



## **Notice of Environmental & Sustainability Committee Meeting**

Notice is hereby given that a Environmental & Sustainability Committee Meeting will be held in the Ballina Shire Council Chambers, 40 Cherry Street, Ballina on **Wednesday 7 August 2013 commencing at 4.00 pm.**

### **Business**

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

A handwritten signature in black ink, appearing to read 'Paul Hickey', with a long horizontal line underneath.

Paul Hickey  
**General Manager**

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1. Apologies
  2. Declarations of Interest
  3. Deputations
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**1. Apologies**

**2. Declarations of Interest**

**3. Deputations**

## **4.1 Cumbalum Precinct A - Planning Proposal**

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### **4. Committee Reports**

#### **4.1 Cumbalum Precinct A - Planning Proposal**

**Delivery Program** Strategic Planning

**Objective** To obtain Council direction with regard to the finalisation of the Cumbalum Precinct A Planning Proposal.

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#### **Background**

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

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

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

Following the conclusion of the public exhibition period, the planning proposal was reported to the Environmental and Sustainability Committee of the Council on 17 July 2012. The Minutes of the Committee were considered at the Ordinary Meeting of the Council held on 26 July 2012. The Council resolved, [Minutes No. 260712/4] that the planning proposal be finalised subject to the development proponents providing a Voluntary Planning Agreement (VPA) to facilitate the delivery of infrastructure in association with future development.

Further detailed background information regarding the subject planning proposal, including the planning history and context, public exhibition processes and analysis of the submissions received during the public exhibition phase of the planning proposal is provided in the report presented to the Environmental and Sustainability Committee of the Council on 17 July 2012.

Subsequently, the Precinct A proponents advised that they did not support a VPA as a suitable mechanism for the delivery of infrastructure and requested

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that the Council provide for the delivery of infrastructure through Council's developer contributions plans.

This position formed the basis for the further consideration of this matter by the Council through the Environmental and Sustainability Committee at its meeting held on 11 December 2012.

The minutes of the Committee were considered by the Council at the Ordinary Meeting held on 20 December 2012, with the Council resolving as follows in relation to Precinct A [Minute No. 201212/6]:

1. *That Council provides in principle support to the Precinct A Planning Proposal, however Council is not yet prepared to advance the proposal due to on-going concerns relating to the funding of infrastructure.*
2. *In order to assist in addressing the infrastructure concerns Council authorises the General Manager to make a submission to the Minister for Planning seeking an exemption to the Section 94 contributions cap to allow Council to implement a Section 94 Plan that allows the developers to finance the infrastructure in accordance with the voluntary planning agreement as previously prepared by Council and as per the correspondence from Ardill Payne and Partners dated 19 December 2012.*
3. *The submission to the Minister is to include letters of support from all landowners in respect to this approach to funding the infrastructure.*
4. *That following receipt of the response from the Minister, Council receive a further report outlining the financial risk and arrangements associated with the introduction of the proposed Section 94 Plan, along details on the strategies relating to the implementation of such a plan to minimise the risk and provide an effective development contributions framework governing the development of Precinct A.*

Further background relating to this matter is provided in the report presented to the December 2012 Environmental and Sustainability Committee. Relevant aspects of previous reports presented on this matter are reproduced herein, to assist the Council.

In accordance with the Council's resolution, staff made a formal request to the Minister for Planning (dated 15 February 2013) for the cap on development contributions to be removed for Cumbalum Precinct A to enable the Council's consideration of incorporating future infrastructure delivery into Council's development contributions regime. This request was supported, in writing, by all Precinct A landholders. The mechanism by which the cap can be removed (or amended) is via amendment to a Ministerial Direction issued pursuant to Section 94E of the Environmental Planning and Assessment Act 1979.

Council has been advised that the Minister has lifted the contributions cap for Precinct A from \$20,000 to \$30,000 per lot, rather than removing the cap altogether as requested by the Council. Although Council became aware of the Minister's decision via the proponents in April 2013, Council only received a formal response to its correspondence on 28 June 2013. Importantly, the amended Ministerial Direction came into effect on 16 July 2013.

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Council has not been directly advised of the reasoning supporting the Minister's decision, however Council has received a copy of correspondence between the local member for Ballina, Mr Don Page, and the Minister for Planning, Mr Brad Hazzard, and the proponents' representatives, Ardill Payne & Partners, which appears to indicate the Ministers' rationale with respect to this matter (provided as Attachment one).

The Minister for Planning has advised the proponents as follows:

- *"[Cumbalum Precinct A] does not meet the criteria for a full exemption from the cap, which only applies to existing contributions plans where significant financial contributions have already been made by developers. However, it is a Greenfield release area and qualifies for the \$30,000 Greenfield section 94 cap. Accordingly, the Department [of Planning and Infrastructure] is preparing an amended direction to apply the \$30,000 section 94 cap for the Cumbalum Urban Release Area - Precinct A.*
- *If contributions exceed \$30,000 per lot, the Council may apply for "gap" funding under the Department's Housing Acceleration Fund for local infrastructure within the section 94 plan for Cumbalum Urban Release Area deemed to be "essential works" as approved by IPART. Alternatively, in accordance with the Section 94E 'Local Infrastructure Contributions' Ministerial Direction, dated 21 August 2012, the Council can impose a condition of consent that requires the payment of section 94 contributions over the \$30,000 cap, but only with both the written agreement of the applicant for the consent and my written approval before the condition is imposed."*

The above decision was made notwithstanding that Council had, with the support of the Precinct A proponents, requested that the contributions cap be removed in its entirety, in this case.

The implication of this is that a funding gap remains for the estimated costs of infrastructure to service Cumbalum Precinct A because the cost of infrastructure per lot is expected to exceed the \$30,000 contributions cap. The extent of this gap is a total unfunded liability of approximately \$7.4 million or approximately \$8,722 per lot, assuming that the Council supports the inclusion of additional items of infrastructure in Council's developer contributions plans (within the capped amount).

The Council has not confirmed, to date, that it would be willing to accept the financial risks associated with this strategy. Rather the Council resolved, when it last considered this matter, to invite the proponents to submit further information on this option, for the Council's consideration.

As a consequence of the Minister's decision, the Precinct A proponents were invited to provide additional details regarding how the (Section 94) development contributions could be reduced to less than \$30,000 per lot, to a level consistent with the amended contributions cap for Precinct A.

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The consultant for the Precinct A proponents (Ardill Payne & Partners – APP) responded in correspondence dated 22 May 2013, a copy of which is provided as Attachment Two to this report. Council sought clarification regarding aspects of this May 2013 proposal in correspondence dated 19 July 2013, provided as Attachment Three. A further response was received from APP in correspondence dated 26 July 2013, provided as Attachment Four.

The purpose of this report is to invite the Council to consider options in relation to advancing the planning proposal (Attachment Five), with particular reference to infrastructure delivery matters. The subject planning proposal has been updated (from the exhibited version) to reflect the Council's more recent deliberations on the matter and to bring it into line with contemporary references (including the Ballina LEP 2012).

Additionally, the Precinct A proponents have requested that Council reconsider its position in relation to 'small semi-rural style allotments' and road noise affected land. Consequently, further information is presented in relation to these matters, for the Council's consideration.

### Key Issues

- Strategic land use planning
- Long-term supply of residential zoned land
- Growth management
- Infrastructure delivery (including risks and community liability)
- Road noise
- Small semi-rural style allotments

### Information

#### *Infrastructure Delivery Matters*

With respect to the rezoning process, Council must be satisfied that adequate arrangements are in place for the provision of infrastructure required to service future development of the area.

In 2011, Council had an Infrastructure Delivery Plan (IDP) prepared (by GHD) to identify the extent of infrastructure required to accommodate the urban development of the CURA. The IDP identified the following infrastructure as being required to service the future development of Precinct A:

- Contribution towards water supply and sewerage headworks / infrastructure upgrades (regional water supply network and upgrade to the Ballina Sewerage Treatment Works)
- Contribution towards shire-wide road network upgrades
- Internal water supply and sewerage reticulation
- Internal arterial roads and major intersection works
- Community facilities and sporting fields servicing the local population and
- Stormwater infrastructure.

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As outlined in Attachments Two and Four, APP are seeking to demonstrate that infrastructure required as a result of the additional demand created by the future development of the Precinct A can be provided for in the following way:

- By Council including additional items of infrastructure in Council's developer contributions plans (s.94), but in a manner which keeps the contribution rate below \$30,000 per lot; and
- By the delivery of some infrastructure directly by the developers of the land, secured by way of conditions of development consent.

In summary, the proposal by the Precinct A proponents would involve the following:

- Internal water supply and sewerage reticulation being provided in a staged manner in association with future development, imposed as conditions of consent
- Staged construction of internal arterial roads in association with future development, imposed as conditions of consent
- Local parks and playgrounds being provided in a staged manner in association with future development, imposed as conditions of consent
- Stormwater infrastructure being provided in a staged manner in association with future development, imposed as conditions of consent
- Major link roads (linking Precinct A and B, and providing connection to external road infrastructure) and major intersections works being delivered via the inclusion of these works into Council's Roads Contributions Plan (s.94) and
- Community facilities and playing fields being provided via inclusion of these works into Council's Ballina Shire Contributions Plan (Section 94).

### *Developer contributions plans*

The contribution for the future development of the CURA towards demand for external head-works infrastructure (for water and sewerage) and shire-wide road network upgrades are recognised by their inclusion in Council's developer contributions plans to the following extent:

- \$15,549 per lot for s.94 contributions towards road network upgrades, and regional sporting and community facilities; and
- \$9,692 per lot for s.64 contributions towards sewerage head-works with an additional Rous Water charge of \$8,628 per lot (Note: s.64 chargers are not subject to the \$30,000 s.94 contributions cap).

The above demonstrates that arrangements are in place for the delivery of external head-works infrastructure and regional facilities, required as a consequence of additional demand created by future development.

Notwithstanding, Council's Civil Services Group advises that all internal infrastructure required to service future allotments within the CURA (Precinct A and Precinct B) is not currently included in Council's development contributions plans on the following basis:



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*Provision for development contributions charges (under s.94 & s.64) is made to ensure that development can pay monetary contributions towards head-works and shared infrastructure that caters for demand beyond the scope of individual developments.*

*Where a development needs infrastructure that only provides for demand created by the development, the provision of that infrastructure is considered to be the responsibility of the developer. In such instances it is the responsibility of the developer to design and construct infrastructure to meet the needs of their development as Council is not in a position to accurately forecast the detailed infrastructure requirements of the development prior to the submission of detailed design and development plans.*

*In such cases, it is not possible for Council to incorporate fair and reasonable costing into development contributions plans that would not entail unnecessary risk for either the developer and/or the Council.*

*Without a detailed plan of what is proposed, Council would be forced to be conservative in its estimation of costs and its quantification of risks, which may lead to higher charges and inefficient designs.*

*Further, it is noted that even taking a conservative approach in constructing developer contributions plans, this nevertheless subjects the Council to a number of 'residual risks' associated with the development process. These 'residual risks' include the following:*

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

*As a consequence, Council's position to date is that in the case of internal infrastructure, where demand arises wholly as a consequence of the development of the land, such infrastructure should be provided directly by the developers of the land. This position remains unchanged.*

### *Reliance on Conditions of Consent*

Several provisions of the Ballina Local Environmental Plan 2012 provide a measure of confidence to the Council that infrastructure delivery matters can be resolved in association with the assessment of development applications for the future subdivision of the land. Clause 6.2 of the Ballina LEP 2012 states:

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### 6.2 Public utility infrastructure

- (1) *Development consent must not be granted for development on land in an urban release area unless the Council is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when it is required.*
- (2) *This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure.*

Clause 6.3 of the Ballina LEP 2012 provides for a development control plan to be in place prior to consent being granted for the development of land, as follows:

### 6.3 Development control plan

- (1) *The objective of this clause is to ensure that development on land in an urban release area occurs in a logical and cost-effective manner, in accordance with a staging plan and only after a development control plan that includes specific controls has been prepared for the land.*
- (2) *Development consent must not be granted for development on land in an urban release area unless a development control plan that provides for the matters specified in subclause (3) has been prepared for the land.*
- (3) *The development control plan must provide for all of the following:*
  - (a) *a staging plan for the timely and efficient release of urban land, making provision for necessary infrastructure and sequencing,*
  - (b) *an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,*
  - (c) *an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain,*
  - (d) *a network of active and passive recreation areas,*
  - (e) *stormwater and water quality management controls,*
  - (f) *amelioration of natural and environmental hazards, including bush fire, flooding and site contamination and, in relation to natural hazards, the safe occupation of, and the evacuation from, any land so affected,*
  - (g) *detailed urban design controls for significant development sites,*
  - (h) *measures to encourage higher density living around transport, open space and service nodes,*
  - (i) *measures to accommodate and control appropriate neighbourhood commercial and retail uses,*
  - (j) *suitably located public facilities and services, including provision for appropriate traffic management facilities and parking.*
- (4) *Subclause (2) does not apply to development for any of the following purposes:*
  - (a) *a subdivision for the purpose of a realignment of boundaries that does not create additional lots,*
  - (b) *a subdivision of land if any of the lots proposed to be created is to be reserved or dedicated for public open space, public roads or any other public or environmental protection purpose,*

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- (c) a subdivision of land in a zone in which the erection of structures is prohibited,
- (d) proposed development on land that is of a minor nature only, if the consent authority is of the opinion that the carrying out of the proposed development would be consistent with the objectives of the zone in which the land is situated.

Further, Clause 7.7 of the Ballina LEP 2012 states:

### 7.7 Essential services

- (1) The objective of this clause is to ensure that development is supplied with adequate and appropriate levels of infrastructure servicing.
- (2) Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:
  - (a) the supply of water,
  - (b) the supply of electricity,
  - (c) the disposal and management of sewage,
  - (d) stormwater drainage or on-site conservation,
  - (e) suitable vehicular access,
  - (f) telecommunication services.

The APP proposal would involve securing the provision of the following infrastructure items through conditions of consent:

- internal water supply and sewerage reticulation (including mains and pump-stations)
- internal arterial roads (extension of Ballina Heights Drive from the southern boundary of Precinct A to connection with Sandy Flat Road)
- local parks and playgrounds and
- stormwater infrastructure.

Under this proposal, APP propose that the following infrastructure items would be included in Council's s.94 plans:

- Construction of North South Link Road with Precinct B
- Upgrade to Sandy Flat Road and
- Playing fields and associated facilities.

With respect to the viability of relying upon conditions of consent to secure the delivery of the works, Council's Civil Services Group advises as follows:

*Reliance upon conditions of consent for infrastructure delivery requires that it can be demonstrated that the need for the infrastructure clearly arises from the development of the land. In the case of stormwater, drinking water and sewerage infrastructure and local parks and playgrounds, the Cumbalum Infrastructure Delivery Plan clearly identifies that there is a direct relationship between the development of the land and the need for this infrastructure.*

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*On this basis it is considered reasonable that these items could be imposed as conditions of consent for future development, assuming that the Council is the consent authority.*

*This strong nexus applies also in the case of internal arterial road infrastructure and playing fields and community facilities. Notwithstanding, there is a greater level of risk associated with these types of infrastructure.*

*In the case of arterial road infrastructure, the risk remains that an argument may be mounted that a development stage the subject of a particular development consent, does not alone require the provision of a road to the 'ultimate' arterial standard, resulting cumulatively in a short-fall in costs not borne by developers of the land.*

*Similarly, the need for upgrading existing arterial road infrastructure and the provision of combined facilities, such as sub-regional playing fields and community facilities, is often the subject of dispute between land developers and local councils, as to the standard to which such infrastructure is to be provided.*

*A further and key risk for the Council in relying upon conditions of consent to secure the delivery of essential infrastructure relates to the potential for another consent authority (such as the Joint Regional Planning Panel, Department of Planning and Infrastructure or the Land and Environment Court) to fail to properly consider infrastructure matters.*

*Additional to any legal costs that may be incurred by the Council in defending its position on such matters, there is potential for such deficiencies in conditions imposed to result in additional costs being incurred by the broader community to rectify infrastructure short-falls.*

*Notwithstanding Council's position that a VPA presents the most secure means of ensuring the provision of infrastructure, staff are of the view that in the case of infrastructure internal to Precinct A, including water supply, sewerage, roads and local parks and playgrounds, there is a sufficiently strong nexus between the need for this infrastructure and the future development of the land, that such provision could reasonably be made a condition of development consent.*

*It is acknowledged, however, that taking this approach would involve the Council accepting a level of risk associated with future development consent processes. Further, it is noted that the risks associated with such an approach increases in cases where ambiguity or disagreement exists regarding the extent of infrastructure required to service future development.*

In the review of APP's submission of 22 May 2013, Council staff raised a number of concerns with APP at a meeting held on 18 July 2013 which were further outlined in Council's letter to APP dated 19 July 2013.

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These concerns related to the following aspects of APP's 22 May 2013 submission:

- APP appeared to challenge the nexus between the development of Precinct A and the need for a future upgrade to Sandy Flat Road (between the extension of Ballina Heights Drive) and Tamarind Drive and construction of the North South Link Road. In particular, statements by APP appeared to suggest that the developer may challenge future development consent conditions that require these infrastructure works
- The contribution calculations provided by APP appeared to suggest that Precinct A should enjoy 'credits' for infrastructure provided within Ballina Heights
- The submission was inconsistent with Council's Infrastructure Delivery Plan in the location of playing fields and associated facilities. The open space strategy for the CURA is for the co-location of Precinct A and Precinct B playing fields at the boundary of the two precincts.

The APP proposal illustrated the playing fields and associated car parking areas directly within the Sandy Flat floodway and separated from the Precinct B playing fields

- APP expressed the view that a direct connection between Precinct A and Precinct B would be detrimental to the development of Precinct A, due to high traffic volumes impacting on the residential amenity in Precinct A, particularly due to road noise impacts.

As a consequence, APP proposes an alternative alignment of the north south link road, which would have the effect of directing southbound Precinct B traffic travelling to Ballina to Tamarind Drive. This proposal is identified as link road option two on the map provided as Attachment Six.

In response to Council's letter, the landholders' representative (APP) presented further written advice responding to Council's concerns regarding the extent of works that will be required to be provided directly by the future developers of the land.

This correspondence, dated 26 July 2013, is provided as Attachment Four. In summary, the additional submission clarifies the following with respect to the APP proposal:

- The need for a functional connection between Precinct A and Sandy Flat Road is accepted by APP. However, APP submit there is a stronger need for such a connection between Sandy Flat Road and Precinct B
- The principle that no 'crediting' to Precinct A will apply for infrastructure provided in the Ballina Heights Estate is accepted by APP. Notwithstanding, Council acknowledges that facilities required to support the development of Precinct A may be located within the Ballina Heights Estate if there is a justifiable and reasonable case to support it
- The co-location of playing fields with Cumbalum Precinct B is accepted by APP. It is noted, however, that APP propose the construction of an access road from Precinct A to the playing fields but only to a local road standard

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- APP confirms that their proposal calls for the inclusion of an alternative 'bypass' north-south link road in Council's s.94 plan with costs shared with all shire-wide development in the plan, on the basis that this more direct link with Tamarind Drive will provide Ballina Shire residents with access to the Cumbalum playing fields.

### *North-South Link Road*

To assist the Council, a plan identifying the key strategic features of the road and related infrastructure in the Sandy Flat locality is provided as Attachment Six. Reference to link road options one and two below are made in relation to Attachment Six unless otherwise stated.

The key objectives for the North-South Link Road are as follows:

- To provide a convenient and efficient connection between Precincts A and B
- To provide a functional and efficient road connection for public transport purposes and
- To provide access to the future Precinct A playing fields, co-located with the Precinct B playing fields.

The potential for high traffic volumes to arise from Precinct B traffic traversing Precinct A noted in the APP submissions, are acknowledged in the Cumbalum Infrastructure Delivery Plan, supported by traffic assessments for the CURA undertaken on the behalf of Council.

Consequently, the traffic study acknowledged that it would be advantageous to encourage, as much as possible, south-bound through traffic from Precinct B towards Tamarind Drive and away from Precinct A. It is noted, however, that the North-South Link Road will also provide benefits to Precinct A residents, in providing connectivity for north-bound traffic to the Coast Road and the Pacific Highway via Ross Lane (through Precinct B).

APP propose that Council include the construction of a 'Bypass North-South Link Road' (shown as option two in Attachment six) in Council's s.94 Developer Contributions Plan. Under this strategy, the developers propose to construct the access road to the playing fields (co-located with Precinct B) but only to a local road standard.

In considering APP's proposal for a local access road from Precinct A to the playing fields combined with the north-south link provided by the bypass link road (option 2), the following points are raised for the Council's consideration:

- Given the gentle topography and higher speed environment provided by Tamarind Drive (compared with Ballina Heights Drive through Precinct A), this route may attract traffic flows travelling to Ballina from Precinct B that do not otherwise need to pass through Precinct A / Ballina Heights, regardless of whether link road option 1 or option 2 are ultimately provided. Further, there may be other measures that could be adopted to discourage Precinct A receiving 'through traffic' from Precinct B, such as traffic calming, within Precinct A

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- Due to steep topography, the extension of Ballina Heights Drive to Sandy Flat is required to take a somewhat indirect route. Council's Civil Services Group advises that a more direct route (from Ballina Heights / Precinct A to Sandy Flat) would require significant cut and fill to achieve minimum road grades. Notwithstanding, it is noted that in combination, link road option 2 would result in a circuitous connection between the two future urban areas. Whilst this might discourage 'through traffic' in Precinct A, further consideration would need to be given to whether such an outcome would be compatible with the broader public interest over the longer term
- Approximately 170m of link road option 2 traverses land that is below 1m AHD, located within the Sandy Flat floodplain. In contrast, no land on the link road option 1 alignment is below 1m AHD, although parts may be subject to some inundation during significant flood events (1 in 100 year events). Due to the high level of flood liability of APP option 2, this option would involve significantly higher construction and maintenance costs, compared with option 1. APP estimates the total cost associated with the upgrade of Sandy Flat Road and north-south link option 2 as approximately \$10.5 million
- The potential benefits to Precinct A of redirecting south bound traffic from Precinct B to Tamarind Drive via link road option 2 are implicit in APP's proposal. Despite this, the Precinct A proponents are not offering to construct or contribute towards the construction of that route, other than through the proposed inclusion of the link road in the shire-wide roads contribution plan.

As outlined there are a number of options for providing connectivity between Precinct A and Precinct B, with associated costs and benefits of each option. In light of this, Council's Civil Services Group recommend that the details of this connection may be considered further in association with future development applications, when more information regarding development yields and detailed design options are known.

Due to the strong nexus between the fundamental need for a north-south link (regardless of preferred alignment), Council's Civil Services Group suggests that the provisioning of the north-south link road could reasonably be made a condition of development consent for future Precinct A development.

Notwithstanding this, it is suggested that the playing field access / north-south link option depicted in Ardill Payne's 'CURA A to B Link Road Locations Map', enclosed in their latest submission (Attachment Four), represents a less than optimal design solution that does not meet the design objectives of the north-south link outlined above. To the extent that any future development assessment processes may rely upon the present report, it should be clearly noted that the APP design solution is not supported by the Council.

Further, on the basis of APP's submission, it appears reasonable to assume that the approach outlined may be contested, in some form, by the developers of Precinct A, in association with the determination of future development applications.

In considering this it should also be noted that the provision of the northern section of the North-South Link Road is to be delivered via the Cumbalum Precinct B Voluntary Planning Agreement.

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### *Sandy Flat Road Upgrade*

APP proposes that Council include the upgrade of Sandy Flat Road (as shown in Attachment Six) in Council's s.94 Developer Contributions Plan. The basis of APP's argument for the inclusion in the s.94 plan is that the future use of Sandy Flat Road will be dominated by Precinct B traffic.

In relation to the future upgrade of Sandy Flat Road to Tamarind Drive, it is Council's view that whilst it is acknowledged that future development of Precinct B will access the future Sandy Flat Road connection, the upgrade of Sandy Flat Road will be required to service future development of Precinct A, with or without Precinct B proceeding.

Also, it is reasonable to assume that future roads within Precinct B, to be delivered through the Precinct B VPA, will accommodate significant volumes of north-bound traffic originating in Precinct A.

Further the provision of the diversionary route around Precinct A (with respect southbound Precinct B traffic) that Sandy Flat Road provides is clearly in the interests of the developers of Precinct A.

On this basis Council's Civil Services Group suggests that the provisioning of the Sandy Flat Road upgrade could reasonably be made a condition of development consent for the Precinct A development.

Notwithstanding this, on the basis of APP's submission it appears reasonable to assume that such an approach may be contested by the developers of Precinct A, in association with the determination of future development applications.

### *Playing Fields*

The APP proposal seeks the inclusion of local playing fields and community facilities (co-located with Precinct B playing fields) in Council's s.94 Developer Contributions Plan.

These playing fields are intended to service the open space needs of future residents of Precinct A. Contributions towards regional sporting and community facilities are already included in the s.94 Developer Contributions Plan. It remains Council's preference that the provision of infrastructure that services only local needs be provided directly by the developers of the land rather than via developer contributions plans.

Consequently, the preferred approach for the provision of local playing fields and community facilities to Precinct A, as per the Cumbalum Infrastructure Delivery Plan, remains for these facilities to be provided directly in association with future development.

Notwithstanding, it is acknowledged that there may be practical impediments to the delivery on this requirement, where a landholder agreement for the sharing of costs, such as that provided by a VPA, does not exist.



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As a result, conditioning may be difficult where a stage, the subject of a particular development consent, does not alone require the provision of playing fields and/or community facilities to the required ultimate standard or extent, such that a cumulative short-fall in costs, not borne by developers of the land, could occur.

As a consequence of the above, should the Council support the further progress of the Precinct A Planning Proposal, it is recommended that further consideration be given to the inclusion of the Precinct A playing fields and community facilities in Council's relevant developer contribution plans. Such consideration may also include provision for road access between the playing fields and adjacent development (both Precinct A and Precinct B).

### *Gap Funding*

The Minister for Planning has advised that Council could apply for 'gap funding' under the State Government's Housing Acceleration Fund for local infrastructure for those works deemed to be "essential works" as approved by the Independent Pricing and Regulatory Tribunal (IPART).

The 'essential works list' referred to above is defined as follows (from the 'Local Development Contributions Practice Note issued by the Department, dated November 2010):

- *land for open space (for example, parks and sporting facilities) including base level embellishment [as defined below]);*
- *land for community services (for example, childcare centres and libraries);*
- *land and facilities for transport (for example, road works, traffic management and pedestrian and cyclist facilities), not including carparking;*
- *land and facilities for stormwater management.*

For the purposes of open space embellishment, 'base level embellishment' is defined as follows:

*"... those works required to bring the open space up to a level where the site is secure and suitable for passive recreation. This may include:*

- *site regrading;*
- *utilities servicing;*
- *basic landscaping (turfing, planting, paths);*
- *drainage; and*
- *basic park structures and equipment (park furniture, toilet facilities and play equipment);*

*but does not include structures and equipment such as lighting, shade structures and the like."*

## 4.1 Cumbalum Precinct A - Planning Proposal

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In light of the limitations placed on the type and standard of infrastructure that may be funded via State Government's Housing Acceleration Fund, by the 'essential works' criteria, and considering the uncertainty that of any application made would be successful, this option does not appear to provide any additional security to the Council with regard to infrastructure delivery.

### *State Government Planning System White Paper*

Councillors will be aware that the Government has recently released its white paper regarding proposed changes to the planning system.

Although further details regarding the changes will not be available until the final bill is presented, key aspects of the foreshadowed changes, of relevance here, include the following:

- The cap on development contributions will be removed, however contributions *"...will be based on standardised, benchmarked cost for types of infrastructure. This approach recognises the cost differences between different areas. The same essential list of infrastructure will apply across NSW:*
  - *Local roads and traffic management*
  - *Local open space & embellishment*
  - *Basic community facilities (land and capital) and*
  - *Capital cost of drainage."*
- The white paper states that *"...local councils may hold local infrastructure contribution funds for a maximum of three years unless otherwise approved by the Minister."*

The implications of the above appear to be that councils will be constrained on the amount that can be levied from future development, on the basis of IPART determined infrastructure cost benchmarks, along with constraints on the type of infrastructure delivered.

The range of infrastructure to be funded will be reduced to the land component and a basic level of embellishment and facilities. It would appear that any facilities above this 'basic level', along with any differences between the contributions funds collected and ultimate cost of works, will need to be funded by local councils. Further, it is difficult to see how the foreshadowed requirement for councils to spend contributions funds within three years of collection would be workable.

The Government white paper advised that further information regarding the above will be released by June 2013, however this has not yet occurred.

As a consequence of this, uncertainty remains regarding the likely implications of the foreshadowed reforms to the planning system, with respect to the developer contributions regime.

### *Summary Comments on Infrastructure Matters*

It is acknowledged that clauses 6.2, 6.3 and 7.7 of the Ballina LEP 2012, as outlined earlier, provide the development assessment process with opportunities to address infrastructure delivery matters.

## 4.1 Cumbalum Precinct A - Planning Proposal

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Notwithstanding, it is also noted that the interpretation of these clauses is yet to be tested in the Court and neither clause fully resolves the potential for alternative consent authorities to fail to properly consider these matters.

It is on the basis of the uncertainty outlined above that Council has sought to identify appropriate alternative mechanisms for securing the delivery of infrastructure by the future developers of the land, in a manner that does not expose the Council and the broader community to the risk of inheriting infrastructure delivery obligations that should be borne by those parties that benefit from the development of the land.

Notwithstanding this it is submitted that Council may support the progress of the Cumbalum Precinct A Planning Proposal, relying upon a combination of development consent conditions and amended s.94 plans (in the case of playing fields and community facilities) for the provision of infrastructure, if Council is of the view that there is an overriding public benefit associated with rezoning the land to accommodate projected housing demands in the shire, at this time.

Should Council pursue this course of action it is recommended that Council seek a deed of agreement with the owners of the land, that applications for the development of the land will not be lodged until amended developer contributions plan/s are in place, or until six months has elapsed from the time the land is rezoned by the Minister, whichever occurs first.

The six month period should give sufficient time for the Council to have the necessary plan/s in place, while providing the developers of the land with some certainty regarding the timeframe for the progress of development application processes.

### *Road Noise*

As previously reported in detail to the Council, parts of Precinct A are affected by road noise. As a consequence, land located on the western edge of Precinct A, adjacent to the Pacific Highway, was excluded from residential rezoning (and zoned RU2 Rural Landscape). This land was retained as a Strategic Urban Growth Area (SGA) to allow further consideration of the matter in the future. Land located in the vicinity of the Pacific Highway and also Ross Lane, was similarly excluded from the residential zone footprint of the Precinct B Planning Proposal.

This issue was dealt with in detail in a report considered by the Environmental & Sustainability Committee of the Council on 11 December 2012 (page 45-47). The December 2012 report included the following advice regarding this matter:

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

## 4.1 Cumbalum Precinct A - Planning Proposal

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

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

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

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

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

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

#### 4.1 Cumbalum Precinct A - Planning Proposal

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

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

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

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

## 4.1 Cumbalum Precinct A - Planning Proposal

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

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

APP have presented a further two submissions regarding this matter, which are provided as Attachments Seven and Eight to this report. APP requests that Council give further consideration to this prior to the finalisation of the subject planning proposal.

Notwithstanding, APP's arguments to the contrary, it is the considered view of staff that the further submissions do not differ, in approach or substance, from that previously considered by the Council.

Fundamentally, the APP proposal relies upon individual building treatments in order to achieve the internal noise criteria for dwellings on noise affected land. As a consequence, the recommendations with respect to this matter remain unchanged.

### *Small Rural Residential Style Allotments*

As previously reported to the Council, the Precinct A proponents have sought for the planning proposal to allow for rural residential style allotments in parts of Precinct A. This issue was dealt with in detail in a report considered by the Environmental & Sustainability Committee of the Council on 11 December 2012 (pages 38-39).

The December 2012 report included the following advice regarding this matter:

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

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

## 4.1 Cumbalum Precinct A - Planning Proposal

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

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

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

APP have also presented a further submission regarding this matter, provided as Attachment Nine to this business paper.

As outlined in previous reports to the Council, it is considered prudent to consider this matter at a policy level, including issues associated with its possible application in a range of circumstances in the shire, rather than allowing it to occur on an ad-hoc basis.

The Ballina Shire Growth Management Strategy was adopted in July 2012. The Strategy's strategic actions for 'shire-wide & other localities' (page 53) includes the following:

*Investigate the concept of permitting semi-rural allotments on the edges of strategic urban release areas.*

It is the view of staff that the APP proposal for small rural residential style allotments, including proposed road and house site locations, requires further assessment and justification, having particular regard for accessibility and presence of environmental hazards.

Significantly, the areas proposed by APP are within parts of Precinct A that the Local Environmental Study concluded were not suitable for conventional residential development.

## 4.1 Cumbalum Precinct A - Planning Proposal

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On a related matter, it is noted that Planning Proposal 13/001 Subdivision Provisions, considered by Council at its Ordinary Meeting held on 25 July 2013, includes provisions which seek to enable the creation of residual allotments that are less than the minimum lot size (as shown on the Lot Size Map), in association with planned urban growth.

The application of these provisions will require the development of further development guidelines, to support future development assessment processes. It would be appropriate to consider these matters; development guidelines for 'residual lots in planned urban growth areas'; and Council's policy position with respect to 'small semi-rural allotments on the strategic urban growth areas' at the same time.

On the basis of the above, it is recommended that this matter be considered in detail through a separate focussed engagement with the Council, in due course. This matter can be accommodated within the Strategic & Community Facilities Group work program for 2013/14.

### *Development Control Plan*

It is considered desirable that a development control plan (sub-chapter) be in place, prior the rezoning of the land, to ensure that appropriate guidance on a range of matters is available to assist future development assessment processes.

Due to the timing and progress of the Ballina Standard Instrument LEP and consequential review of Council's Development Control Plan, a stand-alone DCP for Precinct A has not been prepared. Basic residential controls are, however, provided for in the Ballina Shire Development Control Plan 2012.

Clause 6.3 of the Ballina LEP requires that consent (for development of land in a new release area) not be granted unless a development control plan has been prepared for the land that provides for a range of matters including: development sequencing; transport hierarchy; landscaping; recreation; stormwater management; environmental hazards; and urban design and density controls (among other matters).

Notwithstanding, it is further noted that section 74D of the *Environmental Planning and Assessment Act* 1979 allows that such a DCP may be drafted by the development proponents with Council having only 60 days to adopt the plan (with or without amendments) before a development application can be lodged, notwithstanding the requirement of the clause (with a possible extension of a further 60 days for the provision of additional information).

As a consequence of the above, it is recommended that should the Council support the progress of the subject planning proposal, Council seek a deed of agreement with the owners of the land identifying that applications for the development of the land will not be lodged until a development control plan and (where necessary) amended developer contributions plans are in place, or until six months has elapsed after the land is rezoned, whichever occurs first.

Subject to the outcome of the Council and the Department's consideration of this matter, a development control plan for Cumbalum Precinct A would, if the rezoning proceeds, be given a high priority in Council's work program.



## 4.1 Cumbalum Precinct A - Planning Proposal

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### State Government's Timeframe for Finalisation

As Councillors will be aware, the Department is considering recommending to the Minister that an alternative planning authority be appointed to finalise the Cumbalum planning proposals if Council does not finalise the planning proposals in a timely fashion. Further, previous advice from the Department indicates that the Department appears unconcerned to ensure that infrastructure matters are adequately resolved prior to the matter being finalised. This is a disappointing position for the Department to take.

Where the State seeks to intervene, the Minister for planning can appoint an alternate planning authority to process and finalise a planning proposal. Ballina Shire Council has recently experience this in relation to the Skennars Head Coastal Village Planning Proposal (Stewart Farm). As outlined in the July 2013 report on this matter to Council's Ordinary Meeting, staff have identified a number of significant issues with the exhibited planning proposal, many of which had been addressed whilst Council was processing the proposal. Fundamentally, it is more difficult for Council to engage in the resolution of issues when it is not the planning authority for the processing of a planning proposal.

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

- Baseline planning controls are now provided for in the draft Ballina Shire Development Control Plan
- Clauses 6.2 and 7.7 of the Ballina LEP 2012 makes provision that consent shall not be granted unless the Council is satisfied that public utility infrastructure is available or that adequate arrangements are in place
- Clause 6.3 of the Ballina LEP 2012 makes provision for a development control plan being in place, that addresses a range of matters relating to the subdivision of new release areas, prior to the granting of consent for the development of the land
- The apparent intention of the State Government to rezone the land, despite any reservations of the Council with respect to uncertainty regarding infrastructure delivery, as outlined above and
- The risk that, where the Department intervenes, issues of importance to Council may not be addressed by the Department in the same way that Council would have considered the matters.

The difference in approach, outlined herein, from that of Cumbalum Precinct B is acknowledged. Notwithstanding, it is submitted that the key differences in the case of Precinct A, to that of Precinct B, are as follows:

- The quantum of infrastructure required to service Precinct B due to its location (and relative isolation), and therefore the associated risks for Council, are substantially higher than Precinct A and

## 4.1 Cumbalum Precinct A - Planning Proposal

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- The development horizon for Precinct B, due to its location (and relative isolation), is more uncertain, and therefore the associated risks for Council are higher, compared with Precinct A.

In the case of the Cumbalum Precinct B planning proposal, these issues have been overcome through the negotiation of a voluntary planning agreement (VPA) that unequivocally obligates the future owner/s of the land to deliver infrastructure at key stages of the development process. Council is currently awaiting the registration of the Precinct B VPA prior to the finalisation of the Precinct B rezoning process.

With respect to the progress of the Precinct B VPA registration process, Council understands that the Precinct B proponents have commenced lodging, with Council's representatives, the necessary documents to enable registration to occur. Recent discussions with the Precinct B proponents suggests that, despite their earlier reluctance to enter into the VPA, the agreement is providing a level of increased certainty to the developers (as well as the Council) that is, apparently, assisting them to progress the development process.

The willingness of the Precinct B proponents to engage in a VPA has been a very positive aspect of that planning proposal, which unfortunately has not been realised with Precinct A.

### *Summary Comments*

As has been previously reported to the Council, Cumbalum Precinct A has comprised an important component of Council's, and the State Government's, urban growth strategy for the shire, and the region, for a considerable period.

The urban suitability investigations undertaken as part of the Local Environmental Study prepared as the basis for the planning proposal have identified that parts of the precinct have physical capabilities appropriate to accommodate urban development, subject to the resolution of infrastructure delivery issues, i.e. that an appropriate mechanism is in place to provide for the efficient delivery of infrastructure to service future development without placing an unreasonable burden on the public for the extension of those services.

Despite its best endeavours, Council has not been able to secure a mechanism that would ensure the timely provision of infrastructure, at the required standard and with a minimal risk to the Council.

As previously reported to the Council, a voluntary planning agreement provides the most secure means of facilitating infrastructure delivery while minimising the risks to the community. Notwithstanding, it is submitted that the delivery of infrastructure via the following means may provide an acceptable arrangement for the delivery of infrastructure in the case of Cumbalum Precinct A:

- Reliance on conditions of consent to secure the following infrastructure:
  - Drinking water supply
  - Recycled water supply

## 4.1 Cumbalum Precinct A - Planning Proposal

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- Sewerage infrastructure
- Stormwater detention and treatment
- Local parks and playgrounds
- Internal road infrastructure
- External road infrastructure including upgrade of Sandy Flat Road and the southern portion of the North-South Link Road; and
- Inclusion of playing fields and community facilities in Council's s.94 Developer Contributions Plan (with possible inclusion of access road and associated facilities). It is anticipated on the basis of previous work, and on further information submitted by APP that the inclusion of such additional infrastructure items could be accommodated having regard for the State Government's cap on developer contributions.

In recommending this approach it is important to acknowledge that, on the basis of the Department's previous advice, the Minister may remove the subject planning proposal from the Council's administration should Council defer or delay the finalisation of this matter for any reason. This concern has helped influenced this recommendation, along with the limitations that continue to be placed on Section 94 developer contribution plans.

Council has sought to ensure that the subject rezoning process addresses all relevant social, environmental and economic issues in a manner which reasonably safeguards the environment, public health, minimises financial risk to the ratepayers of Ballina Shire and ensures that future residents have the benefit of appropriate services and infrastructure. This has been the basis of Council's approach to date.

Despite the reservations that remain regarding the pathway forward, it is suggested that the finalisation of the subject planning proposal, subject to the measures outlined herein, provides the most secure means available to protect the Council's and the community's interests in relation to this matter.

### *Summary Points*

In summary, the Precinct A Planning Proposal, involving the rezoning of land, under the terms of the Ballina LEP 2012, to a mixture of residential, environmental and rural zones:

- is consistent with the strategic planning framework for Ballina Shire and the North Coast Region
- is supported by detailed environmental assessments undertaken through, and subsequent to, the local environmental study and plan process and
- is able to be supported by appropriate urban infrastructure.

### **Sustainability Considerations**

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

- **Social**

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

- **Economic**

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

### **Legal / Resource / Financial Implications**

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

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

### **Consultation**

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

### **Options**

1. That Council discontinue the subject planning proposal.

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

2. Proceed to finalise the planning proposal subject to the proponents entering into a deed of agreement with the Council under the terms outlined in this report.

#### **4.1 Cumbalum Precinct A - Planning Proposal**

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This option would involve the following:

- The landholders being invited to enter into a deed of agreement (or similar mechanism) with the Council such that the landholders agree not to lodge development applications for the subdivision of the land until a development control plan and amended developer contributions plan has been adopted by the Council or six months has elapsed following the rezoning of the land, whichever occurs first.
- Council immediately commencing the review of relevant section 94 plans as outlined in this report.
- Council immediately commencing the preparation of a development control plan, for the Cumbalum Precinct B Strategic Urban Release Area, that addresses those matters set out in clause 6.3 of the Ballina LEP 2012.
- Provision of the final Cumbalum Precinct A Planning Proposal (Attachment Five) to the Department of Planning & Infrastructure for finalisation.

This option is recommended on the basis of the following:

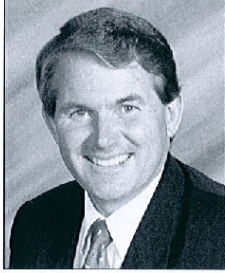
- That the comprehensive rezoning investigations undertaken to date the Department of Planning & Infrastructure for finalisation indicate that parts of the subject land have a capability to accommodate urban development in a manner that would have minimal impact on the environment and
- That the land is physically capable of being serviced by urban infrastructure and mechanisms are available to secure the provision of that infrastructure in a manner which presents an acceptable level of risk to the Council and the community.

### RECOMMENDATIONS

1. That the Council endorses the Cumbalum Precinct A Planning Proposal.
2. That, subject to the landholders agreeing to a deed of agreement (or similar mechanism) identifying that development applications will not be lodged until a development control plan and developer contributions plans are in place or six months has elapsed after the land is rezoned (i.e. following Minister's approval), Council refer the Precinct A Planning Proposal to the Department of Planning and Infrastructure to be finalised.
3. That Council amend the relevant developer contributions plans to provide for collection of contributions towards Precinct A playing fields and community facilities, including consideration of provision for access and parking.
4. That Council commence the preparation of a development control plan for Cumbalum Precinct A that addresses those matters set out in clause 6.3 of the Ballina Local Environmental Plan 2012.
5. That Council advise the proponents that further consideration of land identified as being noise affected and unsuitable for residential zoning is subject to the lodgement of a separate planning proposal.
6. That Council advise the proponents that matters relating to small lot rural residential development will be considered separately by the Council, in due course.

### Attachment(s)

1. Ministerial advice to APP regarding Council's request for s.94 contributions cap waiver
2. APP letter dated 7 May 2013 regarding detailed infrastructure delivery proposal
3. Council letter dated 19 July 2013 to APP seeking clarification on infrastructure delivery matters
4. APP letter dated 26 July 2013 providing further information on infrastructure delivery proposal
5. Cumbalum Precinct A Planning Proposal (August 2013)
6. Cumbalum Precinct A & Precinct B North-South Link Road Options and Location of Playing Feilds
7. APP letter dated 4 April 2013 - Supplementary Acoustic Report
8. APP letter dated 31 May - Further Supplementary Acoustic Report
9. APP letter dated 2 June 2013 - Supplementary report regarding proposed smaller rural residential lots



PARLIAMENT OF NEW SOUTH WALES  
LEGISLATIVE ASSEMBLY



**DON PAGE, M.P.**  
MEMBER FOR BALLINA

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12 April 2013

Mr Paul Snellgrove  
Ardill Payne & Partners  
PO Box 20  
BALLINA NSW 2478  
Email: [pauls@ardillpayne.com.au](mailto:pauls@ardillpayne.com.au)

Dear Mr Snellgrove,

I refer to my representations on your behalf to the Hon. Brad Hazzard MP, Minister for Planning and Infrastructure regarding Cumbalum Release Area – Precinct A.

I now enclose herewith the response received from the Minister for your information.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Don Page'.

Don Page MP  
MEMBER FOR BALLINA

encl.  
DP:tg

c.c. Mr Robert S Hosie ([hosie@bigpond.net.au](mailto:hosie@bigpond.net.au))



**The Hon Brad Hazzard MP**  
Minister for Planning and Infrastructure  
Minister Assisting the Premier on Infrastructure NSW

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

13/04425

12 APR 2013

Dear Minister

I refer to your representations on behalf of Mr Paul Snellgrove, Ardill Payne & Associates concerning Cumbalum Release Area – Precinct A.

The Department has reviewed the request from Ballina Shire Council, dated 15 February 2013, supported by Mr Paul Snellgrove of Ardill Payne & Associates acting on behalf of the landowners to exempt Cumbalum Urban Release Area – Precinct A from the \$20,000 section 94 cap.

This land does not meet the criteria for a full exemption from the cap, which only applies to existing contributions plans where significant financial contributions have already been made by developers. However, it is a new Greenfield release area and qualifies for the \$30,000 Greenfield section 94 cap. Accordingly, the Department is currently preparing an amended direction to apply the \$30,000 Greenfield section 94 cap for the Cumbalum Urban Release Area – Precinct A.

If contributions exceed \$30,000 per lot, the Council may apply for “gap” funding under the Department’s Housing Acceleration Fund for local infrastructure within the section 94 plan for Cumbalum Urban Release Area deemed to be “essential works” as approved by IPART. Alternatively, in accordance with the Section 94E ‘Local Infrastructure Contributions’ Ministerial Direction, dated 21 August 2012, the Council can impose a condition of consent that requires the payment of section 94 contributions over the \$30,000 cap, but only with both the written agreement of the applicant for the consent and my written approval before the condition is imposed.

Should Mr Snellgrove have any further enquiries about this matter, Michael Comminos, Director, Infrastructure Planning and Co-ordination, of the Department of Planning and Infrastructure can assist. Mr Comminos can be contacted on 02 9228 6492.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Brad Hazzard', written over a light blue background.

**HON BRAD HAZZARD MP**  
Minister

09 APR 2013

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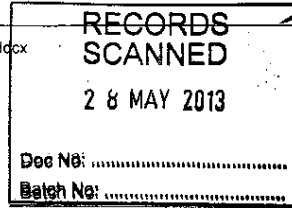


# ARDILL PAYNE

& Partners  
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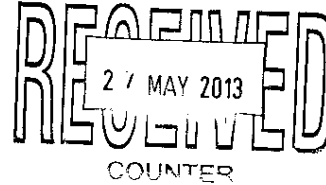


22 May 2013

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

Attention: **Simon Scott**

Dear Sir



**RE: CURA-A s94 Contributions increase to \$30,000  
Council letter 7th May 2013**

With reference to your above referred letter, we attach our advice as to the amended scope and value of works for inclusion in the proposed \$30,000 limited s94 plan for CURA A. Details of the method of calculation and delivery of infrastructure are provided in the attached spreadsheets and sequencing plans.

