

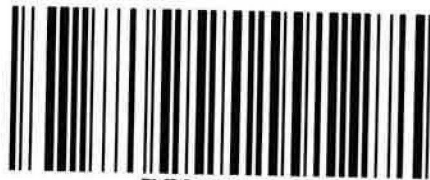
enquiries refer

Dwayne Roberts

in reply please quote

LEP Amendment Request – North Creek Road (12/57114)

19 December 2012



PGF001687



Mr Steve Murray
Regional Director, North Coast
Department of Planning and Infrastructure
Locked Bag 9022
GRAFTON NSW 2460

Dear Mr Murray

**Re: Planning Proposal BSCPP 12/001 - North Creek Road Lennox Head
(Your Ref: PP_2012_BALLI_003_00)**

I am writing to advise that Council considered the progress of the above mentioned planning proposal at its Ordinary Meeting held on 22 November 2012 and resolved as follows:

1. *The Council proceed to finalise the planning proposal relating to properties described as Nos. 160-190 North Creek Road, Lennox Head.*
2. *That the planning proposal be submitted to the NSW Department of Planning and Infrastructure on the basis of the application of an R3 Medium Density Residential zone and 600m² minimum lot size for subdivision to the subject land under the Standard Instrument LEP.*
3. *That the planning proposal incorporates the application of a 2(b) Village Area zone in the event that the rezoning is finalised under the existing Ballina LEP 1987.*

In accordance with Council's resolution, please find enclosed the final planning proposal for the subject land. A copy of the November 2012 report to the Council is also enclosed for the information of the Department. Digital mapping data has been forwarded directly via email to Ms Di Yeates of your office.

Council requests that the Department proceeds to finalise the LEP amendment for implementation. In this regard, Council understands that the introduction of the Ballina Local Environmental Plan 2012 is now imminent. Given this, it is requested that the LEP amendment is completed by way of amendment to the new LEP (once made) unless the introduction of the new instrument is likely to be significantly delayed.

If you have any enquiries in regard to this matter please contact me on telephone 6686 1284.

Yours faithfully

Mathew wood
**Manager Strategic Planning
Strategic and Community Services Group**

Received
21 DEC 2012
12108576
North Coast

Encl. Planning Proposal BSCPP 12/001 North Creek Road Lennox Head
Encl. North Creek Road Council Report (including submissions)

cnr tamar & cherry streets, p.o. box 450, ballina nsw 2478 dx 27789, ballina • ph 02 6686 4444 • fax 02 6686 7035
• council@ballina.nsw.gov.au • www.ballina.nsw.gov.au



Ballina Shire Council

Planning Proposal BSCPP 12/001 November 2012

160-190 North Creek Road, Lennox Head

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Final Planning Proposal



people • place • prosperity

Introduction

Summary of Planning Proposal

This planning proposal relates to lots 2, 3 and 4 DP 241585 and Lot 6 DP 598177, 160-190 North Creek Road, Lennox Head, as shown on the locality map below and in the site identification map contained in Appendix 1.



Source: Gateway Planning Proposal Report, Newton Denny Chapelle, December 2011

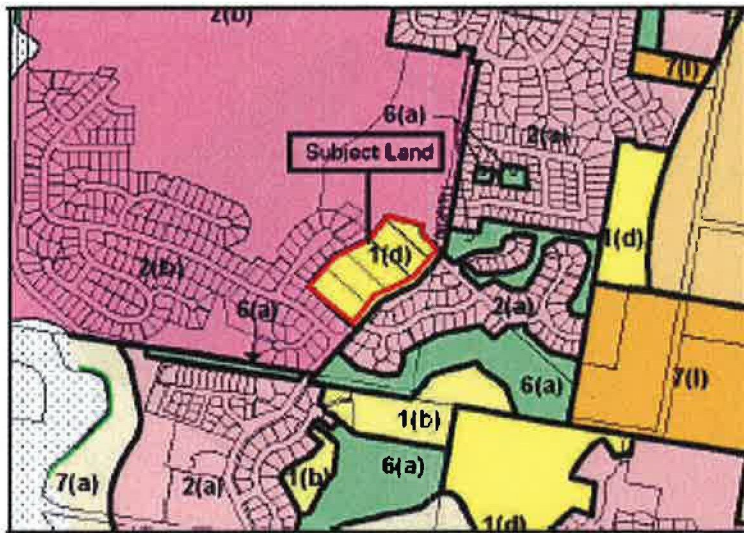
Land ownership within the area subject of the planning proposal area is as described in the following table. As outlined in the Table 1, the total area of the land subject to the planning proposal is 3.23 ha.

Table 1 – Subject land descriptions

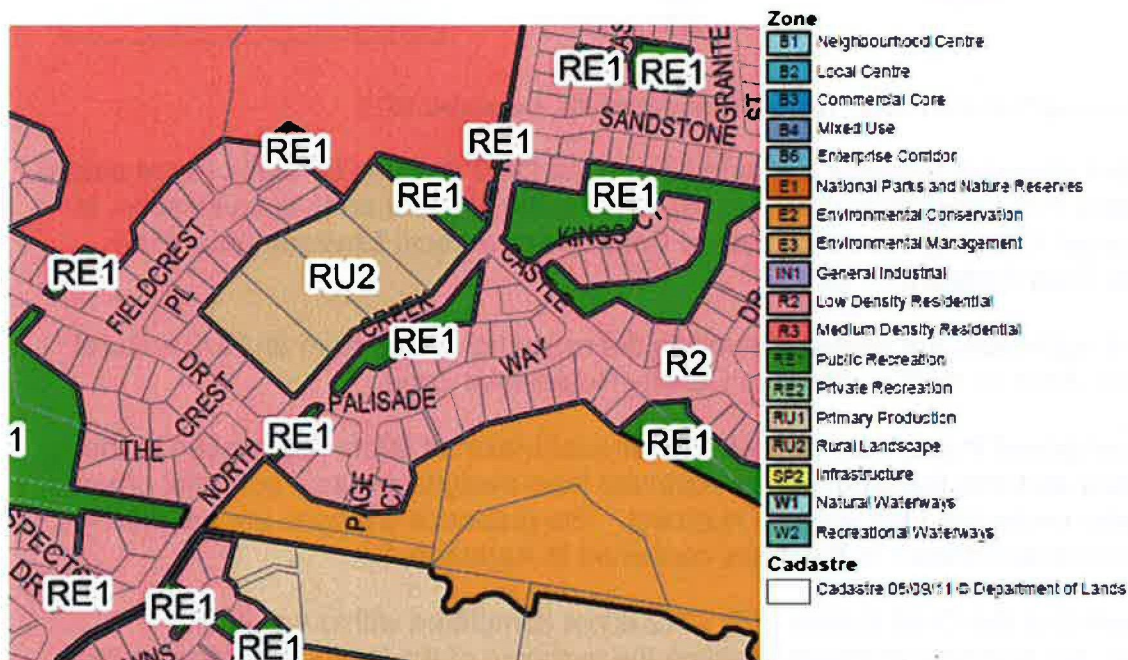
Owner	Land Parcel	Area (Ha)
Mr K Howard	Lot 2 DP 241585, No. 160 North Creek Road, Lennox Head	0.81 ha
Mr D and Mrs L Walsh	Lot 3 DP 241585, No. 170 North Creek Road, Lennox Head	0.81 ha
Mr P and Mrs D Fahey	Lot 4 DP 241585, No. 180 North Creek Road, Lennox Head	0.81 ha
Mr A Lewis and Mrs D Zorse	Lot 6 DP 598177, No. 190 North Creek Road, Lennox Head	0.8 ha
Total		3.23 ha



