



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

Ref: PGR\_2014\_BALLI-001\_00

Dear Mr Hickey

**Request for pre-Gateway review – PGR\_2014\_BALLI\_001\_00**

I refer to the request for a pre-Gateway review (PGR\_2014\_BALLI-001\_00), lodged on 21 August 2014, for a proposal to amend Ballina Local Environmental Plan 2012 to rezone part of Lot 1 DP 1165957, 44-52 Blue Seas Parade, Lennox Head, from RU1 Primary Production to R2 Low Density Residential and replace the 40ha minimum lot size with a 600m<sup>2</sup> minimum lot size.

I have now determined that the proposal should proceed to Gateway determination stage. In making my decision, I considered the request for a pre-Gateway review, together with the recommendation of the Northern Joint Regional Planning Panel and advice provided by Council. Please find attached copy of the Panel's decision and report.

Consequently, Council is asked to advise if it would like to be the Relevant Planning Authority (RPA) for this proposal. Should Council agree to be the RPA, it will need to prepare a planning proposal under section 55 of the *Environmental Planning and Assessment Act 1979*, and submit it for a Gateway determination within 28 days of the date of this letter.

If Council does not wish to progress this matter, an alternate RPA may be appointed to prepare the planning proposal. Should Council not wish to be the RPA for this proposal, please contact the Department of Planning and Environment to discuss this matter further. You can view the progress of the pre-Gateway review at <http://pgrtracking.planning.nsw.gov.au/>

Should you have any further enquiries about this matter, please contact Ms Jenny Johnson of the Department's Northern Region Office on (02) 6641 6614.

Yours sincerely

  
Marcus Ray  
Acting Deputy Secretary *08/12/14*  
Planning Services

Encl: Northern Joint Regional Planning Panel, Recommendation Report

Department of Planning & Environment  
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**Joint Regional Planning Panel – Pre-Gateway Review – Recommendation Report Template**

The Northern Joint Regional Planning Panel (JRPP) has considered the request for a review of the proposal as detailed below.

**The Pre-Gateway Review:**

<b>Dept. Ref. No:</b>	PGR_2014_BALLI_001_00
<b>LGA:</b>	Ballina
<b>LEP to be Amended:</b>	Ballina LEP 2012
<b>Address / Location:</b>	44-52 Blue Seas Parade, Lennox Head (part of Lot 1 DP1165957) and adjoining road reserve
<b>Summary of Proposal:</b>	To rezone the subject site from RU1 Primary Production to R2 Low Density Residential under the Ballina LEP 2012 and apply a 600m <sup>2</sup> minimum lot size

<b>Reason for review:</b>	<input checked="" type="checkbox"/>	The Council has notified the proponent that the request to prepare a planning proposal has not been supported
	<input type="checkbox"/>	The Council has failed to indicate its support 90 days after the proponent submitted a request to prepare a planning proposal

In considering the request, the JRPP has reviewed all relevant information provided by the proponent as well as the views and position of the Department of Planning and Environment and the relevant local government authority. Based on this review the JRPP recommends the following:

<b>JRPP RECOMMENDATION:</b>	<input checked="" type="checkbox"/>	The proposed instrument <b>should</b> be submitted for a Gateway determination	
	<input type="checkbox"/>	The proposed instrument <b>should not</b> be submitted for a Gateway determination	
<b>Composition of Recommendation:</b>	<input checked="" type="checkbox"/> Unanimous <input type="checkbox"/> Not unanimous	<b>Comments:</b>	
<b>JRPP Members:</b>	Garry West (Chair) John Griffin Pamela Westing John Truman David Wright		

**JRPP Advice and Justification for Recommendation:**

The Regional Panel agrees with the Assessment conducted by the Department and the Ballina Shire Council Staff for the planning proposal, which has strategic and site specific merit in regard to Ballina's Shire Growth Management Strategy.



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

RECORDS SCANNED
24 DEC 2014
Doc No.....
Batch No.....

Our ref: PGR\_2014\_BALLI\_001\_00  
Your ref: BSCPP 14/005

Dear Mr Hickey

**Pre-Gateway Extension Request - PGR\_2014\_BALLI\_001\_00**

I refer to your correspondence of 12 December 2014 seeking an extension of time to consider acceptance of the Relevant Planning Authority role for the proposed residential rezoning at 44-52 Blue Seas Parade, Lennox Head (PGR\_2014\_BALLI\_001\_00).

The timeframe for accepting or declining the Relevant Planning Authority role is non-statutory. It is open to me therefore to amend the timeframe beyond 28 days. Given the current situation of the holiday period I agree to your request.

I have been advised that the proponent has been notified of the delay and is satisfied that the issue will be considered at the earliest opportunity in January 2015.

Council should ensure that the matter is considered no later than the Ordinary Meeting on 22 January 2015.

If you have any questions in relation to this matter, I have arranged for Ms Jenny Johnson of the Northern Region Office to assist you. Ms Johnson can be contacted on (02) 6641 6614.

Yours sincerely

**Marcus Ray**  
**Acting Deputy Secretary**  
**Planning Services**

17/12/14



## Planning Proposal – January 2015

### 44 – 52 Blue Seas Parade, Lennox Head

Part Lot 1 and Part Lot 2 DP 1165957, Blue Seas Parade,  
Lennox Head

Gateway 14/34975

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Planning Proposal – January 2015  
44 – 52 Blue Seas Parade Lennox Head

2

**TABLE OF CONTENTS**

TABLE OF CONTENTS ..... 3  
 INTRODUCTION..... 4  
 Summary of Planning Proposal..... 4  
 Planning Context..... 5  
 PART 1 – OBJECTIVES & INTENDED OUTCOMES ..... 8  
 PART 2 – EXPLANATION OF THE PROPOSAL ..... 9  
 PART 3 – JUSTIFICATION ..... 10  
 Section A - Need for the Planning Proposal..... 10  
 Section B - Relationship to the Strategic Planning Framework..... 10  
 Section C - Environmental, Social and Economic Impact ..... 11  
 Section D - State and Commonwealth interests. .... 11  
 PART 4 – MAPPING..... 12  
 PART 5 – COMMUNITY CONSULTATION ..... 19  
 PART 6 – TIMELINE..... 19  
 APPENDICES ..... 20  
     Appendix A – Photos of the Site and Surrounds  
     Appendix B – Section 117 Direction Checklist  
     Appendix C – Report to Ballina Shire Council’s Ordinary Meeting on 22 May 2014  
     Appendix D – Extracts from Site Contour Map and Existing Obstacle Limitations Map No 11  
     Appendix E – 2028 ANEF Contour Map  
     Appendix F – Extract from Northern Rivers Farmland Protection Project 2005 – Final Map 4  
     Appendix G – Proponent’s LEP Amendment Application  
     Appendix H – Letters from Department of Planning and Environment re pre-Gateway  
             Review and Extension of Time  
     **Appendix I – Report to Ballina Shire Council’s Ordinary Meeting on XXXX**

## INTRODUCTION

### Summary of Planning Proposal

This planning proposal primarily relates to part Lot 1 DP 1165957 (Lot 1) known as 44 – 52 Blue Seas Parade, Lennox Head, as shown on the Site Identification Map in Part 4.

The proponent and land owner is Mr George Farley. The LEP amendment request (Refer Appendix G) has been prepared by Mr Paul Snellgrove of Ardill Payne and Partners.

Lot 1 has a total area of 3.476 hectares and frontages to Blue Seas Parade and The Coast Road. The land the subject of the LEP amendment request has an approximate area 1.1 hectares and an approximate frontage to Blue Seas Parade of 196 metres.

The amendment as proposed by the proponent involves the rezoning of that part of Lot 1 designated as a Strategic Urban Growth Area (SUGA) from RU1 Primary Production to R2 Low Density Residential zone (see Existing and Proposed Zoning Maps in Part 4).

The LEP amendment request submission indicates, that based on a 600m<sup>2</sup> lot size, the site could yield up to 13 lots. An indicative plan of subdivision has not yet been prepared. This planning proposal has been prepared on the basis that the minimum lot size will not be less than 1200m<sup>2</sup> for Lot 1. A 1200m<sup>2</sup> minimum lot size is considered appropriate based on the following known land constraints at this stage of the rezoning process:

- Need for appropriate buffer areas to the adjoining primary industry;
- Ridge top location and associated scenic amenity considerations;
- Impact of existing 20 metre wide electricity easement within Lot 1;
- Right of way and access requirements.

The proposed Minimum Lot Size Map which forms a part of this planning proposal applies a 600m<sup>2</sup> minimum lot size to that part of Blue Seas Parade which adjoins Lot 1 to ensure consistency with adjoining properties.

Council intends to further investigate the appropriateness of the proposed R2 Low Density Residential Zone and proposed 1200m<sup>2</sup> minimum lot size through consideration of various environmental assessments post Gateway determination.

The outcome of the environmental assessment process will be utilised by Council to establish its preferred approach to the planning proposal and LEP amendment.

This planning proposal also relates to Part Lot 2 DP 1165957 (Lot 2) which contains a triangular section of land, having approximate area of 900m<sup>2</sup>, which is also designated as a SUGA. It is proposed to remove the SUGA affectation from Lot 2 as well as from the section of Blue Seas Parade which adjoins Lot 1. The SUGA affectation on Lot 2 resulted from the non alignment of subdivision and SUGA boundaries at the time of creation of Lots 1 and 2 in 2011.

Consultation with the owners of Lot 2 has revealed that they object to the proposed rezoning of Lot 1. They state, however, that if the rezoning is to go ahead then they support the removal of the SUGA affectation from their property.

## Planning Context

### Site History

Lot 1 was created in July 2011 from the re-subdivision of Lot 2 DP 587685 and two other lots. Lot 2 DP 587685 which had an area of 31.52 hectares was the subject of a rezoning application submitted in May 2008.

Ballina Shire Council, at its Ordinary Meeting held in July 2010 [Minute No. 220710/7] resolved to initiate a stand alone LEP amendment for Lot 2 DP 587685. That LEP amendment proposed that a residential zone be applied to part of Lot 2 DP 587685. An indicative plan of subdivision showed 12 residential lots were proposed to be created at that time.

Following assessment of issues relevant to the rezoning the Council resolved at its Ordinary Meeting held in March 2011 [Minute No. 240311/11] to cease processing of the LEP amendment request. This was on the basis of several unresolved issues and followed the proponent formally withdrawing the request.

Council's March 2011 resolution also provided for the land designated for potential urban development within Lot 2 DP 587685 to be reduced in area, primarily based on assessment of visual amenity issues. This reduction was subsequently incorporated within the Ballina Shire Growth Management Strategy as well as the Strategic Urban Growth Area mapping within Ballina LEP 2012.

The extent of the proposed rezoning, the subject of this planning proposal, reflects the reduced area resulting from Council's resolution in March 2011.

### Council Resolutions – Planning Proposal for Rezoning of Lot 1

The current request for rezoning of the subject site was initially reported to Council's Ordinary Meeting held on 22 May 2014. At that meeting, the Council resolved as follows [Minute No: 220514/1]:

1. *That Council prepare a planning proposal for the application of an R2 Low Density Residential zone over that part of Lot 1 DP 1165957 designated as a Strategic Urban Growth Area in Ballina LEP 2012.*
2. *That the subdivision potential and associated minimum lot size for the future development of Lot 1 DP 1165957 be determined following assessment of additional technical information.*
3. *That a further report be presented to the Council documenting the planning proposal when prepared for submission for Gateway determination.*
4. *For the purpose of further investigation the planning proposal shall include a minimum lot size of 600 m<sup>2</sup>.*

A further report was considered by Council at its Ordinary Meeting on 24 July 2014 following preparation of the planning proposal. At that meeting the Council resolved as follows [Minute No: 240714/10]:

1. *That Council discontinue processing of the LEP amendment request to apply a residential zone to part of Lot 1 DP 1165957 and take no further action with respect to the rezoning of the land under the current amendment request, for the following reasons:*



## 9.2 LEP Amendment - 44-52 Blue Seas Parade, Lennox Head.DOC

2. *That the Council does not support the application of a zoning to Lot 1 DP 1165957 that enables further residential development to occur on the land beyond what is enabled under the current rural land use zoning.*
3. *That Council take steps at the next revision of the Ballina Shire Growth Management Strategy to remove all land contained within Lot 1 DP 1165957 from identification as a potential urban growth area from local planning policy.*

### **Request for pre-Gateway Review and Subsequent Council Resolution**

A request for a pre-Gateway review was submitted to the Department of Planning and Environment on 19 August 2014 by Paul Snellgrove, Ardill Payne and Partners, on behalf of the proponent Mr George Farley. The review was considered by the Joint Regional Planning Panel on 25 November 2014.

The Department of Planning and Environment has advised Council, by letter dated 8 December 2014, that the planning proposal should proceed to the Gateway determination stage. Council has also been requested to advise whether it would like to be the Relevant Planning Authority (RPA) and submit a planning proposal for Gateway determination. A copy of the Department's letters are contained within Appendix H.

Council considered the request from the Department of Planning and Environment at its Ordinary Meeting on 22 January 2015 and resolved as follows [Minute No: XXXXXX/XX]:  
**Insert Minute Here**

A copy of the report to Council's Ordinary Meeting on 22 January 2015 is contained within Appendix I.

### **Consistency with Strategic Planning Policy**

The proposed rezoning of the subject land to enable residential development is generally consistent with both Council and State Government urban planning policy. The following provides an overview of the proposed amendment with respect to key planning policy documents.

#### *Far North Coast Regional Strategy (FNCRS)*

The subject land is located within the existing urban footprint of Lennox Head and designated as a future urban release area under the FNCRS. The proposed rezoning for residential purposes is consistent with this strategy.

#### *Ballina Shire Growth Management Strategy 2012 (GMS)*

The subject land is identified as a strategic urban growth area under the GMS. Given that the site is identified as a potential future urban area, the proposed rezoning for residential purposes is consistent with Council's GMS.

#### *Lennox Head Structure Plan (LHSP)*

The Lennox Head Structure Plan (LHSP) includes the whole of Lot 1 within an area designated as *visually significant land*. It should be noted, however, that the section of Lot 1 the subject of this planning proposal has been subject to some additional visual amenity assessment in association with the previous rezoning request over the land. The subject land is located generally below the top of the ridgeline on the landward side. As such, it was incorporated as a Strategic Urban Growth Area within Ballina LEP 2012. The LHSP was adopted in 2004, well before the GMS and Ballina LEP 2012.

## 9.2 LEP Amendment - 44-52 Blue Seas Parade, Lennox Head.DOC

*Ballina Local Environmental Plan 2012 (BLEP 2012) and Ballina Local Environmental Plan 1987 (BLEP1987)*

The western most (front) section of Lot 1, which has a frontage to Blue Seas Parade is substantially zoned RU1 Primary Production under the provisions of BLEP 2012. The eastern most (rear) and southern most sections of Lot 1 are designated as deferred matters under BLEP 2012 and retain their Ballina LEP 1987 zones.

The eastern most (rear) section of Lot 1, which has a frontage to The Coast Road, is zoned 7 (d) Environmental Protection (Scenic/Escarpment) under the provisions of BLEP 1987. In addition, a small section of Lot 1 at its southern most end, fronting Blue Seas Parade, is zoned 1(d) (Urban Investigation). Refer to Existing and Proposed Zoning Maps in Part 4.

This planning proposal relates to part of the western most section of Lot 1, which is designated as a Strategic Urban Growth Area under the provisions of Ballina LEP 2012. This section of Lot 1, which is currently, zoned RU1 Primary Production is proposed to be rezoned R2 Low Density Residential.

A minimum 40 hectare lot size is currently applicable to Lot 1.

That part of Lot 2 which is affected by this planning proposal, in so far as the removal of the SUGA affectation is proposed, is zoned RU1 Primary Production under the provisions of BLEP 2012. No change to this zone is proposed at this time.

### **Key Planning Issues**

Key planning issues identified in relation to the proposal to date include the following:

<b>Key Issue</b>	<b>Summary</b>
Access and Right of Carriageway (ROW)	A 10 metre wide ROW affects Lot 1 in favour of Lot 2 DP 1165957. The manner in which access is proposed to be obtained to the proposed subdivision and its relationship to the ROW will need to be detailed by the proponent. It may not be feasible to obtain access directly to proposed lots from Blue Seas Parade due to a significant retaining wall constructed along the boundary of Lot 1 with Blue Seas Parade. Refer photos at Appendix A.
Airport Obstacle Limitation Surface Restrictions	The site protrudes into the existing obstacle limitation surface levels associated with Ballina Byron Gateway Airport. Consultation with relevant Commonwealth agencies is a mandatory part of the planning proposal process.
Bushfire Threat	Lot 1 is partly affected by Category 2 vegetation and is located within the 30 metre bushfire buffer area. A Bushfire Threat Assessment Report will be required.
Coastal Zone Impacts and Visual Amenity Impacts	Consideration of relevant matters for consideration as specified in Clause 8 of <i>SEPP 71 - Coastal Protection</i> and Appendix C – Table 3 of the <i>NSW Coastal Policy</i> will be required. This includes issues associated with visual impacts.  The <i>Coastal Zone Design Guidelines 2003</i> are also required to be considered. Consideration of potential building envelopes and subdivision lot design will be required.
Due Diligence Aboriginal Heritage Assessment	Investigation in relation to whether any items of Aboriginal cultural heritage are likely to be impacted by the proposed rezoning will be required.

