



*Planning Proposal 21/002*

# **» Ballina Heights Neighbourhood Commercial Centre**



40 cherry street • po box 450 • ballina nsw 2478  
t 02 6686 4444 • f 02 6686 7035 • e [council@ballina.nsw.gov.au](mailto:council@ballina.nsw.gov.au)

[ballina.nsw.gov.au](http://ballina.nsw.gov.au)

DISCLAIMER © NSW Spatial Services 2021. Although all care is taken in the preparation of plans within this document and it's attachments, Ballina Shire Council accepts no responsibility for any misprints, error, omissions or inaccuracies. The information contained within each plan is for pictorial representation only. Do not scale. Accurate measurements should be undertaken by survey.

# Contents

<b>1. Introduction.....</b>	<b>1</b>
1.1 Summary of Planning Proposal.....	1
1.2 Council Resolutions .....	1
<b>1.3 Gateway Determination .....</b>	<b>2</b>
<b>2. Objectives &amp; Intended Outcomes .....</b>	<b>3</b>
<b>3. Explanation of Provisions .....</b>	<b>4</b>
3.1 Land to which the Planning Proposal Applies.....	4
3.2 The Proposal .....	5
3.1.1 Plain English Version.....	5
<b>4. Justification.....</b>	<b>7</b>
4.1 Section A – Need for the Planning Proposal .....	7
4.2 Section B – Relationship to Strategic Planning Framework.....	8
4.3 Section C – Environmental, Social and Economic Impact .....	9
4.4 Section D – State and Commonwealth Interests .....	9
<b>5. Mapping.....</b>	<b>10</b>
<b>6. Community Consultation .....</b>	<b>10</b>
<b>7. Timeline .....</b>	<b>10</b>
<b>8. Appendices .....</b>	<b>12</b>
<b>Appendix 1 – Council Reports .....</b>	<b>1</b>
<b>Appendix 2 – Voluntary Planning Agreement .....</b>	<b>25</b>
<b>Appendix 3 – Section 9.1 Direction Checklist .....</b>	<b>26</b>
<b>Appendix 4 – Gateway Determination .....</b>	<b>30</b>
<b>Appendix 5 – Mapping .....</b>	<b>34</b>
<b>Appendix 6 – Ballina Commercial Centres and Employment Lands Study .....</b>	<b>39</b>
<b>Appendix 7 – Response to Agency Consultation .....</b>	<b>40</b>

# 1. Introduction

## 1.1 Summary of Planning Proposal

This planning proposal seeks to amend the Ballina Local Environmental Plan 2012 to relocate the neighbourhood commercial centre within the Ballina Heights Estate, in Cumbalum.

The planning proposal will achieve this by:

- Applying the B2 Local Centre zone to an area of land currently zoned R3 Medium Density zone.
- Applying the R3 Medium Density Residential zone to parts of the area currently within the B2 Local Centre zone.
- Retain the B2 Local Centre zone to an area of land currently zoned B2 Local Centre zone in parts of the site that are unsuitable for residential zoning by virtue of proximity to road noise from the Pacific Highway.
- Consequential amendments to the Minimum Lot Size map, Height of Buildings map and Floor Space Ratios map in line with the changes in zoning (detailed below).

Maps illustrating the proposed changes are provided in section 3.1.1 of this planning proposal and Appendix 5 in standard LEP map sheet format.

A voluntary planning agreement is associated with this planning proposal, as outlined below. A copy of the agreement is provided in Appendix 2.

**NOTE:** After 26 April 2023 the B2 zone will be replaced with an E1 Local Centre zone.

## 1.2 Council Resolutions

The Council considered this planning proposal at its Ordinary Meeting held on 24 March 2022 and resolved as follows [Minute No. 220322/5]:

1. *That Council prepare a planning proposal to amend the Ballina Local Environmental Plan 2012 to apply the B2 Neighbourhood Commercial zone to part of Lot 66 D 1276775 and apply the R3 Medium Density Residential zone to part of Lot 497 of DP 1261230 as well as associated adjustments to related planning provisions, as outlined in this report.*
2. *That the General Manager is authorised to progress voluntary planning agreement negotiations with the proponent addressing affordable housing and commercial development timing in association with the proposed changes to land use zoning.*
3. *That following the finalisation of negotiations set out in point 2, Council refer the planning proposal referred to in point 1 to the Department of Planning, Industry and the Environment for Gateway determination.*
4. *That following the receipt of a Gateway determination, that any voluntary planning agreement and the planning proposal be reported to Council for endorsement, prior to public exhibition.*
5. *That the developers of the Ballina Heights Estate be encouraged to proceed with the development of the neighbourhood commercial centre, as a matter of urgency.*



6. *That Council liaise with the developers of Banyan Hill to explore options for the designation of a neighbourhood shop site within the northern part of the residential estate.*
7. *That the Department of Planning and Environment be advised that Council wishes to exercise its delegated plan making functions for this LEP amendment.*
8. *That Council negotiate further with the developers to increase the area of land dedicated to attainable housing within the Voluntary Planning Agreement.*

This matter was further considered at Council's Ordinary Meeting held on 24 November 2022, in relation to the finalisation of the voluntary planning agreement. The Council resolved as follows [Minute No. 241122/5]:

1. *That Council endorses the finalisation of the Voluntary Planning Agreement on the basis of Attachment 3 to this report, and subject to final legal advice for the purposes of proceeding to Gateway determination and public exhibition of the planning proposal.*
2. *That subject to Vixsun agreeing to the Voluntary Planning Agreement, the Planning Proposal, provided as Attachment 2 to this report, to amend the Ballina Local Environmental Plan 2012, be referred to the Department of Planning and Environment for Gateway Determination.*
3. *That Council advise the Department of Planning and Environment that Council wishes to exercise its delegation functions with respect to the planning proposal.*
4. *That subject to Council receiving an affirmative Gateway Determination, the planning proposal and voluntary planning agreement be placed on public exhibition in accordance with Council's standard procedures.*
5. *That the Council receive a further report on this matter following the conclusion of the public exhibition.*
6. *That Council advise the Ballina Heights developers that Council requires the Registration of the Voluntary Planning Agreement to occur prior to the finalisation of the planning proposal as per Council's Voluntary Planning Agreements Policy.*

A copy of the reports considered by the Council, and the associated Council Minutes, are provided in Appendix 1.

### **1.3 Gateway Determination**

The Department of Planning and Environment issued a Gateway determination, dated 17 March 2023, allowing this matter to progress to public exhibition.

The Gateway determination required the consultation of the following Government agencies:

- Transport for NSW
- NSW Rural Fire Service
- The Civil Aviation Safety Authority

A copy of the Gateway determination is provided in Appendix 4.

## 2. Objectives & Intended Outcomes

The objective of this planning proposal is to:

- Relocate the neighbourhood commercial zone within the Ballina Heights Estate to a more commercially viable site to facilitate the timely provision of neighbourhood commercial facilities to the locality.

The intended outcomes of this planning proposal are to:

- Amend the Zone Map (LZN) to apply the B2 Local Centre zone to land, being part of Lot 667 of DP 1280013, which is currently subject to the R3 Medium Density Residential zone.
- Amend the Zone Map (LZN) to apply the R3 Medium Density Residential zone to land, being part of Lot 497 of DP 1261230, which is currently subject to the B2 Local Centre zone.
- Amend the Minimum Lot Size Map (LSZ) to align with the above zone changes, such that the 450m<sup>2</sup> minimum lot size standard is to be applied to the land to be zoned R3 Medium Density Residential and the 800m<sup>2</sup> minimum lot size standard is to be applied to the land that is to be zoned B2 Local Centre.
- Amend the Height of Buildings Map (HOB) to align with the above zone changes, such that the 8.5m building height standard is to be applied to the land to be zoned R3 Medium Density and the 9m building height standard is to be applied to the land to be zoned B2 Local Centre.
- Amend the Floor Space Ratio Map (FSR) to align with the above zone changes, such that the FSR of 0.6:1 is to be applied to the land to be zoned B2 Local Centre and is to be left blank with respect to the land to be zoned R3 Medium Density (the standard of 0.5:1 will therefore apply under the terms of Clause 4.4 of the Ballina LEP 2012).

A voluntary planning agreement (VPA) has been prepared in association with the planning proposal, which will have the following effect:

- Obligates the developer to have substantially commenced the development of the neighbourhood commercial centre development, prior to subdividing the residential land to which the planning proposal relates.
- Obligates the Roman Catholic Church, one of the owners of the land, to deliver a minimum of 5 affordable rental dwellings to be held in perpetuity for this purpose in the Church's property portfolio, or otherwise to transfer title of a 1,500m<sup>2</sup> residential site to Council for the delivery of affordable rental housing.

## 3. Explanation of Provisions

### 3.1 Land to which the Planning Proposal Applies

This planning proposal relates to the following land (as shown below):

- Part of Lot 497 of DP 1261230
- Part of Lot 667 of DP 1280013



The LEP Subject Site Map is provided in Appendix 5.

The voluntary planning agreement relating to this matter applies to additional land in the vicinity of the subject land. A copy of the voluntary planning agreement is provided in Appendix 2.



## 3.2 The Proposal

### 3.1.1 Plain English Version

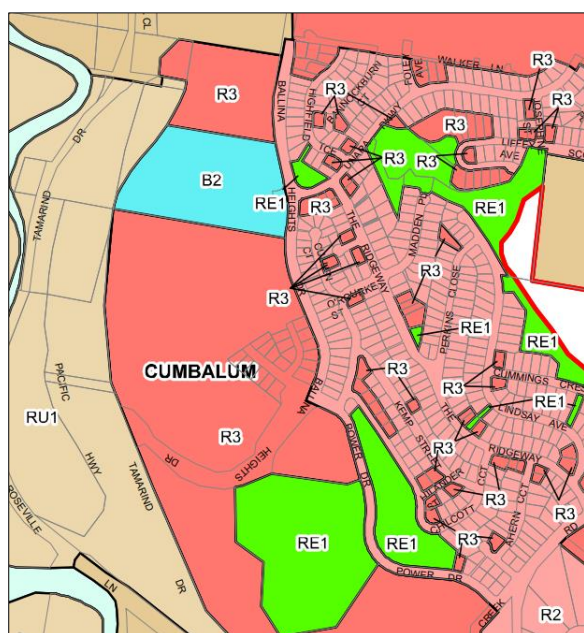
This proposal involves amendment to several maps within the Ballina Local Environmental Plan 2012 including the zoning map, minimum lot size map, height of buildings map and floor space ratio map.

The outcome of the planning proposal will be to relocate the neighbourhood commercial centre zone to a more commercially viable site within the estate, to facilitate the timely provision of neighbourhood commercial facilities to the residents of the locality.

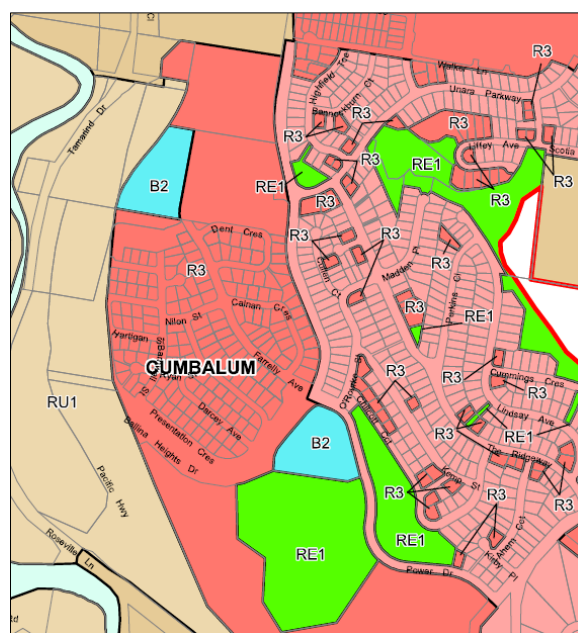
The planning proposal is supported by a voluntary planning agreement (VPA), which is provided in Appendix 2. The purpose of the VPA is to ensure the development of the neighbourhood commercial centre proceeds prior to the subdivision of the residential land and commits the owner of the land to provide five affordable rental dwellings.

The NSW Government is currently progressing the implementation of the *State Environmental Planning Policy Amendment (Land Use Zones) (No.2) 2022* that will alter land uses zone and clauses within the Ballina LEP 2012 on 26 April 2023. The effect of these changes is to amend the existing business/commercial zones such that the current B2 Local Centre zone will become the E1 Local Centre zone (equivalent under the new zoning regime).

