



Gateway determination report – PP-2023-2270

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Acknowledgment of Country

The Department of Planning, Housing and Infrastructure acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Planning Proposal (DOC24/636614 and Attachment A)
Council Report and Resolution (DOC24/636612)

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Clarence Valley
PPA	Clarence Valley Council
NAME	Additional Permitted Use (Hotel and Motel Accommodation) on Part of Lot 11 DP 1269790, 75-79 Spence Street, Iluka
NUMBER	PP-2023-2270
LEP TO BE AMENDED	Clarence Valley Local Environmental Plan 2011
ADDRESS	75-79 Spence Street, Iluka
DESCRIPTION	Lot 11 DP 1269790
RECEIVED	6/08/2024
FILE NO.	IRF24/1940
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 in general adequately explain the intent of the proposal. It is noted that the objectives currently state the intent of the proposal is permit 'tourist accommodation' as an additional permitted use (APU) on the site rather than the correct child term of 'hotel or motel accommodation'. This should be amended prior to consultation.

1.3 Explanation of provisions

The planning proposal seeks to amend the Clarence LEP 2011 per the changes below:

Table 3 Current and proposed controls

Control	Current	Proposed
Zone	RE2 Private Recreation	RE2 Private Recreation
Additional Permitted Use	Nil	Hotel and motel accommodation on part of the site

Maximum height of the building	Nil	9m to part of the site on which hotel and motel accommodation will be permitted
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The planning proposal contains an adequate explanation of provisions that explains how the objectives of the planning proposal will be achieved.

