



Planning,  
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IRF21/1810

## Gateway determination report – PP-2021-2828

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Permit Community Title Subdivision of Existing  
Multiple Occupancies

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**Table 1 Reports and plans supporting the proposal**

Relevant reports and plans
Planning Proposal 17 – Permit Community Title Subdivision of Existing Multiple Occupancies Version 2 (April 2021)
North Coast Regional Plan 2036
Bellingen Shire Local Strategic Planning Statement 2020-2040
Bellingen Shire Local Housing Strategy 2020-2040
Bellingen Shire Community Strategic Vision 2027

# 1 Planning proposal

## 1.1 Overview

**Table 2 Planning proposal details**

<b>LGA</b>	Bellingen
<b>PPA</b>	Bellingen Shire Council
<b>NAME</b>	Permit Community Title Subdivision of Existing Multiple Occupancies
<b>NUMBER</b>	PP-2021-2828
<b>LEP TO BE AMENDED</b>	Bellingen Local Environmental Plan 2010 (LEP)
<b>ADDRESS</b>	Various locations within the Shire – 30 approved Multiple Occupancies (MO)
<b>DESCRIPTION</b>	Various
<b>RECEIVED</b>	20/04/2021
<b>FILE NO.</b>	IRF21/1810
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

## 1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the planning proposal are to:

- permit the community title subdivision of existing multiple occupancy (MO) or rural land sharing communities in Bellingen Shire;
- improve the ability of individual dwellings on rural landsharing communities to contribute towards the maintenance of public infrastructure; and
- provide additional opportunities for people to obtain finance to invest in rural landsharing communities.

The objectives of this planning proposal are clear and adequate.

## 1.3 Explanation of provisions

The planning proposal seeks to amend the Bellingen LEP 2010 by inserting a new local clause within the Bellingen LEP 2010 relating to the subdivision lot size for multiple occupancy or rural land sharing community development. The proposal includes a draft local clause which is considered appropriate for public exhibition and consultation, but it is recognised that the final

clause will be drafted by Parliamentary Counsel to ensure it is legally consistent with the intent of the proposal and the Bellingen LEP 2010.

The planning proposal also identifies the need for a further consequential amendment to Clause 4.2A Erection of dwelling houses on land in certain rural and environmental protection zones, so that lots created under the new local clause will have dwelling permissibility.

