



**BELLINGEN SHIRE COUNCIL
PLANNING PROPOSAL 14
(Version 1 – August 2018)**

**MINOR AMENDMENT TO SCHEDULE 1 TO FACILITATE
THE ERECTION OF A DWELLING AT WOLLUMBIN
DRIVE, URUNGA**

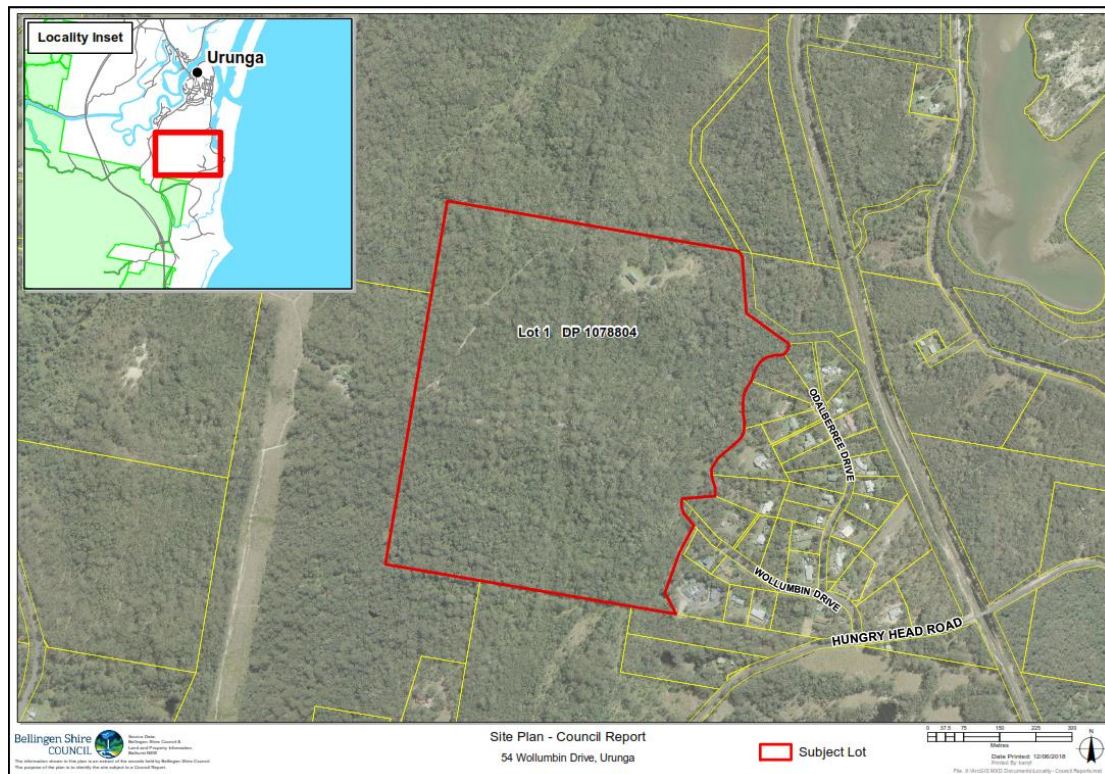
THE PLANNING PROPOSAL

Pursuant to Section 3.33 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), a planning proposal must be prepared before a draft Local Environmental Plan (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 3.33 (2) of the EP&A Act, which are considered below. Council must then determine whether or not to proceed with the proposal.

The Site

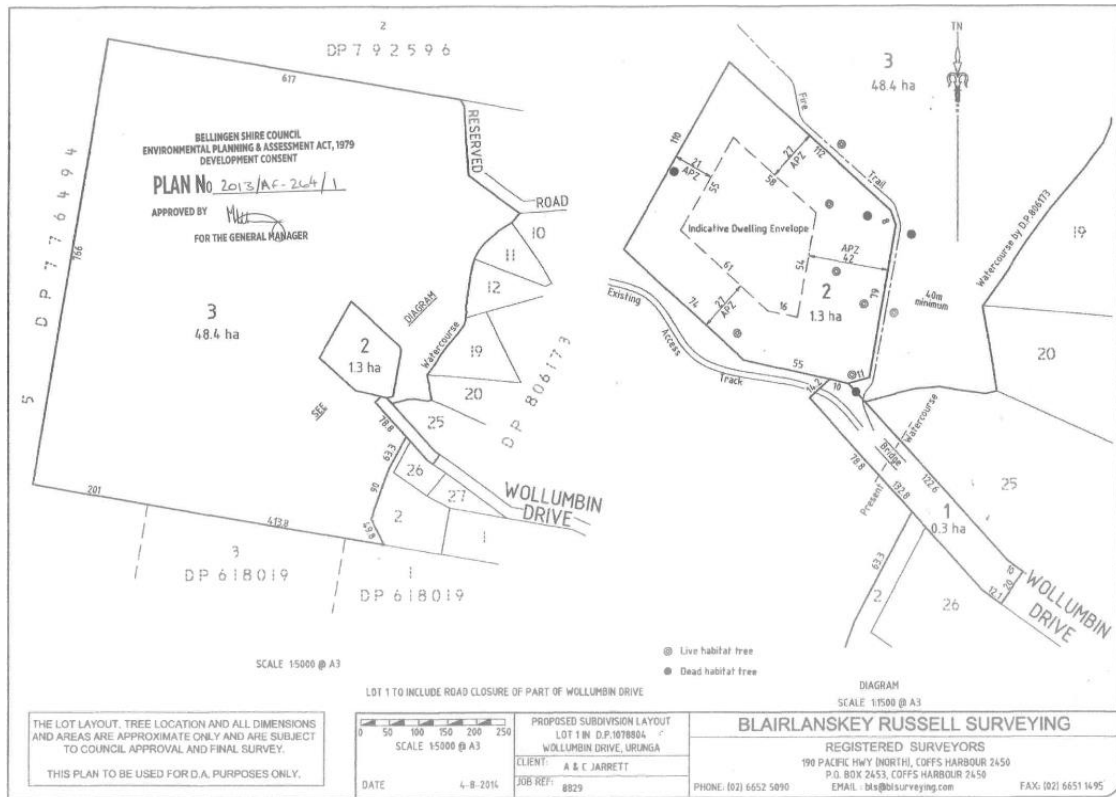
Lot 1 DP 1078804, 54 Wollumbin Drive, Urunga (the land) is a predominately vegetated 49.8 hectare property (refer to Map 1 below) that is located between the North Coast Railway line and Giinagay Way. The land is developed with a dwelling house and a bed & breakfast establishment.

