



Planning Proposal 21/001

» ***Wildlife Hospital
Lindendale Road,
Wollongbar***

October 2021 (V2. Exhibition) 21/84987

ballina
shire council



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1. Introduction

1.1 Summary of Planning Proposal

This planning proposal applies to part of Lot 237 DP 755745, 1243 Bruxner Highway, Wollongbar (the land).

Lot 237, outlined in blue below, is occupied by the Wollongbar Primary Industries Institute. It has an area of 106.4ha.

The area of Lot 237 that is subject to this planning proposal, outlined in red below, is located with frontage to Lindendale Road and has an area of 2.123ha.



Figure 1: Land location diagram (subject land outlined in red)

The land is zoned 7(c) Environmental Protection (Water Catchment) zone under the provisions of Ballina LEP 1987. It is designated as a deferred matter from Ballina LEP 2012.

This planning proposal seeks to amend Ballina LEP 1987 by adding a local provision specifying that a veterinary hospital and an information and education facility are land uses that are permissible with development consent on the land.

This would allow application to be made to convert the existing dwelling on the land to operate as a wildlife hospital and to allow for school excursions and other public visits to the hospital.

The proponent's planning proposal request is contained within Appendix 1.

1.2 Background

The Northern Rivers Wildlife Hospital Ltd (NRWH) has lodged a request to amend the Ballina Local Environmental Plan (LEP) 1987 to permit, as additional permitted uses, a veterinary hospital and an information and education facility on a parcel of land fronting Lindendale Road, Wollongbar. The development site is part of the existing Wollongbar Primary Industries Institute site.

The land contains a 1970s style dwelling house and a garage, which are proposed to be converted for use as the wildlife hospital.

A wildlife hospital falls within the 'Standard Template Local Environmental Plan' definition of *veterinary hospital*, which means:

a building or place used for diagnosing or surgically or medically treating animals, whether or not animals are kept on the premises for the purpose of treatment.

The application also proposes to provide for school excursions and other public visits to the wildlife hospital, which fall within the definition of *information and education facility*:

a building or place used for providing information or education to visitors, and the exhibition or display of items, and includes an art gallery, museum, library, visitor information centre and the like.

Information and education facilities and veterinary hospitals are prohibited within the 7(c) zone.

Figure 2 below indicates the dimensions of the land.

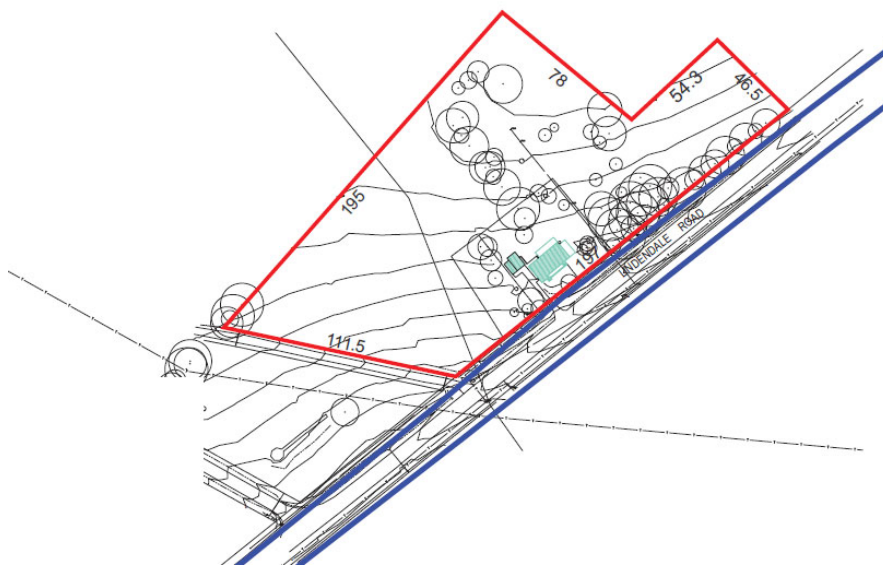


Figure 2 – Site plan with dimensions

Submitted concurrently with the planning proposal application was a development application (DA2021/185). The DA seeks consent for the construction of a wildlife hospital with four enclosures for overnight stays and one aviary.

The existing dwelling house on the land is proposed to be converted for use as a wildlife hospital and will contain:

- Reception
- 2 x triage rooms
- Operating room
- X-ray room
- 2 – 3 isolation rooms
- Toilet and laundry facilities (existing)

The existing garage on the land is proposed to be converted to accommodate utility rooms.

Car parking for 20 vehicles is proposed together with a new driveway, pathway and landscape works.

The wildlife hospital is proposed to operate on a seven day per week basis, between the hours of 8am to 4pm. In terms of visitors to the site, it has been submitted that one visitor per hour is anticipated to attend the premises during operating hours as well as one to two deliveries of medical supplies per day.

The proponents have entered into a Memorandum of Understanding (MOU) with the NSW Department of Primary Industries. The MOU provides for a legal tenure agreement to be entered into, and the construction and operation of a wildlife hospital facility. The MOU is contained within Appendix 1.

The photo below shows the existing dwelling and garage located on the site.



Photo 1 – Existing dwelling and garage at 46 Lindendale Road, Wollongbar

1.3 Council Resolutions

A copy of the report to the Council is contained in Appendix 4.

Council considered the matter at its Ordinary meeting held on 22 April 2021. The Council resolved as follows (Minute No 220421/3):

1. *That Council proceed to prepare a planning proposal to amend Ballina LEP 1987 so as to permit with consent a veterinary hospital, and an information and educational facility on part Lot 237 DP 755745, 46 Lindendale Road, Wollongbar.*
2. *That the planning proposal be forwarded to the Department of Planning, Industry and Environment for a Gateway determination.*
3. *That the Department of Planning, Industry and Environment be advised that Council wishes to exercise its delegated plan making functions for this LEP amendment.*
4. *That upon an affirmative Gateway determination being received from the Department of Planning, Industry and Environment, the procedural steps associated with progression of the planning proposal be undertaken, including public exhibition.*
5. *That Council receive a further report on the matter following the completion of the public exhibition of the planning proposal.*

1.4 Gateway Determination

A Gateway determination, which allows the planning proposal to proceed subject to conditions, was issued on 28 May 2021, with a completion timeframe of November 2021.

The Gateway determination is contained within Appendix 5.

2. Objectives & Intended Outcomes

To amend Ballina LEP 1987 to enable a veterinary hospital and an information and education facility to be permitted with development consent upon the land.

3. Explanation of the Proposal

3.1 Land to Which the Planning Proposal Applies

This planning proposal applies to Part Lot 237 DP 755745, Lindendale Road Wollongbar, as shown outlined in red within Figures 1 and 2.

3.2 The Proposal – Explanation of Provisions

This planning proposal seeks to permit with development consent a veterinary hospital and an information and education facility upon the land.

