



Planning Proposal

January 2015

Ballina LEP 1987 - Private Native Forestry Provisions

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INTRODUCTION

Summary of Planning Proposal

This planning proposal has been prepared so as to distinguish *forestry* from *private native forestry* and to require development consent for *private native forestry* in the 1(b) Rural (Secondary Agricultural Land), 1(d) Rural (Urban Investigation) and 1(e) Rural (Extractive and Mineral Resources) zones under the provisions of Ballina LEP 1987. These zones are applicable to areas otherwise proposed by Council to be zoned for environmental protection purposes in Ballina LEP 2012, but currently designated as a deferred matter under this LEP, due to the State Government's E Zone Review.

It is proposed to insert within Ballina LEP 1987 a definition for *forestry* and a definition for *private native forestry*. It is also proposed to amend clause 6 (a) of the LEP so that the definition of *forestry* contained within the *Environmental Planning and Assessment Model Provisions 1980* is no longer applicable. In order to maintain the current range of permitted uses it is proposed to insert *private native forestry* as a use permitted with development consent in the 7(c) Environmental Protection (Water Catchment), 7(f) Environmental Protection (Coastal Lands), and 7 (l) Environmental Protection (Habitat) Zones. A new clause is also proposed to be inserted within the LEP which specifies specific matters to be considered when determining a development application for *private native forestry*.

Private native forestry has the potential to result in the clearing of significant stands of native vegetation within ecological sensitive areas of Ballina Shire including areas at Bagotville, Meerscham Vale, Wardell, Coolgardie and the broader Blackwall range localities. These areas also incorporate Koala habitat areas. *Private native forestry* often targets koala feed and habitat tree species

Habitat loss and fragmentation (including *private native forestry*) was identified as a threatening process for free ranging koala populations within the Ballina Shire in the 2013 Koala Habitat and Population Assessment.

The Koala Habitat and Population Assessment is contained in Appendix A.

Private native forestry has significant potential to cause substantial habitat loss and fragmentation in Ballina Shire. This is particularly significant for koalas in the Ballina Shire context because the koala population is identified as a key source population for breeding and dispersal and is likely to be an ancestral source population necessary for maintaining ancestral diversity. For these reasons the koala population, south of the Bruxner Highway, is considered to be a regionally significant source population from which other populations may have originated. It is also considered to be an "Important Population", as defined for purposes of the Federal Government's *Environmental Protection and Biodiversity Conservation Act 1999*.

The eucalypt forests, subject to *private native forestry* interest within Ballina Shire, have also been identified as being of importance in State Government documents including the Targeted Vegetation Survey of Floodplains and Lower Slopes on the Far North Coast (DECC 2008), the Far North Coast Regional Conservation Plan (OEH 2013), OEH regional corridors and habitat mapping, OEH Flora and Fauna Habitat Atlas records and the assessments undertaken by Roads and Maritime Services in association with the Pacific Highway upgrade project.

It is in response to the above concerns that the Council resolved unanimously at its Ordinary Meeting on 18 December 2014 [Minute No. 181214/12] as follows:

1. *That the Council endorse the preparation of a planning proposal to amend the Ballina Local Environmental Plan 1987 to establish a requirement for development consent to be obtained from Council for the undertaking of private native forestry activity in Ballina Shire.*
2. *That the Council authorise the submission of the planning proposal to the Department of Planning and Environment for review and Gateway determination.*
3. *That upon an affirmative Gateway determination being received, the procedural steps associated with the progression of the planning proposal, including public exhibition, be undertaken.*
4. *That a further report be presented to the Council in relation to this matter following the mandatory community consultation.*

The Notice of Motion that gave rise to the above resolution is contained in Appendix B.

Planning Context

This planning proposal has been prepared in response to the threat posed to ecologically sensitive areas of Ballina Shire, which include significant koala habitat areas, through the clearing of native vegetation involving *private native forestry*.

It is considered that insufficient regulatory control is able to be exercised over land clearing activities in some areas of Ballina Shire, which includes *private native forestry*, under the provisions of the *Native Vegetation Act 2003* (NV Act) so as to adequately consider the ecological and or scenic significance of areas proposed to be cleared.

The *Native Vegetation Act 2003* (NV Act) prohibits the clearing of "native vegetation", except in accordance with a development consent granted in accordance with the NV Act or a property vegetation plan. Section 14 of the NV Act provides that if development consent is required under the NV Act then Part 4 of the EP&A Act applies subject to the provisions of Division 1 of Part 3. Relevantly the NV Regulation 2013, at clause 4, excludes from consideration the provisions of s79C of the EP&A Act and various other provisions of the EP&A Regulations when determining a development application for clearing.

