

Ballina LEP 2012 – Rezoning of land at Boeing Avenue and Corks Lane, Ballina.

Proposal Title : **Ballina LEP 2012 – Rezoning of land at Boeing Avenue and Corks Lane, Ballina.**

Proposal Summary : **The planning proposal seeks to amend Ballina LEP 2012 by rezoning part of Lot 952 DP 1165266, 25-39 Boeing Avenue and part of Lots 2-5 DP 123781, Corks Lane, Ballina from B5 Business Development to IN1 General Industrial and applying a 1000m2 minimum lot size and listing “bulky goods premises” as an additional permitted use for the land in Schedule 1 of the Ballina LEP 2012.**

PP Number : **PP_2017_BALLI_003_00** Dop File No : **17/02525**

Proposal Details

Date Planning Proposal Received : **10-Feb-2017** 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 : **25-39 Boeing Avenue**

Suburb : City : **Ballina** Postcode : **2478**

Land Parcel : **Part of Lot 952 DP 1165266, 25-39 Boeing Avenue and part of Lots 2-5 DP 123781, Corks Lane**

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 : **N/A** Release Area Name : **N/A**

Regional / Sub Regional Strategy : **Far North Coast Regional Strategy** Consistent with Strategy : **Yes**

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MDP Number :		Date of Release :	
Area of Release (Ha) :	6.00	Type of Release (eg Residential / Employment land) :	Employment Land
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.		
Have there been meetings or communications with registered lobbyists? :	No		
If Yes, comment :	The Northern Region office has not met any lobbyists in relation to this proposal, nor has the Region been advised of any meeting between other officers within the agency and lobbyists concerning this proposal.		

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 describes the intention of the planning proposal. The proposal intends to rezone the subject land and amend the minimum lot size to enable a wider range of employment land uses and enable subdivision of the land while retaining permissibility for bulky good retailing. It is intended that this will provide increased flexibility of the employment land and provide an increased supply of serviced industrial lots as an extension of the Southern Cross Industrial Estate.**

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 intends to amend Ballina LEP 2012 to rezone the subject land from B5 Business Development to IN1 General Industrial, change the minimum lot size from 10,000m2 to 1000m2 and list "bulky goods premises" as an additional permitted use in Schedule 1 of the Ballina LEP 2012.**

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

b) S.117 directions identified by RPA :

1.1 Business and Industrial Zones

* May need the Director General's agreement

2.1 Environment Protection Zones

- 2.2 Coastal Protection
- 2.3 Heritage Conservation
- 2.4 Recreation Vehicle Areas
- 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
- 6.1 Approval and Referral Requirements
- 6.2 Reserving Land for Public Purposes
- 6.3 Site Specific Provisions
- 5.10 Implementation of Regional Plans

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 this report.**

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **The planning proposal contains maps which adequately show the subject land, the current and proposed zone and minimum lot size. These maps are adequate for community consultation purposes. Maps which comply with the Standard Technical Requirements for SI LEP Maps will need to be prepared before the LEP is made.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **The planning proposal does not nominate a community consultation period however notes that community consultation will be in accordance with the requirements of the Gateway determination. The cover letter to the proposal indicates that Council intends to undertake a 28 exhibition period.**

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 generally consistent with the strategic planning framework and the surrounding land zoning pattern. The proposal does not reclassify land. The Guide also suggests written notification to the affected and adjoining land owners. It is therefore considered that a community consultation period of 14 days is appropriate and affected and adjoining properties should be notified in writing. It is also noted this does not restrict Council from extending the exhibition to 28 days should it wish.

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 July 2017. To ensure the RPA has adequate time to complete the exhibition, reporting, and legal drafting, it is recommended that a time frame of 9 months is appropriate.

Delegation.

The RPA has requested that the Department retain delegation for the making of this LEP amendment given that the land is owned by Council and it wishes to avoid any perceived conflict of interest. It is recommended that an Authorisation for the execution of delegation not be issued to the RPA.

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. Advising that delegation of plan making functions is not being sought.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation
to Principal LEP :

The Ballina LEP 2012 is in force. This planning proposal seeks an amendment to the Ballina LEP 2012.

Assessment Criteria

Need for planning
proposal :

The proposal is not the result of a strategic study or report. The planning proposal has been initiated by Council's Commercial Services Section. The land is owned by Ballina Council.