The value of the plan and individual items have been calculated using GHD's rates from their 2011 study for Council's IFD Plan for CURA A and B. We have checked their rates and assumptions against our own costings and development sequence and consider the GHD numbers conservative and therefore worth maintaining at this stage of the Plan.

The amended value of the Plan is calculated at \$20,097,600. Assuming 800 lots are eventually released in CURA A, as per the GHD approach, then the contribution rate per lot is as follows:

- Existing contributions at \$15,549 / lot
- Additional contributions at \$9,573 / lot
- Total Contribution per lot at \$25,122 / lot

Additional Contributions are made up of the following:

1. Community Facilities \$3,294,614
2. North South Link Road \$1,770,076
3. Sandy Flat Road \$993,916
4. External roadworks \$1,600,000
- TOTAL \$7,658,606

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

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## 4.1 Cumbalum Precinct A - Planning Proposal

2.

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Council's goal as stated in its subject letter is to investigate ways to remove \$7.4 million of works from the original GHD plan. Council has requested APP advise of ways this may be achieved. The principal opportunity is for developers to build portions of the infrastructure and remove the equivalent cost from the plan. GHD's original estimate for CURA A is summarised below together with APP's revised estimate for the case where developers build components of the infrastructure themselves. The table presents the decreased scope of works to be included in the s94 Plan and the reasons for the change.

		GHD 2011	APP 2013	Reason for change
1	Open Space & Recreation	\$1,029,532	\$0	Work undertaken by Developers or not required
2	Community Facilities	\$3,294,614	\$3,294,614	No change proposed
3	Roads	\$10,648,525	\$2,763,992	GHD included cost of constructing BHD from BHE to Sandy Flat. This will be done in stages by Developers.
4	Stormwater Detention/Infiltration	\$2,937,367	\$0	Work undertaken by Developers or not required
5	Intersections And Bridges	\$0	\$1,600,000	External roadworks allowance not incl. in GHD estimate
6	TOTAL	\$17,910,039	\$7,658,606	
7	Deduct Stormwater	(\$2,937,367)	\$0	
8	NEW TOTAL	\$14,972,672	\$7,658,606	
9	Saving		\$7,314,066	

The table shows a saving of \$7.3m which is actually more than Council's aim as the original GHD estimate did not provide for external road contributions (Item 5) associated with increased traffic from CURA B. Council subsequently proposed this charge as part of its draft VPA for CURA A. The landowners consider they are not liable for this charge but we have included it at this juncture for discussion and to cover all previous proposed charges.

Details of how these values are determined are provided in the attached spreadsheet. The major savings are from:

- Construction of Open Space and Recreation Facilities by the Developers
- Construction of Ballina Heights Drive (BHD) from the top of Ballina Heights (end of current contract works let by BSC to Gary Deane Constructions) to the start of Sandy Flat Road as set out on the attached development sequence.

We have included the cost of constructing Sandy Flat Road and The North South Link Road in the s94 Plan as the landowners did not see any clear need for either in their development plans. They consider the role of these two roads is to provide convenience of access to CURA A residents and future links to CURA B. There is therefore no nexus / consequential link between the development and the roads and therefore their attachment to conditions of consent would be of dubious legal merit.

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Of utmost concern to the landowners is the alignment of the North South Link Road depicted in GHD's IFD Plan and subsequent traffic routing model by Cardno Eppel Olsen, which directs south bound CURA B traffic predominantly along BHD through CURA A. As we have advised on many occasions this proposal is completely unacceptable. If adopted it would destroy the village amenity of CURA A via the increased traffic load and require sound attenuation walls to be constructed along much of the route through CURA A. These outcomes would seriously impair the feasibility of the development as currently proposed and the residential amenity of the future village setting. As we have advised previously, the CEO model and results do not present an acceptable traffic solution and a bypass of CURA A for south bound traffic from CURA B is required. An alignment similar to that shown on the attached sequencing plan is considered essential. This alignment would direct traffic going south to Ballina along Tamarind Drive but permit CURA B's to visit the A's if desired. The converse would exist for A going to B.

Council's risk exposure to this Plan is controlled by:

1. Increases in standard construction costs as a result of market conditions and CPI.
2. CURA B not proceeding and therefore not contributing towards the North South Link Road, Sandy Flat Road and External roadworks.
3. Yield from CURA A dropping due to current Council RU1 and E3 zonings.

The methods available to manage these risks are:

1. Increases in construction costs. Methods to manage risk are:
  - a. Indexation of the Plan.
  - b. Use of inflated costs. We have adopted GHD's costs which include a 40% contingency. Our check calculations on their road rates indicate construction and contingency costs at between \$290 and \$311 per square metre. The current rate for BHD, which is a far more difficult and elaborate road to construct, is \$270 per square metre as calculated on the attached spreadsheets.
2. CURA B not proceeding. If CURA B did not proceed or did not proceed quickly enough, BSC would be short of funds for the entire proposed CURA A S94 plan. Methods to manage risks are:
  - a. For Community Facilities. Quantum of work required is directly related to population. CURA B's absence should not affect the provision of community facilities as CURA A should have contributed its portion by dint of this correlation.
  - b. The North South Link Road would not be required.
  - c. The External Roadworks would not be required.
  - d. Sandy Flat Road would be required but Council would have collected rates for the redundant roads above and therefore should have sufficient funds for SFR.

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3. Yield From CURA A dropping.

- a. APP has and is continuing to provide additional reports to Council to support the zoning of the RU1 zoned land to R2 or R3 zones plus the introduction of large rural residential environmental lots in the E2 and E3 zones. Expert opinion supports these changes. Council can manage the contribution risk by adopting such opinion.

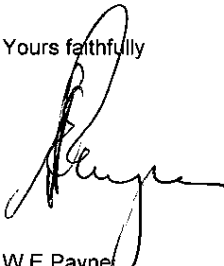
The attached sequencing plans are as per our submission of December 2012 and represent the developer's proposed development sequence and roles of the various parties in providing infrastructure, residential land, open space and community facilities. As per our submission in December 2012, the contributions provided by this sequencing ensure Council does not have to borrow funds for the s94 work as the s94 components are to be built towards the end of the project. That is, after sufficient funds have been collected to build the s94 components.

The legal mechanism by which the infrastructure components are removed from the previous s94 plan or VPA and connected to the developers directly is by conditions of development consent. The items proposed to be built by the developers are necessary for the development to proceed (road access along BHD) and provision of parks as per DCP requirements.

An additional legal mechanism to conditions of consent, to ensure the delivery of non s94 works, would be an amendment to the Ballina DCP 2013, in a manner similar to that which has operated for the Ballina Heights Estate.

We suggest that following your consideration of the content of this letter, that we meet with you prior to you preparing a report to Council in order, to discuss and resolve any concerns that you may have. We invite you to contact us with any comments or suggestions in respect of the matters raised in this letter."

Yours faithfully



W E Payne

**ARDILL PAYNE & PARTNERS**

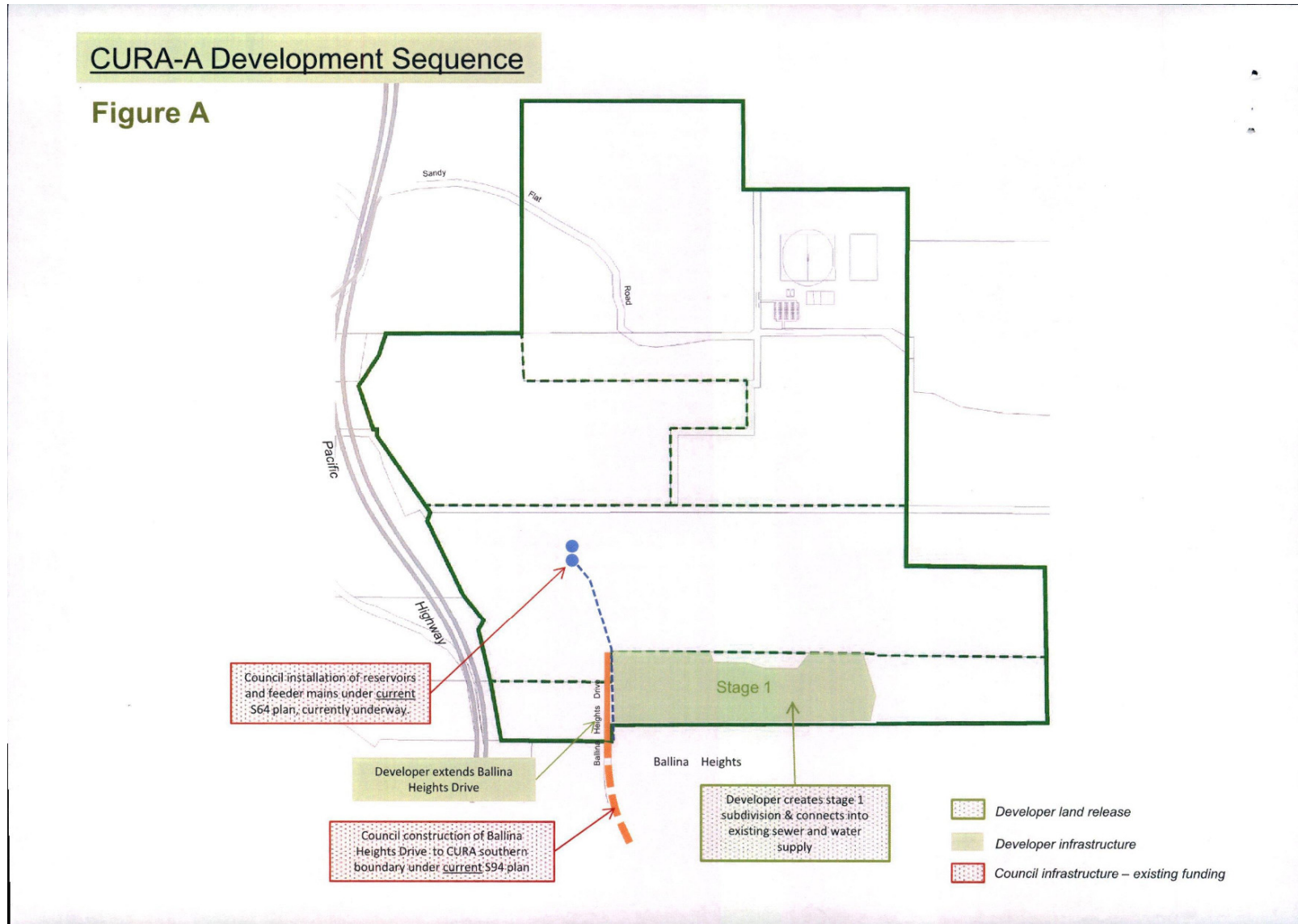
Encl: Calculation Sheets  
Development Sequencing Plan  
Council letter

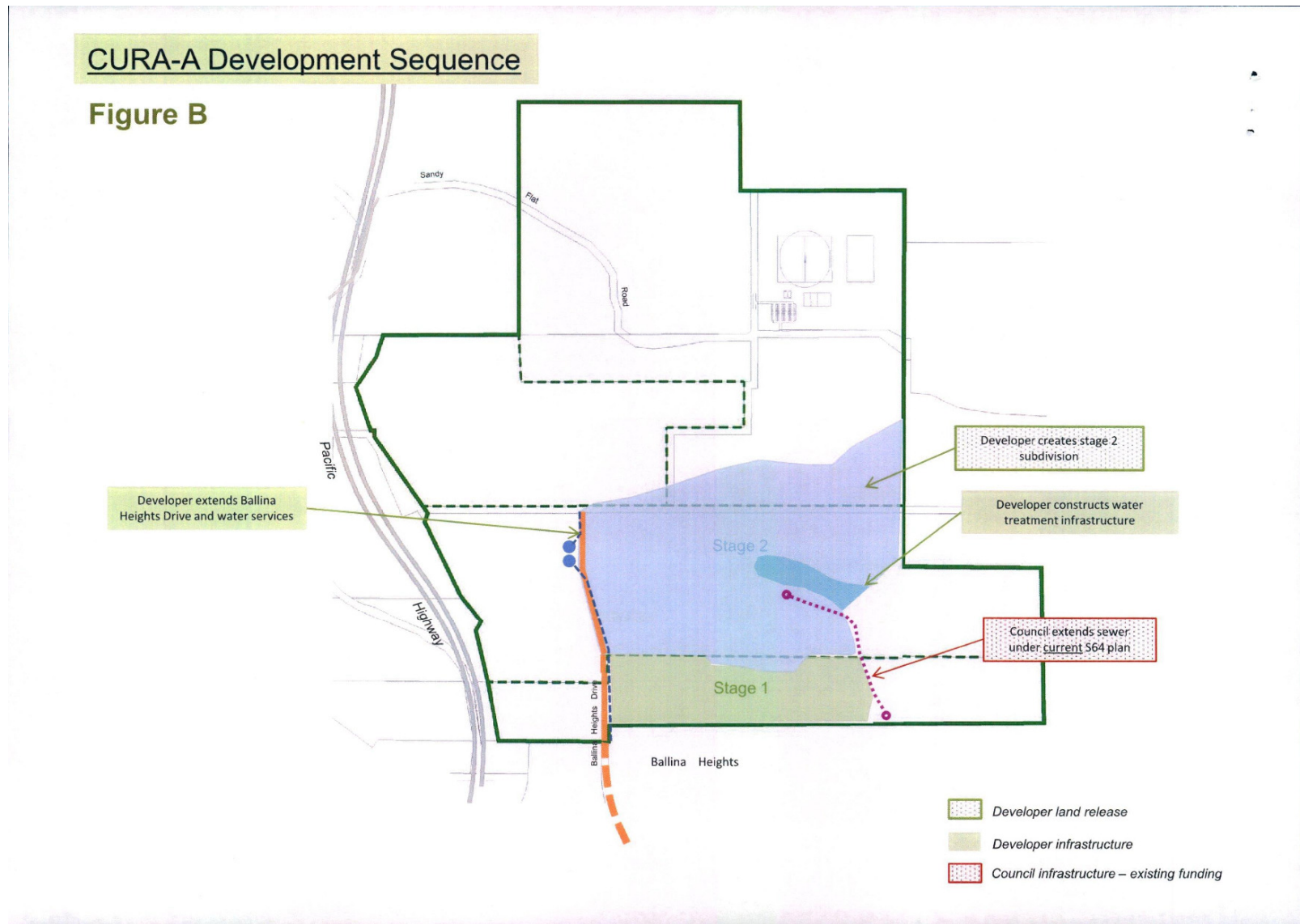
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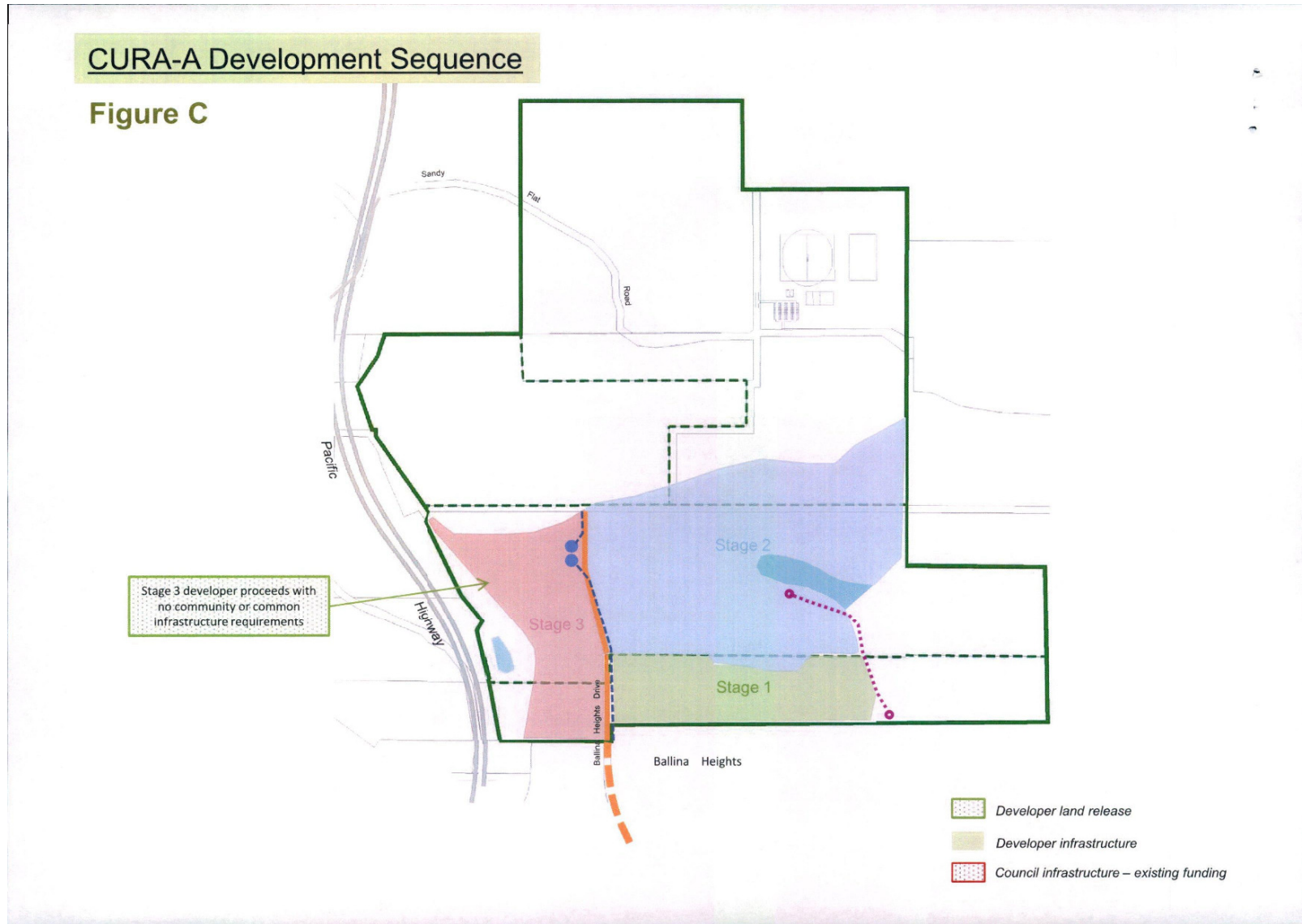
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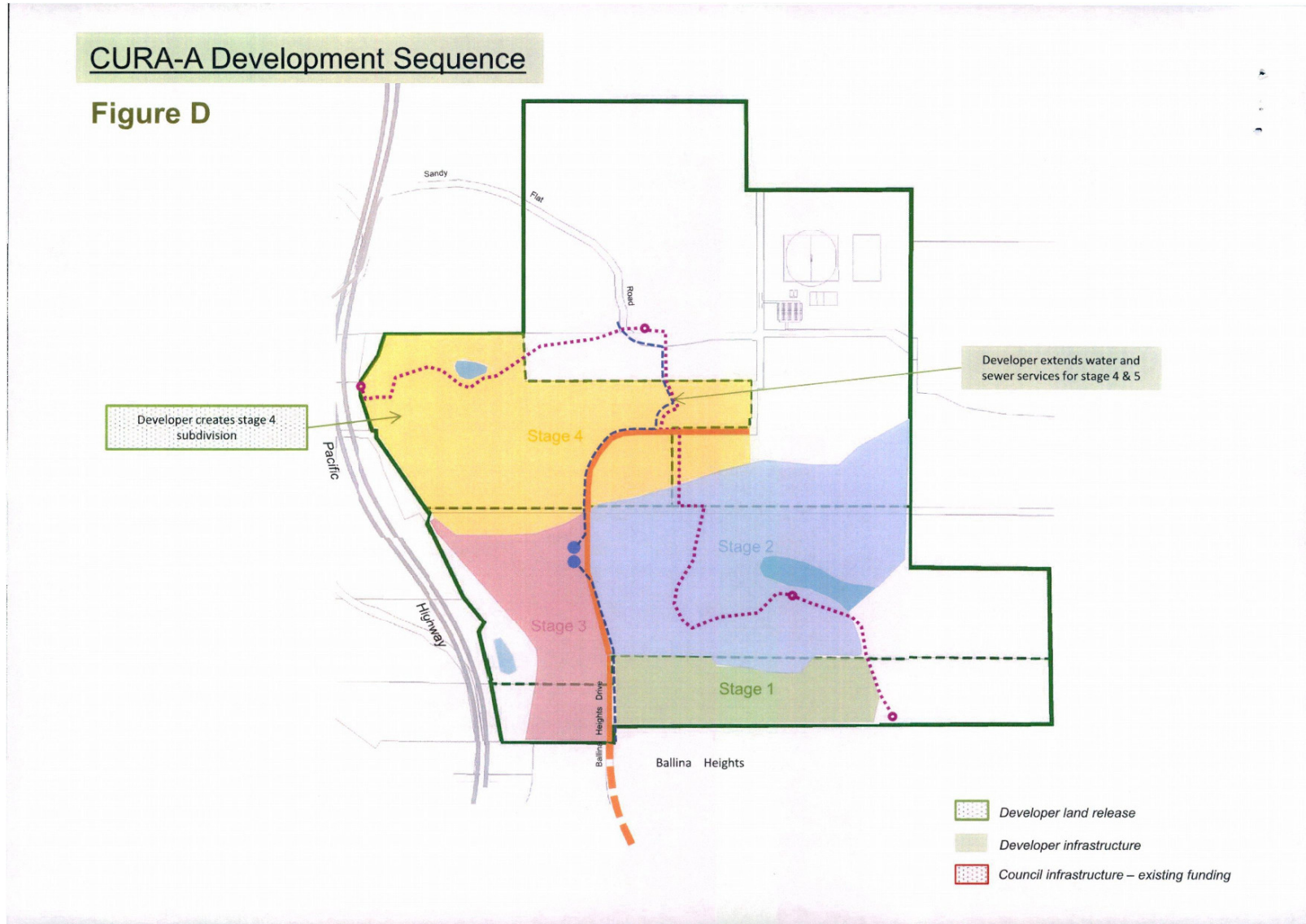
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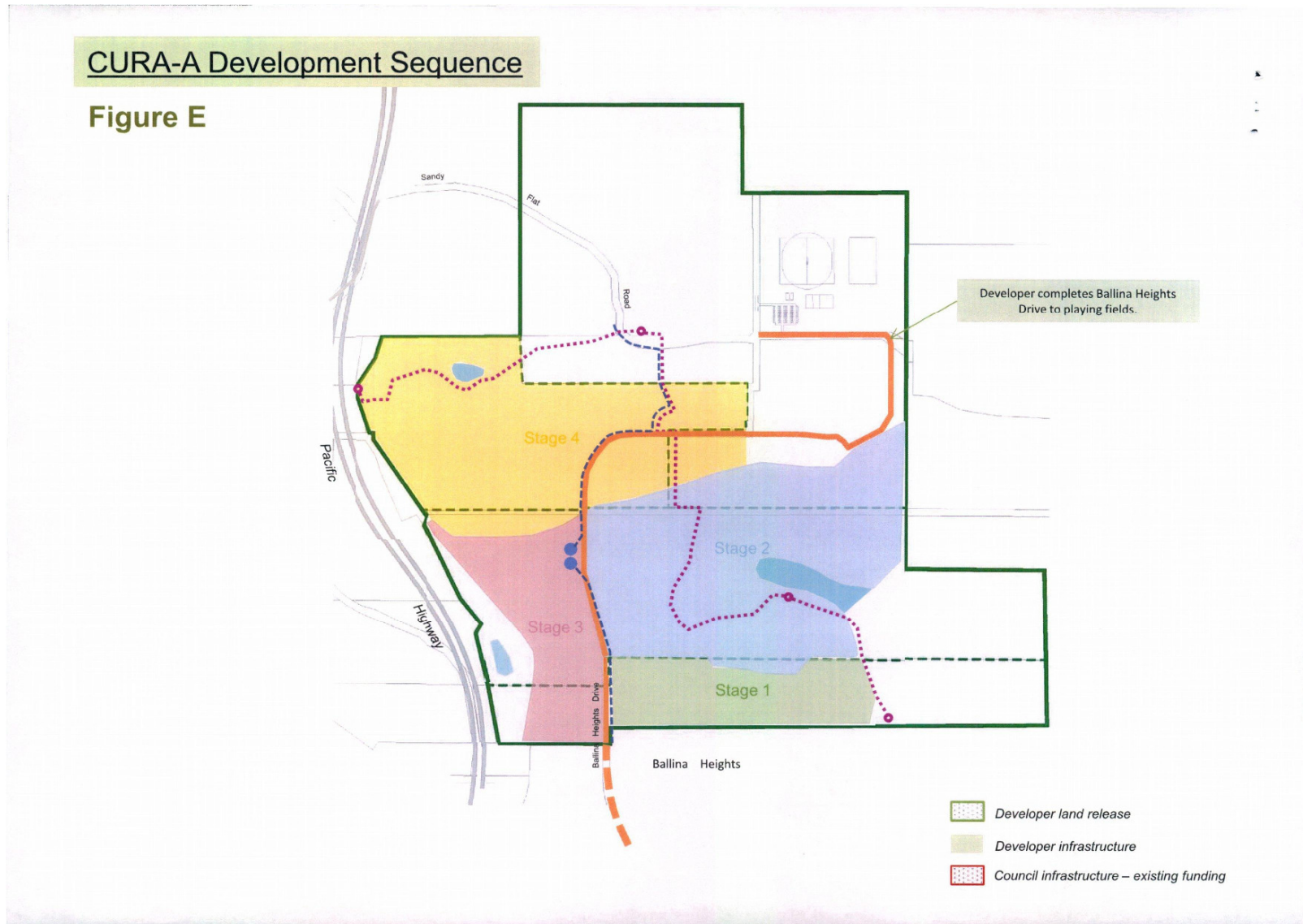


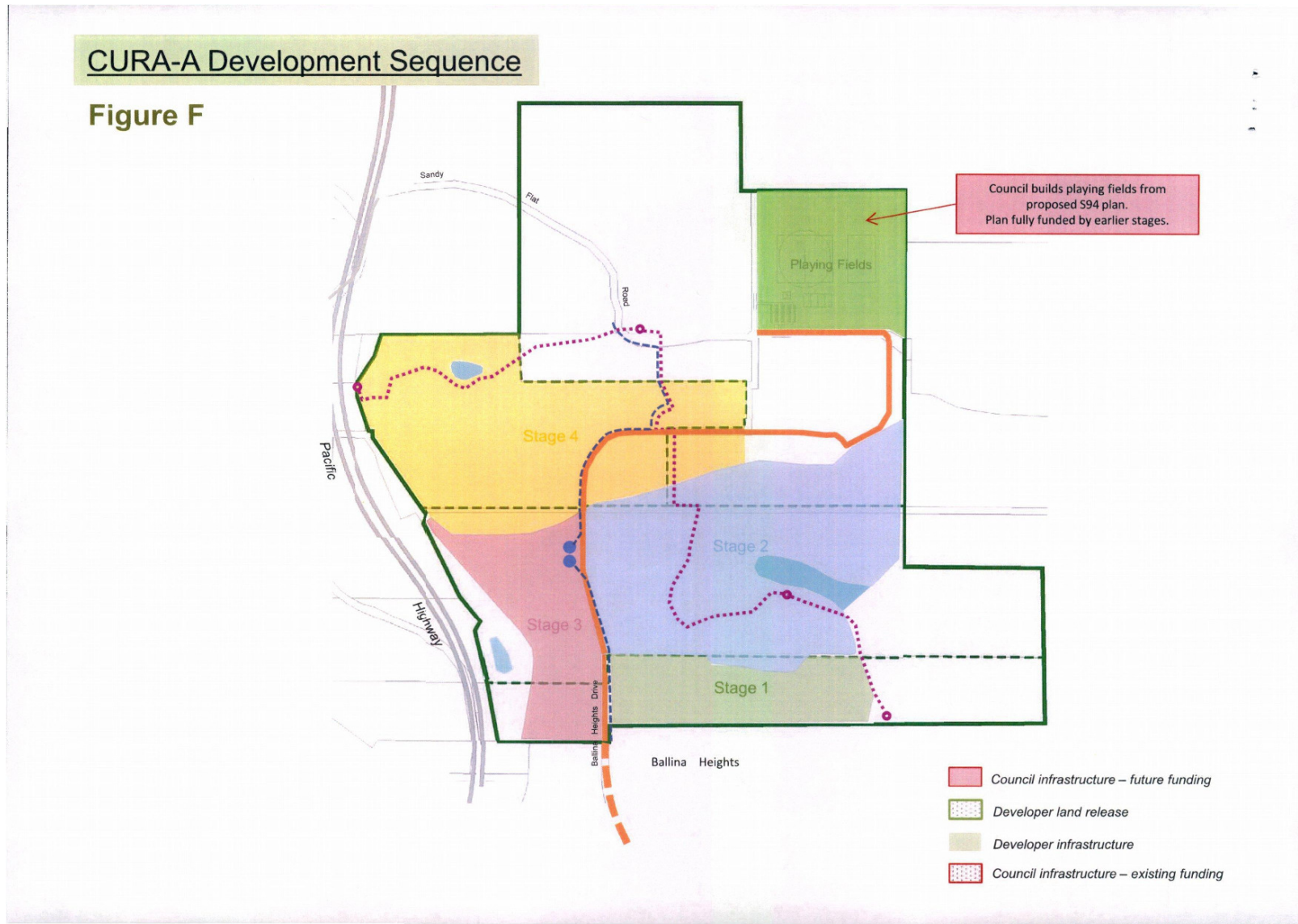


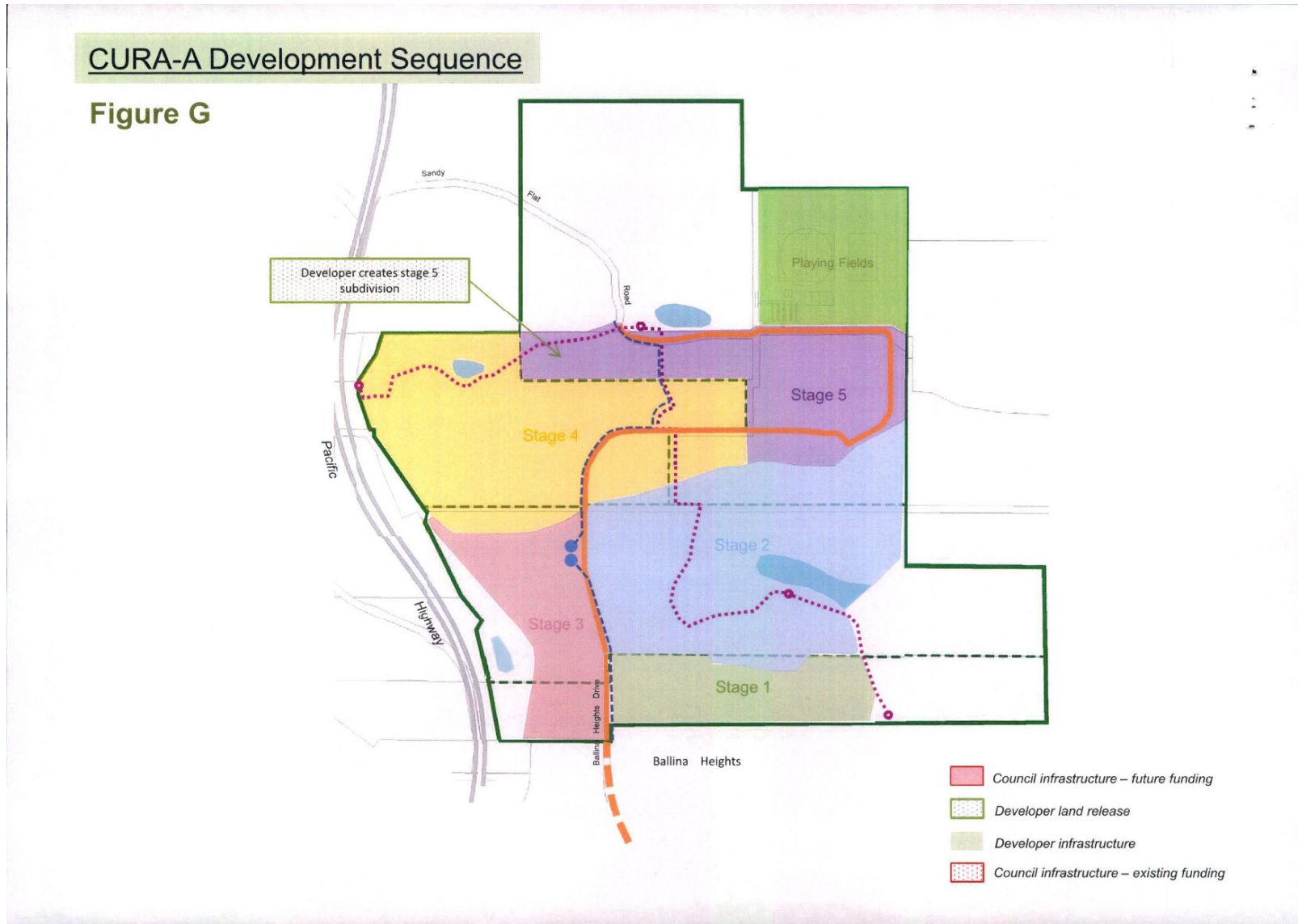


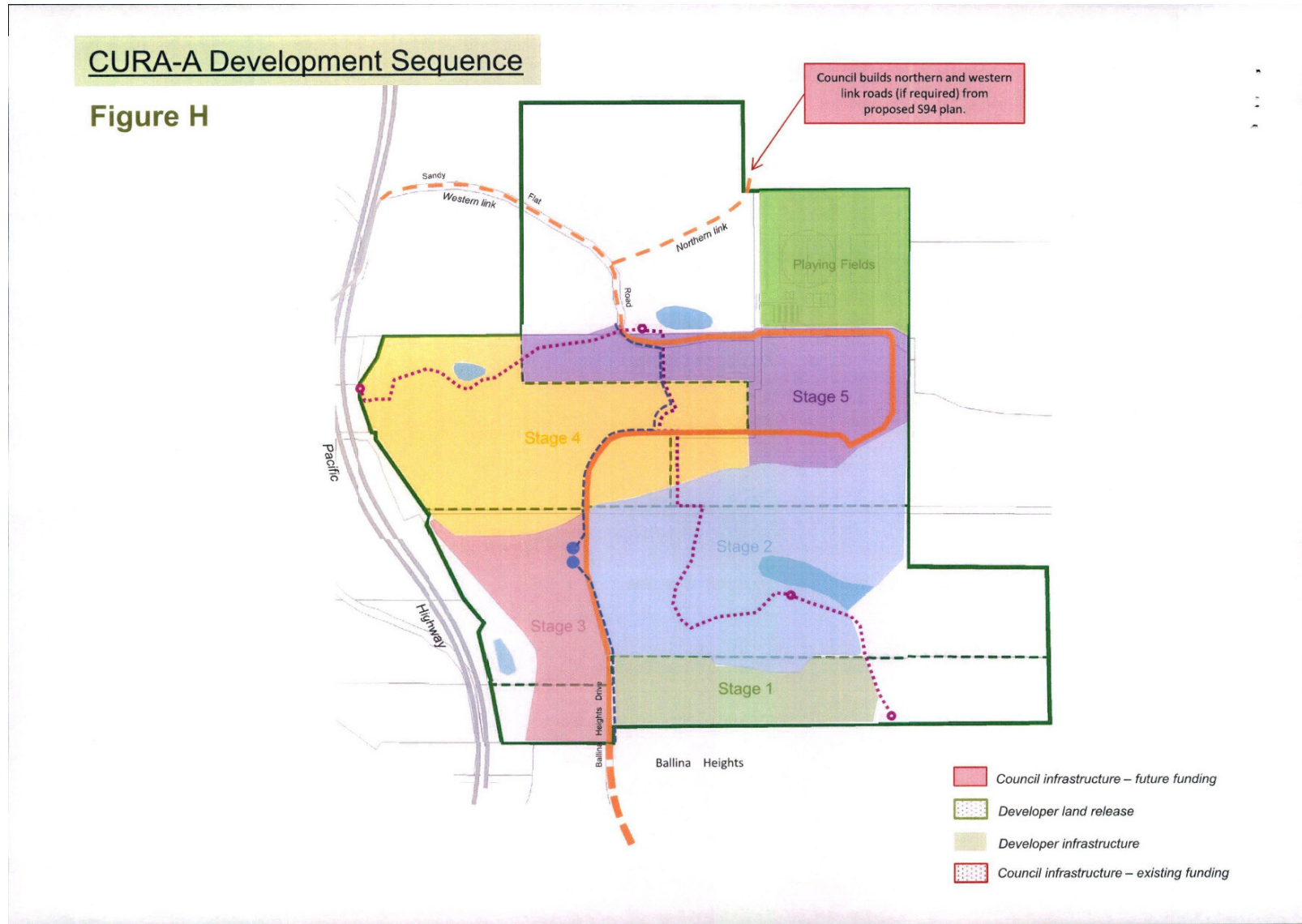


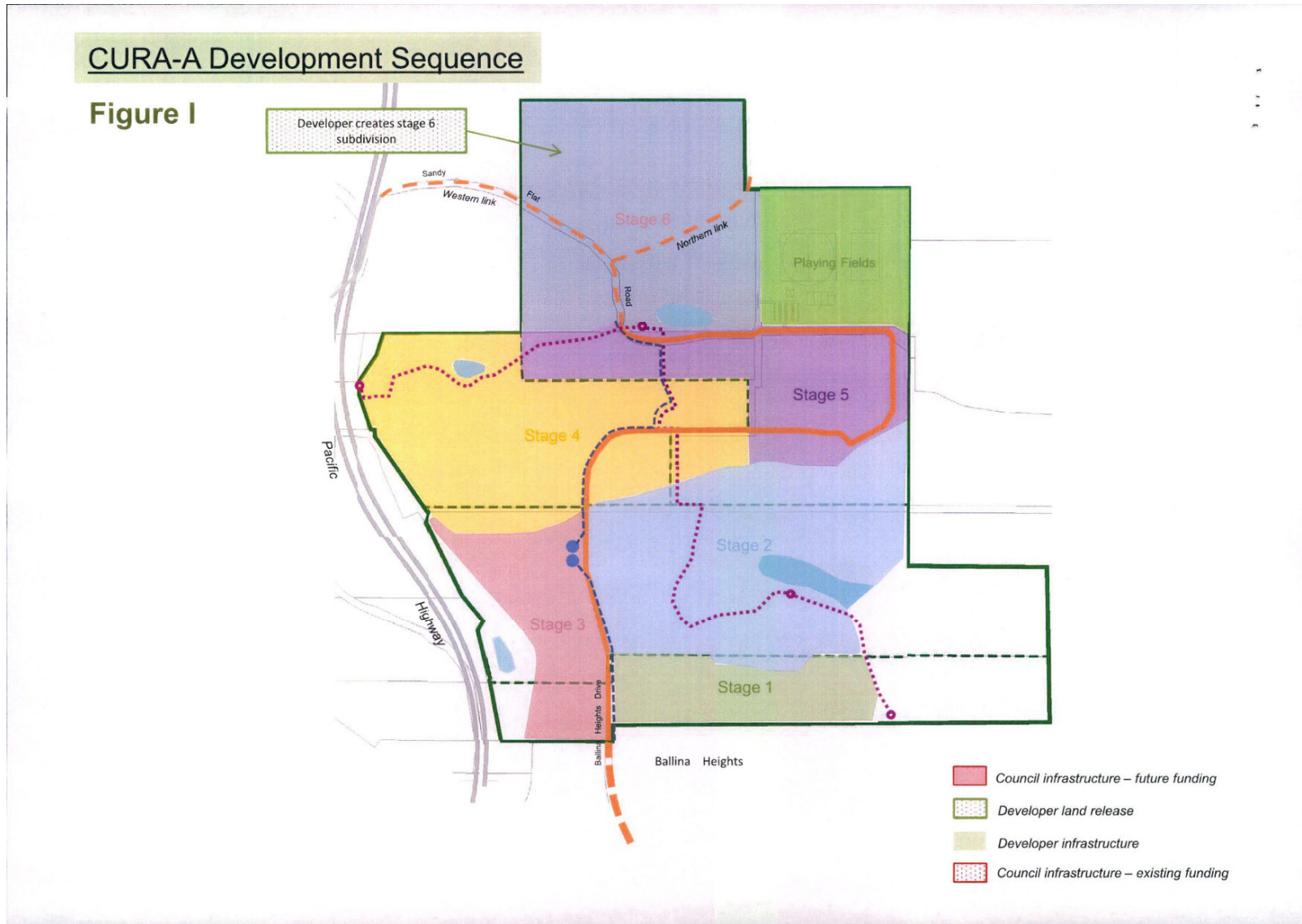


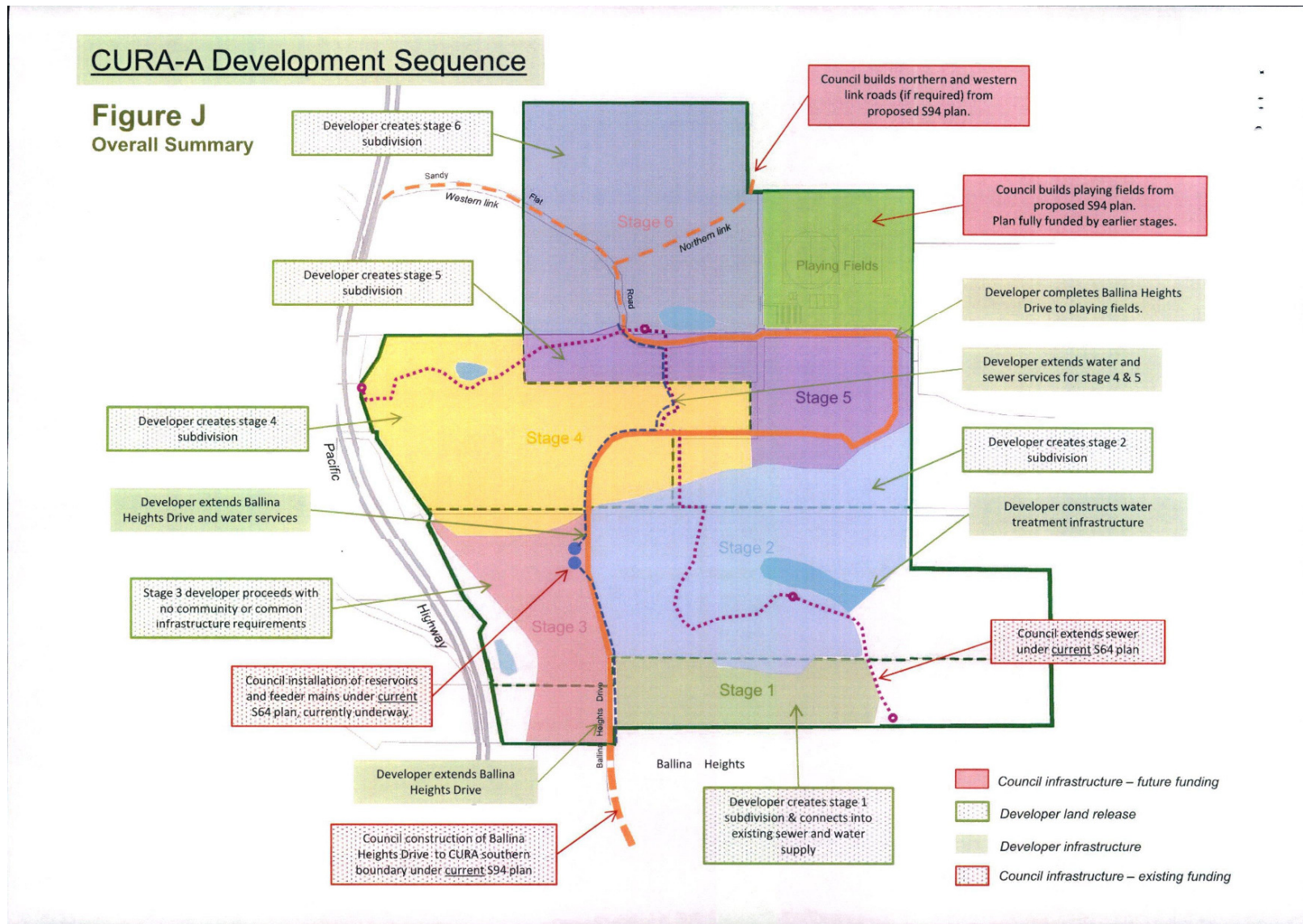












## 4.1 Cumbalum Precinct A - Planning Proposal

### A1 LOCAL PARKS (approx. 10 parks) ha 3.22

a) Landscape works (inc. excavation, topsoil, turfing, etc) topsoil 300mm thick + sown couch grass seed	m	32200	\$30	\$966,000
b) Shade Trees (100 litre) item 100 \$350.00 \$35,000	item	100	\$350	\$35,000
c) Tree Guards (shadecloth) item 100 \$31.00 \$3,100	item	100	\$31	\$3,100
d) Playground equipment item 15 \$25,000 \$375,000	item	15	\$25,000	\$375,000
e) Playground shade structure item 4 \$5,000 \$20,000	item	4	\$5,000	\$20,000
f) Playground shade cloth m	m	600	\$9	\$5,670
g) Playground safe fall area m	m	2250	\$103	\$231,975
h) Seating item 10 \$3,200 \$32,000	item	10	\$3,200	\$32,000
i) Pathway m 550 \$81.90 \$45,000	m	550	\$82	\$45,045
j) Bins item 10 \$1,065 \$10,700	item	10	\$1,065	\$10,650
k) Park Sign item 10 \$2,000 \$20,000	item	10	\$2,000	\$20,000
l) Lighting item 20 \$2,500 \$50,000	item	20	\$2,500	\$50,000
m) Fencing (1200mm high including mesh) m 170 \$81.00 \$13,803	m	170	\$81	\$13,770
				\$1,808,210
Contingency			40%	\$723,284
Design			9%	\$162,739
Management			5%	\$90,411
<b>A1 TOTAL</b>				<b>\$2,784,643</b>

### A2 DISTRICT PARKS (approx. 3 parks) ha 4.88

a) Landscape works (Inc. excavation, topsoil, turfing, etc) topsoil 300mm thick + sown couch grass seed - 50% of area	m	24400	\$30	\$732,000
b) Shade Trees (100 litre) item 500 \$350.00 \$175,000	item	500	\$350	\$175,000
d) BBQ facilities item 6 \$5,800 \$34,800	item	6	\$5,800	\$34,800
c) Shelters with Tables item 6 \$5,800 \$34,800	item	6	\$5,800	\$34,800
e) Bench Seats item 9 \$3,200 \$28,800	item	9	\$3,200	\$28,800
f) Toilets and Amenities (20m	sqm	60	\$2,504	\$150,240
g) Playground equipment item 3 \$25,000 \$75,000	item	3	\$25,000	\$75,000
h) Playground shade structure item 3 \$5,000 \$15,000	item	3	\$5,000	\$15,000
i) Playground shade cloth m	sqm	600	\$9	\$5,670
j) Playground safe fall area m	sqm	600	\$103	\$61,860
k) Pathway m 525 \$81.90 \$43,000	m	525	\$82	\$42,997.50
l) Sealed Parking car 40 \$3,040 \$121,600	car	40	\$3,040	\$121,600.00
m) Litter Bins item 6 \$1,065 \$6,400	item	6	\$1,065	\$6,390.00
n) Tree Guards (shadecloth) item 500 \$31.00 \$15,500	item	500	\$31	\$15,500.00
o) Park Sign item 3 \$2,000 \$6,000	item	3	\$2,000	\$6,000.00
p) Lighting item 6 \$2,500 \$15,000	item	6	\$2,500	\$15,000.00
q) Fencing (1200mm high including mesh) m 170 \$81.00 \$13,800	m	170	\$81	\$13,770.00
				\$1,534,428
Contingency			40%	\$613,771
Design			9%	\$138,098
Management			5%	\$76,721
<b>A2 TOTAL</b>				<b>\$2,363,018</b>

