



Planning Proposal- March 2015

RMS Highway Service Centre Site Teven Road interchange, West Ballina

Lot 15 DP 1013485 and part lots 13 and 14 DP
1013485

Contents

INTRODUCTION	3
Summary of Planning Proposal	3
Planning Context	3
PART 1 – OBJECTIVES & INTENDED OUTCOMES.....	5
PART 2 – EXPLANATION OF THE PROPOSAL	5
PART 3 - JUSTIFICATION	5
Section A - Need for the Planning Proposal.....	5
Section B - Relationship to the Strategic Planning Framework.....	6
Section D - State and Commonwealth interests.	9
PART 4 - MAPPING	9
PART 5 – COMMUNITY CONSULTATION	9
PART 6 – PROJECT TIMELINE	10
Appendix 1 – Maps.....	11
Appendix 2 – Proponent’s Submission	16
Appendix 3 – Section 117 Direction Checklist.....	20
Appendix 4 – Site Photos	23
Appendix 5 – Report to Ordinary Meeting of the Council on 22 January 2015	26
Appendix 6 – Report to Ordinary Meeting of the Council on 26 March 2015	32

INTRODUCTION

Summary of Planning Proposal

This planning proposal relates to a section of the Pacific Highway road reserve adjacent to the Teven Road interchange at West Ballina. This land adjoins Roads and Maritime Services (RMS) owned land which has been designated for development as a highway service centre.

The objective of this planning proposal is to realign the boundaries of the Additional Permitted Use Map as it relates to RMS owned land at West Ballina designated for development as a highway service centre. This realignment of boundaries is required following the completion of Pacific Highway road works at this location. This has enabled the boundaries of land required in connection with the RMS highway service centre proposal to be better defined. The previous boundaries were based on lot boundaries of a subdivision registered in 2000.

The RMS land currently designated for highway service centre purposes is known as lot 15 DP 1013485 and part Lots 13 and 14 DP 1013485. It has an approximate area of 36.26 ha. The approximate area of the land no longer required to be designated for highway service centre purposes is approximately 14.14 ha whereas the area occupied by the additional area is 4034m². The reconfigured site the subject of the additional permitted use provisions therefore has an approximate area of 22.52 ha.

The site is shown on the locality map provided at Appendix One.

Planning Context

Proponent's Submission

The RMS by letter dated 23 December 2014 requested that Council amend the boundaries of the Additional Permitted Uses Map as it applies to their site so that it aligns with the site boundaries which have resulted following the completion of Pacific Highway works at this location.

The proponent's submission is provided at Appendix Two.

Council Resolutions – Planning Proposal

The Council considered the proponents submission at its Ordinary Meeting on 22 January 2015 and resolved as follows [Minute No. 220115/05]:

1. *That Council endorses the preparation of a planning proposal to amend the Ballina Local Environmental Plan 2012 to reconfigure the Roads and Maritime Services owned land at the Teven interchange at West Ballina that is subject to additional use provisions for a highway service centre generally in accordance with the request made by Roads and Maritime Services.*
2. *That a further report be presented to the Council documenting the planning proposal when prepared for submission for Gateway determination.*

The report considered by Council at its meeting on 22 January 2015 is provided at Appendix Five.

The Council again considered this matter at its Ordinary Meeting on 26 March 2015 and resolved as follows [Minute No. 260315/05]:

1. *That Council authorises the submission of a planning proposal to amend the Ballina Local Environmental Plan 2012 to reconfigure the RMS owned land at the Teven interchange at West Ballina, that is subject to additional use provisions for a highway service centre, to the Department of Planning and Environment for review and Gateway determination.*
2. *That upon an affirmative Gateway determination being received, the procedural steps associated with the progression of the planning proposal, including public exhibition, be undertaken.*
3. *That a further report be presented to the Council in relation to this matter following the mandatory community consultation.*
4. *That the Department of Planning and Environment be advised that at this stage of the process it is the Council's intention to exercise its delegated plan making functions.*

The report considered by Council at its meeting on 26 March 2015 is provided at Appendix Six.

Consistency with Strategic Planning Policy

The proposal to reconfigure the site boundaries of the RMS highway service centre site is generally consistent with both Council and State Government urban planning policy. The following provides an overview of the proposed amendment with respect to key planning policy documents.

NSW, Department of Planning – Far North Coast Regional Strategy (FNCRS)

The FNCRS supports the location of a highway service centre at Ballina beside the Pacific Highway. This was reinforced in November 2009 when the Minister issued direction 5.4 *Commercial and Retail Development along the Pacific Highway North Coast* under section 117(2) of the Environmental Planning and Assessment Act 1979. This direction enables certain highway service centres to be permitted, including one at the Teven Road interchange at Ballina, providing that the RMS is satisfied it can be safely and efficiently integrated into the highway interchange. Relevantly no specific lots or site area was nominated in the direction.

The Ballina Shire Growth Management Strategy

The BSGMS does not specifically reference highway service centres at the Teven Road interchange. It does however indicate, in the Locality Vision and Character Statement for West Ballina, that due to this location being a highly visible entrance point to Ballina it would function as a future prominent 'gateway site'.

The Ballina LEP 2012

The subject site, which includes a section of the Pacific Highway road reserve, as well as the RMS owned land currently subject to the additional permitted use provisions, is zoned RU2 Rural Landscape under the provisions of Ballina LEP 2012. This zone does not permit highway service centres which are permitted as an additional permitted use as a consequence of clause 2.5 and Schedule 1 of Ballina LEP 2012.

At the time of preparation of Ballina LEP 2012 the extent of the land affected by the additional permitted use provisions was based on the lot boundaries of lots created in 2000 with some additional regard to zone boundaries under the provisions of Ballina LEP 1987.

Key Site Issues

Given the largely administrative nature of this planning proposal and LEP amendment no site issues have been identified which are considered to require further consideration post Gateway determination. This is because the majority of the site already permits, with development consent, a highway service centre. The site has been developed as part of the Pacific Highway bypass works and currently functions as a truck rest stop, and site office for highway works to the south of this location. In this context it is considered that there is no need, at this stage of the process, to consider specific site related issues. Relevant issues such as traffic impact, visual and amenity matters, including site landscaping will all be considered at the DA stage.

Appendix 4 contains photos of that part of the site in respect to which an extension of the additional permitted use area is proposed.

PART 1 – OBJECTIVES & INTENDED OUTCOMES

The objective and intended outcome of this planning proposal is to permit with development consent a highway service centre on a site which, following the completion of Pacific Highway bypass work has had its site boundaries altered from those that existed when the original boundaries of the additional permitted use area were first defined.

This planning proposal therefore results in the amendment of part of Area C as shown on the Additional Permitted Use map which forms a part of Ballina LEP 2012.

PART 2 – EXPLANATION OF THE PROPOSAL

The planning proposal seeks to amend the Additional Permitted Use Map so as to reconfigure the boundaries of the RMS land to take into account boundaries created following the completion of Pacific Highway Road works at this location.

PART 3 - JUSTIFICATION

Section A - Need for the Planning Proposal

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

No this planning proposal resulted from an RMS due diligence processes which identified that a small portion of their highway service centre site was not appropriately zoned. During assessment of the RMS LEP amendment request it was also identified that a larger area, in the north-eastern corner of the site, was no longer required for highway service centre purposes. The RMS subsequently agreed to the additional permitted use designation being removed from the land no longer required for this purpose.

