



Planning Proposal 20/003

» ***Southern Cross
Precinct Expansion
(Stage 1)***

April 2021 (V2. Exhibition) 21/22671

ballina
shire council

Mapping

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1. Introduction

1.1 Background and Summary of Original 2013 and 2015 Amended Planning Proposal PP2013/003

Ballina Shire Council prepared a planning proposal in June 2013 seeking the rezoning of certain rural zoned land adjoining the Ballina Byron Gateway Airport. At that time, it was proposed to rezone the land to a mixed B6 Enterprise Corridor and B7 Business Park zoning regime together with associated LEP amendments.

The Department of Planning and Infrastructure issued a conditional Gateway determination allowing the planning proposal to proceed in July 2013. The Gateway determination was subsequently altered in May 2015 to extend the time period for completing the LEP to 30 July 2016. Refer Appendix One.

In September 2015 Ardill Payne & Partners, acting for Ballina Shire Council's Commercial Services Section, majority landholder of the subject land, requested that the planning proposal be amended (Refer Appendix 2). The amendment provided for the application of a part IN1 General Industrial and Part IN2 Light Industrial zone to the land covered by the 2013 planning proposal.

The Council considered the above request at its meeting on 24 September 2015 [Minute No 240915/9] and resolved as follows:

- 1. That Council endorses the application of an IN1 General Industrial zone and an IN2 Light Industrial zone to Part of Lots 3-6 DP 123781; Lots 3-4 DP 872303; Lot 2 DP 833513; Part Lot 7 DP 793980; Lot 8 DP 793980; Part Lot 264, DP 1195313 and the adjoining Council road reserve (Corks Lane) in Ballina, as shown in the Map contained in Attachment 2.*
- 2. That Council endorses the application of a 1,000m² minimum lot size and a 10 metre building height limit for the site proposed to be rezoned, and changes to the Strategic Urban Growth Area Map boundaries as shown in the Map contained in Attachment Four.*
- 3. That Council endorses the preparation of an amended planning proposal and the submission of a request for an altered Gateway determination to the NSW Department of Planning & Environment to reflect the matters referenced in recommendations 1 and 2.*
- 4. That Council advise the Department of Planning and Environment that it does not wish to seek or exercise delegation in relation to the completion of this planning proposal.*
- 5. That Council engage a suitably qualified independent planning consultant (at the proponent's cost) to review the site assessment information once*

submitted, and to provide Council with an associated report and recommendations.

6. *That upon an affirmative altered Gateway determination being received from the Department of Planning & Environment, the procedural steps associated with progression of the planning proposal be undertaken.*
7. *That a further report be presented to Council in relation to this matter following the completion of the community engagement phase of the planning proposal.*

Refer to Appendix Three for the report considered by the Council at its Ordinary Meeting on 24 September 2015.

An altered Gateway determination was issued by the Department of Planning and Environment on 22 October 2015. (Refer appendix One)

Council has also sought and been granted extensions to the Gateway determination completion timeframe as per the following (refer to Appendix One):

- 14 October 2016 extension granted to 30 October 2017
- 20 October 2017 extension granted to 30 October 2018
- 9 October 2018 extension granted to 30 October 2019
- 13 November 2019 extension granted to 30 October 2020

1.2 Current Planning Proposal PP2020/003

Council considered a report at its Ordinary meeting held on 28 May 2020, recommending the amendment of the 2015 amended planning proposal, to reduce the subject land area. This planning proposal resulted. It applies to the proposed first stage of development, as shown in Figure 1.

The May 2020 report considered by the Council regarding this matter is provided in Appendix Three. The Council resolved as follows [Minute No. 250520/12]:

1. *That Council seek to amend the Gateway Determination for the Southern Cross Precinct Expansion planning proposal BSCPP 13/005 to apply to stage one (lots 1-5) as outlined in this report.*
2. *That a new planning proposal be presented to Council addressing the balance of the Southern Cross Precinct Expansion area once the required technical studies are complete.*

Consequently, whilst initially the planning proposal related to a broad area of land (as outlined in the Council reporting provided in Appendix Three), following the Council's May 2020 decision, the proposal now relates only to the lots as described below and identified on Figure 1:

- Part of Lots 7 & 8 DP 793980 (owned by Ballina Shire Council)

- Part of Lot 277 DP 1262163 (owned by Ballina Shire Council)
- Adjoining council road reserve

Figure 1 - Site Identification Map



Council’s decision was made having regard to the Gateway determination completion timeframe, the timeframe for the completion of a State Government grant funded project (relating to the land), and the need to complete detailed flood mitigation assessments for the balance of the Southern Cross Industrial Estate Expansion Area and adjacent airport precinct.

A further planning proposal, relating to the balance of the Southern Cross Industrial Expansion Area (Stage 2) will be progressed as a separate matter in due course, following the completion of additional studies.

Figure 2 shows the extent of the proposed staging (referred to above), along with the approved (and under construction) access road corridor (Boulevard Road) and indicative lot layout.

As a consequence of the above Council decisions, this planning proposal seeks to achieve the following:

- Rezoning of the part RU2 Rural Landscape and part SP2 Infrastructure - Air Transport Facility zoned site to a new, IN2 Light Industrial zoning, within the Ballina LEP 2012.

- Application of a 1000m² minimum lot size (LSZ) and 10 metre maximum building height control (HOB) to areas proposed to be zoned IN2; and
- Make consequential amendments to the Strategic Urban Growth Area Map (SGA) arising from the proposed rezoning.

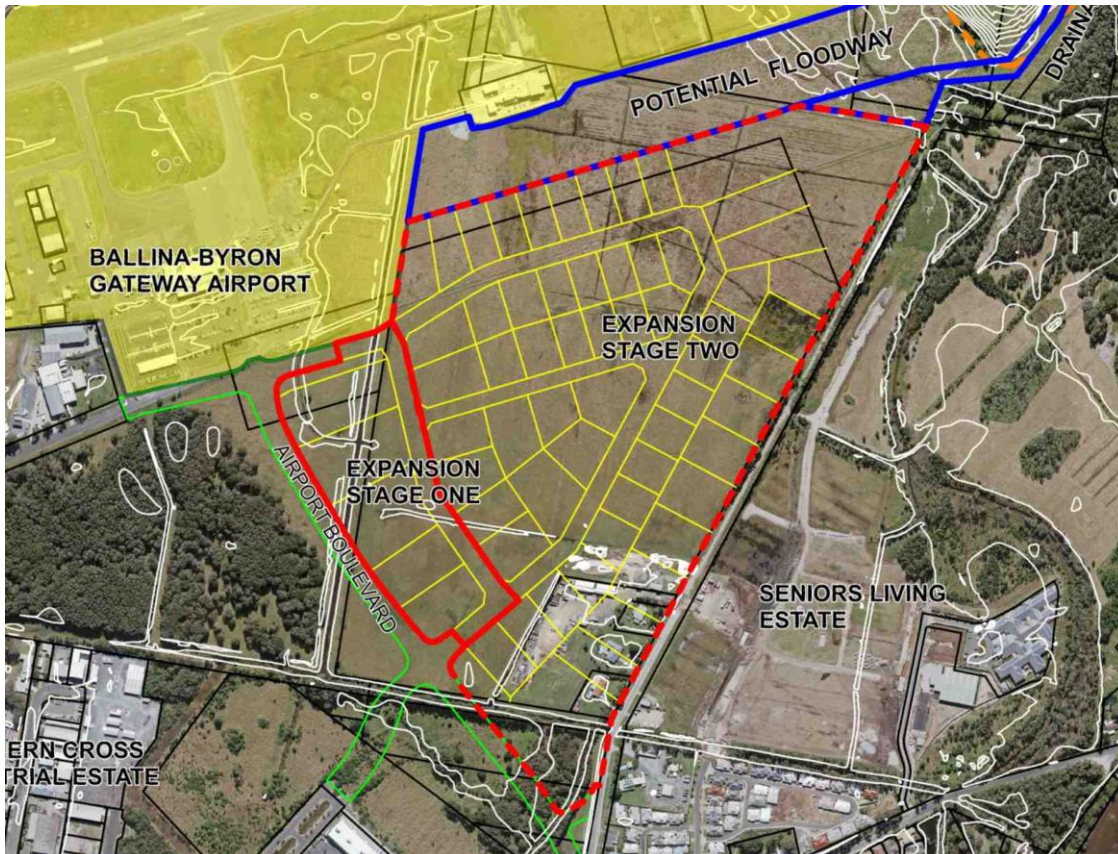


Figure 2 - Southern Cross Expansion Area - Indicative Staging

The amendments sought to Ballina LEP 2012 will enable expansion of the (existing) Southern Cross Industrial Estate and facilitate positive economic development outcomes.

The site is predominantly zoned RU2 Rural Landscape zone, with part Lot 7 DP 793980 (Lot 7) being subject to an SP2 Infrastructure - Air Transport Facility zone under the provisions of Ballina LEP 2012. Only part of Lot 7 is proposed to be rezoned to IN2 Light Industrial with the remainder retaining its SP2 Infrastructure zoning.

The whole of the Strategic Urban Growth Area affectation applying to Lot 7 is however, proposed to be removed for housekeeping reasons, notwithstanding that it extends beyond the boundary of that part of Lot 7 proposed to be rezoned.

Figures 3 to 6 below show the manner in which the site is currently zoned and how the Ballina LEP 2012 map sheets are proposed to be amended. The proposed amendments, as per the standard LEP map sheets, are provided in Appendix Six.

Figure 3 - Current and Proposed Zoning (LZN)

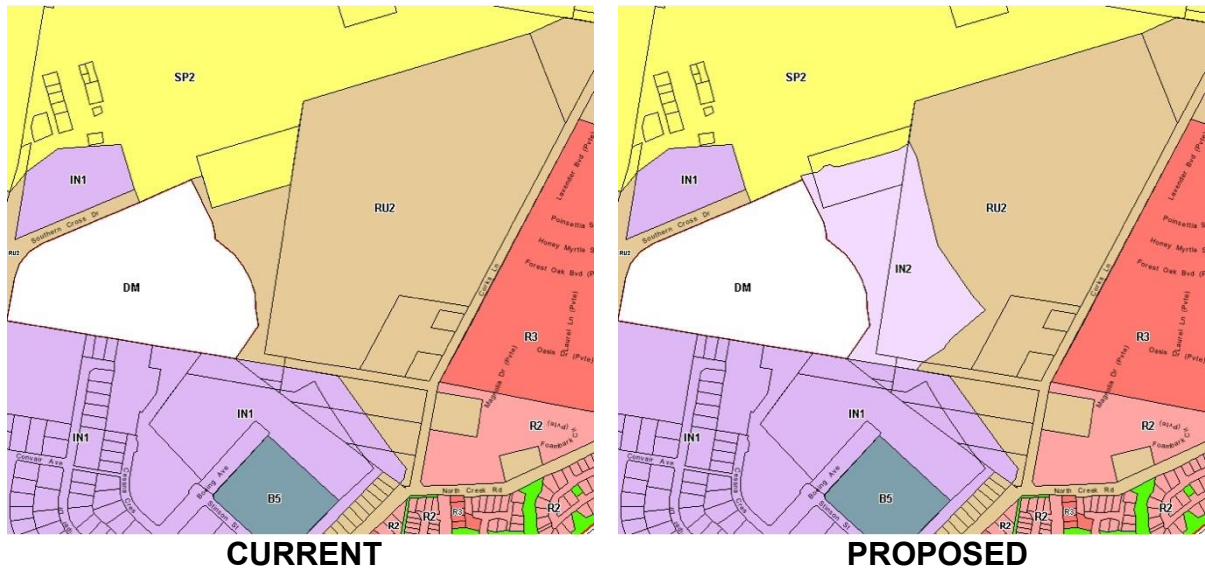


Figure 4 - Current and Proposed Minimum Lot Size Map (LSZ)

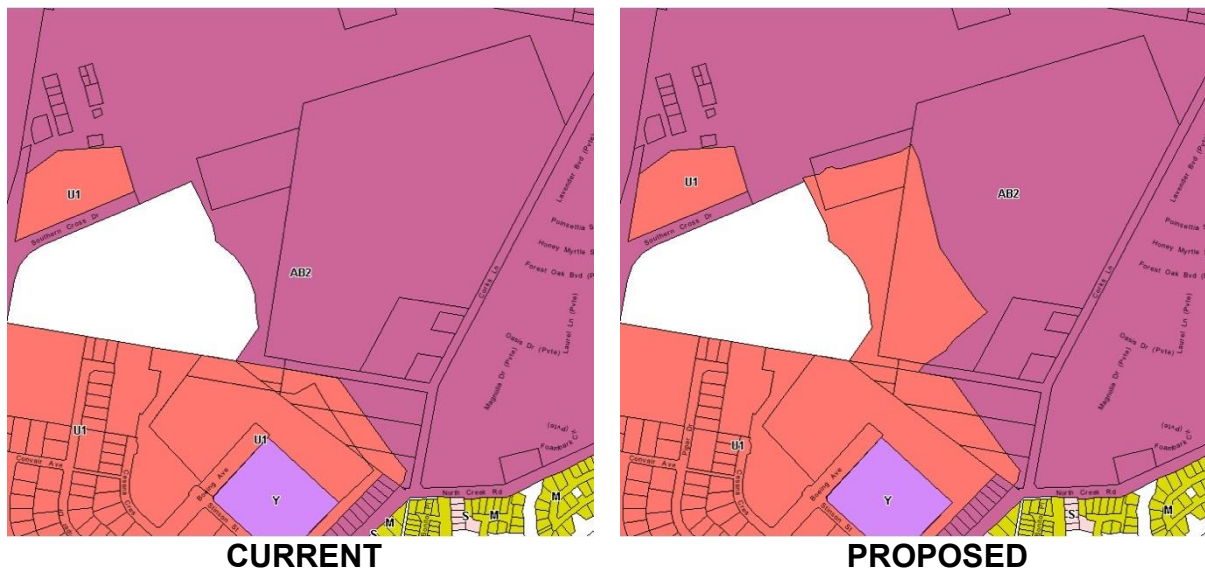


Figure 5 - Current and Proposed Height of Buildings Map (HOB)

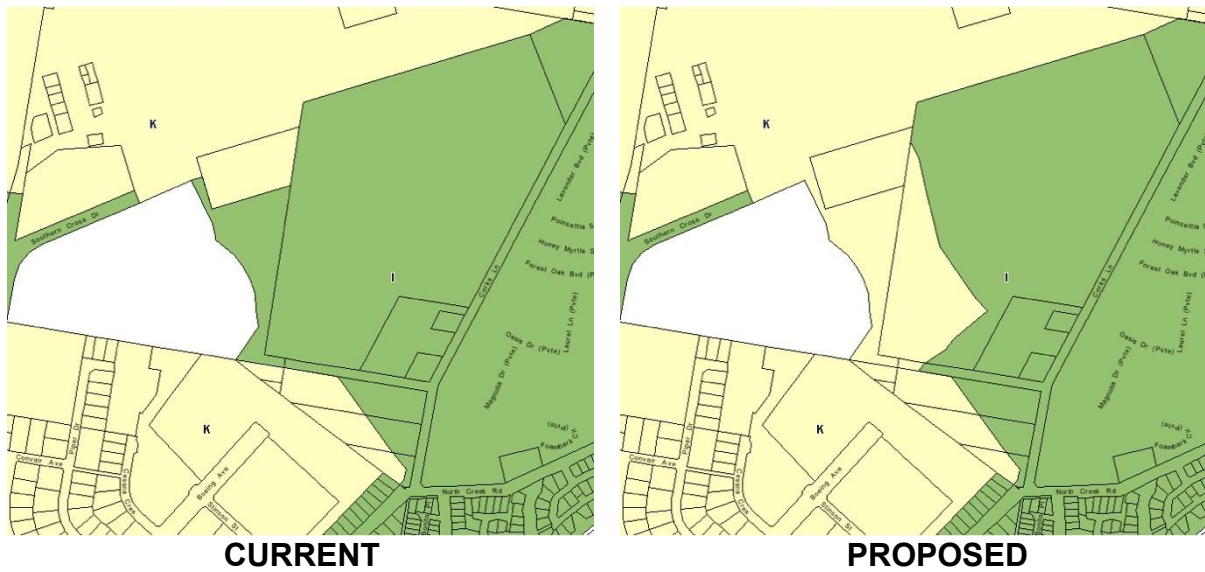


Figure 6 - Current and Proposed Strategic Urban Growth Areas Map (SGA)



Ballina Shire Council is the landholder of the subject land, which is designated as “operational land” pursuant to the Local Government Act 1993.

1.3 Gateway Determination

A Gateway determination, which allows the planning proposal to proceed subject to conditions, was issued on 4 November 2020. The Gateway determination together with the accompanying letter from the Department of Planning Industry and Environment is contained within Appendix One.

Council did not seek, nor was it granted, delegation to exercise the plan making functions associated with this planning proposal. This will enable the Department of Planning Industry and Environment to exercise independent oversight and review of the process as the local plan making authority.

2. Objectives & Intended Outcomes

To amend Ballina LEP 2012 to:

- Rezone a part RU2 Rural Landscape and part SP2 Infrastructure - Air Transport Facility zoned site to a new zone, IN2 Light Industrial zoning, within the Ballina LEP 2012.
- Apply a 1000m² minimum lot size (LSZ) and 10 metre maximum building height control (HOB) to areas proposed to be zoned IN2; and
- Make consequential amendments to the Strategic Urban Growth Area Map (SGA) arising from the proposed rezoning.

The zoning table for the proposed new IN2 Light Industrial zone is contained within Appendix Four.

3. Explanation of the Proposal

This planning proposal relates to an area of land located adjacent to the existing Southern Cross Industrial Estate and the Ballina-Byron Gateway Airport. Other land uses within proximity of the land include the Ballina Waste Management Centre and several residential estates (including a senior's living estate).

3.1 Land to Which the Planning Proposal Applies

- Part of Lots 7 & 8 DP 793980 (owned by Ballina Shire Council)
- Part of Lot 277 DP 1262163 (owned by Ballina Shire Council)
- Adjoining council road reserve

The site is shown in Figure 1 above.

