



Planning Proposal – January 2015

44 – 52 Blue Seas Parade, Lennox Head

Part Lot 1 and Part Lot 2 DP 1165957, Blue Seas Parade,
Lennox Head

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INTRODUCTION

Summary of Planning Proposal

This planning proposal primarily relates to part Lot 1 DP 1165957 (Lot 1) known as 44 – 52 Blue Seas Parade, Lennox Head, as shown on the Site Identification Map in Part 4.

The proponent and land owner is Mr George Farley. The LEP amendment request (Refer Appendix G) has been prepared by Mr Paul Snellgrove of Ardill Payne and Partners.

Lot 1 has a total area of 3.476 hectares and frontages to Blue Seas Parade and The Coast Road. The land the subject of the LEP amendment request has an approximate area 1.1 hectares and an approximate frontage to Blue Seas Parade of 196 metres.

The amendment as proposed by the proponent involves the rezoning of that part of Lot 1 designated as a Strategic Urban Growth Area (SUGA) from RU1 Primary Production to R2 Low Density Residential zone (see Existing and Proposed Zoning Maps in Part 4).

The LEP amendment request submission indicates, that based on a 600m² lot size, the site could yield up to 13 lots. An indicative plan of subdivision has not yet been prepared. This planning proposal has been prepared on the basis that the minimum lot size will not be less than 1200m² for Lot 1. A 1200m² minimum lot size is considered appropriate based on the following known land constraints at this stage of the rezoning process:

- Need for appropriate buffer areas to the adjoining primary industry;
- Ridge top location and associated scenic amenity considerations;
- Impact of existing 20 metre wide electricity easement within Lot 1;
- Right of way and access requirements.

The proposed Minimum Lot Size Map which forms a part of this planning proposal applies a 600m² minimum lot size to that part of Blue Seas Parade which adjoins Lot 1 to ensure consistency with adjoining properties.

Council intends to further investigate the appropriateness of the proposed R2 Low Density Residential Zone and proposed 1200m² minimum lot size through consideration of various environmental assessments post Gateway determination.

The outcome of the environmental assessment process will be utilised by Council to establish its preferred approach to the planning proposal and LEP amendment.

This planning proposal also relates to Part Lot 2 DP 1165957 (Lot 2) which contains a triangular section of land, having approximate area of 900m², which is also designated as a SUGA. It is proposed to remove the SUGA affectation from Lot 2 as well as from the section of Blue Seas Parade which adjoins Lot 1. The SUGA affectation on Lot 2 resulted from the non alignment of subdivision and SUGA boundaries at the time of creation of Lots 1 and 2 in 2011.

Consultation with the owners of Lot 2 has revealed that they object to the proposed rezoning of Lot 1. They state, however, that if the rezoning is to go ahead then they support the removal of the SUGA affectation from their property.

Planning Context

Site History

Lot 1 was created in July 2011 from the re-subdivision of Lot 2 DP 587685 and two other lots. Lot 2 DP 587685 which had an area of 31.52 hectares was the subject of a rezoning application submitted in May 2008.

Ballina Shire Council, at its Ordinary Meeting held in July 2010 [Minute No. 220710/7] resolved to initiate a stand alone LEP amendment for Lot 2 DP 587685. That LEP amendment proposed that a residential zone be applied to part of Lot 2 DP 587685. An indicative plan of subdivision showed 12 residential lots were proposed to be created at that time.

Following assessment of issues relevant to the rezoning the Council resolved at its Ordinary Meeting held in March 2011 [Minute No. 240311/11] to cease processing of the LEP amendment request. This was on the basis of several unresolved issues and followed the proponent formally withdrawing the request.

Council's March 2011 resolution also provided for the land designated for potential urban development within Lot 2 DP 587685 to be reduced in area, primarily based on assessment of visual amenity issues. This reduction was subsequently incorporated within the Ballina Shire Growth Management Strategy as well as the Strategic Urban Growth Area mapping within Ballina LEP 2012.

The extent of the proposed rezoning, the subject of this planning proposal, reflects the reduced area resulting from Council's resolution in March 2011.

Council Resolutions – Planning Proposal for Rezoning of Lot 1

The current request for rezoning of the subject site was initially reported to Council's Ordinary Meeting held on 22 May 2014. At that meeting, the Council resolved as follows [Minute No: 220514/1]:

1. *That Council prepare a planning proposal for the application of an R2 Low Density Residential zone over that part of Lot 1 DP 1165957 designated as a Strategic Urban Growth Area in Ballina LEP 2012.*
2. *That the subdivision potential and associated minimum lot size for the future development of Lot 1 DP 1165957 be determined following assessment of additional technical information.*
3. *That a further report be presented to the Council documenting the planning proposal when prepared for submission for Gateway determination.*
4. *For the purpose of further investigation the planning proposal shall include a minimum lot size of 600 m².*

A further report was considered by Council at its Ordinary Meeting on 24 July 2014 following preparation of the planning proposal. At that meeting the Council resolved as follows [Minute No: 240714/10]:

1. *That Council discontinue processing of the LEP amendment request to apply a residential zone to part of Lot 1 DP 1165957 and take no further action with respect to the rezoning of the land under the current amendment request, for the following reasons:*

2. *That the Council does not support the application of a zoning to Lot 1 DP 1165957 that enables further residential development to occur on the land beyond what is enabled under the current rural land use zoning.*
3. *That Council take steps at the next revision of the Ballina Shire Growth Management Strategy to remove all land contained within Lot 1 DP 1165957 from identification as a potential urban growth area from local planning policy.*

Request for pre-Gateway Review and Subsequent Council Resolution

A request for a pre-Gateway review was submitted to the Department of Planning and Environment on 19 August 2014 by Paul Snellgrove, Ardill Payne and Partners, on behalf of the proponent Mr George Farley. The review was considered by the Joint Regional Planning Panel on 25 November 2014.

The Department of Planning and Environment has advised Council, by letter dated 8 December 2014, that the planning proposal should proceed to the Gateway determination stage. Council has also been requested to advise whether it would like to be the Relevant Planning Authority (RPA) and submit a planning proposal for Gateway determination. A copy of the Department's letters are contained within Appendix H.

Council considered the request from the Department of Planning and Environment at its Ordinary Meeting on 22 January 2015 and resolved as follows [Minute No: 220115/6]:

That Council agree to accept the role of Relevant Planning Authority (RPA) and endorse the attached planning proposal for submission to the DP&E for Gateway determination.

A copy of the report to Council's Ordinary Meeting on 22 January 2015 is contained within Appendix I.

Consistency with Strategic Planning Policy

The proposed rezoning 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 located within the existing urban footprint of Lennox Head and designated as a future urban release area under the FNCRS. The proposed rezoning for residential purposes is consistent with this strategy.

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 Lennox Head Structure Plan (LHSP) includes the whole of Lot 1 within an area designated as *visually significant land*. It should be noted, however, that the section of Lot 1 the subject of this planning proposal has been subject to some additional visual amenity assessment in association with the previous rezoning request over the land. The subject land is located generally below the top of the ridgeline on the landward side. As such, it was

incorporated as a Strategic Urban Growth Area within Ballina LEP 2012. The LHSP was adopted in 2004, well before the GMS and Ballina LEP 2012.

Ballina Local Environmental Plan 2012 (BLEP 2012) and Ballina Local Environmental Plan 1987 (BLEP1987)

The western most (front) section of Lot 1, which has a frontage to Blue Seas Parade is substantially zoned RU1 Primary Production under the provisions of BLEP 2012. The eastern most (rear) and southern most sections of Lot 1 are designated as deferred matters under BLEP 2012 and retain their Ballina LEP 1987 zones.

The eastern most (rear) section of Lot 1, which has a frontage to The Coast Road, is zoned 7 (d) Environmental Protection (Scenic/Escarpment) under the provisions of BLEP 1987. In addition, a small section of Lot 1 at its southern most end, fronting Blue Seas Parade, is zoned 1(d) (Urban Investigation). Refer to Existing and Proposed Zoning Maps in Part 4.

This planning proposal relates to part of the western most section of Lot 1, which is designated as a Strategic Urban Growth Area under the provisions of Ballina LEP 2012. This section of Lot 1, which is currently, zoned RU1 Primary Production is proposed to be rezoned R2 Low Density Residential.

A minimum 40 hectare lot size is currently applicable to Lot 1.

That part of Lot 2 which is affected by this planning proposal, in so far as the removal of the SUGA affectation is proposed, is zoned RU1 Primary Production under the provisions of BLEP 2012. No change to this zone is proposed at this time.

Key Planning Issues

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

Key Issue	Summary
Access and Right of Carriageway (ROW)	A 10 metre wide ROW affects Lot 1 in favour of Lot 2 DP 1165957. The manner in which access is proposed to be obtained to the proposed subdivision and its relationship to the ROW will need to be detailed by the proponent. It may not be feasible to obtain access directly to proposed lots from Blue Seas Parade due to a significant retaining wall constructed along the boundary of Lot 1 with Blue Seas Parade. Refer photos at Appendix A.
Airport Obstacle Limitation Surface Restrictions	The site protrudes into the existing obstacle limitation surface levels associated with Ballina Byron Gateway Airport. Consultation with relevant Commonwealth agencies is a mandatory part of the planning proposal process.
Bushfire Threat	Lot 1 is partly affected by Category 2 vegetation and is located within the 30 metre bushfire buffer area. A Bushfire Threat Assessment Report will be required.
Coastal Zone Impacts and Visual Amenity Impacts	Consideration of relevant matters for consideration as specified in Clause 8 of <i>SEPP 71 - Coastal Protection</i> and Appendix C – Table 3 of the <i>NSW Coastal Policy</i> will be required. This includes issues associated with visual impacts. The <i>Coastal Zone Design Guidelines 2003</i> are also required to be considered. Consideration of potential building envelopes and subdivision lot design will be required.
Due Diligence Aboriginal Heritage Assessment	Investigation in relation to whether any items of Aboriginal cultural heritage are likely to be impacted by the proposed rezoning will be required.

Key Issue	Summary
Easement Relocation	A 20 metre wide easement for overhead power lines affects Lot 1 in favour of Essential Energy. The feasibility of relocating this infrastructure will need to be examined via consultation with Essential Energy.
Ecological Matters	Potential flora and fauna impacts require assessment, particularly given the site's proximity to vegetation communities contained within the adjoining Crown reserve to the north.
Land Contamination	A Detailed Contaminated Land Assessment and Remedial Action Plan were previously submitted in support of the 2008 rezoning proposal. The proponent will be required to assess the contamination status of the land in the context of the revised site area.
Land Slip	Lot 1 is located within an area identified as being susceptible to land slip (Coffee Partners Pty Ltd report and Department of Mineral Resources mapping.) More detailed investigation is required as to the degree of risk associated from landslip and its impact on any potential residential subdivision.
Land Use Conflicts	The compatibility of agricultural land uses located upon Lot 2 with residential uses proposed for Lot 1 requires assessment. Minimum buffer distances require consideration. A land use Conflict Risk Assessment (LUCRA) is required which will consider these issues.
Services and Stormwater Management Report	A report investigating the manner in which the site will be serviced, including connection to the sewer network, will be required. A stormwater management report will be required which examines issues related to on-site stormwater detention and location of bio filtration areas, if proposed.

The proponent will be required to submit detailed information relating to the above matters following Gateway determination.

It is considered 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 assessment and report following the submission of the required information by the proponent. The report will provide recommendations related to the land use zoning outcomes considered to be most appropriate, minimum recommended lot sizes and any other controls considered to be warranted given the prominent location of the site.

PART 1 – OBJECTIVES & INTENDED OUTCOMES

The objectives of this planning proposal are to:

- enable residential development on the land through the application of low density residential zone;
- determine a suitable minimum lot size for the land being not less than 1200m²;
- resolve mapping anomalies relating to the application of a SUGA to part of Lot 2 and a portion of Blue Seas Parade;
- resolve a mapping anomaly by rezoning a portion of Blue Seas Parade from RU1 to R2 so as to conform with the existing and proposed adjoining zone; and

- resolve a mapping anomaly by applying a 600m² minimum residential lot size to a portion of Blue Seas Parade consistent with that applicable to adjoining land to the west and north.

PART 2 – EXPLANATION OF THE PROPOSAL

This planning proposal relates primarily to Lot 1 DP 1165957 known as 42 – 52 Blue Seas Parade, Lennox Head (see Site Identification Map in Part 4). The planning proposal will also address mapping anomalies relating to the removal of a SUGA affectation currently located on Lot 2 DP 1165957 and a section of Blue Seas Parade. Proposed changes to the Minimum Lot Size Map will also relate to that section of Blue Seas Parade which adjoins Lot 1.

The LEP amendment request has been prepared by Ardill Payne and Partners on behalf of the proponent Mr George Farley who is the sole property owner. The proponent has not at this stage submitted any comprehensive information which addresses the various site constraints identified in Part 1. It is proposed that this information be required to be prepared and submitted post Gateway determination.

Lot 1 has an area of 3.476 hectares of which approximately 1.1 hectares relates to this planning proposal. Lot 1 has a frontage of 220.89 metres to Blue Seas Parade of which approximately 196 metres relates to land affected by this planning proposal.

Lot 1 extends from Blue Seas Parade to the Coast Road. That part of Lot 1 subject to this planning proposal is located on the landward side of the main ridge which separates the residential and rural sections of Lennox Head.

Appendix A contains photos of the site and surrounds.

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 land via application of a R2 Low Density Residential zone (See Maps in Part 4). The proposed amendment is generally consistent with applicable local and State government urban planning policy.

An indicative subdivision plan has not been submitted. The proponent has estimates that based on the 600m² minimum lot size proposed in the LEP amendment request the site would yield up to 13 lots. Council has however not accepted the feasibility of the proposed 600m² minimum lot size due to the impact of known land constraints. For the purposes of this planning proposal and for Gateway determination a 1200m² minimum lot size has been nominated as being appropriate at this stage of the process.

Given that there are a number of key issues relating to the proposal that require further examination, it is proposed that Council engage an independent third party to prepare an environmental assessment and planning report on the proposal. It is envisaged that the assessment and report will examine the suitability of the site for a R2 Low Density Residential zoning as well as the appropriate minimum lot size. On this basis, the planning proposal is intended to enable flexibility in the application of the proposed residential zone and minimum lot size standard following the completion of the environmental assessment and planning report, 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 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 the land is identified as a proposed future urban release area.

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

The proposal is consistent with the Ballina Shire Growth Management Strategy as the land is identified as a potential urban release area (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?

The proposal is considered to generally consistent with applicable State Environmental Planning Policies (SEPP's).

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

The proposal is not consistent with the following relevant Section 117 Directions:

- 1.2 Rural Zones;
- 1.5 Rural Lands;
- 3.5 Development Near Licenced Aerodromes
- 4.2 Mine Subsidence and Unstable Land
- 4.4 Bushfire Protection; and
- 5.3 Farmland of State or Regional Significance on the NSW Far North Coast.

