



Planning Proposal BSCPP 14/009

April 2015

Ballina Heights Estate

15/22362 Final

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Planning Proposal – April 2015
Ballina Heights Estate

INTRODUCTION

Summary of Planning Proposal

This planning proposal relates to part of the remaining, largely undeveloped components of the Ballina Heights Estate, Cumbalum. The proposal seeks to adjust the land use zone boundaries and associated planning provisions for a number of sites, all of which are either owned by the current developers of the estate (i.e. Vixsun Pty Ltd and the Roman Catholic Church) or which comprise public land in the care and control of Ballina Shire Council.

The land parcels affected by the changes in this planning proposal are shown in Figure 1.

The subject land contains a mix of land use zones and it is proposed to adjust these to better reflect the desired future land use outcomes as preferred by the developers of the estate and to be more consistent with the intent of various plans of subdivision approved in development applications to Ballina Shire Council.

The components of this planning proposal are summarised in Table 1.

The zoning amendments included in this planning proposal also necessitate updates to the following BLEP 2012 maps:

- Land Application Map
- Acid Sulfate Soils Map ASS_005
- Building Height Allowance Map BHA_005B
- Flood Planning Map FLD_005
- Floor Space Ratio Map FSR_005B
- Height of Buildings Map HOB_005
- Lot Size Map LSZ_005B
- Land Zoning Map LZN_005B
- Strategic Urban Growth Area Map SGA_005B

A series of maps to support the proposal has been prepared and is included in Appendix F. These maps include copies of the proposed amended BLEP 2012 map tiles as well as maps at a scale of 1:5000 detailing the Ballina Heights Estate to assist in the identification of the proposed mapping changes.

The Council considered this planning proposal at its Ordinary Meeting on 23 October 2014 where it resolved to submit the proposal to the Department of Planning and Environment for Gateway determination. A copy of the report submitted to the Council and details of the Council's subsequent resolution is in Appendix A.

The Department of Planning and Environment issued a Gateway determination for the proposal on 17 November 2014 a copy of which is in Appendix B. The Gateway determination authorised the proposal to proceed subject to conditions. Among the conditions are the requirement to consult with the NSW Rural Fire Service and the Commonwealth Civil Aviation Authority. In relation to the Ballina Byron Gateway Airport, the airport operator and Air Services Australia were also consulted. Copies of the responses received from these agencies are included in Appendix C.



Figure 1 – Land affected by planning proposal

9.1 Planning Proposal BSCPP 14/009 - Ballina Heights Estate.DOC

Table 1 – Schedule of Proposed Changes

Land Description	Owner*	Proposed Change
Lot 116 DP 1058129 Lot 136 DP 1066838 Lot 153 DP 1066838	Ballina Shire Council	Rezone public reserves from R2 Low Density Residential to RE1 Public Recreation, remove minimum lot size provisions.
Lot 114 DP 1058129 Lot 317 DP 1148856	Ballina Shire Council	Adjust zone boundary for RE1 Public Recreation zone to match cadastral boundaries.
Lot 409 DP 1202454	Roman Catholic Church	Adjust residential zone boundaries (R2/R3) and associated minimum lot size provisions to reflect future land use intent and subdivision consent.
Lots 98 & 99 DP 1196589	Ballina Shire Council	Add RE1 Public Recreation zone to land dedicated for public open space, remove minimum lot size provisions.
Lot 389 DP 1199596	Vixsun Pty Ltd	Adjust the B2 Local Centre zone boundary to reflect recently gazetted cadastral boundaries. Also adjust associated minimum lot size, height of buildings and floor space ratio provisions.
Lots 360-385, 387 and 389 DP 1199596	Vixsun Pty Ltd & Others	Adjust residential zone boundaries (R2/R3) and associated minimum lot size provisions to match cadastral boundaries and to reflect future land use intent and subdivision consent.
Lots 389-408 DP 1202454	Roman Catholic Church	Adjust residential zone boundaries (R2/R3) and associated minimum lot size provisions to match cadastral boundaries and to reflect future land use intent and subdivision consent.
Lot 388 DP 1199596	Ballina Shire Council	Add recently dedicated public open space to RE1 Public Recreation zone, remove minimum lot size.
Lot 303 DP 1147087 Lot 318 DP 1148856	Ballina Shire Council	Adjust boundaries of RE1 Public Recreation zone to include all open space areas, adjust Land Application boundary and associated mapping for acid sulfate soils, building height allowance and flood planning.
Lot 409 DP 1189176	Roman Catholic Church	Adjust zone boundaries for clarity and to reflect cadastre.

*Registered owner at time of preparation of initial planning proposal in October 2014

Planning Context

Ballina Local Environmental Plan 2012

The *Ballina Local Environmental Plan 2012* (BLEP 2012) provides a suite of land use zones and associated planning provisions to facilitate various forms of urban development in Ballina Shire. The Ballina Heights Estate has been under development for over 10 years and comprises a mix of residential, business and open space zones.

In the drafting of the BLEP 2012, the approach taken in relation developing residential areas such as the Ballina Heights Estate was to provide for uniform flexibility in the range of permissible land uses. This was achieved through the application of the R3 Medium Density Residential zone. The views of the landowners were sought at the time of drafting; however no indication was given with regard to their preferred zoning outcomes.

With the development of the estate now in its final stages, the landowners have sought to amend the provisions of the LEP to achieve their desired land use outcomes. This planning proposal seeks to refine the existing land use zones and associated planning provisions for sections of the undeveloped components of the estate to ensure the zoning is compatible with the developers' land use intent and is consistent with development approvals for the subdivision of the land.

Residential Zones

This planning proposal seeks to adjust existing zone boundaries in undeveloped stages of the Ballina Heights Estate to reflect the developers' preferred land use outcomes and to be generally consistent with subdivision consents granted by Council. It is proposed to apply the R2 Low Density Residential zone to the majority of this residual component of the estate with certain lots retaining the R3 Medium Density zone to enable medium density and dual occupancy development.

These changes to residential zoning are primarily intended to provide for consistency with previous subdivision approvals within the estate. The exception to this is that the developer proposes to retain ten lots under the current R3 Medium Density Residential zone that are not currently approved as dual occupancy lots (five are currently subject to a s96 modification to the development approval for Stage 8A to provide for designation of additional dual occupancy lots). This is generally consistent with the principle of providing for some variation in housing types in the estate and the concept of providing an indication of intended development outcomes prior to sale of individual allotments.

Business Zone

The Ballina Heights Estate includes an area of B2 Local Centre zone on its western edge. This land is to contain a future mixed use development including commercial and retail components. Recent registration of subdivision plans has more clearly defined the eastern boundary of this commercial precinct. This planning proposal seeks to align the boundary between the B2 Local Centre (and its associated land use controls such as height of buildings, floor space ratio and special minimum lot sizes) and the rest of the estate (general R2 Low Density Residential zone) along the recently gazetted cadastral boundary for Ballina Heights Drive.

Open Space Zone

The Ballina Heights Estate contains a number of parks and reserves that have been dedicated to Ballina Shire Council as public open space. This planning proposal seeks to apply the RE1 Public Recreation zone to parks and reserves in the Ballina Heights Estate in Council's ownership. In conjunction with the application of the RE1 zone, existing minimum lot size provisions for this land will be removed consistent with Council's approach to managing RE1 zoned land across the Shire.

An adjustment to the boundary of the RE1 Public Recreation zone on the eastern edge of the estate will necessitate an adjustment to the Land Application Map and removes an area currently identified as Deferred Matter. This will consequently result in changes to the Acid Sulfate Soils Map, Building Height Allowance Map and Flood Planning Map. The proposed changes to the maps are detailed in Appendix F.

Ballina Shire Growth Management Strategy 2012

The Ballina Shire Growth Management Strategy 2012 provides the strategic planning context for urban development in Ballina Shire. The proposed changes to the planning provisions affecting the land to which this planning proposal relates are consistent with Council's Growth Management Strategy as the estate is a planned residential area.

PART 1 – OBJECTIVES & INTENDED OUTCOMES

The objective of this planning proposal is to acknowledge the development outcomes intended for the land based on the developers' preferred land uses and a series of existing subdivision consents.

The primary outcomes of the change will be a reduction in the area of land zone R3 Medium Density Residential and an increase in the areas zoned R2 Low Density Residential and RE1 Public Recreation.

PART 2 – EXPLANATION OF THE PROPOSAL

The proposal will result in adjustments to the land use zoning and associated planning controls applicable to undeveloped sections of the Ballina Heights Estate. These areas are in the ownership of the developers of the estate (the Roman Catholic Church and Vixsun Pty Ltd).

The proposal also seeks to modify certain zoning provisions and planning controls applicable to existing and soon to be dedicated open space areas in the Ballina Heights Estate.

The specific changes included in this proposal are detailed in Table 1 above.

PART 3 – JUSTIFICATION

Section A - Need for the Planning Proposal

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

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

The need for the planning proposal has arisen as a result of the processes associated with the implementation of the BLEP 2012. At the time of preparation of the BLEP 2012, the planning for the Ballina Heights Estate had not been finalised. With the developers of the Ballina Heights Estate now in a position to indicate the intended land use outcomes for a substantial portion of the estate, Council is now in a position to define with more certainty the final land use outcomes desired for the estate by way of zoning.

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

The planning proposal is considered to be the most appropriate means of securing the intended development outcomes for the land into the future as the change sought relates specifically to permissibility of land uses in residential zones.

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 (FNCRS), which provides the regional framework for the consideration of policy development and the overall vision of the future. The Ballina Heights Estate is a planned residential area.

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

The planning proposal is consistent with the local and regional planning framework and Council's Community Strategic Plan as it provides for a mixture of housing types (notwithstanding the reduction in the area of land zoned for medium density development) in a planned residential area. It does not compromise the overall intended density outcomes for the area.

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

Yes, the proposal is generally consistent with applicable State Environmental Planning Policies (SEPP).

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

Yes, the proposal is consistent with the relevant Section 117 Directions. A Section 117 Direction checklist for the planning proposal is contained in Appendix E.

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 proposal seeks to apply a refined regime of land use zones and associated planning controls to land within the Ballina Heights Estate. The majority of this land has been previously zoned and approved as being suitable for urban residential development. Additional areas within the estate have been identified and approved for dedication as public open space. These public open space areas are either already in Council ownership or will soon be dedicated. They comprise a mix of active and passive public recreation land uses and include areas that will be retained and restored as significant urban bushland.

As a result, there is not considered any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats will be adversely affected as part of the proposal.

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

No significant adverse environmental impacts are likely to arise as a result of the planning proposal.

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

As a consequence of its relatively minor nature, no broad positive or negative social or economic impacts are likely to arise as a result of the planning proposal.

Section D - State and Commonwealth interests.

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

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

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

Consultation has been undertaken with the NSW Rural Fire Service and the Commonwealth Civil Aviation Safety Authority in accordance with the requirements of the Gateway determination. Council has also consulted the operator of the Ballina Byron Gateway Airport and Air Services Australia.

PART 4 – MAPPING

The amendments included in this planning proposal will necessitate updates to the following BLEP 2012 maps:

- Land Application Map
- Acid Sulfate Soils Map ASS_005
- Building Height Allowance Map BHA_005B
- Flood Planning Map FLD_005
- Floor Space Ratio Map FSR_005B
- Height of Buildings Map HOB_005
- Lot Size Map LSZ_005B
- Land Zoning Map LZN_005B
- Strategic Urban Growth Area Map SGA_005B

Copies of the proposed amended BLEP 2012 map tiles are included in Appendix F. In addition, a map set at a scale of 1:5000 has been prepared to assist in the identification of the proposed changes. This map set details the Ballina Heights Estate and provides details of the current mapped controls and the proposed amendments.

PART 5 – COMMUNITY CONSULTATION

The Gateway determination issued by the Department of Planning and Environment on 17 November 2014 (see Appendix B) required consultation with the NSW Rural Fire Service and the Commonwealth Civil Aviation Safety Authority prior to the public exhibition of the proposal. The proposal was referred to these agencies as well as the operator of the Ballina Byron Gateway Airport and Air Services Australia with copies of their responses provided in Appendix C.

The proposal has also been publicly exhibited in accordance with the Gateway determination and the terms of the *Environmental Planning and Assessment Act 1979*. The public exhibition period was from 11 March to 27 March 2015. Two submissions were received in response to the public exhibition. Copies of these submissions are included in Appendix D. The submissions are addressed in the reporting to the Council associated with this planning proposal.

PART 6 – TIMELINE

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

Plan Making Step	Estimated Completion (Before)
Gateway Determination	November 2014
Government Agency Consultation	November-December 2014
Public Exhibition Period	March 2015
Public Hearing	N/A
Submissions Assessment	April 2015
RPA Assessment of Planning Proposal and Exhibition Outcomes	April 2015
Submission of Endorsed LEP to DP&I for Finalisation	N/A
RPA Decision to Make the LEP Amendment (if delegated)	April 2015
Forwarding of LEP Amendment to DP&I for Notification (if delegated)	May 2015

APPENDICES

Appendix A – Council Report and Resolution

9.3 LEP Amendment Request - Ballina Heights Estate, Cumbalum

9.3 LEP Amendment Request - Ballina Heights Estate, Cumbalum

Delivery Program Strategic Planning

Objective To seek direction from the Council in relation to a planning proposal to recognise the intended residential development outcomes for currently undeveloped parts of the Ballina Heights Estate.

Background

The Council's approach to the type and density of residential development is primarily set out in the *Ballina Local Environmental Plan 2012* (BLEP 2012) and the Ballina Shire Development Control Plan 2012 (DCP). Under the BLEP 2012, the Council uses two zones to make a distinction between the types of residential development that is planned for and permitted.

The R2 Low Density Residential Zone covers the majority of residential areas and limits residential development to single dwellings and secondary dwellings only. The R3 Medium Density Residential Zone enables additional residential land uses such as dual occupancy, multi-dwelling housing and residential flat buildings.

The R3 zone is applied to specified areas of the Shire where Council seeks to enable a greater diversity of residential development types. The DCP then provides further guidance and direction on how development should occur, including design parameters. This includes the application of minimum lot sizes for various forms of development, such as dual occupancy (detached) having a minimum lot size of 600m² and multi-dwelling housing/residential flat buildings having a minimum lot size of 1000m².

Prior to the commencement of the BLEP 2012, Council's residential density controls were contained in the DCP, rather than in the planning instrument itself. During this time, development applications for major urban subdivisions would designate individual lots within each development for certain medium density land uses generally consistent with Council's former DCP provisions.

This approach is no longer possible under the Standard Instrument LEP (the BLEP 2012). As such, zones are now used as the basis to identify sites that have the potential for dual occupancy, multi-dwelling and apartment style housing. The principle employed under the BLEP 2012 when it was prepared was to provide for flexibility in the range of permissible residential land uses in residential areas, unless the landowner sought a particular land use pattern akin to the historic process applied under the former DCP (known colloquially as the 'salt and pepper' approach).

The various stages of the Ballina Heights Estate (the estate) at Cumbalum have been approved by Council in a number of subdivision development consents from 2003 to 2011. Each of these provided generally for a suite of residential lots primarily for low density residential development (single dwellings) with some lots specified as either dual occupancy or multiple dwelling lots.

9.3 LEP Amendment Request - Ballina Heights Estate, Cumbalum

While the majority of the estate has been subdivided and developed for residential development, there are several remaining stages yet to be released. Council has been approached by Ardill Payne and Partners, on behalf of the developers of the estate, with a request to adjust the zoning in these remaining areas to better reflect the intended land use outcomes and subdivision approvals applicable to the estate. The land subject to this planning proposal is shown in the documentation contained in Attachment One.

By way of context, it is not unexpected that zoning adjustments have been sought in the estate because it is a rapidly changing area that has developed during a transition period in the local planning framework. In anticipation of this, Council invited the views of the land owners during the preparation of the BLEP 2012. However, at that time, the landowners did not indicate their preferred zoning outcomes.

The purpose of this report is to present the Council with a planning proposal that seeks to amend the current residential zoning regime for the undeveloped parts of the estate to reflect the land use outcomes envisaged in the subdivision approvals already granted by Council (as requested by the landowners).

Key Issues

- Land use zoning and future residential development.
- Consistency of zoning with development intent.
- Residential density consistent with existing subdivision approvals.

Information

Ardill Payne & Partners, acting on behalf of the developers of the Ballina Heights Estate, have provided Council with details of their preferred land use outcomes for various undeveloped sections of the estate. The intended land use outcomes have become clearer recently as the developers of the estate have sought to progress the release for sale of further stages of Ballina Heights.

The information provided has been verified by Council staff and is generally consistent with the subdivision approvals previously granted by Council. The only exception to this is that the developer proposes to retain ten lots under the current R3 Medium Density Residential zone that are not currently approved as duplex lots (five are currently subject to a s96 modification to the development approval for Stage 8A to provide for designation of additional dual occupancy lots). This is generally consistent with the principle of providing for variation in housing types in the estate and the concept of providing an indication of intended development outcomes prior to sale of individual allotments.

No significant technical or amenity issues of concern have been identified in relation to this proposal (adjacent landholders will be notified of the proposed change and invited to provide feedback for further consideration by the Council).

9.3 LEP Amendment Request - Ballina Heights Estate, Cumbalum

At present, the undeveloped parts of the estate that are planned for residential occupation are zoned R3 Medium Density Residential. This zone was applied to provide flexibility in housing types on this land. Under the LEP amendment request it is proposed to apply the R2 Low Density Residential zone to the majority of the estate, with designated lots and areas set aside for medium density development (dual occupancies and multi-dwelling housing) under the R3 zone. This essentially means reducing the area of land that is zoned R3 Medium Density Residential.

In addition, it is proposed to adjust the existing zone boundaries in relation to the existing and future open space areas in the estate to correlate with recent land dedications and planned outcomes. It is proposed to apply the RE1 Public Recreation zone to these areas. Further, the proposal will also adjust the B2 zoning over the commercial area in the estate and modify other provisions in the BLEP 2012 as they apply to floor space ratio, height of buildings and minimum lot sizes to reflect the amended zoning regime. These associated changes are minor in scale.