## 9.2 LEP Amendment - 44-52 Blue Seas Parade, Lennox Head.DOC

Key Issue	Summary
Easement Relocation	A 20 metre wide easement for overhead power lines affects Lot 1 in favour of Essential Energy. The feasibility of relocating this infrastructure will need to be examined via consultation with Essential Energy.
Ecological Matters	Potential flora and fauna impacts require assessment, particularly given the site's proximity to vegetation communities contained within the adjoining Crown reserve to the north.
Land Contamination	A Detailed Contaminated Land Assessment and Remedial Action Plan were previously submitted in support of the 2008 rezoning proposal. The proponent will be required to assess the contamination status of the land in the context of the revised site area.
Land Slip	Lot 1 is located within an area identified as being susceptible to land slip (Coffee Partners Pty Ltd report and Department of Mineral Resources mapping.) More detailed investigation is required as to the degree of risk associated from landslip and its impact on any potential residential subdivision.
Land Use Conflicts	The compatibility of agricultural land uses located upon Lot 2 with residential uses proposed for Lot 1 requires assessment. Minimum buffer distances require consideration. A land use Conflict Risk Assessment (LUCRA) is required which will consider these issues.
Services and Stormwater Management Report	A report investigating the manner in which the site will be serviced, including connection to the sewer network, will be required. A stormwater management report will be required which examines issues related to on-site stormwater detention and location of bio filtration areas, if proposed.

The proponent will be required to submit detailed information relating to the above matters following Gateway determination.

It is considered that the optimal means of addressing the key site issues and evaluating the overall rezoning proposal is to engage an independent third party to complete an environmental assessment and report following the submission of the required information by the proponent. The report will provide recommendations related to the land use zoning outcomes considered to be most appropriate, minimum recommended lot sizes and any other controls considered to be warranted given the prominent location of the site.

### PART 1 – OBJECTIVES & INTENDED OUTCOMES

The objectives of this planning proposal are to:

- enable residential development on the land through the application of low density residential zone;
- determine a suitable minimum lot size for the land being not less than 1200m<sup>2</sup>;
- resolve mapping anomalies relating to the application of a SUGA to part of Lot 2 and a portion of Blue Seas Parade;
- resolve a mapping anomaly by rezoning a portion of Blue Seas Parade from RU1 to R2 so as to conform with the existing and proposed adjoining zone; and

## 9.2 LEP Amendment - 44-52 Blue Seas Parade, Lennox Head.DOC

- resolve a mapping anomaly by applying a 600m<sup>2</sup> minimum residential lot size to a portion of Blue Seas Parade consistent with that applicable to adjoining land to the west and north.

### PART 2 – EXPLANATION OF THE PROPOSAL

This planning proposal relates primarily to Lot 1 DP 1165957 known as 42 – 52 Blue Seas Parade, Lennox Head (see Site Identification Map in Part 4). The planning proposal will also address mapping anomalies relating to the removal of a SUGA affectation currently located on Lot 2 DP 1165957 and a section of Blue Seas Parade. Proposed changes to the Minimum Lot Size Map will also relate to that section of Blue Seas Parade which adjoins Lot 1.

The LEP amendment request has been prepared by Ardill Payne and Partners on behalf of the proponent Mr George Farley who is the sole property owner. The proponent has not at this stage submitted any comprehensive information which addresses the various site constraints identified in Part 1. It is proposed that this information be required to be prepared and submitted post Gateway determination.

Lot 1 has an area of 3.476 hectares of which approximately 1.1 hectares relates to this planning proposal. Lot 1 has a frontage of 220.89 metres to Blue Seas Parade of which approximately 196 metres relates to land affected by this planning proposal.

Lot 1 extends from Blue Seas Parade to the Coast Road. That part of Lot 1 subject to this planning proposal is located on the landward side of the main ridge which separates the residential and rural sections of Lennox Head.

Appendix A contains photos of the site and surrounds.

The amendment to the LEP as proposed by the proponent involves the rezoning of the land from RU1 Primary Production to enable residential development on the land via application of a R2 Low Density Residential zone (See Maps in Part 4). The proposed amendment is generally consistent with applicable local and State government urban planning policy.

An indicative subdivision plan has not been submitted. The proponent has estimates that based on the 600m<sup>2</sup> minimum lot size proposed in the LEP amendment request the site would yield up to 13 lots. Council has however not accepted the feasibility of the proposed 600m<sup>2</sup> minimum lot size due to the impact of known land constraints. For the purposes of this planning proposal and for Gateway determination a 1200m<sup>2</sup> minimum lot size has been nominated as being appropriate at this stage of the process.

Given that there are a number of key issues relating to the proposal that require further examination, it is proposed that Council engage an independent third party to prepare an environmental assessment and planning report on the proposal. It is envisaged that the assessment and report will examine the suitability of the site for a R2 Low Density Residential zoning as well as the appropriate minimum lot size. On this basis, the planning proposal is intended to enable flexibility in the application of the proposed residential zone and minimum lot size standard following the completion of the environmental assessment and planning report, public exhibition and further deliberations by the Council.

## PART 3 – JUSTIFICATION

### Section A - Need for the Planning Proposal

**1. Is the planning proposal a result of any strategic study or report?**

The subject land is identified in the Ballina Shire Growth Management Strategy and the Far North Coast Regional Strategy as a potential area for urban development. The proposed rezoning to enable residential development on the land is consistent with local and State government urban planning policy.

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

Yes, the zoning of the land to enable residential development is the appropriate mechanism to recognise the proposed change of land use.

### Section B - Relationship to the Strategic Planning Framework

**3. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?**

The proposal is consistent with the Far North Coast Regional Strategy, as the land is identified as a proposed future urban release area.

**4. Is the planning proposal consistent with the local Council's Community Strategic Plan, or other local strategic plans?**

The proposed is consistent with the Ballina Shire Growth Management Strategy as the land is identified as a potential urban release area (see further detail under Planning Context).

The proposal is consistent with Council's Community Strategic Plan in that it aligns with Council's endorsed urban planning policy which sits under the overarching direction of the CSP.

**5. Is the planning proposal consistent with applicable State Environmental Planning Policies?**

The proposal is considered to generally consistent with applicable State Environmental Planning Policies (SEPP's).

**6. Is the planning proposal consistent with the applicable Ministerial Directions (S. 117 directions)?**

The proposal is not consistent with the following relevant Section 117 Directions:

- 1.2 Rural Zones;
- 1.5 Rural Lands;
- 3.5 Development Near Licenced Aerodromes
- 4,2 Mine Subsidence and Unstable Land
- 4.4 Bushfire Protection; and
- 5.3 Farmland of State or Regional Significance on the NSW Far North Coast.

In each case the inconsistencies are considered to be minor and justifiable in terms of the criteria contained within the direction.

Inconsistencies have been documented in a Section 117 Direction checklist for the planning proposal contained in Appendix B.

### **Section C - Environmental, Social and Economic Impact**

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

The proponent has not yet examined the ecological significance of the subject site. A detailed ecological assessment is proposed to be required post Gateway determination. It is noted at this stage that the subject site has been substantially cleared and contains mainly grass species. The site also contains a number of trees, the significance of which requires further assessment.

- 8. Are there any other likely environmental effects as a result of the planning proposals and how are they proposed to be managed?**

There are a number of potential environmental impacts associated with the proposal. The extent of impacts and associated mitigation measures will be required to be further assessed by the proponent post Gateway determination. The documentation submitted will then be the subject of an independent environmental assessment and planning report.

- 9. How has the planning proposal adequately addressed any social and economic effects?**

Potential visual impacts associated with housing development on this escarpment site may be the subject of concerns from surrounding residents and the broader community. Visual impacts will be required to be assessed in detail post Gateway determination and prior to community consultation.

There are considered to be few broader economic consequences associated with the proposed rezoning. Overall economic impacts associated with the release of additional residential land in a prime location are considered to be positive.

### **Section D - State and Commonwealth interests.**

- 10. Is there adequate public infrastructure for the planning proposal?**

The proposal for residential development on the land is generally compatible with existing and planned infrastructure in the locality. However, there may be a need for onsite stormwater management infrastructure such as on site detention and bio filtration areas. This will be further examined in a stormwater management report that the proponent will be required to prepare.

- 11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?**

Consultation will be undertaken with relevant agencies prior to the public exhibition stage of the LEP amendment process and after relevant documentation has been

## 9.2 LEP Amendment - 44-52 Blue Seas Parade, Lennox Head.DOC

submitted and completed. At this stage the Rural Fire Service, Civil Aviation Safety Authority (CASA), Air Services Australia, Ballina Byron Gateway Airport, Essential Energy and Department of Primary Industries have been identified as agencies which are proposed to be consulted.

### PART 4 – MAPPING

The following maps have been prepared to support this planning proposal:

- Map 1 – Site Identification Map;
- Map 2 – Existing Combined Zoning Map Ballina LEP 1987 and Ballina LEP 2012;
- Map 3 – Existing Zoning Map Ballina LEP 2012;
- Map 4 – Proposed Land Zoning Map;
- Map 5 – Proposed Strategic Urban Growth Area Map; and
- Map 6 – Proposed Lot Size Map.

The mapping may be subject to change based on the outcome of further assessment.

