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Gateway determination report – PP-2021-3222

Housekeeping Amendment

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Planning Proposal 18 – Housekeeping Amendment V1 (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

LGA	Bellingen
PPA	Bellingen Shire Council
NAME	Housekeeping Amendment
NUMBER	PP-2021-3222
LEP TO BE AMENDED	Bellingen Local Environmental Plan 2010 (BLEP)
ADDRESS	Various
DESCRIPTION	Various
RECEIVED	27/04/2021
FILE NO.	IRF21/2022
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	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 proposal are to:

- integrate Lot 421 DP 1230181 into the Bellingen showground estate and to align the future intended use of the land with the general purpose of the RE1 Public Recreation Zone;
- promote suitable land uses and development by expanding the opportunity to subdivide lots in certain split zones;
- rezone land in a manner that is commensurate with the extent of constraint posed by its physical characteristics; and
- afford the opportunity to build a dwelling on rural land that is consistent with previous policy decisions made by Council.

1.3 Explanation of provisions

The planning proposal seeks to amend the Bellingen LEP 2010 as follows:

1. amend the BLEP 2010 Land Zoning Map Sheet LZN_006B to rezone Zone Lot 421 DP1230181 from RU1 Primary Production to Zone RE1 Public Recreation;
2. amend clause 4.1AC Exceptions to minimum subdivision lots sizes for certain split zones of the BLEP 2010 to include Zone W1 Natural Waterways and Zone W2 Recreational Waterways;
3. amend the BLEP 2010 Land Zoning Map Sheet LZN_007C to rezone part of Lot 12 DP732665 from R1 General Residential to Zone E3 Environmental Management; and
4. insert an additional Item within Schedule 1 Additional permitted uses of the BLEP 2010 to permit the erection of a dwelling on Lot 2 DP755542, 975 Darkwood Road, Darkwood.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved. The proposed amendments are considered an acceptable means of achieving the intended outcomes.

However, it is noted that the property in Darkwood Road is incorrectly referred to as Lot 975 DP755542 in the text of the planning proposal. The correct description is Lot 2 DP755542. The planning proposal will need to be updated to include the correct the property description prior to agency and community consultation.

1.4 Site description and surrounding area



Figure 1 – Location of the RE1 rezoning adjacent to the Bellingen Showground

(source: Planning Proposal)

1. RE1 Public Recreation Rezoning amendment – Wheatley Street, Bellingen

Lot 421 DP1230181, Wheatley Street, Bellingen is situated to the north of the Bellingen River within the Bellingen township (Figure 1). Approximately 600m from the Post Office by road and bordering the eastern boundary of the Bellingen Showground, the subject land has frontage to Black Street in the southwest and Wheatley Street in the north, has an area of 6.859 hectares and a total frontage of 213.01m along William Street and 20.115m along Black Street. It is irregular in shape and has a variable depth.

The site is relatively level and low-lying in the southwest but rises from the alluvial floodplain in the northeast. Drainage is to the southeast, with a drainage depression following the base of the ridge from around in the northwest in the southeast.

The low-lying portion of the land is cleared to pasture and contains sporadic regrowth that is predominately weed species, inclusive of privet and camphor laurel. Apart from the overhead electricity conductors, the ridge line is a densely timbered forest comprising exotic and remnant native vegetation.



Figure 3 – Location of the E3 rezoning proposal

(Source: Planning Proposal)

3. E3 Rezoning amendment – 21 Newry Street, Urunga

Lot 12 DP732665, 21 Newry Street, Urunga, is a triangular section of land owned by the NSW Land & Housing Corporation (Figure 3). The majority of the land is flood prone land and it is likely to contain “Swamp Sclerophyll Forest on Coastal Floodplains of the NSW North Coast, Sydney Basin and South East Corner bioregions endangered ecological community (EEC)”. It adjoins the North Coast Railway Line and is in close proximity to the CBD area of Urunga. It is currently undeveloped, however the northern most portion of the land is cleared and mown.