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

The planning proposal is the best means of achieving the intended objectives. The planning proposal provides for a significant reduction in the overall area of the site subject to additional permitted use provisions.

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 specified economic development and employment growth outcomes contained within the *Far North Coast Regional Strategy (FNCRS)*. The location of a highway service centre adjoining the Pacific Highway at Ballina is specifically referenced in the FNCRS.

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

The planning proposal is generally consistent with the Prosperous Economy objectives of the community strategic plan as indicated in the table below:

REF:	OUR OUTCOMES AND WHAT COUNCIL WILL DO	WHAT THE BENEFITS WILL BE
PE1	WE ATTRACT NEW BUSINESS AND VISITORS	
PE1.1	Promote our area as an attractive place to invest and visit	Economy grows and is more resilient Improved range of services
PE1.2	Provide infrastructure that supports business and delivers economic benefits	Increased business in the Shire Minimal commercial vacancies
PE1.3	Minimise the costs and regulatory requirements for doing business	Businesses are more competitive and sustainable
PE2	MY BUSINESS CAN GROW AND DIVERSIFY	
PE2.1	Develop plans that encourage business growth and diversification	Increased business opportunities
PE2.2	Promote and facilitate a range of business activities	Improved perception that Council supports business
PE2.3	Establish planning regulations that encourage opportunities for diversification	Reduced barriers to business operation, expansion, diversification or relocation
PE3	WE CAN WORK CLOSE TO HOME	
PE3.1	Facilitate and provide economic land and infrastructure to support business growth	Increased availability of land and locations to support business activity
PE3.2	Facilitate and provide affordable infrastructure, both business and residential	More residents living close to where they work, with more affordable options available
PE3.3	Encourage technologies and transport options that support work at home or close to home business activities	Reduced commuting and increased percentage who live and work in the Shire

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). The relevant SEPP's are as follows:

SEPP Title	Compliance of Planning Proposal
SEPP (Rural Lands) 2008	The subject land is currently zoned RU2 Rural landscape. The Rural Planning Principles contained within this SEPP are addressed below: <i>(a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas;</i> Comment: The planning proposal is consistent with this objective. The site is not used for agricultural activities. The proposed extension to the additional permitted uses area in the south –eastern corner of the site is more administrative in nature and unlikely to impact economic activities in the broader sense. <i>(b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State;</i> Comment: The planning proposal is not considered to be inconsistent with this principle. <i>(c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development;</i> Comment: The planning proposal is not considered to be inconsistent with this principle. The subject site is not designated as State or regional significant farmland within the Far North Coast Regional Strategy. The <i>Northern Rivers Farmland Protection Project – Final Recommendations, February 2005</i> report designates the site as <i>other rural land</i>. <i>(d) in planning for rural lands, to balance the social, economic and environmental interests of the community;</i> Comment: The planning proposal is not considered to be inconsistent with this principle. <i>(e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land;</i> Comment: The overall site is considered to have low biodiversity value due to past development and land filling. That part of the current site with high biodiversity values is proposed to be excluded from the additional permitted use provisions. Therefore this planning proposal is considered to be consistent with this principle. <i>(f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities;</i> Comment: The site is currently not used for any rural activity. To that extent therefore the planning proposal is not considered to be inconsistent with this principle. <i>(g) the consideration of impacts on services and infrastructure and appropriate</i>

SEPP Title	Compliance of Planning Proposal
	<i>location when providing for rural housing;</i> Comment: This principle is not relevant to the planning proposal. <i>(h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.</i> Comment: The planning proposal is considered to be consistent with the Far North Coast Regional Strategy (FNCRS). The FNCRS supports the location of a highway service centre at Ballina beside the Pacific Highway.
SEPP No. 55 - Remediation of Land	The planning proposal is considered to be consistent with this SEPP. A zoning change is not proposed. Council has no specific information available regarding the contamination status of the land. This matter if relevant is one that will be further considered at the Development Application stage.
SEPP No. 71 - Coastal Protection	The subject site is located within the coastal zone but is not a sensitive coastal location. The matters for consideration listed in clause 8 of the SEPP have been considered and to the extent to which they are of relevance to this planning proposal no conflicts are considered to arise.

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

This planning proposal is considered to be justifiably inconsistent with the following Section 117 directions:

- 4.1 Acid Sulfate Soils
- 4.4 Planning for Bushfire Protection

A Section 117 checklist for the planning proposal is provided at Appendix 3 which contains details of the applicability and consistency with nominated directions.

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?

No. What is proposed is a relatively minor realignment of the boundaries of the additional permitted use area, to reflect the as constructed Pacific Highway and intersection works, in the south-eastern corner. The boundaries here are proposed to be extended to the toe of an existing fill batter which separates the existing truck rest area administration offices / works depot site a drainage swale which forms a part of the completed road works at the Teven interchange.

The planning proposal also provides for a more significant realignment of the additional permitted use area in the north –western corner by excluding an area of wetland and other land no longer required for highway service centre purposes. Through the exclusion of this land it will ensure that future development of the site will not impact adversely on any critical habitat or 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?

That part of the site which relates to the extension of the permitted additional use area has already been filled and contains no significant vegetation. There are considered to be no other likely environmental consequences from the proposed minor extension of the proposed additional permitted use area.

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

This planning proposal has not specifically addressed social and economic effects due to its overall minor administrative nature. A highway service centre is already permitted at this location and therefore no additional consideration of social and economic effects is considered to be required.

Section D - State and Commonwealth interests.

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

Water, electricity and telephone services are currently available to service the site. Sewerage is not currently available but is located within in close proximity at Smith Drive, West Ballina.

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

Consultation has not yet been undertaken with any public authorities. The Rural Fire Service will be consulted prior to exhibition of the planning proposal as part of the site is designated as bushfire prone land.

PART 4 - MAPPING

The following maps (Appendix 1) have been prepared to the support the planning proposal:

- Map 1 – illustrates the location of the subject land – Site Identification Map;
- Map 2 – is the existing Additional Permitted Use Map under the terms of the Ballina LEP 2012 (APU Map).
- Map 3 – is the existing APU Map (zoomed) under the terms of the Ballina LEP 2012 (APU Map).
- Map 4 – is the proposed Additional Permitted Use Map under the terms of the Ballina LEP 2012 (APU Map).
- Map 5 – is the proposed APU Map (zoomed) under the terms of the Ballina LEP 2012 (APU Map).

PART 5 – COMMUNITY CONSULTATION

Community consultation has not yet been undertaken. A 14 day exhibition and consultation period is proposed due to the minor administrative nature of this planning proposal.