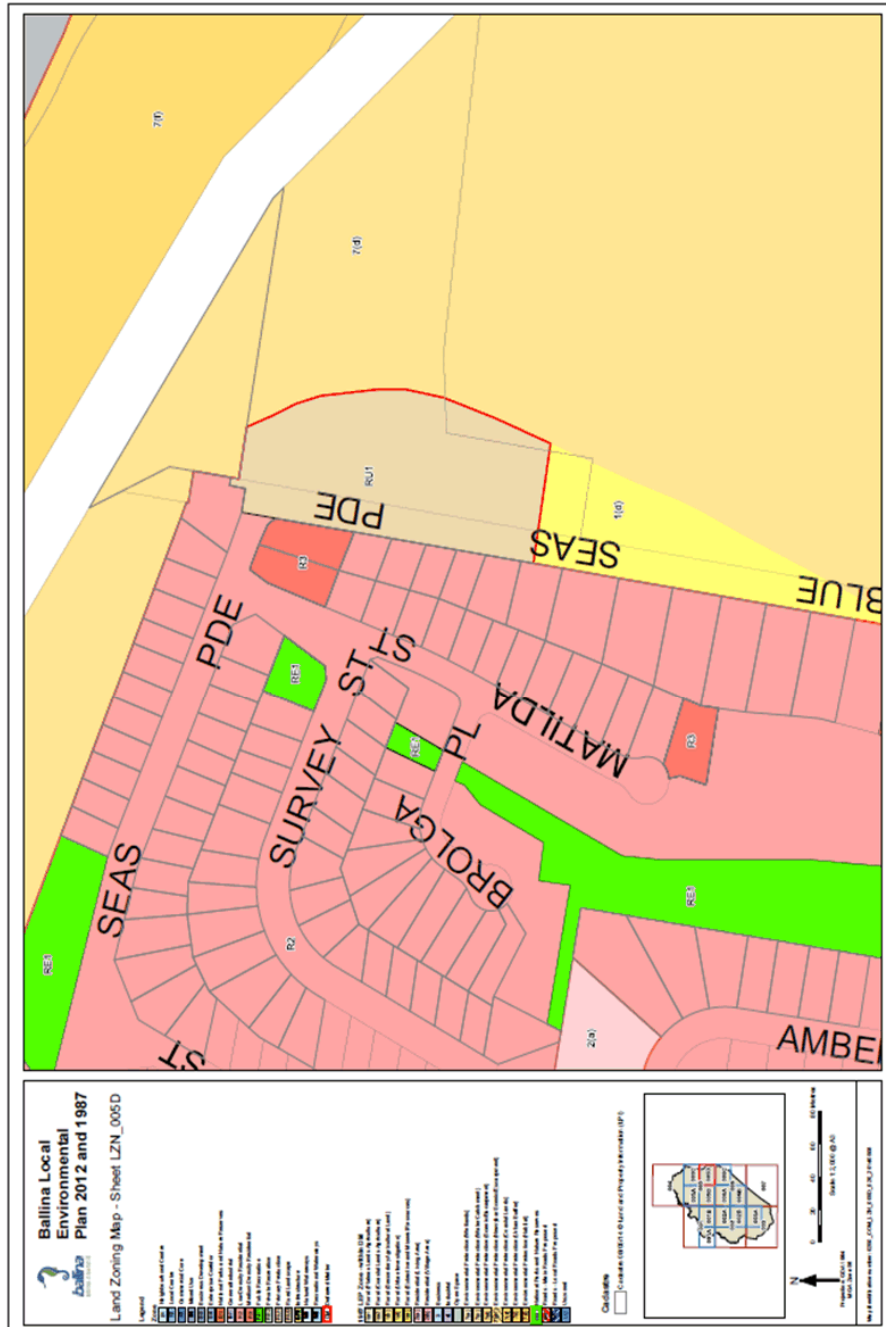
Map 1 – Site Identification Map



Planning Proposal – January 2015  
44 – 52 Blue Seas Parade Lennox Head

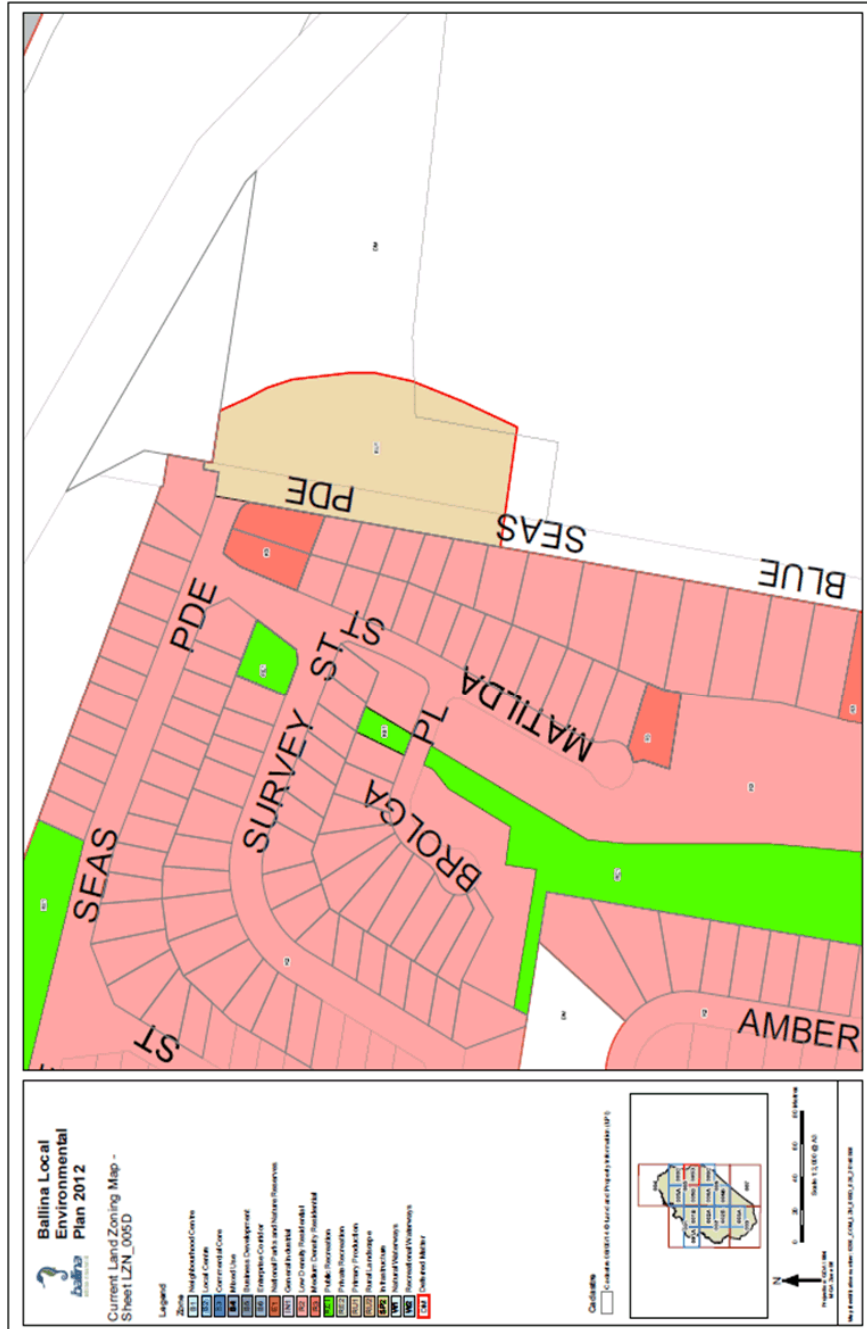


Map 2 – Existing Combined Ballina LEP 1987 and Ballina LEP 2012 Land Zoning Map



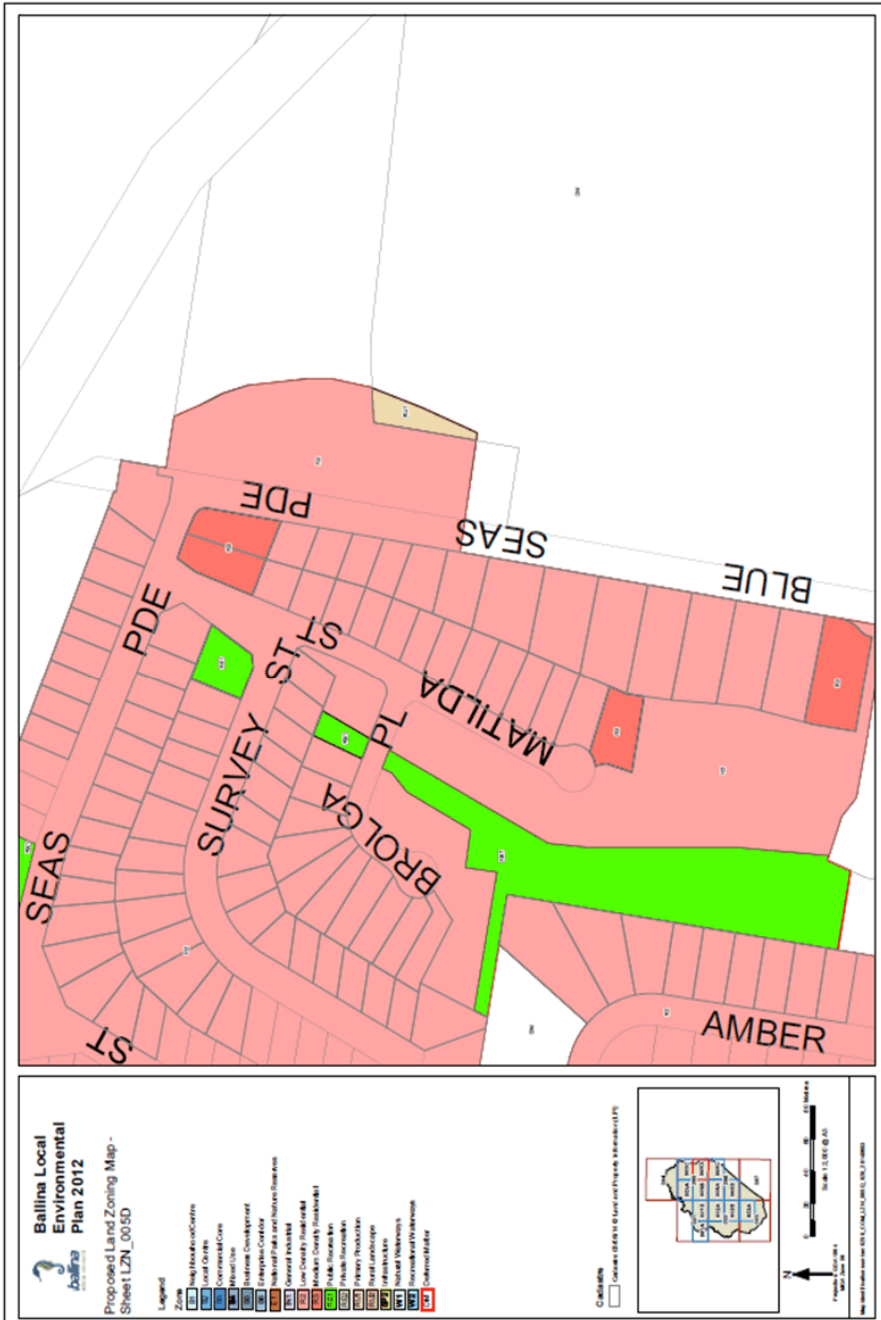
Planning Proposal – January 2015  
 44 – 52 Blue Seas Parade Lennox Head

Map 3 – Existing Land Zoning Map Ballina LEP 2012



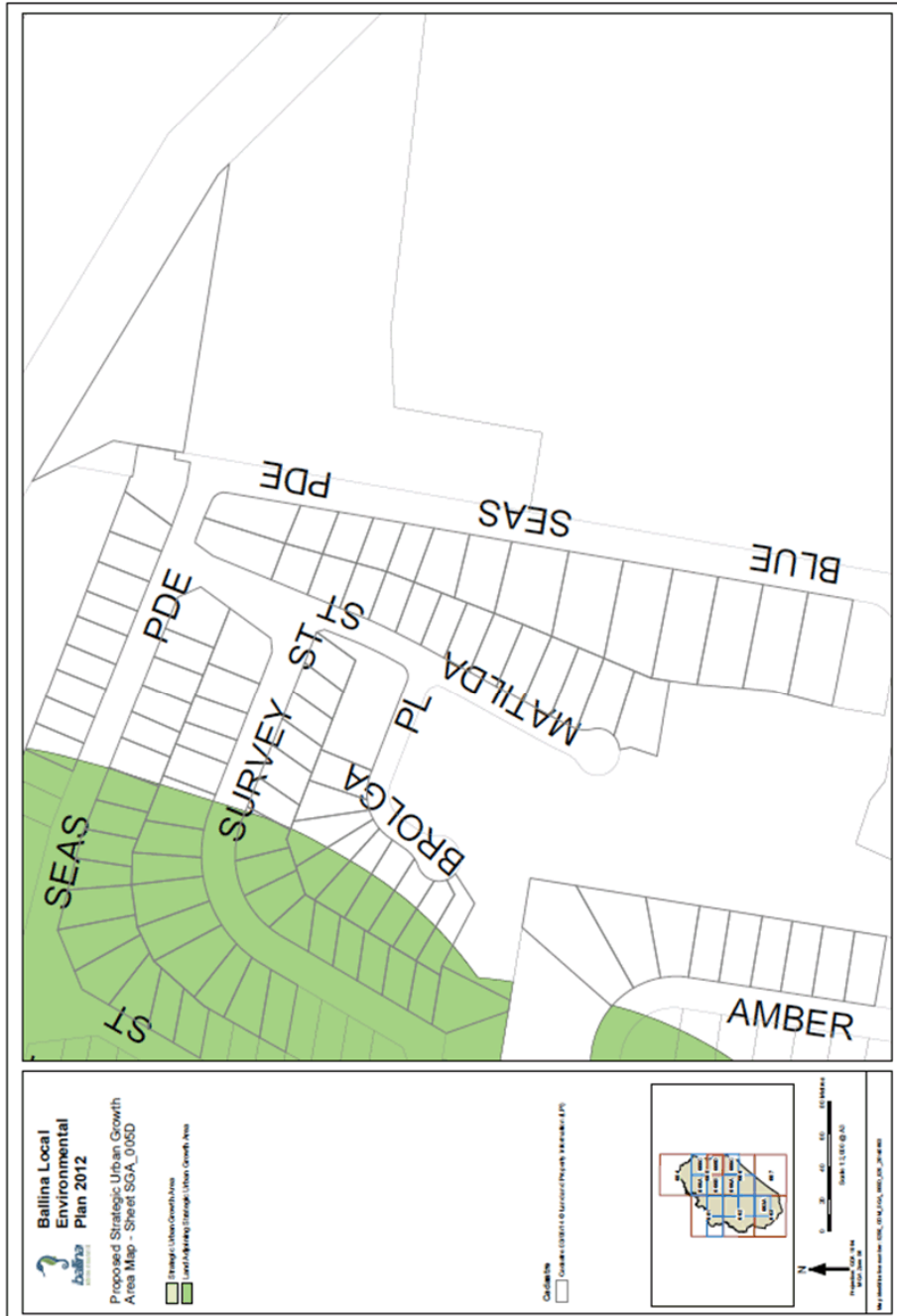
Planning Proposal – January 2015  
44 – 52 Blue Seas Parade Lennox Head

Map 4 – Proposed Zoning Map



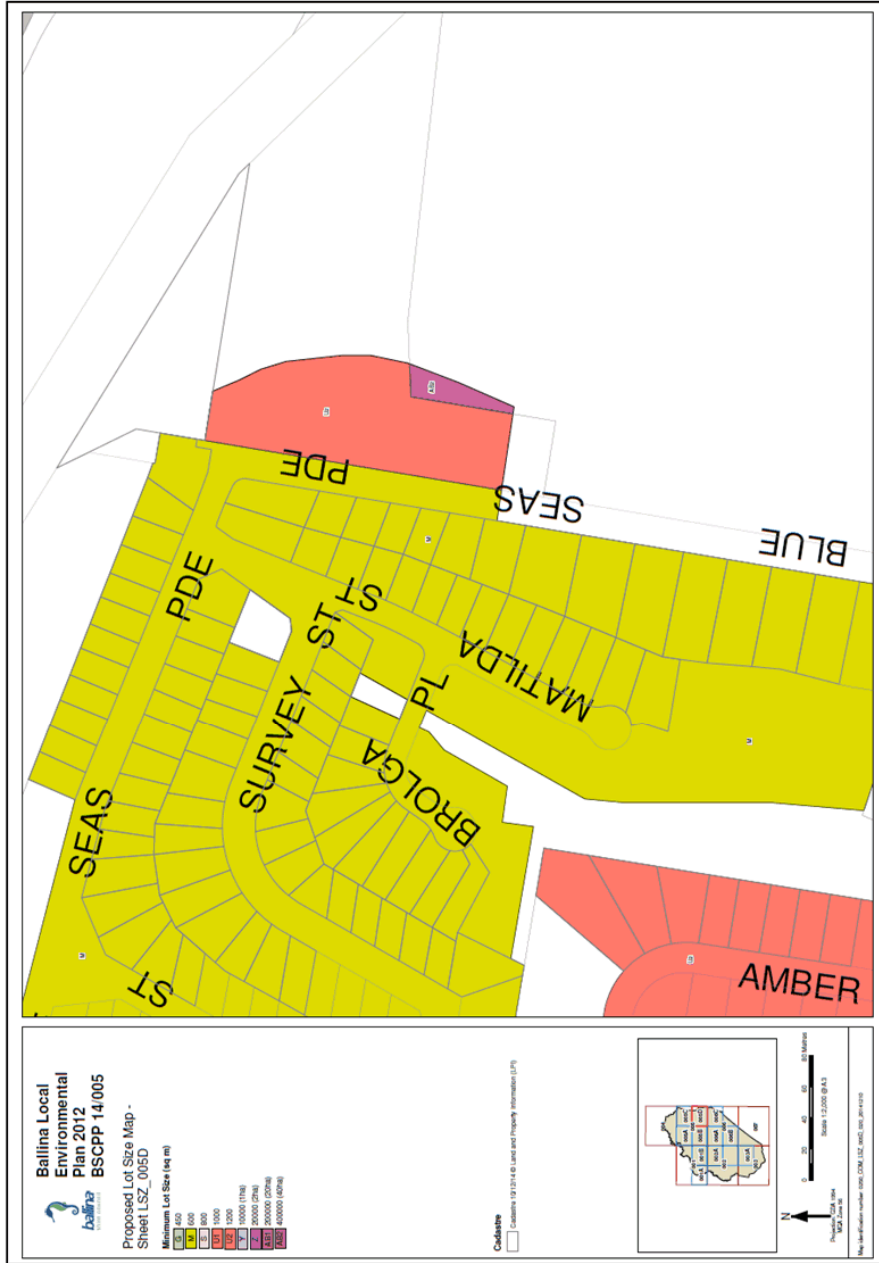
Planning Proposal – January 2015  
 44 – 52 Blue Seas Parade Lennox Head

Map 5 – Proposed Strategic Urban Growth Area Map



Planning Proposal – January 2015  
 44 – 52 Blue Seas Parade Lennox Head

Map 6 – Proposed Minimum Lot Size Map



Planning Proposal – January 2015  
 44 – 52 Blue Seas Parade Lennox Head

**PART 5 – COMMUNITY CONSULTATION**

It is proposed that this planning proposal will be exhibited in accordance with the Gateway determination and the terms of the *Environmental Planning and Assessment Act 1979*.

**PART 6 – TIMELINE**

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

Plan Making Step	Estimated Completion
Gateway Determination	February 2015
Government Agency Consultation	April 2015
Public Exhibition Period	July 2015
Public Hearing	N/A
Submissions Assessment	September 2015
RPA Assessment of Planning Proposal and Exhibition Outcomes	September 2015
Submission of Endorsed LEP to DP&E for Finalisation	October 2015
RPA Decision to Make the LEP Amendment (if delegated)	November 2015
Forwarding of LEP Amendment to DP&E for Notification (if delegated)	December 2015

APPENDICES

Appendix A – Photos of Site and Surrounds



Central view of subject site from Blue Seas Parade. Large Norfolk Island pine tree on eastern most extremity of site.



Close up showing rock wall and power lines which traverses the site.



Existing entrance driveway from Blue Seas Parade located in north- eastern most section of site.



Planning Proposal – January 2015  
44 – 52 Blue Seas Parade Lennox Head



**9.2 LEP Amendment - 44-52 Blue Seas Parade, Lennox Head.DOC**

Looking south along Blue Seas Parade. Subject site on left and new Coastal Grove subdivision on right.



Site generally on right of centre looking south.



Planning Proposal – January 2015  
44 – 52 Blue Seas Parade Lennox Head

Large Norfolk Island Pine located near boundary of Lots 1 and 2

**Appendix B – Section 117 Direction Checklist**

<b>Section 117 Direction Checklist</b>	
<b>Planning Proposal Lot 1 DP 517111, North Creek Road Lennox Head</b>	
<b>Direction No.</b>	<b>Compliance of Planning Proposal</b>
<b>1. Employment and Resources</b>	
1.1 Business and Industrial Zones	Does not apply to planning proposal.
1.2 Rural Zones	Inconsistent. However, the proposed rezoning is consistent with local and State government urban planning policy as the land is identified as a potential urban growth area in the Far North Coast Regional Strategy and the Ballina Shire Growth Management Strategy. The land is located within the Lennox Head urban footprint area and has limited agricultural production values.
1.3 Mining, Petroleum Production and Extractive Industries	Does not apply to planning proposal.
1.4 Oyster Aquaculture	Does not apply to planning proposal.
1.5 Rural Land	Inconsistent. The planning proposal is, however, considered to be of overall minor significance. In addition the proposed rezoning and changes to minimum lot size standards for subdivision are consistent with local and State government urban planning policy as the land is identified as a potential urban growth area in the Far North Coast Regional Strategy and the Ballina Shire Growth Management Strategy. The land is located within the Lennox Head urban footprint area and has limited agricultural production values. Having regard for the above, the proposed LEP amendment will not adversely impact on significant agricultural production on the land or in the immediate surrounds of the site through fragmentation or land use conflict. Further, additional assessment will be undertaken in relation to the suitability of the site for residential land use having regard for the characteristics of the land and the potential for rural – residential land use conflicts to arise.
<b>2. Environment and Heritage</b>	
2.1 Environmental Protection Zones	Consistent. The land is not considered to be an environmentally sensitive area on the basis of current information.
2.2 Coastal Protection	Consistent. The application of coastal planning principles as established under the NSW Coastal Policy, the Coastal Design Guidelines and the NSW Coastline Management Manual will be required to be evaluated by the proponent after gateway determination.
2.3 Heritage Conservation	Consistent. There are no known items of environmental or Aboriginal cultural heritage value on the land. Heritage values will, however, be required to be further assessed by the proponent after Gateway determination.
2.4 Recreation Vehicle Areas	Consistent. The proposed LEP amendment relates to provision of residential housing and does not involve development for the purpose of a recreational vehicle area.
<b>3. Housing, Infrastructure and Urban Development</b>	
3.1 Residential Zones	Consistent. The proposed LEP amendment seeks to provide for additional residential development opportunities in the Lennox Head locality. The subject land is located close to existing services and is within the existing Lennox Head urban footprint area. The proposal involves a rezoning from rural land (RU1) to residential R2. The proposed zone will provide for a variety of permitted residential housing forms. The Ballina LEP 2012 include an existing provision (Clause 7.7) that requires that adequate servicing is in place, or suitable arrangements to have been made for such servicing, before development proceeds.