A draft planning proposal has been prepared for the subject area which reflects the changes foreshadowed above. A copy of this draft planning proposal is provided in Attachment One. Should the Council resolve to support this proposal, staff will proceed to seek Gateway determination from the Department of Planning and Environment and conduct the requisite public exhibition of the proposal following receipt of a favourable Gateway determination. The proposal would then be reported to the Council for further consideration and endorsement following public exhibition.

The proposed adjustments to the BLEP 2012 are considered to be relatively minor and relate to land that has not yet been made available for residential housing. The land subject to the proposal is still in the ownership of the developers of the estate (i.e. the Trustees of the Roman Catholic Church and Vixsun Pty Ltd).

However, Council has been advised that (at the time of preparing this report) six recently registered residential lots in the estate are subject to a contract for sale. These contracts for sale have arisen prior to the availability of planning certificates that would indicate to purchasers that a proposed rezoning is being considered by the Council.

The proponent, on behalf of the developers, has advised verbally that the relevant parties to the contracts have been made aware of the rezoning proposal and have the expectation that the land will be subject to land uses as identified in the approved subdivision plans.

It appears that the sites have been marketed as predominantly for low density (single dwelling/detached) housing, with specific lots retained and identified for dual occupancy and medium density development. This approach is reflected in a covenant that has been applied to the land by the land owners under the provisions of the Conveyancing Act. Having regard for these circumstances, it is considered reasonable to proceed with the planning proposal on the basis of applying an R2 zone to these lots. As part of the LEP amendment process, it is suggested that these and any other parties contracted to buy land that is subject to the proposed LEP amendment be advised of the amendment prior to public exhibition of the plan.

9.3 LEP Amendment Request - Ballina Heights Estate, Cumbalum

Sustainability Considerations

- **Environment**
The proposed adjustments to the BLEP 2012 primarily affect existing residential zoned (but undeveloped) land and seek to apply density controls consistent with the land use outcomes envisaged in the various subdivision applications and respective consents granted for the land. In addition, minor adjustments to the existing public recreation and nominated business areas respectively in the BHE are also proposed. It is not expected that the changes will result in significant or negative environmental, social or economic outcomes.
- **Social**
See above.
- **Economic**
See above.

Legal / Resource / Financial Implications

The proposed adjustments to the provisions of the BLEP 2012 as they apply to areas within the Ballina Heights Estate are consistent with Council's legal obligations and responsibilities as a local planning authority. The workload to undertake the proposed amendments can be undertaken within existing resources.

Consultation

Should the Council support the proposed LEP amendments, the planning proposal will be referred to the Department of Planning and Environment for Gateway determination. If the Gateway determination enables the proposal to advance, it will be publicly exhibited in accordance with the terms and conditions of the determination.

Options

1. That the Council endorse the attached planning proposal to advance the proposed rezoning and submit the planning proposal to the Department of Planning and Environment for Gateway determination; or
2. That Council not commence the rezoning process.

Option one is the preferred course of action on the basis that it will address the issues outlined in this report and will progress the matter to the next step in the rezoning process. This step involves a review of the proposal by the Department of Planning and Environment and Gateway determination. It should be noted that the Gateway determination may or may not allow the rezoning to proceed.

It is recommended that Council proceed to submit the draft planning proposal to the Department of Planning and Environment for Gateway determination. This is primarily because the rezoning provides for consistency in the BLEP 2012 with previous decisions of Council in relation to the subdivision of the land.

9.3 LEP Amendment Request - Ballina Heights Estate, Cumbalum

It also reflects the landowners' intended land use outcomes, which are considered reasonable in the circumstances. That is, the proposed amendment does not create any significant inconsistencies for the area as set out in Council's principal planning documents.

If the Council proceeds to advance the planning proposal, it is recommended that the community engagement process includes notification of the proposed change to landowners as well as parties contracted to purchase lots that are subject to the amendment.

The primary disadvantage of the planning proposal not proceeding is the inconsistency that arises between the currently approved and anticipated use of the subject lots and the zoning under the LEP at present.

Where Council proceeds to submit a planning proposal for Gateway determination, it has the option of requesting delegation of certain plan-making functions from the Department. Under these delegations, Council would perform some of the functions that are otherwise completed by the Department. In the subject case, it is recommended that this delegation be sought in order to expedite the rezoning process.

RECOMMENDATIONS

1. That Council endorses the proposed adjustments to the R2 Low Density Residential, R3 Medium Density Residential, B2 Local Centre and RE1 Public Recreation zoning and related planning provisions in the *Ballina Local Environmental Plan 2012* as they apply to the Ballina Heights Estate at Cumbalum and in accordance with the attached planning proposal.
2. That Council authorises the submission of the planning proposal relating to the Ballina Heights Estate (as contained in Attachment One) to the Department of Planning and Environment for review and Gateway determination.
3. That upon an affirmative Gateway determination being received from the Department of Planning and Environment, the procedural steps associated with progression of the planning proposal, including public exhibition, be undertaken.
4. That prior to the public exhibition of the planning proposal, that parties contracted to purchase lots the subject of the amendment are notified of the proposed changes.
5. That a further report be presented to the Council in relation to this matter following the mandatory community consultation.

Attachment(s)

1. Planning Proposal - Ballina Heights Estate

MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS
40 CHERRY STREET BALLINA,
ON 23/10/14 AT 9.00 AM

9.3 LEP Amendment Request - Ballina Heights Estate, Cumbalum

231014/14 RESOLVED

(Cr Paul Worth/Cr Ben Smith)

1. That Council endorses the proposed adjustments to the R2 Low Density Residential, R3 Medium Density Residential, B2 Local Centre and RE1 Public Recreation zoning and related planning provisions in the *Ballina Local Environmental Plan 2012* as they apply to the Ballina Heights Estate at Cumbalum and in accordance with the attached planning proposal.
2. That Council authorises the submission of the planning proposal relating to the Ballina Heights Estate (as contained in Attachment One) to the Department of Planning and Environment for review and Gateway determination.
3. That upon an affirmative Gateway determination being received from the Department of Planning and Environment, the procedural steps associated with progression of the planning proposal, including public exhibition, be undertaken.
4. That prior to the public exhibition of the planning proposal, that parties contracted to purchase lots the subject of the amendment are notified of the proposed changes.
5. That a further report be presented to the Council in relation to this matter following the mandatory community consultation.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson

Appendix B – Gateway Determination



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

Our ref: PP_2014_BALLI_008_00 (14/18384)
Your ref: BSCPP 14/009

Dear Mr Hickey

Planning proposal to amend Ballina Local Environmental Plan 2012

I am writing in response to your Council's letter dated 28 October 2014 and additional information dated 11 November 2014 requesting a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to rezone land at Ballina Heights Estate from B2 Local Centre and R3 Medium Density Residential to R2 Low Density Residential and RE1 Public Recreation and amend relevant planning controls and maps accordingly.

As delegate of the Minister for Planning, I have now determined the planning proposal should proceed subject to the conditions in the attached Gateway determination.

I have also agreed the planning proposal's inconsistencies with S117 Directions 1.1, 2.1, 3.1 and 5.3 are justified in accordance with the terms of the directions. In relation to S117 Direction 6.2 Reserving Land for Public Purposes, I have agreed to the creation of land for public purposes on the basis that the land is identified for public open space and is or will be dedicated to Council. No further approval is required in relation to these Directions.

Council may still need to obtain the agreement of the Department's Secretary to comply with the requirements of relevant S117 Directions 3.5 and 4.4 after consultation with the relevant agencies. Council should ensure this occurs prior to the plan being made.

Plan making powers were delegated to councils by the Minister in October 2012. It is noted that Council has now accepted this delegation however has not sought delegation in this instance as some of the subject land is owned by Council. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan.

The amending Local Environmental Plan (LEP) is to be finalised within 9 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office 6 weeks prior to the projected publication date. A copy of the request should be forwarded to the Department of Planning and Environment for administrative purposes.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the

Northern Region 49 Victoria St Grafton NSW 2460 | Locked Bag 9022 Grafton NSW 2460
T: 02 6641 6600 | F: 02 6641 6601 | E: northcoast@planning.nsw.gov.au | www.planning.nsw.gov.au

Minister may take action under section 54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, I have arranged for Mr Paul Garnett of the Department's regional office to assist you. Mr Garnett can be contacted on (02) 6641 6607.

Yours sincerely

 17 November 2014
Stephen Murray
General Manager, Northern Region
Planning Services

Encl:
Gateway Determination
Written Authorisation to Exercise Delegation
Attachment 5 – Delegated Plan Making Reporting Template



Planning & Environment

Gateway Determination

Planning proposal (Department Ref: PP_2014_BALLI_008_00): to rezone land at Ballina Heights Estate From B2 Local Centre and R3 Medium Density Residential to R2 Low Density Residential and RE1 Public Recreation and amend relevant planning controls and maps accordingly.

I, the General Manager, Northern Region at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the EP&A Act that an amendment to the Ballina Local Environmental Plan (LEP) 2012 to rezone land at Ballina Heights Estate from B2 Local Centre and R3 Medium Density Residential to R2 Low Density Residential and RE1 Public Recreation and amend relevant planning controls and maps accordingly, should proceed subject to the following conditions:

1. Council is to consult with the NSW Rural Fire Service as per the requirements of S117 Direction 4.4 Planning for Bushfire Protection and amend the planning proposal, if necessary, to take into consideration any comments made prior to undertaking public exhibition.
2. Council is to consult with the Commonwealth Civil Aviation Safety Authority as per the requirements of S117 Direction 3.5 Development Near Licensed Aerodromes and amend the planning proposal, if necessary, to take into consideration any comments made prior to undertaking public exhibition.
3. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal is classified as low impact as described in *A Guide to Preparing LEPs (Department of Planning and Environment 2013)* and must be made publicly available for a minimum of **14 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A Guide to Preparing LEPs (Department of Planning and Environment 2013)*.
4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. The timeframe for completing the LEP is to be **9 months** from the week following the date of the Gateway determination.

Dated 17th day of November 2014.


Stephen Murray
General Manager, Northern Region
Planning Services
Department of Planning and Environment

Delegate of the Minister for Planning

PP_2014_BALLI_008_00 (14/18384)



WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Ballina Shire Council is authorised to exercise the functions of the Minister for Planning under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2014_BALLI_008_00	Planning proposal to rezone land at Ballina Heights Estate from B2 Local Centre and R3 Medium Density Residential to R2 Low Density Residential and RE1 Public Recreation and amend relevant planning controls and maps accordingly.

In exercising the Minister's functions under section 59, the Council must comply with the Department of Planning and Environment's "*A guide to preparing local environmental plans*" and "*A guide to preparing planning proposals*".

Dated 17th November 2014


Stephen Murray
 General Manager, Northern Region
 Planning Services
 Department of Planning and Environment

Appendix C – External Agency Consultation Responses



NSW RURAL FIRE SERVICE



General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478

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

Your reference BSCPP 14/009
Our reference L12/0003
DA14112594791AB

Attention Lachlan Sims

17 December 2014

Dear Mr Sims

Agency Comment:- Ballina Local Environmental Plan 2012; Planning Proposal 9 Ballina Heights Residential Estate Cumbalum

I refer to your letter dated 20 November 2014 seeking comments and recommendations from the NSW Rural Fire Service (RFS) with respect to the above planning proposal.

The RFS has reviewed the referred documentation, has no objection to the Planning Proposal and provides the following advice:

- Any future subdivision development application will be required to comply with the 'specifications and requirements' of Planning for Bush Fire Protection 2006.

For any queries regarding this correspondence please contact Alan Bawden on 1300 NSW RFS.

Yours Sincerely

John Ball
Manager – Customer Service Centre Coffs Harbour

The RFS has made getting information easier. For general information on 'Planning for Bush Fire Protection, 2006', visit the RFS web page at www.rfs.nsw.gov.au and search under 'Planning for Bush Fire Protection, 2006'.

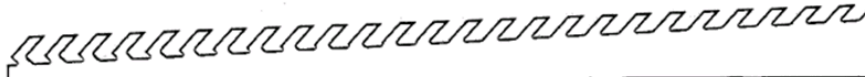
Postal address

NSW Rural Fire Service
Coffs Harbour Customer Service Centre
Suite 1, 129 West High Street
COFFS HARBOUR NSW 2450

Street address

NSW Rural Fire Service
Coffs Harbour Customer Service Centre
Suite 1, 129 West High Street
COFFS HARBOUR NSW 2450

T (02) 6691 0400
F (02) 6691 0499
www.rfs.nsw.gov.au





Australian Government
Civil Aviation Safety Authority

AIRSPACE AND AERODROME REGULATION
File Ref: EF12/10657

23/02/2015

Mr Lachlan Sims
Strategic Planner
Strategic & Community Facilities Group
PO Box 450
BALLINA
NSW 2478

email: lachlans@ballina.nsw.gov.au

Dear Mr Sims

Re: OLS Consultation - Ballina-Byron Gateway Airport

I refer to the correspondence dated the 6th of February 2015, requesting CASA's assessment of the Department of Planning and Environment's planning, proposed changes to the land use zoning and associated planning provisions on land within the Obstacle Limitation Surface (OLS) for the Ballina Byron Gateway Airport.

CASA has assessed the proposed development; the assessment included the consideration of comments from Ballina Byron Gateway Aerodrome, and Airservices.

As notified by Council the property development will not alter the existing maximum building height of 8.5 metres currently applicable, and previously assessed by CASA.

CASA has determined that these structures would normally be classified as hazardous objects under regulation 139.370(1) of the *Civil Aviation Safety Regulations 1998* because of its height, location and lack of obstacle lighting.

However the proposed property is surrounded by existing developments which at night are lit, as will the future proposal, and therefore would provide visual indication of the height of the area.

The area is also supported by a nearby existing obstacle lighting, and therefore CASA believes that no further obstacle lighting is required.

However Council could consider as part of your own safety and risk management approach that Obstacle Lighting is installed on the highest most practicable point of the land to be developed by:

- I. Installing a low intensity steady red lighting at night as per Section 9.4 of the MOS. Characteristics for low intensity lights are stated in subsection 9.4.6, and
- II. The obstacle lighting should be maintained in serviceable condition and any outage immediately reported to the aerodrome Ballina/Gateway aerodrome operator, and.

If obstacle lighting is undertaken as suggested above, then In accordance with regulation 139.350(1) of the *CASR 1998* and subsection 7.1.4 and 9.4.10 of the Manual of Standards – Part 139 Aerodromes, Ballina/Byron Gateway Aerodrome is to monitor the ongoing availability of the obstacle lighting.

For detailed requirements for the monitoring of obstacle lights within the aerodrome's OLS refer to subsection 9.4.10 of MOS Part 139.

GPO Box 2005 Canberra ACT 2601 Telephone 131 757
Canberra, Brisbane, Darwin, Cairns, Townsville, Tamworth, Sydney, Melbourne, Adelaide, Perth

Yours sincerely,



Danny Eatock
Aerodrome Inspector
Brisbane Office

Lachlan Sims

From: Graeme Gordon <graemeg@ballina.nsw.gov.au>
Sent: Tuesday, 3 February 2015 10:19 AM
Subject: RE: OLS Encroachment Consultation
Attachments: Referral Letter - BSCPP 14_009 - Ballina Byron Gateway Airport.pdf; BSCPP 14 009 - Ballina Heights Estate - Planning Proposal (Referral).pdf; OLS Map showing area of planning proposal.jpg; BSCPP_14009_-_Map_of_Land_Affected.pdf; Land within the Proposal affecting the OLS.pdf

Dear Lachlan,
I refer to your email below and Planning Proposal BSCPP14/009 Ballina Heights Estate and attached documents. My assessment, conclusions and recommendations in so much as the application affects the airspace of Ballina Aerodrome are as follows:

PROPOSED DEVELOPMENT

This planning proposal relates to part of the remaining, largely undeveloped components of the Ballina Heights Estate, Cumbalum.
The subject proposal includes the adjustment of various existing urban land use zone boundaries and seeks to refine the boundaries between existing residential, business and open space zones.

PROPOSED SITE

- Private Property Address: An existing residential area known as Ballina Heights Estate at Cumbalum, NSW.
- MGA Co-Ordinates: The site is generally contained within the following Co-ordinates (MGA94 Zone 56)
 - North West corner 551 530 E 6 812 150 N
 - North East corner 552 940 E 6 812 150 N
 - South East corner 552 940 E 6 810 530 N
 - South West corner 551 530 E 6 810 530 N
- Elevation: The elevation at ground level of the land affected by the Planning Proposal ranges from lower than 2m AHD to higher than 70m AHD as determined from 2m and 10m contour layers of the Council's GIS.
- The site is located Rwy 06 Inner Edge.
 - at its closest extremity: approx. 1500m north west of the airport's
 - at its furthest extremity: approx. 2700m north west of the airport's Rwy 06 Inner Edge.

OBSTACLE LIMITATION SURFACES (OLS)

- The site is located under the Obstacle Limitation Horizontal Surface for the Ballina Aerodrome. The vertical limit of this surface at the site is R.L. 46.5 m AHD.
- The natural terrain (and existing dwellings – of maximum 8.5m high) within a portion of the site penetrate the horizontal surface of up to more than 23.5m (see attached plan – Land within the Proposal affecting the OLS).
- The part of the site at the closest point, where the land (including development of maximum height 8.5m) may affect the OLS, is located 1690m north west of the airport's Rwy 06 Inner Edge.

PANS-OPS SURFACES

- The proposed development is situated under the lateral dimensions of the NDB-A; RNAV-Z (GNSS) Rwy 06; RNAV-Z (GNSS) Rwy 24; the RNAV-X (RNP) Rwy 06; and the RNAV-X (RNP) Rwy 24 instrument approach and/or departures surfaces.
- PANS-OPS Surfaces cannot be infringed in any circumstances.

FURTHER COMMENT

- It is noted in the attached Referral Letter that in regard to the proposal, the existing maximum residential building height of 8.5 metres will remain unchanged.
- The site adjoins immediately to the south of land which was subject to similar assessment by the CASA and Air Services Australia last year (Cumbalum Ridge, Precinct A Planning Proposal, Ballina). Penetration by this land into the OLS is higher and the area more extensive than the subject site. CASA (letter dated 12 March 2014) has required that a medium intensity obstacle light be placed on the highest most practicable point of this Precinct A Development.
- Airport Management require that in terms of new development or proposed construction likely to create an obstacle, infringement of the OLS be not made worse.

