

Planning Proposal

Nambucca Local Environmental Plan 2010

44 Kookaburra Lane Bowraville –
Amend Minimum Lot Size

Version 1: Pre-Gateway Determination

MAY 2024

Declaration

Document Name: Planning Proposal – 19 Smiths Road Emerald Beach

Document Author: Keiley Hunter

Occupation of document author: Town Planner

Qualifications of document author: Bach Urban and Regional Planning

Declaration: I, *Keiley Hunter*, declare that this Planning Proposal constitutes a planning proposal for the purposes of section 3.33 of the *Environmental Planning and Assessment Act 1979* (the Act) and further declare that the document complies with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and the Department of Planning, Industry and Environment's *Local Environmental Plan Making Guideline* (August 2023).

Date: 8 May 2024

Disclaimer

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1. Introduction

1.1 Executive Summary

Table 1.1 Executive Summary

| | |
|---|---|
| LEP | Nambucca Local Environmental Plan 2010 |
| Proposal | Reduce MLS from 40 ha to 18 ha |
| Map changes | Map-only amendment to Lot Size Map Sheet LSZ_005A. |
| Proposal Category | Basic |
| Site Address | 44 Kookaburra Lane Bowraville |
| Property Description (<i>The land</i>) | Lot 2 DP 609465 |
| Current Land Use Zone | RU1 Primary Production and RU2 Rural Landscape |
| Land owners | Ronald Bruce Hawkins and Dale Constance Hawkins Edward Carlos Orrego As tenants in common |

1.2 Background

This Planning Proposal has been prepared in accordance with the *Environmental Planning and Assessment Act 1979* and the *Local Environmental Plan Making Guideline*, August 2023 (NSW Department of Planning, Industry and Environment).

The purpose of this Planning Proposal is to describe a proposed amendment to the *Nambucca Local Environmental Plan 2010 (NLEP 2010)* to amend the Minimum Lot Size (MLS) Map from 40 hectares (ha) to 18 ha to enable the subject land to be subdivided to create separate lots each containing an existing approved rural dwelling.

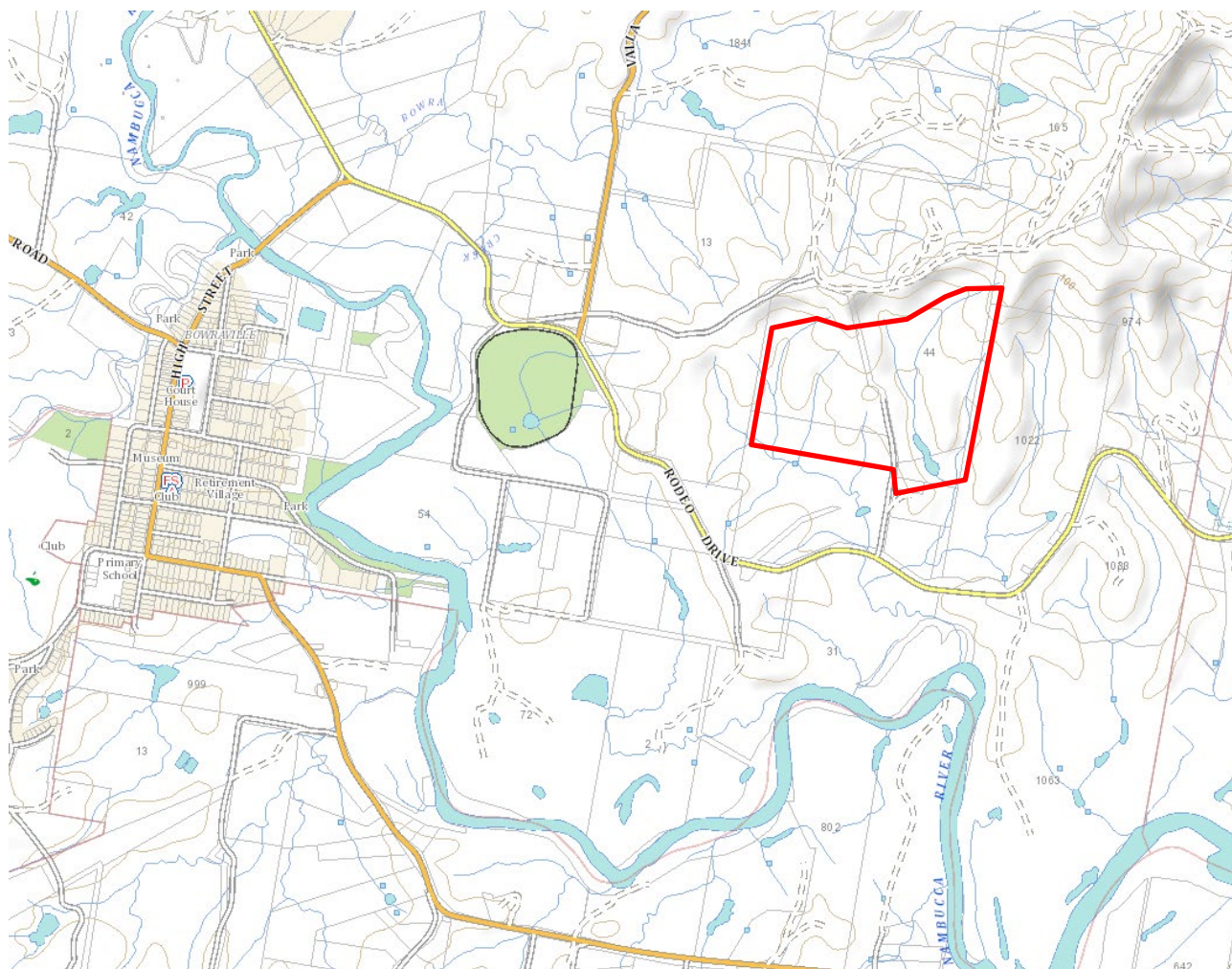
The land is identified in the Nambucca Shire Local Growth Management Strategy Rural-Residential Component as partly within the Clause 16 Rural Residential Area being land that was formerly Zoned 1(C) under Nambucca LEP 1986. Part of the land is mapped as native vegetation (Kendal & Kendal 2003) on the Rural Residential Strategy Biodiversity Constraints map.

A pre-lodgement meeting was held on 14 March 2024 with Nambucca Valley Council's senior planner to discuss the application. Council confirmed that a properly prepared Planning Proposal could be submitted to Council seeking to reduce the minimum lot size applicable to Lot 2 DP 609465 to enable the land to be subdivided generally along the dividing crown road reserve boundary to result in two lots, each comprising an existing dwelling.

It is noted that both existing dwellings are well established within their respective "lots", are provided with necessary infrastructure including power, telecommunications, tank water supply and onsite wastewater management. Both dwellings have compliant bushfire asset protections and suitable access in terms of Planning for Bushfire Protection 2019. Title to the land has been held as tenants in common for over 40 years in the expectation that the land would eventually be able to be

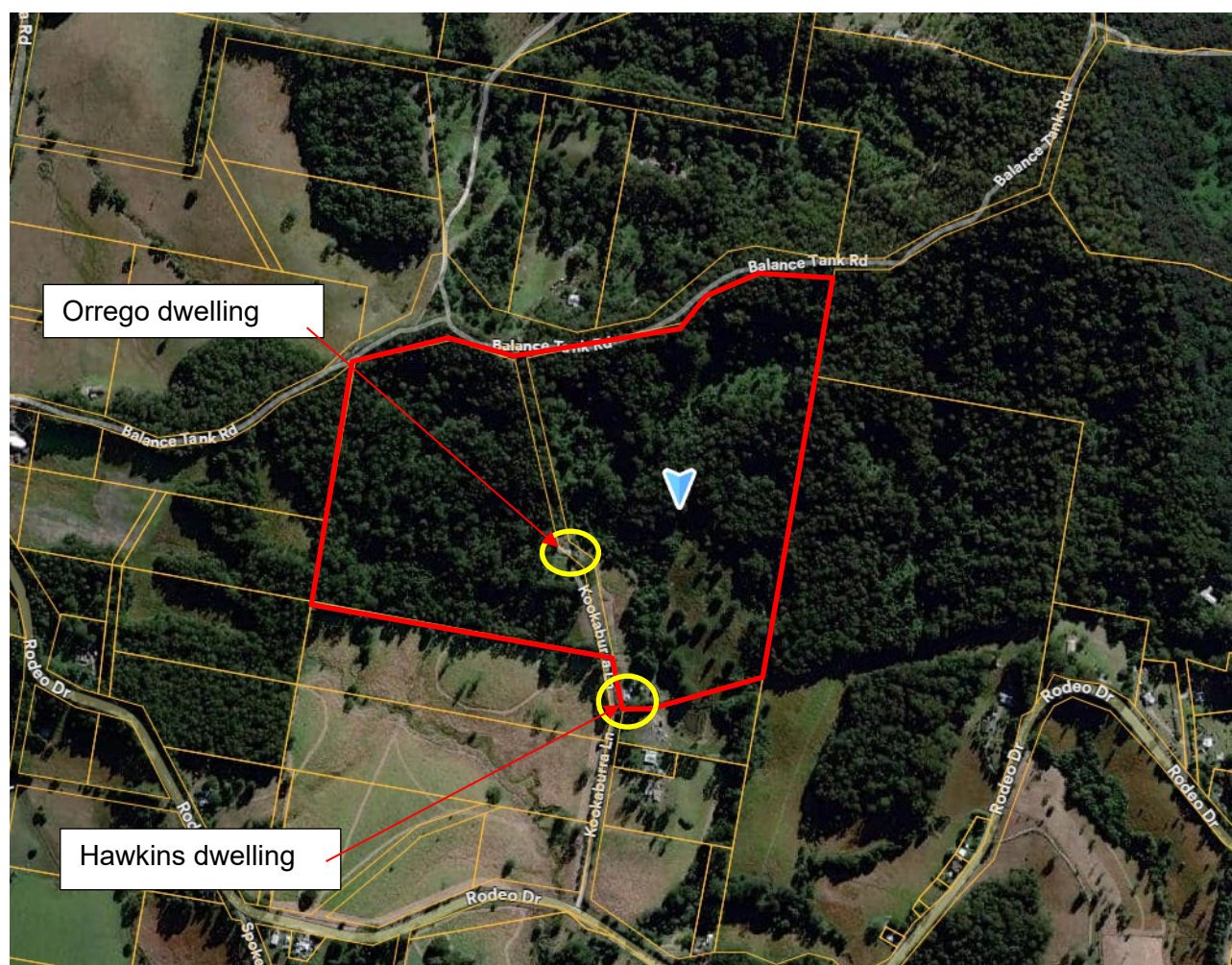
Since the introduction of the Standard LEP Template and the repeal of SEPP 1, Councils have less flexibility in their capacity to determine rural subdivision applications that rely on variations to minimum subdivision lot size. Under present legislative requirements, a Planning Proposal is the only way to achieve the planned outcome of separate title to the Orrego and Hawkins homesites.