Map 1: Lot 1 DP 1078804, 54 Wollumbin Drive Urunga



Development consent for subdivision of Lot 1 DP 1078804 into 3 lots, including a common property lot comprising of a community title road, was issued by Council on the 16th October 2014. Planning Proposal 14 relates to proposed Lot 2 in Lot 1 DP 1078804. Proposed Lot 2, shown on Map 2, is currently vacant.

Map 2: Approved development application (2013/DA-00184) plans showing proposed Lot 2 in Lot 1 DP 1078804



Background

Schedule 1 (Item 12) – Use of certain land at Wollumbin Drive, Urunga to the BLEP 2010 enabled a two lot subdivision of Lot 1 DP 1078804 and the erection of a dwelling with development consent on the newly created vacant lot provided that consent for both was issued within 5 years from the commencement of the BLEP.

Development consent for the subdivision enabled by Schedule 1 (2013/DA-264) and a deferred commencement development consent for a dwelling (2015/DA-89) on the vacant proposed Lot 2 was issued by Council within this timeframe. Operation of the development consent for the dwelling could not occur unless proposed Lot 2 was registered within 12 months of the date of issue of the consent. For various reasons out of the control of the property owners, the proponents were not able to meet the timeframe for completion of the deferred commencement requirements as specified in the consent. The development consent for the dwelling has hence lapsed and there is no longer a legal mechanism under the BLEP 2010 to approve a dwelling on proposed Lot 2.

The schedule amendment to the BLEP 2010 was originally included as a trade-off for the back-zoning of a large area of the land to E3 Environmental Management as part of the implementation of the 2007 GMS and subsequently the BLEP 2010. In view of the environmental gain that was won by virtue of the back-zoning, it is considered reasonable that Council assist the landowners with realising the benefit conferred by

the schedule, particularly considering the subdivision has been approved and registration of the plan is expected to occur in the near future.

The matter was reported to the Council meeting of the 27th June 2018. A key recommendation of the report was that Council resolve to prepare a planning proposal to remove the time limit for the legal erection of a dwelling house upon registration of proposed Lot 2 of Lot 1 DP 1078804 by amending the wording of Item 12 in Schedule 1 Use of certain land at Wollumbin Drive, Urunga of the Bellingen Local Environmental Plan (BLEP) 2010. Council resolved to support the proposal. The relevant resolution is reproduced below and the report to Council is included as Attachment 2.

ITEM: 13.7

**SUBJECT: PROPOSAL FOR MINOR AMENDMENT TO SCHEDULE 1 TO
FACILITATE ERECTION OF A DWELLING AT WOLLUMBIN DRIVE
URUNGA**

FILE/INDEX: PLANNING PROPOSAL 14 (LAND USE & PLANNING)

PRESENTED BY: MELANIE GREEN, STRATEGIC PLANNER

053/18

RESOLVED (Cr Klipin/Cr Wright-Turner)

That Council:

1. Resolves to prepare a planning proposal to remove the time limit for the legal erection of a dwelling house on proposed Lot 2 of Lot 1 DP 1078804 by amending the wording of Item 12 in Schedule 1 Use of certain land at Wollumbin Drive, Urunga of the Bellingen Local Environmental Plan (BLEP) 2010 as follows:

12 Use of certain land at Wollumbin Drive, Urunga

(1) This clause applies to land described as proposed Lot 2 of the subdivision approved under 2013/DA-DA-00184 on Lot 1 DP 1078804 at 54 Wollumbin Drive, Urunga.

(2) Development for the purpose of the erection of a dwelling house is permitted with consent on land to which this clause applies after registration of proposed Lot 2 with the NSW Land Registry Services.

2. Resolves to forward the Planning Proposal to the Department of Planning & Environment in accordance with Section 56 (1) of the Environmental Planning & Assessment Act 1979 and request the issuing of a Gateway Determination to allow for the exhibition of the proposed amendment.

3. Resolves to advise the NSW Minister for Planning & Environment that it considers the proposed amendment to be of minor significance and that it intends to use its delegations to permit the General Manager to make the Local Environmental Plan.

4. Endorse the Engagement Strategy that has been proposed in this report for the public

Planning Proposal 14 – Minor amendment to Schedule 1 to facilitate erection of a dwelling at Wollumbin Drive, Urunga

exhibition of the Planning Proposal.

