

R-07-2025 RESOLVED (Mayor Allan / Cr Tree)

That Council:

1. Resolves to publish the relevant materials presented to Councillors during briefings, workshops, and training sessions, except for items that would be classified as confidential under Section 10A of the Local Government Act 1993 and;
2. Review this decision after the NSW Minister for Local Government finalises amendments to the legislation or regulations following the consultation process for the Model Code of Meeting Practice.

UNANIMOUS

Item	8.2
Subject	Resolutions Register Report 2nd Quarter 24/25
Presented by	Mark Griffioen, General Manager

R-08-2025 RESOLVED (Cr Tree / Cr Brotherton)

That Council notes the status of the Council Resolution Register to 31 December 2024.

UNANIMOUS

9 Deputy General Manager Operations Reports

11:56am Council Meeting was adjourned.
12:01pm Council Meeting resumed.

Item	9.1
Subject	Planning Proposal 26 - Amend Minimum Lot Size & Zoning Map at 35 Gordon Road, Raleigh.
Presented by	Daniel Bennett, Senior Strategic Planner

R-09-2025 RESOLVED (Cr Tree / Cr O'Keeffe)

That Council Resolves:

1. To request the issuing of a Gateway Determination from the NSW Department of Planning, Housing & Infrastructure in respect of Planning Proposal 26 - Amend Minimum Lot Size & Zoning Map at 35 Gordon Road, Raleigh, subject to the amendment of the proposal as submitted to provide a 20 hectare minimum lot size categorisation over all the land that is not proposed to be provided with a 1ha minimum lot size categorisation along the southern boundary of the existing lot.
2. To endorse the engagement strategy documented in this report.
3. To request that Council is provided with delegated authority by the NSW Department of Planning, Housing & Infrastructure to legally make the proposed Local Environmental Plan Amendment.

UNANIMOUS

Item	9.2
Subject	Draft Planning Agreement between Bellingen Shire Council and Haggarty Family Pty Ltd for 96 Hyde Street, Bellingen.
Presented by	Daniel Bennett, Senior Strategic Planner

R-10-2025 RESOLVED (Cr O'Keeffe / Cr Brotherton)

That Council resolves to publicly exhibit the Draft Planning Agreement between Bellingen Shire Council and Haggarty Family Pty Ltd in conjunction with the public exhibition of any Development Application for the establishment of a boutique hotel at 96 Hyde Street, Bellingen.

UNANIMOUS

Item	9.3
Subject	Project Update - Connell Park Monthly Update - January 2025
Presented by	Ashley Greenwood, Deputy General Manager Operations

R-11-2025 RESOLVED (Cr Tree / Cr O'Keeffe)

That Council receive and note the update report for the Connell Park upgrade.



9 Deputy General Manager Operations Reports

Item	9.1
Subject	Planning Proposal 26 - Amend Minimum Lot Size & Zoning Map at 35 Gordon Road, Raleigh.
Presented by	Daniel Bennett, Senior Strategic Planner

EXECUTIVE SUMMARY

Council has received a proponent initiated request to amend its Local Environmental Plan to facilitate the subdivision of certain land at 35 Gordon Road, Raleigh into 1ha lots. The land is already zoned R5 Large Lot Residential, however cannot presently be subdivided. The request has identified the existence of land with high environmental value on the property and therefore also proposes to nearly double the extent of an existing C2 Environmental Conservation Zoning on the property in response. The request is supported by numerous specialist studies and is recommended for progression subject to a minor amendment to limit any further subdivision potential on constrained parts of the property.

RECOMMENDATION

That Council Resolves:

1. To request the issuing of a Gateway Determination from the NSW Department of Planning, Housing & Infrastructure in respect of Planning Proposal 26 - Amend Minimum Lot Size & Zoning Map at 35 Gordon Road, Raleigh, subject to the amendment of the proposal as submitted to provide a 20 hectare minimum lot size categorisation over all the land that is not proposed to be provided with a 1ha minimum lot size categorisation along the southern boundary of the existing lot.
2. To endorse the engagement strategy documented in this report.
3. To request that Council is provided with delegated authority by the NSW Department of Planning, Housing & Infrastructure to legally make the proposed Local Environmental Plan Amendment.

ATTACHMENTS

1. 4200-1015 - Planning Proposal - 35 Gordon Road_PP-2024-2189

PURPOSE

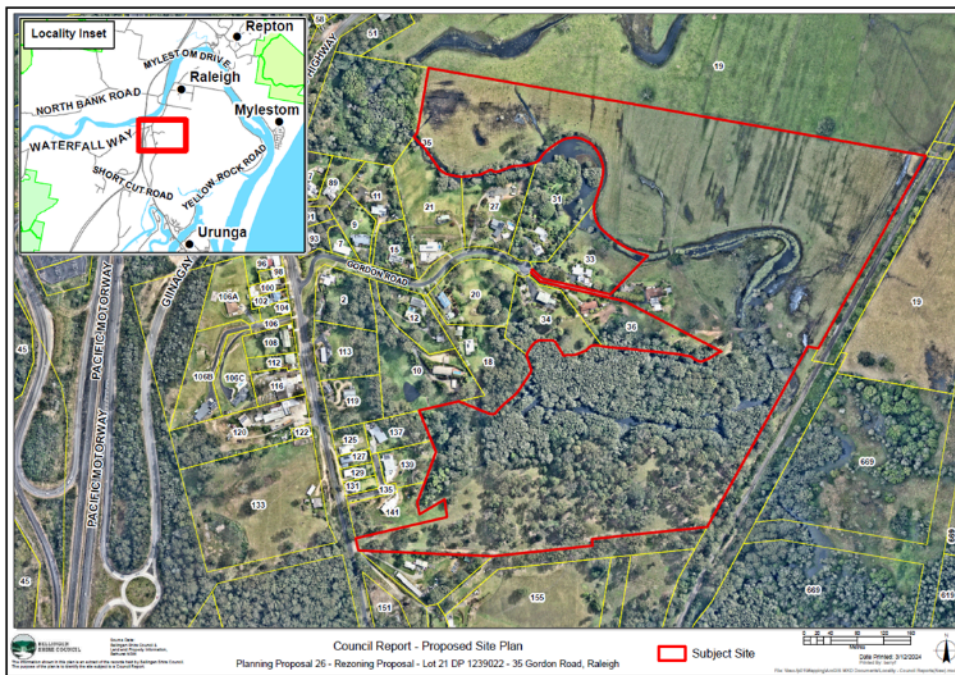
The purpose of this report is to inform Council of the submission of a proponent initiated Planning Proposal to amend the Bellinghen Local Environmental Plan 2010 at 35 Gordon Road Raleigh, and to obtain the necessary resolution from Council to proceed with the processing of the Planning Proposal request.

