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## Request to commence rezoning process for land at Skennars Head

(on behalf of Wave Break Properties)

3 November 2006

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## Executive Summary

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This submission raises the following key points:

1. A resolution pursuant to Section 54 of the *Environmental Planning and Assessment Act, 1979*, by Council is required to commence the rezoning process. Council is not held to any plan or zoning concept by making this resolution.
2. The State government LEP Review Panel must confer authority to continue the process. Complete studies and documentation cannot be completed and submitted to Council until the Panel provides Council with that authority.
3. The land has been identified in State government and Council strategies and plans as a land release area for more than 20 years.
4. The proponent's vision is to form a new village at Skennars Head, with a recognizable village centre, neighbourhood focus, and a compact residential community with its main facilities and amenities within walking distance.
5. The proponent does not wish to develop a conventional car-dependent low density residential subdivision on this site.
6. The rezoning process will resolve a number of issues, and will provide all stakeholders with certainty as to the future land use pattern in Skennars Head. Of particular concern is ongoing public access to coastal land owned by Dr Stewart and currently used as a public car park and beach access. A planning agreement is proposed to facilitate transfer of coastal land to the public domain.
7. The rezoning proposal will be supported by a draft Concept Plan which will give a clear indication of development layout, design principles, community facilities, staging and matters to be implemented via Planning Agreement.
8. The rezoning will resolve future land uses over the whole of the study area, not just Lot 2, and identify land to be used for ongoing rural purposes, land to be used for conservation purposes and land to be dedicated to the public.

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## 1 Introduction

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Ballina Shire Council is requested to resolve pursuant to Section 54 of the Environmental Planning and Assessment Act 1979 to commence the process of rezoning land at Skennars Head.

If the LEP Review Panel accedes to the rezoning process, detailed assessments and reports will be completed and submitted to Council to support the rezoning.

The rezoning process will resolve a number of issues in the Skennars Head locality, including public access to coastal land, concerns about visual impact, traffic safety and the long-term identity of Skennars Head.

## 2 Background

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A zoning request was presented to Council in early 2006 for one allotment of Dr Stewart's land, immediately south of the Headlands Estate. Council did not proceed with that rezoning, preferring instead to see a proposal that clarified the future of all of the land release area in Dr Stewart's ownership.

Since Council's consideration of Lot 2, the state government introduced the LEP Review Panel and revoked the authority of Councils to exhibit a Draft LEP. The LEP Review Panel must now grant the authority for the rezoning process to commence. Full documentation cannot be submitted for Council's consideration until that occurs. It is however necessary to provide Council and the LEP Review Panel with an indication of the proposal, and this is addressed in following sections.

## 3 Pre-lodgement consultations

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This report and the rezoning proposal have been informed by discussions with, and feedback from, the following parties:

- Ballina Shire Councillors
- Ballina Shire Council staff
- Lennox Head Chamber of Commerce
- Lennox Head Residents Group
- Local Aboriginal people
- Representatives of the following state agencies:

- Roads and Traffic Authority
- Department of Environment and Conservation
- Department of Primary Industry (Fisheries)
- Department of Primary Industry (Agriculture)
- Department of Natural Resources
- Rural Fire Service
- Department of Planning

These agencies have been consulted directly and also through a planning focus meeting held on 13 October 2006.

## 4 Study area

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The area subject of this rezoning proposal includes all allotments that contain land in the 1(d) Rural (Urban Investigation) zone in the Skennars Head area.

It also includes lands zoned 1(b) Rural (Urban Investigation), 7(a) Environmental Protection (Wetlands), 7(d) Environmental Protection (Scenic Escarpment) and 7(f) Environmental Protection (Coastal Lands).

The total area of the study area is approximately 168 hectares, of which approximately 75 hectares is zoned 1(d) Rural (Urban Investigation).

The study area is also defined by current ownership: all land in the study area has been owned by one person, Dr Peter Stewart, for a significant period of time.

The study area contains all land between the Headlands Estate residential area in the north and the approved North Angel's Beach subdivision in the south. It extends west from coastal foreshores, across a broad, lightly sloping ridge complex, to wetlands and floodplains.

The study area is illustrated in Appendix 1.

## 5 Strategic Context

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The land proposed to be rezoned for urban development is:

- Between Ballina and Lennox Head;
- Within 1km of the coast, and subject to the NSW Coastal Policy;
- Zoned 1(d) Rural (Urban Investigation) under Ballina Local Environmental Plan 1987;

- Identified in the Ballina Urban Land Release Strategy as an urban release area;
- Identified in Department of Planning's Draft Far North Coast Regional Strategy as a land release area;
- Adjacent to an existing residential area known as the "Headlands Estate" which is zoned 2(b) Village Area zone;
- Entirely owned by one person.

## 6 Opportunity to resolve issues

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### Identity of Skennars Head:

The Skennars Head area has been considered as part of Lennox Head in some documents and processes, and as part of Ballina or East Ballina in others. It has not been considered as a settlement in its own right, although it is officially recognized as a locality by the Geographical Names Board (see Appendix 4).

This proposal intends to create a sufficient population base to support a viable neighbourhood-scale village centre.

Designed to complement the existing Headlands Estate, with contemporary compact urban design, the community of Skennars Head will become a new coastal village that will be functionally and visually distinct from other settlements.

### Concerns about potential visual impact:

Some planning documents identify the potential for visual impact in this area, and the need to maintain a visual buffer between urban settlements.

It is not proposed to develop land in the 7(d) Scenic Escarpment zone, although the rezoning process may indicate the need for construction of an access road and other service infrastructure or open space embellishments in the 7(d) zone.

The rezoning process, supported by a Concept Plan, will address this issue and propose mitigation measures. The urban development footprint will be carefully delineated and appropriate subdivision and building design controls will be developed.

### Safety of intersections with the Coast Road:

Headlands Drive and Skennars Head Road provide access from the Coast Road to the Headlands Estate.

Vehicle access to the Sharpe's Beach car park is approximately 100 metres south of the Headlands Drive intersection.

The speed limit at the Headlands Drive intersection and the beach car park is 100 km/h. Discussions with residents indicate that these intersections are perceived as quite dangerous, especially at peak periods.

Traffic consultants CRG have commenced traffic studies and are developing options for traffic management, in consultation with Council and the Roads and Traffic Authority. Consolidation of the intersections to Headlands Drive and the beach car park is one option under consideration. Preferred solutions will be presented to Council and the community for consideration with the draft LEP.

### Use of land east of the Coast Road by the public:

For many years Dr Stewart's land has been used by the public to park vehicles and gain access to Sharpe's Beach. Council has leased this part of Dr Stewart's land for public purposes but there is no current plan for a lasting solution.

Dedication of the land would resolve this situation. It would provide legal clarity, allow appropriate construction of public access to the foreshore and facilitate other public uses of the land. Dedication would also accord with state government guidelines on the management of coastal land.

Dedication will be secured through a Planning Agreement. At this stage it is envisaged that the Planning Agreement would primarily address the valuation of the land and the timeframe or stage of development at which dedication would occur. Dedication of the coastal land is proposed to occur in stages.

## **7 Local Environmental Study**

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Based on the provisions of the NSW Coastal Policy and verbal advice from Council and Department of Planning staff, it is assumed that a Local Environmental Study (LES) will be required.



At this stage it is envisaged that the following matters will be addressed in the LES:

1. Environmental Planning and Assessment Act and Regulation
2. Draft State Plan
3. State Environmental Planning Policy No. 14 – Coastal Wetlands
4. State Environmental Planning Policy No. 44 – Koala Habitat
5. State Environmental Planning Policy No. 55 – Remediation of Land
6. State Environmental Planning Policy No. 71 – Coastal Protection
7. North Coast Regional Environmental Plan
8. Ministerial S117 Directions, particularly:
  - Direction No. 1 – Acid Sulfate Soils
  - Direction No.2 – Approval, Concurrence and Consultation
  - Direction No.6 – Coastal Protection
  - Direction No.9 – Conservation and Management of Environmental and Indigenous Heritage
  - Direction No.12 – Development near Licensed Aerodromes
  - Direction No.13 – Environmental Protection Zones
  - Direction No.14 – Farmland of State and Regional Significance on the NSW Far North Coast
  - Direction No.15 – Flood Prone Land
  - Direction No.17 – Integrating Land Use and Transport
  - Direction No.19 – Planning for Bushfire Protection
  - Direction No.21 – Residential Zones
  - Direction No.22 – Rural Zones
  - Direction No.23 – Savings
  - Direction No.25 – Site Specific Zoning
  - Direction No.26 – Special Area Zones and Recreation Zones
9. NSW Threatened Species Conservation Act 1995
10. NSW Fisheries Management Act 1994
11. Ballina Urban Land Release Strategy (2000) and Addendum (2003)
12. Lennox Head Community Aspirations Strategic Plan (2002)
13. Lennox Head Structure Plan (2004)
14. Ballina Sustainability Strategy 2025
15. NSW Coastal Design Guidelines
16. North Coast Design Guidelines
17. North Coast Urban Planning Strategy (1995)
18. Draft Far North Coast Regional Strategy (2006)
19. Department of Planning Circulars
20. “Healthy By Design” guidelines
21. “Crime Prevention Through Environmental Design” guidelines
22. Ballina Local Environmental Plan 1987
23. Ballina Development Control Plan
24. NSW Coastline Cycleway project (in progress)

25. Ballina Shire Heritage Study (in progress)
26. Ballina Coastline Management Plan (in progress)
27. Ballina Shire Council Cities for Climate Protection Program
28. Ballina Shire Public Art Policy
29. Ballina Shire Open Space Strategy
30. Ballina Shire Road Hierarchy
31. The requirements of statutory authorities such as the Roads and Traffic Authority, Department of Environment and Conservation, Department of Primary Industry (Fisheries and Agriculture), Rural Fire Service, Department of Lands, Department of Natural Resources, and Department of Planning.

Preliminary assessments indicate that all of the matters contained in the abovementioned documents can be satisfactorily addressed either at the rezoning stage or in subsequent planning processes.

No statutory matters have been identified that oppose the proposed rezoning process.

## 8 Preliminary indications

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In satisfaction of Council's requirements to review the entire land release area, specialist studies have been commenced by the following team of consultants:

Planning	LandPartners Limited
Ecology	LandPartners Limited
Bushfire	LandPartners Limited
Urban design	Burns Design Architects
Visual assessment	ERM
Traffic and noise	Carter Rytenskild Group
Archaeology and Heritage	Davies Heritage Consultants
Agricultural attributes	Gilbert and Sutherland
Acid Sulphate Soils	Gilbert and Sutherland
Soil contamination	Gilbert and Sutherland
Engineering services	Cardno
Geotechnical	Soil Surveys
Mosquitos and biting insects	Mosquito Consulting Services
Social planning, community and stakeholder engagement	Elton Consulting

Some of the preliminary indications of these studies are contained in appendices to this report. A range of constraints and design considerations have already been identified which will be addressed in detail in the LES and the draft LEP.

At this point in time the indications are that:

1. Parts of the study area, generally at the southeast, are likely to contain high archaeological and aboriginal cultural values. Further investigation and assessment is required and will be conducted in the next stage of the rezoning process.
2. Visual impact can be mitigated by a substantial buffer at the southeast of the study area, and appropriate building design controls.
3. Excluding areas of potential archaeological significance, approximately 35 hectares of the 1(d) Rural (Urban Investigation) zone are suitable for urban development.
4. The developable area is identified by ecological, geotechnical, topographical and archaeological constraints and buffers.
5. The developable land area is a single land unit, not fragmented by constraints.
6. The development of a village heart with neighbourhood shop, café, childcare centre and community uses would enhance the residential amenity of the development, and would also service residents of the Headlands Estate.
7. The village centre would be best located at the northeast of the study area, just south of Headlands Drive, within walking distance for the residents of the Headlands Estate and the new development. It would also be located adjacent to the 7(d) Environmental Protection (Scenic Escarpment) zone.
8. The 7(d) Environmental Protection (Scenic Escarpment) zone is capable of providing useable and desirable open space. This land could be utilised for a range of open space facilities, activities and unstructured recreation.
9. Existing water and sewerage infrastructure services have the capacity to service an immediate quantum of development. This land release area has been allowed for in Ballina Shire Council's strategic infrastructure plan.
10. The majority of the developable area slopes to the west, away from the beach. Stormwater treatment areas would logically be located at the western edge of the development area, with controlled flow released onto the floodplain (as is currently the case with overland flow). Land affected by Council's adopted flood level of 1.79m AHD (which affects land at the foot of the western slope) is not considered developable.
11. Wetlands at the northwest of the study area will be physically separated from residential development by a strip of land that is unsuitable for development due to low-lying topography and geotechnical attributes. This buffer will address bushfire hazard, ecological sensitivity, stormwater management and biting insects (mosquitos) hazard.

12. Improvements to the intersection of Headlands Drive and the Coast Road are warranted. There is an opportunity to rationalise and improve the safety of the intersections of Headlands Drive and the access to the Sharpe's Beach car park.
13. An undeveloped green belt across the south of the study area is appropriate and will provide a solution to ecological, archaeological and visual buffer issues.
14. Dedication of coastal land to Council would have legal and coastline management benefits.

All of these matters are subject to further refinement and negotiation as the process evolves.

## 9 The Vision

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In view of the constraints and opportunities in the study area and the indications provided by various studies and consultations to date, the proponent's design team has developed a vision for the development:

- ✓ Skennars Head: a coastal village.
- ✓ A village centre comprising neighbourhood-scale shops, café, community uses and a useable open space "village green".
- ✓ A substantial buffer between the proposed village and the East Ballina residential area.
- ✓ Contemporary urban design including:
  - A clear edge to the settlement, defined by topography, vegetation, archaeological sensitivity, and delineated by perimeter roads.
  - Excellent access to active and passive recreation
  - Safe public open space with magnificent views
  - Provision of footpaths and cycleways
  - Road geometry that allows bus circulation
  - Best practice water sensitive urban design incorporating dual reticulation for eventual connection to treated wastewater

The combination of locational advantages and sound urban design will provide the Skennars Head village with exceptionally high residential and community amenity.

## 10 Proposed Zoning

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It is proposed to rezone all land currently zoned 1(d) Rural (Urban Investigation).

It is not proposed to alter or encroach upon the 7(d) Environmental Protection (Scenic Escarpment) zone at the east of the study area.

Preliminary studies indicate that fringes of the 1(d) Rural (Urban Investigation) zone, particularly at the west and south of the study area, are unsuitable for urban development due to ecological, topographical, archaeological and geotechnical constraints.

It is proposed to rectify an anomaly in the 7(a) Environmental Protection (Wetlands) zone boundary at the northwest of the study area, to include the full extent of the wetlands vegetation.

A preliminary developable area has been identified (see Appendix 8). It is entirely within the 1(d) Rural (Urban Investigation) zone. It is proposed to rezone the developable area to 2(b) Village Area zone. This is consistent with the zoning of the Headlands Estate, and provides optimum opportunities for the types of development required in a new village.

At this stage, and for the purpose of the s54 resolution and LEP Review Panel process, the developable land area should be considered indicative. Pending the outcomes of various studies, this map will be further refined for submission to Council with the LES.

Zones will be designed to allow easy translation to new zones under the Standard Instrument.

## 11 Concept Plan

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At this stage it is intended to lodge a Concept Plan for the development. The Concept Plan must be considered by the Minister, but it is envisaged that a draft Concept Plan will be submitted to Council with the draft LEP.

The Concept Plan will:

- identify development stages, development nodes and precincts.
- outline building design and development principles.

- provide detail of matters to be addressed in a planning agreement.

It may also establish site-specific exempt and complying development provisions.

Ideally the draft LEP and the draft Concept Plan would be exhibited simultaneously.

As part of the Concept Plan process it is intended to request the Minister, pursuant to Section 75P of the *Environmental Planning and Assessment Act, 1979*, to allow development applications for subdivision to be lodged with Ballina Shire Council, rather than as Project Plans under Part 3A of the Act.

### **11.1 Staging**

The development is proposed in two stages. The first stage of approximately 25 hectares adjoins the Headlands Estate on an allotment which is subject to sale to the proponents, Wave Break Properties.

The second stage of approximately 10 hectares will remain in Dr Stewart's ownership and will continue to be farmed. Dr Stewart has indicated that the second stage is a long term proposition, and is unlikely to occur in his lifetime.

Stage 1 will contain the neighbourhood shop area and other community facilities. These facilities are yet to be resolved, but it is envisaged that the village centre will incorporate the substantial areas of open space in the 7(d) Environmental Protection (Scenic Escarpment) zone for recreation.

The residents of Stage 1 are expected to utilise the existing pedestrian underpass under the Coast Road to access the beach.

A number of sub-stages are anticipated in Stage 1 to allow for market response. Sub-stages will probably be associated with delivery of infrastructure and public benefits.

An additional and more direct pedestrian access to the beach may be required for Stage 2, but this is yet to be determined.

### **11.2 Density**

It is intended to achieve a residential density of 15 dwellings per hectare in Stage 1. This will be achieved through a mixture of subdivision lot sizes and residential built forms that observe contemporary urban design principles. This density is in accordance with Department of Planning guidelines, including the Draft FNCRS:

*"The draft Regional Strategy promotes a vibrant network of towns and villages by ensuring future development of existing centres or new villages respects coastal and inland environments and is supported by services and employment lands. This is to be achieved through higher density housing, intensified infill development, greenfield land releases in and around regional centres, and support of inland areas."*

This density is also achievable in the relatively smaller developable area in Stage 2, although a lesser density could also be considered appropriate in view of the greater travel distances to the village centre. This matter will be addressed in the process of developing the Concept Plan.

A draft Concept Plan will be presented to Council with the LES. It is proposed to make the allotments at the northern edge of Stage 1 a similar size to the existing lots in the Headlands Estate. This will provide a transition in built form and scale from the Headlands Estate into the proposed development.

### **11.3 Design**

The Concept Plan will contain design guidelines to achieve:

- energy- and water-efficient housing
- architecture that is sensitive to the location and the streetscape
- a mixture of dwelling sizes and densities
- a mixture of lot sizes
- pedestrian and cycle access and permeability
- road geometry that supports bus services

## **12 Planning processes**

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Several processes are required before the land is physically developed:

1. Rezoning
2. Planning Agreement/s for dedication of coastal land and other matters
3. Concept Plan
4. Subdivision approval (whether by development application to Council or a Project Plan to the Minister for Planning)
5. Engineering approvals and works
6. Satisfaction of conditions of consent, including payment of Section 94 contributions
7. Development approvals for buildings

Simultaneous public exhibition of the draft LEP, draft Planning Agreement and draft Concept Plan would provide a clear picture of the proposed outcomes. This would benefit all stakeholders, but it would require some coordination between Council and the Department of Planning.

## 13 Conclusion

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The rezoning process will conclusively resolve the status of this land and the future of Skennars Head.

The proposed development respects ecological, archaeological and visual sensitivity.

The rezoning and development process will provide benefits to the wider community by securing access to coastal foreshores, opportunities for the coastal cycleway, and Section 94 contributions to public assets.

Consultation to date indicates that road safety is of concern to some residents. This proposal is an opportunity to address the situation.

The public benefits being offered by the proponent are substantial.

Council is requested to commence the rezoning process so that the issues can be fully addressed and resolved.



## 14 Appendices

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- 14.1 Study area
- 14.2 Subregional context
- 14.3 Current zones
- 14.4 Geographical Names Board localities
- 14.5 Executive summaries of assessments to date:
  - Consultation Elton Consulting
  - Ecology and bushfire LandPartners
  - Geotechnical Soil Survey
  - Archaeology Davies Heritage Consulting
  - Engineering services Cardno
  - Traffic CRG
  - Noise CRG
  - Biting insect hazards Mosquito Assessment Services
  - Agriculture Gilbert and Sutherland
  - Visual assessment ERM
- 14.6 Consolidated preliminary opportunities and constraints
- 14.7 Preliminary indication of developable land
- 14.8 Vision Statement

## 14.1 Appendix 1