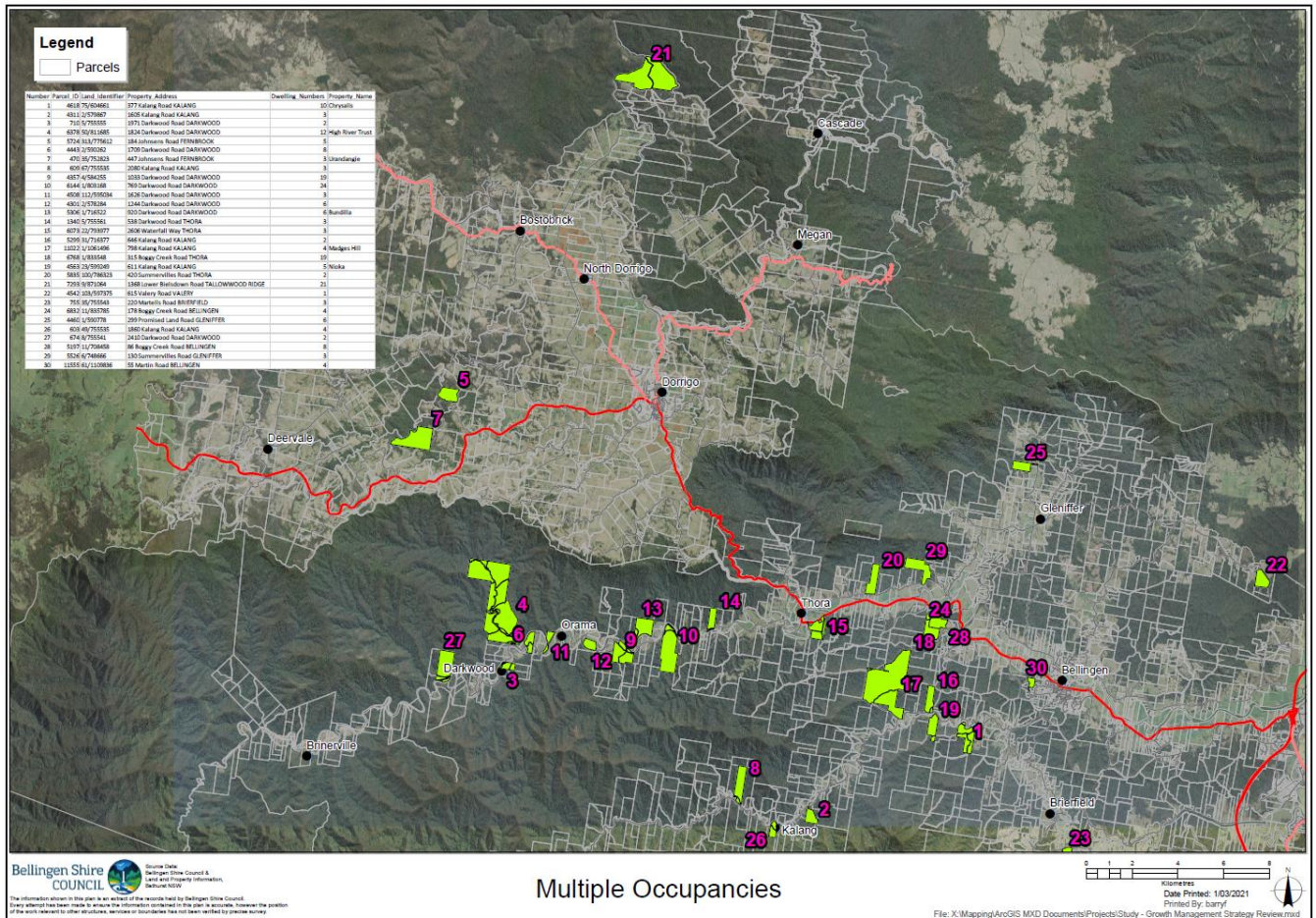


Figure 1 Subject sites (source: Planning Proposal V2 (April 2021))

## 1.4 Site description and surrounding area

The planning proposal provides a map (Figure 1) showing the location of the existing MOs.

The MOs are spread throughout the Bellingen LGA which has a significant amount of natural landscapes including the Dorrigo Plateau, World Heritage rainforests, fertile river valleys and picturesque coastline, and more than half of the LGA falls within the National Reserve System including many state forest areas. Bellingen LGA also has large mapped core and preferred Koala Habitat identified areas.

The majority of the MOs are in the Thora and Kalang river valleys where access is typically limited to one road in and out. Many of the MOs are zoned for environmental management or living, have significant areas of natural habitat, a 200 hectare minimum lot size and some have either identified biodiversity values and/or significant farmland areas.

The MOs on the Dorrigo Plateau have a 70 hectare minimum lot size, areas of primary production and identified as having biodiversity values and/or significant farmland areas.



The MOs in the Bellinger Valley are typically areas of environmental living and rural landscape. However, Lot 61 DP 1109836 is zoned as RU4 Primary Production Small Lots with a 40 hectare minimum lot size and is in proximity to the town of Bellingen.

## 1.5 Existing Planning Controls

Table 3 outlines each MO's land zone, minimum lot size, an approximate lot size, bushfire prone status, whether the land has identified significant farmland and is identified on the Biodiversity Values Map (NSW DPIE Biodiversity & Conservation (BCD)).

It is noted that all lots have a Height of Buildings of 10 metres and are all identified on the Bellingen LEP 2010 Natural Resources Sensitivity – Water Map and/or Natural Resources Sensitivity – Biodiversity Map.

Items 23, 30 and 31 (Table 3) are identified on the Lower Bellenger/Lower Kalang Flood Study maps. The planning proposal identifies that most MOs along Kalang Road and Darkwood Road will contain land that is flood prone, but the flood extents are not mapped. The proposal also advises Council has adopted flood studies that nominate 1% annual exceedance probability (AEP) and probable maximum flood (PMF) levels along parts of each valley.

Item 23 and 31 (Table 3) both have Coastal Environment Areas mapped in accordance with the State Environmental Planning Policy (Coastal Management) 2018 and contain Class 5 Acid Sulfate Soils.