The proposed outcome may be achieved by:

- Retaining the 7(c) Environmental Protection (Water Catchment) zoning applicable to the land under the provisions of Ballina LEP 1987, and
- Incorporating a special clause within Ballina LEP 1987, which references the land and permits with development consent a veterinary hospital and an information and education facility as defined in the Standard Instrument – Principal Local Environmental Plan, and
- Amend the definition of Map contained in clause 5 (1) of the Ballina LEP 1987 to reference the

proposed LEP amendment.

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?

No

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 to Ballina LEP 1987.

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)?

Not directly.

The North Coast Regional Plan 2036 (NCRP) acknowledges that the North Coast is NSW's most biologically diverse region.

Significant urban growth is occurring in the Far North Coast subregion as envisaged by the NCRP. The consequence of this growth at times impacts adversely on wildlife through events such as motor vehicle accidents, dog and cat attacks and other trauma causing incidents.

The proposed wildlife hospital provides a tool through which the sustainability goals and directions contained within the NCRP may be better achieved as they relate to wildlife.

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

Ballina Shire Council Community Strategic Plan 2017-2027

The proposal is considered to be consistent with the Healthy Environment theme contained within Council's Community Strategic Plan 2017 – 2027. Specifically it is considered to be consistent with outcome HE3.2:

Minimise negative impacts on the natural environment.

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). Specific comments relating to the applicability of SEPP 55 and the Koala SEPP appear below.

SEPP 55 – Remediation of Land

Council has considered the contaminated land status of the land.

The following comments were contained in the report to Council's Ordinary meeting on 22 April 2021:

The site is located within a buffer area to a previously used cattle dip site.

As such, land contamination issues are required to be assessed in accordance with the requirements of SEPP 55 and the associated Managing Land Contamination Guidelines.

The development application has been supported with a Preliminary Contaminated Land Assessment Report. The report has been prepared in accordance with the requirements of SEPP 55 and includes soil testing. There are no issues raised within this report which would indicate that the proposed wildlife hospital use of the existing dwelling and its curtilage (approx. 2,500m²) is impacted by land contamination concerns.

It is noted that at this stage the report has not yet been peer reviewed nor does it cover the whole of the area shown in the Development Proposal Site Plan contained in Attachment 1. The issue of land contamination will require further consideration post Gateway determination.

A copy of the Preliminary Contaminated Land Assessment Report as submitted with the planning proposal request is incorporated within this planning proposal at Appendix 6 (under separate cover).

SEPP Koala Habitat Protection (Koala SEPP)

The subject land is not defined as "Core Koala Habitat" under the *Ballina Shire Koala Management Strategy 2017*.

The land is mapped as part of a Koala Management Precinct known as the "*Plateau Koala Management Precinct*". Within this precinct koala habitat is located in small pockets of highly fragmented remnant vegetation, supplementing the koala food trees found in windbreaks. Over time, it is envisaged that a collaborative approach to managing the availability of koala habitat will result in an increase in areas which are not utilised for agricultural purposes providing koala habitat.

The development resulting from this planning proposal has the potential to positively impact koala habitat through the provision of additional koala food trees as part of the overall site landscape treatment.

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

Yes. A number of section 9.1 directions are relevant to the planning proposal. A section 9.1 checklist is provided at Appendix 3.

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?

Council has no information available which would suggest that there is 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.

The land proposed to be utilised for the wildlife hospital forms a part of the curtilage of an existing dwelling house. The land also forms a part of the Wollongbar Primary Industries Institute site.

Remnant rainforest vegetation adjoins the land along part of its eastern and northern boundary. The planning proposal will not impact this sensitive area.

Figure 3 below is the Landscape Site Analysis plan submitted with the development application.

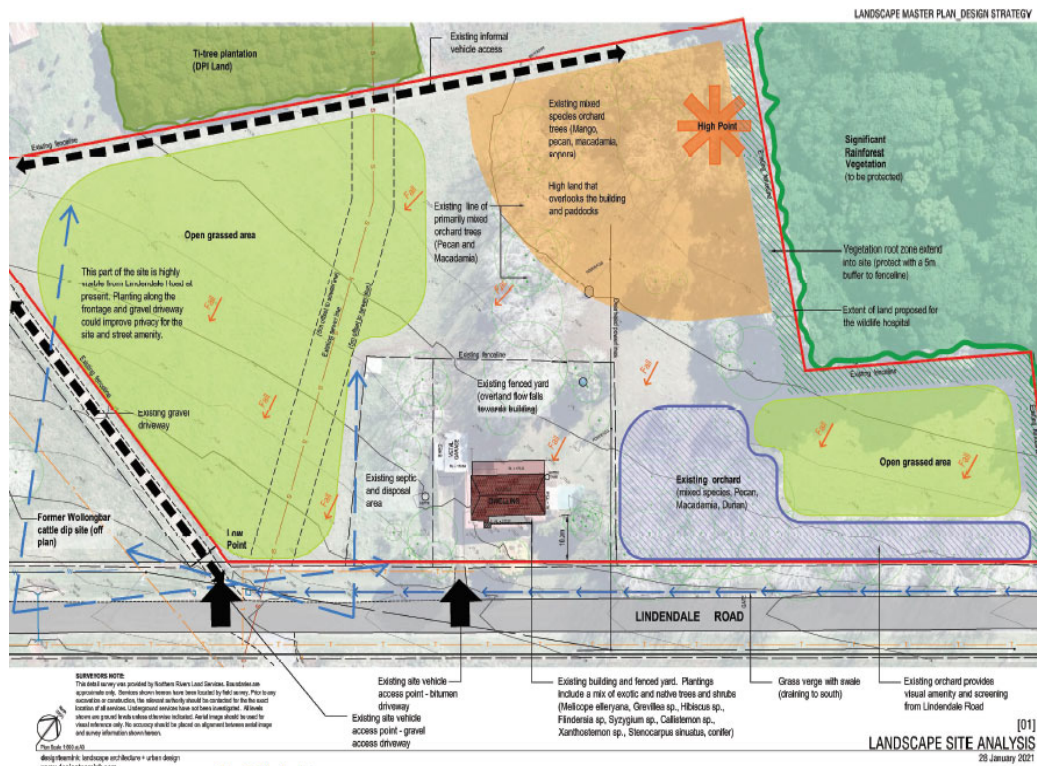


Figure 3 - Landscape Site Analysis Plan DA 2021/185

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

No.

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

It is considered that positive social outcomes will result from the proposed wildlife hospital. It will provide the communities located in Ballina Shire, Byron Shire and Lismore City convenient access to a wildlife hospital.

No negative economic consequences are considered to arise from the planning proposal.

4.4 Section D – State and Commonwealth Interests

Q10 Is there adequate public infrastructure for the planning proposal?

No increase in public infrastructure is required to service the proposed wildlife hospital.

The proposed wildlife hospital will be connected to the town water supply, which is located in close proximity.

