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1. Background

1.1 Summary of Project

Newton Denny Chapelle (NDC) has been engaged by Clarence Property Corporation Limited, the owners of 2, 6 & 12 Anchorage Avenue, Lennox Head [Lots 36-38 DP 1257681] to prepare a Planning Proposal request to Ballina Shire Council.

This request is made in accordance with Ballina Shire Council's "Planning Proposals and Local Environmental Plan Amendments" process guidelines. The request is seeking Council's support to commence an amendment to the Ballina Local Environmental Plan 2012 (BLEP). The purpose of the Planning Proposal is to amend the following provisions of the Ballina Local Environmental Plan 2012;

1. Amend the Land Zoning (LZN) map to zone the lots R3 – Residential Medium Density in their entirety. This proposal will rezone the portion of land zoned B1 – Local Centre on Lot 38 DP 1257681 to an R3 – Medium Density zone; and
2. Amend the Minimum Lot Size (LSZ) map of the Ballina Local Environmental Plan 2012 to apply the 450m² minimum lot size Lots 36-38 DP 1257681 which are currently embellished with 3 differing lot sizes.

The aim of the LEP amendment is to rectify the mixed land zoning and minimum lot size in order to provide a consistent land zoning and minimum lot size over the three lots, in line with the approved for residential land use classification pursuant to the Concept Plan approved for Major Project 07_0026.

The subject lands are illustrated in a local aerial photo context in **Plate 1**. The below **Table 1** outlines the subject lands, their current use and land zoning.



Plate 1: Aerial Photo of the subject lands and surrounding Epiq Estate
 (Source: Nearmaps 2021)

Table 1: Land Holdings Subject to the Planning Proposal

Subject Land	Current Land Use	Current Land Zoning	Minimum Lot Size (m ²)
2 Anchorage Avenue, Lennox Head	Vacant	B1 Neighbourhood Business R3 - Medium Density Residential	450 600 800
6 Anchorage Avenue, Lennox Head	Vacant	R3 - Medium Density Residential	450 600
12 Anchorage Avenue, Lennox Head	Vacant	R3 - Medium Density Residential	450 600

The objective of this planning Proposal is to address the current inconsistency between the land zoning and minimum lot size in order to provide a consistent land zoning and minimum lot size over the three lots, in line with the approved Concept Plan (Major Project 07_0026). This Planning Proposal will remove any ambiguity over the existence of a commercial land zoning on Lot 38 DP 1257681, which is approved for residential housing under the Concept Plan, whilst also removing the statutory restriction created through the various minimum lot areas currently sitting over the land.

The Planning Proposal will facilitate the subdivision of the subject lots for residential housing with a minimum lot size of 450m².

This Planning Proposal has been completed in accordance with the Department of Planning & Infrastructure's (now Department of Planning & Environment) guide to preparing Planning Proposals. A Gateway Determination under Sections 3.33 and 3.34 of the Environmental Planning and Assessment Act is sought.

1.2 Location of Subject Land and the Nature of Surrounding Urban Area

The lands the subject to this Planning Proposal are illustrated on **NDC Plan 1**. **Table 1** outlines the subject lands, their current use and land zoning.

The Planning Proposal relates to Lots 36-38 DP 1257681, Parish of Ballina, County of Rous. The subject land is located at Lennox Head and comprises the landholding known locally as 'Epiq Lennox' to Ballina Shire Council.

The subject lands are located within the central area of the Epiq Estate as illustrated in **Plate 1**. The surrounding uses to the subject land are detailed below.

- **North:** Torrens title residential lots with single and dual occupancy development
- **South:** Conservation Management Zone for Epiq Estate
- **East:** Torrens title residential lots with single and dual occupancy development
- **West:** Epiq Market Place Shopping Centre

In the broader context, the lands are located in the general area of the following existing or planned residential subdivisions:

- Lennox Meadows [north] - is a conventional residential estate containing a range of lot sizes (generally between 600m² to 850m²) containing one and two storey detached dwellings and occasional dual occupancies;
- Epic Lennox [early stages south] - Much of this Estate is currently developed consistent with approvals for the staged development of the estate for a residential subdivision including a range of allotment types, neighbourhood shopping centre and playing fields. With particular reference to the proposed lot sizes, regard is made to the lots in Super Lot

7 having a minimum area of 375m² and Lots within Stage 2 embellished with a minimum lot size of 400m².

