

8.1 PROPOSED LEP AMENDMENT – MINOR ADJUSTMENTS & ADMINISTRATIVE REVIEW

File/Index: Planning/Planning Local Environmental Plan 2010/Planning Proposal 6

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REPORT SUMMARY:

Council has received a series of requests from landowners to consider modifications to the Bellingen Local Environmental Plan 2010 (BLEP 2010) to facilitate development of the land in accordance with relevant release strategies. Since the commencement of BLEP 2010, the need for a number of other minor alterations to maps has also been identified. This Planning Proposal seeks to amend the LEP accordingly.

Council is required to take into consideration the requirements of Section 55 of the *Environmental Planning and Assessment (EP&A) Act 1979* when considering a planning proposal to amend its local environmental plan. These matters are addressed in this report.

REPORT DETAIL:

Proposal:

Amend BLEP 2010 to;

- a) Undertake minor administrative amendments to map series.
- b) To facilitate the development of land in accordance with relevant release strategies.
- c) Implement Department of Planning's request that a new Grid Pattern be placed over map series.

Report Structure

For ease of reference this report will separate the amendments into 2 groups. The majority of amendments, being minor administrative matters, will be considered collectively as Group 1. As these are minor administrative matters, it is not necessary to consider the planning implications of these amendments in the same detail as those properties in Group 2 and as such will be described and justified in Table 1.

Group 2 will include those amendments that are intended to facilitate development of the land in accordance with relevant release strategies. They will only be described in Table 1, with a detailed justification being provided in a subsequent section.

The other component of the report relates to the imposition of a new Grid Pattern for the map series. This is a requirement of the Department of Planning that would be opportunistically imposed upon Council as part of a future LEP amendment. Given the amount of work involved in this and the potential for it to delay future matters that may require urgent resolution, it has been decided to implement the new grid pattern as part of this LEP amendment. It does not require any town planning comment or justification, however comment from Council's Land Information Officer is included in the body of the report that describes the nature of the change.

Given the size of mapping files that depict the proposed amendments to the map series, these will be presented as tabled documents. Relevant studies and / or requests underpinning Group 2 properties will also be tabled documents.

Subject land:

The land parcels upon which an amendment is proposed, and the nature of that amendment, are described below in Table 1. The Site ID Map number referred to in Table 1 (and elsewhere in this report) corresponds with the number on the Site ID Map included as a tabled document. The table is based around the alphabetical, then numerical order of the map series. Repeated references to the same site ID Map number are due to the need for amendments to more than one map theme for the same property.

As previously noted, the table also provides a justification for Group 1 Amendments, however Group 2 amendments will be justified in greater detail under a further heading.

TABLE 1: PROPOSED AMENDMENTS

Issue	Proposed Amendment	Existing Map Sheet	Site ID Map number / group
Revised Mineral Resources Advice received from Department of Industry and Investment (I & I)	Amend identified Resource and Buffer Zone mapping on CL1 map series.	CL1_001, CL1_004, CL1_006C, CL1_006D, CL1_007B	1/1
<p><u>Comment:</u> Council currently maps identified mineral resource areas and buffer zones to assist in the minimisation of land use conflict. An updated map has been received from I & I depicting the extent of these areas. The LEP Amendment proposes to incorporate these amended areas. They are minor in degree and extent.</p>			
Heritage Item Shading for Lot 2 DP 1173199 Vine Street, Dorrigo.	Remove Heritage Item shading from Lot 2 DP 1173199; Update Schedule 5 Property Description to reflect current Legal Description for Item 166.	HER_004C	2/1
<p><u>Comment:</u> The subdivision of Lot 2 DP 1056785 created Lots 1 & 2 DP 1173199. The dwelling that is the subject of the heritage listing remains on Lot 1 DP 1056785. The shading on the map currently shades the former extent of Lot 2 DP 1056785 and therefore requires amendment. The written description for Item I166 also requires amendment to replace reference to Lot 2 DP 1056785 with Lot 1 DP 1173199.</p>			
Heritage Item Shading for 69 Promised Land Road, Gleniffer.	Impose Heritage Item shading for Lot 69 DP 1167128; Update Schedule 5 Property Description to reflect current Legal Description for Item 195.	HER_006	3/1
<p><u>Comment:</u> A minor boundary adjustment that increased the area of the land parcel containing the relevant heritage listing has increased the area of the lot. The shading of the heritage map requires amendment to cover the full extent of the new enlarged lot.</p>			

Issue	Proposed Amendment	Existing Map Sheet	Site ID Map number / group
<p>The written description for Item I195 also requires amendment to replace reference to Lot 67 DP 605867 with Lot 69 DP 1167128.</p>			
<p>Heritage Item Shading for 1A Rawson Street, Bellinghen</p>	<p>Remove Heritage Item shading from Lot 11 DP 1172177; Update Schedule 5 Property Description to reflect current Legal Description for Item 11.</p>	<p>HER_006F</p>	<p>4/1</p>
<p><u>Comment:</u> The dwelling that is the subject of the heritage listing remains on Lot 12 DP 1172177. Lots 11 & 12 DP 1172177 were created as the result of a minor boundary adjustment between former Lots 1 & 4 DP 1070017. The shading of the heritage map requires amendment to remove the shading from Lot 11 DP 1172177.</p> <p>The written description for Item I11 also requires amendment to replace reference to Lot 4 DP 1070017 with Lot 12 DP 1172177.</p>			
<p>Heritage Item Shading for 6 Hammond Street, Bellinghen.</p>	<p>Impose Heritage Item shading for Lot 9 Sec A DP 5564; Update Schedule 5 Property Description to reflect current Legal Description for Item 26.</p>	<p>HER_006F</p>	<p>5/1</p>
<p><u>Comment:</u> The dwelling that is the subject of the heritage listing is constructed over the boundary of Lots 8 & 9 Section A DP 5564. The shading of the item is only over Lot 8. It is necessary to also shade Lot 9 given that approximately half of the subject dwelling is built over this lot.</p> <p>The written description for Item I26 also requires amendment to include reference to Lot 9 Sec A DP 5564 in addition to the existing property.</p>			
<p>Extension of New England National Park on Darkwood Road, Brinerville</p>	<p>Remove 200ha Lot Size from Lot 43 DP 755555, Lot 1 DP 755563 and the Crown Public road within Lot 43, DP 755555 to align with rest of National Park Estate land</p>	<p>LSZ_002</p>	<p>6/1</p>
<p><u>Comment:</u> Adjust Lot Size Map to reflect new E1 (National Parks & Nature Reserves) zoning to be imposed over recent extension to New England National Park.</p>			
<p>Lot size adjustment for 35 Gordon Road, Raleigh</p>	<p>Remove 20ha Lot size from Lot 102 DP 1015866; Impose 5000m2 and 10ha Lot size</p>	<p>LSZ_006</p>	<p>7/2</p>
<p>Lot size adjustment for 137 North Bank Road, Bellinghen</p>	<p>Remove 600m2 Lot size from Lot 11 DP 711859; Impose 1ha Lot size</p>	<p>LSZ_006</p>	<p>8/2</p>
<p>Lot size adjustment for 105 North Bank Road, Bellinghen</p>	<p>Remove 200ha Lot size from Lot 7 DP 810520; Impose 20ha Lot size</p>	<p>LSZ_006</p>	<p>9/2</p>
<p>Lot size adjustment for 197 North Bank Road, Bellinghen</p>	<p>Adjust boundary between 10ha and 1ha Lot size to facilitate workable lot configuration for Lot 34 DP 773989;</p>	<p>LSZ_006</p>	<p>10/2</p>
<p><u>Comment:</u> Group 2 properties discussed in detail further on in report.</p>			
<p>Minor Lot Size Discrepancy</p>	<p>Adjust 1ha and 200ha Lot size boundary to follow land boundary of</p>	<p>LSZ_006</p>	<p>11/1</p>