It is noted that Item 31 in Table 3 is not shown on the planning proposal's Multiple Occupancies Map or the associated table (Figure 1). The map will need to be updated prior to public exhibition and consultation to include this item and also show the complete area of item 23.

**Table 3 Individual Lot Planning Controls**

Map No	Parcel ID	Land Identifier	Property Address	Land Zone	Min Lot Size (ha)	Approx Lot Size (ha)	Bushfire Prone	OEH Biodiversity Values Map	MNC Significant Farmland
1	4618	75/604661	377 Kalang Road KALANG	E4	200	62	Buffer; Cat 1	Y	Y
2	4311	2/579867	1605 Kalang Road KALANG	E4	200	26	Buffer; Cat 1	Y	N
3	710	5/755555	1971 Darkwood Road DARKWOOD	E4	200	18	Buffer; Cat 1	Y	Y
4	6378	50/811685	1824 Darkwood Road DARKWOOD	E3	200	448	Buffer; Cat 1 & 2	Y	Y
5	5724	313/775612	184 Johnsens Road FERNBROOK	RU1; RU2; E3	70	125	Buffer; Cat 1 & 2	Y	N
6	4443	2/590262	1709 Darkwood Road DARKWOOD	E4	200	27	Buffer; Cat 1	Y	Y
7	470	35/752823	447 Johnsens Road FERNBROOK	RU2; E3	70	112	Buffer; Cat 1	Y	Y
8	609	67/755535	2080 Kalang Road KALANG	E4	200	57	Buffer; Cat 1 & 2	Y	Y
9	4357	4/584255	1033 Darkwood Road DARKWOOD	E4	200	68	Buffer; Cat 1	Y	Y
10	6144	1/803168	769 Darkwood Road DARKWOOD	E4	200	127	Buffer; Cat 1 & 2	Y	Y
11	4508	112/595034	1626 Darkwood Road DARKWOOD	E4	200	16	Buffer; Cat 1 & 2	Y	N
12	4301	2/578284	1244 Darkwood Road DARKWOOD	E4	200	21	Buffer; Cat 1 & 2	Y	Y
13	5306	1/716522	920 Darkwood Road DARKWOOD	E4	200	56	Buffer; Cat 1 & 2	Y	Y
14	1340	5/755561	538 Darkwood Road THORA	E4	200	30	Buffer; Cat 1 & 2	Y	Y
15	6073	22/793977	2606 Waterfall Way THORA	RU1; RU2	200	51	Buffer; Cat 1	N	Y
16	5299	31/716377	646 Kalang Road KALANG	E3; E4	200	38	Buffer; Cat 1	Y	Y
17	11022	1/1061496	798 Kalang Road KALANG	E3; E4	200	73	Buffer; Cat 1	Y	N
18	6768	1/833548	315 Boggy Creek Road THORA	E3; E4	200	261	Buffer; Cat 1 & 2	Y	N
19	4563	23/599249	611 Kalang Road KALANG	E4	200	37	Buffer; Cat 1	N	Y
20	5835	100/786323	420 Summervilles Road THORA	RU2	200	47	Buffer; Cat 1	Y	N
21	7293	9/871064	1368 Lower Bielsdown Road TALLOWOOD RIDGE	RU1; RU2	70	218	Buffer; Cat 1 & 2	Y	N
22	4542	103/597375	615 Valery Road VALERY	RU1; RU2	200	37	Buffer; Cat 1	Y	Y
23	755	35/755543	220 Martells Road BRIERFIELD	RU2; E2	200	33	Buffer; Cat 1	N	N
24	6832	11/835785	178 Boggy Creek Road BELLINGEN	RU2	200	45	Buffer; Cat 1	Y	N
25	4460	1/590778	299 Promised Land Road GLENIFFER	RU1	200	32	Buffer; Cat 1	Y	Y
26	603	49/755535	1860 Kalang Road KALANG	E4	200	18	Buffer; Cat 1	Y	Y
27	674	8/755541	2410 Darkwood Road DARKWOOD	E3	200	84	Buffer; Cat 1	Y	Y
28	5197	11/708458	86 Boggy Creek Road BELLINGEN	RU2	200	35	Buffer; Cat 1	Y	N
29	5526	6/748666	130 Summervilles Road GLENIFFER	RU2	200	62	Buffer; Cat 1	Y	N
30	11555	61/1109836	55 Martin Road BELLINGEN	RU4	40	11	Buffer; Cat 1	Y	N

