

COUNCIL ASSESSMENT REPORT

Panel Reference	2018NTH002
DA Number	2017/129
LGA	Ballina Shire
Proposed Development	Construction of a two lane road linking North Creek Road to the Ballina Byron Gateway Airport including three roundabouts at the intersections with North Creek Road, Boeing Avenue and the connection into the airport. The proposal also includes extensions to Boeing Avenue and the realignment of Corks Lane, site filling, vegetation removal and associated works. Total length of roadwork is approximately 1091 metres.
Street Address	Lots 1 to 5 DP 123781, Lot 952 DP 1165266, Lots 7 & 8 DP 793980, Lot 264 DP 1195313 Corks Lane, 25-39 Boeing Avenue and 210 Southern Cross Drive, Ballina
Applicant/Owner	Civiltech Consulting Engineers (on behalf of Ballina Shire Council)
Date of DA lodgement	16 March 2017 (although not notified to the JRPP until early 2018 due to revised CIV being estimated above \$5 million threshold)
Number of Submissions	Nil in relation to the re-exhibition period. Two in relation to the original exhibition period.
Recommendation	Conditional approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)	Council Related Development (Council Owned Infrastructure) with a Capital Investment Value greater than \$5 million
List of all relevant s4.15(1)(a) matters	• State Environmental Planning Policy • Ballina Local Environmental Plan 2012 • The proposed development was publically advertised • Ballina Development Control Plan 2012 • No formal planning agreement has been entered into under Section 7.4, nor has any draft planning agreement been offered or entered into under Section 7.4 • Southern Cross Master Plan • Planning Proposal 13/005
List all documents submitted with this report for the Panel's consideration	• Locality/Zoning Plan • Civil Design Plans • Public Submissions
Report prepared by	Anthony Peters Senior Town Planner Ballina Council
Report date	July 2018

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

Yes

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

Not Applicable

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

Not Applicable

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment?

Yes

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

1.0 Executive Summary

- 1.1 Ballina Shire Council's Development and Environmental Health Group received a Development Application (DA) from Civiltech Consulting Engineers (on behalf of Ballina Shire Council's Commercial Services Manager) for roadwork construction involving a main two lane link road of approximately 840 metres in length for the proposed main/alternative connection to the existing approved Ballina Byron Gateway Airport from North Creek Road and referred to as the "Airport Boulevard". The proposal also seeks to extend Boeing Avenue to the north (160 metres) and realign part of Corks Lane (91 metres) to both connect into the Airport Boulevard. The alignment and construction of the road infrastructure also involves the removal of vegetation and filling of land to be at the 1 in 100 year flood level (currently 2 metres).
- 1.2 The proposed development constitutes "regional development" requiring referral to the Northern Joint Regional Planning Panel (JRPP) for determination as it has an estimated Capital Investment Value of over \$5 million (\$5,642,349.00 although funding of \$6.7 million has been allocated to the project) and is owned and operated by Ballina Shire Council. While Council officers are responsible for the assessment of the DA, the JRPP is the determining authority.
- 1.3 The JRPP panel will be relatively familiar with the locality and proposed development as it was briefly highlighted as part of DA 2017/149 for the Airport Terminal Building extension and carpark reconfiguration considered and approved by the JRPP in July 2017. The indicative roundabout adjacent to the airport carpark which could provide a link to the Airport Boulevard was shown but not approved by 2017NTH008 DA 2017/149 (refer to Condition No. 1).
- 1.4 The proposed development is not listed in Schedules 1, 2 or 3 of State Environmental Planning Policy (State and Regional Development) 2011 and therefore is not State significant development or State significant infrastructure.
- 1.5 The proposal (if approved) is proposed to be partly funded by the Federal Government based on the infrastructure importance to the region. The proposal is considered to be a positive contribution to the economic and employment opportunities of the region (particularly tourism). The road will also assist in the potential rezoning of land to the north-east for the Southern Cross Industrial "Enterprise Park" expansion, hence the reason for the proposed short stubs/arms off the roundabouts (but does not form part of the current application and the Planning Proposal 13/005 is being considered separately).
- 1.6 The subject site where the works are proposed is zoned SP2 Infrastructure, RU2 Rural Landscape, IN1 General Industrial, B5 Business Development and Deferred Matter under the Ballina Local Environmental Plan 2012 (BLEP). The proposed route of the road does not traverse through the deferred matter lands, refer **Attachment 3**. The proposed roadworks providing an alternative access to the existing airport are considered to be consistent with the objectives of the zones and permissible with

development consent in the zones, particularly as they are public infrastructure works. If the Airport Boulevard is refused, however, Southern Cross Drive could continue to provide suitable access/egress to the airport.

- 1.7 The proposed development does not comprise designated development (under Schedule 3 of the EP & A Regulation 2000 for aircraft facilities) or integrated development pursuant to Section 4.46 of the EP & A Act 1979 and does not require concurrence. No referrals to Government Agencies (or Civil Aviation Safety Authority) other than the NSW Roads and Maritime Service were considered necessary based on the proposal.
- 1.8 A detailed assessment has been undertaken against the relevant provisions of State Environmental Planning Policies (SEPP), the BLEP, Ballina Development Control Plan 2012 (DCP) and Southern Cross Precinct Master Plan. The development is considered to satisfy and comply with all the relevant provisions inclusive of numerical development standards. A detailed assessment is at Section 5 of this report.
- 1.9 The DA was publically notified twice, inclusive of adjoining and nearby property owners and operators, between 28 March 2017 and 27 April 2017 and then again from 13 February 2018 to 8 March 2018. Two submissions objecting to the proposal were received during the first exhibition period. No further submissions were received during the second period or at the time of writing this report.
- 1.10 Overall, although the route of the Airport Boulevard is low lying grazing land, it is immediately adjacent to developed industrial lands and the airport and is considered satisfactory with regard to key issues, including built design, ecology, stormwater drainage/flood impacts, accessibility, social and economic impacts, subject to the imposition of suitable conditions of consent to satisfactorily enhance the development and mitigate impacts.
- 1.11 The proposed development has been assessed against the relevant matters for consideration pursuant to Section 4.15 of the EP & A Act 1979, including the suitability of the site and the public interest and is considered satisfactory.
- 1.12 It is recommended that the proposed development be approved subject to the conditions documented at **Attachment 1** to this report (which have been provided to and accepted by the applicant).
- 1.13 It is important to note that no road dedication corridor (subdivision) or connection to the existing Southern Cross Drive road reserve is proposed as part of this application. If approved, it is proposed to condition that these be suitably provided and in place (via a separate development application) prior to the occupation or use of the proposed road.

2.0 Proposal

Development Application 2017/129 seeks construction consent for the construction of a two lane road linking North Creek Road to the Ballina Byron Gateway Airport including three roundabouts at the intersections with North Creek Road, Boeing Avenue and the connection into the airport. The proposal also includes extensions to Boeing Avenue and the realignment of Corks Lane, site filling, vegetation removal and associated works. Total length of roadwork is approximately 1091 metres.

The public road infrastructure works comprise:

- A main two lane link road of approximately 840 metres in length from/to North Creek Road to the airport.
- A divided two lane extension of Boeing Avenue of approximately 160 metres in length to connect with the Airport Boulevard.
- A realignment of Corks Lane of approximately 91 metres in length to connect with the Airport Boulevard.
- Three roundabouts at the intersections with North Creek Road, Boeing Avenue and the connection with the airport carpark.
- Provision of landscaping/street trees.
- Provision of fill and associated stormwater infrastructure.
- Clearing of vegetation within the road alignment (and associated batters) and other infrastructure provision.
- Compensatory vegetation/offset works.
- No street lighting has been indicated on the plans but will be required under relevant Australian Standards.

The roadworks are shown at **Attachment 4** of this report.

If approved, the construction of the road can be managed to minimise disruption and disturbance to airport carpark, existing industrial estate and residents along Corks Lane.

3.0 Site Description

The alignments of the road are primarily contained on Lot 264 DP 1195313, however due to its length and various alignments will straddle and traverse through a number of allotments.

As the site is contained on the coastal floodplain, the topography of the locality, inclusive of the immediate curtilage of the road alignments is relatively flat, other than where they will connect with previously filled and existing roads/carpark.

