



14 CIVIC LEADERSHIP

Item	14.2
Subject	Planning Proposal 21 – Rezone land at 201 & 261 South Arm Rd from RU4 (Primary Production Small Lots) to R5 (Large Lot Residential) and C2 (Environmental Conservation)
Presented by	Daniel Bennett, Senior Strategic Planner

EXECUTIVE SUMMARY

Council has received a proponent initiated request to prepare a planning proposal that would act to rezone land at South Arm Road Urunga. The rezoning request proposes to rezone land currently zoned as RU4 - Primary Production Small Lots to a mix of land zoned R5 Large Lot Residential and C2 Environmental Conservation. The land that is proposed to be rezoned R5 would be subject to a 1ha minimum lot size and could potentially yield in the order of 17 lots if the rezoning proceeds and the land is subdivided.

The rezoning request has strategic support arising from a recommendation regarding this precinct that was included within the Bellingen Shire Growth Management Strategy 2007. In order for the landowners to act upon this recommendation it has been necessary for them to prepare and justify a Planning Proposal Request independently of Council, as the completion of this rezoning is not identified as matter that Council has resolved to proceed with utilising its own planning resources. The request that Council has received is well justified by the proponents and comprehensively addresses relevant legislation and the relative constraints of the site. In this regard, the request is considered worthy of support by Council and this report summarises the key issues and recommends a pathway to progress the request through the planning system.

RECOMMENDATION

That Council:

- 1 resolves to request the issuing of a Gateway Determination from the New South Wales Department of Planning & Environment in respect of Planning Proposal 21 - Rezone land at 201 & 261 South Arm Rd from RU4 (Primary Production Small Lots) to R5 (Large Lot Residential) and C2 (Environmental Conservation).
- 2 resolves to request that the NSW Department of Planning & Environment designates Council as the Plan Making Authority in respect of this matter.
- 3 endorses the proposed engagement strategy for Planning Proposal 21 as documented within this report.

ATTACHMENTS

1. Planning Proposal 21 - Aboriginal Cultural Heritage Report
2. Planning Proposal 21 - Asset Protection Zone Plan
3. Planning Proposal 21 - Bushfire Assessment
4. Planning Proposal 21 - Crown Lands Correspondence
5. Planning Proposal 21 - Main Planning Proposal Report
6. Planning Proposal 21 - Wastewater, Contamination & Acid Sulfate Soils report
7. Planning Proposal 21- Concept Subdivision Plan Option 1
8. Planning Proposal 21- Concept Subdivision Plan Option 2
9. Planning Proposal 21- Concept Subdivision Plan Option 3
10. Planning Proposal 21 -Ecological Assessment
11. Planning Proposal 21- Existing Contours Plan
12. Planning Proposal 21- Existing Minimum Lot Size Map
13. Planning Proposal 21- Existing Zoning Plan
14. Planning Proposal 21- Flood Mapping
15. Planning Proposal 21- Proposed Minimum Lot Size Map
16. Planning Proposal 21- Proposed Zoning Plan
17. Planning Proposal 21- Site Plan
18. Planning Proposal 21- Telstra Service Plan
19. Planning Proposal 21- Watercourse & Biodiversity Map as per BLEP 2010

PURPOSE

The purpose of this report is to advise Council of the submission of a proponent initiated rezoning request for land at South Arm Road, Urunga, to explain the content of the request, and to recommend that Council supports the request proceeding to the next stage of the planning process which is to seek a Gateway Determination from the NSW Government.

DISCUSSION

Background

Council has received a proponent initiated Planning Proposal Request (the request) submitted through the NSW Planning Portal. A Planning Proposal can be initiated by either Council or a proponent, however essentially the Council needs to be supportive of the request in order for it to proceed through the remaining stages of the planning proposal process. The request that has been received by Council relates to land on South Arm Road at Urunga and essentially proposes to rezone land that is currently zoned RU4 Primary Production Small Lots to R5 Large Lot Residential and to impose a 1ha minimum lot size over the land to be zoned R5. Other land identified as having development constraints is also proposed to be zoned C2 Environmental Conservation as part of this proposal.

