

# ARDILL PAYNE

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5105 request for consideration of r2 rezoning (june 2013).doc

12 June 2013

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



**Attention: Mr Matthew Wood**

**Dear Matthew**

**re: Preliminary consideration of proposed rezoning – Subdivision approved under the terms and conditions of DA 2009/633 (as amended)**

I refer to recent discussions between Mr Paul Worth and yourself in respect of the subject matter.

Consent exists under the terms and conditions of DA 2009/633 (as amended) to subdivide the land into 30 residential lots and 1 open space lot. The land to which this consent relates is now described as Lot 31 DP 1183600 (copy of DP attached).

Integral to the original consent (and attendant Development Control Plan) was the designation of each of the lots within the subdivision for specific residential land uses and densities, viz:

- 16 x L2 – Low Density (Dwellings & Dual Occupancy)
- 11 x L1 – Low Density (Large Lots)
- 3 x D – Duplex

Attached herewith is a copy of the plan of subdivision referred to in Council's Notice to Applicant of Determination of Application to Amend Development Consent (dated 15 March 2012), which identifies the lots and the approved land use designations.

**Engineers | Planners | Surveyors | Environmental | Project Management**

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285 Conadilly Street,  
GUNNEDAH NSW 2380  
Ph: 02-6742 9955

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As a consequence of the coming into effect of the BLEP 2012, the approved residential lots are now zoned R3 – Medium Density Residential Zone. This zoning will enable much higher density residential developments to be approved on the subject lots.

Mr Worth is desirous of maintaining, as far as practicable, the original planned residential densities for the estate, and has requested that a submission be provided to Council seeking its support for the rezoning of land as follows:

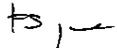
- retaining the R3 zone for the D – Duplex lots (being Lots 10, 25 and 28)
- zoning of the remaining lots (Lots 1-9, 11-24, 26, 27, 29 & 30) as R2 – Low Density Residential Zone

The R2 zoning will preserve the original planned and approved lower density residential nature of the estate, with the 3 x R3 lots providing for the higher density uses.

Council is requested to consider the above and advise if it would provide in-principle support for the proposed rezoning.

Should you have any questions in respect of the above, please contact me on 6686 3280 or [pauls@ardillpayne.com.au](mailto:pauls@ardillpayne.com.au).

