

Proposed industrial zone for part Lot 1 DP817406, Robb Street, Alstonville

Proposal Title : **Proposed industrial zone for part Lot 1 DP817406, Robb Street, Alstonville**

Proposal Summary : **To rezone 0.68 hectares of land currently zoned 7(i) Environmental Protection (Urban Buffer) to 4 Industrial under the provisions of the Ballina LEP 1987**

PP Number : **PP_2012_BALLI_002_00** Dop File No : **12/07066**

Proposal Details

Date Planning Proposal Received : **07-May-2012** LGA covered : **Ballina**

Region : **Northern** RPA : **Ballina Shire Council**

State Electorate : **BALLINA** Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

Location Details

Street : **Robb Street**

Suburb : **Alstonville** City : Postcode : **2477**

Land Parcel : **Part Lot 1 DP 817406**

DoP Planning Officer Contact Details

Contact Name : **Jenny Vallis**

Contact Number : **0266416606**

Contact Email : **jenny.vallis@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 : **Jim Clark**

Contact Number : **0266416604**

Contact Email : **jim.clark@planning.nsw.gov.au**

Land Release Data

Growth Centre : Release Area Name :

Regional / Sub Regional Strategy : **Far North Coast Regional Strategy** Consistent with Strategy : **No**

Proposed industrial zone for part Lot 1 DP817406, Robb Street, Alstonville

MDP Number :

Date of Release :

Area of Release (Ha) **0.68**Type of Release (eg
Residential /
Employment land) :**Employment Land**No. of Lots : **0**No. of Dwellings **0**
(where relevant) :Gross Floor Area : **0**No of Jobs Created : **0**The NSW Government **Yes**
Lobbyists Code of
Conduct has been
complied with :

If No, comment :

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

If Yes, comment :

Supporting notesInternal Supporting
Notes :External Supporting **Council's local strategy does not specifically allow for industrial development in this**
Notes : **location.****Adequacy Assessment****Statement of the objectives - s55(2)(a)**Is a statement of the objectives provided? **Yes**

Comment :

Explanation of provisions provided - s55(2)(b)Is an explanation of provisions provided? **Yes**

Comment :

Justification - s55 (2)(c)a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

1.1 Business and Industrial Zones

* May need the Director General's agreement

1.5 Rural Lands**2.1 Environment Protection Zones****5.1 Implementation of Regional Strategies****5.3 Farmland of State and Regional Significance on the NSW Far
North Coast**Is the Director General's agreement required? **Yes**c) Consistent with Standard Instrument (LEPs) Order 2006 : **No**

d) Which SEPPs have the RPA identified?

Proposed industrial zone for part Lot 1 DP817406, Robb Street, Alstonville

e) List any other matters that need to be considered :

The North Coast REP is a deemed SEPP.

The subject land is identified as State Significant Farmland on the Northern Rivers Farmland Protection Project Map. The North Coast REP contains provisions for the protection of agricultural resources and requires the conservation of productive agricultural land. The REP also requires that commercial agriculture is not affected by incompatible uses which may impair its long term sustainability and to ensure any industries and services that support agriculture are not disrupted.

Have inconsistencies with items a), b) and d) being adequately justified? No

If No, explain :

The planning proposal has attempted to justify the inconsistencies with the section 117 Directions and the North Coast REP. However the justification for the inconsistencies is considered to be inadequate.

Mapping Provided - s55(2)(d)

Is mapping provided? Yes

Comment :

Community consultation - s55(2)(e)

Has community consultation been proposed? Yes

Comment :

The planning proposal is to be exhibited for a period of 28 days.

Additional Director General's requirements

Are there any additional Director General's requirements? Unknown

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? Yes

If No, comment :

Proposal Assessment

Principal LEP:

Due Date : June 2012

Comments in relation to Principal LEP :

The draft Ballina (Comprehensive) LEP 2012 is with the Department for finalisation. The 0.68ha of land is proposed to be zoned E3 Environmental Conservation by the Comprehensive LEP.