Illustration 1.1 Site Locality



Source: NSW Six Maps 2024

Illustration 1.2 Aerial Photo



Source: Nearmap 2024

The Planning Proposal is informed by the following supporting assessments:

Table 1.2 Supporting Assessments

| Assessment | Consultant | Date | Appendix |
|------------------------------------|-----------------------|--------------|----------|
| Concept Plan of Subdivision | Amos and McDonald | 2 April 2024 | D |
| Bush Fire Risk Assessment | FloraFauna Consulting | April 2024 | E |

1.3 The Subject Land

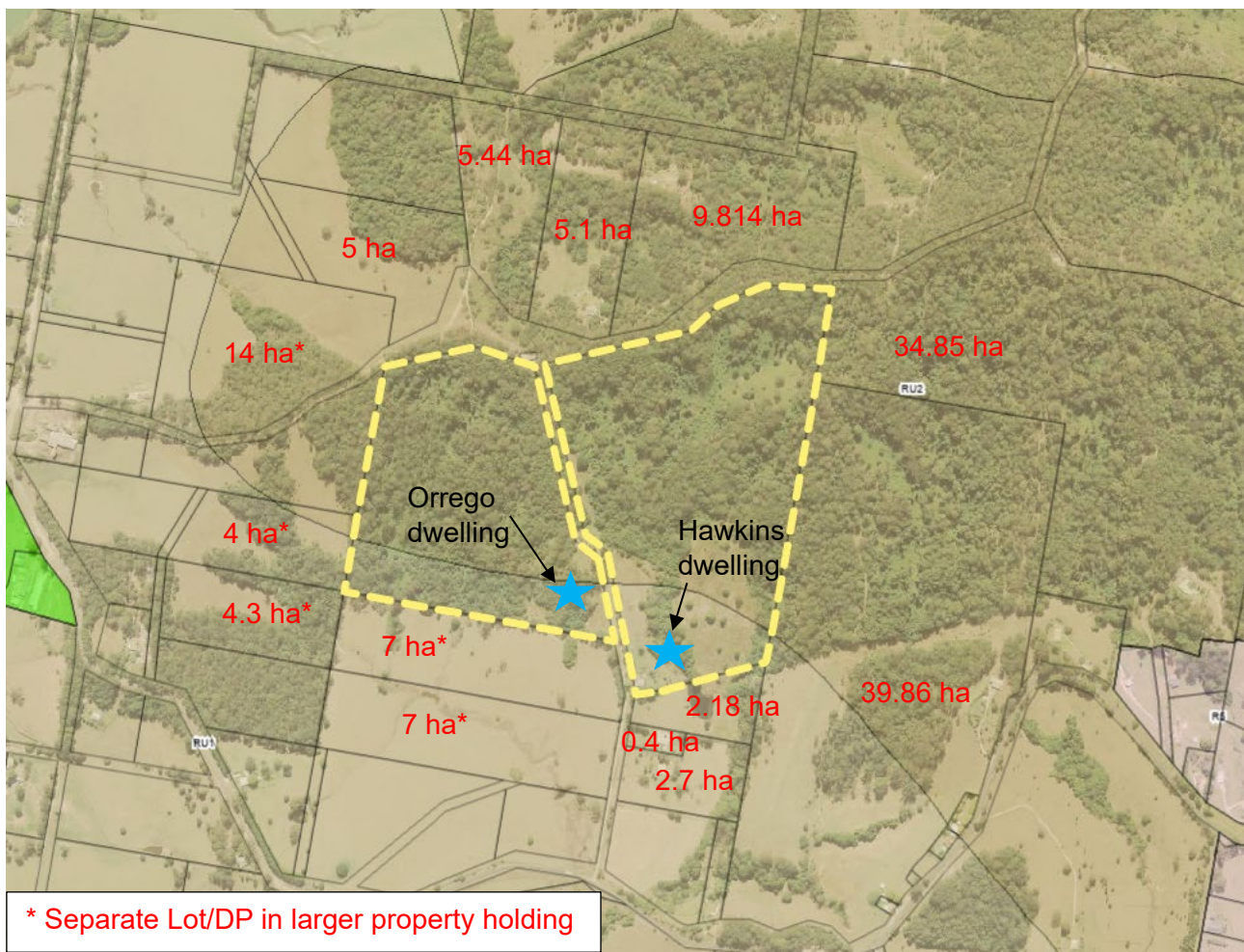
The subject land is described as Lot 2 DP 609465 with an area of 40.47 hectares. The land is zoned RU1 Primary Production and RU2 Rural Landscape. The land is severed north/south by a Crown Road reserve 20.115 wide. An easement for water supply, 8 wide created by DP 637566 burdens the land. The water supply easement is shown on DP 637566 as 'Easement proposed to be acquired; Nambucca District Water Supply; Bowraville to Wirrimbi'.

The land is bound to the north by Balance Tank Road, variable width, extending from Rodeo Drive to the water storage tanks located at 100 Balance Tank Road (Lot1 DP 789784).

The land is approximately 3.5 km from the Bowraville urban area by public road. There are two existing dwellings, ancillary buildings, a dam and first and second order hydrolines within the subject land.

The land is held by two separate parties as tenants in common, meaning that the two landowners have equal half shares in the property.

Illustration 1.3 Settlement Pattern



The land is surrounded by 'bush blocks' and rural lifestyle lots ranging in size from 4,000 sq metres to 40 ha. The subject land is approximately 600 m to the west of the nearest R5 zoned land.

Site images:



Hawkins dwelling



Orrego dwelling





Kookaburra Lane looking north



**Looking south from Balance Tank Road
over water supply infrastructure.
Note easement corridor slashed and
maintained.**





Slashed and maintained crown road reserve.

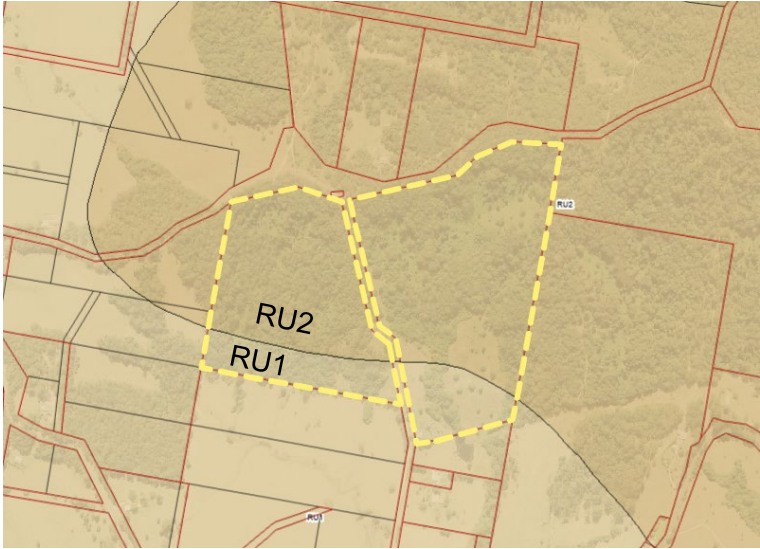
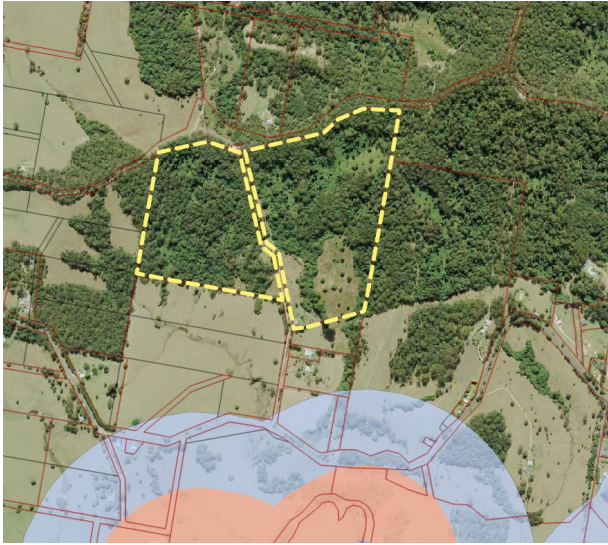


Water Tanks – Balance Tank Road



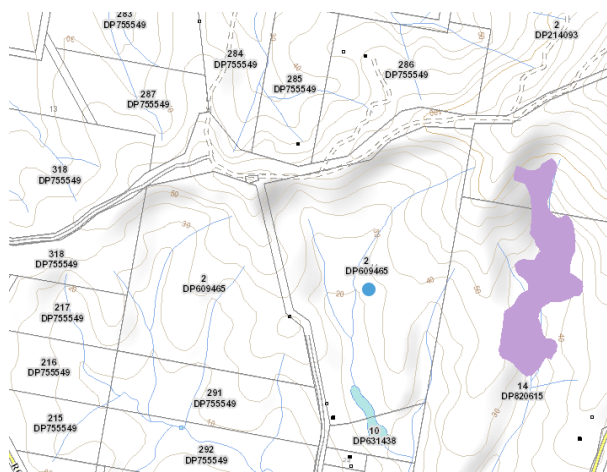
Water easement – looking north from Orrego dwelling.

Table 1.3 Site Summary

| | |
|---|--|
| Zone | RU1 Primary Agriculture and RU2 Rural Landscape  |
| Min Subdivision Lot Size | 40 hectare |
| Heritage | Nil |
| Acid Sulfate Soils | Nil |
| Flood Planning | No |
| Additional permitted uses | No |
| SEPP Resilience and Hazards (Coastal Management) | No  |

Biodiversity Values Map

No

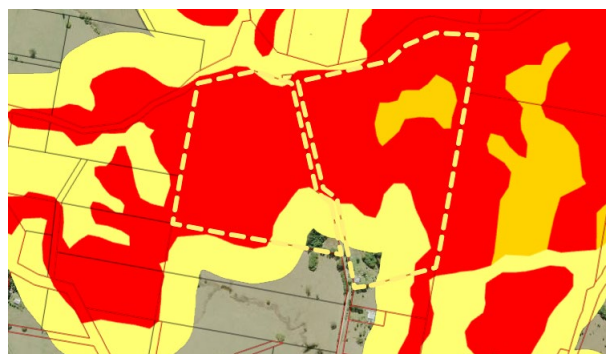


Contaminated Land

No. Not on EPA list of contaminated sites as at 8/4/24

Bushfire Prone Land

Yes



Crown Land

No

Strategic Regional Land Use Policy

No

Key Fish Habitat

No



Strahler Stream Order

First and second order streams



2. Planning Proposal

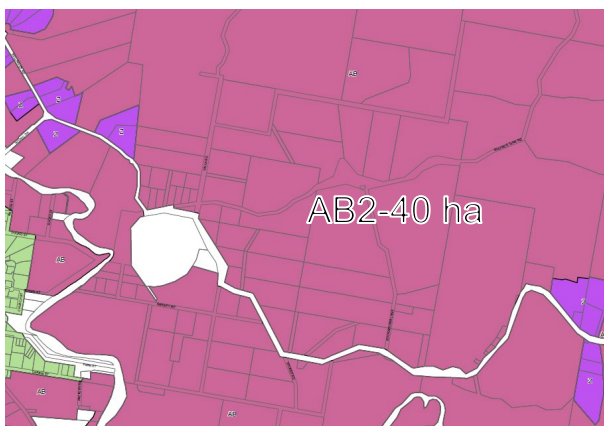
2.1 Intended Outcome

The intended outcome of this Planning Proposal is to amend Nambucca LEP 2010 to enable a subdivision of the subject land along the “natural” dividing crown road reserve boundary as shown on the Concept Plan of Subdivision at **Appendix D**.

