

Proposed residential rezoning at Burns Point Ferry Road, West Ballina

Proposal Title :	Proposed residential rezoning at Burns Point Ferry Road, West Ballina		
Proposal Summary :	Rural zoned land at Burns Point Ferry Road, West Ballina, is proposed to be zoned R3 Medium Density to facilitate residential development. The minimum lot size for the land is proposed to be reduced from 40ha to 600 square metres.		
PP Number :	PP_2012_BALLI_007_00	Dop File No :	12/19107

Proposal Details

Date Planning Proposal Received :	28-Nov-2012	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 :	6 Burns Point Ferry Road		
Suburb :	West Ballina	City :	West Ballina
		Postcode :	2478
Land Parcel :	Lot 1 DP 522558		

DoP Planning Officer Contact Details

Contact Name :	Carlie Boyd
Contact Number :	0266416610
Contact Email :	carlie.boyd@planning.nsw.gov.au

RPA Contact Details

Contact Name :	Lachlan Sims
Contact Number :	0266861284
Contact Email :	lachlans@ballina.nsw.gov.au

DoP Project Manager Contact Details

Contact Name :	Paul Garnett
Contact Number :	0266416607
Contact Email :	paul.garnett@planning.nsw.gov.au

Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Far North Coast Regional Strategy	Consistent with Strategy :	Yes

Proposed residential rezoning at Burns Point Ferry Road, West Ballina

MDP Number :		Date of Release :	
Area of Release (Ha) :	0.40	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	6	No. of Dwellings (where relevant) :	6
Gross Floor Area :	0	No of Jobs Created :	0
The NSW Government Lobbyists Code of Conduct has been complied with :	Yes		
If No, comment :	The Department of Planning Code of Practice in relation to communication and meetings with lobbyists has been complied with to the best of the Region's knowledge.		
Have there been meetings or communications with registered lobbyists? :	No		
If Yes, comment :	Northern Region has not met any lobbyists in relation to this proposal, nor has Northern Region been advised of any meeting between other Departmental officers and lobbyists concerning this proposal.		

Supporting notes

Internal Supporting Notes : **The number of lots and dwellings has been estimated based on a proposed 600 square metre minimum lot size for the site. The actual numbers are yet to be confirmed. The number of jobs to be created is unknown.**

Ballina Council has not requested that the plan making functions for this planning proposal be delegated to Council.

External Supporting Notes :

Adequacy Assessment

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

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

Comment : **The objective and intended outcomes of the planning proposal are adequately expressed for the proposed amendment to either the (currently draft) Ballina LEP 2011 or the existing Ballina LEP 1987.**

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

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

Comment : **The planning proposal provides a clear explanation of the intended provisions to achieve the objectives and intended outcomes.**

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.2 Rural Zones

1.5 Rural Lands

2.2 Coastal Protection

3.1 Residential Zones

3.4 Integrating Land Use and Transport

4.1 Acid Sulfate Soils

Proposed residential rezoning at Burns Point Ferry Road, West Ballina

4.3 Flood Prone Land

5.1 Implementation of Regional Strategies

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

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

d) Which SEPPs have the RPA identified?

SEPP No 55—Remediation of Land

SEPP No 71—Coastal Protection

SEPP (Rural Lands) 2008

North Coast REP 1988

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

The rezoning of the proposed site for residential purposes is consistent with Council's approved residential land release strategy and the FNC Regional Strategy.

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

If No, explain :

All inconsistencies are justified by the proposal's consistency with Council's approved residential land release strategy and the FNC Regional Strategy.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

The mapping adequately shows the subject land and the proposed zoning. Mapping that complies with the Department's 'Standard Technical Requirements for LEP Maps' will be provided for the making of the LEP.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

The planning proposal has not indicated a public exhibition period for community consultation. The Gateway will determine the timeframe required for exhibition. Community consultation will be in accordance with the Department's 'A Guide to Preparing an LEP'. A 14 day consultation period is recommended, as the proposal is considered to be a low impact planning proposal.