3.2 Current and Proposed Planning Controls Applying to the Land

The following Ballina LEP 2012 designations apply to the subject land:

- The site is currently zoned partly RU2 Rural Landscape zone and partly SP2 Infrastructure - Air Transport Facility zone as shown on the existing Land Zoning Map (refer to Figure 3 above).
- The site is impacted by a 40ha minimum lot size requirement as indicated on the Lot Size Map (refer to Figure 4 above).
- That part of the site zoned RU2 Rural Landscape is subject to an 8.5 metre building height restriction whereas a 10 metre building height restriction applies to the SP2 Infrastructure zoned land as indicated on the Height of Buildings Map (refer to Figure 5 above).
- The site is identified as a Strategic Urban Growth Area on the Strategic Urban Growth Area Map (refer to Figure 6 above).

The planning proposal seeks to apply the following land use zones and planning controls to the site under the provisions of the Ballina LEP 2012:

- IN2 – Light Industrial Zone (new zone) in the LZN Map;
- Minimum lot size of 1000m² in the LSZ Map;
- Maximum building height of 10 metres in the HOB Map; and
- Amendment of the Strategic Urban Growth Area boundaries in the SGA Map.

The amendments proposed in this planning proposal are those shown in Figures 3 to 6 above and as shown in the standard LEP map sheet format contained in Appendix Six, as per the following:

- Map 2 shows the zones proposed to be applied to the site (LZN Map).
- Map 3 shows the minimum lot size proposed to be applied to the site (LSZ Map).
- Map 4 shows the maximum building height proposed to be applied to the site (HOB Map).
- Map 5 shows the manner in which the SUGA and associated buffers (which extend beyond the site) are proposed to be amended (SGA Map).

4. Justification

4.1 Section A – Need for the Planning Proposal

Q1 Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?

Yes details below:

Ballina Shire Local Strategic Planning Statement 2020 – 2040 (LSPS)

Council adopted the LSPS on 28 May 2020. The LSPS supports the evaluation of land adjoining the airport precinct and the existing Southern Cross Industrial Estate for industrial purposes.

Planning Priority 3 under the Prosperous Economy theme seeks to stimulate economic activity by reviewing planning controls around major shire infrastructure such as the Ballina Byron Gateway Airport. An associated action seeks to prepare a master plan for the Southern Cross Industrial Area Expansion Area.

Planning Priority 5 seeks to maintain a supply of suitably located industrial land close to certain nominated population centres including Ballina. An action associated with this planning priority seeks to evaluate the suitability of rural land adjoining existing industrial estates for industrial use.

The above planning priorities and actions align with Direction 5 of the North Coast Regional Plan 2036 which seeks to encourage the development of successful centres of employment.

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 North Ballina locality:

- *Investigate, through the rezoning process, land development opportunities and the provision of public infrastructure identified in the Southern Cross Precinct Master Plan and the West Ballina Structure Plan.*
- *Enhance entry treatment including associated with the Ballina/Byron Gateway Airport.*
- *Establish a clustered bulky goods retailing precinct.*

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

Appendix Seven contains excerpts from the BSGMS.

Southern Cross Precinct Master Plan 2008

The Southern Cross Precinct Master Plan (SCPMP) identifies the following possible land use components with respect to the subject land:

- Future industrial area with conventional 50m x 25m lots;
- New airport link road;
- Realigned road to facilitate the design of the North Creek Road intersection;

- Live/work precinct containing light industrial lots;
- Existing and expanded environmental protection areas and open space corridors;
- Existing and expanded bicycle track network; and
- Existing and expanded drainage network.

The SCPMP was prepared in respect to only Council owned land adjacent to the Ballina Byron Gateway Airport and the Southern Cross Industrial Estate. For this reason the three privately owned properties (Lot 3 and 4 DP 872303 and Lot 2 DP 833513) which formed a part of the original planning proposal were not incorporated within the SCPMP. These lots were incorporated within the original planning proposal. However, these properties have been excluded from this planning proposal as per the staging outlined in the introduction.

This planning proposal (which provides for employment based land use outcomes) is generally consistent with the strategic planning for the locality, as provided for by the LSPS, the BSGMS and the SCPMP.

Appendix Eight contains the SCPMP Map.

Q2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. A planning proposal is the appropriate mechanism through which to permit the proposed changes into the Ballina LEP 2012.

4.2 Section B – Relationship to Strategic Planning Framework

Q3 Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?

Yes.

North Coast Regional Plan 2016

Ballina Shire is subject to the North Coast Regional Plan 2036 (NCRP) and is identified as being located within the Far North Coast subregion of the plan.

The land, excluding lot 7 DP 793980 (Lot 7), is designated as an 'Investigation Area – Employment Land' in the North Coast Regional Plan 2036 (NCRP). Lot 7 is zoned SP2 - Infrastructure – Air Transport Facility under the provisions of Ballina LEP 2012.

The NCRP provides the regional framework for the consideration of policy development and the overall future vision. The planning proposal includes additional adjoining land (as “minor rounding”) identified in the Ballina Shire Growth Management Strategy (BSGMS). The Director General of the Department of Planning & Infrastructure approved the BSGMS in correspondence dated 7 May 2013. The proposal is not in conflict with the direction and relevant regional priorities contained within the NCRP.



Figure 7 – Extract from NCRP

Q4 Will the planning proposal give effect to a council’s endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

Yes. The relationship with the Ballina Shire LSPS, BSGMS and the SCPMP is discussed in answer to Question 1.

The planning proposal is also consistent with the *Ballina Shire Council Community Strategic Plan 2017-2027*.

The proposal is considered to be consistent with the Prosperous Economy theme contained within the Community Strategic Plan. Specifically it is consistent with Prosperous Economy outcomes:

PE1 – We attract new businesses and visitors, and

PE2 – My business can grow and diversify.

The expansion of the Southern Cross Industrial Estate also aligns with action PC3.1b & c as contained within the Council's Delivery Program and Operating Plan 2020 – 2024 viz:

PE3.1c: Progress availability of land at the Southern Cross Industrial Estate.

PE3.1b Progress construction of Airport Boulevard and associated developments.

The objective of this planning proposal is to enable the site to be developed for a range of industrial land uses and to set appropriate development standards related to minimum lot size and building height.

Q5 Is the planning proposal consistent with applicable State Environmental Planning Policies?

The proposal is considered to be generally consistent with applicable State Environmental Planning Policies (SEPPs).

SEPP 55 – Remediation of Land

A *Preliminary Site Contaminated Site Investigation (PSCSI)*, prepared by Ardill Payne and Partners in 2015, was submitted in respect to the 2015 amended planning proposal.

The 2015 planning proposal covered a larger area, which was proposed at that time to be rezoned part IN1 General Industrial and part IN2 Light Industrial.

The land the subject of this current planning proposal (Southern Cross Expansion – Stage 1) is included in the 2015 PSCSI. The 2015 PSCSI forms Appendix Nine to this planning proposal.

The 2015 PSCSI included a desk top site history review and systemic site soil sampling. Soil sampling was undertaken as the site history indicated that there were potential contaminants on the land.

The findings of the assessment concluded that the site is suitable for the land zoning proposed at that time (industrial).

The PSCSI was independently assessed by RVI Planning in 2016 in a *Gap Analysis Report (GAR)*. Under the headlining of SEPP 55 Contamination Assessment the report stated:

None of the composite samples submitted recorded any levels of metals or pesticides exceeding relevant thresholds. One sample identified the presence

of asbestos, associated with the storage of construction waste. Appropriate management measures are available to address this discovery.

The report meets the requirements of SEPP 55 and demonstrates that site contamination is not an issue that would impede the rezoning of the site. No further information is required at this stage of the process. (p12GAR)

The RVI Planning Gap Analysis Report forms Appendix Ten to this planning proposal.

It is noted that the asbestos contamination was not located within the area the subject of this planning proposal. The location of this material was at that time on privately owned land to the south-east of the current proposed rezoning site as indicated in Figure 8 below.



Figure 8 - Indicative Location of Asbestos Samples as detailed in 2015 PCSI

It is considered that as the land the subject of this planning proposal has previously been found not to be contaminated land in 2015, and as there has been no land use change since that time, that the land is not considered to be contaminated. The land is therefore considered to be suitable for industrial purposes and the requirements of SEPP 55 have been satisfied.

Q6 Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

No.

The delegate of the Secretary, Department Planning, Industry and Environment has advised council in correspondence dated 4 November 2020 (refer Appendix One) that:

... the planning proposal's inconsistencies with section 9.1 Directions 1.2 Rural Lands, 1.3 Mining, Petroleum and Extractive Industries, 1.5 Rural Zones, 3.2 Caravan Parks and Manufactured Homes Estates and 4.1 Acid Sulfate Soils are justified in accordance with the terms of the Direction. No further approval is required in relation to these Directions.

In respect to other identified inconsistencies, the Secretary has advised council that:

Council may still need to obtain the agreement of the Secretary to comply with the requirements of section 9.1 Directions 2.1 Environmental Protection Zones, 3.5 Development Near Regulated Airports and Defence Airfields, 4.3 Flood Prone Land and 4.4 Planning for Bushfire Protection. Council should ensure this occurs prior to the plan being made.

A Section 9.1 Direction checklist for the planning proposal is contained in Appendix Five.

Council will ensure that the agreement of the Secretary is obtained for the other identified s9.1 inconsistencies prior to the plan being made.

4.3 Section C – Environmental, Social and Economic Impact

Q7 Is there any likelihood that critical habitat or threatened species, population or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No.

A number of detailed ecological / flora & fauna assessment have been undertaken as referenced by Hydrosphere Consulting in their report *Southern Cross Industrial Estate Rezoning Planning Proposal Stage 1 – Ecological Assessment Summary*, dated April 2021. This report concluded as follows:

Biodiversity at the proposed Stage 1 rezoning site has been assessed in multiple studies in recent years as part of the broader rezoning proposal and adjacent development (Airport Boulevard). The understanding of the ecology of the locality has evolved over this period and is summarised as follows:

- The proposed Stage 1 rezoning site has a history of anthropogenic disturbance including clearing, drainage works, aquaculture, filling, grazing, slashing and adjacent road development.*
- The site was completely cleared prior to the mid-1900s and all vegetation at the site is regrowth. Current vegetation consists of exotic grasslands, Swamp oak forest and Freshwater wetland. One threatened plant species (Hairy joint grass) has been previously recorded on the site (in 2016 and 2017).*
- Overall, the dominant lithology of the site is sand and the soil profiles observed are consistent with the published classification of soils in the area.*

Sampling results show that the soils of the Stage 1 rezoning site are generally loam - loamy sand throughout the profile, which is generally reflective of the documented site geology and soils. This soil type does not match the soil texture description in the relevant EEC Scientific Determinations.

• Due to the historical disturbances, ongoing anthropogenic impacts, lack of significant habitat features, degraded vegetation and generally low habitat value the Stage 1 rezoning site is generally considered to be marginal habitat for native fauna. However, there is potential for the occurrence of several threatened fauna species that would need to be considered in future biodiversity assessments.

The vegetation proposed to be removed from the site (4.98ha) will trigger assessment of the future subdivision development application under the provisions of the Biodiversity Conservation Act and Regulation 2017. It is proposed to utilise the provisions of the Biodiversity Offset Scheme (BOS) to facilitate the clearing and filling of the site.

Recent ecological studies and reports undertaken in respect to the site are contained within Appendix Eleven.

Q8 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The environmental characteristics (opportunities and constraints) of the subject land were considered in the preparation of the Southern Cross Precinct Master Plan. The master plan identified that the subject land was generally cleared grazing land that has been subject to considerable disturbance associated with previous activities. As a consequence the land is not considered to have significant environmental values. Notwithstanding, a number of environmental assessments have been undertaken to determine the environmental impact of development resulting from this planning proposal as listed below.

- Ecological flora and fauna (Appendix Eleven),
- Acid sulfate soils (Appendix Twelve),
- Storm water impact and flooding (including specific impacts of filling adjoining land to Lot 4 DP 872303) (Appendix Thirteen),
- Bushfire hazard (Appendix Fourteen),
- Geotechnical (Appendix Fifteen),
- Entomological (mosquitoes) (Appendix Sixteen),
- Archaeological / cultural heritage (Appendix Seventeen), and
- Aerodrome impacts. (Appendix Eighteen).

It is noted that the majority of reports required by the 2020 Gateway determination were previously prepared to support the original 2013, and or the amended 2015 planning proposals. Where this has occurred the reports

have been reviewed to ensure that they are also relevant to this Stage 1 planning proposal.

Q9 Has the planning proposal adequately addressed any social and economic effects?

The planning proposal is anticipated to have positive social and economic benefits through the provision of additional employment lands. No further specific detailed assessment of social and economic effects are proposed to be undertaken.

Section D - State and Commonwealth Interests

Q10 Is there adequate public infrastructure for the planning proposal?

Adequate urban infrastructure is available to accommodate urban development of the land. Further, the planning proposal will facilitate the provision of infrastructure to support development and to improve the accessibility of the Ballina/Byron Gateway Airport and adjacent commercial and industrial areas.

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

The following State and Commonwealth public authorities will be consulted concurrently with the exhibition of this planning proposal as required by the Gateway determination:

- Jali Aboriginal Land Council,
- Department of Planning, Industry and Environment (Division of Biodiversity Conservation),
- Heritage NSW,
- NSW Rural Fire Service,
- Regional NSW (Department of Primary Industry – Agriculture),
- Transport for NSW (Roads and Maritime Services), and
- NSW Resources and Geoscience

Note: The Gateway determination also required consultation with the following authorities - Civil Aviation Safety Authority, Air Services Australia, Ballina Byron Gateway Airport. Consultation with these authorities occurred in 2016 in respect to a much larger site. On the basis of the consultation already undertaken the Department of Planning, Industry and Environment has

subsequently not require further consultation in 2021. Refer to the Aerodromes Impact Report 202, Appendix 18, for further information.

5. Mapping

The following maps (Appendix Six) have been prepared to support the planning proposal:

- Map 1 - illustrates the location of the subject land – Site Identification Map;
- Map 2 - is the Proposed Land Zoning Map
- Map 3 - is the Proposed Lot Size Map
- Map 4 - is the Proposed Height of Buildings Map
- Map 5 - is the Proposed Strategic Urban Growth Area Map

6. Community Consultation

It is intended that this planning proposal will be exhibited for a minimum period of 28 days as specified in the Department of Planning and Environment’s Gateway determination.

7. Timeline

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

Plan Making Step	Estimated Completion (before end of)
Gateway Determination (Anticipated)	November 2021
Public Exhibition Period	June – July 2021
Public Hearing (if required)	N/A
Submissions Assessment	July – August 2021
RPA Assessment of Planning Proposal and Exhibition Outcomes	August 2021
Submission of Endorsed LEP to DP&E for Finalisation	August – September 2021
RPA Decision to Make the LEP Amendment (if delegation accepted)	Delegation not sought

8. Appendices

Appendix 1 – Gateway determinations

Appendix 2 – Planning proposal amendment request Ardill Payne & Associates 2015

Appendix 3 – Council reports

Appendix 4 – IN2 land use table

Appendix 5 – Section 9.1 Checklist

Appendix 6 – Maps

Appendix 7 – Ballina Shire Growth Management Strategy excerpts

Appendix 8 – Southern Cross Precinct Master Plan Map

Appendix 9 – Preliminary Site Contamination Investigation 2015 (separate cover)

Appendix 10 – Gap Analysis Report 2016 (separate cover)

Appendix 11a – Ecological Assessment Summary April 2021(separate cover)

Appendix 11b – Ecological Assessment October 2019 (separate cover)

Appendix 11c – Soil Profiles (separate cover)

Appendix 11d – Borehole logs (separate cover)

Appendix 11e – EPBC Protected Matters Search (separate cover)

Appendix 12a – Acid Sulfate Soil Assessment (separate cover)

Appendix 12b – Acid Sulfate Soil Management Plan (separate cover)

Appendix 13a – Flood Impact Advice and Mitigation Options BMT Oct 2020
(separate cover)

Appendix 13b – Stormwater Management Report April 2021 (separate cover)

Appendix 14 – Bushfire Threat Assessment Report Nov 2015 (separate cover)

Appendix 15 – Geotechnical Report Nov 2015 (separate cover)

Appendix 16 – Entomological Mosquito Risk Assessment (separate cover)

Appendix 17 – Aboriginal Cultural Heritage Report (separate cover)

Appendix 18 – Aerodromes Impact Report 2021 (attached)

Appendix One - Gateway Determinations



PP_2019_BALLI_001_00/IRF20/4813

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

Via email: council@ballina.nsw.gov.au
Klaus.Kerzinger@ballina.nsw.gov.au

Dear Mr Hickey

Planning proposal PP_2020_BALLI_001_00 to amend Ballina Local Environmental Plan 2012

I am writing in response to Council's request for a Gateway determination under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the planning proposal to provide additional employment lands for the future expansion of the Southern Cross Industrial Estate.

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

I have also agreed, as delegate of the Secretary, the planning proposal's inconsistencies with section 9.1 Directions 1.2 Rural Lands, 1.3 Mining, Petroleum and Extractive Industries, 1.5 Rural Zones, 3.2 Caravan Parks and Manufactured Homes Estates and 4.1 Acid Sulfate Soils are justified in accordance with the terms of the Direction. No further approval is required in relation to these Directions.

Council may still need to obtain the agreement of the Secretary to comply with the requirements of section 9.1 Directions 2.1 Environmental Protection Zones, 3.5 Development Near Regulated Airports and Defence Airfields, 4.3 Flood Prone Land and 4.4 Planning for Bushfire Protection. Council should ensure this occurs prior to the plan being made.

It is noted that Council has asked not to be the local-plan making authority for this planning proposal. I have considered Council's request and have not conditioned the Gateway for Council to be the local plan-making authority.

The amending local environmental plan (LEP) is to be finalised within eight months of the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request for the Department of Planning, Industry and Environment to draft and finalise the LEP should be made eight weeks prior to the projected publication date.

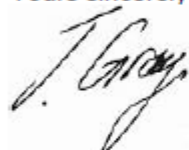
Northern Region | 49 Victoria Street Grafton NSW 2460 | Locked Bag 9022 Grafton NSW 2460 | planning.nsw.gov.au

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 3.32(2)(d) of the Act if the time frames outlined in this determination are not met.