4. Schedule 1 – additional permitted use to facilitate a dwelling entitlement 975 Darkwood Road, Thora

1.5 Existing Planning Controls

NSW Department of Planning, Industry and Environment | 6

Table 3 Existing Planning Controls

Amendment	Planning Controls
RE1 Public Recreation Rezoning amendment – Wheatley Street, Bellingen Lot 421 DP1230181	<ul style="list-style-type: none"> • Current Land zone – RU1 Primary Production • Proposed Land Zone – RE1 Public Recreation • MLS – 200ha • Proposed MLS – 600m² • Acid Sulfate Soil – Class 5 • Height of Building – 10m • NCRP 2036 - Potential High Environmental Value (HEV) • SEPP Coastal 2018 – Coastal Environment Area • Lower Bellinger/Lower Kalang Flood Maps – 1% Annual Exceedance Probability (AEP) Floodway
E3 Rezoning amendment – 21 Newry Street, Urunga Part Lot 12 DP732665	<ul style="list-style-type: none"> • Current Land zone – R1 General Residential • Proposed Land Zone – E3 Environmental Management • MLS – 600m² • Acid Sulfate Soil – Class 5 • Height of Building – 10m • NCRP 2036 – Potential HEV • SEPP Coastal 2018 – Coastal Environment Area • Lower Bellinger/Lower Kalang Flood Maps – 1% Annual Exceedance Probability (AEP) Floodway; Flood Storage; Flood Precinct (Bellingen Floodplain Risk Management Study 2002)
Schedule 1 – additional permitted use to facilitate a dwelling entitlement 975 Darkwood Road, Thora Lot 2 DP755542	<ul style="list-style-type: none"> • Current Land zone – E4 Environmental Living • MLS – 200ha • Height of Building – 10m • NCRP 2036 – Potential HEV • Natural Resources Sensitivity – Water (Waterway) (BLEP CL2_004 map) • Natural Resources Sensitivity – Biodiversity (Sensitive Land) (BLEP CL2_004 map) • Bushfire Prone Land – Vegetation Category 1 and Vegetation Buffer • SEPP Coastal 2018 – Coastal Environment Area

1.6 Mapping

Location maps are included in the planning proposal and considered to be suitable for community consultation.

The planning proposal shows the proposed amendments to map sheets LZN_006B and LZN_007C, but does not include the current map sheets. Prior to agency and community consultation, the planning proposal should be updated to include both current and proposed map sheets LZN_006B (Figure 5) and LZN_007C (Figure 6) to help the community understand the changes.

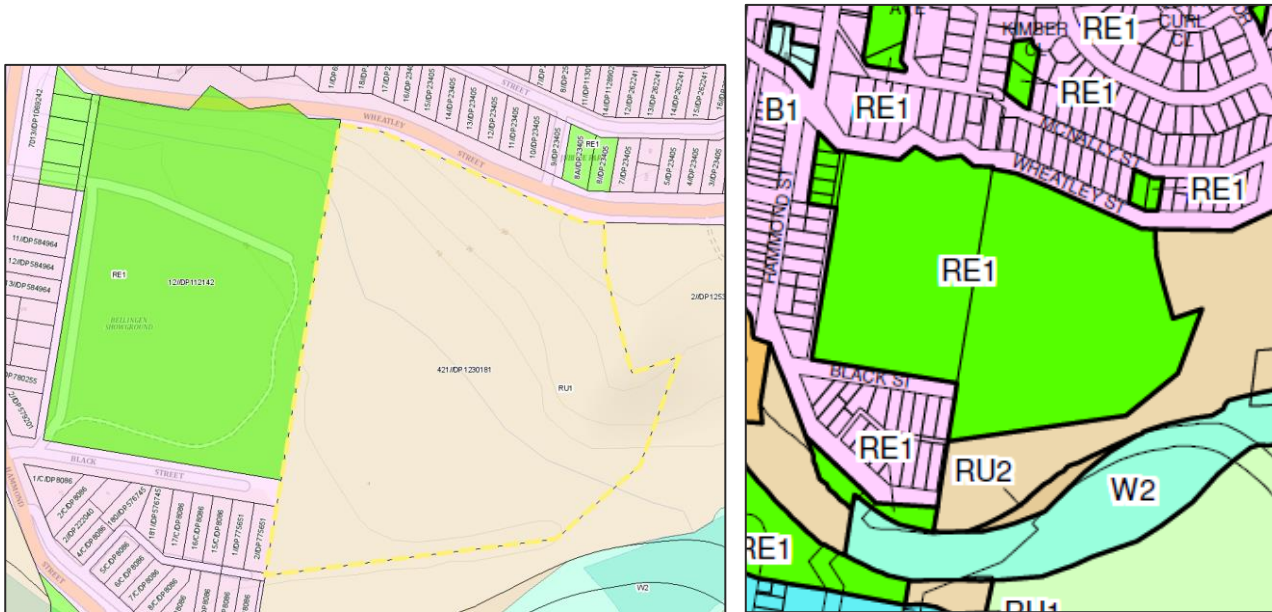


Figure 5
LZN_006B – Current (left) and Proposed (right) zoning map – Lot 421 DP1230181
Rezoning RU1 Primary Production to RE1 Public Recreation Rezoning Proposal Wheatley Street, Bellingham
 (Source: ePlanning Spatial Viewer & Planning Proposal)

