking and cycling opportunities by way of on and off street pedestrian and cycle paths.

### 3.12 Bush Fire Assessment

A Preliminary Bush Fire Assessment has been prepared by LandPartners and is contained within **Annexure J**. According to the Bush Fire Prone Land map prepared by Ballina Council, the areas of bushfire hazard are located within the northwest and southern portions of the site. The Assessment recommends the creation of 20m Asset Protection Zones (APZ) from the forested wetlands in the northwest, the tall heath in the southeast, and the forested wetlands and freshwater wetlands within the southwest of the site. The APZs are required to be maintained to control and/or prevent the spread of bushfire.

### 3.13 Environmental Management Plan

A Concept Environmental Management Plan has been prepared by LandPartners and is included at **Annexure K**. The Plan recommends the implementation of the Flora and Fauna Report and Preliminary Bush Fire Assessment to ensure the conservation and management of the existing natural features within the subject site. Please refer to **Sections 3.10** (flora and fauna) and **3.12** (bushfire) of this Report.

Other recommendations contained within the Plan include:

- Establishing a 50m ecological buffer between the proposed developable area and the Swamp Sclerophyll Forest to the west;
- The use of visually sensitive fencing to control access to environmentally sensitive areas should be considered and included in any future management plans;
- Implementation of ESD principles;
- Landscaping should include native, endemic species only; and
- Management of the vegetation within the asset protection zones to protect both the existing Swamp Sclerophyll Forest and proposed developable area.

### 3.14 Archaeological Test Excavations

An Archaeological Test Excavations have been undertaken by Davies Heritage Consultants Pty Ltd and is contained within **Annexure F**.

A total of 6 areas were identified where potential archaeological deposits (PAD) may be present. Based on these findings, the areas affected by the Planning Proposal were modified so that 5 out of the 6 areas were excluded from the developable area.

With regards to the remaining PAD site, located at the north-eastern corner of the subject site, more detailed site investigations were undertaken and the local Indigenous Community was informed and consulted on the proposal. The results of the excavations confirmed that *sub-surface archaeological material is not present within the area of PAD 1*.

### 3.15 Geotechnical Investigation

A Geotechnical Investigation has been undertaken by Soil Surveys Engineering and is contained within **Annexure L**. The Investigation found:

- An area of instability was identified towards the south-eastern corner of the subject site. The Investigation recommends that no development be undertaken in this area, unless rectification measures are undertaken. The Planning Proposal does not intend to alter the existing zoning (Deferred Matter) and use (open space).
- The area identified to be rezoned may experience limited traffickability (accessibility). The Investigation recommends that *after stripping, clearing and grubbing, the exposed surface in the construction area be proof rolled to delineate weak areas*. A further important element of maintaining and improving traffickability is drainage control. Runoff should be diverted away from the construction area to prevent ponding, and the construction area should be 'sealed' at the completion of each day.

- With regard to the vegetation area within the low lying area, the Investigation recommends:
  - As much vegetation as possible should be removed,
  - Lay geofabric in area of proposed road,
  - Track roll bridging layer comprising 750mm to 1m thick rock, and
  - Construct pavement as per civil engineering details.
- All earthworks shall comply with AS 3798-1996 "Guidelines on Earthworks for Commercial and Residential Developments".

### 3.16 Stage 1 Site Contamination Assessment

A Stage 1 Site Contamination Assessment has been prepared by Gilbert + Sutherland and is contained in **Annexure G**. An investigation of previous uses, which may impact on the suitability of the proposed residential zone, has revealed that the following activities were undertaken at the subject site:

- Cattle dip operation, which has been demolished
- Cattle yards and crush
- Pump station
- Wash down area and containment storage
- Small crop cultivation
- Stockpiled waste material
- Above-ground storage tank, which has been decommissioned
- Possible use of asbestos building products and lead-based paints in the on-site residential dwellings
- Possible storage of sand mine material

The Investigation concludes that *each of the potentially contaminating activities identified by this Stage 1 (Preliminary) Site Contamination Assessment... would appear to be manageable*. If required, a Stage 2 (Detailed) Site Contamination Assessment would be undertaken at Development Application stage to establish how management can be undertaken.

### 3.17 Agricultural Land Capability

An Agricultural Land Capability Assessment has been undertaken by Gilbert + Sutherland (refer to **Annexure M**). This Assessment reviews the current conditions of the subject site against the relevant agricultural guidelines for classification of agricultural land and rural planning issues.

The Assessment involved a field investigation, reviewing aerial photographs of the subject site, constructing 43 soil boreholes and recovering soil samples for analysis. The results of these include:

- The best agricultural land, which is located in the north-east corner of the subject site, is classified as Class 3 suitability. Class 3 means *grazing land or land well suited to pasture improvement. It may be cropped in rotation with pasture. The overall production level is moderate because of edaphic (soil factors) or environmental constraints reduce the overall level of production and may limit the cropping phase to a rotation with sown pastures*. As such, any cultivation of this land would require effective erosion controls such as minimum tillage, direct drilling and contour banks.
- Soil samples indicate macronutrient deficiency, nutrient leaching potential, acidity and sodicity symptoms.
- The subject site includes significant areas of seasonally wet soils and tidal lands combined with poor infiltration and drainage.

