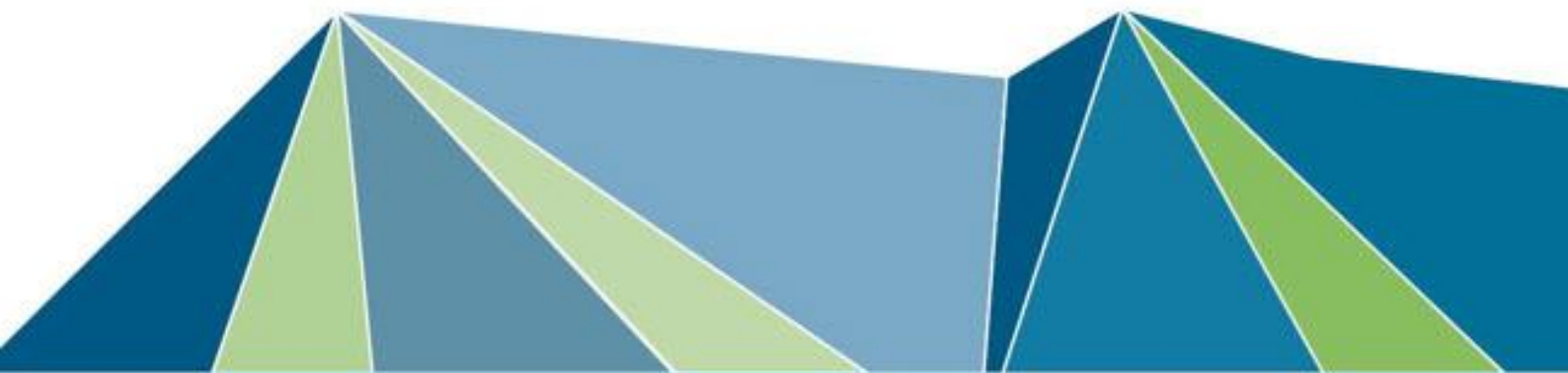


## **ATTACHMENTS TO**

# ***Environmental and Sustainability Committee Meeting Business Paper***

**9 April 2026**



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enquiries refer  
**Andy Parks**  
in reply please quote  
**BSCPP 25/53613**

18 August 2025

Cyrus Roshani  
Town Planner  
Barker Ryan Stewart

Via Email: [cyrus@brs.com.au](mailto:cyrus@brs.com.au)



Dear Cyrus,

**Re: Additional Information Required for CURA C Rezoning Planning Proposal**

After Council staff's assessment of the technical reports supplied to support the rezoning planning proposal for Lot 4 DP 710170 and Lot 10 DP 1173458 ('the site'), a range of matters have been identified where additional information is requested be provided and / or clarified which are outlined within this letter.

The comments are presented under subject headings that relate to each of our technical staff's review of the relevant report(s) in their field of expertise. These comments should be considered holistically as some matters are interconnected, with overlapping issues across disciplines potentially impacting on how to respond.

**1. STRATEGIC PLNNING AND URBAN DESIGN**

**Development Footprint / Appropriate Zoning**

The Urban Design Report (RPS) provides an opportunities and constraints analysis which informs a range of other site layout design considerations. There is a disconnect between the land identified for drainage and open space and what has been submitted in the proposed zoning and associated minimum lot size (MLS) maps.

Please identify if any land within the proposed R3 zone is suitable for future residential development, or alternatively, amend the proposed zoning and associated MLS maps to reflect the intended use as open space and drainage. Please refer to maps below.

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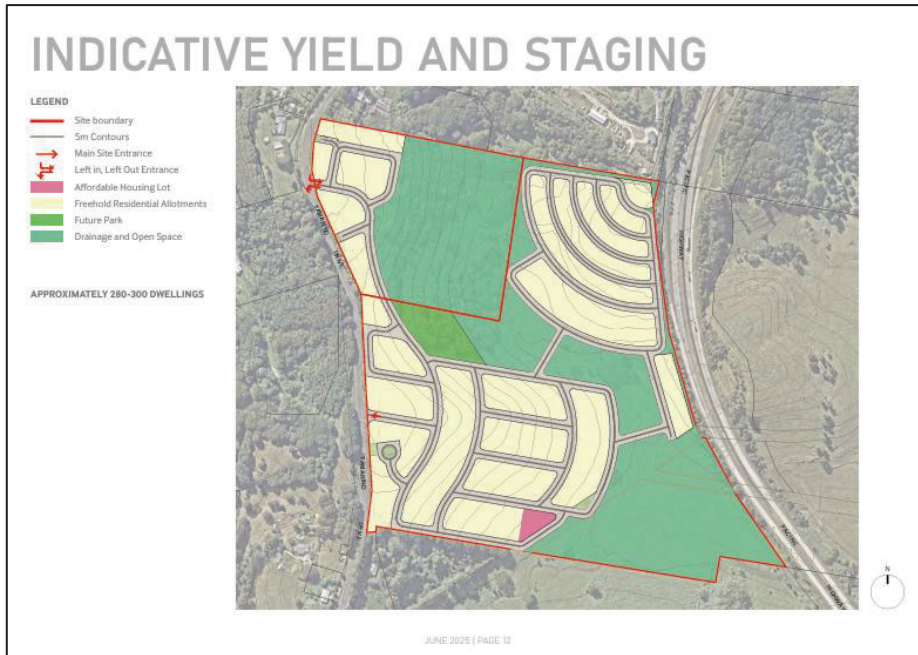


Figure 1: Developable areas and open space / drainage areas as identified in the RPS Urban Design Report

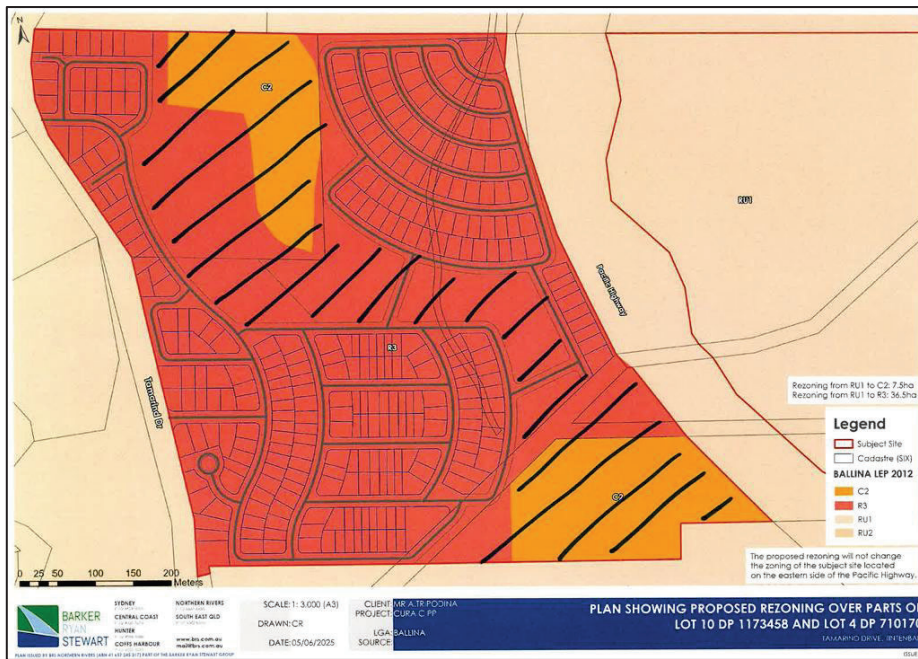


Figure 2: Clarification of appropriate zoning required within hatched area

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### Compatibility of medium density residential use on steep land

Much of the land area where the R3 zone is proposed has a slope that exceeds 10% and, in many cases, has a 16% - 25% grade. It becomes difficult to achieve a quality urban design outcome with small lots on land steeper than 10%, and more so where steeper than 16%. In order to verify that the proposed zoning (at the intended densities) can achieve the design vision and provide a high level of urban design in both future private and public realms, further information is required. This should include cross sections and design typologies to verify that proposed lots can comply with requirements in DCP Chapter 3 (Urban Subdivision) including:

- *Where the subdivision works include site modification of individual lots for building pads and the like, earthworks are restricted to a maximum cut or fill of 1500mm from natural ground level for a single cut/fill, or a maximum of 1100mm per cut/fill where more than one cut/fill proposed for the lot;*

It is noted that in the minutes from the scoping meeting held on November 28, 2022, the applicant was advised that designs would need to minimise cut and fill and avoid site terracing and the need for high retaining walls.

If it cannot be demonstrated that a quality medium density housing outcome and streetscape is possible on steep land, an alternate zoning and associated MLS with reduced density should be applied.

### Affordability

The Ballina Housing Strategy (2024) seeks to increase the housing opportunities for local workers and those on very low to moderate incomes (as defined in the Housing SEPP). The subdivision concept plan identifies 0.5% of the site for affordable housing. Further information is required to justify the relatively small amount of affordable housing lots and the proposed mechanism(s) for ensuring the affordable housing lots will be reserved for local workers and/or those within the target income bands.

### Visual Impact

The proposed change from a rural to a medium density residential zoning will impact upon the scenic amenity of the locality. Further information is required to identify the impacts of future development (at the intended densities and including the proposed 6.5m noise attenuation wall) in terms of its visibility. This should include views from surrounding hilltops and ridge lines, the Pacific Motorway and Tamarind Drive.

### Active Transport, Open Space and delivery of Community Infrastructure

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).