CONCLUSIONS

1. The Planning Proposal relates to adjustment of land use zone boundaries and associated planning provisions of existing residential land.
2. The erection of any physical structure is not specifically planned with this proposal.
3. The existing maximum residential building height of 8.5 metres will remain unchanged.
4. CASA require an Obstacle Light be installed on the highest most practicable point of the land to be developed immediately to the north .

RECOMMENDATIONS

Having regard to my comments and conclusions above:

1. Airport Management raise no objection against the Planning Proposal BSCPP14/009 Ballina Heights Estate to proceed.
2. The proposal affects the Horizontal Surface of the Ballina Aerodrome OLS. The application and the above information is to be referred to the Civil Aviation Safety Authority for further assessment and advice regarding measures to mitigate any adverse effects on air navigation.
The District Aerodrome Inspector
Civil Aviation Safety Authority
PO Box 2005
Canberra ACT 2601.
Em. daniel.eatock@casa.gov.au
3. The proposed tower is situated under PANS-OPS Surface for Ballina Aerodrome. Note: PANS-OPS Surfaces cannot be infringed in any circumstances. The application and the above information is to be referred to Air Services Australia for assessment of the proposed development against the PANS-OPS surfaces to determine infringement (if any).
Senior Designer – Procedure Design Section
Aeronautical Information Management
GPO Box 367
Canberra ACT 2601.
Em. Pds.procs@airservicesaustralia.com
4. If required, any obstacle lighting or marking of the pole must comply with CASA standards. Ballina aerodrome must monitor the obstacle lights daily, which can be achieved visually or by a remote monitoring capability. At this time we are unable to determine if the site can be seen from the airport, and we may require that the proponent provide a remote monitoring capability.
5. If such Obstacle Lighting is required, advice is to be provided to Ballina Airport Management:
 - a. upon determination of that requirement;

9.1 Planning Proposal BSCPP 14/009 - Ballina Heights Estate.DOC

- b. at the commencement of works for installation of the light on site;
- c. at least one week prior to the use of any crane to be erected for use of construction works for the light installation, so an assessment on airport space can be made and a Notice to Airmen prepared and issued; and
- d. upon completion of works on site.

Regards

Graeme Gordon
Airport Operations Manager
Ballina Byron Gateway Airport



ballina.nsw.gov.au | discoverballina.com | ballinabyronairport.com.au
p: 02 6681 1858 | f: 02 6681 1873 | m: 0415 222 349

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Opinions, conclusions and other information contained within this message that do not relate to official Council business are those of the individual sender, and shall be understood as being neither given nor endorsed by the Ballina Shire Council.

Lachlan Sims

From: Kuhn, Craig <craig.kuhn@AirservicesAustralia.com> on behalf of Procs, PDS <pds.procs@AirservicesAustralia.com>
Sent: Thursday, 5 February 2015 5:44 PM
Subject: RE: OLS Impact Consultation - Ballina Byron Gateway Airport

Hello Lachlan,

With respect to procedures designed by Airservices in accordance with ICAO PANS OPS and Document 9905, at a maximum height of 8.5 m / 28ft above ground level, the Proposed Housing Development will not affect any sector or circling altitude, nor any instrument approach or departure at Ballina aerodrome.

Please forward any future requests for assessment to the Airport Development mailbox. They are the point of contact for obstacle assessments in the Airport Relations section of Airservices. They can explain more about their function.

Regards,

Craig Kuhn
Procedure Designer/DAP Editor, AIM/D&CM
E-mail craig.kuhn@airservicesaustralia.com

Airservices Australia
Ph 1300 301 120 (within Australia)
Ph +61 2 6268 5468 (outside Australia)
www.airservicesaustralia.com

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Appendix D – Public submissions

Dear Sir

We refer to your letter dated 11 March (received by us on 16 March) about the Planning Proposal in the subject matter.

We reside at 18 Cullen Court (Lot 344) Cumbalum, and back straight on to one of the blocks affected in your re-zoning, being a block on the corner of Ballina Heights Drive and Unara Parkway, which appears to be Lot 114 on your enclosed map.

On our first inspection of the letter and attached map, it appeared to us that the block behind us was to be re-zoned as park/recreation. With such short notice, we were unable to actually get to the Council to see finer details until yesterday afternoon.

Our enquiries left us somewhat annoyed and confused. Upon closer inspection of your maps on display, it appears now that the re-zoning is to be Medium Density Residential, with a small portion (which ridiculously backs on to the concrete barrier wall and has no apparent external/road access) as commercial zone. The rest of the block is (as confirmed by your staff) to be duplexes or similar with a height restriction of 8 or so metres.

We have serious objections to this and these are our issues:

1) We have only recently built and have solar panels and solar hot water panels on the side of the roof backing on to the block, which would mean that anything more than a one storey building would interfere with our panels and block the sun especially in winter. This would render the whole exercise of putting panels up as useless, or we would have to have them moved at our cost. This we cannot afford to do, as we are both pensioners. It would also result in an increase in our utilities costs through winter.

2) The block in question is raised (our estimate of around a metre or more). Buildings of any sort would affect our air flow - severely limiting the coastal north-east breezes. This would also mean an increased cost on utilities on the warmer months.

3) On the sides backing on to the road, the block is well over 1.5 metres and has a stone retaining wall all around it. It's only access is through a single driveway which comes out close to the roundabout on what will no doubt become a busy

9.1 Planning Proposal BSCPP 14/009 - Ballina Heights Estate.DOC

road (Unara Parkway). At this stage Unara Parkway is only one of the two solitary access roads leading in and out of the estate. Access to the block, particularly by increased number of vehicles (as you would have in a duplex/units situation) would therefore be a dangerous hazard and high risk to the public. This is heightened by the new proposed commercial shopping development going directly opposite the said block. The vast majority of local traffic accessing the shopping centre would utilise Unara Parkway. This also makes it dangerous for traffic turning into the block, as well as pedestrians using the road pathway. A large number of locals would most likely use this path to access the shops as well.

4) Having a multiple storey building behind us, on a much higher block of land, would also give us no privacy whatsoever. Whilst there are already existing two storey duplexes in our immediate vicinity, we were aware of these at the time we purchased and built, designing the house and block to maximise the use of the block and surroundings, as well as meeting our needs (my wife suffers from a medical condition where her body cannot regulate body temperature). Despite many enquiries at the time, at no stage were we told it was zoned as it apparently is.

5) The area itself seems a bit crowded, and in our opinion it devalues the land - our block of land has already devalued \$7000 since we moved in last August (Valuer General's)

In our opinion, the block in question would make an ideal children's recreational area, as the land is flat, and large enough for ball games and running, and this would require minimal or no car access. The one driveway making it easy for emergency or maintenance access.

It would be appreciated if you would carefully consider our issues and duly take them into account.

Regards

Allan and Alexandra Clark

Elise Morgan & Kane Hamilton

7 Curlew Court, East Ballina

kane.hamilton@hotmail.com

Attn: General Manager,
Ballina Shire Council

We write in response to your advice of a proposed change of zoning of allotments in the Ballina Heights subdivision stage 9A.

We advise that we strongly support the zoning change almost entirely.

The current zoning of R3 Medium Density for all of the allotments in the stage, in such close proximity, is in my view, poor planning for a new estate. The opportunity should be taken to spread the R3 Medium Density over the whole estate to avoid a concentration in one cul-de-sac. Also, the lots currently zoned R3 Medium Density (in stage 9A) are restricted with building setbacks and easements, making them inappropriate for R3 Medium Density.

Therefore, we do strongly support the proposed re-zoning. We do raise objection however, to the retention of the R3 Medium Density for Lot 389 and Lot 401. These lots have, as do all others, significant restrictions on building areas due to easements. Lot 389 has a defined building area of 534m² and Lot 401 has a building area of 466m², both of which are less than Development Control Plan requires for multiple occupancies (minimum 600m²).

Therefore, we consider it to be misleading to zone blocks for multiple occupancy when the designated planning controls prohibit medium density and therefore multiple occupancy development does not comply. It would be poor form on council's part to approve an application to vary the Development Control Plan in such a new estate and particularly considering that there is ample opportunity in future stages to zone R3 Medium density on lots that do comply with the Development Control Plan.

Regards,

Elise Morgan & Kane Hamilton

Appendix E – Section 117 Direction Checklist

Section 117 Direction Checklist	
Planning Proposal Ballina Heights Estate, Cumbalum	
Direction No.	Compliance of Planning Proposal
1. Employment and Resources	
1.1 Business and Industrial Zones	<p>This planning proposal seeks to adjust the existing boundary of the future commercial precinct of the Ballina Heights Estate. This land is currently zoned B2 Local Centre and the proposed amendment equates to a minor adjustment to the existing eastern boundary of this future precinct to reflect recently gazetted cadastral boundaries. The functional area of the future commercial precinct is not compromised by this adjustment.</p> <p>The Gateway determination identifies that the Department of Planning and Environment as accepted the proposal in accordance with the terms of the direction.</p>
1.2 Rural Zones	Does not apply to planning proposal.
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	Does not apply to planning proposal.
2. Environment and Heritage	
2.1 Environmental Protection Zones	<p>Consistent. Land identified as having environmental values has been incorporated into the RE1 Public Recreation zone to be managed as land under public ownership.</p> <p>The Gateway determination identifies that the Department of Planning and Environment as accepted the proposal in accordance with the terms of the direction.</p>
2.2 Coastal Protection	Does not apply to planning proposal.
2.3 Heritage Conservation	Consistent. There are no heritage items affected by the proposal.
2.4 Recreation Vehicle Areas	Consistent. The proposal does not relate to recreational vehicle areas.
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	<p>This proposal seeks to refine the zoning regime for vacant areas within existing residential zones that are soon to be developed for residential land uses. It will result in a reduction of existing land zoned R3 Medium Density Residential by rezoning areas to R2 Low Density Residential. This will result in a reduction in the permissible residential density of the land and as such is inconsistent with the requirements of this direction.</p> <p>In the circumstances it is considered that this inconsistency is of minor significance in that the proposed rezoning applies to a relatively small area and is consistent with the overall planning intent for the estate. It is also consistent with existing subdivision approvals that have considered and designated specific lots for specific residential densities. The proposed zoning regime is also consistent with the established land use pattern in the rest of the Ballina Heights Estate.</p> <p>The Gateway determination identifies that the Department of Planning and Environment as accepted the proposal in accordance with the terms of the direction.</p>
3.2 Caravan Parks and Manufactured Home Estates	Consistent. The proposal does not relate to caravan parks and manufactured home estates.
3.3 Home Occupations	Consistent. The proposal will not affect the existing permissibility of home occupations.

9.1 Planning Proposal BSCPP 14/009 - Ballina Heights Estate.DOC

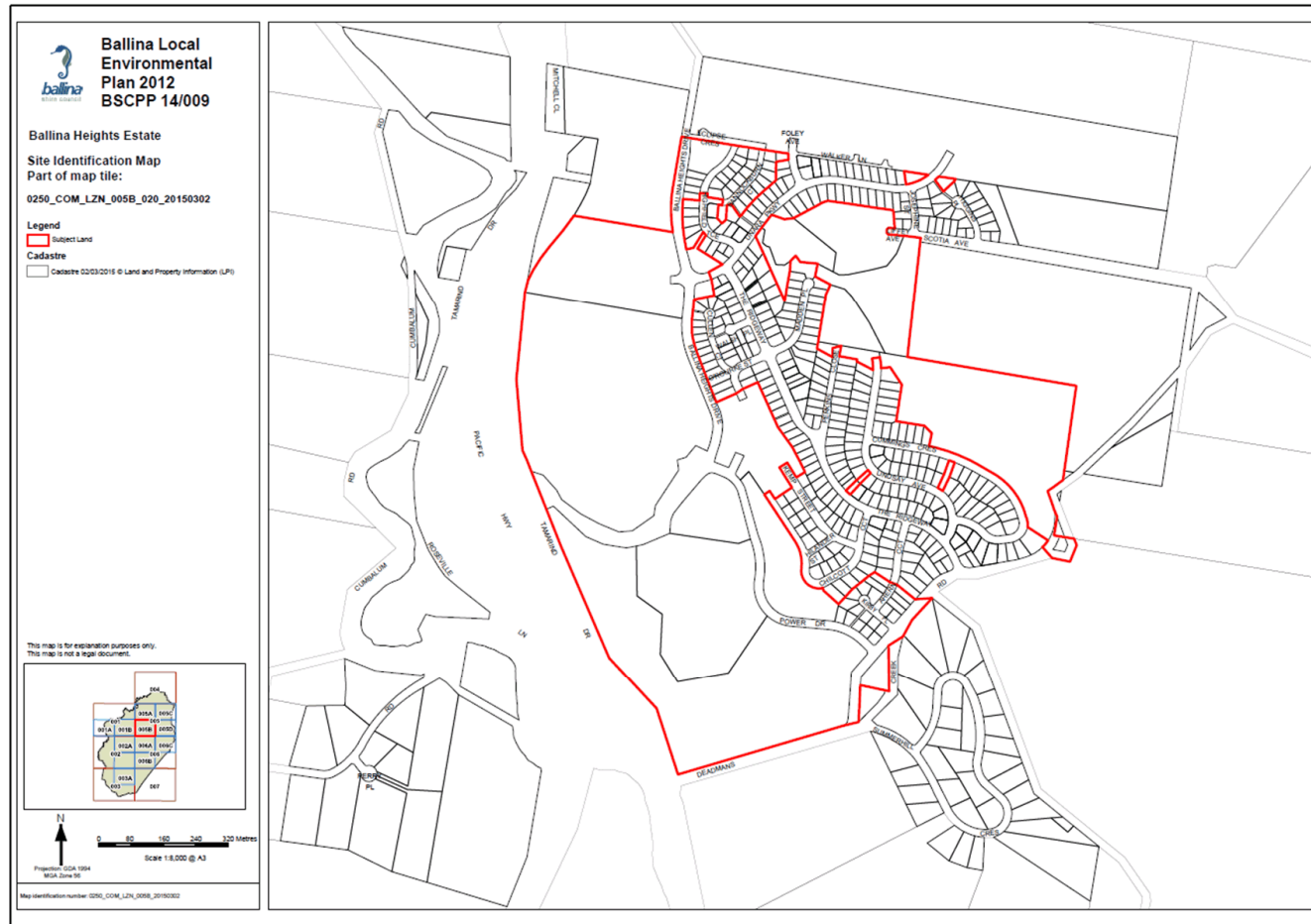
3.4 Integrated Land Use and Transport	Consistent. The proposal will not alter transport planning arrangements in the approved estate.
3.5 Development Near Licensed Aerodromes	<p>The proposal affects land affected by the Obstacle Limitation Surface for the Ballina airport. Areas subject to this proposal have an elevation that exceeds the identified 46.5m AHD inner horizontal surface for this airport.</p> <p>The Commonwealth Civil Aviation Safety Authority has been consulted in accordance with the requirements of the Gateway determination and no objections to the proposal have been raised. In conjunction, the operator of the Ballina Byron Gateway Airport and Air Services Australia have also been consulted raising no objections.</p>
3.6 Shooting Ranges	Does not apply to planning proposal.
4. Hazard and Risk	
4.1 Acid Sulfate Soils	<p>Consistent. No intensification of development is enabled by this proposal on land subject to acid sulfate soils.</p> <p>This proposal includes an adjustment to the Land Application Map and consequently, will necessitate an amendment to the Acid Sulfate Soils map. The amended ASS map data will be consistent with the Acid Sulfate Soils Planning Maps adopted for Ballina Shire.</p>
4.2 Mine Subsidence and Unstable Land	Does not apply to planning proposal.
4.3 Flood Prone Land	<p>Consistent. This proposal includes an adjustment to the Land Application Map and consequently, will necessitate an amendment to the Flood Planning Map.</p> <p>The data specified on the amended Flood Planning Map will be consistent with the data adopted by Council in the 2010 Ballina Flood Study Update which has been prepared in accordance with NSW Government requirements.</p>
4.4 Planning for Bushfire Protection	<p>The subject land is identified as being bush fire prone.</p> <p>The proposed amendments are not expected to increase or exacerbate the risk for any existing urban land uses affected by bush fire risk. Existing residential subdivisions approved in the Ballina Heights Estate will be subject to relevant terms of approval under any bush fire safety authority issued by the Rural Fire Service.</p> <p>The NSW Rural Fire Service has been consulted in accordance with the requirements of the Gateway determination and have raised no objections to the proposal.</p>
5. Regional Planning	
5.1 Implementation of Regional Strategies	Consistent. The proposal relates primarily to residential land uses within a planned urban area as identified in the Far North Coast Regional Strategy.
5.2 Sydney Drinking Water Catchments	Does not apply to Ballina Shire.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	The proposal affects land identified as Regionally Significant Farmland. The proposal includes an adjustment to the existing boundary of land currently zoned RE1 Public Recreation which affects this identified farmland. The proposal is consistent with the provisions of the Far North Coast Regional Strategy and will not result in the loss of land that is currently used for farming or is expected to be in the future. Therefore, inconsistency with this direction is considered to be minor and is justified.
5.4 Commercial and Retail Development	Does not apply to planning proposal.

9.1 Planning Proposal BSCPP 14/009 - Ballina Heights Estate.DOC

5.5 Development in the vicinity of Ellalong Paxton and Millfield (Cessnock LGA).	Repealed
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1	Repealed
5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	Repealed
5.8 Second Sydney Airport: Badgerys Creek	Does not apply to Ballina Shire
6. Local Plan Making	
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. The proposal includes the incorporation of additional public land into the RE1 Public Recreation zone. The subject land is already owned and managed by Council and no other government agencies or private landowners are affected by this component of the proposal. This is acknowledged in the Gateway determination.
6.3 Site Specific Provisions	Does not apply to planning proposal.
7. Metropolitan Planning	
7.1 Implementation of the Metropolitan Strategy	Does not apply to Ballina Shire.

