

Planning Proposal under section 55 of
the *Environmental Planning &
Assessment Act 1979*

**Richmond
Valley
Council**



Several Rezoning to Correct Zoning Errors within the *Richmond Valley LEP 2012*

Land Affected by this Planning Proposal:

- Lot 475 DP755624 – 760 Woodburn-Evans Head Road, Evans Head
- Lot 11 DP777379, 3280 Busbys Flat Road, Busbys Flat
- Approximately 4000m² of Broadwater National Park, Pacific Highway, Broadwater

RPA: Richmond Valley Council
RPA Ref: PP2016/0002
Date: 4 November 2015
PP Version: v 1.0

Table of Amendments

Version	Amendment	Date
1.0	Original Planning Proposal – Submitted for Gateway Determination	4 Nov 2015



Richmond Valley Council PP2016/0002

Several Rezoning to Correct Zoning Errors within the *Richmond Valley LEP 2012*

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Exhibition Information

Due to the minor nature of the proposed amendments, and that they all relate to correcting zoning errors in the Comprehensive LEP, Council has sought to have Community Engagement waived for this Planning Proposal.





Planning Proposal

This is a Planning Proposal prepared under section 55 of the *Environmental Planning and Assessment Act 1979*, in relation to a proposed amendment to the *Richmond Valley Local Environmental Plan 2012*. It has been prepared by Richmond Valley Council (the Relevant Planning Authority (the RPA)), and will be used to describe the purpose of the amendment when dealing with the NSW Department of Planning and Environment (DP&E).

Background

Proposal	This Planning Proposal seeks to amend the <i>Richmond Valley Local Environmental Plan 2012</i> by rezoning 3 separate parcels of land that were found to be incorrectly zoned during the preparation of the Comprehensive SI LEP. This Planning Proposal seeks to: Item 1. Rezone Lot 475 DP755624 – 760 Woodburn-Evans Head Road, Evans Head from Land Zone IN1 General Industry to RU1 Primary Production, and at the same time change the minimum lot size from 5000m² to 40ha, and recognise the land as having a dwelling opportunity. Item 2. Rezone Lot 11 DP777379, 3280 Busbys Flat Road, Busbys Flat from Land Zone RU3 Forestry to RU1 Primary Production, and at the same time apply a 100ha minimum lot size, and recognised the land as having a dwelling opportunity. Item 3. Rezone approximately 4000m² of Broadwater National Park from Land Zone SP2 Infrastructure (Waste or Resource Management Facility) to E1 National Parks and Nature Reserves.
Property Details	This Planning Proposal will only apply to the land identified above.
Applicant Details	Richmond Valley Council
Land Owner	Item 1. Lot 475 DP755624 is held in the ownership of Mr C & Mrs J Uebergang Item 2. Lot 11 DP777379 is held in the ownership of RMS Australian Forests Assets Pty Ltd Item 3. Broadwater National Park is held in the ownership of the Crown and managed by the NSW National Parks and Wildlife Service.

Brief History	<i>Richmond Valley LEP 2012</i> was a comprehensive Standard Instrument LEP that commenced on 21 April 2012. One of the main objectives during preparation of this LEP was to retrofit the new SI Land Zones to existing zones on a like for like basis. There were also zoning changes made to the LEP but these were negotiated on a case by case basis. The 3 properties featured in this Planning Proposal had their zoning changed during the preparation of the SI LEP. It is believed that the land zonings applied, and subsequently the Lot Size and Dwelling Opportunities that was applied to the lands, were incorrect. This Planning Proposal will attempt to restore these properties to the correct zoning. Item 1 – The land was zoned 1(b1) – Rural (Secondary Agricultural Land) under the <i>Richmond River LEP 1992</i>. It is now zoned IN1 General Industry. The zoning change arose when adjoining land, that was zoned 4(a) – Industrial was retrofitted to the IN1 zoning. It was considered at the time that the an IN1 zoning would be better suited for Lot 475, however, the owner was not consulted on the change and in retrospect it has caused them financial hardship. It is therefore, proposed to return the land to a rural zoning such as RU1 Primary Production. The land's MLS will also be changed to reflect the zoning change, and the presence of a dwelling on the land will be reflected on the Dwelling Opportunity Map. Item 2 – The land was zoned 1(b1) – Rural (Secondary Agricultural Land) under the <i>Richmond River LEP 1992</i>. It is now zoned RU3 Forestry. The land is held as Freehold Title by MS Australian Forests Assets Pty Ltd. The RU3 zoning is only meant to apply to State Forests and not privately owned lands. It is proposed to rezone the land as RU1 Primary Production. A MLS of 100ha will also be applied to the land. Item 3 – The land forms part of the Broadwater National Park. Cadastral mapping of the land in 2012 showed it to be part of the adjoining Broadwater Landfill site. As such an SP2 Zoning was applied. Recent corrections by NSW LPI to the cadastral mapping, resulting from Pacific Highway upgrade survey work, shows that the Broadwater Landfill site to be about 40 metres narrower than previously mapped. As a result part of the National Park is now Zoned SP2 Infrastructure. It is proposed to change this 4000m² area's zoning to E1 National Parks and Nature Reserves to reflect the lands reservation status.
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Item 1 – Rezone Lot 475 DP755624 – 760 Woodburn-Evans Head Road, Evans Head as RU1 Primary Production

Part 1 – Objectives or Intended Outcomes

The intended outcome from this Planning Proposal is to:

- rezone Lot 475 DP755624, 760 Woodburn-Evans Head Road, Evans Head, by amending the Land Zone Map to change the land's zoning from IN1 General Industry to RU1 Primary Production.

As a consequence of the above amendment the following additional actions will be necessary:

- amend the Lot Size Map to change the land's Minimum Lot Size from 5000m² to 40ha; and
- amend the Dwelling Opportunity Map to show the land as having a dwelling opportunity.

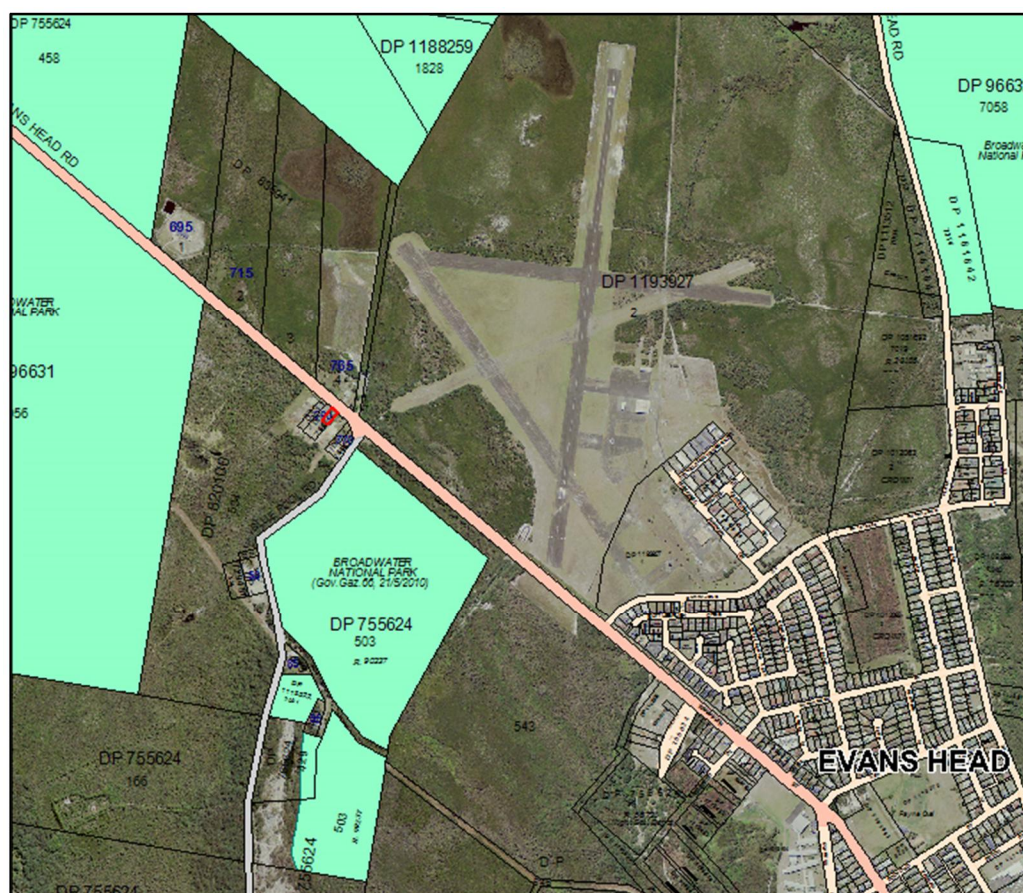


Figure 1.1. Locality Plan showing Lot 475, 760 Woodburn-Evans Head Road, Evans Head

Part 2 – Explanation of Provisions

Lot 475 is located less than 1 km from the fringe of Evans Head Township. This 916m² property is developed with a single dwelling-house. Under the former *Richmond River Local Environmental Plan 1992* the lot was zoned 1(b1) – Rural (Secondary Agricultural Land), with adjoining land being zoned 4(a) Industrial, see Figure 1.2.

The *Richmond Valley LEP 2012* adopted 18 SI LEP Zones, with Zone RU1 Primary Production being the equivalent zone to the former Zone 1(b1), and Zone IN1 General Industry being the equivalent zone to the former Zone 4(a).

When the SI LEP was being prepared, Council changed the zoning of Lot 475 to Zone IN1 so that it was consistent with that of adjoining land, see Figure 1.3. It also considered the owner would benefit from having the land zoned IN1, as this higher order zoning would provide additional redevelopment opportunities that rural zoned land would not otherwise have. Unfortunately, Council can find no record of direct consultation with the owners during the SI LEP community consultation.

Since the IN1 zoning was applied by the *Richmond Valley LEP 2012*, commencing on 21 April 2012, the owners have attempted to refinance a residential loan they have over the land. Because the land is now zoned IN1, the financial institution is refusing to refinance with a residential loan. In fact they will only issue business loans (that can't be used for residential assets) over industrial or commercially zoned land. The owners have received similar responses from other financial institutions. If the land's zoning is not changed back to something equivalent to the former 1(b1) Zone, the financial institution will cancel the loan. The owners have now been placed under financial hardship and risk losing their home.

It is Council's intention to restore the land to an equivalent 1(b1) zoning by applying the RU1 Primary Production zone. This change will further necessitate changing the minimum lot size on the Lot Size Map, from 5000m² to 40ha, and recognising the land with a dwelling opportunity.