DISCUSSION

The Proposal

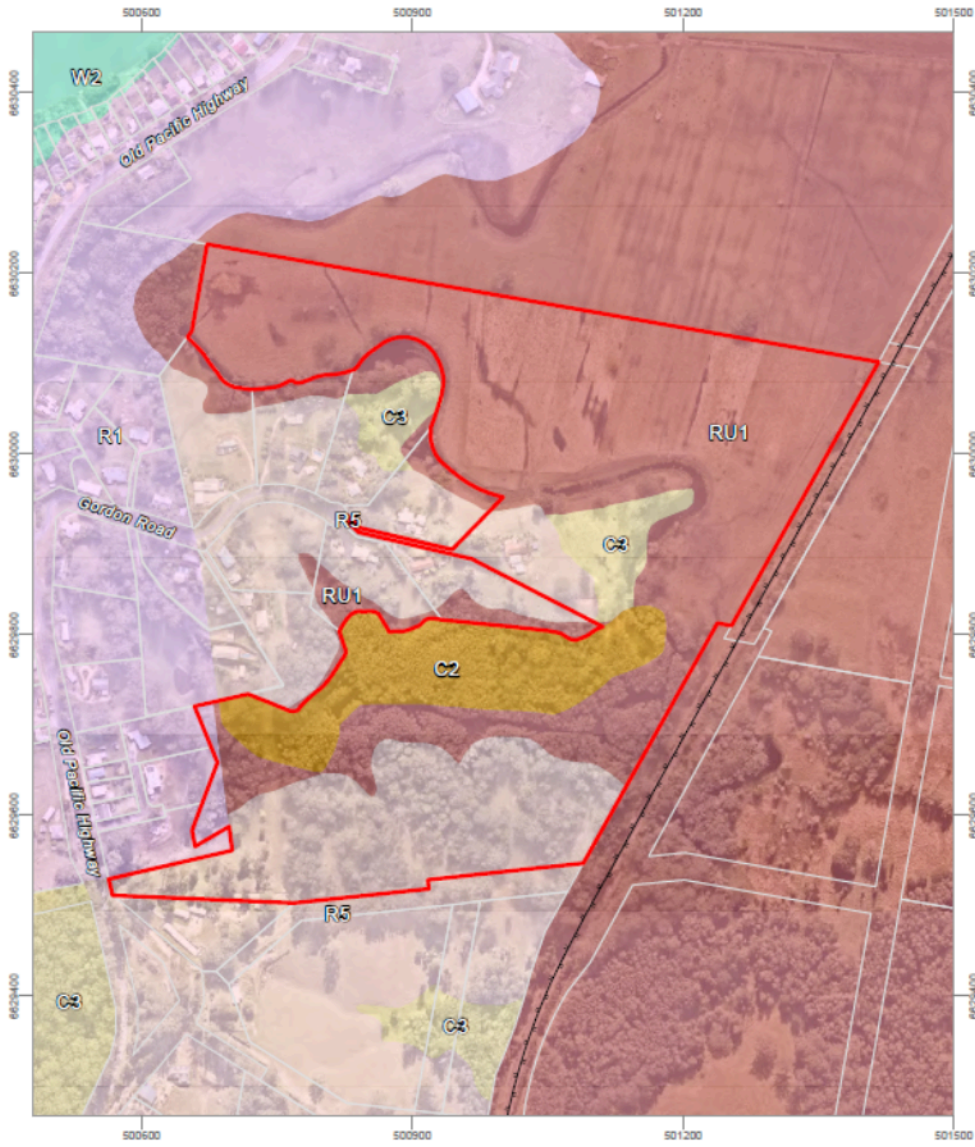
Council has received a proponent initiated request to amend the Bellinghen Local Environmental Plan 2010 (BLEP 2010) to facilitate the subdivision of land at 35 Gordon Rd, Raleigh. Changes to the BLEP 2010 are implemented through the preparation of a Planning Proposal document which outlines the merits of the request and addresses compliance with relevant legislation. A Planning Proposal can be initiated by Council, or by an external proponent. A copy of the Planning Proposal request that has been received by Council is included as an Attachment to this report.

The location of 35 Gordon Road, Raleigh, is shown on the following map.



Planning Proposal 26, as submitted, proposes the following changes to the existing zoning map and minimum lot size for subdivision map on the property.