Yours faithfully



Paul Snellgrove

**ARDILL PAYNE & PARTNERS**

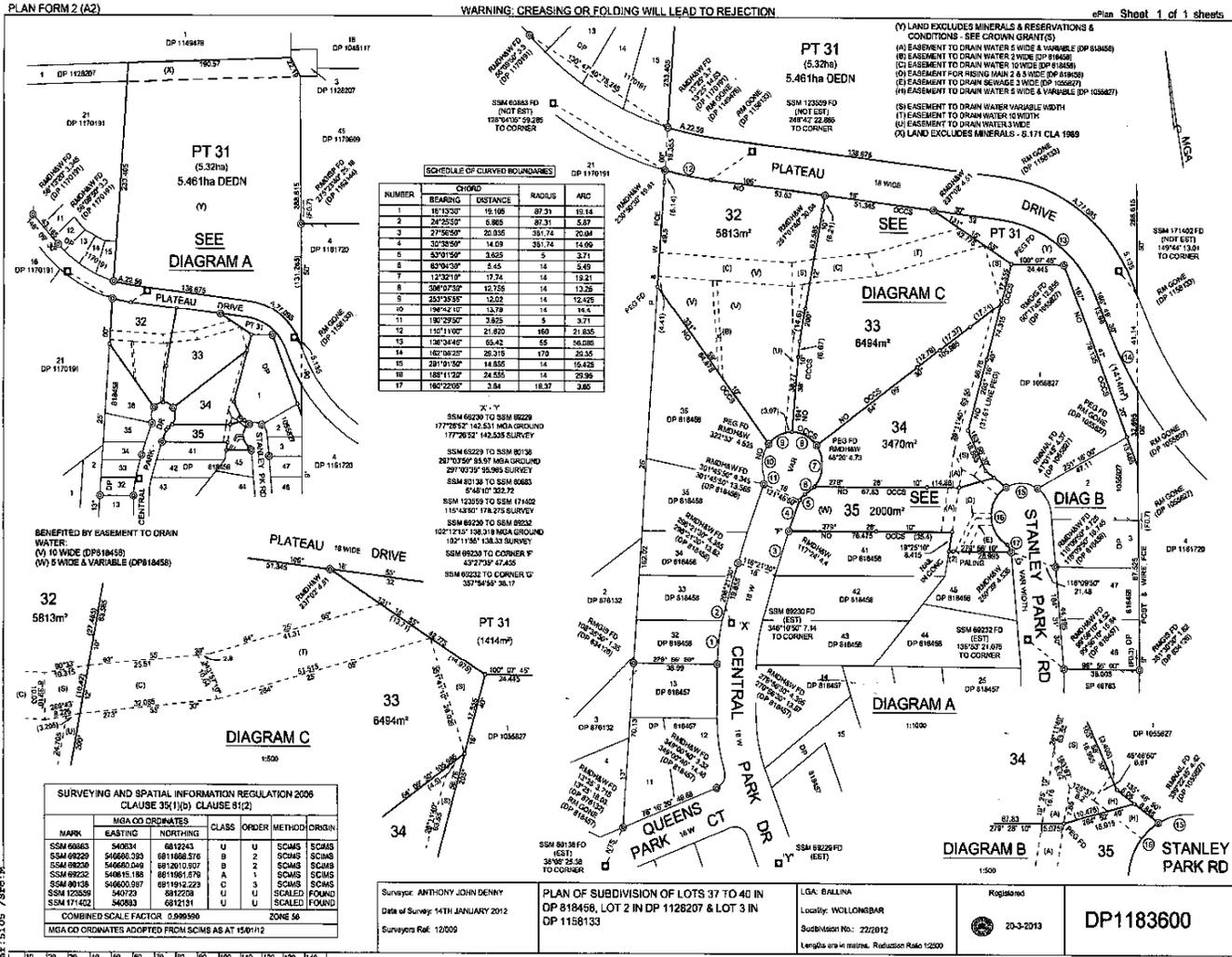
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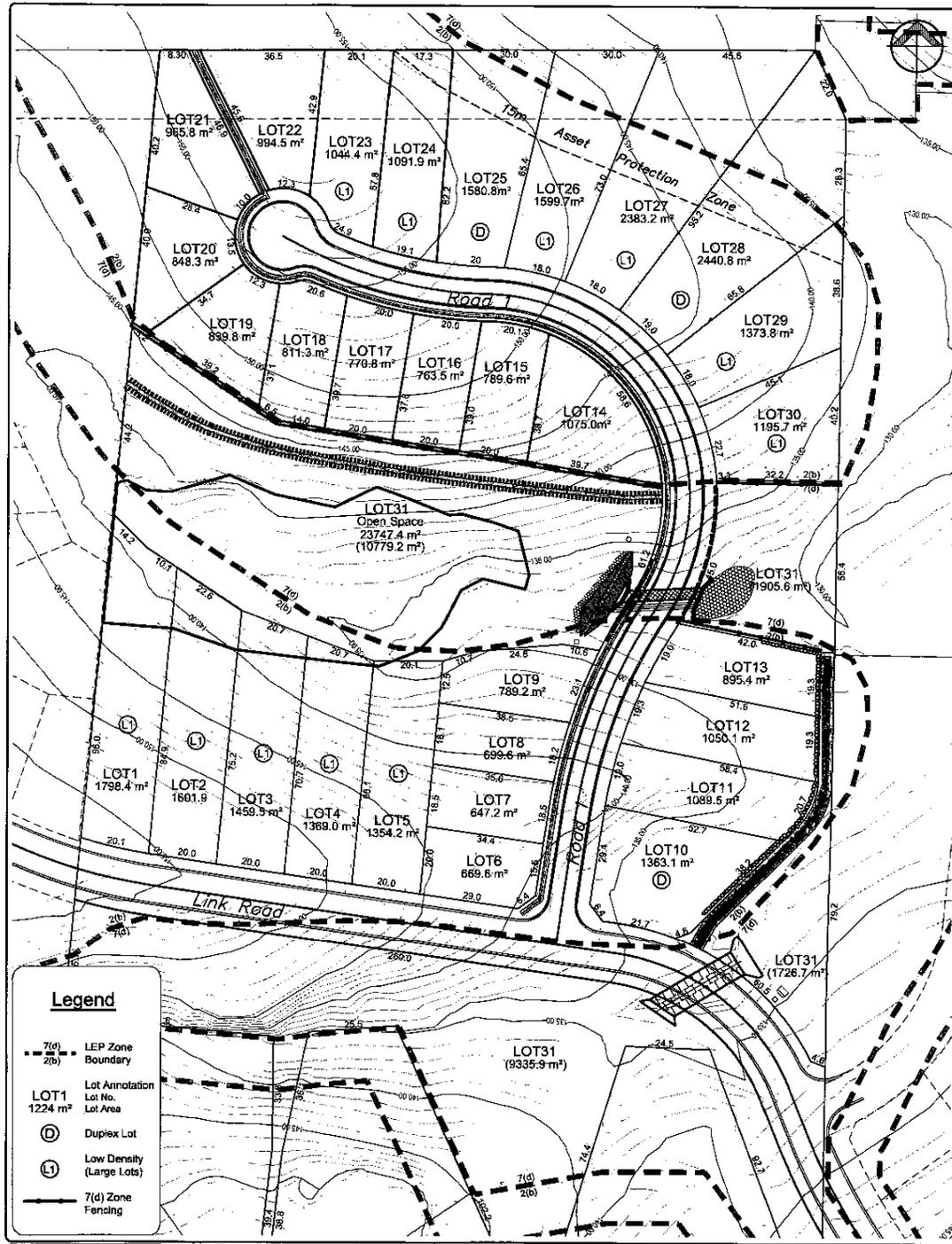
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9.2 LEP Amendment Request - Mt Moriah Subdivision, Wollongbar.DOC