## 9.2 LEP Amendment - 44-52 Blue Seas Parade, Lennox Head.DOC

3.2 Caravan Parks and Manufactured Home Estates	Consistent. Caravan parks are not permitted under the current RU1 zoning of the land. The planning proposal does not specifically relate to the provision of caravan parks or manufactured home estates.
3.3 Home Occupations	Consistent. Home occupations are permitted in the R2 residential zone under the Ballina LEP 2012.
3.4 Integrated Land Use and Transport	Consistent. The application of the principles set out under Improving Transport Choice – Guidelines for planning and development and The Right Place for Business and Services – Planning Policy will be considered in the environmental assessment and planning report following submission of technical reports by the proponent.
3.5 Development Near Licensed Aerodromes	Inconsistent. Development of the subject land for residential purposes will result in development that protrudes into the Obstacle Limitation Surface for the Ballina Byron Gateway Airport. The relevant Commonwealth agencies (Civil Aviation Safety Authority and Air Services Australia) and the operator of the Ballina Byron Gateway Airport will be consulted as part of the LEP amendment process. The subject land is not affected by ANEF contours of 20 or greater. Refer Appendix D for extracts from the Obstacle Limitation Surface Map and a site contour map. Refer Appendix E for the ANEF map.
3.6 Shooting Ranges	Does not apply to planning proposal.
<b>4. Hazard and Risk</b>	
4.1 Acid Sulphate Soils	Does not apply to planning proposal.
4.2 Mine Subsidence and Unstable Land	Inconsistent. Lot 1 is located within an area identified as being susceptible to land slip (Coffee Partners Pty Ltd report and Department of Mineral Resources mapping.) More detailed investigation is required to determine the degree of land slip risk and its impact on any potential residential subdivision. A geotechnical assessment will be required to be prepared by the proponent to determine the specific risk of the land to geotechnical instability across the various potential hazard categories.
4.3 Flood Prone Land	Does not apply to planning proposal.
4.4 Planning for Bushfire Protection	Inconsistent The subject site is partly affected by Category 2 vegetation and is located within the 30 metre bushfire buffer area. The preparation of a Bushfire Threat Abatement Report (BTAR) will be required post Gateway determination. The planning proposal is considered inconsistent with this direction as at this stage consultation with the Rural Fire Service has not yet been undertaken. Consultation is proposed to take place after Gateway and once the BTAR is submitted and prior to public consultation as required by this direction.
<b>5. Regional Planning</b>	
5.1 Implementation of Regional Strategies	Consistent. The proposed rezoning is consistent with the FNCRS as it is identified as a proposed future urban release area under the policy. The proposed rezoning is also consistent with the Ballina Shire Growth Management Strategy.
5.2 Sydney Drinking Water Catchments	Does not apply to planning proposal.

## 9.2 LEP Amendment - 44-52 Blue Seas Parade, Lennox Head.DOC

5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Inconsistent The subject land is identified as significant regional non-contiguous farmland under the Northern Rivers Farmland Protection Project mapping. However, the subject land is identified as a proposed future urban release area under the Far North Coast Regional Strategy and is identified as a potential urban area under the Ballina Shire Growth Management Strategy. Accordingly it is considered that the planning proposal complies with the planning principles contained in Section 4 of the report titled Northern Rivers Farmland Protection Project – Final Recommendations, February 2005. Refer Appendix F for an extract from Final Map 4.
5.4 Commercial and Retail Development	Does not apply to planning proposal.
5.5 Development in the vicinity of Ellalong Paxton and Millfield (Cessnock LGA).	Repealed
5.6 Sydney to Canberra Corridor	Repealed
5.7 Central Coast	Repealed
5.8 Second Sydney Airport: Badgerys Creek	Does not apply to planning proposal.
<b>6. Local Plan Making</b>	
6.1 Approval and Referral Requirements	Consistent. The planning proposal does not introduce any new concurrence or consultation provisions or any additional designated development types.
6.2 Reserving Land for Public Purposes	Consistent. This planning proposal does not create, alter or reduce existing zonings or reservations of land public purposes. The planning proposal does not propose to reserve land for a public purpose.
6.3 Site Specific Provisions	Does not apply to planning proposal.
<b>7. Metropolitan Planning</b>	
7.1 Implementation of the Metropolitan Strategy	Does not apply to planning proposal.

**Appendix C – Report to Council on 22 May 2014**

**9.1 LEP Amendment Request - 44 - 52 Blue Seas Parade, Lennox Head**

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**9.1 LEP Amendment Request - 44 - 52 Blue Seas Parade, Lennox Head**

Delivery Program Strategic Planning

Objective To present the Council with a proposal to amend the Ballina Local Environmental Plan 2012 to rezone land located at Lot 1 DP 1165957 known as No.s 44-52 Blue Seas Parade, Lennox Head and to seek direction in relation to the further progress of the matter.

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**Background**

Lot 1 DP 1165957 (Lot 1), known as No.s 44-52 Blue Seas Parade, Lennox Head, was created in July 2011 and has an area of 3.476 hectares. Lot 1 resulted from the re-subdivision of Lot 2 DP 587685 (Lot 2) and two other lots. Lot 2 which had an area of 31.52 hectares was the subject of a rezoning application submitted in May 2008.

The Council, at its Ordinary Meeting held in July 2010 [Minute No. 220710/7] resolved to initiate a stand alone LEP amendment for Lot 2. That LEP amendment proposed that a residential zone be applied to part of Lot 2. An indicative plan of subdivision showed 12 residential lots were proposed to be created at that time.

Following assessment of issues relevant to the rezoning and, in particular, visual amenity issues, the Council resolved at its Ordinary Meeting held in March 2011 [Minute No. 240311/11] to cease processing of the LEP amendment request. This was on the basis of several unresolved issues and followed the proponent formally withdrawing the request.

Council's March 2011 resolution also provided for the land designated for potential urban development within Lot 2 to be reduced in area, primarily based on assessment of visual amenity issues. This reduction was subsequently incorporated within the Ballina Shire Growth Management Strategy as well as the Strategic Urban Growth Area mapping within Ballina LEP 2012.

Lot 2 was subsequently subdivided in July 2011 and its ownership changed. The Coastal Grove residential subdivision, which is located on land to the west of Lot 1, was created in February 2012.

Council received an LEP amendment request in February 2014 for the rezoning of part of Lot 1 from rural to residential purposes. The land the subject of this LEP amendment request is shown in the site plan contained at Attachment 1. The extent of this proposed rezoning reflects the reduced area resulting from Council's resolution in March 2011.

The proponent and landowner is Mr G Farley. The LEP amendment request, contained in Attachment 2, has been prepared by Mr Paul Snellgrove of Ardill Payne & Partners.

This report provides an overview of the LEP amendment request and seeks the Council's authorisation for the preparation of a planning proposal to progress the rezoning.

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Ballina Shire Council  
22/05/14

Ordinary Meeting of Ballina Shire Council  
Page 1

9.1 LEP Amendment Request - 44 - 52 Blue Seas Parade, Lennox Head

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**Key Issues**

- Suitability of land for residential zoning and development.
- Minimum applicable lot size.

**Information**

*Zoning – Ballina LEP 2012 and Ballina LEP 1987*

The western most (front) section of Lot 1, which has a frontage to Blue Seas Parade is substantially zoned RU1 Primary Production under the provisions of the Ballina Local Environmental Plan 2012 (BLEP 2012). The eastern most (rear) and southern most sections of Lot 1 are designated as deferred matters under BLEP 2012 and retain their Ballina LEP 1987 zonings.

The eastern most (rear) section of Lot 1, which has a frontage to The Coast Road, is zoned 7 (d) Environmental Protection (Scenic/Escarpment) under the provisions of Ballina LEP 1987. In addition, a small section of Lot 1 at its southern most end, fronting Blue Seas Parade, is zoned 1(d) (Urban Investigation).

Attachment 3 contains a map which shows the zones that apply to Lot 1.

The LEP amendment request relates to part of the western most section of Lot 1, which is designated as a Strategic Urban Growth Area under the provisions of Ballina LEP 2012. This section of Lot 1, which is currently zoned RU1 Primary Production, has an approximate area of 1.1 hectares and a frontage of approximately 196 metres to Blue Seas Parade. It is this area that is proposed to be zoned R2 Low Density Residential. Lot 1 has a total frontage to Blue Seas Parade of 220.89 metres.

A minimum 40 hectare lot size is currently applicable to Lot 1. The applicant proposes to replace this with a 600m<sup>2</sup> minimum lot size for that part of Lot 1 the subject of the rezoning proposal. The proponent's submission indicates that the land could yield up to 13 lots.

A 600m<sup>2</sup> minimum lot size is applicable to the residential lots located on the western side of Blue Seas Parade opposite Lot 1. Whether such a minimum lot size is also suitable for residential lots resulting from a rezoning of a portion of Lot 1 is matter that will be determined (and reported to the Council) once detailed site assessment information has been submitted.

Attachment 4 contains a map which shows how Lot 1 is proposed to be zoned.

*Ballina Shire Growth Management Strategy (BSGMS)*

The BSGMS designates that part of Lot 1 the subject of the LEP amendment request as being a part of a strategic urban growth area.

*Lennox Head Structure Plan*

The Lennox Head Structure Plan (LHSP) includes the whole of Lot 1 within an area designated as *visually significant land*. This is land that was envisaged

9.1 LEP Amendment Request - 44 - 52 Blue Seas Parade, Lennox Head

would be retained and protected into the future. It should be noted, however, that the land the subject of the current LEP amendment request has been subject to some visual amenity assessment in association with the previous rezoning request over the land. The subject land is located generally below the top of the ridgeline on the landward side. As such, it was incorporated as a Strategic Urban Growth Area within Ballina LEP 2012. The LHSP was adopted in 2004, well before the BSGMS and Ballina LEP 2012.

*Far North Coast Regional Strategy 2005 (FNCRS)*

The subject land is identified as being located within the existing urban footprint of Lennox Head and designated as a future urban release area. The application of a residential zone over part of Lot 1 is consistent with this strategy.

*Site Assessment*

The proponent has submitted a brief overview of applicable land constraints with minimal detailed information being provided. The submission recognises the previous site history and the need for further investigative work relating to land contamination, visual impact and bushfire threat.

An examination of applicable land constraints has revealed that more detailed site investigations will be required. It is suggested that this information be sought post Gateway determination if the matter continues to proceed. This would include the various matters listed in the table below:

Issue	Investigation Required
Land Contamination	A Detailed Contamination Land Assessment and Remedial Action Plan were previously submitted in support of the 2008 rezoning proposal. The proponent will be required to assess the contamination status of the land in the context of the revised site area.
Coastal Zone Impacts and Visual Amenity Impacts	Consideration of relevant matters for consideration as specified in Clause 8 of <i>SEPP 71 - Coastal Protection</i> and Appendix C – Table 3 of the <i>NSW Coastal Policy</i> . This includes issues associated with visual impacts.  The <i>Coastal Zone Design Guidelines 2003</i> are also required to be considered. Consideration of potential building envelopes and subdivision lot design will be required.
Bushfire Threat	Lot 1 is partly affected by Category 2 vegetation and is located within the 30 metre bushfire buffer area. A Bushfire Threat Assessment Report will be required.
Land Slip	Lot 1 is located within an area identified as being susceptible to land slip (Coffee Partners Pty Ltd report and Department of Mineral Resources mapping.) More detailed investigation is required as to the degree of risk associated from landslip

## 9.2 LEP Amendment - 44-52 Blue Seas Parade, Lennox Head.DOC

### 9.1 LEP Amendment Request - 44 - 52 Blue Seas Parade, Lennox Head

	and its impact on any potential residential subdivision.
Access and Right of Carriageway (ROW)	A 10 metre wide ROW affects Lot 1 in favour of Lot 2 DP 1165957. The manner in which access is proposed to be obtained to the proposed subdivision and its relationship to the ROW will need to be detailed by the proponent. It may not be feasible to obtain access directly to proposed lots from Blue Seas Parade due to a significant retaining wall constructed along the boundary of Lot 1 with Blue Seas Parade.
Easement Relocation	A 20 metre wide easement for overhead powerlines affects lot 1 in favour of Essential Energy. The feasibility of relocating this infrastructure will need to be examined via consultation with Essential Energy.
Due Diligence Aboriginal Heritage Assessment	Investigation in relation to whether any items of Aboriginal cultural heritage are likely to be impacted by the proposed rezoning will be required.
Services and Stormwater Management Report	A report investigating the manner in which the site will be serviced, including connection to the sewer network, will be required.  A stormwater management report will be required which would examine issues related to on-site stormwater detention and location of bio filtration areas, if proposed.
Ecological Matters	Potential flora and fauna impacts require assessment, particularly given the site's proximity to vegetation communities contained within the adjoining Crown reserve to the north.

#### Sustainability Considerations

- Environment**  
 The subject land is substantially cleared of trees and contains predominately grass and weed species. The significance of this vegetation, as well as the impact of the proposed subdivision on adjoining flora and fauna communities, would be assessed further if the planning proposal proceeds.
- Social**  
 Potential visual amenity impacts may be of concern to surrounding residents and the broader community. Consequently, this matter will be examined in further detail if the proposal proceeds.
- Economic**  
 There are no significant economic implications currently identified in relation to the proposed rezoning.



9.1 LEP Amendment Request - 44 - 52 Blue Seas Parade, Lennox Head

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**Legal / Resource / Financial Implications**

There are no significant resourcing or financial implications associated with the further processing of the LEP amendment. Subject to the Council's decision, the next step in the process would be to prepare a planning proposal suitable for submission to the Department of Planning and Environment (DoP&E) for Gateway determination.

Following a favourable Gateway determination the applicant would be requested to submit additional information which addresses identified land constraint issues, as generally referred to above.

Council's adopted fees and charges associated with LEP amendments would be applied to the further processing of the request.

**Consultation**

There has been no consultation undertaken with either the community or government agencies in relation to this LEP amendment request to date as the matter is in the initial phases.

Should the matter proceed, an affirmative Gateway determination will advise of consultation requirements with government agencies and the community. Community engagement would then occur following assessment of the required additional information, and in accordance with the Gateway determination.

**Options**

1. Proceed to prepare a planning proposal for the application of an R2 Low Density Residential zone to Lot 1.

This approach would authorise the preparation of a planning proposal for Gateway determination. The proposal would be reported to the Council for further consideration prior to its submission to the Gateway panel.

While it is considered that additional information is required to finally determine an appropriate future subdivision configuration, the land the subject of the LEP amendment request appears to be generally suitable for a low density residential zoning. The planning proposal submitted to DoP&E would identify the uncertainty regarding minimum lot sizes at this stage of the process and identify that the minimum lot sizes would be determined following the assessment of additional information.

This is the recommended approach.

2. Defer or amend the planning proposal.

This approach is not recommended given:

- the proposed rezoning is limited to an area of Lot 1 which has been designated as a Strategic Urban Growth Area in Ballina LEP 2012 and within the Ballina Shire Growth Management Strategy.
- the proposed LEP amendment is consistent with Council's strategic land use planning framework for the locality.

9.1 LEP Amendment Request - 44 - 52 Blue Seas Parade, Lennox Head

- the proposed LEP amendment is confined to a part of Lot 1 which was subject to a previous land zoning suitability assessment associated with an LEP amendment request submitted in 2008. That assessment generally found the land the subject of this LEP amendment request (reduced land area from previous proposal) suitable for a residential zoning.

Staff will use its best endeavours to "recycle" as much of the formally prepared and submitted technical material as practically possible, to avoid duplication and unnecessary costs to the proponents.

3. Cease further action in relation to the planning proposal.

For the same reasons outlined in relation to Option 2, this approach is not recommended.

Importantly, the Council can elect to discontinue a planning proposal at other stages of the LEP amendment process if considered appropriate. That said however, certain recourse procedures are now available to proponents if they were dissatisfied with such a Council decision.

**RECOMMENDATIONS**

1. That Council prepare a planning proposal for the application of an R2 Low Density Residential zone over that part of Lot 1 DP 1165957 designated as a Strategic Urban Growth Area in Ballina LEP 2012.
2. That the subdivision potential and associated minimum lot size for the future development of Lot 1 DP 1165957 be determined following assessment of additional technical information.
3. That a further report be presented to the Council documenting the planning proposal when prepared for submission for Gateway determination.