It is proposed to connect the wildlife hospital to a private sewer system. A rising main is available within the site.

Q11 What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

At this stage no consultation with public authorities has been undertaken.

In accordance with the Gateway determination, it is proposed to consult the following authorities following:

NSW Rural Fire Service

Transport for NSW

Department of Primary Industries – Agriculture

Rous Water

5. Mapping

Mapping to support the planning proposal is contained within Appendix 2.

6. Community Consultation

This planning proposal is proposed to be publically exhibited for a period of 14 days, in accordance with the Gateway determination and the terms of the *Environmental Planning and Assessment Act 1979*.

7. Timeline

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

Plan Making Step	Estimated Completion (Before)
Gateway Determination	May 2021
Completion of Technical Information	Completed
Government Agency Consultation	October 2021
Public Exhibition Period	October 2021
Public Hearing	N/A
Submissions Assessment	November 2021
Local Plan Making Authority (LPMA) Assessment of Planning Proposal and Exhibition Outcomes	November 2021
LPMA Decision to Make the LEP Amendment (if delegated)	November 2021
Submission of Endorsed LEP to DPI&E for Finalisation	November 2021

Council is proposing to exercise plan finalisation functions under delegation as the Local Plan Making Authority.

8. Appendices

Appendix 1 – Planning Proposal Request

Appendix 2 – Maps

Appendix 3 – Response to s91 Directions

Appendix 4 – Council Reports

Appendix 5 – Gateway Determination

Appendix 6 – Preliminary Contaminated Land Assessment Report (Separate cover)

Appendix 1 – Planning Proposal Request

**Planning Proposal / LEP Amendment Request
Proponent & Proposal Information Form**

Lodge Applications at Ballina Shire Council - 40 Cherry Street - Ballina (Mon-Fri 8.15am to 4.30pm)
 mail PO Box 460 Ballina 2478 - f 02 6666 7035 - e council@ballina.nsw.gov.au
 t 1300 864 444 - w www.ballina.nsw.gov.au - abn 53 929 887 369



This form is to be completed and submitted when a request for an LEP amendment or planning proposal is lodged with Council.

Proponent Details

All correspondence will be forwarded to this name and address unless alternative details are specified below.

Proponent's Name: Northern Rivers Wildlife Hospital Limited (ABN 49 631 104 115)

Address: c/o PLANNERS NORTH

Postal Address: PO Box 538 Lennox Head 2478

Telephone (w): 1300 66 00 87 (h) [] Mobile: 0419237982

Email Address: steve@plannersnorth.com.au Fax: []

Signature: [Handwritten Signature] Date: 10/3/21

Consultant / Representative Details

Details of consultants/representatives acting on behalf of the proponent are required. Please nominate whether the consultant/representative will be the principal contact for the proposal.

Name: PLANNERS NORTH

Address: PO BOX 538 LENNOX HEAD NSW 2481

Telephone (w): 1300 66 00 87 Mobile: 0419237982 Fax: []

Email Address: steve@plannersnorth.com.au

Please tick if consultant/representative is to be the principal point of contact with Council.

Description of the Land

Property descriptions of all land holdings the subject of the LEP amendment request/planning proposal are required. Additional properties the subject of the proposal should be documented in the additional information field at the end of the form.

Property Address: 46 Lindendale Road, Wollongbar

Lot/Portion: Part 237 Section: [] DP: 755745

Property Address: []

Lot/Portion: [] Section: [] DP: []

Property Address: []

Lot/Portion: [] Section: [] DP: []

Office Use Only		
Proposal Name:	Type: <input type="checkbox"/> Major <input type="checkbox"/> Minor	Pre-Lodgement Discussion: <input type="checkbox"/> Y <input type="checkbox"/> N
Fee Paid: <input checked="" type="checkbox"/> Y <input type="checkbox"/> N Amount: \$ 4095.00	Date Received: 12-3-21	Receipt No: 1336612
Code 6, Job No: 20001.1001.061		

Landholder Details and Consent

Details of all landholders are to be provided. If landholders do not sign this form, evidence of the consent of landholders for the nomination of their landholding as part of the LEP amendment/planning proposal is required in conjunction with this form. Space is provided at the end of this form for additional landholder details.

Owner's Name(s)

Address

Lot/Portion Section DP

Telephone (w) (h) Mobile

Email Address Fax

I/we being the owner(s) of the property identified above, consent to the submission of this planning proposal/LEP amendment.

Signature Date

Summary of the LEP Amendment Request / Planning Proposal

Brief outline of the concept or idea underpinning the LEP amendment request / planning proposal.

The Northern Rivers Wildlife Hospital Limited (NRWH) is a public purpose type company, registered with the Australian Charities and Not-for-profits Commission. The charity program, in terms of beneficiaries, applicable to the NRWH is associated with animals, the environment and the general community of Australia.

The Wollongbar Primary Industries Institute is a major research centre. In August 2019 the Wollongbar Primary Industries Institute celebrated 125 years at the subject site. The overall site has an area of 106.4ha and is irregular in shape with frontages to the Bruxner Highway and Lindendale Road. The land is the site of the Wollongbar Primary Industries Institute and is generally known as 1243 Bruxner Highway Wollongbar.

The site of the proposed Northern Rivers Wildlife Hospital is about 2ha in area and it has an approximately 200m frontage to Lindendale Road. This part of the Wollongbar Primary Industries Institute site is known as 46 Lindendale Road Wollongbar.

The land is zoned 7(c) Water Catchment Zone Ballina LEP 1987 and a veterinary hospital is a prohibited use in the 7(c) Zone. To facilitate the Northern Rivers Wildlife Hospital an amendment is respectfully requested of the Council Ballina LEP 1987. We envisage that the amendment would be in the style of an "Additional Permitted Uses Schedule" which specifically permitted a: veterinary hospital, being a building or place used for diagnosing or surgically or medically treating animals, whether or not animals are kept on the premises for the purpose of treatment; and information and education facility, being a building or place used for providing information or education to visitors, and the exhibition or display of items, and includes an art gallery, museum, library, visitor information centre and the like.

List of Information Provided in Support of the LEP Amendment Request / Planning Proposal

Please find attached site development plans.

Privacy Protection Notice

The completed application form contains personal information which is being collected for the purpose of assessing this LEP amendment request/planning proposal. Please be aware that information contained in this documentation is public information and may be accessed by other government agencies, service providers, the general community or other organisations. The information will be processed by Council officers and may be made available to public enquiries under the Government Information (Public Access) Act. The information will be stored in Council's electronic document management system.

Disclosure of Political Donations and Gifts

A person who submits an LEP amendment request/planning proposal to Council is required to disclose the following reportable political donations and gifts (if any) made by any person with a financial interest in the proposal within the period commencing two years before the request is made and ending when the proposal is determined:

- All reportable political donations made to any Ballina Shire Councillor; and
- All gifts made to any local Councillor or employee of Ballina Shire Council.