Project: Residential Subdivision

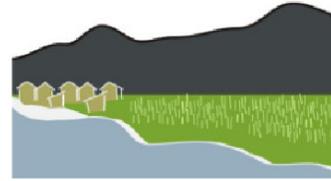
Do not scale drawing. Use written dimensions only.  
This plan is copyright © All rights reserved.

Client: Mt Moriah Pty Ltd  
Title: Subdivision Layout With Aerial, Zone Boundaries and Contours

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Design	PS	Scale at A3	1:1000
Drawn	MAM	Datum	AHD
Checked		Date	2012/01/17
Approved		Filename	5105-Worth-Fls2
Job No.	5105-S96	Dwg. No.	DA02
		Issue	A



**Ballina Shire Council**

**Planning Proposal – July 2013**

**Mt Moriah Subdivision,  
Plateau Drive, Wollongbar**

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Council Report



## Introduction

### Summary of Planning Proposal

This planning proposal relates to 30 approved (but not created) allotments of land located at Wollongbar, on parent parcel Lot 31 DP 1183600. The plan of subdivision is presently in the process of being registered with the NSW Titles Office.

The location of the subject land is shown in Figure 1 below.

The need for the planning proposal has arisen due to a request to amend the Ballina Local Environmental Plan 2012 (Ballina LEP 2012) to reflect the intended development outcomes associated with a subdivision approval for the land. The approved lots were not assessed in relation to zoning as part of the preparation of the Ballina LEP 2012 as they were not created at the time the plan was prepared.

### Planning Context

#### Ballina LEP 2012

The Ballina LEP 2012 provides for the following residential zones:

- R2 Low Density Residential Zone – provides for low density residential development forms including dwellings and secondary dwellings (and other compatible uses);
- R3 Medium Density Residential Zone – provides for a broad range of residential development forms including dual occupancies, residential flat buildings, multi dwelling housing and the like (and other compatible uses).