Assessment Criteria

Need for planning proposal :

The planning proposal has been prepared to address a long standing land use conflict issue between industrial activities on the Russellton Industrial Estate, Alstonville and an adjacent residential use. Council staff recommended that Council ceases further action in relation to the planning proposal on the basis that the proposal is inconsistent with local and state planning policies.

The subject land is located on the south eastern edge of the Russellton Industrial Estate and is part of a 15.46 hectare lot used for agricultural purposes (macadamia cultivation). A rural dwelling is situated on the northern end of this lot in proximity to the adjoining industrial land and this has resulted in the land use conflict between the two uses. A short-term resolution to this conflict has been to lease the dwelling to the operators of the adjoining manufacturing industry however this is not considered to be a permanent solution. In addition, part of the land surrounding the dwelling is now being used for

industrial storage purposes without the relevant regulatory approval or authority.

The planning proposal seeks to formalise the use of land containing the rural dwelling and the unauthorised industrial storage by zoning 0.68ha of Lot 1 for industrial purposes.

There is a draft voluntary planning agreement prepared to support the planning proposal that:

- provides a mechanism for subdivision of the land through a boundary adjustment that adds the rezoned portion of Lot 1 DP 817406 to Lot 2 DP 707837;
- the removal, relocation or permanent decommissioning of the dwelling house on Lot 1 DP 817406; and
- the provision of a 10 metre wide landscape buffer between industrial and agricultural land uses on Lot 1 DP 817406.

Consistency with strategic planning framework :

There is currently no locally endorsed or regional planning strategy that considers the expansion of the Russellton Industrial Estate.

Local Planning Framework

Ballina Council's Industrial and Commercial Land Audit (2008) concluded that there was adequate zoned and planned industrial land in the shire to meet the projected demand until 2028. A number of lots with an industrial zoning remain undeveloped within the Russellton Industrial Estate.

The subject land forms part of the Alstonville/Wollongbar urban buffer to the east of the Russellton Industrial Estate. The 7(i) – Environmental Protection (Urban Buffer) Zone has been applied to the land surrounding Alstonville and Wollongbar since the Ballina Local Environmental Plan 1987 was first gazetted. This land provides a highly valued green belt and agricultural buffer around the two villages, and to date, Council has not undertaken any LEP amendments that have altered the originally gazetted 7(i) zone, maintaining the buffer for almost 25 years.

Regional Planning Framework

The Council staff considers the proposal is inconsistent with the Far North Coast Regional Strategy (FNCRS) as it does not identify the subject land as 'Proposed Future Urban Release Area' within the 'Town and Village Growth Boundary' for Ballina. As only 0.68 hectares of land is involved, it could be argued that the proposal is a "minor rounding off" of the industrial zone.

However, the subject land is designated as State Significant Farmland on the Northern Rivers Farmland Protection Project Map.

The State Significant Farmland designation has not been compromised here or anywhere else it applies, even for a small area. To do so here to allow an extension of an industrial zone would set a significant precedent.

If the FNCRS was considered relevant as Council suggests, there are other significant issues, derived from the Strategy's Sustainability Criteria, which can be applied to rezoning proposals in this location.

Criteria No. 4. Employment Lands – does not meet the criteria that employment-related land is provided in appropriately zoned areas. The rezoning needs to be considered in the context of the overall supply of industrial land in the locality, including the nearby Council-owned industrial land that is yet to be developed and whether or not the rezoning of additional industrial land in the locality at this time is a sustainable economic proposition;

Criteria No. 6. Natural Resources – the subject land is identified as State Significant Farmland and the proposal does not meet this criteria as an industrial zoning is not considered to be the most efficient or suitable use of this land; and

Criteria No. 7. Environmental Protection - The existing environmental 'green' buffer contributes to the natural/agricultural landscape of the Plateau between the urban areas of Alstonville and Wollongbar and should not be undermined by an urban zoning.

It is concluded that the planning proposal does not meet the requirements of the threshold sustainability criteria.

S117 Directions:

1.1 Business and Industrial zones – The expansion of the Russellton Industrial Estate is not currently foreshadowed as part of any local or regional growth or expansion strategy for urban land.

In addition, the planning proposal seeks to expand the Russellton Industrial Estate into an

area designated as urban buffer.