There has been no analysis as to the level of local community infrastructure required to service the proposed residential estate. It may be that an E1 zoned Local Centre is not commercially viable to support the intended population, but some data and commentary on this matter should be provided.

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The desire to create walkable, liveable neighbourhoods is one of the four principles of Council's Housing Strategy. The opportunities to provide suitable walking and cycling paths to the existing centre at Tintenbar or the future E1 centre at Kinvara appear to be limited by the surrounding topography and land ownership. However, these options should be explored and plans provided identifying possible routes, including indicative long sections and typical cross sections.

If it is found that no suitable options are available, this should be clearly identified. Alternatively, if an active transport route is proposed either west to Tintenbar or east to Kinvara, then the proposed mechanism for the delivery of such infrastructure should be indicated.

Similarly, it is requested that the applicant identifies the level of public open space and any associated embellishments to be provided within the estate. It is noted that within the applicants Planning Proposal (page 22) a Voluntary Planning Agreement is identified as the preferred approach to the provision of local infrastructure. Further detail is requested regarding the proposed developer funded pocket park near the south-western corner of the site and whether other land required for drainage and open space is also proposed to be dedicated to and managed by Council in the long term.

### **Development Control Plan**

Clause 6.3 of the Ballina Local Environmental Plan (2012) requires that a development control plan (DCP) be prepared for all new urban release areas and sets out the elements that must be addressed. It is noted that the applicant's planning proposal also identifies a range of matters to be considered in a site-specific DCP.

Whilst this is not required 'pre-Gateway', a DCP would be required to go on public exhibition with the planning proposal (subject to Council and DPHI's endorsement). Council would like to understand if the applicants are planning to prepare and submit a draft DCP for the site, or whether this work is primarily to be undertaken by Council staff?

The DCP and associated structure plan would be included as an amendment to Chapter 3 (Urban Subdivision) and would also address the location of community infrastructure and internal roads.

A fee of \$13,600 is applicable for a DCP amendment for a new urban release areas, as set out in Council's adopted [Fees and Charges](#).

## **2. ROADS AND TRAFFIC**

### **Methodology**

The Traffic Impact Assessment (TIA) provided by Bitzios is not consistent with TfNSW latest "Guide to Transport Impact Assessment" TS 00085 V1.1, 4 November 2024. In regard to assessment year determination, Council requires assessment for the development traffic and surrounding network traffic initially at year one of completion of the full development and occupation of the site, and a further analysis for network impacts 10 years from year one. The TIA therefore should be redone in accordance with the 2024 guide and the identified timeframes.

### **External Roads**

The TIA has calculated future volumes of development generated traffic to 2038 on the road network. The TIA has satisfactorily demonstrated that this additional traffic volume will not have significant capacity impacts on the existing road network and key intersections.

In regard to the southbound Hinterland Way southbound exit from M1 off ramp, the TIA SIDRA results for 2038 demonstrate high levels of service and low degree of saturation regarding

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intersection capacity. There have however been a significant number of complaints from residents about the safety of this intersection. A road safety audit is needed to demonstrate that this intersection will operate safely in the future with the added development generated traffic, or provide recommended treatments to upgrade this intersection to a safe standard. In this regard a minimum 20-year time horizon should be examined.

**Site Access**

The RPS Concept Plan shows two proposed site access from Tamarind Drive to the internal public street network, as shown on the plan below.

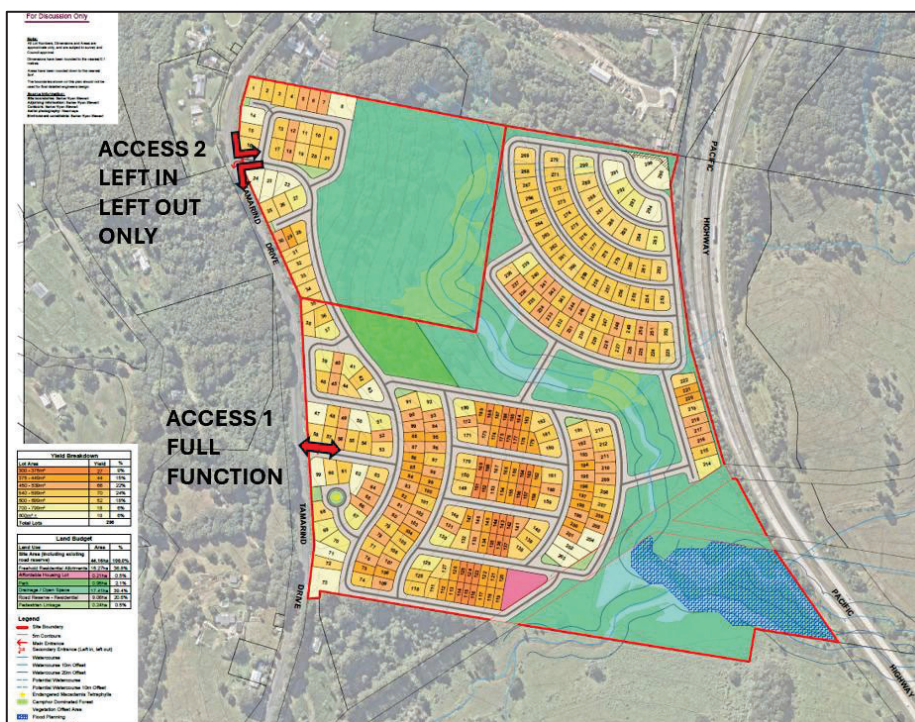


Figure 3: Proposed access points

Access 1, located approximately 200 m south of the Lot 4/Lot 10 boundary is proposed as a full function with left in/out and right in/out movements provided. Access 2, located approximately 220 m north of the Lot 4/Lot 10 boundary is proposed as a left in/left out movements only.

The Bitzios TIA does not provide basic concept design plans with associated levels of the site road access. The TIA only provides a generic SIDRA schematic plan of "Intersection 5: Tamarind Drive/Development Access" indicating full function left in/out and right in/out movements. The SIDRA analysis then demonstrates that from a Level of Service/Saturation assessment the intersection performance is acceptable. The TIA does not provide the location of "Intersection 5" however it is assumed that this is the southern access as full functions are provided. There is no performance analysis of the second left in/left out intersection in the Bitzios TIA.

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Insufficient information in the form of scale plans and levels (cross sections / long sections) has been provided to determine if the proposed intersections are feasible or safe. At both intersection locations there is significant level difference (several metres) between the development site and Tamarind Drive indicating there will be significant cutting earthworks and gradient required on the proposed access roads to connect the lower level of Tamarind Drive with the proposed development. The Tamarind Drive road reserve is also heavily timbered which has sight impacts. These matters will impact on the intersection design and whether these intersection locations are feasible or safe, and the extent of timber clearing and engineering works required on Tamarind Drive.

In regard to proposed Access 1, concept level intersection design detail is required to determine:

- The extent (and available road reserve space) of works required on Tamarind Drive which could include clearing, earthworks, retaining walls, pavement works, linemarking/signage, provision of protected turn lane(s).
- The approach gradient and associated site and Tamarind Drive earthworks (cutting) and finished levels to provide adequate intersection sight distance for all movements.
- Through a road safety audit, whether the proposed concept intersection design is safe.

Access 2 is located immediately south of an uphill gradient (to the north) and significant curve on Tamarind Drive. The proximity of the curve and gradient on Tamarind Drive immediately north of the proposed access will cause significant risk of crashes (rear end) without appropriate intersection design to manage this risk. There is also a significant level difference between the development site and the lower surface of Tamarind Drive. Concept level intersection design detail is required to determine:

- The extent (and available road reserve space) of works required on Tamarind Drive which could include clearing, earthworks, retaining walls, pavement works, line marking / signage and provision of significant lengths of southbound left turn and merge lanes.
- The approach gradient and associated internal and Tamarind Drive earthworks (cutting) to provide adequate intersection sight distance for all movements.
- Through a road safety audit, whether the proposed concept intersection design is safe.

### Internal Roads / Urban Design

The RPS Urban Design Report's Movement Networks and associated subdivision concept plans are not satisfactory as the street layout has not been designed to control vehicle speeds to a safe level. Vehicle speed is primarily determined by length of straight (or large radius curves) between slow points and is also affected by road widths and road gradient. The long lengths of straight roads (and with steep gradients) as depicted in these plans are unsafe and will encourage high speeds.

The internal street network needs to be redesigned to provide shorter straights between T junctions/roundabouts or other acceptable slow points. Provision of slow points through traffic calming devices such as speed tables or speed bumps are not acceptable. It is also noted that DCP Chapter 3 requires that where land slopes at a grade of 6% or greater, the predominant road alignment is to be perpendicular to the slope.

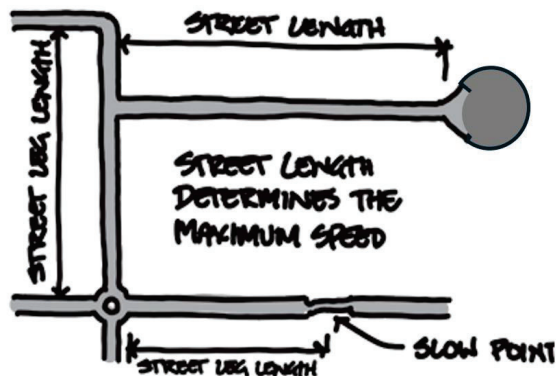
The redesign of the road network to provide inbuilt speed control is likely to impact on the lot yield and urban design elements of the proposed subdivision.

