

Planning Services

IRF18/4997

Gateway Determination Report

LGA	Bellingen Shire Council
PPA	Bellingen Shire Council
NAME	Amendment to Schedule 1 - Additional Permitted Uses of Bellingen LEP 2010 to facilitate the erection of a dwelling at 54 Wollumbin Drive, Urunga
NUMBER	PP_2018_BELLI_001_00
LEP TO BE AMENDED	Bellingen Local Environmental Plan 2010
ADDRESS	54 Wollumbin Drive, Urunga
DESCRIPTION	Lot 1 DP 1078804
RECEIVED	23 August 2018
FILE NO.	IRF18/4997
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

INTRODUCTION

Description of planning proposal

To amend Item 12, Schedule 1 (Additional Permitted Uses) of Bellingen LEP 2010, to remove the current time limit preventing the erection of a dwelling on proposed Lot 2, 54 Wollumbin Drive, Urunga

Site description

The site is a vegetated 49.8 hectare property that is located between the North Coast Railway line and Giinagay Way, approximately 2.5km south of Urunga (Figure 1). The lot is heavily vegetated and currently contains a dwelling house which is also used as a bed & breakfast establishment.

Existing planning controls

The site is currently zoned part E3 Environmental Management and part RU2 Rural Landscape, has a minimum lot size of 200 hectares, is part class 2 and part class 5 acid sulfate soils and is identified as having biodiversity sensitivity under Bellingen LEP 2010 (Figures 2 – 5).

Item 12, Schedule 1 (Additional Permitted Uses) of Bellingen LEP 2010 also allowed the land to be subdivided into 2 lots, with the erection of a dwelling on each lot, until 6 August 2015. Council approved the subdivision of the land in accordance with the additional permitted use in 2014 (Figure 6). The subdivision (and proposed lot 2) has not yet been registered and created.



Figure 1 – Locality and Site Plan

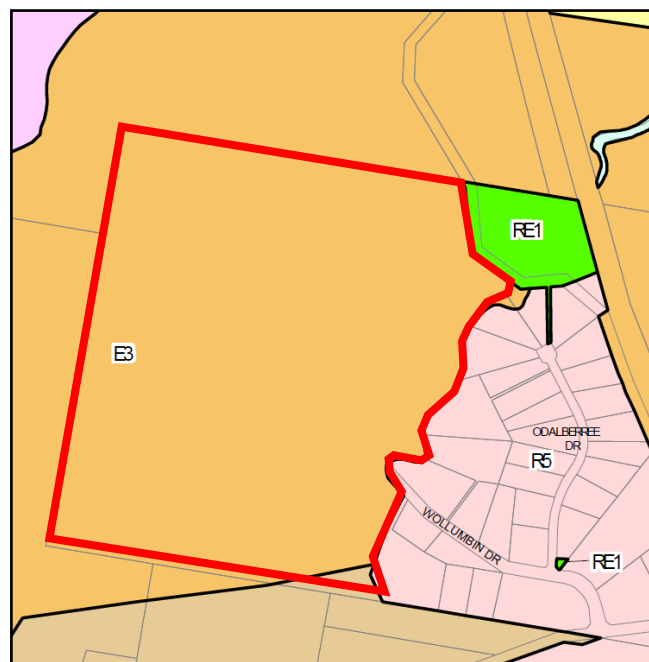


Figure 2 – Zoning Map (LZN_007C)

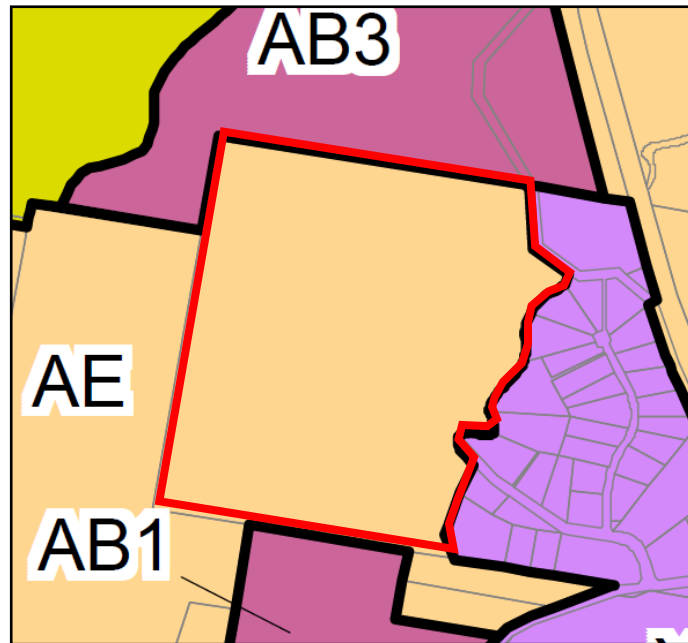


Figure 3 – Lot Size Map (LSZ_007)