Issue	Proposed Amendment	Existing Map Sheet	Site ID Map number / group
	Lot 100 DP 1154793 to remove 200ha Lot size over Lot 100.		
<p><u>Comment:</u> The very minor portion of the land that is subject to a 200ha minimum lot size is unnecessary and would complicate future development of the land due to the inflexibility of the standard instrument for residue portions of land that do not comply with minimum lot size provisions.</p>			
Lot Size discrepancy for part of Pine Creek State Forest Slarkes Road, Bellingen.	Remove 200ha Lot size from Lot A DP 388867 to align with rest of State Forest Estate land	LSZ_006	12/1
<p><u>Comment:</u> State Forest has a tenure based zoning of RU3 Forestry. The general rules applied by Council for the RU3 zone do not involve the specification of a minimum lot size.</p>			
Lot Size discrepancy for Burdett Park Waterfall Way, Fernmount.	Remove 200 ha Lot Size from Lot 1 DP 1151880; Impose 1 ha Lot size.	LSZ_006F	13/1
<p><u>Comment:</u> As part of rectifying a minor zoning anomaly on the same property, it is considered prudent to adopt the same lot size category as the dominant portion of the land.</p>			
Lot Size discrepancy between Road and State Forest.	Impose 200 ha Lot size for Lot 1 DP 1147631.	LSZ_006F	14/1
<p><u>Comment:</u> Correct minor irregularity related to enlargement of road reserve.</p>			
Lot Size boundary adjustment between 4 & 6 Old Punt Road, Urunga.	Remove 200ha Lot Size from Lot 10 DP 1156550; Impose 1 ha Lot Size and retain 200ha over area covered by W2 Recreational Waterways Zone.	LSZ_007	15/1
<p><u>Comment:</u> Lot 10 DP 1156550 was created as the result of a recent boundary adjustment. It involved the addition of a small piece of extra land to its southern boundary that is currently zoned RU1. In order to simplify the zoning situation, it is proposed to provide a R1 General Residential zone over that small additional portion of land. To ensure consistency with Lot Size Mapping on adjoining properties with similar zonings, it is proposed to impose a 1ha lot size over that portion of the land zoned R1 and retain the 200ha lot size in that portion of the property zoned W2. The amendment does not have any effect on subdivision potential as the property does not meet any relevant lot size requirement.</p>			
Extension of New England National Park on Darkwood Road, Brinerville.	Remove E4 Environmental Living Zone from Lot 43 DP 755555, Lot 1 DP 755563 and the Crown Public road within Lot 43, DP 755555; Impose E1 Zone.	LZN_002	6/1
<p><u>Comment:</u> National Parks have a tenure based zoning of E1. Imposition of the E1 zoning reflects the recent extension of the National Park.</p>			
Zoning discrepancy for Dorrigo Heritage Gardens Karabin Street, Dorrigo.	Remove R1 Zone from Lot 7007 DP 1072462; Impose RE1 Public Recreation Zone.	LZN_004A	16/1
<p><u>Comment:</u></p>			

Issue	Proposed Amendment	Existing Map Sheet	Site ID Map number / group
There is no obvious or compelling reason why the minor portion of the land that is currently zoned R1 should be any different to the RE1 zoning of the dominant portion of the reserve.			
Zoning adjustment for 35 Gordon Road, Raleigh	Reinstate former residential zone boundary from BLEP 2003 and align R1 zoning on property with Growth Area Map limit in Mid North Coast Regional Strategy. Impose E2 Environmental Conservation Zoning over Endangered Ecological Community identified on the property.	LZN_006	7/2
<p>Comment:</p> <p>Group 2 properties discussed in detail elsewhere in report.</p>			
Zoning discrepancy for part of Pine Creek State Forest Slarkes Road, Bellinghen.	Remove RU2 Rural Landscape Zone from Lot A DP 388867; Impose RU3 Zone.	LZN_006, LZN_006D	12/1
<p>Comment:</p> <p>State Forest has a tenure based zoning of RU3.</p>			
Zoning update for recently dedicated land for Public Reserve Sunset Ridge, Bellinghen.	Remove R1 Primary Production Zone from Lot 59 DP 1155766; Impose RE1 Zone.	LZN_006A	17/1
<p>Comment:</p> <p>The subject lot was recently created and dedicated to Council as a public reserve, following the completion of a residential subdivision in the locality. RE1 is the appropriate zone.</p>			
Zoning discrepancy for Burdett Park Waterfall Way, Fernmount.	Remove RU1 Zone from Lot 1 DP 1151880; Impose RE1 Zone.	LZN_006B	13/1
<p>Comment:</p> <p>The subject land is a Crown Reserve for Public Recreation. RE1 is the appropriate zone.</p>			
Zone update for boundary between Road and State Forest.	Remove RU3 Zone from Lot 1 DP 1147631; Impose E3 Environmental Management Zone.	LZN_006B	14/1
<p>Comment:</p> <p>Correct minor irregularity related to enlargement of road reserve.</p>			
Zoning update for dedicated land for Public Reserve Cedar Court, Bellinghen.	Remove R1 Zone from Lot 23 DP 1143592; Impose RE1 Zone.	LZN_006B	18/1
<p>Comment:</p> <p>The subject lot was recently created and dedicated to Council as a public reserve, following the completion of a residential subdivision in the locality. RE1 is the appropriate zone.</p>			
Zoning update for dedicated land for Public Reserve McCristal Drive, Bellinghen.	Remove R1 Zone from Lot 76 DP 1056322; Impose RE1 Zone.	LZN_006B	19/1