A redesign of the proposed internal street network is required that provides inbuilt speed restrictions for a design speed of 40 kph, based on limiting lengths of straight (or slightly curved) street between slow points in accordance with the table below:

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## 4.1 Cumalun Urban Release Area C - Rezoning Review

Design Speed (km/h)	Maximum Street Leg Length Between Slow Points (m)	Notes
25	40	Slow Point End Condition, 20 km/h or less
30	75	For grades of 5 to 10 %, reduce design speed by 5 km/h
35	100	
40	120	For grades of over 10% reduce design speed by 10 km/h
45	140	
50	155	



### 3. GEOTECHNICAL AND LAND FORMING

The Douglas Partners "Preliminary Geotechnical Investigation" has investigated the existing site and has not indicated there are any geotechnical issues that would render the proposed subdivision unviable.

However, the proponent has not indicated the extent of earthworks intended for the subdivision development and whether large scale land forming is proposed. A site inspection and contour plans reveal significant level differences both across the site and between Tamarind Drive and the site. Extensive land forming with significant cut and fill earthworks and associated retaining walls are anticipated in order to achieve a viable subdivision lot and street layout, and to facilitate slab on ground building techniques.

The Douglas Partners "Preliminary Geotechnical Investigation" also advises "Details on earthwork levels and structural loads were not known at the time of the preparation of this report." This report therefore only comments on the undeveloped site and is unable to report on the proposed development of the site.

The BRS Planning Proposal (June 2025) advises on page 51: "Given the development is at the conceptual stage only, once proposed earthworks levels are known, it is recommended that further slope stability assessment (modelling) of the proposed batters and retaining structures be carried out to assess the proposed earthworks profiles against global instability."

Given there will be significant earthworks required to achieve the subdivision/rezoning objectives, at least an indicative earthworks and associated major retaining wall locations/dimensions design would be required to

- Provide a geotechnical assessment of the proposed development of the site

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- Quantify and assess both the impact of cut/fill earthworks and retaining walls on the site topography/landscape and the impact of any associated cartage of fill material on or off the site on the local road network.

The applicant is requested to provide a conceptual earthworks design with:

- Indicative before/after levels/contours and locations and indicative width/height of associated major retaining walls.
- Indicative quantities of cut and fill and fill to be imported or exported from the site onto the local road network.

Based on the above, a further geotechnical assessment of the proposed development of the site should be undertaken.

#### 4. STORMWATER MANAGEMENT

The "Stormwater Master Plan (SMP) prepared by Biome Water and Environmental Consulting, has satisfactorily addressed stormwater lawful discharge, attenuation and treatment. The SMP has identified current and proposed stormwater catchment areas and boundaries but has failed to identify or address conveyance issues.

In particular, further information is required on the indicative location of key major and minor flow paths, where and how these flow paths discharge into natural watercourses, assessment and indication of measures to ensure the integrity/stability of natural water courses are not compromised by additional/concentrated stormwater flow from the developed subdivision.

The applicant is requested to provide:

- Indicative locations of key major and minor flow paths in the development site
- Indicative cross section/size of external flow diversion catch drains
- Location of where and how all the above flows discharge into existing natural watercourses
- Assessment of impacts and proposed management measures at these discharge locations to ensure the integrity/stability of natural water courses is not compromised by additional/concentrated stormwater flow from the developed subdivision.
- Any proposed measures such as revegetation along the lengths of existing water courses to ensure their long-term stability and viability is not compromised by additional/concentrated stormwater flow from the developed subdivision.

#### 5. ECOLOGICAL ASSESSMENT

The ecological assessment report goes some way to identify the HEV at the site. However, not all areas of HEV are proposed to be avoided by land use intensification and the potential impacts of the enabled land uses are therefore being understated in the assessment. Council does not support the assessment of occurrence of some HEV (such as threatened species) at the DA stage, nor the determination of impacts to HEV and BOS trigger assessments at DA stage. Based on previous advice, the OEH Biodiversity Conservation Division (BCD) also does not support this approach to avoidance of HEV within planning proposals.

In accordance with the **Biodiversity Conservation Division (BCD) NE Branch Steps for Assessing Biodiversity in Planning Proposals** (BCD 2022) and advice provided by Dimitri Young and Gene Mason of the BCD (scoping meeting notes CURA C, Tamarind Drive, Cumalum (28 November 2022)), Council requests the following additional information be provided, in order to assess the planning proposal:

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1. The Biodiversity Assessment Method (BAM) should be used to identify Plant Community Types (PCTs) on site and to enable site data to be entered into the BAM Calculator. These data should also be used to qualify the assessment of EEC/TEC occurrence.

2. A survey for species with potential to occur at the site is required to fulfil **Step 5 Protect HEV and SAI** (BCD 2022). Council requests field survey in accordance with accepted methodologies be undertaken for the following:

- a. Microbats
- b. Birds
- c. Threatened flora
- d. Planigale (*Planigale maculata*)
- e. Amphibians

In addition:

- The site is potential important foraging habitat for locally occurring microbats. A known breeding colony of Little Bent-winged Bat (*Miniopterus australis*) (SAII species) occurs 1.5km to the west of the site and the site is therefore within the home range of this colony. In addition, the site provides potential roosting and foraging habitat for the Southern Myotis (*Myotis macropus*) in the form of dense foliage, riparian areas and manmade structures including the highway underpass. An assessment of all suitable areas of habitat (including open and forested areas) is required to determine the importance of the site to microbats and to address HEV Criterion 3 (Appendix 1 BCD 2022).
- A number of threatened and migratory bird species have the potential to utilise the site and the ecological assessment identifies many species as possibly occurring on site (Table 13 Appendix C Bower Ecology 2025). A bird survey using accepted methodologies by an ornithologist (or ecologist experienced in bird survey) is required. The surveys should target threatened and migratory species with potential to use the site
- A methodical threatened flora survey for species with potential to occur is required in suitable habitat.
- The previous land use at the site (cleared for agriculture) has created an abundance of sheltered rocky habitats suitable for Planigale (and other small mammals and reptiles). A survey is required to determine use of suitable habitats at the site by this species.
- A survey of amphibians, including Wallum Froglet (*Crinia tinnula*), is required to determine the importance of the riparian and wetland areas to these species, particularly given the potential impacts from residential development and road crossings within and adjacent to the riparian zones.

Where any of the above are identified on site, the areas of their occurrence and habitats are to be mapped and included as HEV. Additional species credit species surveys may be required by the BAM.

3. Appendix 1 Criterion 3 (BCD 2022) requires applicants to: "Undertake field work to identify habitats of threatened migratory species on the land. Map all habitats of threatened migratory species on the land as HEV". The ecological assessment report incorrectly states "There were no BioNet records of migratory species (CAMBA, JAMBA, ROKAMBA) within the Ballina LGA." There are 53 migratory species in BioNet within Ballina Shire, some of which are threatened species. Seventeen occur within 10 km of the site. Threatened migratory species with a high likelihood of occurrence within the site include the White-throated Needletail. Council requires an updated assessment of these species and their habitat at the site.

4. The ecological assessment should apply Stage 1 of the BAM to calculate the credits required for all areas not zoned C2 in accordance with **Step 6: Calculate biodiversity credits for future**

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**development impacts** (BCD 2022). Potential direct and indirect impacts (including all ancillary impacts) enabled by the planning proposal should be addressed.

5. Upon calculation of the biodiversity credits required and in accordance with **Step 7: Secure biodiversity credits and VMP** (BCD 2022), a Planning Agreement should be included in the proposal to secure the credits at DA stage and a Biodiversity Vegetation Management Plan proposed for the C2 zoned lands. Should the BOS be triggered by a future DA, and additional credits be required, then the Planning Agreement should include these.

6. The following features considered to be HEV in the Ballina Shire Biodiversity Strategy should be surveyed for and mapped on the site and included as HEV:

- large native trees
- hollow-bearing trees
- raptor nests

7. The report maps HEV but only a portion are shown in the C2 zoned areas. The assertion within the report that potential key habitats for threatened and migratory species are 'covered' in the HEV lands is therefore not relevant, as not all HEV are being conserved within C2 areas. The areas to be zoned C2 should be informed by the ecological constraints and opportunities identified through the updated and mapped HEV. Avoidance of the HEV should be demonstrated in accordance with the guidance provided in **Appendix 2 - BCD NE Branch Guidance for Avoiding and Minimising Impacts on HEV Land**.

8. Council directs the proponent to **Appendix 2: BCD NE Branch Approach for Avoiding and Minimising Impacts on HEV Areas (BCD 2022)**. The planning proposal should demonstrate how each of the items of Appendix 2 have been considered in the design of the proposal and addressed in relevant reports.

Other items:

9. The Ballina Shire KPoM does not apply to the land. Koala habitat should be assessed according to Chapter 3 of the Biodiversity and Conservation SEPP with consideration for koala use species referred to in Chapter 4. The report states that SAT methodology was followed (section 2.2) to identify potential use of the site by koala. Data supporting this statement is required.

10. Section 4.3 of the report states two threatened flora were observed, however the report details only one (*Macadamia tetraphylla*).

11. The creek line in the southeast of the site is mapped as Key Fish Habitat. This creek is at the headwater of Sandy Flat Creek, which feeds into Emigrant Creek. The potential impacts of residential development on this habitat and downstream environments should be considered more thoroughly in the assessment so that appropriate zonings and protections are included in the proposal.

