



Planning Proposal 19/001

» No. 26 Boeing Avenue, Ballina

August 2019 (V2. Gateway) 19/66088

ballina
shire council



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1. Introduction

1.1 Summary of Planning Proposal

This planning proposal applies to Lot 951 DP 1165266, No. 26 Boeing Avenue in the Southern Cross Industrial Estate, Ballina (referred to as the site). The total site area is approximately 3.67 hectares and is zoned B5 Business Development zone under the terms of the Ballina Local Environmental Plan 2012 (BLEP 2012). The land the subject of the proposal is shown on the Site Identification Map contained within Appendix 1.

The site is occupied by the “Harvey Norman Complex” a ‘bulky goods’ (or speciality retail) complex. Currently, the Homemaker Centre is currently occupied by a range of retail businesses (mostly homewares) and a Government administration building (Services NSW).

The landholder’s planning proposal request contended that parts of the existing homemaker complex remain vacant due to the limited range of land uses permissible in the B5 zone. The proponent, in making a planning proposal request to Council, had sought a broad range of land uses to be permitted on the land. The suitability of the site for these land uses was considered by the Council at its Ordinary Meeting of 27 June 2019. A copy of the Council report is provided in Appendix 3. The LEP amendment request has been prepared by Ardill Payne and Partners and is provided as an attachment to the Council report.

The purpose of this planning proposal is to amend Schedule 1 (Additional Permitted Uses) of the BLEP 2012 to add ‘recreation facilities (indoor)’ and ‘veterinary hospitals’ as land uses permitted with development consent on Lot 951 DP 1165266.

1.2 Council Resolutions

Council considered this planning proposal at its Ordinary Meeting of 27 June 2019. The Council resolved as follows (Minute No.270619/11):

1. *That Council proceed to prepare a planning proposal to amend the Ballina LEP 2012 to include ‘recreation facilities (indoor)’, and ‘veterinary hospitals’ as land uses permitted with development consent in relation to Lot 951 DP 1165266, No. 26 Boeing Avenue, Ballina.*
2. *That the planning proposal be reported to the Council for endorsement prior to being referred to the Department of Planning and Environment for Gateway determination.*

The Council endorsed the planning proposal for Gateway determination at its Ordinary Meeting held on 22 August 2019. The Council resolved as follows (Minute No.220819/7):

1. *That Council endorses the planning proposal (BSCPP 19/001), as per Attachment 1 to this report.*
2. *That the planning proposal be forwarded to the Department of Planning and Environment for a Gateway determination.*
3. *That the Department of Planning and Environment be advised that Council is not seeking to exercise the functions of the local plan-making authority under section 3.36(2) of the Environmental Planning and Assessment Act 1979 for this LEP amendment.*

4. *That upon an affirmative Gateway determination being received from the Department of Planning and Environment, the procedural steps associated with progression of the planning proposal be undertaken, including public exhibition.*
5. *That Council receive a further report on the matter following the completion of the public exhibition of the planning proposal.*

A copy of the Council's above resolutions and associated Council reporting is contained in Appendix 3.

1.3 Gateway Determination

To be completed following the Gateway determination.

2. Objectives & Intended Outcomes

The objectives of this planning proposal are to enable a wider range of uses on the subject land. The proposal seeks to achieve this by:

- Amending Schedule 1 (Additional Permitted Uses) of the Ballina Local Environmental Plan 2012 to include recreation facilities (indoor)', and 'veterinary hospitals' as land uses permitted with development consent in relation to Lot 951 DP 1165266, No. 26 Boeing Avenue, Ballina.

The outcomes of this planning proposal will be to:

- Provide increased flexibility in the use of employment lands.

3. Explanation of the Proposal

3.1 Land to Which the Planning Proposal Applies

This planning proposal relates to Lot 951 DP 1165266 located at 26 Boeing Ave, as shown on the Site Identification Map contained within Appendix 1 and in Figure 1 below.



Figure 1: The subject site, outlined in red

The zoning of the land is shown in Figure 2 below.

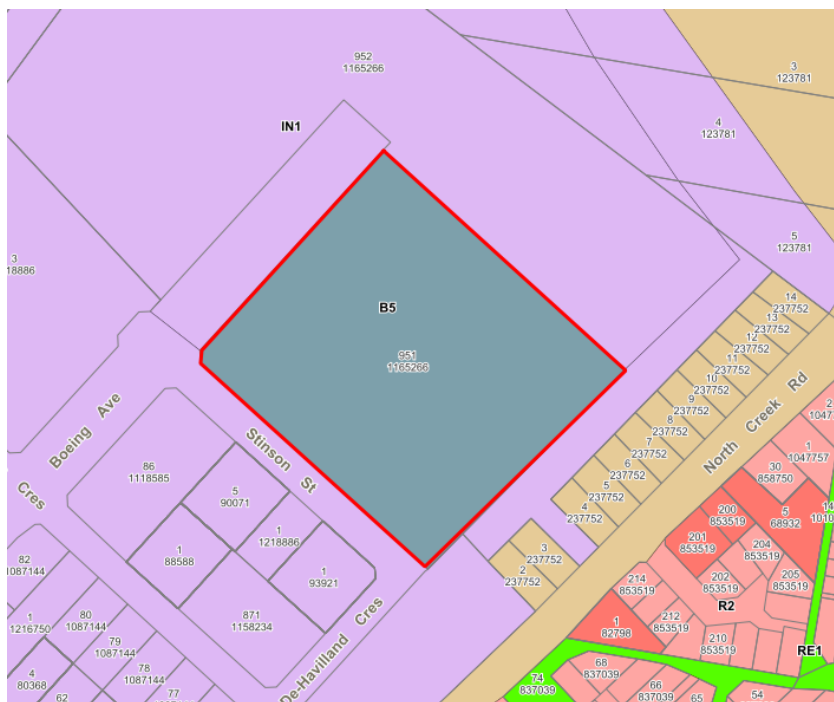


Figure 2: Zoning

3.2 The Proposal – Explanation of Provisions

This planning proposal seeks to amend Schedule 1 (Additional Permitted Uses) of the BLEP 2012 to add 'recreation facilities (indoor)' and 'veterinary hospitals' as land uses permitted with development consent on Lot 951 DP 1165266.

The planning proposal does not seek to amend the zoning, minimum lot size or other development standards applying to the land.

