

PLANNING PROPOSAL

REZONING FOR RESIDENTIAL PURPOSES: LOT 1, DP417132 2 ARRAWARRA ROAD, MULLAWAY

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Summary

This planning proposal is for the rezoning of Lot 1, DP417132 (2 Arrawarra Road, Mullaway) from a rural zone to R2 Low Density Residential. This will enable development which is similar and compatible to adjoining land uses, which is the existing settlement of Mullaway. It has been prepared in accordance with Planning and Infrastructure's (P&I) "*A Guide to Preparing Planning Proposals – Part 2 (2012)*".

The proposal is in accordance with the provisions of the Mid North Coast Regional Strategy (MNCRS) 2009.

Environmental constraints which may apply to the land are addressed by the attached Planning Proposal Report (Bennell and Associates). The main constraint which applies to the land is bush fire risk, which is addressed by the applicant.

The land can be serviced with reticulated water and sewer infrastructure, which is an extension of services which are utilised by the adjoining residential area.

The subject site adjoins the western extent of the existing village of Mullaway and is approximately five kilometres by road from the nearby town of Woolgoolga. The area of the site proposed for rezoning is approximately 3.112 hectares, being an extension of existing zoned and developed residential land. The land is currently zoned Part RU2 Rural Landscape and Part RE1 Public Recreation by Coffs Harbour City LEP 2013. The land is bounded to the north and west by land owned by the National Parks and Wildlife Service, which is zoned RE1 Public Recreation and E2 Environmental Conservation. The southern part of the land forms the street frontage to Mullaway Drive, which contains low density residential and small rural allotments opposite this proposed residential area. The subject land does not have agricultural potential and is not required by Council for public recreation under its Open Space Strategy (2010).

Being a comparatively minor rezoning with few apparent constraints and all planning studies completed, it is expected that this rezoning process will occur over a period of six months, including the consultation period and reporting to Council, from the issue of the Gateway Determination.

The benefits of this rezoning are as follows:

- a more appropriate land use zone than the existing rural and open space zones; and
- a suitable addition of available residential land to an established village.

Part 1 - Objectives or Intended Outcomes

The Planning Proposal is to rezone the subject land from Part RU2 Rural Landscape and Part RE1 Public Recreation to R2 Low Density Residential under Coffs Harbour LEP 2013.

The proposal involves the following intended outcome:

To rezone land to enable development of the subject land in Arrawarra Road, Mullaway for residential purposes.

The objective of the planning proposal is:

- to describe the subject site, the locality in which it is situated, the current zoning and the reason for the need to locate additional residential development on the subject land.
- to request an amendment to the LEP to permit residential development
- to address the 'gateway assessment' criteria under Part 3 of the EP&A Act 1979.
- to provide justifications for the LEP amendment and demonstrate the net community benefits which follow.
- to demonstrate that the planning proposal is consistent with the broad strategic direction for the locality.

Part 2 - Explanation of Provisions

The Principal Planning Instrument is Coffs Harbour LEP 2013. The subject land is currently zoned Part RU2 Rural Landscape and Part RE1 Public Recreation.

The subject land is serviceable and is a logical extension to the existing established adjacent residential development. If the land was to retain its existing zone provisions, the result would be a parcel of land comprising two zones with:

- no agricultural potential, and
- privately owned recreational land which is not required by Council for acquisition and future public open space or facilities.

It is proposed to zone the subject land R2 Low Density Residential under Coffs Harbour LEP 2013. Maps of the existing zoning and proposed rezoning are included in Part 4 of this report.

Part 3 – Justification

Section A - Need for the Planning Proposal

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

The land relevant to this planning proposal is included in the following planning investigations/ reports:

- Planning Proposal: Rezoning of the land to R2 Low Density Residential (Bennell & Associates, 23 June 2014).

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

A planning proposal is the appropriate means of achieving the outcome and objectives, and is supported by relevant planning studies and adopted planning policies.

Section B - Relationship to strategic planning framework.

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

The proposal is consistent with applicable Section 117 directions (see Q6). The site has few environmental constraints (those present have been addressed in the accompanying report), the planning proposal is consistent with adjoining and nearby land uses, and can be serviced with reticulated water and sewerage infrastructure as extensions of the servicing capability of the adjoining village development.