SECTION 1 TOTAL \$5,147,662

## 4.1 Cumbalum Precinct A - Planning Proposal

### Community Facilities

		Unit	Qty	Rate	Amount	
<b>A1</b>	<b>COURTS</b>					
a)	Hardcourt Tennis/Netball Courts	item	10	\$46,725	\$467,000	
b)	Court Lighting - Competition Standard	item	10	\$48,825	\$488,000	
c)	Clubhouse pavilion	m <sup>2</sup>	220	\$2,389	\$526,000	
d)	Carparking - including drainage, and minimal lighting	space	40	\$3,192	\$128,000	
						\$1,609,000
						40% \$643,600
						9% \$144,810
						5% \$80,450
						<u>\$2,477,860</u>
<b>A2</b>	<b>FIELDS</b>					
a)	Cricket field / Football field grass	ha	15.6	\$8,558	\$133,000	
b)	Earthworks / grading of fields	m <sup>2</sup>	156,000	\$10.00	\$1,560,000	
c)	Inground irrigation for fields - supply and install	m <sup>2</sup>	156,000	\$1.25	\$195,000	
d)	Cricket side screens	item	4	\$20,000	\$80,000	
e)	Goal posts	item	12	\$2,000	\$24,000	
h)	Lighting to 1 cricket field - Semi- professional standard	item	1	\$242,500	\$243,000	
j)	Signage / timeboards	item	6	\$2,000	\$12,000	
k)	Bubbler	item	4	\$1,700	\$6,800	
						\$2,253,800
						40% \$901,520
						9% \$202,842
						5% \$112,690
						<u>\$3,470,852</u>
f)	Clubhouse pavilion	m <sup>2</sup>	958	\$2,389	\$2,288,000	
g)	Single tier grandstand to 1 cricket field (500 seat capacity)	seat	500	\$835	\$418,000	
						\$2,706,000
						40% \$1,082,400
						9% \$243,540
						5% \$135,300
						<u>\$4,167,240</u>
i)	Car parking - including drainage, and minimal lighting	space	260	\$3,192	\$830,000	
						\$830,000
						40% \$332,000
						9% \$74,700
						5% \$41,500
						<u>\$1,278,200</u>
<b>A3</b>	<b>MULTI-PURPOSE HALL</b>					
a)	Main hall, lesser hall, ante-rooms, kitchen and bar facilities, air-conc	m <sup>2</sup>	1048	\$3,019	\$3,164,000	
b)	Car parking - including drainage, and minimal lighting	space	42	\$3,192	\$134,000	
						\$3,298,000
						40% \$1,319,200
						9% \$296,820
						5% \$164,900
						<u>\$5,078,920</u>
						\$10,696,802
Contingency				40%	\$4,278,721	
Design				9%	\$962,712	
Management				5%	\$534,840	
					<u>\$16,473,075</u>	\$16,473,072



## 4.1 Cumbalum Precinct A - Planning Proposal

### Roads and Traffic and Infrastructure

	Unit	Qty	Rate	Amount	
<i>Ballina Heights Drive</i>					
A1	SITE ESTABLISHMENT	Item	1	\$10,000	\$10,000
A2	TRAFFIC CONTROL	PC Item	1	\$10,000	\$10,000
A3	<b>EARTHWORKS</b>				
	a) Clearing and Grubbing	Item	1	\$60,000	\$60,000
	b) Strip topsoil to the depth specified (Ave = 100mm) from areas of roads, footpaths, batters, lot filling and general fill areas. Stockpile on site	m <sup>2</sup>	4,884	\$7.00	\$34,200
	c) Even cut and fill	m	2,220	\$273.70	\$608,000
A4	<b>SEDIMENT &amp; EROSION CONTROL</b>				
	a) Sediment Control fencing	m	2,220	\$17.33	\$38,500
	b) Bio retention basins (per metre of road)	m	2,220	\$130	\$289,000
A5	<b>ROADWORKS</b>				
	a) Flexible Pavement (AC)	m <sup>2</sup>	24,420	\$86.86	\$2,121,000
	b) Rigid pavement (reinforced concrete)	m <sup>2</sup>			0
	c) Kerb to be constructed (extruded)	m <sup>2</sup>	4,440	\$33.81	\$150,000
	d) Remove and dispose of existing pavement, kerb and medians	m <sup>2</sup>			0
	e) Guard rail	m	200	\$154.46	\$30,900
	f) Paved footpath (2m wide)	m <sup>2</sup>	2,220	\$109.20	\$242,000
A6	<b>SIGNAGE</b>				
	a) Supply standard traffic control signs and devices, complete in place	m	2,220	\$5.00	\$11,100
A7	<b>ROADMARKING</b>				
	a) Set out and apply all line marking, pedestrian crossings and chevron markings including RRPMS as specified (per metre of road)	m	8,880	\$8.25	\$73,300
A8	<b>RESTORATION / REVEGETATION</b>				
	a) Grass seeding to finished earthworks	m <sup>2</sup>	19,136	\$0.50	\$9,600
	b) Turfing footpaths	m <sup>2</sup>	8,880	\$8.66	\$76,900
A9	<b>STORMWATER</b>				
	a) Stormwater pits	Item	112	\$2,000	\$224,000
	b) Stormwater pipes (including excavation, backfill and bedding)	m	2,892	\$255.00	\$737,000
A9	<b>MISCELLANEOUS</b>				
	a) Survey setout	PC item	1	\$50,000	\$50,000
	b) Landscaping	No.	888	\$16.80	\$14,900
	c) Electrical (Streetlights)	No.	74	\$4,358	\$322,000
<b>Ballina Heights Drive Total</b>				<b>\$5,112,000</b>	
				\$5,112,000	
				40%	\$2,044,800
				9%	\$460,080
				5%	\$255,600
					\$7,872,480

\$293 per sq.m

## 4.1 Cumbalum Precinct A - Planning Proposal

North-South Link Road						
B1	SITE ESTABLISHMENT	Item	1	\$10,000	\$10,000	
B2	TRAFFIC CONTROL	PC item	1	\$50,000	\$50,000	
B3 EARTHWORKS						
a)	Clearing and grubbing	Item	1	\$60,000	\$60,000	
b)	Strip topsoil to the depth specified (Ave=100mm) from areas of roads, footpaths, batters, lot filling and general fill areas. Stockpile on site	m <sup>3</sup>	5,170	\$7.00	\$36,200	
c)	Even cut and fill	m <sup>3</sup>	2,350	\$273.70	\$643,000	
B4 SEDIMENT & EROSION CONTROL						
a)	Sediment control fencing	m	2,350	\$17.33	\$40,700	
b)	Bio retention basins (per metre of road)	m	2,350	\$130.00	\$306,000	
B5 ROADWORKS						
a)	Flexible pavement (AC)	m <sup>2</sup>	25,850	\$86.86	\$2,245.00	
b)	Rigid pavement (reinforced concrete)	m <sup>2</sup>			0	
c)	Kerb to be constructed	m <sup>2</sup>	4,700	\$33.81	\$159,000	
d)	Remove and dispose of existing pavement, kerb & median	m <sup>2</sup>			0	
e)	Guard rail	m <sup>2</sup>	200	\$154.46	\$30,900	
f)	Paved footpath (2m wide)	m	2,350	\$109.20	\$257,000	
B6 CULVERTS						
a)	4 - 3 x 3m RCBC	m	12	\$19,416	\$233,000	
b)	Base slab (incl. excavation)	Item	1	\$30,000	\$30,000	
c)	Headwall (incl. foundation and parapet)	Item	2	\$21,000	\$42,000	
B7 SIGNAGE						
a)	Supply standard traffic control signs and devices, complete in place	m	2,350	\$5.00	\$11,800	
B8 ROADMARKING						
a)	Setout and apply all line marking, pedestrian crossings and chevron markings including RRPM's as specified (per metre of road)	m	9,400	\$8.25	\$77,600	
B9 RESTORATION/REVEGETATION						
a)	Grass seeding to finished earthworks	m <sup>2</sup>	20,257	\$0.50	\$10,100	
b)	Turfing footpaths	m <sup>2</sup>	9,400	\$8.66	\$81,400	
B10 STORMWATER						
a)	Stormwater pits	Item	118	\$2,000	\$236,000	
b)	Stormwater pipes (including excavation & backfill)	m	3,058	\$255.00	\$780,000	
B11 MISCELLANEOUS						
a)	Survey setout	PC item	1	\$50,000	\$50,000	
b)	Landscaping	No	940	\$16.80	\$15,800	
c)	Electrical (streetlights)	No	78	\$4,358	\$341,000	
North-South Link Road Total					\$5,747,000	
					\$5,747,000	
				40%	\$2,298,800	\$311
				9%	\$517,230	
				5%	\$287,350	
					\$8,850,380	

## 4.1 Cumbalum Precinct A - Planning Proposal

C1	Sandy Flat Road SITE ESTABLISHMENT	Item	1	\$10,000	\$10,000
C2	TRAFFIC CONTROL	PC Item	1	\$10,000	\$10,000
C3	EARTHWORKS				
a)	Clearing and Grubbing	Item	1	\$60,000	\$60,000
b)	Strip topsoil to the depth specified (Ave=100mm) from areas of roads, footpaths, batters, lot filling and general fill areas.	m <sup>3</sup>	3,021	\$7.00	\$21,200
	Stockpile on site				
c)	Even cut and fill	m	1,373	\$273.70	\$376,000
C4	SEDIMENT & EROSION CONTROL				
a)	Sediment control fencing	m	1,373	\$17.33	\$23,800
b)	Bio retention basins (per metre of road)	m	1,373	\$130.00	\$179,000
C5	ROADWORKS				
a)	Flexible pavement (AC)	m <sup>2</sup>	15,107	\$86.86	\$1,312,000
b)	Rigid pavement (reinforced concrete)	m <sup>2</sup>			0
c)	Kerb to be constructed	m <sup>2</sup>	2,747	\$33.81	\$92,900
d)	Remove and dispose of existing pavement, kerbs and medians	m <sup>2</sup>			0
e)	Guard rail	m	200	\$154.46	\$30,900
f)	Paved footpath (2m wide)	m	1,373	\$109.20	\$150,000
C6	SIGNAGE				
a)	Standard traffic control signs and devices, complete in place	m	1,373	\$5.00	\$6,900
C7	ROADMARKING				
a)	Setout and apply all line marking, pedestrian crossings and chevron markings including RRPM's as specified (per metre of road)	m <sup>3</sup>	5,494	\$8.25	\$45,300
C8	RESTORATION/REVEGETATION				
a)	Grass seeding to finished earthworks	m <sup>2</sup>	11,839	\$0.50	\$5,900
b)	Turfing footpaths	m <sup>2</sup>	5,494	\$8.66	\$47,600
C9	STORMWATER				
a)	Stormwater pits	Item	70	\$2,000	\$140,000
b)	Stormwater pipes (including excavation and backfill)	m	1,793	\$255.00	\$457,000
C10	MISCELLANEOUS				
a)	Survey Setout	PC Item	1	\$50,000	\$50,000
b)	Landscaping	No	549	\$16.80	\$9,200
c)	Electrical (streetlights)	No	46	\$4,358	\$199,000
	Sandy Flat Road Total				\$3,227,000
					\$3,227,000
				40%	\$1,290,800
				9%	\$290,430 by GHD
				5%	\$161,350
					\$4,969,580
					\$328.96
	Ballina heights Comparison				
	Total all works		\$7,402,000.00		
	deduct developers component		\$251,633.00		
	deduct s64 component		\$306,000.00		
	deduct noise wall		\$403,326.00		
	deduct bridge		\$908,255.00		
	road, landscape, lighting, pathway cost		\$5,532,786.00		
	subgrade sqm		20,435 sqm		
	rate per sqm		\$270.75		

## 4.1 Cumbalum Precinct A - Planning Proposal

	Sandy Flat Road							
C1	SITE ESTABLISHMENT	Item	1	\$10,000	\$10,000			
C2	TRAFFIC CONTROL	PC Item	1	\$10,000	\$10,000			
C3	EARTHWORKS							
a)	Clearing and Grubbing	Item	1	\$250,000	\$250,000			
b)	Strip topsoil to the depth specified (Ave=100mm) from areas of roads, footpaths, batters, lot filling and general fill areas.	m <sup>3</sup>	3,021	\$7.00	\$21,147			
	Stockpile on site				\$0			
					\$0			
c)	Even cut and fill	cum	13,000	\$20.00	\$260,000		1200 metres	
					\$0			
C4	SEDIMENT & EROSION CONTROL				\$0			
a)	Sediment control fencing	m	1,373	\$17.33	\$23,794			
b)	Bio retention basins (per metre of road)	m	1,373	\$65.00	\$89,245			
					\$0			
C5	ROADWORKS				\$0			
a)	Flexible pavement (AC)	m <sup>2</sup>	10,800	\$50.00	\$540,000	pavement	12000	
b)	Rigid pavement (reinforced concrete)	m <sup>2</sup>			\$0	seal	12000	
c)	Kerb to be constructed	m <sup>2</sup>	1,200	\$45.00	\$54,000			
d)	Remove and dispose of existing pavement, kerbs and medians	m <sup>2</sup>			\$0			
					\$0			
e)	Guard rail	m	200	\$154.46	\$30,892			
f)	Paved footpath (2m wide)	m	0	\$109.20	\$0			
					\$0			
C6	SIGNAGE				\$0			
a)	Standard traffic control signs and devices, complete in place	m	1,373	\$5.00	\$6,865			
					\$0			
					\$0			
C7	ROADMARKING				\$0			
a)	Setout and apply all line marking, pedestrian crossings and chevron markings including RRPM's as specified (per metre of road)	m <sup>3</sup>	5,494	\$8.25	\$45,326			
					\$0			
					\$0			
C8	RESTORATION/REVEGETATION				\$0			
a)	Grass seeding to finished earthworks	m <sup>2</sup>	11,839	\$0.50	\$5,920			
b)	Turfing footpaths	m <sup>2</sup>	5,494	\$8.66	\$47,578			
					\$0			
C9	STORMWATER				\$0			
a)	Stormwater pits	Item	30	\$2,000	\$60,000			
b)	Stormwater pipes (including excavation and backfill)	m	150	\$255.00	\$38,250			
					\$0			
					\$0			
C10	MISCELLANEOUS				\$0			
a)	Survey Setout	PC Item	1	\$50,000	\$50,000			
b)	Landscaping	No	549	\$16.80	\$9,223			
c)	Electrical (streetlights)	No	46	\$4,358	\$200,468			
	Sandy Flat Road Total				\$1,752,707			
	APP Estimate as normal road				\$1,752,707			
					15%	\$262,906	\$187 per sq.m	
					7%	\$122,690	by APP	
					3%	\$52,581		
						\$2,190,884		
						\$202.86		

## 4.1 Cumbalum Precinct A - Planning Proposal

### 4 Detention /Infiltration

#### **Precinct A Infrastructure**

Detention Basin A	421,400	
Detention Basin B	\$371,700	
Detention Basin C	523,900	
Detention Basin D	587,700	
<b>Precinct A Drainage Total</b>	<b>1,905,000</b>	
		\$1,905,000
	40%	\$762,000
	9%	\$171,450
	5%	\$95,250
		<b>\$2,933,700</b>

#### **Precinct B Infrastructure**

Detention Basin A	900,800	
Detention Basin B	898,300	
Detention Basin C	685,000	
Detention Basin D	2,160,000	
Detention Basin E	1,559,800	
Detention Basin F	637,800	
Detention Basin G	762,300	
Detention Basin H	203,700	
Detention Basin J-K	621,900	
Detention Basin L	116,700	
<b>Precinct B Drainage Total</b>	<b>8,546,000</b>	
		\$8,546,000
	40%	\$3,418,400
	9%	\$769,140
	5%	\$427,300
		<b>\$13,160,840</b>

Detention/Infiltration Basin Sub Total	10,451,000	
Contingency (40%)	4,180,000	
Professional Costs		
Engineering Detailed Design (9%)	941,000	
Project Management (5%)	523,000	
<b>Total</b>	<b>16,095,000</b>	<b>\$16,094,540</b>

## 4.1 Cumbalum Precinct A - Planning Proposal

### Intersections and Infrastructure

Intersections		Unit	Qty	Rate	Amount
A1	Ballina Bypass/Ross Lane/Interchange - Western Roundabout	Item	1	1,000,000	1,000,000
A2	Ballina Bypass/Ross Lane/Interchange - Eastern Roundabout	Item	1	1,000,000	1,000,000
A3	Ross Lane / McLeish Road - 2 lane roundabout	Item	1	750,000	750,000
A4	Ross Lane / Dufficy's Lane - Signalised Intersection	Item	1	500,000	500,000
<b>Intersection Total</b>					<u>\$3,250,000</u>
					\$3,250,000
					40% \$1,300,000
					9% \$292,500
					5% <u>\$162,500</u>
					\$5,005,000
Bridge Duplication					
B1	Bridge Base Rate	m <sup>2</sup>	964	\$5,225	5,040,000
<b>Bridge Duplication Total</b>					<u>\$5,040,000</u>
					\$5,040,000
					40% \$2,016,000
					9% \$453,600
					5% <u>\$252,000</u>
					\$7,761,600
Intersections and Infrastructure Sub Total					<u>\$8,290,000</u>
Contingency (40%)					3,316,000
Professional Costs					
Engineering Detailed Design (9%)					746,100
Project Management					414,500
<b>Total</b>					<u><b>12,767,000</b></u> <b>\$12,766,600</b>

## 4.1 Cumbalum Precinct A - Planning Proposal

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David Kelly

Cumbalum Precinct A Planning Proposal (13/41615)

19 July 2013

Mr Bill Payne  
Ardill Payne & Partners  
PO Box 20  
BALLINA NSW 2478

Dear Mr Payne

**Re: Cumbalum Precinct A Infrastructure Delivery**

I write in response to your letter dated 22 May 2013 and the meeting with Simon Scott, Paul Wilson and myself on 18 July 2013, in relation to the above.

As discussed, Council will appreciate your clarification and response with respect to the following:

1. Council maintains there is a strong nexus between the need for the future upgrade of Sandy Flat Road and the development of Cumbalum Precinct A. The provision of this upgrade will be required either directly as a condition of development consent or as a condition of development consent requiring the payment of s.94 contributions. I note the statement made in your letter dated 22 May 2013 implies that your clients may contest any such condition, should it be imposed in association with future development applications.
2. Council notes the comment in your detailed costing table which assumes some form of 'credit' for the provision of district parks in the development of the Ballina Heights Estate to the benefit of Precinct A. As discussed, Council maintains that no such crediting should be applied in this instance, as the development of Precinct A represents a fresh development proposal. Notwithstanding this, Council may support the location of facilities required to support the development of Precinct A, within the Ballina Heights Estate if there is justifiable and reasonable case to support it. Such provision of parkland will be required to be in addition to the facilities that have been required in association with development approvals issued for Ballina Heights Estate.
3. Council notes inconsistencies between your letter dated 22 May 2013 and Council's infrastructure delivery plan, with respect to the co-location of Precinct A and Precinct B playing fields and provision of access to these fields via the north south link road.
4. Council notes your comments regarding the 'bypass' north-south link road, proposed as a long term link road option to encourage south bound traffic from Precinct B towards Tamarind Drive, thus potentially reducing through traffic traversing Precinct A. Council maintains that whilst the bypass link road option is desirable in the longer term, the provision of a more direct north-south link which also provides access to the co-located playing fields at the boundary with Precinct B will be required. This direct link road will need to be provided to a standard sufficient to accommodate projected traffic volumes arising from the future development of Precinct A and B.

Page 2  
Ardill Payne & Partners  
19 July 2013

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Council also notes the statement made in your letter dated 22 May 2013 that implies that your clients may contest any condition imposed that requires the provision of the north south link road (either directly or via monetary contributions), should such be imposed in association with future development applications.

Further to the above, Council invites you to provide estimated costings for the construction of the bypass link road option to enable the Council's consideration of this matter, including possible inclusion in Council's Roads Contributions Plan.

Council will appreciate your prompt response to the above, to enable this matter to be reported to the Council in a timely manner. As you are aware, the progress of Cumbalum Precinct A will be reported to a meeting of Council's Environmental and Sustainability Committee on 7 August 2013.

If you have any enquiries in regard to this matter please contact me on telephone 6686 1253 or email [davek@ballina.nsw.gov.au](mailto:davek@ballina.nsw.gov.au).

Yours faithfully

David Kelly  
**Infrastructure Planning Manager**  
**Civil Services Group**



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## CURA-A INFRASTRUCTURE DELIVERY & FUNDING

Submission to Ballina Shire Council  
(per discussions on 18<sup>th</sup> July and Council's letter  
dated 19<sup>th</sup> July 2013)

for:

CURA-A Landholders

July 2013

---

Engineers | Planners | Surveyors | Environmental | Project Management





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### Executive Summary

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#### 1. Sandy Flat Road

- a. APP agrees that there needs to be a connection between SFR and CURA-A.
- b. There is however an even stronger connection between SFR and CURA-B as highlighted in Council's IDP traffic model for SFR which shows that CURA-B generates the majority of the traffic load on SFR and the North-South Link Road.
- c. The purpose of our advice concerning the "dubious merit" of attaching the construction of SFR as a condition of consent to CURA-A is based on this issue. Our solution was to cover the proportionate cost of SFR via a local s94 amendment as per our letter of 22<sup>nd</sup> May 2013.
- d. It was not ours or our clients' intention to challenge this arrangement (ie a local s94 increased cap to cover shared facilities). In fact, it was our clients' suggestion that this procedure should be used.
- e. See attached discussion section for more details.

#### 2. Local and District Parks

- a. The point Council raises in its letter of 19<sup>th</sup> July 2013 reflects our discussions on the 18<sup>th</sup> July and we agree that this is the procedure that will be followed. See attached discussion section for more details.

#### 3. Location of Playing Fields

- a. CURA-A playing fields will be co-located with CURA-B playing fields. See attached discussion section for more details.

#### 4. Funding for and required Link Roads

- a. It has always been APP's intention and Council's goal to not direct CURA-B traffic through CURA-A but to send it towards Tamarind Drive. See attached discussion for more details.

- b. This intent has not been covered by Council's traffic model and subsequently not covered by Council's IDP.
- c. We consider the solution is to provide planning and funding for a by-pass south of CURA-B towards SFR and Tamarind Drive. The impact on CURA-A without a by-pass or reduction in traffic from CURA-B is severely damaging to the amenity and viability of CURA-A.
- d. Following our discussions on the 18<sup>th</sup> July, Council has requested APP provide an estimate of the cost of this by-pass for inclusion in its Shire Wide Roads Plan review. The attached calculation indicates a budget cost of \$5,289,600 is required.
- e. Following our discussions on the 18<sup>th</sup> July and review of CURA-B's VPA, it is apparent that the a proportionate distribution of costs for the construction of the other Link Road (SFR) is not achievable as there is no provision for CURA-B to fund its part of this work. As SFR provides a major link to CURA-B and the major playing fields between A and B, it is proposed to include the cost of SFR in the Shire Wide Roads Plan review as well. GHD's 2011 budget for SFR was \$4,969,580. APP has reviewed this estimate and considers it high as the Ballina By-pass Alliance built a significant section of the upgrade as part of its works on the Pacific Highway. However, GHD's estimate has been retained for the purpose of this exercise as a degree of conservatism.
- f. The combined additional cost to the Shire Wide Fund (SWF) for these two roads is \$10,466,580.00.
- g. The CURA-A developers will build the other North-South Link from BHD to the playing fields as part of its internal road network. This road will be built to cater for local traffic loads, not the values estimated by Cardno Eppel Olsen as their values do not include the impact of a by-pass.

### 5. Revised local s94 extra contribution.

- a. With the removal of the North-South Link from the local s94 Plan and its construction by developers and the re-allocation of SFR funding to a Shire Wide Plan, the local s94 increase is as per Table 1 below.

Table 1: Amended s94 Plan Proposal

		GHD 2011	APP 2013	Reason for change
1	Open Space & Recreation	\$1,029,532	\$0	Work undertaken by Developers or not required
2	Community Facilities	\$3,294,614	\$3,294,614	No change proposed
3	Roads	\$10,648,525	\$0	GHD included cost of constructing BHD from BHE to Sandy Flat. This will be done in stages by Developers. SFR and By-pass incl. in Shire Wide Plan. CURA-A builds road from CURA-A to playing fields. Previous valued in local s94 Plan at \$1,770,076.
4	Stormwater Detention/Infiltration	\$2,937,367	\$0	Work undertaken by Developers or not required
5	Intersections And Bridges	\$0	\$0	External roadwork allowance not incl. in GHD estimate. Council has previously advised costs may be \$1,600,000. Given the need to construct a by-pass and spare funds allocated to SFR in Shire Wide Plan this cost cannot be justifiably apportioned to CURA-A at this juncture.
6	TOTAL	\$17,910,039	\$3,294,614	
7	Deduct Stormwater	(\$2,937,367)	\$0	
8	NEW TOTAL	\$14,972,672	\$3,294,614	
9	Saving		\$11,678,058	
10	Rate per lot		\$4,118	
11	Increase in Shire Wide Fund Allocation		\$10,466,580	
12	Rate per lot for SWF		TBA by Council	Cost apportionment based on s94 formula for SWF

The s94 contributions for CURA-A would then be:

- Existing contributions at \$15,549/lot
- Additional contributions at \$4,118/lot
- Additional SWF contribution TBA

Total Contribution per lot at CURA-A \$19,667/lot

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### 1 Sandy Flat Road (SFR)

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APP maintains its position that the upgrading of SFR is a desirable aspect of CURA-A's northern amenity and is essential for directing CURA-B's traffic to the south and CURA-A's traffic to the north.

Both APP and the CURA-A landowners support the inclusion of SFR in the overall development planning for CURA-A either via a Section 94 contribution (per an amended Section 94 plan) or as conditions of consent.

It is respectfully submitted that Council staff have misinterpreted that part of our 22<sup>nd</sup> May 2013 letter particularly the sentence *"There is no nexus/consequential work between the development and the roads and therefore their attachment to conditions of consent would be of dubious legal merit."*

This sentence was intended to point out that the strategic level traffic study that Council has been relying on, identifies that usage of SFR is dominated by CURA-B and that attaching the requirement for upgrade onto CURA-A alone is considered to be questionable and of "dubious legal merit".

Our proposition for the funding of these roads was under the ambit of Section 94 of the Act and was articulated in the sentence preceding the above sentence, viz:

*"We have included the cost of constructing SFR and the north-south Link Road in the S94 Plan as the landowners did not see any clear need for either in their development plans."*

Council is advised that there is no intention to challenge the requirement for the construction of these roads now or in the future.

The original proposal was for the CURA-A developers to pay monetary contributions to an amount of \$2,763,992.00 towards the construction of these roads, which accords with GHD's costing and distribution method between CURA-A and B, via an amended Section 94 plan mechanism. Following our discussions last week the quantum of this proposal has been updated by our discussions and the following details. See Section 4 below.

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### 2 Local and District Parks

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The comments contained in your 19<sup>th</sup> July letter reflect the position that we discussed at the 18<sup>th</sup> July meeting.

The intent of the CURA-A developers is for Local and District Parks to be provided by the developers in accordance with the provisions of the adopted DCP for CURA-A. As required by Clause 6.3(3)(d) of the Ballina LEP 2012, the DCP is required to provide for “a *network of active and passive recreation areas*.”

The DCP would be prepared, and the actual amount/provisioning of Local and District Parks in CURA-A would be considered in the context of the provisioning of such in BHE. Whether or not there is any spare capacity in BHE which can be attributed to CURA-A, will be considered during the DCP process.



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### 3 Location of Playing Fields

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The strategic planning for CURA-A is to co-locate the playing fields with those for CURA-B (should CURA-B proceed) in the location that has been nominated by Council (ie to the east of Sandy Flat Road).

Indicative/concept layouts for the playing fields (including car parking areas), and the sequencing for the provision of such in the context of the staged development of CURA-A, are attached to our 22<sup>nd</sup> May letter.

These layouts have been provided at this stage, to simply confirm that sufficient space exists for the required number of fields in accordance with Council's current requirements.

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### 4 Funding for and required Link Roads

---

APP has made numerous submissions and firmly maintains the position that, for Council's current strategic traffic model, a northern link/by-pass is required and is critical to protect the amenity of CURA-A. It is submitted that it would be poor planning for CURA-A to be subjected to south-ward bound through traffic from CURA-B, as such would destroy the residential amenity and value of land in CURA-A.

Council's long term planning for south- bound CURA-B traffic is that it be directed to Tamarind Drive, however there does not appear to have been any specific provision made for it in its infrastructure planning.

Your attention is drawn to Page 14, Section 5.1 of Council's IDP for CURA, which states that in respect to BHD and the North-South Link that:

*The intent of Ballina Heights Drive and the North-South link road is to:*

- *Distribute traffic to Tamarind Drive and Ross Lane for wider distribution;*
- *Provide an interconnection between Ballina Heights, Precinct A and Precinct B for localised traffic movements;*

*and*

- *Act as the primary public transport route for CURA.*

*To minimise adverse amenity impacts such as noise, Council envisage that the design of the road network and particularly Ballina Heights Drive and the North-South link road would encourage trips to:*

- *Ballina (for Precinct B residents) to be via Ross Lane or Sandy Flat Road and the Pacific Highway/Tamarind Drive;*
- *The north (for Ballina Heights and Precinct A residents) via the Eastern Cumbalum Roundabout or the Sandy Flat intersection with Tamarind Drive.*

It is submitted that traffic modelling undertaken by Cardno Eppel Olsen failed to incorporate the above goal into the model and as a consequence, directed most of the CURA-B south-bound traffic through BHD. Table 10 (Page 17) of the IDP shows that of the additional 9,000 trips on the North-South Link from CURA-B, 6,000 travel down BHD and only 3,500 travel to Tamarind Drive.

The trip values shown in table 10 are based on different traffic models by CEO and APP. Because of the different models it is most likely there will be different traffic volumes and ratios of traffic use determined. The CEO model is a sophisticated algorithm and economic use driven model and based on our review of the CEO trip totals may include use of roads from other sources not in Precinct A or B as the total trips generally exceed the trip generating capacity of the developments in all cases.

APP's model is a simple catchment model using local trip generation rates, ratios for internal and external trips and sensitivity analysis by a range of assumed splits. It does not include trips from precinct B as the development strategy of B was not known at the time of the modelling. The APP model also is worked into the desired environmental road capacity and hence a degree of iteration has been used in the model with road design to determine whether these values (around 3000 vpd for conventional local roads) can be achieved.

To achieve the intent of the IDP and to protect the amenity of CURA-A, APP considers a diversion is required at the southern end of CURA-B to Tamarind Drive. This modified alignment would also provide superior access to the co-located playing field complex for users remote to CURA-A and B. Under the circumstances, this Link is considered to provide a broader, Shire-wide utility. We consider it would fulfill a similar role to that provided by the southern portion of Ballina Heights Drive which is part of the Shire Wide Plan and currently under construction.

Council has requested in its subject letter that cost estimates for the Link Roads be provided in this response. A concept road alignment was provided on APP's sequence planning maps (attached to 22<sup>nd</sup> May letter), however, the actual location, standard and costing of such is not known at this stage. This alignment, a road arrangement showing possible road arrangements and costs for same are provided in the attachments to this letter.

It may be that with the progress of time and further detailed investigations at DA stage for subdivision, that the suggested achievable yields and viability of CURA-B are not realised and that such by-pass is not actually required, and thus there would be no requirement to collect funds for a by-pass. However, for the purposes of this exercise it is assumed a by-pass is required.

Based on GHD's and APP's estimates, the North-South Link south of CURA-B and SFR are valued as per Table 1:

**Table 2: Additional Shire Wide Contributions - GHD/APP Costs for Link Roads**

	N-S Bypass Link south of CURA B	SFR	TOTAL	SHIRE WIDE ROAD LINKS
APP Estimate	\$5,289,600		\$5,289,600	
GHD Estimate	NIL	\$4,969,580	\$4,969,580	
TOTAL COST			\$10,466,580	\$10,466,580

The local s94 amendment proposed by CURA-A on 22<sup>nd</sup> May, was for CURA-A to contribute \$993,916.00 towards SFR and \$1,770,076 towards the link road from BHD to the playing fields. These values were based on GHD's costs. However, from our 18<sup>th</sup> July meeting, it appears that there is no similar pro-rata provision for SFR provided for CURA-B in their VPA. Their VPA does provide for future s94 contributions. As there is no contribution by CURA-B, the balance of the road is therefore unfunded. As the majority of the traffic load for these roads will be generated by CURA-B, it is unreasonable to expect CURA-A to fund or build these roads on its own.

Under the circumstances, either the Shire Wide s94 plan is required to be amended to cover the outstanding short-fall or construction would have to be allocated to either CURA-A or CURA-B.

Council's 19<sup>th</sup> July letter seeks advice on the cost of construction of these Link Roads for inclusion into the Shire Wide Plan. On the assumption that CURA-A builds a road to access/service the playing fields from the junction of SFR and BHD (GHD costs this at \$1,770,076), the allocation in the Shire Wide s94 plan would be \$10,466,580.00.

The roads to the playing fields and through CURA-A would not be designed to service the traffic loads described in the CEO traffic model, for reasons previously articulated. They would be suitable for local traffic loads.

5 Revised local s94 extra contribution

Having regard to the above, the local s94 contribution (CURA A only) as proposed in our letter of 22<sup>nd</sup> May 2013 would be amended as per Table 2 below:

**Table 3: Amended s94 Plan Proposal**

		GHD 2011	APP 2013	Reason for change
1	Open Space & Recreation	\$1,029,532	\$0	Work undertaken by Developers or not required
2	Community Facilities	\$3,294,614	\$3,294,614	No change proposed
3	Roads	\$10,648,525	\$0	GHD included cost of constructing BHD from BHE to Sandy Flat. This will be done in stages by Developers. SFR and By-pass incl. in Shire Wide Plan. CURA-A builds road from CURA-A to playing fields. Previous valued in local s94 Plan at \$1,770,076.
4	Stormwater Detention/Infiltration	\$2,937,367	\$0	Work undertaken by Developers or not required
5	Intersections And Bridges	\$0	\$0	External roadwork allowance not incl. in GHD estimate. Council has previously advised costs may be \$1,600,000. Given the need to construct a by-pass and spare funds allocated to SFR in Shire Wide Plan this cost cannot be justifiably apportioned to CURA-A at this juncture.
6	TOTAL	\$17,910,039	\$3,294,614	
7	Deduct Stormwater	(\$2,937,367)	\$0	
8	NEW TOTAL	\$14,972,672	\$3,294,614	
9	Saving		\$11,678,058	
10	Rate per lot		\$4,118	
11	Increase in Shire Wide Fund Allocation		\$10,466,580	
12	Rate per lot for SWF		TBA by Council	Cost apportionment based on s94 formula for SWF

The s94 contributions for CURA A would then be:

- Existing contributions at \$15,549/lot
- Additional contributions at \$4,118/lot
- Additional SWF contribution TBA

Total Contribution per lot at CURA-A \$19,667.00/lot

In respect of the Shire Wide s94 plan amendment, an additional \$10,466,580.00 is to be added to the plan and neither CURA-A or B are required to construct SFR or the by-pass link road.

The change in this proposal from the 22<sup>nd</sup> May proposal is that of the \$2,763,992 previously included in the local section 94 plan, \$1,770,076 is removed and the associated works completed by the developer while the balance is funded by developer contributions to the Shire Wide Plan.

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### 6 Mechanisms for supply, delivery and funding of infrastructure

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The supply, delivery and funding of public infrastructure to CURA-A will be achieved via a combination of the below:

- Section 64 contributions towards water and sewer (as per adopted Developer Servicing Plans)
- Section 94 contributions towards community facilities, roads and external roadworks (as per amended Section 94 plan which has a cap of \$30,000.00)
- Preparation and adoption of a Development Control Plan (DCP) as required by Clause 6.3 of the Ballina DCP 2012, which is a pre-requisite to the grant of consent for development of any land in an urban release area, which is required to provide for the following :
  - (a) staging plan for the timely and efficient release of urban land, making provision for necessary infrastructure and sequencing
  - (b) an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists
  - (d) a network of active and passive recreation areas
  - (e) stormwater and water quality management controls
  - (j) suitably located public facilities
- Conditions of consent imposed upon development consents issued for subdivision:
  - which will be consistent with the provisions of the relevant adopted Section 64 and 94 plans and the DCP
  - which will require the provision of certain infrastructure and related works by and at the cost of the developers

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### 7 Stormwater

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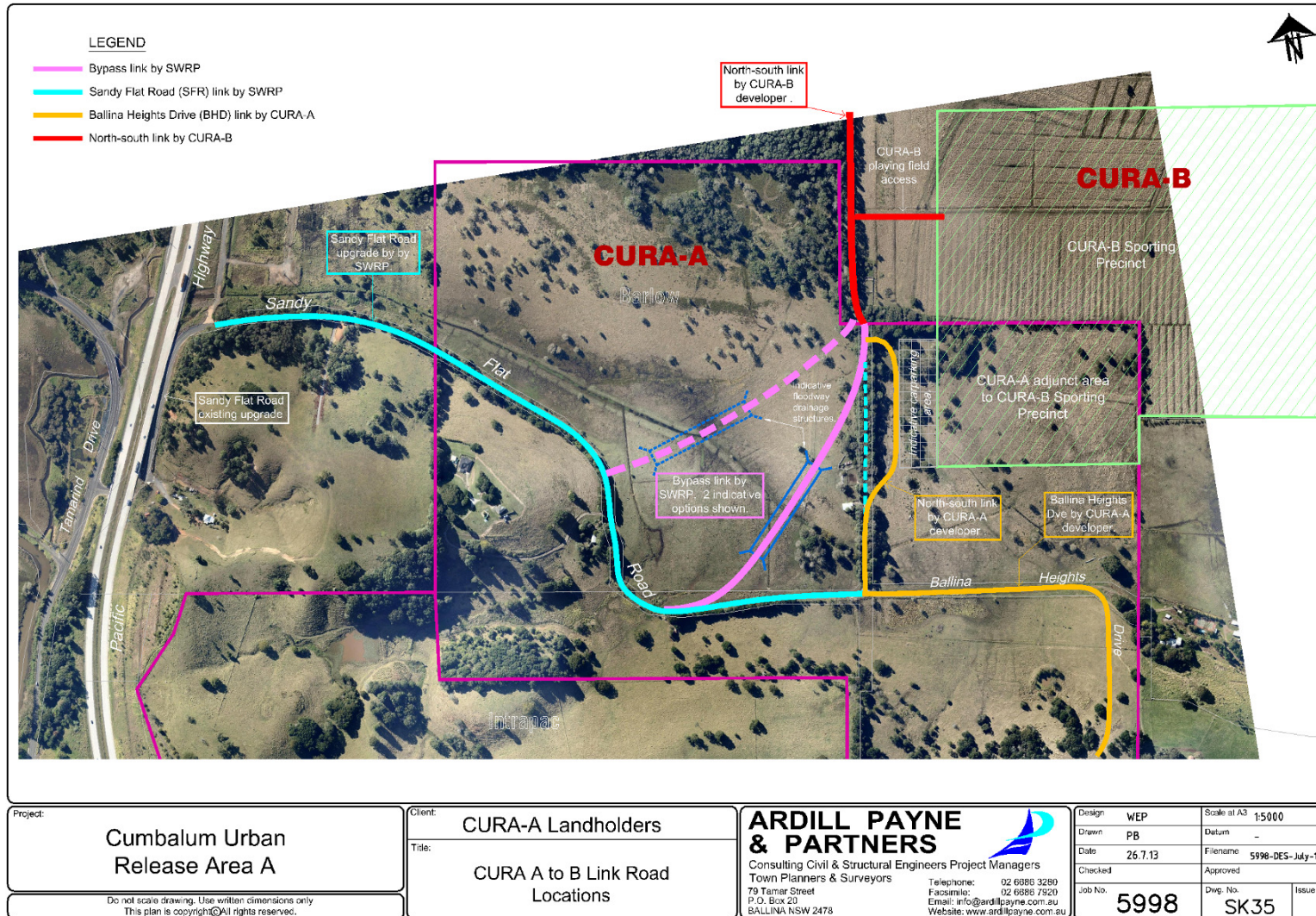
Stormwater has been removed from the s94 plan process due to the fact that such is able to be readily managed and constructed on a catchment by catchment basis, in accordance with consent conditions (as is the case for the BHE).

The intent of the CURA-A developers is for stormwater facilities to be provided by the developers on a catchment by catchment basis in accordance with the provisions of the adopted DCP for CURA-A. As required by Clause 6.3(3)(e) of the Ballina LEP 2012, the DCP is required to provide for “*stormwater and water quality management controls.*”

Investigations to date have revealed that four bulk treatment facilities are required, the location of which is shown on the CURA-A development sequence plans attached to our 22<sup>nd</sup> May letter.



# 4.1 Cumbalum Precinct A - Planning Proposal





## Ballina Shire Council

### Cumbalum Ridge - Precinct A

#### Planning Proposal – August 2013 (formerly Amendment 105 to Ballina LEP 1987)

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## Introduction

### Summary of Planning Proposal

This planning proposal applies to land referred to as "Precinct A" of the Cumbalum Urban Release Area (CURA) as shown on the locality map is provided at **Appendix 1**.

Precinct B of the CURA is the subject of a separate planning proposal

Land ownership within Precinct A comprises a number of separate holdings as outlined in the following table:

Landholding	Lots	Area (Hectares)	%
Vixsun Pty. Ltd.	Lot 1 DP1077982 & Lot 284 DP1141745	23.0	6.1
Sheather	Lot 79 DP755684, Lot 85 DP755684, Part 18 DP 1022777 & Part 190 DP1063589	58.8	15.7
Intrapac	Lot 20 DP1022777	35.5	9.5
Barlow	Lot 150 DP755684, Lot 333 DP755684, Lot 3 DP517149 & Lot 3 DP82662	87.8	23.5
Catholic Church	Lot 1 DP1077982	4.9	1.3
Road reserve		11.1	3.0
<i>Total area that is the subject of LES</i>		<i>221.0</i>	<i>59.1</i>
Potter	Lot 1 DP880178	34.4	9.2
Johnstone	Lot 2 DP880178	15.7	4.2
Brown	Lot 21 DP1022777	16.5	4.4
Beddoes	Lot 1 DP771794	31.7	8.5
Thomson	Lot 2 DP771794	16.7	4.5
Road reserve		6.2	1.7
<i>Total area excluded from LES</i>		<i>152.8</i>	<i>40.9</i>
<b>Total Area</b>		<b>373.8</b>	<b>100.0</b>

A Local Environmental Study (LES) has been prepared for the subject land and accompanies this planning proposal. Whilst it has been Council's intention to have all lands within Precinct A assessed for urban suitability concurrently, a number of landholders have declined to provide information sufficient to enable this to occur. The landholdings that have not been included in the LES are identified as such in the table above and by cross hatching on Figure 1 in **Appendix 1**. Whilst it is Council's preference to have all the land within Cumbalum Precinct A assessed and considered as a part of the planning proposal, it is not considered to be critical in these circumstances as these properties are all located on the periphery of the precinct. These areas are proposed to be identified in the Strategic Urban Growth Area Map (under the terms of the Ballina LEP 2012) and be retained in Council's Ballina Shire Growth Management Strategy. Should future investigations provide an appropriate resolution of technical issues, the residential envelope for Precinct A may be expanded accordingly.

For the purpose of infrastructure planning the development potential of all lands subject to this planning proposal have been included in Council's Cumbalum Infrastructure Delivery Plan.

The land, the subject of the planning proposal (excluding properties not subject to the LES), is currently zoned RU1 Primary Production Zone and RU2 Rural Landscape Zone pursuant to the

## 4.1 Cumbalum Precinct A - Planning Proposal

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*Ballina Local Environmental Plan 2012.* The proposed zones, under the terms of the Ballina LEP 2012, are as follows:

- R2 Residential Low Density Residential Zone - for those parts of the site suitable for urban development at a low residential density (of single detached dwellings);
- R3 Medium Density Residential Zone - for those parts of the site suitable for urban development at a medium residential density (permitting a broader range of dwelling types);
- RU2 Rural Landscape Zone - for those parts of the site not suitable for residential development and that do not have the environmental attributes suitable for an environmental protection zone. These areas may accommodate ancillary urban uses such as open space, community facilities and stormwater infrastructure;
- E2 Environmental Protection Zone - for those parts of the site that have environmental attributes worthy of protection;
- E3 Environmental Management Zone - for those parts of the site having characteristics suitable for the environmental management zone (including scenic values, urban buffering, steep slopes and habitat corridor values).

A proposed zoning plan (LZN) under the terms of the Ballina LEP 2012 is provided as **Appendix 2**. Plans showing the proposed changes to the Ballina LEP 2012 map set relating to lot size (LSZ), Heritage (HER), Strategic Urban Growth Areas (SGA) and Urban Release Areas (URA) are also provided in **Appendix 2**.

### Planning History to Date

#### Background

Council planning and negotiations on the possible rezoning of this site have been underway since 1993. This work has involved the following inter-related matters:

- Rezoning the land from 1(b) Rural (Secondary Agricultural Land) Zone to 1(d) Rural (Urban Investigation) Zone (1993);
- Council identifying the land for urban investigation in the Ballina Shire Urban Land Release Strategy (1996);
- Council adopting an urban structure plan (Cumbalum Structure Plan 2006);
- Council commencing the preparation of draft LEP Amendment No.105; and
- The preparation of a Local Environmental Study.

A brief summary of each of these elements is provided below.

#### Rezoning from 1(b) to 1(d)

In 1993 Council recognized that some of the subject land had potential for urban development and was concerned to avoid inappropriate development from occurring in the area prior to urban investigations being undertaken. Consequently the subject land was rezoned from 1(b) Rural (Secondary Agriculture) to 1(d) Rural (Urban Investigation). The objectives of the 1(d) zone are outlined in Part B of this planning proposal.

### Identified in ULRS

The subject land was first identified in Council's Urban Land Release Strategy (ULRS) for urban investigation in 1996. The latest iteration of Council's urban growth strategic planning framework, the Ballina Shire Growth Management Strategy (2012), maintains this status.

### Cumbalum Structure Plan (2006)

The Ballina LEP 1987 1(d) zone objectives include a requirement that Council prepare an urban structure plan prior to the land being considered for rezoning to permit urban development.

Accordingly, Council prepared the Cumbalum Structure Plan (CSP), which involved a broad assessment of the environmental capabilities of the land and consultation with landholders, State agencies and the broader community. The CSP was adopted by Council in July 2006. A key element of the CSP, which arose from the broad land use suitability investigations undertaken, is that future development of the Cumbalum Ridge should occur as two (possibly three) distinct 'development nodes' or villages. In the planning context these villages are represented as Precinct A and Precinct B of the Structure Plan (with the possibility of Precinct C in the longer-term). This approach is also consistent with the 'Region of Villages' settlement hierarchy outlined in the Far North Coast Regional Strategy (FNCRS), prepared by the then NSW Department of Planning.

### Draft Local Environmental Plan (Draft Amendment No.105 to Ballina LEP 1987)

Council resolved at its Ordinary Meeting held on 23 August 2007 to commence the process of preparing a draft Local Environmental Plan (LEP) and supporting Local Environmental Study (LES) to facilitate a range of urban and environmental outcomes over the proposal area.

Council notified the Department of its decision under Section 54 of the Act in a letter dated 31 August 2007. The Department's response dated 21 September 2007 directed that a LES be prepared for the site. A copy of the Department's letter is provided at Appendix A of the Local Environmental Study that accompanies this planning proposal.

Subsequently, the NSW Government introduced amendments to the Environmental Planning and Assessment Act 1979 provisions relating to the preparation of Local Environmental Plans. The consequence of these amendments is that the rezoning process now comprises a planning proposal under the terms of the Act.

