



Planning Proposal BSCPP 16/001

April 2016

General Mapping Amendments (3)

16/25768 – Final

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INTRODUCTION

Summary of Planning Proposal

This planning proposal contains a number of amendments to the *Ballina Local Environmental Plan 2012* (BLEP 2012) that have been identified as part of ongoing review of the plan's function and content.

Council resolved to refer the subject planning proposal to the Department of Planning & Environment for Gateway determination at its Ordinary Meeting held on 28 January 2016. A copy of the Council's resolution regarding this matter is provided in Appendix A.

Council received a Gateway determination enabling the planning proposal to proceed on 25 February 2016 (Appendix B)

This planning proposal relates to 12 separate map amendments to the BLEP 2012. The amendments are summarised in Table 1.

Table 1. Summary of Proposed LEP Amendments BSCPP16/001

No.	Location	Affects	Details
1	Ballina Heights Estate, Cumbalum	LZN Map, LSZ Map	Reflect changes requested by developer to align zoning with subdivision plans, relating to R2, R3 and RE1 zones. Adjust R2/R3 zone boundary to match cadastre at Foley Avenue.
2	Proximity of Ballina Lighthouse, East Ballina	LZN Map, LAP Map	Adjust RE1 boundaries to better match cadastre. Adjust land application map accordingly.
3	River Street, West Ballina	This amendment was removed from the planning proposal following public exhibition of the proposal.	
4	Bolwarra Circuit, Wollongbar	LZN Map, LSZ Map, LAP Map	Apply RE1 zone to open space area. Remove minimum lot size standard. Adjust land application map accordingly.
5	Tamarind Drive, Cumbalum	LZN Map, LSZ Map	Apply RU2 zone to land adjacent to Emigrant Creek currently zoned W1 to reflect improved survey information in the locality, arising from the construction of the Ballina Bypass project. Apply 40 Hectare minimum lot size standard.
6	Blue Seas Parade, Lennox Head	LSZ Map, LZN Map, LAP Map	Apply 1200m minimum lot size standard (currently 600m) to 8 lots, to reflect and maintain the intent of original subdivision plan. Apply R2 zone to the road reserve of Blue Seas Parade. Adjust the land application map accordingly. This amendment gives to effect to Council resolution 221015/4 made in relation to the refusal of DA 2015/377.
7	Simpson Avenue, Wollongbar	LSZ Map	Apply 600m minimum lot size standard (currently no standard applies) to Wollongbar Public School site (zoned R2) to be consistent with policy applied to school sites elsewhere in the Shire.

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No.	Location	Affects	Details
8	Morton Way, Skennars Head	LZN Map, LSZ Map	Adjust R2/R3 zone boundaries to align with cadastre. Reflect adjustment in minimum lot size map.
9	Elkhorn Parade, North Ballina	SGA Map	Reinstate Strategic Urban Growth Area designation.
10	Cooper Close and Fig Tree Hill, Lennox Head	SGA Map	Apply Strategic Urban Growth Area designation to reflect Ballina Shire Growth Management Strategy and adjust buffer accordingly.
11	Broken Head Road, Newrybar	LZN Map, LSZ Map, LAP Map, HOB Map, DWC Map	Adjust zone, minimum lot size, height of buildings and drinking water catchments maps for amendment to Local Government Area boundary. Adjust the land application map accordingly.
12	Tuckean Nature Reserve, Meerschaum Vale	LZN Map, ASS Map, HOB map	Remove land that lies outside of the Ballina Local Government Area from the zone map.

PART 1 – OBJECTIVES & INTENDED OUTCOMES

The objective of this planning proposal is to implement mapping amendments to improve the function, content and consistency of the *Ballina Local Environmental Plan 2012* (BLEP 2012). The amendments seek to ensure the BLEP 2012 functions efficiently and that its provisions are up to date and reflect the community's expectations.

PART 2 – EXPLANATION OF THE PROPOSAL

The amendments contained in this planning proposal are detailed below.

1. Ballina Heights Estate, Cumbalum

Three sites within the Ballina Heights Estate are subject to the amendment, being:

- Liffey Ave – Involving the adjustment to existing R2 Low Density Residential, R3 Medium Density Residential and RE1 Public Recreation zones to reflect the development intentions for the land (Lot 389 of DP 1199596) as per s.96 application lodged to vary development consent DA 2012/351.
- Unara Parkway – Involving the application of R2 Low Density Residential zone to land currently zoned R3 Medium Density Residential zone to reflect approved development intentions for the land (being part of Lot 390 DP1199596 and road reserve) as per development consent DA 2014/286.
- Foley Avenue – Minor realignment of zone boundaries to match cadastre (property boundaries of Lot 237 of DP 1117692 and Lots 1 & 2 of Strata Plan 85843).

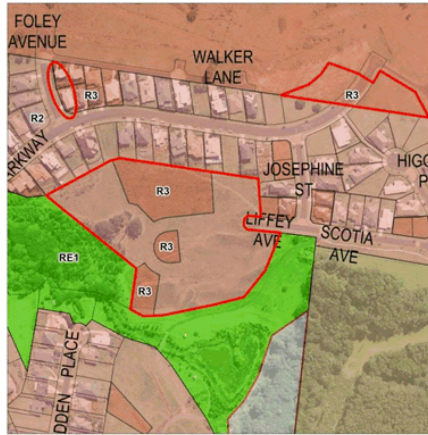
The amendment also applies changes to the Minimum Lot Size Map as per the following:

- 600m² minimum lot size applied to land zoned R2 Low Density Residential zone;

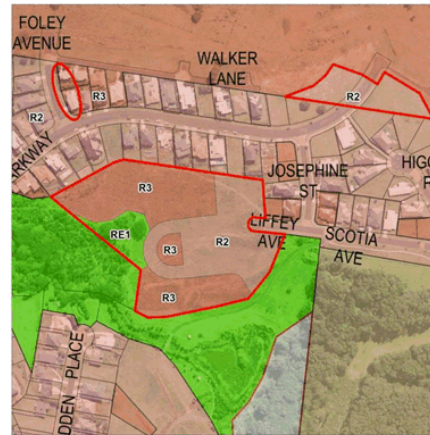
9.2 Planning Proposal - General Mapping Amendments.DOC

- 800m² minimum lot size applied to land zoned R3 Medium Density Residential zone; and
- No minimum lot size applied to land zoned RE1 Public Recreation zone.

Proposed Changes to Zoning Map:

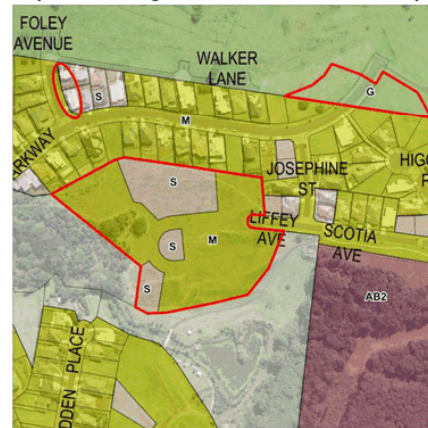


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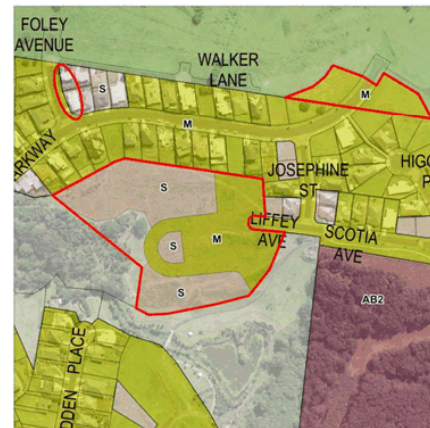


PROPOSED

Proposed Changes to Minimum Lot Size Map:



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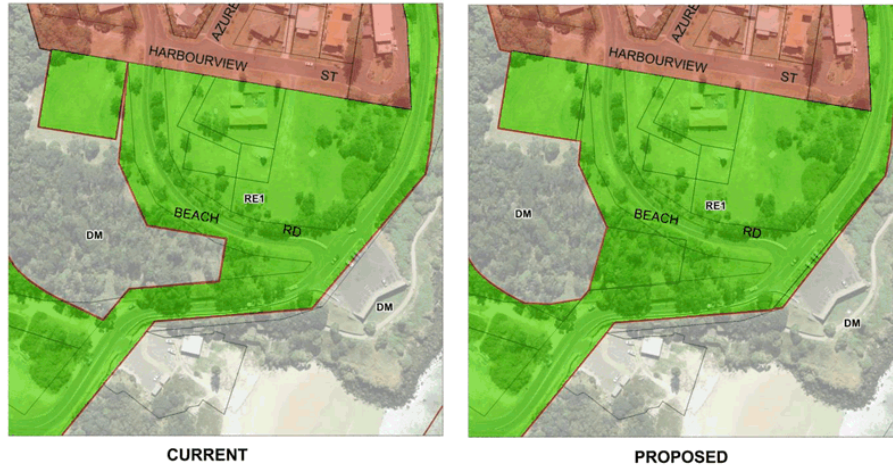
PROPOSED

2. Proximity of Ballina Lighthouse, East Ballina

The amendment relates to part of Lots 4 & 5 of DP 1197191 and adjoining Council road reserves.

The amendment seeks to adjust the RE1 Public Recreation zone boundary (adjacent to Deferred Matter) and adjust the Land Application Map accordingly. The purpose of the amendment is to better align the zone boundaries with the cadastre and adjust for the creation of a new road reserve associated with the construction of the Ballina Surf Club. The amendment also adjusts the Land Application Map.

Proposed Changes to Zoning Map:



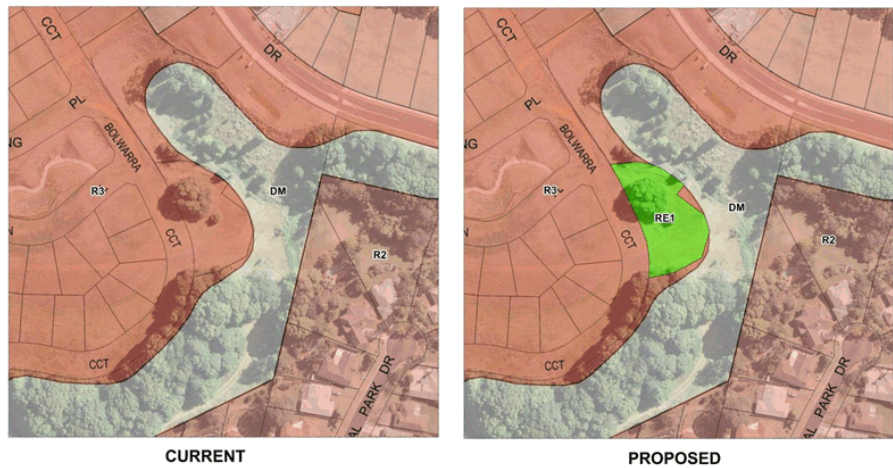
3. River Street, West Ballina

This amendment was removed from the planning proposal following public exhibition of the proposal. Refer to Council reporting.

4. Bolwarra Circuit, Wollongbar

The subject site, being Lot 101 of DP1212282, has been dedicated to Council as open space in association with the residential subdivision of adjacent land. The amendment seeks to apply the RE1 Public Recreation zone to the open space reserve and remove the minimum lot size standard (consistent with the approach to open space reserves elsewhere in the Shire). The Land Application Map is to be adjusted to accommodate a minor adjustment to the zone extent.

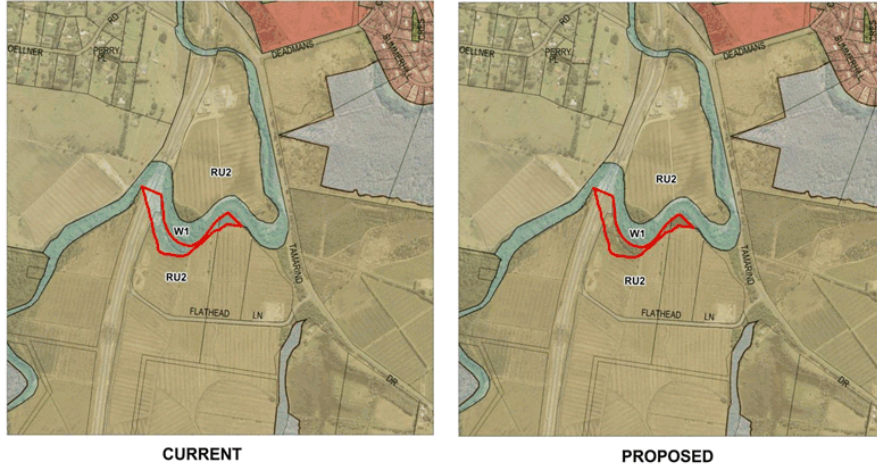
Proposed Changes to Zoning Map:



5. Tamarind Drive, Cumbalum

The amendment involves applying the RU2 Rural Landscape zone to land adjacent to Emigrant Creek that is currently zoned W1 Natural Waterways zone. This reflects improved survey information in the locality (and amended boundary of Lot 2 of DP 1208439), arising from the construction of the Ballina Bypass project. The amendment also seeks to apply a 40 hectare minimum lot size standard to the land.

Proposed Changes to Zoning Map:



6. Blue Seas Parade, Lennox Head

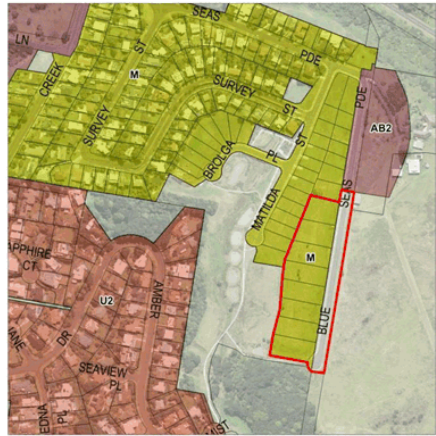
The amendment involves applying a 1200m² minimum lot size standard (where it is currently 600m²) on the Lot Size Map to 8 large lots on Blue Seas Parade in Lennox Head, being Lots 26-33 of DP 1168665. The purpose of the amendment is to limit the potential for further subdivision, consistent with the intent of original subdivision plan for the estate.

This amendment gives effect to Council resolution 221015/4 made in relation to the refusal of DA 2015/377, where the Council resolved:

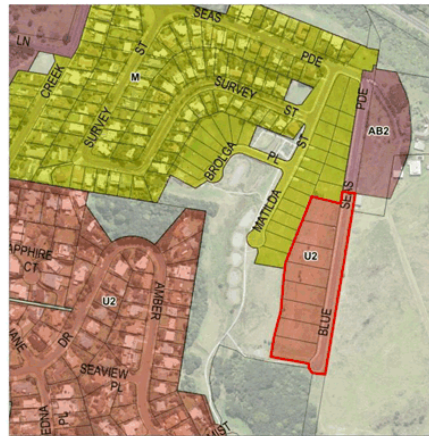
2. That the Lot Size Maps of the Ballina Local Environmental Plan 2012 as they apply to Lots 26-33 in D.P. 1168665, be amended from a 600m² minimum area to 1,200m².

The amendment also involves applying the R2 Low Density Residential zone to a portion of the Blues Seas Parade road reserve (that is currently identified as "Deferred Matter"), to be consistent with the approach applied elsewhere in the Shire, and adjusting the Land Application Map accordingly.

