

Statutory and Policy Planning

Section 4.1 documents the range of planning controls applicable to proposed development (and site) pursuant to Section 79C(1)(a) of the Act and tabulates the effect of these instruments.

4.1 Statutory Considerations

Pursuant to the Environmental Planning & Assessment Act 1979, a number of statutes are potentially applicable to any single Development Application. This section examines the instruments relevant to the proposed development.

4.1.1 Environmental Planning Instruments

Ballina Local Environmental Plan 1987 (LEP 1987)

The development is proposed within that part of Lot 11 DP 1011575 zoned:

- 1(a2) Rural (Coastal Lands Agriculture);
- 1(b) Rural (Secondary Agricultural Land); and
- 9(a) Roads (Main Roads Proposed).

Under LEP 1987, the proposed development would be defined as shown in **Table 4.1** below.

Table 4.1 Proposed Development

Component of Proposed Development	LEP Definition	LEP Zone
Building A (car and truck service station and fast food outlet)	Service station and refreshment rooms	9(a) Roads (Main Roads Proposed) Zone
Building B (truck service centre and fast food outlet)	Car repair station and refreshment rooms	9(a) Roads (Main Roads Proposed) Zone
Building C (auto repair centre)	Car repair station	9(a) Roads (Main Roads Proposed) Zone
Building D (regional expo centre)	Innominate	9(a) Roads (Main Roads Proposed) Zone
Building E (service centre and food outlet)	Refreshment rooms	9(a) Roads (Main Roads Proposed) Zone
Building F (fast food restaurant)	Refreshment rooms	9(a) Roads (Main Roads Proposed) Zone
Building G (fast food restaurant)	Refreshment rooms	1(b) Rural (Secondary Agricultural Land) and 9(a)

Component of Proposed Development	LEP Definition	LEP Zone
		Roads (Main Roads Proposed) Zone
Signs (including 'graphic signage panels')	Advertisements	9(a) Roads (Main Roads Proposed) Zone
Floodway	Innominate	1(a2) Rural (Coastal Lands Agriculture), 1(b) Rural (Secondary Agricultural Land) Zone and 9(a) Roads (Main Roads Proposed) Zone
Road	Innominate	1(a2) Rural (Coastal Lands Agriculture) and 1(b) Rural (Secondary Agricultural Land) and 9(a) Roads (Main Roads Proposed) Zone

All of the components of the proposed development (subdivision aside) are permissible with development consent in the respective zone within which they are proposed.

Clause 6 Adoption of model provisions

The LEP adopts certain parts of the Environmental Planning and Assessment Model Provisions 1980; relevant parts are discussed later in this section of the report.



Clause 9 Zone objectives and development control table

Clause 9(2)(c) provides that development identified as “advertised development” shall comply with sub clauses (3)-(5) of clause 9.

Clause 9(4) provides that a development application to which clause 9(2)(c) applies shall be accompanied by an environmental impact report addressing various matters. This SEE and its associated documents are submitted in answer to the provisions of clause 9(4).

Clause 9(7) provides that consent shall not be granted to development unless it is consistent with the objectives of the zone within which it is proposed. The consistency of the proposed development having regard to zoning is discussed under the zone headings below.

1(a2) Rural (Coastal Lands Agriculture)

That part of the proposed development within the 1(a2) Rural (Coastal Lands Agriculture) zone includes:

- road; and
- floodway

Both the road component (which extends to the existing Pacific Highway) and the floodway are considered innominate land uses under LEP 1987.

Applicable aspects of the objectives may be paraphrased as follows:

- to enable development which is ancillary to the agricultural use of land, and which do not significantly reduce the production potential of the subject land or other land in the locality;
- maintains the rural character of the locality; and
- does not create unreasonable or uneconomic demands, or both, for the provision or extension of public amenities or services.

The notable exception to the objectives of the 1(a2) Rural (Coastal Lands Agriculture) zone includes where the development of land is for public works and services.

The “road” component of the proposed development is considered ancillary to the agricultural use of land in the locality (the road also providing access to Lot 226 DP1121079). As well, the road will maintain the rural character of the locality – roads are present throughout the rural areas of the Shire, and are essential for the purposes of providing access to these rural areas; and, in this instance the road is not of a design or appearance such that it could be considered a road out of character with a rural environment.

The road too will not create any unreasonable or uneconomic demands for the provision or extension of public amenities or services.

In relation to the floodway, this is considered a “public work or service”, and in this regard it is anticipated that BSC will seek an easement over the floodway, in acknowledgement of its public function (benefit) to the wider locality.

1(b) Rural (Secondary Agricultural Land) Zone

That part of the proposed development within the 1(b) Rural (Secondary Agricultural Land) zone includes:

- road;
- car park adjacent service centre and food outlet (Building E); and
- floodway.

The objectives of the 1(b) Rural (Secondary Agricultural Land) Zone may be paraphrased as follows.

The regulation of the use of land:

- to encourage its productive use, and to enable development ancillary to agricultural uses; and,
- to permit a range of uses compatible with the rural character of the land.

To ensure development:

- maintains the rural character of the locality, and

- does not create unreasonable or uneconomic demands, or both, for the provision or extension of public amenities or services.

That part of the site zoned 1(b) Rural (Secondary Agricultural Land) comprises a small triangular piece of land, which is bound by the existing Pacific Highway to the south, and the 9(a) Roads (Main Roads Proposed) zone to the north west and north east. The proposed development includes the location of a small component of car park and drainage facilities within this zone. Given the isolation and small size and shape of this piece of land, its ability to be used as a productive piece of land for a viable agricultural purpose is virtually non-existent. In addition, this part of the site sits in close proximity to various other urban (or non-rural) land uses, such as the Ballina Highway Bypass, existing Pacific Highway and Sunmaid Village Caravan Park. Its character is therefore strongly influenced by its location, and at best might be described as semi-rural in nature, with such character increasingly being diminished. In this context, the site might be expected to accommodate a wider range of uses than might otherwise be expected for other areas of land zoned 1(b) Rural (Secondary Agricultural Land), and in this regard such uses to be more in keeping with the character imposed on the site by development in the locality. The proposed car park and drainage facilities to be located within this zone is, in this instance, therefore considered compatible with the (limited) rural character of the site.

The proposed development will not place any unreasonable or uneconomic demands on the provision of public amenities or services, with reticulated water and sewer services to be extended to the site.

A road (whether public or private) is quite clearly a form of development which is ancillary to agricultural land uses. Roads are present throughout the rural areas of the Shire, and are also essential for the purposes of providing access to these rural areas.

The road is considered compatible with the rural character of land, and in this instance the road is not of a design or appearance such that it could be considered a road out of character with a rural environment.

In addition to the above, the road creates no unreasonable or uneconomic demands for the provision or extension of public amenities or services. Accordingly, the road is considered consistent with the second of the primary objectives of the 1(b) Rural (Secondary Agricultural Land) zone and the secondary objectives.

The floodway too is considered compatible with (and) maintains the rural character of the land, and does not create any unreasonable or uneconomic demands relating to the provision or extension of public services or amenities. Of note are the numerous drainage channels located throughout much of the rural land of the Shire.

In addition, the floodway is considered a "public work and service", and is therefore also consistent with the exception to the objectives of the 1(b) Rural (Secondary Agricultural Land) zone.