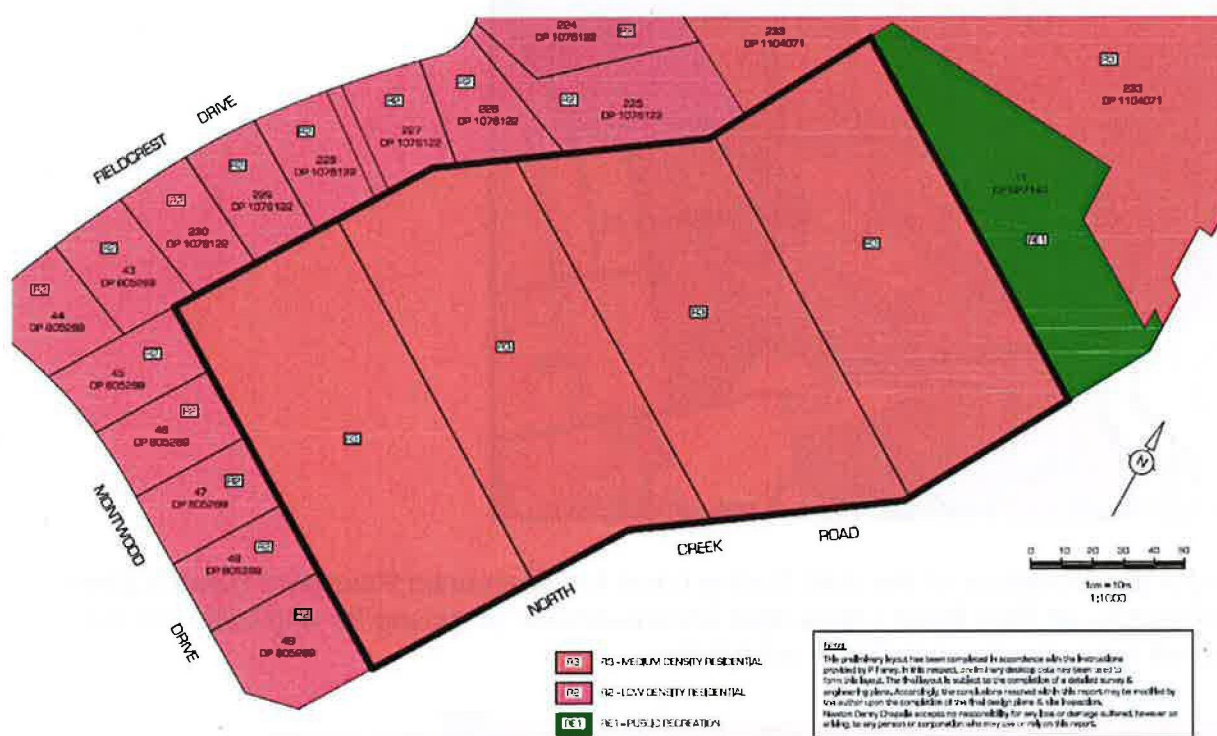
The site is currently zoned 1(d) Urban Investigation under the provisions of the Ballina Local Environmental Plan 1987 (Ballina LEP 1987) as shown in the excerpt map below.



Under the provisions of the draft Ballina Local Environmental Plan 2012 (Draft Ballina LEP 2012), an RU2 Rural Landscape Zone has been proposed for application to the subject land, as shown in the excerpt below.



As it is likely that the Draft Ballina LEP 2012 will be adopted prior to completion of the subject LEP amendment, it is proposed that the R3 Medium Density Zone will be applied to the land, as shown below and in the mapping contained in Appendix 1.



Source: Planning Proposal Report, Newton Denny Chapelle, December 2011.

The subject planning proposal seeks to amend the Draft Ballina LEP 2012 (once made) on the basis that completion of the proposed rezoning, if it proceeds to finalisation, is likely to occur following the completion of Council's new Local Environmental Plan (being the Draft Ballina LEP 2012).

Under this approach, the proposal involves the rezoning of land from an RU2 – Rural Landscape Zone to an R3 – Medium Density Residential Zone.

It is also proposed that a minimum lot size for subdivision of 600m² be applied to the subject land and that the land also be removed from designation as a potential urban growth area under the LEP upon its rezoning. The proposed changes are detailed in Table 2 below and shown in the maps contained in Appendix 1.

In the event that the Draft Ballina LEP 2012 is not completed within a suitable timeframe, the planning proposal enabling the rezoning of the land may proceed under the Ballina LEP 1987 (which is presently applicable to the land). Under this approach, the proposal involves the rezoning of the land from a 1(d) Rural (Urban Investigation) Zone to a 2(b) Residential (Village Area) Zone.

Table 2 – Proposed LEP Amendments

		Proposed Amendment	
Planning Provision	Existing BLEP (BLEP 1987)/Draft Ballina LEP 2011	Draft Ballina LEP 2011	Ballina LEP 1987
Landuse Zone	1(d) – Rural (Urban Investigation)/RU2 Rural Landscape	R3 – Medium Density Residential	2(b) Residential (Village Area)
Minimum Lot Size for Subdivision	Not within BLEP 1987/ 40ha minimum	600m ²	N/A
Strategic Urban Growth Area	Not within BLEP 1987/ Nominated as a potential urban growth area	Land removed from designation as a potential urban growth area	N/A

Planning Context

Council has identified the subject land as having urban development potential since the introduction of the Ballina LEP 1987. Additionally, future urban zoning of the land has been contemplated in a number of planning policies.

Ballina LEP 1987

The subject land is zoned 1(d) Rural (Urban Investigation) under the terms of the Ballina Local Environmental Plan 1987. A key aim of the zone is to avoid inappropriate development that may limit the urban potential of the land prior to detailed urban investigation being undertaken. The 1(d) Zone has been used by Council to indicate areas considered to have potential for urban development.

The objectives of the 1(d) zone are outlined in Part 3 Section B of this planning proposal.

Ballina Growth Management Strategy 2012

The subject land is located within the Lennox Head Planning Precinct and is identified as having potential for rezoning for urban purposes.



Lennox Head Structure Plan 2004

The Lennox Head Structure Plan (LHSP) provides a framework for the development of new urban land release areas within the Lennox Head locality and includes the subject land. The land is identified as an area that has potential for future urban development under the plan. The LHSP is discussed further in relation to the proposal in section B of this report.

Far North Coast Regional Strategy

The Far North Coast Regional Strategy (FNCRS) provides the regional framework for the consideration of rezoning land for urban purposes in Ballina Shire. The FNCRS identifies the subject land as a 'Proposed Future Urban Release Area' within the 'Town & Village Growth Boundary' for Ballina Shire.

Draft Ballina LEP 2012

The subject land is zoned RU2 Rural Landscape under the provisions of the Draft Ballina LEP 2012. The Lot Size Map contained in the draft plan applies a 40 hectare minimum lot size to the site. The site is also identified on the 'Strategic Urban Growth Areas Map' as being a "potential urban growth area".

Council has typically applied rural zones under its draft LEP to areas currently zoned 1(d) as there is no zone equivalent to the 1(d) zone under the standard instrument. Under this approach, potential urban release areas are identified in the relevant strategic planning policy documents.

Part 1 - Objectives or Intended Outcomes

The objective of this planning proposal is to rezone the subject land to enable medium density residential development and associated infrastructure.

Part 2 - Explanation of the Proposal

This planning proposal relates to land located at 160-190 North Creek Road, Lennox Head. The site is currently zoned 1(d) Rural (Urban Investigation) under the provisions of the Ballina LEP 1987. The proposal involves an infill development outcome within an established urban area in Lennox Head.

The Draft Ballina LEP 2012 proposes to zone the subject land RU2 Rural Landscape Zone. This planning proposal seeks to rezone the subject land to an R3 Medium Density Zone to enable future development for residential purposes.

Amendment to the Minimum Lot Size Map and the Strategic Urban Growth Areas Map under the Draft Ballina LEP 2012 is also proposed. In relation to the Minimum Lot Size Map, it proposed to change the application of the 40 Hectare minimum lot size that is currently nominated for the site to a 600m² minimum lot size that is consistent with the surrounding locality. Should the site be rezoned, its nomination on the Strategic Urban



Growth Areas Map will no longer be required and as such, the land would be removed from this map set. Mapping showing the proposed amendments is contained in Appendix 1.

The LEP amendment request prepared on behalf of the applicant has demonstrated that the site is relatively unconstrained and is capable of supporting low and medium density residential land uses. The proposal provides various conceptual subdivision options to enable an assessment of the potential impacts associated with future residential uses and are considered appropriate in supporting the conceptual stages and planning proposal phase of the LEP amendment process.

A preliminary contamination assessment was prepared to support the LEP amendment request. A review of this assessment indicated that additional information was required to ensure that there will be no increased risk to human health or the environment from contamination. Accordingly, an updated contamination assessment was prepared by ELA Consulting Services dated 29 August 2012 which concluded that *"no targeted analyte exceeded the composite/individual acceptable limit &/or the acceptable background range. Hence, the Investigation Area is considered to be below acceptable residential guidelines and therefore does not represent a significant risk to the end user"*.

A single access point onto North Creek Road is proposed. Given that North Creek Road is an important collector road for the Lennox Head locality, consideration of an appropriate access point was identified as a potential constraint to the release of the subject land. A number of road configuration and intersection options were identified in the LEP amendment request which demonstrate that an intersection arrangement compliant with *Austrroads Part 5 Intersection at Grade* can be achieved to service a future residential subdivision. The conceptual location of an intersection to the south of the subject land onto North Creek Road is considered acceptable at this stage and will be more suitably determined at the development application stage.

