

# **PLANNING PROPOSAL 24 – PP -2024-674**

Amendment to Bellingen Shire Local Environmental Plan 2010  
Version 3 (June-July 2024) – Public Exhibition

## **Housekeeping Amendment**

Bellingen Shire  
COUNCIL



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## Introduction

Planning Proposal 24 (Housekeeping Amendment) proposes a series of minor amendments to the Bellingen Local Environmental Plan 2010 (BLEP 2010) that are designed to update heritage mapping due to property boundary changes, provide for certain activities to occur as exempt development and to ensure provision of essential services.

The 3 matters covered by this amendment are;

1. Update the Heritage Map to reflect altered property boundaries in North Bellingen.
2. Introduce a new Clause in the LEP requiring consideration to be given to the provision of certain essential services.
3. Make subdivisions associated with Council road closures a form of exempt development.

Council resolved to proceed with preparing a Planning Proposal in respect of this matter at its meeting of 28 February 2024. The resolution of Council is reprinted below.

### MINUTES

**ORDINARY MEETING  
OF COUNCIL - 28  
FEBRUARY 2024  
28 February 2024**

**Item 14.2**

**Subject Planning Proposal 24 - Housekeeping Amendment to Bellingen  
Local Environmental Plan 2010**

**Presented by Daniel Bennett, Senior Strategic Planner**

### **RESOLVED (Cr King / Cr Cook)**

That Council:

1. Resolves to prepare *Planning Proposal 24 - Housekeeping Amendment to Bellingen Local Environmental Plan 2010* and requests the issuing of a Gateway Determination from the NSW Department of Planning Housing & Infrastructure (DPHI) in respect of this matter;
2. Endorses the proposed Community Engagement Strategy, as documented in this Report; and
3. Resolves to request that the NSW Department of Planning Housing & Infrastructure designates Council as the Plan Making Authority in respect of this matter.

**UNANIMOUS**

A request for the issuing of a Gateway Determination was submitted to the NSW DPHI through the NSW Planning Portal on 28 March 2024.

Council received a Gateway Determination on 30 April 2024. A copy of the Gateway Determination is reprinted below.

It is noted that the Planning Proposal endorsed by Council on 28 February 2024 originally included an additional item that proposed to make events on public land a form of exempt development. NSW DPHI have required however as a condition of the Gateway Determination that proposed *Item 4 – Events on Public Land* is removed from the proposal. The DPHI advise that these types of provisions are no longer supported because "temporary events are not separately characterised in the standard instrument LEP as a type of development and they can ordinarily take place as a part of a primary lawful land use on Council land."

This version of Planning Proposal 24 has therefore been amended to remove all reference to or discussion of this part of the original proposal.

In addition, Council has undertaken pre-exhibition consultation with the NSW Rural Fire Service (RFS) as per the requirements of the Gateway Determination. The RFS have advised on 14 June 2024 that they have no concerns with the proposal. A copy of this advice is included as Attachment 2.

## Gateway Determination

**Planning proposal (Department Ref: PP-2024-674):** *Bellingen Housekeeping Amendment 2024*

I, the Director, Northern Region, at the Department of Planning, Housing and Infrastructure, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that a housekeeping amendment to the Bellingen Local Environmental Plan 2010 should proceed subject to the following Gateway conditions.

The Council as planning proposal authority is authorised to exercise the functions of the local plan-making authority under section 3.36(2) of the Act subject to the following:

- (a) the planning proposal authority has satisfied all the conditions of the gateway determination;
- (b) the planning proposal is consistent with applicable directions of the Minister under section 9.1 of the Act or the Secretary has agreed that any inconsistencies are justified; and
- (c) there are no outstanding written objections from public authorities.

The LEP should be completed within 6 months of this Gateway determination date.

### Gateway Conditions

1. Prior to agency consultation and public exhibition, the planning proposal is to be amended to remove proposed Item 4 - Events on Public Land.
2. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
  - (a) the planning proposal is categorised as standard as described in the *Local Environmental Plan Making Guideline* (Department of Planning and Environment, August 2023) and must be made publicly available for a minimum of 20 working days; and
  - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in *Local Environmental Plan Making Guideline* (Department of Planning and Environment, August 2023).
3. Consultation is required with the NSW Rural Fire Service under section 3.34(2)(d) of the Act. The NSW Rural Fire Service is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 30 working days to comment on the proposal.

4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

Dated 30 April 2024

A handwritten signature in black ink, appearing to read 'J. Gray', is centered on the page.

**Jeremy Gray**  
Director, Hunter & Northern Region  
Local Planning and Council Support  
Department of Planning, Housing and  
Infrastructure

**Delegate of the Minister for Planning and  
Public Spaces**

## Part 1 – Objectives & Intended Outcomes

The objective of the proposal is as follows.

### **Objective**

To amend the BLEP 2010 through the undertaking of a housekeeping amendment that updates the heritage map, strengthens the consideration of essential services provision through the development consent process and simplifies the processes associated with subdivision road closures.