1.4 Site description and surrounding area

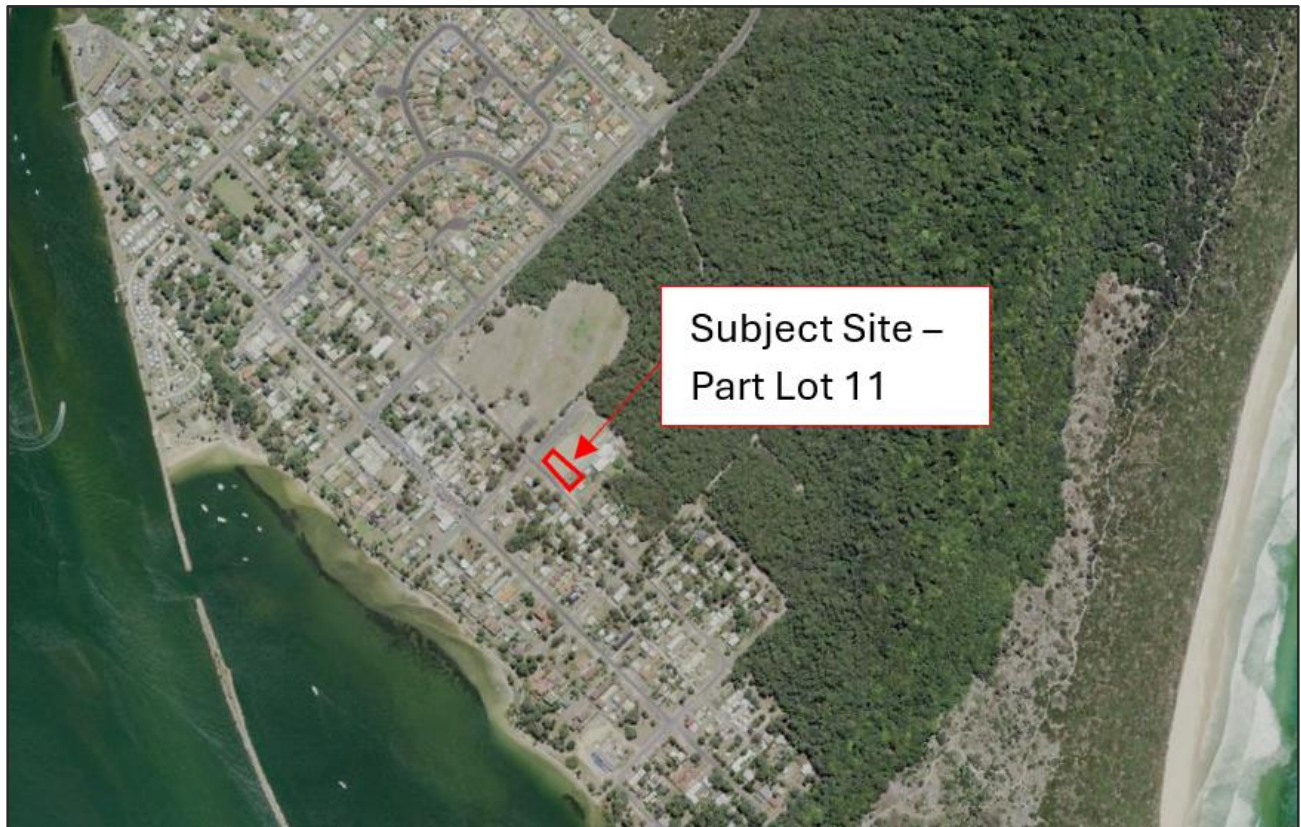


Figure 1 Subject site (source: Six maps)



Figure 2 Site context (source: Six Maps)

Lot 11 DP 12697901, 75-79 Spenser Street, Iluka is 1.68ha in size and currently contains:

- Bowling clubhouse
- 2 bowling greens
- 1 croquet lawn
- Outdoor areas
- Carpark
- Ambulance station

The lot is surrounded by vacant bushland to the northeast, Iluka Recreation Centre to the northwest, residential to the south and the local business centre to the southwest.

The proposal applies only to the current croquet green located in the south west corner of the site (Figure 1 and 2).

