





Planning Proposal - June 2014

North Creek Foreshore

Lot 10 DP 1126929, Lot 1 DP 1119099,
Lot 3 DP 1079380 and Lot 33 DP 872966

2 Skinner Street, 3 & 5 Camden Lane, 1 Camden Street, Ballina

14/36402 Gateway

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North Creek Foreshore, Ballina

INTRODUCTION

Summary of Planning Proposal

This planning proposal relates to four residential lots with frontage to the North Creek foreshore in Ballina. The lots are described as Lot 10 DP 1126929, Lot 1 DP 119099, Lot 3 DP 1079380 and Lot 33 DP 872966 and are located off Skinner Street, Camden Lane and Camden Street, Ballina.

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



Figure 1. Land to which the planning proposal relates

The subject land is currently zoned part R2 Low Density Residential and part W1 Natural Waterway under the *Ballina Local Environmental Plan 2012* (BLEP 2012). The current zoning configuration is shown in Figure 2 below. This planning proposal seeks amend the BLEP 2012 and adjust the R2/W1 boundary to follow the existing North Creek shoreline as shown in Figure 3. The purpose of the amendment is to ensure the zoning of the land better reflects the actual land uses on site. The adjustment of the zone boundary will also have the

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effect of enabling coastal protection works to be carried out by the owners of the subject land. The owners of the subject land are currently unable to undertake desired coastal protection works which are prohibited in the W2 zone. The proposal will result in amendments to the Land Zoning Map and the Minimum Lot Size Map to reflect the above zone boundary change.



Figure 2. Current Zone Boundary

The current R2/W1 zone boundary traversing the subject lots (Figure 2) was adopted upon commencement of the BLEP 2012 and reflects the boundary of the 2(a) Living Area Zone under the *Ballina Local Environmental Plan 1987* that formerly applied to the land. The 2(a) zone boundary was based on the shoreline that existed at the time of preparation of the BLEP 1987.

Since that time, the shoreline has shifted eastwards due to natural accretion by coastal processes and the registered boundaries of the subject lots have been adjusted to increase lot areas as well (note: this has not involved encroachment into public land). These areas now comprise landscaped open space and yard areas related to the residential uses of the subject lots.

Having regard for the above, this planning proposal seeks to adjust the zone boundaries to reflect the physical uses of the land with this having the effect of enabling coastal protection works with development consent further east within the properties than is currently provided for.

Planning Context

Ballina Local Environmental Plan 2012

The subject land is currently zoned part R2 Low Density Residential and part W1 Natural Waterway as shown in Figure 2. The purpose of this planning proposal is to adjust the current R2/W1 zone boundary as it affects the subject sites. The reason for this is to apply land use zones that better reflect the actual land uses on the subject lots.

The objectives of the W1 Natural Waterways zone are:

- *To protect the ecological and scenic values of natural waterways.*
- *To prevent development that would have an adverse effect on the natural values of waterways in this zone.*
- *To provide for sustainable fishing industries and recreational fishing.*
- *To ensure that development maintains and enhances the integrity of aquatic ecosystems and biodiversity.*

As detailed in Figure 3, there are areas within the subject lots that are zoned W1 and currently comprise dry land. This land is used as landscaped open space and yard areas associated with the residential uses of the subject sites. It is therefore proposed to adjust the zone boundary and apply the R2 Low Density Residential zone to those parts of the subject lots which are used for low residential purposes and for purposes ancillary to low density residential use. The principal rationale for this in this case is to allow for the owners of the subject land desire the ability to seek development consent for coastal protection works on the subject lots, thereby enabling protection of the additional land area that has emerged over time. Coastal protection works are currently prohibited within the W1 zone, but are permissible in the R2 zone.

The adjustment of the zone boundary will apply land use zoning that reflects the current land uses and enable the landowners to undertake development of the land consistent with its current low density residential use. Specifically, the landowners are seeking the ability to obtain development consent for coastal protection works. Coastal protection works are prohibited in the W1 zone but permissible in the R2 Low Density Residential zone.



Figure 2. Proposed Adjusted Zone Boundary

PART 1 – OBJECTIVES & INTENDED OUTCOMES

The objective of this planning proposal is to adjust the zone boundaries affecting the subject sites to better reflect their actual land uses and to enable land uses consistent with and ancillary to these uses.

PART 2 – EXPLANATION OF THE PROPOSAL

This planning proposal relates to four separate lots adjacent to the North Creek foreshore in Ballina as illustrated in Figure 1 and includes part of the unformed Camden Street road reserve immediately south of the subject land. The details of the lots covered by this planning proposal are specified in Table 1.

