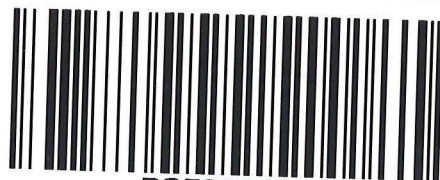


enquiries refer
Karina Vikstrom

in reply please quote
LEP Amend 90



PGF000429



19 July 2010

Regional Director
Department of Planning
Locked Bag 9022
GRAFTON NSW 2460

Received

20 JUL 2010

North Coast

Dear Sir

Re: Proposed Rezoning of the Stewart Farm, Skennars Head
Your Reference: G04/00045

I refer to ongoing correspondence concerning the above matter as well as the Department's letter dated 16 March 2010 concerning the Savings and Transitional Provisions in relation to the processing of Local Environmental Plans.

Draft Amendment No. 90 to the *Ballina Local Environmental Plan 1987* relates to the property commonly referred to as the Stewart Farm at Skennars Head. Council planning and negotiations on the possible rezoning of this site have been underway since 2005. This work has involved the following interrelated matters:

- Draft Local Environmental Plan (LEP);
- Draft Local Environmental Study (LES);
- Draft Voluntary Planning Agreement (VPA);
- Major Project Concept Plan (MP07_0009) and Project Plan; and
- Draft Development Control Plan.

Work on the Draft LES is largely complete and concludes that parts of the site appear suited to urban development, provided that the outcomes proposed by the applicant for inclusion in the VPA are delivered. Unfortunately, there are a number of complexities surrounding the negotiations between the owner of the subject land, the rezoning proponent and Council with respect to the VPA. Until such time as these are resolved, Council is not in a position to recommend that the project proceed to public exhibition. At this time, it appears unlikely that the draft LEP will be finalised by 1 January 2011.

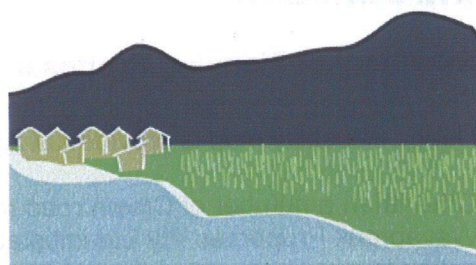
Accordingly, please find **enclosed** a Planning Proposal for the consideration of the Gateway so that the LEP amendment can be transferred into the current Part 3 process.

I look forward to the Gateway's favourable response on this matter. Should you have any queries, I can be contacted on telephone 02) 6686 1406.

Yours faithfully

Karina Vikstrom
Strategic Planner
Strategic and Community Services Group

Encl: Planning Proposal - July 2010



Ballina Shire Council

Planning Proposal - July 2010

Amendment 90 to Ballina LEP 1987

The Stewart Farm, Skennars Head

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Introduction

Summary of Planning Proposal

This Planning Proposal applies to land commonly referred to as "the Stewart Farm" at Skennars Head. A locality map is provided at **Appendix 1**.

Other than a number of Crown road reserves, the subject land is owned by Dr and Mrs Stewart. Wavebreak Properties Pty Ltd initiated the rezoning request. It is understood that they have an option to purchase part of the subject site.

Pursuant to the *Ballina Local Environmental Plan 1987* the site currently contains land zoned:

- 1(b) Rural (Secondary Agricultural Land) Zone;
- 1(d) Rural (Urban Investigation) Zone;
- 7(a) Environmental Protection (Wetlands) Zone;
- 7(d) Environmental Protection (Scenic/Escarpment) Zone; and
- 7(f) Environmental Protection (Coastal Lands) Zone.

Appendix 2 includes information concerning the current zoning pattern and the formal property descriptions to which the Planning Proposal applies.

The Planning Proposal involves rezoning all land that is currently zoned 1(d) Rural (Urban Investigation). The proposed zones are:

- 2(b) Village Area Zone - for those parts of the site suitable for urban development;
- 1(b) Rural (Secondary Agricultural Land) Zone - for parts of the existing 1(d) areas not suitable for urban development and that do not have the environmental attributes suitable for an environmental protection zone;
- 7(a) Environmental Protection (Wetlands) Zone - to add to the existing 7(a) zoning to reflect the on-ground extent of wetland vegetation; and
- 7(d) Environmental Protection (Scenic/Escarpment) Zone - for land south of the proposed village area, to protect its scenic value.

A plan illustrating the proposed zones to be applied is contained in **Appendix 3**.

Planning History to Date

Council planning and negotiations on the possible rezoning of this site have been underway since 2005. This work has involved the following inter-related matters:

- Draft Local Environmental Plan;
- Draft Local Environmental Study;
- Draft Voluntary Planning Agreement;
- Major Project Concept Plan (MP07_0009) and Project Plan; and
- Draft Development Control Plan.

A brief summary of the status of each of these elements is provided below.

Draft Local Environmental Plan (Draft Amendment No.90 to BLEP 1987)

Council resolved at its Ordinary Meeting held on 14 December 2006 to commence the process of preparing a draft Local Environmental Plan (LEP) and supporting draft Local Environmental Study (LES) to facilitate a range of urban and environmental outcomes over the proposal area. The resolution and accompanying report are contained in **Appendix 4**.

Council notified the Department under Section 54 of the Act in a letter dated 18 December 2006. The Department's response dated 25 January 2007 directed that a LES be prepared for the site. Importantly, the Department also advised that *"the dedication of all of the 7(f) zoned land ... for addition to the adjoining Crown Reserve as part of the rezoning proposal negotiations is supported, to achieve State Government objectives for the land. This should occur now, as a condition of the rezoning being finalized, and not in a staged manner as indicated in the documentation presented"*. A copy of the Department's letter is provided at **Appendix 5**.

Council does not intend to proceed to exhibit the Draft LEP until such time as appropriate arrangements are in place to secure a range of outcomes recommended by the draft LES, including the above requirements of the Department.

Draft Local Environmental Study

A significant number of studies and investigations have been undertaken in respect to the proposal area, which have all been peer reviewed by a planning consultant engaged by Council. These studies and investigations form the basis of a draft LES which was completed in early 2009. In summary, the draft LES indicates that parts of the subject site appear to be suited for urban development in accordance with the framework proposed in the Planning Proposal, subject to suitable arrangements being in place to address a number of matters including:

- dedication of the land to the east and west of the Coast Road to the community;
- ensuring the revegetation of the inter-urban break on the southern part of the site; and
- Development Control Plan provisions to manage issues associated with road traffic noise, environmental buffers, protection of threatened species and management of storm water so as to not impact on the hydrology of the adjoining wetland.

A copy of the Executive Summary of the draft LES is provided at **Appendix 6**. Prior to exhibition, the draft LES will require some modification to reflect changes to the planning framework since it was prepared. It is envisaged that these amendments will be "housekeeping" in nature and will not influence the recommendations of the draft document. It is proposed that this work would be done immediately prior Council seeking a Section 65 Certificate to exhibit the Planning Proposal.

Voluntary Planning Agreement

The applicant has proposed that a number of public benefits will be delivered by way of a Voluntary Planning Agreement (VPA). Importantly, this includes the staged dedication of the private land located to the east of the Coast Road.

Council and the proponent have had a number of meetings to discuss the form and content of the draft VPA however there has been no significant engagement with Council on this matter since May 2009. It is understood that this delay is associated with negotiations between the rezoning proponent and the owners of the land. Once these negotiations have been resolved, the proponent will be in a position to further advance the VPA. In April 2010 the proponents advised that a revised VPA will be submitted to Council "in the near future".

