

Ballina LEP 2012 – Integration of Deferred Lands - Stage 1.

Proposal Title : **Ballina LEP 2012 – Integration of Deferred Lands - Stage 1.**

Proposal Summary : **The planning proposal seeks to include deferred land in the Emigrant Creek and Marom Creek drinking water catchment areas into the Ballina LEP 2012. The planning proposal will apply zones, development standards and other planning provisions to the subject land. The planning proposal will also:**

- 1. Introduce the E2 Environmental Conservation and E3 Environmental Management zones into the Ballina LEP 2012;**
- 2. Apply environmental protection zones to land consistent with the Northern Councils E Zone Review Final Recommendations Report;**
- 3. Apply a rural zone or special use zone to other land;**
- 4. Apply height of building, minimum lot size, drinking water catchment and heritage provisions to the land via mapped planning controls;**
- 5. Introduce a local clause requiring consideration of certain matters in relation to development applications which may impact land in sensitive zones;**
- 6. Recognise existing commercial activities in Newrybar through application of additional permitted use provisions in Schedule 1 of the Ballina LEP 2012; and**
- 7. Adjust the Land Application Map to incorporate the subject land into the Ballina LEP 2012.**

PP Number : **PP_2017_BALLI_001_00**

Dop File No :

17/01020

Proposal Details

Date Planning
Proposal Received : **02-Feb-2017**

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 :

Suburb :

City :

Postcode :

Land Parcel : **Various parcels of land in the Emigrant Creek and Marom Creek areas of Ballina Shire.**

DoP Planning Officer Contact Details

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Land Release Data

Growth Centre :	Release Area Name :
Regional / Sub Regional Strategy :	Consistent with Strategy :
MDP Number :	Date of Release :
Area of Release (Ha) :	Type of Release (eg Residential / Employment land) :
No. of Lots : 0	No. of Dwellings 0 (where relevant) :
Gross Floor Area : 0	No of Jobs Created : 0

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

If No, comment : **The Department of Planning and Environment's Code of Practice in relation to communications and meetings with lobbyists has been complied with to the best of the Region's knowledge.**

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

If Yes, comment : **The Northern Region office has not met any lobbyists in relation to this proposal, nor has the Region been advised of any meeting between other officers within the agency and lobbyists concerning this proposal.**

Supporting notes

Internal Supporting
Notes :

External Supporting Notes : **The land which is the subject of this planning proposal was deferred from the Ballina LEP 2012 pending the finalisation of the Northern Councils E Zone Review. The Northern Councils E Zone Review Final Recommendations were released in October 2015.**

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.**

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 Explanation of Provisions includes details of each of the proposed changes to the Ballina LEP 2012. These are discussed in the Assessment section of this report.**

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.2 Rural Zones

1.3 Mining, Petroleum Production and Extractive Industries

1.5 Rural Lands

2.1 Environment Protection Zones

2.3 Heritage Conservation

2.4 Recreation Vehicle Areas

3.2 Caravan Parks and Manufactured Home Estates

3.3 Home Occupations

3.4 Integrating Land Use and Transport

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

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

6.1 Approval and Referral Requirements

6.2 Reserving Land for Public Purposes

5.10 Implementation of Regional Plans

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

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

d) Which SEPPs have the RPA identified?

e) List any other

matters that need to

be considered :

Northern Councils E Zone Review Final Recommendations

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

If No, explain :

See the assessment section of this report

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

The planning proposal contains maps which adequately show the subject land, the proposed zone, lot size, maximum building height, drinking water catchment, heritage map and land application map. These maps are adequate for exhibition purposes. Maps which comply with the Standard Technical Requirements for SI LEP Maps will need to be prepared before the LEP is made.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : The planning proposal does not nominate a community consultation period however notes that community consultation will be in accordance with the requirements of the Gateway determination.

In accordance with "A Guide to Preparing Local Environmental Plans" (the 'Guide'), it is considered that the planning proposal is not a low impact planning proposal as it applies to large number of land parcels which have been deferred from the Ballina LEP for some time. It is therefore recommended that a 28 day consultation period be required.

