

Planning Services

Gateway Determination Report

LGA	Ballina
RPA	Ballina Shire Council
NAME	Housekeeping Amendment to Ballina LEP 2012
NUMBER	PP_2017_BALLI_009_00
LEP TO BE AMENDED	Ballina Local Environmental Plan 2012
ADDRESS	Various
DESCRIPTION	Various
RECEIVED	21/12/17
FILE NO.	SF17/57863
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

INTRODUCTION

Description of Planning Proposal

This planning proposal incorporates 'housekeeping' amendments to the Ballina Local Environmental Plan 2012. The amendments relate to realignment of zone boundaries, other mapping changes resulting from updates to the cadastre, improved data or land subdivision and correct minor mapping errors. The amendments address minor mapping errors and assist in the efficient application of the Local Environmental Plan.

Amendment Item	Amendment Summary	Primary Reason	
1	Deleted from planning proposal pre Gateway determination (see note below ¹).		
2	River Street, West Ballina (SGA)	Adjust area affected by Strategic Urban Growth Area mapping to remove SUGA designation from land identified as a deferred matter.	Correct a minor mapping error.
3	Emigrant Creek (LZN, LSZ)	Adjust mapping to align attributes with cadastral. Involves alignment of RU1, RU2 and W1 zones and nil and 40ha lot size standards.	Reflect updates to cadastral boundaries in Council's mapping system.
4	Pimlico Road, Pimlico (LAP, LZN LSZ, ASS, FLD, BHA, HOB)	Adjust mapping to align attributes with cadastral. Involves adjustment to include land within BLEP 2012 and align RU1 zone, 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.
5	Tara Downs, Lennox Head (LAP, LZN, LSZ)	Adjust mapping to align attributes with updates to cadastral arising from subdivision of land. Involves adjustment to remove land from within BLEP 2012 and alignment of RU1 and R2 zones and 40ha and 800m ² minimum lot size standards.	Reflect updates to cadastral boundaries in Council's mapping system following subdivision of land.
6	Blue Seas Parade, Lennox Head (LZN, LSZ)	Adjust mapping to apply R2 zone and 1200m ² minimum lot size to land.	Amendment No.30 to the LEP was completed with a mapping error that means the full extent of the rezoning is not currently reflected in the LEP. This amendment corrects the mapping error. ²
7	Blue Seas Parade, Lennox Head (HOB)	Adjust mapping to apply an 8.5m building height standard to the Blue Seas Parade road reserve.	Correct a minor mapping error.
8	North Creek Road, Lennox Head (LZN, HER)	Adjust mapping to align attributes with updates to cadastral arising from subdivision of land. Involves alignment of R2 and R3 zones and heritage mapping for item 171.	Reflect updates to cadastral boundaries in Council's mapping system following subdivision of land.
9	Hutley Drive South, Lennox Head (LAP, LZN, LSZ, ASS, HOB)	Adjust mapping to align attributes with updates to cadastral arising from subdivision of land. Involves adjustment to include land within BLEP 2012 and align R2 zone, 600m ² lot size standard and 8.5m height of buildings standard with 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)	Apply nil minimum lot size standard to area of open space consistent with minimum lot size standard applied to public open space.	Correct a minor mapping error.
11	Skinner Street, Ballina (LZN, LSZ)	Adjust zoning and lot size mapping to apply R2 zone and 1200m ² minimum lot size to align with location of approved dwelling house at 2 Skinner Street, Ballina.	Reflect location of existing approved dwelling house.
12	Ballina Heights – Liffey Avenue, Cumbalum (LZN and LSZ)	Adjust mapping to align attributes with updates to cadastral arising from subdivision of land. Involves adjustments to align RE1, R2 and R3 zones and nil, 600m ² and 800m ² lot size standards.	Reflect updates to cadastral boundaries in Council's mapping system following subdivision of land.
13	Ballina Heights – Chilcott Avenue, Cumbalum (LZN and LSZ)	Adjust mapping to align attributes with updates to cadastral arising from subdivision of land. Involves adjustments to align RE1, R2 and R3 zones and nil, 600m ² and 800m ² lot size standards.	Reflect updates to cadastral boundaries in Council's mapping system following subdivision of land.
14	Richmond Street, Wardell (LZN and LSZ)	Adjust mapping to align attributes with updates to cadastral. Involves adjustments to align R2 and R3 zones and 600m ² and 800m ² lot size standards.	Reflect updates to cadastral boundaries in Council's mapping system.
15	Newports Lane, Uralba (LAP, LZN, LSZ, HOB)	Adjust mapping to align attributes with updates to cadastral. Involves adjustment to include land within BLEP 2012 and align RU1 zone, 40ha lot size standard and 8.5m height of buildings standard.	Reflect updates to cadastral boundaries in Council's mapping system.

Table 1. Amendment Summary

Site Description

The planning proposal covers 14 separate amendment items within the Ballina LEP 2012. The locations of the proposed amendments are listed in Table 1. The planning proposal does not provide property descriptions.

