

Ballina LEP 2012 – General Amendments (2).

Proposal Title : **Ballina LEP 2012 – General Amendments (2).**

Proposal Summary : **The planning proposal seeks to make 30 housekeeping amendments to Ballina LEP 2012. The amendments relate to mapping anomalies, corrections of zones and other planning controls, updates to property descriptions for heritage items in Schedule 5, reinstatement of dwelling entitlements, minor drafting amendments and the permissibility of 'agricultural produce industry' in the IN1 General Industrial zone.**

PP Number : **PP_2014_BALLI_009_00**

Dop File No :

14/19177

Proposal Details

Date Planning
Proposal Received : **12-Nov-2014**

LGA covered : **Ballina**

Region : **Northern**

RPA : **Ballina Shire Council**

State Electorate : **BALLINA**

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

LEP Type : **Housekeeping**

Location Details

Street :

Suburb :

City :

Postcode :

Land Parcel : **Numerous land parcels in the Ballina LGA**

DoP Planning Officer Contact Details

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RPA Contact Details

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DoP Project Manager Contact Details

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Land Release Data

Growth Centre :

Release Area Name :

Regional / Sub

Consistent with Strategy :

Regional Strategy :

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MDP Number :

Date of Release :

Area of Release
(Ha) :

Type of Release (eg
Residential /
Employment land) :

No. of Lots : 0

No. of Dwellings : 0
(where relevant) :

Gross Floor Area : 0

No of Jobs Created : 0

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

If No, comment :

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

If Yes, comment :

Supporting notes

Internal Supporting
Notes :

External Supporting
Notes :

Adequacy Assessment

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

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

Comment : **The Statement of objectives adequately describes the intention of the planning proposal. The proposal seeks to make 30 housekeeping amendments to the Ballina LEP 2012 to improve the function, content and consistency of the LEP.**

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. The proposal includes a summary table and detailed discussion on each of the 30 proposed amendments.**

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

1.3 Mining, Petroleum Production and Extractive Industries

1.4 Oyster Aquaculture

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
3.5 Development Near Licensed Aerodromes
4.1 Acid Sulfate Soils
4.3 Flood Prone Land
4.4 Planning for Bushfire Protection
5.1 Implementation of Regional Strategies
5.3 Farmland of State and Regional Significance on the NSW Far North Coast
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?

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 : **See the assessment section of his report.**

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **The planning proposal contains maps which adequately show the site, and the proposed map changes for the LEP amendment.**

Maps which comply with the Standard Technical Requirements for LEP Maps have also been provided.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **The planning proposal does not nominate a community consultation strategy. In accordance with "A Guide to Preparing Local Environmental Plans" (the 'Guide'), it is considered that the planning proposal is a low impact planning proposal as it is consistent with surrounding land use zones, and the strategic planning framework. The proposal does not reclassify land or present infrastructure servicing issues. The Guide also suggests written notification to the affected and adjoining land owners. It is therefore recommended that a community consultation period of 14 days is appropriate and affected and adjoining properties should be notified in writing.**

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 : **Time Line**
The planning proposal includes a project timeline which estimates the completion of the planning proposal in April 2015. To ensure the RPA has adequate time to complete exhibition over the Christmas period, and then finalise reporting, map preparation and legal drafting for the numerous changes, it is considered that a time frame of 9 months is appropriate.

Delegation.

Council has indicated it is not seeking an Authorisation to exercise delegation for this proposal because the proposal includes Council owned land. Council is seeking to avoid the perception of a conflict of interest in this instance. An Evaluation Criteria For the Delegation of Plan Making Functions has been provided. The proposal is considered to be consistent with the strategic planning framework and of local planning significance. It is recommended that an Authorisation for the exercise of delegation be issued.

Overall Adequacy

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. Providing a project time line.
6. Completing the evaluation criteria for the delegation of plan making functions.

Proposal Assessment

Principal LEP:

Due Date :

Comments in
relation to Principal
LEP :

The Ballina LEP 2012 commenced in February 2013. This planning proposal seeks an amendment to the Ballina LEP 2012.

Assessment Criteria

Need for planning
proposal :

The proposal is not a result of a strategic study or report. The proposed amendments to the LEP have arisen from Council's review of the plan's function and content. The proposed amendments address the following matters.

Rezoning land from RE1 Public Recreation to RE2 Private Recreation.

The Alstonville Showground (Lot 2 DP 1031929) is currently zoned RE1 Public Recreation. The land is not public open space as it is owned and managed by a private organisation. An RE2 Private Recreation zone and a 40ha minimum lot size (MLS) is proposed for this land. This is considered to be acceptable as the RE2 zone is more appropriate for privately managed land and the larger MLS will prevent subdivision, consistent with the approach for other RE2 zoned land in the local government area (LGA).

The Ballina Racecourse and adjoining road reserve is currently zoned RE1 Public Recreation. It is proposed to zone the racecourse RE2 Private Recreation and apply a 40ha MLS. The adjoining road reserve is to be zoned IN1 General Industrial consistent with the adjoining industrial land. These changes to planning controls are considered to be appropriate as they reflect the Department's suggested approach for zoning in Standard Instrument LEPs detailed in practice note PN 11-002 Preparing LEPs using the Standard Instrument: standard zones.

Rezoning of land to RE1 Public Recreation.

The planning proposal seeks to rezone several parcels of land to RE1 Public Recreation and remove existing MLS provisions from these lands consistent with Councils approach with other RE1 land in the LGA. These land parcels are currently zoned residential or commercial and are in public ownership (either Council or the Crown). Their rezoning is consistent with the adjacent land and the use of the land. It is considered that the rezoning of these lands to RE1 is appropriate. The properties to be zoned RE1 include:

1. Brunswick St Reserve, Ballina. Lots 489 and 490 DP 729290 are currently zoned R3 Medium Density Residential. This reserve is Crown land.
2. Coastal Grove Reserve, Lennox Head. That part of the reserve zoned R2 Low Density

Residential is to be rezoned RE1. This reserve is owned by Council.

3. Dalmacia Drive Bushland, Wollongbar Lot 126 DP 814523. This land is owned by Council and adjoins an existing public reserve zoned RE1.
4. Lake Ainsworth Caravan Park, Lennox Head, Lots 1 and 2 DP 517499. This land is currently zoned R3 however is part of the caravan park owned by NSW Crown Holiday Parks Trust.
5. Links Avenue Reserve, East Ballina. The proposal corrects a mapping anomaly to match the zone with the cadastre boundary of the land owned by Council. The land is currently zoned R2.
6. Palisade Way, Lennox Head. This small parcel of Council owned reserve is currently zoned R2.
7. Jabiru Park, East Ballina. This land is currently zoned R2 however is used as a public reserve and is owned by Council.
8. Treelands Reserve, Ballina. This narrow area of land is zoned B3 Commercial Core, however this is a mapping anomaly, and it is proposed to rezone the land to ensure the entire Council owned reserve is zoned RE1.
9. Tallow Wood Place Bushland, Lennox Head. This land was dedicated to Council in 2013 and is currently zoned R2 however is used as a public reserve.
10. Alstonville Swimming Pool. This land is proposed to be rezoned from R2 to RE1 to reflect the approach taken for other similar community facilities in the LGA.
11. Kingsford Smith Park and The Serpentine Areas, Ballina. Roads within these public reserves are zoned R3, it is proposed to zone the roads RE1 consistent with the adjoining land.

Correction of Mapping Anomalies.

The proposal seeks to rectify several mapping anomalies where zone or minimum lot size boundaries do not align with cadastre boundaries. These amendments are minor in nature and will not result in a reduction in development potential of the subject land parcels. It is considered that the proposed map amendments are appropriate. The land to which these mapping corrections apply include:

1. Spring Creek Place Wollongbar. The map amendment will align the R3 zone to the cadastre boundaries.
2. Meldrum Park and North Creek Foreshore, Ballina. The proposal will rectify misalignments of the R3 and W2 zones to the cadastre boundary.
3. 30A and 30B Smiths Lane Wollongbar. The amendment will rectify mapping of the 800sqm MLS area so that it covers the entire land.
4. 19 Megan Crescent Lennox Head. This land is zoned part R2 and part R3. The proposal seeks to remove the R2 zone and apply the R3 zone to the entire site to reflect the approved residential unit development on the land.
5. Ferngrove Estate Ballina. The proposal adjusts the zones to match the cadastre boundaries.
6. Pacific Highway Tintenbar. The proposal will realign the zone boundary between the RU1 and RU2 zones to provide a clearer more logical alignment and remove an extension of the RU2 zone over the road reserve between properties zoned RU1.
7. Kellie Ann Crescent, Lennox Head. The proposal adjusts the zones to match the cadastre boundaries.
8. Meadows Estate, Lennox Head. The proposal adjusts the zones to match the cadastre boundaries.
9. Warrawee Drive, Lennox Head. The proposal adjusts the zones to match the cadastre boundaries.

Rezoning of Wollongbar Public School

The Wollongbar Public School site is currently zoned RE1 Public Recreation. The proposal intends to rezone the land R2 Low Density Residential and apply a 600sqm MLS consistent with the surrounding residential land and Council's approach with other schools in the LGA. This approach is also consistent with the Department's Practice Note 10-007 Zoning for Infrastructure. This amendment is considered to be appropriate.

Heritage Items.

The proposal intends to amend Schedule 5 of the LEP, and where necessary the Heritage Map to correct property descriptions and mapping for certain heritage items. A table of the proposed changes is included in the planning proposal. These changes are administrative in nature and do not alter the protection afforded to the items under the LEP. These amendments are considered to be appropriate.

Amendment to Strategic Urban Growth Area Map (SGA Map).

The proposal will rectify an anomaly with the SGA Map which occurred as a result of the map not being amended when Ballina LEP 2012 Amendment No. 8 was made. Now that Amendment No. 8 has defined the urban zone boundaries for the land the SGA map needs to be amended accordingly. This amendment is considered to be appropriate.

Reinstatement of Dwelling Entitlements.

Two properties had dwelling entitlements previously identified by Council however were not identified on the Dwelling Opportunity Reinstatement Map. These properties are:

- Lot 10 DP 654898, Pacific Highway, Wardell; and
- Lot 67 DP 755688, 1010 Pimlico Road, Wardell.

This amendment will enable a dwelling to be erected on the subject lots. These amendments are minor in nature and reflect previous planning controls. It is considered that these amendments are appropriate.

Change to wording of Clause 7.4 Drinking Water Catchments.

The proposal seeks to amend the clause to replace the reference to 'water supply authority' with 'supplier of drinking water' in response to feedback from Rous Water. This is proposed as the definition of water supply authority under the Water Management Act 2000 excludes reference to a county council such as Rous Water. The term 'supplier of drinking water' as defined in the Public Health Act 2010 includes a reference to county councils. The model drinking water catchment clause does not include a reference to 'water supply authority'. Ballina Council included subclause (3)(d) in its Drinking Water Catchments clause and therefore this is not an issue for other councils using the model clause. It is considered that this amendment is of minor significance and is acceptable.

Change to the Land Use Table for the IN1 General Industrial Zone.

The proposal seeks to list 'agricultural produce industries' as permissible with consent in the IN1 General Industrial zone. This land use is currently prohibited in the IN1 zone. However a review of land uses in the IN1 zone has revealed that agricultural produce industries are not inappropriate in the zone, therefore it is intended to list them as permissible with consent. It is considered that this amendment is appropriate.

The proposed changes to the LEP are the best means of achieving the intent of the planning proposal.

Consistency with strategic planning framework :

Far North Coast Regional Strategy (FNCRS).

The proposed amendments to the Ballina LEP 2012 are not inconsistent with the FNCRS. The proposed changes will not have significant impacts on the development potential of the subject lands and will not release additional urban land outside of the town and village growth boundaries.

The proposed amendments are considered to be minor in nature and not inconsistent with the actions of the FNCRS.

Consistency with Council's Local Strategies.

The proposed amendments are minor in nature and are not inconsistent with the Ballina Shire Growth Management Strategy 2012.

Department's Practice Notes.

The proposed amendments to the LEP are consistent with the Department's following Practice Notes:

Practice Note 10-007 Zoning for Infrastructure. This practice note states that roads should be zoned consistent with the adjoining land, and with a zone that permits for a range of land uses. Schools should also be zoned consistent with the adjoining land use if that zone permits schools under SEPP (Infrastructure) 2008. The proposed rezoning of the Wollongbar Public School and the road reserves adjacent to the Ballina Racecourse, Kingsford Smith Park and the Serpentine area are consistent with this practice note.

Practice Note PN 11-002 Preparing LEPs using the Standard Instrument: standard zones. This practice note states that the RE2 Private Recreation zone is appropriate for recreation facilities and areas of land leased from councils or State authorities. The proposed rezoning of the Alstonville Showground and Ballina Racecourse to RE2 is consistent with the advice in this Practice Note.

SEPPs

The planning proposal states that the proposal is not inconsistent with any State environmental planning policies (SEPPs). While many SEPPs apply to the subject land parcels, the proposed amendments to the LEP are not inconsistent with these SEPPs.

S117 Directions.