I also have determined as the delegate of the Minister, in accordance with section 3.34(7) of the *Environmental Planning and Assessment Act 1979*, to alter the Gateway determination dated 23 July 2013 (since altered) for PP_2013_BALLI_005_00 in accordance with Council's decision not to proceed with the proposal. The Alteration of Gateway determination is enclosed.

Should you have any enquiries about this matter, I have arranged for Ms Lucy Walker to assist you. Ms Walker can be contacted on 5778 1402.

Yours sincerely



4/11/2020

Jeremy Gray
Director, Northern Region
Local and Regional Planning

Encl: Gateway determination
Alteration of Gateway determination



Gateway Determination

Planning proposal (Department Ref: PP_2020_BALLI_001_00): to provide additional employment lands for the future expansion of the Southern Cross Industrial Estate.

I, the Director, Northern at the Department of Planning, Industry and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Ballina Local Environmental Plan (LEP) 2012 to provide additional employment lands for the future expansion of the Southern Cross Industrial Estate should proceed subject to the following conditions:

1. Prior to community and agency consultation, Council is to:
 - (a) update Part 3 to address the:
 - (i) North Coast Regional Plan 2036
 - (ii) Local Strategic Planning Statement
 - (iii) Section 9.1 Directions 2.6 Remediation of Land and 5.10 Implementation of Regional Plans
 - (iv) The proposed IN2 Light Industrial land use table to ensure compliance with the Standard Instrument LEP
 - (b) prepare reports in relation to:
 - (i) ecological, flora and fauna
 - (ii) acid sulfate soils
 - (iii) geotechnical
 - (iv) stormwater impact and flooding
 - (v) entomological (mosquitoes)
 - (vi) bushfire hazard
 - (vii) archaeological/cultural heritage
 - (viii) aerodromes impact (airport noise and obstacle height limitation surfaces)
 - (ix) site contamination
2. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the 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).

3. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
- (a) the planning proposal must be made publicly available for a minimum of 28 days; and
 - (b) the planning proposal 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 6.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment, 2018).
4. Consultation is required with the following public authorities/organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:
- Jali Aboriginal Land Council
 - Department of Planning, Industry and Environment (Division of Biodiversity Conservation)
 - Heritage NSW
 - NSW Rural Fire Service
 - Civil Aviation Safety Authority
 - Air Services Australia
 - Ballina Byron Gateway Airport
 - Regional NSW (Department of Primary Industries - Agriculture)
 - Transport for NSW (Roads and Maritime)
 - NSW Resources and Geoscience
- Each public authority/organisation 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.
5. The time frame for completing the LEP is to be by 30 June 2021.

Dated 4 day of November 2020.



Jeremy Gray
Director, Northern Region
Local and Regional Planning
Department of Planning, Industry and
Environment

PP_2019_BALLI_001_00 (IRF20/4813)

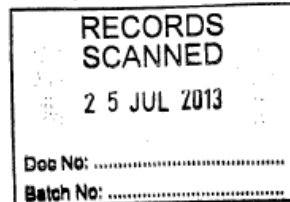
**Delegate of the Minister for Planning
and Public Spaces**

Previous Gateway determinations and amendments inserted here for completeness



**Planning &
Infrastructure**

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



Contact: Jennifer Vallis
Phone: (02) 6641 6800
Fax: (02) 6641 6801
Email: Jenny.Vallis@planning.nsw.gov.au
Postal: Locked Bag 9022, Grafton NSW 2460

Our ref: PP_2013_BALLI_005_00 (13/11378)
Your ref: Planning Proposal – Southern Cross Precinct
Expansion (13/37339)

Dear Mr Hickey,

Planning proposal to amend Ballina Local Environmental Plan 2012

I am writing in response to Council's letter dated 3 July 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 rezone certain land, adjoining the Southern Cross Industrial Estate, at Corks Lane, Ballina from RU2 Rural Landscape to B6 Enterprise Corridor and B7 Business Park, apply a minimum lot size of 1,000sqm and, if appropriate, amend other applicable development standards for the subject land, remove the land from the Strategic Urban Growth Area Map and include a new zone, B7 Business Park in the Ballina Local Environmental Plan (LEP) 2012.

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.

I have also agreed the planning proposal's inconsistencies with S117 Directions 1.2 Rural Zones, 1.5 Rural Lands and 4.3 Flood Prone Land are justified by the Far North Coast Regional Strategy, endorsed local strategy or in accordance with the Floodplain Development Manual. No further approval is required in relation to these Directions.

Council may still need to obtain the Director General's agreement to satisfy the requirements of relevant S117 Directions. Council should ensure this occurs prior to the plan being made.

It is noted that the proposal introduces a new B7 Business Park zone into Ballina LEP 2012. Council is encouraged to discuss the proposed land use table for the new zone with the department's regional office, prior to undertaking public exhibition. The land use table for the new B7 zone and the Southern Cross Precinct Master Plan are to form part of the material placed on public exhibition with the planning proposal.

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 support Council's position and not issue an authorisation for Council to exercise delegation to make this plan to ensure a third party review of the planning proposal is undertaken.

The amending LEP is to be finalised within 12 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 for the department to draft and finalise the LEP should be made 6 weeks prior to the projected publication date.

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

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 Ms Jennifer Vallis of the regional office of the department on (02) 6641 6600.

Yours sincerely,



Neil McGaffin 23.7.13
Executive Director
Rural and Regional Planning
Planning Operations and Regional Delivery



Gateway Determination

Planning proposal (Department Ref: PP_2013_BALLI_005_00): to facilitate the expansion of the Southern Cross Industrial Estate at Ballina.

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 rezone certain land, adjoining the Southern Cross Industrial Estate, at Corks Lane, Ballina from RU2 Rural Landscape to B6 Enterprise Corridor and B7 Business Park, apply a minimum lot size of 1,000sqm and, if appropriate, amend other applicable development standards for the subject land, remove the land from the Strategic Urban Growth Area Map and include a new zone, B7 Business Park should proceed subject to the following conditions:

1. Prior to undertaking public exhibition, Council is to update the 'objectives or intended outcomes' within the planning proposal to advise of the intended future uses, zones and development standards proposed for the subject land. The proposed land use table for the new B7 Business Park zone and the Southern Cross Precinct Master Plan is to be placed on public exhibition with the planning proposal.
2. Additional information regarding the below matters is to be placed on public exhibition with the planning proposal:
 - ecological, flora and fauna
 - acid sulphate soils
 - geotechnical
 - stormwater impact and flooding
 - entomological (mosquitoes)
 - bushfire hazard
 - archaeological/cultural heritage
 - aerodromes impact (airport noise and obstacle limitation surfaces)
3. Council is to demonstrate that the planning proposal satisfies the requirements of State Environmental Planning Policy (SEPP) 55 - Remediation of Land. Council is to prepare an initial site contamination investigation report to demonstrate that the site is suitable for rezoning to the proposed zone. This report is to be included as part of the public exhibition material.
4. 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 must be made publicly available for a minimum of **28 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)*.
5. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant S117 Directions:
 - NSW Aboriginal Land Council
 - Office of Environment and Heritage

BALLINA PP_2013_BALLI_005_00 (13/11378)



Planning & Infrastructure

- NSW Department of Primary Industries – Agriculture
- Transport for NSW – Roads and Maritime Services
- NSW Rural Fire Service (S117 Direction 4.4 Planning for Bushfire Protection)
- Department of the Commonwealth responsible for aerodromes and the lessee of the aerodromes (S117 Directions 3.5 Development Near Licensed Aerodromes)

Each public authority 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.

6. 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).
7. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated *23rd* 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_005_00 (13/11378)



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



Our ref: 13/11378
Your ref: BSCPP 13/005

Dear Mr Hickey

Planning Proposal PP_2013_BALLI_005_00 – Alteration of Gateway Determination

I refer to your letter of 6 May 2015 seeking an extension of time to complete Planning Proposal PP_2013_BALLI_005_00 for the expansion of the Southern Cross Business Precinct, at Ballina.

I have determined as the delegate of the Minister, in accordance with section 56(7) of the *Environmental Planning and Assessment Act 1979*, to alter the Gateway determination dated 23 July 2013 for PP_2013_BALLI_005_00 (as altered). The Alteration of the Gateway Determination is enclosed.

If you have any questions in relation to this matter, I have arranged for Mr Paul Garnett to assist you. Mr Garnett can be contacted on 6641 6607.

Yours sincerely

 12 May 2015
Stephen Murray
General Manager, Northern Region
Planning Services

Encl:
Alteration of Gateway Determination



Alteration of Gateway Determination

Planning proposal (Department Ref: PP_2013_BALLI_005_00)

I, the General Manager, Northern Region at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(7) of the *Environmental Planning and Assessment Act 1979* to alter the Gateway determination dated 23 July 2013 (as since altered) for the proposed amendment to the Ballina Local Environmental Plan 2012 as follows:

1. Delete condition 7:

"7. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination."

and replace with a new condition 7:

"7. The planning proposal is to be completed by 30 July 2016."

Dated 12th day of May 2015


Stephen Murray
General Manager, Northern Region
Planning Services
Department of Planning and Environment

Delegate of the Minister for Planning

Ballina PP_2013_BALLI_005_00 (13/11378)



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

Our ref: 13/11378
Your ref: BSCPP 13/005

Dear Mr Hickey


Planning Proposal PP_2013_BALLI_005_00 – Alteration of Gateway Determination

I refer to your letter of 25 September 2015 in relation to revisions to Planning Proposal PP_2013_BALLI_005_00 for expansion of the Southern Cross Precinct at Ballina.

I have determined as the delegate of the Minister, in accordance with section 56(7) of the *Environmental Planning and Assessment Act 1979* to alter the Gateway determination dated 23 July 2013 for PP_2013_BALLI_005_00 (as altered). The Alteration of the Gateway Determination is enclosed.

If you have any questions in relation to this matter, I have arranged for Mr Paul Garnett to assist you. Mr Garnett can be contacted on (02) 6641 6607.

Yours sincerely

 22 October 2015
Stephen Murray
General Manager, Northern Region
Planning Services

Encl:
Alteration of Gateway Determination

Alteration of Gateway Determination

Planning proposal (Department Ref: PP_2013_BALLI_005_00)

I, the General Manager, Northern Region at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(7) of the *Environmental Planning and Assessment Act 1979* (the Act) to alter the Gateway determination dated 23 July 2013 (as since altered) for the proposed amendment to the Ballina Local Environmental Plan 2012 as follows:

1. Change the description of the Planning Proposal

From "...to rezone certain land, adjoining the Southern Cross Industrial Estate, at Corks Lane, Ballina from RU2 Rural Landscape to B6 Enterprise Corridor and B7 Business Park, apply a minimum lot size of 1000sqm and, if appropriate, amend other applicable development standards for the subject land, remove the land from the Strategic Urban Growth Area Map and include a new zone, B7 Business Park.."

To "...to rezone certain land, adjoining the Southern Cross Industrial Estate, at Corks Lane, Ballina to IN1 General Industrial and IN2 Light Industrial, include an IN2 Light Industrial zone in the land use table of the LEP, and amend the Lot Size Map, Height of Buildings Map and Strategic Urban Growth Area Map as necessary..."

2. Delete condition 1:

"1. Prior to undertaking public exhibition, Council is to update the 'objectives or intended outcomes' within the planning proposal to advise of the intended future uses, zones and development standards proposed of the subject land. The proposed land use table for the new B7 Business Park zone and the Southern Cross Precinct Master Plan is to be placed on public exhibition with the planning proposal."

and replace with new condition 1:

"1. Prior to undertaking community consultation, Council is to update 'Part 2 Explanation of the Proposal' of the planning proposal to include the proposed land use table for the IN2 Light Industrial zone and/or explain the objectives and intended permitted land uses for this zone."

3. Delete condition 7:

"7. The planning proposal is to be completed by 30 July 2016."

and replace with a new condition 7:

PP_2013_BALLI_005_00 (13/11378)

"7. The planning proposal is to be completed by 30 October 2016."

Dated *22nd* day of *October* 2015


Stephen Murray
General Manager, Northern Region
Planning Services
Department of Planning and Environment

Delegate of the Minister for Planning

PP_2013_BALLI_005_00 (13/11378)



Alteration of Gateway Determination

Planning proposal (Department Ref: PP_2013_BALLI_005_00)

I, the Acting Director Regions, Northern at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(7) of the *Environmental Planning and Assessment Act 1979* (the Act) to alter the Gateway determination dated 23 July 2013 (as since altered) for the proposed amendment to the *Ballina Local Environmental Plan 2012* as follows:

1. Delete condition 7:

"7. The planning proposal is to be completed by 30 October 2016"

and replace with a new condition 7:

"7. The planning proposal is to be completed by 30 October 2017."

Dated 14 day of October 2016

Craig Diss
Acting Director Regions, Northern
Planning Services
Department of Planning and Environment

Delegate of the Minister for Planning

BALLINA PP_2013_BALLI_005_00 (16/13405)



Alteration of Gateway Determination

Planning Proposal (Department Ref: PP_2013_BALLI_005_00)

I, Director Regions, Northern at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(7) of the *Environmental Planning and Assessment Act 1979* ("the Act") to alter the Gateway determination dated 23 July 2013 (as since altered) for the proposed amendment to the Ballina Shire Council Local Environmental Plan 2012 as follows:

1. Delete:

Condition 7:

'7. The planning proposal is to be completed by 30 October 2017.'

and replace with:

a new condition 7:

'7. The planning proposal is to be completed by 30 October 2018.'

Dated 20 day of OCTOBER 2017.

Jeremy Gray
Director Regions, Northern
Planning Services
Department of Planning and Environment

Delegate of the Minister for Planning

PP_2013_BALLI_005_00 (17/13844)

Alteration of Gateway Determination

Planning proposal (Department Ref: PP_2013_BALLI_005_00)

I, Director Regions, Northern at the Department of Planning and Environment, as delegate of the Minister for Planning, have determined under section 3.34(7) of the *Environmental Planning and Assessment Act 1979* to alter the Gateway determination dated 23 July 2013 (as since altered) for the proposed amendment to the Ballina Local Environmental Plan 2012 as follows:

1. Delete condition 7:

“7. The planning proposal is to be completed by 30 October 2018.”

and replace with a new condition 7:

“7. The time frame for completing the LEP is by 30 October 2019.”

Dated 9 day of October 2018.



Jeremy Gray
Director Regions, Northern
Planning Services
Department of Planning and
Environment

Delegate of the Minister for Planning

PP_2013_BALLI_005_00 (IRF18/5470)



Alteration of Gateway Determination

Planning proposal (Department Ref: PP_2013_BALLI_005_00)

I, Director, Northern Region at the Department of Planning, Industry and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(7) of the *Environmental Planning and Assessment Act 1979* to alter the Gateway determination dated 23 July 2013 (as since altered) for the proposed amendment to the Ballina Local Environmental Plan 2012 as follows:

1. Delete condition 7:

“7. The time frame for completing the LEP is by 30 October 2019.”

and replace with a new condition 7:

“7. The time frame for completing the LEP is by 30 October 2020.”

Dated 13 day of November 2019.

A handwritten signature in black ink, appearing to read "J. Gray".

Jeremy Gray
Director, Northern Region
Planning and Assessment
Department of Planning, Industry and
Environment

**Delegate of the Minister for Planning
and Public Spaces**

PP_2013_BALLI_005_00 (IRF19/7002)

Appendix Two - Proponent's Submission Seeking Amendment of Planning Proposal in 2015

ARDILL PAYNE

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



7260 amend planning proposal (sept 2015)

15 September 2015

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

Attention: Mr Klaus Kerzinger

Dear Klaus

**re: Southern Cross Precinct Expansion – BSCPP 13/005
(PP_2013_BALLI_005_00)**

I refer to prior communications in respect of the subject matter and in particular to the following:

- Council's letter dated 21st April 2015
- our meeting on the 30th April 2015 with Paul Tsikleas and Dwayne Roberts (including your file note from that meeting dated 30th April 2015)
- discussions and emails between you and myself during May – September 2015
- the Department of Planning's letter dated 12th May 2015
- our meeting on the 3rd August 2015 with Paul Tsikleas and Matthew Wood
- meetings and discussions with Messrs King and Field during June – September 2015

As a consequence of the above, it is proposed to amend the Planning Proposal such that:

- the B6 – Enterprise Corridor Zone and the B7 – Business Park Zone are to be replaced with an IN1 – General Industrial Zone and an IN2 – Light Industrial Zone
- part of Lot 7 DP 793980 is to be included into the Planning Proposal
- Lot 7 DP 793980 is currently zoned SP2 – Air Transport Facility Zone – part of Lot 7 DP 793980 is proposed to be zoned IN2 – Light Industrial Zone

Engineers | Planners | Surveyors | Environmental | Project Management

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

- that part of Lot 7 DP 793980 that is proposed to be zoned IN2 – Light Industrial Zone is to have its existing AB – 40ha minimum lot size is changed to U1 – 1000m²

The proposal will rely on the existing IN1 zone and zoning table (as per the BLEP 2012) and will look to introduce a new IN2 zone into the BLEP 2012. Attached herewith is a copy of the proposed new IN2 zoning table and a plan that shows the location of the respective zones (over which is a conceptual subdivision layout).

As a consequence of the registration of a plan of subdivision in 2014 and the inclusion of Lot 7 DP 793980, the land that is subject of the planning proposal is now described as follows:

- part of Lots 3-6 DP 123781
- Lots 3-4 DP 872303
- Lot 2 DP 833513
- Lot 8 DP 793980
- part of Lot 7 DP 793980
- part of Lot 264 DP 1195313

The amended Planning Proposal involves the following:

- a strip of land generally along the proposed new "Airport Boulevard" to be zoned IN2 – Light Industrial Zone (approx. 13.47ha in area) – NEW ZONE
- the remainder of the land to be zoned IN1 – General Industrial Zone (approx. 26.02ha in area) – EXISTING ZONE AS PER THE BLEP 2012
- rezoning of part of Lot 7 DP 793980 from SP2 – Air Transport Facility to IN2 – Light Industrial Zone – NEW CHANGE
- the proposed IN1 and IN2 zoned land to have a minimum lot size standard of 1000m², with no minimum lot size to be applied in respect of Strata or Community Title subdivision – SAME MINIMUM LOT SIZE AS PER EXISTING PLANNING PROPOSAL
- the proposed IN1 and IN2 zoned land to have a maximum building height of 10m, which is consistent with the building heights for the existing Southern Cross Industrial Estate and the Airport – SAME MAXIMUM BUILDING HEIGHT AS PER OUR MARCH 2013 PLANNING PROPOSAL SUBMISSION

Based on further investigations that have been undertaken since the lodgement of the original Planning Proposal, the B6 and B7 zoning regime is no longer considered appropriate due to the fact that the objectives and permissible uses contained within both the B6 and B7 zones would potentially conflict with the existing and continued economic viability and sustainability of the Ballina CBD.