A reference to a reportable political donation made to a 'Councillor' includes a reference to a donation made at the time the person was a candidate for election to the Council.

Significant penalties apply to non-disclosure. For more information and to obtain a political donations and gifts disclosure statement go to the Department of Planning and Infrastructure website at www.planning.nsw.gov.au.

Is a disclosure statement to accompany your application? Yes No



- LEGEND**
- (A) Primary vehicle entry (bus, car and waste truck) and carparking (19 general plus 1 accessible spaces)
 - (B) Secondary vehicle entry (service and emergency vehicles only, 3 spaces) at location of existing driveway
 - (C) Existing orchard trees to be retained along frontage and throughout site where possible (some tree removal required for carparking and Raptor enclosures)
 - (D) Screen planting of locally indigenous rainforest species and koala feed trees
 - (E) Wildlife Hospital Building and existing garage/storage area (Refer to Building Renovation Plans)
 - (F) External animal rehabilitation area with dry and wet enclosures types for the following target animals/ groups: Koalas, birds (separate and group), small marsupials (separate and group), reptiles, fresh water birds, fresh water turtles and platypus)
 - (G) Central courtyard area for animal rehabilitation activities, staff amenity, small quiet education or training activities.
 - (H) Stormwater treatment area
 - (I) Area for pump station
 - (J) Bin enclosure and collection
 - (K) Overflow carparking area on grass (12 spaces shown)
 - (L) Stage 2 area - possible future education/ training/ research and conference facility

SURVEYORS NOTE:
This detail survey was provided by Northern Rivers Land Services. Boundaries are approximate only. Services shown hereon have been located by field survey. Prior to any excavation or construction, the relevant authority should be contacted for the exact location of all services. Underground services have not been investigated. All levels shown are ground levels unless otherwise indicated. Aerial image should be used for visual reference only. No accuracy should be placed on alignment between aerial image and survey information shown hereon.



Plan Scale 1:800 @ A3
design@mink. landscape architecture + urban design
www.design@mink.com

Plan 3.1 Development Proposal Site Plan

**MEMORANDUM OF UNDERSTANDING (MOU)
REGARDING USE OF CROWN LANDS FOR THE NORTHERN
RIVERS WILDLIFE HOSPITAL**

- **THE PARTIES**
The State of NSW through NSW Department of Primary Industries (DPI);
- **Northern Rivers Wildlife Hospital Ltd - ABN 49 631 104 115 (NRWH Ltd);** – An Australian Public Company limited by guarantee and registered with the Australian Charities and Not-for-profits Commission (ACNC). The NRWH is established under an approved Constitution and is governed by a board of directors who are accountable to both the Constitution and the NRWH members. The constitutional objects of the NRWH Ltd are:
 - a) To operate a veterinary facility to treat, prevent and relieve the suffering of orphaned, injured or diseased native Australian wildlife through rescue, treatment, rehabilitation and release;
 - b) To advance the natural environment by preserving and re-establishing the natural habitat of native animals;
 - c) To improve community knowledge and engagement by establishing research and educational activities related to environmental conservation and wildlife health;
 - d) To advocate for the protection of wildlife and wildlife habitat;
 - e) To encourage other local charitable, cultural and environmental projects that are aligned with the company's vision.

1. INTRODUCTION

1.1 This memorandum of understanding (MOU) records key elements of the understanding between the Parties regarding the use of a part of the Crown Lands managed by the Department of Primary Industries as noted in Attachment 1 to this Agreement (the site), for the purpose of the Northern Rivers Wildlife Hospital (NRWH) and the events that would take place to realise the use of this site.

2. BACKGROUND

2.1 There is an evidenced need for a purpose-built wildlife hospital in the Northern Rivers region in NSW. There is currently no wildlife hospital facility between Currumbin, in South East Queensland, to the north and Port Macquarie to the south and so local veterinarians take responsibility for injured wildlife at their own time and expense, often with no specialist training. Approximately 70-80% of wildlife patients in the region are euthanised.

2.2 The NRWH Ltd formed in 2019 with the primary objective of constructing and operating a world-class purpose-built wildlife hospital facility in the Northern Rivers.

- 2.3 Given the public interest nature of this project, the Parties recognise that the use of Government owned land for the purpose of the wildlife hospital facility is appropriate and desirable. The land the subject of this MOU has been identified and assessed on a preliminary basis between the Parties as suitable and appropriate.
- 2.4 The Parties agree to work together to facilitate the necessary due diligence required and the development of suitable negotiated settled terms to facilitate the use of the land for the construction and long-term operation of the wildlife hospital.

3. TENURE AND USE OF LAND

- 3.1 Subject to the Milestone period in Clause 5, as soon as reasonably practicable the Parties will enter into a mutually suitable and appropriate legal tenure agreement over the land illustrated in Attachment 1 (the site) for the purpose of the construction and operation of a wildlife hospital facility by NRW Ltd.
- 3.2 The Parties agree that the tenure agreement entered into:
 - 3.2.1 Needs to be appropriate and secure tenure, relative to the long-term, costly and independent nature of the project;
 - 3.2.2 Will provide for the construction and operation of a wildlife hospital facility, including any outbuildings and tree planting, by the NRW Ltd;
 - 3.2.3 Will provide that custodianship of the land is retained by the NSW Department of Primary Industries or its logical successor.
- 3.3 The Parties agree that the buildings on the site may be used by NRW Ltd, subject to agreement between the Parties, prior to the Parties entering into the tenure agreement for the whole site.
- 3.4 It is understood by the Parties that there are Native Title claims considerations that apply to the site.

4. OBLIGATIONS

- 4.1 NRW Ltd Undertakes to:
 - 4.1.1 Perform all necessary due diligence as to the suitability of the site for the wildlife hospital, including but not limited to:
 - Access and Parking
 - Utilities (electricity, gas, water etc)
 - Sewage connection
 - Waste disposal
 - All other planning requirements;
 - 4.1.2 Facilitate the preparation and lodgement of all relevant and necessary applications for the construction and operation of the wildlife hospital;
 - 4.1.3 Construct and operate the wildlife hospital in the manner and form approved by relevant planning authorities;
 - 4.1.4 Manage the site in accordance with the provisions of the tenure, and any other relevant agreements and all reasonable requests of DPI;

- 4.1.5 Install appropriate project signage on the Lindendale Rd frontage, and other relevant locations, where permissible, for community awareness and engagement;
- 4.1.6 Develop and deliver appropriate community engagement events with the involvement of DPI and other stakeholders where appropriate;
- 4.1.7 Publicise, in consultation with DPI and other stakeholders where appropriate, content relating to the wildlife hospital, its development, operation and functions, this might include inter alia digital, print and broadcast media, e-newsletters and other social media, presentations at conferences and papers in professional journals;
- 4.1.8 Work collaboratively with DPI and all other relevant stakeholders, including, but not limited to neighbourhood consultation in relation to the site;
- 4.1.9 Meet the cost of fencing as agreed with DPI.