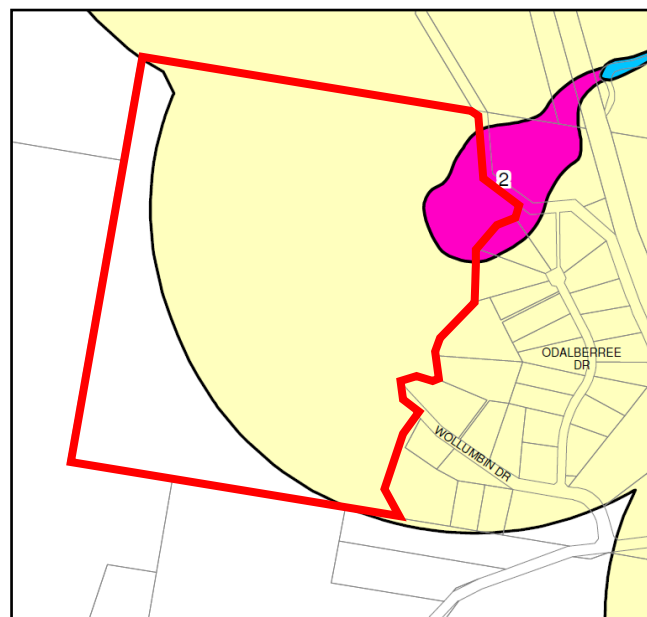


Figure 4 – Acid Sulfate Soils Map (CL1_007C)

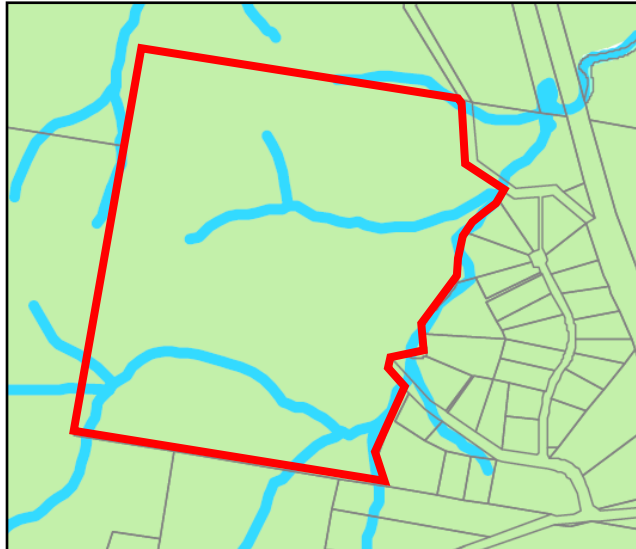


Figure 5 – Natural Resources Sensitivity – Water and Biodiversity Map (CL2_007)