In each case the inconsistencies are considered to be minor and justifiable in terms of the criteria contained within the direction.

Inconsistencies have been documented in a Section 117 Direction checklist for the planning proposal 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 proponent has not yet examined the ecological significance of the subject site. A detailed ecological assessment is proposed to be required post Gateway determination. It is noted at this stage that the subject site has been substantially cleared and contains mainly grass species. The site also contains a number of trees, the significance of which requires further assessment.

- 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 required to be further assessed by the proponent post Gateway determination. The documentation submitted will then be the subject of an independent environmental assessment and planning report.

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

Potential visual impacts associated with housing development on this escarpment site may be the subject of concerns from surrounding residents and the broader community. Visual impacts will be required to be assessed in detail post Gateway determination and prior to community consultation.

There are considered to be few broader economic consequences associated with the proposed rezoning. Overall economic impacts associated with the release of additional residential land in a prime location are considered to be positive.

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 may be a need for onsite stormwater management infrastructure such as on site detention and bio filtration areas. This will be further examined in a stormwater management report that the proponent will be required to prepare.

- 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 prior to the public exhibition stage of the LEP amendment process and after relevant documentation has been

submitted and completed. At this stage the Rural Fire Service, Civil Aviation Safety Authority (CASA), Air Services Australia, Ballina Byron Gateway Airport, Essential Energy and Department of Primary Industries have been identified as agencies which are proposed to be consulted.

PART 4 – MAPPING

The following maps have been prepared to support this planning proposal:

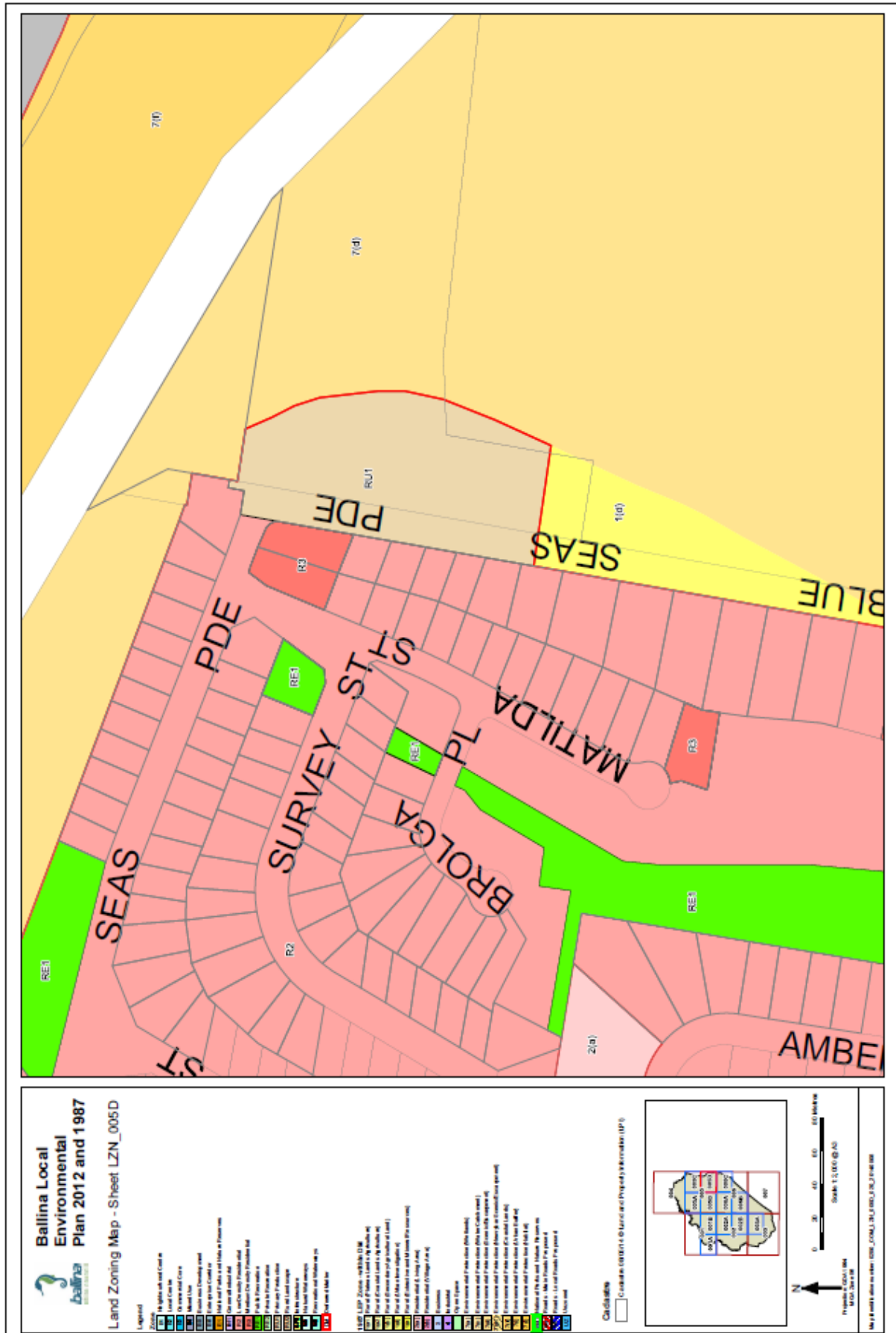
- Map 1 – Site Identification Map;
- Map 2 – Existing Combined Zoning Map Ballina LEP 1987 and Ballina LEP 2012;
- Map 3 – Existing Zoning Map Ballina LEP 2012;
- Map 4 – Proposed Land Zoning Map;
- Map 5 – Proposed Strategic Urban Growth Area Map; and
- Map 6 – Proposed Lot Size Map.

The mapping may be subject to change based on the outcome of further assessment.

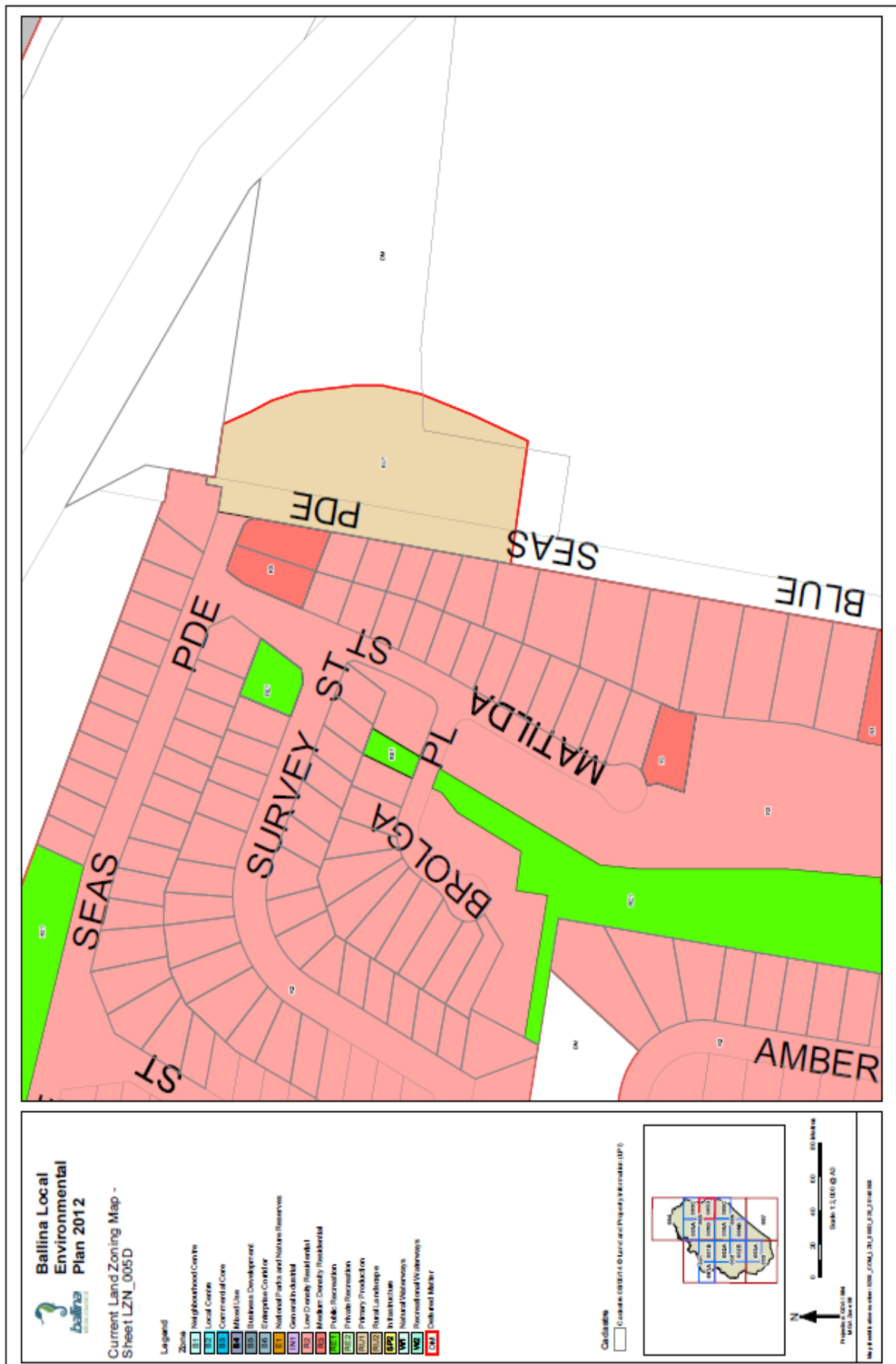
Map 1 – Site Identification Map



Map 2 – Existing Combined Ballina LEP 1987 and Ballina LEP 2012 Land Zoning Map



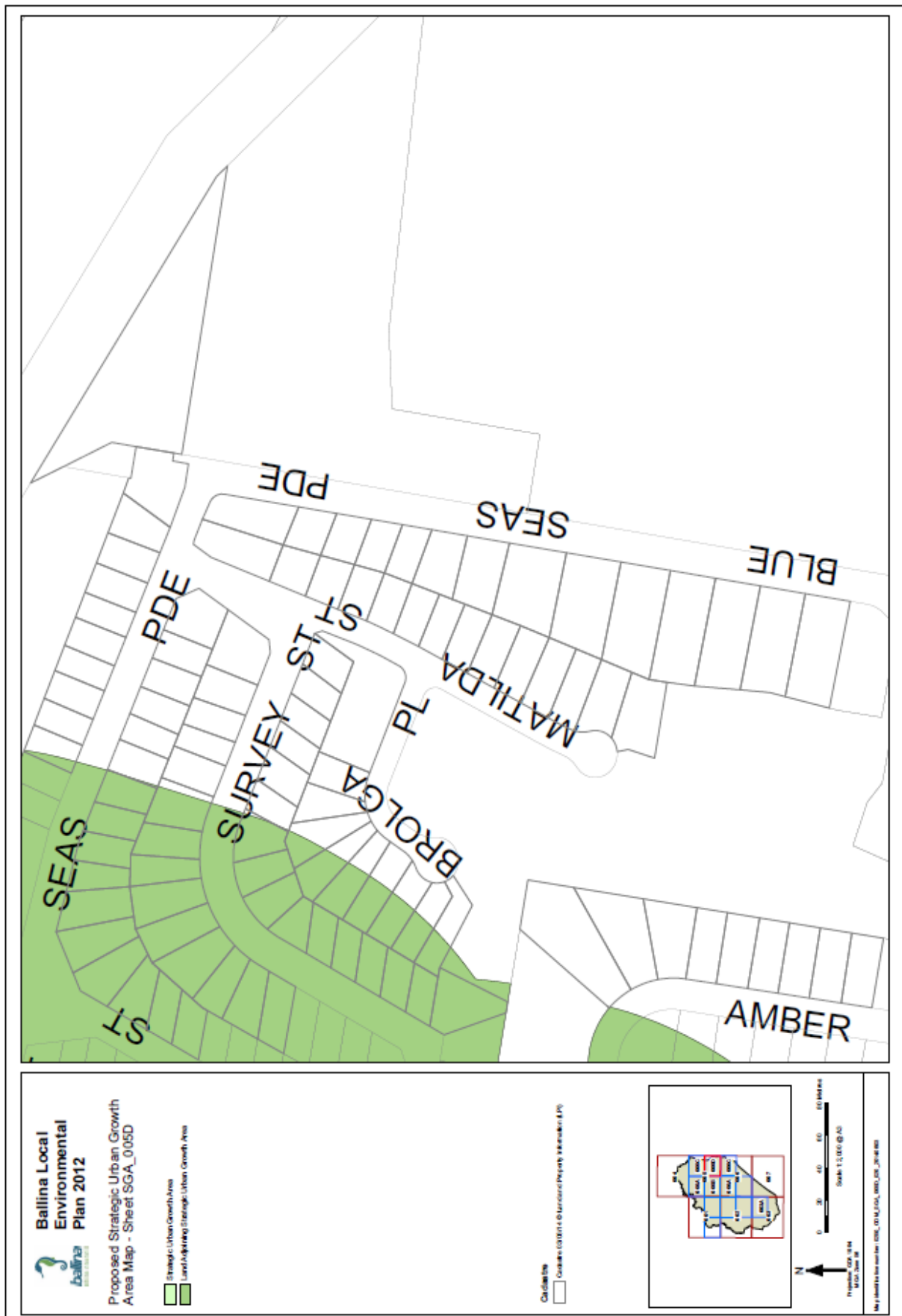
Map 3 – Existing Land Zoning Map Ballina LEP 2012



