



IRF24/1963

Gateway determination report – PP-2024-970

Kookaburra Lane minimum lot size change

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Acknowledgment of Country

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

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Appendix E – Bush Fire Assessment
Planning Proposal – 44 Kookaburra Road, Bowraville (Council minutes – 11 July 2024)
Appendix D – Plan of Proposed Subdivision
Appendix D – Plan of Proposed Subdivision AERIAL

Relevant reports and plans

Appendix G – Title and DPs

Appendix C – Ministerial Directions

Appendix B – SEPP Checklist

Appendix F – AHIMS Search

Appendix A – Proposed Lot Size Map

Appendix A – Current Lot Size Map

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Coffs Harbour
PPA	Nambucca Valley Council
NAME	Kookaburra Lane minimum lot size change
NUMBER	PP-2024-970
LEP TO BE AMENDED	Nambucca Local Environmental Plan 2010
ADDRESS	44 Kookaburra Lane Bowraville
DESCRIPTION	Amend the Lot Size Map to reduce the minimum lot size from 40 to 18 hectares to facilitate a two-lot subdivision.
RECEIVED	2/08/2024
FILE NO.	IRF24/1963
POLITICAL DONATIONS	There are no donations or gifts to disclose, and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

The objective of the planning proposal is to reduce the minimum lot size of the subject site to enable a subdivision to create two separate lots (Figure 6).

The proposal includes objectives which clearly and adequately explain the intent of the planning proposal.

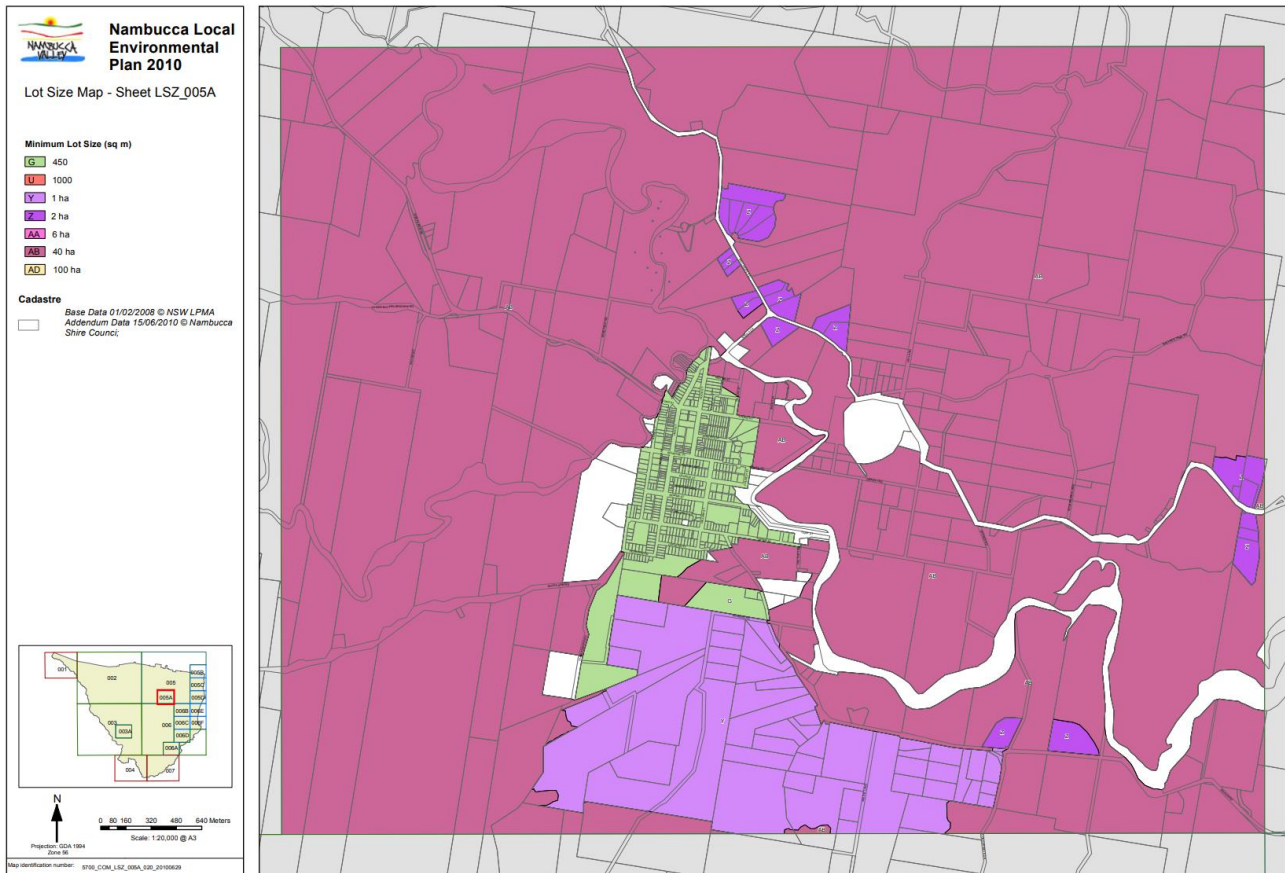


Figure 1: Current Lot Size Map (Source: Nambucca LEP)