The former requirements (including the Director General's specifications for the Local Environmental Study) were set aside by the transition to the new planning proposal arrangements. Notwithstanding, Council proceeded with the preparation of the LES to inform the delineation of land use zones. This was done to ensure that the rezoning recommendations reflect an objective and thorough assessment of the land's suitability for urban development.

### Local Environmental Study

Following Council's Section 54 decision the proponent prepared technical documentation to support the rezoning request. This information was subjected to several rounds of peer-review by consultants acting on Council's behalf, and by relevant Council staff.

The technical studies that accompany the Local Environmental Study include the following:

- Geotechnical capability (including foundation hazards);
- Ecological impacts (flora and fauna);

## 4.1 Cumbalum Precinct A - Planning Proposal

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- Mosquito hazards;
- Bush fire hazards;
- Contaminated land;
- Agricultural land values;
- Aboriginal heritage;
- Non-Aboriginal heritage;
- On-site stormwater issues;
- Off-site stormwater issues;
- Road noise impacts;
- Visual impact and scenic protection; and
- Flooding.

The key recommendations of the LES include the following:

- Parts of Cumbalum Precinct A have the capacity to accommodate urban development. These areas are predominantly elevated, relatively flat grasslands with minimal tree cover (other than isolated trees and vegetated fence lines);
- Parts of Cumbalum Precinct A have steep slopes that may be subject to potential instability. These areas (having slopes generally greater than 18 degrees or having localised instability) have been excluded from proposed residential zoning;
- Western parts of Cumbalum Precinct A, adjacent to the Pacific Highway, are impacted by road noise. These areas are recommended to retain a rural zoning. It is anticipated that these areas may accommodate ancillary non-residential land uses such as community and sporting facilities. Consequently, these areas have not been identified for residential zoning and are recommended to have a rural zone applied, but retain the opportunity for future investigation for urban development by identification on the Strategic Urban Growth Areas Map (SGA) of the Ballina LEP 2012 and identification in Council's Ballina Shire Growth Management Strategy (2012) for future investigation.
- Substantial discussion was had with the proponents during the preparation of the LES with respect to the proposal to place stormwater infrastructure in areas affected by Endangered Ecological Communities (EECs) and land identified as having potential archaeological value. The LES recommends that stormwater infrastructure be located outside of these areas, in adjacent non-urban zones (RU2 Rural Landscape and E3 Environmental Management under the terms of the Ballina LEP 2012).
- Areas that have significant habitat values are recommended for environmental protection zoning;
- One European heritage item is proposed for heritage listing in the LEP. A potential indigenous archaeological site is recommended for inclusion in an environmental protection zone;
- The application of the E3 Environmental Management Zone has been recommended for parts of the site that are otherwise constrained for urban development (such as due to flooding or steep slopes) and otherwise have scenic value and/or value as an urban buffer between Cumbalum Precinct A and Precinct B. In this respect the application of the E3

zone is consistent with Council's intent with respect to the zoning of land located between Alstonville and Wollongbar (and their historic zoning under the Ballina LEP 1987). These areas also align with potential wildlife corridor areas, particularly in the location of the Sandy Flat floodway;

- The implications of buffering to ecological areas, bushfire hazard and access issues have also played a part in the delineation of recommended land use zones.

Further details regarding the urban capability assessments and infrastructure are provided in the accompanying Local Environmental Study.

### Infrastructure Delivery

Following the Council's adoption of the Cumbalum Structure Plan (2006) Council prepared an Infrastructure Delivery Plan (IDP) which was finalised in June 2011. The IDP includes consideration of roads, water and sewerage infrastructure as well as open space and community facilities for the Cumbalum Urban Release Area (CURA) as a whole.

### Progress of the Planning Proposal

The planning proposal was endorsed by the Council, for the purposes of public exhibition, at the Ordinary Meeting held 24 November 2011. The planning proposal was publicly exhibited for a period of 78 days from 12 January 2012 and 30 March 2012.

Following the conclusion of the public exhibition period, the planning proposal, including analysis of public submissions received, was reported to the Environmental and Sustainability Committee of the Council on 17 July 2012. The Minutes of the Committee were considered at the Ordinary Meeting of the Council held on 26 July 2012. The Council resolved, [Minutes No. 260712/4] that the planning proposal be finalised subject to the development proponents providing a Voluntary Planning Agreement (VPA) to facilitate the delivery of infrastructure in association with future development.

Subsequently, the Precinct A proponents advised that they did not support a VPA as a suitable mechanism for the delivery of infrastructure and requested that the Council provide for the delivery of infrastructure through Council's developer contributions plans. This position formed the basis for the further consideration of this matter by the Council through the Environmental and Sustainability Committee at its meeting held on 11 December 2012. The minutes of the Committee were considered by the Council at the Ordinary Meeting held on 20 December 2012, with the Council resolving to investigate options for including infrastructure required to service the area in Council's developer contributions plan subject to the Minister for Planning agreeing to remove the contributions cap.

In response to Council's request, the Minister for Planning agreed to lift the cap on development contributions to a maximum of \$30,000 per lot. The implication of this was that a funding gap remained for the estimated costs of infrastructure to service Cumbalum Precinct A because the cost of infrastructure per lot is expected to exceed the \$30,000 contributions cap.

Further options regarding infrastructure delivery were considered by the Council through the Environmental and Sustainability Committee at its meeting held on 7 August 2013. As a consequence, in proceeding with the Cumbalum Precinct A planning proposal, the delivery of infrastructure to service future development in Precinct A is proposed to occur via the a combination of reliance upon development consent conditions (in the case of water supply, sewerage, stormwater, local parks and playgrounds and road infrastructure) and the inclusion of some items in Council's s.94 developer contribution plans (in the case of playing fields and community facilities, with possible inclusion of access and associated facilities).

## Part 1 - Objectives or Intended Outcomes

The objectives or intended outcomes of this planning proposal are to:

1. rezone part of the land within Precinct A of the Cumbalum Urban Release Area to enable its development for low to medium density residential purposes; and
2. rezone the portions of the site not suited to urban development to a range of rural and environmental protection zones reflective of the various environmental attributes applicable to these areas.

## Part 2 - Explanation of the Proposal

This planning proposal applies to land referred to as "Precinct A" within the Cumbalum Urban Release Area (CURA) located to the north of Ballina. The subject land is currently zoned RU1 and RU2 under the terms of the Ballina Local Environmental Plan 2012. The land is also identified as a Strategic Urban Growth Area, for the purposes of clause 6.3 of the Ballina LEP 2012, and is identified for urban investigation in the Ballina Shire Growth Management Strategy (2012). The land is located adjacent to the Ballina Heights Estate, a residential subdivision of approximately 750 lots currently undergoing staged development.

The planning proposal involves rezoning land that is currently zoned RU2 Rural Landscape Zone. In the terms of the Ballina LEP 2012 the proposed zones are:

- R2 Residential Low Density Residential Zone - for those parts of the site suitable for urban development at a low residential density (of single detached dwellings);
- R3 Medium Density Residential Zone - for those parts of the site suitable for urban development at a medium residential density (permitting a broader range of dwelling types);
- RU2 Rural Landscape Zone - for those parts of the site not suitable for residential development and that do not have the environmental attributes suitable for an environmental protection zone. These areas may accommodate ancillary urban uses such as open space, community facilities and stormwater infrastructure;
- E2 Environmental Protection Zone - for those parts of the site that have environmental attributes worthy of protection;
- E3 Environmental Management Zone - for those parts of the site having characteristics suitable for the environmental management zone (including scenic values, urban buffering, steep slopes and habitat corridor values).

Additional to the Land Zoning Map (LZN), the planning proposal proposes the amendment of a number of other maps in the Ballina LEP 2012. The implications of the Cumbalum Precinct A planning proposal with respect to the other supporting maps of the comprehensive LEP are outlined in the following table.

LEP Map	Purpose	Comment
Lot Size Map (LSZ)	Establishes minimum lot size for subdivision of land.	<i>Amendment proposed</i> - minimum lot size overlay will need to reflect the minimum lot sizes outlined in Section 10.2 of the LES.
Height of Buildings (HOB)	Establishes maximum height of buildings.	8.5m standard proposed, consistent with other residential areas in Ballina



## 4.1 Cumbalum Precinct A - Planning Proposal

		Shire.
Building Height Allowance Map (BHA)	Provides variation allowance to building height standard in areas subject to flood filling.	No minimum fill level nominated as no residential development areas are proposed in flood affected areas.
Floor Space Ratio Map (FSR)	Establishes floor space ratio standards for certain land parcels.	No FSR nominated (consistent with Ballina LEP 2012)
Land Reserved for Acquisition (LRA)	Identifies land for acquisition	No land reservations nominated.
Heritage Map (HER)	Identifies items of environmental heritage subject to the LEP.	<i>Amendment proposed</i> - Handmade stone wall in south east corner of Precinct A nominated as a heritage item (Wall 1).
Acid Sulfate Soils Planning Map (ASS)	Identifies different classes of acid sulfate soils risk for reference with respect to acid sulfate soils consent requirements.	Adopt ASS risk classes as per Ballina LEP 2012.
Drinking Water Catchments Map (WCM)	Identifies drinking water catchments subject to specific assessment considerations.	Not applicable as the study area is not within an urban drinking water catchment.
Flood Planning Map (FPM)	Identifies land on the floodplain that is subject to specific considerations in development assessment.	Maintain the flood planning map as per Ballina LEP 2012.
Strategic Urban Growth Area Map (SGA)	Identifies land considered to have urban development potential to enable review of potential use as part of development assessment process.	<i>Amendment proposed</i> - An amended SGA map to reflect the recommendations of the LES and identify areas outside the LES investigation areas to be retained as potential urban growth areas.
Urban Release Area Map (URA) - New Map	Identifies new release areas subject to cl.6.3 of the Ballina LEP 2012.	<i>New map proposed</i> - Identify land proposed for residential zoning as an urban release area.

As outlined above, the following maps have been prepared to support the rezoning:

- Minimum Lot Size Map (LSZ)
- Heritage Map (HER)
- Strategic Urban Growth Area Map (SGA)
- Urban Release Area Map (URA)

The above maps are provided in **Appendix 2** of this planning proposal.

### Part 3 - Justification

#### Section A - Need for the planning proposal

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

The Cumbalum Urban Land Release Area is identified for urban investigation in the Ballina Shire Growth Management Strategy (2012) and the Far North Coast Regional Strategy (2006). The subject land was further considered in the Cumbalum Structure Plan (2006), which involved a broad investigation of the urban capability of the land and highlighted the range of issues to be addressed in further detail through the rezoning process.

A significant number of studies and investigations have been undertaken in respect to the proposal area, which have all been peer reviewed by a planning consultant engaged by Council. These studies and investigations form the basis of a Local Environmental Study (LES) which accompanies this planning proposal. The LES indicates that parts of the subject site appear to be suited for future urban development in accordance with the framework proposed in the planning proposal.

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

The LES that informs this planning proposal indicates that parts of the subject land have the capacity to accommodate future urban development. The LES indicates that the planning proposal, together with suitable mechanisms for the delivery of infrastructure to the site, will provide the best means by which the objectives above can be achieved.

**3. Is there a net community benefit?**

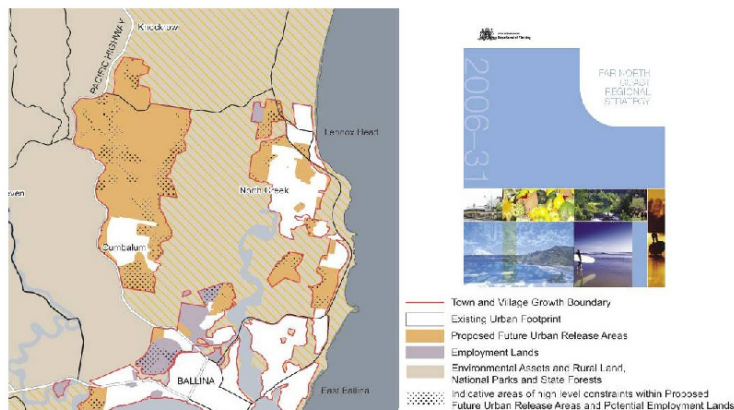
The following net community benefits will be achieved by the planning proposal:

- additional economic activity generated by the development of land for urban purposes;
- additional land available for residential development and ancillary commercial uses;
- opportunity for the enhancement and protection of core environmental values in the proposal area; and
- additional open space and community facilities associated with future development.

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

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

Yes, the Far North Coast Regional Strategy (FNCRS) provides the regional framework for the consideration of rezoning land for urban purposes in Ballina Shire. The FNCRS identifies the subject land as a 'Proposed Future Urban Release Area' within the 'Town & Village Growth Boundary' for Ballina Shire (refer Town and Village Growth Boundary Map - Sheet 3, excerpt below).



Of these areas the Strategy states:

*'Not all land identified within the Town and Village Growth Boundary can be developed for urban uses. All sites will be subject to more detailed investigations to determine capability and future yield. Land that is subject to significant natural hazard and/or environmental constraints will be excluded from development!'*

The investigation of the subject land for future urban development through the statutory rezoning process is consistent with the regional planning framework.

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

The subject land is identified in Council's Ballina Shire Growth Management Strategy (2012) and Cumbalum Structure Plan (2006) as having potential to accommodate residential development.

Ballina Shire Growth Management Strategy 2012

The Ballina Shire Growth Management Strategy 2012 (GMS) provides the strategic planning context for urban development in Ballina Shire.

The GMS includes the following 'Strategic Actions' in relation to the Cumbalum locality, of which Precinct A is a part:

- Undertake a detailed site analysis and investigations to determine appropriate land use zoning that includes provision for employment and recreation outcomes.
- Establish a Development Control Plan (DCP) to guide future integrated subdivision, development and services delivery.
- Prepare an Infrastructure Delivery Plan for the locality.
- Manage and/or promote Aboriginal, European and other non-Aboriginal cultural heritage values in accordance with relevant stakeholders.

The rezoning of the land as proposed is consistent with Council's Ballina Shire Growth Management Strategy.

## 4.1 Cumbalum Precinct A - Planning Proposal

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The Ballina Shire Growth Management Strategy was approved by the Director General of the Department of Planning & Infrastructure in correspondence dated 7 May 2013.

### Cumbalum Structure Plan (2006)

The objectives of the 1(d) zone under Council's LEP include a requirement that Council prepare an urban structure plan prior to the consideration of the land for rezoning to permit urban development.

Accordingly, Council prepared the Cumbalum Structure Plan (CSP), which involved a broad assessment of the environmental capabilities of the land and consultation with landholders, agencies and the broader community. The preparation of the Structure Plan, by Council, took into consideration the presence of environmental constraints, natural and cultural values and urban design. A key feature of the Structure Plan is a number of development principles, encapsulating best practice guidelines for urban development in the region.

The CSP was adopted by Council in July 2006. A key element of the CSP, which arose from the broad land use suitability investigations undertaken, is that future development of the Cumbalum Ridge should occur as two (possibly three) distinct 'development nodes' or villages. In the planning context, these villages are represented as Precinct A and Precinct B of the Structure Plan (with the possibility of Precinct C in the longer-term). This approach is also consistent with the 'Region of Villages' settlement hierarchy outlined in the FNCRS.

It is noted that Council received strong endorsement from the Department of Planning and other State Government agencies for the approach and framework delivered by the Structure Plan, particularly in relation to the use of precincts/villages as the basis for the plan, for the consideration of visual and social amenity and the relationship of the plan with the regional planning context.

The consideration of the subject land for rezoning to permit urban development is consistent with the Cumbalum Structure Plan.

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

Yes. A number of State Environmental Planning Policies (SEPP) are relevant to the development of the planning proposal. A SEPP checklist for the planning proposal is contained in **Appendix 3**.

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

Yes. A number of Section 117 Directions are relevant to the development of the planning proposal. A Section 117 Directions checklist for the planning proposal is contained in **Appendix 4**.

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

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

The LES includes a comprehensive assessment of the ecological values of the proposal area. Work to date indicates that the proposal area contains a number of threatened flora species and

endangered ecological communities and is utilized by a number of threatened fauna species. The threatened flora species and the endangered ecological communities are largely proposed to be protected via environmental protection zones. These zonings will also assist in the conservation and protection of the threatened fauna species. A range of ameliorative measures have also been identified to address some potential adverse impacts of the planning proposal and improve some of the environmental values of the site.

The LES was not able to definitely conclude that future development will not have adverse impacts on downstream properties, including private properties and the Ballina Nature Reserve. Subsequent to the LES, additional modelling was undertaken and was considered by the Council through the Environmental & Sustainability Committee at its meeting held on 11 December 2012. This modelling indicated that the future development of the land is not anticipated to result in adverse downstream impacts, on either private landholdings or the environment. Notwithstanding, it is noted that detailed investigations at development assessment stage is the appropriate time to provide the necessary level of detail to comprehensively resolve this issue. Council's Engineers anticipate that an adequate technical solution can be provided. Monitoring of surface and ground water is now being undertaken by the proponent to provide additional baseline information for future assessments at development application stage.

Importantly, the area proposed for residential development is generally cleared grazing land without significant environmental constraints.

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

Other potential environmental effects of the proposal are as follows:

- a. visual impact of development;
- b. impact on known items of heritage significance and potential archaeological deposits;
- c. slope instability hazards for future residents;
- d. road traffic noise on future residents; and
- e. disposal and treatment of stormwater.

These and other issues have been assessed and ameliorative measures proposed via the LES.

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

The rezoning of more land for urban purposes will have positive social and economic effects. In particular, the development of the land for housing will assist in meeting regional dwelling targets.

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

As outlined above, Council has prepared an Infrastructure Delivery Plan (IDP) for the Cumbalum Urban Release Area (including both Precinct A and Precinct B). The purpose of the IDP is to:

- Outline the broader (infrastructure) planning context for future urban growth, with respect to infrastructure provision including existing Development Servicing Plans (DSPs), infrastructure works programs and Development Contributions Plans. The IDP references these plans which establish the:

## 4.1 Cumbalum Precinct A - Planning Proposal

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- commitment of infrastructure delivery by Council at key stages; and
- requirements/expectations for infrastructure delivery by developers at key stages.
- Identify infrastructure contingencies and bottlenecks where these exist;
- Outline the assumed sequence and timing for future development; and
- Outline funding options available outside of Development Servicing and Contributions Plans.

The IDP was prepared to inform the rezoning process with respect to the capacity of the area to be serviced, as well as form the basis for the consideration of the mechanisms by which such infrastructure will be provided.

Council's preferred approach from an infrastructure engineering perspective is that infrastructure internal to the Cumbalum Urban Release Area (CURA) should, in general, be provided in association with future development, rather than being incorporated into Council's statutory infrastructure plans. This is consistent with Council's existing development contributions plans as well as Council's water and sewer development servicing plans.

The delivery of infrastructure to service future development in Precinct A is proposed to occur via the following means:

- Reliance on conditions of consent to secure the following infrastructure:
  - Drinking water supply;
  - Recycled water supply;
  - Sewerage infrastructure;
  - Stormwater detention and treatment;
  - Local parks and playgrounds;
  - Internal road infrastructure;
  - External road infrastructure including upgrade of Sandy Flat Road and the southern portion of the North-South Link Road; and
- Inclusion of playing fields and community facilities in Council's s.94 Developer Contributions Plan (with possible inclusion of access road and associated facilities).

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

Council engaged with the Department of Planning and Infrastructure (DP&I) and the Office of Environment and Heritage (OEH) during the preparation of the LES. Further agency consultation was undertaken during the public exhibition phase of the planning proposal. It is noted that a number of issues raised by the agency's submissions related to one or both of the Cumbalum planning proposals (Precinct A and Precinct B), which were publicly exhibited at the same time. The key matters raised by these agencies, that relate to the Precinct A planning proposal, are outlined and addressed in the following table.

## 4.1 Cumbalum Precinct A - Planning Proposal

Agency / Issue	Response
<b>NSW Department of Primary Industries</b>	
Raises concerns with potential impacts of stormwater management measures on fisheries habitat, noting that stormwater management issues were unresolved at the time of the exhibition.	Stormwater management issues are addressed in the report considered by the Council through its Environmental & Sustainability Committee held on 11 December 2012.
Raises concerns relating to the location and maintenance of stormwater management devices and sewerage pump stations.	These matters are more appropriately addressed at development assessment stage.
Refers to DPI Fisheries guidelines which recommend 50-100m development buffers to wetland areas.	It is noted that the proposed urban footprint is located approximately 420m, at its nearest point, from mapped SEPP 14 Wetlands that extend from the Ballina Nature Reserve onto adjacent private land.
<b>NSW Department of Education &amp; Communities</b>	
Advises that on the basis of the Department's assessment, additional public school site and/or infrastructure is not required.	Noted.
<b>NSW Roads &amp; Maritime Services</b>	
Notes that the designs of future works at the Ross Lane and Cumbalum interchanges do not include the duplication of the lanes or roundabouts. Advises that these upgrade works will be required at appropriate staging in association with any future development.	Noted. Infrastructure delivery matters were considered by the Council through its Environmental & Sustainability Committee held on 7 August 2013.
Notes that some future residential lots may be affected by road noise. Advises that any mitigation measures to limit the impact of Pacific Highway road noise is the responsibility of the proponent.	Noted. Road noise issues were considered by the Council through its Environmental & Sustainability Committee held on 7 August 2013.
<b>Rous Water</b>	
Raises a number of matters relating to the transfer of a number of existing Rous Water retail customers to become customers of Ballina Shire Council in association with planned water supply augmentation works.	Noted. This matter can be considered further at the development application stage.
<b>Office of Environment &amp; Heritage</b>	
Supports the zone plan, but would not support stormwater infrastructure being placed in environmental protection zones.	It is noted that the Ardill Payne & Partners proposal has included, and continues to propose the location of stormwater infrastructure in the proposed E2 Environmental Protection Zone. However, this proposal is not supported by the accompanying LES or by the Council. Notwithstanding, sufficient land has been identified to accommodate stormwater infrastructure outside the proposed environmental protection zone.
Strongly supports the proposal to zone the sensitive sand rise which contains the Aboriginal Object site Sheather 1 as E2.	Noted. This site is that identified (and referred to above) by Ardill Payne & Partners as a stormwater infiltration site. The draft instrument proposes to zone the land E2 and on this basis not permit stormwater infrastructure.
Recommends that the design of the proposed link road connecting Precincts A and B ensures the road remains trafficable during major flood events.	This matter can be considered further at development application stage and in association with the design and construction of the link road.
Strongly recommends that Council be assured that the proposed setback from the Pacific Highway for any development on the western side of the proposed precinct	Noted. Road noise issues were considered by the Council through its Environmental & Sustainability Committee held on 7 August

## 4.1 Cumbalum Precinct A - Planning Proposal

Agency / Issue	Response
is sufficient to ameliorate noise levels now and in future so that 'standard' construction measures will be adequate to provide internal and external living areas that meet noise standards.	2013.
With respect to the Ballina Nature Reserve, OEH: 1. Notes that best practice Water Sensitive Urban Design within the site may adequately prevent adverse hydraulic impact on downstream properties including Ballina Nature Reserve. 2. Requests that Council consider whether a commitment to managing weed proliferation in Ballina Nature Reserve due to reduced water quality could be incorporated into future development consents.	Noted. This matter can be considered further at development assessment stage.  Noted. This matter can be considered further at development assessment stage.
<b>NSW Rural Fire Service</b>	
Raises no objection to the planning proposal proceeding but makes note of a number of matters to be considered in relation to the future development of the land.	The matters raised will be considered further at development assessment stage.
<b>NSW Department of Primary Industries, Catchments and Lands</b>	
Notes several matters relating to the possible closure of Crown road reserves in association with future development.	This matter can be considered further at development assessment stage.
<b>NSW Department of Finance &amp; Services and Housing NSW</b>	
This combined Government agency submission provides information relating to affordable housing in Ballina Shire.	The information provided does not relate directly to the planning proposal.

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

### Section D - Community Consultation

Extensive community consultation was undertaken during the preparation and exhibition of the *Ballina Local Environmental Plan 1987* in the mid 1980s. This process involved the introduction of the *1(d) Rural (Urban Investigation) Zone*. The subsequent Urban Land Release Strategy 2000 (& 2003 update) and Cumbalum Structure Plan (2006) and Ballina Shire Growth Management Strategy (2012) were also subject to community engagement processes.

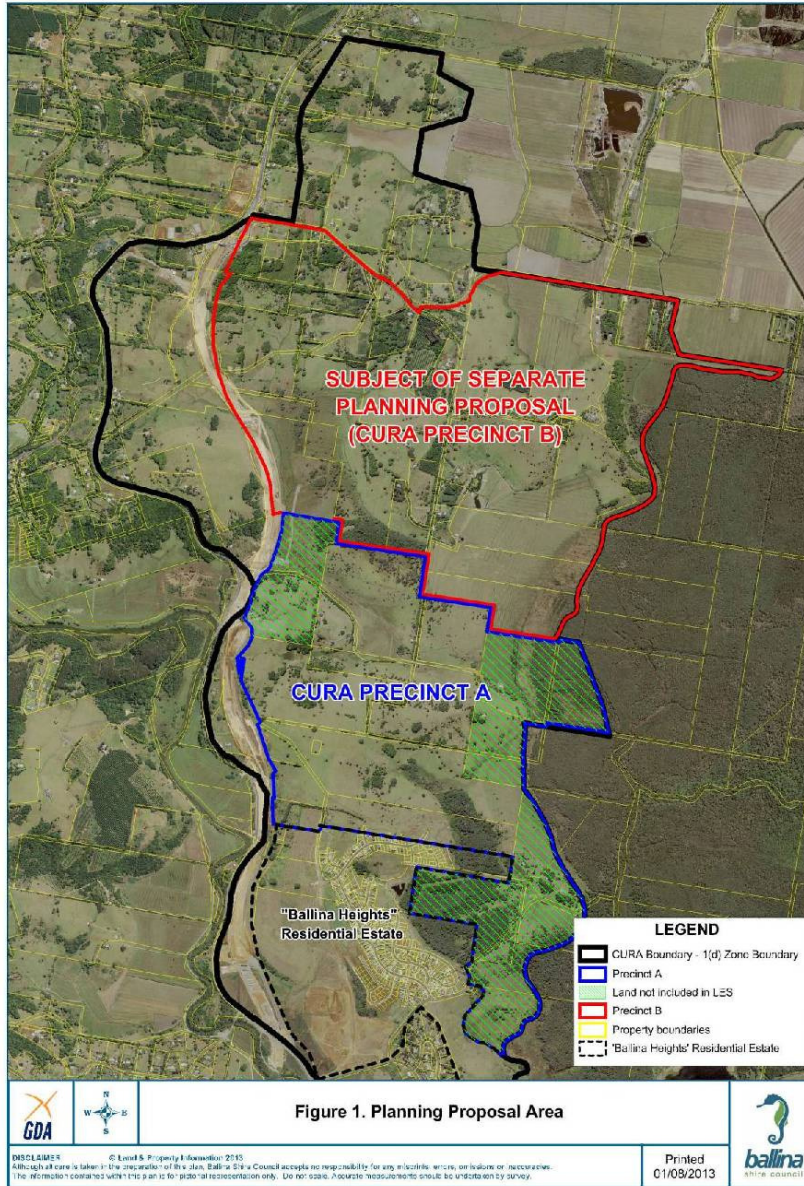
The planning proposal was endorsed by the Council, for the purposes of public exhibition, at the Ordinary Meeting held 24 November 2011. The planning proposal was publicly exhibited for a period of 78 days from 12 January 2012 and 30 March 2012.

Following the conclusion of the public exhibition period, the planning proposal, including analysis of public submissions received, was reported to the Environmental and Sustainability Committee of the Council on 17 July 2012.

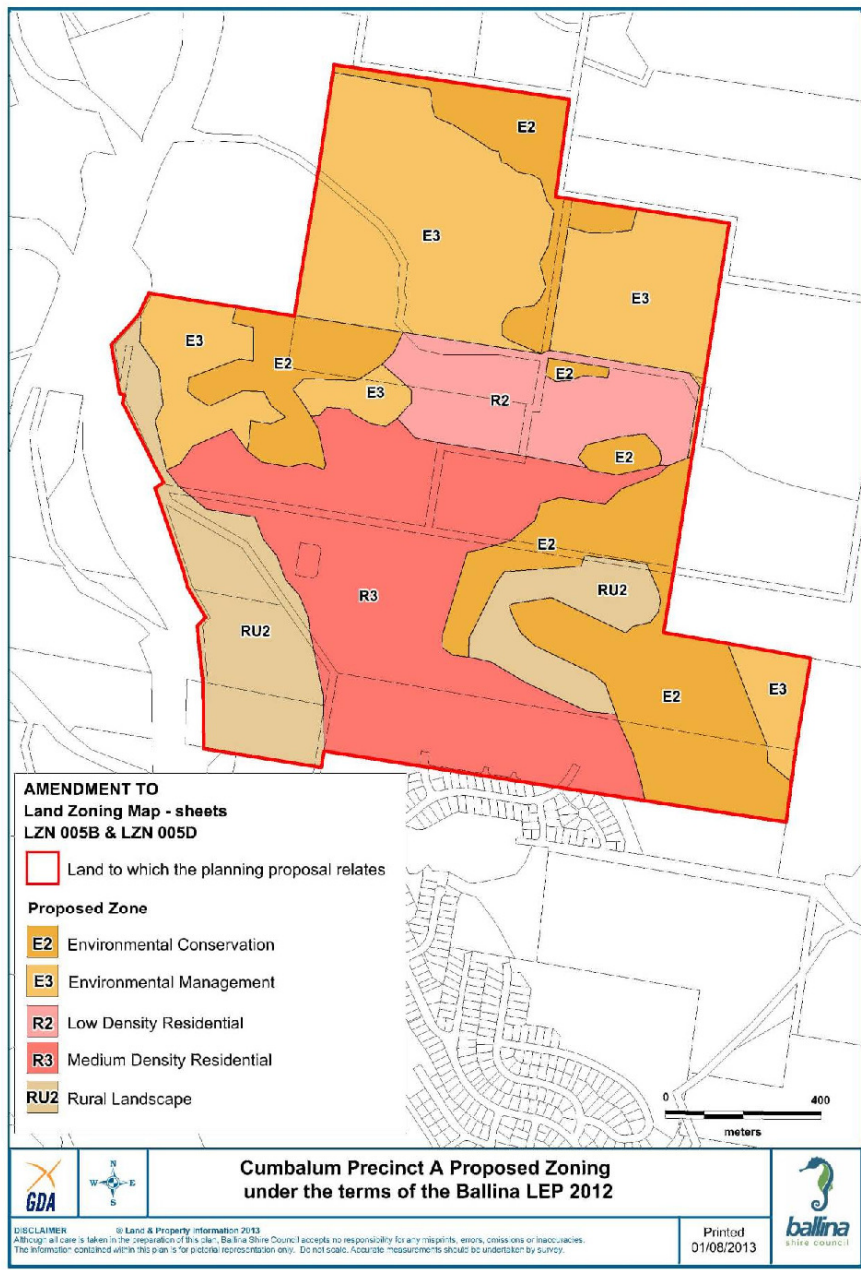


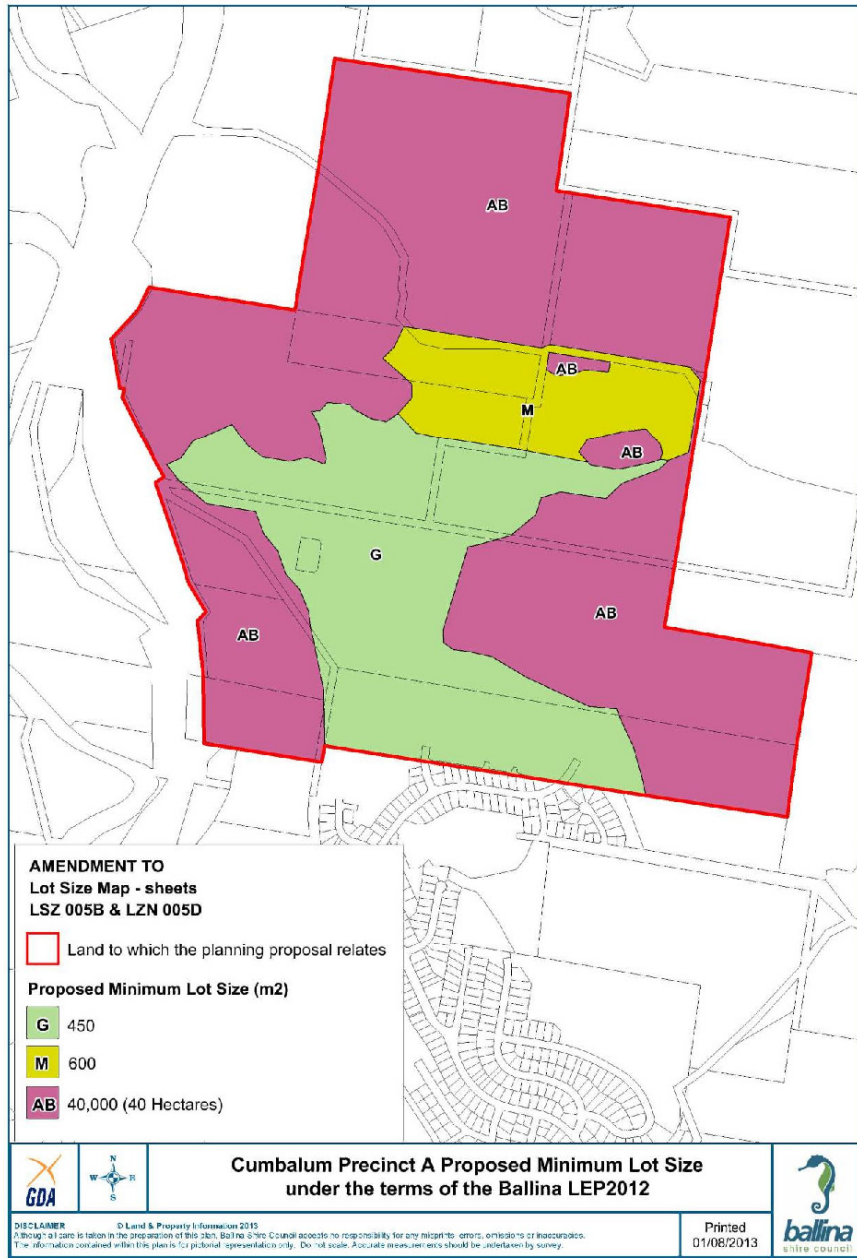
Appendices

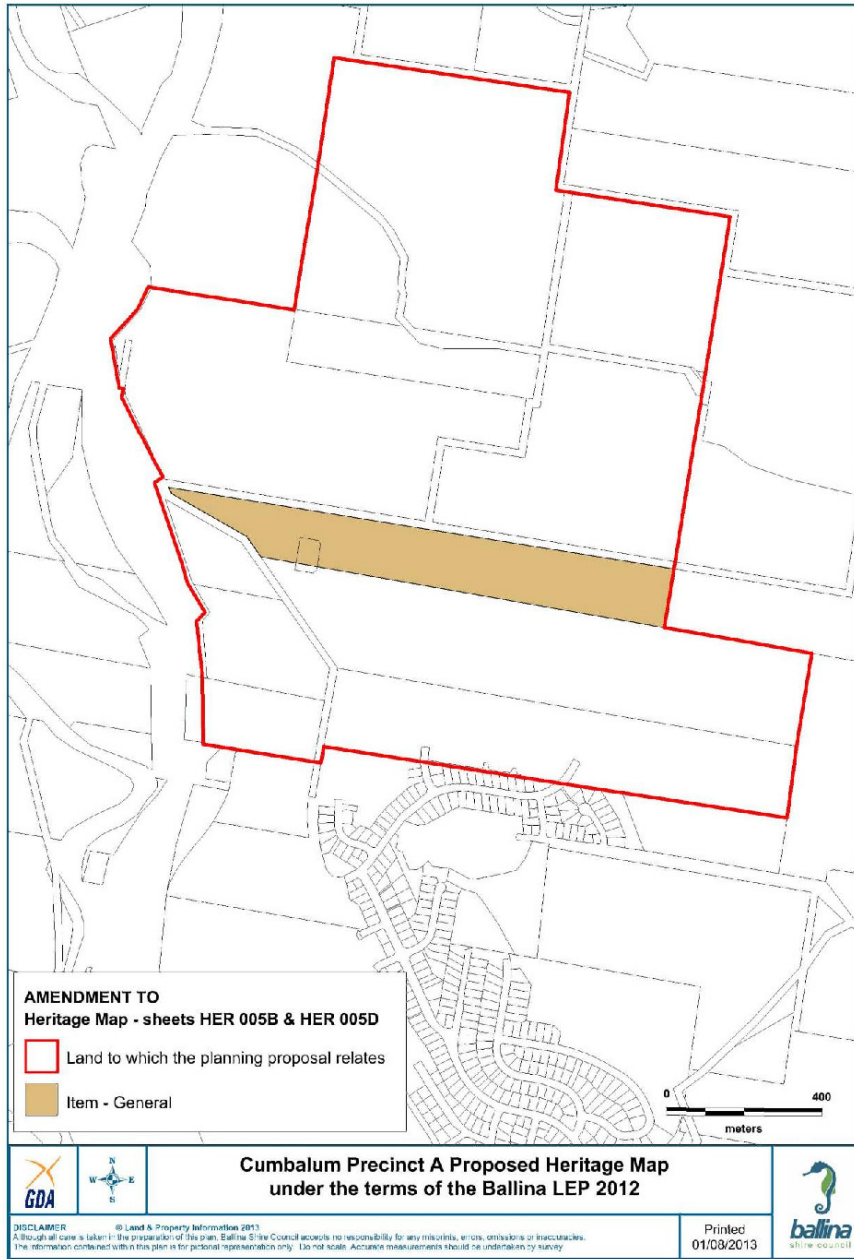
Appendix 1 - Locality Plan

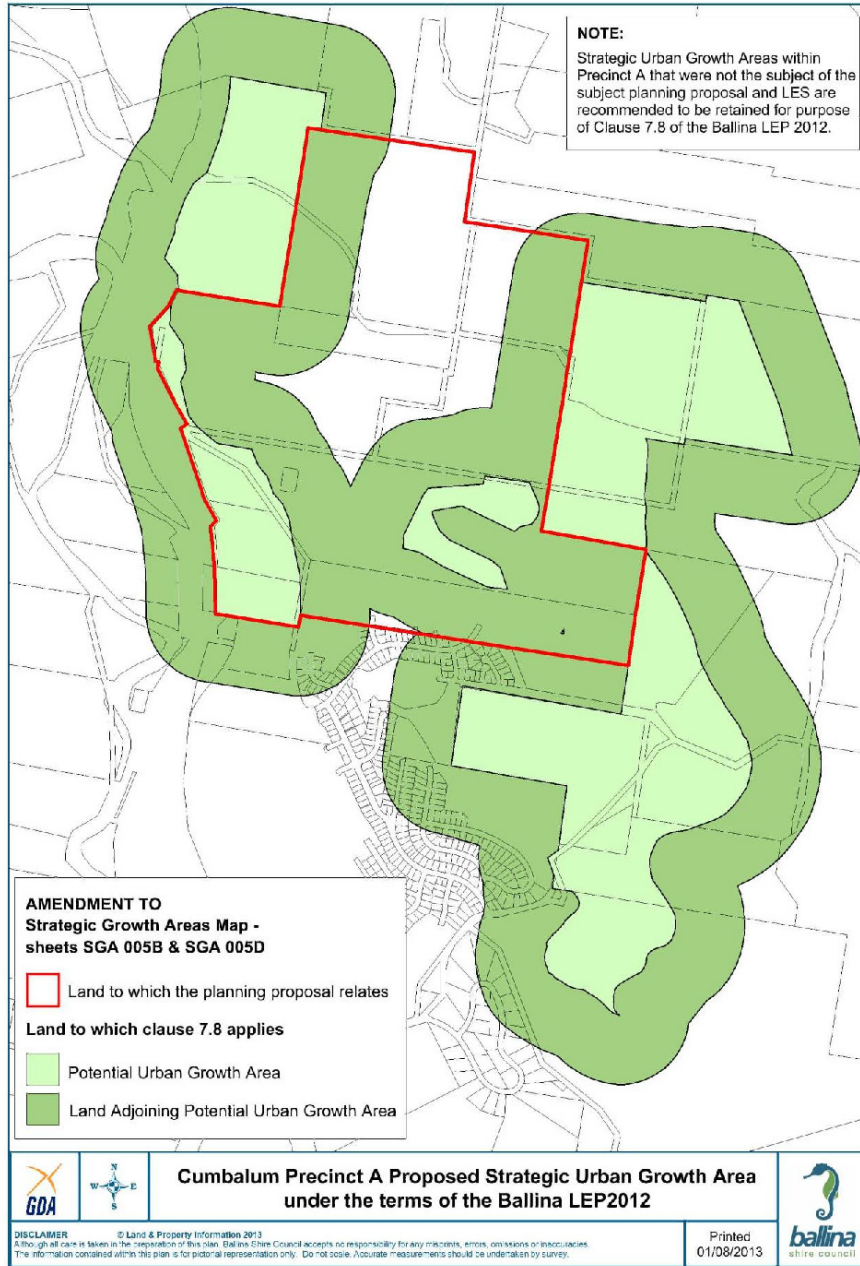


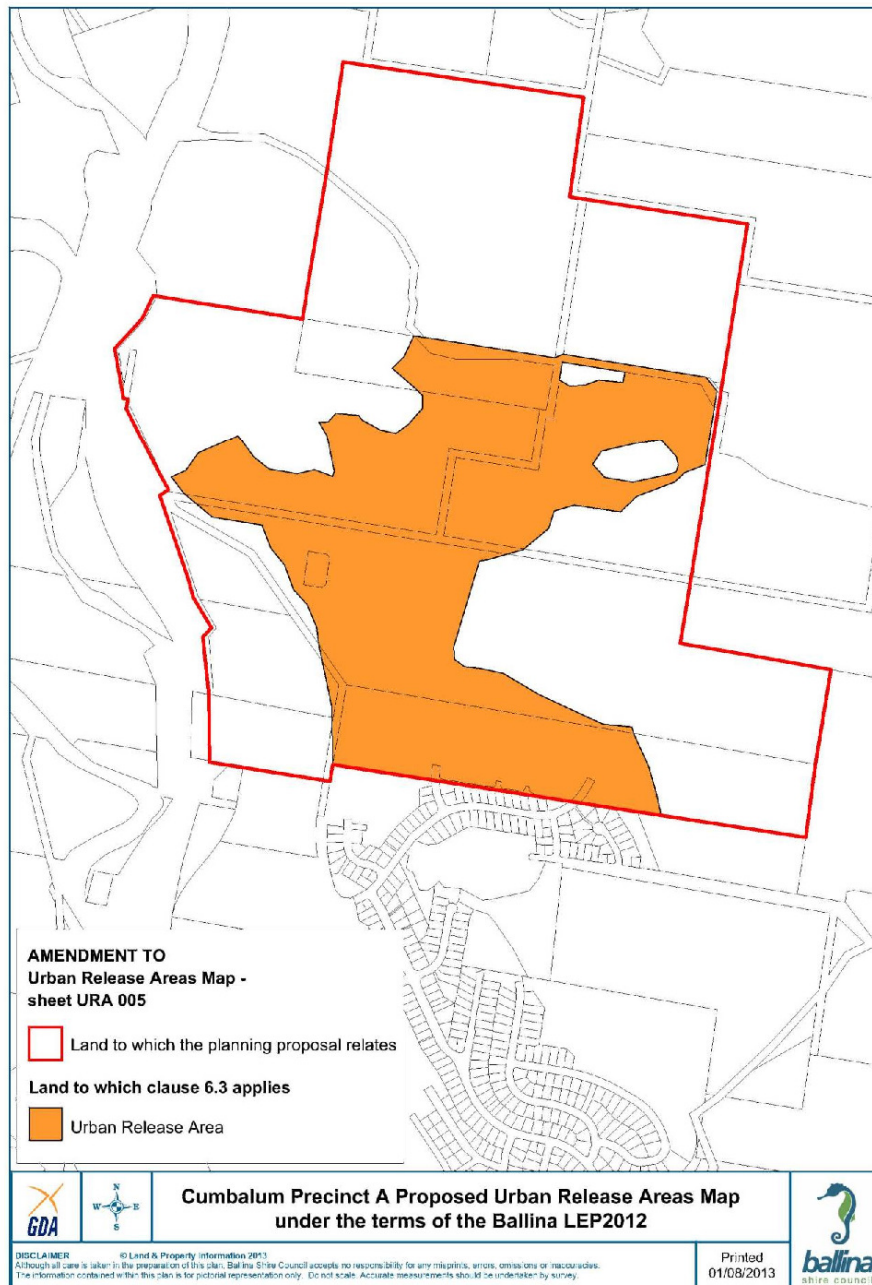
Appendix 2 - Proposed Amending LEP maps











**Appendix 3 - State Environmental Planning Policy Checklist**

State Environmental Planning Policy Checklist planning proposal - Cumbalum Urban Release Area Precinct A	
SEPP Title	Compliance of planning proposal
<b>SEPP (Affordable Rental Housing) 2009</b>	The planning proposal is not inconsistent with the provisions of this SEPP. The full range of residential land uses will be permissible with consent in the area proposed to be zoned for residential purposes.
<b>SEPP (Exempt and Complying Development Codes) 2008</b>	The planning proposal is not inconsistent with the provisions of this SEPP. The Codes SEPP will apply to detached dwellings in the area proposed to be zoned for residential purposes.
<b>SEPP (Rural Lands) 2008</b>	The subject land is listed as Regionally Significant Agricultural Land. However, the site is identified in the Far North Coast Regional Strategy as a "proposed future urban release area" (refer Town and Village Growth Boundary Map - Sheet 3). Therefore, it is reasonable that a planning proposal be considered over the site.
<b>SEPP (Infrastructure) 2007</b>	The planning proposal is not inconsistent with the provisions of this SEPP.
<b>SEPP (Temporary Structures) 2007</b>	The planning proposal is not inconsistent with the provisions of this SEPP.
<b>SEPP (Mining, Petroleum Production and Extractive Industries) 2007</b>	The planning proposal is not inconsistent with the provisions of this SEPP.
<b>SEPP (Major Development) 2005</b>	The planning proposal is not inconsistent with the provisions of this SEPP.
<b>SEPP (Building Sustainability Index: BASIX) 2004</b>	The planning proposal is not inconsistent with the provisions of this SEPP.
<b>SEPP (Housing for Seniors or People with a Disability) 2004</b>	The planning proposal is not inconsistent with the provisions of this SEPP.
<b>SEPP No. 1 - Development Standards</b>	The planning proposal is not inconsistent with the provisions of this SEPP.
<b>SEPP No. 4 - Development without Consent and Miscellaneous Complying Development</b>	The planning proposal is not inconsistent with the provisions of this SEPP.
<b>SEPP No. 6 - Number of Storeys in a Building</b>	The planning proposal is not inconsistent with the provisions of this SEPP.
<b>SEPP No. 14 - Coastal Wetlands</b>	The planning proposal is not inconsistent with the provisions of this SEPP. The LES proposes that an environmental protection zone apply to all areas subject to SEPP 14 as well as adjacent wetland communities not covered by the SEPP.
<b>SEPP No. 15 - Rural Land-Sharing Communities</b>	The planning proposal is not inconsistent with the provisions of this SEPP.
<b>SEPP No. 21 - Caravan Parks</b>	The planning proposal is not inconsistent with the provisions of this SEPP.
<b>SEPP No. 22 - Shops and Commercial Premises</b>	The planning proposal is not inconsistent with the provisions of this SEPP.