- Erosion of disturbed topsoil is a high risk on large portions of the subject site if erosion controls are not implemented and effectively managed.

The Assessment concludes that the subject site does not contain regionally significant farmland which would be defined within Class 1 or 2. Agricultural production of the remainder of the subject site is severely constrained and not considered viable.

### 3.18 Engineering Report

An Engineering Report for the Rezoning Application was prepared by Cardno (refer to **Annexure N**). The Report concludes:

- *Road design and construction will comply with Council's guidelines*
- *Earthworks of approximately 10,000m<sup>3</sup> cut to fill are proposed*
- *Site grade will not be excessive*
- *All habitable land is located above the Regional Q100 Flood Level as defined by Council's current assessment*
- *There is some minor filling proposed below the Regional Q100 Flood Level however it is considered that the impacts of this will be insignificant. An analysis from BMT WBM confirms this finding.*
- *The existing water supply appears to have sufficient capacity for the initial stage of development*
- *A sewerage pump station and rising main will be provided for the initial stage of development in accordance with Council's Development Servicing Plans*
- *For the ultimate development, water supply infrastructure will be provided in accordance with Council's Development Servicing Plans*
- *Provision of Electrical, Telstra services and gas are achievable for the site.*

### 3.19 Mosquito Impact Assessment

A Mosquito Impact Assessment has been prepared by Mosquito Consulting Services and is contained in **Annexure O**. The western portion of Lot 2 DP 784864, which will be rezoned to facilitate residential development, contains wet *Melaleuca* forest, which is identified as mosquito breeding habitat. The Assessment recommends a clear buffer distance of 25 metres from the forest boundary and the proposed residential allotments. This buffer distance can be accommodated within the design of the concept plan, and will overlap with the asset zones required for bushfire protection and the realignment of the boundaries between the residential and environmental protection (annotated as 'Deferred Matter') zones.

### 3.20 Environmental Noise Impact Assessment

An Environmental Noise Impact Assessment has been prepared by Carter Rytenschild Group (refer to **Annexure P**). To combat the impact of noise from The Coast Road on the level of amenity enjoyed by future residents within the proposed rezoned part of the site, the mitigation measures include:

- Limit the speed of The Coast Road to 80km/hour (this has already been implemented by Council);
- Substantial setbacks, between 65m and 180m, created to buffer the proposed residential allotments from The Coast Road or alternatively noise mitigation measures within the dwellings, and
- Limited number of minimal building design and placement controls (where required), for example orientation and location of private outdoor spaces.

With regards to controlling the impact of the proposed neighbourhood centre, the Assessment recommends restricting hours of operation, waste collection and deliveries; and analysing the type of mechanical plant installed in the building/s. These detailed studies will be undertaken at the DA stage.

**Q09: Has the Planning Proposal adequately addressed any social and economic effects?**

A report has been prepared by Elton Consulting to determine and analyse the social and economic effects of the Planning Proposal. As part of the preparation of the Report, community consultation and engagement were also undertaken. This Report is located in **Annexure Q**.

The consultation process included a briefing with Councillors, a Planning Focus Meeting, a design workshop with Council staff, meetings with community organisations and a local residents' meeting. Some of the issues raised by participants included:

- Issues specific to Skennars Head
  - Maintain coastal setting and a tranquil lifestyle
  - Create and protect a safe community
  - Reduce and control traffic
  - Maintain buffer between Skennars Head and East Ballina
  - Minimise visual impacts of development
  - Reduce impact of development on flora and fauna
  - Establish stormwater and water treatment facilities
  - Aboriginal heritage implications
- Issues for the Area
  - Traffic and parking – speed limit on The Coast Road, safe entry/exit from Headlands Estate
  - Design – height and density, visual impact on the existing setting
  - Public amenity and environmental issues – additional street lighting, pedestrian and cyclist pathways, recreational facilities, stormwater management

The report outlines how the Planning Proposal will address the identified social and economic issues:

- A range of allotment size and housing choice would be offered within the residentially zoned land, with a neighbourhood centre meeting convenient day to day shopping needs
- Similarities in age, household, socio-economic and cultural profile will be expected to integrate the new community with the existing one in Headlands Estate
- Community facilities which may be provided, during the detailed design phase, include childcare services, community meeting space, health and welfare services and places of worship
- Dedication of portions of the land for visual buffers and environmental protection
- Provision of pedestrian and cyclist pathways, a new underpass between the subject site and Sharpes Beach and a new roundabout will improve traffic and pedestrian/cycle networks in and around the site
- Creation of a visual/biodiversity corridor through the southern and western portions of the subject site, and a further portion along the eastern portion for Aboriginal heritage conservation
- Economic benefits for the local and regional economy can be derived during the construction phase and home-based businesses.