2.2 Explanation of Provisions

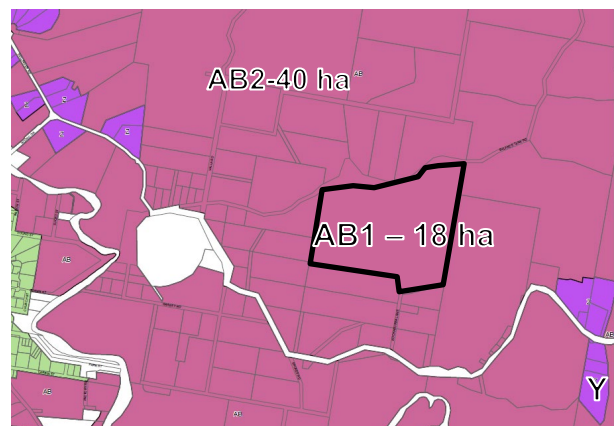
The intended outcome of the Planning Proposal will be achieved by making the following amendment to the LEP 2010 **Lot Size Map** (LSZ) **LSZ_005A** map affecting Lot 2 DP 609465.

Illustration 2.1 Existing and Proposed LEP Maps



Current Lot Size Map

| | |
|-----------|--------|
| G | 450 |
| U | 1000 |
| Y | 1 ha |
| Z | 2 ha |
| AA | 6 ha |
| AB | 40 ha |
| AD | 100 ha |



Proposed Lot Size Map

| | |
|------------|--------|
| G | 450 |
| U | 1000 |
| Y | 1 ha |
| Z | 2 ha |
| AA | 6 ha |
| AB1 | 18 ha |
| AB2 | 40 ha |
| AD | 100 ha |

The above amendment to the Lot Size Map – Sheet LSZ_005A is shown at **Appendix A**.

2.3 Options Considered

There are three potential methods of achieving the intended outcome:

1. Amend Lot Size Map applicable to the subject land from 40 ha to 18 ha.
2. Amend the zone and minimum lot size (MLS) applicable to the subject land from RU1 Primary Production and RU2 Rural Landscape to R5 Large Lot Residential and C2 Environmental Conservation applying a 1 ha MLS to the R5 zoned land and retaining the 40 ha MLS to the C2 zoned land.
3. Listing the concept subdivision of the land as an additional permissible land use in Schedule 1 of the LEP.

Option 1 is considered the simplest and most effective method of achieving the intended outcome for the following reasons:

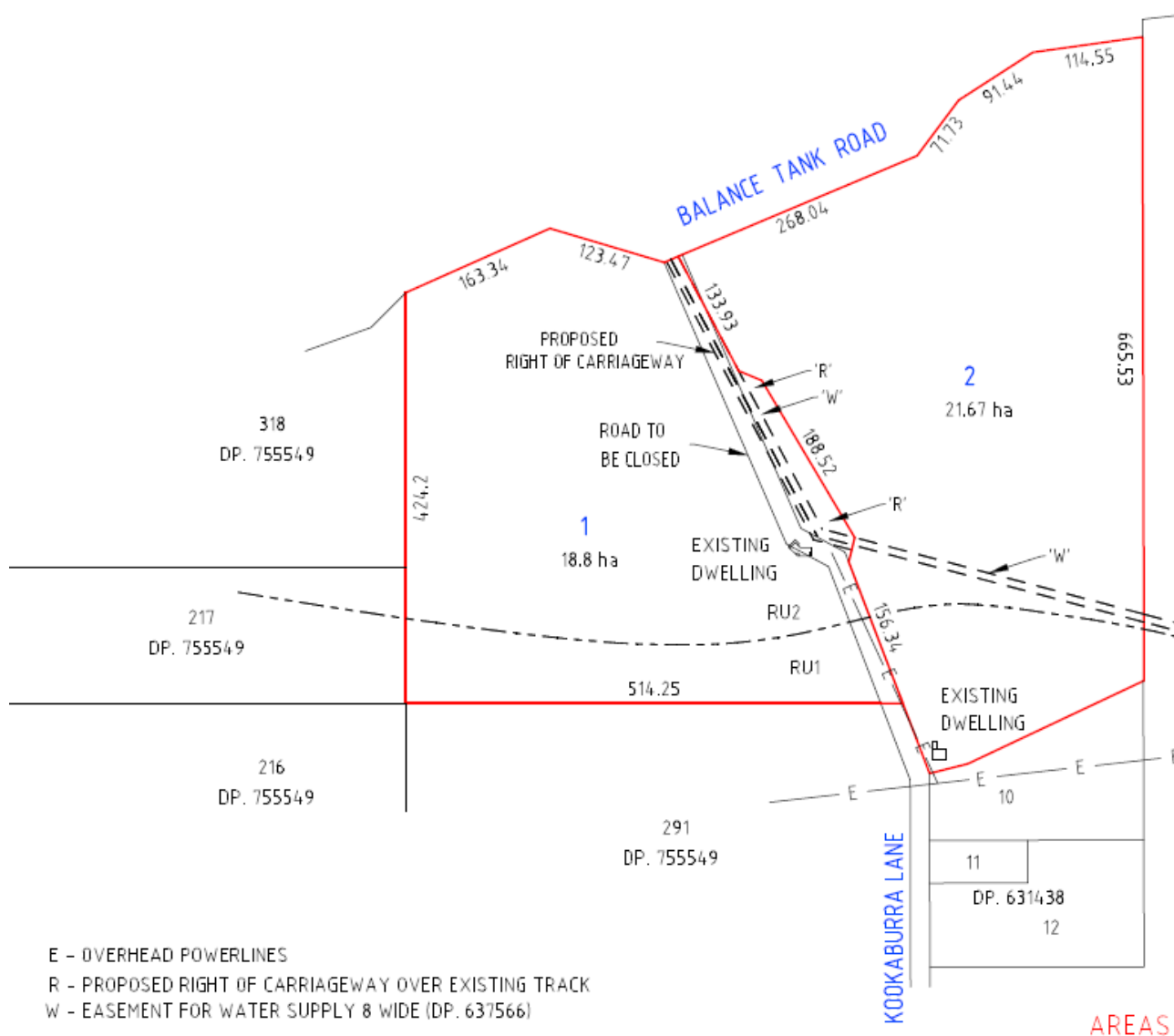
- The Standard LEP mapping protocols facilitate the application of more than one minimum lot size that can be applied to land within the same zone.
- Option 1 limits the subject land to a subdivision to create one additional lot. The proposed 18 ha MLS will enable a Development Application to be submitted to Council seeking consent for a subdivision of the subject land generally along the crown road boundary.
- Site specific justification for this proposal establishes the merit of the Planning Proposal as it applies to this specific site and does not provide for further opportunities for the fragmentation of other rural land.
- Amending the zone map of 2.5 ha of the subject land identified as 'unconstrained land' in the Rural Residential Strategy to R5 Large Lot Residential and applying a 1 ha MLS could result in a greater lot yield and increased native vegetation removal to provide for bushfire asset protection zones.
- Listing a particular development, in this case the subdivision of land, as an additional permitted use is usually only supported when there is no other viable option.

3. Part 3 Justification

3.1 Objectives of the Planning Proposal

The objective of this Planning Proposal is to amend the Nambucca LEP 2010 minimum lot size map applicable to Lot 2 DP 609465 to enable a subdivision of the land to create one additional lot, as shown on the Plan of Proposed Subdivision at **Appendix D** and copied below:

Illustration 3.1 Plan of Proposed Subdivision



Source: Amos & McDonald, Plan of Proposed Subdivision, 2/4/24, Ref 24046

Note:

1. Dividing boundary has been nominated to avoid native vegetation clearance and generally follows the crown road reserve boundary and cleared water supply easement.
2. A separate application will be made to NSW Crown Lands for road closure and purchase.

3.2 Justification of strategic and site-specific merit

This Planning Proposal is a site-specific proposal. Strategic and site specific merit is discussed in the following section.

Is the planning proposal a result of an endorsed LSPS, strategic study or report?

Yes.

Rezoning of the subject land was first documented in the **Nambucca Shire Local Growth Management Strategy (LGMS) Rural Residential Component** whereby part of the subject land (2.5 ha) was identified as unconstrained land within the “Clause 16 Rural Residential Land” area and is identified for long term release.

Clause 16 refers to a provision in the Nambucca Shire Local Environmental Plan 1995 (LEP 1995) (repealed) and the Development Control Plan (DCP) for the Short-medium Term Release Areas. It sets out criteria and controls for the development of rural residential subdivisions. The criteria include requirements for effluent disposal, public amenities, flood-free dwelling sites, and preserving the rural or scenic character of localities. The DCP provides additional controls such as density and setback requirements, and vegetation management plans.

