



Planning Proposal – March 2014

Reservoir Hill Site, Lennox Head

Lot 1 DP 517111, North Creek Road Lennox Head

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INTRODUCTION

Summary of Planning Proposal

This planning proposal relates to Lot 1 DP 517111 North Creek Road, Lennox Head, as shown on the Site Identification Map in Part 4.

The LEP amendment request has been made by TGM Group on behalf of the sole owners of the land, being Ballina Island Developments Pty Ltd. The land comprises a total area of 15.17ha and has frontages to Henderson Lane in the south, North Creek Road in the east and the Coast Road in the north. The site surrounds an existing concrete reservoir structure that is located on the eastern boundary of the site, adjacent to North Creek Road.

The amendment as proposed by the proponent involves the rezoning of the land from RU1 Primary Production to enable residential development on the site via application of a mix of R3 Medium Density Residential zone and R2 Low Density Residential zonings along with application of an RE1 Public Recreation zone in the north western part of the site (see Existing and Proposed Zoning Maps in Part 4).

The proposal includes an indicative subdivision layout as a guide to the type of development that could occur on the land if rezoned. As shown, the proponent's currently envisage in the order of 150 residential lots of various sizes and an area of public open space. It is also intended to realign North Creek Road and construct a new section of road between North Creek Road and the planned northern extension to Hutley Drive (Appendix A).

As shown in the indicative subdivision plan, the proposal includes construction of realignment to North Creek Road through the subject land. The proponent proposes the application of the R2 zone east of this road, with and R3 zone to the west.

In association with the proposed zones, the proponent has proposed a 600m² minimum lot size standard for the R2 zoned land and a 450m² minimum lot size standard for the R3 zoned land. Consistent with Council's LEP, there is no minimum lot standard proposed for the RE1 zoned area.

There are a number of key technical issues that require further consideration to inform the zone arrangement and applicable development standards for the land (see planning context below). Council intends to further investigate these matters via the completion of an environmental study for the land by an independent third party. The outcomes of the study will be utilised by Council to establish its preferred approach to the planning proposal and LEP amendment.

Planning Context

Site History – LEP Amendment No.108

Separate to the current request, the Council has previously considered the rezoning of the subject land for residential purposes via draft Amendment No.108, initially commenced in relation to the Ballina Local Environmental Plan 1987. Amendment No.108 included Lot 1 DP 517111, as well as Lots 1 and 2 DP 620838 and Lot 1 DP 878933.

With respect to that amendment, Council resolved to request that the Minister for Planning and Infrastructure discontinue Draft Amendment No.108 to the Ballina LEP (relating to the subject land) at its February 2013 Ordinary Meeting. Amendment No.108 had been before the Council since 2008 and the then proponent's had not submitted the necessary documentation to enable an assessment of the proposal. The Minister agreed to Council's request and the previous rezoning process was ceased.

The current request constitutes a new application for the rezoning of Lot 1 DP 517111 only by a different proponent and as indicated above, documentation has been submitted to Council to enable assessment of the proposed outcomes. The current proposal is not related to the former Amendment No.108.

Council Resolutions – Planning Proposal for Rezoning of Lot 1 DP 517111

The current request for rezoning of the subject site was reported to Council's Ordinary Meeting held on 22 August 2013. At that meeting, the Council resolved as follows (Minute No: 220813/12);

1. *That Council prepare a planning proposal for the rezoning of Lot 5 DP 517111, North Creek Road, Lennox Head to enable residential development on the land.*
2. *That the preparation of the planning proposal includes further consideration of:*
 - *land use zoning options associated with residential development on the land;*
 - *land use zoning options for proposed open space areas; and*
 - *minimum lot size standards for subdivision of the land.*

Following this resolution of Council, additional information was requested and received from the proponent. This information has been considered in the preparation of this planning proposal.

Consistency with Strategic Planning Policy

The zoning of the subject land to enable residential development is generally consistent with both Council and State Government urban planning policy. The following provides an overview of the proposed amendment with respect to key planning policy documents.

Far North Coast Regional Strategy (FNCRS)

The subject land is identified as a proposed future urban release area under the FNCRS. The proposed rezoning for residential purposes is consistent with this.

Ballina Shire Growth Management Strategy 2012 (GMS)

The subject land is identified as a strategic urban growth area under the GMS. Given that the site is identified as a potential future urban area, the proposed rezoning for residential purposes is consistent with Council's GMS.

Lennox Head Structure Plan (LHSP)

The subject land is identified as being within Area I under the Lennox Head Structure Plan. The structure plan identifies low and medium density housing as preferred urban land use outcomes. Residential use of the land is consistent with the envisaged outcomes identified in the structure plan.

The structure plan also identifies road infrastructure, vehicle access, stormwater management, slope and vegetation as key issues for consideration as part of any rezoning proposals. These matters will be subject to further assessment and consideration should the processing of the LEP amendment request proceed.