## Section D – State and Commonwealth Interests

**Q10: Is there adequate public infrastructure for the Planning Proposal?**

The assessment of public infrastructure having specific reference to utilities, roads, waste management and recycling services, and essential services is a relevant matter. **Table 7** below provides which infrastructure, at this stage, will require modification:

**Table 7: Public Infrastructure**

Infrastructure	Availability	Comment
Utilities	Subject to public authority consultation.	Availability of adequate water, sewage, gas, electricity and telephone services will be discussed with the relevant public authority, as part of the exhibition process.
Roads	Good road access available.	Consultation was undertaken by Council, under the former section 62 of the Act for the original LEP amendment with the RMS to discuss the location and principle of the Planning Proposal, including the internal road network and proposed roundabout at the intersection of The Coast Road and Headlands Drive.
Waste management and recycling services	To be confirmed.	The availability of waste management and recycling services will be investigated through the DA process.
Essential services	Subject to public authority consultation.	The site is centrally located between East Ballina and Lennox Head which have medical, police and other emergency services, such as ambulance and fire.

**Q11: What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?**

Consultation with State government agencies was previously undertaken by Ballina Council as part of the former section 62 of the *EP&A Act 1979* for the original LEP amendment. A summary of the responses from the State agencies is provided below in **Table 8**.

**Table 8: State Agency Consultation Summary**

Authority and Date of Response	Summary of Issues	Section & Page Numbers of Planning Proposal where Matter is Addressed
Department of Planning 25/01/2007	<ul style="list-style-type: none"> <li>A Local Environmental Study (now Planning Proposal) will be required</li> <li>All relevant S.117 Directions must be addressed</li> <li>Clause 8 of SEPP 71 must be considered</li> <li>Lennox Head Structure Plan must be considered, particularly issued identified for Areas E and F</li> </ul>	<ul style="list-style-type: none"> <li>This report, together with the supporting documents, form the Planning Proposal</li> <li>Table 6, pages 34 – 39</li> <li>Table 4, page 25</li> <li>Table 3, page 23 (note: Area T relates to the subject site; Areas E &amp; F relate to</li> </ul>

		Henderson's Farm)
	<ul style="list-style-type: none"> <li>• The impact of the development on the adjacent SEPP 14 wetland must be considered</li> <li>• The impact on endangered species must be considered</li> <li>• Traffic impact assessment must be undertaken</li> <li>• Flooding impacts to be considered</li> <li>• The provision and funding of appropriate infrastructure and services to be examined</li> <li>• Acid sulphate soils to be examined</li> </ul>	<ul style="list-style-type: none"> <li>• Table 4, page 24 and Table 5, page 30</li> <li>• Section 3.10, page 40</li> <li>• Section 3.11, page 40</li> <li>• Table 2, page 20 and Table 5, page 29</li> <li>• Table 3, page 22 and Table 5, pages 30, 37 &amp; 39</li> <li>• Table 5, pages 29 &amp; 37</li> </ul>
Department of Environment and Conservation (DEC) 25/08/2008	<ul style="list-style-type: none"> <li>• Integrated Water Cycle Management must be implemented to ensure the natural cycle of water that currently exists on site is not disturbed</li> <li>• Must protect Aboriginal cultural heritage, particularly of identified PADs located within the proposed rezoning area</li> <li>• Must protect endangered ecological communities and flora species including <i>Arthraxon hispidius</i> (Hairy Jointgrass) and unidentified Species X (species name not to be released). Must protect SEPP 14 Wetland and associated sedge area through appropriate buffering</li> <li>• Threatened fauna species recorded on the site must be protected through measures such as protecting isolated habitat trees and establishing a revegetated corridor suitable for habitat</li> <li>• Residences must be set back from The Coast Road a sufficient distance to ensure noise levels are acceptable. Managing noise through the use of airconditioners, mechanical ventilation and permanently closed windows should be avoided due to their increased energy use and associated impact on climate change</li> <li>• Potential acid sulphate soils (PASS) must be managed to ensure no pollution occurs as a result of their disturbance. DEC recommend that areas of PASS are zoned Environmental Protection rather than 1(b) Rural (Secondary Agricultural Land) (now known as RU2 Rural</li> </ul>	<ul style="list-style-type: none"> <li>• Table 5, page 33</li> <li>• Section 3.14, page 41</li> <li>• Section 3.10, page 40</li> <li>• Section 3.10, page 40</li> <li>• Section 3.20, page 43</li> <li>• Table 5, pages 29 &amp; 37</li> </ul>



Landscape)