UNANIMOUS

PART 1 – Intended Outcome

The intended outcome of the proposed LEP amendment is as follows:

1. To amend the Bellingen Local Environmental Plan 2010 to enable the erection of a dwelling house on proposed Lot 2 of Lot 1 DP1078804, 54 Wollumbin Drive, Urunga.

PART 2 – Explanation of proposed provisions

The objectives of the planning proposal will be achieved by:

1. Amending the wording of Item 12 in Schedule 1 Use of Certain land at Wollumbin Drive, Urunga by removing the time limit for lodgement of a development application to enable the legal erection of a dwelling on the land, as follows:

12 Use of certain land at Wollumbin Drive, Urunga

(1) This clause applies to land described as proposed Lot 2 of the subdivision approved under 2013/DA-DA-00184 on Lot 1 DP 1078804 at 54 Wollumbin Drive, Urunga.

(2) Development for the purpose of the erection of a dwelling house is permitted with consent on land to which this clause applies after registration of proposed Lot 2 with the NSW Land Registry Services.

An Information Checklist, Project Timeline & Delegation Request Checklist are included as Attachments 1, 3 and 4 in accordance with the requirements of 'A Guide to preparing planning proposals'.

PART 3 - Justification for planning proposal

Need for Planning proposal

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

The inclusion of Item 12 in Schedule 1 of the BLEP 2010 came out of a recommendation in Section 7.6 of the current Bellingen Shire Growth Management Strategy (2007) that was made in relation to the South Urunga Investigation Area (Area 4). This recommendation is reproduced as follows:

Council has repealed the previous Development Control Plan that applied to South Urunga in recognition of its incompatibility with current environmental legislation and it is considered that Council should also seek to rezone areas of land with high conservation value from 1(d) Investigation and 2(b) Village to 7(s) Special Emphasis Zone. It is recommended that Lot 1 DP 1078804 should be included within Schedule

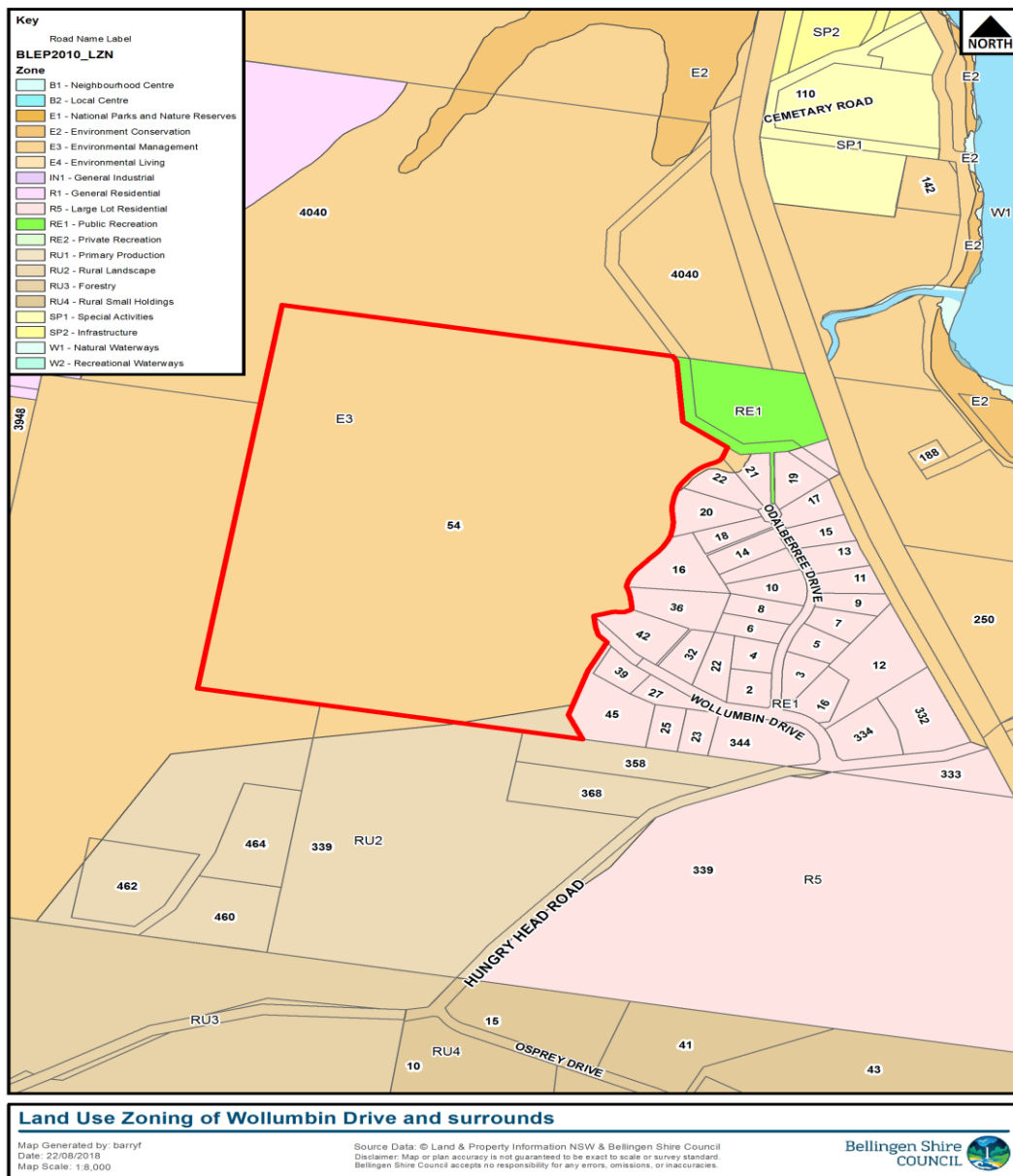
6, Clause 12 permitting the subdivision of the subject land into 2 with the erection of a dwelling house being permissible on the resulting allotment.