Following the SEPP (Land Use Zones) (No.2) 2022 coming into effect, the zoning (LZN) maps associated with this planning proposal will be updated, prior to finalisation. Having regard to the above, the proposed map changes are illustrated below.



**EXISTING ZONING**

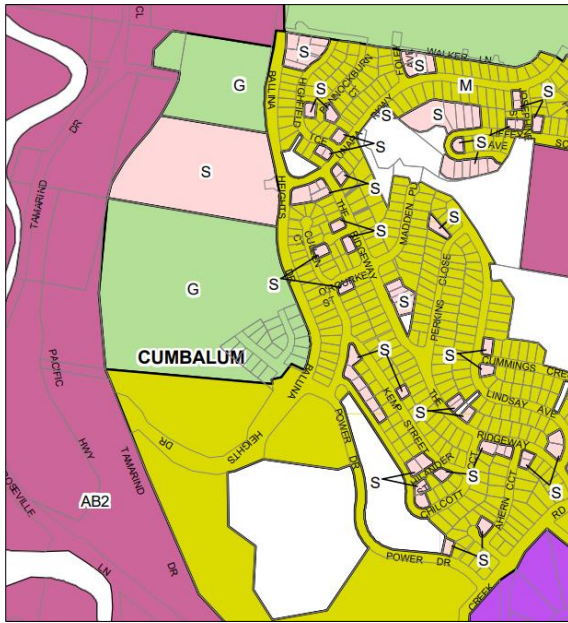


**PROPOSED ZONING\***

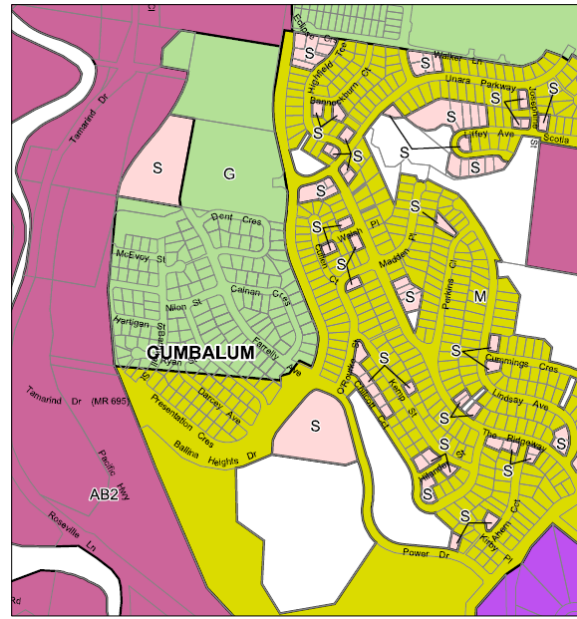
\*After 26 April 2023 the B2 zone will be replaced with an E1 Local Centre zone.



The consequential changes to the other LEP maps are illustrated below.

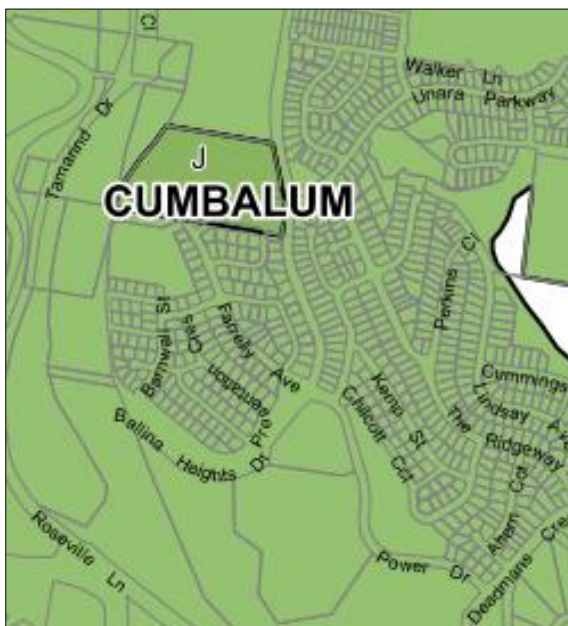


**EXISTING MINIMUM LOT SIZE**

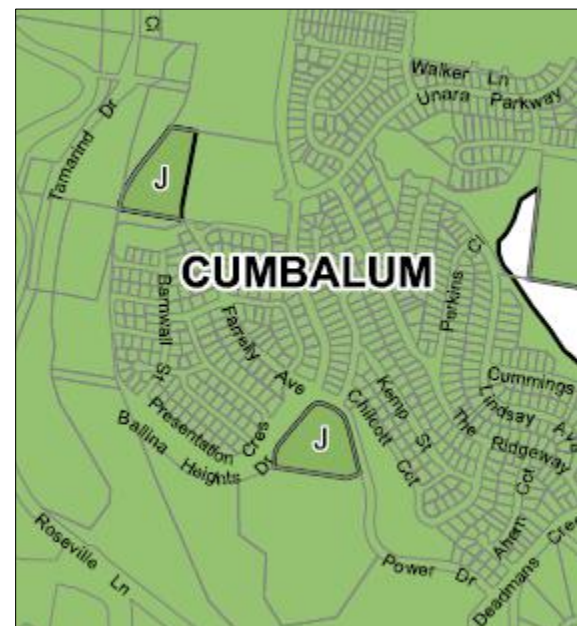


**PROPOSED MINIMUM LOT SIZE**

(G = 450m<sup>2</sup>; S = 800m<sup>2</sup>)

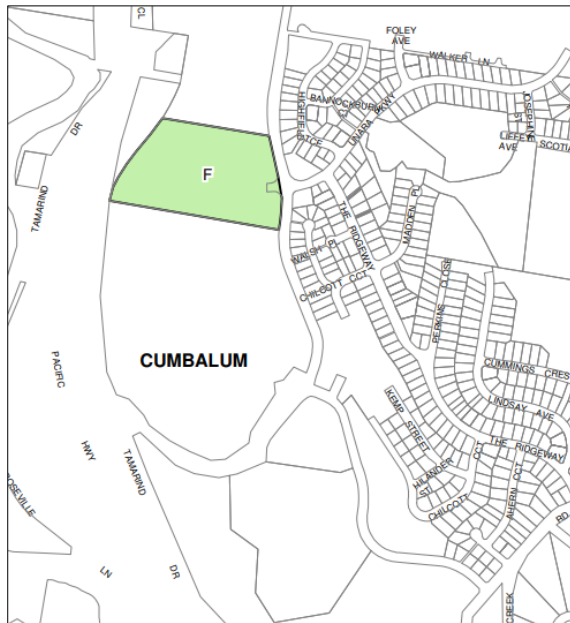


**EXISTING BUILDING HEIGHT  
STANDARD**



**PROPOSED BUILDING HEIGHT  
STANDARD**

(I = 8.5m; J = 9m)



**EXISTING FLOOR SPACE RATIO  
STANDARD**



**PROPOSED FLOOR SPACE RATIO  
STANDARD**

(F = 0.6)

## 4. Justification

### 4.1 Section A – Need for the Planning Proposal

**Q1 Is the planning proposal a result of an endorsed LSPS, strategic study or report?**

No. The planning proposal has come about as a result of Council's liaison with the developers of the land regarding the timely provision of neighbourhood commercial facilities in the locality.

A report considered at the Ordinary Meeting of the Council held on 24 March 2022 (provided in Appendix 1) provides the context for how this matter arose.

Considerations regarding the location and amount of land required of the neighbourhood commercial centre was, however, informed by a Commercial and Employment Lands Study prepared on Council's behalf by consultants HillPDA. The study noted the following with respect to the Ballina Heights Neighbourhood Commercial Centre (referred to in the report as 'Cumbalum Precinct A'):

*Currently there is a 12 hectare site zoned B2 for a village centre in Cumbalum on Ballina Heights Drive and further to the north is another area of around 3 hectares zoned B2 for a future village centre.*

*Forecast.ID is showing only 4,227 people living in the Cumbalum, Kinvara and Tintenbar area by 2036 which means a centre not much larger than say 2,000sqm to 3,000sqm of shop front space is required. 1.7ha should be sufficient size for a B2 zone. That said the*

*site on the corner of Ballina Heights Drive and Power Drive is a better location for the centre. It is as central as the current 12ha site but also closer to the main entry point into Cumbalum from Ballina and closer to the on/off ramps of the Pacific Motorway.*

The outcome of the planning proposal is consistent with the recommendations of the Commercial and Employment Lands Study prepared on Council's behalf.

**Q2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

An LEP amendment is the most appropriate means of achieving the intended outcomes.

It is noted that a voluntary planning agreement has been offered by the developer of the land to further support the objectives of the planning proposal, with respect to the timely delivery of neighbourhood commercial facilities to the locality.**4.2 Section B – Relationship to Strategic Planning Framework**

**Q3 Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?**

The planning proposal is generally consistent with the objectives and actions set out in the North Coast Regional Plan 2041. The planning proposal supports Objective 11 (Support cities and centres and coordinate the supply of well-located employment land) and Objective 2 (Provide for more affordable and low cost housing).

The planning proposal is, however, inconsistent with Objective 16 (Increase active and public transport usage). This is due to the relocation of the neighbourhood commercial centre in the manner proposed will result in a reduced walkable catchment to the neighbourhood commercial centre servicing the locality, potentially discouraging walking and cycling to access local services. This inconsistency is considered justifiable, however, on the basis that the proposal will expedite the provision of neighbourhood commercial facilities to the locality, having regard to the improved commercial viability of the proposed site and the private ownership of the land.

**Q4 Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?**

The planning proposal is generally consistent with the intent of the Ballina Shire LSPS 2020, with respect to reinforcing the Ballina Shire Commercial and Industrial Hierarchy.

**Q5 Is the planning proposal consistent with any other applicable State and regional studies or strategies?**

Yes. The planning proposal is generally consistent with the Northern Rivers Regional Economic Development Strategy (2018 & 2023 Update).

**Q6 Is the planning proposal consistent with applicable State Environmental Planning Policies?**

Yes. The planning proposal is consistent with applicable State Environmental Planning Policies (SEPPs).



**Q6 Is the planning proposal consistent with applicable Ministerial Directions (section 9.1 directions)?**

A Section 9.1 Direction Checklist for the planning proposal is provided at Appendix 3.

**4.3 Section C – Environmental, Social and Economic Impact**

**Q7 Is there any likelihood that critical habitat or threatened species, population or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

No. The proposal relates to sites which are currently zoned for urban purposes and upon which preparatory site works (filling and site clearing) have been undertaken.

**Q8 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

No.

**Q9 Has the planning proposal adequately addressed any social and economic effects?**

The proposal seeks to balance the social and economic impacts associated with the provision of neighbourhood community facilities to the locality.

The public exhibition processes associated with the planning proposal may provide further input for the Council's consideration of the social and economic impacts of the proposal.

**4.4 Section D – State and Commonwealth Interests**

**Q10 Is there adequate public infrastructure for the planning proposal?**

Yes.

Adequate infrastructure is provided to the site to enable the outcomes intended by the planning proposal.

**Q11 What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?**

Consultation has been undertaken with the Government agencies listed below, subject to the terms of the Gateway determination.

Responses received from the NSW Rural Fire Service and the Civil Aviation Safety Authority are contained in Appendix 7. Transport for NSWNSW Rural Fire ServiceThe Civil Aviation Safety Authority (CASA)

## 5. Mapping

The planning proposal seeks to amend the following LEP maps and map sheets:

- Land Zoning Map – LZN\_005B
- Minimum Lot Size Map – LSZ\_005B
- Height of Buildings Map – HOB\_005
- Floor Space Ratio Map – FSR\_005B

Draft maps reflecting the changes being sought by this planning proposal are provided in Appendix 5.

## 6. Community Consultation

This proposal will be publicly exhibited in accordance with the Gateway determination and the terms of the *Environmental Planning and Assessment Act 1979*.

The following Government agencies have been consulted in relation to the planning proposal, as per the Department's Gateway determination:

- Transport for NSW
- NSW Rural Fire Service
- The Civil Aviation Safety Authority (CASA) and the manager of the Ballina-Byron Gateway Airport.