Table 1 – Subject Lots

Address	Owner	Lot/DP
1 Camden Street	MJ Gribble	Lot 33 DP 872966
3 Camden Lane	WG Edwards	Lot 3 DP 1079380
5 Camden Lane	JA Carmont	Lot 1 DP 1119099
2 Skinner Street	KL Jambor	Lot 10 DP 1126929

As detailed in Figure 2, the subject land is currently zoned part R2 Low Density Residential and part W1 Natural Waterway under the terms of the Ballina LEP 2012.

The planning proposal seeks to adjust the boundary between the R2 and W1 zones primarily to enable coastal protection works on the land and also to reflect the accretion that has occurred over time. Figure 3 illustrates the location of the proposed adjusted R2/W1 boundary.

PART 3 – JUSTIFICATION

Section A - Need for the Planning Proposal

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

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

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

Yes, the planning proposal is the most appropriate means of securing the intended development outcomes for the land. The existing boundary reflects the boundary applied under the *Ballina Local Environmental Plan 1987* (BLEP 1987) that formerly applied to the land.

This boundary was applied during the mid-1980s and reflected the shoreline and property boundaries of the time. Since the making of the BLEP 1987, the shoreline

boundaries of the subject sites have been redefined in response to a shifting and oscillating mean high water mark. This has resulted in additional dry land that was formerly part of the waterway now comprising part of the landscaped open space and yard areas associated with the residential use of the subject lots.

Section B - Relationship to the Strategic Planning Framework

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

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

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

The planning proposal is generally consistent with the Council's Community Strategic Plan and the Ballina Growth Management Strategy 2012.

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

The following State Environmental Planning Policies apply to the planning proposal.

State Environmental Planning Policy No 55—Remediation of Land

This policy requires, in relation to the preparation of an environmental planning instrument involving residential land, that a planning authority is to consider whether the land is contaminated.

The subject land comprises land that has been created by natural foreshore accretion. The subject land was formerly part of the bed of North Creek and has never been subject to any land uses that would result in the contamination of the land.

In this regard, the proposal satisfies the requirements of this policy.

State Environmental Planning Policy No 71—Coastal Protection

The land subject to this planning proposal is within the coastal zone and the provisions of this policy are applicable.

Clause 8 of the policy specifies matters for consideration that are to be taken into account in preparation of a draft local environmental plan for land within the coastal zone. The matters for consideration are detailed in Table 2 below.

Matter for Consideration	Comments
(a) The aims of the policy (clause 2)	The planning proposal is generally consistent with the aims of this policy. The proposed adjustment to the zone boundary will not result in unreasonable negative impacts in relation to the

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	accessibility of the North Creek shoreline and its visual, cultural, physical or environmental amenity.
(b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,	The proposed zoning adjustment will not negatively impact on the existing public accessibility of the North Creek foreshore.
(c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability	Not applicable. The planning proposal relates to foreshore areas within private land.
(d) the suitability of development given its type, location and design and its relationship with the surrounding area	The purpose of the proposed zoning adjustment is to amend the land use zones to better reflect the actual and desired future uses of the land. Future development of the land facilitated by the zone change will be required to be assessed against this policy and in accordance with the <i>Environmental Planning and Assessment Act 1979</i> requirements.
(e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,	The planning proposal is not expected to result in any unreasonable detrimental impacts on the amenity of the foreshore. No overshadowing or loss of views will result.
(f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,	The planning proposal will not negatively impact on the scenic qualities of the NSW coast.
(g) measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats,	The planning proposal does not affect land that is known to contain or provide habitat to threatened species. Any future development of the land facilitated by this proposal will be required to address its impact in accordance with applicable statutory requirements.
(h) measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats	The planning proposal does not affect any fish habitats or marine vegetation. Any future development of the land facilitated by this proposal will be required to address its impact in accordance with applicable statutory requirements.
(i) existing wildlife corridors and the impact of development on these corridors	Not applicable. The subject land is not part of a wildlife corridor.
(j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards	The subject land is private land that is currently directly affected by natural coastal processes. The proposed rezoning will enable the landowners to undertake coastal protection works on the land to mitigate these impacts. The