Divisions 2 and 3 of the NV Act provide that these Divisions do not permit clearing of native vegetation or an activity without an approval or other authority required by another Act or in contravention of another Act. These provisions facilitate consideration of *private native forestry* under the provisions of the applicable local environmental plan. A dual consent requirement may then also be triggered.

It is in the above context that this planning proposal has been prepared. It will provide a trigger for *private native forestry* to be considered under the consent regime applicable under the provisions of Ballina LEP 1987. The provisions of s79C of the EP&A Act will then be applicable. This will be additional to the consent regime administered by the State Government under the provisions of the NV Act. In so doing it will provide Council with the opportunity to ensure that development applications for *private native forestry* are assessed having due regard for the potential ecological, scenic and other impacts that may arise.

PART 1 – OBJECTIVES OR INTENDED OUTCOMES

The objective of this planning proposal is to establish a requirement for development consent for *private native forestry* in certain zones under Ballina LEP 1987. This planning proposal seeks to achieve this via the following:

- Insert definitions within Ballina LEP 1987 for *forestry* and *private native forestry*. This will distinguish both uses and result in a requirement for development consent to be obtained for *private native forestry* in the Rural 1(b), 1(d) and 1(e) zones. *Forestry* however is proposed to remain a Column 2 use, permitted without consent, in these zones. Full details of how each zone will be impacted by this proposed definitional changes is contained within Table 1 in Part 3 of this planning proposal.
- Insert a reference to *forestry* within clause 6(a) of Ballina LEP 1987 so as to ensure that the definition of *forestry* as contained within the *Environmental Planning and Assessment Model Provisions 1980*, no longer applies.
- Amend Ballina LEP 1987 to permit with development consent *private native forestry* in the 7(c) Environmental Protection (Water Catchment) Zone, 7(f) Environmental Protection (Coastal Lands) Zone, and 7 (l) Environmental Protection (Habitat) Zone. This maintains the status quo in so far as forestry is currently a use permitted with development consent in these zones.
- Insert a new clause within Ballina LEP 1987 which specifies matters to be considered when determining development applications for private native forestry.

PART 2 – EXPLANATION OF THE PROPOSAL

This planning proposal proposes the amendment of the Ballina LEP 1987 in the following respects to achieve the above objectives:

- Amend clause 5 *Interpretation* by inserting the following definitions:

forestry includes arboriculture, silviculture, forest protection, the cutting, dressing and preparation, other than in a sawmill, of wood and other forest products and the establishment of roads required for the removal of wood and forest products and for forest protection. ***It does not include private native forestry.***

private native forestry means the management of native vegetation on privately owned land or Crown land that is not Crown-timber land within the meaning of the Forestry Act 2012 for the purpose of obtaining, on a sustainable basis, timber products (including sawlogs, veneer logs, poles, girders, piles and pulp logs).

- Amend clause 6 (a) as indicated in red below:

6 Adoption of Model Provisions

The Environmental Planning and Assessment Model Provisions 1980 are adopted except for:

(a) the definitions of **commercial premises**, **forestry**, **map**, **residential flat building** and **tourist facilities** in clause 4 (1),

- Amend clause 9 *Zone objectives and development control table* as follow:

Insert private native forestry as a use permitted only with development consent in Column 3 of the following zones – Zone 7 (c) Environmental Protection (Water Catchment) Zone, Zone No 7 (f) Environmental Protection (Coastal Lands) Zone, and Zone No 7 (l) Environmental Protection (Habitat) Zone.

- Insertion of the following new clause:

39 Private Native Forestry

- (1) The objective of this clause is to protect the biodiversity value of land and its natural environmental and scenic amenity.
- (2) In deciding whether to grant development consent for private native forestry the consent authority must:
 - (a) consider the visual impact of the development when viewed from a public place, and
 - (b) consider the impact of the development on the existing and potential ecological, habitat and biodiversity values of the land including the number and location of existing trees, shrubs and groundcover, and
 - (c) consider erosion and sedimentation impacts, and
 - (d) consider impacts on the road network and amenity in relation to traffic generated by the proposed development, and
 - (e) consider the relevant provisions of any adopted plan of management prepared pursuant to State Environmental Planning Policy No 44—Koala Habitat Protection.
- (3) Council shall not grant development consent for the carrying out of *private native forestry* unless it is satisfied that the proposed development will not result in significant adverse impacts in relation to the items specified in clause (2), having regard to proposed mitigation measures including any rehabilitation, maintenance and replacement plantings proposed to be carried out.

Note:

The definition of *forestry* contained within the Environmental Planning and Assessment Model Provisions 1980, and currently applicable to Ballina LEP 1987, is proposed to be amended as indicated in red above.