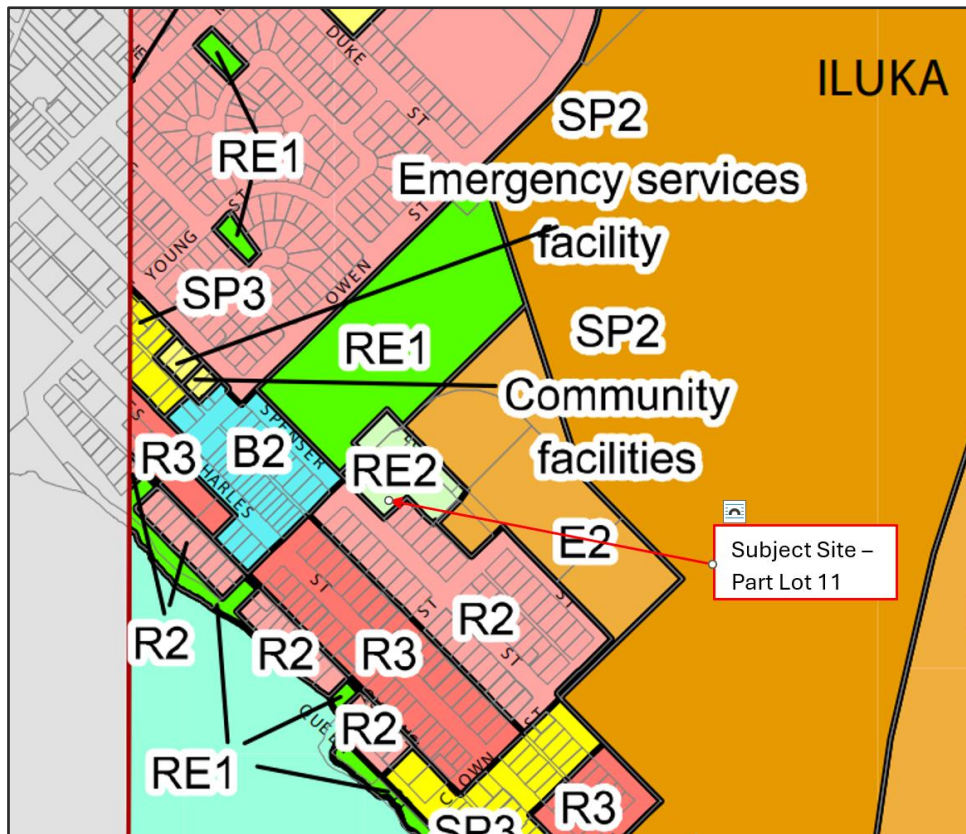


Figure 3 – Land Zoning Map Sheet LZN_011M



Figure 4 – Proposed APU

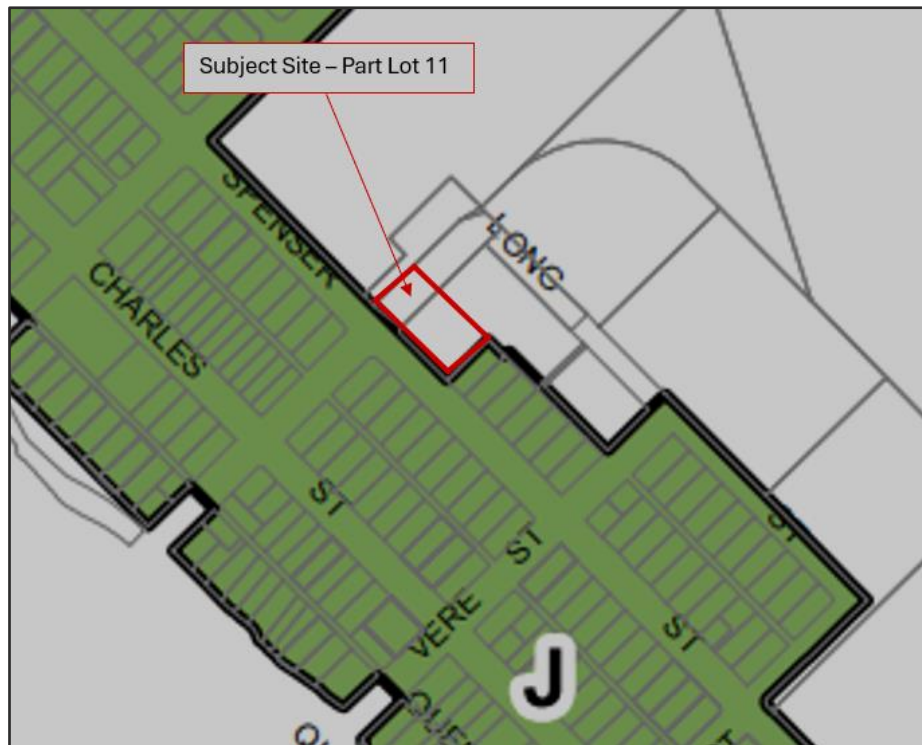


Figure 5– Current Height of Building Map HOB_011M



Figure 6– Proposed Height of Building Map HOB_011M

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the Height of Building map and APU Map. These are suitable for consultation.

It is noted that there is no current APU map in the LEP which overlays this site. A map will need to be created to identify the boundaries of the part Lot to which the proposal applies.

These maps will need to be prepared in accordance with the *Standard Technical Requirements for Spatial Datasets and Maps* before a final plan can be made (Council is currently in the process of converting all the LEP maps to digital. Should this be completed prior to the finalisation of the proposal, the final maps will also need to be prepared in a digital format. Currently only the zoning map in the LEP is in a digital format).

1.6 Background

The Department provided preliminary comments on the proposal in January 2024 highlighting the extent of flooding information which would need to be provided. The Department then provided the following preliminary comments to Clarence Valley Council in February 2024:

The planning proposal should ensure that it addresses:

- Whether a SP3 or an APU approach is the most appropriate. The Department has no firm position on either approach other than requiring any time that an APU is proposed that the proposal clearly addresses why a zoning or land use table change is not suitable in the circumstances and that an APU is the most appropriate mechanism. In this case Council may wish to argue that the range of uses currently permitted in the SP3 zone under CVLEP 2011 is too broad and not appropriate for the particular site (ie. helipads, local distribution centres, residential accommodation);*
- Whether Council will be seeking to permit the broader 'tourist and visitor accommodation' use or the more narrow 'hotel or motel accommodation' use and why;*
- Bushfire prone land (Referral to the NSW RFS post Gateway will be required);*
- Whether adequate infrastructure (water, sewage disposal, road, etc) is available to service the development; and*
- A complete s9.1 Direction and NCRP 2041 review and assessment*

The Department also supports the proposed consultation with the Yaegl LALC.

The Department also met with Clarence Valley Council in April 2024 to discuss the proposal. It was noted that a 1 in 20 year flood would cut Iluka Road and access to the village and appropriate timeframes to ensure evacuation.