Major Project Concept Plan and Project Plan

The proponents have lodged a Major Project Concept Plan (MP07 0009) with the Department of Planning over the subject land. This is being held in abeyance by the Department pending the outcomes of the draft LEP / LES preparation process. The proponents also advise that they intend to lodge a Project Plan application over Lot 2 DP 784864. It is understood the Department is supportive of exhibiting this major project application simultaneously with the exhibition of the draft LEP & LES. A copy of the indicative structure plan for the site is contained at **Appendix 7**.



Development Control Plan

The draft LES recommends that a number of issues, including stormwater management and road traffic noise be dealt with via a development control plan for the site. It is envisaged that the DCP will be based on documentation contained within the draft LES and will comprise part of the broader Ballina Shire Combined Development Control Plan 2006. It is proposed that this work would be done prior to public exhibition of the rezoning.

Part 1 - Objectives or Intended Outcomes

The objectives or intended outcomes of this Planning Proposal are to:

1. rezone part of the property known as the Stewart Farm at Skennars Head to enable its development for low to medium density residential purposes and local scale commercial activities;
2. rezone the portions of the site not suited to urban development to a range of rural and environmental protection zones reflective of the various environmental attributes applicable to these areas; and
3. ensure that robust arrangements are made for the dedication of land on the eastern side of the Coast Road for public recreation and access in accordance with the long term strategy for the Ballina - Lennox Head coastal corridor, prior to the rezoning of any land for urban purposes. Dedication of land along the property's frontage on the western side of the Coast Road is also envisaged as an outcome of the rezoning.

Part 2 - Explanation of the Proposal

This Planning Proposal applies to land commonly referred to as "the Stewart Farm" at Skennars Head. Pursuant to the *Ballina Local Environmental Plan 1987* the site currently contains land zoned:

- 1(b) Rural (Secondary Agricultural Land) Zone;
- 1(d) Rural (Urban Investigation) Zone;
- 7(a) Environmental Protection (Wetlands) Zone;
- 7(d) Environmental Protection (Scenic/Escarpment) Zone; and
- 7(f) Environmental Protection (Coastal Lands) Zone.

The Planning Proposal involves rezoning all land that is currently zoned 1(d) Rural (Urban Investigation). The proposed zones are:

- 2(b) Village Area Zone - for those parts of the site suitable for urban development;
- 1(b) Rural (Secondary Agricultural Land) Zone - for parts of the existing 1(d) areas not suitable for urban development and that do not have the environmental attributes suitable for an environmental protection zone;
- 7(a) Environmental Protection (Wetlands) Zone - to add to the existing 7(a) zoning to reflect the on-ground extent of wetland vegetation; and
- 7(d) Environmental Protection (Scenic/Escarpment) Zone - for land south of the proposed residential area, to protect its scenic value.

A plan illustrating the proposed zones to be applied is contained in **Appendix 3**.

As outlined in the introduction, there is a significant body of work which has already been completed relating to the possible rezoning of this site. This work was carried out as part of the processing of Draft Amendment 90 to the *Ballina Local Environmental Plan 1987*. This work is nearing completion, with the only significant outstanding issues remaining related to the details of a proposed Voluntary Planning Agreement (VPA).

It is therefore requested that the Planning Proposal continue to be processed in a manner sympathetic to the work which has been completed to date. At a minimum, this would involve the draft Planning Proposal, draft LES and draft DCP being exhibited concurrently with the draft VPA. Depending on timing, the Concept and Project Plans for the site could also be exhibited at the same time, although this is not critical to the progress of the Planning Proposal.

Part 3 - Justification

Section A - Need for the Planning Proposal

1. Is the Planning Proposal a result of any strategic study or report?

A significant number of studies and investigations have been undertaken in respect to the proposal area, which have all been peer reviewed by a planning consultant engaged by Council. These studies and investigations form the basis of a draft LES which was completed in early 2009. In summary, the draft LES indicates that parts of the subject site appear to be suited for future urban development in accordance with the framework proposed in the Planning Proposal subject to suitable arrangements being in place to address a number of matters including:

- Dedication of the land to the east and west of the Coast Road to the community;
- Ensuring the revegetation of the inter-urban break on the southern part of the site;
- Development Control Plan provisions to manage issues associated with road traffic noise, environmental buffers, protection of threatened species and management of storm water so as to not impact on the hydrology of the adjoining wetland.

A copy of the Executive Summary of the draft LES is provided at **appendix 6**.

2. Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The studies and investigations undertaken as part of the preparation of draft LES demonstrate that the Planning Proposal, together with a suitable VPA is the best means by which the objectives above can be achieved.

The possible simultaneous exhibition of the Part 3A development proposal will provide a high level of detail on the final development outcomes for public exhibition.

3. Is there a net community benefit?

The following net community benefits will be achieved by the Planning Proposal and associated Voluntary Planning Agreement:

- additional economic activity generated by the development of land for urban purposes;
- additional land available for residential development and ancillary commercial uses;
- securing dedication of the land on the eastern side of the Coast Road in the long term and the provision of public access across the same land in the short term;
- opportunity for the enhancement and protection of core environmental values in the proposal area; and
- improved vehicular access from the Coast Road to the existing Headlands Estate residential area and Sharpes Beach car park.



Section B - Relationship to the Strategic Planning Framework

4. Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Yes, the proposal area is identified in the Far North Coast Regional Strategy 2006 as a "proposed future urban release area" (refer Town and Village Growth Boundary Map - Sheet 3). Parts of the subject site identified on Sheet 3 as indicatively having "*high level constraints*" are proposed for rural and/or environmental protection zones.

5. Is the Planning Proposal consistent with the local council's Community Strategic Plan, or other local strategic plans?

Yes, the Planning Proposal is consistent with the following local plans:

Ballina Local Environmental Plan 1987

Much of the subject land is currently zoned 1(d) Rural (Urban Investigation) Zone pursuant to the *Ballina Local Environmental Plan 1987*. The primary zone objectives are:

- a to identify land which may be needed in the future and will be thoroughly investigated with respect to its suitability or otherwise for urban land uses and the environmental consequences associated with the land's release for urban purposes;
- b to regulate the subdivision and use of land so as to prohibit development which could prejudice the possible future release of land within this zone for urban purposes; and
- c to ensure that the release of land for urban purposes, by rezoning, shall not take place unless –
 - (i) urban structure planning has been completed by Council;
 - (ii) the Council reviews urban suitability investigations for individual planning units, and detailed land use allocations for each planning unit have been determined by the Council;
 - (iii) sufficient demand exists for the release of urban land; and
 - (iv) appropriate urban infrastructure and facilities are available to the land or can be provided to the land in a manner which does not create an unreasonable or uneconomic demand, or both, for the provision or extension of such services.

Ballina Urban Land Release Strategy 2000 (ULRS-2000)

Ballina Urban Land Release Strategy 2000 (ULRS-2000) provides the endorsed urban land release strategy for the Ballina local government area. It has been prepared in accordance with the provisions of clause 38 of the North Coast Regional Environmental Plan 1988 (the REP). The land release program contained within the Strategy has been agreed with the former Department of Infrastructure Planning and Natural Resources as required by subclause 38(3) of the REP.