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The proposed amended planning proposal is therefore considered more appropriate due to the fact that:

- there is an immediate need for additional industrially zoned land in the locality
- the proposed industrial zones will ensure that there are no uses that will directly compete with or compromise the integrity and economic well-being of the Ballina CBD and other business centres in the Shire
- the proposed industrial zones will meet the future industrial employment needs of the Shire
- the proposed industrial zones are consistent with the provisions of the Detailed Masterplan – Illustration 4.2 of the Southern Cross Precinct Master Plan 2008 and the provisions of the Ballina Growth Management Strategy
- the proposed industrial zones are consistent with Council's strategic planning framework with this expansion area being central to meeting the industrial land supply needs into the future
- the proposed industrial zones and permitted uses therein are not such that will result in any substantive land use conflict issues with the operations of the Airport
- the proposed industrial zones will allow a broad range of uses that will be ancillary and/or complementary to the Airport

The proposed change to the zoning regime is such that the Planning Proposal will:

- remain consistent with Council and the State Government's Strategic Planning framework and documents/studies
- remain consistent with all applicable Ministerial Directions (s117 of the EP & A Act 1979)
- comprise an effective and logical expansion of the existing Southern Cross Industrial Estate
- be able to be achieved having regard to the constraints and opportunities of the site

Please also be advised that:

- Mr Field (owner of Lot 2 DP 833513 & Lot 3 DP 872303) has confirmed that he is accepting of the amended planning proposal
- Mr King (owner of Lot 4 DP 872303) has advised that he has some issues with the amended planning proposal and has advised that he is going to prepare and lodge a submission to Council in the immediate future seeking clarification of a number of matters

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It is therefore respectfully requested that Council consider the proposed amendment to the zoning regime for Planning Proposal (BSCPP 13/005) as articulated in this letter.

Yours faithfully



Paul Snellgrove

ARDILL PAYNE & PARTNERS

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Zone IN2 Light Industrial

1. Objectives of zone

- To provide a wide range of light industrial, warehouse and related land uses.
- To encourage employment opportunities and to support the viability of centres.
- To minimise any adverse effect of industry on other land uses.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To support and protect industrial land for industrial uses.

2. Permitted without consent

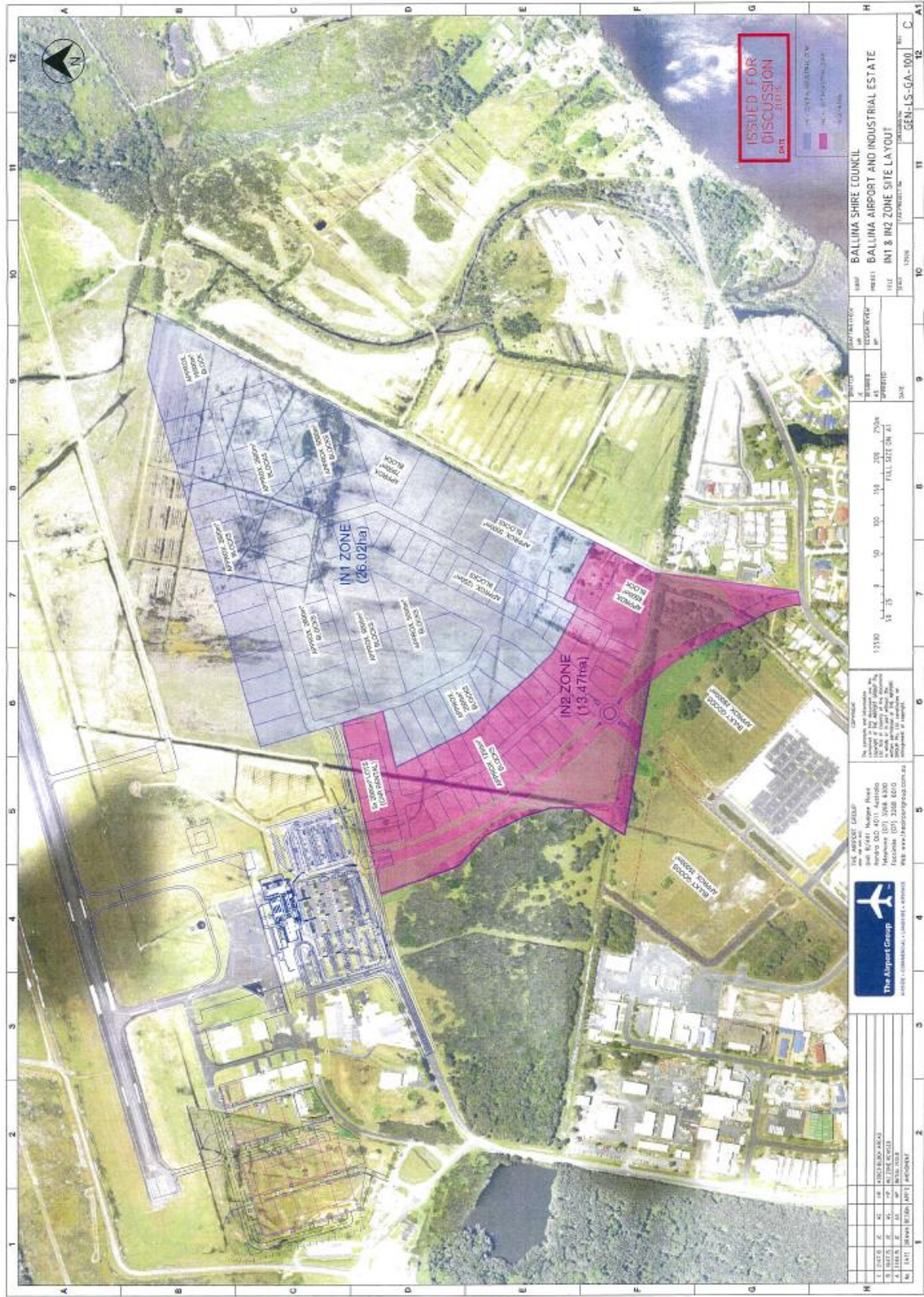
Environmental protection works

3. Permitted with consent

Agricultural produce industries; Animal boarding and training establishments; Depots; Garden centres; General industries; Hardware and building supplies; Industrial training facilities; Landscaping material supplies; Light industries; Liquid fuel depots; Markets; Hotel or motel accommodation; Neighbourhood shops; Plant nurseries; Roads; Rural supplies; Take away food and drink premises; Timber yards; Vehicle sales or hire premises; Warehouse of distribution centres; Any other development not specified in item 2 or 4.

4. Prohibited

Agriculture; Air transport facilities; Airstrips; Amusement centres; Boisolids treatment facilities; Boat launching ramps; Boat sheds; Business premises; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Child care centres; Commercial premises; Correctional centres; Eco-tourist facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Health services facilities; Heavy industrial storage establishments; Helipads; Highway service centres; Home-based child care; Home businesses; Home occupations (sex services); Industries; Jetties; Marinas; Mooring pens; Moorings; Open cut mining; Passenger transport facilities; Recreation areas; Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Research stations; Residential accommodation; Resource recovery facilities; Rural industries; Sewage treatment plants; Tourist and visitor accommodation; Waste disposal facilities; Water recreation structures; Water recycling facilities; Water supply systems; Wharf or boating facilities.



Appendix Three - Council Reports & Minutes

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS
40 CHERRY STREET BALLINA,
ON 28/05/20 AT 9.00 AM**

8.11 Planning Proposal - Southern Cross Expansion - Gateway Amendment

280520/12 RESOLVED

(Cr Keith Williams/Cr Ben Smith)

1. That Council seek to amend the Gateway Determination for the Southern Cross Precinct Expansion planning proposal BSCPP 13/005 to apply to stage one (lots 1-5) as outlined in this report.
2. That a new planning proposal be presented to Council addressing the balance of the Southern Cross Precinct Expansion area once the required technical studies are complete.

FOR VOTE - All Councillors voted unanimously.

8.12 Planning Proposal - Rural Industry Definition Change

280520/13 RESOLVED

(Cr Eoin Johnston/Cr Sharon Cadwallader)

1. That Council authorises the General Manager to finalise and implement Planning Proposal BSCPP 19/005 - Rural Industry Definition Change in relation to the Ballina Local Environmental Plan 1987 as detailed in Attachment 1, under delegated authority.
2. That those persons who made submissions be thanked for their contribution and provided with advice as to Council's decision with respect to this planning proposal.

FOR VOTE - All Councillors voted unanimously.

8.13 Ballina Shire Development Control Plan 2012 - Draft Amendment No.13

280520/14 RESOLVED

(Cr Ben Smith/Cr Sharon Cadwallader)

1. That Council undertake the public exhibition of Draft Amendment No.13 to the Ballina Shire Development Control Plan 2012 (as contained in Attachments 1 and 2), in accordance with the terms of the *Environmental Planning and Assessment Act 1979* and the associated Regulation.
2. That a further report be submitted to Council following the public exhibition of Draft Amendment No.13 to the Ballina Shire Development Control Plan 2012.

FOR VOTE - All Councillors voted unanimously.

8.11 Planning Proposal - Southern Cross Expansion - Gateway Amendment

8.11 Planning Proposal - Southern Cross Expansion - Gateway Amendment

Delivery Program

Strategic Planning

Objective

To invite the Council to consider seeking an amendment to the Gateway determination for BSCPP 13/005 to change the scope of the current LEP amendment proposal.

Background

The progress of the Southern Cross Industrial Estate expansion project has been impacted by design considerations associated with the delivery of Airport Boulevard, particularly as it relates to interactions with environmental offsets and drainage. With the approval of the Airport Boulevard project now in place and construction underway, further progress is being made with respect to the industrial estate expansion project investigations.

As Councillors are aware, Council has received funding support, through the Growing Local Economies (GLE) fund, to assist the delivery of an initial stage of the expansion area development to accommodate specialised land uses.

Whilst rezoning studies are being progressed for the expansion area, assessments associated the drainage and flooding for the entire site will require an iterative design process which has the potential to push the rezoning-approval-development timeframe beyond the GLE funding agreement timeframe.

Notwithstanding, the part of the site on which the GLE funded stage is located is presently identified as relatively less constrained than the broader potential industrial expansion area. As a consequence, it is considered prudent to expedite the progress of that part of the site subject to the GLE grant by way of an amended planning proposal.

The purpose of this report is to seek Council's direction with respect to this matter.

Key Issues

- Economic development
- Industrial land availability
- LEP amendment site capability and suitability assessment and process

Information

A Gateway determination for the Southern Cross Industrial Estate Expansion Area Planning Proposal (BSCPP 13/005) was initially sought following Council's resolution of 27 June 2013.

A Gateway determination allowing the LEP amendment process to progress was issued by the (then) Department of Planning on 23 July 2013.

8.11 Planning Proposal - Southern Cross Expansion - Gateway Amendment

Various extensions to the current Gateway determination completion timeframe have been provided by the Department of Planning, Industry and Environment.

As noted above, delays to the progress of the planning proposal have related to the delivery of the Airport Boulevard with particular regard to overlapping and relating environmental assessments required as a part of the design and approval process.

The timeframe agreed with the NSW Government with respect to the Growing Local Economies Fund has a delivery timeframe for the developed lots relating to the agreement is February 2021.

As noted above, the drainage and flooding assessments required to progress the development of the entire expansion area site will require an iterative design process in order to achieve a floodway and drainage design that meets the required conveyance and treatment standards.

In order to meet the delivery timeframes required of the GLE grant, staff recommend seeking to focus the planning proposal and associated assessment on the first stage of the development, relating to the GLE grant. A map identifying this area, being bounded by the light green line is provided below.



Under this approach, Council would formally seek the Department's agreement to amend the current Gateway Determination to apply to the reduced study area (Stage One comprising lots 1-5).

8.11 Planning Proposal - Southern Cross Expansion - Gateway Amendment

Regional Staff in the Department of Planning, Industry and Environment have been consulted regarding this matter and support this approach. It is understood the Department's position reflects an eagerness to have the current planning proposal process concluded due the length of time that has elapsed since the original gateway determination in 2013.

A separate planning proposal would be sought for the remainder of the expansion area once the integrated flooding and drainage studies are more advanced.

Council is invited to consider endorsing the above approach.

Sustainability Considerations

- **Environment**
The planning proposal will address all relevant environmental matters associated with the development of the site.
- **Social**
The development of this site presents social benefits associated with employment and business development opportunities.
- **Economic**
This proposal seeks to provide additional employment lands to facilitate ongoing economic development opportunities in Ballina Shire.

Legal / Resource / Financial Implications

Amendment of the Gateway determination is the appropriate statutory process to enable the staged assessment of land use and development within the Southern Cross Precinct.

Consultation

The planning proposal, once amended and endorsed by the Council, will be subject to public exhibition in accordance with the requirements of the Environmental Planning and Assessment Act 1979.

Options

The following options are presented for Council's consideration in progressing this matter.

Option One – Amend the Gateway Determination

Council could resolve to seek an amendment to the Gateway Determination for planning proposal BSCPP 13/005 for the Southern Cross Estate expansion to focus on the subject area as outlined in the body of this report. Council could also resolve to receive a further planning proposal request for Council endorsement for the remainder of the Southern Cross Precinct once the required technical studies are completed.

8.11 Planning Proposal - Southern Cross Expansion - Gateway Amendment

This option is recommended on the basis that this approach would provide for the timely and efficient progress of the assessment associated with the first stage of the Southern Cross Industrial Estate expansion.

Option Two – Maintain the Current Approach

Council could maintain the current approach regarding the Southern Cross Industrial Estate expansion project.

This option is not recommended on the basis of the potential for the delays in the technical assessment of flooding and drainage matters (in particular) to slow the progress of the assessment of the proposed rezoning such that the timeframes associated with the Growing Local Economies Fund grant may not be able to be met (should the land ultimately be determined to be suitable for rezoning)

Option Three – Defer the Matter

Council could resolve to hold a briefing should further information be required with respect to this matter.

This option is not recommended, however it is available should the Council wish to receive further information.

RECOMMENDATIONS

1. That Council seek to amend the Gateway Determination for the Southern Cross Precinct Expansion planning proposal BSCPP 13/005 to apply to stage one (lots 1-5) as outlined in this report.
2. That a new planning proposal be presented to Council addressing the balance of the Southern Cross Precinct Expansion area once the required technical studies are complete.

Attachment(s)

Nil

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS
40 CHERRY STREET BALLINA,
ON 24/09/15 AT 9.00 AM**

8.3 Development Applications - Works in Progress - September 2015

240915/8 RESOLVED

(Cr Ben Smith/Cr Robyn Hordern)

That Council notes the contents of the report on the status of outstanding development applications for September 2015.

FOR VOTE - All Councillors voted unanimously.

9. Strategic and Community Facilities Group Reports

9.1 LEP Amendment Request - Southern Cross Precinct Expansion

240915/9 RESOLVED

(Cr Ben Smith/Cr Paul Worth)

1. That Council endorses the application of an IN1 General Industrial zone and an IN2 Light Industrial zone to Part of Lots 3-6 DP 123781; Lots 3-4 DP 872303; Lot 2 DP 833513; Part Lot 7 DP 793980; Lot 8 DP 793980; Part Lot 264, DP 1195313 and the adjoining Council road reserve (Corks Lane) in Ballina, as shown in the Map contained in Attachment 2.
2. That Council endorses the application of a 1,000m² minimum lot size and a 10 metre building height limit for the site proposed to be rezoned, and changes to the Strategic Urban Growth Area Map boundaries as shown in the Map contained in Attachment Four.
3. That Council endorses the preparation of an amended planning proposal and the submission of a request for an altered Gateway determination to the NSW Department of Planning & Environment to reflect the matters referenced in recommendations 1 and 2.
4. That Council advise the Department of Planning and Environment that it does not wish to seek or exercise delegation in relation to the completion of this planning proposal.
5. That Council engage a suitably qualified independent planning consultant (at the proponent's cost) to review the site assessment information once submitted, and to provide Council with an associated report and recommendations.
6. That upon an affirmative altered Gateway determination being received from the Department of Planning & Environment, the procedural steps associated with progression of the planning proposal be undertaken.

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS
40 CHERRY STREET BALLINA,
ON 24/09/15 AT 9.00 AM**

7. That a further report be presented to Council in relation to this matter following the completion of the community engagement phase of the planning proposal.

FOR VOTE - All Councillors voted unanimously.

9.2 Economic Development Strategy

240915/10 RESOLVED

(Cr Sharon Cadwallader/Cr Susan Meehan)

That Council prepare an economic development strategy for Ballina Shire, including a review of Council's existing economic development activities and identification of opportunities to enhance economic outcomes for the Ballina Shire community.

FOR VOTE - All Councillors voted unanimously.

10. General Manager's Group Reports

10.1 Use of Council Seal

240915/11 RESOLVED

(Cr Paul Worth/Cr Susan Meehan)

That Council attach the Common Seal to the following documents.

US 15/13	Deed of Agreement - Council and Intrapac Coops Pty Ltd, Joy Iris Sheather, and Vixsun Pty Ltd; and other deeds, agreements, etc required to finalise the power connection and boosted pipelines to this location.
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FOR VOTE - All Councillors voted unanimously.

10.2 Investment Summary - August 2015

240915/12 RESOLVED

(Cr Sharon Cadwallader/Cr Ben Smith)

That Council notes the record of banking and investments for August 2015.

FOR VOTE - All Councillors voted unanimously.

..... MAYOR

9.1 LEP Amendment Request - Southern Cross Precinct Expansion

9.1 LEP Amendment Request - Southern Cross Precinct Expansion

Delivery Program Strategic Planning

Objective To invite the Council to consider a request to amend zones incorporated within the Southern Cross precinct expansion planning proposal that has been the subject of a previous Gateway determination.