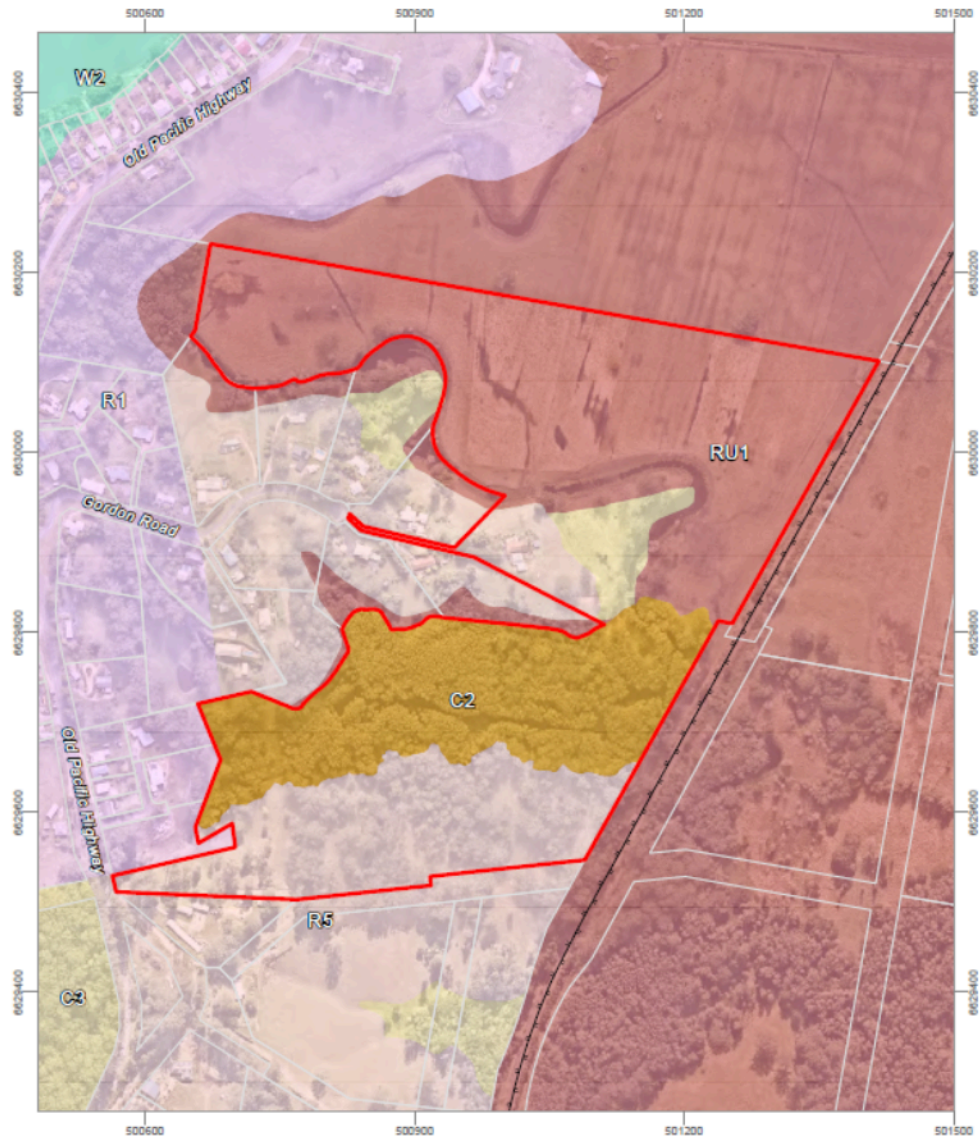
Existing Zoning Map



Existing BLEP 2010 Zoning Map

- Site boundary
- Cadastre
- North Coast Railway
- C2 Environmental Conservation
- C3 Environmental Management
- R1 General Residential
- R5 Large Lot Residential
- RU1 Primary Production
- W2 Recreational Waterways