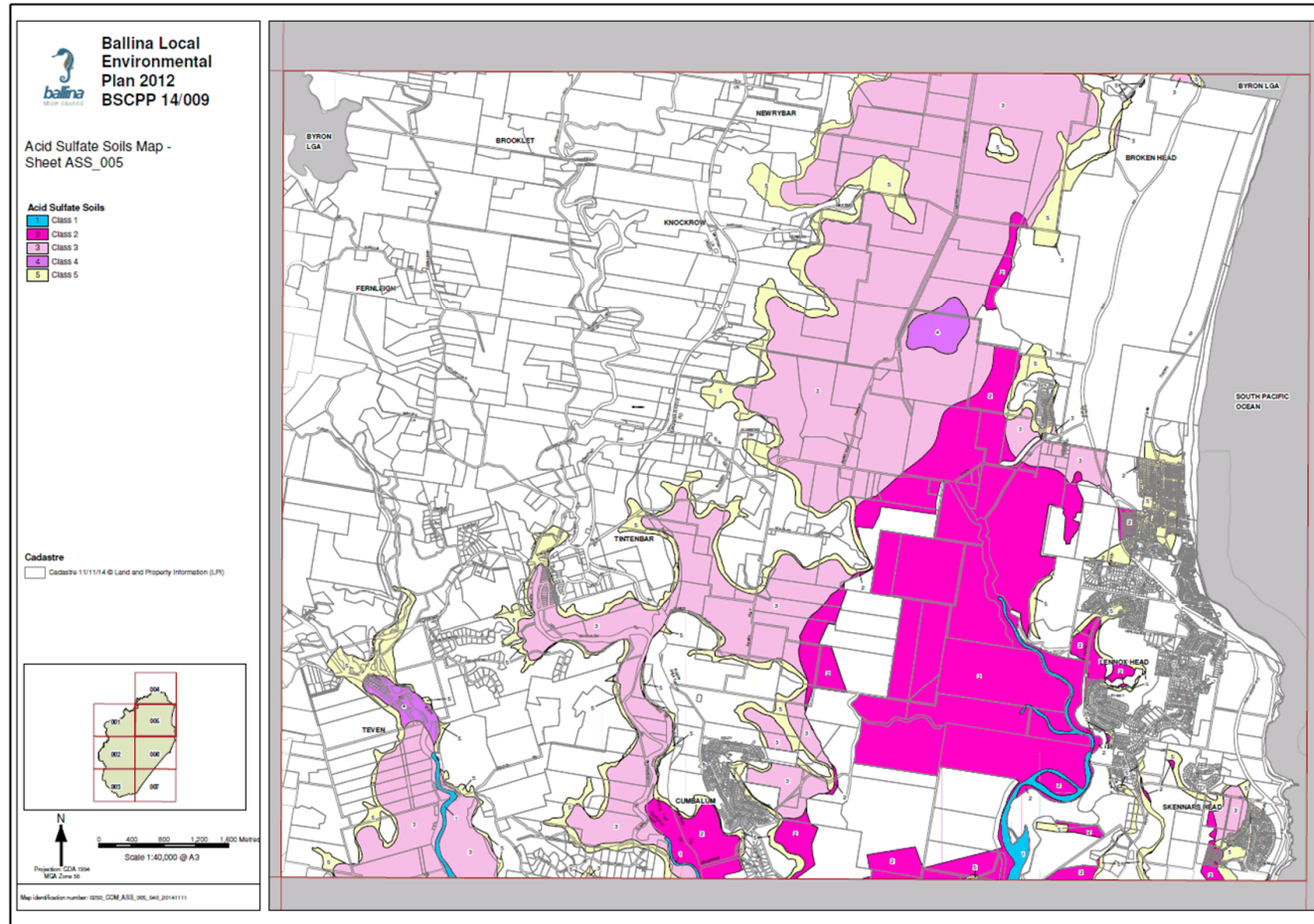
9.1 Planning Proposal BSCPP 14/009 - Ballina Heights Estate.DOC

Appendix F – Maps



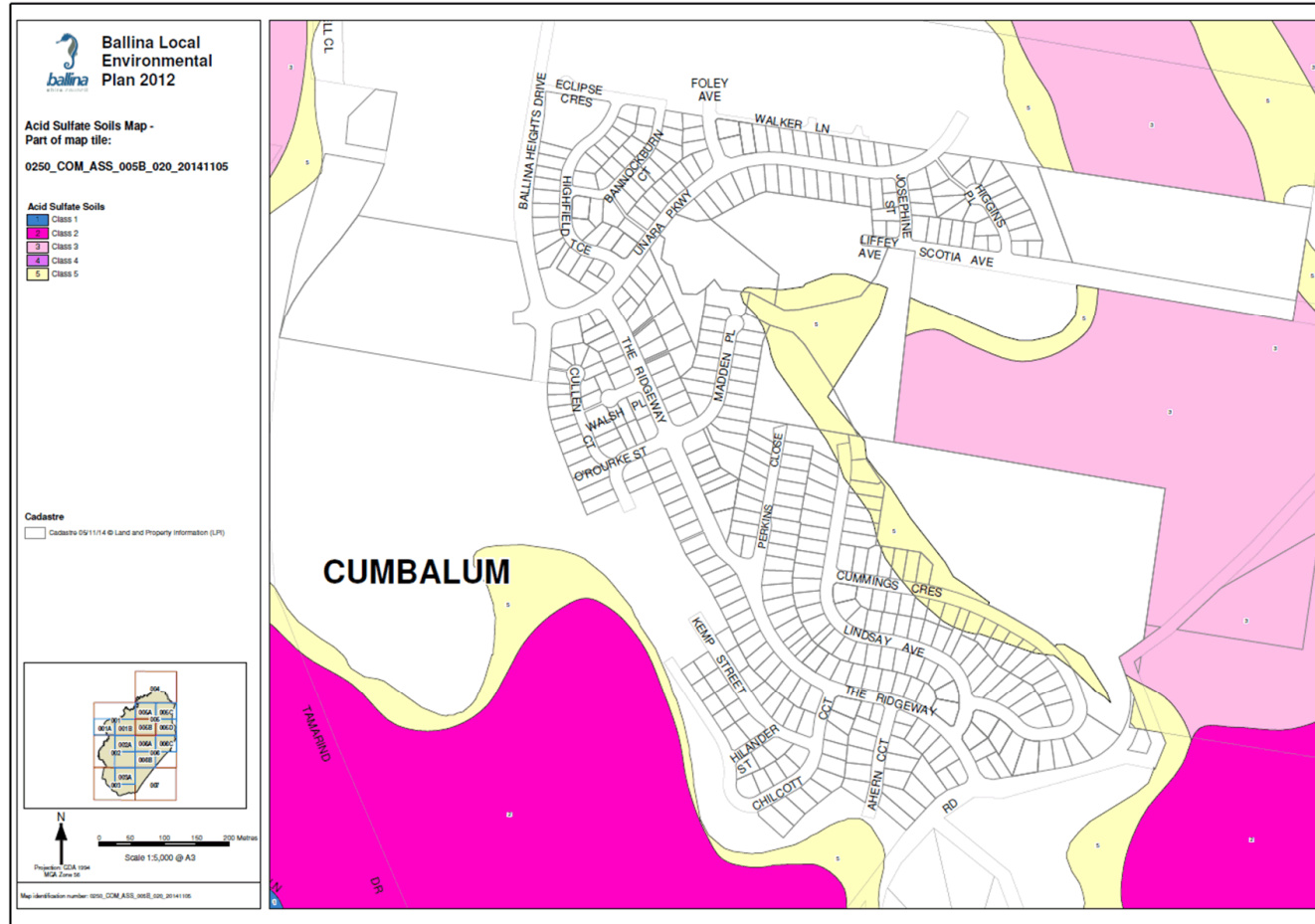
9.1 Planning Proposal BSCPP 14/009 - Ballina Heights Estate.DOC

PROPOSED BLEP 2012 Acid Sulfate Soils Map, Sheet ASS_005

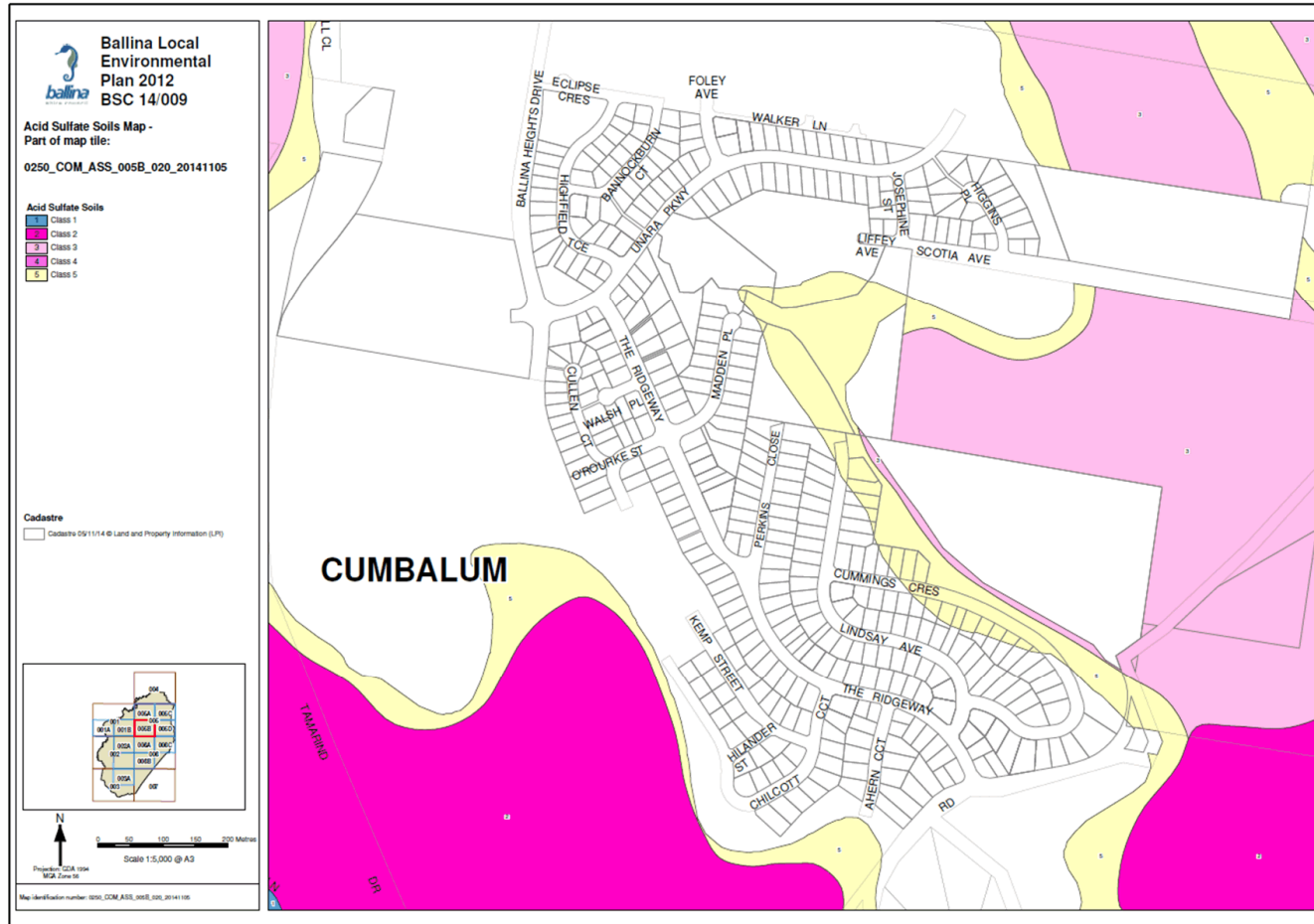


9.1 Planning Proposal BSCPP 14/009 - Ballina Heights Estate.DOC

CURRENT MAPPING Acid Sulfate Soils – Ballina Heights Estate

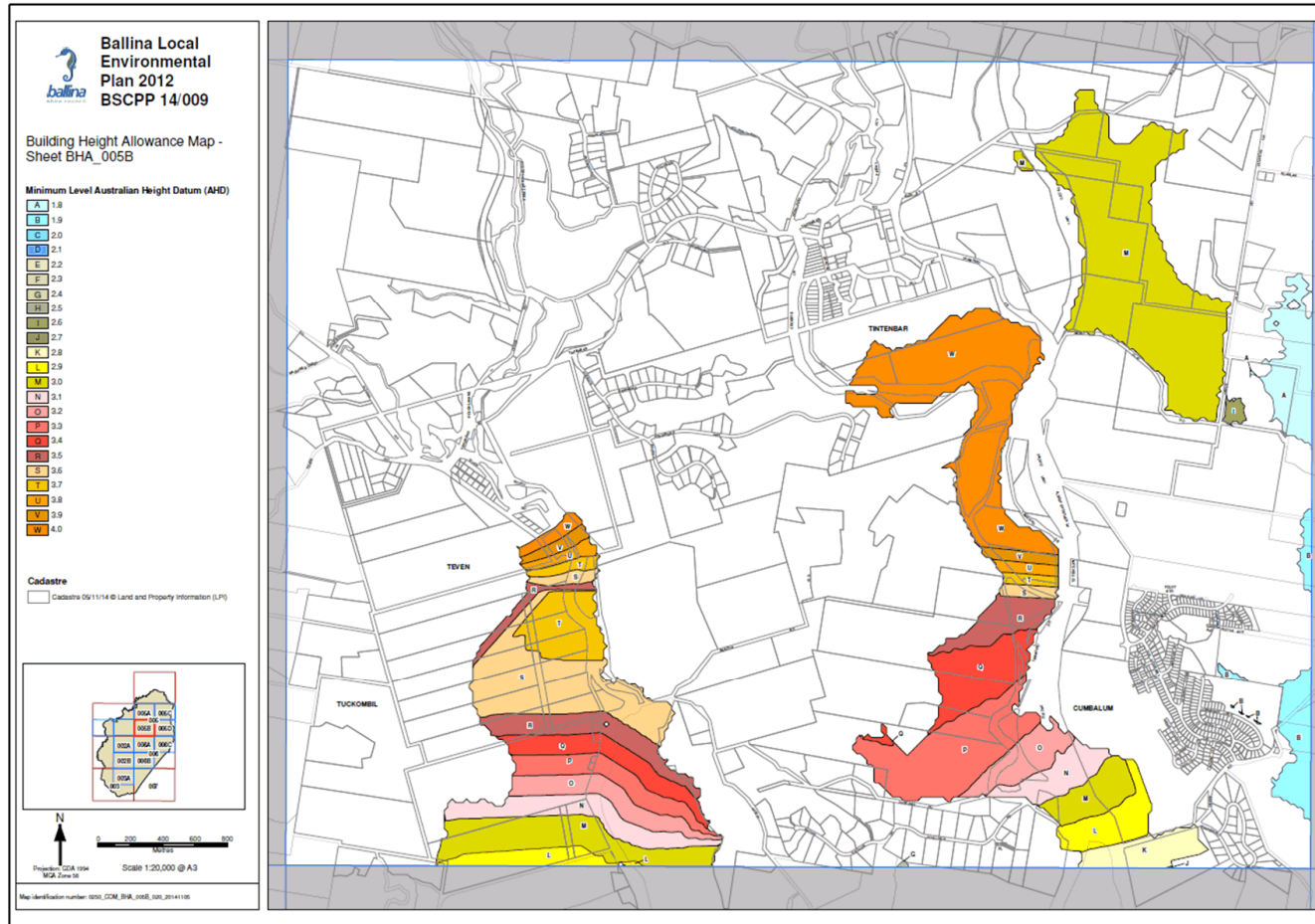


PROPOSED MAPPING Acid Sulfate Soils – Ballina Heights Estate



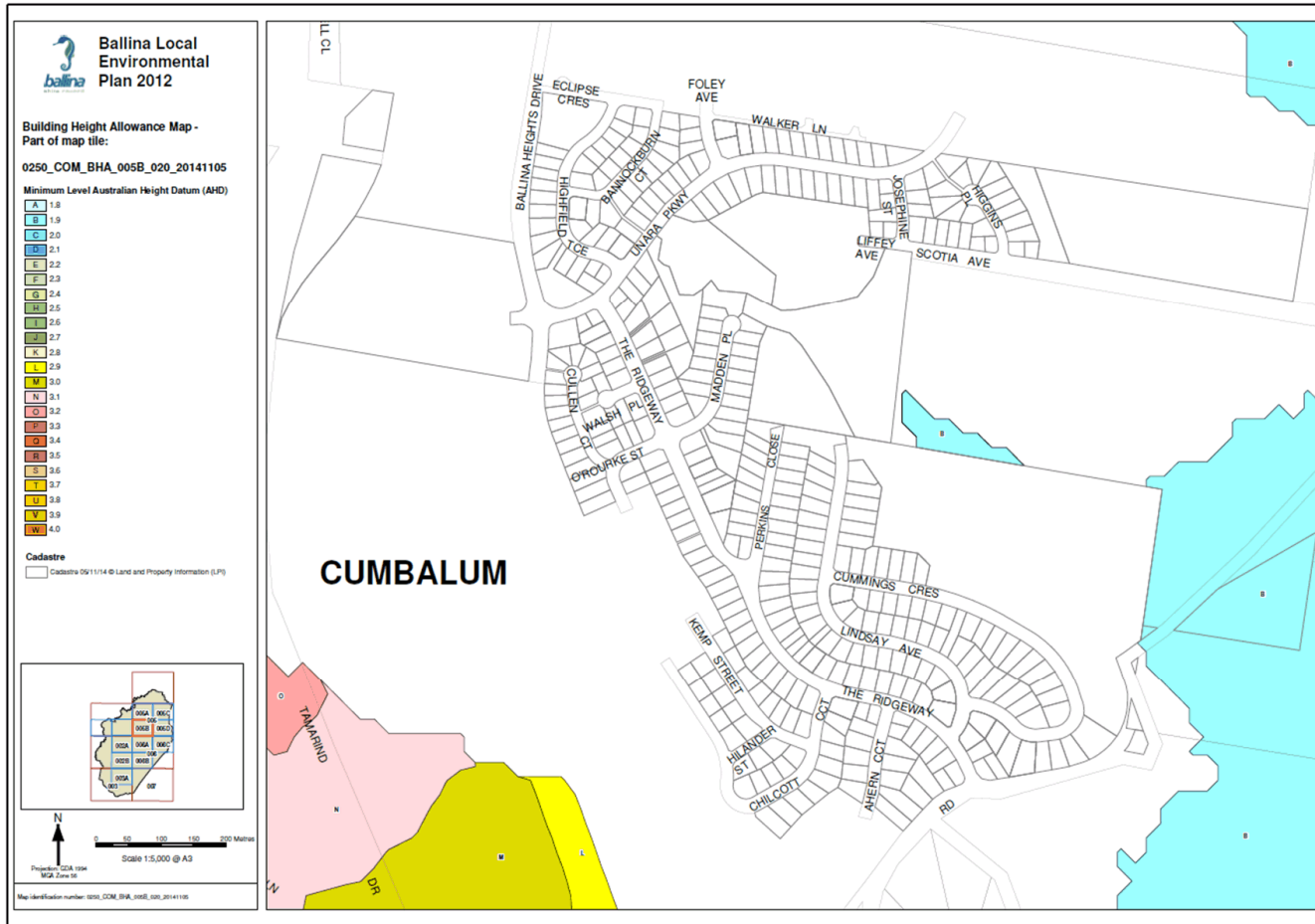
9.1 Planning Proposal BSCPP 14/009 - Ballina Heights Estate.DOC

