NSW GOVERNMENT Planning & Environment

Planning Team Report

To rezone Lot 4 DP 537419, Burns Point Ferry Rd, West Ballina for residential and employment uses and RU2 Rural Landscape

Proposal Title :	**To rezone Lot 4 DP 537419, Burns Point Ferry Rd, West Ballina for residential and employment uses and RU2 Rural Landscape**
Proposal Summary :	**To rezone Lot 4 DP 537419, Burns Point Ferry Rd, West Ballina for residential and employment uses and RU2 Rural Landscape**
PP Number :	**PP_2014_BALLI_007_00**
Dop File No :	**14/15938**

Proposal Details

Date Planning Proposal Received :	**19-Sep-2014**	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 :	**Burns Point Ferry Rd**				
Suburb :		City :	**West Ballina**	Postcode :	**2478**
Land Parcel :	**Lot 4 DP 537419**				

DoP Planning Officer Contact Details

Contact Name :	**Craig Diss**
Contact Number :	**0267019685**
Contact Email :	**craig.diss@planning.nsw.gov.au**

RPA Contact Details

Contact Name :	**Lachlan Sims**
Contact Number :	**0266681419**
Contact Email :	**lachlans@ballina.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name :	
Contact Number :	
Contact Email :	

Land Release Data

Growth Centre :		Release Area Name :	
Regional / Sub Regional Strategy :	**Mid North Coast Regional Strategy**	Consistent with Strategy :	**Yes**

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MDP Number :		Date of Release :	
Area of Release (Ha) :	0.00	Type of Release (eg Residential / Employment land) :	N/A
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

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

If No, comment : **The Department of Planning and Environment's Code of Practice in relation to communications and meetings with lobbyists has been complied with to the best of the Region's knowledge. The Northern Region has not met with any lobbyists in relation to this proposal, nor has the Northern Region been advised of any meeting between other Departmental Officers and lobbyists concerning the proposal.**

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

If Yes, comment :

Supporting notes

Internal Supporting Notes :

External Supporting Notes :

Adequacy Assessment

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

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

Comment : **The statement of objectives adequately describes the intention of the Planning Proposal. The proposal seeks to amend Ballina LEP 2012 by rezoning parts of the land to enable a mix of residential and employment uses. The remainder of the site that is not considered as suitable for an urban zoning will be rezoned to RU2 Rural Landscape.**

While sufficient environmental assessments have been undertaken to confirm the suitability of the site for further detailed investigation, Council proposes to determine the final development footprint, zonings and development standards prior to public exhibition after completion of the following additional assessments:

- **ecological / flora and fauna**
- **acid sulfate soils**
- **land contamination**
- **geotechnical**
- **stormwater impact**
- **entomological (mosquitoes)**
- **bushfire hazard**
- **archaeological / cultural heritage**

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Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **The explanation of provisions adequately addresses the intended method of achieving the objectives of the Planning Proposal by amending Ballina LEP 2012 and its associated maps**

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.1 Business and Industrial Zones
1.2 Rural Zones
1.5 Rural Lands
2.1 Environment Protection Zones
2.2 Coastal Protection
2.3 Heritage Conservation
2.4 Recreation Vehicle Areas
3.1 Residential Zones
3.2 Caravan Parks and Manufactured Home Estates
3.3 Home Occupations
3.4 Integrating Land Use and Transport
4.1 Acid Sulfate Soils
4.3 Flood Prone Land
5.1 Implementation of Regional Strategies
6.1 Approval and Referral Requirements
6.2 Reserving Land for Public Purposes

Is the Director General's agreement required? **Yes**

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

d) Which SEPPs have the RPA identified? **N/A**

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

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain : **Refer to discussion below regarding consistency with section 117 Directions.**

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **The Planning Proposal includes maps which show the subject land and a proposed concept plan provided by the landowner indicating the areas currently proposed for urban development (land adjoining the northern boundary and a proposed restaurant site in the south east corner). Significant further investigation on the areas and footprints of the land to be rezoned for urban purposes is proposed by Council prior to public exhibition to confirm their suitability.**