The subject land is currently partly zoned R3 Medium Density Residential under the terms of the Ballina LEP 2012. The land also includes an area of land deferred from the Ballina LEP 2012, having been proposed for zoning for environmental management (E3) purposes during the preparation of the Ballina LEP 2012 (the open space lot). The area the subject of the deferred matter is currently zoned 7(d) Environmental Protection (Scenic/Escarpment) under the Ballina LEP 1987.

Notwithstanding the deferral of environmental protection zones from the Ballina LEP 2012, this planning proposal identifies the Council's zoning intentions for the entire area of land, including application of an E3 Environmental Management zone. The proposed zoning is illustrated in Part 4.

The subject land is nominated in the associated development consent (DA 2009/633 as amended) as comprising the following:

- 16 x Low density lots (less than 1000m<sup>2</sup>);
- 11 x Low density lots (greater than 1000m<sup>2</sup>);
- 3 x Dual occupancy lots; and
- 1 x Open space lot (zoned environmental protection).

The planning proposal seeks to acknowledge the approval by the application of appropriate residential zoning to the land to reflect the existing approval. The proposal also involves a minor realignment of zone boundaries to better match the zoning to the approved lot boundaries.

Ballina Shire Growth Management Strategy 2012

The Ballina Shire Growth Management Strategy 2012 provides the strategic planning context for urban development in Ballina Shire. The development of the land, to which the planning proposal relates, is consistent with Council's Growth Management Strategy.



Figure 1. Land to which the planning proposal relates

## Part 1 - Objectives or Intended Outcomes

The objective of this planning proposal is to acknowledge the residential development outcomes intended for the land by identifying allotments created for the purpose of low density development by way of zoning. The proposal seeks to apply a land use zoning arrangement that is consistent with the development approval issued for subdivision of the land.

## Part 2 - Explanation of the Proposal

This planning proposal relates to 30 approved (but not created) allotments of land located at Wollongbar, on parent parcel described in real property terms as Lot 31 DP 1183600. The subject land is owned by Mt Moriah Pty. Ltd.

The subject land is currently zoned R3 Medium Density Residential Zone under the terms of the Ballina LEP 2012. The land also includes an area of land deferred from the Ballina LEP 2012, having been proposed for zoning or environmental management purposes (the open space lot).

The subject land is nominated in the associated development consent (DA 2009/633 as amended) as comprising the following:

- 16 x Low density lots (lots less than 1000m<sup>2</sup>);
- 11 x Low density lots (lots greater than 1000m<sup>2</sup>);
- 3 x Dual occupancy lots; and
- 1 Open space lot.

The planning proposal seeks to acknowledge the existing approval by the application of residential zonings to the land that match the outcomes envisaged under the subdivision approval.

The R2 Low Density Residential zone will permit only dwellings and secondary dwellings on the land with development consent, whereas the current R3 Medium Density Residential zone would permit a broader range of residential development types than intended by the development approval relating to the land. It is noted that the planning proposal also involves minor realignment of zone boundaries to the approved lot boundaries application of an E3 Environmental Management zone (if available depending on the outcome of the Department of Planning and Infrastructure's review of 'E' zones).

### Part 3 - Justification

#### Section A - Need for the Planning Proposal

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

The proposal is not the result of any strategic study or report.

The need for the planning proposal has arisen as a result of the processes associated with the implementation of the Ballina LEP 2012. Essentially, the subject lots were not created at the time the land was zoned under the LEP. As such, the approved lots were not assessed in relation to zoning at the time the LEP was prepared.

The proposal is consistent with Ballina LEP 2012 and the Ballina Shire Development Control Plan 2012 (including previous iterations of these plans).

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

Yes, the planning proposal is the most appropriate means of securing the intended development outcomes for the land into the future.

#### Section B - Relationship to the Strategic Planning Framework

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

The proposal is consistent with the Far North Coast Regional Strategy (FNCRS), which provides the regional framework for the consideration of policy development and the overall vision of the future. The proposal is not in conflict with the outcomes or actions of the strategy.