The strategic approach adopted in ULRS-2000 relates to the following:

- Ongoing commitment to Council's existing zoning strategy;
- Providing an adequate land supply for various market segments;

- Achieving and maintaining reasonable developer competition in the marketplace;
- Ensuring the timely and economic provision of services;
- Masterplan rezoning followed by staged subdivision release;
- Third Plateau Village; and
- Planning over a 5-20 year timeframe.

ULRS-2000 identified rezoning of the subject land to commence in the medium term (ie within 5-10 years of the year 2000). Work undertaken by Council to date is consistent with this timeframe.

Lennox Head Community Aspirations Strategic Plan 2002

The Lennox Head Community Aspirations Strategic Plan is an umbrella document which provides guidance for future Council activities - including town planning, works programs and annual budgets. The draft document was prepared in close consultation with the Lennox Head community and sought to reflect the ambitions of that community.

The subject site is located outside of the area directly considered by the Strategic Plan, however the document does have some relevance to this Planning Proposal in that one of the actions contained within the Strategic Plan was *"to identify the need for a buffer to provide for ongoing separation of Lennox Head from East Ballina"*. The Planning Proposal seeks to deliver this action via maintaining a buffer of non-urban land along the southern portion of the subject site. The proposed VPA includes provision for this area to be revegetated in the longer term to further enhance the visual separation.

Lennox Head Structure Plan 2004

The Lennox Head Structure Plan outlines Council's broad strategy or "blue print" for the growth and development of Lennox Head. All development of new release areas in Lennox Head should comply with the framework established by the Structure Plan. Once again, the subject site is located outside of the area directly considered by the Structure Plan, however the document does have some relevance to this Planning Proposal. In this regard, the Structure Plan advises as follows:

"Area T is approximately 60 hectares in size and comprises a number of allotments in single ownership. It is generally zoned 1(d) Rural (Urban Investigation) Zone pursuant to the Ballina Local Environmental Plan 1987. Area T is located outside of the scope of the study area for the Lennox Head Structure Plan. However, it is illustrated on the Structure Plan Map in the interest of providing information as to where other urban development may occur in the vicinity of Lennox Head."

Notwithstanding the above, the Lennox Head Community Aspirations Strategic Plan identified the need for a buffer to provide for ongoing visual separation of Lennox Head from East Ballina. Such a buffer will need to be provided as an integral part of any development of Area T. As advised...ERM was engaged to undertake a Landscape and Visual Analysis over this area. The ERM recommendations recognise the importance of providing for the ongoing visual separation of Ballina and Lennox Head. ERM also recommend, however, that activities such as tourism development may be appropriate on the land subject to detailed visual assessment and sensitive design.

Given that Area T is located outside the study area and that more detailed visual assessment is required to refine the future development footprint, the Structure Plan does not nominate preferred land uses, or changes to the zoning of Area T at this time. Rather the future development potential of this area will be the subject of a separate planning



exercise. The recommendations of the ERM Report will be considered as part of that work."

Detailed assessments undertaken as part of the preparation of the draft LES agree that there is a need to maintain visual separation in this area. The LES assessment, however, concludes that from a visual impact perspective a significantly greater proportion of the site appears capable of urban development than that envisaged in the ERM Report.

Ballina Shire Council Community Strategic Plan 2010-2025

The vision of the Ballina Shire Council Community Strategic Plan 2010-2025 is "a shire that provides a healthy lifestyle, a prosperous natural environment and a community with a strong sense of place". The objectives to achieve the vision are:

- A built environment contributing to health and wellbeing;
- A diverse and prosperous economy;
- A healthy natural environment;
- Diverse and balanced use of our land;
- People attaining health and wellbeing;
- Resilient and adaptable communities;
- Responsible and efficient use of resources; and
- Transparent and accountable governance.

The Planning Proposal has the potential to meet a number of these objectives.

6. Is the Planning Proposal consistent with applicable State Environmental Planning Policies?

Yes. A number of State Environmental Planning Policies (SEPP) are relevant to the development of the Planning Proposal. A SEPP checklist for the Planning Proposal is contained in **Appendix 8**.

7. Is the Planning Proposal consistent with the applicable Ministerial Directions (S. 117 directions)?

Yes. A number of Section 117 Directions are relevant to the development of the Planning Proposal. A Section 117 Directions checklist for the Planning Proposal is contained in **Appendix 9**.

Section C - Environmental, Social and Economic Impact

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

The draft LES includes a comprehensive assessment of the ecological values of the proposal area. This work has concluded that the proposal area contains a number of threatened flora species and endangered ecological communities and is utilised by a number of threatened fauna species. The threatened flora species and the endangered ecological communities are largely proposed to be protected via environmental protection zones. Such zonings will also assist in the conservation and protection of the threatened fauna species. A range of ameliorative measures have also been identified to address some potential adverse impacts of the Planning Proposal and improve some of the environmental values of the site.

Importantly, the area proposed for residential development is generally cleared grazing land without significant environmental constraints.

9. Are there any other likely environmental effects as a result of the Planning Proposals and how are they proposed to be managed?

Other potential environmental effects of the proposal are as follows:

- a. visual impact of development;
- b. impact on known and potential archaeological deposits;
- c. road traffic noise on future residents; and
- d. disposal and treatment of stormwater.

These and other issues have been assessed and ameliorative measures proposed via the draft LES.

10. How has the Planning Proposal adequately addressed any social and economic effects?

The rezoning of more land for urban purposes will have positive social and economic effects. In particular, the development of the land for housing will assist in meeting regional dwelling targets.

In addition, the Planning Proposal and associated Voluntary Planning Agreement will achieve the staged dedication of private land located to the east of the Coast Road. This will deliver long term social benefits to the community.

11. Is there adequate public infrastructure for the Planning Proposal?

Yes. The subject development can be economically serviced with the full range of infrastructure. The development potential within the proposal area has been included in Council's infrastructure planning for roads, water and sewerage.

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

This Planning Proposal has yet to receive a Gateway Determination. Council has, however, engaged with a range of public authorities as part of the preparation of the draft LES. This work has helped guide the zone configuration contained within the Planning Proposal. Formal consultation will be undertaken with agencies during the exhibition of the Planning Proposal and associated supporting documentation.

Section D - Community Consultation

Extensive community consultation was undertaken during the preparation and exhibition of the *Ballina Local Environmental Plan 1987* in the mid 1980's. This process zoned part of the subject site 1(d) *Rural (Urban Investigation) Zone*. The subsequent *Urban Land Release Strategy 2000*, *Lennox Head Community Aspirations Strategic Plan 2002* and *Lennox Head Structure Plan 2004* were also all subject to community engagement processes.

Council has not undertaken any community consultation concerning this specific Planning Proposal. It is anticipated that this will occur as part of the formal exhibition of the Planning Proposal.

Given the prominent location of the site, it is anticipated that the public exhibition process will attract a significant level of community interest. It is therefore requested that the Planning Proposal be exhibited for at least 4 weeks (and preferably 6-8 weeks) exclusive of school holidays.



