



Planning Proposal 17/012
**» 23 Compton Drive,
East Ballina**

December 2019 (V3 Exhibition) 19/90295

ballina
shire council

Planning Proposal 17/012 – 23 Compton Drive, East Ballina



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1. Introduction

1.1 Summary of Planning Proposal

This planning proposal primarily proposes the rezoning of part of Lot 3 DP 525783 (Lot 3), No. 23 Compton Drive, East Ballina to apply an R2 Low Density Residential zone (R2). A minimum lot size requirement of 600m² and a maximum building height of 8.5m is also proposed to apply to the R2 zoned area. Lot 3 has an area of 537.5m² and a frontage of approximately 21m to Compton Drive.

Also incorporated within the planning proposal is part of the adjacent Council owned land known as Lot 1 DP 781542 which adjoins Lot 3 along its western boundary. The proponent has advised that the landowners are liaising with Council's Commercial Services Group regarding a proposition for Council to consider the sale of part of the adjoining Lot 1 contingent upon Lot 1 also being zoned for residential purposes.

Lot 1 has an area of 158m². The application of an R2 Low Density Residential Zone, 600m² minimum lot size and 8.5m maximum building height is also proposed for Lot 1.

Lot 1 is included in this planning proposal subject to further investigation and reporting, particularly in relation to the encroachment of the Coogee Street stairs located in the southwestern corner of Lot 1. There is a prior resolution of the Council to excise the stairs from Lot 1 prior to any future leasing or disposal of Lot 1 to ensure the stairs remain in public ownership and accessible to the community.

The location of the land is shown in Map 1 contained within Appendix 3.

1.2 Background

Lot 3 is mapped as "Deferred Matter" under the BLEP 2012 and is currently subject to the provisions of the Ballina Local Environmental Plan 1987 (BLEP 1987), being zoned part 2(a) Living Area and part 7(d) Environmental Protection (Scenic/ Escarpment). Lot 3 does not have a dwelling entitlement in accordance with Clause 12(3) of the BLEP 1987 and is subject to a 40 hectare minimum lot size for subdivision standard. Lot 1 is also subject to the 7(d) Environmental Protection (Scenic/ Escarpment) zone under the BLEP 1987.

Existing improvements on Lot 3 comprise a single storey building which is currently vacant and has previously been used as a restaurant/ café. There was an active deferred commencement consent for alterations and additions to the building which lapsed in October 2018. Part of the existing building and other associated improvements encroach onto Lot 1 and the Compton Drive road reserve.

A request to rezone Lot 3 was previously submitted to Council in November 2016 and was considered as part of the draft planning proposal for Stage 2 of Council's deferred matters integration program at the March 2017 Ordinary Meeting. At this meeting Council resolved to delay consideration of the planning proposal until after a Councillor briefing on the matter which was subsequently held on 6 April 2017.

The planning proposal for Stage 2, incorporating the rezoning request for No. 23 Compton Drive, East Ballina, was reported to the Council at its Ordinary Meeting held on 27 April 2017. At this meeting the Council resolved to retain all deferred areas that are the subject of an environmental protection zone under the BLEP 1987 as deferred areas, having the effect that the BLEP 1987 will continue to apply.

As a result of the above resolution of the Council, the land owners have decided to make a formal site specific LEP amendment request. This planning proposal has been prepared in response to the LEP amendment request submitted by Ardill Payne & Partners on 4 December 2017 on behalf of the registered land owners Ms Sharon Barrie and Mr Kristian Moon. A copy of the amendment request is available under separate cover.

1.3 Land to Which the Planning Proposal Applies

This planning proposal primarily relates to part Lot 1 DP 781542 and part Lot 3 DP 525783, (Lots 1 and 3), No. 23 Compton Drive, East Ballina as shown in Figure 1 below and on the Site Identification Map contained within Appendix 3.



Figure 1: Extract from Site Identification Map

1.4 Council Resolutions

Council considered this planning proposal at its Ordinary Meeting of 25 January 2018. The Council resolved as follows:

1. *That Council endorses the proposed amendments to the Ballina Local Environmental Plan 2012 as outlined in the planning proposal (BSCPP 17/012 - 23 Compton Drive East Ballina) contained in Attachment 2.*
2. *That Council submit BSCPP 17/012 - 23 Compton Drive East Ballina to amend the Ballina Local Environmental Plan 2012 to the NSW Department of Planning & Environment for Gateway determination.*
3. *That the Department of Planning and Environment be advised that Council does not wish to exercise its delegated plan making functions for this LEP amendment as the planning proposal involves Council owned land.*
4. *That upon an affirmative Gateway determination being received from the Department of Planning and Environment, the procedural steps associated with progression of the planning proposal be undertaken, including public exhibition.*
5. *That the planning proposal be reported to the Council for further consideration following the completion of the public exhibition of the proposed LEP amendments.*

A copy of the report considered by the Council is contained in Appendix 5.

1.5 Gateway Determination

A Gateway determination was issued on 6 June 2018 allowing the planning proposal to proceed subject to conditions. A number of site investigations and technical reports were required to be undertaken prior to the public exhibition of the planning proposal.

The Gateway determination also required consultation to be undertaken with certain public authorities and organisations.

An altered Gateway determination was issued on 13 November 2019 which extended the time frame for completion of the LEP amendment until 6 June 2020.

Appendix 1 contains copies of the original and altered Gateway determinations.

2. Objectives & Intended Outcomes

The objective of this planning proposal is to amend the Ballina LEP 2012 in respect to part of Lots 1 and 3 so as to:

- Adjust the Land Application Map to include the subject land within the LEP by removing the land from a Deferred Matter designation;
- Apply a low density residential zone;
- Apply a 600m² minimum lot size requirement;
- Apply a maximum building height of 8.5 metres; and
- Apply acid sulfate soils attributes.

The intended outcome of this planning proposal is to enable the use of the subject land for residential purposes.

3. Explanation of Provisions

3.1 The Proposal

The proposed outcome will be achieved by:

- Amending the BLEP 2012 Land Application Map by removing the Deferred Matter designation that applies to the subject land and including the subject land within the LEP;
- Amending the BLEP 2012 Land Zoning Map by deleting the Deferred Matter designation that applies to the subject land and replacing it with a R2 Low Density Residential zone;
- Amending the BLEP 2012 Lot Size Map by deleting the 40 hectare lot size that applies to the subject land and replacing it with a 600m² lot size;
- Amending the BLEP 2012 Height of Buildings Map by applying a maximum building height of 8.5 metres to the subject land; and
- Amending the BLEP 2012 Acid Sulfate Soils Map by applying the Class 5 acid sulfate soils attribute to the subject land.

It is proposed that the R2 zone boundary will effectively follow and be offset approximately 1 metre from the northern side of the existing retaining wall on Lots 1 and 3 as shown outlined by thick red border in Figure 2 below.

The residual land on Lots 1 and 3 will remain subject to the provisions of the Ballina LEP 1987. The thumbnail maps contained in Figures 3 to 6 indicate the mapping outcomes proposed by this planning proposal.

Planning Proposal 17/012 – 23 Compton Drive, East Ballina

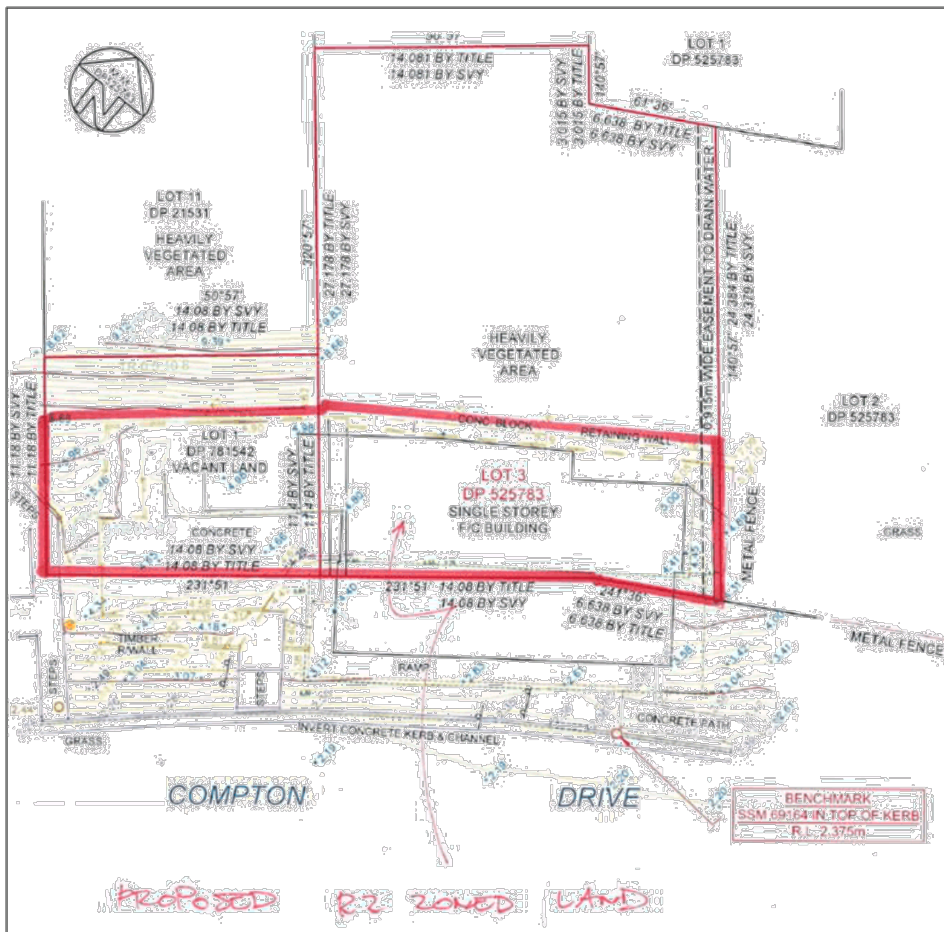


Figure 2: Proposed R2 zone boundary outlined in thick red border

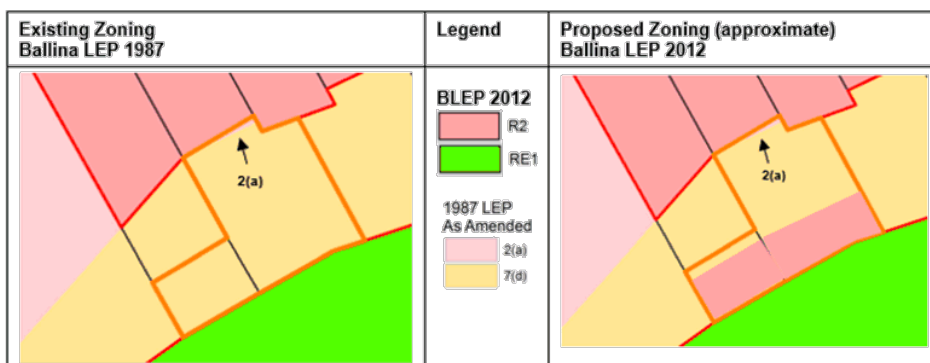


Figure 3: Existing and proposed zoning

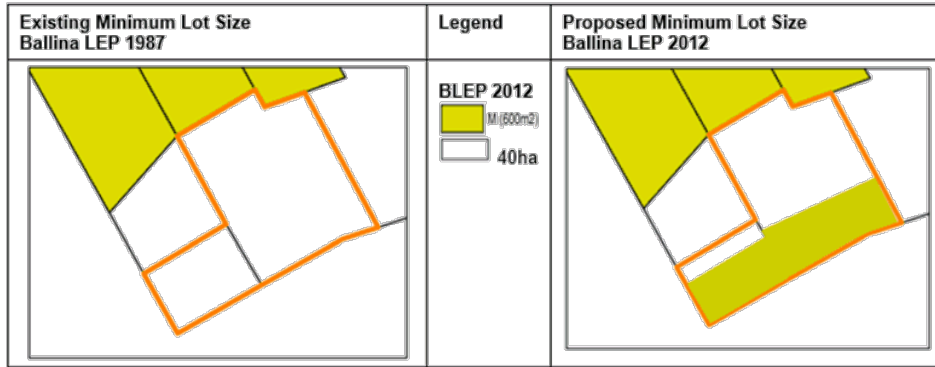


Figure 4: Existing and proposed lot size

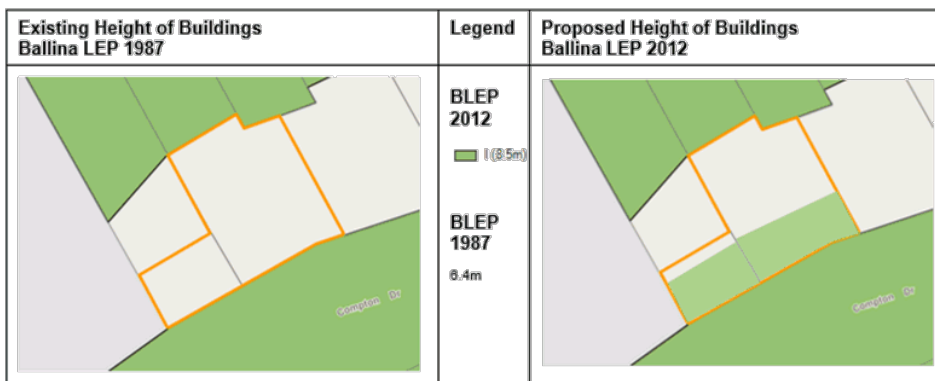


Figure 5: Existing and proposed height of buildings

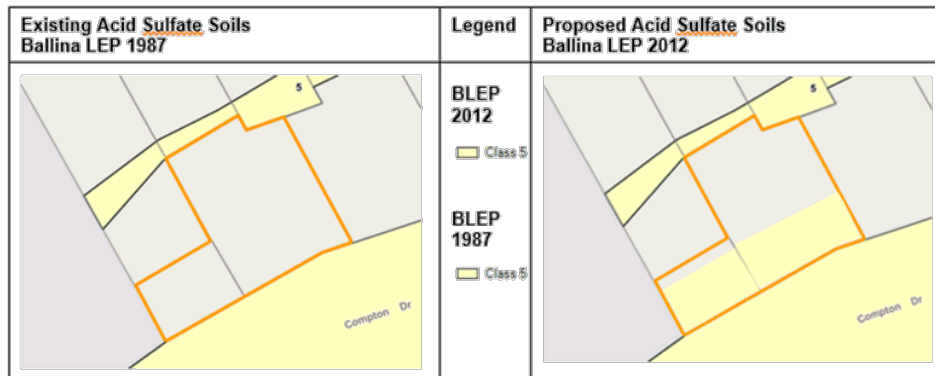


Figure 6: Existing and proposed acid sulfate soils mapping

3.2 Environmental Assessments

The Gateway determination required the following site investigations to be undertaken prior to the public exhibition of the planning proposal:

- A site contamination assessment;
- A bushfire assessment;
- A geotechnical assessment including assessment of land slip hazards; and
- A revised survey plan and an ecological assessment if the revised survey plan identifies that the land to be zoned R2 will include land containing the Littoral Rainforest Endangered Ecological Community vegetation or the Littoral Rainforest and Coastal Vine Thickets community.

The proponent has submitted the required technical reports and information. There were no significant issues identified in the reports that would prevent the subject land from being rezoned to residential as proposed.

The additional technical reports and supporting information being exhibited concurrently with this planning proposal are referenced within Appendices 6 and 7.

4. Justification

4.1 Section A – Need for the Planning Proposal

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

No, the planning proposal is not the result of any specific strategic study or report. This proposal is a site specific landholder generated request for rezoning of the subject land.

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

Yes. A planning proposal is an appropriate method to rezone the site as proposed.

4.2 Section B – Relationship to Strategic Planning Framework

Q3 Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?

The proposal is considered to be consistent with the *North Coast Regional Plan 2036* particularly in relation to the following directions:

Direction 1: Deliver environmentally sustainable growth – The site is located within an identified Urban Growth Area. The proposal for infill residential development within an existing serviced residential neighbourhood provides for low impact sustainable growth.

Direction 15: Develop healthy, safe, socially engaged and well-connected communities – The proposal will provide for residential development in close proximity to walking and cycling tracks which supports active living principles.

Q4 Will the planning proposal give effect to a council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

Ballina Shire Council Community Strategic Plan 2017-2027

The planning proposal is considered to be generally consistent with the elements and specified outcomes of Council's Community Strategic Plan 2017-2027 as indicated in the table below:

Element and Reference	Outcomes	Benefits
PE3 Prosperous Economy	Improve liveability in the shire	
PE3.1	Support residential development that delivers services close to home	Lower cost of living
PE3.2	Facilitate and provide affordable infrastructure	More affordable housing
HE3 Healthy Environment	Our built environment blends with the natural environment	

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Element and Reference	Outcomes	Benefits
HE3.1	Develop and implement plans that balance the built environment with the natural environment	More people are satisfied with our management of development

Ballina Shire Growth Management Strategy 2012 (BSGMS)

The Ballina Shire Growth Management Strategy (BSGMS) provides the strategic planning context for urban development in Ballina Shire. The BSGMS identifies the following key issue of relevance to this planning proposal:

- Limited opportunities for outward expansion. Future development will occur mainly through infill development. Such development will need to be balanced with the generally low scale and coastal character of the locality.

The subject land is situated within an established residential area that is characterised by a mix of residential uses, open space/ parks, stands of bushland vegetation and Shaws Bay. The proposed rezoning of the land is considered to be generally consistent with the locality objectives for East Ballina contained within the BSGMS.

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

The subject land is mapped as “DM – Deferred Matter” under the BLEP 2012 and is therefore subject to the provisions of the BLEP 1987. Lot 1 is subject to the 7(d) Environmental Protection (Scenic/ Escarpment) zone and Lot 3 is zoned part 2(a) Living Area and part 7(d) Environmental Protection (Scenic/ Escarpment) under the BLEP 1987.

The proposal seeks to apply the R2 Low Density Residential Zone under the BLEP 2012 to part of Lots 1 and 3 currently zoned 7(d). The proposal is considered to be consistent with the objectives of the R2 zone which 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.*
- *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.*

Q5 Is the planning proposal consistent with applicable State Environmental Planning Policies?

The proposal is considered to be generally consistent with applicable State Environmental Planning Policies (SEPPs).

SEPP 55 – Remediation of Land

The proponent has submitted a Stage 1 Preliminary Contamination Assessment report in accordance with the requirements of SEPP 55, the Gateway determination and Council's *Management of Contaminated Land Policy*.

The report concludes that based on the investigation undertaken that the site is suitable for the proposed residential rezoning.

Q6 Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

No. A number of inconsistencies, considered to be of minor significance and justifiable in the circumstances, have been identified. A section 9.1 Direction checklist for the planning proposal is provided at Appendix 2.

The Department of Planning, Industry and Environment's Director Regions, Northern Planning Services, has agreed when issuing the Gateway determination that the proposal's inconsistencies with section 9.1 Directions *2.1 Environment Protection Zones, 2.3 Heritage Conservation and 4.1 Acid Sulfate Soils* are justified or of minor significance.

In respect to the proposal's inconsistency with section 9.1 Direction *4.4 Planning for Bushfire Protection* it has been advised that the agreement of the Department's Secretary may still need to be obtained and this should occur prior to the plan being made.

Consultation with the NSW Rural Fire Service is being undertaken concurrently with the exhibition of this planning proposal.

4.3 Section C – Environmental, Social and Economic Impact

Q7 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The Gateway determination required that an ecological assessment be prepared if the revised survey plan identifies that the land to be zoned R2 will include land containing the Littoral Rainforest Endangered Ecological Community vegetation or the Littoral Rainforest and Coastal Vine Thickets community.

The proponent has submitted a revised site survey plan which indicates the proposed R2 zone boundary will effectively follow and be offset approximately 1 metre from the northern side of the existing retaining wall on Lots 1 and 3 (refer to Appendix 6).

Whilst it is not proposed that any land containing littoral rainforest on Lots 1 and 3 will be zoned for urban purposes, the proponent has submitted an Ecological Assessment report which examines whether the planning proposal is likely to give rise to any direct adverse impacts on critical habitat or threatened species, population or ecological communities, or their habitats.

The Ecological Assessment, prepared by Geolink and dated October 2019, concludes the following:

- *The littoral rainforest vegetation located in the north-western portion of the site is of high biodiversity conservation value and comprises the following threatened ecological communities (TECs):*

- *Littoral rainforests and coastal vine thickets of eastern Australia TEC (listed under the Environment Protection and Biodiversity Conservation Act); and*
- *Littoral rainforest in the NSW North Coast, Sydney Basin and South East Corner bioregions TEC (listed under the Biodiversity Conservation Act).*
- *The littoral rainforest vegetation is of moderate condition with weeds and edge effects apparent.*
- *The residential rezoning and future development within the existing cleared/developed portion of the site would have minimal biodiversity impact.*
- *Some direct impacts to the littoral vegetation on the edge of this area is likely through:*
 - *Establishment and maintenance of the required Asset Protection Zone (APZ) to the north-west; and*
 - *Removal of overhanging trees.*
- *It is recommended that consideration should be given to applying a reduced front setback in the south-eastern portion of the site along Compton Drive to minimise impacts to the littoral rainforest vegetation.*
- *Mechanisms to protect retained vegetation (outside the building envelope and APZ) should form part of any future development application.*

A copy of the Ecological Assessment is being exhibited concurrently with the planning proposal and has also been forwarded to the NSW Biodiversity and Conservation Division for comment.

Q8 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Bushfire Impacts

The subject land is designated as bushfire prone land. A 100 metre wide buffer to Category 2 vegetation extends across the majority of Lot 1 and the south-eastern portion of Lot 3. Lot 3 is also affected by Category 2 vegetation on the north-western portion of the site.

The proponent has submitted a Bush Fire Assessment Report, prepared by Bushfire Consultancy Australia and dated 6 September 2019, as required by the Gateway determination. The report concludes that any proposed future development will be constructed to the minimum standard required in accordance with the guidelines of *Planning for Bushfire Protection 2018* and *AS 3959-2009 Construction of buildings in bushfire prone areas*.

Consultation with the NSW Rural Fire Service is being undertaken as part of the exhibition process of this planning proposal. A copy of the Bush Fire Assessment Report is being exhibited concurrently with the planning proposal as required by the Gateway determination.

Geotechnical Constraints

Lots 1 and 3 are located within an area identified as being susceptible to landslip (Coffey Partners Pty Ltd report). Coffey Geotechnics prepared a draft Slope Hazard Assessment report in 2013 for the previous landowner. The proponent has submitted

a Geotechnical Assessment prepared by GHD Pty Ltd dated 17 September 2019 which provides follow up geotechnical advice to the draft 2013 report.

The report prepared by GHD Pty Ltd concludes the following:

- *The review of the slope conditions and the 2013 report identifies slope instability hazards. These are not insurmountable and the 2013 report provides methods for mitigation of those hazards.*
- *Further geotechnical work would be required once the proposed building layout and design has been finalised, including a revised slope risk assessment to consider the suitability of the proposed structural controls to geotechnical hazards.*
- *Given suitable geotechnical advice and structural engineering solutions, the site can safely be developed as a residential site. The residual risks can be managed to 'Low' which is in line with community expectations for residential land.*

A copy of the Geotechnical Assessment prepared by GHD, which includes the draft 2013 report prepared by Coffey Geotechnics, is being exhibited concurrently with the planning proposal as required by the Gateway determination.

Land Contamination

The proponent has submitted a Stage 1 Preliminary Contamination Assessment report prepared by ENV Solutions dated September 2019. The report concludes that the site is suitable for the proposed residential rezoning from an environmental (contamination) perspective.

A copy of the Stage 1 Preliminary Contamination Assessment report is being exhibited concurrently with the planning proposal as required by the Gateway determination.

Q9 Has the planning proposal adequately addressed any social and economic effects?

The potential for adverse social impact is considered to be limited given the infill nature of the proposed LEP amendment request. The use of the land for residential purposes will be compatible with the existing adjacent residential uses, particularly from an amenity and land use conflict perspective.

The social and economic outcomes resulting from the proposed rezoning are considered to be positive.

4.4 Section D – State and Commonwealth Interests

Q10 Is there adequate public infrastructure for the planning proposal?

Infrastructure available to service the site and future residential development comprises the following:

- Electricity
- Water
- Sewer
- Telephone
- Sealed roadway.

Q11 What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

Consultation is being undertaken with the NSW Rural Fire Service, the NSW Department of Planning, Industry and Environment's Biodiversity and Conservation Division (formerly Office of Environment and Heritage) and the Jali Local Aboriginal Land Council as required by the Gateway determination during the public exhibition of the planning proposal. .

5. Mapping

The following maps have been prepared to support this planning proposal and are contained in Appendix 3:

- Map 1 – Site Identification Map (Aerial);
- Map 2 – Current Land Zoning Map Ballina LEP 1987;
- Map 3 – Proposed Land Zoning Map Ballina LEP 2012;
- Map 4 – Current Lot Size Map Ballina LEP 2012; and
- Map 5 – Proposed Lot Size Map Ballina LEP 2012.

The proposal will also require amendments to the following maps:

- Height of Buildings Map;
- Acid Sulfate Soils Map; and
- Land Application Map to include the subject land within the LEP by removing the land from a Deferred Matter designation.

6. Community Consultation

This proposal will be exhibited in accordance with the Gateway determination and the terms of the *Environmental Planning and Assessment Act 1979*. The planning proposal will be exhibited for a minimum period of 28 days and will incorporate the following elements:

- Advertisement within the Ballina Shire Advocate;
- Letters to adjoining and nearby property owners;
- Site signage;
- Notice on Council's website; and
- Exhibition at Council's Customer Service Centre and Community Access Points.

7. Timeline

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

Plan Making Step	Estimated Completion (Before)
Original Gateway Determination	June 2018
Government Agency Consultation	February 2020
Public Exhibition Period	February 2020
Public Hearing	N/A
Submissions Assessment	March 2020
RPA Assessment of Planning Proposal and Exhibition Outcomes	April 2020
Submission of Endorsed LEP to DP&E for Finalisation	April 2020
RPA Decision to Make the LEP Amendment (if delegated)	N/A [#]
Forwarding of LEP Amendment to DP&I for Notification (if delegated)	N/A [#]

[#] Council is not proposing to exercise plan finalisation functions under delegation.

8. Appendices

Appendix 1 – Gateway Determination

Original Gateway determination – 6 June 2018



PP_2018_BALLI_003_00/IRF18/2481

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

Dear Mr Hickey:

Planning proposal PP_2018_BALLI_003_00 to amend Ballina Local Environmental Plan 2012.