Issue	Proposed Amendment	Existing Map Sheet	Site ID Map number / group
<p><u>Comment:</u> The subject lot was created and dedicated to Council as a public reserve, following the completion of a residential subdivision in the locality. RE1 is the appropriate zone.</p>			
Zoning update for new Essential Energy substation Pacific Highway, Raleigh.	Remove SP2 Infrastructure (Pacific Highway) Zone from Lot 2 DP 1127087; Impose RU2 Adjust minor zone discrepancies.	LZN_006E	20/1
<p><u>Comment:</u> The substation was constructed on land formerly reserved for the Pacific Highway. The land is no longer appropriately zoned as SP2 Infrastructure (Highway) and it is proposed to adopt the nearest background zone of RU2 in accordance with DOP principles for zoning infrastructure.</p>			
Adjust R1 zone boundary following correction of Cadastre that removed T-intersection at the intersection of Christian Parade and Beach Parade, Mylestom.	Remove R1 Zoning on Lot 7004 DP 1107437; Impose E3 Zone. Adjust minor zone discrepancy.	LZN_006E	21/1
<p><u>Comment:</u> The relevant portion of land did not have a residential zoning under the terms of BLEP 2003 and the imposition of an R1 zoning was not intended by the Growth Management Strategy. It is a minor error and requires rectification.</p>			
Zoning discrepancy for Lions Park, Crescent Close, Urunga.	Remove R1 Zone from Lot 1 DP 538657; Impose RE1 Zone.	LZN_007C	22/1
<p><u>Comment:</u> It is apparent that part of Crown Reserve Number 87713 (Reserve for Public Recreation) was never zoned appropriately following completion of a land swap with the adjoining private owner. RE1 is the appropriate zone.</p>			
Zoning update for boundary adjustment between 4 & 6 Old Punt Road, Urunga.	Remove RU1 Zone from Lot 10 DP 1156550; Impose R1 zone and retain existing W2 Zone.	LZN_007C	15/1
<p><u>Comment:</u> Lot 10 DP 1156550 was created as the result of a recent boundary adjustment. It involved the addition of a small piece of extra land to it's southern boundary that is currently zoned RU1. In order to simplify the zoning situation, it is proposed to provide a R1 zone over that small additional portion of land.</p>			

GROUP 2 PROPERTIES JUSTIFICATION

Site ID Map Number 7

Property details:

Lot 102 DP 1015866; 35 Gordon Rd, Raleigh.

Proposed amendments:

- Remove the existing minimum lot size of 20ha over the property.
- Impose a 5000m² minimum lot size and a 10ha minimum lot size over the property.

- Reinstatement of former residential zone boundary from BLEP 2003 and align R1 General Residential zoning on property with Growth Area Map limit in Mid North Coast Regional Strategy.
- Impose E2 Environmental Conservation Zoning over Endangered Ecological Community identified on the property.

Map sheets requiring amendment

Lot Size Maps

- Existing map sheet – LSZ_006
- Proposed map sheet following grid restructure - LSZ_006

Land Zoning Maps

- Existing map sheet – LZN_006E
- Proposed map sheet following grid restructure – LZN_006F

Justification

This proposed amendment relates to recent discussions with the property owners regarding subdivision potential of the land. Relevant studies that have been relied upon to inform the proposed amendment is included as tabled documents to this report.

The subject land, upon commencement of BLEP 2010, had a 20ha minimum lot size placed over it. This was based upon a desktop review of vegetation cover on that portion of land that was zoned 2(b) (Village Area Zone) under the provisions of BLEP 2003.

With the exception of a minor incursion of RU1 zoning into the former 2(b) portion, the residential zoning in this area was retained with the gazettal of BLEP 2010. It is noted that the extent of the former 2(b) zone aligns with the extent of the “Growth Areas” designation in the Mid North Coast Regional Strategy.

It was considered that a review of the 20ha minimum lot size could be contemplated if the ability of the land to accommodate further subdivision was demonstrated. In this regard, Council has now received a series of investigations that are considered to justify an amendment to the LEP to facilitate subdivision in the locality. These investigations focused around a hypothetical 3 lot subdivision however Council’s consideration of the matter has focused on the general ability of the land to support additional lots and does constitute any endorsement of the hypothetical subdivision layout. Key aspects of the request are discussed below.

Effluent Disposal

A principal limiting factor for subdivision in this area is considered to be the ability of the land to dispose of effluent. A “Land Capability Assessment for Residential Subdivision” has been submitted to Council by *Whitehead and Associates Environmental Consultants Pty Ltd* and reviewed by Council’s Environmental Health & Building Surveyor. His comments are reprinted below.

The report provided by Whitehead and Associates is comprehensive and did not identify any major limitations for on site sewerage management with regard to the planning proposal.

It is understood that the area identified as 'x' on the lot size map is an exemplified excision of the existing parcel of land and is configured so as not to impact on EEC's on the site.

Figure 5 of the report by Whitehead and Associates identifies 3 proposed dwellings with proposed primary Effluent Management Areas (EMA) and proposed reserve EMA's. The location of the EMA's has taken into consideration recommended buffer distances from watercourses. With regard to the EMA's identified on the concept plan I express concern over the congested nature of the two proposed dwellings and EMA's within the northern part of the proposal. I say this as all immediate open space is dominated by effluent disposal areas and duplication thereof. This compromises ability for people to establish vegetable gardens, provide landscape treatment as desired, and functional places for people to play and recreate as EMA's should be free from human contact other than for maintenance and ideally should have a degree of separation from dwelling houses. In the life of a development it could also be anticipated that ancillary structures and hard stand areas be applied to areas adjacent to a dwelling thus further compromising the EMA's.

In which case, and within the constraints recognised and identified with the proposal it would be considered acceptable to consider two dwellings and associated EMA's as acceptable in the circumstances. This would also allow for more rational vehicular access, would alleviate conflicts with expected land uses as mentioned above, provide for reasonable separation between dwellings and permit a less ad hoc layout as that which has been put forward.

The revised lot size map includes an area of approximately 1.3ha over which a minimum lot size of 5000m² is proposed. This would allow for the creation of two lots in this area that are capable of effluent disposal as well as the provision of suitable open space areas for other functions. The amendment of the lot size map to impose a 10ha minimum lot size over the residue portion of the land would potentially allow for the creation of an additional lot fronting the Old Pacific Highway that could establish a building and effluent disposal area further to the east subject to further future investigation.