It is noted that the conceptual subdivision options provided in the LEP amendment report identifies the need for removal of existing mature Norfolk Island Pine trees to accommodate the integrated road and subdivision design for the site. It is considered appropriate that this matter be further considered as part of the planning proposal exhibition process and development application stages, should this matter proceed.

Part 3 - Justification

Section A - Need for the Planning Proposal

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

The subject land is identified in the Far North Coast Regional Strategy 2006 (FNCRS) as being a "Proposed Future Urban Land Release Area".

The subject land is considered in the Ballina Shire Growth Management Strategy 2012 and in the Lennox Head Structure Plan 2004, with both policies identifying the subject land as having potential for urban development.



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

As noted above, the proposal is consistent with a range of strategic planning studies that identify the site for future urban investigation. The LEP amendment request and supporting documentation which informed the preparation of this planning proposal demonstrate that this process is the best means to enable development for future residential uses.

3. Is there a net community benefit?

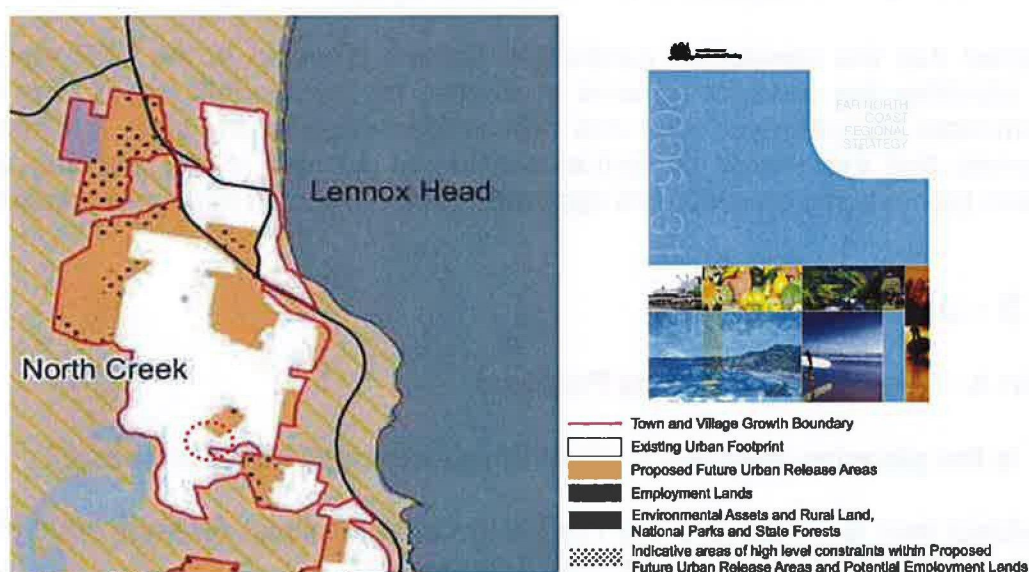
The following net community benefits will be achieved by the planning proposal:

- Additional economic activity generated by the development of the land for urban purposes, and
- Additional land available for residential development and ancillary (home-based) commercial uses.

Section B - Relationship to the Strategic Planning Framework

4. 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 FNCRS, which provides the regional framework for the consideration of rezoning land for urban purposes in Ballina Shire. The FNCRS identifies the subject land as being a "Proposed Future Urban Release Area" within the 'Town & Village Growth Boundary Map – Sheet 3, as shown in the excerpt below;



The FNCRS notes that land identified in the Town and Village Growth Area Boundary will be subject to more detailed investigations to determine capability and future yield. Accordingly, investigation of the subject land for future urban development through the

statutory rezoning process, involving assessment of the land's capability to accommodate urban development is consistent with the regional planning framework.

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

The planning proposal is consistent with the following key local plans:

The Ballina Local Environmental Plan 1987

The subject land is currently zoned 1(d) Rural (Urban Investigation) under the provisions of the Ballina LEP 1987. The primary zone objectives are:

- a. to identify land which may be needed in the future and will be thoroughly investigated with respect to its suitability or otherwise for urban land uses and the environmental consequences associated with the land's release for urban purposes;*
- b. to regulate the subdivision and use of land so as to prohibit development which could prejudice the possible future release of land within this zone for urban purposes; and*
- c. to ensure that the release of land for urban purposes, by rezoning, shall not take place unless –*
 - i. urban structure planning has been completed by Council;*
 - ii. the Council reviews urban suitability investigations for individual planning units, and detailed land use allocations for each planning unit have been determined by the Council;*
 - iii. sufficient demand exists for the release of urban land; and*
 - iv. appropriate urban infrastructure and facilities are available to the land or can be provided to the land in a manner which does not create an unreasonable or uneconomic demand, or both, for the provision or extension of such services.*

In applying the 1(d) Zone, Council recognises that the subject land has potential for urban development, subject to detailed investigation being undertaken.

The proposal addresses the provisions on the zone objectives in that a future development of the site with a combination of low and medium density residential uses is consistent with the Council's adopted Lennox Head Structure Plan.

The proposal demonstrates that the site is physically capable of supporting future residential development with regard to environmental constraints and servicing.

Ballina Shire Growth Management Strategy 2012 (GMS)

The GMS provides the framework for the release of land for urban development in the Ballina local government area. The land is identified as a potential urban area in the GMS.

Lennox Head Community Aspirations Strategic Plan 2002

The Lennox Head Community Aspirations Strategic Plan is an umbrella document which provides guidance for future Council activities, including town planning, works programs and annual budgets. The document was prepared in close consultation with the Lennox Head Community.

The planning proposal is consistent with the objectives of this plan.

Lennox Head Structure Plan 2004 (LHSP)

The LHSP outlines Council's broad strategies in relation to urban land release within the Lennox Head locality. All development of new release areas in Lennox Head should comply with the framework established by the Structure Plan. The subject land is identified as "Candidate Release Area L" as shown in the map excerpt below.



With respect to Area L, the LHSP advises;

Area L is approximately 4ha in size and currently comprises four rural/residential land holdings in separate ownership. It is currently zoned 1(d) Rural (Urban Investigation) Zone pursuant to the Ballina Local Environmental Plan 1987.

Whilst constrained by a number of planning factors, the Structure Plan recognises that Area L appears to be suited to accommodating future urban development. Should detailed assessment (via the rezoning process) confirm this to be the case, residential development comprising a range of low and medium density housing is the preferred use for this site.

The following planning factors will require particular attention as part of the rezoning and redevelopment of this site:

- *Any rezoning of Area L is to occur on an integrated basis and should involve all land holdings within the area;*
- *Vehicular access to the site is to be via a single integrated access point from North Creek Road; and*
- *Stormwater management will need to address both the retention and quality of stormwater generated on the site.*

The planning proposal is consistent with the outcomes envisaged for the site in the LHSP and demonstrates that future development of the site is capable of satisfying the intent and planning factors outlined for 'Candidate Release Area L'.

6. Is the planning proposal consistent with applicable State Environmental Planning Policies?

Yes, the proposal is generally consistent with applicable State Environmental Planning Policies (SEPP). A SEPP checklist for the planning proposal is contained in Appendix 2.

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

Yes, the proposal is consistent with the relevant Section 117 Directions. A Section 117 Direction checklist for the Planning proposal is contained in Appendix 3.

Section C - Environmental, Social and Economic Impact

8. 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?

Preliminary information relating to the environmental characteristics of the site identify the site as being predominately cleared and dominated by exotic and extra-regional native species.

Consequently, this planning proposal and subsequent development of the subject land is not expected to result in any adverse impacts on any critical habitat, threatened species, populations or ecologically communities.



There is a large Fig tree located to the north of the land. This specimen is likely to be a remnant individual and is considered to be significant from a conservation, scenic and historical perspective. Whilst the tree is located on Council reserve, the root zone extends into the subject land and consideration of impacts from earth works and other associated development activities will need to be addressed.

Further detailed environmental assessment will be required to support a development application for subdivision of the subject land.

9. Are there any other likely environmental effects as a result of the planning proposals and how are they proposed to be managed?

Other potential environmental effects of the proposal are as follows:

- Disposal and treatment of stormwater;
- Impacts on existing residential amenity.

These and other issues have been addressed in the LEP amendment request.

A preliminary stormwater assessment has been prepared to support the LEP amendment request that demonstrates that stormwater treatment measures can be accommodated within the site to address potential stormwater impacts on both downslope neighbouring lands and the receiving natural environmental environment.

The site is located within an already established residential neighbourhood and therefore has the potential to impact on the residential amenity of existing dwellings on adjoining properties. Given that the site has been identified in a number of strategic plans for the shire as having urban development potential, the potential for development outcomes on the subject land has been in the public domain for a significant period of time.

The final subdivision and dwelling design will need to address the potential for overshadowing and privacy impacts on adjoining dwellings.