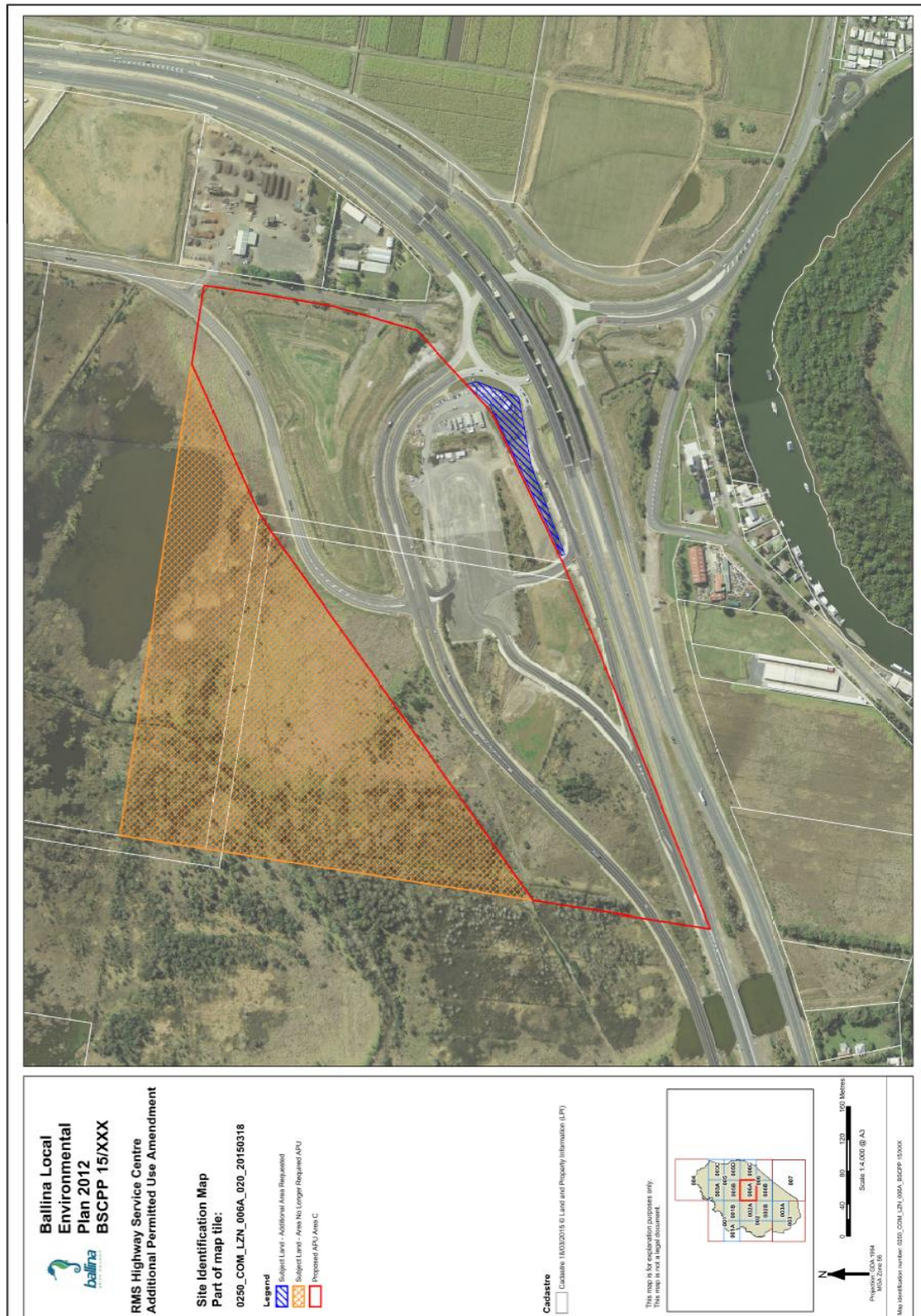
PART 6 – PROJECT TIMELINE

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

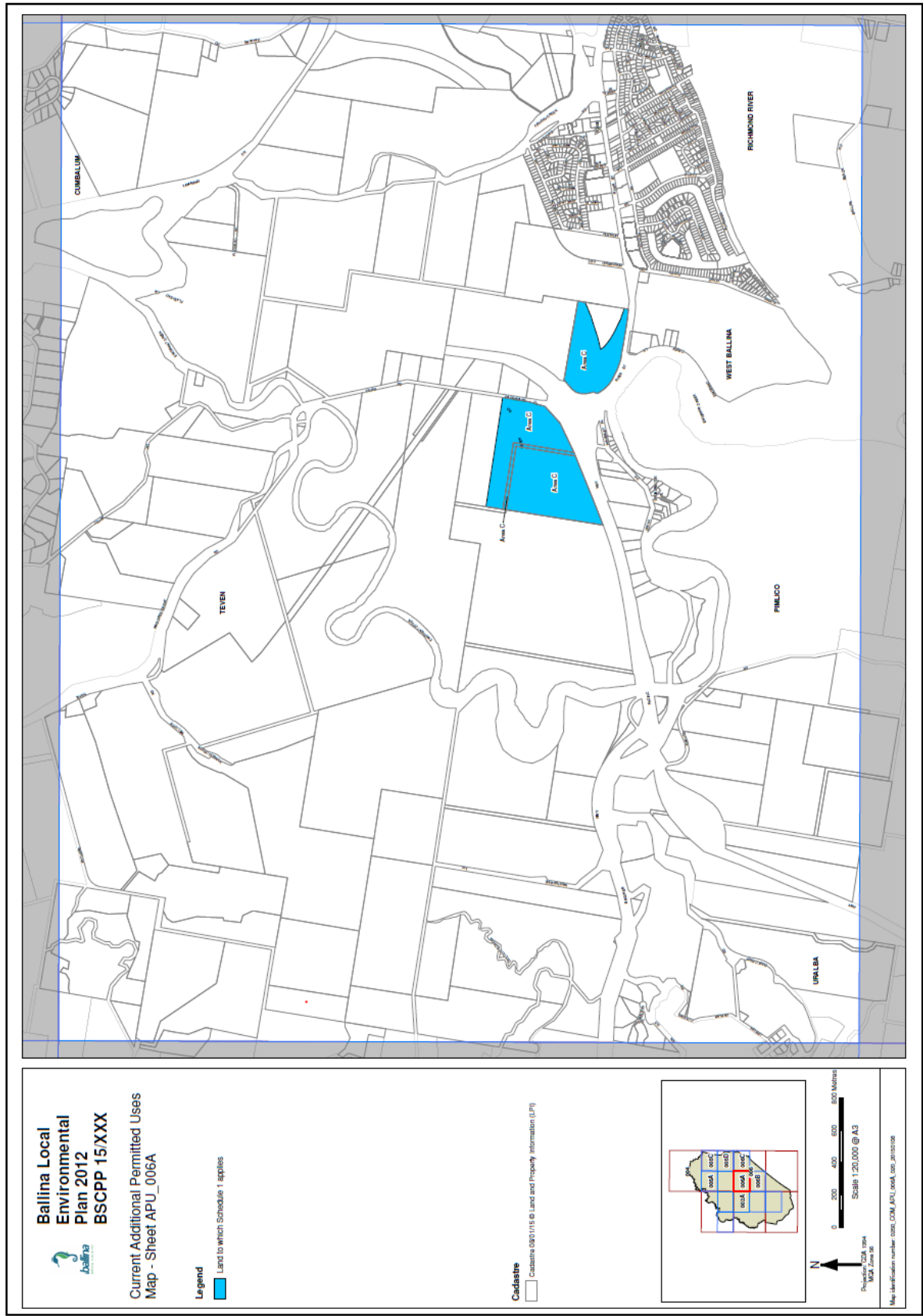
Appendices

Appendix 1 – Maps

Site Identification Map

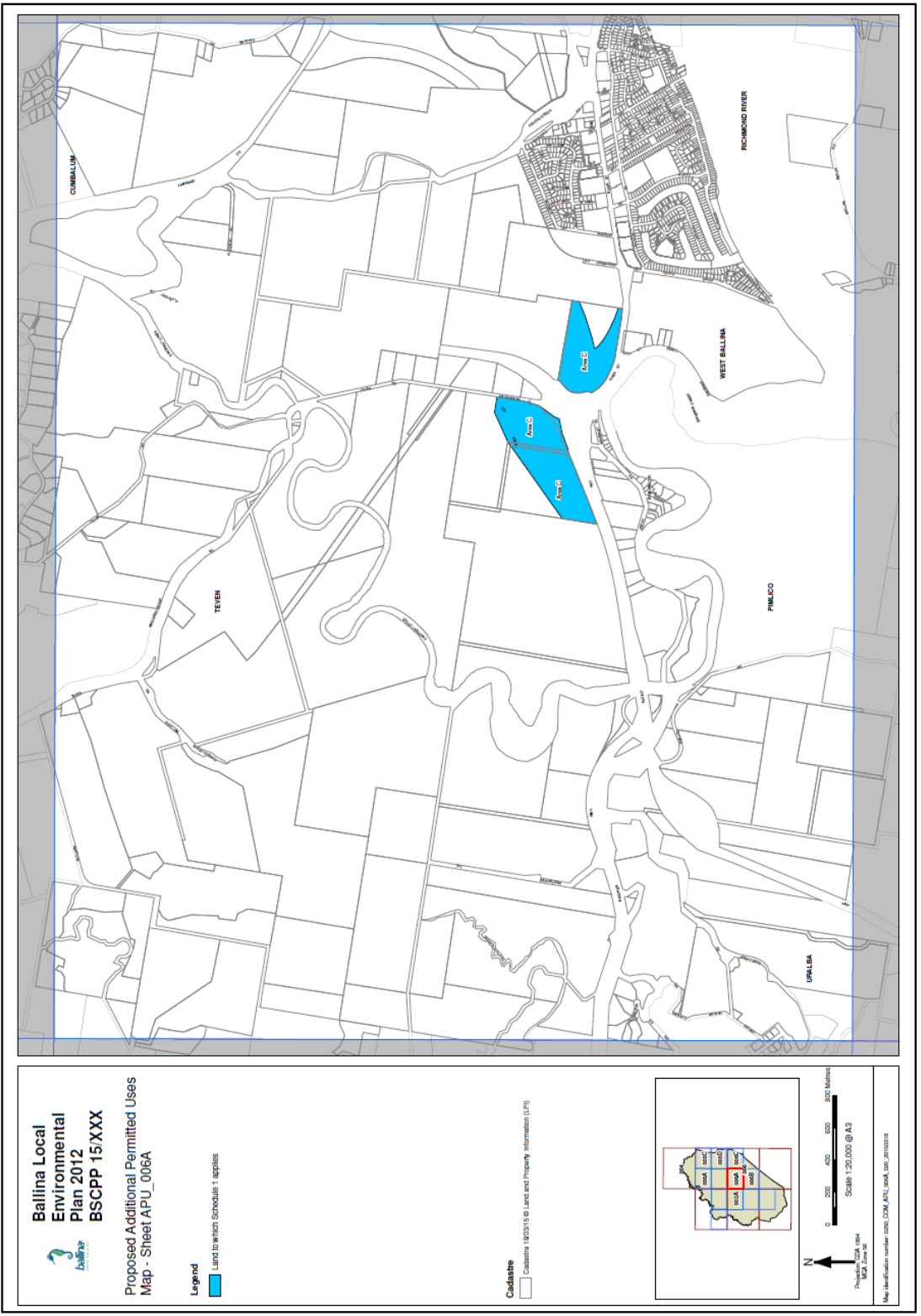


Ballina Local Environmental Plan 2012 Existing Additional Permitted Use Map



Ballina Local Environmental Plan 2012 Existing Additional Permitted Use Map Zoomed





Ballina Local Environmental Plan 2012 Proposed Additional Permitted Use Map- Zoomed



Appendix 2 – Proponent's Submission

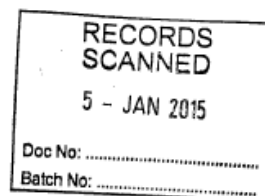


Transport
Roads & Maritime
Services

23 December 2014

The General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478

Attn: Andrew Smith



Dear Sir

Proposed Highway Service Centre at Teven Road interchange

After a shortlisting process, in October 2014 Roads and Maritime Services invited proposals from the private sector to develop a highway service centre (HSC) on land owned by Roads and Maritime adjacent to the Teven Road interchange. The site, located between the Pacific and Bruxner Highways to the west of the interchange, is currently being used as a truck rest area and site office for nearby highway works.

Prior to the invitation, Roads and Maritime had undertaken a due diligence exercise for the site and its proposed development. One issue that has become apparent and needs to be resolved is the permissibility of the proposed development under the *Ballina Local Environmental Plan 2012* (LEP).