**4. Is the planning proposal consistent with the local Council's Community Strategic Plan, or other local strategic plans?**

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

Ballina Local Environmental Plan 2012

Prior to the Ballina LEP 2012 coming into effect, the subject land was zoned 2(b) Residential (Village Area) Zone under the terms of the Ballina LEP 1987. The land was originally zoned for residential purposes (under the BLEP 1987) in 2002 as part of the Wollongbar Urban Expansion Area. Development consent (of DA 2009/633) was granted to the subdivision of the land, pursuant to the Ballina LEP 1987.

The subject land is currently zoned R3 Medium Density Residential under the terms of the Ballina LEP 2012.

The Ballina LEP 2012 provides for the following residential zones:

- R2 Low Density Residential Zone – provides for low density residential development forms including dwellings and secondary dwellings (and other compatible uses);
- R3 Medium Density Residential Zone – provides for a broad range of residential development forms including dual occupancies, residential flat buildings, multi dwelling housing and the like (and other compatible uses).

Subdivision of the land has been consented to (DA 2009/633 as amended), involving the creation of the following residential allotments:

- 16 x Low density lots (less than 1000m<sup>2</sup>);
- 11 x Low density lots (greater than 1000m<sup>2</sup>);
- 3 x Dual occupancy lots; and
- 1 Open space lot

The planning proposal seeks to acknowledge the approval by the application of appropriate residential zoning to the land that reflects the approval. It is noted that the planning proposal also involves minor realignment of zone boundaries to the approved lot boundaries application of an E3 Environmental Management zone.

Ballina Shire Growth Management Strategy 2012

The Ballina Shire Growth Management Strategy 2012 provides the strategic planning context for urban development in Ballina Shire. The development of the land, to which the planning proposal relates, is consistent with this strategy.

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

Yes, the proposal is generally consistent with applicable State Environmental Planning Policies (SEPP).

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

Yes, the proposal is consistent with the relevant Section 117 Directions. A Section 117 Direction checklist for the planning proposal is contained in Appendix 1.

It is noted, in relation to Ministerial Direction 4.4 - Planning for Bushfire Protection, that the development application for the subdivision of the land was reviewed and concurrence was given by the NSW Rural Fire Service, with regard to the Planning for Bushfire Protection (2006) guidelines. Accordingly, the incorporation of bush fire asset protection zones and other bushfire protection measures have been incorporated in the consent for the subdivision of the land. Further, the subject planning proposal is consistent with the subdivision consent issued for the land. Consequently, Council is of the view that the referral of the subject planning proposal to the NSW Rural Fire Service is not necessary, in the circumstances.

**Section C - Environmental, Social and Economic Impact**

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

The subject land is zoned for the purpose of medium density residential development and is approved for subdivision for residential purposes. The planning proposal seeks to clarify the development intentions for the land to achieve a low density residential outcome. The planning proposal is unlikely, therefore, to have any greater environmental impact than has already been envisaged in relation to the subdivision approval and current zone arrangement.

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

No significant adverse environmental impacts are likely to arise as a result of the planning proposal.

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

As a consequence of its minor nature, no broad positive or negative social or economic impacts are likely to arise as a result of the planning proposal.

**Section D – State and Commonwealth Interests**

**10. Is there adequate public infrastructure for the planning proposal?**

The planning proposal does not create the need for any additional public infrastructure.

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

Consultation will be undertaken with relevant agencies during the public exhibition stage of the LEP amendment.

