



Planning Proposal – April 2014

Lot 12 DP 813210, 16 Tara Downs, Lennox Head

Planning Proposal – April 2014 (14/13001)
Lot 12 DP 813210 16 Tara Downs, Lennox Head

Council / Gateway

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Planning Proposal – April 2014 (14/13001)
Lot 12 DP 813210 16 Tara Downs, Lennox Head

Council / Gateway

INTRODUCTION

Summary of Planning Proposal

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

Lot 12 is owned by The Uniting Church in Australia and has an area of 1.441 hectares and two frontages to Tara Downs. There are no building improvements located on Lot 12 which is vacant land

Lot 12 is currently zoned RU1 Primary Production under the provisions of the Ballina Local Environmental Plan 2012 (BLEP 2012) as shown in Appendix 1.

It is proposed that a R2 Low Density Residential zone together with minimum lot size requirements be applied to Lot 12. The determination of the applicable minimum lot size will be made following the submission of environmental assessments.

Planning Context

Council Resolutions – Planning Proposal

Council, at its Ordinary Meeting held on 27 March 2014, considered a request to amend the Ballina Local Environmental Plan 2012 (Ballina LEP 2012) from Mr D Foley. The request sought an amendment to the Ballina LEP 2012 to rezone the subject site from RU1 – Primary Production to R2 – Low Density Residential.

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

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

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

Site History

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

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

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

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Consistency with Strategic Planning Policy

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

Far North Coast Regional Strategy (FNCRS)

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

Ballina Shire Growth Management Strategy 2012 (GMS)

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

The proposal is considered to be consistent with the GMS.

Lennox Head Structure Plan (LHSP)

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

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

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

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

Ballina Local Environmental Plan (LEP) 2012

Lot 12 is zoned RU1 Primary Production under the provisions of the BLEP 2012. Previously under the Ballina LEP 1987, the subject land was zoned 1(b) Rural (Secondary Agricultural Land) zone.

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

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It is proposed to rezone Lot 12 to a R2 Low Density Residential zone (Appendix 1 of the planning proposal). The surrounding R2 Low Density Residential zoned lots have a minimum applicable lot size of 600m².

The minimum lot size considered appropriate for Lot 12 is yet to be determined. A determination regarding the minimum proposed lot size will be made following an affirmative Gateway determination and consideration of environmental assessment information.

The further site assessment envisaged will address potential subdivision layout and building envelopes having regard to bush fire and land slip constraints as well as buffering requirements to adjoining vegetation communities and for mosquito control.

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

Bushfire Prone Land

Lot 12 is partly designated as Category 2, Bushfire Prone Land and / or within the 100 metre buffer area to such land. Pursuant to Clause 62 and Section 117 of the Environmental Planning and Assessment Act, 1979, (EPA Act), Council is required to consult with the Rural Fire Service (RFS) in conjunction with the LEP amendment process. It is envisaged that this consultation will occur following receipt of additional information from the applicant and an affirmative Gateway determination from the NSW P&I.

Key Site Issues

Key planning issues identified in relation to the proposal to date include the following:

Key Issue	Summary
Aboriginal cultural issues	The proponent will be required to undertake a due diligence assessment and AHIMS search to determine whether there are relevant Aboriginal cultural issues that warrant further investigation.
Bushfire impacts	Part of the site is classified as Category 2 Bushfire Prone Land or within the 100 metre buffer to such land. A bushfire threat assessment report and consultation with the Rural Fire Service will be required.
Contamination assessment	The degree to which the site has been contaminated by current or past land uses will require further assessment. The site is located within 100 metres of the disused <i>Meaneys</i> cattle dip site.
Ecological impacts	The subdivision of the land has the potential to impact fauna and flora communities located within the open space land to the north, east and south. In addition flora and fauna impacts on Lot 12 are also required to be assessed. An assessment undertaken in 2008 found Hairy Joint Grass located on this site. This species is a designated as a vulnerable and a threatened plant species under applicable legislation.
Geotechnical issues	Approximately half of the western most section of the site is designated as being susceptible to landslip on maps produced by the NSW Department of Mineral Resources. The susceptibility of the land to landslip will require further assessment and may have implications

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Key Issue	Summary
	for the minimum lot size proposed as well as future building requirements.
Mosquito impacts	Lot 12 is located within a high risk mosquito management area. Further examination of this issue will be required and may have impacts on minimum lot sizes proposed and buffer areas required to adjoining vegetated areas.
Stormwater management	The land is located within 100 metres of a SEPP 14 wetland and within close proximity to a SEPP 26 Littoral Rainforest. For these reasons stormwater management issues will require examination and assessment particularly from a water quality perspective.
Traffic impacts	The proposed subdivision is unlikely to result in any adverse traffic volume impacts in Tara Downs. The proponent will however be required to consider the location of an appropriate access point to Tara Downs and locate this so as to maximise traffic safety. A single access point to service all proposed lots is considered to be the most desirable outcome.
Visual amenity impacts	The proponent will be required to consider potential view loss issues from properties fronting Tara Downs. This issue appears to be resolvable in the context of considering appropriate building envelopes and minimum applicable lots sizes.