By force of clause 3 of Schedule 1 to, and the Additional Permitted Uses Map in, the LEP, development for the purpose of a HSC is permitted with development consent over the vast majority of site. It is likely that the mapping for Schedule 1 was prepared prior to the time at which the boundaries of the land required for the Pacific Highway bypass of Ballina were finalised. Consequently, a small area of land adjacent to the northbound off-ramp is outside of Area C of the additional permitted uses map. The excluded area is shown in the sheet at Attachment 1.

Roads and Maritime anticipates that exclusion of the area in question may have been unintended, as it would be unlikely to have any other purpose if the remainder of the Roads and Maritime owned site was developed as proposed.

While development of a HSC is possible without the use of the excluded area, Roads and Maritime considers that the viability of an HSC would be enhanced significantly by its inclusion. As such, Roads and Maritime would be very pleased if Council would consider amending the Additional Permitted Uses Map in the LEP accordingly.

Roads & Maritime Services

Pacific Highway Office, 21 Prince Street, Grafton NSW 2460 | PO Box 546 Grafton NSW 2460
T 02 6640 1014 | F 02 6640 1001 | E pacifichighway@rms.nsw.gov.au

www.rms.nsw.gov.au |

As some assistance, Attachment 2 provides responses to the considerations required under Clause 55 (2) of the Environmental Planning and Assessment Act 1979.

For your information, on Roads and Maritime's current program for identifying and engaging a private entity for the HSC project, a development application for a HSC could be submitted to Council in mid 2015.

Your advice on Council's consideration of the requested change and the likely timing should it be agreed would be appreciated.