**Attachment(s)**

1. Attachment One - Site Plan
2. Attachment Two - LEP Amendment Request
3. Attachment Three - Existing Zoning Map
4. Attachment Four - Proposed Zoning Map

9.1 LEP Amendment Request - 44 - 52 Blue Seas Parade, Lennox Head  
220514/1 Resolved  
(Cr Paul Worth/Cr Ben Smith)

1. That Council prepare a planning proposal for the application of an R2 Low Density Residential zone over that part of Lot 1 DP 1165957 designated as a Strategic Urban Growth Area in Ballina LEP 2012.
2. That the subdivision potential and associated minimum lot size for the future development of Lot 1 DP 1165957 be determined following

## 9.2 LEP Amendment - 44-52 Blue Seas Parade, Lennox Head.DOC

### 9.1 LEP Amendment Request - 44 - 52 Blue Seas Parade, Lennox Head

assessment of additional technical information.

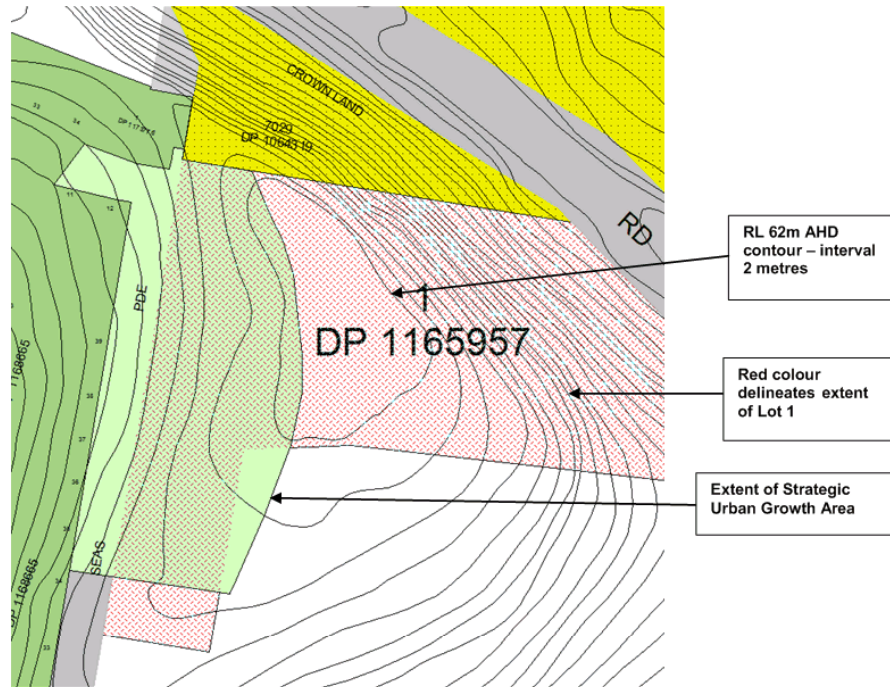
3. That a further report be presented to the Council documenting the planning proposal when prepared for submission for Gateway determination.

4. For the purpose of further investigation the planning proposal shall include a minimum lot size of 600 m<sup>2</sup>.

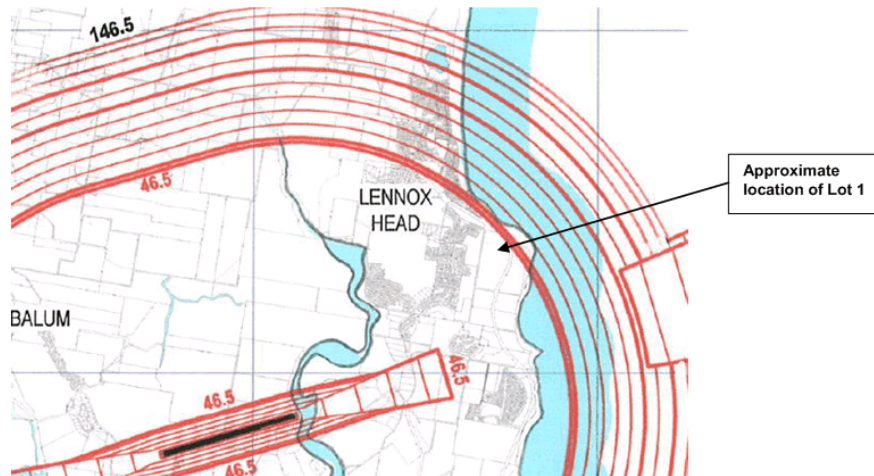
FOR VOTE - Cr David Wright, Cr Sharon Cadwallader, Cr Keith Johnson, Cr Susan Meehan, Cr Ken Johnston, Cr Paul Worth and Cr Ben Smith  
AGAINST VOTE - Cr Jeff Johnson and Cr Keith Williams  
ABSENT. DID NOT VOTE - Cr Robyn Hordern

**Appendix D – Extract from Site Contour Map and Existing Obstacle Limitations Map No 11**

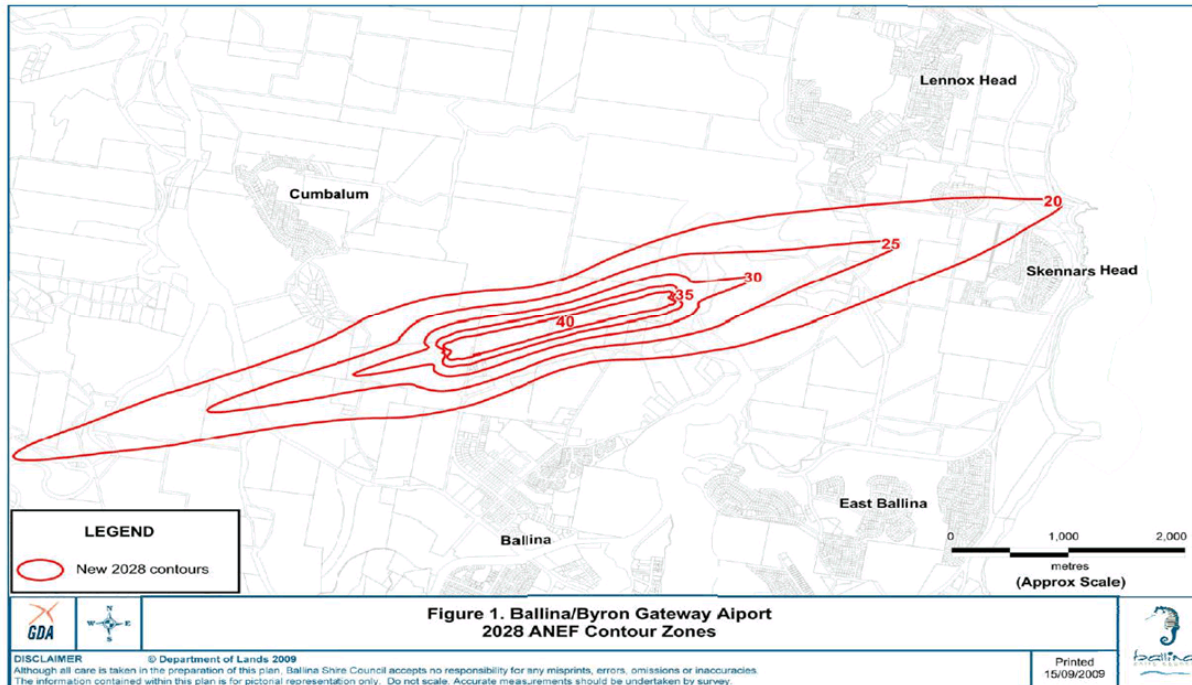
**Extract from Site Contour Map**



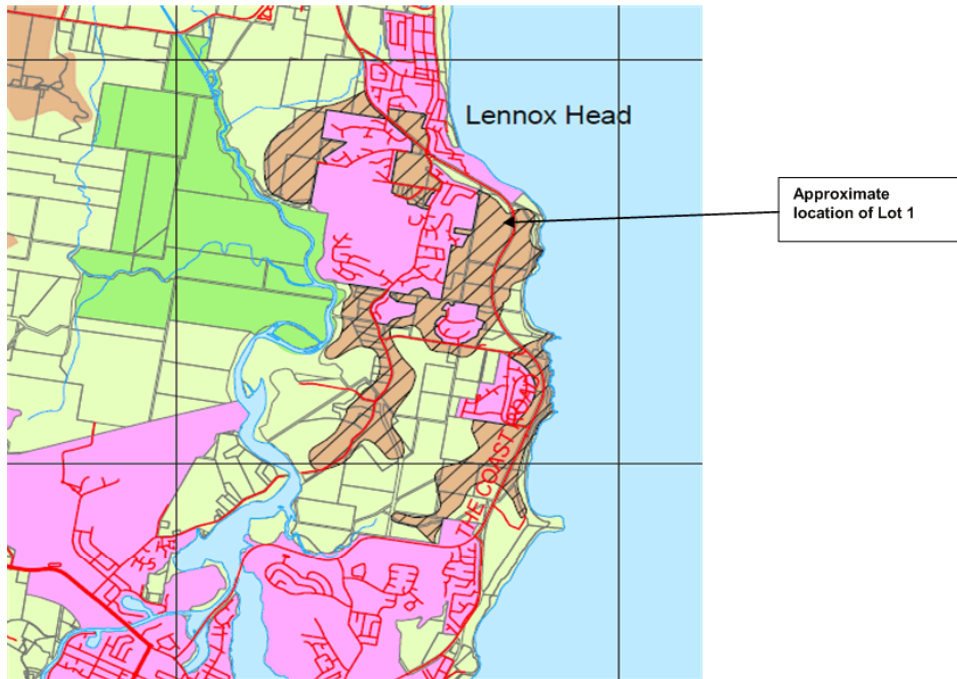
**Extract from Existing Obstacle Limitations Map No 11**



Appendix E – 2028 ANEF Contour Map



Appendix F - Extract from Northern Rivers Farmland Protection Project 2005 – Final Map 4



**LEGEND**

- State Significant Farmland
- Regionally Significant Farmland
- Significant Non-Contiguous Farmland
- Other Rural Land
- Committed Urban Uses and Rural-Residential Zones
- National Parks, State Forests
- Land outside Northern Rivers Catchment Management Area
- Highways
- Major Roads
- Railways
- Watercourses
- Land Parcel Boundary
- Catchment Management Board Boundary
- Local Government Boundary

**Appendix G – LEP Amendment Request**

**ARDILL PAYNE**

& P a r t n e r s  
[www.ardillpayne.com.au](http://www.ardillpayne.com.au) [info@ardillpayne.com.au](mailto:info@ardillpayne.com.au)  
ABN: 51 808 558 977



7350 planning proposal cover letter (feb 2014).doc

26 February 2014

The General Manager  
Ballina Shire Council  
PO Box 450  
**BALLINA NSW 2478**

**Attn: Mr Matt Wood**

**Dear Matt**

**re: Planning Proposal/LEP Amendment Request  
Lot 1 DP 1165957, No. 44-52 Blue Seas Parade, Lennox Head**

I refer to prior communications in respect of the subject matter and in particular our meeting on the 20<sup>th</sup> February 2014.

Ardill Payne & Partners (APP) has been commissioned by Mr George Farley (owner of the subject land) to provide planning services in the preparation of a Planning Proposal/LEP Amendment Request to Ballina Shire Council.

Attached herewith is the following:

- signed landowner's authorisations enabling APP act on their behalf
- completed Planning Proposal/LEP Amendment Request Proponent & Proposal Information Form
- 2 x paper and 1 x CD copies of the planning proposal request
- cheque for \$2625.00 as advised in Mr Matt Wood's email dated 26<sup>th</sup> February 2014 (copy attached)

Should you have any questions in respect of this matter, please contact me on 6686 3280 or [pauls@ardillpayne.com.au](mailto:pauls@ardillpayne.com.au)

Yours faithfully

Paul Snellgrove

**ARDILL PAYNE & PARTNERS**

**Engineers | Planners | Surveyors | Environmental | Project Management**

**BALLINA**  
79 Tamar Street  
PO Box 20  
BALLINA NSW 2478  
Ph: 02-6686 3280

**BRISBANE**  
Level 1, The Designbank  
89 Grey Street  
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**GUNNEDAH**  
Germane House,  
285 Conadilly Street,  
GUNNEDAH NSW 2380  
Ph: 02-6742 9955

# ARDILL PAYNE & PARTNERS

Civil & Structural Engineers - Project Managers - Town Planners - Surveyors

ABN 51 808 558 977

WE Payne BE, MIE Aust ET Eiford L & E S D TJ Cromack B, Tech (Eng) TMIE Aust PM Snellgrove BTP



APP Land Owner Authority.doc

## LAND OWNER AUTHORITY

This is to advise that Ardill Payne & Partners  
of 79 Tamar Street, Ballina NSW has been engaged by:

Landowner's name	George FARLEY
Landowner's address	117 Bayview Road, Merricks Beach VIC 3926

To prepare certain applications in respect of land known as:

Street	44-52 Blue Seas Parade
Town	Lennox Head
Real property description	Lot 1 DP 1165957

The owner(s) of the aforementioned land(s) hereby authorises Ardill Payne & Partners or its agents to:

1. Inspect all relevant Council records (DAs, BAs, CCs, etc).
2. Obtain copies of submissions made to Council or other government authorities.
3. Carry out searches and site inspections.
4. Lodge a Planning Proposal; Development, Construction Certificate, Subdivision Certificate, Section 68 or any other like application with Ballina Shire Council.

Signed	
Name	George FARLEY
Date	19 Feb 2014
Phone	0488 309 386

79 Tamar Street  
PO Box 20  
BALLINA NSW 2478

Phone: 02 6686 3280  
Fax: 02 6686 7920  
e-mail: info@ardillpayne.com.au



**Planning Proposal / LEP Amendment Request  
Proponent & Proposal Information Form**

Lodge Applications at Ballina Shire Council • 40 Cherry Street • Ballina (Mon-Fri 8.15am to 4.30pm)  
mail PO Box 450 Ballina 2478 • fax 27789 • f 02 6686 7035 • e council@ballina.nsw.gov.au  
t 02 6686 4444 • w www.ballina.nsw.gov.au • abn 53 929 887 369  
This form is to be completed and submitted when a request for an LEP amendment or planning proposal is lodged with Council.



**Proponent Details**

All correspondence will be forwarded to this name and address unless alternative details are specified below.

Proponent's Name

Address

Postal Address

Telephone (w)  (h)  Mobile

Email Address  Fax

Signature  Date

**Consultant / Representative Details**

Details of consultants/representatives acting on behalf of the proponent are required. Please nominate whether the consultant/representative will be the principal contact for the proposal.

Name

Address

Telephone (w)  Mobile  Fax

Email Address

Please tick if consultant/representative is to be the principal point of contact with Council.

**Description of the Land**

Property descriptions of all land holdings the subject of the LEP amendment request/planning proposal are required. Additional properties the subject of the proposal should be documented in the additional information field at the end of the form.

Property Address

Lot/Portion  Section  DP

Property Address

Lot/Portion  Section  DP

Property Address

Lot/Portion  Section  DP

<b>Office Use Only</b>		
Proposal Name:	Type: <input type="checkbox"/> Major <input type="checkbox"/> Minor	Pre-Lodgement Discussion: <input type="checkbox"/> Y <input type="checkbox"/> N
Fee Paid: <input type="checkbox"/> Y <input type="checkbox"/> N Amount: \$	Date Received:	Receipt No:
Code 6, Job No: 20001.1001.061		

Page 1 of 4

Planning Proposal – January 2015  
44 – 52 Blue Seas Parade Lennox Head

38

**Landholder Details and Consent**

Details of all landholders are to be provided. If landholders do not sign this form, evidence of the consent of landholders for the nomination of their landholding as part of the LEP amendment/planning proposal is required in conjunction with this form. Space is provided at the end of this form for additional landholder details.

Owner's Name(s)

Address

Lot/Portion  Section  DP

Telephone (w)  (h)  Mobile

Email Address  Fax

I/we being the owner(s) of the property identified above, consent to the submission of this planning proposal/LEP amendment.

Signature  Date

**Summary of the LEP Amendment Request / Planning Proposal**

Brief outline of the concept or idea underpinning the LEP amendment request / planning proposal.

