

Planning Proposal to amend Ballina LEP 2012 to rezone land at Henderson Drive, Lennox Head from R3 Medium Density Residential to R2 Low Density Residential to reflect an approved 25 lot subdivision

Proposal Title :	Planning Proposal to amend Ballina LEP 2012 to rezone land at Henderson Drive, Lennox Head from R3 Medium Density Residential to R2 Low Density Residential to reflect an approved 25 lot subdivision		
Proposal Summary :	The planning proposal seeks to amend the Ballina Local Environmental Plan (LEP) 2012 by rezoning land at Henderson Drive and Kellie-Ann Crescent, Lennox Head from zone R3 Medium Density Residential to R2 Low Density Residential to reflect an approved 25 lot residential subdivision (known as Visions Estate).		
PP Number :	PP_2017_BALLI_005_00	Dop File No :	17/07912

Proposal Details

Date Planning Proposal Received :	11-Jul-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 :	Henderson Drive		
Suburb :		City :	Lennox Head
Land Parcel :	Lot 7 DP 1216761	Postcode :	2478
Street :			
Suburb :		City :	
Land Parcel :	adjoining Crown Public Road	Postcode :	

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 :	North Coast Regional Plan 2036	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :	4.00	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	0	No. of Dwellings (where relevant) :	25
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 communication 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 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 :	11/07/2017 - Spoken to Council regarding clarification on which lots are included in the planning proposal. 'Crown Public Road' which has subsequently been closed and is now known as Lot 1 DP 1217906 has not been included in the description of the proposal. This is recommended to be conditioned as part of the Gateway determination to clarify which lots are included in the proposal and that the PP be amended prior to community consultation.
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 adequately describes the intention of the planning proposal. The proposal seeks to rezone the subject land to reflect an approved low density residential development. The proposal will align the zoning of the subject land with an approved 25 lot residential subdivision (DA 2016/166), in accordance with Council Resolution (25-05-2017).
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Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? Yes

Comment :	The explanation of provisions adequately addresses the intended changes to Ballina LEP 2012. The planning proposal seeks to rezone part of Lot 7 DP 1216761 currently zoned R3
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Medium Density Residential to R2 Low Density Residential to reflect an approved 25 lot low density residential subdivision.

Proposed Lots 1, 7 and reconfigured Lot 15 (as identified in the Subdivision Layout Plan) will retain its R3 Medium Density Residential zoning to allow them to be utilised as potential dual occupancy development.

The remaining part of Lot 7 is zoned Deferred Matter and is identified as mapped SEPP 26 Littoral Rainforest. This area is not included as part of the proposal.

The planning proposal will only require amendments to the Land Zoning Map.

No changes are proposed to the Minimum Lot Size or Height of Building maps.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

2.1 Environment Protection Zones

2.3 Heritage Conservation

2.4 Recreation Vehicle Areas

3.1 Residential Zones

3.2 Caravan Parks and Manufactured Home Estates

3.3 Home Occupations

3.4 Integrating Land Use and Transport

3.5 Development Near Licensed Aerodromes

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?

SEPP No 26—Littoral Rainforests

SEPP No 55—Remediation of Land

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 :

Please refer to the Assessment section for consideration of applicable s117 Directions, SEPP's and the North Coast Regional Plan 2036.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

The planning proposal includes current and proposed Land Zoning mapping which adequately reflects the proposed amendments. These maps are suitable for exhibition purposes.

Amendments to the Land Zoning maps are to be prepared in accordance with the Standard Technical Requirements for Spatial Datasets and Maps prior to finalisation of the LEP.

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Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : The planning proposal indicates that community consultation will be undertaken however it does not nominate the timeframe for this consultation period.

As the proposal is consistent with Ballina Shire Local Growth Management Strategy, the Lennox Head Structure Plan and DA 2016/166 approved by Council Resolution (Jan 2017), a 14 day community consultation period is recommended.

As the land has been identified as partly bush fire prone and to satisfy s117 Direction 4.4 regarding bushfire, referral to the NSW Rural Fire Service will be required.

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 : The planning proposal is considered to satisfy the adequacy criteria by:

- 1) Providing appropriate objectives and intended outcomes;
- 2) Providing a suitable explanation of the provisions proposed by the LEP to achieve the outcomes;
- 3) Providing an adequate justification for the proposal;
- 4) Proposing a community consultation process.
- 5) Providing a suitable project timeline. Council has suggested a timeframe of up to 7 months. To ensure the RPA has adequate time to complete the proposal it is recommended that a 9 month timeframe would be appropriate for the proposal. This does not restrict Council from finalising the LEP amendment prior to this date.