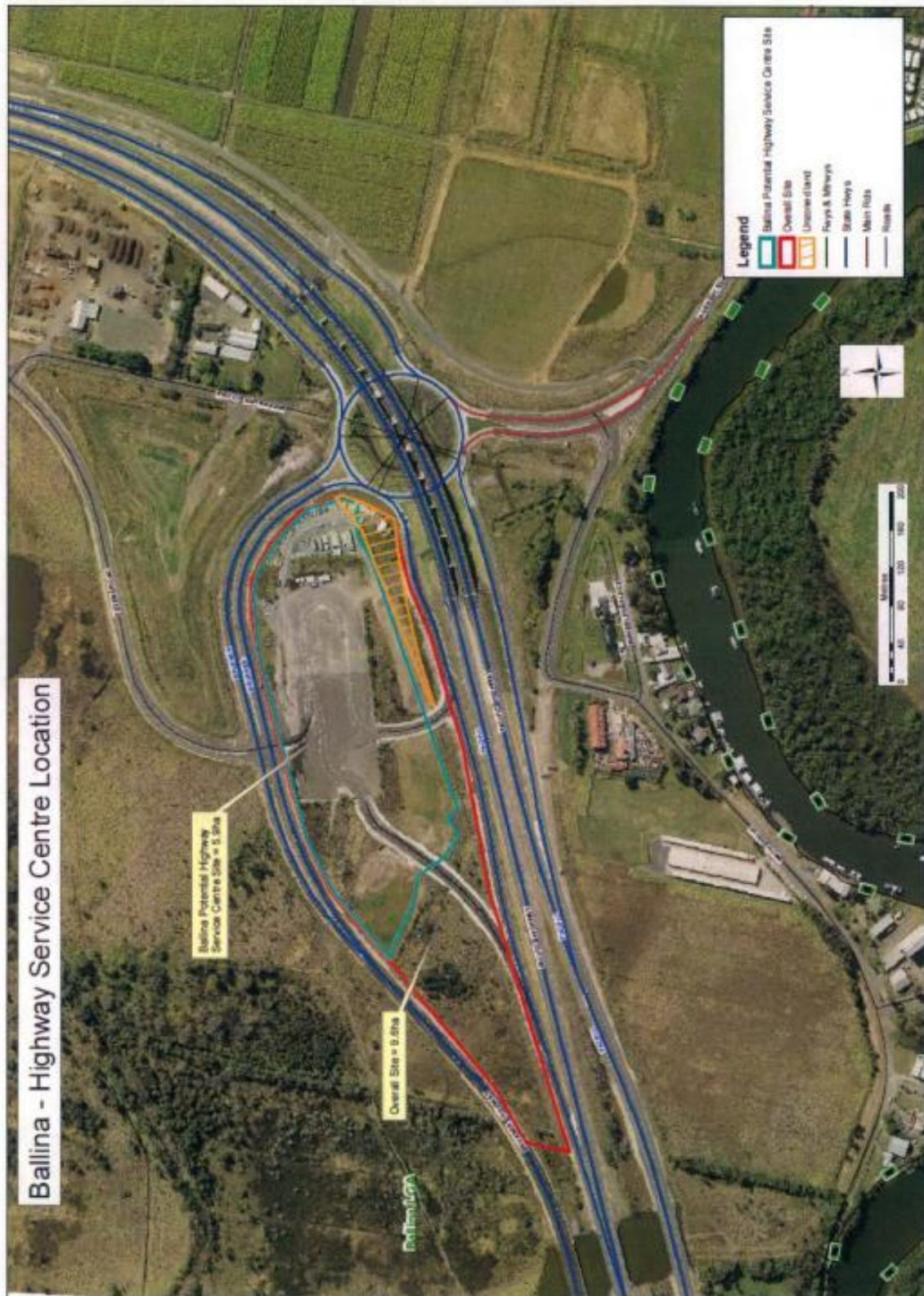
If you wish to discuss this matter, please contact me on 6640-1014.

Yours sincerely

A handwritten signature in black ink, appearing to read 'W. Stevenson', with a stylized flourish at the end.

Wes Stevenson
A/General Manager, Pacific Highway

Attachment 1. Map showing area of proposed Highway Service Centre land excluded from Area C



Attachment 2. Assessment against explanation and justification criteria for planning proposals - CI 55(2) considerations

(a) a statement of the objectives or intended outcomes of the proposed Amendment LEP,

The intent of the proposed amendment is to adjust to boundary of the Additional Permitted Uses map related to Highway Service Centre (HSC) development to reflect the actual boundaries of the Pacific Highway following the completion of the Ballina bypass.

(b) an explanation of the provisions that are to be included in the proposed Amendment LEP,

An amendment of the mapping for Area C of the Additional Permitted Uses map to allow HSC development with consent for the area between the new Pacific Highway boundary and the boundary of Area C. See Attachment 1, which shows in yellow hatching the area in question.

(c) the justification for those objectives, outcomes and provisions and the process for their implementation (including whether the proposed instrument will comply with relevant directions under section 117 of the EP&A Act),

The amendment is considered to be a simple administrative matter in response to a change in proposed Pacific Highway boundaries after the LEP was made.

Direction 5.4 under Section 117 is relevant as it allows for HSCs to be developed at the Teven Road interchange at Ballina.

(d) if maps are to be adopted by the proposed Amendment LEP—a version of the maps containing sufficient detail to indicate the substantive effect of the proposed Amendment LEP, and

See Attachment 1

(e) details of the community consultation that is to be undertaken before consideration is given to the making of the proposed instrument.

The amendment is considered to be a simple administrative matter in response to a minor change in the boundaries of the Pacific Highway upgrade (Ballina bypass). Community consultation is not considered to be necessary. However, the community would be consulted in relation to development of the area for Highway Service Centre purposes.

Appendix 3 – Section 117 Direction Checklist

Section 117 Direction Checklist Planning Proposal – RMS Highway Service Centre Site - Teven Interchange, West Ballina	
DIRECTION NO.	Compliance of Planning Proposal
1. Employment and Resources	
1.1 Business and Industrial Zones	Does not apply to this planning proposal. The planning proposal is however consistent with the objective of this direction in so far as the proposed additional use may encourage employment growth in suitable locations.
1.2 Rural Zones	It is considered that the planning proposal is consistent with this direction because it is not proposed to rezone the site but to make a change to the boundaries of an existing additional permitted use area.
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	This planning proposal is considered consistent with this direction due to its minor administrative nature.
2. Environment and Heritage	
2.1 Environmental Protection Zones	Does not apply to planning proposal.
2.2 Coastal Protection	This planning proposal is consistent with this direction. The subject site will retain its RU2 zoning. The realignment of the additional permitted use area is considered to have a minor impact having regard to the nature of uses already permitted within this zone and located on the site.
2.3 Heritage Conservation	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	Does not apply to planning proposal.
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	Does not apply to planning proposal.
3.2 Caravan Parks and Manufactured Home Estates	Does not apply to planning proposal.
3.3 Home Occupations	This planning proposal is consistent with this direction as home occupations are permitted in the RU2 zone without consent under the Ballina LEP 2012.