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

The rezoning of the land for urban purposes will likely have positive social and economic effects. In particular, the development of the land for housing will assist in meeting regional dwelling targets. Further, as an infill development outcome, efficiencies are likely in relation to infrastructure provision.

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

A future development on the subject land can be economically serviced with the full range of infrastructure.

Community and open space infrastructure can be provided by way of payment of Section 94 Contribution levies.

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

The NSW Rural Fire Service has been consulted as requested by the Department of Planning & Infrastructure in its gateway determination (see Section D).

Section D - Community Consultation

Extensive community consultation was undertaken during the preparation and exhibition of the *Ballina LEP 1987* in the mid 1980s. This process involved the introduction of the 1(d) Rural (Urban Investigation) Zone. The subsequent land release strategies, including the GMS 2012 and the LHSP 2004 were also subject to community engagement processes.

The planning proposal was formally exhibited between 27 September 2012 and 12 October 2012. Surrounding residents were notified of the proposal as part of the exhibition process.

Five submissions were received from community members and a submission was received from the NSW Rural Fire Service. The submissions are discussed in the November 2012 report to the Council relating to this planning proposal.

Appendices

Appendix 1 – Ballina LEP 2012 Site Identification Map and Amending Map Set





Ballina Local Environmental Plan 2012 (Amendment No 12/001)

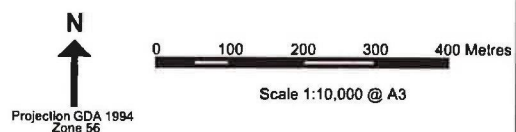
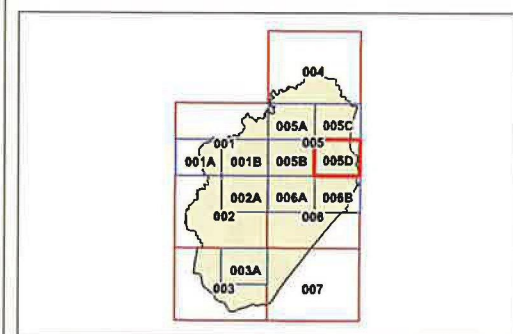
Site Identification Map

Part of map tile:

250_COM_LZN_005D_020_20120821

Legend

- Cadastral 13/03/12
- Land and Property Information (LPI)
- Subject Land



Map identification number:
0250_COM_LZN_005D_010_20121122





Ballina Local Environmental Plan 2012

Land Zoning Map - Sheet LZN_005D

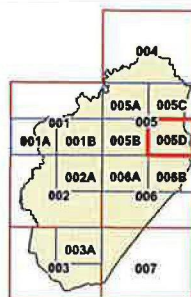
Legend

Zone

- B1** Neighbourhood Centre
- B2** Local Centre
- Commercial Core**
- Mixed Use**
- B6** Enterprise Corridor
- National Parks and Nature Reserves**
- E2** Environmental Conservation
- E3** Environmental Management
- IN1** General Industrial
- R2** Low Density Residential
- R3** Medium Density Residential
- Public Recreation**
- RE2** Private Recreation
- RU1** Primary Production
- RU2** Rural Landscape
- SP2** Infrastructure
- W1** Natural Waterways
- W2** Recreational Waterways

Cadastre

- Cadastre 13/03/12
- © Land and Property Information (LPI)



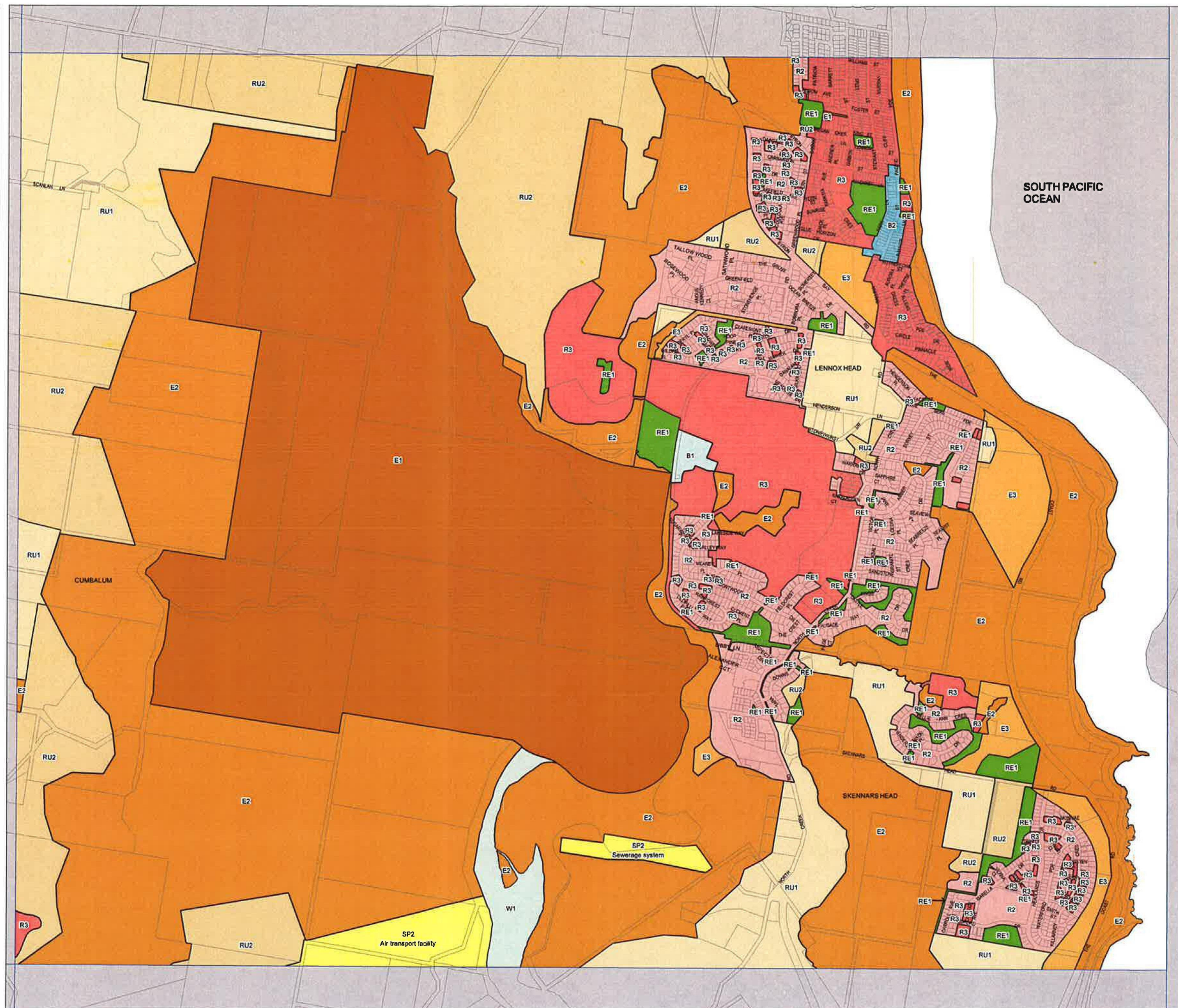
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Projection GDA 1994
Zone 56

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Scale 1:20,000 @ A3

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Ballina Local Environmental Plan 2012

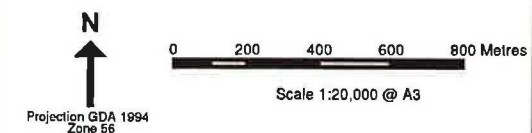
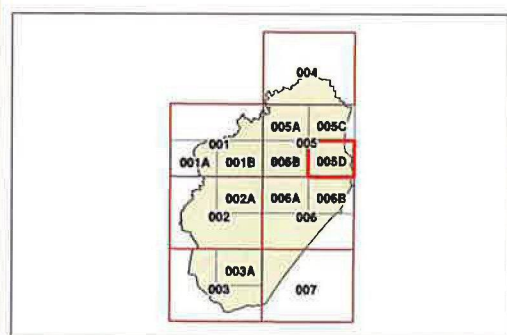
Lot Size Map - Sheet LSZ_005D

Minimum Lot Size (sq m)

G	450
M	600
S	800
U1	1000
U2	1200
✓	10000 (1ha)
✓	20000 (2ha)
AB1	200000 (20ha)
AB2	400000 (40ha)

Cadastre

□ Cadastre 13/03/12
© Land and Property Information (LPI)



Map identification number:
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Ballina Local Environmental Plan 2012

