



Planning,  
Industry &  
Environment

IRF21/3717

## Gateway determination report – PP-2021-5286

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Reclassify part of Lot 45 DP228703, 99 - 101 Ocean View Drive, Valla Beach from Operational Land to Community Land, rezone from RE1 Public Recreation to R1 General Residential and introduce appropriate development controls

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Table 1 Attachments

Attachments	
A	Planning Proposal
D	Certificate of Title Lot 45 DP228703, 99-101 Ocean View Drive, Valla Beach
E	Council report 16 May 2019
F	Council Bushfire Assessment Report
I	Previous Gateway determination

# 1 Planning proposal

## 1.1 Overview

Table 2 Planning proposal details

LGA	NAMBUCCA
PPA	Nambucca Valley Council
NAME	Reclassify part of Lot 45 DP228703, 99-101 Ocean View Drive, Valla Beach, from Operational Land to Community Land, rezone from RE1 Public Recreation to R1 General Residential and introduce appropriate development controls.
NUMBER	PP-2021-5286
LEP TO BE AMENDED	Nambucca Local Environmental Plan 2010
ADDRESS	99-101 Ocean View Drive, Valla Beach
DESCRIPTION	Part Lot 45 DP228703
RECEIVED	25 August 2021
FILE NO.	EF21/5177
DWELLINGS	2.8
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 planning proposal are to:

- reclassify from community land to operational land part of Lot 45 DP 228703 and discharge the implied public reserve status;
- rezone part Lot 45 DP228703 from RE1 Public Recreation to R1 General Residential, including applying associated development standards pursuant to the Nambucca LEP 2010 for floor space ratio; height of buildings; and minimum lot size; to allow for future residential development; and
- amend the relevant maps of the Nambucca LEP 2010.

The objectives of this planning proposal are clear and adequate.

## 1.3 Explanation of provisions

The planning proposal seeks to amend the Nambucca LEP 2010 per the changes in Table 3:

Table 3 Current and proposed controls

Control	Current	Proposed	Associated Map
Land Zone	RE1 Public Recreation	RE1 General Residential	Land Zone LZN_005C
Maximum height of building	N/A	8.5m	Height of Buildings HOB_005C
Floor space ratio	N/A	0.55:1	Floor Space Ratio FSR_005C
Minimum lot size	N/A	450m <sup>2</sup>	Minimum Lot Size MLS_005C
Reclassify land from	Community	Operational	Land Reclassification (Part Lots) Map

The explanation of provisions, however, does not clearly state that the proposal involves the:

- discharge of the implied public reserve status of part of the lot; or
- creation of a new Reclassification (Part Lots) Map.

It is therefore recommended that a condition of the Gateway determination require these items are clearly articulated in the explanation of provisions.

The planning proposal otherwise contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

## 1.4 Site description and surrounding area

The planning proposal seeks to reclassify part of Lot 45 DP228703, 99-101 Ocean View Drive, Valla Beach from community to operational land (Figure 1).

The area subject to the planning proposal is 1300m<sup>2</sup>. An access handle of approximately 7m in width will provide access to the remainder of the lot and is intended to be retained as community land. The subject site has scattered trees and is mostly lawn area. The eastern portion of the remainder of the lot is heavily vegetated with steep terrain to a gully before bordering the Valla Nature Reserve onto Deep Creek.

The lot is located approximately 1.8km east of the Pacific Highway; Coffs Harbour is approximately 40km north and Nambucca Heads is approximately 10km south. The surrounding area consists of residential housing and approximately 250m south on Regatta Drive is the Valla Beach Tourist Park.





Figure 1 – Subject Site  
(Source: NearMap)

## 1.5 Existing Planning Controls

That part of the site to which the planning proposal applies is:

- zoned RE1 Public Recreation (Figure 2);
- contains Class 5 Acid Sulfate Soils (Figure 3);
- is partially Bushfire Prone Land (Figure 4);
- contains Coastal Environment and Coastal Use areas under State Environmental Planning Policy (Coastal Management) 2018 (Figure 5);
- contains potential High Environmental Values (HEV) identified by the North Coast Regional Plan 2036 (NCRP) (Figure 6); and
- is located outside the Urban Growth Boundary (UGB) identified by the NCRP (Figure 7).

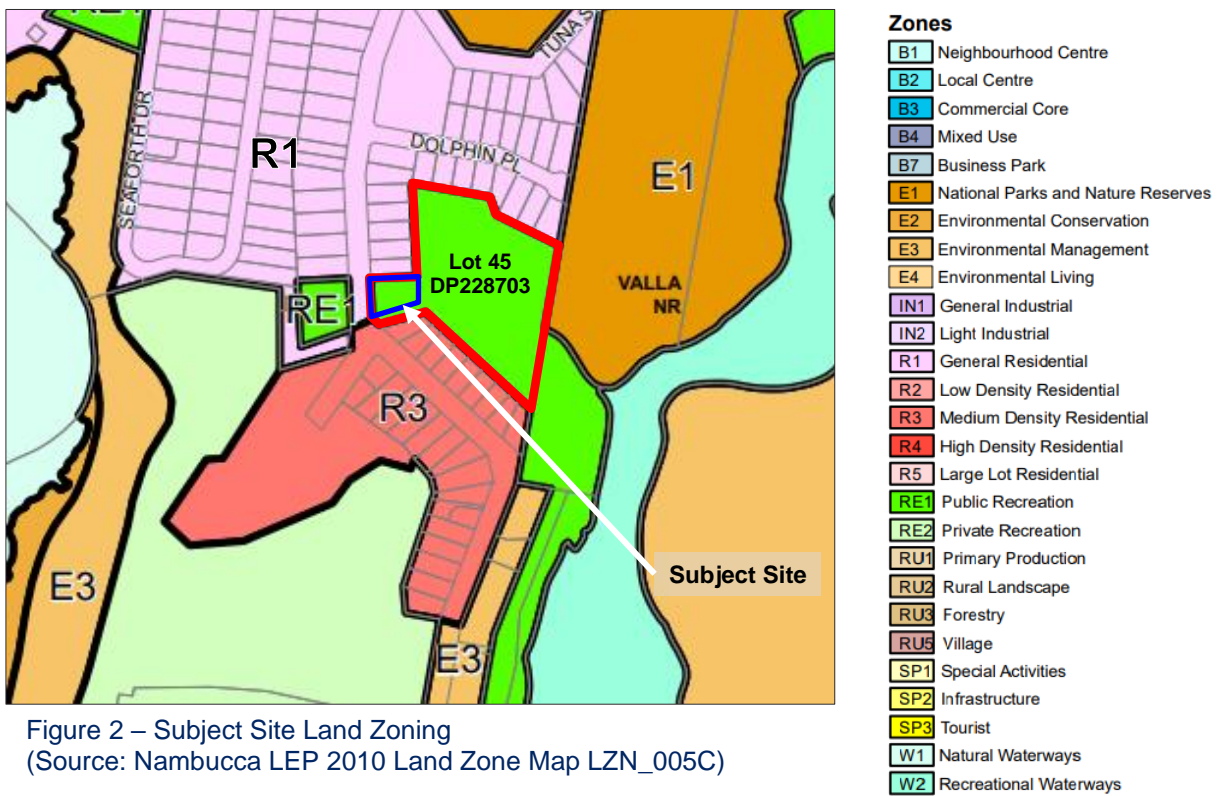


Figure 2 – Subject Site Land Zoning  
(Source: Nambucca LEP 2010 Land Zone Map LZN\_005C)