DIRECTION NO.	Compliance of Planning Proposal
3.4 Integrated Land Use and Transport	The planning proposal is consistent with this direction as the land has been specifically identified for the location of a highway service centre.
3.5 Development Near Licensed Aerodromes	Does not apply to planning proposal.
3.6 Shooting Ranges	Does not apply to planning proposal.
4. Hazard and Risk	
4.1 Acid Sulfate Soils	Inconsistent The subject site has a probability that it contains Class 2 acid sulfate soils. Ballina LEP 2012 contains the Standard Instrument acid sulfate soil provisions at clause 7.1. An acid sulfate soils study has not been prepared as required by the direction to support the proposed land use intensification in the south western corner of the site. The planning proposal is considered to be justifiably inconsistent with this direction given its minor significance and the fact that a highway service centre development is already permitted over a significant portion of the total site.
4.2 Mine Subsidence and Unstable Land	Does not apply to planning proposal.
4.3 Flood Prone Land	The planning proposal is considered to be consistent with this direction. The site is located within a flood planning area and is subject to the provisions of clause 7.3 <i>Flood planning</i> of Ballina LEP 2012. Clause 7.3 is consistent with the <i>NSW Flood Prone Land Policy</i> and the principles of the <i>Floodplain Development Manual 2005</i> (including the <i>Guideline on Development Controls on Low Flood Risk Areas</i>). This part of the RMS's designated highway service centre site has already been extensively filled to support its truck stop and administration / site depot function. Whether additional filling will be required in conjunction with the development of part of the site as a highway service centre is not known at this time and will be a matter for more detailed investigation during the DA process. The proposed extension of the additional permitted use area is unlikely to result in any significant impact on flood related issues within this part of the Ballina floodplain.
4.4 Planning for Bushfire Protection	This planning proposal is inconsistent with this direction. The subject land is category 2 bushfire prone land as indicated on the 2012 Bushfire Prone Land Map. This map was prepared prior to the completion of road works at this location which may have significantly altered the bushfire prone affectation of the subject land. In order to justify the inconsistency consultation will be required with the NSW Rural Fire Service and their non-objection obtained.
5. Regional Planning	
5.1 Implementation of Regional Strategies	The site's location is consistent with the outcomes specified within Economic Development and Employment Growth component of the <i>Far North Coast Regional Strategy</i> .
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	This direction does not apply as the site is identified as <i>other rural land</i> within Map 4 which forms a part of the " <i>Northern Rivers Farmland Protection Project - Final Recommendations, February 2005</i> " report.
5.4 Commercial and Retail Development along the Pacific Highway North Coast	The planning proposal is consistent with this direction as the establishment of highway service centres at the Teven Road interchange is specified in the direction. The proposed minor boundary realignment to increase the area of the site in the south-eastern corner is in any case considered unlikely to impact on the safety or efficiency of the Pacific Highway.

DIRECTION NO.	Compliance of Planning Proposal
5.5 Development in the vicinity of Ellalong Paxton and Millfield (Cessnock LGA).	Revoked
5.6 Sydney to Canberra Corridor	Revoked
5.7 Central Coast 1)	Revoked
5.8 Second Sydney Airport: Badgerys Creek	Does not apply to Ballina Shire
5.9 North West Rail Corridor Strategy	Does not apply to Ballina Shire
6. Local Plan Making	
6.1 Approval and Referral Requirements	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	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	The planning proposal is consistent with this direction as it is proposed to vary the boundaries of an existing additional permitted use area without imposing any development standards or requirements in addition to those already contained in the Ballina LEP 2012.
7. Metropolitan Planning	
7.1 Implementation of the Metropolitan Strategy	Does not apply to Ballina Shire.

Appendix 4 – Site Photos



Photo 1 - View looking east. Proposed additional permitted use area located at the toe of the bank on left side of photo approximately in line with arrow.



Photo 2 – Western most end of proposed additional use area. Approximate boundary shown by arrow.



Photo 3 – Shows part of retained road reserve looking eastward. Proposed additional permitted use area to the left of reeds at tow of bank as shown by arrow.



Photo 4 – Eastern most extremity of proposed additional permitted use area. Boundary of this area is the toe of the bank generally in line with arrow.



Photo 5 – Truck rest area at centre of existing additional permitted use area.

Appendix 5 – Report to Ordinary Meeting of the Council on 22 January 2015

9.1 LEP Amendment - Bruxner Highway / Pacific Highway, West Ballina

9.1 LEP Amendment - Bruxner Highway / Pacific Highway, West Ballina

Delivery Program Strategic Planning

Objective To present the Council with a proposal to amend the Ballina Local Environmental Plan 2012 to redefine the area of land subject to additional permitted use provisions in relation to a highway service centre on land adjacent to the Bruxner Highway and Pacific Highway at West Ballina.

Background

Council received an LEP amendment request in December 2014 to adjust the boundaries of the Additional Permitted Use Map as it relates to RMS owned land at West Ballina. The Additional Permitted Use Map within the Ballina Local Environmental Plan 2012 (Ballina LEP 2012) identifies that a highway service centre is a permitted use on the land with development consent.

The LEP enables the highway service centre use on both sides of the Teven Pacific Highway interchange consistent with Ministerial Direction 5.4 - Commercial and Retail Development along the Pacific Highway, North Coast. The additional permitted uses provision of the LEP has been used so that the locations having potential for a highway service centre use can be specifically identified (i.e. such centres are not permitted broadly across the shire).

The proponent and landowner is NSW Roads and Maritime Services. The LEP amendment request is contained in Attachment One.

The land the subject of this LEP amendment request is shown in the site plan contained in Attachment Two.

This report provides an overview of the LEP amendment request and seeks the Council's authorisation for the preparation of a planning proposal to progress the amendment.

Key Issues

- Refinement and rationalisation of site subject to additional permitted use provisions following completion of Pacific Highway road works.

Information

Site and Proposal Information

This LEP amendment request relates to a section of the Pacific Highway road reserve adjacent to the Teven Road interchange at West Ballina. This land adjoins RMS owned land which has been identified for development as a highway service centre. The potential for development of a highway service centre adjacent to the Teven Road interchange is reflected in Ministerial planning direction 5.4 under the *Environmental Planning and Assessment Act* and in the Ballina LEP 2012.

9.1 LEP Amendment - Bruxner Highway / Pacific Highway, West Ballina

The RMS land currently identified for highway service centre purposes is known as lot 15 DP 1013485 and part Lots 13 and 14 DP 1013485. It has an approximate area of 36.26 ha. The approximate area of the land the subject of this LEP amendment request is 4,034m².

The subject site, which includes a section of the Pacific Highway road reserve as well as the RMS owned land currently subject to the additional permitted use provisions, is zoned RU2 Rural Landscape under the provisions of the Ballina LEP 2012. This zone does not permit highway service centres, but the use is permitted as an additional permitted use on the land as a consequence of clause 2.5 and Schedule 1 of the Ballina LEP 2012.

At the time of preparation of the Ballina LEP 2012 the extent of the land affected by the additional permitted use provisions was based on the lot boundaries of lots created in 2000 with some additional regard to zone boundaries under the provisions of Ballina LEP 1987. Following the completion of the Pacific Highway works, in 2012, the RMS was then in a position to more closely consider both the amount of land required for a potential highway service centre development as well as the suitability of such land for this purpose.

Following the lodgement of the LEP amendment request the RMS were requested to give consideration to land that may no longer be required for highway service centre purposes with particular regard to the northern most section which extends into wetland areas. The RMS are currently examining this issue and it is anticipated that a plan will be submitted which will result in an overall reduction of the land required to be designated for highway service centre purposes. Adjustment of the area the subject of the additional permitted use mapping in this regard will be incorporated into any planning proposal that may subsequently be prepared.

Attachment Three contains a map which shows the location of the land affected by the highway service centre additional use provisions at West Ballina. This includes land on the eastern side of the Pacific Highway which is not owned by the RMS.

Attachment Four contains a map which shows how the highway service centre additional use map is proposed to be altered, at this stage, in response to the current submission from the RMS.

Strategic Planning Framework

The LEP amendment request is consistent with the applicable strategic planning framework as indicated below:

Far North Coast Regional Strategy 2006 (FNCRS)

The FNCRS supports the location of a highway service centre at Ballina beside the Pacific Highway. This was reinforced in November 2009 when the Minister issued direction 5.4 *Commercial and Retail Development along the Pacific Highway North Coast* under section 117(2) of the *Environmental Planning and Assessment Act 1979*. This direction enables certain highway service centres to be permitted, including at the Teven Road interchange at Ballina, providing that the RMS is satisfied it can be safely and efficiently

9.1 LEP Amendment - Bruxner Highway / Pacific Highway, West Ballina

integrated into the highway interchange. Relevantly no specific lots or site area was nominated in the direction.