It is acknowledged that Council does not currently have a 5000m² lot size category provided in non sewerred areas. It is noted though that the subject land is within a residential zone and that other properties within this zone, and in this locality, have significantly smaller lot sizes than 5000m². Furthermore, the imposition of a 5000m² lot size is not contrary to the GMS, which only identifies the need for a 1ha minimum lot size on land that is zoned R5.

Flora & Fauna

Flametree Ecological Consulting prepared a review of the likely impacts on flora and fauna of the potential subdivision of the land. They conclude that house sites (and associated clearing for Asset Protection Zones (APZ's)) on proposed Lots 1 & 2 would be unlikely to have any significant impact and reserve final judgement on lot 3 until a location is finalised. They also document the existence of an endangered ecological community (EEC) on site (Swamp Sclerophyll Forest), to the east of the proposed area for subdivision, that they consider would be unaffected by development of the two hypothetical house sites. It is noted that ample area exists to the south of the EEC to support a future dwelling on that portion of the lot proposed to have a 10ha minimum lot size.

The revised zoning map for this property reflects the findings of the flora & fauna investigation by;

- Zoning the identified EEC as E2 – Environmental Conservation
- Designating a 6m strip of RU1 land between the proposed R1 zone boundary and E2 boundary. The purpose of this strip is to allow for the possible future clearing of a fence line pursuant to exemptions in the Native Vegetation Act 2003 without needing to impinge upon the EEC.

The revised lot size map reflects the findings of the flora & fauna investigation by aligning the 5000m² area with the eastern extent of the proposed R1 zoning. The southern edge of the 5000m² area allows for a 20m wide access corridor and extends to adjoin the eastern extent of the R1 zoning.

In view of the consistency of the proposal with the Mid North Coast Strategy, the careful consideration of effluent and flora and fauna issues and the higher level of protection that will be afforded to an identified EEC by virtue of the proposed E2 zoning, the amendment is considered worthy of support.

Site ID Map Number 8

Property details:

Lot 11 DP 711859; 137 North Bank Rd, Bellingen

Proposed amendments:

- Remove the existing minimum lot size of 600m² over part of the property
- Impose a 1ha minimum lot size over the entire property.

Map sheets requiring amendment

Lot Size Maps

- Existing map sheet – LSZ_006
- Proposed map sheet following grid restructure - LSZ_006

Justification

This proposed amendment relates to an anomaly discovered as part of a previous attempt to subdivide the property.

It is proposed that the 1ha minimum lot size provision be extended over the entire lot. This would involve deleting the existing 600m² minimum lot size requirement over the lower portion of the land that is currently zoned E3. The subdivision of land using the existing 600m² min lot size is not practical as it covers the area of land that is subject to flooding. The subdivision of the land into 2 x 1ha lots would likely involve the establishment of a building envelope in the flood free NW corner of the property, to the west of a 1st order watercourse that starts in the NE corner of the lot. There is an existing dwelling on the lower south-east portion of the lot.

The principal limiting factor for subdivision of this lot is considered to be the ability of the land to dispose of effluent. Council's Environmental Health & Building Surveyor has considered the property with regard to effluent disposal and his comments are reprinted below.

The proposal is considered acceptable in principle as it is consistent with the adjacent pattern of subdivision. It is understood that the allotment would likely be subdivided into two parts such that the existing dwelling would be located on the lower portion of the subject land with remaining higher ground being a vacant lot. Based on this and the outcomes of numerous on site sewage/land capability assessments for the subdivision of adjoining land and land in the general locality I could confidently say that the higher parcel of land could support a residential development consistent with the general surrounding pattern of development in terms of on site sewage.

In order to absolutely comment on the proposal a land capability assessment should accompany the proposal and include commentary (and any recommendations therein) on the performance of the existing OSMS servicing the existing dwelling house and the relationship of all elements of the OSMS to modelled flood events, being the 5% Annual Exceedance Probability Flood (AEP) (9.0 metres Australian Height Datum (AHD)), 2% AEP (9.5 metres AHD), and 1% AEP (10 metres AHD). There would be scope for localised variation to these levels with interpolation. However the use of these acts as a conservative measure of anticipated flood levels.

For the purposes of this planning proposal, it is considered that a reasonable degree of comfort exists as to the likely future ability of land to accommodate effluent. Any future application for subdivision will however need to be informed by the comprehensive land capability assessment referred to in the commentary.

Site ID Map Number 9

Property details:

Lot 7 DP 810520; 105 North Bank Rd, Bellingen

Proposed amendments:

- Remove the existing minimum lot size of 200ha over part of the property
- Impose a 20ha minimum lot size over that same part of the property.

Map sheets requiring amendment

Lot Size Maps

- Existing map sheet – LSZ_006
- Proposed map sheet following grid restructure – LSZ_006

Justification

This proposed amendment relates to a recent inquiry from the property owners regarding subdivision potential. The need to amend the LEP stems from the inability of the Standard Instrument LEP to efficiently allow for the subdivision of split zoned land parcels.

The subject site is currently bisected by North Bank Road.

The portion of the subject land that is north of North Bank Rd is mostly within a 600m² minimum lot size area, however also has a small portion of 1ha minimum lot size area.

The portion of the subject land that is south of North Bank Rd is within a 200ha minimum lot size area. The existing dwelling is on the southern portion of the lot and this portion of the subject land currently has an area of 20.8ha.

The existing 200ha minimum lot size would not allow for excision of the southern portion from the northern part of the property that has residential development potential. It is considered reasonable to permit its excision in order to facilitate the potential disposal of the northern portion to allow for residential development.

Site ID Map Number 10

Property details:

Lot 34 DP 773989; 197 North Bank Rd, Bellingen

Proposed amendments:

- Adjust boundary between 10ha and 1ha minimum lot size areas to facilitate workable lot configurations.

Map sheets requiring amendment

Lot Size Maps

- Existing map sheet – LSZ_006
- Proposed map sheet following grid restructure – LSZ_006

Justification

This proposed amendment relates to a request from the property owner to revise lot size boundaries on the subject property. The request is included as a tabled document to this report. The need to amend the LEP stems from the inability of the Standard Instrument LEP to efficiently allow for the subdivision of split zoned land parcels.

The existing lot size map boundary between the 1ha area and the 10ha area on this property is based upon the zone boundary between RU2 and R1. This in turn was based upon the previous zone boundary between the 1(a2) (Secondary Agriculture) and (1(c2) (Rural Small Holdings Zone) in BLEP 2003. The historic basis for the zone boundary appears to have been the 9m contour, which is the 1% AEP flood level for the locality as adopted by the Lower Bellingen Flood Study.