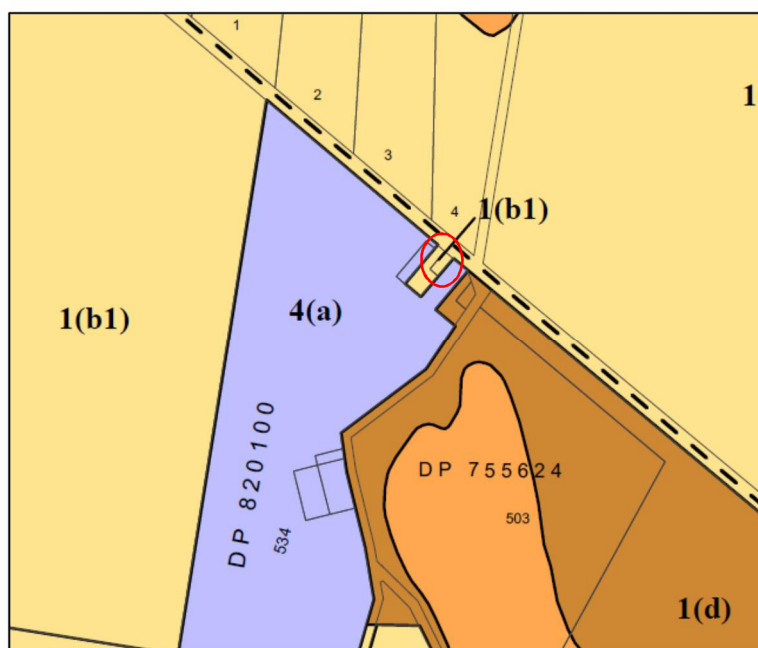


Figure 1.2. Extract from *Richmond River LEP 1992*, where Lot 475 was Zoned 1(b1) – Rural (Secondary Agricultural Land).

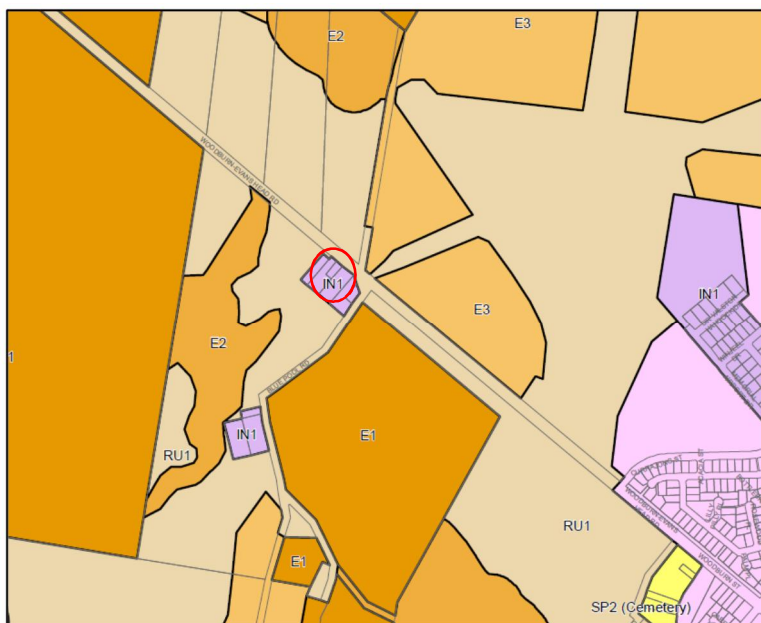


Figure 1.3. Extract from *Richmond Valley LEP 2012 Land Zone Map* showing Lot 475 Zoned IN1 General Industry.

Proposed Amendments

In brief, it is proposed to zone Lot 475 DP755624, 760 Woodburn-Evans Head Road, Evans Head as Zone RU1 Primary Production, with a Minimum Lot Size of 40ha, and a dwelling opportunity.

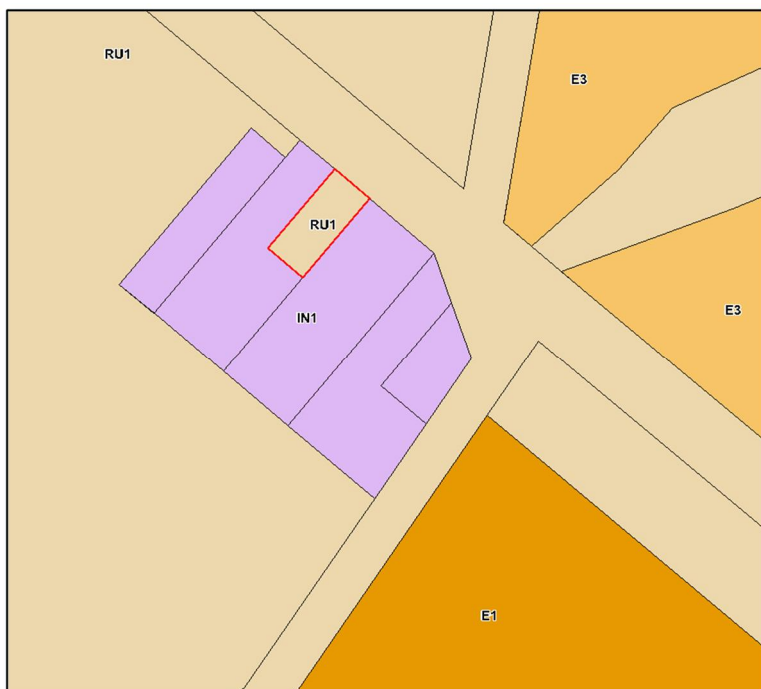


Figure 1.4. Proposed Amendment to the *Richmond Valley LEP 2012 Lot Size Map - Sheet 10A* – to identify Lot 475 DP755624 as being within Zone RU1 Primary Production.

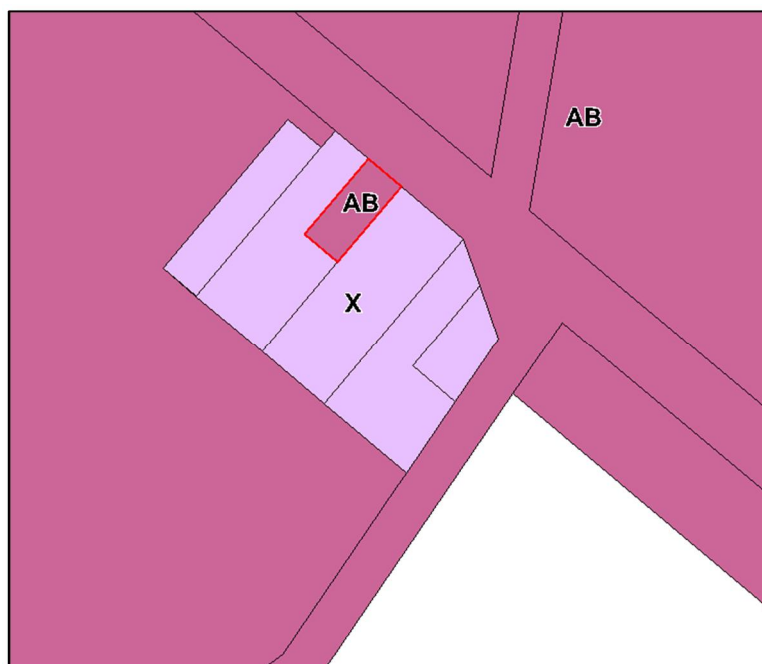


Figure 1.5. Proposed Amendment to the *Richmond Valley LEP 2012 Lot Size Map* - Sheet 10A – to identify Lot 475 DP755624 as being within Area AB (having a minimum lot size of 40ha).

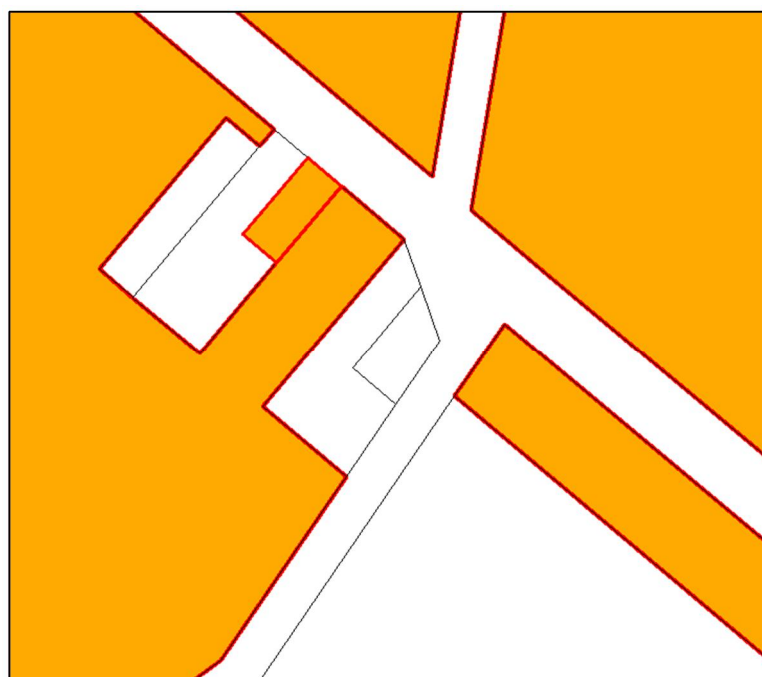


Figure 1.6. Proposed Amendment to the *Richmond Valley LEP 2012 Dwelling Opportunity Map* - Sheet 10 – to identify Lot 475 DP755624 as having a dwelling opportunity.

Part 3 – Justification

Section A – Need for the planning proposal

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

No.

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

Yes.

Section B – Relationship to Strategic Planning Framework

3. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Not inconsistent.

4. Is the planning proposal consistent with the local council's Community Strategic Plan or other local strategic plan?

Yes.

5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

Table 1 outlines all State Environmental Planning Policies (SEPPs) and whether they are applicable and consistent. Where there is an inconsistency it will be further explained, including justification for the inconsistency, immediately following Table 1.

Table 1.1. Consideration of State Environmental Planning Policies

	Applicable	Consistent
SEPP No 1-Development Standards	No	
SEPP No 6-Number of Storeys in a Building	No	
SEPP No 14-Coastal Wetlands	No	
SEPP No 15-Rural Landsharing Communities	No	
SEPP No 21-Caravan Parks	No	
SEPP No 22-Shops and Commercial Premises	No	
SEPP No 30-Intensive Agriculture	No	
SEPP No 33-Hazardous and Offensive Development	No	
SEPP No 36-Manufactured Home Estates	No	
SEPP No 44-Koala Habitat Protection	No	
SEPP No 60-Canal Estate Development	No	

	Applicable	Consistent
SEPP No 55-Remediation of Land	No	
SEPP No 62-Sustainable Aquaculture	No	
SEPP No 64-Advertising and Signage	No	
SEPP No 65-Design Quality of Residential Flat Development	No	
SEPP No 71-Coastal Protection	No	
SEPP (Affordable Rental Housing) 2009	No	
SEPP (Building Sustainability Index: BASIX) 2004	No	
SEPP (Exempt and Complying Development Codes) 2008	No	
SEPP (Housing for Seniors or People with a Disability) 2004	No	
SEPP (Infrastructure) 2007	No	
SEPP (Major Development) 2005	No	
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	No	
SEPP (Rural Lands) 2008	Yes	Yes
SEPP (Temporary Structures and Places of Public Entertainment) 2007	No	
SEPP (State and Regional Development) 2011	No	

There are no inconsistencies between this Planning Proposal and any SEPP.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Table 2 outlines all Section 117 Directions (s117) and whether they are applicable and consistent. Where there is an inconsistency it will be further explained, including justification for the inconsistency, immediately following Table 2.