4.2 DPI Undertakes to:

- 4.2.1 Organise the drafting of the relevant tenure agreement, other necessary agreements, and the registration of such if necessary;
- 4.2.2 Do all things reasonably necessary to make the site available to NRWH Ltd in accordance with any tenure agreement and other relevant agreement for the purposes of due diligence, construction and operation;
- 4.2.3 Provide all necessary and reasonable consents, concurrences and permissions in a timely manner to facilitate the necessary due diligence, any necessary rezoning, construction and operation of the wildlife hospital on the site;
- 4.2.4 Work with NRWH Ltd to develop a community engagement program for the site including but not limited to field days;
- 4.2.5 Consider other requests for assistance from NRWH Ltd.

5. OTHER TERMS – MILESTONE PERIOD

- 5.1 This MOU will be subject to a milestone period of 2 years from the date of signing, during which time the NRWH Ltd anticipates having completed all necessary due diligence, including an understanding of any relevant Development Authority (DA) obligations.
- 5.2 The 2 year milestone period may be extended with the agreement of both parties.
- 5.3 Within the 2 year milestone period or as extended, any party may terminate this MOU upon ninety (90) days written notice with all costs incurred in good faith reimbursable, subject to agreement between the Parties..
- 5.4 The Parties agree that they will not disclose all or part of this MOU including underlying discussions on social media, mainstream media or to other third parties without the written permission of the other party.
- 5.5 The signing of this MOU represents an undertaking that both parties will strive to accommodate the MOU's objectives.

Signature:



Ninian Gemmell
FCPA, GAICD, JP
Chairperson
Northern Rivers Wildlife Hospital Ltd

Date: 10/7/20

Signature:



Bill Quince
Manager North Coast
NSW Department of Primary Industries

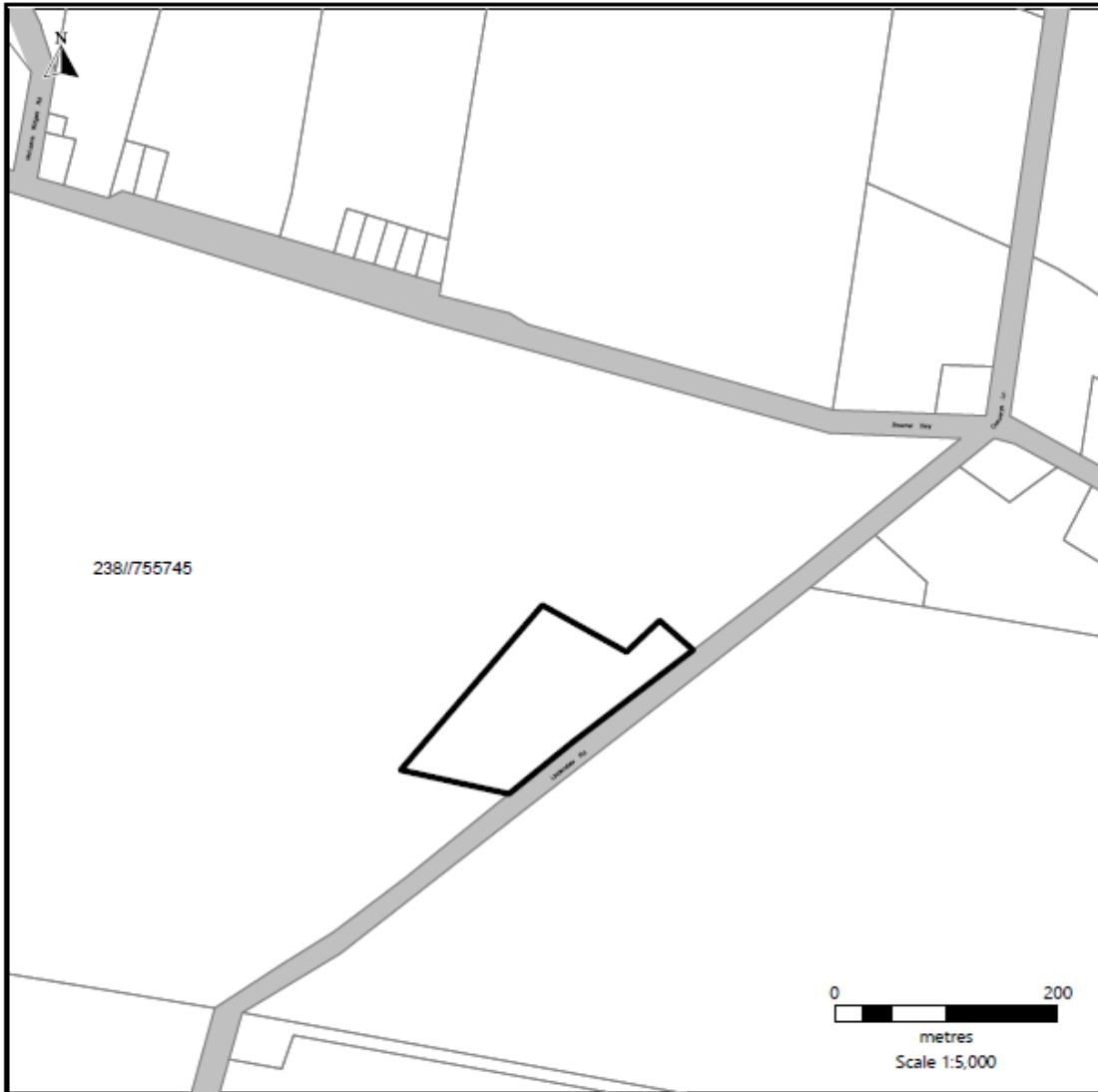
Date: 10 July 2020


Attachment 1 – THE SITE

**Proposed Northern Rivers Wildlife Hospital site – Lindendale Rd Wollongbar NSW
(approx 2.123ha) including house, existing driveway access, septic and electricity.**



Appendix 2 – Maps



<p>ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979</p> <p>DRAFT BALLINA</p> <p>LOCAL ENVIRONMENTAL PLAN 1987</p> <p>(AMENDMENT NO:)</p>		
<p>DATE 06/05/2021</p>	<p>STATEMENT OF RELATIONSHIP WITH OTHER PLANS</p> <p>AMENDS:-</p> <p>BALLINA LOCAL ENVIRONMENTAL PLAN 1987</p>	<p>DISCLAIMER</p> <p><small>Although all care is taken in the preparation of this plan, Ballina Shire Council accepts no responsibility for any omissions, errors, inaccuracies or inaccuracies. The information contained within this plan is for informational purposes only. Do not scale. Accurate measurements should be undertaken by survey.</small></p> <p>© NSW Spatial Services 2021</p> 
<p>COUNCIL FILE No. BSCPP 2021/001--</p>	<p>CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979, AND REGULATIONS.</p>	<p>GENERAL MANAGER</p> <p>PRINT DATE: 06/05/2021</p>
<p>DEPT. FILE No.</p>		