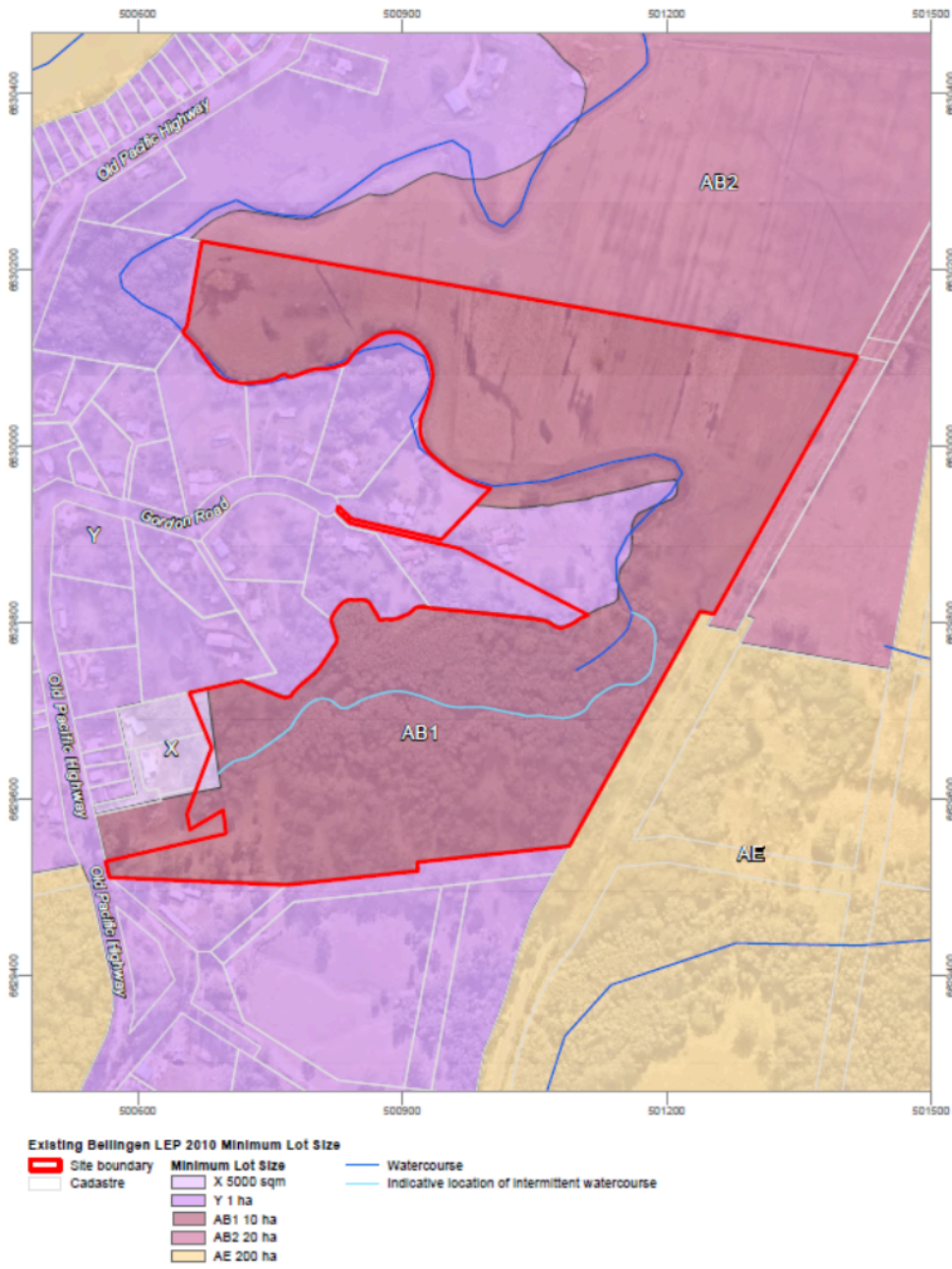
Proposed Zoning Map



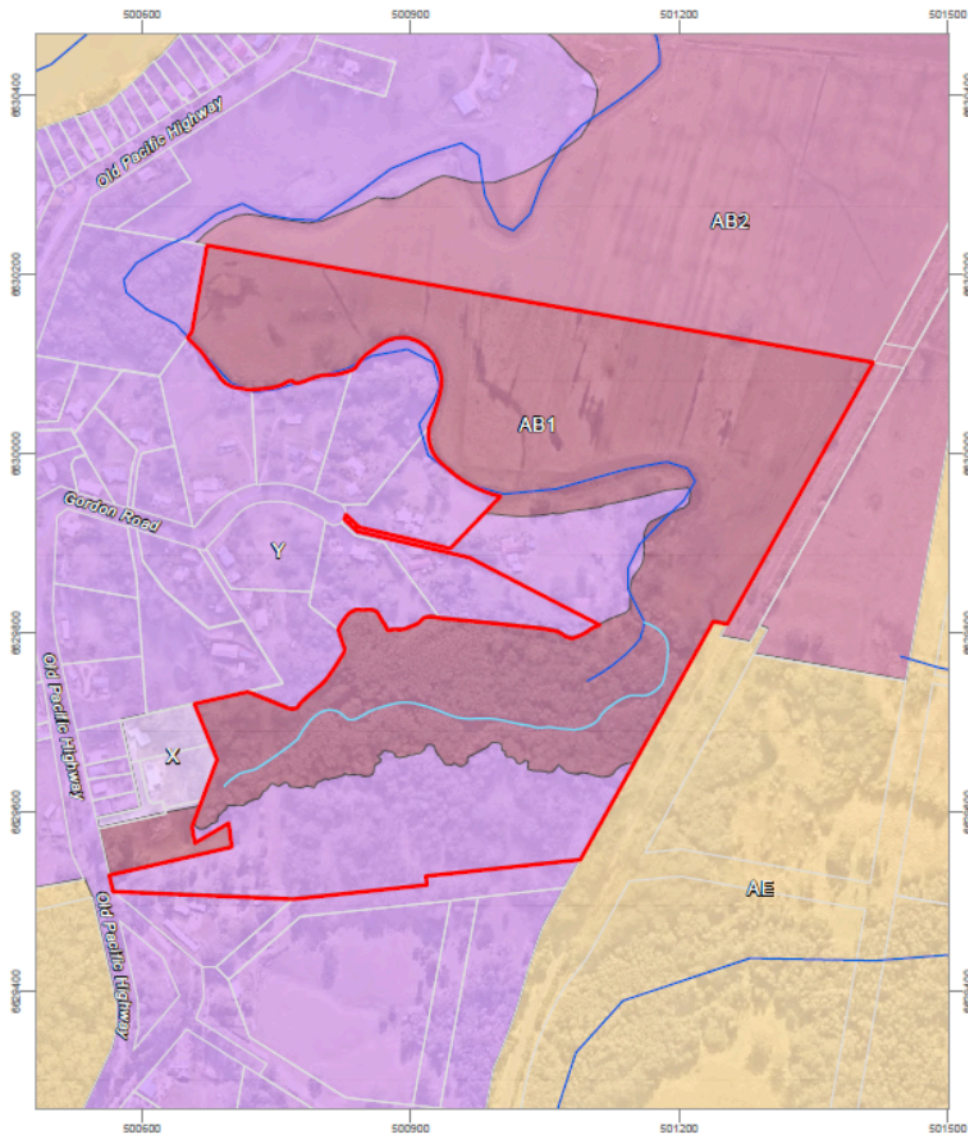
Proposed BLEP 2010 Zoning Map

- Site boundary
- Cadastre
- North Coast Railway
- C2 Environmental Conservation
- C3 Environmental Management
- R1 General Residential
- R5 Large Lot Residential
- RU1 Primary Production
- W2 Recreational Waterways

Existing Minimum Subdivision Lot Size Map



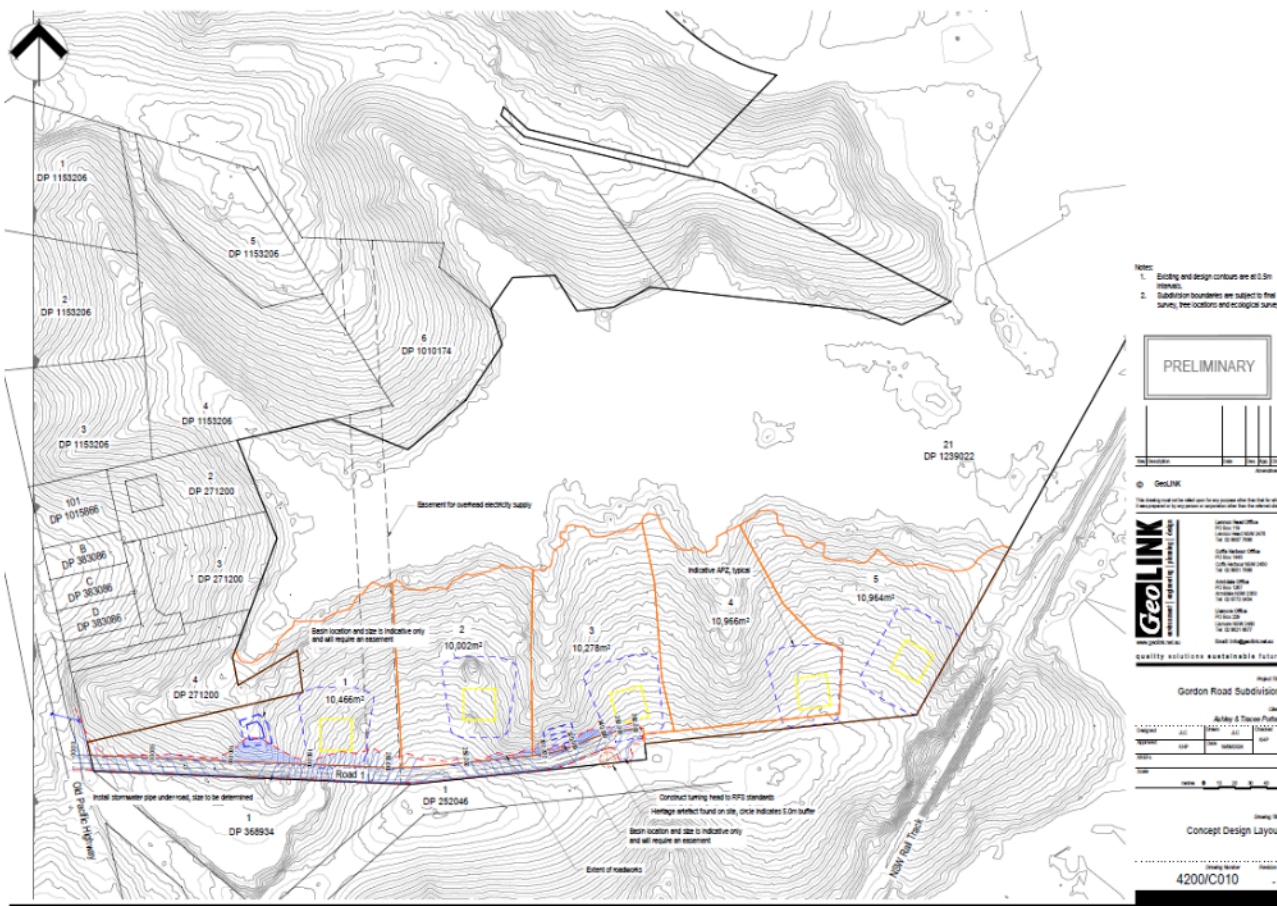
Proposed Minimum Subdivision Lot Size Map