Background

The Council, at its Ordinary Meeting held on 26 July 2012, received and considered a report regarding a request from Ardill Payne & Partners, acting on behalf of the Commercial Services Section of Council, seeking the commencement of a rezoning process to provide for the expansion of the Southern Cross Industrial Estate in Ballina. In relation to this matter, the Council resolved as follows [Minute No. 260712/22]:

1. *That Council proceed to prepare a planning proposal to enable urban land uses focused on employment based activities on land between the existing extent of the Southern Cross Industrial Estate, Corks Lane and the Ballina Byron Gateway Airport.*
2. *That the type and extent of land use zoning under the planning proposal be determined having regard for both employment and environmental outcomes and following the provision and consideration of further information from the applicant in relation to the land uses proposed and the characteristics of the site.*
3. *That the planning proposal be reported to Council for consideration prior to referral to the Department of Planning & Infrastructure for Gateway determination.*

The Council at its Ordinary Meeting held on 27 June 2013 again considered this matter following the submission of additional information by the proponent (Council's Commercial Services Section). In relation to this matter, the Council resolved as follows [Minute No. 270613/16]:

1. *That the Council endorses the application of a B6 Enterprise Corridor zone and B7 Business Park zone as the basis for a planning proposal for Gateway determination, applying to Part of Lots 3-6 DP 123781; Lots 3-4 DP 872303; Lot 2 DP 833513; Lot 8 DP 793980; Part of Lot 7 DP 1043261 and adjoining Council road reserve (Corks Lane) in Ballina, as shown in Map 3 of the planning proposal contained in Attachment 1.*
2. *That the Council submit the planning proposal contained in Attachment 1 to the NSW Department of Planning & Infrastructure for review and Gateway determination.*
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 be undertaken.*

9.1 LEP Amendment Request - Southern Cross Precinct Expansion

4. *That the Council engage a suitably qualified independent planning consultant (at the proponent's cost) to review the site assessment information submitted, and to provide Council with an associated report and recommendations.*
5. *That a further report be presented to the Council in relation to this matter prior to the commencement of community engagement for the planning proposal.*

The then Department of Planning and Infrastructure issued a Gateway determination on 23 July 2013 which allowed the planning proposal to proceed to community consultation subject to a number of conditions. The Gateway determination primarily related to the rezoning of the site from RU2 Rural Landscape zone to B6 Enterprise Corridor and B7 Business Park.

Conditions attached to the Gateway determination required a number of technical studies to be completed prior to public exhibition and the completion of the LEP within a 12 month period.

On 12 May 2015 the Department of Planning and Environment issued an alteration to the Gateway determination, at Council's request, which extended the timeframe for the completion of the LEP from 30 July 2015 to 30 July 2016.

On 14 September 2015 Ardill Payne lodged a submission on behalf of the proponents for amendments to the planning proposal. The request provided for the application of a mixed IN1 General Industrial and IN2 Light Industrial zoning regime to the site as well as changes to the lots proposed to be rezoned. It is this request which is the subject of this report to the Council.

Attachment One to this report contains a copy of the Ardill Payne submission.

Key Issues

- Strategic urban growth
- Employment land
- Progress of planning proposal

Information

This planning proposal relates to land located to the north of the existing Southern Cross Industrial Estate, comprising a number of lots and part lots as described below:

- Part of Lots 3-6 DP 123781 (owned by Ballina Shire Council)
- Lot 3 DP 872303 (owned by Mr B.R. Field)
- Lot 4 DP 872303 (owned by Mr D.M. King)
- Lot 2 DP 833513 (owned by Mr B.R. Field)
- Lot 8 DP 793980 (owned by Ballina Shire Council)
- Part Lot 7 DP 793980 (owned by Ballina Shire Council)
- Part Lot 264, DP 1195313 (owned by Ballina Shire Council) and

9.1 LEP Amendment Request - Southern Cross Precinct Expansion

- adjoining Council road reserve (Corks Lane).

The map below the subject land outlined in red.

Site Identification Map



The planning proposal has arisen in response to a request from Council's Commercial Services Section to rezone land to accommodate demand for employment land in a manner consistent with the Ballina Shire Growth Management Strategy and the Southern Cross Precinct Master Plan 2008.

The proponent's planning consultant has advised that it is proposed to amend the planning proposal previously endorsed by Council and subject to a Gateway determination in the following respects:

- Replacement of the B6 Enterprise Corridor zone and B7 Business Park zone with an IN1 General Industrial and an IN2 Light Industrial zone, and
- Inclusion of Part Lot 7 DP 793980 so that its SP2 Infrastructure - Air Transport Facility zone is changed to part IN1 and IN2, and its existing 40 hectare minimum lot size is changed to a 1,000m² lot size requirement.

Attachment Two to this report contains the proposed Land Zoning Map.

Attachment Three to this report contains the Land Zoning Map previously endorsed by the Council and the subject of the existing Gateway determination.

The 1,000m² minimum lot size proposed for Part Lot 7 DP 793980 is consistent with the minimum lot size previously proposed zoning arrangement and is supported.

9.1 LEP Amendment Request - Southern Cross Precinct Expansion

In respect to building height it is noted that the previous planning proposal did not incorporate a change to the 8.5 metre building height limit applicable to the site. The proponent's consultant has indicated that a 10 metre building height is appropriate for the site as this is consistent with the building height applicable elsewhere within the Southern Cross Industrial Estate (and also the airport site). A 10 metre building height limit is supported for the subject site and is proposed to be incorporated within the revised planning proposal.

The IN2 Light Industrial zone is a new zone which does not currently form a part of Ballina LEP 2012. The proponent has prepared a zoning table related to this zone which forms a part of the submission contained within Attachment One. The zoning table has been reviewed in consultation with the proponent and is considered to be satisfactory. It is noted that the zoning table incorporates the mandatory matters required to be incorporated by the Standard Instrument template.

To support the proposed changes to the planning proposal Ardill Payne advises that the B6 and B7 zoning regime is no longer considered appropriate as the objectives and permissible uses contained within both the B6 and B7 zones would potentially conflict with the existing and continued economic viability and sustainability of the Ballina CBD. The amended zoning regime is considered more appropriate by the proponent's consultants for the following reasons:

- *There is an immediate need for additional industrial zoned land in the locality,*
- *The proposed industrial zones will ensure that there are no uses that will directly compete with or compromise the integrity and economic well-being of the Ballina CBD and other business centres within the Shire,*
- *The proposed industrial zones will meet the future employment needs of the Shire,*
- *The proposed industrial zones are consistent with the provisions of the detailed Masterplan - Illustration 4.2 of the Southern Cross Precinct Masterplan 2008 and the provisions of the Ballina Shire Growth Management Strategy,*
- *The proposed industrial zones are consistent with the Council's strategic planning framework with this expansion area being central to meeting the industrial land supply needs into the future,*
- *The proposed industrial zones and permitted land uses therein are not such that will result in any substantive land use conflict issues with the operations of the airport, and*
- *The proposed industrial zones will allow a broad range of uses that will be ancillary and/or complementary to the airport.*

The planning proposal will also make provision for the Strategic Urban Growth Area (SUGA) Map to be amended. The SUGA affectation is proposed to be removed from the subject site and a small residue area outside of the proponents designated site area, which would otherwise remain on Lot 7 DP 793980.

Attachment Four contains a copy of the amended Strategic Urban Growth Area Map.

9.1 LEP Amendment Request - Southern Cross Precinct Expansion

The subject site is identified in the Ballina Shire Growth Management Strategy (BSGMS endorsed by the Council in 2012) and the Southern Cross Precinct Master Plan (SCPMP endorsed by the Council in 2008). The SCPMP designates a large part of the subject land for industrial purposes with conventional lots (50 x 25m). In respect to the land with a frontage to Corks Lane the SCPMP designates this land as a live / work precinct containing light industrial lots.

The SCPMP does not incorporate the three privately owned properties (Lot 3 and 4 DP 872303 and Lot 2 DP 833513) which form a part of the planning proposal. These lots were however, incorporated within the original planning proposal, with the support of the respective property owners, and assigned a B6 Enterprise Corridor zone.

Council's strategic planning staff recently met on site with the owner of Lot 4 DP 872303, Mr D King, who indicated that he has concerns regarding the proposed IN2 Light Industrial zoning. These concerns, at that time, primarily related to perceived adverse economic and amenity impacts. Mr D King has subsequently made a submission to Council which addresses his various concerns.

Attachment Five to this report contains the submission made by Mr D King.

In terms of the rezoning process the matters raised by Mr King would be most appropriately further considered by the Council during the detailed technical assessment phase and following the public exhibition of the planning proposal. This approach provides Council with the benefit of detailed technical reports, as well as the report of the recommended independent planning expert, through which to evaluate the degree of impact the rezoning and future development of adjoining land will likely have on the King property.

Having regard to the fact that Council through its Commercial Services Section is the rezoning proponent there are also opportunities to give consideration to the issues raised by Mr D King outside of the formal rezoning process.

The existing Gateway determination required that the proponent submit additional information related to the following range of matters and that this information be placed on public exhibition with the planning proposal:

- Ecological and flora and fauna,
- Acid sulfate soils,
- Geotechnical,
- Stormwater impact and flooding,
- Entomological (mosquitoes),
- Bushfire hazard,
- Archaeological / cultural heritage, and
- Aerodrome impacts (airport noise and obstacle limitation surfaces).

At this stage of the process the required additional information has not been submitted. The proponent's consultant has advised that whilst much of the information has been significantly completed it has not yet been finalised. Finalisation is expected to occur once the Council has resolved to support the

9.1 LEP Amendment Request - Southern Cross Precinct Expansion

amended planning proposal and an altered Gateway determination has been received.

Council has previously indicated to the Department of Planning that due to its commercial interests in the land it did not seek to be issued with the Minister's delegated plan making functions. It is proposed to again indicate to the Department that the Council it is not seeking delegation of the Minister's plan making functions due to its commercial interest in the land.

Sustainability Considerations

- **Environment**
A detailed flora and fauna ecological assessment will be required to be prepared to support the planning proposal. Once submitted the flora and fauna ecological assessment will be subject to expert review as part of the planning proposal process.
- **Social**
It is considered that the provision of additional industrial zoned land will result in positive social benefits as a consequence of potential employment growth opportunities.
- **Economic**
The provision of additional industrial land is viewed as positive from an economic development perspective. There appears to be demand for industrial zoned land within Ballina Shire which when developed is likely to stimulate economic growth and provide additional employment opportunities.

Legal / Resource / Financial Implications

The approach recommended in this report is consistent with Council's legal responsibilities as a local planning authority. The matters arising from this report can be attended to within existing resources.

The proponent will be required to meet various processing costs in accordance with Council's adopted schedule of fees and charges, as well as providing the necessary additional technical information, as outlined above.

Consultation

No community or agency engagement has occurred to date in relation to this planning proposal. The existing Gateway determination in relation to this matter required that the planning proposal be made publically available for a period of 28 days and that consultation with the following public authorities take place:

- NSW Aboriginal Land Council,
- Office of Environment and Heritage,
- NSW Department of Primary Industry - Agriculture,
- Transport for NSW - Roads and Maritime Services,
- NSW Rural Fire Service, and

9.1 LEP Amendment Request - Southern Cross Precinct Expansion

- Departments of the Commonwealth Responsible for aerodromes and the lessee of the aerodrome.

Consultation with public authorities will take place once an altered Gateway determination has been received and the required technical reports have been submitted.

Options

The options available to the Council include the following:

One - That the Council advance the proposed rezoning and submit an amended planning proposal to the Department of Planning and Environment with a request for an altered Gateway determination; or

Two - That the Council not seek an altered Gateway determination and require that the rezoning proceed on the basis of the existing Gateway determination which provided for a mixed B6 and B7 zoning regime; or

Three - That the Council defer its decision on progressing the proposed rezoning.

Option One is the preferred option on the basis that the zoning regime proposed is generally consistent with the State and local strategic planning framework for this locality. There is also sufficient information to indicate that the proposal warrants further consideration through the LEP amendment process. This approach will result in the planning proposal being amended and an altered Gateway determination being sought from the Department of Planning and Environment.

In accordance with Council's previous resolutions concerning the proposed rezoning of the subject land, and assuming an altered Gateway determination is issued, the proposal will not proceed to public exhibition until such time that the submitted technical documentation has been reviewed by a suitably qualified independent third party and found to be satisfactory.

Option Two has significant disadvantages for Council. Based on the degree of technical assessment already undertaken there appears to be a sound case in support of the proposed IN1 and IN2 zones. Importantly the economic consequences of a significant release of business zoned land on the Ballina CBD have not yet been examined in any detail. To examine the economic impacts associated with the approved B6 and B7 zoning regime on Ballina CBD will create additional delays and cost impacts.

Option Three is open to the Council should it require additional information. A briefing for Councillors would then be organised. It is suggested however, that it may be more appropriate for a briefing to take place following the independent assessment of technical information assuming that issues arise which would warrant a briefing.

RECOMMENDATIONS

1. That Council endorses the application of an IN1 General Industrial zone and an IN2 Light Industrial zone to Part of Lots 3-6 DP 123781; Lots 3-4

9.1 LEP Amendment Request - Southern Cross Precinct Expansion

DP 872303; Lot 2 DP 833513; Part Lot 7 DP 793980; Lot 8 DP 793980; Part Lot 264, DP 1195313 and the adjoining Council road reserve (Corks Lane) in Ballina, as shown in the Map contained in Attachment 2.

2. That Council endorses the application of a 1,000m² minimum lot size and a 10 metre building height limit for the site proposed to be rezoned, and changes to the Strategic Urban Growth Area Map boundaries as shown in the Map contained in Attachment Four.
3. That Council endorses the preparation of an amended planning proposal and the submission of a request for an altered Gateway determination to the NSW Department of Planning & Environment to reflect the matters referenced in recommendations 1 and 2.
4. That Council advise the Department of Planning and Environment that it does not wish to seek or exercise delegation in relation to the completion of this planning proposal.
5. That Council engage a suitably qualified independent planning consultant (at the proponent's cost) to review the site assessment information once submitted, and to provide Council with an associated report and recommendations.
6. That upon an affirmative altered Gateway determination being received from the Department of Planning & Environment, the procedural steps associated with progression of the planning proposal be undertaken.
7. That a further report be presented to Council in relation to this matter following the completion of the community engagement phase of the planning proposal.

Attachment(s)

1. Attachment One - Proponents Consultant Submission
2. Attachment Two - Proposed Zoning Map
3. Attachment Three - Proposed Zoning Map Subject of Gateway
4. Attachment Four - Proposed Strategic Urban Growth Area Map
5. Attachment Five - Submission from Mr D King

9.1 LEP Amendment Request - Southern Cross Precinct Expansion

240915/1 RESOLVED

(Cr Ben Smith/Cr Paul Worth)

1. That Council endorses the application of an IN1 General Industrial zone and an IN2 Light Industrial zone to Part of Lots 3-6 DP 123781; Lots 3-4 DP 872303; Lot 2 DP 833513; Part Lot 7 DP 793980; Lot 8 DP 793980; Part Lot 264, DP 1195313 and the adjoining Council road reserve (Corks Lane) in Ballina, as shown in the Map contained in Attachment 2.
2. That Council endorses the application of a 1,000m² minimum lot size and a 10 metre building height limit for the site proposed to be rezoned, and changes to the Strategic Urban Growth Area Map boundaries as shown in the Map contained in Attachment Four.
3. That Council endorses the preparation of an amended planning proposal and the submission of a request for an altered Gateway determination to the NSW Department of Planning & Environment to reflect the matters referenced in recommendations 1 and 2.
4. That Council advise the Department of Planning and Environment that it does not wish to seek or exercise delegation in relation to the completion of this planning proposal.
5. That Council engage a suitably qualified independent planning consultant (at the proponent's cost) to review the site assessment information once submitted, and to provide Council with an associated report and recommendations.
6. That upon an affirmative altered Gateway determination being received from the Department of Planning & Environment, the procedural steps associated with progression of the planning proposal be undertaken.
7. That a further report be presented to Council in relation to this matter following the completion of the community engagement phase of the planning proposal.

FOR VOTE - All Councillors voted unanimously.

Appendix Four - Proposed Zoning Table for IN2 Light Industrial Zone

Zone IN2 Light Industrial

1 Objectives of zone

- To provide a wide range of light industrial, warehouse and related land uses.
- To encourage employment opportunities and to support the viability of centres.
- To minimise any adverse effect of industry on other land uses.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To support and protect industrial land for industrial uses.

2 Permitted without consent

Environmental protection works

3 Permitted with consent

Agricultural produce industries; Animal boarding and training establishments; Artisan food and drink premises; Depots; Extractive industries; Garden centres; General industries; Hardware and building supplies; Industrial training facilities; Landscaping material supplies; Light industries; Liquid fuel depots; Markets; Hotel or motel accommodation; Neighbourhood shops; Oyster aquaculture; Plant nurseries; Places of public worship; Research stations; Resource recovery facilities; Roads; Rural supplies; Vehicle sales or hire premises; Take away food and drink premises; Tank-based aquaculture; Timber yards; Warehouse or distribution centres; any other development not specified in 2 or 4.

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Amusement centres; Biosolid treatment facilities; Business premises; Camping grounds; Caravan parks; Cemeteries; Charter and tourist boat facilities; Child care centres, Commercial premises; Correction centres; Eco-tourist facilities; Exhibition homes; Exhibition village; Hazardous industries, Health services facilities; Heavy industries; Heavy industrial storage establishments; Helipads; Highway service centres; Home-based child care; Home businesses; Mooring pens; Moorings; Offensive industries; Pond-based aquaculture; Passenger transport facilities; Recreation areas; Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Residential accommodation; Respite day care centres; Rural industries; Sewage treatment plants; Tourist and visitor accommodation; waste disposal facilities.