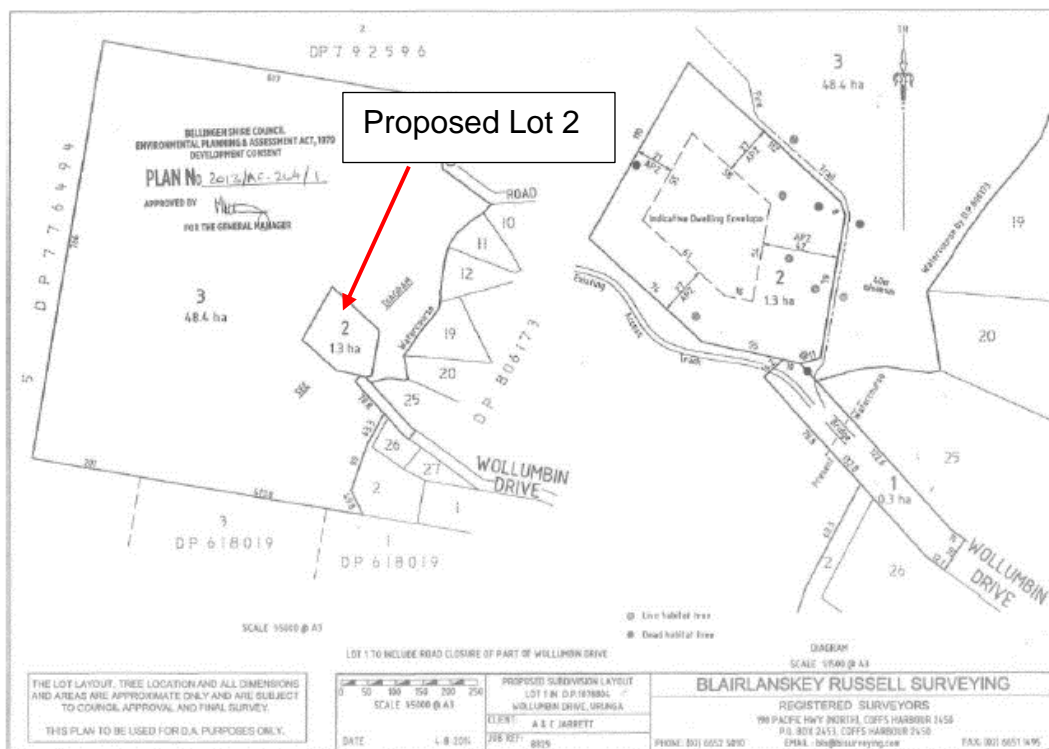


Figure 6 – Proposed Lot 2

Surrounding area

The subject site is generally surrounded by environmental management / vegetation land uses except for an existing R5 Large Lot Residential area to the east and some scattered rural / primary production activities.

Summary of recommendation

Proceed with conditions

PROPOSAL

Objectives or intended outcomes

The objective and intended outcome of the planning proposal is clearly stated and is to facilitate the erection of dwelling house on proposed Lot 2, 54 Wollumbin Drive, Urunga.

Explanation of provisions

The proposal clearly identifies that it will be facilitated by a change to Item 12, Schedule 1 – Additional Permitted Uses of Bellingen LEP 2010. While the proposal currently contains suggested wording to facilitate the amendment, it is considered more appropriate that this be removed and replaced with a plain English explanation prior to consultation to allow the drafting to be prepared by Parliamentary Counsel.

Mapping

No mapping changes are needed as part of this planning proposal.

NEED FOR THE PLANNING PROPOSAL

The additional permitted use to allow the creation of an extra lot and dwelling on Lot 1 DP 1078804 was a result of Council's 2007 Growth Management Strategy which identified the need to rezone the majority of the land for environmental management purposes. Council considered the extra lot and dwelling was a reasonable outcome in terms of the greater environmental gain that would be achieved by the associated environmental rezoning.

Council approved the subdivision of the land in accordance with the additional permitted use in 2014. The subdivision (and proposed lot 2) has not yet been registered and created. Council also issued a deferred development consent for the dwelling on proposed Lot 2 under 2015/DA-89, however this consent has since lapsed and can't be acted upon.

As the additional permitted use under Item 12 of Bellingen LEP 2010 was limited to a 5 year period ending on 6 August 2015, the planning proposal is the only means possible to undertake the changes to Bellingen LEP 2010 needed to facilitate the erection of a dwelling as originally intended.

STRATEGIC ASSESSMENT

State

The proposal is considered to be consistent with the State planning framework.

Regional / District

North Coast Regional Plan 2036

The building envelope for proposed Lot 2 is not within a urban growth area and is not designated as important farmland or as potential high environmental land (Figure 7).

The regional plan requires rural residential housing to be consistent with a strategy endorsed by the Department of Planning and Environment. The proposal is consistent with this requirement as it was identified in Council's Department approved 2007 Growth Management Strategy.

