

North Creek Foreshore Coastal Protection Works

Proposal Title : **North Creek Foreshore Coastal Protection Works**

Proposal Summary : **The Council proposes to include 'Coastal Protection Works' as an additional permitted use in Schedule 1 of Ballina LEP 2012 to enable the consideration of applications adjacent to four lots adjoining North Creek, Ballina.**

PP Number : **PP_2014_BALLI_006_00**

Dop File No : **14/11781**

Proposal Details

Date Planning
Proposal Received : **15-Jul-2014**

LGA covered : **Ballina**

Region : **Northern**

RPA : **Ballina Shire Council**

State Electorate : **BALLINA**

Section of the Act : **55 - Planning Proposal**

LEP Type : **Housekeeping**

Location Details

Street : **1 Camden St**

Suburb : **Ballina**

City :

Postcode : **2478**

Land Parcel : **Lot 33 DP 872966**

Street : **3 Camden Lane**

Suburb : **Ballina**

City :

Postcode : **2478**

Land Parcel : **Lot 3 DP 1079380**

Street : **5 Camden Lane**

Suburb : **Ballina**

City :

Postcode : **2478**

Land Parcel : **Lot 1 DP 1119099**

Street : **2 Skinner Street**

Suburb : **Ballina**

City :

Postcode : **2478**

Land Parcel : **Lot 10 DP 1126929**

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DoP Planning Officer Contact Details

Contact Name : **Tamara Prentice**
Contact Number : **0266416616**
Contact Email : **tamara.prentice@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Lachlan Sims**
Contact Number : **0266861419**
Contact Email : **lachlans@ballina.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name :
Contact Number :
Contact Email :

Land Release Data

Growth Centre :	N/A	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) :		Type of Release (eg Residential / Employment land) :	N/A
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of
Conduct has been
complied with : **Yes**

If No, comment :

Have there been meetings or
communications with
registered lobbyists? : **No**

If Yes, comment :

Supporting notes

Internal Supporting
Notes :

External Supporting
Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **The objectives and intended outcomes of this proposal are provided and adequately expressed. The proposal seeks to enable an amendment to the Ballina LEP 2012 to enable coastal protection works on the subject land with development consent.**

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. This amendment proposes to:**

- include a reference to the subject land and permissibility of coastal protection works in Schedule 1, Additional Permitted Uses; and**
- to identify the subject land on the additional permitted uses map that supports Schedule 1.**

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

1.4 Oyster Aquaculture

* May need the Director General's agreement

2.1 Environment Protection Zones

2.2 Coastal Protection

2.3 Heritage Conservation

2.4 Recreation Vehicle Areas

3.2 Caravan Parks and Manufactured Home Estates

3.3 Home Occupations

3.4 Integrating Land Use and Transport

4.1 Acid Sulfate Soils

4.3 Flood Prone Land

5.1 Implementation of Regional Strategies

6.1 Approval and Referral Requirements

6.2 Reserving Land for Public Purposes

Is the Director General's agreement required? **No**

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

d) Which SEPPs have the RPA identified?

SEPP No 71—Coastal Protection

e) List any other matters that need to be considered : **No other matters need to be considered as a consequence of this proposal.**

Have inconsistencies with items a), b) and d) being adequately justified? **N/A**

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **The land subject to this application will be identified on the Additional Permitted Uses map which accompanies Schedule 1 of Ballina LEP 2012. The mapping provided with this planning proposal is considered to be suitable for public exhibition purposes.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **The RPA has included community consultation in the project timeline but has not identified the precise length of consultation proposed. They have proposed to undertake consultation in accordance with the Gateway determination and the**

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Environmental Planning and Assessment Act 1979. The Guide to Preparing Local Environmental Plans provides that a 14 day exhibition period is suitable for low impact proposals. This matter is considered to be a low impact proposal and a 14 day community consultation period is recommended.