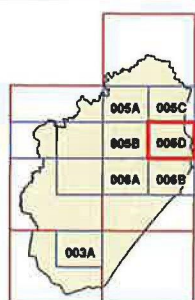
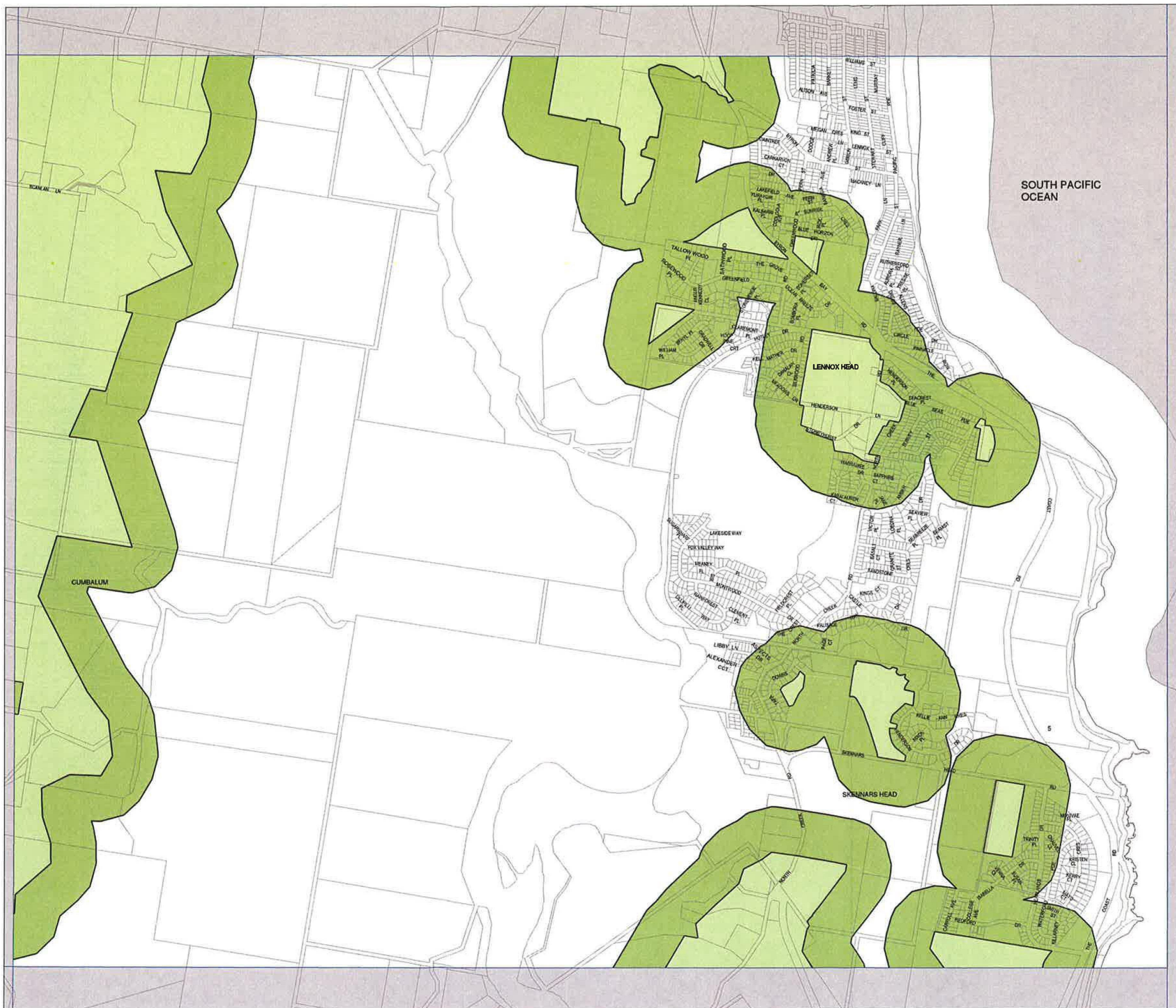
Strategic Urban Growth Area Map - Sheet SGA_005D

Land to which clause 7.7 applies

- Potential Urban Growth Area
- Land Adjoining Potential Urban Growth Area

Cadastral

- Cadastral 13/03/12
- © Land and Property Information (LPI)



N

0 200 400 600 800 Metres

Scale 1:20,000 @ A3

Projection GDA 1994
Zone 56

Map identification number:
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Appendix 2 – State Environmental Planning Policy Checklist

State Environmental Planning Policy Checklist Planning proposal – 160-190 North Creek Road, Lennox Head

SEPP Title	Compliance of Planning Proposal
SEPP (Affordable Rental Housing) 2009	The planning proposal is not inconsistent with the provisions of this SEPP. The full range of residential land uses will be permissible with consent in the proposed R3 – Medium Density Residential zone.
SEPP (Exempt and Complying Development Codes) 2008	The planning proposal is not inconsistent with the provisions of this SEPP. The Codes SEPP will apply to detached, attached and semi-detached dwellings within the proposed R3 – Medium Density zoned land.
SEPP (Rural Lands) 2008	The planning proposal is not inconsistent with the provisions of this SEPP.
SEPP (Infrastructure) 2007	The planning proposal is not inconsistent with the provisions of this SEPP.
SEPP (Temporary Structures) 2007	The planning proposal is not inconsistent with the provisions of this SEPP.
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	The planning proposal is not inconsistent with the provisions of this SEPP.
SEPP (Major Development) 2005	The planning proposal is not inconsistent with the provisions of this SEPP.
SEPP (Building Sustainability Index: BASIX) 2004	The planning proposal is not inconsistent with the provisions of this SEPP.
SEPP (Housing for Seniors or People with a Disability) 2004	The planning proposal is not inconsistent with the provisions of this SEPP. The full range of residential land uses will be permissible with consent within the R3 Medium Density zoned land.
SEPP No. 1 - Development Standards	The planning proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 4 - Development without Consent and Miscellaneous Complying Development	The planning proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 6 - Number of Storeys in a Building	The planning proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 14 - Coastal Wetlands	The planning proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 15 - Rural Land-Sharing Communities	The planning proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 21 - Caravan Parks	The planning proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 22 - Shops and Commercial Premises	The planning proposal is not inconsistent with the provisions of this SEPP.



SEPP Title	Compliance of Planning Proposal
SEPP No. 26 - Littoral Rainforests	The planning proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 30 - Intensive Agriculture	The planning proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 32 - Urban Consolidation (Redevelopment of Urban Land)	The planning proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 33 - Hazardous and Offensive Development	The planning proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 36 - Manufactured Home Estates	The planning proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 44 - Koala Habitat Protection	The planning proposal is not inconsistent with the provisions of this SEPP. No known koala habitat exists on the subject site.
SEPP No. 50 - Canal Estates	The planning proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 55 - Remediation of Land	The planning proposal is not inconsistent with the provisions of this SEPP. Site contamination has been considered as part of the site analysis undertaken for the planning proposal.
SEPP No. 60 - Exempt and Complying Development	The planning proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 62 - Sustainable Aquaculture	The planning proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 64 - Advertising and Signage	The planning proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 65 - Design Quality of Residential Flat Development	The planning proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 71 - Coastal Protection	The planning proposal is not inconsistent with the provisions of this SEPP and supports the intent of the SEPP. The subject land is located within the coastal zone. The rezoning to enable residential development is consistent with the objectives of the SEPP.
North Coast Regional Environmental Plan (NCREP) (deemed SEPP)	The NCREP now has the status of a SEPP. This SEPP provides local government with state and regional policy guidelines for the preparation of local environmental plans and for certain types of development. The plan sets the basis for new urban and rural development. The planning proposal is not inconsistent with the provisions of this SEPP.