9(a) Roads (Main Roads Proposed) Zone

The route of the Pacific Highway Bypass for Ballina has now been finalised, and that part of the site zoned 9(a) Roads (Main Roads Proposed) is no longer required for this purpose. In this regard the proposed development is not inconsistent with the zone objective; the land no longer being required for a main road purpose.

All components of the proposed development are (in some cases partly) located within the 9(a) Roads (Main Roads Proposed) zone.

The objective of the 9(a) Roads (Main Roads Proposed) zone may be paraphrased as simply reserving land for the purposes of a main road.

The Pacific Highway Bypass is presently being constructed along the western edge of the site. Lot 11 DP1011575 was created following the acquisition of the western part of the parent property for the purposes of accommodating the Ballina Highway Bypass. Clearly, the remainder of Lot 11 DP1011575 is no longer required for (main) road purposes. As a result, the proposed development is considered consistent with the zone objective, insofar as the site (parent property) has already provided for the Ballina Highway Bypass, and it (the proposed development) does not compromise the achievement of the construction (or "reservation") of the Bypass. Indeed, the proposed development has been carefully designed to take into account the Ballina Highway Bypass, having particular regard to access arrangements, and from a wider point of view is the realisation of an opportunity to provide a highway service centre in a readily accessible location.



The objective of the 9(a) Main Road zone is:

"The objective is to reserve those lands which are required for the purposes of main roads."

"Reserving" land in a town planning sense (and in this circumstance) takes the form of holding something back, or keeping or saving something for future use or a special purpose. The "something" in this case, is land.

The RTA have made clear that that part of the site zoned 9(a) Main Road, and over which the development is proposed, is no longer required for main road purposes.

LEP 1987 "reserves" land for the purpose of a main road by including such land in the 9(a) Main Road zone. In a practical sense, this is accomplished by depicting such land within the associated LEP map/s.

Clause 30 of LEP 1987 operates in relation to land zoned 9(a) Main Road, as does clause 31.

In combination, the 9(a) Main Road zone and clause 30 serve to identify and "reserve" land for a main road purpose, and provide the avenue for the acquisition of such land.

The 9(a) Main Road zone objective demonstrates that it has no other purpose other than to “reserve” land for a main road. It does not specify or restrict the types of development that may be carried out in the zone.

The unrestrictive nature of the 9(a) Main Road zone is appreciable when one has regard to the development control table (clause 9 of LEP 1987). Only “brothels” are identified as prohibited in the zone, while there is a finite list of land uses is nominated as “advertised development”. In addition, the “only with development consent” category provides that development for “any purpose” other than those mentioned in other parts of the zone, are actually permissible with consent. It is clear that the majority of conceivable land uses (purposes not specifically listed) fall within the “only with development consent” category.

The proposed development is not inconsistent with the objective of the 9(a) Main Road zone, which “reserves” the land for a main road purpose. The proposed development does not change the zoning of the land, or its identification for a main road purpose; in other words, the objective of the zone is not compromised by the land being no longer “reserved”. It is again prudent to point out that the RTA no longer require the land for the purposes of a main road.

In addition, the wide scope open to develop land within the current 9(a) Main Road zone (under LEP 1987) is further demonstrated by Clause 31, which provides:

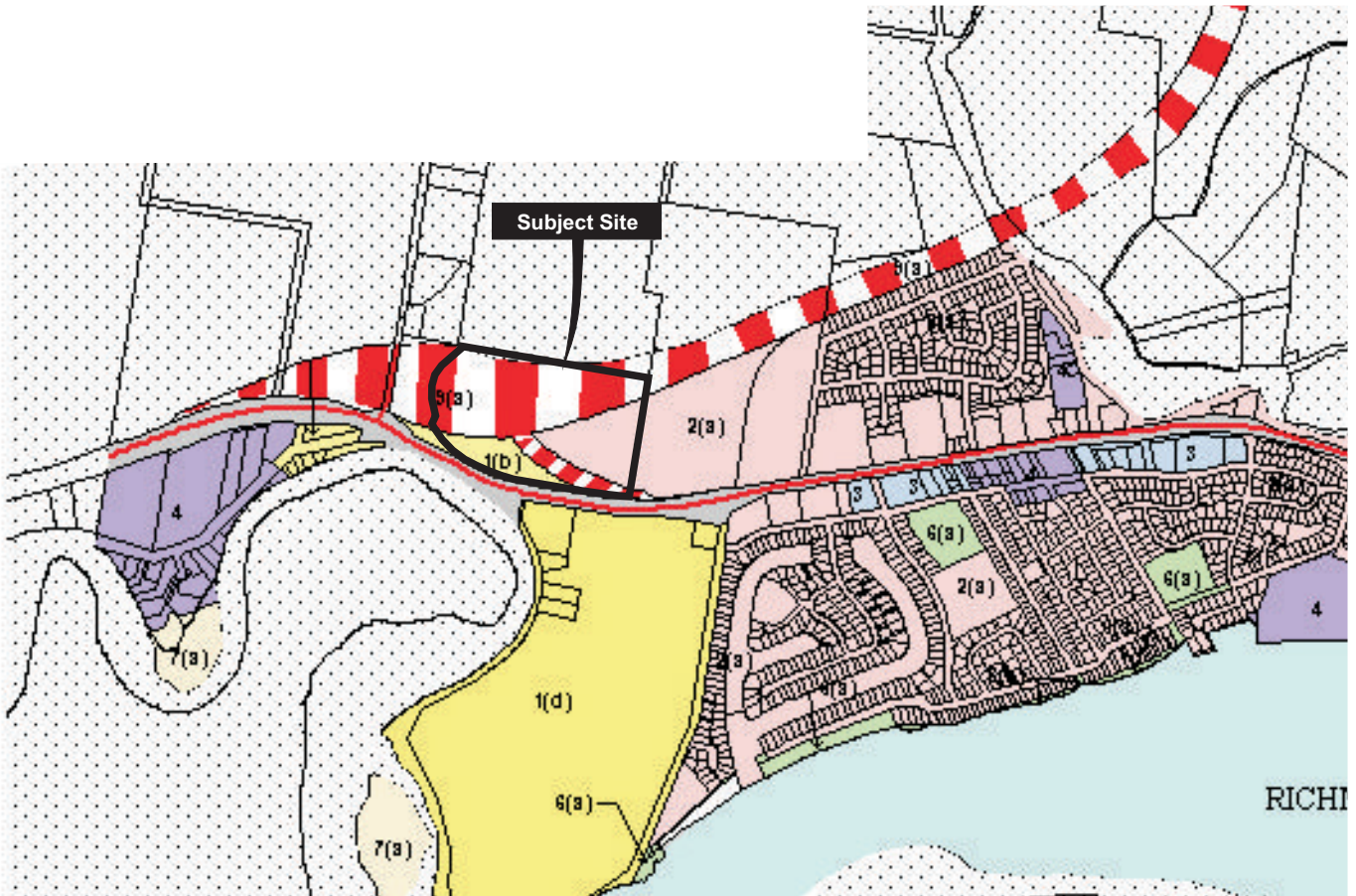
“31 Use of land pending acquisition

(1) Land to which clause 30 applies may be developed for any purpose, with the consent of the council, prior to its acquisition by the public authority concerned.”