The land the subject of the request was identified as being potentially worthy of a rezoning for rural residential subdivision in the 2007 Bellingen Shire Growth Management Strategy (the GMS). Whilst most of the rezoning recommendations that were made by the GMS were implemented with the introduction of the Bellingen Local Environmental Plan 2010 (the LEP), the landholdings at South Arm Road were considered to require some more detailed investigation before proceeding with any rezoning. This was principally related to the existence of several wetland areas in the vicinity which required more detailed consideration of any potential adverse impacts that may arise from future subdivision. Prior to being included in the GMS, much wider areas of land in the vicinity had previously been proposed for residential subdivision and were the subject of significant debate in the 1990's around what capacity should be reserved in the Urunga Sewage Treatment Plant for the eventual development of this land, relative to that needed for the development of the South Urunga area. The development plans never proceeded and the area of land that was considered by Council to be suitable for development was significantly constricted in the 2007 GMS as the realities of new legislation governing bushfire planning and threatened species conservation led to reconsideration of plans that were previously considered feasible.

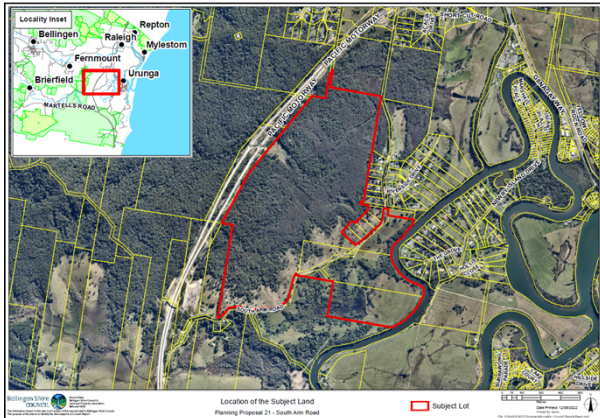
The landholdings that are involved in this planning proposal were part of a much larger landholding that was owned by the Riddell family and which was split with the development of the new Pacific Highway. In recent years some of the dwelling entitlements that previously applied over those rural landholdings were effectively rescinded and relocated to the 5 lots between 172 and 200 South Arm Rd via a boundary adjustment process, and these lots are now mostly developed.

The proponents for this request have liaised with Council during the preparation of the request and the documentation submitted in support of the proposal is consistent with the advice provided by Council regarding matters of concern that should be specifically addressed through the submission of specialist Consultant reports. The land the subject of this request is not the only

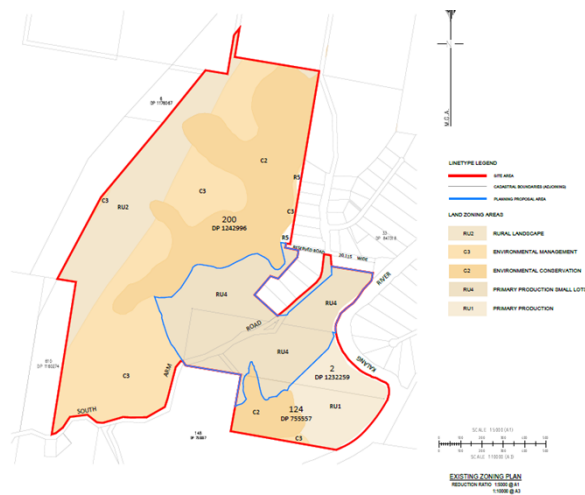
land within the RU4 Zone in this locality that could potentially be rezoned using the facilitative provisions of the GMS and it is possible that Council will receive a similar proponent initiated request from the owners of the remaining land within the RU4 zone in the near future.