**ARDILL PAYNE & PARTNERS**

Civil & Structural Engineers – Project Managers – Town Planners – Surveyors



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**PLANNING PROPOSAL/LEP  
AMENDMENT REQUEST**

---

Submission to Ballina Shire Council

Part of Lot 1 DP 1165957  
44-52 Blue Seas Parade, Lennox Head

for:  
Mr George Farley

February 2014

*Planning Proposal/LEP Amendment Request  
Lot 1 DP 1165957  
44-52 Blue Seas Parade, Lennox Head*


1

Planning Proposal – January 2015  
44 – 52 Blue Seas Parade Lennox Head

40

Document Control Sheet

Filename:	7350 Planning Proposal/LEP Amendment Request
Job No.:	7350
Job Captain:	Paul Snellgrove
Author:	Paul Snellgrove
Client:	George Farley
File/Pathname:	

Revision No:	Checked By		Issued By	
	Name	Signed	Name	Signed
0			Paul Snellgrove	
1				
2				

*Planning Proposal/LEP Amendment Request  
Lot 1 DP 1166957  
44-52 Blue Seas Parade, Lennox Head*

1

Planning Proposal – January 2015  
44 – 52 Blue Seas Parade Lennox Head

41

Table of Contents	
1	INTRODUCTION..... 1
1.1	Background..... 1
1.2	Structure and Scope of Report..... 2
1.3	Background..... 3
2	CONTEXT AND CHARACTERISTICS OF SUBJECT LAND..... 4
2.1	Property Details..... 4
2.2	Other matters..... 4
2.3	Local Context..... 5
2.4	Strategic Planning Context..... 6
2.4.1	Far North Coast Regional Strategy 2006-31 (FNCRS)..... 6
2.4.2	Ballina Shire Growth Management Strategy 2012 (GMS)..... 6
2.4.3	Lennox Head Structure Plan (2004) (LHSP)..... 6
2.5	Relevant Provisions of BLEP 2012..... 6
3	OBJECTIVES OR INTENDED OUTCOMES OF PROPOSED LEP..... 8
3.1	Objectives of Planning Proposal..... 8
3.2	Possible Future Subdivision..... 8
4	EXPLANATION OF PROVISIONS..... 9
4.1	Explanation of Proposed Amendments..... 9
5	JUSTIFICATION FOR THE PROPOSED AMENDMENTS..... 10
5.1	Section A – Need for the planning proposal..... 10
5.2	Section B – Relationship to strategic planning framework..... 10
5.3	Section C – Environmental, social and economic impact..... 15
5.4	Section D – State and Commonwealth interests..... 16
6	COMMUNITY CONSULTATION..... 17
7	SCOPE OF ENGAGEMENT..... 18
8	APPENDICES..... 19

2

*Planning Proposal/LEP Amendment Request  
 Lot 1 DP 1165957  
 44-52 Blue Seas Parade, Lennox Head*

Planning Proposal – January 2015  
 44 – 52 Blue Seas Parade Lennox Head

42

Planning Proposal – January 2015  
44 – 52 Blue Seas Parade Lennox Head

43

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1 Introduction

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*This section introduces the proposal and provides a general overview of the project.*

**1.1 Background**

This submission comprises a Planning Proposal/LEP Amendment Request and explains the intended effect of, and provides justification for, a proposed amendment to the Ballina Local Environmental Plan 2012 (BLEP).

The proposed amendments relate to part of Lot 1 DP 1165957, No.s 44-52 Blue Seas Parade, Lennox Head and involve:

- rezoning that part of the lot zoned RU1 – Primary Production Zone and mapped as “Strategic Urban Growth Area” to R2 – Low Density Residential Zone; and
- replacing the 40ha minimum lot size with a 600m<sup>2</sup> minimum lot size for the proposed R2 zoned land.

The proposed R2 zone is the same zone as the adjoining/adjacent residential lots in Coastal Grove. The minimum lot size standard for other existing residential lots in Coastal Grove is 600m<sup>2</sup>.

This Planning Proposal has been prepared having regard to Section 55 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and:

- A Guide to Preparing Local Environmental Plans (Department of Planning & Infrastructure, April 2013)
- A Guide to Preparing Planning Proposals (Department of Planning, July 2009)
- Planning Proposals and Local Environmental Plan Amendments – Process Guidelines v2.0 (Ballina Council, 12 June 2013)

This submission comprises and supports the Phase 1: LEP Amendment Initiation process of the Planning Proposal and addresses all of the information on Council’s *Planning Proposal/LEP Amendment Request – Proponent & Proposal Information Form*.

*Planning Proposal/LEP Amendment Request  
Lot 1 DP 1165957*

1

Planning Proposal – January 2015  
44 – 52 Blue Seas Parade Lennox Head

44

There is no Political Donations and Gifts Disclosure required to accompany this request.

**1.2 Structure and Scope of Report**

This LEP Amendment Initiation Request contains the following:

- Section 2** Context and characteristics of subject land.
- Section 3** A statement of the **Objectives and Intended Outcomes** of the proposed LEP amendment (Section 2, Part 1).
- Section 4** An **Explanation of the Provisions** that are to be included in the proposed LEP amendment (Section 2, Part 2).
- Section 5** The **Justification** for those objectives, outcomes and provisions and the process for their implementation (Part 2, Section 3).
- Section 6** Details of the **Community Consultation** in respect of the Planning Proposal (Part 2, Section 4).
- Section 7** Conclusion

A number of appendices form part of this request being:

- Appendix A** Aerial photograph of subject and adjoining land
- Appendix B** Copy of deposited plan
- Appendix C** Contour and detail survey
- Appendix D** Strategic Urban Growth Area overlay



### 1.3 Background

A meeting was held on the 20<sup>th</sup> February 2014 between Council's Strategic Planner (Matthew Wood) and APP's Town Planner (Paul Snellgrove) to discuss the proposed LEP amendment.

An application was lodged with Council in 2008 seeking to rezone part of the land (previously described as Lot 2 DP 587685) that was then zoned 1(d) – Rural (Urban Investigation) Zone under the BLEP 1987.

Council resolved in June 2010 to prepare a Planning Proposal in relation to the 1(d) zoned part of the land.

As part of the Planning Proposal process, a consultant that was engaged on Council's behalf to peer review the Planning Proposal, recommended to Council that it proceed with the preparation of the Planning Proposal, but on the basis of a smaller footprint being considered for the application of a residential zone.

It is understood that the recommended smaller footprint is coincidental with that part of the site that is mapped as a "Strategic Urban Growth Area", which is the land that is subject of this request.

As a consequence of a period of inactivity in respect of the Planning Proposal, Council at its Ordinary Meeting in March 2011 resolved as follows:

1. *That Council cease processing of the current LEP amendment request relating to Lot 2 DP 587685 (prior lot description) Blues Seas Parade, Lennox Head.*
2. *That Council establish a land use zoning arrangement for Lot 2 DP 587658 under its new local environmental plan that reflects the recommendation of Darryl Anderson Consulting generally as contained in Attachment 4.*
3. *That Council incorporate a reduced footprint for potential urban development generally in accordance with the plan shown in Attachment 4 in its Local Growth Management Strategy.*
4. *That Council advise the Department of Planning of the change to the potential urban footprint for the land with respect to the Town and Village Growth Boundaries in the Far North Coast Regional Strategy.*

This prior Planning Proposal has therefore been discontinued.

*Planning Proposal/LEP Amendment Request  
Lot 1 DP 1155957  
44-52 Blue Seas Parade, Lennox Head*

3

Planning Proposal – January 2015  
44 – 52 Blue Seas Parade Lennox Head

46

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**2 Context and Characteristics of Subject Land**

*This section describes the subject land and identifies the geographical context of the site and its relationship to the surrounding locality.*

**2.1 Property Details**

The Planning Proposal relates to part of a single lot which is described as Lot 1 DP 1165957, No. 44-52 Blue Seas Parade, Lennox Head and which has an area of 3.476ha.

An aerial photograph of the subject and adjoining land is provided at **Appendix A**. A copy of the deposited plan is provided at **Appendix B**. A contour and detail survey is provided at **Appendix C**.

Vehicular access to the site is via an existing concrete and bitumen driveway to Blue Seas Parade which is a constructed urban (residential) road with a bitumen seal.

It should be noted that the attached detail survey was undertaken in March 2012 and shows an existing dwelling that has since been demolished (per DA 2013/266). A new dwelling house is currently being constructed on the site (per DA 2012/421) and is not shown on the detail survey.

**2.2 Other matters**

Preliminary planning investigations (including reference to Section 149 Certificate No. 2653) in respect of that part of the subject land that is subject to this request confirm that the land is:

- **not** mapped as being subject to SEPP 14 or SEPP 26
- mapped as being bushfire prone (part Vegetation Category 2 and part 30m buffer)
- **not** likely to be contaminated as a consequence of existing or prior land uses
- **not** is mapped as being subject to the 1 in 100 year flood event or tidal inundation
- **not** mapped as being subject to acid sulfate soils (Sheet ASS\_005 – BLEP 2012)

*Planning Proposal/LEP Amendment Request  
Lot 1 DP 1165957  
44-52 Blue Seas Parade, Lennox Head*

4

Planning Proposal – January 2015  
44 – 52 Blue Seas Parade Lennox Head

47

Planning Proposal – January 2015  
44 – 52 Blue Seas Parade Lennox Head

48

- **not** identified as being or containing an item of environmental heritage (per Schedule 5 of the Ballina LEP 2012)
- **not** identified as including or comprising critical habitat as prescribed in the Threatened Species Conservation Act 1995 or (subject to section 5C) Part 7A of the Fisheries Management Act 1994
- **not** identified as being affected by the operation of Sections 38 or 39 of the Coastal Protection Act 1979
- **not** affected by any road widening or realignment proposal under either Division 2 of Part 3 of the Roads Act 1993, any environmental planning instrument or any resolution of Council
- **not** identified as being subject to acquisition by a public authority under the provisions of any environmental planning instrument, deemed or draft environmental planning instrument

An easement for overhead power lines (20m wide) exists on the land and is coincidental with the existing overhead power lines on the land, which are identified on the detail survey at **Appendix C**. Essential Energy is the prescribed authority that is benefitted by the easement.

Integral to the rezoning and development of the land for future urban residential purposes, would be a likely requirement for the power lines to be removed with the electricity supply being re-routed.

Such relocation would have to be undertaken in consultation with and the approval of Essential Energy.

### 2.3 Local Context

The subject lot is a partially developed rural residential type lot (which contains a dwelling house that is under construction) which adjoins urban residential estates of Lennox Head to the west.

Land to the north and east comprises coastal land (including coastal reserve) and to the south comprises rural land.

## 2.4 Strategic Planning Context

### 2.4.1 Far North Coast Regional Strategy 2006-31 (FNCRS)

The subject land is mapped in the Strategy as being a 'Proposed Future Urban Release Area'.

Under the circumstances, the proposed application of a residential zone is consistent with the Strategy.

### 2.4.2 Ballina Shire Growth Management Strategy 2012 (GMS)

The subject land is mapped as a "strategic urban growth area" under the Strategy.

Under the circumstances, the proposed application of a residential zone is consistent with the Strategy.

### 2.4.3 Lennox Head Structure Plan (2004) (LHSP)

The LHSP provides a framework to ensure that the growth and development of Lennox Head occurs in a co-ordinated and integrated manner. The subject land is contained in the Plan.

The land is not identified as a candidate release area under the Structure Plan, however it adjoins the existing and planned urban area in the vicinity of Blue Seas Parade.

This is not considered to be a significant inconsistency, particularly as a consequence of the land being identified for future urban purposes under both the FNCRS and the GMS.

## 2.5 Relevant Provisions of BLEP 2012

That part of the subject land proposed for rezoning is mapped under the BLEP 2012 as follows:

- RU1 – Primary Production Zone
- AB2 – 40ha minimum lot size/subdivision standard

*Planning Proposal/LEP Amendment Request  
Lot 1 DP 1165957  
44-52 Blue Seas Parade, Lennox Head*

6

Planning Proposal – January 2015  
44 – 52 Blue Seas Parade Lennox Head

50

- "Strategic Urban Growth Area"

*Planning Proposal/LEP Amendment Request  
Lot 1 DP 1165957  
44-52 Blue Seas Parade, Lennox Head*

7

Planning Proposal – January 2015  
44 – 52 Blue Seas Parade Lennox Head

51

Planning Proposal – January 2015  
44 – 52 Blue Seas Parade Lennox Head

52

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3 Objectives or Intended Outcomes of Proposed LEP

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**3.1 Objectives of Planning Proposal**

The objective of the Planning Proposal is to rezone part of the subject land to an urban residential zone and to apply a minimum lot size that will enable the land to be subdivided into minimum 600m<sup>2</sup> lots, and to enable the construction of a dwelling house on the vacant lots at some future time (and subject to a separate approval process).

**3.2 Possible Future Subdivision**

That part of the site that is proposed to be zoned R2 has an area of approximately 11,000m<sup>2</sup>. Provided at **Appendix D** is the detail survey which has been overlain by the "Strategic Urban Growth Area" which has been extracted from the Strategic Urban Growth Area Map (Sheet SGA\_005D of the BLEP 2012).

Based purely on a 600m<sup>2</sup> lot size and approximately 200m<sup>2</sup> of road/lot, the site could yield up to 13 lots. As a consequence of the existing rock wall along the eastern side of Blue Seas Parade, it is likely that a new road will have to be constructed on the subject land to service any future lots, as access will not likely be possible through the rock wall. It should be noted that this yield is a purely hypothetical number and has not been calculated having regard to any of the constraints that may exist on the site.

The broader locality is serviced by all necessary reticulated public infrastructure services, including:

- potable water supply (including hydrants within Blue Seas Parade road reserve)
- sewerage disposal
- electricity
- telecommunications
- constructed urban roads (including stormwater)

Any future new lots would be able to be connected to and serviced by such systems.



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4 **Explanation of Provisions**

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**4.1 Explanation of Proposed Amendments**

The proposed amendments to the BLEP 2012 involve:

- rezoning that part of the lot from RU1 – Primary Production Zone to R2 – Low Density Residential Zone;
- applying a 600m<sup>2</sup> minimum lot size to the R2 zoned land; and

The proposed R2 zone is same zoning as the adjoining/adjacent residential lots in Coastal Grove. The existing residential lots in Coastal Grove have a 600m<sup>2</sup> minimum lot size.

Contingent upon the zoning change being affected, there will have to be a consequential change to the Strategic Urban Growth Area map, such that the land is no longer mapped as a 'Strategic Urban Growth Area'.

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*Planning Proposal/LEP Amendment Request  
Lot 1 DP 1165957  
44-52 Blue Seas Parade, Lennox Head*

9

Planning Proposal – January 2015  
44 – 52 Blue Seas Parade Lennox Head

54

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5 Justification for the Proposed Amendments

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5.1 Section A – Need for the planning proposal

**1. Is the planning proposal a result of any strategy study or report?**

The subject land is identified in the Far North Coast Regional Strategy as being a 'proposed future urban release area' and as a "strategic urban growth area" under the Ballina Shire Growth Management Strategy.

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

The proposed application of a residential zone is consistent with these strategic planning documents that identify the land for future urban investigation/use.

It is submitted that an LEP amendment is the best (and only) way in which to achieve the proposed outcomes, as the proposal relates expressly to land use zoning and subdivision potential.

**3. Is there a net community benefit?**

The net community benefit that will result from the proposal is:

- additional economic activity generated by the development of the land for urban residential purposes
- additional land available for residential and related development

5.2 Section B – Relationship to strategic planning framework

**4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?**

Planning Proposal/LEP Amendment Request  
Lot 1 DP 1165957  
44-52 Blue Seas Parade, Lennox Head

10

Planning Proposal – January 2015  
44 – 52 Blue Seas Parade Lennox Head

55

As detailed elsewhere in this Planning Proposal, the proposal is consistent with the Far North Coast Regional Strategy.

The Planning Proposal involves changes to the zoning and minimum lot size standards to enable future subdivision (and construction of new dwelling houses).

The Planning Proposal will provide for increased housing opportunities which will assist in accommodating the projected local and regional population increase.

The Planning Proposal is thus consistent with the FNCRS. The information contained in this Planning Proposal document confirms and supports the capability of the land to accommodate urban residential development, which is thus consistent with the regional planning framework.

**5. *Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?***

*Ballina Shire Growth Management Strategy 2012 (GMS)*

The purpose of the GMS is to provide the framework for management population and employment growth in Ballina Shire over the planning period of 2012-2013.

The subject land is mapped as a "Strategic Urban Growth Area" under the GMS, and as such, the application of a residential zone over the land is consistent with the Strategy.