PROPOSED BLEP 2012 Building Height Allowance Map, Sheet BHA_005B

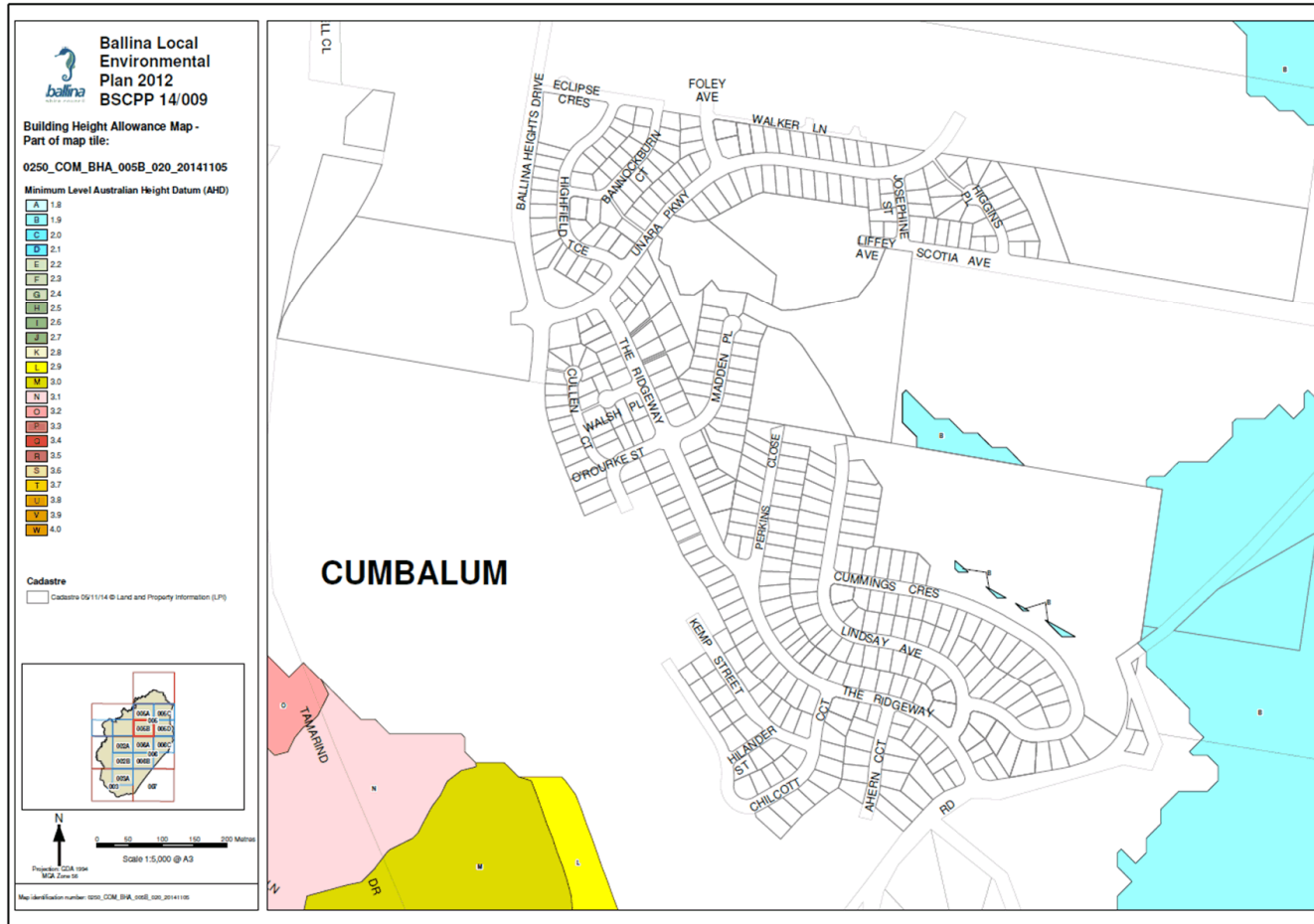


9.1 Planning Proposal BSCPP 14/009 - Ballina Heights Estate.DOC

CURRENT MAPPING Building Height Allowance – Ballina Heights Estate

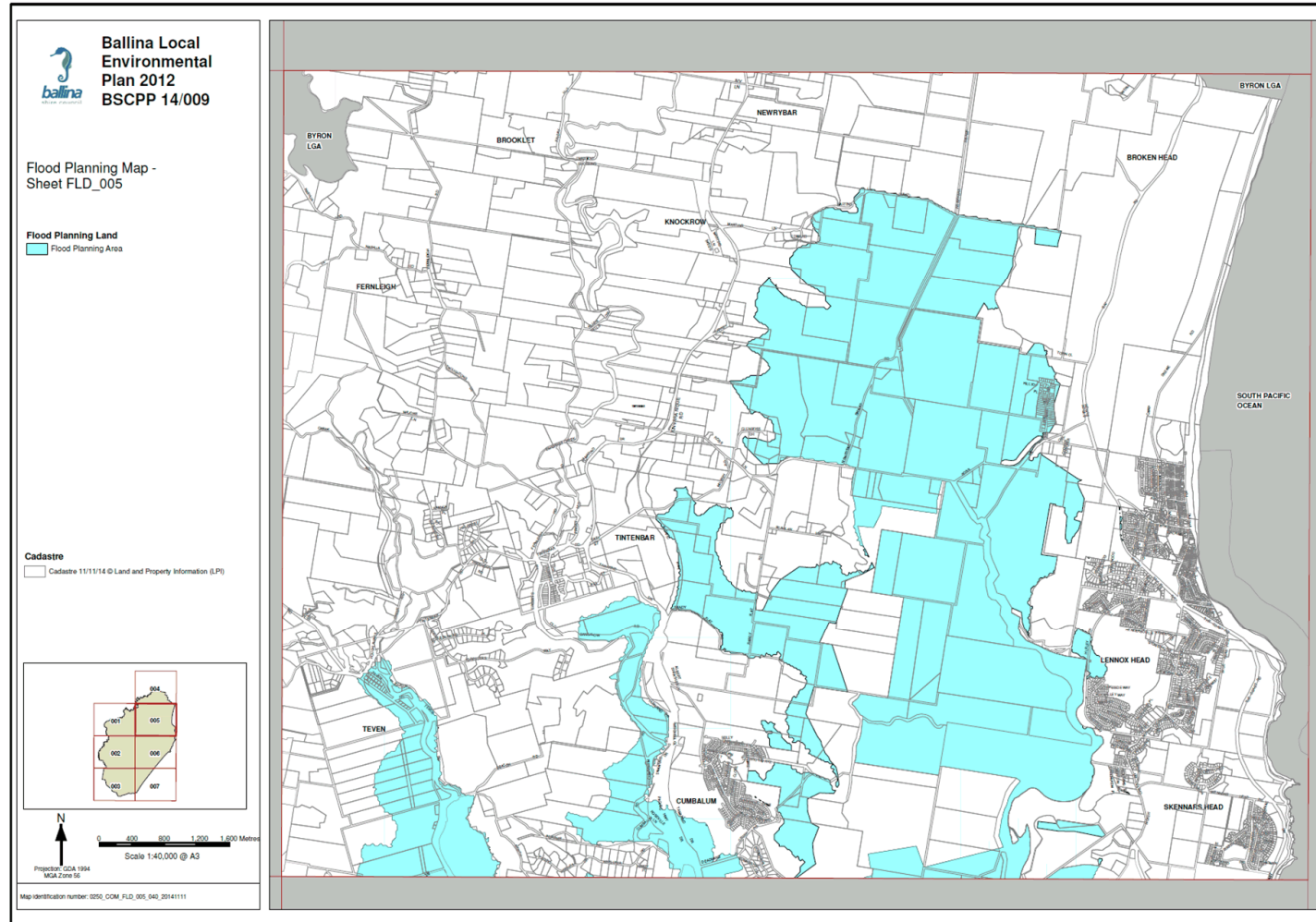


PROPOSED MAPPING Building Height Allowance – Ballina Heights Estate

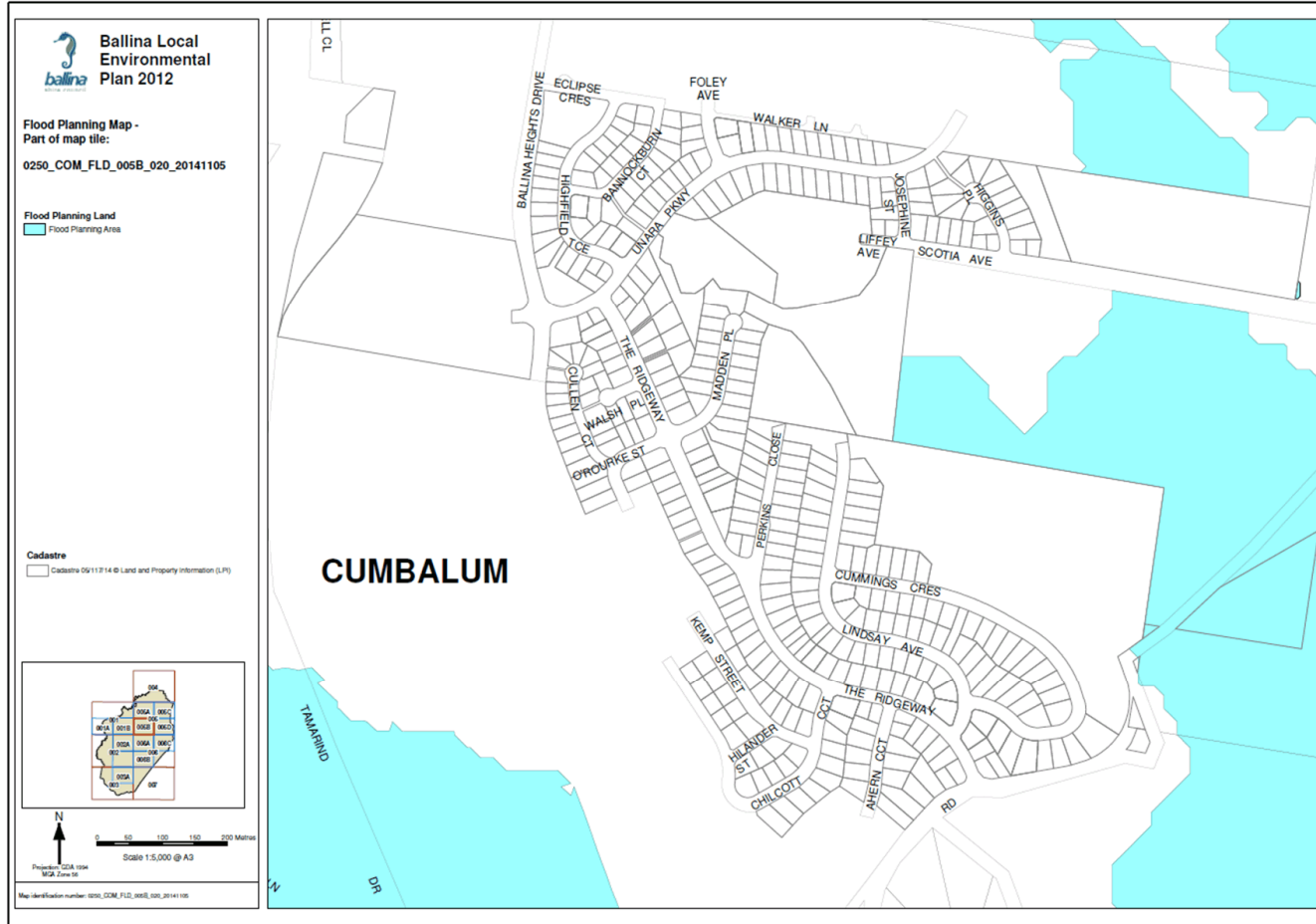


9.1 Planning Proposal BSCPP 14/009 - Ballina Heights Estate.DOC

PROPOSED BLEP 2012 Flood Planning Map, Sheet FLD_005

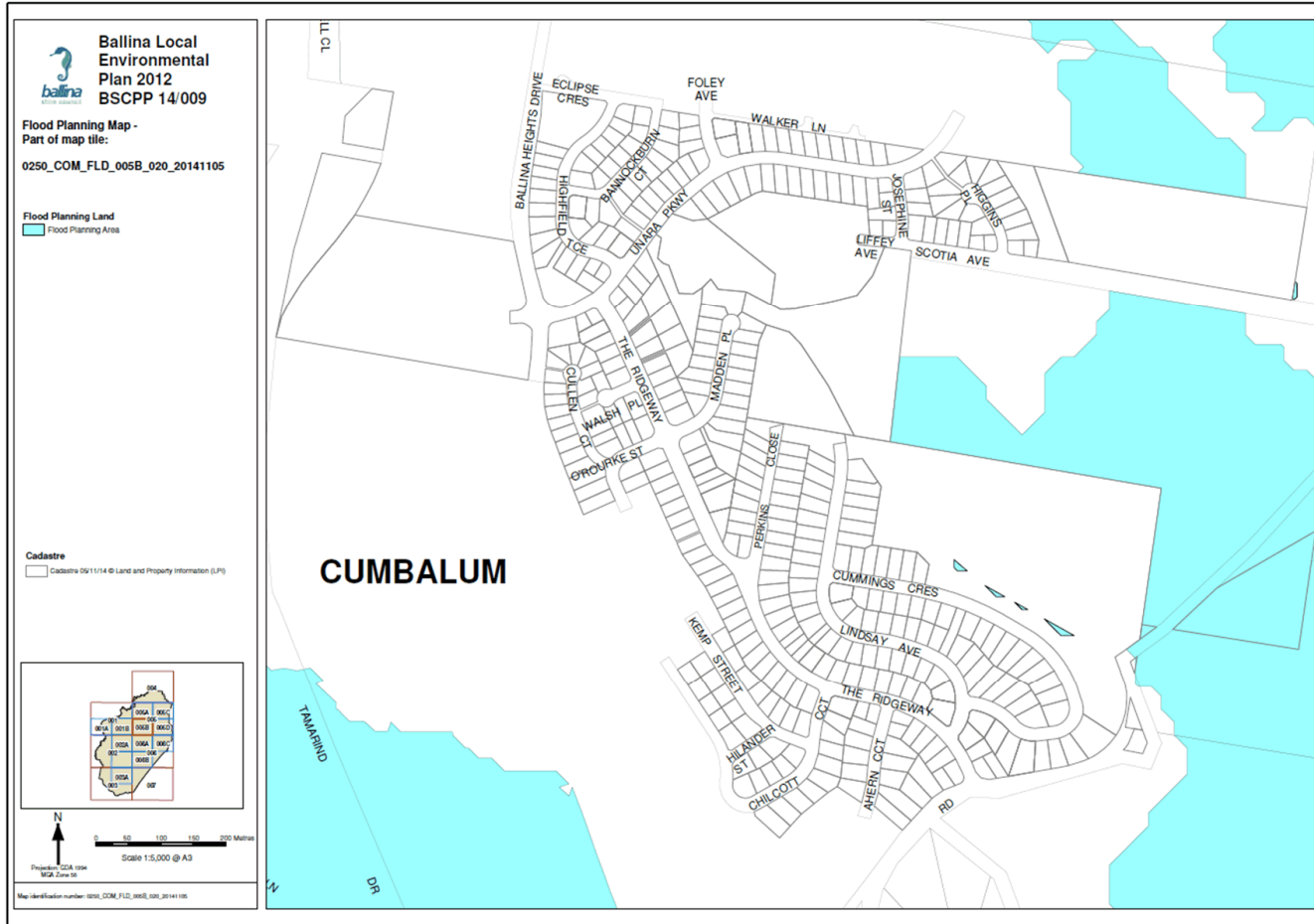


CURRENT MAPPING Flood Planning – Ballina Heights Estate