In addition to the above, the structure plan also indicates a preference for the rezoning of the subject land to occur in conjunction with the surrounding land within Area I (two land parcels, one to the east and one to the north). Whilst an integrated outcome is preferred, the proponent has indicated that the owner of the land to the east is not presently able to participate in the rezoning and the land to the north would ultimately be on the opposite side of any extension to Hutley Drive.

Given the above, the potential road infrastructure outcomes of benefit to the wider community, and that the subject land represents almost 90% of Area I, it is considered to be reasonable for the LEP amendment request to proceed in this instance. If the proposal proceeds, further consideration will be given to the relationship between potential development on the subject land and surrounding land holdings.

Ballina Local Environmental Plan (LEP) 2012

Following gazettal of the Ballina LEP 2012 in January 2013, the zone of the subject land changed from 1(d) Rural (Urban Investigation) in accordance with the provisions of Ballina LEP 1987 to RU1 Primary Production. Having regard to the objectives of the RU1 zone and the location and size of the subject land, the site is considered to have limited to no capability of being used and managed for sustainable primary industry. The proponent's supporting documentation has stated that the development of a primary industry is incongruent with the surrounding urban context and would likely create conflict with the dominant surrounding residential use.

The site is also identified as a Strategic Urban Growth Area under the LEP consistent with Council's Growth Management Strategy.

Key Site Issues

Key planning issues identified in relation to the proposal to date include the following:

Key Issue	Summary
Stormwater Management	The proposal nominates land in the north western part of the site for the location of stormwater management infrastructure. This area is also nominated for open space purposes and contains the threatened flora species Hairy Joint Grass and a Freshwater Wetland described by the proponent's supporting material as an endangered ecological community. The interaction between stormwater management and infrastructure, public open space and the ecological attributes of the land, and associated impacts, require further assessment in relation to the suitability of the north western part of the site for the proposed infrastructure.
Public Open Space	The proposal nominates an area in the north western part of the site for public open space. The suitability of this land for public open space in public ownership requires further assessment given the stormwater and ecological issues (particularly the presence of Hairy Joint Grass and an EEC) associated with the land. The size and nature of the area should also be considered further in terms of suitability of the land for open space purposes and potential costs and benefits associated with public ownership of the land.

Key Issue	Summary
Ecological Attributes	The proponent's supporting ecological assessment identifies several vegetation communities on the site with key attributes being concentrated in the north western portion of the site. Key flora considerations are the threatened species Hairy Joint Grass and a Freshwater Wetland Endangered Ecological Community. As indicated above, these ecological attributes require consideration in relation to the proposed extent of urban development as well as implications for stormwater management and public open space.
Road Infrastructure	The proposal identifies the construction of a new road through the site, being a realignment of North Creek Road. The location of the road, including its relationship with the existing North Creek Road and Henderson Lane intersection, Stoneyhurst Drive and the tie in with the roundabout on The Coast Road requires further assessment in association with the proposed land use zone arrangement. The realignment of North Creek Road also needs to be considered in further detail in relation to potential noise implications for future dwellings on the subject land. Demonstration of practical road access to the adjoining Lot 1 DP 878933 to the east is also required as part of the analysis of road infrastructure associated with the proposal.
Noise Impacts	The proponent's supporting material indicates that some future dwellings on land adjoining the realignment of North Creek Road would require mitigation measures in the design and construction of the buildings. The extent and nature of these impacts requires further consideration, particularly with respect to the potential public benefits associated with the proposed upgrade to North Creek Road.
Scenic Values and Amenity	The subject land is visible from a number of key locations including The Coast Road to the north and the Meadows Estate to the west of the land. The implications on the scenic and amenity values of the land require further consideration having regard for the nature and extent of low and medium density residential development and site infrastructure, including the realignment of North Creek Road.

It is proposed that the optimal means of addressing the key site issues and evaluating the overall rezoning proposal is to engage an independent third party to complete an environmental study of the land and provide a recommended land use zoning outcome. It is envisaged that such a study will draw on the extensive information submitted by the proponent as well as technical information provided by Council staff.

The intent of the environmental study is to draw together the assessment of the key site issues in an integrated way to inform a recommended zoning arrangement and recommendations on associated development standards under the LEP. The detailed analysis of the site through the environmental study may result in a zoning recommendation that differs from that proposed by the proponent. In particular, the extent of R2 Low Density Residential and R3 Medium Density Residential development would be examined as well as the suitability of open space zoning and the potential for environmental protection zoning over parts of the land.

PART 1 – OBJECTIVES & INTENDED OUTCOMES

The objectives of this planning proposal are to:

- enable residential development on the land through the application of low and/or medium density zoning; and
- recognise the environmental and open space attributes of the land through the application of open space and/or environmental protection zoning.