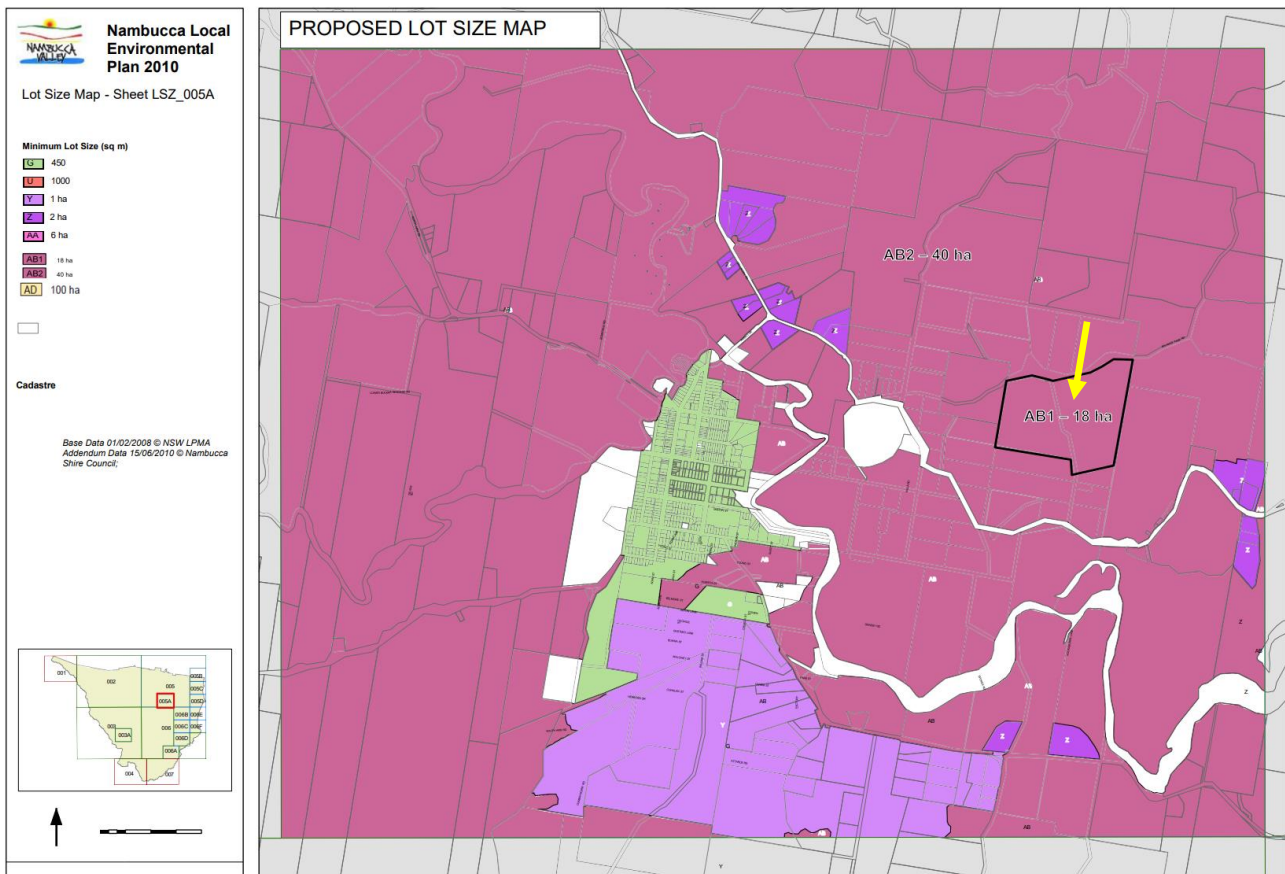


Figure 2: Proposed Lot Size Map (Source: Nambucca LEP)

1.3 Explanation of provisions

The intended outcome of the proposal is to reduce the minimum lot size of 40 to 18 hectares for Lot 2 DP 609465, 44 Kookaburra Lane Bowraville to enable a two-lot subdivision. This is to be achieved through amendment of Sheet LSZ_005A (Lot Size Map) of Nambucca LEP 2010 (Figures 1 and 2).

The planning proposal contains an explanation of provisions which adequately explains how the objectives will be achieved.

1.4 Site description and surrounding area

The property is located approximately 4.5km from the Bowraville via Rodeo Drive (Figure 1).