Clause 31 permits develop for “any purpose” within the 9(a) Main Road zone, with the consent of Council. The proposed development is therefore permissible on this basis.

It is of particular note that highway service centres are considered to be essential planned infrastructure along main roads, and specific provisions are included in State Environmental Planning Policy (Infrastructure) 2007 to address this type of development; notably Clause 100(1)(b) and 100(3) – see latter section of this SEE.

The components of the proposed development located within the 9(a) Main Road zone are considered consistent with its objective. These land uses do not change the fact that the land remains “reserved” for main road purposes (identification of the land on the LEP maps within the 9(a) Main Road zone); and, are in any event permitted having regard to Clause 31 of LEP 1987, which provides that consent may be granted for “any purpose”.



LEGEND

1. RURAL

1(b) Rural - Secondary Agricultural Land

1(d) Rural - Urban Investigation

2. RESIDENTIAL

2(a) Living Area

3. BUSINESS

3 Business

4. INDUSTRIAL

4 Industrial

6. OPEN SPACE

6(a) Open Space

7. ENVIRONMENTAL PROTECTION

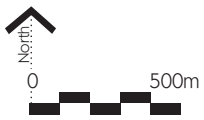
7(a) Environmental Protection - Wetlands

9. RESERVATIONS

9(a) Road - Main Road Proposed

GENERAL

Existing Main and Arterial Roads



1:20 000 @ A4

Source: Ballina Shire Website

Date: November 2010

01210-643

Plan 4.1

Special Provisions

The LEP provisions included in **Table 4.2** below are relevant to the proposed development, and a comment regarding compliance or otherwise (of the proposed development) with each is provided.

Table 4.2 Special Provisions

Clause 10 Subdivision generally
This clause requires consent for the subdivision of the site.
Clause 11 Subdivision of land within Zone No 1(a2) and 1(b)
<p>This clause provides consent should not be given to a subdivision of land within the 1(a2) Rural (Coastal Lands Agriculture) and 1(b) Rural (Secondary Agricultural Land) zones where the resultant allotments will be less than 40 hectares in area.</p> <p>The proposed subdivision involves the subdivision of land in the aforementioned zones, and which will create allotments of 7.3 and 9.72 hectares in area. The purpose of the subdivision is to accommodate the HSC on its own discrete allotment, which is separate from the residue. Notably, the residue allotment will have little practical relationship to the allotment containing the HSC, with each physically separated by floodway and road. The proposed subdivision is also sought for financing reasons, which will aid in the HSC project being realised.</p> <p>Accordingly, an objection lodged pursuant to State Environmental Planning Policy No 1 – Development Standards is provided below, in order to address the fact that the proposed allotments will be less than 40 hectares in area.</p> <p>The development standard is considered both unnecessary and unreasonable in the circumstances for the following reasons:</p> <ul style="list-style-type: none"> - the site contains only a small portion of land zoned 1(a2) Rural (Coastal Lands Agriculture) along its north western edge and a small portion zoned 1(b) Rural (Secondary Agricultural Land) along its southern boundary. Each area is small in size and isolated by property boundaries and other zones, and are not of practical dimension, so as to accommodate viable agricultural practices; and - the site is now (strategically) acknowledged as the desired location for a highway service centre, and it is clear from Plan 3.2 that the proposed subdivision simply seeks to excise the HSC from the remainder of Lot 11 DP1011575; - the small portions of land zoned 1(a2) Rural (Coastal Lands Agriculture) and 1(b) Rural (Secondary Agricultural Land) are adjacent non-rural land uses (the HSC itself, Ballina Highway Bypass and existing Pacific Highway). <p>The proposed subdivision will not hinder the attainment of the objects of the Environmental Planning and Assessment Act 1979; in fact it will encourage:</p> <p><i>“(i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,</i></p> <p><i>(ii) the promotion and co-ordination of the orderly and economic use and development of land,”</i></p>

It will do this through the provision of a facility which will provide a necessary service (food, tourist, fuel and motor repairs) to motorists using both the Pacific Highway Bypass and existing Pacific Highway, thereby promoting the social welfare of the wider community, as well as providing an economic boost to the more immediate (Ballina) community. In addition, it will fulfil the role identified for the site through various planning controls (i.e. Ministerial Direction *Commercial and Retail Development along the Pacific Highway, North Coast* (which identifies the "Ballina: Teven Road interchange" as a highway service centre that "can proceed"); the West Ballina Planning Study and Structure Plan; and Draft LEP), all of which envisage the site being developed so as to accommodate a highway service centre.

In summary, strict compliance with clause 11(2)(b) of LEP 1987 is considered unreasonable and unnecessary in the very particular circumstances of the proposed development.

Clause 15 Development adjoining arterial roads

The existing Pacific Highway is a main or arterial road for the purposes of this clause. The Traffic Impact Assessment from Cardno Eppell Olsen included in **Appendix B, Attachment F** demonstrates that the proposed development will not constitute a traffic hazard, or materially reduce the capacity and efficiency of the Highway.

The proposed development is also a type of use which is largely car based, and requires access for heavy vehicles. Accordingly its location in close proximity to main roads is appropriate.

The Cardno Eppell Olsen Traffic Impact Assessment also demonstrates that the design of access points, and internal manoeuvring areas and car parking, ensure that movement along the existing Pacific Highway will not be unduly impeded.

The proposed development has been designed having regard to the design of the Pacific Highway Bypass.

Clause 17 Limitation on building height

The majority of proposed buildings exceed 6.4m above ground level. Given that the site is to be adjoined by the Pacific Highway Bypass to the west; adjoins the existing Pacific Highway to the south, and is to adjoin land used for rural purposes to the east (separated by floodway); the only neighbouring land likely to be affected by the buildings is to the north. In this regard the land adjoining to the north is used for cane farming, and so the proposed buildings will not unacceptably overshadow, cause loss of privacy to, or, obstruct significant views from this land. In relation to the impact on the scenic or landscape quality of the locality, the low lying topography of the locality ensures that limited views are available from any given point; and, coupled with the generous setbacks of the proposed buildings from the existing Pacific Highway, little impact on available views will result from the proposed development.

Clause 36 Development on land identified on Acid Sulfate Soils Planning Maps

The site is identified as "class 2" lands in accordance with this clause. Accordingly, works below the natural ground surface have the potential to disturb acid sulfate soils. To this end a preliminary assessment has been carried out in accordance with the Acid Sulfate Soils Manual; this assessment is included in **Appendix B, Attachment C** and the results of this assessment are further discussed in Section 5.

37 Controls for advertisements

Two signs are proposed, with these located in the north western and south western corners of the site. The design and size of the signs is consistent with the character of the buildings proposed within the development, and they are intended to be used to display all or the majority of tenants within the development. As well, numerous 'graphic signage panels' have been designed into the buildings as well.

The signs are intended to provide simple, clear messages identifying tenants and goods within the development.

The signs are not likely to cause a traffic hazard given the absence of other structures or points of interest in the immediate locality; the simple nature of the signs (with advertisements not intended to flash at night or display changing messages etc).

Environmental Planning and Assessment Model Provisions 1980 (MP)

The provisions adopted by the LEP and which are relevant to the proposed development are discussed below.

MP Clause 5 Consideration of certain applications

Clause 5 requires Council to consider a number of matters, including the aesthetic appearance of the proposed development. This aspect of the development has been discussed in detail in Section 3, and the **Plan Set** accompanying this SEE clearly shows the proposed development.

This clause also requires consideration of traffic safety (the provision of entrances and exits to the site); adequacy of car parking; and, the adequacy of space within the site for loading and unloading purposes and fuelling of vehicles.

These matters have been discussed in Section 3 of this SEE, and are further addressed in the Traffic Impact Assessment included in **Appendix B, Attachment F**. In addition, the **Plan Set** depicts the various road network connections; extensive car parking provided; and, manoeuvring and fuelling areas for vehicles within the proposed development.

MP Clause 9 Main Roads

This clause is relevant insofar as:

- Consent from BSC is required in terms of the connection of the road to the existing Pacific Highway (a "main" road).



The connection to the existing Pacific Highway of the road in the south of the site is detailed in the Traffic Impact Assessment included in **Appendix B, Attachment F**, and has also been outlined in Section 3 of this SEE.

MP Clause 19 Service stations or car repair stations

This clause provides that a service station may not be consented to unless the site on which it is proposed is more than 90m from the junction or intersection of a main or arterial road with another main or arterial road.

For the purposes of this Application the Pacific Highway Bypass and the existing Pacific Highway are considered main and/or arterial roads. Accordingly, an objection lodged pursuant to State Environmental Planning Policy No 1 – Development Standards is

provided below, in order to address the fact that the site is less than 90m from the “junction” or “intersection”.

The development standard is considered both unnecessary and unreasonable in the circumstances for the following reasons:

- the site is large in area, with entrances and exits distant from the intersection of the existing Pacific Highway and Ballina Highway Bypass (see **Plan Set**);
- additionally, as detailed in the Traffic Impact Assessment included in **Appendix B, Attachment F**, the proposed access arrangements to both the Pacific Highway Bypass and existing Pacific Highway will not unduly impact on the operation of these two roads.

The service station component of the proposed development does not hinder the attainment of the objects of the Environmental Planning and Assessment Act 1979; in fact it will encourage:

*“(i) the proper management, **development** and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, **towns** and villages for the purpose of promoting the social and economic welfare of the community and a better environment,”*

It will do this through the provision of a facility which will provide a necessary service (food, tourist, fuel and motor repairs) to motorists using both the Pacific Highway Bypass and existing Pacific Highway, thereby promoting the social welfare of the wider community, as well as providing an economic boost to the more immediate (Ballina) community.

In summary, strict compliance with clause 19(a) of the Environmental Planning and Model Provisions 1980 is considered unreasonable and unnecessary in the very particular circumstances of the proposed development; the location of the service station within 90m of the intersection of the Pacific Highway Bypass and existing Pacific Highway will not unduly affect the operation of either road.

Clause 19 provides certain other criteria for service stations, and these are summarised in **Table 4.3** below.

Table 4.3 Service Stations

Car Parking and Access	
Provision	Compliance of Proposed Development
Frontage > 30m	Complies; see Plan Set .
Vehicular crossing widths not > 9m	Complies; see Plan Set .
Vehicular crossing not < 6m to intersection	Complies; see Plan Set .
Separate entrances and exits provided	Complies; see Plan Set .
Separate entrances and exits to each adjoining road	This is at Council's discretion. This is not reflected in the proposed developed, given that this would have an adverse impact on the function of the Pacific Highway Bypass.
Area for fuel tankers to discharge	Complies; see Plan Set .

Car Parking and Access	
Provision	Compliance of Proposed Development
within the site	
Fuel pumps are not < 3m from adjoining road	Complies; see Plan Set.
Movement to and from the site is integrated with adjoining road traffic	Complies; see report by Traffic Impact Assessment in Appendix B, Attachment F.
Vehicular access is not < 24m from traffic lights	Not applicable; no traffic lights are located near the site. The proposed development does however propose the construction of a signalised intersection at its southern entry/exit point to the existing Pacific Highway.
Site is suitably landscaped	Complies; see Plan Set.

MP Clause 30 Services

The Water Supply and Sewerage Analysis included in **Appendix B, Attachment I** prepared by Cardno provides various options available for connection to Council’s reticulated sewerage system.

MP Clause 34 Flood Prone Land

A comprehensive assessment has been undertaken for the subject site by BMT WBM Pty Ltd. This study uses the modelling framework adopted by Council for its overall flood planning strategy. Recent Flood Advice has been provided by BMT WBM Pty Ltd addressing flood implications as they relate to the proposed development. This Flood Advice is included in **Appendix C**, and indicates that subject to the provision of a floodway through the site the land can be satisfactorily flood proofed.

4.1.2 West Ballina Planning Study and Structure Plan

The proposal is consistent with the recently exhibited West Ballina Planning Study and Structure Plan, insofar as it nominates the site for development for a highway service centre.

4.1.3 Development Control Plans

Ballina Shire Development Control Plan

The Combined Ballina Development Control Plan (DCP) contains a number of chapters (and policies) relevant to the proposed development. These chapters and the proposed developments compliance or otherwise with these are detailed in the tables below.

Table 4.4 Chapter 1 (Policy Statement 2)

Car Parking and Access	
Provision	Compliance of Proposed Development
Parking Design Considerations	Car parking has been designed in accordance with AS2890.1:2004; see the Traffic Impact Assessment included in Appendix B, Attachment F .
Parking Requirements	Car parking numbers have been designed to cater for estimated parking requirements; see Traffic Impact Assessment in Appendix B, Attachment F and the Plan Set .
Manoeuvring Areas	Manoeuvring areas have been provided having regard to the vehicles required to access the site; see the Traffic Impact Assessment in Appendix B, Attachment F and the Plan Set .
Driveways for Internal Roads	Driveways have widths consistent with those specified; see the report by Traffic Impact Assessment in Appendix B, Attachment F and the Plan Set .
Garage Setbacks from Roads and Streets	Not applicable.
Access from Laneways	Not applicable.
Kerb and Gutter Crossings Width	Not applicable.
Parking Standard Schedules	See above.
Monetary Contributions	Not applicable.
Landscaping	Landscaping has been provided throughout the car parking areas of the proposed development; see the Landscape Plan prepared by Jackie Amos Landscape Architect included in the Plan Set .

Table 4.5 Chapter 1 (Policy Statement 6)

Landscaping Guidelines	
Provision	Compliance of Proposed Development
Utility services considered	The location of utilities has been considered in the design of the proposed development.
Tall trees included in landscape plan	Tall trees have been included within the Landscape Plan included in the Plan Set .
Planting in scale with proposed buildings	Trees have been included in landscaped areas which are of a scale consistent with that of the proposed buildings.
Landscape areas designed for minimal maintenance	Landscaped areas have been designed to minimise maintenance over the longer term.

Table 4.6 Chapter 1 (Policy Statement 7)

Building Height Limitations	
Provision	Compliance of Proposed Development
Height Restrictions	<p>The proposed development exceeds the 6.4m height restriction, and its highest points will be less than 13m. It is submitted that Council may grant consent on the basis that:</p> <ul style="list-style-type: none"> - the height of the buildings are such that they will not affect the amenity of adjoining properties by overshadowing or loss of privacy, given the distances of these buildings from property boundaries; - the height of the buildings will not result in views being obstructed from adjacent buildings or public spaces; - the proposed development will not impact on the scenic or landscape quality of the locality, on the basis of the (generous) setback of buildings to boundaries, and the generous landscaping proposed within these setbacks areas.

Table 4.7 Chapter 1 (Policy Statement 11)

Flood Levels	
Provision	Compliance of Proposed Development
Adopted Fill and Floor Levels	This clause requires minimum fill and floor heights be achieved for land in flood prone areas. Given the industrial nature of the project, approval is sought for a 500mm freeboard.

Table 4.8 Chapter 13 (Stormwater Management)

Stormwater Management	
Provision	Compliance of Proposed Development
Demonstrated Compliance	A Preliminary Internal Hydraulic Assessment, Stormwater Quality Management Plan and Erosion and Sediment Control Report are included as Appendix B, Attachments H, J and B respectively. These reports address the various requirements of this chapter of the Ballina DCP.
Considerations – Construction Phase	See Stormwater Quality Management Plan in Appendix B, Attachment J.
Considerations – Operational Phase	See Stormwater Quality Management Plan in Appendix B, Attachment J.
Water Sensitive Urban Design – Integration	See Stormwater Quality Management Plan in Appendix B, Attachment J.
Water Sensitive Urban Design Controls – Source	See Stormwater Quality Management Plan in Appendix B, Attachment J.
Water Sensitive Urban Design Controls – Conveyance and Discharge	See Stormwater Quality Management Plan in Appendix B, Attachment J.
Application of WSUD to Development	See Stormwater Quality Management Plan in Appendix B, Attachment J.

Table 4.9 Chapter 1 (Advertising Signage)

Advertising Signage	
Provision	Compliance of Proposed Development
General Design and Siting Requirements	<p>Two signs are proposed as part of the development (as well as a number of ‘graphic signage panels’ integrated into the design of individual buildings). These are to be located in the north western and south western portions of the site. The sign structures have been designed sympathetically with the proposed buildings, and their purpose will be to provide for advertisements which provide a simple, clear message conveying the particulars of tenants present within the development.</p> <p>The proposed signs will not impact on the semi rural character of the locality, given they will be located within the site and form part of the development; will adjoin busy roads of little rural character; will not block views or vistas; will reduce the need for multiple (individual) signs for tenants; and, will not unduly distract users of the existing Pacific Highway or Ballina Highway Bypass.</p> <p>The proposed signs are not incompatible with the “desired future character” of the locality (no such specific character having been identified by Council); and, the signs will be produced professionally and be well maintained.</p>

Advertising Signage	
Provision	Compliance of Proposed Development
Sign Specific Controls	The proposed signs will be “multiple identification signs”, identifying a number of tenants within the development, and providing a coordinated approach to signs for the site. The result of this is no visual clutter eventuating from too many signs.

Table 4.10 Chapter 18 (Rural Land)

Land Slip/Geotechnical Hazard	
Provision	Compliance of Proposed Development
Geotechnical Report	A Geotechnical Site Investigation Report and Interim Geotechnical Design for Preload Works report have been prepared for the proposed development, and these are included in Appendix B, Attachment E .
Siting of Buildings	The proposed development is not proposed on level ground.
Minimise earthworks	The proposed development will involve filling of the site, principally to address the issue of flooding, while the floodway will require excavation.
Construction methods	<p>The Geotechnical Site Investigation Report (Appendix B, Attachment E) assesses “ground conditions at the site and to develop a geotechnical model for use in detail design calculations for the preload works proposed on the site.”</p> <p>The Geotechnical Design for Preload Works report (Attachment B, Attachment E) provides “an assessment of the potential fill heights and geotechnical works required to reduce various long-term settlements of the structures on the site.” In this regard the report makes various geotechnical recommendations, which are discussed in a later section of this SEE.</p>

Table 4.11 Chapter 18 (Rural Land)

Rural Subdivision	
Provision	Compliance of Proposed Development
Zone Objectives	See earlier section of this SEE.
Agricultural Production Potential	See earlier section of this SEE.
Farm Build-up	Not applicable.
Land Use Conflict	See earlier section of this SEE.
Allotment Size and Shape	See earlier section of this SEE.
Vehicular Access	Each proposed allotment will have road access via the road proposed in the south of the site, which connects to the existing Pacific Highway.
Services	Reticulated services are available to both allotments.
Water Use	The Stormwater Quality Management Plan (Appendix B, Attachment J) addresses this issue.
Boundary Adjustment	Not applicable.

4.1.6 Regional Environmental Plans

North Coast Regional Environmental Plan (REP)

The REP is now a Deemed State Environmental Planning Policy. It contains a number of provisions relevant to the proposed development. These provisions and the proposed developments compliance or otherwise with these are detailed in **Table 4.11** below.

Table 4.12 North Coast REP

Provision	Compliance of Proposed Development
Clause 12 – impact of development on agricultural activities	The site is of limited agricultural value. Coupled with its fragmentation as a result of the Pacific Highway Bypass, its use for a purpose other than agriculture is considered acceptable.
Clause 15 – wetlands or fishery habitats	Stormwater from the site will ultimately drain to Emigrant Creek. Measures consistent with those detailed in Chapter 13 of Council’s Ballina DCP are to be employed to ensure that stormwater leaving the site does not result in an increase in the average annual load of key stormwater pollutants and peak discharge flow rates, above existing conditions. In this regard these measures will ensure that quality and quantity of stormwater flows are maintained or improved; fishing activities remain unaffected; and no loss of habitat will arise.
Clause 32B – coastal lands	<p>The provisions of the NSW Coastal Policy 1997 are considered later in this Section of the SEE.</p> <p>The matters included in the Coastline Management Manual are not relevant to the proposed development given its distance (separation) from the coast (Emigrant Creek).</p> <p>The North Coast: Design Guidelines provide scant information relevant to the proposed development. The proposed development is located consistent with the location principles included in the Guidelines.</p>
Clause 75 – tourism development	The proposal will add to the tourism base of the region by providing a facility to expose products and tourism display information relevant to not just Ballina but the region as a whole at the regional expo centre building within the project.

4.1.7 State Environmental Planning Policies

State Environmental Planning Policies relevant to the proposed development are detailed below, along with a discussion of the proposed developments compliance or otherwise with each.



SEPP (Infrastructure) 2007

Clause 101 of this SEPP deals with development that has frontage to classified road. Both the Ballina Highway Bypass and the existing Pacific Highway are considered classified roads for the purposes of this Application.

The Traffic Impact Assessment prepared by Cardno Eppell Olsen (**Appendix B, Attachment F**) demonstrates that the proposed

development will not compromise the effective and ongoing operation and function of either of these roads.

The Acoustic Assessment Update prepared by Cardno (**Appendix B, Attachment G**) provides recommendations for the proposed development which will prevent or reduce the potential impact of traffic noise and vehicle emission to it.

The Traffic Impact Assessment (**Appendix B, Attachment F**) and Acoustic Assessment Update (**Appendix B, Attachment G**) include information which will allow Council to conclude that consent may be granted to the Application having regard to the considerations included in subclauses (2)(a)-(c):

The Application is also subject to clause 104 of this SEPP.

SEPP No. 33 - Hazardous and Offensive Development

The proposed development has the potential to be defined as a "hazardous storage establishment" under this SEPP. In order to address this, Myros Design Pty Ltd have prepared a Multi-Level Risk Assessment which addresses the SEPP, and which is included in **Appendix D**.

The Assessment concludes:

"The proposed development will produce an aesthetically pleasing LPG facility incorporating current state of the art technology in the storage and retailing of automotive LPG.

The development will satisfy the requirements of the WorkCover NSW Authority and be in accordance with Dept. of Planning NSW (previously known as the Department of Urban Affairs and Planning)'s Guidelines for the installation of LPG on automotive retail outlets, now incorporated in AS/NZS 1596:2008."

SEPP No. 55 - Remediation of Land

The Contamination Assessment by Cardno and included in **Appendix B, Attachment D** identifies that the site is contaminated on account of past and present agricultural land practices.

The site is not included on the EPA contaminated land register, nor have there been any registered cattle dips on site.

Potential sources for the contamination are from the use and storage of pesticides associated with the current and past use of the site for agricultural purposes, in particular sugar cane cultivation.

The Assessment concludes:

"there is no requirement for remediation of contaminants as they were below adopted criteria for the proposed land use"

SEPP No. 64 - Advertising and Signage

The two proposed signs are “advertisements” for the purposes of SEPP 64; a number of ‘graphic signage panels’ are also integrated into the design of individual buildings.

Clause 13 of SEPP 64 provides that an “advertisement” should be consistent with the objectives of, and the criteria in Schedule 1, of the SEPP. **Table 4.12** immediately below outlines the consistency of the proposed signs with these objectives, and **Table 4.13** considers the proposed signs having regard to the criteria in Schedule 1.

Table 4.13 SEPP 64 Objectives

Objective	Consistency
Compatible with the desired amenity and visual character of an area	A desired future character has been established for the site, namely that such character recognise that the site contain a highway service centre. This is supported by the West Ballina Planning Study and Structure Plan; the Far North Coast Regional Strategy; the Ministerial Direction <i>Commercial and Retail Development along the Pacific Highway, North Coast</i> (which identifies the “Ballina: Teven Road interchange” as a highway service centre that “can proceed”); and, the Draft LEP. Notwithstanding, the location of the site between the existing Pacific Highway and Pacific Highway Bypass presents as an area semi rural in character, and something of a transition zone between rural areas and the urban character of Ballina. In this sense, the proposed signs are considered compatible with this rural/urban zone interface, with the signs compatible with buildings within the proposed development.
Provides effective communication in suitable locations	The signs have been located at important junctures around the site, and distant from each other to minimise ‘overlap’. Each location is considered suitable having regard to wider factors such as traffic safety and visual amenity impact.
Is of high quality design and finish	The proposed signs will be of a high quality and finish.

Table 4.14 SEPP 64 Schedule 1 Criteria

Objective	Consistency
Character of the area	See above.
Special areas	The locality is not identified as a special area.
Views and vistas	No important views or vistas are apparent within the locality; this is largely due to the flat topography.
Streetscape, setting or landscape	The proposed signs will fit comfortably with the largely ‘main road’ or ‘transit’ character of the locality, once the Pacific Highway Bypass is constructed. This is on account of the site being located at the intersection of the existing Pacific Highway and Pacific Highway Bypass.
Site and building	The proposed signs are compatible with the scale and design of proposed buildings, and in terms of design are reflective of the solid features apparent within the buildings.
Associated devices and logos with advertisements and advertising structures	This detail is not known at this stage; with this dependent on individual tenant requirements.
Illumination	The pole signs are intended to be illuminated by way of sign face lighting. The lighting will not be such as to conflict with traffic utilisation.

Objective	Consistency
Safety	The proposed signs will not compromise safety along the existing Pacific Highway or Pacific Highway Bypass. They are simple structures which are intended to provide simple, clear messages, and are not located alongside other signs which might provide clutter, and collectively act as a distraction to motorists.

Clause 15 provides that a consent authority must not grant consent to an advertisement unless it is consistent with a DCP that has been prepared having regard to SEPP 64. It is noted that Chapter 14 - Advertising Signage of the Ballina DCP was prepared having regard to SEPP 64.

Clause 17 provides that the proposed signs require the concurrence of the RTA. In deciding whether to grant concurrence, the Authority is to make certain considerations, listed in **Table 4.14** below, which have alongside them a comment regarding how the proposed signs respond to each consideration.

Table 4.15 Concurrence Considerations

Consideration	Compliance of Proposed Development
The impact of the display of the advertisement on traffic safety	The actual advertisements to be placed on the advertising structures are yet to be determined. It is likely however that these advertisements will not include flashing lights; electronically changeable messages; animated displays, moving parts or simulated movements; complex displays that hold a drivers attention beyond 'glance appreciation'; displays resembling traffic signs or signals; or a method and level of illumination that distracts or dazzles motorists.
The environmental character and quality of the classified road and views from the classified road	The character of the area is one of transition, with rural uses giving way to urban uses as one approaches Ballina. The proposed signs therefore will not be out of character with the locality given the emergence of buildings and structures associated with urban development; the signs too will not affect views to or from the Pacific Highway Bypass or existing Pacific Highway.
Any guidelines prepared by the RTA in consultation with the Outdoor Advertising Association of Australia	No such guidelines exist.

SEPP No. 71 - Coastal Protection

The site is included within the boundary of the coastal zone, and therefore SEPP 71 is relevant.

Clause 7 of SEPP 71 provides that the matters listed in clause 8 of the SEPP are to be taken into account in the assessment of the Development Application. These matters are set out in **Table 4.15** below, along with a comment regarding the proposed developments compliance or otherwise with each.

Table 4.16 SEPP 71 Clause 8 Matters

Objective	Compliance
(a) the aims of this Policy set out in clause 2,	See Table 4.16 below.
(b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,	Not applicable; the site is distant from the coastal foreshore.
(c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,	Not applicable; the site is distant from the coastal foreshore.
(d) the suitability of development given its type, location and design and its relationship with the surrounding area,	The proposed development is considered suitable for the site having regard to adjoining land uses; the proposed road network providing ready access; the contemporary design of buildings; and, the site's location on the southern outskirts of Ballina.
(e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,	The proposed development is distant from Emigrant Creek, and no overshadowing of, or loss of view to this area, will result.
(f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,	The proposed development is distant from Emigrant Creek, and will have little impact on the scenic quality of this area.
(g) measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats,	The site has little ecological value, and off-site impacts (i.e. stormwater disposal) have been designed to minimise off-site impacts.
(h) measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats	The site has little ecological value, and off-site impacts (i.e. stormwater disposal) have been designed to minimise off-site impacts.
(i) existing wildlife corridors and the impact of development on these corridors,	The proposed development has no impact on wildlife corridors; no such corridors are present through the site.
(j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,	The proposed development is distant from Emigrant Creek, and coastal processes and hazards do not pose a threat to it.
(k) measures to reduce the potential for conflict between land-based and water-based coastal activities,	The proposed development is distant from Emigrant Creek, and will not result in conflict with water based coastal activities.
(l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,	The site has been used for cane farming for some considerable time. It is unlikely to be (or contain items) of cultural significance.
(m) likely impacts of development on the water quality of coastal waterbodies,	Stormwater disposal from the site has been designed to accord with the requirements of Chapter 13 – Stormwater Management, in the Ballina DCP.
(n) the conservation and preservation of items of heritage, archaeological or historic significance,	No items of heritage significance have been identified on the site.

Objective	Compliance
(o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,	The site is located on the southern fringe of Ballina, and is therefore consistent with the principle of encouraging a compact town.
(p) only in cases in which a development application in relation to proposed development is determined: (i) the cumulative impacts of the proposed development on the environment, and (ii) measures to ensure that water and energy usage by the proposed development is efficient.	<p>The cumulative impacts of the proposed development, having regard to traffic impact; stormwater treatment and disposal; ecological impact; visual impact; economic and social impact; are all within acceptable limits, and the proposed development considered acceptable on this basis.</p> <p>Measures to minimise water and energy usage have been factored into the proposed development, in order that the development might operate in a sustainable fashion. In this regard the extensive use of water tanks for water harvesting (landscaping) is proposed, while the integrated nature of the site will provide efficiencies in terms of initial overall energy expenditure, and ongoing expenditure.</p>

Table 4.17 SEPP 71 Aims

SEPP 71 Aims	Response
(a) to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast	The proposed development is distant from the coast and therefore will have no direct impact on its protection or management.
(b) to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore	The site is distant from the coast and therefore will have not affect access to the foreshore.
(c) to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore	The proposed development is distant from the coast and therefore will not affect access to the foreshore.
(d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge	The site has not been identified as having Aboriginal cultural significance.
(e) to ensure that the visual amenity of the coast is protected	The site is distant from the coast and will not be particularly visible. Views to the site will be obtained from Emigrant Creek; however the distance of the site from the Creek and the height of proposed buildings is such that they will not have a significant adverse impact on the amenity of the Creek.
(f) to protect and preserve beach environments and beach amenity	The proposed development will have no direct impact on the beach environment and its amenity.
(g) to protect and preserve native coastal vegetation	The site is does not contain native vegetation, with mangroves located along the central drainage line.
(h) to protect and preserve the marine environment of New South Wales	The proposed development will have no direct impact on the marine environment.
(i) to protect and preserve rock platforms	Not applicable.
(j) to manage the coastal zone in accordance with the principles of ecologically	The proposed development has been designed having regard to ESD principles, and matters such as

SEPP 71 Aims	Response
sustainable development (within the meaning of section 6 (2) of the Protection of the Environment Administration Act 1991)	water quality.
(k) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area	As stated, above the site is distant from Emigrant Creek, which is the only area of value that the site will be reasonably visible from. Notwithstanding this, the proposed buildings have been separated from each other and located across the site, minimising their visual bulk.
(l) to encourage a strategic approach to coastal management	Given the site's (likely) enclosure by two roads and separation from the coast, this is not applicable.

SEPP Major Development

The proposed development does not trigger the Major Development SEPP and accordingly the development is not a project within the meaning of Part 3A of the Environmental Planning & Assessment Act.

4.1.7 Environmental Planning & Assessment Act General Requirements

The proposed development is not of a type which is categorised as “designated development” for the purposes of the Act. Further, no existing use rights are asserted in relation to the subject land. The consent authority for the purposes of this Application is BSC and the provisions of Part 4 of the Act apply.



4.1.8 NSW Coastal Policy 1997 (Coastal Policy)

The Coastal Policy is a relevant consideration for development in those (coastal) areas affected by the Policy; development along the coast of Ballina is subject to the Policy.

Tables 2 and 3 of the Coastal Policy provide a list of matters which should be considered in the assessment of development applications. The majority of these matters are not applicable to the proposed development for various reasons (i.e. the nature of the proposed development, the location of the site). The compliance or otherwise of the proposed development with the matters listed in Tables 2 and 3 of the Coastal Policy are set out in **Tables 4.17** and **4.18** below.

Table 4.18 Table 2 of Coastal Policy

Strategic Action Number	Summary of Provision and Response
Natural Environment	
1.1.6	Voluntary conservation agreements Not applicable.
1.1.7	Seagrass, mangroves, salt marsh and other wetland associated species Not applicable.
1.2.3	Fish habitat modification or alienation Not applicable.

Strategic Action Number	Summary of Provision and Response
1.2.5	<p>Threatened Species Conservation Act This matter is addressed in the Ecological Assessment Report prepared by Cardno and which is included in Appendix B, Attachment A.</p>
1.3.1	<p>EPA licensing of STP and other point source discharges Not applicable.</p>
1.3.2	<p>Non-point source pollution Stormwater will be the only source of pollution from the proposed development; this is addressed in the Preliminary Internal Hydraulic Assessment, Stormwater Quality Management Plan and Erosion and Sediment Control Report included as Appendix B, Attachments H, J and B respectively.</p>
1.3.7	<p>Waste water discharge limits Not applicable.</p>
1.3.8	<p>Contaminated stormwater Stormwater treatment is addressed in the Preliminary Internal Hydraulic Assessment, Stormwater Quality Management Plan and Erosion and Sediment Control Report included as Appendix B, Attachments H, J and B respectively.</p>
1.3.12	<p>Vessel sewage pump out facilities Not applicable.</p>
1.3.13	<p>Re-use of treated bio solids and effluent Not applicable.</p>
1.4.5	<p>Assessment of coastline development proposals Not applicable.</p>
1.4.7	<p>Assessment of estuarine development proposals Not applicable.</p>
Natural Processes and Climate	
2.1.3	<p>Physical and ecological processes to be considered when assessing development applications Not applicable.</p>
2.1.4	<p>Acid sulphate soils – environmental studies; DLWC mapping and EPA guidelines; requirement for EIS; monitoring and restoration works; management plans This matter is addressed in the report Acid Sulfate Soil Investigation included in Appendix B, Attachment C.</p>
2.2.2	<p>Sea level change Sea level change has been factored into the proposed development through its incorporation into flooding considerations. In this regard the Flood Advice included in Appendix C utilises a 900mm sea level rise and 10% increase in rainfall intensity in its assessment.</p>
Aesthetic Qualities	
3.2.1	<p>North Coast Design Guidelines for Tourism Developments Adjacent to Natural Areas</p>

Strategic Action Number	Summary of Provision and Response
	Not applicable.
3.2.4	Design and locational principles for development applications Not applicable.
3.2.5	Siting of navigational aids, marine communication towers, warning signs and moorings Not applicable.
Cultural Heritage	
4.2.3	Coastal sites of Aboriginal significance Not applicable; the site has not been identified as having Aboriginal significance.
Ecologically Sustainable Use of Resources	
5.1.11	Ecotourism developments and Guidelines for Tourism Developments Adjacent to Natural Areas Not applicable.
5.3.3	Aquaculture procedures, permits and guidelines Not applicable.
5.3.4	Development consent for mining Not applicable.
Ecologically Sustainable Human Settlement	
6.1.4	Canal estate developments Not applicable.
Public Access and Use	
7.1.5	Tourism development and public foreshore access Not applicable.
7.2.3	Coastal developments and surf life saving facilities Not applicable
7.2.4	Surf life saving facilities and Section 94 levies Not applicable.

Table 4.19 Table 3 of Coastal Policy

Summary of Principle and Response
Development on beaches or frontal dunes Not applicable.
Works to beaches and frontal dunes Not applicable.
Undeveloped headlands Not applicable.
Developed headlands Not applicable.
Beaches and waterfront open space – overshadowing Not applicable.

4.1.9 Integrated Development Considerations

The proposed development is not “Integrated development” for the purposes of section 91 of the Environmental Planning and Assessment Act 1979. In relation to a previous Development Application the RTA advise that Section 138 was not triggered by an application of the subject type. Construction of the floodway involves some lowering of the current surface level. However, engineering and geotechnical advice indicates that an approval pursuant to Section 91 of the Water Management Act 2000 will not be required.



4.2 Draft Environmental Planning Instruments

The Draft Ballina Local Environmental Plan 2010 (Draft LEP) was exhibited from 15 March to 10 June 2010.

Presently, submissions to the Draft LEP are being reviewed.

The site is zoned RU2 Rural Landscape under the Draft LEP. However, clause 2.5 of the Draft LEP provides:

“2.5 Additional permitted uses for particular land

(1) Development on particular land that is described or referred to in Schedule 1 may be carried out:

(a) with consent, or

(b) if the Schedule so provides—without consent, in accordance with the conditions (if any) specified in that Schedule in relation to that development.

(2) This clause has effect despite anything to the contrary in the Land Use Table or other provision of this Plan.”

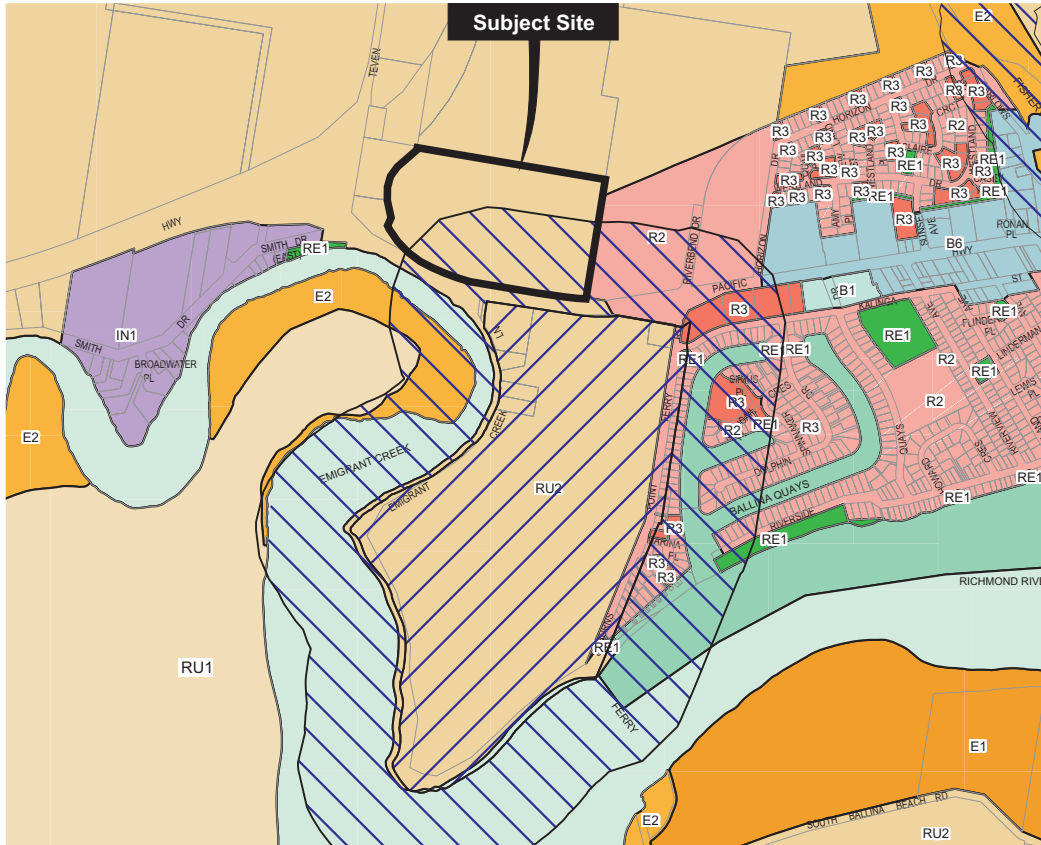
Clause 8 of Schedule 1 of the Draft LEP provides:

“8 Erection of a highway service centre at West Ballina

(1) This clause applies to land located directly adjacent to the Ballina Pacific Highway Bypass alignment at the Teven Road interchange.

(2) Development for the purpose of a highway service centre is permitted with consent.”

Collectively, clause 2.5 and clause 8 of Schedule 1 of the Draft LEP have the effect of making the proposed development (a highway service centre) permissible with development consent, despite anything to the contrary in the Land Use Table or other provision of the Draft LEP.



LEGEND

- B1 Neighbourhood Centre
- B6 Enterprise Corridor
- E1 National Parks and Nature Reserves
- E2 Environmental Conservation
- IN1 General Industry
- R2 Low Density Residential
- R3 Medium Density Residential
- RE1 Public Recreation
- RU1 Primary Production
- RU2 Rural Landscape
- Potential Urban Growth Area (refer Clause 7.7 DBLEP 2010)
- Land adjoining Potential Urban Growth Area



1:20 000 @ A4

Source: Ballina Shire Council Website

Date: November 2010

1210-643

Plan 4.2

Of note, the Draft LEP defines a “highway service centre” as:

“highway service centre” means a building or place used as a facility to provide refreshments and vehicle services to highway users, and which may include any one or more of the following:

- (a) restaurants or take away food and drink premises,*
- (b) service stations and facilities for emergency vehicle towing and repairs,*
- (c) parking for vehicles,*
- (d) rest areas and public amenities.*

Notably, the uses listed in (a)-(d) comprise the majority of the uses proposed in the HSC, with the exception of the regional expo centre. In relation to this component, this would be defined as an “information and education facility”, with such a use permissible with development consent in the RU2 Rural Landscape zone. The Draft LEP provides the following definition for such a use:

“information and education facility” means a building or place used for providing information or education to visitors, and the exhibition or display of items, and includes an art gallery, museum, library, visitor information centre and the like.

In relation to the “floodway” proposed to be constructed along the eastern edge of the HSC, this component of the proposed development would be defined as “flood mitigation work” under the Draft LEP. Such work is permissible with consent in the RU2 Rural Landscape zone, and the Draft LEP defines “flood mitigation work” as:

“flood mitigation work” means work designed and constructed for the express purpose of mitigating flood impacts. It involves changing the characteristics of flood behaviour to alter the level, location, volume, speed or timing of flood waters to mitigate flood impacts. Types of works may include excavation, construction or enlargement of any fill, wall, or levee that will alter riverine flood behaviour, local overland flooding, or tidal action so as to mitigate flood impacts.

In relation to that part of the development that might be defined as “road” (namely the road extending and crossing the floodway) this is permissible with development consent, with the relevant definition providing:

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