Consistent with the Secretary's undertaking of 1 March 2016 it is also recommended that all land owners whose land is proposed to have an E zone applied to it be notified in writing of the proposal and the community consultation arrangements. Landowners are also to be notified in writing of the outcome when Council has considered any submissions to the proposal and has resolved to send the proposal to the Minister for finalisation.

Additional Director General's requirements

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

If Yes, reasons :

Overall adequacy of the proposal

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

If No, comment : **Time Line**
The planning proposal includes a project timeline which estimates the completion of the planning proposal in nine (9) months concluding in October 2017. This is considered to be appropriate.

Delegation.
The RPA has not requested an Authorisation to exercise delegation for this proposal. Consistent with the Secretary's undertaking of 1 March 2016 an authorisation to exercise delegation is not to be issued to councils where a planning proposal seeks to apply an E zone to land on the Far North Coast. This is to ensure a consistent approach to the finalisation of zoning decisions consistent with the E Zone Review Final Recommendations Report. It is recommended that an Authorisation for the exercise of delegation not be issued to Ballina Council in this instance.

Overall Adequacy
The planning proposal satisfies the adequacy criteria by;

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

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : The Ballina LEP 2012 is in force. This planning proposal seeks an amendment to the Ballina LEP 2012 to incorporate the subject land and apply necessary planning controls.

Assessment Criteria

Need for planning proposal :

The planning proposal has arisen from the finalisation of the Northern Councils E Zone Review. In September 2012 the then Minister for Planning announced a review of the application of E zones and environmental overlays on the Far North Coast. Until the review was completed, land that had been proposed for an E Zone was deferred from the Ballina LEP 2012.

The Northern Councils E Zone Review Final Recommendations Report was released in October 2015. This planning proposal seeks to incorporate some of the land which was deferred from Ballina LEP 2012 pending the finalisation of the E Zone Review.

The planning proposal is the best means of incorporating the deferred land into the Ballina LEP 2012 and applying appropriate zones, development standards and other planning controls.

The consistency of the proposal with the Northern Councils E Zone Review Final Recommendations Report is addressed later in this report in the section 'Consistency with the Strategic Planning Framework'.

The planning proposal includes some consequential amendments to the Ballina LEP 2012 to transition development controls to the standard instrument format. These include:

1. Applying height of building, minimum lot size, drinking water catchment and heritage provisions to the land via mapped planning controls;
2. Recognising existing commercial activities in Newrybar through application of additional permitted use provisions in Schedule 1 of the Ballina LEP 2012; and
3. Adjusting the Land Application Map to incorporate the subject land into the Ballina LEP 2012.

Land Application Map

The Land Application map will be amended to include the subject land into Ballina LEP 2012 (and will no longer be subject to the provisions of the Ballina LEP 1987). This is appropriate and the use of the Land Application Map to identify land subject to the Ballina LEP 2012 is consistent with the approach adopted by the Standard Instrument LEP Template.

Development Standards and Other Planning Controls

The planning proposal will apply height of building, minimum lot size, drinking water catchment and heritage provisions to the land via mapped planning controls. This is required to ensure the planning controls that apply to the subject land are consistent with the Standard Instrument LEP Template.

Height of Building – The proposal intends to apply an 8.5m maximum building height to all of the subject land. This is consistent with the maximum building height applied to other rural land in Ballina LGA and the land surrounding the subject land. Consequently the proposed 8.5m maximum building height is considered to be appropriate.

Minimum Lot Size (MLS) – the proposal intends to apply a 20 hectare MLS to Lot 3 DP 1153559, and a 40 hectare MLS to all other subject land. The 20 hectare MLS for Lot 3 is considered to be appropriate as the eastern portion of Lot 3 is already included in Ballina LEP 2012 and has a 20 hectare MLS applied to it. The 40 hectare MLS for the remainder of the land is considered to be appropriate as it is consistent with the approach taken to the majority of other rural land in the LGA and is consistent with the current provisions of the clause 11 of the Ballina LEP 1987 (which applies a 40 hectare MLS to the majority of rural land in the LGA and specifically land zoned 7(c) Water Catchment, which is the current zone for the majority of the subject land).