Table 1.2. Consideration of S117 Directions

	Applicable	Consistent
1. Employment and Resources		
1.1 Business and Industrial Zones	Yes	Yes
1.2 Rural Zones	No	
1.3 Mining, Petroleum Production and Extractive Industries	No	
1.4 Oyster Aquaculture	No	
1.5 Rural Lands	No	
2. Environment and Heritage		
2.1 Environment Protection Zones	No	
2.2 Coastal Protection	No	
2.3 Heritage Conservation	No	
2.4 Recreation Vehicle Areas	No	

	Applicable	Consistent
3. Housing, Infrastructure and Urban Development		
3.1 Residential Zones	No	
3.2 Caravan Parks and Manufactured Home Estates	No	
3.3 Home Occupations	No	
3.4 Integrating Land Use and Transport	No	
3.5 Development Near Licensed Aerodromes	No	
3.6 Shooting Ranges	No	
4. Hazard and Risk		
4.1 Acid Sulfate Soils	Yes	Yes
4.2 Mine Subsidence and Unstable Land	No	
4.3 Flood Prone Land	No	
4.4 Planning for Bushfire Protection	No	
5. Regional Planning		
5.1 Implementation of Regional Strategies	Yes	Yes
5.2 Sydney Drinking Water Catchments	No	
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	No	
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	No	
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	NA	
5.6 Sydney to Canberra Corridor	NA	
5.7 Central Coast 2008	NA	
5.8 Second Sydney Airport: Badgerys Creek	NA	
6. Local Plan Making		
6.1 Approval and Referral Requirements	No	
6.2 Reserving Land for Public Purposes	No	
6.3 Site Specific Provisions	No	
7. Metropolitan Planning		
7.1 Implementation of the Metropolitan Plan for Sydney 2036	NA	

There are no inconsistencies between this Planning Proposal and any Direction.

Section C - Environmental, social, and economic impact

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

No.

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

Nil.

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

Yes. The owner has been placed under unnecessary hardship because of the IN1 Zoning that was applied to the land when the SI LEP was prepared. This Planning Proposal attempts to rectify this grievance by reverting to an equivalent rural zoning that applied prior to the SI LEP. This being Zone RU1 Primary Production.

Section D - State and Commonwealth interests

10. Is there adequate public infrastructure for the planning proposal?

Yes.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

Nil.

Item 2 – Rezone Lot 11 DP777379 – 3280 Busbys Flat Road, Busbys Flat as RU1 Primary Production

Part 1 – Objectives or Intended Outcomes

The intended outcome from this Planning Proposal is to:

- rezone Lot 11 DP777379, 3280 Busbys Flat Road, Busbys Flat, by amending the Land Zone Map to change the land's zoning from RU3 Forestry to RU1 Primary Production.

As a consequence of the above amendment the following additional actions will be necessary:

- amend the Lot Size Map to apply a Minimum Lot Size of 100ha.

Note. It will not be necessary to amend the Dwelling Opportunity Map as this land already has a dwelling opportunity identified on that map.

Part 2 – Explanation of Provisions

Lot 11 DP777379 is located in a remote area in the western part of the Council area. This 131 ha property is developed with a private forest plantation.

Under the former *Richmond River Local Environmental Plan 1992* the land was zoned 1(b1) – Rural (Secondary Agricultural Land), see Figure 1.2, and was surrounded on its northern, southern and western boundaries by State Forests, contained in Zone 1(f) Forestry.

The *Richmond Valley LEP 2012* adopted 18 SI LEP Zones, with Zone RU1 Primary Production being the equivalent zone to the former Zone 1(b1), and Zone RU3 Forestry being the equivalent zone to the former Zone 1(f) Forestry.

When the SI LEP was being prepared, it was intended that Zone RU3 Forest would only apply to State Forests. The application of the RU3 zoning to Lot 11 was done in error and is proposed to be corrected by this Planning Proposal. The appropriate zoning should be Zone RU1 which is equivalent to the former 1(b1) zoning.

This change will further necessitate applying a W1 Natural Waterways zoning over Busbys Creek (which previously passed through Zone RU3) so it is consistent with the application of the Zone W1 above and below Lot 11.

Furthermore, as a consequence of changes to the zoning of Lot 11, a minimum lot size (MLS) of 100ha will be applied to the land on the Lot Size Map, see Figure 2.5.

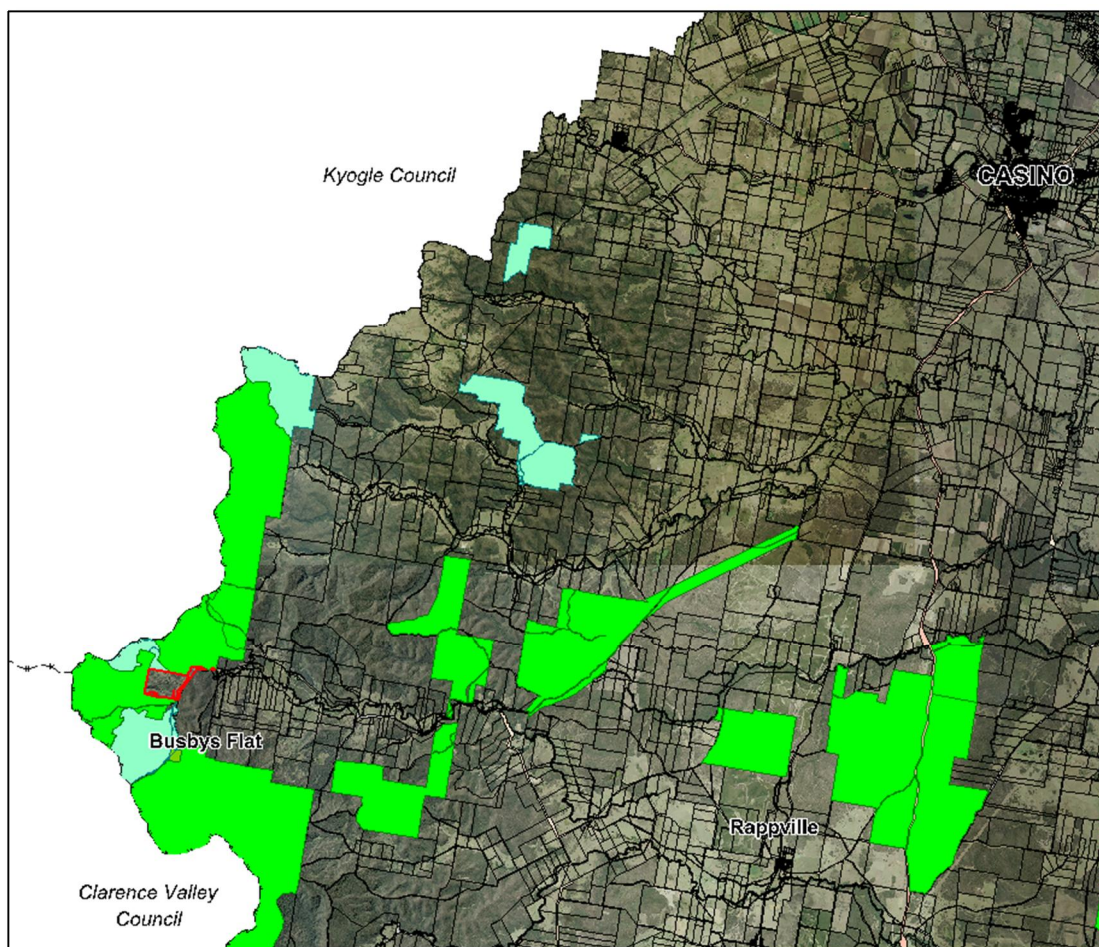


Figure 2.1. Locality Plan showing Lot 11, 3280 Busbys Flat Road, Busbys Flat

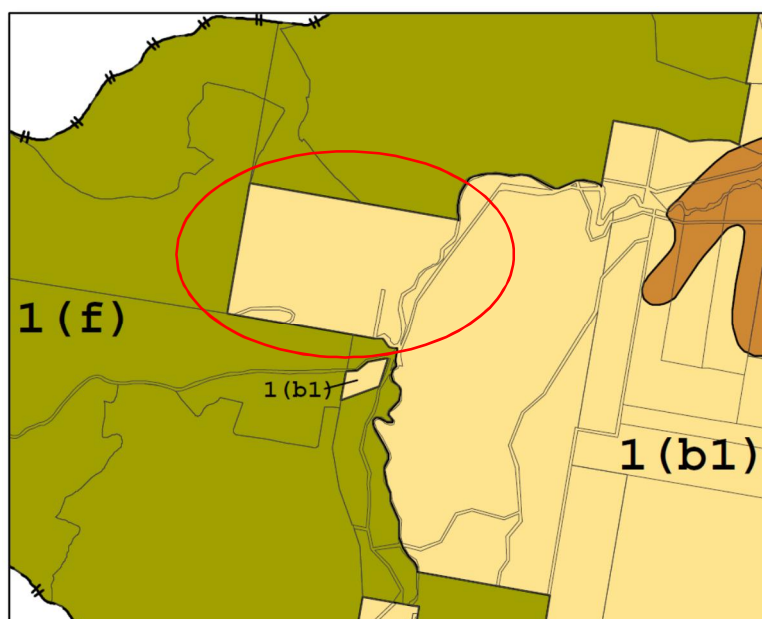


Figure 2.2 – Extract from *Richmond River LEP 1992*, where Lot 11 was Zoned 1(b1) – Rural (Secondary Agricultural Land).

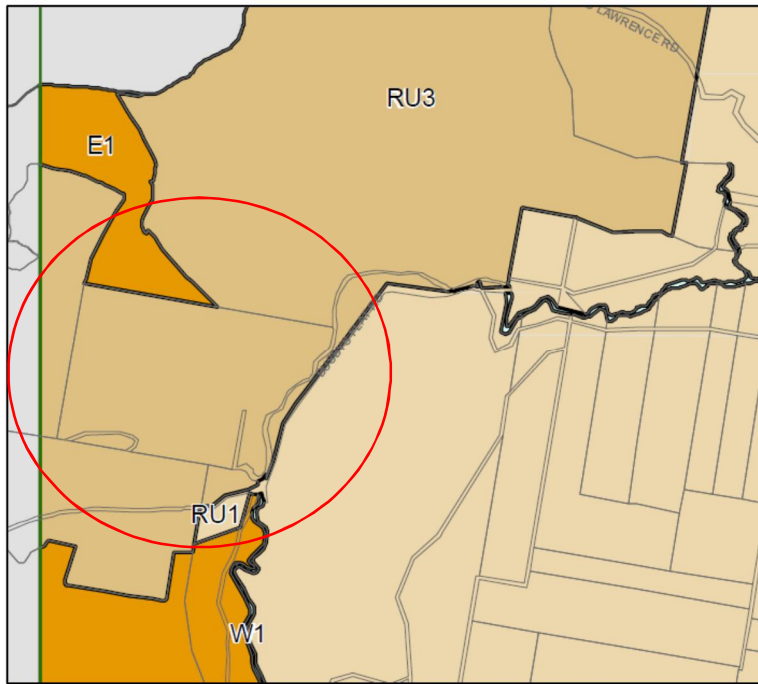


Figure 2.3. Extract from *Richmond Valley LEP 2012 Land Zone Map* showing Lot 11 Zoned RU3 Forestry.