## Part 4 - Mapping

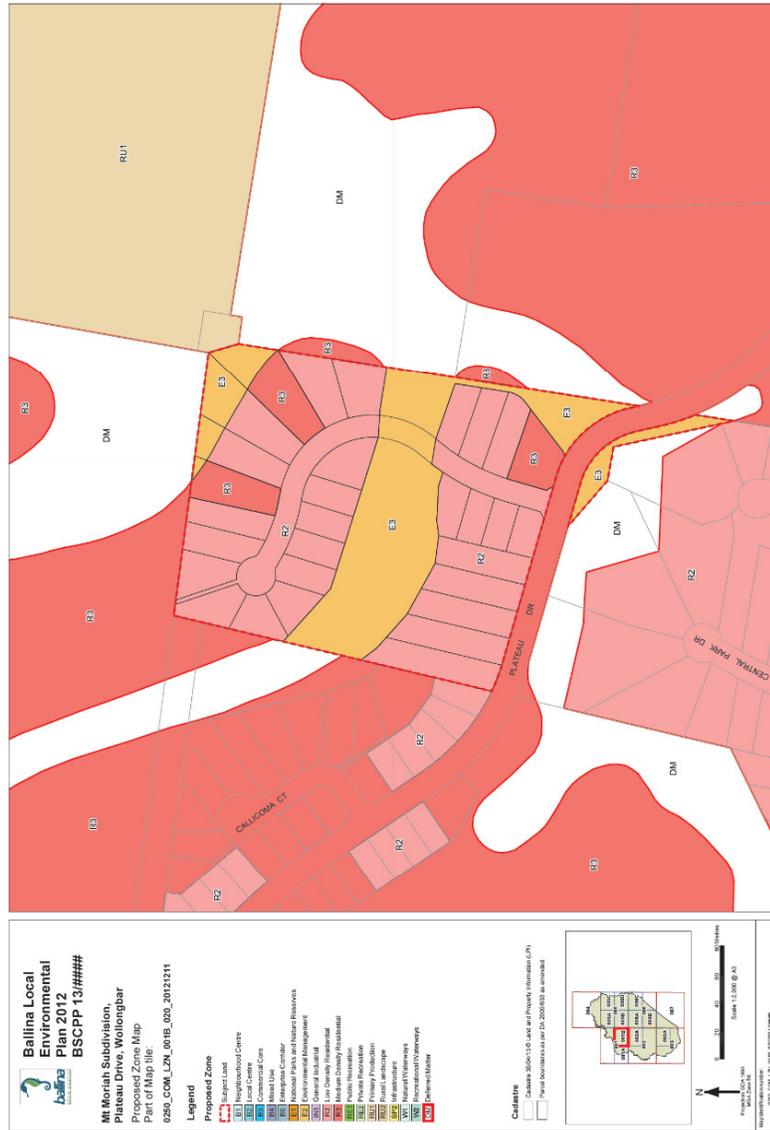
As outlined above, the subject planning proposal involves amendment of the Zoning Map, under the terms of the Ballina LEP 2012, to apply an R2 Low Density Residential Zone to the majority of the lots in the approved subdivision of Lot 31 DP1183600. The planning proposal also involves minor realignment of zone boundaries to the approved lot boundaries and application of an E3 Environmental Management zone.

The following maps have been prepared to support this planning proposal, as follows:

- Map 1 – illustrates the location of the subject land – Site Identification Map;
- Map 2 – illustrates the existing zoning of the land under the terms of the Ballina LEP 2012 (LZN Map);
- Map 3 – presents the proposed zoning of the land under the terms of the Ballina LEP 2012 (LZN Map); and







Map 3 – Proposed Zoning (Ballina LEP 2012 LZN Map)

### Part 5 – Community Consultation

It is proposed that this planning proposal will be exhibited in accordance with the Gateway determination and the terms of the *Environmental Planning and Assessment Act 1979*.