Drinking Water Catchment Map – the proposal will map the majority of the subject land as 'Drinking Water Catchment' and as a result the land will be subject to the provisions of clause 7.4 of the Ballina LEP 2012. Clause 7.4 already exists in the Ballina LEP 2012 and is

a head of consideration clause requiring the consent authority to consider the potential impact of a development on the quality and quantity of water entering drinking water storages. The clause and map is a mapped planning control and is considered to be consistent with recommendation 12 of the Final Recommendations as the protection of drinking water supplies is considered to be a matter of public health and safety and therefore a mapped planning control is appropriate.

Heritage items – the proposal will amend the Heritage Map in the Ballina LEP 2012 to include items 177 Killen Falls and 195 Wollongbar Agricultural Institute. These items were identified as having heritage significance in Ballina Shire's Community Based Heritage Study 2008 and were proposed to be included in the draft Ballina Standard LEP. However the items are located on land that was deferred from the Ballina LEP 2012 and therefore could not be included in Schedule 5 of the Ballina LEP 2012. The proposed amendments to the Heritage Map and Schedule 5 to include these two items are considered to be appropriate.

Commercial Activities at Newrybar

The planning proposal intends to amend Schedule 1 to enable commercial uses as additional permitted uses for the Macadamia Castle and various properties at Newrybar. Five properties are involved and these are currently zoned 7(c) Environmental Protection (Water Catchment) under the Ballina LEP 1987. The commercial land uses on these properties are existing and, as proposed by Council in its preparation of the Ballina Standard Instrument LEP, the additional permitted uses are proposed to provide clarity and certainty for the property owners. The properties are proposed to be zoned RU1 Primary Production and commercial land uses are prohibited in this zone.

Some property owners in Newrybar have previously requested a commercial or urban zone for their land. Newrybar is a small locality with a small but unique collection of commercial premises. The locality serves a wider rural area and Ballina Council has determined that there is no strategic justification for an urban zone for this land. The proposal to include additional permitted uses for these properties in Schedule 1 of the LEP is considered to be appropriate.

The planning proposal is the best means of incorporating these proposed amendments into the LEPs.

The planning proposal includes section 1.6 Deferred Matter Integration Context and Interpretation. In this section Council has summarised its interpretation of the Final E Zone Review Recommendations. While Council's interpretation of the approach in applying E zones is considered to be generally consistent with the intent of the Final Recommendations, the summary it has provided in section 1.6 of the planning proposal contains some statements that could lead the public to misunderstand the requirements of the Final Recommendations during community consultation. It is recommended that a condition be placed on the Gateway determination requiring the omission of section 1.6 of the planning proposal or amendment to ensure it is not ambiguous or inconsistent.

Consistency with strategic planning framework :

Northern Councils E Zone Review Final Recommendations Report (the 'Final Recommendations')

The consistency of the proposal with the Final Recommendations is as follows:

Introduction of E2 and E3 Land Use Tables

The planning proposal will introduce land use tables for the E2 Environmental Conservation and E3 Environmental Management zones into the Ballina LEP 2012. These zones were deferred from the LEP pending the finalisation of the Northern Councils E Zone Review.

The proposed E2 zone objectives include only those required to be included by the Standard Instrument – Principle LEP template.

The land uses in the proposed E2 land use table are also consistent with the Standard Instrument – Principle LEP template. The proposed E2 zone is a closed zone and the prohibited land uses are those required to be listed by the Standard Instrument – Principle LEP template. The only land uses that are proposed to be permitted without consent are 'environmental protection works' and 'home occupations'. The only proposed land uses that will be permitted with consent are 'dwelling houses'; 'environmental facilities'; 'extensive agriculture'; 'research stations'; and 'roads'. These land uses are considered to be appropriate.

The E2 zone is consistent with the Final Recommendations as it lists 'extensive agriculture' as permissible with consent.