## 7. Timeline

The proposed timeline for completion of the planning proposal is as follows:

Plan Making Step	Estimated Completion (Before)
Gateway determination	January 2023
Government agency consultation	February 2023
Public exhibition period	April - May 2023
Public hearing	N/A
Submissions assessment	June 2023
RPA assessment of planning proposal and exhibition outcomes	July 2023
Submission of endorsed LEP to DP&I for finalisation	August 2023

Plan Making Step	Estimated Completion (Before)
RPA decision to make the LEP amendment (if delegated)	August 2023
Forward LEP amendment to DP&E for notification (if delegated)	August 2023

Council will be exercising its local plan-making authority functions for the processing of this LEP amendment, under delegation from the Department of Planning and Environment.



## 8. Appendices

## Appendix 1 – Council Reports

### **MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS 40 CHERRY STREET BALLINA, ON 24/11/22 AT 9.00AM**

#### **8.3 Planning Proposal Request - Ballina Heights Commercial Centre**

**241122/5        RESOLVED**

(Cr Kiri Dicker/Cr Rodney Bruem)

1. That Council endorses the finalisation of the Voluntary Planning Agreement on the basis of Attachment 3 to this report, and subject to final legal advice for the purposes of proceeding to Gateway determination and public exhibition of the planning proposal.
2. That subject to Vixsun agreeing to the Voluntary Planning Agreement, the Planning Proposal, provided as Attachment 2 to this report, to amend the Ballina Local Environmental Plan 2012, be referred to the Department of Planning and Environment for Gateway Determination.
3. That Council advise the Department of Planning and Environment that Council wishes to exercise its delegation functions with respect to the planning proposal.
4. That subject to Council receiving an affirmative Gateway Determination, the planning proposal and voluntary planning agreement be placed on public exhibition in accordance with Council's standard procedures.
5. That the Council receive a further report on this matter following the conclusion of the public exhibition.
6. That Council advise the Ballina Heights developers that Council requires the Registration of the Voluntary Planning Agreement to occur prior to the finalisation of the planning proposal as per Council's Voluntary Planning Agreements Policy.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Cadwallader and Cr Jeff Johnson

### 8.3 Planning Proposal Request - Ballina Heights Commercial Centre

#### 8.3 Planning Proposal Request - Ballina Heights Commercial Centre

<b>Section</b>	Strategic Planning
<b>Objective</b>	To outline the progress of negotiations regarding a voluntary planning agreement related to the proposed relocation of the Ballina Heights Commercial Centre, Cumbalum.

#### **Background**

Council considered a report at the 24 March 2022 Ordinary meeting in relation to a proponent request to amend the Ballina Local Environmental Plan 2012 to enable the relocation of the Ballina Heights Commercial Centre, from the Existing Commercial Site on Ballina Heights Drive to the Proposed Commercial Site located on the corner of Power Drive and Ballina Heights Drive.

The previous Council report is provided as Attachment 1 to this report.

Council resolved as follows in relation to that matter:

1. *That Council prepare a planning proposal to amend the Ballina Local Environmental Plan 2012 to apply the B2 Neighbourhood Commercial zone to part of Lot 66 D 1276775 and apply the R3 Medium Density Residential zone to part of Lot 497 of DP 1261230 as well as associated adjustments to related planning provisions, as outlined in this report.*
2. *That the General Manager is authorised to progress voluntary planning agreement negotiations with the proponent addressing affordable housing and commercial development timing in association with the proposed changes to land use zoning.*
3. *That following the finalisation of negotiations set out in point 2, Council refer the planning proposal referred to in point 1 to the Department of Planning, Industry and the Environment for Gateway determination.*
4. *That following the receipt of a Gateway determination, that any voluntary planning agreement and the planning proposal be reported to Council for endorsement, prior to public exhibition.*
5. *That the developers of the Ballina Heights Estate be encouraged to proceed with the development of the neighbourhood commercial centre, as a matter of urgency.*
6. *That Council liaise with the developers of Banyan Hill to explore options for the designation of a neighbourhood shop site within the northern part of the residential estate.*
7. *That the Department of Planning and Environment be advised that Council wishes to exercise its delegated plan making functions for this LEP amendment.*
8. *That Council negotiate further with the developers to increase the area of land dedicated to attainable housing within the Voluntary Planning Agreement.*

A draft planning proposal has been prepared to give effect to the Council resolution, which is provided as Attachment 2 to this report.



### 8.3 Planning Proposal Request - Ballina Heights Commercial Centre

---

The purpose of this report is to present the outcomes of the voluntary planning agreement negotiations and seek Council direction.

It is noted that the NSW Government's Employment Zones Reforms will have the effect of amending the B1 Local Centre zone to become the E1 Local Centre zone, which are equivalent in functional terms. References in this report and the associated documentation should be read having regard to the employment zones reforms. The planning proposal documentation will be updated to reflect these reforms as they come into effect.

#### Key Issues

- Neighbourhood commercial facilities
- Affordable housing
- Voluntary Planning Agreement provisions
- Effectiveness of the Agreement to ensure the outcomes are delivered

#### Discussion

Council staff have entered into negotiations with the developers of the Ballina Heights Estate, being Vixsun Pty Ltd the owner of the Existing Commercial Site being Lot 497 of DP1261230) and the Lismore Diocese of the Roman Catholic Church (LDRCC) the owner of the Proposed Commercial Site being Lot 667 of DP 1280013), as per the Council's resolution.

The existing and proposed commercial sites are shown in the following map.



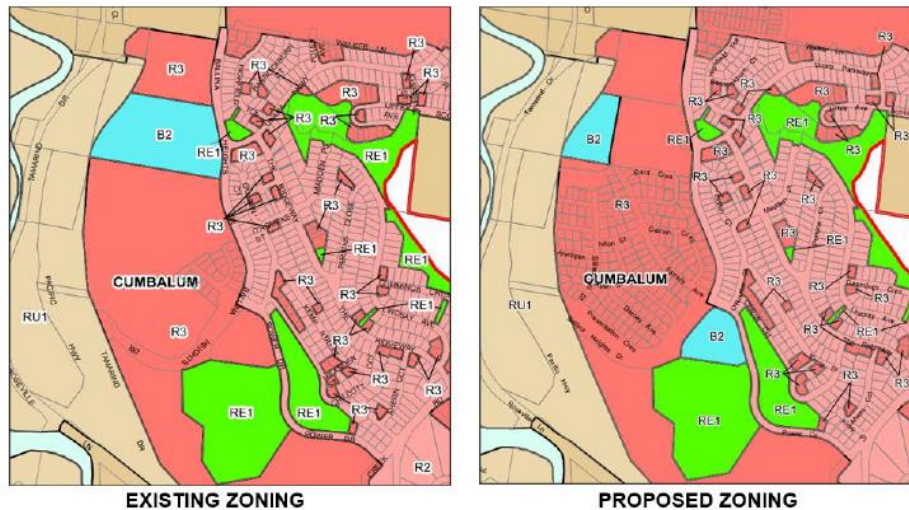
The key purpose of the Voluntary Planning Agreement (VPA) negotiations, from Council's perspective, is to ensure the developers of the land construct the neighbourhood commercial centre, as a matter of priority.



### 8.3 Planning Proposal Request - Ballina Heights Commercial Centre

In addition, the agreement seeks to deliver affordable housing outcomes in recognition of the additional development opportunities that would be provided to the developer of the land in association with the zoning amendments to be enabled by the planning proposal.

The proposed zoning outcome associated with the planning proposal is shown in the following map.



The negotiations have progressed to the point of having resolved, to the reasonable satisfaction of all parties, the key functional elements of the agreement. Notwithstanding, some disagreement remains regarding some aspects of the agreement.

The key elements of agreement are outlined below, following by details regarding the nature and consequences of the disagreement.

#### Key Elements of Agreement

The main mechanism to achieve the timely development of the commercial centre has been to require that a minimum of 1,000sqm of commercial floor-space be developed prior to the subdivision of the land that would be zoned (from B2 Local Centre to R3 Medium Density Residential) as a consequence of the planning proposal.

This requirement aims to ensure the developers remain motivated to deliver on the construction of the commercial centre, before proceeding with the residential subdivision. This approach has been agreed to by the developers of the land.

In relation to affordable housing, the voluntary planning agreement would obligate the LDRCC to develop 1,500sqm of land for the purpose of five affordable rental dwellings, which are to be rented through a registered community housing provider as affordable housing.

The agreement would also involve the placement of a 'Restriction on User' on the title of the land (per Section 88B of the *Conveyancing Act 1919*) that the land be used for the provision of affordable housing in perpetuity.

### 8.3 Planning Proposal Request - Ballina Heights Commercial Centre

---

The agreement outlines the timeframe for the delivery of the affordable housing, to be within five years from the date the planning proposal has been made.

The agreement also provides for an alternative course whereby the LDRCC could dedicate the affordable housing land to Council (at no cost) for Council to construct affordable housing, at the LDRCC's election.

As security, the agreement also provides that Council may acquire 1,500sqm of land from LDRCC for \$1 for Council to deliver the housing, should the developer not deliver on their obligations with respect to the delivery of affordable housing (as per the above).

This approach, in relation to the delivery of affordable housing, has been agreed to by the developers of the land, in particular the LDRCC (upon whom these obligations fall).

#### Matters to be resolved

The substantive elements of the voluntary planning agreement have been settled to the satisfaction of the developers of the land and Council staff.

Notwithstanding, several details remain under contention, for which Council is invited to provide guidance to direct the finalisation of the VPA negotiations.

Some of these outstanding details relate to Council's requirement to have the voluntary planning agreement registered on the title, in accordance with s7.6 of the EP&A Act 1979, of the land that comprises the Existing Commercial Site.

Section 7.6(3) of the Act provides that:

*A planning agreement that has been registered by the Registrar-General under this section is binding on, and is enforceable against, the owner of the land from time to time as if each owner for the time being had entered into the agreement.*

Council's Voluntary Planning Agreements Policy requires that voluntary planning agreements be registered on title. In relation to this, Council's policy notes the following:

#### *Registration*

*Section 7.6 of the Act provides for the registration of a VPA on the title to land. Registration requires the agreement of all persons having a registered interest in the land. Such persons include mortgagees, charges, lessees and the like.*

*The Council will require VPAs to be registered on the title unless the Council is satisfied there is a good reason not to do so and the Council's interests under the VPA will not be prejudiced. For this reason, the landowner, if different to the Developer, will generally be required to be an additional party to a VPA.*



### 8.3 Planning Proposal Request - Ballina Heights Commercial Centre

---

*The Council will generally agree that registration can be removed on any part of the subject land in conjunction with the issuing of a subdivision certificate to create lots that are to be sold to end-purchasers or otherwise created for separate occupation, use and disposition. Registration will ordinarily be required to be undertaken by the Developer immediately upon commencement of the VPA. This means that the Council will generally not execute a VPA unless and until the landowner has produced evidence to the Council's satisfaction of the agreement of all third parties to its registration on title.*

*The landowner, at its cost, will be required to submit to the Council in registrable form all documents necessary to enable the Council effect registration of the VPA, and to assist the Council to address any requisition from Land and Property Information relating to any dealing lodged for registration.*

It is also standard practice, in the drafting of VPAs, for a 'Restriction on Dealings' clause to be included which requires that, if the land is to be sold the existing owner is obligated to ensure that the new owner becomes a party to the agreement, unless the VPA has been registered to the title of the land.

The registration to title of the VPA means that any future owner of the land, whilst the VPA remains on the title, would be subject to the obligations of the agreement.

Without the registration to title, a change to the ownership of the land (over which the planning proposal would apply the R3 Medium Density Residential zone) by sale or otherwise, could occur without the new owner being subject to the obligations under the agreement.

Without the registration to title, the residential subdivision could potentially proceed without the neighborhood commercial site being constructed.

Vixsun has now agreed to the registration of the agreement to the title of the land. The obligations on the LDRCC under the agreement are adequately addressed by the restrictions on the title under section 88B (Restriction on User) and other clauses relating to the delivery of affordable housing, as outlined above.

Due to the significance of this issue, particularly in relation to the Vixsun land, Council is invited to confirm that the registration of the agreement over the Land Title of the Existing Commercial Site is to occur prior to finalization of the planning proposal, as a condition of the VPA and the planning proposal.

The key outstanding issues in the finalization of the agreement with Vixsun, are two-fold, namely:

- circumstances for the release of the registration of the VPA from the respective land titles.
- timeframes and processes around the finalization of the planning proposal.

In relation to the first point above, Vixsun has proposed to include a clause by which the developer would advise Council that it has satisfied its obligations under the VPA, upon which Council would agree to release the Registration of the agreement to the land title.

