

enquiries refer

Lachlan Sims

in reply please quote

LEP Amendment Request – Burns Point Ferry Road, West Ballina (12/52080)

26 November 2012



PGF001651



Mr Steve Murray
Regional Director, North Coast
Department of Planning & Infrastructure
Locked Bag 9022
GRAFTON NSW 2460

Received

28 NOV 2012

12/19/12

North Coast

Dear Mr Murray

Re: Planning Proposal – Burns Point Ferry Road, West Ballina

Council has received a rezoning request relating to Lot 1 DP 522558, No. 6 Burns Point Ferry Road, West Ballina. Council considered the planning proposal at its Ordinary Meeting held on 22 November 2012 and resolved as follows (221112/11);

1. *That Council submit the planning proposal relating to Lot 1 DP 522558, No. 6 Burns Point Ferry Road, West Ballina, to the NSW Department of Planning & Infrastructure for review and gateway determination.*
2. *That upon an affirmative Gateway determination being received from the Department of Planning & Infrastructure, Council staff will carry out the procedural steps associated with the progress of the planning proposal, including public exhibition.*
3. *That a further report be submitted to Council in relation to this matter following mandatory community consultation.*

In accordance with the above resolution, please find enclosed the abovementioned planning proposal for gateway determination in accordance with Section 56 of the *Environmental Planning & Assessment Act 1979*.

If you have any enquiries in regard to this matter please contact Lachlan Sims on telephone (02) 6686 1284.

Yours faithfully

Matthew Wood
**Manager Strategic Planning
Strategic and Community Services Group**

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Ballina Shire Council

Planning Proposal - November 2012

6 Burns Point Ferry Road, West Ballina

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Gateway



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Introduction

Summary of Planning Proposal

This planning proposal relates to Lot 1 DP 522558, No. 6 Burns Point Ferry Road, West Ballina, as shown on the locality map attached in Appendix 1.

The subject land is owned by Mr CM & Mrs JM Elliott & Mr DR & Mrs CM Westaway and has an area of 4,047m².

The site is currently zoned 1(d) Urban Investigation under the provisions of the *Ballina Local Environmental Plan 1987* (Ballina LEP 1987) as shown on the Ballina LEP 1987 zoning map attached in Appendix 2.

Under the provisions of the *Draft Ballina Local Environmental Plan 2011* (Draft Ballina LEP 2011) an RU2 Rural Landscape Zone has been proposed for application to the subject land as shown on the Draft Ballina LEP 2011 zoning map attached in Appendix 3.

As it is likely that the Draft Ballina LEP 2011 will be adopted prior to completion of the subject LEP amendment, it is proposed that the R3 Medium Density Zone will be applied to the entirety of Lot 1 DP 522558. The proposed zoning for the subject site is shown in Appendix 4.

The subject planning proposal seeks to amend the Draft Ballina LEP 2011 (once made) on the basis that completion of the proposed rezoning, if it proceeds to finalisation, is likely to occur following the completion of Council's new Local Environmental Plan (being the Draft Ballina LEP 2011).

Under this approach, the proposal involves the rezoning of land from an RU2 – Rural Landscape Zone to an R3 – Medium Density Residential Zone.

It is also proposed that a minimum lot size for subdivision of 600m² be applied to the subject land and that the land also be removed from designation as a strategic urban growth area under the LEP upon its rezoning. The proposed changes are detailed in Table 2 below.

In the event that the Draft Ballina LEP 2011 is not completed within a suitable timeframe, the planning proposal enabling the rezoning of the land may proceed under the Ballina LEP 1987 (which is presently applicable to the land). Under this approach, the proposal involves the rezoning of the land from a 1(d) Rural (Urban Investigation) Zone to a 2(a) Living Area Zone.



Table 2 – Proposed LEP Amendments

Planning Provision	Existing (Ballina LEP 1987/ Draft Ballina LEP 2011)	Proposed Amendment	
		Draft Ballina LEP 2011	Ballina LEP 1987
Land Use Zone	1(d) – Rural (Urban Investigation)/RU2 Rural Landscape	R3 – Medium Density Residential	2(a) – Living Area
Minimum Lot Size for Subdivision	Not within BLEP 1987/ 40ha minimum	600m ²	N/A
Strategic Urban Growth Area	Not within BLEP 1987/ Nominated as a potential urban growth area	Land removed from designation as a potential urban growth area	N/A

Planning Context

Council has identified the subject land as having urban development potential since the introduction of the Ballina LEP 1987. Additionally, future urban zoning of the land has been contemplated in a number of planning policies.

