

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL  
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS  
40 CHERRY STREET BALLINA,  
ON 22/08/13 AT 9.00 AM**

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**9.5     Planning Proposal - Crane Street, Ballina**

**220813/16     RESOLVED**

(Cr Ben Smith/Cr Robyn Hordern)

1. That the Council endorses the application of a B3 Commercial Core zone to Lot 2 DP 506103, 60 Crane Street, Ballina (as shown in Map 1 of the planning proposal contained in Attachment One).
2. That Council submit the planning proposal BSCPP 13/004 relating to Lot 2 DP 506103, 60 Crane Street, Ballina to the NSW Department of Planning & Infrastructure to be finalised.
3. That Council advise the NSW Department of Planning & Infrastructure that it does not intend to exercise its delegations with respect to the finalisation of the planning proposal in this case.

FOR VOTE - All Councillors voted unanimously.

**9.6     Australian Fishing Tournaments Pty Ltd - Request to Waive Fees**

**220813/17     RESOLVED**

(Cr Ben Smith/Cr Susan Meehan)

That Council does not endorse the request to waive the Council application and hire fees for the 2013 North Coast Fishing Bonanza event, run by Australian Fishing Tournaments Pty Ltd, as the event is being conducted on a fee for entry basis.

FOR VOTE - All Councillors voted unanimously.

**10.     General Manager's Group Reports**

**10.1    Use of Council Seal**

**220813/18     RESOLVED**

(Cr Susan Meehan/Cr Keith Williams)

That Council affix the Common Seal to the following document.

|         |                                                                                                                                                    |
|---------|----------------------------------------------------------------------------------------------------------------------------------------------------|
| US13/17 | Council to The Northcott Society – Licence to Occupy part 14 Martin Street Ballina (formerly 42 Tamar Street Ballina) for a nominal rental of \$1. |
| US13/18 | Request Document – Transfer of Lot 100 DP 1184545, Walsh Place, Ballina Heights from Council to Roman Catholic Church.                             |



## **9.5 Planning Proposal - Crane Street, Ballina**

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### **9.5 Planning Proposal - Crane Street, Ballina**

**Delivery Program** Strategic Planning

**Objective** To present options for the progression of planning proposal BSCPP 13/004 relating to 60 Crane Street in Ballina.

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#### **Background**

This report relates to Lot 2 DP 506103, located at 60 Crane Street, Ballina (refer to Map 1 within the planning proposal contained in Attachment One). The subject land is currently owned by Fire & Rescue New South Wales, comprising part of the current Ballina Fire Station site.

Council staff recently had cause to be discussing with representatives of Fire and Rescue New South Wales, that organisation's infrastructure requirements for the future delivery of fire services within Ballina. Outcomes of these discussions were presented in a report to the Commercial Services Committee meeting held on 26 February 2013. As part of these deliberations, Council identified a zoning anomaly relating to part of the land on which the current fire station is located, giving rise to the need for an amendment to the Ballina Local Environmental Plan 2012 (Ballina LEP 2012) to rectify the zoning anomaly.

The Council, at its Ordinary Meeting held on 28 February 2013, resolved to prepare a planning proposal to address the zoning of Lot 2 DP 506103 [Minute No. 280213/30]. Council considered the draft planning proposal at its Ordinary Meeting held on 23 May 2013, resolving [Minute No. 230513/12] as follows:

1. *That Council endorses the application of a B3 Commercial Core zone as the basis for a planning proposal applying to Lot 2 DP 506103, 60 Crane Street, Ballina (as shown in Map 1 of the planning proposal contained in Attachment 1).*
2. *That the Council submit the planning proposal relating to Lot 2 DP 506103, 60 Crane Street, Ballina to the NSW Department of Planning & Infrastructure for review and Gateway determination.*
3. *That upon an affirmative Gateway determination being received from the Department of Planning & Infrastructure, the procedural steps associated with progression of the planning proposal, including community consultation, be undertaken.*
4. *That a further report be presented to the Council in relation to this matter following mandatory community consultation.*

## 9.5 Planning Proposal - Crane Street, Ballina

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The Department of Planning & Infrastructure (DP&I) issued a Gateway determination allowing the planning proposal to proceed on 1 July 2013, a copy of which is provided in Appendix Two of the attached planning proposal. The planning proposal was publicly exhibited, in accordance with the Gateway determination for a minimum 14 days from 17 July 2013 to 2 August 2013. No submissions were received in response to the public exhibition. The purpose of this report is to provide the Council with options for progression the subject planning proposal.