The proposed definition of *private native forestry* is the definition contained within the Native Vegetation Regulation 2013.

PART 3 – JUSTIFICATION

Section A - Need for the Planning Proposal

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

The planning proposal has been prepared in response to the following studies which identify areas of native vegetation within Ballina Shire as being of significant ecological value and or provide habitat to an “important” koala population. These studies include:

- Koala Habitat & Population Assessment: Ballina Shire Council LGA, November 2013,
- Far North Coast Regional Conservation Plan (OEH 2013)
- Woolgoolga to Ballina Pacific Highway Upgrade Environmental Impact Statement (RMS 2012)
- Targeted Vegetation Survey of Floodplains and Lower Slopes on the Far North Coast (DECC 2008).

Private native forestry has significant potential to cause substantial habitat loss and fragmentation. This is particularly significant for koalas in the Ballina Shire context because the koala population is identified as a key source population for breeding and dispersal and is likely to be an ancestral source population necessary for maintaining ancestral diversity.

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

In the absence of the ability to regulate *private native forestry* through Ballina LEP 2012, and specifically the application of E zones, this planning proposal is considered to be the best approach to ensuring greater assessment rigour, under the provisions of s79C of the EP&A Act, is applied to *private native forestry* proposals.

The table below indicates the manner in which the development control table in clause 9 of Ballina LEP 1987 regulates *forestry* and how it is anticipated it will regulate *private native forestry* once the proposed LEP amendment is made.

Table 1 – Ballina LEP 1987 Development Control Table Provisions

BLEP 2012 Zone	Forestry – Consent requirements	Impact of new Definition – Private Native Forestry
Zone No 1 (a1) Rural (Plateau Lands Agriculture) Zone	Requires consent – Column 3 use	Requires consent – not prohibited by Column 5 therefore permitted by Column 3.
Zone No 1 (a2) Rural (Coastal Lands Agriculture) Zone	Requires consent – Column 3 use	Requires consent – not prohibited by Column 5 therefore permitted by Column 3.
Zone No 1 (b) Rural (Secondary Agricultural Land) Zone	Does not require consent. Forestry nominated in Column 2	Requires consent – not prohibited by Column 5 therefore permitted by Column 3.
Zone No 1 (d) Rural (Urban Investigation)	Does not require consent. Forestry nominated in Column 2	Requires consent – not prohibited by Column 5 therefore permitted by Column 3.

BLEP 2012 Zone	Forestry – Consent requirements	Impact of new Definition – Private Native Forestry
Zone		
Zone No 1 (e) Rural (Extractive and Mineral Resources) Zone	Does not require consent. Forestry nominated in Column 2	Requires consent. Would result in PNV becoming a Column 4 use – Advertised Development.
Zone No 2 (a) Living Area Zone	Requires consent – Column 3 use	Requires consent – not prohibited by Column 5 therefore permitted by Column 3.
Zone No 2 (b) Village Area Zone	Requires consent – Column 3 use	Requires consent – not prohibited by Column 5 therefore permitted by Column 3.
Zone No 2 (t) Tourist Area Zone	Requires consent – Column 3 use	Requires consent – not prohibited by Column 5 therefore permitted by Column 3.
Zone No 3 Business Zone	Requires consent – Column 3 use	Requires consent – not prohibited by Column 5 therefore permitted by Column 3.
Zone No 4 Industrial Zone	Requires consent – Column 3 use	Requires consent – not prohibited by Column 5 therefore permitted by Column 3.
Zone No 6 (a) Open Space Zone	Requires consent – Column 3 use	Requires consent. Would result in PNV becoming a Column 4 use – Advertised Development.
Zone No 7 (a) Environmental Protection (Wetlands) Zone	Prohibited – Column 5 use	Prohibited – Column 5 use as not permitted by Columns 3 or 4.
Zone No 7 (c) Environmental Protection (Water Catchment) Zone	Requires consent – Column 3 specifically specified use	Prohibited – Column 5 use as not permitted by Columns 3 or 4. Column 3 is proposed to be amended by insertion of <i>private native forestry</i> so as to maintain permissibility.
Zone No 7 (d) Environmental Protection (Scenic/Escarpment) Zone	Requires consent – Not prohibited therefore a Column 3 use	Requires consent – not prohibited by Column 5 therefore permitted by Column 3.
Zone No 7 (d1) Environmental Protection (Newrybar Scenic/Escarpment) Zone	Prohibited – Column 5 use as not permitted by Columns 3 or 4	Prohibited – Column 5 use as not permitted by Columns 3 or 4.
Zone No 7 (f) Environmental Protection (Coastal Lands) Zone	Requires consent – Column 3 specifically referenced use	Prohibited – Column 5 use as not permitted by Columns 3 or 4. Column 3 is proposed to be amended by insertion of <i>private native forestry</i> so as to maintain permissibility.
Zone No 7 (i) Environmental Protection (Urban Buffer) Zone	Prohibited – Column 5 use as not permitted by Columns 3 or 4	Prohibited – Column 5 use as not permitted by Columns 3 or 4.
Zone No 7 (l) Environmental Protection (Habitat) Zone	Requires consent – Specified Column 3 use	Prohibited – Column 5 use as not permitted by Columns 3 or 4. Column 3 is proposed to be amended by insertion of <i>private native forestry</i> so as to maintain permissibility.
Zone No 8 (a) National Parks and Nature Reserves Zone	Prohibited unless authorised under the National Parks and Wildlife Act 1974, in which case it would be permitted without consent.	Does not appear to be authorised therefore prohibited.
Zone No 9 (a) Roads (Main Roads Proposed) Zone	Requires consent – Column 3 use	Requires consent – not prohibited by Column 5 therefore permitted by Column 3.
Zone No 9 (b) Roads (Local Roads Proposed) Zone	Requires consent – Column 3 use	Requires consent – not prohibited by Column 5 therefore permitted by Column 3.