## 4.1 Cumbalum Precinct A - Planning Proposal

SEPP Title	Compliance of planning proposal
<b>SEPP No. 26 - Littoral Rainforests</b>	The planning proposal is not inconsistent with the provisions of this SEPP.
<b>SEPP No. 30 - Intensive Agriculture</b>	The planning proposal is not inconsistent with the provisions of this SEPP.
<b>SEPP No. 32 - Urban Consolidation (Redevelopment of Urban Land)</b>	The planning proposal is not inconsistent with the provisions of this SEPP.
<b>SEPP No. 33 - Hazardous and Offensive Development</b>	The planning proposal is not inconsistent with the provisions of this SEPP.
<b>SEPP No. 36 - Manufactured Home Estates</b>	The planning proposal is not inconsistent with the provisions of this SEPP.
<b>SEPP No. 44 - Koala Habitat Protection</b>	The planning proposal is not inconsistent with the provisions of this SEPP. No known koala habitat exists on the subject site.
<b>SEPP No. 50 - Canal Estates</b>	The planning proposal is not inconsistent with the provisions of this SEPP.
<b>SEPP No. 55 - Remediation of Land</b>	The planning proposal is not inconsistent with the provisions of this SEPP. The provisions of SEPP No. 55 – Remediation of Land have been taken into consideration in the preparation of the LES.
<b>SEPP No. 60 - Exempt and Complying Development</b>	The planning proposal is not inconsistent with the provisions of this SEPP.
<b>SEPP No. 62 - Sustainable Aquaculture</b>	The planning proposal is not inconsistent with the provisions of this SEPP. The provisions of SEPP No. 62 – Sustainable Aquaculture have been taken into consideration in the preparation of the LES.
<b>SEPP No. 64 - Advertising and Signage</b>	The planning proposal is not inconsistent with the provisions of this SEPP.
<b>SEPP No. 65 - Design Quality of Residential Flat Development</b>	The planning proposal is not inconsistent with the provisions of this SEPP.
<b>SEPP No. 71 - Coastal Protection</b>	The planning proposal is not inconsistent with the provisions of this SEPP and supports the intent of the SEPP.



Appendix 4 - Section 117 Direction Checklist

Section 117 Direction Checklist planning proposal - Cumbalum Urban Release Area Precinct A				
SECTION 117 DIRECTIONS	Application to Ballina Shire	Application of Direction to Draft Plan	Extent of Inconsistency	Justification for inconsistency
<b>1. Employment and Resources</b>				
1.1 Business and Industrial Zones	Yes	No	-	-
1.2 Rural Zones	Yes	Yes	Inconsistent  The planning proposal is inconsistent with Clause 4(a) in that it proposes to rezone land currently zoned for rural purposes to enable for residential/urban use.	Inconsistency justified.  Clause 5(c) enables a planning proposal to be inconsistent with the Direction where the proposal is in accordance with a Regional Strategy.  In this case, the subject site is identified in the Far North Coast Regional Strategy as a "proposed future urban release area" (refer Town and Village Growth Boundary Map - Sheet 3).
1.3 Mining, Petroleum Production and Extractive Industries	Yes	No	-	-
1.4 Oyster Aquaculture	Yes	No	-	-
1.5 Rural Lands	Yes	Yes	Refer to comments in item 1.2, above	Refer to comments in item 1.2, above
<b>2. Environment and Heritage</b>				
2.1 Environment Protection Zones	Yes	Yes	Not inconsistent.  Planning proposal involves an increase in lands zoned for environmental protection purposes.	-
2.2 Coastal Protection	Yes	Yes	Not inconsistent	-

## 4.1 Cumbalum Precinct A - Planning Proposal

SECTION 117 DIRECTIONS	Application to Ballina Shire	Application of Direction to Draft Plan	Extent of Inconsistency	Justification for inconsistency
2.3 Heritage Conservation	Yes	Yes	Not inconsistent  Archeological assessments have been undertaken as part of the LES. All actual and potential archaeological deposits are located outside of the proposed urban zone. The investigations suggest the potential for aboriginal archeological material within the proposed development areas is minimal. A stone wall is identified as a heritage item for the purpose of the LEP.	-
2.4 Recreation Vehicle Areas	Yes	No	-	-
<b>3. Housing, Infrastructure and Urban Development</b>				
3.1 Residential Zones	Yes	Yes	Not inconsistent.  Full range of residential used permitted with consent in proposed urban zone.  Essential services can be economically extended to service the development.	-
3.2 Caravan Parks and Manufactured Home Estates	Yes	Yes	Not inconsistent.  No caravan parks existing on the subject land. Caravan parks permitted with consent in proposed residential zone.	-
3.3 Home Occupations	Yes	Yes	Not inconsistent.  Home occupations will be permitted as exempt development within proposed residential zone.	-

## 4.1 Cumbalum Precinct A - Planning Proposal

SECTION 117 DIRECTIONS	Application to Ballina Shire	Application of Direction to Draft Plan	Extent of Inconsistency	Justification for inconsistency
3.4 Integrating Land Use and Transport	Yes	Yes	Inconsistent to the extent that transport options will be limited to private vehicles, cycling and limit bus services.	Inconsistency justified.  Development of the site is consistent with the provisions of the Far North Coast Regional Strategy.  Proposed subdivision layout compatible with future provision of bus services. Cumulative increase in coastal population will support increased bus services in the longer term.
3.5 Development Near Licensed Aerodromes	Yes	No	-	-
<b>4. Hazard and Risk</b>				
4.1 Acid Sulfate Soils	Yes	Yes	Not inconsistent.  Parts of the site proposed for development include mapped potential ASS areas. Detailed investigations indicate actual ASS do not occur in the areas proposed for development.	-
4.2 Mine Subsidence and Unstable Land	Yes	No	-	-
4.3 Flood Prone Land	Yes	Yes	Not inconsistent.  The areas proposed for urban development are almost located outside of the floodplain. The development of the site is not inconsistent with the Ballina Flood Study Update 2010.	-
4.4 Planning for Bushfire Protection	Yes	Yes	Not inconsistent.  Fire buffers are proposed to major stands of vegetation.	-

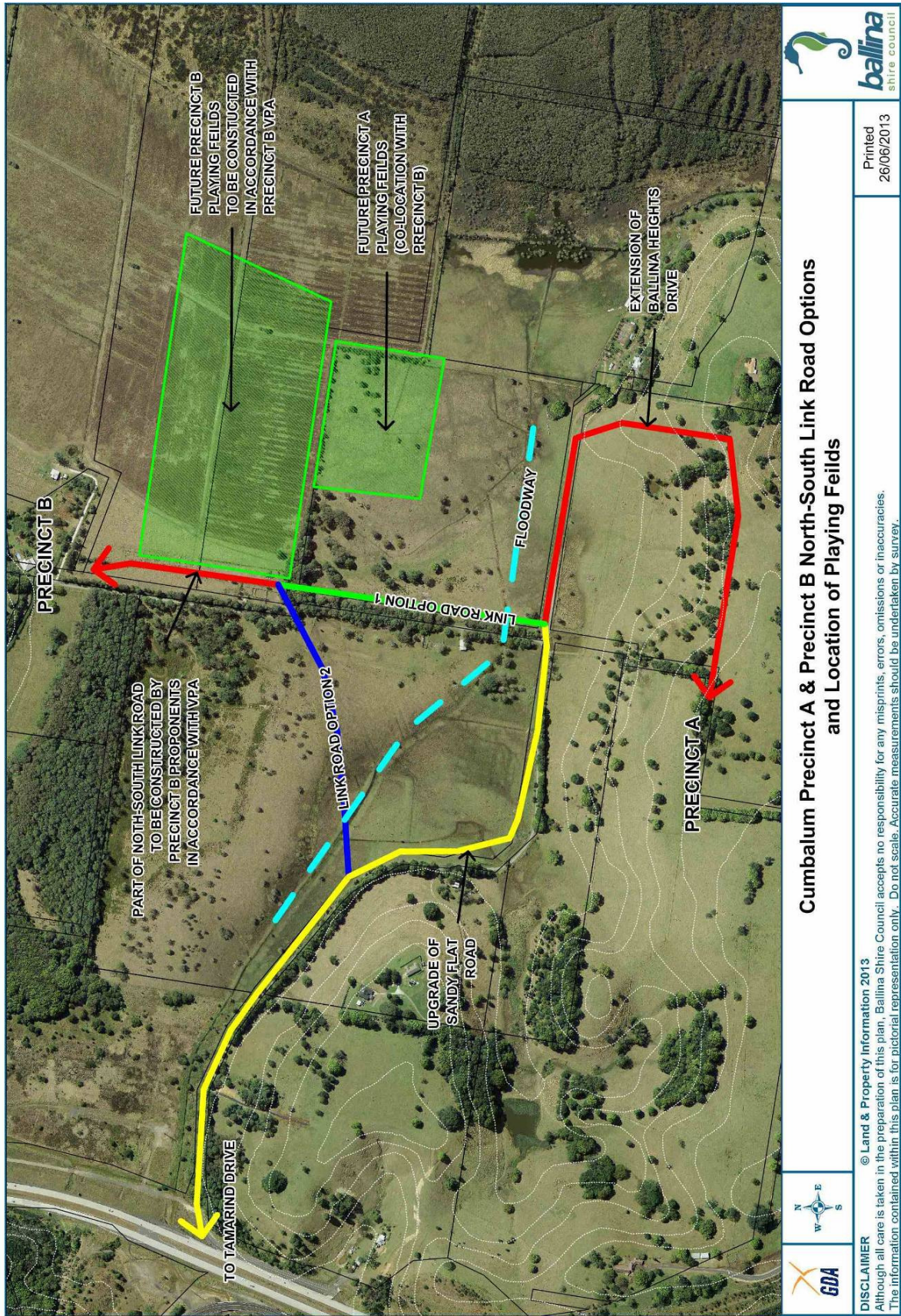
## 4.1 Cumbalum Precinct A - Planning Proposal

SECTION 117 DIRECTIONS	Application to Ballina Shire	Application of Direction to Draft Plan	Extent of Inconsistency	Justification for inconsistency
<b>5. Regional Planning</b>				
5.1 Implementation of Regional Strategies	Yes	Yes	Not inconsistent  The subject site is identified in the Far North Coast Regional Strategy as a "proposed future urban release area" (refer Town and Village Growth Boundary Map - Sheet 3).	-
5.2 Sydney Drinking Water Catchments	No	No	-	-
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Yes	Yes	Inconsistent.  The planning proposal involves rezoning regionally significant agricultural land to enable urban development.	Inconsistency justified.  The subject site is identified in the Far North Coast Regional Strategy as a "proposed future urban release area" (refer Town and Village Growth Boundary Map - Sheet 3).
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Yes	No	-	-
5.5 Development in the vicinity of Eillalong, Paxton and Millfield (Cessnock LGA)	No	No	-	-
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	No	No	-	-
5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	No	No	-	-
5.8 Second Sydney Airport: Badgerys Creek	No	No	-	-
<b>6. Local Plan Making</b>				
6.1 Approval and Referral Requirements	Yes	Yes	Not inconsistent	-
6.2 Reserving Land for Public Purposes	Yes	Yes	Not inconsistent	-

## 4.1 Cumbalum Precinct A - Planning Proposal

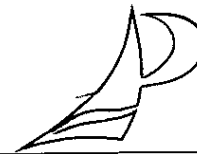
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SECTION 117 DIRECTIONS	Application to Ballina Shire	Application of Direction to Draft Plan	Extent of Inconsistency	Justification for inconsistency
6.3 Site Specific Provisions	Yes	No	-	-
<b>7. Metropolitan Planning</b>				
7.1 Implementation of the Metropolitan Strategy	No	No		





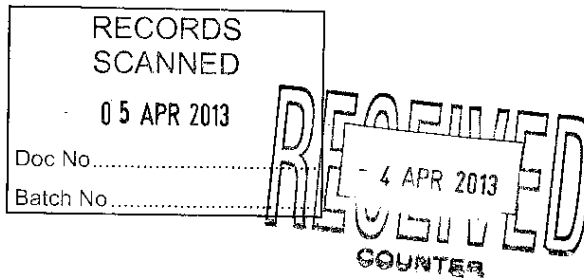
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5998 acoustic submission cover letter (april 2013).doc

4 April 2013

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



Attention: Mr Simon Scott

Dear Simon

re: CURA-A Planning Proposal

As you are aware, Ardill Payne & Partners continues to act on behalf of the CURA-A landowners in respect of the proposed rezoning of the land for urban purposes.

Council's Technical Officers have raised some concern with respect to road traffic noise impacts from the Ballina By-pass on the western sections of CURA-A which has resulted in Council proposing to rezone these "noise affected lots" as RU2 – Rural Landscape under the provisions of the Ballina LEP 2012.

During the planning proposal process, it has been acknowledged by Council on numerous occasions that it would receive and consider further information in respect of the proposed urban zoning of this land, where appropriate measures can be identified to mitigate adverse noise impacts on future dwellings from highway road traffic noise.

Attached herewith are two (2) copies of a supplementary report that has been prepared to support the proposed residential zoning and development of the land, which contains:

- advice from a specialist acoustic consultant
- a range of indicative acoustic sensitive house designs/treatments

Engineers | Planners | Surveyors | Environmental | Project Management

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79 Tamar Street  
PO Box 20  
BALLINA NSW 2478  
Ph: 02-6686 3280

**BRISBANE**  
Level 1, The Designbank  
89 Grey Street  
SOUTH BRISBANE QLD 4101  
Ph: 07-3123 6675

**GUNNDAH**  
Germane House,  
285 Conadilly Street,  
GUNNDAH NSW 2380  
Ph: 02-6742 9955

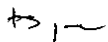
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5998 acoustic submission cover letter (april 2013).doc  
4 April 2013

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- acoustic specific DCP extracts from other NSW Councils (for lots fronting busy road or rail corridors)
- suggested acoustic DCP specific provisions that could be incorporated into the Ballina DCP 2012

Should you have any questions in respect of this matter please contact Bill Payne or Paul Snellgrove on 6686 3280.

Yours faithfully



Paul Snellgrove

**ARDILL PAYNE & PARTNERS**

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**ARDILL PAYNE & PARTNERS**

Civil & Structural Engineers – Project Managers – Town Planners – Surveyors



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**SUPPLEMENT TO PLANNING  
PROPOSAL – ACOUSTIC ISSUES**

Submission to Ballina Shire Council

To rezone land for urban purposes  
Cumbalum Urban Release Area – Precinct A  
(previously BLEP Amendment No. 105)

for:  
CURA-A Landowners

April 2013

Document Control Sheet

Filename:	5998 Supplementary report – noise lots (April 2013)
Job No.:	5998
Job Captain:	Bill Payne
Author:	Paul Snellgrove
Client:	CURA-A landowners
File/Pathname:	

Revision No:	Checked By		Issued By	
	Name	Signed	Name	Signed
0			Paul Snellgrove	<i>PS</i>
1				
2				

Supplementary report – noise lots  
 CURA-A Planning Proposal  
 April 2013

Page 1

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**1.1 Introduction**

This supplementary submission relates to the CURA-A Planning Proposal and in particular to the land that is proximate to the Pacific Highway Ballina By-Pass, which is now zoned RU1 – Primary Production Zone (with a small section zoned part RU2 – Rural Landscape Zone) under the provisions of the Ballina LEP 2012.

The land that is subject of this submission is owned by the Catholic Church, Sheather and Intrapac and is described in real property terms as:

- Lot 1 DP 1077982
- Lot 18 DP 1022777
- Lot 190 DP 1063589
- Lot 2 DP 1171927
- Lot 20 DP 1022777

Provided at **Appendix A**, is a copy of the amending LEP map for the BLEP 2012 (which references the prior DBLEP 2011), as proposed by Council.

Provided at **Appendix B** is an aerial photograph which shows the relationship of the subject land to the highway.

This land was identified in the original rezoning submission as being appropriate for urban development (residential subdivision) and was thus proposed by APP to be zoned for urban residential purposes.

Provided at **Appendix C** is a copy of the zoning regime proposed by Council, which has been overlain by the conceptual subdivision layout.

Council at its Ordinary Meeting of the 26<sup>th</sup> July 2012 considered a report on this planning proposal and resolved as follows [Minute No. 260712/21]:

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

- a) *The proponents providing a signed Voluntary Planning Agreement (or agreement is reached on a suitable alternative mechanism) that satisfies the Council's requirements with respect to securing future infrastructure delivery obligations; and*
  - b) *Council's Civil Services Group advising that a stormwater management system can be designed that is capable of servicing the subject land, without having an adverse impact on downstream private properties and ecology.*
2. *That where items 1(a) and 1(b) are not resolved in a period of three months, the matter be reported to Council for further consideration.*
  3. *That Council pursue the relevant State Government agency regarding the renewal of the maintenance regime of the drainage system within the Ballina Nature Reserve.*

Council at its Ordinary Meeting of 20 December 2012 considered a further report on the planning proposal and resolved as follows [Minute No. 201212/6]:

1. *That Council provides in principle support to the Precinct A Planning Proposal, however Council is not yet prepared to advance the proposal due to on-going concerns relating to the funding of infrastructure.*
2. *In order to assist in addressing the infrastructure concerns Council authorises the General Manager to make a submission to the Minister for Planning seeking an exemption to the Section 94 contributions cap to allow Council to implement a Section 94 Plan that allows the developers to finance the infrastructure in accordance with the voluntary planning agreement as previously prepared by Council and as per the correspondence from Ardill Payne & Partners dated 19 December 2012.*
3. *The submission to the Minister is to include letters of support from all landowners in respect to this approach to funding the infrastructure.*
4. *That following receipt of the response from the Minister, Council receive a further report outlining the financial risk and arrangements associated with the introduction of the proposed Section 94 Plan along with details on the strategies relating to the implementation of such plan to minimise the risk and provide an effective development contributions framework governing the development of Precinct A."*

In respect of the above:

- APP wrote to Council (letter dated 5<sup>th</sup> February 2013) providing signed CURA-A landowner's consent to the lifting of the Section 94 cap.
- Council wrote to Minister Hazzard (letter dated 15<sup>th</sup> February 2013) requesting that the Ministerial Direction pursuant to Section 94E of the EP & A Act 1979 be amended to include Precinct A of CURA in Schedule 1 of the Direction.

This submission has been made to address issues that have been raised by Council staff and reported to Council, particularly in respect of the "noise affected lots".

The following is an extract from Council's 17<sup>th</sup> July 2012 Environmental & Sustainability Committee Meeting Agenda (Item 4.1 – Cumbalum Precinct A Planning Proposal) under the heading "Road Noise":

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

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

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

Council at its Ordinary Meeting of the 26<sup>th</sup> July 2012 resolved to adopt the Ballina Shire Council Urban Growth Management Strategy.

Provided at **Appendix D**, are extracts of the Strategy in respect of the Cumbalum locality, which confirm that the subject land is wholly

identified as a "Strategic Urban Growth Area", with one of the Strategic Actions being to "Establish a Development Control Plan (DCP) to guide future integrated subdivision, development and services delivery."

### 1.2 Milestones of rezoning process

The following identifies the various dates of significant milestones in the processing of the rezoning proposal:

- August 2007 – Council resolved to commence rezoning process pursuant to s54 (then) of the Act
- May 2008 – Ardill Payne & Partners (APP) submitted technical documents supporting rezoning proposal on behalf of property owners
- December 2008 – GHD (on Council's behalf) completed first round peer review of technical rezoning documents
- February 2010 – APP submitted revised technical documents in response to Council's/GHD's peer review
- April 2010 – GHD (on Council's behalf) completed second round peer review of technical documents
- July 2010 – APP submitted additional technical information in respect of slope stability, acid sulfate soils, stormwater and road traffic noise
- August 2011 – APP submitted final revised reports in respect of stormwater (particularly impacts on downstream private property, SEPP 14 wetlands and Ballina Nature Reserve) and road traffic noise
- October 2011 – finalisation of LES by GHD (on Council's behalf)
- November 2011 – Report to Ordinary Council meeting – Council resolved to publicly exhibit the planning proposal
- 12 January 2012 to 30 March 2012 – public exhibition of planning proposal
- 25 January 2012 – landholder briefing sessions at Council's Customer Service Centre
- 29 February 2012 – "drop in" session with Council's Strategic Planning and Engineering staff at Council's Customer Service Centre
- 10 March 2012 – public information session at Lennox Head Cultural and Community Centre
- 17 July 2012 – Report to Environmental & Sustainability Committee meeting – report on public submissions made in respect of public exhibition of planning proposal

- 26 July 2012 – Report to Ordinary Council meeting – Council resolved (Resolution 260712/1) to proceed to finalise planning proposal subject to certain matters (refer Section 1.1 above)
- 10 August 2012 – Council's Strategic Services Group provided a letter (dated 10 August 2012) advising of the above resolution and confirming that a Draft VPA was being prepared by Council– (NB: Neither the landowners or persons acting on their behalf had any input into the VPA)
- 17 August 2012 – Council's Strategic Services Group provided a letter (dated 17 August 2012) advising of the above resolution and to which was attached a copy of a Draft VPA for CURA-A
- 5 September 2012 – APP letter to Council confirming commissioning of BMT WBM to undertaken further stormwater/flood modelling and confirming payment of requisite fees for undertaking of such modelling
- 11 September 2012 – An amended VPA was received by APP from Council's Strategic Services Group (email dated 11 September 2012)
- Sept/Oct 2012 – A number of meetings were had between CURA-A landowners and Town Planners, Engineers and Solicitors acting on their behalf in respect of the Draft VPA and the alternative mechanism
- 12 October 2012 – An alternative mechanism for infrastructure provision and servicing (letter dated 12 October 2012) was emailed and posted to Council's Strategic Services Group
- 20 December 2012 – Report to Ordinary Council meeting – Council resolved (Resolution 201212/6) to provide in principle support for Precinct A Planning Proposal subject to certain matters (refer Section 1.1 above).
- 5 February 2013 – APP letter to Council providing signed CURA-A landowner consent to lifting of the s94 cap.
- 15 February 2013 – Council letter to Minister Hazard requesting support for raising of s94 cap.



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Acoustic matters

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**2.1 Background**

As detailed in Section 1.1 above, the planning proposal has been supported and informed by a number of technical acoustic assessments/reports that have been undertaken by a specialist acoustic consulting firm (CRG Acoustical Consultants).

These investigations involved modelling (pre opening of Ballina By-Pass) and further actual monitoring (post opening of both lanes of the Ballina By-Pass). The final report was prepared having regard to the new legislative requirements of the "NSW Road Noise Policy (NSW Department of Environment, Climate Change and Water) that came into effect in July 2011.

The conclusions of the expert specialist acoustic consultant are as follows:

*"Road traffic noise criterion for new residential developments is now specified in the State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP); therefore, the current "NSW Road Noise Policy" does not provide noise goals for new residential developments. Of particular importance, the Infrastructure SEPP prescribes internal noise criterion for proposed noise sensitive developments; and recognises that judicious land use planning, architectural design, building orientation and good internal layout can achieve acceptable acoustic amenity near busy transport corridors. The Infrastructure SEPP does not exclude residential development adjacent to busy roads such as the Ballina Bypass; but instead provides "recommended approaches" to ensure an acceptable level of amenity can be achieved for future residents.*

*This report predicts future road traffic noise from the Bypass and determines the extent of acoustic treatments for the proposed lots. Overall, the proposed road will generally be within acceptable levels of the adopted criterion subject to acoustic treatments recommended in Section 6 being integrated into the design and construction of the future onsite dwellings. The developer and dwelling designer/builder can also find advice on how to meet the noise the criterion within the Infrastructure SEPP by referring to the "Development near rail corridors and busy roads – interim guidelines."*

As reported in Item 4.1 of Council's 17<sup>th</sup> July 2012 Environmental & Sustainability Committee meeting, it was reported by staff that "From the information submitted it would appear that with reliance on individual building acoustic treatments, the guidelines for internal noise criteria are achievable."

Notwithstanding such, the Staff's report invited Council to consider whether the measures required to achieve such criteria were appropriate in the circumstances, having regard to certain matters including the following:

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

The following comments are made in direct response to each of the above dot points:

- The relevant guidelines include but are not limited to “ideally locating residential development away from major roads”. The NSW Government Department of Planning document “Development near rail corridors and busy roads – Interim guideline” states the following in respect to control of road noise impacts on new land release:

### 3.8.1 Subdivisions and new land release

When considering major renewal of areas, business parks or the subdivision of land located near busy roads or rail corridors, potential noise and vibration impacts should be considered at the master planning/concept planning stage. At this stage there is more opportunity to address noise and vibration through setbacks, building orientation, layout, building height controls or noise barriers. In some cases, it might be appropriate to design open spaces adjacent to the busy road/railway corridor to setback residential uses to reduce noise exposure. These open space areas could also include appropriate bunding to buffer adverse noise impacts and provide for cycle or pedestrian paths along the road/railway line to improve accessibility.

From the above, it is noted that building orientation and layout is included in the issues to be taken into account at master planning stage. Examples of such constructions are provided in the Interim Guideline as follows:

**Courtyards**

There are several ways noise can be reduced in external recreational areas. One way is to increase the distance between the road and the external recreational area. Another is to provide a screen or noise barrier. Incorporating shielded courtyards into the design can also protect occupants from traffic noise.

Use of good building layout is another way of reducing noise to external courtyard areas as illustrated in **Figure 3.17**. Buildings in 'C' shaped layouts can also be utilised to create outdoor areas protected from noise.

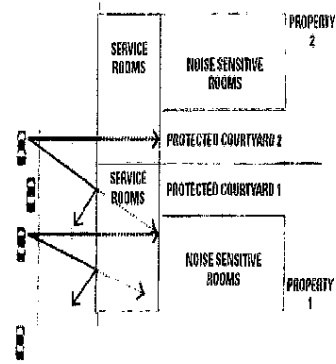


Figure 3.17: Noise shielded courtyards

The Interim Guideline cites distance separation, barriers and shielded courtyards as potential noise control treatments to outdoor recreation areas. The acoustic report noted that the Infrastructure SEPP does not exclude residential development adjacent to busy roads, but instead provides recommended approaches to ensure an acceptable level of amenity for future occupants of dwellings.

The Infrastructure SEPP recognises that judicious land-use planning, architectural design, building orientation and good internal layouts can achieve acceptable acoustical amenity adjacent to busy transport corridors.

From the noise assessment, it was concluded that standard building construction would result in acceptable noise levels inside habitable spaces (with windows closed), therefore, the main constraint on building design is to include an outdoor recreation space that is screened to the Bypass by the dwelling.

There are options for ventilation to comply with the requirements of the BCA that do not involve air conditioning. It should be noted that some local manufacturers have starting producing purpose designed low energy consuming fan forced ventilation units (eg Boral "Sonair") that are intended to assist in noise control.

It is noted that the required level of building treatment to achieve acceptable noise levels inside dwellings is standard type construction, but with windows closed. Such a building

treatment standard is not expected to increase the cost a dwelling significantly.

As detailed on the plans at **Appendix E**, the designs provide for private courtyards that are contiguous with living areas that are acoustically screened by either a constructed 1.8m high wall or are shielded by other parts of the building.

These treatments are such that will provide practical outdoor living areas, the amenity of which will not be adversely impacted by road traffic noise.

If noise controls are adopted into a DCP or embodied into consent conditions, it would be prudent for Council not to relax any noise mitigating development standards for any future home builders.

As detailed in the house designs provided at **Appendix E**, there are numerous practical, effective and contemporary layout and design options that would not necessarily incur any significant additional costs in design and construction.

Irrespective of such, should there be some cost differential in the construction of houses on these lots, it is submitted that the market will dictate the impacts of such.

It is submitted that the Minister would likely accede to a request for an exemption from complying development where such would be consistent with an adopted DCP and specific consent conditions.

### **2.2 Other comparable Development Control Plan provisions**

The control and management of acoustic protection is able to be covered by a range of planning mechanisms including DCP provisions and conditions of development consent.

Provided at **Appendix F** is a number of extracts from DCPs from a range of NSW Councils, which provide design controls and principles to mitigate adverse noise impacts on dwellings adjoining noisy road and rail corridors.

As noted in such, there is a generally uniform approach to such which is based primarily on controls on the design/floor layout and construction materials of the dwelling and on the treatment of openings (windows and doors).

It is also open to Council to include requirements for acoustic reports to be prepared to support and inform development applications so as to ensure certain levels of noise attenuation are achieved.

The bulk of the referenced DCP's require the express consideration of the provisions of the Infrastructure SEPP 2007.

### 2.3 Proposed Development Control Plan provisions

As Council would be aware, Clause 6.3(2) of the BLEP 2012 provides that consent must not be granted for land in an urban release area unless a development control plan that provides for the matters specified in subclause (3) has been prepared for the land.

Subclause (3)(f) provides that the DCP must provide for "*amelioration of natural and environmental hazards, including bushfire, flooding and site contamination and ....*".

Having regard to the above, it is incumbent for a DCP to be prepared in respect of any of the CURA-A land that is to be subdivided and developed for urban residential purposes and thus such DCP can and should contain acoustic provisions for all residential dwellings.

Provided at **Appendix G** are draft DCP provisions relating to acoustic matters that could be incorporated into Council's DCP 2012 (or any other relevant DCP applying to the land at that time).

### 2.4 House designs and treatments

The Ballina By-pass is situated generally to the west and south-west of the CURA-A and thus the road traffic noise will emanate therefrom. It is conventional and practical house design in sub-tropical areas, for the western sides/elevations of dwellings to contain limited/reduced numbers of openings/glazing so as to reduce potential adverse impacts from hot afternoon summer sun.

In this respect it is also common practice to place less heat sensitive rooms (such as garages, laundries, bathrooms, storage rooms, en-suites, stairwells, corridors etc) on the western side of dwellings.

Notwithstanding the possible road traffic noise issue, the proposed RU2 zoned land on the western side of CURA-A is ideally suited for future residential subdivision and development as it is largely unconstrained (particularly not by slope, flooding, acid sulfate soils, vegetation, contamination or heritage).

Having regard to the provisions referenced in Sections 2.2 and 2.3 above (and in particular to the "*Development near rail corridors and busy roads – interim guidelines*"), a range of conceptual noise responsive house designs have been prepared, with copies of such being provided at Appendix E.

The house designs have been prepared with specific regard to the slope, aspect, views and orientation of the possible future lots and to the location of the noise source (being the Pacific Highway generally to the west).

The house designs are for either north-south or east-west long axis lots. There are numerous ways to mitigate noise, heat and ventilation. Measures such as external shutters, screens, courtyard or landscape feature walls plus double glazing (or heavier glass in some instances) is all that is required.

Cross ventilation can be assisted by clerestory (high level) windows and vents or even small 'wind towers' (east facing to avoid traffic noise and capture cool summer breezes).

As will be noted on the plans, all designs involve the use non-habitable utility rooms (or at least non-sleeping rooms) as buffers to traffic noise coming from the south and west.

These rooms will also provide a heat buffer to the western afternoon sun where reasonably possible. In some cases, windows (or glazed doors) have been provided to living rooms and some bedrooms. However in these cases, it has been assumed that traffic noise will be buffered by using double glazing and/or courtyard walls.

On the premise that if the line of sight to the traffic can be blocked, then noise impacts are much reduced, it is also possible to use

courtyard walls to screen traffic noise coming from the bottom of the hill while maintaining some views west-ward across the valley.

These designs are also premised on any western-facing windows or glazed doors being equipped with sun-shading (eg adjustable louvres, shutters or awnings) to block or ameliorate hot afternoon sun in warmer months.

Steps (split levels) have been provided within the designs to respond to typical indicative ground slopes (ie falling to the south-west and west). This has been done to minimise the need for land benching and the construction of retaining walls on steeper sloping lots.



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### 5 Conclusion

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Detailed specialist acoustic assessments have been undertaken to support and inform the planning proposal which have confirmed that internal noise criteria for future dwellings are achievable via the use of individual building acoustic treatments.

Having regard to the above, it is submitted that it would be appropriate for Council to modify the proposed RU2 zone adjacent to the Ballina By-pass to either an R2 or R3 zone due to the fact that:

- notwithstanding the possible noise issue, this land is ideally suited for future urban/residential subdivision and development particularly as it is largely unconstrained (particularly not by slope, vegetation, flooding, acid sulfate soils, contamination or heritage etc)
- road noise impacts can be managed and mitigated by a diverse range of practical, efficient and sustainable measures/controls
- appropriate acoustic controls for dwellings and subdivision layout are able to be incorporated into the DCP
- the provision of a DCP is a pre-requisite for Council granting consent to any development application for subdivision of the subject land as per Clause 6.3 of the BLEP 2012
- further detailed and specific acoustic investigation and reporting is able to be undertaken to support and inform any DA for subdivision or buildings (at DA level documentation)
- further acoustic controls and mitigation measures are able to be imposed by way of conditions of consent on any consents for subdivision and/or buildings
- should the RU2 land be zoned R2 or R3, this does not infer any right to subdivide or develop all of the R2 or R3 zoned land – all applications would be subject to further design, reporting/investigation and merit assessment
- an RU2 zone will effectively preclude further detailed investigation and reporting into the urban suitability of the land via the DCP and/or development application process, should acoustic issues able to be addressed
- Council should be looking to maximise the future urban/residential zoned land within CURA-A and the Cumbalum Ridge as this is the major urban growth area for the Shire – the proposed RU2 zone will unnecessarily sterilise this land in the short to medium term

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<b>Appendix A</b>	Proposed zoning regime (per Ballina Council)
<b>Appendix B</b>	Aerial photograph of subject and adjoining land
<b>Appendix C</b>	Proposed BLEP 2012 zoning regime and concept subdivision layout
<b>Appendix D</b>	Extract: BSC Urban Growth Management Strategy
<b>Appendix E</b>	Indicative "noise mitigating house designs"
<b>Appendix F</b>	Examples of development control plan provisions for acoustic amenity
<b>Appendix F</b>	Proposed DCP provisions for acoustic amenity

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APPENDIX A

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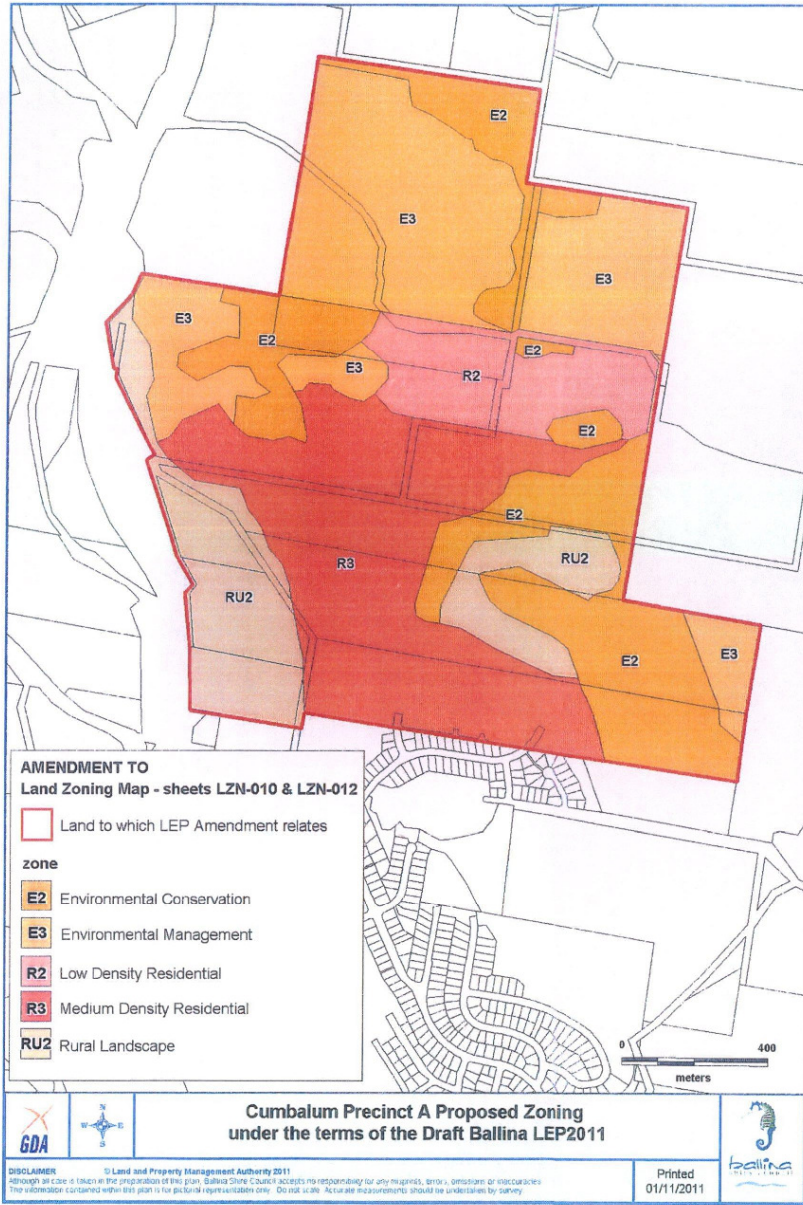
**Appendix A**  
Proposed zoning regime (per  
Ballina Council)

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*Supplementary report – noise lots  
CURA-A Planning Proposal  
April 2013*

*Page 18*

Appendix 2 - Proposed Amending LEP maps



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APPENDIX B

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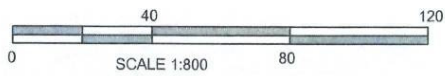
**Appendix B**  
Aerial photograph of subject  
land and highway

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*Supplementary report – noise lots  
CURA-A Planning Proposal  
April 2013*

*Page 19*

ATTACHMENT B



**Attachment B**  
Aerial image of proposed development area

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APPENDIX C

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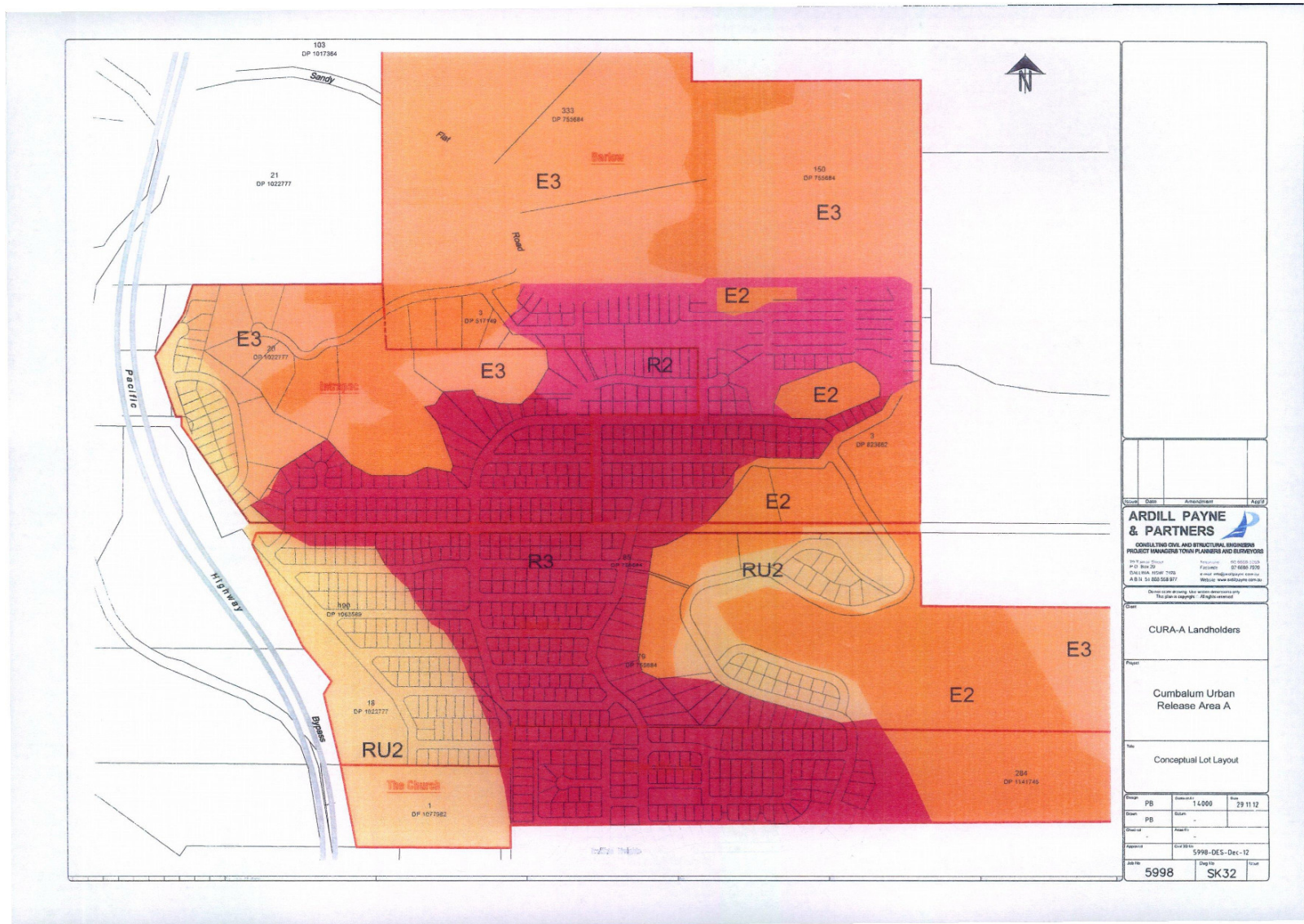
**Appendix C**  
Proposed BLEP 2012 zoning  
regime overlain by concept  
subdivision layout

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*Supplementary report – noise lots  
CURA-A Planning Proposal  
April 2013*

*Page 20*

4.1 Cumbalum Precinct A - Planning Proposal





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APPENDIX D

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Appendix D  
Extract: BSC Urban Growth  
Management Strategy

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*Supplementary report – noise lots  
CURA-A Planning Proposal  
April 2013*

Page 21

### Cumbalum

#### Locality Vision / Character Statement:

*'The Cumbalum Villages are envisaged as two (possibly three) distinct but related communities, designed and built so as to not impinge upon the surrounding rural and natural environment, each with its individual character and sense of place.*

*Each village will be a fully featured community, comprising residential areas embellished with public open space and a centrally located village centre, providing a focal point for commercial and community activities'.*

#### Main Features:

- The Cumbalum Urban Release Area (CURA) comprises 157 hectares of residential zoned land ('Ballina Heights'), with an additional 850 hectares currently under investigation for potential rezoning for urban purposes. It is anticipated that not all the latter area will be rezoned for urban purposes, due to the presence of environmental constraints and urban design considerations.
- Currently the un-developed portion of the CURA land comprises a mixture of rural and agricultural land uses, with a variable subdivision pattern and limited access.
- The future development of the CURA has been subject to locality based strategic planning work - the Cumbalum Structure Plan (2006).

#### Key Issues:

- The Cumbalum locality is recognised in the NSW State Government's Far North Coast Regional Strategy as a major urban release area, anticipated to accommodate a substantial proportion of future population growth anticipated for Ballina Shire and the Far North Coast Region.
- Detailed planning is required to determine those parts of the locality that have capacity to accommodate urban development and other land uses, whilst adequately protecting other adjacent sensitive or productive areas and ensuring the timely and equitable delivery of services. This will be achieved via the statutory rezoning process.
- The area contains Aboriginal, European and other non-Aboriginal heritage sites/values.

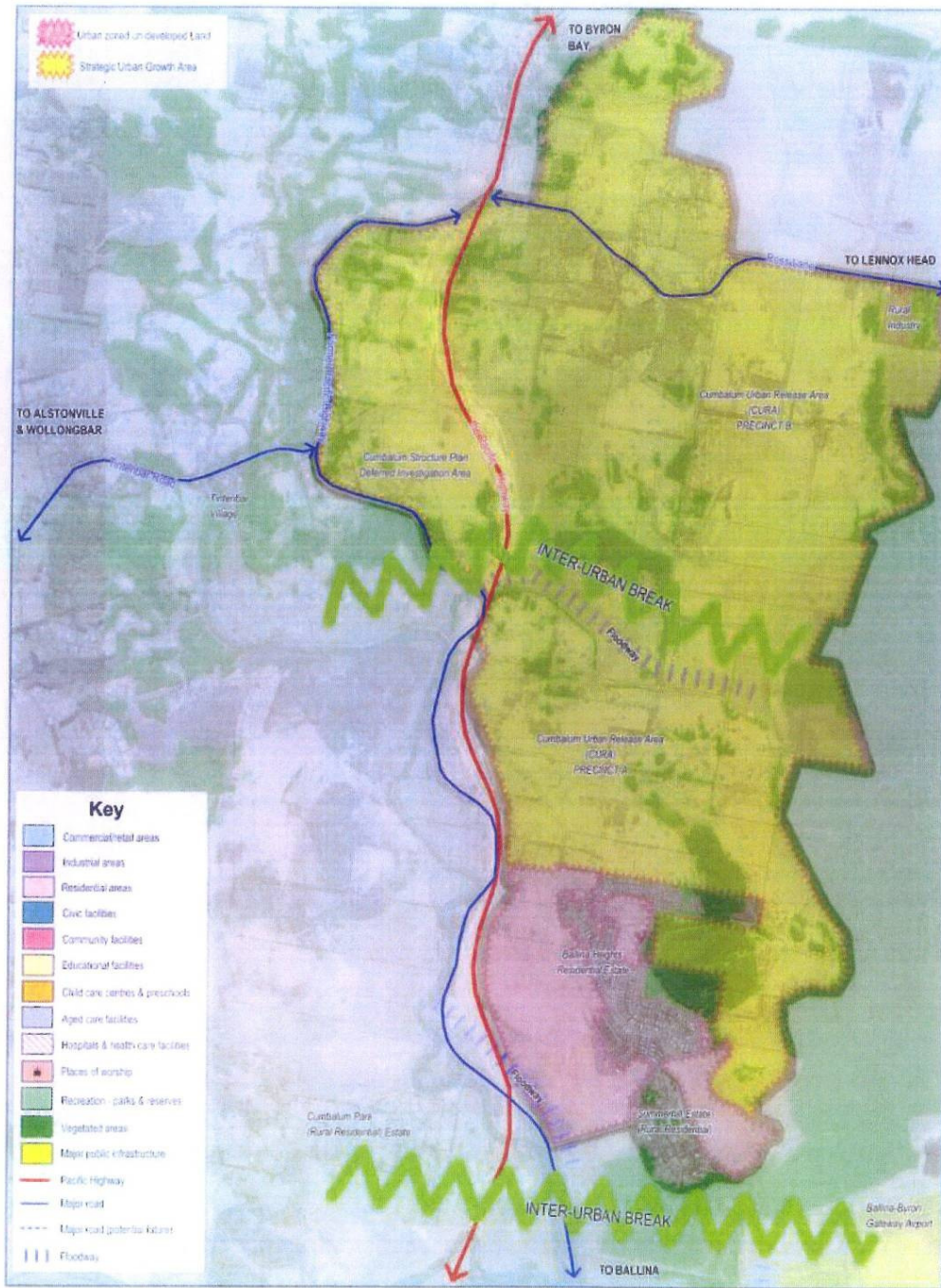
#### Locality Objectives:

- Future development to provide for a range of lifestyle and other opportunities, including commerce and employment, recreation and a quality living environment.
- Economic and efficient development that recognises that these areas represent several of the remaining significant land releases in the shire.
- Preference for development to proceed as a south to north progression to maximise the efficient delivery of infrastructure.
- Manage Aboriginal, European and other non-Aboriginal cultural heritage values in accordance with best practice guidelines.

#### Strategic Actions:

- Undertake a detailed site analysis and investigations to determine appropriate land use zoning that includes provision for employment and recreation outcomes.
- Establish a Development Control Plan (DCP) to guide future integrated subdivision, development and services delivery.
- Prepare an Infrastructure Delivery Plan for the locality.
- Manage and/or promote Aboriginal, European and other non-Aboriginal cultural heritage values in accordance with relevant stakeholders.