Department of Primary Industries (DPI) 21/08/2008	DPI (Fisheries Management Division) <ul style="list-style-type: none"> <li>• Protection of SEPP 14 Wetland and buffer area which includes sedges</li> <li>• Adequate treatment of water in accordance with SEPP 62 to ensure protection of Priority Oyster Aquaculture Areas in North Creek</li> </ul>	<ul style="list-style-type: none"> <li>• Section 3.10, page 40</li> <li>• Table 4, page 24</li> <li>• Section 3.17, page 42</li> </ul>
DPI (NSW Agriculture)		
<ul style="list-style-type: none"> <li>• The value of the land for agricultural purposes and the suitability of converting the land to an urban use</li> <li>• The use and management of areas not suitable for urban development</li> </ul>		
Relevant Aboriginal Land Council 23/04/2008	Davies Heritage Consultants Pty Ltd carried out an archaeological study of the subject property. All relevant indigenous community groups were invited to be involved. The Indigenous Justice Advocacy Network Inc. and Jali Local Heritage Consultants registered interest with Davies Heritage Consultants and were then involved in the archaeological text excavation process. The report prepared upon completion of the investigation was forwarded to these two groups who indicated they were happy with the findings and recommendations.	<ul style="list-style-type: none"> <li>• Section 3.14, page 41</li> </ul>
Roads and Traffic Authority (RTA) 14/08/2008	<ul style="list-style-type: none"> <li>• The impact of the proposed development on The Coast Road</li> <li>• Noise impacts generated by The Coast Road</li> </ul>	<ul style="list-style-type: none"> <li>• Section 3.11, page 40</li> <li>• Section 3.20, page 43</li> </ul>

Further consultation with State Government agencies will be undertaken by the Department of Planning and Infrastructure during the exhibition of the Planning Proposal.

## Part 4 – Mapping

The following maps are provided indicating the location and extent of proposed amendments to the Ballina Shire Local Environmental Plan 2012:

- **Figure 9** indicates the proposed zones, including the E2 Environmental Conservation Zone;
- **Figure 10** indicates the proposed zones, including the current 'Deferred Matter' area;
- **Figure 11** indicates the proposed minimum lot sizes, including the area within the E2 Environmental Conservation Zone;
- **Figure 12** indicates the proposed minimum lot sizes, including the current 'Deferred Matter' area;
- **Figure 13** indicates the proposed heights of buildings, including the E2 Environmental Conservation Zone;
- **Figure 14** indicates the proposed heights of buildings, including the current 'Deferred Matter' area; and
- **Figure 15** indicates the proposed floor space ratio for the proposed neighbourhood centre.



Figure 9: Proposed Rezoning Map (Including E2 Environmental Conservation Zone)



Figure 10: Proposed Rezoning Map (including Deferred Matter)



Figure 11: Proposed Minimum Lot Sizes Map (including E2 Environmental Conservation Zone)





Figure 13: Proposed height of Buildings Map (including E3 Environmental Conservation Zone)



Figure 14: Proposed Height of Buildings Map (including Deferred Matter)



