

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS
CNR CHERRY & TAMAR STREETS, BALLINA,
ON 26/07/12 AT 9.00 AM**

9. Strategic & Community Services Group Reports

9.2 Draft Ballina Shire Development Control Plan 2012

260712/20 RESOLVED

(Cr Sharon Cadwallader/Cr Ben Smith)

That Council proceed to undertake the public exhibition of the Draft Ballina Shire Development Control Plan 2012, in accordance with the terms of the *Environmental Planning and Assessment Act* and the associated Regulation.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Robyn Hordern

9.3 LEP Amendment - Bulky Goods Retailing Precinct

260712/21 RESOLVED

(Cr Ben Smith/Cr Susan Meehan)

1. That Council proceed with the referral of the planning proposal for the Southern Cross Industrial Estate Bulky Goods Precinct, based on the application of a B5 Business Development zone to the subject land, to the Department of Planning & Infrastructure for gateway determination.
2. That in the event that the gateway determination enables the planning proposal to proceed, the planning proposal be placed on public exhibition in accordance with the requirements of the gateway determination.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Robyn Hordern

9.4 LEP Amendment - Southern Cross Precinct Expansion

260712/22 RESOLVED

(Cr David Wright/Cr Keith Johnson)

1. That Council proceed to prepare a planning proposal to enable urban land uses focussed on employment based activities on land between the existing extent of the Southern Cross Industrial Estate, Corks Lane and the Ballina Byron Gateway Airport.
2. That the type and extent of land use zoning under the planning proposal be determined having regard for both employment and environmental outcomes and following the provision and consideration of further information from the applicant in relation to the land uses proposed and the characteristics of the site.

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3. That the planning proposal be reported to Council for consideration prior to referral to the Department of Planning & Infrastructure for gateway determination.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Robyn Hordern

9.6 Policy (Review) - Public Art

260712/23 RESOLVED

(Cr Susan Meehan/Cr Sharon Cadwallader)

That Council place the draft Public Art policy, as attached to this report, on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received then the policy is considered to be adopted.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Robyn Hordern

9.7 Northern Rivers Catchment Action Plan - Update

260712/24 RESOLVED

(Cr Susan Meehan/Cr Ben Smith)

That Council endorse the attached submission to the Northern Rivers Catchment Action Plan 2 process.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Robyn Hordern

9.4 LEP Amendment - Southern Cross Precinct Expansion

9.4 LEP Amendment - Southern Cross Precinct Expansion

Delivery Program Strategic Planning

Objective To seek direction from Council with respect to a request to amend the Ballina Local Environmental Plan to enable expansion of urban land uses adjacent to the Southern Cross Industrial Estate.

Background

Ardill Payne & Partners has submitted a request to amend the Ballina Local Environmental Plan on behalf of Ballina Shire Council's Commercial Services Unit. The proposal seeks to "rezone land for urban purposes so as to permit a range of urban uses (including light industrial, bulky goods, live/work, commercial, airport related etc.)". The land to which the request relates is identified as Part Lots 3-6 DP 123781, Lots 3-4 DP 872303, Lot 2 DP 833513, Lot 8 DP 793980 and Part Lot 7 DP 1043261, Corks Lane and Southern Cross Drive, Ballina. The LEP amendment request, including plans showing the subject land, is provided at Attachment 1.

The subject land is presently zoned 1(b) Rural (Secondary Agricultural Land) Zone in accordance with the provisions of Ballina Local Environmental Plan 1987 (BLEP 1987) and is proposed to be zoned RU2 Rural Landscape Zone in accordance with the provisions of Draft Ballina Local Environmental Plan 2011 (draft LEP 2011).

The land the subject of the request forms part of the land to which Council's Southern Cross Precinct Master Plan 2008 (SCMP) applies. The SCMP was prepared by GeoLINK on behalf of Council and adopted in February 2008.

Key Issues

- Strategic Planning Framework including SCMP & Far North Coast Regional Strategy (FNCRS).
- Appropriate application of zones.
- Further information requirements.