To ensure that the public is fully informed and provided an opportunity to comment on the proposal, it is recommended that once the further detailed site investigations are completed, that existing and proposed maps of the following are prepared and placed on public exhibition:
- Land Zoning
- Lot Size
- Height of Buildings
- Land Application Map
- Building Height Allowance Map
- Acid Sulfate Soils

- Flood Planning
- Strategic Urban Growth Area

Community consultation - s55(2)(e)

Has community consultation been proposed? Yes

Comment : As the proposal includes land to be used for residential or employment purposes outside of the development footprint identified for the site in Council's existing local growth management, it is considered appropriate that the community be provided a 28 day period to review and comment on the proposal.

Additional Director General's requirements

Are there any additional Director General's requirements? No

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? Yes

If No, comment : The planning proposal satisfies the adequacy criteria by;
1. Providing appropriate objectives and intended outcomes.
2. Providing a suitable explanation of the provisions proposed for the LEP to achieve the outcomes.
3. Providing an adequate justification for the proposal.
4. Outlining a proposed community consultation program.
5. Advising that Council seeks delegation to make the plan in this instance.
6. Providing a proposed time line to complete the proposal.

It is considered appropriate that a written authorisation to exercise plan making delegations be issued to Council (if a Gateway Determination is granted) as the proposal is consistent with the Far North Coast Regional Strategy and is essentially a local planning issue.

It is noted that the project time line included in the proposal estimates that it will be finalised by July 2015. Discussions with Council staff have indicated that the proposal is unlikely to be completed prior to early 2016 due to the number of detailed site investigations that are proposed prior to proceeding to exhibition. If a Gateway Determination is granted, an 18 month period to complete the Planning Proposal is recommended due to the number and nature of the proposed additional studies required.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : Ballina LEP 2012 was made in February 2013.

The proposal includes land currently under both Ballina LEP 2012 and Ballina LEP 1987. The land under Ballina LEP 1987 is currently zoned 1(d) Rural (Urban Investigation) and was deferred from Ballina LEP 2012 due to the pending outcomes of the E Zone review on the Far North Coast. The land was proposed to be zoned as E2 Enviromental Conservation under draft Ballina LEP 2012.

It is now proposed that the entire site be rezoned and included in Ballina LEP 2012 (with areas not suitable for an urban zoning to be included as RU2 Rural Landscape).

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Assessment Criteria

Need for planning proposal :	**Part of the land on the northern boundary being investigated for urban rezoning is identified in Ballina LEP 2012 and Council's local growth management strategy as a strategic urban growth area.** **The proposal has been brought forward by Council due to a submission from the landowner to the draft Ballina LEP 2012. As a result of this submission, further environmental studies have been undertaken that have confirmed that parts of the site outside the identified strategic urban growth area are suitable for further urban rezoning investigation.**