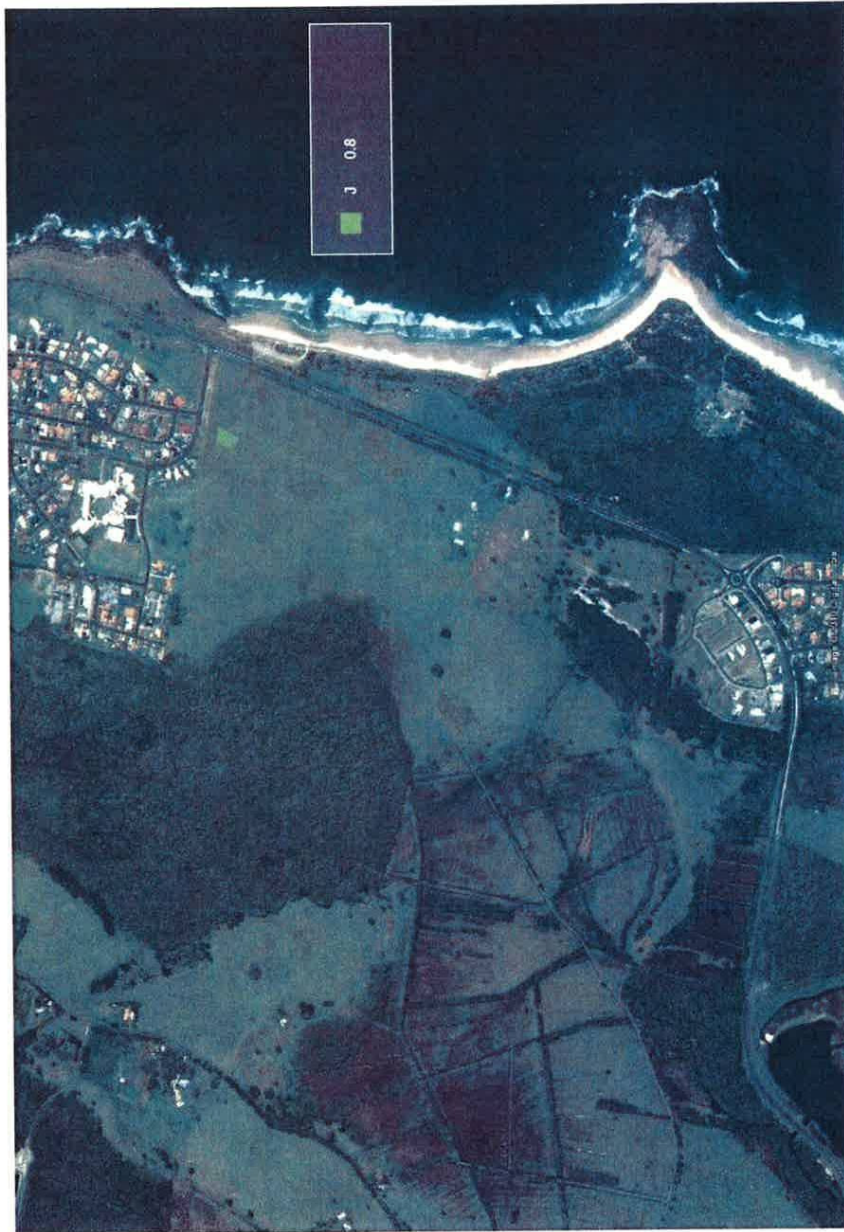


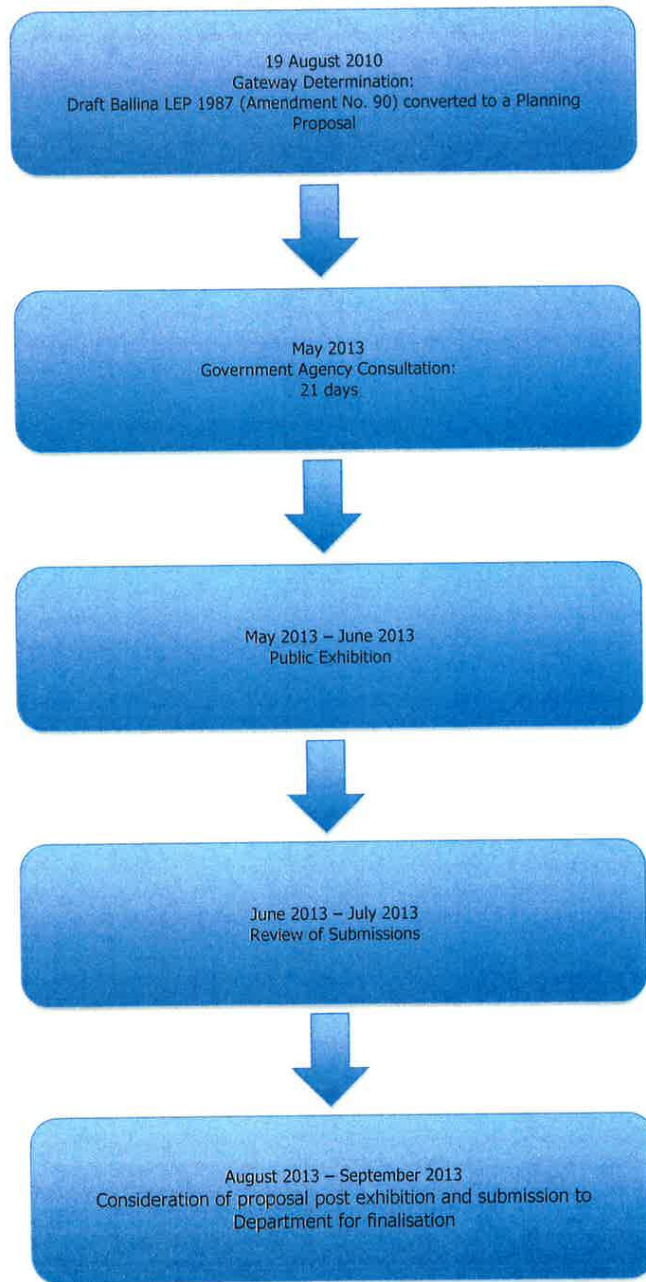
Figure 15: Proposed Fibou Spire Ratio Map

## Part 5 – Community Consultation

Community consultation has been undertaken as part of the rezoning application which was lodged with Ballina Shire Council. The results of this consultation are provided in **Page 44** of this report.

Further community consultation will be undertaken as part of the exhibition process. Should any issues or concerns be raised by the community, the proponent will prepare a response for the Department of Planning and Infrastructure to consider.