Range of land uses considered by the Council

As noted above, the site is occupied by the “Harvey Norman Complex” a ‘bulky goods’ (or speciality retail) complex. Currently, the Homemaker Centre is occupied by the following businesses:

- Harvey Norman (retail – electrical & homewares)
- Eureka Street Furniture (retail - furniture)
- Forty Winks (retail - homewares)
- Pillow Talk (retail - homewares)
- Original Mattress Factory (home retail)
- Spotlight (retail - manchester and homewares)
- Petstock (retail - pet store)
- Latte lounge (café)
- School locker (retail)
- Service NSW (Government administration)

The landholder’s planning proposal request contended that parts of the existing homemaker complex remain vacant due to the limited range of land uses permissible in the B5 zone. The proponent, in making a planning proposal request to Council, had sought a broad range of land uses to be permitted on the land, including the following:

- Recreation facility (indoor)
- Artisan food and drink industry
- Health services facility
- Medical centre
- Veterinary hospital

The suitability of the site for these land uses was considered by the Council at its Ordinary Meeting of 27 June 2019. In considering the landholders request, Council had regard to

- the impact of the proposal on the availability of sites for specialist retail premises
- the impact of the proposal on other commercial areas in Ballina Shire, where the uses that would be enabled by the amendment are currently permitted and
- the compatibility of additional land uses with existing uses.

On the basis of the above consideration, the Council resolved to amend the BLEP2012 to add ‘recreation facilities (indoor)’ and ‘veterinary hospitals’ as land uses permitted with development consent on the subject land.

A copy of the Council report and associated Minute of the Council is provided in Appendix 3.

4. Justification

4.1 Section A – Need for the Planning Proposal

Q1 Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?

No, the planning proposal is not the result of a local strategic planning statement, strategic study or report.

Q2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. A planning proposal is the appropriate and only mechanism to integrate these changes into the Ballina LEP 2012.

4.2 Section B – Relationship to Strategic Planning Framework

Q3 Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?

North Coast Regional Plan 2016

Ballina is identified in the Plan within the Far North Coast subregion.

The Regional Plan (under Direction 6 - Develop successful centres of employment) encourages the clustering of commercial uses within centres of activity through the following actions:

‘6.3 Reinforce centres through local growth management strategies and local environmental plans as primary mixed-use locations for commerce, housing, tourism, social activity and regional services.

6.4 Focus retail and commercial activities in existing centres and develop place-making focused planning strategies for centres.

6.5 Promote and enable an appropriate mix of land uses and prevent the encroachment of sensitive uses on employment land through local planning controls.’

This proposal retains provisions relating to speciality retail on the site (“Harvey Norman Complex”) with the proposal seeking to allow ‘recreation facilities (indoor) and ‘veterinary hospital’ as additional permitted uses on the land. Provision for these additional land uses is considered consistent with the clustering of like commercial activity on the basis of the following:

- Recreation facilities (indoor) are permissible within the IN1 General Industrial zone, which surrounds the Harvey Norman Complex.
- Veterinary hospital is considered a complementary activity in association with the large format pet supplies business currently operating on the site,

by providing convenience to the public and supporting the viability of the associated business. Veterinary hospitals are also permissible within the IN1 General Industry zone.

The nature of these uses are such that they are not expected to create unreasonable conflict or impacts in relation to the commercial uses within the homemaker centre or use of other commercial zoned land in the shire.

Q4 Will the planning proposal give effect to a council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

Ballina Shire Council Community Strategic Plan 2013-2023

The proposal is considered to be consistent with the following Prosperous Economy and Engaged Leadership outcomes contained within Council's Community Strategic Plan 2017 - 2027:

REF:	OUR OUTCOMES AND WHAT COUNCIL WILL DO	WHAT THE BENEFITS WILL BE
PE1	WE ATTRACT NEW BUSINESS AND VISITORS	
PE1.1	Promote our area as an attractive place to visit and live	Enhanced experiences for residents and visitors Increased population and visitation growth
PE1.2	Provide opportunities for new business	Economy expands over time
PE1.3	Encourage diversification and enhance image of the local economy	Increased resilience of the local economy
PE2	MY BUSINESS CAN GROW AND DIVERSIFY	
PE2.1	Enhance transport and other business networks	Increased business opportunities and growth
PE2.2	Facilitate a range of Council business activities to support economic development	Council contributes to the local economy Council understands the business environment Viable commercial portfolio
PE2.3	Provide efficient and cost effective regulatory environment for doing business	Easier to do business Enhance business relationships
PE3	IMPROVE LIVEABILITY IN THE SHIRE	
PE3.1	Support residential development that delivers services close to home	Lower cost of living
PE3.2	Facilitate and provide affordable infrastructure	More affordable housing
PE3.3	Improve connectivity within the shire	Reduced transport costs

Ballina Retail Strategy 2003

A focus of the Strategy is to ensure the Ballina Town Centre and the Kerr Street Retailing Precinct continue to be the major retail centres in Ballina Shire. The Strategy also states that any decisions relating to retail activity in the region would be based on protecting these major retail centres.

The proposal is not expected to adversely impact on the Shire's retail hierarchy.

Southern Cross Precinct Master Plan 2008 (SCPMP)

The land to which this proposal relates is identified on the Southern Cross Precinct Master Plan 2008 (SCPMP) as "bulky goods retail precinct". The SCPMP provides

Council with a framework for the detailed planning and release of land in the study area and identifies proposed future land use arrangements for the subject land.

The proponent indicates that since the master plan was prepared (approximately eight years ago), changes in the market place have resulted in a reduced demand for bulky goods land leading to vacancies within the Harvey Norman Complex. The demand for bulky goods retailing is discussed in further detail below.

The planning proposal will maintain the ability for the land to be utilised for bulky goods purposes. Given this, the proposal is considered to be generally consistent with the framework, purpose and intent of the SCPMP.

Ballina Shire Bulky Goods Retailing Investigation 2012 and Ballina Shire Bulky Goods Retailing Demand Update 2016

Council commissioned Hill PDA to undertake an investigation into bulky goods and large format retailing (LFR) land uses in Ballina Shire ('the study'). The primary purpose of the study, which was completed in 2012, was to investigate the demand for bulky goods and LFR premises in Ballina Shire over the 2011 to 2026 period.