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 Environment related outcomes and actions under *the Far North Coast Regional Strategy*. The planning proposal will assist to maintain vegetation communities identified as supporting koala habitat areas and other significant species.

The proposal is also considered to be consistent with the *Far North Coast Regional Conservation Plan (OEH 2013)* which recognizes that it is important that koala populations on the Far North Coast, including the population located in the Broadwater-Wardell- Tintenbar areas, are protected by ensuring appropriate planning processes and management regimes are in place for private lands (p54). In addition the Tuckean – Blackwall range is nominated as one of the eight regional conservation areas within the Far North Coast due to the large number and variety of threatened fauna known to occur throughout the area including owls, doves, wader birds and mammals. This area is recognised as providing a high degree of connectivity between the existing and future conservation areas (p59).

4. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plans?

The planning proposal is consistent with the following healthy environment objectives contained within Council's Community Strategic Plan:

Reference	Outcomes	Benefits
HE1.2	Promote initiatives that improve our natural environment	Natural environment is maintained and enhanced
HE3.2	Minimise negative impacts on the natural environment	Retention of our natural environment

5. Is the planning proposal consistent with applicable state environmental planning policies?

The proposal is considered to be consistent with the State Environmental Planning Policy (SEPP) provisions relating to plan making.

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

The proposal is considered to be consistent with the relevant Section 117 Directions as detailed in the Section 117 Direction Checklist contained in Appendix C.

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?**

The planning proposal will not result in any negative impacts on critical habitat or threatened species, populations or ecological communities or their habitats. The objective of this planning proposal is to assist in the preservation of critical habitat, threatened species, populations or ecological communities or their habitats.

8. **Are there any other likely environmental effects as a result of the planning proposals and how are they proposed to be managed?**

Positive environment benefits are likely to result from this planning proposal as a consequence of a more rigorous assessment regime being applied to *private native forestry* proposals through the local environmental plan.

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

The planning proposal seeks to clarify the legislative provisions applicable to *private native forestry* under the provisions of Ballina LEP 1987 and provide for an improved level of assessment of *private native forestry* proposals. This clarification is expected to be positive from a social and economic perspective.

Section D - State and Commonwealth interests.

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

The planning proposal will not create any need for public infrastructure.

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

No engagement with State or Commonwealth public authorities has been undertaken as part of the preparation of this planning proposal.

PART 4 – MAPPING

The planning proposal relates only to clauses contained within the written LEP instrument. The proposal will not result in amendments to any of the maps associated with the BLEP 1987.

Maps have been prepared which show the extent of the deferred matter areas under Ballina LEP 2012. These maps are contained in Appendix D. In total deferred matter areas occupy 137.1 sq km or 27.8% of Ballina Shire.

PART 5 – COMMUNITY CONSULTATION

No community consultation has been undertaken to date with regard to this planning proposal. It is intended that this planning proposal will be exhibited for a period of 14 days or otherwise in accordance with the Department of Planning and Environment Gateway determination. A 14 day period is requested given the potential for this planning proposal to trigger land clearing activities.