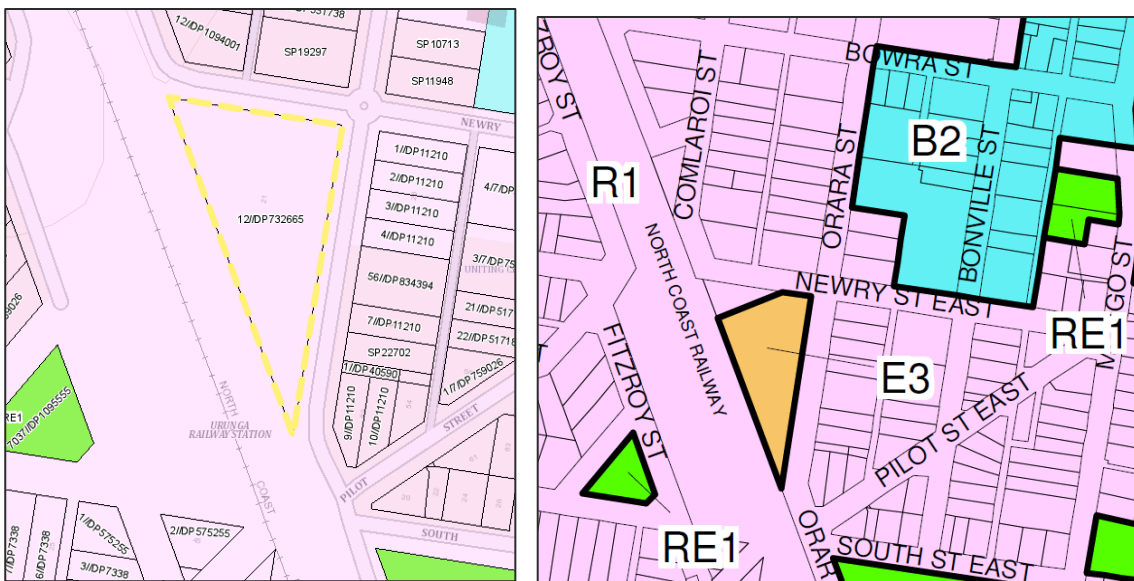


Figure 6
LZN_007C – Current (left) and Proposed (right) zoning map – part Lot 12 DP732665
Rezoning R1 General Residential to E3 Environmental Management, 21 Newry Street Urunga
 (Source: ePlanning Spatial Viewer & Planning Proposal)

2 Need for the planning proposal

1. RE1 Public Recreation Rezoning, Wheatley Street, Bellingham

The proposed rezoning to RE1 Public Recreation is neither the result of a strategy nor a study, although it is supported by the Bellingham Showground Trust Plan of Management (Land & Property Management Authority Crown Lands, February 2010) which targeted the acquisition of the land for

the expansion of the Bellingen Showground complex as a priority strategic action (previous property description Lot 42 DP814538).

This amendment is a proponent led application which is supported by Council as the proposed rezoning to RE1 Public Recreation reflects the intended operational use of the land.

2. Subdivision Amendment – Clause 4.1AC Exceptions to minimum subdivision lots sizes for certain split zones of the BLEP 2010

This amendment is neither the result of a strategy nor study. Council has identified practical issues with the application of clause 4.1AC of the BLEP 2010 as it does not allow for the development of land with split zones with Zones W1 and W2. The W1 and W2 zones are most commonly adjoined by land within rural zones, however occasionally they adjoin land with development potential including the R1 and R5 zones.

3. E3 Rezoning amendment – 21 Newry Street, Urunga

The proposal to rezone part of the land to E3 Environmental Management is the result of the Bellingen Shire Local Housing Strategy 2020-2040 (LHS) which was conditionally endorsed by the Department on 15 April 2020. Section 4.2 of the LHS identifies Council received a request from the owner of the land to rezone part Lot 12 DP732665, 21 Newry Street, Urunga (Figure 7) to better reflect its constrained nature and limited development potential.