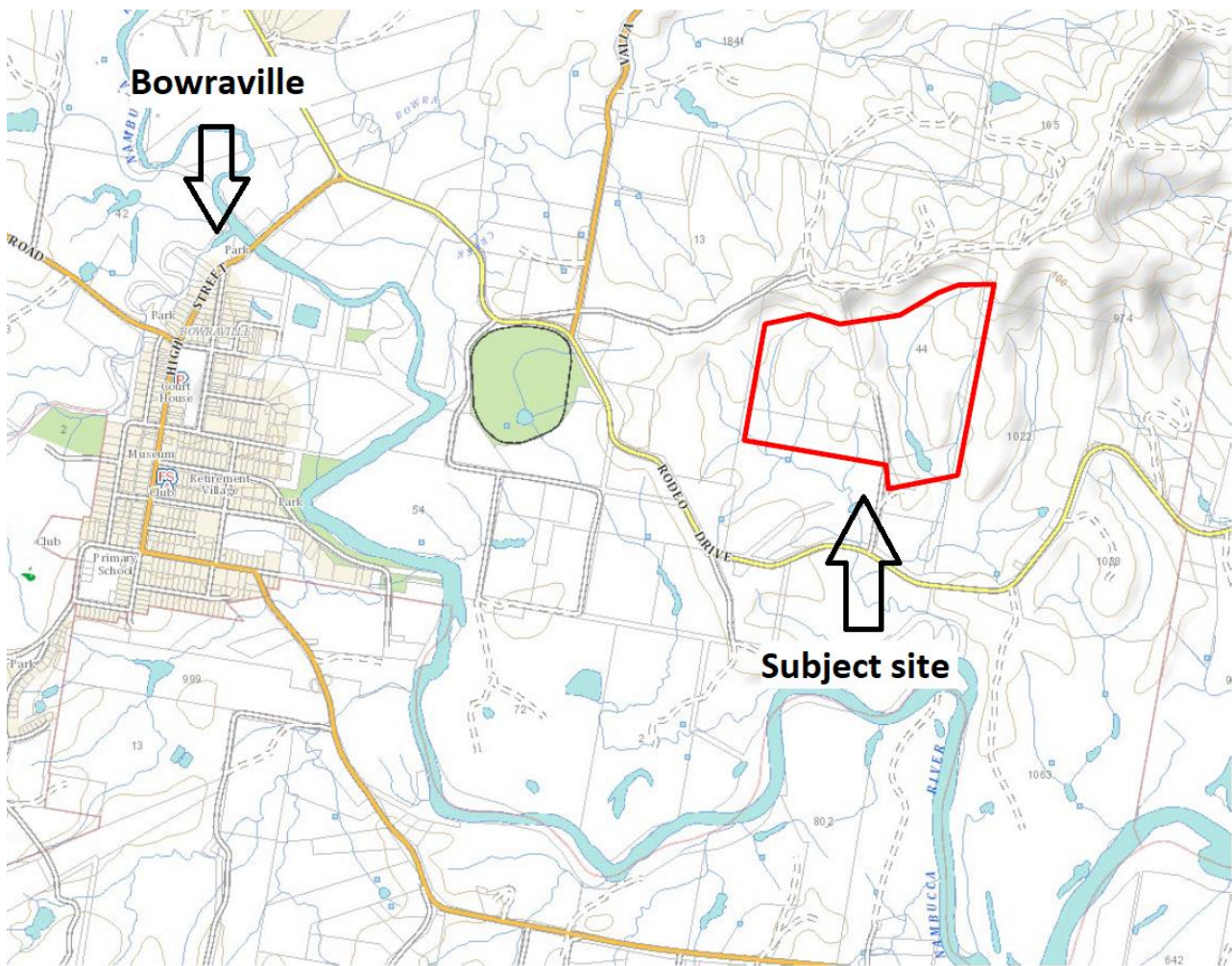


Figure 3: Site Locality Map (Source: Planning proposal)

The site has an area of 40.47 hectares with majority of the site zoned RU2 Rural Landscape with a small section to the south zoned RU1 Primary Production (Figure 5). The site is horizontally halved by a Crown Road reserve.

The site has two existing dwellings located each side of the Crown Road Reserve (Figure 4) that are occupied by the two joint land owners (Orrego and Hawkins). There are additional ancillary buildings, a dam and first and second watercourses on site. The site is fragmented, steep in areas and supports significant native vegetation. The subject site is surrounded by RU2 Rural Landscape and RU1 Primary Production zoned land that ranges in size from 4,000m² to 40 hectares.

