

Ballina LEP 2012 – Rezoning Stoneyhurst Dr Lennox Head

Proposal Title : **Ballina LEP 2012 – Rezoning Stoneyhurst Dr Lennox Head**

Proposal Summary : **The planning proposal seeks to amend Ballina LEP 2012 by rezoning eleven (11) rural residential lots in Stoneyhurst Drive, Lennox Head from RU1 Primary Production and RU2 Rural Landscape to R2 Low Density Residential and applying appropriate minimum lot sizes to enable the land to be developed for urban residential purposes. The proposal will also amend the Strategic Urban Growth Area Map to identify the land as land adjacent to a Strategic urban growth area.**

PP Number : **PP_2016_BALLI_002_00**

Dop File No : **16/07083**

Proposal Details

Date Planning
Proposal Received : **17-May-2016**

LGA covered : **Ballina**

Region : **Northern**

RPA : **Ballina Shire Council**

State Electorate : **BALLINA**

Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

Location Details

Street : **Stoneyhurst Drive**

Suburb : **Lennox Head**

City :

Postcode : **2478**

Land Parcel : **Various lots in Stoneyhurst Drive, Lennox Head**

DoP Planning Officer Contact Details

Contact Name : **Paul Garnett**

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RPA Contact Details

Contact Name : **Simon Scott**

Contact Number : **0266861284**

Contact Email : **simons@ballina.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name :

Contact Number :

Contact Email :

Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Far North Coast Regional Strategy	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :	7.50	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	0	No. of Dwellings (where relevant) :	75
Gross Floor Area :	0	No of Jobs Created :	0
The NSW Government Lobbyists Code of Conduct has been complied with : Yes			
If No, comment :	The Department of Planning and Environment's Code of Practice in relation to communications and meetings with lobbyists has been complied with to the best of the Region's knowledge.		
Have there been meetings or communications with registered lobbyists? :	No		
If Yes, comment :	The Northern Region office has not met any lobbyists in relation to this proposal, nor has the Region been advised of any meeting between other officers within the agency and lobbyists concerning this proposal.		

Supporting notes

Internal Supporting Notes :

External Supporting Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **The Statement of objectives describes the intention of the planning proposal. The proposal intends to amend Ballina LEP 2012 to enable the land to be developed for more intensive urban residential purposes.**

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **The explanation of provisions adequately addresses the intended method of achieving the objectives of the planning proposal. The proposal intends to amend the Land Zoning Map, Lot Size Map, and Strategic Growth Area Map, to apply appropriate zones and other planning controls to the land.**

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.2 Rural Zones

1.5 Rural Lands

2.1 Environment Protection Zones

2.2 Coastal Protection

2.3 Heritage Conservation

2.4 Recreation Vehicle Areas

3.1 Residential Zones

3.2 Caravan Parks and Manufactured Home Estates

3.3 Home Occupations

3.4 Integrating Land Use and Transport

3.5 Development Near Licensed Aerodromes

4.2 Mine Subsidence and Unstable Land

5.1 Implementation of Regional Strategies

5.3 Farmland of State and Regional Significance on the NSW Far North Coast

6.1 Approval and Referral Requirements

6.2 Reserving Land for Public Purposes

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 55—Remediation of Land

SEPP (Rural Lands) 2008

e) List any other matters that need to be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain : **See the assessment section of his report.**

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

The planning proposal contains maps which adequately show the subject land, the current zones and the proposed zones, minimum lot sizes and strategic growth area land. These maps are adequate for exhibition purposes. Maps which comply with the Standard Technical Requirements for SI LEP Maps will need to be prepared before the LEP is made.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

The planning proposal nominates a community consultation period of 28 days.

In accordance with "A Guide to Preparing Local Environmental Plans" (the 'Guide'), it is considered that the planning proposal is a low impact planning proposal as it is consistent with the pattern of surrounding land use zones and inconsistencies with the strategic planning framework are of minor significance. The proposal does not reclassify land or present infrastructure servicing issues. The Guide also suggests written notification to the affected and adjoining land owners. It is therefore considered that a community consultation period of 14 days is adequate and affected and adjoining properties should be notified in writing. However there is no impediment to Council conducting a longer community consultation.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Time Line

The planning proposal includes a project timeline which estimates the completion of the planning proposal in February 2017. To ensure the RPA has adequate time to complete the additional site investigations, exhibition, reporting, and legal drafting, it is recommended that a time frame of 12 months is appropriate.

Delegation.