- Rise Estate (former Henderson Farm) – Henderson Farm is located west of Super Lot 7 approved as part of the Epiq Lennox Concept Plan. Ballina Shire Council has issued consent for a residential subdivision comprising some 190 residential lots.

1.3 Planning Background

On 12 November 2008, the then Minister for Planning granted approval to the Pacific Pines Estate (now called EPIQ Lennox). In particular, Concept Plan approval was given for:

- a **neighbourhood centre** comprising a local scale shopping centre with retail, small businesses, shop-top housing, medical centre, tavern, community centre and childcare centre. The centre would ultimately comprise up to 3,000m² of retail floor space, 800m² of commercial space and approximately 20-25 'shop-top' dwellings. Approximately 280 parking spaces will be provided on site;
- a **retirement community**, including approximately 113 retirement units with a mixture of assisted and independent living and approximately 124 retirement lots, on-site leisure, open space and recreational facilities;
- **residential subdivision** of approximately 505 lots varying from larger lots (>1,200m²) on the steeper parts of the site to lots of around 450m²;
- **medium density housing** (density of around 1 dwelling per 250m²);
- 25.1 hectares of **green space** incorporating areas for conservation, revegetation and rehabilitation; and
- A **road network** connected to various existing roads such as Hutley Drive, Montwood Drive and Stoneyhurst Drive.

Project approval was also given to the first stage of the project, involving:

- six super lots (for a neighbourhood centre, tavern, childcare centre, community centre/ hall, retirement community and medium density housing);
- 54 residential lots in the south of the site averaging around 740m²;
- two open space lots;
- residual lot of 57.7 hectares;
- construction of Montwood Drive, Main Street, Hutley Drive and the western connection to the adjoining playing fields within the site; and

- associated earthworks across the site.

The area in which the subject lands are located within the originally approved Concept Plan [refer **Plate 2**] are embellished with the neighbourhood commercial and low/medium density residential.

The current LEP land zonings and lot sizes reflect the Concept Plan land use designation which was current at the date in which the Ballina LEP 2014 was gazetted.

The Concept Plan has been modified on several occasions to address the subdivision layout and land use designations over the Epiq Estate. The current Concept Plan [refer **Plate 3**] has the subject land designated solely for residential land uses.

As the current Concept Plan provides for the residential use of the subject land, the provisions of the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017, Schedule 2, Clause 3B(f) as provided below prevail.

3B(f) the provisions of any environmental planning instrument or any development control plan do not have effect to the extent to which they are inconsistent with the terms of the approval of the concept plan.

Accordingly, despite the land containing a mixed zone, comprising the B1 – Local Centre zone over part of the land, the utilisation of the land for residential development under the Concept Plan prevailed.

Pursuant to the approved Concept Plan the subdivision of the land into three residential lots was approved under Development Application 2017/204 on 28 September 2017. The subdivision was ultimately registered in October 2019.

Development consent (DA 2020/618) was subsequently issued for an integrated multi-dwelling development comprising of 25 residential dwellings on 28 May 2021. A review of the development feasibility has identified the need to progress the subdivision of land into smaller allotment capable of single or dual occupancy development.

