



Item	12.11
Subject	Realisation of Council Assets - Sale of Properties - Update
Presented by	Stephen McAlister, Group Leader Governance

RESOLVED (Cr Klipin / Cr Harrison)

That Council adopt the recommendation provided in the confidential attachment to this report entitled Parcels Identified for Realisation.

UNANIMOUS

Item	12.12
Subject	Planning Proposal 18 - Housekeeping Amendment to Bellingen Local Environmental Plan 2010
Presented by	Daniel Bennett, Senior Strategic Planner

RESOLVED (Cr Wright-Turner / Cr Fenton)

That Council:

1. Resolves to prepare *Planning Proposal 18 - Housekeeping Amendment to Bellingen Local Environmental Plan 2010* and requests the issuing of a Gateway Determination from the NSW Department of Planning Industry & Environment in respect of this matter;
2. Endorses the proposed Community Engagement Strategy, as documented in this Report;
3. Resolves to request that the NSW Department of Planning Industry & Environment designates Council as the Plan Making Authority in respect of this matter.

UNANIMOUS



12 CIVIC LEADERSHIP

Item	12.12
Subject	Planning Proposal 18 - Housekeeping Amendment to Bellingen Local Environmental Plan 2010
Presented by	Daniel Bennett, Senior Strategic Planner

ALIGNMENT WITH DELIVERY PROGRAM

(CL) CIVIC LEADERSHIP

(CL.1) Council is an organisation that embraces business excellence

(CL.1.4) Best practice, sustainability principles, accountability and good governance are incorporated in all we do.

(CL.1.4.1) Identify and respond to changes in National, State, regional and local landuse planning principles, statutes and guides

RECOMMENDATION

That Council:

1. Resolves to prepare *Planning Proposal 18 - Housekeeping Amendment to Bellingen Local Environmental Plan 2010* and requests the issuing of a Gateway Determination from the NSW Department of Planning Industry & Environment in respect of this matter;
2. Endorses the proposed Community Engagement Strategy, as documented in this Report;
3. Resolves to request that the NSW Department of Planning Industry & Environment designates Council as the Plan Making Authority in respect of this matter.

EXECUTIVE SUMMARY

Council periodically undertakes amendments to the Bellingen Local Environmental Plan 2020 (BLEP 2010) to reflect certain changes in circumstance, implement strategies or rectify issues that have emerged with the operation of the Plan. This is called a "Housekeeping" Amendment whereby a range of matters are dealt with via the one planning process rather than a separate process for each matter.

A Housekeeping Amendment is proposed to implement four (4) changes to the LEP, and this Report recommends that Council resolves to prepare a planning proposal to commence this process.

REPORT DETAIL

1 Background

A workshop was held with Councillors on the 24th February 2021 to discuss the proposed housekeeping amendment and this report is consistent with matters discussed at that workshop.

2 What are the proposed amendments to BLEP 2010?

The four matters covered by this amendment are;