4. Is the planning proposal consistent with the council's local strategy or local strategic plan?

Council's Community Strategic Plan is known as Coffs Harbour 2030 Plan, which was adopted in March 2009. The Planning Proposal is relevant to the following outcomes of that plan:

- our City is a lively and diverse place where people live, work and play;
- we use best practice urban design and infrastructure development to promote sustainable living;
- we have urban spaces that are functional, accessible and useable; and
- our built environment achieves sustainable living by only best practice urban design and infrastructure development to create attractive buildings.

Comment: Council's 'Our Living City' Settlement Strategy is a complementary document to the Coffs Harbour 2030 Plan. The OLC Strategy, and by reasoning those sections relevant to the Coffs Harbour 2030 Plan, have been addressed by the Bennell & Associates report. The proposal is consistent with this clause.

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

The planning proposal is consistent with the following SEPPs.

North Coast Regional Environmental Plan 1988

The North Coast Regional Environmental Plan (REP) was gazetted on 15 January 1988 and from 1 July 2009 is a deemed SEPP. The REP aims:

- to develop regional policies that protect the natural environment, encourage an efficient and attractive built environment and guide development into a productive yet environmentally sound future,
- to consolidate and amend various existing policies applying to the region, make them more appropriate to regional needs and place them in an overall context of regional policy,
- to provide a basis for the co-ordination of activities related to growth in the region and encourage optimum economic and social benefit to the local community and visitors to the region, and
- to initiate a regional planning process that will serve as a framework for identifying priorities for further investigation to be carried out by the Department and other agencies. regional policies that protect the natural environment, encourage an efficient and attractive built environment and guide development into a productive yet environmentally sound future.

The REP sets out regional objectives and regional policies to guide the preparation of LEPs and the assessment of development applications. In terms of plan preparation for any residential development on the subject land the relevant clauses are 38, 40, 42, 45, 50, 56A, 58 and 65.

Clause 38 Plan preparation—urban land release strategy

- (a) The council should not prepare a draft local environmental plan which permits development that, in the opinion of the council, constitutes significant urban growth unless it has adopted an urban land release strategy for the whole of its local government area.
- (b) A draft local environmental plan referred to in subclause (1) should be generally consistent with the strategy referred to in that subclause.
- (c) The strategy referred to in subclause (1) shall:
 - be based on a land release program and population projections,
 - give preference to development resulting in urban growth on land that adjoins other land which is already being used for urban purposes and is the most economic to service,
 - not provide for development of land which is unsuitable for urban growth due to its agricultural capability or which adjoins land that is currently used for agriculture,

- not include for development land that is unsuitable due to any environmental hazard unless the council has made an assessment of the risk and considered it to be minor or alternatively has made provision for the control or reduction of that hazard,
- not include for development land which has conservation value or which has heritage, environmental or cultural significance,
- have regard to the rural character and heritage significance of villages and small coastal settlements and the need to maintain that character and significance, and
- provide substantial buffer areas between coastal urban centres to avoid uninterrupted coastal development

Comment: The parameters listed in part (c) of Clause 38 have been addressed by the Bennell & Associates report. The proposal is consistent with Clause 38.

Clause 40 Plan preparation—principles for urban zones

A draft local environmental plan applying to urban areas should adopt the following principles:

- (a) zoning should be simple and flexible,
- (b) provisions for flexible zone boundaries may apply to any zones except environmental protection zones,
- (c) detailed guidelines within the broad zone parameters should be identified in a development control plan (DCP), and
- (d) the principle of minimising energy use, in particular in the design of buildings and effective transport systems.

Comment: Coffs Harbour City Council has adopted a Development Control Plan which supports Coffs Harbour LEP 2013. To satisfy the requirements of Clause 40, the LEP and DCP have controls and guidelines included for:

- Maximum Building Height limits;
- Subdivision requirements including lot sizes;
- Floor Space Ratio;
- Water Sensitive Urban Design (WSUD);
- Stormwater and Flooding management;
- Landform modification;
- Servicing;
- Landscaping;
- Acid Sulfate Soils; and
- Energy Efficiency.

Adequate planning and development controls are in place for the development of the subject land for residential purposes. The proposal is consistent with this clause.

Clause 42 Plan preparation—principles for housing

- (a) A draft local environmental plan to permit dwellings in urban areas should incorporate provisions that:

- allow the alteration or addition of a dwelling so as to create two dwellings in either attached or detached form,
- allow a wide range of housing types and densities,
- separate residential development from other incompatible development, including agricultural activity on adjoining land,
- require that development for residential purposes should not take place until the council is satisfied that the land on which any dwellings are to be erected is adequately serviced with water and sewage disposal facilities,
- retain existing provisions to enable a dwelling to be erected on an existing allotment, and
- permit the use of manufactured home estates for permanent occupation.