The Site

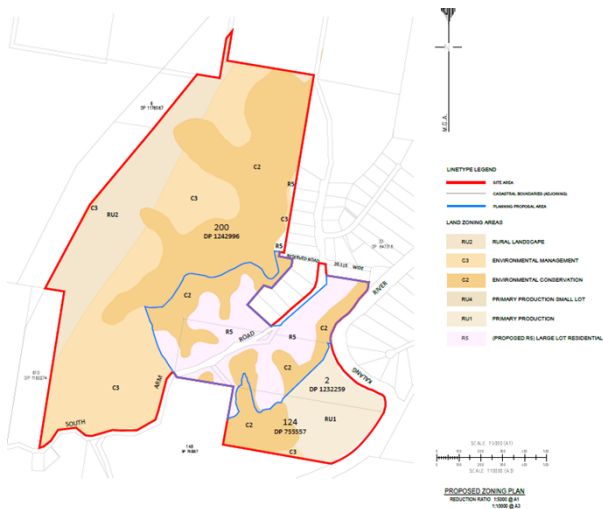
The land the subject of the request is shown in the following map.



The existing zoning of the land that is proposed to be rezoned is shown in this map extract (full map included as an Attachment to this Report)



The proposed zoning of the land as per this request is shown in this map extract (full map included as an Attachment to this Report)



The land that is proposed to be rezoned R5 centers generally around a ridgeline area upon which South Arm Rd is located. Areas of development potential are generally located along the immediate side slopes of the central ridge area and then along several spurs that extend outwards from the central ridge down towards areas of environmental constraint. Whilst the spur and ridgeline areas are primarily cleared of native vegetation and do not have significant slopes, there are tongues of constrained land between those areas and significant areas of wetland vegetation on the lower slopes that represent significant constraints to development and, accordingly, are proposed to be zoned C2 Environmental Conservation. The land is presently used primarily for the grazing of cattle.

The proposal

The key components of the request, as received by Council, propose the following amendments to the Bellingen Local Environmental Plan 2010 (BLEP 2010).

- Amend Land Zoning Map LZN_007B to provide R5 (Large Lot Residential) and C2 (Environmental Conservation) zonings over the land as per the proposed zoning map included with the request.
- Amend Lot Size Map LSZ_007 to provide a 1ha Minimum Lot Size over the land to be zoned R5 and retain a 200ha Minimum Lot Size over all remaining land as per the proposed lot size map included with the request.
- The main planning report that details the request is included in the Attachments this report (Ref: Planning Proposal 21 - Main Planning Proposal Report).

The request is accompanied by a large number of additional supporting studies and documents and these are also included as Attachments to this report.

Once Council receives a request to prepare a Planning Proposal, it then needs to form its own opinion as to whether or not it is willing to support the proposal. This is because Council is the planning proposal authority in respect of planning proposals submitted in its Local Government Area, and a proponent cannot assume these functions independently of Council. Following an initial review of the documentation submitted in support of the Planning Proposal Request, it is considered that the substantive aspects of the request are capable of support and that the request is sufficiently justified in terms of compliance with the NSW planning framework.

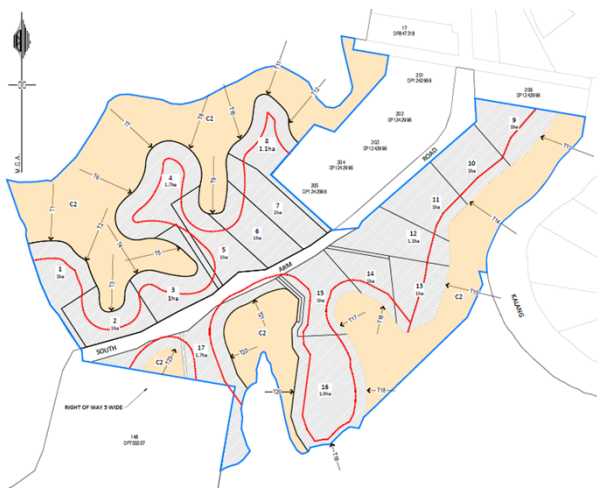
The following section of the report provides additional explanation of some of the key components

of the planning proposal to assist Council in determining whether it is also supportive of the request.

Explanation of key components of the Planning Proposal

What level of development is potentially facilitated by the Planning Proposal?

