

## Planning Services

### Plan Finalisation Report

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**Local Government Area:** Ballina

**File Number:** 17/02525

#### 1. NAME OF DRAFT LEP

Ballina Local Environmental Plan 2012 Amendment No.31 (draft LEP).

#### 2. SITE DESCRIPTION

The planning proposal applies to land at Boeing Avenue in the Southern Cross Industrial Estate, Ballina (part of Lot 952 DP 1165266 and part of lots 2-5 DP 123781) and the adjacent road reserves (the site).

#### 3. PURPOSE OF PLAN

The draft LEP seeks to:

- rezone the site from B5 Business Development to IN1 General Industrial;
- change the minimum lot size from 10,000m<sup>2</sup> to 1000m<sup>2</sup>; and
- enable bulky goods premises as an additional permitted use over the subject land.

The proposal rezones approximately 6 hectares of employment land.

The draft LEP also proposes to correct an unrelated error in Schedule 1 and on the Additional Permitted Uses Map.

#### 4. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Ballina Electorate. Ms Tamara Smith MP is the State Member for Ballina.

The Hon Justine Elliot MP is the Federal Member for Richmond.

To the regional planning team's knowledge, neither MP has made any written representations regarding the proposal.

**NSW Government Lobbyist Code of Conduct:** There have been no meetings or communications with registered lobbyists with respect to this proposal.

**NSW Government reportable political donation:** There are no donations or gifts to disclose and a political donation disclosure is not required

#### 5. GATEWAY DETERMINATION AND ALTERATIONS

The Gateway determination issued on 20 February 2017 (**Attachment C**) determined that the proposal should proceed subject to conditions.

The Gateway determination was altered on 11 July 2017 (**Attachment D**) to include a correction to an unrelated error in Schedule 1 and the Additional Permitted Uses Map of Ballina LEP 2012. This matter is discussed further in section 8 of this report.

The proposal is due to be finalised by 27 November 2017.

## **6. PUBLIC CONSULTATION**

In accordance with the Gateway determination, community consultation was undertaken by Council between 22 March and 7 April 2017. Only one submission was received from the adjoining land owner who requested that their land, Lot 951 DP 1165266, be included in the planning proposal for rezoning.

Lot 951 is already developed for bulky goods retail purposes being the Ballina Homemaker Centre. Council advised the landowner of Lot 951 that their land would not be included with the current planning proposal as to do so would require further community consultation however Council would be prepared to consider a request for a separate planning proposal relating to lot 951. Council's handling of this matter is considered to be appropriate.

## **7. ADVICE FROM PUBLIC AUTHORITIES**

Council was required to consult with the NSW Rural Fire Services (RFS) in accordance with condition 2 of the Gateway determination. The RFS raised no concerns or issues to the planning proposal and the inconsistency with S117 Direction 4.4 was agreed to by a delegate of the Secretary on 16 June 2017.

## **8. POST EXHIBITION CHANGES**

No changes to the planning proposal for the subject land have been made post exhibition.

The planning proposal was however amended to include a correction to an unrelated error in Schedule 1 and on the Additional Permitted Uses Map of Ballina LEP 2012.

When finalising the mapping for the planning proposal Council identified an error in Schedule 1 of the Ballina LEP 2012 and on the Additional Permitted Uses (APU) Map (APU\_006A). This error resulted from Ballina LEP 2012 Amendment No 32 which was made by Council under delegation and published on 19 May 2017.

Amendment No. 32 to the Ballina LEP 2012 permitted a freight transport facility and warehouse or distribution centre as additional permitted uses on land at Paperbark Close and Teven Road, West Ballina. Schedule 1 referred to this matter on the Additional Permitted Uses Map as "Area D". Additional Permitted Uses Map APU\_006A indicated the site as "Area D" accordingly.

Council has identified that a reference to "Area D" already existed in Schedule 1 and on the APU map for a dual occupancy at North Creek Road, Lennox Head. The duplication of the reference to "Area D" for the West Ballina freight transport and warehouse facility was therefore an error.

Rather than preparing a planning proposal solely to correct this typographical error, Council has amended the existing planning proposal for Boeing Avenue to also include the correction of the error in Schedule 1 and on the APU Map. This approach was considered to be appropriate.

The planning proposal now includes an amendment to the reference to "Area D" in item 4 of Schedule 1 to "Area H" and the annotation on map APU\_006A to match.

The Gateway determination was altered on 11 July 2017 (**Attachment D**) to include this change.

## 9. ASSESSMENT

It is considered that the LEP amendment is appropriate and it is recommended that the Minister's delegate make the LEP under section 59(2)(a) of the Act as submitted by Council as the relevant planning authority.

The Council has complied with the conditions of the Gateway determination (as amended), and has adequately addressed issues raised during community consultation.

### Section 117 Directions

There are no unresolved inconsistencies with Section 117 directions. Council consulted with the NSW Rural Fire Services as required by Direction 4.4 and the inconsistency of the proposal with this direction was agreed to by the delegate of the Secretary on 16 June 2017.

### State Environmental Planning Policies

The draft LEP is consistent with relevant SEPPs or deemed SEPPs. An assessment of the proposal against the relevant SEPPs was conducted prior to the issue of the Gateway determination. No changes to the planning proposal have occurred which has caused the proposal to be inconsistent with the relevant SEPPS.

## 10. MAPPING

The LEP amendment will change the following maps:

- LZN\_006C;
- LSZ\_006C;
- APU\_006A: and
- APU\_006C.

The maps have been checked by the Regional Team and the Department's GIS team and are correct. The maps were forward to Parliamentary Counsel's Office on 1 August 2017.

## 11. CONSULTATION WITH COUNCIL

Council was consulted on the terms of the draft instrument (**Attachment E**). Council confirmed on 20 October 2017 that it was satisfied with the draft and that the Plan should be made (**Attachment F**).

## 12. PARLIAMENTARY COUNSEL OPINION

On 26 October, 2017 Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**.

## 13. RECOMMENDATION

It is recommended that the Minister's delegate determine to make the draft LEP for the following reasons:

1. The proposal has the potential to provide an increased supply of employment generating land uses in an established industrial area of Ballina LGA;
2. The subject land is well located to contribute to the demand for employment lands in Ballina LGA; and
3. The proposal is not considered to be inconsistent with the strategic planning framework.