Information

Ardill Payne & Partners submitted the subject LEP amendment request on 30 May 2012 on behalf of Ballina Shire Council's Commercial Services Unit. The proposed LEP amendment identifies the following objectives:

The objectives of this submission are to rezone the land in a manner that is generally consistent with the Southern Cross Precinct Master Plan, being:

- 1. To enable the future development for a broad range of industrial/enterprise/commercial type uses and in particular uses that may be ancillary or complementary to the Ballina Byron Gateway Airport.*
- 2. To enable the development of urban land uses, infrastructure and services to be developed around the existing airport transport infrastructure hub.*

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3. *To integrate the Ballina Airport Precinct with the Southern Cross Master Plan Precinct to create mutual benefits for the airport and town to further enhance opportunities for economic growth and employment generation that have been created through recent developments within the Precinct.*
4. *To ensure that the local road network is designed, upgraded and integrated so as to provide a safe, efficient, accessible and practical service provision to the land from the surrounding towns and villages.*

The outcomes resulting from proceeding with the LEP amendment are identified by Ardill Payne and Partners as including:

- a. *Urban uses including enterprise, bulky goods, light industrial commercial, live/work and comparable uses.*
- b. *To provide increased employment lands (including possible live/work opportunities).*
- c. *Stormwater treatment/polishing (where required or appropriate).*
- d. *Conservation of environmental and ecologically sensitive areas (where required or appropriate).*

Given the status of draft LEP 2011, it is likely that the subject proposal, if it proceeds, will comprise an amendment to the gazetted LEP 2011. On this basis the proposal has been formulated to be consistent with the new LEP framework in terms of definitions and land use zones.

The proposal seeks to rezone the subject land to the B6 Enterprise Corridor Zone. It also seeks to apply a minimum allotment size of 1,000m² for Torrens title subdivision. The proposal also notes that any identified environmentally or ecologically sensitive areas will be zoned E2 Environmental Conservation.

The proposal outlines the provisions of the SCMP as they relate to the subject land and notes that the SCMP identifies the following possible land use components for the land:

- future industrial area with conventional 50m x 25m lots
- new airport link road
- realigned road to facilitate the design of the North Creek Road intersection
- live/work precinct
- existing and expanded environmental protection areas and open space corridors
- existing and expanded bicycle track network
- existing and expanded drainage network

Significantly, it appears that the B6 Enterprise Corridor Zone is proposed over land adjacent to the airport identified as "future airport related industry and infrastructure subject to airport specific master planning" in the SCMP.

The proposed zoning of the land for urban purposes is generally consistent with the SCMP. The land is also identified in the FNCRS as "employment lands" and "proposed future urban release area".

9.4 LEP Amendment - Southern Cross Precinct Expansion

While the zoning of the land for urban purposes (and particularly employment based land uses) is considered to be appropriate in principle, further work should be undertaken to determine the appropriate zone or zones that should be applied to the land and the extent of such zones. In this regard the SCMP generally envisages an industrial zone for the land. In the event that an industrial zone is not applied to the land, further consideration needs to be given to the implications of the application of a B6 Enterprise Corridor, or indeed an alternative business zone, to some or all of the land.

The proposal indicates that a number of potential constraints may also apply to the land including ecological constraints, acid sulfate soils, impacts on agriculture, potential contamination of the land from past land uses, geotechnical issues, flooding, stormwater, mosquitoes, bushfire hazard, archaeology/cultural heritage, ANEF contours, road traffic noise, infrastructure servicing and roads and traffic.

While it is the intent of the LEP amendment (planning proposal) process to not require proponents to undertake detailed technical studies prior to the formal decision to proceed with a rezoning proposal, it is considered that the preliminary consideration of some of the potential issues identified could be expanded to better inform the preparation of a formal planning proposal for the consideration of the Department of Planning and Infrastructure and the community. For example, the areas identified as potentially having ecological value should be identified on the plans accompanying a planning proposal and their attributes described in the supporting documentation. Similarly, given the flooding work undertaken by Council in recent years, the nature of the affectation of the land and the proposed response to address the potential impacts should be identified.