The site is located on the north eastern edge of the Ballina Southern Cross Industrial Estate. The subject land has an area of approximately six (6) hectares, is currently vacant and consists of paddocks of maintained grassland. The subject land is bordered to the south east by the 'Harvey Norman Complex' which consists of numerous bulky goods retail premises. Land to the west and south west are industrial land uses while to the north east is vacant rural land and residential land to the east along North Creek Road.

The land is currently zoned B5 Business Development and has a 10,000sqm minimum lot size (MLS) applied to it. The intent of the B5 zone in the Ballina LEP 2012 was to provide a location for bulky goods retailing to be developed. The proposal seeks to rezone the land to IN1 General Industrial and apply a 1000sqm MLS to enable the land to be developed for industrial land uses. The proposal also seeks to enable the land to be developed for bulky goods premises as an additional permitted use.

Council's Commercial Service Section indicates that changes in the market place have resulted in a diminished supply of and increased demand for general industrial lots coupled with a reduced demand for bulky goods land.

Council had commissioned Hill PDA to undertake a Bulky Goods Retailing Investigation in 2012. The report identified that demand modelling suggested that Ballina could currently

support around 52,000sqm of bulky goods retailing, increasing to 70,000sqm by 2026 due to population growth. The area of existing bulky goods floor space at the time was around 32,000sqm occupied and 4000sqm vacant. There was potential for non-bulky goods Large Format Retailing (LFR) space of up to 17,000sqm.

The investigation found that Ballina would need approximately 49,500sqm of additional bulky goods and LFR space by 2016, this amounted to approximately 12 hectares.

The report identified that it would be advantageous for Council's planning controls to concentrate bulky goods retailing in one location and suggested a location in the Southern Cross Precinct around the Harvey Norman Complex. The report recommended a B5 zoning for this land.

In response to the request from Council's Commercial Services Section to rezone the subject land from B5 Business Development to IN1 General Residential, Council again commissioned Hill PDA to undertake an update of the Bulky Goods Retailing investigation (2016 Update).

The 2016 Update report identifies that population projections for Ballina LGA have reduced and demand for bulky goods retailing floor areas has declined. The report notes that there has been only one enquiry in the past 5 years for bulky good retailing and two projects that were in the pipeline (Masters 13,500sqm and Homeworld 29,000sqm) have not progressed.

Demand modelling suggests that Ballina could still support 52,000sqm of bulky good retailing increasing to 63,500sqm by 2031. This is a reduction from the expected demand of 70,000sqm by 2026. Ballina LGA contains approximately 48,000sqm of bulky goods and LFR floor space amounting to a 4000sqm undersupply at present and increasing to 15,500 sqm undersupply by 2031. To accommodate this undersupply Council would require approximately 1ha of land at present and 4 hectares by 2031.

While the rezoning of the subject land to IN1 may result in the land being lost to bulky goods retailing if the demand for traditional industrial land uses is stronger, the 2012 Bulky Goods Retailing Investigation identified the Homeworld site (29,000sqm) and the Masters site (13,500sqm) as the second and third most suitable sites for bulky good retailing in the LGA. Therefore should all of the subject land be developed for industrial land uses then there are other areas in the LGA which have been identified as being suitable for bulky goods retailing which could be rezoned for such a use to meet the expected demand.

If rezoned to IN1 General Industrial the subject land would provide approximately 5 years supply of industrial land for Ballina local government area (LGA).

The update report concludes that it is reasonable to proceed with the rezoning of the subject land to IN1 General Residential with the addition of bulky goods retailing as an additional permitted use. This approach will provide Council with flexibility to consider both forms of development, addressing the short term demand for traditional industrial land while enabling consideration of potential bulky goods developments in a locality which has previously been identified as appropriate for such uses.

Bulky goods premises are one of only 5 land uses which are currently permitted in the B5 zone but which will become prohibited in the IN1 zone. The others are child care centres; kiosks; respite day care centres, and restaurants or cafes. It is considered that the proposed rezoning would not have an adverse impact on the provision of land for these other land uses which are permissible in a wide range of other zones. The 2016 Update report identifies that there are currently eight (8) vacant units in the Harvey Norman Complex amounting to approximately 4000sqm that will retain a B5 zone and could therefore be developed for these purposes to service this locality. The IN1 zone is an open zone whereas the B5 zone is a closed zone so the IN1 zone enables a greater range of

employment generating land uses.