The study concluded that it would be advantageous for bulky goods and LFR floorspace to be concentrated in one location. In particular, it was recommended that a bulky goods and LFR cluster be established in the Southern Cross Precinct in and around the Harvey Norman Centre, including the Harvey Norman Centre itself and vacant land to the north and west, and that bulky goods premises and LFR floorspace be restricted elsewhere in the shire.

Council commissioned an update to the study in 2016 to inform the proposed rezoning of part of bulky goods precinct (zoned B5) to the IN1 General Industrial zone whilst retaining 'speciality retail' as an additional permitted use on the land. That planning proposal (BSCPP 16/003) was finalised in June 2017.

This planning proposal will address the current short term demand issues whilst retaining bulky goods retailing within the previously identified area for clustering of bulky goods ("Harvey Norman Complex").

Ballina Shire Growth Management Strategy 2012 (BSGMS)

The Ballina Shire Growth Management Strategy 2012 (BSGMS) provides the strategic planning context for urban development in Ballina Shire. The BSGMS includes the following 'Strategic Actions' in relation to the North Ballina locality:

- *Investigate, through the rezoning process, land development opportunities and the provision of public infrastructure identified in the Southern Cross Precinct Master Plan and the West Ballina Structure Plan.*
- *Establish a more detailed planning framework for the long term use and development of industrial areas through Council's development control plan.*
- *Enhance entry treatment including associated with the Ballina/Byron Gateway Airport.*
- *Establish a clustered bulky goods retailing precinct.*
- *Investigate future road connection between Ballina and Lennox Head via North Creek Road.*

The planning proposal is generally consistent with Council's Ballina Shire Growth Management Strategy.

Ballina Major Regional Centre Strategy 2015-2035 (BMRCS)

The Ballina Major Regional Centre Strategy (BMRCS) was prepared following the identification of Ballina in the NSW Far North Coast Regional Strategy as a developing major regional centre. The BMRCS provides a long term strategic planning framework to guide future development in Ballina over the next 20 years.

The BMRCS includes the following 'Strategic Actions' in relation to economic development within the shire:

- *Actively seek to attract key businesses to the shire that provide for long-term employment and innovation. This will involve actively marketing the Southern Cross Industrial Estate and Airport Precinct as an innovation and employment hub.*
- *Promote opportunities associated with the availability of industrial land in proximity to the Ballina-Byron Gateway Airport and the Pacific and Bruxner highways. It is envisaged this will involve the preparation of an 'Economic Development Strategy' to identify opportunities to promote the clustering of industrial land uses that are compatible with the ongoing growth of the Ballina-Byron Gateway Airport.*

The planning proposal is generally consistent with Council's Ballina Major Regional Centre Strategy in that it provides for a variety of employment land use outcomes on the land.

Q5 Is the planning proposal consistent with applicable State Environmental Planning Policies?

The proposal is considered to be generally consistent with applicable State Environmental Planning Policies (SEPPs).

Q6 Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

Yes. A number of Section 117 directions are relevant to the planning proposal. A Section 117 checklist is provided at Appendix 2.

4.3 Section C – Environmental, Social and Economic Impact

Q7 Is there any likelihood that critical habitat or threatened species, population or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No.

The site is developed as a commercial retail complex. As such there are no likely impacts on critical habitat, threatened species or ecological communities or their habitat arising directly as a result of the proposed change of zone.

Q8 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

There are no other significant environmental impacts identified as a result of the proposed rezoning.

Q9 Has the planning proposal adequately addressed any social and economic effects?

The current zoning of the site is for business purposes and primarily bulky goods/speciality retail. The amendment involves providing for additional permitted uses on the site whilst retaining bulky goods opportunities.

The planning proposal is considered to provide benefits to the community via increased economic activity and employment through broadening the range of permissible uses while still allowing bulky goods premises to be 'clustered' in this area.

As such, social and economic outcomes resulting from the proposed rezoning are considered to be positive.

4.4 Section D – State and Commonwealth Interests

Q10 Is there adequate public infrastructure for the planning proposal?

All required public infrastructure is available to the site.

Q11 What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

Consultation will be undertaken with relevant agencies as required by the Gateway determination during the public exhibition stage of the LEP amendment.

5. Mapping

The following maps have been prepared to support this planning proposal and are contained in Appendix 1:

- Map 1 – Site Identification Map (Aerial);
- Map 2 – Site Identification Map (Cadastral).

6. Community Consultation

This proposal will be exhibited in accordance with the Gateway determination and the terms of the *Environmental Planning and Assessment Act 1979*.