4.1 Cumbalum Precinct A - Planning Proposal



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APPENDIX E

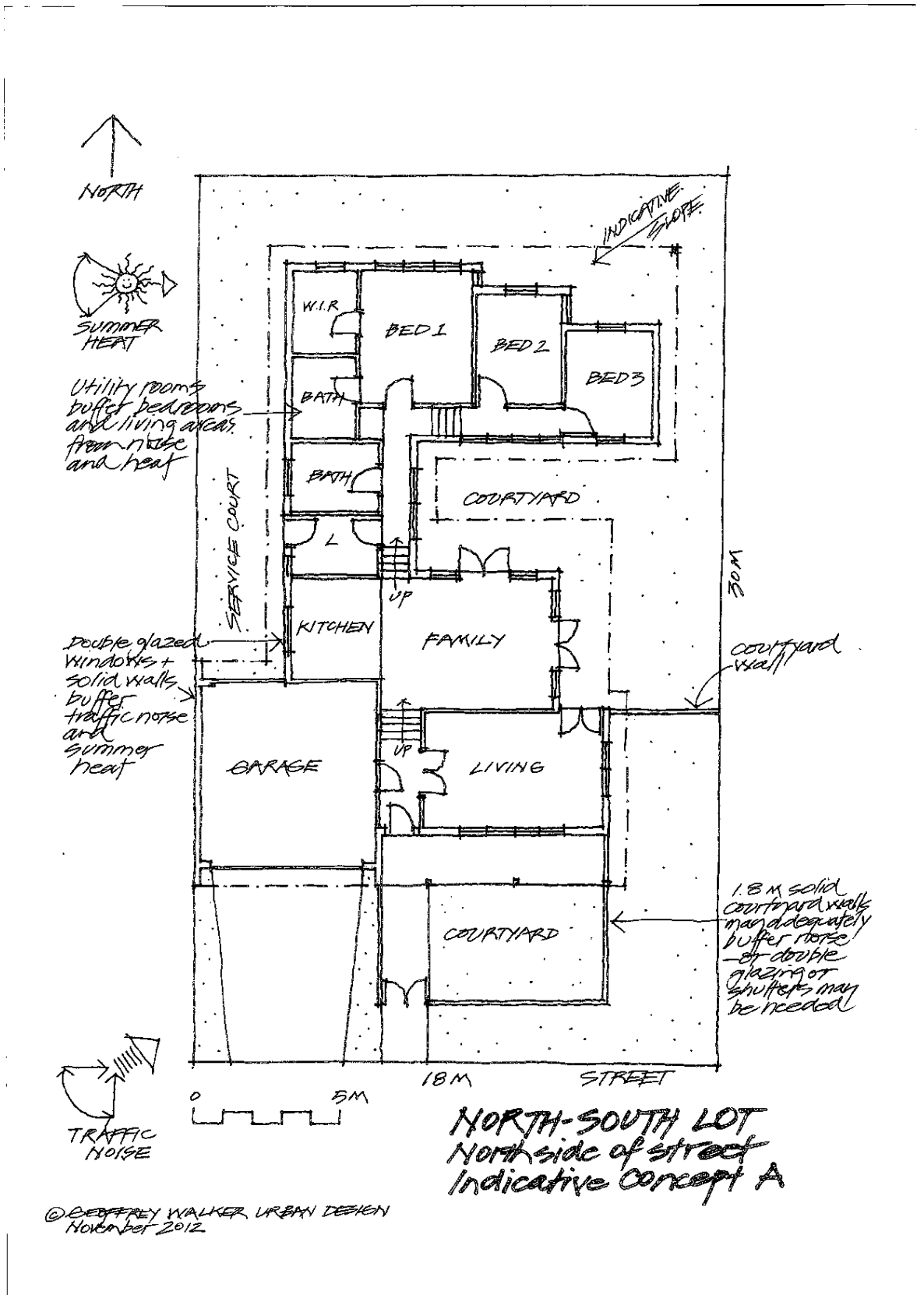
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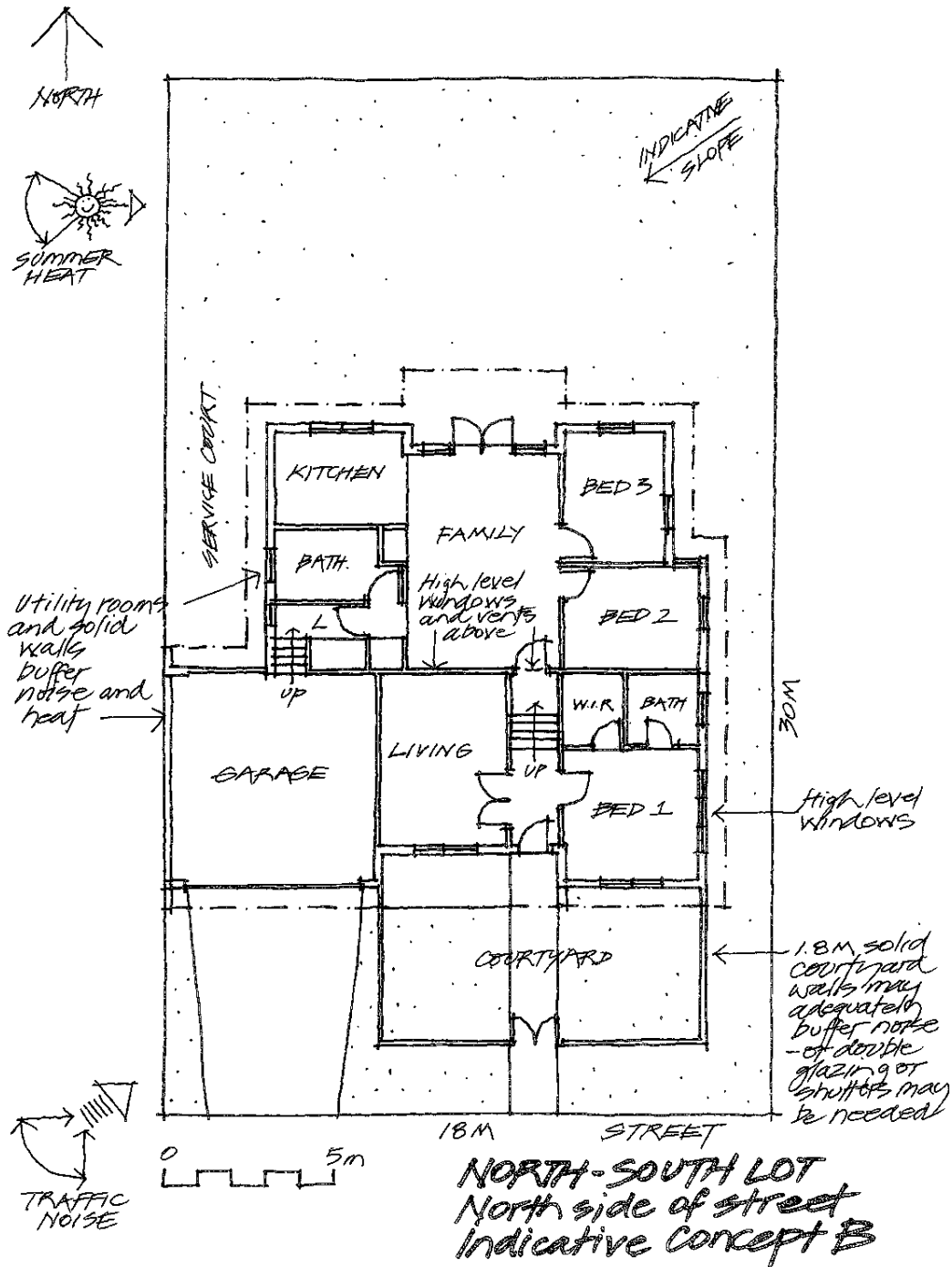
**Appendix E**  
Indicative "noise mitigating  
house designs"

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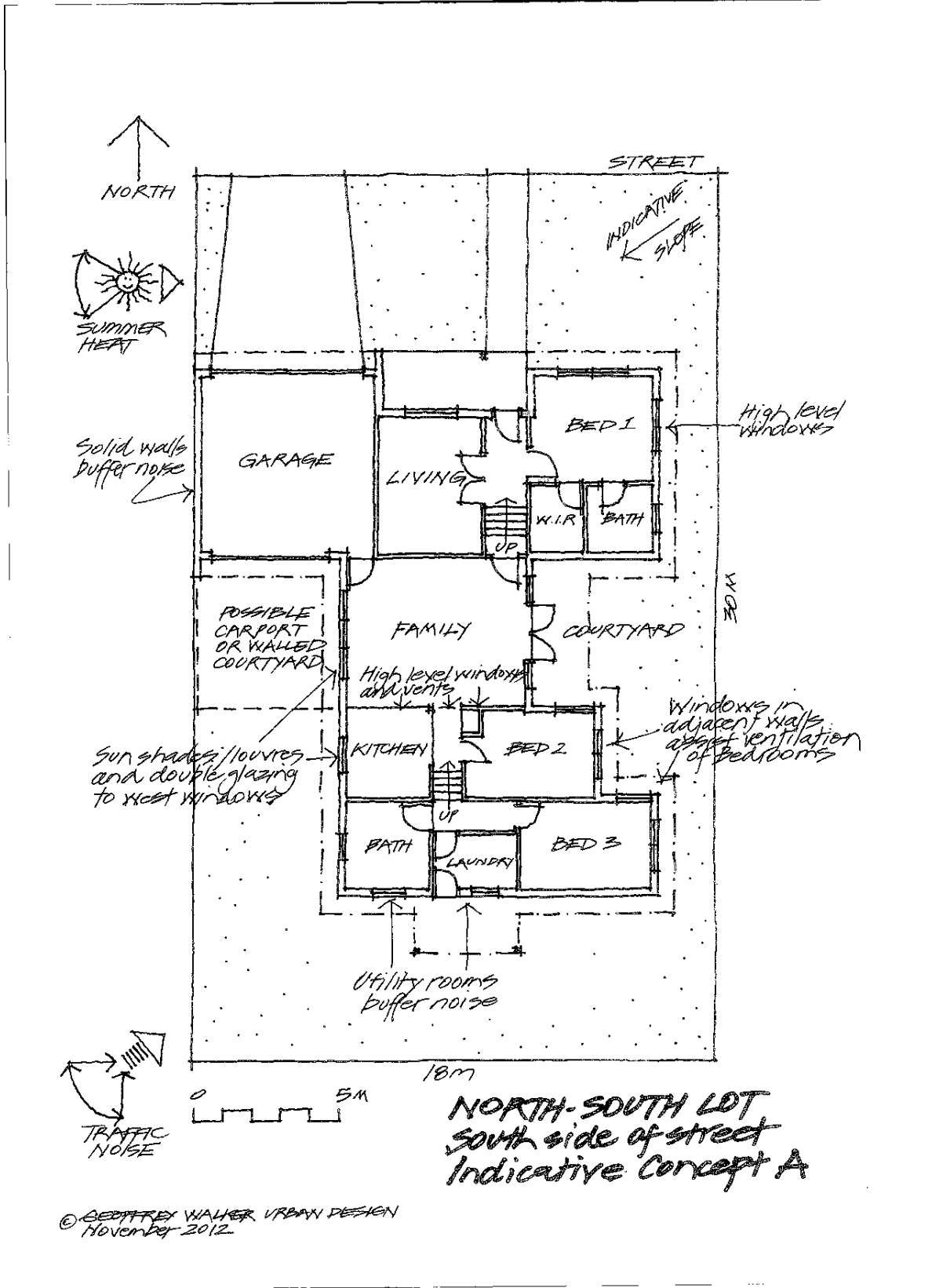
*Supplementary report – noise lots  
CURA-A Planning Proposal  
April 2013*

*Page 22*

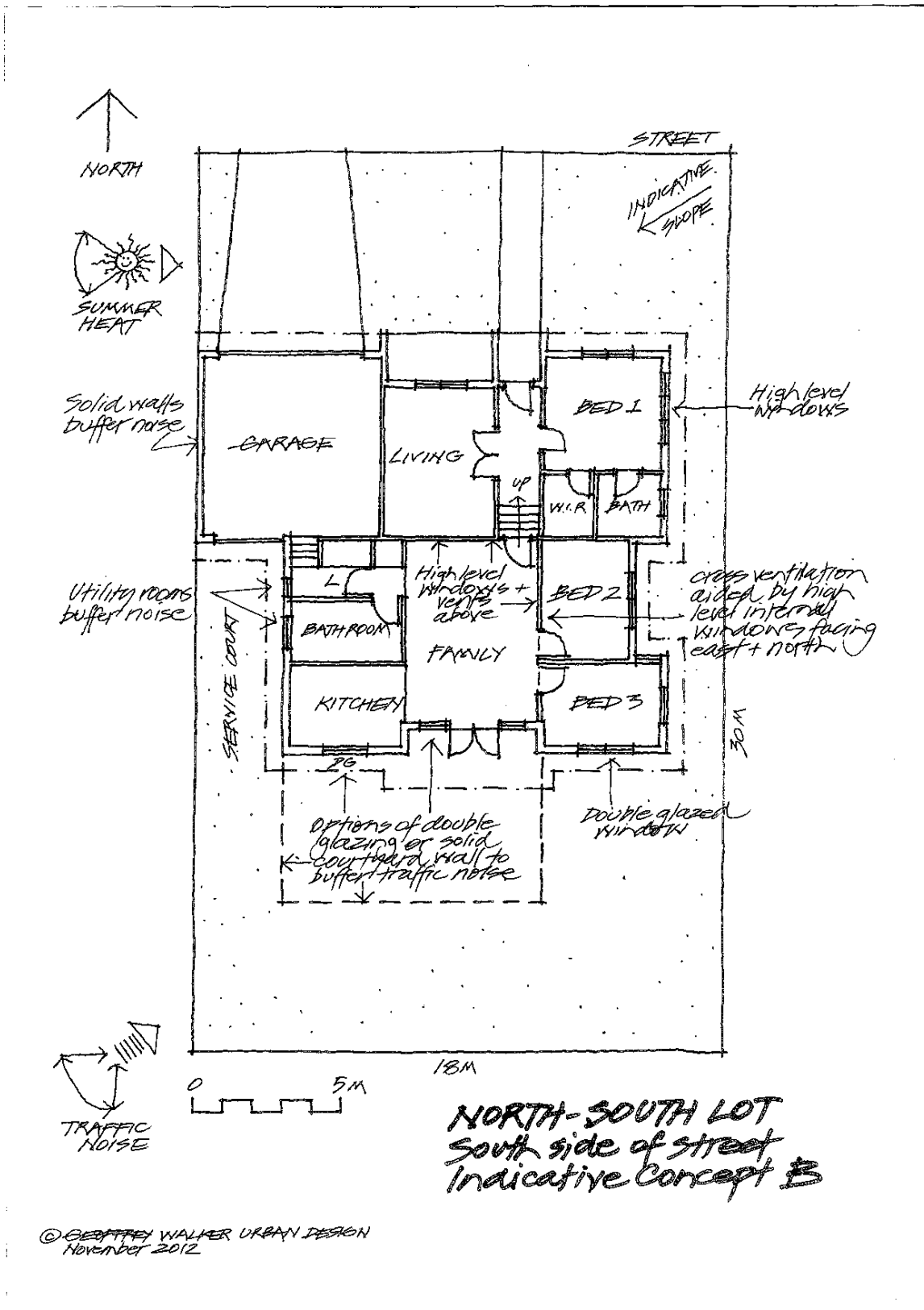




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NOVEMBER 2012

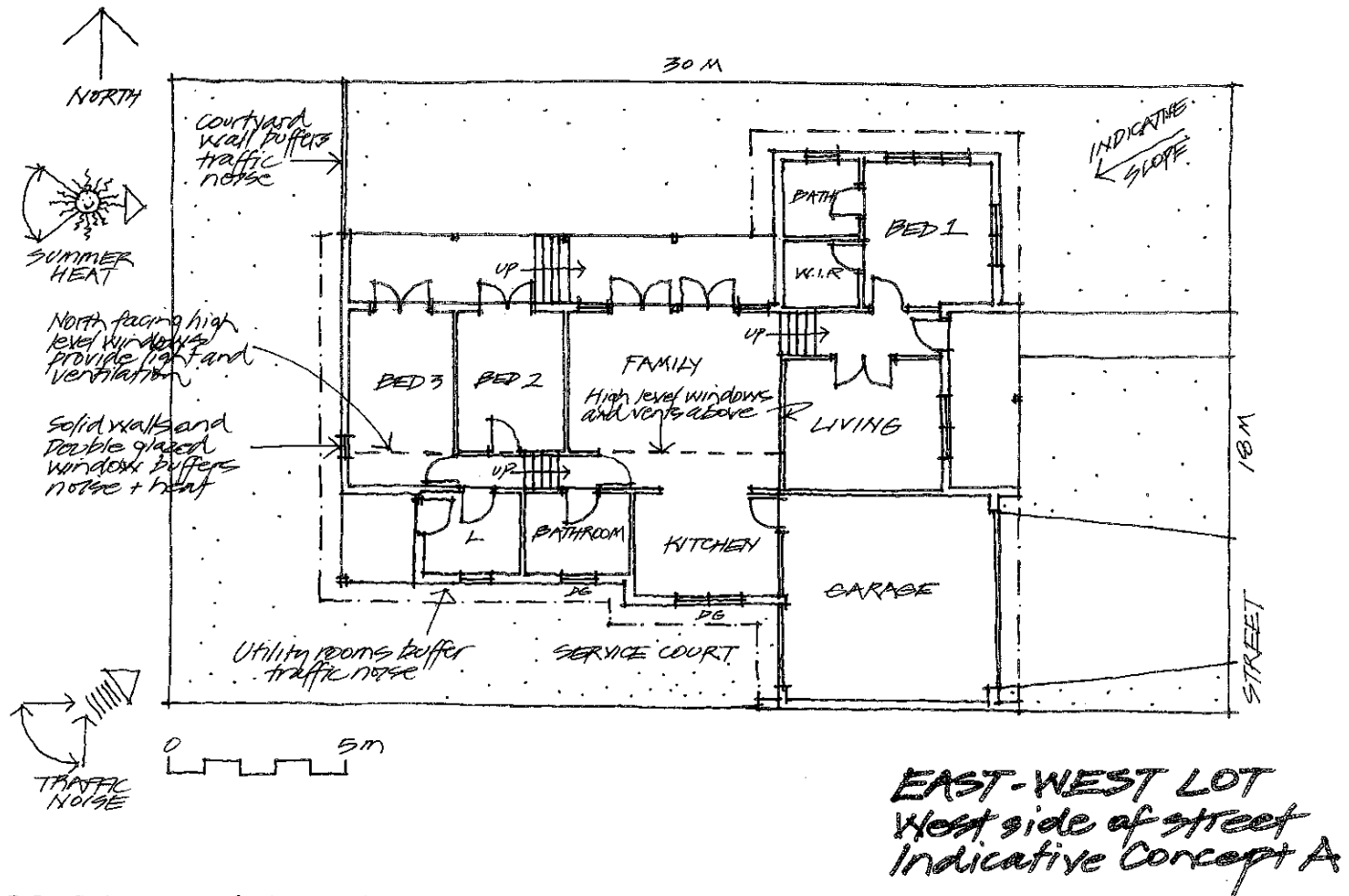


4.1 Cumbalum Precinct A - Planning Proposal



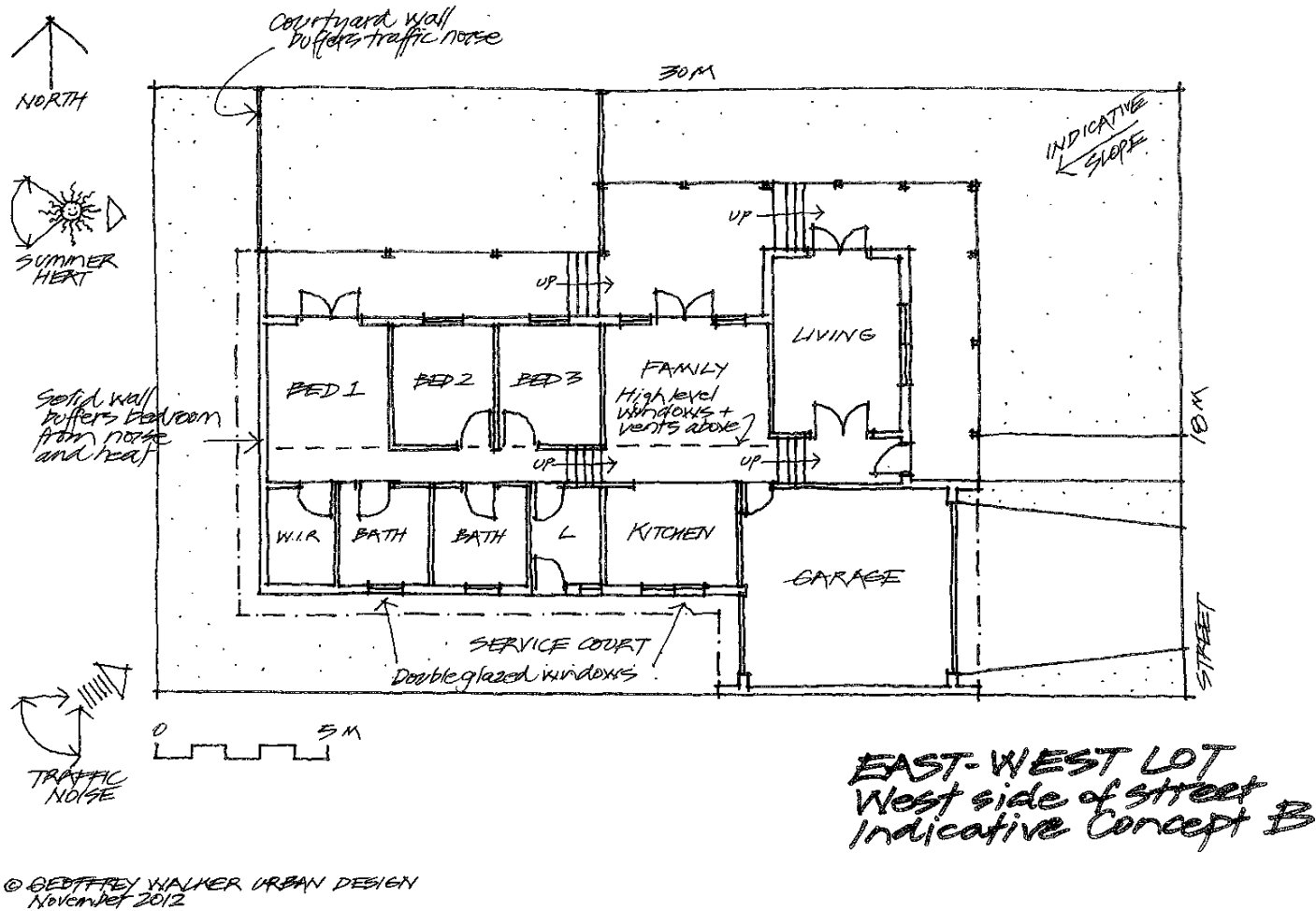


4.1 Cumbalum Precinct A - Planning Proposal

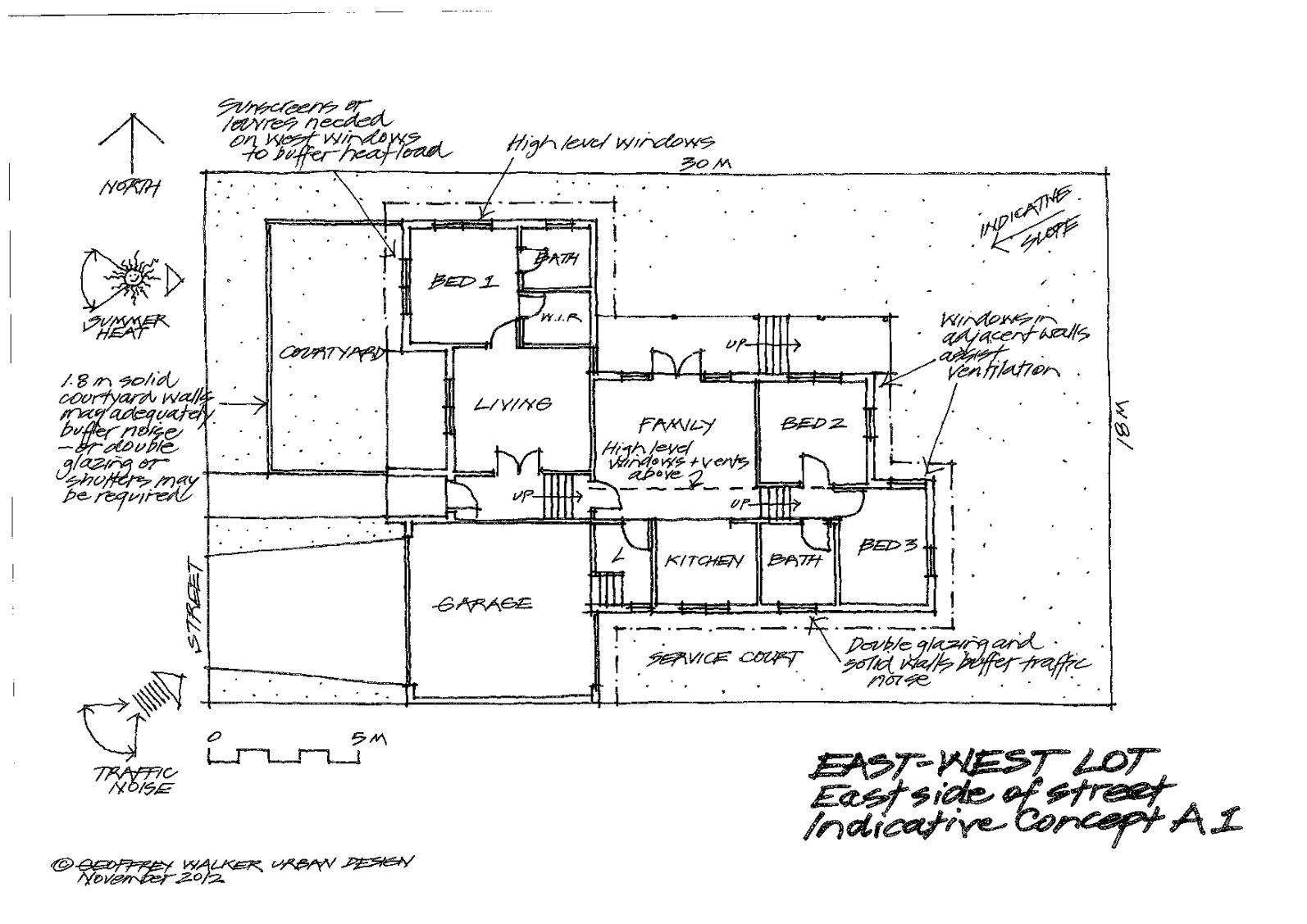


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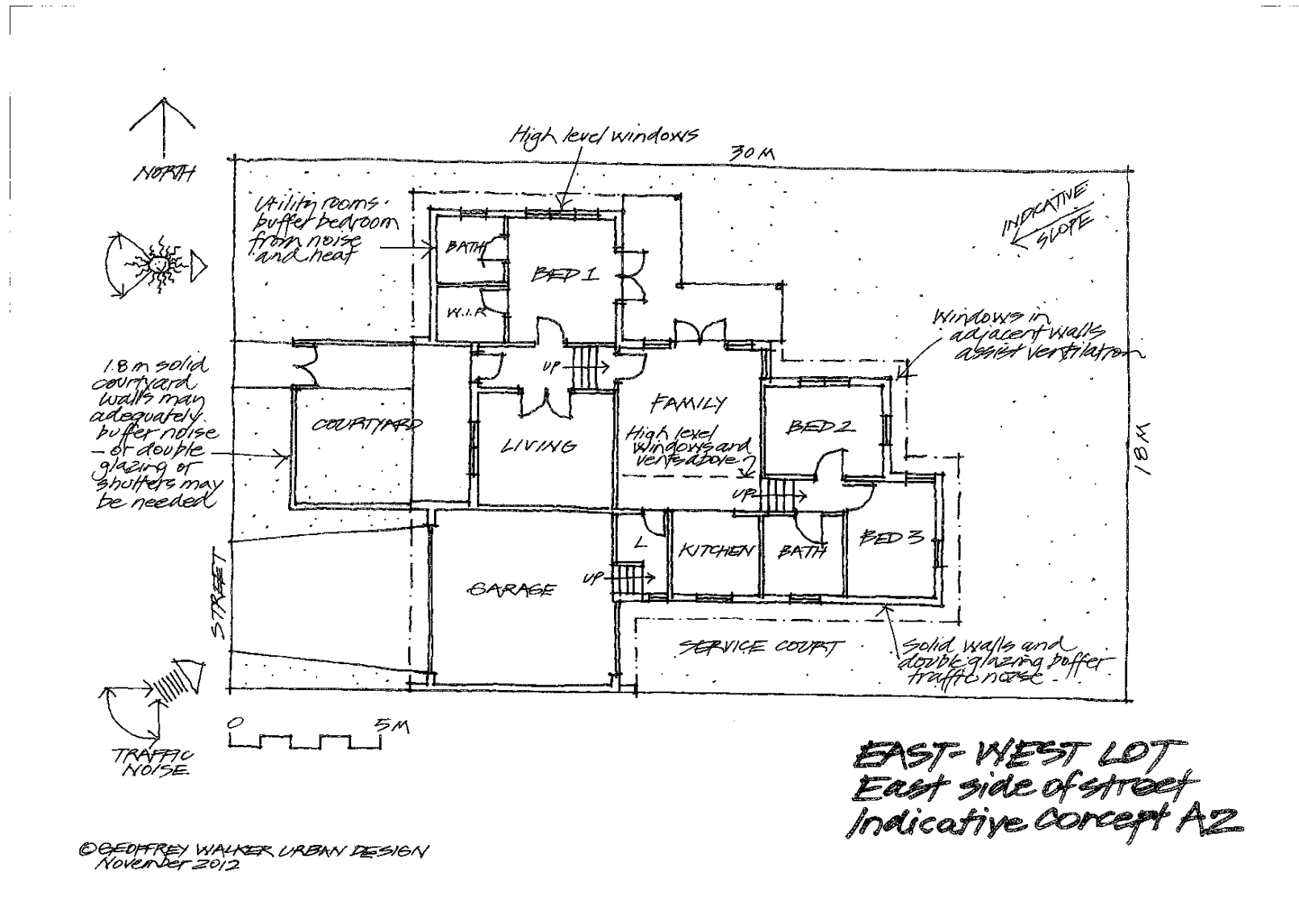
4.1 Cumbalum Precinct A - Planning Proposal



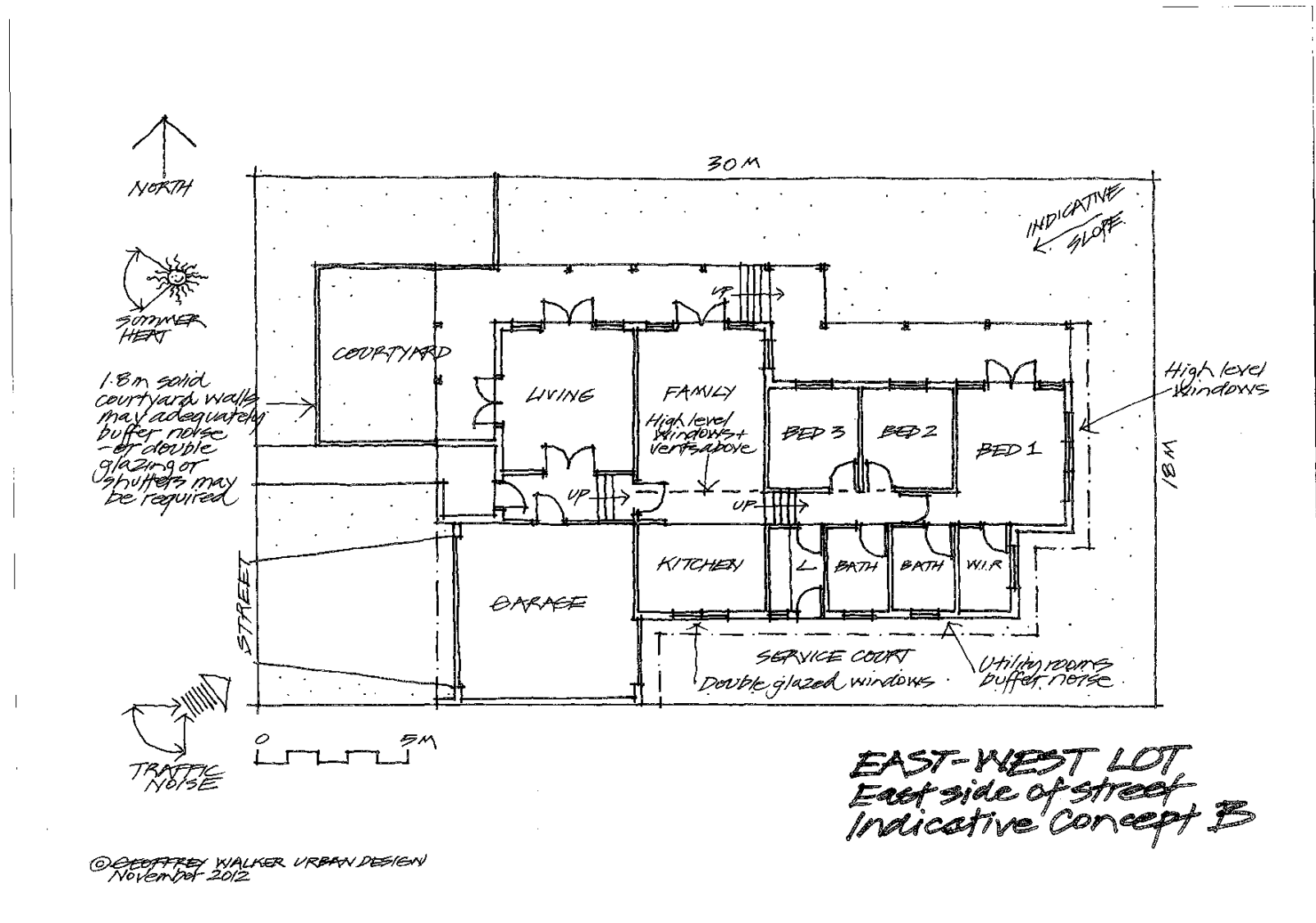
4.1 Cumbalum Precinct A - Planning Proposal



4.1 Cumbalum Precinct A - Planning Proposal



4.1 Cumbalum Precinct A - Planning Proposal



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APPENDIX F

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**Appendix F**  
Examples of DCP provisions  
for acoustic amenity

EXTRACT : PARRAMATTA DCP 2011

# 3

## Swimming Pools

- C 11. Ancillary development comprising a swimming pool for private use must be located on a lot
  - ▶ behind the setback area from a primary road, or
  - ▶ in the rear yard.
- C 12. The swimming pool water line must have a setback of at least 1m from a side or rear boundary.
- C 13. Decking around a swimming pool must not be more than 600mm above ground level (existing).
- C 14. Coping around a swimming pool must not be more than
  - ▶ 1.4m above ground level (existing), or
  - ▶ 100mm wide if the coping is more than 600mm above ground level (existing).
- C 15. Water from a swimming pool must be discharged in accordance with an approval under the Local Government Act 1993 if the lot is not connected to a sewer main.
- C 16. A child-resistant barrier must be constructed or installed in accordance with the requirements of the Swimming Pools Act 1992.

### 3.3.3 Visual and Acoustic Privacy

#### Objectives

- O 1. To ensure that development does not cause unreasonable overlooking of habitable rooms and principal private open spaces of dwellings.
- O 2. To ensure that visual privacy is provided both within a development and between a development and its neighbours.
- O 3. To ensure that the siting and design of development minimises the impacts of noise transmission between properties.

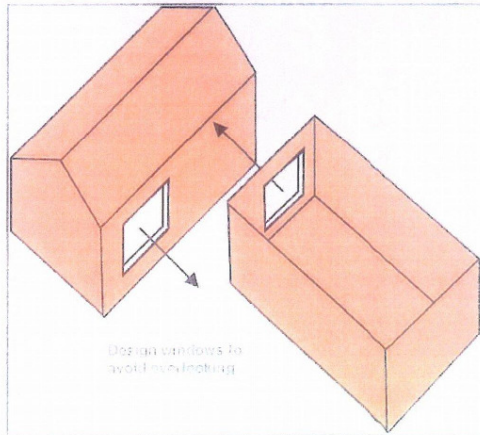


Figure 4.74 - Offset windows

**Design Principles**

- P 1 Development should be located, oriented and designed to minimise visual and acoustic privacy between buildings.
- P 2 The internal layout of buildings is to be designed to minimise overlooking of living areas and private open spaces.
- P 3 Building elements such as balconies and decks are to be designed to minimise overlooking of living areas and private open spaces of adjoining dwellings.
- P 4 The windows of dwellings are to be located so they do not provide direct and close views into the windows of other dwellings - particularly those of living areas.
- P 5 The windows of dwellings are to be located and designed so as to reduce the transmission of noise.

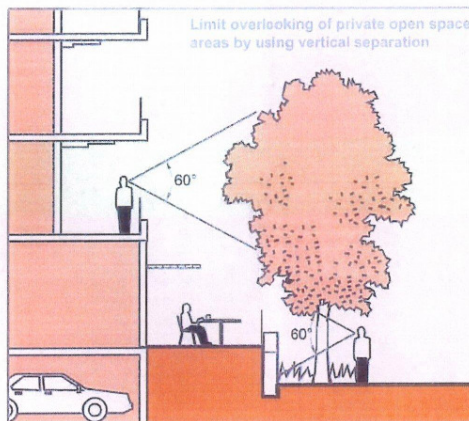


Figure 3.21 Vertical separation

- P 6 Building design elements should be used to increase visual and acoustic privacy such as recessed balconies and/or vertical fins between adjacent balconies, fencing, vegetation and lattices and pergolas which limit overlooking of lower dwellings and/or private open space.
- P 7 The internal layout of buildings is to be designed so as to reduce the effects of noise transmission. For example, dwellings with common party walls should locate noise generating rooms such as living rooms adjacent the noise generating rooms of other dwellings.
- P 8 Appropriate building materials should be used to provide acoustic privacy.
- P 9 Consideration is to be given to the relationship between residential and non-residential components of mixed use development with regard to noise attenuation and privacy.
- P 10 The ground floor level (finished) of any building should not exceed 500mm.

**Design Controls**

**Residential flat buildings, multi dwelling housing and the residential component of mixed use development**

- DC 1 The owners should fence the street or an other side street of the site for a minimum of 1.5m.
- DC 2 Building specifications to provide generous landscaped spaces or vegetation should not be used to reduce private open space and significant landscape.

Parramatta Development Control Plan 2011

Part 4 - Residential Development



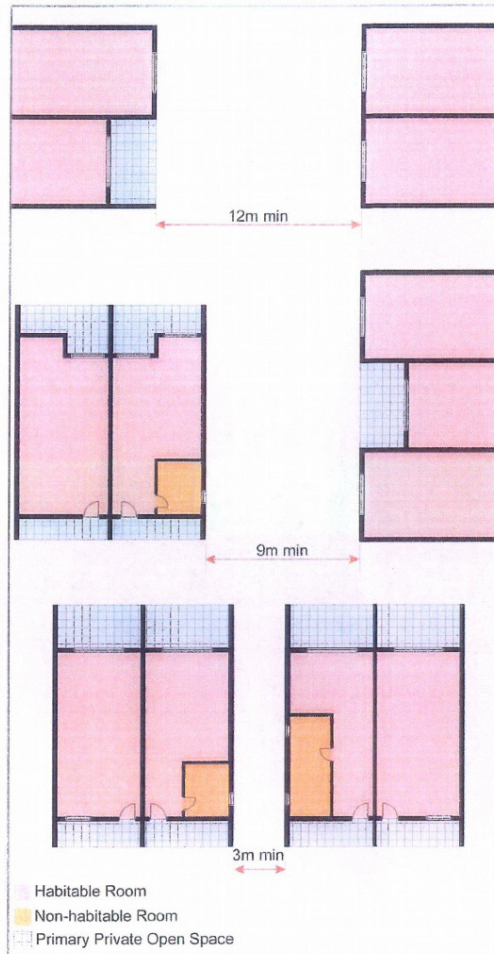
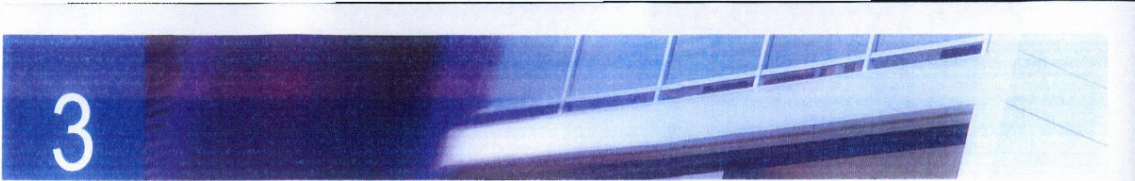


Figure 1.12 Building separation

Parramatta Development Control Plan 2011

Multi-Dwelling Housing - Principle

**Multi Dwelling Housing**

- 1. Minimum of 12m separation is required between buildings within the development site where habitable rooms face habitable rooms
- Minimum of 9m separation is required between buildings within the development site where habitable rooms face non-habitable rooms or blank walls
- Minimum of 3m separation is required between buildings within the development site where non-habitable rooms/blank walls face other non-habitable rooms/blank walls

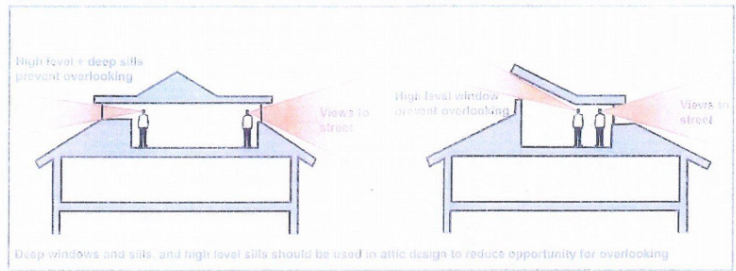


Figure 3.23 Attic windows designed to enhance privacy

- C.4 Where the 3m building separation between buildings along the street is used as part of a dwelling's outdoor space, the associated dwelling may have openings facing that space.
- C.5 Attics which are located in two storey buildings may be permitted only in dwellings which face the street or which directly face another element of the public domain such as a park.
- C.6 Attics windows are not to allow overlooking of adjacent dwellings or their private open spaces. An outlook to the street should be provided from attic windows where appropriate.

**Residential Flat Buildings**

- C.7 The minimum separation between habitable rooms/balconies is 12m.
- C.8 For loft dwellings facing rear lanes, the minimum separation between habitable rooms/balconies is 8m.
- C.9 The minimum separation between habitable rooms/balconies is 12m up to and including the third storey and 18m above the third storey.

**3.3.4 Acoustic Amenity**

**Objectives**

- O.1 To ensure that the siting and design of buildings minimises noise impacts from abutting busy roads, rail corridors and other noise-generating land uses.
- O.2 To ensure that commercial or industrial development does not unreasonably diminish the amenity of nearby residential uses from noise intrusion.

**Design Principles**

- P.1 Where dwellings are proposed within proximity to noise-generating land uses such as major roads and rail corridors, entries, halls, storage rooms, bathrooms and laundries should be located on the noise affected side of each dwelling and should be able to be sealed off by doors from living areas and bedrooms where practicable.
- P.2 Where dwellings are proposed within proximity to noise-generating land uses, appropriate materials with acoustic properties should be incorporated such as solid core doors with seal vents and insulation and suitably treated glazing.
- P.3 New residential development is not to adversely affect the amenity of adjacent residential development as a result of noise during hours of operation and/or service deliveries.
- P.4 Council may require a report by an acoustic consultant to be provided with development applications for noise-generating developments or associated developments on sites adjacent to noise-generating operations or land uses such as rail and roads.



P.5 The provisions of the *State Environmental Planning Policy (Infrastructure) 2007* and *Development near Rail Corridors and Busy Roads Interim Guideline* must be taken into consideration, to minimise impacts of busy roads and railway corridors on residential and other sensitive development such as schools, child care centres, places of public worship and health services facilities.

**Design Control**

**Residential Development**

C.1 Internal habitable rooms of dwellings affected by high levels of external noise are to be designed to achieve internal noise levels of no greater than 50dBA.

NOTE: A busy road is defined as carrying an annual average daily traffic volume of more than 40,000 vehicles (based on the traffic volume data available on the Road and Traffic Authority's website).

**Further Information**

Building Code of Australia

Environmental Protection Authority *NSW Industrial Noise Policy*

Environmental Protection Authority *Environmental Criteria for Road Traffic Noise*

NSW Department of Planning 2008, *Development near Rail Corridors and Busy Roads - Interim Guidelines*

Roads and Traffic Authority *Reducing Traffic Noise - a Guide for Home Owners, Designers and Builders*

Rail Infrastructure Corporation (RIC) and State Rail Authority (SRA) *Interim Guidelines for Councils: Consideration of Rail Noise and Vibration in the Planning Process*

Relevant Australian Standards, including:

- ▶ AS 3671 Road Traffic Noise Intrusion
- ▶ AS 1055 Parts 1, 2 and 3 - 1997 Acoustics - Description and Measurement of Environmental Noise
- ▶ AS 2107 - 1987 Acoustics - Recommended design sound levels and reverberation times for building interiors

RIC and SRA *Interim Guidelines for Applicants: Consideration of Rail Noise and Vibration in the Planning Process*

RIC website - [www.ric.nsw.gov.au](http://www.ric.nsw.gov.au)

State Environmental Planning Policy (Infrastructure) 2007

**3.3.5 Solar Access and Cross Ventilation**

**Objectives**

- 3.1 To provide the usual comfort for occupants
- 3.2 To ensure that development does not unreasonably diminish sunlight to neighbouring properties and within the development site
- 3.3 To ensure that sunlight access is provided to outdoor open space and habitable rooms to improve energy and energy efficiency
- 3.4 To provide additional volumes of fresh air to reduce the impact of pollutants and to provide cross ventilation

Parramatta Development Control Plan 2011

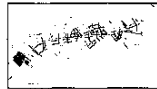
City of Ballina Environmental Sustainability

4.6

Gladesville Town Centre and Victoria Road Corridor

4.0 Key Sites

4.3.1 Monash Road Key Site Built Form Controls



Location Key

**Building Setbacks**

- g. Provide zero setbacks along Victoria Road and Monash Road on the ground, first and second floors in accordance with Figure 4.6X Built Form Plan and Figure 4.6Y Setbacks.
- h. Provide upper level setbacks in accordance with Figure 4.6X Built Form Plan and Figure 4.6Y Setbacks. Upper level setbacks are measured to the edge of any balcony or building façade.

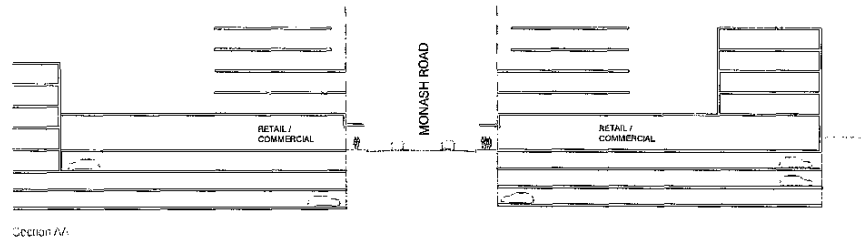
**Minimising Vibration, Noise and Air Pollution in Residential Buildings Near Busy Roads**

- i. Design to minimise vibration, noise and air pollution in the internal layout and materials selection of residential buildings. Development must comply with NSW Department Planning, *Development Near Rail Corridors and Busy Roads - Interim Guidelines*. Internal circulation corridors, bathrooms, laundries and other non-habitable spaces should be located adjacent to the busy road. Living rooms and primary balconies should be located and oriented away from the main road.