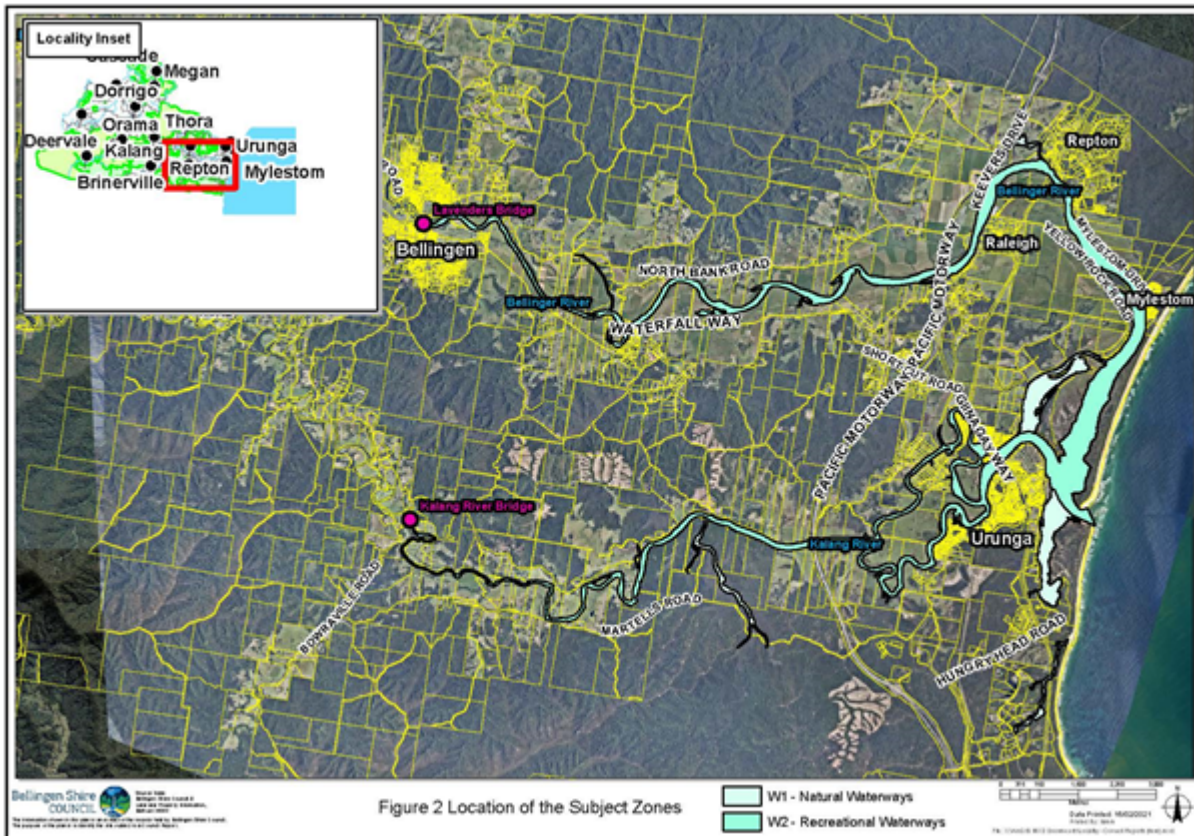
1 - Rezone land recently acquired by the Bellingen Showground from RU1 Primary Production to RE1 Public Recreation to reflect its future intended use (the RE1 Rezoning proposal)

The land proposed to be rezoned is shown on the map below.



2 - Rectify a provision within BLEP 2010 that unintentionally frustrates certain subdivisions that involve land within the W1 Natural Waterway and W2 – Recreational Waterway Zone (the Subdivision proposal)

The location of waterway zones in the Shire is shown on the map below.