Proposed Amendments

In brief, it is proposed to zone Lot 11 DP777379, 3280 Busbys Flat Road, Busbys Flat as Zone RU1 Primary Production, with a Minimum Lot Size of 100ha, and a dwelling opportunity. Zone W1 will also be applied to Busbys Creek where it previously traversed through Zone RU3

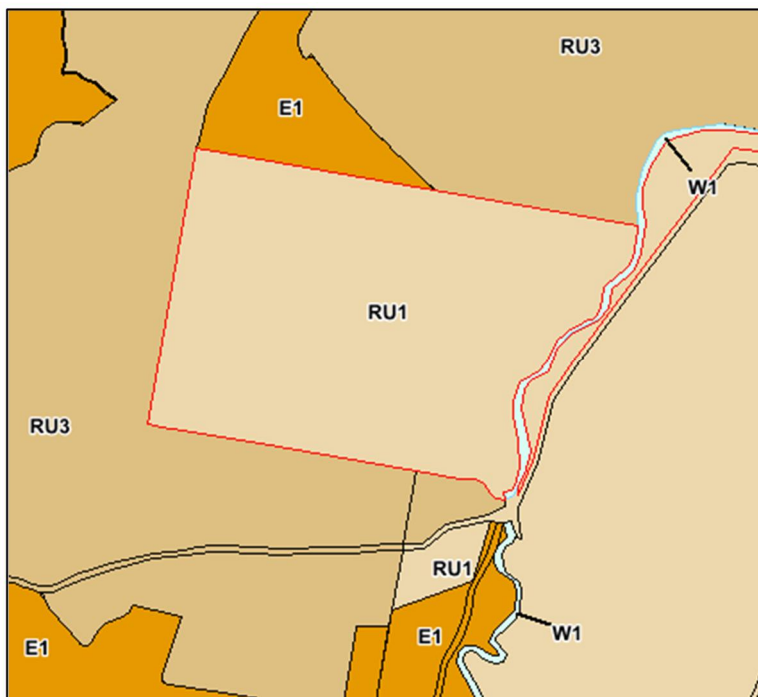


Figure 2.4. Proposed Amendment to the *Richmond Valley LEP 2012 Lot Size Map - Sheet 3* – to identify Lot 11 DP777379 as being within Zone RU1 Primary Production.

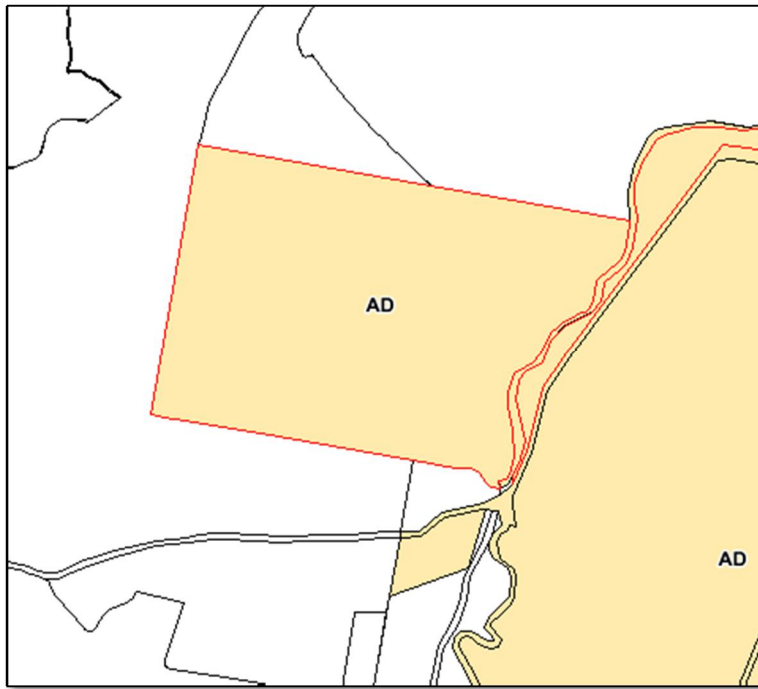


Figure 2.5. Proposed Amendment to the *Richmond Valley LEP 2012 Lot Size Map - Sheet 3* – to identify Lot 11 DP777379 as being within Area AD (having a minimum lot size of 100ha).

Part 3 – Justification

Section A – Need for the planning proposal

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

No.

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

Yes.

Section B – Relationship to Strategic Planning Framework

3. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Yes.

4. Is the planning proposal consistent with the local council's Community Strategic Plan or other local strategic plan?

Yes.

5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

Table 1 outlines all State Environmental Planning Policies (SEPPs) and whether they are applicable and consistent. Where there is an inconsistency it will be further explained, including justification for the inconsistency, immediately following Table 1.

Table 2.1. Consideration of State Environmental Planning Policies

	Applicable	Consistent
SEPP No 1-Development Standards	No	
SEPP No 6-Number of Storeys in a Building	No	
SEPP No 14-Coastal Wetlands	No	
SEPP No 15-Rural Landsharing Communities	No	
SEPP No 21-Caravan Parks	No	
SEPP No 22-Shops and Commercial Premises	No	
SEPP No 30-Intensive Agriculture	No	
SEPP No 33-Hazardous and Offensive Development	No	
SEPP No 36-Manufactured Home Estates	No	
SEPP No 44-Koala Habitat Protection	No	
SEPP No 60-Canal Estate Development	No	
SEPP No 55-Remediation of Land	No	
SEPP No 62-Sustainable Aquaculture	No	
SEPP No 64-Advertising and Signage	No	
SEPP No 65-Design Quality of Residential Flat Development	No	
SEPP No 71-Coastal Protection	No	
SEPP (Affordable Rental Housing) 2009	No	
SEPP (Building Sustainability Index: BASIX) 2004	No	
SEPP (Exempt and Complying Development Codes) 2008	No	
SEPP (Housing for Seniors or People with a Disability) 2004	No	
SEPP (Infrastructure) 2007	No	
SEPP (Major Development) 2005	No	
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	No	
SEPP (Rural Lands) 2008	No	
SEPP (Temporary Structures and Places of Public Entertainment) 2007	No	
SEPP (State and Regional Development) 2011	No	

There are no inconsistencies between this Planning Proposal and any SEPP.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Table 2 outlines all Section 117 Directions (s117) and whether they are applicable and consistent. Where there is an inconsistency it will be further explained, including justification for the inconsistency, immediately following Table 2.

Table 2.2. Consideration of S117 Directions

	Applicable	Consistent
1. Employment and Resources		
1.1 Business and Industrial Zones	No	
1.2 Rural Zones	No	
1.3 Mining, Petroleum Production and Extractive Industries	No	
1.4 Oyster Aquaculture	No	
1.5 Rural Lands	No	
2. Environment and Heritage		
2.1 Environment Protection Zones	No	
2.2 Coastal Protection	No	
2.3 Heritage Conservation	No	
2.4 Recreation Vehicle Areas	No	
3. Housing, Infrastructure and Urban Development		
3.1 Residential Zones	No	
3.2 Caravan Parks and Manufactured Home Estates	No	
3.3 Home Occupations	No	
3.4 Integrating Land Use and Transport	No	
3.5 Development Near Licensed Aerodromes	No	
3.6 Shooting Ranges	No	
4. Hazard and Risk		
4.1 Acid Sulfate Soils	No	
4.2 Mine Subsidence and Unstable Land	No	
4.3 Flood Prone Land	Yes	Yes
4.4 Planning for Bushfire Protection	No	
5. Regional Planning		
5.1 Implementation of Regional Strategies	Yes	Yes
5.2 Sydney Drinking Water Catchments	No	
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	No	
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	No	

	Applicable	Consistent
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	NA	
5.6 Sydney to Canberra Corridor	NA	
5.7 Central Coast 2008	NA	
5.8 Second Sydney Airport: Badgerys Creek	NA	
6. Local Plan Making		
6.1 Approval and Referral Requirements	No	
6.2 Reserving Land for Public Purposes	No	
6.3 Site Specific Provisions	No	
7. Metropolitan Planning		
7.1 Implementation of the Metropolitan Plan for Sydney 2036	NA	

There are no inconsistencies between this Planning Proposal and any Direction.

Section C - Environmental, social, and economic impact

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

No.

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

Nil.

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

Zoning of this land as Zone RU3 is unreasonable. Returning the land to an equivalent rural zoning is the most appropriate action.

Section D - State and Commonwealth interests

10. Is there adequate public infrastructure for the planning proposal?

Yes.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

Nil.

Item 3 – Rezone Part of Broadwater National Park as Zone E1

Part 1 – Objectives or Intended Outcomes

The intended outcome from this Planning Proposal is to:

- rezone part of the Broadwater National Park from Zone SP2 Infrastructure (Waste or Resource Management Facility) to Zone E1 National Parks and Nature Reserves

Part 2 – Explanation of Provisions

When the SI LEP was prepared in 2012 it zoned National Park as Zone E1 National Parks and Nature Reserves, and landfills as Zone SP2 Infrastructure (Waste and Resource Management Facilities), see Figure 3.2.

The foundation for the preparation of the SI LEP mapping was the NSW Land Property Information's Digital Cadastre data base (DCDB). The DCDB is a representation of property boundaries for viewing in a Geographic Information System (GIS). The DCDB is continuously in a state of improvement as new survey records are added to what started from digitised paper maps.

