

9th August 2024

Our reference: 1866.4772

RE: Memorandum in support of RR-2024-27 (PP-2024-1016) concerning an additional permissible use request in relation to 34 Racecourse Road Ballina

Preamble

PLANNERS NORTH provides town planning advice to JR Commercial Property Holdings Pty Ltd, the registered proprietor of 34 Racecourse Road Ballina.

In simple terms, the intended development is the construction of a purpose-built building towards the rear of the site with approximate dimensions of 27m x 42.5m. The building is intended to be a gymnastics-focused indoor recreation facility. The premises will cater for a maximum pupil occupancy of 150 and is proposed to operate between the hours of 9am and 7pm (and on some odd occasions 9pm) weekdays. On Saturday, the premises would usually operate between 8am and 6pm. On Sundays, the premises would operate between 9am and 4 pm.

Towards the Racecourse Road frontage of the development site it is intended to retain the existing building for use as residential and vehicle garaging use. It is also proposed to provide about 60 car parking spaces.

The development will involve construction with an approximate build cost of \$2.5m and will employ 3 full-time staff and up to 25 casual staff.

Technical reports supporting the suitability of the site include:

- A preliminary contamination assessment report has been prepared by PLANNERS NORTH provided at **Annexure A**).
- A preliminary traffic and parking assessment based on the nature and scale of the intended use was prepared by GeoLINK (attached as **Annexure B**).
- A comprehensive flood assessment was prepared by BMT (attached as **Annexure C**).

History

A brief chronology of key events related to this Planning Proposal is as follows:

- 24 January 2021 The first Planning Proposal request was submitted to Ballina Shire (See **Annexure D**)
- 23 February 2023 Council meeting - Town Planning officers recommend for support. That report opined *"Preliminary assessment of the issues associated with such a development indicates that it is possible to carry out the development in a way that does not result in significant environmental, social, or economic impacts."* (See **Annexure E**)
- 2 March 2023 Council writes to advise, *"... Council resolved to cease further action in relation to this planning proposal."*
- Since the March 2023 Planning Proposal rejection, the Council has completed a strategic review of land in the Local Government Area suitable for rezoning for commercial and light industrial purposes. That study re-confirmed that the subject land (known as site 20) is part of a strategically important precinct for future industrial use. (See **Annexure F**)

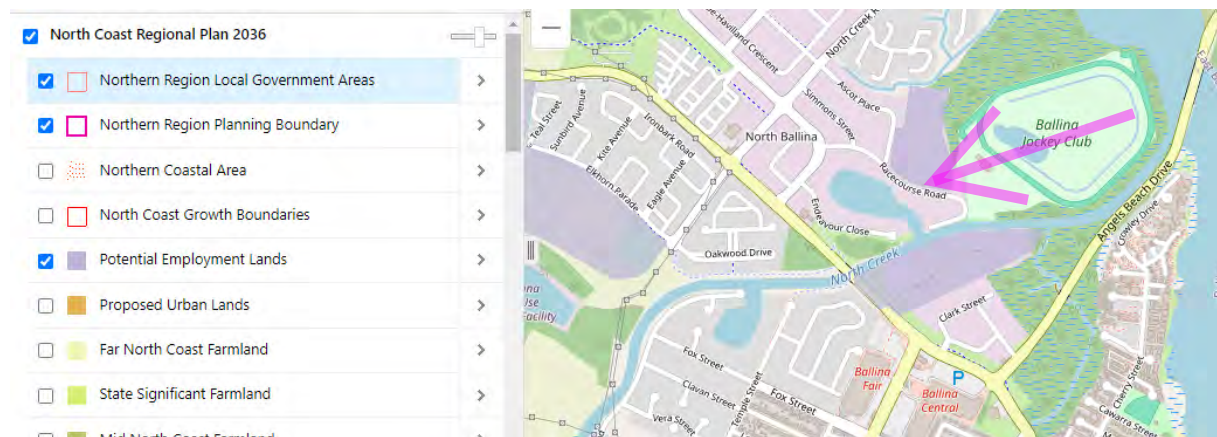
- 12 May 2023 Racing NSW has acquired the land immediately westward of the subject site and made an uncommercial offer to JR Commercial Property Holdings Pty Ltd to acquire the subject land.
- Given the reinforcement of the Council's strategic urban growth initiatives for the locality and the lack of a commercial purchase offer from Racing NSW, it was considered appropriate to resubmit this matter for Council's consideration.
- 25 April 2024 Pre-lodgement consultation for the proposed gymnasium at Racecourse Road, Ballina prior to the formal submission of a Planning Proposal. (See **Annexure G**)
- 27 June 2024 Council meeting Council officials recommended that Ballina Shire not support Planning Proposal PP-2024-1016, as *"the proposal may give rise to land use conflicts between existing adjoining equine land uses and the proposed use"*. (See **Annexure H**)
- 1 July 2024 Council wrote to formally advise that it does not support Planning Proposal PP-2024-1016 as the proposal (See **Annexure I**).

Strategic Merts

Regional planning context

The subject site is part of a precinct that has long been identified in regional planning terms for future light industrial land uses. The maps below are extracts from the 2036 and current North Coast Regional Plan.

Extract from the North Coast Regional Plan 2036



Extract from the North Coast Regional Plan 2041

- ☐ Urban growth area
- ☐ Investigation area -urban land
- ☐ Investigation area -employment land
- ☐ Existing employment land



Local Planning context

When considering the compatibility of the proposed development and land use with the existing and likely future land uses in this area, clause 7.8 of Ballina LEP 2012 provides guidance. That clause is recited below.

"7.8 Strategic urban growth areas

- (1) *The objective of this clause is to ensure that strategic urban development opportunities in the Strategic Urban Growth Area are maintained.*
- (2) *This clause applies to land identified on the [Strategic Urban Growth Area Map](#) as—*
 - (a) *Strategic Urban Growth Area", and*
 - (b) *Land Adjoining Strategic Urban Growth Area".*
- (3) *Development consent must not be granted to development on land identified in subclause (2)(a) unless the consent authority has considered whether the development may preclude future urban or employment land uses on the land having regard to—*
 - (a) *the orderly and coordinated provision of infrastructure, and*
 - (b) *the maintenance of amenity and scenic values, and*
 - (c) *land use conflict impacts associated with stormwater or wastewater discharge and emissions, including noise, dust and odour, and*
 - (d) *site access, generation of traffic and the efficient functioning of transport infrastructure."*

The Strategic Urban Growth Area Map was promulgated as a consequence of Council's deliberations associated with the Ballina Shire Growth Management Strategy of 2012. Set out below is an extract from that Strategy, which shows the subject land identified as "Strategic Urban Growth Area" under the Growth Management Strategy.

The Ballina Shire Growth Management Strategy 2012 (26 July 2012)



The Strategic Urban Growth Area is generally consistent with the "RU2" zoning under Ballina Local Environmental Plan 2012 as illustrated in the zoning map below.

Zoning map



Strategic Urban Growth Area Map



Strategic Urban Growth Area Map

- Strategic Urban Growth Area Map, Land
- Adjoining Strategic Urban Growth Area
- Strategic Urban Growth Area Map
- Strategic Urban Growth Area

The land use conflict issue

The land use in the vicinity of the subject site is eclectic, with quite a broad range of uses established, including light industrial, rural, racecourse related activities and remnant vegetated areas. The map below illustrates those land use characteristics.

Locality land use



The town planning officers report to Council of 23 February 2023 advised:

"While a gymnastic facility is not directly consistent with the equine-related uses in the immediate area, preliminary assessment indicates that there is unlikely to be significant conflicts between local uses.

Use of the gym is unlikely to generate significant noise levels outside the building. Traffic numbers will depend on the number, frequency, and popularity of classes, but the local road network is designed and constructed to cater for an industrial estate, and therefore has sufficient capacity to cater for anticipated traffic levels.

The likelihood of peak use of the gym coinciding with arrival or departure times for a race meeting would seem to be low. The Ballina Jockey Club website indicates that there are around 17 race meetings per year, and it is expected that each event would generate peak traffic movements at the start and finish of each event.

It would be relatively easy for the operator of the gym facility to arrange start and finish times for their peak use to avoid conflict with race days.

It is understood that the proposed usage will be for junior gymnastics with a maximum of 150 pupils. The proponent suggests that the operation will align more closely to a dance studio than a traditional gym.

Applying the car parking rates within Council's DCP for a dance studio with 150 pupils, suggests the need for 50 on-site parking spaces. The preliminary proposal provides for 60 spaces within the site, which can be configured to provide an easy internal drop-off / pick-up spot to allow parents to drop off children without stopping in the street.

Car parking will be further considered as part of any future development application (if enabled by the endorsement of the proposed amendment).

The existing 5.0m wide access easement along the rear of the property will remain in place and unimpeded, allowing continued access between nearby stables and the adjoining racecourse."

The Council officers report to 27 June 2024 Council meeting observed:

"Having regard for the current land use pattern and ownership continued use of the land for horseracing related activities, provides for a land use outcome compatible with the character of the area.

The property owner is, however, entitled to pursue other land use opportunities, consistent with the current zoning or strategic planning framework.

The report previously considered by the Council in respect to the 2022 planning proposal (Item 8.6 to 23 February 2023 Ordinary meeting) concluded that:

'Development of the gymnasium as proposed will not prejudice future investigations of this wider investigation area and is consistent with the likely longer-term land uses of the area.

Preliminary assessment of the issues associated with such a development indicates that it is possible to carry out the development in a way that does not result in significant environmental, social, or economic impacts'.

Having regard to the recent purchase of 22-32 Racecourse Road by Racing NSW, and the potential for land use conflicts between the proposed use and the existing equine land uses, the above conclusions are no longer supported."

Nothing in the Council officers' report to 27 June 2024 Council meeting explains or provides fact-based evidence to support the primary reason for the rejection of the Planning Proposal i.e. *"the proposal may give rise to land use conflicts between existing adjoining equine land uses and the proposed use.*

Concluding remarks

In our submission, Planning Proposal 2024-1016 has merit and warrants support because:

1. there is a pressing need for a gymnastics focused recreation facility in the locality, and there is no land of suitable size and location available to accommodate the use in the locality;
2. the rezoning of the land to permit a gymnastics focused recreation facility is consistent with the regional planning for the locality;
3. the rezoning of the land to permit a gymnastics focused recreation facility is consistent with the local strategic planning for the locality; and
4. there is no objective evidence to suggest that the development of the subject site for the purposes of a gymnastics focused recreation facility will give rise to land use conflicts between existing adjoining equine land uses and the proposed use. In fact, the opposite is the case as the proposal provides for the retention of a Right of Way for racecourse-related land uses westward from the racecourse itself.



Stephen Connelly RPIA (Fellow) CEnvP-IA
PARTNERSHIP PRINCIPAL

PLANNERS NORTH

(m) 0419 237 982

(e) steve@plannersnorth.com.au