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	current zoning of the land prohibits these works. While facilitated by this planning proposal, any future works will require consent and impact assessment in accordance with the requirements of the <i>Environmental Planning and Assessment Act 1979</i> .
(k) measures to reduce the potential for conflict between land-based and water-based coastal activities	The planning proposal is not expected to alter or increase the occurrence or likelihood of conflict between land-based and water-based coastal activities.
(l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals	The subject land is not known to comprise land, places or items of specific cultural significance to Aboriginal people.
(m) likely impacts of development on the water quality of coastal waterbodies	The proposed zoning adjustment will facilitate future development options on the subject land that may result in impacts on the water quality of North Creek. Any future development of the subject land in this regard will be subject to development consent and impact assessment in accordance with the requirements of the <i>Environmental Planning and Assessment Act 1979</i> .
(n) the conservation and preservation of items of heritage, archaeological or historic significance	The subject land is not known to contain any sites or items of conservation, heritage, archaeological or historic significance.
(o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities	Complies. The proposed zoning adjustment seeks to rationalise land use zoning to be consistent with existing adjoining low density residential land uses.
(p) only in cases in which a development application in relation to proposed development is determined: (i) the cumulative impacts of the proposed development on the environment, and (ii) measures to ensure that water and energy usage by the proposed development is efficient	Not applicable.

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 A.

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?**

It is proposed to adjust the zone boundary to ensure the waterway and immediate foreshore of North Creek is retained within the W1 zone. The areas of the subject sites that currently comprise dry land used as landscaped open space and yard areas in association with the residential uses of the site will be contained within the R2 zone.

The adjusted zone boundary will enable land uses on the sites that are permissible and consistent with the zone objectives of the R2 zone. This includes coastal protection works. Any future coastal protection works proposed within the adjusted R2 Low Density zone area will be subject to assessment of environmental impacts and development consent requirements.

It is not expected that there will be any significant adverse ecological outcomes arising from the planning proposal.

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

No immediate or direct environmental effects will occur as a result of the planning proposal. It is proposed to adjust the zoning to reflect the current land uses on the subject lots. Any future additional development of the sites facilitated by the adjusted zoning will be subject to applicable impact assessment and development consent requirements in accordance with the *Environmental Planning and Assessment Act 1979*.

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

The planning proposal is being undertaken at the request of the owners of the subject lots. The proposed adjusted zoning is consistent with the existing and expected future uses of the subject land. The proposal is not expected to result in any negative social or economic effects.

Section D - State and Commonwealth interests.