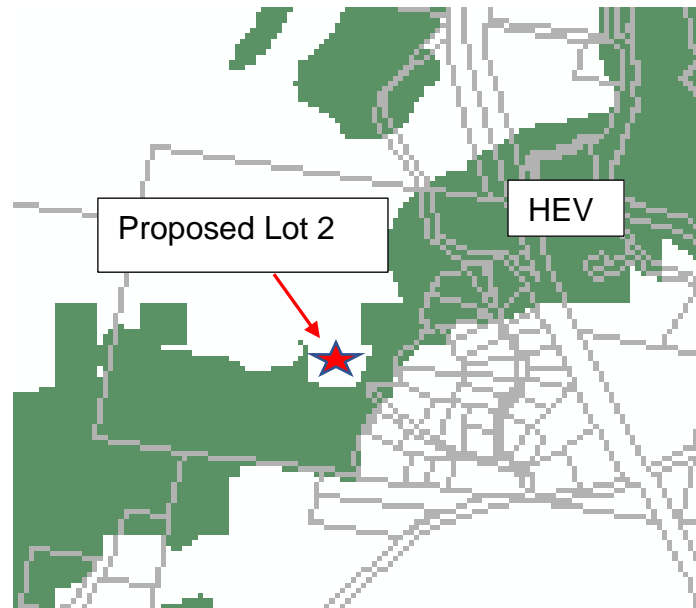


Figure 7 – Potential High Environmental Value

The proposal is consistent with the North Coast Regional Plan 2036.

Local

Bellingen Growth Management Strategy 2007

Wollumbin Drive is identified in Council's Department approved strategy as being for rural residential purposes. The subject land is located at the end of Wollumbin Drive and is identified as being heavily constrained by native vegetation (Figure 8). The strategy recommended that Lot 1 DP 1078804 be allowed to be subdivided into 2 lots with the erection of a dwelling house being permissible on the resulting allotment. The proposal is consistent with Council's local strategy.

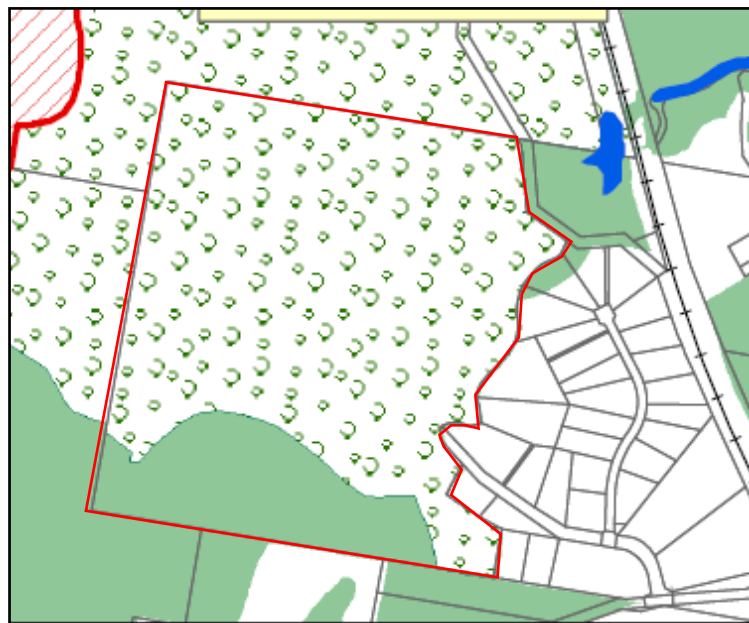


Figure 8 – South Urunga Investigation Area Showing Vegetation on Subject Lot

Section 9.1 Ministerial Directions

The planning proposal is considered to be consistent with all section 9.1 Directions except:

Direction 1.5 Rural Lands

The proposal is inconsistent with this Direction as it affects land zoned E3 Environmental Management and is not consistent with all the rural planning principles contained in SEPP (Rural Lands) 2008. This inconsistency is considered to be of minor significance as:

- the proposal involves only a small area of land (proposed Lot 2 is 1.3ha);
- the proposal is consistent with some of the rural planning principles, in particular the protection of native vegetation; and
- the land is not used for primary production activities, and is unlikely to be in the future, due to its vegetated state.

Direction 2.1 Environmental Protection Zones

The proposal is inconsistent with this Direction as it does not contain provisions that facilitate the protection and conservation of environmentally sensitive areas. This inconsistency is considered to be of minor significance as the land is already recognised and sufficiently protected by its existing E3 Environmental Management zoning under Bellingen LEP 2010.