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 an appropriate objective and intended outcome.
- 2) Providing a suitable explanation of the provisions for the LEP to achieve the outcomes.
- 3) Providing an adequate justification for the proposal.
- 4) Undertaking to carry out community consultation in accordance with any Gateway determination.
- 5) Providing a timeline for the completion of the proposal. Council has suggested a timeline of 4 months, however it is suggested 6 months is more appropriate to enable adequate consideration of submissions and time to finalise the plan.

Council has requested that an authorisation to exercise its plan making delegations be provided for this matter. It is considered appropriate that an authorisation be issued as the proposal deals only with matters of local planning significance. A completed evaluation for the issuing of an authorisation to exercise delegation has been provided by Council.

Proposal Assessment

Principal LEP:

Due Date : **February 2013**

Comments in relation to Principal LEP :

The Ballina Shire Standard Instrument LEP was made and came into force on the 4 February 2013. This proposal seeks to amend Schedule 1 (Additional Permitted Uses) of this LEP.

Assessment Criteria

Need for planning proposal :

The four allotments subject to this proposal are situated on the eastern side of North Creek in Ballina. Since registration of their land titles in 1955 this land has accreted. The area of accreted land varies from 451m² to 568m² across the 4 allotments. Up until 2003 the respective landowners were able to register plans of redefinition which resulted in the accreted land being included in the adjoining allotments. The landowners now have concerns regarding coastal hazards impacting on this land, and it appears reasonable to enable coastal protection works to be undertaken with consent.

The State Environmental Planning Policy (Infrastructure) 2007 (ISEPP) enables certain coastal protection works to be carried out by any person with consent, however only on the open coast or at the entrance to a coastal lake. This land is adjacent to a tidal creek, and not subject to the enabling provisions of cl 129A of the ISEPP.

This land is currently zoned a combination of R2 Low Density Residential and W1 Natural Waterways under the Ballina Local Environmental Plan 2012. The R2 zone encompasses that part of the land which was registered in 1955. The W1 zone encompasses the land which has accreted and been included on the title since. The current zoning is reflective of the former Ballina LEP 1987, which zoned those parts of the allotments shown on the 1955 land titles 2(a) Living Area, and left the accreted area unzoned.

The W1 zone is a closed zone and Coastal Protection Works are prohibited. The owners of this land would like the opportunity to undertake Coastal Protection Works with consent, and suggested this land be rezoned R2 Low Density Residential. The submitted Planning Proposal prepared by Council contains an alternative proposal to schedule Coastal Protection Works as a permissible use with consent on the identified allotments. Permitting Coastal Protection Works on the subject land is considered appropriate and reasonable to protect it from tidal inundation and other coastal hazards. Council's approach to this issue is supported.

It is noted that one of the allotments subject to this proposal contains a dwelling house which straddles the W1 / R2 zone boundary. While it is recommended that the proposal proceed in its current form, the option of zoning part of the accreted land to an alternative zone more reflective of its current land use appears to have some merit. It is recommended that Council be advised that consideration should be given in its future strategic planning for the area to assess whether an alternate zone to the current W1 Natural Waterways may be more appropriate and reflective of the existing and likely future use of the land.

Consistency with strategic planning framework :

Far North Coast Regional Strategy (FNCRS)

The FNCRS was released in 2006 and identifies the Government's key strategic directions for the Far North Coast. The FNCRS broadly aims to provide for sustainable development within the identified settlement planning hierarchy.

This planning proposal seeks to maintain the waterway zoning to reflect the environmental value of this land, while enabling Coastal Protection Works to be undertaken with development consent. This is in keeping with the natural hazards of the Far North Coast Regional Strategy, which does not support the development or rezoning of land within areas at risk of ocean based inundation without a Coastal Zone Management Plan. No Coastal Zone Management Plan has been adopted for this locality.

State Environmental Planning Policies

The proposal is considered to be consistent with all applicable SEPPs. It is noted that SEPP 71 - Coastal Protection is particularly relevant to this proposal. The submitted planning proposal provides that enabling Coastal Protection Works on the subject land will not result in any inconsistency with the SEPP.