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

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

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

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

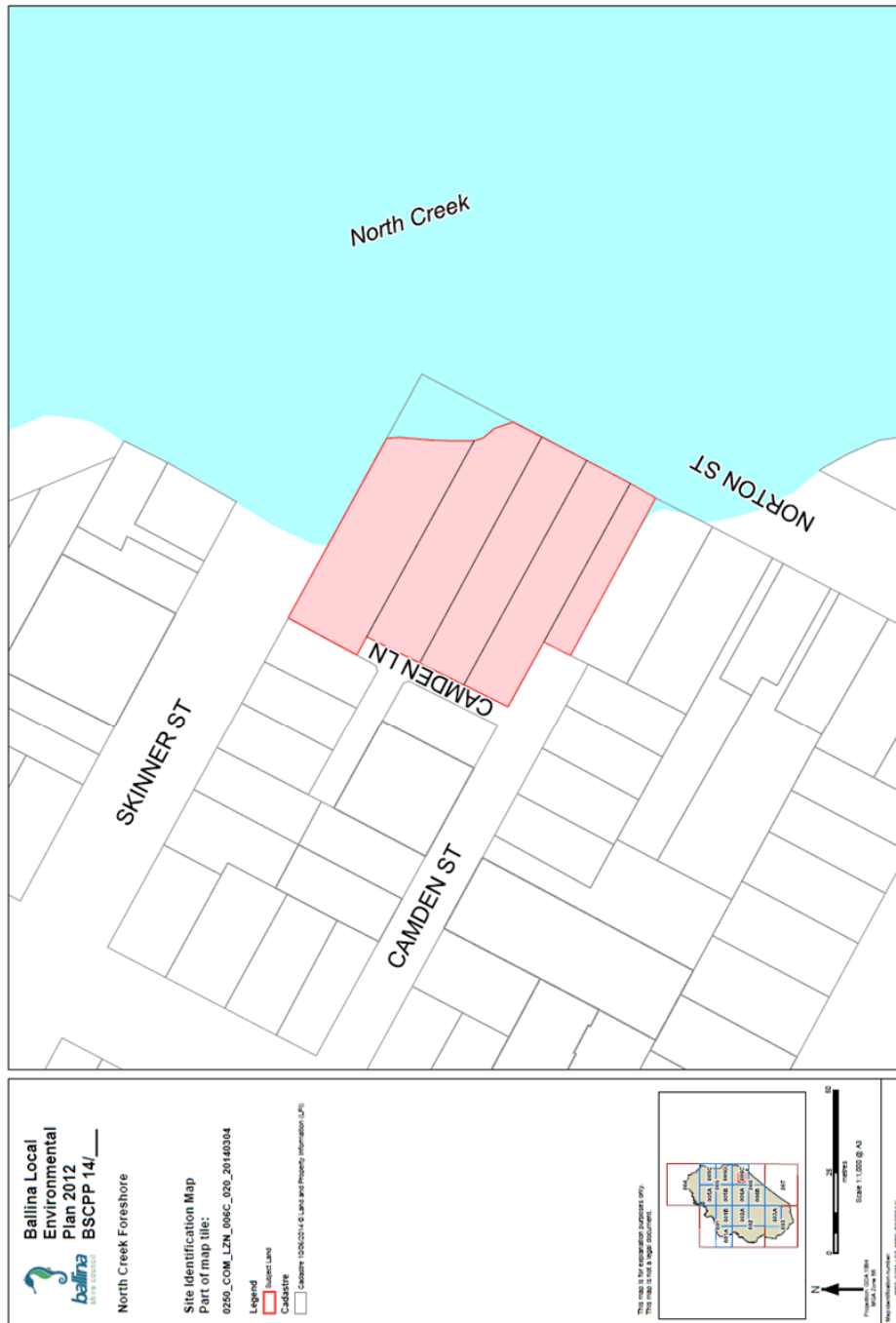
PART 4 – MAPPING

This planning proposal seeks to adjust the existing R2/W2 zone boundary as it affects the subject lots. This adjustment will affect the Land Zoning Map and associated minimum lot size standards on the Lot Size Map.

The following maps have been prepared to support this planning proposal and its desired land use and development outcomes:

- Map 1 – Site Identification Map;
- Map 2 – Proposed Land Zoning Map (Sheet LZN_005D);
- Map 3 – Proposed Lot Size Map (Sheet LSZ_005D).

Copies of the full draft amended map tiles referenced above will be prepared following Gateway determination and prior to public exhibition.