The plans submitted with the proponent's proposal should also be amended to more clearly identify the land to which the proposal relates including legal property descriptions and cadastral boundaries.

Having regard for the above issues, it is considered appropriate to proceed with the preparation of a planning proposal subject to the resolution of the issues identified above. That is, further consultation with the applicant and the provision of additional material should be undertaken and the matter reported back to Council for consideration, prior to a planning proposal being prepared by Council and forwarded to the Department of Planning and Infrastructure for gateway determination.

Sustainability Considerations

- **Environment**

The proposal states that further investigation is required to determine the ecological attributes of the land.

- **Social**

The rezoning of the land for employment related purposes is likely to result in positive social impacts on the community.

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- **Economic**

The proposal to rezone the land for urban purposes (and particularly employment purposes) is generally consistent with Council's strategic planning framework for the area and is likely to result in positive economic activity and outcomes in the shire.

Legal / Resource / Financial Implications

In the event that Council resolves to proceed with the planning proposal there will be associated staff resource implications. In this regard, the detailed assessment and compilation of environmental study documentation (where required) may be undertaken by a Council appointed third party at the proponent's cost.

The processing of the LEP amendment request, if it proceeds, will be subject to the requirements of the *Environmental Planning and Assessment act* and the associated Regulation.

Consultation

There has been no community engagement regarding the LEP amendment request to date. However, should the Council proceed to prepare and submit a planning proposal to the Department of Planning and Infrastructure, and the Department's gateway determination results in a decision to proceed with the rezoning, the planning proposal will be publicly exhibited in accordance with the requirements of the gateway determination and the requirements of the *Environmental Planning and Assessment act* and the associated Regulation.

Options

1. Proceed with the planning proposal incorporating the requested application of the B6 Enterprise Corridor Business Development zone to the subject land.

This option is not the recommended course of action as it is considered that further work needs to be undertaken to determine the appropriate zone(s) to apply to the land, particularly having regard for permitted land uses. The SCMP envisages an industrial zone for the land and the implications of any variation from the SCMP should be considered.

It is also suggested that further consideration regarding the relationship between the subject land and the Ballina Byron Gateway Airport as well as further analysis of key environmental considerations is required prior to the preparation of a planning proposal.

2. Proceed with the planning proposal to zone the subject land to enable urban land uses focussed on employment outcomes with the application of the appropriate zone(s) to be determined following the provision and consideration of further information.

Importantly, this option involves not only consideration of urban zones, but also the suitability of environmental protection zoning of land as part of the overall LEP amendment process.

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This option is the preferred approach as it will indicate a clear intent to proceed with the urban zoning of the land based on employment land uses while enabling further consideration of the appropriate land use zone(s) to apply to the subject land. The provision of additional information will also assist in refining the planning proposal.

Under this approach, further information would be sought from the proponent in relation to the justification of the proposed B6 Enterprise Corridor Zone, the relationship between the proposed land use outcomes and the Ballina Byron Gateway Airport and the key environmental characteristics of the land.

Following receipt of a suitable level of documentation, staff would proceed to prepare a planning proposal (outlining a proposed land use zoning arrangement) for the further consideration of the Council.

3. Not proceed with the planning proposal to zone the subject land for urban purposes at this time.

This option is not recommended given the adopted policy position of Council in relation to the Southern Cross Industrial Estate includes the zoning of the subject land for urban purposes.

RECOMMENDATIONS

1. That Council proceed to prepare a planning proposal to enable urban land uses focussed on employment based activities on land between the existing extent of the Southern Cross Industrial Estate, Corks Lane and the Ballina Byron Gateway Airport.
2. That the type and extent of land use zoning under the planning proposal be determined having regard for both employment and environmental outcomes and following the provision and consideration of further information from the applicant in relation to the land uses proposed and the characteristics of the site.
3. That the planning proposal be reported to Council for consideration prior to referral to the Department of Planning & Infrastructure for gateway determination.

Attachment(s)

1. Planning Proposal to rezone land for urban purposes at Corks Lane and Southern Cross Drive, Ballina, prepared by Ardill Payne & Partners (May 2012)