Ballina LEP 1987

The subject land is zoned 1(d) Rural (Urban Investigation) under the terms of the Ballina Local Environmental Plan 1987. A key aim of the zone is to avoid inappropriate development that may limit the urban potential of the land prior to detailed urban investigation being undertaken. The 1(d) Zone has been used by Council to indicate areas considered to have potential for urban development.

The objectives of the 1(d) zone are outlined in Part 3 Section B of this planning proposal.

Ballina Shire Growth Management Strategy 2012

The subject land is located within the West Ballina Planning Precinct and is identified as being within a strategic urban growth area and having potential to accommodate urban development.

Far North Coast Regional Strategy

The Far North Coast Regional Strategy (FNCRS) provides the regional framework for the consideration of rezoning land for urban purposes in Ballina Shire. The FNCRS identifies the subject land as a 'Proposed Future Urban Release Area' within the 'Town & Village Growth Boundary' for Ballina Shire. The subject land is identified as a proposed release area under the FNCRS.



Draft Ballina LEP 2011

The subject land is zoned RU2 Rural Landscape under the provisions of the Draft Ballina LEP 2011. The Lot Size Map contained in this plan applies a 40 hectare minimum lot size to the site. The site is also identified on the Strategic Urban Growth Areas Map as being a “potential urban growth area”.

Council has typically applied rural zones under its draft LEP to areas currently zoned 1(d) as there is no zone equivalent to the 1(d) zone under the standard instrument. Under this approach, potential urban release areas are identified in the relevant strategic planning policy documents (as outlined above).

Part 1 - Objectives or Intended Outcomes

The objective of this planning proposal is to rezone the subject land to enable density residential development and associated infrastructure.

Part 2 - Explanation of the Proposal

This planning proposal relates to land located at 6 Burns Point Ferry Road, West Ballina and is known as the former Ferry Boat Motel site. The site is currently zoned 1(d) Rural (Urban Investigation) under the provisions of the Ballina LEP 1987.

The Draft Ballina LEP 2011 proposes to zone the subject land RU2 Rural Landscape Zone. This planning proposal seeks to rezone the subject land to an R3 Medium Density Zone to enable future development for residential purposes.

Amendments to the Minimum Lot Size Map and the Strategic Urban Growth Areas Map under the Draft Ballina LEP 2011 are also proposed. In relation to the Minimum Lot Size Map, it proposed to change the application of the 40 hectare minimum lot size currently nominated for the site to a 600m² minimum lot size that is consistent with the surrounding locality. Should the site be rezoned, its nomination on the Strategic Urban Growth Areas Map will no longer be required, and as such, the land would be removed from this map set.

The LEP amendment request prepared on behalf of the applicant has demonstrated that the site is relatively unconstrained and is capable of supporting low and medium density residential land uses. The proposal has provided conceptual medium density residential development scenarios to enable an assessment of the potential impacts associated with future residential uses. These are considered appropriate in supporting the conceptual stages and planning proposal phase of the LEP amendment process.

A preliminary investigation of environmental and planning constraints has been provided with the LEP amendment request. This has briefly addressed issues such as land contamination, acid sulphate soils, geotechnical characteristics and flooding.



The most recent land use for the subject site was a motel which was demolished in 2008. The site has been tested for asbestos presence following demolition works and has been certified as being clear of asbestos materials. No further soil testing or contamination assessment has been undertaken at this stage. It is not expected that the former land use will have resulted in land contamination of any significance.

Geotechnical assessments in the locality have indicated the presence of soft soils that may affect the subject site. Further investigation will be required at construction approval stage to determine the appropriate level of structural support necessary for the site given this potential constraint.

The subject site is also identified as being flood prone although it is acknowledged that the site has been considered in the Ballina Flood Study Update as undertaken by BMT WBM in 2008. The site was considered in the modelling undertaken for the purposes of the study update as "future development or infrastructure works". Having regard for this, the site has already been considered based on a scenario of future filling and building construction in Council's floodplain modelling.

Ecologically, the site has minimal features of significance and comprises slashed grassland with occasional introduced landscape tree and shrub species. It is acknowledged in the LEP amendment request, however, that consideration of the effects of the development on the adjoining site will need to be considered, particularly where areas of ecological significance are identified.

Part 3 - Justification

Section A - Need for the Planning Proposal

1. Is the planning proposal a result of any strategic study or report?

The subject land is identified in the Far North Coast Regional Strategy 2006 (FNCRS) as being a "Proposed Future Urban Land Release Area".

The subject land is considered in the Ballina Shire Growth Management Strategy 2012 as having potential for urban development.