7. Timeline

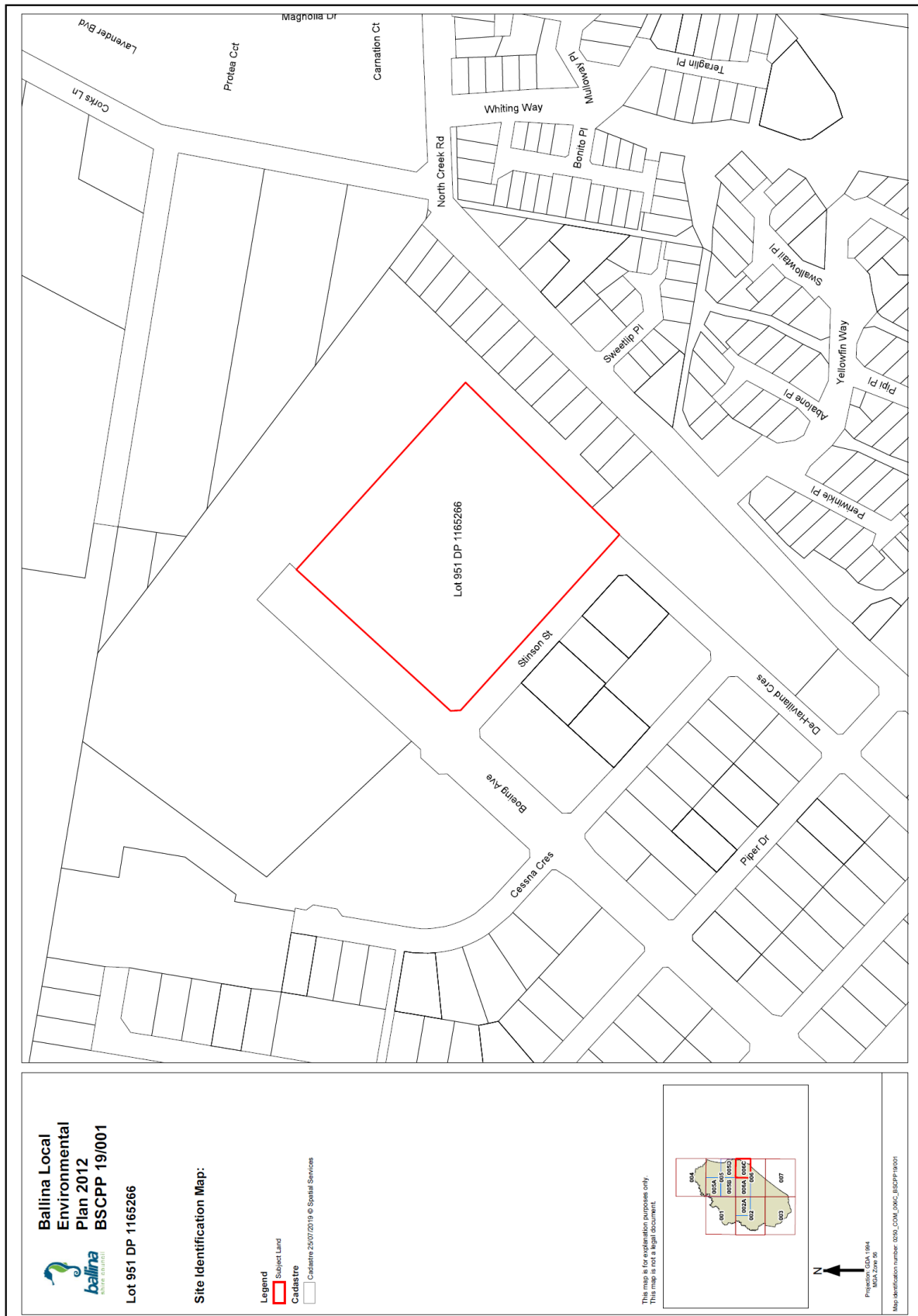
The proposed timeline for completion of the planning proposal is as follows:

Plan Making Step	Estimated Completion (Before)
Gateway Determination	September 2019
Government Agency Consultation	October 2019
Public Exhibition Period	November 2019
Public Hearing	N/A
Submissions Assessment	December 2019
RPA Assessment of Planning Proposal and Exhibition Outcomes	December 2019
Submission of Endorsed LEP to DP&I for Finalisation	January 2020
RPA Decision to Make the LEP Amendment (if delegated)	#
Forwarding of LEP Amendment to DP&I for Notification (if delegated)	#

Council is not seeking delegation with respect to this matter

8. Appendices

Appendix 1 – Maps





Appendix 2 – Section 9.1 Direction Checklist

Section 9.1 Direction Checklist Planning Proposal – No.26 Boeing Avenue, Ballina	
Direction No.	Compliance of Planning Proposal
1. Employment and Resources	
1.1 Business and Industrial Zones	Consistent. The planning proposed does not seek to change the zoning of any business or commercial land. The proposal adds several additional permitted uses to the land, via amendment to Schedule 1 of the BLEP 2012, whilst retaining existing commercial development opportunities.
1.2 Rural Zones	Does not apply to planning proposal.
1.3 Mining, Petroleum Production and Extractive Industries	Does not apply to planning proposal.
1.4 Oyster Aquaculture	Does not apply to planning proposal.
1.5 Rural Land	Does not apply to planning proposal.
2. Environment and Heritage	
2.1 Environmental Protection Zones	Consistent. The planning proposal does not involve the development of land identified as being of environmental significance.
2.2 Coastal Protection	Consistent. The planning proposal enables employment uses on existing employment zoned land and is not in conflict with the planning principles established under the NSW Coastal Policy, the Coastal Design Guidelines and the NSW Coastline Management Manual.
2.3 Heritage Conservation	Consistent. The planning proposal does not involve the development of land on which a heritage item is located, within a heritage conservation area or within the vicinity of a heritage item or conservation area.
2.4 Recreation Vehicle Areas	Consistent. The planning proposal does not involve the development of land for the purpose of a recreation vehicle area.
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	Does not apply to planning proposal.
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	Does not apply to planning proposal.
3.2 Caravan Parks and Manufactured Home Estates	Does not apply to planning proposal.
3.3 Home Occupations	Does not apply to planning proposal.
3.4 Integrated Land Use and Transport	Consistent. There will be no change to the existing nature of the land (employment lands) or the existing accessibility from a transport perspective.
3.5 Development Near Licensed Aerodromes	Justifiably Inconsistent. The land is already zoned for urban purposes, with no change in building height proposed. The proposal has not yet been referred to the relevant airport authorities for consultation in accordance with the direction. However, the proposal will be referred to the relevant airport authorities in accordance with the requirements of the Gateway determination.

Section 9.1 Direction Checklist Planning Proposal – No.26 Boeing Avenue, Ballina	
Direction No.	Compliance of Planning Proposal
3.6 Shooting Ranges	Does not apply to planning proposal.
3.7 Reduction in non-hosted short term rental accommodation period	Does not apply to Ballina Shire.
4. Hazard and Risk	
4.1 Acid Sulfate Soils	Justifiably Inconsistent. The subject land is mapped as containing Class 2 acid sulfate soils. The land is presently zoned for commercial purposes and Clause 7.1 of the Ballina LEP 2012 includes provisions addressing this matter in relation to future development applications.
4.2 Mine Subsidence and Unstable Land	Does not apply to planning proposal.
4.3 Flood Prone Land	Justifiably Inconsistent. The subject land is identified as being subject to the 1 in 100 year flood event. The land is presently zoned for commercial purposes and Clause 7.3 of the Ballina LEP 2012 includes provisions addressing this matter in relation to future development applications.
4.4 Planning for Bushfire Protection	Consistent. The subject land is not affected by bushfire prone land.
5. Regional Planning	
5.1 Implementation of Regional Strategies	Does not apply to Ballina Shire.
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	Does not apply to planning proposal.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Does not apply to planning proposal.
5.5 Development in the vicinity of Ellalong Paxton and Millfield (Cessnock LGA).	Revoked.
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	Revoked.
5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	Revoked.
5.8 Second Sydney Airport: Badgerys Creek	Revoked.
5.9 North West Rail Link Corridor Strategy	Does not apply to Ballina Shire.
5.10 Implementation of Regional Plans	Consistent. The planning proposal is consistent with the North Coast Regional Plan 2016.
5.11 Development of Aboriginal Land Council land	Does not apply to planning proposal.