The proposed lot size map boundary between the 1ha area and the 10ha area on this property has been requested so as to provide for a more regular point of transition between these areas, around which a functional lot layout can be developed. It involves the removal of several fingers of 10ha areas that extend up a number of minor 1st or 2nd watercourses and fixes a lower extent for the 1ha area around a possible future road reserve.

The lower extent of the proposed 1ha area has been determined partially with reference to the point at which North Bank Rd is cut. This point is considered acceptable as it will not be possible to get back to Bellingen when North Bank Rd is cut at this point. It is illogical to require internal roads to be constructed at a higher standard only to see access impeded upon reaching North Bank Rd. Furthermore, any future subdivision of the land is likely to create a “community of support” pursuant to

the provisions of Chapter 8 of Bellingen Shire DCP 2010, in which case access constructed to a higher level, such as the 1% AEP level, is not required. In this regard, the proponent's Engineering Consultant advises as follows.

The road level at the Frenchman's Creek bridge along North Bank Road is approximately R.L. 6.7m AHD. However the road level immediately to the east of the bridge is actually lower at about R.L. 5.6m AHD and, hence, a "cut-off" level of 5.6m AHD has been applied for access along North Bank Road. An indicative design level of between 5.6 and 6.0m AHD for the internal cul-de-sac within the land therefore satisfies the "cut-off" level requirement for North Bank Road.

The revised lot size map for this property reflects the abovementioned considerations in that the 1ha area is restricted to land above the 6m contour, with the exception of points where minor gullies are crossed.

Overall, the amendments are considered to be minor in nature and reasonable in the context of a workable future lot layout.

LEP MAPPING – AMENDMENT OF GRID PATTERN & ZONING KEY

Council's Land & Information Officer has advised as follows with respect to the amendment of the mapping grid.

"A part of this planning proposal is to amend the LEP to comply with the current Standard LEP Mapping Standards. The production of the LEP map sheets is a complicated process so what seems a minor change of relabeling the maps is much more involved than simply changing some text. There are a number of files used in the production process and all of the files need to be amended or checked to make sure the map which is produced is correct.

The reason for the change is that the first grid system devised by the Department made it more difficult to locate the correct maps for a given property. The department required that the LEP needed a base grid (in Bellingen's Case this contains 7 map sheets at a Scale of 1: 80000) and then each planning theme (eg: Land Zoning) could insert as many larger scale maps as necessary but each insert needed to start with the letter A.

An Example LZN_007A(A 1:20000 scale map) is the first insert for LZN_007 (1:80000 scale base map).

This system works fine if every planning theme has the same number of inserts. In Bellingen's case this is not true which meant the net effect of this system was maps labelled with the same letter did not cover the same spatial area. An example is HER_007A does not cover the same area as LZN_007A.

Bellingen LEP 2010 contains 68 maps, to bring the LEP inline with the current standards 56 of them need to be reproduced with the altered grid labelling. Given that this is the second grid change since the LEP was gazetted there are no guarantees that the Department won't change the Standards in the future and Council will have no choice but to comply."

Given also an amendment to the Standard Instrument LEP by the DoP that changed the name of the RU4 zone from “Rural Small Holdings” to “Primary Production Small Lots”, it will be necessary to change the description of this zone in the key attached to the Zoning Map Series. Although the DoP adjusted the description of the zone in the written document at the time of the amendment, they unfortunately overlooked the amendment of the map series, hence the need for this correction by Council.

In order to properly document the nature of this change, a Grid Matrix Conversion Table has been prepared to illustrate existing and proposed map theme numbering. In addition, an existing and proposed Grid Reference Plan has been prepared for the heritage theme to provide a visual point of comparison. These are included as tabled documents. See Attachment A

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.

(Note: The “Planning Proposal” is a discrete legal document that does not technically include the Council Report. Should Council resolve to support the overall LEP amendment, the actual “Planning Proposal”, as detailed below, will be amended to present as a single coherent document that will be forwarded to the Department of Planning. As such the Planning Proposal, below, makes reference to the Council Report.)

Objectives

The objectives of the proposed LEP amendment are as follows:

1. To make minor adjustments to Lot Size & Zone Maps to facilitate the development of land in accordance with relevant release strategies .
2. To make routine minor administrative amendments to the map series in order to ensure the accuracy and currency of the LEP.
3. To update the LEP in order to ensure ongoing consistency with the mapping requirements developed by the Department of Planning.

Proposed provisions

The provisions of the proposed LEP amendment will include:

1. An amendment to BLEP 2010 to implement those changes detailed in Table 1 of the Council Report of 29 May 2012 (Note: Will be referenced and attached to the Planning Proposal as Attachment 1 upon referral for a Gateway Determination).
2. An amendment to BLEP 2010 to introduce a new Grid Pattern over the map series and to update reference to the RU4 (Primary Production Small Lots) zone on relevant maps.

Justification

The general justification for inclusion of Group 2 properties is detailed in the Council Report of 29 May 2012. (Note: This justification will be referenced and attached to the Planning Proposal as Attachment 2 upon referral for a Gateway Determination).

In addition to this, the Department of Planning has issued requirements for specific matters that must be addressed in all planning proposals. These are addressed below.

A. Need for Planning proposal

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

The planning proposal is the result of continued monitoring of the effectiveness and accuracy of the existing LEP document. It is not contrary to any strategic study or report.

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

There is no alternative measure that would deliver the outcomes sought by the planning proposal.

Is there a net community benefit?

There is a community benefit that accrues from the routine maintenance of the LEP by Council. It is important to ensure that the LEP is accurate and current and that Council is responsive to reasonable concerns expressed by members of the community regarding the LEP's ability to deliver feasible development outcomes within the boundaries of approved growth strategies.

B. Relationship to strategic planning framework

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

The Mid North Coast Regional Strategy (MNCRS) provides a broad outline for the direction of future development in this region for the next 2 decades. The relevant outcomes and actions of the Mid North Coast Regional Strategy include:

4. Settlement and Housing

Growth Area Planning

Actions

Local growth management strategies, local environmental plans and other statutory planning controls will align with the Regional Strategy's settlement network (as shown on the growth area maps) to contain the spread of urban development,

efficiently utilise existing services and infrastructure, and protect areas of high conservation value.

Comment:

Site 7 is within both a “coastal area” and a “growth area” as defined in the MNCRS. The planning proposal makes a minor amendment to the R1 zone that does not go beyond, or involve any adjustment to the existing growth area boundary. The imposition of the proposed 5000m² minimum lot size does not involve any further rezoning for development and actually covers less area than the existing and underlying R1 zoning.