I am writing in response to Council's request for a Gateway determination under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the planning proposal to rezone part of Lot 1 DP 781542 and part of Lot 3 DP 525783, 23 Compton Drive, East Ballina from 7(d) Environmental Protection (Scenic/Escarpment) to R2 Low Density Residential, apply a 600m² minimum lot size and 8.5m maximum building height to the land being rezoned R2 and make consequent changes to the Land Application Map and Acid Sulfate Soils Map in the Ballina LEP 2012.

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

I have also agreed, as delegate of the Secretary, the planning proposal's inconsistencies with section 9.1 Directions 2.1 Environment Protection Zones, 2.3 Heritage Conservation and 4.1 Acid Sulfate Soils. No further approval is required in relation to these Directions.

Council may still need to obtain the agreement of the Department's Secretary to comply with the requirements of relevant section 9.1 Direction 4.4 Planning for Bushfire Protection. Council should ensure this occurs prior to the plan being made.

I have considered Council's request not to be the local plan-making authority and have determined not to condition the Gateway for Council to be the local plan-making authority to maintain transparency of decision making considering that the rezoning of the Council owned land may result in a financial benefit.

The amending Local Environmental Plan (LEP) is to be finalised within 18 months of the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request for the Department of Planning and Environment to draft and finalise the LEP should be made 8 weeks prior to the projected publication date.

Northern Region | 149 Victoria Street Grafton NSW 2460 | Locked Bag 9022 Grafton NSW 2460 | planning.nsw.gov.au

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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 3.32(2)(d) of the Act if the time frames outlined in this determination are not met.

Should you have any further enquiries about this matter, I have arranged for Mr Paul Garnett to assist you. Mr Garnett can be contacted on 6641 6607.

Yours sincerely



Jeremy Gray
Director Regions, Northern
Planning Services

Encl: Gateway determination



Gateway Determination

Planning proposal (Department Ref: PP 2018 BALLI 003 00): to rezone part of Lot 1 DP 781542 and part of Lot 3 DP 525783, 23 Compton Drive, East Ballina from 7(d) Environmental Protection (Scenic/Escarpment) to R2 Low Density Residential, apply a 600m² minimum lot size and 8.5m maximum building height to the land being rezoned R2 and make consequent changes to the Land Application Map and Acid Sulfate Soils Map in the Ballina LEP 2012.

I, the Director Regions, Northern at the Department of Planning and Environment, as delegate of the Minister for Planning, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Ballina Local Environmental Plan (LEP) 2012 to rezone part of Lot 1 DP 781542 and part of Lot 3 DP 525783, 23 Compton Drive, East Ballina from 7(d) Environmental Protection (Scenic/Escarpment) to R2 Low Density Residential, apply a 600m² minimum lot size and 8.5m maximum building height to the land being rezoned R2 and make consequent changes to the Land Application Map and Acid Sulfate Soils Map in the Ballina LEP 2012 should proceed subject to the following conditions:

1. Prior to public exhibition the following site investigations are to be undertaken:
 - (a) a site contamination assessment;
 - (b) a bushfire assessment;
 - (c) a geotechnical assessment including assessment of land slip hazards; and
 - (d) a revised survey plan and an ecological assessment if the revised survey plan identifies that the land to be zoned R2 will include land containing the Littoral Rainforest Endangered Ecological Community vegetation or the Littoral Rainforest and Coastal Vine Thickets community.

2. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
 - (a) the planning proposal is classified as low impact as described in *A guide to preparing local environmental plans* (Department of Planning and Environment 2016) and must be made publicly available for a minimum of 14 days; and
 - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment 2016).

¶

PP 2018 BALLI 003 00 [IRF18/2481]

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3. Consultation is required with the following public authorities and organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:

- NSW Rural Fire Service;
- NSW Office of Environment and Heritage; and
- The Local Aboriginal Land Council.

Each public authority/organisation 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 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. The time frame for completing the LEP is to be **18 months** following the date of the Gateway determination.

Dated 6 day of June 2018.



Jeremy Gray
Director Regions, Northern
Planning Services
Department of Planning and
Environment

Delegate of the Minister for Planning

PP_2018_BALU_003_00 (IRF18/2481)

Altered Gateway Determination – 13 November 2019



PP_2018_BALLI_003_00/IRF19/6903

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

Dear Mr Hickey

Planning proposal PP_2018_BALLI_003_00 – Alteration of Gateway Determination

I refer to your letter seeking an extension of time to complete planning proposal PP_2018_BALLI_003_00 for the rezoning of land for residential purposes at 23 Compton Drive, East Ballina.

I have determined as the delegate of the Minister, in accordance with section 3.34(7) of the *Environmental Planning and Assessment Act 1979*, to alter the Gateway determination dated 6 June 2018 for PP_2018_BALLI_003_00. The Alteration of Gateway determination is enclosed.

If you have any questions in relation to this matter, I have arranged for Ms Helen Willis to assist you. Ms Willis can be contacted on 5778 1489.

Yours sincerely

13-11-2019

Jeremy Gray
Director, Northern Region
Planning and Assessment

Encl: Alteration of Gateway Determination



Alteration of Gateway Determination

Planning proposal (Department Ref: PP_2018_BALLI_003_00)

I, Director, Northern Region, at the Department of Planning, Industry and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(7) of the *Environmental Planning and Assessment Act 1979* to alter the Gateway determination dated 6 June 2018 for the proposed amendment to the Ballina Local Environmental Plan 2012 as follows:

1. Delete condition 5:

"5. The time frame for completing the LEP is to be 18 months following the date of the Gateway determination."

and replace with a new condition 5:

"5. The time frame for completing the LEP is by 6 June 2020."

Dated 13 day of November 2019.

A handwritten signature in black ink, appearing to read 'J. Gray'.

Jeremy Gray
Director, Northern Region
Planning and Assessment
Department of Planning, Industry and
Environment

Delegate of the Minister for Planning
and Public Spaces

PP_2018_BALLI_003_00 / IRF19/8903

Appendix 2 – Section 9.1 Direction Checklist

Section 9.1 Direction Checklist Planning Proposal – 23 Compton Drive, East Ballina	
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	Does not apply to planning proposal.
1.3 Mining, Petroleum Production and Extractive Industries	Does not apply to planning proposal.
1.4 Oyster Aquaculture	Does not apply to planning proposal.
1.5 Rural Land	Does not apply to planning proposal.
2. Environment and Heritage	
2.1 Environment Protection Zones	<p>Justifiably Inconsistent.</p> <p>The planning proposal involves the development of land identified as being of environmental significance. The land is presently subject to the 7(d) Environmental Protection (Scenic/ Escarpment) zone under the Ballina LEP 1987.</p> <p>Preliminary information available to Council indicates part of both Lots 1 and 3 contain littoral rainforest (not presently mapped under SEPP 26) which conforms to the Littoral Rainforest EEC and the critically endangered Littoral Rainforest and Coastal Vine Thickets community.</p> <p>The land proposed for rezoning in Lot 1 contains an existing concrete pad. The extent of littoral rainforest on this land is yet to be determined. However, it is not proposed that any area of littoral rainforest on Lot 1 will be zoned for urban purposes.</p> <p>The land proposed to be rezoned within Lot 3 contains an existing building and is clear of vegetation. It is not proposed that any area of littoral rainforest on Lot 3 will be zoned for urban purposes.</p> <p>The Director Regions, Northern Planning Services, Department of Planning, Industry & Environment, in his letter dated 6 June 2018 has advised that he has agreed as delegate for the Secretary that the inconsistency is justified and no further approval is required in relation to this Direction.</p>
2.2 Coastal Protection	<p>Consistent.</p> <p>The subject lot is located within the coastal zone.</p> <p><i>Clause 5.5 Development within the coastal zone</i> contained within Ballina LEP 2012 is applicable to development proposed within the coastal zone. Clause 5.5 includes provisions that give effect to and are consistent with:</p> <p>(a) the <i>NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997</i>, and</p> <p>(b) the <i>Coastal Design Guidelines 2003</i>, and</p> <p>(c) the manual relating to the management of the coastline for the purposes of section 733 of the <i>Local Government Act 1993</i> (the <i>NSW Coastline Management Manual 1990</i>).</p>
2.3 Heritage Conservation	<p>Consistent.</p> <p>The planning proposal does not involve the development of land on which a heritage item is located, within a heritage conservation area or within the vicinity of a heritage item or conservation area.</p> <p>The Director Regions, Northern Planning Services, Department of Planning, Industry & Environment, in his letter dated 6 June 2018 has advised that he has agreed as delegate for the Secretary that the inconsistency is justified and no further approval is required in relation to this Direction.</p>

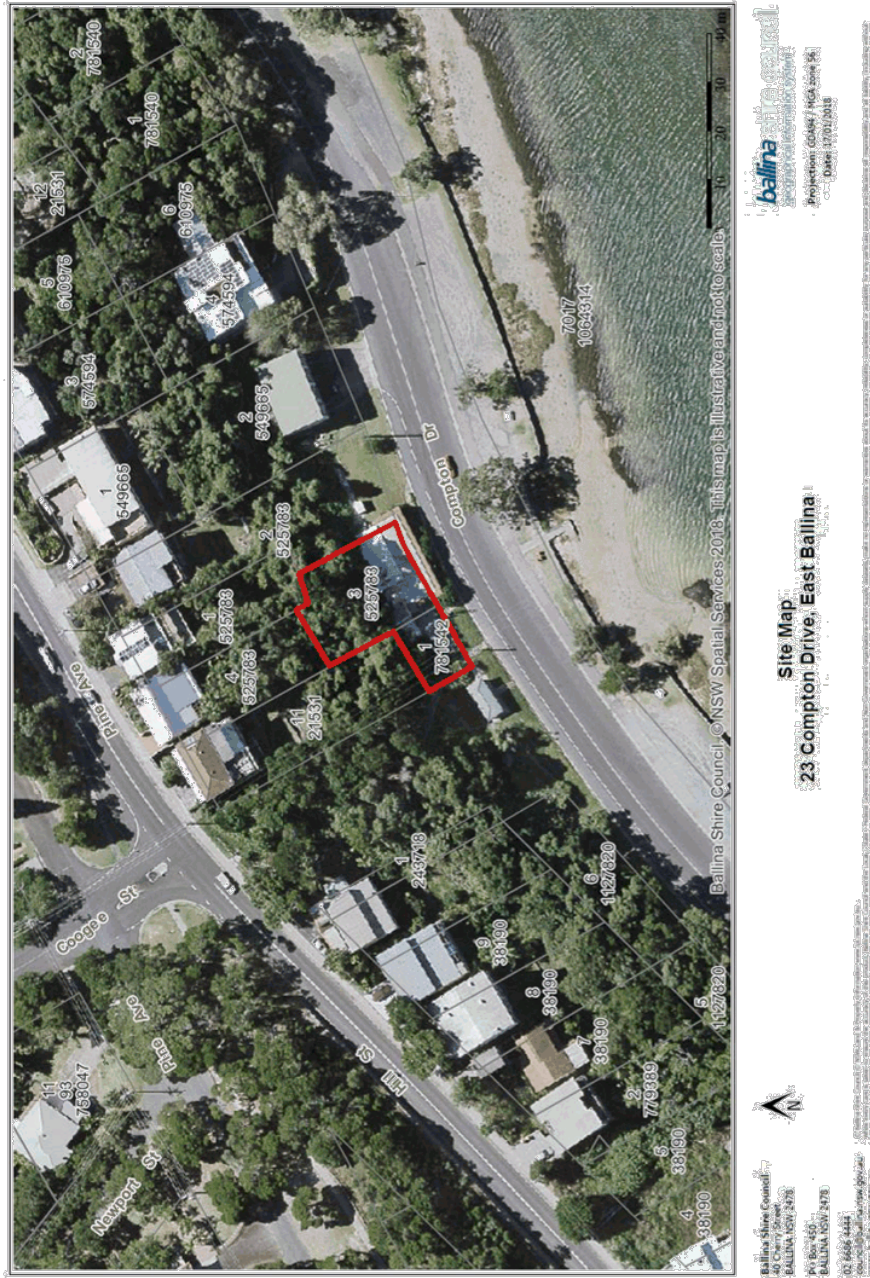
Planning Proposal 17/012 – 23 Compton Drive, East Ballina

Section 9.1 Direction Checklist	
Planning Proposal – 23 Compton Drive, East Ballina	
Direction No.	Compliance of Planning Proposal
2.4 Recreation Vehicle Areas	Consistent. The planning proposal does not involve the development of land for the purpose of a recreation vehicle area.
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	Consistent. The planning proposal does not propose to introduce or alter an E2 Environmental Conservation or E3 Environmental Management zone.
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	Consistent. This proposal involves the rezoning of all or part of Lot 1 and part of Lot 3 from 7(d) Environmental Protection (Scenic/ Escarpment) under BLEP 1987 to R2 Low Density Residential zone under BLEP 2012. The proposed rezoning will provide for infill residential development which can be adequately serviced by existing infrastructure and services. The proposed rezoning will not result in any material loss or gain to any existing zoned residential areas.
3.2 Caravan Parks and Manufactured Home Estates	Consistent. This proposal will not result in any reduction in the existing availability of land for caravan parks or manufactured home estates.
3.3 Home Occupations	Consistent. The proposal will not affect any existing permissibility or exemptions for home occupations.
3.4 Integrating Land Use and Transport	Consistent. This proposal will not result in any negative impacts on accessibility or transport movements.
3.5 Development Near Licensed Aerodromes	Does not apply to planning proposal.
3.6 Shooting Ranges	Does not apply to planning proposal.
3.7 Reduction in non-hosted short term rental accommodation period	Does not apply to planning proposal.
4. Hazard and Risk	
4.1 Acid Sulfate Soils	Consistent. The subject land is mapped as being Class 5 acid sulfate soils. The Ballina LEP 2012 includes an existing provision (Clause 7.1) that addresses development on land that has the potential for acid sulfate soils. The Director Regions, Northern Planning Services, Department of Planning, Industry & Environment, in his letter dated 6 June 2018 has advised that he has agreed as delegate for the Secretary that the inconsistency is justified and no further approval is required in relation to this Direction.
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	Justifiably Inconsistent. The subject land is mapped as bush fire prone land. Consultation will be undertaken with the NSW Rural Fire Service as required by the Gateway determination.
5. Regional Planning	

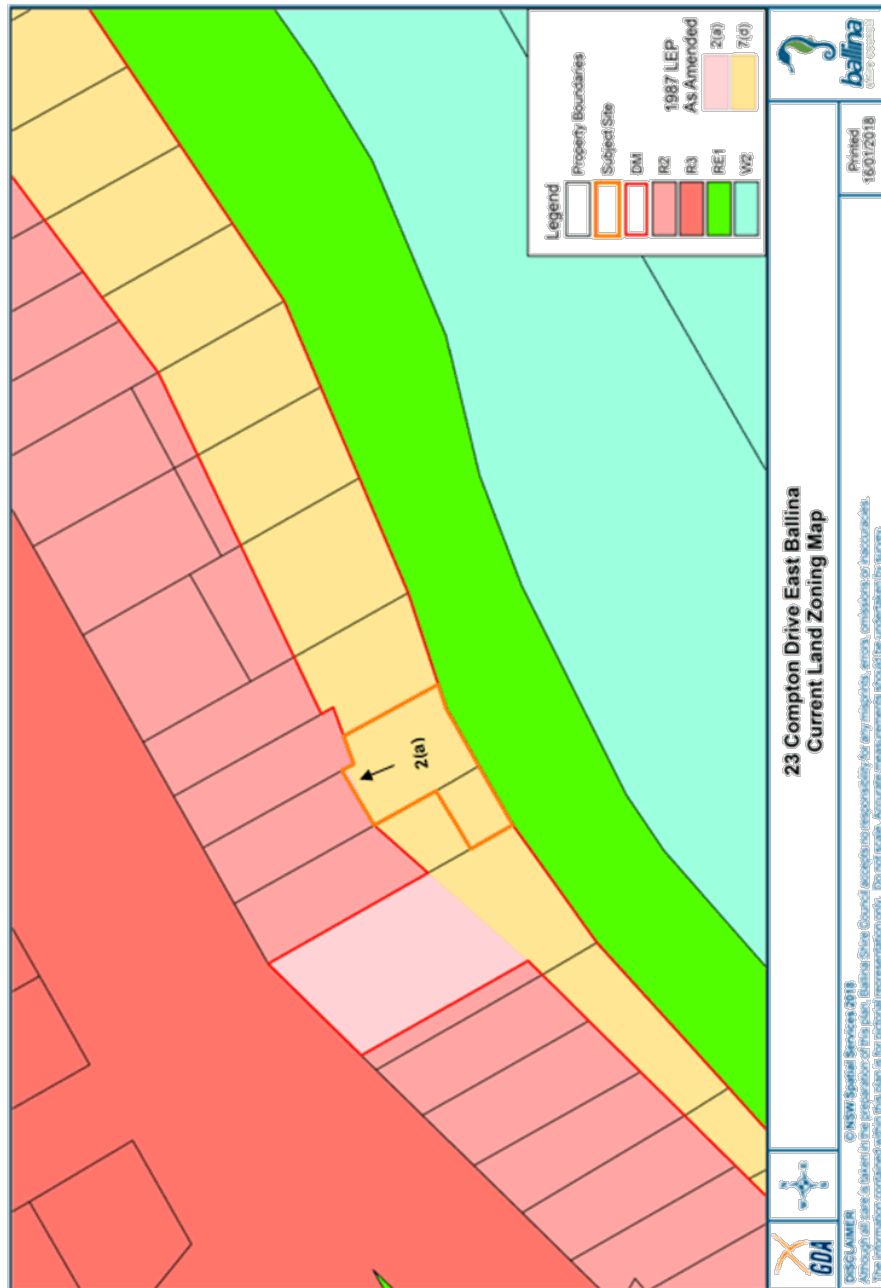
Section 9.1 Direction Checklist	
Planning Proposal – 23 Compton Drive, East Ballina	
Direction No.	Compliance of Planning Proposal
5.1 Implementation of Regional Strategies	Revoked.
5.2 Sydney Drinking Water Catchments	Does not apply to Ballina Shire.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Does not apply to planning proposal.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Does not apply to planning proposal.
5.5 Development in the vicinity of Ellalong Paxton and Millfield (Cessnock LGA).	Revoked.
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	Revoked.
5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	Revoked.
5.8 Second Sydney Airport: Badgerys Creek	Does not apply to Ballina Shire.
5.9 North West Rail Link Corridor Strategy	Does not apply to Ballina Shire.
5.10 Implementation of Regional Plans	Consistent. The planning proposal is considered to be consistent with the North Coast Regional Plan 2036 as the subject land is located within a designated Urban Growth Area.
5.11 Development of Aboriginal Land Council land	Does not apply to planning proposal.
6. Local Plan Making	
6.1 Approval and Referral Requirements	Consistent. The planning proposal does not introduce any new concurrence or consultation provisions or any additional designated development types.
6.2 Reserving Land for Public Purposes	Consistent. The planning proposal does not create, alter or reduce existing zonings or reservations of land reserved for public purposes.
6.3 Site Specific Provisions	Consistent. The planning proposal does not relate to a specific development proposal to be carried out nor does it contain or refer to drawings that show details of the development proposal.
7. Metropolitan Planning	
7.1 to 7.10	These Directions do not apply to Ballina Shire.

Appendix 3 – Maps

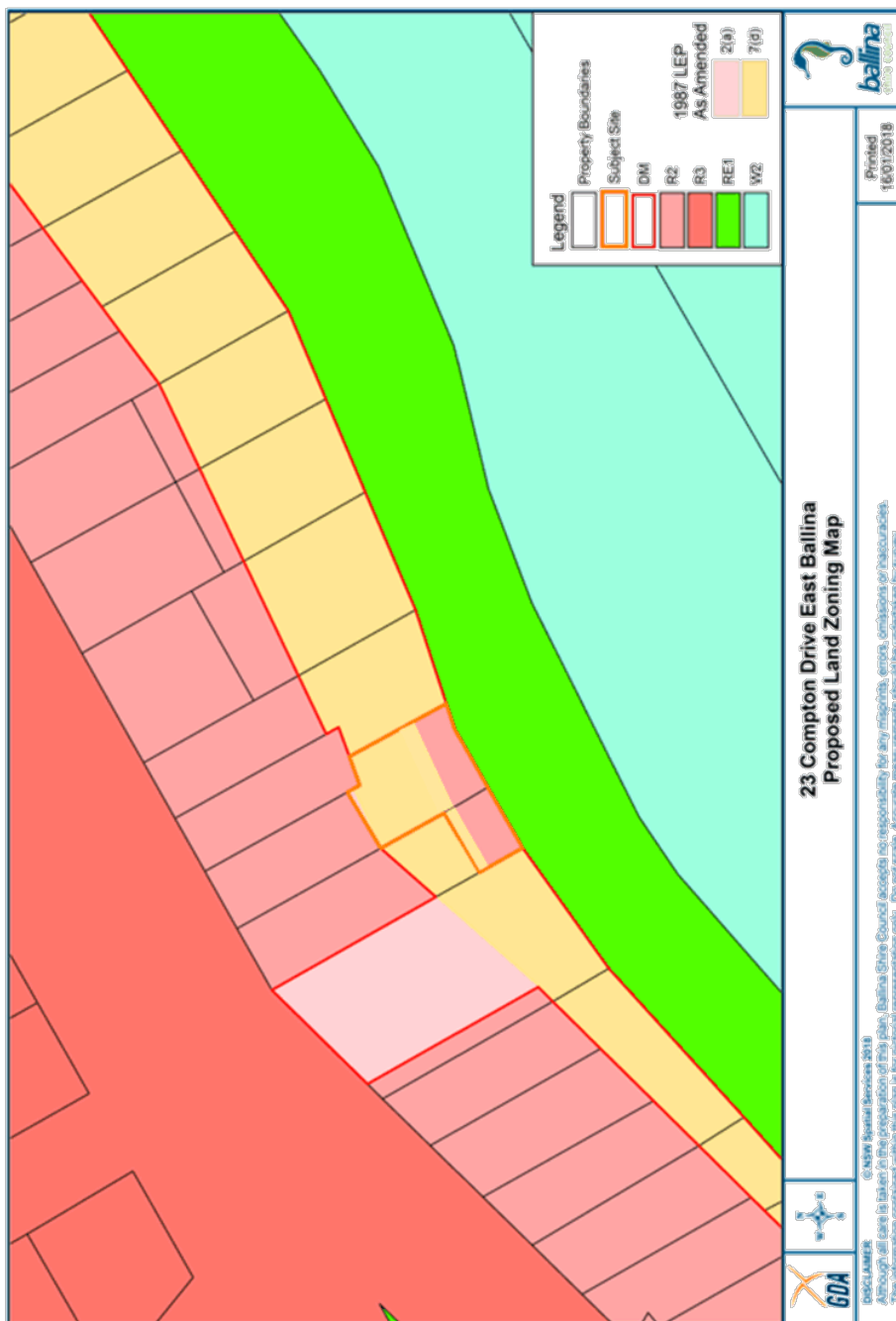
Map 1 – Site Identification Map (Aerial)



Map 2 – Current Land Zoning Map (Ballina LEP 1987 and Ballina LEP 2012)



Map 3 – Proposed Land Zoning Map Ballina LEP 2012



Map 4 – Current Lot Size Map Ballina LEP 2012



Map 5 – Proposed Lot Size Map Ballina LEP 2012



Appendix 4 – Proponent's Planning Proposal Submission

Provided under separate cover.

Appendix 5 – Council Resolutions

9.1 LEP Amendment Request - 23 Compton Drive, East Ballina

9.1 LEP Amendment Request - 23 Compton Drive, East Ballina

Delivery Program	Strategic Planning
Objective	To outline a proposal to amend the Ballina Local Environmental Plan 2012 to rezone part of Lot 3 DP 525783, No. 23 Compton Drive, East Ballina and adjacent public land at Lot 1 DP 781542, to R2 Low Density Residential and seek direction on the submission of a planning proposal for Gateway determination.

Background

Council has received a request from Ardill Payne and Partners on behalf of the property owners Ms Sharon Barrie and Mr Kristian Moon to rezone part of Lot 3 DP 525783, No. 23 Compton Drive, East Ballina from Deferred Matter to R2 Low Density Residential under the Ballina Local Environmental Plan 2012 (BLEP 2012).

The proposal also involves a change from the 40ha minimum lot size for subdivision standard to apply a 600m² minimum lot size to the area proposed for the R2 zoning.

The proponent has advised that the landowners are liaising with Council's Commercial Services Section regarding a proposition for Council to consider the sale of all or part of the adjoining lot (Lot 1 DP 781542) contingent upon Lot 1 also being zoned for residential purposes.

Council's Commercial Services Group has supported the inclusion of Lot 1 in this planning proposal subject to further investigation and reporting, particularly in relation to the retention of the Coogee Street stairs in public ownership. Importantly, Council as a landholder can withdraw from the rezoning process at any time.

The Coogee Street stairs are partly located within Lot 1 and there is a prior resolution of the Council to excise the stairs from Lot 1 prior to any future leasing or disposal of Lot 1 to ensure the stairs remain in public ownership and accessible to the community.

The proposed amendment enables the land to be used for residential development. A copy of the information submitted by the proponent in support of the LEP amendment request is contained in Attachment 1.

A copy of the planning proposal prepared by Council staff that provides details about the proposed LEP amendment (BSCPP 17/012) is contained in Attachment 2.

The location of the land (Lots 1 and 3) is shown outlined in red in Figure 1.

9.1 LEP Amendment Request - 23 Compton Drive, East Ballina



Figure 1: Site Locality Lot 1 DP 781542 and Lot 3 DP 525783 (23 Compton Drive) East Ballina.

A request to rezone Lot 3 was considered as part of the draft planning proposal for Stage 2 of Council's deferred matters integration program which was reported to the Council at its April 2017 Ordinary Meeting. The planning proposal recommended the R2 Low Density Residential zone be applied to part of the land that was considered unsuitable for the application of an environmental zone.

At its April 2017 meeting the Council resolved not to proceed with the previously adopted staging program for the integration of deferred matters into the Ballina LEP 2012. Council resolved instead to retain the existing environmental protection zones under the Ballina LEP 1987 as deferred areas and to transition the remaining deferred areas into the Ballina LEP 2012.

Given the uncertainty surrounding the timeframe for resolving the integration of deferred matter land, the landowners have submitted a stand-alone request to rezone part of Lot 3 to enable the residential development of the site. The adjacent public land (Lot 1) is also included for consideration as noted above.

The purpose of this report is to outline the amendment proposal and seek direction in relation to the further consideration and assessment of the amendment request.