## Part 6 – Project Timeline





enquiries refer

**Matthew Wood**  
in reply please quote

**Skennars Head Coastal Village Planning Proposal (13/40069)**

15 July 2013

Regional Panels Secretariat  
GPO Box 39  
SYDNEY NSW 2001

Email: PlanComment@jrpp.nsw.gov.au



Dear Sir/ Madam

**Re: Planning Proposal Submission – Skennars Head Coastal Village**

Council has undertaken a review of the Skennars Head Coastal Village Planning Proposal as exhibited and has identified a number of issues for the consideration of the Joint Regional Planning Panel (JRPP).

Generally, the planning proposal is recognised as being consistent with the applicable urban planning policies for the locality, being the Far North Coast Regional Strategy and the Ballina Shire Growth Management Strategy. However, Council has identified a number of aspects of the exhibited proposal that are of concern and as such, Council raises objection to elements of the proposed rezoning in its current form. These matters are outlined below for the consideration of the JRPP.

*Legibility of the Planning Proposal*

The exhibited planning proposal documentation contains a series of very poor images illustrating various aspects of the proposal. Further, there are a number of incorrect and outdated references to documents, and it is difficult to make a comparison between the existing and proposed zones based on the information available. It is also difficult to determine how recommended buffers relate to the proposed land use zones.

The E2 Environmental Conservation is incorrectly identified as being a zone in which no development is permitted. The reference to the E2 zone is particularly misleading as Council's drafted E2 zone as endorsed prior to its excisions from the LEP as a consequence of the Minister for Planning and Infrastructure's decision to review E zones on the Far North Coast provided for a range of permitted land uses. Proper depiction of the E2 zone is important because the proposal relies in part on the use of the E2 zone to support the public benefits proposed as outcomes from the rezoning.

There are also at least two references to the dedication of land east of The Coast Road within the supporting documentation associated with the proposal despite the Minister's decision to remove this land from consideration in the planning proposal. This is misleading to the public as it is confusing and could give the impression that the land will be dedicated when this is not the case as part of the planning proposal. In the exhibition material provided to Council, the references are located in the public benefits – stage 2 mapping in Annexure E (the map appears to be part of the report in Annexure B) and in Section 6.6 in Annexure Q.

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40 Cherry Street, PO Box 450, BALLINA NSW 2478  
t 02 6686 4444 f 02 6686 7035 e council@ballina.nsw.gov.au w www.ballina.nsw.gov.au

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Having regard for the above, the document is considered to be difficult for the general public to interpret and therefore may impact on the opportunity for the public to accurately and fully appraise and understand the proposed rezoning. This is a significant limitation of the proposal and could be grounds for legal challenge in relation to the amendment.

### *Environmental Protection Zoning*

The planning proposal identifies the application of an E2 Environmental Conservation zone to land in the north western part of the site, as well as along the eastern boundary of the land adjacent to The Coast Road and along the southern boundary of the site.

The application of environmental protection zoning over these areas of land is supported by Council. However, it is unclear to Council as to how the preservation and protection of all of the identified environmental attributes on the land is to be secured as part of the rezoning process when the application of 'E' zones is currently unavailable due to the Minister's E zone review. It is also unclear why the E2 zone has been proposed over the land adjacent to The Coast Road in favour of the E3 Environmental Management zone.

In the current circumstances, the public has no certainty that the E zones will be applied as proposed if the rezoning proceeds before the E zone review is complete. This means the public has no certainty that the relevant environmental attributes of the land will be recognised as an outcome of the rezoning. It is unreasonable for the proposed public benefits associated with the E zones to be delayed whilst the proponent receives the economic windfall associated with the residential and business zoning of the land. The E zones should be applied in conjunction with the up zoning of the land to maximise certainty.

Council objects to the progression of the rezoning until such time as the environmental attributes of the land and proposed public benefits associated with environmental outcomes can be fully recognised by way of land use zoning or another mechanism acceptable to Council.

### *Dedication of Land into Public Ownership*

Council remains of the view that the dedication of the land east of The Coast Road (that formed part of the original LEP amendment proposal) was an appropriate outcome of the rezoning of the subject land that is in the public interest. Council has held this view particularly due to the enhanced public access opportunities to the coastline that could have arisen and the fact that the land is identified as part of the State's Coastal Lands Acquisition Scheme (for acquisition at cost to the taxpayer). However, Council acknowledges the Minister's decision to remove this matter as a consideration in relation to the rezoning.

Aside from the above, there are other parts of the land that Council had identified as being appropriate for inclusion in the public reserve. In particular, Council has previously sought to have the land currently zoned 7(d) Environmental Protection (Scenic/Escarpment) dedicated into public ownership. This is important because the land is part of an iconic and highly scenic part of the coastline and has been identified for environmental protection purposes since the introduction of the Ballina LEP 1987.