Appendix 3 – Section 9.1 Directions (27/09/2021) Checklist

Section 9.1 Directions Checklist Planning Proposal – Lindendale Road, Wollongbar	
Direction No.	Compliance of Planning Proposal
1. Employment and Resources	
1.1 Business and Industrial Zones	Consistent.
1.2 Rural Zones	Does not apply to planning proposal.
1.3 Mining, Petroleum Production and Extractive Industries	Does not apply to planning proposal.
1.4 Oyster Aquaculture	Does not apply to planning proposal.
1.5 Rural Lands	Does not apply to planning proposal.
2. Environment and Heritage	
2.1 Environmental Protection Zones	Consistent. The planning proposal does not involve the development of land identified as being of environmental significance.
2.2 Coastal Management	Does not apply to planning proposal. The land is not within the coastal zone.
2.3 Heritage Conservation	Consistent. Ballina LEP 1987 contains heritage provisions – refer clauses 18 – 20. A heritage item is located on Lot 237 DP 755745 – Refer item 7 as listed in Ballina LEP 1987 - Group of 4 houses on Bruxner Highway, Wollongbar, adjoining Research Station, Wollongbar., The above heritage item is located in excess of 300 metres from the subject land and is not impacted by this planning proposal.
2.4 Recreation Vehicle Areas	Consistent. The planning proposal does not involve the development of land for the purpose of a recreation vehicle area.
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	Does not apply to planning proposal.
2.6 Remediation of Contaminated Land	Consistent The land is located within a buffer to a decommissioned cattle dip site and is potentially contaminated land. As a consequence, a preliminary contaminated land assessment has been undertaken (Appendix 6) of the area proposed to be developed for the proposed wildlife hospital. Part of the assessment conclusion is reproduced below: <i>Based on the known history of the site, inspection of the site and sampling regime, it is concluded that further soil contamination assessment is not required in the proposed development area. NSW EPA (1995) and NEPM 1999 (2013) state that if the contaminant concentration of the site is below a threshold limit, the investigation area can be considered as uncontaminated, and this is considered to be the case on this site.</i> It is considered that no specific land contamination provisions are required to be incorporated within Ballina LEP 1987 based on information already submitted with the planning proposal.

Section 9.1 Directions Checklist	
Planning Proposal – Lindendale Road, Wollongbar	
Direction No.	Compliance of Planning Proposal
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	Does not apply to planning proposal.
3.2 Caravan Parks and Manufactured Home Estates	Consistent.
3.3 Home Occupations	Revoked
3.4 Integrated Land Use and Transport	Consistent.
3.5 Development Near Regulated Airports and Defence Airfields	Does not apply to planning proposal. The land is not near a regulated airfield.
3.6 Shooting Ranges	Does not apply to planning proposal.
3.7 Reduction in non-hosted short term rental accommodation period	Does not apply to planning proposal.
4. Hazard and Risk	
4.1 Acid Sulfate Soils	Does not apply to planning proposal. The land is not mapped as containing acid sulfate soils.
4.2 Mine Subsidence and Unstable Land	Does not apply to planning proposal.
4.3 Flooding	Does not apply to planning proposal. The land is not identified as being flood prone land.
4.4 Planning for Bushfire Protection	Consistent. The land is designated as bushfire prone land consisting of a buffer area to Category 1 Vegetation. A Bushfire Risk Assessment Report has been prepared, and consultation with the NSW Rural Fire Service will be undertaken in accordance with the Gateway determination
5. Regional Planning	
5.1 Implementation of Regional Strategies	Revoked
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	Consistent The land is mapped as State significant farmland. The planning proposal does not seek to rezone the land for urban or rural residential purposes. It proposes to insert two additional land uses within the development control table. It is for this reason that it is considered that the planning proposal is consistent with this direction.
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).	Revoked.
5.6 Sydney to Canberra Corridor	Revoked.
5.7 Central Coast	Revoked.

Section 9.1 Directions Checklist Planning Proposal – Lindendale Road, Wollongbar	
Direction No.	Compliance of Planning Proposal
5.8 Second Sydney Airport: Badgerys Creek	Revoked.
5.9 North West Rail Link Corridor Strategy	Does not apply to Ballina Shire.
5.10 Implementation of Regional Plans	Consistent. No inconsistencies with the North Coast Regional Plan 2036 have been identified.
5.11 Development of Aboriginal Land Council land	Does not apply to this planning proposal.
6. Local Plan Making	
6.1 Approval and Referral Requirements	Consistent. The planning proposal does not introduce any new concurrence or consultation provisions or any additional designated development types.
6.2 Reserving Land for Public Purposes	Consistent. The planning proposal does not create, alter or reduce existing zonings or reservations of land reserved for public purposes.
6.3 Site Specific Provisions	Consistent No site specific provisions are proposed.
7. Metropolitan Planning	
7.1 to 7.13	These Directions do not apply to Ballina Shire.

Appendix 4 – Council Reports

0.0 LEP Amendment - Northern Rivers Wildlife Hospital - Lindendale Road

0.0 LEP Amendment - Northern Rivers Wildlife Hospital - Lindendale Road

Section	Strategic Planning
Objective	To seek Council's direction on an LEP amendment request relating to part of the Wollongbar Primary Industries Institute site for the purpose of a veterinary hospital and information and education facility.

Background

The Northern Rivers Wildlife Hospital Ltd (NRWH) has lodged a request to amend the Ballina Local Environmental Plan (LEP) 1897 to permit, as an additional permitted use, a veterinary hospital. The development site is part of the existing Wollongbar Primary Industries Institute site. The request also seeks to permit an information and education facility.

The site has an approximate area of 2.123ha. It is located at 46 Lindendale Road approximately 450 metres to the southwest of the intersection of Lindendale Road with the Bruxner Highway (Figure 1).



Figure 1: Site Location Proposed NRWH - Lindendale Road Wollongbar

Lodged concurrently with the LEP amendment request was a development application (DA 2021/185). This application seeks consent to:

...change the current "public building" "existing use" to a different form of public building, being the Northern Rivers Wildlife Hospital.

The applicant for the development application, Planners North, were advised on 29 March 2021 that any existing use rights applicable to the agricultural research centre are considered not to permit a wildlife / veterinary hospital as proposed. This confirmed advice previously provided to the applicant at a Pre-DA Lodgement meeting on 9 February 2021. As a consequence of the February 2021 advice this LEP amendment request has been submitted.

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Erected on the site is a 1970s style dwelling house and a garage. It is these buildings that are proposed to be converted for use as part of the wildlife hospital (veterinary hospital) proposal.

The site is located within a 7(c) Environmental Protection (Water Catchment) zone under the provisions of Ballina LEP 1987. Veterinary hospitals, and information and education facilities are uses prohibited within this zone.