The main road alignment is currently relatively isolated from other buildings/uses other than where it connects to existing infrastructure; however this may change in the relatively near future due to the separate planning proposal. Consequently, the site is not considered to be visually prominent.

The majority of the road alignment route has been previously cleared for agricultural purposes; however there are substantial stands of vegetation on the southern side of the route.

The airport and associated infrastructure is accessed via Southern Cross Drive through the established industrial estate.

A locality plan is located at **Attachment 2** of this report.

4.0 Consultation

The application was originally placed on public exhibition from 28 March 2017 to 27 April 2017. Two submissions objecting to the proposal were received and are provided at **Attachment 5** of this report.

Once the CIV was further reviewed and determined to be greater than \$5 million, i.e. the JRPP rather than Council being determining authority, the application was placed on public

re-exhibition from 13 February 2018 to 8 March 2018. No further submissions were received during this period or at the time of writing this report.

4.1 External Referrals

As the height of the road is minimal (i.e. within obstacle limitation surfaces), and as the road infrastructure does not affect or is within close proximity to any classified roads, and the road by itself is not a traffic generating development (i.e. not listed in Schedule 3 of SEPP Infrastructure 2007), the application was not referred to any external Government agencies/authorities.

5.0 Assessment - Environmental Planning and Assessment Act 1979

The application has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979 as follows.

5.1 State Environmental Planning Policies (SEPP)

The following State Environmental Planning Policies are applicable to the proposed road and associated infrastructure.

5.1.1 SEPP 55 – Remediation of Land

A Preliminary Contaminated Site Investigation (PCSI) prepared by Ardill Payne & Partners dated June 2015 was submitted to support the application. Although the PCSI was prepared in relation to the rezoning of land for industrial purposes it covered the proposed route of the road (and a larger surrounding area).

The PCSI involved reviewing the site history and identified potential contaminants of concern associated with past agricultural land uses. 33 surface (0-150mm) soil samples were collected and composited into 9 samples by the laboratory. The samples were analysed for heavy metals and organochlorine pesticides. This number of samples represents a primary screening assessment not a detailed assessment.

Three possible asbestos containing material (ACM) samples were also collected for analysis.

The results of soil analysis were compared to the health investigation level D (HIL-D) which is relevant for commercial/industrial land uses. None of the results of analysis exceeded the HIL-D (in fact the results complied with HIL-A residential use with exposed soil).

For the use of a road the exposure pathway to contaminants, if present, is during the construction phase not generally during the use. In this case based on the assessment undertaken to date there appears to be very little risk of the land having contamination present at a level that would affect its suitability for the proposed road use.

5.1.2 SEPP Sustainable Aquaculture

Having regard to the nature and location of the road relative to priority oyster leases located in North Creek, the works are not considered to have an adverse effect, particularly as stormwater treatment is included in the road design. Suitable mitigation measures can also be implemented throughout the construction phase if the development application is approved.

5.1.3 SEPP (Coastal Management) 2018

The south-eastern corner of the proposed route (near Corks Lane) is affected by the SEPP, being within the combined footprint of the coastal environment area, however the application

was lodged before the commencement of the SEPP and therefore the provisions of SEPP 71 Coastal Protection continue to apply.

5.1.4 SEPP 71 Coastal Protection

SEPP 71 applies to this proposal as the land is situated within the “coastal zone” (Clause 4).

The proposed works are physically removed from any mapped “sensitive coastal locations” and will therefore have minimal impact.

Clause 8 provides matters for consideration by a consent authority when it determines a development application to carry out development to which SEPP 71 applies. The following is a brief précis of these Clause 8 matters:

- the proposed works are physically separated from the foreshore of any waterway or waterbody – the works will not impair or be able to improve any public foreshore access;
- the proposed works will not have any impacts upon the scenic qualities of the locality and will not impact upon the environment of any coastal foreshore;
- the proposed works will not adversely impact animals and their habitats (refer to ecological assessment of this report);
- the proposed works will not adversely impact fish and marine vegetation and their habitats or wildlife corridors;
- the proposed works will not impact land-based and water-based coastal activities or the water quality of coastal waterbodies;
- clearing of land is proposed to be undertaken as part of the proposed development; however this is proposed to be suitably offset.
- the proposed works will not impact cultural places, values, customs, beliefs and traditional knowledge of Aboriginals; and
- the subject and surrounding lands are not mapped as an item of heritage.

Clause 13 - the proposed development does not rely on flexible zone boundary provisions.

Clause 14 - the proposed development will not impede or diminish in any way, the physical land-based right of access of the public to or along any coastal foreshore.

Under the circumstances, the proposal is considered to be consistent with the aims and objectives of the Policy.

5.1.5 SEPP (Infrastructure) 2007

Although there is no current road reservation for the proposed alignment, part of the road is within the SP2 Infrastructure and IN1 General Industrial and could have been potentially considered as exempt development under Division 17 Roads and Traffic of the SEPP or alternatively under Part 5 of the EP & A Act 1979.

Notwithstanding this, it appears that due to the majority of the road being within RU2 Rural Landscape zoned lands (i.e. not a prescribed zone for the purpose of the SEPP) and due to clearing works for part of the route, the entire route could not rely these provisions and therefore for completeness the current DA was lodged for the entire route alignments.

5.1.6 SEPP (Rural Lands) 2008

The proposed road alignment is not within mapped State and Regionally Significant farmland and the proposed development does not involve rural subdivision or rural dwellings.

Consequently, the proposed development is considered to be generally consistent with the rural planning principles, particularly as the larger rural zoned land (Lot 8 DP 793980) is surrounded by an airport, industrial and residentially zoned land. Therefore any intensive,

productive agricultural activities could be limited due to potential land use conflict with existing surrounding uses. Notwithstanding this, rural activities could still be undertaken on these rural lands if the application is approved as the majority of the rural lands are not severed by the road.

5.1.7 SEPP (Vegetation in Non-Rural Areas) 2017

As part of the proposed route is within SP2 Infrastructure and IN1 General Industrial (i.e. not rural zones) and the clearing works are proposed within the IN1 zoning, the provisions of this SEPP apply.

The impacts of the clearing works in the proposed road corridor are considered in further detail with the Ecological section of this report. Please refer to Section 5.33.

It should be noted that some of vegetation contained within the IN1 zoned lands which is identified to be cleared for the road corridor has previously been approved for removal due to the filling of the industrial lands via separate DA 2009/258 relating to the Harvey Norman bulky goods retail site and surrounding lands (which has only partially been completed).

The clearing works within the RU2 zoned lands will need the separate consent of the Local Land Services under the Local Land Services Act 2013.

5.2 Ballina Local Environmental Plan 2012 (BLEP)

Clauses 1.2 - Objectives, 1.4 – Definition and 2.3 – Zoning and Permissibility

The application is consistent with the objectives of the BLEP listed under clause 1.2, particularly as the road infrastructure will promote the orderly and efficient use of the land and provide for the development of public services and infrastructure.

The development is defined as a “road” (public) under the BLEP which:

“means a public road or a private road within the meaning of the Roads Act 1993, and includes a classified road.”

Under the Roads Act 1993 a “public road”:

“means:

- (a) any road that is opened or dedicated as a public road, whether under this or any other Act or law, and
- (b) any road that is declared to be a public road for the purposes of this Act.

The proposed road alignment has multiple zones, these being:

SP2 Infrastructure

The objectives of the zone are:

- To provide for infrastructure and related uses.
- To prevent development that is not compatible with or that may detract from the provision of infrastructure.

“Roads” are permitted without consent in the zone.

Additionally, the proposed road leading to/from the airport is considered to be consistent with the objectives of the zone and is infrastructure directly related to the growth of the airport activities and facilities.

RU2 Rural Landscape

The objectives of the zone are:

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To maintain the rural landscape character of the land.
- To provide for a range of compatible land uses, including extensive agriculture.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within the zone and land uses within adjoining zones.
- To enable small-scale tourist-orientated development that is compatible with the rural nature of the land.
- To encourage development that involves restoration or enhancement (or both) of the natural environment if consistent with the production and landscape character of the land.
- To enable development that does not adversely impact on the natural environment, including habitat and waterways.
- To ensure that there is not unreasonable or uneconomic demands (or both) for the provision of public infrastructure.

