



Planning Proposal – Ballina Local Environmental Plan 2012

» *Planning Proposal relating to deferred matter and conservation zones on certain land*

BSCPP 25/010

October 2025 (V2 Exhibition) 25/22898

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Contents

1.	Introduction.....	3
1.1	Summary of planning proposal	3
1.2	Background	4
1.3	Land to which the planning proposal applies.....	5
1.4	Council Resolutions	7
1.5	Gateway Determination	8
1.6	Deferred Matter Integration Context and Interpretation	9
1.6.1	Primary Use of Land (PUL)	9
1.6.2	Verification of the C zone criteria	10
1.6.3	Guiding Principles for application of C zones to privately owned land	10
2.	Objectives & Intended Outcomes	12
3.	Explanation of Provisions	23
3.1	Teven Test Case Zone Determination	23
3.3	Application of zones and other mapped planning development standards	24
3.3.1	Application of Rural Zones	24
3.3.2	Lot Size.....	24
3.3.3	Height of Buildings	25
3.3.3	Acid Sulfate Soils	25
3.3.4	Land Application Map	25
3.3	Redetermination of Zones on Land Subject to Unconsidered 2023 Objections	25
4.	Justification.....	26
4.1	Section A – Need for the Planning Proposal	26
4.2	Section B – Relationship to Strategic Planning Framework.....	26
4.3	Section C – Environmental, Social and Economic Impact	29
4.4	Section D – State and Commonwealth Interests	29

5. Mapping.....	30
6. Community Consultation	31
7. Project Timeline	31
Appendices	32
Appendix 1 – Mapping	33
Appendix 2 – s.9.1 Ministerial Direction Checklist	45
Appendix 3 – Council Reports	50
Appendix 4 – Letter from The Executive Director Local Planning and Council Support (DPHI)7/7/2024 & Letter from Director, Hunter and Northern Region Local Planning and Council Support (received 3/3/2025)	51
Appendix 5 – Ecological Report Teven Test Case Properties	54
Appendix 6 – Ecological Report 287 North Teven Road Teven	55
Appendix 7 – Ecological Report 54 Buckombil Mountain Road Meerschaum Vale	56
Appendix 8 – Cyde Consulting Objection Evaluation - 54 Buckombil Mountain Road Meerschaum Vale.....	57
Appendix 8 – Cyde Consulting Objection Evaluation – 287 North Teven Road, Teven	59
Appendix 10 – DPHI Guidance Information.....	61
Appendix 11 – Land Within NSW Coastal Zone - SEPP (Resilience and Hazards) 2021 Mapping	69
Appendix 12 – NSW Coastal Design Guidelines 2023 Assessment Checklist for Planning Proposals.....	73
Appendix 13 – Gateway Determination	74

1. Introduction

1.1 Summary of planning proposal

The purpose of this planning proposal (PP) is to:

- a) Integrate certain land into Ballina LEP 2012 (BLEP 2012) from Ballina LEP 1987 (BLEP 1987) (Teven Test Case properties). This is land that was not included within BLEP 2012 Amendment No 55, published on 12 July 2012, as such land was the subject of unresolved objections, and
- b) Amend BLEP 2012 in respect to two lots that were incorporated within BLEP 2012 Amendment No 55 but to which objections (confidential) were not considered prior to the land being rezoned.

The location of the Teven Test Case properties is depicted in Figure 1.

The location of the lots that were subject to zone changes without (confidential) objections being considered by the Department of Planning, Housing and Infrastructure (DPHI), and are subject to this PP, are depicted in Figures 2. The objections were not considered as council did not forward the objections to the DPHI.

Figure 1 – Location Diagram Teven Test Case Properties

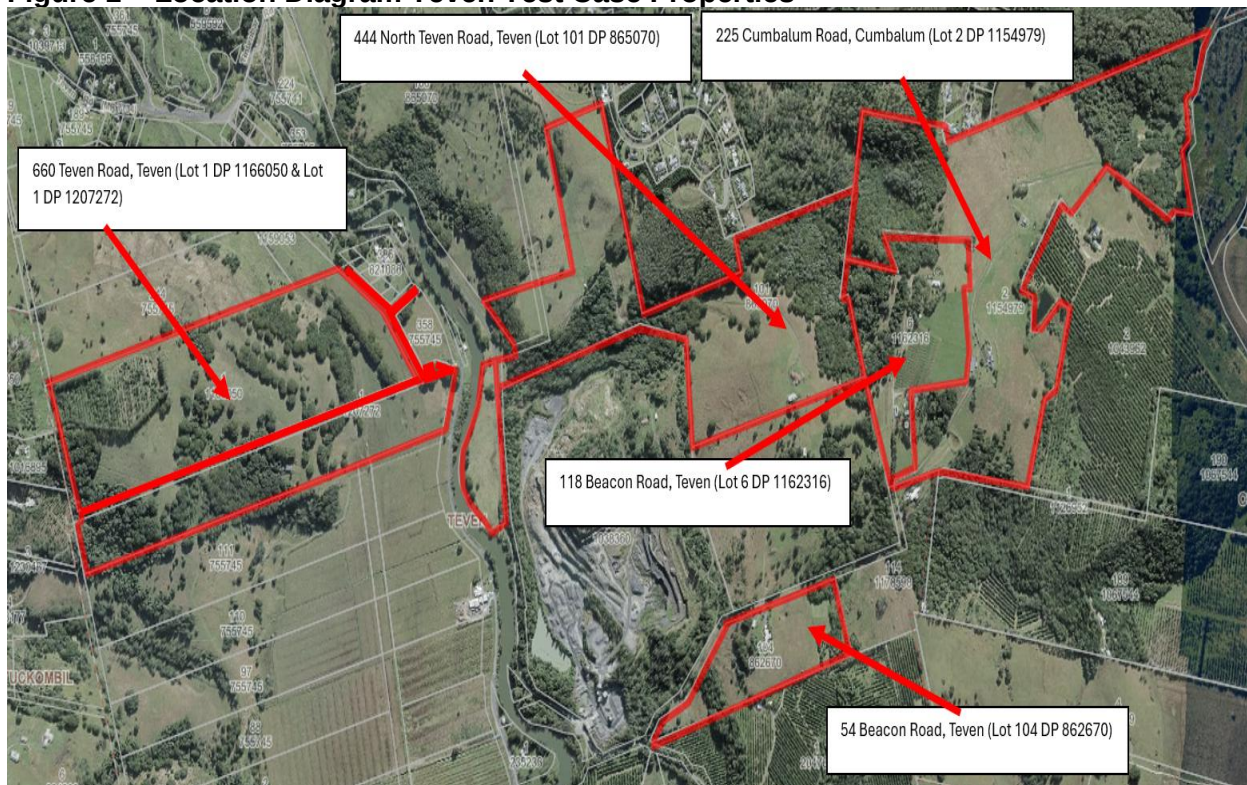
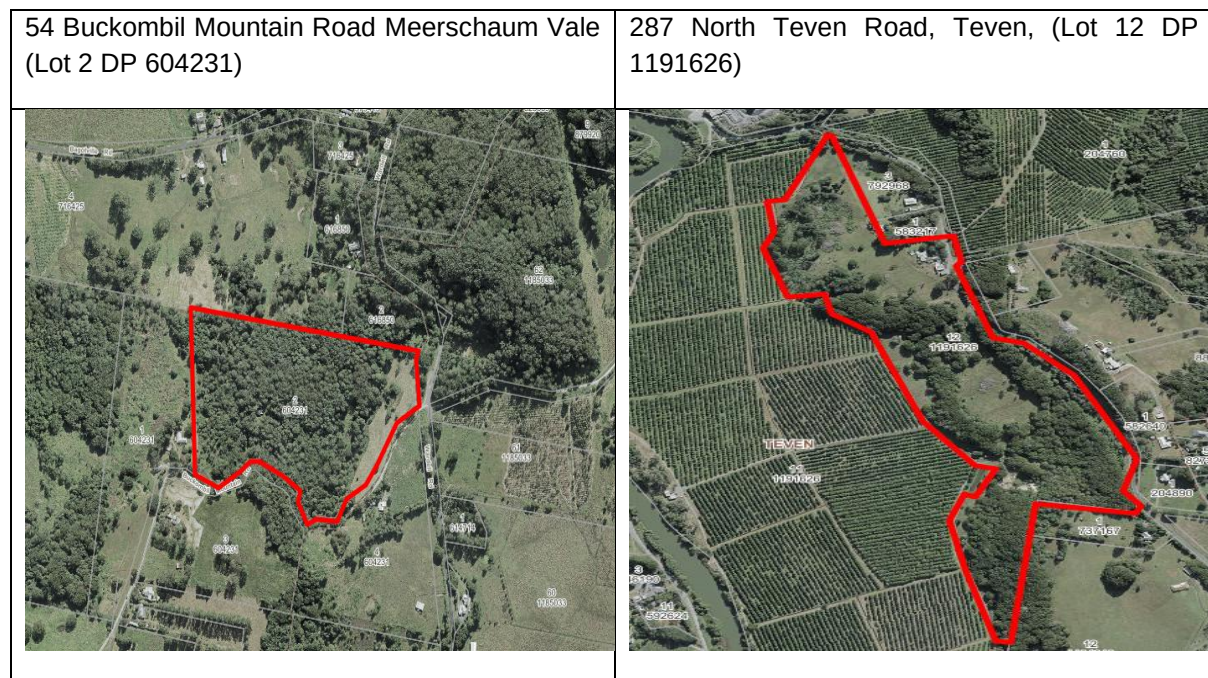


Figure 2 – Location Diagram - land subject to an unconsidered objection



1.2 Background

When BLEP 2012 came into effect in January 2013, it included ‘deferred matters’.

Deferred matter (DM) land is that land that had been proposed for environmental zoning in BLEP 2012 but had been ‘deferred’ from the LEP by the (then) Department of Planning and Infrastructure, pending a review of the application of environmental zones. The land affected instead retained its zoning under BLEP 1987.

The review of environmental zones was completed in 2016 with the publication of the *Northern Councils E Zone Review Final Recommendations Report* (NCEZR) and associated Ministerial Direction. The NCEZR stipulates criteria councils are required to apply when proposing land for an environmental zone.

In April 2017 Council resolved to retain all areas zoned for environmental purposes (7 series zones) under BLEP 1987 as deferred areas. It also resolved to prepare a planning proposal to integrate the remaining deferred matter areas (non 7 series zones) into BLEP 2012 using NCEZR criteria.

In February and March 2023 council publicly exhibited its Conservation Zone Review (deferred matters integration) Planning Proposal (BSCPP21/004).

In September 2023 Council resolved to include environmental zones on private property only where a written request (“opt-in”) from a landholder was submitted to and accepted by Council. Where written consent was not given, the land was instead proposed to be zoned the most appropriate equivalent zone to its current BLEP1987 zone.

The Department of Planning Housing and Infrastructure (DPHI) did not support the “opt-in” approach. Instead, it completed the planning proposal for those lots not subject to objection generally in the manner it had been exhibited by council. This was then published on the NSW Legislation web site on 12 July 2024 as Amendment No. 55 to BLEP 2012.

Amendment No. 55 gave effect to council's exhibited 2023 PP (BSCPP21/004) and rezoned 475 lots. Rezoning these lots to zones, including C2 Environmental Conservation (C2), C3 Environmental Management (C3), RU1 Primary Production (RU1) and RU2 Rural Landscape (RU2), resulted in such lots being integrated into BLEP2012 and no longer being classified as a 'deferred matter'.

Excluded from Amendment No 55 were 257 lots which included those lots the subject of objections. The excluded land includes land owned by the JALI Local Aboriginal Land Council at Wardell, and some government agency, council and privately owned lots.

In July 2024 the DPHI when advising council that Amendment 55 had been made also advised as follows (refer Appendix 4):

It should be noted that a number of sites and part sites proposed for a conservation zoning have been removed from the plan due to an objection from the landowner. These sites will remain zoned Deferred Matter until further investigations and discussions can be undertaken between Council, the landowners, NSW Biodiversity Conservation and Science (BCS) and the Department regarding their environmental significance.

I encourage Council to engage with the affected landowners as a priority and appropriate zonings be applied to their land in accordance with the Northern Council's E Zone Review Final Recommendations Report. I look forward to Council then forwarding a planning proposal for a Gateway determination to rezone the lands in accordance with the outcomes of these investigations.

It is in response to the above comments that this planning proposal has been prepared as it relates to the 5 Teven Test Case properties.

Land the subject of Unconsidered Confidential Objections

In respect to the land the subject of objections not forwarded to the DPHI, Council had initially requested that the zoning of this land be restored to the zones applicable to the land prior to 12 July 2024. That was unless the DPHI was of the view that the zoning as amended is appropriate following consideration of submitted correspondence and the submissions.

Council requested that the zones be restored utilising s3.22(1)(c) of the *Environmental Planning and Assessment Act, 1979*. In respect to this request Council was informed by the DPHI in a letter received on 3 March 2025 (Appendix 4) as follows:

Council's request included five sites where confidential submissions were made to Council objecting to the proposal but were not submitted to the Department for consideration. It was determined that inclusion of these sites in accordance with s3.22(1) (c) EP&A Act do not meet the criteria for this process and warrant compliance with the usual plan making processes. I would encourage Council to work with the landowners to determine whether a planning proposal for the five sites is appropriate and necessary and should be pursued.

Following correspondence being forwarded to the affected landowners, two owners agreed to their properties undergoing further ecological evaluation. These properties known as 54 Buckombil Mountain Road, Meerschaum Vale, and 287 North Teven Road, Teven, have been incorporated within this planning proposal with zone changes proposed following ecological evaluation to ensure compliance with NCEZR.

1.3 Land to which the planning proposal applies

The lots to which this PP applies is shown outlined in red in Figure 1 and 2.

Table 1 details the properties and lots the subject of this PP, the existing and proposed zones for each land parcel and the primary use of the land as determined by Council and the basis of the proposed zone change decision.

Table 1 – Property Information for Lots subject to Planning Proposal

No	Property Details	Lot Area	Existing Zones that this PP proposes to Change	Proposed Zones	Primary Land Use	Basis of Zoning Decision
1	118 Beacon Road, Teven (Lot 6 DP 1162316)	15.25ha	1(b) Rural (Secondary Agriculture) BLEP 1987	RU1 & C3	Agriculture & Environmental Management	Negotiated outcome
2	225 Cumbalum Road, Cumbalum (Lot 2 DP 1154979)	47.74ha	1(b) Rural (Secondary Agriculture) BLEP 1987	RU1 and C3	Agriculture & Environmental Management	Negotiated outcome
3	444 North Teven Road, Teven (Lot 101 DP 865070)	39.98ha	1(b) Rural (Secondary Agriculture) BLEP 1987	RU1 and C3	Agriculture & Environmental Management	Negotiated outcome
4	54 Beacon Road, Teven (Lot 104 DP 862670)	9.885ha	Part 1(b) Rural (Secondary Agriculture) & Part 1(e) Rural (Extractive & Mineral Resources) BLEP 1987	RU1 and C2	Agriculture & Environmental Conservation	Ecological evaluation NCEZR criteria
5	660 Teven Road, Teven (Lot 1 DP 1166050 & Lot 1 DP 1207272)	53.558ha	Part 1(a2) Rural (Coastal Lands Agriculture) & Rural & Part 1(b) Rural (Secondary Agriculture) BLEP 1987	RU1	Agriculture	Ecological evaluation
6	54 Buckombil Mountain Road, Meerscham Vale (Lot 2 DP 604231)	13.49ha	C2 Environmental Conservation, BLEP 2012	Rezone C2 Environmental Conservation zone to part C3 Environmental Management and part RU2 Rural Landscape zone	Environmental Management	Ecological evaluation & negotiated outcome
7	287 North Teven Road, Teven (Lot 12 DP 1191626)	24.86ha	Part C2 Environmental Conservation, & Part RU2 Rural Landscape zone BLEP 2012	RU1 Primary Production	Agriculture	Ecological evaluation

1.4 Council Resolutions

The Council resolved to prepare this PP at its Ordinary Meeting on 28 August 2025 (Minute No 280825/5). At that time the Council resolved as follows:

- 1. That Council adopts the six guiding principles, as detailed in this report, to evaluate the appropriateness of a C zone being applied to privately owned land.*
- 2. That Council adopts the revised primary use of land (PUL), and zone recommendations contained within Table 1 of this report, for the Teven Test Case properties, and prepare a planning proposal on that basis. The planning proposal is to be submitted for a Gateway determination and subsequent public exhibition.*
- 3. That Council adopts the PUL recommendations in this report, in respect to 287 North Teven Road, Teven and 54 Buckombil Mountain Road, Meerschaum Vale and the zoning outcomes shown in Diagrams 10 and 12. These properties to be incorporated in the planning proposal referenced in point 2.*
- 4. That Council further consider the zones applied to the remaining three properties, subject to unconsidered objections, as detailed in this report, if requested to do so by the property owners, at no cost to the owners.*
- 5. That further transitioning of privately owned deferred matter affected properties into Ballina LEP 2012, for zones substantially other than C2, or C3, be the subject of proponent-initiated planning proposals. This includes the payment of Council's fees and charges.*
- 6. That private property owners seeking to transition deferred matter affected properties to be substantially zoned C2, or C3, be exempt from Council's rezoning fees and charges, as the proposals are to be incorporated into a Council prepared planning proposal, on an annual, or as required basis, concurrently with periodic reviews of the LEP.*
- 7. The transition of Council owned deferred matter properties, excluded from Amendment No 55, are to be included in a planning proposal, within the next 12 months.*
- 8. The transition of Government Agency and JALI Local Aboriginal Land Council owned deferred matter properties, excluded from Amendment No 55, are to be considered on an on-request basis.*
- 9. That Council applies a zoning arrangement to 118 Beacon Road, Teven consistent with image 3b in the report.*
- 10. That Council provides vegetation mapping data obtained through the deferred matters program and other initiatives to the NSW State Government to inform future updates to the Biodiversity Values Map.*

A copy of the report considered by the Council forms Appendix 3 of this PP.

1.5 Gateway Determination

A Gateway Determination was issued on 13 October 2025. A copy of the Gateway Determination and associated letter from the DPHI are contained within Appendix 13.

1.6 Deferred Matter Integration Context and Interpretation

The application of conservation zones in Ballina Shire is required to be based on the NSW Department of Planning and Environment's *Northern Councils E Zone Review Final Recommendations Report* (NCEZR) dated October 2015. This report is supported by a section 9.1(2) Ministerial Local Planning Direction (3.4) to ensure the application of C zones and mapped planning controls are consistent with the final recommendations report.

A number of matters relevant to this PP, as detailed in the NCEZR and associated material, require explanation as detailed below.

1.6.1 Primary Use of Land (PUL)

The NCEZR defines primary use of the land as the main use for which the land has been used for the last two years.

Where a C2 or C3 conservation zone is proposed, the primary use of the land is to be considered. The primary use of land concept is not required to be directly applied in cases where zones other than C2 or C3 are proposed.

In making a determination as to the PUL of land affected by this PP council has also considered the following DPHI guidance documents:

Letter from the Planning and Environment Secretary 1 March 2016

This letter is the primary guidance document.

The letter was issued to all Northern Councils affected by the then E zone review process to

“further assist Council when seeking to apply E zones in accordance with the Northern Councils E Zone Review Final Recommendations.”

The letter contains the following relevant statement:

For the avoidance of doubt a reference to 'Primary Use of land' in the context of the Recommendations Report is considered to be:

b) If the main use is for environmental conservation or management, the environmental values of the land and vegetation need to be demonstrated and the absence of any agricultural or other land use confirmed.

Department of Planning and Environment Frequently Asked Questions 'Northern Councils Environmental Zone Review Final Recommendations Report & Section 9.1 Direction July 2023' (FAQ)

The FAQ repeats the advice contained in the 2016 letter from the Planning and Environment Secretary including the requirements to confirm the absence of any agriculture or other land uses.

The PUL for the land the subject of this PP has been determined substantially in accordance with the guidance contained in the NCEZR and the DPHI guidance documents referenced above.

1.6.2 Verification of the C zone criteria

Where this PP proposes to zone land for conservation purposes (C2 or C3) the lands ecological characteristics have been verified by ecologists as meeting the criteria contained within the NCEZR. This has been done through field inspections.

Where land has already been zoned for conservation purposes, and the appropriateness of such zone has been disputed by the landowner, then such land has been evaluated by ecologists for compliance with the NCEZR criteria. This has also been done through field inspections.

Appendixes 5, 6 and 7 contain the expert ecological reports which relate to the land detailed in Table 1.

It is noted that it is not mandatory to apply a C zone if the land has been verified to meet the criteria. Council has accepted a number of negotiated outcomes as provided for in the NCEZR. This has been done in cases where the absence of agriculture could not be definitively established or to achieve consistency with zones on adjoining or nearby land.

Table 1 provides details of the basis of the zoning outcomes proposed by this PP including the land the subject of a negotiated zoning outcomes.

1.6.3 Guiding Principles for application of C zones to privately owned land

Council has adopted the following guiding principles to assist it when negotiating the application of C zones to privately owned land. This has been done based on learnings derived from the 2023 Conservation Zone Review PP (BSCPP21/004), the extensive consultation undertaken with the Teven Test Case landowners and DPHI guidance documents.

1. *Primary Use of Land (PUL).*

PUL to be assessed based on the characteristics of each lot, including recognition that different parts of a property may have different characteristics and primary land uses. This allows for different zones be applied based on specific features and uses.

2. *Minimum Land Area for C Zone.*

The minimum land area for the application of a C2 or C3 zone should not be less than 0.5ha, unless the land has been ecologically assessed as having rare characteristics.

The minimum land area may be calculated by including adjoining land (common boundary) having similar ecological characteristics.

3. *C2 – Environmental Conservation Zone.*

A C2 zone be applied to land with a PUL of environmental conservation. This is land that contains native vegetation which meet the criteria for a C2 zone as specified in the NCEZR.

In these areas natural ecological processes predominate and require minimal intervention in terms of weed control, active planting, or other vegetation management activities.

These areas are characterised by the absence of agriculture.

4. *C3 – Environmental Management Zone.*

A C3 zone be applied to land that has a PUL of environmental management. This is land that contains native vegetation which meet the criteria for a C3 zone as specified in the NCEZR.

In these areas ongoing intervention is required through weed control, active planting, or other vegetation management activities to maintain natural ecological processes.

In these areas agricultural activities are generally absent or if present are not dominant.

5. *Rural Zones.*

Rural zones be applied to land with a PUL of agriculture. These are areas where agricultural activities including cropping, horticulture, and pasture management dominate.

Such land may also include areas substantially degraded (>50%) through weed species such as camphor laurel or privet.

6. *Application.*

Unless otherwise agreed by the landowner, C2 or C3 zones only be applied to land in accordance with the guiding principles and as specified in the NCEZR.

2. Objectives & Intended Outcomes

The objective of this planning proposal is to:

a) Transition land contained on 5 properties (Teven Test Case Properties) from BLEP 1987 into BLEP 2012. This land is designated as a DM (*deferred matter*) within BLEP 2012.

It is intended to achieve this objective through the following means:

- Apply a C2 zone to land identified as meeting the criteria set out under the NCEZR and where the PUL has been determined to be conservation.
- Apply a C3 zone to land identified as meeting the criteria set out under the NCEZR and where the PUL has been determined to be environmental management.
- Apply an RU1 zone to other land that does not meet the criteria for application of environmental protection zones as set out under the NCEZR or where the application of such zone is based on a negotiated development outcome.
- Apply the following consequential development standard mapping to the subject land: Height of Buildings (8.5m); Lot Size (40ha); Acid Sulfate Soil designation (where applicable).
- Adjust the Land Application Map to incorporate the land within BLEP 2012.

b) Amend BLEP 2012 in respect to the land zones applicable to two properties which were incorporated within BLEP 2012 Amendment No 55, but in respect to which objections (confidential) were not considered prior to the land being rezoned.

It is intended to achieve this objective through the following means:

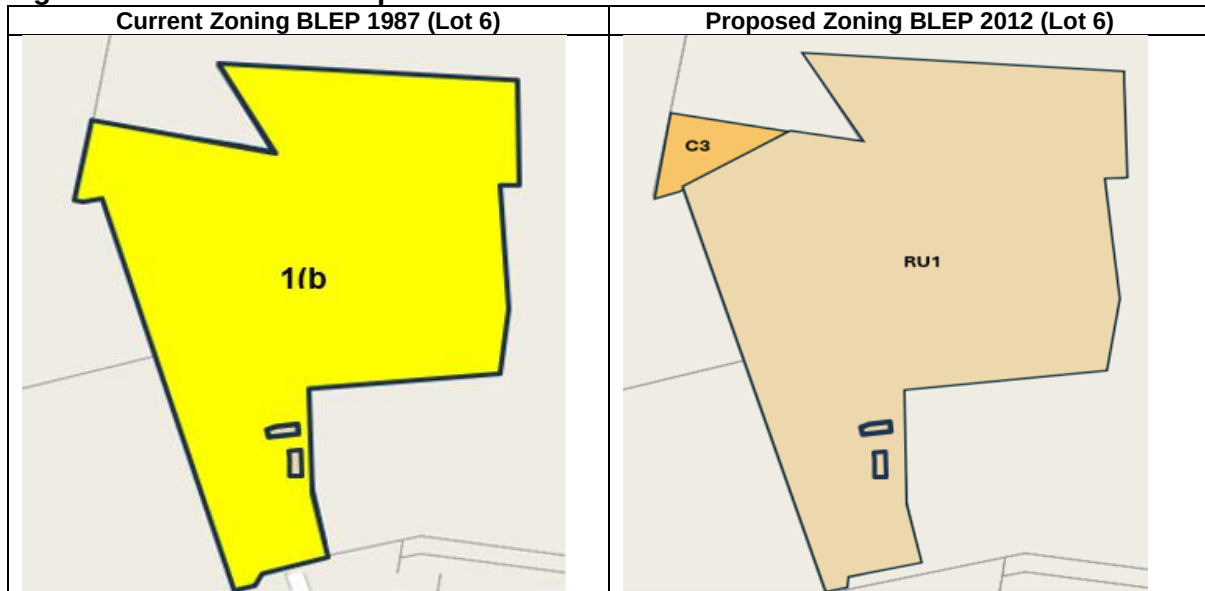
- Apply a C3 zone to part of the land known as 54 Buckombil Mountain Road, Meerschaum Vale (Lot 2 DP 604231). Being land identified as meeting the criteria set out under the NCEZR and where the PUL has been determined to be conservation management. Instead of the C2 zone currently applicable to part of that land.
- Apply an RU2 Rural Landscape zone to that part of 54 Buckombil Mountain Road Meerschaum Vale (Lot 2 DP 604231) within the curtilage of a dwelling house, and generally over the associated bushfire asset protection zones (APZs) and accessway area.
- Apply an RU1 zone to 287 North Teven Road, Teven, (Lot 12 DP 1191626) instead of the C2 and RU2 zones currently applicable to part of that land.

The following map snips show how each of the properties referenced in Table 1 is currently zoned and the zone changes proposed by this PP.

Part A – Teven Test Case Properties

118 Beacon Road, Teven (Lot 6 DP 1162316) (Lot 6)

Figure 3 – Current and Proposed Zones Lot 6



Lot 6 has an area of 15.25ha.

[Surrounded by lot 6 at its southern end are two small lots (Lot 5 DP 1162316 – 51.75m² and Lot 4 DP 1154979 – 88m²) These lots were created in 2010 and 2011 and contain telecommunications infrastructure. Lots 4 & 5 were incorporated within BLEP2012 Amendment 55 and zoned RU1.]

Lot 6 has been the subject of an ecological evaluation and site visit (Refer Appendix 5).

That part of Lot 6 proposed to be zoned C3 is located within an area that contains wet sclerophyll forest. In this area canopy trees included Brushbox (*Lophostemon confertus* and Tallowwood (*Eucalyptus microcorys*) with a rainforest midstorey and understorey are located. Lowland Subtropical Rainforest meets the criteria for a C zone under the criteria of the NCEZR report.

A site inspection has confirmed that agriculture is taking place across the majority of Lot 6. Agricultural activities include grazing (beef cattle) custard apple and fig orchards as well as *Syntropic* agriculture. *Syntropic* agriculture is confined to steeper sections of this property.

As part of a negotiated outcome the property owner has agreed to a C3 zone being applied to part of Lot 6 in the far northwestern corner. This area has been assigned a PUL of environmental management. The PUL for the remainder of Lot 6 has been accepted by the Council to be agriculture.

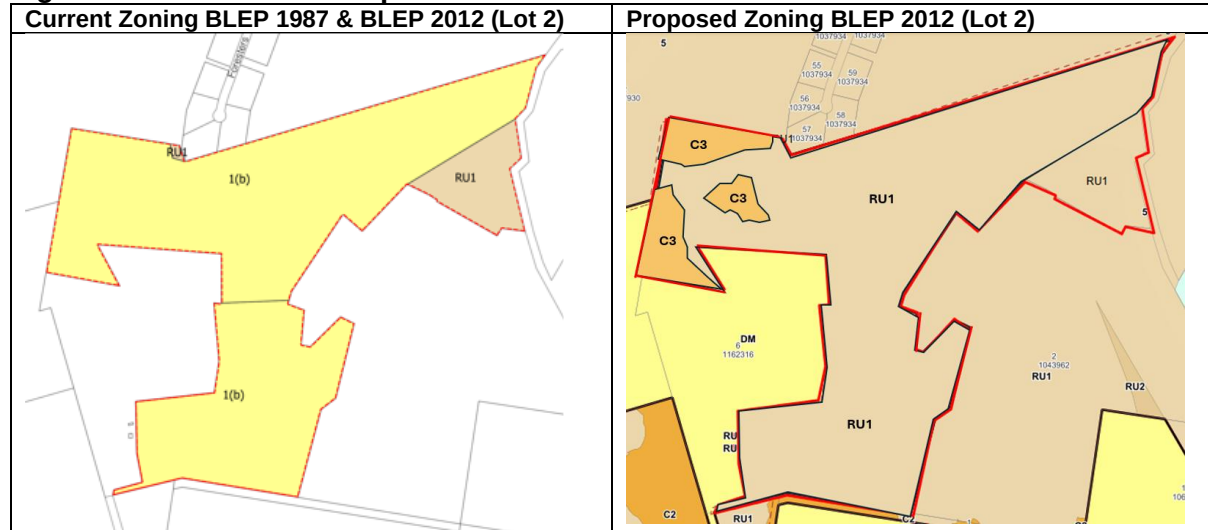
The proposed C3 zone occupies an area of approximately 0.6ha. The remainder of Lot 6 is proposed to be zoned RU1 under the provisions of BLEP 2012.

It is also proposed to apply a minimum lot size of 40ha and a maximum building height of 8.5 metres to Lot 6. This will be done through incorporation of Lot 6 within the BLEP 2012 Lot

Size Map and the Height of Buildings Map. Lot 6 will also be incorporated into the BLEP 2012 Land Application Map.

225 Cumbalum Road, Cumbalum (Lot 2 DP 1154979) (Lot 2)

Figure 4 – Current and Proposed Zones Lot 2



Lot 2 has an area of 47.74ha of which approximately 44ha is zoned Rural 1(b) Secondary Agriculture (BLEP 1987) and the remaining 3.74ha being zoned RU1 (BLEP 2012).

This PP only related to that part of Lot 2 zoned under the provisions of BLEP1987. It is proposed to rezone approximately 4.1ha of Lot 2 to C3 with a RU1 zone being applied to the remaining 39.9ha.

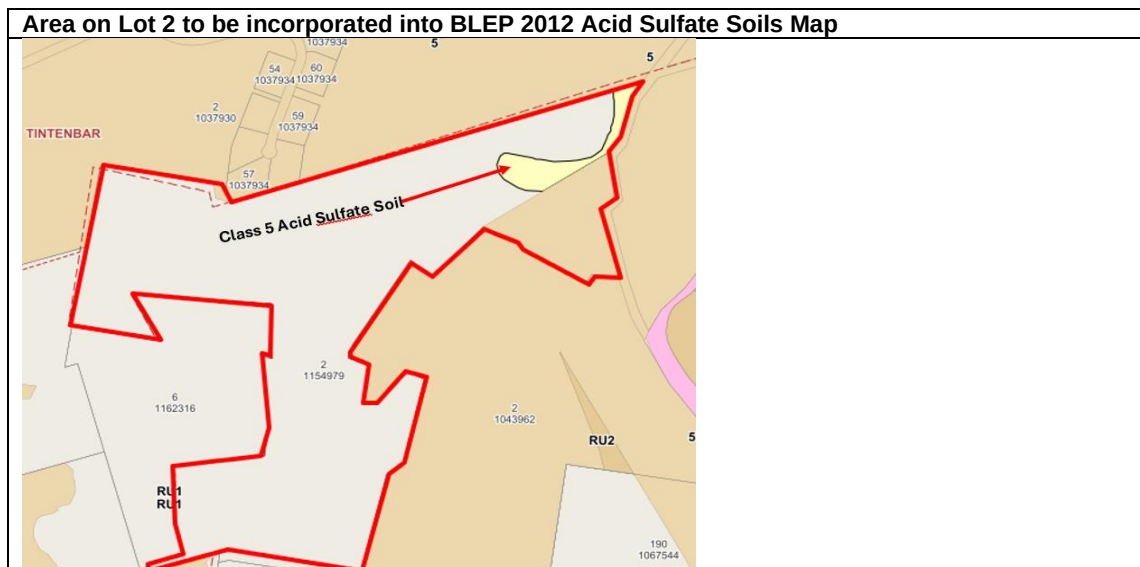
The proposed C3 zoned areas have been subject to an ecological evaluation (refer Appendix 5) and site visit. The evaluation has found that the vegetation consists of wet sclerophyll forest. It is dominated by Brushbox, and including some areas containing Tallwood. Rainforest species are located in the midstorey and understorey. The ecological evaluation has concluded that the vegetation is of high environmental value. The vegetation communities within the proposed C3 zone meets the criteria for a C3 zone as specified in the NCEZR report.

The vegetated areas on Lot 2 are not fenced to exclude stock and consequently their use for understorey grazing cannot be excluded. For this reason, a negotiated solution has been agreed with the property owners which provides for a C3 zone being applied to the 3 areas the subject of this PP and an RU1 zone for the remainder of the DM area on Lot 2. A PUL of environmental management has been assigned to the proposed C3 areas.

It is also proposed to apply a minimum lot size of 40ha and a maximum building height of 8.5 metres to the proposed rezoned areas on Lot 2 (C3 and RU1). This will be done through incorporation of these areas within the BLEP 2012 Lot Size Map and the Height of Buildings Map.

A small portion of Lot 2 is affected by Class 5 Acid Sulfate Soils which will require this area to be incorporated within the BLEP 2012 Acid Sulfate Soils Map as indicated in the map snip contained in Figure 5 below.

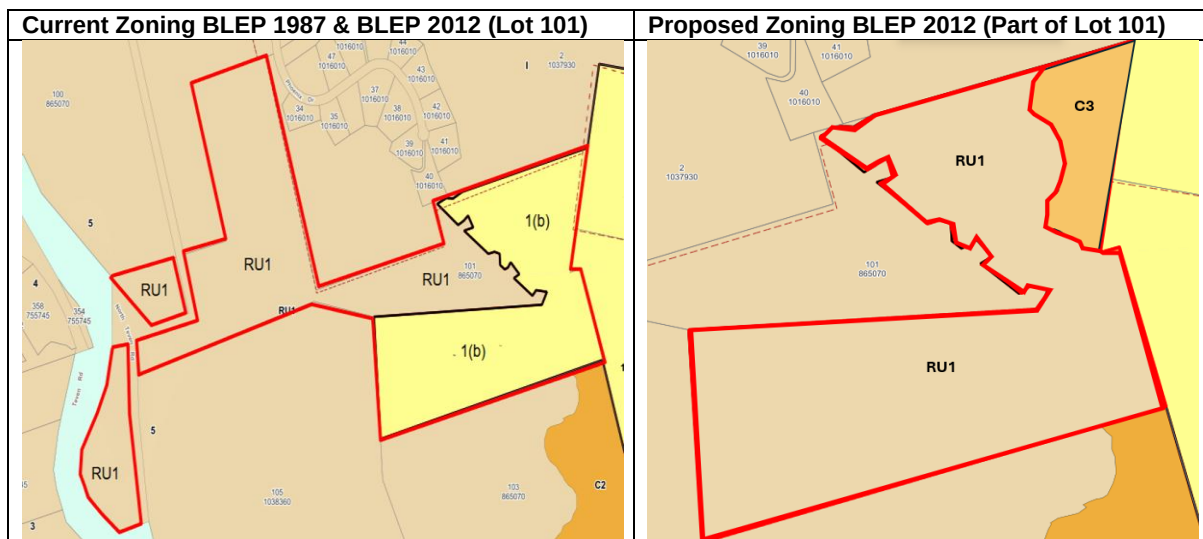
Figure 5 – Area (yellow) to be incorporated into BLEP 2012 Acid Sulfate Soils Map



The whole of Lot 2 will also be incorporated into the BLEP 2012 Land Application Map.

444 North Teven Road, Teven (Lot 101 DP 865070) (Lot 101)

Figure 6 - Current and Proposed Zones Lot 101



Lot 101 has an area of 39.98ha of which approximately 23ha (57.5%) is zoned RU1 (BLEP 2012) and the remaining 17ha (42.5%) is zoned Rural 1(b) Secondary Agriculture (BLEP 1987).

This PP only related to that part of Lot 101 zoned under the provisions of BLEP1987. It is proposed to rezone approximately 1.8ha of Lot 101 to C3 with a RU1 zone being applied to the remaining 15.2ha under the provisions of BLEP 2012.

Lot 101 has been the subject of an ecological evaluation and site visit (refer Appendix 5). The ecologists have identified the vegetation within the proposed C3 zone to be wet sclerophyll forest communities. The mid and understorey containing rainforest species. The vegetation communities within the proposed C3 zone meet the criteria for a C3 zone as specified in the NCEZR report. The vegetation within the proposed C3 zone is of good quality, blends into similar vegetation communities on adjoining land, and contains a low density of weed species.

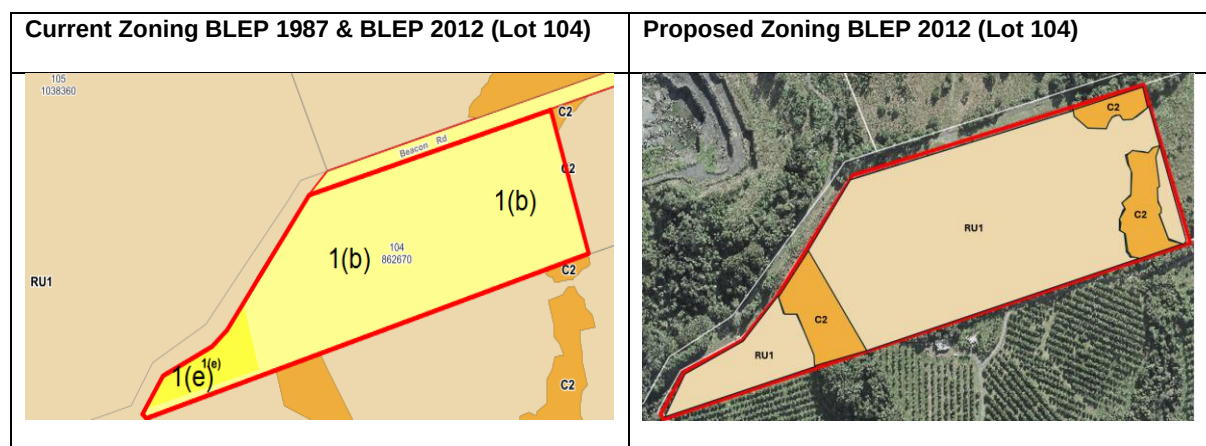
The proposed C3 zone is located to the northeast of an existing access track and is fenced to exclude stock. This land is steep in nature and formed a part of a previous historic banana plantation use. Land to the southwest of the proposed C3 zone has similar ecological characteristics but has not been fenced to exclude stock and is subject to occasional understorey grazing. It is for this reason that an RU1 zone is proposed to be applied to this land as well as to land containing a high density of weed species (privet and camphor laurel).

The landowner supports the application of a C3 zone to part of Lot 101 and an RU1 zone to the remainder of the DM land as a negotiated outcome.

It is also proposed to apply a minimum lot size of 40ha and a maximum building height of 8.5 metres to those parts of Lot 101 affected by this PP. This will be done through incorporation of the rezoned sections of Lot 101 within the BLEP 2012 Lot Size Map and the Height of Buildings Map. Lot 101 will also be incorporated into the BLEP 2012 Land Application Map.

54 Beacon Road, Teven (Lot 104 DP 862670) (Lot 104)

Figure 7 - Current and Proposed Zones Lot 104



Lot 104 has an area of 9.8850ha.

Lot 104 is zoned partly Rural 1(b) Secondary Agricultural (9.1ha) and partly Rural 1(e) Extractive and Mineral Resources (0.8ha) under the provisions of LEP1987.

It is proposed to rezone Lot 104 to part C2 and part RU1 under the provisions of BLEP 2012 as shown in Figure 7. The proposed C2 zone occupies an area of approximately 1.4ha.

Council has applied a PUL of environmental conservation to the proposed C2 zoned areas and a PUL of agriculture to the proposed RU1 zoned areas.

Lot 104 has been the subject of an ecological evaluation (Annexure 5) and site visit. This found that the 3 proposed C2 zoned areas contain vegetation classified as *Native vegetation in over-cleared Mitchell landscapes - Rainforest*. This is a key threatened species habitat and meets the criteria for a C2 zone in the NCEZR. The ecologists found that the proposed C2 areas contained vegetation in good to very good condition with few weeds.

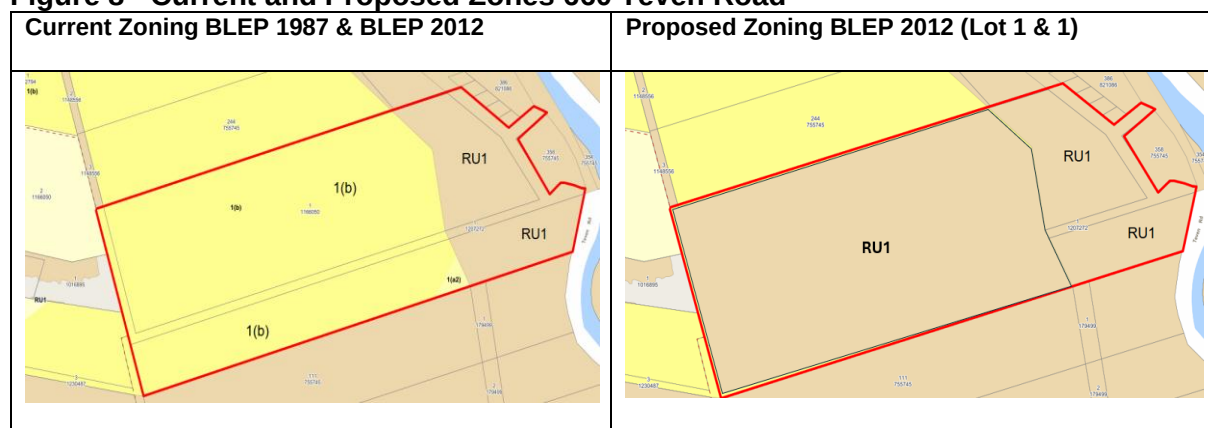
It is noted that the vegetation within the proposed C2 zoned areas was substantially planted by a previous owner in 2011 utilising in part a Local Land Services grant. The 5 year maintenance obligation under that grant have been completed.

The current landowner has indicated objection to the proposed C2 zone. This owner acquired Lot 104 in April 2025. The previous landowner actively maintained and replanted the areas proposed to be zoned C2. This owner also raised objection to the proposed C2 zone.

It is also proposed to apply a minimum lot size of 40ha and a maximum building height of 8.5 metres to Lot 104. This will be done through incorporation of Lot 104 within the BLEP 2012 Lot Size Map and the Height of Buildings Map. Lot 104 will also be incorporated into the BLEP 2012 Land Application Map.

660 Teven Road, Teven (Lot 1 DP 1166050 & Lot 1 DP 1207272)

Figure 8 - Current and Proposed Zones 660 Teven Road



This property consists of two lots – Lot 1 DP 1166050, and Lot 1 DP1207272 a closed road. The DM sections of this property are zoned partly 1(b) Rural (Secondary Agricultural Land) and partly 1(a2) Rural (Coastal Lands Agriculture) under the provisions of BLEP1987. The non deferred matter sections of this property are zoned RU1 under the provisions of BLEP 2012.

Lot 1 & 1 have been the subject of an ecological evaluation and a site visit by ecologists (refer Appendix 5)

Cattle access all the DM sections of this property. A range of farm infrastructure is also located within the DM area. This includes farm sheds, fences, and water tanks. Powerlines run along the southern boundary with the vegetation below managed by Essential Energy. An orchard is located in the northwestern corner (area of approx. 5ha).

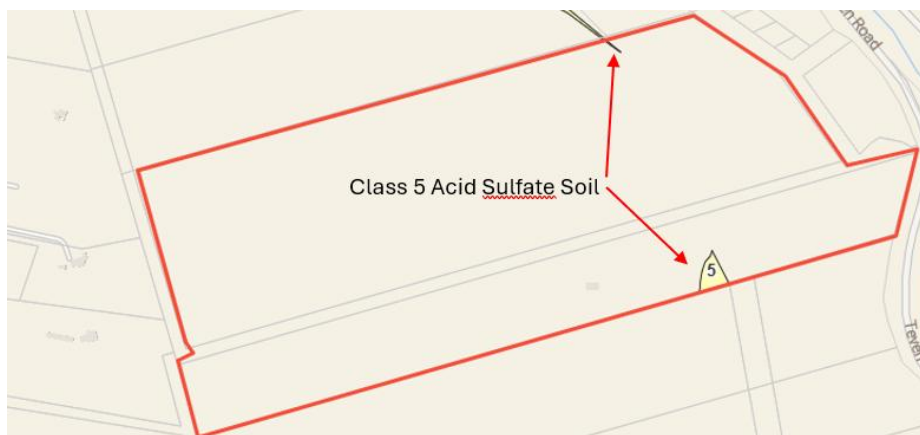
Due to the degraded condition of the vegetation and the grazing of cattle in all areas, a PUL of Agriculture has been assigned to all the DM sections of this property. The ecologist

concluded that none of the vegetation observed meets the criteria for a C2 or C3 zone because of the dominance of weeds species.

An RU1 zone is proposed to be applied to all of the DM sections of this property. The landowner supports the proposed RU1 zone.

It is also proposed to apply a minimum lot size of 40ha and a maximum building height of 8.5 metres to the areas proposed to be zoned RU1. This will be done through incorporation of the lots within the BLEP 2012 Lot Size Map and the Height of Buildings Map. The lots will also be incorporated into the BLEP 2012 Land Application Map.

A small portion of Lot 1 is affected by Class 5 Acid Sulfate Soils which will also require this area to be incorporated within the BLEP 2012 Acid Sulfate Soils Map as indicated in the map snip below.



Part B – Properties Subject to Unconsidered Objections (Amendment No 55 BLEP 2012)

54 Buckombil Mountain Road, Meerscham Vale (Lot 2 DP 604231) (Lot 2)

Lot 2 has an area of 13.49ha. It is zoned part RU1 Primary Production, Part RU2 Rural Landscape and part C2 Environmental Conservation under the provisions of BLEP 2012.

The C2 zone occupies an approximate area of 10.5ha or 78% of the area of Lot 2.

Prior to the making of BLEP 2012 Amendment No 55 the C2 zoned part of Lot 2 was zoned 1(b) Rural (Secondary Agricultural Land) under the provisions of BLEP 1987.

Figure 9 below shows the manner in which Lot 2 was zoned prior to Amendment No 55 to BLEP 2012.

Figure 9 - Land zoning Lot 2 prior to Amendment No 55 BLEP 2012

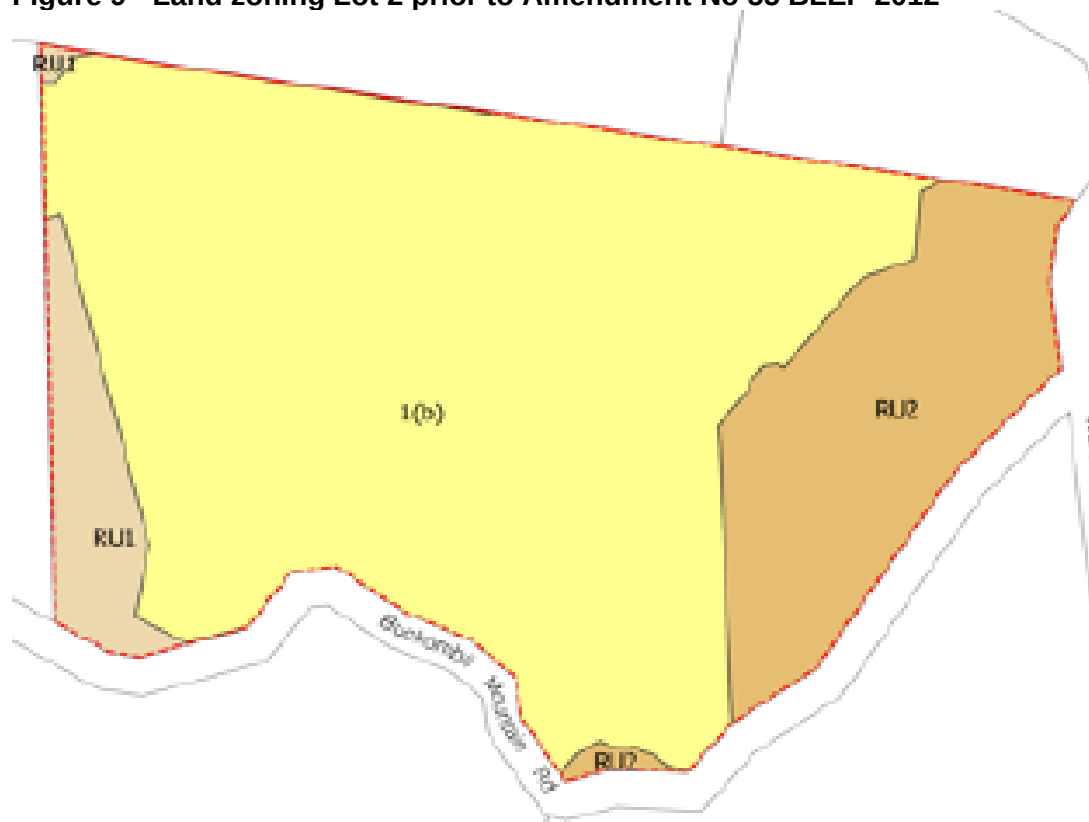


Figure 10 below shows how Lot 2 is currently zoned, and the zones proposed to be applied by this planning proposal.

Figure 10 - Current and Proposed Zones Lot 2

Current Zoning BLEP 2012 (Lot 2)	Proposed Zoning BLEP 2012 (Lot 2)

The landowner had lodged an objection to the proposed C2 zone during the period that the 2023 Conservation Zone Review PP was on public exhibition. An administrative error resulted in objections, which landowners had requested to be treated on a confidential basis, not being forwarded to the DPHI. This resulted in the 1(b) zoned land on Lot 2 being rezoned to C2 as part of Amendment No 55 to BLEP 2012 on 12 July 2024.

The landowners 2023 objection was based on financial impact, cleared land being designated for C2 zoning, loss of development opportunities for dual occupancy and cabins, and ongoing need to manage existing Asset Protection Zones (APZs).

All objections received by Council were independently evaluated by Gyde Consulting in 2023. The DPHI funded the work undertaken by Gyde Consulting. The evaluation of the landowner's submission recommended ground truthing to verify vegetation type, checking of cadastral alignment of zone boundaries and application of an RU2 zone to the areas occupied by the dwelling and APZs.

A copy of the Gyde Consulting evaluation is contained in Appendix 8.

Lot 2 has been the subject of ecological evaluation and ground truthing in June 2025 (Appendix 7). This found that vegetation on the property is predominantly Northern Brush Box Subtropical Wet Forest with rainforest regrowth present in gullies. This vegetation type is considered to meet the criteria for a C2 zone as it contains threatened species habitat.

Lot 2 is wholly located within a Koala Planning Area. The area subject to the C2 zone is mapped as Core Koala Habitat – Secondary Areas B and C. These areas, except for the area occupied by the dwelling, are also reflected in the NSW 2022 Biodiversity Values Map and designated as Core Habitat within an approved Koala Plan of Management.

The ecologist found no evidence of koala activity or old growth forest trees on this property at the time of inspection.

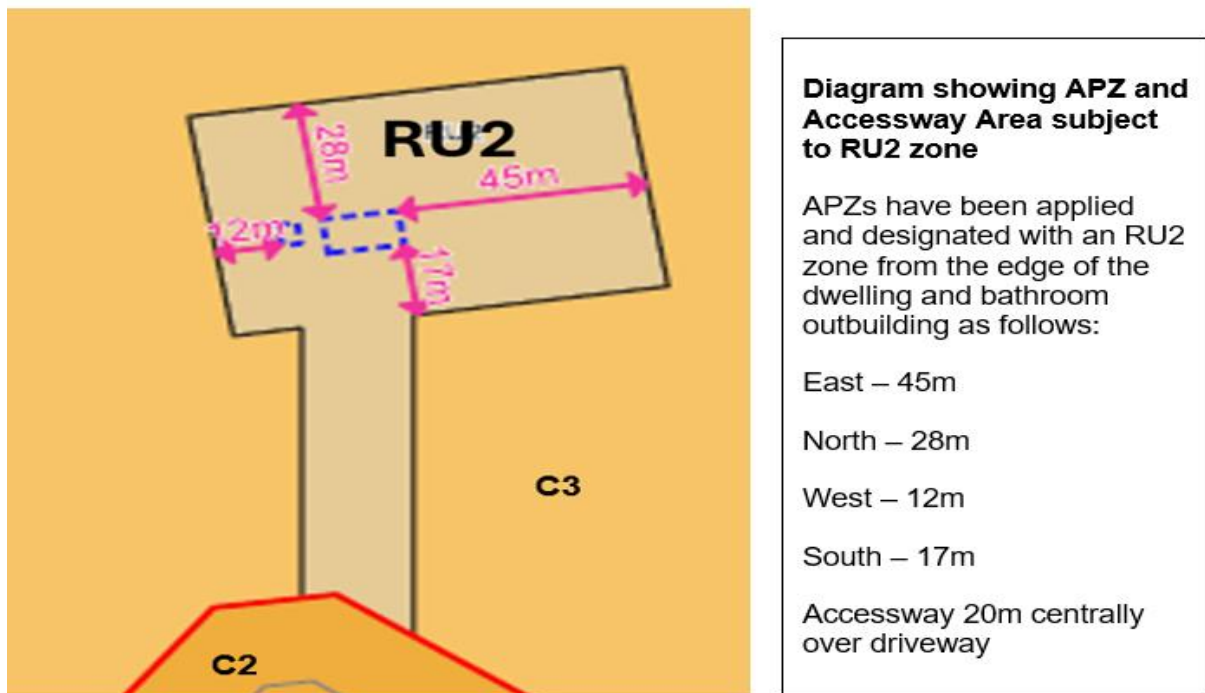
The ecologist recommended that the area of the driveway, house and APZs be excised from the conservation zone and zoned rural, and the C2 zone be changed to C3. The application of a C3 zone was partly influenced by the C3 zoning of a neighbouring property (Lot 62 DP 1185033 owned by Transport for NSW). This adjoining property contains the same vegetation community as on Lot 2 and is zoned C3.

The landowner has over a 25-year period engaged in active vegetation management activities on Lot 2. This includes weed control, replanting activities and maintenance of APZs. The overall good condition of vegetation on lot 2, and the low level of invasive weed species, are attributed to the landowner's activities. These factors also support a PUL of environmental management and a C3 zone being applied to that part of Lot 2 currently zoned C2.

Council at its meeting on 28 August 2025 endorsed the PUL of environmental management and C3 zone being applied to part of Lot 2.

Figure 11 below shows the proposed RU2 zone as agreed with the landowner in the area affected by APZs and located centrally over the driveway. The APZ has been increased from the required 30 metres on the eastern side as specified in Development Consent 2009/284 to 45 metres. This has been done at the request of the landowner and in accordance with the landowners 2009 Bush Fire Assessment Report.

Figure 11 – Proposed RU2 zone over APZs and Accessway



287 North Teven Road, Teven (Lot 12 DP 1191626) (Lot 12)

Lot 12 has an area of 24.86ha and is zoned partly RU1 Primary Production, RU2 Rural Landscape and C2 Environmental Conservation under BLEP 2012.

Prior to Amendment No 55 the deferred matter section of Lot 12 was zoned part 1(a1) Rural (Plateau Lands Agriculture) and partly 1(b) Rural (Secondary Agricultural Land) under the provisions of BLEP1987. An RU1 Primary Production zone applied to the non-deferred matter area. Refer diagram below of land zones that applied to Lot 12 prior to Amendment No55 to BLEP2012.

Figure 12 – Land zoning Lot 12 prior to Amendment No 55 BLEP 2012

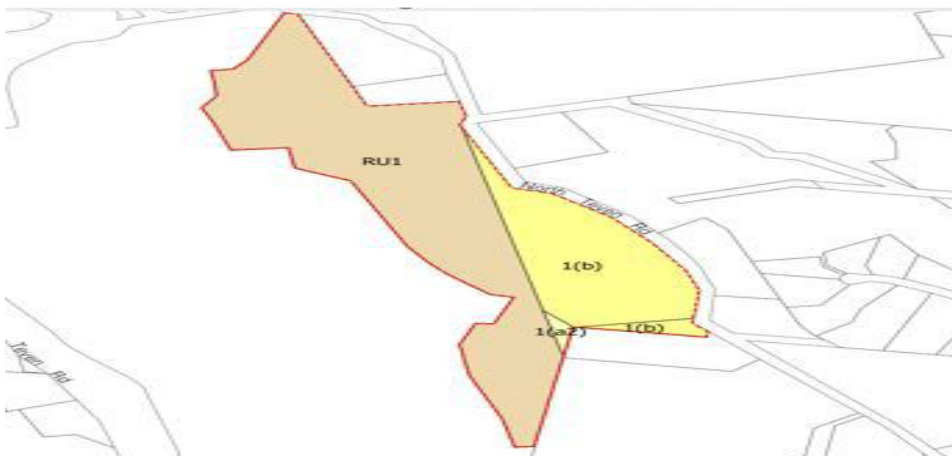
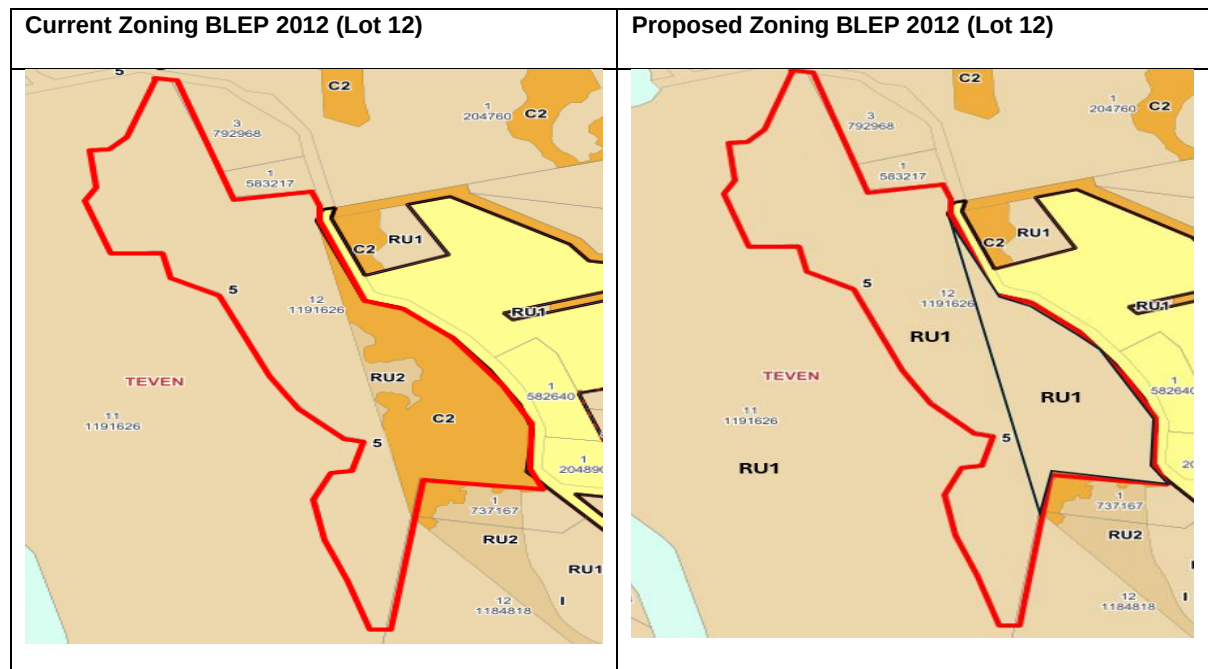


Figure 13 below shows how Lot 12 is currently zoned, and the zones proposed to be applied by this planning proposal.

Figure 13 - Current and Proposed Zones Lot 12



The C2 zone occupies approximately 7.2ha or 29% of the area of Lot 12.

The landowner objected to the 2023 Conservation Zone Review PP based on mapping inaccuracies, revegetation by owner of proposed C2 areas, and claimed PUL of farming and grazing.

The Gyde Consulting 2023 evaluation of the landowner's submission recommended correction of cadastral misalignment before fixing zone boundaries, undertaking of ground truthing to confirm PUL and vegetation type, amending the RU2 zone to an RU1 zone, and removal of the C2 zone from cleared areas.

A copy of the Gyde Consulting evaluation is contained in Appendix 9.

Lot 12 was subject to ecological evaluation and ground truthing in May 2025 (Appendix 6)

The ecological evaluation of the vegetation on Lot 12 found no Threatened Ecological Communities (TECs) or threatened species. The ecologist concluded that none of the vegetation observed meets the criteria for a C2 or C3 zone because of the dominance of weed species, especially the Camphor laurel dominated canopy. It was the view of the ecologists that the area rezoned to C2 in 2024 was best suited to a rural zone.

Cattle grazing was observed within the area zoned C2 and this supports a PUL of agriculture for this land. Cattle have free access throughout the existing C2 zoned area.

The Council considered the ecological evaluation of part of Lot 12 at its meeting on 28 August 2025 and endorsed a PUL of Agriculture being applied to the C2 zoned part of this lot. Also endorsed was an RU1 zone being applied to both the current C2 zoned area as well

as a small section of RU2 zoned land. This was done to achieve zone consistency across Lot 12.

3. Explanation of Provisions

Mapping only changes are proposed by this PP.

3.1 Teven Test Case Zone Determination

The determination of zones to be applied to deferred matter zoned land within the Teven Test Case properties is based on the methodology contained within the NCEZR, the associated s.9.1 Ministerial Local Planning Direction under the *Environmental Planning and Assessment Act 1979* and the DPHI guidance information listed below and contained in Appendix 10:

Letter from the Planning and Environment Secretary 1 March 2016 to Ballina Shire Council, and

Department of Planning and Environment Frequently Asked Questions 'Northern Councils Environmental Zone Review Final Recommendations Report & Section 9.1 Direction July 2023' (FAQ)

The methodology requires consideration of the vegetation type on each property, determination of the primary use of land (PUL), and a determination related to the absence of agriculture within areas that would otherwise meet the criteria for a conservation zone.

The NCEZR methodology also provides for negotiated development outcomes to determine the application of a conservation zone on land that may otherwise be inconsistent with the criteria.

In a number of cases, refer Table 1, a negotiated outcome has been applied. This occurred where land, whilst meeting the NCEZR criteria for a C zone, was also claimed by the landowners to be utilised for an agricultural activity. In such cases where the absence of an agricultural activity could not be confirmed, a negotiation with landowners was undertaken. This process resulted in alternative outcomes to that recommended in the ecological assessments.

Primary Use of Land

The NCEZR defines the PUL as the main use for which the land has been used for the last two years.

Verification of site attributes that meet the C2 or C3 criteria and determination of the PUL, as well as subsequent rezoning recommendations for the test case properties, was undertaken through a process which involved:

- Inspection and ground truthing of vegetation types by specialist ecologist (Earthscapes Consulting Pty Ltd). Refer to the reports contained within Appendix 5 to 7.
- Inspection of properties by a strategic planner and conversations with property owners.
- Consideration of landowner submissions, ecologists' reports and the framework of the Guiding Principles (see s1.6.3 of this PP) by the Council.

Land proposed for C2 or C3 zoning was assigned a PUL in accordance with the categories set out in Table 2.

Table 2: PUL categories for the purpose of determining Zones

PUL category	Attributes
Environmental	- Vegetation type determined to meet criteria for C zone if consistent with vegetation types nominated in Tables 1 and 2 of the NCEZR. - Condition of vegetation and extent of weed species infiltration. - Areas subject to active revegetation works, habitat remediation or assisted natural regeneration.
Agriculture	- Areas where agricultural activities including cropping, horticulture, pasture management, grazing or other forms of agriculture predominate. - Other cleared areas used on a rotational or occasional basis for cropping or grazing which are integral to the broader farm management. - Areas which support agricultural activities including water shed areas for dams, and animal shelter areas including paddock trees.

3.3 Application of zones and other mapped planning development standards

3.3.1 Application of Rural Zones

In cases where the PUL has been determined to be agriculture it is proposed to transition this land into a rural zone in BLEP 2012. The BLEP 2012 contains two rural zones applicable to land used for agricultural purposes.

An overview of the two rural zones is provided below.

RU1 Primary Production zone

The RU1 Primary Production zone provides for the identification and management of land suitable for most kinds of primary production. It is suitable for application to rural land that supports a variety of agricultural activity including extensive agriculture, horticulture and intensive livestock agriculture. This land is designated as *State or Regionally Significant Farmland* on the *Northern Rivers Farmland Protection Project, Final Map 2005*.

RU2 Rural Landscape zone

The RU2 Rural Landscape zone provides for the management of rural land that has landscape values or that is identified as having some agricultural limitations. It is suitable for application to rural areas not identified for inclusion in the RU1 zone or a conservation zone. This land may be designated as *Regionally Significant* or *Other Farmland* on the *Northern Rivers Farmland Protection Project, Final Map 2005*.

When applying a rural zone the overriding consideration was to ensure that isolated or fragmented RU1 or RU2 zoned areas did not result. To avoid zone fragmentation rural zones were generally applied to ensure consistency with the adjoining or nearby existing rural zone.

3.3.2 Lot Size

This PP proposes to apply a minimum lot size of 40 hectares to land proposed to be zoned C2 Environmental Conservation, C3 Environmental Management, RU1 Primary Production

and RU2 Rural Landscape zone. This will require amendments to the applicable BLEP 2012 Lot Size Map (LSZ).

3.3.3 Height of Buildings

It is proposed to apply a maximum building height of 8.5 metres to land zoned C2 Environmental Conservation, C3 Environmental Management, RU1 Primary Production and RU2 Rural Landscape zone. This will require amendments to the applicable BLEP 2012 Height of Buildings Map (HOB).

3.3.3 Acid Sulfate Soils

It is proposed to show land affected by acid sulfate soils on the BLEP 2012 Acid Sulfate Soils Map (ASS). Part of the DM areas on 225 Cumbalum Road, Cumbalum (Lot 2 DP 1154979), and also 660 Teven Road, Teven (Lot 1 DP 1166050 & Lot 1 DP 1207272) is affected by Class 5 Acid Sulfate Soils.

3.3.4 Land Application Map

Integration of DM areas in BLEP 2012 will require amendment of the Land Application Map (LAP).

3.3 Redetermination of Zones on Land Subject to Unconsidered 2023 Objections

The following methodology has been applied to the consideration of the zoning outcomes associated with BLEP 2012 Amendment No 55 on land subsequently identified as the subject of an unconsidered objection:

- Consideration of the objection as submitted,
- Consideration of Cyde Consulting objection evaluation,
- Consideration of ecological evaluation and ground truthing report,
- Determination by the Council of the PUL and proposed zoning.

Only changes to the BLEP Land Zoning Map are proposed to land within this category.

4. Justification

4.1 Section A – Need for the Planning Proposal

Q1 Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?

Yes, the Northern Councils E Zone Review Final Recommendations Report (*NCEZR*) published by the Department of Planning and Environment in October 2015. This report outlines the criteria for the application of conservation zones (“C” zones) to DM areas.

Q2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. A planning proposal is the appropriate and only mechanism available to council to integrate DM areas into BLEP 2012, and to achieve a zone change on land already zoned under the provisions of BLEP 2012.

4.2 Section B – Relationship to Strategic Planning Framework

Q3 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 planning proposal demonstrates strategic merit through its consistency with the goals and objectives detailed in the North Coast Regional Plan 2041. Specifically, it is consistent with *Objective 2: Protect regional biodiversity and areas of high environmental value*.

Q4 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?

Ballina Shire Local Strategic Planning Statement 2020 – 2040 (LSPS)

The planning proposal is consistent with a key theme within the LSPS of Healthy Environment and is consistent with the following planning priority and action:

Planning Priority 13: Ensure that the biodiversity values of the Shire are identified and where required protection strategies are implemented.

Ballina Shire Community Strategic Plan 2025 – 2035 (CSP)

The planning proposal is considered to be consistent with the key community priority – *protect the environment and live sustainably*. This priority incorporates strategies designed to:

preserve our highly valued environment, minimising our impacts and living sustainably whilst adapting to a changing climate. This includes retention of important habitat, planting of trees whilst managing our impacts on the land, minimising our waste and sustainably sourcing our energy needs

Q5 Is the planning proposal consistent with any other applicable State and regional studies or strategies?

There are no other state or regional studies or strategies relevant to the planning proposal.

Q6 Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPPs)?

The PP is generally consistent with applicable State Environmental Planning Policies (SEPPs) as demonstrated in the table below.

SEPP	Comments	Consistency and Comments
SEPP (Primary Production) 2021	Applies to RU1 and RU2 zoned land but does not specify requirements for planning proposals.	Not relevant
SEPP (Biodiversity and Conservation) 2021	<i>Chapter 3 Koala habitat protection 2021</i> This Chapter aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.	Section 3.14 relates to the rezoning of core koala habitat otherwise than as a conservation zone and provides that the Minister may require the preparation of an environmental study. It is noted that 54 Buckombil Mountain Road, Meerschaum Vale, is located within an area designated as core koala habitat. This PP proposes to rezone part of this property from C2 to RU2. Given that the proposed RU2 zone occupies areas within the curtilage of a dwelling house, the associated APZs and accessway areas, an RU2 zone over these areas is considered to be a minor zone change and better accommodates the current uses taking place than the existing C2 zone. In such circumstances an environmental study is not considered to be warranted. It is also relevant to consider the circumstances under which the C2 zone was originally applied as detailed in this PP.

SEPP	Comments	Consistency and Comments
SEPP (Resilience and Hazards) 2021	<i>Chapter 2 Coastal Management</i> The aim of this Chapter is to promote an integrated and co-ordinated approach to land use planning in the <i>coastal zone</i> in a manner consistent with the objects of the <i>Coastal Management Act 2016</i>.	Consistent Land subject to this PP and contained within the following properties is located within the coastal zone (coastal environment and or coastal use area) as defined in the Coastal Management Act 2016. <i>225 Cumbalum Road, Cumbalum</i> <i>54 Beacon Road, Teven</i> <i>660 Teven Road, Teven</i> Land within the following properties is located within the coastal zone (coastal environment and or coastal use area) but is not subject to this PP. <i>287 North Teven Road</i> <i>444 North Teven Road, Teven</i> Appendix 11 contains diagrams which show how the subject properties are affected by the coastal zone. Local Planning Direction 4.2 requires that PPs in the coastal zone be assessed in accordance with the NSW Coastal Design Guidelines. The assessment has been undertaken (Refer Appendix 12) and has found no inconsistencies. The assessment has been undertaken on the basis that the PP primarily (Teven Test Case properties) provides for the transitioning of DM land from BLEP1987 to more appropriate zones under the provisions of BLEP2012 and having regard to the nature of existing land uses.
<i>SEPP (Resources and Energy) 2021</i>		Consistent It is noted that part of 54 Beacon Road Teven is located within a Rural 1(e) Extractive and Mineral

SEPP	Comments	Consistency and Comments
		Resources zone under the provisions of LEP1987. The affected land is proposed to be zoned RU1 by this planning proposal and consequently will maintain permissibility for extractive industries

Q7 Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

Yes. A number of section 9.1 directions are relevant to the planning proposal. A section 9.1 Ministerial Direction checklist is provided at Appendix 2. Checklist demonstrates consistency or justifies minor inconsistencies.

4.3 Section C – Environmental, Social and Economic Impact

Q8 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?

The amendments contained in this PP are not expected to impact adversely on critical habitats, threatened species, populations or ecological communities or their habitats.

Q9 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No significant adverse environmental impacts are likely to arise as a result of this PP.

Q10 Has the planning proposal adequately addressed any social and economic effects?

This PP will facilitate the provision of a more efficient and effective land use planning framework. The proposed zonings will provide landowners with certainty around the permissible land uses on their land. In addition, the integration of DM land into the Ballina LEP 2012 will simplify the planning controls for future development proponents. For these reasons the social and economic impacts associated with the proposal are considered to be positive.

4.4 Section D – State and Commonwealth Interests

Q11 Is there adequate public infrastructure for the planning proposal?

The planning proposal does not create the need for any additional public infrastructure.

Q12 What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?

Consultation will be undertaken with relevant agencies as required by the Gateway determination during the public exhibition stage of the LEP amendment.

5. Mapping

This planning proposal will necessitate updates to the following BLEP 2012 maps:

- Acid Sulfate Soils Map
- Land Application Map.
- Land Zoning Map;
- Lot Size Map; and
- Height of Buildings Map.

The above maps will be produced in accordance with the applicable *Standard Technical Requirements for Spatial Datasets and Maps* post exhibition.

Appendix 1 contains mapping produced to show the manner in which the land the subject of this PP is currently affected by applicable planning controls, and how that land is affected by the changes proposed by this PP.

6. Community Consultation

The planning proposal will be exhibited in accordance with the Gateway determination and the terms of the *Environmental Planning and Assessment Act 1979*.

7. Project Timeline

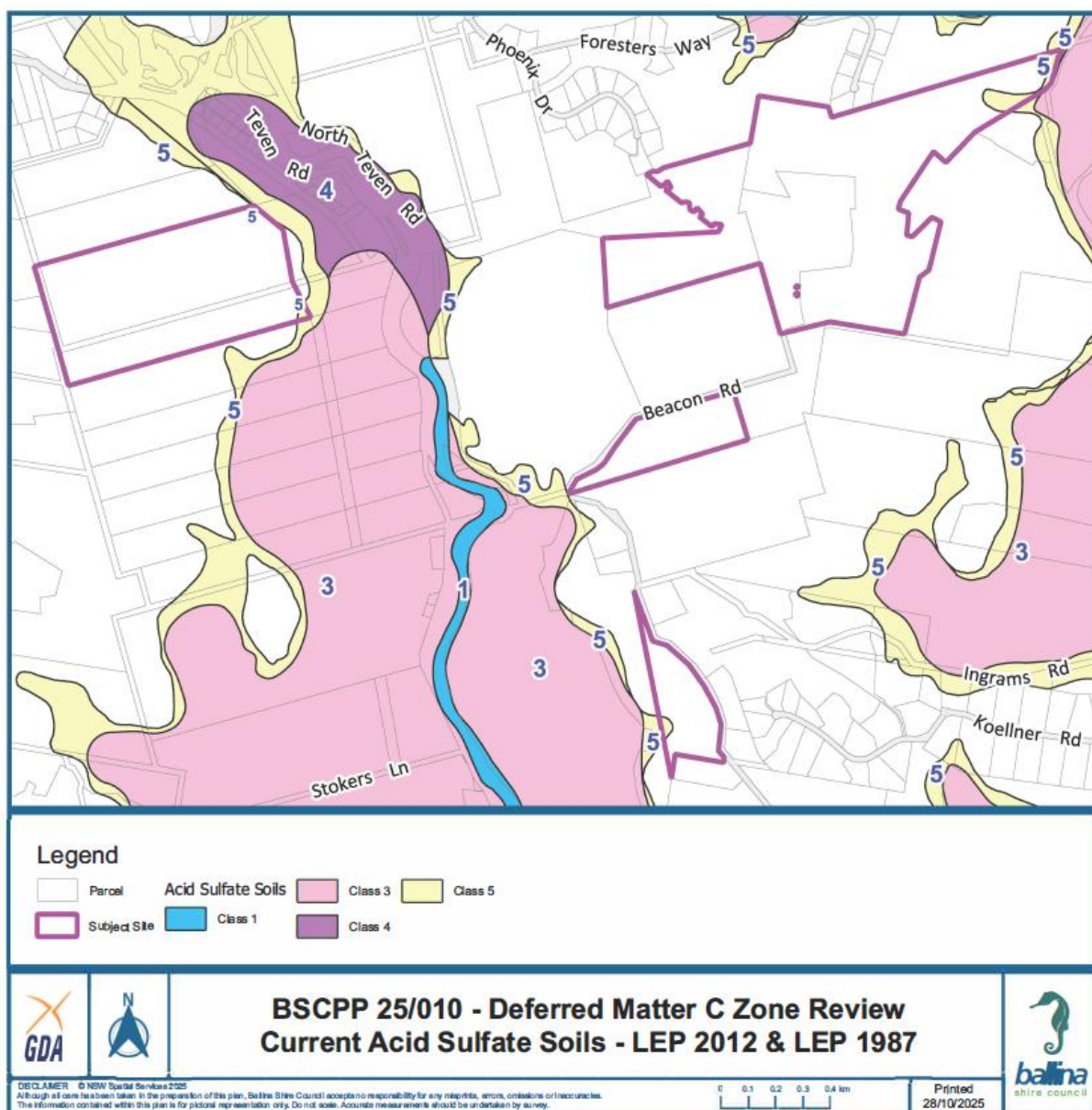
The proposed timeline for completion of the planning proposal is as follows:

Plan Making Step	Estimated Completion (Before)
Gateway Determination	October 2025
Government Agency Consultation	November 2025
Public Exhibition Period	November – December 2025
Public Hearing	N/A
Submissions Assessment	February 2026
Planning Proposal Authority Assessment of Planning Proposal and Exhibition Outcomes	March 2026
Submission of Endorsed LEP to DPIH for Finalisation in its capacity as the Local Plan Making Authority	April 2026
LPMA to arrange independent review of zoning decision if requested	March 2026
LPMA decision to make LEP amendment	May 2026
Notification of LEP amendment	May 2026

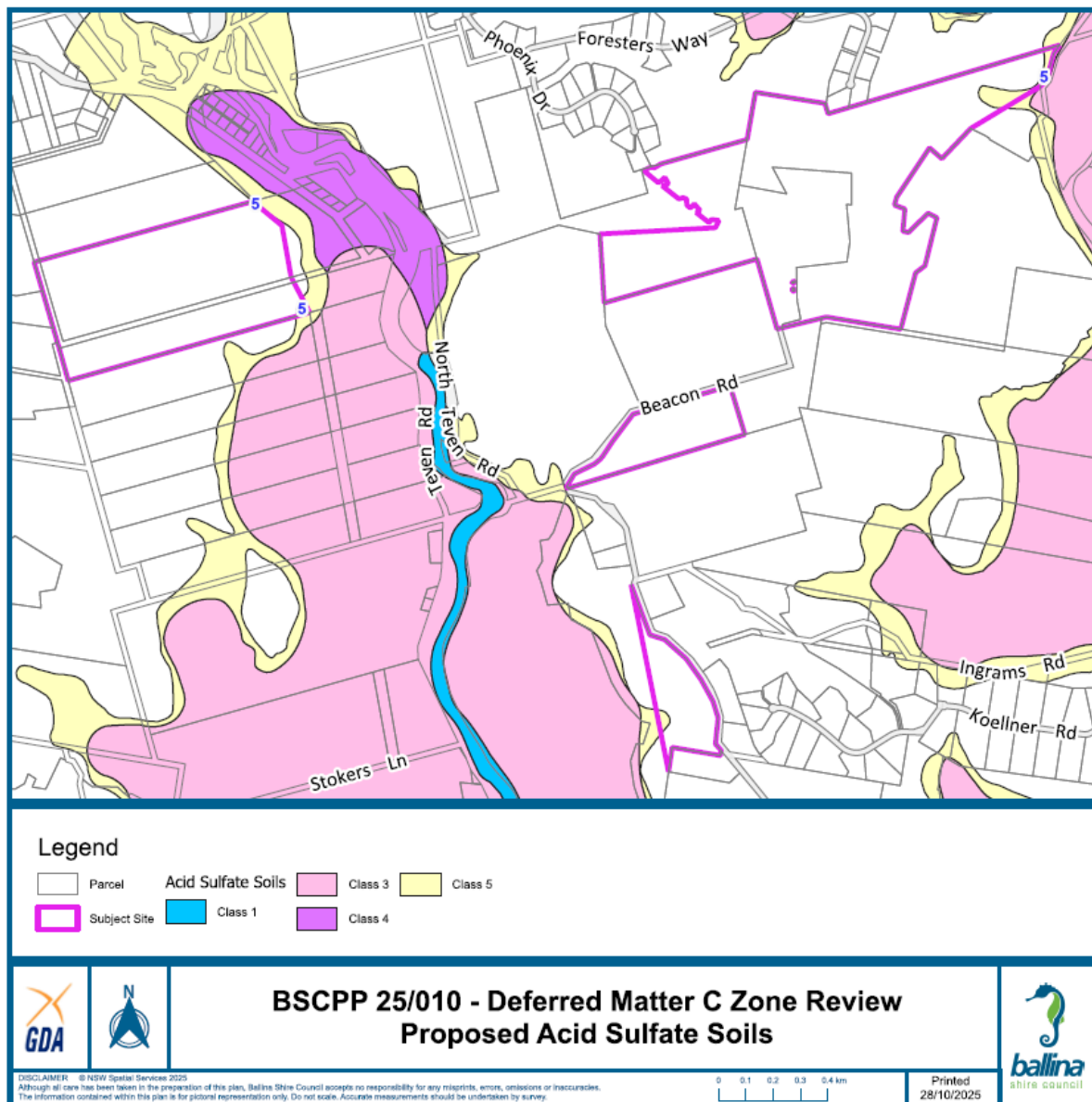
Appendices

Appendix 1 – Mapping

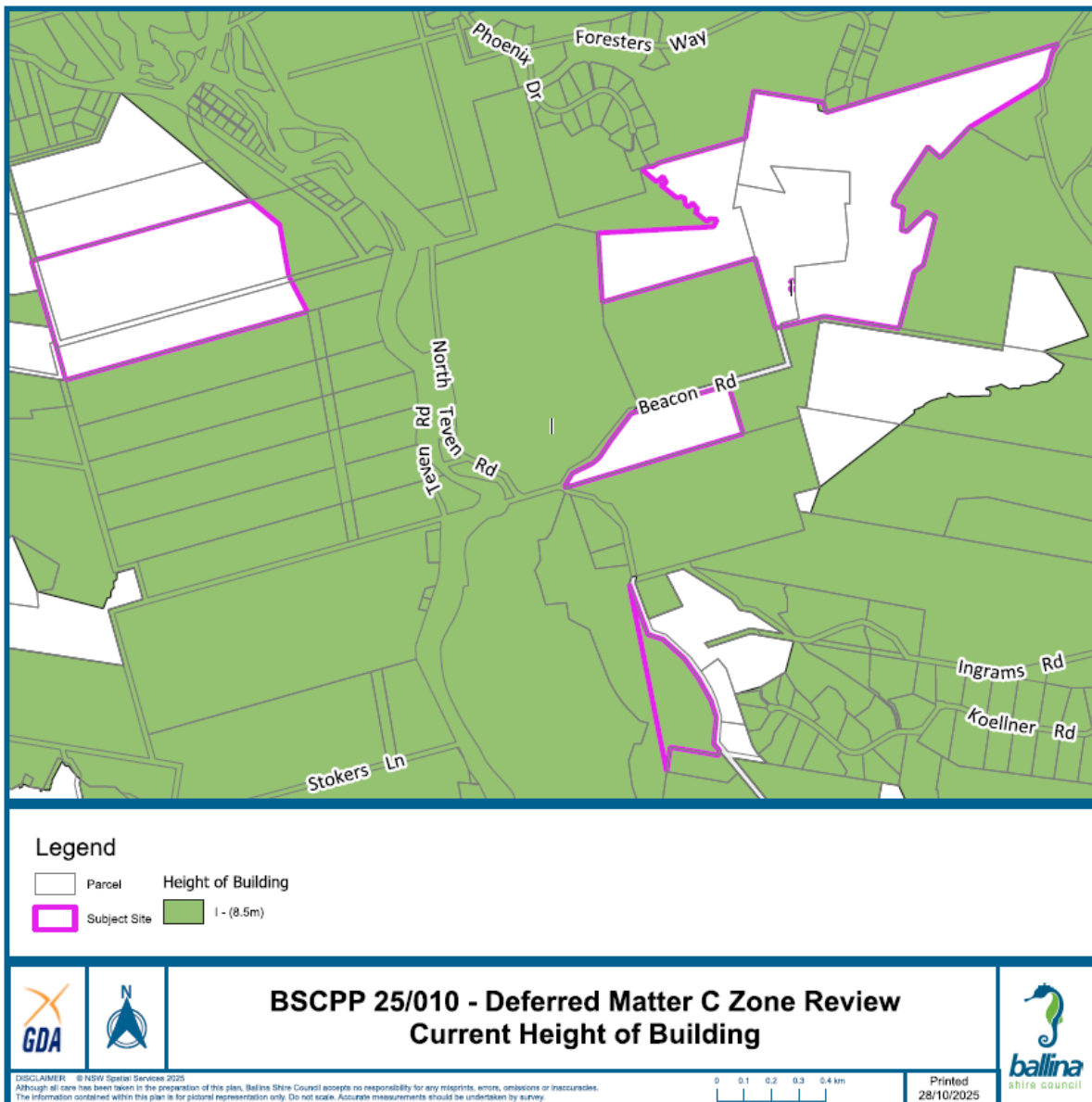
Current Acid Sulfate Soils Map Extracts BLEP 1987 and BLEP 2012(ASS-005)



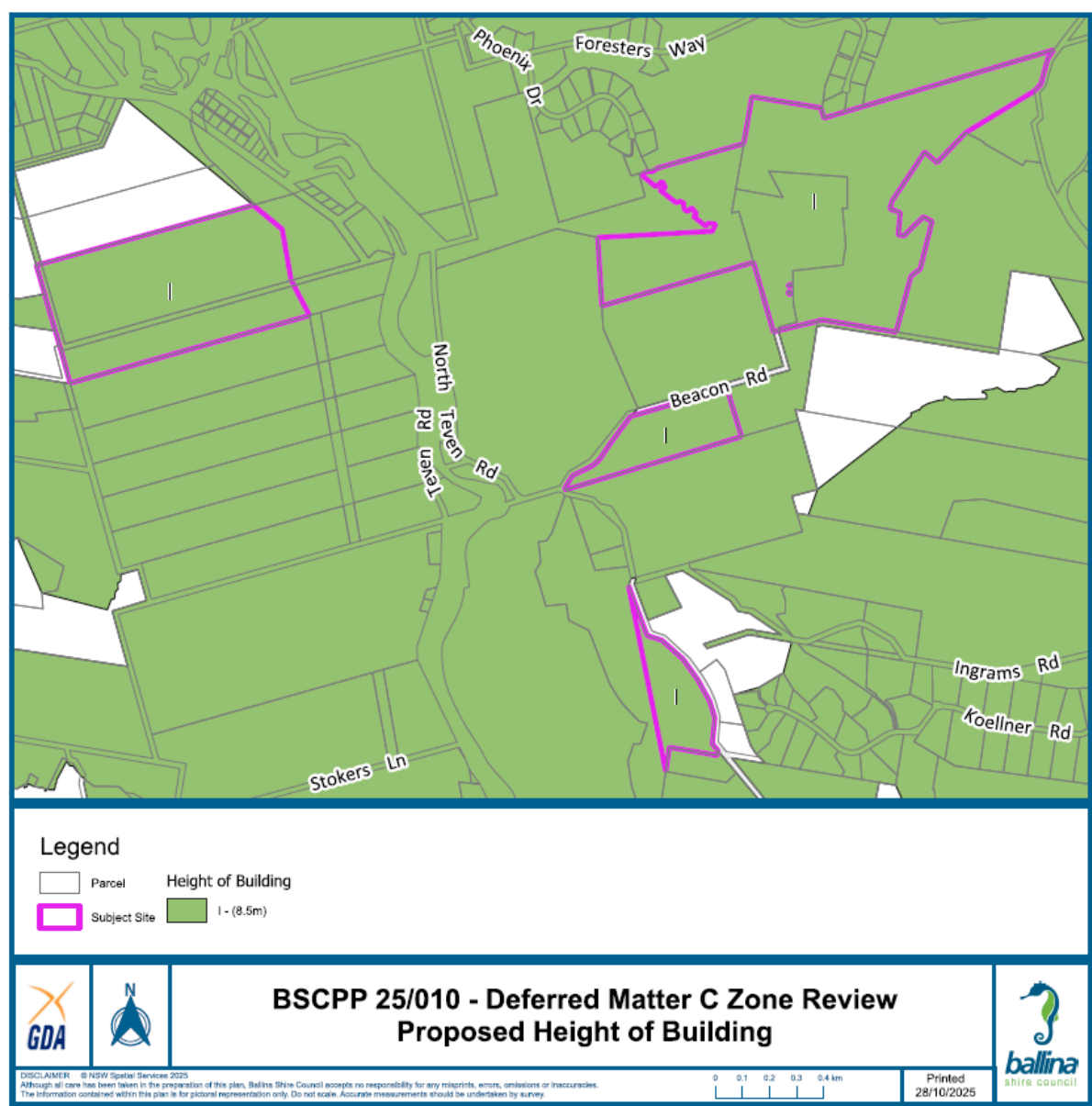
Proposed Acid Sulfate Soils Map Extract BLEP 2012 (ASS-005)



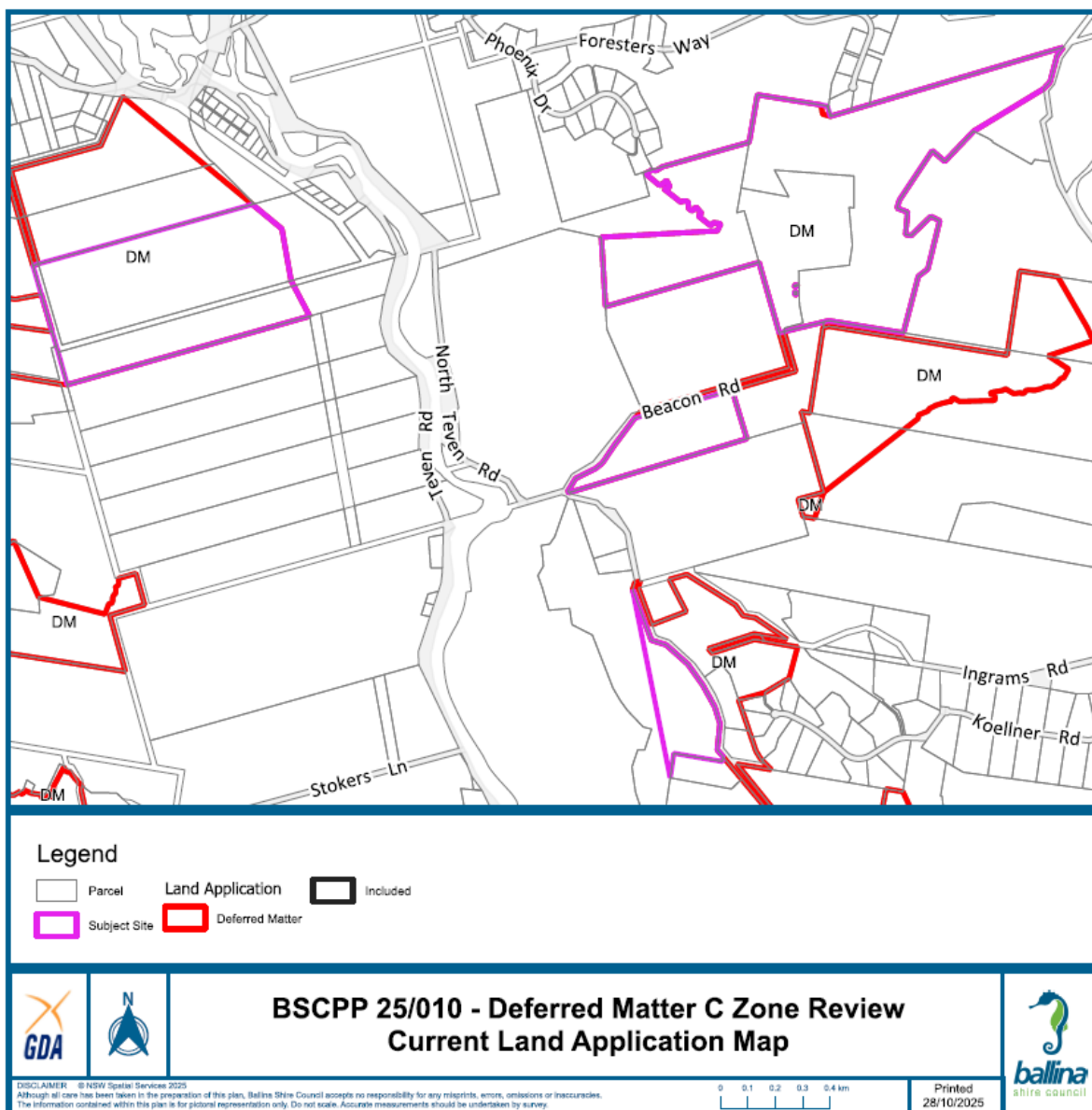
Current Height of Buildings Map Extract BLEP 2012 (HOB_005B)



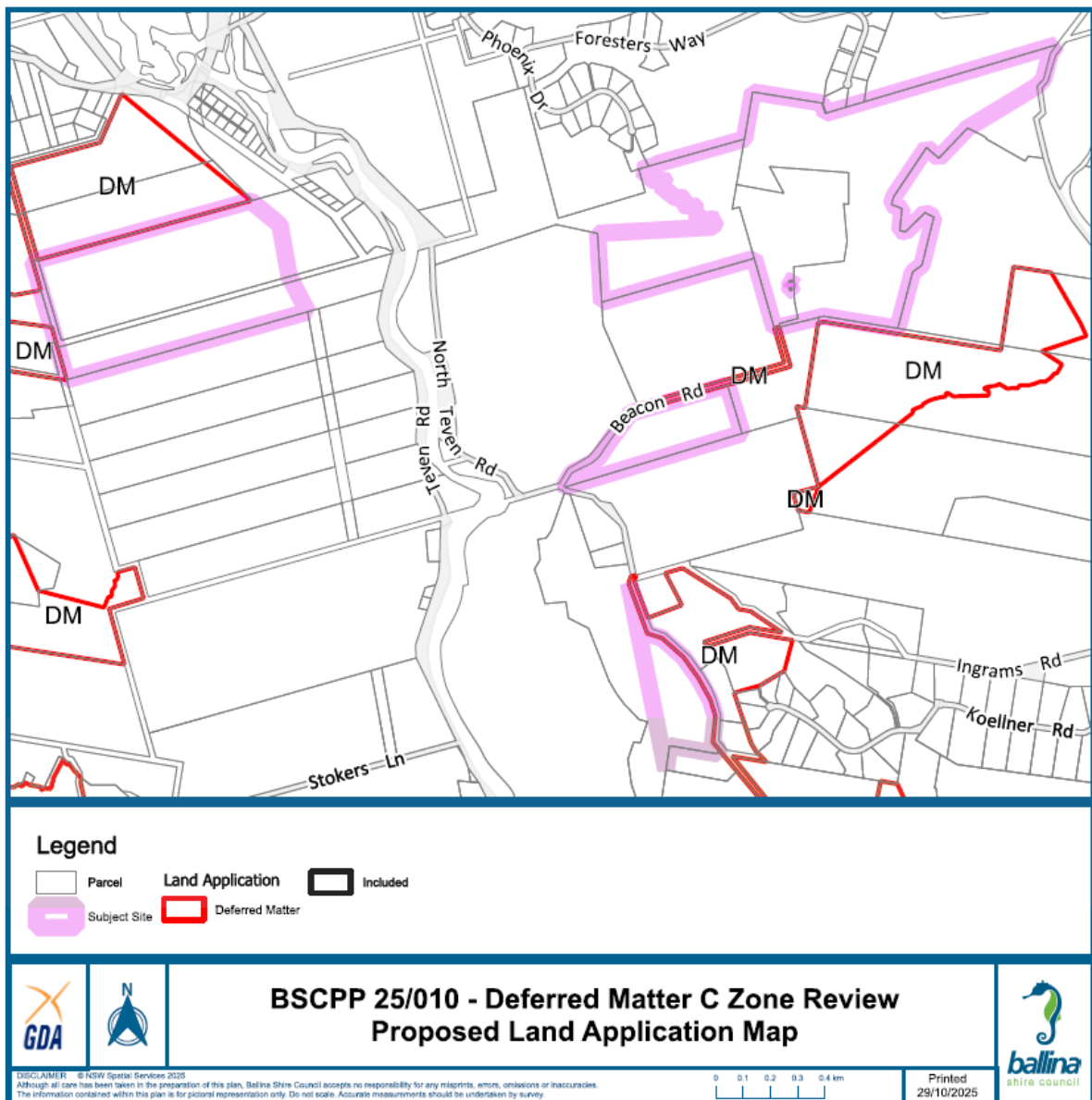
Proposed Height of Buildings Map Extract BLEP 2012 (HOB_005B)



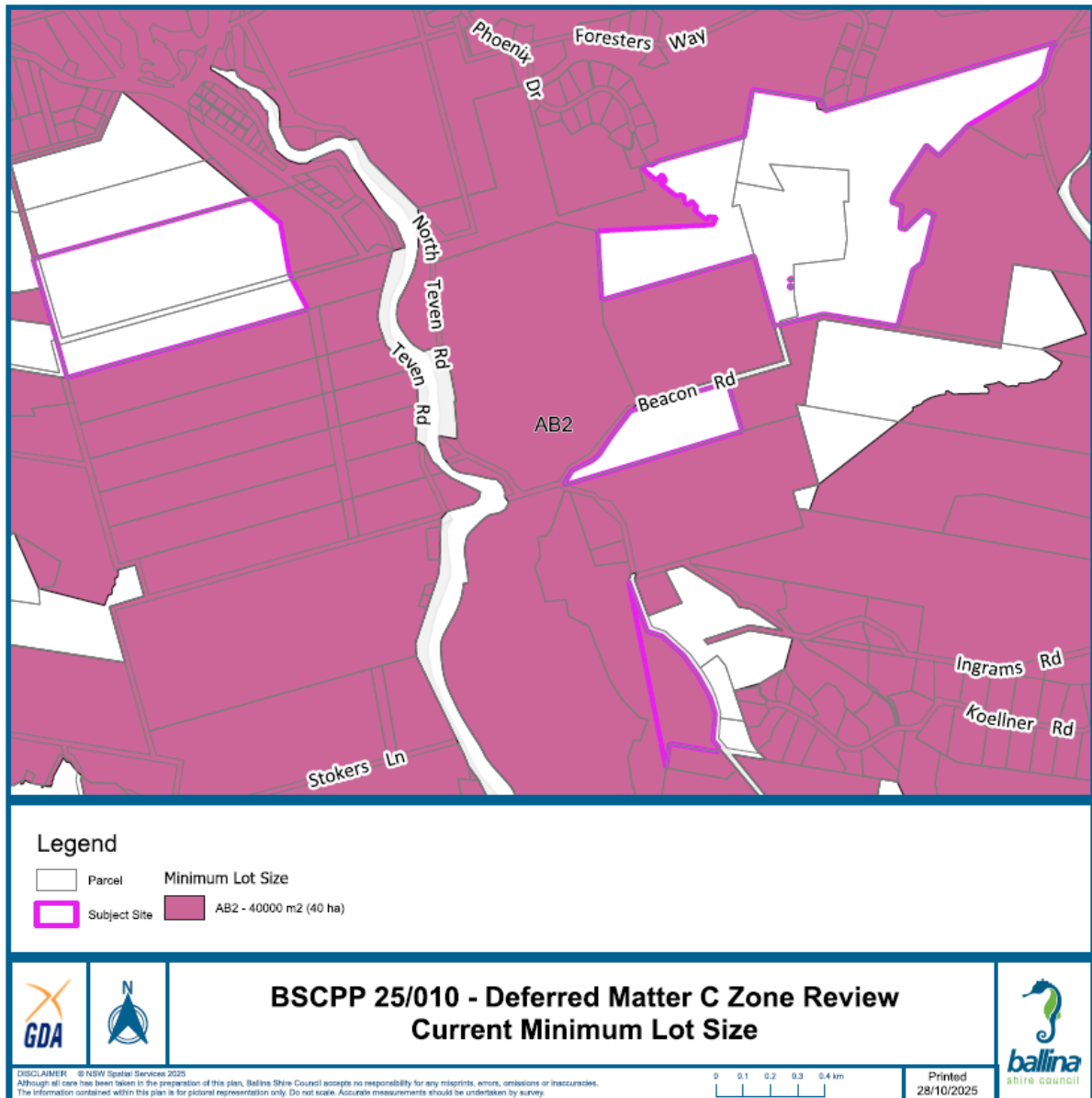
Current Land Application Map Extract (LAP_001)



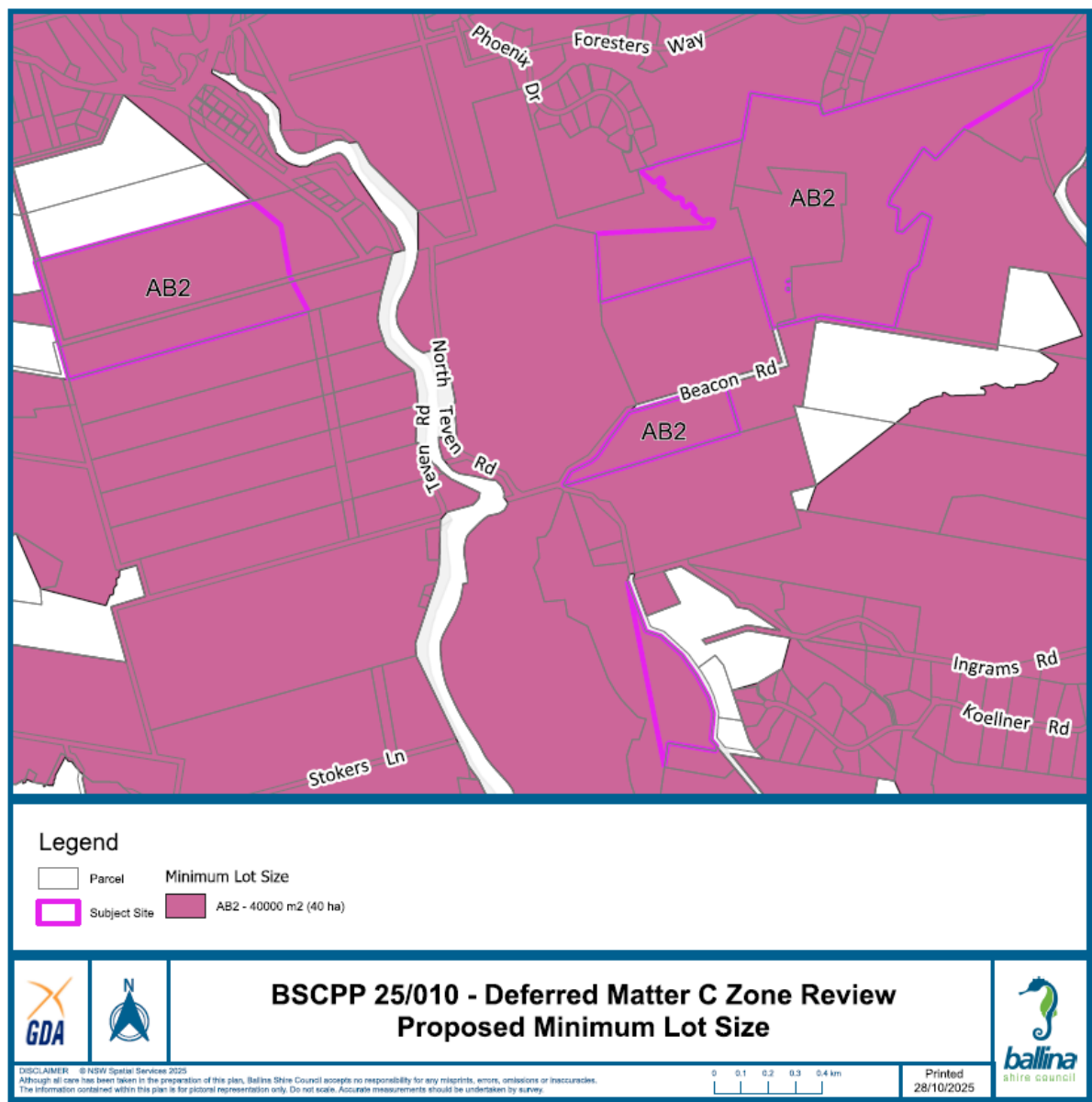
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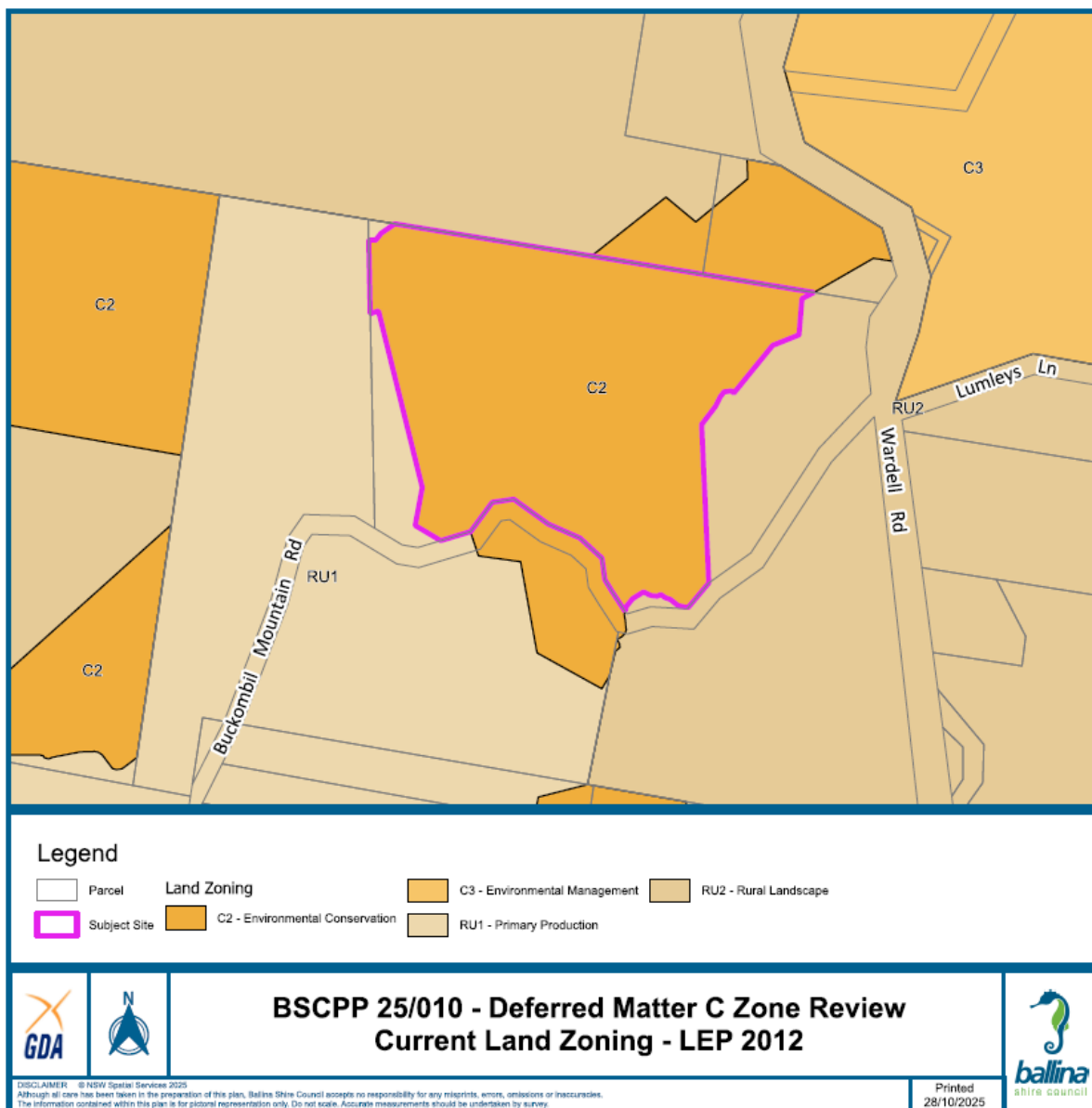
Current Lot Size Map Extract (LSZ_005B)



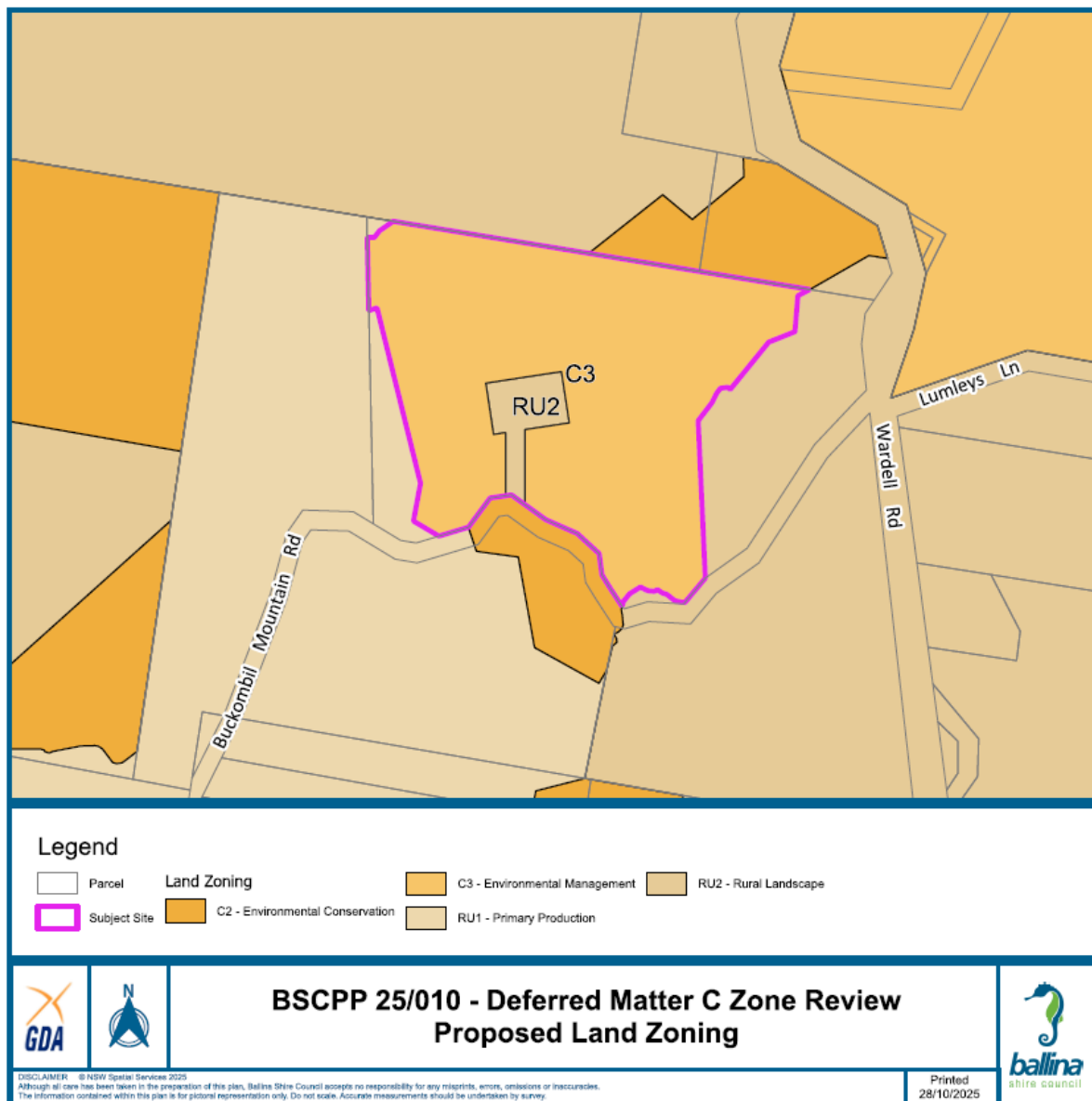
Proposed Lot Size Map Extract (LSZ_005B)



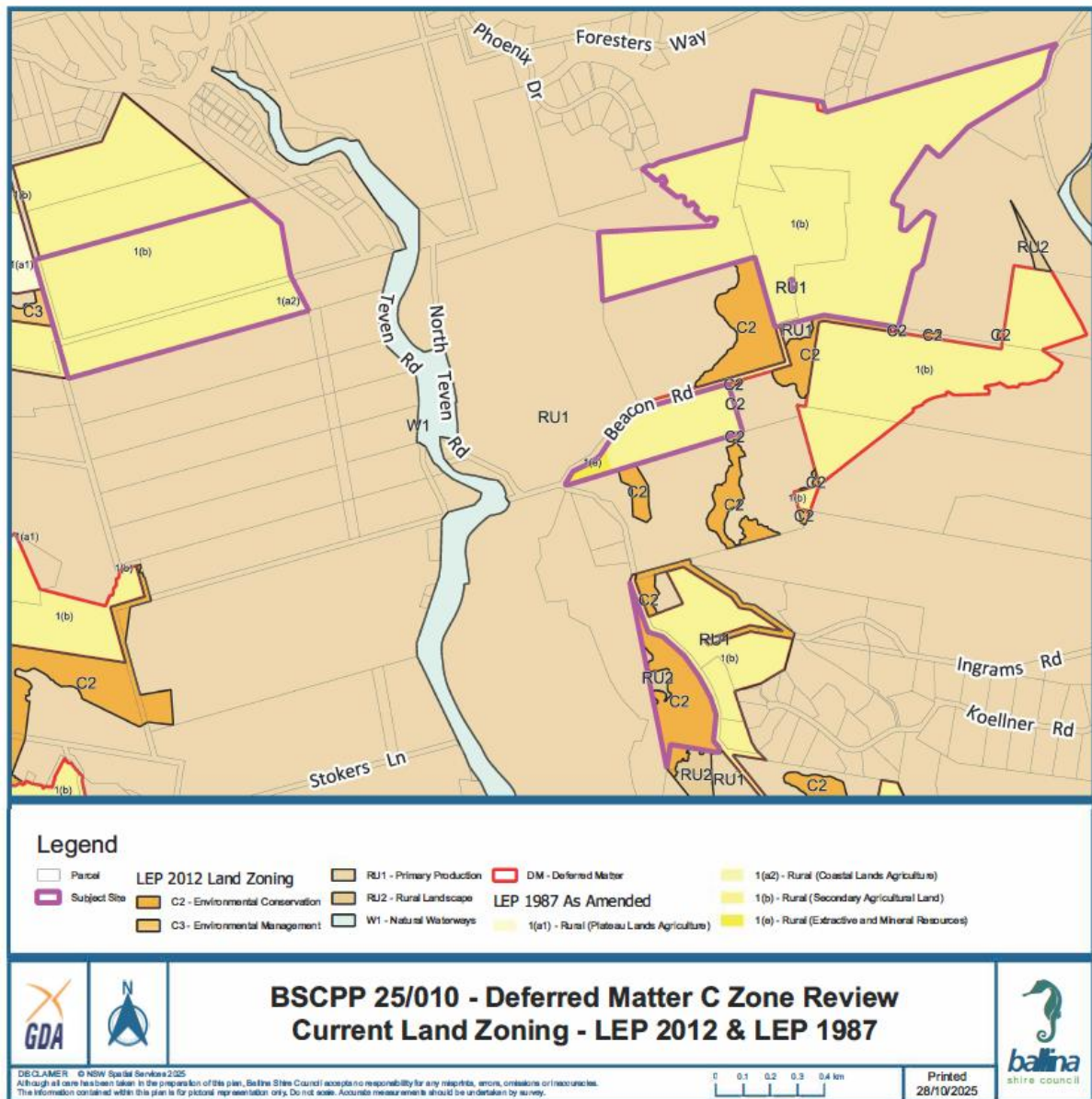
Existing Land Zoning Map Extract (LZN_003A)



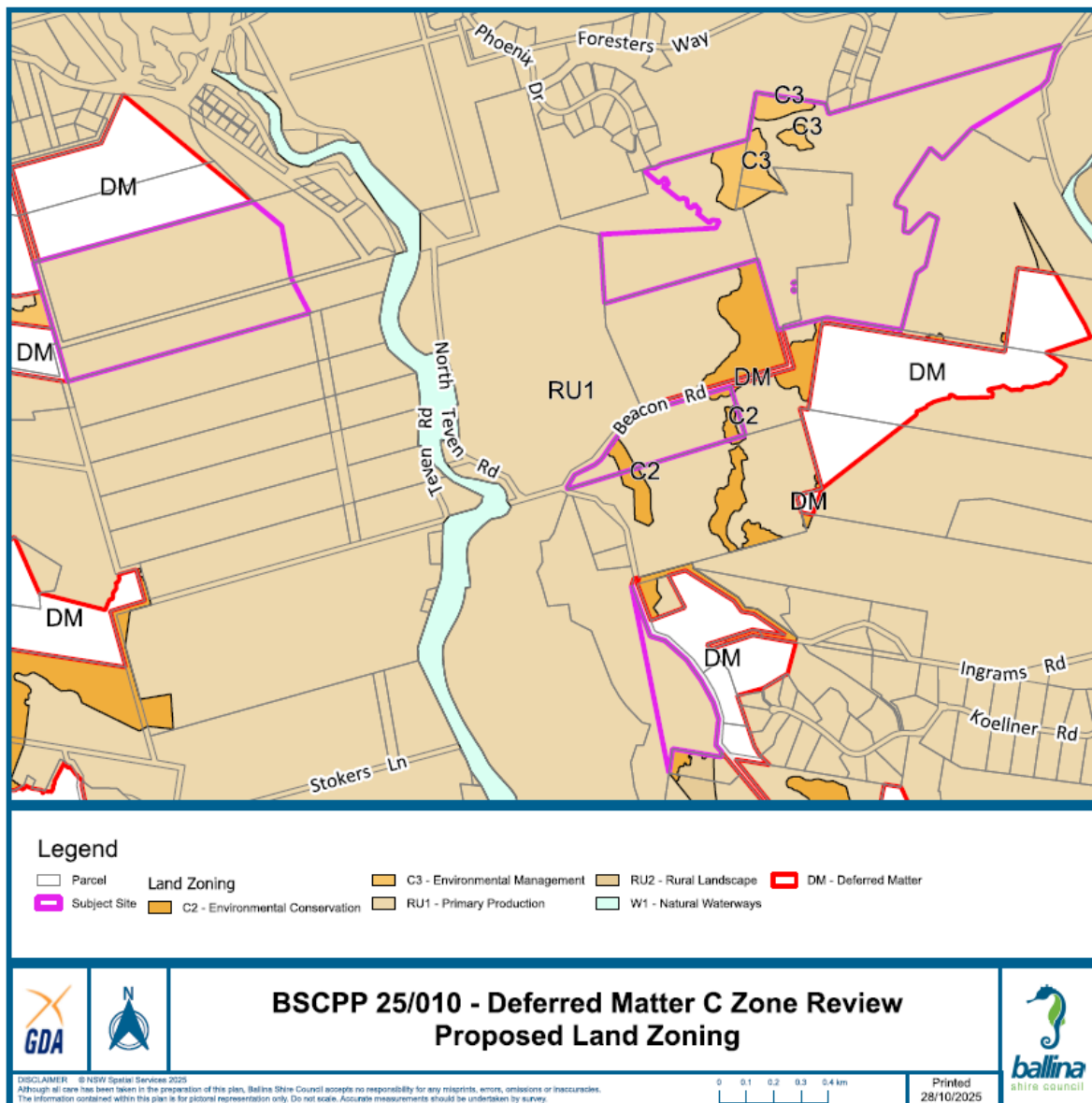
Proposed Land Zoning Map Extract (LZN_003A)



Existing Land Zoning Map Extract BLEP 1987 and BLEP 2012 (LZN_005B)



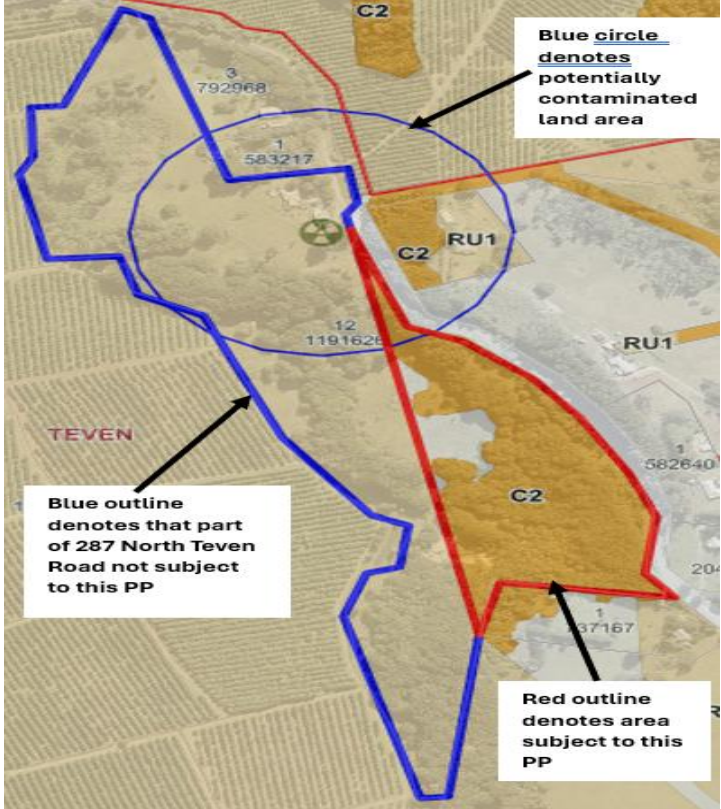
Proposed Land Zoning Map Extract BLEP 2012(LZN_005B)



Appendix 2 – s.9.1 Ministerial Direction Checklist

Section 9.1 Ministerial Direction Checklist	
Planning Proposal – BLEP 2012 Integration of certain deferred matter land (Stage 1)	
Direction No.	Compliance of Planning Proposal
Focus area 1: Planning Systems	
1.1 Implementation of Regional Plans	Consistent.
1.2 Development of Aboriginal Land Council land	Does not apply to planning proposal.
1.3 Approval and Referral Requirements	Consistent. The planning proposal does not introduce any new concurrence or consultation provisions or any additional designated development types.
1.4 Site Specific Provisions	Does not apply to planning proposal.
1.4A Exclusion of Development Standards from Variation	Does not apply to planning proposal.
Focus area 1: Planning Systems – Place-based	
1.5 to 1.22	These Directions do not apply to Ballina Shire.
Focus area 2: Design and Place	
Focus area 3: Biodiversity and Conservation	
3.1 Conservation Zones	Justifiably inconsistent. This PP seeks in part to reduce the extent of land zoned C2 on two properties which were the subject of unconsidered objections prior to the making of BLEP 2012 Amendment No 55. The reduction proposed is considered to be of minor significance and permitted by this direction.
3.2 Heritage Conservation	Consistent BLEP 2012 contains heritage provisions which are not affected by this PP.
3.3 Sydney Drinking Water Catchments	Does not apply to Ballina Shire.
3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	Consistent. The proposed conservation zones are consistent with the criteria as outlined in the NCEZR or are proposed to be applied as a result of negotiated outcomes agreed with landowners as provided for in the NCEZR.
3.5 Recreation Vehicle Areas	Consistent. The planning proposal does not enable land to be developed for the purpose of a recreation vehicle area.
3.6 Strategic Conservation Planning	Consistent The planning proposal does not apply to avoided land or to land within a strategic conservation area as defined in <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i>
3.7 – 3.10	These Directions do not apply to this planning proposal
Focus area 4: Resilience and Hazards	
4.1 Flooding	Consistent. The planning proposal does not seek to amend the Flood Planning Maps.

Section 9.1 Ministerial Direction Checklist	
Planning Proposal – BLEP 2012 Integration of certain deferred matter land (Stage 1)	
Direction No.	Compliance of Planning Proposal
4.2 Coastal Management	Consistent Some of the land the subject of this PP is located within the coastal zone as shown by the diagrams contained within Appendix 11. Appendix 12 contains an assessment of this PP in accordance with the NSW Coastal Design Guidelines. This PP primarily seeks to integrate DM land into BLEP2012. BLEP 2012 already contains provisions which are consistent with the objects of the Coastal Management Act 2016.
4.3 Planning for Bushfire Protection	Justifiably Inconsistent Some of the land the subject of this PP is designated as bushfire prone land. At this pre-Gateway stage council has not yet consulted with the Commissioner of the NSW Rural Fire Service. This is proposed to occur post Gateway determination and prior to community consultation as required by this Direction. It is noted the NSW RFS previously raised no objection to BSCPP 2021/004.

Section 9.1 Ministerial Direction Checklist	
Planning Proposal – BLEP 2012 Integration of certain deferred matter land (Stage 1)	
Direction No.	Compliance of Planning Proposal
4.4 Remediation of Contaminated Land	Justifiably Inconsistent. Part of 287 North Teven Road is potentially contaminated land as it contained a historic cattle dip site. The affected area extends across land the subject of this PP which is proposed to be rezoned from C2 to RU1. The affected area is shown on the diagram below.  The DPHI previously rezoned potentially contaminated land as part of the zone amendments associated with Amendment No 55 to BLEP2012. The further amendments proposed by this PP seek only to correct zoning inconsistencies created because of failing to consider landowner objections. The proposed RU1 zone is consistent with the zone that already exists on the majority of the land affected by the potential land contamination. To that extent no further investigative work is considered to be warranted as council is aware of the lands contamination status and will take this into account should any future land use changes be proposed.
4.5 Acid Sulfate Soils	Consistent. A small section of land on 225 Cumbalum Road, Cumbalum, and 660 Teven Road, Teven is affected by Class 5 acid sulfate soils. Amendment of the Acid Sulfate Soils map is proposed as part of this PP. No zone intensification is proposed for the affected land. Clause 7.1 of BLEP 2012 contains provisions for land affected by acid sulfate soils.
4.6 Mine Subsidence and Unstable Land	Consistent. The land proposed for rezoning is not within a mine subsidence area. Some land proposed for rezoning is constrained by landslip risk. The planning proposal does not seek to intensify development within areas subject to landslip risk. The suitability of the land for any future proposed uses can be appropriately assessed if/when specific proposals are made.

Section 9.1 Ministerial Direction Checklist	
Planning Proposal – BLEP 2012 Integration of certain deferred matter land (Stage 1)	
Direction No.	Compliance of Planning Proposal
Focus area 5: Transport and Infrastructure	
5.1 Integrating Land Use and Transport	Not relevant This PP does not apply to urban land. .
5.2 Reserving Land for Public Purposes	Not relevant. This PP does not apply to public land. .
5.3 Development Near Regulated Airports and Defence Airfields	Consistent. Ballina Byron Gateway Airport (BBGA) is a regulated airport. This PP affects properties at Cumbalum and Teven which are located within the airport's Obstacle Limitation Surface (OLS) levels. Council has previously consulted with BBGA during the exhibition period of BSCPP21/004 and received no response. The closest property to the airport is 225 Teven Road, Cumbalum. This property is located approximately 4km to the northwest from the western end of the airport's runway. This is not considered to be 'near' the airport within the terms of the direction. Unless directed to do so no further consultation is proposed to be undertaken with BBGA.
5.4 Shooting Ranges	Does not apply to planning proposal.
5.5 High Pressure dangerous goods pipelines	Does not apply to planning proposal.
Focus area 6: Housing	
6.1 Residential Zones	Does not apply to this planning proposal.
6.2 Caravan Parks and Manufactured Home Estates	Consistent Carvan parks and manufactured home estates are not permitted within the existing rural or conservation zones that apply to the land the subject of this PP. Proposed zones maintain this prohibition. As such there will be no reduction in the existing availability of land for caravan parks or manufactured home estates.
Focus area 7: Industry and Employment	
7.1 Employment Zones	Does not apply to planning proposal.
7.2 Reduction in non-hosted short term rental accommodation period	Does not apply to planning proposal.
7.3 Commercial and Retail Development along the Pacific Highway, North Coast	Does not apply to planning proposal.
Focus area 8: Resources and Energy	

Section 9.1 Ministerial Direction Checklist	
Planning Proposal – BLEP 2012 Integration of certain deferred matter land (Stage 1)	
Direction No.	Compliance of Planning Proposal
8.1 Mining, Petroleum Production and Extractive Industries	Justifiably inconsistent. Land containing State and regionally significant mineral reserves was previously identified as being zoned 1(e) Rural (Extractive and Mineral Resources) in the Ballina LEP 1987. 54 Beacon Road which is subject to this PP contains approximately 0.8ha of 1(e) zoned land which is also located in close proximity to the Boral Teven quarry. BSCPP21/004 had previously proposed to rezone these 1(e) zoned lands to RU1. This being the same zone as proposed by this PP. Consultation with Regional NSW in 2023 resulted in correspondence which did not raise any objection to the proposed rezoning of this land. It is noted that the proposed RU1 zone permits with consent extractive industries. Due to the previous consultation and no objection response no further consultation with the Department of Primary Industries is proposed.
Focus area 9: Primary Production	
9.1 Rural Zones	Consistent. This PP does not seek to rezone land from a rural zone to a residential, business, industrial, village or tourist zone, nor contain provisions that will increase the permissible density of land within a rural zone.
9.2 Rural Lands	Consistent This PP is considered to be consistent with this direction. Rural zones have been applied to land following property inspection and with the agreement of landowners. Farmers right to farm has been maintained by rural zones being applied to land where the absence of agriculture on such land could not be definitively established. In cases where conservation zones have been applied this has also been done with landowner agreement in all but one case (54 Beacon Road Teven). In that case a proposed C2 zone has been applied following consideration of a specialist ecological report which has assessed the lands conservation value. The planning proposal does not seek to vary the existing minimum lot size within a rural or environmental protection zone.
9.3 Oyster Aquaculture	Does not apply to planning proposal.
9.4 Farmland of State and Regional Significance on the NSW Far North Coast	Consistent. This PP does not propose the rezoning of identified significant farmland for urban, residential or rural residential purposes.

Appendix 3 – Council Reports

Report to the Council's Ordinary Meeting on 28 August 2025 under separate cover

Appendix 4 – Letter from The Executive Director Local Planning and Council Support (DPHI) 7/7/2024 & Letter from Director, Hunter and Northern Region Local Planning and Council Support (received 3/3/2025)

Department of Planning, Housing and Infrastructure



PP-2022-456/IRF24/1300

Mr Paul Hickey
General Manager
Ballina Shire Council

Via email: council@ballina.nsw.gov.au
klaus.kerzinger@ballina.nsw.gov.au

Dear Mr Hickey

Ballina Local Environmental Plan 2012 (Amendment No 55)

I refer to the proposal to amend Ballina Local Environmental Plan 2012 to integrate certain deferred matter land into Ballina LEP 2012 and amend Ballina LEP 1987.

I am pleased to advise that as the Minister for Planning and Public Space's delegate, I have made the plan under section 3.36(2)(a) of the *Environmental Planning and Assessment Act 1979*, and under section 3.24(5) it will take effect when published on the NSW Legislation website.

It should be noted that a number of sites and part sites proposed for a conservation zoning have been removed from the plan due to an objection from the landowner. These sites will remain zoned Deferred Matter until further investigations and discussions can be undertaken between Council, the landowners, NSW Biodiversity Conservation and Science (BCS) and the Department regarding their environmental significance.

I encourage Council to engage with the affected landowners as a priority and appropriate zonings be applied to their land in accordance with the Northern Council's E Zone Review Final Recommendations Report. I look forward to Council then forwarding a planning proposal for a Gateway determination to rezone the lands in accordance with the outcomes of these investigations.

Should you have any enquiries about this matter, I have arranged for Mr Craig Diss to assist you. Mr Diss can be contacted on (02) 5778 1485.

Yours sincerely

A handwritten signature in blue ink, appearing to read "D. Thomas".

7/7/2024

Department of Planning, Housing and Infrastructure



Daniel Thompson
A/Executive Director
Local Planning and Council Support



Department of Planning, Housing and Infrastructure

PP-2024-2305/IRF24/2548

Mr Paul Hickey
General Manager
Ballina Shire Council

Via email: klaus.kerzinger@ballina.nsw.gov.au
council@ballina.nsw.gov.au

Dear Mr Hickey,

Ballina Local Environmental Plan 2012 (Map Amendment No. 9)

I refer Ballina Council's request that the Department of Planning, Housing and Infrastructure correct mapping errors introduced by Ballina LEP 2012 (Amendment 55) for various sites across the local government area. The above amendment seeks to correct these minor mapping errors and misalignments.

I am pleased to advise that as the Minister for Planning and Public Space's delegate, I have made the plan under section 3.36(2)(a) of the *Environmental Planning and Assessment Act 1979*. Under section 3.24(5), it will take effect when published on the NSW Legislation website.

Council's request included five sites where confidential submissions were made to Council objecting to the proposal but were not submitted to the Department for consideration. It was determined that inclusion of these sites in accordance with s3.22(1) (c) EP&A Act do not meet the criteria for this process and warrant compliance with the usual plan making processes. I would encourage Council to work with the landowners to determine whether a planning proposal for the five sites is appropriate and necessary and should be pursued.

Should you have any enquiries about this matter, I have arranged for Stacey Stephens, Senior Planner Officer, Hunter and Northern region to assist you. Stacey can be contacted on (02) 9228 6239.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Craig Diss'.

Craig Diss
Director, Hunter and Northern Region
Local Planning and Council Support

Appendix 5 – Ecological Report Teven Test Case Properties

Refer to report under separate cover

Appendix 6 – Ecological Report 287 North Teven Road Teven

Refer to report under separate cover

Appendix 7 – Ecological Report 54 Buckombil Mountain Road Meerschaum Vale

Refer to report under separate cover

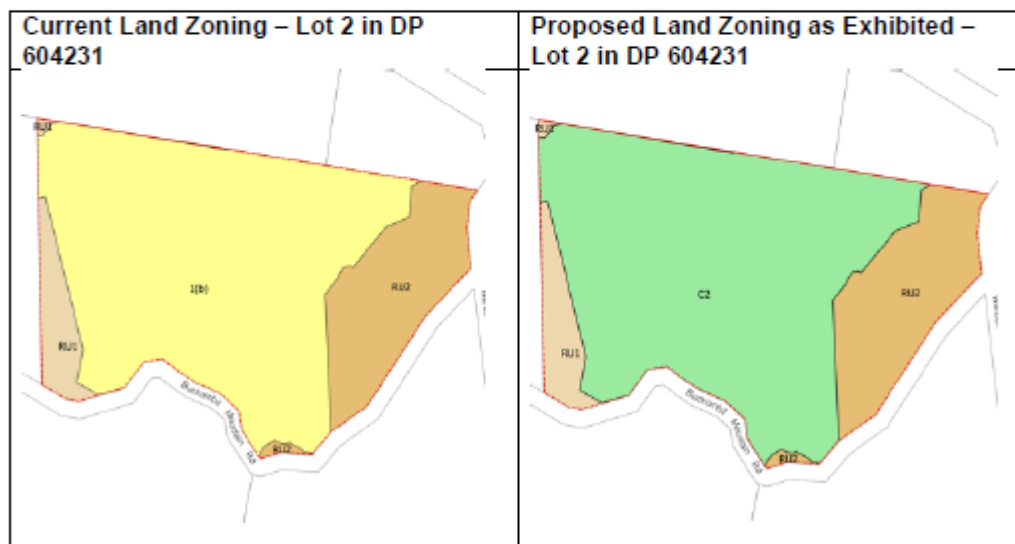
Appendix 8 – Cyde Consulting Objection Evaluation - 54 Buckombil Mountain Road Meerschaum Vale

C Zone Submission Evaluation Sheet

Submission No.	148 – confidential
Landowner:	Ms D G Clement
Property Details (Lot DP land area)	Lot 2 in DP 604231 - 54 Buckombil Mountain Road. Lot 2 has an area of 13.49ha
Locality:	Meerschaum Vale
Existing Zones	Part 1(b) Rural (Secondary Agricultural Land) Zone BLEP 1987, Part RU1 Primary Production BLEP 2012, Part RU2 Rural Landscape BLEP 2012
Proposed Zones	Part RU1 Primary Production BLEP 2012, Part RU2 Rural Landscape BLEP 2012, Part C2 Environmental Conservation BLEP 2012.
Brief Summary of Submission	Objection The landowner strongly opposes the proposed C2 zoning to parts of her property. The rezoning covers cleared land. There are financial impacts, and it will restrict the ability to develop the property. The land was purchased with building entitlements for dual occupancy and cabins which will now be restricted. The landowner seeks clarification on what information was used to apply the C2 zone and on the compensation for value loss given building restrictions are off putting to most potential purchasers. The landowner must lawfully and safely manage the APZ area for their house.
Assessment Comments	The proposed rezoned areas are mapped as containing wet sclerophyll forest which meets the criteria for applying a C2 zone in accordance with the criteria contained in the Northern Councils E Zone Review Final Recommendations Report. Aerial image shows these areas as vegetated, although note that imagery is from 2018. The dwelling on the land is located within the proposed C2 zoned area generally surrounded by dense forested areas. The area proposed to be zoned C2 is generally heavily vegetated except for the area located within the curtilage of the dwelling house. Development consent 2009/284 relates to the dwelling on this lot. Condition 14 of the consent required the provision of Asset Protection Zones (APZ) from the dwelling as follows: North – 28m East – 30m South – 17m West – 12m That part of Lot 2 occupied by the dwelling and the associated APZs may benefit from being zoned RU2.
Recommendation:	1. Undertake ground truthing to verify if vegetation meets C2 and/or C3 criteria. 2. Check cadastre/ cadastral alignment and update as required. 3. Apply an RU2 zone to the area occupied by the dwelling and the associated APZs.

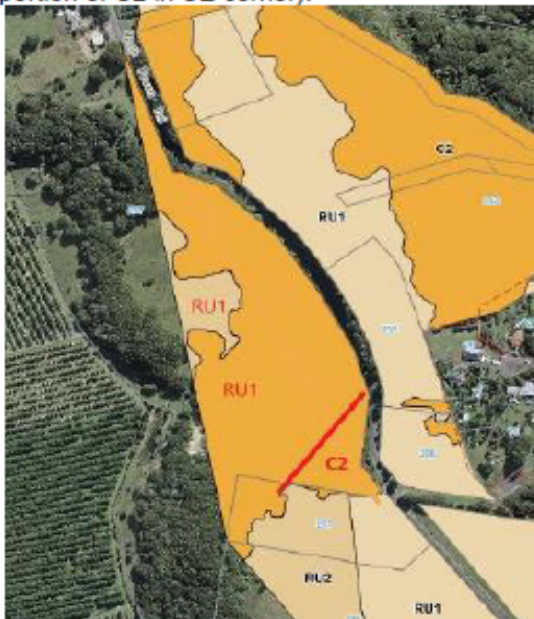
C Zone Submission Evaluation Sheet

	4. Provide advice if access across C2 area will be permitted to a detached dual occupancy development within RU1 or RU2 zone
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Appendix 8 – Cyde Consulting Objection Evaluation – 287 North Teven Road, Teven

C Zone Submission Evaluation Sheet

Submission No.	150 – confidential
Landowner:	Mr R T Dorey
Property Details (Lot DP land area)	Lot 12 in DP 1191626 - 287 North Teven Road - Lot 12 has an area of 24.86ha
Locality:	Teven
Existing Zones	Part 1(a1) Rural (Plateau Lands Agriculture) Zone BLEP 1987, Part RU1 Primary Production BLEP 2012, Part 1(b) Rural (Secondary Agricultural Land) Zone BLEP 1987
Proposed Zones	Part RU1 Primary Production BLEP 2012, Part RU2 Rural Landscape BLEP 2012, Part C2 Environmental Conservation BLEP 2012.
Brief Summary of Submission	Objection The landowner states that the draft mapping images are from 2018 and inaccurate. They have owned the land for over 30 years. A lot of the area proposed for C2 has been revegetated by their family to create windbreaks, privacy, and scenic preservation, and to offset our carbon footprint (future earnings from carbon trading, biodiversity agreements with developers or future agricultural pursuits). The primary land use is farming and grazing. They question how they will maintain access tracks and boundary fences, prevent overgrowth of weeds, fix fencing, liability for livestock escaping because fences unable to be maintained, huge bush fire risk rezoning to C2. They request that the proposed affected RU2 zoned area be zoned RU1 to be consistent with the remainder of their property. Alternatively, the request in a worst-case scenario that the zoning is adjusted as depicted in image below (suggests majority of C2 be RU1 with a small portion of C2 in SE corner). 

C Zone Submission Evaluation Sheet

Assessment Comments	There is evidence of some cadastral / aerial photo misalignment (not significant) which would warrant correction prior to final zone boundaries being fixed. The proposed rezoned areas are mapped as containing subtropical rainforest and Wet Sclerophyll Forest vegetation communities which meets the criteria for applying a C2 zone in accordance with the criteria contained in the Northern Councils E Zone Review Final Recommendations Report. Aerial photos confirm there are cleared areas within the proposed C2 area which should be excluded and a rural zone applied. The proposed boundary of the RU2 / C2 zone are irregular and would benefit from being realigned and canopy shadow areas excluded. The proposed RU2 zone is inconsistent with the RU1 zoning applicable in the western section of Lot 12 and should be changed to RU1 to prevent zone fragmentation.
Recommendation:	1. Correct cadastral / aerial misalignment prior to fixing new zone boundaries. 2. Undertake ground truthing to verify if vegetation meets C2 zone criteria. If vegetation and primary land use do not meet the criteria, consider application of an RU1 and / or C3 zoning. 3. Remove C2 zone from cleared areas and realign boundaries in a tangential manner. 4. Amend proposed RU2 zone to RU1.

Current Land Zoning – Lot 12 in DP 1191626	Proposed Land Zoning as Exhibited – Lot 12 in DP 1191626
	

Appendix 10 – DPHI Guidance Information



Office of the Secretary

Mr P Hickey
General Manager
Ballina Shire Council
PO Box 450
Ballina NSW 2478

13/16799

Dear Mr Hickey

I am writing in regard to the Northern Councils Environmental Zone Review (E Zone Review). The Department wrote to all Northern Councils when the E Zone Review was released.

The following information is provided to further assist Council when seeking to apply E zones in accordance with the *Northern Councils E Zone Review Final Recommendations*.

Primary Use of Land

The Recommendations Report confirms that an E zone can only be applied to land if its primary use is environmental conservation or management purposes and meets the criteria for an E2 or E3 zone.

For the avoidance of doubt a reference to 'Primary Use of land' in the context of the Recommendations Report is considered to be:

- a) The main use of the land is to be determined based on evidence about the nature of the activities and operations occurring on the land over the last two years. If the main use is for rural or farming operations, agricultural practices need to be demonstrated. Specific farming activities (such as grazing) do not need to have occurred in the last two years if the operations on the land (for example keeping paddocks fallow) are part of broader farm management practices.
- b) If the main use is for environmental conservation or management, the environmental values of the land and vegetation need to be demonstrated and the absence of any agricultural or other land use confirmed.

The primary use may be identified by a series of methodologies including up to date air photography, site visits, property development records, farm management plans, Private Native Forestry or Property Vegetation Plan approvals, conservation records and discussion with landowners.

Councils shall include information in its planning proposals which confirm how the primary use of the land has been determined.

Notification to affected landowners

Councils are encouraged to liaise with landholders early in the rezoning process when proposing to apply E zones to private land.

A condition will be included on all Gateway determinations for planning proposals that seek to apply an E zone to private land, which will require a council to write to each affected landholder unless a letter from the landholder agreeing to the proposed zoning has been provided.

Council will also be required to notify landholders once it resolves to adopt an E zone following a review of submissions. This letter is to advise landholders of their opportunity to have the matter reviewed by the NSW Chief Planner. This matter is discussed in more detail below.

Independent Review Body

In the event that a landholder disputes that their land meets the primary use or validation criteria for an E zone, the NSW Chief Planner has been appointed by the Minister for Planning to undertake an independent review. The Chief Planner will make a decision on the dispute, based on an assessment of the evidence provided by both Council and the landholder.

Landholders will have 28 days from Council's notification of the adoption of the final proposed zones to notify the Department of their request for a review by the Chief Planner.

Role of Development Control Plans

Councils seeking to apply controls under Development Control Plans (DCPs) in response to the Final Recommendations are reminded of the role of DCPs in accordance with the *Environmental Planning and Assessment Act 1979* (the Act).

In accordance with the Act, DCPs are to provide guidance to developers and consent authorities when carrying out development to:

- give effect to the aims of any environmental planning instrument;
- facilitate permissible development; and
- achieve the objectives of land zones under an environmental planning instrument.

Under the Act, a provision of a DCP has no effect to the extent that:

- it is the same or substantially the same as a provision of an environmental planning instrument; or
- it is inconsistent or incompatible with a provision of any such instrument.

While a council can include environmental considerations in its DCPs, these will only apply when the LEP requires development consent for an activity. I encourage you to consider whether your DCP requires review or updating to reflect the final recommendations of the E Zone Review.

Plan Making Delegations

To ensure a consistent approach to the finalisation of zoning decisions under the E Zone Review, planning proposal matters which seek to apply an E zone or overlay and associated clause will remain with the Department. As a consequence, written authorisation to use the Minister's plan making functions will not be issued.

In addition, to ensure there are agreed protocols for these planning proposals, delegations will be exercised at the Executive Director or Deputy Secretary level of the Department. Proposals where the land owners agree to E zones or request that an E zone be applied will be dealt with by the Director Regions, Northern, of the Department.

Local Planning Direction

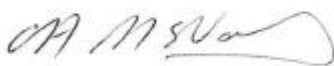
In accordance with the *Northern Councils E Zone Review Final Recommendations* a local planning direction has been issued to ensure that the application of E zones is consistent with these final recommendations. This direction requires councils to implement the adopted recommendations when preparing planning proposals that seek to introduce an E2 or E3 zone or an overlay and associated clause. It also contains further clarification regarding the 'primary use of land'.

The Department will be ensuring that any proposed E zone planning proposal is consistent with the final recommendations and matters discussed above.

Implementation of the Final Report Recommendations in a transparent and credible manner will strengthen the value of zoning decisions made to finalise the deferred areas in Council's LEP. The Department is more than happy to meet with Council to ensure that any technical or process issues can be resolved.

Should you have any further enquiries, please contact Mr Steve Murray, Acting Executive Director, Regions, at the Department on (02) 9228 6249.

Yours sincerely



Carolyn McNally
Secretary

1 3-16

Northern Councils Environmental Zone Review

Final Recommendations Report & Section 9.1 Direction

July 2023

What are C zones?

- Conservation zones - or 'C zones' - are designed to protect land that is of important environmental value.
- Types of C zones include 'C2' (environmental conservation), 'C3' (environmental management) and 'C4' (environmental living).

What is the Northern Councils E Zones Review Final Recommendations Report?

- The *Northern Councils E Zone Review Final Recommendations Report* provides a balanced approach to applying C zones and other mapped planning controls to land on the NSW Far North Coast.
- The Final Report is based on the recommendations made by the independent *Northern Councils E Zone Review Interim Report*.
- The Final Report has taken into account the views expressed by councils, agencies, community organisations, landowners and the general public in more than 400 submissions we received during the public consultation on the interim report in 2014.

What are the recommendations in the report?

- The report achieves a balanced approach that supports farming and protects the environment, by recommending that C zones should only be applied to places on the Far North Coast where the 'primary use' of the land is either environmental conservation ('C2') or environmental management ('C3'), and this has been based on validated ecological evidence.
- The 'primary use' of the land is the focus when making zoning decisions.
- Where the primary use of the land is agriculture, it will not be appropriate for the land to be zoned C2 or C3. Instead, a Vegetation Map (i.e. environmental overlay) may be applied to land that contains important environmental features.
- C4 zones will continue to be applied to low-impact residential developments in areas of special environmental value.
- The recommendations initially apply to the local government areas of Ballina, Byron, Kyogle, Lismore and Tweed.

Department of Planning and Environment Frequently Asked Questions



How is the 'primary use' of land defined in the report?

- 'Primary use' is defined as the main use for which the land has been used for the last two years.
- The primary use of the land may vary across a particular property, depending on the characteristics of the land. This may result in more than one zone being applied to the land.
- The primary use of land will need to be identified by the Council during the preparation of a rezoning.
- For the avoidance of doubt a reference to 'primary use of the land' in the context of the Final Recommendations Report is:
 - The main use of the land is to be determined based on evidence about the nature of the activities and operations occurring on the land over the last two years. If the main use is for rural or farming operations, agricultural practices need to be demonstrated. Specific farming activities (such as grazing) do not need to have occurred in the last two years if the operations on the land (for example keeping paddocks fallow) are part of broader farm management practices.
 - If the main use is for environmental conservation or management, the environmental values of the land and vegetation need to be demonstrated and the absence of any agricultural or other land use confirmed
- Determining the primary use will require the use of methodologies such as site visits, property development records, farm management plans, up-to-date air photography, Private Native Forestry or Property Vegetation Plan approvals, conservation records and discussion with landowners.

What are the steps for 'C2 and 'C3' zoning under the recommendations?

- Councils will first consider the primary use of the land. If the primary use is found to be environmental management or environmental conservation, then the Council will need to weigh the ecological evidence to verify whether the area qualifies for C2 or C3 zoning.
- Land can only qualify for an C or C3 zone if it is home to rainforests, wetlands, endangered plant species or vegetation that has been over-cleared in other areas, or is a place of cultural significance to the local Aboriginal community.
- If a council determines the primary use of the land is not environmental management or environmental conservation, but the land has important ecological attributes, the Council may instead include the vegetation on a Vegetation Map (i.e. environmental overlay).
- Before a C zone or Vegetation Map can be put in place, evidence of the land's environmental value needs to be verified by tests such as flora and fauna reports, biodiversity field inspections and ground surveys, or Aboriginal heritage field inspections and cultural heritage reports. It will not be sufficient for a Council to rely on one methodology.
- A proposal to apply a C zone to land will be placed on public exhibition and landowners will be able to make a submission to the proposal. As outlined on page four of this document,

Department of Planning and Environment Frequently Asked Questions



affected landholders will also have the right of independent review by the Planning Secretary or delegate.

What is the difference between a C zone and a Vegetation Map?

- Councils use C zones to indicate what type of activities can take place when land has important environmental value.
- A Vegetation Map and associated clause in a Local Environmental Plan gives councils extra flexibility to protect and manage places of significance, without needing to zone the surrounding area for environmental conservation or environmental management purposes. Vegetation Maps do not prohibit land uses, but require certain matters to be considered when development approval is required.
- The controls do not apply to development that can be carried out without consent i.e. extensive agriculture in a rural zone.

Can a C zone be applied to my land if it does not meet the criteria?

- Private land that does not meet the criteria for a C zone can only be zoned for environmental conservation or environmental management if the landowner agrees to this.
- Public land that does not meet the criteria can be zoned 'C2' or 'C3', if the primary use of the land is environmental conservation or environmental management.

If I have revegetated my land can it be C zoned?

- Land that has been actively revegetated by the current landowner and is primarily being used for agriculture will not qualify for environmental zoning unless requested by the owner or is a requirement of any funding agreement.
- A Vegetation Map can be placed over revegetated land only if it has environmental value.

What are the likely outcomes of the final recommendations?

- A clear and consistent way of applying C zones on the Far North Coast.
- Greater certainty for landowners, councils and the community, ensuring that C zones are only applied where environmental conservation or environmental management are the primary use of the land.
- Positive outcomes for farming and the environment alike, with greater certainty for the agriculture sector and greater protection for land that is verified as being of important environmental value.
- The value of C zones is enhanced by ensuring zoning decisions are evidence-based.
- Land that has been verified to meet the criteria for a C2 or C3 zone where the primary use of land is not environmental conservation or environmental management may be included in a Vegetation Map.

Department of Planning and Environment Frequently Asked Questions



Why has the Department's position changed on vegetation mapping?

- The Department's initial response to the *Northern Councils E Zone Review Interim Report* did not support using terrestrial biodiversity overlays.
- The Department now supports the use of Vegetation Maps and associated clauses in LEPs for significant native vegetation outside of the C zones on the basis that the guiding principle is the land's 'primary use' and the need for evidence based verification of the land's environmental value.
- The Department also supports mapped planning controls for public health, safety, risk and hazard. These planning controls manage matters of public health and safety connected with drinking water catchments, flooding, coastal risk areas and land that needs strict development controls, such as steep land.

How will a mapped planning control, such as a water catchment map, affect what I can do on my land?

- A mapped planning control does not change the zoning of land or prohibit permissible activities. If land is zoned rural for example, the map and associated LEP clause will identify matters that need to be addressed for activities that only require development approval.

What is the Minister's role in implementing the final recommendations?

- A Ministerial Direction (s9.1 Direction) has been issued, requiring the five affected councils to use the criteria set out in the Final Recommendations Report when determining whether to apply an environmental conservation or environmental management zone.
- The Ministerial Direction will guide the preparation and assessment of zoning decisions.

Will the recommendations eventually be applied statewide?

- The final recommendations within the report will initially apply only to Ballina Shire, Byron Shire, Kyogle, Lismore City and Tweed Shire. The Department will be consulting with other councils about how the final recommendations for environmental zoning on the Far North Coast can work across all areas of the State.

Will landowners be notified if a C zone is proposed for their land?

- Where a C zone is proposed, Councils will be required to write to each affected land owner unless a letter from the land owner agreeing to the proposed zoning has been provided.

What happens if a landowner disagrees with a proposed C zone?

- In the event that a landholder does not agree that their land meets the primary use or validation criteria for a C zone, the Planning Secretary or delegate will undertake an independent review.

Department of Planning and Environment Frequently Asked Questions



- The Planning Secretary or delegate will make a decision on the dispute, based on an assessment of the evidence provided by both Council and the landholder.
- Councils will be required to notify landholders once it resolves to adopt an E zone following a review of submissions.
- Landholders will have 28 days from Council's notification of the adoption of the final proposed zones to write to the Department of their request for a review.
- To request a review, the landholder must provide written consent for Council, Council's representative, or other appropriate qualified person to access the site to verify the presence of attributes that meet the C2 or C3 criteria in accordance with Section 5 of the Recommendations Report.

Where can I find out more?

- Visit our website at www.planning.nsw.gov.au/policy-and-legislation/environment-and-heritage/environment-zones
- Call our Information Centre on 1300 420 596. If English isn't your first language, please call 131 450. Ask for an interpreter in your language and then request to be connected to our Information Centre on 1300 305 695.
- Email information@planning.nsw.gov.au

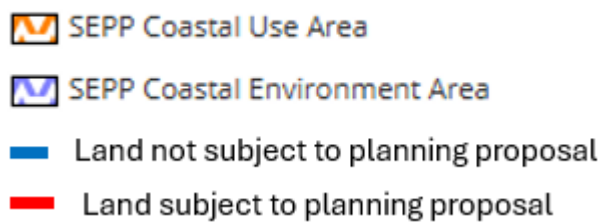
Appendix 11 – Land Within NSW Coastal Zone - SEPP (Resilience and Hazards) 2021 Mapping

54 Beacon Road Teven

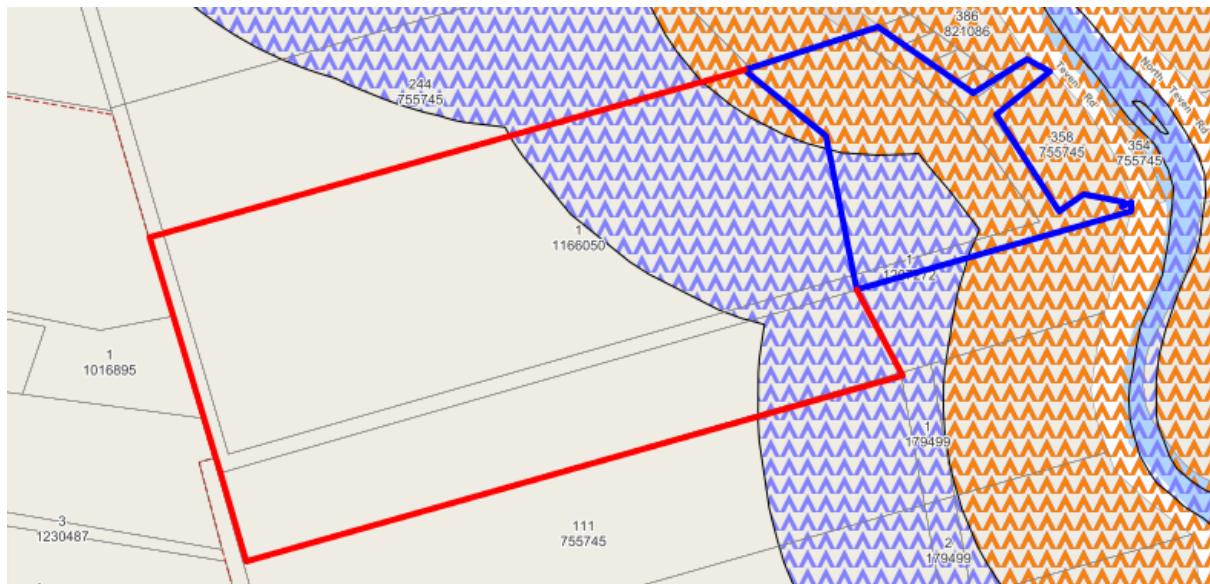


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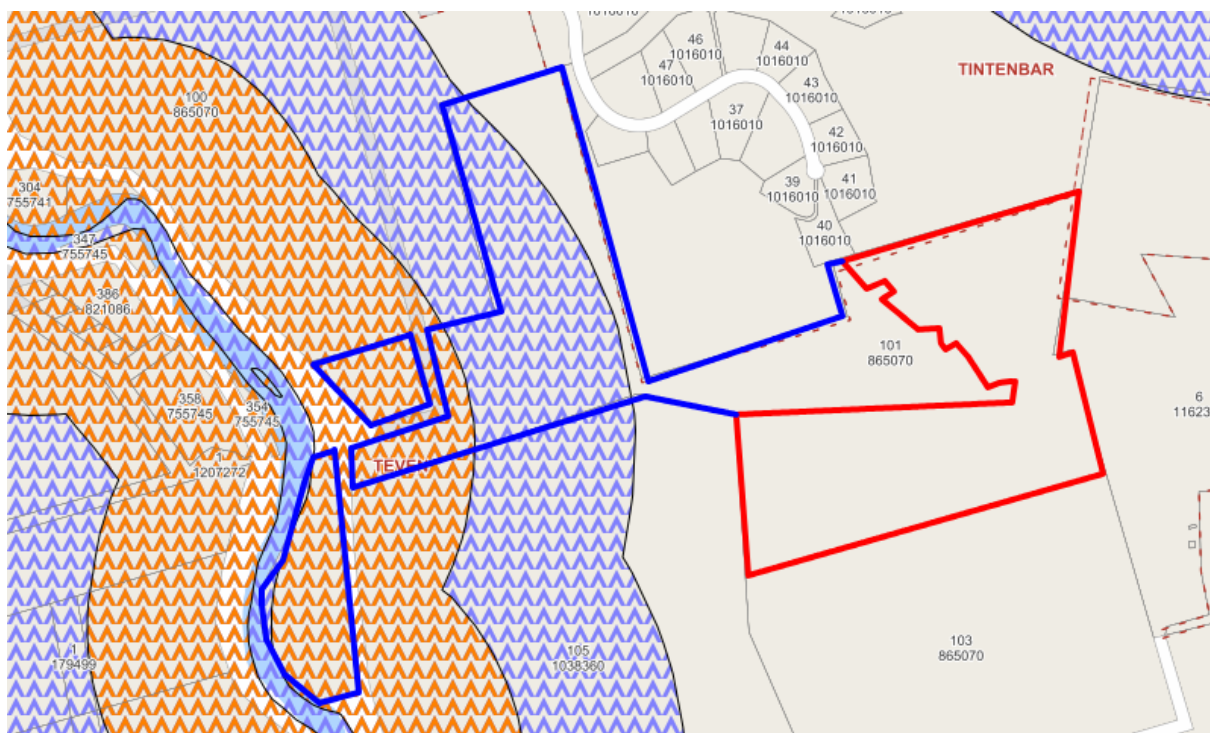
-  SEPP Coastal Use Area
-  SEPP Coastal Environment Area
-  Land not subject to planning proposal
-  Land subject to planning proposal



660 Teven Road, Teven



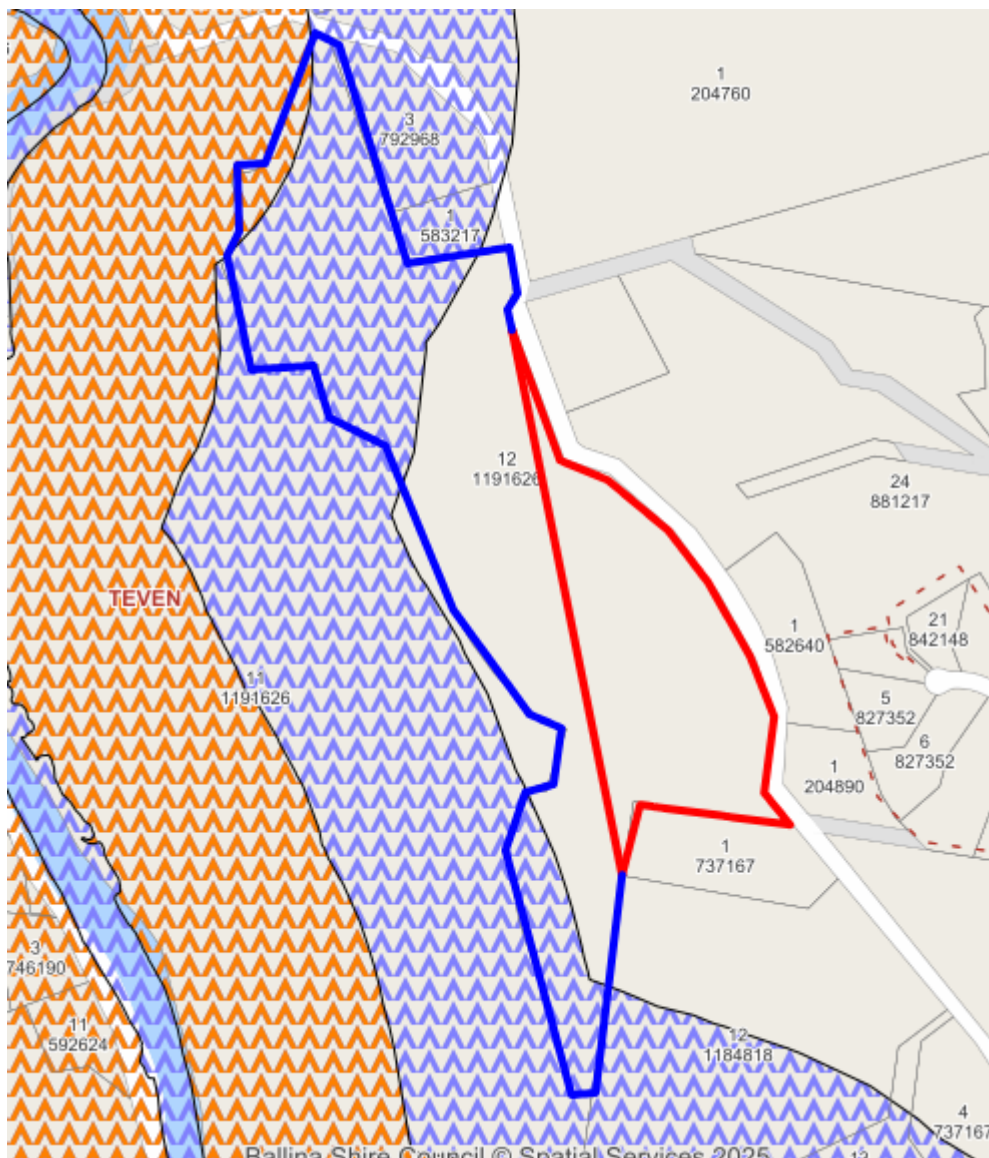
444 North Teven Road, Teven



Legend

-  SEPP Coastal Use Area
-  SEPP Coastal Environment Area
-  Land not subject to planning proposal
-  Land subject to planning proposal

287 North Teven Road, Teven



Legend

-  SEPP Coastal Use Area
-  SEPP Coastal Environment Area
-  Land not subject to planning proposal
-  Land subject to planning proposal

Appendix 12 – NSW Coastal Design Guidelines 2023 Assessment Checklist for Planning Proposals

(Provided under separate cover)

Appendix 13 – Gateway Determination

Department of Planning, Housing and Infrastructure



Our ref: PP-2025-1798/(IRF25/2190)

Mr Paul Hickey
General Manager
Ballina Shire Council
PO Box 450
Ballina NSW 2478
council@ballina.nsw.gov.au

13 October 2025

PP-2025-1798 to amend Ballina Local Environmental Plan 2012

Dear Mr Hickey

I am writing in response to the planning proposal you have forwarded to the Minister under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act) to incorporate deferred matter land and review conservation zones applied to certain land in Ballina local government area.

As delegate of the Minister for Planning and Public Spaces, I have determined that the planning proposal should proceed subject to the conditions in the enclosed gateway determination.

I have also agreed, as delegate of the Secretary, the inconsistencies of the planning proposal with applicable directions of the Minister under section 9.1 of the Act Directions 4.5 Acid Sulfate Soils, 8.1 Mining, Petroleum Production and Extractive Industries and 9.2 Rural Lands are justified in accordance with the terms of the Direction. No further approval is required in relation to the Directions.

Council may still need to obtain the agreement of the Secretary to comply with the requirements of relevant applicable directions of the Minister under section 9.1 of the Act in relation to Directions 3.1 Conservation Zones, 3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast local environmental plans (LEP) and 4.3 Planning for Bushfire Protection. Council should ensure this occurs prior to the LEP being made.

Consistent with the former Secretary's letter to Ballina Shire Council of 1 March 2016, an authorisation to act as the Local Plan-Making authority is not to be issued where a planning proposal seeks to apply a conservation zone to land to which the Northern Councils E Zone Review applies.

The amending LEP is to be finalised on or before nine months from the date of Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request for the Department of Planning, Housing and Infrastructure to draft and finalise the LEP should be made eight weeks in advance of the date the LEP is projected to be made.

The NSW Government has committed to reduce the time taken to complete LEPs. To meet these commitments, the Minister may appoint an alternate planning proposal authority if Council does not meet the timeframes outlined in the gateway determination.

The Department's categorisation of planning proposals in the *Local Environmental Plan Making Guideline* (Department of Planning, Housing and Infrastructure, August 2023) is supported by category specific timeframes for satisfaction of conditions and authority and Government agency referrals, consultation, and responses. Compliance with milestones will be monitored by the Department to ensure planning proposals are progressing as required.

Should you have any enquiries about this matter, I have arranged for Ms Ella Wilkinson to assist you. Ms Wilkinson can be contacted on 02 6643 6408.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'D Thompson', is positioned above the printed name and title.

Daniel Thompson
Executive Director
Local Planning and Council Support

Encl: Gateway determination



Gateway Determination

Planning proposal (Department Ref: PP-2025-1798): Incorporate deferred matter land and review conservation zones applied to certain land in Ballina local government area.

I, the Executive Director, Local Planning and Council Support 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 an amendment to the Ballina Local Environmental Plan 2012 to incorporate deferred matter land and review conservation zones applied to certain land in Ballina local government area should proceed subject to the following:

The LEP should be completed on or before nine months from the date of Gateway determination.

Gateway Conditions

1. Prior to public exhibition the planning proposal is to be updated to include:
 - (a) maps which are suitable for public exhibition and demonstrate the proposed changes to the Land Application Map, Height of Buildings Map, Lot Size Map, and Acid Sulfate Soils Map; and
 - (b) a reference in section 5 of the planning proposal to the need to amend the Acid Sulfate Soils map under section 5 of the proposal.
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 complex 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 30 working days;
 - (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);
 - (c) consistent with the Secretary's letter of 1 March 2016, Council must ensure that any landowner whose land is proposed to have a conservation zone applied, is notified in writing of the planning proposal and consultation arrangements; and
 - (d) when Council has considered the submissions received during public exhibition and has endorsed the final planning proposal, the landowners whose land will be subject to a conservation zone must be notified in writing of Council's decision and advised that they have 28 days to notify the Department to undertake an independent review of the proposed zoning of their property.

3. Consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the Act (or any other part of the Act) and/or to comply with the requirements of applicable directions of the Minister under section 9 of the Act:

- Department of Primary Industries and Regional Development – Agriculture and Biosecurity (DPIRD - AG)
- Department of Climate Change, Energy, the Environment and Water – Biodiversity (DCCEEW - Biodiversity)
- NSW Rural Fire Service

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal and given at least 40 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).
5. The final planning proposal is to detail how the C Zone application process for each property has been satisfied in accordance with the Northern Councils C Zone Review Final Recommendations Report.

Dated 13 October 2025



Daniel Thompson
Executive Director
Local Planning and Council Support
Department of Planning, Housing and
Infrastructure

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