Section 9.1 Direction Checklist Planning Proposal – No.26 Boeing Avenue, Ballina	
Direction No.	Compliance of Planning Proposal
6. Local Plan Making	
6.1 Approval and Referral Requirements	Consistent. The planning proposal does not introduce any new concurrence or consultation provisions or any additional designated development types.
6.2 Reserving Land for Public Purposes	Consistent. The planning proposal does not create, alter or reduce existing zonings or reservations of land reserved for public purposes.
6.3 Site Specific Provisions	Consistent. The planning proposal does not relate to a specific development proposal to be carried out nor does it contain or refer to drawings that show details of the development proposal.
7. Metropolitan Planning	
7.1 Implementation of the Metropolitan Strategy	Does not apply to Ballina Shire.
7.2 Implementation of Greater Macarthur Land Release Investigation	Does not apply to Ballina Shire.
7.3 Parramatta Road Corridor Urban Transformation Strategy	Does not apply to Ballina Shire.
7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan.	Does not apply to Ballina Shire.
7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Does not apply to Ballina Shire.
7.6 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Does not apply to Ballina Shire.
7.7 Implementation of Glenfield to Macarthur Urban Renewal Corridor	Does not apply to Ballina Shire.
7.8 Implementation of Western Sydney Aerotropolis Interim Land Use and Infrastructure Implementation Plan	Does not apply to Ballina Shire.
7.9 Implementation of Bayside West Precincts 2036 Plan	Does not apply to Ballina Shire.
7.10 Implementation of Planning Principles for the Cooks Cove Precinct	Does not apply to Ballina Shire.

Appendix 3 – Council Resolutions

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS
40 CHERRY STREET BALLINA,
ON 22/08/19 AT 9.00 AM**

8.3 Planning Proposal - No. 26 Boeing Avenue, Ballina

220819/7 RESOLVED

(Cr Keith Williams/Cr Sharon Cadwallader)

1. That Council endorses the planning proposal (BSCPP 19/001), as per Attachment 1 to this report.
2. That the planning proposal be forwarded to the Department of Planning and Environment for a Gateway determination.
3. That the Department of Planning and Environment be advised that Council is not seeking to exercise the functions of the local plan-making authority under section 3.36(2) of the *Environmental Planning and Assessment Act* 1979 for this LEP amendment.
4. That upon an affirmative Gateway determination being received from the Department of Planning and Environment, the procedural steps associated with progression of the planning proposal be undertaken, including public exhibition.
5. That Council receive a further report on the matter following the completion of the public exhibition of the planning proposal.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Ben Smith

8.3 Planning Proposal - No. 26 Boeing Avenue, Ballina

8.3 Planning Proposal - No. 26 Boeing Avenue, Ballina

Delivery Program Strategic Planning

Objective To endorse a planning proposal relating to No. 26 Boeing Avenue, Ballina.

Background

Council considered a report at its June 2019 Ordinary meeting regarding a request to provide for additional permitted uses at No. 26 Boeing Avenue, Ballina.

Council resolved as follows:

1. *That Council proceed to prepare a planning proposal to amend the Ballina LEP 2012 to include 'recreation facilities (indoor)', and 'veterinary hospitals' as land uses permitted with development consent in relation to Lot 951 DP 1165266, No. 26 Boeing Avenue, Ballina.*
2. *That the planning proposal be reported to the Council for endorsement prior to being referred to the Department of Planning and Environment for Gateway determination.*

The purpose of this report is to endorse the planning proposal that has been prepared for Gateway determination and subsequent public exhibition.

Key Issues

- Range of commercial development within the B5 Enterprise Zone

Information

The planning proposal giving effect to the Council's decision of June 2019 is included as Attachment 1 to this report.

A copy of the June 2019 report considered by the Council with regard to this matter is included as Appendix 3 of the planning proposal.

Sustainability Considerations

- **Environment**
The preparation of a planning proposal to enable additional uses on the subject land is not anticipated to have any significant implications for the natural environment.

8.3 Planning Proposal - No. 26 Boeing Avenue, Ballina

- **Social**

The preparation of a planning proposal to enable additional uses on the subject land is not anticipated to have any significant implications for the community's wellbeing, beyond providing services and facilities beneficial to the community.

- **Economic**

The preparation of a planning proposal to enable additional uses on the subject land may have beneficial economic implications for the Homemaker Centre, provided the range of uses to be enabled do not undermine the viability of the specialised retail precinct and other commercial precincts in the Shire.

Legal / Resource / Financial Implications

The preparation of a planning proposal to provide for additional uses on the subject site can be accommodated within existing resources, including through the receipt of associated fees.

The legal effect of the LEP amendment would be to enable the lodgment of development applications for the specified land uses enabled.

Consultation

No community or agency consultation has occurred to date with respect to this matter.

The matter will be subject to the usual community and agency consultation requirements associated with planning proposals and would be subject to the terms of any Gateway determination issued by the NSW Department of Planning and Environment should one be received.

In light of Council's financial interest in the land adjacent to the subject site, it is recommended that delegation of plan making powers not be sought from the Department of Planning and Environment with respect to this matter.

Options

Council has the following options with regard to this matter:

Option 1 – Council could endorse the planning proposal for Gateway determination and subject to receiving a favorable determination, to proceed to public and agency consultation.

This option is recommended on the basis that the uses proposed would appear to have the potential to complement rather than compromise the viability of the specialised retail precinct without adversely impacting on other commercial areas where these uses are currently permitted. Under this option, this matter would be reported back to Council following the conclusion of public and agency consultation.

Option 2 – Council could resolve to amend the planning proposal should it consider this appropriate.

8.3 Planning Proposal - No. 26 Boeing Avenue, Ballina

This approach is not recommended for the reasons outlined in the report considered at the June 2019 Ordinary meeting with regard to this matter. As has been previously considered by Council, additional uses (beyond those provided for in the attached planning proposal) have the potential to undermine the viability of the specialised retail precinct and other commercial precincts in the Shire.