“Roads” are permissible with consent in the zone.

The proposed road is considered to be consistent with the zone objectives as its proposed location does not fragment resource lands and will provide a buffer between industrial and rural zoned lands.

IN1 General Industrial

The objectives of the zone are:

- To provide a wide range of industrial and warehouse land uses.
- To encourage employment opportunities.
- To minimise any adverse effect of industry on other land uses.
- To support and protect industrial land for industrial uses.
- To enable non-industrial uses that are compatible with the industrial nature of the locality.
- To provide for the efficient use of industrial land.
- To encourage development that achieves the efficient use of resources such as energy and water.
- To ensure that development does not expose adjoining uses to hazard risks.

“Roads” are permissible with consent in the zone.

The provision of the road, particularly the extension to Boeing Avenue will provide for the efficient use of the existing industrial zoned land.

Characterisation of the access road

During preparation of the report for the “Airport Boulevard” and further consideration of case law on characterisation of use, there was uncertainty as to whether the road is permissible as currently submitted, particularly as no concurrent public road corridor or connection to existing road reservations at either end is proposed as part of this application.

As outlined above, although the “road” itself may be separately characterised and therefore permissible with consent in all the three relevant RU2, SP2 and IN1 zones (primarily RU2), it is evident that the road is primarily proposed for an alternative access/egress to/from the Ballina Airport.

Having regard for the principles of “characterisation of use” it may be that the real nature/dominant use of the development proposal (and therefore whether it is permissible), is that which inspires the proposed road, i.e. the Airport.

Therefore legal advice on the permissibility of the access road in the zones was sought to clarify if the characterisation of the proposed development in this case is a road ancillary to an “airport” and not in fact defined as a “road”, particularly as “airports” are not permissible within the RU2 zone.

The legal advice confirmed that as the road is intended to be an alternative access (i.e. it’s not the only access to the airport) and as its purpose is to serve a number of different purposes (i.e. it extends Boeing Avenue, connects Corks Lane and provides possible access in the future to land that is subject of Planning Proposal 2013/005) and other future road infrastructure identified in the Ballina Shire Council’s Roads Contribution Plan, it does not only provide access the airport from North Creek Road.

Consequently, the character of the road is not considered to be an “airport” in this case and the panel has the power to grant consent, subject to appropriate merit considerations under Section 4.15 of the EP&A Act 1979.

Clause 5.5 – Development within the coastal zone

As previously discussed within the SEPP Coastal Management section of this report, the proposed development is considered to be consistent with the aims and objectives of the SEPP and therefore Clause 5.5 of the BLEP.

Clause 5.9 Preservation of trees or vegetation

Refer to the Ecological Assessment Section 5.33 of this report.

Clause 7.1 – Acid Sulfate Soils

The land is identified as Class 2 acid sulfate soils on the Acid Sulfate Soil Planning Maps. An Acid Sulfate Soil Assessment has been undertaken by Ardill Payne and Partners dated June 2015 for the rezoning/expansion of the Southern Cross Industrial Estate. The assessment covered a wider area than the proposed route of the road.

The assessment involved creating 10 boreholes drilled to a depth of 3 metres. The results showed a high probability of the presence of acid sulfate soils below 1.5 metres in depth, with a reasonable certainty as close as 1 metre below ground level.

The current road design bulk earthworks include 33,000m³ of fill but only 700m³ of cut. The applicant’s consultant has advised that an average cut depth of 0.3 metres with a maximum cut depth of 0.9 metres. Based on the APP boreholes and report the volume of ASS encountered should not be substantial, however an ASS management plan was required to manage these works.

An Acid Sulfate Soil Management Plan (ASSMP) prepared by Ardill Payne & Partners dated June 2017 has been submitted to support the application. The ASSMP has been prepared generally in accordance with the requirements of the Acid Sulfate Soils Manual and has considered the Acid Sulfate Soil Assessment (2015), the extent of works, depth of disturbance of ASS, the calculated liming rate, dewatering requirement and waste classification, management and disposal. Therefore the applicant has properly assessed the

impacts in relation to the potential disturbance of ASS and has detailed the management required. However, the discharge of waters from the site has been stated to be satisfactory if the pH is between 4.5 and 7.0, however the standard requirement for the discharge of water to the environment is pH between 6.5 and 8.5. This amendment can be addressed by way of a condition of consent.

Clause 7.2 – Earthworks

The proposal involves approximately 33,000m³ of imported fill. The impact of the fill on drainage patterns and the surrounding locality is also considered below in clause 7.3.

The stormwater system downstream of the site includes four different culvert crossings. The first crossing is located under Corks Lane. It consists of three x 900mm reinforced concrete pipes.

The second and third crossings are located within the Palms Lakes development site to the east and include three box culverts approximately 2 metres wide x 1.5 metres wide.

The fourth crossing is located under North Creek Road and consists of three x 900mm reinforced concrete pipes.

A stormwater management plan has not been provided and the requirements of DCP Chapter 2 Stormwater Management have not been addressed. The site however has sufficient area to provide a stormwater treatment and detention system that complies with Council's DCP. If the application is approved this, along with a geotechnical assessment from a suitably qualified consultant will be conditioned to be submitted prior to the Construction Certificate.

Clause 7.3 – Flood planning

The alignment of the road and the locality is flood affected. Any development lots that surround the proposed road must comply with the following current minimum fill height of 2.4 metres AHD.

The proposed road is not required to meet this height but must satisfy the stormwater velocity depth ratio requirement of 0.4 and be sufficient height to ensure the transitions to any of the adjoining future lots are at a suitable grade. Approximately 33,000m³ of fill is required to be imported to enable the road to be constructed to meet these transitions. If approved this fill will need to be sourced from appropriate locations to be free from contaminants and placed in accordance with relevant Australian standards and its management during the construction phase will be essential to minimise any impact to the environment and nearby residential premises.

The finished gutter levels of the proposed road range from 1.8 metres AHD to 2.5 metres AHD. The proposed future lots adjoining the link road shall not be given direct vehicular access off the link road but rather will be accessed off other internal road frontages to the lots. The link road has sufficient verge width to accommodate the height transition from the proposed road levels to possible future adjoining lots.

The proposal includes the diversion of an existing open channel drain through the site. This is acceptable on the basis that the proposed new drain has sufficient capacity to cater for the flows generated by the catchment and development. The applicant's flooding consultants WBM have undertaken flood modelling to determine the impact of the proposed road on flooding. The modelling was based on retention of the existing culverts downstream of the development and installation of three 900mm culverts under the new link road and Boeing Avenue.

The modelling indicated the flooding impact of the road is approximately 2-3mm for both the 20 year ARI and 100 year ARI events. This is considered to be a negligible impact making the proposed development acceptable in this regard.

Clause 7.7 - Infrastructure and Services

The proposed road infrastructure will ensure the Ballina airport and existing buildings are suitably serviced with an alternative road access, particularly if there is an emergency or incident that blocks one of the vehicular access/egress points. The applicant is proposing suitable infrastructure and services for the road. The levying of monetary contributions shall not apply to the development given that it is for the provision of public infrastructure and will not increase the demand on services.

5.3 Ballina Shire Development Control Plan 2012 (DCP)

It should be noted that Chapter 5 – Industrial Development has not been assessed as part of this report due to the proposal only relating to road infrastructure.

5.31 Chapter 2 – General and Environmental Controls

Section 3.3 – Natural Areas and Habitat

Approximately 370 metres of the road alignment is proposed in part of the site mapped as being 50m buffer due to the adjoining vegetation stand. The road alignment has the potential to impact on flora and fauna.

For further comment on this impact refer to the ecological Section 5.33 of this report.

Section 3.4 – Potentially Contaminated Land

Refer to previous comments under SEPP 55 – Remediation of Land in Section 5.1.1.

Section 3.5 – Land slip/Geotechnical Hazard

There are no known issues that would prevent the development in this regard. This can be suitably conditioned as a precaution and provided as part of Construction Certificate drawings (if approved).

Section 3.6 – Mosquito Management

The sites are located in an area of high risk area on the coastal plains and lowlands as indicated on the Mosquito Management Maps.

The proposal does not involve buildings and any stormwater control ponds or water features will be designed so they are not capable of holding water for a period in excess of 48 hours.