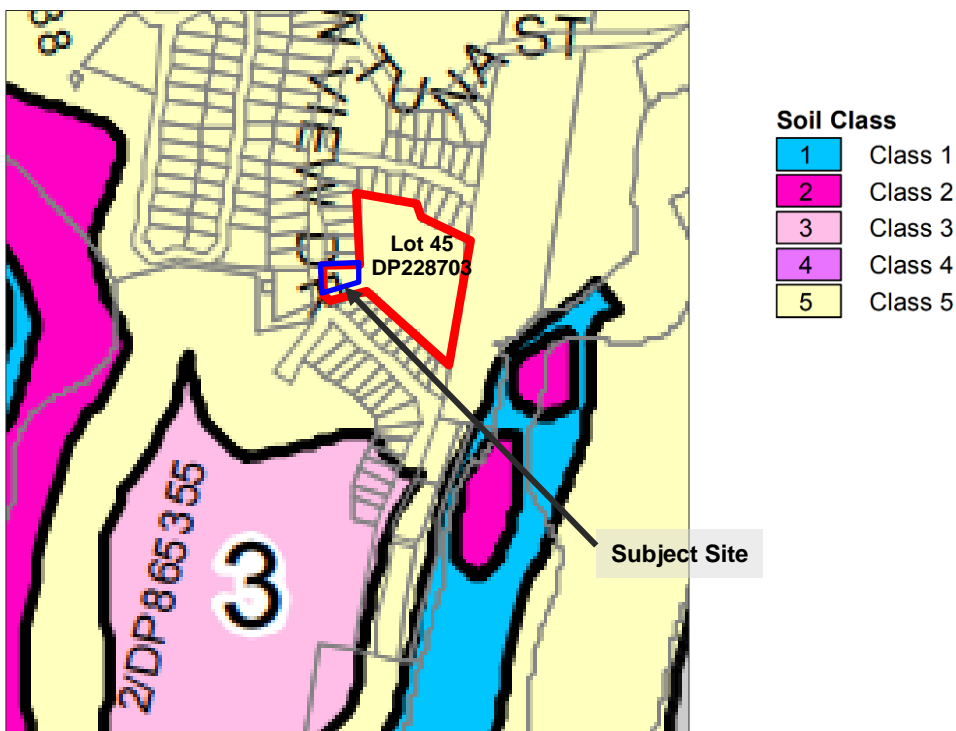


Figure 3 – Subject Site Acid Sulfate Soils  
(Source: Nambucca LEP 2010 Acid Sulfate Soils Map ASS\_005)



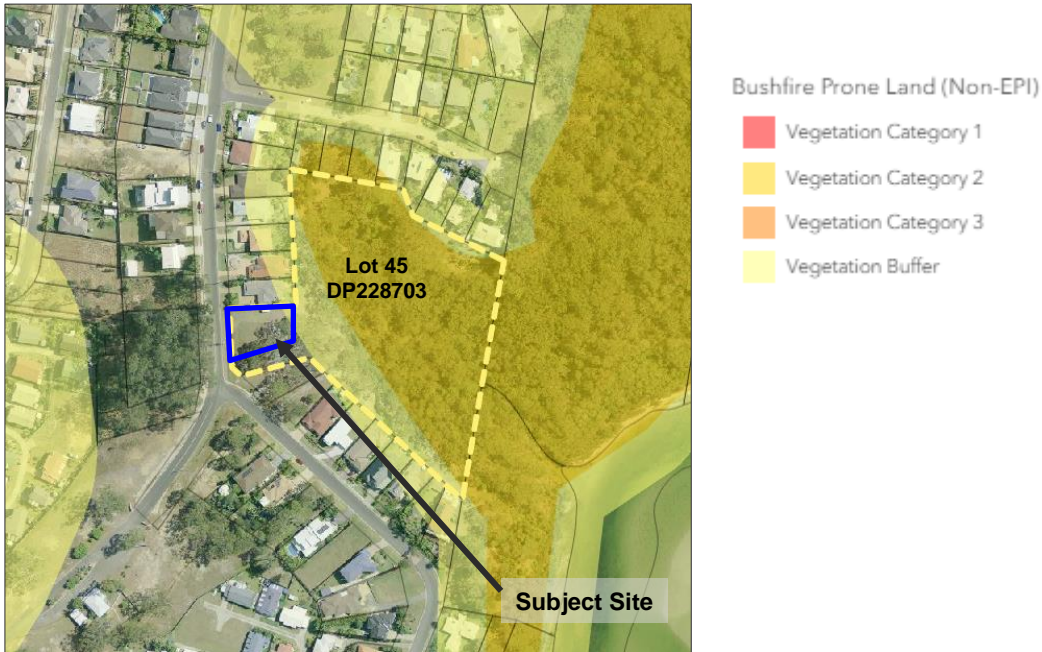


Figure 4 – Bushfire Prone Land  
(Source: ePlanning Spatial Viewer)

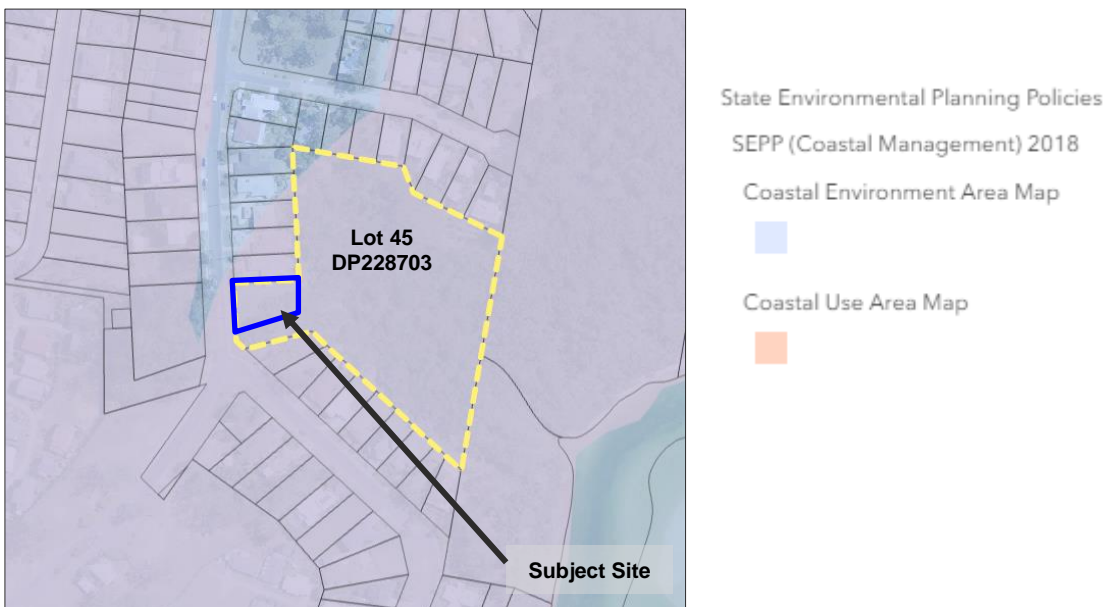


Figure 5 – SEPP (Coastal Management) 2018  
(Source: ePlanning Spatial Viewer)





Figure 6 – Potential High Environmental Value Land  
(Source: North Coast Regional Plan 2036)