Ballina Shire Growth Management Strategy 2012 (BSGMS)

The (BSGMS) is a local growth management strategy required to be prepared by the FNCRS. The BSGMS does not specifically reference highway service centres at the Teven Road interchange. It does however indicate, in the Locality Vision and Character Statement for West Ballina, that due to this location being a highly visible entrance point to Ballina it would function as a future prominent 'gateway site'.

Ballina LEP 2012

Ballina LEP 2012 incorporates as an *additional permitted use*, highway services centres, within land otherwise zoned as RU2 Rural Landscape as indicated in the map at Attachment Three.

Site Assessment Requirements

The proponent has not assessed site constraints within the submitted LEP amendment request. It is, however, considered that as the land has been significantly disturbed and filled as part of recently completed road and ancillary works there are presently no specific matters identified that require detailed investigation. This is reinforced by the fact that the area nominated for inclusion within the additional permitted use provisions represents approximately an additional 1% of the RMS land already subject to these provisions.

As has been previously indicated, the RMS is currently giving consideration to reducing the overall area of its land subject to the additional use provisions. If this occurs then it is also considered that no additional site specific assessments are required to support such a proposal. A reduction in the area subject to the additional use provisions is not envisaged to give rise to any negative environmental consequences and may in fact have net environmental benefits if the northern wetland section is excluded from the potential development area.

Sustainability Considerations

- **Environment**
There are no specific environmental consequences arising from this LEP amendment request as currently submitted.
- **Social**
Not Applicable
- **Economic**
The redefinition of the land area subject to additional permitted use provisions for a highway service centre, and within the ownership of the RMS, may have beneficial economic outcomes. This is based on the assumption that it will more quickly facilitate the development of the site through improving its viability as suggested in the RMS submission.

Legal / Resource / Financial Implications

There are no significant resourcing or financial implications associated with the further processing of the LEP amendment. Subject to the Council's decision, the next step in the process would be to prepare a planning proposal suitable for submission to the Department of Planning and Environment (DP&E) for Gateway determination.

Following a favourable Gateway determination the applicant would be requested to submit any additional information which may be specified by the DP&E prior to the proposal progressing to the consultation phase.

Council's adopted fees and charges associated with LEP amendments would be applied to the further processing of the request.

Consultation

There has been no consultation undertaken to date with either the community or government agencies in relation to this LEP amendment request as the matter is in the initial phases.

Should the matter proceed, an affirmative Gateway determination will advise of consultation requirements with government agencies and the community. Community engagement would then occur as specified in the Gateway determination.

It should be recognised that Council has previously approved a highway service centre on the eastern side of the Teven interchange. Those with an interest in this proposal may be interested in providing feedback to Council on the requested LEP amendment.

Options

1. Proceed to prepare a planning proposal for the redefinition of the RMS land subject to additional permitted use provisions, at the Teven interchange at West Ballina, to permit a highway service centre.

This approach would authorise the preparation of a planning proposal for Gateway determination. Consistent with Council's normal approach to LEP amendment requests, the proposal would be reported to the Council for further consideration prior to its submission to the Gateway panel.

This is the recommended approach.

As an alternative, Council could authorise the planning proposal to be prepared and lodged for Gateway determination without further reporting of the matter to Council. This approach could be taken if the Council is of the view that the matter is relatively minor in scale and does not warrant further consideration by Council before its submission for Gateway determination and subsequent public exhibition. The advantage of this approach is that it saves time and reporting but it is a departure from the typical processing approach historically employed by Council.

9.1 LEP Amendment - Bruxner Highway / Pacific Highway, West Ballina

If the Council is included to enable progress of the planning proposal to Gateway determination without further reporting, it is recommended that the following be incorporated into Council's resolution:

1. That the Council endorse the preparation of a planning proposal to amend the Ballina Local Environmental Plan 2012 to reconfigure the RMS owned land at the Teven interchange at West Ballina that is subject to additional use provisions for a highway service centre generally in accordance with the request made by Roads and Maritime Services.
 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.
2. Defer or amend the planning proposal.

This approach would involve seeking further information which could be through additional material from the proponent or a Councillor briefing.

This approach is not recommended given:

- The proposed redefinition of the area subject to the additional permitted use provisions is consistent with the applicable strategic planning framework.
- What is proposed can be considered to be a minor adjustment arising from the availability of improved information now that the Pacific Highway construction works in the area have been completed. In this context, the proposal is considered to be minor in terms of its overall impact.

3. Cease further action in relation to the planning proposal.

For the same reasons outlined in relation to Option 2, this approach is not recommended.

Importantly, the Council can elect to discontinue a planning proposal at other stages of the LEP amendment process if considered appropriate. That said however, certain recourse procedures are now available to proponents if they were dissatisfied with such a Council decision.

RECOMMENDATIONS

1. That Council endorses the preparation of a planning proposal to amend the Ballina Local Environmental Plan 2012 to reconfigure the Roads and Maritime Services owned land at the Teven interchange at West Ballina that is subject to additional use provisions for a highway service centre generally in accordance with the request made by Roads and Maritime Services.
2. That a further report be presented to the Council documenting the planning proposal when prepared for submission for Gateway determination.

Attachment(s)

1. Attachment One - LEP Amendment Request
2. Attachment Two - Site Plan
3. Attachment Three - Existing Additional Permitted Use Map
4. Attachment Four - Proposed Additional Permitted Use Map

Appendix 6 – Report to Ordinary Meeting of the Council on 26 March 2015

9.1 LEP Amendment - Bruxner Highway / Pacific Highway, Ballina

9.1 LEP Amendment - Bruxner Highway / Pacific Highway, Ballina

Delivery Program Strategic Planning

Objective To present the Council with a planning proposal to amend the Ballina Local Environmental Plan 2012 to redefine the area of land subject to additional permitted use provisions in relation to a highway service centre on land adjacent to the Bruxner Highway and Pacific Highway at West Ballina.

Background

The Council, at its Ordinary Meeting held on 22 January 2015, considered a request to amend the Ballina Local Environmental Plan 2012 (the LEP), relating to Roads and Maritime Services (RMS) owned land adjacent to the Bruxner Highway and Pacific Highway at West Ballina, so as to redefine the area of land which permits a highway service centre development.

The subject land is currently zoned RU2 Rural Landscape. A highway service centre is permitted, with development consent, as an *additional permitted use* under provisions contained within the LEP. In relation to this matter, the Council resolved as follows [Minute No.220115/5]:

1. *That Council endorses the preparation of a planning proposal to amend the Ballina Local Environmental Plan 2012 to reconfigure the Roads and Maritime Services owned land at the Teven interchange at West Ballina that is subject to additional use provisions for a highway service centre generally in accordance with the request made by Roads and Maritime Services.*
2. *That a further report be presented to the Council documenting the planning proposal when prepared for submission for Gateway determination.*

The planning proposal has now been prepared and forms Attachment One to this report.

The purpose of this report is to seek the Council's endorsement of the planning proposal for submission to the Department of Planning and Environment (DP&E) to obtain a Gateway determination. Established practice in relation to this type of LEP amendment is for the Council to receive the planning proposal documentation for consideration (following initial commencement of an LEP amendment process) with a view to determining whether the matter should progress to Gateway determination.

Key Issues

- Redefinition and rationalisation of site subject to additional permitted use provisions following completion of Pacific Highway road works.
- Processing of LEP amendment request and submission of planning proposal for Gateway determination.