PART 2 – EXPLANATION OF THE PROPOSAL

This planning proposal relates to Lot 1 DP 517111, North Creek Road, Lennox Head. The land is commonly known as the Water Tower or Water Reservoir site at Lennox Head (see Site Identification Map in Part 4).

The LEP amendment request has been made by TGM Group on behalf of the sole owners of the land, being Ballina Island Developments Pty Ltd. The proponent has submitted a comprehensive proposal inclusive of a variety of technical reports addressing servicing, stormwater management, cultural heritage, site ecology, site contamination, geotechnical conditions, noise, traffic and bushfire. The supporting material prepared by the proponent is available under separate cover.

The land comprises a total area of 15.17ha and has frontages to Henderson Lane in the south, North Creek Road in the east and the Coast Road in the north. The site surrounds an existing concrete reservoir structure that is located on the eastern boundary of the site, adjacent to North Creek Road.

The amendment to the LEP as proposed by the proponent involves the rezoning of the land from RU1 Primary Production to enable residential development on the site via application of a mix of R3 Medium Density Residential zone and R2 Low Density Residential zonings along with application of an RE1 Public Recreation zone in the north western part of the site (See Existing and proposed Zoning Maps in Part 4). The proposed amendment is generally consistent with applicable local and State government urban planning policy.

The proposal includes an indicative subdivision layout as a guide to the type of development that could occur on the land if rezoned. As shown, the proponent's currently envisage in the order of 150 residential lots of various sizes and an area of public open space. It is also intended to realign North Creek Road and construct a new section of road between North Creek Road and the planned northern extension to Hutley Drive (Appendix A).

As shown in the indicative subdivision plan, the proposal includes construction of realignment to North Creek Road through the subject land. The proponent proposes the application of the R2 zone east of this road, with and R3 zone to the west.

In association with the proposed zones, the proponent has proposed a 600m² minimum lot size standard for the R2 zoned land and a 450m² minimum lot size standard for the R3 zoned land. Consistent with Council's LEP, there is no minimum lot standard proposed for the RE1 zoned area.

Other mapping changes proposed (on the basis of the application of a residential zone to the land) include alteration to the Strategic Urban Growth Area map to remove the subject land from being identified as a strategic urban growth area and a change to the Dwelling Opportunity Reinstatement Map to delete the dwelling entitlement recognised for the site on the map.

Given that there are a number of key issues relating to the proposal that require further examination, it is proposed that Council will engage an independent third party to prepare an environmental study. It is envisaged that the study will inform a recommended zoning and development standard outcomes. As such, the ultimate zoning arrangement and associated amendments to development standards for the land may differ from that presented by the proponent. On this basis, the planning proposal is intended to enable flexibility in the application of proposed zones and standards following the completion of the environmental study, public exhibition and further deliberations by the Council.

PART 3 – JUSTIFICATION

Section A - Need for the Planning Proposal

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

The subject land is identified in the Lennox Head Structure Plan, Ballina Shire Growth Management Strategy and the Far North Coast regional Strategy as a potential area for urban development. The proposed rezoning to enable residential development on the land is consistent with local and State government urban planning policy.

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

Yes, the zoning of the land to enable residential development is the appropriate mechanism to recognise the proposed change of land use.

Section B - Relationship to the 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)?

The proposal is consistent with the Far North Coast Regional Strategy, as it is identified as a proposed future urban release area. Consistency with the specific outcomes and actions of the Strategy will be further evaluated as part of the environmental study for the land.

4. Is the planning proposal consistent with the local Council's Community Strategic Plan, or other local strategic plans?

The proposed is consistent with the Lennox Head Structure Plan and the Ballina Shire Growth Management Strategy as the land is identified as a potential urban release area in both plans (see further detail under Planning Context).

The proposal is consistent with Council's Community Strategic Plan in that it aligns with Council's endorsed urban planning policy which sits under the overarching direction of the CSP.

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

Yes, the proposal is generally consistent with applicable State Environmental Planning Policies (SEPP). More detailed assessment in relation to applicable SEPPs will be undertaken as part of the preparation of an environmental study for the land.

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

Yes, the proposal is consistent with the relevant Section 117 Directions. A Section 117 Direction checklist for the planning proposal is contained in Appendix B.

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?

The supporting documentation provided by the proponent has identified the presence of the threatened species, Hairy Joint Grass, and a Freshwater Wetland Endangered Ecological Community on the site. The proponent has also identified measures to address the impacts on the ecological values of the site in the event that residential development is enabled on the land.

The extent of impact on the ecological attributes of the land requires further assessment. Such assessment will be undertaken through the preparation of an environmental study for the land post Gateway determination and prior to public exhibition.