The proponent will be required to address the above issues together with any other matters identified following Gateway determination and prior to the planning proposal being subject to community consultation.

PART 1 – OBJECTIVES & INTENDED OUTCOMES

The objective of this planning proposal is to rezone the subject land to a low density residential zone. It is also proposed to set an appropriate minimum lot size to enable subdivision of the land based on a further assessment of key issues discussed above.

The amendment to the Ballina LEP 2012 as proposed is considered to be consistent with applicable local and state planning policies. Subject to satisfactory information being provided by the proponent as deemed necessary by Council and government agencies.

PART 2 – EXPLANATION OF THE PROPOSAL

This planning proposal relates to vacant land described as Lot 12 DP 813210, 16 Tara Downs, Lennox Head. The lot is currently zoned RU1 Primary Production pursuant to the provisions of the Ballina LEP 2012. Photographs of the subject site are contained within Appendix 3.

This planning proposal seeks to rezone the subject land to a R2 Low Density Residential zone to reflect the urban nature of adjoining land to the west.

An amendment to the Minimum Lot Size Map under the Ballina LEP 2012 is also proposed. In relation to the Minimum Lot Size Map, the RU1 zoned area is not currently subject to a minimum

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lot size requirement. A minimum 40ha minimum lot size is however specified on the Minimum Lot Size Map for RU1 zoned land in close proximity to the subject land.

The proponent has not nominated a minimum lot size at this stage. Whilst it is the case that a 600m² minimum lot size is applicable to adjoining R2 zoned land such a size is considered inappropriate for the subject land due to applicable environmental constraints. A minimum lot size of 1200m² may be a more appropriate outcome following more detailed environmental assessment information being submitted and considered.

Lot 12 is partly designated as Bush Fire Prone Land and is located within a high risk mosquito management area.

Lot 12 is not within the 100 metre buffer area to the nearby SEPP 26 littoral rainforest located to the east. Notwithstanding this the subdivision of the land has the potential to impact fauna and flora communities located within the open space land to the north, east and south. This land is also within 100 metres of a SEPP 14 wetland. For this reason an assessment of flora and fauna impacts on and off site will be required following an affirmative Gateway determination.

Having regard for the above, it is proposed that the subdivision potential of the land and the associated minimum lot size standard will be determined following submission of further technical details before public exhibition.

Water, sewerage, electricity and telephone services are available within Tara Downs and are capable of being extended to service a subdivision of lot 12.

PART 3 - JUSTIFICATION

Section A - Need for the Planning proposal

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

Lot 12 has been identified within the Lennox Head Structure Plan as *possibly suited to future development subject to detailed environmental assessment*. Lot 12 has also been designated as a strategic urban growth area in accordance with the Strategic Urban Growth (SUG) Map which forms a part of BLEP 2012.

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

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

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

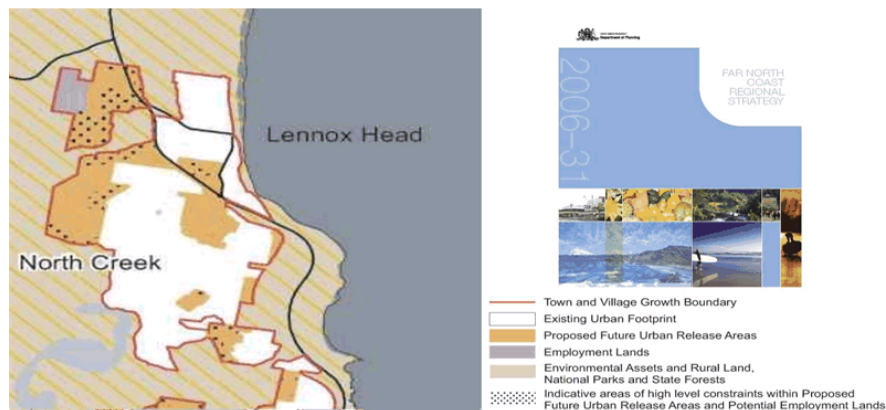
Section B - Relationship to the Strategic Planning Framework

3. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The proposal is consistent with the FNCRS, which provides the regional framework for the consideration of rezoning land for urban purposes in Ballina Shire. The FNCRS identifies the

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subject land as being within the existing urban footprint as shown in the 'Town & Village Growth Boundary Map – Sheet 3, as shown in the excerpt below).



The planning proposal will facilitate the future subdivision of Lot 12. Utility infrastructure is available within Tara Downs to service the subdivision of Lot 12 and no capacity issues are anticipated. The rezoning will provide additional housing opportunities for the projected regional population increase within the existing urban footprint area of Lennox Head. This is consistent with the FNCRS regional framework.