The request is not accompanied by a Development Application for the subdivision of the land and it is not required that Council make any detailed consideration of any potential subdivision layout that the proponents may be considering. Notwithstanding this, 3 concept subdivision layouts have been prepared by the proponents that consider how the land could potentially be subdivided should the rezoning request proceed and these are included as Attachments to this report. These concept plans indicate layouts that would deliver in the order of 16-17 potential additional lots. One example of this is shown in the extract below.



How would the development connect back to existing infrastructure?

The key external infrastructure connections include South Arm Road for the primary vehicular access to the land. The land is not connected to reticulated water or sewerage and there is no proposal to extend those services to the development site.

Other relevant matters addressed in the Planning Proposal Request

Ecological Impacts

The Planning Proposal request includes an assessment of the likely impacts that would accrue from the rezoning in terms of potential vegetation removal and any adverse impacts upon flora and fauna. This assessment was prepared by an appropriately qualified Ecological Consultant and is included as an Attachment to this report (Ref: Planning Proposal 21 - Ecological Assessment) .

In summary, the Consultants Report identifies that;

- Six Plant Community Types (PCT's) were identified within the study area, three of which correspond to separate Threatened Ecological Communities (TEC) associated with the coastal flood plain.

- A total of 65 flora species were identified within the study area and one threatened species was recorded within the study area in a vegetated gully in the west of the study area (*Rhodamnia rubescens* - Scrub Turpentine).
- The study area contains four broad habitat types - wet sclerophyll forest, swamp forest, floodplain wetland and cleared areas. In general, the forest and wetland habitats at the edges of the study area provide the highest quality habitat for native fauna.
- Twenty-eight fauna species were recorded in the study area during the site inspection including one mammal, 25 birds and two amphibians. These species were generally from a group of species commonly encountered throughout modified to good condition habitats in the region. The study area contains suitable habitat for a much higher number of native species which may use the study area either regularly or on occasion but were not observed or present during the site inspection.
- No threatened fauna species were recorded during the site inspection, however no targeted surveys were undertaken.
- The proposed rezoning would convert the 36.65 ha of current RU4 (Primary Production Small Lots) zoned land in the study area into 21.38 ha of R5 (Large Lot Residential) zoned land and 15.27 ha of C2 (Environmental Conservation) zoned land.
- The majority (75%) of the area of native PCTs within the study area is proposed for C2 (Environmental Conservation) land including all areas of TEC, with the exception of a small patch (0.06 ha) of Subtropical Coastal Floodplain Forest in the east, which could also be retained within the proposed lot at the development application stage. The proposed C2 (Environmental Conservation) zoned areas would also expand on the existing adjoining C2 (Environmental Conservation) areas beyond the study area. Existing cleared land and paddock areas have been prioritised for R5 (Large Lot Residential) development.
- As shown in the figure below, the vast majority of land with very high and high biodiversity value has been included within the proposed C2 zone.

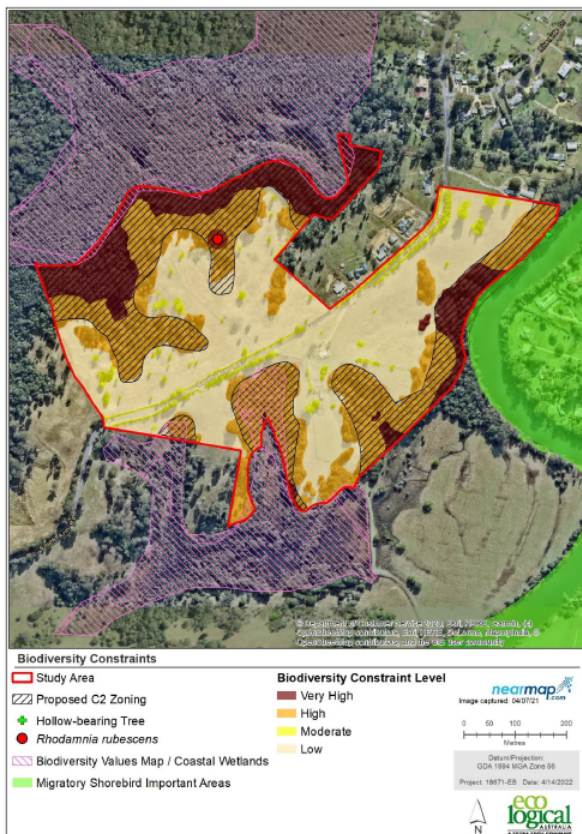


Figure 10: Biodiversity constraints and proposed C2 (Environmental Conservation) zoning