Key Issues

- Merits of proposed LEP amendment
- Infill residential development
- Suitability of land for residential zoning and development

9.1 LEP Amendment Request - 23 Compton Drive, East Ballina

Information

Zoning – Ballina LEP 2012 and Ballina LEP 1987

Both Lot 1 DP 781542 and Lot 3 DP 525783 are mapped as 'Deferred Matter' under the BLEP 2012 and remain subject to the provisions of the BLEP 1987. Lot 1 is zoned 7(d) Environmental Protection (Scenic/ Escarpment) and Lot 3 is zoned part 2(a) Living Area and part 7(d) Environmental Protection (Scenic/ Escarpment). Both land parcels are subject to a 40 hectare minimum lot size standard for subdivision.

Lot 3 does not currently have a dwelling entitlement in accordance with Clause 12(3) of the BLEP 1987.

Maps showing the current and proposed zoning and minimum lot size standards are provided in Appendix 2 of the planning proposal (Attachment 2).

Site Assessment

Lot 3 has an area of 537.5 square metres, is irregular in shape and has a frontage of approximately 21 metres to Compton Drive. Existing improvements on the land comprise a single storey timber and F/C clad building which is currently vacant and has previously been used as a restaurant/café. The site has access to existing services including water, sewer, electricity and telecommunication facilities.

Part of the existing building and associated improvements encroach onto the adjoining Lot 1 to the west (which is owned by Council) and the Compton Drive road reserve.

A survey plan dated November 2006 has been submitted by the proponent and is included in Attachment 1. The survey plan indicates the extent of the encroachments noted above and also identifies an easement for drainage of water, approximately 915mm wide that runs parallel with the northeastern boundary and benefits the adjacent Lot 1 to the north.

A further site survey plan will be required to be submitted after Gateway determination to confirm that a viable building envelope is available on the land and accurately define the position of the residential zone boundary.

It is likely that a reduced setback will be required to achieve a viable building envelope having regard for the constraints of the land, particularly in respect of bushfire and geotechnical issues. This is contingent upon the provision of further information post-Gateway determination. If a reduced front setback is deemed to be an acceptable approach, this can be addressed through an amendment to the Ballina Shire Development Control Plan 2012.

Lot 1 is Council owned land that is classified as Operational Land. The land is rectangular in shape and is 158m² in area. Lot 1 currently contains a concrete pad structure and part of the Coogee Street stairs.

The extent of Lot 1 proposed for rezoning to R2 Low Density Residential will be determined post-Gateway determination based on additional site assessment to be undertaken and further investigation to address the retention of the Coogee street stairs in public ownership. The zoning of this

9.1 LEP Amendment Request - 23 Compton Drive, East Ballina

land may also be subject to further reporting to the Council as a landholder by Council's Commercial Services Section.

The planning proposal does not seek to change the zoning of that part of the land containing significant vegetation. That is, it is proposed that the 7(d) Environmental Protection (Scenic/ Escarpment) will be retained for these areas.

Strategic Context

The Ballina Shire Growth Management Strategy (BSGMS) provides the strategic planning context for urban development in Ballina Shire. The BSGMS identifies the following key issue of relevance to this planning proposal:

Limited opportunities for outward expansion. Future development will occur mainly through infill development. Such development will need to be balanced with the generally low scale and coastal character of the locality.

The subject land is situated within an established residential area that is characterised by a mix of residential uses, open space/ parks, stands of bushland vegetation and Shaws Bay. The proposed rezoning of the land is considered to be generally consistent with the locality objectives for East Ballina contained within the BSGMS.

Land Constraints

Bushfire

The land the subject of the amendment request is mapped as being bushfire prone land comprising Vegetation Category 2 and a 30m buffer as depicted in the map extracts in Diagram 1. The proponent will be required to submit a bushfire risk assessment report post-Gateway determination to enable consultation to occur with the NSW Rural Fire Service.

Geotechnical Conditions

The land is situated in an area identified by Coffey & Partners (March 1986) as having a medium to high risk of instability. A retaining wall approximately 2m high is located behind the existing building to support a steep slope of the original hillside. A geotechnical report will be required to be submitted post-Gateway determination to assess the slope stability for the site.

Ecology

The proponent has not submitted any information regarding the vegetation located on the land. Preliminary information provided by Biolink ecological consultants to Council in relation to Stage 2 of the former deferred matters integration program indicates the presence of an area of littoral rainforest that is not presently mapped under *State Environmental Planning Policy No. 26 Littoral Rainforests* (SEPP 26) located on both Lot 1 and Lot 3 and on other land within this vicinity.

The vegetation communities have been identified by Biolink as conforming to the Littoral Rainforest endangered ecological community (EEC) and the critically endangered Littoral Rainforest and Coastal Vine Thickets community

9.1 LEP Amendment Request - 23 Compton Drive, East Ballina

as listed under state and federal legislation. Three threatened plant species have also been recorded in this area. Due to the identified conservation value of the vegetation, an ecological report will be required post-Gateway determination to provide further information on the ecological values of the site.

Acid Sulfate Soils

The land is mapped as being Class 5 Acid Sulfate Soils. Development consent is required on Class 5 land for works within 500m of adjacent Class 1, 2, 3 or 4 land that is below 5m Australian Height Datum (AHD) and by which the water table is likely to be lowered below 1m AHD on adjacent Class 1, 2, 3 or 4 land.

The land is within 500m of Shaws Bay which is mapped as being Class 1 Acid Sulfate Soils. Any future development on the land must consider the provisions of Clause 7.1 of Ballina LEP 2012.

Land Contamination

The proponent has submitted that Lot 3 is unlikely to be contaminated as a result of its past use as a restaurant/café but acknowledges that due to the age of the building there is the potential for asbestos and lead paint to be contained in the building. In this respect, and given the characteristics of Lot 1 in relation to site contamination have not been examined at this stage, it is considered that further information is required to address the requirements of SEPP 55 and Council's *Management of Contaminated Land Policy*.

Should this proposal be supported then post-Gateway determination the proponent will be required to submit a preliminary site investigation report to demonstrate that the land is suitable for the proposed change in land zoning, with or without remediation.

Sustainability Considerations

- **Environment**
Investigation of environmental and biodiversity issues as well as bushfire, land contamination and geotechnical constraints in relation to the proposed residential use of the land would occur post Gateway determination if the planning proposal proceeds.
- **Social**
The proposed zoning does not raise any significant social implications for surrounding properties. The use of the land for residential purposes will be compatible with the existing adjacent residential uses (dwelling houses and residential flat buildings).
- **Economic**
There are no significant economic implications currently identified in relation to the proposed zoning.

9.1 LEP Amendment Request - 23 Compton Drive, East Ballina

Legal / Resource / Financial Implications

Council's processing guidelines and adopted fees and charges for LEP amendment requests are applicable to the further processing of this request. The proponent is required to meet the costs associated with the processing of the application.

Processing of the amendment 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 its initial phases.

Should the matter proceed, an affirmative Gateway determination will identify consultation requirements.

Public exhibition will occur following assessment of the required additional information and in accordance with the Gateway determination.

Options

1. Proceed to submit the planning proposal, for the application of an R2 Low Density Residential zone to part of Lot 3 and to all or part of Lot 1, to the Department of Planning and Environment for Gateway determination.

This is the preferred option.

A favourable Gateway determination will enable Council to further investigate the merits of the proposal and to obtain Government agency comments as well as community feedback on the proposal.

Under this approach a range of issues will be further investigated post-Gateway determination and prior to public exhibition. The outcomes of the further assessment will inform the extent of residential zoning proposed for the land (that is, adjustment may be required in relation to the currently proposed zone boundaries as shown in Attachment 2).

Given the small scale nature of the proposed rezoning it is recommended that Council authorises the submission of the planning proposal (BSCPP 17/002 contained in Attachment 2) to the Department of Planning and Environment for Gateway determination.

As further investigations and procedural steps are undertaken it is open to Council to either cease the amendment or change its approach, depending on the available information.

If the Council endorses this approach, the planning proposal to enable the rezoning will be lodged with the Department of Planning and Environment upon payment of the applicable Stage 2 processing fees by the proponent. A further report would be presented to the Council following the completion of the public exhibition phase of the process.

9.1 LEP Amendment Request - 23 Compton Drive, East Ballina

In addition to the above, it is also recommended that Council indicates that it does not wish to exercise delegation from the Department of Planning and Environment for the processing of the amendment. This approach is recommended on the basis that the proposal involves Council owned land.

2. Defer consideration of the LEP amendment request.

The Council may defer consideration of the LEP amendment request in order to undertake an inspection of the site and locality, to seek additional information and/or to obtain a more in-depth briefing of the proposal.

This approach is recommended only in the event that the Council has unresolved initial concerns about the proposal.

3. Decline to initiate the LEP amendment request.

It is open to the Council to decline the requested LEP amendment, although this is not recommended.

Endorsement of this option would mean that no further action would be taken by Council with respect to the processing of the request. If this was to occur, it is open to the proponent to exercise a right to lodge a request for a pre-Gateway determination review with the Department of Planning and Environment.

RECOMMENDATIONS

1. That Council endorses the proposed amendments to the Ballina Local Environmental Plan 2012 as outlined in the planning proposal (BSCPP 17/012 - 23 Compton Drive East Ballina) contained in Attachment 2.
2. That Council submit BSCPP 17/012 - 23 Compton Drive East Ballina to amend the Ballina Local Environmental Plan 2012 to the NSW Department of Planning & Environment for Gateway determination.
3. That the Department of Planning and Environment be advised that Council does not wish to exercise its delegated plan making functions for this LEP amendment as the planning proposal involves Council owned land.
4. That upon an affirmative Gateway determination being received from the Department of Planning and Environment, the procedural steps associated with progression of the planning proposal be undertaken, including public exhibition.
5. That the planning proposal be reported to the Council for further consideration following the completion of the public exhibition of the proposed LEP amendments.

Attachment(s)

1. LEP Amendment Request - 23 Compton Drive, East Ballina (Ardill Payne & Partners)

9.1 LEP Amendment Request - 23 Compton Drive, East Ballina

2. Planning Proposal BSCPP 17/012 - 23 Compton Drive, East Ballina (Council Initiation Version)

9.1	LEP Amendment Request - 23 Compton Drive, East Ballina
	<p>250118/8 RESOLVED</p> <p>(Cr Sharon Cadwallader/Cr Ben Smith)</p> <ol style="list-style-type: none"> 1. That Council endorses the proposed amendments to the Ballina Local Environmental Plan 2012 as outlined in the planning proposal (BSCPP 17/012 - 23 Compton Drive East Ballina) contained in Attachment 2. 2. That Council submit BSCPP 17/012 - 23 Compton Drive East Ballina to amend the Ballina Local Environmental Plan 2012 to the NSW Department of Planning & Environment for Gateway determination. 3. That the Department of Planning and Environment be advised that Council does not wish to exercise its delegated plan making functions for this LEP amendment as the planning proposal involves Council owned land. 4. That upon an affirmative Gateway determination being received from the Department of Planning and Environment, the procedural steps associated with progression of the planning proposal be undertaken, including public exhibition. 5. That the planning proposal be reported to the Council for further consideration following the completion of the public exhibition of the proposed LEP amendments. <p>FOR VOTE - Cr David Wright, Cr Sharon Parry, Cr Jeff Johnson, Cr Eoin Johnston, Cr Stephen McCarthy, Cr Nathan Willis, Cr Keith Williams, Cr Sharon Cadwallader and Cr Ben Smith AGAINST VOTE - Cr Phillip Meehan</p>

Appendix 7 – Technical Reports and Supporting Information

The proponent has submitted a number of reports and other information in support of this planning proposal. This material is being exhibited as part of this planning proposal (available under separate cover) and comprises the following:

- Bush Fire Assessment Report;
- Ecological Assessment;
- Geotechnical Assessment; and
- Stage 1 Preliminary Contamination Assessment.

3.3 Deferred Land within East Ballina in the Vicinity of Shaws Bay (Zoning)

The majority of deferred land located within Stage 2H, where indicated on the mapping in Appendix 4, is proposed to be zoned E2 based on the characteristics of the vegetation in the area. Much of the land is also public land.

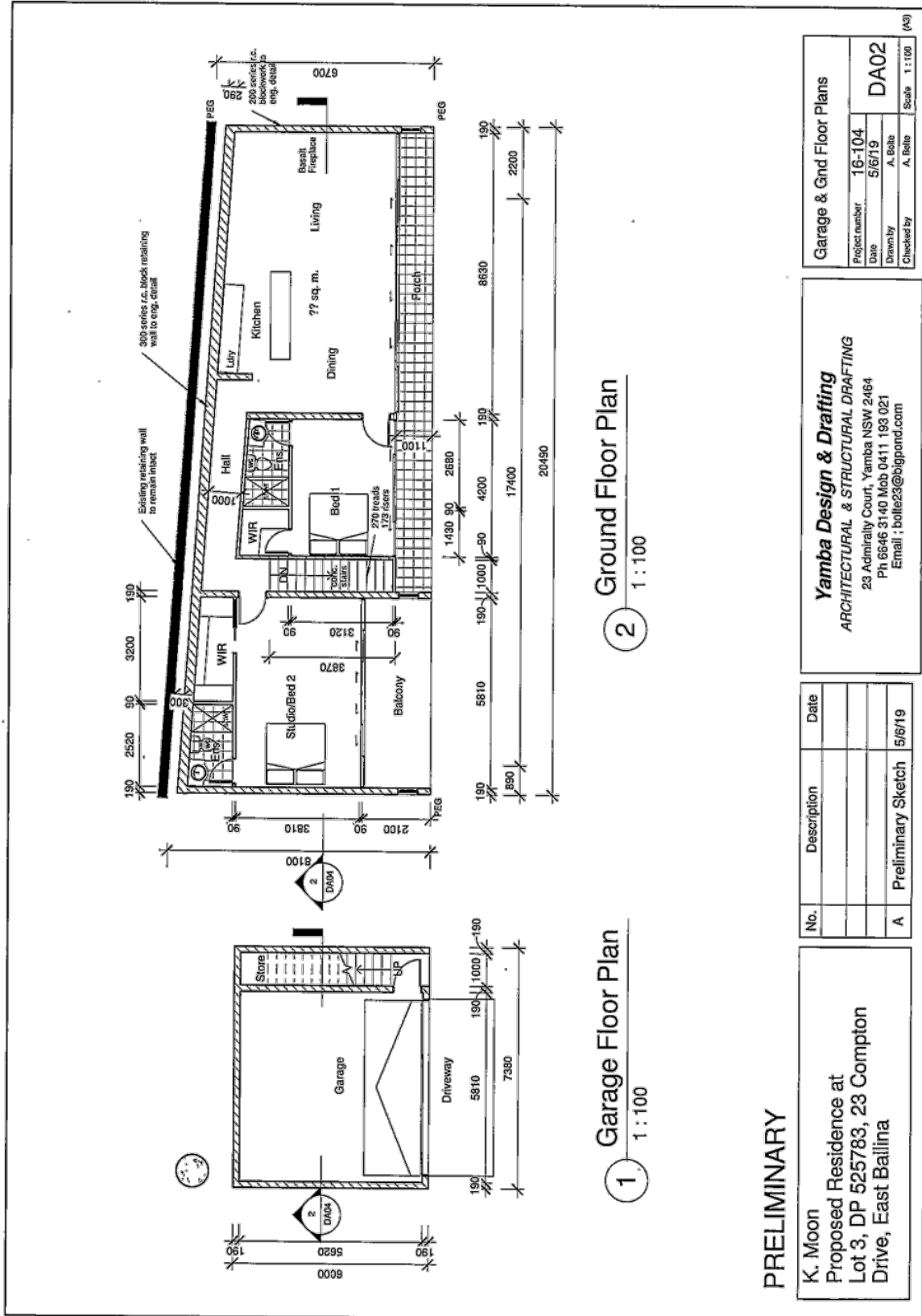
The subject area (East Ballina) has also been identified as having a medium to high risk of instability as described in the 1986 report prepared by Coffey & Partners titled '*Geotechnical Zoning Survey for Slope Instability within the Residential Areas of Ballina Shire*'. The report recommends geotechnical investigation is required prior to any development occurring in the study area due to the high risk of landslip and slope instability.

With respect to private land that is not suitable for the application of an environmental zone, it is proposed to apply the R2 zone as identified on the mapping in Appendix 4. However, given the topography, geotechnical and other constraints identified within this area (landslip, bush fire), further investigation will be required in relation to the land proposed to be zoned R2 to demonstrate the suitability of the application of an R2 zone. A minimum lot size of 40ha is proposed in relation to the land zoned R2 to limit the subdivision potential of the land consistent with the current planning provisions that apply. When considering the R2 zone, it is important to note that the Standard Instrument combined with the outcomes of the State Government's E zone review have left limited options for Council in relation to the zoning of this land. The R2 zone is being considered in this context.

In respect of the property located at No. 23 Compton Drive, East Ballina Council is in receipt of a rezoning submission that proposes the land be rezoned to R2 Low Density Residential. A copy of the submission is available under separate cover. The site contains an existing single storey building which is currently vacant and has been previously used as a restaurant and café. Part of the existing building and attached verandah awning encroaches onto the adjoining Council reserve to the west and the Compton Drive road reserve to the southeast (see survey plan included in the rezoning submission at Appendix 5).

The landowner submission also indicates a separate approach has been made to Council's Commercial Services Section requesting consideration of the sale of part of the adjoining reserve (Lot 1 DP 781542) to the owners of the subject land contingent upon this lot also being rezoned for residential purposes.

In addition to the above, an RE1 Public Recreation Zone with no minimum lot size for subdivision is proposed over Council owned land along Compton Drive (in the western part of Area 2H).



Garage & Gnd Floor Plans	
Project number	16-104
Date	5/6/19
Drawn by	A. Bolte
Checked by	A. Bolte
DA02	
Scale 1:100 (A3)	

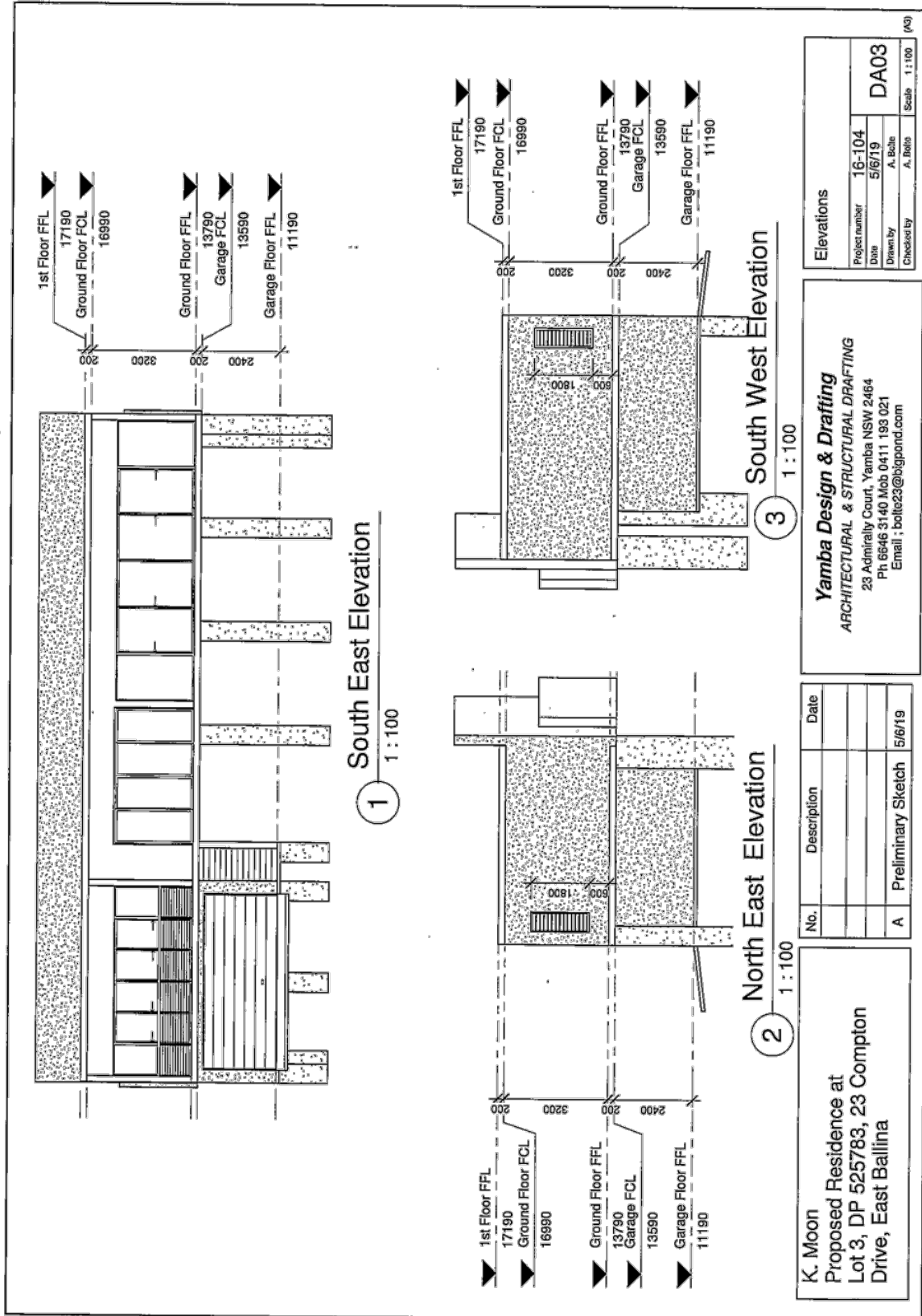
Yamba Design & Drafting
 ARCHITECTURAL & STRUCTURAL DRAFTING
 23 Admiralty Court, Yamba NSW 2464
 Ph 6646 3140 Mob 0411 188 021
 Email: bolte23@bigpond.com

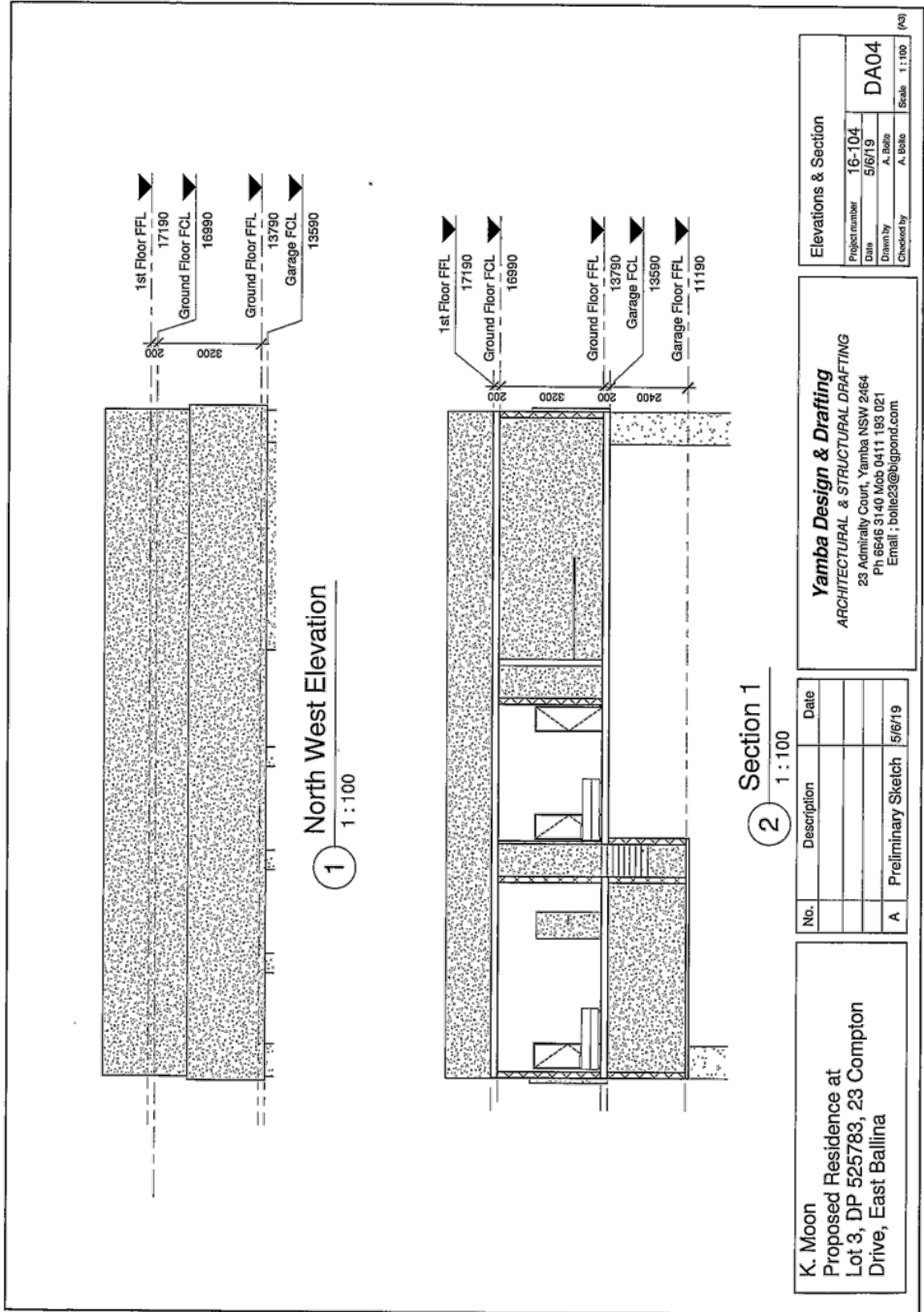
No.	Description	Date
A	Preliminary Sketch	5/6/19

PRELIMINARY
 K. Moon
 Proposed Residence at
 Lot 3, DP 525783, 23 Compton
 Drive, East Ballina

2 Ground Floor Plan
 1 : 100

1 Garage Floor Plan
 1 : 100





Elevations & Section	
Project number	16-104
Date	5/6/19
Drawn by	A. Balle
Checked by	A. Balle
Scale	1 : 100

Yamba Design & Drafting
 ARCHITECTURAL & STRUCTURAL DRAFTING
 23 Admiralty Court, Yamba NSW 2464
 Ph 6545 3140 Mob 0411 183 021
 Email : balle23@bigpond.com