(b) A draft local environmental plan that will permit dwellings to be erected in urban areas should not:

- require development consent for a dwelling-house in a residential zone, except where there are special environmental or hazard considerations, or
- specify a minimum allotment size for residential zones.

Comment: The Draft LEP will be in keeping with current planning practice under the Standard LEP Template of LEP 2013. The draft LEP will allow for dual occupancy development, a range of dwelling types in a low density context and reasonable separation from agricultural activities by Mullaway Drive ; it being noted that the nearest rural lands are located on the opposite side of Mullaway Drive from the subject land. The land will be connected to the reticulated water and sewer network and consent will be required for dwellings as per the current practice.

The land will be subject to the provisions of the R2 Low Density Residential zone of Coffs Harbour LEP 2013 and the associated LEP attribute maps, being:

- Minimum Lot Size map: 400 m² (Category F); and

The proposal is considered to be consistent with this Clause.

Clause 45 Plan preparation—hazards

Under this clause a draft local environmental plan should not permit development for tourism, rural housing or urban purposes on land subject to the following hazards, namely:

- (a) coastal processes,
- (b) flooding or poor drainage,
- (c) dangers arising from potential or actual acid sulphate soils,
- (c1) dangers arising from contaminated land,
- (c2) geological or soil instability,
- (d) bush fire,
- (e) aircraft noise at levels of more than 25 (measured according to the Australian Noise Exposure Forecast),
- (f) air or water pollution, or airborne pollution, within 400 metres of sewage treatment works,
- (g) disposal of septic effluent,
- (h) existing offensive or hazardous industries, and
- (i) high tension electrical power lines,

unless the council has made an assessment of the extent of the hazard and included provisions in the plan to minimise adverse impact.

The Clause also states that in the event of a bush fire hazard being identified for land on which dwellings are proposed to be permitted, the council shall not permit development unless it is satisfied that arrangements where appropriate have been made to:

- (a) require the creation of a perimeter road or reserve which circumscribes the hazard side of the land intended for that development,
- (b) require the creation of a fire radiation zone located on the bushland side of the perimeter road.

Comment: *The land is not subject to any coastal processes or any identified geological instability or soil instability. The land is not located near any aircraft noise generation areas, offensive or hazardous industries and is not located near a sewerage treatment works or high voltage power lines. The land is subject to bushfire hazard and a low risk of acid sulfate soil. The investigations have shown that these risks are manageable and will not prevent the land being developed for low density housing as shown in the Draft Concept Plan. The environmental hazards are addressed in detail later in this report.*

The proposal is in keeping with Clause 45.

Clause 50 Plan preparation—height controls

Before preparing a draft local environmental plan applying to an urban area, the council should consider the necessity for height controls on buildings and include such controls as it considers appropriate.

Comment: *The land will be subject to the 8.5m Maximum Building Height Limit under the provisions of Coffs Harbour City LEP 2013, and the height controls under the NSW Housing Code for Complying Development. The proposal is consistent with this Clause.*

Clause 56A Plan preparation—bus services

In the preparation of a draft local environmental plan involving an alteration to the zoning of land which could give rise to the need for bus services or the revision of existing bus services, the council should take into consideration the guidelines in Technical Bulletin 19—Planning for Bus Services (published in 1989 by the Department of Planning and the Ministry of Transport at that time) to ensure that the draft plan allows for the provision of an adequate and efficient bus route system.

Comment: *The land is located on the local bus route of the Grafton to Coffs Harbour Service. The main bus shelter is located near the Mullaway General Store, approximately 300m from the subject land. This distance is within a reasonable walking distance and the bus services are considered to be reasonable in the context of the northern beaches locality.*

The proposal is consistent with this Clause.

Clause 58 Plan preparation—servicing urban areas

A draft local environmental plan should not permit development for urban purposes unless the council is satisfied that:

- (a) the proposed development will make the most economic use of existing services;
- (b) where the proposed development is adjacent to an existing urban area and that urban area will be substantially increased, the provision of a reticulated water and sewer system will be provided at reasonable cost to each lot;
- (c) the proposed development is located in an area which is consistent with the findings of any urban land release strategy prepared for the local government area or, where no such strategy has been prepared, the proposed development is located in the area to which services can be provided most readily;
- (d) consideration has been given to the identification of effluent disposal and discharge points;
- (e) domestic water catchment areas and water storage areas are not likely to be polluted as a result of the proposed development; and
- (f) consideration has been given to the provision of public transport facilities, pedestrian and cycleways.

