

Rezoning Lot 12 DP 813210, Tara Downs, Lennox Head for residential purposes

Proposal Title : **Rezoning Lot 12 DP 813210, Tara Downs, Lennox Head for residential purposes**

Proposal Summary : **The proposal seeks to rezone Lot 12 DP 813210, 16 Tara Downs at Lennox Head from RU1 Primary Production to R2 Low Density Residential and to consider an appropriate minimum lot size for the land.**

The planning proposal will require an amendment to Ballina LEP 2012 Zoning and Lot Size Maps to illustrate the new residential zone proposed.

PP Number : **PP_2014_BALLI_004_00** Dop File No : **14/07403**

Proposal Details

Date Planning Proposal Received : **01-May-2014** 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 : **16 Tara Downs**

Suburb : **Lennox Head** City : Postcode : **2478**

Land Parcel : **Lot 12 DP 813210**

DoP Planning Officer Contact Details

Contact Name : **Jenny Johnson**

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RPA Contact Details

Contact Name : **Klause Kerzinger**

Contact Number : **0266861201**

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

DoP Project Manager Contact Details

Contact Name : **Jim Clark**

Contact Number : **0266416604**

Contact Email : **Jim.Clark@planning.nsw.gov.au**

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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) :	1.00	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	0	No. of Dwellings (where relevant) :	5
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's Code of Practice in relation to communication 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 :	Northern Region has not met any lobbyists in relation to this proposal, nor has Northern Region been advised of any meetings between other department officers and lobbyists concerning this proposal.		

Supporting notes

Internal Supporting Notes :

External Supporting Notes : Due to the need to undertake further studies relating to land constraints prior to exhibition, a minimum lot size is not proposed at this stage. Given the surrounding land use and size of the subject lots, it is expected that a minimum of five to six additional lots with dwelling eligibility will be created.

Adequacy Assessment

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

Is a statement of the objectives provided? Yes

Comment : The statement of objectives adequately describes the intention of the planning proposal. The proposal seeks to rezone Lot 12 DP 813210, Tara Downs, Lennox Head from rural to residential to reflect the urban nature of the neighbouring land and set an appropriate minimum lot size to enable the land to be utilised for residential development.

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 proposes to rezone Lot 12 DP 813210 from RU1 Primary Production to R2 Low Density Residential, as it is a natural extension to the 'Tara Downs' residential area. The size of the agricultural lot is not conducive for intensive agricultural activities and would raise significant land use conflict issues with the neighbouring residential estate.

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A minimum lot size has not been specified at this stage. Given the surrounding land use, size and physical constraints of the subject lot, it is expected that a minimum lot size of 1200m² would likely be adopted (pending further investigation).
This is the best means of achieving the intent of the objectives.

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

1.2 Rural Zones

* May need the Director General's agreement

1.5 Rural Lands

2.1 Environment Protection Zones

4.1 Acid Sulfate Soils

4.4 Planning for Bushfire Protection

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 14—Coastal Wetlands

SEPP No 26—Littoral Rainforests

SEPP No 55—Remediation of Land

SEPP No 71—Coastal Protection

SEPP (Rural Lands) 2008

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

A number of studies are required to be completed prior to exhibition. The studies are to assist Council to determine an appropriate minimum lot size for the site. Council is required to ensure that the proposed minimum lot size is resolved prior to exhibition and clearly stated in the exhibition documents.

The Lennox Head Structure Plan identified this subject site as suitable to accommodate future urban development and recommends a minimum lot size of 1200m², due to site constraints. However the lots in the surrounding residential estate are a notably smaller 600m². Council should take this recommendation into consideration along with the proposed detailed studies when determining an appropriate minimum lot size for the site.

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

If No, explain :

See the assessment section of this report.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

The proposal includes mapping which adequately shows the land which is affected by the proposed amendment.

Amendment to the Strategic Urban Growth Area map is also proposed, as illustrated, to remove the subject site if the rezoning proceeds.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

The planning proposal did not specify a preferred exhibition period. The planning proposal is classed as a low impact proposal as the rezoning is supported by both Council and State Government strategies. An exhibition period of 28 days is considered adequate for the proposal.

Additional Director General's requirements

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

If Yes, reasons :

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Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? Yes

If No, comment :

The planning proposal satisfies the adequacy criteria by:

- 1) Providing appropriate objectives and intended outcomes
- 2) Providing a suitable explanation of the provisions for the LEP to achieve the outcomes.
- 3) Providing an adequate justification for the proposal.
- 4) Allowing for a suitable proposed community consultation program.
- 5) Completing an evaluation for the issuing of an authorisation to exercise delegation. Delegation is acceptable in this instance.
- 6) Providing a time line for the completion of the proposal. Council has suggested a time line of nine months, which is acceptable.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP :

The Ballina LEP 2012 was made in January 2013. The planning proposal seeks an amendment to the Ballina LEP 2012.

Assessment Criteria

Need for planning proposal :

The planning proposal is a result of the Ballina Shire Growth Management Strategy (GMS) and the Lennox Head Structure Plan (LHSP) 2004, identifying a number of sites suitable for residential development.

The GMS identified the subject site as a 'strategic urban growth area'.

The LHSP identified low density housing as the preferred urban land use. The structure plan identified the subject site as suited to accommodate future urban development subject to detailed environmental assessment (which is proposed after an approved Gateway determination).

The land is also located within the Town and Village Growth Area as identified in the Far North Coast Regional Strategy (FNCRS).

Each of these reports support the option of rezoning the land from primary production to a more suitable residential zoning.

The surrounding area is predominantly residential development and Council owned open space. If the land was to remain as RU1 it is unlikely to be profitable as an agricultural enterprise (1ha size lot) and would raise serious land use conflicts. A residential zone is the most suitable zoning for this area.

The rezoning of the subject site and amendments to the zoning and lot size maps are the most appropriate means of achieving the desired outcomes for the proposal. The rezoning will allow for the area to be developed for low density residential that will cater to all levels of the existing and future Lennox Head community.

Additional housing that will occur as a result of the rezoning proposal will contribute to Council's housing targets as set by the FNCRS.

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Consistency with strategic planning framework :

The rezoning for residential purposes is consistent with the Lennox Head Structure Plan (LHSP) 2004, the Ballina Shire Growth Management Strategy (GMS) 2012 and the Far North Coast Regional Strategy (FNCRS), where the site is mapped within the Town & Village Growth Boundary.

The proposal is consistent with most of the SEPPs that apply to the LGA.

SEPP (Rural Lands) principles aim to minimise effects to rural land including reducing fragmentation of rural land, land use conflict issues and maintaining existing and future agricultural holdings. The subject site is of a small size (1.4ha) which would be unlikely to sustain large agricultural activities in the future and has the potential to create land use conflict due to the close proximity to the existing residential development. There is also no adjoining cleared agricultural land due to the previous approved subdivisions, which has produced Lot 12, as a small fragmented rural lot. Although the proposal may be inconsistent with the overall aim of the SEPP, the subject site is unable to satisfy the rural land principles in its current state and therefore should be considered for low density residential development.

The planning proposal is inconsistent with s117 Directions 1.2 Rural Zones, 1.5 Rural Land, 2.1 Environment Protection Zones, 4.1 Acid Sulfate Soils and 4.4 Planning for Bushfire Protection.

The following Directions warrant consideration.

1.2 Rural Zones

The planning proposal is not considered to be consistent with this direction as it is proposed to rezone land from a rural zone to a residential zone. The inconsistency is justified because the rezoning is in accordance with a strategy (Ballina GMS) which was endorsed by the then Director General and gives consideration to the objectives of this direction. The FNCRS identifies the area as within the Town & Village Growth Boundary. The rezoning will allow this area to be developed for residential development, which is consistent with the objectives of the FNCRS.

1.5 Rural Land

The planning proposal is not considered to be consistent with this direction as it will affect land within an existing or proposed rural zone. The existing land use zone is RU1 Primary Production. The provisions that are inconsistent are justified by a strategy (Ballina GMS) that gives consideration to this direction, and was approved by the then Director General. The land is located within the Lennox Head urban area and has limited agricultural productive values (1ha size lot).

2.1 Environment Protection Zones

The planning proposal is not considered to be consistent with this direction as the proposal does not include provisions that facilitate the protection and conservation of environmentally sensitive areas (SEPP 14 Wetland within 100m of the subject site) and cannot include these provisions until the additional studies (Stormwater Management) have been completed. Therefore the proposal is currently inconsistent with the direction. Once the studies have been completed the inconsistency (if identified in the study as unlikely to cause significant impacts) may be assessed as of minor significance. Environmental zones do not currently apply in Ballina LGA pending completion of the E zone review.

4.1 Acid Sulfate Soils (ASS)

The planning proposal is not considered to be consistent with this direction as the proposal is suggesting intensification of the land identified as containing ASS. The subject land is identified on the Ballina LEP Acid Sulfate Soil Map as containing Class 5 ASS. The inconsistency is justified by the existence of clause 7.1 Acid Sulfate Soils and the Acid Sulfate Soils map in the Ballina LEP 2012, which addresses how intensive development is managed in ASS affected areas.

4.4 Planning for Bushfire Protection

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Environmental social
economic impacts :

The direction requires that Council consult with the Commissioner of the NSW Rural Fire Service. This consultation has not yet occurred which makes the proposal inconsistent with the s117 Direction 4.4 Planning for Bushfire Protection direction. It is considered that the planning proposal will not raise significant issues in regard to this rezoning. If written advice is obtained from the Commissioner of the NSW Rural Fire Service and has no objection to the progression of the proposal then the inconsistency may be assessed as of minor significance.

The Council has indicated that it will consult with the NSW Rural Fire Service following Gateway determination.

The site has a number of environmental constraints that may affect how much of the land can be utilised for residential development. A number of additional studies will be completed (post Gateway) to determine the likely impacts on the environment.

Issues include the presence of SEPP 14 Wetland within 100 m of the site. Run-off and stormwater may have an impact on this wetland.

SEPP 26 Littoral Rainforest is in close proximity to the subject site but is not thought to be of particular concern as the site is outside the buffer zone of the sensitive vegetation.

Hairy Joint Grass (vulnerable species) was located on site during a study completed in 2008. A flora and fauna assessment will be required to determine the potential impacts on these types of species and how these impacts can be managed.

The western section of the subject land has been designated as being susceptible to land slip and will require a assessment to ensure no residential development is proposed on these affected areas.

These additional studies are required to be completed prior to exhibition and become part of the exhibition material with the planning proposal.

The rezoning proposal potentially has an economic benefit due to the job opportunities that will arise during construction of residential development and the flow-on effect within the community of an increase in revenue to the local businesses and area.

Assessment Process

Proposal type : **Routine** Community Consultation Period : **28 Days**

Timeframe to make LEP : **9 months** Delegation : **RPA**

Public Authority Consultation - 56(2) (d) : **NSW Rural Fire Service**

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

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

If no, provide reasons :

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

If Yes, reasons :

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Identify any additional studies, if required. :

Flora

Fauna

Other - provide details below

If Other, provide reasons :

Landslip Assessment: the western section of the subject land has been designated as being susceptible to land slip. This issue has ramifications when determining minimum lot size and Council will need further assessment on this issue to ensure the susceptibility is considered when nominating minimum lot sizes.

There are a number of other studies that Council have highlighted to be undertaken, including bushfire threat, stormwater management, contaminated assessment and mosquito assessment. These are not all recommended to be made a 'Condition of Gateway' as they are primarily related to development assessment and can be completed at a later date. They will not determine the numbered allotments to be released and they are not critical for the planning proposal to proceed.

Identify any internal consultations, if required :

No internal consultation required

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

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Ballina Shire Council_01-05-2014_LEP 2012 Amendment Lot 12 DP 813210 16 Tara Downs Lennox Head - s56_.pdf	Proposal Covering Letter	Yes
2014-05-02 Planning Proposal.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**
- 4.1 Acid Sulfate Soils**
- 4.4 Planning for Bushfire Protection**

Additional Information :

It is recommended that:

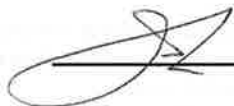
- 1) The planning proposal should proceed as a routine planning proposal;**
- 2) The Secretary (or an officer nominated by the Secretary) agrees that the inconsistencies with s117 Directions 1.2 Rural Zones, 1.5 Rural Lands and 4.1 Acid Sulfate Soils are justified and accept that inconsistency with Direction 2.1 Environment Protection Zones will be resolved prior to exhibition once the additional studies are completed and with 4.4 Planning for Bushfire Protection will be resolved through consultation prior to exhibition with the NSW Rural Fire Service ;**
- 3) Prior to undertaking public exhibition, Council complete:**
 - **Flora and Fauna Impact Assessment; and**
 - **Landslip Assessment****to support the planning proposal and aid Council's assessment of setting a appropriate minimum lot size for the land. This material should be placed on public exhibition with the planning proposal;**
- 4) That the planning proposal be considered as low impact and exhibit the planning proposal for a period of 28 days;**
- 5) The planning proposal be completed in 9 months;**
- 6) Delegation to finalise the planning proposal be issued to Ballina Shire Council.**

Supporting Reasons : **The planning proposal to rezone Lot 12 DP 813210 from rural to residential in accordance with the Local Growth Management Strategy is appropriate to proceed.**

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The issue of delegation to Council to finalise the planning proposal is appropriate in this instance.

Signature:



Printed Name:

JIM CLARK

Date:

9 May 2014