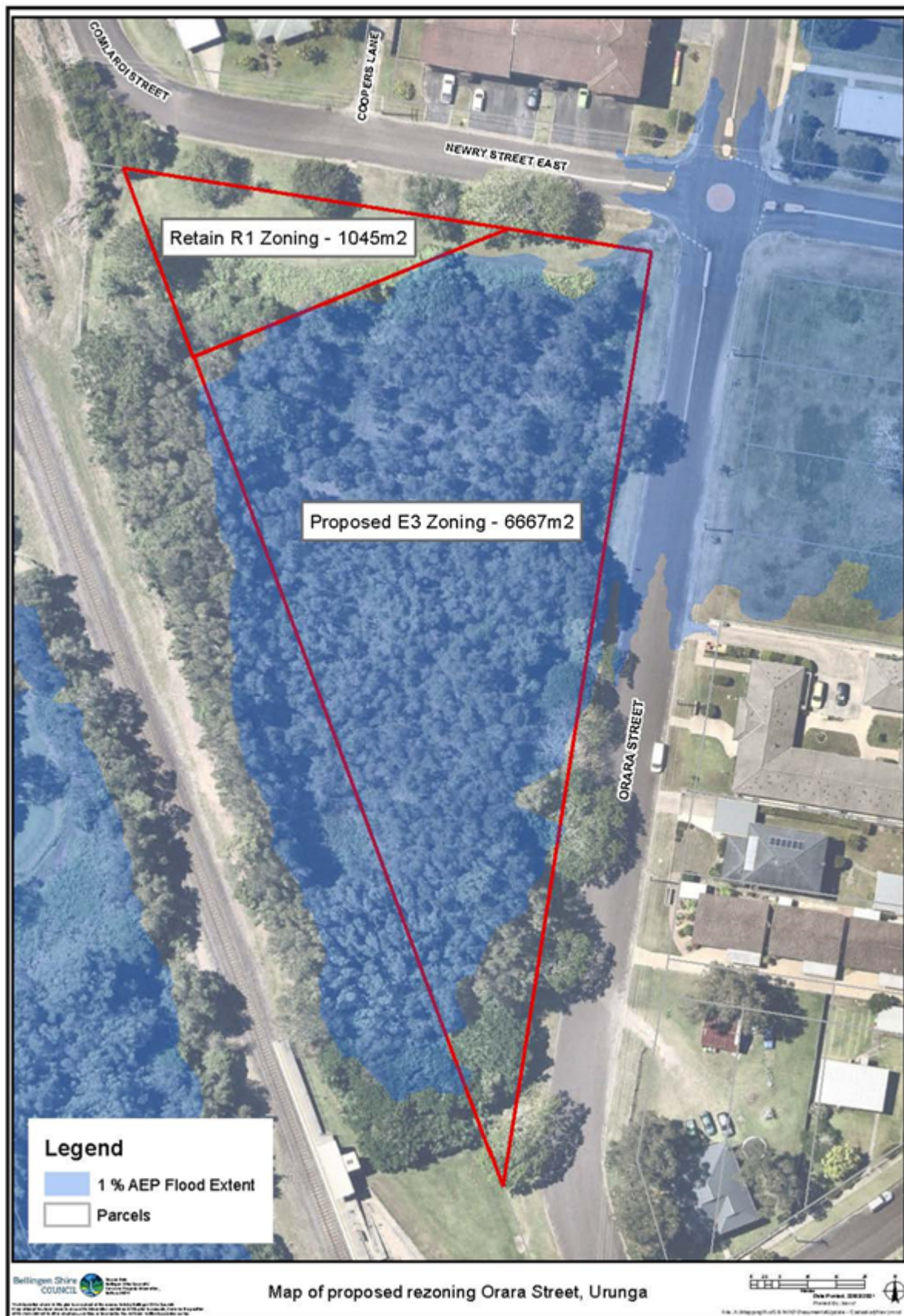


3 - Rezone a constrained portion of flood liable land in Urunga from R1 General Residential to E3 – Environmental Management at the request of the landowner (the E3 Rezoning proposal).

The location of the land proposed to be rezoned is shown on the map below.