### 8.3 Planning Proposal Request - Ballina Heights Commercial Centre

---

Council's legal advice is that the agreement should clearly outline the circumstances by which the registration would be released, being upon the satisfactory completion (as determined by Council) of the obligations under Clause 6.1(a) of the VPA, being:

*6.1 To facilitate the Planning Proposal, The First Applicant agrees to the following terms:*

- (a) Subject to the Provisions of Recital K (i) and (ii) in this Deed, no subdivision certificate under section 6.16 of the EPA Act shall be sought for the Existing Commercial Site until such time that:*
  - i. Approval has been received for a commercial development with a minimum Gross Floor Area of 1000m<sup>2</sup>; and*
  - ii. Development has substantially commenced on the Proposed Commercial Site; and*
  - iii. Occupation certificate has been issued for that commercial development pursuant to section 6.10 of the EPA.*

Clause 10.4 provides for this preferred approach as per the following:

#### *10.4 Release*

*Council must execute and give to the Applicant any forms required by NSW Land Registry Services to remove the registration of this Deed from the folio/s for the Land referred to under Clause 10.1) after the Applicant has complied with its obligations under Clause 6.1(a) to Council's satisfaction.*

In relation to the second point above, Vixsun has proposed that the VPA include obligations on Council relating to timeframes for the finalisation of the planning proposal (to amend the zoning of the land).

It is noted, however, that Section 7.4 of the EP&A Act includes the following provisions:

- (9) A planning agreement cannot impose an obligation on a planning authority—*
  - (a) to grant development consent, or*
  - (b) to exercise any function under this Act in relation to a change to an environmental planning instrument.*
- (10) A planning agreement is void to the extent, if any, to which it requires or allows anything to be done that, when done, would breach this section or any other provision of this Act, or would breach the provisions of an environmental planning instrument or a development consent applying to the relevant land.*
- (11) A reference in this section to a change to an environmental planning instrument includes a reference to the making or revocation of an environmental planning instrument.*

Having regard to the above, the VPA cannot include obligations upon the Council with respect to exercising its planning functions under the EP&A Act 1979.

### 8.3 Planning Proposal Request - Ballina Heights Commercial Centre

---

In addition, with respect to the timeframe for the LDRCC to elect whether it will construct the affordable housing or dedicate the affordable housing land to Council, the developers wish to have this timeframe reflect any delays in Council issuing a development consent for the affordable housing.

In response, given this clause relates only to the timeframe by which the developer is to elect whether or not to proceed to construct the affordable housing, or dedicate the land to Council, a period of 12 months from the execution of the agreement by all parties is a reasonable condition.

It is also noted a separate clause (Clause 6.6(b)) requires that the developer obtain all relevant consents within five years, which has been agreed to.

Further, Clause 6.11 of the agreement acknowledges that “...*Council must act reasonably having regard to the circumstances surrounding the failure by the Second Applicant [LDRCC] to deliver the Affordable Rental Housing...*”.

Delays in the determination of development consent relating to the affordable housing would be a matter Council would reasonably take into account in determining whether the LDRCC is in breach of the timeframe for the delivery of the affordable housing, per Clause 6.11.

Having a specified timeframe for the election regarding the affordable housing is preferred as it makes the obligations abundantly clear, particularly as it effects related clauses, should Council need to avail itself of breach clauses under the agreement due to non-performance.

Vixsun has also proposed the inclusion of a sunset clause that would enable the proponents to opt-out of the VPA should the rezoning process not be completed within two years.

Staff propose the following process for the finalization of the planning proposal, which may address the concerns raised by Vixsun:

1. Following the conclusion of the VPA negotiations as outlined in this report, the proponents would be required to execute the agreement prior to the planning proposal being referred to the Department of Planning for Gateway Determination. This will obligate the developers, per the agreement, should the planning proposal be finalised.
2. The planning proposal would be referred to the Department of Planning and Environment for Gateway Determination. The Department will determine whether further information is required to be provided prior public exhibition. Should such material be required by the Department, Council will make the particulars known to the developers for their response. Whilst Staff do not anticipate the need for significant additional documentation to be provided, this is ultimately a matter for the Gateway process to determine and for the proponent to provide, given the planning proposal arises on the basis of a landholder request.
3. The planning proposal would be publicly exhibited in accordance with the requirements of the Act, incorporating whatever additional information is required of the Department, provided by the proponent in support of the planning proposal.



### 8.3 Planning Proposal Request - Ballina Heights Commercial Centre

---

4. At any point in this process, should the proponents seek to withdraw from the planning proposal and voluntary planning agreement, due to concerns over timing delays, Council would be invited to discontinue the planning proposal. This would retain the existing zoning over the site.
5. Subject to point 4, Council would consider any submissions raised during the public exhibition process. Should Council resolve to proceed with the finalization of the planning proposal, Council could also resolve to execute the VPA upon the making of the LEP amendment. This would then bind the developers, per the agreement, and commence timeframes under the agreement relating to seeking development consent for the Neighborhood Centre and undertaking the affordable housing, in association with the zoning (and related) amendments.

Having regard to the above, the advanced draft VPA incorporating Council's preferred approach with respect the matters outlined is provided as Attachment 3 to this report, incorporating the following:

- Clause 10 requiring the Registration of the agreement (and related Restriction on Dealings clause) to the Land Title of the Existing Commercial Site.
- Clause 6.4 clarifying that the LDRCC must elect whether to construct the affordable housing or dedicate the affordable housing land to Council within 12 months of the execution of the VPA by all parties.
- Clause 10.4 clarifying that Council will agree to the release of the registration of the VPA to the Land Title of the Existing Commercial Site following the satisfaction of Clause 6.1(a).

#### **Delivery Program Strategy / Operational Plan Activity**

Advancing the delivery of the commercial area in the Ballina Heights locality is a specific action for the 2022/23 year under the current Operational Plan and Delivery Program (action PE 1.2b – Support the delivery of commercial and retail shops in the Ballina Heights Estate).

In relation to this action it is important to recognise that the provision of commercial facilities is at the discretion of the landowner. Council's approach to advancing this action has been to enter into negotiations with the developers of the Ballina Heights Estate in accordance with the Council's March 2022 resolution on this matter.

#### **Community Consultation Policy**

Should Council proceed with further assessment of an LEP amendment, community engagement will be undertaken in accordance with Council's Community Participation Plan, consultation requirements associated with voluntary planning agreements and any requirements specified by the Department of Planning, Industry and Environment Gateway determination.



### 8.3 Planning Proposal Request - Ballina Heights Commercial Centre

---

#### Financial / Risk Considerations

The matters set out in this report have legal implications with respect to land uses for which development consent may be sought on the land as set out in the body of this report.

Should Council resolve to proceed with an LEP amendment, the processing of the associated planning proposal would be subject to fees and charges. On this basis, processing the planning proposal request can be accommodated within existing resources.

The developer may also have options to seek a review of the Council's planning proposal decision through the Department of Planning and Environment.

#### Options

*Option 1 – Council could resolve to progress the planning proposal, subject to Vixsun and the LDRCC agreeing to the voluntary planning agreement, provided as Attachment 3, and as outlined in this report.*

This option is recommended on the basis that the VPA provides the most suitable means to secure the outcomes sought by the proponent and the Council, per the March 2022 resolution, as set out in the body of this report.

Under this option, following a final review of the VPA by Council's solicitor and subject to Vixsun and the LDRCC executing the agreement incorporating the matters set out in the Council report, the planning proposal (provided as Attachment 2 to this report - updated to incorporate the decision of the Council) would be sent to the Department of Planning and Environment for Gateway Determination.

Following the receipt of an affirmative Gateway Determination and provision of any additional information required by the Gateway Determination by the proponents, the planning proposal would be placed on public exhibition before being reported back to the elected Council for further consideration.

It is noted in relation to this option, that the planning proposal to amend the zoning arrangement over the land, would not be finalised until the VPA has been registered on the title of the Existing Commercial Site, as per the agreement and Council's policy.

Under this option, should the proponents advise Council that they wish to withdraw from the VPA and the planning proposal, at any point prior to the finalisation of the planning proposal, this matter would be reported to the Council for further consideration.

*Option 2 – Council could resolve to progress the planning proposal and voluntary planning agreement on the basis of the proponents' request.*

Under this option Council would endorse the VPA (as provided in Attachment 2 to this report) with amendment of the following:

- Amendment of Clause 6.4 to include an allowance for delays in the issuing of a development consent to the timeframe by which the LDRCC must elect whether to construct or dedicate the affordable housing.

### 8.3 Planning Proposal Request - Ballina Heights Commercial Centre

---

- Amendment of Clause 10.4 to allow the proponent to determine when the obligations under the agreement have been met, sufficient to enable the release of the registration of the agreement over the land title of the Existing Commercial Site.

This option is not recommended on the basis that the amendments proposed by the developer in this case, would significantly undermine the delivery of outcomes the VPA seeks to achieve and weaken Council's ability to require compliance with the terms of the VPA.

*Option 3 – Council could resolve to decline the planning proposal request.*

Under this option, Council would write to the developers advising them that the planning proposal does not have Council's support.

This option is not recommended on the basis that, the outcome negotiated with respect to the voluntary planning agreement and planning proposal represents provides the most appropriate mechanism for delivering the outcomes sought by the Council's March 2022 resolution, subject to the proponent's execution of the VPA and subject to the registration of the VPA to the title of the Existing Commercial Site, as outlined in this report.

### RECOMMENDATIONS

1. That Council endorses the finalisation of the Voluntary Planning Agreement on the basis of Attachment 3 to this report, and subject to final legal advice for the purposes of proceeding to Gateway determination and public exhibition of the planning proposal.
2. That subject to Vixsun agreeing to the Voluntary Planning Agreement, the Planning Proposal, provided as Attachment 2 to this report, to amend the Ballina Local Environmental Plan 2012, be referred to the Department of Planning and Environment for Gateway Determination.
3. That Council advise the Department of Planning and Environment that Council wishes to exercise its delegation functions with respect to the planning proposal.
4. That subject to Council receiving an affirmative Gateway Determination, the planning proposal and voluntary planning agreement be placed on public exhibition in accordance with Council's standard procedures.
5. That the Council receive a further report on this matter following the conclusion of the public exhibition.
6. That Council advise the Ballina Heights developers that Council requires the Registration of the Voluntary Planning Agreement to occur prior to the finalisation of the planning proposal as per Council's Voluntary Planning Agreements Policy.

### Attachment(s)

1. Previous Council Report - 24 March 2022 [⇒](#)
2. Draft Planning Proposal [⇒](#)
3. Draft Voluntary Planning Agreement [⇒](#)

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL  
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS  
40 CHERRY STREET BALLINA,  
ON 24/03/22 AT 9.00AM**

---

**8. Planning and Environmental Health Division Reports**

**8.1 LEP Amendment Request - Ballina Heights Commercial Centre**

**240322/5 RESOLVED**

(Cr Jeff Johnson/Cr Eoin Johnston)

1. That Council prepare a planning proposal to amend the Ballina Local Environmental Plan 2012 to apply the B2 Neighbourhood Commercial zone to part of Lot 66 D 1276775 and apply the R3 Medium Density Residential zone to part of Lot 497 of DP 1261230 as well as associated adjustments to related planning provisions, as outlined in this report.
2. That the General Manager is authorised to progress voluntary planning agreement negotiations with the proponent addressing affordable housing and commercial development timing in association with the proposed changes to land use zoning.
3. That following the finalisation of negotiations set out in point 2, Council refer the planning proposal referred to in point 1 to the Department of Planning, Industry and the Environment for Gateway determination.
4. That following the receipt of a Gateway determination, that any voluntary planning agreement and the planning proposal be reported to Council for endorsement, prior to public exhibition.
5. That the developers of the Ballina Heights Estate be encouraged to proceed with the development of the neighbourhood commercial centre, as a matter of urgency.
6. That Council liaise with the developers of Banyan Hill to explore options for the designation of a neighbourhood shop site within the northern part of the residential estate.
7. That the Department of Planning and Environment be advised that Council wishes to exercise its delegated plan making functions for this LEP amendment.
8. That Council negotiate further with the developers to increase the area of land dedicated to attainable housing within the Voluntary Planning Agreement.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Nigel Buchanan

## 8.1 LEP Amendment Request - Ballina Heights Commercial Centre

### 8. Planning and Environmental Health Division Reports

#### 8.1 LEP Amendment Request - Ballina Heights Commercial Centre

<b>Section</b>	Strategic Planning
<b>Objective</b>	To outline a proposal to relocate the proposed commercial centre at Ballina Heights to an alternative site and seek direction on the progression of the matter.