PART 6 – TIMELINE

The proposed timeline for completion of the planning proposal is as follows:

Plan Making Step	Estimated Completion (before end of)
Gateway Determination (Anticipated)	January 2015
Public Exhibition Period	February 2015
Public Hearing (if required)	N/A
Submissions Assessment	March 2015
RPA Assessment of Planning Proposal and Exhibition Outcomes	March 2015
Submission of Endorsed LEP to DP&I for Finalisation	April 2015
RPA Decision to Make the LEP Amendment (if delegation accepted)	April 2015
Forwarding of LEP Amendment to DP&I for Notification (if delegation accepted)	May 2015

APPENDICES

Appendix A – Koala Habitat and Population Assessment: Ballina Shire

(Assessment under separate cover)

Appendix B – Councillor Notice of Motion 18/12/2014

13.4 Notice of Motion - Private Native Forestry

13.4 Notice of Motion - Private Native Forestry

Councillor Cr Worth

I move

1. That the Council endorse the preparation of a planning proposal to amend the Ballina Local Environmental Plan 1987 to establish a requirement for development consent to be obtained from Council for the undertaking of private native forestry activity in Ballina Shire.
2. That the Council authorise the submission of the planning proposal to the Department of Planning and Environment for review and Gateway determination.
3. That upon an affirmative Gateway determination being received, the procedural steps associated with the progression of the planning proposal, including public exhibition, be undertaken.
4. That a further report be presented to the Council in relation to this matter following the mandatory community consultation.

Councillor Comment

Private Native Forestry (PNF) is emerging as an activity in Ballina Shire that could result in the clearing of substantial areas of the remaining native vegetation in the shire. In particular, it is evident that there is interest from both landholders and timber companies in undertaking PNF in the Bagotville, Meerschaum Vale, Wardell, Coolgardie and broader Blackwall Range localities. A recent example of this is the clearing for PNF purposes on the western side of the Coolgardie escarpment along Wardell Road.

The problem with PNF is that there appears to be limited assessment of ecological and amenity impacts associated with approvals granted by the Environment Protection Authority. A concern is that much of the native vegetation that is potentially suited to PNF is not subject to forestry and clearing regulation by Council under the local environmental plan.

This is of concern as Council has consistently identified native vegetation in the Bagotville, Meerschaum Vale, Wardell, Coolgardie and broader Blackwall Range localities as ecologically significant and important from a scenic amenity perspective. More specifically, the Coolgardie Land Use Review, Council's vegetation mapping and Council's endorsed environmental protection zones under the Standard Instrument LEP indicate important environmental values are present in areas that may be subject to clearing via PNF without a Council approval process. These vegetated areas are also identified as being of importance in State Government documents including the Targeted Vegetation Survey of Floodplains and Lower Slopes on the Far North Coast (DECC 2008), the Far North Coast Regional Conservation Plan (OEH 2013), OEH regional corridors and habitat mapping, OEH flora and fauna habitat atlas records and assessment undertaken by the Roads and Maritime Authority in association with the Pacific Highway upgrade project.

13.4 Notice of Motion - Private Native Forestry

Further, the area between Bagotville and the Bruxner Highway, including the Blackwall Range is part of the area defined as supporting an important koala population under the Environment Protection and Biodiversity Conservation Act. PNF is identified as a significant threat to the local koala population as PNF often targets key koala feed trees such as Tallowwood.

In the absence of the ability to utilise E zones under Council's new LEP (Ballina LEP 2012) to identify areas of important native vegetation that are presently zoned for agricultural purposes (i.e. zone additional areas that are identified as being of ecological significance as endorsed by Council), it is proposed that Council amend Ballina LEP 1987 to address PNF. The purpose of such an amendment would be to improve the extent of checks and balances on PNF proposals by requiring Council's consent for such activities in addition to the approvals issued by other agencies such as the Environment Protection Authority. This is considered to be necessary because the key ecological and scenic amenity issues of importance to Council would benefit from a more detailed level of assessment that can be required by Council. This approach would establish a Council approval requirement for PNF under the 1987 LEP activity until such time as the E zone matter is resolved and associated PNF related provisions are incorporated into the new LEP. The proposal does not seek to change current requirements associated with agricultural activities.

Staff Comment

Private Native Forestry has been identified as a catalyst for significant clearing activity to occur in Ballina Shire. In many circumstances under the current planning instruments, such clearing activity may not require development consent from Council. The impact of such clearing can have adverse environmental outcomes, especially from an ecological and scenic amenity standpoint. There are also considerations such as erosion and runoff, creation of associated infrastructure such as roads and truck movements associated with logging activity. It is the understanding of staff that the PNF approval process through the Environment Protection Authority is fairly narrow in terms of the factors taken into account and as such, there is concern that the process does not provide for an in depth or holistic assessment of the impact of the activity.

Other local government areas have sought to address PNF through their application of E zones. Unfortunately, due to continued delays and uncertainty in completion of the E zone review by the State Government, the approach taken by other councils is not available in Ballina Shire at present. It is unknown when or how the E zone matter will conclude.

