

Rezoning Review Briefing Report – RR-2024-27

34 Racecourse Road, Ballina – Planning proposal seeks to add a new Additional Permitted Use (APU) for a gymnasium on subject site.

Element	Description
Date of request	1/08/2024
Department ref. no	RR-2024-27 (PP-2024-1016)
LGA	Ballina Shire Council
LEP to be amended	Ballina Local Environmental Plan 2012
Address	34 Racecourse Road, Ballina (Lot 1 DP 812651)
Reason for review	<input checked="" type="checkbox"/> Council notified the proponent it will not support the proposed amendment <input type="checkbox"/> Council failed to indicate support for the proposal within 90/115 days, or failed to submit the proposal after indicating its support
Has council nominated PPA role	No, Council notified the proponent that it did not support the proposal so Council cannot be the PPA.
Consultation	Councils' response to the rezoning review request was received on the 9 September 2024 (Attachment C).
Brief overview of the timeframe/progress of the planning proposal	<p><u>Original planning proposal (PP-2021-7476)</u></p> <p>24 January 2021: The original planning proposal (PP-2021-7476) request was submitted to Ballina Shire Council.</p> <p>23 February 2023: Council Officers recommended to support the proposal at the Ordinary Council Meeting. Council resolved to cease further action in relation to the planning proposal. (Attachment D)</p> <p>2 March 2023: Proponent is notified by Council they will cease further action in relation to the planning proposal.</p> <p>12 May 2023: Racing NSW acquired the land immediately west of the subject site at 22-32 Racecourse Road and made an uncommercial offer to JR Commercial Property Holdings Pty Ltd (the proponent) to acquire the subject site.</p> <p><u>Current planning proposal (PP-2024-1016)</u></p> <p>25 April 2024: Pre-lodgement consultation between Council and the proponent for the proposed gymnasium at Racecourse Road, Ballina.</p>

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Element	Description
	<p>27 June 2024: Council resolved not to support the proposal at its Ordinary Meeting stating, 'the proposal may give rise to land use conflicts between existing adjoining equine land uses and the proposed use'. (Attachment C2)</p> <p>1 July 2024: Council formally advises the proponent that it does not support the planning proposal (Attachment A7).</p> <p>25 July 2024: Rezoning Review (RR-2024-27) lodged with the Department.</p>
Department contact:	Ayva Hamed, Para Planner, 02 9769 9907

Planning Proposal

Table 1 Overview of planning proposal

Element	Description
Site Area	3,604m ²
Site Description	<p>The subject site is located on the northern side of Racecourse Road, Ballina (Lot 1 DP 812651), approximately 200m from the intersection of Ascot Road (Figure 1). The subject site is zoned RU2 Rural Landscape under the Ballina LEP 2012.</p> <p>The subject site contains a main building located toward the Racecourse Road frontage, which appears to have been originally constructed as stables, but are now used as a residential dwelling, as well as a number of outbuildings. A 5m-wide right-of-carriageway exists along the northern property boundary, connecting the lot and the two adjoining lots to the west, to the racecourse land immediately to the east.</p> <p>The immediate locality consists of various equine-related uses, including stables, veterinary facilities, and the like, as well as several residential dwellings. The Ballina Jockey Club and racecourse is located immediately to the east and the Southern Cross Industrial Estate is to the west (Figure 2).</p> <p>The Ballina Jockey Club and racecourse to the east are zoned RE1 Public Recreation, while the properties on the southern side of Racecourse Road, directly opposite the subject site, are zoned IN1 General Industrial (Figure 3).</p>
Proposal summary	<p>The intended outcome is to facilitate a gymnasium on the subject site. The proposal seeks to amend the Ballina LEP 2012 as follows:</p> <ul style="list-style-type: none">Amend Schedule 1, to make a recreation facility (indoor) a land use permissible with consent on the subject site as an Additional Permitted Use (APU); andAmend the Additional Permitted Uses Map identify the subject site as "Area N".