Planning Proposal 14 is consistent with and enables full implementation of the second part of the above recommendation.

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

The only other option that would achieve the intended outcome would be to rezone proposed Lot 2, once registered, to R5 Large Lot Residential. Other similarly sized allotments in the locality are zoned as such, as evident in the map below:

Map 3: Land Use Zoning of Wollumbin Drive and surrounds under BLEP 2010



Planning Proposal 14 – Minor amendment to Schedule 1 to facilitate erection of a dwelling at Wollumbin Drive, Urunga

Rezoning proposed Lot 2 to R5 would enable the legal erection of a dwelling house by virtue of its permissibility in the land use table, as lot size has no bearing on permissibility of dwelling houses in the R5 zone. However, drawbacks of such a rezoning proposal would include:

- The land is outside the designated urban growth area shown on Figure 19 of the North Coast Regional Plan (NCRP),
- Rezoning of the land to R5 would be inconsistent with Action 24.2 of the NCRP which requires that new rural residential areas are located outside the coastal strip,
- Rezoning of the land to R5 may set a precedent for the rezoning of other Environmental and Rural zoned land in the locality and may increase land speculation and rural land prices in the area.

Council considers that the recommendation of the 2007 GMS to enable the erection of a dwelling house via the provisions of Schedule 1 is the best means of achieving the objective of the planning proposal, particularly considering it is already an existing item in the schedule.

A. Relationship to strategic planning framework

Is the proposal consistent with the directions and actions contained within the North Coast Regional Plan 2036?

The planning proposal, if successful, will enable the erection of a dwelling house on a lot created with development consent under the provisions of the BLEP 2010. The proposed amendment to the BLEP is of a minor nature and is not inconsistent with any of the relevant directions or actions of the NCRP as outlined below:

| North Coast Regional Plan – Statement of applicability to Planning Proposal 14 | | | |
|---|--|--------------------------|-------------------|
| Goal | Direction | Relevant (Yes/No) | Comment |
| Goal 1 – The most stunning environment in NSW | | | |
| | Direction 1 – Deliver environmentally sustainable growth | Yes | See comment below |
| | Direction 2 – Enhance biodiversity, coastal and aquatic habitats, and water catchments | Yes | See comment below |
| | Direction 3 – Manage natural hazards and climate change | Yes | See comment below |
| | Direction 4 – Promote renewable energy opportunities | No | |
| Goal 2 – A thriving, interconnected economy | | | |
| | Direction 5 – Strengthen communities of interest and cross regional relationships | No | |
| | Direction 6 – Develop successful centres of | No | |

| North Coast Regional Plan – Statement of applicability to Planning Proposal 14 | | | |
|--|---|-------------------|-------------------|
| Goal | Direction | Relevant (Yes/No) | Comment |
| | employment | | |
| | Direction 7 – Coordinate the growth of regional cities | No | |
| | Direction 8 – Promote the growth of tourism | No | |
| | Direction 9 – Strengthen regionally significant transport corridors | No | |
| | Direction 10 – Facilitate air, rail and public transport infrastructure | No | |
| | Direction 11 – Protect and enhance productive agricultural lands | Yes | See comment below |
| | Direction 12 – Grow agribusiness across the region | No | |
| | Direction 13 – Sustainably manage natural resources | Yes | See comment below |
| Goal 3 – Vibrant and engaged communities | | | |
| | Direction 14 – Provide great places to live and work | No | |
| | Direction 15 – Develop healthy, safe, socially engaged and well connected communities | No | |
| | Direction 16 – Collaborate and partner with Aboriginal communities | No | |
| | Direction 17 – Increase the economic self-determination of Aboriginal communities | No | |
| | Direction 18 – Respect and protect the North Coast's Aboriginal heritage | Yes | See comment below |
| | Direction 19 – Protect historic heritage | No | |
| | Direction 20 – Maintain the regions distinctive built character | No | |
| Goal 4 – Great housing choices and lifestyle options | Direction 21 – Coordinate local infrastructure delivery | No | |
| | | No | |
| | Direction 22 – Deliver greater housing supply | | |
| | Direction 23 – Increase housing diversity and choice | | |
| | Direction 24 – Deliver well planned rural residential housing areas | | |
| | Direction 25 – Deliver more opportunities for | | |

| North Coast Regional Plan – Statement of applicability to Planning Proposal 14 | | | |
|--|--------------------|-------------------|---------|
| Goal | Direction | Relevant (Yes/No) | Comment |
| | affordable housing | | |

Direction 1: Deliver environmentally sustainable growth

- 1.1 The land is outside the mapped urban growth area. Despite this, it is considered that there is no need to vary the urban growth area shown in Figure 19 of the NCRP to facilitate the proposal because the creation of proposed Lot 2 has already been granted development consent under the provisions of Schedule 1 of the BLEP 2010 and registration of this lot is imminent. The proposed amendment to the BLEP 2010 would simply enable lodgement of a development application for a dwelling house on this lot.