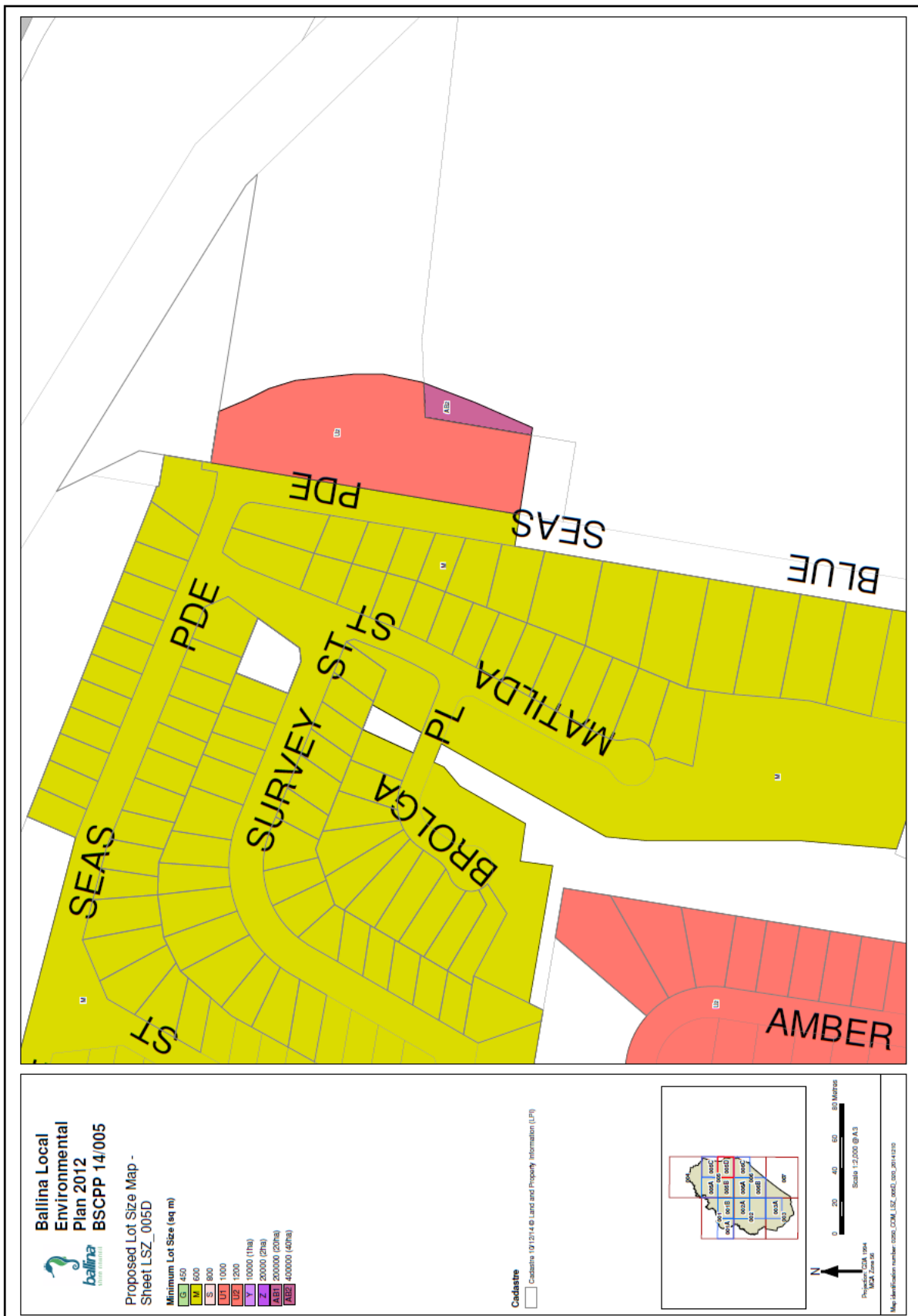
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Map 5 – Proposed Strategic Urban Growth Area Map



Map 6 – Proposed Minimum Lot Size 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	February 2015
Government Agency Consultation	April 2015
Public Exhibition Period	July 2015
Public Hearing	N/A
Submissions Assessment	September 2015
RPA Assessment of Planning Proposal and Exhibition Outcomes	September 2015
Submission of Endorsed LEP to DP&E for Finalisation	October 2015
RPA Decision to Make the LEP Amendment (if delegated)	November 2015
Forwarding of LEP Amendment to DP&E for Notification (if delegated)	December 2015

APPENDICES

Appendix A – Photos of Site and Surrounds



Central view of subject site from Blue Seas Parade. Large Norfolk Island pine tree on eastern most extremity of site.



Close up showing rock wall and power lines which traverses the site.



Existing entrance driveway from Blue Seas Parade located in north- eastern most section of site.



Looking south along Blue Seas Parade. Subject site on left and new Coastal Grove subdivision on right.



Site generally on right of centre looking south.



Large Norfolk Island Pine located near boundary of Lots 1 and 2

Appendix B – Section 117 Direction Checklist

Section 117 Direction Checklist Planning Proposal Lot 1 DP 1165957, 44 – 52 Blue Seas Parade, 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 and the Ballina Shire Growth Management Strategy. The land is located within the Lennox Head urban footprint 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	Inconsistent. The planning proposal is, however, considered to be of overall minor significance. In addition 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 and the Ballina Shire Growth Management Strategy. The land is located within the Lennox Head urban footprint area and has limited agricultural production values. Having regard for the above, the proposed LEP amendment will not adversely impact on any significant agricultural production on the land or in the immediate surrounds of the subject land through fragmentation or land use conflict. Further, additional assessment will be undertaken in relation to the suitability of the land for residential land use having regard for the characteristics of the land and the potential for rural – residential land use conflicts to arise.
2. Environment and Heritage	
2.1 Environmental Protection Zones	Consistent. The land is not considered to be an environmentally sensitive area on the basis of current information.
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 required to be evaluated by the proponent after gateway determination.
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 required to be further assessed by the proponent after Gateway determination.
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 footprint area. The proposal involves a rezoning from rural land (RU1) to residential R2. The proposed zone will 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 to 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 residential zone 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 in the environmental assessment and planning report following submission of technical reports by the proponent.
3.5 Development Near Licensed Aerodromes	Inconsistent. Development of the subject land for residential purposes will result in development that protrudes into the Obstacle Limitation Surface for the Ballina Byron Gateway Airport. The relevant Commonwealth agencies (Civil Aviation Safety Authority and Air Services Australia) 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. Refer Appendix D for extracts from the Obstacle Limitation Surface Map and a site contour map. Refer Appendix E for the ANEF map.
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	Inconsistent. Lot 1 is located within an area identified as being susceptible to land slip (Coffee Partners Pty Ltd report and the Department of Mineral Resources mapping.) More detailed investigation is required to determine the degree of land slip risk and its impact on any potential residential subdivision. A geotechnical assessment will be required to be prepared by the proponent to determine the specific risk of the land to geotechnical instability across the various potential hazard categories.
4.3 Flood Prone Land	Does not apply to planning proposal.
4.4 Planning for Bushfire Protection	Inconsistent The subject site is partly affected by Category 2 vegetation and is located within the 30 metre bushfire buffer area. The preparation of a Bushfire Threat Abatement Report (BTAR) will be required post Gateway determination. The planning proposal is considered inconsistent with this direction as at this stage consultation with the Rural Fire Service has not yet been undertaken. Consultation is proposed to take place after Gateway and once the BTAR is submitted and prior to public consultation as required by this direction.
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.
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 significant regional non-contiguous 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. Accordingly it is considered that the planning proposal complies with the planning principles contained in Section 4 of the report titled Northern Rivers Farmland Protection Project – Final Recommendations, February 2005. Refer Appendix F for an extract from Final Map 4.
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. This planning proposal does not create, alter or reduce existing zonings or reservations of land public purposes. The planning proposal does not propose to reserve land for a public purpose.
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.

Appendix C – Report to Council on 22 May 2014

9.1 LEP Amendment Request - 44 - 52 Blue Seas Parade, Lennox Head

9.1 LEP Amendment Request - 44 - 52 Blue Seas Parade, Lennox Head

Delivery Program Strategic Planning

Objective To present the Council with a proposal to amend the Ballina Local Environmental Plan 2012 to rezone land located at Lot 1 DP 1165957 known as No.s 44-52 Blue Seas Parade, Lennox Head and to seek direction in relation to the further progress of the matter.

Background

Lot 1 DP 1165957 (Lot 1), known as No.s 44-52 Blue Seas Parade, Lennox Head, was created in July 2011 and has an area of 3.476 hectares. Lot 1 resulted from the re-subdivision of Lot 2 DP 587685 (Lot 2) and two other lots. Lot 2 which had an area of 31.52 hectares was the subject of a rezoning application submitted in May 2008.

The Council, at its Ordinary Meeting held in July 2010 [Minute No. 220710/7] resolved to initiate a stand alone LEP amendment for Lot 2. That LEP amendment proposed that a residential zone be applied to part of Lot 2. An indicative plan of subdivision showed 12 residential lots were proposed to be created at that time.

Following assessment of issues relevant to the rezoning and, in particular, visual amenity issues, the Council resolved at its Ordinary Meeting held in March 2011 [Minute No. 240311/11] to cease processing of the LEP amendment request. This was on the basis of several unresolved issues and followed the proponent formally withdrawing the request.

Council's March 2011 resolution also provided for the land designated for potential urban development within Lot 2 to be reduced in area, primarily based on assessment of visual amenity issues. This reduction was subsequently incorporated within the Ballina Shire Growth Management Strategy as well as the Strategic Urban Growth Area mapping within Ballina LEP 2012.

Lot 2 was subsequently subdivided in July 2011 and its ownership changed. The Coastal Grove residential subdivision, which is located on land to the west of Lot 1, was created in February 2012.

Council received an LEP amendment request in February 2014 for the rezoning of part of Lot 1 from rural to residential purposes. The land the subject of this LEP amendment request is shown in the site plan contained at Attachment 1. The extent of this proposed rezoning reflects the reduced area resulting from Council's resolution in March 2011.

The proponent and landowner is Mr G Farley. The LEP amendment request, contained in Attachment 2, has been prepared by Mr Paul Snellgrove of Ardill Payne & Partners.

This report provides an overview of the LEP amendment request and seeks the Council's authorisation for the preparation of a planning proposal to progress the rezoning.

Key Issues

- Suitability of land for residential zoning and development.
- Minimum applicable lot size.

Information

Zoning – Ballina LEP 2012 and Ballina LEP 1987

The western most (front) section of Lot 1, which has a frontage to Blue Seas Parade is substantially zoned RU1 Primary Production under the provisions of the Ballina Local Environmental Plan 2012 (BLEP 2012). The eastern most (rear) and southern most sections of Lot 1 are designated as deferred matters under BLEP 2012 and retain their Ballina LEP 1987 zonings.

The eastern most (rear) section of Lot 1, which has a frontage to The Coast Road, is zoned 7 (d) Environmental Protection (Scenic/Escarpment) under the provisions of Ballina LEP 1987. In addition, a small section of Lot 1 at its southern most end, fronting Blue Seas Parade, is zoned 1(d) (Urban Investigation).

Attachment 3 contains a map which shows the zones that apply to Lot 1.

The LEP amendment request relates to part of the western most section of Lot 1, which is designated as a Strategic Urban Growth Area under the provisions of Ballina LEP 2012. This section of Lot 1, which is currently zoned RU1 Primary Production, has an approximate area of 1.1 hectares and a frontage of approximately 196 metres to Blue Seas Parade. It is this area that is proposed to be zoned R2 Low Density Residential. Lot 1 has a total frontage to Blue Seas Parade of 220.89 metres.

A minimum 40 hectare lot size is currently applicable to Lot 1. The applicant proposes to replace this with a 600m² minimum lot size for that part of Lot 1 the subject of the rezoning proposal. The proponent's submission indicates that the land could yield up to 13 lots.

A 600m² minimum lot size is applicable to the residential lots located on the western side of Blue Seas Parade opposite Lot 1. Whether such a minimum lot size is also suitable for residential lots resulting from a rezoning of a portion of Lot 1 is matter that will be determined (and reported to the Council) once detailed site assessment information has been submitted.

Attachment 4 contains a map which shows how Lot 1 is proposed to be zoned.

Ballina Shire Growth Management Strategy (BSGMS)

The BSGMS designates that part of Lot 1 the subject of the LEP amendment request as being a part of a strategic urban growth area.

Lennox Head Structure Plan

The Lennox Head Structure Plan (LHSP) includes the whole of Lot 1 within an area designated as *visually significant land*. This is land that was envisaged

would be retained and protected into the future. It should be noted, however, that the land the subject of the current LEP amendment request has been subject to some visual amenity assessment in association with the previous rezoning request over the land. The subject land is located generally below the top of the ridgeline on the landward side. As such, it was incorporated as a Strategic Urban Growth Area within Ballina LEP 2012. The LHSP was adopted in 2004, well before the BSGMS and Ballina LEP 2012.

Far North Coast Regional Strategy 2005 (FNCRS)

The subject land is identified as being located within the existing urban footprint of Lennox Head and designated as a future urban release area. The application of a residential zone over part of Lot 1 is consistent with this strategy.

Site Assessment

The proponent has submitted a brief overview of applicable land constraints with minimal detailed information being provided. The submission recognises the previous site history and the need for further investigative work relating to land contamination, visual impact and bushfire threat.

An examination of applicable land constraints has revealed that more detailed site investigations will be required. It is suggested that this information be sought post Gateway determination if the matter continues to proceed. This would include the various matters listed in the table below:

Issue	Investigation Required
Land Contamination	A Detailed Contamination Land Assessment and Remedial Action Plan were previously submitted in support of the 2008 rezoning proposal. The proponent will be required to assess the contamination status of the land in the context of the revised site area.
Coastal Zone Impacts and Visual Amenity Impacts	Consideration of relevant matters for consideration as specified in Clause 8 of <i>SEPP 71 - Coastal Protection</i> and Appendix C – Table 3 of the <i>NSW Coastal Policy</i> . This includes issues associated with visual impacts. The <i>Coastal Zone Design Guidelines 2003</i> are also required to be considered. Consideration of potential building envelopes and subdivision lot design will be required.
Bushfire Threat	Lot 1 is partly affected by Category 2 vegetation and is located within the 30 metre bushfire buffer area. A Bushfire Threat Assessment Report will be required.
Land Slip	Lot 1 is located within an area identified as being susceptible to land slip (Coffee Partners Pty Ltd report and Department of Mineral Resources mapping.) More detailed investigation is required as to the degree of risk associated from landslip

	and its impact on any potential residential subdivision.
Access and Right of Carriageway (ROW)	A 10 metre wide ROW affects Lot 1 in favour of Lot 2 DP 1165957. The manner in which access is proposed to be obtained to the proposed subdivision and its relationship to the ROW will need to be detailed by the proponent. It may not be feasible to obtain access directly to proposed lots from Blue Seas Parade due to a significant retaining wall constructed along the boundary of Lot 1 with Blue Seas Parade.
Easement Relocation	A 20 metre wide easement for overhead powerlines affects lot 1 in favour of Essential Energy. The feasibility of relocating this infrastructure will need to be examined via consultation with Essential Energy.
Due Diligence Aboriginal Heritage Assessment	Investigation in relation to whether any items of Aboriginal cultural heritage are likely to be impacted by the proposed rezoning will be required.
Services and Stormwater Management Report	A report investigating the manner in which the site will be serviced, including connection to the sewer network, will be required. A stormwater management report will be required which would examine issues related to on-site stormwater detention and location of bio filtration areas, if proposed.
Ecological Matters	Potential flora and fauna impacts require assessment, particularly given the site's proximity to vegetation communities contained within the adjoining Crown reserve to the north.

Sustainability Considerations

- Environment**
 The subject land is substantially cleared of trees and contains predominately grass and weed species. The significance of this vegetation, as well as the impact of the proposed subdivision on adjoining flora and fauna communities, would be assessed further if the planning proposal proceeds.
- Social**
 Potential visual amenity impacts may be of concern to surrounding residents and the broader community. Consequently, this matter will be examined in further detail if the proposal proceeds.
- Economic**
 There are no significant economic implications currently identified in relation to the proposed rezoning.