As discussed in section 1.4 of this report, the majority of the land is flood prone and likely to comprise “Swamp Sclerophyll Forest on Coastal Floodplains of the NSW North Coast, Sydney Basin and South East Corner bioregions EEC”.



Figure 7 – Bellingen LHS 2020-2040
Rezoning request – Rezone part of site from R1 (General Residential) to E3 (Environmental Management) – 21 Newry Street East, Urunga.

(Source: Bellingen LHS 2040, page 84)

4. Schedule 1 – additional permitted use to facilitate a dwelling entitlement 975 Darkwood Road, Thora

This proposed amendment is the result of the LHS which was conditionally endorsed by the Department on 15 April 2020. Section 4.2 of the LHS identifies that as Lot 2 DP755542, 975 Darkwood Road, Thora formerly had the ability for a dwelling to be erected upon it, but the

planning controls were changed before the owners were able to build a dwelling on the land (Figure 8).

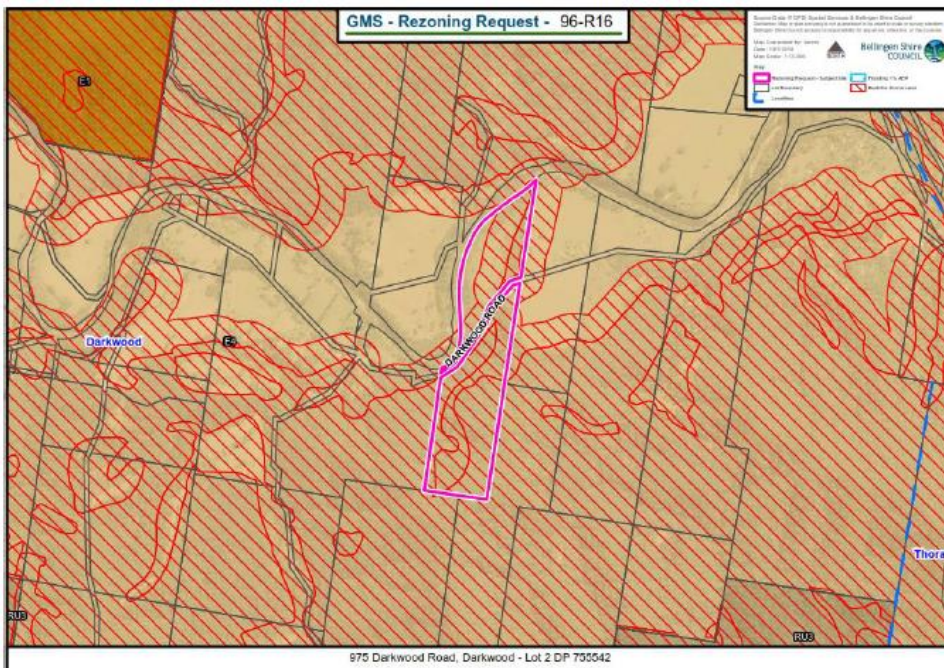


Figure 8 – Bellingen LHS 2020-2040
Schedule 1 – Seek Dwelling Entitlement, 975 Darkwood Road, Thora
 (Source: Bellingen LHS 2040, page 85)


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
<p>Direction 1: Deliver environmentally sustainable growth</p>	<p>This Direction aims to manage growth by directing development to mapped urban growth areas in order to better distribute growth and to avoid pressure on the sensitive coastal environment.</p> <p>Lot 421 DP1230181, Wheatley Street, Bellingen is located outside the urban growth area boundary (Figure 9). The Direction provides that active and passive community space may be located outside urban growth areas with a preference to avoid areas of high value environmental, heritage or natural resources.</p> <p>The Direction requires that Appendix A Urban Growth Area Variation Principles be considered and justified. In this regard:</p> <p>Policy: The planning proposal is not inconsistent with the objectives and outcomes of the North Coast Regional Plan 2036. However, there are minor inconsistencies with a number of section 9.1 Directions and some that are unresolved and will require the Secretary's approval prior to the plan being made. These are discussed in section 3.3 of this report.</p> <p>Infrastructure: There will be no impact on State or regional infrastructure or the requirement for additional funding. Local infrastructure is available to the land and the specific servicing requirements will be considered at the development application stage.</p> <p>Environmental and farmland protection: Part of Lot 421 DP1230181, Wheatley Street, Bellingen is mapped as containing potential High Environmental Values (HEV) (Figure 10) and important farmland. It is considered that consultation should be undertaken with BCD to confirm the suitability of the proposal. The Important Farmland Interim Variation Criteria are discussed later in the report.</p> <p>Land use conflict: The land is appropriately separated from incompatible land uses and it considered that any potential land use conflicts associated with future development of Lot 421 DP1230181, Wheatley Street, Bellingen can be considered at the development application stage.</p> <p>Avoiding risk: Lot 421 DP1230181, Wheatley Street, Bellingen is mapped as flood prone and containing acid sulfate soils. It considered that any potential impacts associated with these hazards can be considered and addressed at the development application stage.</p> <p>Heritage: The proposal will not impact known Aboriginal or non-Aboriginal heritage. However, it is recommended that as a condition of the Gateway determination that consultation is undertaken with the Local Aboriginal Land Council.</p> <p>Coastal area: The planning proposal seeks to apply a zone to enable the expansion of an established community land use. It is considered that expanding the recreation zone represents a minor and contiguous variation to the urban growth area boundary, as the land is unlikely to be able to support any meaningful agricultural production given its isolation to other rural lands.</p>