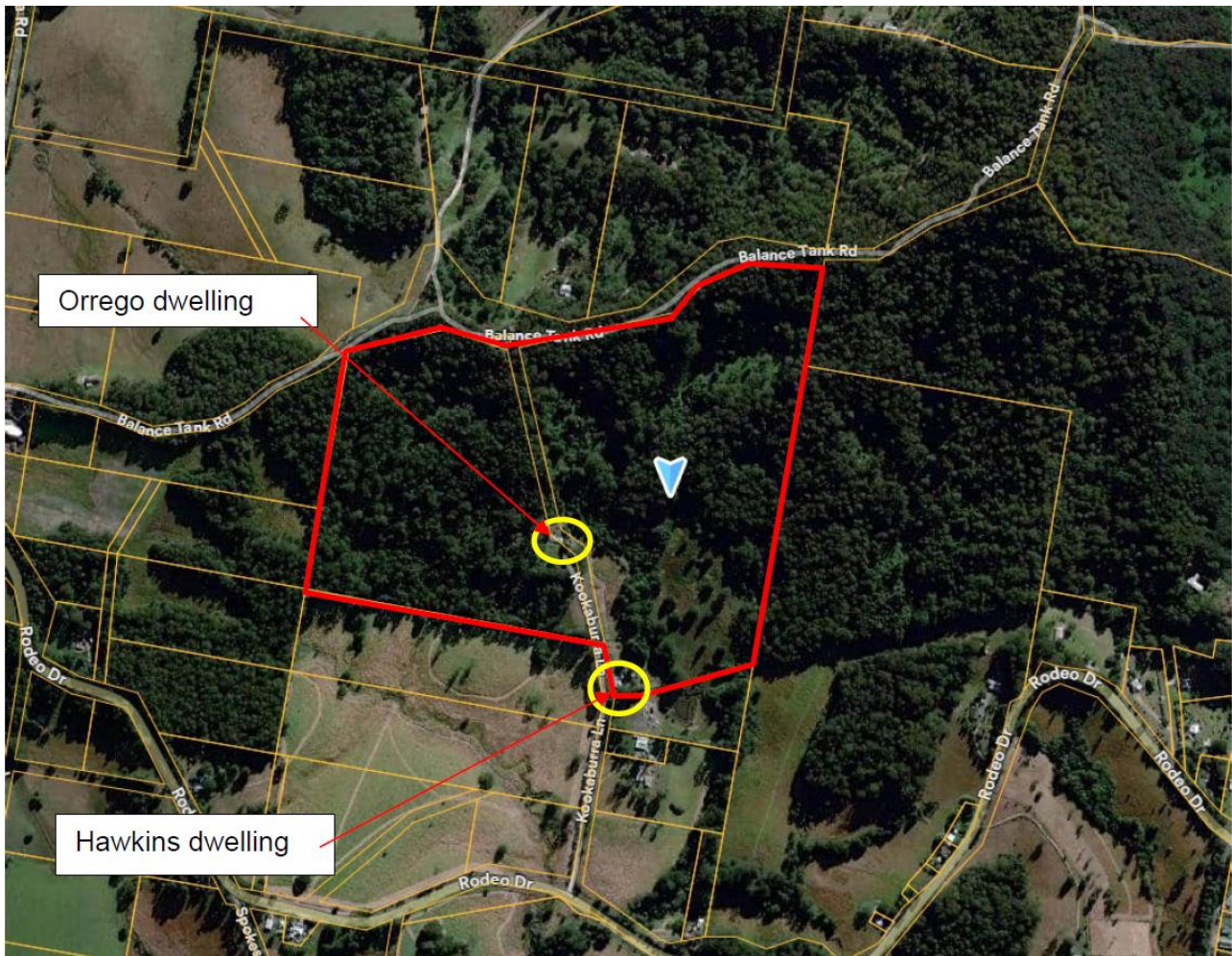


Figure 4: Aerial photography with identification of existing dwellings (Source: Planning proposal)

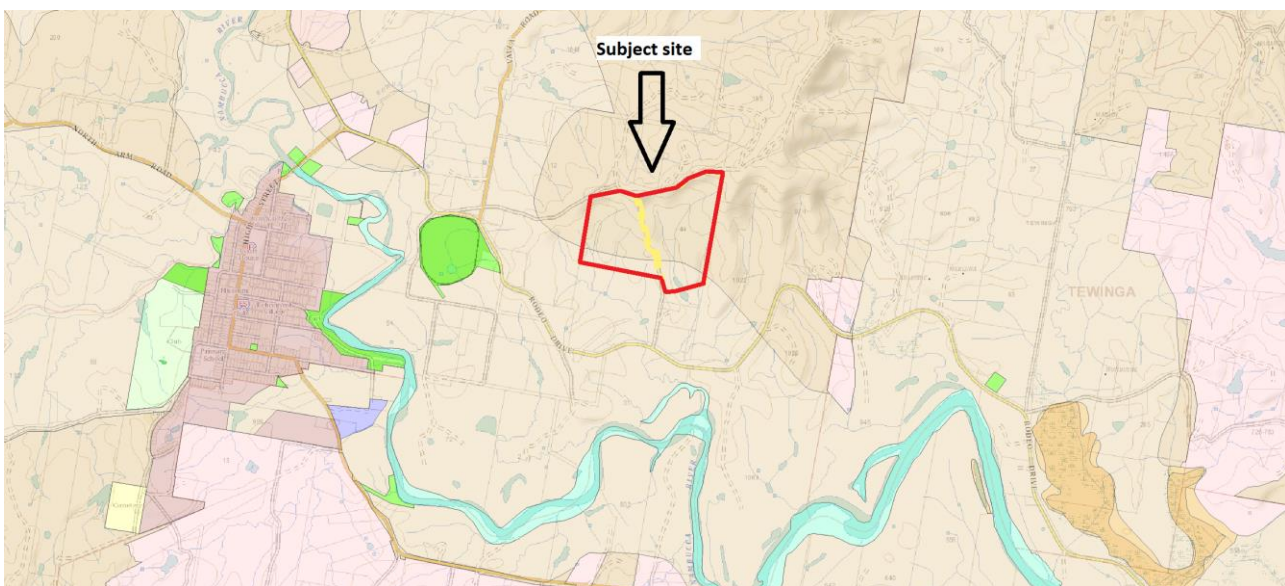


Figure 5: Zoning - subject site and surrounding area (Source: NSW Spatial Viewer)