Rural Residential Development

Actions

Future rural residential land will only be zoned for release if it is in accordance with a local growth management strategy agreed to between Council and the Department of Planning and consistent with the principles of the Settlement Planning Guidelines.

No new rural residential development will be permitted within the coastal Area, other than development already zoned or in an approved current or future local growth management strategy (or rural residential land release strategy).

Comment:

Sites 8 & 9 both involve amendments to the extent of the 1ha minimum lot size mapping on their properties. The amendments are minor in nature and are considered to be consistent with the Bellingen Shire Growth Management Strategy 2007.

7. Environment & Natural Resources

Outcomes

Where development, including new land release, may impact on biodiversity it will be designed to minimise impacts or provide offsets by protecting and enhancing the long term viability of priority vegetation and habitat corridors, as well as rehabilitating degraded priority areas.

The values and functions of riparian corridors, coastal wetlands, lakes, estuaries and fishery habitats will also be protected. Waterways will be protected to maintain water quality.

Actions:

Local Environmental Plans will protect and zone land with high environmental, vegetation, habitat, riparian, aquatic, coastal or corridor values for environmental protection.

New development adjoining or adjacent to farmland, extractive resources, waterways, wetlands and areas with high value biodiversity will incorporate buffers to avoid land use conflict.

Local Environmental Plans will include provisions to encourage habitat and corridor establishment in future zoning of land with environmental and rural values.

Local Environmental Plans will protect land identified as having extractive resources of regional significance and their haulage routes

Comment:

The planning proposal proposes the establishment of an E2 Zoning to protect an EEC identified as part of an investigation of habitat value on Site 7. Other aspects of the planning proposal will not have any significant adverse impact on biodiversity or environmental values.

The planning proposal also updates Council maps that identify mineral resource areas and buffer zones to assist in the protection of identified resources from unsympathetic adjoining development.

8. Natural Hazards

Outcomes:

Future urban development will not be located in areas of high risk from natural hazards including sea level rise, coastal recession, rising water tables and flooding.

Appropriate planning provisions will be incorporated in local environmental plans consistent with the Floodplain Development Manual and council's risk management plan to minimise the risk from flooding and coastal erosion.

Actions:

Local environmental plans will zone areas subject to high hazard to reflect the limitations of the land.

Comment:

The planning proposal makes minor adjustments to development potential within certain areas that have been identified as subject to flooding. As described in the general justification for Group 2 properties, these are considered minor and not likely to create future development that is inconsistent with the provisions of Chapter 12 of Bellingin Shire DCP (Flooding & Riverine Processes). Further detail on flooding is also provided addressing Section 117 Direction 4.3, later on in this report.

9. Cultural heritage

Outcomes:

The Region's places, precincts and landscapes of cultural heritage significance will be identified (where appropriate) and protected in planning instruments.

The Regions major regional centres and major towns will continue to evolve their forms, while still maintaining the heritage values that are important.

Actions:

The cultural heritage values of major regional centres and major towns that will be the focus of urban renewal projects will be reviewed with the aim of protecting cultural heritage.

Comment:

The planning proposal makes minor amendments to heritage listings to ensure the accuracy and currency of the LEP and to ensure that cultural heritage remains adequately protected.

11. Regional Transport

Actions:

Local environmental plans will recognise and protect the regional transport network through appropriate planning provisions.

Comment:

The proposal to remove the SP2 Infrastructure (Pacific Highway) zoning from land at Raleigh (Site 20) is not an erosion of protection for the highway corridor. It reflects the changes of use of the facility to an electricity substation.

Is the proposal consistent with Council's strategic plans?

Growth Management Strategy:

The Bellingen Shire Growth Management Strategy (2007) (the GMS) is the principal strategic plan that informs land use zonings and development potential in Bellingen Shire. The recommendations of the GMS have been largely implemented with the gazettal of BLEP 2010.

It is considered that the planning proposal is consistent with the GMS. It does not propose any new localities for development but does make minor amendments to mapping boundaries to help realise development potential in areas that have been endorsed by the GMS.

Is the proposal consistent with applicable state environmental planning policies?

SEPP 44 – Koala Habitat & Protection

SEPP 44 encourages the inclusion of areas of core koala habitat in environment protection zones.

Site 7 is the only area of land where the amendments proposed may have an impact upon areas of potential koala habitat. It is unlikely that the subject site would contain core koala habitat. The flora and fauna consultant has advised Council as follows with respect to koalas.

“The area is effectively an island, with the highway on one side and the Bellinger and Kalang Rivers on the others, not to mention the old highway and the railway line as well. Within this "island", there is not much forest - not nearly enough to support a resident population of Koalas. “

Notwithstanding this, it is noted that the overall effect of the planning proposal will be to increase the level of protection afforded to the property by virtue of the proposed E2 zoning over a large part of EEC.

SEPP 55 – Remediation of Land:

The planning proposal does not involve any significant departure from existing or previous planning positions that would warrant a detailed investigation of previous land uses at this stage.

SEPP 62 – Sustainable Aquaculture

Development on Site 7 has the potential to impact upon Priority Oyster Aquaculture Areas, as provided for in the SEPP. A comprehensive Land Capability Assessment for the site has however been received that demonstrates that the land is capable of disposing of the effluent likely to be generated if land is subdivided in accordance with proposed lot sizes included in this planning proposal.

SEPP 71 – Coastal Protection

Part of Site 7 is within the Coastal Zone. The matters for consideration set out in clause 8 of the SEPP should be taken into account by a council, when it prepares a draft local environmental plan that applies to land within the Coastal Zone. These matters have been considered with respect to Site 7 and it is considered that the proposed amendment is not contrary to the SEPP. Key matters such as effluent disposal and impact on biodiversity have been appropriately considered and it is anticipated that future development of the land will be able to satisfy the provisions of the SEPP.

SEPP (Rural Lands) 2008

Under section 117 of the Act, the Minister has directed that councils exercise their functions relating to changes in minimum lot sizes under local environmental plans in accordance with the Rural Planning Principles and the Rural Subdivision Principles. Amendments to the lot size map in rural areas are minor in extent and do not act to introduce new entitlements that will jeopardise rural activities or involve any departure from the strategic land use planning approach undertaken in the GMS.

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 relevant to the subject proposal are considered below.

Direction 1.2 – Rural Zones

This direction applies as the planning proposal will rezone land within an existing or proposed rural zone to a residential zone. Direction 1.2 states that a planning proposal must not rezone land from a rural to residential zone.

Despite this inconsistency, the minor reinstatement of the previous Residential zoning under BLEP 2003 on Site 7 and the minor amendment of the zoning on Site 15 to reflect the actual use of the land are considered to be of minimal significance.