Direction 2: Enhance biodiversity, coastal and aquatic habitats and water catchments

- 2.1: The indicative building envelope to be registered on proposed Lot 2 in Lot 1 DP 1078804 is located just outside land mapped as high environmental value in Figure 4: Potential High Environmental Values in the NCRP.

Direction 3: Manage natural hazards and climate change

- 3.1 The land is mapped as being bushfire prone. Despite this, the bushfire hazard assessment report lodged with the development application for the subdivision of Lot 1 DP 1078804 to create proposed Lot 2 found that there was sufficient area available within proposed Lot 2 to provide the required APZ distances and to enable the erection of a dwelling within the indicative building envelope compliant with the *Planning for Bushfire Protection (2006)* Guidelines.

Direction 11: Protect and enhance productive Agricultural Lands

- 11.1: No part of the land has been identified as important farmland in Figure 9: North Coast Important Farmland in the NCRP.

Direction 18: Respect and protect the North Coast's Aboriginal Heritage

- 18.1: An AHIMS search was undertaken for the land on the 1st August 2018 which found that no recorded Aboriginal sites or declared Aboriginal places were located in or near the subject land.

Is the proposal consistent with Council's strategic plans?

The proposal is consistent with the recommendation made in Section 7.6 of the adopted Bellingen Shire Growth Management Strategy (2007).

Is the proposal consistent with applicable state environmental planning policies?

A summary table documenting the proposals compliance with relevant SEPPs is provided below, with detailed commentary on relevant matters provided at the end of the Table.

| State Environmental Planning Policies – Statement of applicability to Planning Proposal 14 | | |
|---|--------------------------|----------------|
| SEPP | Relevant (Yes/No) | Comment |
| 1 – Development Standards | No | |
| 21 – Caravan Parks | No | |
| 30 – Intensive Agriculture | No | |
| 33 – Hazardous & Offensive Development | No | |
| 36 – Manufactured Home Estates | No | |
| 44 – Koala Habitat Protection | Yes | See comment |
| 50 – Canal Estate Development | No | |
| 55 – Remediation of Land | No | |
| 64 – Advertising & Signage | No | |
| 65 – Design Quality of Residential Apartment Development | No | |
| 70 – Affordable Housing (Revised Schemes) | No | |
| Affordable Rental Housing (2009) | No | |
| Building Sustainability Index: BASIX (2004) | No | |
| Coastal Management (2018) | Yes | See comment |
| Educational Establishments & Child Care Facilities (2017) | No | |
| Exempt & Complying Development Codes (2008) | No | |
| Housing for Seniors or People with a Disability (2004) | No | |
| Infrastructure (2007) | No | |
| Integration & Repeals (2016) | No | |
| Mining, Petroleum Production & Extractive Industries (2007) | No | |
| Miscellaneous Consent Provisions (2007) | No | |
| Rural Lands (2008) | No | |
| State & Regional Development (2011) | No | |
| State Significant Precincts (2005) | No | |
| Vegetation in Non-Rural Areas (2018) | Yes | See comment |

State Environmental Planning Policy No. 44 (Koala Habitat Protection)

As part of the development application for subdivision of Lot 1 DP 1078804 (2013/AF-00264), an ecological consultant undertook an assessment of the proposal under the provisions of SEPP 44 and found that the land is potential koala habitat but not core koala habitat. A Koala Plan of Management (KPoM) was therefore not required to be prepared for the development.

It is expected that an updated ecological assessment, if submitted with a future development application for a dwelling, would come to the same conclusion and a KPoM would not be required.

State Environmental Planning Policy (Coastal Management) 2018

The subject land is located in the coastal zone, which means that the SEPP applies. Compliance with the relevant provisions of the SEPP is discussed below:

Clause 15: It is unlikely that the proposal would cause increased risk of coastal hazards on the land and other land. The proposal therefore complies with this clause.

Clause 16: No certified coastal management program applies to the land. The proposal therefore complies with this clause.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2018

This SEPP applies as the land is zoned E3 Environmental Management under the Bellingen Local Environmental Plan 2010.

Under the SEPP, clearing undertaken as part of the future development application for a dwelling on proposed Lot 2 would be able to be undertaken without triggering the Biodiversity Offset Scheme (BOS) provided:

1. The clearing will not exceed 1 hectare in area, and
2. The proposed development or activity is unlikely to significantly affect threatened species or ecological communities, or their habitats.

If the BOS were triggered, the applicant would need to engage an accredited assessor to undertake a Biodiversity Development Assessment Report.

If Council decides that the impacts of the clearing are not Serious and Irreversible (SAII) and to grant consent to the development, the conditions of the consent would require the applicant to retire biodiversity credits to offset the residual impact on biodiversity values of the number and class specified in the report.

Is the proposal consistent with applicable Section 117 directions?