No.	Description	Date
A	Preliminary Sketch	5/6/19

K. Moon
 Proposed Residence at
 Lot 3, DP 525783, 23 Compton
 Drive, East Ballina

PRELIMINARY

1 East View

2 North View

3 West View

4 South View

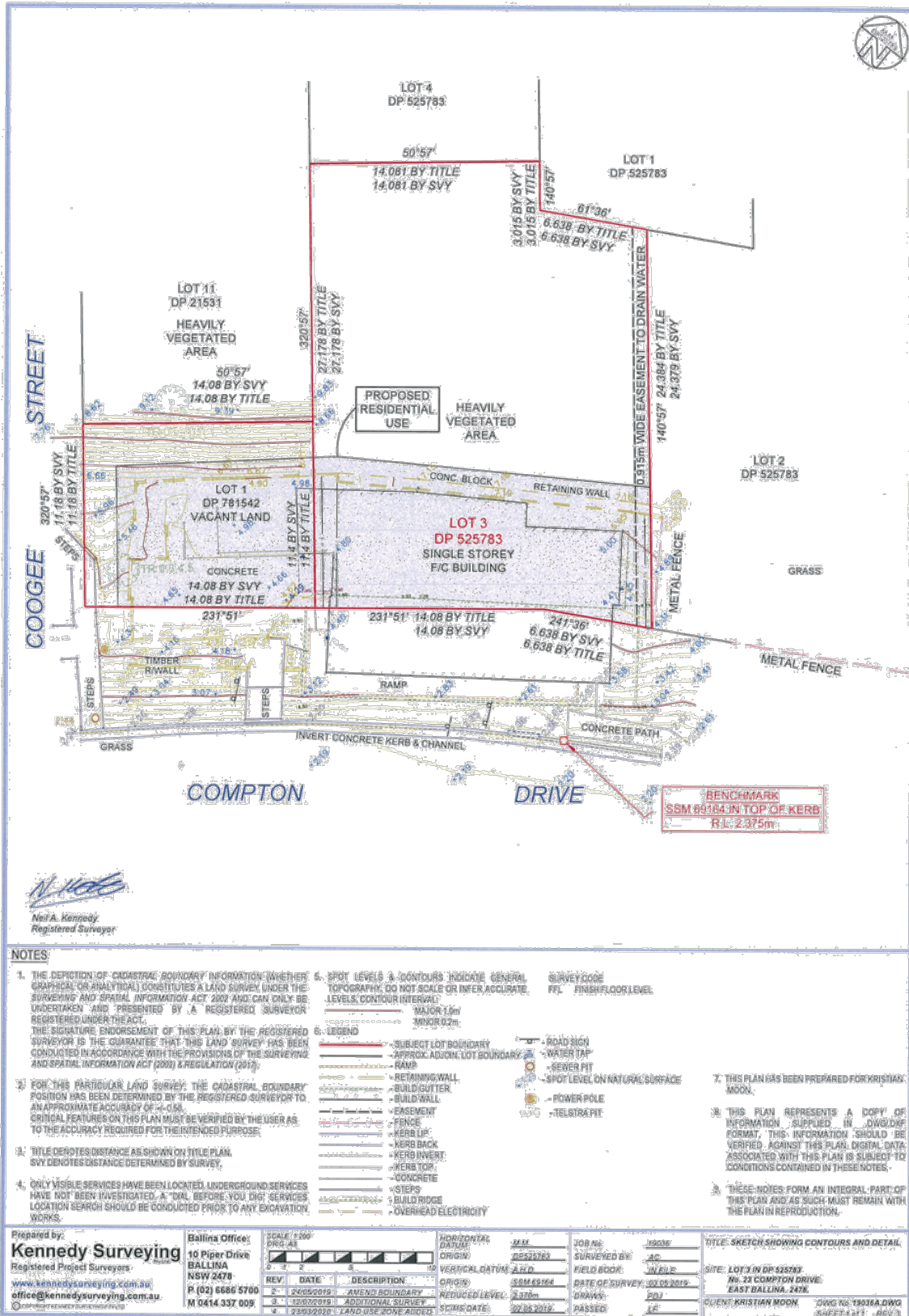
K. Moon
Proposed Residence at
Lot 3, DP 525783, 23 Compton
Drive, East Ballina

Yamba Design & Drafting
ARCHITECTURAL & STRUCTURAL DRAFTING
23 Admiralty Court, Yamba NSW 2464
Ph 6646 3140 Mob 0411 193 021
Email : bolle23@bigpond.com

No.	Description	Date
A	Preliminary Sketch	7/9/16

3D Views		
Project number	16-104	Sk05
Date	7/9/16	
Drawn by	A. Bolle	
Checked by	A. Bolle	
		Scale

(49)



NOTES:

1. THE DEPICTION OF CADASTRAL BOUNDARY INFORMATION (WHETHER GRAPHICAL OR ANALYTICAL) CONSTITUTES A LAND SURVEY UNDER THE SURVEYING AND SPATIAL INFORMATION ACT 2002 AND CAN ONLY BE UNDERTAKEN AND PRESENTED BY A REGISTERED SURVEYOR REGISTERED UNDER THE ACT.
THE SIGNATURE ENDORSEMENT OF THIS PLAN BY THE REGISTERED SURVEYOR IS THE GUARANTEE THAT THIS LAND SURVEY HAS BEEN CONDUCTED IN ACCORDANCE WITH THE PROVISIONS OF THE SURVEYING AND SPATIAL INFORMATION ACT (2002) & REGULATION (2017).
2. FOR THIS PARTICULAR LAND SURVEY, THE CADASTRAL BOUNDARY POSITION HAS BEEN DETERMINED BY THE REGISTERED SURVEYOR TO AN APPROXIMATE ACCURACY OF ±0.05M.
CRITICAL FEATURES ON THIS PLAN MUST BE VERIFIED BY THE USER AS TO THE ACCURACY REQUIRED FOR THEIR INTENDED PURPOSE.
3. TITLE DENOTES DISTANCE AS SHOWN ON TITLE PLAN.
SVY DENOTES DISTANCE DETERMINED BY SURVEY.
4. ONLY VISIBLE SERVICES HAVE BEEN LOCATED. UNDERGROUND SERVICES HAVE NOT BEEN INVESTIGATED. A DIAL BEFORE YOU DIG SERVICES LOCATION SEARCH SHOULD BE CONDUCTED PRIOR TO ANY EXCAVATION WORKS.
5. SPOT LEVELS & CONTOURS INDICATE GENERAL TOPOGRAPHY. DO NOT SCALE OR INTERPOLATE. ACCURATE LEVELS, CONTOUR INTERVAL:
MAJOR 1.0m
MINOR 0.2m
6. LEGEND
 - SUBJECT LOT BOUNDARY
 - APPROX. ADJACENT LOT BOUNDARY
 - RAILS
 - RETAINING WALL
 - BUILD/GUTTER
 - BUILD WALL
 - EASEMENT
 - FENCE
 - KERB (P)
 - KERB (B)
 - KERB (I)
 - CONCRETE
 - STEPS
 - BUILD RIDGE
 - OVERHEAD ELECTRICITY
7. THIS PLAN HAS BEEN PREPARED FOR KRISTIAN MOON.
8. THIS PLAN REPRESENTS A COPY OF INFORMATION SUPPLIED IN .DWG/.DXF FORMAT. THIS INFORMATION SHOULD BE VERIFIED AGAINST THIS PLAN'S DIGITAL DATA ASSOCIATED WITH THIS PLAN IS SUBJECT TO CONDITIONS CONTAINED IN THESE NOTES.
9. THESE NOTES FORM AN INTEGRAL PART OF THIS PLAN AND AS SUCH MUST REMAIN WITH THE PLAN IN REPRODUCTION.

Prepared by: Kennedy Surveying Registered Project Surveyors www.kennedysurveying.com.au office@kennedysurveying.com.au	Ballina Office: 10 Piper Drive BALLINA NSW 2478 P (02) 6666 5700 M 0414 337 009	SCALE 1:500 PRG A3 REV. DATE DESCRIPTION 1. 20250205 AMEND BOUNDARY 2. 12/02/2019 ADDITIONAL SURVEY 3. 23/02/2021 LAND USE ZONE ADDED	HORIZONTAL DATUM: MAM ORIGIN: DP525783 VERTICAL DATUM: AHD ORIGIN: SLM45266 REDUCED LEVEL: 2.375m SCMS DATE: 22/05/2019	JOB NO: N3006 SURVEYED BY: AC FIELD BOOK: JN FILE DATE OF SURVEY: 02/05/2019 DRAWN: DJJ PASSED: LF	TITLE: SKETCH SHOWING CONTOURS AND DETAIL SITE: LOT 3 IN DP 525783 No. 23 COMPTON DRIVE EAST BALLINA, 2478 CLIENT: KRISTIAN MOON DWG NO: 19036A.DWG SHEET 1 OF 1 REV 3
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NSW RURAL FIRE SERVICE

Ballina Shire Council
PO Box 450
BALLINA NSW 2478

Your reference: BSCPP 17/012
Our reference: SPI20191218000155

ATTENTION: Leah Toole

Date: Friday 20 March 2020

Dear Sir/Madam,

Strategic Planning Instrument
LEP Amendment - Planning Proposal
Ballina LEP 2012 AM 23
Lot 1 DP 781542 and part of Lot 3 DP 525783; 23 Compton Drive, East Ballina
Rezone from 7(d) Environmental Protection (Scenic/Escarpment) to R2 Low Density Residential.

I refer to your correspondence dated 16/12/2019 inviting the NSW Rural Fire Service (NSW RFS) to comment on the above Strategic Planning document.

The NSW RFS has considered the information submitted and provides the following comments.

The Planning proposal is not supported in its current form. The subject land does not have a dwelling entitlement and therefore cannot be considered 'infill' under the requirements of *Planning for Bush Fire Protection 2019*.

Council must be satisfied the vegetation hazard within lot 3 can be managed for a distance of 4 metres from the north western elevation of any future dwelling. At a 4 metre separation distance, any future dwelling will not be exposed to radiant heat exceeding 29 k/W, thereby achieving the requirements of *Planning for Bush Fire Protection 2019* for new development.

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

Yours sincerely,

Timothy Carroll
Manager Planning & Environment Services
Planning and Environment Services

1

Postal address

NSW Rural Fire Service
Locked Bag 17
GRANVILLE NSW 2142

Street address

NSW Rural Fire Service
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NSW RURAL FIRE SERVICE

Ballina Shire Council
PO Box 450
BALLINA NSW 2478

Your reference: BSCPP 17/012
Our reference: SPI20200619000118

ATTENTION: Leah Toole

Date: Friday 4 September 2020

Dear Sir/Madam,

**Strategic Planning Instrument
Rezoning – Planning Proposal
Ballina LEP 2012
Lot 1 DP 781542 and part of Lot 3 DP 525783; 23 Compton Drive, East Ballina**

I refer to your correspondence dated 11/06/2020 inviting the NSW Rural Fire Service (NSW RFS) to comment on the above Strategic Planning document.

The NSW RFS has considered the information submitted and provides the following comments.

The Planning Proposal is to amend Ballina LEP 2012 by way of rezoning the subject land from 7(d) Environmental Protection (Scenic/Escarpment) to R2 Low Density Residential. This amendment will create dwelling opportunities on the subject lot(s).

The subject lands is mapped bush fire prone by Council.

The subject lands do not have a dwelling entitlement(s) and therefore cannot be considered 'infill' under the requirements of Planning for Bush Fire Protection 2019. Future dwellings opportunities on the lot(s), must not exceed a maximum radiant heat exposure of 29 k/W . The planning proposal indicates that the lots will support one dwelling opportunity across the sum of both lots. Submitted documentation provides an indicative building envelope. Based on that indicative building envelope, the NSW RFS has modelled that a minimum 4 metre asset protection zone is required from any future dwelling to the un-managed hazard on the north north-west aspect.

The amended applicant's submission dated 20 April 2020 states:

"The updated/amended Ecological Assessment (attached) concludes that 75% of the ground cover along the periphery with the cleared/developed land are weeds/ornamental species. As such, if an APZ was needed to protrude 4m (as stated by the RFS for a BAL 29) it is unlikely that any significant native vegetation would be impacted as a result of any future development."

Therefore, the NSW RFS does not object to the planning proposal, however Council needs to be certain that any future dwelling on the land shall not exceed a radiant heat exposure of 29 k/W.

1

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8.4 Planning Proposal - 23 Compton Drive, East Ballina

As such the NSW RFS recommends Council, using either S88B instrument, Voluntary Planning Agreement or other regulatory instrument to require:

- lots 1 & 3 to be amalgamated to create 1 dwelling opportunity only;
- future building envelope be limited to reflect the revised site survey plan prepared by Kennedy Surveying DWG 19036A.dwg sheet 1 of 1 revision 4 dated 23 March 2020;
- a 4 metre Asset Protection Zone, that can be managed as an inner protection area, as per the requirements of Planning for Bush Fire Protection 2019, can be provided to the north north-western elevation;
- the required 4 metre Asset Protection Zone to the north north-western elevation be wholly located within the proposed residential land use zone;
- future development of a habitable structure (dwelling) be constructed to a Bushfire Attack Level (BAL) 29 as per the requirements outlined in Planning for Bush Fire Protection 2019;

Council to note:

Future development assessment will be subject to assumed consultation under S4.14 of the Environmental Planning and Assessment Act by the relevant approval authority (ie Council), and supported with certification from a suitable qualified consultant that the development proposed complies with the requirement listed in this condition above.

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

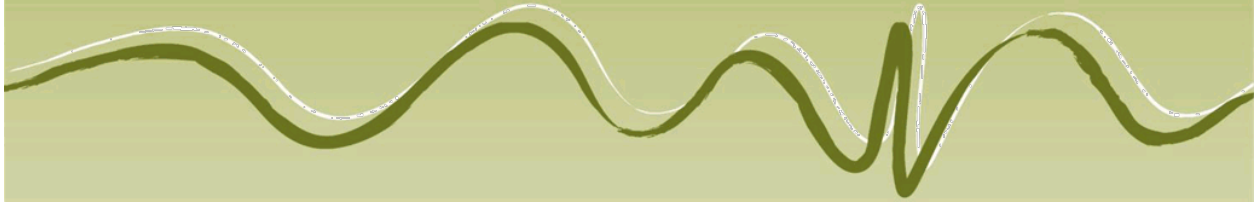
Yours sincerely,

Nika Fomin
Manager Planning & Environment Services
Planning and Environment Services



Ecological Assessment

Lot 1 DP781542 and Lot 3 DP525783 Compton Drive – Proposed Rezoning



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Coffs Harbour NSW 2450
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Prepared for: Kristian Moon
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8.4 Planning Proposal - 23 Compton Drive, East Ballina

<i>UPR</i>	<i>Description</i>	<i>Date Issued</i>	<i>Issued By</i>
3466-1002	First issue	18/10/2019	David Andrighetto
3466-1005	Second issue	22/10/2019	David Andrighetto
3466-1008	Third issue	28/10/2019	David Andrighetto

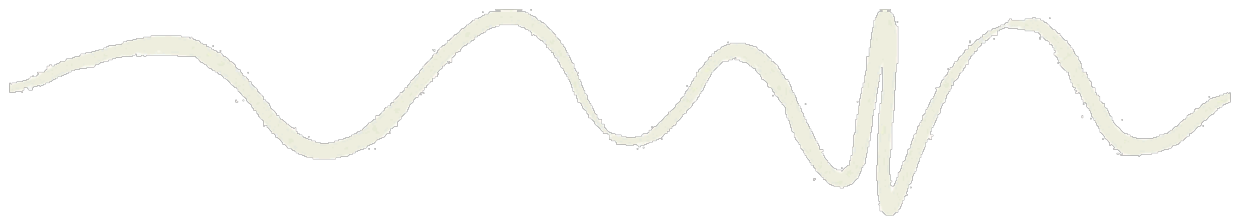


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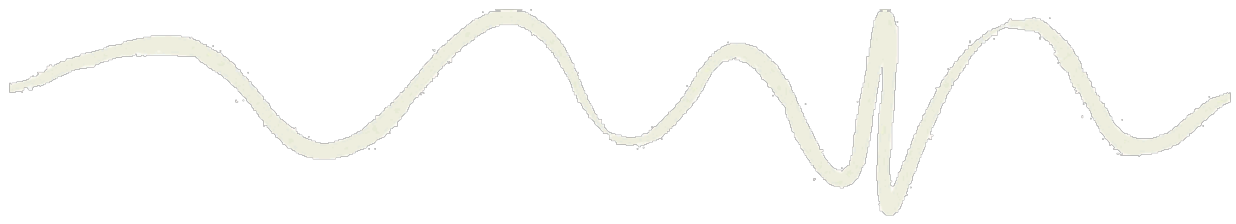
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Executive Summary

This Ecological Assessment was completed to inform a rezoning application for Lot 1 DP781542 and Lot 3 DP525783, 23 Compton Drive, Ballina. The proposal is to:

- Rezone Lot 1 DP781542 and Lot 3 DP525783 from 7(d) Environmental Protection (Scenic/Escarpment) to R2 Low Density Residential;
- Apply a 600m² minimum lot size and 8.5m maximum building height to the land rezoned R2; and
- Make consequent changes to the Land Application Map and Acid Sulfate Soils Map in the Ballina LEP 2012.

The site does not contain land mapped as being of Biodiversity Value (as per the Office of Environment and Heritage (OEH) Biodiversity Values Map and Threshold Tool).

The existing cleared/developed land in the south-eastern portion of the site is free of biodiversity constraints. The north-western portion of the site contains littoral rainforest (PCT1275: *Tuckeroo - Riberry - Yellow Tulipwood littoral rainforest of the NSW North Coast Bioregion*). This vegetation is of high conservation value as it comprises a *Biodiversity Conservation Act 2016* and *Environment Protection and Biodiversity Conservation Act 1999* listed threatened ecological community. It also provides potential habitat for locally recorded threatened fauna and migratory species, although local populations of these species would not be exclusively dependant on the habitat on site. No threatened flora species were recorded at the site.

It is likely that development of the existing cleared/developed land in the south-eastern portion of the site would require some impacts to the littoral rainforest through establishment of an Asset Protection Zone and removal of overhanging trees. Opportunities to minimise impacts are however available and have been recommended.

Review of statutory instruments relevant to the proposed rezoning was completed as follows:

- Ballina Shire Development Control Plan (DCP) 2012: Development controls associated with Section 3.3 of Chapter 2 of the DCP apply for future development of the site
- State Environmental Planning Policy (SEPP) 44 - Koala Habitat Protection: This SEPP does not apply to the site.
- *Biodiversity Conservation Act 2016* (BC Act): rezoning and subsequent development of the site could be undertaken in a way that minimises biodiversity impacts and would be unlikely to significantly affect threatened species or communities. Due to the limited native vegetation potentially requiring removal, a Biodiversity Development Assessment Report (BDAR) is unlikely to be required.
- *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act): review of Matters of Environmental Significance (MNES) listed in the Act indicates that rezoning and subsequent development of the site is unlikely to significantly affect any threatened species or community, or migratory species listed in the EPBC Act.





1. Introduction

1.1 Background

GeoLINK has been engaged by Mr Kristian Moon to prepare an Ecological Assessment to assess the biodiversity values of Lot 1 DP781542 and Lot 3 DP525783, 23 Compton Drive, Ballina ('the site') to inform a rezoning application. The NSW Department of Planning and Environment (DoPE) Gateway Determination (Department Ref: pp_2018_BALLI_003_00) determined that the proposal should proceed subject to a number of conditions, including '*an ecological assessment if the revised survey plan identifies that the land to be zoned R2 will include land containing the Littoral Rainforest Endangered Ecological Community vegetation or the Littoral Rainforest and Coastal Vine Thickets community*'.

On this basis, this assessment has been prepared to:

- Identify any ecological constraints to the proposed rezoning (e.g. habitat for threatened species or ecological communities listed in the *Biodiversity Conservation Act 2016* (BC Act) or *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act);
- Identify any significant trees or fauna habitat features of biodiversity importance; and
- Examine the proposal against relevant statutory requirements.

1.2 The Site

The site comprises Lot 1 DP781542 and Lot 3 DP525783, 23 Compton Drive, Ballina (Ballina Shire Council Local Government Area; BSC LGA – refer to **Illustration 1.1**). The land has a combined approximate area of approximately 696m² according to the BSC Interactive Mapping (Intramaps; accessed 11/10/2019) with:

- Lot 1 covering an area of 158.1m².
- Lot 3 covering an area of 537.5m².

The site is located at the base of a steep slope and has a south-east aspect. The south-eastern portion of the site fronts Compton Drive and contains existing cleared/developed land, including:

- A concrete slab on Lot 1.
- A former restaurant on Lot 3.

The steeper north-western portion of the site is heavily vegetated. A survey plan of the site is provided in **Appendix A** while photographs of the site are provided at **Appendix B**.

The site is identified on the Ballina Local Environmental Plan 2012 (BLEP 2012) maps as 'Deferred Matter'; therefore the Ballina Local Environmental Plan 1987 (BLEP 1987) zoning applies. The site is currently zoned 7(d) Environmental Protection (Scenic/Escarpment).

Land adjoining the site includes:

- South-east: Compton Drive then the Shaws Bay foreshore.
- South-west: Vacant vegetated land with pedestrian access (footpath and stairs) between Compton Drive and Hill Street.
- North-west: A strip of vegetation then urban residences along Hill Street.





- North-east: residences fronting Compton Drive and vegetation on the steeper slopes.

1.3 Biodiversity Values

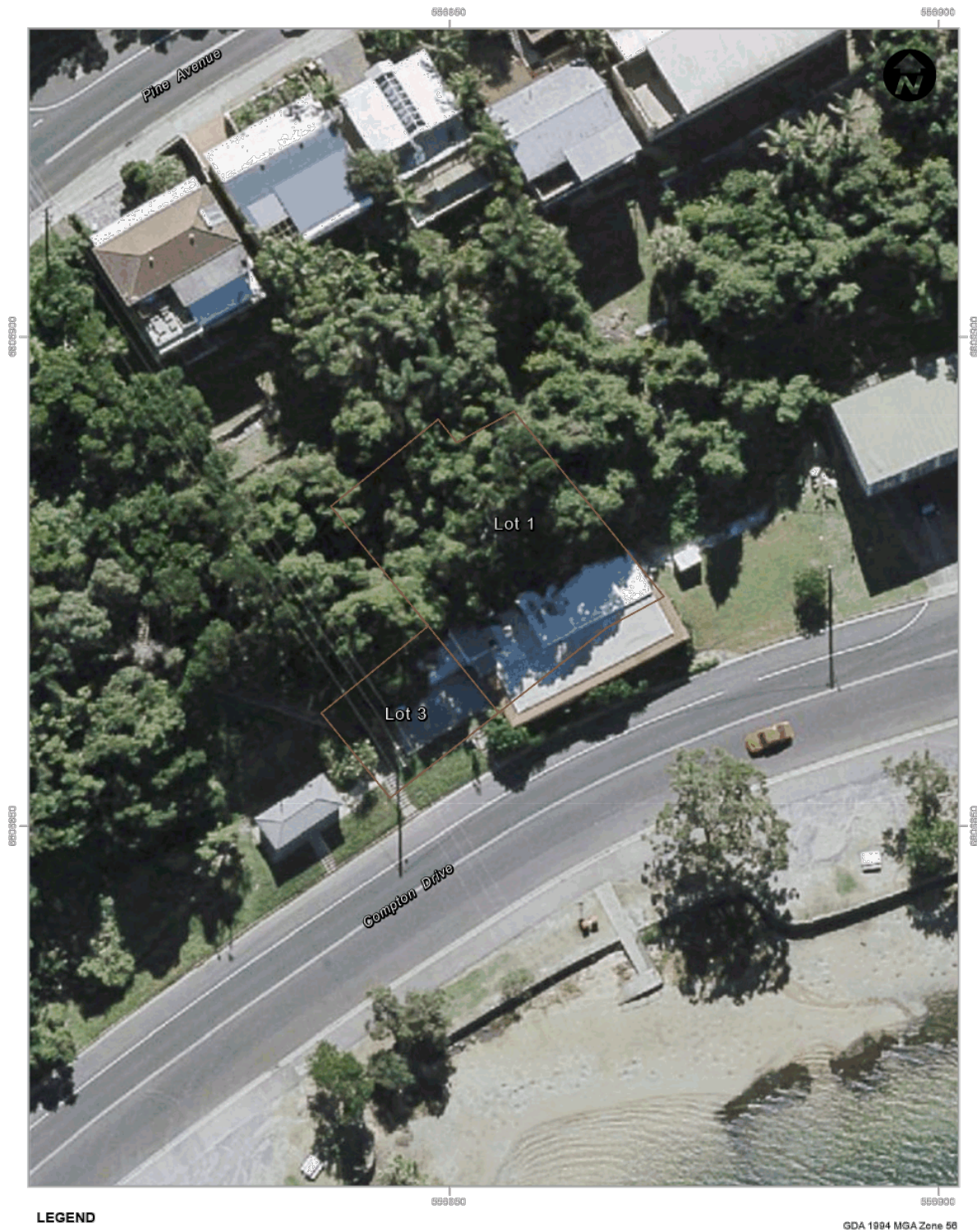
The site does not contain any areas of land mapped as being of Biodiversity Value (as per the OEH Biodiversity Values Map and Threshold Tool; accessed 11/10/2019).

1.4 The Proposal

The proposal is to:

- Rezone Lot 1 DP781542 and Lot 3 DP525783 from 7(d) Environmental Protection (Scenic/Escarpment) to R2 Low Density Residential;
- Apply a 600m² minimum lot size and 8.5m maximum building height to the land rezoned R2; and
- Make consequent changes to the Land Application Map and Acid Sulfate Soils Map in the Ballina LEP 2012.





LEGEND
 — The site

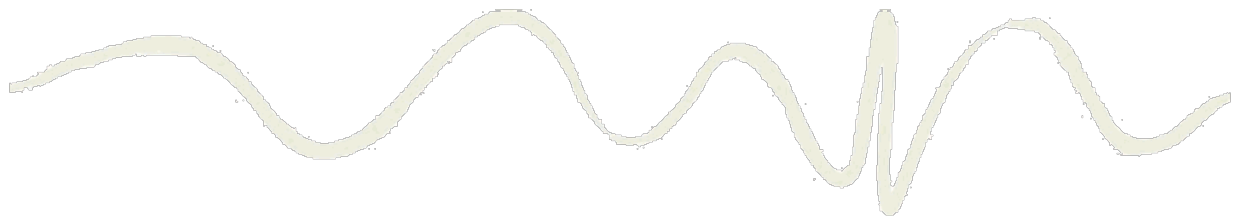
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Ecological Assessment - Lot 1 DP781542 and Lot 3 DP525783 Compton Drive
 Proposed Rezoning
 3466-1006

The Site - Illustration 1.1

Information shown is for illustrative purposes only
 Drawn by: AB Checked by: AB Reviewed by: DSA
 Source of base data: DFSI
 Date: 27/04/2020
 Revision: A



2. Methodology

2.1 Desktop Review

The following desktop review was completed prior to field assessment:

- A search of the BioNet Wildlife Atlas (10km x 10km grid centred on the site); completed 11 October 2019.
- A search of the Protected Matters Search Tool (PMST) for Matters of National Environmental Significance (MNES) within a 5km radius of the site; completed 11 October 2019.
- Review of Biodiversity Value mapping (as per the OEH Biodiversity Values Map and Threshold Tool).
- Review of the *Ballina Shire Koala Management Strategy* (BSC 2016).