The proponents has entered into a Memorandum of Understanding (MOU) with the NSW Department of Primary Industries. The MOU provides for a legal tenure agreement to be entered into, and the construction and operation of a wildlife hospital facility.

This report seeks Council's direction on the progress of the LEP amendment through the preparation of a planning proposal and seeking of a Gateway determination from the Department of Planning Industry and Environment.

Key Issues

- Need for a planning proposal.
- Existing use rights.
- Appropriateness of use within a 7(c) zone.
- Pathway for enabling of the proposed land use.

Discussion

The LEP amendment request seeks to permit the development as proposed by DA 2021/185 together with the additional use of an information and education facility. No specific details have been submitted in respect to the information and education facility use other than it is proposed to form Stage 2 of the development.

Details of development proposal

Information submitted with the development application indicates that the development consists of the construction of a wildlife hospital with four enclosures for overnight stays and one aviary.

The existing dwelling house on the site is proposed to be converted for use as a wildlife hospital and will contain the following:

- Reception
- 2 x triage rooms
- Operating room
- X-ray room
- 2 – 3 isolation rooms
- Toilet and laundry facilities (existing)

The existing garage on the site is proposed to be converted to accommodate utility rooms.

0.0 LEP Amendment - Northern Rivers Wildlife Hospital - Lindendale Road

Car parking for 20 vehicles is proposed together with a new driveway, pathway and landscape works.

The wildlife hospital is proposed to operate on a seven day per week basis between the hours of 8am to 4pm. In terms of visitors to the site, it has been submitted that one visitor per hour is anticipated to attend the premises during operating hours as well as one to two deliveries of medical supplies per day.

The DA also indicates that:

School excursions may also visit the wildlife hospital, with a maximum of one school excursion per day. This group taking part in the excursion are expected to arrive in buses transporting all students and teachers both to and from the hospital.

The estimated cost of the development is \$350,000.

Figure 2 shows the manner in which the existing dwelling house is proposed to be converted to a wildlife hospital.

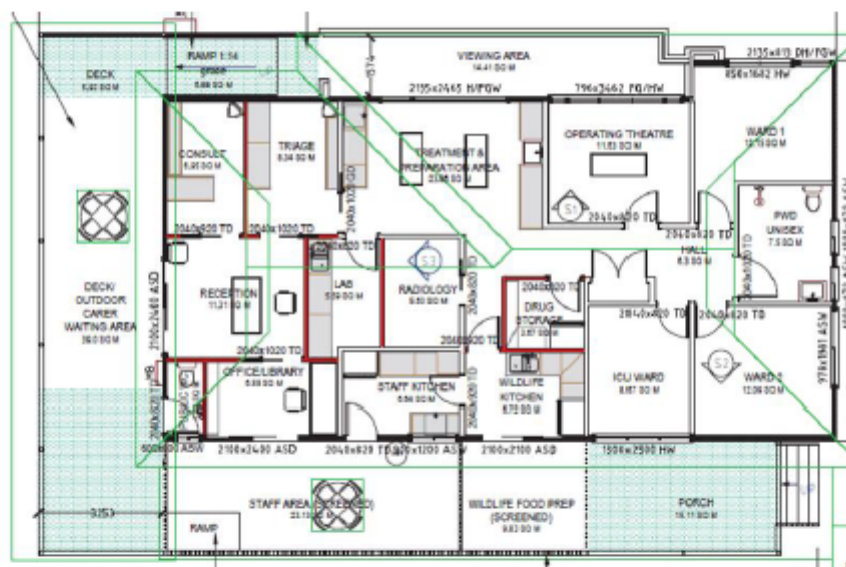


Figure 2: Proposed Wildlife Hospital Layout

Attachment 1 contains the planning proposal request which incorporates the development proposal site plan as submitted with the development application.

The plan contained in Attachment 1 indicates that the information and education facility will be located in the area designated as Area L. An extract from this plan showing the location of area L is contained in Figure 3.

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Figure 3: Future Stage Information and Education Facility Site - Area L

The photo below shows the existing dwelling and garage located on the site.



Need for a Planning Proposal

Council staff have on a number of occasions considered whether the proposed wildlife hospital may be approved under the existing use rights provisions contained within the Environmental Planning and Assessment Act 1979.

Based on available information, staff consider that the proposal represents an additional use located in a part of the site which may not benefit from existing use rights. The veterinary hospital is proposed to be located in an existing dwelling house.

Dwelling houses are permitted with consent within the 7(c) zone. As such the issue of existing use rights is not considered to arise when considering alternative uses proposed for the dwelling house.

In the above circumstances a planning proposal, as submitted, is considered the appropriate way in which to address the permissibility issue.

0.0 LEP Amendment - Northern Rivers Wildlife Hospital - Lindendale Road

Definitional Issues

A wildlife hospital (veterinary hospital) is a use not specifically defined within Ballina LEP 1987 or the Environmental Planning and Assessment Model Provisions 1980. It is considered to be an innominate use.

The proponent has submitted that the proposed wildlife hospital, as well as the existing Wollongbar Primary Industries Institute, should be considered to be public buildings as defined in the Model Provisions viz:

public building means a building used as offices or for administrative or other like purposes by the Crown, a statutory body, a council or an organisation established for public purposes.

It is not agreed that the existing use of the site, and the proposed use, should be characterised as a public building. This is because the definition is limited to the use of buildings and not places. It must also be for the use of offices or for administration or other like purposes. A wildlife hospital is not considered to be an administrative use or the like.

In terms of the proposed information and education facility, this is also not a use specifically defined in the 1987 LEP and the Model Provisions.

As a consequence of the above the definitions contained within Ballina LEP 2012 for veterinary hospital, and information and educational facility, are proposed to be utilised to permit what is proposed. These definitions are reproduced below:

information and education facility means a building or place used for providing information or education to visitors, and the exhibition or display of items, and includes an art gallery, museum, library, visitor information centre and the like.

veterinary hospital means a building or place used for diagnosing or surgically or medically treating animals, whether or not animals are kept on the premises for the purpose of treatment.

At this stage the proponent has not provided any supporting information relating to the manner in which the information and education facility component of the proposed use will function. Ordinarily this would be seen as an impediment to its incorporation within the planning proposal. In this case, however, it is considered reasonable that it be dealt with at the planning proposal stage for the following reasons:

- The visitations to the proposed wildlife hospital of school groups may present difficulties if the use were only able to be characterised as a veterinary hospital;
- The future development of information and educational facilities, in Area L as shown on plan forming a part of Attachment 1, would be required to be subject to assessment as part of a separate development application process and may or may not be approved.
- Broadening the range of uses permitted on the site to also incorporate information and educational facilities overcomes the need for a further planning proposal at some future time.

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Land Zoning Considerations

Attachment 2 contains a copy of the zone objectives and development control table applicable to the 7(c) Environmental Protection (Water Catchment) zone under the provisions of Ballina LEP 1987.