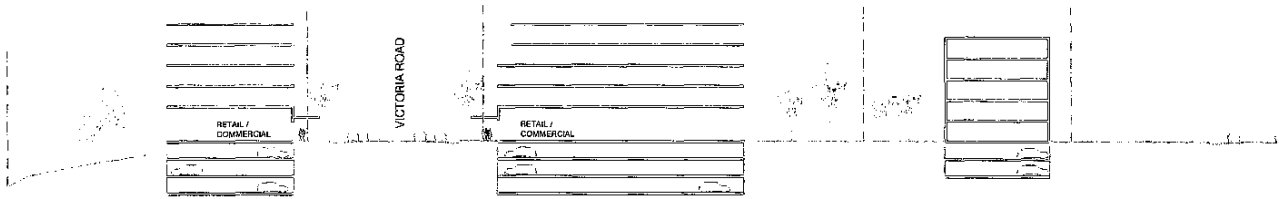
Additional techniques to minimise the impacts of a busy road include glazed balconies or wintergardens, louvred balcony screens and double glazing. Cross ventilation is to be maintained by means such as glass and metal louvres, and cross over or two storey apartment types.

**Public Domain**

- j. At least 10% of the site area is to be provided as public domain or community space in the form of vehicular access 6m wide and a footpath 1.5m wide to connect to the local street network OR to Council's approval.



Section AA



Section BB  
Figure 4.6Y Setbacks

EXTRACT: GLADESVILLE TOWN CENTRE & VICTORIA ROAD CORRIDOR  
 DEP 2010

4.3.2 Block 05 (Primrose Hill) Built Form Controls

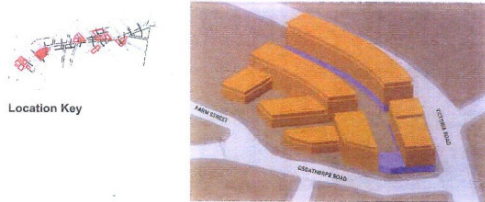


Figure 4.6Z Block 05 3D Model

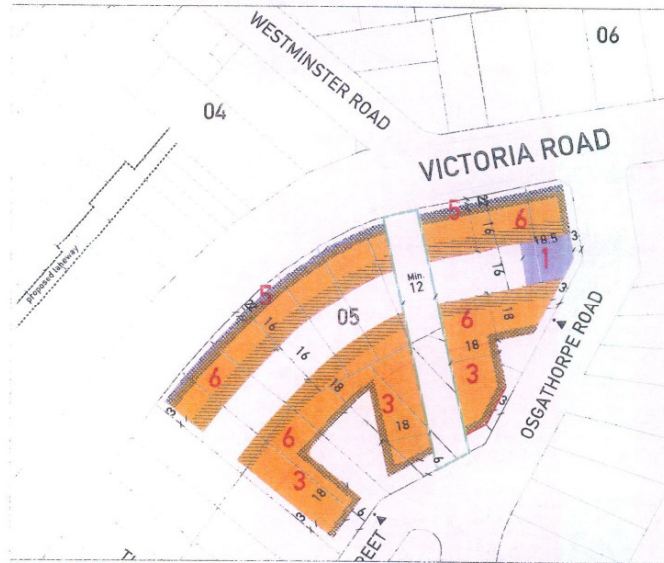
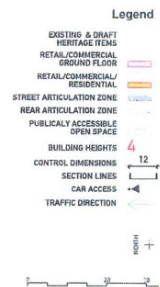


Figure 4.6AA Block 05 Built Form Plan



**Objectives**

1. Create a thriving, mixed use area, with a range of commercial, retail or residential uses along Victoria Road and extending down Osgathorpe Road.
2. Create a landscaped character and landscaped setting for buildings facing Osgathorpe Road and Farm Street.
3. Create a well articulated sequence of built forms in Victoria Road, Osgathorpe Road and Farm Street.
4. Protect the residential amenity of development fronting Victoria Road.

**Controls**

**Building Uses and Ground Floor Activities**

- a. All development must include commercial and/or retail land uses.
- b. Provide mixed use development with retail or commercial activities on the ground level fronting Victoria Road and the corner of Osgathorpe Road, with commercial, retail or residential upper floors.
- c. Create a mix of residential or commercial activities in the buildings facing Osgathorpe Road. Land uses on Farm St are to be residential or compatible with residential land uses.

**Street Frontages**

- d. Provide an active frontage at ground level on Victoria Road.
- e. Provide a building setback with a landscaped setting for the residential buildings facing Osgathorpe Road and Farm Street.

**Building Heights**

- f. Provide development in accordance with Block 05 Built Form Plan (Figure 4.6AA) for building heights in storeys.

*Note: The articulation of the top floor in the 3 dimensional building envelope drawing (Figure 4.6Z) is indicative of a top floor treatment, and is not a development control.*

- g. Step built forms down from Victoria Road to relate the built form to the change in the topography.

# 4.1 Cumbalum Precinct A - Planning Proposal

## 4.6

Gladesville Town Centre and Victoria Road Corridor

4.0 Key Sites



Location Key

### Building Depth and Separation

- h. Provide building depth and separation in accordance with Figure 4.6AA Block 05 Built Form Plan.
- i. An 18m wide maximum building envelope, including balconies and façade articulation, is preferred.

### Building Setbacks

- j. Provide 2m setbacks along Victoria Road on the ground, first and second floors in accordance with Figure 4.6AA Built Form Plan and Figure 4.6BB Setbacks.
- h. Provide upper level setbacks in accordance with Figure 4.6AA Built Form Plan and Figure 4.6BB Setbacks. Upper level setbacks are measured to the edge of any balcony or building façade.

- k. Provide 3m setbacks in Osgathorpe St at the ground, first and second floors.

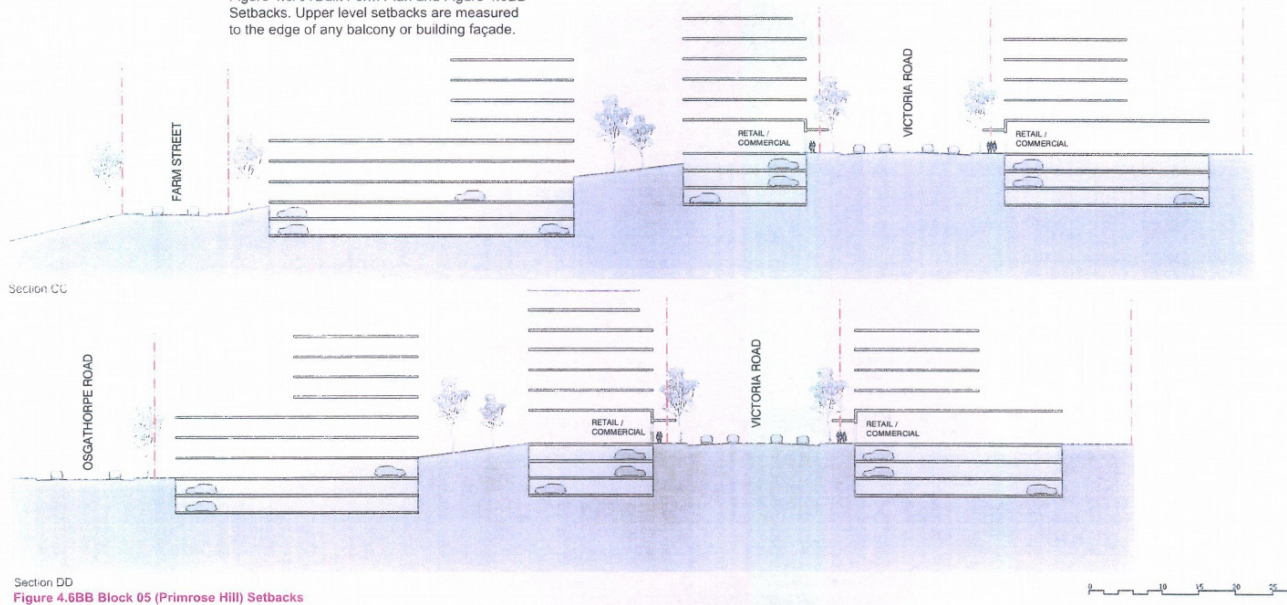
- l. Provide 6m setbacks in Farm St at the ground, first and second floors.

### Minimising Vibration, Noise and Air Pollution in Residential Buildings Near Busy Roads

- m. Design to minimise vibration, noise and air pollution in the internal layout and materials selection of residential buildings. Development must comply with NSW Department Planning, *Development Near Rail Corridors and Busy Roads - Interim Guidelines*.

Internal circulation corridors, bathrooms, laundries and other non-habitable spaces should be located adjacent to the busy road. Living rooms and primary balconies should be located and oriented away from the main road. Additional techniques to minimise the impacts of a busy road include glazed balconies or wintergardens, louvred balcony screens and double glazing.

Cross ventilation is to be maintained by means such as glass and metal louvres, and cross over or two storey apartment types.



Section CC

Section DD  
Figure 4.6BB Block 05 (Primrose Hill) Setbacks



4.3.2 Block 05 (Primrose Hill) Public Domain / Community Space Controls

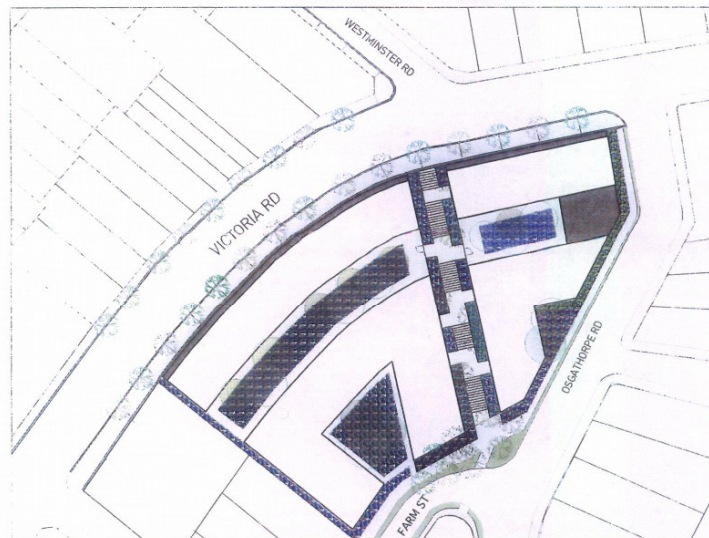
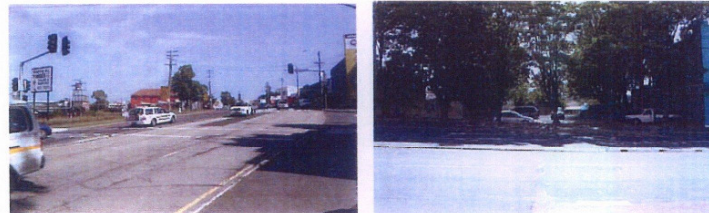


Figure 4.6EE Block 05 Public Domain Plan

**Introduction**

The site is highly visible at the top of a hill, on a bend on Victoria Road. Development of this key site will potentially improve the visual quality of the streetscape of Victoria Road, and form a gateway to the town centre.

**Objectives**

1. Maximise opportunities for pedestrian connections and landscape improvement.

**Controls**

- a. Provide street enhancements and landscaping in accordance with Block 05 Public Domain Plan (Figure 4.6EE).
- b. Provide street tree planting in accordance with Draft Ryde Public Domain Technical Manual.
- c. Provide a pedestrian connection, public domain and or community space equivalent to at least 10% of the site area in the form of a through-site-link as shown on the key site drawing or to Council's approval. A through site link shall have the following characteristics:
  - i) Connects Farm St with the signalised pedestrian crossing at Victoria/Westminster Rds, and
  - ii) open to the sky; and
  - iii) a minimum dimension of at least 12m across; and
  - iv) a minimum 15m separation between buildings on either side of the through site link; and
  - v) paved in accordance with Ryde Council's Public Domain Technical Manual.
- d. Create a landscape edge along Farm Street and Osgathorpe Road, to suit the character of the surrounding streetscape.
- e. Extend the kerb at the corner of Farm Street and Osgathorpe Road, to reduce the pedestrian crossing distance and make an opportunity for tree planting.
- f. Widen pavements to improve pedestrian circulation, and provide more seating.

EXTRACT: QUEANBEYAN CITY COUNCIL  
DEP No. 54 - KENSINGTON  
GARDENS

- On lot 27 a rear set-back of 4m from the boundary or 4m to face of any retaining wall or 6m in the case of two storey construction is required.
- On lot 44 a rear set back of 8 metres including the 5 metre landscaped buffer strip is required.
- Minimum 3m side boundary set-backs for single storey and minimum of 3.5m for two storey buildings.
- A maximum floor space ratio of 0.7:1 is permitted.
- North facing private courtyard areas of 25m<sup>2</sup> for each unit.
- 3m separation between adjoining units where bedroom or living areas face each other.

### 9.5 Noise Attenuation

The following noise attenuation measures form part of Councils consent conditions for the residential and industrial subdivision of the land.

- 1a. That a two metre high lapped and capped acoustic fence designed in accordance with the Acoustic Consultants Report of August 2003 be erected on lot 44 along the western boundary.
- 1b. A two metre high decorative brick or masonry wall is to be erected on lot 44 along the Kendall Avenue North road alignment and along the eastern boundary to the driveway serving lots 1, 2 and 3. The wall is to allow for indentation to provide for landscape features as viewed from the adjoining road. The wall is to be constructed to a structural engineer's design and have acoustic attenuation properties no less than the lapped and capped acoustic fencing between lots 45 to 57.
2. That all dwelling units in any proposed development on lot 44 and lots 1 to 5 be designed and certified to meet the following acoustic design criteria:
  - In a naturally ventilated – windows closed condition  
 $L_{Aeq}(1\text{hour})$  not to exceed
    - a. In sleeping areas (2200-0700 hours) 35 dB(A)
    - b. In living areas (all hours) 45dB(A)
  - In a naturally ventilated – windows open condition  
 $L_{Aeq}(1\text{hour})$  not to exceed
    - a. In sleeping areas (2200-0700 hours) 40 dB(A)
    - b. In living areas (all hours) 50dB(A)
  - Where the above conditions cannot be achieved the incorporation of mechanical ventilation or air conditioning  
 $L_{Aeq}(1\text{hour})$  not to exceed
    - a. In sleeping areas (2200-0700 hours) 40 dB(A)
    - b. In living areas (all hours) 50dB(A)
  - In addition these buildings shall also incorporate noise mitigation measures which protect occupants from short term noise events in the locality. To achieve this the  $L_{A1(60\text{ second})}$  level of any specific noise shall not exceed the repeatable  $L_{A90(15\text{ minute})}$  by more than 15dB(A) when measured inside a living room or bedroom.



- 3 A two metre high lapped and capped acoustic fence designed in accordance with the Acoustic Consultants Report of August 2003 be erected on the proposed lots as follows:
  - On the western boundary of lot 57 commencing 6 metres from the front boundary;
  - Along the rear northern boundaries of lots 57 and 56;
  - Along the rear western boundaries of lots 53 to 45; and
  - On the rear boundaries of Lots 58 and 59 (alongside drain).
- 4 That development on proposed lots 45 to 57 be restricted to single storey and prohibit dual occupancy development.
- 5 That development on the following proposed lots be restricted as follows:
  - Lots 62-65 and Lot 59 – Rear walls of buildings to be erected from brickwork, masonry, concrete or some other form of solid construction and that no openings be permitted in these walls;
  - Lot 58 – Southern side wall and rear wall to be erected from brickwork, masonry, concrete or some other form of solid construction and that no openings be permitted in these walls.
- 6 Habitable rooms (living rooms or bedrooms) of proposed dwellings on lots 6 to 22 and 54 to 57 be oriented so as not to face traffic noise. Items 1 and 4 are to be met by the subdivider. All other items will be the responsibility of applicant's for a development application on the individual lots specified. The noise requirements are included on the respective land titles to ensure applicants are aware of Council's requirements when purchasing the land.

### 9.6 Landscape Buffer Zone

The proposed landscape buffer zones should be planted with tree species, which reflect the characteristics of existing vegetation on site. This is generally a mix of native eucalypts and native shrubs (predominantly acacia species). Additional features of exotic conifers should be considered, in order to provide a unique landscape character for the residential development.

The proposed 5.0 metre landscape buffer to Richard Avenue and the Neighbourhood Park A and B are to be dedicated to Queanbeyan City Council as public reserve. The 12.00 metre internal boundary is to be set aside for the physical separation of residential and light industrial land uses, and planted with appropriate vegetation. In addition residential buildings are to be setback 4m from the rear boundary to ensure a total separation of 16 metres. These buffer zones shall be within the block boundaries and shall be maintained by the respective owners.

The proposed 5 metre landscape buffers along Kendall Avenue North shall be incorporated within the boundaries of lots 65-67 and 44 and shall be maintained by the respective owners.

Pacific Highway, Mount Colah precinct

Key Development Principles Diagram

**Strategy**  
 Redevelopment should be predominantly five storey residential flat buildings in garden settings, with parking in basements.

**Landscape setting**  
 Provide broad setbacks along street frontages and locate communal open spaces to retain existing trees that are prominent streetscape features.  
 Surround + screen new buildings with canopy trees + shrubs.

On properties that adjoin the railway, refer all development applications to RailCorp to confirm any requirements regarding track amplification.

**Residential amenity**  
 Minimise the width of facades + communal recreation areas that directly face or adjoin the railway.

Design facades to exclude railway noise

**Built form**  
 To reflect the established pattern of detached-dwellings:  
 limit the width of new facades that would be visible from any street or the railway, and divide the floorspace of every new building into well-articulated pavilion forms that are separated by courtyards with canopy trees.

Siting + design should provide at least two hours sunlight daily for living areas in 70% of new dwellings.

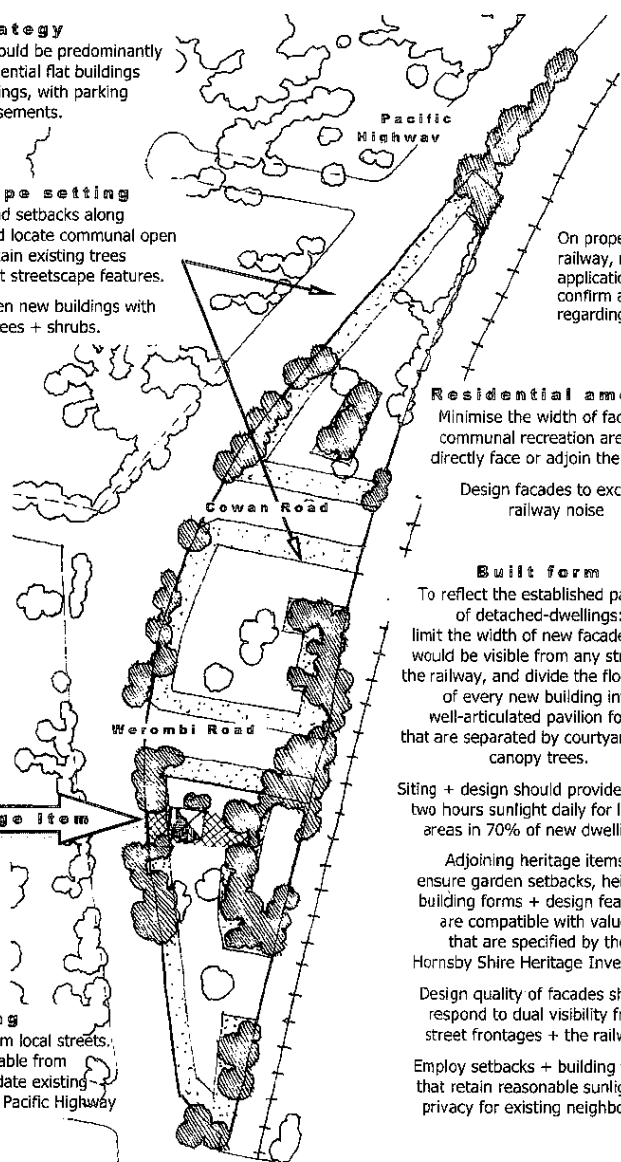
Adjoining heritage items:  
 ensure garden setbacks, heights, building forms + design features are compatible with values that are specified by the Hornsby Shire Heritage Inventory.

Design quality of facades should respond to dual visibility from street frontages + the railway.

Employ setbacks + building forms that retain reasonable sunlight + privacy for existing neighbours.

**Heritage item**

**Servicing**  
 Promote access from local streets. If access is not available from local streets, consolidate existing vehicle entrances on Pacific Highway



### 3.4.14 Key Development Principles

The following provides more detailed controls for some particular precincts zoned for 5 storey Residential Flat Buildings as a result of the Hornsby Shire Housing Strategy (2010).

#### Desired Outcome

- a. Orderly development that is consistent with the principles in the relevant Key Principles diagrams.

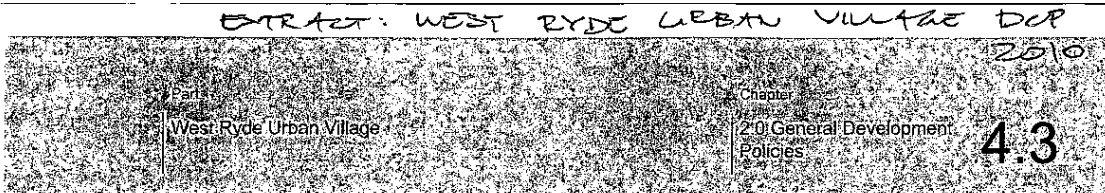
#### Prescriptive Measures

- a. Key Principles diagrams apply to the following precincts:
  - \* Pacific Highway, Mount Colah precinct,
  - \* Lords Avenue, Asquith precinct,
  - \* Jersey Street Nth, Asquith precinct,
  - \* Bouvardia Street, Asquith precinct,
  - \* Hyacinth Street, Asquith precinct,
  - \* Pacific Highway, Asquith precinct,
  - \* Belair Close, Hornsby precinct,
  - \* Balmoral Street, Waitara precinct,
  - \* Station Street, Thornleigh precinct,
  - \* Fisher Avenue, Pennant Hills precinct, and
  - \* Carlingford Road, Carlingford precinct.
- b. Development should be designed to embody the principles of the relevant precinct Key Development Principles diagram.
- c. Pedestrian thoroughfares should be provided in accordance with the principles diagrams and/or Town Centre Linkage diagrams (see Annexure B).
- d. Development in the vicinity of heritage items shown in the Key Development Principles diagrams should have regard to the Heritage provisions in Part 9 of this DCP
- e. Development adjoining railway lines and arterial roads should incorporate appropriate measures to reduce the impact of road/rail noise vibration and disturbance.

#### Legend

The following symbols appear in the Key Development Principles Diagrams

	<b>Significant trees</b> Prominent streetscape features <i>or</i> important bushland remnants which should be retained
	<b>Existing trees</b> Trees located in a development precinct with no special significance which may be removed <i>or</i> trees in surrounding areas <i>Note:</i> Council's Tree Preservation Order requires a permit for removal of some trees
	<b>New trees</b> Trees that would enhance shopping streets or new laneways or residential podiums that are used for communal recreation
	<b>Setbacks with deep soil</b> Significant elements of neighbourhood character which allow the conservation of existing trees or accommodate new trees
	<b>Slopes steeper than 20%</b> Generally not suitable for development, particularly where they occur in conjunction with bushland which results in a severe bushfire risk
	<b>Existing buildings</b> Generally indicating buildings in neighbouring areas or other precincts <i>or</i> substantial existing buildings within a precinct
	<b>Future buildings</b> Indicative form of future buildings in commercial + shopping areas <i>or</i> higher-intensity residential developments that are taller than eight storeys
	<b>Future mixed-use buildings</b> Depicting the articulated form of apartment storeys above podium levels which display visible activities such as shops facing streets + walkways (shown dark hatched)
	<b>Future residential buildings</b> Depicting the articulated form of buildings with eight or more storeys, above podiums which accommodate communal areas
	<b>Heritage items</b> Typically buildings and sometimes their surrounding garden. Significance is explained by the <i>Hornsby Shire Heritage Inventory</i> . Cross-hatching indicates the "sensitive interface area" which is defined by this DCP.



### 2.14 Solar Access & Noise Attenuation

#### Objectives

1. To maximise opportunities for the use of renewable energy sources in the centre.
2. To maximise the amount of natural light in pedestrian areas, public open spaces and residential dwellings during the winter months.
3. To reduce the impact of road and rail related noise on dwellings in new residential developments.

#### Controls

- a. Major public open spaces are to be designed to receive a minimum of 50% sunlight on the ground plane for at least 2 hours between 10am and 2pm on June 21.
- b. All new buildings should have an area of roof, with appropriate orientation and pitch, that is suitable for the installation of solar collectors and photovoltaic cells.
- c. In new residential developments, windows to north-facing living areas should receive at least 3 hours of sunlight between 9am and 5pm on June 21 over a portion of their surface. North-facing windows to living areas of neighbouring dwellings should not have sunlight reduced to less than the above 3 hours.
- d. With respect to proposals for new residential buildings:
  - i. the building plan, walls, windows, doors and roof are to be designed and detailed to reduce intrusive noise levels.
  - ii. balconies and other external building elements are located, designed and treated to minimise infiltration and reflection of noise onto the façade.
  - iii. the dwellings are to be constructed in accordance with:
    - Australian Standard 3671-1989: Acoustics – Road Traffic Noise Intrusion, Building Siting and Construction;
    - Australian Standard 2107-1987: Acoustics – Recommended Design Sound Levels and Reverberation Times for Building Interiors.
- e. All development proposals of 2 or more storeys are to be accompanied by shadow diagrams which are to be submitted with the local development application.

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APPENDIX G

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**Appendix G**  
Proposed DCP provisions for  
acoustic amenity

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*Supplementary report – noise lots  
CURA-A Planning Proposal  
April 2013*

Page 24

### **Acoustic Amenity**

#### **Objectives**

- O.1. To ensure that the siting and design of future residential buildings on land identified on the attached plan, minimises noise impacts from the adjacent Pacific Highway Ballina By-Pass.

#### **Design Principles**

- P.1 Where dwellings are proposed on future residential lots in the area marked on the attached plan, they are to be designed such that entries, halls, storage rooms, bathrooms and laundries are located on the noise affected side of each dwelling and should be able to be sealed off by doors from living areas and bedrooms where practicable.
- P.2 Appropriate materials with acoustic properties are to be incorporated into such dwellings such as solid core doors with sealed vents and insulation and suitable treated glazing.
- P.3 Council will require a report by an acoustic consultant to be submitted with any development application for residential subdivision of any land identified on the attached map.
- P.4. Council may require a report by an acoustic consultant to be submitted with any development application for any residential development or building on any future lot on any land identified on the attached map.
- P5. The provisions of the *State Environmental Planning Policy (Infrastructure) 2007 and Development near Rail Corridors and Busy Roads Interim Guideline* must be taken into consideration to minimise impacts of the Pacific Highway Ballina By-Pass on residential and other sensitive development such as schools, child care centres, places of public worship and health services facilities.

**Design Control**

**Residential Development**

- Q1. Internal habitable rooms of dwellings affected by high levels of external noise are to be designed to achieve internal noise levels of no greater than 50dBA.

**Further Information**

Building Code of Australia

Environmental Protection Authority NSW *Industrial Noise Policy*

Environmental Protection Authority *Environmental Criteria for Road Traffic Noise*

NSW Department of Planning 2008, *Development near Rail Corridors and Busy Roads – Interim Guideline*

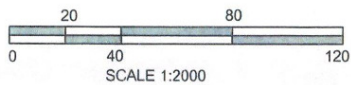
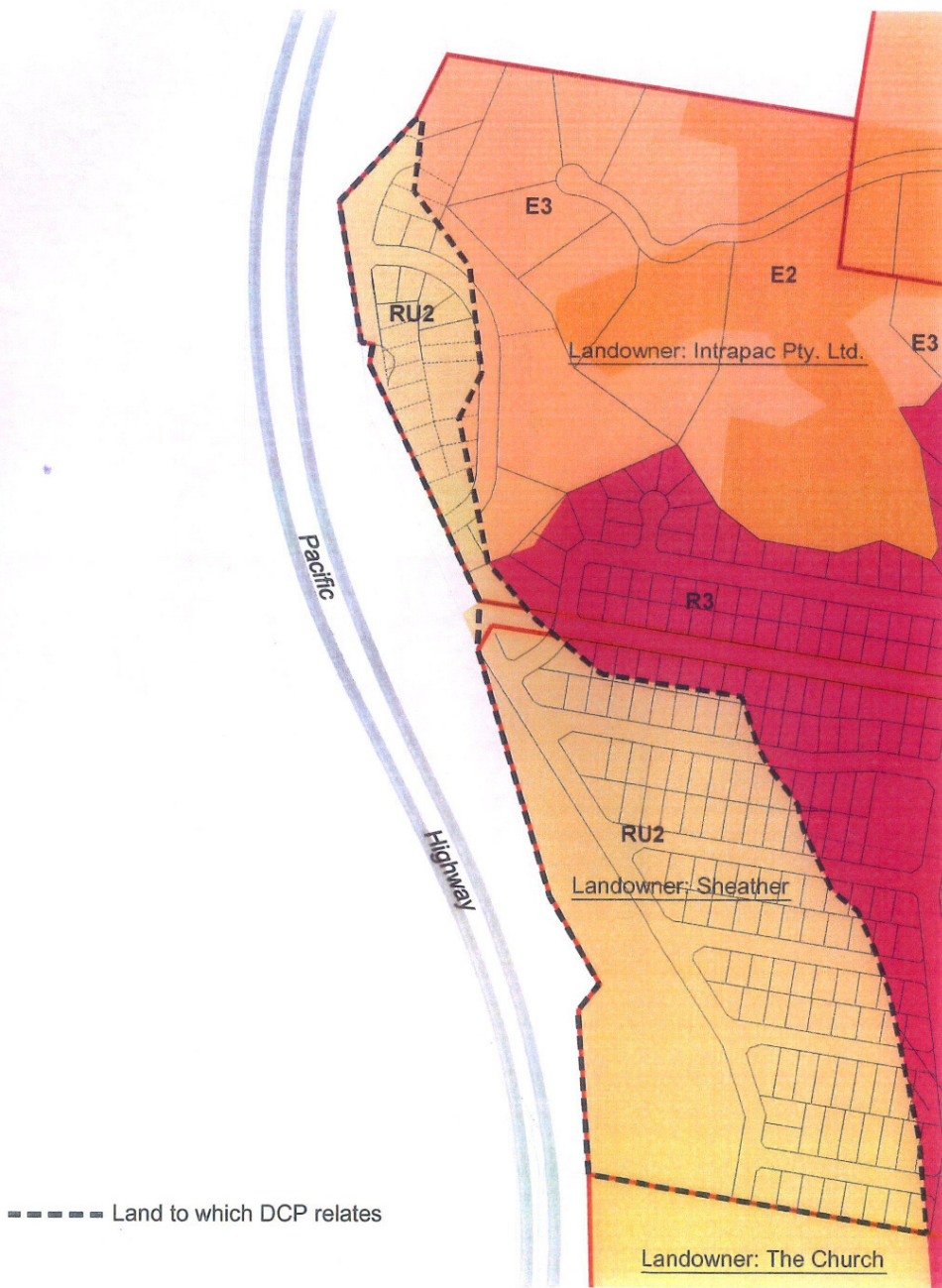
Roads and Traffic Authority *Reducing Traffic Noise – a Guide for Home Owners, Designers and Builders*

Relevant Australian Standards, including:

- AS 3671 Road Traffic Noise Intrusion
- AS 1055 Parts 1, 2 and 3 – 1997 Acoustics – Description and Measurement of Environmental Noise
- AS 2107 – 1987 Acoustics – Recommended design sound levels and reverberation times for building interiors

State Environmental Planning Policy (Infrastructure) 2007

ATTACHMENT G



Attachment G  
Proposed lot layout for western development area



# ARDILL PAYNE

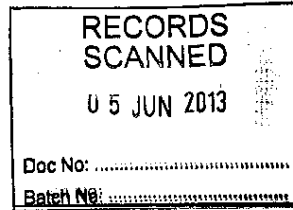
& Partners  
www.ardillpayne.com.au e:info@ardillpayne.com.au  
ABN: 51 808 558 977



5998 further response to acoustic submission (may 2013).doc

31 May 2013

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



**Attention: Mr Simon Scott**

**Dear Simon**

**re: CURA Precinct A – Supplementary Acoustic Report**

I refer to your letter dated 29<sup>th</sup> April 2013 that was provided in respect of the supplementary acoustic report (dated April 2013) that was prepared by APP in support of the request for Council to include the area of 'Highway noise-affected land' in the residential area of the CURA-A Planning Proposal.

Your letter states that the supplementary report "*..does not present any substantial new information regarding this matter and continues to rely upon individual building treatments as the means for mitigating road noise impacts.*"

It is submitted that the supplementary report does present a significant amount of additional information and contains the following:

- specific advice from specialist acoustic consultants (CRG Acoustical Consultants) in respect of road traffic noise criterion for new residential developments and available practical measures to mitigate against road traffic noise (being advice that has been provided previously to Council)
- extracts from Development Control Plans (DCP) from other NSW Councils which identify design controls and principles to mitigate adverse noise impacts on dwellings adjoining noise road and rail corridors (not previously provided to Council)

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

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79 Tamar Street  
PO Box 20  
BALLINA NSW 2478  
Ph: 02-6686 3280

**BRISBANE**  
Level 1, The Designbank  
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**GUNNEDAH**  
Germane House,  
285 Conadilly Street,  
GUNNEDAH NSW 2380  
Ph: 02-6742 9955

2.  
5998 further response to acoustic submission (may 2013).doc  
31 May 2013

- proposed draft DCP provisions to be incorporated into the Ballina DCP 2012 (or any other future DCP) (not previously provided to Council)
- nine (9) concept noise mitigating house designs for a range of lot orientations (not previously provided to Council)

With respect to the nine house designs, these are such that rely on 'standard' house construction (as referenced by the OEH), with the noise mitigation measures being achieved primarily by appropriate design in terms of room layout/placement and orientation, which are also designs that are energy efficient and cogniscent of the sub-tropical climate and which provide good solar access and breeze paths, as well as relief from the hot afternoon summer sun.

As evidenced on the plan at Appendix C to the supplementary acoustic report, a significant setback/buffer has been provided between the proposed concept residential lots and the traffic lanes of the Ballina By-pass. The setback/buffer ranges between approximately 75 – 190m with future urban roads being situated between the proposed lots and the By-pass.

It should also be noted that the western row/line of residential lots and future houses/structures/fences to be built thereon (being the closest to the By-pass) will provide acoustic mitigation to the residential lots and buildings behind/to the east of that row and that each subsequent row of buildings/structures/fences will provide further noise mitigation to each subsequent building to the east.

The noise impact on the lots to the east will thus significantly diminish as a consequence of increased setback from the noise source and by the attenuation provided by each residential building/structure (including fences) that are constructed to the west.

In further considering this matter, reference is made to report prepared by CRG Traffic and Acoustical Consultants (Dated 15 April 2013, CRGref.: 10070a report Apr2013), which was commissioned by Council in respect of noise impact assessment for Ballina Heights Drive.

The second paragraph of Section 6.0 of CRG's report states that:

*"This report is a revision to a previous assessment (CRGref: 1007a report Feb2011 dated 10 February 2011) and responds to Ballina Shire Council's comments dated 20<sup>th</sup> March 2013. Principally, the previous assessment completed in dated [sic] February 2011 took into consideration future residential lots/dwellings and a retirement facility to the west of the road corridor. Council has advised that no uses/developments have been approved to the west of the road corridor or adjacent to the southern road corridor section, and are therefore, not required to be assessed. Acoustic treatments to mitigate road traffic noise from Ballina Heights Drive should be determined/constructed when developments have been defined for the western and southern land."*

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3.  
5998 further response to acoustic submission (may 2013).doc  
31 May 2013

It is respectfully submitted that Council's Strategic Services Group vet CRG's 15 April 2013 report and consider the noise affected lots for CURA-A in the same context as has been done for the lots adjoining Ballina Heights Drive, particularly as the CURA-A proposal is only at the rezoning stage and the actual development of the land has not been determined at this stage.

As was required by Council, a basic conceptual subdivision layout has been provided to support and inform the rezoning proposal, which will be subject of further detailed design and investigation at development application stage, should the land be rezoned for urban residential purposes. It may be that the land is not subdivided as it may be appropriate for some other urban residential type purpose, which will be further investigated post rezoning.

As articulated in the supplementary acoustic report, it is submitted that it would be appropriate to have this material presented to Council as part of the current planning proposal due to the fact that:

- notwithstanding the possible noise issue, this land is ideally suited for future urban/residential subdivision and development particularly as it is largely unconstrained – this land is **not** constrained by slope, vegetation, flooding, acid sulfate soils, contamination or heritage
- road noise impacts can be managed and mitigated by a diverse range of practical, efficient and sustainable measures/controls
- appropriate acoustic controls for dwellings and subdivision layout are able to be incorporated into the Ballina Shire DCP 2012 – these can be formulated in consultation with specialise acoustic consultants
- the provision of a DCP is a pre-requisite for Council granting consent to any development application for subdivision of the subject land as per Clause 6.3 of the BLEP 2012
- further detailed and specific acoustic investigation and reporting would have to be undertaken to support and inform any future development application for subdivision or buildings – such investigation/reporting would be based on a much more definitive subdivision and road layout which would have been designed at the much more definitive and higher order development application level/standard of documentation
- further acoustic controls and mitigation measures are able to be imposed by way of conditions of consent on any development consents issued by for subdivision and/or buildings
- should the RU2 land be zoned R2 or R3, this does not infer any right to subdivide or develop all of the R2 or R3 zoned land – all development applications for

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31 May 2013

subdivision or buildings would be subject to further design, reporting/investigation and merit assessment by Council

- an RU2 zone will effectively preclude further detailed investigation and reporting into the urban suitability of the land via the DCP and/or development application process, should acoustic issues able to be addressed
- Council should be looking to maximise the future urban/residential zoned land within CURA-A and the Cumbalum Ridge as this is the major urban growth area for the Shire – the proposed RU2 zone will unnecessarily sterilise this land in the short to medium term

Yours faithfully



Paul Snellgrove  
**ARDILL PAYNE & PARTNERS**

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# ARDILL PAYNE

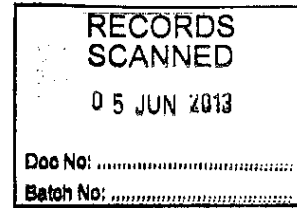
& P a r t n e r s  
www.ardillpayne.com.au e:info@ardillpayne.com.au  
ABN: 51 808 558 977



5998 supplementary report - rural: res lots cover letter (june 2013).doc

2 June 2013

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



Attention: Mr Simon Scott

Dear Simon

re: CURA-A Planning Proposal

As you are aware, Ardill Payne & Partners continue to act on behalf of the CURA-A landowners in respect of the proposed rezoning of the land for urban purposes.

Council's Technical Officers have raised some concern with respect to the proposal to enable the creation of rural residential type lots on some of the land that somewhat constrained by slope and existing vegetation and which was originally proposed to be zoned either E2 or E3 (prior to the Minister's deferral and review of environmental zone in new Council-wide plans on the Far North Coast of NSW).

During the planning proposal process, it was confirmed by Council that there was no clear policy position in respect of rural residential style lots and that Council may wish to further consider this matter from a police perspective as part of its Growth Management Strategy.

As detailed in Section 2.2 of the attached supplementary report, Council at its Ordinary Meeting of the 26<sup>th</sup> July 2012 resolved to adopt the Ballina Shire Council Urban Growth Management Strategy.

As detailed in Minute No. 260712/7, Council resolved in adopting the GMS "That a strategic action be inserted relating to investigating the concept of allowing semi rural allotments on the edges of greenfield development areas."

Engineers | Planners | Surveyors | Environmental | Project Management

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## 4.1 Cumbalum Precinct A - Planning Proposal

2.  
5998 supplementary report - rural res lots cover letter (june 2013).doc  
2 June 2013

The following is an extract from Appendix 2 – Strategic Action Matrix of the GMS which confirms that one of the Shire-wide and other areas' strategic actions (HIGH PRIORITY) is to "Investigate the concept of permitting semi-rural allotments on the edges of strategic urban release areas" with the purpose being that "The creation of small rural allotment on the edge of the residential footprint in new release areas may have advantages associated with providing the consolidation of environmental management areas into a small number of landholdings which enjoy dwelling entitlements, thus providing for land management and oversight. However this concept is to be considered further having regard for key issues including access and interface issues, appropriate allotment sizes and configuration and ownership arrangements."

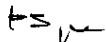
As a consequence of the above, it is submitted that the issue raised by Council's Planners in Item 4.1 of the 17th July 2012 agenda, in respect of declining the proposed concept of rural residential style lots pending Council confirming a policy position, has actually been satisfied in that it has considered such from a strategic planning context and has made express provision in its GMS.

Attached herewith are two (2) copies of a supplementary report that has been prepared to support the proposed minimum lot amendments to enable the creation of rural residential type lots and which contains detailed plans showing the size and shape of the lots, building envelopes, site access/driveways and servicing of the proposed lots.

It is therefore respectfully requested that Council consider the above in the context of the Planning Proposal, whilst the environmental zone review is being undertaken.

Should you have any questions in respect of this matter 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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# ARDILL PAYNE & PARTNERS

Civil & Structural Engineers – Project Managers – Town Planners – Surveyors



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## **SUPPLEMENT TO PLANNING PROPOSAL – PROPOSED SMALLER RURAL RESIDENTIAL STYLE LOTS**

Submission to Ballina Shire Council


To rezone land for urban purposes  
Cumbulam Urban Release Area – Precinct A  
(previously BLEP Amendment No. 105)

for:  
CURA-A Landowners

May 2013

Document Control Sheet

Filename:	5998 Supplementary report –rural residential style lots (May 2013)
Job No.:	5998
Job Captain:	Bill Payne
Author:	Paul Snellgrove
Client:	CURA-A landowners
File/Pathname:	

Revision No:	Checked By		Issued By	
	Name	Signed	Name	Signed
0			Paul Snellgrove	
1				
2				

Supplementary report (rural residential style lots)  
 CURA-A Planning Proposal  
 May 2013

Page 1



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### i Introduction

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#### 1.1 Introduction

This supplementary submission relates to the CURA-A Planning Proposal and in particular to that part of the land is now zoned part RU1 – Primary Production and part RU2 – Rural Landscape Zone under the BLEP 2012.

This submission specifically relates to the land that was previously proposed by Council to be zoned part E2 – Environmental Conservation Zone and part E3 – Environmental Management Zone as exhibited with the CURA-A Planning Proposal.

The land that is subject of this submission is owned by Barlow, Sheather and Intrapac and is described in real property terms as:

- Lot 333 DP 755684
- Lot 3 DP 517149
- Lot 20 DP 1022777
- Lot 3 DP 823662
- Lot 2 DP 1171927

Provided at **Appendix A**, is a copy of the amending LEP maps for the original Planning Proposal (being the Land Zoning and Lot Size Maps), as proposed by Council.

As evidenced on the maps at **Appendix A**, that part of the land that is not proposed to be zoned either R2 or R3 is proposed to be mapped as AB – 40ha on the Minimum Lot Size Map.

Provided at **Appendix B** is an aerial photograph which shows the relationship of the subject land to CURA-A.

This land was identified in the original rezoning submission as being appropriate for large lot residential environmental protection and small farm lots.

Provided at **Appendix C** is a copy of the Council's zoning regime overlain by the conceptual subdivision layout, which identifies the location and configuration of the rural residential style lots.

The following is an extract from Council's 17<sup>th</sup> July 2012 Environmental & Sustainability Committee Meeting Agenda (Item 4.1 – Cumbalum Precinct A Planning Proposal) under the heading "Density of Development":

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

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

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

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

### 1.2 Milestones of rezoning process

The following identifies the various dates of significant milestones in the processing of the rezoning proposal:

- August 2007 – Council resolved to commence rezoning process pursuant to s54 (then) of the Act
- May 2008 – Ardill Payne & Partners (APP) submitted technical documents supporting rezoning proposal on behalf of property owners
- December 2008 – GHD (on Council's behalf) completed first round peer review of technical rezoning documents
- February 2010 – APP submitted revised technical documents in response to Council's/GHD's peer review
- April 2010 – GHD (on Council's behalf) completed second round peer review of technical documents
- July 2010 – APP submitted additional technical information in respect of slope stability, acid sulfate soils, stormwater and road traffic noise
- August 2011 – APP submitted final revised reports in respect of stormwater (particularly impacts on downstream private property, SEPP 14 wetlands and Ballina Nature Reserve) and road traffic noise
- October 2011 – finalisation of LES by GHD (on Council's behalf)
- November 2011 – Report to Ordinary Council meeting – Council resolved to publicly exhibit the planning proposal
- 12 January 2012 to 30 March 2012 – public exhibition of planning proposal
- 25 January 2012 – landholder briefing sessions at Council's Customer Service Centre
- 29 February 2012 – "drop in" session with Council's Strategic Planning and Engineering staff at Council's Customer Service Centre
- 10 March 2012 – public information session at Lennox Head Cultural and Community Centre
- 17 July 2012 – Report to Environmental & Sustainability Committee meeting – report on public submissions made in respect of public exhibition of planning proposal
- 26 July 2012 – Report to Ordinary Council meeting – Council resolved (Resolution 260712/1) to proceed to finalise planning proposal subject to certain matters (refer Section 1.1 above)
- 10 August 2012 – Council's Strategic Services Group provided a letter (dated 10 August 2012) advising of the above resolution and confirming that a Draft VPA was being prepared by

Council– (NB: Neither the landowners or persons acting on their behalf had any input into the VPA)

- 17 August 2012 – Council's Strategic Services Group provided a letter (dated 17 August 2012) advising of the above resolution and to which was attached a copy of a Draft VPA for CURA-A
- 5 September 2012 – APP letter to Council confirming commissioning of BMT WBM to undertake further stormwater/flood modelling and confirming payment of requisite fees for undertaking of such modelling
- 11 September 2012 – An amended VPA was received by APP from Council's Strategic Services Group (email dated 11 September 2012)
- Sept/Oct 2012 – A number of meetings were had between CURA-A landowners and Town Planners, Engineers and Solicitors acting on their behalf in respect of the Draft VPA and the alternative mechanism
- 12 October 2012 – An alternative mechanism for infrastructure provision and servicing (letter dated 12 October 2012) was emailed and posted to Council's Strategic Services Group
- 20 December 2012 – Report to Ordinary Council meeting – Council resolved (Resolution 201212/6) to provide in principle support for Precinct A Planning Proposal subject to certain matters (refer Section 1.1 of this report)
- 5 February 2013 – APP letter to Council providing signed CURA-A landowner consent to lifting of the s94 cap
- 15 February 2013 – Council letter to Minister Hazard requesting support for raising of s94 cap
- 9 April 2013 – Minister Hazard letter to Minister Page confirming acceptance of raising s94 cap to \$30,000.00 and advising of preparation of amended direction to apply the \$40K Greenfield s94 cap for CURA-A
- 22 May 2013 – APP letter to Council providing details on the method of calculation and delivery of infrastructure to service CURA-A

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### 4 Rural residential style lots

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#### 2.1 Background

In discussions with Council's Strategic Planners and the Department of Planning's Planners at the start of the rezoning process, the provision of smaller rural residential style lots was considered to be a reasonable approach to the use of certain more constrained land in CURA-A as it was considered that it would afford environmental protection and management by having such land in smaller and more manageable sized private ownership lots, thus enabling the rural residential occupation of those lots, and the ability for residents living on those lots to protect and manage the land.

It was also considered to be such that would provide for vegetated buffers, interface and transition areas between rural and future urban residential areas.

The purpose of the proposed rural residential style allotments is to facilitate the integration of environmental management areas into smaller landholdings (which would enjoy a dwelling entitlement) to provide for continued tenure and land management via private individuals who have a vested interest (including residential occupation) in the management and well-being of the land.