Details of the methodology used for field assessment are provided in **Section 2.2**.

2.2 Field Assessment

Field assessment was completed on 16 October 2019, using the following methodology:

- Walking survey to identify and map vegetation types and search for threatened flora or ecological communities listed in the BC Act or EPBC Act.
- Develop a flora species list for the site.
- Identification of significant fauna habitat features (e.g. hollow-bearing trees, nests, significant foraging resources).
- Searches for Koala scats under preferred Koala feed trees.

A total of 1.5 hours of site survey was undertaken. Given the small area of the site, the scope of assessment is considered adequate.



3. Vegetation

3.1 Desktop Analysis

3.1.1 Database Search Results

BioNet search results identified records of 23 threatened flora species (including 13 species also listed in the EPBC Act) and ten threatened ecological communities; three of which are listed under the EPBC Act within or with potential to occur within a 10x10km area centred on the site (refer to **Appendix C**). PMST results identified habitat for 26 threatened flora species and three threatened ecological communities within a 5km radius of the site. These species were target species during threatened flora surveys.

3.2 Site Features

3.2.1 Vegetation

The site comprises two distinct areas (**Illustration 3.1**):

- Cleared/developed land in the south-eastern portion of the site, including the existing building, concrete slab and gardens. This area is of no floristic conservation value.
- Littoral rainforest in the steeper north-western portion of the site, covering an area of approximately 340m².

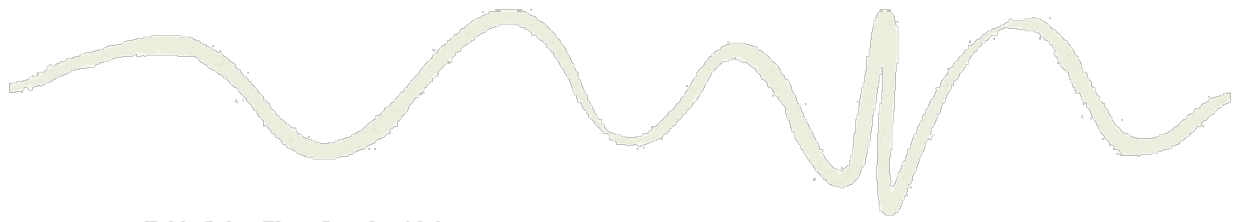
The littoral rainforest comprises Plant Community Type (PCT) 1275: *Tuckeroo - Riberry - Yellow Tulipwood littoral rainforest of the NSW North Coast Bioregion*. The structure and floristic composition of this community is as follows:

Canopy: Dominated by Three-veined Laurel (*Cryptocarya triplinervis*) and Tuckeroo (*Cupaniopsis anacardioides*). Cover is around 60% with trees up to 15m tall and 0.4m diameter at breast height (DBH).

Mid-storey: Dominated by Green Bolly Gum (*Neolitsea australiensis*) and canopy saplings with a mix of rainforest shrubs and vines including Blue Lilly Pilly (*Syzygium oleosum*), Wax Vine (*Hoya australis*), Guioa (*Guioa semiglauca*), Lawyer Vine (*Smilax australis*), Coffee Bush (*Breynia oblongifolia*), Winter Senna (*Senna pendula* var. *glabrata**), Whip Vine (*Flagellaria indica*), Cockspur Thorn (*Maclura cochinchinensis*), Beach Acronychia (*Acronychia imperforata*) and Beach Alectryon (*Alectryon coriaceus*). Mid-storey cover is around 30% and often interconnected with the canopy.

Groundcover: Dominated by Asparagus Fern (*Asparagus aethiopicus*), with occasional upper strata saplings and groundcover species including Blue Flax Lily (*Dianella caerulea*) and Birds Nest Fern (*Asplenium australasicum*). Foliage cover is around 40%, though greater on the edges. Weeds and ornamental species constitute approximately 75% of the groundcover along the periphery with the cleared/developed land.

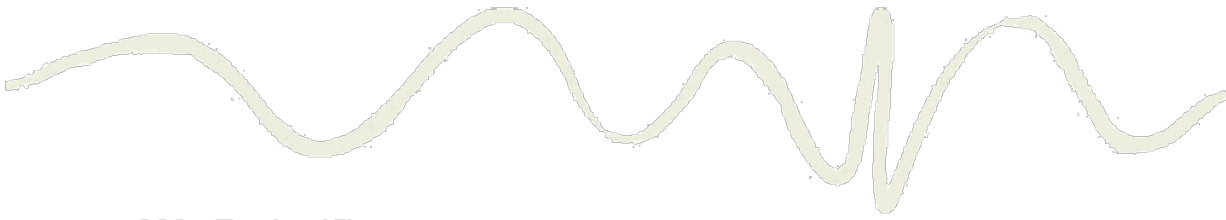
A list of flora species for the site (excluding ornamental species) is provided in **Table 3.1**.

**Table 3.1 Flora Species List**

Family	Species	Common Name
Apocynaceae	<i>Hoya australis</i>	Wax Vine
Asparagaceae	<i>Asparagus aethiopicus</i> ^{*^}	Asparagus Fern
Aspleniaceae	<i>Asplenium australasicum</i>	Birds Nest Fern
Asteliaceae	<i>Cordyline stricta</i>	Narrow-leaved Palm Lily
Asteraceae	<i>Ageratina adenophora</i> *	Crofton Weed
Basellaceae	<i>Anredera cordifolia</i> ^{*^}	Madeira Vine
Bignoniaceae	<i>Pandorea pandorana</i>	Wonga Wonga Vine
Commelinaceae	<i>Commelina cyanea</i>	Scurvy Weed
Convolvulaceae	<i>Ipomoea cairica</i> *	Coast Morning Glory
Euphorbiaceae	<i>Breynia oblongifolia</i>	Coffee Bush
Fabaceae (Caesalpinioideae)	<i>Senna pendula</i> var. <i>glabrata</i> *	Winter Senna
Flagellariaceae	<i>Flagellaria indica</i>	Whip Vine
Lauraceae	<i>Cryptocarya triplinervis</i> var. <i>triplinervis</i>	Three-veined Laurel
Lauraceae	<i>Neolitsea australiensis</i>	Green Bolly Gum
Loranthaceae	<i>Amyema</i> sp.	Mistletoe
Luzuriagaceae	<i>Geitonoplesium cymosum</i>	Scrambling Lily
Menispermaceae	<i>Stephania japonica</i> var. <i>discolor</i>	Snake Vine
Moraceae	<i>Maclura cochinchinensis</i>	Cockspur Thorn
Moraceae	<i>Trophis scandens</i> subsp. <i>scandens</i>	Burny Vine
Myrtaceae	<i>Syzygium hemilampra</i>	Broad-leaved Lilly Pilly
Myrtaceae	<i>Syzygium oleosum</i>	Blue Lilly Pilly
Ochnaceae	<i>Ochna serrulata</i> *	Mickey Mouse Plant
Oleaceae	<i>Notelaea longifolia</i>	Large Mock-olive
Phormiaceae	<i>Dianella caerulea</i>	Blue Flax lily
Pittosporaceae	<i>Pittosporum revolutum</i>	Rough Fruit Pittosporum
Putranjivaceae	<i>Drypetes deplanchei</i>	Yellow Tulip
Rutaceae	<i>Acronychia imperforata</i>	Beach Acronychia
Rutaceae	<i>Murraya paniculata</i> *	Murraya
Sapindaceae	<i>Alectryon coriaceus</i>	Beach Alectryon
Sapindaceae	<i>Cupaniopsis anacardioides</i>	Tuckeroo
Sapindaceae	<i>Guioa semiglauc</i>	Guioa
Smilacaceae	<i>Smilax australis</i>	Lawyer Vine
Solanaceae	<i>Solanum nigrum</i> *	Blackberry Nightshade
Verbenaceae	<i>Lantana camara</i> ^{*^}	Lantana
Vitaceae	<i>Cissus antarctica</i>	Water Vine

* denotes exotic flora.

^ denotes priority weed species for the North Coast listed under the *Biosecurity Act 2015*.



3.2.2 Threatened Flora

The site contains potential habitat for a number of locally recorded threatened flora species known to occur in littoral rainforest such as Scented Acronychia (*Acronychia littoralis*), Stinking Cryptocarya (*Cryptocarya foetida*) and Native Guava (*Rhodomyrtus psidioides*). However, no threatened flora species listed under the BC Act or EPBC Act were recorded at the site.

3.2.3 Threatened Ecological Communities

The littoral rainforest vegetation at the site comprises the following threatened ecological communities (TECs):

- Littoral rainforests and coastal vine thickets of eastern Australia TEC - listed under the EPBC Act.
- Littoral rainforest in the NSW North Coast, Sydney Basin and South East Corner bioregions TEC - listed under the BC Act.

Consequently the littoral rainforest occurring at the site is of high biodiversity conservation value.

The cleared area in the south-eastern portion of the site is does not comprise any TECs.

3.2.4 Priority Weeds

The site includes a number of environmental weed species, including the following Priority Weeds as listed in the *Biosecurity Act 2015* for the North Coast:

- Asparagus Fern (*Asparagus aethiopicus*). Duty: The plant or parts of the plant should not be traded, carried, grown or released into the environment.
- Madeira Vine (*Anredera cordifolia*). Duty: Must not be imported into the State or sold.
- Lantana (*Lantana camara*). Duty: Must not be imported into the State or sold.

Relevant biosecurity duties must be enacted by land managers for weeds listed as Priority Weeds under the Biosecurity Act.

3.2.5 Condition

The condition of the site is described as follows:

- Cleared/developed land in the south-eastern portion of the site: highly modified and disturbed.
- Littoral rainforest in the north-western portion of the site: Moderate condition with weeds and edge effects apparent.

8.4 Planning Proposal - 23 Compton Drive, East Ballina



LEGEND

- The site
- Littoral Rainforest (PCT1275)

GDA 1984 MGA Zone 58



Ecological Assessment - Lot 1 DP781542 and Lot 3 DP525783 Compton Drive
Proposed Rezoning
3466-1007

Vegetation Plan - Illustration 3.1

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Drawn by: AB Checked by: AB Reviewed by: DSA
Source of base data: DFSI
Date: 27/04/2020
Revision: A



4. Fauna Habitat

4.1 Desktop Analysis

4.1.1 Database search results

BioNet search results identified records of 61 threatened fauna species listed under the BC Act and/or EPBC Act within the 10x10km search area centred on the site (excluding marine species and seabirds; refer to **Appendix B**). PMST results identified habitat for 29 threatened fauna species (excluding marine species and seabirds) and 39 migratory fauna species (6 migratory terrestrial species and 33 migratory wetland species; marine species are excluded) within the 5km radius search area around the site.

4.1.2 BSC Koala Management Strategy

Under the BSC (2016) *Koala Management Strategy*, the site is not located on land mapped:

- Within an area supporting an 'important population' of Koalas.
- Within a 'Koala Planning Area'.
- As potential Koala habitat.

4.2 Site Features

4.2.1 Habitat Values

The littoral rainforest on site forms part of a larger stand of forest on the steeper slopes of East Ballina, surrounded by developed urban land. It provides rainforest structured vegetation that includes foraging resources (nectar/pollen, fruit and seed) and/or shelter for terrestrial fauna, as part of a larger area of similar habitat. The limited floristic diversity of the site and location in an urban environment reduces the fauna habitat values of the site.

The following key fauna habitat features are absent from the site:

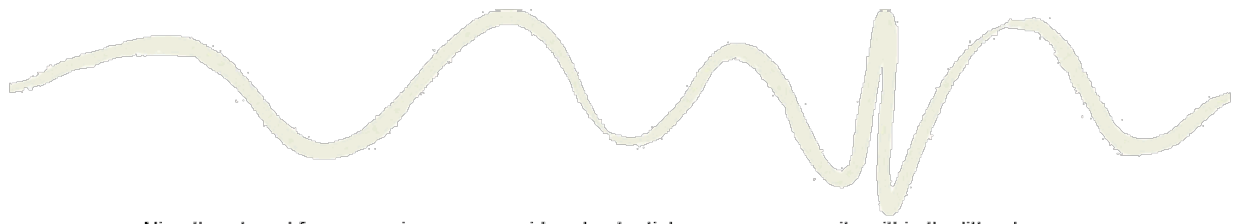
- Trees with well developed hollows that provide denning/nesting/roosting habitat for hollow-obligated species.
- Significant nectar and pollen resources.
- Complex floristic diversity.
- Aquatic habitat.
- Large emergent trees.
- Koala food trees.

Shaws Bay is located on the opposite site of Compton Drive (20m south-east of the site) and provides an estuarine bay environment.

4.2.2 Potential Threatened Fauna Occurrence

The threatened fauna potential occurrence assessment (**Appendix D**) considers the potential for locally recorded threatened fauna species to occur on site giving consideration to the habitat on site.





Nine threatened fauna species were considered potential occurrences on site within the littoral rainforest habitat:

- Barred Cuckoo-shrike (*Coracina lineata*).
- Rose-crowned Fruit-dove (*Ptilinopus regina*).
- Superb Fruit-dove (*Ptilinopus superbis*).
- Little Bentwing-bat (*Miniopterus australis*).
- Large Bentwing-bat (*Miniopterus orianae oceanensis*).
- Eastern Long-eared Bat (*Nyctophilus bifax*).
- Grey-headed Flying-fox (*Pteropus poliocephalus*).
- Greater Broad-nosed Bat (*Scoteanax rueppellii*).
- Common Blossom-bat (*Syconycteris australis*).

It is unlikely that the local population of any of these species would be dependant on the habitat on site given their mobility, the limited extent of potential habitat on site and the extent of alternative habitat locally. The existing cleared/developed portion does not provide significant habitat value for any threatened fauna species.

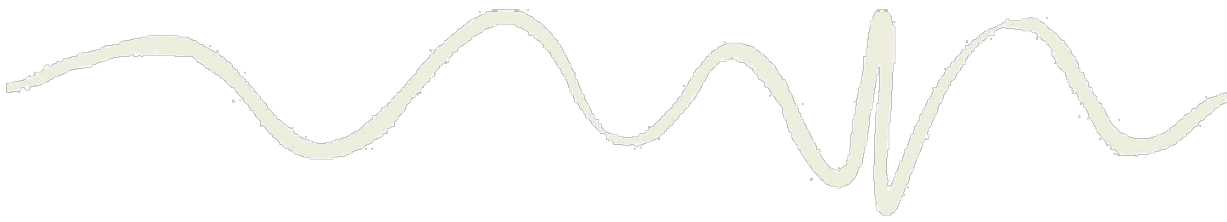
Shaws Bay provides potential habitat for a number of other threatened fauna species associated with estuarine environments (e.g. Eastern Osprey *Pandion cristatus* and Black-necked Stork (*Ephippiorhynchus asiaticus*), however the site does not provide significant habitat value for these species.

4.2.3 Migratory Species Threatened Fauna Occurrence

EPBC Act listed migratory species with potential to occur in the littoral rainforest on site include:

- Oriental Cuckoo (*Cuculus optatus*): Potential foraging habitat.
- Black-faced Monarch (*Monarcha melanopsis*): Potential foraging and nesting habitat.
- Spectacled Monarch (*Monarcha trivirgatus*): Potential foraging and nesting habitat.
- Rufous Fantail (*Rhipidura rufifrons*): Potential foraging and nesting habitat.

The site does not comprise EPBC Act defined important habitat for any of these species. The existing cleared/developed portion of the site does not provide significant habitat value for any EPBC Act listed migratory species. Shaws Bay may provide potential foraging habitat for a number of EPBC Act listed migratory wetland species, however habitat for such species does not occur on site.



5. Impacts

5.1 Biodiversity Constraints

The existing cleared/developed land in the south-east of the site does not have significant ecological value, therefore is free of biodiversity constraints for residential rezoning and development. The littoral rainforest in the north-western portion of the site constitutes BC Act and EPBC Act listed TECs; posing a constraint to the development of this land. This habitat also provides potential habitat for a number of locally recorded threatened and migratory fauna species associated with this habitat type.

5.2 Potential Impacts of Rezoning and Development

Residential rezoning and future development within the existing cleared/developed portion of the site would have minimal biodiversity impact, though some direct impacts to the littoral vegetation on the edge of this area is likely through:

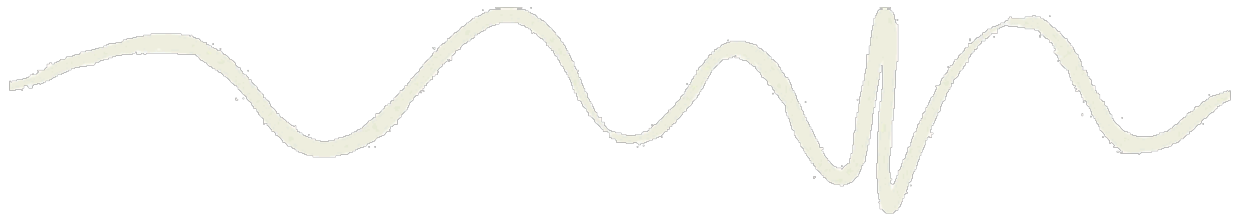
- Establishment and maintenance of the Asset Protection Zone (APZ) to the north-west (3.4-4m for BAL-40 or 4-6m for BAL29; BCA 2019).
- Removal of overhanging trees.

It is estimated that approximately 130m² of littoral rainforest would be impacted. Selective tree retention and targeted understorey weed removal within the APZ would lessen these impacts. With this, the actual extent of littoral rainforest impacted may be less.

Other key potential impacts from residential development on the site would include:

- Increased edge effects and weed invasion in retained vegetation. This is unlikely to be detrimental for the retained vegetation given the historic and adjoining land uses.
- Incremental loss or modification of retained vegetation. Legal mechanisms could be applied as part of a future DA or consent conditions to minimise the risk of such impacts.

These impacts are considered unlikely to trigger a significant impact on any threatened species or TECs, and can be managed such that biodiversity impacts may be minimised.



6. Statutory Requirements

The following sections examine the findings of the site assessment with regard to relevant statutory requirements which require consideration for the development application.

6.1 Ballina Shire DCP 2012

Section 3.3 *Natural Areas and Habitat* of the *Ballina Shire Development Control Plan (DCP) 2012 – Chapter 2 – General Environmental Considerations* relates to biodiversity and would apply to residential development of the site due to the site being mapped as *Natural Areas and Habitat* and *Wildlife Corridors* under the DCP. The planning objectives of this section are:

- a) *Protect and enhance ecologically significant areas;*
- b) *Provide for development that is compatible with ecological values and that minimises risk to ecologically sensitive environments; and*
- c) *Encourage development that contributes to the maintenance, enhancement or rehabilitation of environmental values and ecologically sensitive areas.*

Development controls applicable to future development of the site include:

- i. *Development is to be sited, designed and managed to avoid or mitigate potential adverse impacts on natural areas and habitat;*
- ii. *All development (except dwellings, basic agricultural buildings and routine agricultural management activities) must demonstrate a net environmental benefit;*
- iii. *A development application for land containing a wildlife corridor, must demonstrate a long term net benefit to the operation and retention of the wildlife corridor. Compliance with this provision may also meet the requirements of (ii);*
- iv. *Where development is unable to be sited, designed and managed to avoid potential adverse impacts on natural areas (as identified on the Natural Areas and Habitat Map), a proposal to remove habitat may be considered. If habitat is proposed to be removed or impacted as part of a development, an offset for the loss of biodiversity may be considered by Council provided it can be demonstrated that the proposed offset will maintain or improve biodiversity outcomes and values.*
- v. *Development applications relating to land to which this section applies are to be accompanied by an ecological assessment report prepared by an appropriately qualified and experienced professional.*

6.2 State Environmental Planning Policy (SEPP) 44 – Koala Habitat Protection

SEPP 44 applies to all LGAs listed under Schedule 1 of the Policy, which includes the BSC LGA and where land is >1ha in area. The Policy does not apply to the site due to the land being <1ha in area.

Note: The rezoning application was submitted before 1 March 2020 therefore State Environmental Planning Policy (Koala Habitat Protection) 2019 does not apply to this rezoning application.

6.3 Biodiversity Conservation Act 2016 (BC Act)

The BC Act requires a test of significance (five-part test) when assessing whether an action, development or activity is likely to significantly affect threatened species, ecological communities or





their habitats. Based on the potential for several threatened fauna species to occur at the site and the presence of littoral rainforest TEC, tests of significance would be required for any future development of the site should the rezoning proceed and require vegetation removal. Through minimising impacts to the littoral rainforest, the risk of a significant impact on any threatened species or TEC would be low.

Given that any future proposal to develop the site would be unlikely to require substantial native vegetation loss, and that the site is not mapped as containing biodiversity value land as per the Biodiversity Values Map and Threshold Tool, the Biodiversity Offsets Scheme (BOS) would not be triggered. It is noted that the minimum lot size proposed for the site is 600m², and hence up to 0.25ha of native vegetation may be cleared before triggering the BOS.

On this basis, future rezoning and development of the site is unlikely to require a *Biodiversity Development Assessment Report* (BDAR).

6.4 Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)

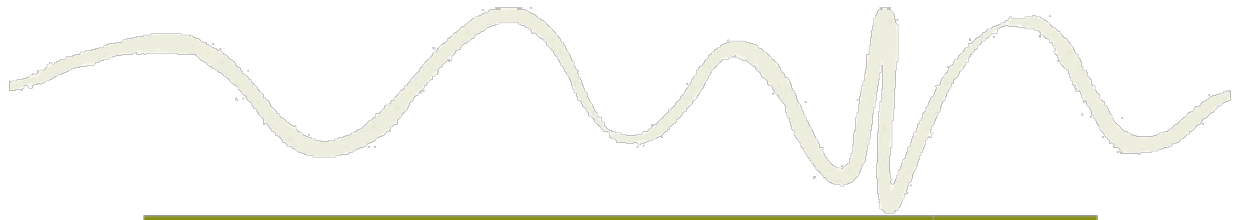
The EPBC Act protects/ regulates matters of national environmental significance (MNES), including:

- World heritage properties
- National heritage places
- Wetlands of international importance
- Nationally threatened species and ecological communities
- Migratory species
- Commonwealth marine areas
- The Great Barrier Reef Marine Park
- Nuclear actions (including uranium mining)
- A water resource, in relation to coal seam gas development and large coal mining development.

Based on the search results and site assessment, significant impacts to any MNES would not be likely to result from the proposal (refer to **Table 6.1**).

Table 6.1 Assessment of MNES

Matter	Potential impact
<i>Any impact on a World Heritage property?</i>	
No World Heritage properties occur within a 5km radius of the site.	Nil
<i>Any impact on a National Heritage place?</i>	
No National Heritage places occur within a 5km radius of the site.	Nil
<i>Any impact on a Wetland of International Importance?</i>	
No wetlands of international importance (Ramsar sites) occur within a 5km radius of the site.	Nil
<i>Any impact on the Great Barrier Reef Marine Park?</i>	
The Great Barrier Reef Marine park is distant from the site.	Nil
<i>Any impact on a Commonwealth marine area?</i>	
No Commonwealth marine areas occur within a 5km radius of the site.	Nil
<i>Any impact on nationally threatened species and ecological communities?</i>	



Matter	Potential impact
<p>The littoral rainforest on site comprises the EPBC Act TEC <i>Littoral rainforests and coastal vine thickets of eastern Australia</i>.</p> <p>No EPBC Act listed threatened flora species occur on site.</p> <p>The site provides potential foraging habitat for the Grey-headed Flying-fox. No known camps occur at or adjacent to the site. No other threatened fauna species are likely to occur on the site. While some species have potential to occur at Shaws Bay, the site is of negligible habitat value for these species.</p> <p>Impacts from the proposed residential rezoning and subsequent development on this lot would depend on the final lot layout. Development of the existing developed south-eastern portion of the site could be achieved with minimal impact to these TECs or threatened species habitat.</p>	<p>There is potential for development of existing clearing/ developed areas with minimal impact to this matter.</p>
<p><i>Any impact on Migratory species?</i></p> <p>Refer to Section 4.2.3. The site does not comprise EPBC Act defined important habitat for any migratory species. Migratory species are unlikely to be significantly affected by the proposal.</p>	<p>Negligible</p>



7. Recommendations and Future Requirements

7.1 Rezoning Recommendations

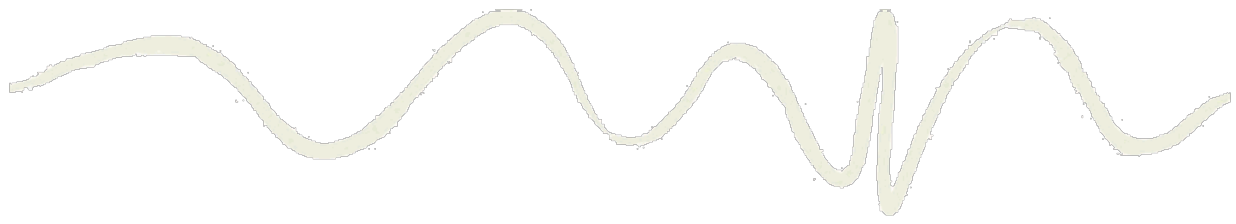
The following recommendations should be considered as part of the proposed rezoning and development of the site:

- The design of any future development of the site should aim to minimise impacts to the littoral rainforest (TEC) vegetation.
- Consideration should be given to applying for DCP building setbacks to be waived in the south-eastern portion of the site along Compton Drive to minimise impacts to the littoral rainforest vegetation in the north-western portion of the site (subject to other planning consideration).
- Mechanisms to protect retained vegetation (outside the building envelope and APZ) should form part of any future development application.

7.2 Future Requirements

Based on the site assessment, the proposed rezoning could achieve relatively low impacts on biodiversity, through minimising impacts to the littoral rainforest and centring the development in the existing cleared/ developed area. In the event the rezoning proposal is accepted, the following requirements would need to be addressed for any future proposal to develop the site:

- Incorporate the recommendations of this assessment as part of future design/ layout where possible.
- Determine the need for offset provisions in accordance with *Section 3.3 Natural Areas and Habitat* of the Ballina DCP Chapter 2 – General Environmental Considerations. There is limited room for replanting on site, however bush regeneration within the retained vegetation could be undertaken.
- Complete Tests of Significance ('five part tests') under Section 7.3 of the BC Act for threatened species and TECs known to occur or considered as having potential to occur at the site.