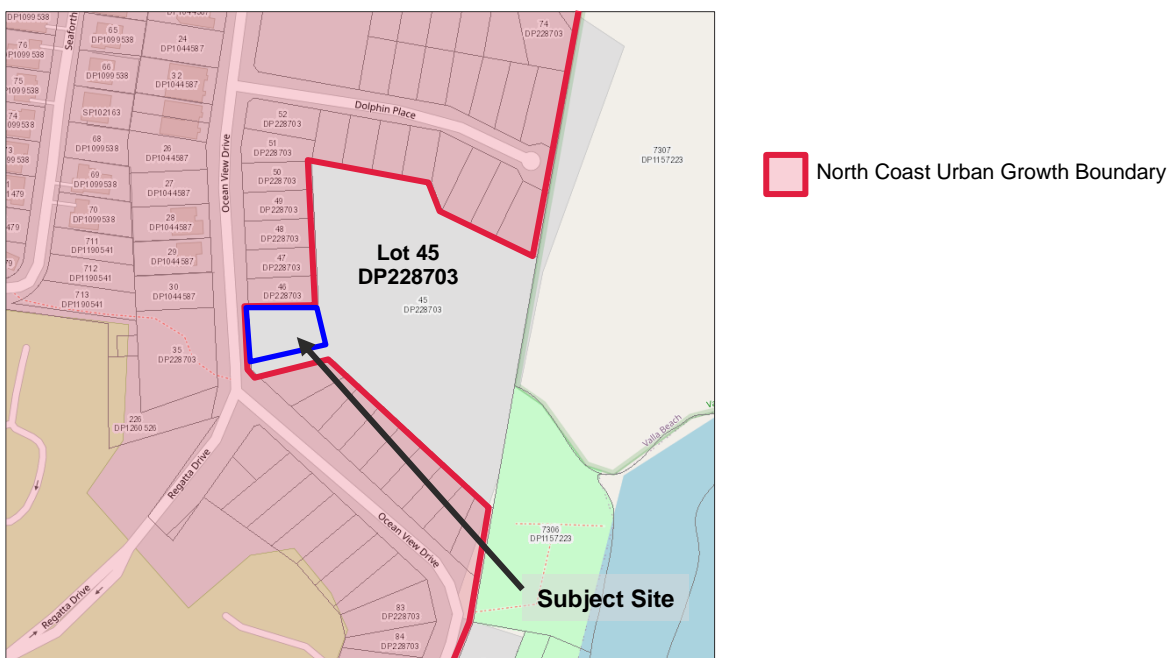


Figure 7 – North Coast Urban Growth Area  
(Source: North Coast Regional Plan 2036)

## 1.6 Mapping

The planning proposal is proposing to amend the Land Zoning; Minimum Lot Size; Floor Space Ratio; and Height of Buildings maps and includes the maps at Attachment 1 which are suitable for public consultation showing the existing and proposed changes. However, there is no Land Reclassification (Part Lot) Map included within Attachment 1 of the planning proposal. It is

recommended that the Gateway determination is conditioned to require a proposed Land Reclassification (Part Lot) Map be included in the proposal.

Maps consistent with the Standard Technical Requirements will need to be prepared before the making of the LEP amendment.

## 1.7 Background

Nambucca Valley Council prepared planning proposal PP\_2019\_NAMBU\_001\_00 to reclassify part of Lot 45 DP228703, 99-101 Ocean View Drive, Valla Beach, from community to operational land in August 2019.

The Gateway determination was issued on 2 October 2019 which determined that the proposal should proceed subject to conditions and be completed within a timeframe of nine months. The Gateway determination was altered to extend the timeframe for completion and was to be finalised by 2 July 2021.

Council advised the delay in meeting the Gateway determination timeframe arose as Council delayed proceeding with the public hearing and exhibition until 2021 so consolidation of the public hearing process could be combined with other proposed reclassifications in the LGA.

Council was advised that due to the length of time since the proposal had been submitted further extensions of time would not be supported. It has been agreed that PP\_2019\_NAMBU\_001\_00 should not progress, and Council has requested that the proposal be withdrawn (**Attachment G**). This is considered appropriate in the circumstances.

Council has requested a new Gateway determination to reclassify part of Lot 45 DP228703, 99-101 Ocean View Drive, Valla Beach, from community to operational land.

## 2 Need for the planning proposal

The planning proposal is not the result of a strategic strategy or study, rather the aim is to be able to sell the subject site for residential development, providing for future housing in the Valla Beach area. The Council minutes of 16 May 2019 note the proceeds of the sale would be directed to community infrastructure in Valla Beach or to the extension of the Nambucca Heads library.

It is also noted from the information provided with the original planning proposal that the land was created by subdivision in 1965 where it was dedicated as a Public Reserve (Figure 8). It is recommended that the Gateway determination is conditioned to require this information is clearly articulated in the planning proposal stating the intended use for the funds from the sale of the subject site and include copies of the Certificate of Title and copies of the historical deposited Plan, prior to community consultation.

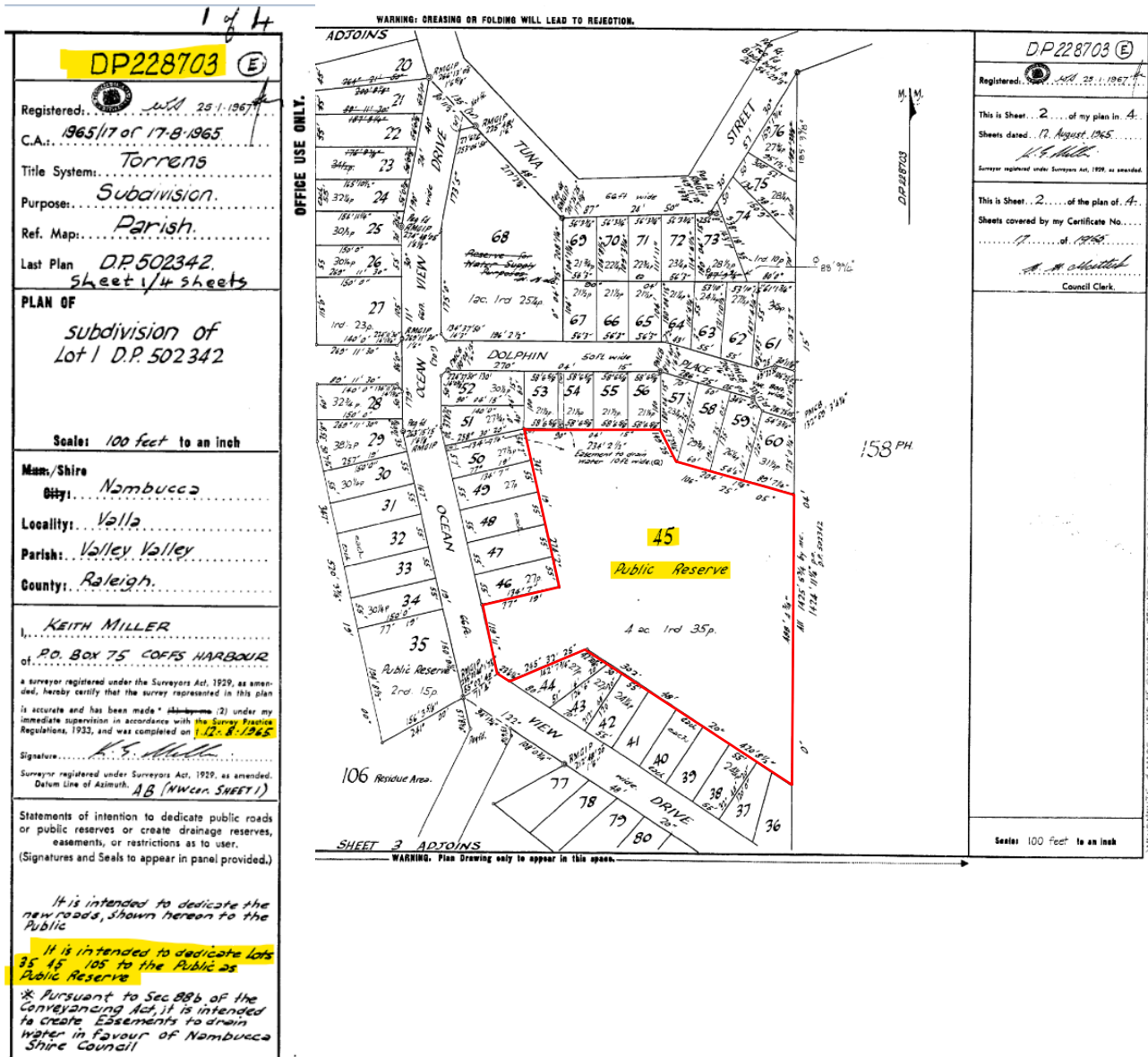
The planning proposal notes that in 1993 the allotment was classified as part of a bulk policy land reclassification as Natural Area – Bushland. The planning proposal suggests the subject site does not have significant value for recreation or reflect its status as Natural Area – Bushland when comparing the subject site with Valla Lions Park located approximately 300m to the south east (Figure 9) and the Valla Nature Reserve (Figure 10).

Valla Lions Park contains public infrastructure and hosts community markets/events. It is located on the foreshore of Deep Creek (Figure 9). The vegetated coastal reserve system comprises approximately 37 hectares of Council owned, and managed land and Valla Nature Reserve has a total area of 47 hectares, bisected by Ocean View Drive (Figure 10).

