

Ballina LEP - Teven Road, West Ballina, Transport and Logistics Precinct

Proposal Title : **Ballina LEP - Teven Road, West Ballina, Transport and Logistics Precinct**

Proposal Summary : **Amendment to Schedule 1 Additional Permitted Uses and associated maps of the Ballina Local Environmental Plan 2011, to permit freight transport facility, and warehouse and distribution centre on land located at Teven Road, West Ballina (Lots 2 and 3 DP 749680, Lot 5 DP 1031875, Lots 227, 228 and 229 DP 1121079 and Lot 12 DP 1011575)**

PP Number : **PP_2014_BALLI_001_00** Dop File No : **14/06157**

Proposal Details

Date Planning Proposal Received :	01-Apr-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 : **Teven Road**

Suburb : **West Ballina** City : Postcode : **2478**

Land Parcel : **Lots 2 and 3 DP 749680, Lot 5 DP 1031875, Lots 227, 228 and 229 DP 1121079 and Lot 12 DP 1011575**

DoP Planning Officer Contact Details

Contact Name : **Katrina Burbidge**

Contact Number : **0266416606**

Contact Email : **katrina.burbidge@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Klaus 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**

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

Ballina LEP - Teven Road, West Ballina, Transport and Logistics Precinct

MDP Number :

Date of Release :

Area of Release
(Ha) : 17.00Type of Release (eg
Residential /
Employment land) :**Employment Land**

No. of Lots : 0

No. of Dwellings
(where relevant) : 0

Gross Floor Area : 0

No of Jobs Created : 300

The NSW Government
Lobbyists Code of
Conduct has been
complied with : **Yes**

If No, comment :

Have there been
meetings or
communications with
registered lobbyists? : **No**

If Yes, comment :

Supporting notesInternal Supporting
Notes : **The Planning Proposal has been sent to the panel due to potential traffic impacts to the Pacific Highway and likely inconsistencies with the 117 directions.**External Supporting
Notes : **Nil****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 amend Schedule 1 Additional Permitted Uses and associated maps of the Ballina Local Environmental Plan 2012 to permit freight transport facility, and warehouse and distribution centre on land located at Teven Road, West Ballina. This will enable a development application for these uses to be assessed on its merits.****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 planning proposal seeks to amend Schedule 1 Additional Permitted Uses and include a supplementary Additional Permitted Uses map. The additional uses include a freight transport facility, and warehouse and distribution centre.****No change to minimum lot size provisions or any other provision of the LEP is proposed.****Justification - s55 (2)(c)**a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

1.1 Business and Industrial Zones**1.2 Rural Zones**

* May need the Director General's agreement

1.5 Rural Lands**2.2 Coastal Protection**

- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 6.3 Site Specific Provisions

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 No 71—Coastal Protection
SEPP (Infrastructure) 2007
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? **No**

If No, explain : **Refer to the assessment section of this report.**

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **The proposal includes mapping which adequately shows which properties are affected by the proposed amendments.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **The planning proposal suggests a 28 day consultation period. The proposal is not considered to be a low impact proposal since the proposal may be considered a sensitive land use. A 28 day consultation period is considered to be adequate.**

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 :

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.**

Time Line

The planning proposal includes a project timeline which estimates the completion of the planning proposal in November 2014. To ensure the RPA has adequate time to complete exhibition (for a period of 28 Days), reporting, map preparation and legal drafting it is recommended that a time frame of 9 months is appropriate from the week following the Gateway determination.

Delegation.

Council has indicated it is prepared to accept 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 consistent with the strategic planning framework and of local planning significance. It is recommended that an Authorisation for the execution of delegation be issued.

Proposal Assessment

Principal LEP:

Due Date :

Comments in
relation to Principal
LEP :

The Ballina Local Environmental Plan 2012 commenced in February 2013. This planning proposal seeks an amendment to the Ballina LEP 2012.

Assessment Criteria

Need for planning
proposal :

The planning proposal is not a result of any strategic study or report. The proposal is a result of Ballina Council's support of an application for an LEP amendment by the proponent to permit with consent freight transport and logistics related industries on the site.

The subject site is approximately 17 ha in size. The current land uses on the site include timber processing, mechanical repairs, bulk landscaping products, storage premises as well as agriculture. The site is cleared of any significant vegetation and filling has been approved and commenced.

The subject site is currently zoned RU2 Rural Landscape under Ballina LEP 2012 in which freight transport facilities, and warehouse and distribution centres are prohibited. The site is located directly adjacent to the Pacific Highway and Bruxner Highway interchange and has access to Teven Road. Teven Road has direct access to the Pacific Highway Interchange.

The subject site is adjacent to land subject to Schedule 1 Additional Permitted Uses under the Ballina LEP 2012, known as Area C. Area C is located on the western side of the Ballina Pacific Highway Bypass alignment at the Teven Road interchange, and is listed on Schedule 1 for the purpose of permitting with consent a highway service centre.

As a result of a previous Council resolution, Council developed a Site Selection Investigation for Freight Transport Facilities, Warehousing and Distribution Centres. The report examined the demand for transport logistics and evaluated the suitability of several sites within the Ballina LGA. Six sites were examined using a set of criteria and were ranked in accordance with the evaluation tool. The report concluded the site had a 'fair' suitability ranking subject to the resolution to flooding constraints and traffic impacts. However, the report stated that if the site was rezoned it would receive a 'good' suitability ranking. The report concluded the subject site was the most suitable site examined due to its proximity to the Pacific Highway and lack of available zone industrial land.

Council has suggested the use of Schedule 1 Additional permitted uses rather than an additional permissible use in the RU2 Rural Landscape zone or an industrial zone. The Site Selection Investigation report did consider including the permissibility of the land uses in the RU2 Rural Landscape zone. However, changing the permissible uses under this zone would allow a sensitive land use to be permissible in areas not generally acceptable. Whilst it is acknowledged that the development consent process would consider issues such as land use conflicts, the expectations of many land owners would be raised in areas which consent would unlikely be approved.

Both the planning proposal and the Site Selection Investigation report were silent on the application of rezoning the site to industrial purposes where these land uses are permissible. It is concluded that due to the proximity of Area C (additional permitted use no. 3); the subject site would essentially form an extension to the proposed highway service centre. In addition rezoning the site to industrial would also provide for a large number of uses that are not required or appropriate on this site.

Council in its report preferred the amendment of Schedule 1 as it would clearly identify the land uses proposed for the site. For the circumstances, the use of schedule 1 is justified.

Consistency with strategic planning framework :

Far North Coast Regional Strategy (FNCRS):

The proposal is not inconsistent with the FNCRS. Ballina is identified as a 'Developing Major Regional Centre' in the FNCRS and the site is located outside urban and employment lands growth boundaries. The strategy states that certain industries will need to be located away from existing urban centres due to their type, scale and nature. Given the proposed use as a transport and logistic area, its inherent nature (large transport trucks entering and exiting the site) would be more suitable away from urban areas as per the actions in the FNCRS. An additional action within the FNCRS states that a highway service centres may be located beside the Pacific Highway at Ballina. This action relates specifically to the adjacent site.

Actions identified in the FNCRS include supporting additional employment opportunities, protection of the environment, reduction in land use conflicts and the management of risks such as flooding and bushfire within the Region. The planning proposal is consistent with the actions presented in the FNCRS due to the following.

Employment growth: The proposal will provide additional employment opportunities. It is unknown how many Equivalent Full Time (EFT) positions will be the result of a rezoning. However, it is likely up to 300 jobs may be provided given the size of the site (17 ha). The employment that will be generated by the proposed suite of uses will be a positive effect for the local and regional economy. The planning proposal will ensure a productive use of the site.

Environment: The subject site is substantially cleared from vegetation.

Avoidance of risks: The site has been identified as affected by 1:100 ARI, is mapped as Class 2 Acid Sulfate Soils and is affected by Bushfire Prone Land. In addition the site has also been affected by geotechnical constraints. These hazards are discussed further below.

Protection of Agricultural land: Given the nature of the existing development on the site and the location of the site, the proposal is unlikely to create impacts which would compromise the agricultural use of regionally significant land or result in a direct loss of agricultural productivity.

Therefore in terms of the above the planning proposal is consistent with the Far North Coast Regional Strategy.

Consistency with Council's Local Strategies

The RPA has prepared the Ballina Growth Management Strategy which provides a framework for managing growth in the Ballina Shire. While the site is not specifically mentioned as a potential employment growth area one of the actions for West Ballina states, 'Establish the area along the existing Pacific Highway as a location for innovative and mixed business activity (but not for retail purposes).' The subject site is located adjacent to the proposed highway service centre site and the Pacific Highway and therefore could be consider complementary business activity and consistent with this action. The Proposal is therefore not inconsistent with the Ballina Growth Management Strategy.

SEPPs

The planning proposal has identified, SEPP (Infrastructure) 2007, SEPP No 55 – Remediation of Land, SEPP 71 -Coastal Protection and SEPP (Rural Lands) 2008.

The planning proposal does not identify any inconsistencies with these SEPPs

SEPP (Infrastructure) 2007:

Under Clause 104 (Traffic Generating Development), a future development application (should the planning proposal be agreed) should be referred to RMS prior to the determination of the application because the 'new premises' on the site has direct vehicular or pedestrian access to a road. It is classified under Schedule 3 as Freight

intermodal facilities and freight terminal and has vehicular access to the Pacific Highway.

The Planning Proposal includes previous consultation with RMS. In its letter RMS states there are 'potentially significant traffic issues for the Teven Road Interchange with the Pacific Highway'. RMS has stated that a detailed traffic study will need to be undertaken which needs to consider the operation of the Teven Road Interchange. Given the correspondence received from RMS, it is therefore recommended a traffic study is completed prior to public exhibition of the planning proposal.

SEPP 71: Coastal Protection: the subject site is located in the coastal zone. The SEPP requires 'Matters for Considerations' (clause 8) to be taken into account for any planning proposal. The proposal concluded the development on the site will not have detrimental impact on the amenity of the coastal foreshore; coastal processes and no scenic qualities will be impacted. It is therefore considered that the proposal is not inconsistent with the provisions in SEPP 71.

SEPP No 55 – Remediation of Land: The SEPP requires preliminary investigation of the potential for contamination to be conducted before land is rezoned to a change of use. As the current uses could have potential land contamination (the site is currently used for timber and bulk landscaping supplies), under Clause 6 of the SEPP, the planning authority will need to consider if the land is contaminated. However, any impact would be addressed in the development application process and subject to the provisions in SEPP No 55.

SEPP (Rural Lands) 2008: The SEPP contains Rural Planning Principles which are relevant to the planning proposal. The planning proposal does not state if there is any intention to further subdivide the site. The subject site is not of State or regional agricultural significance. There are minimal agricultural uses on the site and the site is separated from surrounding agricultural land by the Pacific Highway and Teven Road, thereby providing a buffer area. However, further investigation will need to establish whether these are adequate buffer distances between the proposed use and neighbouring agricultural activities thereby protecting current and future opportunities for productive agricultural pursuits. The provision of a freight transport facility is an important consideration for the economy of the region. It is considered that the proposal is not significantly inconsistent with the rural planning principles of the SEPP.

The planning proposal is consistent with the identified SEPP's as explained above.

S117 Directions

The planning proposal identified the following 117 directions as applicable 1.2 Rural Zones, 1.5 Rural lands, 2.2 Coastal Protection, 4.1 Acid Sulfate Soils, 4.3 Flood Prone Land 4.4 Planning for Bushfire Protection, 5.1 Implementation of Regional Strategies, 6.3 Site Specific Provisions. Directions 1.1 Business and Industrial Zones is also relevant to the Planning Proposal.

Of the above s117 Directions the proposal is inconsistent with Directions 1.1, 1.2, 4.1, 4.3 and 4.4.

Directions 1.1 Business and Industrial Zones is relevant to the planning proposal as it creates a new employment area which is not consistent with a strategy approved by the Director General (the FNCRS). The planning proposal does not give consideration to the objectives of this direction and states that the direction does not apply.

An objective of this direction is to protect existing employment lands and to encourage growth in suitable locations. The planning proposal was supported by a Site Selection Investigation, which supports the location on the highway and away from the main urban areas due to the large truck movements likely to occur. The study also concluded that existing IN1 zones within Ballina are not suitable for transport logistics due to the limited land and the proximity to the highway. Therefore, the inconsistency with this direction is

considered to be justified.

Direction 1.2 Rural Zones provides that a planning proposal must protect the agricultural production value of rural land. While the planning proposal does not rezone land it has requested uses that are not agricultural in its nature. The site is separated from surrounding agricultural uses to the west by Teven Road and to the east by the Pacific Highway. The proposed uses are specialised and complementary to the location of the Pacific Highway. The impact on rural land is considered minor. On balance the inconsistency with the direction is justified and minor in nature.

Direction 1.5 Rural Lands is relevant to the proposal as it will affect land in a rural zone. The direction states that a planning proposal shall be consistent with the Rural Planning Principles of the SEPP (Rural Lands) 2008. As discussed previously in this report, it is considered that the proposal is not significantly inconsistent with the rural planning principles of the SEPP.

Direction 4.1 Acid Sulfate Soils is relevant to the proposal. The direction provides that a draft plan shall not permit the intensification of land containing acid sulfate soils unless a study of the land assessing its suitability has been conducted. The subject land contains class 2 acid sulfate soils (ASS). The proponent has not prepared an acid sulfate soil study to support the proposal. The planning proposal states there will not be an intensification of any land use and therefore will not trigger a study to be completed for the proposal. However, the freight transport facility, and warehouse and distribution centre are considered an intensification of the existing land uses. Development is unlikely to have any significant impact on acid sulfate soils and any impact would be addressed in the development application process and subject to the provisions in the acid sulfate soils clause of the Ballina LEP. The inconsistency with this direction is considered to be of minor significance.

Direction 4.3 Flood Prone Land is relevant to the proposal. The direction provides that a draft plan must not contain provisions which permit a significant increase in the development of flood prone land. The proposal seeks to permit the development of the land for freight transport facility, and warehouse and distribution centre. The proposal states that the freight transport facility, and warehouse and distribution centre will be located on land which within the 1:100 year flood level and the site has been identified as a flood planning area under Ballina LEP 2012. In addition, consent for filling has been issued on several of the lots. It is not clear the effect of the fill on water displacement and flood behaviour. An investigation into the flooding issues and the potential for the site to be isolated in a flood event has not been conducted.

The site is subject to the flood planning controls under the Ballina LEP 2012. Council considers that the risk of flooding and mitigation measures should be addressed prior to community consultation being undertaken once the gateway has been issued. The direction states that the proposal may be inconsistent with the direction if the proposal is consistent with a floodplain management plan or the inconsistencies are of minor significance. It is considered that the inconsistency of the proposal with the direction cannot be determined until the flooding investigations are completed.

Direction 4.4 Planning for Bushfire Protection is relevant to the planning proposal as the land is identified as being bush fire prone. The direction provides that the RPA must consult with the Commissioner of the NSW Rural Fire Service after the Gateway determination is issued. Consultation with the RFS is therefore required and until this consultation has occurred the inconsistency of the proposal with the direction remains unresolved.

Environmental social
economic impacts :

Environmental Impacts

The majority of the subject land is cleared rural land used for several land uses such as timber processing, mechanical repairs, bulk landscaping products, storage premises as well as agriculture and has been disturbed by prior activities. The planning proposal will not have any direct adverse impact on critical habitat or threatened species, populations or ecological communities, or their habitats. However, there are a number of environmental issues which could impact the development potential of the land, including

Ballina LEP - Teven Road, West Ballina, Transport and Logistics Precinct

flooding, acid sulphate soils and bushfire. As stated above further consultation and studies will need to be completed on the impact of these issues.

Economic Impacts

The planning proposal suggests that the economic impacts will be positive as employment will be generated due to the establishment of a new enterprise within the LGA.

Social Impacts

The planning proposal has given consideration to social impacts and states the proposal will have positive social impacts through increased employment. The closest dwelling from the site is over 700m south and the site is buffered by the Pacific Highway and Teven Road therefore noise impacts are unlikely. There will be an increase in traffic movements which may cause some social impacts. However, as stated above this will be assessed in greater detail through a traffic study. Therefore it is unlikely there will be significant social impacts as a result of the planning proposal.

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 Transport for NSW - Roads and Maritime Services		

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 :

Identify any additional studies, if required. :

Bushfire

Flooding

Other - provide details below

If Other, provide reasons :

Traffic

See assessment section of this report for the reasons for these additional studies

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
--------------------	-------------------	-----------

Planning Team Recommendation

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

S.117 directions:

- 1.1 Business and Industrial Zones
- 1.2 Rural Zones
- 1.5 Rural Lands
- 2.2 Coastal Protection
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 6.3 Site Specific Provisions

Additional Information :

It is recommended that;

1. The planning proposal should proceed as a minor planning proposal.
2. The planning proposal is to be completed within 9 months.
3. That a community consultation period of 28 days is necessary.
4. It is recommended that a delegate of the Director General agree that the inconsistency of the proposal with S117 Directions 1.1, 1.2, 1.5, and 4.1 are justified in accordance with the provisions of the directions.
5. That the RPA, consult with the NSW Roads and Maritime Services prior to public exhibition of the planning proposal and as per previous correspondence with NSW Roads and Maritime Services, a traffic study is to be undertaken and the planning proposal amended in accordance with any comments received.
6. That Council note that the inconsistency with Direction 4.3 Flood Prone Land has not been justified at this stage and a flood investigation is to be undertaken prior to public exhibition of the planning proposal and the planning proposal should be amended accordingly.
7. As required by S117 Direction 4.4, prior to public exhibition of the planning proposal consultation with the NSW Rural Fire Service is to be undertaken and the planning proposal amended in accordance with any comments received.
8. A written authorisation to exercise delegation is issued to Ballina Shire Council in this instance to enable Council to make the plan.

Supporting Reasons :

The planning proposal aims to permit additional uses with development consent on the subject site for a transport logistics land uses. In addition, the subject site is isolated and the proposed use is complementary to the existing quarry.

Therefore the reasons for the recommendation are as follows;

1. The proposed amendments provides for additional employment land which is consistent with the actions of the FNCRS however the site requires further investigation to confirm it is appropriate for such a development.
2. The inconsistencies of the proposal with the strategic planning framework are either of minor significance or require further investigation to assess the extent of the inconsistency.

Signature:



Printed Name:

JIM CLARK

Date:

4 April 2014