Information

The RMS land currently identified for highway service centre purposes is described as lot 15 DP 1013485 and part lots 13 and 14 DP 1013485. It has an approximate area of 36.26 ha.

The LEP amendment request originally related to a section of the Pacific Highway road reserve adjacent to the Teven Road interchange at West Ballina having an area of approximately 4,034m². This land adjoins RMS owned land which has been identified for development as a highway service centre.

Following discussion with the RMS, agreement was reached to redefine the whole of the Service's site subject to the highway service centre additional permitted use provisions. This then resulted in an overall reduction of land subject to these provisions from 36.26 ha to 22.52 ha and will exclude an area of wetland considered to have high environmental value.

The subject land is zoned RU2 Rural Landscape under the provisions of the LEP. This zone does not permit highway service centres, but the use is able to be considered as an additional permitted use on the land as a consequence of clause 2.5 and Schedule 1 of the LEP.

At the time of preparation of the LEP the extent of the land affected by the additional permitted use provisions was based on the boundaries of allotments created in 2000, with some additional regard to zone boundaries under the provisions of Ballina LEP 1987.

Following the completion of the Pacific Highway works, in 2012, the RMS was then in a position to more closely consider both the amount of land required for a potential highway service centre development as well as the suitability of such land for this purpose.

Attachment Two contains a site identification map which shows both the land no longer required for the highway service centre site as well as the location of the additional area required.

No site-specific assessment requirements have been nominated to support this planning proposal. This is because the reconfiguration of site boundaries, subject to the additional permitted use provisions, is not envisaged to give rise to any negative environmental consequences.

In fact, net environmental benefits may be attributable to this planning proposal as a consequence of the exclusion of the northern wetland section from the current potential development area.

As the Council is aware, the site under consideration has been shaped following very significant site disturbance associated with the Ballina Bypass construction. It is effectively a large filled and compacted earthen pad which has been used as the road construction and site office compound and a heavy vehicle parking area. The subject site is however bushfire prone land and consultation with the NSW Rural Fire Service will be required prior to the public exhibition of the planning proposal.

The attached planning proposal documents the degree to which the proposal complies with the locality's strategic planning framework. Consideration has been given to the planning proposal's consistency with the Far North Coast Regional Strategy, the Ballina Shire Growth Management Strategy, the Ballina LEP 2012 and applicable State Environmental Planning Policies and the Minister's Section 117 Directions.

It is concluded that the planning proposal is generally consistent with the strategic planning framework applicable to the land, or where there are inconsistencies, these are able to be justified at this stage of the process.

Sustainability Considerations

- **Environment**

There are no specific environmental consequences arising from this LEP amendment request. It is noted that the future development application assessment process will be the mechanism by which potential environmental impacts (for example, stormwater treatment and disposal) associated with the construction of a highway service centre will be considered.

- **Social**

The planning proposal is intended to facilitate a development to accommodate the needs of the travelling public. This is consistent with the Government's policies of improving safety and efficiency on the State's highway network.

- **Economic**

The redefinition of the land area subject to the additional permitted use provisions for a highway service centre, and within the ownership of the RMS, may have beneficial economic outcomes. This is based on the assumption that it will more quickly facilitate the development of the site through improving its viability as suggested in the RMS submission.

Legal / Resource / Financial Implications

There are no specific legal implications associated with this proposed LEP amendment at this time.

In the event that Council wishes to advance this proposal, the proponent will be required to meet various processing costs, in accordance with the Council's adopted schedule of fees and charges.

Progress of this matter can be accommodated within the Strategic and Community Facilities Group work program.

Consultation

Consultation requirements relating to Government authorities will be specified within the Gateway determination. At this stage a consultation requirement with the NSW Rural Fire Service has been identified.

Options

1. Endorse the planning proposal for submission to the DP&E for Gateway determination.

This is the preferred and recommended option.

The proposed LEP amendment aligns the boundaries of the additional permitted use area with the as-built boundaries of the Pacific and Bruxner Highway interchange.

It also removes land that has no potential to be developed for highway service centre purposes due to environmental constraints. In so doing, the proposed amendment is considered to have net environmental benefits as well as potential economic benefits for the RMS.

The Council will also have further opportunity to consider the proposal prior to the matter being finalized and after public exhibition following Gateway determination.

2. Require the proponent to submit additional information for incorporation into the planning proposal prior to submission to the DP&E for Gateway determination.

This approach is not recommended given:

- The proposed redefinition of the area subject to the additional permitted use provisions is consistent with the applicable strategic planning framework.
- What is proposed can be considered to be an adjustment arising from the availability of improved information now that the Pacific Highway construction works in this immediate area have largely been completed. In this context, the proposal is considered to be minor in terms of its overall impact.

3. Cease or defer processing of the LEP amendment request.

Council may decline or defer the consideration of the requested LEP amendment. For the same reasons outlined in relation to Option 2, this approach is not recommended.

Importantly, the Council can elect to discontinue a planning proposal at other stages of the LEP amendment process if considered appropriate. That said however, certain recourse procedures are now available to proponents if they were dissatisfied with such a Council decision.

Delegation of Plan Making Functions

The Gateway submission to the DP&E is required to address whether the Council is proposing to exercise plan-making delegations in finalising the LEP amendment.

This means Council staff would liaise directly with Parliamentary Counsel to finalise the drafting of the amendment for implementation.

9.1 LEP Amendment - Bruxner Highway / Pacific Highway, Ballina

Although there are resourcing implications for Council (more staff time in processing), it is recommended that the Council provide an indication at this stage that it is proposing to exercise its delegation in this instance.

Under this approach, the Council would make its final decision on whether to exercise its delegations at the time of deciding on the finalisation of the amendment post public exhibition.

RECOMMENDATIONS

1. That Council authorises the submission of a planning proposal to amend the Ballina Local Environmental Plan 2012 to reconfigure the RMS owned land at the Teven interchange at West Ballina, that is subject to additional use provisions for a highway service centre, to the Department of Planning and Environment for review and Gateway determination.
2. That upon an affirmative Gateway determination being received, the procedural steps associated with the progression of the planning proposal, including public exhibition, be undertaken.
3. That a further report be presented to the Council in relation to this matter following the mandatory community consultation.
4. That the Department of Planning and Environment be advised that at this stage of the process it is the Council's intention to exercise its delegated plan making functions.

Attachment(s)

1. Attachment One - Planning proposal
2. Attachment Two - Site Identification Map

9.1 LEP Amendment - Bruxner Highway / Pacific Highway, Ballina

260315/1 RESOLVED

(Cr Ben Smith/Cr Robyn Hordern)

Cr Keith Williams left the meeting at 10:59 am.

1. That Council authorises the submission of a planning proposal to amend the Ballina Local Environmental Plan 2012 to reconfigure the RMS owned land at the Teven interchange at West Ballina, that is subject to additional use provisions for a highway service centre, to the Department of Planning and Environment for review and Gateway determination.
2. That upon an affirmative Gateway determination being received, the procedural steps associated with the progression of the planning proposal, including public exhibition, be undertaken.
3. That a further report be presented to the Council in relation to this matter following the mandatory community consultation.
4. That the Department of Planning and Environment be advised that at this stage of the process it is the Council's intention to exercise its delegated

9.1 LEP Amendment - Bruxner Highway / Pacific Highway, Ballina

plan making functions.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Keith Williams