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

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

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

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

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The planning proposal is also consistent with the following key local plans:

The Ballina LEP 2012

The subject land is currently zoned RU1 Primary Production under the provisions of the Ballina LEP 2012. The primary zone objectives are:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To maintain the rural, cultural and landscape character of the locality.*
- *To enable development that is compatible with the rural and environmental nature of the land.*
- *To ensure that there is not unreasonable or uneconomic demands for the provision of public infrastructure.*

The land given its location, current use and site area is not well suited to agricultural use. This zone relates to the historic circumstances around the creation of Lot 12.

The objectives of the R2 low density residential zone are;

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide for development that is compatible with the character and amenity of the surrounding neighbourhood.*
- *To provide for development that meets the social and cultural needs of the community.*
- *To encourage development that achieves the efficient use of resources such as energy and water.*

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

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

Further assessment of environmental matters such as bushfire protection, land slip constraints, and mosquito control issues as well as visual amenity impacts will determine the number of additional lots that the site can sustain.

Ballina Shire Growth Management Strategy 2012 (GMS)

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

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

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

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

Yes, the proposal is generally consistent with applicable State Environmental Planning Policies (SEPP's). The relevant SEPP's are as follows:

SEPP Title	Compliance of Planning Proposal
SEPP (Rural Lands) 2008	Lot 12 is currently zoned RU1 Primary Production. The rezoning of this lot to residential will not be prejudicial to agricultural land due to size of the Lot 12 (1.441ha). Amending the BLEP 2012 to create a residential zoned lot will not result in increased land use conflicts with adjoining agricultural land as there is no agricultural land adjoining. Therefore it is considered that the planning proposal is justifiably inconsistent with the provisions of this SEPP. Ballina LEP 2012 nominates the subject land as a Strategic Urban Growth Area and it is located within the existing urban footprint of Lennox Head by the FNCRS.
SEPP 14 – Coastal Wetlands	Lot 12 is not affected by this SEPP. A SEPP 14 wetland is however located within 100 metres of the land.
SEPP No. 26 - Littoral Rainforests	Lot 12 is not located within the 100m buffer of a SEPP 26 Littoral Rainforest.
SEPP No. 55 - Remediation of Land	In accordance with Clause 6(1) of this SEPP, a change of use of the land to residential cannot occur until the planning authority has considered whether the land is contaminated. Additional information will be required from the applicant to determine the contamination status of the site.
SEPP No. 71 - Coastal Protection	The planning proposal is consistent with the provisions of this SEPP and supports the intent of the SEPP. The subject land is located within the coastal zone. However, it is well separated from the coastal strip and public lands. The rezoning to enable residential development is consistent with the objectives of the SEPP.

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

A Section 117 Direction checklist for the planning proposal is contained in Appendix 2.

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?

Preliminary assessment of the environmental characteristics of Lot 12 has identified the land as being previously substantially cleared. It contains a variety of grass species and a small number of trees.

Lot 12 is in close proximity to SEPP 14 Coastal Wetland and SEPP 26 Littoral Rainforest. Consequently, this planning proposal will require the submission of additional information to assess the significance of likely impacts on flora and fauna species located on adjoining land as well as on the subject lot. This information will also assist in determining the minimum lot sizes appropriate for Lot 12. It is proposed that this material will be required and assessed following Gateway determination should the matter proceed.

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

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

- Slope stability;
- Sensitive vegetation;
- Bushfire hazard;
- Drainage; and
- Mosquitoes.

These and other issues have not been addressed in the information prepared by the proponent that accompanies the LEP amendment request. These issues will require additional information to be prepared and submitted by the proponent, following a positive Gateway determination, prior to agency consultation requirements and public exhibition.

Lot 12 is located adjacent to existing residential lots on its western side. As this land is already developed residential zoned land, potential amenity impacts will also be required to be addressed through minimum lot size controls and consideration of likely building envelopes.

Consideration of Aboriginal cultural heritage issues as they affect Lot 12 is also required. In this respect the proponent should as an initial step undertake a due diligence assessment in accordance with the guidelines issued by the Office of Environment and Heritage.

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

The proposed rezoning of the land does not raise any significant social implications, although further assessment in relation to neighbourhood amenity will be required.

Utility services are available in Tara Downs and are capable of being extended to service the future subdivision of Lot 12.

Section D - State and Commonwealth interests.

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

Infill development on the subject land can be serviced with the full range of infrastructure currently located within Tara Downs.

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

Consultation will be undertaken with relevant agencies following the Gateway determination stage of the LEP amendment.

PART 4 - MAPPING

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

- Map 1 – illustrates the location of the subject land – Site Identification Map;
- Map 2 – Current Land Zoning Map BLEP 2012
- Map 3 – Ballina LEP 1987 Land Zoning Map
- Map 4 – Proposed Land Zoning Map
- Map 5 – Strategic Urban Growth Area Map (SUGA Map). The SUGA map also reintroduces a buffer area located to the north - east of the subject site which was deleted in error by Ballina LEP 2012 Amendment 1.

PART 5 – COMMUNITY CONSULTATION

Council has not undertaken any community consultation concerning this planning proposal. It is anticipated that this will occur as part of the formal exhibition of the planning proposal or as directed through the Gateway determination process.

PART 6 – PROJECT TIMELINE

Plan Making Step	Estimated Completion (Before)
Gateway Determination (Anticipated)	May 2014
Completion of Technical Assessment	July 2014
Government Agency Consultation	August 2014
Public Exhibition Period	September 2014
Public Hearing (if required)	September 2014
Submissions Assessment	October 2014
RPA Assessment of Planning Proposal and Exhibition Outcomes	October 2014
Submission of Endorsed LEP to DP&I for Finalisation	November 2014
RPA Decision to Make the LEP Amendment (if delegated)	November 2014
Forwarding of LEP Amendment to DP&I for Notification (if delegated)	December 2014

Appendices

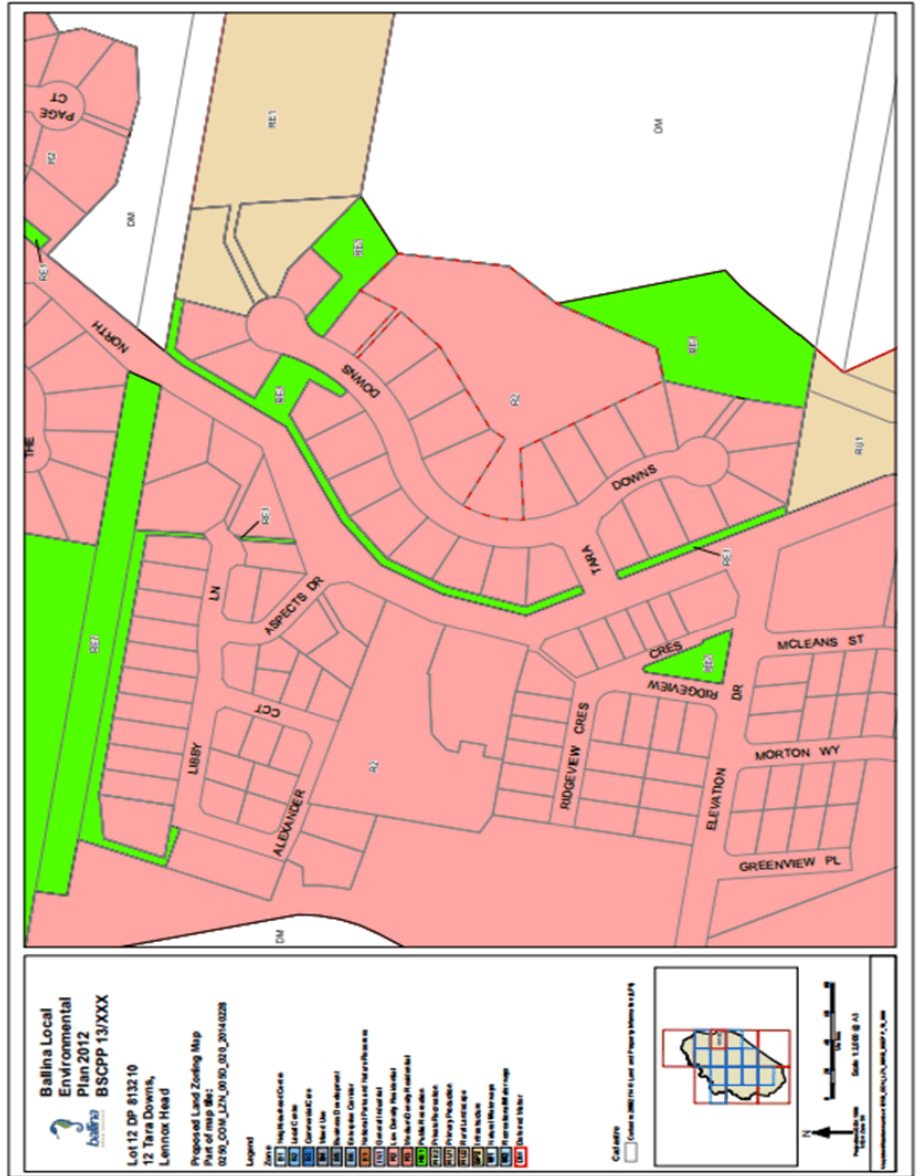
Appendix 1 – Maps Locality Plan



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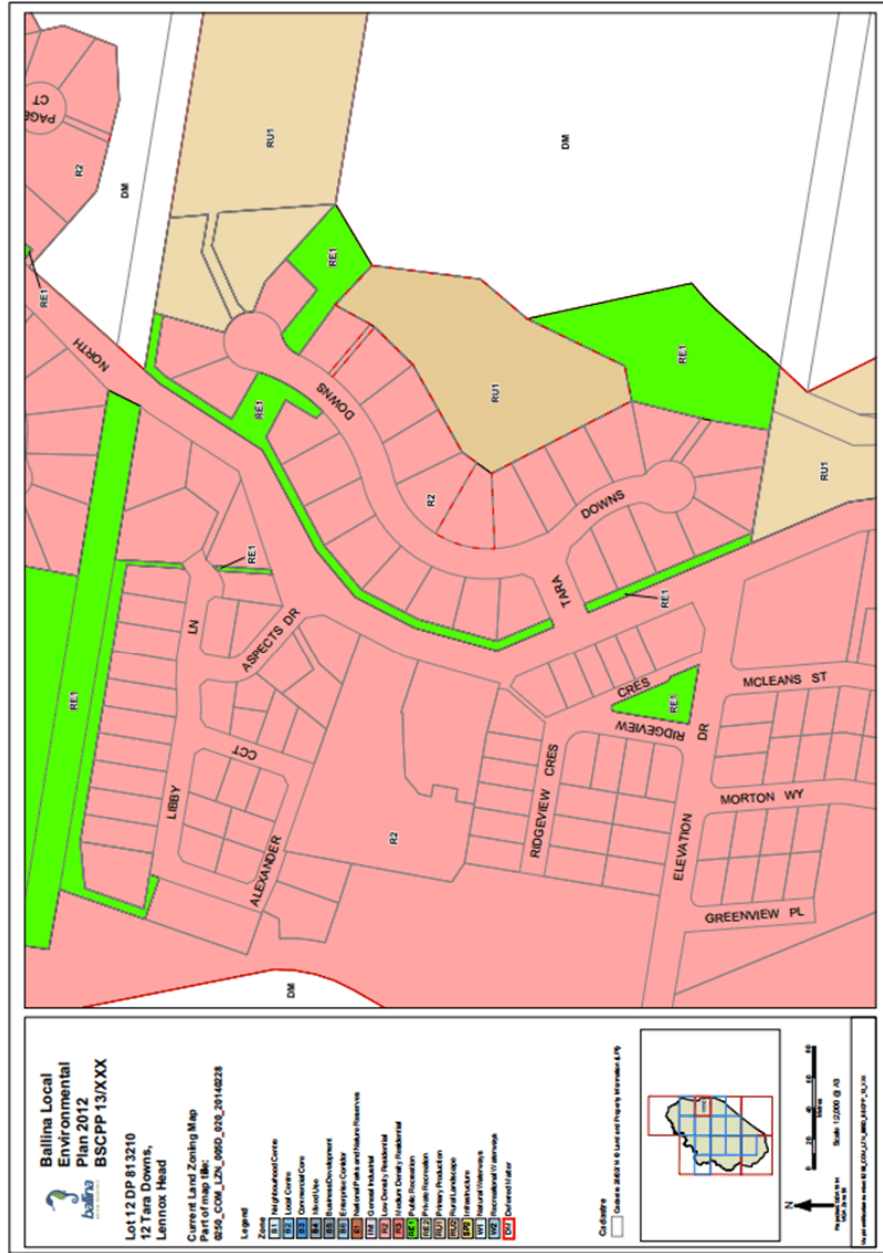
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Proposed Land Zoning Map



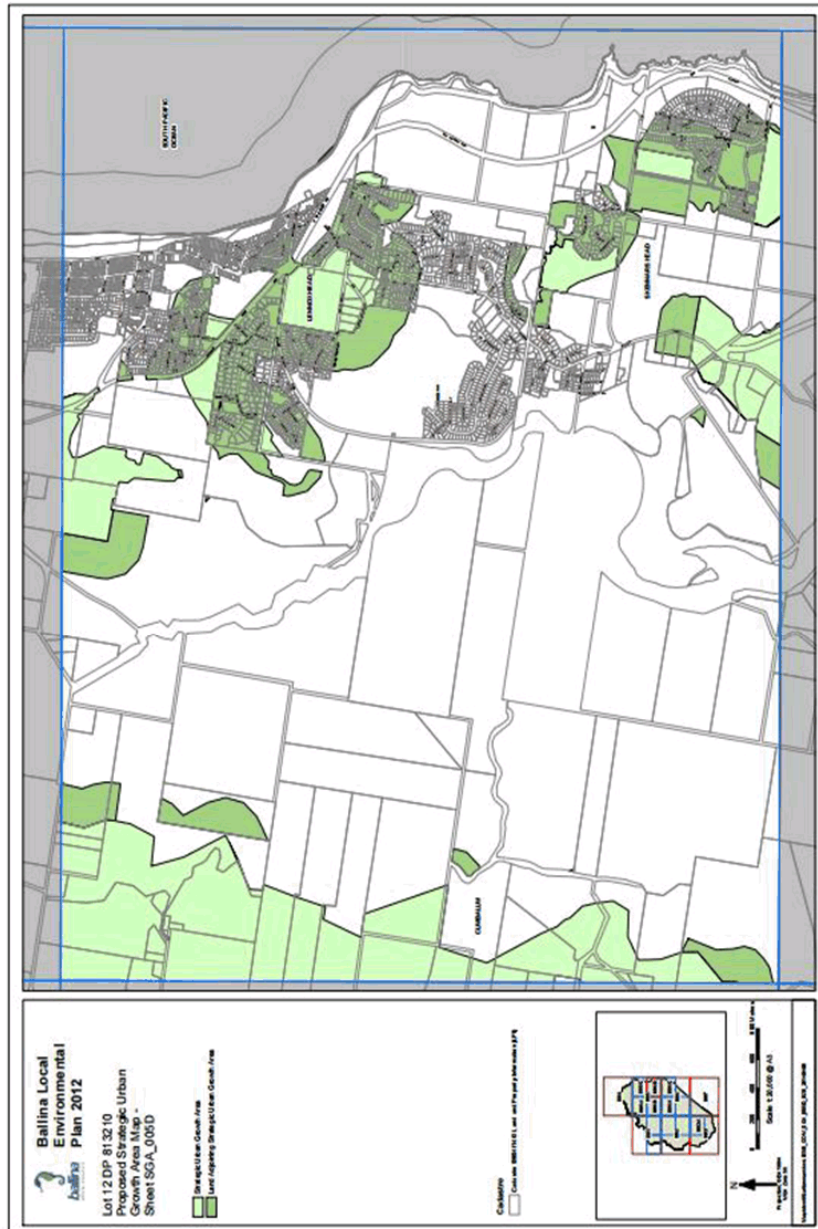
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Current Land Zoning Map Ballina LEP 2012



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Ballina LEP 2012 – Strategic Urban Growth Area Map



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Appendix 2 - Section 117 Direction Checklist

Section 117 Direction Checklist	
Planning Proposal – Tara Downs, Lennox Head	
DIRECTION NO.	Compliance of Planning Proposal
1. Employment and Resources	
1.1 Business and Industrial Zones	Does not apply to planning proposal.
1.2 Rural Zones	<p>The planning proposal is considered to be justifiably inconsistent with this Direction. The proposed residential area is within the urban footprint identified in the Far North Coast Regional Strategy and in the local urban planning framework being designated as a Strategic Urban Growth Area by Ballina LEP 2012.</p> <p>The subject lot is not considered of sufficient size to sustain agricultural activities. Consolidation with adjoining lots is not possible as the adjoining lot to the east and south is Council open space land. Adjoining land to the west is an existing residential subdivision.</p> <p>The planning proposal is considered of minor significance as the subject lot has an area of 1.44 hectares which is significantly below the 40 hectare minimum applicable to RU1 zoned land elsewhere in Ballina Shire. The lot area is well below that required to sustain a viable agricultural land use. Therefore the proposal will result in a negligible loss to the agricultural production value of the land in the locality.</p>
1.3 Mining, Petroleum Production and Extractive Industries	Does not apply to planning proposal.
1.4 Oyster Aquaculture	Does not apply to planning proposal.
1.5 Rural Land	<p>The planning proposal is considered to be justifiably inconsistent with this Direction. The proposed residential area is within the urban footprint identified in the Far North Coast Regional Strategy and in the local urban planning framework being designated as a Strategic Urban Growth Area by Ballina LEP 2012.</p> <p>The table in Section B5 of this report addresses the Planning Principles contained in State Environmental Planning Policy (Rural Lands).</p>
2. Environment and Heritage	
2.1 Environmental Protection Zones	Does not apply to planning proposal
2.2 Coastal Protection	This planning proposal is consistent with this Direction. The proposal is considered to be minor in nature. This site has the potential to be further subdivided. The subdivision potential of the land has not yet been determined. The proposal will not impact on public foreshore access due to physical separation from the coastal strip.
2.3 Heritage Conservation	There are no items of environmental or cultural heritage identified by Council within the site.
2.4 Recreation Vehicle Areas	Does not apply to planning proposal.
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	The planning proposal is consistent with this Direction. Water, sewerage, electricity and telephone are all available in the adjoining Tara Downs subdivision and can be extended to service a residential subdivision of the subject site.
3.2 Caravan Parks and Manufactured Home Estates	Does not apply to planning proposal.
3.3 Home Occupations	This planning proposal is consistent with this Direction as home occupations are permitted in the R2 Low Density residential zone without consent under the Ballina LEP 2012.
3.4 Integrated Land Use and Transport	The planning proposal is consistent with this Direction as the land is identified in the urban footprint of the Far North Coast Regional Strategy.
3.5 Development Near Licensed	Does not apply to planning proposal.

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Section 117 Direction Checklist	
Planning Proposal – Tara Downs, Lennox Head	
Aerodromes	
4. Hazard and Risk	
4.1 Acid Sulfate Soils	<p>The planning proposal is considered to be justifiably inconsistent with this direction given that nature and extent of the subject sites affectation by acid sulfate soils and the relatively minor significance of the proposal.</p> <p>The south eastern most section of Lot 12 (approx. 30% of the lot) is affected by Class 5 Acid Sulfate soils as shown on the Acid Sulfate Soils Planning Map.</p> <p>An acid sulfate soils study has not been prepared at this stage given the nature and extent of affectation. It is proposed that the acid sulfate soils study, if required by the Gateway determination, be prepared prior to exhibition of the planning proposal. The study would then be forwarded to the Director-General prior to undertaking community consultation in satisfaction of section 57 of the Act. This would then ensure that the planning proposal is consistent with this direction.</p>
4.2 Mine Subsidence and Unstable Land	Does not apply to planning proposal.
4.3 Flood Prone Land	Does not apply to planning proposal.
4.4 Planning for Bushfire Protection	The planning proposal is consistent with this Direction. The Rural Fire Service will be consulted during the formal consultation period, should an affirmative Gateway determination be received from the P&I. The applicant will be required to provide information regarding potential subdivision layouts and the provision of satisfactory planning for bushfire protection measures.
5. Regional Planning	
5.1 Implementation of Regional Strategies	The site is identified within the urban footprint of the Far North Coast Regional Strategy. Therefore, the proposal is consistent with this Direction.
5.2 Sydney Drinking Water Catchments	Does not apply to Ballina Shire.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	<p>The land is not identified within the <i>“Northern Rivers Farmland Protection Project - Final Recommendations, February 2005”</i> as either contiguous or non-contiguous farmland.</p> <p>The land is also identified as being within the <i>“town and village growth boundary”</i> by the Far North Coast Regional Strategy. In accordance with subclause (2), land identified within this boundary is excluded from the requirements of this Direction. Therefore, the provisions of this Direction do not apply to the subject land.</p>
5.4 Commercial and Retail Development	Does not apply to planning proposal.
5.5 Development in the vicinity of Ellalong Paxton and Millfield (Cessnock LGA).	Does not apply to Ballina Shire
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	Repealed
5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	Repealed
5.8 Second Sydney Airport: Badgerys Creek	Does not apply to Ballina Shire
6. Local Plan Making	
6.1 Approval and Referral Requirements	The planning proposal is consistent with this Direction in that it does not introduce any new concurrence or consultation provisions or any additional designated development types.
6.2 Reserving Land for Public Purposes	The planning proposal is consistent with this provision as it does not include creation, altering or reduction of land for public purposes.

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

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Appendix 3 – Photos of Site and Surround

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



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



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



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



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



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



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9.1 LEP Amendment Request - 16 Tara Downs, Lennox Head.DOC

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



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



Appendix 4 – Report to Council 27 March 2014 with resolution

9.2 LEP Amendment Request - 16 Tara Downs, Lennox Head

9.2 LEP Amendment Request - 16 Tara Downs, Lennox Head

Delivery Program Strategic Planning

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

Background

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

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

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

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

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

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

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

9.2 LEP Amendment Request - 16 Tara Downs, Lennox Head

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

Key Issues

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

Information

Site Assessment

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

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

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

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

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

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

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

9.2 LEP Amendment Request - 16 Tara Downs, Lennox Head

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

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

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

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

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

Site History

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

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

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

Far North Coast Regional Strategy 2005 (FNCRS)

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

Ballina Shire Growth Management Strategy 2012 (GMS)

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

The proposal is consistent with the GMS.

9.2 LEP Amendment Request - 16 Tara Downs, Lennox Head

Lennox Head Structure Plan (LHSP)

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

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

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

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

Ballina Local Environmental Plan 2012 (BLEP 2012)

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

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

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

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

9.2 LEP Amendment Request - 16 Tara Downs, Lennox Head

Sustainability Considerations

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

Legal / Resource / Financial Implications

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

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

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

Consultation

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

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

Options

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

9.2 LEP Amendment Request - 16 Tara Downs, Lennox Head

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

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

This is the recommended approach.

2. Defer or amend the planning proposal.

This approach is not recommended given:

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

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

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

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

RECOMMENDATIONS

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

Attachment(s)

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

9.1 LEP Amendment Request - 16 Tara Downs, Lennox Head.DOC

9.2 LEP Amendment Request - 16 Tara Downs, Lennox Head

LEP Amendment Request - 16 Tara Downs, Lennox Head

270314/1 RESOLVED

(Cr Ben Smith/Cr Sharon Cadwallader)

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

FOR VOTE - All Councillors voted unanimously.

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



Date: 31 January 2014
Our Ref: 13/445

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

Attention: Mr Matthew Wood

Dear Sir,

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

1. Introduction & Background

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

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

2. Description of Site and Surrounds

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

JOHN NEWTON & Sons M.B. Arch. TONY DENNY & Sons (Pty) Ltd M.B. Arch. DAMIAN CHAPPELLE B.S. Civ. Eng.
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Phone (02) 6622 1011 Fax (02) 6622 4088 Email office@newtondennychapelle.com.au
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The site slopes gently downward from west to east and forms part of the foot slope of the ridge upon which Tara Downs and North Creek Road are located

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

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

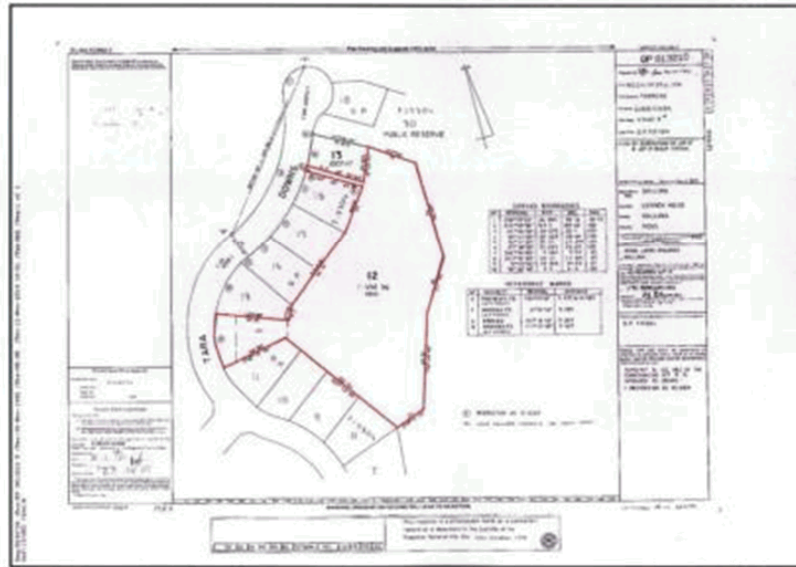


Plate 1: Deposited Plan - Lot 12 DP 813210 (Subject Land bordered in red).

3. Site History

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

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

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

4. Environmental and Planning Matters for Consideration

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

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

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

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

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

5. Current Planning Status

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

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

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

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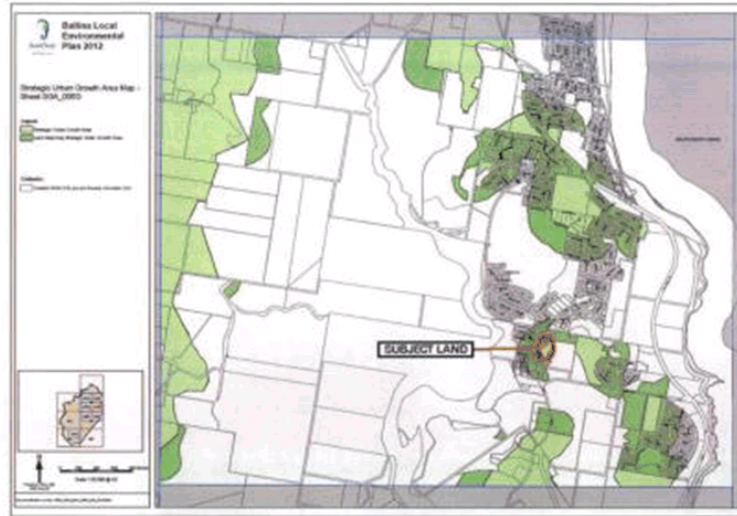


Plate 2: Ballina LEP Strategic Urban Growth Areas Map.

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



Plate 3: Far North Coast Regional Strategy.

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

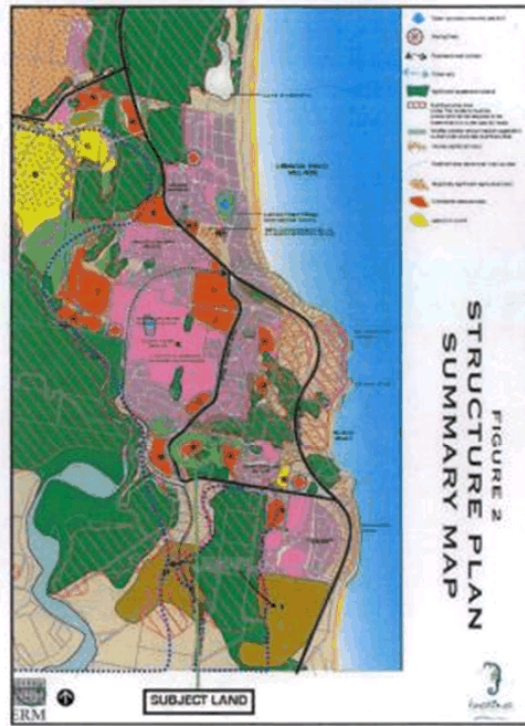


Plate 4: Lennox Head Structure Plan – Area P.

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



Plate 5: Ballina Shire Growth Management Strategy 2012.

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

6. Conclusion

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

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

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

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

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



DAMIAN CHAPELLE
Town Planner, BTP, CPP.

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