Section 117 directions are issued by the Minister for Planning and relate to various planning matters that must be considered when preparing a planning proposal. The directions are considered below:

| Section 117 Directions – Statement of applicability to Planning Proposal 14 | | | |
|--|---|--------------------------|---|
| 117 Category | 117 Direction | Relevant (Yes/No) | Comment |
| | 1.1 – Business & Industrial Zones | No | |
| | 1.2 – Rural Zones | No | |
| | 1.3 – Mining, petroleum & Extractive Industries | No | |
| | 1.4 – Oyster Aquaculture | No | |
| | 1.5 – Rural Lands | Yes | See comment below |
| Environment & Heritage | | | |
| | 2.1 – Environment Protection Zones | Yes | See comment below |
| | 2.2 – Coastal Protection | Yes | Proposed provisions are consistent with relevant coastal planning guidelines. |
| | 2.3 – Heritage Conservation | Yes | See comment below |
| | 2.4 – Recreation Vehicle Areas | No | |

Planning Proposal 14 – Minor amendment to Schedule 1 to facilitate erection of a dwelling at Wollumbin Drive, Urunga

| Section 117 Directions – Statement of applicability to Planning Proposal 14 | | | |
|---|--|-------------------|--|
| 117 Category | 117 Direction | Relevant (Yes/No) | Comment |
| Housing, Infrastructure & Urban Development | | | |
| | 3.1 – Residential Zones | No | |
| | 3.2 – Caravan Parks & Manufactured Home Estates | No | |
| | 3.3 – Home Occupations | No | |
| | 3.4 – Integrating Land Use & Transport | No | |
| | 3.5 – Development Near Licensed Aerodromes | No | |
| | 3.6 – Shooting Ranges | No | |
| | 4.1 – Acid Sulfate Soils | Yes | See comment below |
| | 4.2 – Mine Subsidence & Unstable Land | No | |
| | 4.3 – Flood Prone Land | No | |
| | 4.4 – Planning for Bushfire Protection | Yes | See comment below |
| Regional Planning | 5.1 – Implementation of Regional Strategies | No | |
| | 5.4 – Commercial & Retail Development along the Pacific Highway, North Coast | No | |
| | 5.10 – Implementation of Regional Plans | Yes | See comment below |
| Local Plan Making | 6.1 – Approval & referral Requirements | Yes | Complies. No additional concurrence, consultation or referral requirements are proposed. |
| | 6.2 – Reserving Land for Public Purposes | No | No |
| | 6.3 – Site Specific Provisions | Yes | Complies as the planning proposal will allow a land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended. Furthermore, the planning proposal does not contain or refer to drawings that show details of the development proposal. |

Direction 1.4 Rural Lands

This direction applies as the land subject of the planning proposal is affected by an environmental protection zone. A planning proposal to which Clause 3(a) of this direction applies must be consistent with the Rural Planning Principles listed in *State Environmental Planning Policy (Rural Lands) 2008*.

The Rural Planning Principles are as follows:

(a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,

Comment: It is considered that the proposal to enable the erection of a dwelling on a 1.3ha site (proposed Lot 2) will not adversely impact on the productive potential of the subject land. The land is highly constrained by presence of native vegetation and given the recognised environmental values of the land and adjoining proposed Lot 3, it is unlikely to be utilised for agricultural purposes in the future.

(b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,

Comment: N/A

(c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,

Comment: N/A

(d) in planning for rural lands, to balance the social, economic and environmental interests of the community,

Comment: N/A

(e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,

Comment: Allowing the inclusion of Item 12 in Schedule 1 of the BLEP 2010 to provide for the excision of a small lot from Lot 1 DP 1078804 facilitated the back zoning of the land from 2(b) Village under the BLEP 2003 to E3 Environmental Management and application of a 200ha minimum lot size under the BLEP 2010. Council considers that the loss of native vegetation necessary to facilitate the erection of a dwelling on proposed Lot 2 is more than offset by the environmental gain of protecting the remainder of the land from residential development.

(f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,

Comment: Allowing an additional dwelling in this locality is expected to have a positive impact on the social and economic welfare of the local community.

(g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,

Comment: The future dwelling on proposed Lot 2 would be serviced by electricity and telecommunication services. The dwelling will have access to a sealed public road via a community title road (proposed Lot 1) that is part of the subdivision approved by 2013/DA-00184.

(h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.

Comment: It is considered that the planning proposal is consistent with the relevant directions and actions of the North Coast Regional Plan 2036, as discussed earlier in this document.

Direction 2.1 Environmental Protection Zones

This direction applies to all planning proposals.

Clause (4) of Direction 2.1 requires that a *planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas*. This proposal does not include such provisions and is therefore inconsistent with this Clause. However, it is considered that the planning proposal may be inconsistent with the terms of this direction in accordance with Clause 6 of Direction 2.1 as:

- (a) the proposal is justified by Council's adopted Growth Management Strategy, and
- (d) the inconsistency is of minor significance.

Clause (5) requires that a *planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land)*. The planning proposal does not change any of the environmental protection standards that apply to the land and therefore complies with this clause.

Direction 2.3 Heritage Conservation

Clause (4) of this direction requires that all planning proposals contain provisions that facilitate the conservation of environmental heritage, Aboriginal areas, places, objects and landscapes. As the land does not contain any Items of Environmental Heritage listed in Schedule 5 of the BLEP 2010 or known Aboriginal sites or places, this proposal does not include such provisions and is therefore inconsistent with Clause (4). However, it is considered that the planning proposal may be inconsistent with the terms of this direction in accordance with Clause (5) of Direction 2.3 as:

- (a) Aboriginal objects are protected under the *National Parks and Wildlife Act 1974* even if they are not recorded as a site on AHIMS and incorporation of additional provisions to conserve Aboriginal Heritage in this planning proposal is therefore considered unnecessary, and
- (b) The inconsistency is of minor significance.

Direction 4.1 Acid Sulfate Soils

This direction applies because the land is mapped as containing Class 5 acid sulfate soils, being located within 500 metres of land mapped as containing Class 4 acid sulfate soils.

Proposed Lot 2 is elevated above the floodplain and Council's contour mapping shows it being between 12 and 18 metres Australian Height Datum. Proposed Lot 2 does not contain a watercourse and it is not affected by the 1 in 100 flood event.

While the proposed LEP amendment would result in an intensification of land uses on this site, it is considered highly unlikely that the erection of a dwelling and construction of associated infrastructure would result in exposure of acid sulphate soils or result in lowering of the water table on adjacent Class 4 land. Council has therefore decided against the preparation of an acid sulfate soil study for the purpose of this planning Proposal 14 – Minor amendment to Schedule 1 to facilitate erection of a dwelling at Wollumbin Drive, Urunga

proposal. The planning proposal is therefore inconsistent with this direction. Council considers that this inconsistency is of minor significance.

Direction 4.4 Planning for Bushfire Protection

This direction applies as the land is mapped as being bushfire prone land.

(4) In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made,

Comment: Council will consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under Section 3.34 (formerly Section 56) of the Act in accordance with this Direction.

(5) A planning proposal must:

(a) have regard to Planning for Bushfire Protection 2006,

Comment: As previously discussed, a Bushfire Hazard Assessment Report prepared by Holiday Coast Bushfire Solutions in 2013 has demonstrated that a dwelling can be on proposed Lot 2 in accordance with the provisions of *Planning for Bushfire Protection 2006*.

(b) introduce controls that avoid placing inappropriate developments in hazardous areas, and

Comment: Such controls are not necessary as development consent for a future dwelling will not be issued unless the development application can demonstrate compliance with *Planning for Bushfire Protection 2006*.

(c) ensure that bushfire hazard reduction is not prohibited within the APZ.

Comment: The development consent for the dwelling would be conditioned to require that the property around the dwelling be managed in accordance with the recommendations of an updated Bushfire Hazard Assessment Report, Section 4.1.3 and Appendix 5 of *Planning for Bushfire Protection 2006* and the NSW Rural Fire Service's document 'Standards for Asset Protection Zones'.

Tree removal selection would need to have regard to the recommendations of a Flora & Fauna Assessment prepared for 2013/DA-264 including retention of cone-bearing Black She Oaks for the Glossy Black Cockatoo.

(6) A planning proposal must, where development is proposed, comply with the following provisions, as appropriate:

(a) provide an Asset Protection Zone (APZ) incorporating at a minimum:

(i) an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a

building line consistent with the incorporation of an APZ, within the property, and

(ii) an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road,

Comment: N/A. The planning proposal is to enable the erection of a single dwelling only. A bushfire safety authority *pursuant to Section 100B of the Rural Fires Act 1997* was issued by the Rural Fire Service in relation to the subdivision application 2013/DA-264 to create one additional allotment. The RFS did not require the provision of a perimeter road. Instead the following condition was placed on the consent:

33) The existing property access is to comply with the Property access track upgrade plan, sections A - I as referred by Council letter dated 9 May 2014.
[To ensure that internal roads provide safe operational access for occupants and emergency services]

Council officers are satisfied that condition 33 has been complied with.

(b) for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the planning proposal permit Special Fire Protection Purposes (as defined under section 100B of the Rural Fires Act 1997), the APZ provisions must be complied with,

Comment: The Bushfire Hazard Assessment Report has demonstrated that the necessary APZ's can be provided within proposed Lot 2 provided that the future dwelling is constructed to BAL 40.

(c) contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks,

Comment: See comment to section (6) of this Direction.

(d) contain provisions for adequate water supply for firefighting purposes,

Comment: The development application for the future dwelling on proposed Lot 2 would need to demonstrate compliance with the relevant *Acceptable Solutions* in relation to utility supplies (water, electricity and LPG). In addition, at least one of the above ground water tanks would need to be fitted with a 54mm Storz fitting with a 65mm-38mm Storz adapter fitted, in accordance with recommendation SR6 of the Bushfire Hazard Assessment Report.

(e) minimise the perimeter of the area of land interfacing the hazard which may be developed,

Comment: Council will not issue approval for any building proposed to be used for habitable purposes within the nominated APZ's.

(f) introduce controls on the placement of combustible materials in the Inner Protection Area.

Comment: If deemed necessary, this could be a condition of consent of the development application for the future dwelling.

Direction 5.10 Implementation of Regional Plans

This direction applies as the North Coast Regional Plan 2036 applies to the land.

The planning proposal, if successful, will enable the erection of a dwelling house on a lot created with development consent under the provisions of the BLEP 2010. The proposed amendment to the BLEP is of a minor nature and is not inconsistent with any of the relevant directions or actions of the NCRP as discussed earlier in this report.

B. 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?

A Flora & Fauna Assessment, including a 7 part test of significance under Section 5A of the *Environmental Planning & Assessment Act 1979*, of the proposed subdivision of Lot 1 DP1078804 was undertaken by Flametree Ecological Consulting in August 2013. This assessment found that the total area affected by clearing for the proposal, including APZ's and potential boundary fence clearing, was 0.914ha. This clearing involved removal of a maximum of 480 trees including up to 127 Tallowwoods and 28 Black She-oaks.

The finding of the assessment of significance (7-part test) was as follows:

Flora: The authors found that no threatened flora was likely to be affected by the proposal and an assessment of significance for flora was therefore not undertaken.