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

There are a number of potential environmental impacts associated with the proposal. The extent of impacts and associated mitigation measures will be assessed further through the preparation of an environmental study for the land.

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

There is a range of potential social and economic effects that may arise as a result of the rezoning of the land for residential purposes. The implications of the proposal in relation to social and economic matters will be examined further as part of the preparation of an environmental assessment for the land.

Importantly, the proposal includes the realignment of North Creek Road which may have significant benefits for the local community in terms of the function of the local road network.

Section D - State and Commonwealth interests.

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

The proposal for residential development on the land is generally compatible with existing and planned infrastructure in the locality. However, there will be a need for onsite stormwater management infrastructure and the proposal includes substantial new road infrastructure in the form of the realignment of North Creek Road.

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

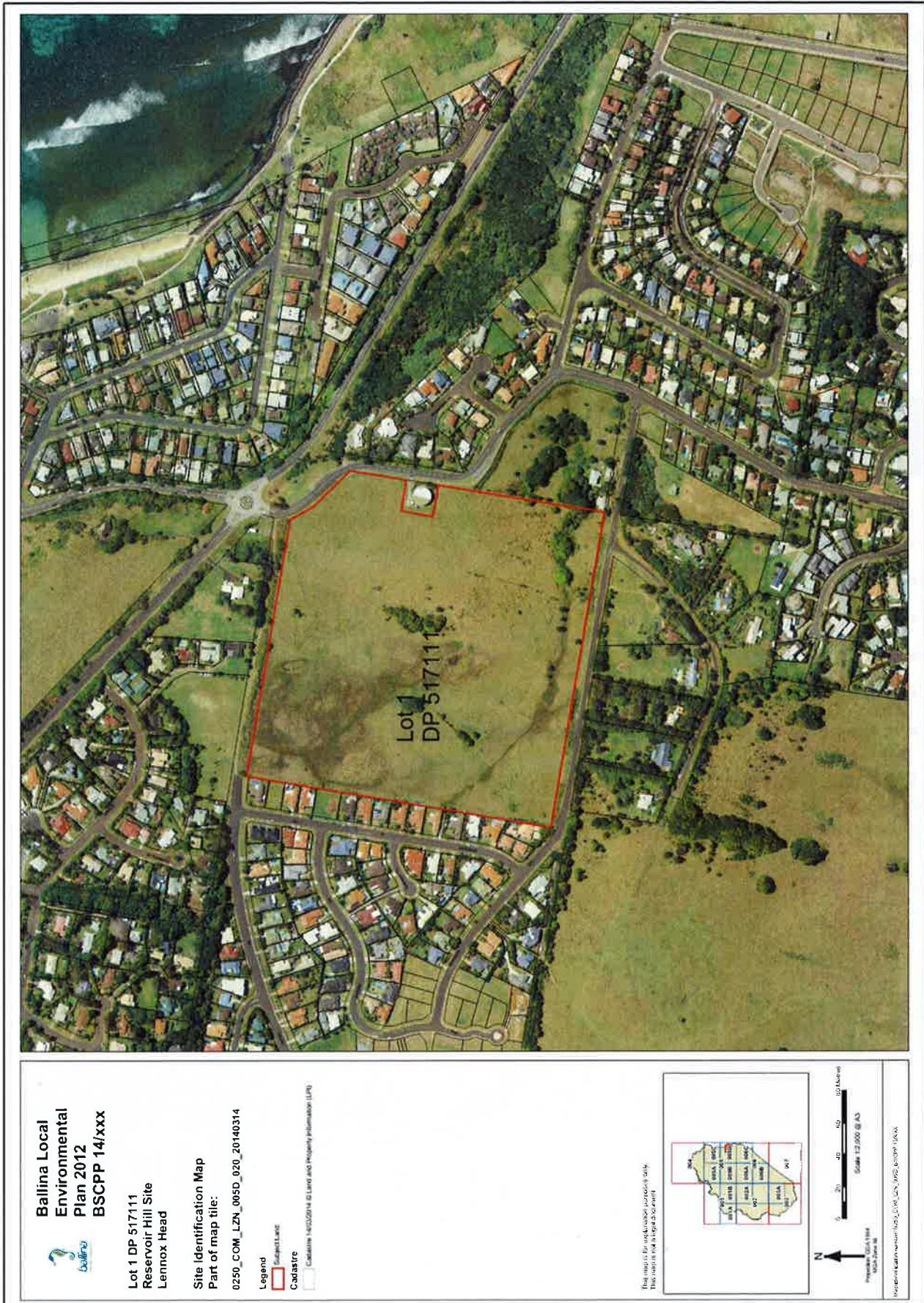
Consultation will be undertaken with relevant agencies during the public exhibition stage of the LEP amendment.