There are serious concerns as to the implications of the proposed "blanket" 40ha minimum lot size standard over all of the land that is not proposed to be zoned R2 and R3 and as to how such very large sized lots will be able to be managed and maintained, particularly due to the fact that such land is quite heavily constrained and is generally unproductive (with little to no ability for the land to generate any income to fund the care, control and management of the land).

It is submitted that by providing a range of 0.5-5ha lots within these areas, it would enable the land to be cut into smaller and much more manageable sized lots which can be lived on and which will provide the ability and impetus for the owner/resident to managed, maintain and protect the land.

This type of subdivision is able to be achieved and controlled simply and efficiently by way of the proposed Minimum Lot Size Mapping under the provisions of the BLEP 2012 and by way of a development control plan, the preparation and adoption of which is a statutory pre-

requisite for the grant of consent to a development application for land in an urban release area, pursuant to Clause 6.3 of the BLEP 2012.

In considering this matter, Council's attention is drawn to the Lot Size Maps of the Richmond Valley LEP 2012 which contain a broad range of minimum lot sizes in rural/non urban localities, which could practically and effectively be applied to certain land in CURA-A, being:

- X – 5000m<sup>2</sup>
- Y – 1ha
- Z – 2ha
- AA1 – 6ha
- AA2 – 9ha

The zoning regime proposed by Council under the original Planning Proposal (refer **Appendix A**) would be able to be retained (contingent upon the Minister's determination on "E" zonings) as a "dwelling house" is an expressly permitted use with consent within the proposed zones.

Provided at **Appendix E** are detailed plans that have been prepared using accurate contour information, which show:

- the size and shape of the proposed rural residential style lots and local roads to service such lots
- detailed servicing plans (truck stormwater mains, interallotment roofwater drainage lines, drainage watercourses, gullies and swales, sewer gravity mains, existing trees/vegetation)
- building envelopes and access thereto (including sections of envelopes and driveways)

As evidenced on these plans, there is scope to create in the order of 14 rural residential type lots, each of which will have a relatively unconstrained building envelope and driveway and can be readily and practically serviced.

### 2.2 Ballina Shire Council Growth Management Strategy 2012 (GMS)

Council at its Ordinary Meeting of the 26<sup>th</sup> July 2012 resolved to adopt the Ballina Shire Council Urban Growth Management Strategy.

Provided at **Appendix D**, are extracts of the Strategy in respect of the Cumbalum locality, which confirm that the subject land is wholly

identified as a "Strategic Urban Growth Area", with one of the Strategic Actions being to "Establish a Development Control Plan (DCP) to guide future integrated subdivision, development and services delivery."

As detailed in Minute No. 260712/7, Council resolved in adopting the GMS "That a strategic action be inserted relating to investigating the concept of allowing semi rural allotments on the edges of greenfield development areas."

The following is an extract from *Appendix 2 – Strategic Action Matrix* of the GMS which confirms that one of the Shire-wide and other areas' strategic actions is to "Investigate the concept of permitting semi-rural allotments on the edges of strategic urban release areas" with the purpose being that "The creation of small rural allotment on the edge of the residential footprint in new release areas may have advantages associated with providing the consolidation of environmental management areas into a small number of landholdings which enjoy dwelling entitlements, thus providing for land management and oversight. However this concept is to be considered further having regard for key issues including access and interface issues, appropriate allotment sizes and configuration and ownership arrangements."

As a consequence of the above, it is submitted that the issue raised by Council's Planners in Item 4.1 of the 17<sup>th</sup> July 2012 agenda, in respect of declining the proposed concept of rural residential style lots pending Council confirming a policy position, has actually been satisfied in that it has considered such from a strategic planning context and has made express provision in its GMS.

### 2.3 Proposed Development Control Plan provisions

As Council would be aware, Clause 6.3 of the BLEP 2012 provides that consent must not be granted for land in an urban release area unless a development control plan that provides for the matters specified in subclause (3) has been prepared for the land.

Subclause (3)(f) provides that the DCP must provide for the following (amongst a range of other matters):

- (f) *amelioration of natural and environmental hazards, including bushfire, flooding and site contamination and ....*
- (g) *detailed urban design controls for significant development sites..*



Having regard to the above, it is incumbent for DCP to be prepared in respect of any of the CURA-A land that is to be subdivided and developed for urban residential purposes and thus such DCP can and should contain standards and controls for the creation of and residential development on and residential occupation of any rural residential style lots.

### 2.4 Comments in respect of Clause 13 of the BLEP 1987

Council's Planners have raised issues and drawn parallels with the prior operation of Clause 13 of the BLEP 1987, which was deleted by Amendment No. 36 in September 1995.

It is submitted that there are substantial differences between the application of the former Clause 13 and the proposed mechanism to enable the creation of smaller rural residential style lots (via the minimum lot size mapping provision under the Standard LEP template) being:

- Clause 13 facilitated the creation of rural residential lots within established rural areas, where a range of enabling development standards were able to be satisfied
- there was significant potential for land use conflict in enabling rural residential lots to be situated within existing productive agricultural areas, many of which were characterised by horticultural activities
- any proposed lots in CURA-A will be situated within what will largely be an urban area, with the location of the lots being situated on relatively constrained land and providing a practical and effective interface with the future urban residential development
- the ability for such lots to be created (and the location of such) will be clearly articulated in strategic and statutory planning documents which will be "locked in" by development consents and DCP provisions and will be available to the broader community (including prospective purchasers)
- an express ability exists under the Minimum Lot Size Maps of the BLEP to apply any number of specific lot sizes to any lot(s) (or part of any lot(s)) which is contemporary best practice planning, which has been endorsed by the State Government and Minister in other new LEPs in NSW (including the Northern Rivers)

**2.5 Current situation with large residue lots in other greenfield residential subdivisions**

Council's Regulatory Services Group has recently approved a number of development applications (particularly in the Wollongbar Urban Expansion Area) which have had the effect of consolidating land that was previously planned to be contained a larger lot and dedicated to Council as open space [being land zoned 7(d) – Environmental Protection (Scenic/Escarpment) Zone and that was constrained by slope and vegetation] into adjoining private property lots.

In prior discussions with Council officers in respect of such, it was confirmed that there were no objections to and that they were fully supportive of the proposed consolidation of the 7(d) zoned land into private residential lots due to the fact that:

- there would have been significant financial, maintenance and management implications for Council if the land was in public ownership
- the land comprised relatively small isolated pockets that were heavily constrained (steeply sloping and vegetated), not readily accessible to the general public and would not have served any real public benefit or purpose
- the land had poor passive surveillance opportunities (no public road frontage and not visible from any public place) and thus there would be significant security and management issues if in public ownership, particularly from a Crime Prevention Through Environmental Design perspective
- there were on-going maintenance issues with the land from a bushfire hazard perspective (if in Council ownership)

Council's Civil Services and Regulatory Services Groups' positions were that such land would be better contained in private property so that care, control, management and maintenance would be undertaken by the owner/resident.

This is a relatively comparable scenario to that being proposed by the ability to create the rural residential style lots.

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### 3 Conclusion

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Having regard to the above, it is submitted that it would be appropriate for Council to modify the proposed minimum lot size mapping for CURA-A such that the AB 40ha is replaced with smaller lot sizes due to the fact that:

- the ability to create smaller rural residential style lots is considered to be a reasonable approach to the use of certain constrained land in CURA-A
- such lots will afford environmental protection and management by having such land in smaller and more manageable sized private ownership lots, thus enabling the rural residential occupation of those lots, and the ability for residents living on those lots to protect and manage the land
- smaller lots will also provide for vegetated buffers, interface and transition areas between rural and future urban residential areas
- the smaller lots will facilitate the integration of environmental management areas into smaller landholdings (which would enjoy a dwelling entitlement) which will provide for the continued tenure and land management via private individuals who have a vested interest (including residential occupation) in the management and well-being of the land
- concern exist as to how a 40ha lot(s) will be able to be managed and maintained, particularly due to the fact that such land is quite heavily constrained and is generally unproductive (with little to no ability for the land to generate any income to fund the care, control and management of the land)
- the provision of a DCP is a pre-requisite for Council granting consent to any development application for subdivision of the subject land as per Clause 6.3 of the DBLEP 2011 – subdivision and development standards for the rural residential style lots would be incorporated into the DCP
- further detailed and specific site planning and reporting (including subdivision layout design) would have to be undertaken to support and inform any DA for subdivision
- should the minimum lot size mapping be changed, this does not infer any right to subdivide all of the land to that minimum size – all development applications would be subject to further design, reporting/investigation and merit assessment
- Council should be looking to maximise the future urban/residential zoned land within CURA-A and the Cumbalum Ridge as this is the major urban growth area for the Shire

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4 Appendices

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- Appendix A** Proposed zoning regimes and minimum lot size map (per Ballina Council)
- Appendix B** Aerial photograph of subject and adjoining land
- Appendix C** Proposed Planning Proposal zoning regime and concept subdivision layout
- Appendix D** Extract: Ballina Shire Council Urban Growth Management Strategy
- Appendix E** Plans showing layout, building envelopes, site access and servicing of proposed rural residential type lots

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APPENDIX A

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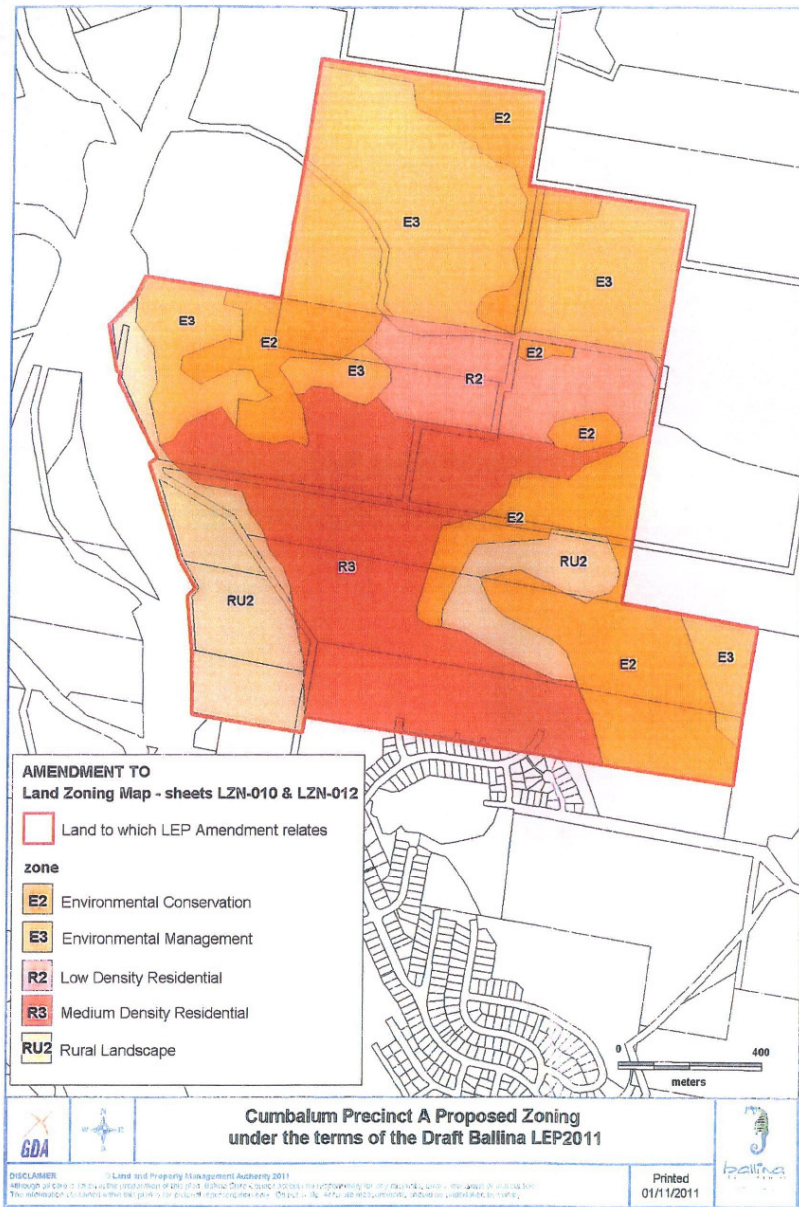
**Appendix A**  
Proposed zoning regime and  
minimum lot size map (per  
Ballina Council)

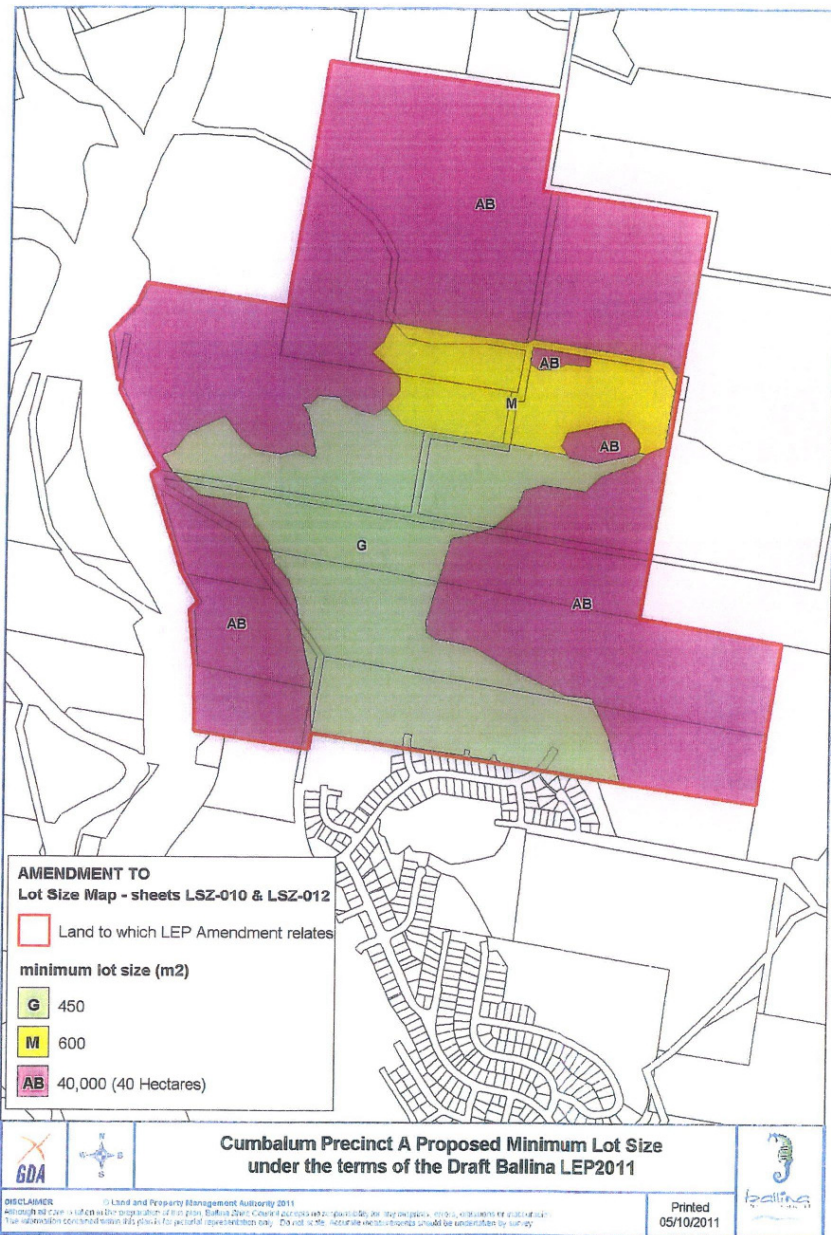
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*Supplementary report (rural residential style lots)*  
CURA-A Planning Proposal  
May 2013

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Appendix 2 - Proposed Amending LEP maps





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APPENDIX B

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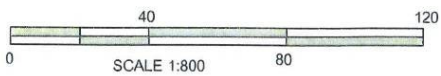
**Appendix B**  
Aerial photograph of subject  
and adjoining land

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*Supplementary report (rural residential style lots)*  
*CURA-A Planning Proposal*  
*May 2013*

*Page 15*





**Attachment B**  
Aerial image of proposed development area

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APPENDIX C

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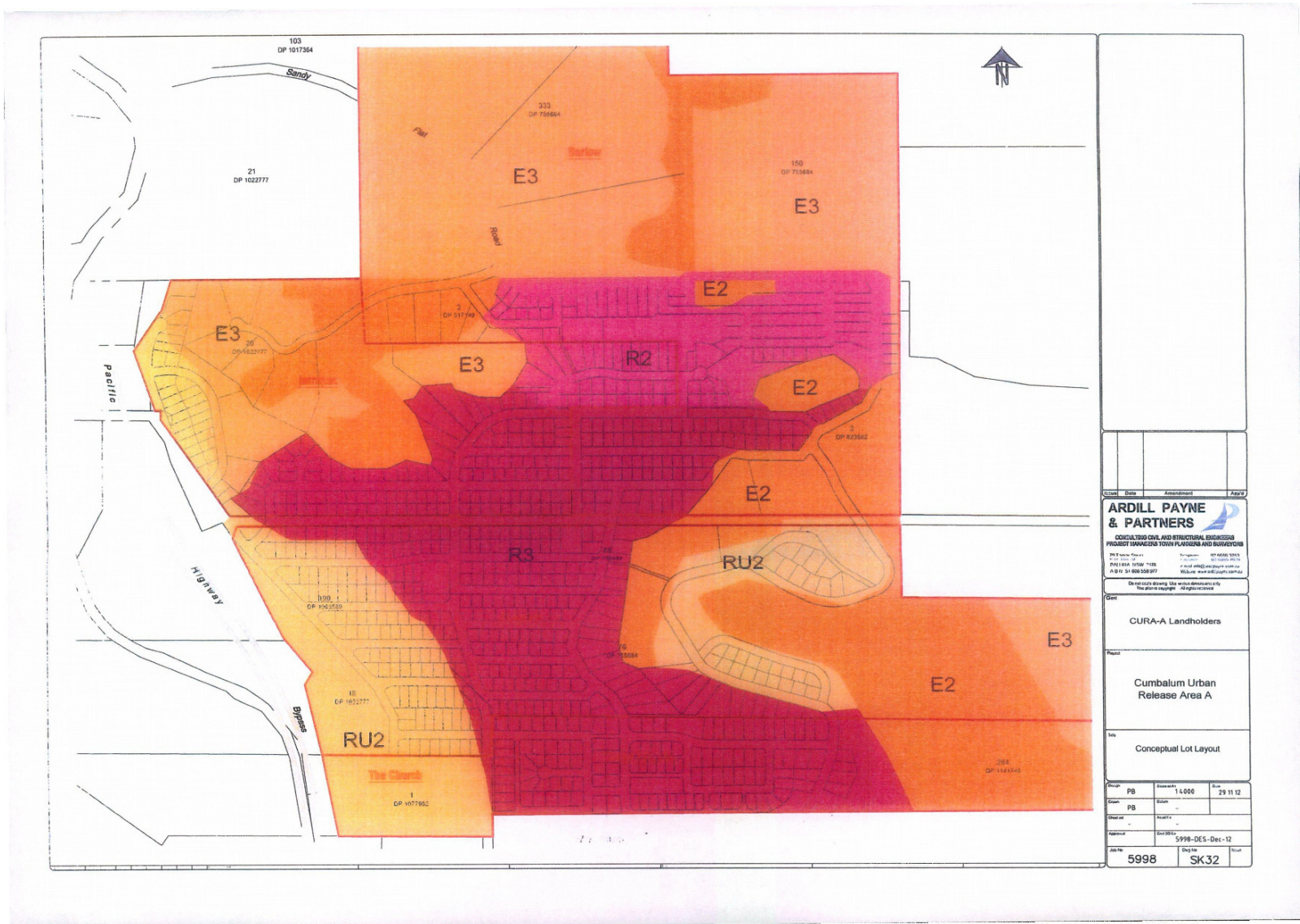
**Appendix C**  
Proposed Planning Proposal  
zoning regime overlain by  
concept subdivision layout

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*Supplementary report (rural residential style lots)  
CURA-A Planning Proposal  
May 2013*

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4.1 Cumbalum Precinct A - Planning Proposal



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APPENDIX D

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**Appendix D**  
Extract: Ballina Shire  
Council Urban Growth  
Management Strategy

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*Supplementary report (rural residential style lots)*  
CURA-A Planning Proposal  
May 2013

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## Cumbalum

### Locality Vision / Character Statement:

*'The Cumbalum Villages are envisaged as two (possibly three) distinct but related communities, designed and built so as to not impinge upon the surrounding rural and natural environment, each with its individual character and sense of place.*

*Each village will be a fully featured community, comprising residential areas embellished with public open space and a centrally located village centre, providing a focal point for commercial and community activities'.*

### Main Features:

- The Cumbalum Urban Release Area (CURA) comprises 157 hectares of residential zoned land ('Ballina Heights'), with an additional 850 hectares currently under investigation for potential rezoning for urban purposes. It is anticipated that not all the latter area will be rezoned for urban purposes, due to the presence of environmental constraints and urban design considerations.
- Currently the un-developed portion of the CURA land comprises a mixture of rural and agricultural land uses, with a variable subdivision pattern and limited access.
- The future development of the CURA has been subject to locality based strategic planning work - the Cumbalum Structure Plan (2006).

### Key Issues:

- The Cumbalum locality is recognised in the NSW State Government's Far North Coast Regional Strategy as a major urban release area, anticipated to accommodate a substantial proportion of future population growth anticipated for Ballina Shire and the Far North Coast Region.
- Detailed planning is required to determine those parts of the locality that have capacity to accommodate urban development and other land uses, whilst adequately protecting other adjacent sensitive or productive areas and ensuring the timely and equitable delivery of services. This will be achieved via the statutory rezoning process.
- The area contains Aboriginal, European and other non-Aboriginal heritage sites/values.

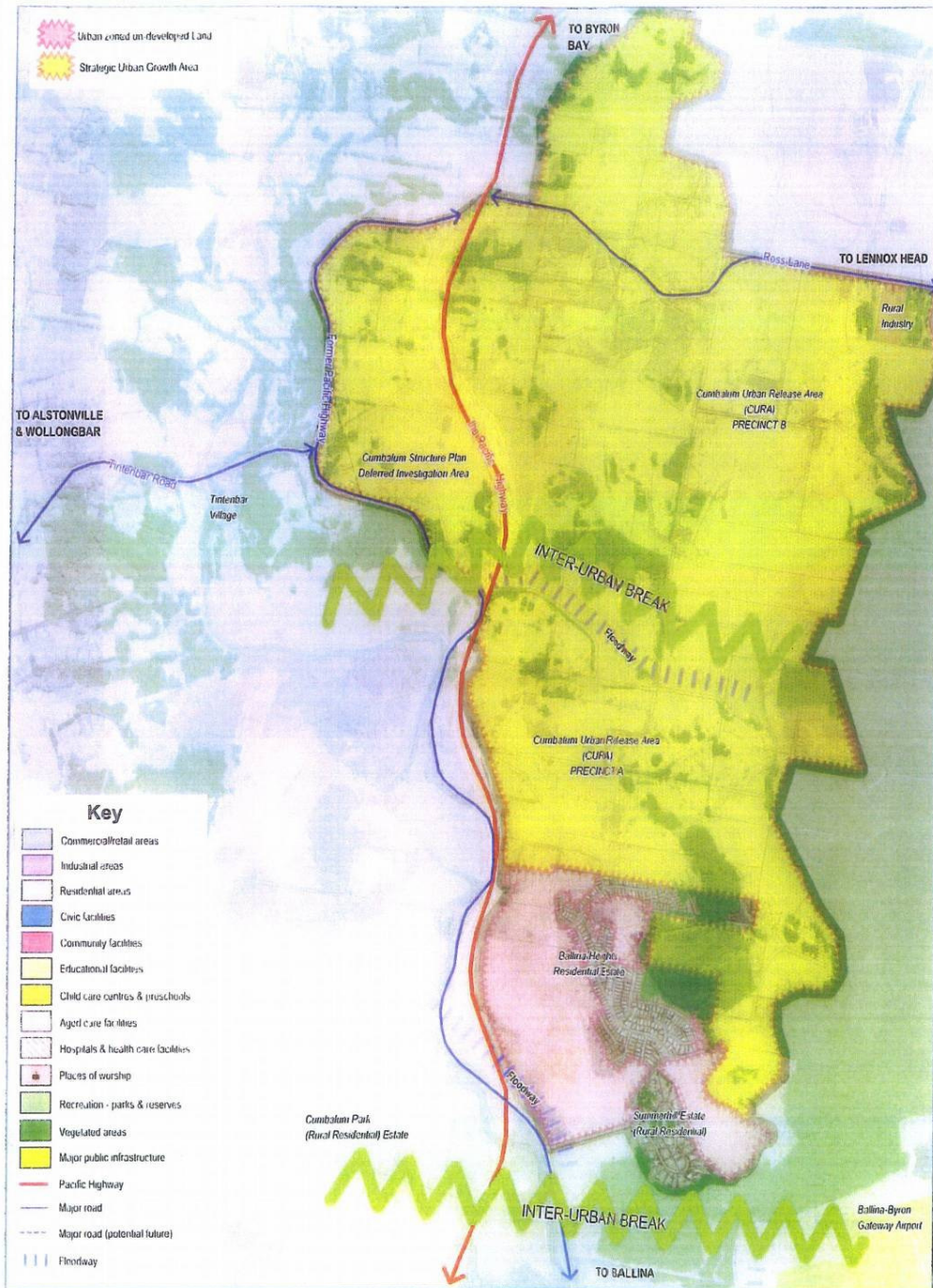
### Locality Objectives:

- Future development to provide for a range of lifestyle and other opportunities, including commerce and employment, recreation and a quality living environment.
- Economic and efficient development that recognises that these areas represent several of the remaining significant land releases in the shire.
- Preference for development to proceed as a south to north progression to maximise the efficient delivery of infrastructure.
- Manage Aboriginal, European and other non-Aboriginal cultural heritage values in accordance with best practice guidelines.

### Strategic Actions:

- Undertake a detailed site analysis and investigations to determine appropriate land use zoning that includes provision for employment and recreation outcomes.
- Establish a Development Control Plan (DCP) to guide future integrated subdivision, development and services delivery.
- Prepare an Infrastructure Delivery Plan for the locality.
- Manage and/or promote Aboriginal, European and other non-Aboriginal cultural heritage values in accordance with relevant stakeholders.

# 4.1 Cumbalum Precinct A - Planning Proposal



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APPENDIX E

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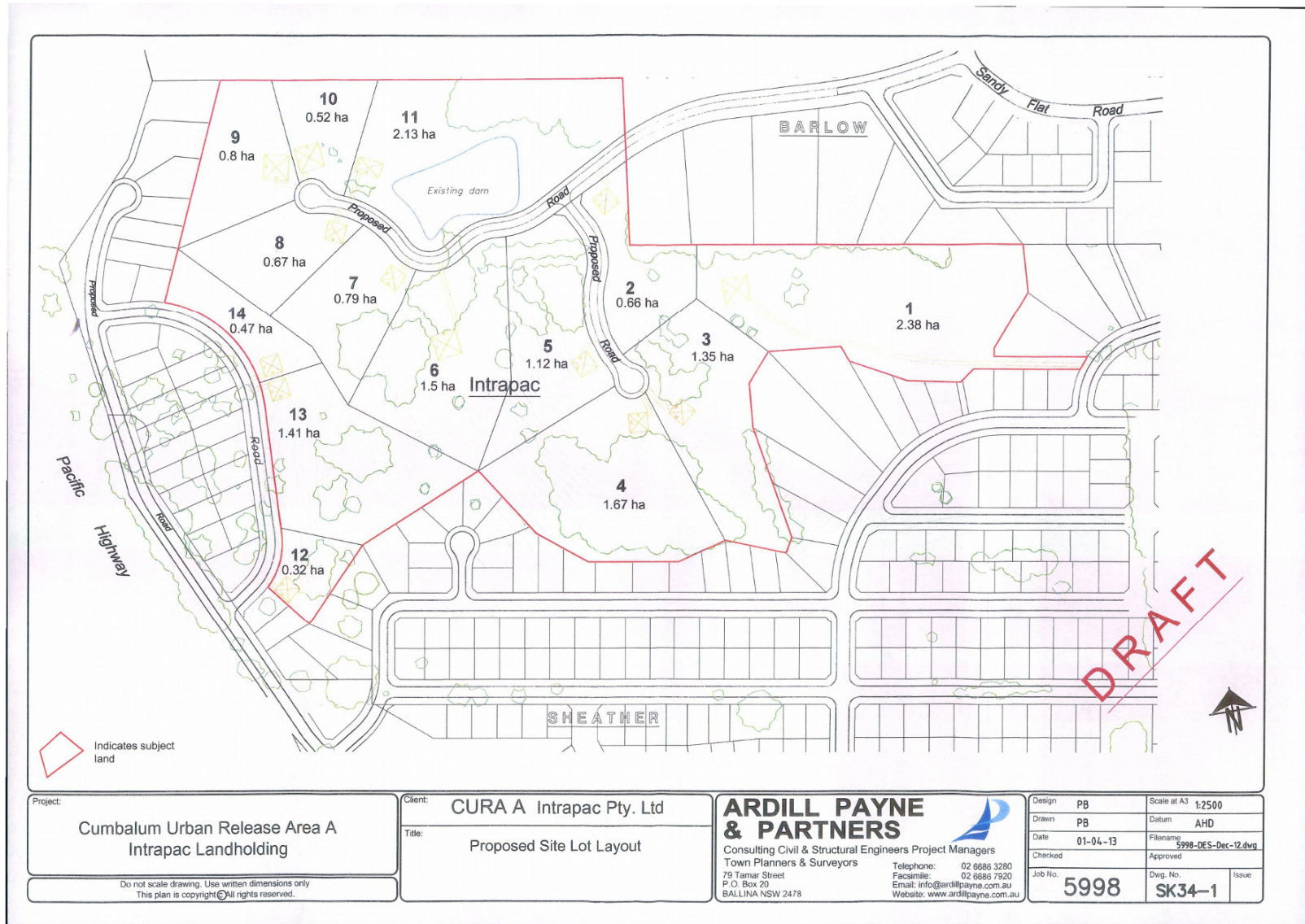
**Appendix E**  
Plans showing layout,  
building envelopes, site  
access and servicing of  
proposed rural residential  
type lots

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*Supplementary report (rural residential style lots)*  
*CURA-A Planning Proposal*  
*May 2013*

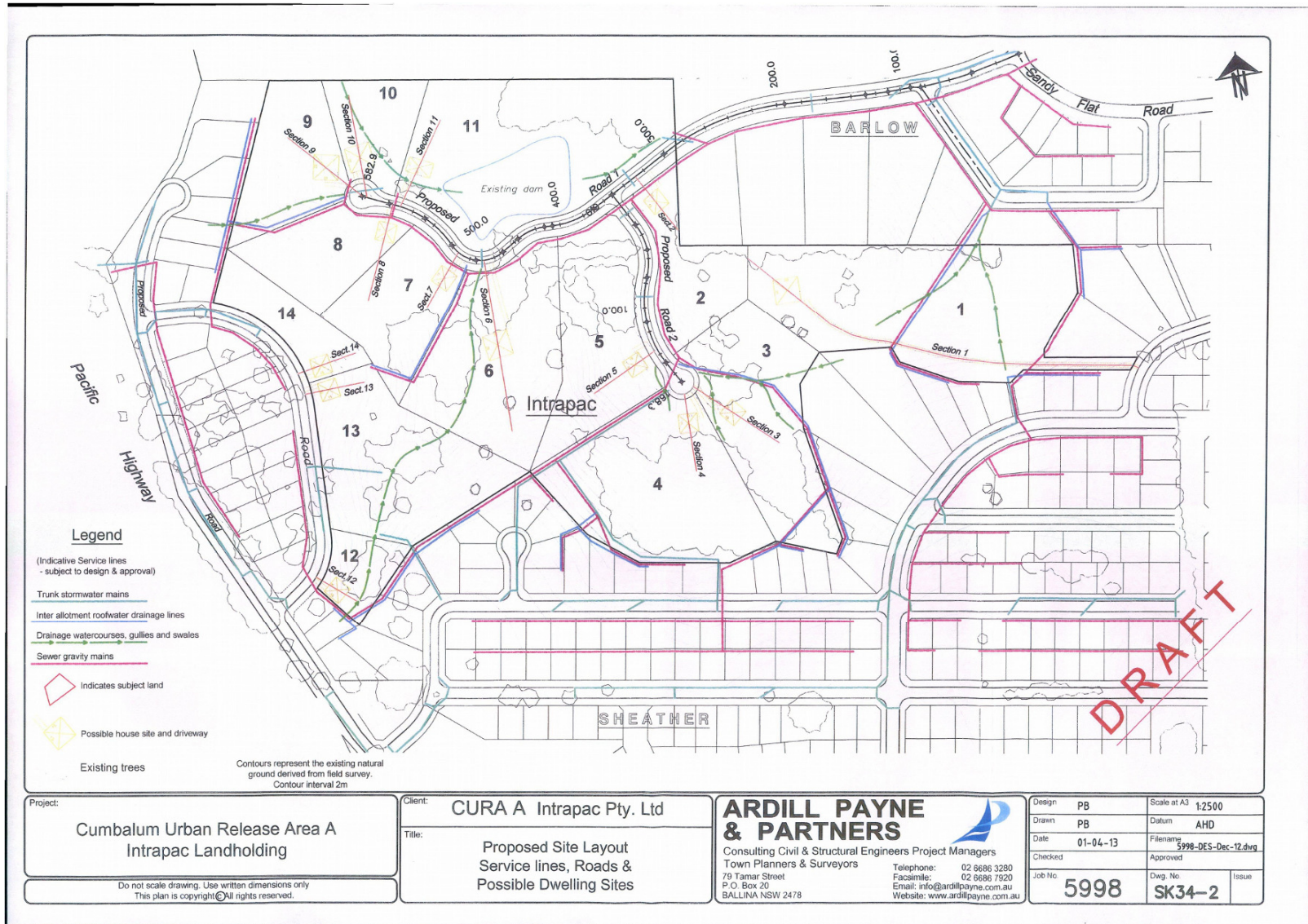
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4.1 Cumbalum Precinct A - Planning Proposal

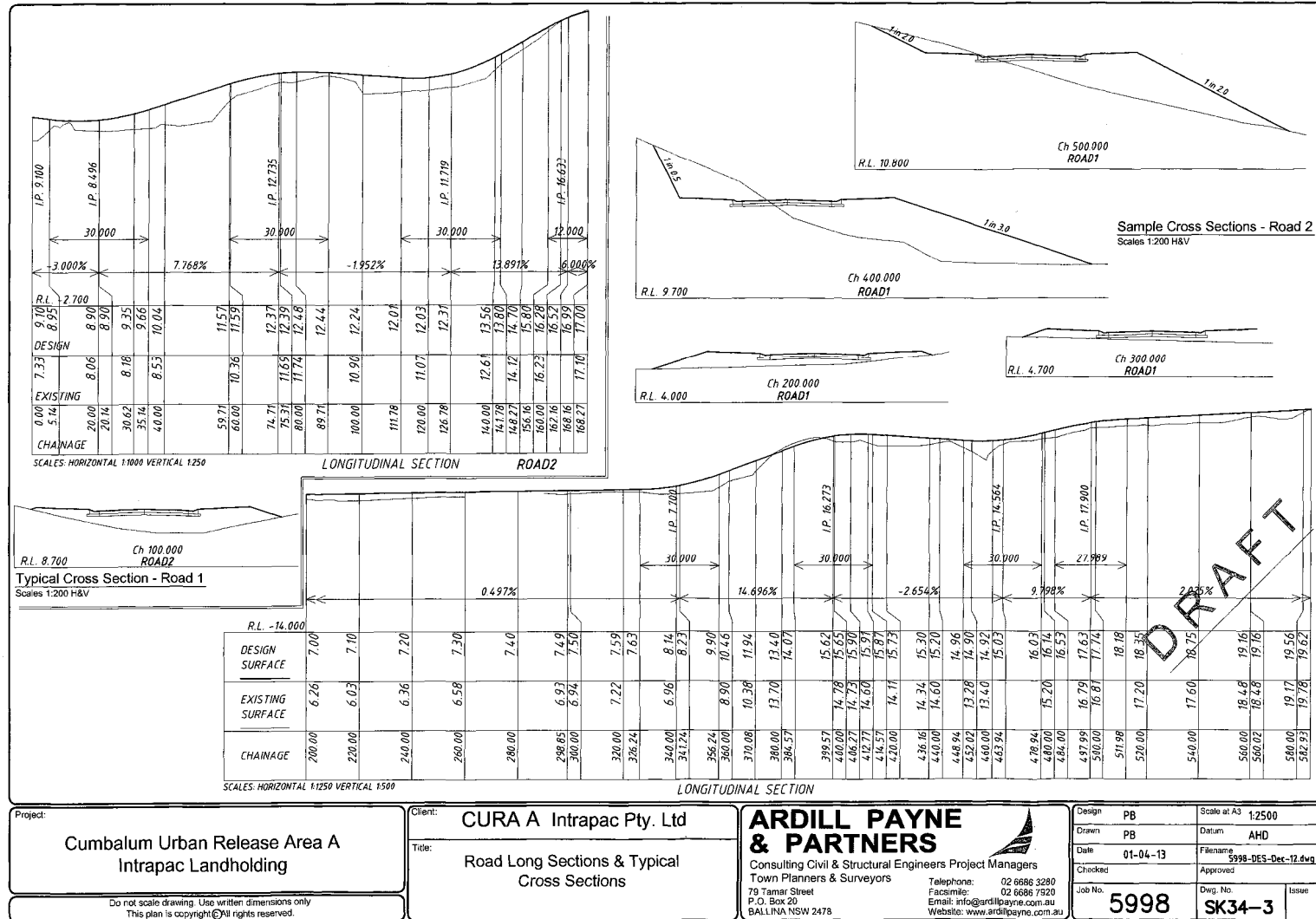




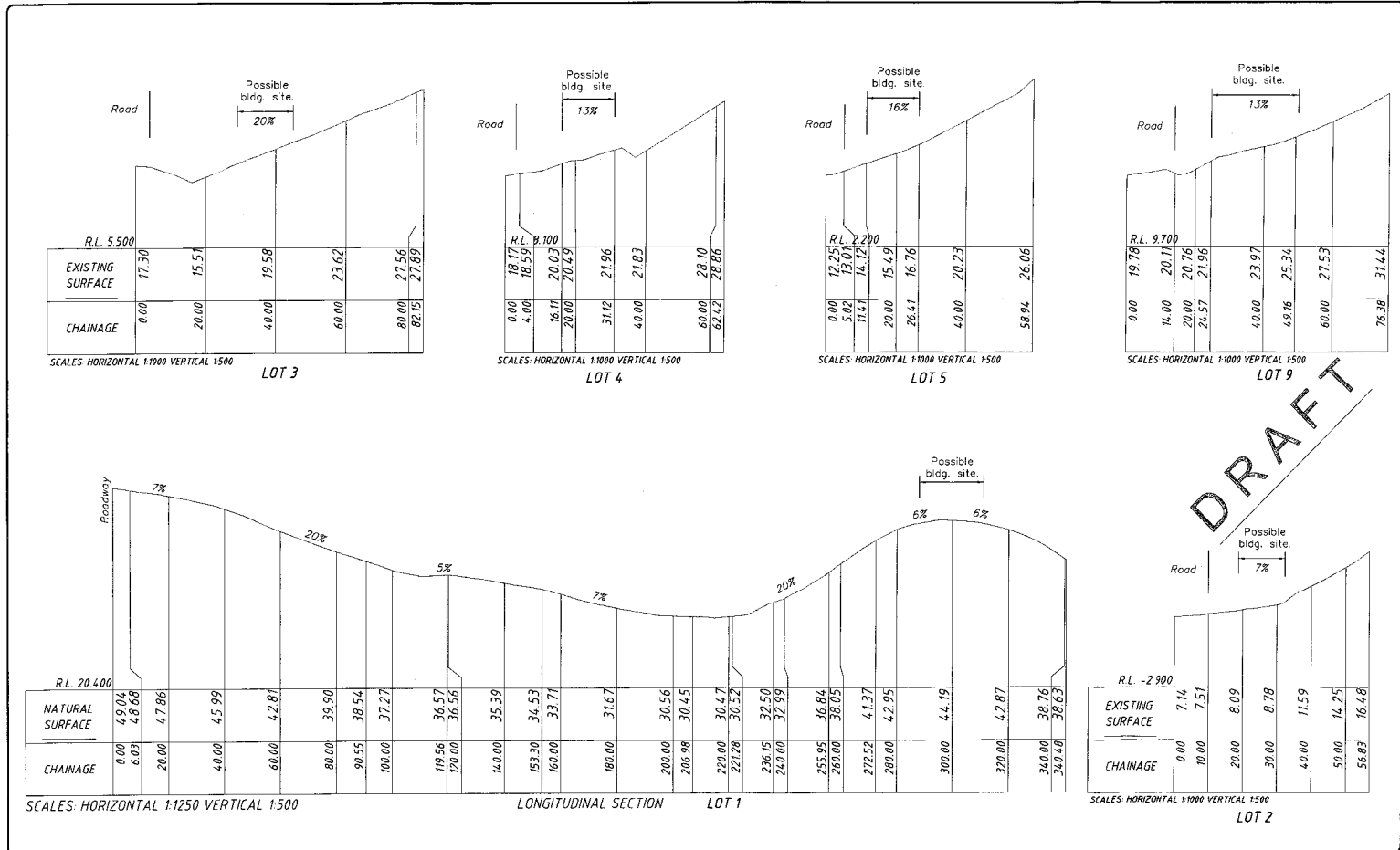
# 4.1 Cumbalum Precinct A - Planning Proposal



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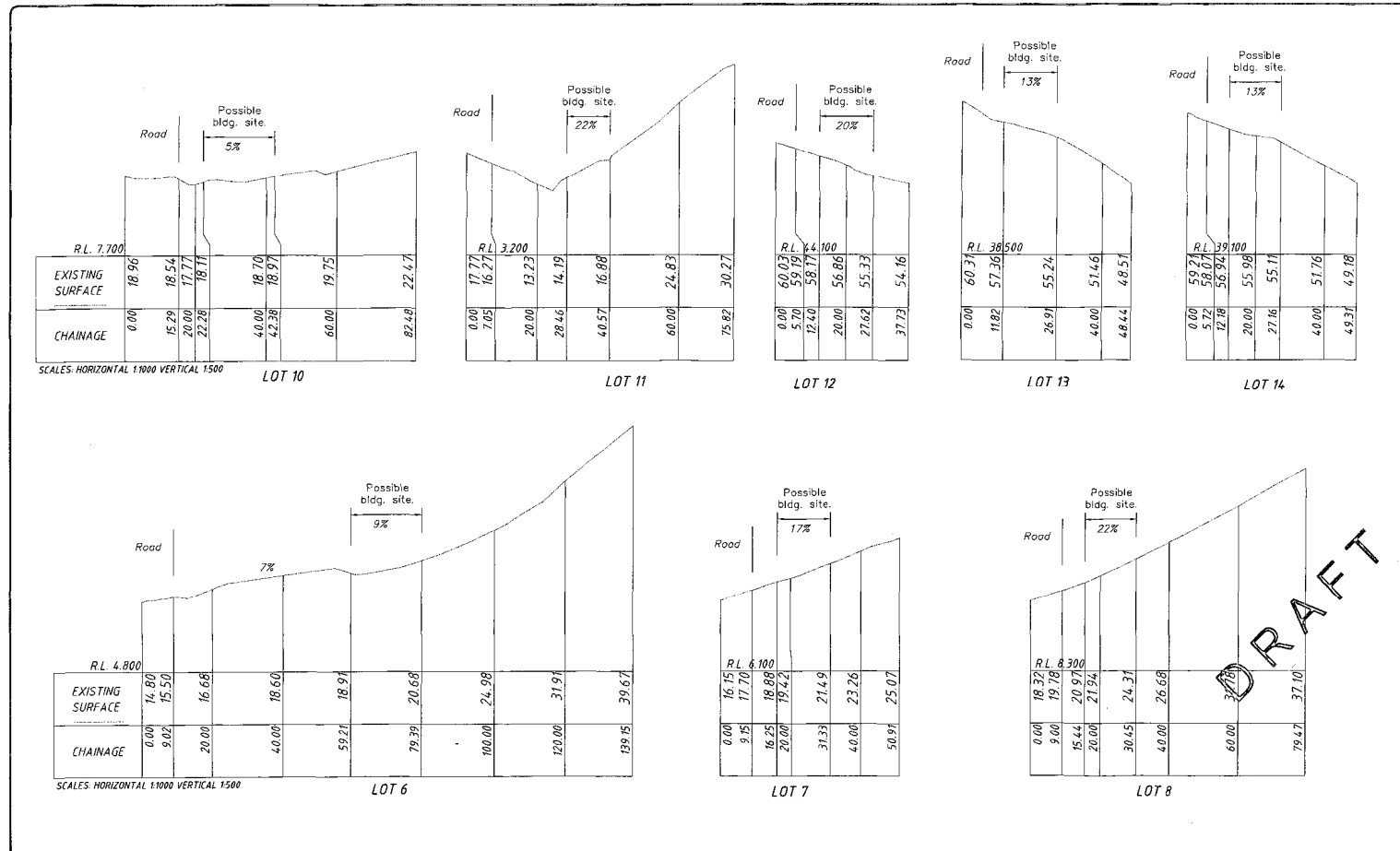


4.1 Cumbalum Precinct A - Planning Proposal



Project: <b>Cumbalum Urban Release Area A                  Intrapac Landholding</b>	Client: <b>CURA A Intrapac Pty. Ltd</b>	<b>ARDILL PAYNE                  &amp; PARTNERS</b> Consulting Civil & Structural Engineers Project Managers Town Planners & Surveyors 79 Tamar Street P.O. Box 20 BALLINA NSW 2478 Telephone: 02 6886 3280 Facsimile: 02 6886 7920 Email: info@ardillpayne.com.au Website: www.ardillpayne.com.au	Design: PB Scale at A3: 1:2500
Title: <b>Allotment Sections                  Lots 1 to 5 &amp; 9</b>	Drawn: PB Date: 01-04-13 Checked: Approved Job no. <b>5998</b>		Datum: AHD Filename: 5998-DES-DEC-12.dwg Approved: Approved Dwg. No. <b>SK34-4</b> Issue: Issue

4.1 Cumbalum Precinct A - Planning Proposal



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<b>Project:</b> Cumbalum Urban Release Area A Intrapac Landholding <small>Do not scale drawing. Use written dimensions only                  This plan is copyright © All rights reserved.</small>	<b>Client:</b> CURA A Intrapac Pty. Ltd <b>Title:</b> Allotment Sections Lots 6 to 8 & 10 to 14	<b>ARDILL PAYNE &amp; PARTNERS</b> Consulting Civil & Structural Engineers Project Managers Town Planners & Surveyors Telephone: 02 6886 3280 Facsimile: 02 6886 7920 Email: info@ardillpayne.com.au Website: www.ardillpayne.com.au 79 Tamar Street P.O. Box 20 BALLINA NSW 2478	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>Design</td><td>PB</td><td>Scale at A3</td><td>1:2500</td></tr> <tr><td>Drawn</td><td>PB</td><td>Datum</td><td>AHD</td></tr> <tr><td>Date</td><td>01-04-13</td><td>Filing no.</td><td>5998-DES-Dec-12.dwg</td></tr> <tr><td>Checked</td><td></td><td>Approved</td><td></td></tr> <tr><td>Job No.</td><td style="font-size: 1.2em;"><b>5998</b></td><td>Dwg. No.</td><td><b>SK34-5</b></td></tr> <tr><td>Issue</td><td></td><td></td><td></td></tr> </table>	Design	PB	Scale at A3	1:2500	Drawn	PB	Datum	AHD	Date	01-04-13	Filing no.	5998-DES-Dec-12.dwg	Checked		Approved		Job No.	<b>5998</b>	Dwg. No.	<b>SK34-5</b>	Issue			
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