2 Need for the planning proposal

The proposal is not the result of any strategic study or report.

The Iluka Bowls Club Pty Ltd has identified the need to improve its long-term financial sustainability by diversifying its revenue and income streams. The club identified the current lack of 4-star and above visitor accommodation within the village and the opportunity to fill this current market gap while also improving its financial sustainability.

The planning proposal seeks to include an APU for hotel and motel accommodation on the current croquet lawn and apply a 9m building height limit to facilitate this outcome.

Hotel and motel accommodation is currently prohibited in the RE2 Private Recreation zone under the Clarence Valley LEP 2011. A planning proposal is needed and is the only means available to facilitate the required amendments.

The proposal confirms that an APU is the most appropriate method to facilitate the proposal as:

- permitting hotel or motel accommodation throughout the RE2 Zone would have unintended consequences for other sites across the LGA; and
- rezoning the site would permit other additional uses which are unlikely to be appropriate.

3 Strategic assessment

3.1 Regional Plan

The planning proposal is considered to be generally consistent with the goals, objectives and overall intent of the 2041 Regional Plan and the strategic planning intent for development within Iluka. The following table provides an assessment of the planning proposal against relevant aspects of the North Coast Regional Plan.

Table 4 Regional Plan assessment

Regional Plan Objectives	Justification
Objective 5: Manage and Improve resilience to shocks and stresses, natural hazards and climate change	The subject site is affected by a number of hazards including bushfire, flooding and acid sulfate soils. Appropriate information has been submitted with the planning proposal to indicate these hazards are capable of being addressed at the development application stage subject to agency confirmation during the planning proposal consultation process.
Objective 11: Support cities and centres and coordinate the supply of well-located employment land	The subject site is located adjacent to the Iluka business centre which has existing local infrastructure. Further examination will be undertaken at the development application stage.
Objective 12: Create a diverse visitor economy	The proposal will provide additional accommodation options not currently available in Iluka and support the local visitor economy.

3.2 Local

The proposal is generally consistent with Council's local plans and endorsed strategies, including its Local Strategic Planning Statement 2020, The Clarence 2032, Council's 2022-2025 Delivery Program, Lower Clarence Retail Strategy (May 2007), Clarence Valley Regional Economic Development Strategic Plan, Clarence Valley Employment Land Strategy 2022, Clarence Valley Affordable Housing Strategy and Clarence River Way Masterplan II (2021).

3.3 Section 9.1 Ministerial Directions

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

Table 7 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
4.1 Flooding	Justified	The planning proposal is inconsistent with this direction as it will permit an intensification of land which may affect the safe evacuation of the lot on

		<p>land identified as being between the flood planning area and the probable maximum flood.</p> <p>As discussed below in more detail in regard to flood matters, the proposal is considered to be satisfactory and of minor significance as a draft evacuation plan has been prepared that demonstrates that an appropriate warning system and process can be established and implemented through the development application to ensure no adverse impact on emergency management services or risk to human safety. Consultation with NSW DCCEW – Floodplain is recommended.</p>
4.3 Planning for Bushfire Protection (refer Section 4.7 and Annexure B of the planning proposal)	Unresolved	<p>This direction is relevant to the proposal as the site is mapped as being within the bushfire prone land buffer (Figure 10).</p> <p>The direction provides that Council must consult with the Commissioner of the NSW Rural Fire Service after a Gateway determination is issued. Until consultation has been undertaken, the Direction remains unresolved.</p>
4.5 Acid Sulfate Soils	Justified	<p>The planning proposal is inconsistent with this Direction as the land is identified as containing Class 4 acid sulfate soils and enables intensification of land use and is not supported by an acid sulfate soils study.</p> <p>This inconsistency is considered to be of minor significance as the Clarence LEP 2011 contains provisions that ensure this matter is addressed appropriately at the development application stage. Council has also identified that the future works on the site are unlikely to impact more than 2 metres below the natural ground level and can be managed by the management plan under the development application.</p>

3.4 State environmental planning policies (SEPPs)

The planning proposal is considered to be consistent with all relevant SEPPs.

4 Site-specific assessment

4.1 Environmental

Flooding

The proposal is consistent with the current Iluka Floodplain Risk Management Plan and is not mapped as being affected by either the flood planning level or probable maximum flood under the 2013 Flood Model.