The total area of the lot is 1.8 hectares; however, the planning proposal relates to the identified subject site, 1300m<sup>2</sup> of land with frontage to Ocean View Drive. This part of the lot contains lawn and scattered trees and is slightly elevated from the road (Figure 11).

In this instance, it is considered that the planning proposal allows for the rational use of existing infrastructure and services, without compromising the availability or quality of open space in Valla Beach. It will also have a minor contribution to housing supply in Valla Beach.

The planning proposal represents the best means of achieving the intended outcomes.



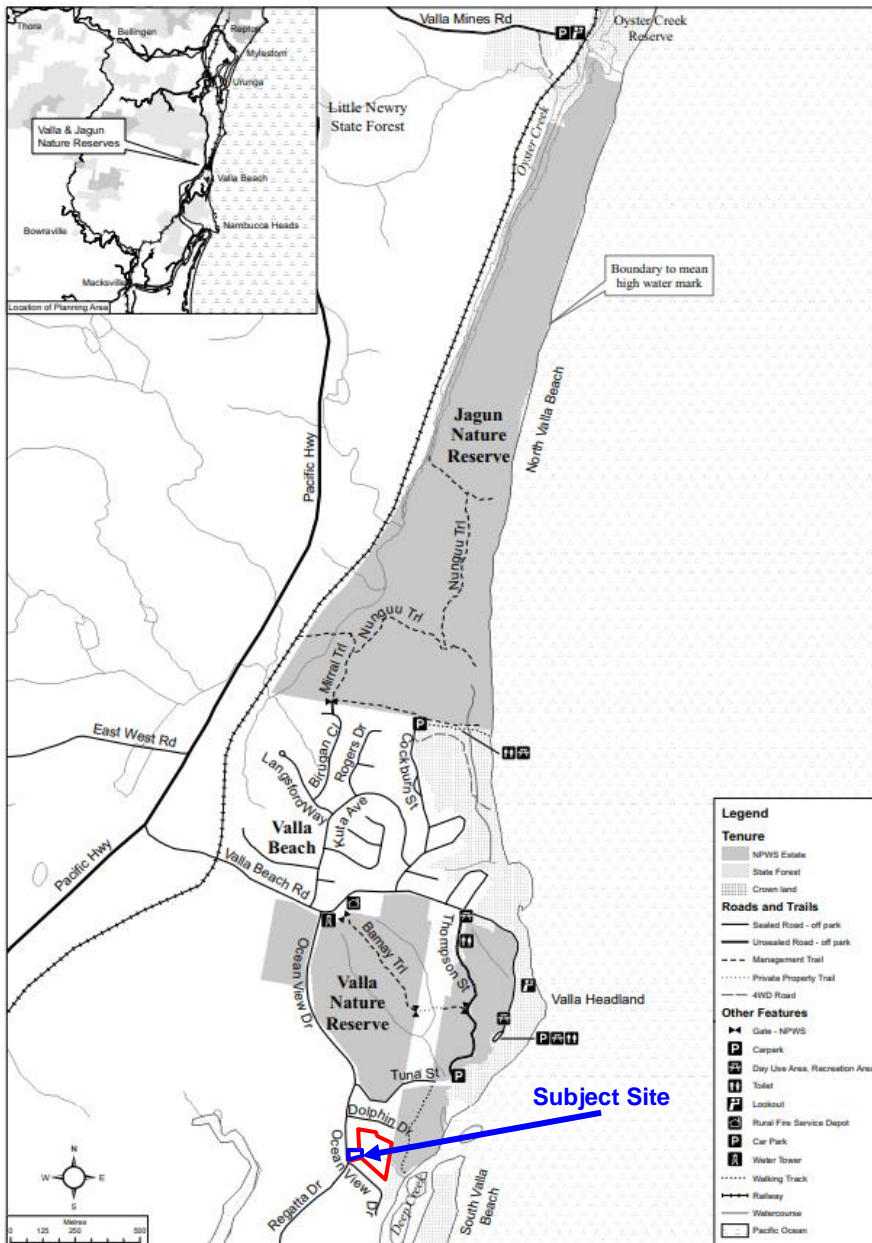


Figure 10 – Valla Beach Area Nature Reserves  
(Source: National Parks and Wildlife Service Valla and Jagun Nature Reserves Plan of Management)

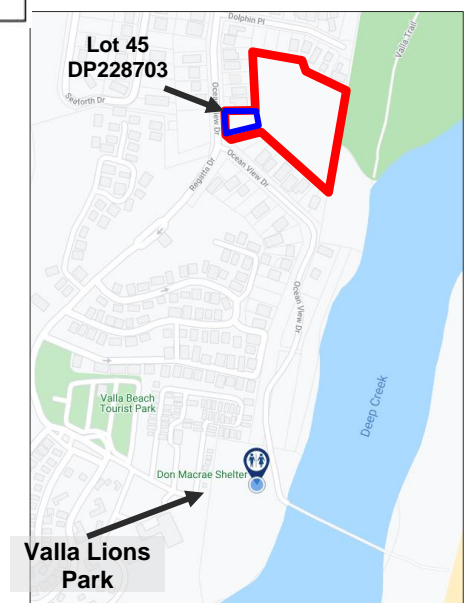


Figure 9 – Valla Lions Park  
(Source: Google Maps)





Figure 11 – Aerial view and street view of Lot 45 DP228703  
(Source: NearMap and Google Maps)

### 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 NCRP 2036.



Table 4 Regional Plan assessment

Regional Plan Objectives	Justification
Direction 1: Deliver environmentally sustainable growth	<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>The subject site is located outside the Urban Growth Area boundary (Figure 7), and therefore Appendix A of the NCRP, Urban Growth Area Variation Principles need to be considered and justified. In this regard:</p> <p><u>Policy:</u> The planning proposal is generally consistent with the relevant objectives and outcomes in the NCRP 2036 and SEPP's. Inconsistencies with relevant section 9.1 Directions 2.1 Environmental Protection Zones; 2.2 Coastal Management; 2.3 Heritage Conservation; 2.6 Remediation of Contaminated Land; 3.1 Residential Zones; 3.2 Caravan Parks and Manufactured Home Estates; 4.1 Acid Sulfate Soils; 4.4 Planning for Bushfire Protection; and 6.2 Reserving Land for Public Purposes are considered to be of minor significance and/or will require further consultation with relevant agencies. Whilst Council has an endorsed Urban Land Release Strategy, it is dated 1996 and as such is based on pre 1996 census and is no longer particularly relevant to the proposal.</p> <p><u>Infrastructure:</u> The planning proposal states there is existing infrastructure available to the site. Therefore, the planning proposal allows for the rational use of existing infrastructure at no cost to the government.</p> <p><u>Environment and Farmland Protection:</u> The site contains potential high environmental values (Figure 6). The majority of the Lot is vegetated, and Council's vegetation mapping identifies the vegetation as Pink Bloodwood Brushbox Open Forest on Coastal Dunes and Sandplains as well as Littoral Rainforest in the lower coastal gully. This vegetated part of the Lot forms a significant part of the local reserve system. The area subject to the planning proposal, however, relates only to 1300m<sup>2</sup> of land containing lawn and scattered trees, with no change proposed to the vegetated balance of the Lot. The land is not mapped as important farmland.</p> <p><u>Landuse conflict:</u> The planning proposal will not contribute to land use conflict as it adjoins existing residential areas and the Valla Nature Reserve. The proposed controls will allow the land to be developed for a land use and scale consistent with the adjoining residential land.</p> <p><u>Avoiding Risk:</u> The land is bushfire prone (Figure 4) and consultation will be undertaken with the NSW Rural Fire Service as a condition of the Gateway determination. The land is also affected by Class 5 acid sulfate soils (Figure 3) which are considered a low risk and can be addressed at the development application stage.</p> <p><u>Heritage:</u> The planning proposal will not impact any 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><u>Coastal Area:</u> The planning proposal seeks to reclassify and rezone to R1 General Residential the subject site, 1300m<sup>2</sup> of land which presently contains lawn and a few scattered trees and residential development on either side of the subject lot. The balance of the lot is environmentally sensitive and will not be impacted by the planning proposal. The subject site is considered to be a minor and contiguous variation to the urban growth area.</p>

Regional Plan Objectives	Justification
Direction 15: Develop healthy, safe, socially engaged and well-connected communities	This Direction aims to provide housing, services and facilities that are within walking distance of each other. The design of the urban environment can help build community health, social wellbeing and cohesion. It is considered the reclassification and rezoning of the subject lot will allow infill residential development contiguous with the surrounding residential community.
Direction 22: Deliver greater housing supply	This Direction aims to supply well located land for residential development. The subject lot is outside the Urban Growth Area, however, is abutting the boundary (Figure 7) on two sides of the subject site, with established residential development on either side fronting Ocean View Drive. It is therefore considered to be a minor and contiguous variation to the urban growth area.
Direction 23: Increase housing diversity and choice	This Direction aims to help provide housing diversity and choice to help improve affordability. The reclassification and rezoning of the subject lot and application of relevant development controls consistent with the surrounding development will provide, even though small, further options for housing in an area that has limited availability.