The proposed E3 zone objectives include only those required to be included by the Standard Instrument – Principle LEP template.

The land uses in the proposed E3 land use table are also consistent with the Standard Instrument – Principle LEP template. The proposed E3 zone is a closed zone and the prohibited land uses are those required to be listed by the Standard Instrument – Principle LEP template. The only land uses that are proposed to be permitted without consent are 'environmental protection works', 'extensive agriculture' and 'home occupations'.

The only proposed land uses that will be permitted with consent are 'community facilities'; 'dual occupancies (attached)'; 'dwelling houses'; 'emergency services facilities'; 'environmental facilities'; 'home based child care'; 'home businesses'; 'information and education facilities'; 'kiosks'; 'recreation areas'; 'research stations'; 'roads'; 'roadside stalls'; 'water recreation structures'. These land uses are considered to be appropriate.

The E3 zone is consistent with the Final Recommendations as it lists 'extensive agriculture' as permissible without consent.

Application of E Zones to Land -

The planning proposal proposes to apply E2 and E3 zones to a small area of the subject land. Council has made a preliminary assessment of the primary use of the land based on aerial photography, visual inspections and other property information available to Council, and concluded that the primary use of the land is either environmental conservation or environmental management and therefore warrants an E2 or E3 zone.

Council has acknowledged in the planning proposal that the input of the land owner is necessary to confirm the primary use of the land proposed to be zoned E2 (the land proposed to be zoned E3 is an existing public reserve which contains subtropical rainforest that is an endangered ecological community and application of an E3 Zone to this type of public land is consistent with the E Zone Review recommendations). Council intends to write to each land owner whose land is proposed to be zoned E2 after the issue of a Gateway determination and prior to community consultation and seek their input on the primary use of that portion of their land proposed to be zoned. Given that Ballina Council has agreed to expedite the zoning of deferred land by preparing planning proposals before June 2017 this approach is considered to be appropriate and the best means of progressing the planning proposal in an efficient manner.

Council has confirmed that the land proposed to be zoned E2 or E3 contains vegetation which meets the criteria for either an E2 or E3 zone. A table has been provided outlining the proposed zones and how each segment meets the E zone criteria as well as how this information has been validated. This approach to verifying the presence of vegetation attributes that meet the criteria for an E2 or E3 zone is considered to be consistent with the requirements of recommendation 5 of the Final Recommendations.

A portion of the land proposed to be zoned part E2 east of Killen Falls Drive is currently zoned 7(l) Environmental Protection - Habitat in the Ballina LEP 1987. In accordance with recommendation 6 of the Final Recommendations the 7(l) zoned land can be zoned E2 once Council has verified the attributes of the land against the criteria. The proposed E zoning of this land is therefore considered to be appropriate.

Application of a Rural Zone to land

The planning proposal intends to zone the majority of the subject land RU1 Primary Production. Council has used the RU1 zone to provide for the identification and management of land suitable for most kinds of primary production. It has been applied to rural land that supports a variety of agricultural activity including extensive agriculture, horticulture and intensive livestock agriculture.

This approach is considered to be consistent with the general purpose of the RU1 zone contained in Practice Note PN 11-002 which states:

This zone covers land used for most kinds of commercial primary industry production, including extensive agriculture, intensive livestock and intensive plant agriculture, aquaculture, forestry, mining and extractive industries. The zone is aimed at utilising the natural resource base in a sustainable manner. The zone is not a default zone for non urban land. The zone is allocated to land where the principal function is primary production.

Council has applied the RU1 zone to land where:

1. The land is identified as class 1, 2, 3 or 4 agricultural land by agricultural land classification mapping provided by the NSW Department of Primary Industries;
2. Land is identified as State or Regionally significant Farmland under the Northern Rivers Farmland Protection Project.

The majority of the land which is the subject of this planning proposal meets these criteria. Council has adopted an approach which applies an RU1 zone to an entire parcel of land where:

1. more than 5% of the land meets the criteria for an RU1 zone; or
2. the land is bound entirely by land that meets the criteria for an RU1 zone.

This approach is considered to be appropriate as it will ensure that agricultural land is zoned accordingly to enable agricultural land uses and reduces the potential for land use conflict that may arise from land uses that may be permitted in other zones such as the RU2 zone.

The application of the RU1 zone to the subject land is considered to be appropriate for the issue of a Gateway determination. Once community consultation is undertaken any issues raised with the application of the RU1 zone for specific properties can be addressed in greater detail.

The proposed RU1 zone is a closed zone as is the existing 7(c) Environmental Protection (Water Catchment) zone. The permissible land uses in the RU1 zone are similar to those previously permitted in the 7(c) zone with the exception of child care centres and retail plant nurseries. The RU1 zone does permit home based child care without consent and this is considered to be more appropriate for a rural area instead of a formal child care centre. Retail plant nurseries are a form of retail premises and are generally prohibited in rural areas. It is noted that the RU1 zone permits intensive plant agriculture without consent and this through the subset horticulture permits the cultivation of nursery products. Therefore wholesale nurseries may be permissible in the RU1 zone though retail plant nurseries will no longer be permissible. This is considered to be acceptable. Council may accommodate future retail plant nurseries it considered to be appropriate though the additional

permitted use provisions in Schedule 1 of the LEP.

Application of Special Use Zones

The planning proposal intends to apply an SP2 Infrastructure zone to land containing the Water Supply Infrastructure related to Emigrant Creek Dam which is owned by Rous County Council. The application of an SP2 zone to this type of infrastructure is considered to be consistent with the general purpose of the SP2 zone in Practice Note PN11-002 which provides that the SP2 zone may be used for infrastructure land which is highly unlikely to be used for different purposes in the future. The application of an SP2 zone to this infrastructure is considered to be appropriate.

Heads of Consideration Clause for E and W zones

The proposal intends to introduce a clause that requires the consideration of certain matters in relation to development applications impacting on land on which natural areas or habitat values are identified. Council proposed to include the clause in the Ballina LEP 2012 before it was removed pending the completion of the E Zone review.

Council intends that the clause will apply to development which impacts on land in an E zone or a waterway zone and, in future, may apply to land subject to a vegetation overlay. There is currently no land affected by a vegetation overlay map in Ballina LEP 2012.

The proposed clause will require that development is sited, designed and managed to avoid or mitigate potential adverse impacts arising from the proposed development on:

1. Surface and ground water quantity and quality;
2. Terrestrial and aquatic flora and fauna;
3. Ecological, habitat, and biodiversity values;
4. Access to public land;
5. Declared aquatic reserves, marine parks, national parks or nature reserves; and
6. Soil erosion and sedimentation.

This clause was accepted for inclusion in the Ballina Standard LEP prior to it being deferred pending the finalisation of the E Zone Review.

As a broader heads of consideration clause it is considered the clause has merit as it requires any development which may impact on sensitive areas to consider specific potential outcomes. Heads of consideration for development are a local matter which enable a local consent authority to protect matters which are eminently important to their LGA. In this case as Ballina LGA relies on natural tourism as an economic stimuli it has opted to require additional information, above the general s79C considerations, where a proposal may detract from these natural tourism values.

The submitted clause currently states that it will apply to land "located within or adjoining" land in an E or W zone. In its current form this clause may be interpreted to be a 'buffer' type clause and therefore could be considered to be inconsistent with the final recommendations of the E zone review. To provide greater certainty for landowners and to be consistent with the E Zone review recommendations in relation to buffers, it is recommended that this clause be amended in the planning proposal to be a plain English description and that it will only apply to land or water within the identified E and W zones.

Far North Coast Regional Strategy (FNCRS).

The proposal is not inconsistent with the provisions of the FNCRS. The proposal does not release more residential land outside of the agreed growth boundaries or on land subject to hazards or significant constraints. The proposal will apply an RU1 Primary Production zone to land which is mapped as regional and state significant farmland. The proposal protects matters of heritage significance by including them in the Ballina LEP 2012. The proposal includes controls for the protection of natural resources and water catchments.

Draft North Coast Regional Plan

For the reasons addressed above in relation to the FNCRS, the proposal is not inconsistent with the provisions of the draft North Coast Regional Plan.

Standard Instrument LEP Template

The proposal is considered to be consistent with the Standard Instrument LEP template. The proposed E2 and E3 zone land use tables comply with the directions in the template and contain the mandatory objectives and land uses.

The proposed heads of consideration clause is consistent with the format for model clauses of this kind in Standard LEPs.

Consistency with Council's Local Strategies.

The proposal is not considered to be inconsistent with Council's Community Strategic Plan. The proposal seeks to achieve a single local environmental plan for the Ballina LGA.

SEPPs

The proposal will affect land which is subject to several State environmental planning policies (SEPPs). The proposal is not considered to be inconsistent with the provisions in any applicable SEPPs.

S117 Directions.

The following S117 directions are applicable to the proposal, 1.2 Rural Zones, 1.3 Mining, Petroleum Production and Extractive Industries, 1.5 Rural Lands, 2.1 Environmental Protection Zones, 2.3 Heritage Conservation, 2.4 Recreational Vehicle Areas, 2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs, 3.2 Caravan Parks and Manufactured Home Estates, 3.3 Home Occupations, 3.4 Integrating Land Use and Transport, 4.4 Planning for Bushfire Protection, 5.1 Implementation of Regional Strategies, 5.3 Farmland of State and Regional Significance on the NSW Far North Coast, 5.10 Implementation of Regional Plans, 6.1 Approval and Referral Requirements, 6.2 Reserving Land for Public Purposes, and 6.3 Site Specific Provisions.

Of the above s117 Directions the proposal's consistency with Directions 2.5, 4.4 and 6.2 remain currently unresolved.

Direction 2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs is relevant to the planning proposal. The direction provides that where a planning proposal proposes an E2 or E3 zone or an overlay and associated clause the proposal must be consistent with the Northern Council E Zone Review Final Recommendations. As discussed previously in this report while Council has prepared the planning proposal to be consistent with the Final Recommendations, the determination of the primary use of land requires the input of the various land owners and therefore cannot be finalised until consultation has been undertaken. It is therefore considered that the consistency of the proposal with the direction cannot be resolved at this stage. It is considered necessary to reassess the consistency of the proposal with the direction after community consultation has been undertaken and Council has had the opportunity to assess submissions made by land owners relating to the proposed E2 and E3 zones applying to their land.

Direction 4.4 Planning for Bushfire Protection is relevant to the proposal. Part of the subject 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, and the draft plan must include provisions relating to bushfire control. Consultation with the RFS is required after a Gateway Determination is issued and before public exhibition and until this consultation has occurred the inconsistency of the proposal with the direction remains unresolved.

Direction 6.2 Reserving Land for Public Purposes is relevant to the planning proposal. The direction provides that a planning proposal must not create, alter or reduce zonings of land for public purposes without the approval of the Secretary or the public authority. The planning proposal intends to rezone land owned by Rous County Council to SP2 Infrastructure – Water Supply System as it contains infrastructure relating to the reticulated water supply operated by Rous County Council. The agreement of the relevant public authority has not yet been obtained though it is intended to require Council to consult with Rous County Council. It is considered that until this consultation is completed any

inconsistency of the proposal with the direction cannot be finalised and therefore the consistency with the direction remains unresolved.

The proposal is otherwise consistent with S117 Directions.

Environmental social
economic impacts :

The proposal is not expected to have an adverse impact on critical habitat or threatened species, populations or ecological communities or their habitats. The majority of the land is currently zoned 7(c) Environmental Protection (Water Catchment) though is mostly used for agricultural purposes. The application of an RU1 zone to this land does not reflect a reduction in the protection of land that contains significant vegetation. The land along the riparian corridor of Emigrant Creek is proposed to be zoned E2 or E3, consistent with the Final Recommendations of the E Zone Review. This land contains the lowland subtropical rainforest endangered ecological community.