Appendices

Appendix 1 - Locality Plan



NOTE: Grid lines shown are based on the Geocentric Datum of Australia

0 800

GeoLINK
environmental management and design

Draft LEP (Amendment No. 90), Local Environmental Study
975960

Site Locality

Illustration 2.1

Appendix 2 - Property Descriptions and Existing Planning Framework



LEGEND

- SEPP 14 coastal wetlands
- 1(b) Rural (Secondary Agricultural Land)
- 1(d) Rural (Urban Investigation)
- 2(a) Residential (Living Area)
- 2(b) Residential (Village Area)
- 6(a) Open Space
- 7(a) Environmental Protection (Wetlands)
- 7(d) Environmental Protection (Scenic / Escarpment)
- 7(f) Environmental Protection (Coastal Lands)



GeoLINK
landscape management and design

Draft LEP (Amendment No. 90), Local Environmental Study
975964

The Site

Illustration 2.2

Appendix 3 - Proposed Zones



LEGEND

- 1(b) Rural (Secondary Agricultural Land)
- 2(b) Residential (Village Area)
- 7(a) Environmental Protection (Wetlands)
- 7(d) Environmental Protection (Scenic/Escarpment)
- 7(f) Environmental Protection (Coastal Lands)
- 7(l) Environmental Protection (Habitat)



Draft LEP (Amendment No.90), Local Environmental Study
975225

Suggested Zoning

Illustration 6.1

Appendix 4 - Council Resolution and Report - 14/12/06

Extract from Ballina Shire Council Ordinary Minutes 14/12/06

14. Request to amend the Ballina Local Environmental Plan – Stewart Farm, Coast Road Lennox Head – 141206(009)

RESOLVED: (P. Moore/D. Wright)

That Council prepare an amendment to the Ballina Local Environmental Plan to facilitate urban development and promote improved environmental outcomes over land owned by Dr and Mrs Stewart located adjacent to the Coast Road at Skennars Head. Further, that a local environmental study be prepared to support the draft local environmental plan.

Request to amend the Ballina Local Environmental Plan – Stewart Farm,
Coast Road Lennox Head

Purpose

This report informs the Council of a request to amend the Ballina Local Environmental Plan 1987 (the LEP) insofar as it relates to land owned by Dr P and Mrs R Stewart. Further, the report invites the Council to consider initiating rezoning action to facilitate residential development of part of the land and to rezone other parts to reflect the site's environmental sensitivities.

Background

On 26 May 2005 Council received a report in relation to a request for rezoning action to be initiated over Lot 2 DP 784864 which comprises part of the Stewart farm located immediately south of the Headlands Residential Estate at Skennars Head.

Following its deliberations, the Council decided that it would not commence the rezoning process to convert the current LEP zoning from 1(d) – Rural (Urban Investigation) Zone to a Village or Living Area Zone. The main basis for Council's decision at that time was that it did not wish to consider just Lot 2 in isolation, but preferred to consider future use options in the locality more broadly.

The Council's decision was communicated to the parties involved in the rezoning request. In the intervening period it is understood that the proponents and their consultant representatives have been negotiating with Dr and Mrs Stewart to determine how the rezoning request might be taken forward in a manner that is consistent with how the Council prefers the matter to be handled.

Report

Dr and Mrs Stewart have for many years, owned a very large tract of land that extends from Sharps Beach to North Creek, generally located north of Angels Beach Drive. The land is principally used for grazing purposes.

Wave Break Properties Pty Ltd has secured an option to purchase Lot 2 DP 784864 that contains an area of 46.64 hectares and is located in the north-eastern sector of the farm, abutting the southern end of Headlands Estate. Lot 2 is severed by the Coast Road and contains the car parking area immediately behind Sharps Beach that Council currently leases.

Although not wishing to provide Wave Break Properties with a legal interest in other parts of their property at this time, Dr and Mrs Stewart have now apparently agreed to allow the company to carry out broader site investigations and to request the rezoning with knowledge that Council requires the more expansive work to be undertaken.



The plan in the accompanying consultant's report titled 'Study Area' (Appendix 1) illustrates with red edging the area that is now the subject of the detailed site investigations and rezoning request. The plan in the accompanying report, titled Current Zoning (Appendix 3) illustrates the existing zoning arrangement.

Overview of the Proposal

On Friday 13 October, members of the consultancy team that has been engaged by Wave Break Properties to pursue the rezoning presented an overview of the proposal to Councillors. There, an outline of the style of development being contemplated was given, together with the broad outcomes of the site and locality specific investigations that have been conducted to date.

Similar engagements between the proponent's representatives and officers of both Council and State Government agencies have also been conducted to identify, as far as possible, the range of issues that need to be addressed should Council determine to proceed with the rezoning.

The study area (the area contained within the red border in the first accompanying plan) contains approximately 168 hectares of land. Of this, approximately 75 hectares is contained within the existing urban investigation zone under the Ballina LEP. As a consequence of various constraints, preliminary indications are that only approximately 35 hectares within the Urban Investigation Zone are suitable for urban development. The outcomes of the proponent's preliminary site investigations are illustrated in the plan in the accompanying report titled 'Preliminary Opportunities and Constraints' (Appendix 6).

The current submission proposes the retention of the current secondary agricultural, scenic escarpment and coastal protection zoned land within the site. Similarly, the area zoned wetland (and also affected by the provisions of SEPP No. 14 – Coastal Wetlands) is to be retained and actually enlarged.

At this time a concept plan for the future development of the available land has not been finalised. This is expected to be available for inclusion in the exhibition material, should Council decide to initiate the rezoning process.

Procedural Matters

Councillors will be aware that there are two avenues available under the current planning legislation to enable the future urban development of the subject land to occur.

The first avenue is for the proponents to approach the NSW Department of Planning and request the Minister to nominate the site as being a State Significant Site under the relevant provisions of Part 3A of the Environmental Planning and Assessment Act and the associated State Environmental Planning Policy (Major Projects) 2005.



In these circumstances, where the Minister makes the original nomination, the proposal is effectively taken out of the Council's hands, with the existing urban investigation zone not impeding the Minister's ability to determine the matter, including the grant of the relevant Concept Plan and development approvals.

The second avenue that is available to the proponents, and the one that they have now chosen, is to proceed through the conventional process of having Council prepare a draft local environmental plan as an amendment to the Ballina LEP to facilitate future urban usage of part of the property and to expand the existing environmental protection zone.

Council is very familiar with the various steps of the LEP amendment (rezoning) process, including the initial decision to commence (Section 54 decision), public exhibition, community and public authority engagement and final determination by the Minister for Planning. In the current circumstance, should Council decide to initiate rezoning action, a local environmental study relating to the site and the locality will also be required.

Planning Context

In a locational context, Council is quite familiar with the site and its setting. Council too has been advised of where this land is 'placed' in terms of the Shire's strategic planning. To reiterate:

- 1 The land that is being assessed, over which a draft amending plan would apply, has been zoned for urban investigation purposes under the Ballina LEP since February 1987. The primary zone Objectives for the urban investigation zone are:
 - a *to identify land which may be needed in the future and will be thoroughly investigated with respect to its suitability or otherwise for urban land uses and the environmental consequences associated with the land's release for urban purposes;*
 - b *to regulate the subdivision and use of land so as to prohibit development which could prejudice the possible future release of land within this zone for urban purposes; and*
 - c *to ensure that the release of land for urban purposes, by rezoning, shall not take place unless –*
 - (i) *urban structure planning has been completed by Council;*
 - (ii) *the Council reviews urban suitability investigations for individual planning units, and detailed land use allocations for each planning unit have been determined by the Council;*
 - (iii) *sufficient demand exists for the release of urban land; and*

- (iv) *appropriate urban infrastructure and facilities are available to the land or can be provided to the land in a manner which does not create an unreasonable or uneconomic demand, or both, for the provision or extension of such services.*

In relation to 'c' above, these matters would need to be satisfied prior to the public exhibition of a draft amending plan.