Many areas of native vegetation that have been identified by Council as being of environmental significance are subject to the Ballina LEP 1987 at present. PNF activities can be complicated to categorise in terms of the need for development consent under the 1987 LEP and it is possible to form a view that such activities do not require development consent in certain rural (agricultural) zones. This puts substantial areas of native vegetation at a risk of clearing without any direct oversight by Council through a development application and approval process.

To be very clear about an intent to require development consent for PNF activity in the shire, Council could amend the Ballina LEP 1987 to clearly

13.4 Notice of Motion - Private Native Forestry

require development consent for such activities in all zones. There appear to be several options to achieve this and these would be refined in preparing a planning proposal. Such a planning proposal would seek to identify the simplest way of requiring development consent for PNF but not otherwise impact on the current framework for agricultural activities. Under this approach, Council can consider applications for PNF activity on merit and grant or refuse consent as considered appropriate.

If Council proceeds with a planning proposal as per the motion, staff would proceed to prepare the documentation and lodge it with the Department of Planning and Environment for Gateway determination.

A planning proposal of this nature is consistent with the information currently available to Council about the ecological and scenic amenity values of native vegetation stands that are not subject to environmental protection zones.

COUNCILLOR RECOMMENDATIONS

1. That the Council endorse the preparation of a planning proposal to amend the Ballina Local Environmental Plan 1987 to establish a requirement for development consent to be obtained from Council for the undertaking of private native forestry activity in Ballina Shire.
2. That the Council authorise the submission of the planning proposal to the Department of Planning and Environment for review and Gateway determination.
3. That upon an affirmative Gateway determination being received, the procedural steps associated with the progression of the planning proposal, including public exhibition, be undertaken.
4. That a further report be presented to the Council in relation to this matter following the mandatory community consultation.

Attachment(s)

Nil

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS
40 CHERRY STREET BALLINA,
ON 18/12/14 AT 9.00 AM**

13.4 Notice of Motion - Private Native Forestry

181214/12 RESOLVED

(Cr Paul Worth/Cr Keith Williams)

1. That the Council endorse the preparation of a planning proposal to amend the Ballina Local Environmental Plan 1987 to establish a requirement for development consent to be obtained from Council for the undertaking of private native forestry activity in Ballina Shire.
2. That the Council authorise the submission of the planning proposal to the Department of Planning and Environment for review and Gateway determination.
3. That upon an affirmative Gateway determination being received, the procedural steps associated with the progression of the planning proposal, including public exhibition, be undertaken.
4. That a further report be presented to the Council in relation to this matter following the mandatory community consultation.

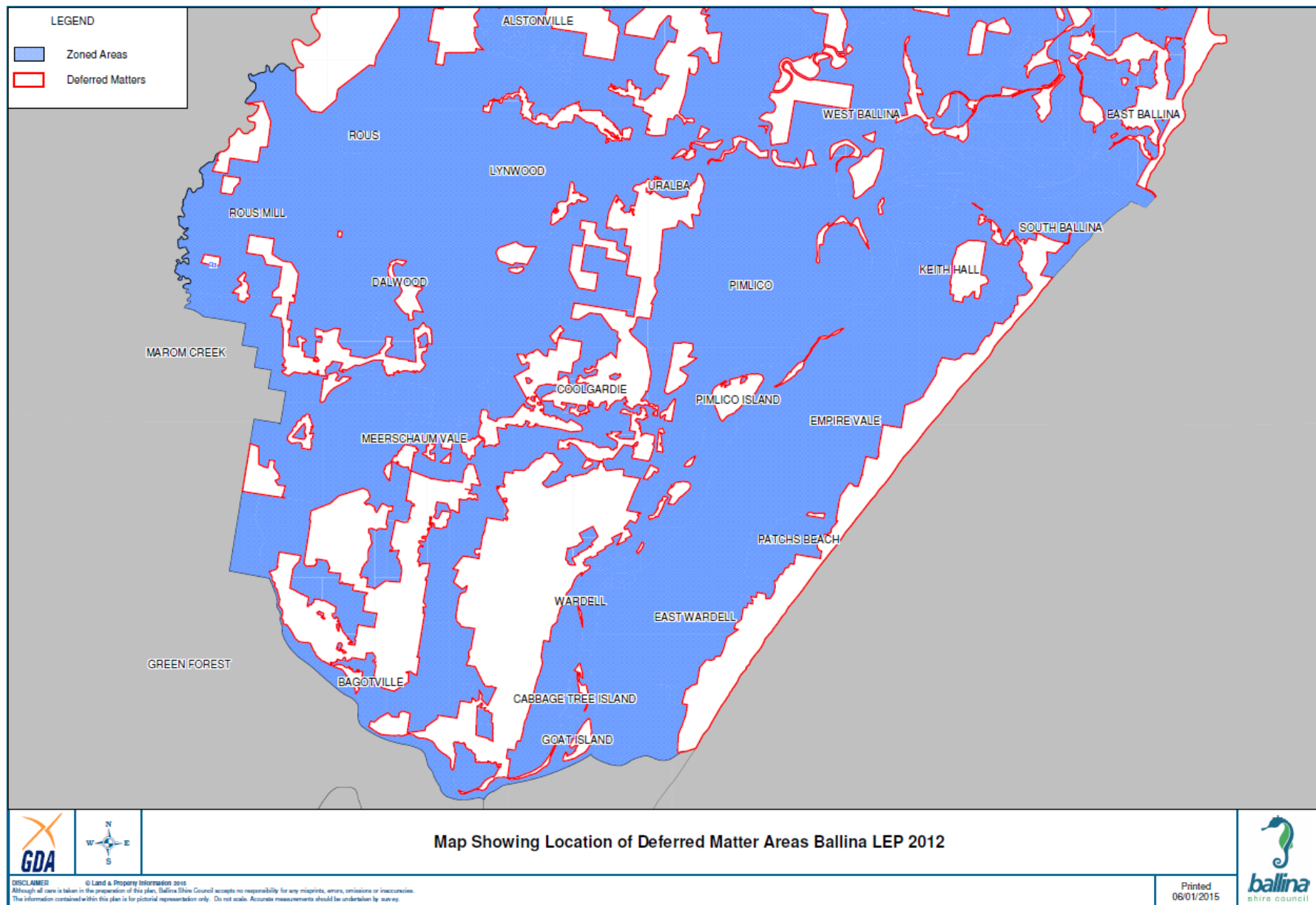
FOR VOTE - All Councillors voted unanimously.