The proposal is not likely to have negative social or economic impacts. The application of an RU1 zone to land which is used for agricultural purposes is appropriate and will provide land owners with certainty on the land uses that are permitted on their land. The integration of the subject land into the Ballina LEP 2012 will simplify the planning controls for the land having a positive impact for future development proponents.

Agency Consultation.

The planning proposal does not indicate whether any consultation with State agencies is proposed, noting that consultation may be required by the Gateway determination. It is considered that Council should consult with the following State agencies:

1. Rural Fire Service;
2. Office of Environment and Heritage.
3. Department of Primary Industries;
4. Local Aboriginal Land Council; and
5. Rous County Council.

Assessment Process

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

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

Public Authority **Office of Environment and Heritage**
Consultation - 56(2)(d) **NSW Department of Primary Industries - Agriculture**
: **NSW Rural Fire Service**

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

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

If no, provide reasons :

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

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

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

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
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Planning Team Recommendation

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

S.117 directions:

- 1.2 Rural Zones**
- 1.3 Mining, Petroleum Production and Extractive Industries**
- 1.5 Rural Lands**
- 2.1 Environment Protection Zones**
- 2.3 Heritage Conservation**
- 2.4 Recreation Vehicle Areas**
- 3.2 Caravan Parks and Manufactured Home Estates**
- 3.3 Home Occupations**
- 3.4 Integrating Land Use and Transport**
- 4.4 Planning for Bushfire Protection**
- 5.1 Implementation of Regional Strategies**
- 5.3 Farmland of State and Regional Significance on the NSW Far North Coast**
- 6.1 Approval and Referral Requirements**
- 6.2 Reserving Land for Public Purposes**
- 5.10 Implementation of Regional Plans**

Additional Information :

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

- 1. The planning proposal proceed as a 'routine' planning proposal.**
- 2. Prior to community consultation or agency consultation:**
 - (a) section 1.6 Deferred Matter Integration Context and Interpretation of the planning proposal is to be omitted or amended to ensure that there are no inconsistencies with the Final Recommendations or that there is nothing that could lead to misunderstanding the intent of the Final Recommendations;**
 - (b) section 3.5 Introduction of Natural Areas and Habitat Heads of Consideration Provision of the planning proposal is to be amended to include a plain English description and to clarify that it will only apply to land within the identified E and W Zones;**
 - (c) Council is to ensure that any land owner whose land is proposed to have an E zone applied to it is notified in writing of the planning proposal and the proposed community consultation arrangements, and is requested to confirm the primary use of the land, with the planning proposal to be amended accordingly; and**
 - (d) Council is to forward the amended planning proposal for approval to the Department.**
- 3. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:**
 - (a) the planning proposal must be made publicly available for a minimum of 28 days; and**
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing LEPs (Department of Planning and Environment 2016).**
- 4. Consultation is required with the following public authorities under section 56(2)(d) of the Act and/or to comply with the requirements of relevant S117 Directions:**
 - Rural Fire Service;**

- Office of Environment and Heritage.
- Department of Primary Industries;
- Local Aboriginal Land Council; and
- Rous County Council.

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

5. When Council has considered the submissions received during community consultation and has endorsed the final planning proposal, land owners whose land will be subject to an E zone are to be notified in writing of the Council's decision and advised that they have 28 days to notify the Department if they wish to request the Chief Planner to review the proposed zoning of their property.

6. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

7. The timeframe for completing the LEP is to be 9 months from the week following the date of the Gateway determination.

8. A written authorisation to exercise delegation not be issued to Ballina Shire Council.

9. The Secretary's delegate note the currently unresolved nature of S117 Directions 2.5, 4.4 and 6.2 and that these Directions will need to be addressed after further consultation has been undertaken.

Supporting Reasons :

The reasons for the recommendation are as follows;

1. The proposal will integrate a large area of deferred land into the Ballina LEP 2012 and in doing so will implement the Final Recommendations of the Northern Council's E Zone Review.
2. The proposal is consistent with the strategic planning framework and the Northern Council's E Zone Review Final Recommendations.

Signature:



Printed Name:

Craig Diss

Date:

14/2/17