## 3.2 Local

The proposal states that it is not inconsistent with Councils Community Strategic Plan or any other strategic plan. The following Table provides an assessment against the local plans and endorsed strategies.

Table 5 Local strategic planning assessment

Local Strategies	Justification
Local Strategic Planning Statement	<p>The planning proposal is not inconsistent with the Nambucca LSPS themes and planning priorities. The relevant considerations include:</p> <p>Planning Priority 1: The Community and Place Goals and Actions relevant to the proposal include:</p> <ul style="list-style-type: none"> <li>Well planned communities and public domain improvements will provide safe, functional and attractive spaces and community facilities for residents and visitors to the Valley.</li> <li>Well maintained, high quality open space areas including playgrounds, sporting and recreation facilities that are responsive and accessible for all ages, ethnicities, ability levels and socio economic groups facilitating physical activity and social engagement.</li> <li>Action 1.2 Plan for and seek opportunities to improve the amenity and appeal of the Nambucca Heads Town Centre. Identify priorities and funding mechanisms to support the implementation of the improvements delivering an attractive and liveable Coastal Town.</li> </ul> <p>Planning Priority 2: The Environment Goals relevant to the proposal include:</p> <ul style="list-style-type: none"> <li>The vegetation, biodiversity and habitats of the Nambucca Valley will be protected and enhanced to support sustainable, diverse and abundant wildlife populations.</li> <li>Access to environmental areas will be managed to provide safe, peaceful and beautiful places to learn and enjoy for current and future generations.</li> </ul>

Local Strategies	Justification
	<p>Planning Priority 3: The Housing Goals and Actions relevant to the proposal include:</p> <ul style="list-style-type: none"> <li>• To limit the impact of housing on the environment and on the character of our rural areas.</li> <li>• To provide a diverse range of housing and lifestyle choice that support population growth, a diverse and ageing demographic, and affordability.</li> <li>• Action 3.7 Continue to support the delivery of a diverse range of housing types and markets.</li> </ul> <p>The narrative for Valla identifies that Valla Beach is characterised by low density, single dwelling houses. It is also nominated that there is a limited supply of land in the Valla Beach area, and that existing un-subdivided zoned land which comprises approximately 11 hectares of vacant land for residential purposes is approaching its threshold, and that there is no plan for further releases as the footprint is limited by the surrounding environmental areas.</p> <p>The narrative for Nambucca Heads refers to the impending improvements to the Nambucca Library and Entertainment Centre precinct.</p> <p>It is considered that the planning proposal is consistent with the existing and future desired character of Valla Beach and will have a minor additional contribution to housing supply. Council has indicated that the proceeds of the sale may be used toward improvements to the Nambucca Library.</p> <p>It is noted that the planning proposal does not contain discussion on the LSPS. It is recommended as a condition of the Gateway determination that commentary is included in the planning proposal prior to community and agency consultation.</p>
Nambucca Community Strategic Plan	<p>The planning proposal is not inconsistent with the Nambucca CSP and in particular aligns with the Aspiration 2 caring for our Environment Strategy: 2.1 Well planned Communities.</p>
Community Facilities and Public Open Space Needs Strategy 2015	<p>The planning proposal is inconsistent with the Nambucca Community Facilities and Public Open Space Needs Strategy (the Strategy). However, the inconsistency is considered to be of minor significance.</p> <p>The Strategy identifies that Council has a sufficient supply of open space in the shire and should be focused on enhancing existing facilities not acquiring new land other than that required for new developments.</p> <p>The proposal highlights 5.2 Open Space ‘Messages’ and Opportunities of the Strategy where the enhancement of current facilities and potential rejuvenation of environmental areas with trails and footpaths are considered important. Further 6.3 Directions and Strategies for Open Space identify that natural areas should be protected and managed to maintain the natural values, including protecting RE1 zoned land.</p> <p>The proposal acknowledges the significance of the public reserve status of Lot 45 DP228703, however the subject site is:</p> <ul style="list-style-type: none"> <li>• only part of the lot, a small area of 1300m<sup>2</sup>;</li> <li>• managed as lawn;</li> <li>• has limited recreational value as open space;</li> <li>• has limited viability as a potential natural area through restoration or natural regeneration due to the potential to contribute to bushfire risk on adjoining urban land, noting that Council has historically received several requests to</li> </ul>

Local Strategies	Justification
	<p>remove juvenile and mature trees that have been perceived as a potential risk to life or property.</p> <p>It is agreed that the area of land to which this planning proposal relates is of minor significance from both an environmental and open space perspective when compared to the major open spaces or reserve areas that characterise Valla Beach, including (Figure 10):</p> <ul style="list-style-type: none"> <li>• Valla Nature Reserve (NPWS);</li> <li>• Jagun Nature Reserve (NPWS);</li> <li>• Anderson Park (Council);</li> <li>• Valla Lions Reserve; and</li> <li>• Coastal Reserves.</li> </ul> <p>The total area of Council owned or managed land at Valla Beach is approximately 46 hectares which includes the subject land (Figure 12).</p> <p>The total area of the non-operational open space areas in Valla Beach is 196 hectares, and this amount excludes the beach and Deep Creek which also provide recreational opportunities and are a key contributor to the character of the Valla Beach locality.</p> <p>The planning proposal will reduce the amount of open space available at Valla Beach by facilitating the sale of the land for future residential development. However, the physical character of the land is not an accurate reflection of its current categorisation as Natural Area – Bushland and when the reduction is expressed as a percentage, there is only a decrease of 0.06% to all open space, including National Parks and 0.2% of the land owned by Council.</p>





Figure 12 – Valla Beach Open Space  
(Source: Planning Proposal)



### 3.3 Section 9.1 Ministerial Directions

The planning proposal is consistent with all relevant section 9.1 Directions except as discussed below:

Table 6 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
2.1 Environment Protection Zones	Justifiably Inconsistent	The planning proposal is inconsistent with this Direction as the area of the Lot subject to the planning proposal is mapped as containing potential HEV (Figure 6) 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 the area being reclassified and rezoned is only 1300m <sup>2</sup> and is mostly cleared lawn area with scattered trees and the majority of the lot which is heavily vegetated is not affected by the planning proposal.
2.2 Coastal Management	Justifiably Inconsistent	The planning proposal is inconsistent with this Direction because it includes land mapped in the Coastal SEPP (Figure 5) 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 site is mapped as coastal environmental area and coastal use area, it will result in a very minor increase in residential zoned land, and is unlikely to have any detrimental environmental impact on the coastal zone.
2.3 Heritage Conservation	Justifiably Inconsistent	The planning proposal is inconsistent with this Direction as it provides that a planning proposal must contain provisions which facilitate the conservation of heritage and Aboriginal cultural significance. The proposal will permit additional land uses with consent. Although the proposal does not specifically facilitate the protection of matters of heritage significance, it does not reduce the protection afforded by the current framework. As such, the inconsistency is considered to be of minor significance. It is recommended that consultation is undertaken with the Local Aboriginal Land Council to confirm the suitability of the proposal.
2.6 Remediation of Contaminated Land	Consistent	<p>This Direction applies to the planning proposal as the subject site is being rezoned to a residential zone. Council have provided an historical context where the land was subdivided in 1965 where it was dedicated as a public reserve (Figure 8) and used as such since. The land was classified in a bulk policy land reclassification undertaken in 1993 where the land was classified as Natural Area – Bushland in full.</p> <p>Council have also reviewed historical information, land file records and Councils contaminated land mapping and contaminated land register that all indicate the land has historically been natural bush or cleared land where no previous land use is recognised as causing potential contamination of the subject site. It is therefore considered the planning proposal is consistent with this Direction.</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
3.1 Residential Zones	Justifiably Inconsistent	The planning proposal is inconsistent with this Direction as it affects land that is proposed to be rezoned to a residential zone and will apply associated development standards to the subject site. A planning proposal must contain a requirement that residential development is not permitted until land is adequately serviced. The consistency is considered to be of minor significance as there is existing services available to Lot 45 DP228703; and the subject site will be consistent with surrounding residential development.
3.2 Caravan Parks and Manufactured Home Estates	Justifiably Inconsistent	The planning proposal is inconsistent with this Direction as caravan parks are a permissible land use in the existing RE1 Public Recreation zone but a prohibited use in the proposed R1 General Residential zone. However, the removal of 1300m <sup>2</sup> of RE1 zone is considered to be of minor significance and will not compromise the objectives of this Direction as caravan parks will continue to be a permissible use on the balance of the lot which is approximately 1.67 hectares in area.
4.1 Acid Sulfate Soils	Justifiably Inconsistent	The planning proposal is inconsistent with this Direction as it may allow an intensification of land use on acid sulfate soils (Figure 3) 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 Nambucca LEP 2010 contains suitable provisions (Clause 7.1) to ensure that this matter can be appropriately considered and addressed at the development application stage.
4.4 Planning for Bushfire Protection	Inconsistent	The proposal is inconsistent with this Direction because the proposal has identified bushfire prone land (Figure 4) on Lot 45 DP228703. 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. Until this consultation has occurred with the RFS, the inconsistency with the Direction remains unresolved.
6.2 Reserving Land for Public Purposes	Justifiably Inconsistent	<p>The planning proposal is inconsistent with this Direction as the change in community to operational land will reduce existing reservations of land for public purposes without the approval of the Department of Planning, Industry and Environment Secretary.</p> <p>This inconsistency is considered to be of minor significance due to the reclassification to operational land relating only to a small portion, 1300m<sup>2</sup>, of Lot 45 DP228703, with the majority of the lot remaining untouched as community land zoned RE1 Public Recreation. There is also community benefit that will result with associated financial benefits of any sale being directed to community infrastructure in Valla Beach or to the extension of the Nambucca Heads library.</p>

### 3.4 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as 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 SEPP 2018	The land is identified as Coastal Environment Area and Coastal Use Area.	Justifiably Inconsistent	As discussed above under Direction 2.2
Koala SEPP 2021	Nambucca Valley is listed in the Schedule 1 of the SEPP.	Consistent	The subject site is devoid of most vegetation and the planning proposal states that remaining trees are not identified as Koala feed tree species within Schedule 2 of the SEPP.
SEPP Vegetation in Non-Rural Areas 2017	This SEPP applies as the planning proposal has land identified in Clause 5, R1 General Residential.	Consistent	<p>It is noted that the planning proposal is not proposing the clearing of any native vegetation within the heavily vegetated portion of Lot 45 DP228703, however, there is potential for clearing of native vegetation in relation to the area subject to the planning proposal once rezoned to R1.</p> <p>Figure 11 shows a small group of trees on the southern portion of the subject site and within the proposed access handle area that will potentially require removal. It is noted that any future clearing would not exceed the biodiversity offsets scheme threshold, which for the subject land would require 0.25 hectares or 2500m<sup>2</sup> of clearing, noting the subject site is approximately 1300m<sup>2</sup> the majority of which is managed lawn. Council has conducted a Bushfire Assessment Report (<b>Attachment F</b>) and has determined that the current asset protection zones (APZ) to the east of the site are sufficient to allow future development without the need for further clearing.</p>
SEPP 55 Remediation of Land	(Repealed) Clause 6: Contamination and remediation to be considered in zoning or rezoning proposal	NA	It is noted that the planning proposal addresses land contamination under clause 6 of the SEPP 55. It is recommended as a condition of the Gateway determination the discussion of land contamination is addressed under section 9.1 Ministerial Direction 2.6 Remediation of Contaminated Land due to clause 6 of the SEPP being repealed.

## 4 Site-specific assessment

### 4.1 Environmental

Council's vegetation mapping (**Error! Reference source not found.**) identifies that the vegetation within the lot comprises Pink Bloodwood Brushbox Open Forest on Coastal Dunes and Sandplains and Littoral Rainforest in the lower coastal gully. This vegetated part of the lot forms a significant part of the local reserve system and will not be affected by the planning proposal.

The part of the lot (1300m<sup>2</sup>) to which the planning proposal relates contains managed lawn with scattered Blackbutt, a single Pink Bloodwood tree and planted hybridised grevilleas and other garden exotics. There are also small clumps of native vegetation typical of the surrounding area such as *Lomandra longifolia*, kangaroo grass, blady grass, bracken, native cherry and *Hardenbergia violacea* located under some of the scattered trees.

Council has identified that the land has limited viability as a potential natural area through restoration or natural regeneration as it may contribute to bushfire risk on adjoining urban land, noting that several requests have been received to remove juvenile and mature trees perceived to be a potential risk to life or property.

It is agreed that the part of the land to which the planning proposal relates is of minor environmental significance, and that by facilitating future development, it will result in improved land management and reduce bushfire risk. It is noted that vehicle access is proposed from Ocean View Drive as part of the planning proposal to enable the NSW Rural Fire Service and Council to access the balance of the land.

Further, clause 36J of the *Local Government Act 1993* contains the core objectives for management of community land categorised as bushland. It is considered that the planning proposal will not compromise Council's ability to satisfy these objectives for the bulk of the lot, which comprises significant natural bushland, and will be retained as community land.

Council have considered the potential for contamination pursuant to section 9.1 Direction 2.6 Remediation Land. They have nominated that the land was subdivided in 1965 and dedicated as a public reserve (Figure 8) and has been used for that purpose since. The land was classified in a bulk policy land reclassification undertaken in 1993 where the land was classified as Natural Area – Bushland in full.

Council have also reviewed historical information, land file records and their contaminated land mapping and contaminated land register and conclude that the land has historically been natural bush or cleared land where no previous land use is recognised as causing potential contamination. As such, Council has satisfied itself that the land is suitable in its current state for all the purposes for which land in the zone is permitted to be used.

Part of the lot is identified as flood prone by the Nambucca Shire Floodplain Risk Management Plan (NSFRMP) (2017) with the 1% Annual Exceedance Probability event and a flood event associated with Deep Creek. The flood area is in a valley approximately 60m from the area subject to the planning proposal (Figure 13). The planning proposal area is not flood affected.

The subject site has public reserve status that is required to be extinguished. The planning proposal notes that in 1993 the allotment was classified as part of a bulk policy land reclassification as Natural Area – Bushland.