Map No	Parcel ID	Land Identifier	Property Address	Land Zone	Min Lot Size (ha)	Approx Lot Size (ha)	Bushfire Prone	OEH Biodiversity Values Map	MNC Significant Farmland
31		30/707896	913 Bowraville Road BRIERFIELD	RU1; RU2	200	39	Buffer; Cat 1	N	Y

## 1.6 Mapping

The planning proposal does not propose any changes to Bellingen LEP 2010 maps.

The planning proposal contains a map which identifies the existing MOs. As discussed in section 1.5 of this report, the map will need to be amended prior to consultation and public exhibition to show 913 Bowraville Road, Brierfield.

## 2 Need for the planning proposal

The planning proposal is a result of the Bellingen Shire Local Housing Strategy 2020-2040 (LHS) which was conditionally endorsed by the Department on 15 April 2020. Action 8.3 is to insert provisions in the Bellingen LEP 2010 to allow existing MOs the option to subdivide in a Community title arrangement. The action recognises that the proposed amendment will require infrastructure upgrades, including bushfire safety and access upgrades and further place-based investigation will be required to identify these site specific requirements. This action does not seek to allow new MOs and nominates that principles and planning controls relating to MOs will be investigated as part of a Rural Lands Strategy.

The planning proposal identifies that an alternative method to achieve the objectives and intended outcomes would be to amend the Lot Size Map for each property with development consent to nominate a minimum lot size. However, this approach is not Council's preferred option due to the considerable assessment required for individual lots and the possible expectations for potential concessions to the current minimum lot size in relation to subdivisions in other rural areas.

It is considered the Community Title legislation provides a suitable management structure for the management of shared infrastructure and environmental assets when permitting subdivision of existing MOs. The planning proposal nominates that the proposed amendment is based on the Lismore LEP 2012 clause 6.8A Minimum subdivision lot size for rural landsharing community development.

The planning proposal is considered to be the best means of achieving the objectives and intended outcomes.

## 3 Strategic assessment

### 3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the North Coast Regional Plan 2036 (NCRP).

**Table 4 Regional Plan assessment**

Regional Plan Objectives	Justification
Direction 23: Increase housing diversity and choice	The proposal is not inconsistent with this Direction because it recognises and permits continuation of approved MOs. Specifically, Action 23.2 nominates that local growth management strategies should be used to be to consider local housing needs, then be implemented through local planning controls to provide housing choice and diversity. As discussed in section 2 of this report, the proposal is the result of an action in Council's LHS. In addition, it is intended that the principles and planning controls relating to MOs will be further investigated as part of Council's Rural Lands Strategy.
Direction 24: Deliver well-planned rural residential housing areas	The proposal is not inconsistent with this Direction because the amendment allows Council to plan for MOs through its own LHS. The LHS action recognises that the proposed amendment will require infrastructure upgrades, including bushfire safety and access upgrades and further place-based investigation will be required to identify site specific requirements. Further, it is intended that the principles and planning controls relating to MOs will be further investigated as part of Council's Rural Lands Strategy.



<p>Direction 11: Protect and enhance productive agricultural lands</p>	<p>The proposal is not inconsistent with this Direction as it does not seek to allow new MOs. Further, the proposed development controls for existing approved MOs aim to avoid impacts on the use of the land for agriculture or rural industries and minimise land use conflict. However, as more than half of the MOs are situated on land that contains regionally significant farmland identified on the Final Map Mid North Coast Farmland Mapping Project (Department of Planning, 2008), the Direction requires that the interim important farmland variation criteria contained in Appendix B is considered and justified.</p> <p>Appendix B Important Farmland Interim Variation Criteria</p> <p>Agricultural capability: The planning proposal applies to existing approved MOs. As such, the land is unlikely to be capable of supporting sustainable agricultural production.</p> <p>Land use conflict: The planning proposal applies to existing approved MOs. It is unlikely that the potential for land use conflict will increase, however the proposed amendment includes an additional local clause which includes considerations for the consent authority in relation to the impacts on land used for agriculture or rural industries and land use conflict.</p> <p>Infrastructure: There will be no impact on State or regional infrastructure or the requirement for additional funding. Local infrastructure upgrades, including bushfire safety and will be required to identify site specific requirements at the development application stage. It is also noted that the subdivision of an MO would permit the creation of individual allotments within the community scheme which would generate additional income for Council which could be used toward funding for maintenance of infrastructure.</p> <p>Environment and heritage: These matters are discussed in section 4 of this report. It is recommended that consultation is undertaken with BCD and the Local Aboriginal Land Council to confirm the suitability of the proposal.</p> <p>Avoiding risk: The risks are discussed in section 4 of this report. It is recommended that consultation is undertaken with the RFS and BCD to confirm the suitability of the proposal.</p> <p>It is recommended that consultation is undertaken with DPI – Agriculture to confirm the suitability of the proposal.</p>
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## 3.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies and their strategic direction and objectives, as detailed in the table below:

**Table 5 Local strategic planning assessment**

Local Strategies	Justification
Local Strategic Planning Statement (LSPS)	The planning proposal is consistent with the themes and planning priorities contained within the LSPS, specifically Action 6.1 – Implement the Bellingen Shire Local Housing Strategy.

Bellingen Shire Local Housing Strategy 2020-2040	The planning proposal is consistent with the LHS, conditionally approved by the Department on 15 April 2020, specifically Action 8.3 – Community Title Subdivision of Existing Multiple Occupancies, to change planning controls to allow existing MOs the option to subdivide in a Community Title arrangement via an amendment to the LEP.
Bellingen Shire Community Strategic Vision 2027	The planning proposal is not inconsistent with the Bellingen Shire Community Strategic Vision 2027.

### 3.3 Section 9.1 Ministerial Directions

The planning proposal is consistent with relevant section 9.1 Directions except for the following as discussed below:

**Table 6 9.1 Ministerial Direction assessment**

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.5 Rural Lands	No – Justifiably Inconsistent	<p>The proposal is inconsistent with this Direction as it affects land within an existing rural zone and is unable to satisfy all the requirements of the Direction such as:</p> <ul style="list-style-type: none"> <li>considering the significance of agriculture and primary production;</li> <li>identify and protect environmental values;</li> <li>supporting farmers in exercising their right to farm; or</li> <li>minimise the fragmentation of rural land and land use conflict.</li> </ul> <p>The inconsistency is considered to be of minor significance as the planning proposal only applies to existing approved MOs. Further, the proposal is justified as the proposal is supported by the Bellingen Shire Local Housing Strategy 2020-2040, which has been endorsed by the Department. However, it is recommended that consultation is undertaken with the Department of Primary Industries- Agriculture (DPI- Agriculture) as the proposal seeks to allow the subdivision of a rural land and many of the MOs are located on regionally significant farmland.</p>
2.1 Environment Protection Zones	No – Justifiably Inconsistent	<p>The proposal is inconsistent with this Direction as it affects land within an environmental protection zone or otherwise identified for environment protection purposes. The inconsistency is considered to be of minor significance as the planning proposal does not seek to allow new MOs and does not propose to amend or reduce current environmental standards. It is recommended that consultation is undertaken with the Division of Biodiversity and Conservation (BCD) as there is land that is likely to contain native vegetation and biodiversity values.</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
2.2 Coastal Management	No – Justifiably Inconsistent	The proposal is inconsistent with this Direction as it includes land mapped in the SEPP and does not include provisions which give effect to the objectives of the Coastal Management Act 2016, the NSW Coastal Management Manual, the NSW Coastal Design Guidelines 2003 and any coastal management program or coastal zone management plan that applies to the land. The inconsistency is considered to be of minor significance as the inclusion of provisions that give effect to these documents is beyond the scope of this planning proposal which applies only to existing approved MOs, and two small areas of land (approx. total 23ha) identified on the map.
3.1 Residential Zones	No – Justifiably Inconsistent	The proposal is inconsistent with this Direction as it seeks to reduce the choice of building types and locations in the housing market. The Direction provides that the planning proposal may be inconsistent with the Direction where it is justified by a strategy. It is considered that the inconsistency is justified as the proposal is supported by the Bellingen Shire Local Housing Strategy 2020-2040.
4.1 Acid Sulfate Soils	No – Justifiably Inconsistent	The planning proposal is inconsistent with this Direction as it may allow an intensification of land use on class 5 acid sulfate soils and it is not supported by an acid sulfate soils study. The inconsistency is considered to be of minor significance as class 5 acid sulfate soils are considered a low risk class and the proposal relates only to existing approved MOs and the Bellingen LEP 2010 contains suitable provisions to ensure that this matter can be appropriately considered and addressed at development application stage.
4.3 Flood Prone Land	No – Justifiably Inconsistent	The proposal is inconsistent with this Direction as Council has identified that most MOs along Kalang Road and Darkwood Road will contain land that is flood prone and Items 23, 30 and 31 (Table 3) have been identified in the Lower Bellinger/Lower Kalang Flood Study. The inconsistency is considered to be of minor significance as the proposal relates only to existing approved MOs and the Bellingen LEP 2010 contains provisions that allow this matter to be adequately addressed if necessary, at development application stage.
4.4 Planning for bushfire protection	No – Inconsistent	The planning proposal is potentially inconsistent with this Direction because the land is bush fire prone. The Direction provides that the Council must consult with the Commissioner of the NSW Rural Fire Service (RFS) following the issue of a Gateway determination and prior to community consultation. Consultation with the RFS is required following receipt of a Gateway determination and prior to undertaking community consultation. Until this consultation has occurred the inconsistency with the Direction is unresolved.