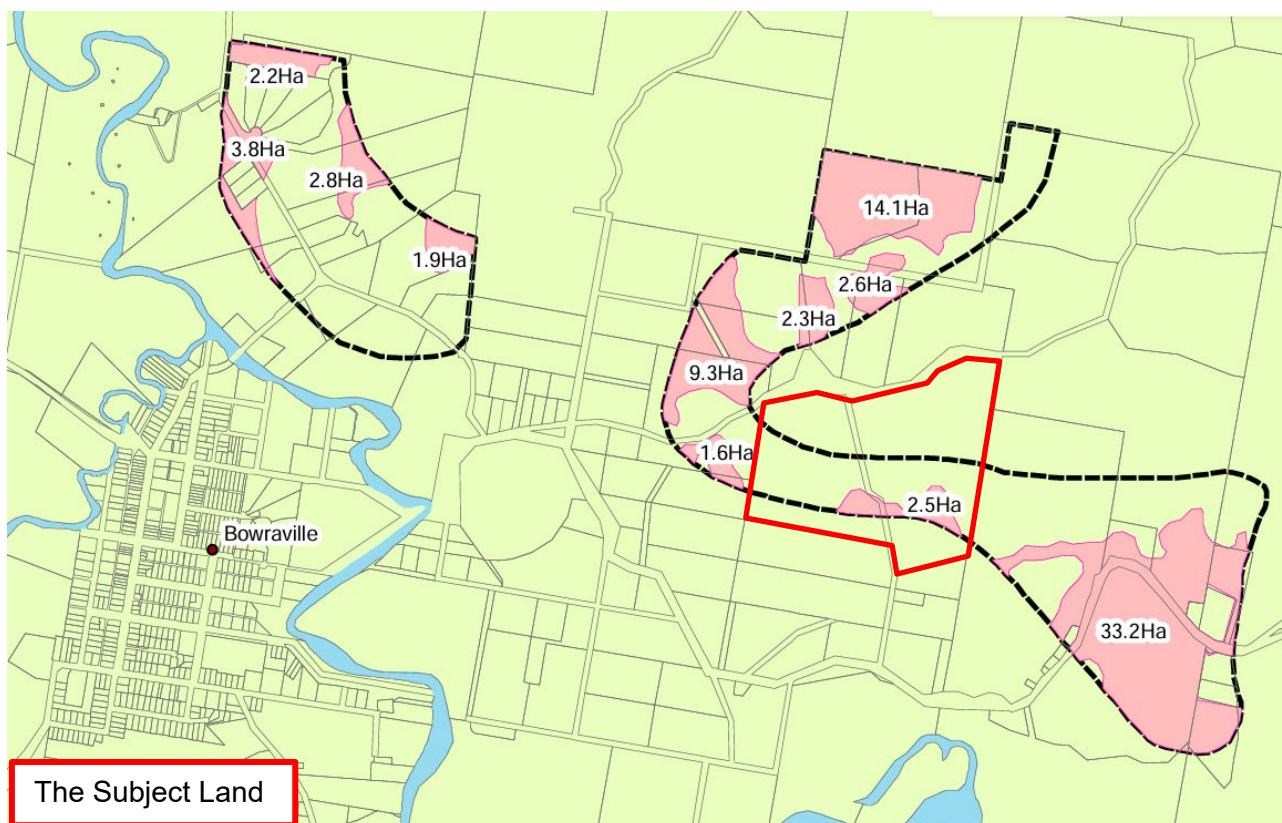
Land to which Clause 16 applies is mapped in the LGMS as shown in the plan extract at Illustration 3.2.

Rural Residential candidate areas around Bowraville are described in the LGMS as:

Two areas of land sit to the north and north east of Bowraville around Bellingen Road and Rodeo Drive, and along Balance Tank Road. The former area is partly developed but has further land available for rural residential subdivision, while the latter is largely undeveloped.

Map 6 in the LGMS shows land constrained by native vegetation and provides an overview of areas within the Nambucca Valley local government area that are likely to be of biological significance including endangered ecological communities, rainforest, and inadequately conserved vegetation communities. Map 6 is reproduced at Illustration 3.3.

Illustration 3.2 LGMS: Bowraville Rural Residential Candidate Areas

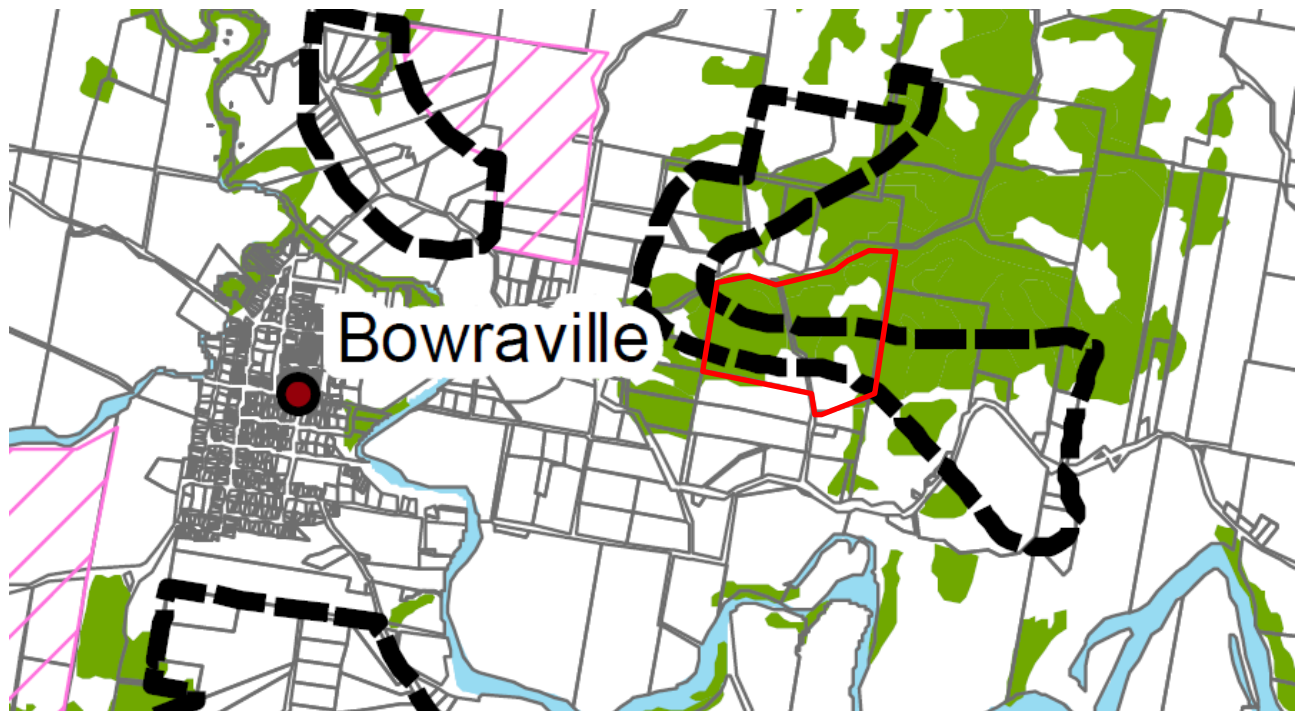


LGMS, Map 21 Bowraville, Unconstrained Land

Legend

- Towns and Villages
- Lot
- Unconstrained Land on Lots > 2Ha
- Clause 16 Rural Residential Land
- Unconstrained Structure Plan Land
- Existing Pacific Highway
- Waterways

Illustration 3.3 LGMS: Native Vegetation



Legend

- Towns and Villages
- ▬ Clause 16 Rural Residential Land
- ▨ Structure Plan Candidate Areas
- Pacific Highway
- Native Vegetation (Kendal & Kendal 2003)

LGMS: Map 6 Biodiversity Constraints

Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes.

A site specific Planning Proposal is the only way of achieving the intended outcomes associated with this proposal.

Presently, the minimum lot size for the land is 40 ha. A Clause 4.6 request for variation could not meet the provisions at Clause 4.6(6)(a) requiring that development consent must not be granted for a subdivision of land in the RU1 or RU2 zone that would result in two or more lots of less than the minimum required area. In the subject case, a subdivision of the land along the crown road reserve boundary will result in lots of 18.8 ha and 21.67 ha and thereby could not be approved by Council.

The Planning Proposal is needed to undertake the change to the MLS to facilitate subdivision of the subject land and is considered to be the most effective and time efficient approach to delivering the desired outcome.

3.3 Relationship to Strategic Planning Framework

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 applicable regional plan is the [North Coast Regional Plan 2041](#) (NCRP).

The subdivision proposal that would be enabled by the Planning Proposal is not inconsistent with the NCRP as it is a minor one-off proposal and does not constitute a new rural residential release area. The land is already serviced with suitable public road access, town water supply and onsite waste management and is not located within with the environmentally sensitive and constrained coastal strip. The land is not used for agricultural purposes and the resultant subdivision will not contribute to land use conflict.

The RU1 and RU2 land use zones will not alter as a result of the Planning Proposal. The maximum additional dwelling density with the resultant lots is one additional dwelling per lot given that dual occupancies are permissible with consent in both zones.

Whilst part of the land is identified in the LGMS as 'Native Vegetation' (Kendal & Kendal 2003), rezoning of that part of the land to C2 or C3 would not be consistent with *Objective 8 Support the productivity of agricultural land*, until the biodiversity value of that native vegetation was verified.

The Planning Proposal is consistent with the goals, objectives and strategies within the North Coast Regional Plan 2041 as set out in the following table.

Table 3.1 Consistency with North Coast Regional Plan 2041

| GOAL 1 – LIVEABLE, SUSTAINABLE AND RESILIENT | |
|---|---|
| Objective 1 – Provide well located homes to meet demand. | |
| Strategy 1.1 | <p><i>A 10 year supply of zoned and developable residential land is to be provided and maintained in Local Council Plans endorsed by the Department of Planning and Environment.</i></p> <p>The Planning Proposal will result in one (1) additional lot suitable for rural housing and is therefore consistent with this strategy.</p> |
| Strategy 1.2 | <p><i>Local Council plans are to encourage and facilitate a range of housing options in well located areas.</i></p> <p>The Planning Proposal is consistent with the adopted Rural Residential Strategy component of the LGMS.</p> |
| Strategy 1.3 | <p><i>Undertake infrastructure service planning to establish land can be feasibly serviced prior to rezoning</i></p> <p>The land is serviced with power, telecommunications, town water supply and public road access. No additional servicing is required for the resultant subdivision.</p> |
| Strategy 1.4 | <p><i>Councils in developing their future housing strategies must prioritise new infill development to assist in meeting the region's overall 40% multi-dwelling / small lot housing target and are encouraged to work collaboratively at a subregional level to achieve the target.</i></p> |

| | |
|--------------|---|
| Strategy 1.5 | <p>The proposal is not inconsistent with this strategy.</p> <p><i>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.</i></p> |
| Action 2 | <p>The land is not within the coastal strip.</p> <p><i>Provide guidance to help councils plan for and manage accommodation options for seasonal and itinerant workers.</i></p> <p>The Planning Proposal will result in one additional lot. Both resultant lots are suitable for housing and may potentially increase the range of accommodation options for seasonal and itinerant workers available in a well located area.</p> |

Objective 2 – Provide for more affordable and low cost housing

| | |
|----------|---|
| Action 3 | <p><i>Establish Housing Affordability Roundtables for the Mid North Coast and Northern Rivers subregions with councils, community housing providers, State agencies and the housing development industry to collaborate, build knowledge and identify measures to improve affordability and increase housing diversity.</i></p> <p>The Planning Proposal is not inconsistent with this action.</p> |
|----------|---|

Objective 3 – Protect regional biodiversity and areas of high environmental value

| | |
|--------------|---|
| Strategy 3.1 | <p><i>Strategic planning and local plans must consider opportunities to protect biodiversity values by:</i></p> <ul style="list-style-type: none"> <i>- focusing land-use intensification away from HEV assets and implementing the ‘avoid, minimise and offset’ hierarchy in strategic plans, LEPs and planning proposals;</i> <i>- ensuring any impacts from proposed land use intensification on adjoining reserved lands or land that is subject to a conservation agreement are assessed and avoided;</i> <i>- encouraging and facilitating biodiversity certification by Councils at the precinct scale for high growth areas and by individual land holders at the site scale, where appropriate;</i> <i>- updating existing biodiversity mapping with new mapping in LEPs where appropriate;</i> <i>- identifying HEV assets within the planning area at planning proposal stage through site investigations;</i> <i>- applying appropriate mechanisms such as conservation zones and Biodiversity Stewardship Agreements to protect HEV land within a planning area and considering climate change risks to HEV assets;</i> <i>- developing or updating koala habitat maps to strategically conserve koala habitat to help protect, maintain and enhance koala habitat; and</i> <i>- considering marine environments, water catchment areas and groundwater sources to avoid potential development impacts.</i> <p>The remnant native vegetation within the land may be identified as high environmental value (HEV) however the land is not identified as such on the NSW Biodiversity Values Map.</p> |
|--------------|---|

State Vegetation Type Mapping for the subject land is reproduced in the Bushfire Assessment Report by FloraFauna Consulting (**Appendix E**).

