



IRF 21/2745

## Gateway alteration, request for extension of time & revised planning proposal report – PP\_2020\_CLARE\_003\_00

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Amend lot size maps to facilitate the retention of  
existing dwelling entitlements in certain R5 Large Lot  
Residential areas.

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**Table 1 Attachments to report**

Attachment	Supporting documents
A	Alteration of Gateway determination
B	Letter to Clarence Valley Council
C	Gateway determination (3 September 2020)
D	Gateway determination report (3 September 2020)
E	Revised Planning Proposal (June 2021)

# 1 Revised planning proposal

## 1.1 Overview

The purpose of this report is to recommend the Director, as delegate of the Minister, agree to alter the Gateway determination for planning proposal no. PP\_2020\_CLARE\_003\_00 (PP-2020-3165).

A Gateway determination (**Attachment C**) was issued on 3 September 2020 for the planning proposal, which seeks to amend the lot size map at Mountain View Estate and Cronin Estate to facilitate the retention of the existing dwelling entitlements on land zoned R5 Large Lot Residential. The Gateway determination determined that the proposal should proceed subject to conditions.

Clarence Valley Council has requested a Gateway alteration to extend the timeframe for completion and to include an additional 15 lots to facilitate the retention of existing dwelling entitlements in other R5 Large Lot Residential areas beyond the sunset clause 4.2B(4) expiration of 23 December 2021. The request is considered to have merit and an alteration to the Gateway determination has been prepared. Due to the number of additional lots now being included in the revised planning proposal an assessment report has been undertaken below.

**Table 2 Revised planning proposal details**

<b>LGA</b>	Clarence Valley
<b>PPA</b>	Clarence Valley Council
<b>NAME</b>	Amend lot size maps to facilitate the retention of existing dwelling entitlements in certain R5 Large Lot Residential areas
<b>NUMBER</b>	PP_2020_CLARE_003_00 (PP-2020-3165)
<b>LEP TO BE AMENDED</b>	Clarence Valley Local Environmental Plan 2011
<b>ADDRESS</b>	Various Lots – Mountain View & Cronin Estates; Ashby; Ashby Heights; James Creek; Grafton; Coutts Crossing
<b>DESCRIPTION</b>	Various Lots
<b>DEEMED ADEQUATE</b>	24 June 2021
<b>FILE NO.</b>	IRF21/2745 (EF20/26017)
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required.
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal.

## 1.2 Objectives of revised planning proposal

The revised planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The revised planning proposal (**Attachment E**) now includes an additional 15 lots (Table 4) that have been identified by Council's further analysis of land within the R5 Large Lot Residential zone. This analysis was undertaken after the original Gateway determination was issued to determine if there were additional lots that would otherwise lose their dwelling entitlement under Clause 4.2B of the Clarence Valley LEP 2011 in December 2021.

The land in the former Maclean Shire Council area (Ashby, Ashby Heights, James Creek) were zoned for large lot residential development as far back as 1999 and were recognised in the Clarence Valley Settlement Strategy as suitable for Rural Small Lot developments and zoned as 1(s) Rural small lot under the previous Maclean Shire Council LEP. The revised planning proposal notes the subdivisions were registered between 1988 and 2015.

The revised planning proposal states that Clause 4.2B(4) was not designed to exclude these 15 parcels of land from being able to be developed for any particular planning reason, they were simply overlooked when the consolidated LEP came into effect in 2011, or it may have been assumed that those parcels would be developed prior to the sunset clause coming into effect. The reasoning is not documented either way and there is no explicit direction to close off dwelling entitlement in the R5 zone from December 2021.

It is noted that the revised planning proposal still only provides a proposed 2000m<sup>2</sup> minimum lot size (MLS) potentially allowing the further subdivision of Lot 31 in the Mountain View Estate by utilising clause 4.6 of the CVLEP 2011. To be consistent with the intent of the proposal, it is recommended prior to agency and community consultation, that the proposal be amended to apply a 2500m<sup>2</sup> minimum lot size to the subject lots in the Mountain View Estate to limit any further subdivision. Council staff have advised they support the adoption of a 2500m<sup>2</sup> minimum lot size for the subject lots.

## 1.3 Explanation of provisions

The objective of the revised planning proposal will be achieved by amending relevant CVLEP 2011 Lot Size Maps to include a new standard minimum lot size for the R5 Large Lot Residential subject lots located at Mountain View & Cronin Estates, and lots described in Table 4 at Ashby, Ashby Heights, James Creek, Grafton and Coutts Crossing.

As noted above, the '2. Part 2: Explanation of Provision (i)' will need to be amended prior to community and agency consultation to include a 2500m<sup>2</sup> minimum lot size for the lots in the Mountain View Estate to prevent any further subdivision.

The revised planning proposal will also need to update the '2. Part 2: Explanation of Provision (ii)' to replace 'subject land' with 'Lot 132 DP 1263591' prior to public exhibition and community consultation.

It is noted in the revised planning proposal the items identified in Table 3 have a proposed MLS of Y – 1ha. The proposed MLS will need to be amended prior to exhibition to X – 5000m<sup>2</sup> to ensure a dwelling entitlement will be retained, throughout the revised planning proposal.

**Table 3 Lots required to have proposed MLS amended in the Planning Proposal**

Lot/DP	Address	Size of Lot	Proposed MLS	Existing MLS
3//857120	20 Erikas Drive, Ashby	5722m <sup>2</sup>	X – 5000m <sup>2</sup>	1.5ha
7//1047034	Merle Anne Court, Ashby	6107m <sup>2</sup>	X – 5000m <sup>2</sup>	1.5ha
33//881130	115 Crisp Drive, Ashby Heights	5212m <sup>2</sup>	X – 5000m <sup>2</sup>	1.5ha
1//1192542	90 Patemans Road, Ashby	0.71ha	X – 5000m <sup>2</sup>	1.5ha

There are no other proposed changes to the zoning of any of the subject sites or other development controls in the CVLEP 2011 applying to the sites.

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

## 1.4 Site description and existing planning controls

The Gateway determination report (**Attachment D**) has discussed and assessed the Mountain View Estate and the Cronin Estate.

The revised planning proposal includes an additional 15 lots as discussed below. Table 4 outlines the size of individual lots, proposed and existing planning controls and related constraints.

Lot 11 DP826716, 132 Arthur Street, Grafton, is north of the Grafton CBD. The lot is adjacent R1 General Residential area and approximately 200m from the Grafton Hospital and Grafton Detention Centre. The New Life Church is also adjacent the Lot. Figure 1 shows the land zoning, current minimum lot size, flood planning area, acid sulfate soils and the lot is identified as a Rural Residential area in the Mid North Coast Farmland Mapping Project Final Map 2008.

Ashby and Ashby Heights are north of Maclean and west of Yamba (Figure 2). Many lots are heavily vegetated with only one or two lots that have cleared areas for potential dwellings. The lots mostly have established dwellings either adjacent or nearby.

Most of the lots around Ashby and Ashby Heights are zoned R5 Large Lot Residential except for Lot 5 DP1129491, Crisp Drive, Ashby Heights which has a portion of E3 Environmental Management in the middle of the lot.

Figures identifying lots located in Ashby and/or Ashby Heights are:

- Figure 3 – current Land Zone
- Figure 4 – current Minimum Lot Size
- Figure 5 – SEPP (Coastal Management) 2018 Coastal Environment and Use Areas
- Figure 6 – Bushfire prone land
- Figure 7 – lots in the Ashby and Ashby Heights areas identified as Rural Residential areas in the Mid North Coast Farmland Mapping Project Final Map 2008
- Figure 8 – Lots with potential High Environmental Value (HEV)
- Figure 9 – Biodiversity Values Map (DPIE Biodiversity and Conservation Division (BCD))

Lot 3 DP843504, Gardiners Road, James Creek is east of Maclean and the lot is also heavily vegetated. Surrounding lots have established dwellings. Lot 3 DP 843504 is within the Coastal Strip east of the Pacific Highway. Figure 10 shows the Land Zone, current minimum lot size, flood planning PMF, acid sulfate soils, potential HEV area. Figure 6 shows the bushfire prone land.