12. To ensure self-sustaining areas of riparian vegetation that can provide functional habitat for fauna, the riparian corridor is recommended to be increased to a minimum width of 30 m from the top of bank (as recommended in DPIE 2020 - **Good Practices in Riparian Rehabilitation**) and an appropriate zoning applied.

13. Council cannot be confident that potential offsets associated with future land use will be achievable on site given the small area of proposed C2 zoned land. An assessment of likely offsets against Council's [offset policy](#) should be included in the proposal to determine an appropriate area of C2 zoning at the site.

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## 6. WATER AND SEWER SERVICING

### **Drinking Water and Recycled Water**

The site is not covered by Council's Development Servicing Plan (DSP) for Water Supply Infrastructure (2024). Future incorporation into the DSP would be dependent upon the connection option chosen (Ross Lane Reservoir or Rous trunk main). Any costs to Council associated with updating the DSP would be passed on to the applicant.

In the event that water supply infrastructure is to be provided by the applicant, future discussions around the contents of a planning agreement would be required. Please confirm your willingness to enter into a Planning Agreement.

### **Wastewater and Recycled Water**

The two wastewater servicing options presented in the preliminary servicing report are considered to be technically feasible, subject to careful design and management of small flows. Both options require connection to infrastructure to be constructed by the developer of CURA B and the site is not covered by Council's Development Servicing Plan (DSP) for Wastewater and Recycled Water Infrastructure (2024). The DSP would require updating, or an additional DSP or Planning Agreement would be required for this development to contribute towards the Ballina Sewerage Treatment Plant and network capacity. Any costs to Council associated with updating the DSP would be passed on to the applicant.

The proposed recycled water reservoir at Dufficy's Lane (CURA B) would be the closest connection point. This reservoir is in the DSP but has not been sized or costed to include the additional demand generated by the CURA C site. The DSP would require amending if the reservoir size is to be increased.

If you have any enquiries regarding this matter please contact Andy Parks on (02) 5646 2852, or via email, [andy.parks@ballina.nsw.gov.au](mailto:andy.parks@ballina.nsw.gov.au)

Yours faithfully



Andy Parks  
**Strategic Planner**  
**Planning and Environmental Health Division**



Department of Planning, Housing and Infrastructure

Our ref: EF25/19840

Your ref: RR-2026-5

Paul Hickey  
General Manager  
Ballina Shire Council  
40 Cherry Street  
Ballina  
NSW 2478  
11 March 2026

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**Subject:** Request for a rezoning review – RR-2026-5

Dear Mr Hickey,

I am writing to notify Council that a request for a rezoning review has been submitted for consideration by the Northern Regional Planning Panel.

The rezoning review request made by Barker Ryan Stewart seeks to amend the Ballina Local Environmental Plan 2012 to rezone 962 and 1026 Tamarind Drive, Tintenbar from RU1 to R3 and C2, and reduce the minimum lot size from 40ha to 450sqm lot size.

The proponent is seeking a rezoning review because Council has failed to indicate its support for the proposal 90 days after the proponent submitted a request to prepare a planning proposal. A copy of all information that was submitted with the rezoning review request can be accessed from <https://www.planningportal.nsw.gov.au/rezoning-reviews/under-assessment/planning-proposal-proposed-rezoning-962-tamarind-drive-cumalum-bura-c>

Council is invited to comment on the proposal and/or provide a response detailing why the original request to Council was not progressed. It would be appreciated if Council could confirm that the proposal which has been submitted for a rezoning review is the same proposal that was considered by Council. Council's comments will be considered by the Panel when making a decision on whether the proposal should proceed to Gateway.

Additionally, as Council has not refused this proposal, confirmation is required as to whether Council wishes to nominate itself as the Planning Proposal Authority.

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Locked Bag 5022, Parramatta NSW 2124

[www.dphi.nsw.gov.au](http://www.dphi.nsw.gov.au)



**Department of Planning, Housing and Infrastructure**

A response must be submitted to Planning Proposal Authority Mailbox ([planningproposalauthority@dphi.nsw.gov.au](mailto:planningproposalauthority@dphi.nsw.gov.au)) at the Department of Planning, Housing and Infrastructure by **COB 31 March 2026**. Council's response may be made publicly available on the Department's website.

As part of the assessment process, the Panel may contact you for further information. You will be advised of the Panel's decision once its assessment has been completed.

For questions relating to the planning proposal, please contact Shruthi Sriram on (02) 9228 6362 [shruthi.sriram@dpi.nsw.gov.au](mailto:shruthi.sriram@dpi.nsw.gov.au)

Yours sincerely

A handwritten signature in black ink, appearing to read "MJ", written over a light blue horizontal line.

Murray Jay  
Manager, Planning Proposal Authority



ENGINEERING  
PLANNING  
SURVEYING  
CERTIFICATION  
PROJECT MANAGEMENT  
ABN 41 657 245 517

Our Ref: NRLS20066

4 February 2026

Rezoning Review Team  
NSW Department of Planning, Housing and Infrastructure  
Locked Bag 5022  
Parramatta NSW 2124

Dear Rezoning Review Team,

### **Request for Rezoning Review - Planning Proposal PP-2025-1160 (Cura C, 962 & 1026 Tamarind Drive, Tintenbar – Lot 4 DP710170 & Lot 10 DP1173458)**

On behalf of the proponent, Wentworth Point Investments Pty Ltd, we formally request a Rezoning Review for Planning Proposal PP-2025-1160, relating to land at 962 and 1026 Tamarind Drive, Tintenbar (the Site). The Planning Proposal seeks to amend the Ballina Local Environmental Plan (BLEP) 2012 to rezone parts of the Site from RU1 Primary Production to R2 Low Density Residential, R3 Medium Density Residential and C2 Environmental Conservation and apply a minimum lot size of 450m<sup>2</sup>.

This rezoning review is submitted on the basis that Council has failed to indicate their endorsed position for the Planning Proposal within the required timeframe (90 days for a basic and standard and 115 days for a complex proposal). This request is made pursuant to Section 3.32(2)(d) of the Environmental Planning and Assessment Act 1979 (EP&A Act) and in accordance with the LEP Making Guideline (August 2023).

#### **1. Rezoning Review Request**

##### **1.1 Basis for Review Eligibility**

The Planning Proposal was validly lodged and remains on foot. Despite Council's administrative 'return' via the Planning Portal on 19 August 2025, this action has no procedural effect under the EP&A Act or the LEP Making Guideline. This position is supported by legal advice dated 13 November 2025 (Attachment A).

Key dates are as follows:

- Planning Proposal uploaded to Portal: 20 June 2025
- Lodgement fee paid: 7 July 2025 (Attachment 2)
- Council receipt issued: 10 July 2025 (Attachment 2)
- Adequacy review period expired: 24 July 2025 (or earlier)
- Council has a Request for Information (RFI) and simultaneously returned the Planning Proposal: 19 August 2025
- 90-days post Council receipt of Planning Proposal: 8 October 2025
- 115 days post Council receipt of Planning Proposal: 2 November 2025

As at the time of preparing this letter, Ballina Council have not refunded the Planning Proposal Lodgement fee and no formal position of Council has been established.

The Department's LEP Making Guideline and Planning Circular PS 22-003 (August 2023) sets out the

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procedural requirements for planning proposals, including the 14-day adequacy review period and the 90-day timeframe for councils to form and indicate their position on a proposal. Compliance with these requirements is necessary for a council to be regarded as having carried out its functions "in a satisfactory manner" for the purposes of Division 3.4 of the EP&A Act.

Once the 14-day adequacy period has expired and the required fee has been paid, the planning proposal is formally lodged. After lodgement, Council may seek further information; however, it has no authority to "return" or invalidate the lodgement.

Based on the dates outlined above, the 90-day period within which Council was required to indicate its support has now passed (18 September 2025), if time runs from the Portal submission date, or 8 October 2025 if calculated from the date of payment and receipt.

Accordingly, the Planning Proposal was validly lodged and remains active. Council's 90-day assessment period expired on 8 October 2025 (based on lodgement on 10 July 2025), thereby triggering the proponent's entitlement to request a Rezoning Review.

Whilst the Proposal is a Standard proposal, for completeness, the Complex planning proposal rezoning review timeframes have also been triggered.

Council's action in returning the application well after the adequacy review window demonstrates a failure to comply with its obligations under Division 3.4 of the EP&A Act and indicates that it has not carried out those obligations in a satisfactory manner within the meaning of section 3.32(2)(d). Furthermore, Council has not refunded the Planning Proposal lodgement fee, which indicates that the Planning Proposal remains valid and 'on foot', and has not been formally determined.

### **1.2 Council's Procedural Deficiency**

Council's purported "return" of the proposal on 19 August 2025 occurred well beyond the 14-day adequacy period identified in the LEP Making Guideline, and as such, carries no procedural weight.

This action has effectively prevented progression to the review stage and is contrary to the policy intent of the Rezoning Review mechanism, which is designed to prevent administrative obstruction of merit-based assessment.

Furthermore, by failing to progress or determine the Planning Proposal within the statutory timeframe, Council has not carried out its obligations 'in a satisfactory manner' for the purposes of Section 3.32(2)(d) of the EP&A Act.

### **1.3 Request for Rezoning Review**

In accordance with the Local Environmental Plan Making Guideline, this Rezoning Review Request is lodged on the grounds that Council has not provided its endorsed position on the Planning Proposal within the required 90-day (or 115-day) period.