Appendix 3 - Section 117 Direction Checklist

Section 117 Direction Checklist Planning Proposal – 160 – 190 North Creek Road, Lennox Head

TABLE 1 – SECTION 117 DIRECTIONS		
DIRECTION NO.	REQUIREMENTS	COMMENTS
1. Employment and Resources		
1.1 Business and Industrial Zones	Applies to Ballina Shire. Does not apply to Draft Plan.	
1.2 Rural Zones	In summary, this Direction provides that Draft LEPs shall retain existing zones and provisions relating to the control of traffic generating developments or access to major roads and shall not rezone rural land for urban purposes unless the land has been identified in a Strategy, is justified by an Environmental Study or is in accordance with an approved Regional Strategy.	It is considered that the rezoning is consistent with this Direction because the proposed residential area is identified in the Ballina Shire Growth Management Strategy and the Far North Coast Regional Strategy as having potential for urban development.
1.3 Mining, Petroleum Production and Extractive Industries	Applies to Ballina Shire. Does not apply to Draft Plan.	
1.4 Oyster Aquaculture	Applies to Ballina Shire. Does not apply to Draft Plan.	
1.5 Rural Land	In summary, this Direction provides that a planning proposal must be consistent with the Rural Planning Principles listed in State Environmental Planning Policy (Rural Lands) 2008. The Policy further provides that a planning proposal may be inconsistent with the terms of the Direction only if the relevant planning authority can satisfy the Director General of the Department of Planning that the provisions of the proposal are justified by a strategy which gives consideration to the objectives of the Direction of identifies the land which is the subject of a planning proposal or is approved by the Director General of the Department of Planning or is of minor significance.	The amendment is consistent with this Direction as it is of a minor scale and is consistent with the Far North Coast Regional Strategy.
2. Environment and Heritage		
2.1 Environmental Protection Zones	Applies to Ballina Shire. Does not apply to Draft Plan.	
2.2 Coastal Protection	In summary this Direction provides that a Draft LEP shall give effect to and be consistent with the Coastal Management Manual 1990, the NSW Coastal Policy 1997 and the Coastal Design Guidelines 2003.	The rezoning is consistent with this Direction. The proposal demonstrates that the subject land can accommodate stormwater management, effluent disposal and will not impact on public foreshore access.
2.3 Heritage Conservation	In summary this Direction provides	There a no items of environmental or



TABLE 1 – SECTION 117 DIRECTIONS

DIRECTION NO.	REQUIREMENTS	COMMENTS
	that a Draft LEP shall contain provisions to facilitate the conservation of items of environmental heritage significance and aboriginal objects, areas of aboriginal heritage significance or aboriginal places.	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	Applies to Ballina Shire. Does not apply to Draft Plan.	
3. Housing, Infrastructure and Urban Development		
3.1 Residential Zones	In summary, this Direction provides that Draft LEPs shall contain requirements that broaden the choice of building types and locations, make more efficient use of existing infrastructure and services, reduce the consumption of land for housing and associated urban development, are of good design, not permit residential development until the land is adequately serviced and not contain provisions which will reduce the permissible residential density of the land.	The planning proposal is consistent with this Direction in that adequate infrastructure is available to service the area and a future Development Control Plan could address urban design and density considerations. The rezoning is therefore consistent with this Direction.
3.2 Caravan Parks and Manufactured Home Estates	Applies to Ballina Shire. Does not apply to Draft Plan.	
3.3 Home Occupations	In summary, this Direction provides that a Draft LEP shall permit home occupations to be carried out in dwelling houses without the need for development consent.	This Plan is consistent as it simply adopts the provisions of the current Ballina Local Environmental Plan 1987 or the Draft Local Environmental Plan 2012.
3.4 Integrated Land Use and Transport	In summary, this Direction provides that a Draft LEP shall locate zones for urban purposes and include provisions that give effect to or are consistent with the aims, objectives and principles of Improving Transport Choice – Guidelines for Planning and Development (DUAP 2001) and The Right Place for Business and Services – Planning Policy (DUAP 2001). The Direction also provides that a Draft LEP may be consistent with the Direction if the land has been identified in the Strategy prepared by Council and approved by the Director General or, the rezoning is justified by an Environmental Study or the rezoning is in accordance with the relevant regional strategy.	It is considered that the proposed rezoning is consistent with this Direction because the land is identified in the Ballina Shire Growth Management Strategy and the Far North Coast Regional Strategy. Further, the site is located within an existing residential area and fronts North Creek Road, which provides a public transport route.
3.5 Development Near Licensed Aerodromes	Applies to Ballina Shire. Does not apply to Draft Plan.	
4. Hazard and Risk		



TABLE 1 – SECTION 117 DIRECTIONS

DIRECTION NO.	REQUIREMENTS	COMMENTS
4.1 Acid Sulphate Soils	Direction requires Councils to consider the Acid Sulphate Soils Planning Guidelines and include provisions which are consistent with the Acid Sulphate Soils Model Local Environmental Plan.	The study site does contain Acid Sulphate Soils.
4.2 Mine Subsidence and Unstable Land	Applies to Ballina Shire. Does not apply to Draft Plan.	
4.3 Flood Prone Land	Applies to Ballina Shire. Does not apply to Draft Plan.	
4.4 Planning for Bushfire Protection	Direction requires consultation with the Rural Fire Service and consideration of bushfire planning principles.	The NSW RFS was consulted and did not raise any issues for consideration in relation to the proposal.
5. Regional Planning		
5.1 Implementation of Regional Strategies	This Direction provides that when a Council prepares a Draft LEP the Plan shall be consistent with a Regional Strategy released by the Minister for Planning.	The site is identified in the Far North Coast Regional Strategy as a proposed future urban release area and therefore the rezoning is consistent with this Direction.
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	Applies to Ballina Shire. Does not apply to Draft Plan.	
5.4 Commercial and Retail Development	Applies to Ballina Shire. Does not apply to Draft Plan.	
5.5 Development in the vicinity of Ellalong Paxton and Millfield (Cessnock LGA).	Does not apply to Ballina Shire	
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	Repealed	
5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	Repealed	
5.8 Second Sydney Airport: Badgerys Creek	Does not apply to Ballina Shire	
6. Local Plan Making		
6.1 Approval and Referral Requirements	In summary, this Direction provides that a Draft LEP shall minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or Public Authority, not contain these provisions unless Council has obtained approval from the relevant Authority and not identify development as designated development unless certain prerequisites can be met.	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.



TABLE 1 – SECTION 117 DIRECTIONS		
DIRECTION NO.	REQUIREMENTS	COMMENTS
6.2 Reserving Land for Public Purposes	This Direction provides that a Draft LEP shall not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant Authority among other things.	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	This Direction provides that a Draft LEP that amends another Environmental Planning Instrument in order to allow a particular development proposal shall either allow that land use to be carried out in the zone that the land is situated on or rezone the site to an existing zone already applying in the Environmental Planning Instrument that allows that land use without imposing any development standards or requirements in addition to those already existing or allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal Planning Instrument being amended.	The planning proposal is consistent with this direction as it seeks to apply a land use zone and standards compatible with the residential development of the site.
7. Metropolitan Planning		
7.1 Implementation of the Metropolitan Strategy	Does not apply to Ballina Shire	



**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS
40 CHERRY STREET, BALLINA,
ON 22/11/12 AT 9.00 AM**

9.1 Planning Proposal - 160-190 North Creek Road Lennox Head

221112/10 RESOLVED

(Cr Ben Smith/Cr Robyn Hordern)

1. The Council proceed to finalise the planning proposal relating to properties described as Nos. 160-190 North Creek Road, Lennox Head.
2. That the planning proposal be submitted to the NSW Department of Planning and Infrastructure on the basis of the application of an R3 Medium Density Residential zone and 600m² minimum lot size for subdivision to the subject land under the Standard Instrument LEP.
3. That the planning proposal incorporates the application of a 2(b) Village Area zone in the event that the rezoning is finalised under the existing Ballina LEP 1987.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

9.2 Planning Proposal - No. 6 Burns Point Ferry Road, West Ballina

221112/11 RESOLVED

(Cr Ben Smith/Cr Sharon Cadwallader)

1. That Council submit the planning proposal relating to Lot 1 DP 522558, No. 6 Burns Point Ferry Road, West Ballina to the NSW Department of Planning & Infrastructure for review and Gateway determination.
2. That upon an affirmative Gateway determination being received from the Department of Planning & Infrastructure, Council staff will carry out the procedural steps associated with the progress of the planning proposal, including public exhibition.
3. That a further report be submitted to Council in relation to this matter following mandatory community consultation.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

9.1 Planning Proposal - 160-190 North Creek Road Lennox Head

9. Strategic & Community Services Group Reports

9.1 Planning Proposal - 160-190 North Creek Road Lennox Head

Delivery Program	Strategic Planning
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Objective	To determine whether to proceed to finalise the planning proposal to apply an R3 Medium Density Residential zone to land located at 160 - 190 North Creek Road, Lennox Head.
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Background

This report relates to the recently exhibited Planning Proposal BSCPP 12/001 (Attachment 1 contains a copy of the planning proposal as exhibited) that proposes the rezoning of land at 160-190 North Creek Road Lennox Head, being Lots 2, 3 & 4 DP 241585 & Lot 6 DP 59817. The subject land has a total area of 3.23 ha (see below).



The subject planning proposal seeks to amend the Draft Ballina LEP 2011 (once made) on the basis that completion of the proposed rezoning, if it proceeds to finalisation, is likely to occur following the completion of Council's new Local Environmental Plan (being the Draft Ballina LEP 2011).

Under this approach, the proposal (as publicly exhibited) involves the rezoning of land from an RU2 – Rural Landscape Zone to an R3 – Medium Density Residential Zone.