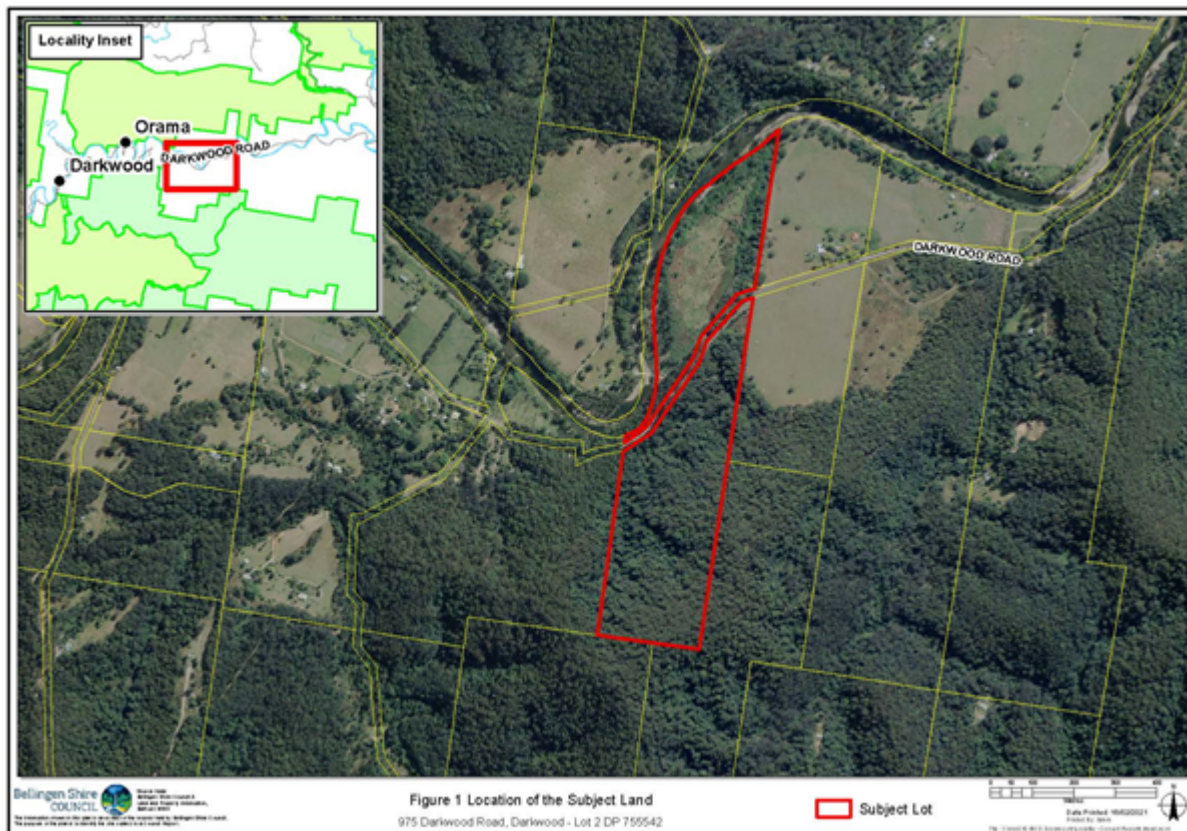


The extent of land proposed to be rezoned is shown on the map below.



4 - Introduce a Schedule 1 amendment to permit the approval of a dwelling on a parcel of rural land at Darkwood (the Schedule 1 proposal).

The location of the land proposed to rezoned is shown on the map below.



3 What is the justification for proceeding with the Housekeeping Amendment?

The RE1 Rezoning proposal

The proposed rezoning has been requested by the operators of the Bellingin Showground, who have recently acquired the relevant land parcel. The acquisition of the land parcel was identified as a strategic priority within the adopted Plan of Management for the Showground, and has also been used for purposes associated with the Showground for many years. The zoning of the Showground as RE1 - Public Recreation will allow for the use of the land for purposes that the current RU1 - Primary Production zoning does not allow for. For example, the current zoning does not legally provide for the establishment of an equestrian ring on the land.

The Bellingin Showground Precinct is highly significant to the cultural needs of both the township of Bellingin and the greater Bellingin Shire. The Showground Trust have worked strategically to secure the relevant land parcel and justification exists to allocate a suitable zoning that will be consistent with the future intended use of this land parcel.

The Subdivision proposal

During recent investigations regarding development feasibility on certain land parcels it has become apparent that the operation of Clause 4.1AC within the BLEP 2010 is preventing the subdivision of land with identified development potential from occurring. This is occurring when a parcel of land has both a Residential type zoning (eg: R1 General Residential or R5 - Large Lot Residential) as well as a Waterway zoning (eg: W1 Natural Waterway or W2 Recreational Waterway).