Appendix Five - Section 9.1 Direction Checklist

Section 9.1 Direction Checklist (version dated 24 February 2021) Planning Proposal – Southern Cross Precinct Expansion	
Direction No.	Compliance of Planning Proposal
1. Employment and Resources	
1.1 Business and Industrial Zones	Consistent. The planning proposal seeks to expand the supply of industrial zoned land. The proposed new employment areas are consistent with the Ballina Shire Growth Management Strategy, approved by the Director-General of the Department of Planning & Infrastructure (May 2013).
1.2 Rural Zones	Justifiably inconsistent as determined by the delegate of the Secretary in correspondence to council dated 4/11/2020. The planning proposal proposes to rezone rural land for industrial purposes. The proposed new employment areas are consistent with the Ballina Shire Growth Management Strategy, approved by the Director-General of the Department of Planning & Infrastructure (May 2013).
1.3 Mining, Petroleum Production and Extractive Industries	Justifiably inconsistent as determined by the delegate of the Secretary in correspondence to council dated 4/11/2020. May now be consistent as both extractive industries and mining are uses permitted with development consent within the proposed IN2 zone. Refer Land Use Table contained within Appendix 4.
1.4 Oyster Aquaculture	Does not apply to planning proposal.
1.5 Rural Land	Justifiably inconsistent as determined by the delegate of the Secretary in correspondence to council dated 4/11/2020. The planning proposal proposes to rezone rural land for industrial purposes. The proposed new employment areas are consistent with Ballina Shire Growth Management Strategy, approved by the Director-General of the Department of Planning & Infrastructure (May 2013).
2. Environment and Heritage	
2.1 Environmental Protection Zones	Justifiably inconsistent. The delegate of the Secretary in correspondence dated 4/11/2020 (Appendix One) has indicated that inconsistencies this direction may require that: <i>Council may still need to obtain the agreement of the Secretary to comply with the requirements of section 9.1 Directions 2.1 Environmental Protection Zones</i> The land the subject of this planning proposal is not considered to be an environmentally sensitive area following detailed ecological assessments. Refer to the report from Hyrosphere Consulting dated March 2021 contained within Appendix 11. The provisions of the North Coast Regional Plan 2036 should be considered. This plan designates that land as an Investigation Area – Employment Land. This designation is considered to provide additional justification for the non-inclusion within this planning proposal of provisions that facilitate the protection and conservation of environmentally sensitive areas.
2.2 Coastal Protection	Consistent. The subject land is located within the NSW Coastal Zone. The proposed new employment areas are consistent with the Ballina Shire Growth Management Strategy, approved by the Director-General of the Department of Planning & Infrastructure (May 2013).

2.3 Heritage Conservation	<p>Consistent.</p> <p>Council is not aware of any items or places of cultural heritage significance affecting the subject land. Notwithstanding, the Ballina LEP 2012 makes provision for the protection of items and areas of cultural heritage significance. Further, the subject-planning proposal will facilitate the protection of such items, through the Ballina LEP 2012 or other suitable mechanisms, should such items be identified through further investigations.</p>
2.4 Recreation Vehicle Areas	Does not apply to planning proposal.
2.5 Application of E2 and E3 Zones and Environmental Overlays in North Coast LEPs	Does not apply to planning proposal.
2.6 Remediation of Contaminated Land.	<p>Consistent.</p> <p>The land the subject of this planning proposal and proposed to be zoned IN2 is not land within an investigation area within the meaning of the Contaminated Land Management Act 1997.</p> <p>Part of the land (part Lot 7 DP 793980) is zoned SP2 Infrastructure - Air Transport Facility such land has not been used for airport related purposes and is currently used for cattle grazing. It is this land that is proposed to be zoned IN2.</p> <p>The remainder of Lot 7, which will retain its SP2 Infrastructure - Air Transport Facility zoning, is currently used for car parking.</p> <p>Due to the above it is considered that this planning proposal it is not impacted by airports being a use listed within Schedule 1 of the contaminated land planning guidelines.</p> <p>Refer also comments related to SEPP 55 contained in Section 4.2 (Question 5) of this planning proposal.</p>
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	Does not apply to planning proposal.
3.2 Caravan Parks and Manufactured Home Estates	<p>Justifiably inconsistent as determined by the delegate of the Secretary in correspondence to council dated 4/11/2020.</p> <p>The existing RU2 Rural Landscape zone permits caravan parks with consent. The proposed IN2 zone will prohibit caravan parks.</p>
3.3 Home Occupations	Does not apply to planning proposal.
3.4 Integrated Land Use and Transport	Does not apply to planning proposal.
3.5 Development Near Licensed Aerodromes	<p>Justifiably Inconsistent.</p> <p>The Secretary has advised council that:</p> <p><i>Council may still need to obtain the agreement of the Secretary to comply with the requirements of section 9.1 Directions 3.5 Development Near Regulated Airports and Defence Airfields,</i></p> <p>Airport authorities were previously consulted in 2016 with respect to the 2015 amended planning proposal. CASA raised no objection to the proposal. CASA indicated that Council should undertake further assessments related to the National Airport Safeguarding Framework (NASF), Wildlife Hazard Management Plan, Lighting in the Vicinity of an Aerodrome, Gaseous Plumes, and Control of dust during construction. The matters raised by CASA are all matters to be undertaken following rezoning in relation to which no objection was raised.</p> <p>Airservices Australia indicated that the 2015 proposal would not affect their Airspace Procedures or CNS facilities.</p> <p>Ballina Byron Airport also raised no objection to the amended 2015 planning proposal.</p> <p>Consultation is required to again be undertaken with airport authorities as a condition of the 2020 Gateway determination.</p> <p>Prior to this planning proposal being finalised council will seek the agreement of the Secretary for any inconsistency with this</p>

	direction.
3.6 Shooting Ranges	Does not apply to planning proposal.
4. Hazard and Risk	
4.1 Acid Sulphate Soils	Justifiably inconsistent as determined by the delegate of the Secretary in correspondence to council dated 4/11/2020. An Acid Sulfate Soils Assessment (2015) and an Acid Sulfate Soils Management Plan have been previous prepared (2017) for an area of land which includes the subject land. These documents are contained within Appendix Twelve to this planning proposal
4.2 Mine Subsidence and Unstable Land	Does not apply to planning proposal.

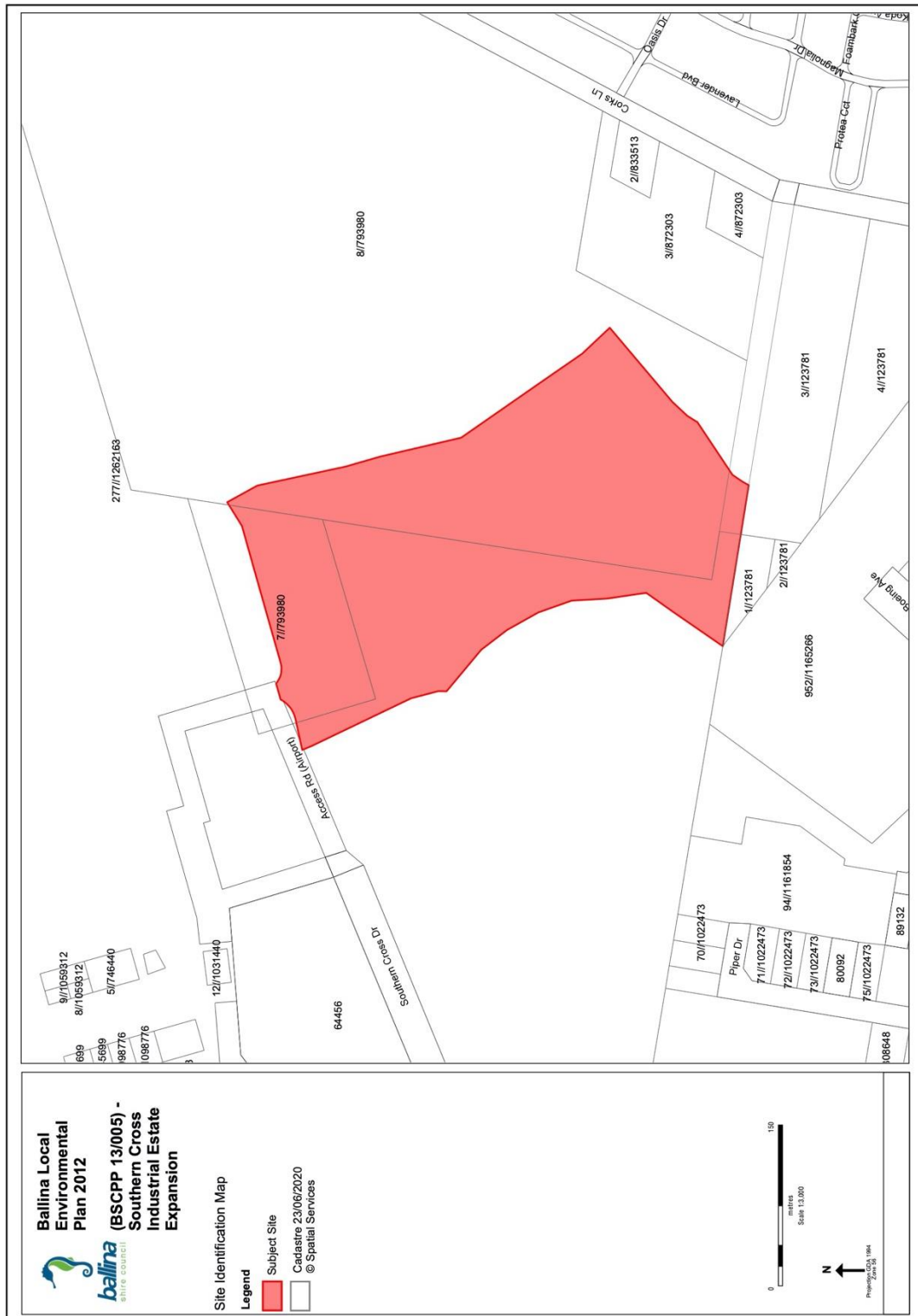
<p>4.3 Flood Prone Land</p>	<p>Justifiably inconsistent.</p> <p>The Secretary has advised council that:</p> <p><i>Council may still need to obtain the agreement of the Secretary to comply with the requirements of section 9.1 Directions 4.3 Flood Prone Land,</i></p> <p>In 2015 Ballina Shire Council adopted the Ballina Floodplain Risk Management Plan and a risk based Flood Plain Management Development Control Plan.</p> <p>Flood impact assessment of filling associated with the development of the site for industrial purposes has been undertaken in accordance with the principles contained within the NSW Flood Plain Development Manual 2005 by BMT Commercial Australia Pty Ltd (BMT). Refer to the report from BMT <i>Southern Cross Expansion – Development of Mitigation Options</i>, dated 6 October 2020, contained in Appendix Thirteen.</p> <p>The BMT report assesses the impact of filling the rezoning site on the 1% and 5% AEP peak flood levels.</p> <p>Modelling indicates a significant increase in flood levels are expected in both the 1% and 5% flood events in the vegetated area west of the site. This area is owned by council. The report also indicates that the filling of the site will reduce flood storage and block the natural flow path to North Creek.</p> <p>A mitigation strategy has been proposed by BMT which consists of a drainage channel being constructed along the northern most edge of the rezoning site and then continuing east through council land along the southern boundary of the airport site.</p> <p>Modelling of the mitigation strategy indicates that it does not prevent a significant incremental increase of peak flood levels within the wetland towards the west of the rezoning site (10 to 20mm in the 1% AEP flood).</p> <p>The modelling does, however, indicate a reduction of water levels in the vicinity of the rezoning site by up to 38 and 28mm respectively over an approximate area of 100 and 36 hectares. This is for both the 1% and 5% AEP flood events.</p> <p>In the context of the 1% and 5% AEP flooding events being short duration events, as opposed to long term permanent changes to flood storage levels within the wetland to the west, which are not anticipated to occur, the impacts are considered acceptable. This is subject to the nominated mitigation strategy being implemented. The modelling of the mitigation strategy indicates a reduction in flood levels over a significantly larger area which includes the airport site.</p> <p>Prior to this planning proposal being finalised council will seek the agreement of the Secretary for any inconsistency with this direction.</p> <p>In terms of Direction 4.3 it is considered that the planning proposal is justifiably inconsistent with the direction because:</p> <ul style="list-style-type: none"> • the significant increase in 1% and 5% AEP flood levels impacts council owned land; • Such impact are short term and not permanent changes to water surface levels within the western wetland area; • A mitigation strategy is available which results in significant decreases to the 1% and 5% AEP flood levels over a large area which includes the Ballina Byron Airport site. • In terms of the Ballina floodplain the filling of the rezoning site is of more minor significance.
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4.4 Planning for Bushfire Protection	<p>Justifiably inconsistent.</p> <p>The Secretary has advised council that: <i>Council may still need to obtain the agreement of the Secretary to comply with the requirements of section 9.1 Directions 4.4 Planning for Bushfire Protection.</i></p> <p>Parts of Lot 7 & 8 DP793980 and part of Lot 277 DP 1262163 which form a part of this planning proposal are designated as bushfire prone land. The land designated as bushfire prone land is located within a buffer to Category 2 Vegetation.</p> <p>A Bushfire Threat Assessment Report was prepared in 2015 in support of the then amended planning proposal. The report was forwarded to the NSW Rural Fire Service who raised no objection subject to a condition relating to future development applications.</p> <p>Consultation is required to again be undertaken with the NSW RFS as a condition of the 2020 Gateway determination.</p> <p>Prior to this planning proposal being finalised council will seek the agreement of the Secretary for any inconsistency with this direction.</p> <p>The Bushfire Threat Assessment Report (2015) forms Appendix Fourteen.</p>
5. Regional Planning	
5.1 Implementation of Regional Strategies	<p>Consistent.</p> <p>The planning proposal is consistent with the Far North Coast Regional Strategy (FNCRS). It is noted that the planning proposal includes land located outside of the mapped 'employment lands' in the FNCRS. However, these areas are consistent with Ballina Shire Growth Management Strategy, as approved by the Director-General of the Department of Planning & Infrastructure (May 2013). Further, it is noted that this additional area is considered to constitute 'minor rounding' as defined in the FNCRS.</p>
5.2 Sydney Drinking Water Catchments	Does not apply to Ballina Shire.
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 along the Pacific Highway, North Coast	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.
5.9 North West Rail Link Corridor	Does not apply to Ballina Shire.
5.10 Implementation of Regional Plans	<p>Consistent</p> <p>This planning proposal is generally consistent with the North Coast Regional Plan 2036, which designates the majority of the land the subject of this planning proposal as an Investigation Area for Employment Land.</p>
5.11 Development of Aboriginal Land Council Land	Does not apply to planning proposal.
6. Local Plan Making	
6.1 Approval and Referral Requirements	Consistent.
6.2 Reserving Land for Public Purposes	Consistent.

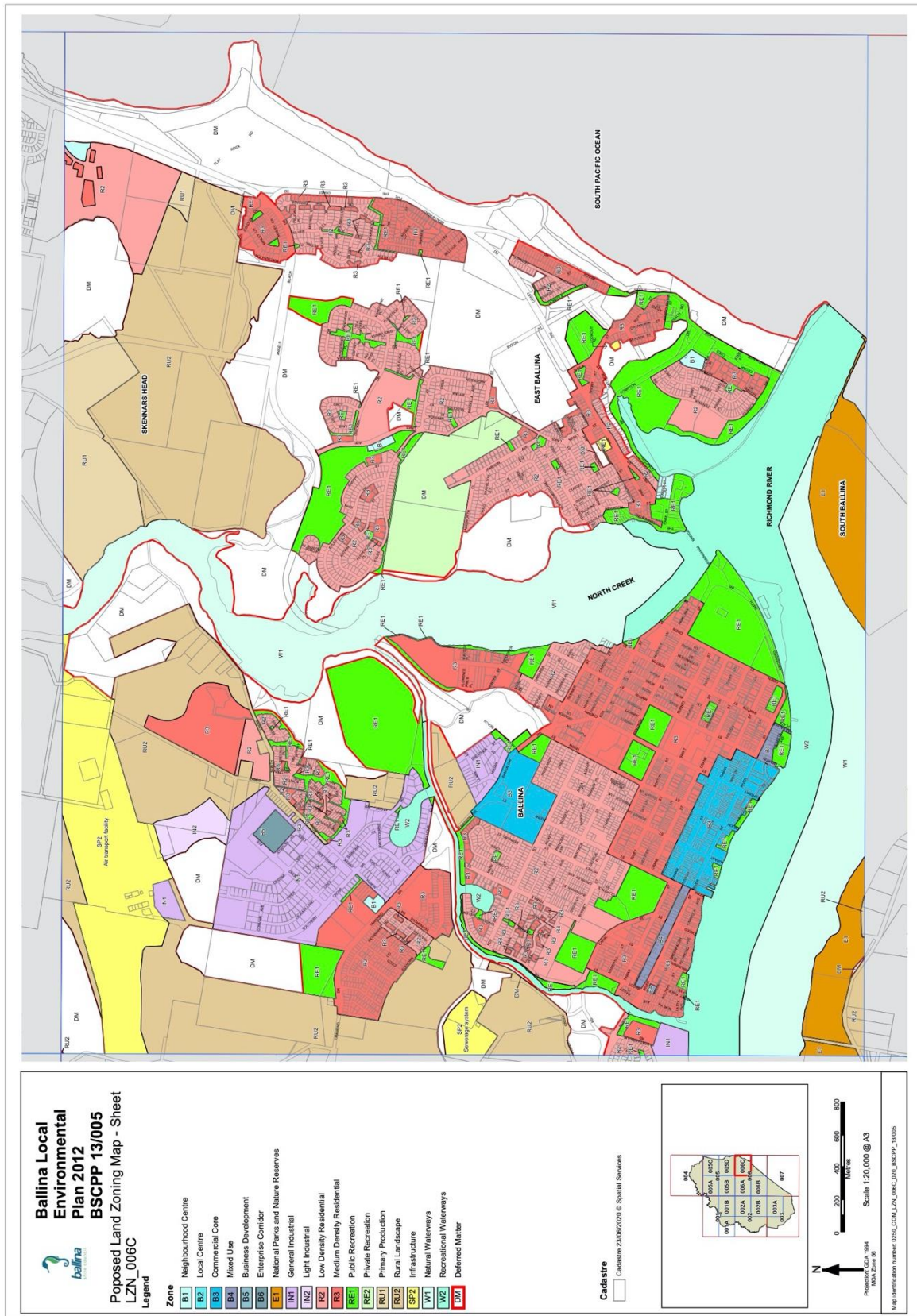
6.3 Site Specific Provisions	Does not apply to planning proposal.
7. Metropolitan Planning	
7.1 Implementation of the Metropolitan Strategy	Does not apply to Ballina Shire.
7.2 Implementation of Greater Macarthur Land Release Investigation	Does not apply to Ballina Shire.
7.3 Parramatta Road Corridor Urban Transformation Strategy	Does not apply to Ballina Shire.
7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	Does not apply to Ballina Shire.
7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Does not apply to Ballina Shire.
7.6 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Does not apply to Ballina Shire.
7.7 Implementation of Glenfield to Macarthur Urban Renewal Corridor	Does not apply to Ballina Shire.
7.8 Implementation of Western Sydney Aerotropolis Interim Land Use and Infrastructure Implementation Plan	Does not apply to Ballina Shire.
7.9 Implementation of Bayside West Precincts 2036 Plan	Does not apply to Ballina Shire.
7.10 Implementation of Planning Principles for the Cooks Cove Precinct	Does not apply to Ballina Shire.