- It is likely that a future DA would require a Biodiversity Development Assessment Report (BDAR) and that the Biodiversity Offsets Scheme would be triggered based upon total area of clearing that would be required to develop the subdivision.

In summary, it is considered that for the purposes of the rezoning request, the ecological assessment has reasonably identified those areas of high environmental value land that should be preserved from development through the imposition of a C2 Environmental Conservation Zone (ie:98% of the area of TEC and 75% of the native PCTs vegetation) and Council can be reasonably satisfied that development of the remaining areas of proposed R5 land will not have any significant adverse impact.

Should Council resolve to proceed with the planning proposal it will be necessary to formally consult with the Biodiversity & Conservation section of the NSW Government who will also review the Consultants Report and provide feedback to Council

Aboriginal Cultural Heritage

The Planning Proposal Request includes an assessment of the extent to which the development would likely impact upon aboriginal cultural heritage and this is included as an Attachment to this report (Ref: Planning Proposal 21 - Aboriginal Cultural Heritage Report). This assessment was prepared by appropriately qualified archaeologists, working in conjunction with representatives of the Coffs Harbour & District Local Aboriginal Lands Council.

The Consultants Report identifies that;

- One aboriginal site was incorrectly registered within the project area.
- No aboriginal objects were identified during the site inspection.

- Several areas of archaeological and cultural sensitivity were identified within the project area. These include the former existence of a Bora Ring within the area of the existing dwelling. Any tangible remains of the Bora Ground were likely removed during the construction of the residence however there is still an element of cultural significance. Other areas of sensitivity are principally located on the spurs leading down towards the lower vegetated areas of the land. The lower areas were likely to have been of higher value in terms of accessing natural resources, with the spurs used as landscape features to access these areas. These areas have been identified as sensitive because spur and ridgeline features have been recorded in the ethnographic record to have been used by aboriginal people for travel and are more suitable to retain archaeological deposits based upon their location.
- The majority of soils within the Project Area appear to be relatively intact and demonstrate the potential to retain archaeological deposits, and that evidence of Aboriginal occupation is likely to remain in-situ.

In summary, the Report offers no objection to the request based upon any observed likely impact upon cultural heritage values, however flags that any subsequent Development Application that may impact upon sensitive areas will need to undertake further investigations of those areas to determine the nature and significance of any potential archaeological deposits prior to the commencement of works.

Should Council resolve to support the Planning Proposal it is recommended that the Coffs Harbour & District Local Aboriginal Lands Councils is notified of the proposal and invited to provide further comment should they so desire.

Bushfire

The Planning Proposal Request includes an assessment of the extent to which the development would comply with the provisions of Planning for Bushfire Protection 2019 (which is the peak document governing development in bushfire prone areas) and this is included as an Attachment to this report (Ref: Planning Proposal 21 - Bushfire Assessment). The assessment considers, amongst other things, the Asset Protection Zone (APZ) that would be required to adjoining vegetated land classified as either forest or rainforest over 23 separate transects with slopes varying from flat to 17.7 degrees, and recommended APZ's ranging from 9m to 39m. It is critical that APZ's are considered in conjunction with ecological assessments to ensure that the total amount of potential clearing is properly considered and this has occurred for this proposal, which demonstrates that APZ's start at the edge of the proposed C2 zoning rather than extending into it.