Lot 2822 DP 774107, 270 Lower Kangaroo Creek Road, Coutts Crossing, is south of Grafton and is a cleared lot except for a couple of trees near the road. Figure 11 shows the land zoning, current minimum lot size and the Lot identified as a Rural Residential area in the Mid North Coast Farmland Mapping Project Final Map 2008.

**Table 4 Current and proposed controls for additional 15 lots**

Lot/DP	Address	Size of Lot	Proposed MLS	Existing MLS	Land Zone	Flood Planning	Acid Sulfate Soil	Bushfire Prone	HEV	Coastal SEPP
11//826716	132 Arthur Street, Grafton	774m <sup>2</sup>	R 750m <sup>2</sup>	4000m <sup>2</sup>	R5	Yes	Class 4	No	NA	NA
3//843504	Gardiners Road, James Creek	1ha	Y1 1ha	1.5ha	R5	PMF	Class 5	Veg Cat 1 & Buffer	Yes	NA
3//857120	20 Erikas Drive, Ashby	5722m <sup>2</sup>	X 5000m <sup>2</sup>	1.5ha	R5	NA	Class 5	Veg Cat 1 & Buffer	Yes	Coastal Environment Area

Lot/DP	Address	Size of Lot	Proposed MLS	Existing MLS	Land Zone	Flood Planning	Acid Sulfate Soil	Bushfire Prone	HEV	Coastal SEPP
4//869802	Crisp Drive, Ashby Heights	1.48ha	Y1 1ha	1.5ha	R5	NA	Class 5	Veg Cat 1	Yes	NA
17//1056728	Old Ferry Road, Ashby	1.03ha	Y1 1ha	1.5ha	R5	NA	Class 5	Veg Cat 1 & Buffer	Yes	Coastal Environment & Coastal Use Areas
65//1047424	Crisp Drive, Ashby Heights	1ha	Y1 1ha	1.5ha	R5	NA	NA	Veg Cat 1	Yes	NA
7//1047034	Merle Anne Court, Ashby	6107m <sup>2</sup>	X 5000m <sup>2</sup>	1.5ha	R5	NA	Class 5	Veg Cat 1 & Buffer	Yes	Coastal Environment & Coastal Use Areas
33//881130	115 Crisp Drive, Ashby Heights	5212m <sup>2</sup>	X 5000m <sup>2</sup>	1.5ha	R5	NA	NA	Veg Cat 1	Yes	NA
13//1078938	Erikas Drive, Ashby	1.32ha	Y1 1ha	1.5ha	R5	NA	Class 5	Veg Cat 1 & Buffer	Yes	Coastal Environment Area
5//1129491	Crisp Drive, Ashby Heights	1.35ha	Y1 1ha & AD1 100ha	1.5ha & 100ha	R5 & E3	NA	NA	Veg Cat 1	Yes	NA
23//1056728	14 Sunset Close, Ashby	1.15ha	Y1 1ha	1.5ha	R5	NA	Class 5	Veg Cat 1 & Buffer	Yes	Coastal Environment Area
1//1192542	90 Patemans Road, Ashby	0.71ha	X 5000m <sup>2</sup>	1.5ha	R5	Flood Planning Area & PMF	Class 3 & 5	Veg Cat 1 & Buffer	Yes	Coastal Environment & Coastal Use Areas
67//1209690	Crisp Drive, Ashby	1.15ha	Y1 1ha	1.5ha	R5	NA	NA	Veg Cat 1	Yes	NA
70//1209690	Ashby Tullymorgan Road, Ashby Heights	1.19ha	Y1 1ha	1.5ha	R5	NA	NA	Veg Cat 1	Yes	NA
2822//774107	270 Lower Kangaroo Creek Road, Coutts Crossing	2.02ha	Y2 1.5ha	4ha	R5	NA	NA	NA	NA	NA



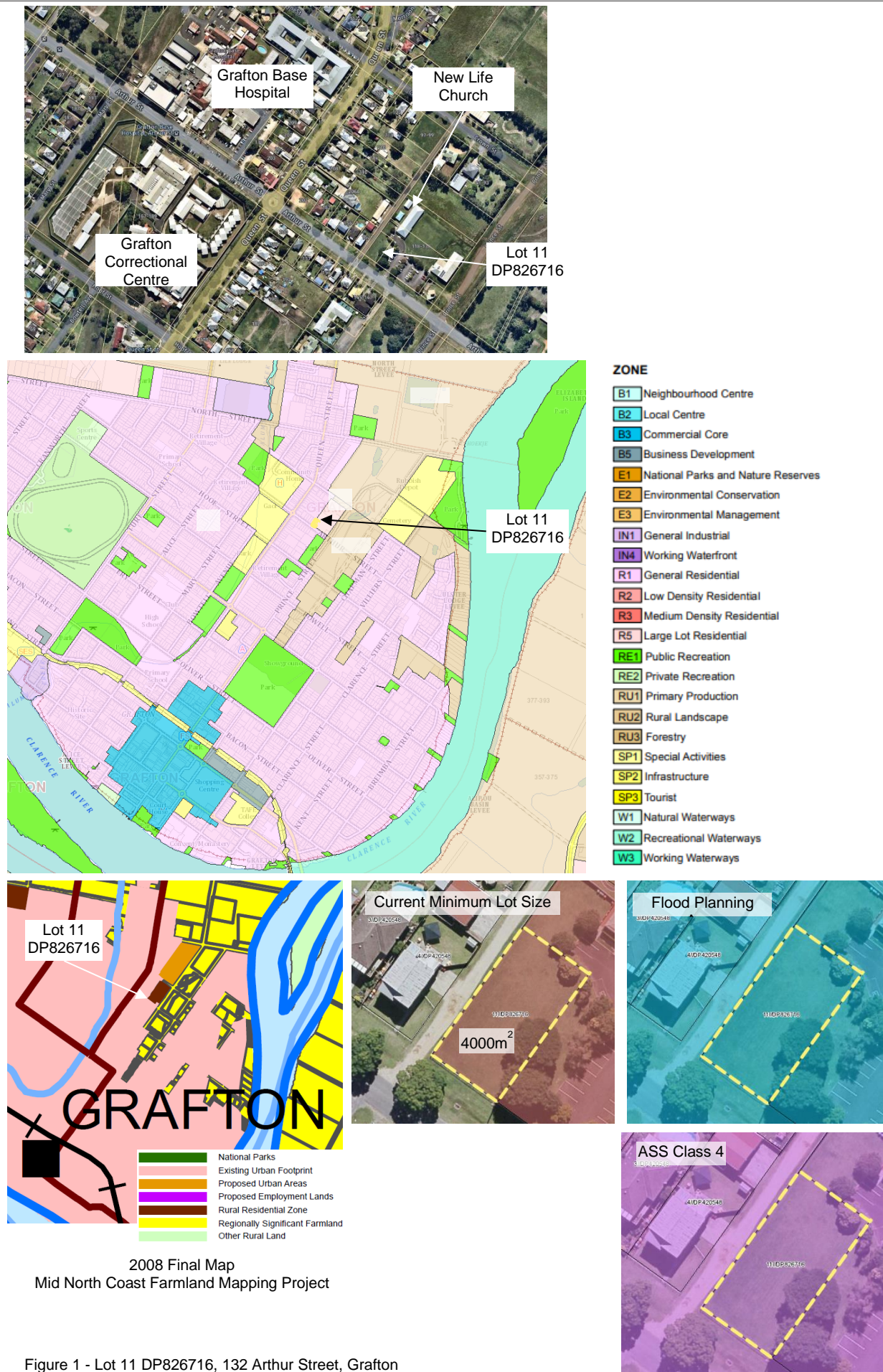


Figure 1 - Lot 11 DP826716, 132 Arthur Street, Grafton





Figure 2 – Ashby and Ashby Heights – Location of Lots



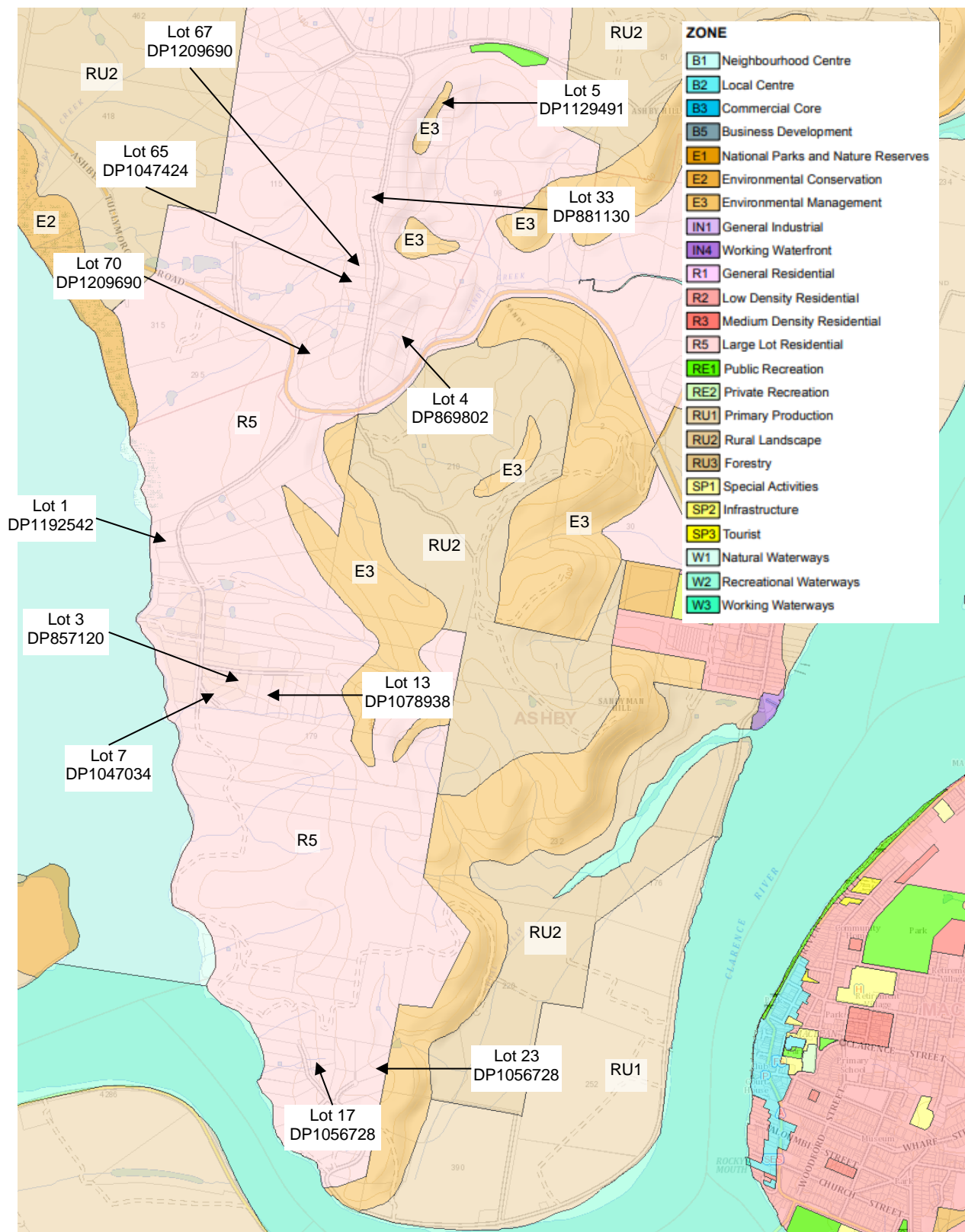


Figure 3 – Ashby and Ashby Heights – Land Zoning

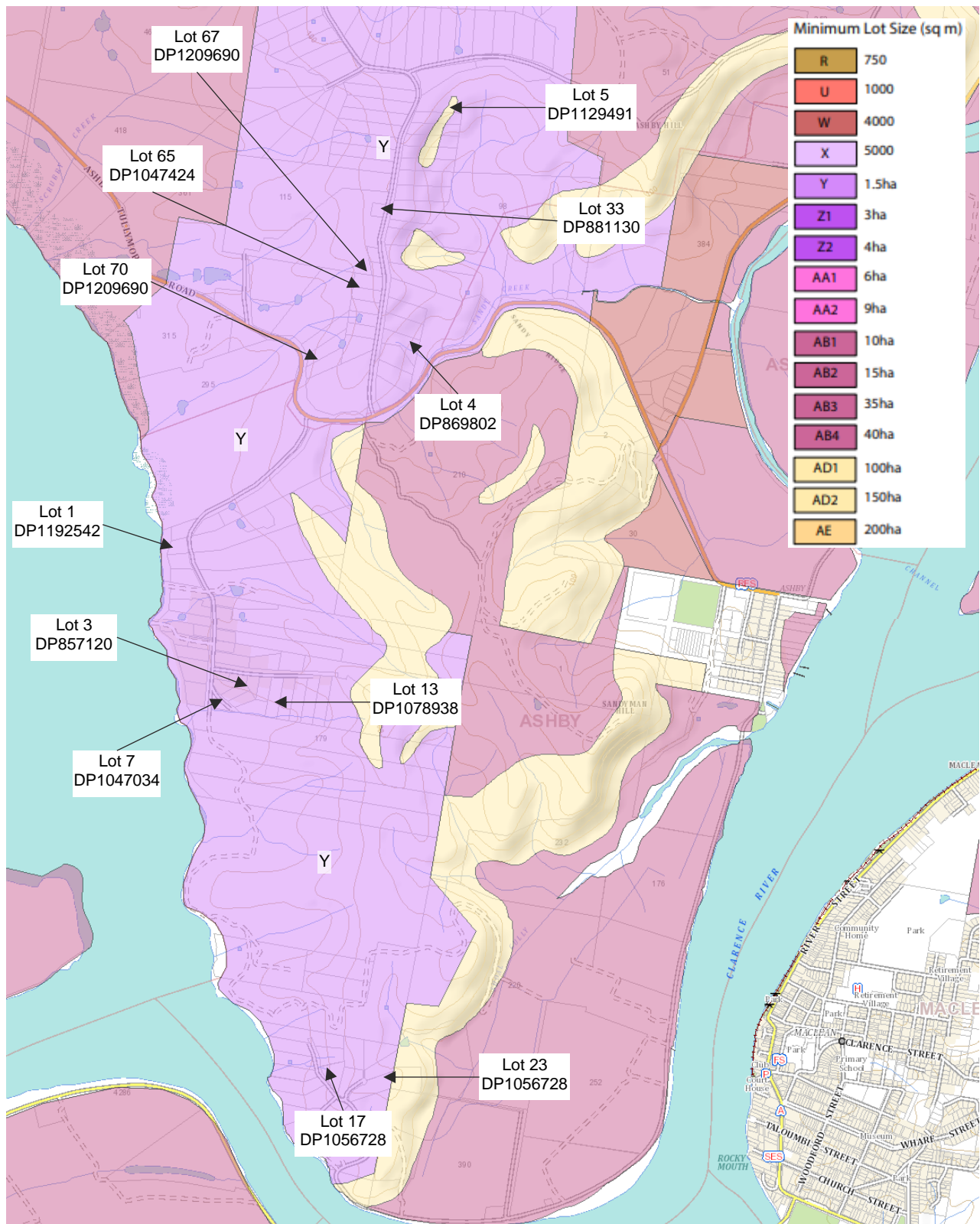
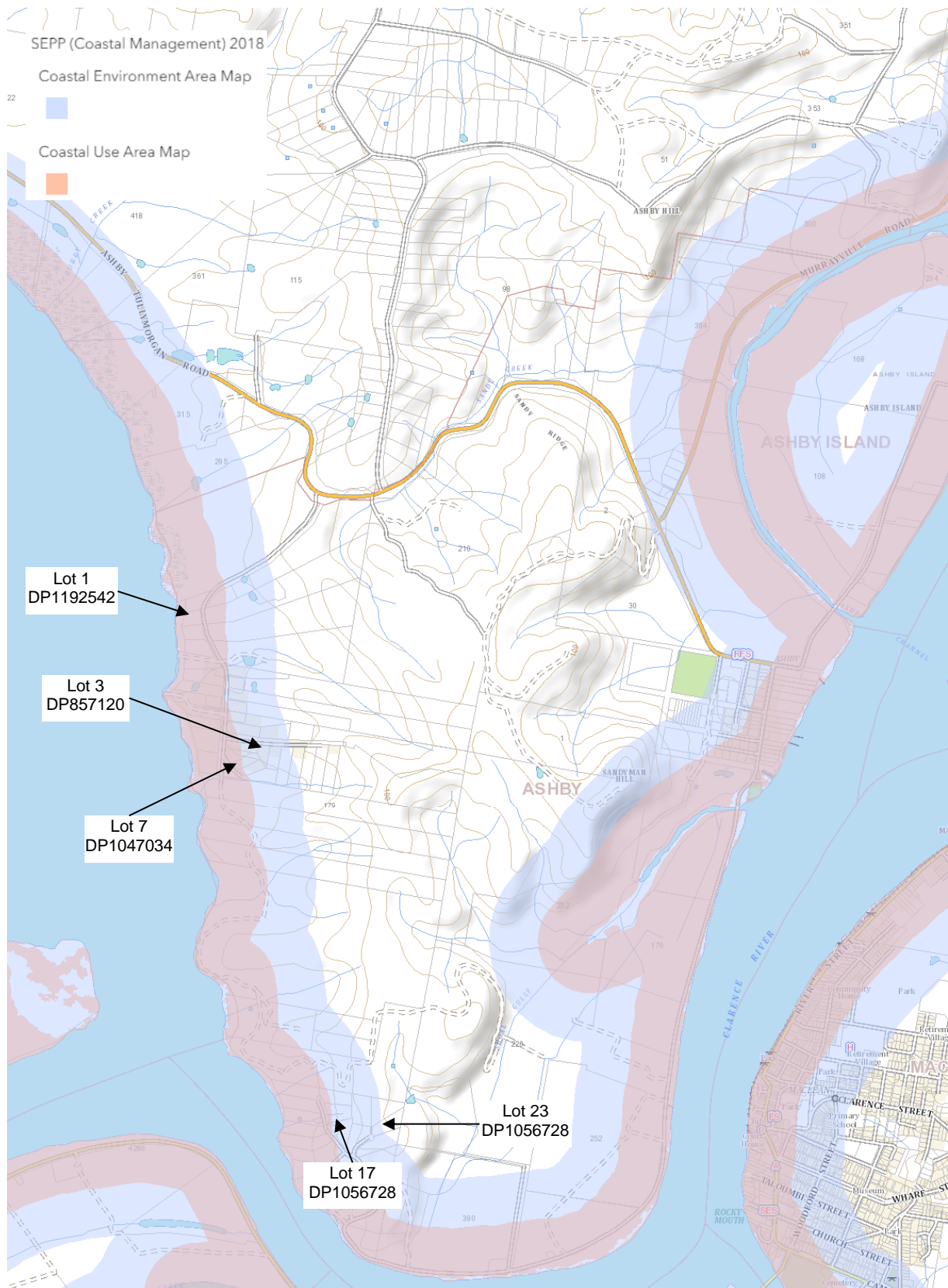


Figure 4 – Ashby and Ashby Heights – Current Minimum Lot Size





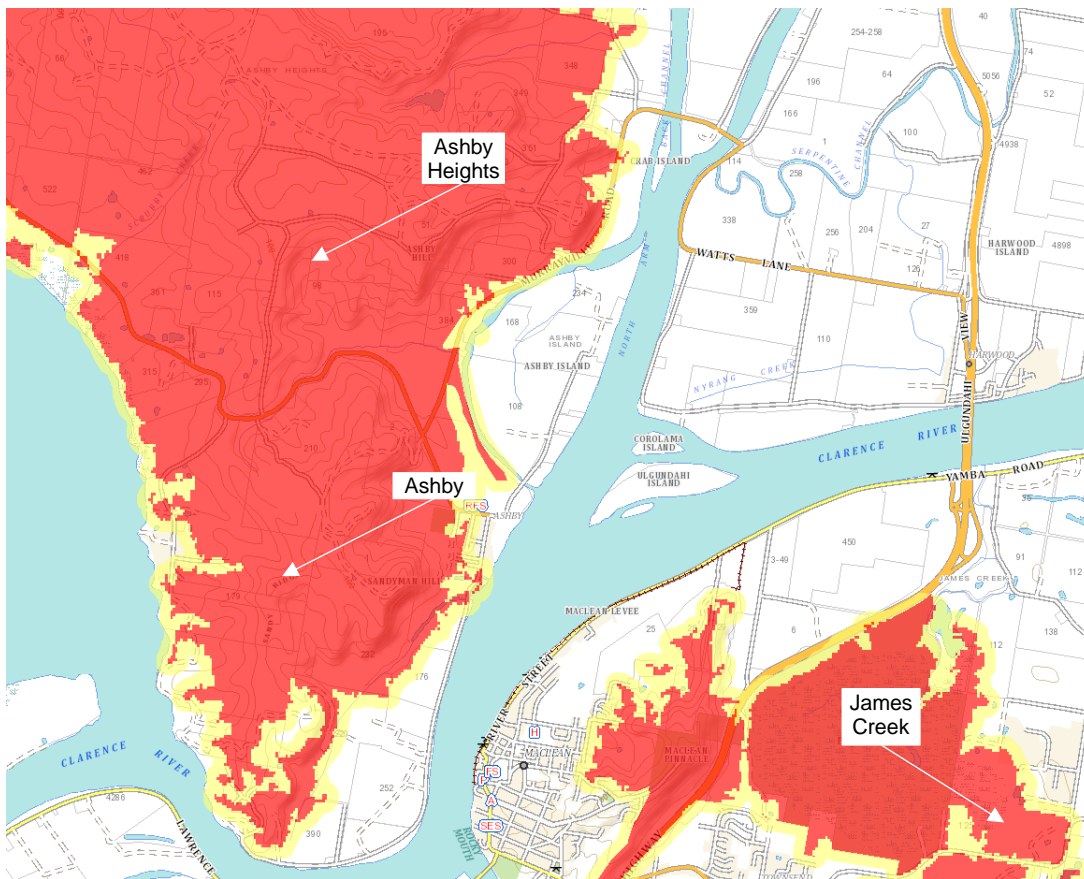


Figure 6 – Ashby Heights, Ashby and James Creek – Bushfire Prone Land

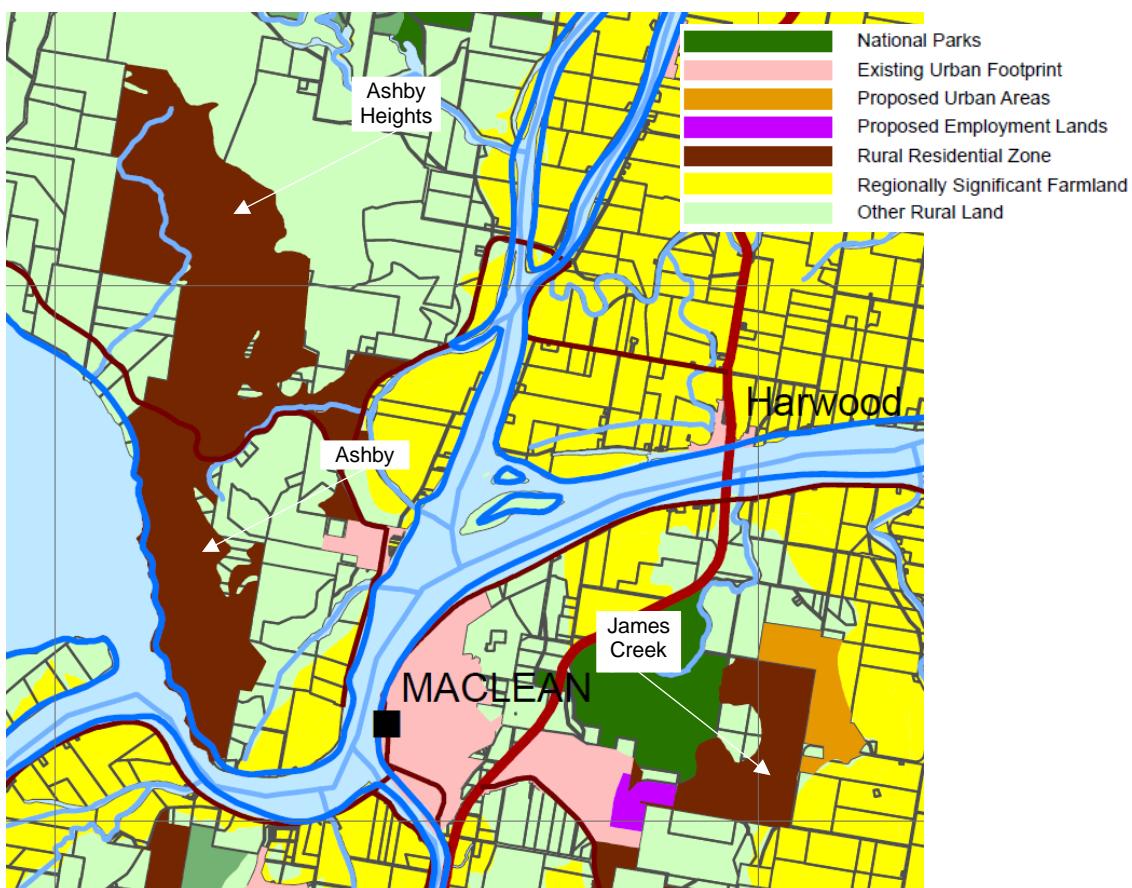


Figure 7 – Ashby, Ashby Heights and James Creek – 2008 Final Map Mid North Coast Farmland Mapping Project

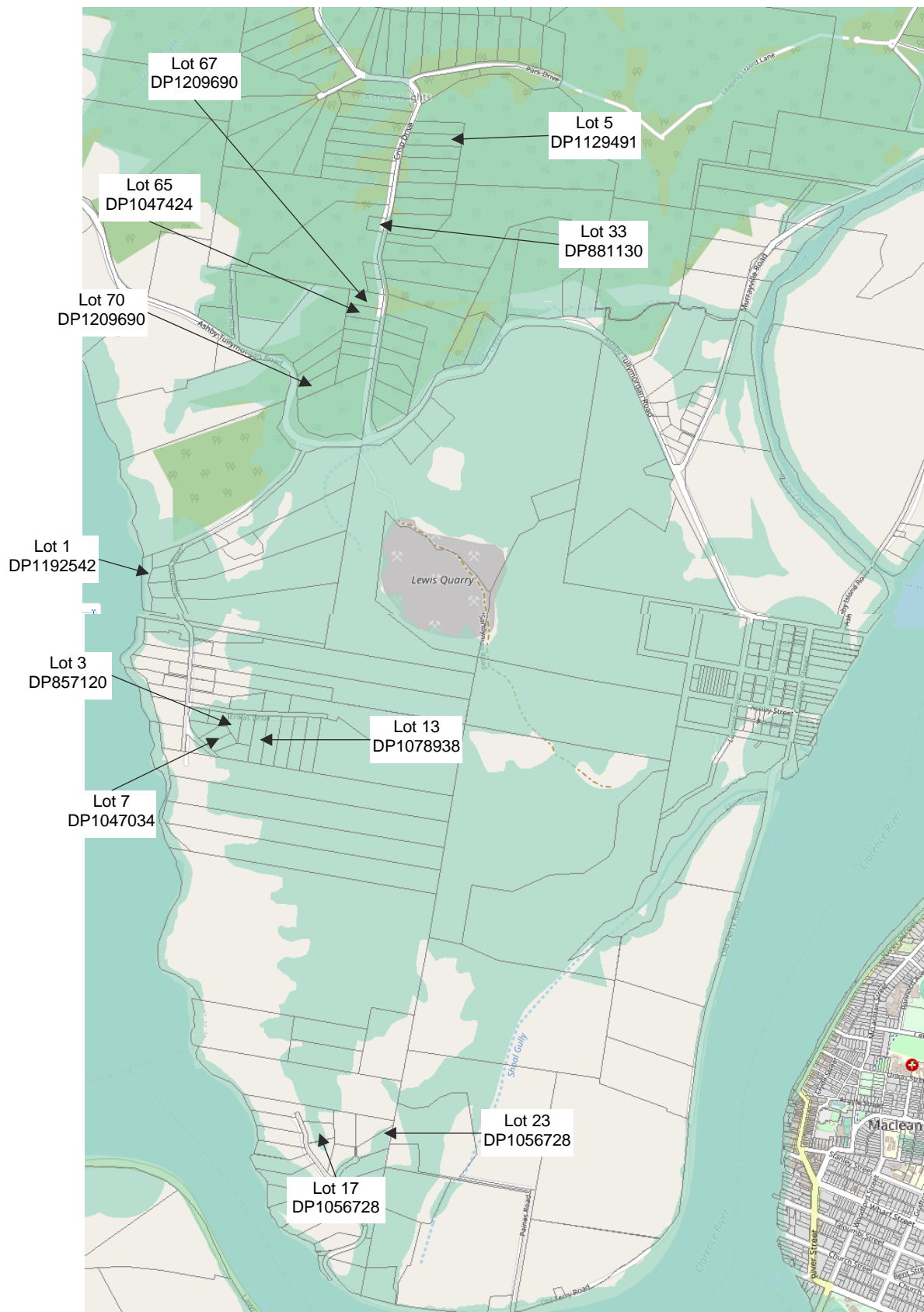


Figure 8– Ashby and Ashby Heights – Potential High Environmental Value Areas

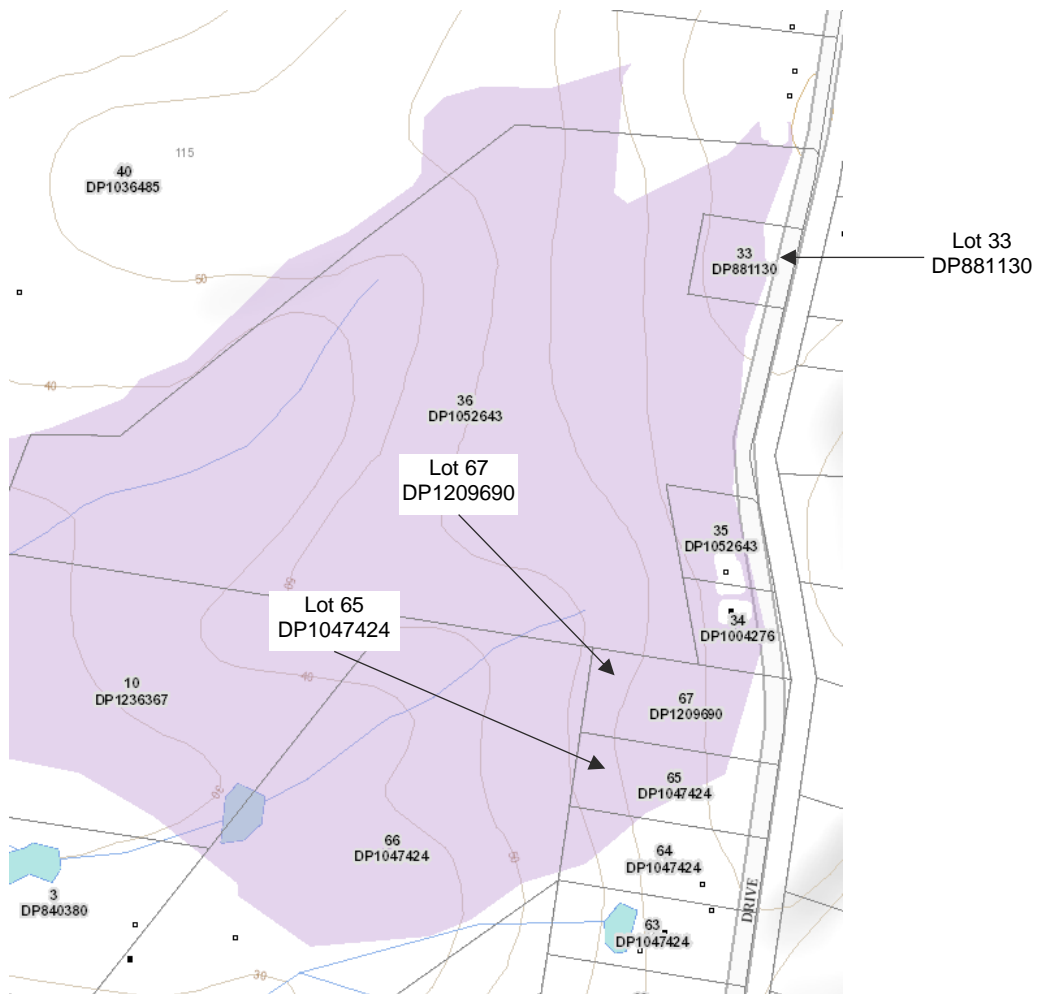


Figure 9 – Ashby Heights – Biodiversity Values Map (DPIE – Biodiversity and Conservation Division (BCD))



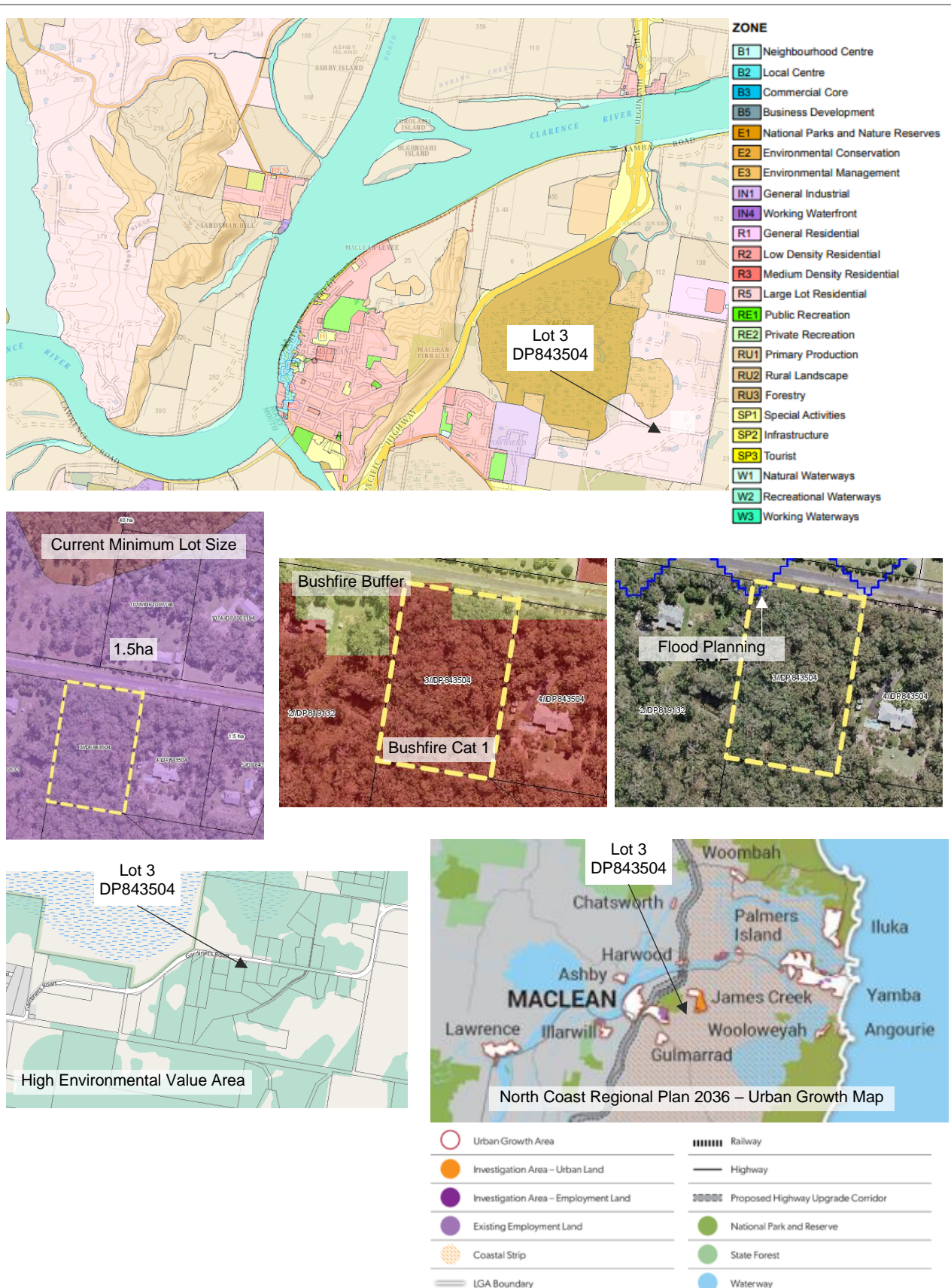


Figure 10 - Lot 3 DP843504, Gardiners Road, James Creek

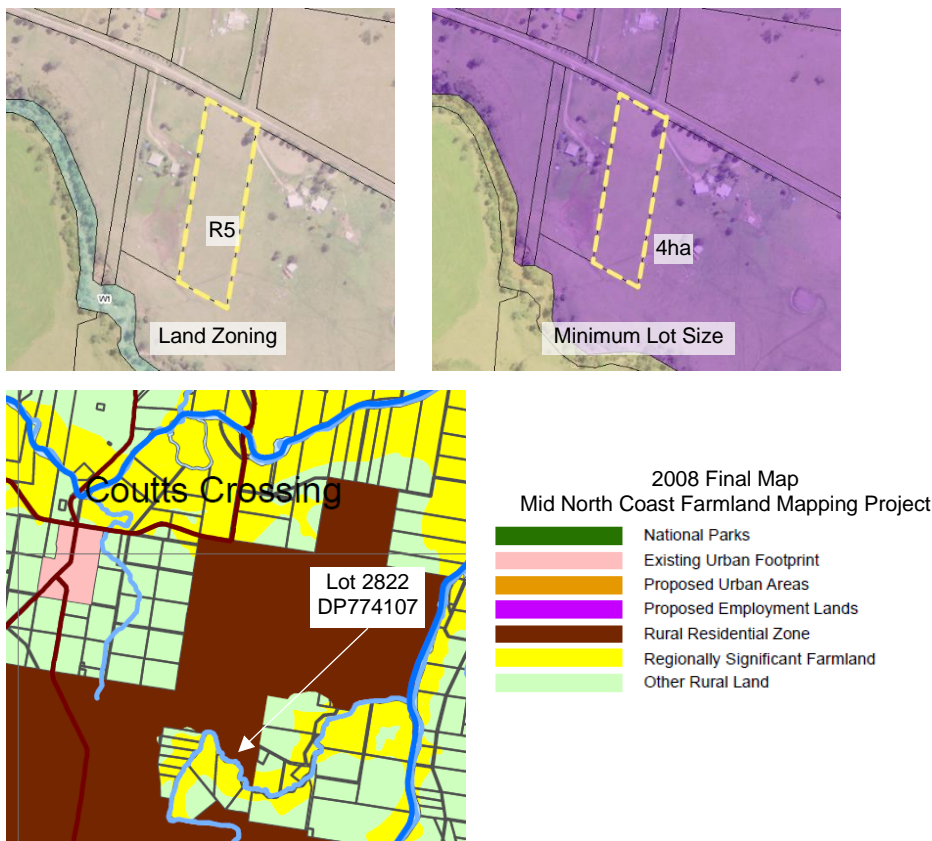


Figure 11 - Lot 2822 DP774107, 270 Lower Kangaroo Creek Road, Coutts Crossing

## 1.5 Mapping

The revised planning proposal still only includes images of the current lot size maps at Annexure A and B. The images are illegible and new maps showing the current and proposed lot size will be required for all of the lots prior to public consultation.

The revised planning proposal does not include any proposed draft maps for Mountain View Estate or Cronin Estate. Amendments prior to public exhibition were required in the original Gateway determination and are reiterated to ensure these changes are made as follows:

- Amend proposed LSZ\_007H to show Lot 132 DP 1263591 with a 2000m<sup>2</sup> minimum lot size labelled 'V1'; and
- Amend the Mountain View Estate site identification map and proposed LSZ\_007 map to include Lot 13 DP 1244553 identified with a 2500m<sup>2</sup> minimum lot size labelled 'V2' corresponding to the Mountain View Estate subject lots.

The proposal includes various proposed lot size maps throughout the proposal and as attachments identifying the additional 15 lots; however, amendments prior to public exhibition will be required as follows:

- Amend Lot 3 DP 857120, 20 Erikas Drive, Ashby, with a minimum lot size of 5000m<sup>2</sup> and labelled 'X'.
- Amend Lot 7 DP 1047034, Merle Anne Court, Ashby, with a minimum lot size of 5000m<sup>2</sup> and labelled 'X'.
- Amend Lot 33 DP 881130, 115 Crisp Drive, Ashby Heights, with a minimum lot size of 5000m<sup>2</sup> and labelled 'X'.
- Amend Lot 1 DP1192542, 90 Patemans Road, Ashby, with a minimum lot size of 5000m<sup>2</sup> and labelled 'X'.

It is noted the revised planning proposal has introduced a new minimum lot size 'Y1 – 1ha'. A consequential change will be required where the existing 'Y – 1.5ha' will be required to be 'Y2 – 1.5ha'. This will also need to be amended throughout the revised planning proposal and associated draft maps prior to public exhibition.

Maps consistent with the Standard Technical Requirements will also need to be prepared before the making of the LEP amendment.

## 1.6 Background

A Gateway determination was issued for the original planning proposal on 3 September 2020. Prior to the issue of the Gateway the Department had discussions with Council on possible options to manage any other R5 lots that could potentially be affected by Clause 4.2B(4). Council undertook some initial GIS analysis and discovered potentially another 44 lots may be affected. The Department had a meeting with Council to discuss the options available in relation to the original planning proposal. The first option was to amend Clause 4.2 to exclude R5 Large Lot Residential or secondly, add any extra lots from the R5 zone and amend the affected minimum lot size maps. After further investigations and analysis by Council they determined that 15 lots would be affected and have decided to add the additional 15 lots and amend the relevant MLS maps to the revised planning proposal.

## 2 Need for the planning proposal

The revised planning proposal is not the result of any strategic study or report.

The revised planning proposal has arisen due to the subject lots being due to lose their existing dwelling entitlements in December 2021. Clause 4.2B(4) in CVLEP 2011 states that if a development application (DA) has not been lodged 'before the date 10 years after the commencement of this Plan' (being 23 December 2021), Council is prevented from granting consent to dwelling houses on vacant lots that are less than the current minimum lot size without the use of a clause 4.6 variation and the agreement of the Department. Whilst the use of clause 4.6 has some merit it can cause uncertainty for potential purchasers of land. This approach is therefore not considered appropriate in this instance due to the zoning of the land for large lot residential purposes.

The revised planning proposal is due to further investigations by Council into R5 Large Lot Residential lots that were potentially affected by this clause. It was found that the additional 15 lots are all in the situation of potentially losing their dwelling entitlements in December 2021.

## 3 Strategic assessment

### 3.1 Regional Plan

The following table provides an assessment of the revised planning proposal against relevant aspects of the North Coast Regional Plan.

**Table 4 Regional Plan assessment**

Regional Plan Objectives	Justification
Direction 2 Enhance biodiversity, coastal and aquatic habitats, and water catchments	The revised planning proposal is inconsistent with this Direction as some of the additional subject lots contain areas of potential HEV and are within the Coastal SEPP 2018 Coastal Environment and Coastal Use areas. This is considered to be of minor significance as the subject lots are part of an already approved rural residential area and have been identified in the Mid North Coast Farmland Mapping Project 2008 as a proposed urban or rural residential area.
Direction 24 Deliver well planned rural residential housing areas	The revised planning proposal is inconsistent with this Direction as Lot 3 DP 843504, Gardiners Road, James Creek is within the sensitive coastal strip (Figure 10). This is considered to be of minor significance as the lot is only a small area (1ha) and is in an already approved rural residential area which has also been identified in the Mid North Coast Farmland Mapping Project 2008. The remaining subject lots are also all planned and approved rural residential areas.

## 3.2 Section 9.1 Ministerial Directions

The revised planning proposal's consistency with relevant section 9.1 Directions is discussed below:

**Table 7 9.1 Ministerial Direction assessment**

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
2.2 Coastal Management	Justifiably inconsistent	<p>The revised planning proposal is inconsistent with this Direction as it includes land mapped in the State Environmental Planning Policy (Coastal Management) 2018 and does not include provisions which give effect to the objectives of the <i>Coastal Management Act 2016</i>, NSW Coastal Management Manual, the NSW Coastal Design Guidelines 2003 and any coastal management program or coastal zone management plan that applies to the land.</p> <p>The inconsistency is considered to be of minor significance as the revised planning proposal only affects lots that are already existing and approved and the SEPP contains appropriate provisions that allow this issue to be adequately addressed if necessary, at the development application stage.</p>
4.1 Acid Sulfate Soils	Justifiably inconsistent	<p>The revised planning proposal is inconsistent with this Direction as Lot 132 DP 1263591 in the Cronin Estate and various lots identified in Table 4 contain acid sulfate soils and are not supported by an acid sulfate soils study.</p> <p>The inconsistency is considered to be of minor significance as CVLEP 2011 contains existing provisions (Clause 7.1) that allow this matter to be adequately addressed at the development application stage.</p>



Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
4.3 Flood Prone Land	Justifiably inconsistent	<p>The revised planning proposal is inconsistent with this Direction as it permits the development of flood prone land at Lot 132 DP 1263591 Cronin Estate and various lots identified in Table 4.</p> <p>The inconsistency is considered to be of minor significance as a dwelling can currently be considered on the land until December 2021 and CVLEP 2011 contains existing provisions that allow this matter to be adequately addressed at the development application stage.</p>
4.4 Planning for Bushfire Protection	Unresolved	<p>This Direction applies as the revised planning proposal affects land that is identified as being bushfire prone. The Direction requires the RPA to consult with the Commissioner of the NSW Rural Fire Service after a Gateway Determination has been issued and prior to community consultation.</p> <p>Consistency with this Direction will remain unresolved until consultation has been undertaken.</p>
5.10 Implementation of Regional Plans	Justifiably inconsistent	<p>The revised planning proposal is considered to be justifiably inconsistent with the Regional Plan as discussed above and therefore of minor significance.</p>

### 3.3 State environmental planning policies (SEPPs)

The revised planning proposal is consistent with all relevant SEPPs as discussed in the table below.

**Table 8 Assessment of the revised planning proposal against relevant SEPPs**

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
Coastal SEPP 2018	The revised planning proposal includes Lots identified in Table 4 as having either Coastal Environment and/or Coastal Use Areas.	No – Justifiably inconsistent	As discussed above under Direction 2.2

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
Koala SEPP 2021	The Koala SEPP 2021 is relevant to the revised planning proposal as Clarence Valley is listed in Schedule 1 of the SEPP.	Consistent	<p>The revised planning proposal does not discuss the Koala SEPP 2021. It does not however propose to remove any trees or approve development, rather ensure that a dwelling entitlement is retained.</p> <p>Clarence Valley Council has a KPoM (not approved by the Department) for the Ashby and Ashby Heights area (Figure 12) which has building envelopes identified for development (Figure 13) otherwise requiring rigorous assessment at the DA stage.</p> <p>The revised planning proposal is therefore considered consistent with the SEPP.</p>
SEPP Vegetation in Non-Rural Areas 2017	This SEPP applies as the revised planning proposal has land identified in Clause 5, R5 Large Lot Residential.	No – Justifiably inconsistent	<p>There is considerable potential for further clearing of native vegetation if or when a development application for a new dwelling is granted.</p> <p>The revised planning proposal is not enabling further clearing at this point, rather ensuring a dwelling entitlement is retained. The SEPP will, however, need to be specifically considered when assessing any applications at the DA stage for a new dwelling.</p>

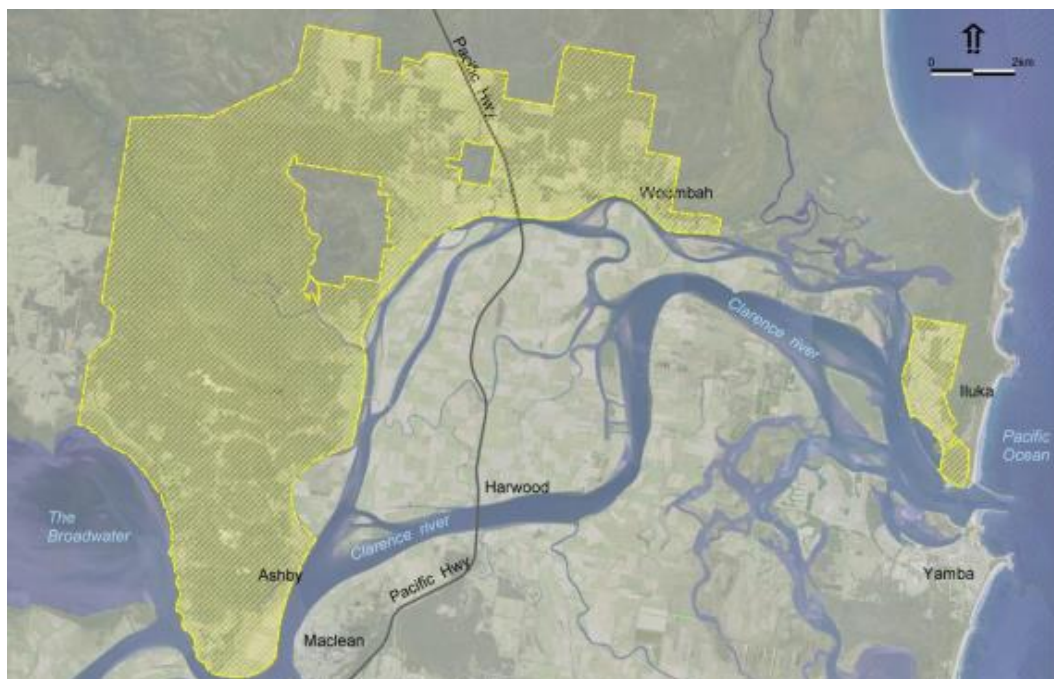


Figure 12 – Clarence Valley Comprehensive Koala Plan of Management – Land to which the KPoM applies



Figure 13 – Clarence Valley Comprehensive Koala Plan of Management – Ashby Building Envelopes

## 4 Site-specific assessment

### 4.1 Environmental

There is no known critical habitat or threatened species, populations or ecological communities or their habitats currently identified on the individual subject lots in the revised planning proposal.

The following table provides an assessment of the potential environmental impacts associated with the revised planning proposal.

**Table 9 Environmental impact assessment**

Environmental Impact	Assessment
Coastal Environment Area	As discussed above under Direction 2.2, the revised planning proposal has five lots that are within Coastal Environment and/or Coastal Use areas. The SEPP contains appropriate provisions to allow this issue to be adequately addressed if necessary, at the development application stage, it is considered the impacts are minor in nature.
Koalas	As discussed above under Section 3.3, Clarence Valley is listed in Schedule 1 of the Koala SEPP 2021 and has a KPOM for the Ashby and Ashby Heights areas, also identifying building envelopes for any future dwellings at the development application stage. This can be adequately addressed if necessary, at the development application stage, it is considered the impacts are minor in nature.
Acid Sulfate Soils	The revised planning proposal identifies lots that have Acid Sulfate Soils. As discussed above under Direction 4.1, the CVLEP 2011 contains existing provisions for the adequate assessment of this issue at the development application stage.
Flooding	The revised planning proposal identifies lots that have flood affected lots. As discussed above under Direction 4.3, the CVLEP 2011 contains existing provisions for the adequate assessment of this issue at the development application stage.
Bushfire	<p>The revised planning proposal identifies lots in the Ashby, Ashby Heights and James Creek areas that are all categorised as having Vegetation Category 1 and/or buffer areas (Table 4). As discussed above under Direction 4.4, consultation is required with the NSW Rural Fire Service (RFS).</p> <p>Further consideration will also be required in the design and building materials for construction of future dwellings, especially in light of the recent 2019/2020 bushfires which had a substantial and devastating effect in this area.</p>

## 4.2 Social and economic

It is considered that there will be positive social impacts by permitting the land identified in the proposal to be used consistent with the already approved and surrounding land use.

## 4.3 Infrastructure

The revised planning proposal states all lots identified have sealed road access, power, water and telecommunications available and Council approved on-site wastewater management systems are required for all dwellings.

# 5 Consultation

## 5.1 Community

Community consultation in relation to the original planning proposal in accordance with condition 2 of the Gateway determination has not yet occurred. It is considered that the community consultation that will take place under condition 2 of the Gateway determination is sufficient and that no further or different community consultation is required.



## 5.2 Agencies

It is recommended Council consult with the NSW Rural Fire Service on the revised planning proposal.

## 6 Timeframe – request for extension of time

The Gateway determination required that the local environmental plan (LEP) be finalised in nine months from the date of the Gateway determination expiring on 3 June 2021.

Council has requested that the period to complete the LEP be extended.

The delay in meeting this Gateway determination time frame has arisen due to Council undertaking a detailed review of other R5 Large Lot Residential areas that would otherwise lose their dwelling entitlement under Clause 4.2B of the Clarence Valley LEP 2011 in December 2021.

It is considered that the date be extended by a further six months to 3 December 2021 to allow time for community consultation to take place and an adequate period for completion.

## 7 Assessment summary

The revised planning proposal is supported to proceed with conditions as it is considered the best way to facilitate the subject lots retaining their existing dwelling entitlements under the CLLEP 2011 beyond December 2021.

Based on the assessment outlined in this report, the proposal must be updated before consultation to:

- Amend proposed LSZ\_007H to show Lot 132 DP 1263591 with a 2000m<sup>2</sup> minimum lot size labelled 'V1';
- Amend the Mountain View Estate site identification map and proposed LSZ\_007 map to include Lot 13 DP 1244553 identified with a 2500m<sup>2</sup> minimum lot size labelled 'V2' corresponding to the Mountain View Estate subject lots;
- Amend Lot 3 DP 857120, 20 Erikas Drive, Ashby, with a minimum lot size of 5000m<sup>2</sup> and labelled 'X';
- Amend Lot 7 DP 1047034, Merle Anne Court, Ashby, with a minimum lot size of 5000m<sup>2</sup> and labelled 'X';
- Amend Lot 33 DP 881130, 115 Crisp Drive, Ashby Heights, with a minimum lot size of 5000m<sup>2</sup> and labelled 'X';
- Amend Lot 1 DP 1192542, 90 Patemans Road, Ashby, with a minimum lot size of 5000m<sup>2</sup> and labelled 'X';
- Amend '2. Part 2: Explanation of Provision (i)' to include a 2500m<sup>2</sup> minimum lot size for the lots in the Mountain View Estate to prevent any further subdivision;
- Amend '2. Part 2: Explanation of Provision (ii)' to replace 'subject land' with 'Lot 132 DP 1263591';
- Amend the minimum lot size 'Y – 1.5ha' to 'Y2 – 1.5ha' wherever it appears in the revised planning proposal and associated maps;
- Update the project timeline to accurately reflect the Gateway determination, Gateway alteration and expected completion date and
- Include new legible current and proposed lot size maps for all the subject lots at Appendix A of the revised planning proposal.

## 8 Recommendation

It is recommended that the Director, as delegate of the Minister:

1. **Agree** under section 3.34(7) of the *Environmental Planning and Assessment Act 1979* (the Act) to alter the Gateway determination for planning proposal no. PP\_2020\_CLARE\_003\_00 (PP-2020-3165) in accordance with the Alteration of Gateway determination document (**Attachment A**), which in summary involves:
  - a. An extension of the completion date by six months to 3 December 2021;
  - b. including an additional 15 R5 Large Lot Residential lots to facilitate the retention of existing dwelling entitlements beyond the sunset clause 4.2B(4) expiration of 23 December 2021;
2. **Agree** that the community consultation requirements in condition 2 of the Gateway determination (which has not yet been met) are sufficient and that no further or different community consultation is required.
3. **Sign** the Alteration of Gateway determination (**Attachment A**).
4. **Sign** the letter to Clarence Valley Council (**Attachment B**).



12/7/21

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

Craig Diss  
Manager, Local and Regional Planning  
Northern Region



13/7/2021

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

Jeremy Gray  
Director, Northern Region  
Local and Regional Planning

### Assessment officer

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