### 3.4 State environmental planning policies (SEPPs)

The planning proposal is considered to be consistent with all relevant SEPPs except the following discussed in the table below.

**Table 7 Assessment of planning proposal against relevant SEPPs**

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
Coastal Management SEPP 2018	The subject site is mapped as Coastal Use Area and Coastal Environment Area.	No – Justifiably Inconsistent	As discussed above under Direction 2.2.
Primary Production and Rural Development SEPP 2019	Various lots identified in the proposal are mapped as having Regionally Significant Farmland. Part 2 Clause 10(b)(i) of the SEPP provides for the protection of agricultural land that is of State or regional agricultural significance.	No – Inconsistent	<p>More than half of the MOs are situated on land that contains regionally significant farmland identified on the Final Map Mid North Coast Farmland Mapping Project (Department of Planning, 2008).</p> <p>The planning proposal applies to existing approved MOs and does not aim to provide for additional dwelling permissibility. It is unlikely that the potential for land use conflict will increase, however the proposed development controls include considerations for the consent authority in relation to the impacts on land used for agriculture or rural industries and land use conflict.</p> <p>It is also considered appropriate that consultation is undertaken with the DPI – Agriculture.</p>
Koala Habitat Protection SEPP 2020	This SEPP applies as Bellingen LGA is listed in Schedule 1 of the SEPP.	Consistent	<p>The planning proposal notes that one MO (Item 23, (Table 3) is identified in Council's Comprehensive Koala Plan of Management as containing core Koala habitat and many others that contain preferred Koala habitat. It is also acknowledged other areas that are not currently mapped may contain core Koala habitat.</p> <p>The LHS action recognises that the proposed amendment will require infrastructure upgrades, including bushfire safety and access upgrades and further place-based investigation will be required. Council has advised that Koala habitat will require careful consideration as part of the design of any future subdivision/s.</p>

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP Vegetation in Non-Rural Areas 2017	This SEPP applies as the planning proposal has land identified in Clause 5, E3 Environmental Management and E4 Environmental Living	No – Justifiably Inconsistent	<p>It is recognised that there is the potential for clearing of native vegetation as part of any future subdivision.</p> <p>Clause 8 of the SEPP refers to the Local Land Services Act 2013 (LLS Act) section 60O, whereby clearing was authorised by a development consent under Part 4 of the Environmental Planning and Assessment Act 1979.</p> <p>The LLS Act Schedule 5A Part 3 sets out authorised clearing of native vegetation for rural infrastructure such as permanent boundary fences, permanent internal fences, roads, tracks or pipelines, sheds, tanks, dams, stockyards, bores, pumps, water points or windmills.</p> <p>Council is in the process of preparing a new Rural Lands Strategy which will consider appropriate policy positions in relation to clearing activities in environmental zones.</p> <p>The planning proposal does not enable land clearing without further consideration, and the SEPP will need to be considered at the development application stage. It is also recommended that consultation is undertaken with BCD.</p>

## 4 Site-specific assessment

### 4.1 Environmental

There are no known critical habitat or threatened species, populations or ecological communities or their habitats currently identified across the existing MOs.