- 2 Council's current and previous urban land release strategies have identified the subject land as an eligible urban release area within the shire's coastal corridor, subject to it being demonstrated through the rezoning and structure plan processes that it is suitable and serviceable. These strategies represent the agreement between Council and the Department of Planning concerning locations and general sequencing of urban land release. In this context, and subject to the local environmental study process, what is being proposed is consistent with the current strategy.
- 3 For the purpose of the Draft Far North Coast Regional Strategy, the area of land that is the subject of this rezoning request is identified as a New Release Area. The intensity and type of development that might be considered is expected to be determined through the local environmental study and draft plan processes.
- 4 The subject land is located immediately south of the Headlands Residential Estate which is substantially complete in terms of its development potential. On its southern side, the land being investigated adjoins the site for which consent has been granted for the North Angels Beach development. However the results of the site assessment to date suggest it is more likely that urban development would be limited to the northern central part of the study area. This is illustrated in the plan contained in the accompanying consultant's report, titled 'Preliminary Structure Plan' (Appendix 7).

LEP Preparation Criteria

During this period of transition from the existing to a new shire-wide local environmental plan, both Council and the NSW Department of Planning have established various criteria against which requests for rezoning and other amendments to existing plans must be considered.

The Department of Planning has advised that councils, during the transition period, should avoid proposing minor amendments to existing local environmental plans where possible. For amendments to proceed during this period Council will need to demonstrate a compelling case. For example, that the amendment is to facilitate an employment-generating activity, or that it implements agreed strategic direction for development in the area. As described earlier in this report, the future urban use of part of the subject land is consistent with land release strategies of both Council and the Department of Planning.

On 8 December 2005 Council resolved as follows:

[Minute No. 081205]:

- "1. That the Council endorse the continued processing of existing LEP amendments at this time, in accordance with the requirements of the Environmental Planning and Assessment Act 1979.
2. That the Council endorse the commencement of processing of LEP amendments separate to the comprehensive LEP review process, in accordance with the requirements of the Environmental Planning and Assessment Act 1979, only where such amendments are clearly and strictly consistent with the exceptional circumstances criteria for consideration of amendments set out by the Department of Planning in relation to the comprehensive LEP review process, or amendments constitute essential "housekeeping".
3. That the Council hold all other LEP amendment requests that are not consistent with the DOP criteria referred to in (2) above for integration into the comprehensive LEP review process.
4. That Council advise those making requests for amendments to the existing LEP separate from the comprehensive LEP review, that certain fees and charges will be levied in processing such requests in accordance with Council's Schedule of Fees and Charges.
5. That the processing of individual LEP amendment requests separate to the LEP review process be reconsidered at key milestones during the comprehensive renewal of the Ballina Local Environmental Plan."

The current rezoning request is consistent with this resolution of the Council

The request has also been assessed against the State Government's LEP Review Panel criteria, as follows:

- 1 Will the LEP be compatible with agreed State and regional strategic direction for development in the area (eg land release, strategic corridors, development within 800 metres of a transport node)?

Response: The subject land is within the "Town and Village Growth Boundary" of Ballina Shire under the draft Far North Coast Regional Strategy. The land is also identified for future urban use under Council's endorsed Urban Land Release Strategy, made under Clause 38 of the North Coast Regional Environmental Plan 1988.

- 2 Will the LEP implement studies and strategic work consistent with State or regional policies and Ministerial (S.117) directions?**

Response: As stated, the rezoning and use of the land for urban and environmental protection purposes is consistent with State and regional planning policy. Rezoning would not be inconsistent with relevant directions under Section 117 of the Environmental Planning and Assessment Act.

- 3 Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/subregional strategy?**

Response: Ballina is a Planned Major Regional Centre for the purpose of the Draft Far North Coast Regional Strategy.

- 4 Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?**

Response: Development foreshadowed to occur as a result of the LEP is principally residential in nature. Neighbourhood scale community, retail and recreational facilities are also envisaged which will contribute to ongoing employment opportunities in the locality. No loss of employment land will occur as a result of the LEP.

- 5 Will the LEP be compatible/complementary with surrounding land uses?**

Response: The subject land adjoins a residential area (Headlands Estate) and an approved urban release area (North Angels Beach Estate).

- 6 Is the LEP likely to create a precedent; or create or change the expectations of the landowner or other landholders?**

Response: The LEP will create opportunities for urban development to occur that is consistent with the Council's and the State's planning for this locality.

- 7 Will the LEP deal with a deferred matter in an existing LEP?**

Response: No

- 8 Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?**

Response: Council considers individual rezoning requests and assesses them in the context of the strategic land use framework and the criteria outlined in this report.

Conclusion

The preceding report provides information to the Council concerning a request for an amendment to the Ballina Local Environmental Plan in respect of part of the property that is owned by Dr and Mrs Stewart, located adjacent to the Coast Road at Skennars Head.

The preliminary documentation that has been lodged in support of the request outlines the nature and scope of the more comprehensive site investigations and describes, albeit broadly, the style of development that is envisaged. It also provides an overview of the measures to be employed to protect and conserve those parts of the study area that are more environmentally sensitive.

The proponents, who have secured an interest over part of the study area, are seeking Council's support to initiate an amendment to the Ballina Local Environmental Plan that would ultimately rezone part of the area currently zoned 1(d) – Rural (Urban Investigation) Zone to facilitate urban development. The project is being referred to as Skennars Head Coastal Village. In addition to a new residential subdivision, it is proposed to provide a low scale village centre and community infrastructure that would serve incoming residents as well as those living in Headlands Estate.

It is suggested that what is being proposed will serve to reinforce Skennars Head as a distinct planning unit. This is consistent with Council's long-held plan of promoting urban development within the Ballina to Lennox Head corridor, with appropriate 'green spaces' between the discrete urban precincts.

With the current proposal it is important to note that the existing environmental protection zones that apply to parts of the study area are not to be diminished.

Council will also note from the proponent's documentation that they are promoting the use of a planning agreement to secure the provision of community infrastructure, including but not necessarily limited to, the dedication of freehold land adjoining Sharps Beach.

As Council is soon to consider adopting a Planning Agreements Policy, it will be appropriate, before the public exhibition of any draft local environmental plan relating to this site, for the Council to nominate quite clearly the type or range of community infrastructure or improvements that it would expect from future development.

It is concluded that the proponents have responded positively to the concerns raised by the Council in May last year, when it declined to initiate rezoning action because information had not been provided concerning broader future planning within this part of the coastal corridor.



Should Council determine to initiate rezoning action, and the State Government's LEP Review Panel authorises this work to proceed, a further report will be presented to the Council outlining how resources might be applied to manage the local environment study and draft local environmental plan processes.

RECOMMENDATION

That Council prepare an amendment to the Ballina Local Environmental Plan to facilitate urban development and promote improved environmental outcomes over land owned by Dr and Mrs Stewart located adjacent to the Coast Road at Skennars Head. Further, that a local environmental study be prepared to support the draft local environmental plan.

Appendix 5 - Director General's Requirements



NSW GOVERNMENT
Department of Planning

Office of the Director General

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Mr John Christopherson
General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478



Our ref: G04/00045
Your ref:

Dear Mr Christopherson

Re: Section 54(4) Notification – Draft Amendment 90 to Ballina LEP 1987

I am writing in response to Council's letter dated 18 December 2006 advising, pursuant to section 54(4) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'), of the Council's decision to prepare a draft local environmental plan ('LEP') to rezone part of the land known as the Stewart Farm, located adjacent to the Coast Road at Skennars Head, to allow for residential development in accordance with the Ballina Urban Release Strategy.