Appendix Six - Maps

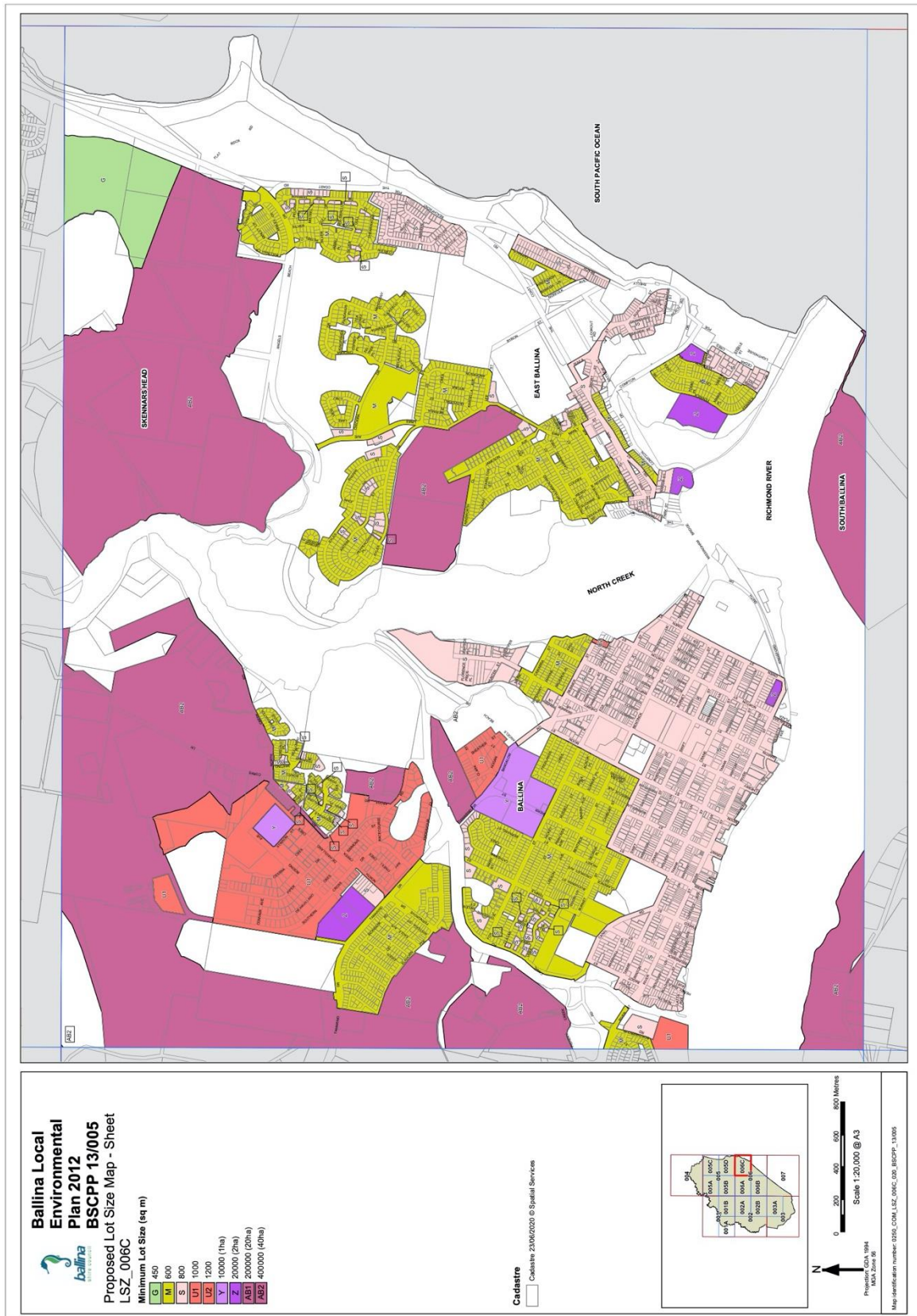
Map 1 - Site Identification Map



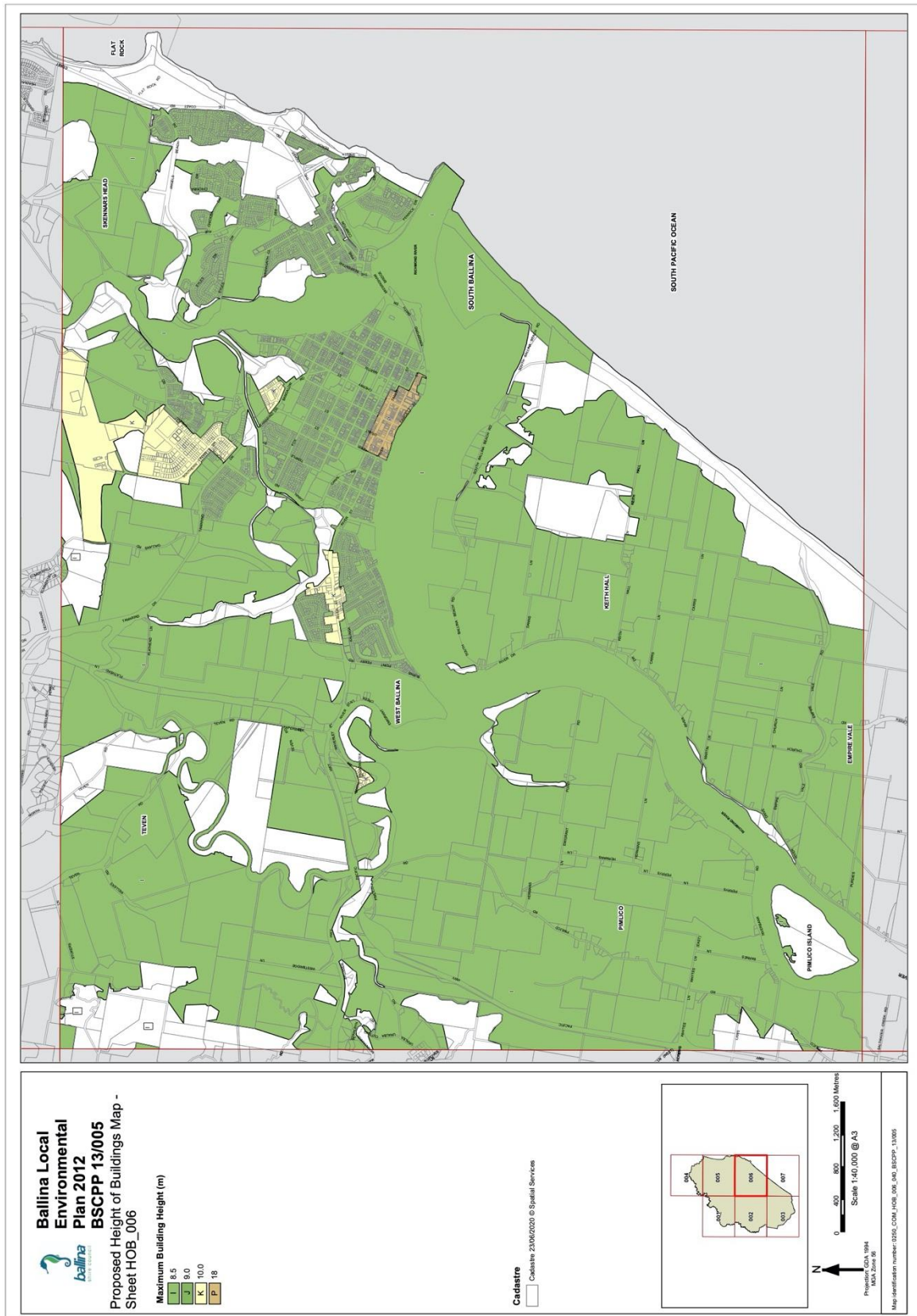
Map 2 - Proposed Land Zoning Map (LZN Map)



Map 3 – Proposed Lot Size Map (LSZ Map)



Map 4 – Proposed Height of Buildings Map (HOB Map)



Map 5 – Proposed Strategic Urban Growth Area (SGA Map)



Appendix Seven - Ballina Growth Management Strategy (excerpt)

North Ballina

Locality Vision / Character Statement:

North Ballina is a key entry-point to Ballina. The locality is characterised by its mixed live-work environment, which provides a diversity of land uses associated with innovation in the building, construction and manufacturing industries.

The locality provides for a mixture of residential opportunities and accommodates sites of major public infrastructure including the Ballina-Byron Gateway Airport and Ballina Waste Management Facility.

Main Features:

- North Ballina comprises a mixture of commercial and industrial land uses and residential areas. A broad range of commercial and industrial activities occur within the Southern Cross Industrial Estate, including retailing outlets, light manufacturing, and a diversity of building and construction supplies and services. Residential areas include a number of manufactured home estates with permanent residents, traditional housing estates such as the 'North Lakes Residential Estate' and 'Ferngrove Residential Estate' (currently being constructed) and a 'Seniors Living Estate', 'Aspen' on North Creek Road.
- Other land uses include major public infrastructure (Ballina-Byron Gateway Airport and Ballina Waste Management Facility) and public recreation including the Ballina Racecourse and Centennial Gardens.
- The locality has good accessibility to Ballina Island for commercial, community and civic facilities.
- The northern part of the planned West Ballina Arterial, which is to connect West Ballina and North Ballina, intersects with North Creek Road on the existing Pacific Highway.

Key Issues:

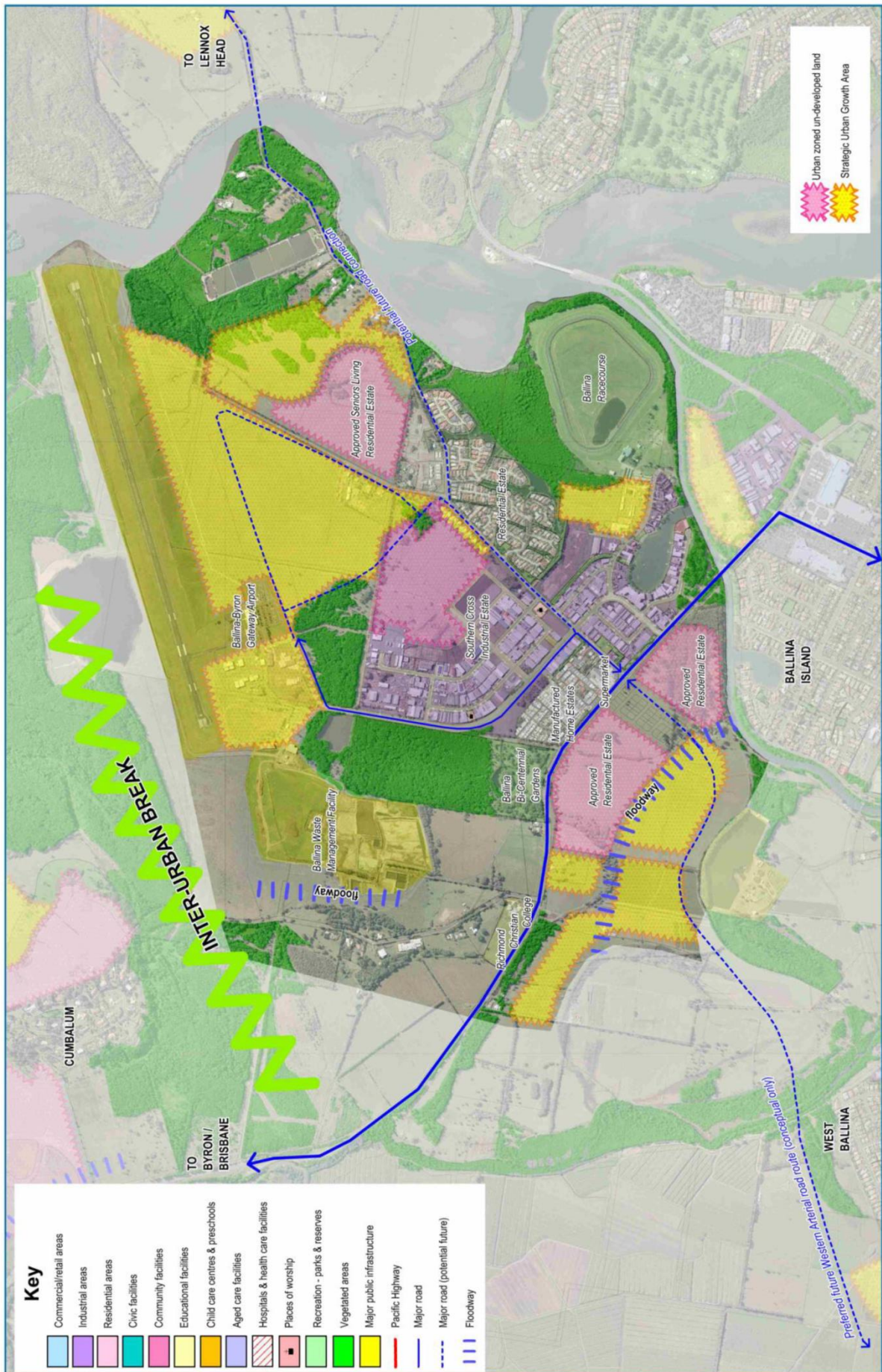
- The locality includes land that is subject to development interest for light industrial land uses including 'bulky goods retailing'.
- The locality provides affordable housing opportunities in a caravan park (with permanent residences), manufactured home estates and in traditional housing estates.
- Limited social infrastructure is provided within the locality, with residents reliant largely on infrastructure provided elsewhere in Ballina.
- Planned alteration to road network with respect to Ballina-Byron Gateway Airport access.
- Known and potential Aboriginal cultural heritage values and/or sites are contained in the area.

Locality Objectives:

- Provide for future development opportunities that exist for the locality as a major employment area.
- Provide for a balanced land use pattern, by avoiding, mitigating and managing potential land use conflicts associated with the mixture of commercial, industrial, infrastructure and residential land uses.
- Protect important public infrastructure from incompatible development.
- Conserve ecologically valuable vegetation communities.
- Manage Aboriginal cultural heritage values in accordance with best practice guidelines.

Strategic Actions:

- Investigate the potential impacts of climate change, particularly sea-level rise, on the locality.
- Investigate, through the rezoning process, land development opportunities and the provision of public infrastructure identified in the Southern Cross Precinct Masterplan and the West Ballina Structure Plan.
- Establish a more detailed planning framework for the long term use and development of industrial areas through Council's development control plan.
- Enhance entry treatment including associated with the Ballina/Byron Gateway Airport.
- Establish a clustered bulky goods retailing precinct.
- Investigate future road connection between Ballina and Lennox Head via North Creek Road.
- Manage and/or promote Aboriginal and European cultural heritage values in accordance with relevant stakeholders.



Appendix Eight - Southern Cross Precinct Master Plan Map Extracts

Source: GeoLINK Date: March 2008



Detailed Masterplan
 Illustration 4.2

4.3.4 Future Industrial Area

The provision of a new and separate industrial area to the north of the precinct optimises the value of the broad flat land area adjacent to the airport. The new precinct will occupy approximately 19.5 ha and cater to the medium – long term industrial land needs of Ballina. The site would be made available for industrial purposes once the existing Southern Cross Estate is fully developed.

The precinct would consist of a conventional street layout similar to the existing estate and provide for lots with a minimum size of 1250m².

It is proposed that the precinct will be accessed by a minimum of three vehicular entry points that would enable a through connection between the new airport link road and Corks Lane.

A corridor of vegetation will form a buffer to an existing residential area and a proposed new live work precinct along the eastern boundary. Given the likely delay before the industrial area becomes developed, it would be desirable to establish this vegetation buffer as a priority for optimal benefit to the neighbouring areas.

Thick planting is recommended along the south-western edge of the site to screen views into the precinct from the adjoining new airport link road. Streets within the new industrial area will also include planting of large, robust street trees that will provide appropriate scale, amenity and longevity to the area.

Site runoff from the new industrial area will discharge into an open drain located within the buffer along the south-eastern boundary of the site.

4.3.5 Live / Work Precinct

A new precinct of smaller 'live / work' (light) industrial lots is proposed to be established between Corks Lane and the future industrial area. This new precinct is intended to provide opportunities for an alternative employment environment for smaller commercial enterprises that would benefit from on-site living. This type of industrial area has been popular in other coastal communities where enterprises such as those associated with creative industries in particular have been attracted to the flexible, less conventional industrial setting.

The new live / work precinct will endeavour to create a sense of community with clearly defined boundaries that separate the site from surrounding areas. The precinct will have a discrete vehicle entry point off Corks Lane to enhance its identity. The internal street system will surround a central open space area that will provide opportunity for community activities.

The precinct has been located strategically to provide a convenient transition between two potentially conflicting uses bordering the site: the existing Sovereign Gardens aged care community to the southeast and the future industrial area to the northwest. The precinct also continues the existing low level of development fronting Corks Lane to the south.

It is proposed that drainage from the site will be conveyed along an open drain that will run southwest along the future industrial area boundary and join into the drainage system further south prior to discharging into North Creek to the east. The drainage corridor will be mass planted to create a visual

buffer between adjoining uses and provide opportunity for a bike path to connect the live / work area with the local bike path network to the south.