**6. *Is the planning proposal consistent with applicable state environmental planning policies?***

There are a number of SEPP's that are of relevance to the proposal, details of which are as follows:

11

*Planning Proposal/LEP Amendment Request  
Lot 1 DP 1165957  
44-52 Blue Seas Parade, Lennox Head*

Planning Proposal – January 2015  
44 – 52 Blue Seas Parade Lennox Head

56

SEPP Title	Compliance of Planning Proposal
SEPP (Rural Lands) 2008	<p>The subject land is currently zoned RU1. The proposed rezoning of the lot to a residential zone will not compromise or prejudice the use of the subject and adjoining land for agricultural purposes, due primarily to the characteristics, existing use, adjoining use and small size of the lot.</p> <p>The application of a residential zone will not result in increased land use conflicts with adjoining agricultural land as a consequence of the siting of the existing and future dwellings, the character of the adjoining and surrounding land (being primarily urban residential) and the limited potential for agricultural use of the adjoining land.</p> <p>It is therefore submitted that the Planning Proposal is consistent with the provisions of this SEPP.</p>
SEPP 44 – Koala Habitat Protection	<p>The subject land is devoid of significant native vegetation and is not likely to contain any Koala food trees.</p> <p>It is therefore submitted that the Planning Proposal is consistent with the provisions of and is not contrary to the intent of the SEPP.</p>
SEPP 55 – Remediation of Land	<p>Clause 6(1) of this SEPP requires the planning authority when preparing a Draft LEP to consider whether the land is contaminated and whether the land is suitable for such purpose (as not being contaminated or requiring remediation to make it suitable). A contamination assessment would have to be undertaken should the Planning Proposal proceed to Phase 2.</p> <p>It is therefore submitted that the Planning Proposal is consistent with the provisions of and is not contrary to the intent of the SEPP.</p>
SEPP 71 – Coastal Protection	<p>The subject land is physically and spatially removed from any coastal foreshore area. The land is quite prominent/visible in the local landscape and streetscape and thus a visual setting and impact assessment would have to be undertaken should the Planning Proposal proceed to Phase 2. The future subdivision and residential development of the land will not have any adverse or tangible impacts on any part of the coastal foreshore or any public land.</p> <p>It is therefore submitted that the Planning Proposal is consistent with the provisions of and is not contrary to the intent of the SEPP.</p>

**7. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?**

Section 117 of the EP & A Act 1979 provides directions that relevant planning authorities must have regard to when preparing planning proposals for new LEPs. The following table identifies which of these directions are applicable to the proposed rezoning and how the Planning Proposal is consistent with their provisions.

<p><i>Planning Proposal/LEP Amendment Request Lot 1 DP 1165957 44-52 Blue Seas Parade, Lennox Head</i></p>	12
<p>Planning Proposal – January 2015 44 – 52 Blue Seas Parade Lennox Head</p>	57

Planning Proposal – January 2015  
44 – 52 Blue Seas Parade Lennox Head

58

Direction Number	Compliance of Planning Proposal
<b>1. Employment and Resources</b>	
1.1 Business and Industrial Zones	Does not apply to Planning Proposal.
1.2 Rural Zones	Complies – Part of the subject lot is contained within the 'Proposed Future Urban Release Area' (Town and Village Growth Boundary Map – Sheet 3 – Ballina) of the FNCRS and is thus able to be justified as a consequence of the FNCRS.
1.3 Mining, Petroleum Production and Extractive Industries	Does not apply to Planning Proposal.
1.4 Oyster Aquaculture	Does not apply to Planning Proposal.
1.5 Rural Lands	Complies – comments in respect of the Rural Lands SEPP are provided in Section 5.2 of this Planning Proposal. Further, the proposed rezoning is of relatively minor significance and is consistent with the FNCRS 2006-31 in that part of the lot is mapped as a 'Proposed Future Urban Release Area'.
<b>2. Environment and Heritage</b>	
2.1 Environmental Protection Zones	Does not apply to Planning Proposal.
2.2 Coastal Protection	Complies – the proposal is considered to be of a relatively minor nature, resulting in a possible maximum of 13 lots (and future houses). The subject land is physically and spatially removed from any coastal foreshore area and is not subject to flooding, tidal inundation, acid sulfate soils, or any coastal processes. The proposal will not have any impact on any coastal foreshore land (public or private).
2.3 Heritage Conservation	Complies – the subject land is not identified as containing or comprising a heritage item or place (per Schedule 5 of the BLEP 2012).
2.4 Recreation Vehicle Areas	Does not apply to Planning Proposal.
<b>3. Housing, Infrastructure and Urban Development</b>	
3.1 Residential Zones	Complies – adequate public infrastructure is available in the immediate locality to service the existing lot and possible new lots (contingent upon consent being granted to future subdivision).  The proposal will facilitate urban development which is able to connect to and make use of existing infrastructure services.
3.2 Caravan Parks and Manufactured Home Estates	Does not apply to Planning Proposal.
3.3 Home Occupations	Complies – home occupations are permitted without consent in the R2 zone under the BLEP 2012.
3.4 Integrated Land Use and Transport	Complies – the land is identified in the 'Proposed Future Urban Release Area' of the FNCRS. The proposal will facilitate development which is able to make use of existing roads and transport services.
3.5 Development Near Licensed Aerodromes	Does not apply to Planning Proposal.
3.6 Shooting Ranges	Does not apply to Planning Proposal.

13

*Planning Proposal/LEP Amendment Request  
Lot 1 DP 1165957  
44-52 Blue Seas Parade, Lennox Head*

Planning Proposal – January 2015  
44 – 52 Blue Seas Parade Lennox Head

59

## 9.2 LEP Amendment - 44-52 Blue Seas Parade, Lennox Head.DOC

<b>4. Hazard and Risk</b>	
4.1 Acid Sulphate Soils	Does not apply to Planning Proposal.
4.2 Mine Subsidence and Unstable Land	Does not apply to Planning Proposal.
4.3 Flood Prone Land	Does not apply to Planning Proposal.
4.4 Planning for Bushfire Protection	<p>A Bushfire Hazard Assessment would have to be prepared in accordance with the provisions of Planning for Bushfire Protection 2006 to support of the proposed rezoning and future possible subdivision of the land should the Planning Proposal proceed to Phase 2.</p> <p>As evidenced on the aerial photograph, the subject land and broader locality is not heavily timbered and thus it is suggested that bushfire will not likely be a prohibiting factor to the Planning Proposal.</p>
<b>5. Regional Planning</b>	
5.1 Implementation of Regional Strategies	Complies – the land is identified as a 'Proposed Future Urban Release Area' under the FNCRS.
5.2 Sydney Drinking Water Catchments	Does not apply to Planning Proposal.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	<p>Complies – The land is mapped in the "Northern Rivers Farmland Protection Project – Final Recommendations, February 2005 as "significant non-contiguous farmland".</p> <p>Notwithstanding such, the land is mapped as a 'Proposed Future Urban Release Area' under the FNCRS 2006-31. Pursuant to Subclause (2) of Direction 5.3, land identified as such is excluded from the requirements of the Direction.</p> <p>The provisions of this Direction do not effectively apply to the Planning Proposal.</p>
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Does not apply to the Planning Proposal.
5.5 Development in the Vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	Revoked 18 June 2010.
5.6 Sydney to Canberra Corridor	Revoked 10 July 2008
5.7 Central Coast	Revoked 10 July 2010
5.8 Second Sydney Airport: Badgerys Creek	Does not apply to the Planning Proposal.
<b>6. Local Plan Making</b>	
6.1 Approval and Referral Requirements	Complies – does not introduce any new concurrence or consultation provisions or any additional designated development types.
6.2 Reserving Land for Public Purposes	Does not apply to the Planning Proposal.
6.3 Site Specific Provisions	Complies – seeks to apply the existing R2 land use zone and standards that are compatible with the residential development of the site and adjoining land.
<b>7. Metropolitan Planning</b>	

Planning Proposal/LEP Amendment Request  
 Lot 1 DP 1165957  
 44-52 Blue Seas Parade, Lennox Head

14

Planning Proposal – January 2015  
 44 – 52 Blue Seas Parade Lennox Head

60

7.1 Implementation of the Metropolitan Plan for Sydney 2036	Does not apply to Planning Proposal.
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5.3 Section C – Environmental, social and economic impact

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

As evidenced from the aerial photograph at **Appendix A**, that part of the site that is subject of the proposed rezoning is largely cleared, containing managed grassland and domestic type landscaping.

The subject land is not likely to contain any critical habitat or threatened species, populations or ecological communities.

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

The subject land is mapped as being bushfire prone. A Bushfire Threat Assessment Report would have to be prepared which addresses Planning Direction 4.4 (Section 117 Directions) and assesses the proposal in the context of:

- the provisions of Planning for Bushfire Protection (PBP) 2006
- introducing controls that avoid placing inappropriate developments in hazardous areas
- ensuring that bushfire hazard reduction is not prohibited in the APZ

The land is in a locality that is mapped as being high mosquito risk. The whole of the towns of Lennox Head and Ballina are situated in such an area and it has not been Council's practice to preclude urban residential development in such areas as a consequence of mosquito risk.

15

*Planning Proposal/LEP Amendment Request  
Lot 1 DP 1165957  
44-52 Blue Seas Parade, Lennox Head*

Planning Proposal – January 2015  
44 – 52 Blue Seas Parade Lennox Head

61



In accordance with Council's current controls and strategies (Section 3.6 – Mosquito Management, Chapter 2 – General and Environmental Considerations, DCP 2012), any future dwellings will be required to contain effective screening to all windows, external doors and other openings to habitable rooms (would be conditioned at DA stage for future houses).

**10. How has the planning proposal adequately addressed any social and economic effects?**

The proposed rezoning (and construction of future houses) may have impacts on the landscape and scenic character of the locality as well as possible amenity impacts on adjacent dwellings/residents. These matters would have to be addressed in more detail should the Planning Proposal proceed to Phase 2.

The subject land is already connected to all necessary reticulated public infrastructure services and thus there are no significant economic issues with the servicing of any future lots.

**5.4 Section D – State and Commonwealth interests**

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

The existing locality is connected to and serviced by all necessary reticulated public infrastructure services. There is sufficient capacity for any proposed new lots to be efficiently and economically connected to and serviced by such services.

**12. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?**

The views of the Department of Planning & Infrastructure and other relevant Governmental bodies would be obtained should Council resolve to enable the Planning Proposal to proceed.

16

*Planning Proposal/LEP Amendment Request  
Lot 1 DP 1165957  
44-52 Blue Seas Parade, Lennox Head*

Planning Proposal – January 2015  
44 – 52 Blue Seas Parade Lennox Head

62

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6 Community Consultation

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There has not been any community consultation undertaken in respect of this Planning Proposal at this point in time.

It is likely that a requirement for community consultation will be contained in any Gateway Determination, with such community consultation and advertising having to be duly undertaken by Council in the further processing of this Planning Proposal.

*Planning Proposal/LEP Amendment Request  
Lot 1 DP 1165937  
44-52 Blue Seas Parade, Lennox Head*

17

Planning Proposal – January 2015  
44 – 52 Blue Seas Parade Lennox Head

63

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7 Scope of Engagement

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This Planning Proposal has been prepared by Ardill Payne & Partners (APP) on behalf of George Farley for lodgement with Ballina Shire Council and is not to be used for any other purpose or by any other person or corporation.

This report has been prepared from the information provided to us and from other information obtained as a result of enquiries made by us. APP accepts no responsibility for any loss or damage suffered howsoever arising to any person or corporation who may use or rely on this document for a purpose other than that described above.

No part of this report may be reproduced, stored or transmitted in any form without the prior consent of APP.

APP declares that it does not have, nor expects to have, a beneficial interest in the subject project.

To avoid this advice being used inappropriately it is recommended that you consult with APP before conveying the information to another who may not fully understand the objectives of the report. This report is meant only for the subject site/project and should not be applied to any other.

*Planning Proposal/LEP Amendment Request  
Lot 1 DP 1165957  
44-52 Blue Seas Parade, Lennox Head*

18

Planning Proposal – January 2015  
44 – 52 Blue Seas Parade Lennox Head

64

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8 **Appendices**

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- Appendix A** Aerial photograph of subject and adjoining land
- Appendix B** Copy of deposited plan
- Appendix C** Detail and contour survey
- Appendix D** Strategic Urban Growth Area overlay

*Planning Proposal/LEP Amendment Request  
Lot 1 DP 1165957  
44-52 Blue Seas Parade, Lennox Head*

19

Planning Proposal – January 2015  
44 – 52 Blue Seas Parade Lennox Head

65

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APPENDIX A

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**Appendix A**  
Aerial photograph of subject  
and adjoining land

*Planning Proposal/LEP Amendment Request  
Lot 1 DP 1165957  
44-52 Blue Seas Parade, Lennox Head*

20

Planning Proposal – January 2015  
44 – 52 Blue Seas Parade Lennox Head

66



Aerial photograph of Lot 1 DP 1165957  
 Planning Proposal – January 2015  
 44 – 52 Blue Seas Parade Lennox Head

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APPENDIX B

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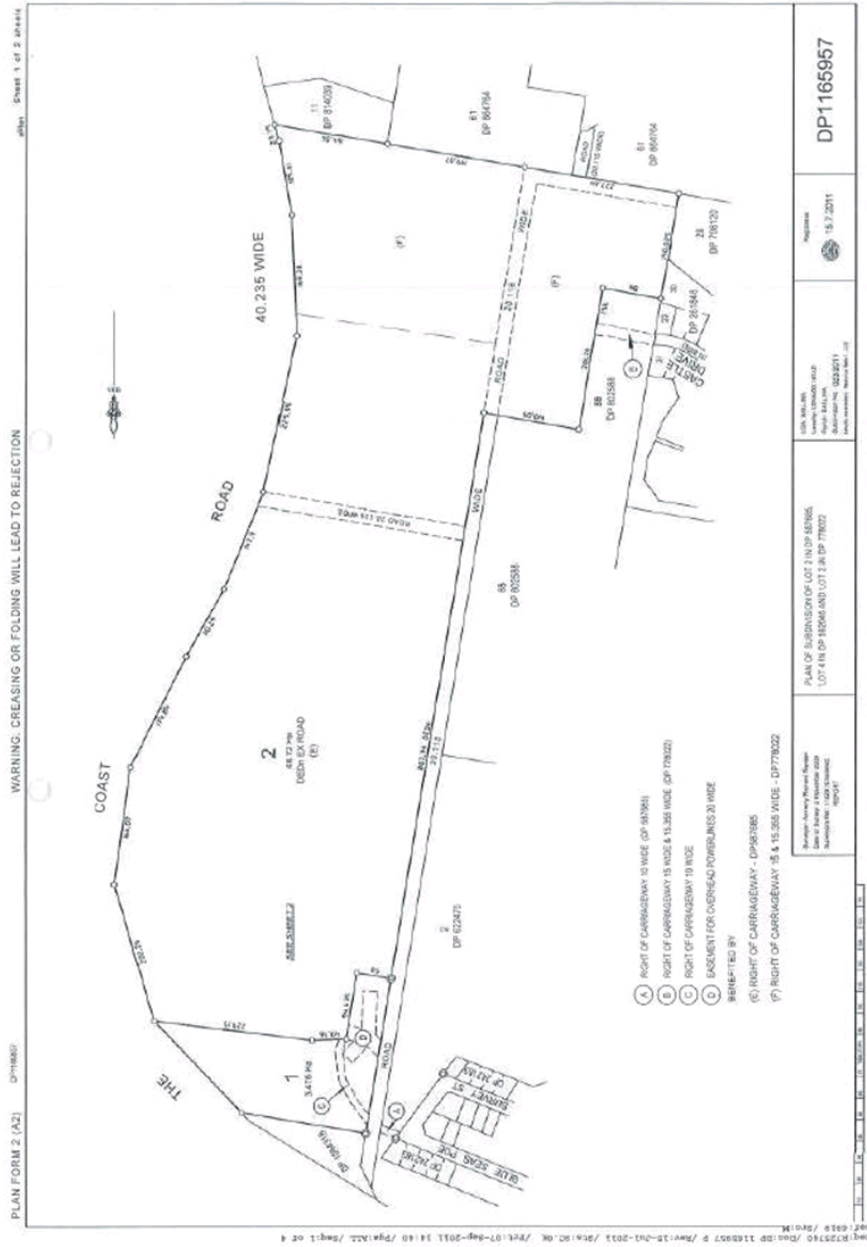
**Appendix B**  
Copy of deposited plan

*Planning Proposal/LEP Amendment Request  
Lot 1 DP 1165957  
44-52 Blue Seas Parade, Lennox Head*