Regional Plan Objectives	Justification
	<div data-bbox="427 286 1417 1070"><p>The map displays the Bellingen Showground area, including the Bellingen Showgrounds (DP 112142) and the Bellingen Showground (DP 112142). The area is bounded by Hammond Street to the west, Black Street to the south, and Wheatley Street to the east. The Bellingen River is visible to the south. A red dashed line indicates the Urban Growth Area Boundary. A callout box points to this boundary with the text 'Urban Growth Area Boundary'. Other labels include McNally Street, Jubilee Park, and Jorrett Park.</p></div> <p data-bbox="427 1086 930 1120">Figure 9: Urban Growth Area Boundary</p>

Regional Plan Objectives	Justification
<p>Direction 2: Enhance biodiversity, coastal and aquatic habitats, and water catchments</p>	<p>The proposal is not inconsistent with this Direction. In this regard, the proposal recognises the likelihood that Lot 12 DP732665, 21 Newry Street, Urunga contains “Swamp Sclerophyll Forest on Coastal Floodplains of the NSW North Coast, Sydney Basin and South East Corner bioregions EEC” and seeks to rezone the majority of the land to E3. The land is also mapped as potential HEV.</p> <p>The southern portion of Lot 2 DP755542, 975 Darkwood Road, Darkwood is heavily vegetated, containing portions of land that are mapped on the State-wide Biodiversity Conservation Values Map and part potential HEV. Preliminary investigations have located a potential dwelling site to the immediate south of Darkwood Road that is relatively unconstrained. The existing E4 Environmental Living zone is to be retained.</p> <p>Part of Lot 421 DP1230181, Wheatley Street, Bellingen is mapped as containing potential HEV (Figure 10). However, Council has identified that the land is cleared to pasture and contains sporadic regrowth that is predominately weed species. Further, the proposed rezoning represents a continuation of the current land use which has been used in association with the Showground for a number of years. It is, however, recommended that consultation is undertaken with BCD to confirm the suitability of the proposal.</p>  <p>Figure 10: Lot 42 DP 1230181, Wheatley Street, Bellingen - Potential High Environmental Value</p>

Regional Plan Objectives	Justification
<p>Direction 11: Protect and enhance productive agricultural lands</p>	<p>The proposal is not inconsistent with this Direction as it is unlikely to significantly impact the viability of the agricultural sector. However, as two lots contain 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. These lots are:</p> <ul style="list-style-type: none"> • Lot 421 DP1230181, Wheatley Street, Bellingen which is proposed to be zoned from RU1 to RE1; and • Lot 2 DP755542, 975 Darkwood Road, Thora which is proposed to be given dwelling permissibility. <p>Appendix B Important Farmland Interim Variation Criteria</p> <p>Agricultural capability: Lot 421 DP1230181, Wheatley Street, Bellingen, has limited agricultural capabilities as it is only 6 hectares in area, isolated from other areas of rural lands and unlikely to be able to support any meaningful agricultural production.</p> <p>The proposal recognises historical dwelling permissibility on Lot 2 DP755542, 975 Darkwood Road, Thora. Preliminary investigations have identified a potential dwelling site to the immediate south of Darkwood Road. As the important farmland is predominately located on the northern side of Darkwood Road, it is unlikely that the agricultural capabilities of the land will be significantly impacted by the proposal. It is recommended that consultation is undertaken with Department of Primary Industries – Agriculture (DPI- Agriculture).</p> <p>Land use conflict: It is unlikely that the potential for land use conflict will increase given that Lot 42 DP1230181, Wheatley Street, Bellingen is isolated from other agricultural lands. Further, any future dwelling at 975 Darkwood Road will be able to achieve an adequate buffer to surrounding existing agricultural land uses.</p> <p>Infrastructure: There will be no impact on State or regional infrastructure or the requirement for additional funding. Council has indicated that there is adequate access to the services and infrastructure necessary to support the proposed amendments.</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 Rural Fire Service (RFS) to confirm the suitability of the proposal.</p>
<p>Direction 15: Develop health, safe, socially engaged and well-connected communities</p>	<p>The proposal is not inconsistent with this Direction as it promotes the local community's enjoyment of being outdoors and being active by extending the community use of the existing Showground, promoting community needs and creating a focal point for social participation.</p>