References

BCA (2019). *Bush Fire Assessment Report - 23 Compton Drive, East Ballina, NSW*. Bushfire Consultancy Australia.

BSC (2016). *Ballina Shire Koala Management Strategy*. Ballina Shire Council.

Department of the Environment (Cth) (2018). Protected Matters Search Tool: [Accessed 11/10/2019]

NSW Office of Environment and Heritage (2019). *NSW BioNet Database Search Tool*. [Accessed 11/10/2019].





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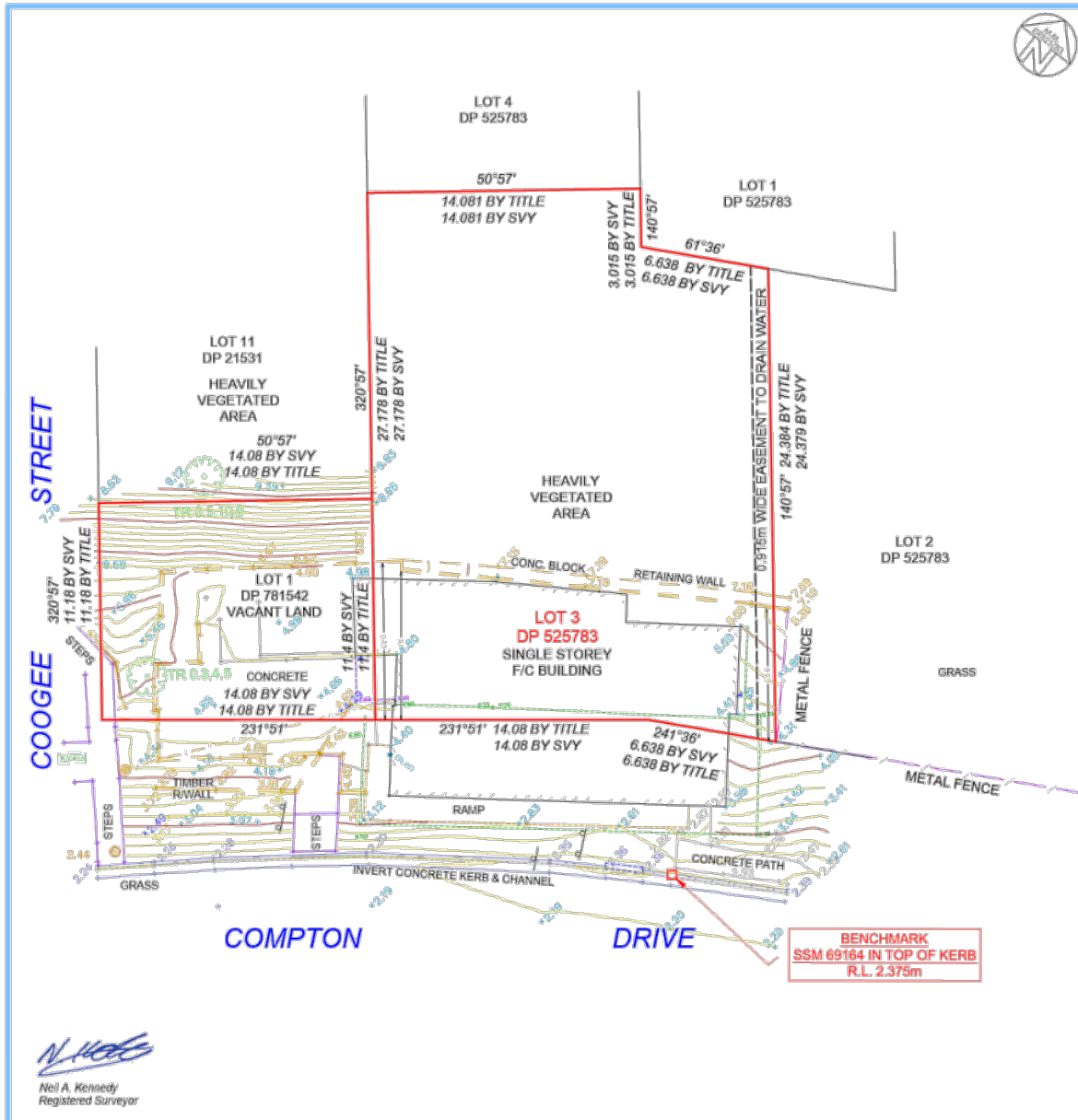




Appendix A
Survey Plan

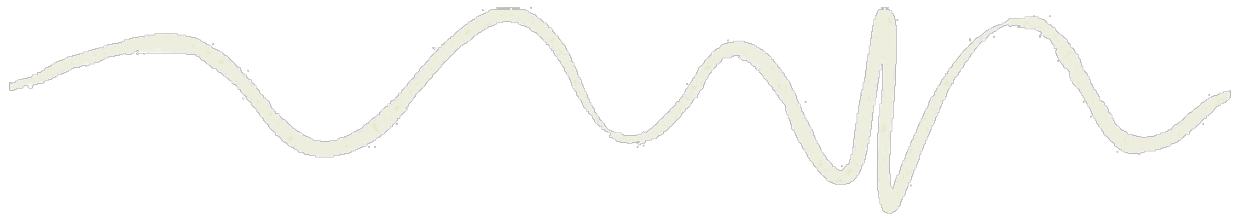


Ecological Assessment - Lot 1 DP781542 and Lot 3 DP525783 Compton Drive –
Proposed Rezoning
3353-1005



- NOTES**
- THE DEPICTION OF CADASTRAL BOUNDARY INFORMATION (WHETHER GRAPHICAL OR ANALYTICAL) CONSTITUTES A LAND SURVEY UNDER THE SURVEYING AND SPATIAL INFORMATION ACT 2002 AND CAN ONLY BE UNDERTAKEN AND PRESENTED BY A REGISTERED SURVEYOR REGISTERED UNDER THE ACT. THE SIGNATURE ENDORSEMENT OF THIS PLAN BY THE REGISTERED SURVEYOR IS THE GUARANTEE THAT THIS LAND SURVEY HAS BEEN CONDUCTED IN ACCORDANCE WITH THE PROVISIONS OF THE SURVEYING AND SPATIAL INFORMATION ACT (2002) & REGULATION (2017).
 - FOR THIS PARTICULAR LAND SURVEY, THE CADASTRAL BOUNDARY POSITION HAS BEEN DETERMINED BY THE REGISTERED SURVEYOR TO AN APPROXIMATE ACCURACY OF +/- 0.50. CRITICAL FEATURES ON THIS PLAN MUST BE VERIFIED BY THE USER AS TO THE ACCURACY REQUIRED FOR THE INTENDED PURPOSE.
 - TITLE DENOTES DISTANCE AS SHOWN ON TITLE PLAN, SVY DENOTES DISTANCE DETERMINED BY SURVEY.
 - ONLY VISIBLE SERVICES HAVE BEEN LOCATED. UNDERGROUND SERVICES HAVE NOT BEEN INVESTIGATED. A "DIAL BEFORE YOU DIG" SERVICES LOCATION SEARCH SHOULD BE CONDUCTED PRIOR TO ANY EXCAVATION WORKS.
 - SPOT LEVELS & CONTOURS INDICATE GENERAL TOPOGRAPHY. DO NOT SCALE OR INFER ACCURATE LEVELS. CONTOUR INTERVAL:
MAJOR 1.0m
MINOR 0.2m
 - LEGEND**
 - SUBJECT LOT BOUNDARY
 - APPROX. ADJORN. LOT BOUNDARY
 - RAMP
 - RETAINING WALL
 - BUILD GUTTER
 - BUILD WALL
 - EASEMENT
 - FENCE
 - KERB LIP
 - KERB BACK
 - KERB INVERT
 - KERB TOP
 - CONCRETE
 - STEPS
 - BUILD RIDGE
 - OVERHEAD ELECTRICITY
 - ROAD SIGN
 - WATER TAP
 - SEWER PIT
 - SPOT LEVEL ON NATURAL SURFACE
 - POWER POLE
 - TELSTRA PIT
 - THIS PLAN HAS BEEN PREPARED FOR KRISTIAN MOON.
 - THIS PLAN REPRESENTS A COPY OF INFORMATION SUPPLIED IN .DWG/.DXF FORMAT. THIS INFORMATION SHOULD BE VERIFIED AGAINST THIS PLAN. DIGITAL DATA ASSOCIATED WITH THIS PLAN IS SUBJECT TO CONDITIONS CONTAINED IN THESE NOTES.
 - THESE NOTES FORM AN INTEGRAL PART OF THIS PLAN AND AS SUCH MUST REMAIN WITH THE PLAN IN REPRODUCTION.

Prepared by: Kennedy Surveying Registered Project Surveyors www.kennedysurveying.com.au office@kennedysurveying.com.au	Ballina Office: 10 Piper Drive BALLINA NSW 2478 P (02) 6686 5700 M 0414 337 009	SCALE: 1:100 ORIG: A3 REV DATE DESCRIPTION 1 22/05/2019 ORIGINAL ISSUE 2 24/03/2019 AMEND BOUNDARY 3 12/07/2019 ADDITIONAL SURVEY	HORIZONTAL DATUM: M.M. ORIGIN: DP525783 VERTICAL DATUM: A.H.D. ORIGIN: SSM 69164 REDUCED LEVEL: 2.970m SCMS DATE: 02.05.2019	JOB No: 19036 SURVEYED BY: JO FIELD BOOK: IN FILE DATE OF SURVEY: 03/05/2019 DRAWN: PDJ PASSED: LF	TITLE: SKETCH SHOWING CONTOURS AND DETAIL SITE: LOT 3 IN DP 525783 No. 23 COMPTON DRIVE EAST BALLINA, 2478. CLIENT: KRISTIAN MOON DWS No: 19036A.DWG SHEET 1 of 1 REV 3
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Appendix B
Photographs

	<p>Plate 1. Developed south-eastern portion of the site (viewed south-west to north-east).</p>
	<p>Plate 2. Littoral Rainforest vegetation in north-western portion of the site.</p>
	<p>Plate 3. Lot 3 viewed from Compton Drive showing developed south-eastern portion of the site in the foreground and the littoral rainforest vegetation in the background.</p>



Ecological Assessment - Lot 1 DP781542 and Lot 3 DP525783 Compton Drive – Proposed Rezoning 3353-1005

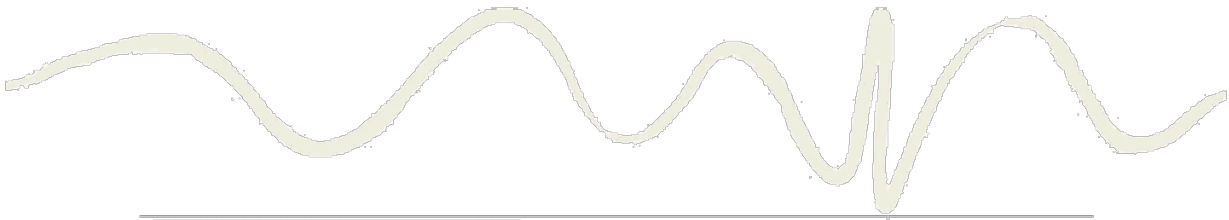


Plate 4. Lot 3 viewed from the northern boundary with littoral rainforest vegetation in the foreground, the roof of the existing building in the mid-ground and Shaws Bay in the background.

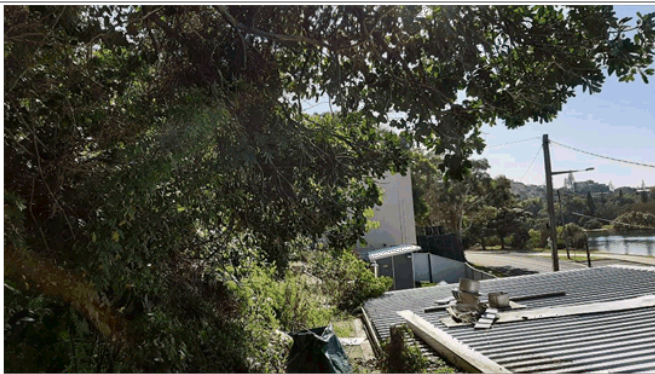
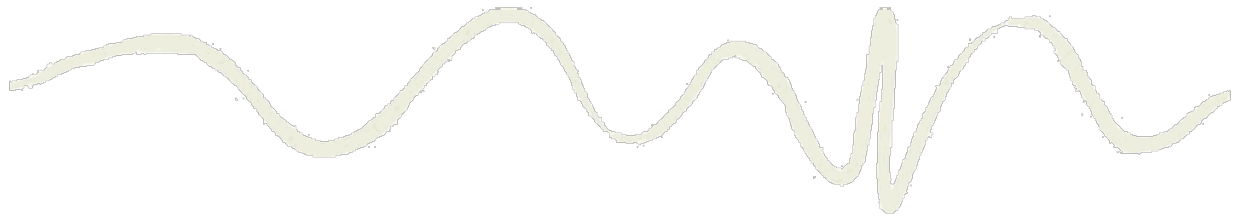


Plate 5. The disturbed interface between the littoral rainforest and existing cleared/developed. The weed dominant understory below a native canopy is shown.



Ecological Assessment - Lot 1 DP781542 and Lot 3 DP525783 Compton Drive – Proposed Rezoning 3353-1005

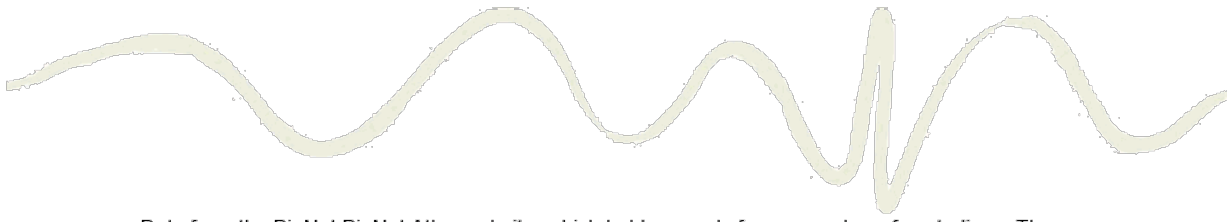


Appendix C

BioNet Database Search Results



Ecological Assessment - Lot 1 DP781542 and Lot 3 DP525783 Compton Drive –
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Data from the BioNet BioNet Atlas website, which holds records from a number of custodians. The data are only indicative and cannot be considered a comprehensive inventory, and may contain errors and omissions. Species listed under the Sensitive Species Data Policy may have their locations denatured (^ rounded to 0.1Å°, ^^ rounded to 0.01Å°). Copyright the State of NSW through the Office of Environment and Heritage. Search criteria: Licensed Report of all Valid Records of Threatened (listed on TSC Act 1995) or Commonwealth listed Entities in selected area [North: -28.81 West: 153.53 East: 153.63 South: -28.91] returned a total of 3,701 records of 100 species.

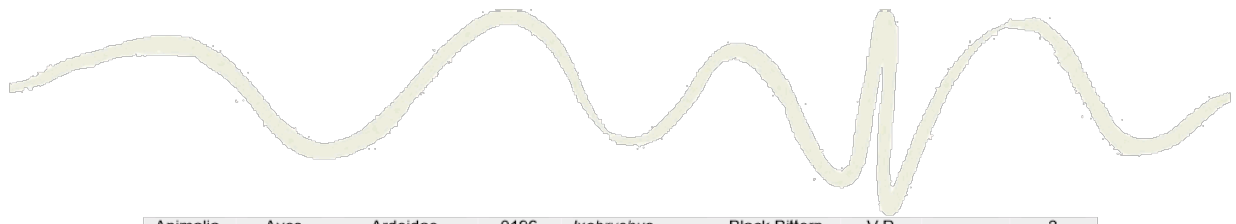
Report generated on 11/10/2019 2:28 PM

Kingdom	Class	Family	Species Code	Scientific Name	Common Name	NSW status	Comm. status	Records
Animalia	Amphibia	Myobatrachidae	3137	<i>Crinia tinnula</i>	Wallum Froglet	V,P		9
Animalia	Amphibia	Hylidae	3166	<i>Litoria aurea</i>	Green and Golden Bell Frog	E1,P	V	1
Animalia	Reptilia	Cheloniidae	2004	<i>Caretta caretta</i>	Loggerhead Turtle	E1,P	E	5
Animalia	Reptilia	Cheloniidae	2007	<i>Chelonia mydas</i>	Green Turtle	V,P	V	7
Animalia	Reptilia	Cheloniidae	2008	<i>Eretmochelys imbricata</i>	Hawksbill Turtle	P	V	3
Animalia	Reptilia	Dermochelyidae	2013	<i>Dermochelys coriacea</i>	Leatherback Turtle	E1,P	E	5
Animalia	Aves	Anseranatidae	0199	<i>Anseranas semipalmata</i>	Magpie Goose	V,P		2
Animalia	Aves	Anatidae	0200	<i>Nettapus coromandelianus</i>	Colton Pygmy-Goose	E1,P		2
Animalia	Aves	Anatidae	0214	<i>Stictonetta naevosa</i>	Freckled Duck	V,P		2
Animalia	Aves	Phaethontidae	0107	<i>Phaethon rubricauda</i>	Red-tailed Tropicbird	V,P	C	2
Animalia	Aves	Columbidae	0021	<i>Ptilinopus regina</i>	Rose-crowned Fruit-Dove	V,P		3
Animalia	Aves	Columbidae	0023	<i>Ptilinopus superbus</i>	Superb Fruit-Dove	V,P		1
Animalia	Aves	Podargidae	0314	<i>Podargus ocellatus</i>	Marbled Frogmouth	V,P		1
Animalia	Aves	Diomedeidae	0086	<i>Diomedea exulans</i>	Wandering Albatross	E1,P	E,J	1
Animalia	Aves	Diomedeidae	0092	<i>Phoebastria fusca</i>	Sooty Albatross	V,P	V	1
Animalia	Aves	Diomedeidae	0931	<i>Thalassarche bulleri</i>	Buller's Albatross	P	V	1
Animalia	Aves	Diomedeidae	0091	<i>Thalassarche cauta</i>	Shy Albatross	V,P	V	1
Animalia	Aves	Procellariidae	0072	<i>Ardenna carneipes</i>	Flesh-footed Shearwater	V,P	J,K	12
Animalia	Aves	Procellariidae	8684	<i>Pterodroma leucoptera leucoptera</i>	Gould's Petrel	V,P	E	1
Animalia	Aves	Procellariidae	0955	<i>Pterodroma nigripennis</i>	Black-winged Petrel	V,P		3
Animalia	Aves	Procellariidae	0971	<i>Pterodroma solandri</i>	Providence Petrel	V,P	J	2
Animalia	Aves	Procellariidae	0067	<i>Puffinus assimilis</i>	Little Shearwater	V,P		1
Animalia	Aves	Sulidae	0105	<i>Sula dactylatra</i>	Masked Booby	V,P	J,K	3
Animalia	Aves	Ciconiidae	0183	<i>Ephippiorhynchus asiaticus</i>	Black-necked Stork	E1,P		70
Animalia	Aves	Ardeidae	0197	<i>Botaurus poiciloptilus</i>	Australasian Bittern	E1,P	E	4



Ecological Assessment - Lot 1 DP781542 and Lot 3 DP525783 Compton Drive – Proposed Rezoning 3353-1005

8.4 Planning Proposal - 23 Compton Drive, East Ballina

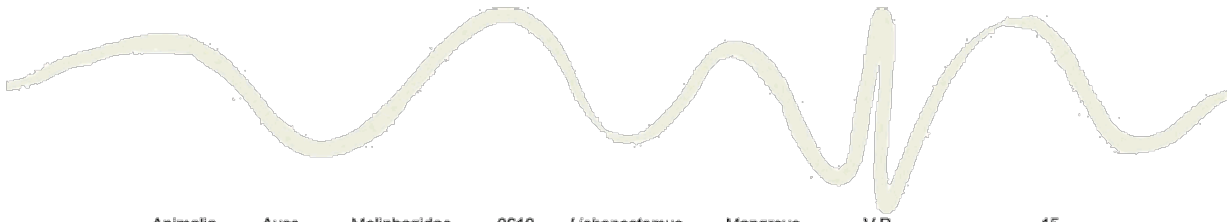


Animalia	Aves	Ardeidae	0196	<i>Ixobrychus flavicollis</i>	Black Bittern	V,P		2
Animalia	Aves	Accipitridae	0218	<i>Circus assimilis</i>	Spotted Harrier	V,P		3
Animalia	Aves	Accipitridae	0223	<i>Erythrotriorchis radiatus</i>	Red Goshawk	E4A,P,2	V	3
Animalia	Aves	Accipitridae	0226	<i>Haliaeetus leucogaster</i>	White-bellied Sea-Eagle	V,P	C	65
Animalia	Aves	Accipitridae	0225	<i>Hieraaetus morphnoides</i>	Little Eagle	V,P		17
Animalia	Aves	Accipitridae	8739	<i>Pandion cristatus</i>	Eastern Osprey	V,P,3		178
Animalia	Aves	Falconidae	0238	<i>Falco subniger</i>	Black Falcon	V,P		1
Animalia	Aves	Burhinidae	0174	<i>Burhinus grallarius</i>	Bush Stone-curlew	E1,P		20
Animalia	Aves	Burhinidae	0175	<i>Esacus magnirostris</i>	Beach Stone-curlew	E4A,P		31
Animalia	Aves	Haematopodidae	0131	<i>Haematopus fuliginosus</i>	Sooty Oystercatcher	V,P		36
Animalia	Aves	Haematopodidae	0130	<i>Haematopus longirostris</i>	Pied Oystercatcher	E1,P		263
Animalia	Aves	Charadriidae	0141	<i>Charadrius leschenaultii</i>	Greater Sand-plover	V,P	V,C,J,K	44
Animalia	Aves	Charadriidae	0139	<i>Charadrius mongolus</i>	Lesser Sand-plover	V,P	E,C,J,K	65
Animalia	Aves	Jacaniidae	0171	<i>Irediparra gallinacea</i>	Comb-crested Jacana	V,P		2
Animalia	Aves	Rostratulidae	0170	<i>Rostratula australis</i>	Australian Painted Snipe	E1,P	E	1
Animalia	Aves	Scolopacidae	0166	<i>Calidris alba</i>	Sanderling	V,P	C,J,K	36
Animalia	Aves	Scolopacidae	0164	<i>Calidris canutus</i>	Red Knot	P	E,C,J,K	67
Animalia	Aves	Scolopacidae	0161	<i>Calidris ferruginea</i>	Curlew Sandpiper	E1,P	CE,C,J,K	124
Animalia	Aves	Scolopacidae	0165	<i>Calidris tenuirostris</i>	Great Knot	V,P	CE,C,J,K	81
Animalia	Aves	Scolopacidae	0167	<i>Limicola falcinellus</i>	Broad-billed Sandpiper	V,P	C,J,K	7
Animalia	Aves	Scolopacidae	8781	<i>Limosa lapponica baueri</i>	Bar-tailed Godwit (baueri)	P	V,C,J,K	4
Animalia	Aves	Scolopacidae	0152	<i>Limosa limosa</i>	Black-tailed Godwit	V,P	C,J,K	17
Animalia	Aves	Scolopacidae	0149	<i>Numenius madagascariensis</i>	Eastern Curlew	P	CE,C,J,K	165
Animalia	Aves	Scolopacidae	0160	<i>Xenus cinereus</i>	Terek Sandpiper	V,P	C,J,K	91
Animalia	Aves	Laridae	0972	<i>Gygis alba</i>	White Tern	V,P		6
Animalia	Aves	Laridae	0120	<i>Onychoprion fuscata</i>	Sooty Tern	V,P		9
Animalia	Aves	Laridae	9926	<i>Procelsterna cerulea</i>	Grey Ternlet	V,P		3
Animalia	Aves	Laridae	0117	<i>Sternula albifrons</i>	Little Tern	E1,P	C,J,K	117
Animalia	Aves	Cacatuidae	0265	<i>Calyptorhynchus lathamii</i>	Glossy Black-Cockatoo	V,P,2		3
Animalia	Aves	Psittacidae	0260	<i>Glossopsitta pusilla</i>	Little Lorikeet	V,P		1
Animalia	Aves	Tytonidae	0252	<i>Tyto longimembris</i>	Eastern Grass Owl	V,P,3		17
Animalia	Aves	Tytonidae	0250	<i>Tyto novaehollandiae</i>	Masked Owl	V,P,3		1
Animalia	Aves	Alcedinidae	0327	<i>Todiramphus chloris</i>	Collared Kingfisher	V,P		2



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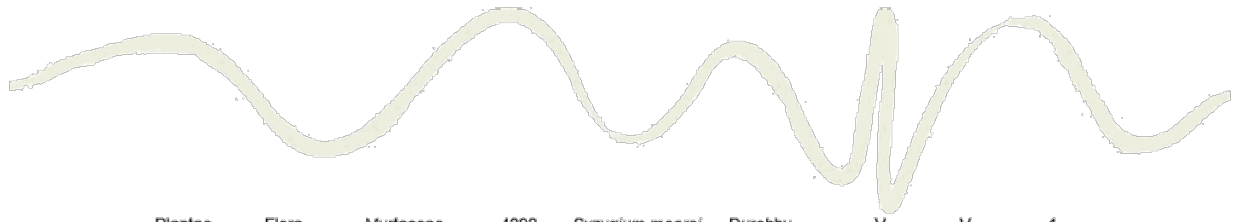