Proposed Changes to Minimum Lot Size Map:

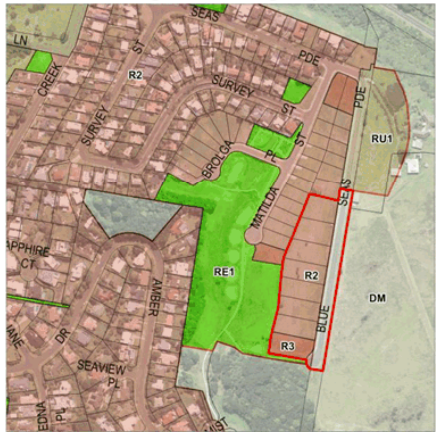


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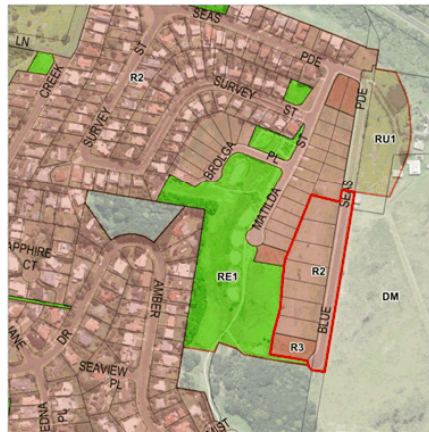


PROPOSED

Proposed Changes to Zoning Map:



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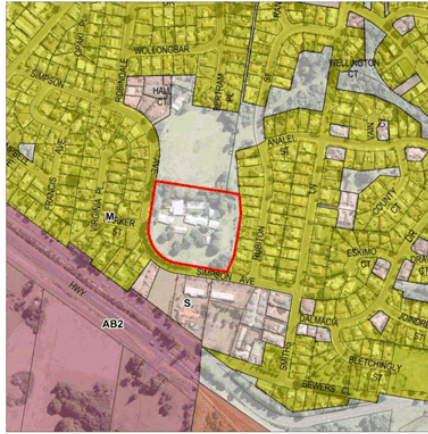


PROPOSED

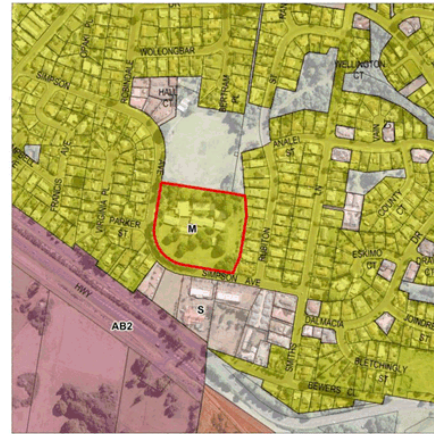
7. Simpson Avenue, Wollongbar

The amendment involves the application of a 600m² minimum lot size standard (currently no standard applies) to the Wollongbar Public School site (zoned R2 Low Density Residential), to be consistent with the approach applied to school sites elsewhere in the Shire.

Proposed Changes to Minimum Lot Size Map:



CURRENT



PROPOSED

8. Morton Way, Skennars Head

The amendment relates to Lots 308 & 311 of DP 1211326 and adjoining Council road reserve.

The amendment involves the minor realignment of the R2/R3 residential zone boundaries to align with cadastre. This adjustment is also to be reflected in the Minimum Lot Size Map.



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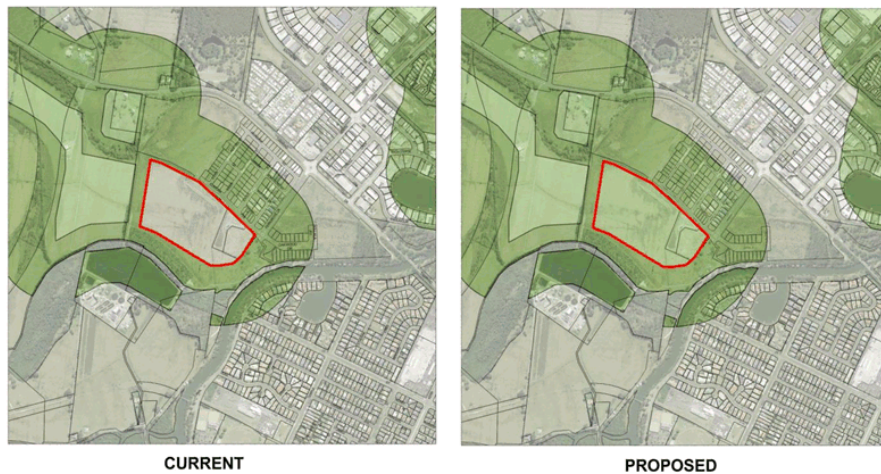


PROPOSED

9. Elkhorn Parade, North Ballina

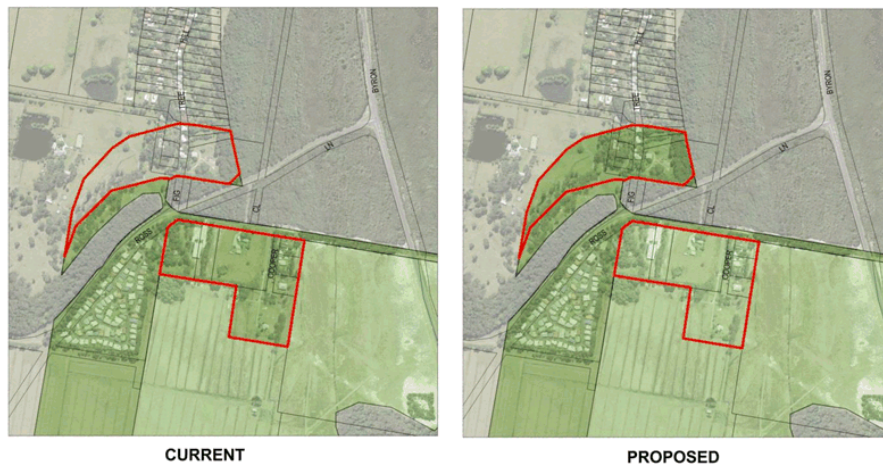
The amendment involves the reinstatement of designation as a Strategic Urban Growth Area on the Strategic Urban Growth Areas Map for land in North Ballina, being parts of Lot 2 of DP 1074242, Lot 47 of DP 1148641 and Lot 212 of DP 1205071. The

designation was omitted in error in association with Amendment No.22 to the Ballina LEP 2012.



10. Cooper Close and Figtree Hill, Lennox Head

The amendment involves applying the Strategic Urban Growth Area designation to reflect the Ballina Shire Growth Management Strategy in relation to the area. It also involves an associated adjustment to the Strategic Urban Growth Area buffer (land designated as Land Adjacent to a Strategic Urban Growth Area on the map). Note, the areas omitted from the map (shown white/no colour) reflect land deferred from the Ballina LEP 2012.



Excerpt of Ballina Local Growth Management Strategy (2012)



The amendment relates to the following real properties:

- Lots 1-3 & 10-12 of DP 771659
- Lots 4-6 of DP 749834
- Lots 1 & 2 of DP 749166
- Lot 1 of DP 601809
- Lot 2 of DP 581640
- Lot 3 of DP 714444
- Lot 10 of DP 1181942
- Lot 60 of DP 1067198

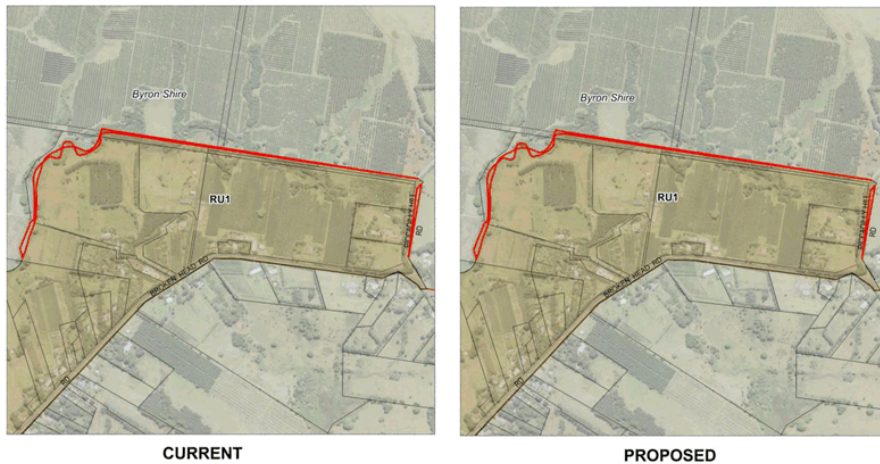
11. Broken Head Road, Newrybar

The amendment seeks to align the area affected by the Ballina LEP 2012 to the boundary of the Ballina Shire Local Government Area. This corrects an error in a previous version of the LGA boundary information held by Council.

Parts of the subject land are identified within the Byron LEP 2012, zoned a mixture of RU1 Primary Production zone and DM (Deferred Matter). It is noted that the area 'deferred' from the Byron LEP 2012 is land where Byron Shire Council sought to apply an environmental protection buffer to all creeks and waterways in the preparation of their LEP. This approach was not applied in relation to the preparation of the Ballina LEP 2012. The amendment to the Ballina LEP 2012 seeks to adjust the RU1 Primary Production Zone boundary in the Zone Map to align with the amended LGA boundary.

The amendment also involves the adjustment of the following LEP maps:

- Minimum Lot Size Map – to apply a 40 Hectare minimum lot size standard;
- Drinking Water Catchments Map – to identify the land as a drinking water catchment;
- Building Height Map – to apply a 8.5m building height standard; and
- Land Application Map – so that the Ballina LEP 2012 applies to all land within the Ballina Shire LGA and omits land within the Byron Shire LGA.

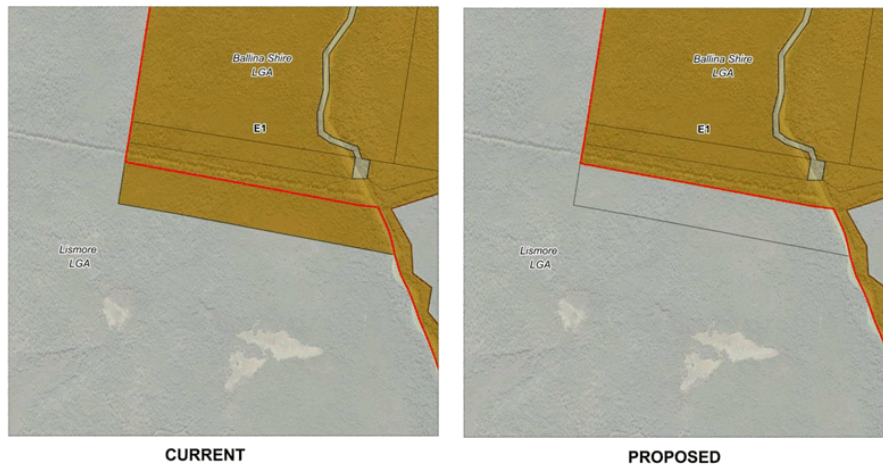


12. Tuckean Nature Reserve, Meerschaum Vale

The amendment seeks to align the area affected by the Ballina LEP 2012 to the boundary of the Ballina Shire Local Government Area. This corrects an error in a previous version of the LGA boundary information held by Council.

The amendment involves the removal of certain land within the Tuckean Nature Reserve that lies outside of the Ballina Local Government Area, from application of the Ballina LEP 2012. It is noted that this land is zoned under the Lismore LEP 2012. The amendment affects the Zone Map and Minimum Lot Size Map, Acid Sulphate Soils Map, and Height of Building Map.

As the land application map does not apply to the site, the current designation of planning controls to the land, has no legal effect. The amendment seeks to clarify this status, as it relates to the Ballina LEP 2012.



PART 3 – JUSTIFICATION

Section A - Need for the Planning Proposal

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

The planning proposal is not the result of a strategic study or report. The proposed amendments result from ongoing review of the function and operation of the BLEP 2012 and generally comprise housekeeping actions and rectifications of identified anomalies.

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

The proposed amendments are considered the best way to achieve the updates and adjustments identified.

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)?

In general, the proposed amendments are 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 elements of this proposal are not in conflict with the outcomes or actions of the strategy.

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

The proposal is consistent with the principles of Council's Community Strategic Plan and other local strategies in that it seeks to enhance the function, content and consistency of the BLEP 2012. The amendments contained in the proposal will achieve a more functional local environmental plan that will better serve the community's needs.

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

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)?

The proposal is consistent with the relevant Section 117 Directions. A Section 117 Direction checklist for the planning proposal is contained in Appendix C.

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

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 was undertaken with Crown Lands and the Rural Fire Service as required by the Gateway determination. Council did not receive a response from either agency during the consultation period.

PART 4 – MAPPING

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

- Lot Size Map (LSZ_001B, LSZ_004, LSZ_005B, LSZ_005D, LSZ_006A)
- Land Zoning Map (LZN_001B, LZN_003, LZN_005B, LZN_005D, LZN_006A, LZN_006C)
- Strategic Urban Growth Area Map (SGA_005C, SGA_005D, SGA_006C)
- Drinking Water Catchment Map (DWC_004)
- Acid Sulphate Soils Map (ASS_003)
- Height of Building Map (HOB_003, HOB_004)
- Land Application Map (LAP)

The proposed LEP Maps that give effect to this planning proposal are provided in Appendix D.

PART 5 – COMMUNITY CONSULTATION

This proposal was exhibited between 2 March 2016 and 1 March 2016 in accordance with the Gateway determination and the terms of the *Environmental Planning and Assessment Act 1979*.

Four submissions were received from the public. These are addressed in the reporting to Council's April Ordinary Meeting. As a result of one submission, the proposed amendments relating to land off River Street at West Ballina (Item 3) have been omitted from this planning proposal.

The planning proposal was referred to the NSW Rural Fire Service (RFS) and Crown Lands, and given at least 21 days to respond, in accordance with the Gateway determination. The RFS raised no objection to the planning proposal proceeding. A copy of the RFS submission is included in the report presented to Council's April Ordinary Meeting. Crown Lands did not respond during the consultation period.

PART 6 – TIMELINE

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

Plan Making Step	Estimated Completion (Before)
Gateway Determination	February 2016
Government Agency Consultation	March 2016
Public Exhibition Period	March 2016
Public Hearing	N/A
Submissions Assessment	May 2016
RPA Assessment of Planning Proposal and Exhibition Outcomes	May 2016
Submission of Endorsed LEP to DP&I for Finalisation	N/A
RPA Decision to Make the LEP Amendment (if delegated)	June 2016
Forwarding of LEP Amendment to DP&I for Notification (if delegated)	June 2016

APPENDICES

Appendix A – Council resolution and report

MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS
40 CHERRY STREET BALLINA,
ON 28/01/16 AT 9.00 AM

9. Strategic and Community Facilities Group Reports

9.1 Wardell Strategic Plan - Exhibition and Project Completion

280116/10 RESOLVED

(Cr Sharon Cadwallader/Cr Ben Smith)

That the Council adopts the Wardell Strategic Plan as exhibited subject to the following amendments:

- Incorporation of a status reporting and review process.
- Incorporation of an action relating to the preparation of a master plan for the Wardell Cemetery.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Keith Johnson

9.2 Planning Proposal BSCPP 16/001 - General Mapping Amendments

280116/11 RESOLVED

(Cr Sharon Cadwallader/Cr Ben Smith)

1. That Council endorses the proposed adjustments to the Ballina Local Environmental Plan 2012 arising from the ongoing review of the plan as outlined in the planning proposal contained in Attachment One.
2. That Council submit the planning proposal relating to the amendment of various provisions of the Ballina Local Environmental Plan 2012 (Attachment One) to the NSW Department of Planning & Environment for review and Gateway determination.
3. That the Department of Planning and Environment be advised that Council wishes to exercise its delegated plan making functions for this LEP amendment.
4. That upon an affirmative Gateway determination being received from the Department of Planning & Environment, Council staff will carry out the procedural steps associated with the progress of the planning proposal, including public exhibition.
5. That the matter be reported for further consideration by the Council following the mandatory public exhibition period.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Keith Johnson

9.2 Planning Proposal BSCPP 16/001 - General Mapping Amendments

9.2 Planning Proposal BSCPP 16/001 - General Mapping Amendments

Delivery Program Strategic Planning

Objective To seek direction with respect to the progress of a planning proposal to facilitate a number of mapping amendments to the Ballina Local Environmental Plan 2012.