Legal / Resource / Financial Implications

There are no significant resourcing or financial implications associated with the further processing of the LEP amendment. Subject to the Council's decision, the next step in the process would be to prepare a planning proposal suitable for submission to the Department of Planning and Environment (DoP&E) for Gateway determination.

Following a favourable Gateway determination the applicant would be requested to submit additional information which addresses identified land constraint issues, as generally referred to above.

Council's adopted fees and charges associated with LEP amendments would be applied to the further processing of the request.

Consultation

There has been no consultation undertaken with either the community or government agencies in relation to this LEP amendment request to date as the matter is in the initial phases.

Should the matter proceed, an affirmative Gateway determination will advise of consultation requirements with government agencies and the community. Community engagement would then occur following assessment of the required additional information, and in accordance with the Gateway determination.

Options

1. Proceed to prepare a planning proposal for the application of an R2 Low Density Residential zone to Lot 1.

This approach would authorise the preparation of a planning proposal for Gateway determination. The proposal would be reported to the Council for further consideration prior to its submission to the Gateway panel.

While it is considered that additional information is required to finally determine an appropriate future subdivision configuration, the land the subject of the LEP amendment request appears to be generally suitable for a low density residential zoning. The planning proposal submitted to DoP&E would identify the uncertainty regarding minimum lot sizes at this stage of the process and identify that the minimum lot sizes would be determined following the assessment of additional information.

This is the recommended approach.

2. Defer or amend the planning proposal.

This approach is not recommended given:

- the proposed rezoning is limited to an area of Lot 1 which has been designated as a Strategic Urban Growth Area in Ballina LEP 2012 and within the Ballina Shire Growth Management Strategy.
- the proposed LEP amendment is consistent with Council's strategic land use planning framework for the locality.

9.1 LEP Amendment Request - 44 - 52 Blue Seas Parade, Lennox Head

- the proposed LEP amendment is confined to a part of Lot 1 which was subject to a previous land zoning suitability assessment associated with an LEP amendment request submitted in 2008. That assessment generally found the land the subject of this LEP amendment request (reduced land area from previous proposal) suitable for a residential zoning.

Staff will use its best endeavours to "recycle" as much of the formally prepared and submitted technical material as practically possible, to avoid duplication and unnecessary costs to the proponents.

3. Cease further action in relation to the planning proposal.

For the same reasons outlined in relation to Option 2, this approach is not recommended.

Importantly, the Council can elect to discontinue a planning proposal at other stages of the LEP amendment process if considered appropriate. That said however, certain recourse procedures are now available to proponents if they were dissatisfied with such a Council decision.

RECOMMENDATIONS

1. That Council prepare a planning proposal for the application of an R2 Low Density Residential zone over that part of Lot 1 DP 1165957 designated as a Strategic Urban Growth Area in Ballina LEP 2012.
2. That the subdivision potential and associated minimum lot size for the future development of Lot 1 DP 1165957 be determined following assessment of additional technical information.
3. That a further report be presented to the Council documenting the planning proposal when prepared for submission for Gateway determination.

Attachment(s)

1. Attachment One - Site Plan
2. Attachment Two - LEP Amendment Request
3. Attachment Three - Existing Zoning Map
4. Attachment Four - Proposed Zoning Map

9.1 LEP Amendment Request - 44 - 52 Blue Seas Parade, Lennox Head 220514/1 Resolved (Cr Paul Worth/Cr Ben Smith)

1. That Council prepare a planning proposal for the application of an R2 Low Density Residential zone over that part of Lot 1 DP 1165957 designated as a Strategic Urban Growth Area in Ballina LEP 2012.
2. That the subdivision potential and associated minimum lot size for the future development of Lot 1 DP 1165957 be determined following

9.1 LEP Amendment Request - 44 - 52 Blue Seas Parade, Lennox Head

assessment of additional technical information.

3. That a further report be presented to the Council documenting the planning proposal when prepared for submission for Gateway determination.

4. For the purpose of further investigation the planning proposal shall include a minimum lot size of 600 m².

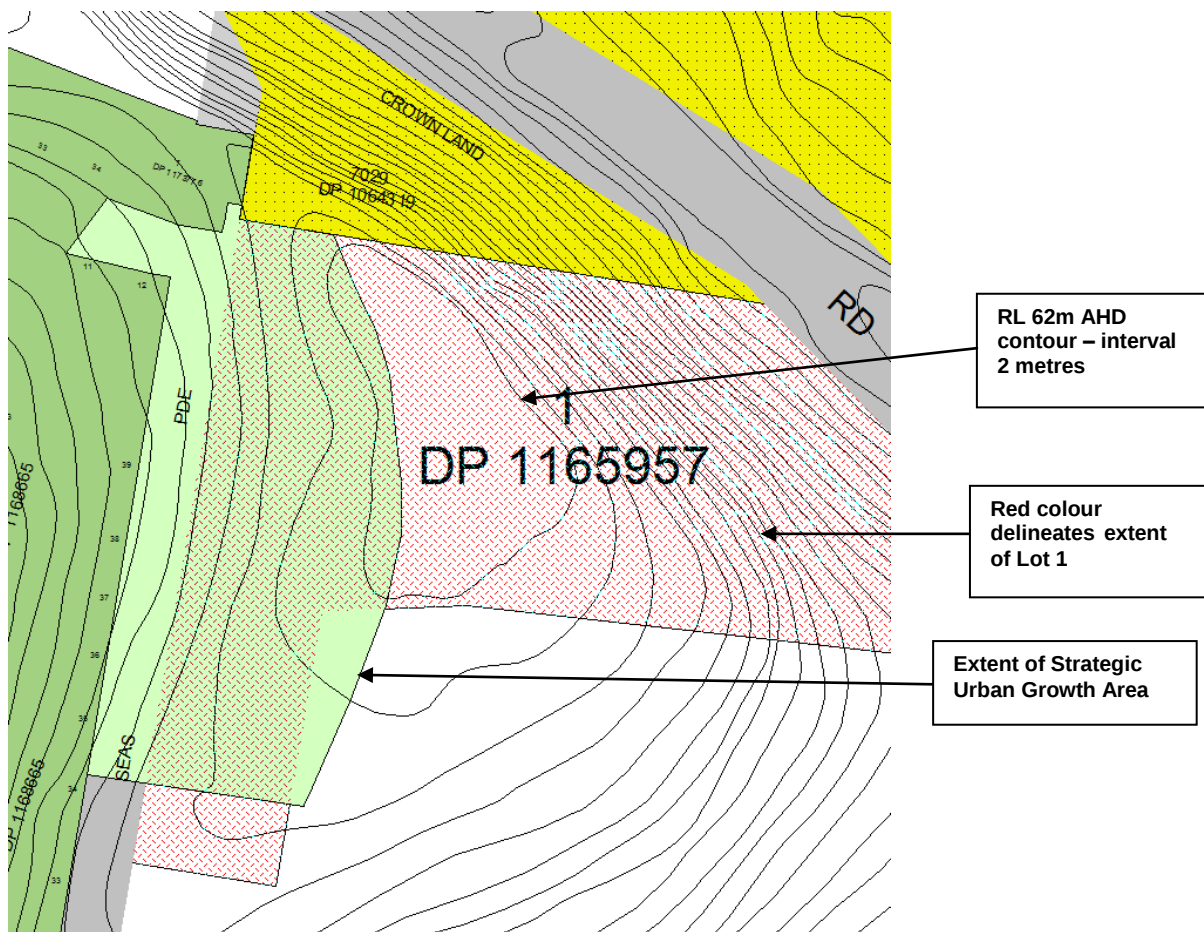
FOR VOTE - Cr David Wright, Cr Sharon Cadwallader, Cr Keith Johnson, Cr Susan Meehan, Cr Ken Johnston, Cr Paul Worth and Cr Ben Smith

AGAINST VOTE - Cr Jeff Johnson and Cr Keith Williams

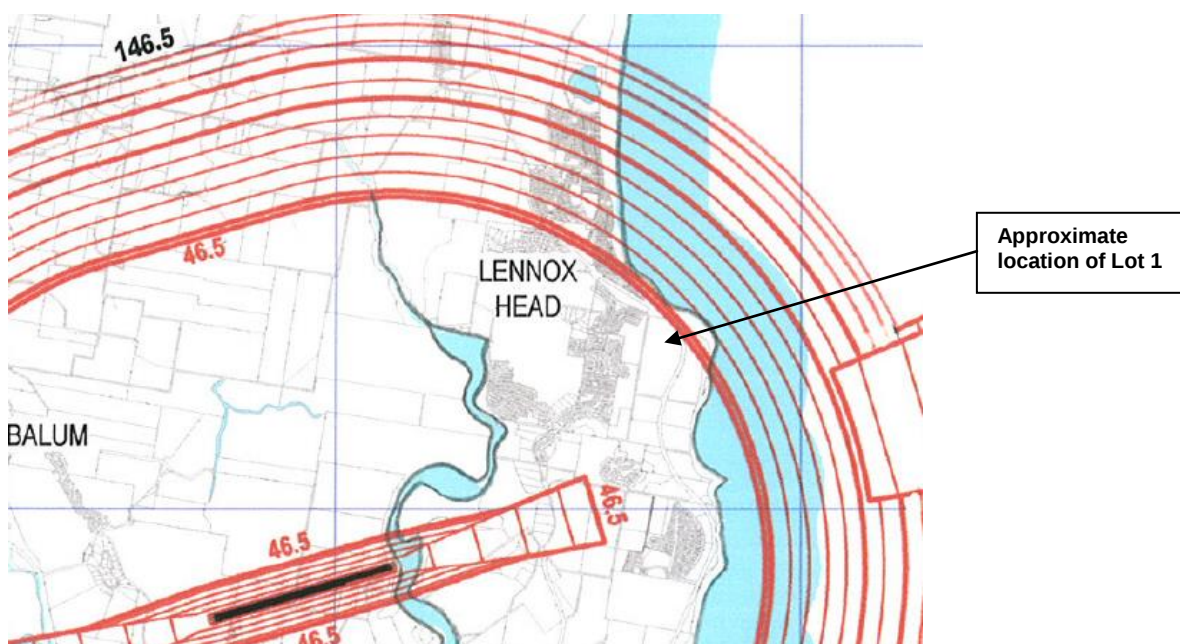
ABSENT. DID NOT VOTE - Cr Robyn Hordern

Appendix D – Extract from Site Contour Map and Existing Obstacle Limitations Map No 11