Regional Plan Objectives	Justification
Direction 22: Deliver greater housing supply	The proposal is not inconsistent with this Direction as it promotes appropriate development via Local Growth Management Strategies. Both 21 Newry Street, Urunga and 975 Darkwood Road, Thora, have been identified by the Bellingen LHS.
Direction 23: Increase housing diversity and choice	The proposal is not inconsistent with this Direction as it promotes strategic direction through local growth management strategies and planning controls.

3.2 Local

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

Table 6 Local strategic planning assessment

Local Strategies	Justification
Local Strategic Planning Statement	The planning proposal is consistent with the themes and planning priorities contained within the LSPS, specifically Planning Priorities 3 – To provide meaningful opportunities for local employment, sustainable business establishment and growth; Planning Priority 4 – To provide the necessary infrastructure for people to lead physically active lives within their communities; and Planning Priority 8 – Biodiversity conservation occurs at a landscape scale, using a variety of mechanisms across different land tenures.
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 4.2 Planning Proposals.
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's consistency with relevant section 9.1 Directions is discussed below:

Table 7 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.4 Oyster Aquaculture	No – Justifiably Inconsistent	<p>The proposal is inconsistent with this Direction as it affects changes in land use which could contain a Priority Oyster Aquaculture Area resulting in adverse impacts. The inconsistency is considered to be of minor significance as the planning proposal does not permit an intensification of development to occur and the BLEP 2010 and clause 5.19(5) has suitable provisions to ensure that this matter can be appropriately considered and addressed at development application stage. It is recommended, however, that consultation is undertaken with Department of Primary Industries – Fisheries NSW as there is land that is likely to adjoin a Priority Oyster Aquaculture Area.</p>
1.5 Rural Lands	No – Justifiably Inconsistent	<p>The proposal is inconsistent with this Direction as it affects land within an existing rural zone or environmental zone and is unable to satisfy all the requirements of the Direction. The inconsistency is considered to be of minor significance as the planning proposal has identified:</p> <ul style="list-style-type: none"> • Lot 421 DP1230181, Wheatley Street, Bellingen, currently zoned RU1 Primary Production. This lot has limited agricultural use as it is bounded by the Bellinger River, residential development, the Bellingen Showground, and to the east is the Bellingen Sewerage Treatment Plant. Rezoning to RE1 Public Recreation is in keeping with the surrounding agricultural theme with the adjacent showground, keeping the lot available to the community; and • Lot 2 DP755542, 975 Darkwood Road, Thora zoned E4 Environmental Living. The proposal is not rezoning the lot, rather facilitating a dwelling that was previously allowed. <p>It is recommended that consultation is undertaken with DPI – Agriculture.</p>
2.1 Environment Protection Zones	No – Inconsistent	<p>The proposal is inconsistent with this Direction as Part of Lot 421 DP1230181, Wheatley Street, Bellingen is mapped as containing potential HEV (Figure 10) and the planning proposal does not include provisions that facilitate the protection or conservation of this area. The inconsistency is considered to be of minor significance as Council has identified that the land is cleared to pasture and contains sporadic regrowth that is predominately weed species. Further, the proposed rezoning represents a continuation of the current land use which has been used in association with the Showground for a number of years. The Bellingen Showground Trust Plan of Management nominates that the land is used to conduct many of the activities undertaken at the Showground, including major events and equestrian activities. It is however, recommended that consultation is undertaken with BCD to confirm the suitability of the proposal.</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
2.2 Coastal Management	No – Justifiable Inconsistent	The proposal is inconsistent with this Direction as it includes land mapped in the SEPP and the proposed amendment to clause 4.1AC may also potentially affect land mapped within the SEPP, and does not include provisions which give effect to the objectives of the <i>Coastal Management Act 2016</i> , 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 Lot 12 DP732665, 21 Newry Street, Urunga and the planning proposal primarily only seeks to undertake minor updates to the currency of the LEP.
3.1 Residential Zones	No – Justifiably Inconsistent	The proposal is inconsistent with this Direction as it is rezoning R1 General Residential land at Lot 12 DP732665, 21 Newry Street, Urunga. The inconsistency is justified by the Department endorsed Bellingen LHS.
4.1 Acid Sulfate Soils	No – Justifiably Inconsistent	<p>The planning proposal is inconsistent with this Direction as it may allow an intensification of land use on acid sulfate soils and it is not supported by an acid sulfate soils study. The inconsistency is considered to be of minor significance as:</p> <ul style="list-style-type: none"> • Lot 421 DP1230181, Wheatley Street, Bellingen, has class 5 acid sulfate soils which are considered a low risk class; • Lot 12 DP732665, 21 Newry Street, Urunga has class 5 acid sulfate soils which are considered a low risk class; • the subdivision amendment – Clause 4.1AC Exceptions to minimum subdivision lots sizes for certain split zones of the BLEP 2010, has a high probability of containing acid sulfate soils; and • the Bellingen LEP 2010 contains suitable provisions to ensure that this matter can be appropriately considered and addressed at development application stage.

