



Ballina Shire Council

Planning Proposal 13/004 – August 2013

60 Crane Street, Ballina

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Introduction

Summary of Planning Proposal

This planning proposal relates to Lot 2 DP 506103, 60 Crane Street, Ballina, as shown on the locality map (Figure 1 below).



Figure 1. Site location

The subject land comprises a long (approximately 55.2 m) and narrow (approximately 2 m) lot of land that is currently under the ownership of Fire & Rescue NSW and forms part of the Ballina Fire Station as shown in Map 1. The land, the subject of this planning proposal, is occupied by a boundary fence and part of two (corrugated iron) sheds.

The site is currently zoned R3 Medium Density Residential under the terms of the Ballina Local Environmental Plan (LEP) 2012 as shown in Map 2.

The subject planning proposal proposes to rezone the land to B3 Commercial Core zone under the terms of the Ballina LEP 2012, to reflect its historic use and to correct a mapping anomaly associated with the digital representation of the Ballina LEP 1987.

Planning Context

The subject land is currently owned by Fire & Rescue New South Wales, being the current location of the Ballina Fire Station. The Council recently concluded investigations regarding the relocation of the fire station, to facilitate improved access and allow for expansion of the fire station. These investigations resulted in the Council resolving to offer Fire & Rescue NSW for Council to purchase the existing site and sell a site in Council's ownership to Fire & Rescue

NSW which will better accommodate the existing and future needs of the fire service. As part of these investigations, Council identified a zoning anomaly relating to part of the land on which the fire station is located, giving rise to the need for the subject planning proposal.

The report presented to the Council in relation to the sale and purchase of land to Fire & Rescue NSW was a confidential matter in accordance with Sections 10A(2)(c) and 10D(2)(c) of the Local Government Act 1993. The report cannot, therefore, be reproduced herein. Notwithstanding, the recommendation of the Commercial Services Committee Meeting of the Council held on 26 February 2013, and confirmed by resolution of the Council (Resolution 280213/30) at the Ordinary Council Meeting held on 28 February 2013, in relation to this matter, is as follows:

- 1. That Council resolves to accept the offer from Fire & Rescue New South Wales for the purchase and sale of the properties as detailed within this report, as this proposal is considered to provide the best outcome, both financially and from a social perspective to the community.*
- 2. That Council authorises the General Manager to finalise negotiations with FRNSW based on the contents of this report and approve the use of the Council Seal to be affixed to the sale contracts for the properties and any other associated documentation.*
- 3. That Council initiate a planning proposal to amend the Ballina Local Environmental Plan 2012. The outcome sought by the planning proposal is to rezone land described as lot 2 DP 506103, being part of the Fire & Rescue NSW site at No 60 Crane Street Ballina, from zone R3 Medium Density Residential to zone B3 Commercial Core, so as to be consistent with the zone of the remainder of that property.*

Further investigation into the above has identified that the current zoning of the subject land is a consequence of a mapping anomaly associated with the digitisation of the Ballina Local Environmental Plan 1987. The current and historic use of the subject land is associated with the use of an adjacent land parcel that is zoned for commercial purposes. This planning proposal seeks to apply the appropriate commercial zone to the land, consistent with the zoning of the adjacent land parcel with which its development history and use is associated.

Ballina LEP 1987

The subject land was zoned 3 Business Zone under the terms of the Ballina Local Environmental Plan 1987 as made by the Minister for Planning in 1987.

Figure 2 below shows an excerpt of the original Ballina LEP 1987 (as made) in relation to Lots 1, 2 and 3 of DP 506103. The area subject to the 3 Business Zone is shown with a heavy black line and cross-hatching. The lot boundary between Lots 2 and 3 is shown as a light dotted line. The lot boundary between Lots 1 and 2 is shown with a heavy solid line. As can be seen, the boundary between the 2(a) Residential (Living Area) Zone and the 3 Business Zone is shown as being coincident with the boundary between Lots 1 and 2. Consequently, Lot 2 is shown as being zoned 3 Business Zone under the terms of the Ballina LEP 1987, as made.