Proposed Amended Bellingen LEP 2010 Minimum Lot Size

- | | | |
|---------------|---------------------------|---|
| Site boundary | Proposed Minimum Lot Size | Watercourse |
| Cadastre | X 5000 sqm | Indicative location of intermittent watercourse |
| | Y 1 ha | |
| | AB1 10 ha | |
| | AB2 20 ha | |
| | AE 200 ha | |

Although Council is not assessing a Development Application for subdivision of the land at this point in time, and the proponents are not required to provide the same level of detail at this point in time that would normally accompany a Development Application, a preliminary subdivision layout has been prepared to help inform investigations into the suitability of the site by a number of sub Consultants engaged to advise on specific issues of concern. This layout is included below.



The most significant elements or implications of the proposed changes include as follows;

- The proposed changes would provide the potential for 5 new rural residential lots with a minimum lot size of 1ha on the southern part of the property, proposed to be developed as a Community Title Subdivision and obtaining access from a community lot with frontage to the Old Pacific Highway.
- The proposed changes would increase the area of land on the property that is zoned C2 Environmental Conservation from approximately 3.96ha to 7.65ha.

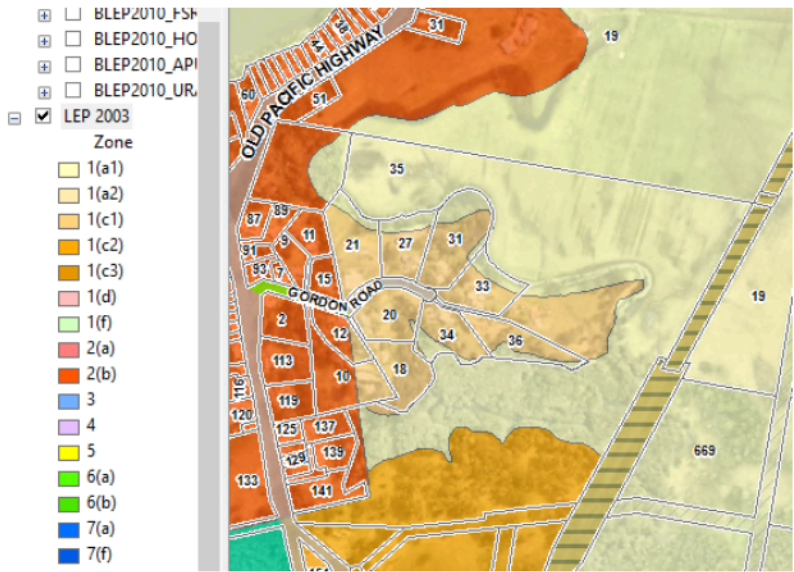
The Site

Lot 21 DP 1239022 has an area of 27.73 ha. It is developed with a dwelling on the northern part of the property and ancillary buildings serving the current agricultural use of the majority of the land parcel. The dwelling is accessed via a long access handle extending in a general easterly direction from the cul-de-sac head of Gordon Road, and the southern part of the property has frontage to the Old Pacific Highway. The property contains elevated areas in immediate proximity to the existing dwelling, and along the southern boundary of the property, with the rest of the property being significantly prone to flooding. The property contains significant areas of high value vegetation primarily within the flood liable portions of the lot. Vegetation within the area proposed for rezoning to 1ha lots consists of various scattered native trees of generally uniform age distribution, a complete lack of understorey native vegetation and improved pasture that is being grazed by cattle. The land adjoins rural residential development of a similar nature to that proposed by this amendment, and is in close proximity to smaller allotments associated with the village of Raleigh.