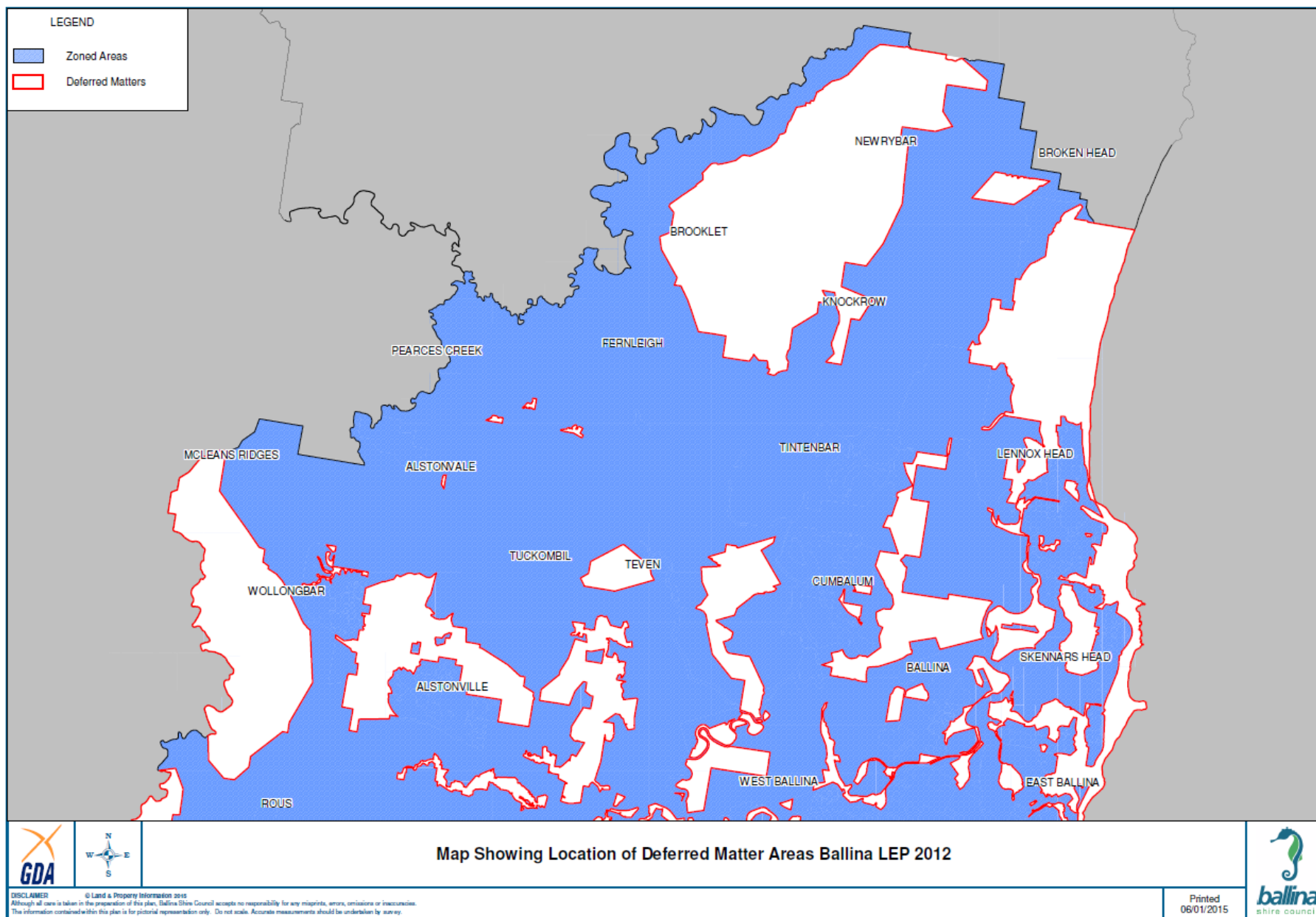
Appendix C – Section 117 Direction Checklist