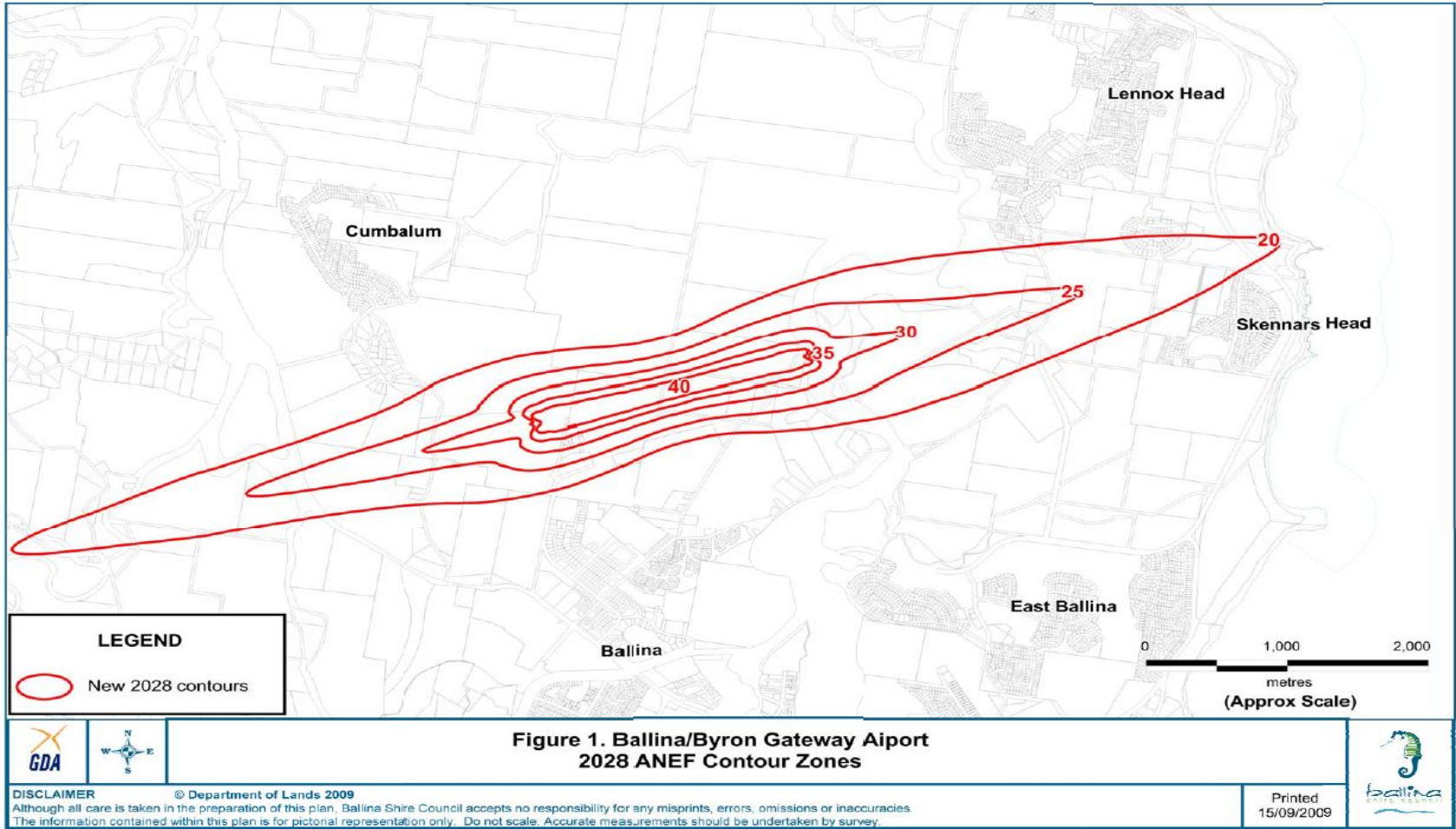
Extract from Site Contour Map



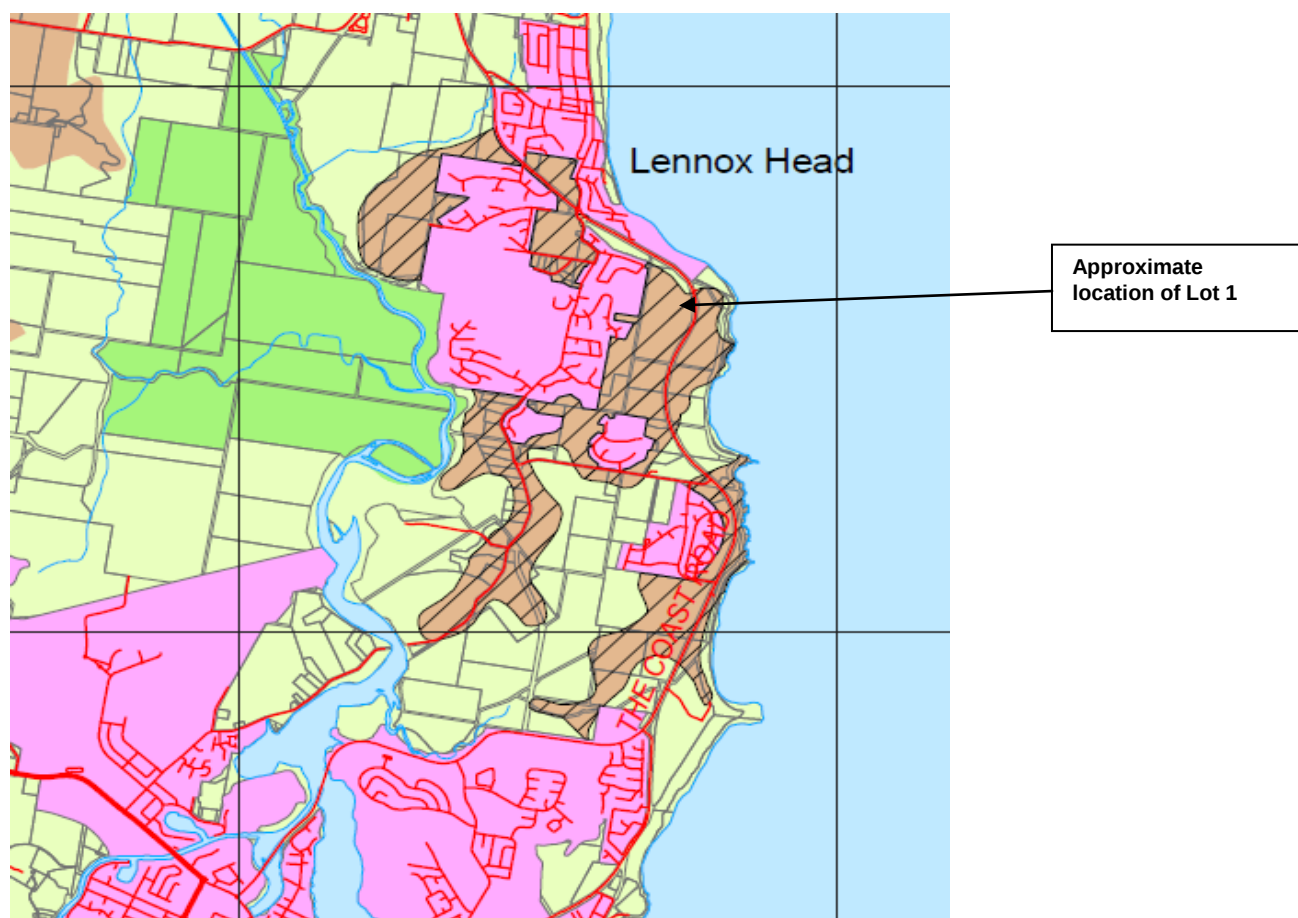
Extract from Existing Obstacle Limitations Map No 11



Appendix E – 2028 ANEF Contour Map



Appendix F - Extract from Northern Rivers Farmland Protection Project 2005 – Final Map 4



LEGEND

- | | | | |
|---|--|---|-------------------------------------|
|  | State Significant Farmland | | |
|  | Regionally Significant Farmland | | |
|  | Significant Non-Contiguous Farmland | | |
|  | Other Rural Land | | |
|  | Committed Urban Uses and Rural-Residential Zones | | |
|  | National Parks, State Forests | | |
|  | Land outside Northern Rivers Catchment Management Area | | |
|  | Highways |  | Land Parcel Boundary |
|  | Major Roads |  | Catchment Management Board Boundary |
|  | Railways |  | Local Government Boundary |
|  | Watercourses | | |

Appendix G – LEP Amendment Request

ARDILL PAYNE

& Partners
www.ardillpayne.com.au einfo@ardillpayne.com.au
ABN: 51 808 558 977



7350 planning proposal cover letter (feb 2014).doc

26 February 2014

The General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478

Attn: Mr Matt Wood

Dear Matt

**re: Planning Proposal/LEP Amendment Request
Lot 1 DP 1165957, No. 44-52 Blue Seas Parade, Lennox Head**

I refer to prior communications in respect of the subject matter and in particular our meeting on the 20th February 2014.

Ardill Payne & Partners (APP) has been commissioned by Mr George Farley (owner of the subject land) to provide planning services in the preparation of a Planning Proposal/LEP Amendment Request to Ballina Shire Council.

Attached herewith is the following:

- signed landowner's authorisations enabling APP act on their behalf
- completed Planning Proposal/LEP Amendment Request Proponent & Proposal Information Form
- 2 x paper and 1 x CD copies of the planning proposal request
- cheque for \$2625.00 as advised in Mr Matt Wood's email dated 26th February 2014 (copy attached)

Should you have any questions in respect of this matter, please contact me on 6686 3280 or pauls@ardillpayne.com.au

Yours faithfully

Paul Snellgrove

ARDILL PAYNE & PARTNERS

Engineers | Planners | Surveyors | Environmental | Project Management

BALLINA
79 Tamar Street
PO Box 20
BALLINA NSW 2478
Ph: 02-6686 3280

BRISBANE
Level 1, The Designbank
89 Grey Street
SOUTH BRISBANE QLD 4101
Ph: 07-3123 6675

GUNNDAH
Germane House,
285 Conadilly Street,
GUNNDAH NSW 2380
Ph: 02-6742 9955

ARDILL PAYNE & PARTNERS

Civil & Structural Engineers - Project Managers - Town Planners - Surveyors

ABN 51 808 558 977

WE Payne BE, MIE Aust ET Elford L & E S D TJ Cromack B.Tech (Eng), TMIE Aust PM Snellgrove BTP



APP Land Owner Authority.doc

LAND OWNER AUTHORITY

This is to advise that Ardill Payne & Partners

of 79 Tamar Street, Ballina NSW has been engaged by:

Landowner's name	George FARLEY
Landowner's address	117 Bayview Road, Merricks Beach VIC 3926

To prepare certain applications in respect of land known as:

Street	44-52 Blue Seas Parade
Town	Lennox Head
Real property description	Lot 1 DP 1165957

The owner(s) of the aforementioned land(s) hereby authorises Ardill Payne & Partners or its agents to:

1. Inspect all relevant Council records (DAs, BAs, CCs, etc).
2. Obtain copies of submissions made to Council or other government authorities.
3. Carry out searches and site inspections.
4. Lodge a Planning Proposal; Development, Construction Certificate, Subdivision Certificate, Section 68 or any other like application with Ballina Shire Council.

Signed	
Name	George FARLEY
Date	19 Feb 2014
Phone	0488 309 386

79 Tamar Street
PO Box 20
BALLINA NSW 2478

Phone: 02 6686 3280
Fax: 02 6686 7920
e-mail: info@ardillpayne.com.au

Planning Proposal / LEP Amendment Request Proponent & Proposal Information Form

Lodge Applications at Ballina Shire Council • 40 Cherry Street • Ballina (Mon-Fri 8.15am to 4.30pm)
mail PO Box 450 Ballina 2478 • fax 27789 • f 02 6686 7035 • e council@ballina.nsw.gov.au
t 02 6686 4444 • w www.ballina.nsw.gov.au • abn 53 929 887 369

This form is to be completed and submitted when a request for an LEP amendment or planning proposal is lodged with Council.



Proponent Details

All correspondence will be forwarded to this name and address unless alternative details are specified below.

Proponent's Name	GEORGE FARLEY		
Address	117 BAYVIEW ROAD MORRICKS BEACH VIC 3928		
Postal Address			
Telephone (w)		(h)	Mobile 0488 309 386
Email Address	GEORGE.FARLEY@OUTLOOK.COM	Fax	
Signature	REFER ATTACHED	Date	

Consultant / Representative Details

Details of consultants/representatives acting on behalf of the proponent are required. Please nominate whether the consultant/representative will be the principal contact for the proposal.

Name	PAUL SNEUGROVE CARDU PAYNE & PARTNERS		
Address	PO BOX 20 BALLINA		
Telephone (w)	66863280	Mobile 0409 995 994	Fax 66867920
Email Address	PAULS@ARDUPAYNE.COM.AU		

☒ Please tick if consultant/representative is to be the principal point of contact with Council.

Description of the Land

Property descriptions of all land holdings the subject of the LEP amendment request/planning proposal are required. Additional properties the subject of the proposal should be documented in the additional information field at the end of the form.

Property Address	44-52 BLUE SEAS PDE LENNOX HEAD		
Lot/Portion	1	Section	DP 1165957
Property Address			
Lot/Portion		Section	DP
Property Address			
Lot/Portion		Section	DP

Office Use Only

Proposal Name:	Type: ☐ Major ☐ Minor	Pre-Lodgement Discussion: ☐ Y ☐ N
Fee Paid: ☐ Y ☐ N Amount: \$	Date Received:	Receipt No:
Code 5, Job No: 20001.1001.061		

(Page 1 of 1)

Landholder Details and Consent

Details of all landholders are to be provided. If landholders do not sign this form, evidence of the consent of landholders for the nomination of their landholding as part of the LEP amendment/planning proposal is required in conjunction with this form. Space is provided at the end of this form for additional landholder details.

Owner's Name(s)	REFER ATTACHED LANDOWNER AUTHORITY				
Address					
Lot/Portion		Section		DP	
Telephone (w)		(h)		Mobile	
Email Address				Fax	
☐ I/we being the owner(s) of the property identified above, consent to the submission of this planning proposal/LEP amendment.					
Signature				Date	

Summary of the LEP Amendment Request / Planning Proposal

Brief outline of the concept or idea underpinning the LEP amendment request / planning proposal.

REFER ATTACHED PLANNING REPORT



PLANNING PROPOSAL/LEP AMENDMENT REQUEST

Submission to Ballina Shire Council

Part of Lot 1 DP 1165957
44-52 Blue Seas Parade, Lennox Head

for:
Mr George Farley

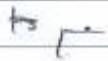
February 2014

*Planning Proposal/LEP Amendment Request
Lot 1 DP 1165957
44-52 Blue Seas Parade, Lennox Head*

1

Document Control Sheet

Filename:	7350 Planning Proposal/LEP Amendment Request
Job No.:	7350
Job Captain:	Paul Snellgrove
Author:	Paul Snellgrove
Client:	George Farley
File/Pathname:	

Revision No:	Checked By		Issued By	
	Name	Signed	Name	Signed
0			Paul Snellgrove	
1				
2				

Planning Proposal/LEP Amendment Request
 Lot 1 DP 1165957
 44-52 Blue Seas Parade, Lennox Head

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This section introduces the proposal and provides a general overview of the project.

1.1 Background

This submission comprises a Planning Proposal/LEP Amendment Request and explains the intended effect of, and provides justification for, a proposed amendment to the Ballina Local Environmental Plan 2012 (BLEP).

The proposed amendments relate to part of Lot 1 DP 1165957, No.s 44-52 Blue Seas Parade, Lennox Head and involve:

- rezoning that part of the lot zoned RU1 – Primary Production Zone and mapped as “Strategic Urban Growth Area” to R2 – Low Density Residential Zone; and
- replacing the 40ha minimum lot size with a 600m² minimum lot size for the proposed R2 zoned land.

The proposed R2 zone is the same zone as the adjoining/adjacent residential lots in Coastal Grove. The minimum lot size standard for other existing residential lots in Coastal Grove is 600m².

This Planning Proposal has been prepared having regard to Section 55 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and:

- A Guide to Preparing Local Environmental Plans (Department of Planning & Infrastructure, April 2013)
- A Guide to Preparing Planning Proposals (Department of Planning, July 2009)
- Planning Proposals and Local Environmental Plan Amendments – Process Guidelines v2.0 (Ballina Council, 12 June 2013)

This submission comprises and supports the Phase 1: LEP Amendment Initiation process of the Planning Proposal and addresses all of the information on Council's *Planning Proposal/LEP Amendment Request – Proponent & Proposal Information Form*.

There is no Political Donations and Gifts Disclosure required to accompany this request.

1.2 Structure and Scope of Report

This LEP Amendment Initiation Request contains the following:

Section 2	Context and characteristics of subject land.
Section 3	A statement of the Objectives and Intended Outcomes of the proposed LEP amendment (Section 2, Part 1).
Section 4	An Explanation of the Provisions that are to be included in the proposed LEP amendment (Section 2, Part 2).
Section 5	The Justification for those objectives, outcomes and provisions and the process for their implementation (Part 2, Section 3).
Section 6	Details of the Community Consultation in respect of the Planning Proposal (Part 2, Section 4).
Section 7	Conclusion

A number of appendices form part of this request being:

Appendix A	Aerial photograph of subject and adjoining land
Appendix B	Copy of deposited plan
Appendix C	Contour and detail survey
Appendix D	Strategic Urban Growth Area overlay

1.3 Background

A meeting was held on the 20th February 2014 between Council's Strategic Planner (Matthew Wood) and APP's Town Planner (Paul Snellgrove) to discuss the proposed LEP amendment.

An application was lodged with Council in 2008 seeking to rezone part of the land (previously described as Lot 2 DP 587685) that was then zoned 1(d) – Rural (Urban Investigation) Zone under the BLEP 1987.

Council resolved in June 2010 to prepare a Planning Proposal in relation to the 1(d) zoned part of the land.

As part of the Planning Proposal process, a consultant that was engaged on Council's behalf to peer review the Planning Proposal, recommended to Council that it proceed with the preparation of the Planning Proposal, but on the basis of a smaller footprint being considered for the application of a residential zone.

It is understood that the recommended smaller footprint is coincidental with that part of the site that is mapped as a "Strategic Urban Growth Area", which is the land that is subject of this request.

As a consequence of a period of inactivity in respect of the Planning Proposal, Council at its Ordinary Meeting in March 2011 resolved as follows:

1. *That Council cease processing of the current LEP amendment request relating to Lot 2 DP 587685 (prior lot description) Blues Seas Parade, Lennox Head.*
2. *That Council establish a land use zoning arrangement for Lot 2 DP 587658 under its new local environmental plan that reflects the recommendation of Darryl Anderson Consulting generally as contained in Attachment 4.*
3. *That Council incorporate a reduced footprint for potential urban development generally in accordance with the plan shown in Attachment 4 in its Local Growth Management Strategy.*
4. *That Council advise the Department of Planning of the change to the potential urban footprint for the land with respect to the Town and Village Growth Boundaries in the Far North Coast Regional Strategy.*

This prior Planning Proposal has therefore been discontinued.

2 Context and Characteristics of Subject Land

This section describes the subject land and identifies the geographical context of the site and its relationship to the surrounding locality.