In summary, the Bushfire Risk Assessment concludes that based upon the bushfire safety assessment that was undertaken, the planning proposal will be afforded a reasonable and satisfactory level of bushfire protection. Should Council resolve to proceed with the planning proposal it will be necessary to formally consult with the NSW Rural Fire Service who will review the Consultants Report and advise Council whether it is supportive of the proposal.

Wastewater, Contamination and Acid Sulfate Soils

The Planning Proposal Request includes an assessment of the extent to which the development would comply with the provisions of relevant standards governing Onsite Sewage Management Systems (OSMS) given that the land is not connected to reticulated sewerage. The potential for land contamination and disturbance of Acid Sulfate Soils was also considered as part of this assessment. This assessment was prepared by an appropriately qualified Consultant and this is

included as an Attachment to this report (Ref: Planning Proposal 21 - Wastewater, Contamination & Acid Sulfate Soils Report).

In summary, the Consultants Report identifies that;

- The Site has no significant Areas of Environmental Concern or Contaminants of Concern that would impact the proposed rezoning application. Confirmation check sampling undertaken during this investigation recorded soil concentrations of heavy metals are very low and within expected background ranges, and no pesticide contamination;
- The ASS investigation confirmed that residual clay soils are located beneath the majority of the area in the planning proposal area. ASS class mapping identifies mainly Class 5 ASS soils in the planning proposal area with ASS not expected. But a high probability of ASS has been mapped along the eastern margins of proposed Lots 9-13 that may affect development in those portions. Field screening, laboratory testing and biophysical indicators confirmed no ASS across the likely portions of lots to be developed;
- Modelling for primary treatment and subsurface land application a minimum of 1,100m² of land area is required for sustainable wastewater management. Comparison of the land area within the planning proposal extents to adjacent properties suggests that for a 1ha lot typically 3,000-4,000m² of land area is available for onsite wastewater application, in excess of the minimum area required. As such 1ha lot sizes in the area would be sustainable.

Based upon the outcomes of this assessment, it is considered that there are no fundamental issues with the request that would render it incapable of support by Council at this stage of the planning process.

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 complete the requisite steps on the NSW Planning Portal to submit to the NSW Department of Planning & Environment (DPIE) and request the issuing of a Gateway Determination.

Should Council request authorisation to make the Plan?

It is 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.

As previously discussed, this proposal was recognised in the adopted Bellingen Shire Growth Management Strategy 2007 and it is therefore recommended that Council resolves to request that the NSW Department of Planning & Environment designates Council as the Plan Making Authority in respect of this matter.

STRATEGIC ALIGNMENT

(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.1.4.2) Council's Planning and development assessment services provides advice and planning assistance and process Development Applications and other relevant applications

RESOURCING STRATEGY IMPLICATIONS

Planning Proposal Requests received by private developers attract processing fees that provide some degree of cost recovery for the time that Council Officers spend on moving the proposal through the various stages of the planning process. The proponents have paid the Stage 1 Fee of \$2054.61. Should Council resolve to support the proposal and seek a Gateway Determination then the proponents will need to pay an additional fee of \$683.44 to cover the advertising of the proposal and an additional fee of \$6019.22 to cover the remaining administrative work associated with finalisation of the proposal.

The proposal has the potential to deliver in the order of 17 additional rateable assessments to Council should the Planning Proposal Request be supported and the land is ultimately subdivided.

Overall, the budgetary implications on Council are expected to be positive.

CONCLUSION

The Planning Proposal request that Council has received is consistent with the recommendations of the Bellingen Shire Growth Management Strategy 2007, has comprehensively addressed matters of concern that were identified in pre-lodgement discussions with the proponents, and has comprehensively addressed key matters of concern that are included within the NSW planning framework. It is acknowledged that a finer level of detail and justification will be required to justify any subdivision Development Application that may ultimately be submitted in respect of the land if it is rezoned, however it is considered that the proposed zoning outcome reasonably reflects the constraints of the land, which have been carefully considered through the commissioning of the numerous specialist Consultant Reports that accompany the application.

Having regard to these factors it is considered that the request is worthy of support by Council and that Council should consequently request the issuing of a Gateway Determination in respect of this matter from the NSW DPE.