Section 117 Directions

The proposal is considered to be consistent with all applicable s117 Directions except in relation to the following:

2.2 Coastal Protection

This proposal is within the coastal zone, however the proposal does not contain provisions giving effect to the documents required under this direction. This proposal however only applies to 4 allotments and is consistent with the Far North Coast Regional Strategy. As the proposal is of minor significance it is in keeping with the permissible exceptions to this direction.

4.1 Acid Sulfate Soils (ASS)

This land is mapped as Class 2 ASS. The proposal enables coastal protection works, which are unlikely to result in any significant disturbance of soil. This proposal is of minor significance and is a permissible exception to this direction.

4.3 Flood Prone Land

This proposal will not alter the flood planning provisions in force under the Ballina LEP 2012. It will however enable works within the floodway. These works would be required to be assessed against the flood planning provisions in clause 7.3 of the BLEP. As the works will be required to be undertaken in a manner which avoids significant adverse impacts on flood behaviour and the environment there should be little other impact as a result of a development made permissible under this proposal. As the impacts of development resulting from the proposed amendments are of minor significance the inconsistency with this direction meets the permissible exception provisions.

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Environmental social
economic impacts :

Environmental Impacts

The intertidal zone and beaches around Ballina are known to provide habitat for a number of threatened species, and particularly shorebirds such as the little tern, pied oystercatcher, sooty oyster catcher and the osprey. However the land subject to this proposal comprises only a small area, with an even smaller area presenting as suitable habitat for these species. An assessment of the potential impacts on threatened species is required to be undertaken with any future development application, and this is considered suitable to ensure any significant habitat is maintained. No other issues of environmental concern are likely to result from the proposal.

Social & Economic Considerations

This proposal will enable residents to protect their existing dwellings from coastal hazard processes. The carrying out of these works will be assessed at development application stage and will be required to be undertaken in a manner which ensures no change to the hydrological behaviour which could impact on the environment or surrounding properties.

Assessment Process

Proposal type : **Routine** Community Consultation Period : **14 Days**

Timeframe to make LEP : **6 months** Delegation : **RPA**

Public Authority Consultation - 56(2) (d) : **Office of Environment and Heritage**

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 :

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 :

Documents

Document File Name	DocumentType Name	Is Public
2014-07-15 Planning Proposal.pdf	Proposal	Yes

Planning Team Recommendation

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Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 1.4 Oyster Aquaculture
- 2.1 Environment Protection Zones
- 2.2 Coastal Protection
- 2.3 Heritage Conservation
- 2.4 Recreation Vehicle Areas
- 3.2 Caravan Parks and Manufactured Home Estates
- 3.3 Home Occupations
- 3.4 Integrating Land Use and Transport
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 5.1 Implementation of Regional Strategies
- 6.1 Approval and Referral Requirements
- 6.2 Reserving Land for Public Purposes

Additional Information : It is recommended that the planning proposal PP_2014_BALLI_006, to include coastal protection works as permissible with consent on Lot 10 DP 1126929, Lot 1 DP 1119099, Lot 3 DP 1079380 and Lot 33 DP 872966, in Schedule 1 Additional Permitted Uses of Ballina LEP 2012, should proceed subject to the following conditions:

1. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - a. the planning proposal is classified as low impact as described in A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013) and must be made publicly available for a minimum of 14 days; and
 - b. the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013).
2. Consultation is required with the Office of Environment and Heritage under section 56(2)(d) of the EP&A Act. The Office of Environment and Heritage is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.
3. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
4. The timeframe for completing the LEP is to be 6 months from the week following the date of the Gateway determination.
5. That the Director General (or his Delegate) agree that the inconsistencies with section 117 Directions 2.2 Coastal Protection, 4.1 Acid Sulphate Soils and 4.3 Flood Prone Land are of minor significance.
6. That an authorisation to exercise delegation be issued to Council.

Supporting Reasons : The proposal to permit coastal protection works on these allotments is considered reasonable to ensure the ongoing safety of residents and the protection of their dwellings.

Signature:



Printed Name:

Craig Diss

Date:

24 July 2014