2.1 Property Details

The Planning Proposal relates to part of a single lot which is described as Lot 1 DP 1165957, No. 44-52 Blue Seas Parade, Lennox Head and which has an area of 3.476ha.

An aerial photograph of the subject and adjoining land is provided at **Appendix A**. A copy of the deposited plan is provided at **Appendix B**. A contour and detail survey is provided at **Appendix C**.

Vehicular access to the site is via an existing concrete and bitumen driveway to Blue Seas Parade which is a constructed urban (residential) road with a bitumen seal.

It should be noted that the attached detail survey was undertaken in March 2012 and shows an existing dwelling that has since been demolished (per DA 2013/266). A new dwelling house is currently being constructed on the site (per DA 2012/421) and is not shown on the detail survey.

2.2 Other matters

Preliminary planning investigations (including reference to Section 149 Certificate No. 2653) in respect of that part of the subject land that is subject to this request confirm that the land is:

- not mapped as being subject to SEPP 14 or SEPP 26
- mapped as being bushfire prone (part Vegetation Category 2 and part 30m buffer)
- not likely to be contaminated as a consequence of existing or prior land uses
- not is mapped as being subject to the 1 in 100 year flood event or tidal inundation
- not mapped as being subject to acid sulfate soils (Sheet ASS_005 – BLEP 2012)

- **not** identified as being or containing an item of environmental heritage (per Schedule 5 of the Ballina LEP 2012)
- **not** identified as including or comprising critical habitat as prescribed in the Threatened Species Conservation Act 1995 or (subject to section 5C) Part 7A of the Fisheries Management Act 1994
- **not** identified as being affected by the operation of Sections 38 or 39 of the Coastal Protection Act 1979
- **not** affected by any road widening or realignment proposal under either Division 2 of Part 3 of the Roads Act 1993, any environmental planning instrument or any resolution of Council
- **not** identified as being subject to acquisition by a public authority under the provisions of any environmental planning instrument, deemed or draft environmental planning instrument

An easement for overhead power lines (20m wide) exists on the land and is coincidental with the existing overhead power lines on the land, which are identified on the detail survey at **Appendix C**. Essential Energy is the prescribed authority that is benefitted by the easement.

Integral to the rezoning and development of the land for future urban residential purposes, would be a likely requirement for the power lines to be removed with the electricity supply being re-routed.

Such relocation would have to be undertaken in consultation with and the approval of Essential Energy.

2.3 Local Context

The subject lot is a partially developed rural residential type lot (which contains a dwelling house that is under construction) which adjoins urban residential estates of Lennox Head to the west.

Land to the north and east comprises coastal land (including coastal reserve) and to the south comprises rural land.

2.4 Strategic Planning Context

2.4.1 Far North Coast Regional Strategy 2006-31 (FNCRS)

The subject land is mapped in the Strategy as being a 'Proposed Future Urban Release Area'.

Under the circumstances, the proposed application of a residential zone is consistent with the Strategy.

2.4.2 Ballina Shire Growth Management Strategy 2012 (GMS)

The subject land is mapped as a "strategic urban growth area" under the Strategy.

Under the circumstances, the proposed application of a residential zone is consistent with the Strategy.

2.4.3 Lennox Head Structure Plan (2004) (LHSP)

The LHSP provides a framework to ensure that the growth and development of Lennox Head occurs in a co-ordinated and integrated manner. The subject land is contained in the Plan.

The land is not identified as a candidate release area under the Structure Plan, however it adjoins the existing and planned urban area in the vicinity of Blue Seas Parade.

This is not considered to be a significant inconsistency, particularly as a consequence of the land being identified for future urban purposes under both the FNCRS and the GMS.

2.5 Relevant Provisions of BLEP 2012

That part of the subject land proposed for rezoning is mapped under the BLEP 2012 as follows:

- RU1 – Primary Production Zone
- AB2 – 40ha minimum lot size/subdivision standard

- "Strategic Urban Growth Area"

3.1 Objectives of Planning Proposal

The objective of the Planning Proposal is to rezone part of the subject land to an urban residential zone and to apply a minimum lot size that will enable the land to be subdivided into minimum 600m² lots, and to enable the construction of a dwelling house on the vacant lots at some future time (and subject to a separate approval process).

3.2 Possible Future Subdivision

That part of the site that is proposed to be zoned R2 has an area of approximately 11,000m². Provided at **Appendix D** is the detail survey which has been overlain by the "Strategic Urban Growth Area" which has been extracted from the Strategic Urban Growth Area Map (Sheet SGA_005D of the BLEP 2012).

Based purely on a 600m² lot size and approximately 200m² of road/lot, the site could yield up to 13 lots. As a consequence of the existing rock wall along the eastern side of Blue Seas Parade, it is likely that a new road will have to be constructed on the subject land to service any future lots, as access will not likely be possible through the rock wall. It should be noted that this yield is a purely hypothetical number and has not been calculated having regard to any of the constraints that may exist on the site.

The broader locality is serviced by all necessary reticulated public infrastructure services, including:

- potable water supply (including hydrants within Blue Seas Parade road reserve)
- sewerage disposal
- electricity
- telecommunications
- constructed urban roads (including stormwater)

Any future new lots would be able to be connected to and serviced by such systems.

4.1 Explanation of Proposed Amendments

The proposed amendments to the BLEP 2012 involve:

- rezoning that part of the lot from RU1 – Primary Production Zone to R2 – Low Density Residential Zone;
- applying a 600m² minimum lot size to the R2 zoned land; and

The proposed R2 zone is same zoning as the adjoining/adjacent residential lots in Coastal Grove. The existing residential lots in Coastal Grove have a 600m² minimum lot size.

Contingent upon the zoning change being affected, there will have to be a consequential change to the Strategic Urban Growth Area map, such that the land is no longer mapped as a 'Strategic Urban Growth Area'.



5 Justification for the Proposed Amendments

5.1 Section A – Need for the planning proposal

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

The subject land is identified in the Far North Coast Regional Strategy as being a 'proposed future urban release area' and as a "strategic urban growth area" under the Ballina Shire Growth Management Strategy.

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

The proposed application of a residential zone is consistent with these strategic planning documents that identify the land for future urban investigation/use.

It is submitted that an LEP amendment is the best (and only) way in which to achieve the proposed outcomes, as the proposal relates expressly to land use zoning and subdivision potential.

3. Is there a net community benefit?

The net community benefit that will result from the proposal is:

- additional economic activity generated by the development of the land for urban residential purposes
- additional land available for residential and related development

5.2 Section B – Relationship to strategic planning framework

4. 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)?

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*Planning Proposal/LEP Amendment Request
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As detailed elsewhere in this Planning Proposal, the proposal is consistent with the Far North Coast Regional Strategy.

The Planning Proposal involves changes to the zoning and minimum lot size standards to enable future subdivision (and construction of new dwelling houses).

The Planning Proposal will provide for increased housing opportunities which will assist in accommodating the projected local and regional population increase.

The Planning Proposal is thus consistent with the FNCRS. The information contained in this Planning Proposal document confirms and supports the capability of the land to accommodate urban residential development, which is thus consistent with the regional planning framework.

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

Ballina Shire Growth Management Strategy 2012 (GMS)

The purpose of the GMS is to provide the framework for management population and employment growth in Ballina Shire over the planning period of 2012-2013.

The subject land is mapped as a "Strategic Urban Growth Area" under the GMS, and as such, the application of a residential zone over the land is consistent with the Strategy.

6. *Is the planning proposal consistent with applicable state environmental planning policies?*

There are a number of SEPP's that are of relevance to the proposal, details of which are as follows:

SEPP Title	Compliance of Planning Proposal
SEPP (Rural Lands) 2008	The subject land is currently zoned RU1. The proposed rezoning of the lot to a residential zone will not compromise or prejudice the use of the subject and adjoining land for agricultural purposes, due primarily to the characteristics, existing use, adjoining use and small size of the lot. The application of a residential zone will not result in increased land use conflicts with adjoining agricultural land as a consequence of the siting of the existing and future dwellings, the character of the adjoining and surrounding land (being primarily urban residential) and the limited potential for agricultural use of the adjoining land. It is therefore submitted that the Planning Proposal is consistent with the provisions of this SEPP.
SEPP 44 – Koala Habitat Protection	The subject land is devoid of significant native vegetation and is not likely to contain any Koala food trees. It is therefore submitted that the Planning Proposal is consistent with the provisions of and is not contrary to the intent of the SEPP.
SEPP 55 – Remediation of Land	Clause 6(1) of this SEPP requires the planning authority when preparing a Draft LEP to consider whether the land is contaminated and whether the land is suitable for such purpose (as not being contaminated or requiring remediation to make it suitable). A contamination assessment would have to be undertaken should the Planning Proposal proceed to Phase 2. It is therefore submitted that the Planning Proposal is consistent with the provisions of and is not contrary to the intent of the SEPP.
SEPP 71 – Coastal Protection	The subject land is physically and spatially removed from any coastal foreshore area. The land is quite prominent/visible in the local landscape and streetscape and thus a visual setting and impact assessment would have to be undertaken should the Planning Proposal proceed to Phase 2. The future subdivision and residential development of the land will not have any adverse or tangible impacts on any part of the coastal foreshore or any public land. It is therefore submitted that the Planning Proposal is consistent with the provisions of and is not contrary the intent of the SEPP.

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

Section 117 of the EP & A Act 1979 provides directions that relevant planning authorities must have regard to when preparing planning proposals for new LEPs. The following table identifies which of these directions are applicable to the proposed rezoning and how the Planning Proposal is consistent with their provisions.

Direction Number	Compliance of Planning Proposal
1. Employment and Resources	
1.1 Business and Industrial Zones	Does not apply to Planning Proposal.
1.2 Rural Zones	Complies – Part of the subject lot is contained within the 'Proposed Future Urban Release Area' (Town and Village Growth Boundary Map – Sheet 3 – Ballina) of the FNCRS and is thus able to be justified as a consequence of the FNCRS.
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 Lands	Complies – comments in respect of the Rural Lands SEPP are provided in Section 5.2 of this Planning Proposal. Further, the proposed rezoning is of relatively minor significance and is consistent with the FNCRS 2006-31 in that part of the lot is mapped as a 'Proposed Future Urban Release Area'.
2. Environment and Heritage	
2.1 Environmental Protection Zones	Does not apply to Planning Proposal.
2.2 Coastal Protection	Complies – the proposal is considered to be of a relatively minor nature, resulting in a possible maximum of 13 lots (and future houses). The subject land is physically and spatially removed from any coastal foreshore area and is not subject to flooding, tidal inundation, acid sulfate soils, or any coastal processes. The proposal will not have any impact on any coastal foreshore land (public or private).
2.3 Heritage Conservation	Complies – the subject land is not identified as containing or comprising a heritage item or place (per Schedule 5 of the BLEP 2012).
2.4 Recreation Vehicle Areas	Does not apply to Planning Proposal.
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	Complies – adequate public infrastructure is available in the immediate locality to service the existing lot and possible new lots (contingent upon consent being granted to future subdivision). The proposal will facilitate urban development which is able to connect to and make use of existing infrastructure services.
3.2 Caravan Parks and Manufactured Home Estates	Does not apply to Planning Proposal.
3.3 Home Occupations	Complies – home occupations are permitted without consent in the R2 zone under the BLEP 2012.
3.4 Integrated Land Use and Transport	Complies – the land is identified in the 'Proposed Future Urban Release Area' of the FNCRS. The proposal will facilitate development which is able to make use of existing roads and transport services.
3.5 Development Near Licensed Aerodromes	Does not apply to Planning Proposal.
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	Does not apply to Planning Proposal.
4.3 Flood Prone Land	Does not apply to Planning Proposal.
4.4 Planning for Bushfire Protection	A Bushfire Hazard Assessment would have to be prepared in accordance with the provisions of Planning for Bushfire Protection 2006 to support of the proposed rezoning and future possible subdivision of the land should the Planning Proposal proceed to Phase 2. As evidenced on the aerial photograph, the subject land and broader locality is not heavily timbered and thus it is suggested that bushfire will not likely be a prohibiting factor to the Planning Proposal.
5. Regional Planning	
5.1 Implementation of Regional Strategies	Complies – the land is identified as a 'Proposed Future Urban Release Area' under the FNCRS.
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	Complies – The land is mapped in the 'Northern Rivers Farmland Protection Project – Final Recommendations, February 2005' as 'significant non-contiguous farmland'. Notwithstanding such, the land is mapped as a 'Proposed Future Urban Release Area' under the FNCRS 2006-31. Pursuant to Subclause (2) of Direction 5.3, land identified as such is excluded from the requirements of the Direction. The provisions of this Direction do not effectively apply to the Planning Proposal.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Does not apply to the Planning Proposal.
5.5 Development in the Vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	Revoked 18 June 2010.
5.6 Sydney to Canberra Corridor	Revoked 10 July 2008
5.7 Central Coast	Revoked 10 July 2010
5.8 Second Sydney Airport: Badgerys Creek	Does not apply to the Planning Proposal.
6. Local Plan Making	
6.1 Approval and Referral Requirements	Complies – does not introduce any new concurrence or consultation provisions or any additional designated development types.
6.2 Reserving Land for Public Purposes	Does not apply to the Planning Proposal.
6.3 Site Specific Provisions	Complies – seeks to apply the existing R2 land use zone and standards that are compatible with the residential development of the site and adjoining land.
7. Metropolitan Planning	

7.1 Implementation of the Metropolitan Plan for Sydney 2036	Does not apply to Planning Proposal.
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5.3 Section C – Environmental, social and economic impact

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

As evidenced from the aerial photograph at **Appendix A**, that part of the site that is subject of the proposed rezoning is largely cleared, containing managed grassland and domestic type landscaping.

The subject land is not likely to contain any critical habitat or threatened species, populations or ecological communities.

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

The subject land is mapped as being bushfire prone. A Bushfire Threat Assessment Report would have to be prepared which addresses Planning Direction 4.4 (Section 117 Directions) and assesses the proposal in the context of:

- the provisions of Planning for Bushfire Protection (PBP) 2006
- introducing controls that avoid placing inappropriate developments in hazardous areas
- ensuring that bushfire hazard reduction is not prohibited in the APZ

The land is in a locality that is mapped as being high mosquito risk. The whole of the towns of Lennox Head and Ballina are situated in such an area and it has not been Council's practice to preclude urban residential development in such areas as a consequence of mosquito risk.

In accordance with Council's current controls and strategies (Section 3.6 – Mosquito Management, Chapter 2 – General and Environmental Considerations, DCP 2012), any future dwellings will be required to contain effective screening to all windows, external doors and other openings to habitable rooms (would be conditioned at DA stage for future houses).

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

The proposed rezoning (and construction of future houses) may have impacts on the landscape and scenic character of the locality as well as possible amenity impacts on adjacent dwellings/residents. These matters would have to be addressed in more detail should the Planning Proposal proceed to Phase 2.

The subject land is already connected to all necessary reticulated public infrastructure services and thus there are no significant economic issues with the servicing of any future lots.