The RPA has requested an Authorisation to exercise delegation for this proposal. An Evaluation Criteria For the Delegation of Plan Making Functions has been provided. The proposal is considered to be of local planning significance since it applies to an area of land identified for residential purposes by the strategic planning framework, particularly the Far North Coast Regional Strategy and Councils Growth Management Strategy which has been approved by the Department. It is recommended that an Authorisation for the execution of delegation be issued to the RPA in this instance.

Overall Adequacy

The planning proposal satisfies the adequacy criteria by;

1. Providing appropriate objectives and intended outcomes.
2. Providing a suitable explanation of the provisions proposed for the LEP to achieve the outcomes.
3. Providing an adequate justification for the proposal.
4. Outlining a proposed community consultation program.
5. Providing a project time line
6. Completing the evaluation criteria for the delegation of plan making functions.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation
to Principal LEP :

The Ballina LEP 2012 is in force. This planning proposal seeks an amendment to the Ballina LEP 2012.

Assessment Criteria

Need for planning
proposal :

The proposal is the result of implementation of the Lennox Head Structure Plan 2004, which identifies the land as a candidate release area. The land was also identified for residential purposes in the Ballina Shire Growth Management Strategy 2012 and the Far North Coast Regional Strategy.

The subject land comprises 7.5 hectares of land currently made up of 11 rural residential lots. The existing lots range in size from 2032m² to 11602m². A dwelling house exists on each lot. Council received a request to rezone the land from seven of the eleven land owners. Council has however resolved to require technical site investigations for the entire 11 lots and included all 11 lots in the planning proposal, as this approach will result in a better planning outcome and more efficient development of the entire precinct. The four silent land owners are located across the site and if these properties were to be excluded from the rezoning it would result in a disconnected zone layout and potentially inefficient future development of the land. Council's approach is considered to be

appropriate.

The land is located on the edge of the Lennox Head urban area and is surrounded by Lennox Head's main greenfield residential growth areas which are currently under development. The land is currently zoned partly RU1 Primary Production and partly RU2 Rural Landscape and currently has a 40 hectare minimum lot size (MLS).

The proposal seeks to rezone the land R2 Low Density Residential and apply a 600m2 MLS to the one parcel of land having frontage to North Creek Road and a 1200m2 MLS to the remainder of the land. Council notes that the final MLS may change pending environmental assessments of the land. In zoning the land for residential purposes the land will lose its status as a strategic urban growth area and a change to the strategic urban growth area map in Ballina LEP 2012 will be necessary.

The planning proposal identifies that no site investigations to inform the proposal have yet been undertaken. Council has advised that the following assessments will be required:

- Coastal zone and visual amenity impacts;
- European and aboriginal heritage;
- Ecological assessment;
- Geotechnical assessment;
- Land contamination;
- Land use conflict;
- Mosquito hazard;
- Road noise impacts;
- Engineering services and stormwater management;
- Traffic impacts;
- Obstacle limitation surface and ANEF assessment.

The proposal to rezone the land is the best means of achieving the intent of the proposal which is to enable part of the land to be developed for low density residential purposes.

Consistency with strategic planning framework :

Far North Coast Regional Strategy (FNCRS).

The proposal is consistent with the actions and outcomes in the FNCRS. The FNCRS identifies the land as a proposed future urban release area. The consideration of the land for further residential development is therefore consistent with the FNCRS.

Draft North Coast Regional Plan

The proposal is consistent with the Draft North Coast Regional Plan (the 'Draft RP'). The Draft RP identifies the subject land as proposed urban land and therefore the proposal to consider the land for further residential development is consistent with the Draft RP.

Consistency with Council's Local Strategies.

Ballina Shire Growth Management Strategy 2012 (the 'BSGMS')

The proposal is consistent with the BSGMS. The BSGMS identifies the land as a strategic urban growth area being an area that is considered to warrant further detailed investigation to determine its urban suitability. The proposal is also consistent with the Lennox Head Structure Plan 2004 which identifies the land as candidate urban release area "J". The land was also identified for urban investigation in the Ballina Urban release Strategy 2000.

SEPPs

The planning proposal states that the proposal is expected to be generally consistent with the State environmental planning policies (SEPPs) applicable to the land. The following SEPPs are applicable to the proposal and the consistency with these SEPPs will be determined when the additional site investigations have been conducted.

SEPP 44 Koala Habitat Protection

The proposal states that an ecological assessment of the site will be required and this will determine whether any significant koala habitat exists on the site.

SEPP 55 Remediation of Land

The proposal states that a preliminary contaminated land assessment will be required and this will determine whether the site has a history of land contamination from past uses and whether more extensive soil analysis will be required to ascertain the suitability of the site for residential purposes.