Section 117 Direction Checklist Planning Proposal – Ballina LEP 1987 Private Native Forestry Provisions	
Direction No.	Compliance of Planning Proposal
1. Employment and Resources	
1.1 Business and Industrial Zones	Does not apply directly to this planning proposal.
1.2 Rural Zones	Consistent. The planning proposal does not alter zoning or density provisions on rural zoned land.
1.3 Mining, Petroleum Production and Extractive Industries	Does not apply to planning proposal.
1.4 Oyster Aquaculture	Does not apply to planning proposal.
1.5 Rural Land	Consistent. The planning proposal does not raise any inconsistencies with the Rural Planning Principles contained in State Environmental Planning Policy (Rural Lands) 2008.
2. Environment and Heritage	
2.1 Environmental Protection Zones	Consistent. The planning proposal does not involve any direct impacts on environmental protection outcomes in environmental protection zones.
2.2 Coastal Protection	Ballina LEP 1987 is inconsistent with this direction as it does not contain the nominated provisions. This planning proposal is considered to be justifiably inconsistent as it is of minor significance.
2.3 Heritage Conservation	Consistent. The planning proposal does not have any direct implications for items of environmental heritage that are listed in Council's LEP.
2.4 Recreation Vehicle Areas	Consistent. The planning proposal will not enable the land to be developed for a recreational vehicle area.
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	Consistent.
3.2 Caravan Parks and Manufactured Home Estates	Consistent.
3.3 Home Occupations	Consistent. The permissibility of home occupations in dwelling houses without development consent is not impacted by the planning proposal.
3.4 Integrated Land Use and Transport	Consistent. The planning proposal does not impact on transport and accessibility outcomes.
3.5 Development Near Licensed Aerodromes	Consistent.
3.6 Shooting Ranges	Does not apply to planning proposal.
4. Hazard and Risk	
4.1 Acid Sulphate Soils	Consistent. The planning proposal does not have any direct implications in relation to acid sulphate soils.
4.2 Mine Subsidence and Unstable Land	Does not apply to planning proposal.
4.3 Flood Prone Land	Consistent
4.4 Planning for Bushfire Protection	Consistent. The planning proposal does not have any direct implications in relation to bushfire hazards.

5. Regional Planning	
5.1 Implementation of Regional Strategies	Consistent. The planning proposal is consistent with the outcomes envisaged under the Far North Coast Regional Strategy.
5.2 Sydney Drinking Water Catchments	Does not apply to Ballina Shire.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Consistent. The planning proposal does not have any direct implications in relation to significant farmland (as defined in this Direction).
5.4 Commercial and Retail Development	Consistent. The planning proposal does not have any direct implications in relation to the location of commercial centres along the Pacific Highway.
5.5 Development in the vicinity of Ellalong Paxton and Millfield (Cessnock LGA).	Repealed
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	Repealed
5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	Repealed
5.8 Second Sydney Airport: Badgerys Creek	Does not apply to Ballina Shire
6. Local Plan Making	
6.1 Approval and Referral Requirements	Consistent. The planning proposal 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 does not have any direct impacts on the reservation of land for public purposes.
6.3 Site Specific Provisions	Does not apply to planning proposal.
7. Metropolitan Planning	
7.1 Implementation of the Metropolitan Strategy	Does not apply to Ballina Shire.

Appendix D – Maps showing extent of Deferred Matter areas associated with Ballina LEP 2012.





Appendix E – Photos Showing Private Native Forestry Operational Issues



Photos showing construction of logging access roads which give rise to potential sedimentation and erosion concerns.