The Rezoning Review process was established by the Department of Planning, Housing and Infrastructure to achieve the following objectives:

- To offer applicants an avenue for independent review of Council's rezoning decisions.
- To ensure planning proposals that are suitably located, well-designed, and contribute to housing and employment supply can be objectively assessed.
- To enhance transparency and provide greater certainty in the plan-making process

This request is consistent with these objectives as:

- The Planning Proposal delivers on the objectives of the strategic planning framework, including

the

- a. North Coast Regional Plan 2041,
- b. Ballina Shire Local Strategic Planning Statement 2020-2040 and
- c. Ballina Shire Growth Management Strategy as described in section 4 below.
- The Planning Proposal documentation provided to Council, and further addressed in this letter, clearly illustrates that the site possesses both strategic and site-specific merit.

Based on the above, we respectfully request that the Planning Proposal be referred to the relevant Planning Panel for consideration of its merits.

## 2. The Site

The Site is located in Ballina Shire Council LGA in the suburb of Tintenbar approximately 10km north of Ballina CBD. Key details of the property are provided in **Table 1**.

*Table 1: Properties Details*

Site Description	Comment
Lot & DP	Lot 4 DP710170 Lot 10 DP1173458
Local Authority	Ballina Shire Council
Local Environmental Plan	Ballina LEP 2012
Land Zoning	RU1 Primary Production
Site Area	74.2ha
Current Development	Lot 10 – A dwelling and associated garage and three (3) farm buildings. Lot 4 – A dwelling and associated garage and four (4) farm buildings.
Infrastructure and Services	The existing Dwelling Houses are already provided with grid electricity connections and telecommunications.  Reticulated water is available to the subject lots whilst wastewater is currently treated with onsite sewerage management systems.  Vehicular access is available to the Site via Tamarind Drive & Sandy Flat Road.

The total area of the land is approximately 74.2 hectares and is shown in **Figure 1**. However, it is noted that the proposed rezoning is only associated with the land located on the west of Pacific Highway (The 'Site'), as shown with blue shade on Figure 2. The land (red line shown on Figure 2) is irregular in shape stretching approximately 1.3km in length, with the Pacific highway running through its centre, dividing it into two sections. The western portion, where the proposed rezoning is planned, has a frontage of approximately 750m along Tamarind Drive and a depth of about 625m.



Figure 1: Aerial photo of the Site and Land (Source: BRS, 2025)

**3. Planning Proposal Overview (PP-2025-1160)**

Planning Proposal PP-2025-1160, as reported to Council, sought to amend BLEP 2012 as outlined in **Table 2**.

Table 2: Changes to Ballina LEP 2012

Control	Existing BLEP 2012 Provisions	Proposed Provisions
Clause 2.2 Land use zoning	The Site is currently zoned RU1 Primary Production.	It is proposed to amend the zoning of the following land to R3 Medium Density Residential and C2 Environmental Conservation: <ul style="list-style-type: none"> <li>Lot 4 DP710170</li> <li>Parts of Lot 10 DP1173458, located on the western side of the highway</li> </ul> Refer to <b>Figure 2</b> that shows the proposed land zoning map.
Clause 4.1 Minimum Subdivision Lot Size	Currently, the Site has a minimum lot size of 40 ha.	It is proposed to apply a minimum lot size of 450m <sup>2</sup> to the following land: <ul style="list-style-type: none"> <li>Parts of Lot 4 DP710170</li> <li>Parts of Lot 10 DP1173458, located on the western side of the highway</li> </ul> Refer to <b>Figure 3</b> that shows the proposed lot size map.

The objectives of the Planning Proposal are:

- To facilitate future development of the Site for residential uses that are compatible with nearby R3-zoned properties in Cumalum Urban Release Area;
- To encourage development that can act as a catalyst for regional employment growth during and after construction;
- To provide additional residential opportunities that are accessible and well located to local services and facilities;
- Facilitate the provision of affordable housing within the shire;
- Enable the supply of a range of housing types to meet the various needs of the community; and
- To preserve the land's significant ecological values, an environmental conservation zone will be designed for these areas.

**3.1 Land Use Zoning**

It is proposed to rezone the Site from RU1 Primary Production to R3 Medium Density Residential and C2 Environmental Conservation, as shown in **Figure 2**.

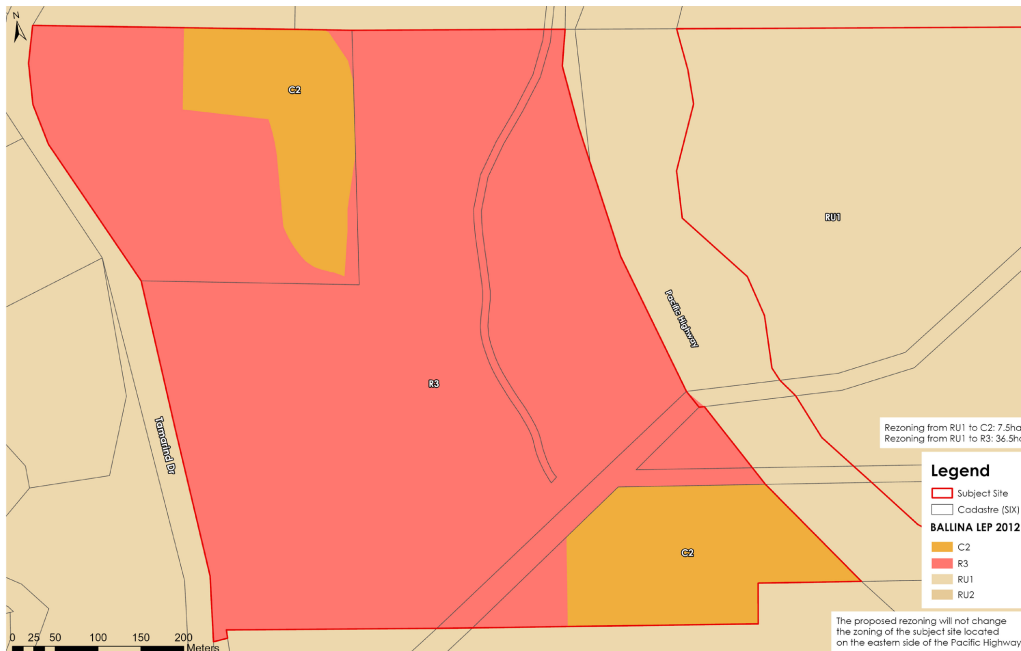


Figure 2: Proposed Land Use Zoning Map (Source: BRS, 2025)

**3.2 Minimum Lot Size**

It is proposed to apply a minimum lot size of 450m<sup>2</sup> to the residential portion of the Site to retain consistency with medium density residential lots in the surrounding area.

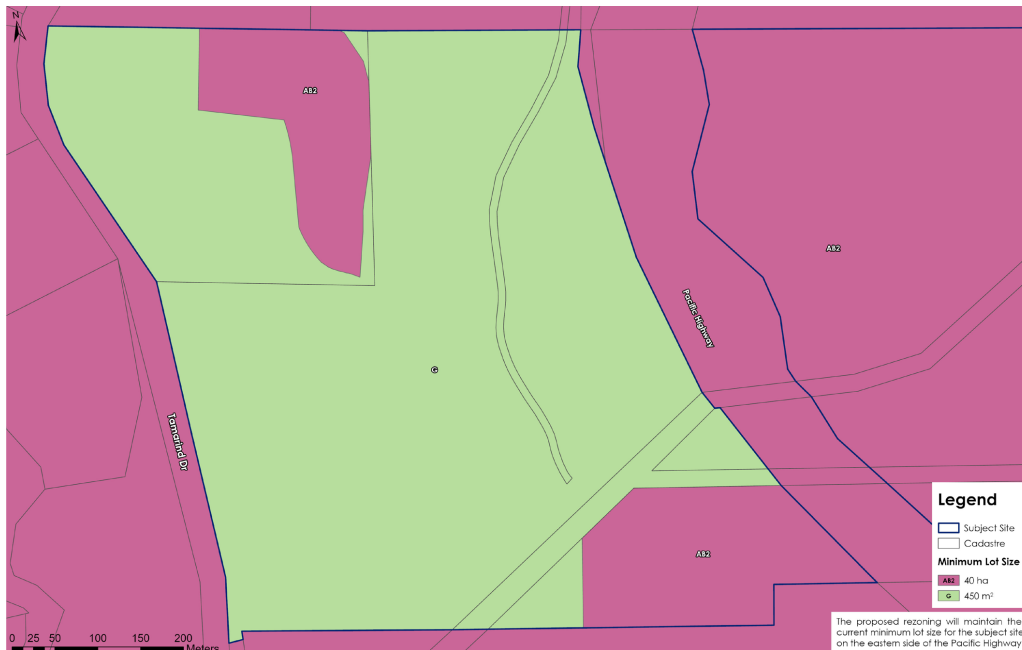


Figure 3: Proposed Minimum Lot Size Map (Source: BRS, 2025)

**4. Strategic and Site-Specific Merit**

The Planning Proposal as lodged (20 June 2025) demonstrates strong strategic and site-specific merit, being:

- Identified as a Strategic Urban Growth Area under BLEP 2012 and identified as an investigation area for urban land in the North Coast Regional Plan 2041.
- Meeting demonstrated housing supply shortfall and supporting population growth projections within Ballina Shire.
- Capable of being serviced by urban infrastructure and designed to manage environmental constraints including flooding, bushfire, ecological values, traffic, noise and geotechnical risks.
- Supported by comprehensive technical reports and a concept urban layout identifying residential, conservation and open space areas.