PART 4 – MAPPING

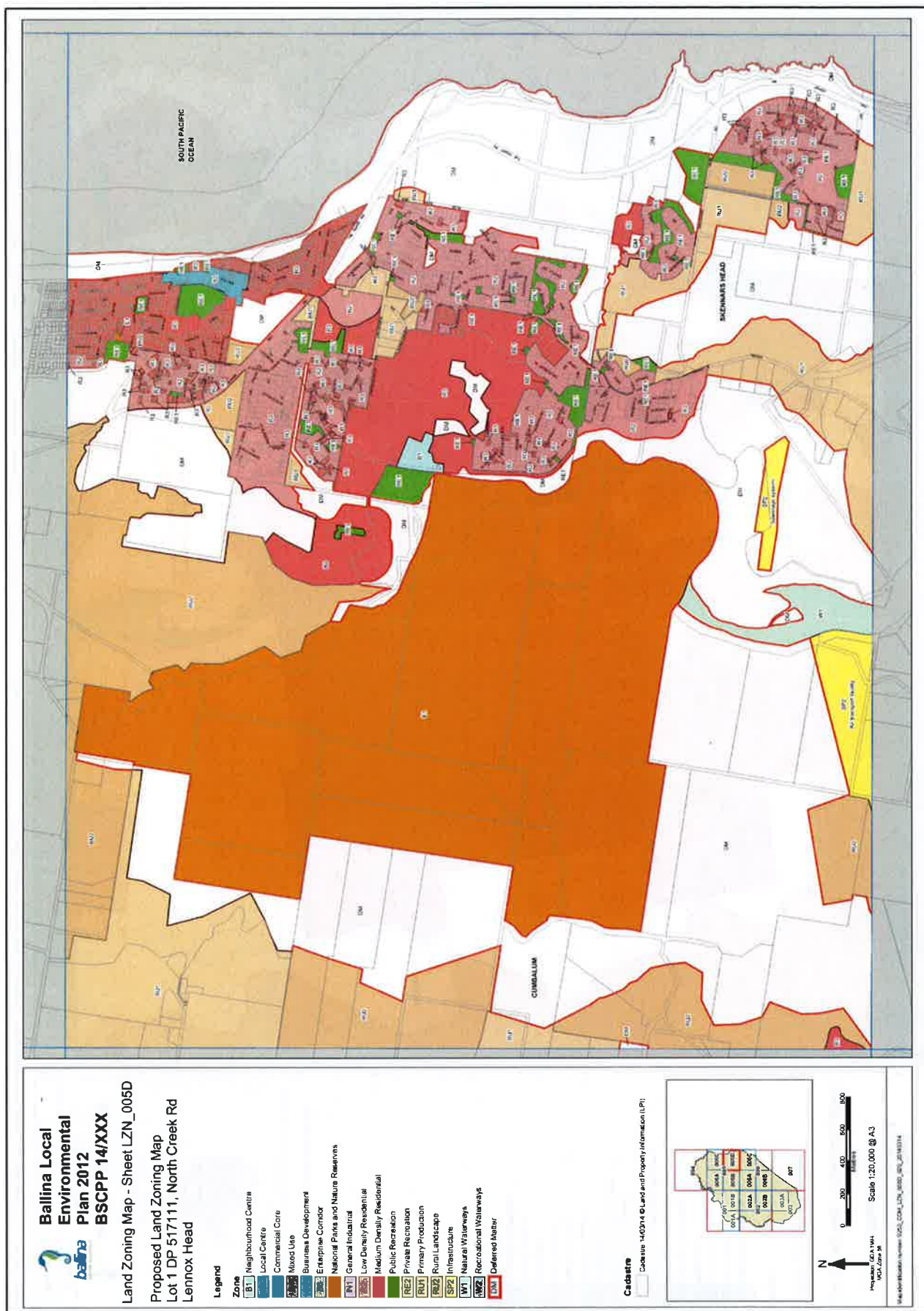
The following maps have been prepared to support this planning proposal and the proposed land use and development outcomes.

- Map 1 – Site Identification Map;
- Map 2 – Proposed Land Zoning Map;
- Map 3 – Proposed Lot Size Map;
- Map 4 – Proposed Strategic Urban Growth Area Map; and
- Map 5 – Proposed Dwelling Opportunity Reinstatement Map.

