

*Planning Proposal 19/002*  
**» Lennox Rise, Lennox Head**

November 2020 (V2. Exhibition) 20/90849

**ballina**  
shire council

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Ballina Shire Council

# 1. Introduction

## 1.1 Summary of Planning Proposal

This planning proposal applies to Lot 1 DP 1070446, located at 78 Hutley Drive, Lennox Head (referred to as the site). The total site area is approximately 42.5 hectares. The site currently comprises rural land in terms of the characterisation of existing uses.

The land is zoned a mixture of R3 Medium Density Residential and RE1 Public Recreation zone under the terms of the Ballina Local Environmental Plan 2012 (BLEP 2012) and 7(a) Environmental Protection (Wetlands) zone and 7(l) Environmental Protection (Habitat) zone under the terms of the *Ballina Local Environmental Plan 1987*. The amendments to which this planning proposal relates apply only to parts of the land zoned R3 Medium Density Residential zone.

The land the subject of the proposal is shown on the Site Identification Map contained within Appendix 1.

The purpose of this planning proposal is to amend the Minimum Lot Size (LSZ) map of the *Ballina Local Environmental Plan 2012* to apply the 450m<sup>2</sup> minimum lot size standard to parts of subject land.

## 1.2 Council Resolutions

Council considered this planning proposal at its Ordinary Meeting held on 22 October 2020 and resolved as follows [Minute No. 221020/7]:

1. *That Council endorses the proposed amendments to the Ballina Local Environmental Plan 2012 as outlined in the planning proposal (BSCPP 19/002 – Lennox Rise) contained within Attachment 1 to apply a 450m<sup>2</sup> minimum lot size standard to parts of the Lennox Rise development area for submission to the Department of Planning and Environment for a Gateway determination.*
2. *That the Department of Planning, Industry and Environment be advised that Council does not wish to exercise its delegated plan making functions for this LEP amendment due to Council having a land holding adjacent to the land the subject of the planning proposal.*
3. *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.*
4. *That Council receive a further report on the matter following the completion of the public exhibition of the planning proposal.*

Council had previously considered the landholders planning proposal request at its Ordinary Meeting of 27 June 2019. In relation to this initial request, the Council resolved as follows [Minute No 270619/10]:

1. That Council invite the proponent to submit a subdivision plan that demonstrates the protection of the heritage rock wall identified as Item I67 in the Ballina Local Environmental Plan 2012.

2. *That upon receipt of a suitable subdivision plan from the proponent, that Council prepare a planning proposal to amend the minimum lot size map of the Ballina Local Environmental Plan 2012 to provide for residential subdivision with a minimum lot size of 450m<sup>2</sup> on parts of Lot 1 DP1070466.*
3. *That the draft planning proposal be reported to Council for endorsement prior to seeking Gateway determination.*
4. *That Council request a detailed plan showing the location and management approach for the heritage rock wall.*

A copy of the Council resolutions and associated Council reporting relating to the above is contained in Appendix 3.

### 1.3 Gateway Determination

A Gateway determination allowing the planning proposal to proceed to public exhibition, subject to conditions, was issued on 19 November 2020.

A copy of the Gateway determination is contained within Appendix 4.

## 2. Objectives & Intended Outcomes

The objectives of this planning proposal are to 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 450m<sup>2</sup> lot size standard to parts of Lot 1 DP 1070446, located at 78 Hutley Drive, Lennox Head.

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.

## 3. Explanation of the Proposal

### 3.1 Land to Which the Planning Proposal Applies

This planning proposal relates to Lot 1 DP 1070446, located at 78 Hutley Drive, Lennox Head, as shown on the Site Identification Map contained within Appendix 1 and in Figure 1 below.

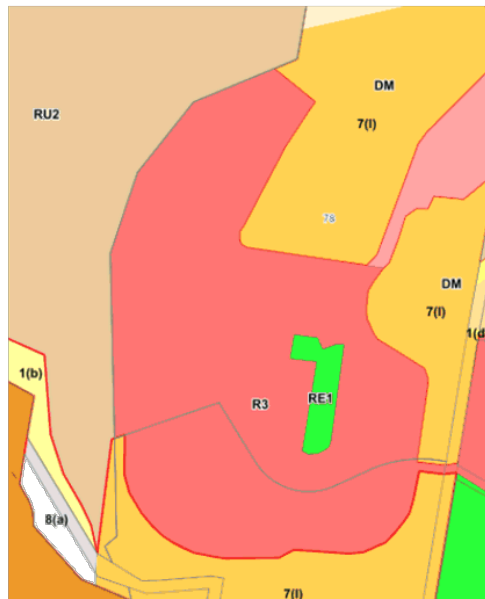
## 8.3 Planning Proposal - Lennox Rise, Lennox Head

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**Figure 1: The subject site, outlined in red**

The zoning of the land is shown in Figure 2 below.