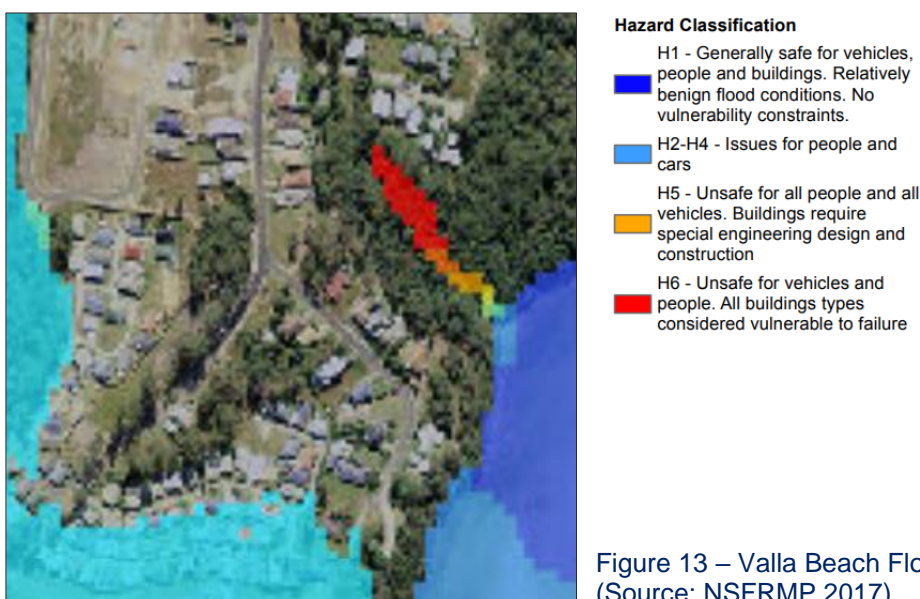


Figure 13 – Valla Beach Flood Hazard  
(Source: NSFRMP 2017)



Valla Beach - Lot 45 DP228703 Ocean View Drive - Vegetation Mapping

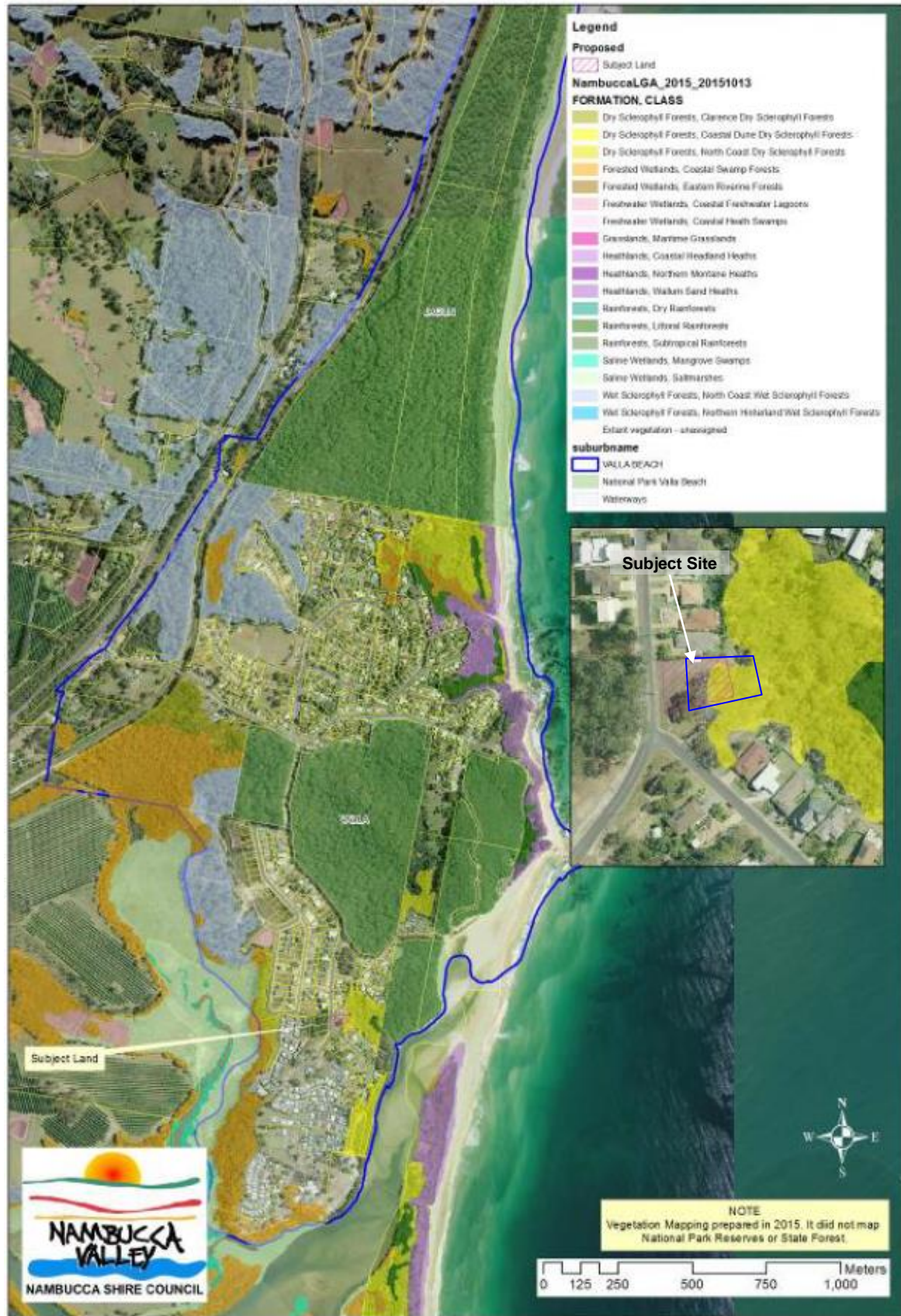


Figure 14 – Valla Beach Vegetation Mapping  
(Source: Planning Proposal)



## 4.2 Social and economic

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

Table 8 Social and economic impact assessment

Social and Economic Impact	Assessment
Social	<p>Valla Beach is a small coastal village defined by the coastline, the expanse of coastal vegetation and Deep Creek, drawing visitors and residents to the beaches and river. It has a median age of 51 as identified in the Community Facilities and Public Open Space Needs Strategy (the Strategy), where it was identified that lower impact activity opportunities will be required, along with libraries and community centres; and useable natural spaces.</p> <p>The proposal acknowledges the open space opportunities identified in the Strategy are to create quality recreation and foreshore destinations that support recreation activity including picnics and walking opportunities. Valla Beach has open space that offers passive recreation opportunities such as:</p> <ul style="list-style-type: none"> <li>• Valla Nature Reserve (NPWS);</li> <li>• Jagun Nature Reserve (NPWS);</li> <li>• Anderson Park (Council);</li> <li>• Valla Lions Reserve; and</li> <li>• Coastal Reserves.</li> </ul> <p>The planning proposal identifies the most usable open space in Valla Beach in Figure 15 by a hatched area, predominantly along the coastline. Anderson Park and the Valla Lions Park both have public facilities and are used for sporting, social and recreation events.</p> <p>The subject site is part of Lot 45 DP228703 and therefore the Valla Beach open space network (Figure 10 and Figure 12). The potential loss of a small area of 1300m<sup>2</sup> from the open space network will not have a detrimental effect, as noted above in the report, where the physical character of the land is not an accurate reflection of its current categorisation as Natural Area – Bushland and when the reduction is expressed as a percentage, there is only a decrease of 0.06% to all open space, including National Parks and 0.2% of the land owned by Council.</p> <p>The social benefits of further infill residential development are two-fold; encouraging more residents; and the sale of the land financially contributing to community infrastructure in Valla Beach or to the extension of the Nambucca Heads library, which are both identified in the Strategy.</p>
Economic	<p>The planning proposal offers positive economic benefits, whereby the sale of the land will contribute to the local infrastructure in Valla Beach or to the extension of the Nambucca Heads library, both of which have been identified by the community consultation phase of the Strategy. There is a small job opportunity for the construction phase of any new development, and further economic potential for local businesses with additional residents in the Valla Beach village.</p>

## Valla Beach - Lot 45 DP228703 Ocean View Drive - Open Space (including community infrastructure)



Figure 15 – Valla Beach Community Infrastructure  
(Source: Planning Proposal)



## 4.3 Infrastructure

The provision and funding of state and local infrastructure is not required for this proposal. The subject site is currently serviced by sealed, has kerb and gutter along a local road, and Council advises that all relevant public infrastructure is available to the subject site.