Council has however completed a 2022 flood model that indicates the site is not impacted by the 1% Annual Exceedance Probability Climate Change 1 scenario but will be affected by approximately 1.5 m of flood waters during the probable maximum flood (Figure 7). Council is currently preparing a flood risk management plan to support implementation of the 2022 flood model.

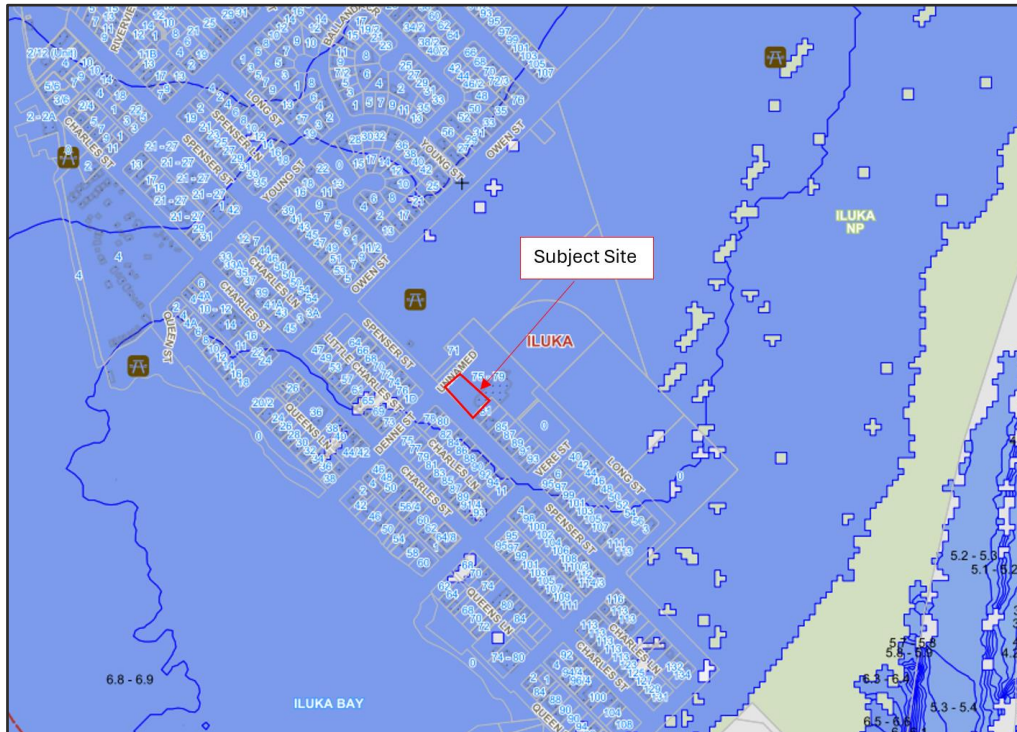


Figure 7 – Probable Maximum Flood – 2022 Flood Model

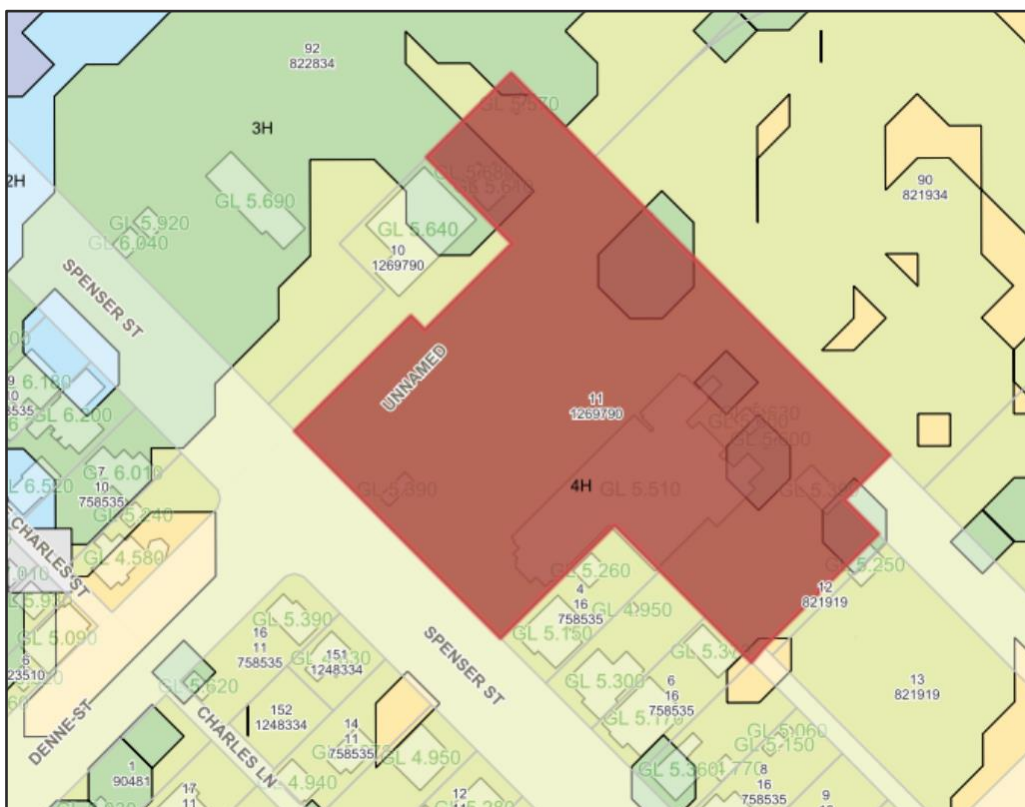


Figure 8 – Probable Maximum Flood Hazard Map

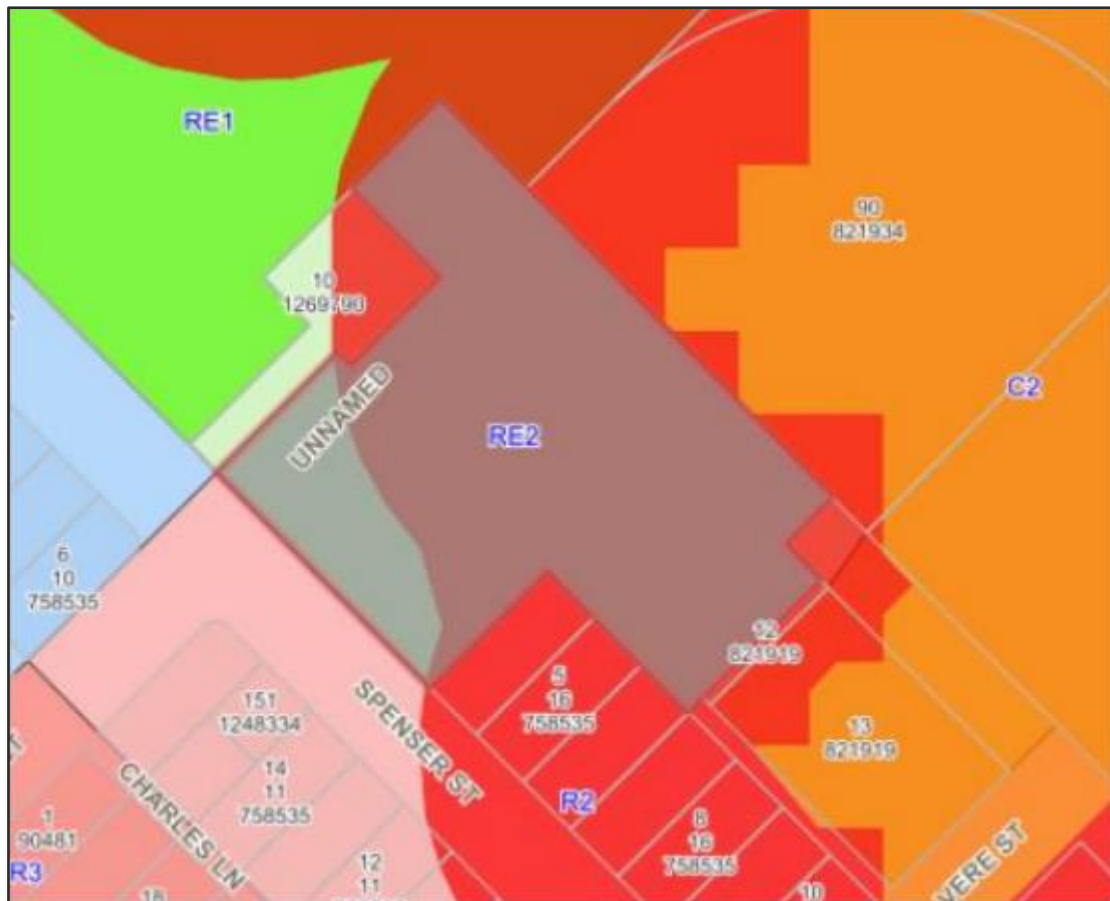


Figure 10 – Bushfire Prone Map

Biodiversity, Contamination, Heritage and Built Form

No adverse biodiversity impact is anticipated from the proposal. The proposed location of the hotel and motel accommodation is a developed and maintained croquet court.

No potential land contamination issues have been identified by the proposal.

The site is in proximity to 2 local European heritage items (residence and obelisk). It is considered that these items can be appropriately considered and addressed at the development application stage noting that there is a sufficient buffer distance between the hotel and motel accommodation site and these heritage items to ensure any adverse impact is unlikely.

The land is within the Coastal Environment Area identified under the SEPP (Resilience and Hazards) 2021. The proposal is supported by a completed NSW Coastal Design Guidelines 2023 checklist that confirms that the proposal is appropriate and any issues can be addressed appropriately as required at the development application stage. A height limit of 9m consistent with the surrounding employment and residential lands is also being applied to the site to ensure that the final built form design is consistent and in keeping with the surrounding development potential.