### **Intended outcomes**

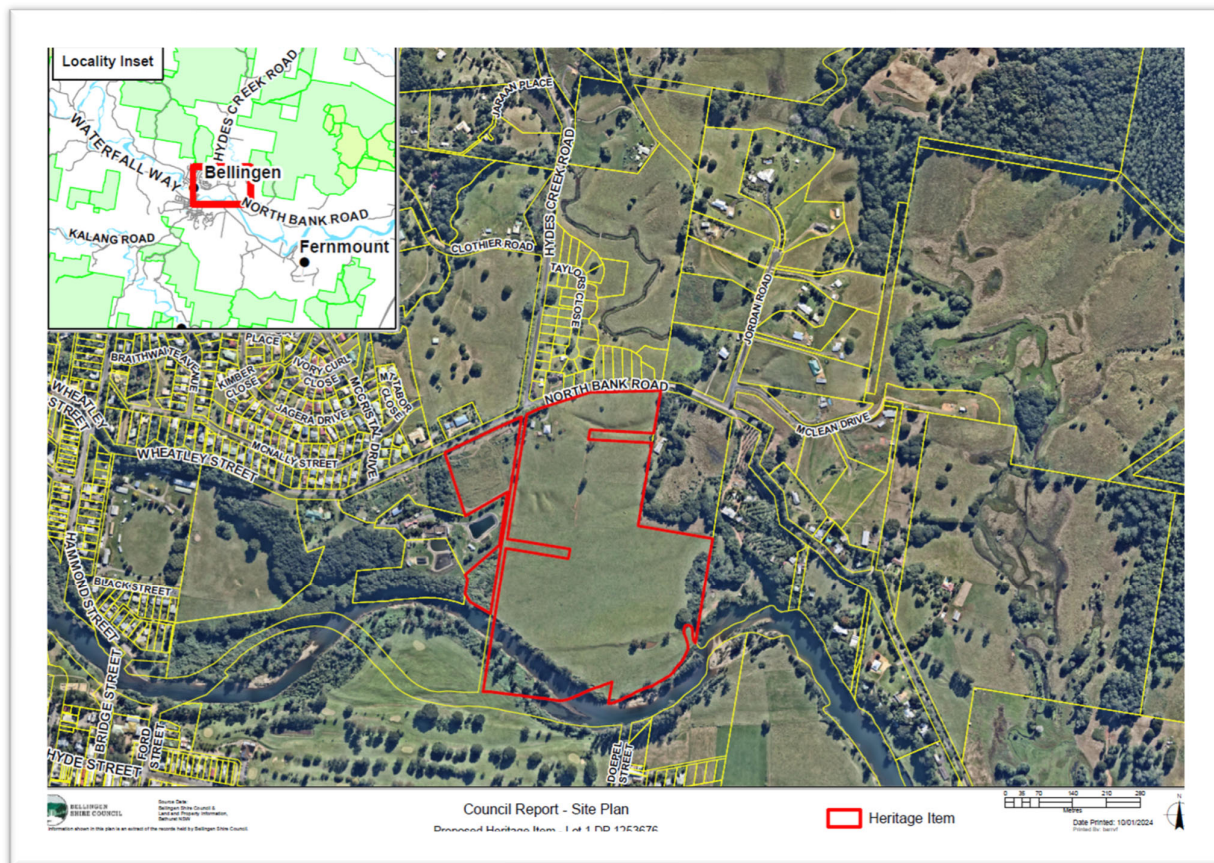
*Residents within a new residential subdivision in an identified Urban Release Area will be able to utilise exempt and complying development approval pathways once an outdated heritage listing is removed from their properties.*

*The provision of essential services to development sites will be included as a matter for consideration throughout the Shire, and not restricted to Urban Release Areas only.*

*Council road closure proposals that have been thoroughly assessed via the road closure process will not be frustrated by subdivision limitations designed to regulate development density.*



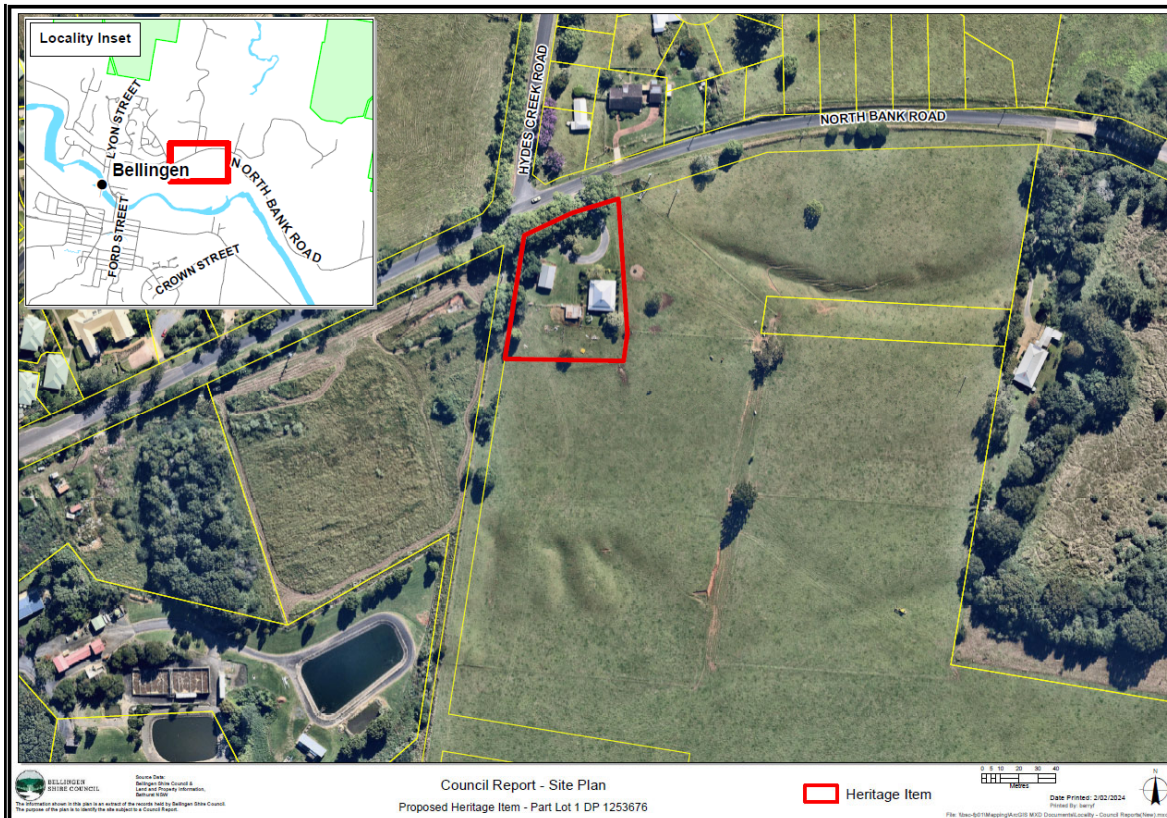
of the original lot has subsequently been subdivided to create 42 new residential lots, whilst the southern part of the original lot has been subjected to a number of boundary adjustments that have added additional land area. The land containing the heritage item is now described as 102 North Bank Rd – Lot 1 DP 1253676. This depicted in the following image.



It is therefore necessary to amend the BLEP 2010 to properly identify the location of the heritage item having regard to recent changes in property boundaries. It is important to prioritise this amendment because the existence of a heritage item designation on the northern part of the land is preventing a newly developed residential subdivision from accessing certain exempt and complying development pathways that may be available for new owners of land because they do not apply if a property contains a heritage item.