#### **Background**

Council considered a Notice of Motion at the July 2019 Ordinary meeting regarding the commercial centre within the Ballina Heights estate (within the locality of Cumbalum) and resolved as follows:

*That Council include in the 2019/20 Operational Plan an action to receive a report on planning options to expedite the delivery of commercial and retail shops in the Ballina Heights Estate. The report is to canvass options such as providing additional commercially zoned land and the option of back zoning existing commercial land in association with the provision of new commercial zoned land.*

Council subsequently wrote to the development proponents in the Ballina Heights/Cumbalum locality for their views on the matter.

In response, the owners of the existing commercial zoned area within the Ballina Heights Estate put forward a proposal to advance the provision of commercial development on part of the land.

A Councillor briefing was held on 3 February 2021, with the landowners (Vixsun) outlining the history associated with the site and a concept to facilitate the development of the commercial centre.

At the 25 March 2021 Ordinary meeting, Council considered a proposal put forward by the landowners to reduce the extent of commercial zoning on the site and apply an R3 Medium Density zone to parts of the site to facilitate the timely development of the neighborhood commercial centre. Council resolved as follows:

- 1. That Council prepare a planning proposal to apply the R3 Medium Density Residential zone to parts of Lot 497 DP 1261230 as outlined in the Council report.*
- 2. That Council authorises the General Manager to negotiate the terms of a voluntary planning agreement with Vixsun Pty Ltd to achieve public interest outcomes associated with the development of the land (including the delivery of commercial land use outcomes to service the Ballina Heights locality), as outlined in this report.*



## **8.1 LEP Amendment Request - Ballina Heights Commercial Centre**

3. *That Council receive a report on the draft planning proposal and voluntary planning agreement prior to submission of the documentation to the Department of Planning, Industry and Environment for Gateway determination.*

In accordance with Council's resolution, a voluntary planning agreement was prepared and provided to the developer for consideration.

Subsequently, the developers proposed an alternative approach and requested an opportunity to brief Councillors.

A briefing was held on 5 October 2021 to provide Councillors with an overview of the alternative proposal. The alternate proposal is outlined in Attachment 1.

The purpose of this report is to present the developer's alternative planning proposal approach and invite Council to consider options for progressing the matter.

### **Key Issues**

- Neighborhood commercial facilities
- Timing of the provision of commercial development
- Pedestrian friendly urban design
- Employment zones reforms

### **Discussion**

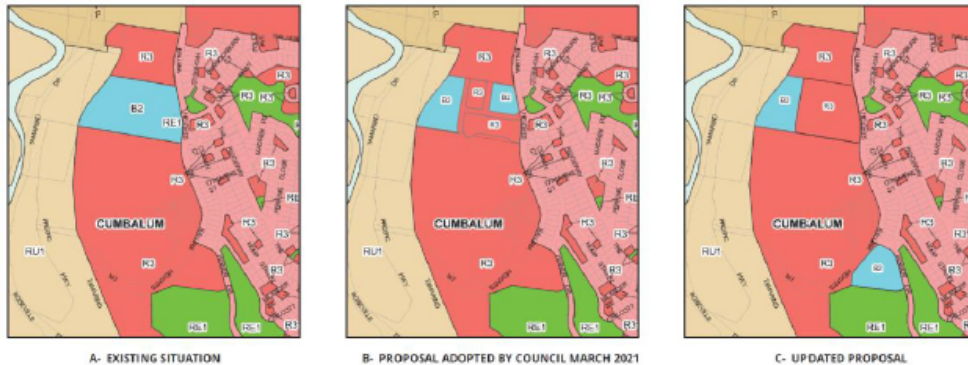
The proponent's revised LEP amendment/planning proposal approach is outlined in Attachment 1 to this report.

The revised approach would involve an additional lot of land owned by the other developer in the estate (the Ballina Parish of the Catholic Church) on the basis of the following:

1. *"A commercial zoning of 2.139ha over the Ballina Parish land at the intersection of Ballina Heights Drive and Power Drive and the concurrent rezoning of about 4ha of the eastern part of the Vixsun site from B2 to R3;*
2. *The western (noise affected) part of the Vixsun site retaining a B2 zoning allowing for the development of that part of Lot 497, with its two grand fig trees, for a land use(s) compatible with highway noise but optimising the excellent landscape vistas available from the parcel to the south west;*
3. *That Vixsun will enter into a VPA, not registering any residential lots from Lot 497 until such time as an Occupation Certificate for at least 1000m<sup>2</sup> of commercial floor space had been issued at the Power Drive site; and*
4. *That the Ballina Parish enter into a VPA agreeing to immediately after the gazettal of the B2 zoning commence the construction of a commercial centre (with the first stage being at least 1000m<sup>2</sup> of floor space) at the Power Drive site together with dedicating a site of at least 1500m<sup>2</sup> for affordable housing to Ballina Shire or building at least 5 affordable dwellings at an appropriate location within the Ballina Parish Cumbalum property portfolio to be managed by an organisation like North Coast Community Housing in perpetuity".*

## 8.1 LEP Amendment Request - Ballina Heights Commercial Centre

The following series of maps (from Attachment 1) show from left to right the existing zone pattern, the previous proposal endorsed at Council's March 2021 Ordinary meeting and the latest proposal that forms the subject of this report.



If supported, further details regarding certain aspects of the new proposal could be addressed through the drafting and negotiation of the proposed voluntary planning agreement (VPA).

In addition to those details set out above, the VPA could also address any additional infrastructure costs identified in association with the proposal, with the aim being to minimise any costs to Council and the community.

### Urban Design Considerations

As noted above, the revised approach would involve the relocation of the proposed neighborhood centre to the corner of Ballina Heights Drive and Power Drive.

The proposed location would be closer to the entrance to the estate (via Ballina Heights Drive) and adjacent open space, and would take advantage of flatter terrain, simplifying the construction and development of the centre compared with the existing site (which has a steeper site grade).

The proposed site would also have advantages with respect to accessibility by motor vehicle and would benefit (commercially) from visual exposure to the Pacific Highway and Tamarind Drive.

The proposed site has several limitations, however, which may discourage residents from walking to the future neighborhood centre. These limitations include:

- The proposed location would be less central to the future population catchment of the neighborhood centre (Ballina Heights Estate and Banyan Hills Estate), being a further 400m approximately to the south of the existing neighborhood centre site in the southern part of the precinct.
- The proposed location is located downhill from residential dwellings with a difference in elevation of approximately 70m from the top of the ridgeline.

## 8.1 LEP Amendment Request - Ballina Heights Commercial Centre

The Explanation of Intended Effect for the foreshadowed NSW Government 'Design and Place SEPP' indicates that mandatory matters for consideration proposed for future relevant development assessment will include a requirement that dwellings should be located within a 20 minute walk of local shops.

The relevant excerpt from the Design and Places SEPP Explanation of Intended Effects (EIE) is provided as follows.

<b>4. Local living</b> All housing in urban areas of new precincts is within:	Reduces car reliance and its unintended effects, such as congestion, by provision of local services and open space for daily needs.
— 20 <u>minutes walk</u> of local shops, and	Supports walkable neighbourhoods by providing housing near a range of everyday goods and services including local shops.
— 5 <u>minutes walk</u> of local public open space.	Supports mental and physical wellbeing by providing opportunities for exercise, play and social gathering.
— Where possible, housing is also within 20 minutes walking distance to primary schools, district open space, public transport, and supermarkets or groceries.	Enables future development to be designed to maximise access to opportunities by considering other components of walkable neighbourhoods and understanding recommended walking distances.

The associated draft Section 9.1 Minister Direction, *Environmental Planning and Assessment (Design Principles and Considerations) Direction 2022* includes a requirement that:

*A planning authority must ensure a planning proposal:*

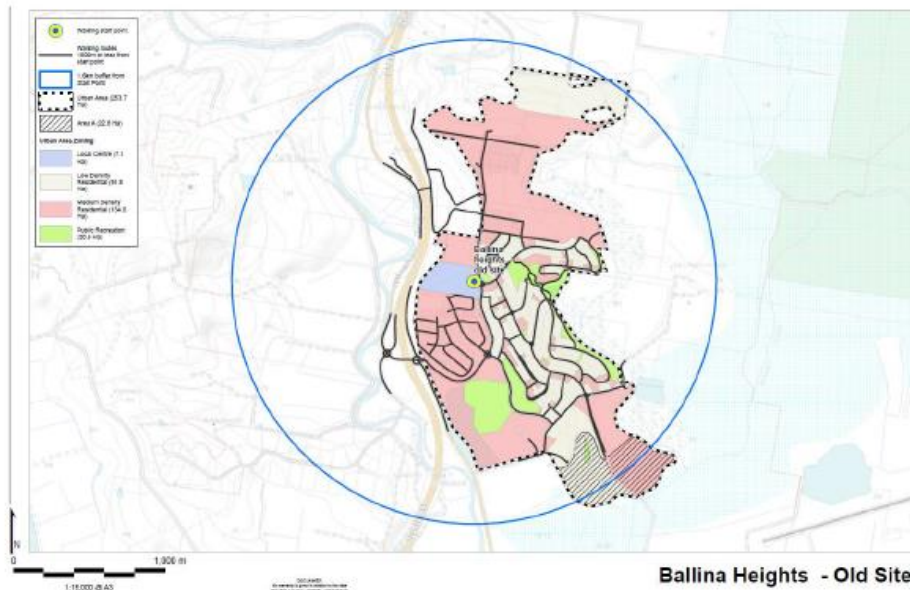
- (a) *takes into account and demonstrates consistency with the design principles and design considerations set out in the State Environmental Planning Policy (Design and Place) [insert date],*
- (b) *is consistent with the objectives of the Urban Design Guide published by the Department in [insert date],*
- (c) *demonstrates how it responds to Country and how it has been informed by contributions from Aboriginal stakeholders of the land, where they have been provided,*
- (d) *is referred to the relevant design review panel for advice concerning the design response.*

The Draft Urban Design Guide 2021 includes the above criteria that '*all homes are [to be] within 15-20 minute walk of a collection of local shops, a primary school, public transport, a supermarket or grocery store*'.

The following map illustrates the approximate 20 minute walking catchment of the existing neighborhood centre site.

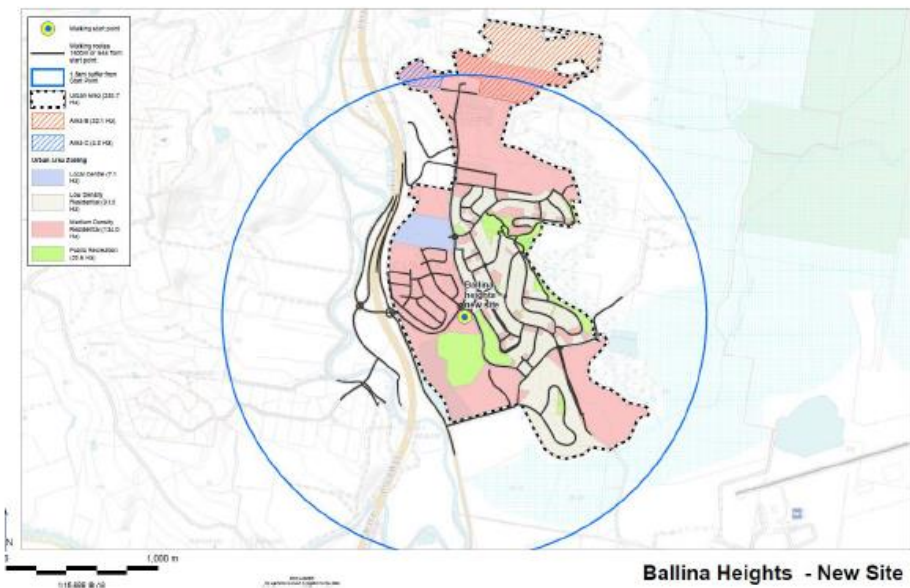


## 8.1 LEP Amendment Request - Ballina Heights Commercial Centre



As shown above, the existing neighborhood centre site is within 20 minute potential walking distance to almost all land within the CURA Precinct A urban release area.

The 20 minute walking catchment of the proposed (relocated) neighborhood centre site is shown in the map below.



As illustrated in the second walking catchment diagram above, the relocated neighborhood commercial centre would not achieve a 20 minute walkable catchment for the same area of land within the precinct.



## 8.1 LEP Amendment Request - Ballina Heights Commercial Centre

The proposed relocation would have the consequence that the northern parts of the development precinct would be a greater distance from neighbourhood shops than the walkability requirements of the proposed Design and Places SEPP. It is the case that the 20 minute walking distance criteria is not met universally across the shire in other urban areas.

For the northern part of CURA A, Council is currently liaising with the Banyan Hill developers to the north of Ballina Heights (at their request), to investigate options for an improved development outcome for that part of the urban release area (relative to their existing subdivision consent).

It may be possible as part of those discussions to investigate provision of a site for a small neighborhood shop in the northern part of the precinct, which would service areas beyond the walkable catchment of a relocated Ballina Heights Neighbourhood Centre site. Neighbourhood shops are permissible in the R3 Medium Density Residential zone.

A challenge in association with this matter is the urgent demand for neighborhood shopping centre facilities to meet the needs of Cumbalum residents, as the population of the locality has grown.

The difficulty for Council is that the timing of the development of the commercial development is ultimately at the discretion of the owner of the land.

In making the decision, the developer will have regard to the commercial viability of the centre, holding costs, and the opportunity cost of developing now verses waiting, either for changes in commercial circumstances, or in anticipation of potential changes in Council's position.

Also, in considering the Design and Places SEPP, it should be recognised that it is not certain that the SEPP or associated Ministerial Direction will come into force, particularly given the recent change of Planning Minister.

In light of the above, proceeding with the revised proposal would appear to have the greatest potential to advance the provision of neighbourhood commercial centre to the locality, in a timely manner.

Further, whilst the proposed location is not ideal from the perspective of walkability, provision for a neighbourhood shop in the northern part of the development precinct (in Banyan Hill) may mitigate this shortcoming.

On balance, it is recommended that Council proceeds to Gateway determination and public exhibition for the Power Drive and Ballina Heights Drive site.

### Affordable housing outcomes

The March 2021 Council report identified the potential to deliver affordable housing outcomes associated with the additional residential development that would be facilitated by the adjustment to the commercial zone boundary.

It was anticipated that the developer may be in a position to dedicate several of the additional residential allotments to Council or suitable community housing provider for the delivery of affordable housing.

## **8.1 LEP Amendment Request - Ballina Heights Commercial Centre**

The developer's response as part of the previous voluntary planning agreement negotiations (and as outlined in the introduction to this report) indicated a preference for the affordable housing to be provided directly by the developer.

An option in relation to the new proposal is for the housing to be retained in the property portfolio of the Ballina Parish of the Catholic Church, and provided as affordable rental housing in perpetuity. This outcome would be achieved through the voluntary planning agreement, and is considered to be a positive aspect of the proposal with broader community benefit.

This affordable housing element applies to both options 1 and 2 presented in the options section of this report.

### **Delivery Program Strategy / Operational Plan Activity**

Advancing the delivery of the commercial area in the Ballina Heights locality is a specific action for the 2021/22 year under the current Operational Plan and Delivery Program (action PE 1.2b – Examine planning options to expedite the delivery of commercial and retail shops in the Ballina Heights Estate).

In relation to this action it is important to recognise that the provision of commercial facilities is at the discretion of the landowner. Council's approach to advancing this action has been to invite discussion with the landowner and review options to enable the construction of commercial facilities. The landowner has responded and has provided two proposals for Council's consideration.

### **Community Consultation Policy**

Should Council proceed with further assessment of an LEP amendment, community engagement will be undertaken in accordance with Council's Community Participation Plan, consultation requirements associated with voluntary planning agreements and any requirements specified by the Department of Planning, Industry and Environment Gateway determination.

### **Financial / Risk Considerations**

The matters set out in this report have legal implications with respect to land uses for which development consent may be sought on the land.

These implications will be presented to Council for further deliberation should the matter proceed to planning proposal stage.

The legal implications associated with any voluntary planning agreement will be considered further once negotiations on the content of such an agreement have been further advanced.

Should Council resolve to proceed with an LEP amendment, the processing of the associated planning proposal would be subject to fees and charges. On this basis, processing the planning proposal request can be accommodated within existing resources.

## 8.1 LEP Amendment Request - Ballina Heights Commercial Centre

### Options

*Option 1 – Council could endorse the proponent's amended planning proposal request as outlined in Attachment 1.*

This option would involve submitting a planning proposal to the Department of Planning, Industry and the Environment for Gateway determination that would seek to relocate the neighbourhood commercial centre to the alternative site as outlined in the attached proponent's submission (to the corner of Ballina Heights Drive and Power Drive).

This will also enable some residential development on the existing commercial zoned land and there would be consequential changes to the minimum lot size for subdivision, floor space ratio and building height provisions to match in with the altered zonings.

These changes would be applied consistent with the existing arrangements for the commercial and residential zones in Ballina Heights.

It is anticipated this option would involve the preparation of a voluntary planning agreement addressing affordable housing matters and intended timing of provision of the commercial facilities based on the approach proposed by the proponent.

This option would also involve Council inviting the developer of the Banyan Hills estate to consider the potential for a small neighbourhood shop site within the northern part of Banyan Hill.

This option is recommended on the basis that the proposed site has improved commercial viability (based on the information provided by the proponent) and accommodating the developer's request is most likely to facilitate the timely provision of neighbourhood commercial facilities to the locality.

If this option is pursued it is recommended that Council seeks plan making delegation from the Department of Planning and Environment.

*Option 2 – Council could submit a planning proposal to the Department of Planning, Industry and the Environment on the basis of the approach endorsed at the March 2021 Ordinary Meeting.*

This option would involve submitting a planning proposal to the Department for Gateway determination on the basis of the previously endorsed approach.

The purpose of the planning proposal in this instance would be to enable the zoning of 'surplus' commercial land (on the existing neighborhood centre site) for residential purposes. This approach advances the original option for zoning and development of the existing commercial zoned site as proposed by the landowner in early 2021.


This option would also involve the finalisation of negotiations with respect to a voluntary planning agreement as outlined in the March 2021 Council report on this matter.

This option is not recommended having regard for the reasons to proceed with the alternative proposal set out under option 1.

**8.1 LEP Amendment Request - Ballina Heights Commercial Centre**

5. That the developers of the Ballina Heights Estate be encouraged to proceed with the development of the neighbourhood commercial centre, as a matter of urgency.
6. That Council liaise with the developers of Banyan Hill to explore options for the designation of a neighbourhood shop site within the northern part of the residential estate.
7. That the Department of Planning and Environment be advised that Council wishes to exercise its delegated plan making functions for this LEP amendment.

**Attachment(s)**

1. LEP Amendment Request - Ballina Heights Commercial Centre - November 2021 



8.1 **LEP Amendment Request - Ballina Heights Commercial Centre**



abn: 56 291 496 553  
6 Porter Street, Byron Bay, NSW, 2481  
PO Box 538, Lennox Head, NSW, 2478  
Telephone: 1300 66 00 87

4<sup>th</sup> November 2021  
Our reference: 1837.3859

The General Manager  
Ballina Shire Council  
PO Box 450  
BALLINA NSW 2478

Dear Sir

**RE: LEP Amendment Request – Ballina Heights Commercial Centre**

PLANNERS NORTH provides town planning advice to Vixsun Pty Ltd ("Vixsun") and the Trustees of the Roman Catholic Church, Parish of Ballina ("Ballina Parish"). We write representing both entities in relation to an LEP amendment request associated with the commercial centre for Ballina Heights.

Following a workshop on 5<sup>th</sup> October 2021 Council at its meeting of 28<sup>th</sup> October 2021 unanimously resolved:

1. That Council provide in principle support for changing the location of the commercial precinct in the Cumbalum / Ballina Heights Estate to the corner of Power Drive and Ballina Heights Drive in order to bring forward the delivery of a much needed commercial precinct; and
2. This in principle support is subject to project timing providing for construction of commercial facilities up front, detailed analysis of site opportunities and constraints, the terms of any voluntary planning agreement that the developer proposes and details of overall public interest outcomes associated with the proposal.

The combined Vixsun and Ballina Parish proposal seeks:

1. A commercial zoning of 2.139ha over the Ballina Parish land at the intersection of Ballina Heights Drive and Power Drive and the concurrent rezoning of about 4ha of the eastern part of the Vixsun site from B2 to R3 (see Diagram C in the attached Plan);
2. The western (noise affected) part of the Vixsun site retaining a B2 zoning allowing for the development of that part of Lot 497, with its two grand fig trees, for a land use(s) compatible with highway noise but optimising the excellent landscape vistas available from the parcel to the south west;
3. That Vixsun will enter into a VPA, not registering any residential lots from Lot 497 until such time as an Occupation Certificate for at least 1000m<sup>2</sup> of commercial floor space had been issued at the Power Drive site; and
4. That the Ballina Parish enter into a VPA agreeing to immediately after the gazettal of the B2 zoning, commence the construction of a commercial centre (with the first stage being at least 1000m<sup>2</sup> of floor space) at the Power Drive site together with dedicating a site of at least 1500m<sup>2</sup> for affordable housing to Ballina Shire or building at least 5 affordable dwellings at an appropriate location within the Ballina Parish Cumbalum property portfolio to be managed by an organisation like *North Coast Community Housing* in perpetuity.



**8.1 LEP Amendment Request - Ballina Heights Commercial Centre**

2

Further to the above, we confirm that the Ballina Parish has engaged an architect to prepare Development Application drawings for the establishment of a shopping centre and other compatible uses (e.g. child care centre etc.); and the Ballina Parish will lodge a Development Application, to be processed in parallel with the rezoning, which would facilitate the rapid implementation of commercial centre construction works post rezoning;

Should you require any additional information, or wish to clarify any matter raised by this request for a Councillor briefing, please feel free to contact me at any time.

Yours faithfully,

**PLANNERS NORTH**



Stephen Connelly RPIA (Fellow)  
PARTNERSHIP PRINCIPAL  
(m) 0419 237 982  
(e) [steve@plannersnorth.com.au](mailto:steve@plannersnorth.com.au)



8.1 LEP Amendment Request - Ballina Heights Commercial Centre

Ballina Heights Drive, Cumbalum



## **Appendix 2 – Voluntary Planning Agreement**

(Under separate cover)



## Appendix 3 – Section 9.1 Direction Checklist

Section 9.1 Direction Checklist	
Planning Proposal – Ballina Heights Neighbourhood Centre	
Direction No	Compliance of Planning Proposal
<b>Focus area 1. Planning Systems</b>	
1.1 Implementation of Regional Plans	<p>Justifiably inconsistent.</p> <p>The planning proposal is generally consistent with the Goals and Directions of the North Coast Regional Plan 2041, with the exception of Objective 16 (Increase active and public transport usage).</p> <p>The relocation of the neighbourhood commercial centre in the manner proposed will result in a reduced walkable catchment to the neighbourhood commercial centre servicing the locality, potentially discouraging walking and cycling to access local services.</p> <p>This inconsistency is considered justifiable, however, on the basis that the proposal will expedite the provision of neighbourhood commercial facilities to the locality, having regard to the improved commercial viability of the proposed site and the private ownership of the land.</p>
1.2 Development of Aboriginal Land Council land.	<p>Does not apply.</p> <p>The planning proposal does not relate to land identified on the Land Application Map of chapter 3 of the State Environmental Planning Policy (Planning Systems) 2021.</p>
1.3 Approval and Referral Requirements	<p>Consistent</p> <p>The planning proposal does not contain provisions requiring concurrence, consultation or referral of a Minister or public authority.</p>
1.4 Site Specific Provisions	<p>Consistent</p> <p>The planning proposal seeks to rezone the subject land to existing zones in the Ballina LEP 2012 without imposing any additional development standards or requirements.</p>
<b>Focus area 1. Place based</b>	Do not apply to the subject planning proposal.
<b>Focus area 2. Design and Place</b>	Revoked.
<b>Focus area 3. Biodiversity and Conservation</b>	
3.1 Conservation Zones	<p>Not inconsistent</p> <p>The Ballina Local Environmental Plan 2012 includes provisions that facilitate the protection and conservation of environmentally sensitive areas.</p> <p>The planning proposal relates only to existing urban zoned land and does not seek to reduce the conservation standards that apply to the land.</p>
3.2 Heritage Conservation	<p>Not inconsistent</p> <p>The Ballina Local Environmental Plan 2012 includes provisions that facilitate the conservation of heritage items including those relating to Indigenous cultural heritage.</p> <p>The planning proposal relates only the existing urban zoned land and does not seek to alter provisions relating to the conservation of cultural heritage.</p>
3.3 Sydney Drinking Water Catchments	Does not apply to Ballina Shire.
3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	Does not apply to the subject planning proposal.

Section 9.1 Direction Checklist Planning Proposal – Ballina Heights Neighbourhood Centre	
Direction No	Compliance of Planning Proposal
3.5 Recreation Vehicle Areas	Consistent The planning proposal does not relate to development for the purpose of a recreation vehicle area.
<b>Focus area 4. Resilience and Hazards</b>	
4.1 Flooding	Not inconsistent The Ballina Local Environmental Plan 2012 includes provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual. The planning proposal relates to land within existing urban zones and does alter or impact upon relevant floodplain management considerations.
4.2 Coastal Management	Not inconsistent. The subject land is located within the coastal zone. The land to which the planning proposal relates is currently zoned for urban purposes. The planning proposal will not result in a net increase in the intensity of land use on the land to which the proposal relates. The Ballina Local Environmental Plan 2012 provides the consideration of coastal zone management matters.
4.3 Planning for Bushfire Protection	Not inconsistent Parts of the subject land are identified as being within a bushfire hazard area. The planning proposal will not result in an increase in bushfire hazard relating future development on the subject land. It is intended that the NSW Rural Fire Service will be consulted in relation to the planning proposal.
4.4 Remediation of Contaminated Land	Consistent. The subject planning proposal relates to land that is currently zoned for urban purposes. The potential for land contamination due to previous land uses was considered in the initial zoning of the land for urban purposes.
4.5 Acid Sulfate Soils	Not inconsistent The subject site includes land identified as being subject to the risk of acid sulfate soils. The subject planning proposal relates to land that is currently zoned for urban purposes. The Ballina Local Environmental Plan 2012 includes provisions relating to the management of acid sulfate soils.
4.6 Mine Subsistence and Unstable Land	Does not apply.
<b>Focus area 5. Transport and Infrastructure</b>	
5.1 Integrating Land Use and Transport	Justifiably inconsistent. The planning proposal will result in the relocation of the neighbourhood commercial centre such that a more car dependent outcome will likely result, due to reduced walkable catchment and topography. The inconsistency is justified on the basis that Council is seeking to facilitate the timely provision of neighbourhood commercial facilities to the locality.
5.2 Reserving Land for Public Purposes	Does not apply. The planning proposal does not create, alter or reduce existing zonings or reservations of land for public purposes.

Section 9.1 Direction Checklist	
Planning Proposal – Ballina Heights Neighbourhood Centre	
Direction No	Compliance of Planning Proposal
5.3 Development Near Regulated Airports and Defence Airfields	<p>Not inconsistent</p> <p>The subject land is located within the vicinity of a regulated airport, including land (the existing commercial site) that breaches the Obstacle Limitation Surface (OLS) of the Ballina-Byron Gateway Airport. It is noted, however, that the planning proposal relates to land with existing urban zoning and will result in the reduction of the building height standard (by 0.5m) for part of the site that is within the OLS.</p> <p>Notwithstanding, consultation will be undertaken with the management of the Airport and air safety regulators, in accordance with the terms of the Direction.</p>
5.4 Shooting Ranges	<p>Does not apply.</p> <p>The planning proposal does not relate to land adjacent to, or adjoining, an existing shooting range.</p>
<b>Focus area 6. Housing</b>	
6.1 Residential Zones	<p>Consistent.</p> <p>The planning proposal will increase the availability and diversity of housing provision within the residential estate. Relocation of the neighbourhood centre also provides for improved shop-top housing opportunities.</p>
6.2 Caravan Parks and Manufactured Home Estates	Does not apply
<b>Focus area 7. Industry and Employment</b>	
7.1 Business and Industrial Zones	<p>Justifiably inconsistent.</p> <p>The planning proposal involves the relocation and reduction in area zoned for commercial purposes. It is noted, however, that the original commercial zoning was applied over 20 years ago.</p> <p>The inconsistency is justified on the basis of a commercial needs analysis which indicates a commercial area comprising a minimum of 1.7ha is required to service the commercial needs of the locality. A copy of the commercial needs analysis is provided in Appendix 6.</p> <p>The Minister's delegate has agreed that the inconsistency of the planning proposal is justified in accordance with the terms of this Direction.</p>
7.2 Reduction in non-hosted short-term rental accommodation period.	Does not apply to Ballina Shire.
7.3 Commercial and Retail Development along the Pacific Highway, North Coast	<p>Consistent.</p> <p>The proposed relocation of the neighbourhood commercial centre, whilst visible from the Pacific Highway, is to be located within a distinct urban centre (being the Ballina Heights Estate) 'rather than being spread along the highway' as per the Direction.</p>
<b>Focus area 8. Resources and Energy</b>	
8.1 Mining, Petroleum Production and Extractive Industries	<p>Does not apply.</p> <p>The planning proposal does not impact on significant reserves of coal, other minerals, petroleum or extractive materials.</p>
<b>Focus area 9. Primary Production</b>	
9.1 Rural Zones	<p>Does not apply.</p> <p>The planning proposal does not relate to land within a rural zone.</p>
9.2 Rural Lands	<p>Does not apply.</p> <p>The planning proposal does not relate to, or impact upon, rural lands.</p>

**Section 9.1 Direction Checklist**

**Planning Proposal – Ballina Heights Neighbourhood Centre**

<b>Direction No</b>	<b>Compliance of Planning Proposal</b>
9.3 Oyster Aquaculture	Does not apply. The planning proposal does not relate, or impact upon, to oyster aquaculture.
9.4 Farmland of State and Regional Significance on the NSW Far North Coast	Does not apply. The planning proposal does not relate to land identified as State or Regionally significant farmland under the terms of the Direction.



## Appendix 4 – Gateway Determination



### Department of Planning and Environment

Mr Paul Hickey  
General Manager  
Ballina Shire Council  
PO Box 450  
BALLINA NSW 2478

Our ref: IRF23/498

Via email: [council@ballina.nsw.gov.au](mailto:council@ballina.nsw.gov.au)  
[simon.scott@ballina.nsw.gov.au](mailto:simon.scott@ballina.nsw.gov.au)

Dear Mr Hickey

#### Planning proposal PP-2023-134 to amend Ballina Local Environmental Plan 2012

I am writing in response to the planning proposal you have forwarded to the Minister under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the planning proposal to relocate the neighbourhood commercial centre at Cumbalum by amending the zoning and associated development standards.

As delegate of the Minister for Planning, I have determined that the planning proposal should proceed subject to the conditions in the enclosed gateway determination.

I have also agreed, as delegate of the Secretary, the inconsistency of the planning proposal with applicable directions of the Minister under section 9.1 of the *EP&A Act* 1.1 Implementation of Regional Plans, 4.2 Coastal Management, 4.5 Acid Sulfate Soils, 5.1 Integrating Land Use and Transport and 7.1 Business and Industrial Zones are justified in accordance with the terms of the Directions.

Council will need to obtain the agreement of the Secretary to comply with the requirements of the Minister under section 9.1 of the *EP&A Act* Direction 4.3 Planning for Bushfire Protection. Council should ensure this occurs prior to the LEP being made.

Considering the nature of the planning proposal I have determined that Council may exercise local plan-making authority functions in relation to the planning proposal.

The proposed local environmental plan (LEP) is to be finalised on or before 8 September 2023. Council should aim to commence the exhibition of the planning proposal as soon as possible. Should Council seek to make a proposed LEP, the request to draft the LEP should be made directly to Parliamentary Counsel's Office well in advance of the date the LEP is projected to be made. A copy of the request should be forwarded to the Department of Planning and Environment.

The NSW Government has committed to reduce the time taken to complete LEPs. To meet these commitments, the Minister may appoint an alternate planning proposal authority if Council does not meet the timeframes outlined in the gateway determination.

The Department's categorisation of planning proposals in the *Local Environmental Plan Making Guideline* (Department of Planning and Environment, 2021) is supported by category specific timeframes for satisfaction of conditions and authority and Government agency referrals, consultation, and responses. Compliance with milestones will be monitored by the Department to ensure planning proposals are progressing as required.

Should you have any enquiries about this matter, I have arranged for Mr Jon Stone to assist you. Mr Stone can be contacted on 5778 1488.

Yours sincerely



17/3/2023

**Jeremy Gray**  
Director, Northern Region  
Local and Regional Planning

E/ncl: Gateway determination



Department of Planning and Environment

## Gateway Determination

**Planning proposal (Department Ref: PP-2023-134):** to relocate the neighbourhood commercial centre at Cumbalum by amending the zoning and associated development standards.

I, the Director, Northern at the Department of Planning and Environment, as delegate of the Minister for Planning, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Ballina Local Environmental Plan 2012 to relocate the neighbourhood commercial centre at Cumbalum by amending the zoning and associated development standards should proceed subject to the following conditions.

The Council as the planning proposal authority is authorised to exercise the functions of the local plan-making authority under section 3.36(2) of the EP&A Act subject to the following:

- (a) the planning proposal authority has satisfied all the conditions of the gateway determination;
- (b) the planning proposal is consistent with applicable directions of the Minister under section 9.1 of the EP&A Act or the Secretary has agreed that any inconsistencies are justified; and
- (c) there are no outstanding written objections from public authorities.

The LEP should be completed on or before 8 September 2023.

### Gateway Conditions

1. The planning proposal is to be updated to:
  - (a) Correctly refer to the B2 Local Centre zone;
  - (b) Include discussion on the implementation of the State Environmental Planning Policy Amendment (Land Use Zones) (No 2) 2022 that will alter land use zones and clauses within the Ballina LEP 2012 on 26 April 2023. The future change of the B2 Local Centre to E1 Local Centre is to be acknowledged in the planning proposal and associated maps; and
  - (c) Replace references and commentary on the North Coast Regional Plan 2036 with references and appropriate discussion on the North Coast Regional Plan 2041.
2. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
  - (a) the planning proposal is categorised as standard as described in the *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021) and must be made publicly available for a minimum of 20 days; and

- (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021).
3. Consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the Act and/or to comply with the requirements of applicable directions of the Minister under section 9 of the EP&A Act:
- Transport for NSW
  - NSW Rural Fire Service
  - The Civil Aviation Safety Authority.
- Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal and given at least 30 days to comment on the proposal.
4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the EP&A 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 or if reclassifying land).

Dated 17 day of March 2023.

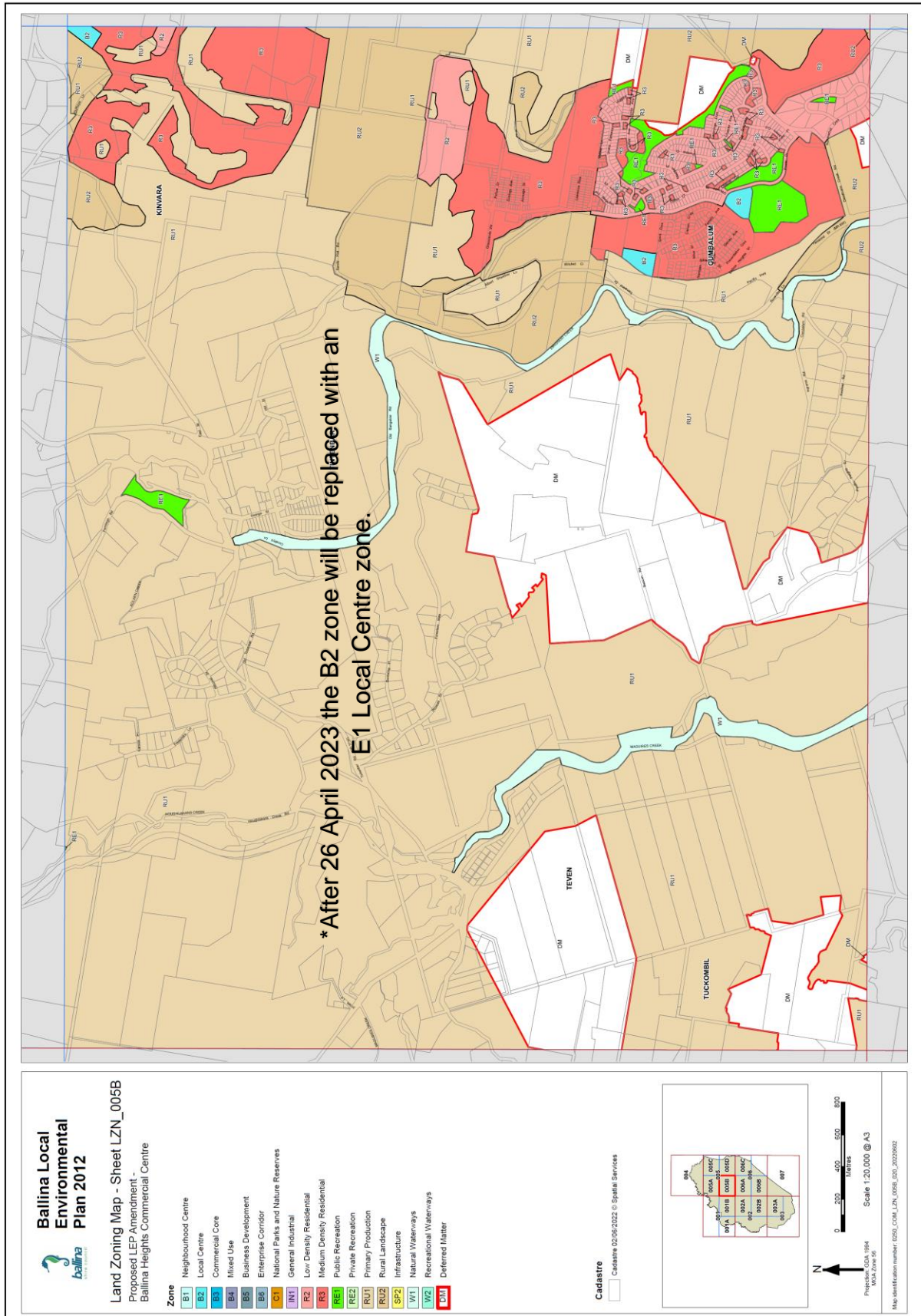


Jeremy Gray  
Director, Northern Region  
Local and Regional Planning  
Department of Planning and Environment

Delegate of the Minister for Planning

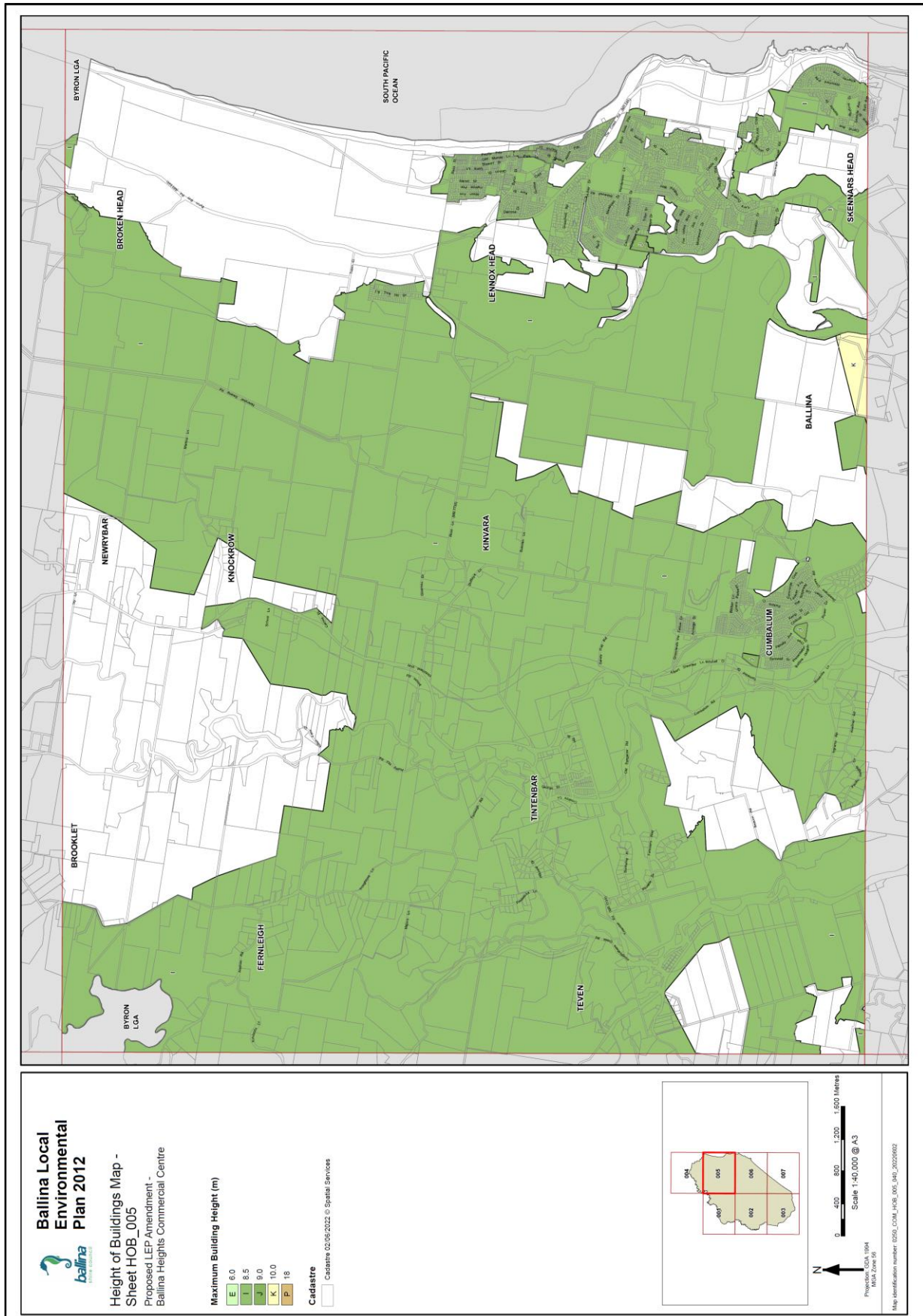




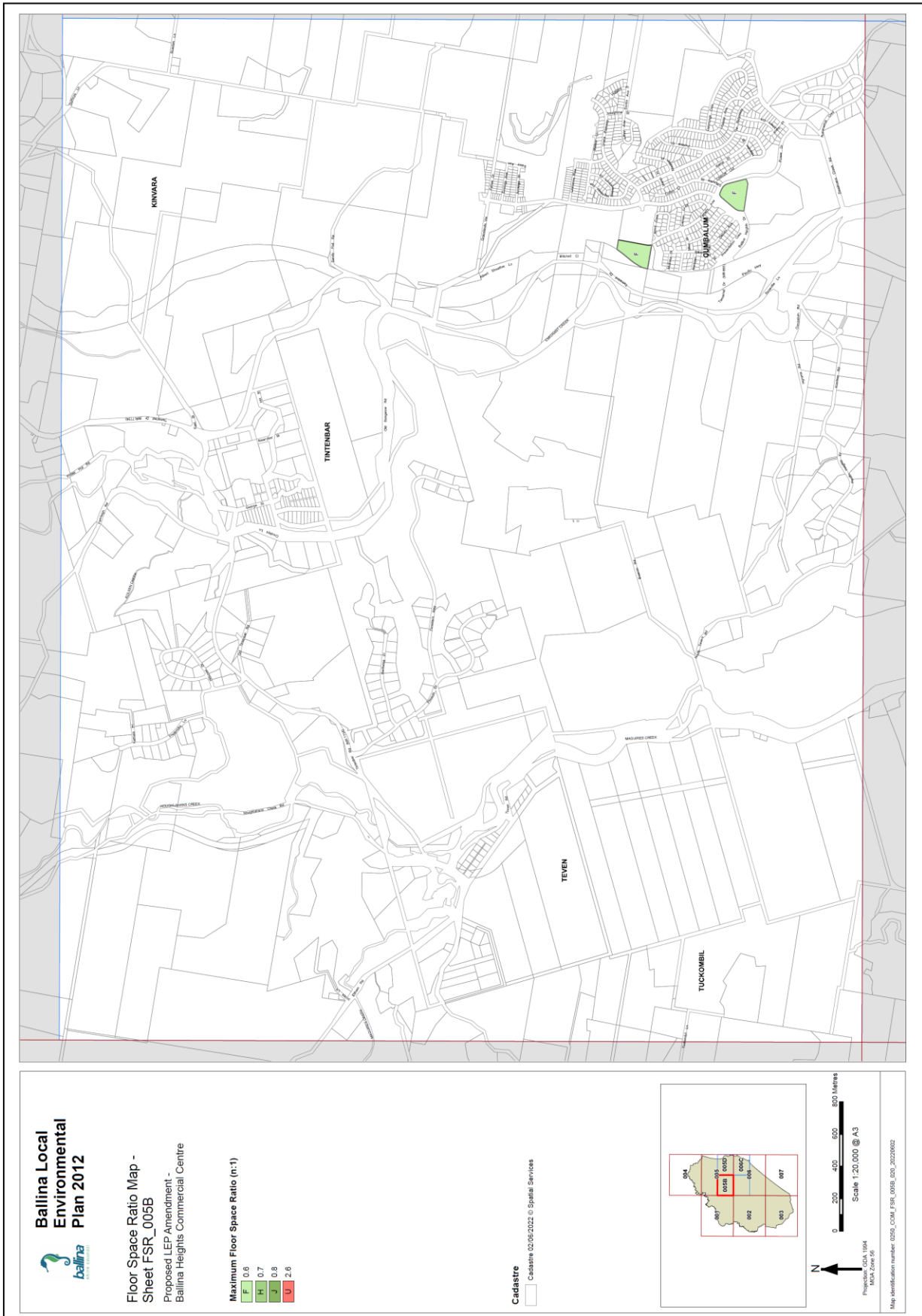












## **Appendix 6 – Ballina Commercial Centres and Employment Lands Study**

(Under separate cover)

## Appendix 7 – Response to Agency Consultation

Response from CASA and NSWRFs below:



**Australian Government**  
**Civil Aviation Safety Authority**

Air Navigation, Airspace and Aerodromes

File Ref: F17/5149-51

Your Ref No.: PP-2023-134

13/04/2023

NSW Planning DPIE  
Through Portal

**PP-2023-134 PLANNING PROPOSAL - BALLINA HEIGHTS ESTATE,  
COMMERCIAL CENTRE, CUMBALUM**

CASA has reviewed the Planning Proposal 21/002 of March 2023 for the proposal to relocate the neighbourhood commercial centre within the Ballina Heights Estate, in Cumbalum, NSW.

The document titled Planning Proposal 21/002 Ballina Heights Neighbourhood Commercial Centre of March 2023 (V3. Agency consultation) Includes the following:

*'Amend the Height of Buildings Map (HOB) to align with the above zone changes, such that the 8.5m building height standard is to be applied to the land to be zoned R3 Medium Density and the 9m building height standard is to be applied to the land to be zoned B2 Neighbourhood Centre.'*

The Direction Checklist Focus Area 5.3 advised the following:

*'The subject land is located within the vicinity of a regulated airport, including land (the existing commercial site) that breaches the Obstacle Limitation Surface (OLS) of the Ballina-Byron Gateway Airport.'*

A building with a maximum height of 9m above ground level (2 – 3 storeys), despite any OLS infringement, will not be a significant obstacle. Therefore, CASA does not object to the Planning Proposal.

Yours sincerely,

*David Alder*

David Alder  
Aerodrome Engineer



## NSW RURAL FIRE SERVICE

Ballina Shire Council  
PO Box 450  
BALLINA NSW 2478

Your reference: (REF-2091) PP-2023-134  
Our reference: SPI20230331000048

**ATTENTION:** Simon Scott

Date: Wednesday 5 April 2023

Dear Sir/Madam,

**Strategic Planning Instrument  
Rezoning**

This planning proposal seeks to amend the Ballina Local Environmental Plan 2012 to relocate the neighbourhood commercial centre within the Ballina Heights Estate, in Cumbalum.

I refer to your correspondence dated 31/03/2023 inviting the NSW Rural Fire Service (NSW RFS) to comment on the above Strategic Planning document.

The NSW RFS has considered the information submitted and subsequently raise no concerns or issues in relation to bush fire.

For any queries regarding this correspondence, please contact Alan Bawden on 1300 NSW RFS.

Yours sincerely,

Allyn Purkiss  
**Manager Planning & Environment Services  
Built & Natural Environment**

**Postal address**

NSW Rural Fire Service  
Locked Bag 17  
GRANVILLE NSW 2142

**Street address**

NSW Rural Fire Service  
4 Murray Rose Ave  
SYDNEY OLYMPIC PARK NSW 2127

**T** (02) 8741 5555  
**F** (02) 8741 5550  
[www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au)