



Planning Proposal – April 2016

Lot 12 DP 813210, 16 Tara Downs, Lennox Head

Planning Proposal – April 2016 (15/38195)
Lot 12 DP 813210 16 Tara Downs, Lennox Head

Exhibition

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INTRODUCTION

Summary of Planning Proposal

This planning proposal relates to land identified as Lot 12 DP 813210 (Lot 12), 16 Tara Downs Lennox Head, as shown on the locality map in Appendix 1.

Lot 12 is owned by Mr D D and Mrs K J Foley and M J & S E King Pty Ltd and has an area of 1.441 hectares and two frontages to Tara Downs. There are no building improvements located on Lot 12 which is vacant land.

The rear section of Lot 12 (behind lots which have a frontage to Tara Downs), is currently zoned RU2 Rural Landscape zone under the provisions of the Ballina Local Environmental Plan 2012 (BLEP 2012) whereas the front sections of Lot 12 are zoned R2 Low Density Residential as shown on the Land Zoning Map in Appendix 1.

It is proposed that a R2 Low Density Residential zone together with minimum lot size requirements be applied to the whole of Lot 12. The minimum lot size proposed to be applied to the rear section of Lot 12 is 1200m² whereas a 600m² minimum lot size is proposed to be applied to the front sections of Lot 12. Lot 12 is not currently subject to minimum lot size controls.

BLEP 2012 designates Lot 12 as a Strategic Urban Growth Area (SUGA). Therefore this planning proposal also proposes to remove the SUGA affectation from Lot 12 as well as the associated buffers.

Planning Context

Council Resolutions – Planning Proposal

Council, at its Ordinary Meeting held on 27 March 2014, considered a request to amend the BLEP 2012 from Mr D Foley. The request sought an amendment to the BLEP 2012 to rezone the subject site from RU1 – Primary Production to R2 – Low Density Residential (The reference to a RU1 zone within the proponent's submission was in incorrect as the rear of Lot 12 is zoned RU2).

In relation to this matter, Council resolved as follows [Minute No. 270314/16]:

1. *That Council prepare a planning proposal for the application of an R2 Low Density Residential zone relating to Lot 12 DP 813210, being No 16 Tara Downs, Lennox Head.*
2. *That the subdivision potential and associated minimum lot size for subdivision of Lot 12 DP 813210 be determined following assessment of additional technical information.*
3. *That a further report be submitted to the Council documenting the planning proposal.*

The report considered by Council at its Ordinary Meeting on 27 March 2014 is provided at Appendix 4.

Following the preparation of the planning proposal the Council again considered this matter at its Ordinary Meeting on 24 April 2014 and resolved as follows [Minute No. 240414/12]:

1. *That the Council authorises the submission of the planning proposal (contained in Attachment One) which provides for the application of an R2 Low Density Residential zone over Lot 12 DP 813210, being No 16 Tara Downs, Lennox Head to NSW Planning and Infrastructure for review and Gateway determination.*
2. *That upon an affirmative Gateway determination being received from NSW Planning & Infrastructure, the proponent be required to submit the technical documentation necessary to enable a comprehensive assessment of the proposal, including a determination of minimum lot size provisions.*
3. *That a further report be presented to the Council in relation to this matter following the mandatory community and government agency consultation.*

The report considered by Council at its Ordinary Meeting on 24 April 2014 is provided at Appendix 5.

Gateway Determination

The Department of Planning and Environment issued a Gateway determination allowing the planning proposal to proceed on 13 May 2014 (Appendix 6). The Gateway determination was subject to a number of conditions which included a requirement to undertake a Flora and Fauna Impact Assessment and a Land Slip Assessment, consult with the NSW Rural Fire Service, place the planning proposal on public exhibition for a minimum period of 14 days and complete the LEP within a period of 9 months.

The Gateway determination was altered on 29 May 2015 to extend the timeframe for completion of the LEP to 13 May 2016 (Appendix 7).

The Gateway determination was again altered on 7 July 2015 to correct an error in the description of the zoning of Lot 12 (Appendix 8). The original Gateway determination referenced the zoning of Lot 12 as RU1 Primary Production zone when the correct zoning description for Lot 12 is part RU2 – Rural Landscape zone and part R2 – Low Density Residential zone under the provisions of BLEP 2012.

Site History

The parent lot of the subject land, Lot 4 DP 253429, (17.85ha) was created in 1977 in conjunction with a three lot subdivision.

In 1985 Lot 4 DP 253429 was further subdivided to create Lot 17 DP 715304 in conjunction with a 30 lot residential subdivision in Tara Downs.

The current Lot 12 was created in 1991 following the excision of a further single residential lot (Lot 13 DP 813210 No. 26 Tara Downs) which has an area of 1007m².

Consistency with Strategic Planning Policy

The application of a residential zone to Lot 12 is generally consistent with both Council and State Government urban planning policy. The following provides an overview of the proposed amendment with respect to key planning policy documents.

Far North Coast Regional Strategy (FNCRS)

The subject land is identified as being located within the existing urban footprint, despite the rural zoning. Accordingly, the application of a residential zone to Lot 12 is consistent with this strategy.

Ballina Shire Growth Management Strategy 2012 (GMS)

Lot 12 is recognised as being within a strategic urban growth area under this strategy. The lot adjoins R2 Low Density Residential zoned land to the west (Tara Downs, North Creek Road and Aspects Drive). Land to the immediate north, east and south is Council owned open space land.

The proposal is considered to be consistent with the GMS.

Lennox Head Structure Plan (LHSP)

The LHSP provides a framework for the development of new urban land release areas within the Lennox Head locality and includes the subject land. The subject land is identified as *possibly suited to future development subject to detailed environmental assessment*. Low density residential development with lot sizes of 1200m² is nominated as the preferred use of the land.

The LHSP nominated the following planning factors as requiring particular attention as part of the rezoning of this area:

- Buffering for environmental and mosquito management reasons;
- Stormwater management to mitigate impacts downstream and on surrounding environments;
- Establishment of dwelling envelopes to minimise impact on views of existing residents of Tara Downs; and
- Vehicular access is to occur via a single integrated access point to Tara Downs Drive.

The proposal is considered consistent with the LHSP. A range of environmental, cultural heritage and engineering investigations have been undertaken post Gateway determination. These assessments have generally confirmed the sites suitability for a low density residential zone. Appendices 11 to 19 contain the site investigation documentation completed in support of this planning proposal.

Ballina Local Environmental Plan (BLEP) 2012

Lot 12 is zoned partly R2 Low Density Residential and partly RU2 Rural Landscape zone under the provisions of the BLEP 2012. Previously under the Ballina LEP 1987, the subject land was zoned 1(b) Rural (Secondary Agricultural Land) zone.

There are no minimum lot size requirements currently applicable to Lot 12. The RU2 Rural Landscape zone generally has a minimum applicable lot size of 40ha applied for subdivision elsewhere in Ballina Shire. Whereas the R2 Low Density Residential zone, which adjoins Lot 12, has a 600m² minimum applicable lot size for residential subdivision within the nearby residential precinct.

9.1 Planning Proposal (BSCPP 14/004) - 16 Tara Downs, Lennox Head.DOC

Lot 12 is identified as a strategic urban growth area in accordance with the Strategic Urban Growth Area (SUGA) Map. On rezoning of the land for an urban purpose the SUGA map will require amendment to remove the land from identification as a strategic urban growth area and to amend buffer areas.

It is proposed to rezone the whole of Lot 12 to a R2 Low Density Residential zone as shown on the Proposed Land Zoning Map (Appendix 1).

Following consideration of the proponent's environmental and engineering assessment reports a proposed minimum lot size of 600m² has been applied to the sections of Lot 12 which have a frontage to Tara Downs (consistent with adjoining residential lots) and a proposed 1200m² minimum lots size has been applied to the rear section of Lot 12 (consistent with the lot size nominated in the LHSP).

Bushfire Prone Land

Lot 12 is partly designated as Category 2, Bushfire Prone Land and / or within the 100 metre buffer area to such land. Pursuant to the requirements of the Environmental Planning and Assessment Act, 1979, (EPA Act), Council is required to consult with the NSW Rural Fire Service (RFS) in conjunction with the LEP amendment process. Consultation was also a requirement of the Gateway determination.

The proponent has submitted a Bushfire Threat Assessment Report (Appendix 14) which was referred to the RFS for comment. The RFS in a letter of advice dated 7 July 2015 (Appendix 10) indicated that it has no objection to the planning proposal proceeding and noted that any future subdivision of the land would be subject to further assessment in accordance with section 100B of the Rural Fires Act 1997.

The RFS also noted that at this stage of the process it was not satisfied with the proposed alternative solution proposed for site access in the future development concept plan. This was indicated as being a matter for further assessment at the development application stage of the project.

Key Site Issues

Key planning issues identified in relation to this planning proposal and a brief summary of the manner in which the issue has been addressed by the proponent is contained within the table below:

Key Issue	Summary
Aboriginal cultural issues	<p>The proponent has submitted an Aboriginal Cultural Heritage Due Diligence Assessment (Appendix 12). The assessment process included a site visit with the Jali Local Aboriginal Land Council's Sites Officer. The assessment concluded that the site has a low archaeological potential. Specific recommendations were made which relate to the procedures to be followed should Aboriginal objects or remains be found on site during the development phase of this project.</p> <p>A letter from Jali LALC is contained within Appendix A of the Aboriginal Cultural Heritage Due Diligence Assessment. The letter indicates that no concerns regarding Aboriginal Cultural Heritage are raised in respect to this site.</p> <p>The report was referred to the Office of Environment and Heritage</p>

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Key Issue	Summary
	<p>(OEH) for comment. The OEH in correspondence to Council, dated 7 July 2015 (Appendix 9), noted a number of minor issues associated with the assessment. The issues identified have been corrected in the report which forms a part of this planning proposal.</p> <p>The OEH in correspondence dated 31 March 2016 (Appendix 20) has indicated that it is now satisfied that cultural heritage issues have been satisfactorily addressed.</p>
Bushfire impacts	<p>Part of the site is classified as Category 2 Bushfire Prone Land or is within the 100 metre buffer to such land. A Bushfire Threat Assessment Report (Appendix 14) has been prepared and consultation with the Rural Fire Service (RFS) has been undertaken. The RFS has indicated that it has no objection to the planning proposal proceeding (Appendix 10).</p>
Contamination assessment	<p>The site is located within 100 metres of the disused <i>Meaneys</i> cattle dip site. The degree to which the site has been contaminated by current or past land uses has been assessed.</p> <p>The proponent has submitted a Preliminary Contaminated Land Assessment (Appendix 15) which concluded that, based on soil sampling results, further contamination assessment is not required in the proposed development area and that the land is suitable for residential use.</p> <p>The Preliminary Contaminated Land Assessment has been considered by Council's Environmental Health Officer who has advised that the report correctly concluded that based on the soil sampling findings the whole site is considered suitable for the proposed development (residential) without further investigation of contamination.</p>
Ecological impacts	<p>The subdivision of the land has the potential to impact fauna and flora communities located within the open space land to the north, east and south. In addition flora and fauna impacts on Lot 12 are also required to be assessed. An assessment undertaken in 2008 found Hairy Joint Grass located on this site. This species is a designated as a vulnerable and a threatened plant species under applicable legislation.</p> <p>In response to issues raised by the OEH in their correspondence dated 7 July 2015 (Appendix 9), the proponent has submitted an amended Ecological Assessment dated September 2015 related to the subject site (Appendix 13). Field surveys associated with this assessment have found Hairy Joint Grass located on this site in a patch having an approximate area of 505m². The conclusion reached in the assessment is that this patch of Hairy Joint Grass is unlikely to be viable in the longer term due to its small size, the relatively low proportion of Hairy Joint Grass within the patch and the uncertainty regarding ongoing land use on the site, particularly the absence of a cattle grazing and the slashing/ mowing regime.</p> <p>The Ecological Assessment has concluded that the ecological impacts of the proposed development are considered to be minor and will involve the loss of 505m² of grassland containing Hairy Joint Grass and the potential for trimming some trees where branches may occur within 10 metres of future dwellings.</p>

9.1 **Planning Proposal (BSCPP 14/004) - 16 Tara Downs, Lennox Head.DOC**

Key Issue	Summary
	<p>The proponent has proposed compensatory habitat offset works to compensate for the loss of Hairy Joint Grass on this site. The offset works proposed relate to funding the preparation of a Vegetation Management Plan for nearby open space land. An amount of \$7,000 has been offered to Council to fund the VMP. This amount has been calculated as being the cost associated with the establishment, maintenance and monitoring of a compensatory habitat planting area of 0.35ha.</p> <p>The OEH has reviewed the amended Ecological Assessment and the offset strategy proposed in respect to Hairy Joint Grass located on Lot 12. In their letter dated 31 March 2016 (Appendix 20) the OEH have advised that subject to the use of Council's Land Register and Generic Plan of Management for Community Land to secure the offset it appears to provide adequate protection.</p> <p>The Council will consider the proponent's offer to fund a VMP following the public exhibition of this planning proposal.</p>
Geotechnical issues	<p>Approximately half of the north-western section of the site is designated as being susceptible to landslip on maps produced by the NSW Department of Mineral Resources. The susceptibility of the land to landslip has been subject to further assessment in a Preliminary Geotechnical / Stability Assessment (Appendix 18). The assessment gave consideration to retaining walls, having a height of up to 2 metres, being required to enable construction of a flat vehicle turning area. In this respect it was concluded, that provided retaining walls with a height greater than 1 metre are engineer designed, there are no anticipated geotechnical constraints that would prevent the development from being constructed.</p> <p>Detailed field studies and subsurface investigations were noted as being required prior to the development proceeding.</p>
Mosquito impacts	<p>Lot 12 is located within a high risk mosquito management area. This issue was further considered by the proponent's consultant and Council's Environmental Health Officer. Advice was provided that mosquito risk to individual dwelling houses will be required to be controlled through the application of insect screens. In terms of the proposed stormwater detention basins these will be required to be designed so that they completely drain within 48 hours.</p>
Stormwater management	<p>The land is located within 100 metres of a SEPP 14 wetland and within close proximity to a SEPP 26 Littoral Rainforest. For these reasons stormwater management issues have been examined by the proponent's consultants in the Engineering Services Report (Appendix 16).</p> <p>The Engineering Services report has been examined by Council's Traffic and Development Engineer who has considered stormwater management issues including conveyance, point of discharge, attenuation, treatment, infrastructure and management issues. It was concluded that these issues have all been adequately addressed for this stage of the process. Stormwater related issues will be further addressed as part of the development application process following rezoning.</p>
Traffic impacts	<p>The proponent's consultant has examined anticipated access and</p>

Key Issue	Summary
	<p>traffic impacts associated with the proposed subdivision following rezoning (Appendix 19 page 7).</p> <p>The location of the proposed 6 metre wide community title road has been considered by Council's Traffic and Development Engineer who has concluded that the proposed T intersection with Tara Downs has reasonable sight distance and is considered satisfactory. Some internal redesign of the hammer head turning area has been recommended to facilitate turning of medium rigid vehicles. These matters will be addressed in more detail at the development application stage following rezoning.</p>
Visual amenity impacts	<p>The proponent has been required to consider potential view loss issues from properties fronting Tara Downs. A Visual Amenity Impact Assessment (Appendix 17) has been prepared. The assessment indicates future building envelopes on the subject site will be at RL 14m AHD. A maximum permitted height of 8.5 metres is allowed under the provisions of BLEP 2012. The lowest ground floor level of an adjoining dwelling is RL 23m AHD. The assessment has concluded that due to the difference in levels between the ground floor of dwelling which overlook the subject site, the level of future building envelopes and applicable height limits, that the visual amenity of existing dwellings will not be impacted (loss of easterly view across the reserve).</p>

PART 1 – OBJECTIVES & INTENDED OUTCOMES

The objective of this planning proposal is to rezone that part of the site zoned RU2 Rural Landscape zone to R2 Low Density Residential zone. It is also proposed to set minimum lot sizes for future subdivision and remove the land from its designation as a Strategic Urban Growth Area (SUGA). Amendment of associated SUGA buffers is also proposed.

The amendment to the BLEP 2012 as proposed is considered to be consistent with applicable local and state planning policies.

The proponent has through the range of studies and assessments (Appendices 11 to 19) demonstrated that the proposed residential zone and minimum lot sizes are suitable for the subject site.

PART 2 – EXPLANATION OF THE PROPOSAL

This planning proposal relates to vacant land described as Lot 12 DP 813210, 16 Tara Downs, Lennox Head. The rear section of this lot is currently zoned RU2 Rural Landscape pursuant to the provisions of the BLEP 2012. Photographs of the subject site are contained within Appendix 3.

This planning proposal seeks to rezone the rear section of Lot 12 to a R2 Low Density Residential zone to reflect the urban nature of adjoining land to the west and to be consistent with the zone applicable to those parts of Lot 12 with direct frontage to Tara Downs.

An amendment to the Minimum Lot Size Map under the Ballina LEP 2012 is also proposed. Lot 12 is not currently subject to minimum lot size controls. A minimum lot size of 600m² is applicable to R2 residential zoned lots which adjoin Lot 12. A 40ha minimum lot size is specified on the Minimum Lot Size Map for RU2 zoned land in close proximity to the subject land.

Following consideration of the proponent's various studies and assessments it has been concluded that a 600m² minimum lot size is suitable for land which has a direct frontage to Tara Downs. The 600m² minimum lot size is consistent with the minimum lot size provision which is applicable to the residential lots which have a frontage to Tara Downs.

Due to requirements for asset protection zones to mitigate against bushfire risk, the need to retain vegetation and the risks associated with potential soil instability a minimum lot size of 1200m² has been applied to that part of Lot 12 currently zoned RU2 Rural Landscape zone under the provisions of Ballina LEP 2012.

Water, sewerage, electricity and telephone services are available within Tara Downs and are capable of being extended to service a future subdivision of lot 12. Sewerage services will however, be required to be augmented to cater for the additional flows emanating from any proposed future residential subdivision.

In terms of the ecological values associated with the site these have been examined in an Ecological Assessment Report prepared by Blackwood Ecological Services. The report concluded that the ecological impacts associated with the rezoning and subsequent proposed residential subdivision are minor. Impacts are proposed to be addressed through offsite works involving the funding of a Vegetation Management Plan which will relate to some nearby Council owned public reserve land. The OEH has accepted the offset strategy proposed in their letter dated 31 March 2016 (Appendix 20).

PART 3 – JUSTIFICATION

Section A - Need for the Planning proposal

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

Lot 12 has been identified within the Lennox Head Structure Plan as *possibly suited to future development subject to detailed environmental assessment*. Lot 12 has also been designated as a strategic urban growth area in the Ballina Shire Growth Management Strategy and the Strategic Urban Growth Area (SUGA) mapping which forms a part of BLEP 2012.

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

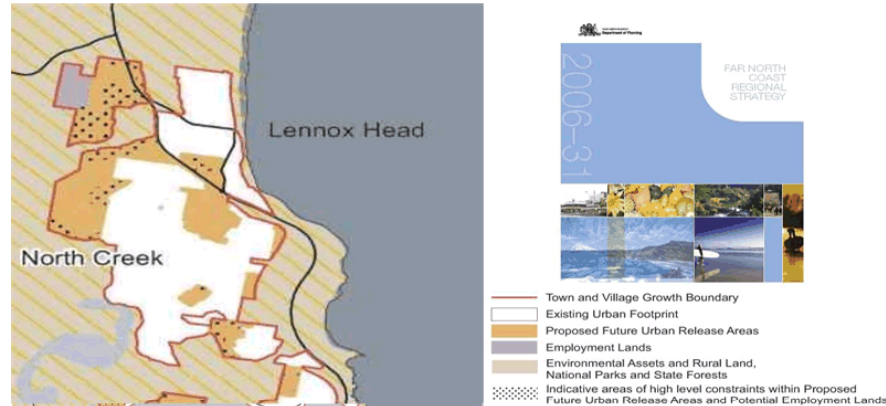
As noted above, a planning proposal for the application of a residential zone to Lot 12 is consistent with the local planning framework.

An LEP amendment is the best way of achieving the proposed outcomes as the proposal directly relates to land use zoning and subdivision potential.

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 FNCRS, which provides the regional framework for the consideration of rezoning land for urban purposes in Ballina Shire. The FNCRS identifies the subject land as being within the existing urban footprint as shown in the 'Town & Village Growth Boundary Map – Sheet 3', as shown in the excerpt below). The proposal is also consistent with the draft North Coast Regional Plan currently on exhibition.



The planning proposal will facilitate the future subdivision of Lot 12. Utility infrastructure is available within Tara Downs to service the subdivision of Lot 12. There are currently capacity constraints in the local wastewater reticulation infrastructure. Council has an upgrade program in place to address these local capacity constraints. Payment of Development Servicing Plan (DSP) contributions following DA approval will proportionally finance the upgrading of downstream sewerage infrastructure. This infrastructure will be progressively needed and implemented as demand in the catchment increases due to urban growth.

The rezoning will provide additional housing opportunities for the projected regional population increase within the existing urban footprint area of Lennox Head. This is consistent with the FNCRS regional framework.

Accordingly, investigation of the subject land for future urban development through the statutory rezoning process, involving assessment of the land's capability to accommodate urban development, is consistent with the regional planning framework.

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

The planning proposal is considered to be generally consistent with the elements and specified outcomes of Council's Community Strategic Plan (CSP) as indicated in the table below:

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Element and Reference	Outcomes	Benefits
PE3 Prosperous Economy	We can work close to home	
PE3.1	Facilitate and provide economic land and infrastructure to support business growth	Increased availability of land and locations to support business activity
HE3 Healthy Environment	Our built environment blends with the natural and cultural environment	
HE3.1	Develop and implement plans that balance the built environment with the natural environment	More people are satisfied with our management of development
HE3.2	Minimise negative impacts on the natural environment	Retention of our natural environment ¹
HE3.3	Match infrastructure with development	No under supply of community infrastructure ²

¹Detailed consideration has been given to the retention of Hairy Joint Grass on site. However given its central location the proponent has developed an offset strategy to enable this planning proposal to proceed.

