

Rezone land at Blue Seas Parade, Lennox Head to permit residential development

Proposal Title : **Rezone land at Blue Seas Parade, Lennox Head to permit residential development**

Proposal Summary : **The proposal seeks to amend the Ballina Local Environmental Plan 2012 by:**

- 1) Amending the land use plan for part of Lot 1 DP 1165957 and adjoining road reserve from RU1 Primary Production to R2 Low Density Residential;**
- 2) Amending the Minimum Lot Size map for this land;**
- 3) Removing from the Strategic Urban Growth Area (SUGA) map the portion of Blue Seas Parade which adjoins Lot 1; and**
- 4) Removing from the SUGA map a portion of the adjoining lot (Lot 2 DP 1165957).**

PP Number : **PP_2015_BALLI_002_00**

Dop File No :

15/02187

Proposal Details

Date Planning : **23-Jan-2015**

Proposal Received :

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 : **44-52 Blue Seas Parade**

Suburb :

City :

Lennox Head

Postcode :

2478

Land Parcel : **Part of Lot 1 DP 1165957**

Street :

Blue Seas Parade

Suburb :

City :

Lennox Head

Postcode :

2478

Land Parcel :

Part of Lot 2 DP 1165957

Rezone land at Blue Seas Parade, Lennox Head to permit residential development

DoP Planning Officer Contact Details

Contact Name : Jenny Johnson
Contact Number : 0266416614
Contact Email : Jenny.Johnson@planning.nsw.gov.au

RPA Contact Details

Contact Name : Klaus Kerzinger
Contact Number : 0266861201
Contact Email : Klausk@ballina.nsw.gov.au

DoP Project Manager Contact Details

Contact Name : Jim clark
Contact Number : 0266416604
Contact Email : Jim.Clark@planning.nsw.gov.au

Land Release Data

Growth Centre :	Other	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Far North Coast Regional Strategy	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :	1.10	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	0	No. of Dwellings (where relevant) :	10
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 & Environment 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 :

External Supporting
Notes : **This proposal was subject to a Pre-Gateway Review (PGR_2014_BALLI_001_00) in August 2014.**

The Northern Joint Regional Planning Panel (JRPP) recommended that the proposal be considered for a Gateway determination (November 2014).

Rezone land at Blue Seas Parade, Lennox Head to permit residential development

Council has accepted responsibility as the Relevant Planning Authority (RPA) for the proposal (January 2015).

Further information regarding the review process and outcome can be viewed on the Department's website at <http://pgtracking.planning.nsw.gov.au>

The expected lot yield for the proposal is yet to be confirmed. An Indicative plan of subdivision has not yet been prepared. Council will investigate an appropriate minimum lot size post Gateway.

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. The proposal seeks to rezone part of the subject lot to enable residential development, in accordance with the Far North Coast Regional Strategy (FNCRS). The subject site is within the Town and Village Growth Boundary of the FNCRS and designated as a future urban release area.

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 proposal is seeking an amendment to Ballina LEP 2012 by rezoning part of Lot 1 DP1165957, 44-52 Blue Seas Parade Lennox Head and adjoining road reserve, from RU1 Primary Production to R2 Low Density Residential with a proposed 1200m2 minimum lot size under the Ballina LEP 2012.

In addition the following amendments are required to be made to the Strategic Urban Growth Area (SUGA) mapping:

- Remove the SUGA boundary from a portion of Blue Seas Parade which adjoins Lot 1.
- Remove the SUGA boundary located on the adjoining lot (Lot 2 DP 1165957).

Note: The LEP amendment request was for a 600m2 minimum lot size to be applied to the subject land. Council has not accepted the feasibility of the proposed minimum lot size due to land constraints. Council considers a 1200m2 minimum lot size to be appropriate for Gateway determination purposes. A final decision will be made post Gateway and prior to public exhibition.

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

3.5 Development Near Licensed Aerodromes

4.2 Mine Subsidence and Unstable Land

4.4 Planning for Bushfire Protection

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

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

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

d) Which SEPPs have the RPA identified?

Rezone land at Blue Seas Parade, Lennox Head to permit residential development

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

Council has indicated that as part of the planning proposal, once a Gateway determination was received from the Department of Planning and Environment Council would initiate a third party review and preparation of an environmental study of the land to determine a recommended minimum lot size.

The study is to aid Council to determine a minimum lot size suitable for the site. Council is required to ensure that the proposed minimum lot size is resolved prior to exhibition and clearly stated in the exhibition documents.