There are many MOs within environmental protection zones where there is significant vegetation and are located along waterways with potential to be flood effected. Other MOs are adjacent to or have identified regionally significant agricultural land. There are two MOs that are located within the Coastal Environment Area and have acid sulfate soils. All the MOs also are classified as bushfire prone.

It is noted that there has not been a full uptake of dwellings in some of the MOs. Therefore, the planning proposal has the potential to create vacant allotments.

The following table provides an assessment of the potential environmental impacts associated with the proposal.

**Table 8 Environmental impact assessment**

Environmental Impact	Assessment
Coastal Environment Area	As discussed above under Direction 2.2, only two small areas of land (approx. total 23ha) is mapped under SEPP Coastal Management 2018, and it is considered that this matter can be adequately addressed at the development application stage.
Environmental Protection Zones	<p>As discussed above under Direction 2.1, the planning proposal will not amend or reduce the current environmental standards applying to existing MOs.</p> <p>Under SEPP (Vegetation in Non-Rural Areas) 2017, there is potential for subdivision to involve the clearing of native vegetation, and the SEPP will need to be considered at the development application stage. It is also recommended that consultation is undertaken with BCD.</p> <p>Many MOs are identified on the Bellingen LEP 2010 Natural Resources Sensitivity – Biodiversity Map and Water Map. The Bellingen LEP 2010 contains Clauses 7.4 and 7.5 that requires these matters be considered by the consent authority at the development application stage.</p>
Regionally Significant Farmland	<p>Some of the MOs are identified as containing regionally significant farmland. It is considered there is adequate strategic justification provided by the LSPS (Action 6.1) and LHS (Action 8.3) to progress the planning proposal to Gateway determination.</p> <p>Further, the proposed development controls for existing approved MOs aim to avoid impacts on the use of the land for agriculture or rural industries and minimise land use conflict which will enable these matters to be considered and addressed and development application stage.</p> <p>As discussed above in Table 7 consultation is also recommended with DPI - Agriculture.</p>
Koalas	<p>Bellingen has a Comprehensive Koala Plan of Management (KPoM) that maps core Koala habitat. There is one MO (Item 23, Table 3) that the planning proposal identifies as containing core Koala habitat. There are many other MOs that contain preferred Koala habitat.</p> <p>Bellingen LGA is listed in the Schedule 1 Koala SEPP 2021 and any future subdivision will have to address the provisions of the SEPP and Bellingen KPoM at the development application stage.</p>
Acid Sulfate Soils	There are two MOs that are mapped as having Class 5 acid sulfate soils. As discussed above under Direction 4.1, the Bellingen LEP 2010 contains existing provisions for the adequate assessment of this issue at the development application stage.
Flooding	There are three MOs, items 23, 30 and 31 (Table 3), that are identified as flood effected in the Lower Bellinger/Lower Kalang Flood Study. There is potential for flooding along Kalang Road and Darkwood Road that is not currently mapped. Clause 7.3 Flood planning of the Bellingen LEP 2010 contains existing provisions that allow this matter to be addressed at the development application stage.



Environmental Impact	Assessment
Bushfire	<p>All MOs are mapped as bushfire prone. As discussed above under Direction 4.4, consultation is required with the RFS.</p> <p>Council has advised that preliminary consultation has been undertaken with the RFS. The preliminary advice from the RFS indicates that any potential future development application for subdivision could provide an opportunity to seek better bushfire protection outcomes on a case by case basis.</p>

## 4.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

**Table 9 Social and economic impact assessment**

Social and Economic Impact	Assessment
Financial Investment	The opportunity for investment by people without accumulated funds would be enhanced if a MO was subdivided. It would allow individual allotments with a dwelling entitlement and an individual land title to then be recognised by lending institutions.
Council Revenue	The potential subdivision of an MO would permit the creation of individual allotments within the community scheme that would then be rated individually by Council. Additional annual revenue would be generated for Council to provide funding for maintenance of infrastructure that many MOs rely upon.