As a result of the abovementioned information no mosquito management conditions or additional information is required.

Section 3.7 – Waste Management

These matters can be suitably managed from the site both during construction and operation.

Section 3.9 – Stormwater

A stormwater management plan has not been provided and the requirements of DCP Chapter 2 Stormwater Management have not been addressed. The site however has sufficient area to provide a stormwater treatment and detention system that complies with Council's DCP.

Section 3.10 – Sediment and Erosion Control

There will be considerable earthworks involved with constructing the proposed road with significant amounts of fill required. The management of the construction phase will be essential to minimise any impact to the environment and nearby residential premises.

Conditions will be recommended to ensure that appropriate erosion and sediment controls are installed. Having regard for the topography and location, this is capable of being achieved and managed.

Section 3.11 – Provision of Services

The application is for the construction of a road only. Given there are no new lots proposed water, sewer and telecommunication servicing is not required other than the allocation of a suitable service corridor in the road reserve to allow for the extension of services. The proposed design provides sufficient service corridors.

Section 3.15 – Crime Prevention through Environmental Design (CPTED)

Although not entirely relevant to the road, CPTED matters are still met as the road will:

- provide opportunity for surveillance of surrounding premises to enhance public safety;
- provide clear delineation of access points and the distinction between public and private space; and
- minimises the creation of concealed or low visibility spaces.

No referral to the NSW Police was considered warranted on this basis.

Section 3.16 – Public Art

Despite the estimated cost of works being greater than \$1 million, as the site is not zoned B1 – Neighbourhood Centre, B2 – Local Centre or B3 – Commercial Core, there is no public art required as part of the application.

Section 3.19 – Car Parking and Access

The proposed road, if approved, will connect North Creek Road, Boeing Avenue and the Ballina Airport entrance road.

North Creek Road is currently constructed to approximately a 12.5 metre width for a significant portion of its full length. The sections that are not constructed to this width are currently a minimum pavement width of 9 metres wide.

Boeing Avenue is currently constructed to its full width (7 metres wide split carriageways separated by a central median) through to the connection with the proposed Airport Boulevard road extension under this application.

It is anticipated that airport associated traffic shall be split between the three possible routes to and from the airport being North Creek Road, Boeing Avenue and Southern Cross Drive. The existing external road network is constructed to a suitable standard to service the proposed development.

The proposed design also makes provision for an alternate connection to Corks Lane via the new road. This includes a channelised intersection which is acceptable. The final design shall require details on the termination of Corks Lane adjacent to the roundabout.

Vehicular access to and from the site and terminal building/carpark will remain via the existing road network that services the airport from Southern Cross Drive from the south, however if this application is approved the link road from North Creek Road to the airport (i.e. from the east) will provide an alternative access/egress point to the airport.

It should be noted, however, that the current/existing access via Southern Cross Drive is of suitable standard if this application is refused or is delayed.

Car parking requirements are not applicable to the road infrastructure proposed.

Pedestrian and Cyclist Requirements

A 2 metre wide shared path has been proposed along the full length of the proposed Airport Boulevard. The minimum recommended width of a shared path within Austroads is now 2.5 metres. If approved, the development shall be conditioned to provide a 2.5 metre wide shared path.

The plans do not include a shared path within the extension of Boeing Avenue. The applicant shall be required to extend this path from the existing path in Boeing Avenue through to the Airport Boulevard.

The plans do not show how the proposed shared path along the Airport Boulevard connects to the existing path in North Creek Road. The applicant shall also be required to extend the Airport Boulevard path to the existing path in North Creek Road.

A pedestrian link from the indicative location of the roundabout (i.e. most northern roundabout of this current application) to the terminal building was conditioned as part of previously approved DA 2017/149 for the terminal building expansion.

Bus Servicing

Bus stops are not required along the proposed Airport Boulevard as there are currently no destinations along this proposed road alignment (other than the airport terminal building). The provision of bus stops shall be reconsidered if and when the adjoining industrial estate is developed.

Section 3.22 – Road Noise Mitigation

The application has been supported by the submission of a Noise Impact Assessment. The assessment considers the acoustic impact of the new road and discusses reasonable and feasible mitigation options in accordance with the requirements of the NSW Road Noise Policy (DCCW 2011).

The report identifies the relevant noise assessment criteria for existing residences affected by noise from new arterial road corridors as 55 LAeq (15 hour) external Day (7am to 10pm) and 50 LAeq (9 hour) Night (10pm to 7am).

The assessment has then used long term measured data to determine the existing acoustic environment and to model the changes associated with carrying out the development. The modelled data demonstrates that the relative increase criteria have not been exceeded, meaning that the development has not resulted in an increase of +12 dB (which is perceived as a doubling in sound). If the relative increase criteria is exceeded it can trigger community reaction, particularly in areas where there is a low existing level of traffic.

For each assessment location in the study area the report then considered which of these locations exceeded the noise assessment criteria identified above. In relation to new road projects the contribution of the new road project alone is considered and not the total level of road traffic noise.

The report identifies three properties at which the night criteria is modelled to be exceeded, however the exceedance identified is only 1 dBA and as the average human cannot detect a difference of 3 dBA it therefore does not warrant action.

The report identifies 12 properties at which the day time criteria is exceeded, the highest exceedance identified is 5 dBA. Only two of which are exceeded by more than 3 dBA.

Following this assessment the requirement is to consider all feasible and reasonable mitigation options for the identified properties where exceedances are identified. For the exceedances equal to and less than 3 dBA mitigation has been discounted due to the average human not being able to detect this difference. For the two properties experiencing 5 dBA exceedances the report proposes a 2.4 metre acoustic fence as shown below.

Plate 3.14 Location of the 2.4m high acoustic barrier is indicated in yellow



The affected properties are 16 Bonito Place and 14 Bonito Place, Ballina (adjacent to the proposed roundabout on North Creek Road). The design and finishes of the recommended acoustic wall have been subject to negotiation with the affected property owners with the outcome being that the required noise reduction will be achieved by the materials, design and installation. The NSW RMS have guidelines to manage the negotiation of noise mitigation with property owners and a similar approach has been undertaken by the applicant.

Owners from both affected properties have signed agreements with Council in relation to the construction of the required acoustic fence (refer **Attachment 6**).

Consideration has also been had for the possible heavy vehicle weight limiting of part of the Airport Boulevard. A 10-15 tonne vehicle weight limit is recommended to be applied on a small section of the new road between North Creek Road and Corks Lane to force heavy

vehicles through the existing industrial estate rather than have them use North Creek Road to access the airport or industrial estate. Even though the associated reduction in heavy vehicle use of North Creek Road would not significantly impact on the road traffic noise or the remove the requirement to construct the acoustic wall (or undertake alternative mitigation), it would have significant positive amenity impacts for the residents along North Creek Road and road safety implications as they currently reverse out of standard driveways.

If this option is accepted, this would still allow heavy vehicle access to existing businesses such as Ballina Pipelines (depot on Corks Lane) through Boeing Avenue and heavy vehicles servicing Palm Lakes could still utilise North Creek Road. Therefore this weight limit would not unreasonably impact on their existing operations.

5.32 Chapter 2B – Floodplain Management

This has previously been assessed under Section 5.2, Clause 7.3 of this report.

5.33 Ecological Assessment

Ecological Impacts on Flora

To determine what impact the proposed development will have on the environment, the applicant submitted an Ecological Assessment (EA) report dated November 2015. A review of the submitted EA confirmed the report had been prepared to assess the ecological impact of a broader rezoning application rather than focusing on the proposed development (road construction).

Consequently, on 11 January 2018 the applicant submitted to Council a revised EA dated November 2017. The revised EA identified the construction of the road would impact on three vegetation communities listed as Endangered Ecological Communities (EECs) pursuant to the Threatened Species Conservation (TSC) Act (1995). The EA also confirmed that a small area of *Arthraxon hispidus* (Hairy joint Grass (HJG)) would also be impacted by the development. HJG is listed as a vulnerable species under the (TSC) Act (1995) and the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act).