Summary of Recommendation

It is recommended that the planning proposal proceed subject to conditions. To facilitate community consultation Council is to include a single locality map indicating the general location of each amendment, and for each individual map indicate street names so that the location of the amendment can be easily identified. Given that some of the amendments translate to mapping amendments of only a few millimetres, these should be highlighted for ease of reference to the community. Legends on maps are to indicate full zones names and minimum lot size or other development standards as applicable.

PROPOSAL

Objectives or Intended Outcomes

The objectives and intended outcomes of the planning proposal are to adjust the landuse zoning and other attributes of 14 items, to reflect updated cadastre information or mapping errors.

Explanation of Provisions

The 14 amendments all result changes to the map sheets. No changes to the written instrument are proposed as part of this planning proposal. The explanation of provisions includes thumbnail identification of the map changes but does not identify where within that thumbnail the changes apply. This should be updated prior to community consultation.

The majority of these amendments result from cadastral shift with LEP boundaries no longer reflecting the associated cadastre. Apart from cadastral shift the proposal includes the following:

- Item 1 – Amend SUGA maps to remove area of deferred land.
- Item 6 - Rezone land along Blue Seas Parade, Lennox Head from RU1 to R2 and setting a minimum lot size of 1200m². This rezoning was approved under BLEP Amendment No. 30 but an incorrect map was notified.
- Item 7 – Introduce HOB in Blue Seas Parade road reserve consistent with adjacent mapping
- Item 10 – Remove MLS associated with RE1 zoned land
- Item 11 – Amend MLS and LZN boundary slightly to encompass approved dwelling house in R2 instead of Waterway zone.

Mapping

To facilitate community consultation Council is to include a single locality map indicating the general location of each amendment, and for each individual map indicate street names so that the location of the amendment can be easily identified. Given that some of the amendments translate to mapping amendments of only a few millimetres, these should be highlighted for ease of reference to the community. Legends on maps are to indicate full zones names and minimum lot size etc. as applicable.

NEED FOR THE PLANNING PROPOSAL

A housekeeping amendment is the most appropriate means of accomplishing these small mapping changes.

STRATEGIC ASSESSMENT

State

The minor changes are consistent with the state strategic planning framework.

Regional / District

The minor nature of the changes in this planning proposal are not inconsistent with the North Coast Regional Plan 2036.

Local

The minor changes do not alter the consistency of the BLEP 2012 with the Local strategic planning framework.

Section 117(2) Ministerial Directions

The planning proposal is consistent with all S117 Directions except Direction 4.4 Planning for Bushfire Protection which will require a referral post gateway to the NSW RFS. The below discussion provides further context where required:

Direction 1.2 Rural Zones – The planning proposal seeks to change the boundaries between Rural and Urban zones. Generally these adjustments reflect cadastral shift and the areas involved are small and follow existing uses or allotment layouts. Item 6 however involves the rezoning of an area of approximately 1,000m² of land from RU1 to R2. This land is mapped as regionally significant farmland but is within the Urban Growth Area Boundary of the NCRP 2036.

As the amendments are minor in nature, and in the case of item 6, identified in a strategy they are justified in the terms of the direction.

Direction 1.5 Rural Land – The direction requires consideration of the Rural and Subdivision Principles when rural land is being rezoned or the MLS reduced. The planning proposal is consistent with the Rural Planning Principles as it is in accordance with the North Coast Regional Plan's Urban Growth Areas, however the reduction in MLS will enable fragmentation which is inconsistent with the Rural Subdivision Principles. Due to the minor nature of most of the amendments and item 6 being in accordance with the NCRP, the inconsistency with this direction is justified in accordance with its terms.

Direction 2.1 Environment Protection Zones – The planning proposal does not include provisions that facilitate the protection and conservation of environmentally sensitive areas. However, it does not reduce the provisions within the BLEP 2012 that protect and conserve environmentally sensitive areas. The inconsistency with the direction is of minor significance.

Direction 2.2 Coastal Protection – The planning proposal involves minor housekeeping amendments to the BLEP 2012, additional inconsistencies with the Direction are not created by the planning proposal. The BLEP 2012 contains existing

provisions which give effect to the NSW Coastal Policy, Coastal Design Guidelines and Coastline Management Manual, as such this inconsistency is of minor significance.

Direction 2.3 Heritage Conservation – The planning proposal results in improved heritage protections, as it aligns the cadastral boundaries with the heritage maps surrounding item I71. The proposal is consistent with this direction.

Direction 3.1 Residential Zones – The planning proposal seeks to alter residential zone boundaries and as such this Direction applies. The planning proposal does not broaden housing choice as it only makes housekeeping changes. The inconsistency with this Direction is considered to be of minor significance.

Direction 3.4 Integrating Land Use and Transport – The planning proposal does not change the existing interaction between landuse and transport within the LGA and as such is not inconsistent with this direction.

Direction 3.5 Development near Licensed Aerodromes – The mapping amendments sought by the planning proposal do not change the existing ability to develop land near licensed aerodromes. The inconsistency arises due to the lack of prior consultation with the lessee and CASA required by the direction in the preparation of the planning proposal. Given the context, ie. that the planning proposal is a housekeeping amendment, it is considered that this inconsistency is of minor significance.

Direction 4.3 Flood Prone Land – The planning proposal brings a small area of Deferred Matter land under the BLEP2012 (Item 9). As this area is a sliver of land the inconsistency is of minor significance.

Direction 4.4 Planning for Bushfire Prone Land – The planning proposal identifies that some of the land impacted is bushfire prone. This land is not identified, a condition will be included requiring this land be identified prior to referral to the RFS. Consultation with the NSW RFS is required before consistency with this Direction can be determined.

Direction 5.3 Farmland of State and Regional Significance on the NSW Far North Coast – This Direction provides that a planning proposal must not rezone land identified as significant non-contiguous farmland for urban or rural residential purposes. The planning proposal seeks to amend the zoning boundary between RU1 and R2 due to a change in the cadastre following a recent subdivision (Item 5), and amend the RU1 / R2 boundary at Item 6 to include land which was omitted in the final mapping of a recent LEP amendment. In both these cases the land is within the mapped Urban Growth Area boundary and is in accordance with Strategies agreed to by the Department under clause 38 of the NCREP, as such this inconsistency is justified in accordance with the terms of the Direction.

Direction 5.10 Implementation of Regional Plans – The planning proposal is a housekeeping amendment. The North Coast Regional Plan 2036 came into effect in 2017. The proposal makes minor housekeeping amendments and is not inconsistent with the NCRP.

State Environmental Planning Policies

SEPP 71 – Council is required to consider the matters listed under Clause 8 of the Policy. Council has not discussed how these matters have been considered in the preparation of the planning proposal, however, it includes a statement that the planning proposal is not inconsistent with the provisions of the Policy. A condition will be included requiring SEPP 71 to be addressed in the planning proposal prior to exhibition.

SITE SPECIFIC ASSESSMENT

Social

The amendments proposed in the planning proposal are not expected to have a positive or negative social impact.

Environmental

No environmental impact is expected of the minor mapping changes proposed within the planning proposal.

Economic

The amendments proposed in the planning proposal are not expected to have a positive or negative economic impact.

Infrastructure

The certainty of boundaries and permissibility of development by alignment of the cadastral boundary with the LEP boundaries will result in a slight positive outcome from this proposal.

CONSULTATION

Community

Council proposes to consult with the community in accordance with the Gateway determination. The planning proposal meets the provisions of the Guide to preparing Local Environmental Plans for low impact planning proposals and as such is required to be exhibited for a minimum of 14 days. To facilitate community consultation Council is to include a single locality map indicating the general location of each amendment, and for each individual map indicate street names so that the location of the amendment can be easily identified. Given that some of the amendments translate to mapping amendments of only a few millimetres, these should be highlighted for ease of reference to the community. Legends on maps are to indicate full zones names and minimum lot size as applicable.

Agencies

Council is required to consult with the NSW RFS as the planning proposal may apply to mapped Bushfire Prone Land.

TIMEFRAME

Council has requested a six-month time frame to complete the LEP. The benchmark time frame for administrative changes is 3 months, however, given that the planning

proposal and mapping will need some changes prior to community consultation, the six-month time frame is considered appropriate.

DELEGATION

Council has requested plan making delegations and it is considered appropriate to delegate this function to Council.

CONCLUSION

Preparation of the planning proposal is supported to proceed as it is the most efficient and appropriate method of rectifying minor mapping changes and will promote the efficient functioning of the Ballina LEP 2012.

RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. Agree any inconsistencies with Section 117 Directions 1.2 Rural Zones, 1.5 Rural Lands, 2.1 Environment Protection Zones, 2.2 Coastal Protection, 3.1 Residential Zones and 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 Directions; and
2. Note that the consistency with Section 117 Directions 4.4 Planning for Bushfire Protection, is unresolved until consultation occurs with the NSW RFS.

It is recommended that the delegate of the Minister for Planning, determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be made available for community consultation for a minimum of 14 days.
2. Consultation is required with the New South Wales Rural Fire Service.
3. The timeframe for completing the LEP is to be 6 months following the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should be authorised to exercise delegation to make this plan.
5. The planning proposal is to be amended prior to community consultation to include;
 - a locality map indicating the general location of each amendment. Mapping is to indicate street names and highlight the mapping change so that it can be easily identified by the community. The text of the planning proposal is to explain the zone change in terms of what zone is being reduced and what zone is being increased.
 - clarify how the omission of the land at Blue Seas parade (Item 6) occurred.
 - identify which land is bushfire prone

- identify which land is within the Coastal Zone.



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