The planning proposal argues that this rezoning is a common sense solution to resolving a land use conflict issue and Ballina Shire Council has resolved "to give its strong support to the progress of the proposal"

The planning proposal is not justified by a strategy endorsed by the Department, nor does it provide adequate reasons to compromise the long standing 7(i) Environmental Protection (Urban Buffer).

1.5 Rural Lands – the planning proposal seeks to rezone an area currently zoned for environmental protection and as such the provisions of this Direction apply to the proposal. Rural Planning Principles to be followed are listed in State Environmental Planning Policy (Rural Lands) 2008. The planning proposal is inconsistent with these Rural Planning Principles, particularly as it is not consistent with the Far North Coast Regional Strategy. The Direction allows for a planning proposal to be inconsistent if it is of minor significance.

The planning proposal argues that this rezoning satisfies the Sustainability Criteria as contained in the Far North Coast Regional Strategy. It advises that Council resolved to support the progress of the planning proposal.

The assessment provided by the planning proposal did not satisfy all the threshold sustainability criteria and the merits of the proposal were considered to be limited. The rezoning is not justified by a strategy endorsed by the Department and it is not considered to be of minor significance.

2.1 Environmental Protection zones - The planning proposal seeks to rezone land within the Environmental Protection buffer for industrial purposes. Council argues that the land will not be seen by existing or likely future residents of the villages of Alstonville and Wollongbar or from a major road in the locality (the primary objective of the 7(i) zone). However, the objective of the s117 Direction is to protect and conserve environmentally sensitive areas and a planning proposal can only be inconsistent with the terms if justified by a strategy endorsed by the Department, justified by a study, or is in accordance with the relevant Regional Strategy or is of minor significance.

The planning proposal argues that this rezoning satisfies the Sustainability Criteria as contained in the Far North Coast Regional Strategy. It advises that Council resolved to support the progress of the planning proposal.

The provisions of the planning proposal do not satisfy any of these justifications for their inconsistency. While the proposal is of minor significance in terms of area, it is not minor in terms of impact and precedent in environmentally significant areas.

5.1 Implementation of Regional Strategies - As explained above, the subject site is not identified in the Far North Coast Regional Strategy as a future urban release area and is not located within the identified Town and Village Growth Boundaries specified in the Strategy- although it could be considered a "minor rounding off" of the T & V Growth Boundary.

However, as indicated above, the site is also identified as State Significant Farmland and requires that:

Local environmental plans will not zone land within the Environmental Assets and Rural Land area to permit urban purposes, other than rural residential development.

The planning proposal does not satisfy the requirements of section 5 of this Direction in that it is not considered to be of minor significance, is not considered to achieve the overall intent of the regional strategy and it is considered that it would undermine the achievement of the Strategy's vision, land use strategy, policies, outcome and actions.

The planning proposal argues that this rezoning satisfies the Sustainability Criteria as

contained in the Far North Coast Regional Strategy. It advises that Council resolved to support the progress of the planning proposal.

The planning proposal has not provided supporting information that the extent of the inconsistency with the objectives of the Direction will not undermine the regional strategy.

5.3 Farmland of State and Regional significance on the NSW Far North Coast - The subject land is identified as being State Significant Farmland. This Direction requires that a planning proposal must not rezone land identified as State Significant Farmland for urban or residential purposes. A planning proposal may be inconsistent with the terms of this Direction only if it the Department can be satisfied that it is consistent with the Far North Coast Regional Strategy and Section 4 of the report titled Northern Rivers Farmland Protection Project – Final Recommendations, February 2005.

Section 4 of Northern Rivers Farmland Protection Project – Final Recommendations, February 2005 provides as follows:

State significant farmland cannot be considered for urban (including housing, retailing and other uses normally located within towns) or rural residential rezoning. The only exception is where the land is identified in a council settlement strategy which was agreed to between December 1994 and December 2004 under clauses 20 or 38 of the North Coast Regional Environmental Plan (or placed on public exhibition by the end of 2004 and subsequently approved). Councils when preparing new settlement strategies cannot consider state significant farmland for inclusion as an urban release area.