In summary, the revised EA concluded the development would:

- remove 2640m² of swamp sclerophyll forest EEC,
- remove 4550m² of swamp oak EEC,
- remove 1782m² of freshwater wetland EEC,
- remove 0.125ha of Hairy joint Grass habitat,
- due to fragmentation the majority of the EEC vegetation to be removed exhibited high level edge effects and weed infestations were prevalent,
- all three EEC communities were well represented in the locality,
- based on the above information it was considered the development was unlikely to have a significant impact on the local occurrence of any of the subject EECs. Consequently, a Species Impact Statement (SIS) was not required; and
- the impacts of the development on the subject EECs and threatened species required offsetting.

The findings of the revised EA in relation to its impact on subject EECs and HJG are generally supported. In relation to offsetting, collectively the proposed development will directly affect approximately 1.08 hectares of EEC habitat. To offset these impacts the revised EA proposed offset ratios varying from 1m² to 5.7m² for every 1m² of EEC habitat destroyed. While the upper offset ratio (5.7:1) was based on the calculations derived from the Biobanking calculator, the EA proposed a reduction for the offsetting ratio for Freshwater Wetland EEC from a 9:1 offset ratio to a 1:1.

The justification for this reduction is that the Freshwater Wetland is a low quality EEC.

Consequently, to offset the impact on the subject EECs and HJG the EA recommended a total offset area equating to 4.575ha.

However, where developments impact on EEC habitat, Council generally applies a minimum offset ratio of 5:1. It is also noted the original EA recommended an offset ratio of 5:1. Furthermore, the Freshwater Wetland habitat to be destroyed is also habitat for the Wallum froglet (*Crinia tinnula*); a species of frog listed as a vulnerable species pursuant to the TSC Act (1995) and, therefore, has an elevated conservation value.

To be consistent with other development approvals across the Shire, the 5:1 offset ratio should apply to this application. Consequently, to offset the impact of the development on EECs and HJG habitat an offset area of 5.53ha is required.

The applicants preferred EEC offset area occupies an area of 5.35ha (Figure 1). Figure 1 is inconsistent with the above offsetting rates (4.575ha and 5.53ha) as it included an outdated offsetting proposal in relation to mitigating the impact of the development on the Wallum froglet. Impacts of the development on the Wallum froglet population are discussed later in this assessment. However, the general location of the proposed EEC and HJG offset area depicted in Figure 1 is supported.

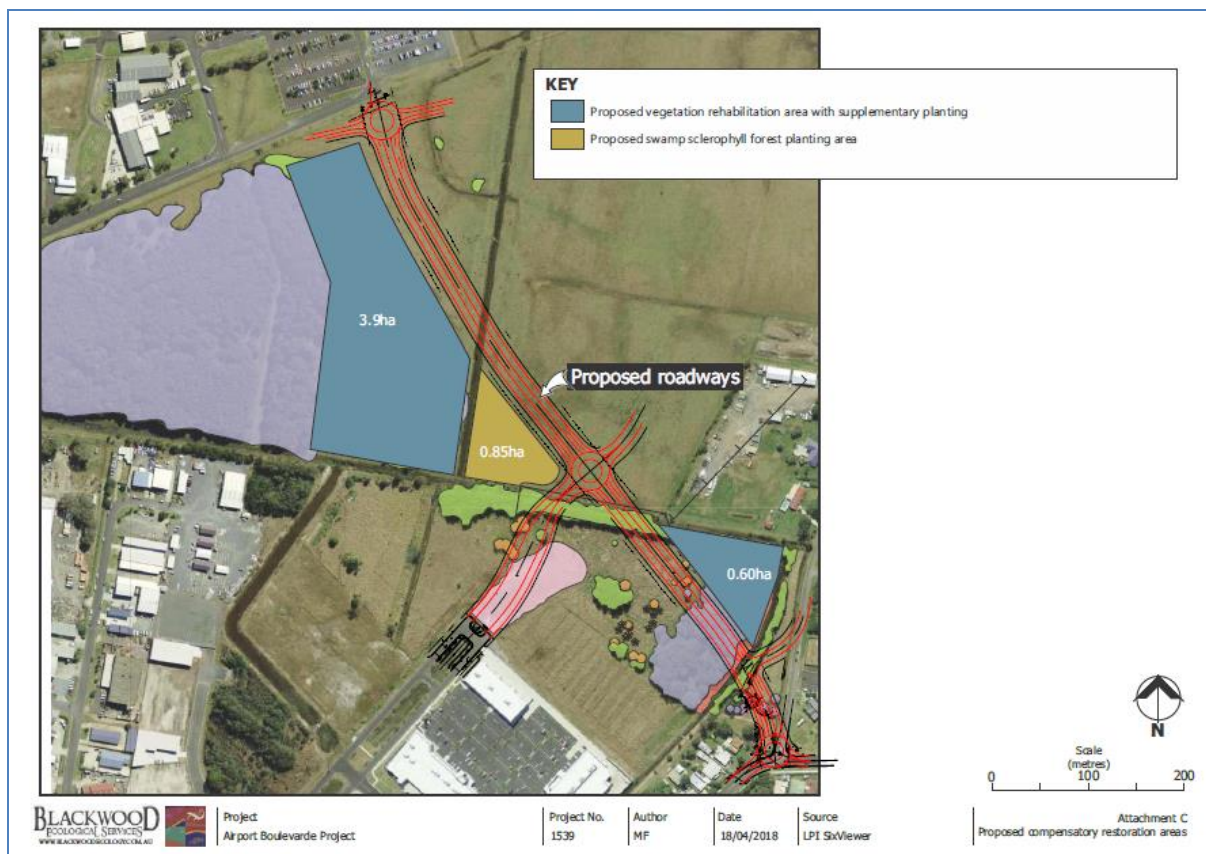


Figure 1: Proposed EEC and HJG offset area.

Ecological Impacts on Fauna

During the processing of the development application it became apparent the EA had not adequately assessed the impact of the development on the Wallum froglet (*Crinia tinnula*).

The vulnerably listed Wallum froglet is one of the species of native frogs known as an 'acid' or 'wallum' frog which inhabit low nutrient soils and breed in low pH (3.4 to 5.2) waters.

Consequently, further detailed assessment was required to firstly determine whether the species was present at the site and secondly, if so, determine the extent of the local population. On 8 June 2018 the applicant provided an addendum report which concluded:

- 15 ha of Wallum froglet habitat occurs within the Study Area (refer Figure 2),
- the construction of the road will remove 6900m² of known Wallum froglet habitat,
- the habitat to be removed is considered to be of marginal to moderate value for the species,
- the proposed development will impact on 4.5% of local population as defined by the TSC Act (1995),
- higher quality habitat occurs to the north of the road corridor,
- although the construction of the road will fragment known Wallum froglet, culverts installed as part of road construction will allow frogs to move either side of the road,
- while some road mortality will occur, it is not likely to be significant given the road is elevated and as the road will have minimal use at night (this is when frog movements usually occur),
- based on the above information the EA concluded the development is unlikely to have a significant impact on the local population and consequently, a SIS is not required, and
- all impacts to Wallum froglet habitat should be offset in a ratio of 10:1. This will require a Wallum froglet offset area of 6.8ha.