5.4 Section D – State and Commonwealth interests

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

The existing locality is connected to and serviced by all necessary reticulated public infrastructure services. There is sufficient capacity for any proposed new lots to be efficiently and economically connected to and serviced by such services.

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

The views of the Department of Planning & Infrastructure and other relevant Governmental bodies would be obtained should Council resolve to enable the Planning Proposal to proceed.

6 Community Consultation

There has not been any community consultation undertaken in respect of this Planning Proposal at this point in time.

It is likely that a requirement for community consultation will be contained in any Gateway Determination, with such community consultation and advertising having to be duly undertaken by Council in the further processing of this Planning Proposal.

7 Scope of Engagement

This Planning Proposal has been prepared by Ardill Payne & Partners (APP) on behalf of George Farley for lodgement with Ballina Shire Council and is not to be used for any other purpose or by any other person or corporation.

This report has been prepared from the information provided to us and from other information obtained as a result of enquiries made by us. APP accepts no responsibility for any loss or damage suffered howsoever arising to any person or corporation who may use or rely on this document for a purpose other than that described above.

No part of this report may be reproduced, stored or transmitted in any form without the prior consent of APP.

APP declares that it does not have, nor expects to have, a beneficial interest in the subject project.

To avoid this advice being used inappropriately it is recommended that you consult with APP before conveying the information to another who may not fully understand the objectives of the report. This report is meant only for the subject site/project and should not be applied to any other.

8 Appendices

Appendix A	Aerial photograph of subject and adjoining land
Appendix B	Copy of deposited plan
Appendix C	Detail and contour survey
Appendix D	Strategic Urban Growth Area overlay

APPENDIX A

Appendix A Aerial photograph of subject and adjoining land

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*Planning Proposal/LEP Amendment Request
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Aerial photograph of Lot 1 DP 1165957



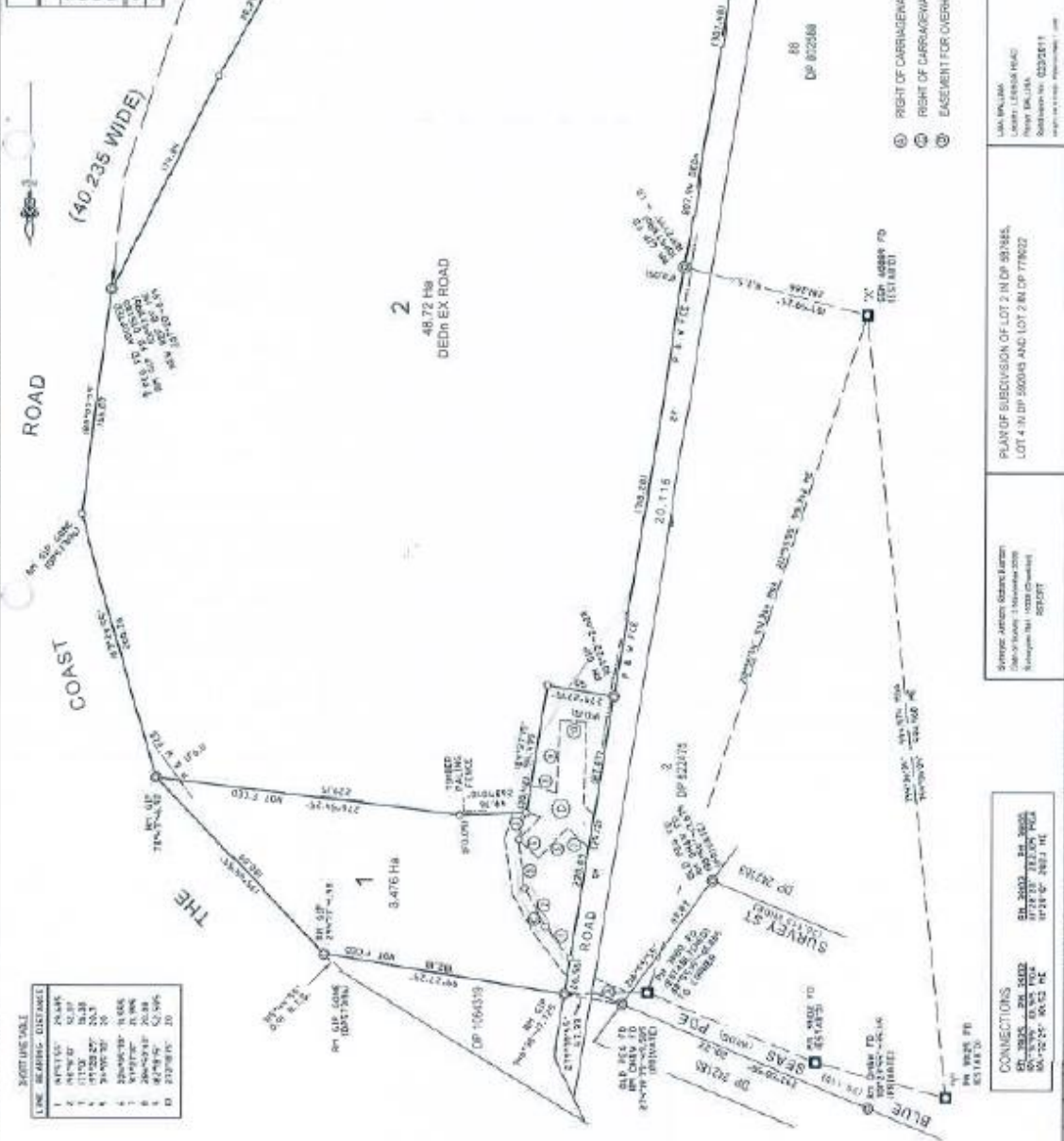
Disclaimer: This report has been generated by various sources and is provided for information purposes only. Land and Property Information (LPI), a division of the Department of Finance and Services does not warrant or represent that the information is free from errors or omission, or that it is exhaustive. LPI gives no warranty in relation to the information, especially material supplied by third parties. LPI accepts no liability for loss, damage, or costs that you may incur relating to any use or reliance upon the information in this report.

APPENDIX B

Appendix B
Copy of deposited plan

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*Planning Proposal/LEP Amendment Request
Lot 1 DP 1165957
44-52 Blue Seas Parade, Lennox Head*

[illegible]

- ⑬ RIGHT OF CARRIAGEWAY 10 WIDE (DP 687686)
⑭ RIGHT OF CARRIAGEWAY 10 WIDE
⑮ EASEMENT FOR OVERHEAD POWERLINES 20 WIDE

Surveyor: Anthony Giddens, EIT	PLAN OF SUBDIVISION OF LOT 2 IN DP 593445.
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Syntex: Anthony Richard Korman
 Chicago, Illinois 60606
 Telephone: 312-553-1333 (Chicago)
 Fax: 312-553-1333

[illegible]

15.7.2011

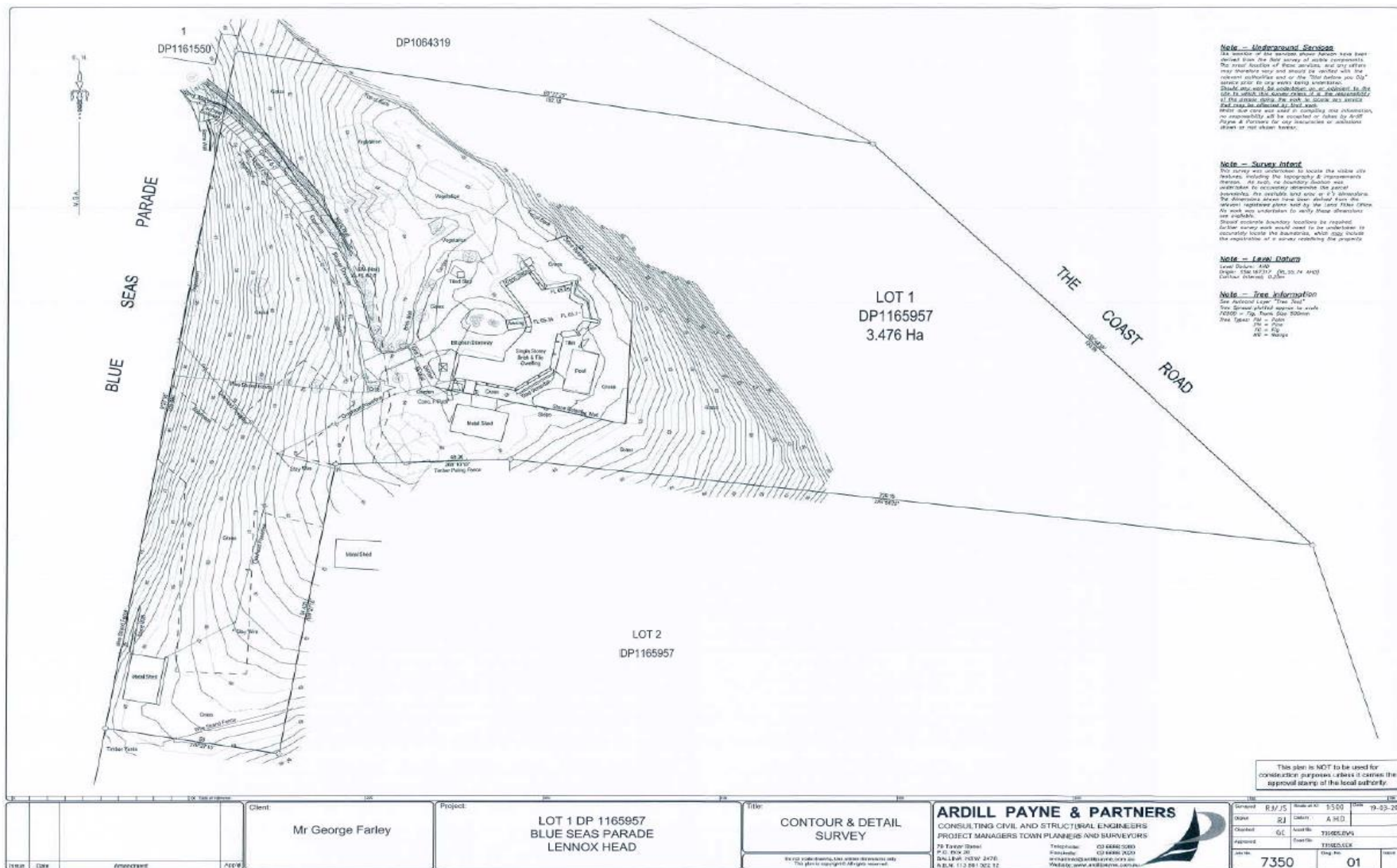
DP1165957

APPENDIX C

Appendix C Contour and detail survey

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*Planning Proposal/LEP Amendment Request
Lot 1 DP 1165957
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APPENDIX D

Appendix D Strategic Urban Growth Area overlay

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*Planning Proposal/LEP Amendment Request
Lot 1 DP 1165957
44-52 Blue Seas Parade, Lennox Head*

Appendix H - Letters from Department of Planning and Environment re pre-Gateway Review



Mr P Hickey
General Manager
Ballina Shire Council
PO Box 450
Ballina NSW 2478

Ref: PGR_2014_BALLI-001_00

Dear Mr Hickey

Request for pre-Gateway review – PGR_2014_BALLI_001_00

I refer to the request for a pre-Gateway review (PGR_2014_BALLI-001_00), lodged on 21 August 2014, for a proposal to amend Ballina Local Environmental Plan 2012 to rezone part of Lot 1 DP 1165957, 44-52 Blue Seas Parade, Lennox Head, from RU1 Primary Production to R2 Low Density Residential and replace the 40ha minimum lot size with a 600m² minimum lot size.

I have now determined that the proposal should proceed to Gateway determination stage. In making my decision, I considered the request for a pre-Gateway review, together with the recommendation of the Northern Joint Regional Planning Panel and advice provided by Council. Please find attached copy of the Panel's decision and report.

Consequently, Council is asked to advise if it would like to be the Relevant Planning Authority (RPA) for this proposal. Should Council agree to be the RPA, it will need to prepare a planning proposal under section 55 of the *Environmental Planning and Assessment Act 1979*, and submit it for a Gateway determination within 28 days of the date of this letter.

If Council does not wish to progress this matter, an alternate RPA may be appointed to prepare the planning proposal. Should Council not wish to be the RPA for this proposal, please contact the Department of Planning and Environment to discuss this matter further. You can view the progress of the pre-Gateway review at <http://pgrtracking.planning.nsw.gov.au/>

Should you have any further enquiries about this matter, please contact Ms Jenny Johnson of the Department's Northern Region Office on (02) 6641 6614.

Yours sincerely


Marcus Ray
Acting Deputy Secretary
Planning Services 08/12/14

Encl: Northern Joint Regional Planning Panel, Recommendation Report

Department of Planning & Environment
22-33 Bridge Street Sydney NSW 2000 | GPO Box 30 Sydney NSW 2001 | T 02 9228 6111 | F 02 9228 6455 | www.planning.nsw.gov.au

Joint Regional Planning Panel – Pre-Gateway Review – Recommendation Report Template

The Northern Joint Regional Planning Panel (JRPP) has considered the request for a review of the proposal as detailed below.

The Pre-Gateway Review:

Dept. Ref. No:	PGR_2014_BALLI_001_00
LGA:	Ballina
LEP to be Amended:	Ballina LEP 2012
Address / Location:	44-52 Blue Seas Parade, Lennox Head (part of Lot 1 DP1165957) and adjoining road reserve
Summary of Proposal:	To rezone the subject site from RU1 Primary Production to R2 Low Density Residential under the Ballina LEP 2012 and apply a 600m ² minimum lot size

Reason for review:	☒	The Council has notified the proponent that the request to prepare a planning proposal has not been supported
	☐	The Council has failed to indicate its support 90 days after the proponent submitted a request to prepare a planning proposal

In considering the request, the JRPP has reviewed all relevant information provided by the proponent as well as the views and position of the Department of Planning and Environment and the relevant local government authority. Based on this review the JRPP recommends the following:

JRPP RECOMMENDATION:	☒	The proposed instrument should be submitted for a Gateway determination	
	☐	The proposed instrument should not be submitted for a Gateway determination	
Composition of Recommendation:	☒	Unanimous	Comments:
	☐	Not unanimous	
JRPP Members:	Garry West (Chair) John Griffin Pamela Westling John Truman David Wright		

JRPP Advice and Justification for Recommendation:

The Regional Panel agrees with the Assessment conducted by the Department and the Ballina Shire Council Staff for the planning proposal, which has strategic and site specific merit in regard to Ballina's Shire Growth Management Strategy.



Mr Paul Hickey
General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478



Our ref: PGR_2014_BALLI_001_00
Your ref: BSCPP 14/005

Dear Mr Hickey

Pre-Gateway Extension Request - PGR_2014_BALLI_001_00

I refer to your correspondence of 12 December 2014 seeking an extension of time to consider acceptance of the Relevant Planning Authority role for the proposed residential rezoning at 44-52 Blue Seas Parade, Lennox Head (PGR_2014_BALLI_001_00).