Recent advice from the DPHI indicates that on a larger rural property where a heritage item may not cover the full extent of a property, it is appropriate for the Heritage Map to be shaded to depict only that part of the lot that contains the item. In addition to this, Schedule 5 should state "Part Lot X DP X" to highlight that the heritage provisions do not apply to the whole allotment.

The extent of Lot 1 DP 1253676 that is proposed to be shaded as containing a heritage item is depicted in the map below.



## For Item 2

Introduce a new local provision as follows;

### ***Essential services***

*(1) Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—*

- (a) the supply of water,*
- (b) the supply of electricity,*
- (c) the disposal and management of sewage,*
- (d) stormwater drainage or on-site conservation,*
- (e) suitable vehicular access.*

### Explanation

Clause 7.9 of BLEP 2010 currently provides as follows.

### ***7.9 Public utility infrastructure***

*(1) Development consent must not be granted for development on land unless the Council is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when it is required.*

*(2) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure.*

Public utility infrastructure is currently defined in BLEP 2010 as follows.

**public utility infrastructure**, in relation to an urban release area, includes infrastructure for any of the following—

- (a) the supply of water,
- (b) the supply of electricity,
- (c) the disposal and management of sewage.

The current definition of public utility infrastructure limits the ability to rely upon Cause 7.9 to only one area of North Bellingen that is mapped as an Urban Release Area.

Whilst infrastructure arrangements are important in planning for an Urban Release Area, they remain a significant consideration in many other instances throughout the Shire. When a matter is prescribed for consideration in a Local Environmental Plan it has greater legal weight than something prescribed in a Development Control Plan for example. Should Council make a determination that a development is unacceptable because of a lack of essential public infrastructure, then the ability to rely upon Clause 7.9 to support this decision would not be available except within an Urban Release area.

Accordingly, it is proposed to introduce an additional local clause to BLEP 2010 to provide for consideration of essential infrastructure matters elsewhere throughout the Shire. The proposed clause is commonly used in many other LEP's throughout the State.

### **For Item 3**

Insert the following Clause in Schedule 2 (Exempt Development) of BLEP 2010.

***Subdivision of Council public roads***

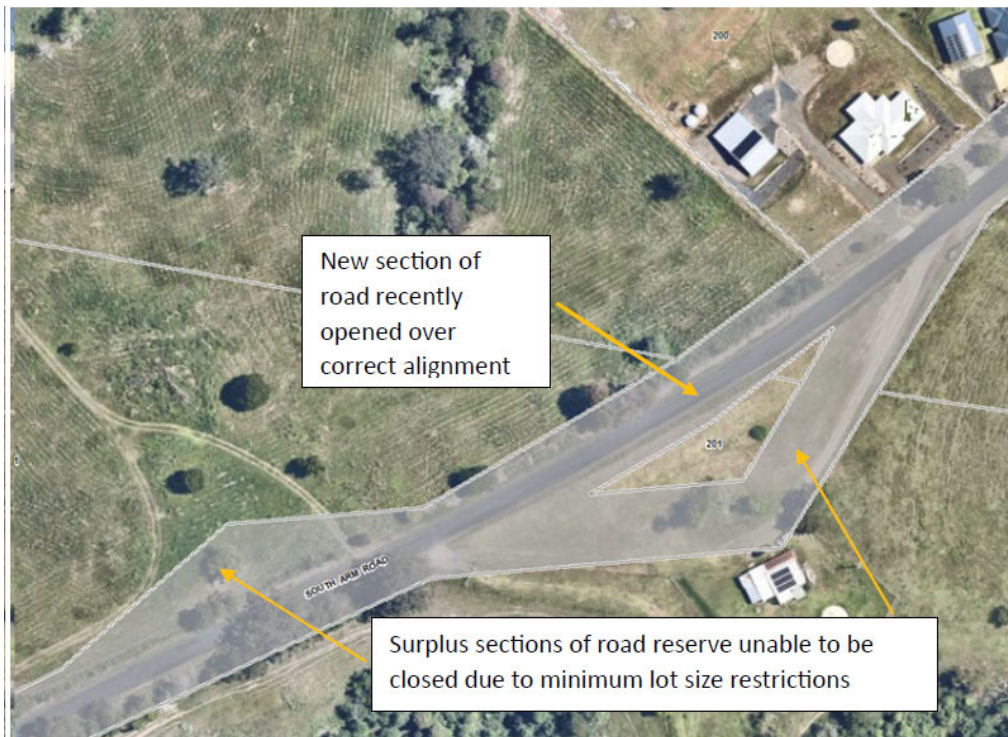
*Must relate to land comprising a council public road proposed for closure under the [Roads Act 1993](#), Part 4, Division 3.*

#### Explanation

Council periodically identifies the need, or receives a request, to close a Council public road. It is not uncommon to find examples of road reserves that are impractical to construct, surplus to need or unnecessary in view of the existence of a better option elsewhere. In these circumstances, there is a formal process followed for the closure of the road as per the provisions of the Roads Act 1993.

Whilst the planning system provides subdivision approval pathways to allow for things like road widening to occur without the need for a Development Application (eg: when a road might encroach on private land and the road reserve needs to be widened to accommodate it) it does not provide a comparably simple option for subdivision associated with the closure of a public road. In some instances it actually prohibits it altogether because the requisite subdivision gets caught up in minimum lot size specifications that are designed to regulate subdivision density, and which lack the flexibility to be varied in a different context such as a road closure.

The extract below provides a current example of where a proposed road closure cannot be completed as either exempt development or via a Development Application in the R5 Large Lot Residential Zone on South Arm Road, Urunga.



There are no sound land use planning reasons as to why the planning system should place additional regulatory obstacles before a road closure subdivision proposal that has been deemed acceptable in terms of the Roads Act 1993. It is therefore proposed to make unambiguous provision for these to occur as exempt development.

## **Part 3 – Justification of strategic & site-specific merit**

### **Section A – Need for the Planning Proposal**

#### **1. Is the Planning Proposal a result of an endorsed Local Strategic Planning Statement, strategic study or report?**

The planning proposal does not arise specifically from any endorsed strategy. In general terms though, it is considered that the proposal will facilitate development in a manner consistent with the strategic direction of adopted strategies.

#### **2. Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

The planning proposal is the only means of amending the heritage map, as proposed by Item 1.