SEPP (Rural Lands) 2008

SEPP Rural Lands (the RLSEPP) contains Rural Planning Principles to guide development on rural land. It is considered the proposal is consistent with the Rural Planning Principles. The land is identified as non-contiguous regionally significant farmland, however the land is identified for residential purposes in the FNCRS. The future development of the site for residential purposes is not expected to have an adverse impact on agricultural practices on neighbouring land as the adjoining rural land is also identified for residential purposes. The use of the land for residential purposes is also consistent with an approved growth management strategy.

The proposal is otherwise consistent with State environmental planning policies.

S117 Directions.

The following S117 directions are applicable to the proposal, 1.2 Rural Zones, 1.3 Mining, Petroleum Production and Extractive Industries, 1.5 Rural Lands, 2.1 Environmental Protection Zones, 2.2 Coastal Protection, 2.3 Heritage Conservation, 2.4 Recreational Vehicle Areas, 3.1 Residential Zones, 3.2 Caravan Parks and Manufactured Home Estates, 3.3 Home Occupations, 3.4 Integrating Land Use and Transport, 3.5 Development Near Licensed Aerodromes, 4.4 Planning for Bushfire Protection, 5.1 Implementation of Regional Strategies, 5.3 Farmland of State or Regional Significance on the NSW Far North Coast, 6.1 Approval and Referral Requirements, 6.2 Reserving Land for Public Purposes, and 6.3 Site Specific Provisions.

Of the above s117 Directions the proposal is considered to be inconsistent with Direction 1.2 and 5.3. Potential inconsistencies with directions 2.1, 2.3 and 3.5 cannot be determined

until site investigations and consultation have been completed.

Direction 1.2 Rural Zones is relevant to the proposal. The direction provides that a planning proposal must not rezone land from a rural to a residential zone. The planning proposal seeks to rezone the subject land from RU1 Primary Production and RU2 Rural Landscape to R2 Low Density Residential. The direction provides that the planning proposal may be inconsistent with the terms of the direction if the inconsistency is justified by a strategy or study or is of minor significance.

The subject land is identified in the Ballina Shire Growth Management Strategy 2012 as a strategic urban growth area. The Ballina Shire Growth Management Strategy was approved by the Deputy Director General in May 2013. It is considered that the inconsistency of the proposal with the direction is justified by an approved strategy and therefore has been justified in accordance with the terms of the direction.

Direction 2.1 Environmental Protection Zones is relevant to the planning proposal. The direction provides that a planning proposal shall include provisions that facilitate the protection and conservation of environmentally sensitive areas. The proposal states that an ecological assessment of the site has not yet been undertaken and the ecological significance of the site is therefore unknown. It is therefore considered that any inconsistency of the proposal with the direction cannot be resolved until the ecological assessment has been completed.

Direction 2.3 Heritage Conservation is relevant to the planning proposal. The direction provides that a planning proposal must contain provisions which facilitate the conservation of items and places of heritage significance. The proposal indicates that preliminary investigations into Aboriginal and European Heritage have yet to be undertaken. However Council has indicated in its planning proposal that this assessment will be required post Gateway determination. It is therefore considered that any inconsistency of the proposal with this direction cannot be resolved until the heritage assessment has been completed.

Direction 3.5 Development Near Licensed Aerodromes is relevant to the proposal. The direction requires that the RPA consult with the relevant Commonwealth aviation authorities. Part of the subject land is located within the Ballina Byron Airport Obstacle Limitation Surface. Council intends to consult with the relevant Commonwealth aviation authorities. It is considered that any inconsistency of the proposal with this direction cannot be resolved until investigations and consultation has occurred.

Direction 5.3 Farmland of State or Regional Significance on the NSW Far North Coast is relevant to this proposal. The direction provides that regionally significant farmland shall not be rezoned for residential purposes. The proposal seeks to rezone the land, which is mapped as non-contiguous regionally significant farmland, to enable it to be developed for further residential purposes. The direction provides that a proposal may be inconsistent with the direction if the proposal is consistent with the FNCRS and the Northern Rivers Farmland Protection Project - Final Recommendations 2005 (the NRFPP). The subject land is identified in the FNCRS as a proposed future urban release area. The NRFPP provides that regionally significant farmland can be used for urban purposes if identified in an existing local strategy approved between December 1994 and December 2004. The land was identified for urban investigation in the Ballina Urban Release Strategy 2000 which was approved in July 2000 and subsequently included in the FNCRS in 2006. The inconsistency of the proposal is considered to be justified in accordance with the terms of the direction as the land is identified for residential purposes in an approved strategy and the FNCRS.

The proposal is otherwise consistent with S117 Directions.