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

If No, explain :

The inconsistencies with the s117 Directions have been addressed and are considered to be justified by the FNCRS or of minor significance.

See the assessment section of this report.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

The planning proposal contains mapping sufficient to identify the site and proposed land use zoning, minimum lot size and Strategic Urban Growth Area provisions. These maps generally meet the requirements of the 'Standard Technical requirements for LEP maps' and are suitable for exhibition purposes.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

There has been no community consultation regarding the proposal undertaken to date. The proposal indicates that consultation will be undertaken in accordance with the Gateway determination.

The planning proposal is classed as a low impact proposal as the rezoning is supported by council and state government strategies. An exhibition period of 28 days is considered appropriate.

Air Service Australia, Ballina Byron Gateway Airport and Civil Aviation Safety Authority (CASA) are agencies that require further consultation relating to development near licensed aerodromes and the proposal being within Airport Obstacle Limitation Surface Restrictions.

The NSW Rural Fire Service and the Department of Primary Industries also require further consultation.

Council has indicated that this consultation will be undertaken prior to exhibition.

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 suitable explanation of the provisions for the LEP to achieve the outcomes;
- 3) Providing an adequate justification for the proposal;
- 4) Allowing a suitable proposed community consultation program;
- 5) Providing a time line for the completion of the proposal. Council has suggested a time line of twelve (12) months, which is acceptable.

Rezoning land at Blue Seas Parade, Lennox Head to permit residential development

6) Completing an evaluation criteria for the delegation of plan making functions to exercise delegation.

Note: Council has not considered the issue of accepting delegation for the Minister's plan making function in relation to this proposed amendment, although the evaluation criteria was completed. Council advises that this matter will be addressed in the report to Council following public exhibition.

Delegation is suggested in this instance.

Proposal Assessment

Principal LEP:

Due Date :

Comments in
relation to Principal
LEP :

The Ballina Local Environmental Plan (LEP) 2012 was made in January 2013.

The planning proposal seeks an amendment to the Ballina LEP 2012.

Assessment Criteria

Need for planning
proposal :

The planning proposal is a result of the LEP amendment request from the owner of the subject property. The subject land is identified in the Ballina Shire Growth Management Strategy as within a future release area and in the Far North Coast Regional Strategy (FNCRS) as within the 'Town & Village Growth Boundary'. Each of these strategies support the option of rezoning the land from primary production to a more suitable residential zoning.

The rezoning will allow for the area to be developed for general residential housing that will cater to all levels of the existing and future Lennox Head community. Greater housing choice leads to an increase in potential job opportunities and more efficient use of infrastructure services.

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

Rezone land at Blue Seas Parade, Lennox Head to permit residential development

Consistency with strategic planning framework :

The Far North Coast Regional Strategy (FNCRS) has designated the site as a 'Future Urban Release Area' which identifies the site as suitable for residential development. An action of the strategy is to limit future development within the mapped Town & Village Growth Boundaries (T&VGB). The site is within this boundary which supports rezoning for residential development. The proposal is consistent with the FNCRS.

The proposal is generally consistent with all SEPP's that apply to the LGA.

The planning proposal is inconsistent with s117 Directions 1.2 Rural Zones, 1.5 Rural Lands, 3.5 Development near Licensed Aerodromes, 4.2 Mine Subsidence and Unstable Land and 4.4 Planning for Bushfire Protection. All the inconsistencies can be justified either by a regional strategy or of minor significance.

The following Directions warrant consideration.

1.2 Rural Zones

The planning proposal is not considered to be consistent with this direction as it is proposed to rezone land from a rural zone to a residential zone. The inconsistency is justified because the rezoning is in accordance with a strategy (Ballina Shire Growth Management Strategy) (GMS) and the FNCRS which gives consideration to the objectives of this direction. The FNCRS identifies the area as a future urban release area. The rezoning will allow this area to be developed for residential development, which is consistent with the objectives of the FNCRS.

1.5 Rural Lands

The planning proposal is not considered to be consistent with this direction as it will affect land within an existing or proposed rural zone. The existing land use zone is RU1 Primary Production. The provisions that are inconsistent are justified by a strategy (Ballina Shire GMS) and the FNCRS that gives consideration to this direction. The land is located on the edge of the Lennox Head urban area and has limited agricultural productive values.