Direction 1.4 – Oyster Aquaculture

Direction 1.4 applies to any planning proposal that proposes a change in land use which could result in:

- a) adverse impacts on a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate”, or
- b) incompatible use of land between oyster aquaculture in a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease” in the national parks estate” and other land uses.

It is not considered that the planning proposal will adversely impact on any Priority Oyster Aquaculture Area.

Direction 1.5 – Rural Lands

This direction applies as the planning proposal will affect land within an existing or proposed rural or environment protection zone and will contain provisions that will change the minimum lot size on land within a rural zone. In this instance, the planning proposal must be consistent with the rural planning principles and rural subdivision principles within SEPP (Rural Lands) 2008. These are reprinted below.

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,*
- 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,*
- 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,*
- d) *in planning for rural lands, to balance the social, economic and environmental interests of the community,*
- 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,*
- f) *the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,*
- g) *the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,*
- h) *ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.*

The Rural Subdivision Principles are as follows:

- a) *the minimisation of rural land fragmentation,*
- b) *the minimisation of rural land use conflicts, particularly between residential land uses and other rural land uses,*
- c) *the consideration of the nature of existing agricultural holdings and the existing and planned future supply of rural residential land when considering lot sizes for rural lands,*
- d) *the consideration of the natural and physical constraints and opportunities of land,*
- e) *ensuring that planning for dwelling opportunities takes account of those constraints.*

Comment:

Amendments to the lot size map in rural areas are minor in extent and do not act to introduce new entitlements that will jeopardise rural activities or involve any departure from the strategic land use planning approach undertaken in the Growth Management Strategy.

Direction 2.1 Environment Protection Zones

This direction applies to any planning proposal. It requires that a planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas and that a planning proposal that applies to land within an environment protection zone must not reduce the environmental protection standards applying to the land.

Comment:

The planning proposal includes an intention to zone an identified EEC as E2 and thereby positively embraces the intent of this direction. In the case of Site 8, it is intended to impose a 1ha minimum lot size area over land presently zoned as E3. As the current minimum lot size is 600m², this can not be viewed as a reduction in the environmental standards applying to the land.

Direction 2.2 – Coastal Protection

This direction applies because land affected by the planning proposal is within the coastal zone. A planning proposal must, pursuant to this direction, give effect to and include provisions that are consistent with the NSW Coastal Policy, Coastal Design Guidelines and the NSW Coastline Management Manual.

As previously noted under commentary for SEPP 71, the proposal is broadly consistent with the requirements of the Coastal Policy and other guidelines for development in this area.

Direction 2.3 – Heritage Conservation

This direction applies to any planning proposal. The planning proposal involves minor amendments to some existing heritage listings. These amendments are designed to ensure ongoing accuracy and currency of the LEP and to ensure that identified heritage values remain properly protected. In this regard, the planning proposal is consistent with this direction.

Direction 3.1 – Residential Zones

This direction applies because the planning proposal will affect land within an existing or proposed residential zone, and alters an existing residential zone boundary on site 7.

The planning proposal makes a series of amendments to residential zones in order to impose appropriate RE1 zonings over public reserves (sites 16, 17, 18, 19 & 21), reflect minor boundary adjustments (site 15) and re-instate BLEP 2003 residential zone boundaries (site 7). The nature of these amendments are such that they do not discourage the provision of housing, reduce the permissible density of urban land or open up new areas for development that are unsupported by strategic planning documents such as the GMS. As such, the proposal is considered consistent with this direction.

Direction 4.1 – Acid Sulfate Soils

This direction applies as portions of land affected by the planning proposal are mapped as containing acid sulfate soils. The principle sites where development potential will be influenced by the planning proposal are sites 7 & 10. Site 7 has Class 3 acid sulfate soils occurring in the vicinity of the proposed E2 zoning. They do not impact upon the proposed 5000m² lot size area. Site 10 has Class 3 acid sulfate soils occurring mostly underneath the extent of the 1% AEP flood level. The proposal will make minor adjustments to the 1ha lot size boundary that will involve its extension over Class 3 acid sulfate soils. It is noted though that Class 3 acid sulfate soils are predicted to occur at 1m below natural ground surface and these extensions are mostly over land that is flood prone and therefore unlikely to be further excavated.

In this regard, it is considered that the planning proposal is of minor significance.

Direction 4.3 – Flood Prone Land

This direction applies as the planning proposal creates, removes or alters a zone or a provision that affects flood prone land.

The objectives of the direction are:

- a) *To ensure development is consistent with the Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005,*
- b) *To ensure that the provisions of an LEP on flood prone land are commensurate with flood hazard and includes consideration of the potential flood impacts*

The planning proposal must not contain provisions that:

- a) *Permit development in floodway areas,*
- b) *Permit development that will result in significant flood impacts to other properties,*
- c) *Permit a significant increase in the development of that land,*
- d) *are likely to result in increased government spending on flood mitigation measures, infrastructure or services,*
- e) *permit development without consent.*

The principal sites where development potential will be influenced by the planning proposal are sites 7 & 10.

Site 7 will involve a minor incursion of the R1 zone into the flood prone area on the subject lot. This corresponds with the extent of the existing RU1 zone on this part of the property. This part of the property is not mapped as being within a floodway and any development of the land for residential purposes will not be within the flood prone area due to the need to maintain adequate buffer distances for effluent disposal, bushfire and ecological values, to the land proposed to be rezoned as E2. In this regard, the alteration of the zone in this locality is considered to be of minor significance.

For Site 10, the proposed lot size map boundary between the 1ha area and the 10ha area on this property has been requested so as to provide for a more regular point of transition between these areas, around which a functional lot layout can be developed. It involves the removal of several fingers of 10ha areas that extend up a

number of minor 1st or 2nd watercourses and fixes a lower extent for the 1ha area around a possible future road reserve. The effect of this is that an increased area of land that is subject to flooding in a 1% AEP will be included within the 1ha minimum lot size area.

It is considered though that this is acceptable as Council's current flood planning controls (contained in Bellingen Shire DCP 2010 and consistent with the Bellingen Shire Floodplain Risk Management Plan) will be sufficient to ensure that any future subdivision of land will have access to a community of support and proposed lots within this area will require a minimum area of 1000m² of land above the 1% AEP. It is also noted the subject land is not mapped as a "floodway" pursuant to the provisions of the Lower Bellingen Flood Study and development would be unlikely to occur in the riparian flood affected zone for environmental protection reasons.

Direction 4.4 – Planning for Bushfire Protection

This direction applies as land included within the planning proposal is mapped as bushfire prone.