It is possible that Item 2 could be provided for via a Development Control Plan provision, however it is considered that the statutory weight afforded by the LEP is preferable in the circumstances, with the DCP still able to assist in terms of confirming what arrangements are suitable having regard to different matters (eg: flooding, stormwater etc..).

The proposed addition to Schedule 2 Exempt Development (Item 3) could potentially be added to State Environmental Planning Policy (Exempt & Complying Development Codes) 2008 however this would require the NSW Government to take responsibility for the amendment and Council cannot presume that this would be supported.

## Section B – Relationship to Strategic Planning Framework

### 3. Will the Planning Proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?

The proposal is considered to give effect to the following relevant elements of the North Coast Regional Plan.

<b>NORTH COAST REGIONAL PLAN 2041 ANALYSIS</b>	
<b>Goal 1 – Liveable, sustainable and resilient</b>	
Objective 1: Provide well located homes to meet demand	Item 1 will ensure that a newly developed Urban Growth Area can access a wider range of approval pathways to construct new housing and ancillary development. Item 2 will reinforce the need for careful consideration of essential service provisions throughout the shire.
Objective 2: Provide for more affordable & low cost housing	
Objective 3: Protect regional biodiversity & areas of HEV	
Objective 4: Understand, celebrate & integrate Aboriginal culture	
Objective 5: Manage & improve resilience to shocks & stresses, natural hazards & climate change	
Objective 6: Create a circular economy	
Objective 7: Promote renewable energy opportunities	
Objective 8: Support the productivity of agricultural land	Many roads in rural areas are not located within designated road corridors. Item 3 will facilitate road closures in rural areas and this will facilitate the orderly development of land and allow opportunity for rectification.
Objective 9: Sustainably manage & conserve water resources	
Objective 10: Sustainably manage the productivity of our natural resources	
<b>Goal 2 – Productive &amp; Connected</b>	
Objective 11: Support cities & centres & coordinate the supply of well-located employment land	Item 2 will support decision making around essential services availability to ensure that employment land is well located.
Objective 12: Create a diverse visitor economy	
Objective 13: Champion Aboriginal self-determination	

<b>NORTH COAST REGIONAL PLAN 2041 ANALYSIS</b>	
Objective 14: Deliver new industries of the future	
Objective 15: Improve state & regional productivity	
Objective 16: Increase active & public transport usage	
Objective 17: Utilise new transport technology	
<b>Goal 3 – Growth Change &amp; Opportunity</b>	
Objective 18: Plan for sustainable communities	
Objective 19: Public spaces & green infrastructure support connected & healthy communities	
Objective 20: Celebrate local character	
<b>Local Government Narratives</b>	
The proposal will help to deliver housing in North Bellingen.	
<b>Settlement Planning Guidelines</b>	
<b>Urban Growth Area Variation Principles</b>	

**4. Is the Planning Proposal consistent with a Council local strategic planning statement that has been endorsed by the Planning Secretary or GCC, or another endorsed local strategy or strategic plan?**

The proposal is considered to give effect to the following relevant elements of the Bellingen Shire Local Strategic Planning Statement 2020-2040.

<b>BELLINGEN SHIRE LSPS ANALYSIS</b>	
<b>Resilient economy</b>	
Planning Priority 1 –To support a vibrant and ecologically sustainable rural economy that is transitioning towards a regenerative model of rural land use	
Planning Priority 2 – To routinely identify infrastructure constraints and upgrade opportunities that will enable desired development outcomes	Item 2 reinforces the need to ensure that adequate infrastructure exists to support the development of land.
Planning Priority 3 – To provide meaningful opportunities for local employment, sustainable business establishment and growth.	

<b>BELLINGEN SHIRE LSPS ANALYSIS</b>	
<b>Community wellbeing</b>	
Planning Priority 4- To provide the necessary infrastructure for people to lead physically active lives within their communities	Item 2 reinforces the need to ensure that adequate infrastructure exists to support the development of land.
Planning Priority 5 – To integrate Gumbayngirr cultural considerations into land use planning decision making processes	
<b>Places for People</b>	
Planning Priority 6 – To meet most of the housing needs of a wide cross section of the community through well designed infill housing	Item 1 facilitates housing within an identified Urban Release Area by removing an obstacle to accessing additional approval pathways.
Planning Priority 7 – To ensure that the unique heritage values of the Shire are protected and promoted to residents and visitors.	Item 1 ensures that heritage values are correctly identified and preserved as development occurs.
<b>Our living environment</b>	
Planning Priority 8 – Biodiversity conservation occurs at a landscape scale, using a variety of mechanisms across different land tenures.	
Planning Priority 9 – That Councils policy framework for dealing with natural hazards recognises risks associated with climate change and avoids additional exposure of development to hazards.	
Planning Priority 10 – Implement Climate Emergency Declaration recommendations	
<b>Centres Narratives</b>	
Planning Priority 11 – Council will work with proponents, and proactively seek opportunities, to advance projects and initiatives that are consistent with the centres narratives contained within the LSPS.	

**5. Is the Planning Proposal consistent with any other applicable and regional studies or strategies?**

There are no additional regional studies or strategies that Council are aware of which are relevant to this planning proposal.

## 6. Is the Planning Proposal consistent with applicable SEPPs?

The proposal is consistent with the following SEPP's that are relevant to the proposal.

<b>STATE ENVIRONMENTAL PLANNING POLICIES (SEPP's) RELEVANT TO BELLINGEN SHIRE</b>	
SEPP (Biodiversity & Conservation) 2021	The planning proposal will not facilitate development opportunities that are likely to have any significant impacts upon biodiversity or conservation areas. It is noted, for example, that the temporary events clause restricts its operation in the event of the need for any clearing or disturbance of vegetation.
SEPP (Exempt & Complying Development Codes) 2008	The planning proposal provides additional opportunities for exempt development that are not identified within this SEPP.
SEPP (Housing) 2021	Item 1 of the proposal will facilitate access to a wider range of housing approval pathways. Item 2 supports the objectives of the SEPP to promote delivery of housing in locations where it will make good use of existing and planned infrastructure and services.
SEPP (Industry & Employment) 2021	No changes to advertising controls are proposed within the meaning of Chapter 3 of this SEPP.
SEPP (Planning Systems) 2021	The planning proposal does not affect any sites identified in this SEPP and is unlikely to facilitate development that is considered to be State or Regionally significant.
SEPP (Primary Production) 2021	The planning proposal will not facilitate development that is inconsistent with any elements of this SEPP.
SEPP (Resilience and Hazards) 2021	Council, as the owner of any land that will potentially avail themselves of the opportunity identified by Item 3 can exercise necessary discretion in the event of any concerns that may exist regarding potential contamination or exposure to hazards.
SEPP (Resources and Energy) 2021	The planning proposal does not involve development contemplated by this SEPP and will not frustrate any development that it seeks to facilitate.
SEPP (Sustainable Buildings) 2022	Not relevant
SEPP (Transport & Infrastructure) 2021	The planning proposal will provide for additional explicit opportunities to close sections of public road that have been through the requisite processes prescribed by the Roads Act 1993.
Source: As at 2.2.24 <a href="https://legislation.nsw.gov.au/browse/inforce#/epi/title/s">https://legislation.nsw.gov.au/browse/inforce#/epi/title/s</a>	