The planning proposal has argued that the area is not currently used for agriculture being occupied in conjunction with an adjoining industrial activity. It advises that Council considers that in this regard, the subject site is appropriate for rezoning and has resolved to support the progress of the planning proposal.

While the subject land is not currently used for agricultural production, the planning proposal will alienate high quality agricultural land by consuming it for industrial use and the provision of appropriate buffers.

Environmental social
economic impacts :

Environment - the rezoning of the subject land is not expected to result in significant ecological impacts as the 0.68ha is clear of significant vegetation. It will, however, encroach into land set aside as an urban buffer and that is identified as State Significant Farmland.

Social - some social benefits are likely in that the operations of a valued local industry and employer will be supported.

Economic - the rezoning is likely to promote the continuation and possible growth of the existing industrial activity both on and adjacent to the site which may result in positive economic benefits for both the proprietor of the industry and the owner of the subject land. However it could also be argued that the industry is in the wrong place, being outside the industrial zone, and could be relocated to vacant land within the zoned areas.

Assessment Process

Proposal type :	Minor	Community Consultation Period :	28 Days
Timeframe to make LEP :	6 Month	Delegation :	DG
Public Authority Consultation - 56(2)(d) :	NSW Department of Primary Industries - Agriculture NSW Rural Fire Service		

Proposed industrial zone for part Lot 1 DP817406, Robb Street, Alstonville

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed? **No**

If no, provide reasons: **The planning proposal involves the encroachment of an urban land use into the long established Alstonville urban buffer and land identified as State Significant Farmland. There is also no identified need for additional industrial land and vacant industrial land is available on the Russellton Industrial Estate.**

There are, therefore, alternative means to resolving the land use conflict, such as:

- the relocation of the intensive industry in the existing industrial zone; or
- the relocation of the rural dwelling; or
- undertaking compliance action.

In addition, the planning proposal may establish an undesirable precedent through a spot rezoning to resolve a land use conflict issue.

Resubmission - s56(2)(b): **No**

If Yes, reasons:

Identify any additional studies, if required:

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
Robb Street PP Planning Proposal.pdf	Proposal	Yes
Robb Street PP Council minutes.pdf	Proposal	Yes
Robb Street PP Covering letter.pdf	Proposal Covering Letter	Yes
Robb Street PP Locality Map.pdf	Map	Yes
Planning Proposal Robb Street Extract from Northern Rivers Farmland Map.pdf	Map	Yes
Robb Street VPA.pdf	Proposal	No

Planning Team Recommendation

Preparation of the planning proposal supported at this stage: **Not Recommended**

S.117 directions: **1.1 Business and Industrial Zones
1.5 Rural Lands
2.1 Environment Protection Zones
5.1 Implementation of Regional Strategies
5.3 Farmland of State and Regional Significance on the NSW Far North Coast**

Additional Information: **See below.**

Supporting Reasons: **Although initially the planning proposal appears to be a minor spot rezoning and a possible solution to the long standing land use conflict between the existing industrial and residential development there are a number of significant issues associated with this matter. These include:**

Encroachment into the Alstonville 7(i) Environmental Protection urban buffer;

Proposed industrial zone for part Lot 1 DP817406, Robb Street, Alstonville

Encroachment into State Significant Farmland;

Adequate industrial land supply; and

The continued residential use of the dwelling house - Council has the option of seeking enforcement of the relevant environmental standards and compliance with the condition attached to the development consent for the industrial operations. This may allow the dwelling to remain and provide accommodation for the macadamia farm.

The planning proposal is not supported by Council planning staff on the basis that the proposal is inconsistent with local and state planning policies and statutory requirements.

If the planning proposal is to proceed, then the proposal should be publicly exhibited for 28 days, and be completed in 6 months. Council will need to consult with the Department of Trade and Industry (Agriculture) and the NSW Rural Fire Service.

However, it is not possible to justify an inconsistency with section 117 direction 5.3, having regard to the significance of the Farmland Protection Policy as it relates to State Significant farmland (see extract of Policy under direction 5.3 in "Assessment" above).

Signature:



Printed Name:

JIM CLARK

Date:

11 May 2012