The resultant subdivision will provide title to two spatially severed part lots that are already developed for rural housing.

FloraFauna Consulting found that only ornamental plantings would be impacted to achieve compliant APZ separation distances. As no significant vegetation (i.e. plants associated with the native plant communities) is proposed to be removed and therefore no habitat will be destroyed or disturbed, it is unlikely that any threatened ecological community or threatened species will be impacted by the proposed subdivision.

The Planning Proposal is therefore not inconsistent with this strategy.

- Strategy 3.2 ***In preparing local and strategic plans Councils should:***
- embed climate change knowledge and adaptation actions; and***
 - consider the needs of climate refugia for threatened species and other key species.***

The Planning Proposal is not inconsistent with this strategy.

Objective 4 – Understand, celebrate and integrate Aboriginal culture

- Strategy 4.1 ***Councils prepare cultural heritage mapping with an accompanying Aboriginal cultural management plan in collaboration with Aboriginal communities to protect culturally important sites.***
- Strategy 4.2 ***Prioritise applying dual names in local Aboriginal language to important places, features or infrastructure in collaboration with the local Aboriginal community.***

The Planning Proposal is not inconsistent with this strategy.

Objective 5 – Manage and improve resilience to shocks and stresses, natural hazards and climate change

- Strategy 5.1 ***When preparing local strategic plans, councils should be consistent with and adopt the principles outlined in the Strategic Guide to Planning for Natural Hazards.***
- Strategy 5.2 ***Where significant risk from natural hazard is known or presumed, updated hazard strategies are to inform new land use strategies and be prepared in consultation with emergency service providers and Local Emergency Management Committees (LEMCs).***
- Hazard strategies should investigate options to minimise risk such as voluntary housing buy back schemes.***

The bushfire hazard within the land can be managed in accordance with the recommendations made in the Bush Fire Risk Assessment. This Planning Proposal is not inconsistent with these strategies.

- Strategy 5.3 ***Use local strategic planning and local plans to adapt to climate change and reduce exposure to natural hazards by:***

- *identifying and assessing the impacts of place-based shocks and stresses;*
- *taking a risk-based-approach that uses the best available science in consultation with the NSW Government, emergency service providers, local emergency management committees and bush fire risk management committees;*
- *locating development (including urban release areas and critical infrastructure) away from areas of known high bushfire risk, flood and coastal hazard areas to reduce the community's exposure to natural hazards;*
- *identifying vulnerable infrastructure assets and considering how they can be protected or adapted;*
- *building resilience of transport networks in regard to evacuation routes, access for emergencies and, maintaining freight connections;*
- *identifying industries and locations that would be negatively impacted by climate change and natural hazards and preparing strategies to mitigate negative impacts and identify new paths for growth;*
- *preparing, reviewing and implementing updated natural hazard management plans and Coastal Management Programs to improve community and environmental resilience which can be incorporated into planning processes early for future development;*
- *identifying any coastal vulnerability areas;*
- *updating flood studies and flood risk management plans after a major flood event incorporating new data and lessons learnt; and*
- *communicating natural hazard risk through updated flood studies and strategic plans.*

The land is not flood prone or within a coastal vulnerability area. The land is mapped as bush fire prone, however the resultant subdivision is able to be completed in compliance with the NSW Rural Fire Service's *Planning for Bushfire Protection 2019* requirements.

A Bushfire Assessment is provided at **Appendix E**.

Strategy 5.4 ***Resilience and adaptation plans should consider opportunities to:***

- *encourage sustainable and resilient building design and materials (such as forest products) including the use of renewable energy to displace carbon intensive or fossil fuel intensive options*
- *promote sustainable land management including Ecologically Sustainable Forest Management (ESFM)*
- *address urban heat through building and street design at precinct scale that considers climate change and future climatic conditions to ensure that buildings and public spaces are designed to protect occupants in the event of heatwaves and extreme heat events*
- *integrate emergency management and recovery needs into new and existing urban areas including evacuation planning, safe access and egress for emergency services personnel, buffer areas, building back better, whole-of-life cycle maintenance and operation costs for critical infrastructure for emergency management*
- *adopt coastal vulnerability area mapping for areas subject to coastal hazards to inform the community of current and emerging risks*

- promote economic diversity, improved environmental, health and well-being outcomes and opportunities for cultural and social connections to build more resilient places and communities.

The Planning Proposal is not inconsistent with this strategy.

Strategy 5.5 ***Partner with local Aboriginal communities to develop land management agreements and policies to support cultural management practices.***

The Planning Proposal is not inconsistent with this strategy.

Objective 6 – Create a circular economy

Strategy 6.1 ***Support the development of circular economy, hubs, infrastructure and activities and consider employment opportunities that may arise from circular economies and industries that harness or develop renewable energy technologies and will aspire towards an employment profile that displays a level of economic self-reliance, and resilience to external forces.***

The Planning Proposal is not inconsistent with this strategy.

Strategy 6.2 ***Use strategic planning and waste management strategies to support a circular economy, including dealing with waste from natural disasters and opportunities for new industry specialisations.***

The Planning Proposal is not inconsistent with this strategy.

Objective 7 – Promote renewable energy opportunities

Strategy 7.1 ***When reviewing LEPs and local strategic planning statements:***
- ensure current land use zones encourage and promote new renewable energy infrastructure;
- identify and mitigate impacts on views, local character and heritage where appropriate; and
- undertake detailed hazard studies.

The proposed building areas within the resultant lots are safe in terms of bushfire risk and do not require any additional servicing infrastructure. Each resultant lot is of a sufficient size and configuration to utilise renewable energy sources. The Planning Proposal is not inconsistent with this strategy.

Objective 8 – Support the productivity of agricultural land

Strategy 8.1 ***Local planning should protect and maintain agricultural productive capacity in the region by directing urban, rural residential and other incompatible development away from important farmland.***

The Planning Proposal concerns rural zoned land that is used for rural living and conservation rather than agricultural purposes. The land is surrounded by fragmented lots and land holdings used for rural living and hobby farms. The land and is not mapped as strategic or important farmland.

Objective 9 – Sustainably manage and conserve water resources

Strategy 9.1 ***Strategic planning and local plans should consider:***

- **opportunities to encourage riparian and coastal floodplain restoration works;**
- **impacts to water quality, freshwater flows and ecological function from land use change;**
- **water supply availability and issues, constraints and opportunities early in the planning process;**
- **partnering with local Aboriginal communities to care for Country and waterways;**
- **locating, designing, constructing and managing new developments to minimise impacts on water catchments, including downstream waterways and groundwater resources;**
- **possible future diversification of town water sources, including groundwater, stormwater harvesting and recycling;**
- **promoting an integrated water cycle management approach to development;**
- **encouraging the reuse of water in new developments for urban greening and for irrigation purposes;**
- **improving stormwater management and water sensitive urban design;**
- **ensuring sustainable development of higher water use industries by considering water availability and constraints, supporting more efficient water use and reuse, and locating development where water can be accessed without significantly impacting on other water users or the environment;**
- **identifying and protecting drinking water catchments and storages in strategic planning and local plans; and**
- **opportunities to align local plans with any certified Coastal Management Programs.**

The land is not within a drinking water catchment. First and second order streams are present within the land. The Planning Proposal is consistent with this strategy.

Strategy 9.2 ***Protect marine parks, coastal lakes and estuaries by implementing the NSW Government's Risk-Based Framework for Considering Waterway Health Outcomes in Strategic Land-use Planning Decisions, with sensitive marine parks, coastal lakes and estuaries prioritised.***

The land is not within or nearby a marine park, coastal lake or estuary.

Strategy 9.3 ***Encourage a whole of catchment approach to land use and water management across the region that considers climate change, water security, sustainable demand and growth, the natural environment and investigate options for water management through innovation.***

The Planning Proposal is not inconsistent with this strategy.