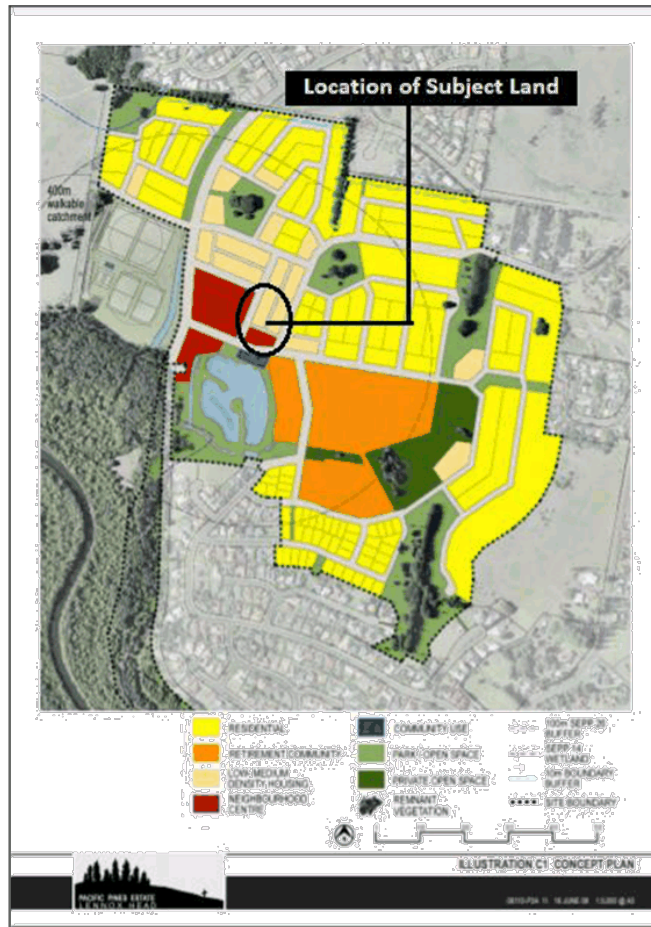


Plate 2: Originally Approved Concept Plan (MP07_0026)

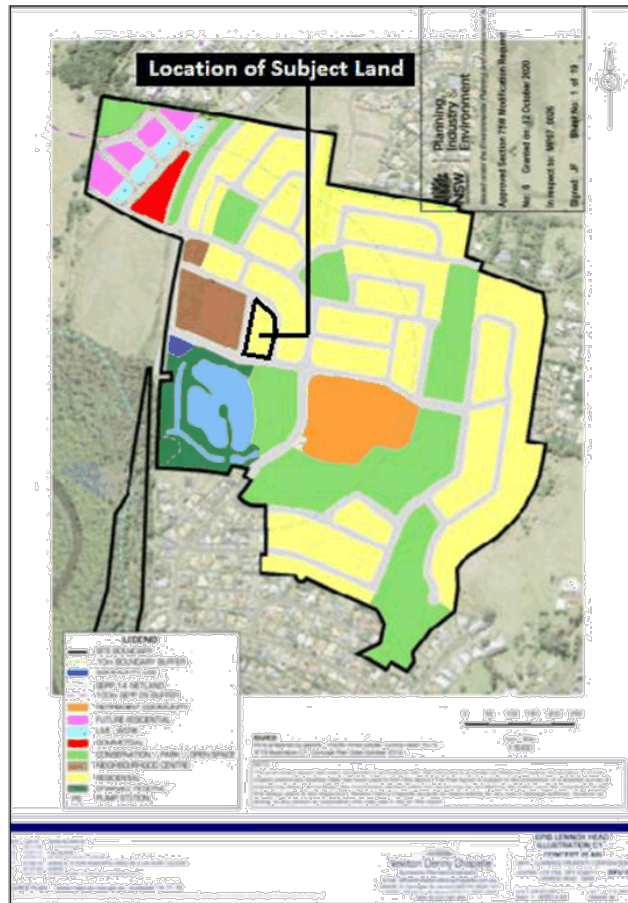


Plate 3: Originally Approved Concept Plan [MP07_0026]

2. Planning Proposal

Part 1: Objectives and Intended Outcomes

The objectives of this planning proposal are to rectify the inconsistency between the current land zoning and minimum lot size on the subject lands and the Concept Plan approval which also applies in this instance.