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
4.3 Flood Prone Land	No – Justifiably Inconsistent	<p>The proposal is inconsistent with this Direction as it potentially creates, removes or alters a zone or a provision that affects flood prone land. The inconsistency is considered to be of minor significance as:</p> <ul style="list-style-type: none"> • Lot 421 DP1230181, Wheatley Street, Bellinger, has been identified in the Lower Bellinger/Lower Kalang Flood Maps in accordance with a floodplain risk management plan; and is not rezoning to a residential, business, industrial, special use or special purpose zone; • the subdivision amendment – Clause 4.1AC Exceptions to minimum subdivision lots sizes for certain split zones of the BLEP 2010, has a high probability of containing flood prone land, however the proposal is not intensifying development; • Lot 12 DP732665, 21 Newry Street, Urunga, has been identified in the Lower Bellinger/Lower Kalang Flood Maps in accordance with a floodplain risk management plan; and is not rezoning to a residential, business, industrial, special use or special purpose zone; • Lot 2 DP755542, 975 Darkwood Road, Thora, the proposal identifies that Council has a flood study that applies in the locality and documents a General Flood Planning Level to be observed for new development and identification of a suitable location of a dwelling; and • the Bellinger 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	<p>The proposal is inconsistent with this Direction because the proposal has identified bushfire prone land on Lot 2 DP755542, 975 Darkwood Road, Thora. 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.</p>

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 8 Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
Coastal Management SEPP 2018	The proposal has areas that are identified Coastal Environment Area under the SEPP.	Yes	It is considered that the requirements of the SEPP can be addressed at the development application stage, as relevant.
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 – Justifiably Inconsistent	<p>Regionally Significant Farmland identified on the Final Map Mid North Coast Farmland Mapping Project (Department of Planning, 2008) is identified on:</p> <ul style="list-style-type: none"> • Lot 421 DP1230181, Wheatley Street, Bellingen; and • Lot 2 DP755542, 975 Darkwood Road, Thora. <p>As discussed in section 3.3 of this report, it is unlikely that the proposal will increase the potential for land use conflict.</p>
Koala Habitat Protection SEPP 2020 and 2021	This SEPP applies as Bellingen LGA is listed in Schedule 1 of the SEPP.	Consistent	Bellingen Shire Council has a Comprehensive Koala Plan of Management (KPoM) mapping core Koala habitat and preferred Koala habitat. It is also acknowledged other areas that are not currently mapped may contain core Koala habitat. Future development will require assessment in accordance with the Koala SEPP and Bellingen KPoM.