Objective 10 – Sustainably manage the productivity of our natural resources

Strategy 10.1 ***Enable the development of the region's natural, mineral and forestry resources by avoiding interfaces with land uses that are sensitive to impacts from noise, dust and light interference.***

The subject land does not adjoin forestry estate or identified mineral resource areas for the purposes of *State Environmental Planning Policy (Resources and*

| | |
|---------------|--|
| Strategy 10.2 | <p><i>Energy) 2021 and the location is not subject to noise, dust and light interference. The Planning Proposal is not inconsistent with this strategy.</i></p> <p><i>Plan for the ongoing productive use of lands with regionally significant construction material resources in locations with established infrastructure and resource accessibility.</i></p> <p>The subject land does not meet these criteria. The Planning Proposal is not inconsistent with this strategy.</p> |
|---------------|--|

GOAL 2 – PRODUCTIVE AND CONNECTED

Objective 11 – Support cities and centres and coordinate the supply of well-located employment land.

| | |
|---------------|--|
| Strategy 11.1 | <p><i>Local council plans will support and reinforce cities and centres as a focal point for economic growth and activity.</i></p> |
| Strategy 11.2 | <p><i>Utilise strategic planning and land use plans to maintain and enhance the function of established commercial centres by:</i></p> <ul style="list-style-type: none"> <i>- simplifying planning controls</i> <i>- developing active city streets that retain local character</i> <i>- facilitating a broad range of uses within centres in response to the changing retail environment</i> <i>- maximising the transport and community facilities commensurate with the scale of development proposals.</i> |
| Strategy 11.3 | <p><i>Support existing and new economic activities by ensuring council strategic planning and local plans:</i></p> <ul style="list-style-type: none"> <i>- retain, manage and safeguard significant employment lands</i> <i>- respond to characteristics of the resident workforce and those working in the LGA and neighbouring LGAs</i> <i>- identify local and subregional specialisations</i> <i>- address freight, service and delivery considerations</i> <i>- identify future employment lands and align infrastructure to support these lands</i> <i>- provide flexibility in local planning controls</i> <i>- are responsive to future changes in industry to allow a transition to new opportunities.</i> <i>- provide flexibility and facilitate a broad range of commercial, business and retail uses within centres.</i> <i>- focus future commercial and retail activity in existing commercial centres, unless there is no other suitable site within existing centres, there is a demonstrated need, or there is positive social and economic benefit to locate activity elsewhere.</i> <i>- are supported by infrastructure servicing plans for new employment lands to demonstrate feasibility prior to rezoning.</i> |
| Strategy 11.4 | <p><i>New employment areas are in accordance with an employment land strategy endorsed by the Department of Planning and Environment.</i></p> <p>The Planning Proposal does not involve employment land.</p> |

Objective 12 – Create a diverse visitor economy

- Strategy 12.1 ***Council strategic planning and local plans should consider opportunities to:***
- enhance the amenity, vibrancy and safety of centres and township precincts;***
 - create green and open spaces that are accessible and well connected and enhance existing green infrastructure in tourist and recreation facilities;***
 - support the development of places for artistic and cultural activities;***
 - identify appropriate areas for tourist accommodation and tourism development;***
 - protect heritage, biodiversity and agriculture to enhance cultural tourism, agri-tourism and eco-tourism;***
 - partner with local Aboriginal communities to support cultural tourism and connect ventures across the region;***
 - support appropriate growth of the night time economy;***
 - provide flexibility in planning controls to allow sustainable agritourism and ecotourism;***
 - improve public access and connection to heritage through innovative interpretation; and***
 - incorporate transport planning with a focus on active transport modes to connect visitors to key destinations.***

The subject land is not of a sufficient size or landuse to support agritourism. Eco-tourism is permissible with development consent in the RU1 and RU2 zone however relies on a justifiable 'special' ecological or cultural connection to the land. Tourism land uses are not anticipated within the land.

The Planning Proposal is not inconsistent with this strategy.

Objective 13 – Champion Aboriginal self-determination

- Strategy 13.1 ***Provide opportunities for the region's LALCs, Native Title holders and community recognised Aboriginal organisations to utilise the NSW planning system to achieve development aspirations, maximising the flow of benefits generated by land rights to Aboriginal communities through strategic led planning.***
- Strategy 13.2 ***Prioritise the resolution of unresolved Aboriginal land claims on Crown land.***
- Strategy 13.3 ***Partner with community recognised Aboriginal organisations to align strategic planning and community aspirations including enhanced Aboriginal economic participation, enterprise and land, sea and water management.***
- Strategy 13.4 ***Councils consider engaging Aboriginal identified staff within their planning teams to facilitate strong relationship building between councils, Aboriginal communities and key stakeholders such as Local Aboriginal Land Councils and local Native Title holders.***
- Strategy 13.5 ***Councils should establish a formal and transparent relationship with local recognised Aboriginal organisations and community, such as an advisory committee.***

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| Action 5 | <p><i>The Department of Planning and Environment will work with LALCs, Native Title holders and councils by:</i></p> <ul style="list-style-type: none"> <i>- meaningfully engaging with LALCs and Native Title holders in the development and review of strategic plans to ensure aspirations are reflected in plans;</i> <i>- building capacity for Aboriginal communities, LALCs and Native Title holders to utilise the planning system; and</i> <i>- incorporating Aboriginal knowledge of the region into plan.</i> <p>The Planning Proposal is consistent with these strategies and actions.</p> |
|----------|---|

Objective 14 – Deliver new industries of the future.

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|---------------|--|
| Strategy 14.1 | <p><i>Facilitate agribusiness employment and income-generating opportunities through the regular review of council planning and development controls, including suitable locations for intensive agriculture and agribusiness.</i></p> |
| Strategy 14.2 | <p><i>Protect established agriculture clusters and identify expansion opportunities in local plans that avoid land use conflicts, particularly with residential and rural residential land uses.</i></p> <p>The land is fragmented, steep in places and supports important vegetation with biodiversity values and is not well suited for intensive agriculture or agribusiness. The Planning Proposal is not inconsistent with these strategies.</p> |

Objective 15 – Improve state and regional connectivity.

| | |
|---------------|---|
| Strategy 15.1 | <p><i>Protect proposed and existing transport infrastructure and corridors to ensure network opportunities are not sterilised by incompatible land uses or land fragmentation.</i></p> <p>The land is not within an identified major transport corridor. The Planning Proposal is not inconsistent with this strategy.</p> |
|---------------|---|

Objective 16 – Increase active and public transport usage.

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|---------------|--|
| Strategy 16.1 | <p><i>Encourage active and public transport use by:</i></p> <ul style="list-style-type: none"> <i>• prioritising pedestrian amenity within centres for short everyday trips</i> <i>- providing a legible, connected and accessible network of pedestrian and cycling facilities</i> <i>- delivering accessible transit stops and increasing convenience at interchanges to serve an ageing customer</i> <i>- incorporating emerging anchors and commuting catchments in bus contract renewals</i> <i>- ensuring new buildings and development include end of trip facilities</i> <i>- integrating the active transport network with public transport facilities</i> <i>- prioritising increased infill housing in appropriate locations to support local walkability and the feasibility of public transport stops</i> <p>The Planning Proposal is not inconsistent with this strategy.</p> |
|---------------|--|

Objective 17 – Utilise new transport technology.

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|---------------|---|
| Strategy 17.1 | <i>Councils should consider how new transport technology can be supported in local strategic plans, where appropriate.</i> |
| | Noted. |

GOAL 3 – GROWTH CHANGE AND OPPORTUNITY

Objective 18 – Plan for sustainable communities

| | |
|----------|---|
| Action 6 | <i>Undertake housing and employment land reviews for the Northern Rivers and Mid North Coast subregions to assess future supply needs and locations.</i> |
| | Noted. |

Objective 19 – Public spaces and green infrastructure support connected and healthy communities.

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|---------------|--|
| Strategy 19.1 | <p><i>Councils should aim to undertake public space needs analysis and develop public space infrastructure strategies for improving access and quality of all public space to meet community need for public spaces. This could include:</i></p> <ul style="list-style-type: none"> <i>- drawing on community feedback to identify the quantity, quality and the type of public space required</i> <i>- prioritising the delivery of new and improved quality public space to areas of most need</i> <i>- considering the needs of future and changing populations</i> <i>- identifying walkable and cycleable connectivity improvements and quality and access requirements that would improve use and enjoyment of existing infrastructure</i> <i>- consolidating, linking and enhancing high quality open spaces and recreational areas</i> <i>- working in partnership with local Aboriginal communities to develop bespoke cultural infrastructure which responds to the needs of Aboriginal communities</i> |
| Strategy 19.2 | <i>Public space improvements and new development should consider the local conditions, including embracing opportunities for greening and applying water sensitive urban design principles.</i> |
| Strategy 19.3 | <i>Encourage the use of council owned land for temporary community events and creative practices where appropriate by reviewing development controls.</i> |
| Strategy 19.4 | <p><i>Local environmental plan amendments that propose to reclassify public open space must consider the following:</i></p> <ul style="list-style-type: none"> <i>- the role or potential role of the land within the open space network;</i> <i>- how the reclassification is strategically supported by local strategies such as open space or asset rationalisation strategies;</i> <i>- where land sales are proposed, details of how sale of land proceeds will be managed; and</i> <i>- the net benefit or net gain to open space.</i> <p>The Planning Proposal is not for the purpose of reclassification of land. The proposed resultant lots are of a sufficient size and layout to be conducive to</p> |

greening (gardening) and applying water sensitive urban design principles. The Planning Proposal is therefore consistent with these strategies.

Objective 20 – Celebrate local character.

Strategy 20.1 ***Ensure strategic planning and local plans recognise and enhance local character through use of local character statements in local plans and in accordance with the NSW Government’s Local Character and Place Guideline.***

Strategy 20.2 ***Celebrate buildings of local heritage significance by:***

- retaining the existing use where possible***
- establishing a common understanding of appropriate reuses***
- exploring history and significance***
- considering temporary uses***
- designing for future change of use options.***

The resultant subdivision of the land will have no effect on the established land use and will not change the character of the locality. The Planning Proposal is therefore consistent with these strategies.

Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?

Local Strategic Planning Statement

The Local Strategic Planning Statement (LSPS), September 2020, was prepared in accordance with the *Environmental Planning and Assessment Act 1979 and Regulations to provide a vision for the Nambucca Valley, details of the special characteristics which contribute to our local identity and shared community values, and a summary of actions to manage growth and change into the future.*

This Planning Proposal is not inconsistent with the relevant priorities and associated actions of the LSPS noting that the Community Vision for the LGA is:

“Nambucca Valley – Living at its best” - “The Nambucca Valley will value and protect its natural environment, maintain its assets and infrastructure and develop opportunities for its people.”

The Planning Proposal will result in the creation of one additional rural living lot without the need for increased infrastructure or clearing of native vegetation. The proposal will enable a Development Application for a subdivision to be considered by Council that will result in separate title to two existing established rural homesites. Whilst increased density (dual occupancy or secondary dwelling) is permissible within both resultant lots, additional dwellings within either lot would be constrained by the need to increase clearing to create greater APZ widths.

The following LSPS Land Use Planning Goals are relevant to the Planning Proposal:

- *A diverse range of housing choice that support population growth, a diverse and ageing demographic, and affordability.*
- *Infrastructure that reliably supports the needs of the existing community, sustainable growth, liveability and prosperous economies.*
- *Encouraging housing options that are low or zero carbon emitters.*

Planning Proposal response:

Creating separate title to each existing homesite will enable the existing owners to live independently of each other and will simplify future dealing of each resultant lot within the respective owners' estates.

Both existing dwellings and ancillary buildings are of sound construction and provide for "bushfire safe" rural living.

The retention of both existing dwellings within separate lots is considered to be a sustainable use of existing housing resources.

Both of the existing dwellings are serviced with power, telecommunications, public road access, town water supply and onsite wastewater management.

Neither dwelling requires significant additional building work to continue to provide a safe and sustainable home for many years to come.