### Part 6 – Project Timeline

The proposed timeline for completion of the planning proposal is as follows:

Plan Making Step	Estimated Completion (Before)
Gateway Determination (Anticipated)	August 2013
Public Exhibition Period	September 2013
Submissions Assessment	September 2013
RPA Assessment of Planning Proposal and Exhibition Outcomes	October 2013
Submission of Endorsed LEP to DP&I for Finalisation	November 2013
RPA Decision to Make the LEP Amendment (if delegated)	N/A – Council is not seeking delegation for the amendment
Forwarding of LEP Amendment to DP&I for Notification (if delegated)	N/A – Council is not seeking delegation for the amendment

## Appendices

### Appendix 1 - Section 117 Direction Checklist

<b>Section 117 Direction Checklist</b>	
<b>Planning Proposal – Mt Moriah Subdivision, Plateau Drive, Wollongbar</b>	
<b>DIRECTION NO.</b>	<b>Compliance of Planning Proposal</b>
<b>1. Employment and Resources</b>	
1.1 Business and Industrial Zones	Does not apply to planning proposal.
1.2 Rural Zones	Does not apply to planning proposal.
1.3 Mining, Petroleum Production and Extractive Industries	Does not apply to planning proposal.
1.4 Oyster Aquaculture	Does not apply to planning proposal.
1.5 Rural Land	Does not apply to planning proposal.
<b>2. Environment and Heritage</b>	
2.1 Environmental Protection Zones	Consistent. The planning proposal involves minor realignment of zone boundaries including land proposed as E3 Environmental Management zone to realign the zone boundaries consistent with the environmental character of the land and the approved subdivision configuration for the land.
2.2 Coastal Protection	Consistent.
2.3 Heritage Conservation	Consistent.
2.4 Recreation Vehicle Areas	Does not apply to planning proposal.
<b>3. Housing, Infrastructure and Urban Development</b>	
3.1 Residential Zones	Consistent. The planning proposal provides for a range of dwelling densities on the subject land. The planning proposal seeks to align the residential zoning of the land with the approved subdivision plan, to clearly identify the intended residential development outcomes intended for allotments within the estate, being a combination of low medium density housing. The delivery of appropriate urban infrastructure to service the land has been secured through existing development consents relating to the creation of the subject allotments.
3.2 Caravan Parks and Manufactured Home Estates	Does not apply to planning proposal.
3.3 Home Occupations	Home occupations are permitted on the land, without consent, pursuant to the Ballina LEP 2012.
3.4 Integrated Land Use and Transport	Does not apply to planning proposal.
3.5 Development Near Licensed Aerodromes	Does not apply to planning proposal.
<b>4. Hazard and Risk</b>	
4.1 Acid Sulphate Soils	Does not apply to planning proposal.
4.2 Mine Subsidence and Unstable Land	Does not apply to planning proposal.
4.3 Flood Prone Land	Does not apply to planning proposal.

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4.4 Planning for Bushfire Protection	Consistent. The development application for the subdivision of the land was reviewed and concurrence was given by the NSW Rural Fire Service, with regard to the Planning for Bushfire Protection (2006) guidelines. Accordingly, the incorporation of bush fire asset protection zones and other bushfire protection measures have been incorporated in the consent for the subdivision of the land. Further, the subject planning proposal is consistent with the subdivision consent issued for the land. Consequently, Council is of the view that the referral of the subject planning proposal to the NSW Rural Fire Service is not necessary, in the circumstances.
<b>5. Regional Planning</b>	
5.1 Implementation of Regional Strategies	Consistent. The zoning of the land to permit residential development is consistent with the Far North Coast Regional Strategy.
5.2 Sydney Drinking Water Catchments	Does not apply to Ballina Shire.
5.3 Farmland of State Regional significance on the NSW Far North Coast	Consistent. The proposal involves a change of residential zoning on land already zoned for residential purposes that is the subject of an existing subdivision approval.
5.4 Commercial and Retail Development	Does not apply to planning proposal.
5.5 Development in the vicinity of Ellalong Paxton and Millfield (Cessnock LGA).	Repealed.
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	Repealed.
5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	Repealed.
5.8 Second Sydney Airport: Badgerys Creek	Does not apply to Ballina Shire.
<b>6. Local Plan Making</b>	
6.1 Approval and Referral Requirements	Consistent.
6.2 Reserving Land for Public Purposes	Consistent.
6.3 Site Specific Provisions	Does not apply to planning proposal.
<b>7. Metropolitan Planning</b>	
7.1 Implementation of the Metropolitan Strategy	Does not apply to Ballina Shire.