## 7. Is the Planning Proposal consistent with applicable Ministerial Directions (s9.1 directions) or key government priority?

The proposal is consistent with the following Directions that are relevant to the proposal.

<b>LOCAL PLANNING DIRECTIONS RELEVANT TO BELLINGEN SHIRE</b>	
<b>Focus Area 1: Planning Systems</b>	
1.1 Implementation of Regional Plans	It is submitted the proposal is consistent with the North Coast Regional Plan 2041 as detailed previously.
1.2 Development of Aboriginal Land Council land	N/A
1.3 Approval & Referral Requirements	Complies
1.4 Site Specific Provisions	N/A
1.4A Exclusion of Development Standards from Variation	N/A
<b>Focus Area 1: Planning Systems – Place based</b>	
None presently relevant to Bellingen Shire	
<b>Focus Area 2: Design and Place</b>	
None specified	
<b>Focus Area 3: Biodiversity and Conservation</b>	
3.1 Conservation Zones	<p>The planning proposal could facilitate road closures on conservation zoned land by virtue of Item 3. Item 2 will apply across the Shire.</p> <p>It is submitted that the proposal does not reduce the conservation standards that apply to land and does not modify a development standard applying to land.</p>
3.2 Heritage Conservation	The planning proposal provides for the accurate identification and protection of a heritage item by virtue of Item 1.
3.5 Recreation Vehicle Areas	N/A
<b>Focus Area 4: Resilience and Hazards</b>	
4.1 Flooding	<p>Planning Proposal 24 is technically inconsistent with Direction 4.1 to the extent that it would potentially permit development in floodway areas. This is because the proposal to permit road closure subdivisions could be on flood prone land.</p> <p>For road closures, Council will give consideration as to whether the road corridor serves an important flood free location / access function as part of the road closure process and any development of the land following closure would be subject to other approval requirements.</p> <p>Broadly, it is considered that the proposal does not facilitate any specific development outcome on a specific piece of land, the impacts of which can be properly analysed against the terms of this Direction. It is obviously unfeasible to consider every land parcel owned by Council and analyse flood exposure for the purposes of this planning proposal.</p>

LOCAL PLANNING DIRECTIONS RELEVANT TO BELLINGEN SHIRE	
	<p>In general terms however, there are no stated policy positions on road closures evident within Councils adopted Floodplain Risk Management Strategies or Development Control Plan, or in key NSW Government documents such as the Floodplain Development Manual or the "Considering flooding in land use planning guideline (2021)" that the proposal is contrary to.</p> <p>In applying a risk-based approach, as per the provisions of <i>Planning Circular PS 24-001 Update on addressing flood risk in planning decisions</i>, it is submitted that the level of ownership control that Council will assert over use of the road closure as subdivision provisions allows for adequate oversight of risk.</p> <p>Having regard to the above it is considered that the non-compliance is justified and that the proposal is acceptable in terms of risk.</p>
4.2 Coastal Management	<p>Item 1 includes land within the Coastal Use Area. It will have no significant impact upon development potential within this area. The road closure elements of the proposal will apply to land within the coastal zone, however will not specifically facilitate development on land within any vulnerability area or any sensitive coastal lands. The proposal is considered consistent with the terms of this Direction.</p>
4.3 Planning for Bushfire Protection	<p>The planning proposal will apply to land mapped as bushfire prone land. Item 1 is insignificant in terms of implications, dealing purely with a heritage matter.</p> <p>Subdivision of bushfire prone land is generally recognised as development for which a Section 100B Bushfire Safety Authority is required pursuant to the Integrated Development provisions of the Act. It is, however, recognised that minor boundary adjustments can take place that involve bushfire prone land and that these do not trigger detailed consideration of the provisions of <i>Planning for Bushfire Protection 2019</i> (PBP)</p> <p>The subdivision component of a road closure completed in accordance with the Roads Act is not considered to be a matter of planning significance in itself and is not considered contrary to the objectives of this Direction. The appropriate time to consider bushfire in detail is at the stage where development is proposed that may seek to capitalise on an opportunity afforded by the road closure.</p> <p>It is obviously unfeasible to consider every land parcel owned by Council and analyse bushfire hazard for the purposes of this planning proposal. Council notes that further consultation will likely be required with the NSW RFS pursuant to this Direction.</p>
4.4 Remediation of Contaminated Land	<p>The planning proposal does not facilitate development on any known contaminated land and does not permit any change of use of the land.</p>