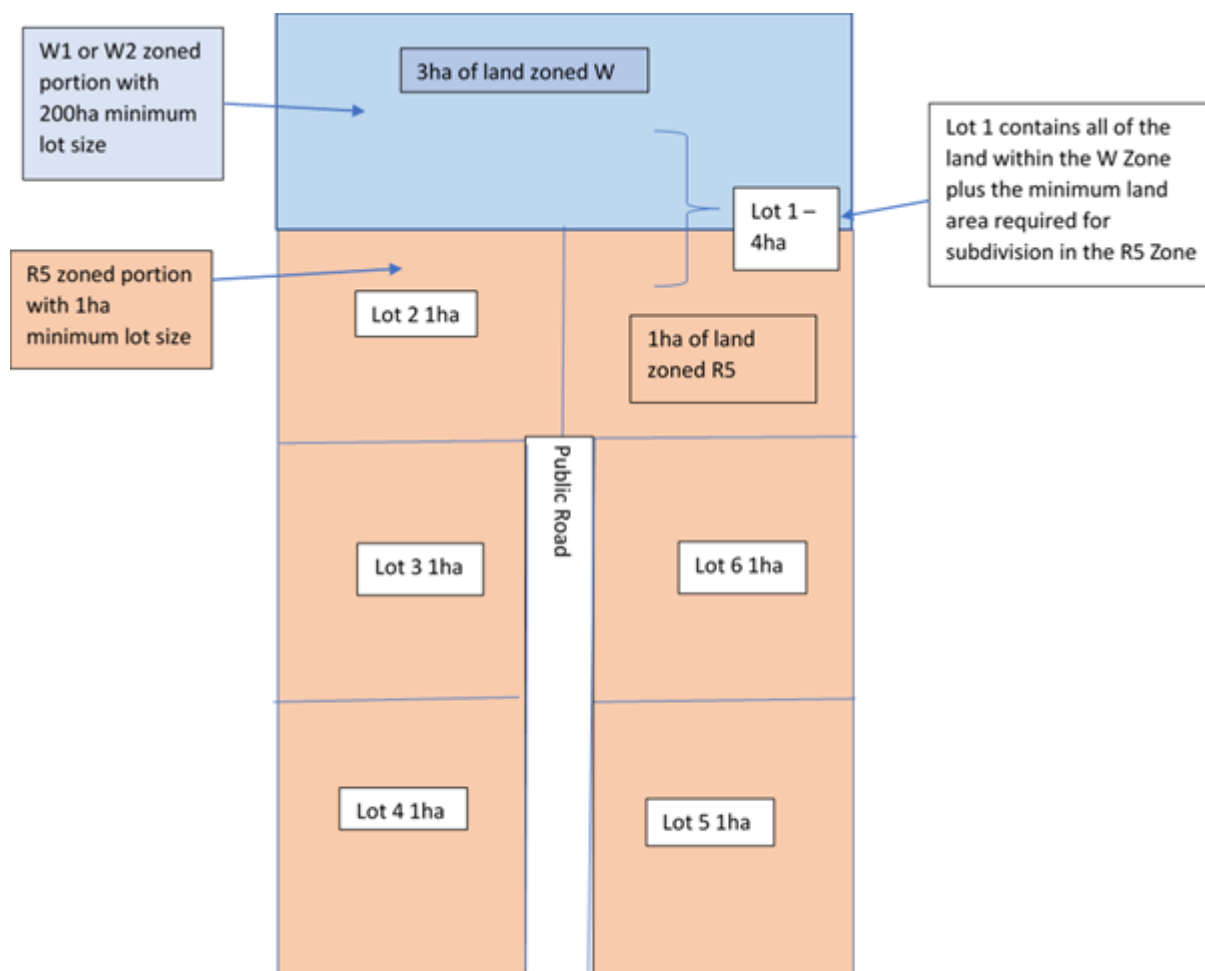
For a parcel of land that has, for example, a Residential Zoning and an Environmental Zoning, Clause 4.1AC the LEP allows for the development of the land with subdivision potential (ie: the Residential part) as long as the bit of the land with an Environmental Zoning is not further

subdivided and remains attached to some of the land within the Residential zone. This scenario does not however apply when a parcel of land has both a Residential Zoning and a Waterway Zoning, despite the underlying planning principles being the same.

Fortunately, there is a simple way to rectify this anomaly by simply adding Zones W1 Natural Waterway and W2 Recreational Waterway to the list of zones to which *Clause 4.1AC Exceptions to minimum subdivision lots sizes for certain split zones* applies and this is what is proposed by this amendment.

It is important to emphasise that this amendment is not directed towards the further subdivision of constrained land that is subject to a waterway zoning. Any land zoned waterway will continue to be held in one ownership. Furthermore, it is not expected that there will be a large number of instances where this clause is even triggered, given that for the most part land with a waterway zone occurs in conjunction with a rural zone, rather than a residential zone.

The following diagram conceptually illustrates the development outcome that this amendment would permit.



The E3 Rezoning Proposal

The proposed rezoning of the majority of this land parcel to Zone E3 - Environmental Management has been requested by the owners of the land, the NSW Land & Housing Corporation. This request was originally made to Council as part of the public exhibition of the Local Housing Strategy, and Council subsequently indicated its support for this outcome within *Section 4.2 – Planning Proposals* of the endorsed Bellingen Shire Local Housing Strategy.