Appendix 9 – Preliminary Site Contamination Investigation

(Separate Cover)

Appendix 10 – Gap Analysis Report 2016

(Separate Cover)

Appendix 11a – Ecological Assessment Summary April 2021

(Separate Cover)

Appendix 11b – Ecological Assessment October 2019

(Separate Cover)

Appendix 11c – Soil Profiles

(Separate Cover)

Appendix 11d – Borehole logs

(Separate Cover)

Appendix 11e – EPBC Protected Matters Search

(Separate Cover)

Appendix 12a – Acid Sulfate Soil Assessment
(Separate Cover)

Appendix 12b – Acid Sulfate Soil Management Plan
(Separate Cover)

Appendix 13a – Flood Impact Advice and Mitigation Options
(Separate cover)

Appendix 13b – Stormwater Management Report
(Separate cover)

Appendix 14 – Bushfire Threat Assessment Report
(Separate cover)

Appendix 15 – Geotechnical Report
(Separate cover)

Appendix 16 – Entomological Mosquito Risk Assessment
(Separate cover)

Appendix 17 – Aboriginal Cultural Heritage Report
(Separate cover)

Appendix 18 – Aerodromes Impact Report 2021

Aerodromes Impact Report 2021

Background

The Gateway determination dated 23 July 2013 required consultation with airport authorities. Specifically Condition 5 required consultation with:

- Department of the Commonwealth responsible for aerodromes and the lessee of the aerodromes (S117 Direction 3.5 Development Near Licenced Aerodromes).

Consultation was undertaken in late 2015 with Ballina Byron Airport, Airservices Australia and the Civil Aviation Safety Authority (CASA). Responses received are contained within Attachment 1.

A new Gateway determination was issued on 4 November 2020. Relevant conditions of this determination required the preparation of an aerodromes impact (airport noise and obstacle height limitation surfaces) report. It also required consultation with the following airport authorities:

- Ballina Byron Gateway Airport,
- Air Services Australia, and
- Civil Aviation Safety Authority.

Council had previously consulted the above authorities in respect to a much larger planning proposal in 2015 (39ha site compared to 6ha in 2021). At that, time responses received raised no objection to what was proposed. These submissions were forwarded to the Department of Planning Industry and Environment (DPIE) in April 2021 with a request that no further consultation be required.

Attachment 2 contains a response from the DPIE

Report

In 2016 Rob van Iersal, environmental planner, was commissioned by council to prepare a Gap Analysis Report in respect to then proposed Southern Cross Industrial Estate Expansion (39ha site). In respect to Aerodrome Impacts the Gap Analysis Report contained the following comments:

Council has consulted the operators of the Ballina Byron Gateway Airport, Air Services Australia and with the Civil Aviation Safety Authority (CASA). Those bodies considered the potential implications of the proposed industrial zoning on the Aircraft Operations (PANS OPS) surfaces, including any Required Navigational Performance (RNP) procedures, and on the Obstacle Limitation Surface of the airport.

No objections were raised in relation to the proposal, and therefore there are no issues related to operation of the existing aerodrome that would impede or prevent the rezoning process.

Australian Noise Exposure Forecast (ANEF) impacts were not previously considered by airport authorities and for this reason are considered below.

Figure 1 below shows the manner in which ANEF contours affect the planning proposal site. The site shown by red outline is partly impacted by the 20 ANEF contour.

Figure 1 – Indicative Site Plan and ANEF Impacts



Clause 7.6 of Ballina LEP 2012 provides as follows:

7.6 Development in areas subject to aircraft noise

(1) The objectives of this clause are as follows—

- (a) to prevent certain noise sensitive developments from being located near the Ballina Byron Gateway Airport and its flight paths,*
- (b) to assist in minimising the impact of aircraft noise from that airport and its flight paths by requiring appropriate noise attenuation measures in noise sensitive buildings,*
- (c) to ensure that land use and development in the vicinity of that airport do not hinder or have any other adverse impacts on the ongoing, safe and efficient operation of that airport.*

(2) This clause applies to development that—

- (a) is on land that—*
 - (i) is near the Ballina Byron Gateway Airport, and*
 - (ii) is in an ANEF contour of 20 or greater, and*
 - (b) the consent authority considers is likely to be adversely affected by aircraft noise.*

(3) Before determining a development application for development to which this clause applies, the consent authority—

- (a) must consider whether the development will result in an increase in the number of dwellings or people affected by aircraft noise, and*
- (b) must consider the location of the development in relation to the criteria set out in Table 2.1 (Building Site Acceptability Based on ANEF Zones) in AS 2021—2000, and*
- (c) must be satisfied the development will meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021—2000.*

(4) In this clause—

ANEF contour means a noise exposure contour shown as an ANEF contour on the Noise Exposure Forecast Contour Map for the Ballina Byron Gateway Airport prepared by the Department of the Commonwealth responsible for airports.

AS 2021—2000 means AS 2021—2000, Acoustics—Aircraft noise intrusion—Building siting and construction.

The planning proposal site is only partly affected by the ANEF 20 contour. The site is not considered to be adversely impacted by aircraft noise having regard to its proposed industrial zoning and the building standards applicable to industrial buildings. Notwithstanding the foregoing comments clause 7.6 of Ballina LEP 2012 provides sufficient safeguards to ensure indoor noise levels will not be compromised by aircraft noise.

Attachment 1 – 2016 Airport Authority Responses.

Email from Ballina Byron Gateway Airport Operations Manager

From: Graeme Gordon
Sent: Wednesday, 13 January 2016 4:38 PM
To: Klaus Kerzinger
Cc: Neil Weatherson; Kylie Linton
Subject: FW: Consultation - Planning Proposal - Expansion of Southern Cross Industrial Estate

Dear Klaus,

My apologies for the delay in responding to your email below.

Assessment, conclusions and recommendations in so much as the Proposal affects the airspace of Ballina Aerodrome follow.

PROPOSED DEVELOPMENT

Relates to a Gateway Determination from the Department of Planning and Environment for rezoning of land to part IN1 General Industrial and part Light Industrial IN2 and amendment of several planning controls.

PROPOSED SITE

- The subject land is referred to in the attached documents and shown therein edged red on the Site Identification Map.
- The site is generally bounded on the north by Ballina Byron Gateway Airport, on the east by Corks Lane; on the south by Southern Cross Industrial Area; and on the west by a densely timbered area.
- The site is generally low lying grazing land.
- As determined from the 2m Contour Layer of the Ballina Council's Geographical Information System, the elevation at ground level of the entire proposed site is approx. 2 to 3 metres.
- The northern boundary of the proposed site is approx. parallel to and approx. 350 metres from the centreline of Runway 06/24.

OBSTACLE LIMITATION SURFACE

The entire proposed site is located beneath either the Inner Horizontal Surface or the Transitional Surface the Ballina Aerodrome Obstacle Limitation Surface.

- The southern portion and majority of the proposed site is located beneath the Inner Horizontal Surface. The vertical limit of this surface is 46.5m AHD.
- A strip across the top northern boundary of the proposed site is located below the Transitional Surface. The vertical limit of this surface ranges from:
 - approx. 40m AHD along the northern boundary of the proposed site, and
 - sloping up to 46.5m AHD along an imaginary line parallel to and approx. 40m south of the northern boundary of the proposed site.
- Allowing for a ground height of say 3 metres AHD, and a maximum 10 metre building height, any building development on the site should be clear of the OLS between 27 metres to 33.5 metres.

PANS-OPS SURFACES

- The proposed site is located beneath the lateral extents of the YBNA NDB-A, RNAV-2 (GNSS) RWY06; RNAV-Z (GNSS) RWY24; RNAV-X (RNP) RWY06; RNAV-X (RNP) RWY24 instrument approach and/or departure surfaces and the YBNA Circling Area.
- PANS-OPS Surfaces cannot be infringed in any circumstances.

FURTHER COMMENT

- It is noted in the document that the proposal seeks to apply planning controls over the site to permit a maximum building height of 10 metres.

- Airport Management require that in terms of new development or proposed construction likely to create an obstacle, infringement of the OLS be not made worse.

CONCLUSIONS

1. The Planning Proposal relates to an amendment of a previous planning determination to rezone the land and adjustment of associated land use provisions.
2. The erection of any physical structure is not specifically planned with this proposal.
3. The building height is proposed to be 10 metres.
4. Building development would be at least 27 to 33.5 metres clear of the OLS.

RECOMMENDATIONS

Having regard to my comments and conclusions above:

1. Airport Management raise no objection against the amended Planning Proposal BSCPP13/005 Southern Cross Precinct Expansion.
2. The proposal has nil effect on the Ballina Aerodrome OLS. However, the application and the above information should be referred to the Civil Aviation Safety Authority for information.
The District Aerodrome Inspector
Civil Aviation Safety Authority
PO Box 2005
Canberra ACT 2601.
Em. daniel.eatock@casa.gov.au
3. The proposed tower is situated beneath PANS-OPS Surface for Ballina Aerodrome. Note: PANS-OPS Surfaces cannot be infringed in any circumstances. The application and the above information should be referred to Air Services Australia for assessment of the proposed development against the PANS-OPS surfaces to determine infringement (if any).
Senior Designer – Procedure Design Section
Aeronautical Information Management
GPO Box 367
Canberra ACT 2601.
Em. pds.procs@airservicesaustralia.com

Klaus, I would prefer further comment as to the impact the ANEF has on the site to be made by Neil Weatherson (Airport Manager). Neil has been way on holidays but returns to work next week. I shall bring this matter to his early attention.

Regards,

Greeme Gordon
Airport Operations Manager
Ballina Byron Gateway Airport

p: 02 6681 1858 | m: 0415 222 349

Email from Airservices Australia

From: Airport Developments <Airport.Developments@AirservicesAustralia.com>
Sent: Monday, 21 March 2016 12:16 PM
To: Klaus Kerzinger <Klaus.Kerzinger@ballina.nsw.gov.au>
Subject: AIRSERVICES RESPONSE: Consultation re OSL matter planning proposal at Ballina (NSW-MA-318) [SEC=UNCLASSIFIED]

Hi Klaus,

I refer to your request for Airservices assessment of the Southern Cross Industrial Precinct expansion which is proposed for Ballina, NSW.

Airspace Procedures

With respect to procedures designed by Airservices in accordance with ICAO PANS-OPS and Document 9905, at a height of 13m (43ft) AHD, the buildings will not affect any sector or circling altitude, nor any instrument approach or departure procedure at Ballina/Byron Gateway aerodrome.

Note: procedures not designed by Airservices at Ballina/Byron Gateway aerodrome were not considered in this assessment.

CNS Facilities

This proposal for an industrial park at Ballina Airport to a maximum height of 13m AHD at the locations provided will not adversely impact the performance of any Airservices Precision/Non-Precision Nav Aids, Anemometers, HF/VHF/UHF Comms, A-SMGCS, Radar, PRM, ADS-B, WAM or Satellite/Links.

Kind regards

Carly Fiumara

Airport Development Assistant

Corporate and Industry Affairs

t 02 6268 4725 | e carly.fiumara@airservicesaustralia.com

Letter from CASA



Australian Government
Civil Aviation Safety Authority

AIRSPACE AND AERODROME REGULATION
File Ref: EF 12/10657-5

29/03/2016

Mr Klaus Kerzinger
Strategic Planner
Strategic & Community Facilities Group
PO Box 450
BALLINA
NSW 2478

email: klausk@ballina.nsw.gov.au

Dear Mr Kerzinger

Re: Ballina-Byron Gateway Airport – OLS consultation – Expansion of Southern Cross Industrial Precinct, Ballina NSW.

I refer to the correspondence dated the 23rd of March 2016, requesting CASA's assessment of the Department of Planning and Environment's planning, proposed changes to the land use zoning and associated planning provisions on land within the Obstacle Limitation Surface (OLS) for the Ballina Byron Gateway Airport.

CASA has assessed the proposed development; the assessment included the consideration of comments from Ballina Byron Gateway Aerodrome, and Airservices Australia (AA).

As advised by Council in the provided assessment documentation, the property development will have a maximum building height no greater than 10 m, with maximum ground level of 3 m Australian Height Datum (AHD).

With respect to Aerodrome's Obstacle Limitation Surfaces (OLS), at the nominated height of 13 m (43ft) AHD, the buildings will not affect any OLS surfaces at Ballina Byron Gateway aerodrome and therefore CASA has no objections to the proposal.

It is the objective of CASA to ensure there are a broad range of safety related considerations with regards developments around aviation facilities.

Council should also undertake assessments of the following issues, and then liaise with CASA for further assessments if required.

- **National Airports Safeguarding Framework (NASF):** The Ballina Shire Council should ensure that it implements the NASF. Information on the NASF is available through this link: http://www.infrastructure.gov.au/aviation/environmental/airport_safeguarding/nasf/
- **Wildlife Hazard Management Plan** - A plan which identifies the wildlife hazard risk in the vicinity of an aerodrome, and details the measures used to treat that risk. Also referred to in the Manual of Standards (MOS) as "bird or animal hazard management plan".
- **Lighting in the Vicinity of an Aerodrome** – Any proposed non-aeronautical ground light in the vicinity of an aerodrome, which, by reason of its intensity, configuration or colour, cause confusion, or glare to pilots, and therefore might endanger the safety of aircraft.
- **Gaseous Plume** – Exhaust plumes can originate from any number of sources, chimneys, elevated smoke stacks at power generating stations, smelters, combustion sources, a flare

GPO Box 2005 Canberra ACT 2601 Telephone 131 757
Canberra, Brisbane, Darwin, Cairns, Townsville, Townsville, Sydney, Melbourne, Adelaide, Perth

created by an instantaneous release from pressurised gas systems all create exhaust plumes to one degree or another. Aviation authorities have established that an exhaust plume with a vertical gust in excess of 4.3 metres/second (m/d) may cause damage to an aircraft airframe, or upset an aircraft when flying at low levels.

- **Control of dust during construction** – The generation and emission of airborne particulate, which may impair the visual condition in the vicinity of an aerodrome.

All the above issues should be carefully planned as part of these projects development, if any of these issues require further discussion, please do not hesitate to contact me on 131 757.

Yours sincerely,



Danny Eatock
Aerodrome Inspector
Brisbane Office

Attachment 2 – Response from DPIE May 2021

From: Lucy Walker <lucy.walker@planning.nsw.gov.au>
Sent: Monday, 3 May 2021 2:38 PM
To: Klaus Kerzinger <Klaus.Kerzinger@ballina.nsw.gov.au>
Subject: CM - [EXTERNAL SENDER] RE: Airport Authority Consultation Issue - Southern Cross Industrial Estate Expansion proposal

Hi Klaus,

Thank you for your email in relation to the Planning Proposal for Stage 1 of the Southern Cross Expansion. I apologise for the delay to respond.

I have reviewed your request, and confirm that the previous consultation undertaken in relation to the airport is acceptable to satisfy condition 4 of the Gateway determination on the basis that the agencies/organisations did not object to the original proposal and the scope of the planning proposal has since been reduced. I also understand that a report was previously prepared in relation to the aerodrome impact (airport noise and obstacle height limitation surfaces) which will satisfy condition 1(b)(viii).

It is not considered necessary to alter the Gateway determination to remove these requirements. Should Council resolve to request that the Minister for Planning and Public Spaces make the LEP, the relevant documentation to demonstrate compliance with conditions 1(b)(viii) and 4, and to justify the inconsistency with 9.1 Direction 3.5 Development Near Regulated Airports and Defence Airfields can be included in the final package to the Department.

Please let me know if you have any further questions or would like to discuss.

Regards

Lucy Walker

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Attachment 3 – 2015 Aerodrome Impact Report

Ballina Shire Council has received a Gateway determination from the Department of Planning and Environment for a planning proposal which proposes the rezoning of a rural zoned site for industrial purposes. The site has an area of approximately 39 hectares and is anticipated to yield approximately 108 lots. It is proposed that a minimum lot size of 1000m² and a maximum building height limit of 10 metres will be applicable.

The site adjoins the Ballina Byron Gateway Airport and is shown on the site plan in Figure 2 below.



Figure 2 – 2015 Planning Proposal Site (outlined in red)

The land the subject of the planning proposal is impacted by the Obstacle Limitation Surface (OLS) of the Ballina-Byron Gateway Airport. Refer Figure 3 – Ballina Aerodrome OSL map.

Airservices Australia has confirmed that a proposed building height of 13 metres (10 metres proposed) will not affect any sector or circling altitude, nor any instrument approach or departure procedure at Ballina/Byron Gateway aerodrome.

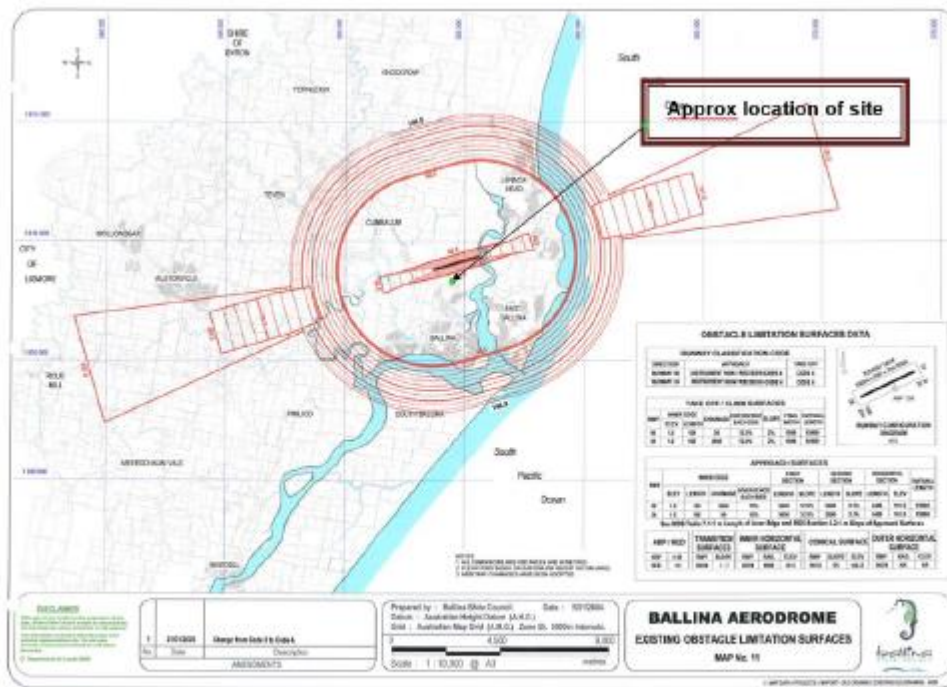


Figure 3 – Ballina Aerodrome OS Limitation Surfaces Map