### Key Issues

- Commercial zoning
- Consistency with strategic planning intent

### Information

Investigation into this matter has identified that the current zoning of the subject land (Lot 2 DP 506103) is a consequence of a mapping anomaly associated with the previous digitisation of the Ballina Local Environmental Plan 1987. Details of the anomaly are contained in the planning proposal (Attachment One). Importantly, the current and historic use of the subject land is associated with the use of an adjoining land parcel that is zoned for commercial purposes.

As a consequence of the above, a planning proposal that would have the effect of rezoning the subject land from R3 Medium Density Residential zone to B3 Commercial Core zone, under the terms of the BLEP 2012 has been prepared (Attachment One). The planning proposal seeks to apply the appropriate commercial zone to the land, consistent with the zoning of the adjacent land parcel with which its development history and use is associated.

It is noted that the planning proposal is consistent with the strategic planning context and history of the land, and the zoning anomaly outlined above is in need of rectification even though there is no development proposal currently pending in relation to the land.

### Sustainability Considerations

- **Environment**  
The rezoning of the land from medium density residential to commercial is, under the circumstances, a minor matter and as such it is not likely to have any significant implications from an environmental, social or economic perspective. The rezoning is consistent with the strategic planning intent and historic use of the land.
- **Social**  
As above.
- **Economic**  
As above.

## **9.5 Planning Proposal - Crane Street, Ballina**

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### **Legal / Resource / Financial Implications**

The approach recommended in this report is consistent with Council's legal responsibilities as a local planning authority. The matters arising from this report can be attended to within existing resources.

### **Consultation**

The subject planning proposal was publicly exhibited for a minimum period of 14 days from 17 July 2013 to 2 August 2013. No submissions were received in response to the public exhibition. Comment was sought from NSW Fire & Rescue, in accordance with the Gateway determination, however no response was received.

### **Options**

1. That Council refer the planning proposal to the NSW Department of Planning and Infrastructure for finalisation; or
2. That Council discontinue the planning proposal.

Option one is the preferred course of action on the basis that it is consistent with planning context and development history of the land. Essentially, the rezoning constitutes "housekeeping" to ensure consistency with previous decisions of Council in relation to the subdivision of the subject land, and with community expectations, and to correct a mapping anomaly which has been detected within the Council's public records.

Due to the relatively minor nature of the proposal and its consistency with the planning context of the land, it is recommended that the planning proposal be forwarded to the Department of Planning and Infrastructure to be finalised. The primary disadvantage of the planning proposal not proceeding is the continuation of the inconsistency in zoning that applies to the land with respect to the adjoining parcel with which the existing use is associated.

Where Council proceeds to submit a planning proposal for Gateway determination, Council has the option of requesting delegation of certain plan making functions from the Department. Under these delegations, Council can perform some of the plan making functions that are otherwise completed by the Department. Despite the Council declining to make such a request in this case, Council was provided with delegation to exercise plan finalisation functions in relation to the subject planning proposal.

Although there may be occasion where the application of the delegations is of benefit to Council, typically the exercise of the delegation shifts tasks to Council, shifts risk in the plan making process to Council and removes a Departmental review point (which has historically been beneficial in the LEP amendment process). No specific benefit in the use of the delegation has been identified for this matter and given that Council may have a financial interest in the land [Minute No. 280213/30], it is recommended that Council does not exercise its delegations in this instance.

## **9.5 Planning Proposal - Crane Street, Ballina**

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### **RECOMMENDATIONS**

1. That the Council endorses the application of a B3 Commercial Core zone to Lot 2 DP 506103, 60 Crane Street, Ballina (as shown in Map 1 of the planning proposal contained in Attachment One).
2. That Council submit the planning proposal BSCPP 13/004 relating to Lot 2 DP 506103, 60 Crane Street, Ballina to the NSW Department of Planning & Infrastructure to be finalised.
3. That Council advise the NSW Department of Planning & Infrastructure that it does not intend to exercise its delegations with respect to the finalisation of the planning proposal in this case.

### **Attachment(s)**

1. Planning Proposal BSCPP13/004 - 60 Crane Street Ballina (Final)