Element	Description
	The current and proposed LEP provisions are outlined in Table 2 of this report.
Relevant State and Local Planning Policies, Instruments	<ul style="list-style-type: none">• North Coast Regional Plan 2041 (NCRP)• Ballina Shire Council Community Strategic Plan 2017-2027 (CSP)• Ballina Shire Local Strategic Planning Statement 2020-2040 (LSPS)• Ballina Shire Growth Management Strategy 2012 (BSGMS)• Relevant State Environmental Planning Policies (SEPP) include:<ul style="list-style-type: none">◦ SEPP (Resilience and Hazards) 2021• Relevant Section 9.1 Ministerial Directions include:<ul style="list-style-type: none">◦ 1.1 Implementation of Regional Plans◦ 1.4 Site Specific Provisions◦ 4.1 Flooding◦ 4.2 Coastal Management◦ 4.4 Remediation of Contaminated Land◦ 4.5 Acid Sulfate Soils◦ 9.1 Rural Zones◦ 9.2 Rural Lands

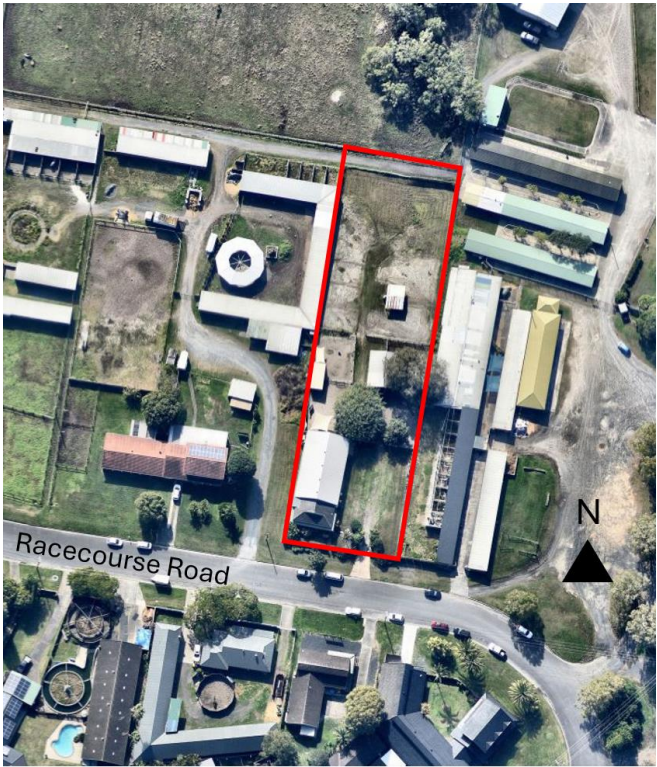


Figure 1 Aerial photo of the site, outlined in red (source: Nearmap, 2024)

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Figure 2 Site context, subject site outlined in red, land acquired by Racing NSW outlined in green (source: Council Report, 27 June 2024)

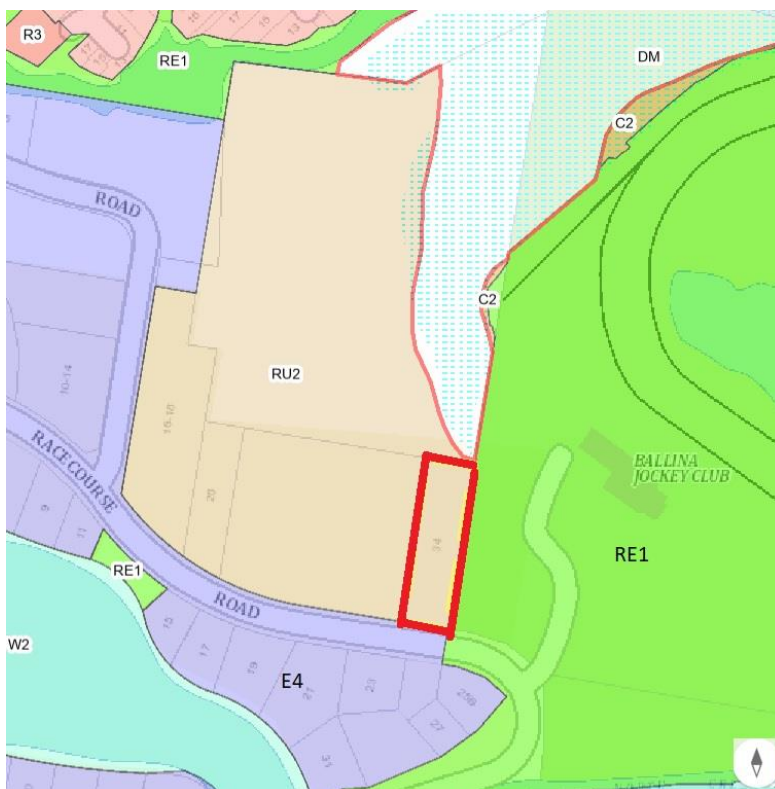


Figure 3 Current Land zoning map, subject site outlined in red (source: NSW Spatial viewer, 2024)

The planning proposal seeks to amend the Ballina LEP 2012 as outlined in **Table 2** below.

Table 2 Current and proposed controls

Control	Current	Proposed
Zone	RU2 Rural Landscape	No proposed change.
Maximum height of the building	8.5 m	No proposed change.
Floor space ratio	No FSR control	No proposed change.
Additional Permitted Uses (APU)	N/A	Development for the purposes of a recreation facility (indoor) is permitted with development consent.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

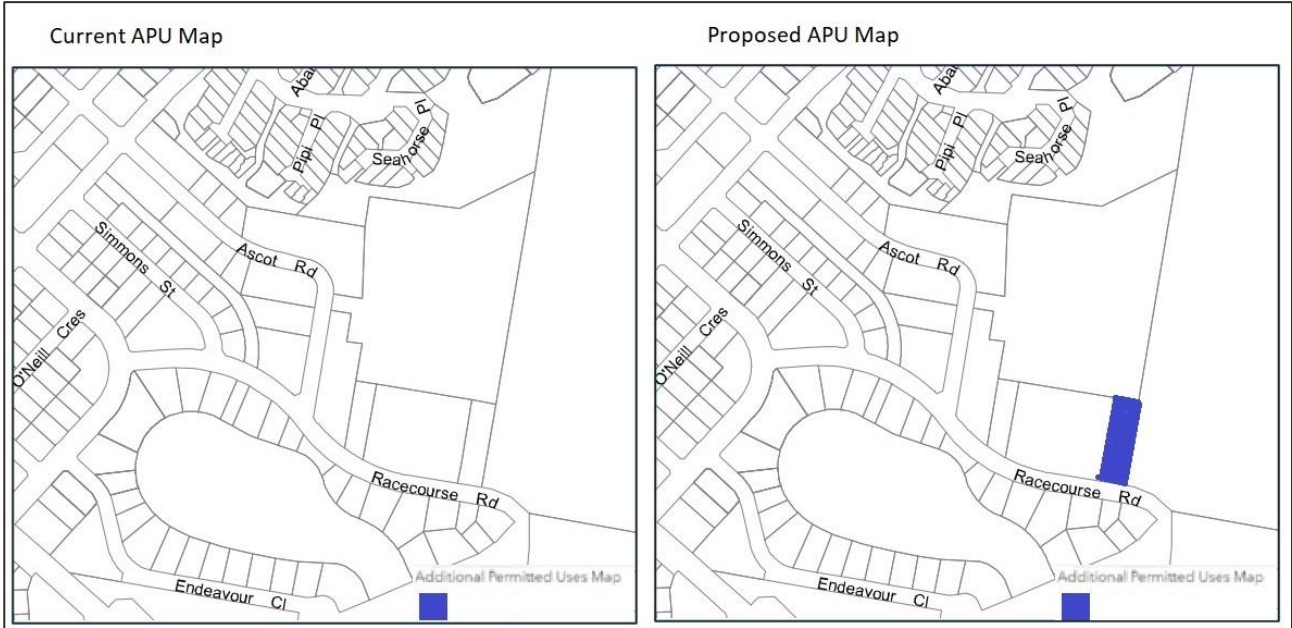


Figure 4 Current and proposed APU Maps (source: NSW Spatial viewer, 2024)

STRATEGIC MERIT

Issue no. 1 - Strategic Urban Growth Area (SUGA)

Council view

- The subject site is located on land (Area 20 Racecourse Road, Ballina) designated as a Strategic Urban Growth Area (SUGA) within the Ballina Shire Growth Management Strategy 2012 (BSGMS) and in the Ballina LEP 2012 (**Figure 5**). The site's designation as a SUGA should not be interpreted as indicating that Council considers the land suitable for urban use or that it will become available for urban purposes in the future, but rather that the land has potential for urban use subject to further and more detailed investigation.
- The LSPS references the 6.2ha SUGA site (Area 20) adjacent to Ballina Racecourse as a potential industrial land supply site and states it is: *'Land identified as an Investigation Area – Employment Land in North Coast Regional Plan 2036. Approximately half of this area already developed for horse racing related purposes. Remaining vacant land subject to flooding and adjacent to wetland area'*.
- Council reviewed all designated SUGA's during May 2022 to May 2023 and produced a corresponding report. (**Attachment E**).

Regarding Area 20, the SUGA report:

- states *'Anticipated at the time as having potential commercial development in association with the adjacent Ballina Racecourse'*.
- recommends retaining Area 20 as a SUGA on the basis that *'Having regard for the complex nature of the site and multiple adjacent land use types, detailed assessment through the planning proposal process may determine an appropriate land use planning outcome for the site'*.
- No detailed assessment of Area 20 has been undertaken. Council notes that Area 20 is impacted by flooding constraints and bordered by wetlands. There remains considerable uncertainty as to whether the primary flooding constraint can be successfully mitigated.

Proponent view

- The rezoning of the land to permit a gymnastics-focused recreation facility is consistent with the regional and local strategic planning for the locality.
- 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.

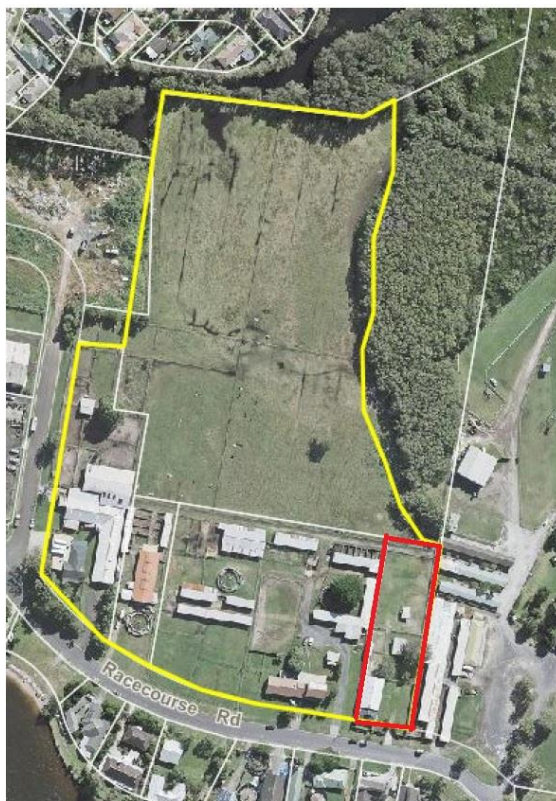


Figure 5 Area 20 Strategic Urban Growth Area Map, Area 20 outlined in yellow; subject site outlined in red.

SITE SPECIFIC MERIT

Issue no. 1 - Land use conflicts with neighbouring racecourse and associated car parking and noise issues

Council view

- Potential land use conflicts are considered to include those associated with additional noise and traffic, as well as adverse people interaction (children) with more 'high-strung' thoroughbred racehorses.
- Potential land use conflicts are considered more significant on a site which immediately adjoins stables associated with Ballina Racecourse on its eastern side, and Racing NSW stables on its western side. In addition, the site is burdened by a right of way along its northern boundary actively used for horse movement.
- No expert evidence related to potential noise and people movement impacts associated with the gymnasium use on the adjoining racing use has been provided by the proponent.

Proponent view

- 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 land 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.

- The existing land uses in the vicinity of the subject site is eclectic, with quite a broad range of established uses, including light industrial, rural, racecourse related activities and remnant vegetation areas (see **Figure 6**).

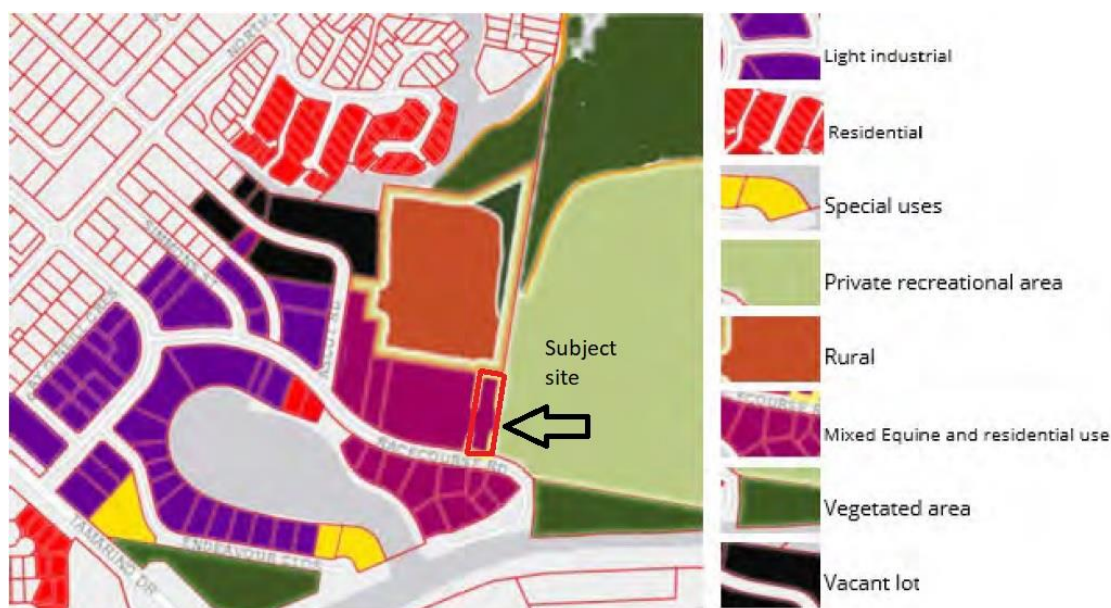


Figure 6 Land uses surrounding the subject site (source: Preliminary Site Investigation Report, Planners North, 2022)

- The proposed development is the construction of a purpose-built building towards the rear of the site with approximate dimensions of 27m x 42.5m. 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. 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.
- The proposed development will provide employment for 3 fulltime staff and up to 25 casual staff.
- The existing building near the Racecourse Road frontage is intended to be retained as a residential dwelling and vehicle garaging. It is also proposed to provide about 60 car parking spaces.
- The proponent has provided technical studies to support the suitability of the site for this land use as follows:
 - A preliminary contamination assessment report has been prepared by Planners North (**Attachment A1**).
 - A preliminary traffic and parking assessment based on the nature and scale of the intended use has been prepared by GeoLINK (**Attachment A2**).

- A comprehensive flood assessment has been prepared by BMT (**Attachment A3**).

Issue no. 2 - Flooding

Council view

- The LSPS references the subject site as a potential industrial land supply site and contains the following commentary:
 - *“Land identified as an Investigation Area – Employment Land in North Coast Regional Plan 2036. Approximately half of this area already developed for horse racing related purposes. Remaining vacant land subject to flooding and adjacent to wetland area (BSLSPS p36)”*.
- Council notes that no detailed assessment of the subject site has been undertaken. There remains considerable uncertainty as to whether the primary flooding constraint can be successfully mitigated. The impact of filling the 6.2ha SUGA site (Area 20) to mitigate against flooding has also not been modelled.

Proponent view

- A detailed flood impact assessment has been undertaken by BMT on behalf of Council (**Attachment A3**). The assessment concludes that the development of the site as proposed, including the filling of the land will not result in significant flood impacts to other properties or areas outside of the site.

Issue no. 3 - Site suitability and the need for the development

Council view

- No evidence has been provided by the proponent to justify that there is a pressing need for a gymnasium focused recreation facility in the locality.
- No evidence has been provided by the proponent to support that there is no land of suitable size and location available to accommodate the proposed gymnasium-focused recreation facility in the locality.
- Vacant industrial land is located in Boeing Avenue, Ballina, opposite the Ballina Homemaker Centre. The subdivision of this Council-owned land is anticipated to be finalised in late-2024. The subdivision contains 12 industrial lots having areas between 1527m² and 4492m². This land is located approximately 1km from the subject site.

Proponent view

- The proponent holds the view there is a pressing need for a gymnastics-focused recreation facility in the locality, and state that there is no land of suitable size and location available to accommodate the land use in the locality.

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Attachments

- Attachment A** - Planning proposal report – February 2023
- Attachment A1** - Preliminary contamination assessment – February 2022
- Attachment A2** – Preliminary traffic and parking assessment – December 2022
- Attachment A3** – Detailed flooding assessment - February 2022
- Attachment A4** – Strategic Urban Growth Area (SUGA) Review – 25 August 2022
- Attachment A5** – Pre-lodgement consultation – 25 April 2024
- Attachment A6** – Rejection letter from Council – 1 July 2024
- Attachment A7** – Original planning proposal – 24 December 2021
- Attachment B** – Letter requesting Rezoning Review – 9 August 2024
- Attachment C** - Council comments on Rezoning Review – 9 September 2024
- Attachment C1** – Council Meeting Agenda – 27 June 2024
- Attachment C2** – Council Meeting Minutes – 27 June 2024
- Attachment D** – Council Meeting Agenda and Minutes – 23 February 2023
- Attachment E** - Strategic Urban Growth Area Review Report – October 2022

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(Signature)

11/10/2024 (Date)

Murray Jay

Manager, Planning Proposal Authority

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(Signature)

21/10/24 (Date)

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