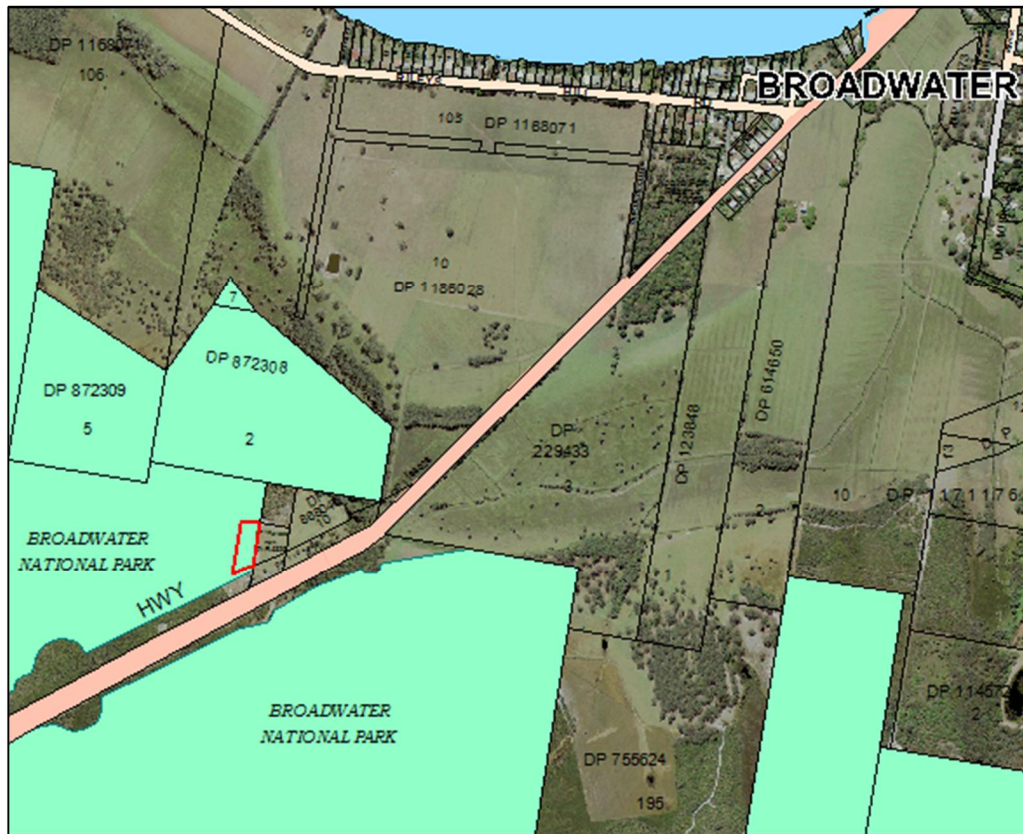


Figure 3.1. Locality Plan showing area of Broadwater National Park to be Zoned E1.

Recent surveying work for the realignment of the Pacific Highway at Broadwater has resulting in corrections being made to the DCDB. One such correction picked up that the Broadwater Landfill is about 40 metres narrower than had previously been depicted in the DCDB, see Figure 3.3. As a result the SP2 (Waste and Resource Management Facilities) zone boundary, representing the western edge of the Broadwater Landfill, now extends into what is now taken to be Broadwater National Park.

This Planning Proposal is to correctly zone about 4000m² of Broadwater National Park as Zone E1 on the Land Zone Map.

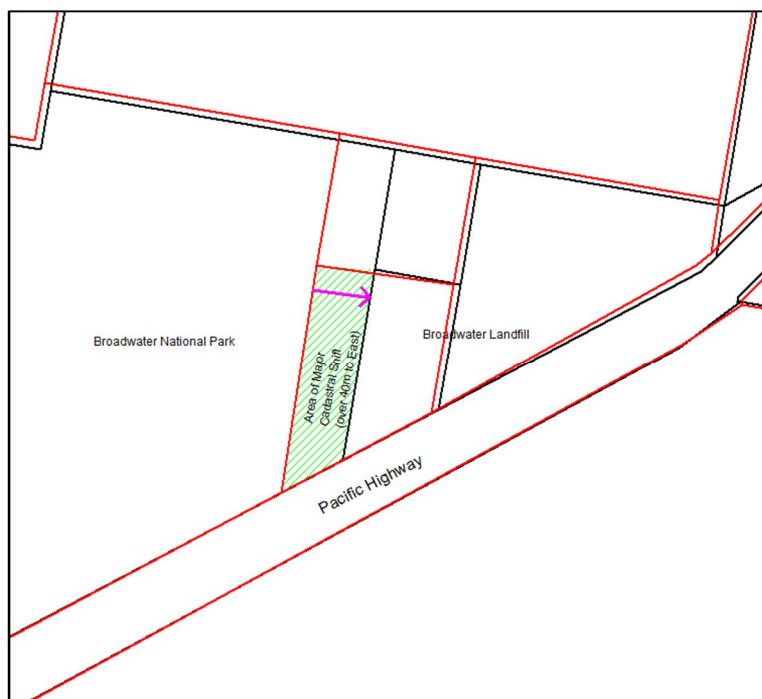


Figure 3.2. Plan showing DCDB in 2012 (red line) used to produce SI LEP, and DCDB in 2015 (Black). Western boundary of Broadwater Landfill has moved 40 metres to east.

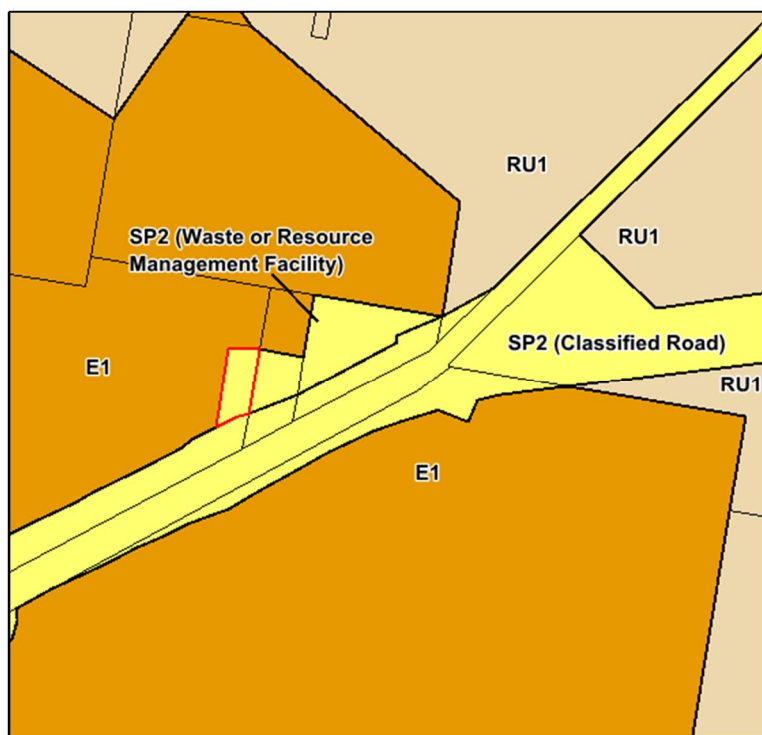


Figure 3.3. Extract from *Richmond Valley LEP 2012 Land Zone Map* showing part of the Broadwater National Park within Zone SP2 Infrastructure (Waste or Resource Management Facility)

Proposed Amendments

In brief, it is proposed to zone part of the Broadwater National Park, a 4000m² area to the west of the former Broadwater Landfill site, as Zone E1 National Parks and Nature Reserves.

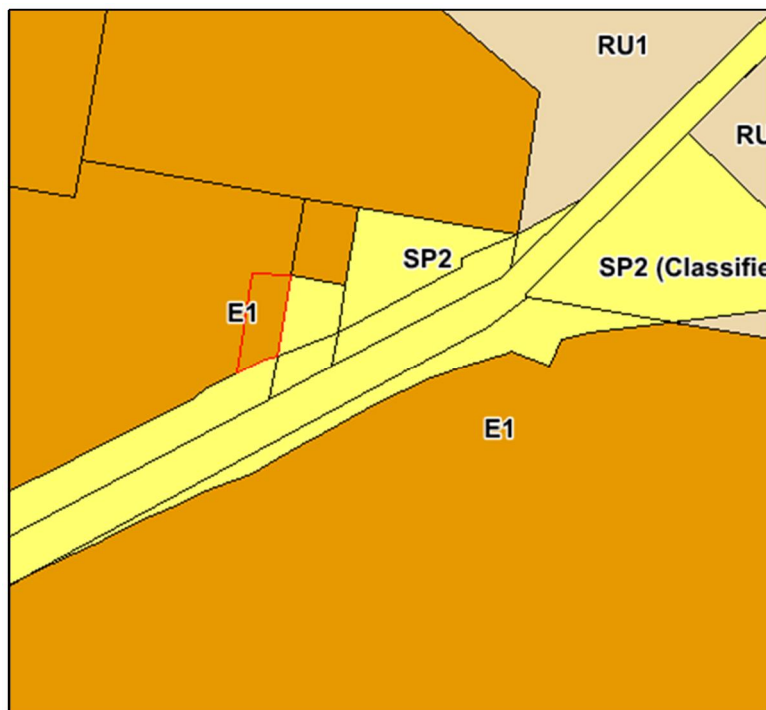


Figure 3.4. Proposed Amendment to the *Richmond Valley LEP 2012 Land Zone Map - Sheet 9C* – to identify a 4000m² area of Broadwater National Park as Zone E1.

Part 3 – Justification

Section A – Need for the planning proposal

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

No.

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

Yes.

Section B – Relationship to Strategic Planning Framework

3. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Yes.

4. Is the planning proposal consistent with the local council's Community Strategic Plan or other local strategic plan?

Yes.

5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

Table 1 outlines all State Environmental Planning Policies (SEPPs) and whether they are applicable and consistent. Where there is an inconsistency it will be further explained, including justification for the inconsistency, immediately following Table 1.

Table 3.1. Consideration of State Environmental Planning Policies

	Applicable	Consistent
SEPP No 1-Development Standards	No	
SEPP No 6-Number of Storeys in a Building	No	
SEPP No 14-Coastal Wetlands	No	
SEPP No 15-Rural Landsharing Communities	No	
SEPP No 21-Caravan Parks	No	
SEPP No 22-Shops and Commercial Premises	No	
SEPP No 30-Intensive Agriculture	No	
SEPP No 33-Hazardous and Offensive Development	No	
SEPP No 36-Manufactured Home Estates	No	
SEPP No 44-Koala Habitat Protection	No	
SEPP No 60-Canal Estate Development	No	
SEPP No 55-Remediation of Land	No	
SEPP No 62-Sustainable Aquaculture	No	
SEPP No 64-Advertising and Signage	No	
SEPP No 65-Design Quality of Residential Flat Development	No	
SEPP No 71-Coastal Protection	No	
SEPP (Affordable Rental Housing) 2009	No	
SEPP (Building Sustainability Index: BASIX) 2004	No	
SEPP (Exempt and Complying Development Codes) 2008	No	
SEPP (Housing for Seniors or People with a Disability) 2004	No	
SEPP (Infrastructure) 2007	No	
SEPP (Major Development) 2005	No	
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	No	
SEPP (Rural Lands) 2008	No	
SEPP (Temporary Structures and Places of Public Entertainment) 2007	No	
SEPP (State and Regional Development) 2011	No	

There are no inconsistencies between this Planning Proposal and any SEPP.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Table 2 outlines all Section 117 Directions (s117) and whether they are applicable and consistent. Where there is an inconsistency it will be further explained, including justification for the inconsistency, immediately following Table 2.