Animalia	Aves	Meliphagidae	0610	<i>Lichenostomus fasciolaris</i>	Mangrove Honeyeater	V,P			15
Animalia	Aves	Pomatostomidae	8388	<i>Pomatostomus temporalis</i>	Grey-crowned Babbler (eastern subspecies)	V,P			2
Animalia	Aves	Neosittidae	0549	<i>Daphoenositta chrysoptera</i>	Varied Sittella	V,P			15
Animalia	Aves	Campephagidae	0428	<i>Coracina lineata</i>	Barred Cuckoo-shrike	V,P			1
Animalia	Mammalia	Dasyuridae	1045	<i>Planigale maculata</i>	Common Planigale	V,P			10
Animalia	Mammalia	Phascolarctidae	1162	<i>Phascolarctos cinereus</i>	Koala	V,P	V		20
Animalia	Mammalia	Burramyidae	1150	<i>Cercartetus nanus</i>	Eastern Pygmy-possum	V,P			1
Animalia	Mammalia	Petauridae	1137	<i>Petaurus norfolcensis</i>	Squirrel Glider	V,P			1
Animalia	Mammalia	Pteropodidae	1280	<i>Pteropus poliocephalus</i>	Grey-headed Flying-fox	V,P	V		36
Animalia	Mammalia	Pteropodidae	1294	<i>Syconycteris australis</i>	Common Blossom-bat	V,P			1
Animalia	Mammalia	Vespertilionidae	1372	<i>Falsistrellus tasmaniensis</i>	Eastern False Pipistrelle	V,P			2
Animalia	Mammalia	Vespertilionidae	1357	<i>Myotis macropus</i>	Southern Myotis	V,P			5
Animalia	Mammalia	Vespertilionidae	1336	<i>Nyctophilus bifax</i>	Eastern Long-eared Bat	V,P			10
Animalia	Mammalia	Vespertilionidae	1369	<i>Phoniscus papuensis</i>	Golden-tipped Bat	V,P			1
Animalia	Mammalia	Vespertilionidae	1361	<i>Scoteanax rueppellii</i>	Greater Broad-nosed Bat	V,P			7
Animalia	Mammalia	Dugongidae	1558	<i>Dugong dugon</i>	Dugong	E1,P			1
Animalia	Mammalia	Balaenopteridae	1575	<i>Megaptera novaeangliae</i>	Humpback Whale	V,P	V		3
Plantae	Flora	Cunoniaceae	10943	^M <i>Davidsonia jerseyana</i>	Davidson's Plum	E1,2	E		1
Plantae	Flora	Cunoniaceae	10944	<i>Davidsonia johnsonii</i>	Smooth Davidson's Plum	E1	E		1
Plantae	Flora	Euphorbiaceae	8334	^M <i>Fontainea oraria</i>	Coastal Fontainea	E4A,2	E		28
Plantae	Flora	Fabaceae (Faboideae)	3032	<i>Sophora tomentosa</i>	Silverbush	E1			1
Plantae	Flora	Fabaceae (Mimosoideae)	7757	<i>Archidendron hendersonii</i>	White Lace Flower	V			13
Plantae	Flora	Flacourtiaceae	3114	<i>Xylosma terrae-reginae</i>	Queensland Xylosma	E1			1
Plantae	Flora	Lauraceae	3477	<i>Cryptocarya foetida</i>	Stinking Cryptocarya	V	V		42
Plantae	Flora	Lauraceae	8480	<i>Endiandra muelleri subsp. bracteata</i>	Green-leaved Rose Walnut	E1			2
Plantae	Flora	Meliaceae	3682	<i>Owenia cepiodora</i>	Onion Cedar	V	V		1
Plantae	Flora	Menispermaceae	3691	<i>Tinospora tinosporoides</i>	Arrow-head Vine	V			4
Plantae	Flora	Myrtaceae	11894	<i>Gossia fragrantissima</i>	Sweet Myrtle	E1	E		1
Plantae	Flora	Myrtaceae	4284	<i>Rhodomyrtus psidioides</i>	Native Guava	E4A			3
Plantae	Flora	Myrtaceae	4290	<i>Syzygium hodgkinsoniae</i>	Red Lilly Pilly	V	V		1



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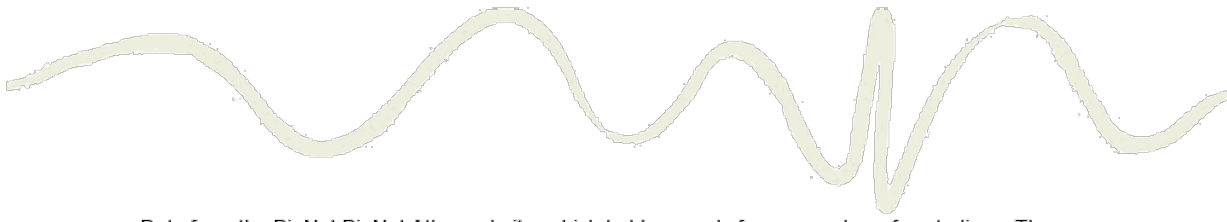
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Plantae	Flora	Myrtaceae	4292	<i>Syzygium moorei</i>	Durobby	V	V	1
Plantae	Flora	Orchidaceae	6630	^{^^} <i>Dendrobium melaleucaphilum</i>	Spider orchid	E1,P,2		2
Plantae	Flora	Orchidaceae	7077	^{^^} <i>Oberonia titania</i>	Red-flowered King of the Fairies	V,P,2		3
Plantae	Flora	Orchidaceae	4479	^{^^} <i>Peristeranthus hillii</i>	Brown Fairy-chain Orchid	V,P,2		3
Plantae	Flora	Orchidaceae	4480	^{^^} <i>Phaius australis</i>	Southern Swamp Orchid	E1,P,2	E	7
Plantae	Flora	Poaceae	4776	<i>Arthraxon hispidus</i>	Hairy Jointgrass	V	V	1773
Plantae	Flora	Primulaceae	11951	<i>Myrsine richmondensis</i>	Ripple-leaf Muttonwood	E1	E	4
Plantae	Flora	Proteaceae	5446	<i>Macadamia tetraphylla</i>	Rough-shelled Bush Nut	V	V	10
Plantae	Flora	Psilotaceae	8164	<i>Psilotum complanatum</i>	Fiat Fork Fern	E1,3		2
Plantae	Flora	Rutaceae	6457	<i>Acronychia littoralis</i>	Scented Acronychia	E1	E	24
Animalia	Mammalia	Miniopteridae	1346	<i>Miniopterus australis</i>	Little Bent-winged Bat	V,P		13
Animalia	Mammalia	Miniopteridae	3330	<i>Miniopterus orianae oceanensis</i>	Large Bent-winged Bat	V		4



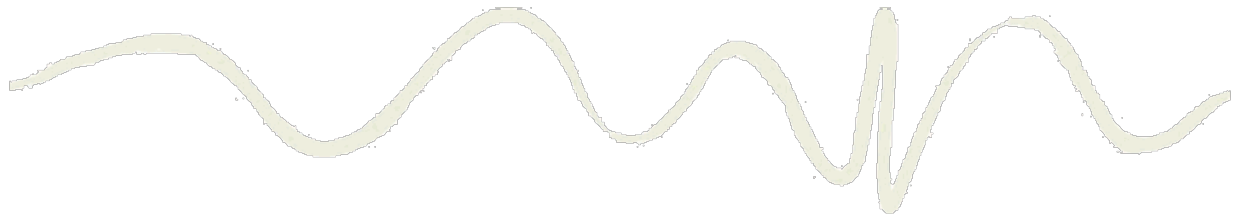
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Data from the BioNet BioNet Atlas website, which holds records from a number of custodians. The data are only indicative and cannot be considered a comprehensive inventory, and may contain errors and omissions. Species listed under the Sensitive Species Data Policy may have their locations denatured (^ rounded to 0.1Å°; ^^ rounded to 0.01Å°). Copyright the State of NSW through the Office of Environment and Heritage. Search criteria : Licensed Report of all Valid Records of Threatened (listed on TSC Act 1995) or Commonwealth listed Communities in selected area [North: -28.81 West: 153.53 East: 153.63 South: -28.91] returned 0 records for 10 entities. Report generated on 11/10/2019 2:37 PM

Kingdom	Common Name	NSW status	Comm. status	Records
Community	Coastal Cypress Pine Forest in the New South Wales North Coast Bioregion	E3		K
Community	Coastal Saltmarsh in the New South Wales North Coast, Sydney Basin and South East Corner Bioregions	E3	V	K
Community	Freshwater Wetlands on Coastal Floodplains of the New South Wales North Coast, Sydney Basin and South East Corner Bioregions	E3		K
Community	Littoral Rainforest in the New South Wales North Coast, Sydney Basin and South East Corner Bioregions	E3	CE	K
Community	Lowland Rainforest in the NSW North Coast and Sydney Basin Bioregions	E3	CE	K
Community	Lowland Rainforest on Floodplain in the New South Wales North Coast Bioregion	E3	CE	K
Community	Subtropical Coastal Floodplain Forest of the New South Wales North Coast Bioregion	E3		K
Community	Swamp Sclerophyll Forest on Coastal Floodplains of the New South Wales North Coast, Sydney Basin and South East Corner Bioregions	E3		K
Community	Themeda grassland on seacliffs and coastal headlands in the NSW North Coast, Sydney Basin and South East Corner Bioregions	E3		K
Community	White Gum Moist Forest in the NSW North Coast Bioregion	E3		K



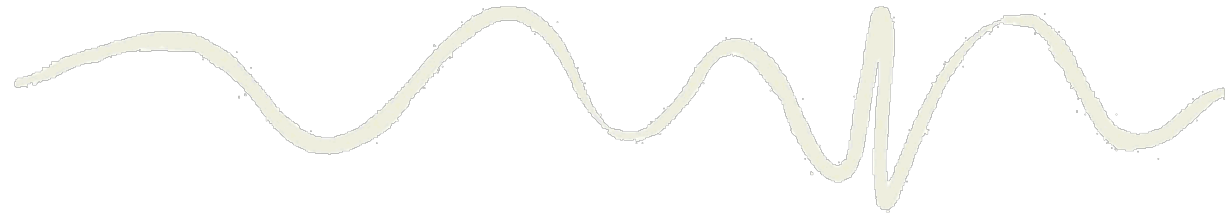


Appendix D

**Threatened Fauna Potential Occurrence
Assessment**



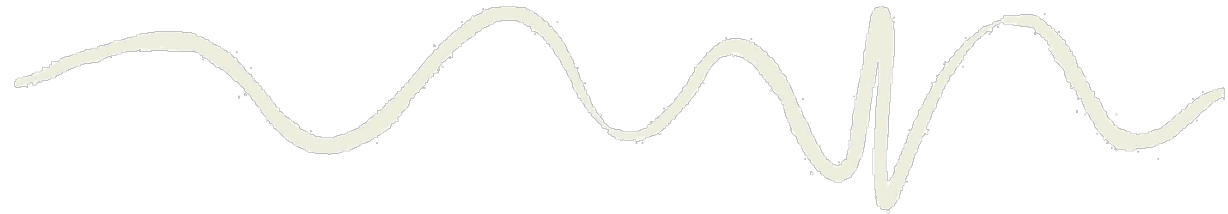
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**Table D.1 Threatened Fauna Potential Occurrence Assessment***

*Migratory/pelagic marine species identified in the search results are not assessed as no habitat occurs at the site

Scientific name	Common name	BC Act	EPBC Act	Habitat requirement	Suitability of site habitat	Potential occurrence
Avifauna						
<i>Nettapus coromandelianus</i>	Cotton Pygmy-Goose	E	-	Freshwater lakes, lagoons, swamps and dams, particularly those vegetated with waterlilies and other floating and submerged aquatic vegetation.	No suitable habitat.	Unlikely
<i>Anseranas semipalmata</i>	Magpie Goose	V	-	Shallow wetlands (<1 m deep), large swamps and dams with dense growth of rushes or sedge.	No suitable habitat.	Unlikely
<i>Botaurus poiciloptilus</i>	Australasian Bittern	E	E	Permanent freshwater wetlands with tall dense vegetation, particularly bullrushes and spikerushes.	No suitable habitat.	Unlikely
<i>Burhinus grallarius</i>	Bush Stone-curlew	E	-	Lightly timbered open forest and woodland, and partly cleared farmland with woodland remnants, preferring areas with dry leaf-litter, fallen timber and sparse ground cover.	Low	Low
<i>Calidris alba</i>	Sanderling	V	-	Low beaches of firm sand, often near reefs and occasionally inlets and tidal mudflats.	No suitable habitat on site. Potential habitat at Shaws Bay	Unlikely on site.
<i>Calidris canutus</i>	Red Knot	-	E	Sheltered coasts on mudflats and sandbars of estuaries, harbors, lagoons; occasionally on beaches, reefs.	No suitable habitat on site. Potential habitat at Shaws Bay	Unlikely on site.
<i>Calidris ferruginea</i>	Curlew Sandpiper	CE	CE	Tidal mudflats, sandy ocean shores and occasionally inland freshwater or salt-lakes.	No suitable habitat on site. Potential habitat at Shaws Bay	Unlikely on site.
<i>Calidris tenuirostris</i>	Great Knot	V	-	Tidal mudflats, sandy ocean shores and occasionally inland freshwater or salt-lakes.	No suitable habitat on site. Potential habitat at Shaws Bay	Unlikely on site.
<i>Calyptorhynchus lathami</i>	Glossy Black-Cockatoo	V	-	Sheoaks in coastal forests and woodlands, timbered watercourses, and moist and dry eucalypt forests of the coast and the Great Divide up to 1,000 m.	Low	Low
<i>Charadrius leschenaultii</i>	Greater Sand Plover	V	-	Wide sandy beaches, mangroves, saltmarsh, mudflats and exposed reefs.	No suitable habitat on site. Potential habitat at Shaws Bay	Unlikely on site.
<i>Charadrius mongolus</i>	Lesser Sand Plover	V	E	Mudflats, wide sandy beaches, estuaries and tidal areas in mangroves.	No suitable habitat on site. Potential habitat at Shaws Bay	Unlikely on site.

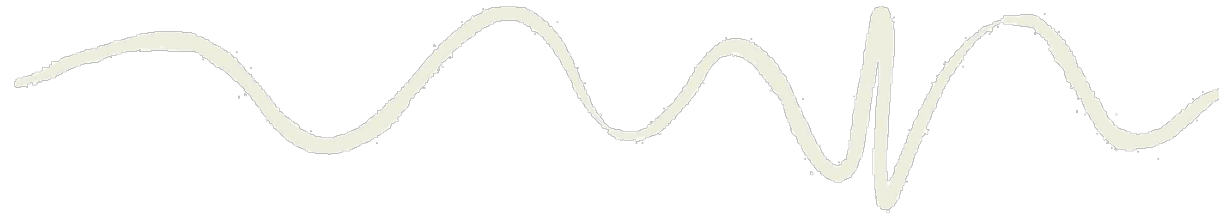
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Scientific name	Common name	BC Act	EPBC Act	Habitat requirement	Suitability of site habitat	Potential occurrence
<i>Circus assimilis</i>	Spotted Harrier	V	-	Grassy open woodland, inland riparian woodland, grassland and shrub steppe.	Low	Low
<i>Coracina lineata</i>	Barred Cuckoo-shrike	V	-	Rainforest, eucalypt woodlands, swamp woodlands and timber along watercourses.	Moderate	Possible with the littoral rainforest providing foraging habitat.
<i>Daphoenositta chrysoptera</i>	Varied Sittella	V	-	Inhabits eucalypt forests and woodlands, especially rough-barked species and mature smooth-barked gums with dead branches, mallee and Acacia woodland.	Low	Low
<i>Ephippiorhynchus asiaticus</i>	Black-necked Stork	E	-	Swamps, mangroves, mudflats, dry floodplains.	No suitable habitat on site. Potential habitat at Shaws Bay	Unlikely on site.
<i>Erythrotriorchis radiatus</i>	Red Goshawk	CE	V	Along or near watercourses, swamp forest and woodlands on the coastal plain.	Low	Low
<i>Esacus magnirostris</i>	Beach Stone-curlew	CE	-	Tidal flats at the mouth of estuaries or on open beaches.	No suitable habitat on site. Potential habitat at Shaws Bay	Unlikely on site.
<i>Falco subniger</i>	Black Falcon	V	-	Widely, but sparsely, distributed in New South Wales, mostly occurring in inland regions. In NSW there is assumed to be a single population that is continuous with a broader continental population	Low	Low
<i>Gavialis fasciolaris</i>	Mangrove Honeyeater	V	-	Mangrove forest, also near coastal forests and woodlands including casuarina and paperbark swamps.	Low suitability on site. Potential habitat at Shaws Bay	Unlikely on site.
<i>Glossopsitta pusilla</i>	Little Lorikeet	V	-	Forages in open Eucalyptus forest and woodland; also feeds on Angophora, Melaleuca and other tree species. Riparian habitats are particularly used, due to higher soil fertility and hence greater productivity.	Low	Low
<i>Gygis alba</i>	White Tern	V	-	Marine environments, coastal tall open forest up to 1 km inland.	No suitable habitat on site. Potential habitat at Shaws Bay	Unlikely on site.
<i>Haematopus fuliginosus</i>	Sooty Oystercatcher	V	-	Intertidal rocky and coral reefs, mostly ocean shores.	No suitable habitat on site. Potential habitat at Shaws Bay	Unlikely on site.
<i>Haematopus longirostris</i>	Pied Oystercatcher	E	-	Open beaches, intertidal flats, sandbanks and occasionally rocky headlands.	No suitable habitat on site. Potential habitat at Shaws Bay	Unlikely on site.



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Scientific name	Common name	BC Act	EPBC Act	Habitat requirement	Suitability of site habitat	Potential occurrence
<i>Haliaeetus leucogaster</i>	White-bellied Sea-eagle	V	-	Coastal habitats and around terrestrial wetlands characterised by the presence of large areas of open water (larger rivers, swamps, lakes, ocean). Habitats may include freshwater swamps, lakes, reservoirs, billabongs, saltmarsh and sewage ponds in addition to bays and inlets, beaches, reefs, lagoons, estuaries and mangroves.	No foraging habitat on site. No known or likely nesting sites on site. Potential habitat at Shaws Bay and surrounding emergent trees.	Low on site.
<i>Hieraaetus morphnoides</i>	Little Eagle	V	-	Open eucalypt forest, woodland or open woodland. Sheoak or acacia woodlands and riparian woodlands of interior NSW are also used.	Low	Low
<i>Irediparra gallinacea</i>	Comb-crested Jacana	V	-	Among vegetation floating on slow-moving rivers and permanent lagoons, swamps, lakes and dams.	No suitable habitat.	Unlikely
<i>Ixobrychus flavicollis</i>	Black Bittern	V	-	Dense vegetation fringing and in streams, swamps, tidal creeks and mudflats, particularly amongst swamp sheoaks and mangroves.	No suitable habitat.	Unlikely
<i>Limicola falcinellus</i>	Broad-billed Sandpiper	V	-	Tidal mudflats in coastal estuaries and lagoons, mudflats adjacent to mangroves for feeding.	No suitable habitat on site. Potential habitat at Shaws Bay	Unlikely on site.
<i>Limosa lapponica baueri</i>	Black-tailed Godwit (baueri)	-	V	Found mainly in coastal habitats such as large intertidal sandflats, banks, mudflats, estuaries, inlets, harbours, coastal lagoons and bays. Less frequently it occurs in salt lakes and brackish wetlands, sandy ocean beaches and rock platforms. Often occurs around beds of seagrass, and sometimes in nearby saltmarsh or the outer margins of mangrove areas.	No suitable habitat on site. Potential habitat at Shaws Bay	Unlikely on site.
<i>Limosa limosa</i>	Black-tailed Godwit	V	-	Tidal mudflats, sandspits, swamps, shallow river-margins and reservoirs.	No suitable habitat on site. Potential habitat at Shaws Bay	Unlikely on site.
<i>Numenius madagascariensis</i>	Eastern Curlew	-	CE	Estuaries, bays, harbours, inlets and coastal lagoons, intertidal mudflats and sometimes saltmarsh of sheltered coasts.	No suitable habitat on site. Potential habitat at Shaws Bay	Unlikely on site.
<i>Onychoprion fuscata</i>	Sooty Tern	V	-	Breeds in large colonies in sand or coral scrapes on offshore islands and cays including Lord Howe and Norfolk Islands.	No suitable habitat on site.	Unlikely on site.
<i>Pandion cristatus</i>	Eastern Osprey	V	-	Littoral and coastal habitats and terrestrial wetlands of tropical and temperate Australia and offshore islands. Typically occur in coastal areas but occasionally travel inland along major rivers. Wetland habitats include inshore	No foraging habitat on site. No known or likely nesting sites on site. Potential habitat	Low on site.



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Scientific name	Common name	BC Act	EPBC Act	Habitat requirement	Suitability of site habitat	Potential occurrence
				waters, reefs, bays, coastal cliffs, beaches, estuaries, mangrove swamps, broad rivers, reservoirs and large lakes and waterholes.	at Shaws Bay and surrounding emergent trees.	
<i>Phaethon rubricauda</i>	Red-tailed Tropicbird	V	-	Marine, coastal cliffs and under bushes in tropical Australia.	No suitable habitat on site.	Unlikely on site.
<i>Podargus ocellatus</i>	Marbled Frogmouth	V	-	Subtropical rainforest spending most time is deep, wet sheltered gullies.	Moderate in broad habitat terms in the littoral rainforest	Low, typically associated with subtropical rainforest
<i>Pomatostomus temporalis</i>	Grey-crowned Babbler	V	-	Open woodlands dominated by mature eucalypts, with regenerating trees, tall shrubs, and an intact ground cover of grass and forbs.	Low	Low
<i>Procelsterna cerulea</i>	Grey Ternlet	V	-	Vagrant birds occasionally occur in coastal NSW waters, particularly after storm events.	No suitable habitat on site.	Unlikely on site.
<i>Ptilinopus regina</i>	Rose-crowned Fruit-dove	V	-	Subtropical and dry rainforest, moist eucalypt forest and swamp forest.	Moderate	Possible with the littoral rainforest providing foraging habitat.
<i>Ptilinopus superbus</i>	Superb Fruit-dove	V	-	Subtropical and dry rainforest, moist eucalypt forest and swamp forest.	Moderate	Possible with the littoral rainforest providing foraging habitat.
<i>Rostratula australis</i>	Australian Painted Snipe	E	E	Well-vegetated shallows and margins of wetlands, dams, sewage ponds, wet pastures, marshy areas, irrigation systems, lignum, tea-tree scrub, and open timber.	No suitable habitat on or adjacent to the site.	Unlikely.
<i>Sternula albifrons</i>	Little Tern	E	-	Coastal waters, bays, shallow inlets, salt or brackish lakes.	No suitable habitat on site. Potential habitat at Shaws Bay	Unlikely on site.
<i>Stictonetta naevosa</i>	Freckled Duck	V	-	Permanent freshwater swamps and creeks with heavy growth of Cumbungi, Lignum or Tea-tree. In drier times they move from ephemeral breeding swamps to more permanent waters such as lakes, reservoirs, farm dams and sewage ponds.	No suitable habitat on or adjacent to the site.	Unlikely.
<i>Todiramphus chloris</i>	Collared Kingfisher	V	-	Restricted to mangroves and other estuarine habitats, occur about mouths of larger coastal rivers.	Low suitability on site. Potential habitat at Shaws Bay	Unlikely on site.



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Scientific name	Common name	BC Act	EPBC Act	Habitat requirement	Suitability of site habitat	Potential occurrence
<i>Tyto longimembris</i>	Eastern Grass Owl	V	-	Areas of tall grass, including tussocks in swampy areas, grassy plains, swampy heath, cane grass, sedges on flood plains.	No suitable habitat on or adjacent to the site.	Unlikely.
<i>Tyto novaehollandiae</i>	Masked Owl	V	-	Dry eucalypt forest and woodlands.	Low	Low
<i>Xenus cinereus</i>	Terek Sandpiper	V	-	Tidal mudflats, estuaries, shores and reefs of offshore islands and coastal swamps.	No suitable habitat on site. Potential habitat at Shaws Bay	Unlikely on site.
Mammals						
<i>Phoniscus papuensis</i>	Golden-tipped Bat	V	-	Rainforest and adjacent sclerophyll forest. Roosts in abandoned hanging Yellow-throated Scrubwren and Brown Gerygone nests.	Moderate in broad habitat terms	Low due to historic disturbance and urban setting.
<i>Cercartetus nanus</i>	Eastern Pygmy Possum	V	-	Range from rainforest to heath. North Coast mainly in rainforest, wet eucalypt forest and tee-tree-banksia scrub.	Moderate in broad habitat terms	Low due to historic disturbance and urban setting.
<i>Falsistrellus tasmaniensis</i>	Eastern False Pipistrelle	V	-	Moist and dry eucalypt forest and rainforest, particularly at high elevations.	Moderate in broad habitat terms	Low due to coastal location.
<i>Miniopterus australis</i>	Little Bentwing-bat	V	-	Moist eucalypt forest, rainforest and dense coastal scrub.	Moderate	Possible with the littoral rainforest providing foraging habitat.
<i>Miniopterus orianae oceanensis</i>	Large Bentwing-bat	V	-	Forest or woodland, roost in caves, old mines and stormwater channels.	Moderate	Possible with the littoral rainforest providing foraging habitat.
<i>Myotis macropus</i>	Southern Myotis	V	-	Bodies of water, rainforest streams, large lakes, reservoirs.	Low	Low on site. Shaws Bay provides potential foraging habitat.
<i>Nyctophilus bifax</i>	Eastern Long-eared Bat	V	-	Lowland subtropical rainforest and wet and swamp eucalypt forest, extending to adjacent moist eucalypt forest.	Moderate	Possible with the littoral rainforest providing foraging habitat.
<i>Petaurus norfolcensis</i>	Squirrel Glider	V	-	Blackbutt, bloodwood and ironbark eucalypt forest with heath understorey in coastal areas, and box-ironbark woodlands and River Red Gum forest inland.	Low	Low



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Scientific name	Common name	BC Act	EPBC Act	Habitat requirement	Suitability of site habitat	Potential occurrence
<i>Phascolarctos cinereus</i>	Koala	V	V	Appropriate food trees in forests and woodlands, and treed urban areas.	Low	Low
<i>Planigale maculata</i>	Common Planigale	V	-	Rainforest, eucalypt forest, heathland, marshland, grassland and rocky areas with surface cover close to water.	Moderate in broad habitat terms	Low due to historic disturbance and urban setting.
<i>Pteropus poliocephalus</i>	Grey-headed Flying-fox	V	V	Subtropical and temperate rainforests, tall sclerophyll forests and woodlands, heaths and swamps as well as urban gardens and cultivated fruit crops.	Moderate	Possible with the littoral rainforest providing foraging habitat. The site is not a known roost.
<i>Scoteanax rueppellii</i>	Greater Broad-nosed Bat	V	-	Woodland through to moist and dry eucalypt forest and rainforest, though it is most commonly found in tall wet forest.	Moderate	Possible with the littoral rainforest providing foraging habitat.
<i>Syconycteris australis</i>	Common Blossom-bat	V	-	Feeds in heathland and paperbark swamps; roosts in littoral rainforest. Also recorded in subtropical rainforest, wet sclerophyll forest and other coastal forests.	Moderate	Possible with the littoral rainforest providing potential roosting habitat.
Amphibia						
<i>Crinia tinnula</i>	Wallum Froglet	V	-	Acid paperbark and sedge swamps known as 'wallum', this is a banksia-dominated lowland heath ecosystem characterised by acidic waterbodies.	No suitable habitat on or adjacent to the site.	Unlikely.
<i>Litoria aurea</i>	Green and Golden Bell Frog	E	V	Amongst vegetation in and around permanent swamps, lagoons, farm dams and on flood-prone river flats, particularly where there are bullrushes or spikerushes.	No suitable habitat on or adjacent to the site.	Unlikely.