An objection from a neighbouring landholder on agricultural grounds was partly the reason for Council's initial rejection of this proposal. However following pre-Gateway review and involvement of the JRPP, Council has agreed to be the relevant planning authority. The neighbour's objections can be addressed through the public exhibition process. See also comment below about visual amenity impact assessment.

3.1 Residential Zones

This direction applies as it affects land within a proposed residential zone. The objective of the direction is to ensure housing diversity, existing infrastructure, and adequate services are taken into consideration when proposing future residential development. The proposal is not inconsistent with the direction as the development has the ability to suggest a number of different types of housing options. Services exist in the surrounding residential estate which can be extended to adequately service the proposed development.

3.4 Integrated Land Use & Transport

The objective of this direction is to ensure that urban structures, building forms, land use locations, development design, subdivision and street layout achieve adequate transportation methods. The Ballina Shire GMS identified the site as suitable for urban development. The site is easily accessible from existing road infrastructure and is within walking distance of public transport and facilities.

3.5 Development near Licensed Aerodromes

Development of the subject land for residential purposes may result in development that protrudes into the Obstacle Limitation Surface for the Ballina/Byron Gateway Airport. The direction requires Council to consult with the Department of the Commonwealth responsible for aerodromes (CASA and Air Services Australia) and the lessee of the aerodrome (Ballina Byron Gateway Airport). This consultation has not yet occurred which means the proposal is inconsistent with the direction. If written advice is obtained from CASA, Air Service Australia and Ballina Byron Gateway Airport and has no objections to the progression of the proposal then the inconsistency may be assessed as of minor

significance. Council has indicated that it will consult with the above listed agencies following Gateway determination. This will be required prior to exhibition in accordance with the direction.

4.2 Mine Subsidence and Unstable Land

The proposal is not considered to be consistent with this direction as the proposal has been identified as being susceptible to landslip (Coffey Partners Pty Ltd Report and Department of Minerals Mapping). The proponent acknowledges further detailed investigation is required to determine the degree of land slip risk and its impact on any potential residential subdivision. Further investigation can be considered post Gateway.

4.4 Planning for Bushfire Protection

The direction requires Council to consult with the Commissioner of the NSW Rural Fire Service. This consultation has not yet occurred which means the proposal is inconsistent with the direction.

It is considered that the planning proposal will not raise significant issues in regard to this direction. If written advice is obtained from the Commissioner of the NSW Rural Fire Service and has no objection to the progression of the proposal then the inconsistency may be assessed as of minor significance. Council has indicated that it will consult with the NSW Rural Fire Service following Gateway determination. This will be required prior to exhibition in accordance with the direction.

5.1 Implementation of Regional Strategies

The proposal is consistent with this direction. The area proposed to be rezoned is an area within the T&VGB of the FNCRS.

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

This direction is to ensure that the best agricultural land will be available for current & future generations. This land has been identified as 'Regionally Significant Farmland' (RSF). Council has indicated that the proposal is inconsistent with the direction as it proposes to rezone land identified as RSF for urban purposes. However, as the subject site is within the T&VGB in the FNCRS, the direction is not inconsistent as the direction does not apply. Also the portion to be rezoned is not really suited to viable agricultural practices due to its limited size. The remaining portion of Lot 1 maintains its agricultural zoning - RU1 Primary Production.

**Environmental social
economic impacts :**

The site has a number of environmental constraints that may affect how much of the land can be utilised for residential development. A number of additional studies will be completed (post Gateway) to determine the likely impacts on the environment.

The land is generally cleared of any significant vegetation. A large fig tree is present on the site that may have ecological value.

Some of the land has been identified as susceptible to land slip. This issue has ramifications when determining minimum lot size and Council will need further assessment on this issue to ensure the susceptibility is considered when nominating minimum lot size.

As the site is currently zoned rural and rural practices occur to the east of the site, land use conflicts are likely to arise. The adjoining landowner has already expressed concern regarding land use conflict. A Land Use Conflict Risk Assessment has been requested by Council to be completed post Gateway. This assessment may impact on the proposed minimum lot size, buffer distances, lot yield and subdivision placement.

The Lennox Head Structure Plan identified the subject site as 'visually significant land'. Visual impacts have been raised as a potential conflict as the site is clearly visible in the local environment and development may affect visual amenity. A Coastal Zone Impacts and Visual Amenity Impacts assessment has been requested by Council to be completed post Gateway.