Consequently the proposal to allow bulky goods premises as an additional permitted use on the land while rezoning the land to IN1 is considered to be appropriate in this instance.

The proposed 1000sqm MLS is considered to be appropriate as it will enable the land to be subdivided into more conventional lots for industrial purposes. The 1000sqm MLS is consistent with the MLS for other IN1 zoned land in the Ballina LGA.

The subject land is flood prone, contains acid sulfate soils, is bushfire prone and is located within the proximity of the Ballina Byron Airport. The land is currently zoned B5 Business Development and it is considered that a change to IN1 General Industrial is not likely to result in a significant intensification of development potential of the land nor permissibility of sensitive land uses such as residential development and therefore it is not considered that further site investigations into the constraints of the site are necessary.

The proposal to rezone the land and permit bulky goods retailing as an additional permitted use is the best means of achieving the intent of the proposal.

Consistency with strategic planning framework :

FAR NORTH COAST REGIONAL STRATEGY (FNCRS).

The subject land is generally consistent with the FNCRS. The land is located within the town and village growth boundary identified in the FNCRS.

The FNCRS contains the following action relating to bulky goods retailing:

Councils will identify opportunities for bulky goods style retailing in appropriate locations in commercial centres and restrict this form of retailing in employment and industrial zones as set out in the Government Policy 'Right Place for Business'.

The proposal to enable bulky good premises as an additional permitted use on the subject land despite the proposed IN1 zoning is essentially consistent with this direction as the site has previously been identified as a suitable location for bulky good retailing by a specific LGA wide study which informed the current B5 zone. The proposal will to allow bulky good retailing only on the subject land and not on other industrial zoned land.

The continuation of permissibility will retain consistency with the intent of this investigation while satisfying another actions of the FNCRS which require that sufficient employment land is identified to meet the needs of the regional economy and currently vacant employment land is protected to accommodate the new jobs required to 2031. Council has identified that the current demand for employment land relates to traditional industrial land and demand for land for bulky good retailing has declined.

DRAFT NORTH COAST REGIONAL PLAN

The subject land is located within the urban growth area boundary of the Draft North Coast Regional Plan (the 'Draft RP'). The Draft RP requires that there be an adequate supply of employment land aligned with demand. The update to the Bulky Good Retailing Demand investigation provides evidence that demand for land for bulky goods premises in Ballina has declined while demand for traditional industrial land remains.

The proposal is also consistent with the action to provide for well located employment land as the subject land is located within an existing industrial estate as well as being identified as a suitable location for the clustering of bulky goods premises around the existing Harvey Norman Complex.

The Draft RP contains action 5.2.1 which discourages the development of bulky goods premises in the vicinity of airports. The proposal is not inconsistent with this action as the land is separated from the Ballina Byron Airport and is not located on the access road to the airport. The land has previously been identified as suitable for bulky good premises. The future expansion of the Southern Cross Precinct may redirect airport traffic past the subject site however it will also upgrade road infrastructure and provide approximately 40 hectares of industrial zoned land to accommodate any aviation required activities.

The proposal is therefore considered to be generally consistent with the draft RP.

Consistency with Council's Local Strategies.

The planning proposal identifies several local strategies relevant to the proposal. The Ballina Retail Strategy 2003, the Southern Cross Precinct Master Plan 2008, the Ballina Shire Bulky Goods Investigation 2012 and 2016 support the use of the subject land for bulky good retailing. The Ballina Major Regional Centre Strategy 2015-2035 supports the promotion of opportunities for the provision of industrial land in the vicinity of the airport.

It is therefore considered that the proposal is not inconsistent with Council's local strategies.

SEPPs

While many State environmental planning policies (SEPPs) apply to the subject land the proposal is not considered to be inconsistent with these SEPPs.

S117 Directions.

The following S117 directions are applicable to the proposal, 1.1 Business and Industrial Zones, 2.1 Environmental Protection Zones, 2.2 Coastal Protection, 2.3 Heritage

Conservation, 2.4 Recreational Vehicle Areas, 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, 5.10 Implementation of Regional Plans, 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 4.4.