Background

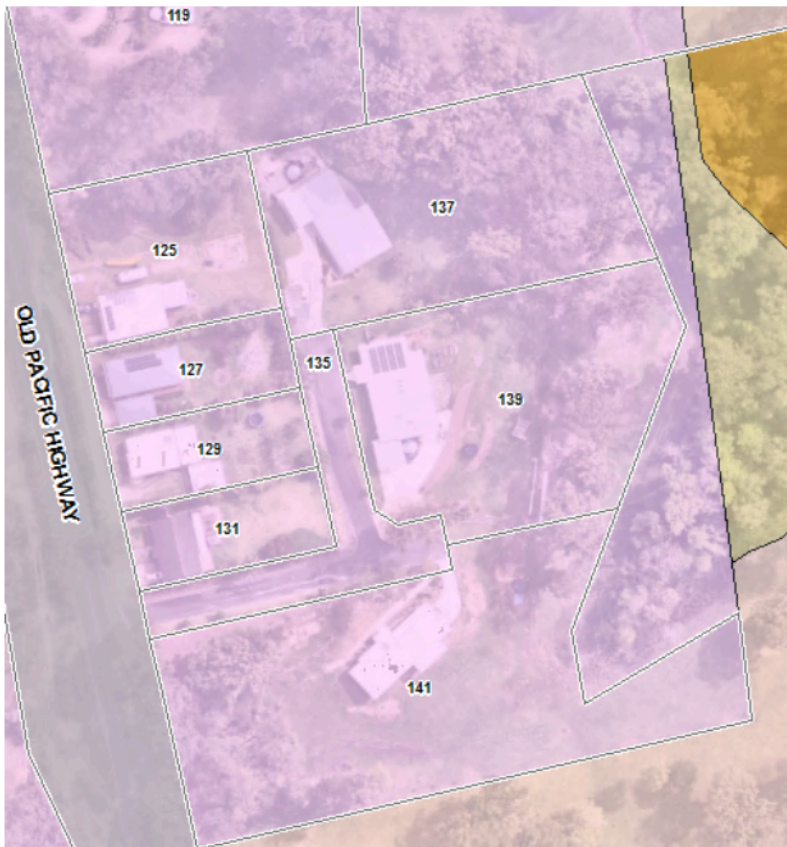
35 Gordon Road was originally created as Lot 9 DP 1010174 in 2000 as a residue lot in association with the subdivision of 8 additional rural residential allotments all of which obtained vehicular access from an extension of Gordon Rd to the east. The property, prior to the introduction of the BLEP 2010 contained a mix of zonings pursuant to the provisions of BLEP 2003 including the 1(a1)(Agricultural Protection Zone), 1(c1) (Rural Residential

Zone) 1(c2) (Rural Small Holdings Zone) and 2(b) (Village Area Zone) . The 1(c2) portion to the south of the property could not have been subdivided any further pursuant to BLEP 2003 because it required a 5ha average lot size, and the area of the 1(c2) zone was approximately 6ha.



During deliberations associated with the introduction of the BLEP 2010, it was determined that whilst retention of a rural residential zoning was appropriate for those parts of the land that were already within a rural residential zone, the allocation of a 1ha minimum lot size that would allow for the subdivision of this land should be the subject of further investigations such as those undertaken as part of this planning proposal.

In 2013, the current landowners provided strategic justification for Councils LEP to be amended to facilitate the excision of 3 lots from land that was zoned R1 General Residential, at the southern edge of the property. This created 137,139 & 141 Old Pacific Highway, and 135 as a common property access lot as part of a community title subdivision. These properties are shown in the extract below.



With the exception of a portion of land around the existing dwelling that retained a 1ha minimum lot size categorisation, the rest of the parcel was provided with a 10ha minimum lot size categorisation. This would have allowed, for example, the excision of a minimum 10ha portion from the southern part of the property from a residue portion to the north of the property containing the existing dwelling.

Council was approached in early 2023 by the proponents to determine what matters might need to be addressed should they submit a proponent initiated planning proposal to change the minimum lot size stipulation from 10ha to 1ha across the southern R5 zoned section of the property. A Scoping Proposal was subsequently submitted to Council as per the provisions of the Local Environmental Plan Making Guideline (August 2023). The Scoping Proposal was referred to relevant NSW Government Agencies and a copy of Councils response to this proposal (including NSW Agency comments) is included as Appendix H to the Planning Proposal document attached to this report.

In summary, no significant objection was offered by Council or the NSW Department of Planning Housing & Infrastructure (DPHI) to the proposal given that the land is already zoned rural residential, whilst the Biodiversity and Conservation Team within the Department of Planning and Environment NSW Biodiversity Team expressed concern primarily with potential clearing impacts. It is considered that the most significant item of concern raised by the Biodiversity and Conservation Team (that the proposal could result in boundary clearing of 25m within the existing RU1 zone within a likely endangered ecological community) has been addressed by virtue of the application of an additional C2 zoning to the full extent of the relevant EEC, which means that the 25m fenceline clearing exemption cannot be used because the land is no longer within a rural zone. On this basis, it is considered that the Planning Proposal request is adequate to proceed as proposed, notwithstanding that further concerns may be advanced by the Biodiversity and Conservation Team at the stage of pre-exhibition agency consultation.

Summary of Consultant Reports submitted with the proposal

Aboriginal Cultural Heritage Assessment

An Aboriginal Cultural Heritage Assessment (ACHA) was prepared by Tim Hill Heritage Management & Planning to consider the potential impacts of the proposal and any future DA's on aboriginal objects, cultural values, and the cultural landscape. Key methods employed in the assessment included considering potential impacts to the ground surface, searching relevant registers and previous assessments, consideration of archaeological potential and development of a predictive model based upon environmental and landform features, inspecting the site and consulting with Coffs Harbour & District Local Aboriginal Land Council, assessing cultural values against recognised criteria, and outlining measures to mitigate any potential impacts.

The site inspection identified one Aboriginal stone artefact, being a "unifacial cobble chopper" located on the ridge crest above potential Lot 3 on the southern boundary. In general terms, a chopper is as a pebble tool with an irregular cutting edge formed through the removal of flakes from one side of a stone.

The report contests that the discovery of stone artefacts of this nature are relatively common along ridgelines in the region and that further investigations and / or conservation zones are not typically required in respect of such finds. The proposed access road can be constructed in a way to avoid further impacting upon the tool if it stays in situ and no objection was offered by the CHLALC in respect of the rezoning proceeding.

Bushfire Hazard Assessment

A bushfire hazard assessment has been prepared that takes into account the proposed lot layout, vegetation hazard, slope, local bushfire conditions and the Fire Danger index for the site in accordance with [Planning for Bushfire Protection 2019](#). The assessment considers the Asset Protection Zones (APZ's) that would be required to the indicative building envelopes and the degree to which these are capable of being provided within the proposed lot layouts without impacting adversely upon identified areas of high environmental value. The major APZ that is required is a 20m setback to the vegetation to the north which is classified as a forested wetland. This would most likely comprise a 10m Inner Protection Area (IPA) and a 10m Outer Protection Area (OPA). Tree canopy cover should be less than 15% at maturity within the IPA and less than 30% within the OPA. Given the existing semi-cleared nature of the rezoning site, these APZ's could most likely be achieved with relatively little clearing of established trees. The assessment identifies a non-compliance with the prescriptive requirement that "all roads are through roads" (noting that the indicative subdivision layout shows a 1 way community title access road) however provides an argument that the performance requirement that "Firefighting vehicles are provided with safe, all-weather access to structures" can be met noting, for example, the relative lack of hazards presented by grassland areas to the south.