Additional Director General's requirements

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

If Yes, reasons :

Overall adequacy of the proposal

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

If No, comment :

The planning proposal satisfies the adequacy criteria by:

- 1. Providing appropriate objectives and intended outcomes;**
- 2. Providing a suitable explanation of the provisions proposed for the LEP to achieve the outcomes;**
- 3. Providing an adequate justification for the proposal; and**
- 4. Proposing community consultation.**

Proposal Assessment

Principal LEP:

Due Date : December 2012

Comments in relation to Principal LEP :

The draft Ballina LEP 2011 is currently with the Department for finalisation. It is due for completion in December 2012.

Assessment Criteria

Need for planning
proposal :

The planning proposal is a result of the Ballina Urban Land Release Strategy 2000 (updated in 2003), which has been approved by the Department. The subject site is included in the approved strategy. The site is also included in Council's draft Local Growth Management Strategy (LGMS), which is currently with the Department for approval. Both strategies identify the site as being suitable for residential development. The land is included within the Far North Coast Regional Strategy (FNCRS) growth boundary for potential future urban development. The site is adjacent to land zoned and developed for residential development.

The proposed change to the LEP is the most appropriate means of achieving the desired outcome for the proposal. The community benefit of the proposal stems from the fact that the land would provide for residential development on relatively unconstrained land adjacent to existing residential development. The land is considered by Council to be suitable for residential uses and should therefore be zoned for such.

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

Proposed residential rezoning at Burns Point Ferry Road, West Ballina

Consistency with strategic planning framework :

The proposal is consistent with all relevant local and regional planning strategies, including the Far North Coast Regional Strategy and Council's approved Urban Land Release Strategy and draft Local Growth Management Strategy.

Inconsistencies:

The planning proposal is inconsistent with S117 Directions 1.2 Rural Zones and 4.3 Flood Prone Land. The inconsistencies are supported by the FNCRS, Council's approved residential strategy and/or are of minor significance.

1.2 Rural zones

The planning proposal is not consistent with this direction as it is proposed to rezone land from a rural zone to a residential zone. The rezoning is, however, in accordance with Council's approved strategy and draft LGMS. The site is also identified within the FNCRS town and village growth area boundary for future urban development. The inconsistency with the Direction is therefore justified.

4.3 Flood Prone Land

The application indicates that the site is currently subject to flooding. No Floodplain Risk Management Plan has been prepared for the area. Assessment of the impact of flooding on the site has not been undertaken. Council, however, indicates that development of the site based on the use of fill was accounted for within the wider Ballina Flood Study Update undertaken in 2008. The filling and subsequent development of the site was assessed in the study and by Council to be satisfactory in terms of impacts to other lands. It should also be noted that the entire Ballina urban area is flood prone and residential development on similar filled flood prone allotments in the area has been approved. The land was previously developed as a motel. Given the historic use of the site, its location adjacent to existing residential development, its small size and its inclusion within the updated flood modelling as a filled and developed site, it is considered that further flood assessment is not required. The inconsistency with the Direction is considered to be justified as being of minor significance.

The proposal is considered to be consistent with all other S117 Directions.

SEPPs

Several SEPPs were raised as being relevant to the proposal, including SEPP 55 Remediation of Land, SEPP 71 Coastal Protection and SEPP (Rural Lands) 2008. The North Coast REP is a deemed SEPP and is also relevant to the proposal.

SEPP 55

SEPP 55 requires consideration of contaminated land issues where land that may be contaminated is proposed to be rezoned. The site has been investigated for the presence of asbestos following demolition of the former motel and has been certified as being clear of asbestos residue. Further investigations relating to potential contamination of the land are proposed to be undertaken following the gateway determination. This is appropriate. The proposal is therefore considered to be consistent with the SEPP.

SEPP (Rural Lands)

This SEPP is relevant to the proposal as the land is currently zoned rural. Although rural land is proposed to be rezoned for residential development, the proposal is generally consistent with the SEPP as it is consistent with the applicable regional strategy and endorsed local strategy. The land is also currently zoned for future urban investigation and has a history of development and urban use, rather than rural uses. The land is considered to be unsuitable for future rural use due to its location within the expanding urban fringe of Ballina.