<b>LOCAL PLANNING DIRECTIONS RELEVANT TO BELLINGEN SHIRE</b>	
4.5 Acid Sulfate Soils	The planning proposal will include land that is mapped as containing Acid Sulfate Soils, however will not permit any development that would involve disturbance of Acid Sulfate Soils.
<b>Focus Area 5: Transport and Infrastructure</b>	
5.1 Integrating Land Use and Transport	The proposal does not specifically alter a zone or provisions relating to urban land. The road closure provisions are not inconsistent with the objectives of the Direction, and the Essential Services clause will assist Council to make appropriate decisions based upon the existence of key supporting infrastructure.
5.2 Reserving Land for Public Purposes	The proposal does not alter, create, alter or reduce existing zonings or reservations of land for public purposes.
5.4 Shooting Ranges	N/A
<b>Focus Area 6: Housing</b>	
6.1 Residential Zones	<p>The proposal aims to broaden the choice of building approval pathways available to residents of a new urban subdivision by removing an outdated heritage classification.</p> <p>The Essential Services clause reinforces the need for servicing arrangements to be carefully considered, as anticipated by Clause 2(a) of this Direction.</p>
6.2 Caravan Parks and Manufactured Home Estates	The proposal does not alter any provisions permitting caravan parks on land.
<b>Focus Area 7: Industry and Employment</b>	
7.1 Employment Zones	The proposal does not alter any area, or location of, an existing employment zone.
7.2 Reduction in non-hosted short-term rental accommodation period	N/A
7.3 Commercial and Retail Development along the Pacific Highway, North Coast	The proposal does not provide for any new commercial or retail development along the Pacific Highway.
<b>Focus Area 8: Resources and Energy</b>	
8.1 Mining, Petroleum Production and Extractive Industries	N/A
<b>Focus Area 9: Primary Production</b>	
9.1 Rural Zones	The proposal will not rezone land from a rural zone to a residential, employment, mixed use, SP4 Enterprise, SP5 Metropolitan Centre, W4 Working Waterfront, village or tourist zone.

LOCAL PLANNING DIRECTIONS RELEVANT TO BELLINGEN SHIRE	
9.2 Rural Lands	<p>The planning proposal will not affect rural land besides permitting road closures as a form of exempt development.</p> <p>The proposal does not change any existing minimum lot size as per the "Application" section of this Direction, however does aim to set aside the consideration of lot size as a relevant matter when permitting road closures to take place as a form of exempt development.</p> <p>This is not contrary to the objectives of this Direction because subdivision of this nature does not act to fragment rural land or introduce dwelling entitlements or other non-rural uses that would erode zone objectives.</p>
9.3 Oyster Aquaculture	The proposal will not adversely impact upon any identified 'Priority Oyster Aquaculture Area'.
Source: As at 2.2.24 <a href="https://www.planning.nsw.gov.au/sites/default/files/2023-03/local-planning-directions.pdf">https://www.planning.nsw.gov.au/sites/default/files/2023-03/local-planning-directions.pdf</a>	

## **Section C – Environmental, Social & Economic Impact**

### **8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the proposal?**

It is unlikely that the proposal will have any adverse impact upon threatened species, populations or ecological communities, or their habitats.

The road closure clause does not in itself involve any need for vegetation removal or impacts upon habitat. It is possible that clearing along boundaries may subsequently take place if allowed by rural land management codes, however the existence of Biodiversity Values Land mapping will provide limitations on the ability to undertake any such clearing.

It is also noted that Council will have the opportunity, as the relevant landowner, to make determinations regarding the desirability of supporting road closures should they involve significant vegetation or habitat as part of the road closure process.

### **9. Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?**

No other environmental effects are likely to arise from the planning proposal.

### **10. Has the Planning Proposal adequately addressed any social and economic effects?**

Item 1 will allow for rectification of a mapping anomaly that is currently preventing landowners within a new release area from exploring the most economically viable planning pathways to develop their land.

Item 2 aims to prevent new development occurring in areas where infrastructure capacity is inadequate to support development. This will prevent diversion of public funds to upgrading infrastructure that is not already factored into long-term financial plans, thereby supporting the ability of Council to deliver social and physical infrastructure in a planned manner in accordance with its Community Strategic Plan and supporting policy framework.

Item 3 will allow for rectification of property and road alignment issues associated with road closure processes. The key issues of the ongoing public need for the road reserve, and potential impact upon any adjoining owners, are already dealt with via the road closure process, and the proposal aims to simplify the final stages of the process that deal with creation of title.

## **Section D – Infrastructure (Local, State and Commonwealth)**

### **11. Is there adequate public infrastructure for the planning proposal?**

Item 1 will facilitate development within a modern urban subdivision provided with all contemporary infrastructure connections.

Item 2 is directly concerned with ensuring that public infrastructure is adequate for development.

Item 3 will facilitate road closure subdivisions, following the road closure process in the Roads Act 1993, which considers the degree to which the road corridor remains essential for any public access function.

## **Section E – State & Commonwealth Interests**

### **12. What are the views of State and Federal public authorities and government agencies consulted in order to inform the Gateway Determination**

The RFS have considered the proposal and advised Council in correspondence dated 14 June 2024 that they have no concerns with the proposal.

## **Part 4 – Maps**

The planning proposal will involve the preparation of three new maps, as per below.

**The following map sheets are revoked:**

### **Heritage Map**

HER\_006A 0600\_COM\_HER\_006A\_020\_20130530  
HER\_006B 0600\_COM\_HER\_006B\_020\_20130315  
HER\_006BA 0600\_COM\_HER\_006BA\_010\_20130530

**The following map sheets are adopted:**

### **Heritage Map**

HER\_006A 0600\_COM\_HER\_006A\_020\_20240301  
HER\_006B 0600\_COM\_HER\_006B\_020\_20240301  
HER\_006BA 0600\_COM\_HER\_006BA\_010\_20240301

Copies of the new maps are included as Attachments to this planning proposal.

## Part 5 – Community Consultation

The community consultation requirements for strategic land use planning matters are stipulated within the Bellingen Shire Community Participation Plan, relevant parts of the NSW Environmental Planning & Assessment Act 1979 (the Act) and the NSW Environmental Planning & Assessment Regulation 2000 (the Regulation).

Ultimately, consultation requirements are then confirmed within any Gateway determination issued in respect of the proposal.

Having regard to the Bellingen Shire Community Participation Plan, the following consultation activities are appropriate for a housekeeping LEP Amendment.

- \* 28-day consultation period
- \* Advertisement in local paper
- \* Advertisement and provision of supporting documentation on Council website
- \* Notify owners of land affected by Item 1
- \* Notify adjoining owners of land affected by Item 1
- \* Plain English Version

Consultation with the following agencies / organisations has occurred and advice is included as Attachment 2.

- NSW Rural Fire Service

Council has resolved to request that the NSW Department of Planning Housing & Industry designates Council as the plan making authority in respect of this matter, given that the proposal does not involve any apparent matters of significance to the NSW Government or departures from the adopted strategic planning framework. This request has subsequently been endorsed by the DPHI.