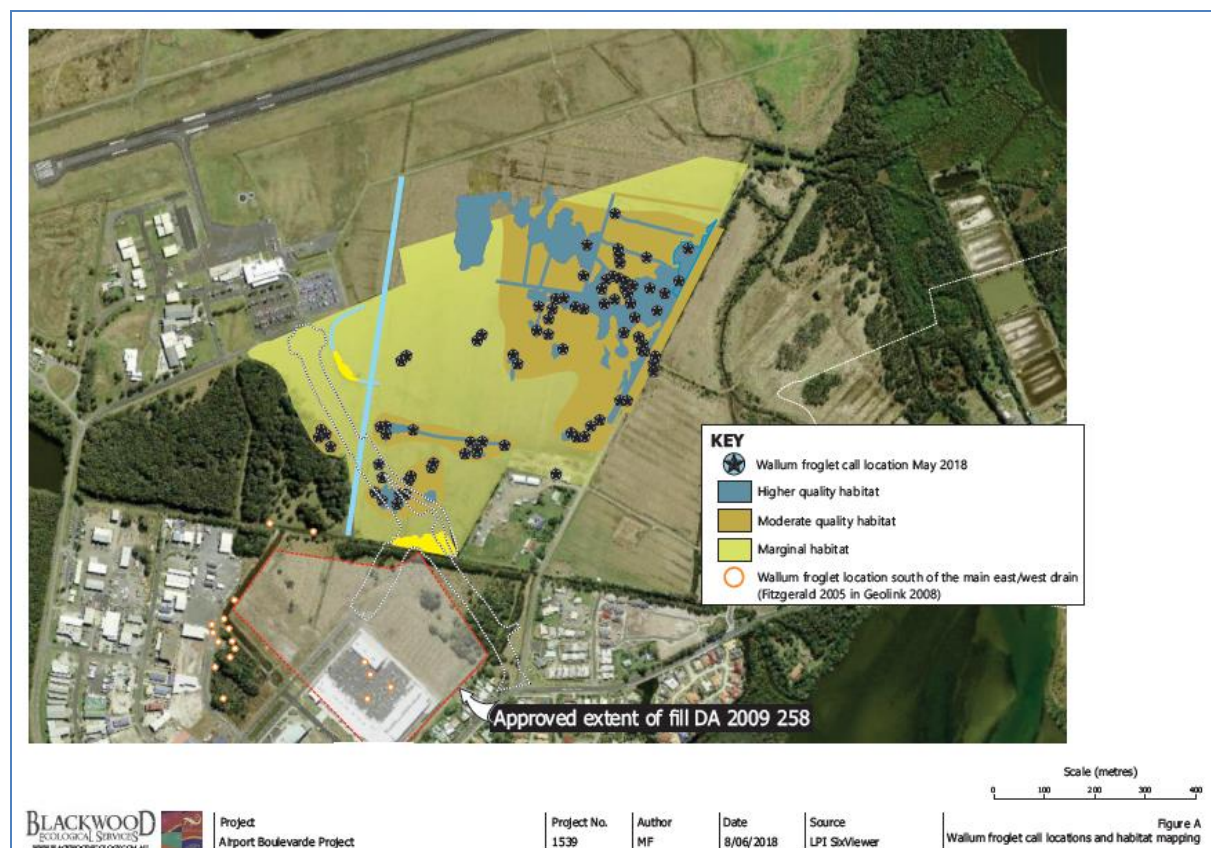


Figure 2: Location and extent of the Local Wallum froglet population.

While it agreed a SIS is not required, concern is raised that frog mortality will occur during the operation of the road. To mitigate against this impact it is recommended that permanent frog exclusion fencing should be established adjacent to the road where it adjoins the Wallum froglet habitat depicted in Figure 2. The installation of frog exclusion fencing is commonly used by the Roads and Maritime Service as part of the Pacific Highway upgrade and has been installed by Council for the upgrade of the Ross Lane roundabout project and, as such, should apply to this application.

While the EA identifies that Wallum froglets are likely to use the culverts installed under the constructed road, pH testing has confirmed the water associated with these culverts/drains has pH of 6.5. As Wallum froglets are usually associated with acid waters (pH 3.4 to 5.2) it is questionable whether Wallum froglets will use the drains/culverts as connectivity pathways to move either side of the constructed road.

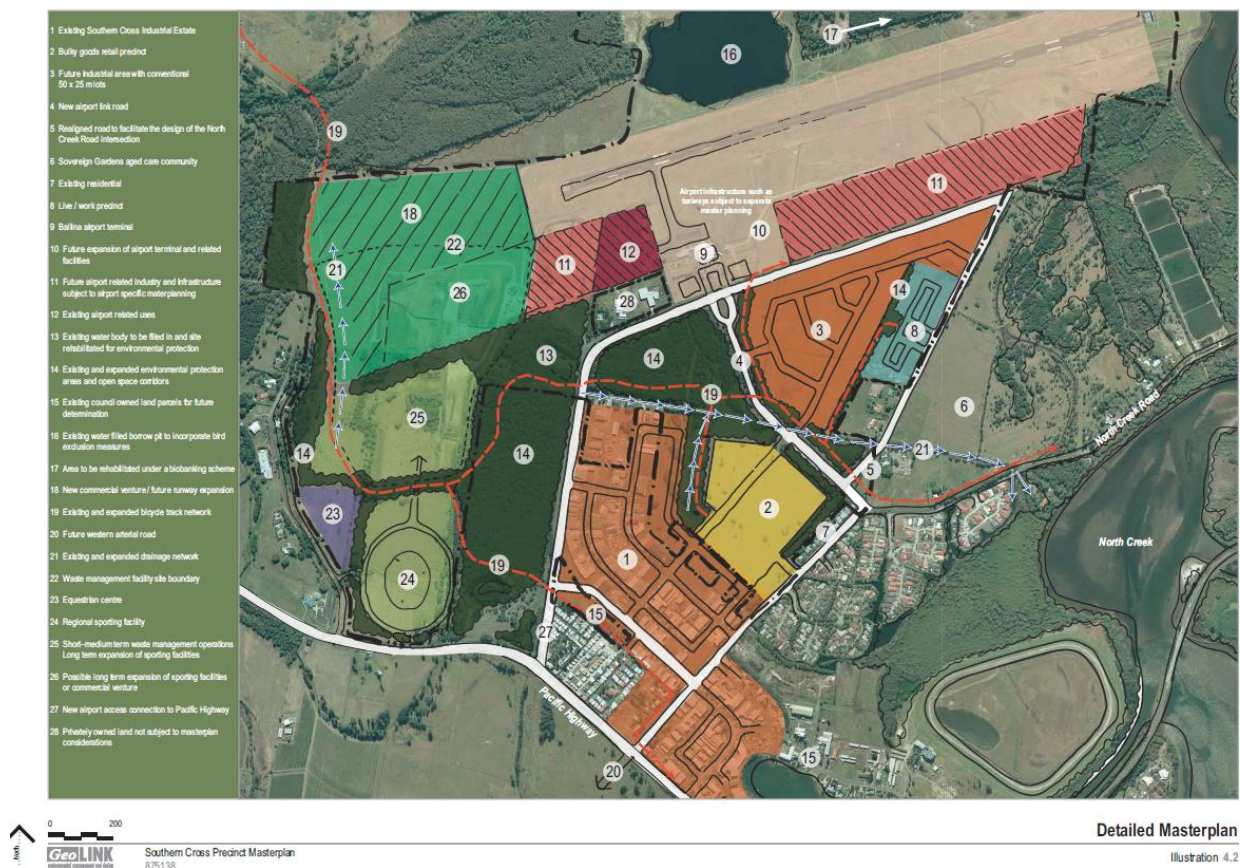
Consequently, it is recommended that dedicated frog culverts be installed under the road to provide ongoing connectivity between known Wallum froglet habitats. This approach has been canvassed and is supported by the applicant. Consequently, a condition requiring installation of connectivity structures is to be applied if the application is approved.

5.34 Southern Cross Precinct Master Plan (SCPMP)

The subject land is mapped on the Detailed Masterplan - Illustration 4.2 of the SCPMP as part:

- 4 – New Airport Link Road

Source: GeoLINK Date: March 2008



The key master plan features relevant to this proposal are:

2.4.3 Road Access

One of the main outcomes of the master plan should be to provide for an efficient network for all travel modes, while maximising the opportunities for public transport use in order to minimise dependence on private car travel. This should involve an efficient road layout that would support bus routes or extensions to existing services including the consideration of a new airport access that provides a more direct route to and from the airport and possible extension of North Creek Road. Cyclist and pedestrian use will also need to be taken into consideration.

As detailed in the Southern Cross Industrial Estate Structure Plan and Concept Design prepared by Maunsel, future development in the locality has the potential to impact on the road hierarchy in the locality.

The main impacts will potentially be on the Pacific Highway. This issue will need to be addressed within the master plan. Other collector roads such as Southern Cross Drive and minor collector roads such as North Creek Road may have potential impacts as a result of future development which will also need to be addressed.

Existing unformed road reserves will need to be investigated to determine their relevance and the feasibility of utilising these as part of any future development. In addition to this, access to the airport will also be potentially affected by increased levels of traffic as a result of the future development in the locality and this will also need to be addressed.