Table 3.2. Consideration of S117 Directions

	Applicable	Consistent
1. Employment and Resources		
1.1 Business and Industrial Zones	No	
1.2 Rural Zones	No	
1.3 Mining, Petroleum Production and Extractive Industries	No	
1.4 Oyster Aquaculture	No	
1.5 Rural Lands	No	
2. Environment and Heritage		
2.1 Environment Protection Zones	No	
2.2 Coastal Protection	No	
2.3 Heritage Conservation	No	
2.4 Recreation Vehicle Areas	No	
3. Housing, Infrastructure and Urban Development		
3.1 Residential Zones	No	
3.2 Caravan Parks and Manufactured Home Estates	No	
3.3 Home Occupations	No	
3.4 Integrating Land Use and Transport	No	
3.5 Development Near Licensed Aerodromes	No	
3.6 Shooting Ranges	No	
4. Hazard and Risk		
4.1 Acid Sulfate Soils	No	
4.2 Mine Subsidence and Unstable Land	No	
4.3 Flood Prone Land	No	
4.4 Planning for Bushfire Protection	No	
5. Regional Planning		
5.1 Implementation of Regional Strategies	No	
5.2 Sydney Drinking Water Catchments	No	

	Applicable	Consistent
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	No	
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	No	
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	NA	
5.6 Sydney to Canberra Corridor	NA	
5.7 Central Coast 2008	NA	
5.8 Second Sydney Airport: Badgerys Creek	NA	
6. Local Plan Making		
6.1 Approval and Referral Requirements	No	
6.2 Reserving Land for Public Purposes	No	
6.3 Site Specific Provisions	No	
7. Metropolitan Planning		
7.1 Implementation of the Metropolitan Plan for Sydney 2036	NA	

There are no inconsistencies between this Planning Proposal and any Direction.

Section C - Environmental, social, and economic impact

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

No.

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

No.

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

Yes.

Section D - State and Commonwealth interests

10. Is there adequate public infrastructure for the planning proposal?

NA.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

Nil. This Planning Proposal is consistent with OEH directions to Zone national park as E1.

Details Relating to All Items

Part 4 – Mapping

This Planning Proposal seeks to amend mapping in the *Richmond Valley Local Environmental Plan 2012*. The following Draft Map Cover Sheet provides details of the LEP Map types and sheets that will be replaced by this amendment:

Environmental Planning and Assessment Act 1979

Richmond Valley Local Environmental Plan 2012 (Amendment No ?)

Richmond Valley Council
Corner Walker Street and Graham Place
Casino, NSW 2470

Map Cover Sheet

The following map sheets are revoked:

Map Sheet	Map Identification Number
Land Zoning Map	
LZN_003	6610_COM_LZN_003_080_20131107
LZN_009C	6610_COM_LZN_009C_020_20120209
LZN_010A	6610_COM_LZN_010A_020_20120209
Lot Size Map	
LSZ_003	6610_COM_LSZ_003_080_20131107
LSZ_009C	6610_COM_LSZ_009C_020_20131107
Dwelling Opportunity Map	
DWE_010	6610_COM_DWE_010_080_20131107

The following maps sheets are adopted:

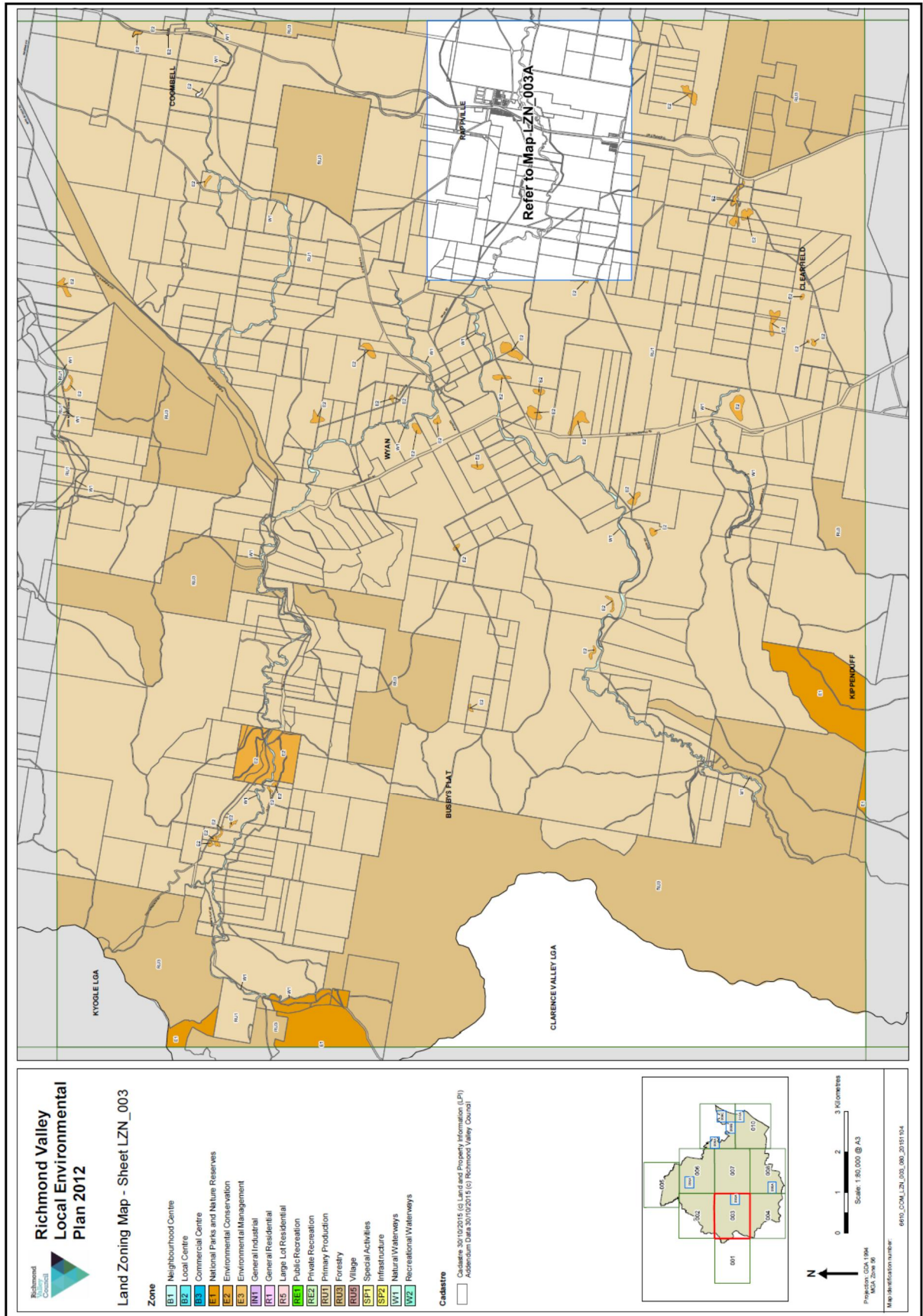
Map Sheet	Map Identification Number
Land Zoning Map	
LZN_003	6610_COM_LZN_003_080_20151104
LZN_009C	6610_COM_LZN_009C_020_20151104
LZN_010A	6610_COM_LZN_010A_080_20151104
Lot Size Map	
LSZ_003	6610_COM_LSZ_003_080_20151104
LSZ_009C	6610_COM_LSZ_009C_020_20151104
Dwelling Opportunity Map	
DWE_010	6610_COM_DWE_010_080_20151104

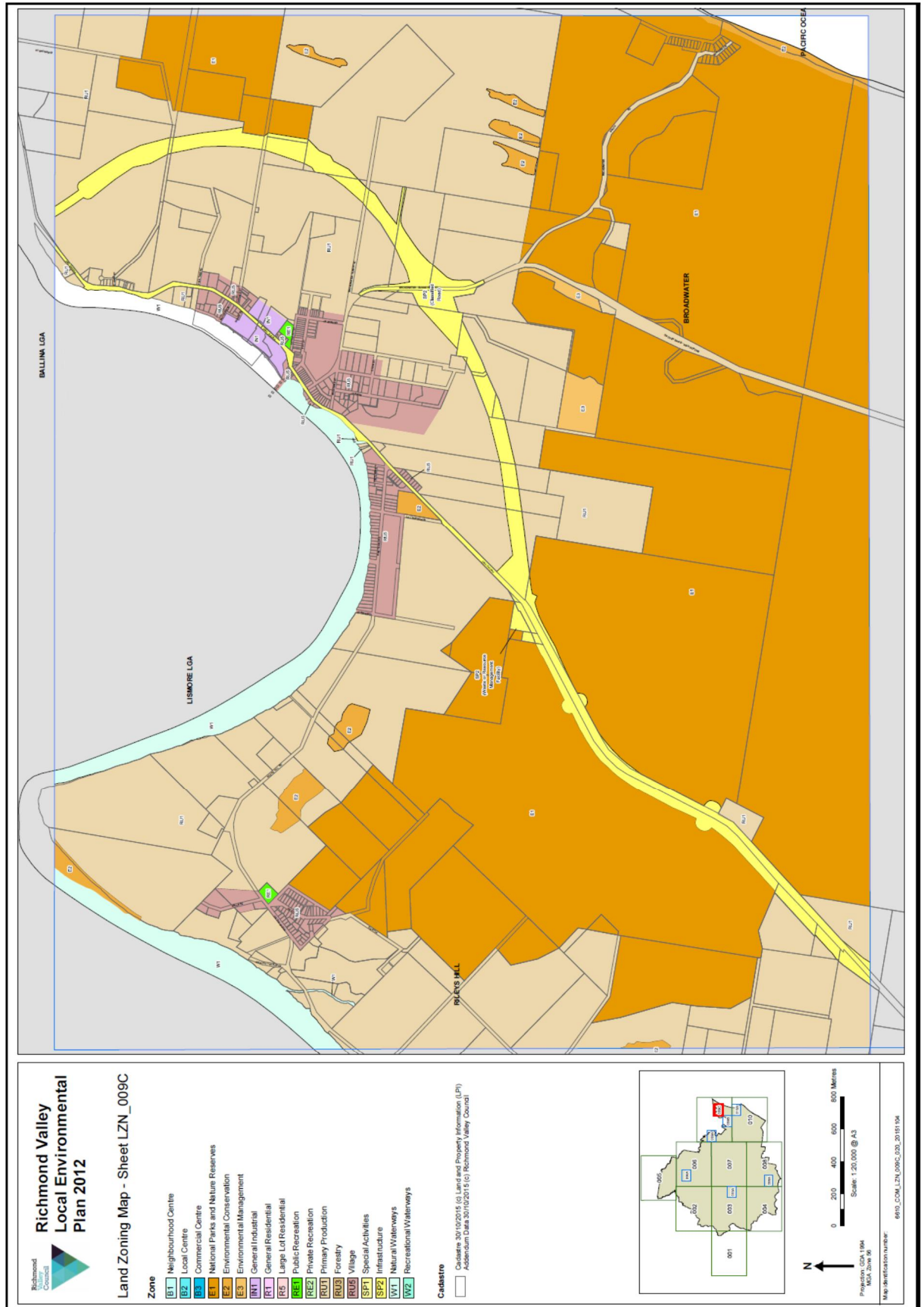
<i>Certified</i>			
General Manager	Date	Minister for Planning and Environment	Date