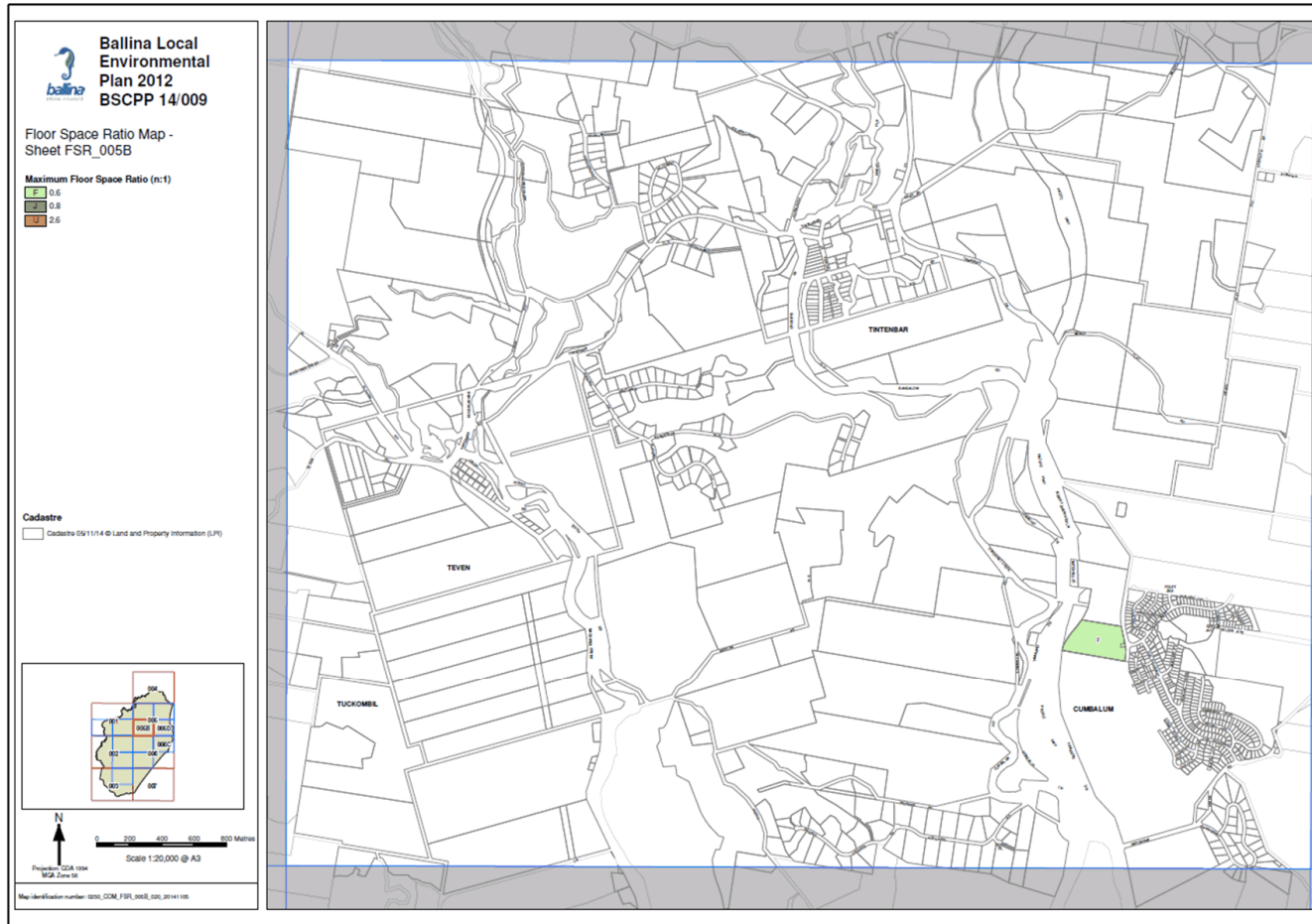
9.1 Planning Proposal BSCPP 14/009 - Ballina Heights Estate.DOC

PROPOSED MAPPING Flood Planning – Ballina Heights Estate



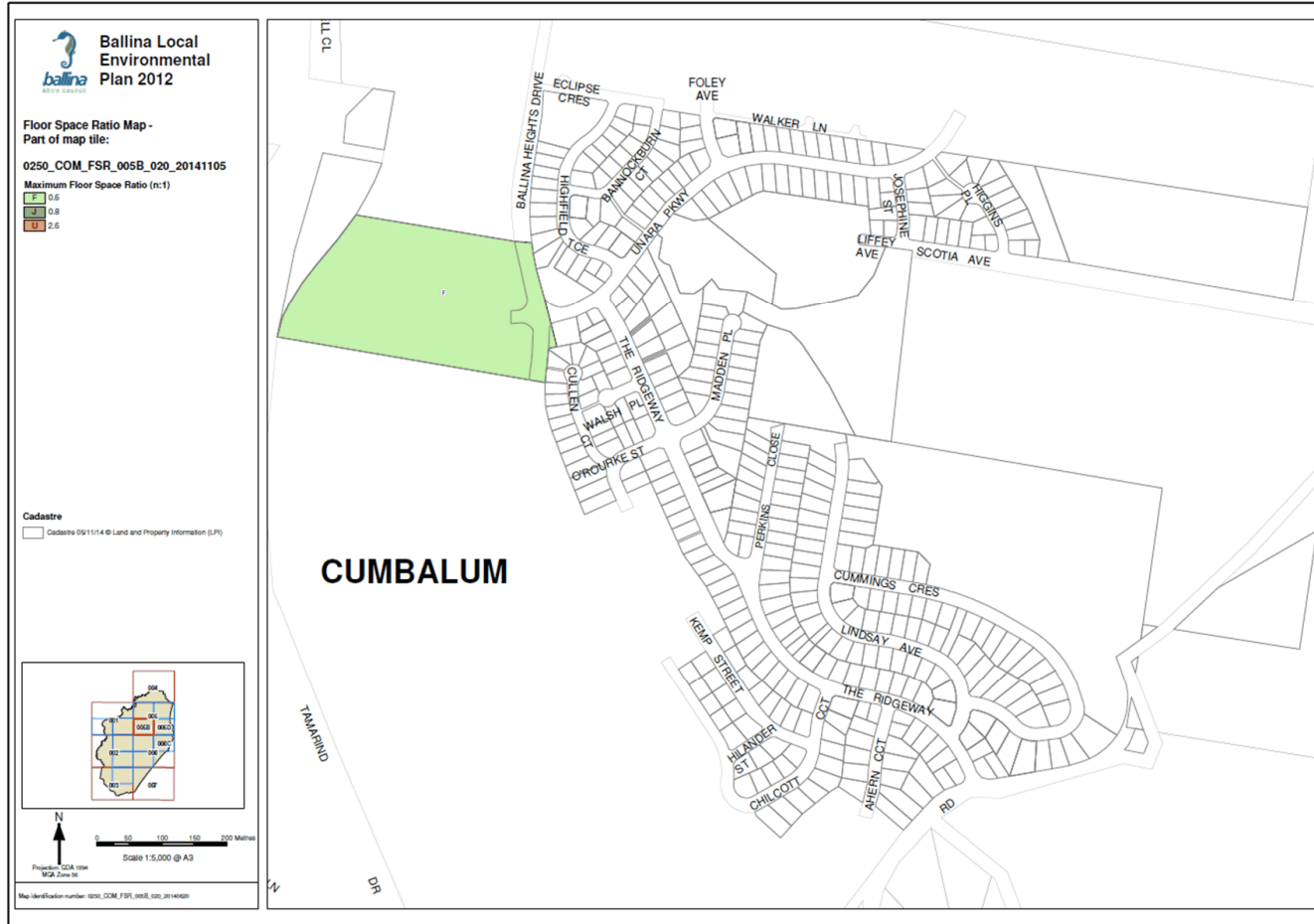
9.1 Planning Proposal BSCPP 14/009 - Ballina Heights Estate.DOC

PROPOSED BLEP 2012 Floor Space Ratio Map, Sheet FSR_005B



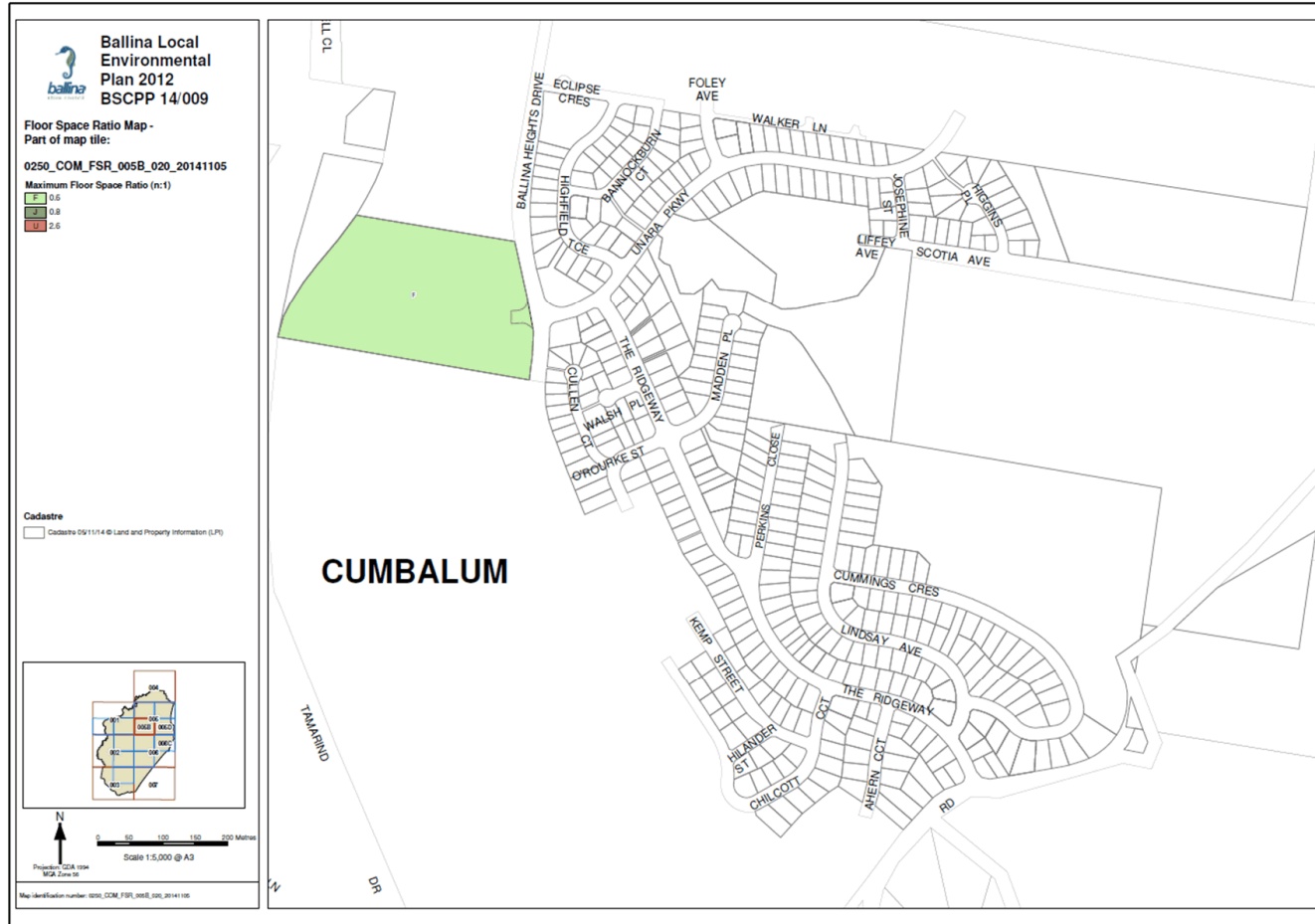
9.1 Planning Proposal BSCPP 14/009 - Ballina Heights Estate.DOC

CURRENT MAPPING Floor Space Ratio – Ballina Heights Estate



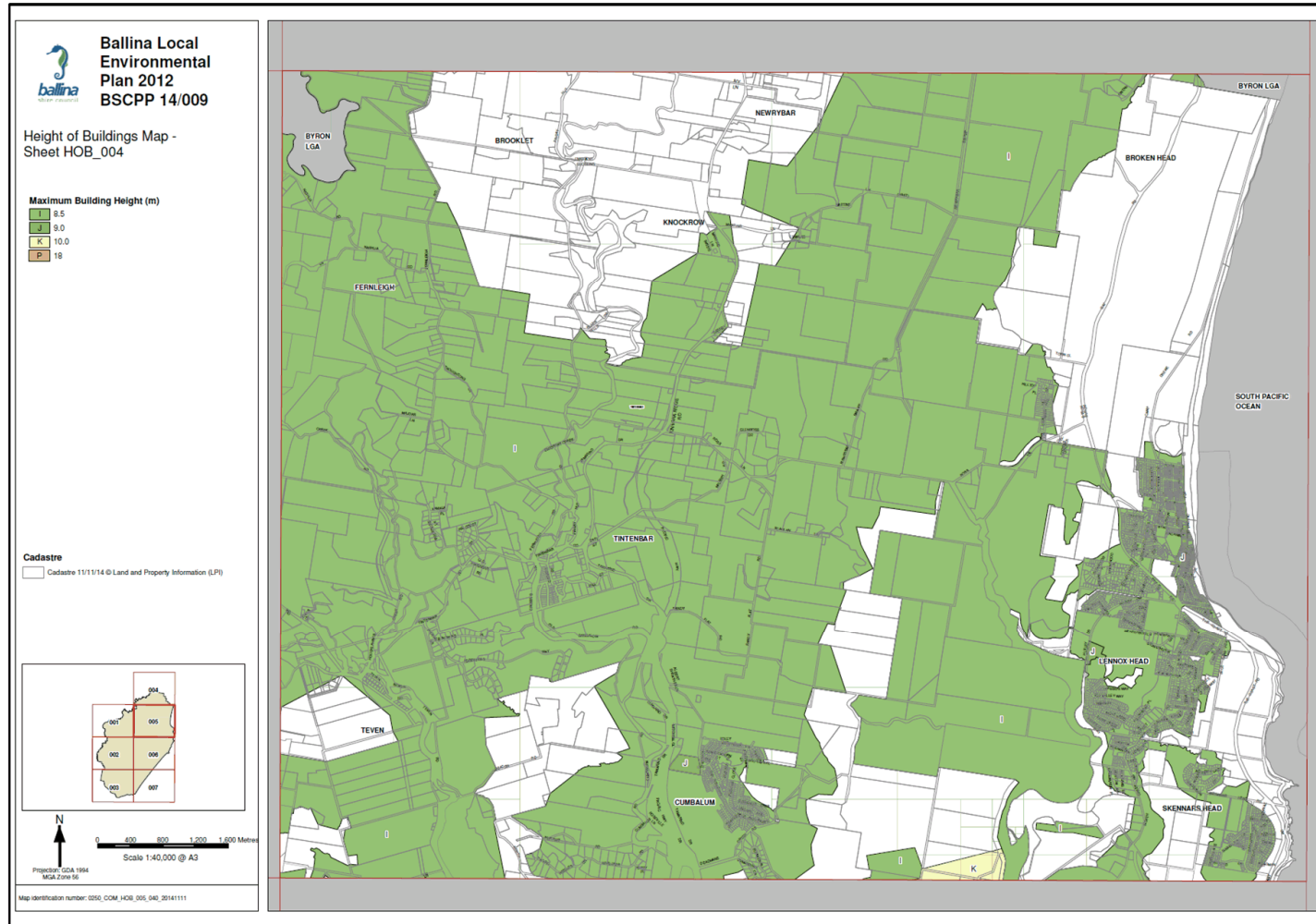
9.1 Planning Proposal BSCPP 14/009 - Ballina Heights Estate.DOC