4.3.1 Road Network

The precinct masterplan proposes an integrated road network that builds on and enhances the existing road infrastructure to service the new precincts and to improve vehicular permeability to existing uses. An important feature of the proposed road system will be the location of distributor roads around precincts rather than through them. This will help avoid through traffic from conflicting with local precinct traffic and will facilitate site legibility by establishing clear points of entry into particular precincts. Another important design feature will be the extensive planting of vegetation along roads to screen unwanted views and to create attractive tree lined avenues. This initiative will greatly enhance the amenity of the precinct and provide a relatively simple but effective means of enhancing its visual image.

Southern Cross Drive and North Creek Road will remain the primary vehicular access routes within the precinct. These roads will be subject to some modification to their alignment, road priority and intersection designs.

It is recommended that Southern Cross Drive be accessed from the Pacific Highway with a new connecting section of road along the western side of the manufactured home park. The purpose of this new connection will be to enhance the accessibility of the airport from the south and to create a more attractive route for airport users that avoids the local traffic and visual clutter associated with the industrial estate. The new road connection will be designed to give priority to traffic along the western section of Southern Cross Drive. The road here will be designed with minimal carriageway width and a carefully located alignment to limit impact on existing vegetation and adjoining land uses. The entire new western section of the road will also incorporate substantial new planting to screen views of the industrial area and to create a highly vegetated corridor to compliment the visual quality of Bicentennial Gardens to the west.

The remaining section of Southern Cross Drive within the industrial area will primarily cater to local traffic.

Junctions at either end of this road provide an opportunity to create a bold visual statement to signify the entrance into the estate.

North Creek Road could become a more significant vehicular route over the longer term, particularly if either end of the road is extended with the construction of the western arterial to the south and the possible Lennox Head link road to the north. If this occurs this will turn North Creek Road into a busy new through route that will change the dynamics of the present road system and will increase the visual exposure of much of the precinct. It should be noted that an alternate link to Lennox Head has not been decided upon at this stage and is subject to further detailed investigation and consideration by Council and the RTA.

A new airport connection from North Creek Road is proposed in anticipation of this increased level of road use and to provide a more convenient airport link for communities to the north. The new connection follows a similar proposal previously considered by council although it is recommended that the new alignment be located further east to avoid an existing area of remnant vegetation. The northern section of the new link road will align with the airport terminal to create a focal point and a sense of arrival for airport users. The road will also provide access into the adjoining bulky goods precinct and the future industrial area.

The new airport connection will incorporate a wide road verge that will support substantial areas of vegetation to screen the adjoining industrial precincts and to create an attractive corridor leading to the airport.

The existing Corks Lane junction with North Creek Road is proposed to be relocated further north to simplify the design of the new airport link road intersection with North Creek Road. Corks Lane will provide access to the new live / work precinct, future industrial area and the area designated for airport related industry further north. The northern end of the road will join onto a new eastern extension of Southern Cross Drive that will extend from the airport terminal and provide additional access to the area designated for airport related industry.

The proposed development is therefore expressly consistent with the relevant provisions of the SCPMP, however the staging/timing for the implementation of the airport link road was not intended to be constructed until the future industrial expansion area had been approved, particularly as it is clear that the Airport Boulevard is also intended to be the primary access road for the expansion area and was considered integral/critical public infrastructure for the expansion area.

Additionally, it appears that the Airport Boulevard would be considered in the master planning of the expansion area, not separate to it. The status of the planning proposal for the Industrial expansion area immediately to the north-east will be discussed below, however if approved the applicant has advised the construction of the Airport Boulevard will be undertaken independently of and irrespective of whether or not the planning proposal is finalised.

The Panel will need to decide if this is appropriate in the circumstances, particularly due to the lengthy delays that have occurred in consideration of the planning proposal as outlined in Section 5.35 below.

5.35 Planning Proposal for Southern Cross Precinct Industrial Expansion Area (PP 2013/005)

It is important to note that Council has a commercial interest in this planning proposal being the landowner of the majority of the land to which it applies.

Based on this potential perceived conflict of interest, the services of an independent planning consultant were sought to review the additional information submitted in relation to the planning proposal on behalf of the applicant, and provide recommendations regarding the appropriate range of permissible uses on the land and allocation of land use zones.

PP 2013/005 was submitted in 2013 and proposes to rezone land adjoining the existing Southern Cross Industrial Estate from RU2 Rural Landscape to B6 Enterprise Corridor with a minimum lot size of 1000m² and a new zone B7 Business Park into the BLEP 2012, refer Figure below. The proposed Airport Boulevard, the subject of this report, is located within the land applicable to the rezoning.

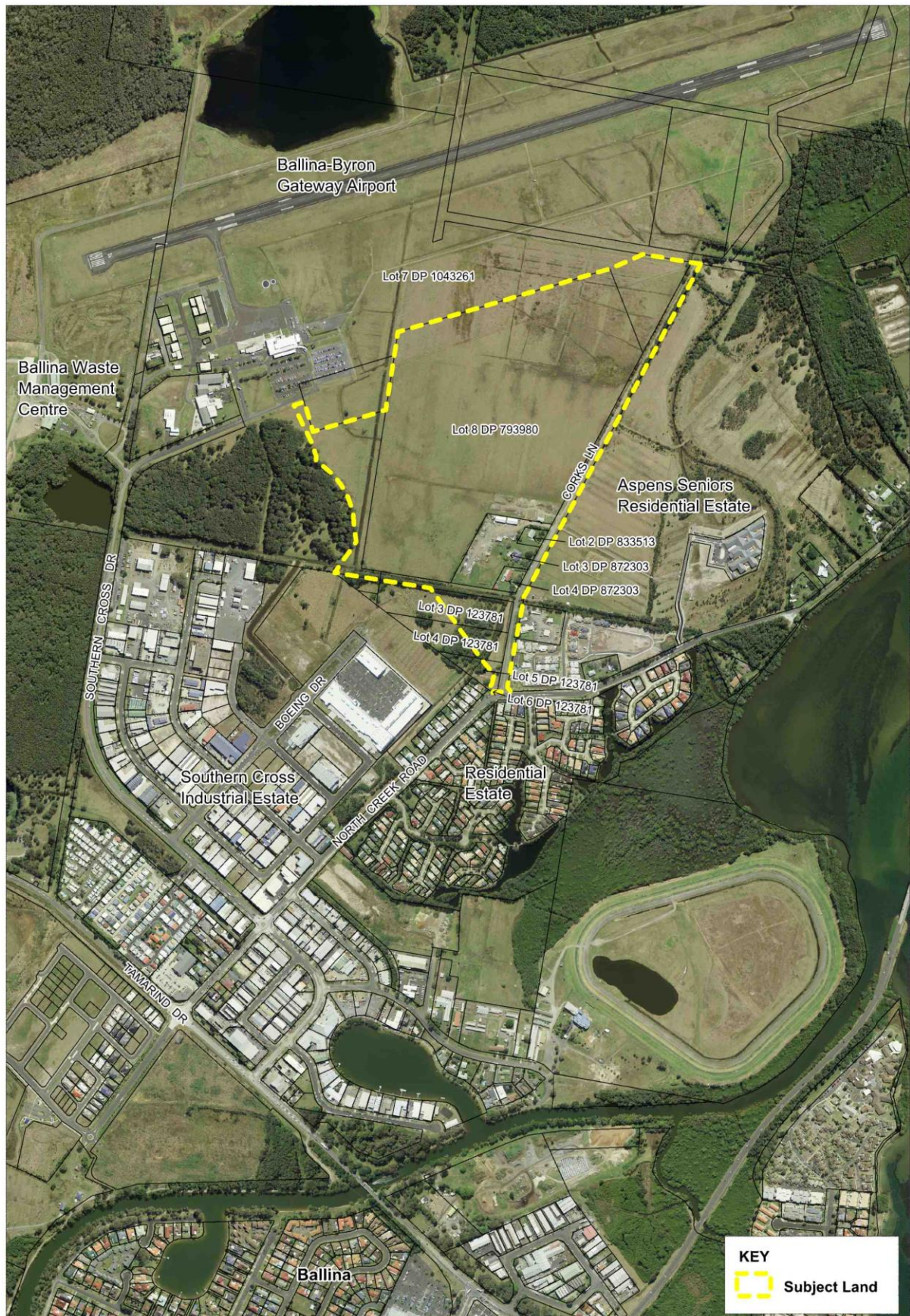
The subject land is identified in Council's Ballina Shire Growth Management Strategy (endorsed by the Council in 2012) and SCPMP (endorsed by the Council in 2008) as having potential to accommodate commercial and industrial development.