Direction 1.1 Business and Industrial Zones is relevant to the planning proposal. The direction provides that a planning proposal retains the areas and locations of existing business and industrial zones and does not reduce the potential floor space area for employment uses. The proposal is not considered to be inconsistent with this direction since the proposed change from a B5 to IN1 zoning will enable a greater range of land uses, a greater lot yield resulting from a smaller MLS, and will still retain the ability to develop bulky good premises as an additional permitted use. As previously discussed only 4 land uses will no longer be permitted on the subject land and there is ample scope for these land uses to be developed on other locations within the Ballina urban area.

Direction 3.4 Integrating Land Use and Transport is relevant to the planning proposal. The direction provides that a planning proposal must be consistent with the objectives and principles of 'The Right Place for Business and Services 2001'. The proposal is considered to be consistent with this policy since the proposal will ensure that future bulky good premises are clustered around the existing Harvey Norman Complex, the land has been identified as the most suitable location for bulky good retail by the Ballina Shire Bulky Goods Retail Investigation Report 2012 and the proposed IN1 zone will enable other traditional industrial land uses to be developed in response to local demand.

Direction 4.1 Acid Sulfate Soils and Direction 4.3. Flood Prone Land are relevant to the planning proposal. These directions provide that a proposal should not enable an intensification of the development potential of land subject to acid sulfate soils or flooding. The land is already zoned for Business purposes and while the range of land uses in the IN1 zone is greater than that of the B5 zone the intensity of the development is not likely to be greater and the impact of future development on acid sulfate soils and flooding can be addressed by the current provisions in Ballina LEP 2012 at development application stage.

Direction 4.4 Planning for Bushfire Protection is relevant to the proposal. Part of the subject land is identified as being bush fire prone. The direction provides that the RPA must consult with the Commissioner of the NSW Rural Fire Service, and the draft plan must include provisions relating to bushfire control. Consultation with the RFS is required after a Gateway Determination is issued and before public exhibition and until this consultation has occurred the inconsistency of the proposal with the direction remains unresolved.

The proposal is otherwise consistent with S117 Directions.

Environmental social
economic impacts :

Environmental Social and Economic Impacts.

The proposal is not expected to have an adverse impact on critical habitat or threatened species, populations or ecological communities or their habitats. The land consists of managed cleared land and has already been zoned for business purposes.

Any impacts relating to the flood prone nature of the land or the presence of acid sulfate soils, or the impacts from traffic generation can be adequately addressed at development application stage, given that previous investigation of the land for business purposes has been undertaken and the impacts are not expected to be significantly different to those that may arise for industrial land uses.

The proposal is not expected to have an adverse economic or social impact. The majority of land uses currently permitted on the site will continue to be permissible and the location of the land is within an established industrial estate where the community would expect employment generating land uses to occur. The proposal will enable Council to release land that can better reflect the current demand for particular land uses in the LGA

therefore ensuring that opportunities for employment growth are not obstructed.

Agency Consultation.

The planning proposal does not indicate whether any consultation with State agencies is proposed. Given the bush fire prone nature of the land it is considered to be necessary that Council consult with the Rural Fire Service.

Assessment Process

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

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

Public Authority Consultation - 56(2)(d) : **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

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

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
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Planning Team Recommendation

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

S.117 directions:

- 1.1 Business and Industrial Zones**
- 2.1 Environment Protection Zones**
- 2.2 Coastal Protection**
- 2.3 Heritage Conservation**
- 2.4 Recreation Vehicle Areas**
- 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
6.1 Approval and Referral Requirements
6.2 Reserving Land for Public Purposes
6.3 Site Specific Provisions
5.10 Implementation of Regional Plans

Additional Information :

It is recommended that the planning proposal should proceed subject to the following;

- 1. The planning proposal 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. The RPA is to consult with the following State agencies and organisations;**
 - a. Rural Fire Service;**
- 5. A written authorisation to exercise delegation not be issued to Ballina Shire Council.**
- 6. The delegate of the Secretary note that the inconsistency of the proposal with S117 Direction 4.4 remains unresolved until consultation with the Rural Fire Service has been undertaken.**

Supporting Reasons :

The reasons for the recommendation are as follows;

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

Signature:



Printed Name:

Craig Duss

Date:

20/2/17