9.1 Planning Proposal - 160-190 North Creek Road Lennox Head

It is also proposed that a minimum lot size for subdivision of 600m² be applied to the subject land and that the land is removed from designation as a potential urban growth area under the LEP upon rezoning. The proposed changes are illustrated in Table 1 below and in the mapping in the planning proposal contained in Attachment 1.

Table 1: Proposed LEP Amendments

Planning Provision	Existing BLEP (BLEP 1987)/Draft Ballina LEP 2011	Proposed Amendment	
		Draft Ballina LEP 2011	Ballina LEP 1987
Land use Zone	1(d) – Rural (Urban Investigation)/RU2 Rural Landscape	R3 – Medium Density Residential	2(b) Residential (Village Area)
Minimum Lot Size for Subdivision	Not within BLEP 1987/ 40ha minimum	600m ²	N/A
Strategic Urban Growth Area	Not within BLEP 1987/ Nominated as a potential urban growth area	Land removed from designation as a potential urban growth area	N/A

In the event that the Draft Ballina LEP 2011 is not completed within a suitable timeframe, the planning proposal enabling the rezoning of the land may proceed under the Ballina LEP 1987 (which is presently applicable to the land). Under this approach, the proposal (as exhibited) involves the rezoning of the land from a 1(d) Rural (Urban Investigation) Zone to a 2(b) Village Area Zone.

Council resolved to proceed with the subject planning proposal at its meeting held on 26 April 2012 (Minute No: 260412/13);

1. That Council submit the planning proposal relating to properties described as No's. 160-190 North Creek Road, Lennox Head to the NSW Department of Planning for review and gateway determination.
2. That upon an affirmative response being received from the Department, Council staff will carry out the procedural steps associated with the planning proposal.
3. That a further report be submitted to Council in relation to this matter following the mandatory community consultation.

Accordingly, the proposal was forwarded to the Department of Planning & Infrastructure (DP&I) for Gateway determination, with the Gateway enabling the proposal to proceed. The subject application was placed on public exhibition between 27 September 2012 and 12 October 2012. This report seeks Council's direction with respect to the finalisation of the proposed LEP amendment.

Key Issues

- Environmental impacts
- Urban housing supply
- Implications for neighbouring properties

9.1 Planning Proposal - 160-190 North Creek Road Lennox Head

Information

Planning Context

Council has identified the subject land as being suitable for investigation to determine its urban suitability since the introduction of the Ballina LEP 1987. Additionally, future urban zoning of the land has been contemplated in a number of planning policies.

Ballina LEP 1987

The subject land is zoned 1(d) Rural (Urban Investigation) under the terms of the Ballina Local Environmental Plan 1987. The 1(d) Zone has been used by Council to identify areas considered to have potential for urban development, subject to more detailed analysis through a rezoning process.

Ballina Shire Combined Development Control Plan 2006

The subject land is identified as P1 – Planned Urban Development under the Combined DCP.

Ballina Growth Management Strategy 2012

The subject land is located within the Lennox Head Planning Precinct and is identified as a strategic urban growth area having potential for rezoning for urban purposes.

Lennox Head Structure Plan 2004

The Lennox Head Structure Plan (LHSP) provides a framework for the development of new urban land release areas within the Lennox Head locality and includes the subject land as a potential urban area (Area L).

Far North Coast Regional Strategy

The Far North Coast Regional Strategy (FNCRS) provides the regional framework for the consideration of rezoning land for urban purposes in Ballina Shire. The FNCRS identifies the subject land as a 'Proposed Future Urban Release Area' within the 'Town & Village Growth Boundary' for Ballina Shire.

Submissions

Copies of the community submissions received through the recent public exhibition process are included in Attachment 2. Five submissions were received from the community members and a submission was received from the NSW Rural Fire Service. The issues raised are summarised and discussed below:

9.1 Planning Proposal - 160-190 North Creek Road Lennox Head

Application of the R3 – Medium Density zoning

Issue:

The majority of submissions raised concerns with the application of an R3 Medium Density zone to the site. In particular, several submissions suggest the R3 zone is inconsistent with the low density nature of the surrounding locality. Lot sizes and the types of housing that could arise from the application of an R3 zone have been identified as matters of concern in the submissions.

Discussion:

In considering the zoning for the land in relation to the issues outlined above, it is important to recognise the key differences between the R2 Low Density Residential and R3 Medium Density Residential zones.

Whilst the zone names (derived directly from the State Government's Standard Instrument LEP) refer to low and medium density, the zones have been used by Council in its endorsed Draft Ballina LEP 2011 with a focus on housing types rather than density. Further, the zones themselves will not necessarily result in low or medium density development outcomes, with other factors such as lot size requirements, site characteristics and market demand influencing the nature and form of future development.

In terms of housing types, dwelling houses and secondary dwellings (granny flats) are permitted with development consent in the R2 Low Density zone. These and other housing forms including dual occupancies (duplexes), attached & semi-detached dwellings (town houses) and residential flat buildings are permitted with development consent in the R3 Medium Density zone.

The R3 Medium Density zone is designed to maximise the flexibility in housing outcomes on land identified for residential purposes. Its application does not mean that town houses and flats must be developed, but it does allow for their consideration through the development assessment process. The housing outcomes in such areas could range from single detached dwellings to dual occupancies to flats, or a mixture of a variety of housing forms. Importantly, development in the R3 Zone is subject to various development controls that direct built form outcomes. This zone has been typically applied to areas for residential development to maximise flexibility in housing types unless there is a particular reason to utilise the R2 Zone.

The R2 Low Density zone provides for a very limited range of housing types, being single detached dwellings and secondary dwellings (granny flats). It is important to note that other housing types such as dual occupancies (duplexes) and town houses are not permitted in this zone. This zone has typically been applied in the Draft Ballina LEP 2011 to existing residential areas with low density categorisation under Council's DCP or land that is subject to physical constraints making it more suited to single dwellings.

In terms of the surrounding area, established residential areas to the west, south and east are predominately subject to an R2 Zone under the Draft Ballina LEP 2011. The Pacific Pines estate to the north and north-west is subject to an R3 Zone.

9.1 Planning Proposal - 160-190 North Creek Road Lennox Head

As an indication of the potential development outcomes associated with the land, the proponent incorporated three subdivision layout options in documentation supporting their LEP amendment request. Whilst the proponent is not bound to utilise one of these layouts in the future, they do provide an indication of the type of development that may ultimately be accommodated on the land if it is rezoned for residential purposes. A copy of the layout options is contained in Attachment 3.

Having regard for the above, it is suggested that the R3 Medium Density zone is suitable for the subject land for the following reasons:

- The land is presently identified in Council's planning strategies and by its current 1(d) Rural (Urban Investigation) zoning as a potential urban area;
- The R3 zone provides for flexibility in the provision of housing on the subject land;
- The land is capable of supporting various housing types in terms of its physical characteristics and infrastructure availability; and
- The ultimate subdivision of the land and future housing types and forms are subject to further design considerations under the current planning framework.

Significantly, should the DP&I choose to amend the Ballina LEP 1987, a 2(b) Residential (Village Area) zone is proposed to apply. Under this approach, no forms of residential housing will be prohibited in the applicable zone (similar to the R3 Zone). This is also the case for the alternate 2(a) Living Area zone under the Ballina LEP 1987.

Amenity

Issue:

Under the provisions of the Draft Ballina LEP 2011, a proposed minimum lot size of 600m² has been applied to the subject land. It was suggested that the application of a 1,000m² minimum lot size would be more appropriate given the size of lots in the surrounding locality.

Some submissions raised concerns with the loss of the rural outlook houses along Fieldcrest Place currently enjoy as a result of future residential development of the subject land.

Other amenity issues noted included noise, congestion, road safety & access onto North Creek Road that may arise in association with medium density housing. In particular, the cumulative impacts that this would potentially have on the existing road network in conjunction with the additional traffic generation associated with the Pacific Pines development was raised.

It was also identified that there would be an overall loss of amenity to the Lennox Head community due to increased development within the locality.

Discussion:

A minimum lot size of 600m² has been proposed for the site under the Draft Ballina LEP 2011. This is consistent with the minimum lot size applied to the surrounding locality and to new residential areas under the Draft Ballina LEP 2011. Whilst the R3 – Medium Density zoning does allow for integrated development comprising of smaller lots (of 300m² or greater) and associated

9.1 Planning Proposal - 160-190 North Creek Road Lennox Head

housing, this will only be considered appropriate when all potential amenity issues can be satisfactorily addressed through the development application process.