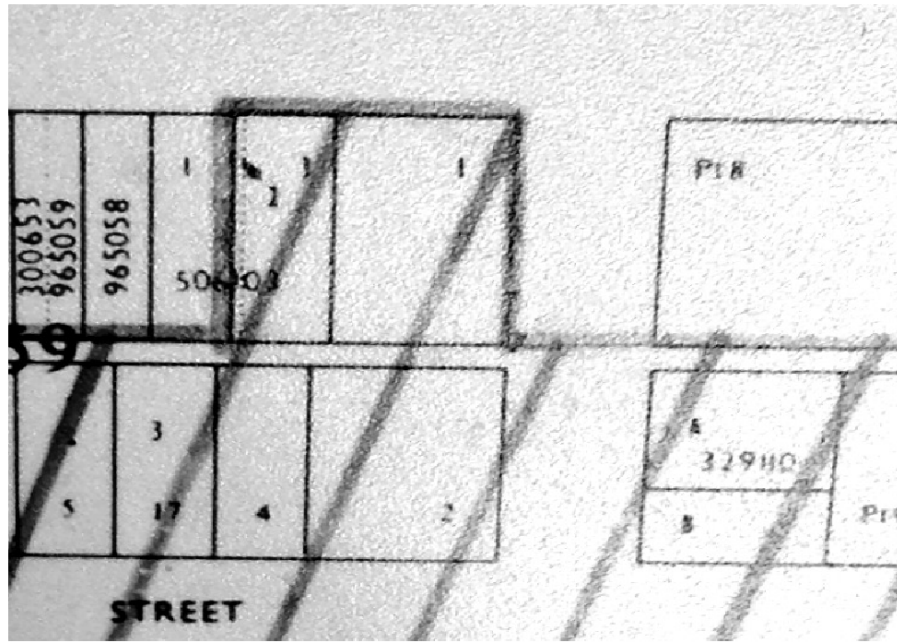


Figure 2. Excerpt of the Ballina LEP 1987 as made

Notwithstanding the above, it appears that when the Ballina LEP 1987 was 'digitised' into Council's computer-based Geographic Information System (GIS), in the mid 1990s, the zoning of the subject land was incorrectly applied as 2(a) Residential (Living Area) Zone.

Ballina LEP 2012

The subject land is zoned R3 Medium Density Residential zone under the terms of the Ballina LEP 2012. It is noted, however, that the urban zoning of the Ballina LEP 1987 was utilised as the basis for the Ballina LEP 2012, with the consequence that the Ballina LEP 2012 inherited the mapping anomaly outlined above.

The subject land is identified as the location (together with Lot 3 DP 506103) of a item of local heritage significance (Item I35), being the Ballina Fire Station.

Processing & Gateway Determination

Council considered the planning proposal at its Ordinary Meeting held on 23 May 2013 and resolved as follows [Minute No. 230513/12]:

1. That Council endorses the application of a B3 Commercial Core zone as the basis for a planning proposal applying to Lot 2 DP 506103, 60 Crane Street, Ballina (as shown in Map 1 of the planning proposal contained in Attachment 1).
2. That the Council submit the planning proposal relating to Lot 2 DP 506103, 60 Crane Street, Ballina to the NSW Department of Planning & Infrastructure for review and Gateway determination.

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3. *That upon an affirmative Gateway determination being received from the Department of Planning & Infrastructure, the procedural steps associated with progression of the planning proposal, including community consultation, be undertaken.*
4. *That a further report be presented to the Council in relation to this matter following mandatory community consultation.*

Council sought and received Gateway determination, allowing the planning proposal to proceed to public exhibition. A copy of the Gateway determination is provided in Appendix 2. Council was required to publicly exhibit the planning proposal for a minimum of 14 days and consulted with Fire & Rescue NSW in accordance with the Gateway determination.

The processes for finalisation of this planning proposal has been delegated to Council by the Minister for Planning & Infrastructure. Council has not, however, elected to exercise its delegation in this case, due to Council's interest in the land.

Part 1 - Objectives or Intended Outcomes

The objective of this planning proposal is to rezone the subject land from an R3 Medium Density Zone to a B3 Commercial Core Zone, to reflect its current and historic use and to rectify a mapping anomaly associated with the digitisation of the Ballina LEP 1987.

Part 2 - Explanation of the Proposal

This planning proposal relates to land located at lot 60 Crane Street, Ballina. The site is currently zoned R3 Medium Density Residential zone under the terms of the Ballina Local Environmental Plan 2012. The proposal involves rezoning the subject land to B3 Commercial Core to reflect the historic and ongoing use of the site. The planning proposal will have the effect of rectifying a mapping anomaly associated with the digitisation of the Ballina LEP 1987. There are no consequential implications for other statutory maps within the Ballina LEP 2012 map set.

Fundamentally, the planning proposal will have the effect of normalising the historic and ongoing use of the site and reflect the historic intended zoning of the land (as per the original Ballina LEP 1987).

Part 3 - Justification

Section A - Need for the Planning Proposal

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

The planning proposal seeks to rectify a mapping anomaly which resulted in an incorrect zone being applied when the Ballina LEP was 'digitised' into Council's Geographic Information System (GIS), with this anomaly being inherited by subsequent iterations of the Ballina LEP 1987 (as amended) and the Ballina LEP 2012. The planning proposal is consistent with the historic and ongoing use of the site.

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

The proposal is the only means available for rectifying the zoning anomaly outlined herein.

Section B - Relationship to the Strategic Planning Framework

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

The proposal is consistent with the FNCRS, which identifies Ballina as a Developing Major Regional Centre.

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

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

Ballina Local Environmental Plan 1987 as made

The subject land was zoned 3 Business Zone in the Ballina LEP 1987 as made. It is due to the zoning of the land being incorrectly identified when the Ballina LEP 1987 was digitised into Council's Geographic Information System in the mid 1990s that the zoning anomaly outlined herein has arisen.

Ballina Growth Management Strategy 2012

The subject planning proposal is consistent with the following 'locality objectives' for the Ballina Island locality contained in the Ballina Growth Management Strategy (2012):

- Reinforce Ballina Island as a key commercial and community centre, including health services and civil facilities;
- The Ballina CBD to remain as the core of the shire's retail hierarchy; and
- The residential function of Ballina Island is complemented by the broad range of land uses including commercial, industrial and community services and facilities.

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

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

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

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

Section C - Environmental, Social and Economic Impact

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

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

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

Given the existing use of the land and that use of the site is strongly associated with that of an adjoining commercial-zoned land parcel, the use of the site for commercial purposes is unlikely to result in any additional adverse environmental impacts in the locality.

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

The rezoning of the land for commercial purposes is consistent with the historic and ongoing use of the land, as provided for by the Ballina LEP 1987 when originally made in 1987. Consequently, the planning proposal will not have any social and economic effects beyond any that might reasonably be associated with the expected use of the land as a commercial land parcel.

Section D - State & Commonwealth Interests

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

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

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

Fire & Rescue NSW were invited to comment on the proposal, in accordance with the Gateway determination. Council did not receive a response.

Part 4 - Mapping

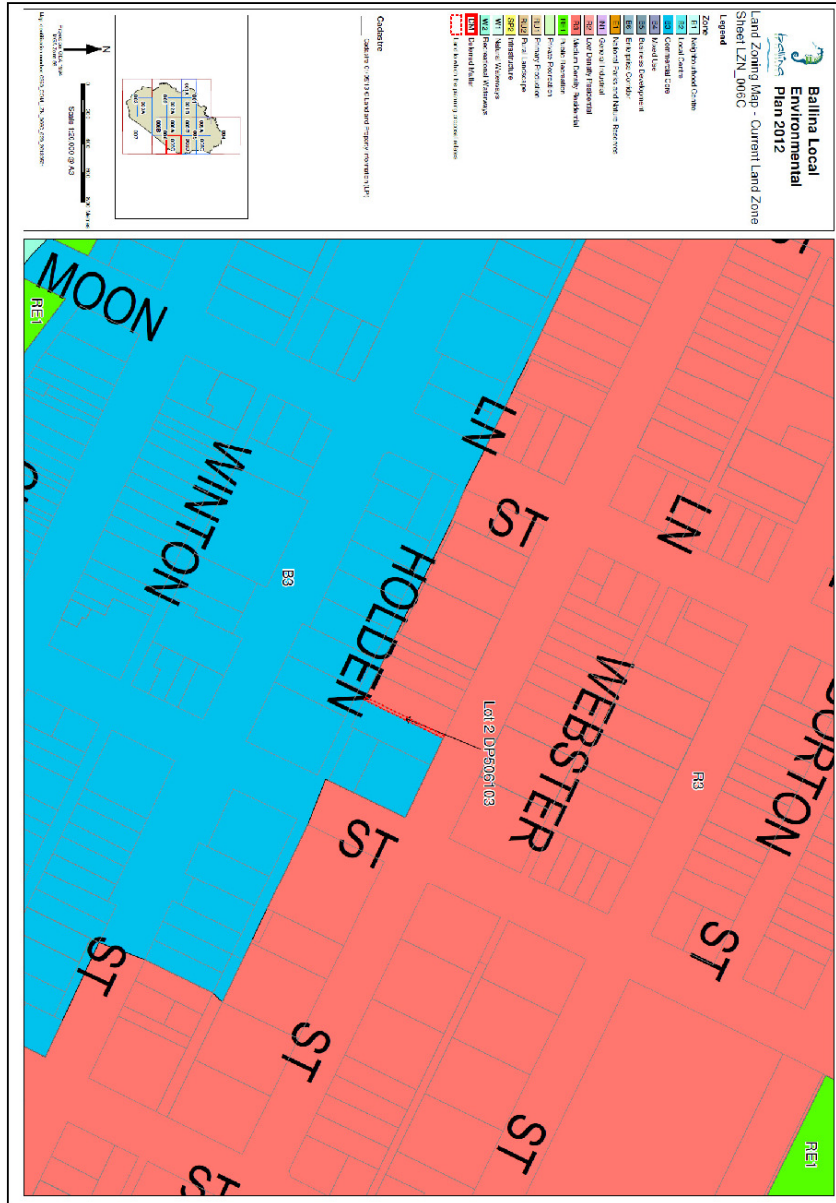
As outlined above, the subject planning proposal involves amendment of the Zoning Map, under the terms of the Ballina LEP 2012, from R3 Medium Density Residential to B3 Commercial Core Zone. None of the supporting maps in the LEP map set are affected by the subject planning proposal.

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

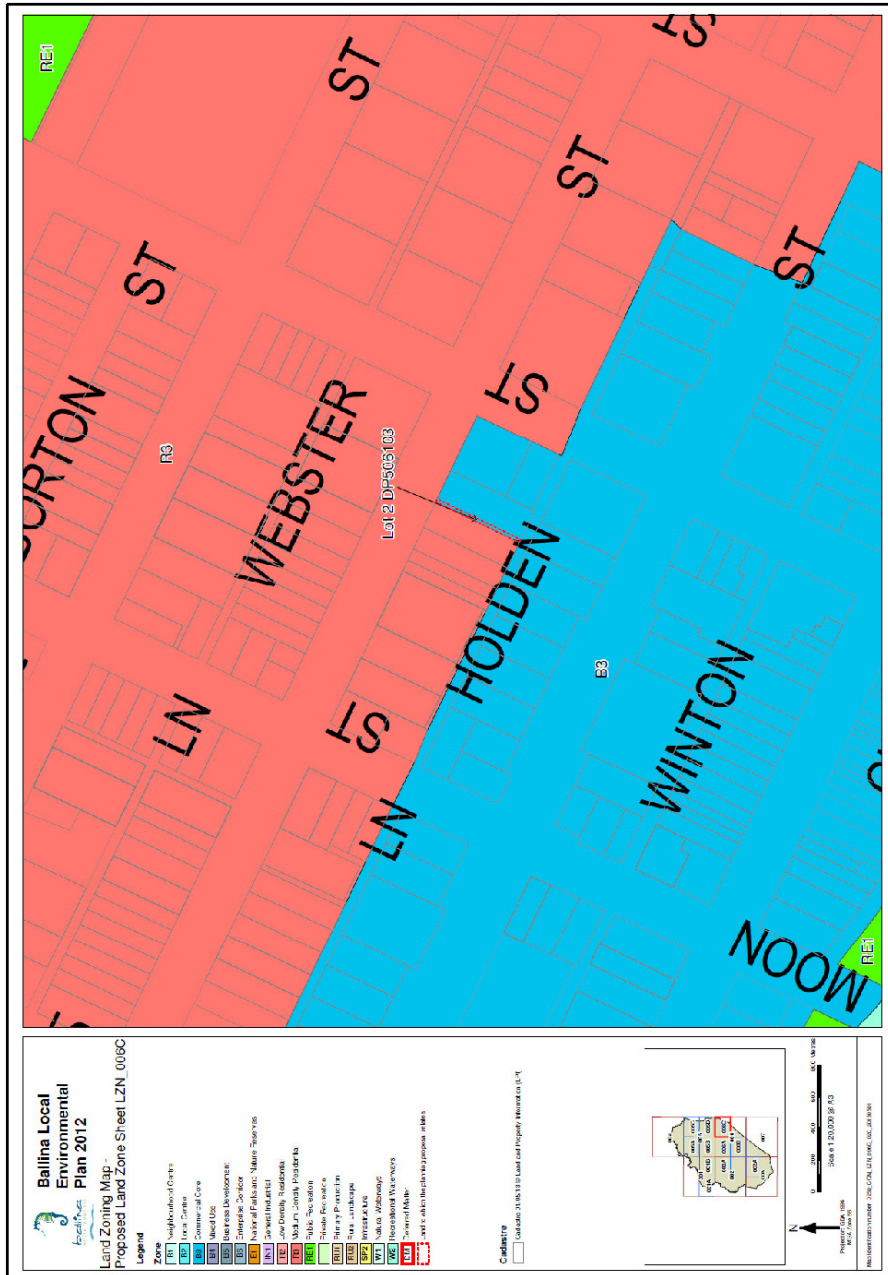
- Map 1 – illustrates the location of the subject land;
- Map 2 – illustrates the existing zoning of the land under the terms of the Ballina LEP 2012; and
- Map 3 – presents the proposed zoning of the land under the terms of the Ballina LEP 2012.



Map 1 - The Subject Land



Map 2 - Existing Zoning



Map 3 - Proposed Zoning

Part 5 - Community Consultation

This planning proposal was publicly exhibited from 17 July 2013 to 2 August 2013, in accordance with the Gateway determination and the terms of the *Environmental Planning & Assessment Act 1979*. A copy of the Gateway determination is provided in Appendix 2.

Part 6 - Project Timeline

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

Plan Making Step	Estimated Completion (Before)
Gateway Determination (Anticipated)	July 2013
Government Agency Consultation	August 2013
Public Exhibition Period	September 2013
Public Hearing (if required)	October 2013
Submissions Assessment	October 2013
RPA Assessment of Planning Proposal and Exhibition Outcomes	November 2013
Submission of Endorsed LEP to DP&I for Finalisation	December 2013
RPA Decision to Make the LEP Amendment (if delegated)	N/A – proposal not subject to delegation
Forwarding of LEP Amendment to DP&I for Notification (if delegated)	N/A – proposal not subject to delegation

Appendices

Appendix 1 - Section 117 Direction Checklist

Section 117 Direction Checklist Planning Proposal – 60 Crane Street, Ballina	
DIRECTION NO.	Compliance of Planning Proposal
1. Employment and Resources	
1.1 Business and Industrial Zones	Consistent. The proposal does not reduce the total potential floor space area for employment uses and related public services in business and industrial zones.
1.2 Rural Zones	Does not apply to planning proposal.
1.3 Mining, Petroleum Production and Extractive Industries	Does not apply to planning proposal.
1.4 Oyster Aquaculture	Does not apply to planning proposal.
1.5 Rural Land	Does not apply to planning proposal.
2. Environment and Heritage	
2.1 Environmental Protection Zones	Does not apply to planning proposal.
2.2 Coastal Protection	Consistent. The subject land can accommodate stormwater management, effluent disposal and will not impact on public foreshore access. Further, the subject rezoning is of minor significance.
2.3 Heritage Conservation	Consistent. The site, together with the adjacent lot (Lot 3 of DP 506103), relate to an item of local environmental heritage, being the Ballina Fire Station. The item is identified as such in the Ballina LEP 2012. The lot that is the subject of this application contains half a recently constructed shed and a boundary fence that do not have heritage significance. Notwithstanding, this planning proposal does not seek to alter the listing of the land as the location of an item of heritage significance.
2.4 Recreation Vehicle Areas	Does not apply to planning proposal.
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	Does not apply to planning proposal.
3.2 Caravan Parks and Manufactured Home Estates	Does not apply to planning proposal.
3.3 Home Occupations	Does not apply to planning proposal.
3.4 Integrated Land Use and Transport	Consistent The subject land is located adjacent to the Ballina Central Business District and enjoys a high level of pedestrian and vehicle accessibility and is located within 100m of public transport.
3.5 Development Near Licensed Aerodromes	Does not apply to planning proposal.
4. Hazard and Risk	
4.1 Acid Sulphate Soils	Consistent. The site contains potential acid sulfate soils (at a depth beyond 2m). The Ballina LEP 2012 addresses development on land that has the potential for acid sulfate soils.

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4.2 Mine Subsidence and Unstable Land	Does not apply to planning proposal.
4.3 Flood Prone Land	Does not apply to planning proposal.
4.4 Planning for Bushfire Protection	Does not apply to planning proposal.
5. Regional Planning	
5.1 Implementation of Regional Strategies	Consistent. The proposal is consistent with the FNCRS. In particular the policy supports Ballina as a Developing Major Regional Centre.
5.2 Sydney Drinking Water Catchments	Does not apply to Ballina Shire.
5.4 Commercial and Retail Development	Does not apply to planning proposal.
5.5 Development in the vicinity of Ellalong Paxton and Millfield (Cessnock LGA).	Repealed
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	Repealed
5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	Repealed
5.8 Second Sydney Airport: Badgerys Creek	Does not apply to Ballina Shire
6. Local Plan Making	
6.1 Approval and Referral Requirements	Consistent. The planning proposal does not introduce any new concurrence or consultation provisions or any additional designated development types.
6.2 Reserving Land for Public Purposes	Consistent.
6.3 Site Specific Provisions	Does not apply to planning proposal.
7. Metropolitan Planning	
7.1 Implementation of the Metropolitan Strategy	Does not apply to Ballina Shire.

Appendix 2 - Gateway Determination



Planning & Infrastructure

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

RECORDS
SCANNED
- 4 JUL 2013
Doc No.....
Batch No.....