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40 Cherry Street, PO Box 450, BALLINA NSW 2478  
t 02 6686 4444 f 02 6686 7035 e [council@ballina.nsw.gov.au](mailto:council@ballina.nsw.gov.au) w [www.ballina.nsw.gov.au](http://www.ballina.nsw.gov.au)

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This had been agreed in principle with the proponent's when Council was processing the amendment and was to be addressed via a voluntary planning agreement (VPA). No such agreement is now proposed and despite suggestions in the planning proposal, there does not appear to be a defined mechanism to ensure that this land is dedicated into public ownership and is therefore, no longer subject to the potential for rezoning for urban purposes by the proponent.

Council remains open to the negotiation of a VPA or other approaches to address this issue. However, in the absence of a defined mechanism to identify, confirm and agree on which land would be dedicated into public ownership, Council objects to the planning proposal.

### *Road Upgrading*

Council had previously negotiated an agreement which ensured that the significant majority of the roadworks that will be required to realign Headlands Drive and provide suitable intersection treatment at The Coast Road and Headlands Drive intersection would be paid for by the developer of the land. This was secured through an in principle agreement that was to form the basis of a voluntary planning agreement.

As outlined above, there is presently no VPA proposed and as such, the potential for certainty in relation to the cost to the general public for the required road works has been lost. The lack of a VPA or other suitable mechanism to determine the funding arrangements for this infrastructure means that there is a risk to the community in terms of paying for infrastructure attributable to the new development. This risk is highlighted by the references to roundabout construction only in the planning proposal, whereas the previous in principle agreement with Council related to reconstruction of the Headlands Drive access and roundabout.

Council remains open to the negotiation of a VPA or other approaches to address this issue. However, in the absence of a defined mechanism to identify and confirm the apportionment of costs associated with Headlands Drive and intersection treatments, Council objects to the planning proposal.

### *Minimum Lot Sizes for Subdivision*

The planning proposal references both 400m<sup>2</sup> and 450m<sup>2</sup> as proposed standards for minimum lot sizes within the proposed residential area. Based on the mapping available, it is assumed that the standard sought is 450m<sup>2</sup>.

Regardless, Council objects to this lot size on the basis that it is inconsistent with the character of the adjoining Skennars Head locality and Council's general policy approach to new urban release areas which typically involves application of a minimum lot standard of at least 600m<sup>2</sup>. One exception to this in the shire is proximity to commercial areas of a local centre level where smaller lot sizes are permitted. However, the neighbourhood centre planned for Skennars Head is not equivalent to the local centre commercial areas in the commercial area hierarchy employed by Council.

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40 Cherry Street, PO Box 450, BALLINA NSW 2478  
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With respect to the matter of character as it relates to lot sizes, the following statistics are considered to be relevant considerations. Of 258 residential lots in Skennars Head (not including large medium density lots), Council's records indicate that the average lot area is 887m<sup>2</sup> (with the median being 832m<sup>2</sup>). The smallest lot is 600m<sup>2</sup> in area and the largest 1611m<sup>2</sup>. These figures illustrate that lots of a size in the order of 450m<sup>2</sup> are inconsistent with the subdivision pattern for the Skennars Head locality.

Council objects to the application of a minimum lots standard of 450m<sup>2</sup> as proposed. Council raises no objection if the minimum lot size for subdivision is raised to 600m<sup>2</sup> or greater.

### *Stormwater Management*

Council had previously raised concerns regarding the discharge of stormwater from the proposed urban area onto and across adjoining land holdings. WaveBreak Properties had previously indicated that there was an in principle agreement with the Stewart family as owners of the impacted land holdings for the discharge of stormwater onto their land. The address of this issue is not evident in the planning proposal.

Council requests that this issue is addressed prior to the planning proposal proceeding further. In the absence of an agreed and legal approach to the management of stormwater discharge, Council objects to the proposed rezoning.

### *Structure Plan*

The structure planning is shown in the planning proposal as a means of illustrating the proposed development outcomes. Historically, Council would have secured the core principles of such structure planning through integration of the plan into the local development control plan framework.

With the revision to the *Environmental Planning and Assessment Act* that requires DCPs to be applied more like guidelines, there is significantly less certainty that the structure plan proposed will be reflected in the ultimate development outcome. Given this, it is important to recognise that the development outcomes may be very different to the structure plan set out in the planning proposal.

Notwithstanding the above, Council would like to see the proponent actively engaged with Council to prepare a suitable set of development controls for the area should the rezoning proceed.

### *Zone Boundary Alignment*

The zone boundary delineating the scenic/escarpment area along The Coast Road is identified for realignment in the planning proposal. The plans and information available do not enable a clear identification of the extent of this realignment, particularly in relation to whether the area of the land presently zoned for scenic/escarpment purposes along The Coast Road will increase or diminish and the extent to which the alignment moves east or west.

Council requests confirmation of the nature and extent of the proposed change to the current 7(d) Environmental Protection (Scenic/Escarpment) zone in order to enable a full evaluation of the proposal.