²Waste water infrastructure to service the proposed subdivision is known to be under capacity and will require augmentation to service this and other proposed subdivisions within this catchment. Council is aware of this issue and has a plan in place to upgrade infrastructure when required.

The planning proposals consistency with the following key local plans is considered below:

The Ballina LEP 2012

The rear of Lot 12 is currently zoned RU2 Rural Landscape under the provisions of the Ballina LEP 2012. The primary zone objectives are:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To maintain the rural landscape character of the land.*
- *To provide for a range of compatible land uses, including extensive agriculture.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within the zone and land uses within adjoining zones.*
- *To enable small-scale tourist-orientated development that is compatible with the rural nature of the land.*
- *To encourage development that involves restoration or enhancement (or both) of the natural environment if consistent with the production and landscape character of the land.*
- *To enable development that does not adversely impact on the natural environment, including habitat and waterways.*
- *To ensure that there is not unreasonable or uneconomic demands (or both) for the provision of public infrastructure.*

The land given its location, current use and site area is not well suited to agricultural or primary industry use. The RU2 zone applicable to the rear of Lot 12 has been used as a "holding zone" pending the future rezoning of the lot consistent with its designation as a Strategic Urban Growth Area.

The objectives of the R2 Low Density Residential zone are;

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

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- To provide for development that is compatible with the character and amenity of the surrounding neighbourhood.
- To provide for development that meets the social and cultural needs of the community.
- To encourage development that achieves the efficient use of resources such as energy and water.

The proposal is considered generally consistent with the objectives of the R2 Low Density Residential zone in so far as facilities and services to meet the needs of the residents can be provided.

Infill style development would be compatible with the character and amenity of the surrounding neighbourhood.

Issues such as bushfire and landslip risk, mosquito management, ecological and visual amenity impacts have been considered and have been used to make a determination that a 1200m² minimum lot size for residential subdivision is suitable for the rear section of Lot 12. At this stage of the process the proponent is proposing a Community title subdivision containing six lots for the rear land. These lots range in size from 1656m² to 3399m².

The submitted subdivision concept plan (Appendix 11) shows one Torrens title lot fronting Tara Downs as well as the six Community title lots referred to above. No comment is provided as to the ultimate acceptability of this concept plan. Specific subdivision proposals for Lot 12 will be subject to detailed assessment as part of the development application process following rezoning. The subdivision concept plan has been prepared to provide an indication of potential lot yields when considered in the context of site constraints. It has also been used to determine future minimum lot size requirements.

Ballina Shire Growth Management Strategy 2012 (GMS)

The purpose of the GMS is to provide the framework for managing population and employment growth in Ballina Shire over the planning period of 2012-2031.

The strategy sets out local growth management arrangements for each of the shire's urban localities. These outline the desired future character of the particular locality, identify key locality objectives and proposed actions to give effect to those objectives.

The subject land has been identified as a Strategic Urban Growth Area within the GMS and is located within the existing urban footprint of Lennox Head.

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's). The relevant SEPP's are as follows:

SEPP Title	Compliance of Planning Proposal
SEPP (Rural Lands) 2008	Lot 12 is currently zoned partly RU2 Rural Landscape and part R2 Low Density Residential. The rezoning of the rear of this lot to residential will not be prejudicial to agricultural land availability due to size of the Lot 12 (1.441ha) and its isolation from other rural zoned land. Amending the BLEP 2012 to create a wholly residential zoned lot will not result in increased land use conflicts with adjoining agricultural land as there is no agricultural land adjoining. Therefore it is considered that the planning proposal is justifiably inconsistent with

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SEPP Title	Compliance of Planning Proposal
	the provisions of this SEPP. Ballina LEP 2012 nominates the subject land as a Strategic Urban Growth Area and it is located within the existing urban footprint of Lennox Head by the FNCRS.
SEPP 14 – Coastal Wetlands	Lot 12 is not affected by this SEPP. A SEPP 14 wetland is however located within 100 metres of the land.
SEPP No. 26 - Littoral Rainforests	Lot 12 is not located within the 100m buffer of a SEPP 26 Littoral Rainforest.
SEPP No. 55 - Remediation of Land	In accordance with Clause 6(1) of this SEPP, a change of use of the land to residential cannot occur until the planning authority has considered whether the land is contaminated. A Preliminary Contaminated Land Assessment has been submitted by the proponent post Gateway determination. This assessment has concluded that the land is suitable for its proposed residential use.
SEPP No. 71 - Coastal Protection	The planning proposal is consistent with the provisions of this SEPP and supports the intent of the SEPP. The subject land is located within the coastal zone. However, it is well separated from the coastal strip. The rezoning to enable residential development is consistent with the objectives of the SEPP.

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

This planning proposal is considered to be justifiably inconsistent with the following Section 117 directions:

- 1.2 Rural Zones
- 1.5 Rural Lands
- 4.1 Acid Sulfate Soils

A Section 117 checklist for the planning proposal is provided at Appendix 2 which contains details of the applicability and consistency with nominated directions.

The Department of Planning and Environment issued a Gateway determination allowing this planning proposal to proceed and recognised that the inconsistencies with Directions 1.2, 1.5, and 4.1 are of minor significance.

A copy of the Gateway determination dated 13 May 2015 is contained at Appendix 6. This Gateway determination was subsequently altered on 29 May 2015 to extend the time period for the finalisation of the planning proposal (Appendix 7) and again on 7 July 2015 to correct references to the existing zoning of the subject site (Appendix 8).

A further Gateway determination alteration has been sought in April 2016 to again extend the time period for the completion of the LEP amendment process.

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?

Ecological assessments undertaken in 2008 and 2015 have found that Lot 12 contains Hairy Joint Grass. This species is designated as vulnerable under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*. No other Threatened flora or fauna species,

listed under Commonwealth or State legislation, were recorded within Lot 12 during the ecologist's site survey period.

The conclusion reached in the 2015 Ecological Assessment (Appendix 13) is that the patch of Hairy Joint Grass present on this site is unlikely to be viable in the longer term due to its small size, the relatively low proportion of Hairy Joint Grass within the patch and the uncertainty regarding ongoing land use on the site, particularly the absence of a cattle grazing and the slashing/ mowing regime.

The Ecological Assessment has concluded that the ecological impacts of the proposed development are considered to be minor and will involve the loss of 505m² of grassland containing Hairy Joint Grass and the potential for trimming some trees where branches may occur within 10 metres of future dwellings.

The proponent has proposed compensatory habitat offset works to compensate for the loss of Hairy Joint Grass on Lot 12.

The OEH has reviewed the Ecological Assessment and the offset strategy proposed in respect to Hairy Joint Grass located on Lot 12. In their letter dated 31 March 2016 (Appendix 20) the OEH have advised that subject to the use of Council's Land Register and Generic Plan of Management for Community Land to secure the offset it appears to provide adequate protection.

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

Other potential environmental effects of the proposal relate to the following:

- Aboriginal cultural heritage impacts;
- Slope stability;
- Bushfire hazard;
- Drainage; and
- Mosquitoes.

These issues have been addressed in detailed reports submitted in support of the planning proposal. Upon further assessment of these matters they have not raised issues of sufficient concern that would warrant the land not being rezoned as proposed.

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

The proposed rezoning of the land does not raise any significant social or economic implications.

Section D - State and Commonwealth interests.

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

Infill development on the subject land can be serviced with the full range of infrastructure currently located within Tara Downs. Waste water (sewerage) infrastructure augmentation will be required to enable the proposed lots to be serviced. Council is aware of the infrastructure capacity limitations and has plans in place to augment its infrastructure should this development proceed.

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 (RFS) and the Office of Environment and Heritage (OEH) post Gateway determination.

The RFS (Appendix 10) has advised that part of the land to which the planning proposal relates is mapped as bushfire prone land. The RFS notes that it is proposed to provide an alternative solution in respect to site access for the lots shown on the future development concept plan. In this respect the RFS is not satisfied that the alternative solution adequately addresses the requirements of Planning for *Bushfire Protection 2006* with respect to site access.

Notwithstanding the above concern the RFS has raised no objection to the planning proposal proceeding, noting that future subdivision of the land would be subject to further assessment in accordance with Section 100B of the *Rural Fires Act 1997*.

The OEH (Appendix 9) has provided detailed comments related to the originally submitted Ecological Assessment and Aboriginal Cultural Heritage Due Diligence Assessment. It has advised that these documents have been reviewed and no concerns are raised in relation to NPWS estate, flooding or historic heritage. The table below addresses the recommendations made by the OEH in their letter to Council dated 7 July 2015:

OEH Recommendation	Comment
Request further information from the applicant to demonstrate an appropriate 'avoid, mitigate and offset' approach to rezoning of the planning area given the anticipated biodiversity impacts of future residential uses on land with high biodiversity conservation values.	The amended Ecological Assessment (Appendix 13 - September 2015) has found the population of Hairy Joint Grass located on this site unlikely to be viable. An offsetting approach has been documented which involves the preparation of a Vegetation Management Plan for nearby Council owned open space land at an offset ratio of 5:1.
Apply the E2 Environmental Conservation zone to areas of high biodiversity conservation value in the planning area, including threatened species and endangered ecological communities.	An E2 zone is not proposed to be applied to the site. The option of applying an E2 zone to the site was not available to Council at the time the OEH made this recommendations as the Northern Council's E zone Review had not been finalised. In any case, given the conclusions reached in the Ecological Assessment that the population of Hairy Joint Grass located on this site is not a viable population, there is no basis upon which to consider the application of an E2 zone to this site. The Blackwood Ecological Assessment (September 2015) states as follows in respect to the future viability of Hairy Joint Grass on this site: <i>In the longer term, it is considered that, in the event that no development of the site were to take place, the patch of Hairy joint grass present on the Subject site is unlikely to be viable due to its small size, the relatively low proportion of Hairy joint grass within the patch and the uncertainty regarding ongoing land use on the site, particularly the absence of cattle grazing and the slashing mowing regime (p25 Appendix 13).</i>
Amend the planning proposal to provide an accurate identification and assessment of the current zoning, being RU2 Rural Landscape. Satisfy itself that all potential direct and indirect	The planning proposal has been amended to accurately reflect the existing zoning of the subject site. The altered Gateway determination dated 7 July 2015 addresses this issue.

9.1 Planning Proposal (BSCPP 14/004) - 16 Tara Downs, Lennox Head.DOC

OEH Recommendation	Comment
<p>biodiversity impacts of future development to be enabled by the planning proposal have been considered and appropriately offset as part of the planning proposal, including considerations arising from the 10/50 Vegetation Clearing Entitlement.</p>	<p>Appropriate offsetting of biodiversity impacts has been considered. The littoral rainforest vegetation on this site is no longer impacted by the 10/50 Vegetation Clearing Scheme following changes to the scheme in August 2015.</p> <p>In respect to the future impact of subdivision and building works on Hairy Joint Grass located within the site this has been addressed in the amended Ecological Assessment dated September 2015 (Appendix 13). The proponent has proposed to fund the preparation of a Vegetation Management Plan for an area of public reserve located within close proximity to the site. An amount of \$7,000 has been offered which relates to costs:</p> <p><i>"associated with the establishment, maintenance and monitoring (over a 5 year period) of a compensatory habitat planting area of about 0.35ha (based on the application of a 5:1 offset multiplier to the loss of the 505m² of habitat and allowing for potential trimming of trees in retained clumps on site) or the ongoing management of a similar area of Hairy Joint Grass. (P23 Appendix 13).</i></p> <p>Council's Natural Resource Officer has approved the above compensatory habitat offset strategy. The Council will give the proposed offset strategy consideration when it reviews the planning proposal following public exhibition.</p>
<p>Require use of the Biobanking Assessment Methodology to determine the type and quantum of offsets needed to compensate for the future direct impacts on Hairy Joint Grass and potential direct and indirect impacts on the Littoral Rainforest EEC located in the planning area on the adjoining Council land if the planning proposal were to proceed as currently set out.</p>	<p>An offset strategy has been developed by the proponent which the OEH has indicated to be generally acceptable in correspondence to Council dated 31 March 2016 (Appendix 20).</p>
<p>Request that correspondence from the Jali Local Aboriginal Land Council be provided regarding its views on the planning proposal.</p>	<p>Appendix A of the amended Aboriginal Cultural Heritage Due Diligence Assessment dated August 2015 (Appendix 12) contains a letter from the Jali Local Aboriginal Land Council which raises no concerns regarding impact on Aboriginal Cultural Heritage.</p>
<p>Amend irregularities in relation to Appendix A, B, and C of the Aboriginal Cultural Heritage Due Diligence Assessment.</p>	<p>The amended Aboriginal Cultural Heritage Due Diligence Assessment dated August 2015 corrects the irregularities previously evident.</p>

The OEH has considered the amended Aboriginal Cultural Heritage Due Diligence Assessment and the Amended Ecological Assessment and has indicated in their letter dated 31 March 2016 (Appendix 20) that the issues previously raised in their letter dated 7 July 2015 (Appendix 9) appear to have been adequately addressed.

PART 4 – MAPPING

The following maps (Appendix 1) have been prepared to the support the planning proposal:

- Map 1 - Locality Map;
- Map 2 - BLEP 2012 – Current Land Zoning Map
- Map 3 - BLEP 2012 – Current Land Zoning Map (Zoomed)
- Map 4 - BLEP 2012 – Proposed Land Zoning Map
- Map 5 - BLEP 2012 – Proposed Land Zoning Map (Zoomed)
- Map 6 - BLEP 2012 – Current Strategic Urban Growth Area Map
- Map 7 - BLEP 2012 – Current Strategic Urban Growth Area Map (Zoomed)
- Map 8 - BLEP 2012 – Proposed Strategic Urban Growth Area Map
- Map 9 - BLEP 2012 – Proposed Strategic Urban Growth Area Map (Zoomed)
- Map 10 - BLEP 2012 – Current Minimum Lot Size Map
- Map 11 - BLEP 2012 – Current Minimum Lot Size Map (Zoomed)
- Map 12 - BLEP 2012 – Proposed Minimum Lot Size Map
- Map 13 - BLEP 2012 – Proposed Minimum Lot Size Map (Zoomed)

PART 5 – COMMUNITY CONSULTATION

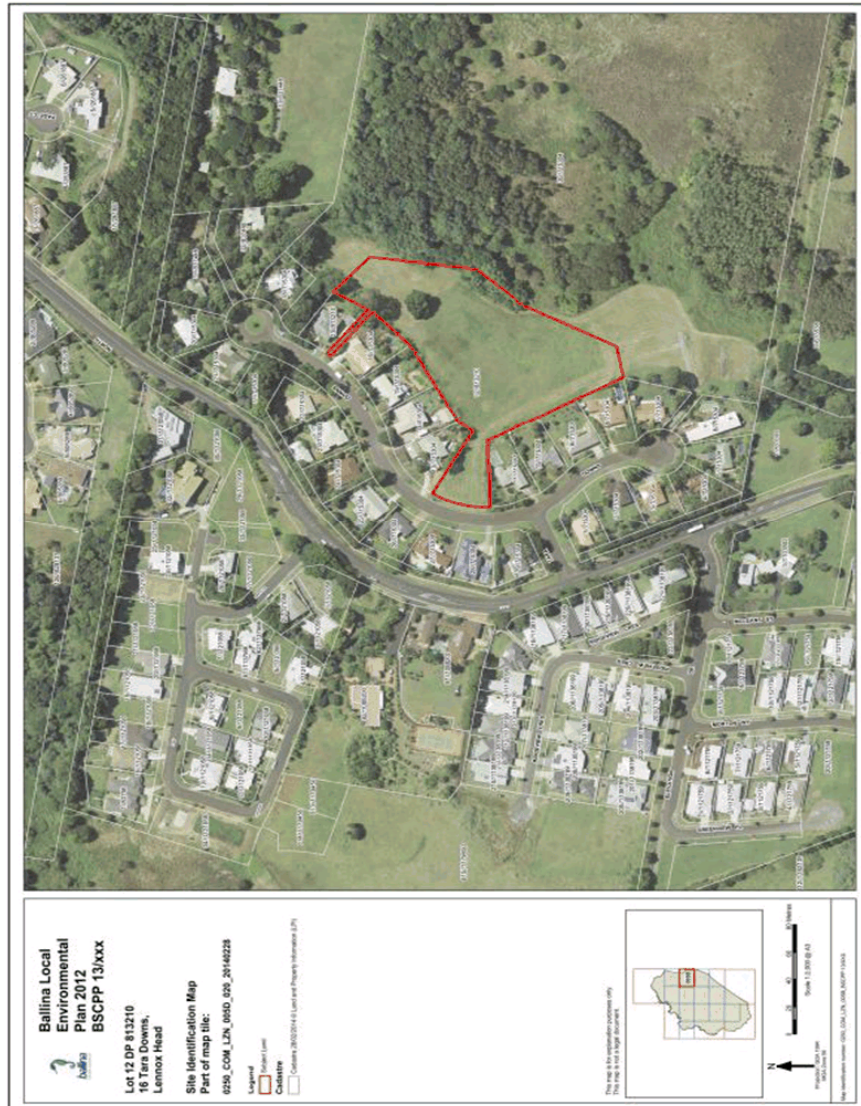
The Gateway determination requires a minimum public exhibition period of 14 days. This planning proposal will however be placed on public exhibition for a minimum period of 28 days.

PART 6 – PROJECT TIMELINE

Plan Making Step	Estimated Completion (Before)
Gateway Determination	May 2014
Government Agency Consultation	June 2015
Completion of Technical Assessment	February 2016
Public Exhibition Period	April – May 2016
Public Hearing (if required)	N/A
Submissions Assessment	June 2016
RPA Assessment of Planning Proposal and Exhibition Outcomes	July 2016
Submission of Endorsed LEP to DP&E for Finalisation	August 2016
RPA Decision to Make the LEP Amendment (if delegated)	August 2016
Forwarding of LEP Amendment to DP&E for Notification (if delegated)	August 2016

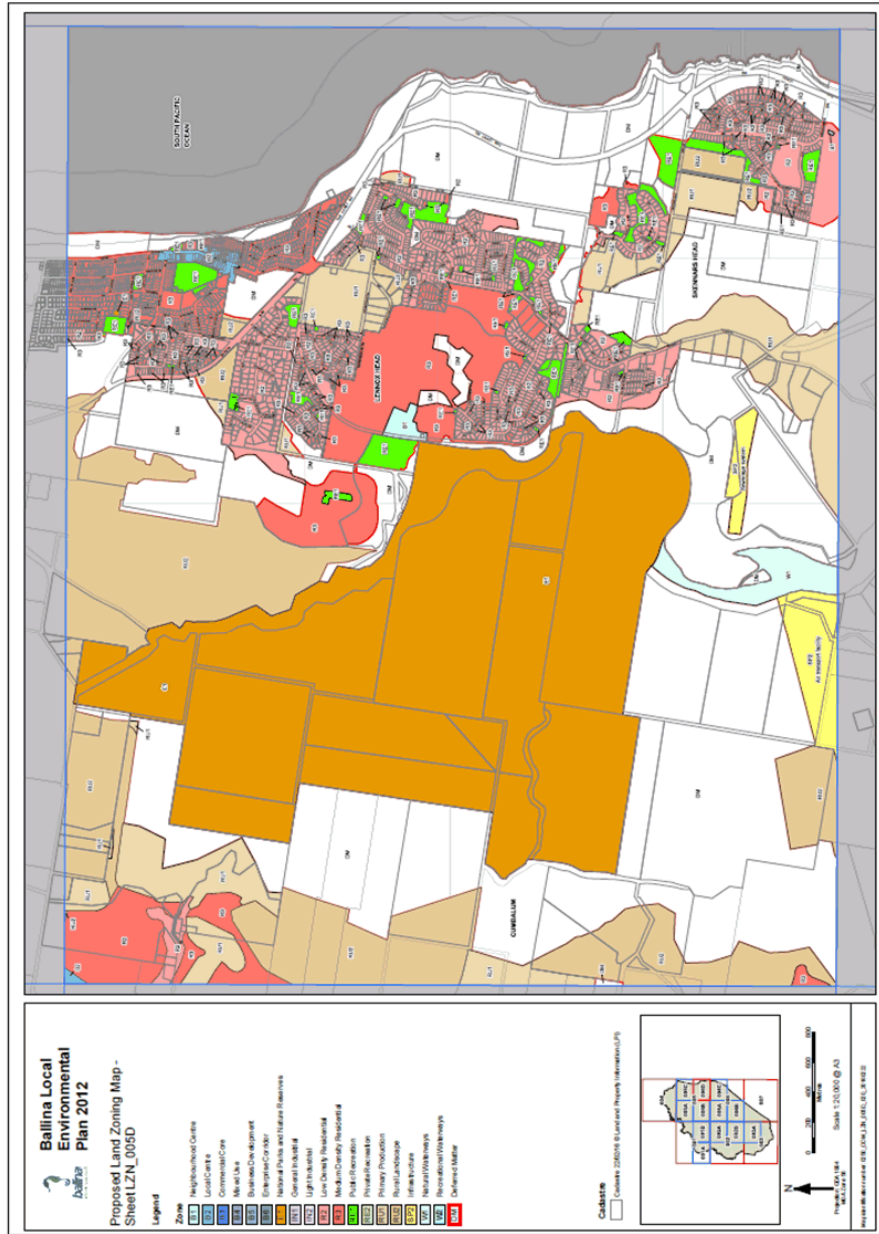
Appendices

Appendix 1 – Maps Map 1 - Locality Map



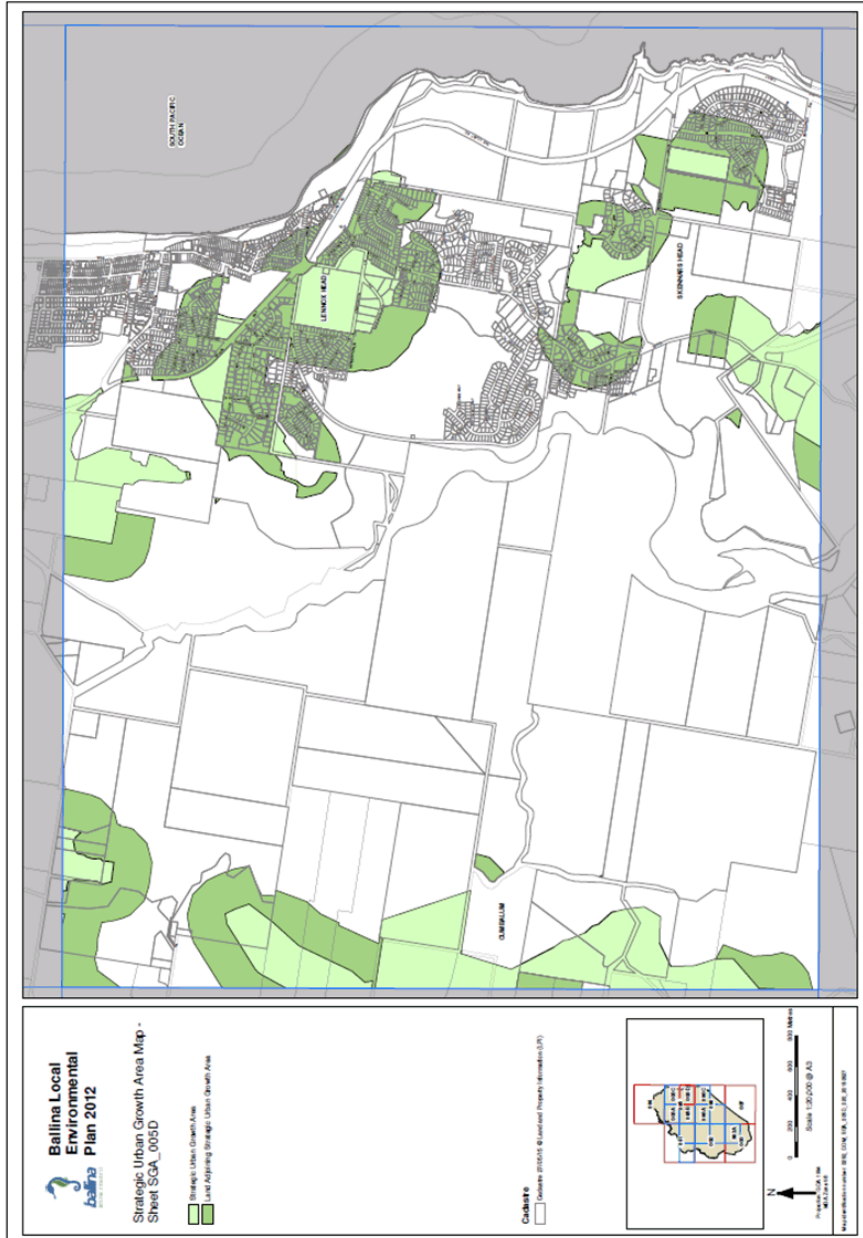
Planning Proposal – April 2016 (15/38195)
Lot 12 DP 813210 16 Tara Downs, Lennox Head