Comment: *The development of the land represents an economically efficient use of the land with water, sewer and road services readily available to the land.*

The land is located in a release area and in keeping with the Coffs Harbour City land release strategy as expressed in the OLC Strategy.

*The land can be connected to the reticulated sewer network and will have **no effluent discharge points**.*

*The land is not within a **domestic water catchment area and water storage area**.*

The land is located in an existing urbanised area that is serviced by buses and can be accessed by cyclists and pedestrians. An on-road cycleway is located along Mullaway Drive and an off-road pedestrian/cycleway is located along Arrawarra Road. This development provides an opportunity for a safer off- road cycleway to be provided along Mullaway Drive.

The proposal is consistent with this Clause.

Clause 65 Plan preparation—provision of community, welfare and child care services

A draft local environmental plan should:

- (a) not zone land for residential purposes (including rural residential) unless the council has made an assessment of the need for additional community and welfare services and is satisfied that the plan contains adequate provisions to enable the provision of those services; and
- (b) include child care centres as a land use which is permissible with the council's consent in all rural, residential and business zones.

Comment: *This proposal is expected to accommodate a population of approximately 50-60 people. Mullaway has a Primary School (Mullaway Primary School) and an aged care facility is proposed to be developed on the land almost opposite the school on Mullaway Drive. The area is*

provided with outreach services from a number of welfare providers, but a trip to Woolgoolga or Coffs Harbour is required for higher order community and welfare services. The site has good accessibility to the regional road network for access to these services. The site has reasonable access to social support facilities.

The proposal is consistent with this Clause.

SEPP No. 71 Coastal Protection

SEPP No. 71 – Coastal Protection applies to the subject land. The subject land is within the coastal zone. Council is required to take into account the matters listed in Clause 8 of the Policy when preparing a draft LEP. These are listed below together with a response on how the proposal meets the requirement.

Matters for Consideration	Response
Aims of the Policy which seek to protect and better manage the NSW Coast	The proposal is for a development in keeping with Council's Settlement Strategy which in turn has been prepared in keeping with coastal management policies.
Existing public access along the foreshore is to be retained.	The PP will have no impact on public access.
Opportunities for new public access to the foreshore to be considered.	Not applicable
Suitability of development in terms of type, location and design and its relationship with surrounding areas.	The site is suitable for this scale of development and is in keeping with the zoning of the adjoining land, eastwards to the existing village of Mullaway.
Any detrimental impacts upon foreshore amenity, including overshadowing of foreshores or loss of significant views.	The PP will have no impact upon, or the amenity to, the foreshore.
Scenic qualities of the NSW Coast.	The subject land provides little contribution to the scenic qualities of the coast at present; it supports vacant grasslands. A well designed low density residential estate can potentially add to the scenic qualities of the area.
Measures to conserve animals (including fish and marine vegetation) and existing wildlife corridors.	Habitat areas on the subject land are to be protected and enhanced to provide an improved outcome for native flora and fauna.
The likely impact of coastal hazards and processes.	The land is not subject to any identified coastal hazards or processes.
Measures to reduce potential conflict between land-based and water based coastal activities.	The land is not subject to any identified land or water based conflicts.
Measures to protect Aboriginal culture	The land is a highly disturbed site that is unlikely to be the source of any Aboriginal cultural values.
Likely impact on the water quality of coastal waterbodies.	The land can be developed to have a positive impact in terms of water quality with the imposition of WSUD measures.
Conservation and preservation of heritage items.	There are no identified heritage items on the land or on the adjoining lands.
Encouragement of compact towns and cities.	The proposal assists in creating a compact urban area; it is a logical extension of the adjoining residential zone.
Cumulative impacts upon the environment and	The proposal is in keeping with Council's 'Our Living

measures to ensure water and energy efficiency.	City' Settlement Strategy (2009) in that it has considered the wider cumulative impacts. It is an urban release in accordance with that strategy. Future dwellings to be built will be subject to compliance with BASIX requirements.
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6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The Ministerial Directions under Section 117 of the EP&A Act 1979 of relevance to this proposal are addressed as follows:

Direction 1.2 Rural Zones: This Direction seeks to protect the agricultural production value of rural land and prevents the rezoning of land from rural to residential purposes, but allows an inconsistency where a proposal is in accordance with a Regional Strategy or where the proposal will have a minor environmental impact.

