

Agenda

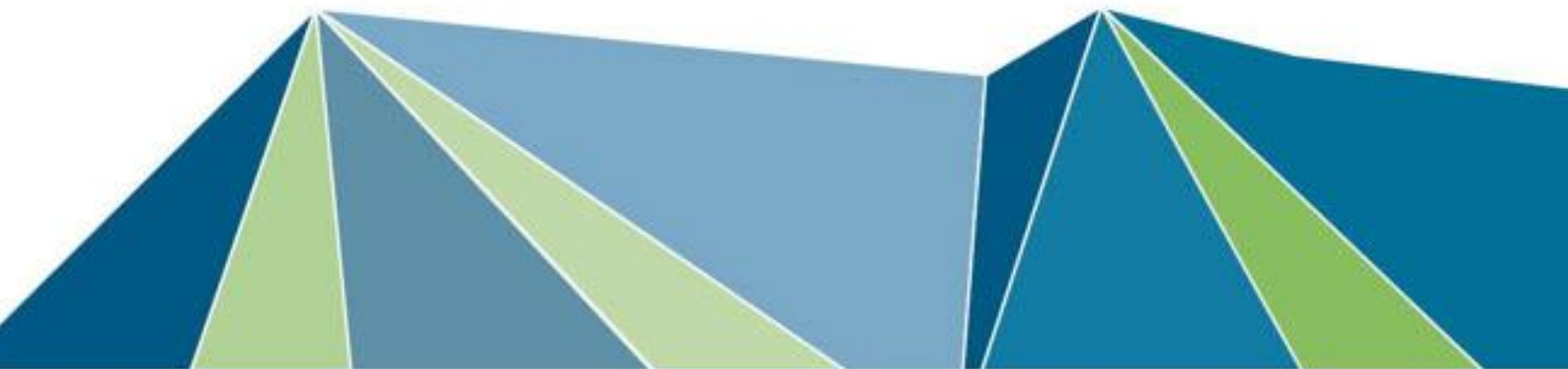
Environmental and Sustainability Committee Meeting

9 April 2026

A Environmental and Sustainability Committee Meeting will be held in the Ballina Shire Council Chambers, 40 Cherry Street, Ballina on **9 April 2026 commencing at 4:15 PM.**

1. Acknowledgement of Country
2. Apologies
2. Declarations of Interest
3. Committee Reports

Paul Hickey
General Manager



Ethical Decision Making and Conflicts of Interest

A guide for Councillors, Council employees and community representatives

Ethical decision making

- Is the decision or conduct legal?
- Is it consistent with Government policy, Council's objectives and Code of Conduct?
- What will the outcome be for you, your colleagues, the Council, anyone else?
- Does it raise a conflict of interest?
- Do you stand to gain personally at public expense?
- Can the decision be justified in terms of public interest?
- Would it withstand public scrutiny?

Conflict of Interest

A conflict of interest is a clash between private interest and public duty. There are two types of conflict:

- **Pecuniary** – an interest that you have in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to yourself or another person or entity defined in part 4 of the Council's Code of Conduct, with whom you are associated.
- **Non-pecuniary** – a private or personal interest that you have that does not amount to a pecuniary interest as defined in the Council's Code of Conduct.

These commonly arise out of family or personal relationships, or out of involvement in sporting, social, religious or other cultural groups and associations, and may include an interest of a financial nature.

The test for a conflict of interest

- Is it likely I could be influenced by personal interest in carrying out my public duty?
- Would a fair and reasonable person believe I could be so influenced?
- Conflict of interest is closely tied to the layperson's definition of "corruption" – using public office for private gain.
- It is important to consider public perceptions of whether you have a conflict of interest.

Identifying problems

- Do I have private interests affected by a matter I am officially involved in?
- Is my official role one of influence or perceived influence over the matter?
- Do my private interests' conflict with my official role?

Disclosure and participation in meetings

Pecuniary Interests

- A Councillor or a member of a Council Committee who has a pecuniary interest in any matter with which the Council is concerned, and who is present at a meeting of the Council or Committee at which the matter is being considered, must disclose the nature of the interest to the meeting as soon as practicable.
- The Councillor or member must not be present at, or in sight of, the meeting of the Council or Committee:
 - a) at any time during which the matter is being considered or discussed by the Council or Committee, or
 - b) at any time during which the Council or Committee is voting on any question in relation to the matter.

No Knowledge - A person does not breach this clause if the person did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest.

Non-pecuniary Interests

Must be disclosed in meetings. There are a broad range of options available for managing non-pecuniary interests and the option chosen will depend on an assessment of the circumstances of the matter, the nature of the interest and the significance of the issue being dealt with. Non-pecuniary interests must be dealt with in one of the following ways:

- It may be appropriate that no action be taken where the potential for conflict is minimal. However, Councillors should consider providing an explanation of why they consider a conflict does not exist.
- Limit involvement if practical (eg. Participate in discussion but not in decision making or vice versa). Care needs to be taken when exercising this option.
- Remove the source of the conflict (eg. Relinquishing or divesting the personal interest that creates the conflict)
- Have no involvement by absenting yourself from and not taking part in any debate or voting on the issue as per the provisions in the Code of Conduct (particularly if you have a significant non pecuniary interest)

Recording and Livestreaming of Council Meetings

- The meeting (with the exception of the confidential session) is being livestreamed and recorded for on-demand viewing via Council's website (ballina.nsw.gov.au/agendas-and-minutes) and a person's image and/or voice may be broadcast.
- Attendance at the meeting is taken as consent by a person to their image and/or voice being webcast.
- All speakers should refrain from making any defamatory comments or releasing any personal information about another individual without their consent.
- Council accepts no liability for any damage that may result from defamatory comments made by persons attending meetings. All liability will rest with the individual who made the comments.
- A person must not live stream or use an audio recorder, video camera, mobile phone or any other device to make a recording of the proceedings of a meeting of the council or a committee of the council without the prior authorisation of the council or the committee.

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1. Acknowledgement of Country
 2. Apologies
 3. Declarations of Interest
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1. Acknowledgement of Country

In opening the meeting, the Mayor will provide an Acknowledgement of Country.

We acknowledge the Nyangbul peoples of the Bundjalung nation, the traditional custodians of the land on which we meet today and pay our respects to their Elders, past and present.

2. Apologies

Cr Erin Karsten has been granted leave of absence.

3. Declarations of Interest

4.1 Cumbalum Urban Release Area C - Rezoning Review

4. Committee Reports

4.1 Cumbalum Urban Release Area C - Rezoning Review

Section	Strategic Planning
Objective	To provide an overview of the rezoning review for the CURA C area being undertaken by the DPHI and Northern Regional Planning Panel and seek direction on the content of a submission from Council to the DPHI and panel on the proposed rezoning.

Background

An application (planning proposal) for the rezoning of approximately 44 hectares of land zoned RU1 (Primary Production) at 962 and 1026 Tamarind Drive, Tintenbar was lodged with Council via the NSW Planning Portal on 20 June 2025. The site is known within Council's local planning framework as Cumbalum Urban Release Area Precinct C (CURA C).

The proponent is Barker Ryan Stewart on behalf of Wentworth Point Investment.

As part of the initial assessment of the original documentation, Council staff conducted a site inspection with the proponent on 30 July 2025. An assessment of the planning proposal and associated technical reports was also undertaken.

Several issues were identified that required further information, including inconsistencies with Council's planning requirements for this type of planning proposal. A request for information (RFI) letter outlining these matters was issued to the proponent on 18 August 2025 (Attachment 1).

The NSW Planning Portal requires Council to indicate whether an application is "supported" or not at the initial review stage. Due to the number of outstanding matters and information requirements, the planning proposal was returned via the Portal.

It was communicated to the landowners and their planning consultants Barker Ryan Stewart (BRS) that Council would work with them with respect to the identified issues so a revised planning proposal could be submitted. No additional information was received in response.

Typically, the process is that once a planning proposal is adequate for reporting to Council for a decision on its progress, the proposal is presented to Council. Unfortunately, the proponent did not submit further information to Council to enable progression to this step.

The applicant has obtained legal advice that says Council had no authority to 'return' the planning proposal after the 14 days adequacy review period and as such it remained 'active'. On the basis that Council had not indicated whether it supported the planning proposal within the 90-day decision period that applies, a request for a rezoning review was lodged by the proponent with the

4.1 Cumbalum Urban Release Area C - Rezoning Review

Department of Planning, Housing and Infrastructure (DPHI) on 16 February 2026.

Council received a letter from DPHI on 11 March 2026, indicating that a rezoning review would be considered by the Northern Regional Planning Panel (Attachment 2).

The letter includes a link (provided below) to a page on the NSW Planning Portal where information about the planning proposal and the rezoning review can be accessed.

[Planning Proposal - Proposed Rezoning of 962 Tamarind Drive, Cumbalum \(CURA C\) | Planning Portal - Department of Planning and Environment](#)

The letter from DPHI invites Council to indicate if the proposal is the same as was considered by Council and to provide comments to the Planning panel for consideration with respect to the Panel's decision on a Gateway Determination.

In addition, it asks whether Council wishes to nominate itself as the Planning Proposal Authority (PPA) if the matter is supported by the Planning Panel.

This report provides an overview of the issues identified through the technical assessment to inform a response to the DPHI and the Panel.

Key Issues

- Adequacy of technical information
- Council's position on the planning proposal
- Content of submission to DPHI and Regional Planning Panel
- Procedural pathways and options for Council

Discussion

The Site and Proposed Zoning

The site is located between the Pacific Highway and Tamarind Drive at Tintenbar, approximately 11.5km from the Ballina CBD. The two lots have a total area of 74.2 hectares, with approximately 44 hectares subject to the rezoning application. Figure 1, as follows, shows the site location.

The planning proposal submitted to Council (PP-2025-1160) sought a rezoning of the area from RU1 (Primary Production) to a R3 (Medium Density Residential) for 36.5ha with two areas of C2 (Environmental Conservation) with a combined area of 7.5ha.

The proposal submitted for the rezoning review (RR-2026-5) has been modified to seek an area of 31.2ha as R2 (Low Density Residential), 3ha as R3 (Medium Density Residential) and 10.1ha as C2 (Environmental Conservation). The original and revised zoning maps are shown in Figures 2 and 3.

The BRS letter to DPHI requesting the rezoning review is included as Attachment 3.

4.1 Cumbalum Urban Release Area C - Rezoning Review

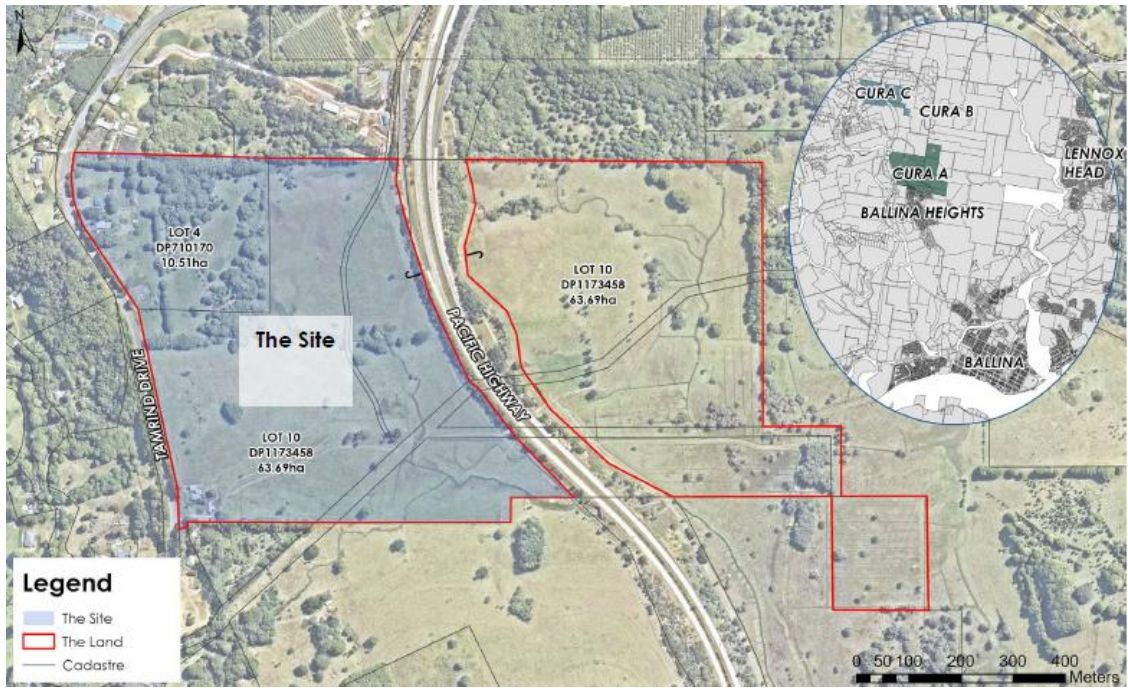


Figure 1: Site location

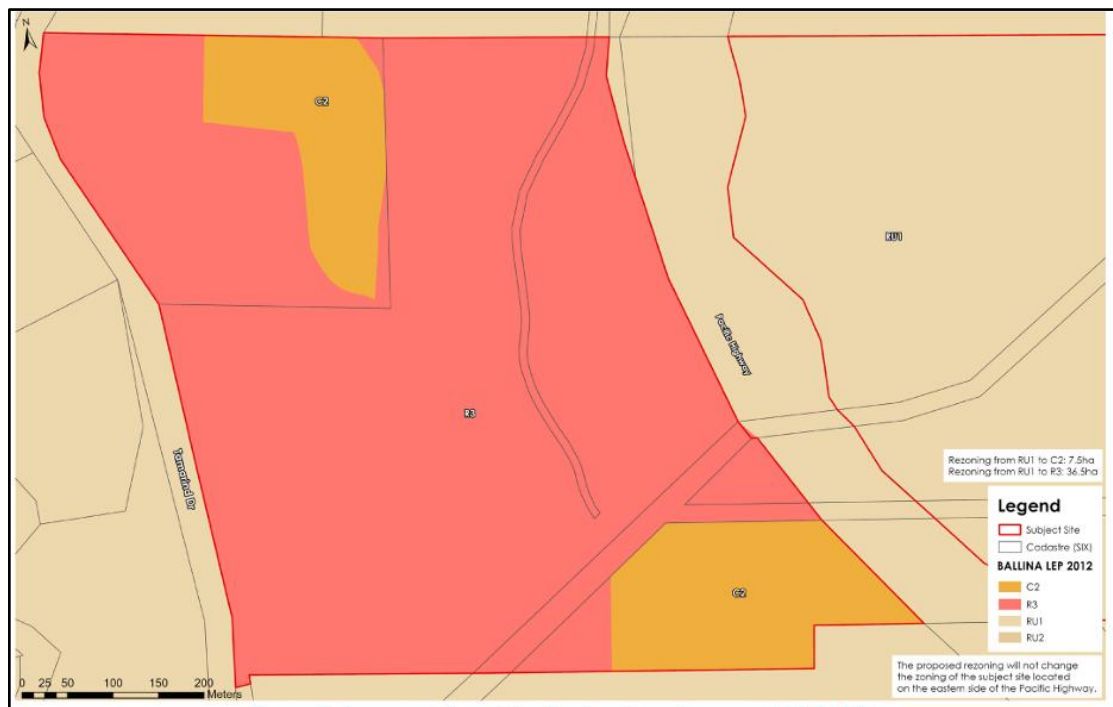


Figure 2: Proposed zoning in PP-2025-1160

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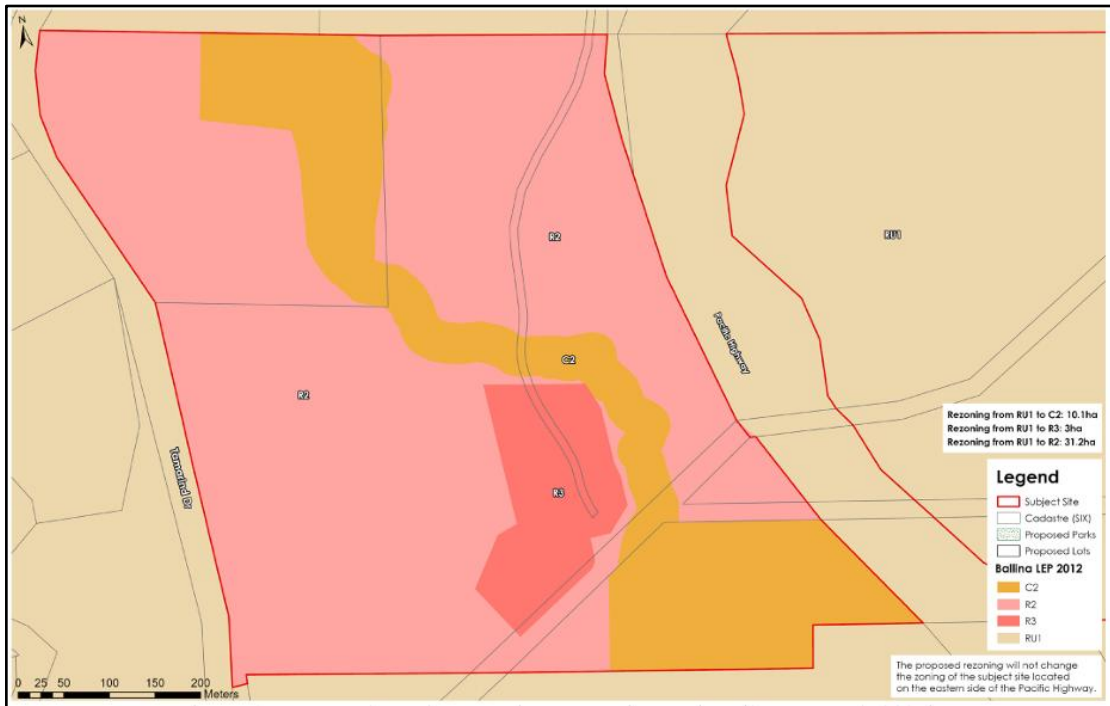


Figure 3: Proposed zoning in RR-2026-5

Additional Documents Provided - Rezoning Review

A total of 40 attachments were provided as part of the material for RR-2026-5 submitted to the DPHI. Of those, 14 are new or revised reports that were not provided to Council as part of PP-2025-1160.

Table 1 provides an overview of the additional material.

Table 1: Additional Material Provided

Document	Author(s)	Information
Landscape Visual Impact Analysis (Issue D, Nov 2025)	Habit8	This is a new report requested by Council as part of the original RFI.
Concept Plan (Rev C, Oct 2025)	RPS	Contains minor modifications to the report provided to Council (Rev A, May 2025). It does not respond to many of the issues raised by Council in the RFI. These matters are discussed in more detail elsewhere in this report.
Addendum to Bushfire Report (December 2025)	Bushfire Certifiers	A minor update that responds to the revised concept plan was provided but does not address changes to bushfire prone land mapping that was endorsed by the Rural Fire Service in November 2025. This is discussed in more detail elsewhere in this report.
Ballina Shire Residential Land Availability Analysis (v.3 September 2025)	AEC	This is a new report that is different to the one provided to Council (Final, April 2023). This was not requested by Council as part of the RFI. Further discussion on this report is provided elsewhere in this report.

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Document	Author(s)	Information
Electrical Infrastructure (November 2025)	PE Consulting Engineers	This is an update to the report provided to Council (June 2025). This was not requested by Council as part of the RFI. It responds to the revised concept plan.
Preliminary Groundwater Assessment (November 2025)	Douglas Partners	This is an update to the report provided to Council (February 2025). This was not requested by Council as part of the RFI.
Urban Design Report (Rev F, November 2025)	RPS	Contains minor modifications to the report provided to Council (Rev C, June 2025). It does not respond to many of the issues raised by Council in the RFI. These matters are discussed in more detail elsewhere in this report.
Preliminary Geotechnical Investigation (November 2025)	Douglas Partners	This is an update to the report provided to Council (February 2025). Council did seek additional geotechnical information in the RFI. Requested information for conceptual earthworks with indicative quantities of cut and fill has not been provided.
Preliminary Noise Impact Assessment (V2.1, November 2025)	ENV Solutions	This is an update to the report provided to Council (V1.2, May 2025). This was not requested by Council as part of the RFI.
Ecological Assessment (November 2025)	Bower Ecology	This is an update to the report provided to Council (June 2025). The matters requested by Council and DCCEEW as part of the RFI have largely not been addressed. These matters are discussed in more detail elsewhere in this report.
Preliminary Site Contamination (November 2025)	Douglas Partners	This is an update to the report provided to Council (November 2024). This was not requested by Council as part of the RFI.
Land Use Conflict Risk Assessment (Revised Final, November 2025)	Tim Fitzroy	This is an update to the report provided to Council (June 2025). This was not requested by Council as part of the RFI.
Agricultural Report (V2, April 2025)	Melaleuca Group	This is a new report that was not previously submitted to Council as part of PP-2025-1160. It was not requested as part of the RFI.
Non-Binding Joint Venture with North Coast Community Housing (February 2024)	PERIFA and NCCH	This document was not provided with the material lodged with PP-2025-1160. Council requested further information on the amount of affordable housing to be included in a future residential development and the mechanism for delivering this. This document does not respond to that request and is discussed elsewhere in this report.

Strategic Merit and Residential Land Supply

The proponent has engaged AEC group to undertake a residential land supply analysis for Ballina Shire with respect to the need for additional greenfield housing sites to be released to meet projected housing demand.

AEC's conclusion and the proponent's argument is that Ballina Shire has a shortfall in capacity to meet projected housing demand.

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Specifically, AEC concludes there is a potential shortfall of 1,022 dwellings to 2041.

The AEC report identifies a total of 102.4 ha of undeveloped, zoned residential land, with capacity for 1,121 dwellings, based upon the following locality breakdown and density assumptions (Table 4.3, p.21 from the AEC report).

Table 4.3. Greenfield Residential Land, Ballina Shire

Locality	No DA Residential Land (Ha)	Residential Density (Dw/ Ha)	Potential Dwellings (No.)
Lennox Head	12.7 ha	12	152
CURA A	14.2 ha	10.7 – 11.9	160
CURA B	58.7 ha	10.7 – 11.9	663
Skinnars Head	14.1 ha	8	113
Wollongbar	2.7 ha	12	32
Total	102.4 ha	-	1,121

Source: AEC (2023), BRS (2025).

Council's own analysis, prepared in 2025 for the draft Local Strategic Planning Statement suggests there is over 350 ha of residential zoned land that could deliver somewhere in the vicinity of 2868-5381 dwellings (using a yield assumption of 8-15 dwellings per hectare), as shown in the following table.

**Table 1
Residential Land potential dwelling yield**

Location	Residential Zoned 'greenfield' sites	Potential dwelling yield
West Ballina	3.7 ha	29-55
Cumbalum	100 ha	800-1500
Kinvara Area	136 ha	1088-2040
Lennox Head	52.6 ha	420-789
Skennars Head	16ha	128-240
Wollongbar	50.4 ha	403-757
Ballina Shire Total	358.7ha	2868 - 5381

In addition to already residential zoned greenfield sites, Council's projections for housing include strategic urban growth areas not yet zoned for residential purposes and infill development capacity (e.g. dual occupancy, multi-storey apartment buildings in the Ballina CBD).

One area of difference between Council's projections and the analysis done by AEC appears to be how land with housing subdivision approvals currently in place is factored in.

For example, Council's analysis is that there is approximately 70 hectares of zoned land with development approvals in place for residential subdivision.

There are also numerous recently released vacant lots and approved multi-dwelling housing developments.

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In addition, there are numerous applications currently under assessment including 10 lots at Greenwood Place (Lennox Head), 35 lots at Deadmans Creek Road (Ballina Heights), 233 lots in Stage 1 at CURA B (Kinvara) and 18 lots in Stage 6 of the Avalon estate (Wollongbar).

Regardless of the projections and assumptions that underpin them, Council's strategic planning documents (and various recent policy changes that have been implemented) recognise that it is important to maintain a policy and planning framework that supports greenfield and infill housing supply across a variety of housing typologies in the foreseeable future (i.e. Council's planning policy seeks to enable more housing in the Shire).

However, the need for housing does not mean that each site that is proposed for residential subdivision is suitable.

It remains important to ensure that the full scope of technical assessment regarding land capability and suitability is undertaken before land is rezoned.

Council's estimates as compiled for the Local Strategic Planning Statement indicate that there is sufficient capacity within Council's long term planning policy, zoning arrangements and policy settings to accommodate projected residential housing demand for around 20 years (being a combination of greenfield and infill housing).

Slope and Site Regrading

One of the key concerns raised by Council in the RFI is the slope of the site and the ability to deliver housing that will comply with Council's Development Control Plan (DCP) requirements with regard to the modification of landform.

In the BRS letter submitted with the rezoning review, the site is characterised as having '*gentle to moderate slopes (4-10%) with localised steeper slopes limited to drainage corridors*'.

An analysis of a cross section taken from the southern end of the site, running indicatively from the entrance / exit on Tamarind Drive to the pedestrian underpass entrance (Figures 4-6) indicates an average gradient of 11.1%

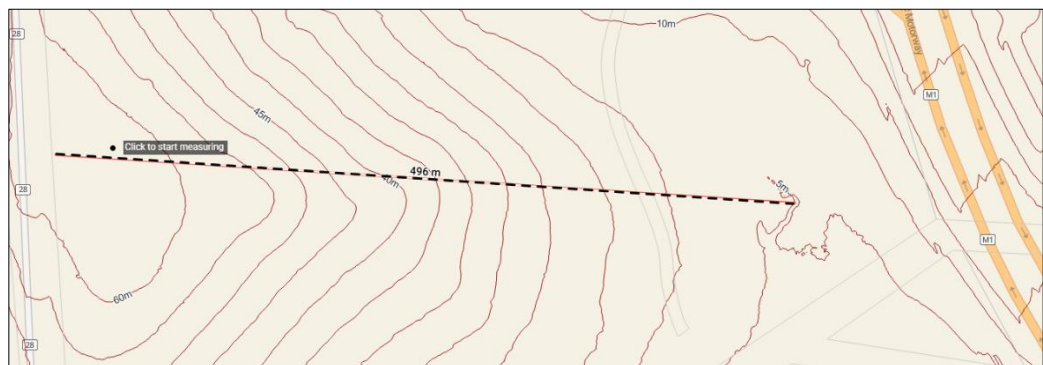


Figure 4: Indicative line used to measure slope across the site

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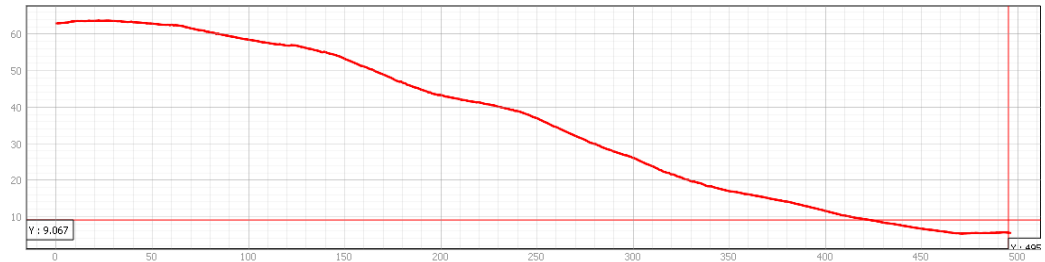


Figure 5: Cross section of site slope

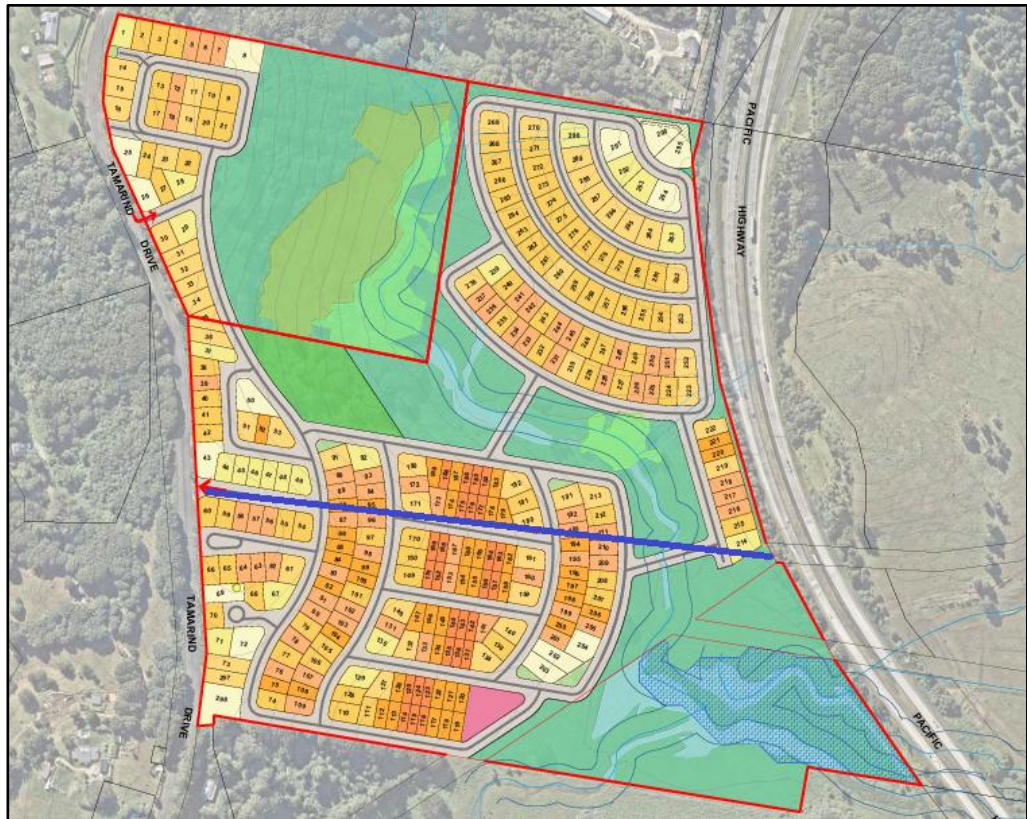


Figure 6: Indicative location of slope measurement (blue line) in relation to the site concept plan

BRS's response to Council's RFI (Attachment 3) indicates that the proponent has prepared a set of plans showing a range of proposed cut and fill works including earthworks sections and road layout long sections etc.

BRS's letter refers to 'Preliminary Civil Engineering Drawings' contained within Attachment 3 of the RR-2026-5 material. However, these drawings are not contained within the 40 attached documents.

As a result of this omission, it cannot be determined whether future development under the proposed zoning arrangement will be able to meet DCP requirements in relation to cut, fill and retaining walls.

The Planning Proposal originally submitted by BRS (PP-2025-1160) states that once proposed earthworks levels are known, '*further slope stability (modelling) of the proposed batters and retaining structures be carried out to assess the proposed earthworks profiles against global instability*'.

4.1 Cumbalum Urban Release Area C - Rezoning Review

Council requested a conceptual earthworks plan with indicative quantities of cut and fill and retaining wall locations be provided as part of an updated geotechnical assessment.

This information was not provided with the revised geotechnical investigation report from Douglas Partners submitted as part of RR-2026-5.

This information is necessary in this instance to enable a proper assessment of the planning proposal to inform a decision with respect to Gateway Determination.

Internal Road Layout / Urban Design

Also related to the slope of the site, concerns were raised by Council in the RFI regarding the design of the internal road network, with long lengths of straight road shown over steep gradients.

It was requested that shorter straights be demonstrated between intersections and other slow points to achieve a design speed of 40 km/h. It was also noted that where land slopes at 6% or greater, Council's DCP requires roads to be predominantly perpendicular to the slope.

BRS's response (Attachment 3) says *'The conceptual road layout has been amended to demonstrate that the internal street network is capable of being refined to comply with DCP Chapter 3 requirements for inbuilt speed management, safe gradients and road alignment. The revised layout illustrates the ability to reduce long straight road segments, incorporate additional junctions and turning nodes, and orient road alignments more perpendicular to slope on land exceeding 6% grade.'*

An assessment of the concept plan submitted to Council (Rev A, May 2025) and the one provided with the rezoning review (Rev C, October 2025) shows very little change.

The two plans are provided as Figures 7 and 8 with the differences circled in Figure 8.

The only changes to the internal road layout have been the inclusion of an additional cul-de-sac in the southwestern corner and a minor change that provides additional housing fronting Tamarind Drive, which eliminates the need for an internal parallel road.

The re-design does not suitably respond to Council's concerns about achieving suitable design speeds for motor vehicles in a built-up urban environment.

Whilst a concept plan is not a final design and there is a level of detail appropriate at the development application stage, there needs to be a high level of confidence at the rezoning stage that a suitable subdivision design can be achieved within an area proposed for a residential zoning.

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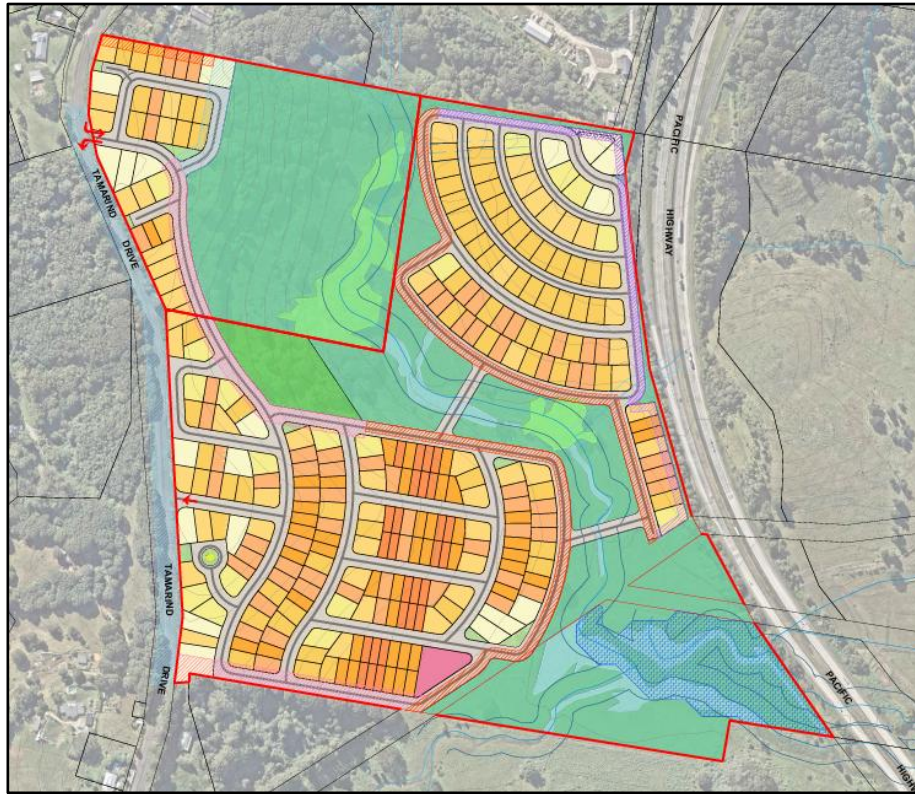


Figure 7: Site Concept Plan (Rev A, May 2025)

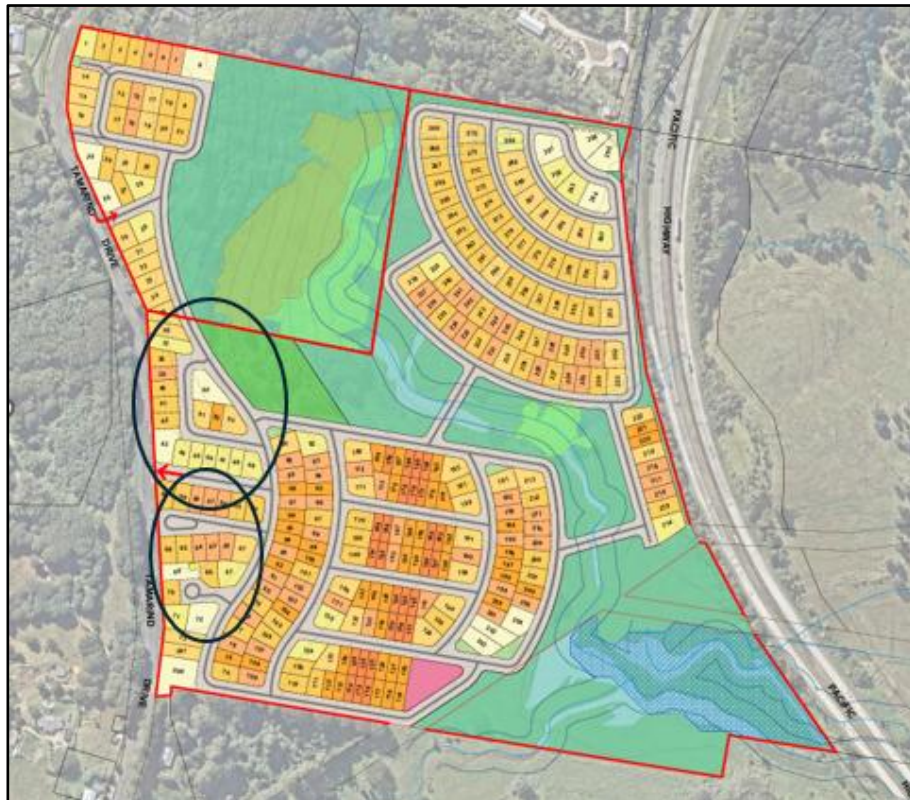


Figure 8: Site Concept Plan (Rev C, October 2025) with changes circled

4.1 Cumbalum Urban Release Area C - Rezoning Review

Area of Land Proposed for Residential Zoning

Council's RFI sought clarification about the suitability of land to be used for residential purposes and areas intended to be utilised as open space and drainage.

Essentially there was a discrepancy between the RPS urban design report which indicated significant areas for open space and drainage, yet much of this land was proposed for an R3 (Medium Density Residential) zoning.

BRS's response (Attachment 3) has been to propose a change across the site predominantly to apply an R2 (Low Density Residential) zone.

However, the zoning plan still has large areas shown for a residential zoning adjacent to the watercourse and C2 areas (Figures 9 and 10).

The issue here is why residential zoning (and 450m² minimum lot size for subdivision) is being sought for areas that are indicated on the concept plan and in the urban design report as being designated for open space and drainage.



Figure 9: Site layout plan from the RPS urban design report shows an open space and drainage corridor running north – south through the site

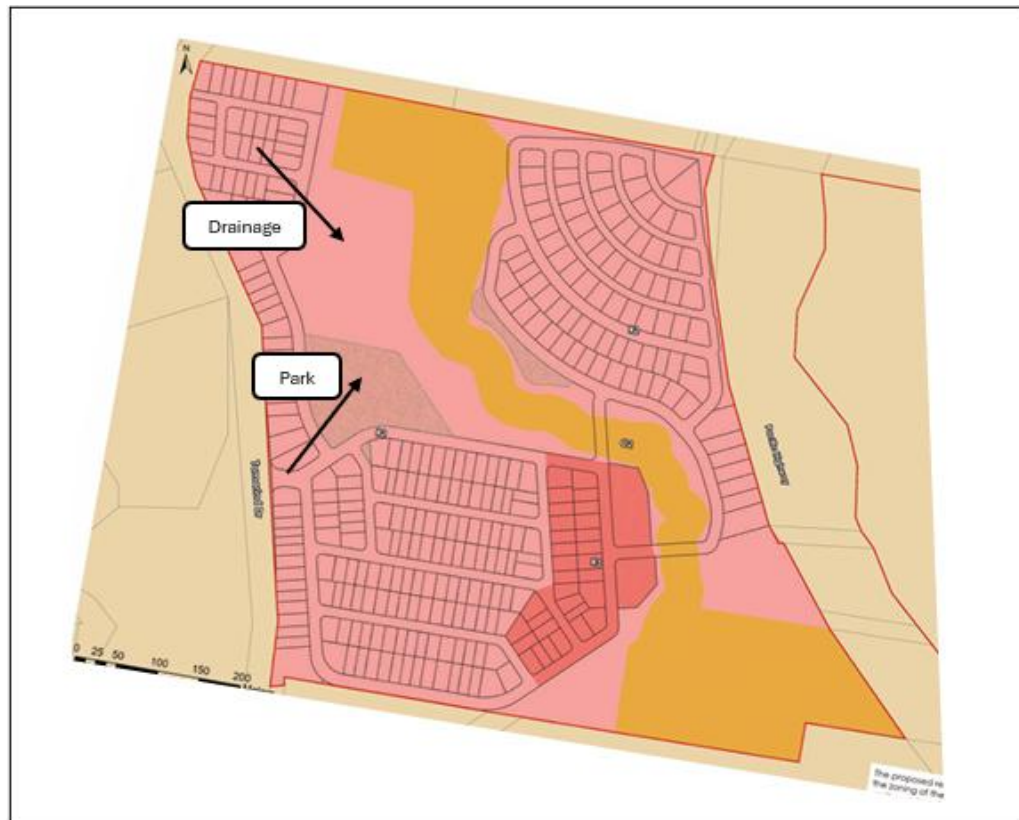


Figure 10: Areas shown as open space and drainage within the site concept plan are shown as having a residential zone (R2) proposed

Community Infrastructure

Council's RFI identifies that there is an expectation that new greenfield sites will be serviced by a local centre and/or provide suitable paths that allow for connectivity to services to meet the day-to-day needs of residents (sports fields, parks, playgrounds, local shops).

The desire to create walkable, liveable neighbourhoods is one of the four principles of Council's Housing Strategy.

Council requested analysis regarding the level of community infrastructure required to service the proposed residential estate and to explore opportunities for paths to local centres at Tintenbar or Kinvara.

It was also requested that the level of public open space to be provided for within the estate was identified and that a planning agreement was Council's preferred method for the delivery of community infrastructure.

BRS's response does not specifically address these matters. A park of 0.95 hectares is shown on the concept plan. There is no letter of offer to enter into a planning agreement for the provision of any community infrastructure or the management of environmental or open space areas.

There is a risk of creating a housing estate that is isolated from community and commercial services and does not provide the level of community amenity that is expected by Council.

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BRS's response (Attachment 3) does say that active transport links have been investigated.

This is limited to a new page (p.9) within the RPS urban design report showing minor and primary active transport movements.

The level of active transport, open space and other community infrastructure to be provided and the mechanism(s) for providing it has not been suitably addressed by the proponent.

Site Access

Council's RFI identifies that there is a level difference of several metres between the development site and Tamarind Drive at the two proposed access locations, and that there is significant vegetation impacting upon sight lines.

Council requested concept level designs be provided to determine if these intersection locations are feasible and safe.

BRS's response (Attachment 3) identifies that the northern entrance (Intersection 1) will be left-in only, and that the southern entrance (Intersection 2) is proposed as an all-movement intersection in relation to vehicular movement.

The response indicates Intersection 2 has been redesigned in accordance with Austroads standards, relocated to the top of a nearby crest and that traffic volumes have been updated.

However, no new designs or traffic impact assessments have been provided as part of the documentation in the RR-2026-5 material.

Water and Wastewater Servicing

With regard to the potential mechanisms available for the provision of water and sewer infrastructure, BRS's response (Attachment 3) indicates that a planning agreement can be secured at a later stage for the provision of any required trunk infrastructure.

Detailed understanding of the nature of infrastructure needs and mechanism(s) for delivery are essential in relation to a planning proposal of this type.

Without a complete up-front picture of how infrastructure will be provided and by whom, there can be significant impediment to development progress (should a rezoning proceed) and financial risks to Council and the public associated with infrastructure provision.

If the preferred option for the provision of drinking water is a connection to the proposed Ross Lane reservoir, planning for the increased capacity is required early so that design and cost considerations can be properly accounted for and integrated into planning for the site.

In relation to the recycled water reservoir at Dufficy's Lane, this infrastructure has not been sized or costed with respect to additional demand that would be generated by the CURA C residential development.

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Two options are identified for the provision of wastewater servicing, and both require connection to infrastructure that is to be constructed by the developers of the proposed CURA B estate at Kinvara.

Any increase in capacity for CURA C will need to be comprehensively planned and accommodation of additional demand shown to be feasible.

For all the water and wastewater elements, the sequencing of infrastructure delivery and connection is critical.

All these matters require deliberate and thorough address through a formal mechanism such as a planning agreement or changes to Council's development servicing plans.

Council's RFI sought clarification as to the applicant's preference.

If a planning agreement is necessary, a letter of offer that outlines the proposed terms for an agreement so the suitability of the terms can be considered by Council (and Rous in terms of water supply) as the local planning and infrastructure authority.

Clarity around infrastructure provisions is a routine requirement for a rezoning application of this type.

Progression to Gateway Determination and public exhibition should not proceed until these elements are fully understood and documented, with viable solutions for infrastructure delivery and funding identified.

It is also noted there are design issues regarding the detention time of wastewater that may require pre-treatment to manage odour and corrosion.

A rising main will also require careful design to manage small flows, long distances and undulations in the vertical alignment.

Bushfire Protection

The bushfire report prepared by Bushfire Certifiers (May 2025) identified the mapped bushfire prone land as shown in Figure 11.

This is based upon mapping adopted by the NSW Rural Fire Service (RFS) in 2012.

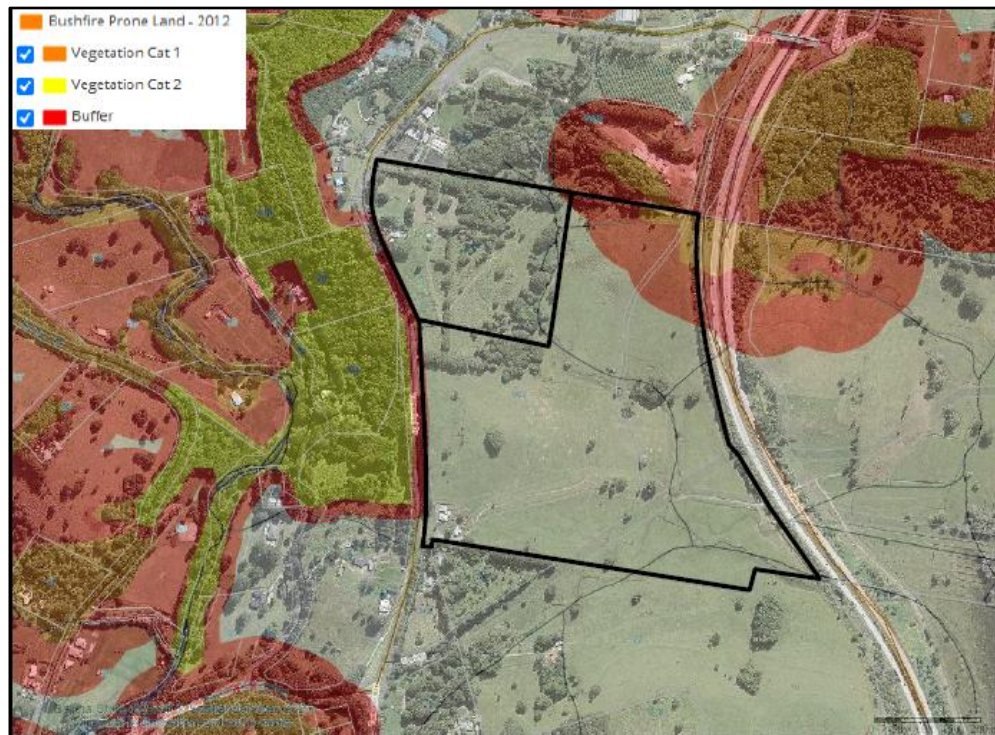


Figure 11: Bushfire Prone Land Map as shown in Bushfire Certifiers report (May 2025)

An addendum to the bushfire report was provided with the RR-2026-5 material dated 5 December 2025, providing some additional information in relation to the amended concept plan.

However, new bushfire prone land mapping was certified by the NSW RFS Commissioner on 11 November 2025.

The new mapping includes Category 3 (Grassland) and shows almost the entire site is now mapped as containing Category 2 and Category 3 bushfire prone vegetation (Figure 12).

The NSW RFS guide *Planning for Bushfire Protection (2019)* sets out requirements for a Strategic Bush Fire Study when considering the rezoning of bushfire prone land.

Whilst this was done for the May 2025 report, it needs to be updated to reflect statutory changes to bushfire prone land mapping that has since been adopted by the RFS.



Figure 12: Updated bushfire mapping shown across the site

Ecological Assessment

BRS’s response (Attachment 3) indicates that an updated ecological assessment (Bower Ecology November 2025) now aligns with the methodology recommended by the Department of Climate Change, Energy, Environment and Water – Conservation Programs Heritage and Regulation division (DCCEEW CPHR).

The response though does not sufficiently address the matters that DCCEEW identified for resolution.

Table 2 outlines the matters requested by DCCEEW (in a letter dated 23 October 2025) and Council’s response as to whether the updated ecological assessment has addressed these issues.

Table 2: Assessment of Revised Ecological Report.

Matter Requested by DCCEEW CPHR	Council Review
1. High Environmental Value (HEV) land in the planning area be identified and mapped in accordance with the approach set out at Attachment 2 (of Guidelines for Biodiversity Assessment for Planning Proposals provided by DCCEEW CPHR).	The methodology within the attachment has not been followed.

4.1 Cumbalum Urban Release Area C - Rezoning Review

Matter Requested by DCCEEW CPHR	Council Review
2. Any HEV land identified in the planning area be incorporated into the C2 Environmental Conservation zone	Partially addressed in that the proposed area of C2 zoned land has increased to include the stream and riparian area. However, Council's RFI indicated further survey work was required to identify HEV land.
3. Native vegetation communities in the waterlogged areas of the planning area be mapped as the Freshwater Wetland Threatened Ecological Community and identified as HEV land.	Not updated.
4. The 40 ha minimum lot size be applied to all identified HEV land in the planning area.	Not mentioned in the ecological assessment and no updated Minimum Lot Size map has been provided.
5. The planning authority considers requiring a planning agreement, or an alternative planning mechanism, that commits the landholder to the preparation and implementation of a Biodiversity and Vegetation Management Plan to manage all conservation zoned land in the planning area, with the Plan to be lodged with the first development application for the planning area following rezoning.	This is not mentioned in the ecological assessment and no offer to enter into a planning agreement has been put forward by the applicants.

Affordable Housing

The site concept plan shows an area of 0.21 ha as an 'affordable housing lot' and the BRS response, as per Attachment 3, indicates this will be for a mix of housing typologies for people on very low to moderate incomes, including key workers.

With 16.47 ha allocated for residential development on the concept plan, the affordable housing area represents 1.27% of the land for housing. Council's RFI requested further information on the amount of affordable housing to be included and the mechanism for delivering this.

The RR-2026-5 material includes a non-binding joint venture term sheet, signed by PERIFA Developments and North Coast Community Housing (now called Northern Rivers Housing) on 29 February 2024. It does not address the matters raised by Council and provides no certainty for the delivery of affordable housing.

The term sheet refers to the parties intending to work together to deliver 70 affordable housing apartments, within an estate of approximately 600 lots. The concept plan shows a yield of 298 lots across the site.

The date of this agreement in 2024 suggests these preliminary discussions with Northern Rivers Housing were conducted when the applicants were seeking to rezone a much larger (116 ha) area of the CURA C precinct (this was communicated to Council at a pre-lodgement meeting that was held in November 2022).

4.1 Cumbalum Urban Release Area C - Rezoning Review

The absence of a mechanism to embed the proposed affordable housing at the rezoning stage is problematic, if the objective is to ensure the proposed housing is physically provided during a future development.

Key issues include the legal basis to require the housing, when such housing will be provided and what happens if the developer defaults on the agreement.

In this instance, the best time to ensure affordable housing is 'locked in' is at the rezoning stage, prior to the uplift in land development potential and value arising from a change of zone.

The proposed terms for provision of affordable housing should be set out in a formal offer, preferably through the mechanism of a planning agreement.

This should occur before the planning proposal proceeds to a Gateway Determination, so that decision makers and the community can be clear about what is intended and how it will occur, and this can be embedded into a Gateway Determination and public exhibition material.

Alternatively, if the proponent does not wish to formally set out the proposed terms of an agreement around affordable housing, then the planning proposal should be considered on the basis that housing is a possibility, rather than an integral part of the proposal.

Lot Size

The planning proposal proposes a minimum lots size for residential lots of 450m² as shown in green in Figure 13.

These types of lots can be suitable within new urban areas and support a mixture of housing types.

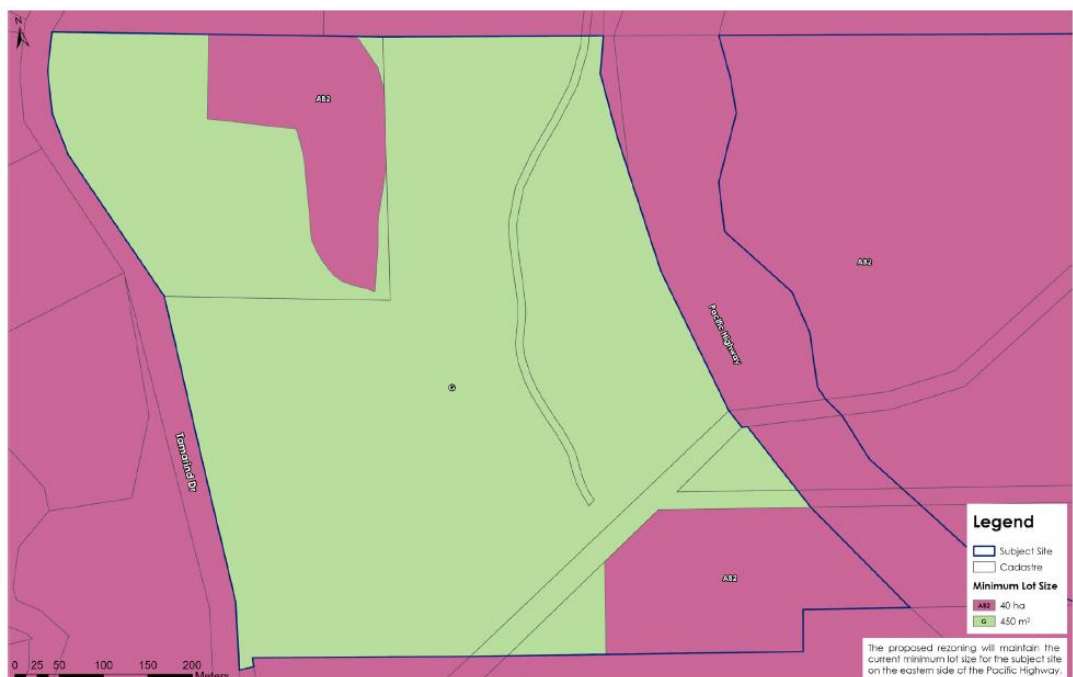


Figure 13: Minimum lot size plan

However, having regard for the nature of the terrain, a blanket minimum lot size for subdivision of 450m² across residential areas proposed on the site has not been demonstrated to be suitable.

Lot sizes in the range of 600m² to 1200m², potentially with some defined areas below 450m², would be more compatible with the terrain and manage density outcomes having regard for site constraints.

Summary of Key Issues

The additional material provided by the applicant, as part of the request for a rezoning review (summarised in Table 1 of this report), does not respond to many of the issues raised by Council in the original RFI (Attachment 1) and includes a range of updated or new reports that were not requested by Council.

Key issues include:

- The level of site re-grading required to deliver residential development at the density proposed in the concept plan
- The ability to deliver a residential subdivision that complies with Council's DCP controls regarding site re-grading
- The footprint of the proposed R2 residential zoning relative to drainage and open space areas
- Nature and provision of community infrastructure and linkages (parks, sports fields, cycle paths)
- Provision for water and wastewater infrastructure, including mechanisms to ensure adequate infrastructure and meeting of costs
- Biodiversity and land management framework
- Mechanism to ensure affordable housing is delivered should a rezoning proceed
- Lot size for subdivision (450m² across proposed residential zoned areas).

The absence of agreement around community infrastructure, water and wastewater infrastructure and ongoing land management creates significant uncertainty around the suitability of the land for development and how future development will be delivered.

It also creates likely significant financial risks for the public around the costs for infrastructure delivery.

These things, along with the commitment regarding affordable housing, need to be fully addressed and documented pre-Gateway Determination, preferably through formalised agreements and/or plans.

These are not matters that should be left until later in the planning process for this site.

4.1 Cumbalum Urban Release Area C - Rezoning Review

Other Matters for Consideration

Noise and Visual Impact

A preliminary noise impact assessment (ENV Solutions, May 2025) was provided with the original planning proposal (PP-2025-1160) submitted to Council.

It was determined that a minimum 6.5m high noise wall, approximately 800m long, would be required on the western side of the Pacific Motorway to effectively reduce the noise impact on residents within the site.

Due to topography, this approach would still require dwellings in the northeast corner of the site to have additional noise mitigation treatments, to meet noise level criteria set out in the SEPP (Transport and Infrastructure).

The proposed location of the wall and the sites requiring additional architectural acoustic treatments is shown below in Figure 14.

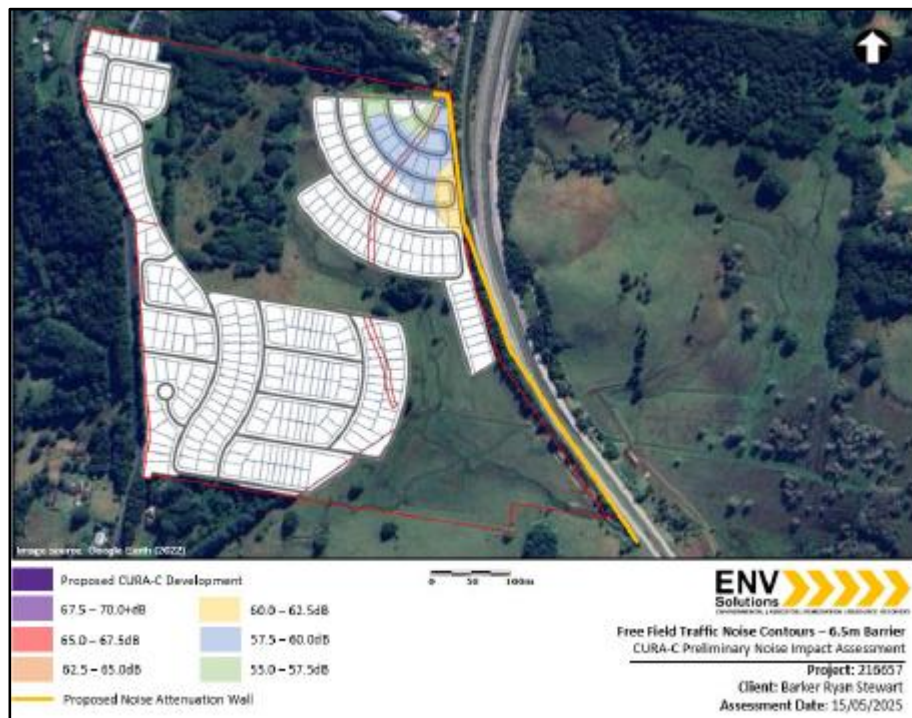


Figure 14: Noise wall location and residual impacted residents

The ENV Solutions report concluded that further assessment of traffic on the Pacific Motorway was required to determine modelling for noise impacts on future residents and that the developer, geotechnical engineers and Transport for NSW (TfNSW) assess the viability of constructing a noise barrier wall on the edge of the road corridor.

Council's RFI sought further information on the visual impacts of the proposed development, including the noise attenuation wall. A landscape visual impact analysis report (Habit8, November 2025) was provided in the RR-2026-5 material. The analysis from numerous locations in the area found impacts range from minor/negligent to major/moderate.

4.1 Cumbalum Urban Release Area C - Rezoning Review

An issue to consider, aside from visual amenity, is who becomes responsible for the management of the noise wall and potential financial and risk liability for Council.

This is something that could be addressed through a planning agreement.

Ministerial Directions

Staff have undertaken an initial assessment against Section 9.1 Ministerial Directions.

The planning proposal is likely to be consistent with the directions that apply.

However, further information regarding transport choices that reduce dependency on cars may be required to satisfy requirements regarding Direction 5.1 (Integrating Land Use and Transport), and an updated bushfire report to comply with the recently updated bushfire prone land mapping is required to be consistent with Direction 4.3 (Planning for Bushfire Protection).

Procedural Matter for Consideration

Council's role going forward

The letter from DPHI (Attachment 2) asks whether Council wishes to nominate itself as the Planning Proposal Authority (PPA).

This means that in a scenario whereby the Regional Planning Panel 'supports' the proposal proceeding with Gateway Determination, the process could essentially revert back to Council.

Under this scenario, the understanding is that if Council is appointed as the PPA, Council would then have 28 days to submit an amended planning proposal (in accordance with the panel's requirements) to DPHI.

Council would be required to carry out all the usual Gateway Determination requirements such as consultation with relevant agencies and public exhibition.

In this scenario a report would be presented to Council post exhibition to seek a final determination regarding its support or not for the planning proposal, after consideration of submissions.

Regardless of Council's decision, a final review and decision sits with the Minister (or delegate).

The alternative is that if Council does not wish to be the PPA, the Regional Planning Panel will appoint an alternative (possibly itself) to carry out these functions.

An extract from a flowchart from DPHI's LEP Plan Making Guidelines is provided at Figure 15.

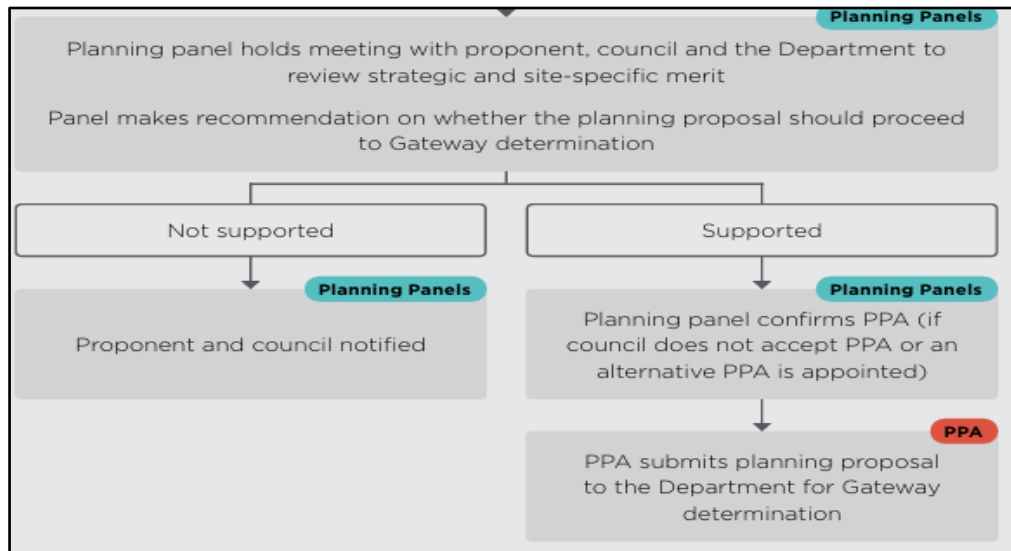


Figure 15: Flowchart of the process from this point

The recommendation is that Council indicates it wishes to be appointed as the PPA if the Regional Planning Panel determines the matter should proceed to the Gateway process.

This would be subject to the proponent meeting Council’s standard fees and charges for a planning proposal of this type.

There is no certainty though that this appointment will be made, even if Council wishes to take on the PPA role.

Community Engagement Strategy

No community engagement has been undertaken at this point.

This will occur as a condition of the Gateway Determination, should the matter be supported by the Regional Planning Panel.

Financial / Risk Considerations

Council’s applicable fees and charges have been paid for the initial stages of assessing the planning proposal.

Should the Regional Planning Panel support the proposal going forward and Council nominates itself as PPA, further fees are payable for the next stages up to finalisation of the LEP amendments.

The long-term risk to Council is managing a development that may place strain on Council’s infrastructure funding.

Options

Council’s role is limited at this point in the process as its initial decision-making powers about proceeding with Gateway Determination have been removed by the applicant’s request for a rezoning review.

4.1 Cumbalum Urban Release Area C - Rezoning Review

Council may supply “any additional information and commentary” to the Regional Planning Panel and may nominate itself as the Planning Proposal Authority (PPA) if the panel supports the proposal moving forward to a Gateway Determination.

Essentially there are three decisions to make as follows:

- Whether to respond to the DPHI’s request for information from Council about the planning proposal.

Having regard for the nature and extent of issues identified in this report and Council’s original RFI, it is recommended that Council makes a submission to the DPHI and Regional Planning Panel, based on the contents of this report.

This is important to ensure that Council’s interests are represented in the DPHI and Planning Panel’s review of the matter.

- Whether Council indicates that it does or does not support the planning proposal.

There are two considerations here that are relevant, one being the overall suitability of the site and the other being the suitability of the proposal as it is currently made to progress through the LEP amendment process.

The recommended approach is to advise the DPHI and Regional Planning Panel that Council does not support the current planning proposal, as it has been made, and that it is not suitable to progress to Gateway Determination, based on the contents of this report.

Council can further consider overall site suitability in the context of further reporting on the CURA C site associated with the LSPS.

- Whether Council wishes to nominate as the Planning Proposal Authority (PPA).

Council can indicate its preference in relation to being the PPA post the review process.

It is recommended that Council nominates as PPA, to the DPHI and Regional Planning Panel if the planning proposal is deemed suitable by the panel to progress to Gateway Determination.

If Council is appointed as PPA, this essentially returns the LEP amendment process to Council if the planning proposal is allowed to progress.

RECOMMENDATIONS

1. That Council makes a submission to the Department of Planning, Housing and Industry and Northern Regional Planning Panel with respect to the CURA C planning proposal setting out the technical and merit issues identified in this report.
2. That having regard for the submitted information and the identified deficiencies that Council advises the DPHI and the Regional Planning Panel that it does not support the proposed rezoning progressing to Gateway Determination.
3. That Council advises DPHI that it wishes to nominate as the Planning Proposal Authority (PPA), should the Regional Planning Panel decide to progress the planning proposal to Gateway Determination.

Attachment(s)

1. Council's Request for Further Information [⇒](#)
2. DPHI letter advising of rezoning review [⇒](#)
3. BRS letter requesting a rezoning review