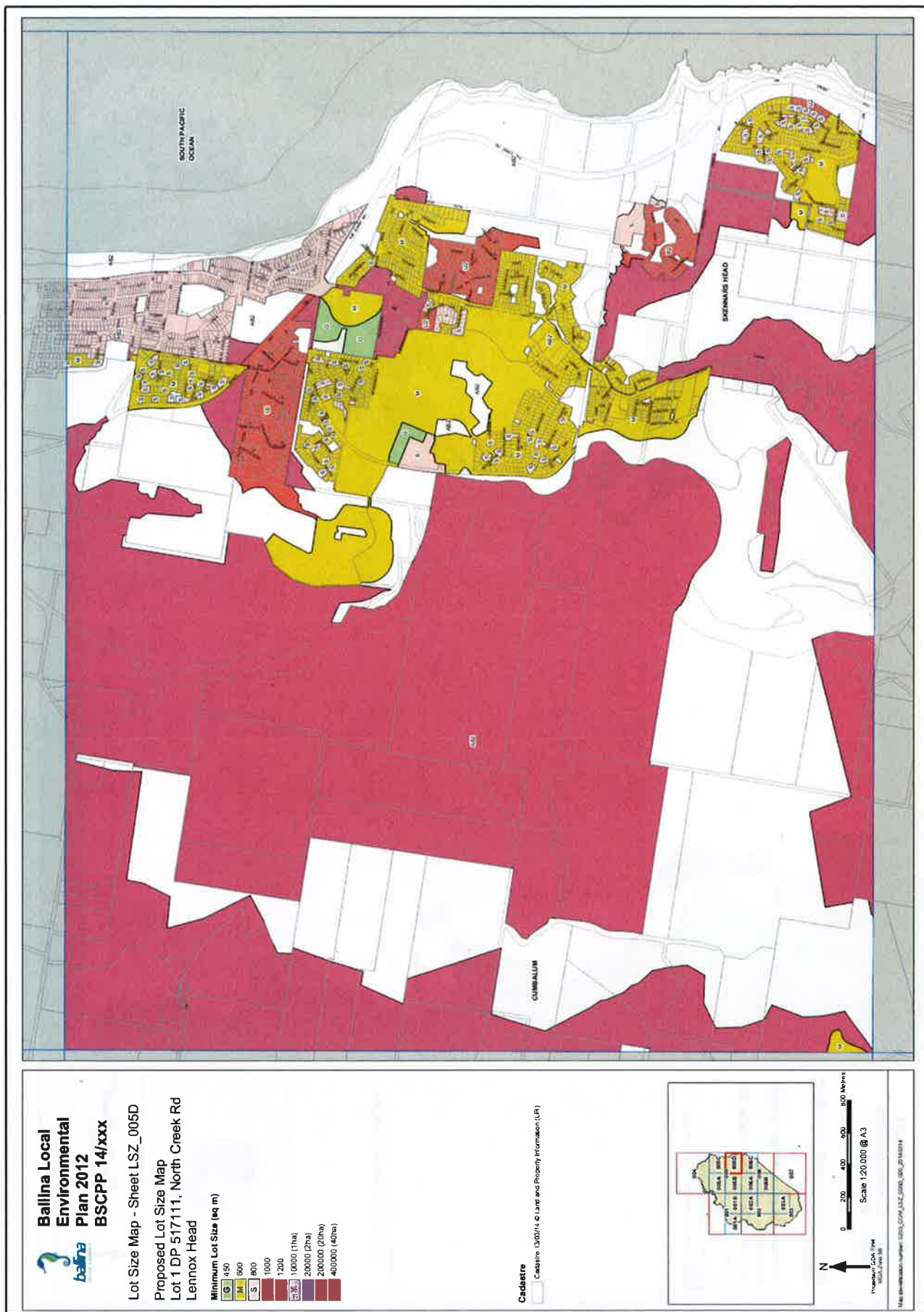
The maps have been prepared on the basis of the proponent's proposal. The mapping is subject to change based on the outcomes of further assessment and the completion of an environmental study for the land.