**4.1 Strategic Merit**

The proposal demonstrates strong strategic merit under both State and local planning frameworks. The subject land is located within the Cumalum Strategic Urban Growth Area (SUGA), identified in the Cumalum Structure Plan and Ballina Shire LSPS as a growth and housing supply location. The Ballina Shire LSPS was subsequently endorsed by the Department and Council's draft LSPS 2025-2046 continues to identify the site for strategic growth and housing.

The Ballina Shire Residential Land Availability Analysis prepared by AEC Group on behalf of the applicant confirms an emerging housing land supply shortage, with existing residentially zoned land providing only 5.1 to 7.0 years of capacity based on projected demand. The analysis notes that inclusion of CURA-C is "timely and appropriate to assist in accommodating the projected dwelling demand" and emphasises its role in providing affordable and mid-market housing in response to local income profiles and demographic need.

The Planning Proposal's consistency and compliance with the strategic plans and policies is outlined in **Table 3**.

Table 3: The proposal consistency with Strategic Planning Framework

Plan / Policy	Comment
<p><b>North Coast Regional Plan 2041</b></p>	<p>The proposal is consistent with the following goals:</p> <ul style="list-style-type: none"> <li>• Liveable, Sustainable and Resilient</li> <li>• Productive and Connected</li> <li>• Growth Change and Opportunity</li> </ul> <p>The Planning Proposal aligns with the objectives of the North Coast Regional Plan 2041 by facilitating well-located, diverse housing to meet the region's growing demand, including opportunities for affordable housing. The proposal promotes sustainable development by directing growth to suitable areas, avoiding sites constrained by flood, bushfire, or ecological sensitivities, and protecting areas of high biodiversity through rezoning to C2 Environmental Conservation.</p> <p>The proposal is guided by ecological and Aboriginal cultural heritage assessments, ensuring protection of threatened species, biodiversity, and culturally significant sites. Development impacts on natural hazards and climate change are carefully managed, and opportunities for renewable energy and waste minimisation are incorporated.</p> <p>Economically, the proposal supports local construction employment, enhances the viability of nearby commercial and employment lands, and integrates with existing infrastructure and recreational facilities to minimise impacts on the community. Overall, the Planning Proposal facilitates growth in designated urban expansion areas, promotes sustainable and responsible development, and is consistent with the strategic goals of the North Coast Regional Plan 2041.</p>
<p><b>Ballina Shire LSPS 2020-2040</b></p>	<p>The proposal is consistent with the objectives below of LSPS, as outlined below.</p> <ul style="list-style-type: none"> <li>• <u>Connected Community</u> The Planning Proposal supports the "Connected Community" objective by promoting sustainable, medium-density residential development within a designated Strategic Growth Area. It enhances connectivity through a north-south green corridor, which provides recreational links, open space, and encourages community interaction. The concept master plan also integrates pedestrian and cycle networks, access to public transport, and provision for community facilities, fostering an inclusive, active, and well-connected community.</li> <li>• <u>Prosperous Economy</u> The Planning Proposal supports a prosperous economy by providing diverse housing options in proximity to Lennox Head and Ballina Town Centre, improving liveability and catering to the needs of a varied population, including older residents. The rezoning enables medium-density development that facilitates a range of housing types, supporting affordability and flexibility for the community. Economically, the proposal will generate construction employment and create opportunities for home-based businesses, contributing to Ballina Shire's established economy in tourism, creative arts, agriculture, and food manufacturing. The staged development of approximately 300 dwellings is</li> </ul>

Plan / Policy	Comment
	<p>anticipated to provide a significant boost to the local economy, both during construction and through ongoing local demand.</p> <ul style="list-style-type: none"> <li> <p><u>Healthy Environment</u></p> <p>The Planning Proposal promotes a healthy environment by balancing development with the protection and enhancement of ecological values. Areas of high ecological significance are proposed to be rezoned to C2 Environmental Conservation, preserving biodiversity and supporting the restoration of degraded waterways and habitats. The proposal incorporates active transport infrastructure, including footpaths, cycleways, and recreational links, to encourage healthy lifestyles. The master plan integrates open space, environmental zones, and Water Sensitive Urban Design provisions, providing opportunities for leisure, active transport, and sustainable site management. Future development will be guided by ecological assessments, including a Biodiversity Development Assessment Report, ensuring that the natural and environmental heritage of the site is maintained while supporting sustainable growth.</p> </li> </ul>
<p><b>Ballina Shire Growth management Strategy</b></p>	<p>The Planning Proposal aligns with the Growth Management Strategy by facilitating a diverse range of housing choices within the shire, including small lots that support medium-density, integrated housing. This approach responds to changing demographics, promotes efficient land use, and enhances the liveability and sustainability of the community.</p> <p>The Planning Proposal complies with the objectives of this strategy for the Cumalum locality. This proposal will provide for a range of lifestyles and opportunities for recreation quality living environment. Given that the CURA which is located in the south has been developed, moving towards the north is in accordance with this strategy.</p>
<p><b>Cumalum Structure Plan</b></p>	<p>The Cumalum Urban Release Area (CURA) is a crucial component of the Council's strategy to manage growth and development while preserving the quality of the living environment valued by both current and future residents of Ballina. Identified in the mid-1990s by the Ballina Shire Council and the State Government, CURA has been recognized for its significant role in accommodating population growth over the subsequent 20 to 30 years.</p> <p>The Structure Plan serves as a foundational background report, broadly examining the environmental capacity of the study area to support residential development and associated infrastructure. It provides a context for assessing and determining future rezoning requests and development applications, ensuring that growth is managed sustainably and responsibly.</p> <p>According to this strategy, Precinct C offers opportunities for future urban development, particularly due to its potential to connect future development with services and facilities in Tintenbar Village. The proposal aligns with the aims of the Structure Plan and will investigate parts of the Site that possess the appropriate environmental capacity to support residential development and infrastructure. By adhering to these strategic guidelines, the Planning Proposal aims to facilitate well-planned urban growth that meets the community's needs while maintaining environmental integrity and enhancing the overall quality of life in Ballina.</p>

### 4.2 Site-Specific Merit

The proposal demonstrates strong site-specific merit with respect to topography, soils, groundwater, access, landscape character, flooding, and acoustic conditions.

#### Topography, Soils & Geotechnical Suitability

The site comprises gentle to moderate slopes (4–10%) with localised steeper landforms limited to drainage corridors, providing a suitable landform for urban development. The Preliminary Geotechnical Investigation confirms the presence of residual clay soils over weathered basalt and metasilstone, supporting residential development and civil infrastructure. No significant geotechnical constraints or landslip risks were identified, with only minor seepage zones in isolated low areas, which can be appropriately managed through conventional engineering measures. Excavation, cut and fill, and retaining structures are feasible, and fill reuse is suitable for site earthworks. These findings confirm that the land is geotechnically suitable for rezoning and capable of supporting future subdivision.

#### Groundwater & Surface Water

The Preliminary Groundwater Assessment confirms that groundwater is not a constraint to urban development, with no shallow groundwater impacts expected across the residential land, aside from isolated wetter areas in the eastern drainage corridor. These low-lying areas will be preserved within the proposed C2 Environmental Conservation zone and integrated into environmental corridors and stormwater management open space. The conceptual hydrogeological model demonstrates that seepage areas can be incorporated into stormwater detention and treatment systems, and that the overall site hydrology supports integrated stormwater, water quality and ecological corridor planning.

#### Visual Landscape Character

The Visual Impact Assessment confirms that the site is not visually prominent from key public vantage points due to natural shielding by ridgelines, vegetation and the Pacific Motorway corridor. Long-range views are limited, and any visible elements can be mitigated via contour-responsive design, street tree planting and vegetated buffers. The settlement typology aligns with the surrounding urban expansion area, supporting a transition between the Cumalum urban release area and rural interface. Visual impacts are assessed as low to moderate and manageable through established mitigation measures.

#### Noise Constraints & Mitigation

The Noise Impact Assessment confirms that traffic noise from the Pacific Motorway can be effectively mitigated through a combination of landscape buffers, acoustic barriers, strategic lot orientation and building treatments. The Concept Plan demonstrates the ability to locate sensitive uses away from the eastern boundary and integrate vegetation and level changes to reduce noise exposure. The site layout supports compliance with the relevant NSW noise criteria, and acoustic constraints do not preclude rezoning.

#### Flooding & Drainage

The eastern portion of the site contains an existing drainage line and freshwater wetland area which is subject to intermittent flooding. These areas are proposed to be zoned C2 Environmental Conservation to protect natural hydrological function, avoid hazard exposure, and provide stormwater attenuation. The residential area is located on higher land well outside flood hazard zones. The site can support future detention basins, water quality treatment, and riparian corridor rehabilitation without impacting developable land. There are no flooding constraints that preclude rezoning.

#### Transport & Access

The Concept Plan confirms primary vehicle access via Tamarind Drive, with road design capable of

meeting gradient, safety and emergency vehicle standards. Secondary internal movement networks provide future local connectivity and linkages consistent with the surrounding Cumalum master planning structure. The site is within 15 minutes of the Ballina Gateway Airport, coastal towns and the Ballina CBD, providing access to employment, education, health and retail services. The site is suitable for urban development from a transport, access and servicing perspective.