## 4.4 Reclassification Principles and Public Open Space

The subject site has public reserve status that is required to be extinguished. The planning proposal notes that in 1993 the allotment was classified as part of a bulk policy land reclassification as Natural Area – Bushland.

Clause 36J of the *Local Government Act 1993* contains the core objectives for management of community land categorised as bushland. The core objectives for management of community land categorised as bushland are:

- (a) *to ensure the ongoing ecological viability of the land by protecting the ecological biodiversity and habitat values of the land, the flora and fauna (including invertebrates, fungi and micro-organisms) of the land and other ecological values of the land, and*
- (b) *to protect the aesthetic, heritage, recreational, educational and scientific values of the land, and*
- (c) *to promote the management of the land in a manner that protects and enhances the values and quality of the land and facilitates public enjoyment of the land, and to implement measures directed to minimising or mitigating any disturbance caused by human intrusion, and*
- (d) *to restore degraded bushland, and*
- (e) *to protect existing landforms such as natural drainage lines, watercourses and foreshores, and*
- (f) *to retain bushland in parcels of a size and configuration that will enable the existing plant and animal communities to survive in the long term, and*
- (g) *to protect bushland as a natural stabiliser of the soil surface.*

It is considered that the planning proposal will not compromise Council's ability to satisfy the objectives for the ongoing management of the bulk of the lot, which comprises significant natural bushland, and will be retained as community land. The part of the lot to which the planning proposal applies contains lawn and a few scattered trees, and Council argue this does not accurately reflect its current Natural Area – Bushland status.

The following table provides an assessment of the reclassification principles and public open space impacts associated with the proposal

**Table 9 Reclassification Principles and Public Open Space**

Principles	Assessment
How can public land deliver a benefit?	<p>The planning proposal is reclassifying and extinguishing any implied public reserve status for the subject site, a small 1300m<sup>2</sup> portion of Lot 45 DP228703. The subject site is mostly lawn and scattered trees. It will be rezoned to R1 General Residential and have associated development controls to align with the adjoining residential land. The balance of the Lot 45 DP228703 will remain as operational land and zoned RE1 Public Recreation.</p> <p>The small area of land that is proposed to be reclassified will provide substantial community benefit by:</p>

Principles	Assessment
	<ul style="list-style-type: none"> <li>Providing opportunity for infill residential housing development within the limited supply for Valla Beach; providing potential for two lots with a dwelling house or potentially dual occupancy.</li> <li>Aligning with the North Coast Regional Plan, specifically Direction 22: Deliver greater housing supply; and Direction 23: Increase housing diversity and choice.</li> <li>The financial benefits of any future sale of the subject site will be directed to the improvement of public infrastructure or the extension of the Nambucca library, both of which have been identified in the Nambucca Community Facilities and Public Open Space Needs Strategy.</li> </ul>
How public land contributes to public and open space?	<p>Lot 45 DP228703 is heavily vegetated, steep and leads to a gully that needs to be crossed for connection to the Valla Nature Reserve. The lot is currently classified as bushland and has no formal footpaths for easy traversing. The subject site, part of Lot 45, is predominantly cleared to lawn and scattered trees and is not currently used or supporting the community as public open space. Public access will continue to be available to the remainder of Lot 45 via an access handle, also allowing access for emergency vehicles if protection from bushfire was required.</p> <p>There is easy access to public open space along Deep Creek south of the subject site and a footbridge crossing Deep Creek from the Valla Lions Park to the beach.</p> <p>The reclassification and sale of the subject site will bring social and community benefits as described above in Table 8, keeping the majority of Lot 45 in its current bushland state.</p> <p>The reclassification of this part lot only, and retaining the remainder of Lot 45 helps to deliver the draft NSW Public Spaces Charter principles, in particular Principle 2: Community-focused; Principle 3: Culture and creativity; Principle 5: Green and resilient; Principle 6: Healthy and active; and Principle 9: Designed for people.</p>

## 5 Consultation

### 5.1 Community

Council proposes a community consultation period of 28 days. This is in line with the Department's Practice Note. No. 16-001 Classification and reclassification of public land through a local environmental plan.

A public hearing will also be required to be held in accordance with section 29(1) of the Local Government Act 1993. After the exhibition has ended, at least 21 days public notice is to be given before the hearing. This allows the person chairing the hearing sufficient time to consider written submissions and all issues raised.

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
- Local Aboriginal Land Council

## 6 Timeframe

Council proposes a project timeline which estimates completion of the LEP amendment by February 2021.

The Department recommends a time frame of nine months to ensure a sufficient period to complete the LEP amendment.

## 7 Local plan-making authority

Council has not requested the use of plan making delegations as their aim is to sell the subject land, helping to promote transparency in the Gateway and plan making process.

However, as the Governor's approval is required to remove the implied public reserve status of part of the land, Council cannot be authorised to be the local plan making authority.

## 8 Assessment summary

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

- The planning proposal is of minor significance, relating to only 1300m<sup>2</sup> of land within zone RE1 Public Recreation;
- The majority of the lot will retain the RE1 Public Recreation zone, and there is adequate open space available at Valla Beach for community use;
- The planning proposal will facilitate investment in community infrastructure;
- The planning proposal will allow for the rational use of existing infrastructure and services; and
- The proposal is not inconsistent with the North Coast Regional Plan 2036 or Nambucca Valley Council, LSPS.

## 9 Recommendation

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

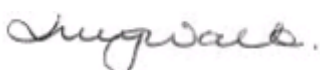
- **agree** that any inconsistencies with section 9.1 Directions 2.1 Environment Protection Zones; 2.2 Coastal Management; 2.3 Heritage Conservation; 2.6 Remediation of Contaminated Land; 3.1 Residential Zones; 3.2 Caravan Parks and Manufactured Home Estates; 4.1 Acid Sulfate Soils; 6.2 Reserving Land for Public Purposes; are minor or justified; and
- **note** that the consistency with section 9.1 Directions 4.4 Planning for Bushfire Protection is unresolved and will require justification.

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

1. **note** the planning proposal (PP-2021-5286) (**Attachment A**);
2. **determine** that the planning proposal (PP-2021-5286) should proceed subject to the following conditions:
  - Prior to community consultation, the planning proposal is to be updated to:
    - (a) Update the planning proposal in Parts 1 and 2 to clearly articulate that:
      - the planning proposal is to discharge the public reserve status of the part lot; and
      - amend the Reclassification (Part Lots) Maps;



- (b) include a proposed Land Reclassification (Part Lot) Map;
  - (c) include discussion on Council's intended use of funds from the sale of the subject site;
  - (d) include the Certificate of Title as an attachment;
  - (e) include the historical deposited Plan as an attachment;
  - (f) include discussion on the Local Strategic Planning Statement;
  - (g) remove references to SEPP No. 55 – Remediation of Land; clause 6 has been repealed and replaced by section 9.1 Direction 2.6 Remediation of Contaminated Land and move the associated discussion to this Direction.
- Consultation is required with the following public authorities:
    - NSW Rural Fire Service
    - Nambucca Local Aboriginal Land Council
  - The planning proposal should be made available for community consultation for a minimum of 28 days.
  - Council must arrange a public hearing in respect of the planning proposal to reclassify community land as operational land in accordance with the requirements of the *Local Government Act 1993*.
  - 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 not be authorised to be the local plan-making authority.
3. **sign** the Gateway determination (PP-2021-5286) (**Attachment B**) noting that Nambucca Shire Council is not the plan making authority and the letter to Council (**Attachment C**);
  4. **agree** under section 3.34(7) of the *Environmental Planning and Assessment Act 1979* that PP\_2019\_NAMBU\_001\_00 should not proceed in accordance with the Alteration of Gateway determination; and
  5. **sign** the Alteration of Gateway determination (**Attachment H**).



20/09/2021

(Signature)

(Date)

**Lucy Walker**  
**Specialist Planning Officer, Local and Regional Planning**  
**Northern Region**



24/4/2021

(Signature)

(Date)

**Jeremy Gray**  
**Director, Northern Region**  
**Local and Regional Planning**

Assessment officer

Helen Willis  
A/Planner, Local and Regional Planning  
Northern Region  
5778 1489