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

Our ref: PP_2013_BALLI_004_00 (13/09986)
Your ref: 13/32926

Dear Mr Hickey,

Planning proposal to amend Ballina Local Environmental Plan 2012

I am writing in response to your Council's letter dated 11 June 2013 requesting a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to correct a mapping error by rezoning land at Lot 2 DP 506103 at 60 Crane Street, Ballina from R3 Medium Density Residential to B3 Commercial Core.

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

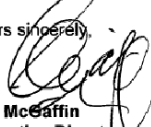
The Minister delegated his plan making powers to councils in October 2012. It is noted that Council has asked not to be issued with delegation for this planning proposal because of its commercial interest in the land. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan as the proposal is considered to be a matter of local significance.

The amending Local Environmental Plan (LEP) is to be finalised within 6 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office 6 weeks prior to the projected publication date. A copy of the request should be forwarded to the department for administrative purposes.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

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

Yours sincerely,


Neil McCaffin 1.7.13
Executive Director
Rural and Regional Planning
Planning Operations and Regional Delivery

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



Gateway Determination

Planning proposal (Department Ref: PP_2013_BALLI_004_00): to rezone land at 60 Crane Street, Ballina to B3 Commercial Core under Ballina LEP 2012.

I, the Executive Director, Rural and Regional Planning at the Department of Planning and Infrastructure as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the Ballina Local Environmental Plan (LEP) 2012 to correct a mapping error by rezoning land at Lot 2 DP 506103 at 60 Crane Street, Ballina from R3 Medium Density Residential to B3 Commercial Core should proceed subject to the following conditions:

1. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal is classified as low impact as described in *A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013)* and must be made publicly available for a minimum of **14 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013)*.
2. Consultation is required with Fire and Rescue NSW under section 56(2)(d) of the EP&A Act. Fire and Rescue NSW is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.
3. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
4. The timeframe for completing the LEP is to be **6 months** from the week following the date of the Gateway determination.

Dated *1st* day of *July* 2013.

Neil McGaffin
Executive Director
Rural and Regional Planning
Planning Operations and Regional Delivery
Department of Planning and Infrastructure

Delegate of the Minister for Planning and Infrastructure

BALLINA PP_2013_BALLI_004_00 (13/09986)



WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Ballina Shire Council is authorised to exercise the functions of the Minister for Planning and Infrastructure under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2013_BALLI_004_00	Planning proposal to correct a mapping error by rezoning land at Lot 2 DP 506103 at 60 Crane Street, Ballina from R3 Medium Density Residential to B3 Commercial Core.

In exercising the Minister's functions under section 59, the Council must comply with the Department's "A guideline for the preparation of local environmental plans" and "A guide to preparing planning proposals".

Dated *1st July* 2013

Neil McGaffin
Executive Director
Rural and Regional Planning
Planning Operations and Regional Delivery
Department of Planning and Infrastructure

Attachment 5 – Delegated plan making reporting template

Reporting template for delegated LEP amendments

Notes:

- Planning proposal number will be provided by the department following receipt of the planning proposal
- The department will fill in the details of Tables 1 and 3
- RPA is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the RPA should add additional rows to **Table 2** to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the department's publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the department with the RPA's request to have the LEP notified

Table 1 – To be completed by the department

Stage	Date/Details
Planning Proposal Number	PP 2013 BALLI 004 00
Date Sent to Department under s56	11/06/2013
Date considered at LEP Review Panel	27/06/2013
Gateway determination date	01/07/2013

Table 2 – To be completed by the RPA

Stage	Date/Details	Notified Reg Off
Dates draft LEP exhibited		
Date of public hearing (if held)		
Date sent to PCO seeking Opinion		
Date Opinion received		
Date Council Resolved to Adopt LEP		
Date LEP made by GM (or other) under delegation		
Date sent to DP&I requesting notification		

Table 3 – To be completed by the department

Stage	Date/Details
Notification Date and details	

Additional relevant information: