

THE PLANNING PROPOSAL

Pursuant to Section 55(1) of the Environmental Planning and Assessment Act 1979 (EP&A Act), a planning proposal must be prepared before a draft LEP amendment is made. The proposal must explain the intended effect of the draft LEP amendment and provide justification for the amendment. The proposal must address those matters identified by Section 55(2) of the EP&A Act, which are considered below. Council must then determine whether or not to proceed with the proposal.

A statement of the objectives or intended outcomes of the proposed instrument

The objective of the proposed LEP amendment is as follows:

- To rectify minor errors identified in Bellingen Local Environmental Plan 2010.

An explanation of the provisions that are to be included in the proposed instrument

There are 3 main areas of amendment proposed to the LEP and these will be discussed in turn.

1. Schedule 5 – Environmental Heritage

Following the gazettal of BLEP 2010 and the discovery of a number of minor errors in Schedule 5 – Environmental Heritage, a desk top review of this schedule and the accompanying map series was undertaken to determine whether other discrepancies existed in this schedule. It should be noted that the review focused upon checking that properties are correctly described and that the shading of the property on the map series correctly identifies the property upon which the heritage item is located. The review did not involve a systematic re-inspection or ground truthing of the existence of items on the identified properties, however where a significant anomaly was identified, this may have taken place in order to adequately resolve the matter.

Unfortunately, this review has determined that there are a significant number of errors that will need to be fixed to ensure that all listed items are both correctly described as well as correctly depicted on the accompanying map series. The degree of error appears to be a function of various factors including;

- An early re-formatting of Schedule 5 whereby Lot and DP descriptions were translated from one form of description to another (eg: instead of describing an item as 1/2/755553 the amended description was depicted as Lot 1 Section 2 DP 755553). This appears to have resulted in a range of errors in description such as incorrect section numbers.
- Error in the process of correctly describing the property upon which an item is located.
- Staff changes and the splitting of the task amongst numerous Officers rather than a single Officer being responsible for checking and updating of the Schedule.
- The fact that the heritage schedule had to be reformatted 3 times over the course of the LEP due to changes in the DoP's required format.

- Amendments made to Schedule 5 by DoP after the final document was forwarded for gazettal by Council.

A significant number of the identified discrepancies relate to minor mapping anomalies whereby only part of an affected property rather than the whole of the lot has been shaded on the map series. While the maps still identify the portion of the property upon which the item is located correctly they do not conform to the Department's standard mapping guidelines and require rectification as part of this process. It is also noted that for many of the errors only a part of the identifying information is incorrect (eg: address) however the remaining forms of identification remain correct (eg: Lot & DP, map shading).

Where additional properties need to be noted as part of the land containing a heritage item, this will only take place where the error in the final description or mapping is minor in consequence and the property owners were notified of a proposed heritage listing as part of the public exhibition of the Draft BLEP 2009 (or it was discussed with them and agreed as part of the original process of gazettal).

2. Natural Resources Sensitivity Map – Biodiversity

Following the gazettal of BLEP 2010, Council became aware of land that is incorrectly identified as "Sensitive land" on the Natural Resource Sensitivity - Biodiversity maps. This error took place following Council's forwarding of the final maps to DoP who have advised as follows with respect to these errors:

"The Department has discovered that the errors, which identify additional areas of "Sensitive land", inadvertently occurred when the Department amended the formatting of the plans in response to comments from Parliamentary Counsel's Office, shortly before the plan was made.

Unfortunately these errors were replicated on the maps which were signed by the Minister when the plan was made. Consequently, in order to rectify this matter, it will be necessary to formally amend Bellingen LEP 2010 by submitting a planning proposal."

The mapping errors involve the insertion of multiple triangular polygons in random locations throughout the Shire. The effect of the shading is to require consideration of the provisions of Clause 7.5 – Biodiversity in the assessment of Development Applications on this land. If the land is not vegetated then the clause is easily complied with.

There is also a need to amend the Map Cover Sheet for BLEP 2010 to delete reference to "Natural Resources Sensitivity – Vegetation Map" and replace with "Natural Resources Sensitivity – Biodiversity Map".

3. Other minor errors and anomalies

The remaining amendments involve matters such as;

- Updating Lot & DP numbers due to recent subdivisions.
- Deleting a duplicated item in Schedule 1.

These matters are minor in consequence.

The actual amendments that are proposed to BLEP 2010 are detailed in the following schedule. This is separated into two sections. Section 1 describes those amendments that require an amendment to the gazetted map series. Relevant

properties are identified on the map series titled “Planning Proposal No. 3 – Mapping Amendments.”

Section 2 contains only those matters that require rectification in the written document.

Schedule of Amendments

Section 1- Amendments that involve Mapping Amendments

<u>BLEP 2010 Provision</u>	<u>Map Amendment No</u>	<u>Issue</u>
Schedule 5 I107	1	Amend mapping to add shading to road reserve fronting highlighted lots as per description.
Mapping	7	Amend mapping to rectify multiple errors on gazetted “Natural Resources Sensitivity– Biodiversity” map involving insertion of triangular polygons in random locations. Errors have occurred post referral of maps to DoP.
Mapping		Amend Map Cover Sheet to delete reference to “Natural Resources Sensitivity – Vegetation Map” and replace with “Natural Resources Sensitivity – Biodiversity Map”
Schedule 5 I264	8	Amend mapping to delete I263 reference and replace with I264.
Schedule 5 I201	9	Delete shading on map. Item was incorrectly notified as being on Lot 1 DP 1061496 when it is in fact located on Lot 2 DP 1061496. As property owners not notified, consider inclusion in future LEP subject to appropriate opportunity being provided to owners to comment.
Schedule 5 A25	10	Amend mapping to ensure shading covers entire Lot 1 DP 587826.
Schedule 5 I189	11	Amend mapping to ensure shading covers entire Lot 1 DP 787710
Schedule 5 I156	12	Amend mapping to ensure shading covers entire Lot 1 DP 855445
Schedule 5 I199	13	Amend mapping to ensure shading covers entire Lot 1 DP 568240
Schedule 5 I200	14	Amend mapping to ensure shading covers entire Lot 1 DP 568240
Schedule 5 I172	15	Amend mapping to ensure shading covers entire Lot 10 DP 752813
Schedule 5 I171	16	Amend mapping to ensure shading covers entire Lot 10 DP 752813 & Lot 4 DP 731296.
Schedule 5 I224	17	Amend mapping to ensure shading covers entire Lot 102 DP 755557
Schedule 5 I193	18	Amend mapping to ensure shading covers entire Lot 12 DP 714172
Schedule 5 I178	19	Amend mapping to ensure shading covers entire Lot 166 DP 752813
Schedule 5 I184	20	Amend mapping to ensure shading covers entire Lot 19 DP 755557
Schedule 5 I192	21	Amend mapping to ensure shading covers entire Lot 2 DP 841561
Schedule 5 I206	22	Amend mapping to ensure shading covers entire Lot 20 DP 752830
Schedule 5 I205	23	Amend mapping to ensure shading covers entire Lot 2 DP 786071

Schedule 5 A84	24	Amend mapping to ensure shading covers entire Lot 21 DP 617535.
Schedule 5 A23	25	Amend mapping to ensure shading covers entire Lot 3 DP 606717.
Schedule A78	26	Amend mapping to ensure shading covers entire Lot 5 DP 862962
Schedule 5 A11	27	Amend mapping to ensure shading covers entire Lot 50 DP 1068329.
Schedule 5 A85	28	Amend mapping to ensure shading covers entire Lot 6 DP 862962.
Schedule 5 I195	29	Amend mapping to ensure shading covers entire Lot 67 DP 605867
Schedule 5 I203	30	Amend mapping to ensure shading covers entire Lot 7013 DP 1053493.
Schedule 5 I241	31	Amend mapping to ensure shading covers entire Lots 1 & 2 DP 595742
Schedule 5 I59	32	Amend mapping to ensure shading covers whole of Lot 25 and to remove shading partly on Lot 26 DP 539695.
Schedule 5 I97	33	Amend mapping to ensure shading covers whole of Lot 4 DP 806232
Schedule 5 I82	34	Amend mapping to ensure shading covers whole of Lot 41 DP 856960
Schedule 5 I83	35	Amend mapping to ensure shading covers whole of Lot 41 DP 856960
Schedule 5 A11	36	Remove A11 notation from Lot 2 DP 367046.
Schedule 5 I79	37	Amend mapping to ensure shading covers whole of Lot 51 DP 881627
Schedule 5 I80	38	Amend mapping to ensure shading covers whole of Lot 51 DP 881627
Schedule 5 I64	39	Amend mapping to ensure shading covers whole of Lot 7 DP 810520, remove shading off Road Reserve
Schedule 5 I117	40	Amend mapping to exclude sections on Lots 7004 DP 1117572, Lot 7304 DP 1139352 and portion on Lot 7003.
Schedule 5 I92	41	Amend mapping to only include shading on Lot 2 DP 367046 (ie: remove from Lot 50 DP 1068329).
Schedule 5 I188	42	Amend mapping to remove I188 designation from Lot 401 DP 1042652 and place on Lot 19 DP 755557.
Schedule 5 I186	43	Amend mapping to ensure shading covers whole of Lot 401 DP 1042652
Schedule 5 A83	44	Amend mapping to remove shading from adjoining Lot 262 DP 755553
Schedule 5 I118	45	Incorrect address. Replace "441" with "460". Amend mapping to ensure I118 label points to "461" as well as "460".
Schedule 5 I100	46	Inadequate property description Insert Lots 1-3 DP 1085422. Amend mapping to remove map shading from Lot A DP 913988 & Lot 10 DP 1073931 as per Council resolution.
Schedule 5 I164	47	Inadequate property description and address. Amend as follows Address – Vine St

		Property Description – L&DP as is + “adjacent road reserve” Amend mapping to ensure shading covers entire Lot 701 DP 561055. Amend mapping to stop road reserve shading at sth boundary of Lot 701 DP 561055.
Schedule 5 I98	48	Inadequate property description. Lot 161 DP 755557 to be re-described as Part 161 DP 755557. Amend mapping to ensure shading covers entire Lot 4 DP 806232 and Part 161 DP 755557.
Schedule 5 I204	49	Inadequate property description. Insert Lot 7302 DP 1135449. Amend mapping to ensure shading covers entire Lot 7302 DP 1135449.
Schedule 5 I244	50	Incorrect property description. Delete Lot 7002 DP 1056511 & Lot 228 DP 755552. Replace with; Lot 220 DP 755552 Lot 7038 DP 1095565 Lot 7004 DP 1056496 Amend Mapping and CV to only shade these lots.
Schedule 5 I246	51	Amend mapping to ensure shading covers whole of Lot 274 DP 1006575
Schedule 5 A62	52	Inadequate property description. Amend property description to include; Lot A DP 952167 and North Coast Railway Bellinger River River Crossing. Amend mapping to shade entire Lot A DP 952167.
Schedule 5 A66	53	Incorrect Item Name; Replace “Workers cottages, Thora Timber Mill” with “Site of Thora Timber Mill (former)”. Incorrect Address & Incorrect Lot & DP. Replace “2651” with “2561” and replace “Lot 1 DP 215328” with “Lot 1 DP 392813”. Amend mapping to ensure that only Lot 1 DP 392813 is shaded for an Archaeological site.
Schedule 5 I96	54	Incorrect Lot & DP. Delete Lot 23 DP 755557 and replace with Lot 10 DP 1115257. (update) Amend mapping to ensure shading covers whole of Lot 10 DP 1115257.
Schedule 5 I95	55	Incorrect Lot & DP. Delete Lot 264 DP 755557 and replace with Lot 10 DP 1115257.

		(update) Amend mapping to ensure shading covers whole of Lot 10 DP 1115257.
Schedule 5 I227	56	Incorrect Lot & DP. Replace Lots & DPs as follows; "Riverbank between Lot 20 DP 856553 and Lot 102 DP 755557. Amend mapping to delete I232 Label from this item.
Schedule 5 I258	57	Incorrect Lot & DP. Delete Lot 7021 DP 1107439 and replace with Lot 7054 DP 1095753 & Lot 7049 DP 1095560. Amend mapping to shade whole lots.
Schedule 5 I262	58	Incorrect Lot & DP. Replace lot 5 DP 788643 with Lot 102 DP 1134065. Amend mapping to shade whole lot.
Schedule 5 A33	59	Incorrect Lot & DP. Replace lot 2 DP 571708 with Lot 1 DP 1150825. Amend mapping to remove shading from Lot 2.
Schedule 5 A79	60	Incorrect Lot & DP. Replace "Lot 2 DP 707763" with "Lot 1 DP 1119378". Amend mapping to ensure shading covers entire Lot 1 DP 1119378.
Schedule 5 A80	61	Incorrect Lot & DP. Replace "Lot 2 DP 707763" with "Lot 1 DP 1119378". Amend mapping to ensure shading covers entire Lot 1 DP 1119378.
Schedule 5 A81	62	Incorrect Lot & DP. Replace "Lot 2 DP 707763" with "Lot 1 DP 1119378". Amend mapping to ensure shading covers entire Lot 1 DP 1119378.
Schedule 5 A82	63	Incorrect Lot & DP. Replace "Lot 2 DP 707763" with "Lot 1 DP 1119378". Amend mapping to ensure shading covers entire Lot 1 DP 1119378.
Schedule 5 A74	64	Incorrect Lot & DP. Replace Lot "260" with "259". Amend mapping to shade correct lot.
Schedule 5 I145	65	Delete whole listing. Amend map to remove shading from 82 - 88 Hickory Street (Trees removed from site)
Schedule 5 A2 & A6	66	Inadequate address & property description. Replace current descriptions with; Address: Bridge St, Bellinger River Property Description: Bridge Street road reserve, Bellinger River, Lot 2 Sec D DP 8086.

		Amend mapping to shade whole of Lot 2 Sec D DP 8086.
Schedule 5 A19	68	Amend mapping to ensure shading covers whole of Lot 112 DP 198512.

Section 2- Amendments that involve changes to Written Instrument only

Schedule 1 – Item 9	Delete. Covered by Item 10.
Schedule 1 –	Renumber Items following deletion of Item 9.
Schedule 5 A64	Inadequate property description Add “North Coast Railway”
Schedule 5 A7	Inadequate property description and address. Replace with Address: Ford Street road reserve and Crown Reserve 45826. Property Description: Lot & DP as is + “Ford Street Road Reserve”
Schedule 5 I22	Inadequate property description. Include Lot 2 Section 3 DP 11100 as well.
Schedule 5 I108	Inadequate property description. Add additional property to inventory. Should include Lot 8A DP 23405 in addition to Lot 8.
Schedule 5 I191	Inadequate property description. Insert Lot & DP description. Lot 1 DP 1151880
Schedule 5 I247	Inadequate property description. Add additional Lot & DP. ie: Lot 269 DP 821646.
Schedule 5 I248	Inadequate property description. Correct the property description to refer only to the Bonville St road reserve and delete reference to a Lot & DP.
Schedule 5 I251	Inadequate property description. Add to Property Description; “Ti Tree Street Road Reserve”
Schedule 5 I14	Incorrect address. Includes an item at 5 Coronation St therefore amend address details to be 5-34 Coronation St Include 6 Coronation St as well (ie: Lot 5 DP 1009764)
Schedule 5 I40 & I41	Incorrect address. Replace 45-49 Hyde St with 45-59 Hyde St
Schedule 5 I154	Incorrect address. Put “1” in front of Parkes St to ensure correct address.
Schedule 5 I252	Incorrect address. Correct addresses as follows. 34, 36 & 40 High Street 37 Pilot St
Schedule 5 A13	Incorrect address. Replace “441” with “460”
Schedule 5 A14 & A15	Incorrect address.

	Replace "441" with "461"
Schedule 5 A65	Incorrect address; replace "2237" with "2233"
Schedule 5 I209	Incorrect addresses. Replace with 642-646 Tyringham Road
Schedule 5 A65, A67 & A68	Incorrect Item Name; Replace "Willis" with Wills".
Schedule 5 I158	Incorrect Lot & DP and address. Delete all except 300 Tyringham Rd, Lot 11 DP 1022079. Mapping is correct.
Schedule 5 I217	Incorrect Lot & DP and address. Replace with 835 North Bank Road and Lot 3 DP 755553.
Schedule 5 I235	Incorrect property description. Delete Lot and DP No. Amend address as follows; Bailey Street road reserve adjacent to 17 Repton Road. Property Description should be "Bailey St Road Reserve"
Schedule 5 I237	Incorrect Lot & DP and Incorrect address. Replace "Lot 504 DP755553" with "Lot 1 DP 304292" Replace "Woodward St south" with "167 Mylestom Drive"
Schedule 1 – Item 2	Incorrect Lot & DP. Should be Lots 72–79, DP 785443
Schedule 1 – Item 6	Incorrect Lot & DP. Update to Lots 101 & 103 DP 1134065
Schedule 5 I12	Incorrect Lot & DP. Delete Part Lot 123 DP 755557 and update with Lot 1 DP 1152066.
Schedule 5 I13	Incorrect Lot & DP. Replace Lot 5 DP 109764 with Lot 5 DP 1009764
Schedule 5 I24	Incorrect Lot & DP. Replace Section 3 with Section 4; ie: Lot 17 Section 4 DP 11100
Schedule 5 I29	Incorrect Lot & DP. Needs to include "Section 2" between Lot 13 DP 11100
Schedule 5 I66	Incorrect Lot & DP. Needs to be updated to Lot 73 DP 1135976
Schedule 5 I71	Incorrect Lot & DP. Replace "Section 3" with "Section 4".
Schedule 5 I72	Incorrect Lot & DP. Delete all and replace with Lots 4-9 Section 4 DP 11100.
Schedule 5 I75	Incorrect Lot & DP. Replace Lot 13 with 18.

Schedule 5 I112	Incorrect Lot & DP. Section number incorrect. Replace "Section 6" with "Section 7".
Schedule 5 I132	Incorrect Lot & DP. Missing Section details. Insert "Section 15" between Lot & DP.
Schedule 5 I137	Incorrect Lot & DP. Needs to be changed to Lot 2 DP 549966.
Schedule 5 I140	Incorrect Lot & DP. Missing Section details. Insert "Section 7" between Lot & DP
Schedule 5 I147	Incorrect Lot & DP. Needs to be changed to Lot 1 Section 15 DP 758357
Schedule 5 I165	Incorrect Lot & DP. Update Lot & DP as follows. Lot 2 DP 1150825.
Schedule 5 I169	Incorrect Lot & DP. Update Lot & DP as follows. Lot 1 DP 1119240.
Schedule 5 I197	Incorrect Lot & DP. Replace with Lot 1 DP 183836.
Schedule 5 I198	Incorrect Lot & DP. Replace with Lot 1 DP 183836
Schedule 5 I201	Delete item. Item was incorrectly notified as being on Lot 1 DP 1061496 when it is in fact located on Lot 2 DP 1061496. As property owners not notified, consider inclusion in future LEP subject to appropriate opportunity being provided to owners to comment.
Schedule 5 I226	Incorrect Section number. Replace "Section 6" with "Section 7".
Schedule 5 I230	Incorrect Lot & DP. Update Lot & DP as follows; Lot 100 DP 1079173)
Schedule 5 I231	Incorrect Lot & DP. Update Lot & DP as follows; Lot 112 DP 1122348
Schedule 5 A40	Incorrect DP. Replace "926631" with "92631".
Schedule 5 I65	Incorrect Lot & DP's. Delete properties on sth side of Northcote St from group listing. ie: Lot 14 DP 561977, Lot 12 DP 548190, Lots 5 & 6 section D DP 5438, Lot 71 DP 1092460, Lot 73 DP 1135976.
Schedule 5 – Part 3 Archaeological Sites	Following all amendments required to Schedule 5, commence with renumbering all archaeological items by renumbering A40 as A39, A41 as A40 and so on for rest of schedule. Note: All amendments described in this planning proposal are noted against the <u>current</u> numbering in Part 3 of the schedule and are to be completed prior to the renumbering of the list. The map numbers are correct and only the written document needs renumbering.

The justification for those objectives, outcomes and provisions and the process for their implementation (including whether the proposed instrument will comply with relevant directions under section 117).

The Department of Planning has issued requirements for specific matters that must be addressed in all planning proposals and these are addressed below. An overarching principle identified in the Departments "A guide to preparing planning proposals" document is that *"the level of justification should be proportionate to the impact the planning proposal will have"*. The detail provided below is therefore minor given that the correction of errors in the gazetted document does not require town planning justification.

A. Need for Planning proposal

Is the planning proposal a result of any strategic study or report?

No.

Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. The only way that the proposed LEP amendments can occur is via a planning proposal.

Is there a net community benefit?

Yes. There is an obvious benefit for Council and the community to ensure that the LEP is correct and up to date.

B. Relationship to strategic planning framework

Is the proposal consistent with the objectives and actions contained within the Mid North Coast Regional Strategy (MNCRS)?

Yes. The gazetted version of BLEP 2010 was consistent with the MNCRS and the planning proposal does not alter this.

Is the proposal consistent with Council's Strategic Plans?

Yes.

Is the proposal consistent with applicable State Environmental Planning Policies?

Yes.

Is the proposal consistent with applicable Section 117 directions?

Yes.

C. Environmental, social and economic impact

Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No.

Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No.

How has the planning proposal adequately addressed any social and economic effects?

No significant social or economic effects. The proposal will correctly identify all properties affected by a Heritage listing.

D. State and Commonwealth interests

Is there adequate public infrastructure for the planning proposal?

Not relevant.

Views of State and Commonwealth authorities

Not relevant.

If maps are to be adopted by the proposed instrument, such as maps for proposed land use zones; heritage areas; flood prone land—a version of the maps containing sufficient detail to indicate the substantive effect of the proposed instrument,

Attached to this report are a series of maps depicting those properties upon which a mapping amendment is proposed. The Map Amendment number should be used to find the actual proposed amendment, as described in the schedule contained in this report.

Details of the community consultation that is to be undertaken before consideration is given to the making of the proposed instrument.

Council is required, pursuant to Section 57 of the *EP&A Act 1979* to consult the community on the proposed amendment. As part of the planning proposal

submission, Council is required to nominate the proposed form of community consultation.

Given the particular circumstances of the proposed amendment, it is considered that it meets the criteria for an expedited amendment under Section 73A of the *EP&A Act 1979*. As such, it is submitted that the LEP amendment be allowed to proceed without undertaking any form of community consultation given that it involves only the rectification of minor descriptive errors and does not propose any departure from the planning outcome that was conveyed by the comprehensive public exhibition of Draft BLEP 2009. Section 73A is reprinted below:

73A Expedited amendments of environmental planning instruments

(1) An amending environmental planning instrument may be made under this Part without compliance with the provisions of this Part relating to the conditions precedent to the making of the instrument if the instrument, if made, would amend or repeal a provision of a principal instrument in order to do any one or more of the following:

- (a) correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error,*
- (b) address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature,*
- (c) deal with matters that the Minister considers do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land.*

(2) A reference in this section to an amendment of an instrument includes a reference to the amendment or replacement of a map adopted by an instrument.

In the event that Council or the DoP do not agree that the planning proposal should proceed on this basis, it is considered that it should then be considered as a "Low impact planning proposal" in accordance with the Department of Planning's "A Guide to preparing local environmental plans" document. This requires a 14 day public exhibition period.

ATTACHMENTS:

Planning Proposal No 3 – Mapping Amendments