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

As noted above, the proposal is consistent with a range of strategic planning studies that identify the site for future urban investigation. The LEP amendment request and supporting documentation which informed the preparation of this planning proposal demonstrate that this process is the best means to enable development for future residential uses.

Section B - Relationship to the Strategic Planning Framework

3. 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)?

The proposal is consistent with the FNCRS, which provides the regional framework for the consideration of rezoning land for urban purposes in Ballina Shire. The FNCRS identifies the subject land as being a "Proposed Future Urban Release Area" within the 'Town & Village Growth Boundary Map – Sheet 3, as shown in Figure 3 below:

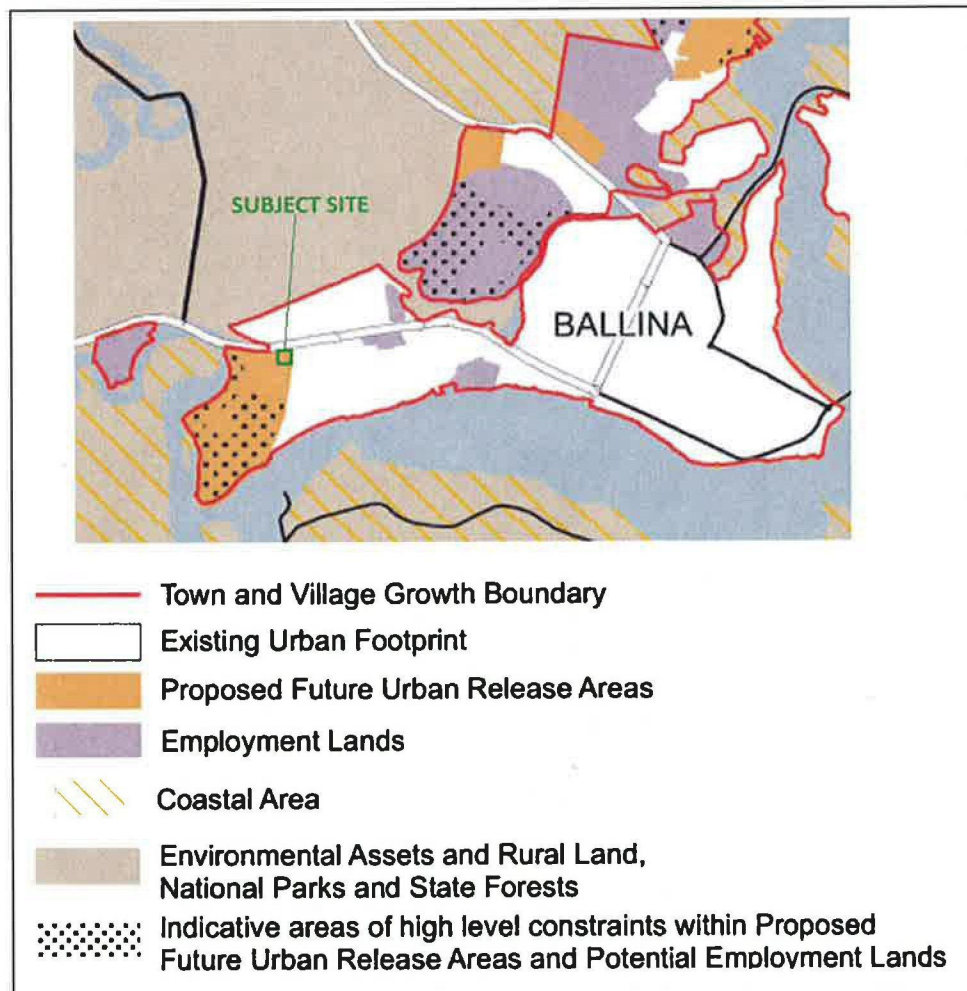


Figure 3 – Extract from Town & Village Growth Boundary Map , Far North Coast Regional Strategy, NSW Department of Planning 2006

The FNCRS notes that land identified in the Town and Village Growth Area Boundary will be subject to more detailed investigations to determine capability and future yield. Accordingly, investigation of the subject land for future urban development through the statutory rezoning process, involving assessment of the land's capability to accommodate urban development is consistent with the regional planning framework.

4. Is the planning proposal consistent with a council's local strategy or other local strategic plan?

The planning proposal is consistent with the following key local plans:

Ballina Local Environmental Plan 1987

The subject land is currently zoned 1(d) Rural (Urban Investigation) under the provisions of the Ballina LEP 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.*

In applying the 1(d) Zone, Council recognises that the subject land has potential for urban development, subject to detailed investigation being undertaken.