Consistency with strategic planning framework :	**The Far North Coast Regional Strategy** **The subject site is identified in the Far North Coast Regional Strategy as a proposed future urban release area (subject to high level constraints). These constraints are related to the environmental values of the land. Council has now completed further environmental investigations that have confirmed that parts of the site are suitable for more detailed examination for urban rezoning.** **While not specifically identified for employment purposes, as the land is wholly contained within the Town and Village Growth Boundary, and is identified as a proposed future urban release area, it is considered that the proposal is consistent with the Regional Strategy.** **SEPPs** **While Council has not detailed any specific SEPPs as being applicable to the proposal, it is considered that a number of SEPPS are relevant. These SEPPs include SEPP 14 Coastal Wetlands, SEPP 44 Koala Habitat Protection, SEPP 55 Remediation of Land, SEPP 71 Coastal Protection, SEPP (Exempt and Complying Development Codes) and SEPP (Infrastructure). No inconsistency with any applicable SEPP has been identified.** **Section 117 Directions** **Council has identified the proposal as being consistent with all applicable section 117 Directions. It is however considered that the proposal is inconsistent with the following Directions:** **1.1 Business and Industrial Zones** **The proposal seeks to rezone parts of the land to facilitate a mix of residential and employment uses, including land outside the area identified as a strategic urban growth area in Council's Secretary approved local growth management strategy. The Direction requires all new employment areas to be in accordance with a strategy approved by the Secretary. This inconsistency is considered to be of minor significance as the land is within the Town and Village Growth Area within the Far North Coast Regional Strategy and is identified as a future urban release area. Council's Secretary approved local growth management strategy also identifies West Ballina for a mixture of residential and mixed business (not retail) uses.** **1.2 Rural Zones** **The proposal is inconsistent with this Direction as it seeks to rezone land from a rural zone to an urban zone(s) to facilitate a mix of residential and employment uses. This inconsistency is considered to be of minor significance as the land is within the Town and Village Growth Area contained in the Far North Coast Regional Strategy and is identified as a future urban release area.** **1.5 Rural Lands** **The proposal is inconsistent with this Direction as it seeks to rezone existing rural land and amend the minimum lot size in a manner that is not consistent with the Rural Planning Principles or Rural Subdivision Principles contained in the SEPP (Rural Lands). This inconsistency is considered to be of minor significance as the land is in the Town and Village Growth Area contained in the Far North Coast Regional Strategy and is identified as a future urban release area.** **2.1 Environmental Protection** **The proposal is inconsistent with this Direction as it does not propose to include provisions that protect and conserve environmentally sensitive areas. Council currently proposes to:** **- rezone any environmentally constrained land not suitable for urban purposes on the site to RU2 Rural Landscape; and** **- enter into a planning agreement with the landowner to provide suitable offsets and environmental mitigation measures associated with the development footprint on the RU2 lands.** **This inconsistency is considered to be of minor significance due to:** **- the current review into the application of environmental zones on the Far North Coast**

	preventing Council from utilising environmental zones on the land; - no significant increase in development or potential for environmental degradation will result due to a change from the current 1(d) Rural (Urban Investigation) Zone to RU2 Rural Landscape; and - the proposed planning agreement to be negotiated between Council and the developer to ensure appropriate environmental offsets and protection measures. 4.1 Acid Sulfate Soils Direction 4.1 Acid Sulfate Soils provides that a draft plan shall not permit the intensification of land containing acid sulfate soils unless a study of the land assessing its suitability has been conducted. The land is identified as contained Class 2 acid sulfate soils and no study has yet been completed. The inconsistency of the proposal with this Direction is considered to be of minor significance as management of acid sulfate soils can be adequately addressed and controlled at the development application stage. It is also noted that Council proposes to undertake further acid sulfate soil assessment to support the rezoning prior to exhibition should a Gateway determination for the proposal be granted. 4.3 Flood Prone Land Direction 4.3 Flood Prone Land provides that a draft plan must not rezone land within a flood planning area to an urban zone. The proposal is inconsistent with this Direction as it seeks to rezone parts of the land to facilitate a mix of residential and employment uses. This inconsistency is considered to be of minor significance as assessment of the potential impacts associated with filling the site has already been undertaken as part of Council's flood plain management planning process. It is recommended however that additional specific flood investigation to support the proposal be undertaken to confirm the suitability of the site for development should a Gateway determination be granted. Ballina Local Growth Management Strategy As noted in the Planning Proposal, the proposed footprint of the development is inconsistent with Council's Secretary approved local growth management strategy. The strategy identified the land currently zoned 1(d) Rural (Urban Investigation)as being a 'high conservation vegetation' area and limited development on the site to the area currently zoned RU2 Rural Landscape on the northern part of the land. Environmental investigations of the site have since been undertaken which have confirmed that parts of the 1(d) Rural area are not as sensitive as previously considered, and that development for urban purposes may be possible. This inconsistency is therefore considered to be of minor significance due to the further environmental investigations which have taken place and as the entire site is in the Town and Village Growth Area contained in the Far North Coast Regional Strategy and is identified as a future urban release area.
Environmental social economic impacts :	Discussions with Council staff have confirmed that the site is not bushfire prone and no known potential contamination that would prevent the proposal from proceeding for further detailed investigation has been identified. No adverse environmental impacts have been identified due to the environment assessments undertaken to date confirming the suitability of parts of the site for further investigation, and the likely environmental benefits that could accrue from any environmental offsetting and mitigation measures that are undertaken on the area of the site to be zoned RU2 Rural Landscape. No adverse social or economic impacts resulting form the proposal have been identified, subject to confirmation from the more detailed assessments proposed to be undertaken to support the proposal prior to public exhibition.