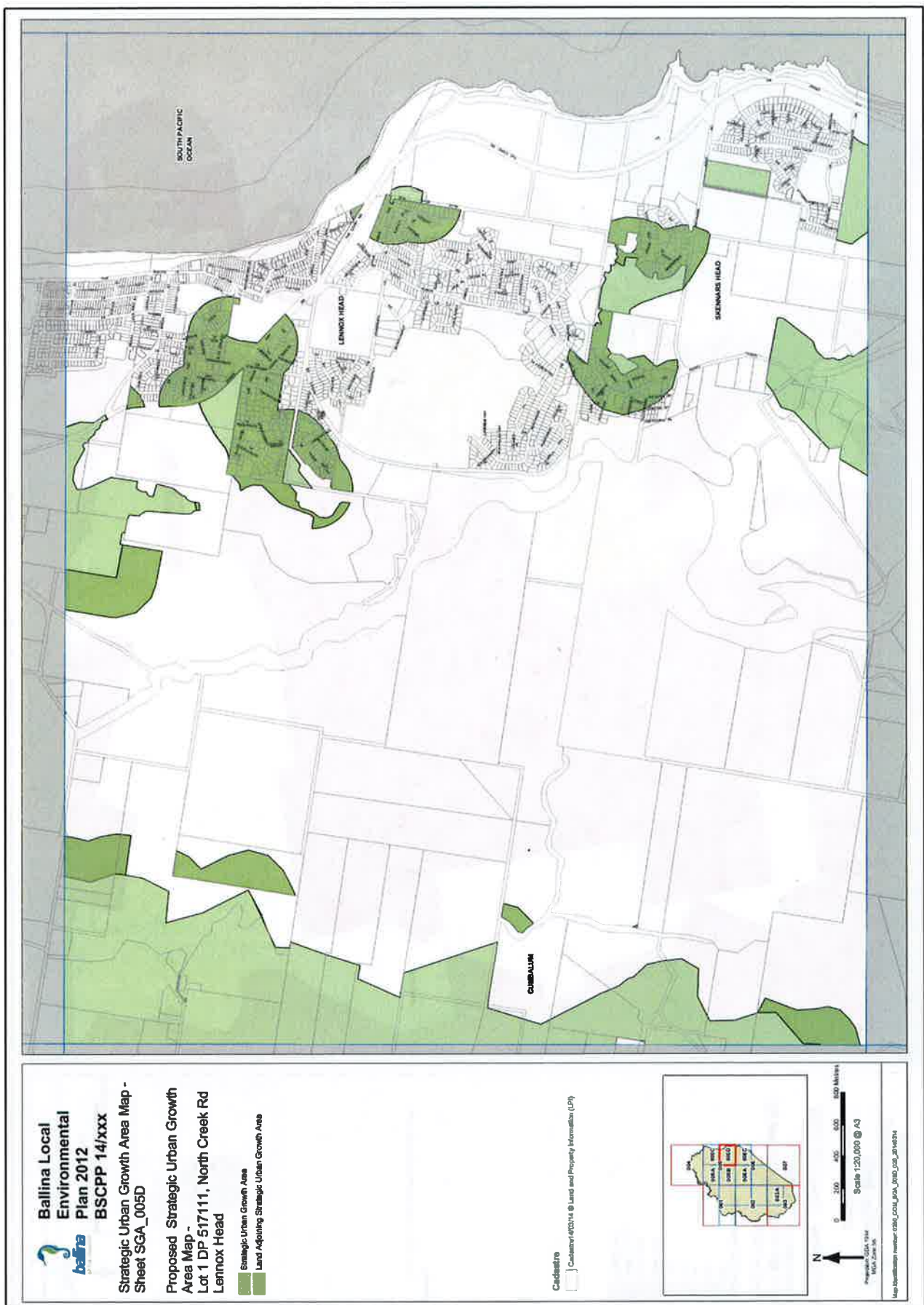
Map 1 – Site Identification Map



Map 3 – Proposed Land Zoning Map



Map 4 – Proposed Lot Size Map



Map 5 – Proposed Strategic Urban Growth Area Map

PART 5 – COMMUNITY CONSULTATION

It is proposed that this planning proposal will be exhibited in accordance with the Gateway determination and the terms of the *Environmental Planning and Assessment Act 1979*.

PART 6 – TIMELINE

The proposed timeline for completion of the planning proposal is as follows:

Plan Making Step	Estimated Completion
Gateway Determination	April 2014
Government Agency Consultation	May 2014
Public Exhibition Period	September 2014
Public Hearing	N/A
Submissions Assessment	November 2014
RPA Assessment of Planning Proposal and Exhibition Outcomes	December 2014
Submission of Endorsed LEP to DP&I for Finalisation	January 2015
RPA Decision to Make the LEP Amendment (if delegated)	February 2015
Forwarding of LEP Amendment to DP&I for Notification (if delegated)	February 2015