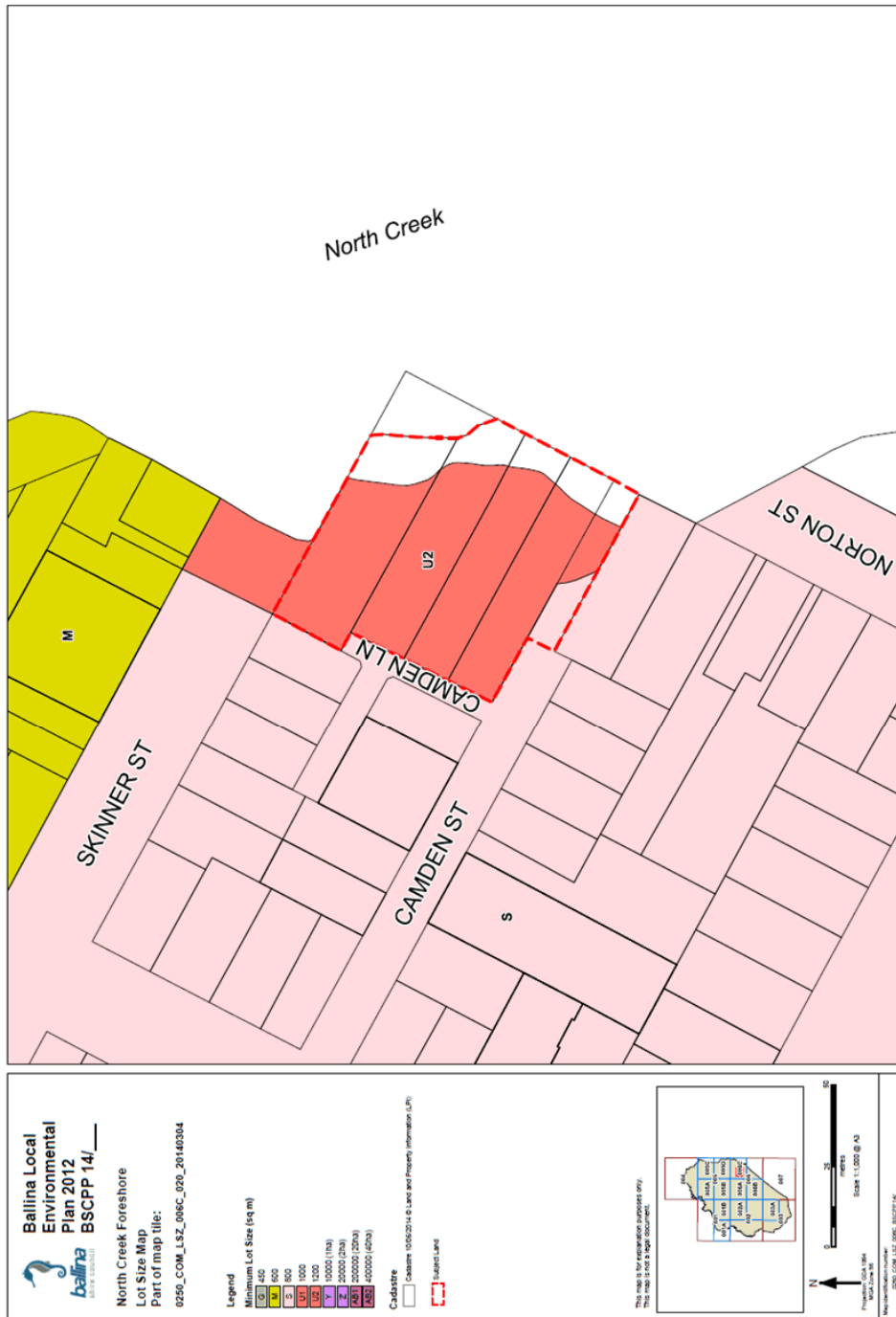
Map 1 – Site Identification Map

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Map 2 – Proposed Amended Land Zoning Map

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Map 3 – Proposed Amended Lot Size Map

PART 5 – COMMUNITY CONSULTATION

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

PART 6 – TIMELINE

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

Plan Making Step	Estimated Completion (Before)
Gateway Determination	July 2014
Government Agency Consultation	August 2014
Public Exhibition Period	August 2014
Public Hearing	N/A
Submissions Assessment	September 2014
RPA Assessment of Planning Proposal and Exhibition Outcomes	September 2014
Submission of Endorsed LEP to P&I for Finalisation	October 2014
RPA Decision to Make the LEP Amendment (if delegated)	October 2014
Forwarding of LEP Amendment to P&I for Notification (if delegated)	October 2014

APPENDICES

Appendix A – Section 117 Direction Checklist

Section 117 Direction Checklist	
Planning Proposal	
Lot 10 DP 1126929, Lot 1 DP 119099, Lot 3 DP 1079380 and Lot 33 DP 872966	
No. 2 Skinner Street, Nos. 3-5 Camden Lane and No. 1 Camden Street, Ballina	
Direction No.	Compliance of Planning Proposal
1. Employment and Resources	
1.1 Business and Industrial Zones	Does not apply to planning proposal.
1.2 Rural Zones	Does not apply to planning proposal.
1.3 Mining, Petroleum Production and Extractive Industries	Does not apply to planning proposal.
1.4 Oyster Aquaculture	Does not apply to planning proposal.
1.5 Rural Land	Does not apply to planning proposal.
2. Environment and Heritage	
2.1 Environmental Protection Zones	Does not apply to planning proposal.
2.2 Coastal Protection	Consistent.
2.3 Heritage Conservation	Does not apply to planning proposal.
2.4 Recreation Vehicle Areas	Does not apply to planning proposal.
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	Consistent.
3.2 Caravan Parks and Manufactured Home Estates	Consistent.
3.3 Home Occupations	Consistent.
3.4 Integrated Land Use and Transport	Consistent.
3.5 Development Near Licensed Aerodromes	Does not apply to planning proposal.
3.6 Shooting Ranges	Does not apply to planning proposal.
4. Hazard and Risk	
4.1 Acid Sulphate Soils	Consistent. The subject land is identified as containing potential acid sulphate soils. The consequences of this planning proposal in relation to increased risks from exposure of acid sulphate soils is considered to be of minor significance in the circumstances. Any future development on the sites that is enabled by the planning proposal will be subject to the standard impact assessment requirements in relation to acid sulphate soils as provided in the Ballina LEP 2012.
4.2 Mine Subsidence and Unstable Land	Does not apply to planning proposal.
4.3 Flood Prone Land	Consistent.
4.4 Planning for Bushfire Protection	Does not apply to planning proposal. The subject site is not affected by or in proximity to land identified as having bushfire hazard.
5. Regional Planning	
5.1 Implementation of Regional Strategies	Consistent. The subject land is contained within the urban footprint identified in the strategy.
5.2 Sydney Drinking Water Catchments	Does not apply to Ballina Shire.

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5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Does not apply to planning proposal.
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	Does not apply to planning proposal.
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.