The Council should now continue with the preparation of the draft LEP.

Pursuant to section 74(2)(b) of the EP&A Act, Council is directed to comply with sections 57 and 61 of the EP&A Act in respect of the draft LEP. The environmental study should be prepared taking account of the specifications in the attached Schedule.

The Department supports the dedication of all of the 7(f) zoned land as for addition to the adjoining Crown Reserve as part of the rezoning proposal negotiations is supported, to achieve State Government objectives for the land. This should occur now, as a condition of the rezoning being finalised, and not in a staged manner as indicated in the documentation presented. It is noted that the report to Council on this matter refers to the possibility of a voluntary planning agreement (VPA) to deliver some of the outcomes for the site. Council could consider use of the VPA to achieve appropriate landscaping of the 7(d) zoned part of the land.

You will be aware that an instrument of delegation in respect of my LEP making functions was executed on 16 February 2006. Use of the delegation in respect of a draft LEP is conditional on receipt by Council of a Written Authorisation to Exercise Delegation. As an Authorisation is not being issued on this occasion, Council should submit the draft LEP to the Department seeking a section 65 certificate.

Where any applicable section 117 direction requires the Director General to form an opinion or be satisfied as to certain matters, you need to ensure that this issue is addressed in submitting the draft LEP under section 64.

Please forward a copy of the draft plan and any other information to be publicly exhibited in respect of the draft LEP to the Regional Office with advice to the Department as required under section 64 of the Act when seeking a section 65 certificate.

Should you have any queries in regard to this matter please contact the Regional Office of the Department.

Yours sincerely

SHaddad

Sam Haddad
Director General

25/11/2007.

SCHEDULE

Environmental Study Specifications – Draft Amendment to Ballina LEP 1987 – Stewart Farm property, Coast Road at Skennars Head

The environmental study must address the following issues:

- The matters for consideration contained in Clause 8 of State Environmental Planning Policy No. 71 and consideration of the impact of the proposed development on the coastal environment.
- Relevant section 117 Directions.
- The issues identified in the Lennox Head Structure Plan for Areas E and F as contained on pages 22 and 23 of the Structure Plan.
- The impact of any potential development on the adjacent State Environmental Planning Policy No 14 - Coastal Wetlands No. 91A included in the proposed rezoning.
- The impact on any endangered species on the site or on land adjacent to the site particularly on the Coastal Wetland and the Littoral Rainforest.
- An assessment of the traffic implications of the potential development on the local road networks in the area particularly the intersection arrangements for the Coastal Road. This assessment should be undertaken in consultation with the Roads and Traffic Authority.
- The effect of the anticipated development on the flooding regime in the locality and any impacts on the proposed development from flooding.
- The provision and funding of necessary infrastructure, including the capacity of services to cater for the expected population from the anticipated development on the land such as sewerage, water, electricity, public transport and social services.
- The potential for the site to contain acid sulfate soils or potential acid sulfate soils.
- Any other matters identified by any government agency including the Department of Primary Industry, Department of Environment and Conservation, Department of Natural Resources, NSW Rural Fire Service and NSW Heritage Council.

Executive Summary

In response to a rezoning submission from LandPartners, lodged on behalf of Wave Break Properties Pty Ltd, Ballina Shire Council resolved, on 14 December 2006, to prepare a draft Local Environmental Plan (LEP) to develop land at Skennars Head for urban purposes.

The initial rezoning request related to a limited area at the northern end of the land. Council, however, requested that the proponent consider all of the land currently zoned 1(d) Rural (Urban Investigation), as well as the area east of the Coast Road, to allow a more integrated examination of the potential future of this area.

The Department of Planning advised Council on 1 February 2007 that a Local Environmental Study (LES) is required to support the proposed LEP. Council has engaged GeoLINK to prepare the LES. The brief requires that a 'peer review' study be prepared, based on the range of studies and reports provided by LandPartners to support the rezoning submission.

The Site

The subject land comprises a number of parcels held in single ownership, located adjacent to the Coast Road at Skennars Head. The property has a history of cattle grazing and is currently rural in nature and in use. It is primarily undulating cleared grassland, although a SEPP 14 Coastal Wetland is located within the north-west of the site. Elevations range from approximately 1 m AHD to RL 30 m AHD, with a low ridge located at the south-east of the site. The majority of the site is slight to moderately sloping, generally to the west, with low lying flood prone land at the western fringe.

The bulk of the site lies west of the Coast Road, with a smaller part of the land east of the Coast Road, with direct beach frontage. The Sharpes Beach car park, between the Coast Road and the beach, is located on the site and is currently leased to Ballina Shire Council.

Site Context

Skennars Head is located between Lennox Head, to the north, and Ballina, to the south. The site is immediately south of the existing Headlands Estate.

Land to the west and south is rural in nature, currently utilised for low scale grazing activities.

Existing Zoning

Pursuant to *Ballina Local Environmental Plan 1987*, the site currently contains land zoned:

- 1(b) Rural (Secondary Agricultural Land);
- 1(d) Rural (Urban Investigation);
- 7(a) Environmental Protection (Wetlands);
- 7(d) Environmental Protection (Scenic / Escarpment); and
- 7(f) Environmental Protection (Coastal Lands).

Proposed Zones

The proponent has proposed to rezone all land that is currently zoned 1(d) Rural (Urban Investigation).

The proposed zones are:

- 2(b) Village Area Zone – for those parts of the site suitable for future urban development;
- 1(b) Rural (Secondary Agricultural Land) – for parts of the existing 1(d) areas not suitable for urban development and that do not have environmental attributes suitable for an environmental protection zone;
- 7(a) Environmental Protection (Wetlands) – to add to the existing 7(a) zoning to reflect the on-ground extent of wetland vegetation; and
- 7(d) Environmental Protection (Scenic / Escarpment) – for land south of the proposed residential area, to protect its scenic value.

Potential Future Land Use

To support the rezoning request, LandPartners have provided a Structure Plan for the future development of the site. The Structure Plan establishes a variety of land uses, ranging from nature conservation areas and open space to residential and commercial activities. The area designated for residential and commercial uses is approximately 35 ha, which represents around 20% of the site area.

The plan proposes a compact neighbourhood connected to the existing Headlands Estate to the north. A neighbourhood commercial centre is proposed adjacent to the key site entry point, at the north-east of the site. This centre would service the proposed development as well as the existing Headlands Estate. A mix of residential lot sizes is proposed, with higher densities adjacent to the neighbourhood centre.

A landscaped buffer is proposed along the Coast Road frontage (within the land zoned 7(d) Environmental Protection), and pedestrian and cycleways will be included within the street network.

The primary access to the development is proposed by way of a new roundabout on the Coast Road. It is proposed that this roundabout would provide access to the development on its western side and into the Sharpes Beach car park on its eastern side. To achieve this, it is proposed that the eastern section of Headlands Drive, east of Killamey Crescent, be relocated to the south. The proposed roundabout, therefore, would provide primary access to the new development and to the existing Headlands Estate.

Key Environmental Issues

Ecology

A number of threatened flora species listed under the *NSW Threatened Species Act 1995* and / or the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* have been recorded on the land, as have a number of endangered ecological communities (EECs) and threatened fauna species.

The potential for urban development to impact upon these ecological values has been examined in depth for this LES. It is recommended that the threatened species and EECs be protected through a variety of measures, primarily, by way the application of appropriate environmental zones.

Further recommendations have been put forward in the proponents' *Concept Environmental Management Plan* (see **Appendix D**) and these recommendations are supported by this LES.

Buffers to Wetland

As part of the protection of the Freshwater Wetlands (SEPP 14), a variable width buffer area is proposed between the low-lying wetland area and the proposed residential development. The initial Structure Plan proposed that stormwater treatment / detention ponds be located within this buffer area. Following concerns regarding the impacts of this infrastructure, the proposal has been amended such that there will

be no development, including no stormwater infrastructure, located below the Q100 flood level. This will effectively provide a buffer to the Freshwater Wetlands, protecting the sedgeland that forms the eastern part of the ecosystem.

Archaeology

A number of archaeological surveys have been undertaken across the site in 2006 and 2007. Six separate Potential Archaeological deposits (PAD) sites were recorded within the land. Only one of these sites is located within the area proposed to be rezoned for urban development.

This PAD site was subject to further more detailed assessment, which concluded that the site has a 'generally medium potential for the presence of archaeological material (particularly sub-surface)'. As a result excavations were undertaken within this area to determine the presence of sub-surface material. The excavations confirmed that sub-surface archaeological material is not present in the PAD area and the report concludes that there is no cultural heritage reason why development of this area should not proceed as planned.

There has not been any detailed investigations or assessment undertaken for the remaining five PAD sites. None are in areas proposed for future urban development. The proposed rural zoning is therefore appropriate for these sites in the short to medium term. Should any urban development be proposed within any of these areas, more detailed archaeological assessment will need to be undertaken to clarify the cultural value of the sites. Should cultural value be confirmed for any of those areas, environmental protection zoning would be appropriate.

There is one exception, with one of the sites coinciding with an area of visual prominence. The environmental protection (scenic / escarpment) zoning proposed for this particular area will provide additional protection for the potential archaeological value of that site.

Noise

Rezoning on the site will ultimately result in residences being located in close proximity to the Coast Road. The Preliminary Environmental Noise Impact Assessment (CRG, October 2008), prepared for the proposed rezoning, noted that dwellings on lots proximate to the Coast Road would be subject to unacceptable internal noise levels associated with traffic noise when the Coast Road is at its future maximum in terms of traffic volumes.

The report therefore recommended that dwellings located within 220 m of the Coast Road be subject to a building shell treatment code, which includes built form controls.

Because of concerns related to the restrictive nature of such controls, further work was undertaken in relation to noise, with an updated Noise Impact Assessment report prepared in February 2009.

The updated report presents a combination of strategies for the management of road noise, including a reduced traffic speed on the Coast Road (control at the source), buffer distance setback ranging between 65 m to 180 m (control of transmission), and a limited number of building design controls (control at receiver). The building design controls will only need to apply to the lots most proximate to the Coast Road. Depending on the ultimate design of the development, this will be around 5% of the total number of urban lots. The design controls recommended rely on (and allow) standard construction material and techniques. The controls provide for useable open space on these lots to be shielded by building components and for the ability to close the building openings on the side facing the Coast Road at particularly noisy times.

Conclusions

Based on the peer review assessment of the proposed rezoning, we are of the view that the site has the capacity for urban development, generally as proposed by the proponents.

A zoning regime is recommended, based on the zones within the (current) *Ballina Local Environmental Plan 1987*, that will allow the consideration of an application for the future urban development while providing appropriate protection of the environmental and scenic values of the site (See **Illustration 6.1**).

The key aspects of the recommended zoning are:

- protection of the ecological values of the existing wetland within the site by extending the existing 7(a) Environmental Protection zoning to encompass all of the vegetation within this community;
- provision of an appropriate buffer to the wetland by ensuring that the zone boundary (between the urban and environmental protection zones) is located at the top of the bank adjacent to the wetland;
- protection of the scenic values adjacent to the Coast Road by an extension of the existing environmental protection zoning in this location; and
- maintenance of the visual buffer between the urban areas of Skennars Head and East Ballina by ensuring that rural land remains (combination of rural and environmental protection zoning) to the south of the proposed urban area, such that a 'green' and 'farm' backdrop will remain when the site is viewed from the Coast Road and from the adjoining Headlands Estate.

Additional matters, such as the timing of the dedication of all coastal foreshore areas and the timing of greenbelt planting on the southern residue of land, are being detailed in a Voluntary Planning Agreement, that will lock in these (and other) public benefits.

It is further recommended that a site-specific Development Control Plan (DCP) be prepared to guide design of future development and assessment of future development applications. The DCP should contain:

- appropriate design criteria relating to key urban design principles as put forward by the proponent;
- environmental management criteria and targets relating to a range of issues including buffers, road traffic noise, protection of threatened species; and
- specific design criteria relating to stormwater management to ensure that the existing hydrology of the adjoining wetland is not substantially altered.

Appendix 7 - Proposed Structure Plan

Source: BDA Architecture Date: March 2009



Draft LEP (Amendment No.90), Local Environmental Study
975281

Proposed Structure Plan

Illustration 2.3

Appendix 8 - State Environmental Planning Policy Checklist

State Environmental Planning Policy Checklist Planning Proposal - Dr Stewart's Farm, Skennars Head	
SEPP Title	Compliance of Planning Proposal
SEPP (Affordable Rental Housing) 2009	The Planning Proposal is not inconsistent with the provisions of this SEPP. The full range of residential land uses will be permissible with consent in the area proposed to be zoned 2(b)Village Area.
SEPP (Exempt and Complying Development Codes) 2008	The Planning Proposal is not inconsistent with the provisions of this SEPP. The Codes SEPP will apply to detached dwellings in the area proposed to be rezoned 2(b) Village Area.
SEPP (Rural Lands) 2008	The subject land is listed as Regionally Significant Agricultural Land. However, the site is identified in the Far North Coast Regional Strategy as a "proposed future urban release area" (refer Town and Village Growth Boundary Map - Sheet 3). Therefore, it is reasonable that a Planning Proposal be considered over the site.
SEPP (Infrastructure) 2007	The Planning Proposal is not inconsistent with the provisions of this SEPP.
SEPP (Temporary Structures) 2007	The Planning Proposal is not inconsistent with the provisions of this SEPP.
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	The Planning Proposal is not inconsistent with the provisions of this SEPP.
SEPP (Major Development) 2005	The Planning Proposal is not inconsistent with the provisions of this SEPP. An application for a Major Project Concept Plan (MP07 0009) has been lodged over the site and it is understood that a Project Plan application will also be lodged over part of the site.
SEPP (Building Sustainability Index: BASIX) 2004	The Planning Proposal is not inconsistent with the provisions of this SEPP.
SEPP (Housing for Seniors or People with a Disability) 2004	The Planning Proposal is not inconsistent with the provisions of this SEPP. The full range of residential land uses will be permissible with consent in the area proposed to be rezoned 2(b)Village Area.
SEPP No. 1 - Development Standards	The Planning Proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 4 - Development without Consent and Miscellaneous Complying Development	The Planning Proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 6 - Number of Storeys in a Building	The Planning Proposal is not inconsistent with the provisions of this SEPP.



SEPP Title	Compliance of Planning Proposal
SEPP No. 14 - Coastal Wetlands	The Planning Proposal is not inconsistent with the provisions of this SEPP. The draft LES proposed that an environmental protection zone apply to all areas subject to SEPP 14 as well as adjacent wetland communities not covered by the SEPP.
SEPP No. 15 - Rural Land-Sharing Communities	The Planning Proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 21 - Caravan Parks	The Planning Proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 22 - Shops and Commercial Premises	The Planning Proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 26 - Littoral Rainforests	The Planning Proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 30 - Intensive Agriculture	The Planning Proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 32 - Urban Consolidation (Redevelopment of Urban Land)	The Planning Proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 33 - Hazardous and Offensive Development	The Planning Proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 36 - Manufactured Home Estates	The Planning Proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 44 - Koala Habitat Protection	The Planning Proposal is not inconsistent with the provisions of this SEPP. No known koala habitat exists on the subject site.
SEPP No. 50 - Canal Estates	The Planning Proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 55 - Remediation of Land	The Planning Proposal is not inconsistent with the provisions of this SEPP. The provisions of SEPP No. 55 – Remediation of Land have been taken into consideration in the preparation of the draft LES.
SEPP No. 60 - Exempt and Complying Development	The Planning Proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 62 - Sustainable Aquaculture	The Planning Proposal is not inconsistent with the provisions of this SEPP. The provisions of SEPP No. 62 – Sustainable Aquaculture have been taken into consideration in the preparation of the draft LES.
SEPP No. 64 - Advertising and Signage	The Planning Proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 65 - Design Quality of Residential Flat Development	The Planning Proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 71 - Coastal Protection	The Planning Proposal is not inconsistent with the provisions of this SEPP and supports the intent of the SEPP. The draft LES includes a recommendation that the freehold land located to the east of the Coast Road be dedicated to the community as part of the proposal. A draft VPA is being negotiated to this effect. The Draft LES includes an assessment of issues associated with coastal hazard and climate change. The area proposed to be rezoned 2(b) is located a substantial distance from the foreshore area and is considered to not be impacted by coastal hazard.



Appendix 9 - Section 117 Direction Checklist

Section 117 Direction Checklist Planning Proposal - Dr Stewart's Farm, Skennars Head				
SECTION 117 DIRECTIONS	Application to Ballina Shire	Application of Direction to Draft Plan	Extent of Inconsistency	Justification for inconsistency
1. Employment and Resources				
1.1 Business and Industrial Zones	Yes	No	-	-
1.2 Rural Zones	Yes	Yes	Inconsistent The planning proposal is inconsistent with Clause 4(a) in that it proposes to rezone land currently zoned for rural purposes to enable for residential/urban use.	Inconsistency justified. Clause 5(c) enables a planning proposal to be inconsistent with the Direction where the proposal is in accordance with a Regional Strategy. In this case, the subject site is identified in the Far North Coast Regional Strategy as a "proposed future urban release area" (refer Town and Village Growth Boundary Map - Sheet 3).
1.3 Mining, Petroleum Production and Extractive Industries	Yes	No	-	-
1.4 Oyster Aquaculture	Yes	No	-	-
1.5 Rural Lands	Yes	Yes	Refer to comments in item 1.2, above	Refer to comments in item 1.2, above
2. Environment and Heritage				
2.1 Environment Protection Zones	Yes	Yes	Not inconsistent. Planning proposal involves an increase in lands zoned for environmental protection purposes.	-



SECTION 117 DIRECTIONS	Application to Ballina Shire	Application of Direction to Draft Plan	Extent of Inconsistency	Justification for inconsistency
2.2 Coastal Protection	Yes	Yes	Not inconsistent Proposal involves dedication to the community of privately owned land currently zoned 7(f) .	-
2.3 Heritage Conservation	Yes	Yes	Not inconsistent Archeological assessments have been undertaken as part of the draft LES. All actual and potential archaeological deposits are located outside of the proposed urban zone. The investigations suggest the potential for aboriginal archeological material within the proposed development areas is minimal.	-
2.4 Recreation Vehicle Areas	Yes	No	-	-
3. Housing, Infrastructure and Urban Development				
3.1 Residential Zones	Yes	Yes	Not inconsistent. Full range of residential used permitted with consent in proposed urban zone. Essential services can be economically extended to service the development.	-
3.2 Caravan Parks and Manufactured Home Estates	Yes	Yes	Not inconsistent. No caravan parks existing on the subject land. Caravan parks permitted with consent in proposed urban zone.	-
3.3 Home Occupations	Yes	Yes	Not inconsistent. Home occupations will be permitted as exempt development within proposed urban zone.	



SECTION 117 DIRECTIONS	Application to Ballina Shire	Application of Direction to Draft Plan	Extent of Inconsistency	Justification for inconsistency
3.4 Integrating Land Use and Transport	Yes	Yes	Inconsistent to the extent that transport options will be limited to private vehicles, cycling and limit bus services.	Inconsistency justified. Development of the site is consistent with the provisions of the Far North Coast Regional Strategy. Proposed subdivision layout compatible with future provision of bus services. Cumulative increase in coastal population will support increased bus services in the longer term.
3.5 Development Near Licensed Aerodromes	Yes	No	-	-
4. Hazard and Risk				
4.1 Acid Sulfate Soils	Yes	Yes	Not inconsistent. All lands proposed for urban development located outside of mapped ASS areas.	-
4.2 Mine Subsidence and Unstable Land	Yes	No	-	-
4.3 Flood Prone Land	Yes	Yes	Not inconsistent. The areas proposed for urban development are almost entirely located outside of the floodplain. Subject to detailed design there may be a very small amount of fill required at the eastern interface of the proposed urban zone and the floodplain. The development of the site is not inconsistent with the Ballina Flood Study Update 2010.	-
4.4 Planning for Bushfire Protection	Yes	Yes	Not inconsistent. Fire buffers are proposed to major stands of vegetation.	-



SECTION 117 DIRECTIONS	Application to Ballina Shire	Application of Direction to Draft Plan	Extent of Inconsistency	Justification for inconsistency
5. Regional Planning				
5.1 Implementation of Regional Strategies	Yes	Yes	Not inconsistent The subject site is identified in the Far North Coast Regional Strategy as a "proposed future urban release area" (refer Town and Village Growth Boundary Map - Sheet 3).	-
5.2 Sydney Drinking Water Catchments	No	No	-	-
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Yes	Yes	Inconsistent. The planning proposal involves rezoning regionally significant agricultural land to enable urban development.	Inconsistency justified. The subject site is identified in the Far North Coast Regional Strategy as a "proposed future urban release area" (refer Town and Village Growth Boundary Map - Sheet 3).
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Yes	No	-	-
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	No	No	-	-
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	No	No	-	-
5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	No	No	-	-
5.8 Second Sydney Airport: Badgerys Creek	No	No	-	-
6. Local Plan Making				
6.1 Approval and Referral Requirements	Yes	Yes	Not inconsistent	-



SECTION 117 DIRECTIONS	Application to Ballina Shire	Application of Direction to Draft Plan	Extent of Inconsistency	Justification for inconsistency
6.2 Reserving Land for Public Purposes	Yes	Yes	Not inconsistent The Ballina LEP 1987 already contains an acquisition clause for the land zoned 7(f) located to the east of the Coast Road. It is proposed to secure this land as part of the rezoning process via a Voluntary Planning Agreement.	-
6.3 Site Specific Provisions	Yes	No	-	-
7. Metropolitan Planning				
7.1 Implementation of the Metropolitan Strategy	No	No		