APPENDICES

Appendix A – Indicative Subdivision Layout



Appendix B – Section 117 Direction Checklist

Section 117 Direction Checklist Planning Proposal Lot 1 DP 517111, North Creek Road Lennox Head	
Direction No.	Compliance of Planning Proposal
1. Employment and Resources	
1.1 Business and Industrial Zones	Does not apply to planning proposal.
1.2 Rural Zones	Inconsistent. However, the proposed rezoning is consistent with local and State government urban planning policy as the land is identified as a potential urban growth area in the Far North Coast Regional Strategy, the Ballina Shire Growth Management Strategy and the Lennox Head Structure Plan. The land is located within the Lennox Head urban area and has limited agricultural production values.
1.3 Mining, Petroleum Production and Extractive Industries	Does not apply to planning proposal.
1.4 Oyster Aquaculture	Does not apply to planning proposal.
1.5 Rural Land	Consistent. The proposed rezoning and changes to minimum lot size standards for subdivision are consistent with local and State government urban planning policy as the land is identified as a potential urban growth area in the Far North Coast Regional Strategy, the Ballina Shire Growth Management Strategy and the Lennox Head Structure Plan. The land is located within the Lennox Head urban area and has limited agricultural production values. Having regard for the above, the proposed LEP amendment will not adversely impact on significant agricultural production on the land or in the immediate surrounds of the site through fragmentation or land use conflict. Further, additional assessment will be undertaken in relation to the suitability of the site for residential land use having regard for the characteristics of the land.
2. Environment and Heritage	
2.1 Environmental Protection Zones	Consistent. The application of environmental protection zoning will be considered as part of the preparation of an environmental study for the site, having regard for the environmental values and characteristics of the land.
2.2 Coastal Protection	Consistent. The application of coastal planning principles as established under the NSW Coastal Policy, the Coastal Design Guidelines and the NSW Coastline Management Manual will be considered as part of the preparation of an environmental study for the site, having regard for the characteristics of the land.
2.3 Heritage Conservation	Consistent. There are no known items of environmental or Aboriginal cultural heritage value on the land. Heritage values will, however, be further examined as part of the preparation of an environmental study for the land.
2.4 Recreation Vehicle Areas	Consistent. The proposed LEP amendment relates to provision of residential housing and does not involve development for the purpose of a recreational vehicle area.
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	Consistent. The proposed LEP amendment seeks to provide for additional residential development opportunities in the Lennox Head locality. The subject land is located close to existing services and is within the existing Lennox Head urban area. The proposal involves a rezoning from rural land (RU1) to residential zoning and open space and/or environmental protection zoning. The proposed R2 and R3 zones provide for a variety of permitted residential housing forms. The Ballina LEP 2012 include an existing provision (Clause 7.7) that requires that adequate servicing is in place, or suitable arrangements have been made for such servicing, before development proceeds.

3.2 Caravan Parks and Manufactured Home Estates	Consistent. Caravan parks are not permitted under the current RU1 zoning of the land. The planning proposal does not specifically relate to the provision of caravan parks or manufactured home estates.
3.3 Home Occupations	Consistent. Home occupations are permitted in the R2 and R3 residential zones under the Ballina LEP 2012.
3.4 Integrated Land Use and Transport	Consistent. The application of the principles set out under Improving Transport Choice – Guidelines for planning and development and The Right Place for Business and Services – Planning Policy will be considered as part of the preparation of an environmental study for the site, having regard for the characteristics of the land and the proposed land use.
3.5 Development Near Licensed Aerodromes	Consistent. Development of the subject land for residential purposes may result in development that protrudes into the Obstacle Limitation Surface for the Ballina Byron Gateway Airport. The relevant Commonwealth agency and the operator of the Ballina Byron Gateway Airport will be consulted as part of the LEP amendment process. The subject land is not affected by ANEF contours of 20 or greater.
3.6 Shooting Ranges	Does not apply to planning proposal.
4. Hazard and Risk	
4.1 Acid Sulphate Soils	Does not apply to planning proposal.
4.2 Mine Subsidence and Unstable Land	Consistent. The geotechnical assessment prepared by the proponent has indicated a very low to moderate risk of geotechnical instability across various potential hazard categories. The geotechnical conditions and associated risks will be further examined as part of the preparation of an environmental study for the land.
4.3 Flood Prone Land	Does not apply to planning proposal.
4.4 Planning for Bushfire Protection	Does not apply to planning proposal.
5. Regional Planning	
5.1 Implementation of Regional Strategies	Consistent. The proposed rezoning is consistent with the FNCRS as it is identified as a proposed future urban release area under the policy. The proposed rezoning is also consistent with the Ballina Shire Growth Management Strategy and the Lennox Head Structure Plan.
5.2 Sydney Drinking Water Catchments	Does not apply to planning proposal.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Inconsistent. The subject land is identified as regionally significant farmland under the Northern Rivers Farmland Protection Project mapping. However, the subject land is identified as a proposed future urban release area under the Far North Coast Regional Strategy and is identified as a potential urban area under the Ballina Shire Growth Management Strategy and the Lennox Head Structure Plan.
5.4 Commercial and Retail Development	Does not apply to planning proposal.
5.5 Development in the vicinity of Ellalong Paxton and Millfield (Cessnock LGA).	Repealed
5.6 Sydney to Canberra Corridor	Repealed
5.7 Central Coast	Repealed
5.8 Second Sydney Airport: Badgerys Creek	Does not apply to planning proposal.
6. Local Plan Making	
6.1 Approval and Referral Requirements	Consistent. The planning proposal does not introduce any new concurrence or consultation provisions or any additional designated development types.

6.2 Reserving Land for Public Purposes	Consistent. The planning proposal does not propose land for open space purposes for dedication to authorities other than Council, or at the request of the State Government.
6.3 Site Specific Provisions	Does not apply to planning proposal.
7. Metropolitan Planning	
7.1 Implementation of the Metropolitan Strategy	Does not apply to planning proposal