

## SECTION 59 PLANNING REPORT

### Planning proposal details:

DPE Reference: PP\_2017\_BALLI\_009\_00

BSC Reference: BSCPP 17/011 (Amendment No 39)

### Land to which planning proposal applies:

This planning proposal applies to a variety of land parcels as shown in Table 1 below and as depicted in the maps within the planning proposal.

### Planning proposal summary:

This planning proposal proposes to make a number of general 'housekeeping' amendments to the Ballina LEP 2012 primarily relating to adjustments to zoning and other attribute mapping as a result of cadastral shift, and to correct a mapping error that occurred during the processing of Ballina LEP Amendment No. 30 relating to No. 44 – 52 Blue Seas Parade, Lennox Head.

**Date of Gateway determination:** 2 February 2018

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## 1.0 SUMMARY

### 1.1 Council Resolutions

The Council considered this planning proposal at its Ordinary Meeting held on 23 November 2017. At this meeting the Council resolved to endorse the proposed amendments to Ballina LEP 2012 and to submit the planning proposal to the Department of Planning & Environment for Gateway determination [Minute No. 231117/14].

Following public exhibition of the planning proposal the Council at its Ordinary Meeting held on 24 May 2018 resolved to finalise and implement this planning proposal under delegated authority [Minute No. 240518/8].

A copy of the reports to Council and adopted resolutions are contained in the final Planning Proposal submitted to PCO and Plan Making Monitoring via email on 15 June 2018.

### 1.2 Planning Proposal

The planning proposal seeks to amend Ballina LEP 2012 as summarised in Table 1 below.

**Table 1 BSCPP 17/011 Amendment Summary**

Amendment Item	Map Sheets Affected*	Amendment Summary	Primary Reason
1	Item 1 was reported to Council's Ordinary Meeting held on 23 November 2017 (see Appendix 4 within planning proposal) and was included in the request to the Department of Planning and Environment (DPE) seeking a Gateway determination. Following discussions with the DPE, Item 1 was removed from the overall housekeeping amendment.		

Amendment Item		Map Sheets Affected*	Amendment Summary	Primary Reason
2	Barlows Road, West Ballina	SGA Map	Adjust area affected by Strategic Urban Growth Area (SUGA) mapping to remove SUGA designation from land identified as a Deferred Matter (DM) in the LEP and which is subject to the provisions contained in the Ballina LEP 1987.	Correct a minor mapping error contained within the SGA map.
3	Emigrant Creek	LZN Map LSZ Map	Adjust mapping to align attributes with cadastre. Involves a reduction of the W1 zone and an increase in the RU1 and RU2 zones and the application of a 40ha minimum lot size standard to RU1 and RU2 zoned areas.	Reflect updates to cadastral boundaries in Council's mapping system.
4	Pimlico Road, Pimlico	LAP Map LZN Map LSZ Map ASS Map FLD Map BHA Map HOB Map	Adjust mapping to align attributes with cadastre. Involves adjustment to include land within the LEP by removing land from a Deferred Matter (DM) designation and zoning it RU1 and application of a 40ha lot size standard, 8.5m building height and flooding, height allowance and acid sulfate soils attributes.	Reflect updates to cadastral boundaries in Council's mapping system.

Amendment Item		Map Sheets Affected*	Amendment Summary	Primary Reason
5	Tara Downs, Lennox Head	LAP Map LZN Map LSZ Map	Adjust mapping to align attributes with updates to cadastre arising from subdivision of land. Involves adjustment to remove land from within the LEP to reduce the RU1 zone and increase the DM area in BLEP 1987; realignment of the R2 and RE1 zones in the LEP; reduce the 40ha minimum lot size standard and increase the 800m <sup>2</sup> minimum lot size standard.	Reflect updates to cadastral boundaries in Council's mapping system following subdivision of land.
6	Blue Seas Parade, Lennox Head	LZN Map LSZ Map	Adjust mapping to part of Lot 1 DP 1165957 to reduce the RU1 zone and increase the R2 zone, and to alter the minimum lot size from 40ha to 1200m <sup>2</sup> .	Amendment No.30 to the Ballina LEP 2012 was completed with a mapping error. This resulted in the full extent of the rezoning not currently being reflected in the LEP. This amendment corrects the mapping error.
7	Blue Seas Parade, Lennox Head	HOB Map	Adjust mapping to apply an 8.5m building height standard to the Blue Seas Parade road reserve to achieve alignment with the Land Zoning Map.	Correct a minor mapping error.

Amendment Item		Map Sheets Affected*	Amendment Summary	Primary Reason
8	North Creek Road, Lennox Head	LZN Map HER Map	Adjust mapping to align attributes with updates to cadastre arising from subdivision of land. Involves realignment of R2 and R3 zones for land with frontage to North Creek Road, Lennox Head and adjacent land with frontage to Fieldcrest Place, Lennox Head. Also involves adjustment of the heritage mapping for item 171 by increasing the area of application of the heritage layer.	Reflect updates to cadastral boundaries in Council's mapping system following subdivision of land.
9	Hutley Drive South, Lennox Head	LAP Map LZN Map LSZ Map ASS Map HOB Map	Adjust mapping to align attributes with updates to cadastre arising from subdivision of land. Involves adjustment to include land within the LEP by redesignating land within the Hutley Drive road reserve from DM and applying a R2 zone, application of a 600m <sup>2</sup> minimum lot size standard, 8.5m height of buildings standard and acid sulfate soils attributes within the western boundary of Hutley Drive South.	Reflect updates to cadastral boundaries in Council's mapping system following subdivision of land.
10	Castle Drive, Lennox Head	LSZ Map	Remove lot size standard from an area of open space at the intersection of North Creek Road and Castle Drive, Lennox Head. Open space is not subject to minimum lot size restrictions under the LEP.	Correct a minor mapping error.

Amendment Item		Map Sheets Affected*	Amendment Summary	Primary Reason
11	Skinner Street, Ballina	LZN Map LSZ Map	Adjust zoning and lot size mapping to align with location of approved dwelling house at 2 Skinner Street, Ballina. Involves a reduction of the W1 zone and an increase of the R2 zone and the application of a 1200m <sup>2</sup> minimum lot size standard.	Reflect location of existing approved dwelling house.
12	Ballina Heights – Liffey Avenue, Cumbalum	LZN Map LSZ Map	Adjust mapping to align attributes with updates to cadastre arising from subdivision of land. Involves realignment of RE1, R2 and R3 zones for land adjacent to Liffey Avenue and Lindsay Avenue, Cumbalum; removal of the minimum lot size standard from the RE1 zoned land; and application of a 600m <sup>2</sup> and 800m <sup>2</sup> minimum lot size standard to the R2 and R3 zones respectively.	Reflect updates to cadastral boundaries in Council's mapping system following subdivision of land.
13	Ballina Heights – Chilcott Avenue, Cumbalum	LZN Map LSZ Map	Adjust mapping to align attributes with updates to cadastre arising from subdivision of land. Involves realignment of RE1, R2 and R3 zones for land with frontage to Chilcott Avenue, Kemp Street and O'Rourke Street, Cumbalum; removal of the minimum lot size standard from the RE1 zoned land; and application of a 600m <sup>2</sup> and 800m <sup>2</sup> minimum lot size standard to the R2 and R3 zones respectively.	Reflect updates to cadastral boundaries in Council's mapping system following subdivision of land.

Amendment Item		Map Sheets Affected*	Amendment Summary	Primary Reason
14	Richmond Street, Wardell	LZN Map LSZ Map	Adjust mapping to align attributes with updates to cadastre. Involves a reduction of R2 and R3 zones and an increase to the R3 and W1 zones for land with frontage to the Richmond River, Richmond Street and Swamp Street, Wardell, and application of a 600m <sup>2</sup> and 800m <sup>2</sup> minimum lot size standard to the R2 and R3 zones respectively.	Reflect updates to cadastral boundaries in Council's mapping system.
15	Newports Lane, Uralba	LAP Map LZN Map LSZ Map HOB Map	Adjust mapping to align attributes with updates to cadastre. Involves adjustment to include land within the LEP by redesignating land from DM and applying a RU1 zone, and application of a 40ha minimum lot size standard and 8.5m height of buildings standard.	Reflect updates to cadastral boundaries in Council's mapping system.

**\* Legend:**

ASS	Acid Sulfate Soils Map
BHA	Building Height Allowance Map
FLD	Flood Planning Map
HER	Heritage Map
HOB	Height of Buildings Map
LAP	Land Application Map
LSZ	Lot Size Map
LZN	Land Zoning Map
SGA	Strategic Urban Growth Area Map

## 2.0 GATEWAY DETERMINATION

The Gateway determination was issued on 2 February 2018. It required that the planning proposal be completed within 6 months following the date of the Gateway determination.

The Gateway determination required that Council amend the planning proposal prior to community consultation to enable the proposed changes to be clearly identified by the community. This involved changes to the mapping to include street names and to highlight each mapping change, and also included a written explanation of the

housekeeping changes and proposed change to Blue Seas Parade (Amendment No. 30 to Ballina LEP 2012).

The Gateway determination required consultation with the NSW Rural Fire Service as discussed in section 4.0 of this report.

The Department of Planning and Environment has agreed the planning proposal's inconsistencies with S117 Directions 1.2 Rural Zones, 1.5 Rural Lands, 2.1 Environment Protection Zones, 2.2 Coastal Protection, 3.1 Residential Zones, 3.5 Development Near Licensed Aerodromes and 5.3 Farmland of State and Regional Significance on the NSW Far North Coast are justified in accordance with the terms of the Direction and no further approvals are required.

The agreement of the Secretary is required in respect to compliance with the requirements of S117 Direction 4.4 Planning for Bushfire Protection. The Secretary's agreement was obtained on 13 May 2018.

Subject to the LEP being made by 2 August 2018 all requirements of the Gateway determination have been complied with.

### **3.0 COMMUNITY CONSULTATION**

The planning proposal was publically exhibited from 21 March 2018 to 13 April 2018. Notification included an advertisement in the Ballina Shire Advocate and the planning proposal being displayed on Council's website, at the Customer Service Centre and at all shire libraries.

87 landholders of affected and adjoining properties were advertised of the public exhibition. This involved written notification and included copies of maps indicating the proposed map changes relating to the landholder/adjoining owner's property.

In response to the public exhibition no written submissions were received.

### **4.0 VIEWS OF PUBLIC AUTHORITIES**

Consultation was undertaken with the NSW Rural Fire Service (RFS) as required by the Gateway determination. The RFS did not raise any objections to the planning proposal proceeding. A copy of the RFS submission is provided in the final planning proposal document.

### **5.0 CONSISTENCY WITH S9.1 (FORMERLY S117) DIRECTIONS AND OTHER STRATEGIC PLANNING DOCUMENTS**

This matter is addressed in the planning proposal. The proposed amendment is consistent with all relevant S9.1 (formerly S117) Directions or inconsistencies have been justified and agreed by the Department of Planning and Environment.

By correspondence dated 13 May 2018, Jeremy Gray, Director Regions, Northern Planning Services, as a delegate for the Secretary Department of Planning and Environment, has advised that he has agreed the proposal's inconsistency with S117 Direction 4.4 Planning for Bushfire Protection is justified in accordance with the terms of the Direction and that Council can now proceed to finalise the proposal once it receives a Parliamentary Counsel opinion.

## **6.0 PARLIAMENTARY COUNSEL OPINION**

The final PCO opinion was received on 18 July 2018. It is the opinion of PCO that the draft plan may legally be made.

## **7.0 OTHER RELEVANT MATTERS**

There are no other matters of relevance to this amendment.

## **8.0 MAPPING**

Replacement map sheets have been prepared as per the details contained within the attached Map Cover Sheet (MCS).

The map sheets referenced in the MCS and within the planning proposal have been checked by the Department of Planning and Environment's GIS team who have confirmed that they have been prepared in accordance with Standard Technical Requirements.

A copy of all maps and the MCS are attached.

## **9.0 RECOMMENDATION**

Having regard to the attached PCO Opinion, the contents of the MCS and the maps which form a part of draft Ballina LEP Amendment No 39 it is now recommended that the delegate sign the LEP and the attached MCS (0250\_COM\_MCS\_20180718).



**Leah Toole**  
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Noted



1/8/2018