Option 3 – Council could discontinue the planning proposal.

Under this option, Council would write to advise the landholder that the request is no longer supported. This option is not recommended for the reasons detailed with respect to Option 1.

RECOMMENDATIONS

1. That Council endorses the planning proposal (BSCPP 19/001), as per Attachment 1 to this report.
2. That the planning proposal be forwarded to the Department of Planning and Environment for a Gateway determination.
3. That the Department of Planning and Environment be advised that Council is not seeking to exercise the functions of the local plan-making authority under section 3.36(2) of the *Environmental Planning and Assessment Act* 1979 for this LEP amendment.
4. That upon an affirmative Gateway determination being received from the Department of Planning and Environment, the procedural steps associated with progression of the planning proposal be undertaken, including public exhibition.
5. That Council receive a further report on the matter following the completion of the public exhibition of the planning proposal.

Attachment(s)

1. BSCPP 19/001 - Planning Proposal - No. 26 Boeing Ave, Ballina (Council)

8.6 **LEP Amendment Request - 26 Boeing Avenue Ballina**

A **Motion** was moved by Cr Ben Smith and seconded by Cr Sharon Cadwallader

1. That Council proceed to prepare a planning proposal to amend the Ballina LEP 2012 to include 'recreation facilities (indoor)', and 'veterinary hospitals' as land uses permitted with development consent in relation to Lot 951 DP 1165266, No. 26 Boeing Avenue, Ballina.
2. That the planning proposal be reported to the Council for endorsement prior to being referred to the Department of Planning and Environment for Gateway determination.

An **Amendment** was moved by Cr Eoin Johnston and seconded by Cr Nathan Willis

1. That Council proceed to prepare a planning proposal to amend the Ballina LEP 2012 to include 'recreation facilities (indoor)', 'veterinary hospitals' and 'medical centres' as land uses permitted with development consent in relation to Lot 951 DP 1165266, No. 26 Boeing Avenue, Ballina.
2. That the planning proposal be reported to the Council for endorsement prior to being referred to the Department of Planning and Environment for Gateway determination.

The **Amendment** was **LOST**.

FOR VOTE - Cr Jeff Johnson, Cr Eoin Johnston, Cr Nathan Willis and Cr Keith Williams

AGAINST VOTE - Cr David Wright, Cr Phillip Meehan, Cr Sharon Parry, Cr Stephen McCarthy, Cr Sharon Cadwallader and Cr Ben Smith

The **Motion** was **CARRIED**.

FOR VOTE - All Councillors voted unanimously.

270619/11 RESOLVED

(Cr Ben Smith/Cr Sharon Cadwallader)

1. That Council proceed to prepare a planning proposal to amend the Ballina LEP 2012 to include 'recreation facilities (indoor)', and 'veterinary hospitals' as land uses permitted with development consent in relation to Lot 951 DP 1165266, No. 26 Boeing Avenue, Ballina.

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS
40 CHERRY STREET BALLINA,
ON 27/06/19 AT 9.00 AM**

-
2. That the planning proposal be reported to the Council for endorsement prior to being referred to the Department of Planning and Environment for Gateway determination.

FOR VOTE - All Councillors voted unanimously.

8.6 LEP Amendment Request - 26 Boeing Avenue Ballina

8.6 LEP Amendment Request - 26 Boeing Avenue Ballina

Delivery Program Strategic Planning

Objective To seek Council's direction on an LEP amendment request relating to the Harvey Norman site in the Southern Cross Industrial Estate.

Background

Council has received a request to amend the Ballina Local Environmental Plan 2012 from Ardill Payne & Partners on behalf of the owners of Lot 951 DP 1165266, No. 26 Boeing Avenue, Ballina (Attachment 1). The site comprises the Harvey Norman Homemaker Centre complex.

The site is identified red in the map below.



Ballina Shire Council
40 Cherry Street
BALLINA NSW 2463
PO Box 100
BALLINA NSW 2463
1300 864 444
council@ballina.nsw.gov.au
www.ballina.nsw.gov.au



Lot 951 DP 1165266, No. 26 Boeing Avenue,
Ballina.

ballina shire council
geographical information system
Projection: GDA94 / MGA zone 56
Date: 12/04/2019

The subject site is zoned B5 Business Development zone under the terms of the *Ballina Local Environmental Plan 2012*. The B5 Business Development zone has a relatively limited range of uses listed as permissible with consent. The subject planning proposal request seeks Council's support to amend the LEP to provide for a broader range of the uses as permissible on the site by way of amendment to Schedule 1 (Additional Permitted Uses).

8.6 LEP Amendment Request - 26 Boeing Avenue Ballina

The purpose of this report is to consider the key issues relating to the request and seek the Council's direction regarding options for progressing the matter.

Key Issues

- Commercial development and appropriate zonings

Information

Prior to the introduction of the Ballina LEP 2012, 'bulky goods retailing' was permitted in Ballina Shire's general industrial zone. Following the introduction of the State Government's Standard Instrument LEP, bulky goods retailing (now termed 'specialised retail premises') was not provided for in the IN1 General Industrial zone and such uses were accommodated via introduction of the B5 Business Development zone.

The subject site is the only land to which the B5 Business Development zone is currently applied in Ballina Shire. Specialised retail premises is, however, listed as an additional permitted use on the adjacent site (owned by Ballina Shire Council) that was previously zoned B5 but which was rezoned to IN1 General Industrial zone by Amendment No. 31 to the Ballina LEP 2012 (finalised 10/11/2017).

Aside from the specialised retail use enabled in the B5 Business Development zone, the zone has a relatively limited range of uses listed as permissible with consent, namely:

Centre-based child care facilities; Garden centres; Hardware and building supplies; Kiosks; Landscaping material supplies; Oyster aquaculture; Passenger transport facilities; Respite day care centres; Restaurants or cafes; Roads; Signage; Specialised retail premises; Take away food and drink premises; Tank-based aquaculture; Warehouse or distribution centres.

The range of permitted land uses is based on mandatory requirements set out under the Standard Instrument LEP and identification of land uses that are seen as compatible with bulky good retailing (specialised retail premises).

Other land uses not identified above are prohibited in the B5 Business Development zone.