Delegation

Council has completed an evaluation for the issuing of an authorisation to exercise delegation. As the proposal deals with only matters of local significance, it is recommended that an authorisation to exercise plan making delegation be issued to Council in regard to this matter.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : The Ballina Local Environmental Plan 2012 commenced on the 4 February 2013. This planning proposal seeks to make amendments to the Ballina LEP 2012.

Assessment Criteria

Need for planning proposal : The subject land has been zoned for urban purposes for more than 30 years. It has been included in Council's strategic planning policies as suitable for urban development.

The planning proposal is a result of Council's resolution that approved a development application (DA) for a 25 lot residential subdivision. Council subsequently resolved to align the zoning of the land with the approved subdivision plan. The 25 lot subdivision was for

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low density residential development with the exception of 3 lots which would remain medium density. The 800m² minimum lot size is proposed to be retained with the R2 low density zoning.

This area is included within the Ballina Growth Management Strategy (GMS) 2012 and the Lennox Head Structure Plan (LHSP) 2004, identified as part of the overall Lennox Palms Estate. The GMS identified the subject site as 'urban zoned un-developed land'. The LHSP identified the subject site as suited to accommodate future urban development. The LHSP identified low density housing as the preferred urban land use for the subject site with a 1200m² minimum lot size.

In preparing the Ballina LEP 2012, Council zoned undeveloped urban release land R3 Medium Density Residential to enable flexibility in the design of future residential subdivisions. Where approved development applications result in low density residential development Council has previously rezoned the land to R2 Low Density Residential to reflect the approved development.

The subject land is zoned for medium density residential with an 800m² minimum lot size, however the DA supported a low density residential type based on market demand, strong public support for low density housing and to align the objectives of the GMS which include maintaining the village character. The GMS identified that medium density housing would be better suited to the main village area of Lennox Head.

The land is also located within the Urban Growth Area as identified in the North Coast Regional Plan (NCRP) 2036.

The rezoning of the subject site and amendments to the zoning map are the most appropriate means of achieving the desired outcomes for the proposal. The rezoning will align the zone with the approved residential density proposed for the site.

Additional housing that will occur as a result of the rezoning proposal will contribute to Council's housing targets as set by the NCRP 2036.

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Consistency with strategic planning framework :

NORTH COAST REGIONAL PLAN 2036

The proposal is consistent with Goal 4 of the North Coast Regional Plan (NCRP) as it supports 'greater housing choice and lifestyle options'. The planning proposal is consistent with Direction 22 of the plan delivering 'greater housing supply' and Direction 23 of the plan delivering 'housing diversity and choice'. Maintaining three lots with the R3 Medium Density zoning allows for dual occupancy development potential. The remaining lots will consist of low density, single dwelling development.

The proposal is also consistent with the Ballina's Local Government Narratives to deliver housing at Lennox Head.

SEPPs

The proposal is consistent with all applicable SEPP's except in relation to:

SEPP 26 - Littoral Rainforests

The north eastern corner of Lot 7 (subject land) is identified as SEPP 26 Littoral Rainforest and is excluded from this planning proposal. Minor works to allow for road alignments as part of the approved subdivision development, will require the removal of some native vegetation. A conditional concurrence by the Department of Planning & Environment was issued as part of the assessment of DA 2016/166.

S117 DIRECTIONS

The proposal is consistent with all relevant s117 Directions except in relation to the following:

3.1 Residential Zones

The direction applies as it affects land within an existing residential zone and reduces the residential density within the Lennox Head area. The proposal is inconsistent with the direction as the rezoning will reduce the density of residential land from medium to low density. As the planning proposal is to reflect the outcomes of a Development Application approved by Council and is consistent with the Ballina Shire Growth Management Strategy and the Lennox Head Structure Plan, the inconsistency with the direction is justified as being of minor significance.

3.5 Development near Licensed Aerodromes

Development of the subject land for residential purposes is likely to result in development that protrudes into the Obstacle Limitation Surface for the Ballina/Byron Gateway Airport. The OLS contour in the vicinity of the land is 46.5m AHD and a portion of the subject land is already above this level being up to 50m AHD. The direction requires Council to consult with the Department of the Commonwealth responsible for aerodromes (CASA and Air Services Australia) and the lessee of the aerodrome (Ballina Byron Gateway Airport). This consultation has not yet occurred which means the proposal is inconsistent with the direction. If written advice is obtained from CASA, Air Service Australia and Ballina Byron Gateway Airport and no objections are received to the progression of the proposal then the inconsistency may be assessed as of minor significance. If objections from the agencies are received the maximum building height for the land may need to be reviewed. Council has indicated that it will consult with the above listed agencies following Gateway determination. This will be required prior to exhibition in accordance with the direction.