The proposal addresses the objectives of the zone and is consistent with Council's adopted strategic planning for the site as being suitable for future urban land uses. The proposal also demonstrates that the site is physically capable of supporting future residential development with regard to environmental constraints and servicing.

5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

Yes, the proposal is generally consistent with applicable State Environmental Planning Policies (SEPP).

Having regard for the provisions of *State Environmental Planning Policy No. 55 (Remediation of Land)* the site has been certified as being clear of asbestos residue following the demolition of the former motel on the site. Further investigations in accordance with the requirements of SEPP 55 will be considered in detail following the gateway determination phase and prior to rezoning the land.

6. Is the planning proposal consistent with the applicable Ministerial Directions (S. 117 directions)?

Yes, the proposal is consistent with the relevant Section 117 Directions. A Section 117 Direction checklist for the Planning proposal is contained in Appendix 5.

Section C - Environmental, Social and Economic Impact

7. 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?

Preliminary advice relating to the environmental characteristics of the site identify it as being predominately cleared of significant vegetation and dominated by non-native plant species.

Consequently, this planning proposal and subsequent development of the subject land is not expected to result in any adverse impacts on any critical habitat, threatened species, populations or ecologically communities.

Further detailed environmental assessment will be required to support a development application for subdivision of the subject land.

8. 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:

- Potential contamination;
- Geotechnical constraints
- Site filling and flood management.

These and other issues have been addressed in the supporting documentation submitted with the LEP amendment request. It is expected that the risk of these effects to the development of the site can be appropriately managed through further investigation, remediation where necessary and the implementation of structural and building design elements to mitigate potential negative effects.

9. How has the planning proposal adequately addressed any social and economic effects?

The rezoning of the land for urban purposes will likely have positive social and economic effects. In particular, the development of the land for housing will assist in



meeting regional dwelling targets. Further, as an infill development outcome, efficiencies are likely in relation to infrastructure provision.

Section D – State and Commonwealth Interests

10. Is there adequate public infrastructure for the planning proposal?

A future development on the subject land can be economically serviced by standard urban infrastructure.

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

Consultation will be undertaken with relevant agencies following the gateway determination stage of the LEP amendment.

Part 4 - Mapping

Mapping details for the LEP amendment including a locality map identifying the subject site, a current zoning map for the area under the provisions of the Ballina Local Environmental Plan 1987, a zoning map under the provisions of the Draft Ballina Local Environmental Plan 2011 and a proposed zoning map are included in Appendices 1 to 4.

Part 5 – Community Consultation

Council has not undertaken any community consultation concerning this planning proposal. It is anticipated that this will occur as part of the formal exhibition of the planning proposal or as directed through the gateway determination process.