Comment: *The proposal is in keeping with the MNCRS as it is within an area identified for urban growth. The proposal is of minor significance as it relates to a small parcel of land (i.e. 3.122 hectares) and is partly located on land that is not prime agricultural land.*

The proposal is consistent with this Direction.

Direction 1.5 Rural Lands: Under this Direction a planning proposal a Draft LEP must be consistent with the Rural Planning Principles listed in State Environmental Planning Policy (Rural Lands) 2008 unless an inconsistency is justified by a strategy that meets the criteria listed in the Direction. The Rural Subdivision Principles are as follows:

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

Comment: *The land is earmarked for urban purposes and is located in an urbanised setting with lands used for rural purposes located well away from the subject land. The only rural enterprises in the immediate area of the subject land is an alpaca grazing area and poorly maintained coffee plantation on the opposite side of Mullaway Drive near the former Pacific Highway (Solitary Islands Drive). The subject land is well buffered from these lands and will have no impact upon these agricultural enterprises in the locality.*

The land can be developed in accordance with its environmental capacity and measures to responsibly manage the limited environmental constraints are addressed in this report.

The proposal is consistent with this Direction.

Direction 2.2 Coastal Protection Zones: The objective of this direction is to implement the principles in the NSW Coastal Policy and requires a planning proposal to include provisions that give effect to and are consistent with:

- (a) the NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997, and
- (b) the Coastal Design Guidelines 2003, and
- (c) the manual relating to the management of the coastline for the purposes of section 733 of the Local Government Act 1993 (the NSW Coastline Management Manual 1990).

Comment: The proposal is consistent with these policy documents as it incorporates the following:

- Avoidance of environmental hazards;
- Connection with existing urban areas;
- Consistency with settlement strategies for the creation of compact towns;
- Provision of opportunities for water sensitive urban design;
- Opportunity for varied forms of low density housing;
- Avoidance of coastal hazards and processes;
- Efficient connection to services, including transport, water and sewer services.

The proposal is consistent with this Direction.

Direction 3.1 Residential Zones: The objectives of this direction are threefold:

- (a) to encourage a variety and choice of housing types to provide for existing and future housing needs,
- (b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and
- (c) to minimise the impact of residential development on the environment and resource lands.

A planning proposal must include provisions that encourage the provision of housing that will:

- broaden the choice of building types and locations available in the housing market;
- make more efficient use of existing infrastructure and services; reduce the consumption of land for housing and associated urban development on the urban fringe, and
- be of good design.

A planning proposal must, in relation to land to which this direction applies:

- contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it); and
- not contain provisions which will reduce the permissible residential density of land.

Comment: The proposal provides for the rezoning of the land for low density housing. The zone allows for a wide range of dwelling types that could be developed on the land. The rezoning will add to housing choice by increasing the stock of low density housing lots in an area with readily available infrastructure services. The Mullaway locality currently has limited supply of vacant housing lots, and the rezoning of this land will assist with the increase in supply and indirectly assist in making the cost of land more affordable in this locality.

The Draft LEP will be in the form of an amendment to Coffs Harbour LEP 2013 which requires servicing and allows for a density of one dwelling per 400m².

The proposal is consistent with this Direction.

Direction 3.3 Home Occupations: Under this Direction Draft LEPs shall permit home occupations to be carried out in dwelling houses without the need for development consent.

Comment: If the land is zoned R2 and subject to the current provisions under LEP 2013, home

occupations will be able to be carried out in dwelling houses without the need for development consent.

The proposal is consistent with this Direction.

Direction 3.4 Integrating Land Use and Transport: The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:

- (a) improving access to housing, jobs and services by walking, cycling and public transport, and
- (b) increasing the choice of available transport and reducing dependence on cars, and
- (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and
- (d) supporting the efficient and viable operation of public transport services, and
- (e) providing for the efficient movement of freight.

A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:

- (a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and
- (b) The Right Place for Business and Services – Planning Policy (DUAP 2001).

Comment: The proposal provides the following measures to integrate land use and transport planning in accordance with the DUAP documents:

- land is located with 500m of main arterial road for transport;
- land is able to be connected to available pedestrian and cycleway networks;
- proposal provides opportunity to make land part of a pedestrian cycle network; and
- land adjoins an existing residential zone.

The proposal is consistent with this Direction.

Direction 4.1 Acid Sulfate Soils: The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.

Comment: The land is in the lowest risk Class (i.e. Class 5) and no impact upon acid sulphate soils are expected from the development of the land for housing. The Class 5 land is generally a buffer to the more sensitive higher class risk lands.

The proposal is consistent with this Direction.

Direction 4.4 Planning for Bushfire Protection: The objectives of this direction are:

- (a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and
- (b) to encourage sound management of bush fire prone areas.

A planning proposal must:

- (a) have regard to *Planning for Bushfire Protection 2006*,
- (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and
- (c) ensure that bushfire hazard reduction is not prohibited within the APZ.

A planning proposal must:

- (a) have regard to *Planning for Bushfire Protection 2006*,
- (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and
- (c) ensure that bushfire hazard reduction is not prohibited within the APZ.

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

- (a) provide an Asset Protection Zone (APZ) incorporating at a minimum:
 - (i) an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and
 - (ii) an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road,
- (b) for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the planning proposal permit Special Fire Protection Purposes (as defined under section 100B of the Rural Fires Act 1997), the APZ provisions must be complied with,
- (c) contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks,
- (d) contain provisions for adequate water supply for fire fighting purposes,
- (e) minimise the perimeter of the area of land interfacing the hazard which may be developed,
- (f) introduce controls on the placement of combustible materials in the Inner Protection Area.

Comment: *Matters concerning Bush Fire Protection are addressed in Appendix D of the Bennell & Associates Report (Bushfire Assessment prepared by FloraFauna Consulting).*

The proposal is consistent with this Direction.

Direction 5.1 Implementation of Regional Strategies: The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies. Planning proposals must be consistent with a regional strategy released by the Minister for Planning.

Comment: *The Planning Proposal is consistent with the Mid North Coast Regional Strategy; the proposal provides for a logical extension of an existing residential zone and is in keeping with the objectives of providing housing close to existing urban areas.*

The proposal is consistent with this Direction.

Section C - Environmental, social and economic impact.

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

The key environmental impact issues to consider in relation to this proposal concern:

- Flora, Fauna and Biodiversity.

This is addressed by the Bennell & Associates Report, Section 6.1 (p.33) Flora, Fauna and Biodiversity (also see Appendix C):

From the habitat assessment and database/literature review, it was considered that 11 threatened species as listed under the Threatened Species Conservation Act 1995 and Environment Protection and Biodiversity Conservation Act 1999 could potentially utilise the limited resources available in the habitat within the study area. The Assessment concluded that the proposal is unlikely to impact significantly on any threatened species and populations.

The rezoning and development of the land can be achieved without the necessity to remove any significant native trees on the site and can assist in the management of weeds on the site. The fire trail outlined in the concept plan has been located away from the areas of bushland on the site and the layout has been designed to allow the retention of all significant native trees on site. With the imposition of the recommendations from the Ecological Assessment, it is anticipated that the proposal will have a neutral to beneficial impact upon the existing biodiversity values on site.

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

The following additional likely environmental effects have been identified by the Bennell & Associates Report:

- Visual Amenity and Urban Design;
- Geotechnics, Slope and Contaminated Land;
- Bushfire Risk; and
- Archaeology (Indigenous and Post-settlement).

The following sections of the Bennell & Associates Report address the environmental impact issues listed above:

- Section 6.2 (p.34): Visual Amenity and Urban Design;
- Section 6.3 (p.37): Geotechnics, Slope and Contaminated Land;
- Section 6.4 (p.37): Bushfire risk (also see Appendix D); and
- Section 6.5 (p.38): Archaeology (also see Appendix E).

Comments are provided on the proposed management of each of the aforementioned points:

Visual Amenity and Urban Design

The Concept Master Plan (see Section D of this report) and Housing Development Concept (Figure 8, Bennell & Associates Report, page 10) adopts the following design measures:

- Lot layout designed to allow for passive solar access;
- Large lots to allow for housing set within landscaped surrounds;
- Simple linear layout in keeping with settlement patterns;
- Fire trail to reduce edge impacts upon bushland;
- Larger lot for existing dwelling to maintain character and ensure driveway access point meets sight distance requirements;
- Retention of existing trees;
- Potential for safer off- road cycleway;
- Street tree planting to enhance entry avenue along Mullaway Drive.

The proposed concept layout is in keeping with the urban design principles from the North Coast Urban Design Guidelines for infill areas.

Geotechnics, Slope and Contaminated Land

These environmental attributes have been investigated as part of the Bennell & Associates Report. In summary, no geotechnical, slope or contaminated land constraints have been identified as applying to this land in relation to its development potential for residential purposes.

Bushfire Risk

Section 6.4 of the Bennell & Associates report proposes that the following recommendations are made in relation to bushfire protection measures for the most likely use for a residential subdivision of the land at Lot 1 DP 417132, Mullaway Drive, Mullaway, and are based on the relevant provisions of the NSW Rural Fire Service guideline entitled *Planning for Bush Fire Protection 2006* and *Australian Standard AS 3959-2009 Construction of buildings in bushfire-prone areas*:

- At the issue of a subdivision certificate and in perpetuity, the land to a minimum distance of 30 metres situated between the northern boundary of the subject site and the northern edge of the (future) building envelopes shall be maintained as an Inner Protection Area (IPA) as prescribed under Section 4.1.3 and Appendix 5 of *Planning for Bush Fire Protection 2006*;
- As outlined under Section A2.2 of *Planning for Bush Fire Protection 2006*, and in relation to the requirements of recommendation 1 above, the IPA should provide a tree canopy cover of less than 15 % which should be located greater than 2 metres from any part of the roofline of a dwelling. Garden beds of flammable shrubs are not to be located under trees and should be no closer than 10 metres from an exposed window or door. Trees should have lower limbs removed up to a height of 2 metres above the ground;
- Water, electricity and gas supply provisions are to comply with section 4.1.3 of *Planning for Bush Fire Protection 2006*. Any new electricity supply lines are to be installed underground; and
- The proposed fire trail shall comply with Section 4.1.3 (3) of *Planning for Bush Fire Protection 2006*.

If the proposed rezoning occurs, the land will also be subject to the NSW Rural Fire Service's recently introduced (1 August 2014) *10/50 Vegetation Clearing Code of Practice for New South Wales*. The Bennell & Associates Report does not address this issue as the Report was submitted to Council prior (23 June 2014) to the 10/50 Code of Practice being introduced.

Archaeology

Section 6.5 of the Bennell & Associates Report indicates that an Aboriginal Heritage and Information Management System (AHIMS) search has been undertaken in accordance with Office of Environment and Heritage guidelines and with the “Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales”.

The AHIMS search has revealed that there are no objects on the land or within 50m of the subject land; Appendix E includes the results of the search.

Regardless of the results of the AHIMS search, the following condition is recommended for any future development application that may result in the disturbance of the land to ensure the protection of Aboriginal cultural heritage in the unlikely event that an item or object is found:

‘The owners, and their employees, earthmoving contractors, subcontractors, machine operators and their representative, whether working in the survey area or elsewhere, should be instructed that in the event of any bone or stone artefacts, or discrete distributions of shell, or any objects of cultural association, being unearthed during earthmoving, work should cease immediately in the area of the find. Contact is to be made with the NSW Office of Environment and Heritage.’

The imposition of the above condition will ensure any cultural heritage values associated with the site are protected.

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

The proposed rezoning will add approximately 3.122 hectares of residential land to the existing village of Mullaway. Based on the Concept Master Plan which informs this Planning Proposal, this allows for 22 additional residential allotments.

This is considered to have beneficial social and economic impact on the village of Mullaway by offering greater housing choices and an increased land stock in the locality. The small scale of this proposal is not considered to place unreasonable demands on existing social services in the village of Mullaway or the immediate area.

Section D - State and Commonwealth interests.

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

The precinct is serviced by the reticulated water supply and sewerage system which services the adjoining residential precinct.

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

This requirement of the planning proposal will be determined following consultation with any State and Commonwealth Public Authorities which are identified in the Gateway Determination.

It will summarise any issues raised by public authorities not already dealt with in the planning proposal, and address those issues as appropriate.

Relevant public authorities were previously consulted during the preparation of Council's 'Our Living City' Settlement Strategy (2009). It is expected that further consultation with public authorities will be required in relation to this Planning Proposal under the forthcoming Gateway Determination.