### Servicing & Infrastructure Feasibility

Preliminary investigations confirm that the site can be feasibly serviced with potable water, sewer and recycled water via established regional infrastructure, subject to future detailed civil design, network modelling and utility provider coordination. Multiple feasible connection options are identified for all services, and future delivery can be appropriately secured via a Planning Agreement (VPA) during subdivision staging. There are no servicing constraints that preclude rezoning.

## 5. Council Request for Information and further refinements to the planning proposal.

A Request for Information (RFI) was issued by Council on 18 August 2025. At the same time, the Planning Proposal was administratively returned by Council, which had the effect of preventing the proponent from formally responding to the RFI through the Planning Portal. Notwithstanding this, the proponent has proactively reviewed and considered the matters raised by Council.

It is noted that the majority of the issues identified in the RFI relate to matters more appropriately addressed at Development Control Plan (DCP), subdivision or detailed engineering design stage, rather than at the strategic rezoning stage. Nevertheless, refinements have been undertaken where appropriate to further clarify and strengthen the proposal. A summary of these clarifications is provided in **Table 4**. The Council RFI is included at Attachment 2.

It is also noted, subsequent to the lodgement of the planning proposal, the Ballina Local Environmental Plan 2012 was amended by the Ballina Local Environmental Plan 2012 (Amendment No. 57) (EPI-2025-466) to facilitate a more consistent application of residential zones across the Shire.

Whereas the Planning Proposal as originally lodged applied a predominantly R3 Medium Density Residential zoning consistent with earlier planning proposals within other Strategic Urban Growth Areas, Council has since adopted a more differentiated residential zoning framework. This updated approach facilitates the inclusion of the R2 Low Density Residential zone where appropriate, while still enabling a range of housing typologies consistent with contemporary State housing policy settings.

In response to Council's RFI and the amended LEP framework, an updated zoning plan has been prepared. This revised zoning map incorporates areas of R2 Low Density Residential zoning and a more refined application of the C2 Environmental Conservation zone, as shown at **Figure 4**.

These clarifications do not alter the underlying objectives of the Planning Proposal, nor do they diminish its strategic or site-specific merit. Rather, they reflect a responsive and adaptive approach that aligns the proposal with Council's updated zoning framework while continuing to facilitate the intended residential outcomes for the site.

Having regard to the matters addressed through this rezoning review, the proponent would accept a determination for the Planning Proposal to proceed to Gateway, subject to the updated zoning map (**Figure 4**) and the responses to Council's RFI set out in **Table 4**.

Table 4: Responses to Council RFI

Council RFI	Comment
<b>1. Strategic Planning and Urban Design</b>	
Development Footprint / Appropriate Zoning	<p>The proponent has undertaken a review of the proposed rezoning, resulting in minor adjustments to the zoning layout. The updated rezoning plan is shown in <b>Figure 4</b>.</p> <p>The key changes are:</p> <ul style="list-style-type: none"> <li>• C2 Environmental Conservation Zone increased from 7.5 ha to 10.1 ha;</li> <li>• R3 Medium Density Residential Zone reduced from 36.5 ha to 3 ha; and</li> <li>• Introduction of the R2 Low Density Residential Zone, with 31.2 ha of the site now allocated to R2.</li> </ul> <p>A revised zoning plan is provided in Attachment 3.</p> <p>A factor informing the shift from the previously proposed R3 Medium Density Residential zone to an R2 Low Density Residential zone is the recent Ballina LEP amendments, which align with broader State Government policy directions and the Housing SEPP initiatives. These strategic planning reforms are intended to standardise permissible residential typologies across R zones, enabling a variety of housing forms to be permitted in lower density zones.</p> <p>As a result, the intended residential outcomes for the site can be delivered under the R2 zone without the need to pursue an R3 zoning. The R2 zone therefore remains consistent with Council's strategic intent while still facilitating a diverse range of housing types in accordance with State housing policy.</p>
Compatibility of medium density residential use on steep land	<p>The proponent has prepared a preliminary civil engineering drawing set that shows:</p> <ul style="list-style-type: none"> <li>• Earthworks cut/fill plans</li> <li>• Earthworks finished surface level plans</li> <li>• Earthworks sections</li> <li>• Roadworks layout plan and long sections</li> <li>• External intersection functional layout plans.</li> </ul> <p>Please refer to Attachment 3 for the Preliminary Civil Engineering Drawings.</p>
Affordability	<p>The master plan identifies lots specifically allocated for affordable housing. These lots are intended to deliver a mix of housing typologies suitable for very low to moderate income households, including key workers and local residents.</p> <p>A partnership has already commenced with the North Coast Housing Cooperative, a registered Community Housing Provider (CHP), to facilitate the delivery, management, and long-term retention of these affordable housing lots. This</p>

Council RFI	Comment
	<p>partnership ensures that the affordable dwellings will remain accessible to eligible households in perpetuity, with appropriate mechanisms available to secure land transfer, management agreements, or potential VPA arrangements at DA stage.</p> <p>This committed approach demonstrates a proactive response to Council's broader housing diversity and inclusion objectives and directly supports local workforce retention, social equity, and place-based affordability in line with the Housing SEPP and Ballina Housing Strategy.</p>
Visual Impact	<p>A Landscape Visual Impact Analysis (LVIA) has assessed views from the Pacific Motorway, Tamarind Drive, surrounding rural properties, and elevated viewpoints. The analysis confirms that the majority of the development will be screened by existing topography, vegetation, and the proposed 6.5 m acoustic barrier, which is to be softened with landscape planting. From the Motorway, views of the subdivision will be substantially obscured, with impacts assessed as Moderate reducing to Minor following establishment of vegetation.</p> <p>From Tamarind Drive, partial views of future residential areas are possible through breaks in vegetation; however, these are intermittent and will be further mitigated by retained open space, environmental corridors, and proposed landscaping. Broader visibility from surrounding hilltops and rural properties is negligible due to distance, landform and screening. Overall, the LVIA confirms that visual impacts are localised and manageable, and that the proposal maintains the rural landscape character and scenic values appropriate to a rural-urban interface.</p>
Active Transport, Open Space and delivery of Community Infrastructure	Active transport linkages have been investigated for the site with potential connection points being indicated on the plans.
Development Control Plan	The proponent will prepare a DCP for the Site, addressing the relevant design and planning elements. This will be undertaken following Gateway Determination.
<b>2. Roads and Traffic</b>	
Methodology	The Traffic Impact Assessment (TIA) has been prepared generally in accordance with TfNSW's Guide to Transport Impact Assessment (GTIA, 2024) to the extent relevant and appropriate for a Planning Proposal. While full detailed intersection design and engineering treatments are not required at this stage, the TIA provides modelling of both the proposed opening year (2028) and the 10-year horizon (2038), with SIDRA modelling outputs for all assessed intersections included in the appendices. These results demonstrate that the road network can operate

Council RFI	Comment
	satisfactorily under both short-term and long-term development conditions and that appropriate access arrangements and road configurations can be refined at the subdivision design stage. This level of assessment is considered appropriate for the rezoning stage, where the key requirement is to demonstrate network feasibility and capacity rather than finalised engineering design.
External Roads	As per the original SIDRA assessment, the intersection is not nearing capacity, and the proposed development will not significantly impact the performance of any movement on the intersection. The increase in DOS and average delay is negligible, notably the average delay of the worst leg increases by less than a second. Furthermore, there is no crash trend apparent, based on a review of the latest available crash data that would indicate a safety issue outside of complaints from local residents. As such, a 20-year design horizon (which likely show no performance issues) or a road safety audit is warranted as part of this application as per the TfNSW GTIA (2024).
Site Access	<p>Updated concept plans have been prepared which show updated access intersections with the proposed subdivision. The details of each access intersection are as follows:</p> <ul style="list-style-type: none"> <li>• Intersection 1 (northern intersection) is a left in only intersection designed in accordance with the relevant Austroads standards. Given the lack of any exits onto Tamarind Drive, no further intersection analysis is required</li> <li>• Intersection 2 (southern intersection) is proposed as an all-movements intersection with an AUL for left turning vehicles and CHR for right turning vehicles. This intersection has been reassessed given the updated form and has been designed in accordance with the relevant Austroads standards. This intersection has also been relocated to top of nearby crest to ensure adequate sight lines can be achieved.</li> </ul> <p>Traffic volumes have been updated and are reflected in the SIDRA network assessment.</p>
Internal Roads/Urban Design	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. At the Planning Proposal stage, the purpose of the concept