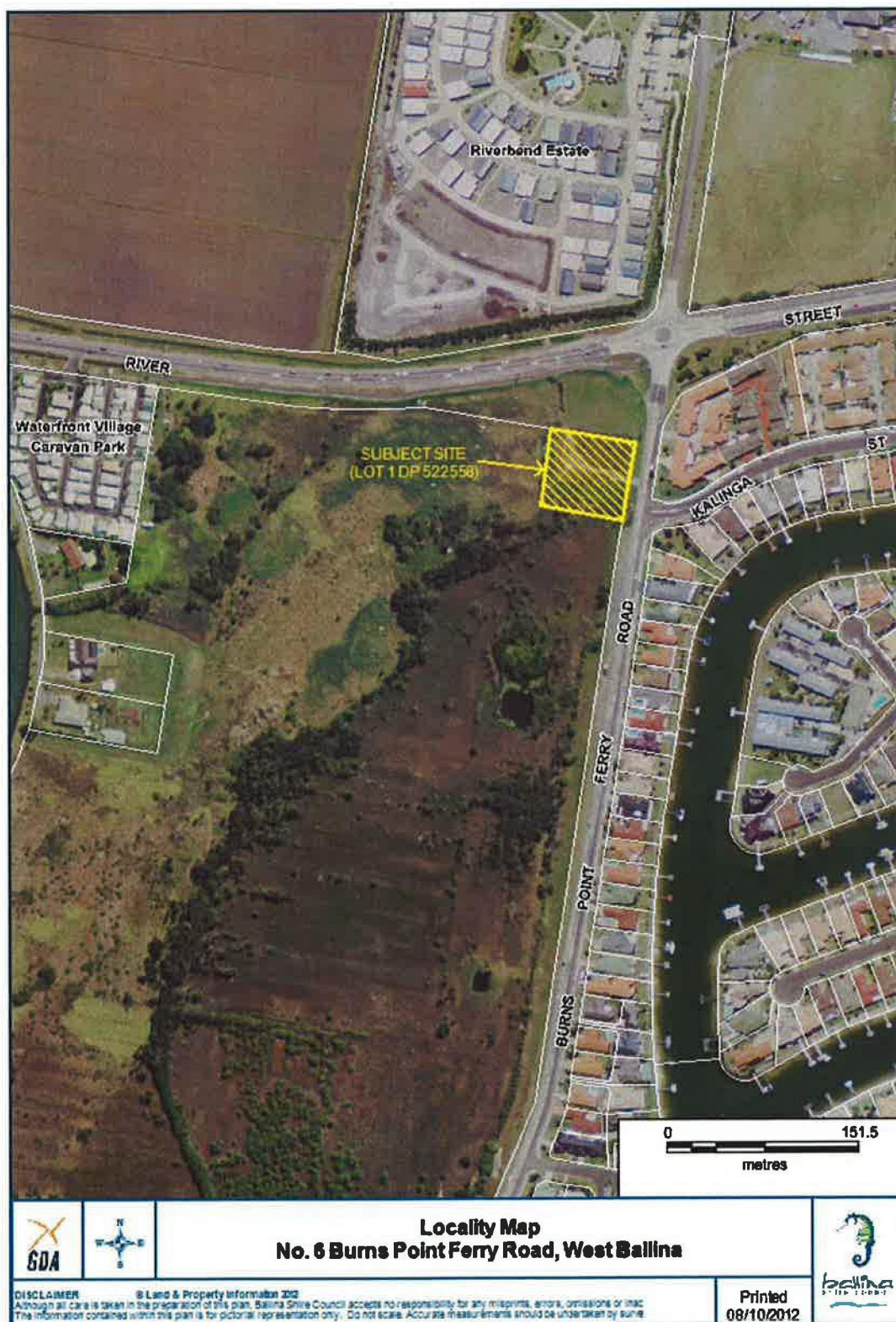
Part 6 – Project Timeline

Plan Making Step	Estimated Completion (Before)
Gateway Determination (Anticipated)	December 2012
Completion of Technical Assessment	February 2013
Government Agency Consultation	February 2013
Public Exhibition Period	March 2013
Public Hearing (if required)	April 2013
Submissions Assessment	April 2013
RPA Assessment of Planning Proposal and Exhibition Outcomes	April 2013
Submission of Endorsed LEP to DP&I for Finalisation	May 2013
RPA Decision to Make the LEP Amendment (if delegated)	N/A – proposal not subject to delegation
Forwarding of LEP Amendment to DP&I for Notification (if delegated)	N/A – proposal not subject to delegation