These arguments will be given further consideration by the NSW Rural Fire Service (RFS) as part of this planning proposal, and as part of the integrated development referral to the RFS that would arise from any subsequent subdivision DA.

Preliminary Site Investigation - Contamination

The NSW planning framework requires that planning authorities consider land contamination when it is proposed to permit a change in land use, such as that which would arise from the amendment of the Minimum Lot Size Map to facilitate 1ha subdivision. A preliminary site investigation has been completed that considers local hydrogeological issues, a review of records of previous land uses of the site including historical aerial photography and registers, site inspection and soil sampling for heavy metals and pesticides (organo-chlorines and organo-phosphates). The soil samples were compared against relevant threshold criteria for residential development, confirming that soil contaminant levels were not prohibitive for the proposed residential and use and no further investigations or remediation were considered necessary.

Biodiversity Assessment Report

Strategy 3.1 of the North Coast Regional Plan requires the identification of High Environmental Value (HEV) assets within the planning area at planning proposal stage through site investigations. A Biodiversity Assessment Report

has consequently been prepared that aims to identify any ecological constraints or HEV areas on the site which should be considered in the proposed zoning layout. The assessment included searches of relevant databases for threatened species occurrences in the locality and a range of on-site flora and fauna assessments. The biodiversity assessment identifies as follows.

*Land proposed for amendments to the BLEP 2010 to facilitate future subdivision comprises elevated north facing land including partially cleared open woodland dominated by Tallowwood (*Eucalyptus microcorys*), Grey Ironbark (*Eucalyptus siderophloia*), Turpentine (*Syncarpia glomulifera*), Blackbutt (*Eucalyptus pilularis*), Thick-leaved Mahogany (*Eucalyptus carnea*) and Pink Bloodwood (*Corymbia intermedia*). Subdominant trees include Red Ash (*Alphitonia excelsa*) and Pink Flowered Doughwood (*Melicope elleryana*). This vegetation is representative of Plant Community Type (PCT) 3250 Northern Foothills Blackbutt Grass Forest.*

*Vegetation to the north of the land proposed for amendments to the BLEP 2010 includes consolidated areas of swamp sclerophyll forest within a low-lying area of occasionally inundated land associated with an intermittent waterway. Vegetation in this area is dominated by Broad-leaved Paperbark (*Melaleuca quinquenervia*) with occasional Swamp Mahogany (*Eucalyptus robusta*), Swamp Oak (*Casuarina glauca*) and Pink-flowered Doughwood. This vegetation is representative of PCT 4000 Northern Estuarine Paperbark Sedge Forest.*

Open woodland occurring on the land proposed for amendments to the BLEP 2010/ future development is not indicative of a Threatened Ecological Community (TEC). Areas to the north outside of the proposed subdivision/ development area comprise of swamp sclerophyll forest (PCT 4000) and are representative of the following TECs:

- *Swamp Sclerophyll Forest on Coastal Floodplains of the New South Wales North Coast, Sydney Basin and South East Corner Bioregions listed under the BC Act.*
- *Coastal Swamp Sclerophyll Forest of New South Wales and South East Queensland listed under the EPBC Act.*

The development of the land will have some impacts upon the area identified as PCT 3250 associated with removal of trees for dwelling construction, asset protection zones, fence construction, access, effluent disposal and ancillary structures, however this is not considered to be significant. The area identified as PCT 400 will be the subject of a significantly increased area of land zoned C2 Environmental Conservation, comprising a 93% increase from the existing C2 area of 3.96 ha to 7.65 ha.

Overall, the Biodiversity Assessment is considered to have reasonably addressed the requirements of the North Coast Regional Plan to identify HEV assets at planning proposal stage, focus land use intensification away from HEV assets and to apply appropriate conservation mechanisms such as conservation zones to HEV assets. It is noted that a further Biodiversity Development Assessment Report would be required at DA stage to more comprehensively address the specific impacts of any final subdivision layout.

On-site Sewage Suitability Assessment

The land is not connected to the reticulated sewerage network and any new lots would be required to dispose of effluent on-site. An assessment has been prepared to determine the suitability of the land to receive and treat effluent generated by new dwellings. The assessment involved consideration of relevant legislation and guidelines, on-site soil sampling, and modelling of the land area requirements for effluent disposal by a range of different methods. The assessment identifies that the site is suitable for the proposal which would include the installation of an On-site Sewage Management System (OSMS) for a 2-5bd dwelling each of the proposed lots, with any of the following wastewater combinations.

- Primary septic system
- Secondary Aerated Wastewater Treatment System (AWTS) with additional disinfection

- Conventional absorption trench/bed for land disposal
- Surface/sub surface irrigation (SSI) for land disposal

The OSMS Assessment has been reviewed by Councils Environment & Public Health Officer who advises as follows.

"The general site assessment and consideration of constraints demonstrates acceptability of the proposal with respect to on-site sewerage management given only one moderate limitation which relates to buffer distances. The limitation(s) identified can be managed via appropriate selection of a site specific on-site sewerage management system upon application for future development should the planning proposal be supported to permit the proposed 5 allotments."