Assessment of amenity issues in relation to noise, congestion and privacy are considered appropriate to address at the subdivision and individual site development stages. Additionally, issues relating to traffic generation will need to be determined in conjunction with an estimated development yield, which can only be determined in association with a subdivision layout. Subsequent intersection design in relation to access onto North Creek Road will also be assessed at the time a development application for a subdivision is assessed.

The subject land has been identified in a number of Council's planning policy documents as being a potential future urban area for an extensive period of time. In particular, the site has been zoned 1(d) Rural (Urban Investigation) under the provisions of the Ballina LEP 1987 which indicates the land may have potential for urban development, subject to further investigation, since 1987. The subject land is already surrounded by established residential areas and therefore future residential development is considered consistent with the surrounding locality.

In relation to this issue, it is suggested that the planning proposal should proceed, as exhibited, on the basis that:

- The application of a 600m² minimum lot size to the subject land is considered acceptable given that it is consistent with that applied to the surrounding locality and to new residential areas; and
- Potential amenity issues relating to medium density development outcomes can be suitably addressed through the development assessment process.

Capacity of existing infrastructure

Issue:

Concerns were raised in relation to current stormwater issues being experienced in the locality and the potential impact that further development will have on adjoining properties. Additionally, one submission raised concerns in relation to the existing water pressure and the impact additional development may have on this matter.

Response:

The applicant has provided a conceptual stormwater design to ensure a future development on the site will not impact on downhill neighbouring land. An initial assessment has been undertaken by Council's Civil Services Group which indicates that stormwater management can be adequately addressed in relation to future development. Further detailed design will be required at the subdivision stage.

In relation to water, there are two existing water mains located within North Creek Road that are capable of servicing future development of the subject land. Water pressure is an infrastructure specific issue rather than a matter relating to whether the land should be available for urban development.

9.1 Planning Proposal - 160-190 North Creek Road Lennox Head

It is recommended that issues relating to stormwater management should be addressed in association with more detailed stormwater designs at the subdivision application stage.

Removal of trees

Issue:

A majority of the submissions raised concerns in relation to the removal of the Norfolk Island Pine trees, with the primary concern relating to the visual and cultural importance of these trees to the Lennox Head community.

Other issues raised in relation to the removal of both the Norfolk Island Pines and the Fig trees include the potential loss of habitat and wind protection that these trees provide for residents on Fieldcrest Drive.

Response:

The removal of ornamental or landscaping trees previously planted within the properties is an issue that should be considered at the development application stage, and in association with a proposed subdivision layout.

Bushfire

The planning proposal was forwarded to the NSW Rural Fire Service for comments. Subsequently, no concerns or issues were raised in relation to bush fire.

Environmental Impacts

Prior to placing the subject planning proposal on exhibition, Council requested additional information in relation to site contamination. A Contaminated Land Assessment report was submitted on behalf of the landowners which demonstrates that the investigation area is considered to be below the acceptable residential guidelines for land contamination and is suitable for the intended purpose of residential land uses.

Sustainability Considerations

- **Environment**

Development of the subject land would have minimal implications for the natural environment of the site and its locality. The proposal provides for "infill" development on a site that is located within an existing residential neighbourhood where three of the four lots already contain dwellings.

- **Social**

The rezoning of land for residential uses is likely to have a positive social impact. In particular, the development of the land for housing will assist in meeting regional dwelling targets. It is noted that the release of the subject land for urban purposes is consistent with both Council's and Government's endorsed urban land release strategies.

9.1 Planning Proposal - 160-190 North Creek Road Lennox Head

However, it should be acknowledged that there is a potential (albeit minor) negative social impact for surrounding residents associated with the change to the area that would result from additional residential development.

- **Economic**

The rezoning of the subject land will contribute to the economy of the locality through the development of the land for urban purposes. Additionally, as the rezoning will result in an "infill" development outcome, efficiencies are likely in relation to infrastructure provision.

Legal / Resource / Financial Implications

The rezoning investigations have been undertaken at the proponent's cost, in accordance with Council's adopted Fees and Charges schedule. There are no significant legal, resource or financial implications associated with the completion of the proposed LEP amendment.

Consultation

Consultation on this matter has been undertaken with the community and key Government agencies through the public exhibition process. These engagements have been undertaken in accordance with the requirements of the DP&I's Gateway determination, the Environmental Planning and Assessment Act and attendant Regulation.

Options

1. That Council forward the planning proposal to rezone land located at 160 - 190 North Creek Road, Lennox Head with an R3 – Medium Density zone to the Department of Planning & Infrastructure for review and finalisation; or
2. That Council resolve to forward the planning proposal to rezone land located at 160-190 North Creek Road, Lennox Head with an R2 – Low Density zone to the Department of Planning & Infrastructure for review and finalisation; or
3. That Council cease the rezoning process; or
4. That Council request the modification or deferral of the planning proposal and subsequent reconsideration of the matter.

Option one is the preferred course of action on the basis that it will progress the planning proposal to the next step in the rezoning process which is to allow DP&I to review the planning proposal and take necessary steps in finalising the rezoning of the subject land. Such action is based on the adequacy of the additional information supplied by the proponent and assessment of the submissions received during the formal exhibition process by both the community and the Government agency. As outlined above, the R3 zone is recommended for reasons including that:

- The land is presently identified in Council's planning strategies and by its current 1(d) Rural (Urban Investigation) zoning as a potential urban area;

9.1 Planning Proposal - 160-190 North Creek Road Lennox Head

- The R3 zone provides for flexibility in the provision of housing on the subject land;
- The land has been assessed as being capable of supporting various housing types in terms of its physical characteristics and infrastructure availability; and
- The ultimate subdivision of the land and future housing types and forms are subject to further design considerations under the current planning framework.

If the rezoning proceeds under the existing Ballina LEP 1987, it is recommended that the 2(b) Village Area zone is applied, consistent with the Pacific Pines residential area.

In considering the above, it should be noted that the DP&I and the Minister for Planning & Infrastructure may or may not accede to the finalisation of the LEP amendment.

Option two, to apply an R2 Low Density Residential zone to the land, will also progress the planning proposal to the next stage of the rezoning process. However, this option is considered less favourable than option one based on the reasons for applying an R3 zone, identified above.

Aside from the zoning of the land, Council may also wish to consider the application of a different minimum lot size for subdivision to the land, whether zoned R2 or R3. Council has utilised 800m², 1000m², and 1200m² minimum lot size standards elsewhere in urban parts of the shire and such standards could be applied to the subject land to address the concerns raised in submissions in relation to density and amenity. However, it is recommended that Council apply a 600m² minimum lot size for subdivision (as exhibited) as this is consistent with the minimum lot size applied to the surrounding locality and to new residential areas under the Draft Ballina LEP 2011. In this regard, it should be noted that this does not mean that all lots will be 600m² as the standard sets the minimum size, with larger lots also enabled.

Options three and four are the least preferred options based on the fact that both options will conclude or delay the progression of the planning proposal. These options are not recommended as it has been demonstrated that the land is relatively unconstrained and is suitable to support future residential land uses.

9.1 Planning Proposal - 160-190 North Creek Road Lennox Head

RECOMMENDATIONS

1. The Council proceed to finalise the planning proposal relating to properties described as Nos. 160-190 North Creek Road, Lennox Head.
2. That the planning proposal be submitted to the NSW Department of Planning and Infrastructure on the basis of the application of an R3 Medium Density Residential zone and 600m² minimum lot size for subdivision to the subject land under the Standard Instrument LEP.
3. That the planning proposal incorporates the application of a 2(b) Village Area zone in the event that the rezoning is finalised under the existing Ballina LEP 1987.

Attachment(s)

1. Planning Proposal as Exhibited
2. Submissions Received
3. Indicative Subdivision Options (Newton Denny Chapelle)

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All communications to be addressed to:

Headquarters
15 Carter Street
Lidcombe NSW 2141

Headquarters
Locked Bag 17
Granville NSW 2142

Telephone: 1300 NSW RFS
e-mail: csc@rfs.nsw.gov.au

Facsimile: 8741 5433



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



Your Ref: BSCPP 12/001
Our Ref: L12/0003
DA12092584911 AB

ATTENTION: Ms Sally McGarry

26 October 2012

Dear Ms McGarry

Planning Instrument for Planning Proposal Bscpp 12/001, 160-190 North Creek Road, Lennox Head

I refer to your letter dated 19 September 2012 seeking advice for the above Planning Instrument in accordance with Section 62 of the 'Environmental Planning and Assessment Act 1979'.

The Service has reviewed the plans and documents received for the proposal and subsequently raise no concerns or issues in relation to bush fire.

For any queries regarding this correspondence please contact Alan Bawden on 1300 NSW RFS.

Yours sincerely

A handwritten signature in cursive script, appearing to read "John Ball".

John Ball
Manager