The primary objective of the zone is *to prevent development which would adversely affect the quantity or quality of the urban water supply*. It is considered that the proposed uses do not unduly impact either the quantity or quality of the urban water supply.

The secondary objectives of the zone is to regulate the use of land:

(a) to encourage the productive use of land for agricultural purposes and to permit development which is ancillary to agricultural land uses, except for development which would conflict with the primary objective of the zone, and

(b) to ensure development of the land maintains the rural character of the locality, and

(c) to ensure development of the land does not create unreasonable and uneconomic demands, or both, for the provision or extension of public amenities or services.

It is considered that the proposed uses do not conflict with the secondary zone objectives. The proposed veterinary hospital, and any information and educational facilities which are associated with the veterinary hospital function, are both considered to be broadly ancillary to the agricultural land uses within the zone.

Whilst not of direct relevance, it is noted that information and education facilities are permitted with consent within the RU1 Primary Production zone under the provisions of Ballina LEP 2012. Whereas veterinary hospitals are not permitted.

The RU2 zone permits both information and education facilities as well as veterinary hospitals.

Land Constraint Issues

Bushfire Risk

The site is designated as bushfire prone land being located within a buffer zone to Category 1 vegetation. For this reason a Bushfire Risk Assessment Report should be prepared, and consultation with the NSW Rural Fire Service undertaken following Gateway determination

SEPP 55 – Contaminated Land Assessment

The site is located within a buffer area to a previously used cattle dip site.

As such, land contamination issues are required to be assessed in accordance with the requirements of SEPP 55 and the associated Managing Land Contamination Guidelines.

The development application has been supported with a Preliminary Contaminated Land Assessment Report. The report has been prepared in

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accordance with the requirements of SEPP 55 and includes soil testing. There are no issues raised within this report which would indicate that the proposed wildlife hospital use of the existing dwelling and its curtilage (approx. 2,500m²) is impacted by land contamination concerns.

Figure 4 shows the location of the cattle dip site and the locations where soil has been sampled for contaminants.



Figure 4: Soil Sampling Location Diagram - Preliminary Contaminated Land Assessment Report February 2021.

It is noted that at this stage the report has not yet been peer reviewed nor does it cover the whole of the area shown in the Development Proposal Site Plan contained in Attachment 1. The issue of land contamination will require further consideration post Gateway determination.

Delivery Program Strategy / Operational Plan Activity

The management of LEP amendment requests and the associated assessment and processing of such requests is referenced in action HE3.1j of the Delivery Program and Operational Plan 2020 – 2024.

Community Consultation Policy

The planning proposal is considered to have a low level local impact when assessed in accordance with the Community Consultation Policy. As such it is proposed to inform and consult with local residents who live within a 1 kilometre distance of the proposal. A minimum consultation period of 14 days is proposed.

It is noted that the planning proposal will be required to be publically exhibited in accordance with the requirements of the Gateway determination once issued by the Department of Planning Industry and Environment.

Financial / Risk Considerations

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Costs associated with the processing of the planning proposal will be funded from fees payable by the proponent as set in Council's Fees and Charges.

The planning proposal process provides the most appropriate means of considering and balancing the risks associated with the proposed activity.

Options

The following options are presented for Council's consideration:

Option 1 – Proceed with the LEP amendment request to permit a veterinary hospital and information and education facility on the site

Council could resolve to prepare a planning proposal to permit with consent a veterinary hospital, and an information and educational facility on part Lot 237 DP 755745, 46 Lindendale Road, Wollongbar.

This option would involve the preparation of a planning proposal for referral to the Department of Planning, Industry and Environment (DPIE) for Gateway determination.

This option is recommended on the basis that the proposed uses are broadly complementary with the existing Primary Industries Institute use of the site. As such what is proposed is considered not to adversely affect the quantity or quality of the urban water supply and therefore accords with the primary objective of the 7(c) zone.

Council also needs to determine whether to exercise its delegated plan making functions for this LEP amendment. In this instance it is recommended that Council seeks agreement from the DPIE to exercise the plan making functions under delegation in the role of the plan making authority.

Option 1 is the recommended approach.

Option 2 – Proceed with an LEP amendment to permit only a veterinary hospital on the site

Council could resolve to prepare a planning proposal to permit only a veterinary hospital on the site without any reference to the information and education facility.

This approach is not recommended for the reasons outlined in this report.

Option 3 - Decline the LEP amendment request.

This option is not recommended.

The establishment of a wildlife hospital within Ballina Shire is considered to have broader community benefits. It is for this reason that this option is not recommended.

Option 4 – Defer the LEP amendment request and seek additional information.

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Should Council require additional information, or should it wish to explore other alternatives, then the application could be deferred for a further report or a briefing.

RECOMMENDATIONS

1. That Council proceed to prepare a planning proposal to amend Ballina LEP 1987 so as to permit with consent a veterinary hospital, and an information and educational facility on part Lot 237 DP 755745, 46 Lindendale Road, Wollongbar.
2. That the planning proposal be forwarded to the Department of Planning, Industry and Environment for a Gateway determination.
3. That the Department of Planning, Industry and Environment be advised that Council wishes to exercise its delegated plan making functions for this LEP amendment.
4. That upon an affirmative Gateway determination being received from the Department of Planning, Industry and Environment, the procedural steps associated with progression of the planning proposal be undertaken, including public exhibition.
5. That Council receive a further report on the matter following the completion of the public exhibition of the planning proposal.

Attachment(s)

1. LEP Amendment Request
2. Extract from Ballina LEP 1987 - 7(c) Development Control Table

Appendix 5 – Gateway Determination



Planning,
Industry &
Environment

Gateway Determination

Planning proposal (Department Ref: PP-2021-3290): Enable a veterinary hospital and information and education facility as additional permitted uses with consent at 46 Lindendale Road, Wollongbar

I, the 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(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Ballina Local Environmental Plan (LEP) 1987 to enable a veterinary hospital and information and education facility as additional permitted uses with consent at 46 Lindendale Road, Wollongbar, should proceed subject to the following conditions:

1. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
 - (a) the planning proposal is classified as low impact as described in *A guide to preparing local environmental plans* (Department of Planning and Environment, 2018) and must be made publicly available for a minimum of **14 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).
2. 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:
 - NSW Rural Fire Service
 - Transport for NSW
 - Department of Primary Industries – Agriculture
 - Rous Water

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.

3. 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).

4. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:
 - (a) the planning proposal authority has satisfied all the conditions of the Gateway determination;
 - (b) the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
 - (c) there are no outstanding written objections from public authorities.

5. The time frame for completing the LEP is to be **6 months** following the date of the Gateway determination.

Dated 28 day of May 2021.



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

Delegate of the Minister for Planning and Public Spaces

Appendix 6 – Preliminary Contaminated Land Assessment

(This document is provided under separate cover due to its size)