## Part 6 – Project Timeline

Task	Anticipated timeframe for completion
Consideration by Council	14/2/24
Council Decision	28/2/24
Gateway Determination	3/5/24
Pre-exhibition	14/6/24
Commencement & Completion of public exhibition period	29/6/24 to 29/7/24
Consideration of submissions	25/9/24
Post-exhibition review and additional studies	
Submission to the Department for finalisation (where applicable)	31/10/24
Gazettal of LEP Amendment	29/11/24




Note: Updated prior to public exhibition to reflect actual exhibition dates. Local Government elections in September 2024 will affect Council Meeting cycles. Potential to report to August 14 meeting dependant upon complexity of issues raised in exhibition process.

## **Attachment 1 – Maps**

Note: Maps also uploaded as separate PDF's and digital files to Planning Portal

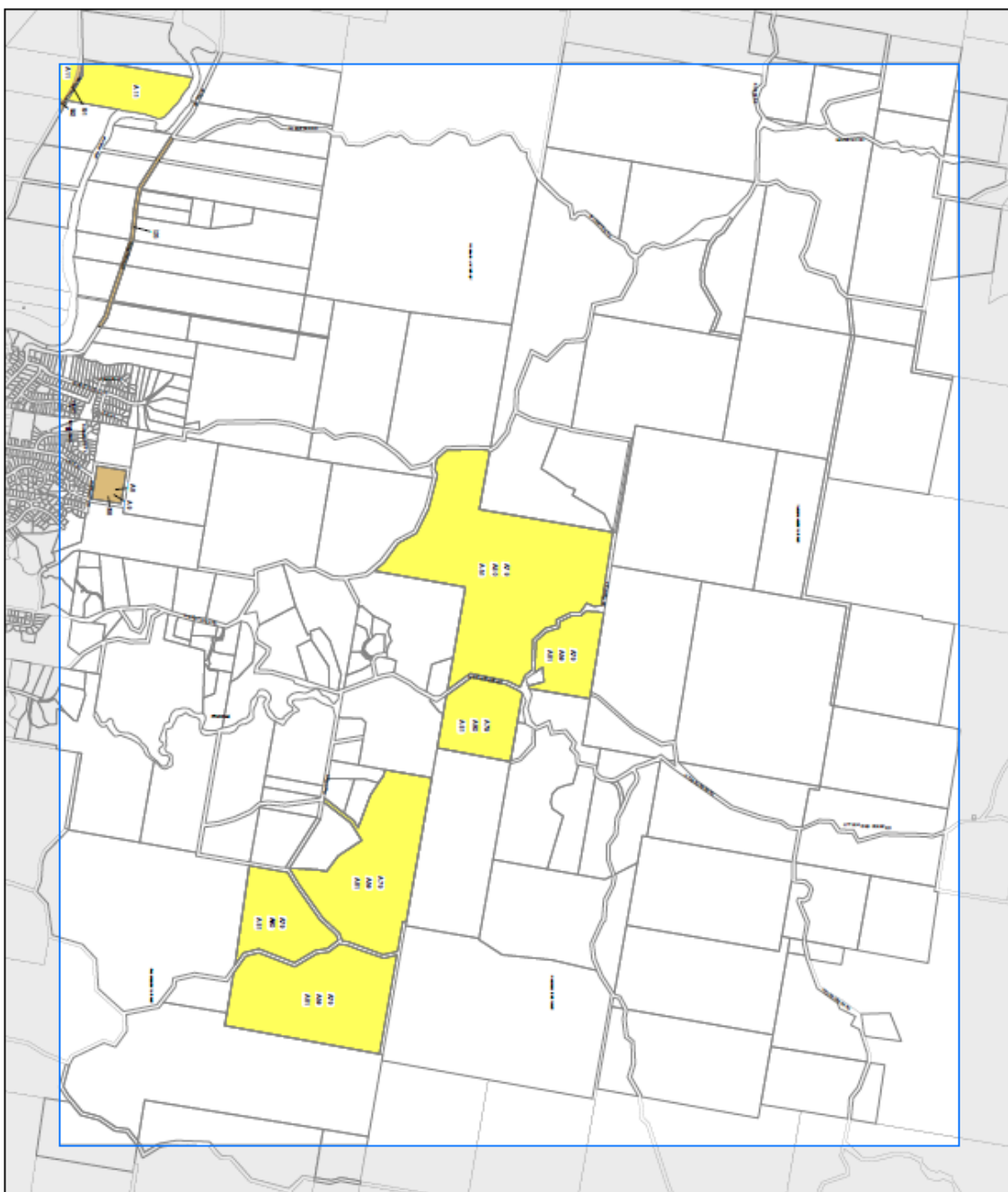
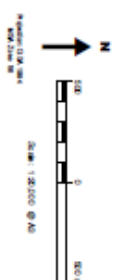
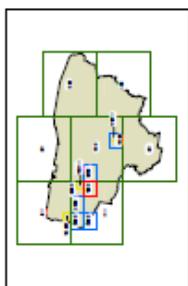
Heritage Map  
Sheet HER\_006A

## Herbige

- |   |                                    |
|---|------------------------------------|
|  | Certainly about Atrial - Character |
|  | Items - Character                  |
|  | Items - Archaeological             |

## Conclusions

- ☐ Basic data  
☒ 24/25 2023/24 Special Elections  
☐ Addendum data  
☐ 2024 2024 Ballot Item State Council