Map 4 - Ballina LEP 2012 - Proposed Land Zoning Map



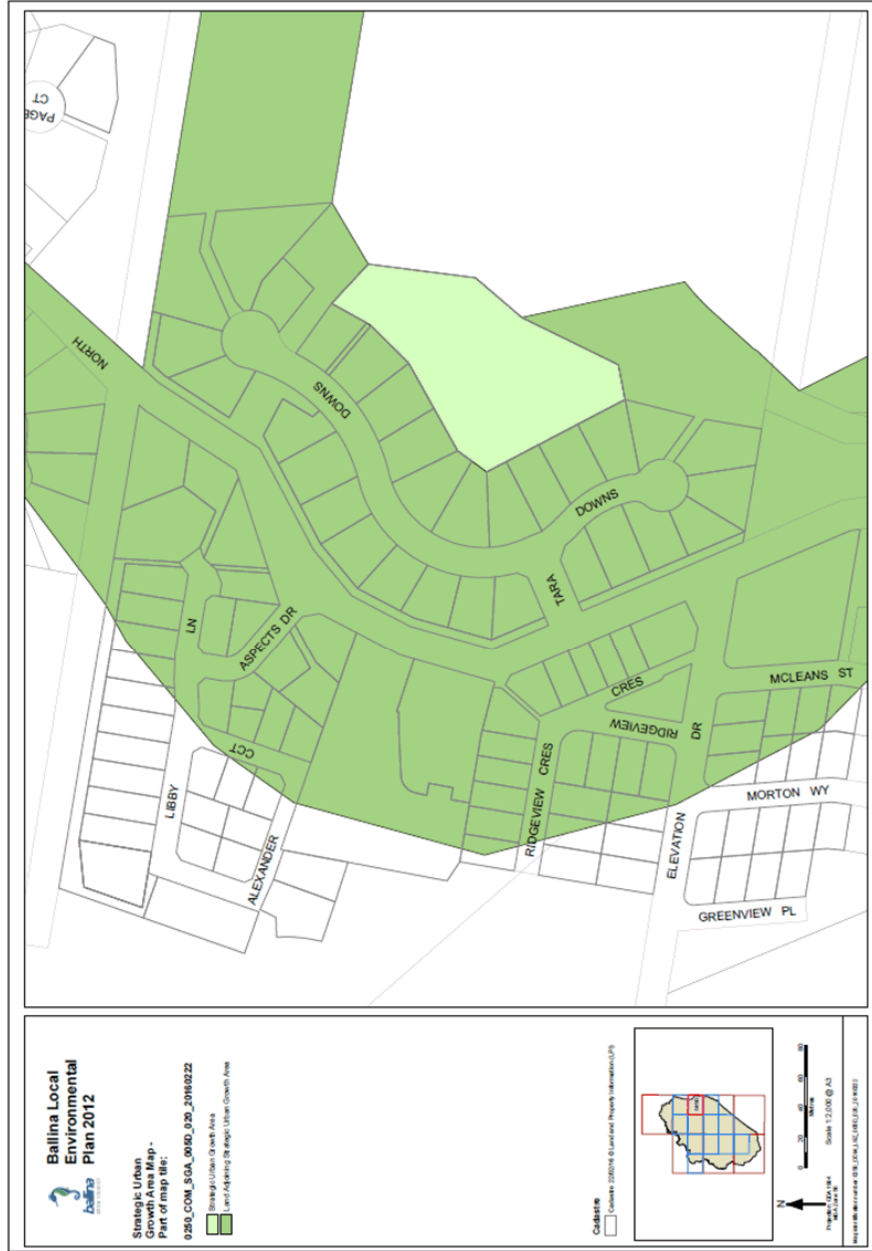
Planning Proposal – April 2016 (15/38195)
Lot 12 DP 813210 16 Tara Downs, Lennox Head

Map 6 - Ballina LEP 2012 – Current Strategic Urban Growth Area Map



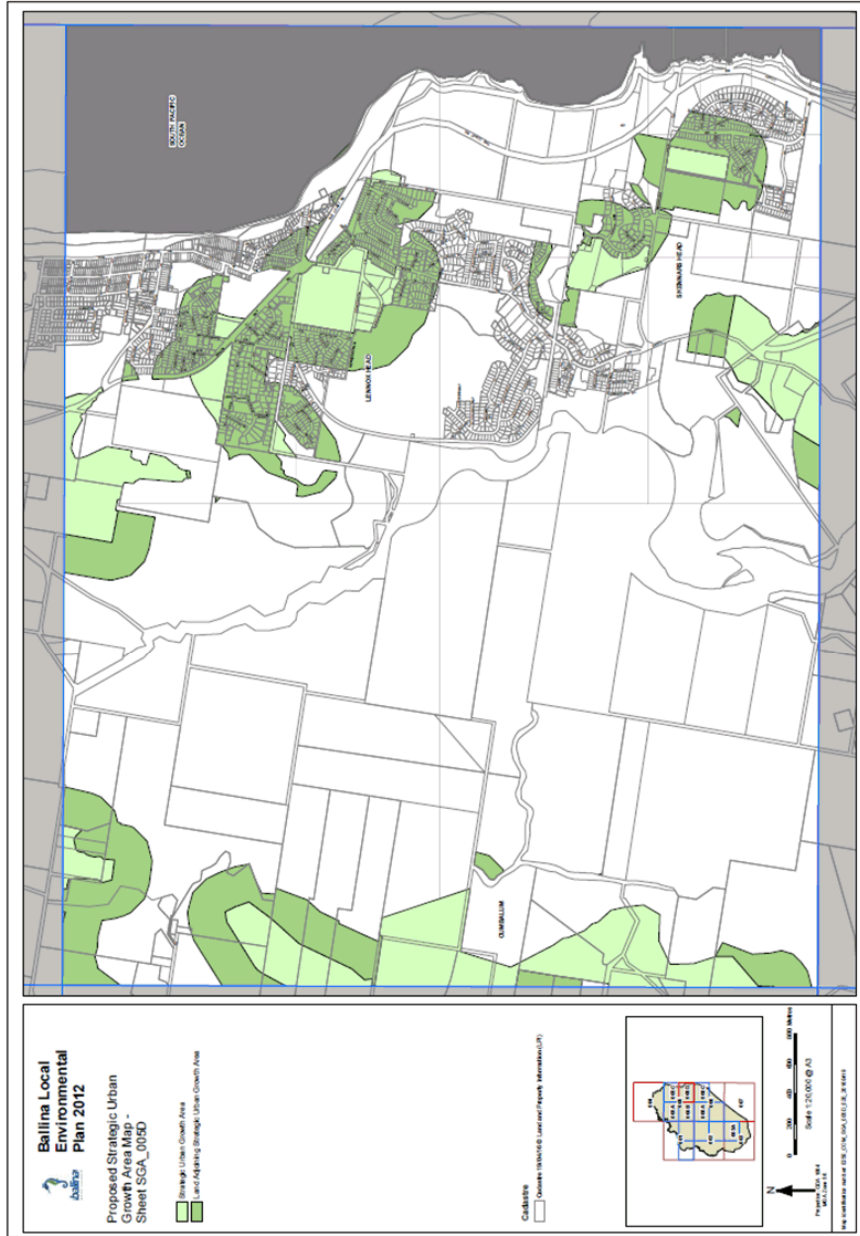
Planning Proposal – April 2016 (15/38195)
Lot 12 DP 813210 16 Tara Downs, Lennox Head

Map 7 - Ballina LEP 2012 – Current Strategic Urban Growth Area Map (Zoomed)



Planning Proposal – April 2016 (15/38195)
 Lot 12 DP 813210 16 Tara Downs, Lennox Head

Map 8 - Ballina LEP 2012 – Proposed Strategic Urban Growth Area Map



Planning Proposal – April 2016 (15/38195)
Lot 12 DP 813210 16 Tara Downs, Lennox Head

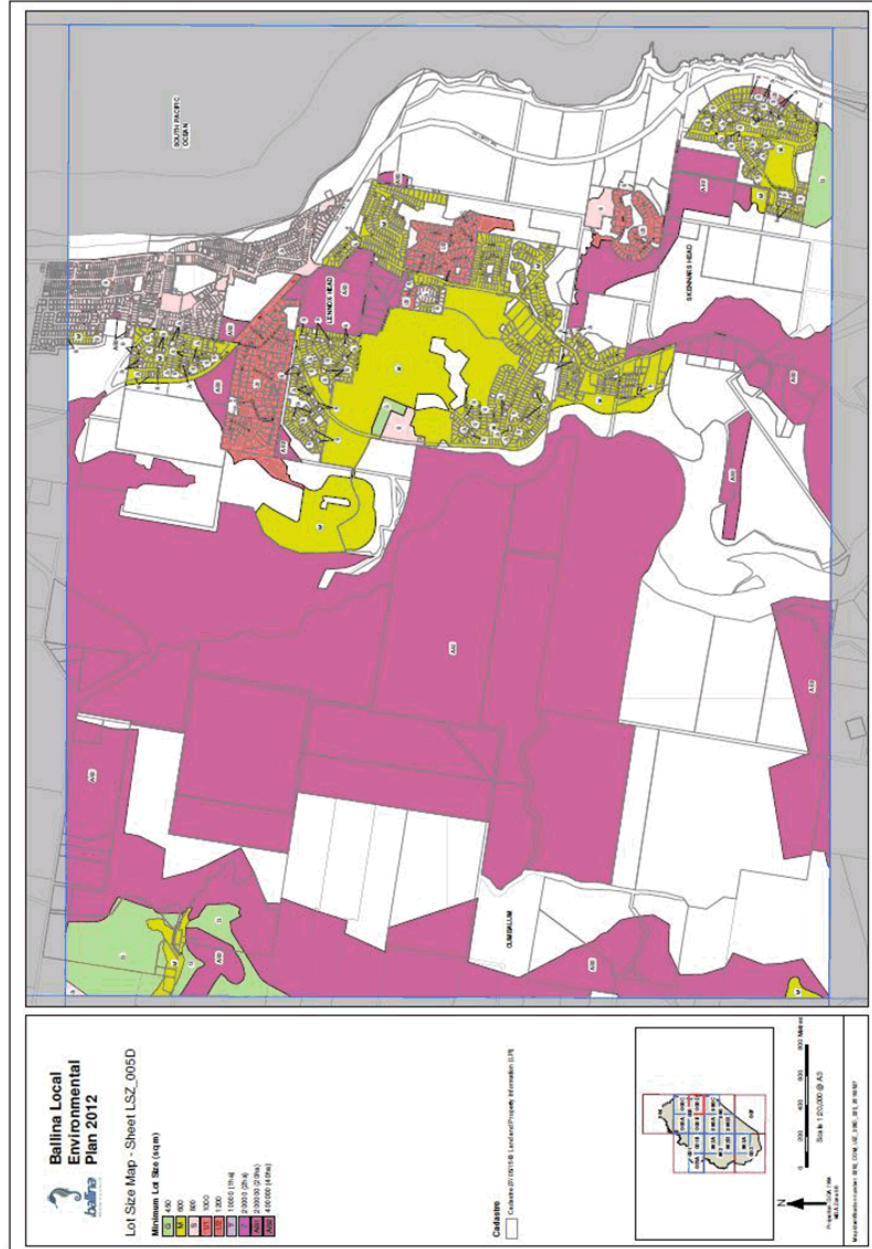
Page 26

Map 9 - Ballina LEP 2012 – Proposed Strategic Urban Growth Area Map (Zoomed)



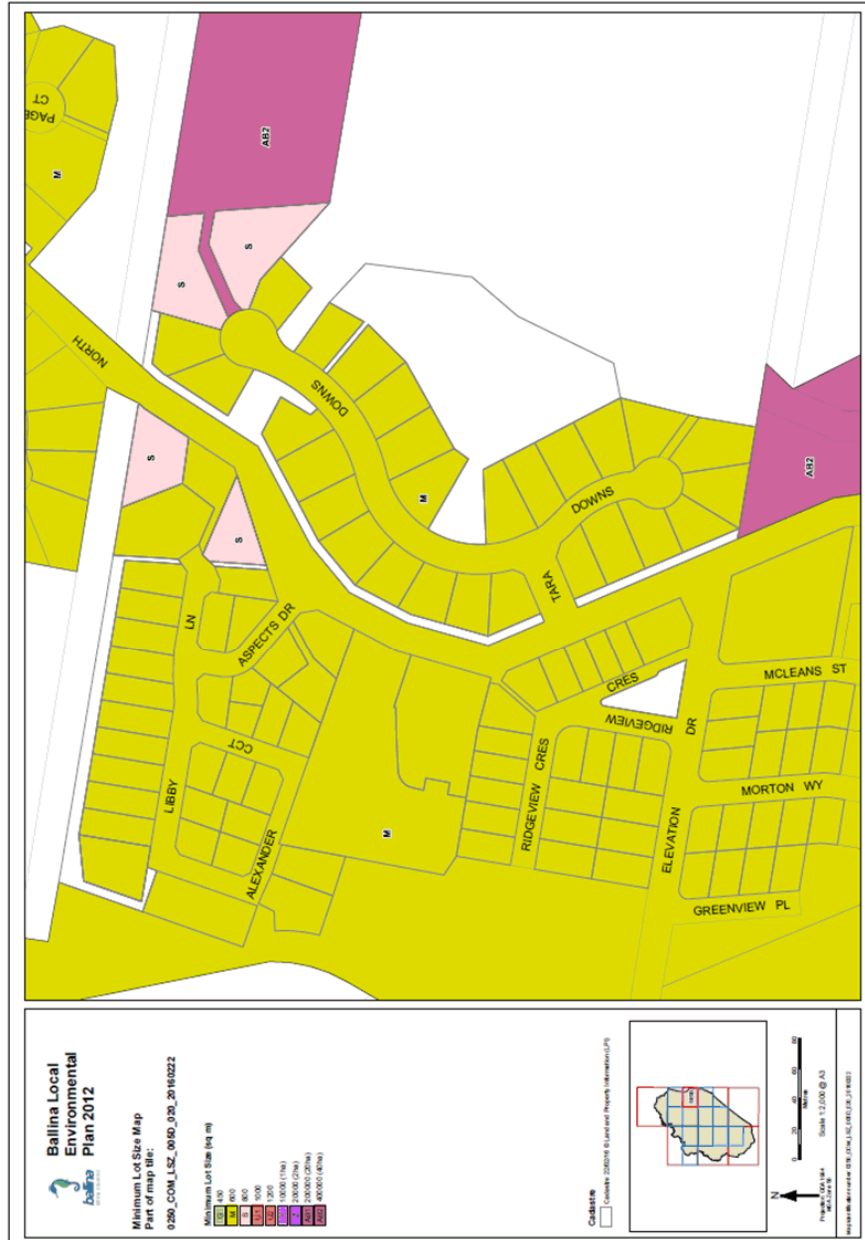
Planning Proposal – April 2016 (15/38195)
Lot 12 DP 813210 16 Tara Downs, Lennox Head

Map 10 - Ballina LEP 2012 – Current Minimum Lot Size Map



Planning Proposal – April 2016 (15/38195)
 Lot 12 DP 813210 16 Tara Downs, Lennox Head

Map 11 - Ballina LEP 2012 – Current Minimum Lot Size Map (Zoomed)



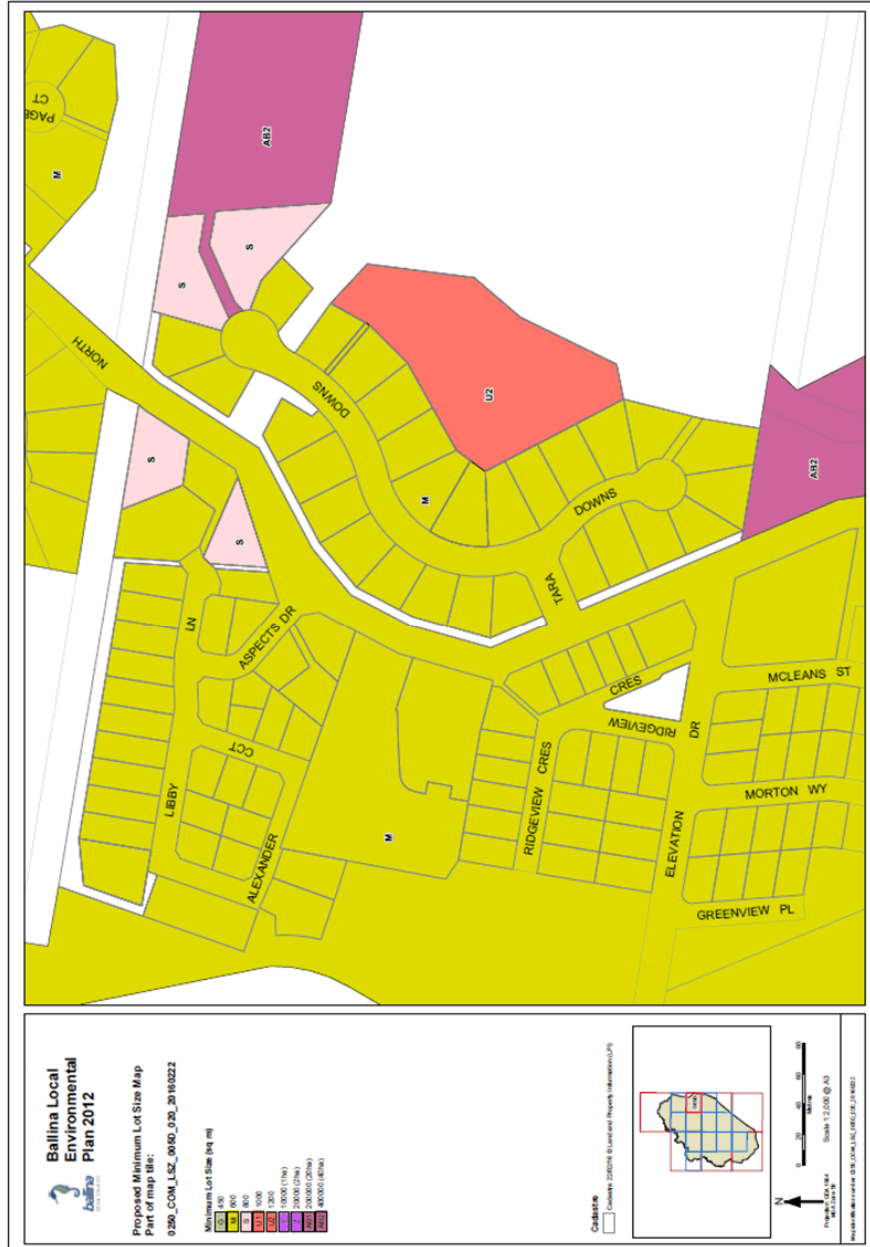
Planning Proposal – April 2016 (15/38195)
 Lot 12 DP 813210 16 Tara Downs, Lennox Head

Map 12 - Ballina LEP 2012 – Proposed Minimum Lot Size Map



Planning Proposal – April 2016 (15/38195)
 Lot 12 DP 813210 16 Tara Downs, Lennox Head

Map 13 - Ballina LEP 2012 – Proposed Minimum Lot Size Map (Zoomed)



Planning Proposal – April 2016 (15/38195)
Lot 12 DP 813210 16 Tara Downs, Lennox Head

Appendix 2 - Section 117 Direction Checklist

Section 117 Direction Checklist	
Planning Proposal – Tara Downs, Lennox Head	
DIRECTION NO.	Compliance of Planning Proposal
1. Employment and Resources	
1.1 Business and Industrial Zones	Does not apply to planning proposal.
1.2 Rural Zones	<p>The planning proposal is considered to be justifiably inconsistent with this Direction. The proposed residential area is within the urban footprint identified in the Far North Coast Regional Strategy and in the local urban planning framework being designated as a Strategic Urban Growth Area under Ballina LEP 2012.</p> <p>The subject lot is not considered of sufficient size to sustain agricultural activities. Consolidation with adjoining lots is not possible as the adjoining lot to the east and south is Council open space land. Adjoining land to the west is an existing residential subdivision.</p> <p>The planning proposal is considered of minor significance as the subject lot has an area of 1.441 hectares which is significantly below the 40 hectare minimum applicable to RU2 zoned land elsewhere in Ballina Shire. The lot area is well below that required to sustain a viable agricultural land use. Therefore the proposal will result in a negligible loss to the agricultural production value of land within the locality.</p>
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	<p>The planning proposal is considered to be justifiably inconsistent with this Direction and related Rural Planning Principles contained within the SEPP Rural Lands. It is noted that the proposal is consistent with Principle (h) which relates to consistency with applicable regional and local strategies endorsed by the Director General.</p> <p>The proposed residential area is within the urban footprint identified in the Far North Coast Regional Strategy and in the local urban planning framework being designated as a Strategic Urban Growth Area by Ballina LEP 2012.</p>
2. Environment and Heritage	
2.1 Environmental Protection Zones	Does not apply to planning proposal.
2.2 Coastal Protection	This planning proposal is consistent with this Direction. The proposal is considered to be minor in nature. This site has the potential to be further subdivided. The subdivision potential of the land has not yet been determined. The proposal will not impact on public foreshore access due to physical separation from the coastal strip.
2.3 Heritage Conservation	There are no items of environmental or cultural heritage identified by Council within the site.
2.4 Recreation Vehicle Areas	Does not apply to planning proposal.
2.5 Application of E2 or E3 Zones and Environmental Overlays in Far North Coast LEPs	This direction does not apply as the planning proposal does not seek to introduce or alter an E2 or E3 zone or introduce or alter an overlay and associated clause.
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	The planning proposal is consistent with this Direction. Water, sewerage, electricity and telephone are all available in the adjoining Tara Downs subdivision and can be extended to service a residential subdivision of the subject site.
3.2 Caravan Parks and Manufactured Home Estates	Does not apply to planning proposal.
3.3 Home Occupations	This planning proposal is consistent with this Direction as home occupations are permitted in the R2 Low Density residential zone without consent under the Ballina LEP 2012.