PROPOSED MAPPING Floor Space Ratio – Ballina Heights Estate

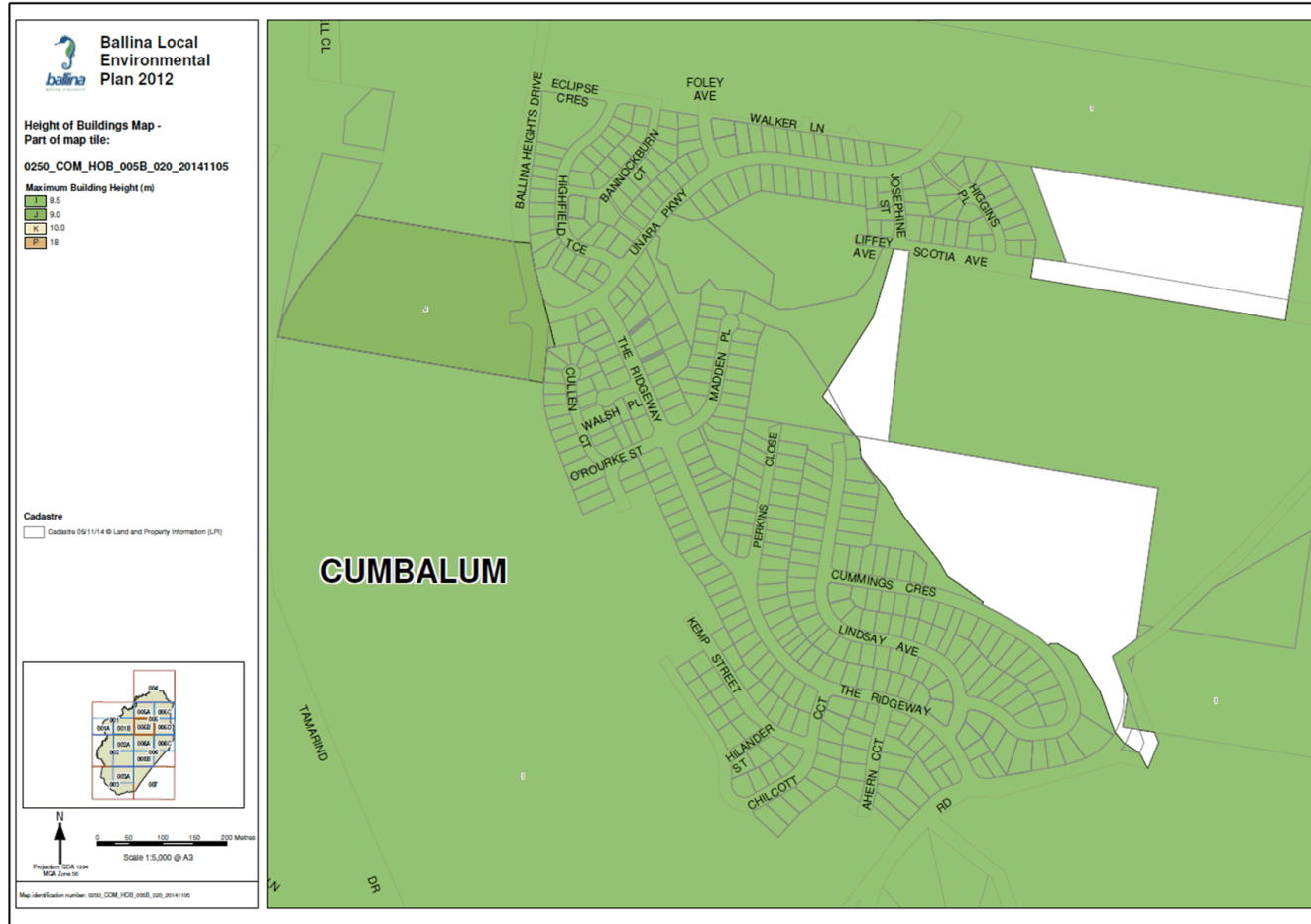


9.1 Planning Proposal BSCPP 14/009 - Ballina Heights Estate.DOC

PROPOSED BLEP 2012 Height of Buildings Map, Sheet HOB_005

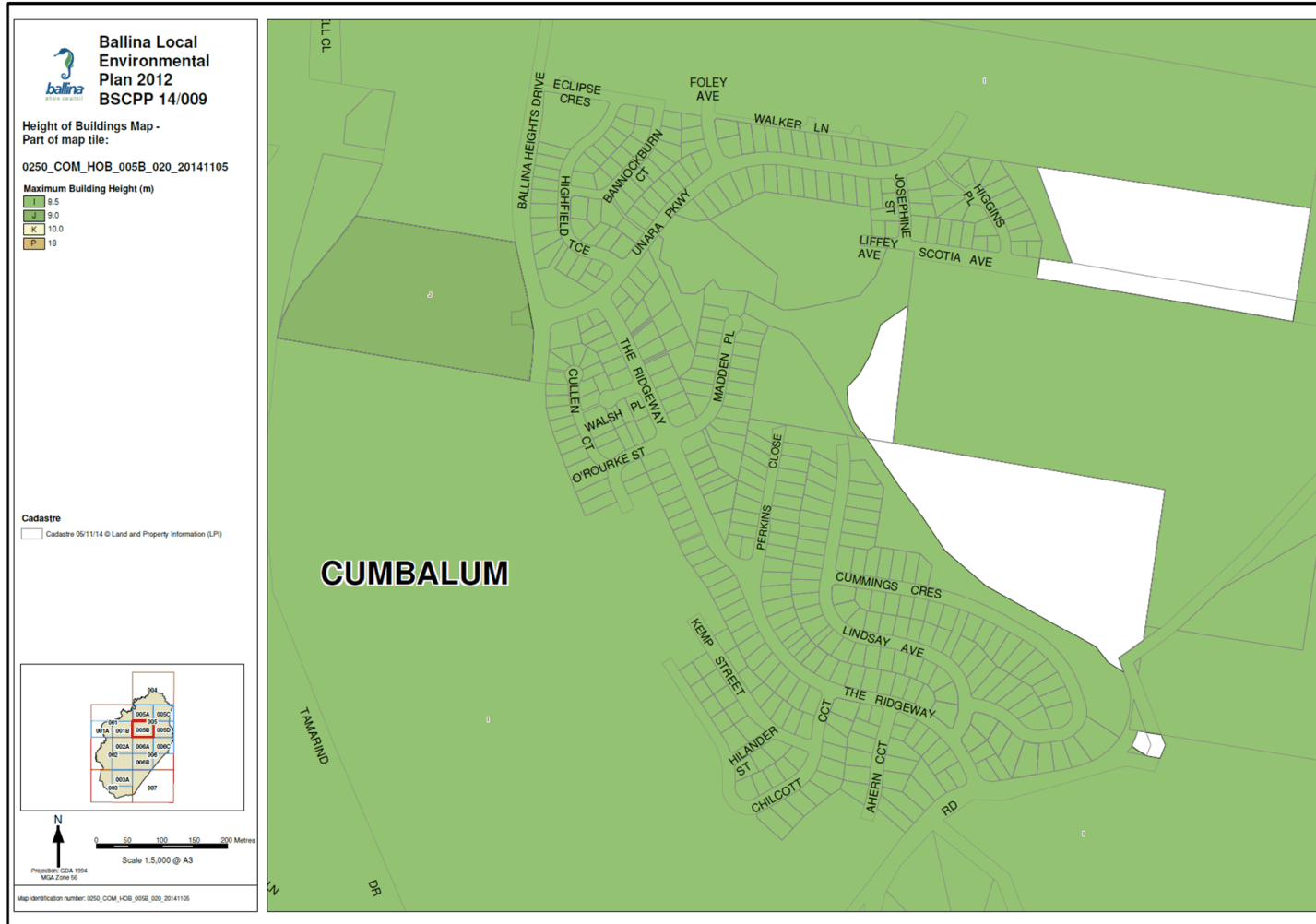


CURRENT MAPPING Floor Space Ratio – Ballina Heights Estate



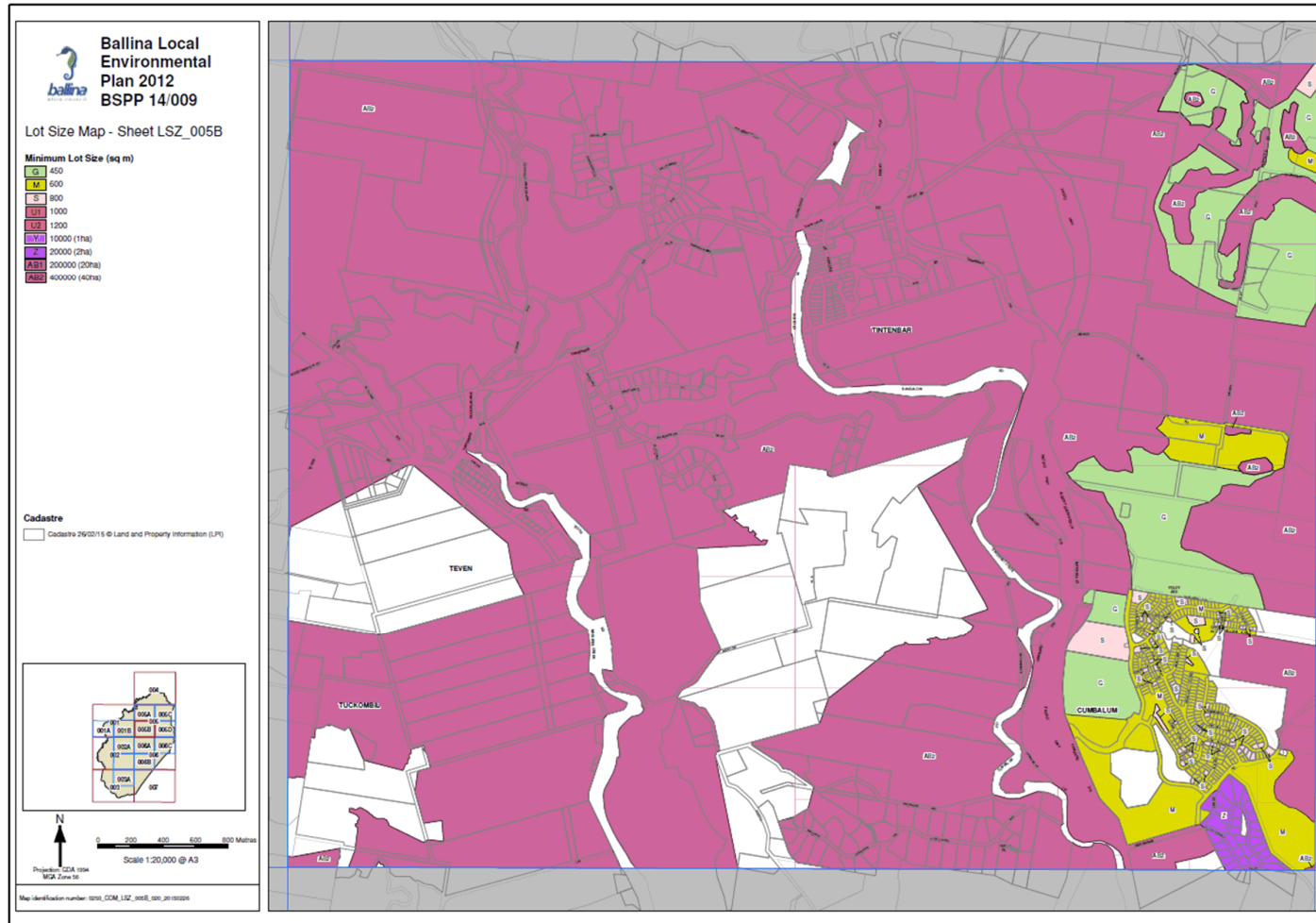
9.1 Planning Proposal BSCPP 14/009 - Ballina Heights Estate.DOC

PROPOSED MAPPING Floor Space Ratio – Ballina Heights Estate



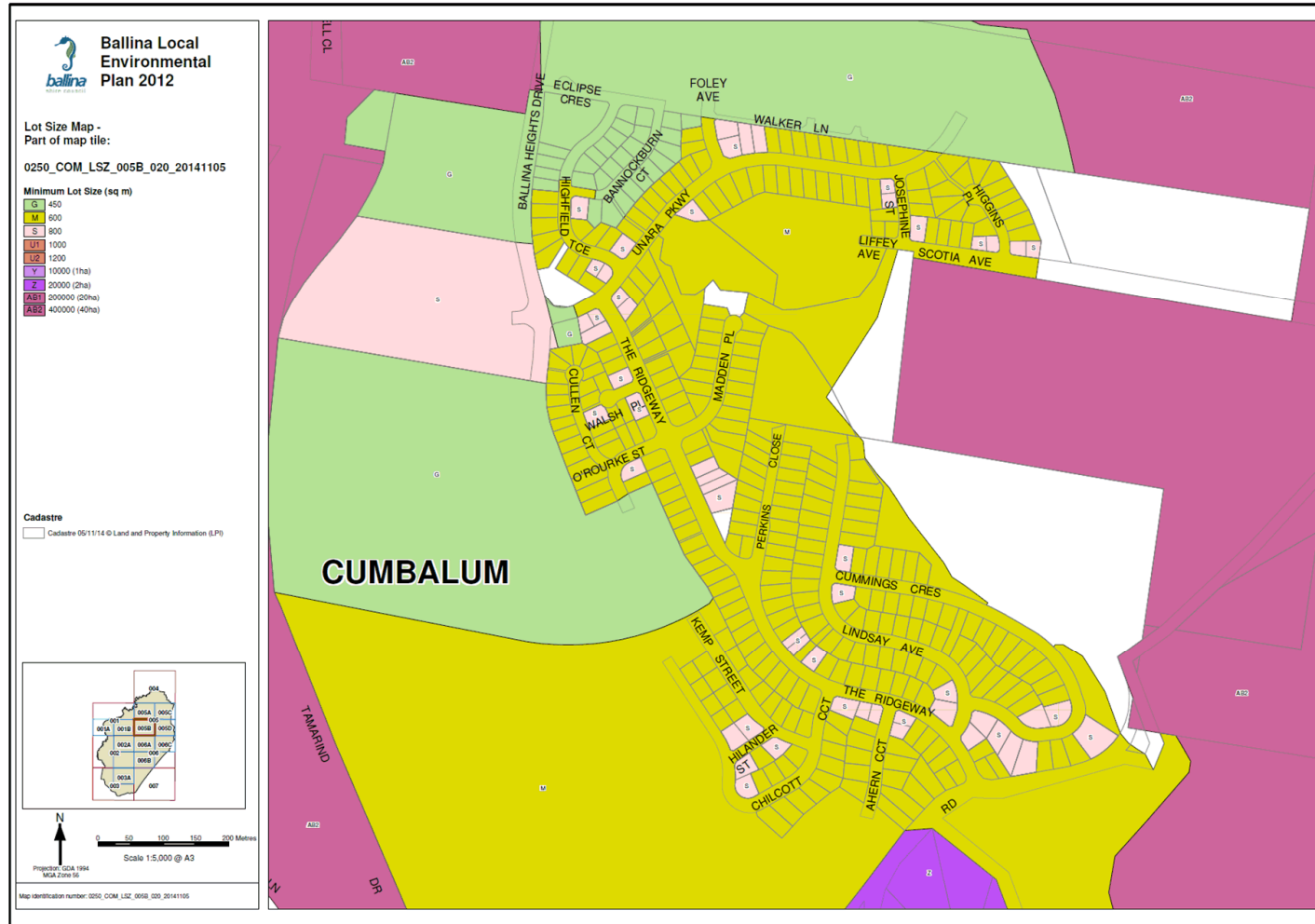
9.1 Planning Proposal BSCPP 14/009 - Ballina Heights Estate.DOC

PROPOSED BLEP 2012 Lot Size Map, Sheet LSZ_005B



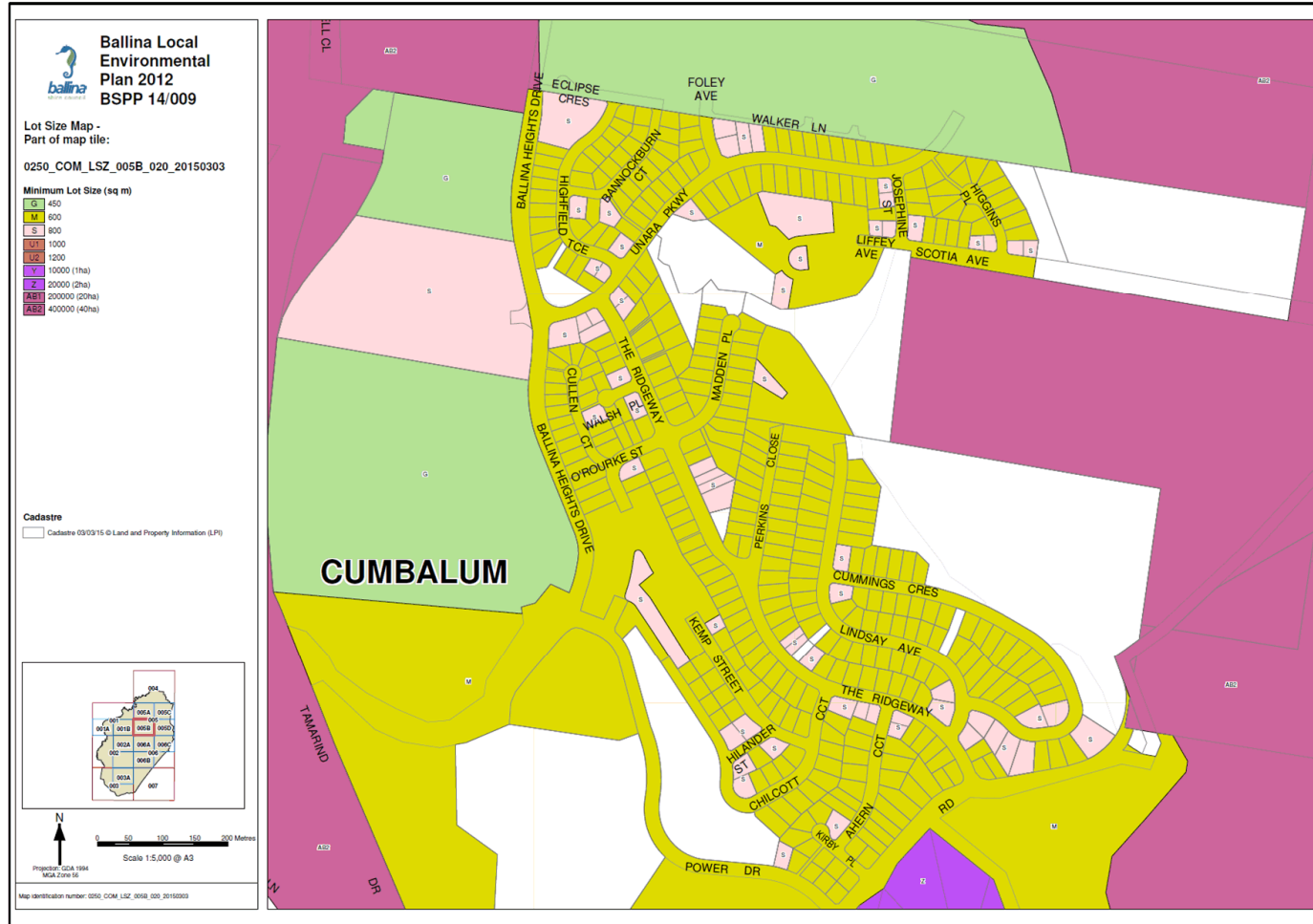
9.1 Planning Proposal BSCPP 14/009 - Ballina Heights Estate.DOC