4.2 Social and economic

No adverse social or economic impacts are considered likely to arise from the planning proposal. The proposal is likely to provide positive social and economic impacts by supporting the long-term viability of the club and providing additional accommodation options for visitors and tourists that are currently not available.

4.3 Infrastructure

The proposal confirms that there is water, sewer, electricity and road infrastructure serving the site and any necessary upgrades can be assessed at the development application stage.

4.4 Community Consultation

The planning proposal is categorised as standard under the LEP Making Guidelines. Accordingly, a community consultation period of 20 working days is recommended and this forms part of the conditions to the Gateway determination.

4.5 Agencies

It is recommended the following agencies be consulted on the planning proposal and given 30 working days to comment:

- NSW Rural Fire Service
- Department of Climate Change Energy the Environment and Water (Biodiversity Conservation and Science - Floodplain Management Division)
- Yaegl Local Aboriginal Land Council

5 Timeframe

The LEP Plan Making Guidelines (August 2023) establishes maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised as standard.

An LEP completion timeframe of 9 months is recommended in line with the Department's commitment to reducing processing times and with regard to the benchmark timeframes.

6 Local plan-making authority

As a local planning matter that is generally consistent with relevant plans and directions, it is recommended that Council be authorised to be the Local Plan-Making authority.

7 Assessment summary

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

- the proposal is generally consistent with relevant plans and directions; and