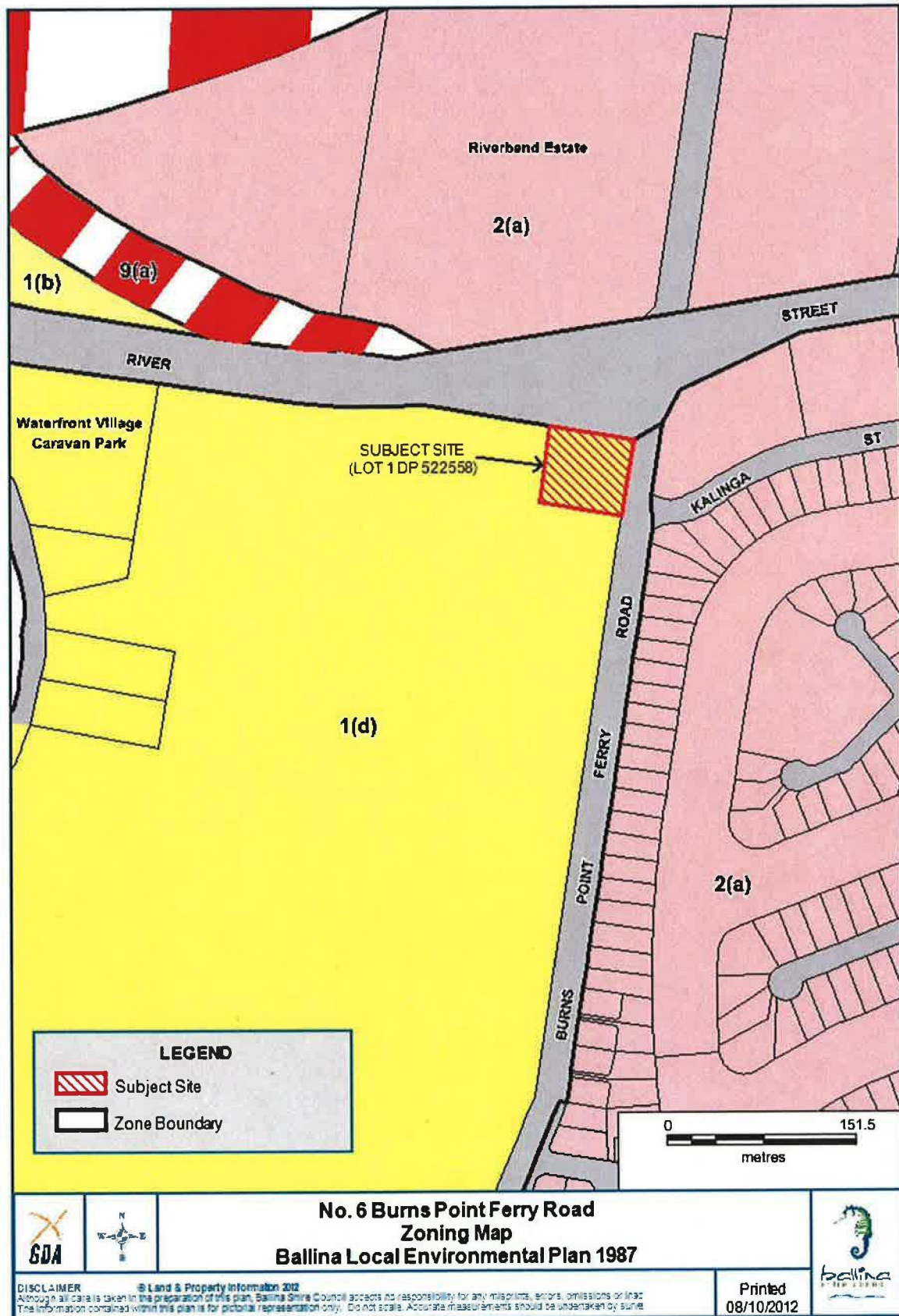


Appendices

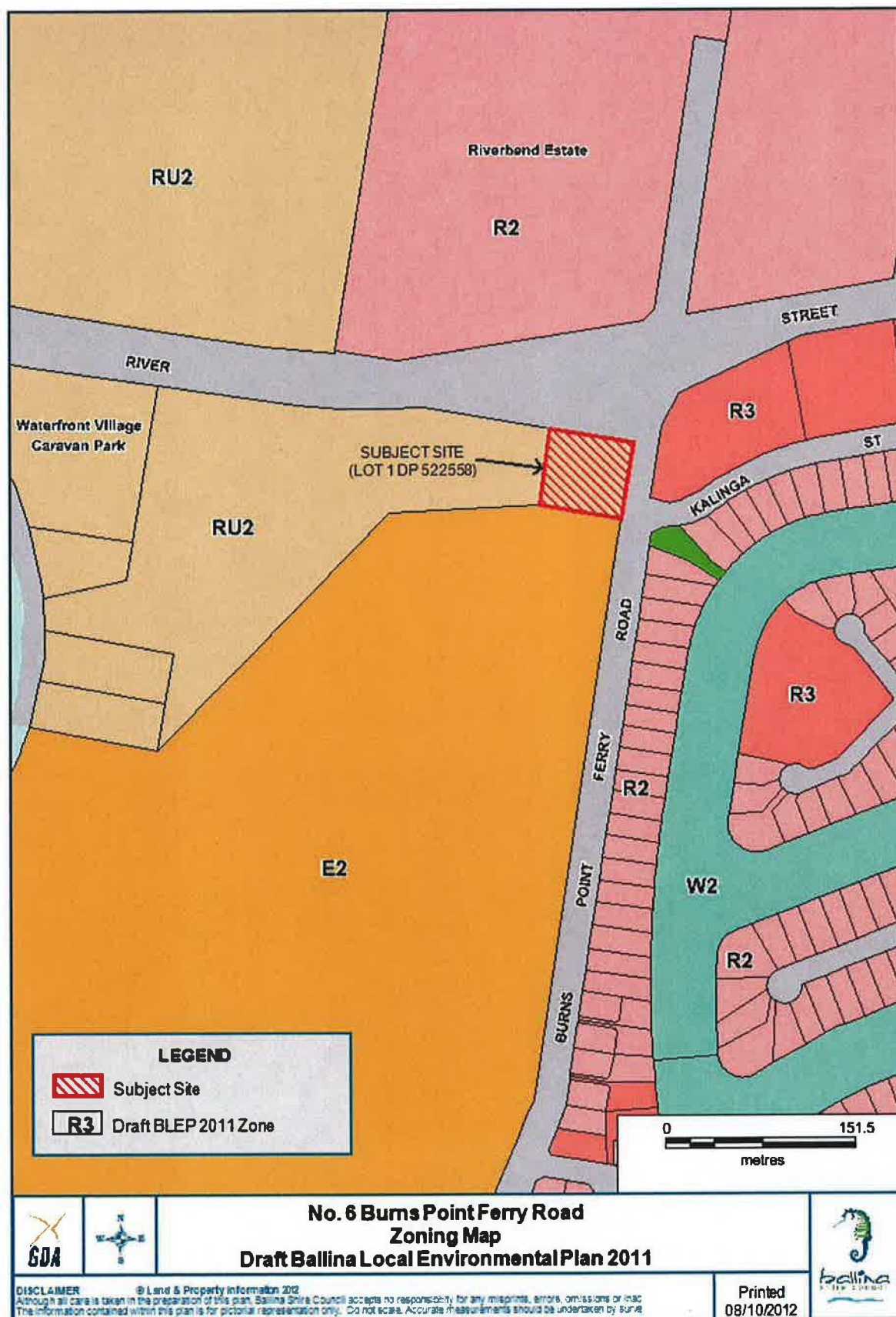
Appendix 1 - Locality Map