Direction 2.2 Coastal Management

The proposal is inconsistent with this Direction as it affects land identified as being within the coastal zone and does not include provisions that give effect to the items specified in the Direction. This inconsistency is considered to be of minor significance as the proposal is not considered likely to result in any outcomes inconsistent with the intent of SEPP (Coastal Management) 2018.

Direction 4.1 Acid Sulfate Soils

The proposal is inconsistent with this Direction as it will allow an intensification of land use on class 5 acid sulfate soil. The inconsistency is considered to be of minor significance as Bellingen LEP 2010 contains suitable provisions to ensure that this matter can be appropriately considered and addressed at development application stage.

Direction 4.4 Planning for Bushfire Protection

The proposal applies to land that has been mapped as bushfire prone. The Direction requires Council to consult with the NSW Rural Fire Service after a Gateway Determination has been issued. Until this consultation has occurred the consistency of the proposal with the Direction remains unresolved.

State environmental planning policies

The proposal is considered to be consistent with all relevant SEPPs except for SEPP (Rural Lands) 2008. As discussed above in relation to section 9.1 Direction 1.5 Rural Lands, this inconsistency is considered to be of minor significance.

SITE-SPECIFIC ASSESSMENT

Social

No adverse social impacts associated with the proposal have been identified.

It is noted that an AHIMS search has been undertaken which found no recorded Aboriginal sites or declared Aboriginal places located in or near the land. It is also considered that this issue can be considered further in detail and addressed at the development application stage if necessary.

Environmental

Despite the heavily vegetated nature of the site, an environmental assessment was undertaken to support the proposed subdivision in 2013 that concluded no significant impact on any threatened flora or fauna from the proposal. The assessment also identified that while containing potential koala habitat, the site does not constitute core koala habitat for the purposes of SEPP 44.

Due to the minor nature of the proposal for a single dwelling, it is considered satisfactory that the proposal proceed subject to consultation with the Office of Environment and Heritage and noting that this issue will need to be considered and adequately addressed at the development application stage before any clearing or impact on flora and fauna can occur.

Economic and Infrastructure

No adverse economic or infrastructure impacts associated with the proposal have been identified. No State infrastructure will be required in association with the proposal, and Council has confirmed that adequate telecommunications, electricity and road infrastructure can be provided to the site. Onsite effluent disposal and water storage issues consistent with surrounding properties can be adequately considered and addressed at the development application stage.

CONSULTATION

Community

The planning proposal is considered to be of a low local impact nature and should be exhibited for a period of 14 days.

Agencies

It is recommended that the council consult with the Office of Environment and Heritage and the NSW Rural Fire Service.

TIME FRAME

It is indicated that the planning proposal could be completed by 21 December 2018. It is recommended that a 9 month period be specified to allow sufficient time to complete the planning proposal.

LOCAL PLAN-MAKING AUTHORITY

Council has requested an authorisation to exercise delegated functions pursuant to Section 3.36 of the *Environmental Planning and Assessment Act 1979*. As the proposal is consistent with the State and regional planning framework it is recommended that an authorisation be issued to Council.

CONCLUSION

The proposal seeks only to facilitate the finalisation of the existing Item 12, Schedule 1 – Additional Permitted Use of Bellingen LEP 2010 (2 lot subdivision and erection of a dwelling) which was not completed within the LEP specified 5 year time frame. Due to the history of the situation, it is considered reasonable that the LEP be amended to allow completion of the proposal.

RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Directions 1.2 Rural Lands, 2.1 Environmental Protection Zones, 2.2 Coastal Management and 4.1 Acid Sulfate Soils are minor; and
2. note that the consistency with section 9.1 Direction 4.4 Planning for Bushfire Protection is unresolved and will require justification.

It is recommended that the delegate of the Minister for Planning, determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be made available for community consultation for a minimum of 14 days.
2. Consultation is required with the Office of Environment and Heritage and the NSW Rural Fire Service.
3. The time frame for completing the LEP is to be 9 months from the date of the Gateway determination.
4. Prior to agency or community consultation, the proposal is to be amended to include only a plain English explanation within Part 2 – Explanation of Proposed Provisions.
5. Given the nature of the planning proposal, Council should be the local plan-making authority.



4/9/18

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17-9-2018

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