- will support the local visitor economy and the long-term financial sustainability of the associated club.

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

- amend the objective of the proposal to refer to hotel or motel accommodation; and
- clarify the flood hazard level in a probable maximum flood event that affects the land proposed to be utilised for hotel or motel accommodation.

8 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Directions 4.1 Flooding and 4.5 Acid Sulfate Soils is justified; and

- Note that the consistency with section 9.1 Direction 4.3 Planning for Bushfire Protection is unresolved and will require justification.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to conditions.

The following conditions are recommended to be included on the Gateway determination:

1. The planning proposal is to be updated prior to consultation to:
 - amend the objective of the proposal to refer to hotel or motel accommodation; and
 - clarify the flood hazard level in a probable maximum flood event that affects the land proposed to be utilised for hotel or motel accommodation.
2. Consultation is required with the following public authorities:
 - NSW Rural Fire Service
 - Department of Climate Change Energy the Environment and Water (Biodiversity Conservation and Science - Floodplain Management Division)
 - Yaegl Local Aboriginal Land Council
3. The planning proposal should be made available for community consultation for a minimum of 20 working days

Given the nature of the planning proposal, it is recommended that the Gateway authorise council to be the local plan-making authority with an LEP completion date of 9 months from the Gateway determination date.



30/8/24

(Signature)

(Date)

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30/8/24

(Signature)

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