## 4.3 Infrastructure

There will be no impact on State or regional infrastructure or the requirement for additional funding.

Local infrastructure upgrades, including bushfire safety and access and further place-based investigation will be required to identify site specific requirements at the development application stage.

# 5 Consultation

## 5.1 Community

Council proposes a community consultation period of 28 days.

The exhibition period proposed is considered appropriate and forms part of the conditions of the Gateway determination.

## 5.2 Agencies

It is recommended the following agencies be consulted on the planning proposal:

- NSW Rural Fire Service

- Coffs Local Aboriginal Land Council
- Bowraville Local Aboriginal Land Council
- Nambucca Local Aboriginal Land Council
- Dorriggo Plateau Local Aboriginal Land Council
- Department of Planning, Industry and Environment (Biodiversity and Conservation Division)
- Department of Primary Industry - Agriculture

## 6 Timeframe

The planning proposal includes a project timeline which estimates completion of the LEP amendment by October 2021.

The Department recommends a time frame of nine months to ensure it is completed in line with its commitment to reduce processing times.

## 7 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

As the proposal deals only with matters of local significance it is considered appropriate that Council be provided authorisation to act as the local plan making authority.

## 8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- the proposal is not inconsistent with the North Coast Regional Plan;
- the proposal implements the actions of the Bellingen Shire Local Housing Strategy 2020-2024 which was conditionally endorsed by the Department on 15 April 2020; and
- the proposal is not inconsistent with the Bellingen Shire Local Strategic Planning Statement.

Based on the assessment outlined in this report, the proposal must be updated before consultation to:

- amend the proposed Project Timeline to correspond to the nine month timeframe of the Gateway determination;
- update Multiple Occupancy Map (Attachment 1) to include 913 Bowraville Road, Brierfield, as Item 31 and include in the relevant table on the map; and show all of Item 23.

## 9 Recommendation

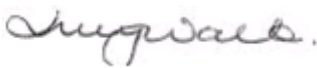
It is recommended the Director, as delegate of the Secretary:

1. **agree** that any inconsistencies with section 9.1 Directions 1.5 Rural Lands, 2.1 Environment Protection Zones; 2.2 Coastal Management; 4.1 Acid Sulfate Soils; 4.3 Flood Prone Land are minor or justified in accordance with the terms of the Directions; and
2. **note** that the consistency with section 9.1 Directions 4.4 Planning for Bushfire Protection is unresolved until further justification has been provided.

It is recommended the Director, as delegate of the Minister:

1. **note** the planning proposal (**Attachment A**);
2. **determine** that the planning proposal should proceed subject to the following conditions:

- Prior to community consultation, the planning proposal must be updated to:
    - (a) amend the proposed Project Timeline to correspond to the nine month timeframe of the Gateway determination; and
    - (b) update the Multiple Occupancy Map (Attachment 1 of the planning proposal) to include 913 Bowraville Road, Brierfield, as Item 31 in the relevant table and include on the map; and show all of Item 23.
  - Consultation is required with the following public authorities:
    - NSW Rural Fire Service
    - Coffs Local Aboriginal Land Council
    - Bowraville Local Aboriginal Land Council
    - Nambucca Local Aboriginal Land Council
    - Dorrigo Plateau Local Aboriginal Land Council
    - Department of Planning, Industry and Environment (Biodiversity and Conservation Division)
    - Department of Primary Industry - Agriculture
  - The planning proposal should be made available for community consultation for a minimum of 28 days.
  - The timeframe for completing the LEP is to be nine months from the date of the Gateway determination.
  - Given the nature of the proposal, Council should be authorised to be the local plan-making authority.
3. **sign** the Gateway determination (**Attachment B**) noting that Bellingen Shire Council is the local plan-making authority and the letter to Council (**Attachment C**).



13/05/2021

\_\_\_\_\_  
(Signature)\_\_\_\_\_  
(Date)

Lucy Walker  
Acting Manager, Local and Regional Planning  
Northern Region



19/5/2021

\_\_\_\_\_  
(Signature)\_\_\_\_\_  
(Date)

Jeremy Gray  
Director, Northern Region  
Local and Regional Planning

Assessment officer

Helen Willis

Para Planner, Local and Regional Planning

Northern Region

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