21

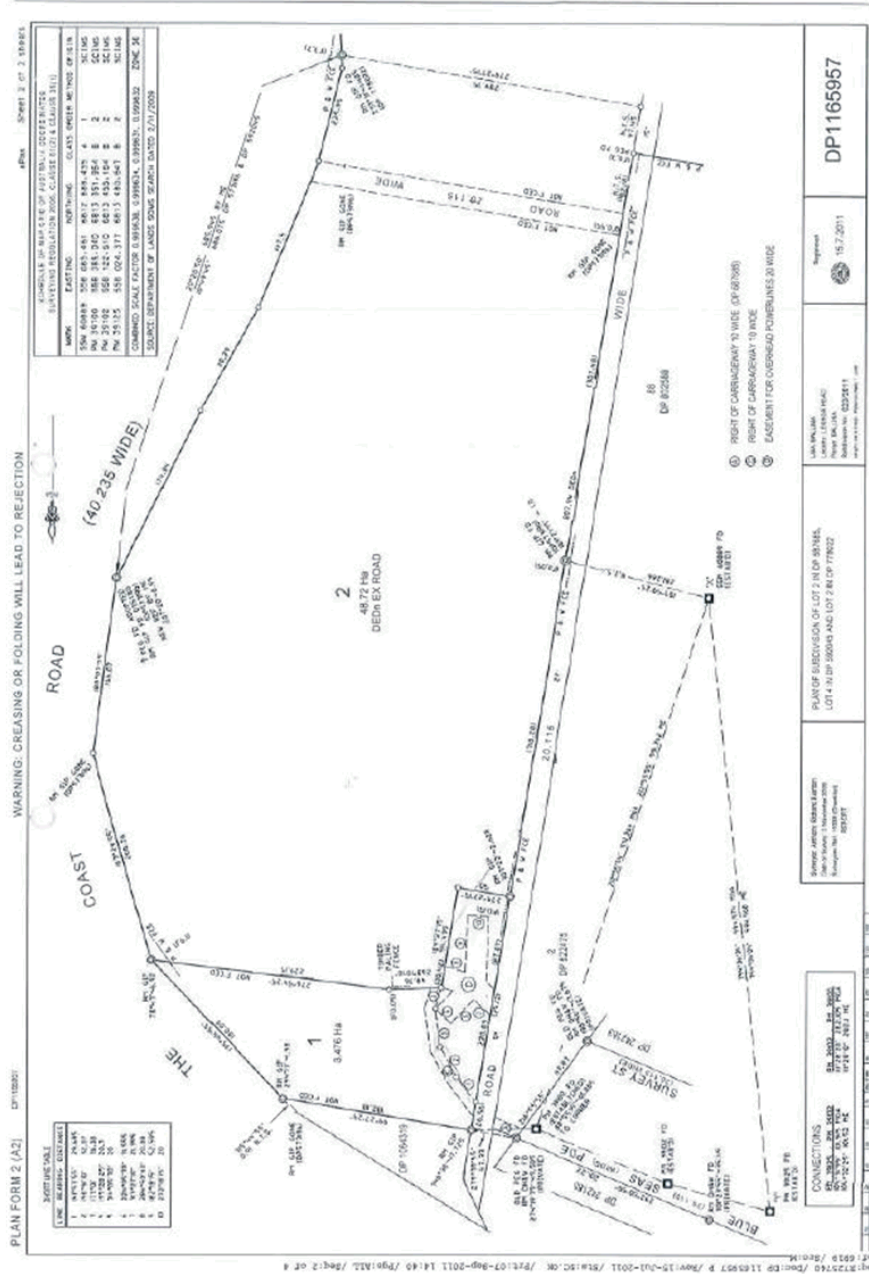
Planning Proposal – January 2015  
44 – 52 Blue Seas Parade Lennox Head

68



Planning Proposal – January 2015  
 44 – 52 Blue Seas Parade Lennox Head





Planning Proposal – January 2015  
44 – 52 Blue Seas Parade Lennox Head

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APPENDIX C

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**Appendix C**  
Contour and detail survey

*Planning Proposal/LEP Amendment Request  
Lot 1 DP 1165957  
44-52 Blue Seas Parade, Lennox Head*

22

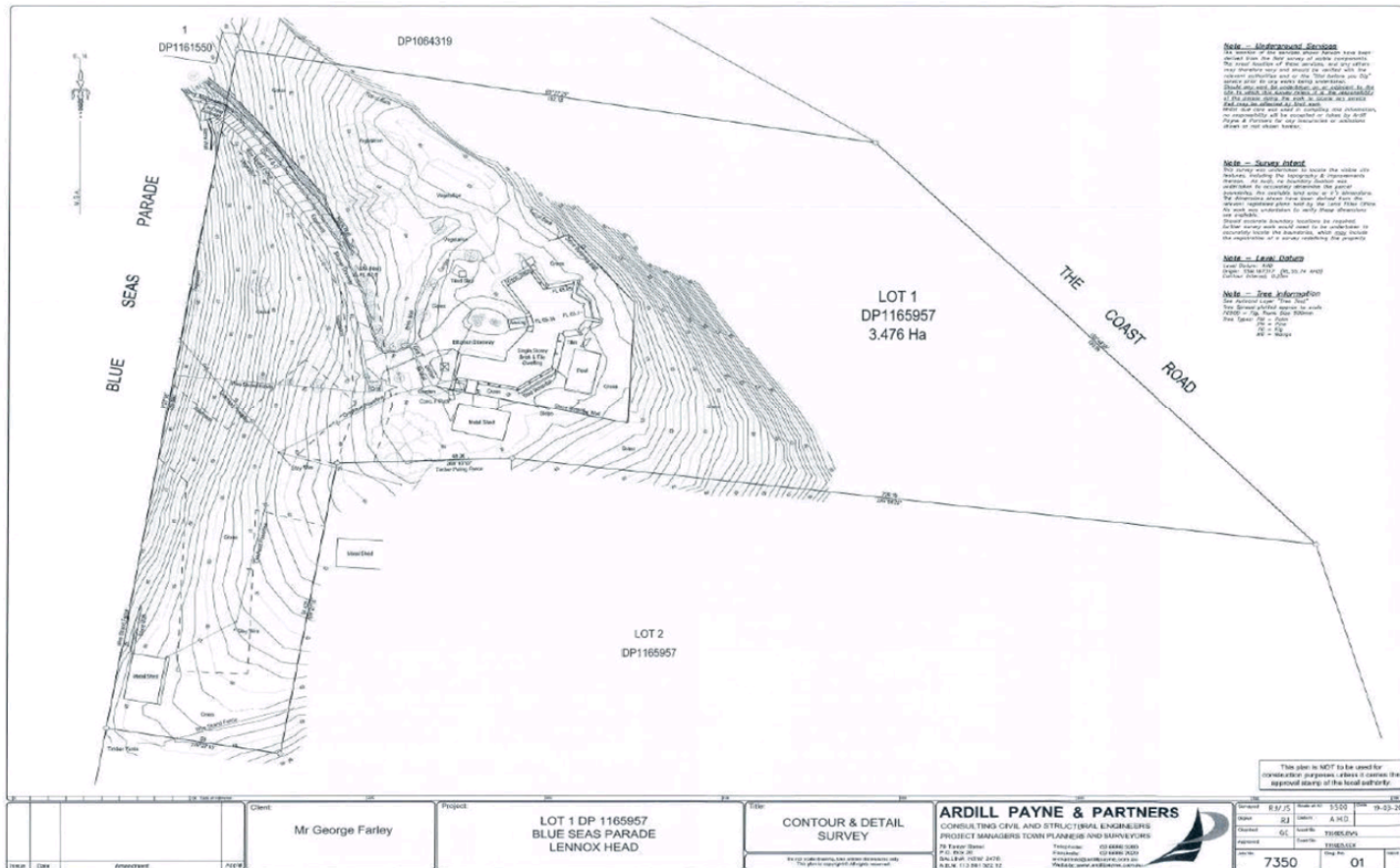
Planning Proposal – January 2015  
44 – 52 Blue Seas Parade Lennox Head

71

Planning Proposal – January 2015  
44 – 52 Blue Seas Parade Lennox Head

72

9.2 LEP Amendment - 44-52 Blue Seas Parade, Lennox Head.DOC



Planning Proposal – January 2015  
 44 – 52 Blue Seas Parade Lennox Head

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APPENDIX D

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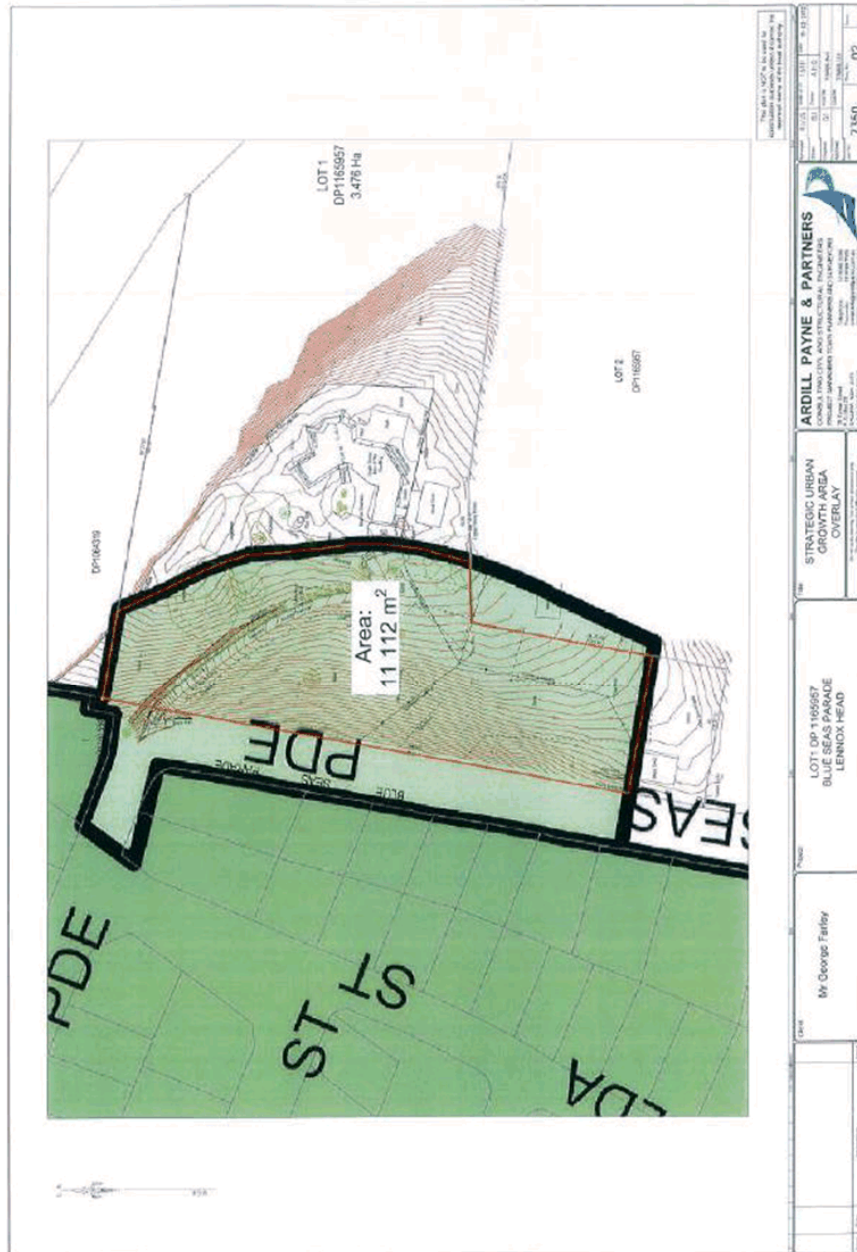
**Appendix D**  
Strategic Urban Growth Area  
overlay

*Planning Proposal/LEP Amendment Request  
Lot 1 DP 1165957  
44-52 Blue Seas Parade, Lennox Head*

23

Planning Proposal – January 2015  
44 – 52 Blue Seas Parade Lennox Head

74



Planning Proposal – January 2015  
 44 – 52 Blue Seas Parade Lennox Head

**Appendix H - Letters from Department of Planning and Environment re pre-Gateway Review**



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

Ref: PGR\_2014\_BALLI-001\_00

Dear Mr Hickey

**Request for pre-Gateway review – PGR\_2014\_BALLI\_001\_00**

I refer to the request for a pre-Gateway review (PGR\_2014\_BALLI-001\_00), lodged on 21 August 2014, for a proposal to amend Ballina Local Environmental Plan 2012 to rezone part of Lot 1 DP 1165957, 44-52 Blue Seas Parade, Lennox Head, from RU1 Primary Production to R2 Low Density Residential and replace the 40ha minimum lot size with a 600m<sup>2</sup> minimum lot size.

I have now determined that the proposal should proceed to Gateway determination stage. In making my decision, I considered the request for a pre-Gateway review, together with the recommendation of the Northern Joint Regional Planning Panel and advice provided by Council. Please find attached copy of the Panel's decision and report.

Consequently, Council is asked to advise if it would like to be the Relevant Planning Authority (RPA) for this proposal. Should Council agree to be the RPA, it will need to prepare a planning proposal under section 55 of the *Environmental Planning and Assessment Act 1979*, and submit it for a Gateway determination within 28 days of the date of this letter.

If Council does not wish to progress this matter, an alternate RPA may be appointed to prepare the planning proposal. Should Council not wish to be the RPA for this proposal, please contact the Department of Planning and Environment to discuss this matter further. You can view the progress of the pre-Gateway review at <http://pgrtracking.planning.nsw.gov.au/>

Should you have any further enquiries about this matter, please contact Ms Jenny Johnson of the Department's Northern Region Office on (02) 6641 6614.

Yours sincerely

  
Marcus Ray  
Acting Deputy Secretary *08/12/14*  
Planning Services

Encl: Northern Joint Regional Planning Panel, Recommendation Report

Department of Planning & Environment  
22-33 Bridge Street Sydney NSW 2000 | GPO Box 39 Sydney NSW 2001 | T 02 9228 6111 | F 02 9228 6455 | [www.planning.nsw.gov.au](http://www.planning.nsw.gov.au)

**Joint Regional Planning Panel – Pre-Gateway Review – Recommendation Report Template**

The Northern Joint Regional Planning Panel (JRPP) has considered the request for a review of the proposal as detailed below.

**The Pre-Gateway Review:**

<b>Dept. Ref. No:</b>	PGR_2014_BALLI_001_00
<b>LGA:</b>	Ballina
<b>LEP to be Amended:</b>	Ballina LEP 2012
<b>Address / Location:</b>	44-52 Blue Seas Parade, Lennox Head (part of Lot 1 DP1165957) and adjoining road reserve
<b>Summary of Proposal:</b>	To rezone the subject site from RU1 Primary Production to R2 Low Density Residential under the Ballina LEP 2012 and apply a 600m <sup>2</sup> minimum lot size

<b>Reason for review:</b>	<input checked="" type="checkbox"/>	The Council has notified the proponent that the request to prepare a planning proposal has not been supported
	<input type="checkbox"/>	The Council has failed to indicate its support 90 days after the proponent submitted a request to prepare a planning proposal

In considering the request, the JRPP has reviewed all relevant information provided by the proponent as well as the views and position of the Department of Planning and Environment and the relevant local government authority. Based on this review the JRPP recommends the following:

<b>JRPP RECOMMENDATION:</b>	<input checked="" type="checkbox"/>	The proposed instrument should be submitted for a Gateway determination
	<input type="checkbox"/>	The proposed instrument should not be submitted for a Gateway determination
<b>Composition of Recommendation:</b>	<input checked="" type="checkbox"/> Unanimous <input type="checkbox"/> Not unanimous	<b>Comments:</b>
<b>JRPP Members:</b>	Garry West (Chair) John Griffin Pamela Westing John Truman David Wright	

**JRPP Advice and Justification for Recommendation:**

The Regional Panel agrees with the Assessment conducted by the Department and the Ballina Shire Council Staff for the planning proposal, which has strategic and site specific merit in regard to Ballina's Shire Growth Management Strategy.





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

RECORDS  
SCANNED  
24 DEC 2014  
Doc No.....  
Batch No.....

Our ref: PGR\_2014\_BALLI\_001\_00  
Your ref: BSCPP 14/005

Dear Mr Hickey

**Pre-Gateway Extension Request - PGR\_2014\_BALLI\_001\_00**

I refer to your correspondence of 12 December 2014 seeking an extension of time to consider acceptance of the Relevant Planning Authority role for the proposed residential rezoning at 44-52 Blue Seas Parade, Lennox Head (PGR\_2014\_BALLI\_001\_00).

The timeframe for accepting or declining the Relevant Planning Authority role is non-statutory. It is open to me therefore to amend the timeframe beyond 28 days. Given the current situation of the holiday period I agree to your request.

I have been advised that the proponent has been notified of the delay and is satisfied that the issue will be considered at the earliest opportunity in January 2015.

Council should ensure that the matter is considered no later than the Ordinary Meeting on 22 January 2015.

If you have any questions in relation to this matter, I have arranged for Ms Jenny Johnson of the Northern Region Office to assist you. Ms Johnson can be contacted on (02) 6641 6614.

Yours sincerely

**Marcus Ray**  
**Acting Deputy Secretary**  
**Planning Services**

17/12/14

Department of Planning & Environment  
23-33 Bridge Street Sydney NSW 2000 | GPO Box 39 Sydney NSW 2001 | T 02 9228 6111 | F 02 9228 6445 | www.planning.nsw.gov.au

**Appendix I – Report to Ballina Shire Council's Ordinary Meeting on 22 January 2015**

Planning Proposal – January 2015  
44 – 52 Blue Seas Parade Lennox Head

79