CURRENT MAPPING Lot Size – Ballina Heights Estate



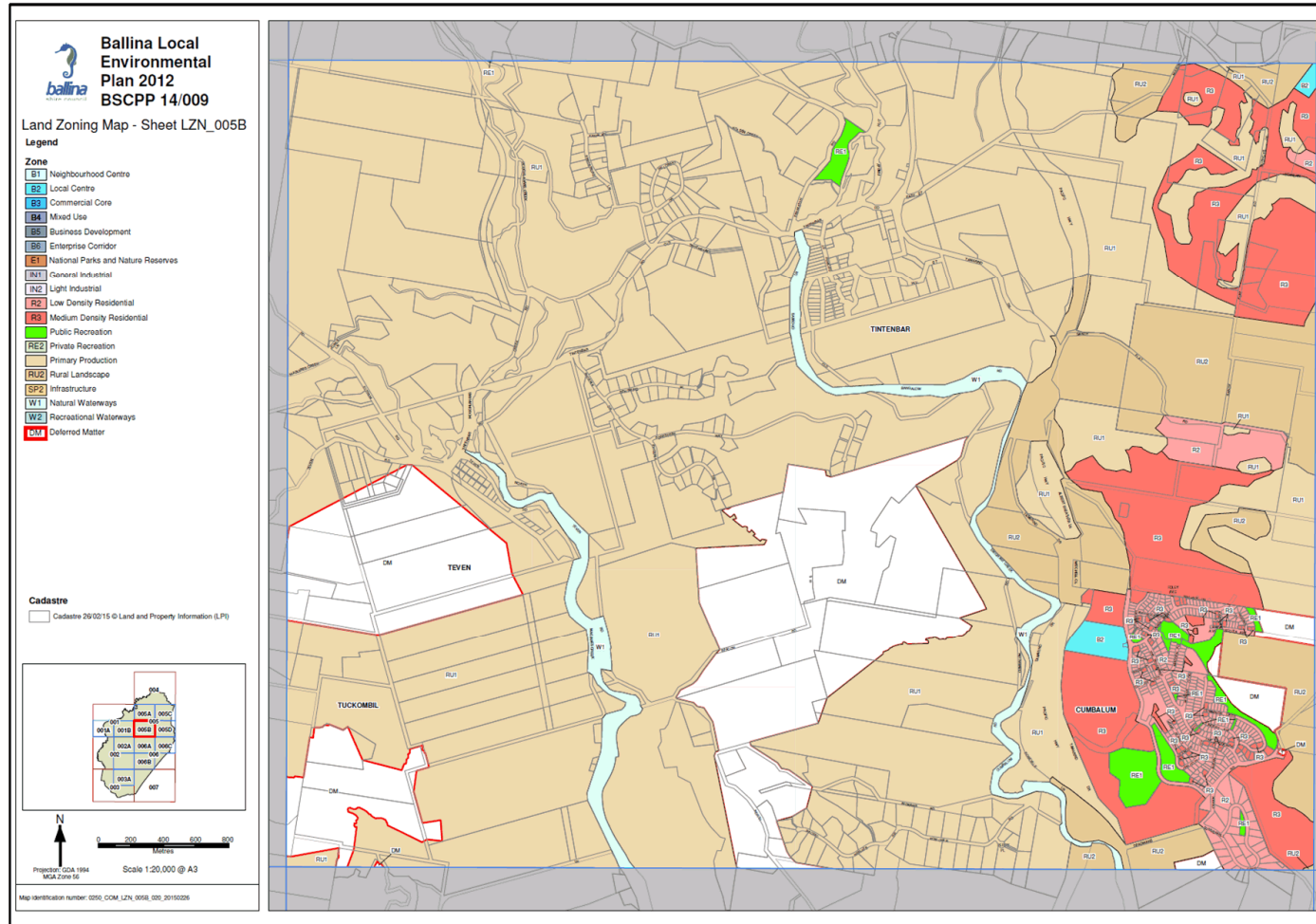
9.1 Planning Proposal BSCPP 14/009 - Ballina Heights Estate.DOC

PROPOSED MAPPING Lot Size – Ballina Heights Estate



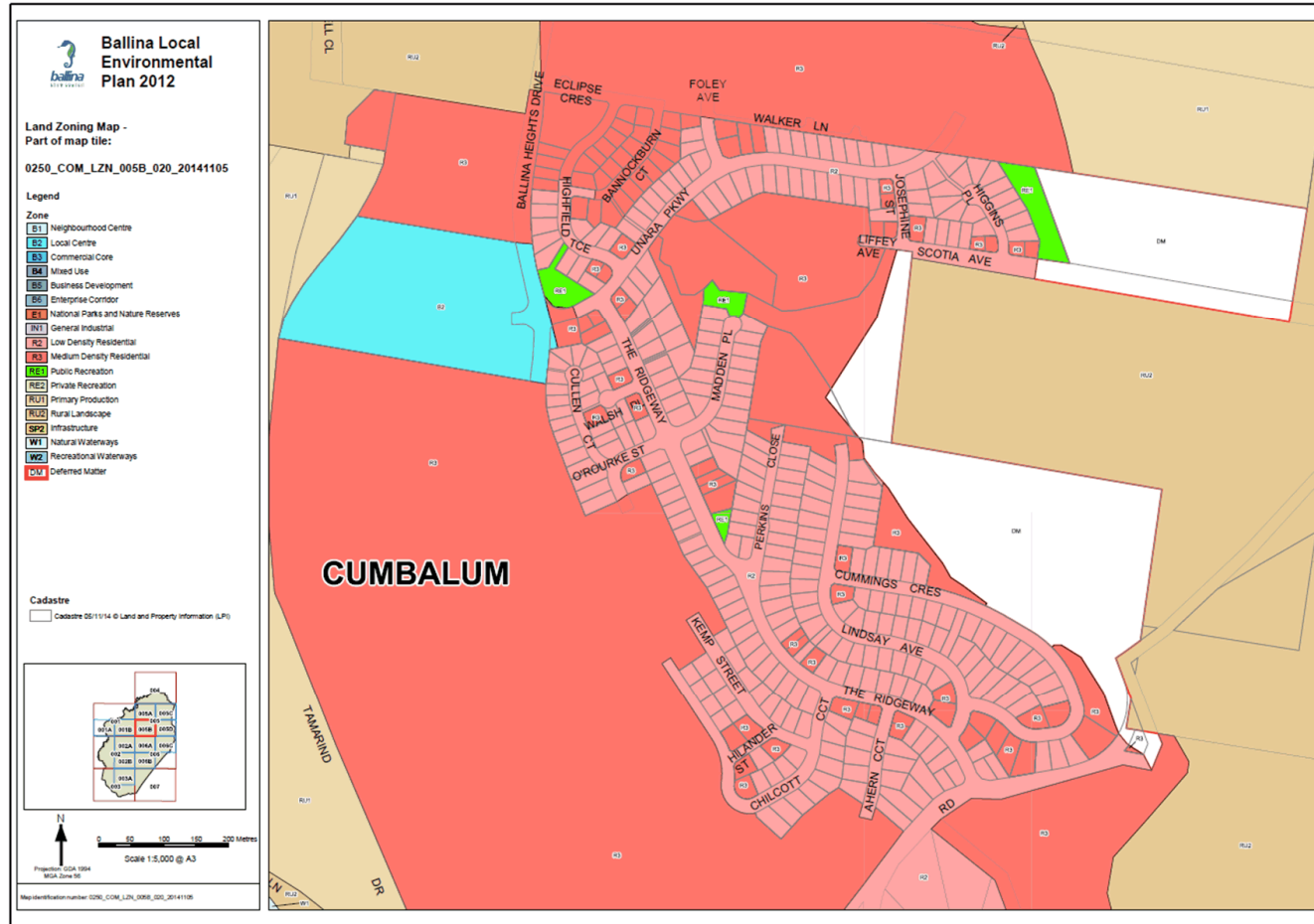
9.1 Planning Proposal BSCPP 14/009 - Ballina Heights Estate.DOC

PROPOSED BLEP 2012 Land Zoning Map, Sheet LZN_005B

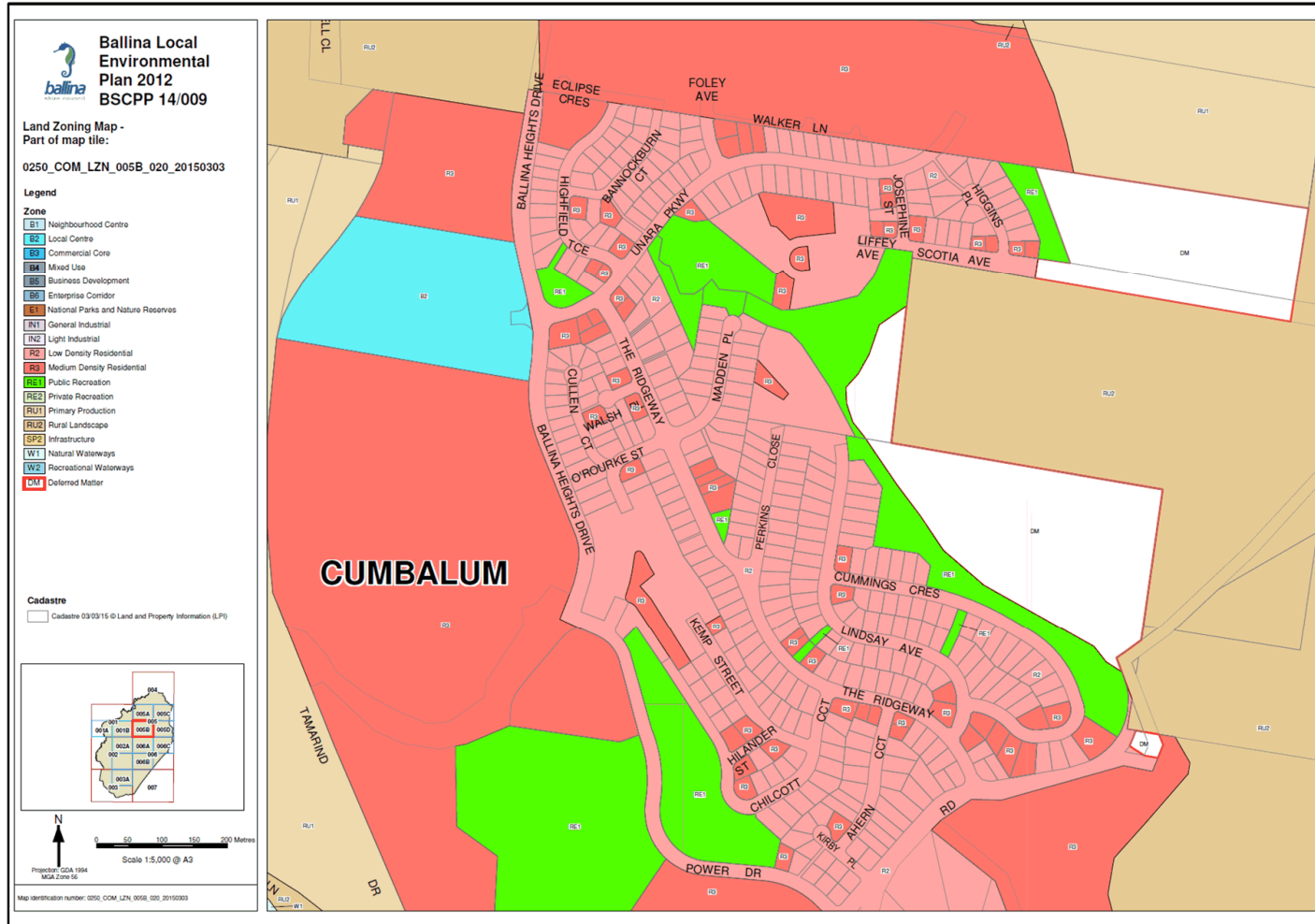


9.1 Planning Proposal BSCPP 14/009 - Ballina Heights Estate.DOC

CURRENT MAPPING Land Zoning – Ballina Heights Estate

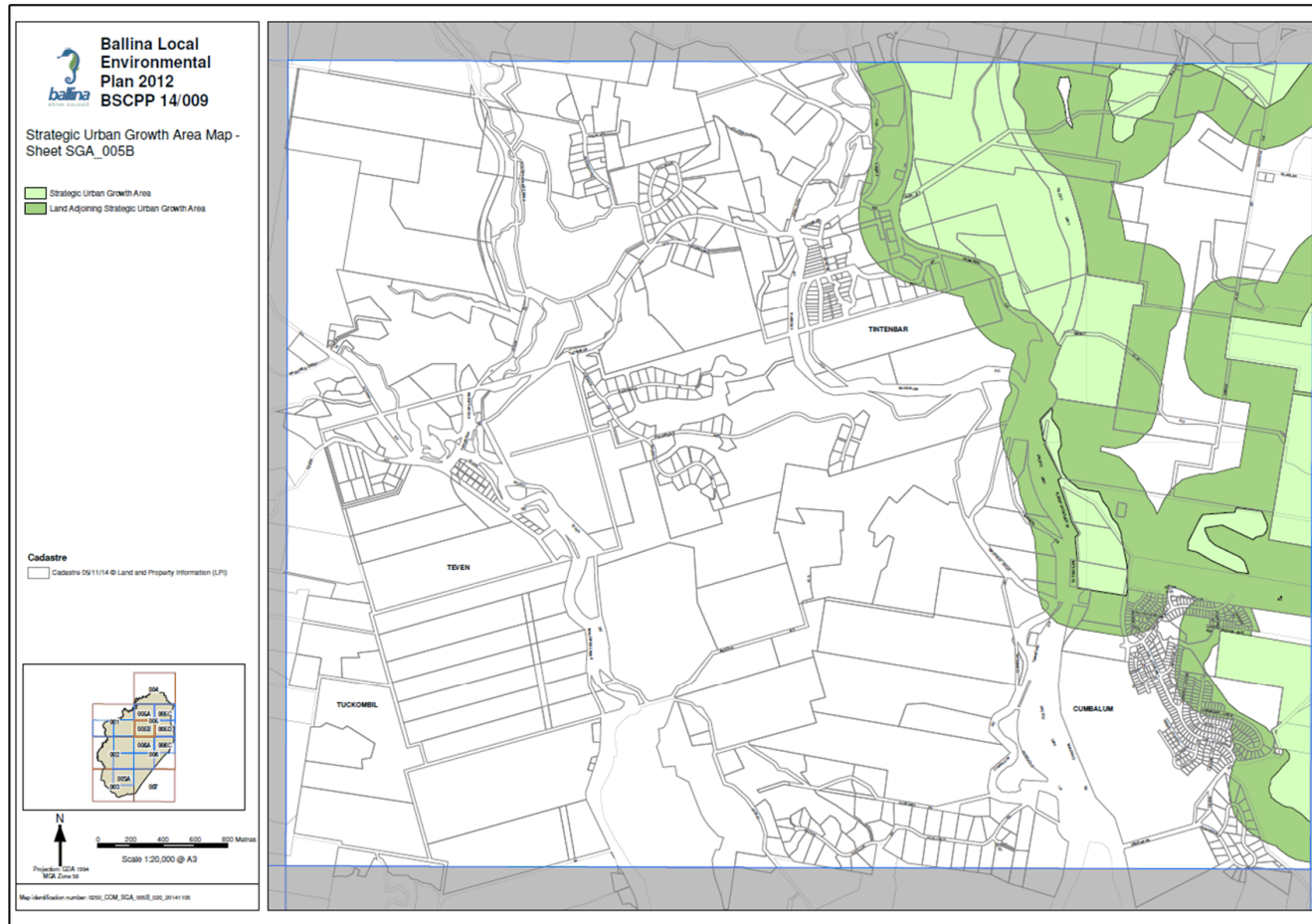


PROPOSED MAPPING Land Zoning – Ballina Heights Estate



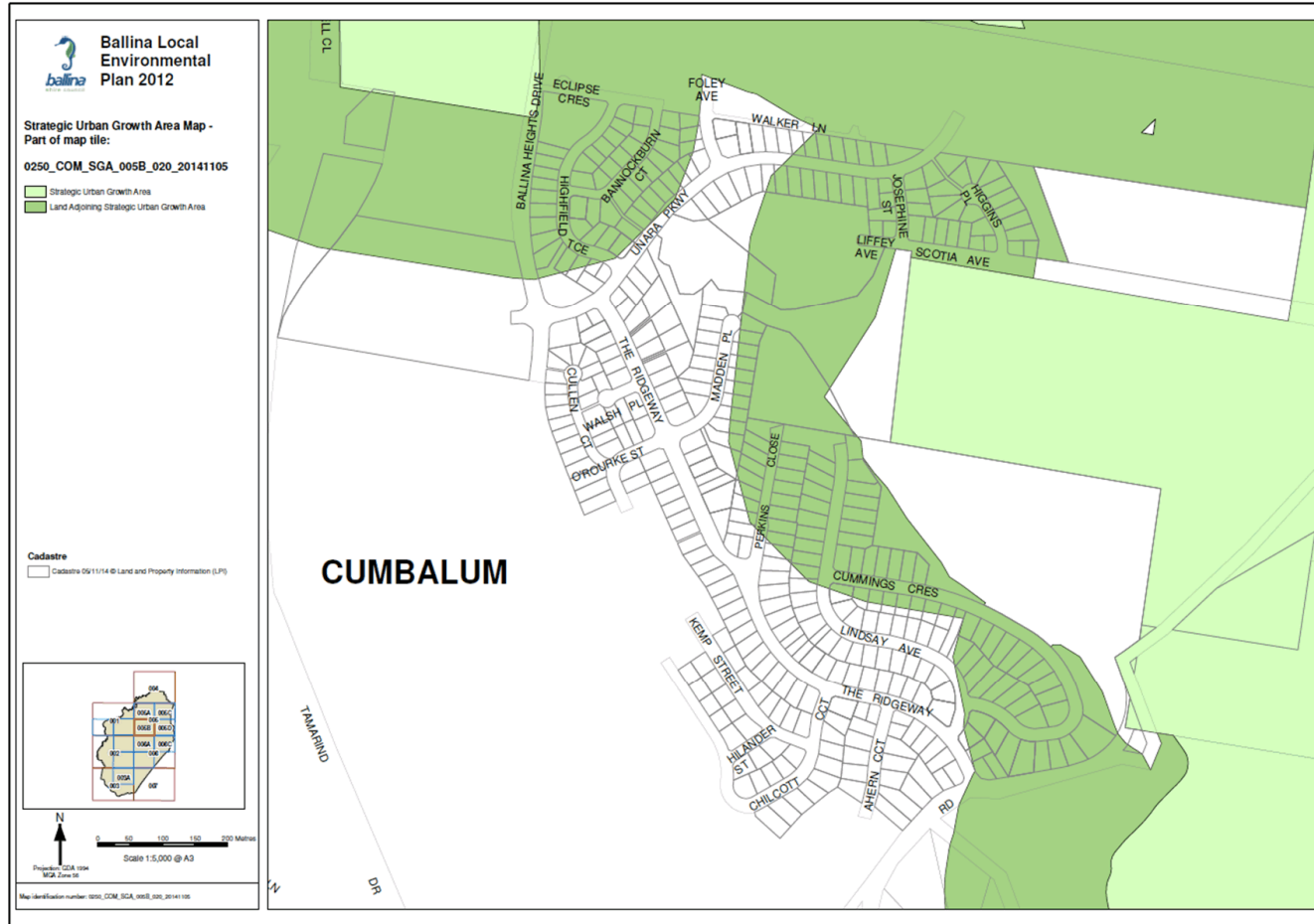
9.1 Planning Proposal BSCPP 14/009 - Ballina Heights Estate.DOC

PROPOSED BLEP 2012 Strategic Urban Growth Area Map, Sheet SGA_005B



9.1 Planning Proposal BSCPP 14/009 - Ballina Heights Estate.DOC

CURRENT MAPPING Strategic Urban Growth Area – Ballina Heights Estate



PROPOSED MAPPING Strategic Urban Growth Area – Ballina Heights Estate