Background

As part of ongoing monitoring and review of the operation of the Ballina Local Environmental Plan 2012, staff have identified a series of 12 mapping amendments (each affecting a number of LEP maps) that are proposed to better align the LEP maps with Council's policy position on certain matters, reflect changes to cadaster and address minor anomalies. The details of these amendments are further discussed in this report and are contained in the planning proposal included in Attachment One. As outlined below, these amendments are typically housekeeping in nature.

The purpose of this report is to seek direction from the Council on the progress of a planning proposal to undertake the identified changes to the LEP.

Key Issues

- Function and operation of the BLEP 2012.
- Minor adjustments to the content of the BLEP 2012.

Information

In addition to considering the overall operation of the BLEP 2012 since its introduction, review of the BLEP 2012 is routinely undertaken having particular regard for:

- Ensuring consistency of zoning and associated planning provisions with actual land and/or desired land uses,
- Aligning of zone boundaries with cadastre where appropriate,
- Assessment and review of identified minor discrepancies, and
- General housekeeping to maximise the function of the plan.

Having regard for the above, 12 items have been identified that are recommended for adjustment as detailed in the table below. Further details in relation to the amendments are contained in the planning proposal in Attachment One.

9.2 Planning Proposal BSCPP 16/001 - General Mapping Amendments**Table 1. Proposed LEP Amendments BSCPP 16/001**

No.	Location	Details
1	Ballina Heights Estate, Cumbalum	Reflect changes requested by developer to align zoning with subdivision plans, relating to R2, R3 and RE1 zones. Adjust R2/R3 zone boundary to match cadastre at Foley Avenue.
2	Proximity of Ballina Lighthouse, East Ballina	Adjust RE1 boundaries to better match cadastre. Adjust land application map accordingly.
3	River Street, West Ballina	Apply R2 zone to reflect recent approval of 39 lot Community Title subdivision (DA2012/291) and apply RU2 zone to remainder of deferred area (DM). Apply 40 hectare minimum lot size standard to RU2 zoned land. Adjust land application map accordingly.
4	Bolwarra Circuit, Wollongbar	Apply RE1 zone to open space area. Remove minimum lot size standard. Adjust land application map accordingly.
5	Tamarind Drive, Cumbalum	Apply RU2 zone to land adjacent to Emigrant Creek currently zoned W1 to reflect improved survey information in the locality, arising from the construction of the Ballina Bypass project. Apply 40 hectare minimum lot size standard.
6	Blue Seas Parade, Lennox Head	Apply 1,200m minimum lot size standard (currently 600m) to 8 lots, to reflect and maintain the intent of original subdivision plan. Apply R2 zone to the road reserve of Blue Seas Parade. Adjust the land application map accordingly. This amendment gives effect to Council resolution 221015/4 made in relation to the refusal of DA2015/377.
7	Simpson Avenue, Wollongbar	Apply 600m minimum lot size standard (currently no standard applies) to Wollongbar Public School site (zoned R2) to be consistent with policy applied to school sites elsewhere in the Shire.
8	Morton Way, Skennars Head	Adjust R2/R3 zone boundaries to align with cadastre. Reflect adjustment in minimum lot size map.
9	Elkhorn Parade, North Ballina	Reinstate Strategic Urban Growth Area designation.
10	Cooper Close and Fig Tree Hill, Lennox Head	Apply Strategic Urban Growth Area designation to reflect Ballina Shire Growth Management Strategy and adjust buffer accordingly.
11	Broken Head Road, Newrybar	Adjust zone and minimum lot size maps for amendment to Local Government Area boundary. Adjust the land application map accordingly.
12	Tuckean Nature Reserve, Meerschaum Vale	Remove land that lies outside of the Ballina Local Government Area from the zone map.

9.2 Planning Proposal BSCPP 16/001 - General Mapping Amendments

Sustainability Considerations

- **Environment**
The amendments proposed are not expected to result in any direct or substantial social or economic impacts, or impacts on the Shire's natural environment.
- **Social**
As above.
- **Economic**
As above.

Legal / Resource / Financial Implications

Having a functionally efficient and up to date local environmental plan is an important component of Council's role as a planning authority under the provisions of the *Environmental Planning and Assessment Act 1979*. The various changes proposed to the BLEP 2012 seek to ensure the plan serves efficiently as the primary local regulatory planning instrument for Ballina Shire.

Consultation

If the Council resolves to endorse the recommended amendments and associated planning proposal, the matter will be referred to the Department of Planning and Environment for Gateway determination. Following a favourable determination from the Department, the planning proposal will be publicly exhibited in accordance with the requirements of the Gateway determination. The matter will be reported to the Council, including details of any community feedback, prior to its finalisation.

Options

1. Proceed with the planning proposal

The Council has the option to proceed with the planning proposal, as drafted, to undertake the amendments to the BLEP 2012 as detailed in this report.

Under this approach, the Council would authorise the submission of the planning proposal contained in Attachment One (and associated LEP amendment maps) to the Department of Planning and Environment for Gateway determination. Subject to a favourable Gateway determination, the proposal would be publicly exhibited and reported to the Council prior to finalisation. It should be noted that the Council may resolve to decline to proceed with any of the proposed changes at any time during the amendment process.

This option is the recommended approach as it facilitates an update to the LEP in line with the matters raised in the table above.

9.2 Planning Proposal BSCPP 16/001 - General Mapping Amendments

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 the delegation system, Council is able to perform some of the plan making functions that are otherwise completed by the Department. In the subject case and particularly given the housekeeping nature of the amendments, it is recommended that Council seeks application of this delegation.

2. Defer or amend the planning proposal

The Council may seek to defer consideration of the matter, seek additional information or adjust the planning proposal.

Such approaches are not recommended based on the following:

- As detailed in this report, a number of adjustments to improve the function and content of the Ballina LEP 2012 have been identified in the review process.
- The recommended amendments are intended to ensure the Ballina LEP 2012 contains provisions that are consistent with, and achieve, the Council's intended land use planning outcomes.

3. Cease further action

The Council has the option to cease further action in relation to this proposal. For the same reasons outlined in relation to option two, this approach is not recommended.

RECOMMENDATIONS

1. That Council endorses the proposed adjustments to the Ballina Local Environmental Plan 2012 arising from the ongoing review of the plan as outlined in the planning proposal contained in Attachment One.
2. That Council submit the planning proposal relating to the amendment of various provisions of the Ballina Local Environmental Plan 2012 (Attachment One) to the NSW Department of Planning & Environment for review and Gateway determination.
3. That the Department of Planning and Environment be advised that Council wishes to exercise its delegated plan making functions for this LEP amendment.
4. That upon an affirmative Gateway determination being received from the Department of Planning & Environment, Council staff will carry out the procedural steps associated with the progress of the planning proposal, including public exhibition.
5. That the matter be reported for further consideration by the Council following the mandatory public exhibition period.

Attachment(s)

1. Planning Proposal BSCPP 16/001 - General Mapping Amendments (3)

Appendix B – Gateway determination



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

Our ref: PP_2016_BALLI_001_00 (16/02805)
Your ref: 16/0188

Attention: Simon Scott

Dear Mr Hickey

Planning proposal to amend Ballina Local Environmental Plan 2012

I am writing in response to your Council's correspondence dated 2 February 2016 and additional information provided on 11 February 2016, requesting a Gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the planning proposal to undertake twelve (12) mapping amendments including changes to the land zoning, minimum lot size and strategic urban growth area maps and to rectify various cadastre anomalies.

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, as delegate of the Secretary, the planning proposal's inconsistencies with S117 Directions 1.2 Rural Zones, 1.5 Rural Lands, 4.1 Acid Sulphate Soils and 4.3 Flood Prone Land are of minor significance. No further approval is required in relation to these Directions.

Council will still need to obtain the agreement of the Department's Secretary to comply with the requirements of S117 Directions 4.4 Planning for Bushfire Protection and 6.2 Reserving Land for Public Purposes following consultation with the Commissioner of the NSW Rural Fire Service and Department of Primary Industries – Crown Lands. Council should ensure this occurs prior to the plan being made.

It is noted that Council has requested to be issued with a written authorisation to exercise plan making delegations for this planning proposal. I have considered the nature of Council's planning proposal and have decided to not issue an authorisation to Council for this proposal until the appeal against Development Application DA2015/377 relating to the land at Blue Seas Parade, Lennox Head has been finalised.

Northern Region 49 Victoria St Grafton NSW 2460 | Locked Bag 9022 Grafton NSW 2460
T: 02 8641 6600 | F: 02 8641 6601 | E: northcoast@planning.nsw.gov.au | www.planning.nsw.gov.au

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 for the Department of Planning and Environment to draft and finalise the LEP should be made 6 weeks prior to the projected publication date.

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 Minister may take action under section 54(2)(d) of the 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 Ms Katrina Burbidge to assist you. Ms Burbidge can be contacted on (02) 6641 6606.

Yours sincerely

 25 February 2016
Craig Diss
Acting Director Regions, Northern
Planning Services

Encl:
Gateway Determination



Gateway Determination

Planning proposal (Department Ref: PP_2016_BALLI_001_00): to undertake twelve (12) mapping amendments including changes to the land zoning, minimum lot size and strategic urban growth area maps and to rectify various cadastre anomalies.

I, the Acting Director Regions, Northern, at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the *Ballina Local Environmental Plan (LEP) 2012* to undertake twelve (12) mapping amendments including changes to the land zoning, minimum lot size and strategic urban growth area maps and to rectify various cadastre anomalies should proceed subject to the following conditions:

1. Prior to community consultation the planning proposal is to be amended to include draft Land Application Maps and Minimum Lot Size Maps that identify all proposed changes to the subject properties.
2. Community consultation is required under sections 56(2)(c) and 57 of the 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 Infrastructure 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 Infrastructure 2013)*
3. Consultation is required with the following public authorities under section 56(2)(d) of the Act and/or to comply with the requirements of relevant s117 Directions:
 - (a) NSW Rural Fire Service; and
 - (b) Department of Primary Industries – Crown Lands.

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

Ballina Shire PP_2016_BALLI_001_00 (16/02805)

9.2 Planning Proposal - General Mapping Amendments.DOC

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 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 25 day of February 2016



Craig Diss
Acting Director Regions, Northern
Planning Services
Department of Planning and Environment
Delegate of the Minister for Planning

Ballina Shire PP_2016_BALLI_001_00 (16/02805)

Appendix C – Section 117 Direction checklist

Section 117 Direction Checklist Planning Proposal – General Mapping Amendments (3)	
Direction No.	Compliance of Planning Proposal
1. Employment and Resources	
1.1 Business and Industrial Zones	Consistent. None of the amendments included in this proposal will impact on business or industrial zones in the shire.
1.2 Rural Zones	Justifiably inconsistent. This proposal includes minor adjustments to the boundaries of rural zones. The proposed amendments comprise adjustments to ensure zone boundaries reflect cadastral and actual land use areas and refines these boundaries for clarity. The proposed adjustments will not affect the agricultural production value of rural land. The NSW Department of Planning and Environment concurs that the inconsistency of the subject planning proposal with planning direction 1.2 is of minor significance.
1.3 Mining, Petroleum Production and Extractive Industries	Consistent. This proposal does not include any amendments that will result in compromising any future extraction of coal, minerals, petroleum or other resources.
1.4 Oyster Aquaculture	Consistent. None of the amendments included in this proposal will negatively impact on Priority Oyster Aquaculture Areas.
1.5 Rural Land	Justifiably inconsistent. This proposal is considered consistent with the rural planning principles of the Rural Lands SEPP. The proposed amendments comprise adjustments to ensure zone boundaries reflect cadastral and actual land use areas and refines these boundaries for clarity. The proposed adjustments will not affect the agricultural production value of rural land nor will they affect the orderly and economic development of rural land. The NSW Department of Planning and Environment concurs that the implications of the subject planning proposal with respect to planning direction 1.5 is of minor significance.
2. Environment and Heritage	
2.1 Environmental Protection Zones	Consistent. The proposal is not expected to result in adverse impacts on environmentally sensitive areas.
2.2 Coastal Protection	Consistent. The proposal is generally consistent with the principles of the NSW Coastal Policy.
2.3 Heritage Conservation	Consistent. The proposal does not contain any amendments to Schedule 5 of the BLEP 2012 and associated Heritage Map.
2.4 Recreation Vehicle Areas	Consistent. The proposal will not result in any adverse impacts from recreation vehicles on sensitive land or land with significant conservation values.
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	Consistent. The proposed LEP amendment does not propose to apply environmental zones or overlays to the subject land.
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	Consistent. This proposal includes minor adjustments to the boundaries of residential zones. The proposed amendments comprise adjustments to ensure zone boundaries reflect cadastral and actual land use areas and refines these boundaries for clarity. The proposed adjustments will not result in any material loss or gain to any existing zoned residential areas.
3.2 Caravan Parks and Manufactured Home Estates	Consistent. This proposal will not result in any reduction in the existing availability of land for caravan parks or manufactured home estates.

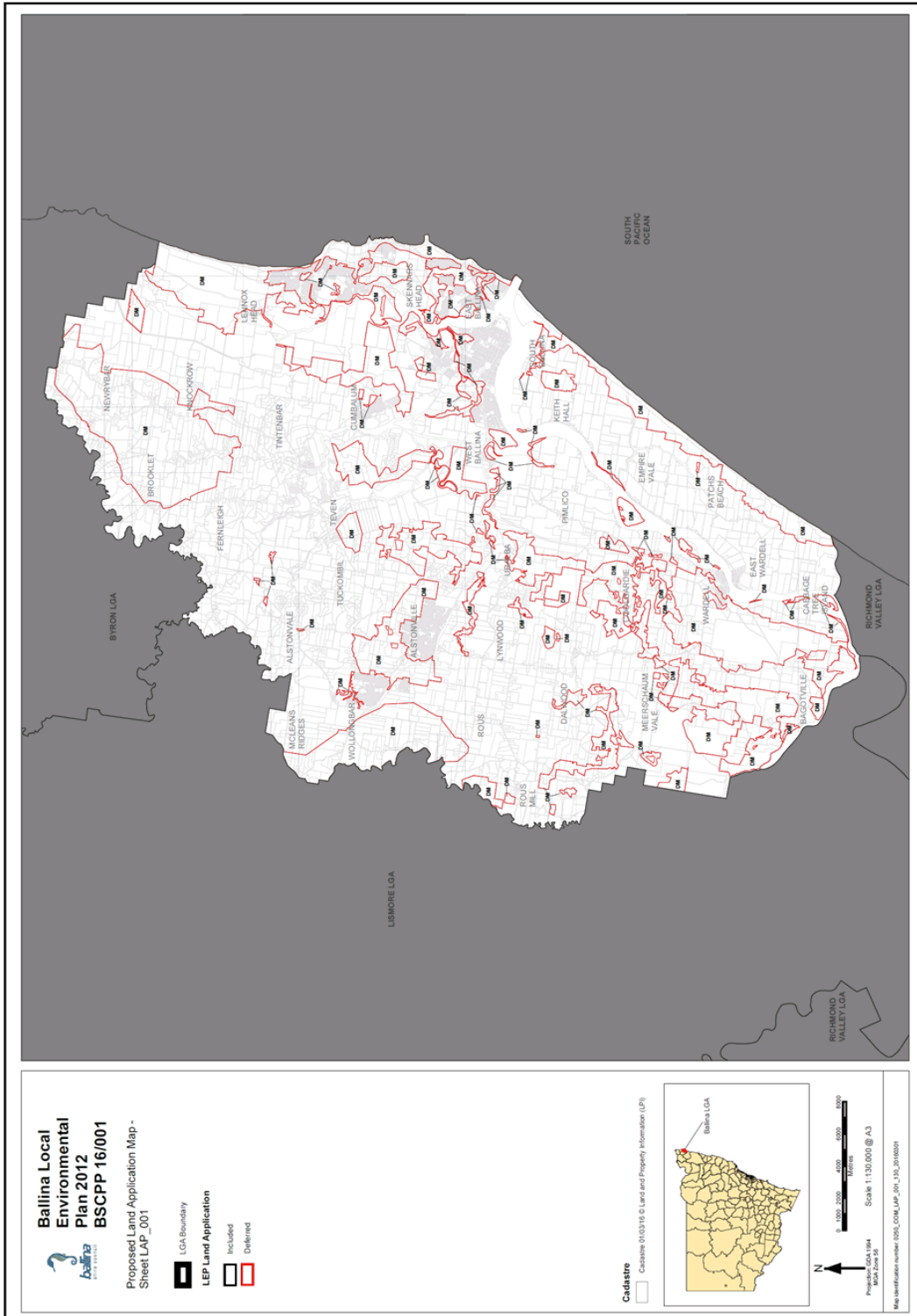
9.2 Planning Proposal - General Mapping Amendments.DOC

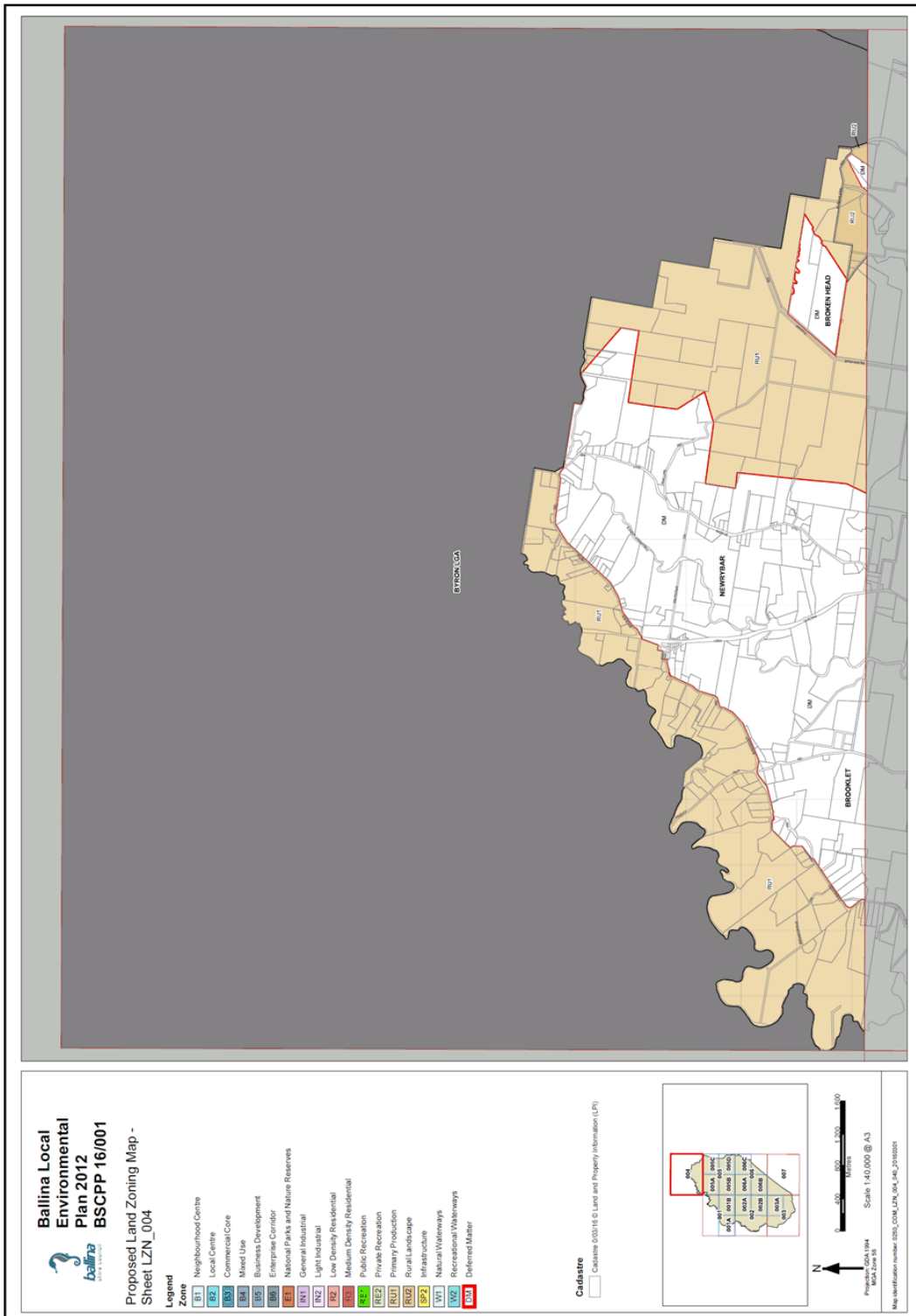
3.3 Home Occupations	Consistent. The proposal will not affect any existing permissibility or exemptions for home occupations.
3.4 Integrated Land Use and Transport	Consistent. This proposal will not result in any negative impacts on accessibility or transport movements.
3.5 Development Near Licensed Aerodromes	Consistent. The proposal does not significantly impact on land in the immediate vicinity of the Ballina Byron Gateway Airport or its associated noise and obstacle navigation areas.
3.6 Shooting Ranges	Does not apply to planning proposal.
4. Hazard and Risk	
4.1 Acid Sulfate Soils	Consistent. With respect to site 3, an acid sulfate soils assessment was undertaken in relation to development consent for DA2012/291, for community title subdivision of the land (the planning proposal updates the LEP to reflect this consent). The proposal does not otherwise increase or alter existing applicable development provisions and controls relating to land having the probability of containing acid sulfate soils. The NSW Department of Planning and Environment concurs that the inconsistency of the subject planning proposal with planning direction 4.1 is of minor significance.
4.2 Mine Subsidence and Unstable Land	Does not apply to planning proposal.
4.3 Flood Prone Land	Justifiably inconsistent. With respect to site 3, an assessment of flooding was undertaken in accordance with the Floodplain Development Manual in relation to development consent for DA2012/291, for community title subdivision of the land (the planning proposal updates the LEP to reflect this consent). The proposal does not otherwise increase or alter existing development provisions and regulatory controls relating to flood prone land or the requirements for consideration of potential flood impacts. The NSW Department of Planning and Environment concurs that the inconsistency of the subject planning proposal with planning direction 4.3 is of minor significance.
4.4 Planning for Bushfire Protection	Consistent The proposal was referred to the NSW Rural Fire Service for consultation in accordance with the Direction (a period of 21 days was provided for a response). The NSW Rural Fire Service did not provide a response within the designated time.
5. Regional Planning	
5.1 Implementation of Regional Strategies	Consistent. The planning proposal is generally consistent with the planning framework set out under 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	Consistent. The proposal does not propose the rezoning of identified significant farmland for residential purposes.
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).	Revoked.
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	Revoked.
5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	Revoked.
5.8 Second Sydney Airport: Badgerys Creek	Does not apply to Ballina Shire
5.9 North West Rail Link Corridor Strategy	Does not apply to Ballina Shire

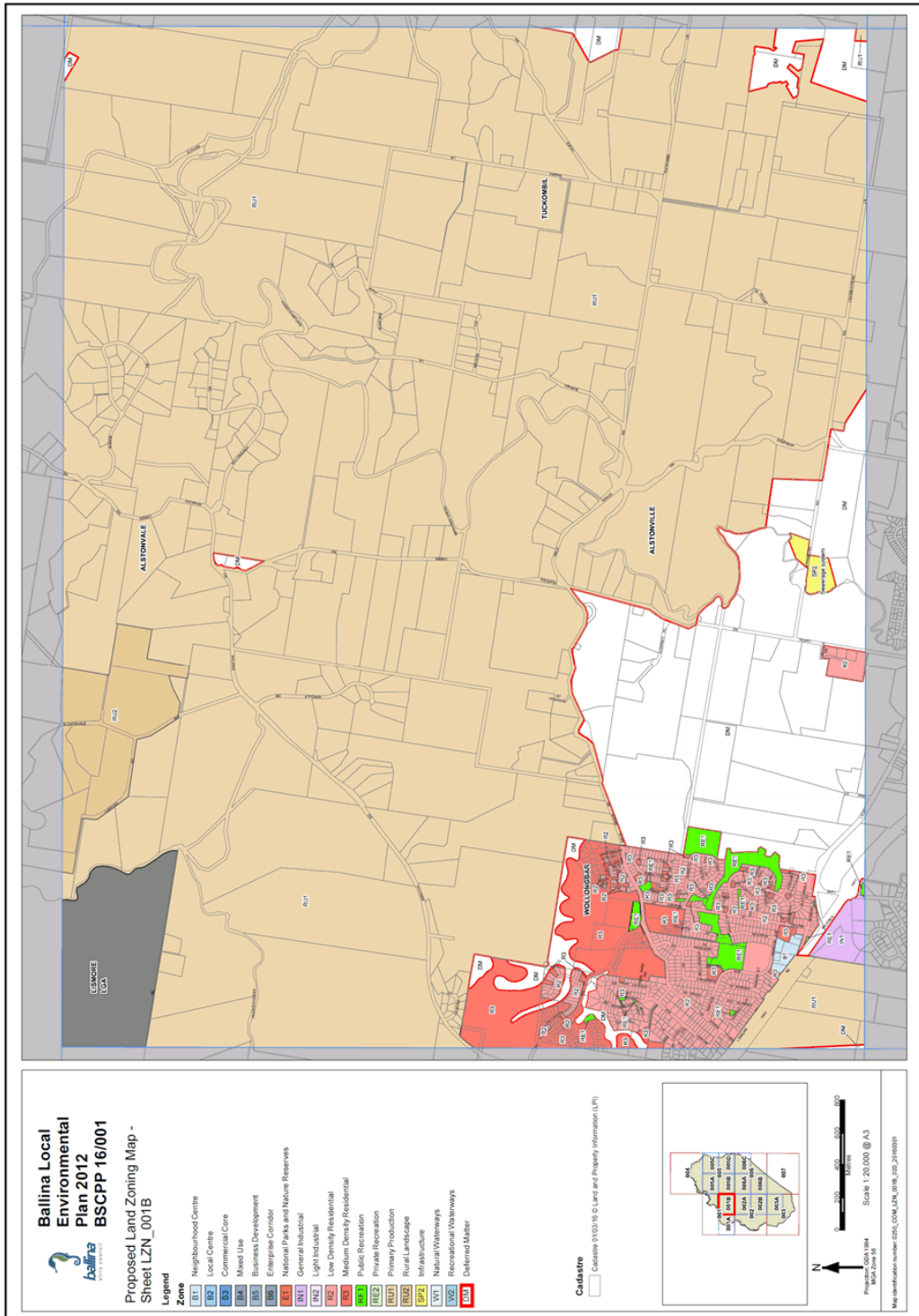
9.2 Planning Proposal - General Mapping Amendments.DOC

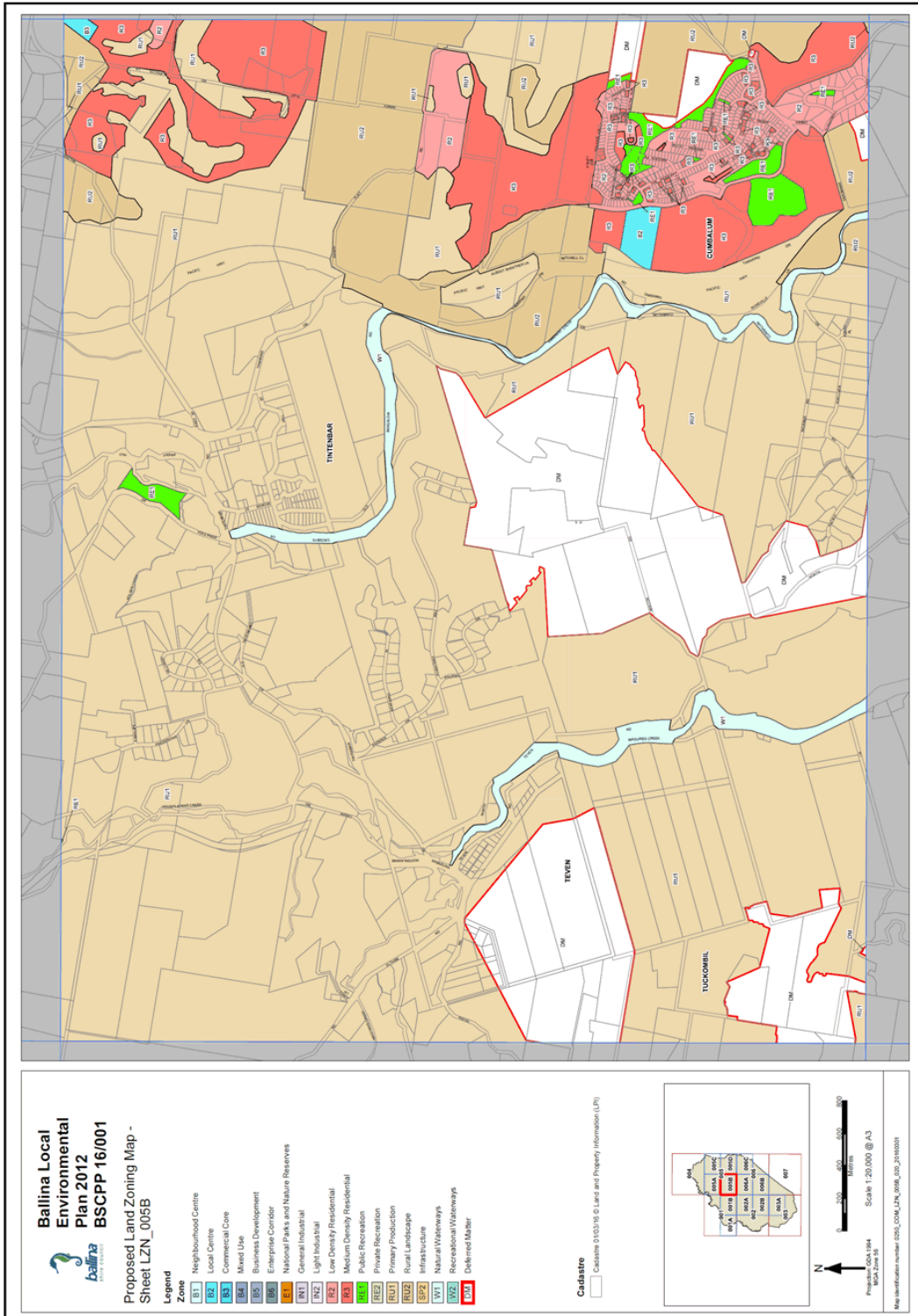
6. Local Plan Making	
6.1 Approval and Referral Requirements	Consistent. The planning proposal does not introduce any new concurrence or consultation provisions or any additional designated development types.
6.2 Reserving Land for Public Purposes	Consistent. The proposal includes amendments to several areas of public reserve through the addition to or alteration of zone boundaries for public recreation areas already in public ownership. The proposed changes do not promote the acquisition of land or changes to the reserve status of the land.
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.

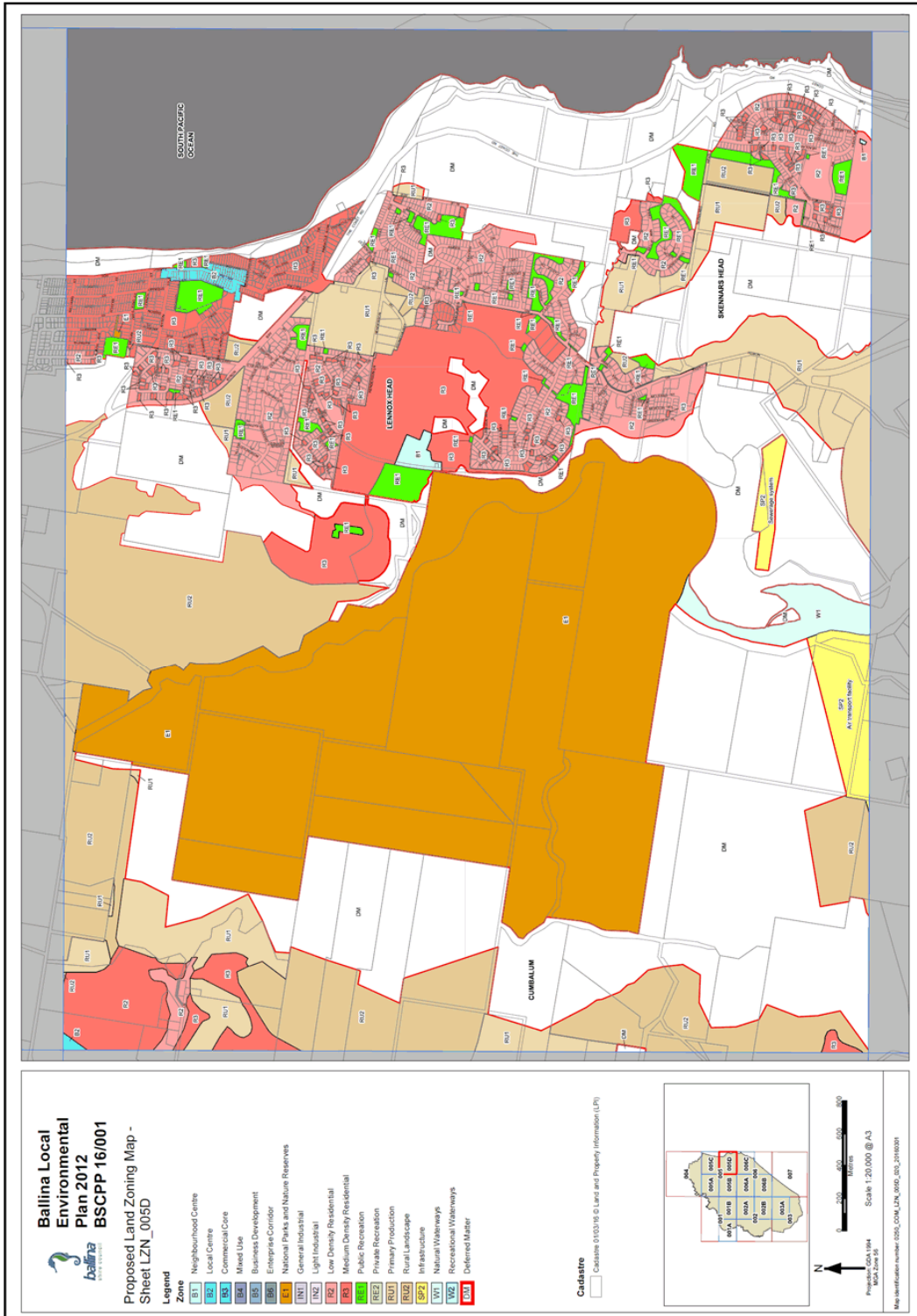
Appendix D – Proposed LEP Maps

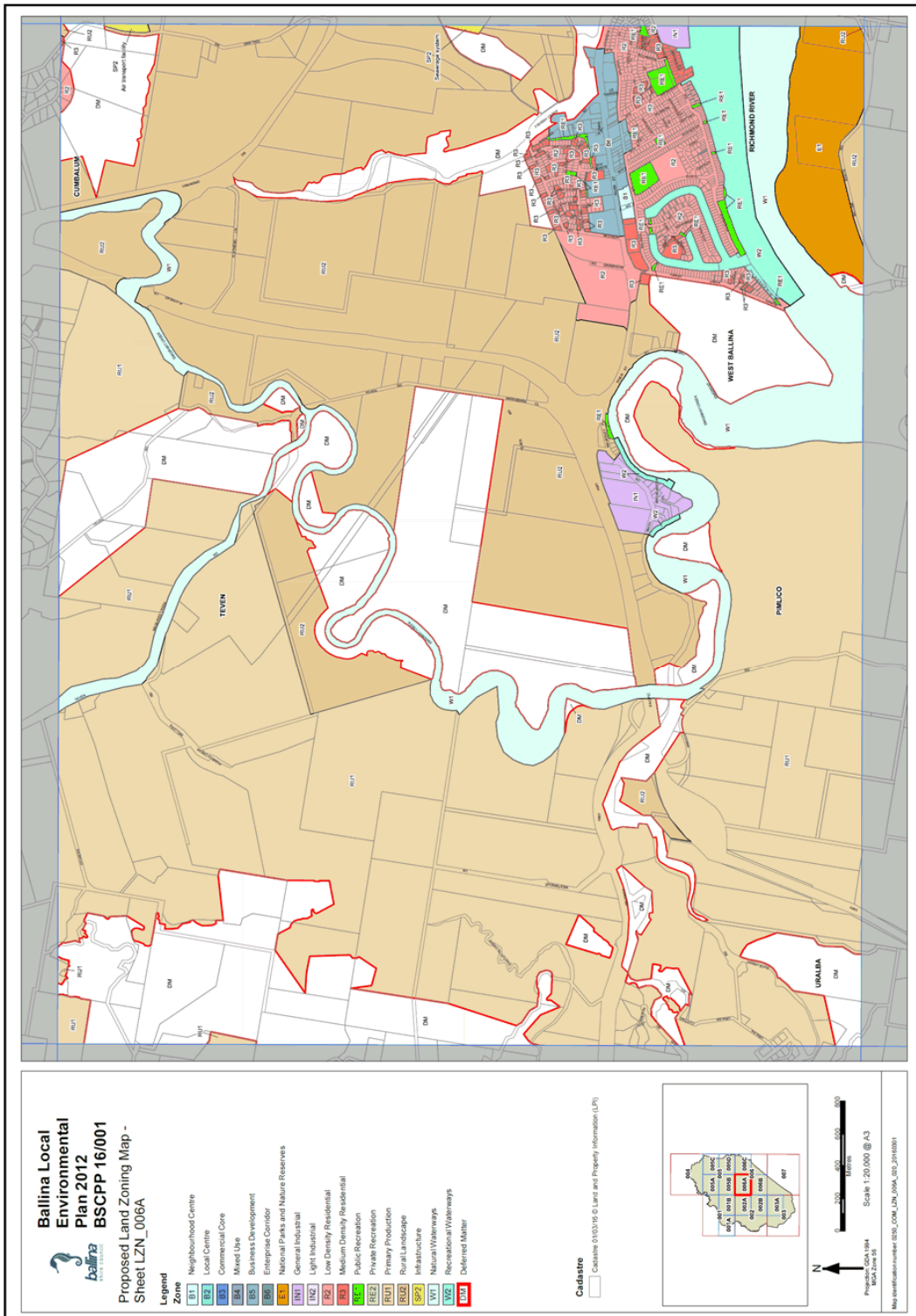


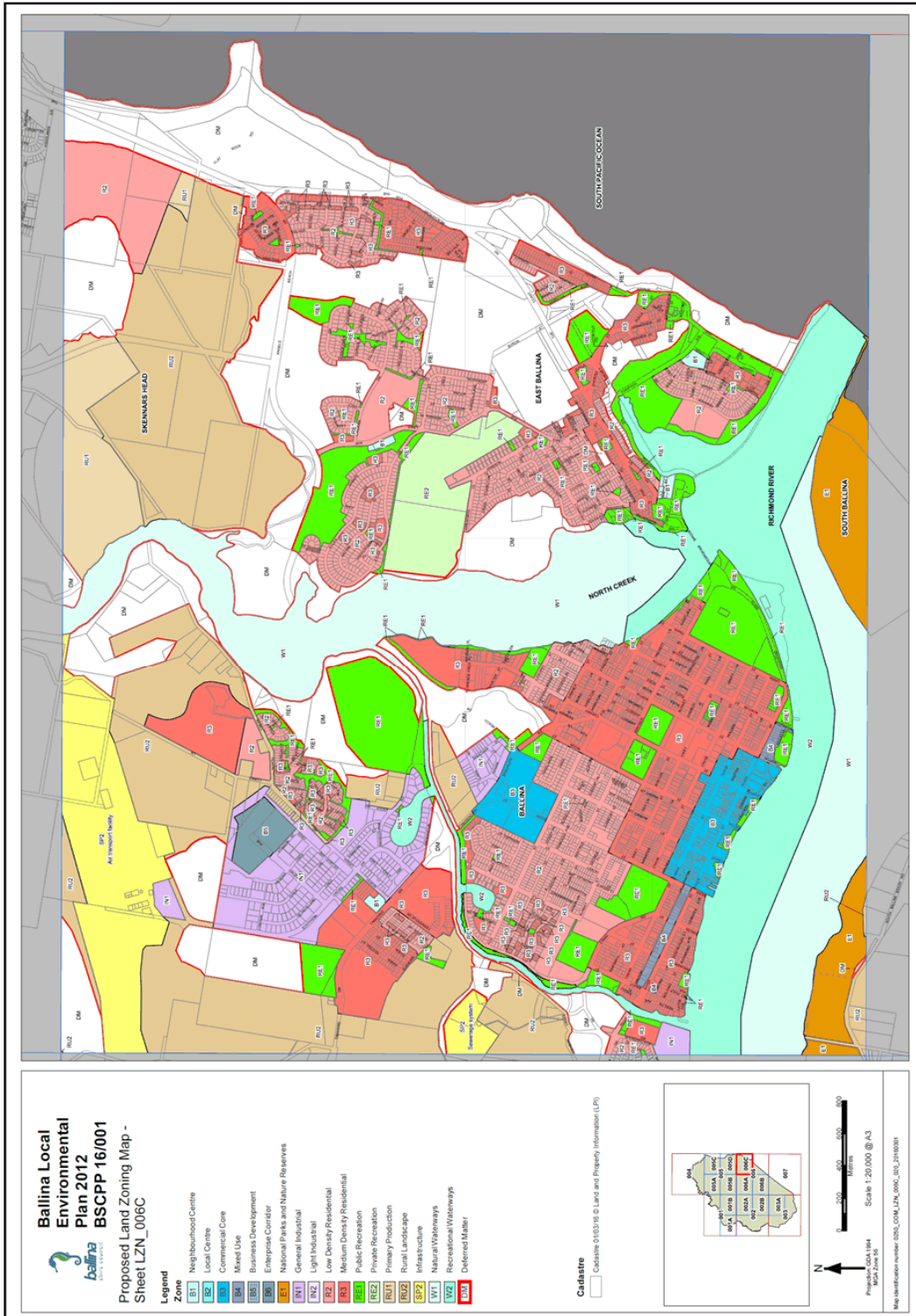


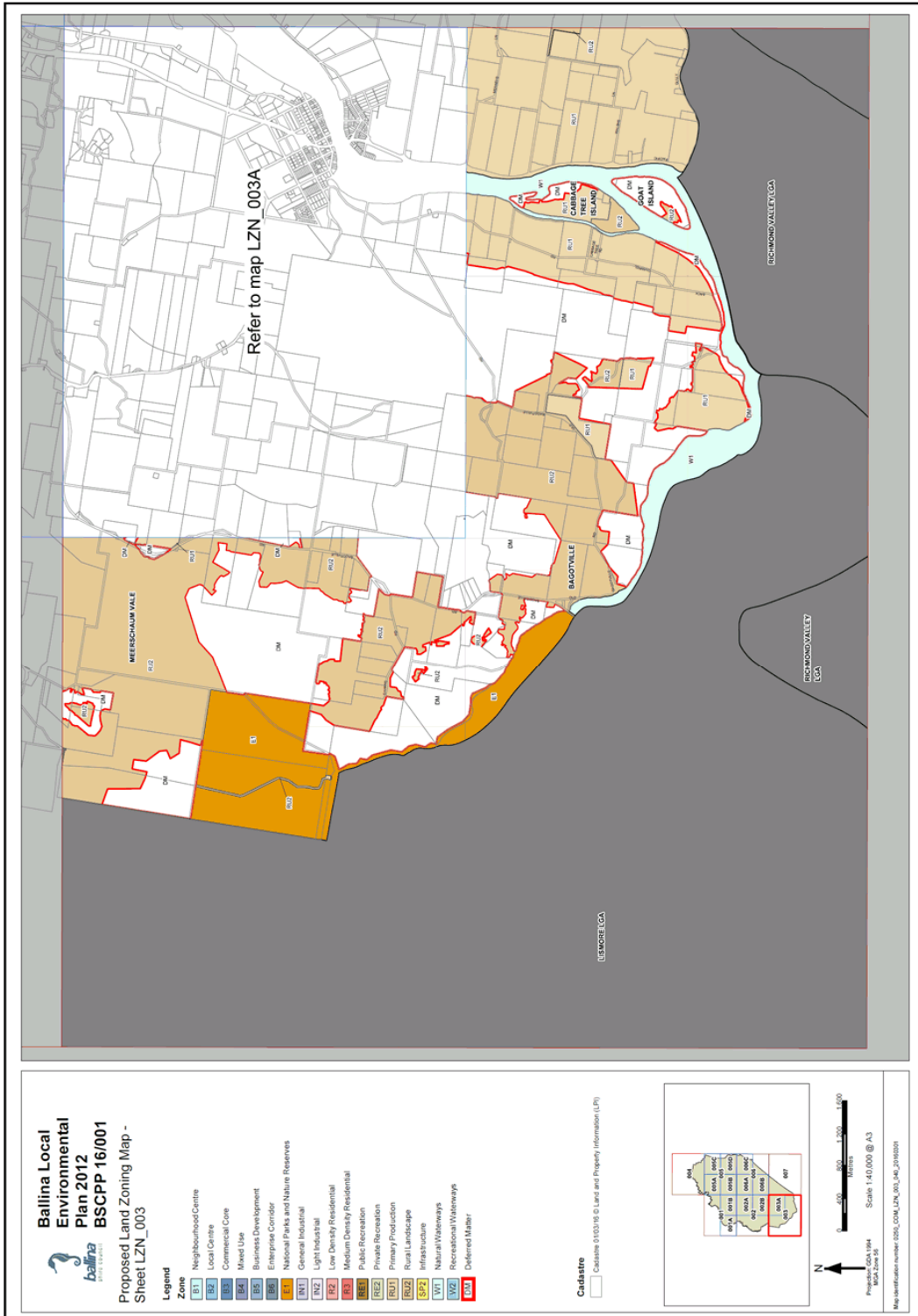


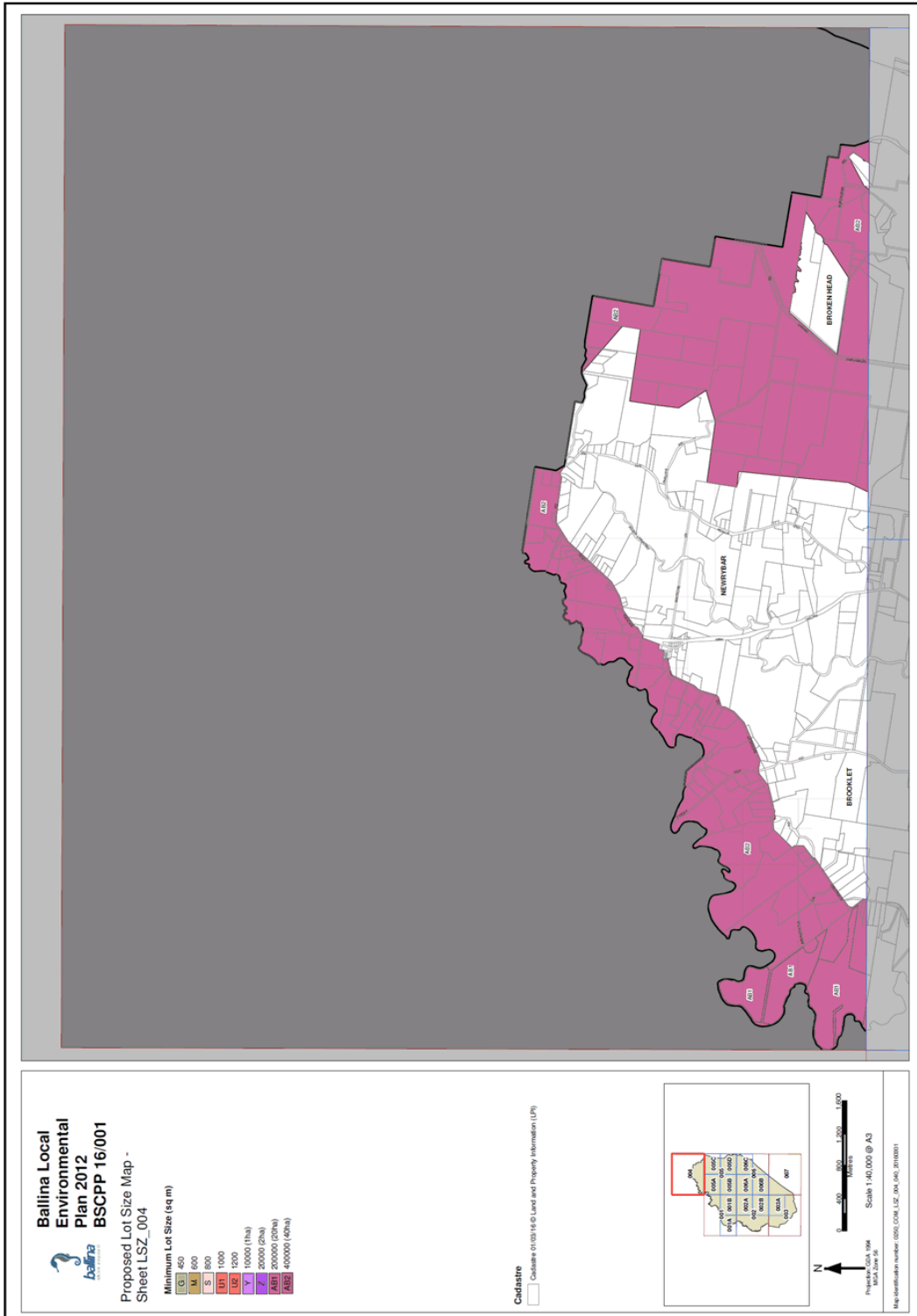


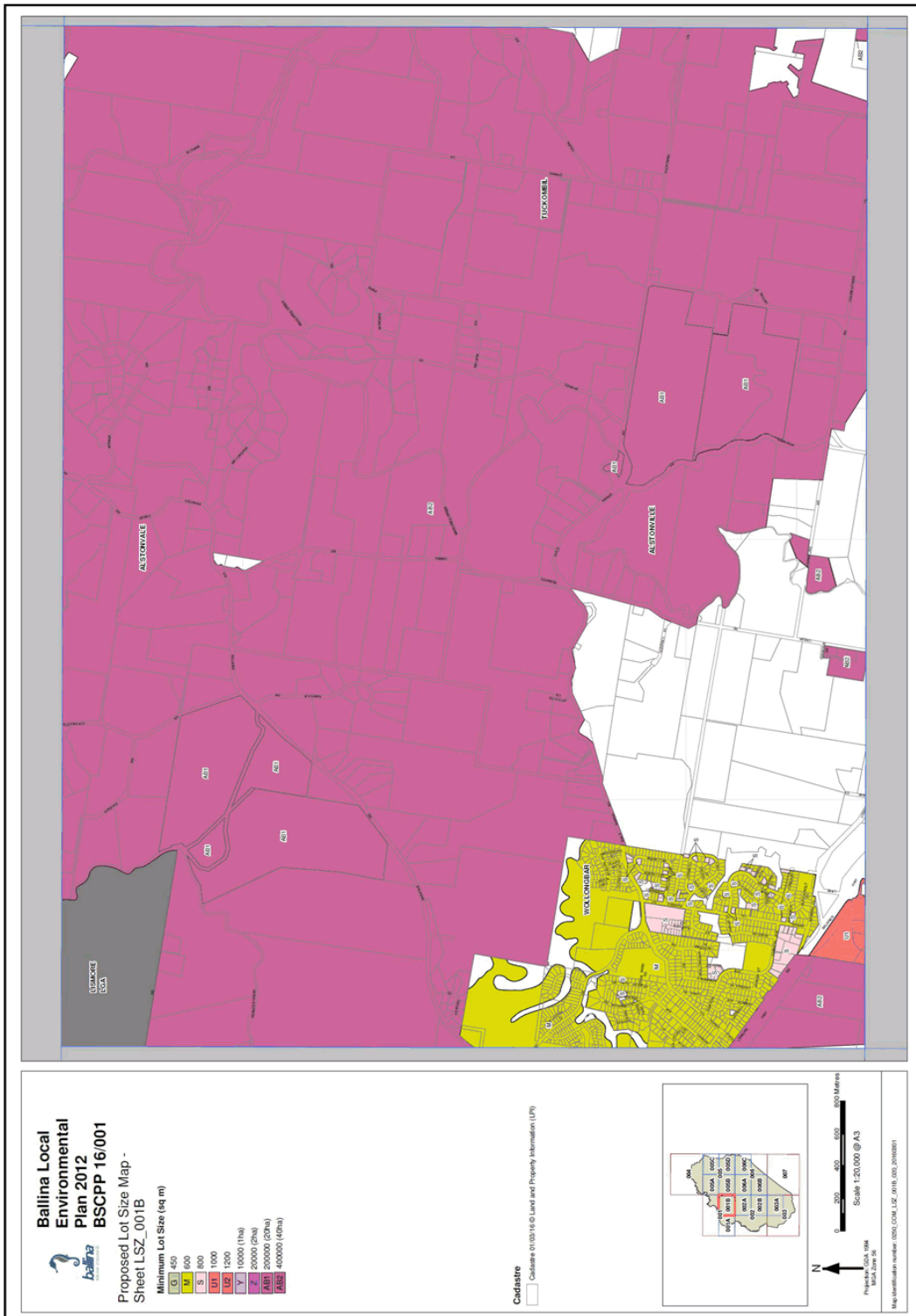


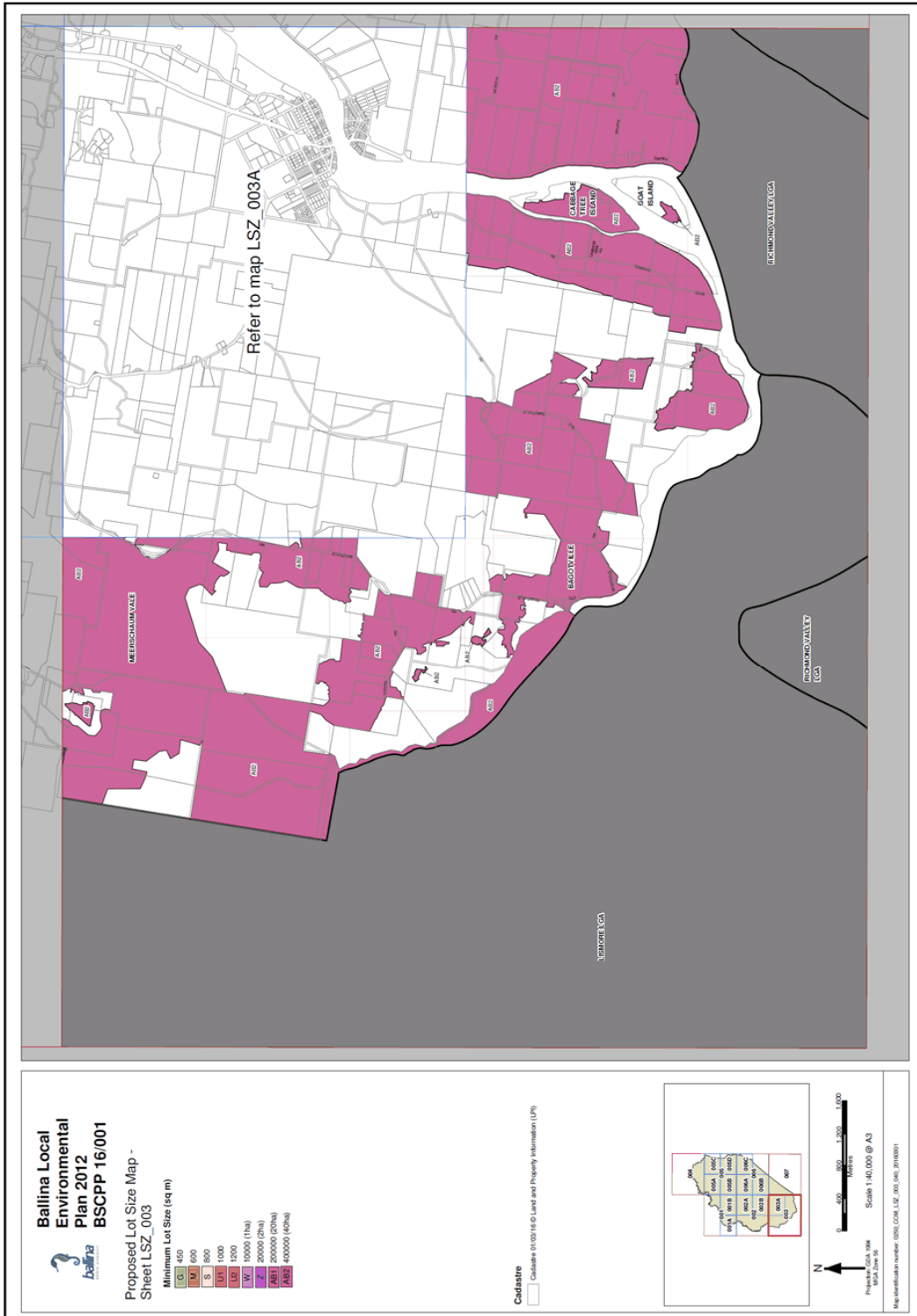


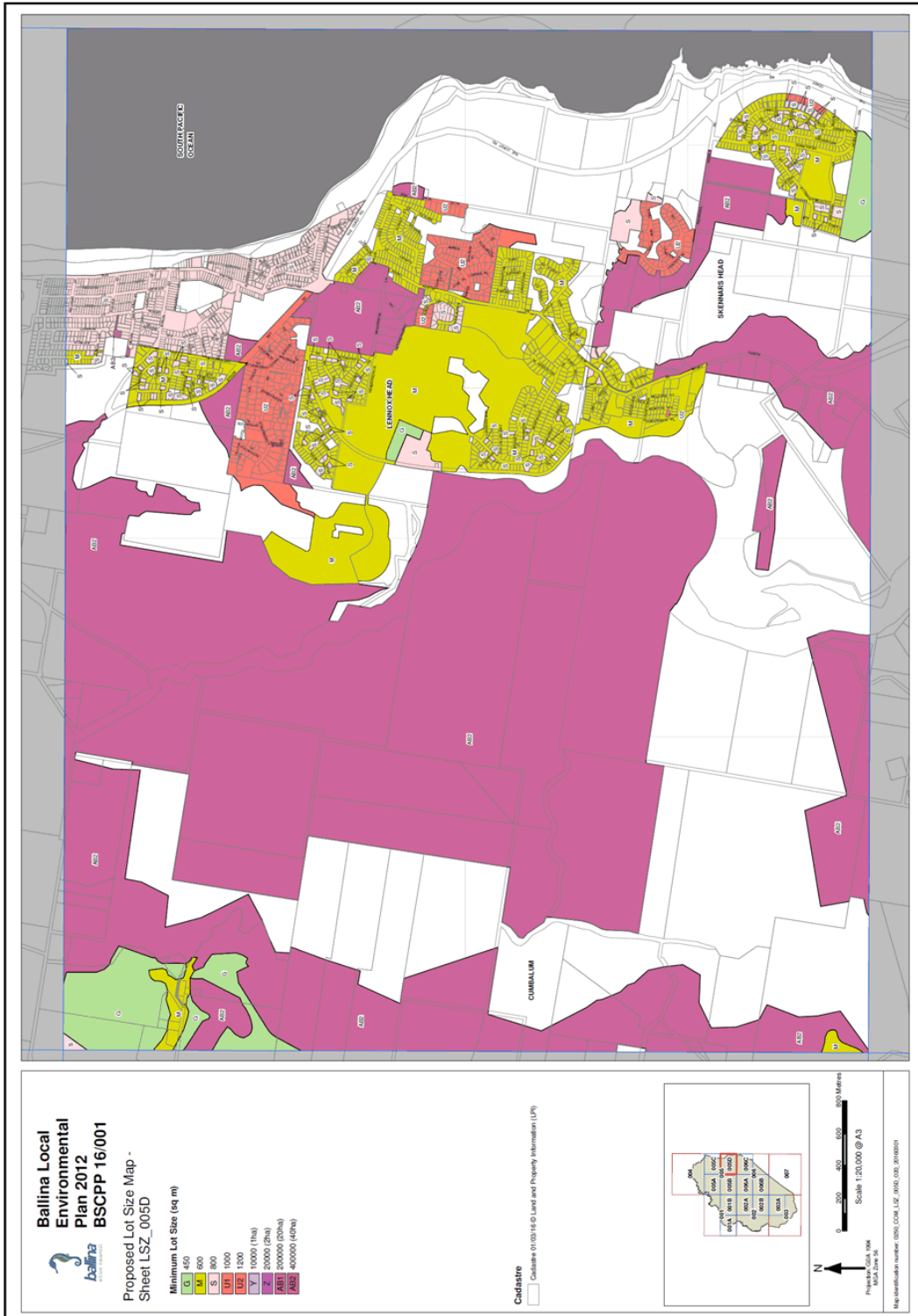




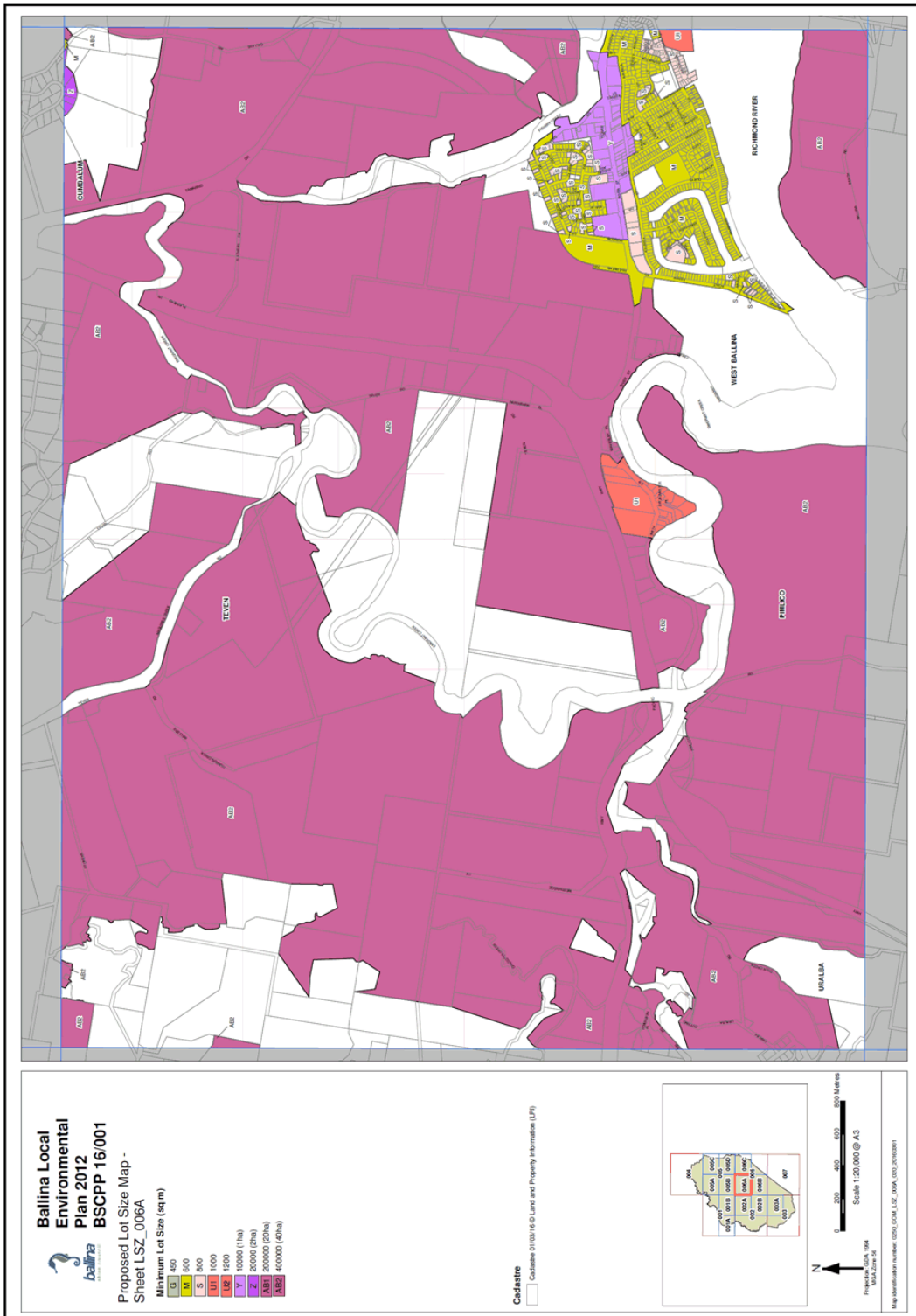








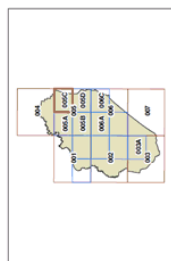




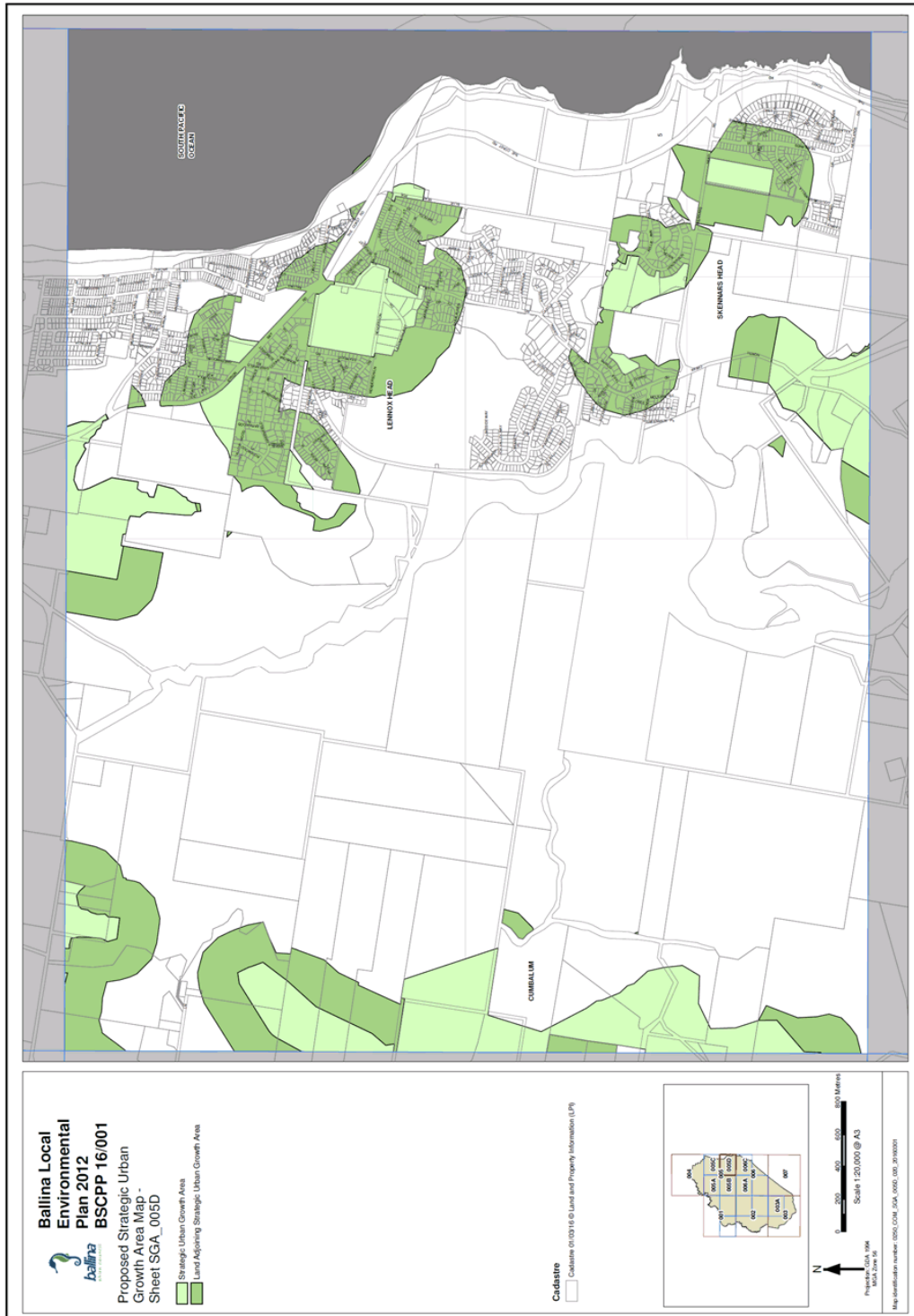


Ballina Local Environmental Plan 2012 BSCPP 16/001
Proposed Strategic Urban Growth Area Map - Sheet SGA_005C
 Strategic Urban Growth Area
 Land Adjoining Strategic Urban Growth Area

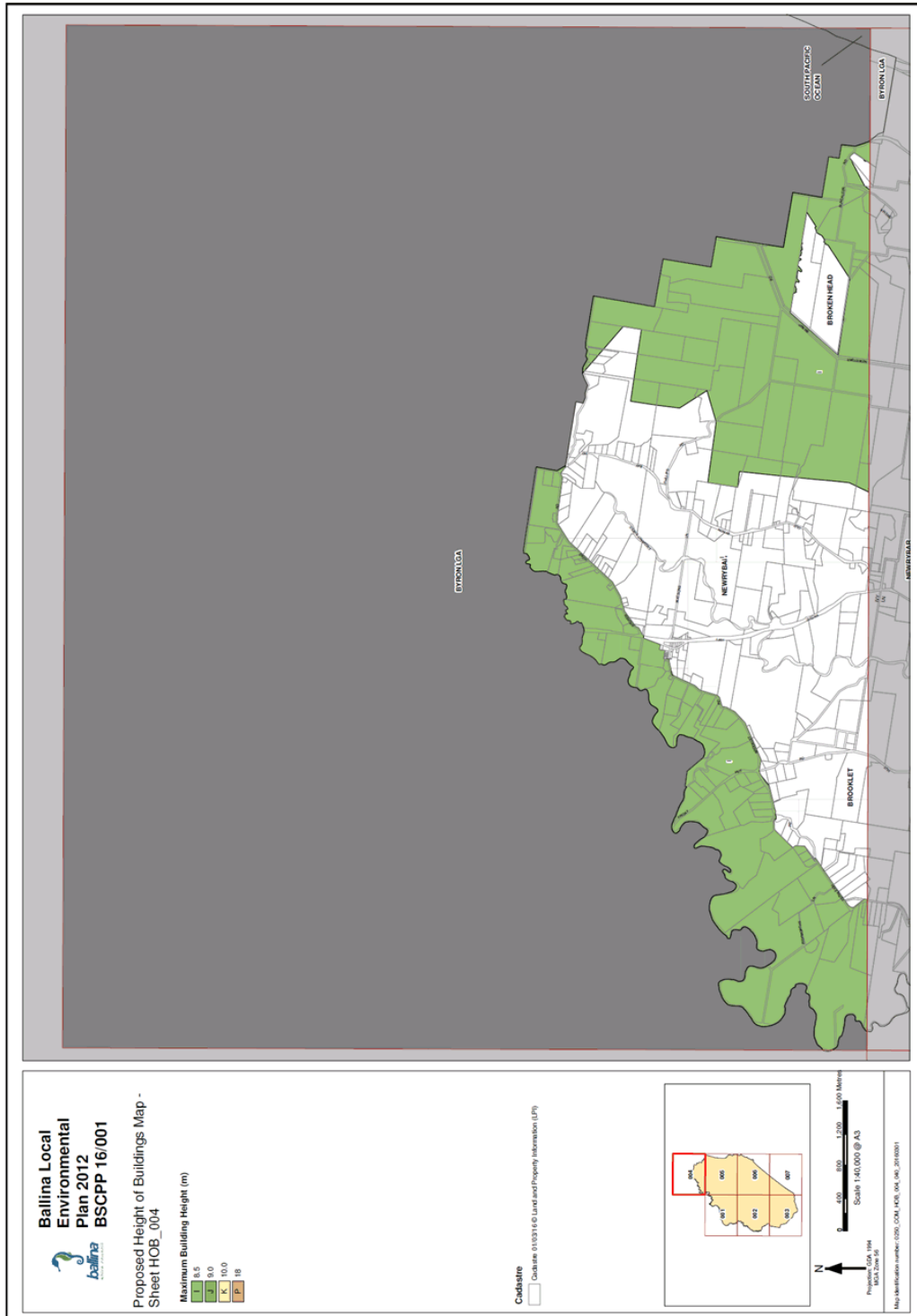
Cadastral
 Cadastral 0100 16 © Land and Property Information (LPI)

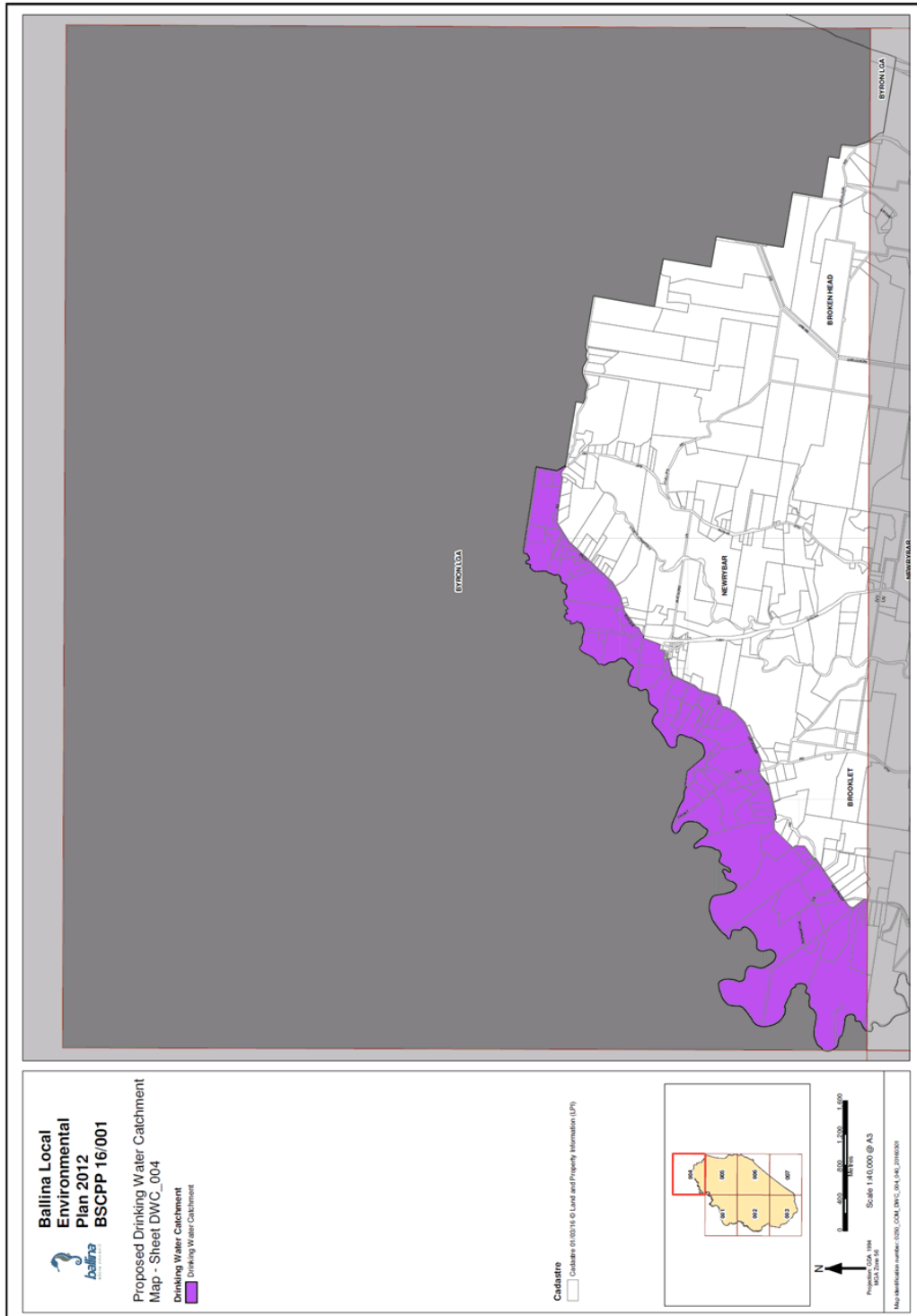


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 Prepared using GIS
 Map identifier number 1801, COM, SGA, 005C, 005C_3190001











NSW RURAL FIRE SERVICE



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

Your reference: BSCPP 16/0001
Our reference: L12/0003
DA16030801015AB

Attention: Mr Simon Scott

6 April 2016

Dear Mr Scott,

Agency Comment: Ballina LEP 2012 Planning Proposal 16/0001- General Amendments (3)

I refer to your letter dated 1 March 2016 seeking comments from the NSW Rural Fire Service (NSW RFS) with respect to the above Planning Proposal.

The NSW RFS has reviewed the submitted documentation and understands the Planning Proposal is to correct various errors within Ballina Local Environmental Plan 2012.

The NSW RFS notes that some of the land to which the Planning Proposal relates is mapped as bush fire prone land.

The NSW RFS has no objection to the Planning Proposal proceeding, noting that any future rezoning or subdivision of the land would be subject to further assessment in accordance with Section 100B of the *Rural Fires Act 1997*.

With respect to potential future residential development of the land, the following comments are provided:

- Future development applications for all development on bush fire prone lands will be required to comply with either s.79BA of the Environmental Planning and Assessment Act 1979 or s.100B of the Rural Fires Act 1997, depending upon the nature of the proposed development, and the relevant provisions of *Planning for Bush Fire Protection 2006*.
- Future Planning Proposals of lands mapped 'Strategic Urban Growth Area' will be required to address the requirements of Section 117 Direction 4.4 Planning for Bush Fire Protection.

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



111abn: 56 291 496 553
 3/69 Centennial Circuit, Byron Bay, NSW, 2481
 PO Box 538, Lennox Head, NSW, 2478
 Telephone: 1300 66 00 87

17 March 2016
 Our reference: 1210-548

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

Dear Sir

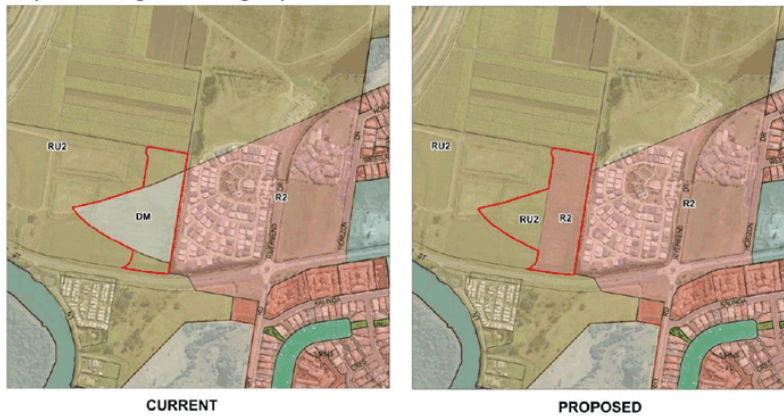
RE: Submission to Ballina Shire Council Planning Proposal 16/001 General Mapping Amendments with respect to Land at River Street, West Ballina

Council at its meeting of the 28th January 2016 resolved to endorse proposed amendments to the Ballina Local Environmental Plan 2012 as set out in the Officers' Report submitted to that meeting. The proposed amendment was described in that report as follows:

3	River Street, West Ballina	Apply R2 zone to reflect recent approval of 39 lot Community Title subdivision (DA2012/291) and apply RU2 zone to remainder of deferred area (DM). Apply 40 hectare minimum lot size standard to RU2 zoned land. Adjust land application map accordingly.
---	----------------------------	---

The Planning Proposal as exhibited partly reflects this resolution by zoning the eastern part of the land R2 (i.e. the same as the land to the east) and the western triangular part RU2 (i.e. the same rural zoning as is applicable to the residual land westward). The below maps show the exhibited zoning proposal.

Proposed Changes to Zoning Map:

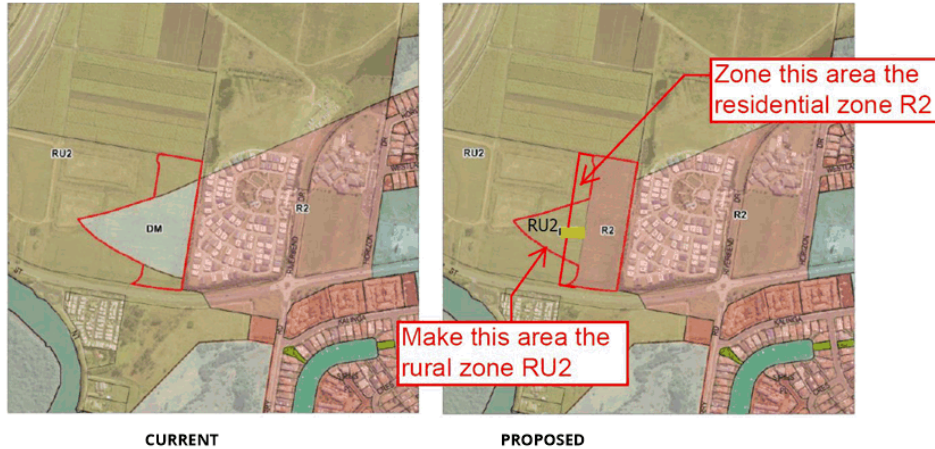


Our client supports the area proposed to be zoned "R2", but objects to the proposal to delete a significant quantum of land, in the order of about 1.4ha, currently zoned for residential development purposes. Our client appreciates that Council may view the triangular shape of the residual residential component as an historic anathema. Accordingly it is suggested, in preference to the deletion of this area, that the mapping

1210-548 letter to Council

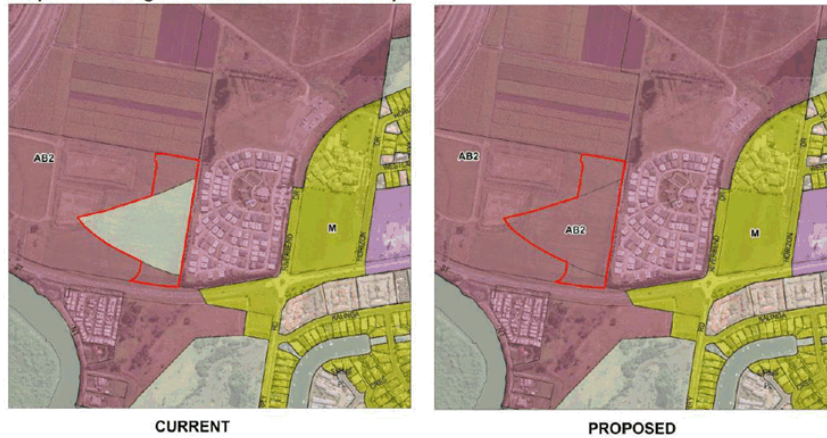
simply provide for this quantum of zoned area to be “regularised” by extending the R2 zoning presently proposed for the land. Set out below are mapping changes sought by our client.

Proposed Changes to Zoning Map:



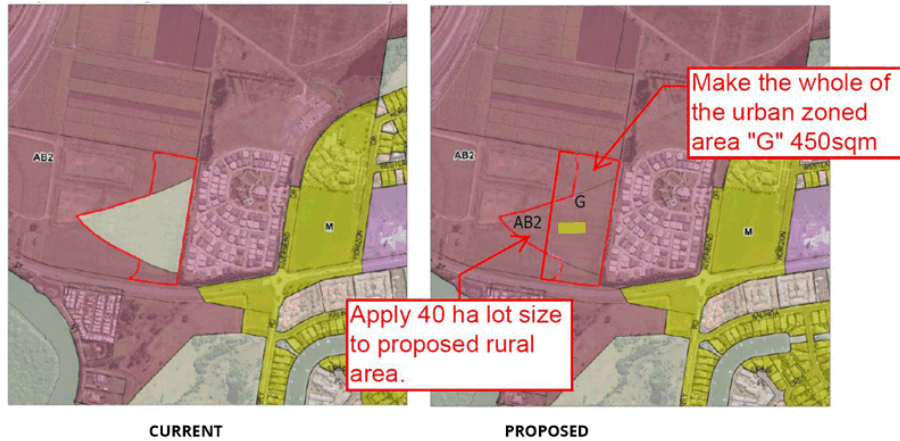
With respect to the minimum lot size provisions, we respectfully submit that the exhibition Planning Proposal is not in accordance with Council's resolution on this matter. The exhibited Planning Proposal provides for a 40 hectare Minimum Lot zoning overlay for the whole site, whereas the Council resolution proposed that the 40 hectare minimum lot apply only to land zoned RU2. Set out below is the exhibited proposed Minimum Lot Size mapping.

Proposed Changes to Minimum Lot Size Map:

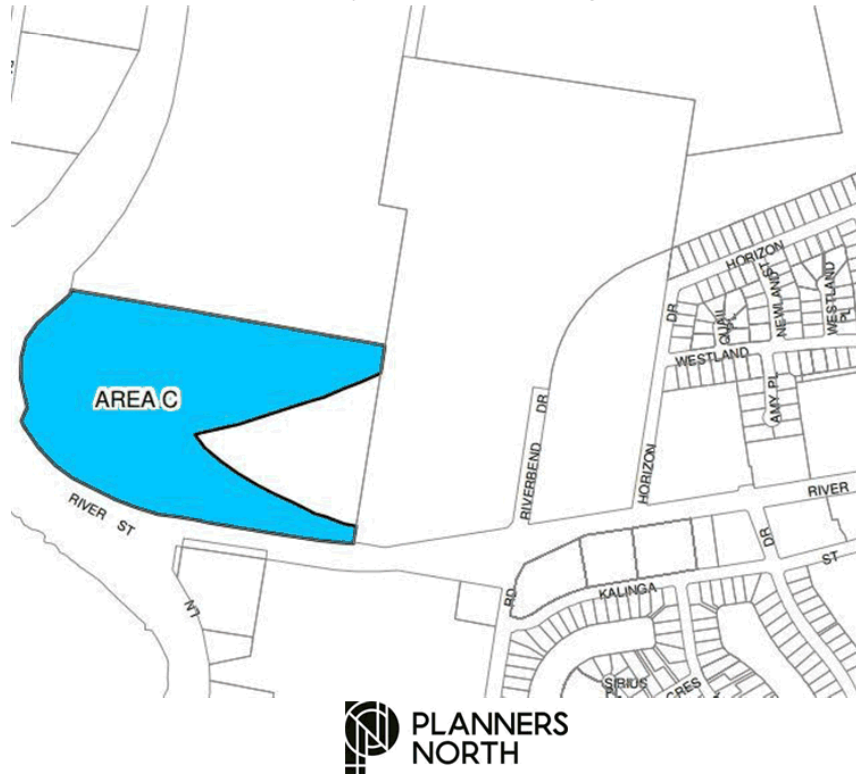


Having regard to the development consent 2012/291 issued by Council, a "G" minimum lot size is considered appropriate for the R2 land. Set out below is our clients' request concerning minimum lot size mapping.

Proposed Changes to Minimum Lot Size Mapping



In concert with the changes to the zoning and lot size matters discussed above, we also ask that Council amend the Additional Permitted Uses Map - Sheet APU_006A. Presently, the "Area C" covers land that is



proposed by Council to be zoned for residential purposes. It would seem inappropriate to amend the zoning to a residential zone, yet still facilitate a Highway Service Centre on a residential sized lot. Our client requests that this map be amended to reflect the final deliberations of Council with respect the extent of land zoned RU2.

Thank you for the opportunity to make a submission in relation to Council's Planning Proposal for this locality. Should Council require any additional information in which to clarify any matter raised by this submission, please feel free to contact the writer at any time.

Yours faithfully,

PLANNERS NORTH



Stephen Connelly FPIA CPP
PARTNERSHIP PRINCIPAL
(m) 0419 237 982
(e) steve@plannersnorth.com.au



9.2 Planning Proposal - General Mapping Amendments.DOC



File No: NTH 10/00066
Your Ref: BSCPP 16/001 – General Mapping Amendments (3) (16/14727).DA 2010/962.

General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478

Attention: Simon Scott

Dear Sir

Planning Proposal BSCPP 16/001 – General Mapping Amendments (3)

I refer to your letter of 2 March 2016 regarding the abovementioned planning proposal referred to Roads and Maritime Services for consideration.

The key interests for Roads and Maritime Services are the safety and efficiency of the road network, traffic management, the integrity of infrastructure assets and the integration of land use and transport.

Roads and Maritime has no objection to the planning proposal to amend the LEP mapping however it should be noted that there is currently an unresolved previous request from Roads and Maritime in relation to SP2 zoning for the state road network in Ballina Shire.

In 2011 the then Roads and Traffic Authority (RTA) requested the Alstonville Bypass, Ballina Bypass, Woodburn to Ballina and Tintenbar to Ewingsdale upgrades of the Pacific Highway, along with remnant sections of the existing Bruxner Highway, be zoned SP2 as part of the LEP renewal process however these sections of the state road network remain zoned the same as adjoining land. With the Woolgoolga to Ballina highway upgrade progressing, SP2 zoning for the state road network in Ballina Shire will need to be finalised as soon as possible.

Roads and Maritime would be happy to discuss this matter further with council if this would assist the process. Please do not hesitate to contact Liz Smith, Manager Land Use Assessment on (02) 6640 1362 or via email at: development.northern@rms.nsw.gov.au.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Liz S', followed by a comma.

24 March 2016

for Monica Sirol
Network and Safety Manager, Northern Region

Roads and Maritime Services

76 Victoria Street, Grafton NSW 2460 |
PO Box 576, Grafton NSW 2460 |

www.rms.nsw.gov.au | 13 22 13

Matthew Wood

From: Hugh McCaffery <hugh@clearskincare.com.au>
Sent: Thursday, 14 April 2016 8:37 PM
To: Matthew Wood
Subject: TRIM: RE: 61 BlueSeas Parade Lennox Head Objection to LEP

HP TRIM Record Number: 16/28275

Dear Matthew

The following is an email to you and others at the planning department of Ballina Shire in regards to the letter sent to owners in Blue Seas Parade Lennox Head. The subject of changes to LEPs affecting our land and others and the cancellation of any entitlement for subdivision to same.

I am the owner of number 61/Lot 28 Blue Seas Parade and I did not receive any notification of your plans to change the planning laws as they relate to the subdivision of Lots within the Coastal Grove subdivision. I was notified by my neighbour from Lot 27, which is why I am sending this email after the closing date for objections.

I strongly object to this change as my purchase was based on the previous planning LEP (in place at the time of my purchase), which would allow me to subdivide my land into 2 lots.

The subdivision of my land into 2 lots some time in the future, was intended to be my retirement fund and will affect my capacity to earn income (and also the value of the resale of my block). As my purchase was based on the previous planning LEP, which would allow me to subdivide my land into 2 lots, should Ballina Shire Council change my ability to subdivide my block, by retrospectively changing the planning laws that apply to our subdivision, I would expect Ballina Shire Council to compensate me for the projected loss of income for stopping myself and neighbours from subdividing our blocks.

As any subdivision of our blocks will create blocks greater than 900 sq m in area, these will more than conform to Council's desire for the subdivision to retain a semi-rural flavour. The subdivision will never have a rural character as it is, by definition, a residential subdivision.

Kind Regards,

Hugh McCaffery

Ph: (612) 8973 4192

Mbl: 0403 890 446

email: hugh@clearskincare.com.au

This email has been scanned by the Symantec Email Security.cloud service.
For more information please visit <http://www.symanteccloud.com>

Matthew Wood

From: Ella Green <ella.elizabethgreen@gmail.com>
Sent: Thursday, 14 April 2016 6:18 PM
To: Matthew Wood
Subject: TRIM: 63 BlueSeas Parade Lennox Head Objection to LEP

HP TRIM Record Number: 16/28271

Dear Matthew

After our conversation today, and at your request, I'm writing an open letter to you and others at the planning department of Ballina Shire in regards to the letter sent to owners in Blue Seas Parade Lennox Head. The subject of changes to LEPs affecting our land and others and the cancellation of any entitlement for subdivision to same.

We as the owners of number 63/Lot 27 Blue Seas Pd, were away on holiday whilst the letter was sent and we didn't get any notification of your plans until we returned, which was after the closing date for objections.

We strongly object to this change as our purchase was based on the previous planning LEP, which would allow us to subdivide our land into 2 lots.

This was to be our retirement funding and will affect our capacity to earn income as we are low income earners and have no super because of our age.

Kind Regards

Richard Hudson and Ella Green
Sent from my iPad

This email has been scanned by the Symantec Email Security.cloud service.
For more information please visit <http://scanmail.trustwave.com/?c=4991&d=mdKP1yRMZ-9JWhPaSYUUXP6pb0ys6pUFfm6GBh8Nfg&u=http%3a%2f%2fwww%2esymanteccloud%2ecom>