Section 117 Direction Checklist	
Planning Proposal – Tara Downs, Lennox Head	
3.4 Integrated Land Use and Transport	The planning proposal is consistent with this Direction as the land is identified in the urban footprint of the Far North Coast Regional Strategy.
3.5 Development Near Licensed Aerodromes	Does not apply to planning proposal.
4. Hazard and Risk	
4.1 Acid Sulfate Soils	The planning proposal is considered to be justifiably inconsistent with this direction given that nature and extent of the subject sites affectation by acid sulfate soils and the relatively minor significance of the proposal. The south eastern most section of Lot 12 (approx. 30% of the lot) is affected by Class 5 Acid Sulfate soils as shown on the Acid Sulfate Soils Planning Map. An acid sulfate soils study has not been prepared given the nature and extent of affectation.
4.2 Mine Subsidence and Unstable Land	Does not apply to planning proposal.
4.3 Flood Prone Land	Does not apply to planning proposal.
4.4 Planning for Bushfire Protection	The planning proposal is consistent with this Direction. The NSW Rural Fire Service (RFS) has been consulted following Gateway determination and prior to public exhibition. The RFS has raised no objection to the planning proposal proceeding.
5. Regional Planning	
5.1 Implementation of Regional Strategies	The site is identified within the urban footprint of the Far North Coast Regional Strategy. Therefore, the proposal is consistent with this Direction.
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 land is not identified within the <i>"Northern Rivers Farmland Protection Project - Final Recommendations, February 2005"</i> as either contiguous or non-contiguous farmland. The land is identified as being within the <i>"town and village growth boundary"</i> by the Far North Coast Regional Strategy. In accordance with subclause (2), land identified within this boundary is excluded from the requirements of this Direction. Therefore, the provisions of this Direction do not apply to the subject land.
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).	Does not apply to Ballina Shire
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	The planning proposal is consistent with this Direction in that it does not introduce any new concurrence or consultation provisions or any additional designated development types.
6.2 Reserving Land for Public Purposes	The planning proposal is consistent with this provision as it does not include creation, altering or reduction of land for public purposes.

9.1 Planning Proposal (BSCPP 14/004) - 16 Tara Downs, Lennox Head.DOC

Section 117 Direction Checklist Planning Proposal – Tara Downs, Lennox Head	
6.3 Site Specific Provisions	The planning proposal is consistent with this Direction as it seeks to apply a land use zone and standards compatible with the residential development of the site.
7. Metropolitan Planning	
7.1 Implementation of the Metropolitan Strategy	Does not apply to Ballina Shire.

Appendix 3 – Photos of Site and Surround

Photo 1 – From Tara Downs looking towards south-east across site



Photo 2 – Centre of site looking towards north. Trees located on Council open space.



Photo 3 – Close up of trees on Council open space northern end beyond site



Photo 4 - Centre of site looking towards south. Cluster of trees within site



Photo 5 – rear of site (northern end) looking towards south-western residential boundary.



Photo 6 – Centre of site looking towards southern boundary (Sewer pumping station not on site)



Photo 7 – View towards site’s south-eastern corner (Weed infestation on Council land)



Photo 8 – Close up of Lantana infestation adjacent to eastern boundary



Appendix 4 – Report to Council 27 March 2014 with Resolution

9.2 LEP Amendment Request - 16 Tara Downs, Lennox Head

9.2 LEP Amendment Request - 16 Tara Downs, Lennox Head

Delivery Program Strategic Planning

Objective To present the Council with a proposal to amend the Ballina Local Environmental Plan 2012 to rezone land located at Lot 12 DP 813210 known as No 16 Tara Downs, Lennox Head and to seek direction in relation to the further progress of the matter.

Background

Council received a request for the rezoning of Lot 12 DP 813210 (Lot 12), known as No 16 Tara Downs, Lennox Head, on 14 February 2013. The land is shown in the site plan contained in Attachment 1.

The land is currently zoned RU1 Primary Production under the provisions of the Ballina Local Environmental Plan 2012 (BLEP 2012). The proposed rezoning involves the application of a R2 Low Density Residential zone over the subject land to replace the RU1 zone. Prior to BLEP 2012 the subject land was zoned 1(b) Rural (Secondary Agricultural Land) zone.

The proponent is Mr D Foley and the landowner is the Uniting Church in Australia. The request, contained in Attachment 2, has been prepared by Newton Denny Chapelle.

Lot 12 has an area of 1.441 hectares. The lot is located on the eastern side of Tara Downs primarily behind nine existing residential lots. A Council public reserve forms the eastern most boundary of the site. Lot 12 has a frontage to Tara Downs in two locations. The northern most frontage has a width of 5 metres and the southern most frontage a width of 39 metres.

Rezoning requests in relation to this property were previously submitted to Council in 2001 and 2008 on behalf of the current landowner. The 2001 request was submitted at a time when the Lennox Head Structure Plan was in the course of being prepared. The structure plan endorsed by the Council at that time identified the land as *possibly suited to future development subject to detailed environmental assessment*.

In 2008 another rezoning request was submitted to Council in support of a residential zone and a proposed 9 lot subdivision. This application was formally discontinued by Council in May 2011 as a consequence of the applicant not submitting additional technical information, as had been requested, despite having ample opportunity to do so.

BLEP 2012 designates the land as a Strategic Urban Growth Area. This is in line with its designation under the Ballina Shire Growth Management Plan and the Lennox Head Structure Plan as being possibly suited to future urban development.

9.2 LEP Amendment Request - 16 Tara Downs, Lennox Head

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

Key Issues

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

Information

Site Assessment

The LEP amendment request provides a brief overview of the planning background of the subject land. Minimal information has been submitted regarding key site issues which include bushfire hazard, contamination, land slip, stormwater management, visual amenity impacts, vehicle access and potential lot layouts for future subdivision.

The site is located within a high risk mosquito management area and is also partly located within a bushfire buffer zone. Approximately half the site's western-most section is also within an area designated as being susceptible to land slip, as designated by NSW Department of Mineral Resources mapping.

In addition, the site is within 100 metres of the disused *Meaneys* cattle tick dip site. A class 5 acid sulfate soils designation also affects the south-eastern section of Lot 12.

The site has a slope from west to east of approximately 20 metres and is substantially cleared of vegetation. An examination of flora and fauna will be required to be undertaken as part of the environmental assessment process, particularly given the site's proximity to a SEPP 26 Littoral Rainforest and a SEPP 14 Coastal Wetland.

Although clearly there are a number of matters that require further consideration, based on a preliminary review of the information submitted and initial site assessment, there does not presently appear to be any significant constraints that would render the application of a residential zone to the land inappropriate. It should also be noted that the immediate neighbourhood will be consulted if a planning proposal proceeds. This process might also bring to light issues for the Council's consideration.

Should the Council agree to initiate the rezoning process then a planning proposal will be prepared for the Council's review prior to the proposal being forwarded to NSW Planning and Infrastructure (P&I) for Gateway determination. If P&I issue an affirmative Gateway determination, additional information would be requested from the applicant in regard to key site issues to enable a comprehensive assessment.

Due to the need to further examine issues such as bushfire, landslip susceptibility and buffer areas required for mosquito control and to adjoining flora and fauna communities, the minimum lot size appropriate for the subject land is yet to be determined.

9.2 LEP Amendment Request - 16 Tara Downs, Lennox Head

The submission which accompanied the LEP amendment request indicated that an opportunity existed to provide lots below 1200m² (1200m² is identified as a preferred lot size standard in the Lennox Head Structure Plan) in a manner still compatible with the existing lots west of the site fronting Tara Downs. Following a request to the proponent's planning consultant, to clarify how many lots were proposed, advice was received that the proponents believe that the land would be suitable for 5 to 6 lots. Technical work to be undertaken as part of the planning proposal would have regard for the number of lots envisaged by the proponent.

The rezoning application submitted in 2008 made provision for 9 residential lots which ranged in size from 1200m² to 1302m².

There is currently no minimum lot size applicable to the land under BLEP 2012. The adjoining R2 Low Density Residential zoned land is subject to a 600m² minimum lot size restriction. Adjoining existing residential lot sizes range in area from 1007m² to 1314m².

Additional information, following a positive Gateway determination, would be sought to enable the Council to determine the suitability of the land for subdivision and the minimum sizes appropriate for future allotments.

With respect to the strategic planning framework, the application of a residential zone to the land is generally consistent with both Council and State Government urban land release planning policy. More specifically, the following provides an overview of the proposed amendment with respect to historical and currently applicable planning documents.

Site History

The parent lot of the subject land, Lot 4 DP 253429, (17.85ha) was created in 1977 in conjunction with a three lot subdivision.

In 1985 Lot 4 was further subdivided to create lot 17 in conjunction with a 30 lot residential subdivision in Tara Downs.

The current Lot 12 was created in 1991 following the excision of a further single residential lot (Lot 13 DP 813210 No. 26 Tara Downs) which has an area of 1007m².

Far North Coast Regional Strategy 2005 (FNCRS)

The subject land is identified as being located within the existing urban footprint of Lennox Head, despite the rural zoning. Accordingly, the application of a residential zone to the land is consistent with this strategy.

Ballina Shire Growth Management Strategy 2012 (GMS)

The subject land is recognised as being within a Strategic Urban Growth Area under this strategy. The site adjoins R2 Low Density residential zoned land to the west (Tara Downs, Elevation Drive, North Creek Road and Aspects Drive). Land to the immediate north, east and south is Council-owned open space land.

The proposal is consistent with the GMS.

9.2 LEP Amendment Request - 16 Tara Downs, Lennox Head

Lennox Head Structure Plan (LHSP)

The LHSP provides a framework for the development of new urban land release areas within the Lennox Head locality and includes the subject land. The subject land is identified as *possibly suited to future development subject to detailed environmental assessment*. Low density residential development with lot sizes of 1200m² is nominated as the preferred use of the site under this strategy.

The LHSP nominated the following planning factors as requiring particular attention as part of the rezoning of this area:

- Buffering for environmental and mosquito management reasons;
- Stormwater management to mitigate impacts downstream and on surrounding environments;
- Establishment of dwelling envelopes to minimise impact on views of existing residents of Tara Downs; and
- Vehicular access is to occur via a single integrated access point to Tara Downs Drive.

The proposal, at this early stage of its development, is considered consistent with the LHSP subject to detailed environmental assessment of constraints to confirm its suitability for a low density residential zone. Detailed environmental assessments would be undertaken after Gateway determination and before the planning proposal is publically exhibited in this case.

Ballina Local Environmental Plan 2012 (BLEP 2012)

The subject land is zoned RU1 Primary Production under the provisions of the BLEP 2012. Previously under the Ballina LEP 1987, the subject land was zoned 1(b) Rural (Secondary Agricultural Land) zone.

The RU1 Primary Production zone generally has a minimum applicable allotment size of 40ha. This size is considered the minimum required to sustain viable agricultural uses. Whilst it is the case that no minimum lot size has been applied to Lot 12 the land is considered unsuitable for sustaining agricultural uses due to its relative small size and its setting. Land consolidation is not an option as the immediately adjoining land to the north, south and east is Council-owned land designated for open space purposes.

It is proposed to rezone Lot 12 to a R2 Low Density Residential zone. The surrounding R2 Low Density Residential zoned lots have a minimum applicable lot size of 600m². Such a lot size is, however, not supported in the absence of further justification due to known constraints. On the basis of information presently available, a minimum 1200m² lot size is considered to be a more likely outcome following more detailed assessment.

Having regard to the land constraints applicable to Lot 12 it is appropriate that additional information be required from the applicant if an affirmative Gateway determination is received from P&I. This information should address potential subdivision layout and building envelopes having regard to bush fire and land slip constraints, as well as buffering requirements to adjoining vegetation communities and for mosquito control. This information would be assessed prior to any public exhibition of the proposal.

9.2 LEP Amendment Request - 16 Tara Downs, Lennox Head

Sustainability Considerations

- **Environment**
The subject land is substantially cleared of trees and contains predominately grass and weed species. The significance of this vegetation, as well as the impact of the proposed subdivision on adjoining flora and fauna communities, would be assessed further if the planning proposal proceeds.
- **Social**
Aside from potential visual amenity impacts arising from the development of the land on surrounding properties, the proposed zoning does not raise any significant social implications. Amenity implications will be considered further as part of the detailed assessment of the proposal post Gateway determination.
- **Economic**
There are no significant economic implications currently identified in relation to the proposed zoning.

Legal / Resource / Financial Implications

There are no significant resourcing or financial implications associated with the further processing of the LEP amendment. The next step in the process would be to prepare a planning proposal suitable for submission to P&I for Gateway determination, if that is the Council's wish.

Following Gateway determination the applicant would be requested to submit additional information which addresses bushfire and land slip risk, site contamination, stormwater management, vehicle access, subdivision layout and building envelopes, including visual amenity impacts, as well as buffering requirements to adjoining flora and fauna communities and for mosquito control.

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

Consultation

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

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

Options

1. Proceed to prepare a planning proposal for the application of an R2 Low Density Residential zone to Lot 12.

9.2 LEP Amendment Request - 16 Tara Downs, Lennox Head

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

While it is considered that additional information is required to finally determine the appropriate minimum lot sizes, the land is generally considered to be suitable for a low density residential zoning. The planning proposal submitted to P&I would identify the uncertainty regarding minimum lot sizes at this stage of the process and identify that the minimum lot sizes would be determined following the assessment of additional information.

This is the recommended approach.

2. Defer or amend the planning proposal.

This approach is not recommended given:

- the initial review of the characteristics of the land has indicated that the site appears generally suitable for a low density residential zoning; and
- the proposed LEP amendment is consistent with Council's land use planning framework for the locality.

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

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

Importantly, the Council can elect to cease processing a planning proposal at other stages of the LEP amendment process if considered appropriate.

RECOMMENDATIONS

1. That Council prepare a planning proposal for the application of an R2 Low Density Residential zone relating to Lot 12 DP 813210, being No 16 Tara Downs, Lennox Head.
2. That the subdivision potential and associated minimum lot size for subdivision of Lot 12 DP 813210 be determined following assessment of additional technical information.
3. That a further report be submitted to the Council documenting the planning proposal.

Attachment(s)

1. Attachment 1 - Site Plan
2. Attachment 2 - LEP Amendment Request

9.2 LEP Amendment Request - 16 Tara Downs, Lennox Head

LEP Amendment Request - 16 Tara Downs, Lennox Head

270314/1 RESOLVED

(Cr Ben Smith/Cr Sharon Cadwallader)

1. That Council prepare a planning proposal for the application of an R2 Low Density Residential zone relating to Lot 12 DP 813210, being No 16 Tara Downs, Lennox Head.
2. That the subdivision potential and associated minimum lot size for subdivision of Lot 12 DP 813210 be determined following assessment of additional technical information.
3. That a further report be submitted to the Council documenting the planning proposal.

FOR VOTE - All Councillors voted unanimously.

Attachment 2 to Report to Council 27 March 2014 – LEP Amendment Request



Date: 31 January 2014
Our Ref: 13/445

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

Attention: Mr Matthew Wood

Dear Sir,

Re: "Concept" Planning Proposal Request
16 Tara Downs, Lennox Head.

1. Introduction & Background

Newton Denny Chapelle (NDC) has been engaged by the owners of 16 Tara Downs, Lennox Head to prepare a "Concept" Planning Proposal request to Ballina Shire Council.

This request is made in accordance with Step 1 of Ballina Shire Council's Process Guidelines for the Preparation of Planning Proposals and Local Environmental Plan Amendments. The request is seeking Council's support to commence the rezoning process to enable the development of Lot 12 DP 813210 for residential purposes. To this end, this request proposes the rezoning of the subject site from the current RU1 – Primary Production zone to R2 – Low Density Residential, pursuant to the Ballina Local Environmental Plan 2012 and Council's subdivision standards also be modified to enable subdivision of the land for residential purposes.

2. Description of Site and Surrounds

Lot 12 DP 813210 is located at 16 Tara Downs, Lennox Head. The property comprises a battle-axe configuration with two connections to Tara Downs with the balance of the land being east of the current housing lots which themselves front Tara Downs. **Plan 1** illustrates the site in its local context.

JOHN NEWTON & Sons M.B. Arch. TONY DENNY & Sons M.B. Arch. DAMIAN CHAPPELLE B.S. Civ.
Office: Suite 7, 31 Carrington Street, Lismore. Postal Address: PO Box 1139 Lismore NSW 2480
Phone (02) 6622 1011 Fax (02) 6622 4088 Email office@newtondennychapelle.com.au
Also at: Casino Court, 100 Barker Street, Casino NSW 2470 Phone/Fax (02) 6662 5000

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Planning Proposal – April 2016 (15/38195)
Lot 12 DP 813210 16 Tara Downs, Lennox Head

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9.1 Planning Proposal (BSCPP 14/004) - 16 Tara Downs, Lennox Head.DOC



Planning Proposal – April 2016 (15/38195)
 Lot 12 DP 813210 16 Tara Downs, Lennox Head

The site slopes gently downward from west to east and forms part of the foot slope of the ridge upon which Tara Downs and North Creek Road are located

The land forms part of the residue allotment from which the existing residential lots fronting Tara Downs have been excised from. In this respect, Lot 12 was created through the development of Tara Downs and subsequent registration of Deposited Plan 715304 in August 1985.

The land enjoys a total land area of 1.441 hectares. As outlined, the land contains dual street frontage to Tara Downs with the southern frontage embellished with a 39 metre width whilst the northern frontage is 5 metres wide.



Plate 1: Deposited Plan - Lot 12 DP 813210 (Subject Land bordered in red).

3. Site History

The parent lot of the subject land, Lot 4 DP 253429, (17.85ha) was created in 1977 in conjunction with a three lot subdivision. Upon gazettal of Ballina LEP 1987, the subject land was zoned 1(b) Rural [Secondary Agricultural].

The lot was further subdivided to create Lot 17 DP 715304 (1.414ha) in 1985 in conjunction with a 30 lot residential subdivision in Tara Downs. The subdivision also encompassed the creation of Lot 30 for a public reserve (8.862ha) which adjoins the subject land to the east.

The current lot (Lot 12 DP 813210) configuration resulted through the excision of a further single residential lot of 1007m² (Lot 13 DP 813210) in 1991.

4. Environmental and Planning Matters for Consideration

The site is subject to a number of environmental and physical matters for consideration which will need to be the subject of further consideration as part of the formal Planning Proposal process. These include the following:

- **Contaminated Land** - The subject land has historically been utilised for grazing purposes and until more recent times as vacant land by the former landowner. Meaney's Dip site is located within the 250m investigation zone for the land. NSW Department of Primary Industries have identified the dip as being decommissioned with the last lease for the dip expiring in 2001.

Notwithstanding the decommissioning of Meaney's Dip, appropriate soil contamination testing will be required in order to meet Council's guidelines. Implications of stormwater run-off from the site on the dip site will also be required to be considered as part of a Gateway Determination. It is proposed such sampling occur as part of the suite of reports/assessments required as part of the Gateway determination.

- **Bushfire Prone Lands** - The subject site is identified in Council mapping as containing a minor land area which is bushfire prone. The buffer from the bushfire hazard located in the eastern adjoining reserve encroaches slightly into the subject land and is not considered to prejudice the future subdivision layout.