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Assessment Process

Proposal type :	**Routine**	Community Consultation Period :	**28 Days**
Timeframe to make LEP :	**18 months**	Delegation :	**RPA**

Public Authority Consultation - 56(2)(d) :
Office of Environment and Heritage
NSW Department of Primary Industries - Agriculture
NSW Department of Primary Industries - Fishing and Aquaculture
Transport for NSW - Roads and Maritime Services

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

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

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

If Yes, reasons :

Identify any additional studies, if required. :

Flora
Fauna
Heritage
Bushfire
Flooding
Other - provide details below
If Other, provide reasons :

Council proposes to determine the final development footprint, zonings and development standards for the land prior public exhibition after completion of the following additional assessments:

- ecological / flora and fauna
- acid sulfate soils
- land contamination
- geotechnical
- stormwater impact
- entomological (mosquitoes)
- bushfire hazard
- archaeological / cultural heritage

As discussed above, it is also considered appropriate that a more detailed flood assessment for the site be undertaken. Discussions with Council staff have confirmed that they also consider further site specific flood assessment as appropriate.

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

To rezone Lot 4 DP 537419, Burns Point Ferry Rd, West Ballina for residential and employment uses and RU2 Rural Landscape

Planning Proposal - Burns Point Ferry Rd, West Ballina - Council letter.pdf	Proposal	Yes
Planning Proposal September 2014.pdf	Proposal	Yes

Planning Team Recommendation

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

S.117 directions:

1.1 Business and Industrial Zones
1.2 Rural Zones
1.5 Rural Lands
2.1 Environment Protection Zones
2.2 Coastal Protection
2.3 Heritage Conservation
2.4 Recreation Vehicle Areas
3.1 Residential Zones
3.2 Caravan Parks and Manufactured Home Estates
3.3 Home Occupations
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4.1 Acid Sulfate Soils
4.3 Flood Prone Land
5.1 Implementation of Regional Strategies
6.1 Approval and Referral Requirements
6.2 Reserving Land for Public Purposes

Additional Information : **It is recommended that;**

1. The planning proposal should proceed.

2. The following further assessments to support the proposal and confirm the suitability of rezoning parts of the site shall be completed and included in the material placed on public exhibition:

- ecological / flora and fauna
- acid sulfate soils
- land contamination
- geotechnical
- stormwater impact
- entomological (mosquitoes)
- bushfire hazard
- archaeological / cultural heritage
- flooding

3. Existing and proposed maps of the following are to be prepared consistent with the Department's technical requirements and placed on public exhibition:
- Land Zoning
- Lot Size
- Height of Buildings
- Land Application Map
- Building Height Allowance Map
- Acid Sulfate Soils
- Flood Planning
- Strategic Urban Growth Area

4. The planning proposal is to be completed within 18 months.

5. That a community consultation period of 28 days is required.

6. That the RPA consult with the following State Agencies:
- Roads and Maritime Services in relation to road access and maritime issues
- NSW Office of Environment and Heritage

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- Department of Primary Industries – Fisheries and Aquaculture
- Department of Primary Industries – Agriculture

7. It is recommended that a delegate of the Director General agree that the inconsistencies of the proposal with S117 Directions 1.1, 1.2, 1.5, 2.1, 4.1 and 4.3 are justified in accordance with the provisions of the Directions.

8. That an authorisation to exercise delegation be issued to Council.

Supporting Reasons : **The proposal is supported as it is consistent with the Far North Coast Regional Strategy and as it will provide important residential and employment opportunities for West Ballina while facilitating positive environmental outcomes.**

Signature: _____

Printed Name: JAN CLARK Date: 24 September 2014