A planning proposal must have regard to relevant legislation and avoid placing inappropriate developments in hazardous areas.

Site 7 is the principal site where bushfire hazard is a potential issue. The preliminary investigation into flora and fauna notes prior discussion with the proponent's bushfire consultant and suggest that APZ's could be provided on the subject land without significant impact upon identified environmental values.

This direction requires consultation with the Rural Fire Service (RFS) after receipt of a Gateway Determination but before public exhibition. Appropriate consultation will occur in accordance with the direction.

Direction 5.1 – Implementation of Regional Strategies

This direction applies as Bellingen Shire is included in an adopted regional strategy, this being the Mid North Coast Regional Strategy.

The objectives of the direction are to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in the regional strategies. Planning proposals must be consistent with the regional strategy. A proposal may be inconsistent if the extent of inconsistency is of minor significance and the proposal achieves the overall intent of the regional strategy.

As noted previously in comments under the Regional Strategy section above, the proposal is considered to be consistent with the Mid North Coast Regional Strategy.

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?

As previously discussed, Site 7 is the principal site where threatened species are a potential issue. In this regard, the preliminary assessment submitted by the proponent suggests that development of the land the subject of the 5000m²

minimum lot size is unlikely to have any significant adverse impact. The proposed zoning of the identified EEC of Swamp Sclerophyll Forest on the site as E2 – Environmental Conservation is a measure of note and one that will contribute towards ongoing protection of environmental values on the subject site.

The remaining components of the planning proposal are considered unlikely to generate any significant adverse impacts upon threatened species of flora and fauna. In any case, it is noted that the nature of the planning proposal is such that it does not endorse any specific development proposal. DA specific investigations of flora and fauna will still be required to support actual development and these must necessarily relate to the specific aspects of the development as proposed.

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

Other likely environmental effects such as bushfire, effluent disposal, flooding and acid sulfate soils have been addressed in previous sections of the report. The overall effects of the proposal are likely to be inherently minor, given the minor extent of the changes that are proposed.

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

The proposal is considered unlikely to have any significant adverse social or economic effects. It responsibly ensures that Council consistently monitors and updates it's core planning document to ensure accuracy, currency and workability for development practitioners. It does not propose any significant departure from any agreed strategic planning direction.

D. State and Commonwealth interests

Is there adequate public infrastructure for the planning proposal

Adequate public infrastructure is available for the proposal. The proposal does not open up any new localities for development that would warrant detailed investigation of infrastructure availability.

Views of State and Commonwealth authorities

Consultation with any state and commonwealth authorities will occur after advice has been received from the Department of Planning concerning consultation requirements, following any referral of this report to the DoP.

Proposed Community consultation

Having regard to the Department of Planning document "*A guide to preparing local environmental plans*", it is considered that the planning proposal is properly categorised as a "low impact planning proposal".

A “low impact planning proposal” is described as follows:

Low impact planning proposal means 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; is consistent with the strategic planning framework; presents no issues with regard to infrastructure servicing; is not a principal LEP; and does not reclassify public land.

Should the planning proposal proceed, it is considered that community consultation should include the placement of the proposal on public exhibition for a period of 14 days at the Bellingen Administration Centre, Bellingen Library, Dorrigo Library, Urunga Library and on Council’s website. Notice of the exhibition should be placed in the Bellingen Courier Sun and the Don Dorrigo Gazette. Affected and adjoining owners will be notified of the proposal by letter.

BUDGETARY IMPLICATIONS:

Council will incur a cost relating to the public advertisement of the planning proposal. This can be accommodated within existing budget allocations.

SUSTAINABILITY ASSESSMENT:

The planning proposal is sustainable as it does not impact significantly upon identified environmental values, however will allow for more economically viable development options on a selection of sites. The coupling of this element of the planning proposal with a progressive update of the LEP is sustainable as it reduces the need for future administrative efforts to amend the LEP.

ENGAGEMENT:

Having regard to the Community Engagement Strategy, it is considered that the planning proposal is appropriately categorised as having a Level 3 impact. A Level 3 impact and relevant considerations are described in the extract below.

<p>Level 3 Lower Impact – Shire Wide</p> <p>Lower level impact on the whole or a large part of Bellingen Shire.</p>	<p>Inform Consult</p>	<p>It will not always be necessary to involve the community. For example, a review of needs may only require a survey, particularly if the community has been involved previously.</p>
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The Engagement Matrix specifies a range of consultation options to be considered for Level 3 impact activities. The proposed options for the planning proposal are detailed below. It is also noted that there are specific requirements for public exhibition of a planning proposal contained within the *Environmental Planning & Assessment Act 1979* that must be observed in order to ensure the legality of the process and ultimate LEP amendment.

Level of participation	Engagement method	Desirability category	Proposed engagement for ELS
<p>Inform</p>	<p>Written correspondence</p>	<p>Essential</p>	<p>Notify affected landowners and immediately adjoining landowners.</p>

Level of participation	Engagement method	Desirability category	Proposed engagement for ELS
Inform	Website information	Desirable	Place on Council website for duration of exhibition period.
Inform	Advert in Local Paper	Desirable	Place advertisement in Courier Sun & Don Dorriggo Gazette.
Consult	Public exhibition	May be appropriate	Place Draft planning proposal on public exhibition for 14 day period. Exhibit Draft planning proposal at Bellingen, Dorriggo & Urunga Libraries & Council Administrative Centre.

OFFICERS RECOMMENDATION:

That Council proceed with the subject planning proposal and refer it to the NSW Department of Planning to request the issuing of a Gateway Determination, pursuant to section 56(1) of the *Environmental Planning & Assessment Act 1979*.

ATTACHMENTS:

- 8.2 A Proposed Minor Administrative Amendment Maps (Group 1), Grid Matrix Conversion Table and Grid Plan for Heritage Maps Zone and Lot size Maps – Sites 7,8,9,and 10, (Group 2), Documents on Disc for Councillors (DWS 290796) **[TABLED]**
- 8.2 B Site 10 Request for amendment to mapping (DWS 273721) **[TABLED]**
- 8.2 C Site 7 Effluent Report – (DWS 294168) **[TABLED]**
- 8.2 D Site 7 Flora & Fauna Preliminary Report (DWS 294176) **[TABLED]**
- 8.2.E Site 7 Proposed Subdivision Plans (DWS 294179) **[TABLED]**

08.020/12

RESOLVED (Cr Braithwaite/Cr Scott)

That Council proceed with the subject planning proposal and refer it to the NSW Department of Planning to request the issuing of a Gateway Determination, pursuant to section 56(1) of the *Environmental Planning & Assessment Act 1979*.

UNANIMOUS