The timeframe for accepting or declining the Relevant Planning Authority role is non-statutory. It is open to me therefore to amend the timeframe beyond 28 days. Given the current situation of the holiday period I agree to your request.

I have been advised that the proponent has been notified of the delay and is satisfied that the issue will be considered at the earliest opportunity in January 2015.

Council should ensure that the matter is considered no later than the Ordinary Meeting on 22 January 2015.

If you have any questions in relation to this matter, I have arranged for Ms Jenny Johnson of the Northern Region Office to assist you. Ms Johnson can be contacted on (02) 6641 6614.

Yours sincerely

Marcus Ray
Acting Deputy Secretary
Planning Services

17/12/14

9.2 LEP Amendment - 44-52 Blue Seas Parade, Lennox Head

9.2 LEP Amendment - 44-52 Blue Seas Parade, Lennox Head

Delivery Program Strategic Planning

Objective To advise Council of the outcome of the pre-Gateway review by the Department of Planning and Environment into the planning proposal which primarily relates to the application of an R2 Low Density Zone over part of Lot 1 DP 1165957 known as 44 - 52 Blue Seas Parade, Lennox Head.

Background

The Council, at its Ordinary Meeting held on 22 May 2014, considered a request to amend the Ballina Local Environmental Plan 2012 (Ballina LEP 2012) relating to land at Blue Seas Parade Lennox Head. The request was made by Mr G Farley, the property owner and proponent. The request sought an amendment to the Ballina LEP 2012 to rezone part of Lot 1 DP 1165957 (Lot 1) from RU1 Primary Production to an R2 Low Density Residential zone.

The land the subject of the request is part of the property referred to locally as the "Newton Farm", which includes part of the prominent escarpment located immediately west of Lennox Point.

In relation to this matter the Council resolved as follows [Minute No.220514/12]:

1. That Council prepare a planning proposal for the application of an R2 Low Density Residential zone over that part of Lot 1 DP 1165957 designated as a Strategic Urban Growth Area in Ballina LEP 2012.
2. That the subdivision potential and associated minimum lot size for the future development of Lot 1 DP 1165957 be determined following assessment of additional technical information.
3. That a further report be presented to the Council documenting the planning proposal when prepared for submission for Gateway determination.
4. For the purpose of further investigation the planning proposal shall include a minimum lot size of 600 m².

The planning proposal was subsequently prepared and considered by the Council at its Ordinary Meeting held on 24 July 2014. In relation to this matter the Council changed its position on progressing the rezoning and resolved as follows [Minute No.240714/1]:

1. That Council discontinue processing of the LEP amendment request to apply a residential zone to part of Lot 1 DP 1165957 and take no further action with respect to the rezoning of the land under the current amendment request, for the following reasons:
2. That the Council does not support the application of a zoning to Lot 1 DP 1165957 that enables further residential development to occur on the land beyond what is enabled under the current rural land use zoning.
3. That Council take steps at the next revision of the Ballina Shire Growth Management Strategy to remove all land contained within Lot 1 DP 1165957 from identification as a potential urban growth area from local planning policy.

9.2 LEP Amendment - 44-52 Blue Seas Parade, Lennox Head

A request for a pre-Gateway review was submitted to the Department of Planning and Environment on 19 August 2014 by Paul Snellgrove, Ardill Payne and Partners, on behalf of the proponent Mr George Farley. The review was undertaken by the Joint Regional Planning Panel, with the JRPP recommending in November 2014 that the matter should proceed to Gateway determination.

The Department of Planning and Environment (DP&E) has advised Council, by letter dated 8 December 2014, that the planning proposal should proceed to the Gateway determination stage. Council has also been requested to advise whether it would like to be the Relevant Planning Authority (RPA) and submit a planning proposal for Gateway determination. A copy of the Department's letter forms Attachment One to this report.

This report seeks direction from Council in relation to Council assuming the Relevant Planning Authority role for the further processing of the LEP amendment.

Key Issues

- Consideration of the implications associated with accepting the role of RPA.
- Processing of LEP amendment request and submission of a planning proposal for Gateway determination.

Information

The DP&E's letter dated 8 December 2014 requested advice within a 28 day period as to whether Council would like to be the RPA for this proposal. This period has now been extended so as to enable the Council to consider this matter at its Ordinary Meeting on 22 January 2015. The letter from the DP&E granting the extension of time forms Attachment Two to this report.

In the event that Council declines the role of RPA, and does not proceed to prepare a planning proposal for Gateway determination, then it is likely that the DP&E or JRPP will be appointed as the RPA.

To support the Council in progressing the matter should the role of RPA be accepted, a planning proposal has been prepared for consideration in relation to its submission for Gateway determination.

Council will recall that a planning proposal was previously prepared and accompanied the report to Council's Ordinary Meeting on 24 July 2014. This planning proposal has now been amended to make provision for a minimum lot size standard of 1200m² and to incorporate the more recent history relating to this proposal. The planning proposal forms Attachment Three to this report.

It is considered that a minimum lot size for subdivision of the land of 1200m² is appropriate for this site given the need for a buffer to the adjoining primary industry activity (Cattle grazing), and the impact of the existing electricity easement and rights of carriageway. Such a lot size standard may also assist in addressing scenic amenity, site access and other site constraints.

The planning proposal provides for the following amendments to Ballina LEP 2012:

9.2 LEP Amendment - 44-52 Blue Seas Parade, Lennox Head

- The rezoning of that part of Lot 1 DP 1165957 designated as a Strategic Urban Growth Area (SUGA) from RU1 Primary Production to R2 Low Density Residential.
- Application of a 1,200m² minimum lot size to Lot 1 and a 600m² minimum lot size (consistent with land to the west and north) for the adjoining road reserve.
- Deletion of the SUGA affectation from a portion of Blue Seas Parade which adjoins Lot 1, and
- Deletion of the SUGA affectation from a triangular section of land (approximate area of 900m²) located on the adjoining Lot 2 DP 1165957 (Lot 2).

The DP&E in its assessment report related to the planning proposal has indicated that the subject land is identified in the Ballina Shire Growth Management Strategy as being within a future release area and in the far North Coast Regional Strategy as within the 'Town and Village Growth Boundary'. It is also indicated that the proposal is justified as it is consistent with local and state strategies and all SEPPs. In respect to identified inconsistencies with s117 Directives it is stated that these can be justified as of minor significance. This is consistent with the assessment undertaken by Council staff.

The JRPP's Recommendation Report states that the panel agrees with the Assessment conducted by the Department and the Ballina Shire Council Staff for the planning proposal, which has strategic and site specific merit in regard to the Ballina Shire Growth Management Strategy.

At this stage of the process a number of site specific studies and assessments have been identified as being required. These are listed below and should be required to be prepared post Gateway determination and prior to public exhibition of the proposal:

- Contaminated Land Assessment and Remediation Action Plan,
- Coastal Zone Impacts and Visual Amenity Impacts assessment,
- Bushfire Threat Assessment Report,
- Geotechnical Assessment (Landslip),
- Due Diligence Aboriginal Heritage Assessment,
- Services and Stormwater Management Report,
- Land Use Conflict Risk Assessment,
- Flora and Fauna Assessment,
- Access Arrangements and Electrical Easement Impact / Relocation Investigation.

Having regard to the history of this site, if Council agrees to be the RPA for this proposal, it is proposed that an independent third party be engaged by Council to review the proponent's technical reports and prepare an environmental assessment and planning report. The report would draw on the information provided by the proponent and Council staff to establish a recommended approach to the LEP amendment. The third party assessment would be undertaken at the proponent's cost in accordance with Council's endorsed fees and charges. The assessment and report would also form part of the material placed on public exhibition.

Sustainability Considerations

- **Environment**
The subject land contains various attributes of environmental value. These matters can be assessed in detail prior to public exhibition if the planning proposal proceeds further.
- **Social**
There are a variety of social issues to consider in relation to the proposal, including implications for scenic and amenity values. These matters can be assessed in detail prior to public exhibition if the planning proposal proceeds further.
- **Economic**
The proposal has the potential to result in a number of positive economic impacts associated with construction and infrastructure. These matters can be further considered prior to public exhibition.

Legal / Resource / Financial Implications

There are no specific adverse legal implications associated with Council accepting or declining the RPA role or with the proposed LEP amendment at this time.

If Council agrees to accept the RPA role then the proponent will be required to meet the various processing costs, including the independent environmental assessment costs, in accordance with the Council's adopted schedule of fees and charges, as well as providing the necessary additional technical information, following Gateway determination.

Progress of this matter can be accommodated within the Strategic and Community Facilities Group work program.

Consultation

Consultation with various Government agencies will be required post Gateway and following the submission of technical reports. Under a Council processing arrangement, the agencies proposed to be consulted at this stage include:

- NSW Rural Fire Services
- Civil Aviation Safety Authority
- Air Services Australia
- Ballina Byron Gateway Airport
- Essential Energy and
- Department of Primary Industries

Council will recall that preliminary consultation has already been undertaken with the owners of the adjoining property located at 54 Blue Seas Parade Lennox Head. This was in respect to the proposed deletion of the SUGA affectation from this property. A submission was received which objected to the rezoning proposal principally related to perceived land use conflicts. The submission did, however, indicate that the removal of the SUGA affectation from this property was supported should the rezoning proceed. It is noted that

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Mr Peter Small, one of the subject adjoining owners, addressed Council in support of his objection at Council's Ordinary Meeting on 24 July 2014.

Options

1. Agree to accept the role of Relevant Planning Authority (RPA) and endorse the attached planning proposal for submission to the DP&E for Gateway determination.

The position of Council's planning staff remains unchanged from that conveyed in the reporting to Council in May and July 2014. That is, that the proposed LEP amendment is suitable for progression to Gateway determination and public exhibition. This option is consistent with the previous staff position.

If this option is preferred and Council is appointed the RPA to progress the matter, it is recommended that the planning proposal be based on application of a 1,200m² minimum lot size for subdivision over the potential development area to be clear about the potential subdivision potential of the land (as set out in the planning proposal contained in Attachment Three).

Under this approach, Council will be required to administer the third party review, technical assessment and public exhibition of the planning proposal. It should be noted that there is potential for significant objection to the proposal which Council would need to address as part of the public exhibition and reporting processes for the amendment.

Notwithstanding the progression of the planning proposal to public exhibition, Council will have a further opportunity to consider the proposal after the public exhibition process and prior to the proposal being finalised. It is open to Council to decline to progress the rezoning following the public exhibition period, although the final decision on the zoning will ultimately rest with the Minister for Planning.

If Council does not seek to progress the matter as the RPA, Council will not be able to direct and undertake the technical assessment and exhibition processes consistent with its approach to managing planning proposals. Essentially, Council will become a stakeholder in the process with the potential to make submissions to the appointed RPA.

For the reasons indicated in relation to option two below, this approach is not recommended. However, if Council wishes to accept the RPA role, it is recommended that the following resolution be applied:

1. That Council advise the Department of Planning and Environment that it is prepared to accept the role of Relevant Planning Authority for the planning proposal relating to 44 – 52 Blue Seas Parade, Lennox Head.
2. That Council authorises the submission of a planning proposal which provides for the application of an R2 Low Density Residential Zone to that part of Lot 1 DP 1165957 designated as a Strategic Urban Growth Area (SUGA) within Ballina LEP 2012 and the immediately adjoining road reserve to the Department of Planning and Environment for review and Gateway determination.

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3. That the planning proposal also provide for the removal of the SUGA affectation from Lots 1 and 2 DP 1165957 and the application of a minimum lot size of at least 1200m² to the proposed R2 zoned area and 600m2 adjoining road reserve.
4. That the Department of Planning and Environment be advised that at this stage of the process it is the Council's intention to exercise its delegated plan making functions.
5. That upon an affirmative Gateway determination being received from the Department of Planning and Environment, the proponent be required to submit the technical documentation necessary to enable a comprehensive assessment of the proposal and potential environmental, social and economic implications.
6. That upon the requested information being submitted by the proponent, Council initiate a third party review including preparation of an environmental assessment and planning report relating to this planning proposal.
7. That the owners of Lot 2 DP 1165957, No. 54 Blue Seas Parade be advised of the Council's decision.
8. That the General Manager be authorised to exhibit the planning proposal for community comment following the completion of the third party review, with a further report being presented to the Council following the conclusion of the public exhibition period.

2. Decline the RPA role and advise the DP&E accordingly.

Given that the JRPP and DP&E have determined that this planning proposal has sufficient merit to proceed to Gateway determination rejection of the RPA role will effectively result in Council losing control of this rezoning process.

Information provided by the DP&E indicates that a rejection of the RPA role by Council will most likely see this role transferred to either the JRPP or the DP&E. Council's role would then be limited to making submissions during the public exhibition and consultation processes.

Such action will therefore result in Council having, at best, very limited opportunities to influence the process and ensure that any identified issues are resolved in a manner consistent with Council's policies and procedures.

Notwithstanding the above, this approach is consistent with the Council's July 2014 decision on this matter. Given this, it may be difficult for Council to explain an acceptance of the RPA role in that there has been no additional technical information provided to Council that changes the present circumstances of the proposal.

It is the JRPP's review and DP&E's subsequent request that has given rise to the request for Council to reconsider its approach to this proposal.

Option two is the recommended approach in order to be consistent with the Council's last formal position on the proposal in the absence of new technical information.

This option allows to Council make submissions to the process to ensure the community is strongly represented as part of the assessment.

Delegation of Plan Making Functions

If Council accepts the RPA role, Council's Gateway submission to the DP&E is also required to address whether the Council is proposing to exercise plan-making delegations in finalising the LEP amendment. This means Council staff would liaise directly with Parliamentary Counsel to finalise the drafting of the amendment for implementation.

Although there are resourcing implications for Council (more staff time in processing), it is recommended that the Council provide an indication at this stage that it is proposing to exercise its delegation in this instance. Under this approach, the Council would make its final decision on whether to exercise its delegations at the time of deciding on the finalisation of the amendment post public exhibition. This approach is embodied in the alternate resolution set out under option one.

RECOMMENDATIONS

1. That Council affirms its July 2014 decision to discontinue processing of the LEP amendment request to apply a residential zone to part of Lot 1 DP 1165957, 44 - 52 Blue Seas Parade, Lennox Head.
2. That Council advise the Department of Planning and Environment that it declines the role of Relevant Planning Authority for the planning proposal relating to 44 - 52 Blue Seas Parade, Lennox Head.

Attachment(s)

1. Attachment One - Letter from DP&E re outcome of pre-Gateway review
2. Attachment Two - Letter from DP&E re extension of time request
3. Attachment Three - Planning Proposal

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220115/6 RESOLVED

(Cr Paul Worth/Cr Ben Smith)

That Council agree to accept the role of Relevant Planning Authority (RPA) and endorse the attached planning proposal for submission to the DP&E for Gateway determination.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson