

Report

Subject	Bexhill Rezoning Planning Proposal
TRIM Record No	BP15/352:EF12/504
Prepared by	Consultant Principal Planner - Planning Resolutions
Reason	To obtain a resolution of Council to forward the Bexhill rezoning planning proposal to the Minister for Planning for a Gateway determination.

Executive Summary

This report provides an overview of the Bexhill rezoning planning proposal. The planning proposal report attached to this Council report provides a detailed assessment of the proposal as required in accordance with the Department of Planning and Environment's guidelines.

The planning proposal seeks to apply a combination of the RU5 Village Zone and the R5 Large Lot Residential Zone, with the residue land to remain in the RU1 Primary Production Zone. A minimum lot size of 2500m² is proposed in the RU5 and R5 Zones. A minimum lot size of 40ha would still apply to the residue RU1 Zone. A maximum building height of 8.5m is proposed for land within the RU5 and R5 zones.

When submitted the proponents' proposal indicated the potential for 160 lots all to be included in the RU5 Village zone on the basis of connecting the land to Council's reticulated sewer system. Reports accompanying the proposal investigated the suitability and feasibility of a conventional gravity wastewater collection system with transfer of the wastewater to the South Lismore Sewage Treatment Plant (STP) via a pump station and a 10 kilometre rising main. Significant issues in this sewer connection proposal are controlling septicity within the rising main and the economic feasibility in terms of "Whole of Life" costs for the sewerage assets. The proponents have not satisfied Council in regard to these two issues; therefore the planning proposal includes a minimum lot size of 2,500 m² and future dwellings would include on-site wastewater systems.

The land is constrained with approximately 3.5ha in the flood planning area in the south west corner of the site and some potentially unstable slopes towards the upper ridge. It is proposed to retain the RU1 Primary Production zone for land within the flood planning area.

The areas of unstable slopes towards the upper ridge and over the ridgeline are recommended for the R5 Large Lot Residential zone, which is a less intensive land use zone compared with the proponents requested RU5 Village Zone. The proponents have prepared a number of supporting assessment reports. The majority of these were prepared in 2007 and as such some of them are out of date.

Council has sufficient information to support the progression of the Bexhill rezoning planning proposal to a Gateway determination. Further studies and reports are recommended post Gateway to thoroughly assess the proposal.

This report recommends that Council adopt the planning proposal and forward the matter to the Minister for Planning seeking a Gateway determination.

Background

The original rezoning application for the Bexhill site was lodged with Council in 2007 with a request that the land be rezoned as part of the Comprehensive Standard Instrument LEP process. The matter was

not progressed due to various unresolved issues. In the time that has elapsed since the consideration of the 2007 rezoning submission, *the EP&A Act 1979* was amended introducing new Part 3 provisions, in particular the Gateway process. The proponents have updated the proposal in accordance with the Department of Planning and Environment's planning proposal guidelines.

The planning proposal that forms the subject of this report varies from the proponent's request in that the minimum lot size has been increased to 2500m² to accommodate on-site wastewater disposal, the R5 Large Lot Residential zone is proposed on part of the land instead of R5 Village Zone as a response to geotechnical constraints; and land within the flood planning area is to remain in the RU1 Primary Production Zone.

Planning consultancy Planning Resolutions has been engaged by Council to progress the planning proposal to the Gateway stage. The landowner is fully funding the cost of this consultant engagement.

The site

The land has an area 35.5 ha, consisting of 23 lots. The land generally has west to south westerly slopes and rises up to a ridgeline of about 80m AHD. About 10ha of the land are classified as having high to very high geotechnical constraints. The developable area is generally clear of woody vegetation; however, there are significant areas of native grasslands. The land is bounded by rural land uses to the east, south and north. Village land adjoins the western boundary of the site.

Locational and constraints mapping is provided as figures 1 – 5 below.

Figure 1 - Site Location Map



Figure 2 - Contour, flood planning area and stream order map

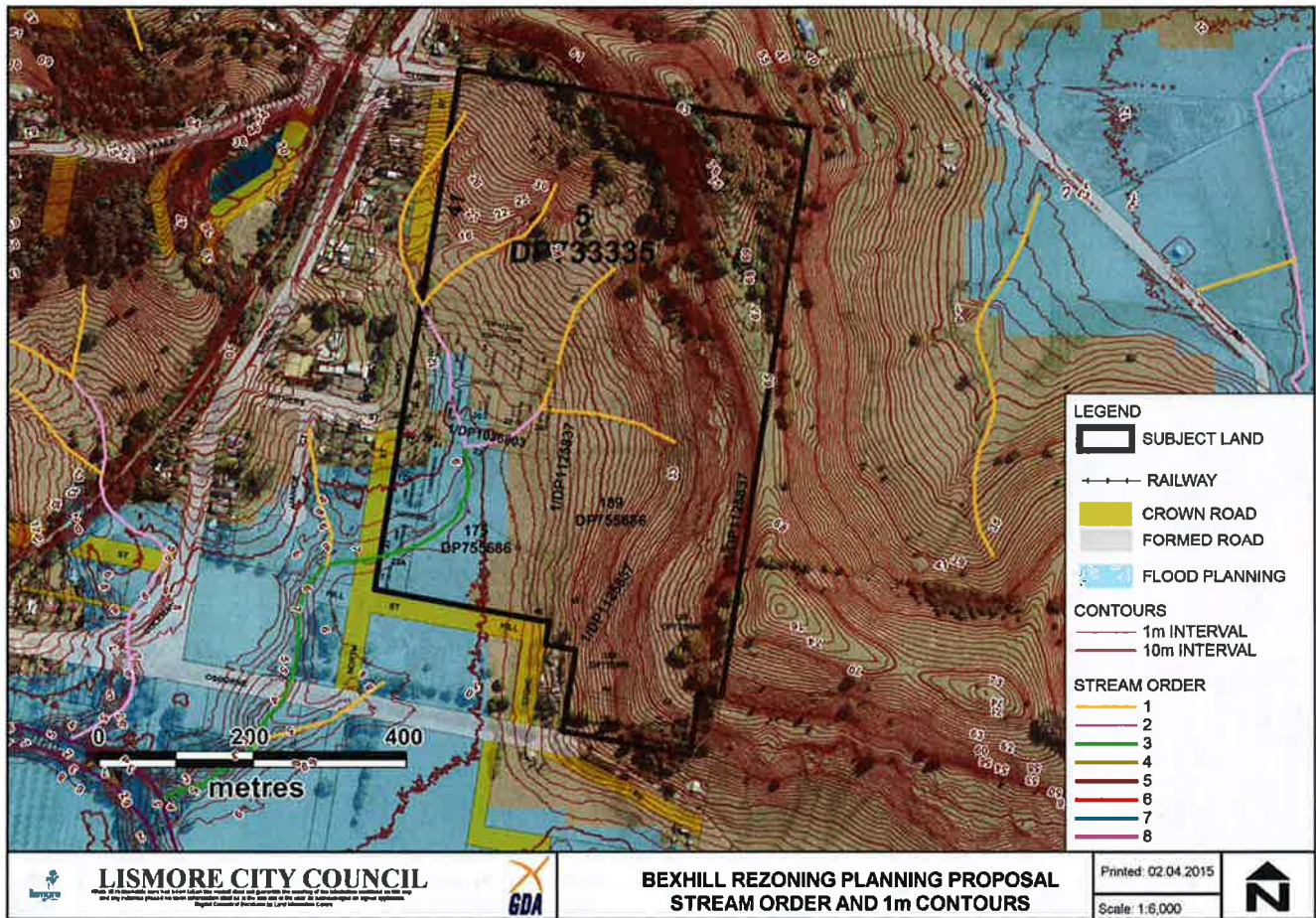


Figure 3 - Koala habitat map

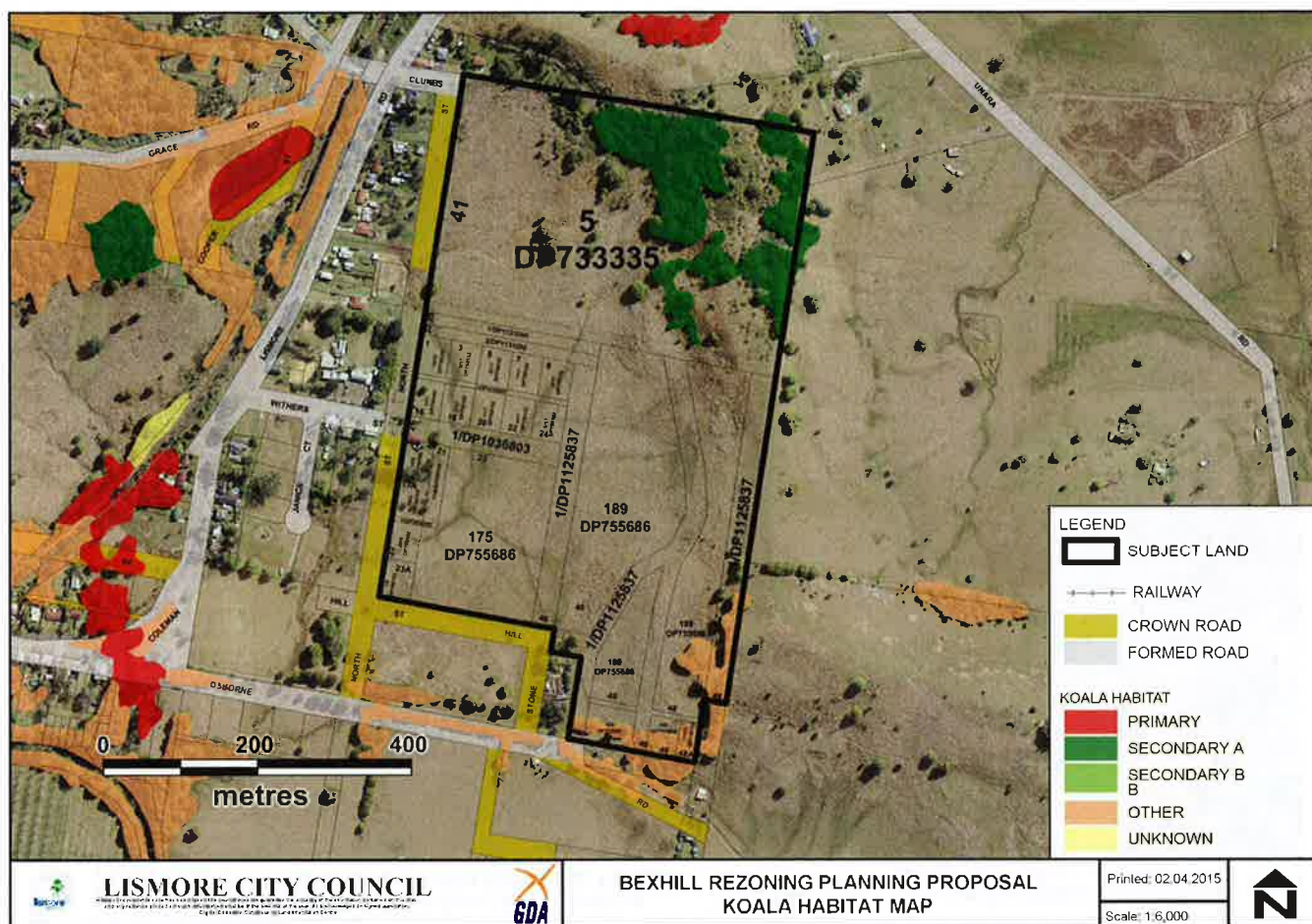


Figure 4 - Farmland classification map

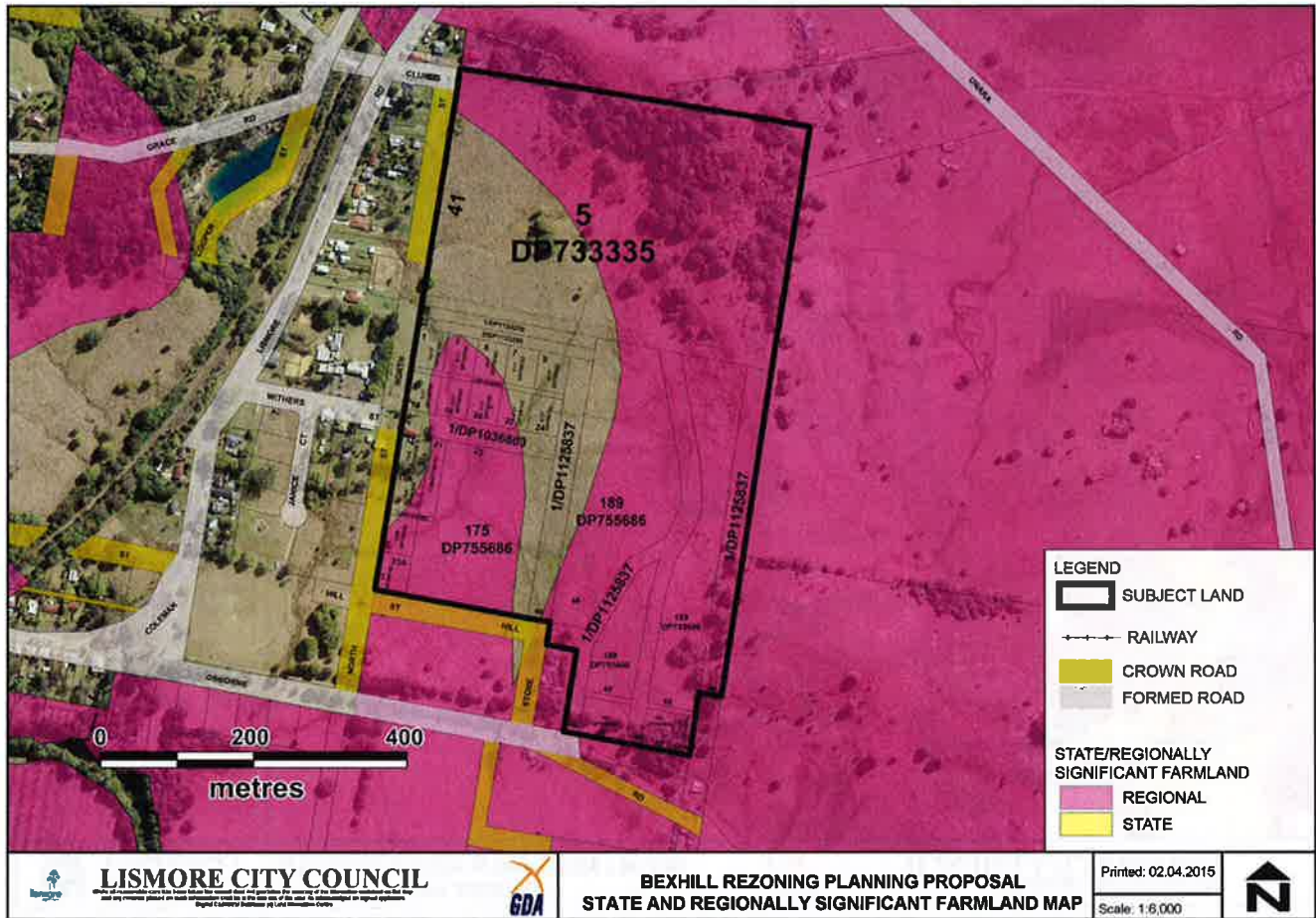
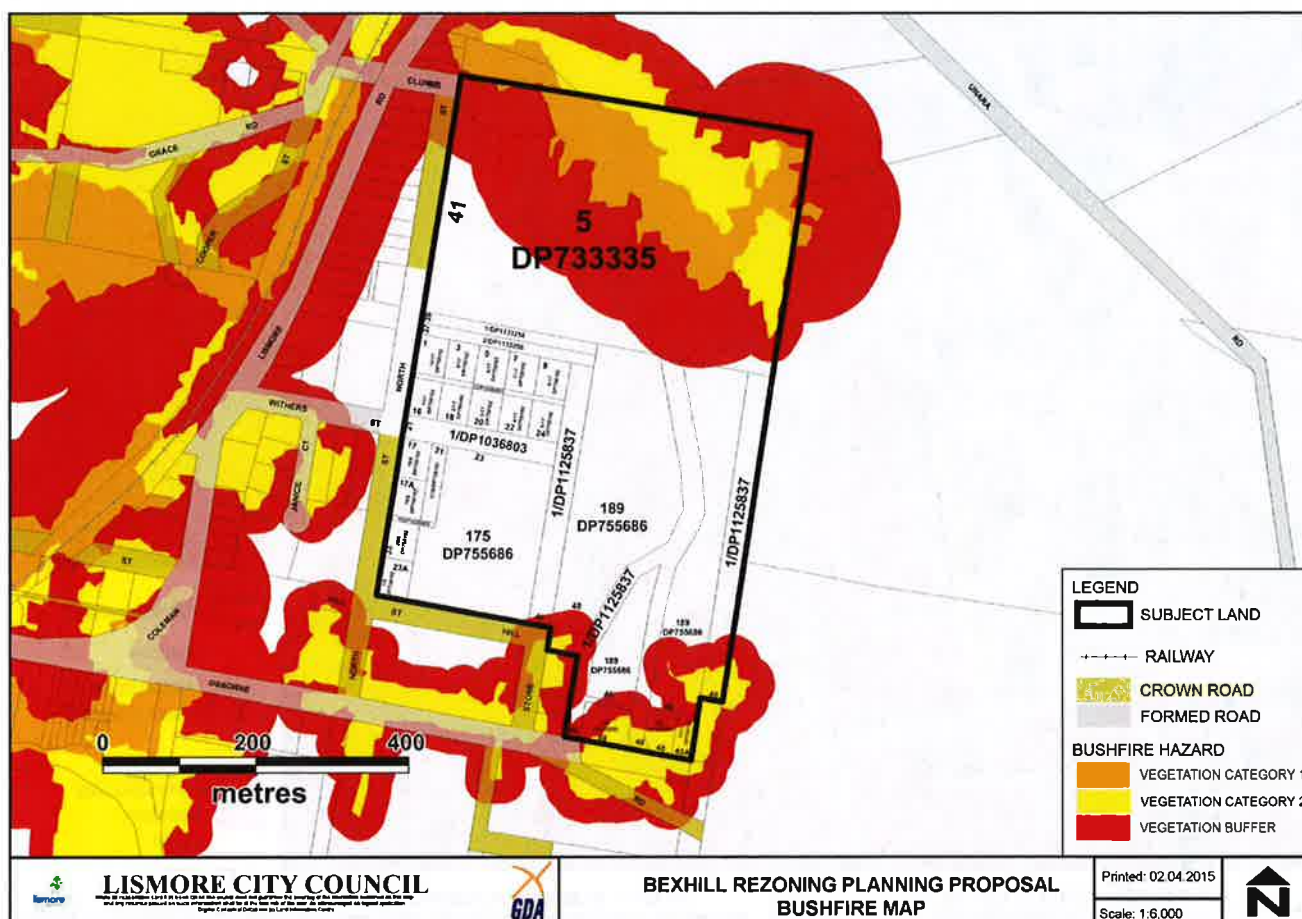


Figure 5 - Bush fire prone land map



Overview of the planning proposal

Table 1 below provides an overview of the planning proposal structured in accordance with the DP&E guidelines for planning proposals. Refer to Attachment 1 for the detailed planning proposal report.

Table 1 – Bexhill Rezoning – Planning Proposal

Part	Requirements	Description of planning proposal
1	OBJECTIVES OR INTENDED OUTCOMES	The objective of this proposal is to enable the future expansion of Bexhill Village through the rezoning of part of the land to Zone RU5 Village and Zone R5 Large Lot Residential.
2	EXPLANATION OF PROVISIONS	- Amend Land Zoning Map – Sheets LZN_005 and LZN_005A to include Zone RU5 Village and Zone R5 Large Lot Residential; - Amend Lot Size Map – Sheet LSZ_005 so that 2500m² applies to Zones RU5 and R5; - Amend Height of Buildings Map – Sheet HOB_005 so that 8.5m applies to Zones RU5 and R5.
3	JUSTIFICATION Section A – Need for the Planning Proposal 1. Is the Planning Proposal a result of any strategic study or report?	- Land mapped in Lismore Village Strategy 1997; - Land mapped in Far North Coast Regional Strategy; - Land mapped in Draft Growth Management

Part	Requirements	Description of planning proposal
	2. Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?	Strategy. Yes, land must be rezoned to enable future village expansion.
3	JUSTIFICATION Section B – Relationship to Strategic Planning Framework 3. Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy? 4. Is the Planning Proposal consistent with the Council's local strategy or other local strategic plan? 5. Is the Planning Proposal consistent with applicable State Environmental Planning Policies? 6. Is the Planning Proposal consistent with applicable s117 Ministerial Directions?	- The land is included in the Far North Coast Regional Strategy (FNCRS) Town and Village Growth Boundary Map. - Consistent with LEP 2012 zone objectives; - Consistent with Imagine Lismore's community vision for increased housing; (Refer to attachment 1 for detail) - Consistent (Refer to Attachment 1 for detail); - Further SEPP compliance assessment will be undertaken with the submission of additional studies post Gateway. - Consistent or justifiably inconsistent (Refer to Attachment 1 for detail); - Further S117 compliance assessment will be undertaken with the submission of additional studies post Gateway.
3	JUSTIFICATION Section C – Environment, 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? 8. Are there any likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed? 9. How has the Planning Proposal adequately addressed any social and economic effects?	- A flora and fauna assessment is recommended post Gateway determination. Refer to environment, social and infrastructure assessment below. - A preliminary review of the environmental constraints has been undertaken. Refer to environment, social and infrastructure assessment below; - The following reports are recommended post Gateway determination: land use capability assessment; updated preliminary contaminated land assessment; bush fire threat assessment; and land use conflict risk assessment. - An Aboriginal and European cultural heritage assessment is recommended post Gateway determination.
3	JUSTIFICATION Section D – State and Commonwealth Interests 10. Is there adequate public infrastructure for the Planning Proposal? 11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway Determination?	- A preliminary review of the infrastructure requirements has been undertaken. Refer to environment, social and infrastructure assessment below; - The following reports are recommended post Gateway determination: traffic impact assessment; stormwater management assessment. - Consultation is recommended with the following public authorities/organisations: Rural fire Service; Roads and Maritime Services; Department of Primary Industries; local Aboriginal community;

Part	Requirements	Description of planning proposal
		Office of Environment and Heritage; Department of Education & Communities; and Rous Water.
4	MAPPING	Refer to LEP Maps 1, 2 & 3 below this table.
5	COMMUNITY CONSULTATION	Recommended 28 day exhibition period (Refer to Attachment 1 for detail).
6	PROJECT TIMELINE	Recommendation of 12 months for completion Refer to attachment 1 for detail).
7	DELEGATIONS	Likely that the Minister for Planning will make the plan as the proposal is beyond Council's delegations.

Environmental, social and infrastructure assessment

Council staff have assessed the planning proposal and the following comments and requests for further information have been made. These have been considered, along with site constraints, in the drafting of the LEP Maps and the Planning Proposal.

Biodiversity

Vegetation communities on the site include: 1) Camphor laurel and dry rainforest regrowth; 2) Grasslands; and 3) Riparian forb and sedgelands. As the flora and fauna report submitted with the planning proposal did not provide an adequate assessment of community 3) in particular, it is recommended that the applicant provide a flora and fauna assessment post Gateway determination that provides an analysis of both terrestrial and aquatic habitats for the entire site and includes:

- Mapping of the location of all vegetation communities;
- Consideration of whether Community 1) and 3) conform to the Endangered Ecological Community determinations;
- Systematic search for threatened flora on the site including maps of the location of threatened flora and provides an estimate population size. Note, the search for Hairy-joint Grass must be conducted over the March-May period to ensure that the maximum extent of this species is captured; and
- A comprehensive fauna survey that includes a koala habitat assessment that conforms to the minimum method, structure and content requirements detailed in the Comprehensive Koala Plan of Management for south-east Lismore.

Environmental constraints

Contaminated land

A contaminated land assessment has been prepared and it found no sources of contamination, though Council staff identified the need for the sampling density to be increased for consistency with the NSW EPA Sampling Guidelines to ensure an appropriate confidence in 'hot spot' detection. Further targeted sampling is required around an existing slaughter house in the northern part of the property, as this area has a high potential for residual soil contamination from previous structure treatments (lead based paints etc.). It is appropriate that further sampling occur post the Gateway determination.

Land use conflict

The planning proposal will result in the creation of an interface between existing rural and proposed village residential land uses which has the potential to generate land use conflict. A Land Use Conflict Risk assessment (LUCRA) will be required post Gateway determination consistent with that presented in the publication *'Living and Working in Rural areas – A handbook for managing land use conflict issues on the NSW North Coast'*.

On-site wastewater disposal

The Planning Proposal includes a minimum lot size of 2500m² to incorporate the on-site disposal of wastewater. A land use capability assessment is required post Gateway determination to assess the capacity of the land for the disposal of wastewater.

Bush Fire

Part of the land is identified as bush fire prone and in accordance with s117 Ministerial Direction 4.4, a bush fire risk assessment is required under Planning for Bush Fire Protection 2006. It is recommended that this report is submitted to Council post Gateway determination.

Geotechnical

A preliminary geotechnical report for the site was undertaken by Coffey Geotechnics for the proponents and is included as Attachment 4 in this report. The "High" and "Very High" geotechnical risk areas are provided in the slope analysis plan on Figure 6 below. The RU5 Village zoning has generally been excluded from these unstable areas.

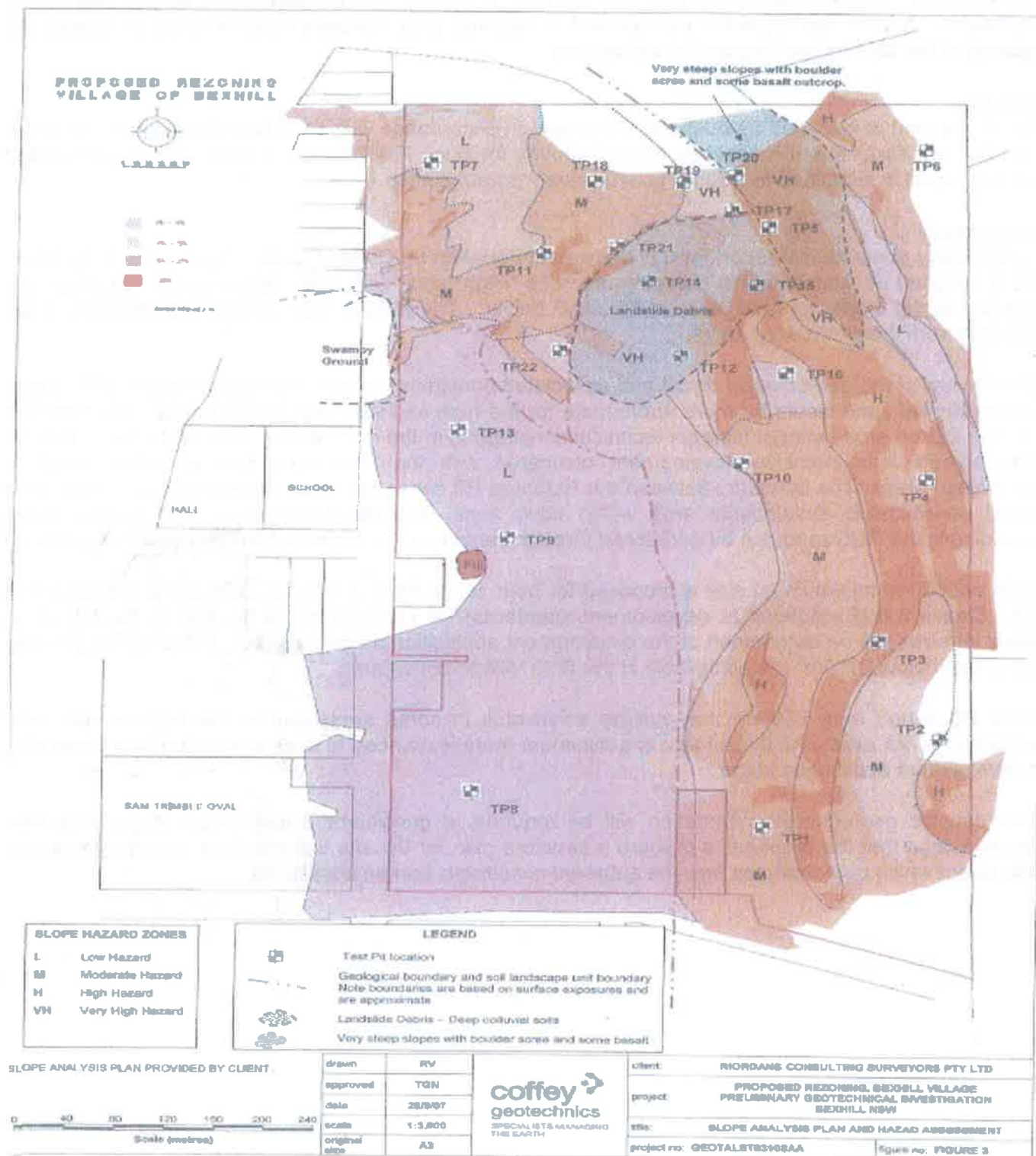
Upon review of the geotechnical report and associated constraints map, it is proposed that the R5 Large Lot Residential zone would be more appropriate for the high and very high geotechnical risk areas and the land locked area (without high geotechnical constraints) in the north east corner of the land. The R5 zone permits less intensive development compared with the RU5 zone and is better suited to constrained areas. The boundary between the RU5 and R5 zones has been adjusted so as to provide a logical consolidated developable area within each zone. The development of high hazard areas remaining in the RU5 zone can be addressed through controls in the Lismore Development Control Plan.

While a 2,500m² minimum lot size is proposed for both zones there is less flexibility under Lismore LEP 2012 Clause 4.6 (Exceptions to development standards) for variation of the lot size in the R5 zone. Actual lot sizes will be determined at the development application stage; however, it is possible that lots with a size below 2500m² are achievable in the RU5 Village zoned area.

In the R5 zoned area 2500m² may not be achievable in some areas due to the high or very high geotechnical risk areas. As this lot size is a minimum there is no need to seek a variation to a larger size at development application stage.

More detailed geotechnical information will be required at development application stage. It is also recommended that the proponents prepare a structure plan for the site that provides an indicate lot and road layout which demonstrates how the apparent constraints can be addressed.

Figure 6 – Slope analysis plan



Flooding

Approximately 3.5ha of the south western portion of the site are within the flood planning area under LEP 2012. This area is proposed to remain within the RU1 zone with a minimum lot size of 40ha.

Social and Cultural Impacts

Aboriginal and European Cultural Heritage

A preliminary heritage assessment was submitted as part of the planning proposal. Further assessment is required of European and Aboriginal cultural heritage to demonstrate consistency with s117 Ministerial direction 2.3. In this regard, it is recommended that an Aboriginal and European cultural heritage assessment is undertaken for the site post Gateway determination.

Social Impact

A social impact assessment (SIA) was submitted in accordance with Council's Policies which require an SIA for rezonings that will enable the creation of 20 or more lots. The SIA concludes that the positive impacts associated with the proposal suggest that the rezoning is worthwhile pursuing.

Infrastructure

Sewer

Effluent disposal for the existing residences in Bexhill village are via individual on-site treatment systems, most commonly septic tanks and trenches.

The proponents commissioned a Preliminary Sewer Options Study - refer to Attachments 2 and 3) to this report. The study looked at the suitability and feasibility of a conventional gravity wastewater collection system with transfer of the wastewater to the South Lismore Sewage Treatment Plant (STP) via a pump station and a 10 kilometre rising main. The significant issues in this proposed sewer connection are controlling septicity within the rising main and the economic feasibility in terms of "Whole of Life" costs for the sewerage assets.

Matters that still remain unresolved include:

- Verifying the feasibility of a system of controlling septicity within the rising main from Bexhill to Lismore. This would need to be developed to an advanced concept design stage together with modelling of conditions within the main to verify its effectiveness. The concept design would need to be developed to a sufficient stage to enable accurate cost estimates of both capital costs and future operating and maintenance costs to be determined to within + or – 10%.
- A financial analysis demonstrating that Whole of Life costs for sewerage assets to be constructed to connect Bexhill to the Lismore sewerage scheme can be met by income to be generated from annual wastewater charges generated from proposed development. This would include a sensitivity analysis to assess the viability of the scheme for a range of growth projections. To be considered viable, future projected income would need to exceed estimated Whole of Life costs by a premium to allow an acceptable margin for error and uncertainty.
- Concept designs and cost estimates for remaining sewerage infrastructure accurate to within + or – 10%.

The proponents have not satisfied Council in regard to these issues. Moreover, there is no provision for reticulated sewer at Bexhill in Council's Strategic Business Plan for Water Supply and Wastewater Services 2014. Additionally, ongoing maintenance costs could potentially increase wastewater rates charges. Therefore, the draft planning proposal includes a minimum lot size of 2,500m² with the future dwelling houses to be serviced via on-site systems on lots.

The proponents may at some stage in the future seek to pursue smaller lot sizes by either: a) connection to Council's reticulated sewer system; or b) construction of a private sewerage treatment plant under the *Water Industries Competition Act 2006*. Should this eventuate, the matter will be further reported to Council and would require a new planning proposal.

Traffic

The report is out of date and does not fully consider the current Bexhill traffic conditions. The assumed 60:40 traffic split for traffic going to Lismore and Bangalow is questionable. The report does not address the operation of the staggered "T" intersections of Bangalow/Corndale/Clunes intersections. However, as a preliminary report, it provides sufficient confidence that traffic issues can be resolved post Gateway through a detailed updated traffic impact assessment, reflecting the changes made to the planning proposal, and the current traffic conditions.

Water

Council staff and the proponents consulted Rous Water regarding expansion of Bexhill Village. Rous provided commentary to Lismore City Council regarding the original planning proposal which included an anticipated lot yield of 160. The amended planning proposal with a 2500m² minimum lot size would have more than halved the original proposed lot yield.

Rous Water comments regarding the planning proposal dated 10 December 2013:

Council is progressing with a water supply servicing strategy in consultation with the developers to determine how supply will be provided and, in particular, details on augmentation to the existing reticulation to facilitate a new water supply reservoir. Rous Water will be able to provide connection to the existing reticulation system for the initial stage of the subdivision. Rous will be able to supply 40 equivalent tenements off this existing reticulation system at Bexhill. However, when the capacity of the existing system is reached the developer will be required to undertake the infrastructure works to meet the future demand imposed by future stages of the development. The subdivision will also attract the payment of section 64 levies for water supply as the development is not included in Rous Water's current Development Servicing Plan.

Rous Water also provided commentary on the recent exhibition of the Draft Growth Management Strategy. The submission, dated 7 January 2015, advises that:

'To service the development it will be necessary to construct a service reservoir and reticulation pipework which would be at the full cost of the developer. As Bexhill is identified as a growth area and can be discretely serviced from a service reservoir rather than directly off the Rous Water trunkmain system, it is no longer appropriate for Rous Water to be the supply authority for this village. As part of the condition to supply water for the growth area in Bexhill, Rous Water requires that the existing reticulation infrastructure in the village be transferred to Lismore City Council'.

Rous Water has commissioned an Infrastructure Delivery Plan (IDP) report. The IDP is yet to be reported to Rous County Council.

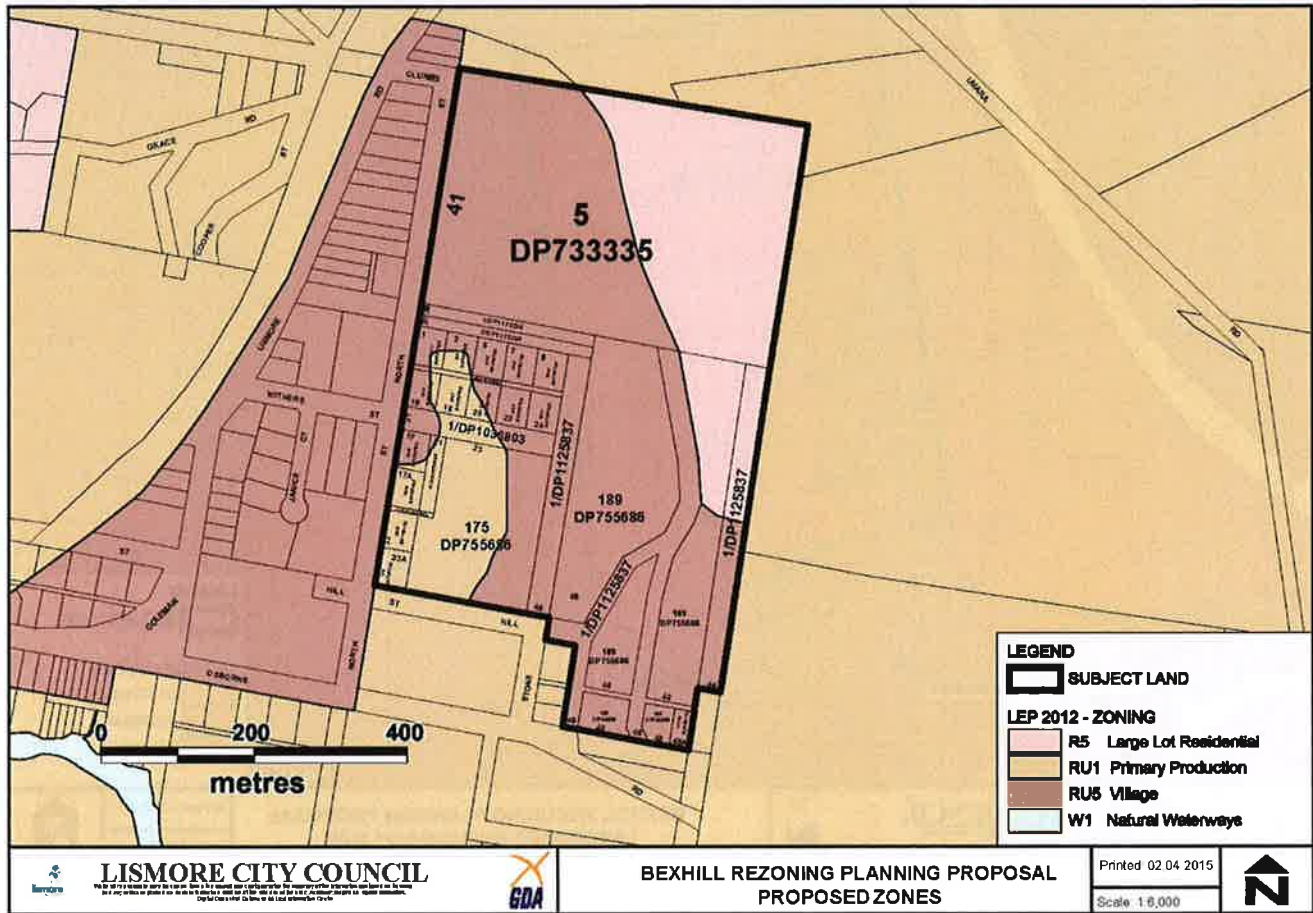
Stormwater

The site is drained by several gullies which direct water to an intermittent water course near the western boundary. The lower portions of the site are inundated during a major flood event. The report submitted by the proponents proposes that stormwater quantity can be addressed by a sequence of at source detention ponds or tanks and larger detention ponds in the proposed sporting field areas. This is not sufficient and a detailed stormwater management plan is required post Gateway Determination to enable a thorough assessment.

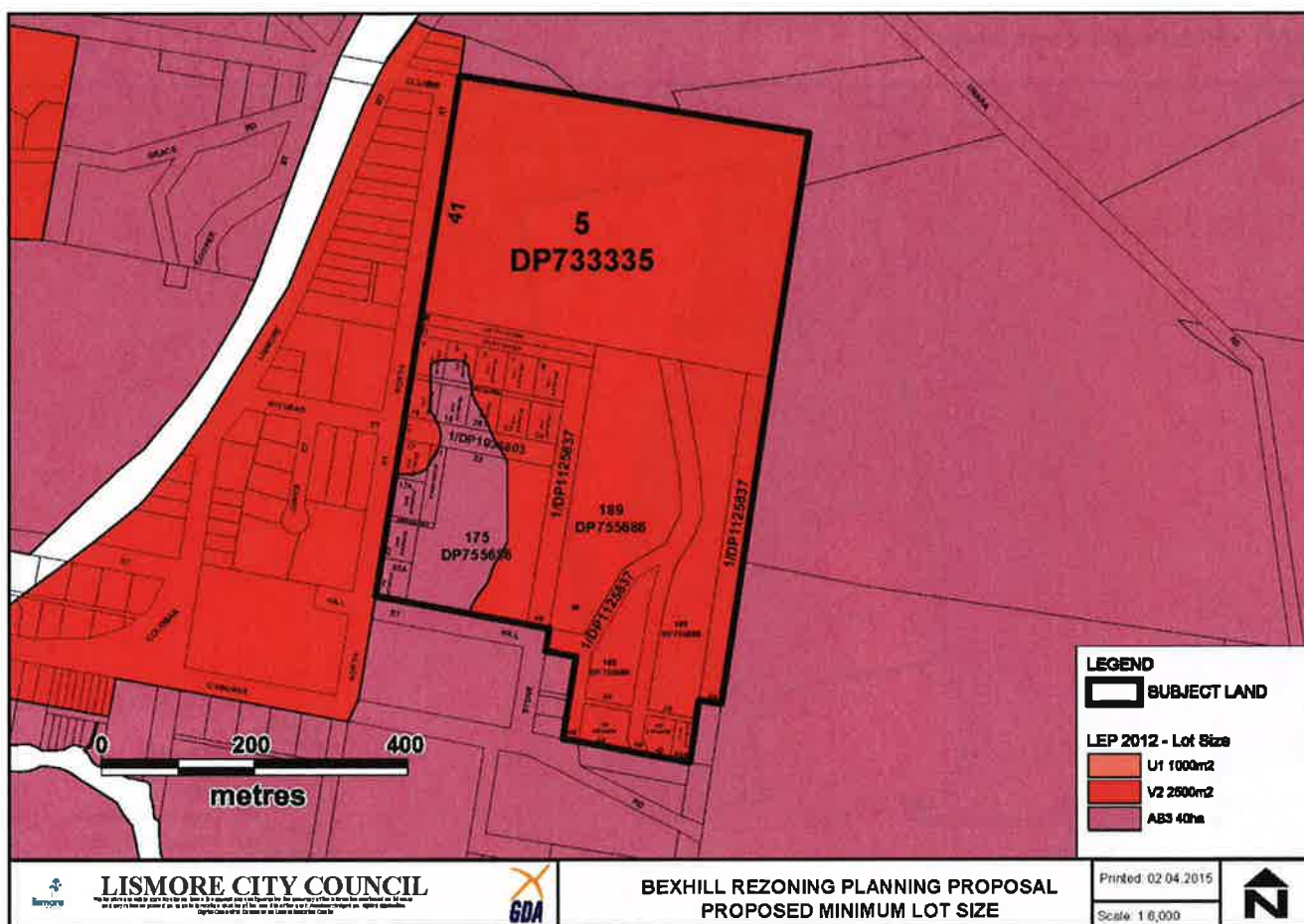
The stormwater management plan is to be consistent with the Northern Rivers Catchment Management Authority's and Council's guidelines and requirements. Stormwater management is to be integrated throughout the site and based on water sensitive urban design principles. Additionally, the report needs to give due consideration to the geotechnical report recommendations to ensure the method of stormwater detention and treatment is compatible with soil types on the site and will not lead to a change in the geotechnical risk profile.

LEP Maps

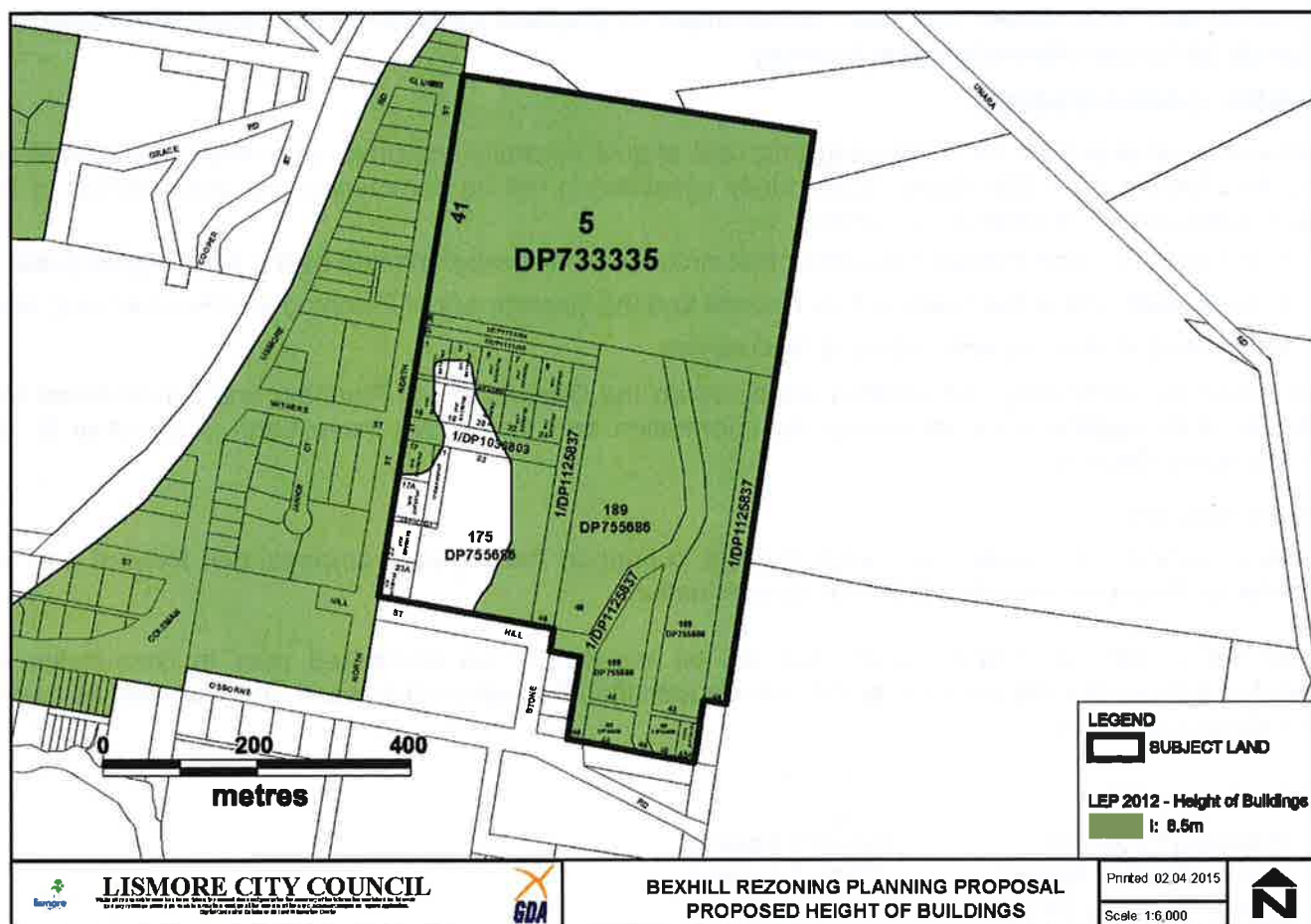
Map 1 - Proposed Zone Map



Map 2 - Proposed Minimum Lot Size Map



Map 3 - Proposed Height of Buildings Map



Strategic Alignment

Amendments to the LEP, whilst not specifically mentioned in Imagine Lismore, are part of the recurrent activities undertaken by Council to ensure land is zoned for development in a timely fashion. The provision of residential land adjacent to infrastructure and close to services is consistent with the community vision of Imagine Lismore.

The planning proposal is funded by the proponents in accordance with Council's adopted Fees and Charges.

There are potential unquantified costs for Council associated with the "whole of life" expenses for a reticulated sewer connection to the South Lismore STP. Consequently the proposal has been amended to incorporate a minimum lot size of 2500m² which will accommodate the on-site disposal of wastewater, thus removing potential costs and risks for Council. The benefits of the proposal include: the provision of additional village land close to existing infrastructure and services; increased diversity of housing stock; and consistency with housing targets of the Far North Coast Regional Strategy.

The risks originally associated with the planning proposal regarding the servicing of the development with a reticulated sewerage system have been eliminated with the amendment of the planning proposal that will require on-site wastewater management for future dwellings.

Comments

Finance

Not required at the Gateway determination stage.

Other staff comments

Technical staff assessment has been summarised in previous sections of this report and inform the requests for further information post Gateway.

Public consultation

Community engagement for a planning proposal should normally comprise an exhibition period of not less than twenty eight (28) days. Community consultation will be commenced by giving notice of the public exhibition of the planning proposal:

- in Council's Local Matters newsletter that circulates in the area affected by the planning proposal,
- on the web-site of the Lismore City Council and the Department of Planning and Environment, and
- in writing to affected and adjoining landowners.

The timing for community consultation will be when the Department of Planning and Environment has advised of its requirements for supporting information and the studies have been undertaken to the satisfaction of Council.

Conclusion

There is sufficient information to enable Council to support the planning proposal and forward it to the Minister for Planning seeking a Gateway determination.

There are a number of key matters that will be required to be addressed prior to consultation or exhibition of the planning proposal and these are identified throughout the report and are listed as part of the recommendations.

Attachment/s

1. Planning Proposal (Over 7 pages)
2. Sewer Costing Report (Over 7 pages)
3. Sewer Septicity Assessment
4. Geotechnical Report (Over 7 pages)

Recommendation

That:

1. Council support the current planning proposal detailed in Attachment 1 for the expansion of Bexhill Village and forward the planning proposal to the Minister for Planning to seek a Gateway Determination.
2. The proponents are to undertake the following key investigations where Council receives a Gateway Determination from the Department of Planning and Environment that the Planning Proposal may proceed:
 - a. Land use capability assessment for on-site effluent disposal based on a minimum lot size of 2500m²;
 - b. Expanded flora and fauna assessment;
 - c. Updated contaminated land assessment;
 - d. Bush fire hazard assessment;
 - e. Updated stormwater management assessment addressing both quantity and quality issues as well as providing recommendations regarding the impacts of runoff on the slope stability of the site;
 - f. Aboriginal and European cultural heritage assessment;
 - g. Updated traffic assessment in particular considering the changed nature of the Bangalow Road

traffic and providing further information on the Bangalow/Clunes/Corndale staggered "T" intersection; and

h. Land use conflict risk assessment.

3. The proponents provide, based on the assessments in 3 above, a conceptual structure plan for the future development of the site.