Currently, the Homemaker Centre is occupied by the following businesses:

- Harvey Norman (retail – electrical & homewares)
- Eureka Street Furniture (retail - furniture)
- Forty Winks (retail - homewares)
- Pillow Talk (retail - homewares)
- Original Mattress Factory (home retail)
- Spotlight (retail - manchester and homewares)
- Petstock (retail - pet store)
- Latte lounge (café)
- School locker (retail)
- Service NSW (Government administration)

8.6 LEP Amendment Request - 26 Boeing Avenue Ballina

The landholder contends that parts of the existing homemaker complex remain vacant due to the limited range of land uses that are permissible in the B5 zone.

Consequently, the landholder is seeking Council's support to provide for the following additional uses as permissible by way listed in Schedule 1 (Additional Permitted Uses) of the LEP:

- Recreation facility (indoor)
- Artisan food and drink industry
- Health services facility
- Medical centre
- Veterinary hospital

There are two aspects to the subject request, namely:

- The merit of the request in terms of the implications for commercial activity in Ballina Shire; and
- The preferred mechanism for accommodating the request, if supported.

With respect to the merit of the request, it is acknowledged that the limited range of land uses listed as permissible in the B5 Business Development zone may be contributing to parts of the existing development remaining vacant or under-occupied.

In developing the adjacent site, Council faced similar issues with respect to having a limited suite of permissible land uses available.

In that case, as noted, Council's site was zoned from the B5 zone to the IN1 General Industrial zone with 'specialised retail premises' listed as an additional permitted use in Schedule 1 of the BLEP 2012.

Notwithstanding, as noted above a substantial portion of the Homemaker Centre is currently occupied by specialist retail.

Further, it is appropriate to consider several issues in association with providing additional permissible land uses on the site, including:

- the impact of the proposal on the availability of sites for specialist retail premises
- the impact of the proposal on other commercial areas in Ballina Shire, where the uses that would be enabled by the amendment are currently permitted and
- the compatibility of additional land uses with existing uses.

With respect to the first dot point, opportunities for specialised retail premises in Ballina Shire are currently limited to the subject land and adjacent zoned but undeveloped Council owned site.

The nomination of these sites (and subsequent development of the subject site) for this purpose was undertaken following Council's consideration of a bulky goods retailing study (Hill PDA 2012).

8.6 LEP Amendment Request - 26 Boeing Avenue Ballina

On the basis of this study, and subsequent studies, the demand for 'specialised retail premises' is projected to grow over time.

Council's strategic approach to the provision of specialised retail has been to cluster such uses within the vicinity of the Homemaker Centre.

This approach provides strategic advantages associated with having an integrated retailing precinct dedicated to this purpose.

It is anticipated that the advantages of the precinct will be further enhanced following further development of the adjacent site and the extension of the servicing road network.

Given the anticipated demand (over the longer term) for specialised retail, it is reasonable that Council consider limiting the range of other uses that might undermine the viability of the precinct as an identified specialised retail precinct and consume the limited land enabled for this purpose in the LEP.

The following section addresses the second and third points listed above with respect to the specific proposed land uses.

The key differences between the permissible land uses in the B5 and IN1 zones, that are central to the consideration on this matter, are shown in the following table.

Land use	IN1 General Industrial	B5 Business Development
Specialised retail premises	x	✓
Recreation facilities (indoor)	✓	x
Artisan food and drink industry	✓	x
Health services facilities	x	x
Medical centres*	x	x
Veterinary hospitals	✓	x

* 'medical centre' is a form of 'health services facility'

The following section gives consideration to each of the above land uses with respect to the subject site (with the exception of specialised retail premises which is a given with respect to being an enabled use on the subject site).

Recreation facilities (indoor)

Recreation facilities (indoor) is defined as follows:

recreation facility (indoor) means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.

Indoor recreation facilities are permitted in the IN1 General Industry zone.

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On the basis of development and compliance activity, Council is aware that there is growing demand for indoor recreation facilities.

Further, a shortage of suitable sites for such facilities may be contributing to increasing incidences of “personal training” activities occurring within residential locations, with associated amenity impacts.

It is understood that the landholder has a potential gymnasium tenant for a vacant lot within the Homemaker Centre site (subject to the planning proposal being finalised).

It was on this basis that the landholder's representatives first approached Council staff regarding the proposal.

The nature of indoor recreational facilities is such that this type of use is not expected to create unreasonable conflict or impacts in relation to the commercial uses within the homemaker centre or use of other commercial zoned land in the shire.

It is recommended that provision for indoor recreation facilities on the subject land be enabled through the LEP.

Artisan food and drink industry

Artisan food and drink industry is defined as follows:

***artisan food and drink industry** means a building or place the principal purpose of which is the making or manufacture of boutique, artisan or craft food or drink products only. It must also include at least one of the following:*

- (a) a retail area for the sale of the products,*
- (b) a restaurant or cafe,*
- (c) facilities for holding tastings, tours or workshops.*

This land use has been introduced (via the Standard Instrument LEP) to accommodate tourist and food service activity in association with boutique food product manufacturing activity. Food product manufacturing activity, as a singular activity, is provided for the IN1 General Industry zone as a form of light industry.

Whilst some of the uses associated with such uses are retail in nature (including food service), the core activity is that of (food product) manufacturing. Potentially, such manufacturing activities involve the emission of noise, odour and heavy vehicle movements that are generally incompatible with a retail precinct.

Further, Council's economic development strategy includes an action relating to the potential clustering of such activities within a ‘food hub’ on land adjacent to the Ballina-Byron Gateway Airport.

This location is preferred for such uses, by virtue of the potential to leverage passing airport traffic and supporting industry clustering of like (and related) industries.

It is recommended that the provision for artisan food and drink industry within the Homemaker Centre not be supported.

8.6 LEP Amendment Request - 26 Boeing Avenue Ballina

Health services facilities

Health services facilities is defined as follows:

health services facility means a building or place used to provide medical or other services relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or treatment of injury to persons, and includes any of the following:

- (a) a medical centre,
- (b) community health service facilities,
- (c) health consulting rooms,
- (d) patient transport facilities, including helipads and ambulance facilities,
- (e) hospital.

The above definition includes 'medical centres'.

As a consequence, the listing of 'medical centres' as a separate use is unnecessary where 'health services facilities' are identified as being permissible, unless the Council is of the view that medical centres should be allowed whereas the broader use of health services facilities (which include other health services activities) should not.

Medical centre is defined as follows:

medical centre means premises that are used for the purpose of providing health services (including preventative care, diagnosis, medical or surgical treatment, counselling or alternative therapies) to out-patients only, where such services are principally provided by health care professionals. It may include the ancillary provision of other health services.

Health service facilities (including medical centres) are not permissible in either the B5 or IN1 zones.

Currently, health service facilities in Ballina are provided for at Ballina District Hospital, with the majority of medical specialists (including several medical centres) located along Tamar Street.

In addition, several health services facilities (including medical centre, pathology and dental) are currently located at the Tamar Street retail precinct.

The provision of such facilities in locations that are well-served by public transport services is preferred.

Further, the clustering of such facilities provides public convenience and supports the viability of individual businesses (including allied or supporting industries) within the precinct.

The provision of medical services within the Ballina CBD area was also reinforced as an appropriate strategic approach through a review examining the location of health services land uses in the Ballina locality undertaken in 2013 as an action of the Ballina Shire Local Growth Management Strategy.

It is recommended that the provision for health services facilities within the Homemaker Centre not be supported.

8.6 LEP Amendment Request - 26 Boeing Avenue Ballina

Veterinary hospitals

Veterinary hospital is defined as follows:

***veterinary hospital** means a building or place used for diagnosing or surgically or medically treating animals, whether or not animals are kept on the premises for the purpose of treatment.*

It is noted that a bulk pet retail outlet (Petstock) is current located within the subject site.

There appears to be logic to the clustering of veterinary services with pet related retail facilities, in providing convenience to the public and supporting the viability of the associated businesses.

Further, it is not anticipated that the provision of veterinarian services would conflict with other specialised retail activities within the precinct or result in adverse impacts associated with use of other commercial zoned land in the shire.

On the basis of the above, it is recommended that provision for veterinary hospitals on the subject site be enabled through the LEP.

Mechanism for facilitating additional uses

As outlined, the landholder has requested that five additional uses be enabled via Schedule 1 to the LEP (Additional permitted uses).

It is recommended that only two additional uses are suitable for inclusion on the subject land, beyond those uses already enabled in the B5 Business Development zone, namely 'recreation facility (indoor)' and 'veterinary hospital'.

Enabling of these land uses as permissible with development consent could be provided for either through Schedule 1 (site specific) or via a change to the B5 zone land use table (applicable wherever the B5 zone is applied).

This is the recommended approach, with the final mechanism for permissibility to be determined through the planning proposal process.

An alternative approach would involve amending the applicable zone from B5 Business Development zone to IN1 General Industry zone (the more permissive zone) and listing the remaining additional uses to be enabled (that are not otherwise permissible in the zone) via Schedule 1.

As outlined, 'artisan food and drink industry', 'recreational facilities (indoor)' and 'veterinarian hospitals' are listed as permissible in the IN1 zone.

In this case, the additional uses to be enabled would include 'specialised retail premises' and 'health services facilities' (or 'medical centres' depending on whether Council supported providing for medical centres but not other forms of health services facilities on the site).

This approach is not recommended as it is contrary to the established strategic planning framework for bulky goods retailing in the Shire.

8.6 LEP Amendment Request - 26 Boeing Avenue Ballina

Sustainability Considerations

- **Environment**

The preparation of a planning proposal to enable additional uses on the subject land is not anticipated to have any significant implications for the natural environment.

- **Social**

The preparation of a planning proposal to enable additional uses on the subject land is not anticipated to have any significant implications for the community's wellbeing, beyond providing services and facilities beneficial to the community.

- **Economic**

The preparation of a planning proposal to enable additional uses on the subject land may have beneficial economic implications for the Homemaker Centre, provided the range of uses to be enabled do not undermine the viability of the specialised retail precinct and other commercial precincts in the Shire.

Legal / Resource / Financial Implications

The preparation of a planning proposal to provide for additional uses on the subject site can be accommodated within existing resources, including through the receipt of associated fees.

The legal effect of the LEP amendment would be to enable the lodgment of development applications for the specified land uses enabled.

Consultation

No community or agency consultation has occurred to date with respect to this matter.

The matter will be subject to the usual community and agency consultation requirements associated with planning proposals and would be subject to the terms of any Gateway determination issued by the NSW Department of Planning and Environment should one be received.

In light of Council's financial interest in the land adjacent to the subject site, it is recommended that delegation of plan making powers not be sought from the Department of Planning and Environment with respect to this matter.

Options

The following options are presented for the Council's consideration:

Option 1 – Council could resolve to prepare a planning proposal to permit 'recreation facilities (indoor)' and 'veterinarian hospitals' on the subject land. This would be achieved either through the use of Schedule 1 or a change in the land use table for the B5 zone.

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This option would involve the preparation of a planning proposal, which would be reported to Council for endorsement prior to referring the matter to the Department of Planning and Environment for Gateway determination.

This option is recommended on the basis that these uses would appear to have the potential to complement rather than compromise the viability of the specialised retail precinct without adversely impacting on other commercial areas where these uses are currently permitted.

Option 2 – Council could resolve to prepare a planning proposal to permit a different combination of the proposed land uses.

This approach is not recommended for the reasons outlined in this report. In particular, some of the additional land uses being sought on the site have the potential to undermine the viability of the specialised retail precinct and other commercial precincts in the Shire.

Option 3 - Council could resolve to decline the planning proposal request.

Under this option, Council would write to advise the landholder that the request is not supported. This option is not recommended for the reasons detailed with respect to Option 1.

RECOMMENDATIONS

1. That Council proceed to prepare a planning proposal to amend the Ballina LEP 2012 to include 'recreation facilities (indoor)' and 'veterinary hospitals' as land uses permitted with development consent in relation to Lot 951 DP 1165266, No. 26 Boeing Avenue, Ballina.
2. That the planning proposal be reported to the Council for endorsement prior to being referred to the Department of Planning and Environment for Gateway determination.

Attachment(s)

1. LEP amendment request - 26 Boeing Avenue Ballina Lot 951 DP 1165266 - Ardill Payne

Appendix 4 – Gateway Determination

A copy of the Gateway determination will be included here.