Action 4.12 and Priority 4 of the LSPS aims to *maintain viability of productive rural land for agricultural uses by limiting the potential for rural land fragmentation land by minimising land use conflicts.*

Planning Proposal response:

The resultant subdivision will fragment a 40.47 ha rural land parcel into lots of 18.8 ha and 21.67 ha. The land is not used for agricultural purposes and is not considered to be productive agricultural land. The land is surrounded by fragmented rural lifestyle lots. Both existing homesites are well established, screened by ornamental and native vegetation and well separated from any conflicting land uses.

Map 23 Land Release Strategy (Local Growth Management Strategy - Rural Residential) is referenced and reproduced as Figure 10 *Rural Residential Land by Locality* in the LSPS.

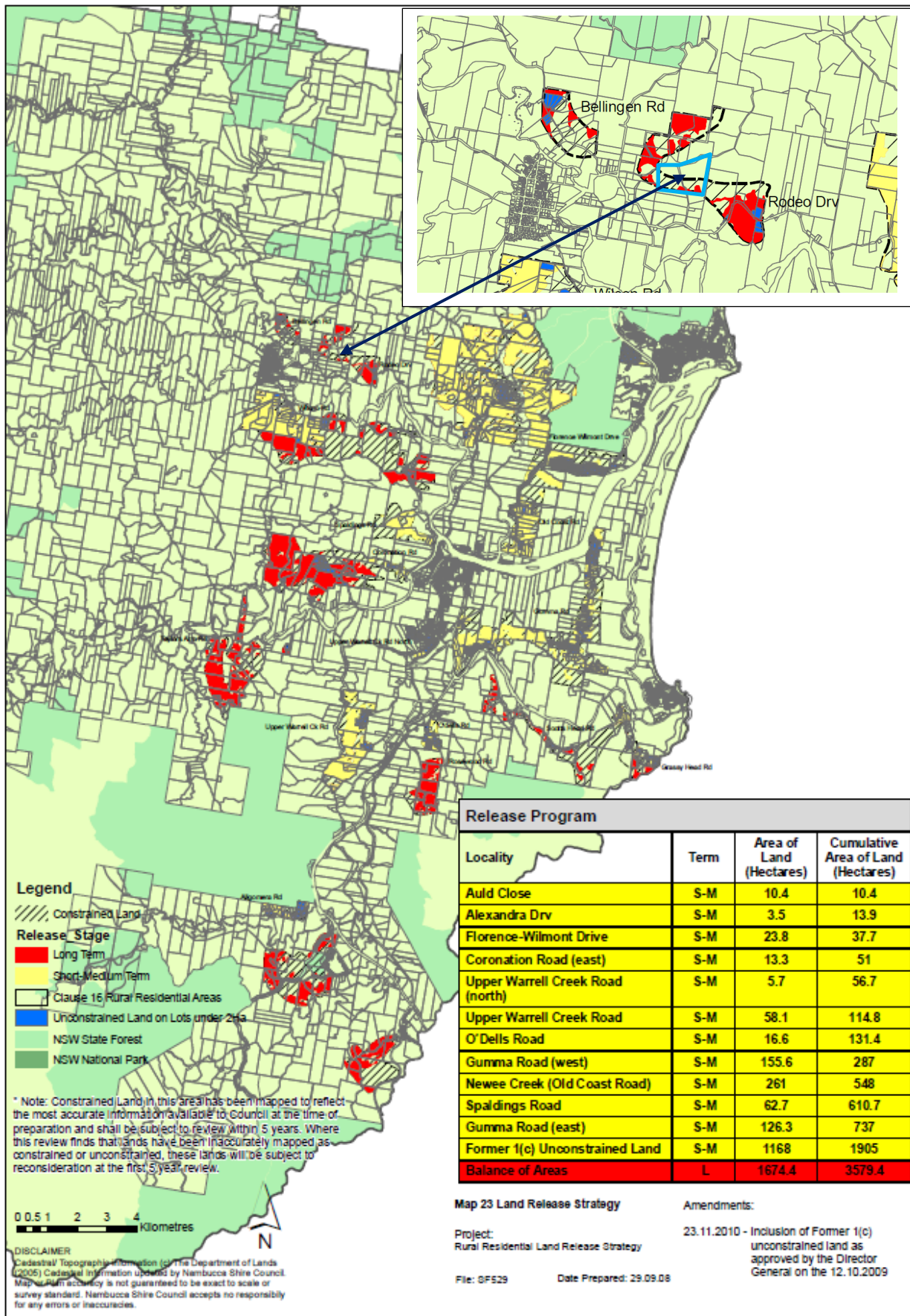
Nambucca Shire Council Rural Residential Land Release Strategy

The Rural Residential Land Release Strategy (LRS) was endorsed in January 2009 and updated in November 2010.

The land is identified in the Rural-Residential LRS as partly within the Clause 16 Rural Residential Area being land that was formerly Zoned 1(C) under Nambucca LEP 1986 as shown at **Illustration 3.2**. Part of the land is mapped as native vegetation (Kendal & Kendal 2003) on the Biodiversity Constraints map. The land is not mapped as Regional Significant Farmland and is well separated from any extract industry buffer.

The Planning Proposal does not recommend rezoning of the land to R5 Large Lot Residential as only a small percentage (6%) of the land (2.5 ha) is identified as unconstrained land on Map 21 Bowraville Unconstrained Land.

Illustration 3.4 LSPS Figure 10 Rural Residential Land by Locality (extract)



Is the planning proposal consistent with applicable SEPPs?

Yes.

An assessment of consistency with SEPPs considered relevant to the proposal is at **Appendix B**.

Is the Planning Proposal consistent with applicable Ministerial Directions (section 9.1 Directions)?

Yes.

The Planning Proposal is consistent with the applicable s9.1 Ministerial Directions as shown in the table provided at **Appendix C**. In instances when an inconsistency has been identified, appropriate justification and how the Planning Proposal addresses the inconsistency has been provided.

3.4 Section C – Environmental, social and economic impact

Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

This Planning Proposal will not alter any zones or development controls in a manner such that there could be adverse impacts on threatened species, populations, or ecological communities.

Koala Management Strategy 2021 Nambucca Coastal Area

The Koala Management Strategy (KMS) 2021 Nambucca Coastal Area was prepared by GeoLINK in 2021 on behalf of Nambucca Valley Council. The KMS builds on the baseline findings of the 2015 Koala Habitat Study (KHS) prepared by the NSW Office of Environment. The KHS was meant to inform the preparation of a Comprehensive Koala Plan of Management (CKPoM) however the CKPoM has not progressed since 2015.

The KMS is therefore the most recent Koala study covering the subject land. The land is partially mapped as Secondary 'A' Koala Habitat.

Secondary (Class A) koala habitat refers to areas that provide suitable conditions for Koalas but are considered to have lower quality or suitability compared to primary Koala habitat. These areas may have limitations or disturbances that make them less optimal for Koalas, such as a lower density of preferred food trees, less suitable vegetation structure, or higher levels of human disturbance. However, they still support koala populations and provide important resources for their survival.

Secondary (Class A) habitat can include scattered and fragmented patches of vegetation that play a role in connecting different patches of primary habitat and providing additional foraging opportunities for koalas.

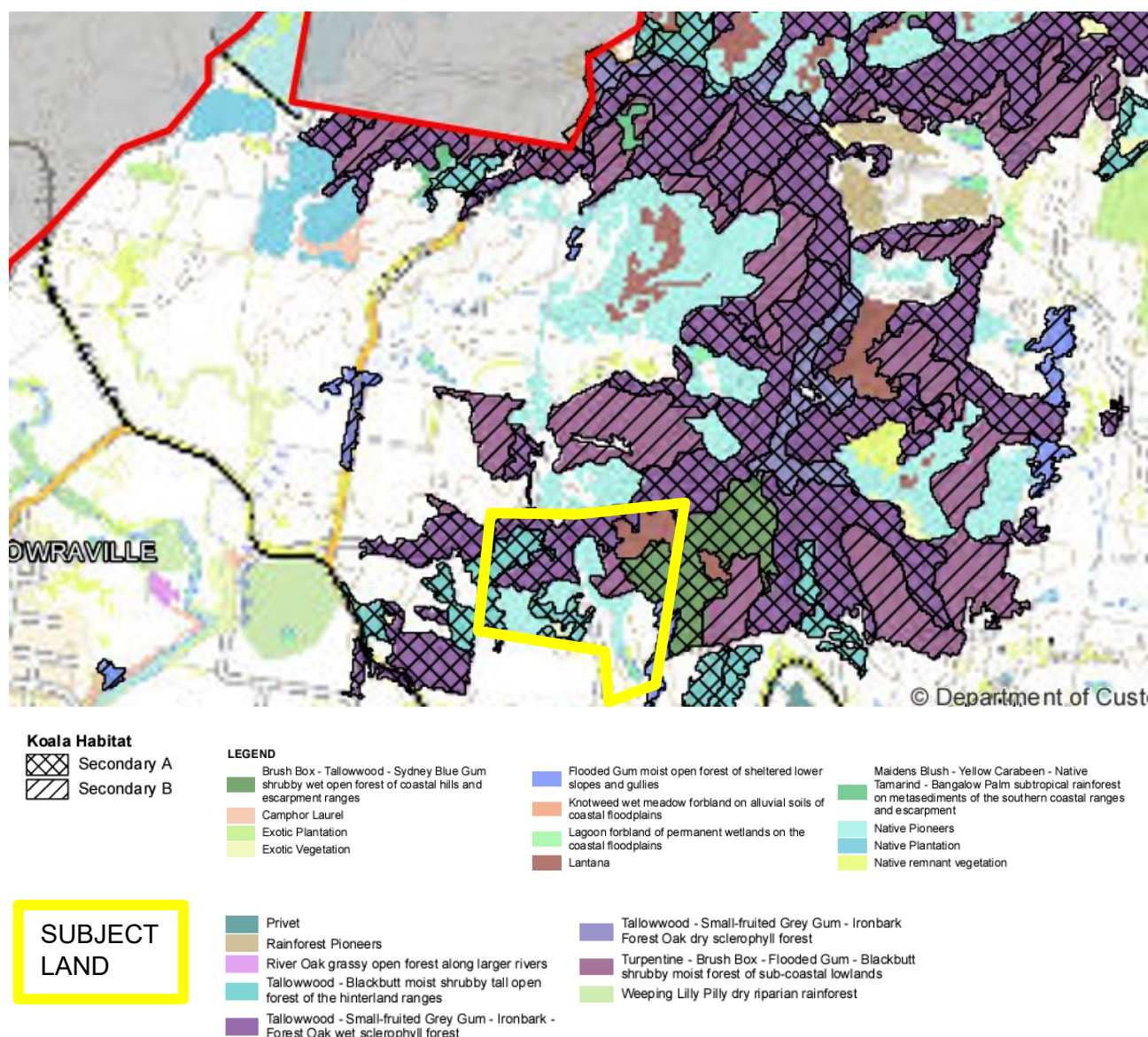
It may also include areas that have the potential to recover and regain their suitability for koalas with appropriate management and restoration efforts. (GeoLINK, Koala Management Strategy (KMS) 2021)

There is no clearing of native vegetation required to implement the resultant subdivision. The dividing boundary will occur within cleared land comprising the crown road reserve and the easement for water supply that is slashed and maintained by Council.

Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

There are no approvals required under the *Fisheries Management Act 1994*, the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) or the *Biodiversity Conservation Act 2016* required to carry out the resultant subdivision.

Illustration 3.5 Mapped Koala Habitat



Source: Koala Management Strategy 2021, GeoLINK, Appendix B – Vegetation Mapping

Bushfire

The land is mapped as bushfire prone. A Bush Fire Risk Assessment by FloraFauna Consulting is provided at **Appendix E**. Findings are summarised as:

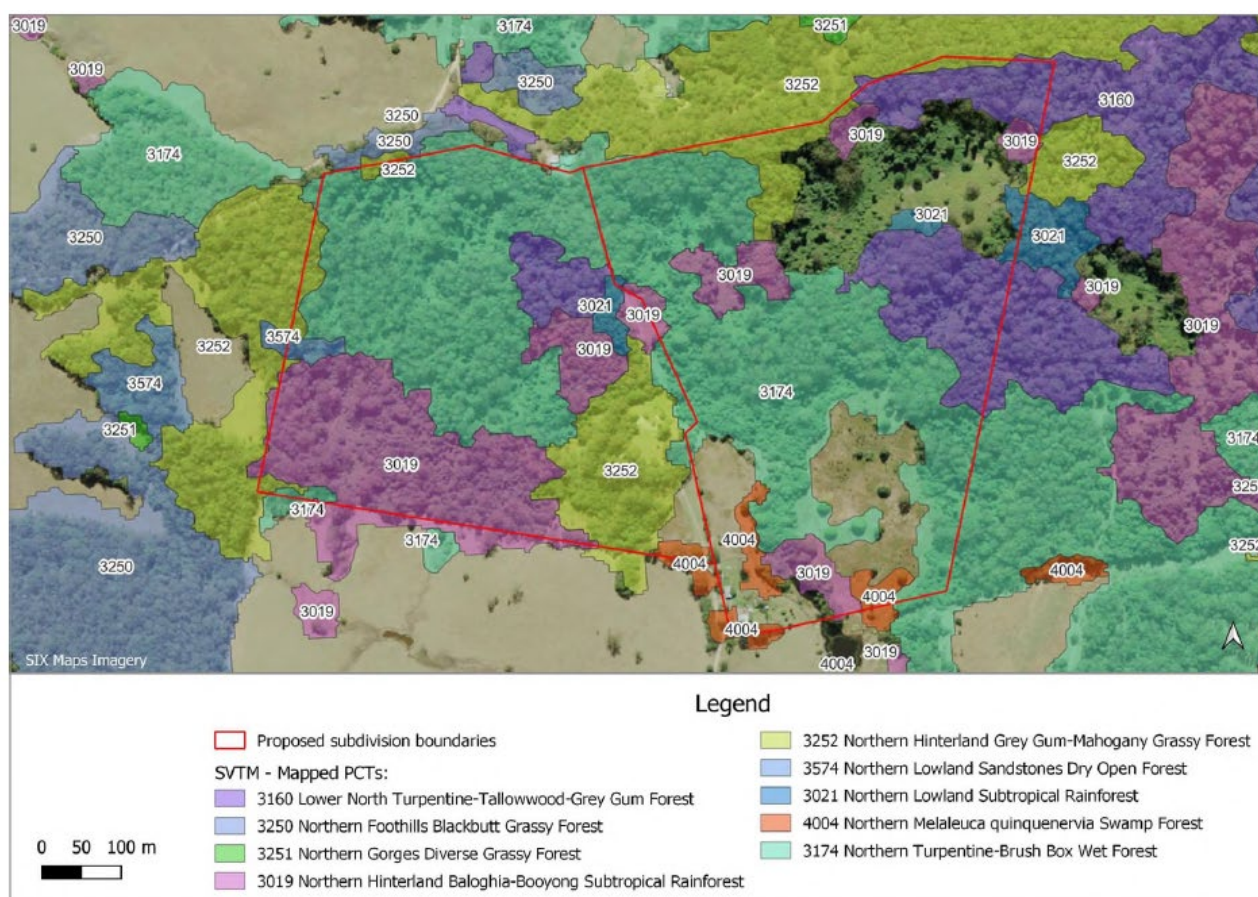
*Given the separation available due to pre-existing clearing, both building envelopes can readily meet the minimum APZ requirements **without any land clearing**. Furthermore, it is noted that it would be difficult to upgrade the existing dwellings located within the building*

envelopes to a BAL-29 standard, however the available managed land within the building envelopes that is managed as an APZ could readily meet the criteria for a bush fire attack level of BAL-19 or BAL-12.5 **without significant land clearing**.

The bushfire assessment demonstrates that bushfire protection with respect to the existing dwellings associated with the proposed subdivision of the land can generally satisfy the requirements of PBP when assessed in accordance with Section 45 of the RF Regulation for the purpose of applying for a Bushfire Safety Authority under Section 100B of the RF Act. Moreover, subject to the recommendations detailed below, there are no significant impediments to the proposed development of the land from a bushfire risk perspective.

In addition to bushfire compliance, FloraFauna Consulting also provided an assessment of native vegetation against the State Vegetation Type Map (SVTM).

Illustration 3.6 Mapped Plant Community Types



Source: FloraFauna Consulting, 2024, Figure 16 Bush Fire Risk Assessment

Heritage

An AHIMS database search by FloraFauna Consulting is provided at **Appendix F**. No items or sites are listed within or surrounding the subject land.

The resultant subdivision does not require any ground disturbing works or clearing of native vegetation. It is highly unlikely that the Planning Proposal would lead to any adverse impacts to Aboriginal cultural heritage items or places.

The land is not listed on the NSW Heritage Register or Nambucca LEP Schedule 5 Environmental Heritage.

Has the Planning Proposal adequately addressed any social and economic effects?

Social

- It is unlikely that this Planning Proposal will result in any detrimental social effects. Social benefits include providing each property owner (tenants in common) with secure title to their homesites.
- The Planning Proposal is unlikely to contribute to land use conflict as the subject land and surrounding area are used predominantly for hobby farming or lifestyle housing.
- The proposed resultant lots will accommodate existing rural residential development, inclusive of well maintained dwelling curtilages.
- The present owners of the land have a keen interest in the continued preservation of the biodiversity values of the remnant vegetation within the land.
- The subject site is not of Cultural or European heritage significance.
- Traffic and noise impact arising from subdivision of the land would be unchanged.

Economic

- It is unlikely that this Planning Proposal will result in any detrimental economic effects.
- The Planning Proposal and the proposed subdivision are fully funded by the proponents.
- Subdivision of the land will not increase demand for services or infrastructure.

3.5 State and Commonwealth Interests

Is there adequate public infrastructure for the planning proposal?

Yes. Existing public infrastructure is adequate for the planning proposal.

This Planning Proposal is unlikely to create significant additional demand on existing public infrastructure. The subsequent LEP Amendment will enable the creation of one additional lot.

Each resultant lot is connected to a public road, town water supply, telecommunications and electricity.

What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

This requirement of the Planning Proposal will be addressed following consultation with any relevant State and Commonwealth Public Authorities to be identified under the terms and conditions of the initial Gateway Determination. There do not appear to be any matters of interest to Commonwealth authorities in relation to the Planning Proposal.

3.6 Mapping

The intended outcome of the Planning Proposal will be achieved by making an amendment to the LEP 2013 **Lot Size Map** (LSZ) **LSZ_005A** map affecting Lot 2 DP 609465.

3.7 Community Consultation

Should NSW DPE endorse exhibition of this Planning Proposal via issue of a Gateway Determination, the community, other stakeholders and government agencies will have an opportunity

to make submissions to this Planning Proposal. If endorsed by DPE, the Planning Proposal will be exhibited in accordance with the terms of the Gateway Determination, and the relevant provisions of Section 3.34(2) of the *Environmental Planning and Assessment (EP&A) Act 1979*.

4. Project Time Line

4.1 Indicative Project Timeline

This Planning Proposal meets the ‘Basic’ criteria set out in the NSW Planning Local Environmental Plan making Guidelines as the proposal is *consistent with a Department endorsed/approved local strategy, such as a Local Housing Strategy*.

Table 4.1 Indicative Project Timeline

| Stage | Benchmark Timeframes (standard) | ESTIMATED TIMEFRAME |
|---|---------------------------------|---------------------|
| Stage 1 - Prelodgement | 30 days | |
| Stage 2 - Submission of Planning Proposal to Council | 80 days | May 2024 |
| Stage 3 - Gateway determination | 25 days | August 2024 |
| Stage 4 – Post Gateway | 20 days | September 2024 |
| Stage 5 - Public exhibition and assessment | 70 days | November 2024 |
| Stage 6 - Finalisation | 25 days | December 2024 |
| Total (end to end) | 220 days | |

4.2 Recommendation

This Planning Proposal, which describes an amendment to the Minimum Lot Size provisions of *Nambucca LEP 2010* which apply to the subject land, has been prepared in accordance with the NSW Department of Planning document ‘*A guide to preparing Planning Proposals*’.

The Planning Proposal is consistent with the *North Coast Regional Plan 2041* and is consistent with all relevant SEPPs . The Planning Proposal is consistent with the applicable section 9.1 Ministerial Directions other than where indicated in this report. Any inconsistencies are supported and appropriately justified by the provisions of:

- *North Coast Regional Plan 2041*;
- Council’s adopted *Local Strategic Planning Statement*;
- Council’s *Local Growth Management Strategy*; and
- The environmental assessments which inform and support this Planning Proposal.

It is requested that Council:

- (a) Support this Planning Proposal based on the information provided in this report; and**
- (b) Resolve to refer this Planning Proposal to the NSW Department of Planning Industry and Environment, requesting a Gateway Determination to endorse its public exhibition.**

All relevant strategies, SEPPS and Section 9.1 Directions have been addressed in this Planning Proposal and it is considered that the Planning Proposal may be progressed to Gateway consideration and determination.

Pending endorsement by NSW DPIE, the Planning Proposal will be exhibited in accordance with the provisions of the EP&A Act 1979. The outcome of the exhibition will be subsequently reported to Council for endorsement.

A

DRAFT LEP MAP SHEET

B

SEPP CONSISTENCY CHECKLIST

C

CONSISTENCY WITH S9.1 DIRECTIONS

D

CONCEPT PLAN OF SUBDIVISION

E

BUSH FIRE ASSESSMENT

F

AHIMS DATABASE SEARCH

G CERTIFICATE OF TITLE, AND DPS