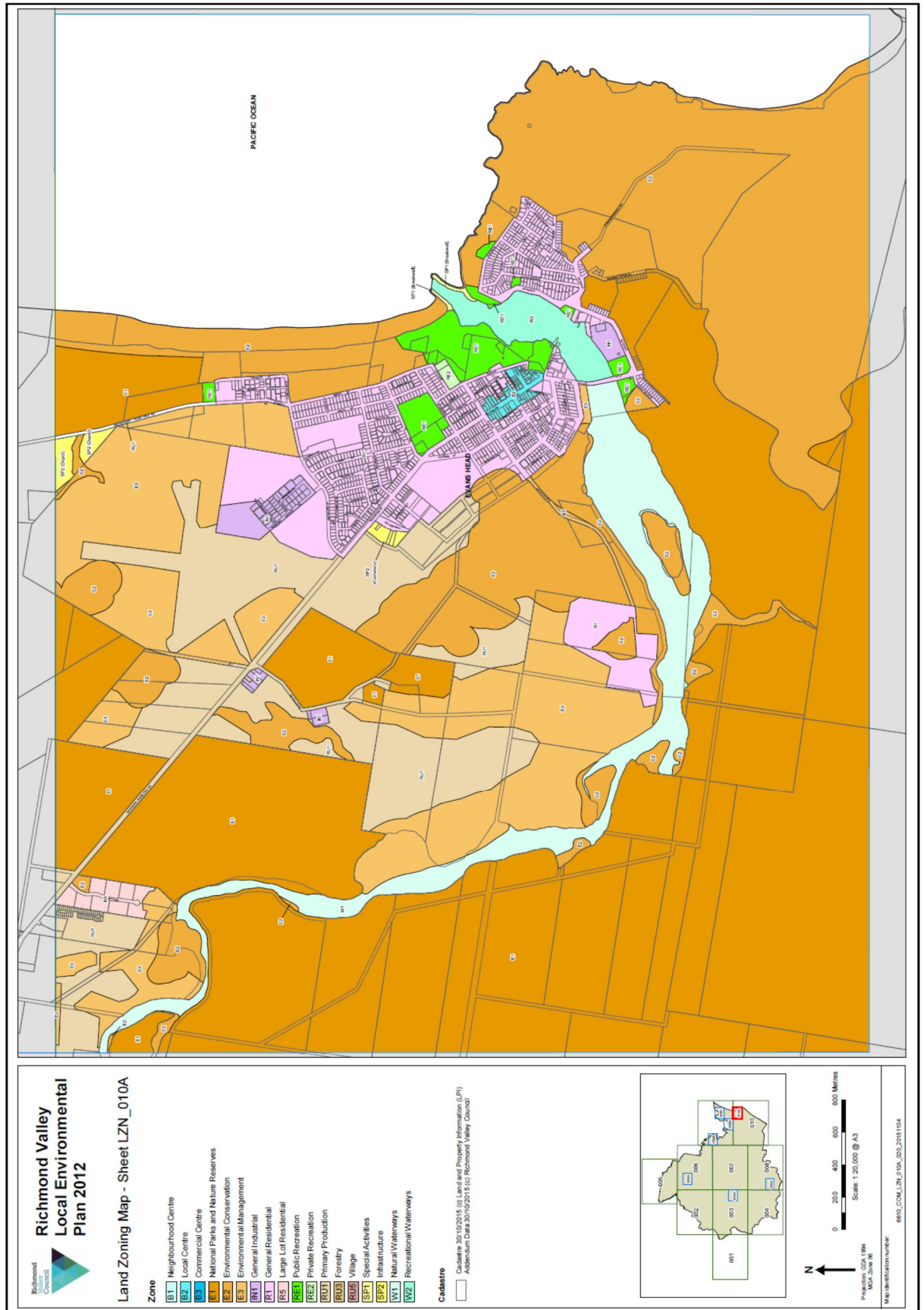
Land Zone Map

The Land Zone Map will be amended to change the following:

- Sheet 003 – Change the zoning of Lot 11 DP777379 – 3280 Busbys Flat Road, Busbys Flat from Zone RU3 to RU1.
- Sheet 009C – Change the zoning of A 4000m² area of Broadwater National Park at Broadwater from Zone SP2 (Waste or Resource Management Facility) to Zone E1.
- Sheet 0010A – Change the zoning of Lot 475 DP755624 – 760 Woodburn-Evans Head Road, Evans Head from Zone IN1 to Zone RU1.



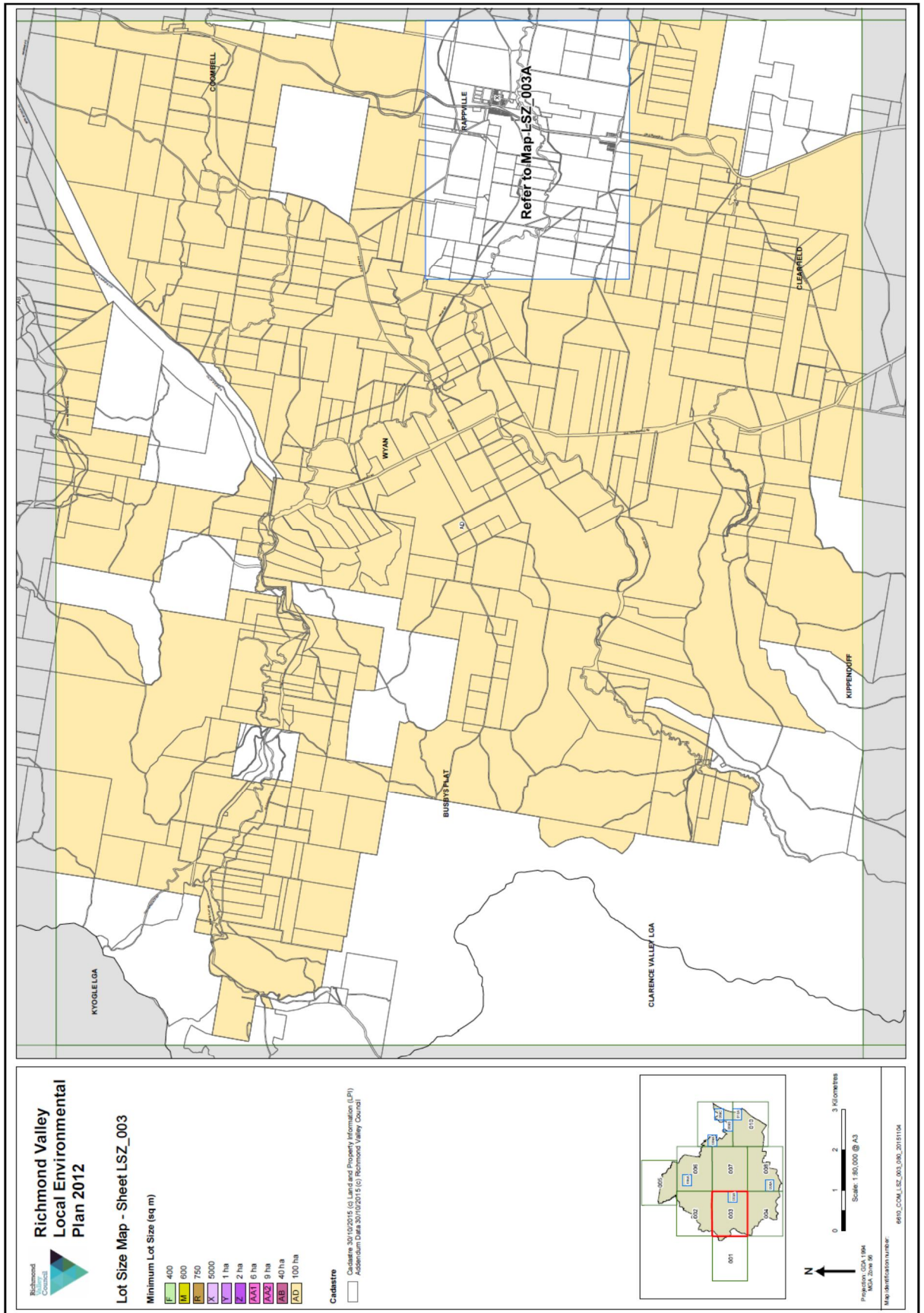




Lot Size Map

The Lot Size Map will be amended to change the following:

- Sheet 003 – To change the Minimum Lot Size (MLS) of Lot 11 DP777379 – 3280 Busbys Flat Road, Busbys Flat from having no MLS to having a 100 ha MLS.
- Sheet 0010A – To change the Minimum Lot Size (MLS) of Lot 475 DP755624 – 760 Woodburn-Evans Head Road, Evans Head from 5000m² to 40 ha.

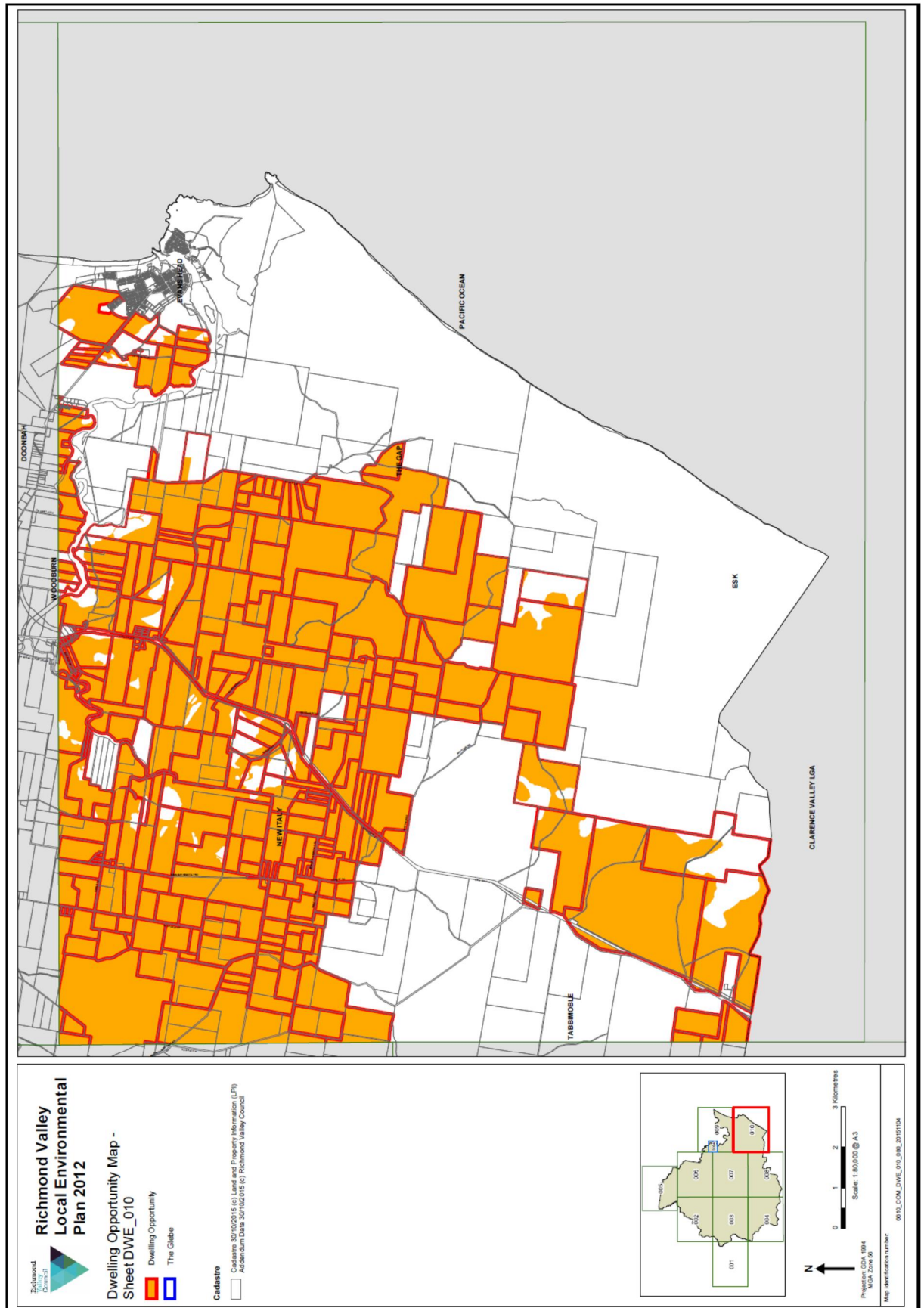




Dwelling Opportunity Map

The Dwelling Opportunity Map will be amended to change the following:

- Sheet 010 – To recognise a dwelling opportunity for Lot 475 DP755624 – 760 Woodburn-Evans Head Road, Evans Head.



Part 5 – Community Consultation

This Planning Proposal has been prepared in accordance with Division 4 of Part 3 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The community engagement requirements for preparation of a local environmental plan are generally defined by:

- the Gateway Determination specifying the minimum community consultation that must be undertaken – usually 28 days, and
- the Guidelines for preparing Local Environmental Plans – specifying how and where a Planning Proposal will be notified.

Notwithstanding, this Planning Proposal will be correcting obvious zoning errors made when the Comprehensive SI LEP was made. As such Council is seeking to have Community Consultation waived by the Gateway Determination. This request is supported by section 73A of the EP&A Act, which permits non-compliance with all provisions relating to the conditions precedent to the making of an amending instrument. Council considers this Planning Proposal to be minor in nature (s.73A (1)(b)); and dealing with matters that will not have any significant adverse impact on the environment or adjoining land (s.73 (1)(c)).

Part 6 – Project Timeline

Table 3. Estimated timeline for preparing amending Local Environmental Plan

Milestone	Timeline	
	Start	Finish
Anticipated commencement date (date of Gateway determination)	Nov 2015	Dec 2015
Anticipated timeframe for the completion of required technical information	NA	
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	NA	
Commencement and completion dates for public exhibition period*	NA	NA
Notice of Public Hearing	NA	NA
Public Hearing	NA	NA
Timeframe for consideration of submissions	NA	NA
Report to Council post Exhibition	NA	NA
Date of submission to the Department to finalise the LEP	NA	NA
Timeframe for Parliamentary Counsel's Opinion and drafting of LEP	Dec 2015	Jan 2016
Anticipated date RPA will make the plan (under delegation)	Jan 2016	Jan 2016
Anticipated date RPA will forward to the department for notification.	Feb 2016	Feb 2016

Contact Details

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Phone: 02 66600276

Appendix A – List of Proposed Amendments

Itemised list of proposed changes to the *Richmond Valley Local Environmental Plan 2012*.

A. Changes to Text

Nil.

B. Changes to Maps

The following map sheets will be replaced:

- 6610_COM_LZN_003_080_20131107
- 6610_COM_LZN_009C_020_20120209
- 6610_COM_LZN_010A_020_20120209
- 6610_COM_LSZ_003_080_20131107
- 6610_COM_LSZ_010A_020_20120131
- 6610_COM_DWE_003_080_20131107
- 6610_COM_DWE_010_020_20131107

Attachment 1 – Gateway Determination

A copy of the Gateway Determination for this Planning Proposal will be included in this Attachment.

At the time of preparation of this version of the Planning Proposal there had been no Gateway Determination.

Attachment 2 – Information Checklist

STEP 1. Required for all Proposals

• Objectives and intended outcome	• Explanation of provisions
• Mapping (including current and proposed zones)	• Justification and process for implementation (including compliance assessment against relevant section 117 direction/s)
• Community consultation (agencies to be consulted)	

STEP 2. Matters – Considered on a Case by Case Basis

PLANNING MATTERS OR ISSUES	To be considered	N/A
Strategic Planning Context		
• Demonstrated consistency with relevant Regional Strategy	☐	☒
• Demonstrated consistency with relevant Sub-Regional strategy	☐	☒
• Demonstrated consistency with or support for the outcomes and actions of relevant DG endorsed local strategy	☐	☒
• Demonstrated consistency with Threshold Sustainability Criteria	☐	☒
Site Description/Context		
• Aerial photographs	☐	☒
• Site photos/photomontage	☐	☒
Traffic and Transport Considerations		
• Local traffic and transport	☐	☒
• TMAP	☐	☒
• Public transport	☐	☒
• Cycle and pedestrian movement	☐	☒
Environmental Considerations		
• Bushfire hazard	☐	☒
• Acid Sulfate Soil	☐	☒
• Noise impact	☐	☒
• Flora and/or fauna	☐	☒
• Soil stability, erosion, sediment, landslip assessment, and subsidence	☐	☒
• Water quality	☐	☒
• Stormwater management	☐	☒
• Flooding	☐	☒
• Land/site contamination (SEPP55)	☐	☒

PLANNING MATTERS OR ISSUES	To be considered	N/A
• Resources (including drinking water, minerals, oysters, agricultural lands, fisheries, mining)	☐	☒
• Sea level rise	☐	☒
Urban Design Considerations		
• Existing site plan (buildings vegetation, roads, etc)	☒	☐
• Building mass/block diagram study (changes in building height and FSR)	☐	☒
• Lighting impact	☐	☒
• Development yield analysis (potential yield of lots, houses, employment generation)	☐	☒
Economic Considerations		
• Economic impact assessment	☐	☒
• Retail centres hierarchy	☐	☒
• Employment land	☐	☒
Social and Cultural Considerations		
• Heritage impact	☐	☒
• Aboriginal archaeology	☐	☒
• Open space management	☐	☒
• European archaeology	☐	☒
• Social & cultural impacts	☒	☐
• Stakeholder engagement	☒	☐
Infrastructure Considerations		
• Infrastructure servicing and potential funding arrangements	☐	☒
Miscellaneous/Additional Considerations		
• Community Strategic Plan		

Attachment 3 – Evaluation Criteria for the Delegation of plan making functions

Checklist for the review of a request for delegation of plan making functions to councils.

Local Government Area:
Richmond Valley Council
Name of draft LEP:
<i>Richmond Valley Local Environmental Plan 2012 (Amendment No.?)</i>
Address of Land (if applicable):
This amendment will apply to: • Lot 475 DP755624 – 760 Woodburn-Evans Head Road, Evans Head • Lot 11 DP777379 – 3280 Busbys Flat Road, Busbys Flat • Part of Broadwater National Park (approx. 4000m² fronting the Pacific Highway immediately west of the Broadwater Landfill which is located on Lot 7011 DP1051693)
Intent of draft LEP:
It is the intent of this amendment to correct several zoning errors made during the preparation of the <i>Richmond Valley LEP 2012</i> .
Additional Supporting Points/Information:
Nil

Evaluation Criteria for the issuing of an Authorisation

(Note. where the matter is identified as relevant and the requirement has not been met, council is to attach information to explain why the matter has not been addressed)	Council response		Department assessment	
	Y/N	Not relevant	Agree	Not agree
Is the planning proposal consistent with the Standard Instrument Order, 2006?	Y			
Does the planning proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	Y			
Are appropriate maps included to identify the location of the site and the intent of the amendment?	Y			
Does the planning proposal contain details related to proposed consultation?	Y			
Is the planning proposal compatible with an endorsed regional or sub-regional planning strategy or a local strategy endorsed by the Director-General?		NA		

(Note. where the matter is identified as relevant and the requirement has not been met, council is to attach information to explain why the matter has not been addressed)	Council response		Department assessment	
	Y/N	Not relevant	Agree	Not agree
Does the planning proposal adequately address any consistency with all relevant S117 Planning Directions?	Y			
Is the planning proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	Y			
Minor Mapping Error Amendments	Y/N			
Does the planning proposal seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?	Y			
Heritage LEPs	Y/N			
Does the planning proposal seek to add or remove a local heritage item and is it supported by a strategy/study endorsed by the Heritage Office?		NA		
Does the planning proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?		NA		
Does the planning proposal potentially impact on an item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?		NA		
Reclassifications	Y/N			
Is there an associated spot rezoning with the reclassification?		NA		
If yes to the above, is the rezoning consistent with an endorsed Plan of Management (POM) or strategy?		NA		
Is the planning proposal proposed to rectify an anomaly in a classification?	N			
Will the planning proposal be consistent with an adopted POM or other strategy related to the site?		NA		
Will the draft LEP discharge any interests in public land under section 30 of the <i>Local Government Act 1993</i> ?		NA		
If so, has council identified all interests; whether any rights or interests will be extinguished; any trusts and covenants relevant to the site; and, included a copy of the title with the planning proposal?		NA		
Has the council identified that it will exhibit the planning proposal in accordance with the Department's Practice Note (PN 09-003) Classification and reclassification of public land through a local environmental plan and Best Practice Guideline for LEPs and Council Land?		NA		
Has council acknowledged in its planning proposal that a Public Hearing will be required and agreed to hold one as part of its documentation?		NA		
Spot Rezonings	Y/N			
Will the proposal result in a loss of development potential for the site (ie reduced FSR or building height) that is not supported by an endorsed strategy?	N			

(Note. where the matter is identified as relevant and the requirement has not been met, council is to attach information to explain why the matter has not been addressed)	Council response		Department assessment	
	Y/N	Not relevant	Agree	Not agree
Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?	Y			
Will the planning proposal deal with a previously deferred matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?	N			
If yes, does the planning proposal contain sufficient documented justification to enable the matter to proceed?		NA		
Does the planning proposal create an exception to a mapped development standard?	N			
Section 73A matters	Y/N			
Does the proposed instrument				
a. correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error?;	N			
b. address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature?; or	Y			
c. deal with matters that do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land?	Y			

(Note. the Minister (or Delegate) will need to form an Opinion under section 73(A(1)(c) of the Act in order for a matter in this category to proceed).

Notes.

- Where a council responds 'yes' or can demonstrate that the matter is 'not relevant', in most cases, the planning proposal will routinely be delegated to council to finalise as a matter of local planning significance.
- Endorsed strategy means a regional strategy, sub-regional strategy, or any other local strategic planning document that is endorsed by the Director-General of the Department.