North Coast REP

The proposal could be inconsistent with clause 45A of the North Coast REP, which states that intensification of development on flood prone land should be avoided unless justified within a floodplain risk management plan (FRMP) applying to the site. However, it could be argued that the proposed residential development is no more intensive than the motel

Proposed residential rezoning at Burns Point Ferry Road, West Ballina

Environmental social economic impacts :

development previously on the site. It is considered that issues relating to the flood prone nature of the site have been adequately dealt with in Council's flood study and do not warrant further investigation, as outlined above.

The proposal is capable of being consistent with all other SEPPs applying to the land.

The land proposed for development is largely cleared and has a history of disturbance, being formerly developed as a motel. There is no known critical habitat or threatened species, populations or ecological communities or their habitats which would be adversely affected by this rezoning proposal.

As discussed above, the land is subject to flooding and will need to be filled to enable development. Development of the land has been accounted for in Council's flood modelling for the area.

The land is mapped as having potential to contain acid sulfate soils. Council is satisfied that this issue can be addressed at the development application stage in accordance with the provisions relating to development on acid sulfate soils within the draft Ballina LEP 2011. This is appropriate.

Council has indicated that there may be geotechnical constraints to development of the site, due to the possible presence of soft soils. Further investigation at the development application stage is proposed to determine construction requirements. This is appropriate.

No known heritage items have been mentioned within the planning proposal. The West Ballina area is recognised in Council's strategy as potentially containing objects of Aboriginal heritage significance. However, the site was previously developed and disturbed. It is considered that any arising heritage issues can be dealt with at the development application stage.

Council has confirmed that the land will be able to be serviced with water and sewerage infrastructure.

The rezoning proposal potentially has economic benefits due to the job opportunities that will arise during construction of the development and the flow-on effect within the local community as an increase in revenue to the local businesses and wider area. Development for housing will assist in meeting regional dwelling targets.

Assessment Process

Proposal type : **Minor** Community Consultation Period : **14 Days**

Timeframe to make LEP : **12 Month** Delegation : **DDG**

Public Authority Consultation - 56(2)(d) : **Office of Environment and Heritage**

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

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

If no, provide reasons :

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

If Yes, reasons :

Proposed residential rezoning at Burns Point Ferry Road, West Ballina

Identify any additional studies, if required. :

Other - provide details below

If Other, provide reasons :

A Potential Land Contamination Study is required prior to rezoning of the site to ensure that the site is suitable for residential development.

Identify any internal consultations, if required :

No internal consultation required

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

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Cover_letter.pdf	Proposal Covering Letter	Yes
Planning_Proposal.pdf	Proposal	Yes

Planning Team Recommendation

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

S.117 directions:

- 1.2 Rural Zones**
- 1.5 Rural Lands**
- 2.2 Coastal Protection**
- 3.1 Residential Zones**
- 3.4 Integrating Land Use and Transport**
- 4.1 Acid Sulfate Soils**
- 4.3 Flood Prone Land**
- 5.1 Implementation of Regional Strategies**

Additional Information : **It is recommended that:**

- 1. The planning proposal is supported;**
- 2. The planning proposal is to be exhibited for a period of 14 days;**
- 3. The planning proposal should be completed within 12 months;**
- 4. The Director General (or an officer of the Department nominated by the Director General) agree that the inconsistencies with s117 Directions 1.2 and 4.3 are justified in accordance with the terms of the Direction; while all other S117 directions are consistent with the planning proposal.**
- 5. The RPA is to consult with the Office of Environment and Heritage in relation to the issue of flooding on the site;**
- 6. The RPA is to place supporting documentation on exhibition with the planning proposal relating to the issue of flooding on the site; and**
- 7. The RPA is to prepare a potential land contamination study for the site. The study is to be placed on exhibition with the planning proposal.**

Supporting Reasons : **The planning proposal is consistent with Council's approved residential settlement strategy and the FNC Regional Strategy.**

All inconsistencies with s117 Directions are justified by the proposal's consistency with the above strategies or are of minor significance.

Signature: _____

Printed Name: _____

PAUL GARNETT

Date: _____

30/11/12

*Acting Team leader, Local Planning
Northern Region*