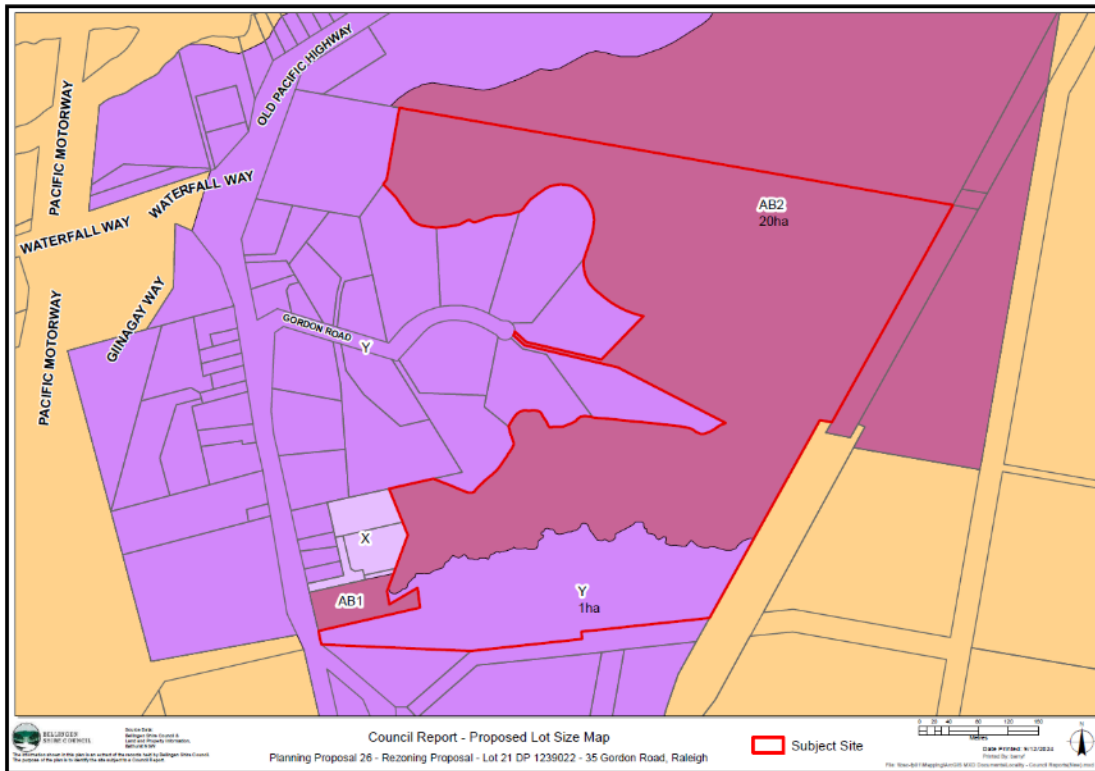
Discussion of Proposed Amendments

In terms of compliance with the land use planning legislative framework, the main potential non-compliance that has been identified with the proposal is Strategy 1.5 of the North Coast Regional Plan which states that *"New rural residential housing is to be located on land which has been approved in a strategy endorsed by the Department of Planning and Environment and is to be directed away from the coastal strip."* The proposal essentially contends that the retention of rural residential zoning over the land was indicative of a strategic intent in the Bellingen Shire Growth Management Strategy 2007 (GMS) to endorse the future use of the land for rural residential purposes with the ultimate density and location of rural residential development to be determined via a future LEP amendment process, instead of via the BLEP 2010 implementation process. This was because the GMS also identified the area as an area of *"potential environmental constraint"* and the development potential needed to be determined with reference to a detailed investigation of constraints. This analysis is consistent with Councils recollection of the circumstances underlying the allocation of lot sizes on the property as part of the 2010 LEP implementation process.

Following on from this, the proposal argues that the land is suitable for 1ha rural residential subdivision with reference to the numerous investigations that have been commissioned in respect of potential land use constraints, and land suitability criteria that exist in various strategic documents such as the North Coast Regional Plan. The proposed zone and lot size amendments are considered to be suitable, subject to the following amendment being made to the proposed Lot Size Map

Proposed Lot Size Map Amendment

The retention of a 10ha minimum lot size over the remaining land could give rise to a situation where a landowner could apply to create additional lots over land that is recognised as significantly constrained by flooding and other biodiversity issues. In view of the development potential that would be delivered to the proposed 1ha minimum lot size area should this proposal proceed it is considered that the LSZ Map for the remaining part of the land should be amended to remove any further development potential from the property in terms of subdivision as part of this proposal. This can be achieved by the application of a 20ha minimum lot size specification for all but the area of land that is proposed for the new 1ha minimum lot size. This outcome is depicted as follows.



The Planning Proposal Process

The diagram below indicates the 6 main stages to be observed in the processing of the planning proposal.



For Stage 6, Council is required to nominate whether or not it wishes to request delegated authority from the NSW Department of Planning, Housing & Infrastructure to legally make the plan following public exhibition. In the circumstances, it is considered that the proposal is of relatively minor impact and is broadly compliant with the NSW planning framework. Requesting delegated authority can help with expediting the processing of these requests by minimising the need for an additional NSW Government referral. It is therefore recommended that Council resolve to request that delegated authority is provided to Council to make the plan.

STRATEGIC ALIGNMENT

(LE3.4) Optimise land use to meet the social, environmental, and economic needs of the Shire.

RESOURCING STRATEGY IMPLICATIONS

The Planning Proposal can be completed by Council using existing resourcing and budgetary allocations.

ENGAGEMENT

Community engagement is a key priority for our community and for Council and is embedded in our Community vision as a Connected Sustainable Creative Community.

The Bellingen Shire Council Community Engagement Strategy was adopted by Council at its Ordinary Meeting 30 June 2021. This strategy is designed to outline the approach Bellingen Shire takes towards engaging with our community.

In accordance with the Environment Planning and Assessment Act 1979 Council's Community Participation Plan (CPP) sets out all of council's community participation requirements under land use planning legislation and should be referenced in accordance with the Community Engagement Strategy.

Having regard to the CPP it is considered that the Planning Proposal is appropriately categorised as a "Site specific planning proposal for LEP amendment" which requires a minimum exhibition timeframe of 14 or 28 days, depending upon the outcome of any "Gateway Determination" issued by the NSW Government.

The exhibition will also involve the following actions as per the CPP requirements.

- Published Notice in Newspaper
- Notification on Council website
- Notification of adjoining landowners
- Hard copy at Bellingen & Urunga Libraries
- Plain English Version

CONCLUSION

The proposed LEP Amendment has sufficiently identified areas of high environmental value on the property and proposes their protection through the imposition of additional C2 Environmental Conservation Zones. Land that is proposed to be allocated a 1ha minimum lot size has been comprehensively assessed for suitability, and likely development outcomes are considered to be broadly consistent with prevailing patterns of development elsewhere within the locality. Subject to the removal of any further subdivision potential over the residue land parcel, it is recommended that Council resolves to progress the planning proposal.