Fauna: Assessments of significance were undertaken for the 30 following threatened fauna species: Wallum Froglet, Green-thighed Frog, Stephens' Banded Snake, Black Bittern, Little Eagle, Square-tailed Kite, Glossy Black Cockatoo, Little Lorikeet, Swift Parrot, Powerful Owl, Masked Owl, Regent Honeyeater, Mangrove Honey Eater, Varied Sittella, Scarlet Robin, Spotted Tail Quoll, Brush-tailed Phascogale, Common Planigale, Koala, Long-nosed Potaroo, Grey-headed Flying Fox, Common Blossom-bat, Eastern Freetail-bat, Eastern False Pipistrelle, Golden-tipped Bat, Little Bentwing-bat, Eastern Bentwing-bat, Southern Myotis, Eastern Long-eared Bat, Greater Broad-nosed Bat and New Holland Mouse.

The assessments of significance found that the proposal is unlikely to have a significant impact on any Threatened flora or fauna. It is therefore unlikely that an updated 5 part test of significance, undertaken under Part 7.3 of the *Biodiversity Conservation Act 2016*, would find that critical habitat, threatened species, populations, ecological communities or their habitats would be adversely affected as a result of the proposal.

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

The land is affected by Class 5 Acid Sulfate Soils and is mapped as being bushfire prone. It is considered that these hazards can be adequately managed, as discussed previously in this document. No other likely environmental effects are envisaged.

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

It is considered that an additional household in this locality will not place any undue pressure on local services or infrastructure. The land is within a 5 minute drive of the town of Urunga, which is well serviced with a primary school, supermarkets, shops, a medical centre, dentists and the like. The land is already serviced with telecommunications and electricity infrastructure and has legal access to a sealed public road.

The dwelling that would result from success of this planning proposal is not expected to cause any adverse impacts on the social environment or the local economy.

State and Commonwealth interests

Is there adequate public infrastructure for the planning proposal?

Once registered, proposed Lot 2 will be serviced by telecommunications and electricity infrastructure and will have legal access to a sealed public road via a new community title road. The available public infrastructure is considered adequate for the planning proposal.

Views of State and Commonwealth authorities

Consultation with relevant state authorities will occur as relevant and where specified as part of the Gateway Determination.

It is proposed to consult with the following government agencies:

| Issue | Agency |
|--|------------------------|
| 117 Direction 4.4 Planning for Bushfire Protection | NSW Rural Fire Service |

Proposed Community consultation

The NSW Government publication “A guide to preparing local environmental plans” categorises planning proposals into “low impact proposals” or “All other planning proposals” for the purpose of determining the level of community consultation that should be undertaken. A low impact proposal is described as follows.

A low impact planning proposal is a planning proposal that, in the opinion of the person making the Gateway determination, is:

- Consistent with the pattern of surrounding land use zones and/or land uses
- Consistent with the strategic planning framework
- Presents no issues with regard to infrastructure servicing

- Does not reclassify public land

It is submitted that the proposed Planning Proposal meets the criteria for a low impact planning proposal, for which a minimum exhibition period of 14 days is specified.

The Bellingen Shire Council Community Engagement Strategy was adopted by Council at its Meeting of the 22 February 2012 and revised on 24 June 2015. This strategy is designed to outline the approach Bellingen Shire takes towards engaging with our community.

Having regard to the Strategy, it is considered that the planning proposal would be appropriately categorised as Level 4 - Lower Impact –Local. This requires Council to “Inform and Consult” the community.

Accordingly, it is proposed that the following actions be undertaken to consult with the community.

- Advertise the Planning Proposal for a period of 14 days in the Bellingen Courier Sun.
- Place notice of the Planning Proposal on the “Create” website for the duration of the exhibition period.
- Display the planning proposal, and relevant documentation, at the following locations for the duration of the exhibition period.
 - Bellingen Council Administrative Centre
 - Bellingen Library
 - Urunga Library

It is noted though that the gateway determination will ultimately specify the community consultation that must be undertaken on the planning proposal and Council will undertake consultation in accordance with the conditions of the Gateway Determination.

Delegations to make plan

Council resolved as follows at the Ordinary Meeting of Council 28 November 2012 regarding the Delegation of Ministerial Functions to Council.

“RESOLVED (Cr Scott/Cr Manning)

- That Council advise the Minister for Planning and Infrastructure that it formally accepts the proposed delegations for plan making under the provisions of Section 59 of the EP and A Act 1979.*
- That, pursuant to Section 381(a) of the Local Government Act 1993, Council approve the delegation of plan making functions to the General Manager.*
- That Council advise the Minister for Planning and Infrastructure that the nominated Council Officer for the exercising of the proposed delegations for plan making is Liz Jeremy, General Manager.”*

Given the minor nature of this proposed amendment, Council has resolved to use its delegations for the making of the Plan and to inform the Department of its intention to use its delegation to make the Plan.

A copy of the Evaluation Criteria for delegated authority has also been included as Attachment 4, in further support of Council's adopted position on this matter.

PLANNING PROPOSAL 14
VERSION 1 ATTACHMENTS INDEX
August 2018

- Attachment 1 – Information Checklist
- Attachment 2 – Report to Council and Recommendation to Proceed
- Attachment 3 – Project Timeline
- Attachment 4 – Evaluation Criteria for Delegation Authority
- Attachment 5 – Growth Management Strategy (extract)
- Attachment 6 – Site Map