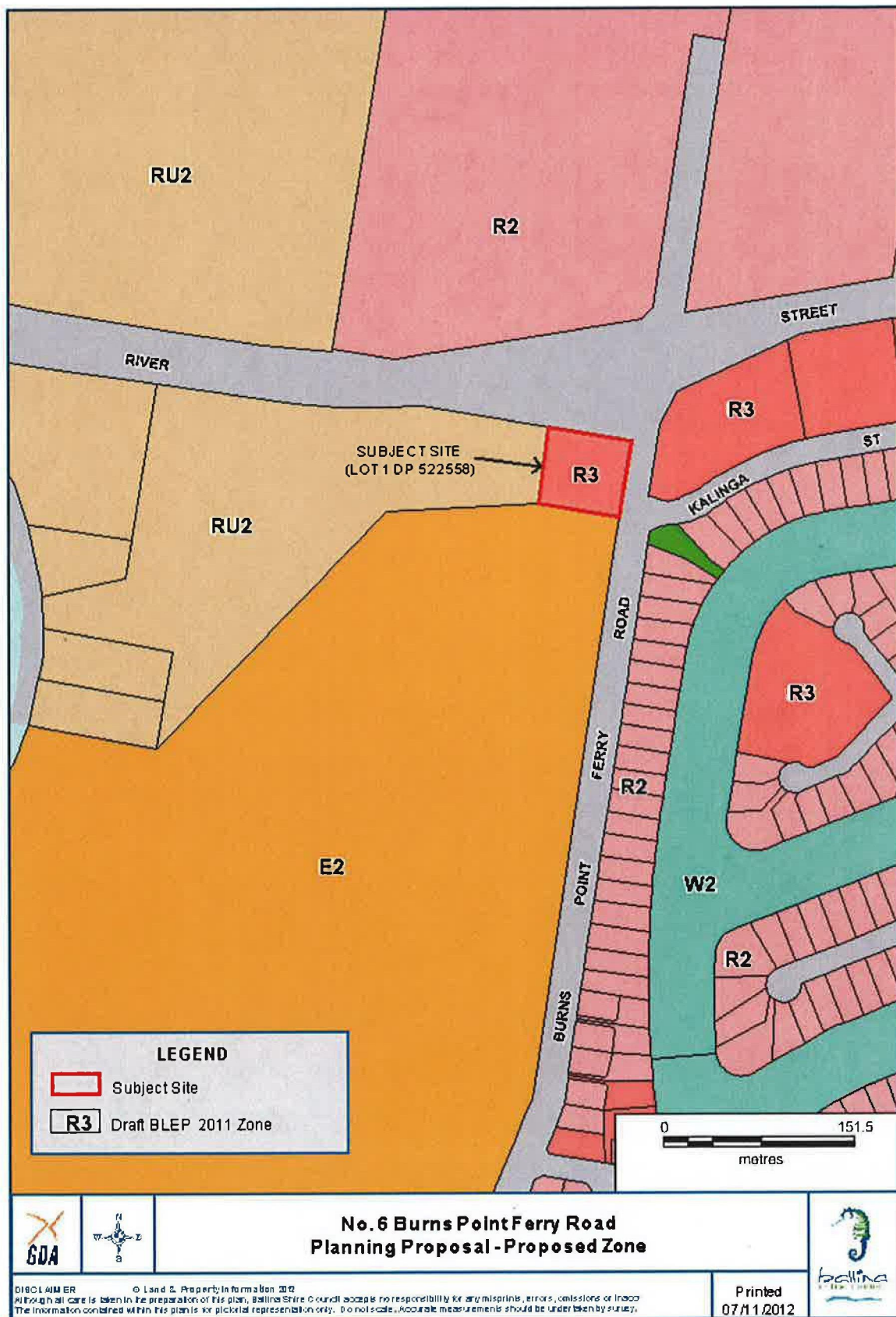
Appendix 2 – Zoning Map (Ballina Local Environmental Plan 1987)