The overall economic impacts associated with the planning proposal appear to be

Rezoned land at Blue Seas Parade, Lennox Head to permit residential development

beneficial with the release of additional residential land within this locality. The flow effect within the community of an increase in revenue would only increase due to additional housing.

An access arrangement and storm water management report are requested by Council and are to be completed at DA stage.

Assessment Process

Proposal type : Routine Community Consultation Period : 28 Days

Timeframe to make LEP : 12 months Delegation : RPA

Public Authority Consultation - s56(2) (d) : Essential Energy
NSW Department of Primary Industries - Agriculture
NSW Rural Fire Service
Other

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. :

Other - provide details below

If Other, provide reasons :

Council has requested that the following additional studies be undertaken on receipt of the Gateway determination. Not all of the studies are recommended to be made a 'Condition of Gateway' as some are primarily related to development assessment and are not all critical for the planning proposal to proceed.

The Studies considered necessary before exhibition are:

Bushfire Threat Assessment Report;
Coastal Zone Impacts and Visual Amenity Impacts assessment;
Contaminated Land Assessment and Remedial Action Plan;
Due Diligence Aboriginal Heritage assessment;
Flora and Fauna assessment;
Geotechnical Assessment (Landslip); and
Land Use Conflict Risk Assessment.

The following studies can be completed at DA stage.

Services and Stormwater Management Report; and
Access Arrangement.

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 :

Rezoning land at Blue Seas Parade, Lennox Head to permit residential development

Documents

Document File Name	DocumentType Name	Is Public
Ballina Shire Council_23-01-2015_Part Lot 1 Part Lot 2 DP 1165957 44 - 52 Blue Seas Parade Lennox Head - s56_.pdf	Proposal Covering Letter	Yes
BSCPP 14 005 - 44-52 Blue SeasParade Lennox Head - Planning _1.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
3.5 Development Near Licensed Aerodromes
4.2 Mine Subsidence and Unstable Land
4.4 Planning for Bushfire Protection
5.3 Farmland of State and Regional Significance on the NSW Far North Coast

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

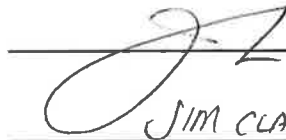
- 1) The planning proposal should proceed as a routine planning proposal;
 - 2) The Secretary (or an officer nominated by the Secretary) agrees that the inconsistencies with s117 Directions 1.2 Rural Zones, 1.5 Rural Lands, and 4.2 Mine Subsidence and Unstable Land are justified and 3.5 Development Near Licensed Aerodromes 4.4 Planning for Bushfire Protection will be resolved through consultation prior to exhibition with Air Service Australia, Ballina Byron Gateway Airport, Civil Aviation Safety Authority (CASA) and the NSW Rural Fire Service;
 - 3) Consultation should be undertaken with Air Service Australia, Ballina Byron Gateway Airport, Civil Aviation Safety Authority (CASA), Department of Primary Industries, Essential Energy and NSW Rural Fire Service prior to exhibition.
 - 4) Prior to undertaking public exhibition, Council complete a
 Bushfire Threat Assessment Report;
 Coastal Zone Impacts and Visual Amenity Impacts assessment;
 Contaminated Land Assessment and Remedial Action Plan;
 Due Diligence Aboriginal Heritage assessment;
 Flora and Fauna assessment;
 Geotechnical Assessment (Landslip); and
 Land Use Conflict Risk Assessment
 to support the planning proposal. This material should be placed on public exhibition with the planning proposal;
 - 5) Once the necessary studies have been completed Council will determine a suitable minimum lot size and place an appropriate map on exhibition prepared in accordance with the Standard Technical Requirements for LEP Maps. Council is to provide the Department with a copy of the material for community consultation for approval, as required by section 57(2) of the EP&A Act.
 - 6) The planning proposal be considered as low impact and exhibit the planning proposal for a period of 28 days;
 - 7) The planning proposal be completed in 12 months; and
 - 8) Delegation to finalise the planning proposal be issued to Ballina Shire Council.
- Supporting Reasons : **The planning proposal to rezone part of Lot 1 DP 1165957 and adjoining road reserve from primary production to residential in accordance with the Far North Coast Regional**

Rezone land at Blue Seas Parade, Lennox Head to permit residential development

Strategy is appropriate to proceed.

The issue of delegation to Council to finalise the planning proposal is suggested in this instance.

Signature:



Printed Name:

JIM CLARK

Date:

3 February 2015