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- **Ecological Values** – The site was previously utilised for grazing pursuits and has been maintained as a cleared site. Accordingly, it is unlikely that any significant stands native vegetation exists on the site or that it comprises important habitat for native fauna. However, any planning proposal will need to have regard to individual species located within the northern portion of the site and potential "edge effects" with the adjoining public reserve.
- **Visual Amenity** – An assessment of the proposed subdivision layout and future housing against the amenity of the existing residents fronting Tara Downs will be required to be completed. The assessment will need to have regard to view paths, privacy and acoustic amenity.
- **Infrastructure Services & Stormwater Management** – The land is able to be connected to all essential infrastructure services including water, sewer, electricity and telecommunications. An assessment of the proposed stormwater management addressing water quality and quantity pursuant to Ballina Development Control Plan 2012 – Chapter 2.

5. Current Planning Status

The site has been identified in a wide range of strategic planning documents as being a candidate for future urban development [subject to appropriate environmental assessment via the rezoning and development application processes]. These include:

- **Ballina Local Environmental Plan 2012** – The site is currently zoned RU2- Rural Landscape Zone pursuant to the BLEP 2012. The primary planning objectives for this zone aim to identify land for agriculture and permit such uses which maintain rural landscapes.

The land is identified within Council's mapping for the strategic urban growth areas for Lennox Head (see Plate 2). Through the identification of the land, clause 7.8 of the Ballina LEP seeks to ensure that strategic urban development opportunities in the Strategic Urban Growth Area are maintained.

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Plate 2: Ballina LEP Strategic Urban Growth Areas Map.

- **Far North Coast Regional Strategy 2006** - The subject land is identified as being located within the existing urban footprint, despite the rural zoning. Accordingly, the application of a residential zone to the land is consistent with this strategy.



Plate 3: Far North Coast Regional Strategy.

- **Lennox Head Structure Plan** – The Structure Plan (see Plate 4 below) identifies the subject land as "Area P". The "Structure Plan recognises that Area P appears to be suited to accommodating future urban development. Should detailed assessment (via the rezoning process) confirm this to be the case, low density residential development [L1 - 1,200m²] is the preferred use for this site".



Plate 4: Lennox Head Structure Plan – Area P.

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- **Ballina Shire Growth Management Strategy 2012** – The property is mapped as a Strategic Urban Growth Area pursuant to the Growth Management Strategy as provided within **Plate 5** below.



Plate 5: Ballina Shire Growth Management Strategy 2012.

In accordance with this planning status, our clients are now seeking to advance the Planning Proposal and development of the site for residential purposes. Having regard to the nature of the land and potential dwelling sites, it is submitted the opportunity exists to provide lots below 1,200m² in a manner which is still compatible with the existing residential lots west of the site fronting Tara Downs.

6. Conclusion

Our clients are seeking Ballina Shire Council’s support to commence the rezoning process to enable the development of Lot 12 DP 813210 for residential subdivision and dwelling purposes. This request is made in accordance with “Step 1” of Ballina Shire Council’s Process Guidelines for the preparation of Planning Proposals and Local Environmental Plan Amendments.

It is acknowledged that more detailed planning, environmental and engineering assessments will be required in order to progress the project through the Planning Proposal and subsequent Development Application processes. However, it is submitted that sufficient information is available at this time to enable Council to progress to “Step 2”

9.1 Planning Proposal (BSCPP 14/004) - 16 Tara Downs, Lennox Head.DOC

of the process - that is the preparation of a formal request for Council to prepare a Planning Proposal.

We trust that the above is satisfactory to your requirements and look forward to Council's favourable consideration of this request. Should Council have any queries regarding the above, please do not hesitate to contact Mr Damian Chapelle of this office on (02) 6622 1011.

Please find enclosed a cheque in accordance with Council's prescribed fees for this matter.



DAMIAN CHAPELLE
Town Planner, BTP, CPP.

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Planning Proposal – April 2016 (15/38195)
Lot 12 DP 813210 16 Tara Downs, Lennox Head

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Appendix 5 – Report to Council 24 April 2014 with Resolution

9.1 LEP Amendment Request - 16 Tara Downs, Lennox Head

9.1 LEP Amendment Request - 16 Tara Downs, Lennox Head

Delivery Program Strategic Planning

Objective To outline a planning proposal to rezone Lot 12 DP 813210 known as No. 16 Tara Downs, Lennox Head and seek direction on the further processing of the proposal.

Background

The Council, at its Ordinary Meeting held on 27 March 2014, considered a request from Mr D Foley to amend the Ballina Local Environmental Plan 2012 (Ballina LEP 2012). If granted, the amendment would rezone Lot 12 DP 813210, No 16 Tara Downs, Lennox Head from zone RU1 – Primary Production to zone R2 – Low Density Residential under the terms of the LEP.

In relation to this matter, the Council resolved as follows [Minute No. 270314/16]:

1. *That Council prepare a planning proposal for the application of an R2 Low Density Residential zone relating to Lot 12 DP 813210, being No 16 Tara Downs, Lennox Head.*
2. *That the subdivision potential and associated minimum lot size for subdivision of Lot 12 DP 813210 be determined following assessment of additional technical information.*
3. *That a further report be submitted to the Council documenting the planning proposal.*

The planning proposal has been prepared and forms Attachment One to this report. The purpose of this report is to seek the Council's endorsement of the planning proposal for submission to NSW Planning and Infrastructure (NSW P&I) to obtain a Gateway determination. Established practice in relation to this type of LEP amendment is for the Council to receive the planning proposal documentation for consideration (following initial commencement of an LEP amendment process) with a view to determining whether the matter should progress to Gateway determination.

Additional information required to enable a comprehensive assessment of the relevant technical matters will be sought from the proponent after Gateway determination, assuming an affirmative response is received.

Key Issues

- Processing of LEP amendment request and submission of planning proposal for Gateway determination

9.1 LEP Amendment Request - 16 Tara Downs, Lennox Head

Information

In summary, the planning proposal provides for an amendment to the Ballina LEP 2012 to rezone the subject land from RU1 Primary Production to R2 Low Density Residential. The proposal also seeks to enable a change to the minimum lot size for subdivision, but identifies that determination of the preferred standard is subject to further technical assessment.

The planning proposal has been prepared on the basis of information already available to Council. At this stage the degree to which known land constraints such as acid sulfate soils, bushfire hazard, contamination, land slip, storm water management, mosquito management issues, visual amenity impacts, vehicular access and potential lot configuration and size for future subdivision will impact on the planning proposal is not fully known. However, these issues will be further examined post Gateway determination if the Council resolves to adopt the recommendation below.

The attached planning proposal documents the degree to which the proposal complies with the locality's strategic planning framework. Consideration has been given to the planning proposal's consistency with the Far North Coast Regional Strategy, the Ballina Shire Growth Management Strategy, the Lennox Head Structure Plan, the Ballina LEP 2012, applicable State Environmental Planning Policies and the Minister's Section 117 Directions.

It has been concluded that the planning proposal is generally consistent with the framework provided by each of these documents.

Gateway determination requirements will specify the range of investigations and studies that NSW P&I will require to advance the planning proposal. Such information will then be required to be submitted to Council by the proponent for incorporation within the planning proposal prior to consultation with public authorities and the community.

Sustainability Considerations

- **Environment**
The subject land is substantially cleared of trees and contains predominately grass and weed species. Hairy Joint Grass, being a threatened and vulnerable plant species, has previously been found on this site. The significance of this vegetation, as well as the impact of the proposed subdivision on adjoining flora and fauna communities, would be assessed further post Gateway determination.
- **Social**
Aside from potential visual amenity impacts to adjacent properties arising from the development of the future land, the proposed zoning does not raise any significant social implications. Amenity implications will be considered further as part of the detailed assessment of the proposal post Gateway determination. In this regard, conceptual subdivision configuration and proposed lot size will be relevant.
- **Economic**
There are no significant economic implications currently identified in relation to the proposed rezoning.

9.1 LEP Amendment Request - 16 Tara Downs, Lennox Head

Legal / Resource / Financial Implications

There are no specific legal implications associated with this proposed LEP amendment at this time.

The matters arising from this report can be attended to within existing resources.

In the event that Council wishes to advance this proposal, the proponent will be required to meet various processing costs in accordance with the Council's adopted schedule of fees and charges, as well as providing the necessary additional technical information, following Gateway determination.

Progress of this matter can be accommodated within the Strategic and Community Facilities Group work program.

Consultation

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

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

Options

1. Endorse the planning proposal for submission to Planning and Infrastructure for Gateway determination.

This is the preferred and recommended option. In the circumstance, requiring the submission of technical information after a favourable Gateway determination has been obtained provides the proponent with additional confidence to justify the expenditure of funds to meet the cost of specified technical reports and studies. There are no identified technical issues that warrant detailed pre-Gateway determination assessment in this instance.

2. Require the proponent to submit additional information for incorporation into the planning proposal prior to submission to Planning and Infrastructure for Gateway determination.

The preparation of the planning proposal has highlighted a number of land constraints that will require detailed examination to determine associated impacts. However, these can be assessed after Gateway determination (assuming the proponents have the ability to provide relevant information).

3. Cease or defer processing of the LEP amendment request.

The Council may decline or defer the consideration of the requested LEP amendment.

9.1 LEP Amendment Request - 16 Tara Downs, Lennox Head

This course of action is not recommended as the rezoning and low density residential development of the land would be what is envisaged (subject to assessment of relevant constraints) within the current strategic planning framework. The proposal represents an opportunity to provide additional land for housing in an area with good access to utilities and services.

Proceeding with the proposal at this time will enable the completion of further technical assessment following Gateway determination. Importantly, the Council will have other opportunities during the processing of the amendment request to cease progress of the matter, should it determine this to be the appropriate course of action in the future.

RECOMMENDATIONS

1. That the Council authorises the submission of the planning proposal (contained in attachment One) which provides for the application of an R2 Low Density Residential zone over Lot 12 DP 813210, being No 16 Tara Downs, Lennox Head to NSW Planning and Infrastructure for review and Gateway determination.
2. That upon an affirmative Gateway determination being received from NSW Planning & Infrastructure, the proponent be required to submit the technical documentation necessary to enable a comprehensive assessment of the proposal, including a determination of minimum lot size provisions.
3. That a further report be presented to the Council in relation to this matter following the mandatory community and government agency consultation.

Attachment(s)

1. Attachment One - Planning Proposal

9.1 LEP Amendment Request - 16 Tara Downs, Lennox Head
240414/12 RESOLVED
(Cr Ben Smith/Cr Robyn Hordern)

1. That the Council authorises the submission of the planning proposal (contained in attachment One) which provides for the application of an R2 Low Density Residential zone over Lot 12 DP 813210, being No 16 Tara Downs, Lennox Head to NSW Planning and Infrastructure for review and Gateway determination.
2. That upon an affirmative Gateway determination being received from NSW Planning & Infrastructure, the proponent be required to submit the technical documentation necessary to enable a comprehensive assessment of the proposal, including a determination of minimum lot size provisions.
3. That a further report be presented to the Council in relation to this matter following the mandatory community and government agency consultation.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Paul Worth

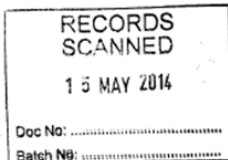
Ballina Shire Council
24/04/14

Ordinary Meeting of Ballina Shire Council
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Appendix 6 – Gateway Determination dated 13 May 2014



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



Our ref: PP_2014_BALLI_004_00 (14/07403)
Your ref: 16 Tara Downs Lennox Head (14/26960)

Dear Mr Hickey

Planning proposal to amend Ballina Local Environmental Plan 2012

I am writing in response to your Council's letter dated 1 May 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 Lot 12 DP 813210, 16 Tara Downs at Lennox Head from RU1 Primary Production to R2 Low Density Residential and to apply an appropriate minimum lot size for the land.

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 1.2 Rural Zones, 1.5 Rural Lands, and 4.1 Acid Sulfate Soils are of minor significance. No further approval is required in relation to these Directions.

Council may still need to obtain the agreement of the Secretary to comply with the requirements of relevant S117 Directions 2.1 Environment Protection Zones and 4.4 Planning for Bushfire Protection. Council should ensure this occurs prior to the plan being made.

Plan making powers were delegated to councils in October 2012. It is noted that Council has now accepted this delegation. 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 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.

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

Should you have any queries in regard to this matter, I have arranged for Jenny Johnson of the Grafton regional office to assist you. Ms Johnson can be contacted on (02) 6641 6614.

Yours sincerely

 13 May 2014
Stephen Murray
General Manager, Northern Region
Growth Planning and Delivery



**Planning &
Environment**

Gateway Determination

Planning proposal (Department Ref: PP_2014_BALLI_004_00): to rezone Lot 12 DP 813210, 16 Tara Downs at Lennox Head from RU1 Primary Production to R2 Low Density Residential and to apply an appropriate minimum lot size for the land.

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 Lot 12 DP 813210, 16 Tara Downs at Lennox Head from RU1 Primary Production to R2 Low Density Residential and to apply an appropriate minimum lot size for the land should proceed subject to the following conditions:

1. Prior to commencing public exhibition, the following studies are to be undertaken:

- Flora and Fauna Impact Assessment
- Land slip Assessment

These studies along with the proposed Minimum Lot Size map should be placed on public exhibition with the planning proposal.

2. 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 (Planning & 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 (Planning & Infrastructure 2013)*.

3. Consultation is required with the NSW Rural Fire Service under section 56(2)(d) of the EP&A Act. NSW Rural Fire Service 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.

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 13th day of May

2014.

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

Delegate of the Minister for Planning

PP 2014 BALLI 004 00 (14/07403)



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_004_00	rezone Lot 12 DP 813210, 16 Tara Downs at Lennox Head from RU1 Primary Production to R2 Low Density Residential and to apply an appropriate minimum lot size for the land

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

Dated 13 May 2014


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

Attachment 5 – Delegated plan making reporting template

Reporting template for delegated LEP amendments

Notes:

- Planning proposal number will be provided by the department following receipt of the planning proposal
- The department will fill in the details of Tables 1 and 3
- RPA is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the RPA should add additional rows to **Table 2** to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the department's publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the department with the RPA's request to have the LEP notified

Table 1 – To be completed by the department

Stage	Date/Details
Planning Proposal Number	PP_2014_BALLI_004_00
Date Sent to Department under s56	01/05/2014
Date considered at LEP Review Panel (if applicable)	Proposal considered by General Manager, Northern Region under delegation
Gateway determination date	13/05/2014

Table 2 – To be completed by the RPA

Stage	Date/Details	Notified Reg Off
Dates draft LEP exhibited		
Date of public hearing (if held)		
Date sent to PCO seeking Opinion		
Date Opinion received		
Date Council Resolved to Adopt LEP		
Date LEP made by GM (or other) under delegation		
Date sent to DP&I requesting notification		

Table 3 – To be completed by the department

Stage	Date/Details
Notification Date and details	

Additional relevant information:

Appendix 7 – Alteration of Gateway Determination - Extension of Time - 29 May 2015



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

Our ref: 14/07403

Attention: Klaus Kerzinger

Dear Mr Hickey

Planning Proposal PP_2014_BALLI_004_00 – Alteration of Gateway Determination

I refer to your email of 22 May 2015 seeking an extension of time to complete Planning Proposal PP_2014_BALLI_004_00 for 16 Tara Downs, Lennox Head.

I have determined as the delegate of the Minister, in accordance with section 56(7) of the *Environmental Planning and Assessment Act 1979* to alter the Gateway determination dated 13 May 2014 for PP_2014_BALLI_004_00 (as altered). The Alteration of the Gateway Determination is enclosed.

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

Yours sincerely

 29 May 2015
Stephen Murray
General Manager, Northern Region
Planning Services

Encl:
Alteration to Gateway Determination

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

Planning Proposal – April 2016 (15/38195)
Lot 12 DP 813210 16 Tara Downs, Lennox Head

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Alteration of Gateway Determination

Planning proposal (Department Ref: PP_2014_BALLI_004_00)

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(7) of the *Environmental Planning and Assessment Act 1979* to alter the Gateway determination dated 13 May 2014 (as since altered) for the proposed amendment to the Ballina Local Environmental Plan (LEP) 2012 as follows:


1. Delete:

"condition [5]"

and replace with:

a new condition [5] "The timeframe for completing the LEP is by 13 May 2016"

Dated 29th day of May 2015


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

Delegate of the Minister for Planning

PP_2014_BALLI_004_00 (14/07403)

Appendix 8 – Alteration of Gateway Determination - Zoning Correction - 7 July 2015



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

Our ref: 14/07403
Your ref: LEP Amendment – 16 Tara
Downs Lennox Head (1586)

Attention: Klaus Kerzinger

Dear Mr Hickey

Planning Proposal PP_2014_BALLI_004_00 – Alteration of Gateway Determination

I refer to your letter of 24 June 2015 in relation to revisions to Planning Proposal PP_2014_BALLI_004_00 that rezones part of 16 Tara Downs, Lennox Head, for residential purposes and applies an appropriate minimum subdivision lot size for the entire land.

I have determined as the delegate of the Minister, in accordance with section 56(7) of the *Environmental Planning and Assessment Act 1979* to alter the Gateway determination dated 13 May 2014 for PP_2014_BALLI_004_00 (as altered). The Alteration of the Gateway Determination and amended written authorisation to Exercise Delegation are enclosed.

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

Yours sincerely

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

7 July 2015

Craig Diss
Acting General Manager, Northern Region
Planning Services

End:
Alteration to Gateway Determination
Written Authorisation to Exercise Delegation

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



Alteration of Gateway Determination

Planning proposal (Department Ref: PP_2014_BALLI_004_00)

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(7) of the *Environmental Planning and Assessment Act 1979* to alter the Gateway determination dated 13 May 2014 (as since altered) for the proposed amendment to the *Ballina Local Environmental Plan 2012* as follows:

1. Change the description of the Planning Proposal

from

Planning proposal (Department Ref: PP_2014_BALLI_004_00): to rezone Lot 12 DP 813210, 16 Tara Downs at Lennox Head from RU1 Primary Production to R2 Low Density Residential and to apply an appropriate minimum lot size for the land.

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 Lot 12 DP 813210, 16 Tara Downs at Lennox Head from RU1 Primary Production to R2 Low Density Residential and to apply an appropriate minimum lot size for the land should proceed subject to the following conditions:

to

Planning proposal (Department Ref: PP_2014_BALLI_004_00): to rezone part of Lot 12 DP 813210, 16 Tara Downs at Lennox Head from RU2 Rural Landscape to R2 Low Density Residential and to apply an appropriate minimum lot size for the entire land.

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 part of Lot 12 DP 813210, 16 Tara Downs at Lennox Head from RU2 Rural Landscape to R2 Low Density Residential and to apply an appropriate minimum lot size for the entire land should proceed subject to the following conditions:

Dated 7 day of July 2015


Craig Diss
Acting General Manager, Northern Region
Planning Services
Department of Planning and Environment
Delegate of the Minister for Planning

PP_2014_BALLI_004_00 (14/07403)



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_004_00	Rezone part of Lot 12 DP 813210, 16 Tara Downs at Lennox Head from RU2 Rural Landscape to R2 Low Density Residential and to apply an appropriate minimum lot size for the entire land.

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 7 July 2015

Craig Diss
Acting General Manager, Northern Region
Planning Services
Department of Planning and Environment

Delegate of the Minister for Planning

PP_2014_BALLI_004_00 (14/07403)

Appendix 9 – Letter from Office of Environment and Heritage - 7 July 2015



Your reference: BSCPP 14/004
Our reference: DOC15/211476
Contact: Krister Waern 6640 2503

General Manager
Ballina Shire Council
PO Box 450
Ballina NSW 2478



Attention: Mr Klaus Kerzinger

Dear Mr Hickey

Re: Planning Proposal BSCPP 14/004 – 16 Tara Downs, Lennox Head, Lot 12 DP 813210

I refer to your letter dated 9 June 2015 regarding the planning proposal for 16 Tara Downs Lennox Head requesting comments from the Office of Environment and Heritage (OEH). I appreciate the opportunity to provide input and apologise for the delay in responding.

OEH has statutory responsibilities relating to biodiversity (including threatened species, populations, ecological communities, or their habitats), Aboriginal and historic heritage, National Parks and Wildlife Service estate, flooding and estuary management. Matters relating to noise, air and water quality and any licensing requirements under the *Protection of the Environment Operations Act 1997* should be addressed separately to the Environment Protection Authority because OEH is now independent of that authority.

We have reviewed the documents supplied and advise that although we have no concerns in relation to NPWS estate, flooding, or historic heritage, a number of issues are apparent with the assessments for biodiversity and Aboriginal cultural heritage. These issues are discussed in detail in **Attachment 1** to this letter.

In summary OEH recommends that prior to finalising the planning proposal Council should:

- a) request further information from the applicant to demonstrate an appropriate 'avoid, mitigate and offset' approach to rezoning of the planning area given the anticipated biodiversity impacts of future residential uses on land with high biodiversity conservation values;
- b) apply the E2 Environmental Conservation zone to areas of high biodiversity conservation value in the planning area, including threatened species and endangered ecological communities;
- c) amend the planning proposal report to provide an accurate identification and assessment of the current zoning, being RU2 Rural Landscape;

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Federation House, Level 7, 24 Moonee Street
Coffs Harbour NSW
Tel: (02) 6659 8200 Fax: (02) 6651 5356
ABN 30 841 387 271
www.environment.nsw.gov.au

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- d) satisfy itself that all potential direct and indirect biodiversity impacts of future development to be enabled by the planning proposal have been considered and appropriately offset as part of the planning proposal, including consideration of impacts arising from the 10/50 Vegetation Clearing Entitlement;
- e) require use of the BioBanking Assessment Methodology to determine the type and quantum of offsets needed to compensate for the future direct impacts on Hairy Jointgrass and potential direct and indirect impacts on the Littoral Rainforest EEC located in the planning area and on the adjoining Council land if the planning proposal were to proceed as currently set out;
- f) request that correspondence from the Jali Local Aboriginal Land Council be provided regarding its views on the planning proposal; and,
- g) amend irregularities in relation to Appendix A, B and C of the Aboriginal Cultural Heritage Due Diligence Assessment.

Once these matters have been addressed, OEH requests that Council provides us with an opportunity to review the revised planning proposal before it is exhibited.

Should you require further information or clarification, or should Council be in possession of information that suggests that OEH's statutory interests may be affected, please contact Senior Operations Officer, Mr Krister Waern, on 6640 2503.

Yours sincerely

 7 July 2015

DIMITRI YOUNG
Senior Team Leader Planning, North East Region
Regional Operations

Attachment 1 – Detailed OEH Comments - Planning Proposal – 16 Tara Downs, Lennox Head

Biodiversity Comments

OEH has reviewed the planning proposal dated April 2014 prepared by Ballina Shire Council and provides the following points for consideration:

- The planning proposal report has incorrectly stated the current zoning for the planning area as RU1 Primary Production when it is RU2 Rural Landscape. It assesses the suitability of the current zoning against RU1 and finds this zoning generally not suitable. However, the merits of the current zoning of RU2 Rural Landscape need to be assessed to determine the suitability of the existing zoning in the context of the planning proposal.
- We note that the planning proposal describes the history of the planning area and how three previous subdivisions have created the existing lot. The retention of this lot from the previous subdivisions may indicate that the planning area is not suited to residential subdivision and more appropriately suited to its current zoning of RU2 Rural Landscape. The RU2 zoning may be appropriate as a transition and buffer to the other adjoining land uses. The properties to the north and south of the planning area are currently zoned RE1 Public Recreation and the land to the east owned by Ballina Shire Council has high environmental values, being the Littoral Rainforest Endangered Ecological Community (EEC), and is proposed by council for an environmental zoning (currently a deferred matter due to the North Coast E zone review).
- OEH notes that the Blackwood Ecological Assessment report has identified 505m² of Hairy Jointgrass (*Arthraxon hispidus*) in the planning area. Hairy Jointgrass has a conservation status of Vulnerable under both state and commonwealth legislation. The planning area and the adjoining council property also contain Littoral Rainforest EEC. Council should apply the 'avoid, mitigate and offset' approach to ensure that the future impacts on these high biodiversity conservation values are adequately addressed as a part of this planning proposal rather than at the development assessment stage. We advocate protection of land with high biodiversity conservation values by applying the E2 Environmental Conservation zone to such lands.
- The concept subdivision plan indicates that all of the 505m² area of Hairy Jointgrass will be removed for future residential purposes to be enabled by the planning proposal. The Blackwood Ecological Assessment concludes that the impact on Hairy Jointgrass is not significant as the local population includes other habitat areas to the south. In coming to this conclusion, Blackwood has referenced RMS *et al.* (2012) which considered occurrences of Hairy Jointgrass within 150m of each other to be part of the same sub-population due to wind dispersal over this distance. Council should consider the potential blockages to wind dispersal of Hairy Jointgrass such as large vegetated areas when considering the extent of the local population and the conclusions of the Blackwood assessment.
- In any case planning proposals offer opportunities to avoid and/or mitigate potential impacts on land with high biodiversity conservation values by identifying those values and applying appropriate land use zones, such as E2 to such areas. This should be the focus of ecological studies for planning proposals in the first instance rather than assuming the applicant's desired zones as given and then undertaking impact assessments for future development to be enabled by those zones to justify them.
- Regardless of the significance of the biodiversity impacts of the future development to be enabled by the planning proposal, all impacts on biodiversity should be offset at the planning proposal stage. The planning proposal report nor the Blackwood Ecological Assessment consider how impacts on the Hairy Jointgrass or the Littoral Rainforest EEC will be offset.

Page 1 of 3

- A Bushfire Assessment Report has been prepared, however this report was not forwarded to OEH for review. The planning area is within the 10/50 Vegetation Clearing Entitlement Area. This entitlement has the potential to impact the Littoral Rainforest EEC located in the planning area and potentially impact on these values on the adjoining Council owned land. Any parts of the planning area to be zoned for residential purposes should be located so that future dwellings would be at least 50m from native vegetation.

Offset Requirements

- The planning proposal will create an intensification of land use potential for the planning area which will impact on biodiversity values. The applicant needs to consider how it will address the biodiversity impacts of future residential activity and demonstrate to council an appropriate 'avoid, mitigate and offset' approach prior to council finalising the planning proposal.
- OEH recommends the use of the BioBanking Assessment Methodology to determine the type and quantum of offsets required for the future impacts to Hairy Jointgrass and potential direct and indirect impacts to the Littoral Rainforest EEC located in the planning area and on the adjoining Council land.
- OEH is willing to further assist Council in reviewing an appropriate biodiversity offset package for the planning proposal.

Recommendations:

OEH recommends that prior to finalising the planning proposal:

- a) Council should request further information from the applicant to demonstrate an appropriate 'avoid, mitigate and offset' approach to rezoning of the planning area given the anticipated biodiversity impacts of future residential use on land with high conservation values;
- b) Areas of high conservation value in the planning area, including threatened species and endangered ecological communities, should be zoned E2 Environmental Conservation;
- c) The planning proposal report should be amended to provide an accurate identification and assessment of the current zoning, being RU2 Rural Landscape;
- d) Council should satisfy itself that all potential direct and indirect biodiversity impacts of future development to be enabled by the planning proposal have been considered and appropriately offset as part of the planning proposal, including consideration of impacts arising from the 10/50 Vegetation Clearing Entitlement; and,
- e) The BioBanking Assessment Methodology should be used to determine the type and quantum of offsets required to compensate for the future direct impacts to Hairy Jointgrass and potential direct and indirect impacts to the Littoral Rainforest EEC located in the planning area and on the adjoining Council land.

Aboriginal Cultural Heritage Comments

A review of Aboriginal Cultural Heritage Due Diligence Assessment Lot 12 DP 813210 Lennox Head, Ballina LGA NSW showed the assessment undertaken to inform the planning proposal considered both tangible and intangible Aboriginal cultural heritage. OEH notes the assessment sought to identify potentially significant Aboriginal cultural heritage so that appropriate planning mechanisms could be considered at the planning proposal stage through which such heritage can be adequately managed.

We note that no Aboriginal objects, Aboriginal places or Aboriginal cultural values were identified during the AHIMS search, desk top assessment and field survey, and that the assessment concluded that no further assessment is required.

We also note the report indicated it was the final version. However, it did not include the referenced correspondence from Jali Local Aboriginal Land Council or an explanation of why Appendix A is still blank. This correspondence is required to support the planning proposal's assessment of intangible values. It will provide evidence of support for the field officer's conclusions regarding the assessment undertaken on behalf of the Aboriginal collective represented.

We further note Appendix B and Appendix C have footer identifiers that are not reflective of either the material contained in the respective attachments or the overall report. These irregularities should be addressed and the amended version provided to support the planning proposal.

Recommendations:

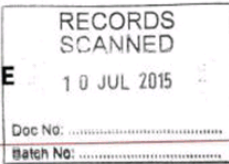
OEH recommends that prior to finalising the planning proposal:

- a) Council should request that correspondence from the Jali Local Aboriginal Land Council be provided to support the application; and,
- b) Irregularities in relation to Appendix A, B and C of the Aboriginal Cultural Heritage Due Diligence Assessment should be addressed.

Appendix 10 – NSW Rural Fire Service Advice - 7 July 2015



NSW RURAL FIRE SERVICE



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

Your reference: Trim 1586-02
Our reference: L12/0003

Attention: Mr Klaus Kerzinger

7 July 2015

Dear Mr Kerzinger,

Planning Proposal - 16 Tara Downs, Lennox Head (Lot 12 DP 813210)

I refer to your letter dated 5 June 2015 seeking comments from the NSW Rural Fire Service (RFS) with respect to the above Planning Proposal.

The RFS has reviewed the submitted documentation and understands the Planning Proposal intends to amend Ballina Local Environmental Plan 2012 with respect to Lot 12 DP 813210 to rezone the land from RU1 Primary Production zone to R2 Low Density Residential zone. The proposed subdivision plan submitted with the Planning Proposal is understood to be a concept plan only at this stage and any such development of the land would be subject to a separate development application following successful rezoning of the land.

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

It is also noted that the Bushfire Threat Assessment Report accompanying the Planning Proposal has proposed an alternative solution with respect to site access for the future development concept plan. The RFS is not satisfied at this stage that the alternative solution adequately addresses the requirements of *Planning for Bushfire Protection 2006* with respect to access.

Notwithstanding this concern regarding the proposed alternative solution for future access, the RFS has no objection to the Planning Proposal proceeding, noting that any future 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*.
- > it should be noted that the minimum specifications for asset protection zones for residential and rural-residential subdivisions in Table A2.5 of *Planning for Bush Fire Protection 2006* do not correspond directly with the minimum separation distances for BAL-29 construction under Table 2.4.3 of AS 3959-2009 Construction of buildings in bushfire-prone areas. Minimum asset protection zones for future development should be designed to achieve separation distances consistent with BAL 29 under AS 3959.

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

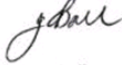
T (02) 6691 0400
F (02) 6691 0499
www.rfs.nsw.gov.au



9.1 Planning Proposal (BSCPP 14/004) - 16 Tara Downs, Lennox Head.DOC

For any queries regarding this correspondence please contact Paul Creenaune 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'.

NSW RURAL FIRE SERVICE

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Appendix 11 – Concept Subdivision Plan



Planning Proposal – April 2016 (15/38195)
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Appendix 12 – Amended Aboriginal Cultural Heritage Due Diligence Assessment

Document under separate cover

Appendix 13 – Amended Ecological Assessment

Document under separate cover

Appendix 14 – Bushfire Threat Assessment Report

Document under separate cover

Appendix 15 – Preliminary Contaminated Land Assessment

Document under separate cover

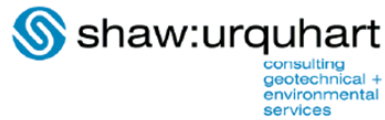
Appendix 16 – Engineering Services Report

Document under separate cover

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Appendix 18 – Preliminary Geotechnical / Stability Assessment



15963/1-A ps:ps
29 May 2015

Newton Denny Chapelle
PO Box 1138
LISMORE NSW 2480

Attention: Mr P Williams

RE: PRELIMINARY GEOTECHNICAL/STABILITY ASSESSMENT
PROPOSED SUBDIVISION, 16 TARA DOWNS, LENNOX HEAD, NSW

1. INTRODUCTION

Shaw Urquhart Pty Ltd was requested by Newton Denny Chapelle to carry out a preliminary geotechnical/stability assessment for a proposed two (2) lot subdivision at 16 Tara Downs, Lennox Head.

Copies of the following documents were provided to Shaw Urquhart to assist with the assessment:

- "Engineering Services Report" by Newton Denny Chapelle, reference 13/445, dated May 2015.
- Drawing ES10, "Engineering Services and Slope Analysis Plan" by Newton Denny Chapelle.

The location of the site and the proposed subdivision layout are shown on the attached Drawing ES1 (Rev C) taken from the Engineering Services Report.

2. REGIONAL GEOLOGY

According to the published geology maps of the area the site is underlain by weathered volcanic rocks of the Tertiary Lismore Basalt.

On the basis of our general experience in the area, the subsurface profile is likely to consist of between 1.5m and 3.0m of residual, stiff to very stiff, silty and clayey soils (krasnozem soil) overlying extremely weathered basalt grading into highly to moderately weathered basalt with depth.

3. SLOPE STABILITY

On the basis of the slope analysis plan provided by Newton Denny Chapelle, slope angles across the site are generally less than 15°.

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In accordance with the terminology of Appendix C of the Australian Geomechanics Society "Practice Note Guidelines for Landslide Risk Management", Australian Geomechanics Vol 42 No 1 March 2007, the allotments may be divided into areas of different likelihood of instability as follows:-

- **Barely Credible:** Gently sloping to flat-lying areas with slope angles of less than or equal to 7°. This does not include the potential for localised instability on drainage ditches, fill stockpiles or other man-made features.
- **Rare:** Flat-lying areas and the crests and upper slopes of ridges and spurs with slope angles of greater than 7° to 12°.
- **Unlikely:** Areas with slope angles of greater than 12° to 18°.

On the basis of this preliminary assessment using slope angle and assuming a typical subsurface profile for the regional geology, the site is assessed to be currently stable. That is, the area is assessed to have a geotechnical factor of safety against instability of greater than 1.5.

This will need to be confirmed by on-site observations and subsurface investigations at final design stage.

4. CONSTRAINTS ON DEVELOPMENT

It is expected that there will be no difficulty in locating a number of building envelopes across the site. Suitably located building envelopes will remain stable (as defined above) for the foreseeable future, provided the development constraints in Table 1 are strictly adhered to:

TABLE 1: PROPOSED DEVELOPMENT CONSTRAINTS ON SLOPING LAND


Likelihood of Instability	Geotechnical Constraints on Development
Barely Credible Slope ≤7°	<ul style="list-style-type: none"> • No specific constraints other than good engineering and construction practice. • May be settlement issues if areas of uncontrolled fill are present.
Rare Slope >7° to 12°	<ul style="list-style-type: none"> • Minimise earthworks. Maximum unsupported cut depths and fill thicknesses of 2.0m battered no steeper than 2H:IV are recommended unless subject to site-specific engineering investigations and design. Steeper and deeper unsupported cuts and fills should be supported with engineered retaining walls. • Pre-strip the vegetation and topsoil prior to placement of any filling, and bench engineered fill into the natural slope and compact to standards appropriate to its purpose. • Provide appropriate surface and subsurface drains, and direct water collected by these drainage systems, together with run-off from gutters, down-pipes, driveways and paved areas, into the stormwater reticulation system.
Unlikely Slope >12° to 18°	Due to the fact that building footings are likely to be founded in residual soils, it is recommended that the type of building be restricted to

	<p>lightweight structures of timber or similar construction to limit surcharge loadings on the slopes.</p> <p>Depending on the results of an appropriate, site-specific geotechnical assessment, the recommendations typically include:</p> <ul style="list-style-type: none"> • Avoid development near locally over-steepened areas or gullies. • Pre-strip the vegetation/topsoil prior to placement of any filling, bench engineered fill into the natural slope and compact to standards appropriate to its purpose. • Locate footings on weathered rock where practical, or in the residual soil profile. • Found engineered retaining walls in rock where practicable, and designed to resist applied soil and water forces, allowing for the sloping ground and any surcharge loadings. • Minimise bulk earthworks. Maximum unsupported cut depths and fill thicknesses of 1.0m, and batters no steeper than 2H:1V are recommended unless subject to site-specific engineering investigations and design. Steeper and deeper cuts and fills should be supported with engineered retaining walls. • Provide appropriate surface and subsurface drainage to ensure that no additional water is allowed to penetrate and increase the moisture content of the soils on the steep slopes. The future stability of the area depends on the current groundwater condition beneath the allotments being maintained. The use of on-site effluent disposal or soakage pits of any type is prohibited. • Collect water from the surface and subsurface drainage systems, together with runoff from gutters, downpipes, driveways and paved areas and discharge into the stormwater reticulation system or discharge near the base of the existing natural drainage features in such a way as to not cause erosion (inter-allotment drainage system). • Pay particular attention to drainage and erosion control measures during site development. If areas of surface groundwater seepage become apparent during or immediately after periods of heavy rainfall sub-soil drains will be required in such areas.
--	--

In general, it is recommended that construction should follow good engineering practice in accordance with "Some Guidelines for Hillside Construction" and "Examples of Good and Poor Hillside Practice" copies of which are attached.

15963/1-A
29 May 2015

4

shaw:urquhart

It is understood from the Engineering Services Report that retaining walls up to 2m high will be required to support excavations into the slope to enable the creation of a flat turning area that can service medium rigid vehicles. Smaller retaining walls will also be required adjacent to the driveway so as to maintain level areas for pedestrian and traffic movements.

Provided that retaining walls greater than 1.0m in vertical height are engineer designed, there are no anticipated geotechnical constraints that would prevent the proposed development being constructed.

4. DETAILED DESIGN STUDIES

The geotechnical/stability assessment presented in this report had been based on a desk study and can only be regarded as preliminary.

Prior to development proceeding, it will be necessary to carry out detailed field studies including a walk-over assessment by an Engineering Geologist/Geotechnical Engineer to make observations of the local geology, geomorphology and stability of the natural slopes. Subsurface investigations will also be required to confirm the assumptions with respect to the site geology and depth to weathered rock.

If you have any questions or if you wish to discuss or clarify any of the issues raised in this report, please contact Philip Shaw at our Brisbane office.

For and on behalf of

SHAW URQUHART PTY LTD



PHILIP SHAW

Principal Geotechnical Engineer

Att. Understand the Limitations of Your Geotechnical Report

Drawings ES1 and ES10 by Newton Denny Chapelle

Appendix C of the Australian Geomechanics Society "Practice Note Guidelines for Landslide Risk Management", Australian Geomechanics Vol 42 No 1 March 2007.

Good Hillside Practice

UNDERSTAND THE LIMITATIONS OF YOUR GEOTECHNICAL REPORT



This report has been based on project details as provided to us at the time of the commission. It therefore applies only to the site investigated and to a specific set of project requirements as understood by Shaw:Urquhart.

If there are changes to the project, you need to advise us in order that the effect of the changes on the report recommendations can be adequately assessed. Shaw:Urquhart cannot take responsibility for problems that may occur due to project changes if they are not consulted.

It is important to remember that the subsurface conditions described in the report represent the state of the site at the time of investigation. Natural processes and the activities of man can result in changes to site conditions. For example, ground water levels can change or fill can be placed on a site after the investigation is completed. If there is a possibility that conditions may have changed with time, Shaw:Urquhart should be consulted to assess the impact on the recommendations of the report.

The site investigation only identifies the actual subsurface conditions at the location and time when the samples were taken. Geologists and engineers then extrapolate between the investigation points to provide an assumed three-dimensional picture of the site conditions. The report is based on the assumption that the site conditions as identified at the investigation locations are representative of the actual conditions throughout an area. This may not be the case and actual conditions may

differ from those inferred to exist. This will not be known until construction has commenced. Your geotechnical report and the recommendations contained within it can therefore only be regarded as preliminary.

In the event that conditions encountered during construction are different to those described in the report, Shaw:Urquhart should be consulted immediately. Nothing can be done to change the actual site conditions which exist but steps can be taken to reduce the impact of unexpected conditions. For this reason, the services of Shaw:Urquhart should be retained through the development stage of a project.

Problems can occur when other design professionals misinterpret a report. To help avoid this, Shaw:Urquhart should be retained to work with other design professionals to explain the implications of the report.

This report should be retained as a complete document and should not be copied in part, divided or altered in any way.

It is recommended that Shaw:Urquhart is retained during the construction phase to confirm that conditions encountered are consistent with design assumptions. For example, this may involve assessment of bearing capacity for footings, stability of natural slopes or excavations or advice on temporary construction conditions.

This document has been produced to help all parties involved recognise their individual responsibilities.

© Shaw Urquhart Pty Ltd June 2004

PRACTICE NOTE GUIDELINES FOR LANDSLIDE RISK MANAGEMENT 2007
APPENDIX C: LANDSLIDE RISK ASSESSMENT
QUALITATIVE TERMINOLOGY FOR USE IN ASSESSING RISK TO PROPERTY

QUALITATIVE MEASURES OF LIKELIHOOD

Approximate Annual Probability Indicative Value	Notional Boundary	Implied Indicative Landslide Recurrence Interval		Description	Descriptor	Level
		10 years	20 years			
10 ⁻¹	5x10 ⁻⁵	100 years	20 years	The event is expected to occur over the design life.	ALMOST CERTAIN	A
10 ⁻²	5x10 ⁻³	100 years	200 years	The event will probably occur under adverse conditions over the design life.	LIKELY	B
10 ⁻³	5x10 ⁻⁴	1000 years	2000 years	The event could occur under adverse conditions over the design life.	POSSIBLE	C
10 ⁻⁴	5x10 ⁻⁵	10,000 years	20,000 years	The event might occur under very adverse circumstances over the design life.	UNLIKELY	D
10 ⁻⁵	5x10 ⁻⁶	100,000 years	200,000 years	The event is conceivable but only under exceptional circumstances over the design life.	RARE	E
10 ⁻⁶	5x10 ⁻⁷	1,000,000 years	2,000,000 years	The event is inconceivable or doubtful over the design life.	BARELY CREDIBLE	F

Note: (1) The table should be used from left to right, use Approximate Annual Probability or Descriptor to assign Descriptor, not vice versa.

QUALITATIVE MEASURES OF CONSEQUENCES TO PROPERTY

Approximate Cost of Damage Indicative Value	Notional Boundary	Description	Descriptor	Level
66%	40%	Extensive damage to most of structure, under existing beyond the boundaries requiring significant stabilisation works. Could cause at least one adjacent property medium consequential damage.	MAJOR	2
20%	10%	Moderate damage to some of structure, and/or significant part of site requiring large stabilisation works. Could cause at least one adjacent property minor consequential damage.	MEDIUM	3
5%	1%	Minor damage to part of structure, and/or part of site requiring some re-mentenat at stabilisation works.	MINOR	4
0.5%		Little damage. (Note for high probability event (Almost Certain), this category may be subdivided at a notional boundary of 0.1%. See Risk Matrix)	INSIGNIFICANT	5

Notes: (2) The Approximate Cost of Damage is expressed as a percentage of market value, being the cost of the improved value of the unaffected property which includes the land plus the unaffected structures.
 (3) The Approximate Cost is to be an estimate of the direct cost of the damage, such as the cost of replacement of the damaged portion of the property (land plus structures), stabilisation works required to render the site to a tolerable risk level for the landslide which has occurred and professional design fees, and consequential costs such as legal fees, temporary accommodation. It does not include additional stabilisation works to address other landslides which may affect the property.
 (4) The table should be used from left to right, use Approximate Cost of Damage or Descriptor to assign Descriptor, not vice versa

Australian Geomechanics Vol 42 No 1 March 2007

PRACTICE NOTE GUIDELINES FOR LANDSLIDE RISK MANAGEMENT 2007
APPENDIX C: – QUALITATIVE TERMINOLOGY FOR USE IN ASSESSING RISK TO PROPERTY (CONTINUED)

QUALITATIVE RISK ANALYSIS MATRIX – LEVEL OF RISK TO PROPERTY

LIKELIHOOD	CONSEQUENCES TO PROPERTY (with Indicative Approximate Cost of Damage)				
	1: CATASTROPHIC 200%	2: MAJOR 60%	3: MEDIUM 20%	4: MINOR 5%	5: INSIGNIFICANT 0.5%
A - ALMOST CERTAIN 10^1	VH	VH	VH	H	M or L(5)
B - LIKELY 10^2	VH	VH	H	M	L
C - POSSIBLE 10^3	VH	H	M	M	VL
D - UNLIKELY 10^4	H	M	L	L	VL
E - RARE 10^5	M	L	L	VL	VL
F - BARELY CREDIBLE 10^6	L	VL	VL	VL	VL

Notes: (5) For Cell A5, may be subdivided such that a consequence of less than 0.1% is Low Risk.
 (6) When considering a risk assessment it must be clearly stated whether it is for existing conditions or with risk control measures which may not be implemented at the current time.

RISK LEVEL IMPLICATIONS

Risk Level	Example Implications (7)
VH	Unacceptable without treatment. Extensive detailed investigation and research, planning and implementation of treatment options essential to reduce risk to Low, may be too expensive and not practical. Work likely to cost more than value of the property.
H	Unacceptable without treatment. Detailed investigation, planning and implementation of treatment options required to reduce risk to Low. Work would cost a substantial sum in relation to the value of the property.
M	May be tolerated in certain circumstances (subject to regulator's approval) but requires investigation, planning and implementation of treatment options to reduce the risk to Low. Treatment options to reduce to Low risk should be implemented as soon as practicable.
L	Usually acceptable to regulators. Where treatment has been required to reduce the risk to this level, ongoing maintenance is required.
VL	Acceptable. Manage by normal slope maintenance procedures.

Note: (7) The implications for a particular situation are to be determined by all parties to the risk assessment and may depend on the nature of the property at risk, those are only given as a general guide.

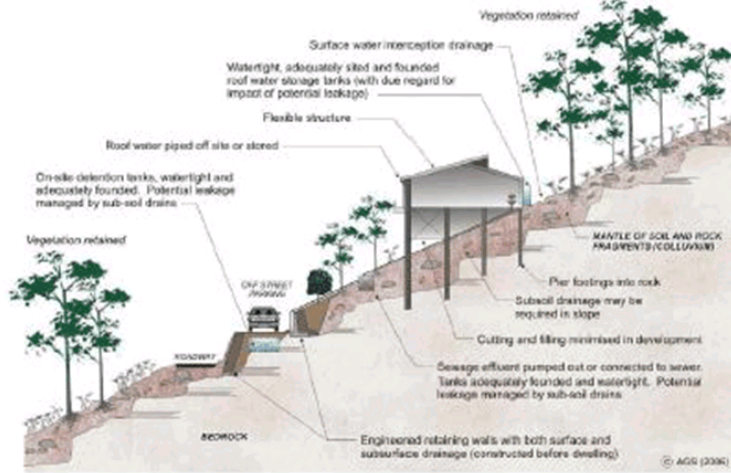
PRACTICE NOTE GUIDELINES FOR LANDSLIDE RISK MANAGEMENT 2007

APPENDIX G - SOME GUIDELINES FOR HILLSIDE CONSTRUCTION

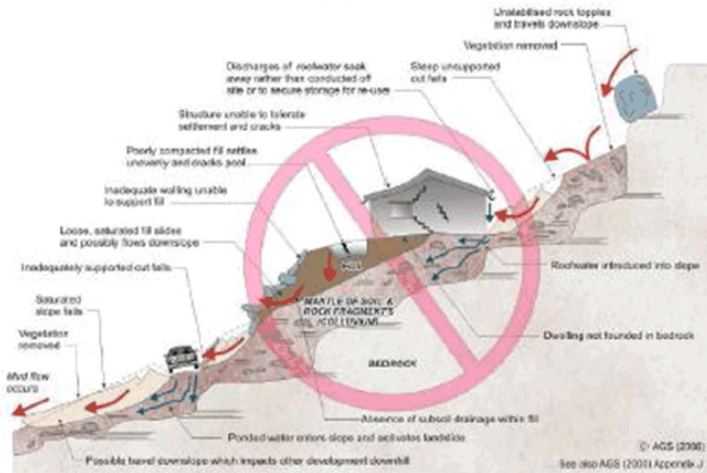
	GOOD ENGINEERING PRACTICE	POOR ENGINEERING PRACTICE
ADVICE		
GEOTECHNICAL ASSESSMENT	Obtain advice from a qualified, experienced geotechnical practitioner at early stage of planning and before site works.	Prepare detailed plan and start site works before geotechnical advice.
PLANNING		
SITE PLANNING	Having obtained geotechnical advice, plan the development with the risk arising from the identified hazards and consequences in mind.	Plan development without regard for the risk.
DESIGN AND CONSTRUCTION		
HOUSE DESIGN	Use flexible structures which incorporate properly designed brickwork, timber or steel frames, timber or panel cladding. Consider use of split levels. Use decks for recreational areas where appropriate.	Floor plans which require extensive cutting and filling. Movement intolerant structures.
SITE CLEARING	Retain natural vegetation wherever practicable.	Indiscriminately clear the site.
ACCESS & DRIVEWAYS	Satisfy requirements below for cuts, fills, retaining walls and drainage. Council specifications for grades may need to be modified. Driveways and parking areas may need to be fully supported on piers.	Excavate and fill for site access before geotechnical advice.
EARTHWORKS	Retain natural contours wherever possible.	Indiscriminatory bulk earthworks.
CUTS	Minimise depth. Support with engineered retaining walls or batter to appropriate slope. Provide drainage measures and erosion control.	Large scale cuts and benching. Unsupported cuts. Ignore drainage requirements.
FILLS	Minimise height. Strip vegetation and topsoil and key into natural slopes prior to filling. Use clean fill materials and compact to engineering standards. Batter to appropriate slope or support with engineered retaining wall. Provide surface drainage and appropriate subsurface drainage.	Loose or poorly compacted fill, which if it fails, may flow a considerable distance including onto property below. Block natural drainage lines. Fill over existing vegetation and topsoil. Include stumps, trees, vegetation, topsoil, boulders, building rubble etc in fill.
ROCK OUTCROPS & BOULDERS	Remove or stabilise boulders which may have unacceptable risk. Support rock faces where necessary.	Detach or undercut detached blocks or boulders.
RETAINING WALLS	Engineer design to resist applied soil and water forces. Found on rock where practicable. Provide subsurface drainage within wall backfill and surface drainage on slope above. Construct wall as soon as possible after cut/fill operation.	Construct a structurally inadequate wall such as sandstone flagging, brick or unreinforced blockwork. Lack of subsurface drains and sweepholes.
FOOTINGS	Found within rock where practicable. Use rows of piers or strip footings oriented up and down slope. Design for lateral creep pressures if necessary. Backfill footing excavations to exclude ingress of surface water.	Found on topsoil, loose fill, detached boulders or undercut cliffs.
SWIMMING POOLS	Engineer designed. Support on piers to rock where practicable. Provide with under-drainage and gravity drain outlet where practicable. Design for high soil pressures which may develop on uphill side whilst there may be little or no lateral support on downhill side.	
DRAINAGE		
SURFACE	Provide at tops of cut and fill slopes. Discharge to street drainage or natural water courses. Provide general falls to prevent blockage by siltation and incorporate silt traps. Line to minimise infiltration and make flexible where possible. Special structures to dissipate energy at changes of slope and/or direction.	Discharge at top of fills and cuts. Allow water to pond on bench areas.
SUBSURFACE	Provide filter around subsurface drain. Provide drain behind retaining walls. Use flexible pipelimes with access for maintenance. Prevent inflow of surface water.	Discharge roof runoff into absorption trenches.
SEPTIC & SULLAGE	Usually requires pump-out or mains sewer systems, absorption trenches may be possible in some areas if risk is acceptable. Storage tanks should be water-tight and adequately founded.	Discharge sullage directly onto and into slopes. Use absorption trenches without consideration of landslide risk.
EROSION CONTROL & LANDSCAPING	Control erosion as this may lead to instability. Revegetate cleared area.	Failures to observe earthworks and drainage recommendations when landscaping.
DRAWINGS AND SITE VISITS DURING CONSTRUCTION		
DRAWINGS	Building Application drawings should be viewed by geotechnical consultant	
SITE VISITS	Site Visits by consultant may be appropriate during construction	
INSPECTION AND MAINTENANCE BY OWNER		
OWNER'S RESPONSIBILITY	Clean drainage systems, repair broken joints in drains and leaks in supply pipes. Where structural distress is evident see advice. If seepage observed, determine causes or seek advice on consequences.	

PRACTICE NOTE GUIDELINES FOR LANDSLIDE RISK MANAGEMENT 2007

EXAMPLES OF GOOD HILLSIDE PRACTICE



EXAMPLES OF POOR HILLSIDE PRACTICE



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Australian Geomechanics Vol 42 No 1 March 2007

Appendix 19 – Letter from Newton Denny Chapelle dated 26 May 2015



Date: 26th May 2015
Our Ref: 13/445

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

Attention: Mr Klaus Kerzinger

Dear Sir,

Re: Planning Proposal – Lot 12 DP 813210, 16 Tara Downs, Lennox Head

Newton Denny Chapelle (NDC) have been engaged by the owners of 16 Tara Downs, Lennox Head to coordinate the preparation of further documentation in support of the Planning Proposal for the above referenced property pursuant to the Gateway Determination issued by the Department of Planning & Environment (DPE), and additional matters requested by Ballina Shire Council (BSC).

In order to facilitate the preparation of the technical assessments required by BSC and the DPE a concept subdivision plan has been prepared for the subject land. The proposal provides for the creation of a 2 lot residential subdivision with the incorporation of a subsequent 6 lot community title subdivision of proposed Lot 2. The concept subdivision plan as provided within **Attachment 1** has been prepared to accord with the requirements within Chapter 3 of the Ballina Development Control Plan 2012.

Specific reference is made to the access arrangements for the subdivision in so far as Chapter 3 restricts battle-axe lots to 2 Torrens title lots. Accordingly, through the adoption of a community title configuration, no Torrens title battle axe lots are created and compliance with Section 3.1.2 is achieved in this instance.

Flora & Fauna Impact Assessment

An Ecological Assessment has been completed by Blackwood Ecological Services (BES) as contained within **Attachment 2** of this documentation.

The BES assessment includes a description of ecological values within and adjacent to the subject land and assesses the potential impacts on these values associated with the future subdivision and occupation of the land. Recommendations regarding the future layout and design of the subdivision are provided to minimise any adverse impacts on ecological values within the site and surrounds. BES have also had regard to the Bushfire Assessment completed for the proposal in the completion of their report.

A summary of the key BES assessment and recommendations are provided below;

JOHN NEWTON B. Surv. M.S. Aust. TONY DENNY B. Surv. (Retired) M.S. Aust. DAMIAN CHAPELLE BPP DPP
Office: Suite 1, 31 Carrington Street, Lismore, Postal Address: PO Box 1138 Lismore NSW 2480
Phone (02) 6622 1011 Fax (02) 6622 4088 Email offices@newtondennychapelle.com.au
Also at: Casino Court, 100 Barker Street, Casino NSW 2470 Phone/Fax (02) 6662 5000

Flora	<p>Direct removal of vegetation</p> <ul style="list-style-type: none"> • BES has acknowledged the proposed rezoning and future residential subdivision will not require the removal of the small patch of native and exotic vegetation located in the central northern part of the Subject site. Several mature and semi-mature Guioa and Tuckeroo trees are located in this patch. • Building envelopes have been nominated on proposed Lots 5 and 6 and a 12m buffer established between future dwellings and trees in this clump of trees. This will effectively protect these trees from removal under the 10/50 Vegetation Clearing Code of Practice for New South Wales (RFS 2014). • Planted vegetation undertaken by the Tara Downs Landcare Group which occurs within the eastern part of the subject land is considered to be of ecological value and should be retained as part of the future subdivision plan. Although it has been planted relatively recently it acts to buffer areas of SEPP26 and SEPP14 located further east. <p>Impacts on Hairy joint grass</p> <ul style="list-style-type: none"> • BES identified Hairy joint grass (HJG) present in the same part of the subject land as identified by Conacher in 2008 as well as off site on Council land near the pump station. The patch on the subject land contains HJG sparsely distributed within a 505m² area. The patch off site supports a denser patch of HJG within an area of 220m² where it grows amongst unmown grasses. • BES has identified the future development of the subject land will result in the loss of the 505m² patch HJG. The patch of HJG on Council land is unlikely to be affected either by accidental damage or alterations to hydrological and groundwater flow conditions. • BES has identified suitable habitat for this species is considered to be limited within the subject land boundaries and this species does not appear to have expanded its distribution on the site since 2008. In addition, the current slashing regime may preclude this species from occurring within mown areas of the site depending upon the frequency of slashing. • The extent of HJG on the subject land is considered by BES to be small in size compared with other recorded locations of this species in the Study area (FIGURE 5 of BES Assessment). HJG seed is spread mechanically and is also considered to be spread further by moving water and by cattle (Landmark ES 2008). It is also likely that slashing and other land management practices spread seeds mechanically. RMS <i>et al.</i> (2012) assessed HJG subpopulations along the Woolgoolga to Ballina section of the Pacific Highway and considered occurrences of this species within 150m of each other to be part of the same sub-population due to wind dispersal over this distance. <p>Impacts on site hydrology and erosion</p> <ul style="list-style-type: none"> • BES has stated future development of the subject land has the potential to impact on the existing hydrological regime, however this should be considered in the context of prior changes to the original (or "pre-disturbance") hydrological regime. Impacts on site hydrology potentially include reduced or increased flows to surrounding low-lying areas, south-east of the subject land. • The Engineering Services Report (Newton Denny Chapelle 2015) discusses stormwater management and erosion and sediment controls. Stormwater management involves the use of rainwater
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	<p>tanks' absorption pits/trenches, vegetated buffer strips, gully pit filter inserts within the internal roadway and the provision of a sediment basin (which jointly serves as an attenuation basin).</p> <p>Impacts to surrounding areas of SEPP 14 & SEPP 26</p> <ul style="list-style-type: none"> The proposed rezoning would not result in any direct impacts on surrounding areas of SEPP26 and SEPP14. There is some minor potential for the future development of the site to alter local hydrological patterns which could indirectly impact upon adjacent low-lying areas including areas of SEPP14 Coastal wetland. Stormwater management and erosion and sedimentation controls have been incorporated into the design to minimise any off-site impacts and are detailed in the Engineering Services Report (NDC 2015). Vegetation along the eastern boundary and within the adjacent reserve serves to buffer any indirect impacts to the area of SEPP26 located to the east. The subject land is not located within the SEPP26 100m buffer zone [FIGURE 3 of BES Assessment]. <p>Creation of edge effects and introduction of weed species to the Study area</p> <ul style="list-style-type: none"> BES has identified works will not fragment or isolate any areas of native vegetation. The future development of the building envelopes including the movement of machinery and site personnel would be restricted to previously disturbed areas and is unlikely to increase the likelihood of exotic weeds becoming established. BES has recommended specific measures to be implemented to ensure no Noxious weeds become established within developable areas of the Subject site and those already present within the Subject site are controlled.
Fauna	<p>Loss of fauna habitat</p> <ul style="list-style-type: none"> The ecological assessment identified the proposed works will be limited to removal of planted garden specimens, development of a small area of grassland habitat and maintenance of vegetation within bushfire APZs. Impacts on fauna habitats will be minimal and birds and bats from areas of superior habitat in the near vicinity will continue to use on the site on occasion, particularly during the flowering and fruiting of site vegetation. <p>Degradation of neighbouring areas of habitat</p> <ul style="list-style-type: none"> BES has concluded there is little potential for areas of fauna habitat adjacent to the works area to be affected by accidental damage, sedimentation, introduction of weeds and other indirect effects. <p>Direct impacts on fauna</p> <ul style="list-style-type: none"> BES has concluded native fauna are highly unlikely to be killed or injured as a result of vegetation removal or tree trimming activities or other construction works. <p>Impacts on corridor values</p> <ul style="list-style-type: none"> BES has concluded the proposed works are unlikely to have any significant impact on fauna movement opportunities and would not sever any important wildlife corridors. Corridor habitat to the east of the site will not be affected and will continue to provide a semi-discontinuous north-south wildlife corridor.
Ameliorative Recommendations	<p>Based on the assessment of potential impacts, a number of mitigation measures are proposed by BES to manage ecological impacts associated with the proposed rezoning and future development of the site. The BES recommendations which are all capable of being implemented are listed below:</p> <ul style="list-style-type: none"> <i>Exclusion fencing should be established during construction along the western boundary of planted vegetation and around any native trees to be retained within the site to prevent accidental damage from machinery.</i> <i>Where construction activities are located close to native trees, root disturbance should be avoided or minimised by restricting the movement of machinery within the drip zones of trees. Where roots</i>

	<p>are encountered, severed or damaged, roots should be clean cut, treated and soils backfilled as soon as possible.</p> <ul style="list-style-type: none"> • Noxious weeds within the Subject site are to be controlled appropriately and disposed of accordingly. Ongoing control of Noxious weeds within the Subject site is to be undertaken during the future development to prevent the spread of Noxious weeds from adjacent areas and colonisation of disturbed soils within the site. • Vegetation removed should be taken to an appropriate green waste facility. • Disturbed soils should be contained using sediment fencing and geotextile controls and backfilled as soon as possible. Soil should not be built up around existing trees. • Appropriate erosion and sedimentation controls should be employed downslope of the construction areas to prevent impacts to downslope vegetation and drainage lines. • Erosion and sedimentation control measures would not be removed until disturbed areas have stabilised.
<p>Conclusion</p>	<p>Through the completion of the ecological assessment and adoption of the nominated ameliorative measures, BES has reached the following key conclusions.</p> <ul style="list-style-type: none"> • The proposed rezoning and future residential subdivision will not require the removal of the small patch of native and exotic vegetation located in the central northern part of the Subject site. Building envelopes have been nominated on proposed Lots 5 and 6 and a 12m buffer established between future dwellings and trees in this clump of trees. This will effectively protect these trees from removal under the 10/50 Vegetation Clearing Code of Practice for New South Wales. No native vegetation clearance will be required within the APZ. • The proposed development will result in the loss of the 505m² patch of Hairy joint grass on the Subject site. The patch of Hairy joint grass on Council land is unlikely to be affected either by accidental damage or alterations to hydrological and groundwater flow conditions. The extent of Hairy joint grass on the Subject site is considered to be small in size compared with other recorded locations of this species in the Study area. The species is widespread in the surrounding Study area. The local occurrence of Hairy joint grass includes patches near the pump station, on the fringes of the SEPP 14 area off Skennars Head Road, along Skennars Head Road and the wetland on the southern side as well as land to the east of the Subject site. The loss of the patch of Hairy joint grass is not considered to put at risk the ongoing viability of the local population of this species. • No areas of SEPP 14 Coastal wetland or SEPP 26 Littoral rainforest are likely to be affected and the Subject site does not provide potential Koala habitat as defined by SEPP 4.4. • Assessments of significance (7 part tests) were completed for a number of species of Threatened fauna considered possible occurrences on the site over time. The proposed development is unlikely to result in a significant impact on any Threatened (TSC Act 1995) species, population or ecological community. A Species Impact Statement is not required. The proposed development is unlikely to result in a significant impact on any matters of National Environmental Significance as defined under the Commonwealth EPBC Act 1999. A referral to the Commonwealth under the EPBC Act (1999) is not considered necessary.

Bushfire Threat Assessment

As part of the subject land is classified as *Category 2 Bushfire Prone Land* or within the 100 metre buffer to such land, *Bushfire Certifiers* have been engaged to undertake a bushfire threat assessment [refer **Attachment 3**]. *Bushfire Certifiers* undertook consultation with the NSW Rural Fire Service based on an indicative subdivision layout plan in order to demonstrate the future development of the lands consistency with the *Planning for Bushfires Protection 2006* publication.

The *Bushfire Certifiers* report establishes that compliant asset protection zones can be achieved for a future subdivision of the land to be rezoned. Furthermore, no prohibitions exist to achieve compliance with water supply, utilities and construction standards which may be assessed in detail at development application stage for the future subdivision and development application for future dwellings.

In this regard, *Bushfire Certifiers* assessment shows there is a potential for full compliance with *Planning for Bushfires Protection 2006* to be achieved except for an internal perimeter road for which an alternate solution has been provided.

In respect to the internal perimeter road, *Bushfire Certifiers* acknowledge the proposed internal access road does not traverse mapped bushfire prone land. Following the bushfire site inspection by *Bushfire Certifiers* it is noted that the primary hazard to the residential development consists of rainforest vegetation and a small area of vegetation and weed that may be planted to forest in the future. The small area without the perimeter road is to the rear (east) of proposed Lots 1 - 6 where the vegetation is located and is approximately 60 metres from the internal Road.

In support of the alternative solution, *Bushfire Certifiers* note a fire in the rainforest vegetation is very unlikely and is unlikely to create a high level of radiant heat, smoke or embers. Furthermore, the firefighters are unlikely to conduct hazard reduction or back burning of the rainforest due to the potential ecological damage to the community.

Bushfire Certifiers report notes access to the rear of the properties can be made available for firefighters on foot. The effectiveness of a perimeter road in this location is negligible. The subdivision will be provided with compliant internal hydrant/s that will allow firefighters to adequately stage fire-fighting intervention from the internal road and through the residential properties where a perimeter road is not provided. *Bushfire Certifiers* conclude the potential bushfire threat from the vegetation in this location will have low radiant effect in supporting the alternative solution.

Preliminary Contaminated Site Investigation

Greg Alderson and Associates (GAA) have been commissioned to undertake a preliminary contaminated land assessment of the land subject to the Planning Proposal. The assessment provided within **Attachment 4** is required to determine that the subject land is suitable for the proposed residential zoning and future residential development.

As required under Section 7 of SEPP 55, the assessment was conducted to determine if the site was contaminated from past or present land uses. A review of the sites history and soil testing was undertaken to determine if contamination was present.

Due to the known history of the site, a preliminary soil contamination assessment (Tier 1) was undertaken in accordance with NEPM 1999 (2013), DUAP and EPA (1998) and NSW EPA (1995) at the proposed development location. A systematic sampling pattern was also adopted by GAA to determine the presence of possible chemical contamination in the area

of the proposed development, in accordance with NSW EPA (1995) and Council's Contaminated Land Policy.

Six composite soil samples were collected in the investigation area, being within the proposed allotments. Samples were analysed for heavy metals (including arsenic, lead, zinc and copper), organochlorines (including DDT and aldrin/dieldrin) and organophosphorous, which were considered to be the most likely chemicals used on an agricultural property or associated with buildings. The sampling results were compared to adjusted Health Investigation Limits and Ecological Investigation Limits from NEPM 1999 (2013).

The results showed all were below the relevant HIL's and EIL's.

Based on the known history of the site, inspection of the site and sampling regime, GAA concluded that further soil contamination assessment is not required in the investigation area. NSW EPA (1995) & NEPM 1999 (2013) state that if the contaminant concentration of the site is below a threshold limit and there is no indication that further investigation is required, the site can be considered as uncontaminated and GAA have identified within their report that this is considered to be the case for the subject land.

Geotechnical Investigation

Shaw.Urquart Pty Ltd has completed a preliminary geotechnical/stability assessment for the proposed subdivision (**Attachment B**).

In general, Shaw.Urquart has recommended future construction should follow good engineering practice in accordance with "Some Guidelines for Hillside Construction" and "Examples of Good and Poor Hillside Practice". Further the advice details, depending upon more detailed site specific investigation "use of lightweight housing" maybe restricted on Lots where slopes between 12 to 18 degrees exist. We note (note maximum site grade at Tara Downs is 15 degrees, so this would potentially impact Community Lot 3 and Community Lot 4 to some degree. In reviewing the lot design, it is expected future residents would be expecting to build higher up on the allotment for views (refer visual assessment) which is where the steeper gradient exists.

Stormwater Management Report

Newton Denny Chapelle (**NDC**) has examined on site detention (OSD) of stormwater and the means proposed to comply with Council's Subdivision OSD policies for the future residential development of the subject land. The assessment completed in consultation with Ballina Shire Council is provided within **Attachment 5**. The report acknowledges the lands proximity to designated wetland and rainforest areas, and therefore has particular regard to Water Sensitive Urban Design (WSUD) initiatives for the land.

NDC has identified based on the stormwater assessment, the subject land and future proposed residential subdivision achieves general compliance with *Ballina Shire Development Control Plan 2012, Chapter 2 - General and Environmental Considerations* for stormwater quality and quantity targets, once merit consideration as to the minor impact of the G100yr attenuation exceedance and minor nitrogen exceedance is had due to:

- The steep sloping nature of the catchment
- The receiving lands immediately downstream are low lying and not unduly impacted by a 2mm

change in water level in the G100yr ARI event

- The development typically provides between 10m to 20m buffer distance to its eastern boundary which minimises any stormwater direct impacts.

NDC has assessed the subject land achieves general compliance via using the following solutions:

- 3m³ of infiltration trench/leaky well pits per new property (ie minimum of 1,000L of void space)
- Use of 5kL rainwater tank, whereby 3kL is for re-use and 2kL for attenuation.
- Use of a centrally located 125m³ joint use attenuation/sediment basin within the Community Title Lots
- Driveway gully pits to have pit filter inserts.
- Retention of a 10m undisturbed buffer strip to lots eastern boundary.

Access and Traffic Impact Report

Newton Denny Chapelle (NDC) has completed an assessment of the proposed access arrangements onto Tara Downs further to an assessment of the likely increase in traffic generated by the proposed subdivision in relation to the environmental capacity of Tara Downs.

Access to the development is proposed by creation of a 6m wide (ie two lane) driveway to service proposed Lot 2 (and subsequent 6 community title lots) with proposed Lot 1 having direct access to Tara Downs cul-de-sac. The width of Tara Downs being nominal 9m kerb to kerb.

In accordance with the Northern Rivers Local Government Development & Design Manual (NRLGDDM) – *Section D1 Geometric Road Design*, roads which service up to 100vpd are required to have a minimum pavement width of 6m. The NRLGDDM makes reference that driveways need to comply with *AS2890.1 Parking Facilities Part 1 – Off Street Car Parking*, whereby this development access is classified as residential driveways (which service more than 3 dwellings).

For proposed Lot 2, Section 3.2.2 (*Width Requirements*) of *AS2890.1* identifies that whereby driveways are longer than 30m and sight lines are restricted, a minimum width of 5.5m plus 300mm clearance to any vertical obstructions is required. Thereby, the proposal for a 6m wide driveway will comply with both geometry and traffic capacity of the NRLGDDM and AS2890.1. (Refer to NDC *Drng ES1 – Engineering Services Plan* within Appendix 1 – Engineering Design Plans as contained within **Attachment 5**)

The new driveway location for the 2 Lot torrens title subdivision is located on the inside of a curve on Tara Downs. AS2890.1 Figure 3.2 (refer below) requires a minimum sight line distance of 45m with a desirable length of 69m. The available sight distance is 50m and achieves compliance.

The proposed subdivision will provide a 1.2m wide pathway within the existing Tara Downs road corridor and connect into existing concrete shared path corridors as identified within the current 2014 Pedestrian Access and Mobility Plan (PAMP).

Visual Amenity Impact Assessment

An assessment has been completed in respect to potential visual amenity impact issues which may arise through the future development of the subject land.

Attachment 6 of this document provides a cross-section of the proposed subdivision in association with the existing housing located west of the subject land which fronts Tara Downs.

A review of the dwelling location on existing Lot 13 DP 715304 fronting Tara Downs has been completed given the dwellings west of the land enjoy a view east to the adjacent public reserve. Review of Lot 13 identifies the housing is located in the order of RL 23m AHD. The proposed building envelopes on the future subdivision are located on RL 14m and as such there is a 9m separation in height between the ground floor of the existing dwellings and the upper most part of a future dwelling house (RL 22.50m AHD). We note the nominated separation does not include a nominal 1.2m for a person sitting in the dwelling, hence a separation in levels of 10.2 is adopted for this assessment.

Regard is made to the Ballina LEP 2012 building height map which prescribes a maximum height of 8.5m for a dwelling house. Accordingly, any future dwelling constructed with a ground level of RL14 is not believed to impact upon the visual amenity of the existing dwelling houses which adjoin the subject land at RL 22.50m AHD).

It is noted dwellings located on Lot 16 DP 715304 & Lot 13 DP 813210 already contain vegetation cover east of the dwelling which restricts the view path. Through the retention of the existing vegetation, any future dwellings on Lots 5 & 6 will not impact solar access or privacy to these dwellings.

Mosquito Impact Assessment

The site is located mapped by Ballina Shire Council within a high risk mosquito management area and within the Elevated Land & Coastal Plain & Lowlands. In this respect, the majority of the land is located within the elevated Land mapped area, whilst the lower south-eastern slopes are within the Coastal Plain and Lowlands area which carries stricter controls.

By virtue of the need to adhere to the prescribed bushfire Asset Protection Zone to the eastern boundary, all future dwellings will be developed on land which is mapped Elevated Land. Accordingly, any future dwelling will be capable of compliance with Ballina Shire Council Development Control Plan 2012 – Chapter 2 (Section 3.6).

The below points outline the ability for the proposal to comply with the provisions of Chapter 2 and justify management of mosquitos through the design process and compliance with the DCP for future residents.

- The stormwater attenuation basin for the project is not designed to permanently hold water. In fact, the design provides for the basin to be a dry basin with the first flush storm event held within the basin for no longer than a 24 hour period.
- Ballina Shire DCP 2012 – Chapter 2
 - All building envelopes will be located above the 10m AHD contour level.
 - The project involves a subdivision of which less than 10 lots will be created.
 - The Planning Proposal does not seek to create the opportunities for seniors housing or tourist development.
 - The subdivision layout affords a distance from the SEPP 14 wetland to proposed building envelopes of more than 100metres.

Planning Proposal

Tara Downs, Lennox Head

Newton Denny Chapelle

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- o Existing dwellings are located in closer proximity to the SEPP 14 wetland than the subject land and future dwelling envelopes.

Based on the above information, we believe an entomological report is not required for the Planning Proposal.

Aboriginal Cultural Assessment

Attachment 7 of this document provides a Cultural Heritage Due Diligence Assessment of Aboriginal cultural heritage for the subject land completed by Everick Heritage Consultants Pty Ltd.

As a result of the desktop study, field inspection and consultation with Jali LALC Sites Officer Marcus Ferguson the Everick Heritage Consultants has outlined the following conclusions:

- No Indigenous cultural heritage sites or relics were identified within the Project Area.
- No areas have been identified that are considered to potentially contain subsurface deposits of significant Aboriginal heritage.
- All of the Project Area has been disturbed in a manner which constitutes 'disturbance' within the meaning and consistent with the Due Diligence Code.
- It was agreed in preliminary discussion with the Sites Officer Marcus Ferguson that no further Aboriginal cultural heritage investigation was required.

Everick Heritage Consultants are of the opinion that given the location of the Planning Proposal in what would have been south facing rainforest; the history of ground disturbance and the sloping terrain the proposed works are unlikely to result in harm to Aboriginal heritage. Additionally, no items of historic heritage value are located within the Project Area.

Everick Heritage Consultants have outlined a series of recommendations which are able to be applied to any future development application lodged for the subject land.

Minimum Lot Size

The Lennox Head Structure Plan - The Structure Plan (see **Plate 1** below) identifies the subject land as "Area P". The Structure Plan recognises that Area P appears to be suited to accommodating future urban development. Should detailed assessment (via the rezoning process) confirm this to be the case, low density residential development (L1 - 1200m²) is the preferred use for this site".

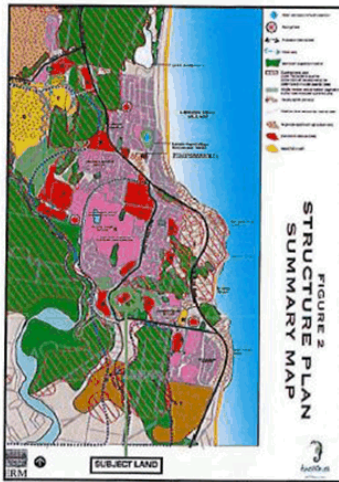


Plate 1: Lennox Head Structure Plan – Area P

In this instance all but one proposed lot is capable of meeting a minimum lot size which satisfies the 1,200m² lot area. The exception in this instance relates to the torrens title lot which will front Tara Downs adjacent to the proposed community title driveway. The prescribed land area in this case is 805m² and is deemed to be comparable to other lots in the area which incorporate land areas below 1,000m². The lot will be afforded a frontage which provides a consistent streetscape in Tara Downs. The creation of the lot is also considered to be a reasonable and efficient use of the proposed residential land given the access available to services.

Conclusion

Our clients are seeking Ballina Shire Council's support to progress the current Planning Proposal through to public exhibition and subsequent determination by the Elected Council.

The payment for the prescribed Ballina Shire Council fee for this Planning Proposal has been made under separate cover by the proponent directly with Council.

We trust that the above is satisfactory to your requirements and look forward to Council's favourable consideration of this request. Should Council have any queries regarding the above, please do not hesitate to contact Mr Damian Chapelle of this office on (02) 6622 1011.

Damian Chapelle
DAMIAN CHAPELLE
 Town Planner: BTP, CPP.

Appendix 20 – Letter from Office of Environment and Heritage 31 March 2016



Our Ref: DOC15/480700
Your Ref: Letter dated 24 November 2015

General Manager
Ballina Shire Council
PO Box 450
Ballina NSW 2478

Attention: Mr Klaus Kerzinger

Dear Mr Hickey

Re: Additional Information – Tara Downs Planning Proposal, Lennox Head

Thank you for your letter dated 24 November 2015 about the Tara Downs Planning Proposal requesting comments from the Office of Environment and Heritage (OEH). I appreciate meeting with Ballina Shire Council on 18 February 2016 to discuss this matter and apologise for the delay in providing further input.

We have reviewed the additional information provided in the context of our discussions with the council at that meeting and advise you that the issues we raised in our letter of 7 July 2015 appear to have been adequately addressed.

In particular, we note that the Aboriginal heritage assessment has been updated to include evidence of consultation with the Jali Local Aboriginal Land Council and appendices A, B and C have been appropriately amended. The OEH is satisfied that cultural heritage issues have been satisfactorily addressed.

We also note that the ecological assessment has been amended to include an offset strategy to offset the impacts of the proposal on Hairy Joint Grass and other biodiversity. The offset strategy proposes a 5:1 offset area on council-managed reserves involving a contribution of \$7000 to fund the preparation of a vegetation management plan for the offset area but does not propose funds for the in-perpetuity management of the offset.

We discussed this matter at our meeting in February, where the council committed to use its land register and generic plan of management for community land reserved under the *Local Government Act 1993*. This will secure the offset in a protective mechanism and require that council maintain the area for conservation purposes. This appears to provide adequate protection and management of the proposed offset and should form part of the commitments in the planning proposal.

The OEH would like to make the point that this method of protecting and managing a biodiversity offset requires the council to commit time and resources as part of the cost to meet the biodiversity offset requirements of the planning proposal.

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Planning Proposal – April 2016 (15/38195)
Lot 12 DP 813210 16 Tara Downs, Lennox Head

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With respect to the other biodiversity matters raised in our previous letter, the OEH is satisfied with the council's explanations regarding its inability to apply the E2 zone in this case and the recent protections of areas of high environmental value included in the amended 10/50 Code.

If you have any further questions about this issue, Mr Krister Waern, Senior Operations Officer, Regional Operations, OEH, can be contacted on 6640 2503 or at krister.waern@environment.nsw.gov.au.

Yours sincerely

 31 March 2016

DIMITRI YOUNG
Senior Team Leader Planning, North East Region
Regional Operations

Contact officer: KRISTER WAERN
6640 2503



Our Ref: DOC15/480700
Your Ref: Letter dated 24 November 2015

General Manager
Ballina Shire Council
PO Box 450
Ballina NSW 2478

Attention: Mr Klaus Kerzinger

Dear Mr Hickey

Re: Additional Information – Tara Downs Planning Proposal, Lennox Head

Thank you for your letter dated 24 November 2015 about the Tara Downs Planning Proposal requesting comments from the Office of Environment and Heritage (OEH). I appreciate meeting with Ballina Shire Council on 18 February 2016 to discuss this matter and apologise for the delay in providing further input.

We have reviewed the additional information provided in the context of our discussions with the council at that meeting and advise you that the issues we raised in our letter of 7 July 2015 appear to have been adequately addressed.

In particular, we note that the Aboriginal heritage assessment has been updated to include evidence of consultation with the Jali Local Aboriginal Land Council and appendices A, B and C have been appropriately amended. The OEH is satisfied that cultural heritage issues have been satisfactorily addressed.

We also note that the ecological assessment has been amended to include an offset strategy to offset the impacts of the proposal on Hairy Joint Grass and other biodiversity. The offset strategy proposes a 5:1 offset area on council-managed reserves involving a contribution of \$7000 to fund the preparation of a vegetation management plan for the offset area but does not propose funds for the in-perpetuity management of the offset.

We discussed this matter at our meeting in February, where the council committed to use its land register and generic plan of management for community land reserved under the *Local Government Act 1993*. This will secure the offset in a protective mechanism and require that council maintain the area for conservation purposes. This appears to provide adequate protection and management of the proposed offset and should form part of the commitments in the planning proposal.

The OEH would like to make the point that this method of protecting and managing a biodiversity offset requires the council to commit time and resources as part of the cost to meet the biodiversity offset requirements of the planning proposal.

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With respect to the other biodiversity matters raised in our previous letter, the OEH is satisfied with the council's explanations regarding its inability to apply the E2 zone in this case and the recent protections of areas of high environmental value included in the amended 10/50 Code.

If you have any further questions about this issue, Mr Krister Waern, Senior Operations Officer, Regional Operations, OEH, can be contacted on 6640 2503 or at krister.waern@environment.nsw.gov.au.

Yours sincerely

 31 March 2016

DIMITRI YOUNG
Senior Team Leader Planning, North East Region
Regional Operations

Contact officer: KRISTER WAERN
6640 2503

Attachment Three

Submission from Waldo Knight

Dear Sir

I arrived in Lennox Head in 1982 and ,since that time ,have seen massive housing development on both sides of North Creek Road and Headlands Estate. Yet for all these thousands of new houses ,not one new shop ,café ,community centre ,squash court,tennis court...nothing to make suburban living more civilized. How about we have something to bring people together in this new estate?

You have recently approved the demolition of the Lennox gym and squash courts to be replaced by more housing. Why not do something nice for the people and construct a council owned squash and sports building from developer contributions?

Endless housing with no social facilities is a recipe for unhappy souls. What do you think?

Regards

Waldo Knight

Submission from Craig and Paula Copeland

Re Planning Proposal BSCPP 14/004

This planning proposal while based on overarching long term planning provision for development in Lennox Head is still proposed to occur on rural land. Our block was purchased knowing that this was rural land as we sought a rural outlook. To add to that we worked for over 6 years to plan, plant and maintain the rainforest on public land adjacent to this block further enhancing our views. Below is our current view



We believe that the statement in Visual Amenity Impact Assessment as stated below – which is effectively “don’t look down” has to be the most stupid thing ever written. Please see the photo and see what a house in the middle would look like compared to what we regard is a significant view which is important for our visual amenity and enhances the value of our property. We believe that the rezoning should not be approved without consideration of how any proposed dwelling occur on Block 6.

A review of the dwelling location on existing Lot 13 DP 715304 fronting Tara Downs has been completed given the dwellings west of the land enjoy a view east to the adjacent public reserve. Review of Lot 13 identifies the housing is located in the order of RL 23m AHD. The proposed building envelopes on the future subdivision are located on RL 14m and as such there is a 9m separation in height between the ground floor of the existing dwellings and the upper most part of a future dwelling house (RL 22.50m AHD). We note the nominated separation does not include a nominal 1.2m for a person sitting in the dwelling, hence a separation in levels of 10.2 is adopted for this assessment.

Regard is made to the Ballina LEP 2012 building height map which prescribes a maximum height of 8.5m for a dwelling house. Accordingly, any future dwelling constructed with a ground level of RL14 is not believed to impact upon the visual amenity of the existing dwelling houses which adjoin the subject land at RL 22.50m AHD).

The proposal makes no reference to access along the eastern boundary to allow people to either maintain the rainforest edge or enter the rainforest over the access point.

The proposal significantly underplays the clouds of mosquitos that occur in and adjacent to that forest and in our view is putting to many house too close to this mosquito area.

The proposal also incorrectly sites the stormwater drainage from 26 Tara Downs

We thankyou for allowing a submission over the weekend

Yours sincerely

Craig and Paula Copeland

Attachment Four - Comments made by Damian Chapelle addressing issues raised in the submission by C and P Copeland

Drainage: The primary purpose of NDC Drawing *ES1 – Engineering Services* and the associated commentary within the Engineering Services Report provided with the Planning Proposal is to highlight the north western boundary of the development site adjoins four (4) residential properties (Lot 13 to Lot 16 DP 715304) which are located above the development to which defined collection of runoff will be required (i.e. pit/pipe). To this end, the plan serves the primary purpose to illustrate our proposal will collect all stormwater generated from the adjoining properties, inclusive of the Copeland property, and direct the stormwater through an inter-allotment drainage network.

Detailed engineering design plans will be prepared at the development application stage of the approval process which details the connection point for the Copeland property.

Building Envelope (Lot 6): Reference is made to the visual assessment completed for the Planning Proposal by Mr Copeland in so far as the assessment effectively provides for a “don’t look down” approach. In fact our assessment does not in anyway imply dwellings would not be capable of being viewed once developed on the subject land. The assessment does however identify the following key outcomes/conclusions.

1. The view of the rainforest located within the Public Reserve is retained in a manner that whilst the base of the trees in the reserve would be obviously be obscured by the housing. Residents would still enjoy a significant view path of the mid and upper storey of the vegetation. Importantly, housing would not fully screen the view of the eastern public reserve. We submit Mr Copeland’s own visual assessment (photo) proves this point.
2. If we adopt a quantitative approach of whether the view that will remain after the development of a dwelling on Lot 6 is still sufficient to understand and appreciate the nature and significant elements of the nature reserve, then we submit the view remaining will be sufficient to understand and appreciate the nature of the existing view of the nature reserve and not restrict the residents ability to appreciate the significant elements of the nature reserve. Again this is clearly illustrated in the Copeland’s submission where the phot included identifies the residents still retain a view of the significant elements of the rainforest.
3. The dwelling site on Lot 6 has been positioned so as to accord with the prescribed APZ from the eastern nature reserve in addition to the TPZ for the Eucalypt which is located to the west of the site and within the view path of the Copeland’s.
4. The provision of a larger dwelling envelope has been proposed so as to encourage a single storey dwelling in this location. Whilst the slope of the land may influence the design of the dwelling, the lower sloping areas of Lot 6 is to the east and as such a dwelling may be stepped down the site with the western elevation reflecting a single storey built form.
5. The dwelling on Lot 6 will not adversely impact the solar amenity enjoyed by the existing residences.
6. As stated within the Copeland’s submission, the land subject to this Planning Proposal has been identified for a considerable length of time for future residential purposes and therefore the rezoning of the land, (with a considerably lower density than permitted) was not unknown to the residents.

Access Handle: My Clients have no objection and have in fact identified the opportunity to discuss with the Copeland’s the transfer of the handle. Finalisation of this matter would need to occur once

the detailed engineering and development application process for the subdivision has been commenced .

We trust we have addressed the primary matters raised within the public submission received for Planning Proposal (BSCPP 14/004) in a manner which permits the finalisation of Council's assessment.

Regards,

Damian Chapelle
certified practising planner
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