Appendix 3 – Zoning Map (Draft Ballina Local Environmental Plan 2011)



Appendix 4 – Proposed Zoning Map



Appendix 5 - Section 117 Direction Checklist

Section 117 Direction Checklist Planning Proposal – 160 – 190 North Creek Road, Lennox Head

TABLE 1 – SECTION 117 DIRECTIONS

Directon	Proposal Consistency
1. Employment and Resources	
1.1 Business and Industrial Zones	Not applicable.
1.2 Rural Zones	Consistent. The proposed rezoning is consistent with this direction in that the area is identified in the Ballina Shire Growth Management Strategy and the Far North Coast Regional Strategy as being suitable for future urban development.
1.3 Mining, Petroleum Production and Extractive Industries	Not applicable.
1.4 Oyster Aquaculture	Not applicable.
1.5 Rural Land	Consistent. The subject site is currently vacant and is not currently used for rural activities. The site was previously occupied by a motel which was demolished in 2008. The rezoning is generally consistent with the Planning Principles contained in State Environmental Planning Policy (Rural Lands) and demonstrates compliance. In addition, this rezoning is of relatively minor significance and is consistent with the Far North Coast Regional Strategy.
2. Environment and Heritage	
2.1 Environmental Protection Zones	Not applicable.
2.2 Coastal Protection	Consistent. The rezoning proposal is consistent with this direction and demonstrates that the subject land can accommodate stormwater management, effluent disposal and will not impact on public foreshore access.
2.3 Heritage Conservation	Consistent. There are no items of environmental or cultural heritage identified by Council within the site that are considered to warrant specific LEP based protection based on the information currently available.
2.4 Recreation Vehicle Areas	Not applicable.
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	Consistent. The planning proposal is consistent with this direction in that adequate infrastructure is available to service the area. The amendment enables a variety of housing types within the planned Ballina urban area. Design outcomes will be managed through the application of Council's development control plan.
3.2 Caravan Parks and Manufactured Home Estates	Not applicable.
3.3 Home Occupations	Consistent. Any dwellings subsequently erected following the rezoning of the land will be capable for use by home occupations.
3.4 Integrated Land Use and Transport	Consistent. The proposal is consistent with this direction because the land is located adjacent to an existing residential area that is serviced by regular public transport services.
3.5 Development Near Licensed Aerodromes	Not applicable.



TABLE 1 – SECTION 117 DIRECTIONS	
Directon	Proposal Consistency
4. Hazard and Risk	
4.1 Acid Sulphate Soils	Consistent. The site is identified as being subject to acid sulphate soils, however, significant excavation of the site and exposure of acid sulphate soils is not expected as a result of the development of the land for residential land uses. Appropriate regulation and management of acid sulphate soils will be considered at the development application stage as incorporated into the provisions of the <i>Ballina Local Environmental Plan 1987</i> and the <i>Draft Ballina Local Environmental Plan 2011</i> .
4.2 Mine Subsidence and Unstable Land	Not applicable.
4.3 Flood Prone Land	Not applicable.
4.4 Planning for Bushfire Protection	Not applicable.
5. Regional Planning	
5.1 Implementation of Regional Strategies	Consistent. The site is identified in the Far North Coast Regional Strategy as a proposed future urban release area.
5.2 Sydney Drinking Water Catchments	Not applicable.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable.
5.4 Commercial and Retail Development	Not applicable.
6. Local Plan Making	
6.1 Approval and Referral Requirements	Consistent. The planning proposal is consistent with this direction in that it does not introduce any new concurrence or consultation provisions or any additional designated development types.
6.2 Reserving Land for Public Purposes	Consistent. The planning proposal is consistent with this provision as it does not include creation, altering or reduction of land for public purposes.
6.3 Site Specific Provisions	Consistent. The planning proposal is consistent with this direction as it seeks to apply a land use zone and standards compatible with the residential development of the site under Council's local environmental plan.