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 development, especially in relation to:</p> <ul style="list-style-type: none"> • Lot 421 DP1230181, Wheatley Street, Bellingen; and • Lot 2 DP755542, 975 Darkwood Road, Thora. <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.</p>

4 Site-specific assessment

4.1 Environmental

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

Table 9 Environmental impact assessment

Environmental Impact	Assessment
Coastal Environment Area	As discussed above under Direction 2.2, mapped areas under the SEPP Coastal Management 2018, and any matters pertaining to specific sites 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.</p> <p>Part Lot 12 DP732665, 21 Newry Street, Urunga, is being rezoned to E3 Environmental Management, enhancing the protection for this particular lot.</p>
Regionally Significant Farmland	<p>Regionally Significant Farmland has been identified on:</p> <ul style="list-style-type: none"> • Lot 421 DP1230181, Wheatley Street, Bellingen; and • Lot 2 DP755542, 975 Darkwood Road, Thora. <p>As discussed above in Table 7, it is not considered that any land use conflict issues will arise from the planning proposal.</p>
Koalas	<p>As discussed above in Table 7, Bellingen has a Comprehensive KPoM that maps core Koala habitat.</p> <p>Bellingen LGA is listed in the Schedule 1 Koala SEPP 2021 and any future development will have to address the provisions of the SEPP and Bellingen KPoM at the development application stage.</p>
Acid Sulfate Soils	<p>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.</p>
Flooding	<p>Flood effected areas are identified in the Lower Bellinger/Lower Kalang Flood Study. 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.</p>
Bushfire	<p>Bushfire prone land has been identified on Lot 2 DP755542, 975 Darkwood Road, Thora. As discussed above under Direction 4.4, consultation is required with the RFS.</p>
Contamination	<p>Council has advised that their Contaminated Lands Register does not identify any of the individual land parcels included in the proposal to be potentially contaminated having regard to their previous land uses.</p>

4.2 Social and economic

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

Table 10 Social and economic impact assessment

Social and Economic Impact	Assessment
Community	<p>The community will gain benefit from Lot 421 DP1230181, Wheatley Street, Bellingen being rezoned to RE1 Public Recreation. This will allow ongoing events related to the use of the showground enhancing the local social, cultural and economic fabric of the Shire.</p>

Economic

Hosting events at the Showground and adjacent rezoned lot will bring visitors to the Shire who will potentially stay within the Shire thereby capturing the economic benefits.

In addition, an amendment to clause 4.1AC Exceptions to minimum subdivision lots sizes for certain split zones of the BLEP 2010 will allow Council to continue to develop appropriate areas bringing associated economic benefits to the community and businesses.

4.3 Infrastructure

The proposal acknowledges there is adequate public infrastructure existing to support each of the proposed amendments.

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 Harbour & District Local Aboriginal Land Council
- Bowraville Local Aboriginal Land Council
- Department of Planning, Industry and Environment - Division of Biodiversity and Conservation
- Department of Primary Industries - Agriculture
- Department of Primary Industries – Fisheries NSW

6 Timeframe

Council proposes a five month time frame to complete the LEP.

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;
- include current zone and amended zone maps to help the community identify and understand the proposed rezoning areas; and
- correct the property description of 975 Darkwood Road, Darkwood.

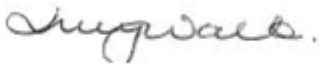
9 Recommendation

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

- **agree** that any inconsistencies with section 9.1 Directions 1.4 Oyster Aquaculture; 1.5 Rural Lands; 2.1 Environment Protection Zones; 2.2 Coastal Management; 3.1 Residential Zones; 4.1 Acid Sulfate Soils and 4.3 Flood Prone Land are minor or justified in accordance with the terms of the Directions; and
- **note** that the inconsistencies with section 9.1 Direction 4.4 Planning for Bushfire Protection is unresolved until further justification has been provided.

It is recommended the 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;
 - (b) include current zone and amended zone maps to help the community identify and understand the proposed rezoning areas; and
 - (c) correct the property description of 975 Darkwood Road, Darkwood.
 - Consultation is required with the following public authorities:
 - NSW Rural Fire Service
 - Coffs Harbour & District Local Aboriginal Land Council
 - Bowraville Local Aboriginal Land Council
 - Department of Planning, Industry and Environment - Division of Biodiversity and Conservation
 - Department of Primary Industries - Agriculture
 - Department of Primary Industries – Fisheries NSW
 - 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**).



25/05/2021

(Signature)

(Date)

Lucy Walker
Acting Manager, Local and Regional Planning
Northern Region



28/5/2021

(Signature)

(Date)

Jeremy Gray
Director, Northern Region
Local and Regional Planning

Assessment officer

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