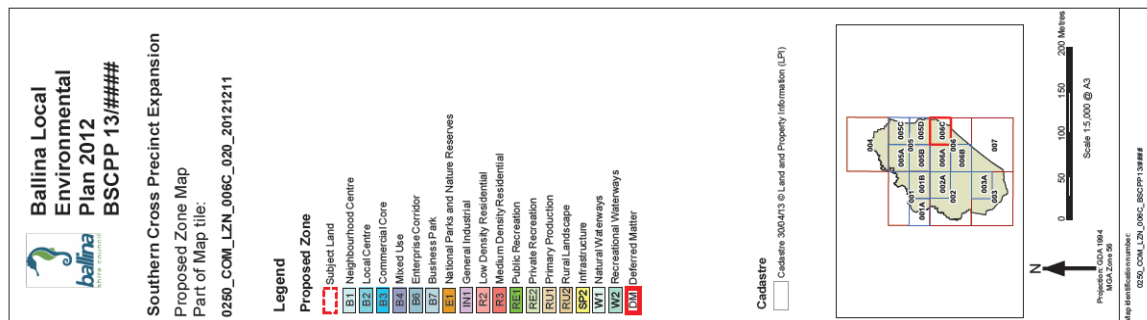
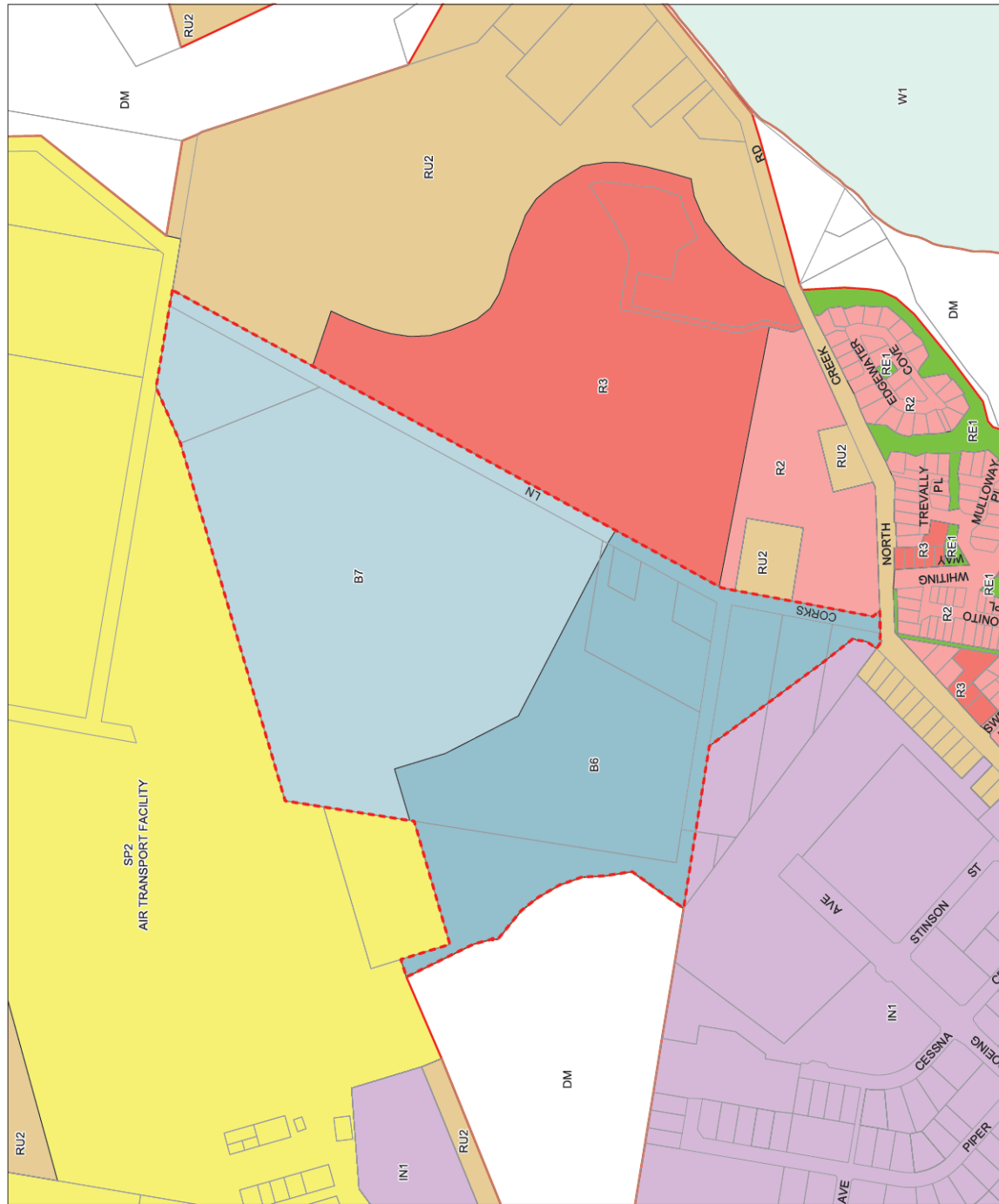
Part of the Department of Planning and Environment Gateway determination terms was that it was to be completed with 12 months from the week following the date of the Gateway determination (signed 23 July 2013) and supported by a number of environmental studies.

It appears that this timeframe has been extended a number of times via Alterations to Gateway determinations. The most recent extension was granted until 30 October 2018 (and on face this appears to be the final extension to be granted).

Based on this it is unlikely that the timeframes for the Gateway determination (as altered) will be met (particularly as community engagement has not been undertaken as yet) and therefore a new planning proposal will be required causing further delays.

The additional reports prepared for the Airport Boulevard will, however, directly assist in addressing some of the issues causing delays in the progress of the current planning proposal.





6.0 Conclusion

The application has been assessed having regard to the relevant matters for consideration prescribed by Section 4.15 of the Environmental Planning and Assessment Act 1979.

The design and footprint of the proposed road and its corridor is considered to make a positive contribution to the surrounding area and will assist in addressing the on-going accessibility of the airport, however as outlined in the SCPMP this is not the only purpose for the road infrastructure.

Although the road infrastructure is not reliant on the rezoning of the land in relation to permissibility, the potential rezoning has implications on the road design (i.e. if the rezoning does not proceed roundabout arms will be redundant leading to the proposed expansion area). It is also fundamental to the strategic intent of the locality and approval of the road could be seen as pre-empting or predetermining the outcome of a strategic process that is not yet well advanced.

In relation to the pertinent issues relating to the proposed development the application has been assessed for possible negative impacts to the natural and built environments.

It is determined that through the application of the attached Notice of Determination with incorporated conditions, this development can perform its purpose while providing a reasonable environmental and amenity outcome.

Having regard for the outcomes of the assessment undertaken, the Panel has the following options with regard to determining the subject application:

Option One

That the Panel approves the development as submitted and subject to the conditions accepted by the applicant.

This is supported having regard to the matters outlined within this report.

Option Two

Defer the approval of the Airport Boulevard road until the land for the industrial expansion area has been rezoned in accordance with the planning proposal or alternatively issue Deferred Commencement Consent requiring this to be completed prior to the commencement of construction of the road.

This is not supported as there do not appear to be sufficient reasons for deferring the road infrastructure.

Option Three

That the Panel refuses the development application on the basis that the planning proposal for this locality is not well advanced.

This is not supported as the application warrants development consent for the reasons outlined in this report.

7.0 Recommendation

That Development Application 2017/129 for:

- Construction of a two lane road linking North Creek Road to the Ballina Byron Gateway Airport including three roundabouts at the intersections with North Creek Road, Boeing Avenue and the connection into the airport,
- The extension of Boeing Avenue and the realignment of Corks Lane, and
- site filling, vegetation removal and associated offset works

at Lots 1 to 5 DP 123781, Lot 952 DP 1165266, Lots 7 & 8 DP 793980, Lot 264 DP 1195313 Corks Lane, 25-39 Boeing Avenue and 210 Southern Cross Drive, Ballina be **APPROVED** subject to conditions in **Attachment 1**.