This proposal will enable increased diversity in residential lot sizes on the land. The proposal seeks to achieve this by:

- Amending the Minimum Lot Size Map (LSZ) of the Ballina Local Environmental Plan 2012 to apply the 450m² lot size standard to Lots 36-38 DP 1257681.
- Amending the Land Zoning Map (LZN) of the Ballina Local Environmental Plan 2012 to rezone the portion of Lot 38 DP 1257681 zoned B1 - Local Centre to R3 - Residential Medium zone consistency with the balance of the land;

The outcomes of this planning proposal will be to:

- Provide increased flexibility in the use of residential land.
- Provide for increased diversity in housing forms.

Part 2: Explanation of Provisions

2.1 Land to Which this Planning Proposal Applies

This planning proposal relates to Lots 36-38 DP 1257681, located at 2, 6 & 12 Anchorage Avenue, Lennox Head, as shown on the Deposited Plan provided within **Attachment 1** and in Plate 1 of this report.

The current zoning of the land is provided within **Plate 4**.

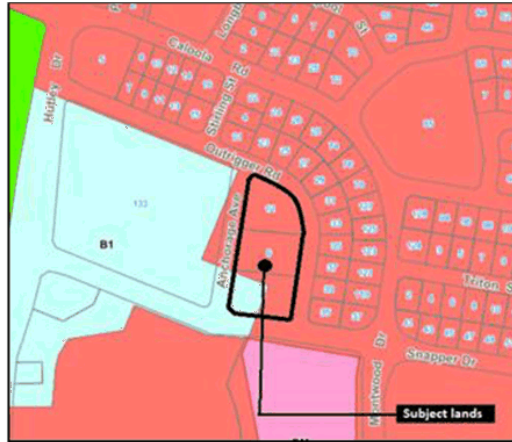


Plate 4: BLEP land zoning
 [Source: Intramaps 2021]

The minimum lot size applicable to the subject lands is shown in **Plate 5** below.

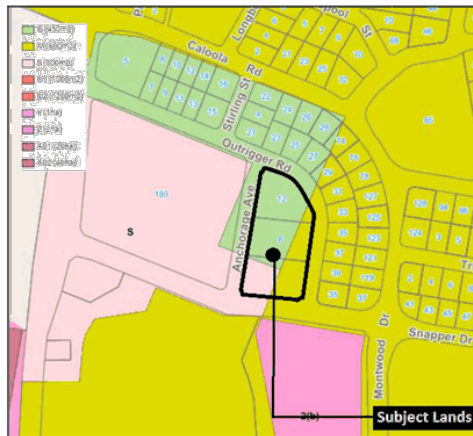


Plate 5: BLEP minimum lot size
 [Source: Intramaps 2021]

2.2 Explanation of Provisions

The objective of this Planning Proposal is to facilitate the future subdivision of the nominated lands and to remove any inconsistency between the Ballina Local Environmental Plan 2012 provisions and the Concept plan approval which also applies to the lands.

8.1 LEP Amendment Request - Anchorage Avenue, Lennox Head

To progress the subdivision for the land holdings listed earlier in **Table 1**, an amendment to the Ballina Local Environmental Plan 2012 is required.

This planning proposal seeks to amend the Minimum Lot Size [LSZ] Map of the Ballina Local Environmental Plan 2012 to apply the 450m² minimum lot size standard to Lots 36-38 DP 1257681. This proposal also includes the rezoning of the B1 Local Centre land zoning currently on Lot 38 DP 125681 to the R3 - Medium Density Residential zone, being commensurate to the balance of the lot.

The amendment of the Minimum Lot Size [LSZ] Map will have the effect as shown in the maps below.