The rezoning request recognises that the majority of the land is flood liable and likely to comprise elements of the "Swamp Sclerophyll Forest on Coastal Floodplains of the NSW North Coast, Sydney Basin and South East Corner bioregions endangered ecological community (EEC))". The request to limit development potential on this land by virtue of an E3 zoning is an appropriate response to the constrained nature of the land, and Councils adopted Local Housing Strategy concludes that that *"this request can be facilitated when Council next undertakes a "housekeeping" amendment to its Local Environmental Plan."*

The Schedule 1 Proposal

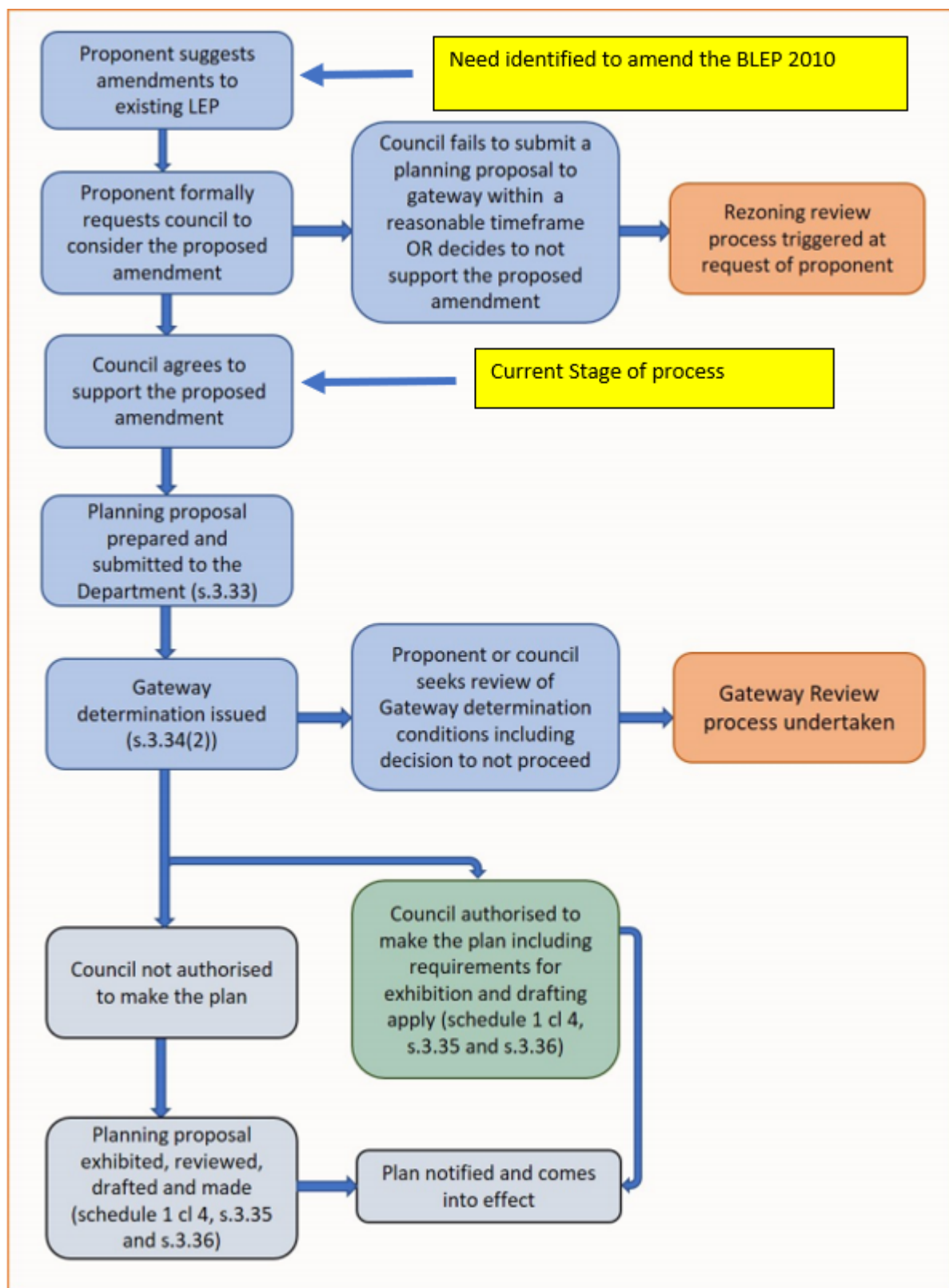
The inclusion of the subject property within Schedule 1 of the the BLEP 2010 is at the request of the owners and is geared towards permitting the construction of a dwelling on the land. The land formerly had the ability for a dwelling to be erected upon it, however planning controls were changed before the owners were able to build a dwelling on the land, meaning that this is now no longer permissible through reliance upon the provisions of Clause 4.2A of the BLEP 2010, which normally governs the erection of dwelling houses on land in rural and environmental protection zones.