4.4 Planning For Bushfire Protection

This direction is applicable to the proposal as part of the land has been mapped as bushfire prone. Consultation with the NSW Rural Fire Service 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. Council has indicated that it will consult with the RFS as part of the planning proposal.

Environmental social economic impacts :

The rezoning of the land from R3 Medium Density Residential to R2 Low Density Residential is not expected to pose any environmental impacts as the majority of the land

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is cleared grassland. Any environmental impact would have been assessed with the development application.

A section of the site is mapped bush fire prone and thus, the proposal is to be referred to the NSW Rural Fire Service prior to community consultation, to satisfy section 117 Direction 4.4 Planning for Bushfire Protection.

The proposed development will require some vegetation removal of mapped SEPP 26 Littoral Rainforest. The effect on the mapped vegetation has been assessed as part of a conditional concurrence issued by the Department of Planning and Environment as part of the subdivision approval for DA 2016/166.

The proposal does not identify the land as being used for any purpose listed in the guidelines which may have resulted in contamination of the land. The proposal does not result in a change in the use of the land. The suitability of the site for residential purposes would have been assessed with the development application.

Positive social and economic impacts can be expected from the proposal, providing additional low density housing within the Lennox Head locality, which is consistent with Council strategic land release strategies.

Assessment Process

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

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

Public Authority Consultation - 56(2)(d) : **NSW Rural Fire Service Other**

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

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Document File Name	DocumentType Name	Is Public
Ballina Shire Council_05-06-2017_Ballina LEP 2012 Amendment - Visions Estate, Henderson Drive, Lennox Head_.pdf	Proposal Covering Letter	Yes
BSCPP 17 007 - Planning Proposal - Visions Estate Henderson Drive Lennox Head (Gateway V2).pdf	Proposal	Yes

Planning Team Recommendation

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

S.117 directions:

- 2.1 Environment Protection Zones
- 2.3 Heritage Conservation
- 2.4 Recreation Vehicle Areas
- 3.1 Residential Zones
- 3.2 Caravan Parks and Manufactured Home Estates
- 3.3 Home Occupations
- 3.4 Integrating Land Use and Transport
- 3.5 Development Near Licensed Aerodromes
- 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 Director Regions, Northern, as delegate of the Minister for Planning, determine under section 56(2) of the EP&A Act that an amendment to the Ballina LEP 2012 to rezone part of Lot 7 DP 1216761, Henderson Drive and Kellie-Ann Crescent, Lennox Head from R3 Medium Density Residential to R2 Low Density Residential, should proceed subject to the following conditions:

1) Prior to community consultation the planning proposal is to be updated:

- a) confirm the correct description of the lots to be rezoned;
- b) ensure the lot descriptions are based on the current cadastre at the time of exhibition;
- c) clearly illustrate these lots.

2) Community consultation is required under section 56(2) and 57 of the Environmental Planning and Assessment Act (EP&A Act) 1979 as follows:

- a) the planning proposal must be publicly available for 14 days; and
- b) the relevant planning authority must comply with the notice for public exhibition of planning proposals and the specifications for material that must be made available along with the planning proposal as identified in section 5.5.2 of A Guide to preparing a local environmental plan (Planning & Environment 2016).

3) Consultation is required with the following public authorities under section 56(2)(d) of the EP&A act:

- Air Service Australia;
- Ballina Byron Gateway Airport;
- Civil Aviation Safety Authority (CASA); and
- NSW Rural Fire Service

4) A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission).

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5) The timeframe for completing the LEP is to be 9 months from the week following the date of Gateway determination.

It is also recommended the Director Regions, Northern as delegate of the Secretary agrees:

1) That the planning proposal's inconsistencies with s117 Directions s 3.1, Residential Zones is justified in accordance with the terms of the Direction and notes the inconsistencies with 3.5 Development near Licenced Aerodromes and 4.4 Planning for Bushfire Protection are still outstanding pending consultation; and

2) Delegation to finalise the planning proposal be issued to Ballina Shire Council as the proposal is of local planning significance.

Supporting Reasons : The proposal will align the zoning of the site with the approved development consent.

The proposal will provide flexibility of housing stock in Lennox Head and ensure a sufficient supply of low density residential land is maintained within the locality.

Signature:

T. Renice

Printed Name:

Tamara Renice

Date:

25 July 2017