The following S117 directions are applicable to the proposal, 1.1 Business and Industrial Zones, 1.2 Rural Zones, 1.3 Mining Petroleum Production and Extractive Industries, 1.4 Oyster Aquaculture, 1.5 Rural Land, 2.1 Environmental Protection Zones, 2.2 Coastal Protection, 2.3 Heritage Conservation, 2.4 Recreational 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, 3.5 Development Near Licensed Aerodromes, 4.1 Acid Sulfate Soils, 4.3 Flood Prone Land, 4.4 Planning for Bushfire Protection, 5.1 Implementation of Regional Strategies, 5.3 Farmland of State or Regional Significance on the NSW Far North Coast, 6.1 Approval and Referral Requirements, 6.2 Reserving Land for Public Purposes, and 6.3 Site Specific Provisions.

Of the above s117 Directions the proposal is considered to be inconsistent with Direction 3.1.

Direction 3.1 Residential Zones is relevant to the proposal. The direction provides that a planning proposal must not reduce the permissible residential density of land.

The proposal seeks to realign the zone boundaries for some land parcels with the cadastre boundary. This will result in small slivers of R3 zone being removed from some land and an 800sqm MLS replacing a 600sqm MLS for part of a lot zoned R3. While these amendments technically reduce the development potential of the land, in practice the affected land areas are very small and the impact on the development potential of the land is of minor significance.

It is therefore considered that the inconsistency is justified in accordance with the terms of the direction.

Direction 4.4 Planning for Bushfire Protection is relevant to the proposal. Some of the land subject to the proposed amendments is bush fire prone. The Direction requires the RPA to consult with the Commissioner of the NSW Rural Fire Service after a gateway determination has been issued. Until this consultation has occurred the consistency of the proposal with the direction remains unresolved.

Direction 6.2 Reserving land for public purposes is relevant to the planning proposal. The Direction states that a planning proposal should not create alter or reduce zonings of land for public purposes without the approval of the relevant public authority and the Secretary of the Department.

The proposal seeks to rezone several parcels of public land to RE1 Public Recreation to reflect their use as public open space, and correct mapping anomalies. The Council's approval to the rezoning is implicit in the planning proposal which proposes the RE1 zone. It is recommended that the Council consult with Crown Lands Division of NSW Trade and Investment on the proposal to rezone Brunswick Street Reserve, Ballina and the Lake Ainsworth Caravan Park, Lennox Head to RE1. Until this consultation has occurred the consistency of the proposal with the direction remains unresolved.

The proposal is otherwise consistent with S117 Directions.

Environmental social
economic impacts :

There is no likelihood that the proposed amendments will adversely affect critical habitat or threatened species, populations or ecological communities or their habitats. The amendments which enable development on single allotments will still require development consent for future development on the land and therefore any impact on threatened species can be assessed at this stage.

The proposed amendments will not result in significant social or economic impacts , given the minor nature of the amendments.

Assessment Process

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

Timeframe to make LEP : **9 months** Delegation : **RPA**

Public Authority Consultation - s56(2)(d) : **Department of Trade and Investment
NSW Rural Fire Service**

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. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

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Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Ballina General Amendments PLanning proposal Cover Letter 2014-11-12.pdf	Proposal Covering Letter	Yes
Ballina General Amendments Planning Proposal November 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
- 1.3 Mining, Petroleum Production and Extractive Industries
- 1.4 Oyster Aquaculture
- 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
- 3.5 Development Near Licensed Aerodromes
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 5.1 Implementation of Regional Strategies
- 5.3 Farmland of State and Regional Significance on the NSW Far North Coast
- 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 as a 'routine' planning proposal.
 - 2. A community consultation period of 14 days is necessary.
 - 3. The planning proposal is to be completed within 9 months.
 - 4. A written authorisation to exercise delegation be issued to Ballina Shire Council for this planning proposal.
 - 5. A delegate of the Secretary agree that the inconsistency of the proposal with S117 Direction 3.1 is justified in accordance with the terms of the direction.
 - 6. The RPA consult with the Commissioner of the NSW Rural Fire Services in accordance with S117 Direction 4.4 Planning for Bush Fire Protection.
 - 7. The RPA consult with the Crown Lands Division of NSW Trade and Investment on the proposal to rezone Brunswick St Reserve Ballina , and land at Lake Ainsworth Caravan Park, Lennox Head to RE1 Public Recreation in accordance with S117 Direction 6.2 Reserving Land for Public Purposes.

Supporting Reasons :

- The reasons for the recommendation are as follows;
- 1. The proposed amendments are consistent with the strategic planning framework and the inconsistencies with the S117 directions are of minor significance or are justified in accordance with the terms of the directions.
 - 2. The proposed amendments will improve the function, content and consistency of the Ballina LEP 2012 to reflect the community's expectations.

Ballina LEP 2012 – General Amendments (2).

Signature:



Printed Name:

JIM CLARK

Date:

24 November 2014