As documented in the Local Housing Strategy, Council has historically supported requests of this nature. Specifically, it was common practice for properties that had been recognised on a Council file as meeting the pre-requisites to be considered a "de-facto" concessional lot to be afforded a dwelling entitlement. A review of the property files has uncovered the relevant written evidence confirming that this was the case for this property. It is therefore appropriate that provisions are inserted into the BLEP 2010 to allow for the erection of a dwelling on the subject property, and the Councils adopted Local Housing Strategy concludes that this request can be facilitated when Council next undertakes a "housekeeping" amendment to its Local Environmental Plan.

4 What is the process to amend the LEP?

The process for amending an LEP is shown in the following extract, adapted from the NSW Government Publication "A Guide to preparing Local Environmental Plans" to show prior, current and future stages.

A resolution of Council is required to support the proposed amendment, following which Council Officers will prepare the formal Planning Proposal Document to submit to the NSW Department of Planning Industry & Environment (DPIE).



BUDGET IMPLICATIONS

The completion of this planning proposal can occur within existing budgetary allocations for the Planning Services Team.

SUSTAINABILITY ASSESSMENT

Environmentally, the housekeeping amendment does not propose any outcome with significant adverse environmental impacts. To the contrary, the proposed rezoning of land a Newry St to E3

Environmental Management better recognises the environmental constraints of the land. Preliminary investigations regarding a potential house site at 975 Darkwood Road have confirmed a potential dwelling site that will not have significant clearing impacts, and the existing protection afforded to land with a waterway zoning will not be compromised by virtue of the proposed changes to Clause 4.1AC of the LEP. The additional land that will be rezoned to form part of the Bellingen Showground precinct is also primarily cleared, and buffered to the east by the Bellingen Sewage Treatment Plant.

Socially, the Housekeeping Amendment facilitates the ongoing successful operation of the Bellingen Showground Precinct which is a highly valued community asset.

Economically, the Housekeeping Amendment facilitates opportunities for the Showground to conduct economically viable events, and also allows for a range of other development outcomes on other land parcels affected by the amendment.

ENGAGEMENT

The community consultation requirements for strategic land use planning matters are stipulated within the Bellingen Shire Community Participation Plan, relevant parts of the NSW Environmental Planning & Assessment Act 1979 (the Act) and the NSW Environmental Planning & Assessment Regulation 2000 (the Regulation). Ultimately, consultation requirements are then confirmed within any Gateway determination issued in respect of the proposal, and these must be followed to ensure the legal validity of the planning process.

The Bellingen Shire Community Participation Plan makes provision for Housekeeping Amendments to the BLEP 2010 and the following community participation requirements will be observed in respect of this matter:

- * 28 day consultation period
- * Advertisement in local paper
- * Advertisement and provision of supporting documentation on "Create" website
- * Notify owners of site specific amendments
- * Notify adjoining owners of site specific amendments
- * Plain English Version

This proposed consultation strategy will be included within the Planning Proposal document forwarded to the NSW DPIE should this matter be supported by Council.

It is also necessary for Council to consider whether it wishes to be the plan making authority for this planning proposal. This essentially means that the final decision as to whether the plan should proceed is made by the Council, rather than the NSW Government. There are guidelines that help to determine the circumstances where it is appropriate that Council assumes these functions. One of these circumstances is when the planning proposal would give effect to an endorsed local strategy, and this is relevant in respect of the following two components of the proposed amendment.

- * The E3 Rezoning proposal
- * The Schedule 1 proposal

For the remaining components of the Amendment, it is submitted that these are both matters of "local planning significance" only and this means that it is appropriate for Council to assume the relevant plan making functions in respect of these matters also.

ATTACHMENTS

None