Planning,
Industry &
Environment

Our Ref: DOC19/1095180
Your Ref: BSCPP 17/012 – 23 Compton Drive, East Ballina (19/97765)

General Manager
Ballina Shire Council
PO Box 450
Ballina NSW 2478

Attention: Ms Leah Toole

Dear Mr Hickey

Subject: Planning Proposal for 23 Compton Drive East Ballina

Thank you for your letter dated 13 December 2019 about the Planning Proposal for 23 Compton Drive East Ballina seeking comments from the Biodiversity and Conservation Division (BCD) of the Environment, Energy and Science Group in the Department of Planning, Industry and Environment. I appreciate the opportunity to provide input.

The BCD was formerly part of the Office of Environment and Heritage but now forms part of a Group that has responsibilities for biodiversity (including threatened species and ecological communities, or their habitats), Aboriginal cultural heritage, National Parks and Wildlife Service estate, climate change, sustainability, flooding, coastal and estuary matters.

This Planning Proposal is an opportunity to consider the appropriate zones for all the planning area (being Lot 1 DP 781542 and Lot 3 DP 525783). The Ballina Local Environmental Plan 2012 currently does not include any E zones other than the mandatory E1 National Parks and Nature Reserves. The council area was part of the E zone review by the (then) Department of Planning and Infrastructure. The Department completed its final recommendations report in October 2015.

The Planning Proposal does not provide any protection for the littoral rainforest endangered ecological community (EEC) in the planning area and will enable future development that will impact on the EEC and not trigger the Biodiversity Offset Scheme.

These issues are discussed in detail in **Attachment 1** to this letter.

The BCD recommends that prior to finalising the planning proposal the council should:

1. Require the proponent to determine the biodiversity credits required to offset future development impacts on Plant Community Type 1275 in the planning area by applying Stage 1 of the Biodiversity Assessment Method (BAM) to areas of confirmed HEV land proposed for land use intensification, including areas subject to indirect impacts, and enter the Stage 1 data into the

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Federation House, Level 8, 24 Moonee Street
Coffs Harbour NSW 2450
Tel: (02) 6659 8200 Fax: (02) 6659 8281
ABN 20 770 707 468
www.dpie.nsw.gov.au

BAM Calculator (the BAM must be applied by a suitably qualified ecological consultant and areas of directly impacted HEV must be treated as 100% biodiversity loss).

2. Enter into a planning agreement with the landholder of Lot 1 that:
 - a. Commits the landholder to a future rezoning of the portion of the land that is currently zoned 7(d) under the BLEP 1987 to E2 Environmental Conservation.
 - b. Binds the landholder to providing the required number of credits for PCT 1275 prior to commencing any works that impact on the littoral rainforest, unless the future development application for the land triggers entry into the Biodiversity Offsets Scheme (BOS) under the *Biodiversity Conservation Act 2016* and the biodiversity credits required by the BOS are greater than those required by the planning agreement.
 - c. Includes a commitment for the landholder to prepare and implement a vegetation management plan for the planning area.

If you have any further questions about this issue, Ms Rachel Lonie, Senior Conservation Planning Officer, Biodiversity and Conservation, can be contacted on 6650 7130 or at rachel.lonie@environment.nsw.gov.au.

Yours sincerely



19 February 2020

DIMITRI YOUNG
Senior Team Leader Planning, North East Branch
Biodiversity and Conservation

Enclosure: Attachment 1. Detailed Biodiversity and Conservation Comments – Planning Proposal for 23 Compton Drive, East Ballina

Attachment 1: Detailed Biodiversity and Conservation Comments – Planning Proposal for 23 Compton Drive, East Ballina

The Planning Proposal seeks to amend the Ballina Local Environmental Plan 2012 (BLEP 2012) to rezone part of Lot 1 DP 781542 and part of Lot 3 DP 525783 (23 Compton Drive, East Ballina and the adjoining public reserve) from 7(d) Environmental Protection (Scenic/Escarpment) under the Ballina Local Environmental Plan 1987 (BLEP 1987) to R2 Low Density Residential under the Ballina LEP 2012 and to apply a minimum lot size of 600m². The planning area is identified on the BLEP 2012 maps as a 'Deferred Matter'.

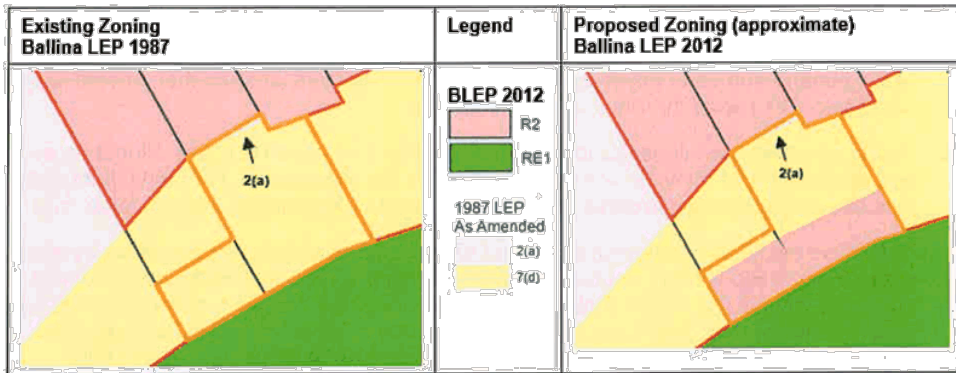


Figure 1. Existing and proposed zones



Figure 2. Planning area identified in red outline

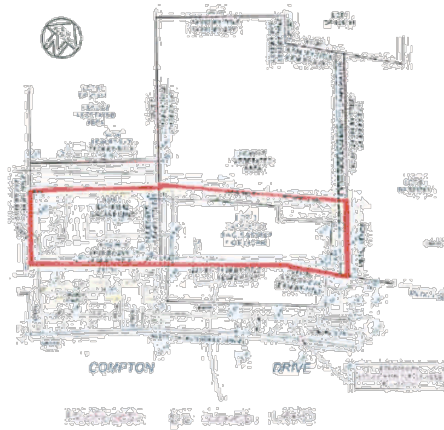


Figure 3 Area outlined in red to be zoned R1

1. North Coast Regional Plan 2036 and recommended approach for HEV land

Planning Proposals need to demonstrate consistency with the strategic planning framework including the North Coast Regional Plan 2036. Action 2.1 under Direction 2 of the Regional Plan requires future development to be focused to areas of least biodiversity sensitivity in the region and the implementation of the 'avoid, minimise, offset' hierarchy to biodiversity, including areas of high environmental value (HEV). This action should be considered and implemented at the Planning Proposal stage.

As part of a Planning Proposal, HEV land should be identified at the site scale and the current land uses on such areas should not be intensified. Ideally, such areas would be better protected through

an appropriate zone which has strong conservation objectives, limited land uses and an appropriate minimum lot size, so the land cannot be subdivided.

In general, the BCD recommends Planning Proposals:

1. Include site investigations of the planning area undertaken by a suitably qualified ecological consultant for the presence of HEV land as per the criteria for HEV land set out in the North Coast Regional Plan (The investigation of HEV lands at the site scale must be fully documented in the Planning Proposal report. The HEV criteria from the North Coast Regional Plan are provided in Attachment 2), and
2. Maximise avoiding land use intensification in confirmed areas of HEV land and protect HEV land with a suitable zone (either E2 Environmental Conservation or E3 Environmental Management) and other planning controls, such as minimum lot sizes that prevent future subdivision, as part of the Planning Proposal, and
3. Justify why land use intensification in some areas of confirmed HEV land cannot be avoided and be designed to minimise the impacts of future development on HEV land. Information on avoiding and minimising impacts on HEV is provided in Attachment 2 to this letter, and
4. Determine the biodiversity credits required to offset future development impacts by applying Stage 1 of the Biodiversity Assessment Method (BAM) to areas of confirmed HEV land proposed for land use intensification, including areas subject to indirect impacts, and enter the Stage 1 data into the BAM Calculator (the BAM must be applied by a suitably qualified ecological consultant and areas of directly impacted HEV must be treated as 100% biodiversity loss), and
5. Include a Planning Agreement that commits to providing the biodiversity offsets identified in the above unless the future development application for the land triggers entry into the Biodiversity Offsets Scheme (BOS) under the *Biodiversity Conservation Act 2016* and the biodiversity credits required by the BOS are greater than those required by the planning agreement.

2. Littoral rainforest is HEV land

An Ecological Assessment (EA) has been prepared by GeoLink dated October 2019. The EA finds the north-western portion of the planning area contains littoral rainforest, (PCT1275: Tuckeroo - Riberry - Yellow Tulipwood littoral rainforest of the NSW North Coast Bioregion), which is of high conservation value as it is an endangered ecological community (EEC) under both the *Biodiversity Conservation Act 2016* and *Environment Protection and Biodiversity Conservation Act 1999*. The extent of the EEC is described in Illustration 3.1. This area is therefore confirmed HEV as described by the North Coast Regional Plan.

The planning area contains potential habitat for several locally recorded threatened flora species known to occur in littoral rainforest such as Scented *Acronychia* (*Acronychia littoralis*), Stinking *Cryptocarya* (*Cryptocarya foetida*) and Native Guava (*Rhodomyrtus psidioides*). BioNet records for *A.littoralis* exist in the property adjoining Lot 3 to the west and in a property two lots to the east of Lot 1. However no threatened flora including *A. littoralis* were recorded in the planning area.

3. Impacts on HEV land

The EA estimates that approximately 130m² of littoral rainforest would be impacted through the establishment and maintenance of an Asset Protection Zone (APZ) to the north-west (3.4-4m for BAL-40 or 4-6m for BAL29; BCA 2019) and removal of overhanging trees. Other potential impacts include increased edge effects, weed invasion and incremental loss or modification of retained vegetation.

The EA finds that a Biodiversity Development Assessment Report (BDAR) is unlikely to be required due to the limited native vegetation requiring removal. It also considers the impacts are unlikely to

Attachment 1: Detailed Biodiversity and Conservation Comments – Planning Proposal for 23 Compton Drive, East Ballina

trigger a significant impact on any threatened species or TEC and can be managed such that biodiversity impacts may be minimised.

The EA identifies opportunities to minimise impacts such as requesting the Development Control Plan building setbacks be waived along Compton Drive to minimise impacts on the littoral rainforest. It also suggests that the offset for the loss of some littoral rainforest could be calculated in accordance with the council's offset policy.

4. E2 zone for littoral rainforest area

The Planning Proposal report does not address Direction 2 of the Regional Plan. As per the Planning Policy advice articulated above, we recommend the confirmed area of HEV land should be protected with a suitable environmental zone and other planning controls as part of this Planning Proposal.

In this instance, the BCD recommends an E2 Environmental Conservation zone should be applied to the area that contains littoral rainforest, noting that the area mapped as littoral rainforest is slightly different to this and would need to be rationalised (see figure below).

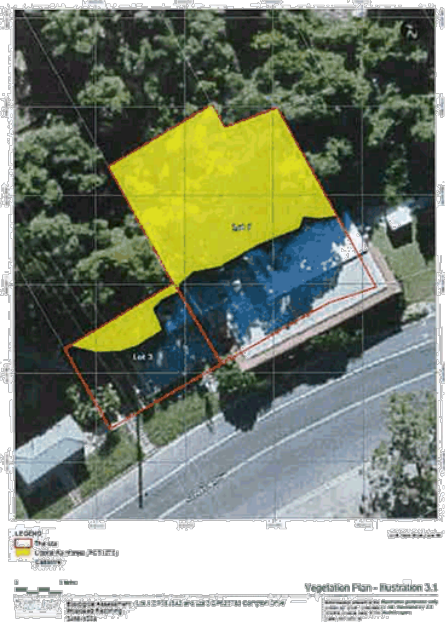


Figure 4. Area of littoral rainforest as mapped in the EA.

We understand that the Ballina Shire Council is responding to the E zone review recommendations and will review all the deferred matter lands to consider the appropriate zone to be applied under the Standard Instrument template. We note that until this has been done, the council resolved at its Ordinary Meeting held on 27 April 2017 to retain all deferred areas that are the subject of an environmental protection zone under the BLEP 1987 as deferred areas, having the effect that the BLEP 1987 will continue to apply.

Whilst we do not object to the rezoning of part of the site to R1 as there is a building and concrete slab and no HEV on that portion, the rezoning will result in the loss of land this is currently zoned for conservation purposes and will enable the residential use of the land.

To provide certainty that this HEV land (i.e. the littoral rainforest) will be zoned for environmental conservation in the future, we recommend a planning agreement should be executed with the

landholder of Lot 1 that commits to the future rezoning of the portion of the land that is currently zoned 7(d) under the BLEP 1987 to E2.

5. Offsets for loss of littoral rainforest

The BCD acknowledges some biodiversity impacts may be managed through the development consent process. However, as the future development is unlikely to trigger the Biodiversity Offset Scheme, we recommend that, following receiving the advice from the Rural Fire Service about their requirements for bushfire asset protection zones (APZs), the extent of the future impact on the littoral rainforest should be fully assessed.

The area of PCT 1275 that will be impacted either directly or indirectly as a result of the need for APZs should be calculated using the Biodiversity Assessment Method. As per Step 5 above in our recommended Planning Proposal approach, a planning agreement should be executed that binds the landholder to providing the required number of credits for PCT 1275 prior to commencing any works that impact on the littoral rainforest.

Further, we recommend the planning agreement include a commitment for the landholder to prepare and implement a vegetation management plan for the planning area.

6. BCD Recommendations

In summary, the BCD recommends that prior to finalising the planning proposal the council should:

1. Require the proponent to determine the biodiversity credits required to offset future development impacts on Plant Community Type 1275 in the planning area by applying Stage 1 of the Biodiversity Assessment Method (BAM) to areas of confirmed HEV land proposed for land use intensification, including areas subject to indirect impacts, and enter the Stage 1 data into the BAM Calculator (the BAM must be applied by a suitably qualified ecological consultant and areas of directly impacted HEV must be treated as 100% biodiversity loss).
2. Enter into a planning agreement with the landholder of Lot 1 that:
 - a. Commits the landholder to a future rezoning of the portion of the land that is currently zoned 7(d) under the BLEP 1987 to E2 Environmental Conservation.
 - b. Binds the landholder to providing the required number of credits for PCT 1275 prior to commencing any works that impact on the littoral rainforest, unless the future development application for the land triggers entry into the Biodiversity Offsets Scheme (BOS) under the *Biodiversity Conservation Act 2016* and the biodiversity credits required by the BOS are greater than those required by the planning agreement.
 - c. Includes a commitment for the landholder to prepare and implement a vegetation management plan for the planning area.



Our Ref: DOC20/456977
Your Ref: BSCPP 17/012 – 23 Compton Drive, East Ballina (20/35910)

General Manager
Ballina Shire Council
PO Box 450
Ballina NSW 2478

Attention: Ms Leah Toole

Dear Mr Hickey

RE: Planning Proposal for 23 Compton Drive East Ballina (BSCPP 17/012)

Thank you for your letter dated 9 June 2020 about the Planning Proposal for 23 Compton Drive East Ballina seeking comments from the Biodiversity and Conservation Division (BCD) of the Environment, Energy and Science Group in the Department of Planning, Industry and Environment. I appreciate the opportunity to provide further input.

The BCD has reviewed the following information that was provided to us by the Ballina Shire Council:

- Request for Further Information (RFI) response from Ardill Payne (April 2020).
- Revised Ecological Assessment by Geolink (2020).
- Conceptual building design plans by Yamba Design and Drafting (June 2019).
- Revised Survey Plan by Kennedy Surveying (May 2019).

We acknowledge that our response letter dated 18 February 2020 contained an error in recommendation 2 which referred to the landholder of Lot 1 entering a planning agreement with the council. This recommendation should instead have referred to the landholder of Lot 3 entering a planning agreement with the council.

This error arose because we relied upon Figure 1.1 (site plan) and Figure 3.1 (vegetation plan) of the Ecological Assessment by Geolink (2019) which we now realise shows the incorrect lot numbers on the land parcels. We note that the revised Ecological Report by Geolink (2020) still shows incorrect lot numbers in Figures 1.1 and 3.1.

The RFI response from Ardill Payne indicates that a dwelling could be constructed on the site to Building Attack Level (BAL)-Flame Zone (FZ) with 0m Asset Protection Zone (APZ) and no loss of vegetation, and concept house plans were provided indicating a dwelling positioned on the site that complies with BAL-FZ. As noted in the Planning Proposal, Lot 3 currently does not have a dwelling entitlement.

In accordance with NSW Rural Fire Service *Planning for Bushfire Protection 2018 (PfBP 2018)* where a dwelling entitlement is created, bushfire protection measures in accordance with Section 5 of *PfBP 2018* are to be provided. Section 5.3.1 of *PfBP 2018* requires that APZs must be provided that ensure radiant heat levels at the building do not exceed 29kW/m² (BAL 29). It should be noted that Section 5.2 of the revised Ecological Assessment (Geolink 2020) indicates that a 4-6m APZ is required for a BAL 29 dwelling on the site and an estimated 130m² of littoral rainforest would be

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impacted through the establishment of an APZ. Hence the recommendations detailed in the BCD response letter dated 18 February 2020 have not been addressed.

The BCD recommends that prior to finalising the planning proposal the council should:

1. Require the proponent to determine the biodiversity credits required to offset future development impacts on Plant Community Type 1275 in the planning area by applying Stage 1 of the Biodiversity Assessment Method (BAM) to areas of confirmed HEV land proposed for land use intensification, including areas subject to direct and indirect impacts, and enter the Stage 1 data into the BAM Calculator (the BAM must be applied by a suitably qualified ecological consultant and areas of directly impacted HEV must be treated as 100% biodiversity loss).
2. Enter into a planning agreement with the landholder of Lot 3 that:
 - a. Commits the landholder to a future rezoning of the portion of the land that is currently zoned 7(d) under the BLEP 1987 to E2 Environmental Conservation.
 - b. Binds the landholder to providing the required number of credits for PCT 1275 prior to commencing any works that impact on the littoral rainforest, unless the future development application for the land triggers entry into the Biodiversity Offsets Scheme (BOS) under the *Biodiversity Conservation Act 2016* and the biodiversity credits required by the BOS are greater than those required by the planning agreement.
 - c. Includes a commitment for the landholder to prepare and implement a vegetation management plan for the planning area.

If you have any questions about this advice, please do not hesitate to contact Mr Bill Larkin, Senior Conservation Planning Officer, at bill.larkin@environment.nsw.gov.au or 6659 8216.

Yours sincerely



8 July 2020

DIMITRI YOUNG
Senior Team Leader Planning, North East Branch
Biodiversity and Conservation

Submission #1

Feedback for Documents on Exhibition

Submitted At

2020-01-27 16:33:08

Name of exhibited document you want to make comment on.

Planning Proposal BSCPP 17/012, 23 Compton Drive, East Ballina

Your Name

Lyn Gray

Phone Number

██████████

Your email?

██████████

Having read the document, is it easy to read and understand?

Yes

Do you support the overall objectives and content of the document?

Yes

Please provide further comments if you wish.

I understand this application is a precursor to rezoning this site for residential development. Irrespective as to what it is rezoned as, there is a public safety issue to be considered relating to car parking facilities. Compton Drive, at this location is a busy motor thoroughfare and during certain periods of the day, particularly weekends, is subject to heavy pedestrian usage. This is compounded by the front to kerb parking regime opposite the development site. It follows that it is the responsibility of the Council to ensure that vehicular egress from the property is safe.

I agree to Ballina Shire Council collecting my Name, Email, and Phone Number

I agree

Submission ID

5e2e76140807da47c5363c2e

Submission #2

Feedback for Documents on Exhibition

Submitted At

2020-02-11 15:01:53

Name of exhibited document you want to make comment on.

Planning Proposal BSCPP 17/012, 23 Compton Drive, East Ballina

Your Name

John Durkin

Phone Number

██████████

Your email?

████████████████████

Having read the document, is it easy to read and understand?

Yes

Please provide any suggestions for improvement.

Please do not go ahead with this proposal

Do you support the overall objectives and content of the document?

No

Please provide further comments if you wish.

I've lived in the Ballina Shire now for approx 3 years and use the steps adjacent to this proposed building site for exercise. I started using the steps whilst recovering from illness and continue to climb them regularly as part of staying on top of my health issues. I'm seriously dismayed at the proposed development and the disruption it will cause to the ongoing use of the steps for the many locals that also use the steps to keep fit. My other objection to which I feel strongly is the destruction of habitat of the many animals that call that bush home. There are many water dragon lizards, bush turkeys, snakes and birds to name a few living in that entire area that will have to relocate or perish for a monetary gain of so few. Where will all those animals go when the bulldozers start taring their homes down. When will us humans learn not to mess with the environment to the point where nothing is left. Just look at the bush fires and floods over the last 3 months as an example of our interference with the natural world. I think it's crazy to allow this development to go ahead whilst destroying that habitat. PLEASE DON'T DEVELOP THIS LAND.

I agree to Ballina Shire Council collecting my Name, Email, and Phone Number

I agree

Submission ID

5e42273158d5e32e5017810e

Submission #3

Feedback for Documents on Exhibition

Submitted At

2020-02-12 10:42:19

Name of exhibited document you want to make comment on.

Planning Proposal BSCPP 17/012, 23 Compton Drive, East Ballina

Your Name

Deborah Jones

Phone Number

██████████

Your email?

████████████████████

Having read the document, is it easy to read and understand?

No

Please provide any suggestions for improvement.

Leah was helpful with our enquires. Some paragraphs like paragraph 4 are very hard to understand.

Do you support the overall objectives and content of the document?

Yes

Please provide further comments if you wish.

This is on the condition that the integrity of the hillside is maintained, existing bush land and wildlife are protected and the public access is maintained to the stairway from Hill Street.

I agree to Ballina Shire Council collecting my Name, Email, and Phone Number

I agree

Submission ID

5e433bdb017d5b66a871bba5

Submission #4

[REDACTED]
Phone: [REDACTED]

5 February 2020

**The General Manager
Ballina Shire Council
Cnr Cherry & Tamar Streets
Ballina NSW 2478**

Reference: Planning Proposal 17/012 – 23 Compton Drive East Ballina

Dear Sir,

I wish to object to the referenced planning proposal. The reasons for my objections are embodied in the following comments.

1. The proposal is within the Shaws Bay precinct which is one of the most important scenic areas of Ballina for residents and tourists alike. Compton Drive is a busy road which provides the main access to beaches and the north river wall.
2. The long overdue upgrade to the bay foreshore opposite the proposal is a considerable improvement on the previous derelict area and is being well patronised. The area has an increasing scenic profile. The associated car park is congested and difficult to negotiate, making the roadway quite dangerous.
3. The wooded areas of the escarpment on the north side of Compton Drive adjacent to the proposal are unkempt and in need of maintenance. However, the green visual impact is still very favourable and these areas should be preserved for possible future landscaping.
4. I was astonished to learn, from the proposal documents, that all the allotments along Compton Drive are zoned 7(d) Environment Protection (Scenic/Escarpment). How is it possible that the existing developments were approved in such a zoning?
Firstly there is the derelict restaurant building on Lot 3 DP 525783 which has become an eyesore. Much of it is built on public land forward of the site front boundary. Is this a legacy of a previous zoning and previous site boundaries?
Next door, a new steel shed has been erected, a private pathway constructed up to a higher property and a new steel fence constructed along the front boundary. This is not in accord with the environmental zoning.
Then comes older box like flats of little architectural merit. Here four cars are parked side by side across and under the building at the top of a prominent steep concrete ramp forward of the front boundary. The steep slope commences at the road kerb and the ramp occupies much of the allotment width. Cars must risk backing down this ramp directly onto a busy road with double centre lines that must be crossed to travel one direction. Is this also a legacy of a previous zoning and a less populous time?
Last but not least is the huge mansion at 31 Compton Drive. The building towers 15 metres (estimated) above a massive crib block retaining wall, a car manoeuvring area and a car access ramp, all built forward of the front boundary. The ramp terminates at the road kerb with unsafe road access. The building makes a mockery of the 6.4 metre building height limitation and environmental protection aims. Approval appears to have been granted under special dispensation.
5. The argument could be made that the existing developments set a precedent with which Council is obliged to conform, i.e., anything goes. Conversely, it can be argued that it is about time a valuable asset of Ballina is protected, i.e., enough is enough.
6. Building height limitations should be set to be complied with. Can they be so easily flouted that it is simply a matter of submitting a proposal otherwise, in this case increased from 6.4 metres to 8.5 metres? The only reason is to increase the valuation to the benefit of the owner, which could raise suspicions of undue special consideration. As well as the gross height violation at 31 Compton Drive, I am aware that the residential units in Range Street, adjacent to Fenwick House, also exceed the

height limitation. Do these violations set a precedent that makes the height limitation null and void in a high profile location?

7. The subject properties are unsuitable for residential construction. Steep sandy conditions render the ground unstable. The steep slope commences at the road kerb. Developments are most likely to be holiday rental units providing for a number of cars. Vehicle access would be difficult, unsightly and unsafe, as demonstrated at the existing buildings.

8. The submitted drawings clearly show the proposed south western site boundary encroaching on the public stairway. This stairway has become of enormous benefit to the public for exercising and through traffic. It is of paramount importance that this facility is retained. I am aware that there is a prior Council resolution for the stairs to remain in public ownership. However, I believe that it was unethical for the proposal to be publicly exhibited before this matter was resolved and shown correctly on the drawings. Consideration by Council should not proceed until this is rectified.

9. The current 7(d) Environment Protection zoning for Lot 3 DP 525783 renders the property near valueless to the owner. Changing the zoning to R2 Low Density Residential would provide a windfall to the owner. The public may interpret such action as a special undue favour.

A far more sensible approach, in the interest of the public, is for Council to negotiate purchase of the property on the basis of its current value, and to administer it in accordance with the environmental zoning requirements.

10. I am astonished at the audacity of the proposal to rezone and purchase public land owned by Council. This would provide a windfall to either Council or (most likely) the new owner, depending on the sequence of events. The public may interpret such action as a special undue favour.

11. If the subject proposal was approved, then applications for zone changes from all other properties along Compton Drive (particularly the adjacent property) would be quick to follow.

12. If the subject proposal was approved, then the rear sections of the properties (where no zone change applies) would be difficult to access and as a result be difficult to manage, including for fire.

Previous Council Planners have shown great wisdom in zoning the escarpment along Compton Drive as 7(d) Environment Protection (Scenic/Escarpment). I trust that the present Councillors will see fit to uphold that vision.

Yours Sincerely

Bert Carter