Environmental social
economic impacts :

An ecological assessment has not yet been undertaken for the subject land. Council has indicated that this will be required after a Gateway determination has been issued. Given that the land is already developed for rural residential purposes, this approach is considered to be appropriate and it is not expected that the proposal will have an adverse impact on critical habitat or threatened species, populations or ecological communities or their habitats.

The subject land is not flood prone and is not located within a drinking water catchment. The land is not bush fire prone nor subject to acid sulfate soils.

The proposal will have a positive economic and social impact through the release of land for residential development. The land is located on the edge of the Lennox Head urban area and will ensure residents can connect to existing social and community services in the Lennox Head Township. The location of the land is such that the extension of services and infrastructure is expected to be viable to service future development of the land. The adequacy of existing infrastructure is intended to be examined after a Gateway Determination is issued.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	14 Days
Timeframe to make LEP :	12 months	Delegation :	RPA
Public Authority Consultation - 56(2)(d) :	Office of Environment and Heritage		

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons : **It is also recommended that consultation be undertaken with the local Aboriginal land council.**

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

Flora

Fauna

Heritage

Flooding

Other - provide details below

If Other, provide reasons :

The planning proposal identifies that no site investigations to inform the proposal have yet been conducted. Council has advised that the following assessments will be required:

- **Coastal zone and visual amenity impacts;**
- **European and aboriginal heritage;**
- **Ecological assessment;**
- **Geotechnical assessment;**
- **Land contamination;**
- **Land use conflict;**
- **Mosquito hazard;**
- **Road noise impacts;**
- **Engineering services and stormwater management;**
- **Traffic impacts;**
- **Obstacle limitation surface and ANEF assessment.**

Identify any internal consultations, if required :

No internal consultation required

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Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Planning Proposal Stoneyhurst Drive Precinct Lennox Head (Gateway).pdf	Proposal	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 1.2 Rural Zones
- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 2.2 Coastal Protection
- 2.3 Heritage Conservation
- 2.4 Recreation Vehicle Areas
- 3.1 Residential Zones
- 3.2 Caravan Parks and Manufactured Home Estates
- 3.3 Home Occupations
- 3.4 Integrating Land Use and Transport
- 3.5 Development Near Licensed Aerodromes
- 4.2 Mine Subsidence and Unstable Land
- 5.1 Implementation of Regional Strategies
- 5.3 Farmland of State and Regional Significance on the NSW Far North Coast
- 6.1 Approval and Referral Requirements
- 6.2 Reserving Land for Public Purposes

Additional Information : It is recommended that the planning proposal should proceed subject to the following;

1. The planning proposal proceed as a 'routine' planning proposal.
2. Prior to community consultation the following site investigations are to be undertaken and included with the planning proposal for community consultation.
 - a. European and aboriginal heritage;
 - b. Ecological assessment;
 - c. Geotechnical assessment;
 - d. Land contamination;
 - e. Land use conflict;
 - f. Mosquito hazard;
 - g. Road noise impacts;
 - h. Engineering, Infrastructure and services and stormwater management;
 - i. Traffic impacts;
 - j. Obstacle limitation surface and ANEF assessment; and
 - k. Coastal zone and visual amenity impacts.
3. Once the site investigations and consultation with the relevant Commonwealth aviation authorities are completed, and prior to community consultation, Council is to review the consistency of the proposal with S117 Directions 2.1 Environmental Zones, 2.3 Heritage Conservation and 3.5 Development Near Licensed Aerodromes, and amend the planning proposal if necessary. The agreement of the Secretary of the Department of Planning and Environment is to be obtained for any inconsistency with these directions prior to the plan being made.
4. A community consultation period of 14 days is necessary.
5. The planning proposal is to be completed within 12 months.

6. The RPA is to consult with the following State agencies and organisations;
* The NSW Office of Environment and Heritage;
* The local Aboriginal land council in relation to matters of Aboriginal cultural heritage.

7. A written authorisation to exercise delegation be issued to Ballina Shire Council.

8. A delegate of the Secretary agree that the inconsistency of the proposal with S117 Directions 1.2 and 5.3 are justified in accordance with the terms of the directions.

Supporting Reasons :

The reasons for the recommendation are as follows;

1. The proposal will contribute to the identified demand for further residential development in the Ballina Shire Growth Management Strategy 2012.
2. The land is relatively unconstrained and has been identified as generally suitable for residential development through the strategic planning process.
3. The proposal is consistent with the strategic planning framework and the inconsistencies are considered to be of minor significance.

Signature:



Printed Name:

26 May 2016

Date:

Craig Diss