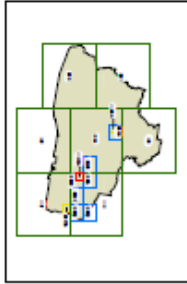


# Bellingham Local Environmental Plan 2010

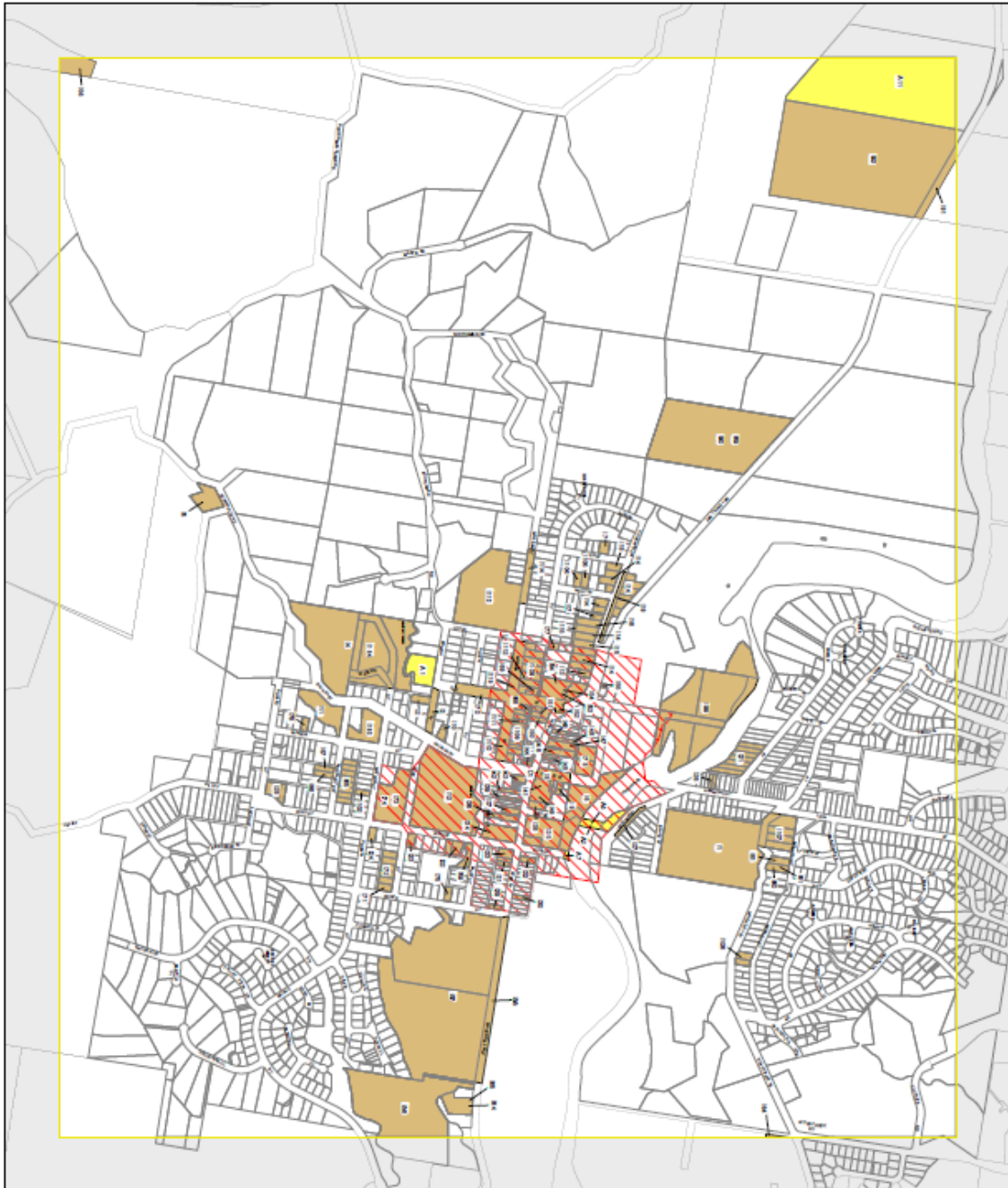
Heritage Map  
Sheet HER\_006BA

- Heritage**
- Current Aboriginal - General
  - Non - General
  - Non - Archaeological




- Outlines**
- Boundaries
  - 2002/2003 Local Council
  - Aboriginal sites
  - 2012/2013 Bellingham Tree Council



Map created by: Bellingham Local Environmental Plan 2010

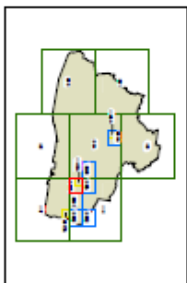


Heritage Map  
Sheet HER\_006B

Heritage	Conservation Area - General	Item - General	Item - Archaeological
			
			
			

**Cadastre**

☐ Data data  
24/03/2023  External  
Address data  
22/03/2024  External Data Count



## Attachment 2 – RFS Advice

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Bellingen Shire Council  
PO Box 117  
BELLINGEN NSW 2454

Your reference: (REF-2858) PP-2024-674  
Our reference: SPI20240502000068

**ATTENTION:** Daniel Bennett

Date: Friday 14 June 2024

Dear Sir/Madam,

**Strategic Planning Instrument  
LEP Amendment – Planning Proposal  
Bellingen LEP 2010 (Housekeeping Amendment)**

I refer to your correspondence dated 01/05/2024 inviting the NSW Rural Fire Service (NSW RFS) to comment on the above Strategic Planning document.

The NSW RFS has considered the information submitted and provides the following comments.

Planning Proposal 24 (Housekeeping Amendment) proposes a series of minor amendments to the Bellingen Local Environmental Plan 2010 (BLEP 2010) that are designed to update heritage mapping due to property boundary changes, provide for road closure subdivisions and temporary events to occur as exempt development and to ensure provision of essential services.

The 4 matters covered by this amendment are;

1. Update the Heritage Map to reflect altered property boundaries in North Bellingen.
2. Introduce a new Clause in the LEP requiring consideration to be given to the provision of certain essential services.
3. Make subdivisions associated with Council road closures a form of exempt development.
4. Make events on Council owned or controlled public land a form of exempt development.

Matters 1-3 raise no concern for the NSW RFS.

In relation to matter 4, Council's report addressing s9.1 Ministerial Directions includes:

*The temporary conduct of an event is not listed as a special fire protection purpose, however provision is made for consideration of "Outdoor events in bush fire prone areas" in Section 8.3.8 of the PBP. Events that are, for example, multi-day, involve overnight accommodation and are in isolated areas are rightly considered to require special consideration in terms of bushfire hazard.*

*It is obviously unfeasible to consider every land parcel owned by Council and analyse bushfire hazard for the purposes of this planning proposal. The scale of events facilitated by the proposal will vary significantly and, most commonly, events will be held in existing town centre areas where people naturally gather and where bushfire hazard is not an important land use planning concern.*



*In the circumstances, it is proposed that Council require, as a landowner, that any events held on bushfire prone land submit to the Council an appropriate analysis of risk having regard to the provisions of Clause 8.3.8 of the PBP.*

In view of the above, the NSW RFS raises no objection to the Planning Proposal proceeding.

For any queries regarding this correspondence, please contact Neil Pengilly on 1300 NSW RFS.

Yours sincerely,

Alan Bawden  
**Supervisor Development Assessment & Plan**  
**Built & Natural Environment**