In addition to the above comments, the Bennell & Associates report states that:

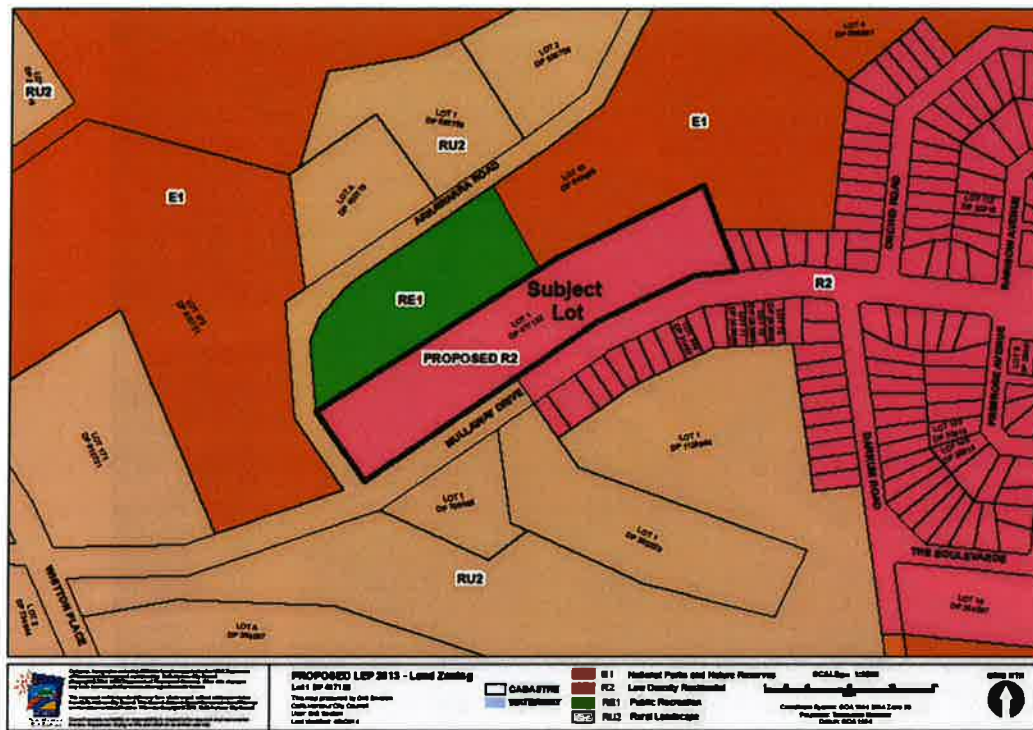
"The Environment Protection and Biodiversity Conservation (EP&BC) Act 1999 generally seeks to provide for the protection of the environment, especially those aspects of the environment that are matters of national environmental significance. The Ecological Assessment by FloraFauna Consultants included a search of the Department of Sustainability, Environment, Water, Population and Communities web site employing the 'Protected matters Search Tool' with a 10km buffer was undertaken to identify the matters of National Ecological Significance that may occur in, or may relate to the site.

The subject land is a highly disturbed parcel of land that supports no significant native vegetation. Provided that soil erosion and sediment control measures, water sensitive urban design measures and the proposed ecological measures are put in place, the proposal should have a neutral to positive impact in terms of biodiversity values. Accordingly, the planning proposal is not expected to impinge upon any Commonwealth interests and is in keeping with the EP&BC Act intent of promoting ecologically sustainable development."

3. Aerial Photograph



4. Proposed Zones



The Planning Proposal will also require amendments to the following attribute map, being:

- Minimum Lot Size map: **From:**
40 hectares (category AB) in the existing RU2 zone; and
from uncategorised in the existing RE1 zone,
To:
400 m² (category F) to the whole of the subject land.

A Concept Master Plan has been prepared to inform the Planning Proposal. The Master Plan, indicates a yield of 22 additional residential lots, is included in the Bennell & Associates report (page 10, Section 3.3, Figure 7):



Part 5 – Community Consultation

The proposal to rezone the subject land for residential purposes is deemed to be a “low impact planning proposal”. This means that the planning proposal is:

- generally consistent with the pattern of surrounding land use zones and/or land uses;
- is consistent with the strategic planning framework; presents no issues with regard to infrastructure servicing;
- is not a principal LEP; and
- does not reclassify public land.

(‘A Guide to Preparing Local Environmental Plans’, S.5.5.2, NSW P&I, April 2013)

Therefore it is considered that this matter would require public consultation for a period of 14 days.

It is not considered that a greater period of public notification is required, nor that a public hearing should be held given that the matter accords generally with provisions of the Mid North Coast Regional Strategy 2009.

Part 6 – Project Timeline

September 2014	Planning Proposal to NSW DPE for Gateway Determination.
October / November 2014	Public Exhibition / Consultation period.
December / January 2015	Report to Council for determination of the Planning Proposal.
January / February 2015	Submission to NSW DPE, requesting the making of the LEP Amendment by the Minister, pending adoption by Council.