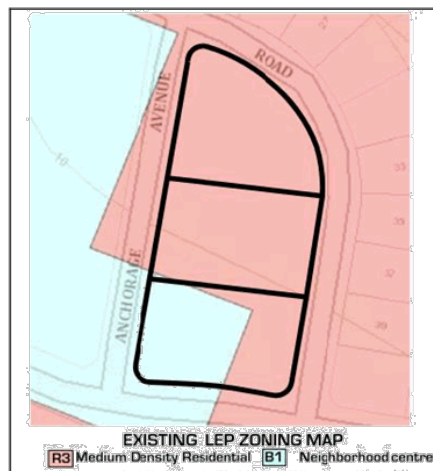


Plate 6: Current LEP Zoning Map

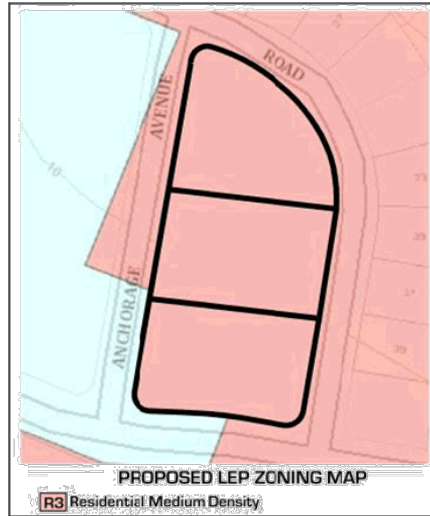


Plate 7: Proposed LEP Zoning Map



Plate 8: Current LEP Minimum Lot Size Map

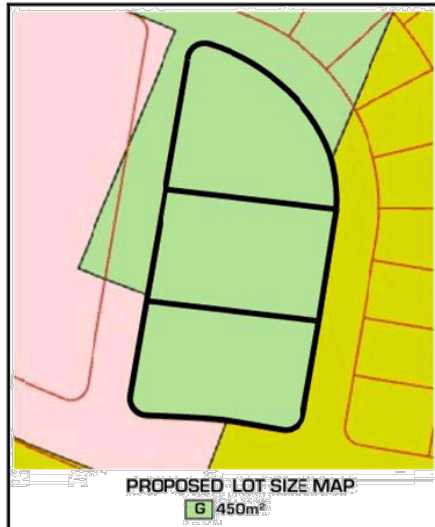


Plate 9: Proposed LEP Minimum Lot Size Map

Part 3: Justification

Section A – Need for the Planning Proposal

1. 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 a local strategic planning statement, strategic study or report.

The proposal is however generated through the inconsistency between the overarching Concept Plan approved for the Epiq Estate and the land zoning and minimum lot size provisions under the Ballina Local Environmental Plan. In essence, the proposal provide for a house-keeping amendment to the Ballina Local Environmental Plan to address the inconsistency.

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

Yes. In order for a Development Application to be considered for the subdivision of the land to create residential housing as envisaged under the Concept plan approved for the subject lands, a Planning Proposal is the appropriate and only mechanism to integrate these changes to the Ballina LEP 2012.

Section B – Relationship to Strategic Planning Framework

3. 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)?

North Coast Regional Plan 2016

Lennox Head is identified in the North Coast Regional Plan within the Far North Coast subregion.

The Regional Plan (under and Direction 23 Increase housing diversity and choice) encourages housing diversity through the following action:

'23.1 Encourage housing diversity by delivering 40 per cent of new housing in the form of dual occupancies, apartments, townhouses, villas or dwellings on lots less than 400 square metres, by 2036'.

This proposal supports the achievement of the above Direction and Action of the North Coast Regional Plan.

4. 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 Growth Management Strategy 2012 (BSGMS) - The Ballina Shire Growth Management Strategy 2012 (BSGMS) provides the strategic planning context for urban development in Ballina Shire. The BSGMS includes the following relevant 'Growth Management Principles':

- Facilitate greater housing choice through an adequate mixture of dwelling types.
- Facilitate opportunities for well-designed higher density residential development in central areas, within proximity to community and commercial facilities.

We submit the Planning Proposal is consistent with Council's BSGMS.

Lennox Head Structure Plan 2004 - The subject land falls within the provisions of the Structure Plan which apply to the Pacific pines (now Epiq Estate) area. The key actions for the land prescribed under the Structure Plan are;

- that any future development of the site comply with the development principles documented in Section 2.3.3,

(Note: in this instance, the proposal seeks to provide a variety of housing types and densities through the scope to provide for single dwellings and dual occupancy dwellings based on the proposed subdivision design and minimum lot size.

- that the revised layout include the community and commercial infrastructure envisaged in the current endorsed layout; and
- that the revised layout include opportunities for the provision of the southern extension of Hutley Drive as outlined in Section 4.8.3.

The Lennox Head Structure Plan envisaged residential development on the subject land. Consequently, the structure plan informed the initial Concept plan for Epiq Estate, and therefore the subject lands in October 2008. The planning proposal is generally consistent with Council's Lennox Head Structure Plan.

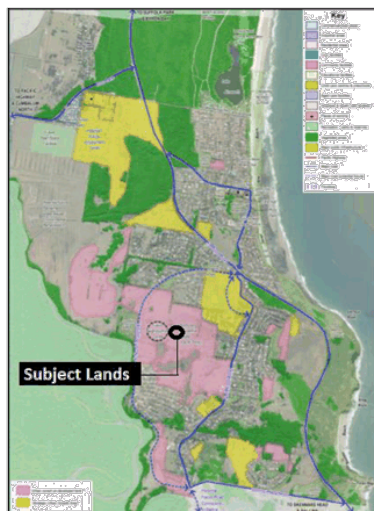


Plate 10: Ballina Shire Growth Management Strategy 2012

Ballina Shire Council Community Strategic Plan 2013-2023 – We submit the proposal is considered to be consistent with the relevant Prosperous Economy and Engaged Leadership outcomes contained within Council's Community Strategic Plan 2017 – 2027.

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

Comment: The proposal is considered to be consistent with applicable State Environmental Planning Policies (SEPPs). An assessment of the Planning Proposal against the relevant SEPP's is provided within **Attachment 3**.

6. Is the Planning Proposal consistent with applicable Ministerial Directions (s. 9.1 directions)?

Comment: Yes. A number of Section 9.1 directions are relevant to the planning proposal. An assessment of the Planning Proposal against the relevant S9.1 Ministerial Directions is provided within **Attachment 4**.

Section C – Environmental, Social and Economic Impact

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

No.

The Epiq Lennox estate has been the subject to detailed ecological assessments as part of the Major Project (MP07_0026). As a result of the environmental assessments completed, the development is subject to both a Conservation Zone Management Plan and an Environmental Management Plan.

In specific regard to the land area, the land has been subject to preliminary earthworks associated with the approved Stage 1B and Release 4 and as such does not contain any vegetation cover. In summary, the ecological value of the land area subject to this application comprises:

- The site is heavily disturbed and native vegetation has been historically modified by clearing, disturbance and grazing.
- No compensation is required for the loss of improved pasture (the majority of the study area).
- There is no Habitat for threatened fauna at the site.

As the site is identified for residential development under the Concept plan approval and has development consent in place for the subdivision to create the three existing allotments, there are no likely impacts on critical habitat, threatened species or ecological communities or their habitat arising as a result of the proposed change of the land zoning and minimum lot size standard.

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

Potential environmental impacts in relation to the development have been identified and addressed below:

a. Soils - Contamination

Detailed assessments have been completed for Releases 2 & 3 together with the neighbourhood supermarket site which directly adjoins the subject lands. The assessments have identified no land contamination issues with the other Release areas and the neighbourhood supermarket site, detailed soil analysis has not been undertaken in this instance. This position was endorsed under DA 2020.618 for the multi-dwelling housing development.

b. Bushfire

The subject land is not identified as being on bushfire prone land on Council's online public mapping system as illustrated in **Plate 11** below.

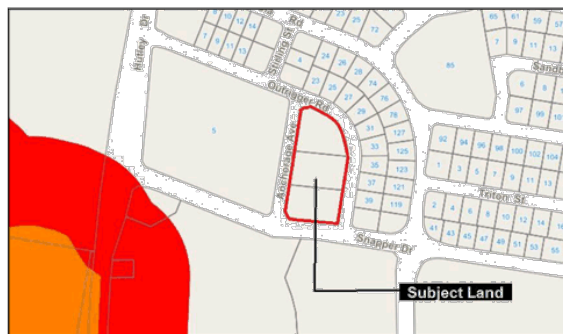


Plate 11: Ballina Shire Council Bushfire Hazard Mapping
[Source Intramaps August 2021]

c. Acid Sulfate Soils

The land upon which the works is proposed is mapped as Class 5 as illustrated in **Plate 5**, hence consent is thus not required unless works occur within 500m of Class 1, 2 or 3 land that is below 5m AHD by which the watertable is likely to be lowered. As the land is located less than 500m from Class 2 mapped soils, the proposed development will trigger the consent provisions in this instance & will be subject to Councils standard acid sulfate soil management plan for minor works.

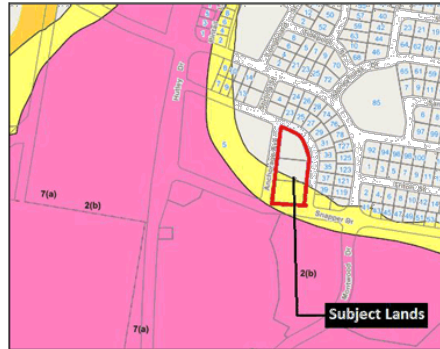


Plate 12: Ballina Shire Council ASS Mapping

9. How has the Planning Proposal adequately addressed any social and economic effects?

The Concept plan which applies to the subject lands provides for the use of the lots for residential purposes. The amendment involves addressing the current inconsistency between the land zoning and minimum lot size applying to the land. This Planning Proposal will facilitate the subdivision of the land and therefore provide for increased diversity of housing forms on the land.

The planning proposal is considered to provide benefits to the community via increased housing choice in close proximity to retail and community infrastructure.

As such, social and economic outcomes resulting from the proposal are considered to be positive.

Section D – State and Commonwealth Interests

10. Is there adequate public infrastructure for the Planning Proposal?

The site is currently serviced by reticulated sewer and water services as outlined below.

- **Potable and Recycled Water Reticulation** – Water connections will be supplied to all dwellings with connection to the greater Lennox Head reticulation network within Anchorage Ave.
- **Sewer Reticulation** – The subject land is connected to the reticulated gravity sewer network.

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

To be completed following receipt of the Gateway determination. In this respect, we note Council will seek the views of State and Commonwealth public authorities pursuant to the terms of the Gateway Determination.

Part 4: Mapping

The following changes are proposed to the mapping within the Ballina Local Environmental Plan 2012.

1. **Land Zoning Map (Sheet LZN_005D)** – Application of a R3 – Medium Density Residential Zone over the existing B1 – Neighbourhood Centre Zone on Lot 38 DP 1257681 in accordance with **NDC Plan 2**.
2. **Lot Size Map (Sheet LSZ_005D)** – Apply the minimum lot size of 450m² for Lots 36, 37 & 38 DP 1257681 in accordance with NDC Plan 2.

Attachment 2 of this Planning Proposal includes a locality plan and proposed LEP mapping.

Part 5: Community Consultation

It is expected that the Planning Proposal will be exhibited for a period of 28 days in accordance with standard procedures.

Part 6: Project Timeline

Plan Making Step	Estimated Completion
Council Resolution	TBC
Gateway Determination	TBC
Government Agency Consultation	TBC
Public Exhibition	TBC
Submissions Assessment	TBC
Council adopt Planning Proposal	TBC
Submission of Endorsed LEP to DPIE for finalisation	TBC
Anticipated date plan is made (if delegated)	TBC
Forwarding of LEP Amendment to DPIE for notification (if delegated)	TBC