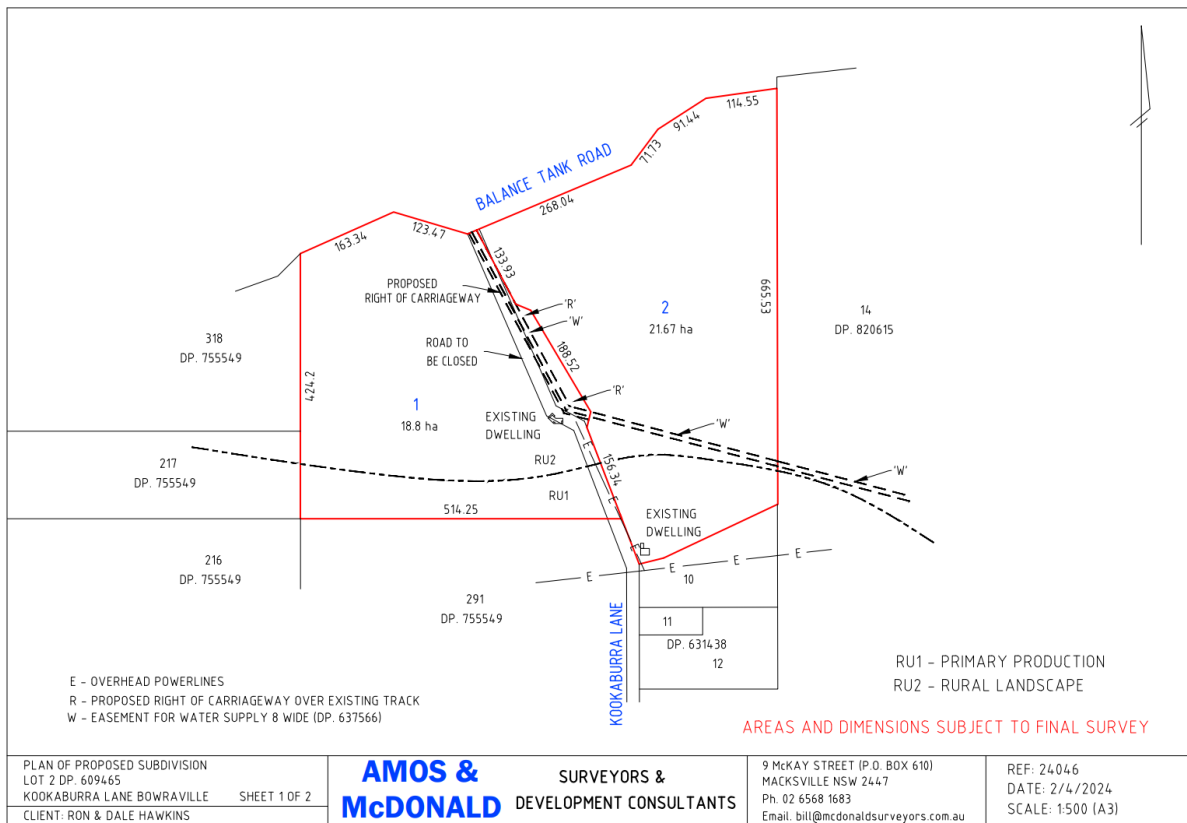


Figure 6: Proposed subdivision plan (Source: Planning proposal)

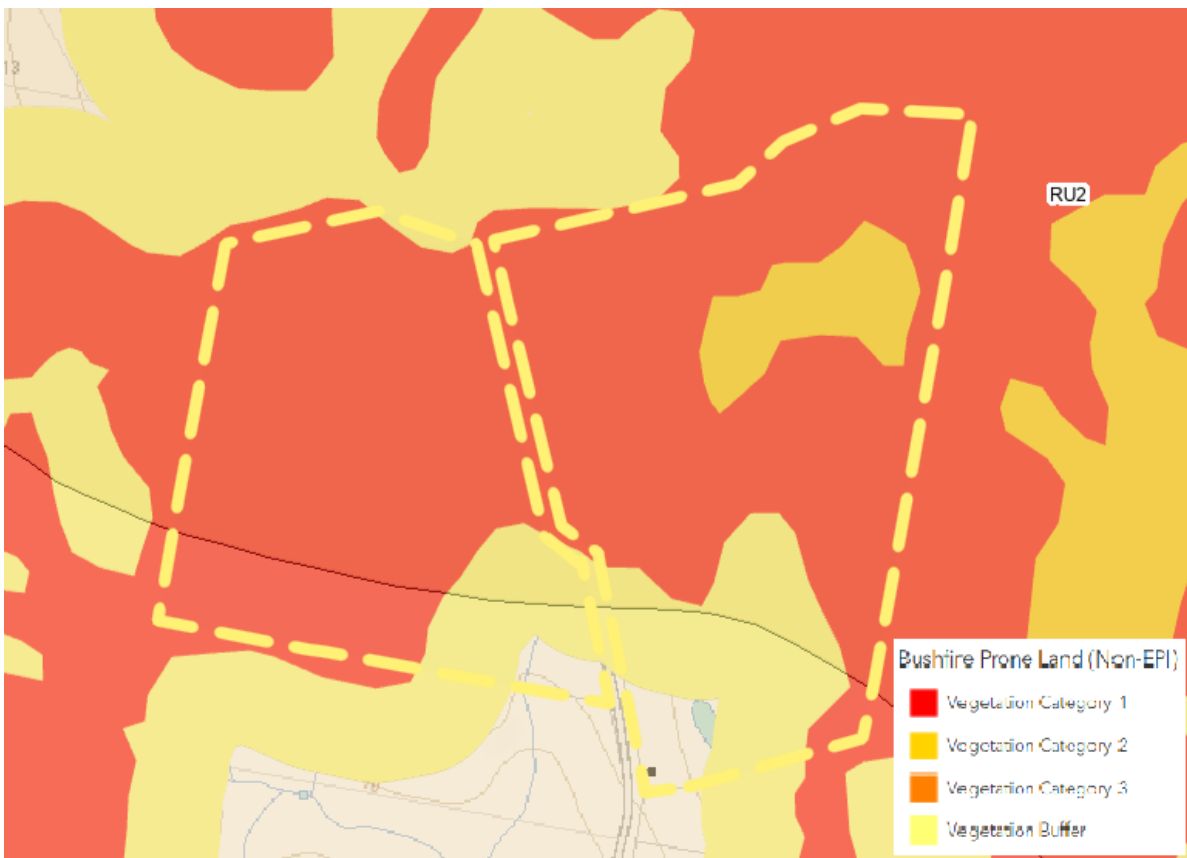


Figure 7: Bushfire prone land (Source: NSW Spatial Viewer)

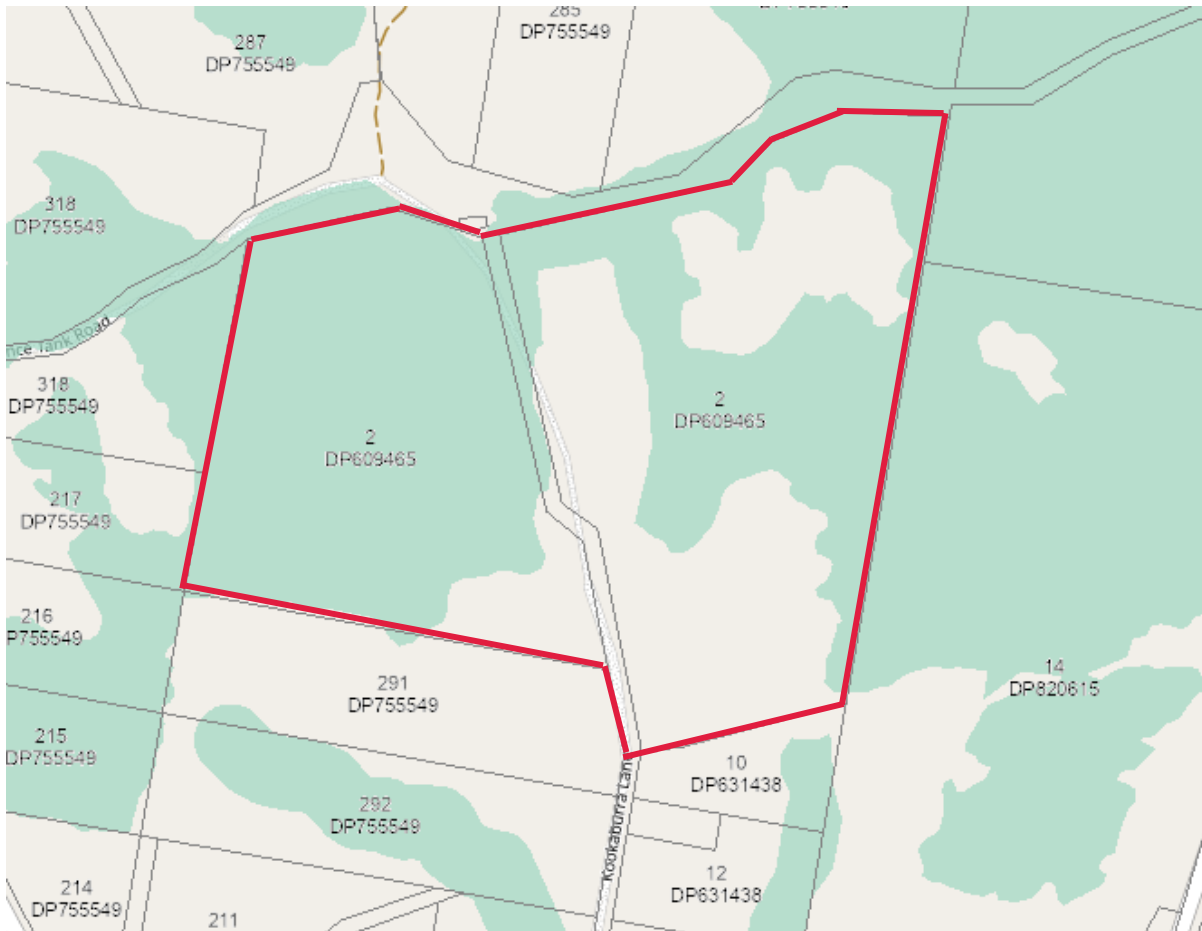


Figure 8: Potential High Environmental Value (Source: Northern Region Spatial Viewer)

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the Lot Size Map which is suitable for community consultation.

2 Need for the planning proposal

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

The proposal is proponent-initiated and seeks to facilitate a two-lot subdivision to enable the two existing houses on the land (that are separately occupied by the current landowners who are ‘tenants in common’) to be located on separate lots.

The planning proposal discusses the options to facilitate the proposed outcome including rezoning the land to R5 Large Lot Residential and amending the minimum lot size or including an additional permitted use into the LEP.

The proposal confirms that these options were not appropriate due to the creation of additional development potential and that retaining the existing zoning and amending the minimum lot size is the most appropriate method to achieve the intended objective.

3 Strategic assessment

3.1 North Coast Regional Plan 2041

The planning proposal is consistent with the relevant goals, objectives, and intent of the North Coast Regional Plan 2041 noting that:

- the land is not currently or likely to be used for agriculture in the future due to its topography and vegetation cover and the proposal would not be fragmenting viable agricultural land; and
- reducing the minimum lot to create two lots of approximately 18-21 hectares in size is unlikely to have an adverse impact on the environmental attributes the site noting the existing dwellings already on the site and that the new boundary fencing can be accommodated within existing cleared land.

3.2 Local Plan

The proposal is not inconsistent with Nambucca Local Strategic Planning Statement 2020.

The planning proposal justifies the minimum lot size reduction partly based on the Nambucca Shire Local Growth Management Strategy Rural-Residential Land Release Strategy (2009). The strategy identifies part of the land as being within a long term rural residential release area (Figure 9) and notes that the subject site was also identified in Clause 16 Rural Residential Areas of the former Nambucca LEP 1995. Clause 16 allowed Council to provide consent for rural residential subdivision under a selection criterion.

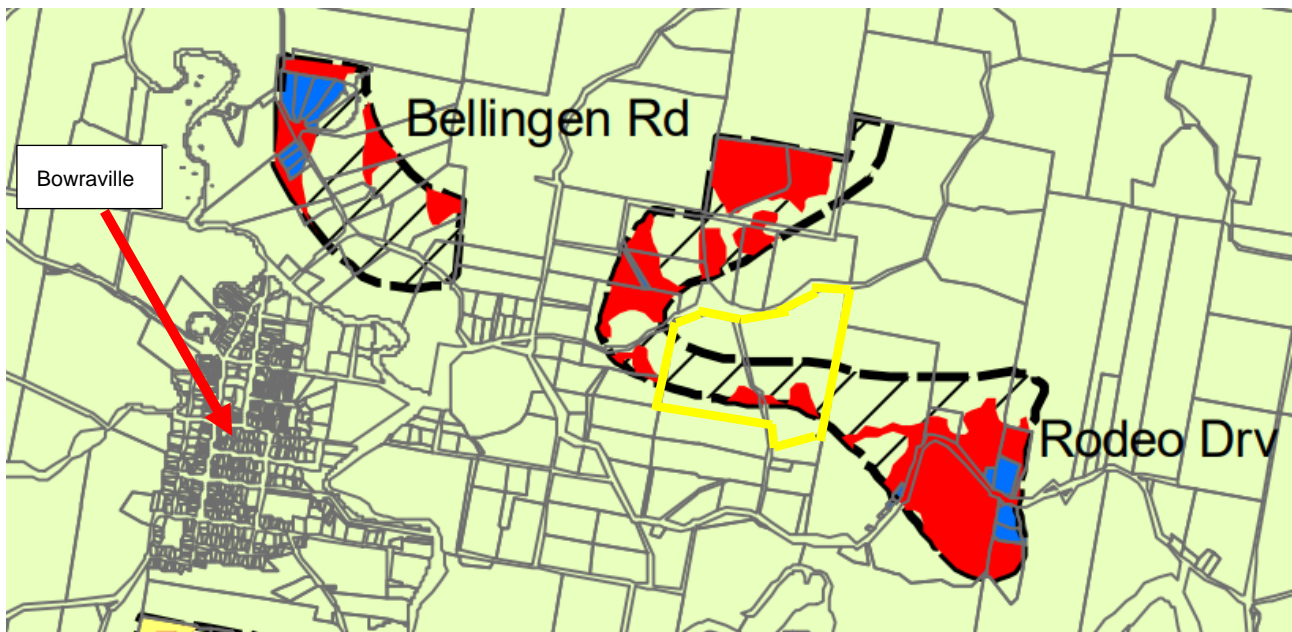


Figure 9: Nambucca Rural Residential Strategy 2009 - Bowraville (Source: Northern Region Spatial Viewer)

The Department approved the Nambucca Rural Residential Strategy in January 2009. The approval however applied only to the short-term release areas and required further public review and Department approval before any long-term release areas could be rezoned.

As the current proposal relates to larger rural lifestyle lots rather than rural residential development it is considered that the strategy is not directly relevant (other than to note that the area has been identified through a constraints analysis as being potentially suitable for more intensive

development) and that any inconsistency with the Department's approval of the strategy is of minor significance.

3.3 Section 9.1 Ministerial Directions

The proposal is considered consistent with relevant section 9.1 Direction except as discussed below:

Table 2: 9.1 Ministerial Direction assessment

Directions	Consistency	Reasons for Inconsistency
4.3 Planning for Bushfire Protection	Unresolved	The site is mapped as bushfire prone land (vegetation category 2, 3 and buffer) and therefore Direction 4.3 applies. Consultation with NSW RFS is required before consistency with this Direction can be determined.
9.2 Rural Zones	Justified	<p>The proposal is inconsistent with this direction as it does not achieve all the listed requirements such as supporting farmers in exercising their right to farm. This inconsistency is considered to be of minor significance as:</p> <ul style="list-style-type: none"> the land is situated in an area that is fragmented with a range of minimum lot sizes and common land uses being rural lifestyle living and hobby farms; and the land is not currently or likely to be used for agriculture in the future due to its topography and vegetation cover and the proposal would not be fragmenting viable agricultural land or result in any likely adverse environmental outcomes.

3.4 State environmental planning policies (SEPPs)

The planning proposal is consistent with the provisions of the relevant SEPPs.

4 Site-specific assessment

4.1 Environmental

No significant adverse environmental impact associated with the proposal has been identified noting that two dwellings are already located on the land and no significant uplift in development potential will result from the proposal.

The land is not identified as being flood prone or having any potential contamination issues.

Much of the site is identified as having potential High Environmental Value under the North Coast Regional Plan 2041 (Figure 8).

The Bush Fire Risk Assessment completed by FloraFauna Consulting identified four plant communities which are associated with a threatened ecological community. These include PCT 3019 Northern Hinterland Bologhia-Booyong Subtropical Rainforest, PCT 3021 Northern Lowland Subtropical Rainforest, PCT 3574: Northern Lowland Sandstones Dry Open Forest, and PCT 4004: Northern *Melaleuca quinquenervia* Swamp Forest. The proposal however confirms that no

significant vegetation clearing will be required for bushfire asset protection or boundary fencing works to facilitate the two-lot subdivision.

The Nambucca Koala Habitat Study 2015 mapped parts of the site as Secondary 'A' Koala Habitat. No adverse impact is however anticipated noting the existing development already in place and as no additional clearing is proposed.

It is recommended that the NSW Biodiversity Conservation and Science Group be consulted to confirm that the proposal is satisfactory.

4.2 Social and economic

No adverse social and or economic impact has been identified.

There are no local or state significance nor indigenous heritage items or sites identified.

4.3 Infrastructure

The land is serviced with electricity, telecommunications, town water supply, onsite waste management and public road access. No additional servicing is required.

5 Consultation

5.1 Community

The planning proposal is categorised as a standard under the LEP Making Guidelines (August 2023). Accordingly, a community consultation period of 20 working days is recommended and this forms part of the conditions to the Gateway determination.

5.2 Agencies

It is recommended that NSW Rural Fire Service and NSW Biodiversity Conservation and Science Group be consulted on the proposal. These agencies should be given 30 working days to comment on the planning proposal.

6 Timeframe

Council proposes a six (6) month time frame to complete the LEP which is within the maximum benchmark timeframes for a standard planning proposal under the Department's LEP Plan Making Guidelines and is considered appropriate.

7 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

As the planning proposal is of local significance and is generally consistent with the State, regional and local planning framework, it is recommended that Council be authorised to be the local plan-making authority for this proposal.

8 Recommendation

It is recommended the delegate of the Secretary:

- agree that the proposal's inconsistency with s9.1 Direction 9.2 Rural Lands is justified; and

- note that the consistency of Direction 4.3 Planning for Bushfire Protection is unresolved and will require further justification.

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

1. The planning proposal be publicly exhibited for a minimum of 20 working days.
2. Consultation is required with NSW Rural Fire Service and NSW Biodiversity Conservation and Science Group.
3. Council be the local plan-making authority and that the LEP be completed within six (6) months from the date of the Gateway determination.



(Signature)

20 August 2024 (Date)

Craig Diss

Manager, Hunter and Northern NSW



(Signature)

21 August 2024 (Date)

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