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40 Cherry Street, PO Box 450, BALLINA NSW 2478  
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*Dwelling Entitlements – East of The Coast Road*

A consequence of the ability to subdivide the subject land for urban purposes will be the creation of lots comprised of land located east of The Coast Road (whether entirely or partly located east of the road). These lots will likely each have a dwelling entitlement.

The significance of the dwelling entitlements is that this could generate additional pressure for the erection of a dwelling house east of The Coast Road. The erection of dwellings east of The Coast Road is an undesirable outcome for various reasons including impacts on coastal amenity and the management coastal erosion hazards. The erection of dwellings of the land east of The Coast Road may also increase the acquisition costs associated with this land which is identified in the State's Coastal Land Acquisition scheme. This is not considered to be in the public interest.

The LEP amendment process, whilst it included the land east of The Coast Road, provided the opportunity for the address of the public interest aspects of this matter via the dedication of this land into public ownership. Unfortunately, this opportunity has now been lost with the removal of this land from the proposal. However, the issues associated with the future use of the land in relation to dwelling houses remain.

Council requests that this matter be considered in further detail and mechanisms to address the dwelling entitlements, such as a voluntary planning agreement, be examined to inform the decision making process for this proposed amendment.

*Site Contamination*

The State 1 Site Contamination Assessment contained in Annexure G comprises an initial background study into the historic and present uses of the land with respect to the potential for site contamination. The study concludes that a detailed site contamination assessment is required to confirm the suitability of the land for residential purposes.

Council's present approach to background information of the type documented in relation to potential residential area is to require soil sampling as part of a more detailed site analysis to enable assessment prior to rezoning of the land. Council's experience is that site contamination issues are best managed early in planning processes.

This approach is consistent with the requirements of State Environmental Planning Policy 55 – Remediation of Land which requires planning authorities to:

- consider whether the land is contaminated, and
- if the land is contaminated, be satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used, and
- if the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, the planning authority is satisfied that the land will be so remediated before the land is used for that purpose.

Council requests that the JRPP seeks additional information from the proponent with respect to site contamination assessment to determine if the land is suitable for the proposed purpose and inform its consideration of the rezoning of the land.

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#### *Staging*

The proposed residential zoning crosses two land parcels. Council is of the understanding that the northern land parcel is the land available to WaveBreak Properties (Lot 2 DP 1184436), whilst the land to the south is not subject to WaveBreak's interests. The concept plan and planning proposal do not make any reference to how the development might be staged, particularly across this property boundary.

Council requests that the staging of the proposal be examined further to ensure that a practical development outcome can be achieved on the land to assist in determining the progress of the LEP amendment.

#### *Land Ownership*

It is noted that the planning proposal has been prepared by Elton Consulting for WaveBreak Properties Pty Ltd. The planning proposal does not indicate whether Dr and Mrs Stewart are a party to the proposed rezoning as presented. It is suggested that the JRPP invite Dr and Mrs Stewart to provide their view because they are the landholders and the rezoning involves a substantial area of their land south of Lot 2 DP 1184436 (being the land parcel that is understood to be the only land in which WaveBreak Properties has an interest).

#### *Summary*

The LEP amendment process provides opportunities to address matters of public interest up front and early in the planning process. This opportunity arises due to the value associated with up zoning land and the ability to identify issues and study the characteristics of land in considering a rezoning proposal. Once a rezoning has occurred, some of the opportunities to address public interest outcomes can be diminished because the increased value in the land has been granted by the application of a higher order zone.

In the case of the Skennars Head Coastal Village rezoning, Council was well advanced in the address of a number of the issues identified above, including road infrastructure, stormwater management and environmental protection. The identification and delivery of some of the outcomes sought are no longer evident or clear in the exhibited planning proposal and as such, Council has significant reservations about the realisation of a number of planning outcomes that it considers to be the responsibility of the land developer and to the benefit of the wider community. In essence, Council encourages the JRPP to examine the issues raised in this submission in detail and look at ways in which to achieve the important public interest outcomes associated with this significant coastal rezoning proposal.

Thank you for the opportunity to make a submission on this important rezoning proposal. In addition to this submission, Council will also appreciate the opportunity to make a presentation to the JRPP when it meets to consider this matter.

In the meantime, if you have any enquiries in regard to this matter please contact me on telephone 6686 1284.

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40 Cherry Street, PO Box 450, BALLINA NSW 2478  
t 02 6686 4444 f 02 6686 7035 e council@ballina.nsw.gov.au w www.ballina.nsw.gov.au

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Yours faithfully

Matthew Wood  
**Acting Group Manager**  
**Strategic and Community Services Group**

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40 Cherry Street, PO Box 450, BALLINA NSW 2478  
t 02 6686 4444 f 02 6686 7035 e [council@ballina.nsw.gov.au](mailto:council@ballina.nsw.gov.au) w [www.ballina.nsw.gov.au](http://www.ballina.nsw.gov.au)