**Figure 2: Zoning**

As noted above, the initial planning proposal request was considered by Council at its Ordinary Meeting held on 27 June 2019. The Council was concerned at that time with the proposed amended subdivision plan submitted to inform the planning proposal request. At issue was the protection of a heritage listed rock wall on the site, being item I67 of the BLEP 2012.

Following the Council's decision, the proponent submitted an amended subdivision plan which addressed the heritage values associated with the site. A copy of the revised subdivision plan is provided in Appendix 5.

**3.2 The Proposal – Explanation of Provisions**

This planning proposal seeks to amend the Minimum Lot Size (LSZ) Map of the Ballina Local Environmental Plan 2012 to apply the 450m<sup>2</sup> minimum lot size standard to parts of Lot 1 DP 1070446.

The planning proposal does not seek to amend the current zoning of the land.

A copy of the Council reports and associated Minutes of the Council associated with this matter are provided in Appendix 3.

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



**Figure 3. Existing and Proposed Minimum Lot Size Maps**

The proposed standard LEP Map Sheet amendment to the Minimum Lot Size map (LSZ\_005D) is provided in Appendix 1.

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

**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 the appropriate and only mechanism to integrate these changes into the Ballina LEP 2012.

### 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)?**

North Coast Regional Plan 2016

Lennox Head is identified in the 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.

**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 2013-2023

The proposal is considered to be consistent with the following Prosperous Economy and Engaged Leadership outcomes contained within Council's Community Strategic Plan 2017 - 2027:

REF:	OUR OUTCOMES AND WHAT COUNCIL WILL DO	WHAT THE BENEFITS WILL BE
PE1	<b>WE ATTRACT NEW BUSINESS AND VISITORS</b>	
PE1.1	Promote our area as an attractive place to visit and live	Enhanced experiences for residents and visitors Increased population and visitation growth
PE1.2	Provide opportunities for new business	Economy expands over time
PE1.3	Encourage diversification and enhance image of the local economy	Increased resilience of the local economy
PE2	<b>MY BUSINESS CAN GROW AND DIVERSIFY</b>	
PE2.1	Enhance transport and other business networks	Increased business opportunities and growth
PE2.2	Facilitate a range of Council business activities to support economic development	Council contributes to the local economy Council understands the business environment Viable commercial portfolio
PE2.3	Provide efficient and cost effective regulatory environment for doing business	Easier to do business Enhance business relationships
PE3	<b>IMPROVE LIVEABILITY IN THE SHIRE</b>	
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
PE3.3	Improve connectivity within the shire	Reduced transport costs

**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.*

The planning proposal is generally consistent with Council's Ballina Shire Growth Management Strategy.

**Lennox Head Structure Plan 2004**

The Lennox Head Structure Plan envisaged residential development on the subject land. Consequently, the structure plan informed the initial rezoning of the subject land from rural to urban uses in 2011.

The planning proposal is generally consistent with Council's Lennox Head Structure Plan.

**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).



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

Yes. A number of Section 9.1 directions are relevant to the planning proposal. A Section 9.1 checklist is provided at Appendix 2.

**4.3 Section C – Environmental, Social and Economic Impact**

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

No.

The site is zoned for residential development and has development consent in place for the subdivision of the land. As such there are no likely impacts on critical habitat, threatened species or ecological communities or their habitat arising directly as a result of the proposed change of the minimum lot size standard.

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

There are no other significant environmental impacts identified as a result of the proposal.

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

The current zoning of the site is for residential purposes. The amendment involves providing for increased diversity of housing forms on the land.

The planning proposal is considered to provide benefits to the community via increased housing choice.

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

**4.4 Section D – State and Commonwealth Interests**

**Q10 Is there adequate public infrastructure for the planning proposal?**

The site is identified in Council's development servicing plans and infrastructure contributions plans, which provide for the delivery of infrastructure to the site in association with future subdivision works.

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

The views of State and Commonwealth public authorities will be sought in accordance with the terms of a Gateway determination, should one be issued by the Department of Planning, Industry and Environment.

## 5. Mapping

The following maps have been prepared to support this planning proposal and are contained in Appendix 1:

- Map 1 – Site Identification Map (Aerial);
- Map 2 – Proposed amendment to Minimum Lot Size Map (LSZ\_005D).

## 6. Community Consultation

This planning proposal will be publicly exhibited in accordance with the terms of the Gateway determination.

Following public exhibition, the planning proposal along with review of any public submissions received will be reported to the Council for further consideration.

## 7. Timeline

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

Plan Making Step	Estimated Completion (Before)
Gateway Determination	December 2020
Government Agency Consultation	January 2021
Public Exhibition Period	January 2021
Public Hearing	N/A
Submissions Assessment	February 2021
RPA Assessment of Planning Proposal and Exhibition Outcomes	March 2021
Submission of Endorsed LEP to DP&I for Finalisation	April 2021
RPA Decision to Make the LEP Amendment (if delegated)	April 2021
Forwarding of LEP Amendment to DP&I for Notification (if delegated)	May 2021

Ballina Shire Council

## 8. Appendices

Appendix 1 – Maps



Ballina Shire Council



**Appendix 2 – Section 9.1 Direction Checklist**

<b>Section 9.1 Direction Checklist Planning Proposal – Lennox Rise, Lennox Head</b>	
<b>Direction No.</b>	<b>Compliance of Planning Proposal</b>
<b>1. Employment and Resources</b>	
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.
<b>2. Environment and Heritage</b>	
2.1 Environmental Protection Zones	Consistent. The planning proposal does not involve the development of land identified as being of environmental significance.
2.2 Coastal Protection	Justifiably Inconsistent. The planning proposal enables employment uses on existing employment zoned land and is not in conflict with the planning principles established under the NSW Coastal Policy, the Coastal Design Guidelines and the NSW Coastline Management Manual.
2.3 Heritage Conservation	Justifiably Inconsistent The Ballina Local Environmental Plan 2012 contains provisions relating to the protection of items of cultural heritage significance. Whilst the lot of land the subject of this planning proposal contains a heritage item, the planning proposal does not adversely impact on that item. Further, revision of the proposed subdivision plan, associated with this planning proposal has resulted in improved heritage conservation outcomes.
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	Does not apply to planning proposal.
2.6 Remediation of Contaminated Land	Consistent Matters of land contamination have been considered by the Council when the land was initially zoned for residential purposes.
<b>3. Housing, Infrastructure and Urban Development</b>	
3.1 Residential Zones	Consistent The planning proposal will facilitate increased diversity in the choice and form of dwellings, facilitate improved efficiency in the servicing of land and provide for improved residential design outcomes.
3.2 Caravan Parks and Manufactured Home Estates	Does not apply to planning proposal.
3.3 Home Occupations	Does not apply to planning proposal.
3.4 Integrated Land Use and Transport	Consistent. The planning proposal will provide for improved urban design outcomes in a manner consistent with 'Integrated Land Use and Transport: Improving Transport Choice – Guidelines for planning and development' (DUAP 2001).

Ballina Shire Council

<b>Section 9.1 Direction Checklist</b>	
<b>Planning Proposal – Lennox Rise, Lennox Head</b>	
<b>Direction No.</b>	<b>Compliance of Planning Proposal</b>
3.5 Development Near Licensed Aerodromes	Does not apply to planning proposal. The subject land is not located within close proximity of a licenced aerodrome.
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 Ballina Shire.
<b>4. Hazard and Risk</b>	
4.1 Acid Sulfate Soils	Does not apply to planning proposal.
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	Consistent. The implications of bushfire management protection was considered when the subject land when the land was zoned from rural to residential purposes, and again in association with the subdivision application associated with this planning proposal (DA2014/31).
<b>5. Regional Planning</b>	
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	Justifiably Inconsistent. The subject land is identified as (non contiguous) Regionally Significant Farmland. However, development of the land for residential purposes is consistent with the North Coast Regional Plan 2036 and Section 4 of 'Northern Rivers Farmland Protection Project – Final Recommendations' (2005). This matter was considered when the land was initially zoned from rural to residential purposes.
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	Revoked.
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 consistent with the North Coast Regional Plan 2036.

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<b>Section 9.1 Direction Checklist</b>	
<b>Planning Proposal – Lennox Rise, Lennox Head</b>	
<b>Direction No.</b>	<b>Compliance of Planning Proposal</b>
5.11 Development of Aboriginal Land Council land	Does not apply to planning proposal.
<b>6. Local Plan Making</b>	
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.
<b>7. Metropolitan Planning</b>	
7.1 Implementation of the Metropolitan Strategy	Does not apply to Ballina Shire.
7.2 Implementation of Greater Macarthur Land Release Investigation	Does not apply to Ballina Shire.
7.3 Parramatta Road Corridor Urban Transformation Strategy	Does not apply to Ballina Shire.
7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan.	Does not apply to Ballina Shire.
7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Does not apply to Ballina Shire.
7.6 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Does not apply to Ballina Shire.
7.7 Implementation of Glenfield to Macarthur Urban Renewal Corridor	Does not apply to Ballina Shire.
7.8 Implementation of Western Sydney Aerotropolis Interim Land Use and Infrastructure Implementation Plan	Does not apply to Ballina Shire.
7.9 Implementation of Bayside West Precincts 2036 Plan	Does not apply to Ballina Shire.
7.10 Implementation of Planning Principles for the Cooks Cove Precinct	Does not apply to Ballina Shire.



Ballina Shire Council

**Appendix 3 – Council Resolutions**

**8.2 Planning Proposal - Lennox Rise, Lennox Head**

**221020/7 RESOLVED**

(Cr Sharon Cadwallader/Cr Ben Smith)

1. That Council endorses the proposed amendments to the Ballina Local Environmental Plan 2012 as outlined in the planning proposal (BSCPP 19/002 – Lennox Rise) contained within Attachment 1 to apply a 450m<sup>2</sup> minimum lot size standard to parts of the Lennox Rise development area for submission to the Department of Planning and Environment for a Gateway determination.
2. That the Department of Planning, Industry and Environment be advised that Council does not wish to exercise its delegated plan making functions for this LEP amendment due to Council having a land holding adjacent to the land the subject of the planning proposal.
3. 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.
4. That Council receive a further report on the matter following the completion of the public exhibition of the planning proposal.

FOR VOTE - Cr David Wright, Cr Phillip Meehan, Cr Eoin Johnston, Cr Stephen McCarthy, Cr Sharon Cadwallader and Cr Ben Smith

AGAINST VOTE - Cr Jeff Johnson and Cr Keith Williams

ABSENT. DID NOT VOTE - Cr Sharon Parry and Cr Nathan Willis

**8.2 Planning Proposal - Lennox Rise, Lennox Head**

**8.2 Planning Proposal - Lennox Rise, Lennox Head**

**Delivery Program**

**Strategic Planning**

**Objective**

To seek direction on a proposed amendment to the Ballina Local Environmental Plan 2012 (BSCPP 19/002) relating to minimum lot size for subdivision associated with the Lennox Rise residential estate in Lennox Head.

**Background**

Council considered an LEP amendment request in relation to the Lennox Rise development area (formerly known as the "Henderson Farm") at its Ordinary meeting held 27 June 2019.

The location of the land is shown in Figure 1.



**Figure 1: Lennox Rise Location (site shown marked by purple dot)**

The request involved the application of a 450m<sup>2</sup> minimum lot size for subdivision to parts of the subject land (areas zoned R3 Medium Density Residential) to provide for an increased diversity in residential block sizes within the future estate.

At the time, Council was concerned that the revised subdivision plan did not adequately take into account the practical protection of a heritage listed rock wall located on the property.

In relation to this matter, Council resolved as follows:

Ballina Shire Council

**8.2 Planning Proposal - Lennox Rise, Lennox Head**

1. That Council invite the proponent to submit a subdivision plan that demonstrates the protection of the heritage rock wall identified as Item 167 in the Ballina Local Environmental Plan 2012.
2. That upon receipt of a suitable subdivision plan from the proponent, that Council prepare a planning proposal to amend the minimum lot size map of the Ballina Local Environmental Plan 2012 to provide for residential subdivision with a minimum lot size of 450m<sup>2</sup> on parts of Lot 1 DP1070466.
3. That the draft planning proposal be reported to Council for endorsement prior to seeking Gateway determination.
4. That Council request a detailed plan showing the location and management approach for the heritage rock wall.

Following the Council's resolution, the proponent lodged a revised subdivision plan. This revised plan forms the basis of a proposed modification to DA 2014/31 that is the subject of a report at Item 8.1 of this agenda. A copy of the subdivision plan is included in Appendix 5 of the planning proposal provided as Attachment 1 to this report.

The purpose of this report is to present the planning proposal with the revised subdivision plan and seek direction on progressing the proposed amendment.

**Key Issues**

- Urban growth area development outcomes and housing diversity

**Information**

As indicated above, and further detailed report at Item 8.1 of this agenda relating to DA 2014/31, a revised subdivision layout has been prepared and lodged having regard to the practical protection of the heritage rock wall located on the site. The revised subdivision plan addresses the protection of the heritage rock wall via an expanded road reserve incorporating the wall into the public domain (Figure 2).

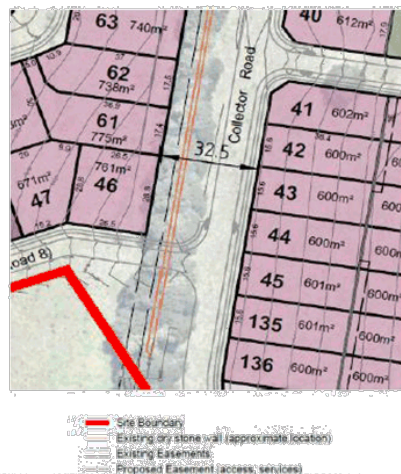


Figure 2: Location of Heritage Wall Within Road Reserve

**8.2: Planning Proposal - Lennox Rise, Lennox Head**

Whilst the amended arrangement will involve increased Council maintenance of this widened public reserve, the proposal appears to achieve an improved design outcome, preserving the heritage values of the site and facilitating improved public access to the heritage features of the site.

Having regard for the above, a planning proposal has been prepared that would provide for the application of a 450m<sup>2</sup> minimum lot size to parts of the site (Figure 3).



**Figure 3: Existing (left) and Proposed (right) Minimum Lot Size Maps**

The areas proposed for the application of a 450m<sup>2</sup> minimum lot area for subdivision align with eleven superlots proposed under the modification to DA 2014/31.

No change to the zoning of the land is proposed (the areas the subject of the proposed lot size standard amendment are currently zoned R3 Medium Density Residential).

The proposed amendment is consistent with principles relating to housing diversity and choice applicable under the strategic planning framework applying to the land (as outlined in the draft planning proposal contained in Attachment 1).

A copy of the draft planning proposal is provided as Attachment 1 to this report.

With respect to the proposed modification to DA 2014/31, although the modification and the planning proposal are related in so far as the planning proposal relates to proposed superlot areas, the determination of the DA modification is not dependent on the LEP amendment.

That is, subdivision of the land can proceed under the modified DA if approved (subject to the existing minimum lot size standard that applies to the land).

Ballina Shire Council

### 8.2 Planning Proposal - Lennox Rise, Lennox Head

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#### Sustainability Considerations

- **Environment**  
Matters of environmental heritage protection have been addressed through redesign of the proposed subdivision.
- **Social**  
The planning proposal request would result in a greater diversity of dwelling types available within the locality.
- **Economic**  
The planning proposal does not have any significant implications on the economic wellbeing of Ballina Shire.

#### Legal / Resource / Financial Implications

The preparation of a planning proposal can be accommodated within existing resources, including through the receipt of associated fees.

The legal effect of a planning proposal applying to the subject land, would be to enable the lodgment of development applications for subdivision of land to create lots with a minimum area of 450m<sup>2</sup> (reduced from a minimum of 600m<sup>2</sup>) in the areas so designated through the LEP amendment (being the areas marked G and shown green in Figure 3).

#### Consultation

No community or agency consultation has occurred to date with respect to this matter.

The matter would be subject to the usual community and agency consultation requirements associated with planning proposals and would be subject to the terms of any Gateway determination issued by the NSW Department of Planning and Environment should one be received.

Due to Council's interest in land directly adjacent to the subject site, it is recommended that Council not seek to exercise plan making delegations in relation to this matter.

#### Options

The following options are presented for the Council's consideration:

*Option 1 - Council could resolve to refer the planning proposal provided in Attachment 1 to the Department of Planning and Environment for Gateway determination.*

The planning proposal seeks to amend the minimum lot size map of the Ballina Local Environmental Plan 2012 to provide for residential subdivision down to 450m<sup>2</sup> on parts of Lot 1 DP1070466 zoned R3 Medium Density zone, as outlined in the planning proposal in Attachment 1.

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**8.2 Planning Proposal - Lennox Rise, Lennox Head**

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This option is recommended on the basis that the provision of a portion of residential allotments with an area of 450m<sup>2</sup> over parts of the site provides for increased housing diversity and choice within the estate, consistent with the strategic planning framework applicable to the site.

This approach also supports the maximisation of the use of existing residential zoned land in Lennox Head for housing.

*Option 2 - Council could resolve to decline the LEP amendment request.*

Under this option, Council would write to advise the landholder that the request is not supported.

This option is not recommended for the reasons detailed with respect to Option 1.

*Option 3 - Council could defer consideration of the matter.*

If further information is desirable, the matter could be deferred in favour of a briefing or provision of additional details. This option is not recommended for the reasons detailed with respect to Option 1.

**RECOMMENDATIONS**

1. That Council endorses the proposed amendments to the Ballina Local Environmental Plan 2012 as outlined in the planning proposal (BSCPP 19/002 – Lennox Rise) contained within Attachment 1 to apply a 450m<sup>2</sup> minimum lot size standard to parts of the Lennox Rise development area for submission to the Department of Planning and Environment for a Gateway determination.
2. That the Department of Planning, Industry and Environment be advised that Council does not wish to exercise its delegated plan making functions for this LEP amendment due to Council having a land holding adjacent to the land the subject of the planning proposal.
3. 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.
4. That Council receive a further report on the matter following the completion of the public exhibition of the planning proposal.

**Attachment(s)**

1. BSCPP 19/001 - Lennox Rise Planning Proposal (v1 Council Report)

## 8.3 Planning Proposal - Lennox Rise, Lennox Head

Ballina Shire Council

### 8.5 LEP Amendment Request - Lennox Rise, Lennox Head

270619/10      **RESOLVED**

(Cr Sharon Cadwallader/Cr Nathan Willis)

1. That Council invite the proponent to submit a subdivision plan that demonstrates the protection of the heritage rock wall identified as Item I67 in the *Ballina Local Environmental Plan 2012*.
2. That upon receipt of a suitable subdivision plan from the proponent, that Council prepare a planning proposal to amend the minimum lot size map of the *Ballina Local Environmental Plan 2012* to provide for residential subdivision with a minimum lot size of 450m<sup>2</sup> on parts of Lot 1 DP1070466.
3. That the draft planning proposal be reported to Council for endorsement prior to seeking Gateway determination.
4. That Council request a detailed plan showing the location and management approach for the heritage rock wall.

**8.5 LEP Amendment Request - Lennox Rise, Lennox Head**

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**8.5 LEP Amendment Request - Lennox Rise, Lennox Head****Delivery Program** Strategic Planning**Objective** To seek direction on a planning proposal request seeking to amend the minimum lot size on land in the greenfield development site known as Lennox Rise (formerly known as "Henderson Farm") in Lennox Head.

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**Background**

The subject land, being Lot 1 DP 1070446, comprises vacant residential zoned land. The land is part of the area formerly known as the "Henderson Farm" which was zoned for residential purposes in August 2012.

Ballina Shire Council owns land (of which part is also zoned for residential purposes) immediately to the south of the subject land (Council's land is Lot 2 DP1070446).

The land was zoned a combination of R2 Low Density Residential zone and R3 Medium Density Residential zone under the terms of the *Ballina Local Environmental Plan 2012*, with areas of proposed environmental protection zoning deferred from the finalisation of the amending plan.

The lot size standard of 1200m<sup>2</sup> was applied to land zoned for low density housing (R2) and 600m<sup>2</sup> was applied to the land zoned for medium density housing (R3).

Development consent (DA 2014/31) was issued for subdivision of the land into 168 residential lots, subject to a deferred commencement condition relating to the site obtaining legal and practical access to a public road and the landholder fulfilling certain environmental rehabilitation obligations.

The approved plan of subdivision (under DA 2014/31) is provided as Attachment 1 to this report.

Since the initial rezoning of the land, the subject property has changed ownership. The new owner (Lennox Rise Pty Ltd) has lodged a planning proposal request seeking to amend the minimum lot size standard applying to parts of the site zoned R3 Medium Density Zone from 600m<sup>2</sup> (currently) to 450m<sup>2</sup> (proposed).

The proponent's planning proposal request is provided as Attachment 2 to this report.

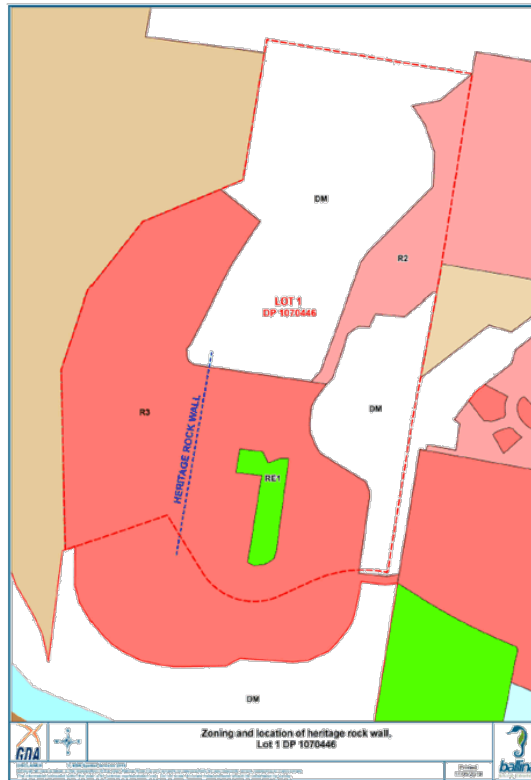
The zoning and location of the heritage rock wall (referred to in the body of this report) with respect to the subject land is shown on the map below. The subject land is outlined red.

The purpose of this report is to seek the Council's direction with respect to progressing the LEP amendment request.



Ballina Shire Council

8.5 LEP Amendment Request - Lennox Rise, Lennox Head



**Key Issues**

- Residential subdivision
- Development density
- Heritage

**Information**

Minimum Lot Size

The 600m<sup>2</sup> minimum lot size standard was applied to R3 zoned parts of the site when the land was initially zoned for residential purposes, as requested by the landholder at the time, and having regard to the characteristics of the site.

The new landholders have requested that Council prepare a planning proposal to apply the minimum lot size standard of 450m<sup>2</sup> to parts of the site subject to the R3 Medium Density zone.

### 8.5 LEP Amendment Request - Lennox Rise, Lennox Head

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A draft proposed subdivision plan has been submitted with the proponent's planning proposal request (Attachment 2). The revised plan shown would yield approximately 188 residential lots (20 additional lots) with 37 lots being proposed at the 450m<sup>2</sup> lot size standard.

The 450m<sup>2</sup> minimum lot size is applied to other new residential release areas in Ballina Shire to provide flexibility at subdivision stage and to provide lots suitable for a range of dwelling types.

The subject site includes sloping land. The proponent has provided several indicative house designs for the proposed 450m<sup>2</sup> lots (which are included in Attachment 2).

Based on the information submitted, it appears that site benching is envisaged to provide flat house sites for conventional slab-on-ground dwelling construction.

In general terms, the provision of 37 residential lots at 450m<sup>2</sup> (representing approximately 20% of the development lots within the estate) would provide for a greater level of housing diversity within the estate specifically and within Lennox Head more generally.

This approach also provides for maximisation of the use of the land for housing stock.

Providing for diversity in the dwelling stock is consistent with the directions of the North Coast Regional Plan 2036. This approach is consistent with other release areas in Lennox Head and Ballina Shire more broadly.

#### Heritage Items

Several listed heritage items are located within the subject property, including a heritage listed rock wall (identified as Item 167 in the Ballina LEP 2012).

In the initial rezoning and subsequent development assessment process, the subdivision design took into account the presence of the heritage rock wall, incorporating it into a widened road reserve to facilitate preservation and maintenance of the wall, rather than being located in the rear of residential lots.

In contrast, the revised draft subdivision design submitted with the planning proposal is not consistent with this approach, but rather appears to locate the wall in the rear of private lots.

This approach would rely on a large number of different private landholders to preserve and maintain the wall.

The concern here is that this approach does not provide the optimal opportunity for the long term retention and proper management of the heritage item.

Ballina Shire Council

### 8.5 LEP Amendment Request - Lennox Rise, Lennox Head

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Consequently, should the planning proposal be supported, it is recommended that further information be required of the applicant to demonstrate the proposed subdivision arrangement can adequately address the conservation of the rock wall heritage item.

#### Sustainability Considerations

- **Environment**  
The management of heritage matters associated with development of the site will require further consideration should this matter proceed to planning proposal stage.
- **Social**  
The planning proposal request would result in a greater diversity of dwelling types available within the locality.
- **Economic**  
The planning proposal does not have any significant implications on the economic wellbeing of Ballina Shire.

#### Legal / Resource / Financial Implications

The preparation of a planning proposal can be accommodated within existing resources, including through the receipt of associated fees.

The legal effect of a planning proposal applying to the subject land, would be to enable the lodgment of development applications for subdivision down to a minimum of 450m<sup>2</sup> on the land so designated through the LEP amendment.

#### Consultation

No community or agency consultation has occurred to date with respect to this matter.

The matter would be subject to the usual community and agency consultation requirements associated with planning proposals and would be subject to the terms of any Gateway determination issued by the NSW Department of Planning and Environment should one be received.

Due to Council's interest in land directly adjacent to the subject site, it is recommended that Council not seek delegation of the Minister's plan making powers in relation to this matter.

#### Options

The following options are presented for the Council's consideration:

1. Council could resolve to prepare a planning proposal to amend the minimum lot size map of the *Ballina Local Environmental Plan 2012* to provide for residential subdivision down to 450m<sup>2</sup> on parts of Lot 1 DP1070466 (zoned R3 Medium Density zone), subject to the proponent submitting a subdivision plan that accommodates the protection of the heritage rock wall identified as Item I67 in the Ballina LEP 2012.

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**8.5 LEP Amendment Request - Lennox Rise, Lennox Head**

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This option would involve writing to the proponent to invite the provision of a subdivision plan that accommodates the appropriate protection of the heritage listed rock wall on part of the property. Following the receipt of a suitable subdivision plan, Council would prepare a planning proposal.

The planning proposal would be reported to Council for endorsement prior to referring the matter to the Department of Planning and Environment for Gateway determination.

This option is recommended on the basis that the provision of a portion of residential allotments with an area of 450m<sup>2</sup> over part of the site would provide for increased housing diversity and choice within the estate. This approach also supports the maximisation of the use of existing residential zoned land in Lennox Head for housing.

2. Council could resolve to decline the planning proposal request.

Under this option, Council would write to advise the landholder that the request is not supported. This option is not recommended for the reasons detailed with respect to Option 1 above.

3. Council could defer consideration of the matter.

If further information is desirable, the matter could be deferred in favour of a briefing or provision of additional details.

This option is not recommended as the proposal has sufficient merit to proceed to preparation of a planning proposal. Further, the proposal will be the subject of a further report to Council once a planning proposal (inclusive of additional details) has been prepared.

**RECOMMENDATIONS**

1. That Council invite the proponent to submit a subdivision plan that demonstrates the protection of the heritage rock wall identified as Item I67 in the *Ballina Local Environmental Plan 2012*.
2. That upon receipt of a suitable subdivision plan from the proponent, that Council prepare a planning proposal to amend the minimum lot size map of the *Ballina Local Environmental Plan 2012* to provide for residential subdivision with a minimum lot size of 450m<sup>2</sup> on parts of Lot 1 DP1070466.
3. That the draft planning proposal be reported to Council for endorsement prior to seeking Gateway determination.

**Attachment(s)**

1. Approved Subdivision Plan DA 2014/31
2. LEP Amendment Request - Lennox Rise, Lennox Head

Ballina Shire Council

**Appendix 4 – Gateway Determination**



**Planning,  
Industry &  
Environment**

**Gateway Determination**

*Planning proposal (Department Ref: PP\_2020\_BALLI\_003\_00): to apply a 450m<sup>2</sup> minimum lot size to part of Lot 1 DP 1070446, 78 Hutley Drive, Lennox Head*

I, the Director, Region Northern at the Department of Planning, Industry and Environment, as delegate of the Minister for Planning and Public Spaces, 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 apply a 450m<sup>2</sup> minimum lot size to part of Lot 1 DP 1070446, 78 Hutley Drive, Lennox Head, should proceed subject to the following conditions:

1. 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, 2018) 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 6.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment, 2018).
2. No consultation is required with public authorities/organisation under section 3.34(2)(d) of the Act
3. 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).
4. The time frame for completing the LEP is to be 6 months following the date of the Gateway determination.

Dated 19 day of November 2020.

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

**Jeremy Gray**  
Director, Northern Regions  
Local and Regional Planning  
Department of Planning, Industry and  
Environment  
Delegate of the Minister for Planning  
and Public Spaces

PP\_2020\_BALLI\_003\_00 (IRF 20/5093)

Appendix 5 – Revised Subdivision Plan – DA2014/31