Council RFI	Comment
	<p>movement network is to demonstrate feasibility and capacity for compliance, rather than to present final engineered designs. The updated concept plan appropriately confirms that the subdivision can be configured to achieve compliant urban design, speed control and safe access outcomes, with detailed road geometry, grades, intersection treatments and earthworks to be resolved and certified through the subsequent subdivision and civil engineering design process.</p>
<p><b>3. Geotechnical and Land Forming</b></p>	
<p>Further geotechnical analysis, cut/fill, extent of earthworks and retaining walls</p>	<p>At the Planning Proposal stage, the purpose of geotechnical reporting is to confirm whether the land is capable of supporting the intended urban development and to identify any high-level constraints that may affect future subdivision design. The submitted preliminary geotechnical assessment appropriately satisfies this objective by confirming there are no geotechnical conditions that would render the site unsuitable for residential subdivision. It provides indicative site classifications, identifies potential cut and fill conditions, confirms the general stability of the site, and outlines considerations for future retaining structures, slope stability and drainage.</p> <p>At this strategic rezoning stage, detailed design elements such as exact earthworks levels, retaining wall locations, batter profiles, and structural loadings are not yet defined, and therefore a detailed geotechnical design cannot be finalised. These elements are appropriately resolved at the subsequent subdivision and engineering design stage, where full civil design, surveyed plans, and earthworks models are available to inform detailed geotechnical modelling, batter stability assessment, retaining wall design, and construction methodology.</p>
<p><b>4. Stormwater Management</b></p>	
<p>Identification of key flow paths and their conveyance with natural watercourses</p>	<p>This point seeks clarification around flooding, drainage, and groundwater. These matters are suitably addressed through the Master Plan Hydraulic Assessment, the Stormwater Master Plan, and the Preliminary Groundwater Assessment. Each of these documents provides a preliminary, master planning level assessment suitable for rezoning, with sufficient detail to demonstrate the capacity of the site to accommodate future development while managing water-related constraints.</p> <p>The Master Plan Hydraulic Assessment identifies existing regional and local flood behaviour, maps conveyance paths, and highlights low-lying flood-prone areas that will be preserved primarily as drainage and environmental protection areas. Importantly, it demonstrates that residential development is to be concentrated on elevated land outside flood-affected zones, with open space and</p>

Council RFI	Comment
	<p>drainage reserves accommodating flood storage and conveyance.</p> <p>The Stormwater Master Plan provides preliminary detention and bioretention basin concepts, including indicative sizing and general locations in each sub-catchment, demonstrating that stormwater quantity and quality treatment can be integrated into the development footprint using accepted engineering practices. It explicitly notes that detention and treatment systems are feasible and will be refined through detailed hydraulic design at subdivision DA stage.</p> <p>The Preliminary Groundwater Assessment confirms no major groundwater constraints at the site, identifies shallow groundwater only in low-lying areas (east), and provides a conceptual hydrogeological model to inform future monitoring and management. It acknowledges limited ASS and no contaminated groundwater issues, confirming that groundwater risks can be appropriately managed in later stages through monitoring and design refinement.</p> <p>This level of analysis satisfies the RFI requirements for the Planning Proposal and is consistent with the expectations for rezoning, where detailed engineering will be resolved through later stages.</p>
<p><b>5. Ecological Assessment</b></p>	
<p>Additional survey requirements</p>	<p>The Ecology Assessment Report prepared by Bower dated June 2025 provided with the original Planning Proposal submission identified vegetation communities, fauna habitat, riparian areas, potential threatened species values and mapped environmental constraints across the planning area. It demonstrated that the higher ecological value land is largely located in the eastern and southern low-lying portions of the site, and that these areas were already proposed to be zoned C2 Environmental Conservation with no dwelling entitlements. The original report therefore satisfied the Planning Proposal requirement to identify ecological constraints, inform indicative zoning, and shape the development footprint based on biodiversity values.</p> <p>In response to the RFI and subsequent consultation with DCCEEW, the November 2025 Addendum builds on the original assessment, applying the 2025 DCCEEW CPHR Approach to Biodiversity Assessment for Planning Proposals. The addendum confirms that the ecological assessment now aligns with the five-step HEV assessment pathway, specifically:</p> <ul style="list-style-type: none"> <li>• Identification of HEV land using the criteria in Appendix 1 (including native vegetation in over-cleared landscapes, riparian areas, and potential threatened species habitat).</li> </ul>

Council RFI	Comment
	<ul style="list-style-type: none"> <li>• Mapping and protection of identified HEV land through the application of the C2 Environmental Conservation zone and minimum lot size to prevent subdivision and fragmentation.</li> <li>• Confirmation that biodiversity certification and offset credit calculations are not required at the Planning Proposal stage, consistent with DCCEE's advice.</li> <li>• Commitment to securing future conservation management through appropriate mechanisms (such as a Biodiversity and Vegetation Management Plan and/or VPA), consistent with Step 5 of the DCCEE approach.</li> </ul> <p>Importantly, DCCEE's correspondence confirms that the Planning Proposal sufficiently protects HEV land through zoning and that detailed species surveys, impact assessment, and offsetting will appropriately occur at the subdivision or biodiversity certification stage, not at rezoning. A copy of the DCCEE's correspondence is contained in Attachment 2.</p>
<b>6. Water and Sewer Servicing</b>	
Drinking water, recycled water and wastewater	<p>The Preliminary Water &amp; Sewer Servicing Report confirms that the site can be feasibly serviced for water, sewer and recycled water via established and future regional infrastructure, with viable connection options identified and confirmed through consultation with Council and Rous County Council. At the Planning Proposal stage, it is appropriate to demonstrate servicing feasibility rather than finalise network modelling, infrastructure sizing or delivery staging, which will be resolved through detailed engineering design at subdivision DA stage. Funding, timing and delivery of any required trunk infrastructure can be appropriately secured through a Planning Agreement (VPA) or similar mechanism during subsequent development stages.</p>

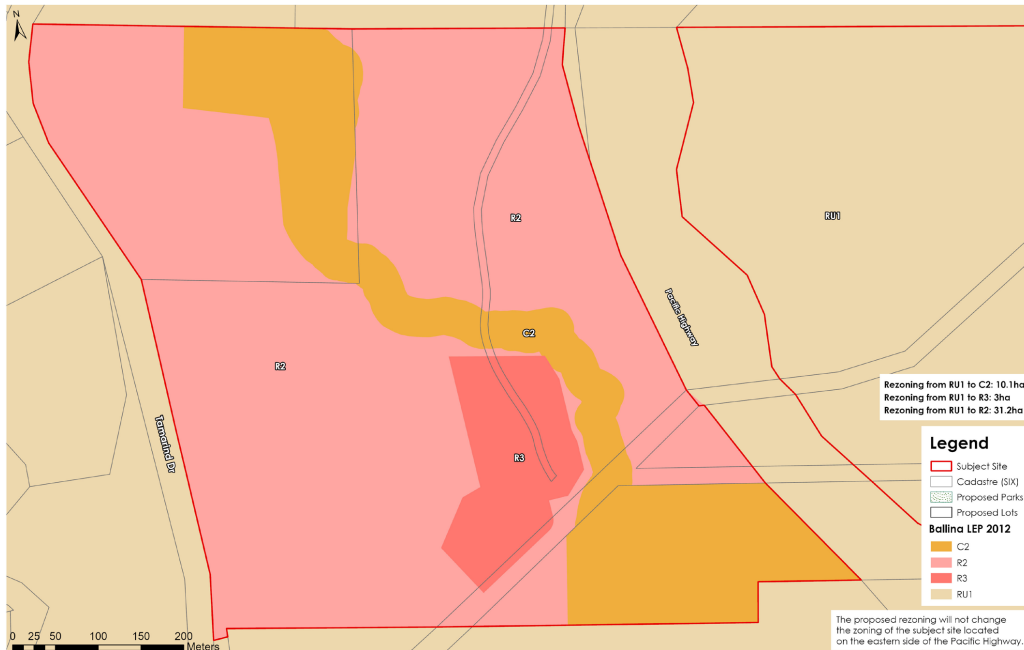


Figure 4: Proposed Land Use Zoning Map after review (Source: BRS, 2025)

**6. Attachments**

Please find attached to this letter the required documentation in accordance with the Rezoning Review Lodgement Checklist, including:

**Attachment 1 – Planning Proposal Package**

- Planning Proposal (June 2025)
- Appendix A – Proposed Concept Layout - RPS
- Appendix B – Urban Design Report - RPS
- Appendix C – Scoping Meeting Minutes & BCD NE Branch Feedback
- Appendix D – Preliminary Site Investigation – Douglas Partners
- Appendix E – Master Plan Hydraulic Assessment – Biome Water and Environmental Consulting
- Appendix F – Residential Land Supply Analysis – AEC Group
- Appendix G – Aboriginal Cultural Heritage Assessment – Everick Heritage
- Appendix H – Bushfire Risk Assessment – Bushfire Certifiers
- Appendix I – Traffic Impact Assessment – Bitzios
- Appendix J – Ecological Assessment Report – Bower Ecology
- Appendix K – Stormwater Master Plan – Biome Consulting
- Appendix L – Preliminary Noise Impact Assessment – ENV Solutions
- Appendix M – Preliminary Ground Water Assessment – Douglas Partners
- Appendix N – Preliminary Geotechnical Investigation – Douglas Partners
- Appendix O – Land Use Conflict Risk Assessment – Tim Fitzroy
- Appendix P – Preliminary Water and Sewer Servicing Report – Mortons Urban Solutions
- Appendix Q – Electrical Infrastructure – PE Consulting Engineers
- Appendix R – Plans of Proposed Rezoning and Minimum Lot Size – BRS
- Appendix S – Heads of Agreement - Northern Rivers Housing

**Attachment 2 – RFI Documents and advice**

Letter from Ballina Council – Andy Parks (18 August 2025)  
Legal Advice – Project Lawyers (13 Nov 2025)  
Lodgement fee paid: 7 July 2025  
Council receipt issued: 10 July 2025  
DECCEW Correspondence (23 October 2025)

### **Attachment 3 – Supplementary documentation to address Council's RFI points.**

Revised Electrical Infrastructure - PE Consulting Engineers (Nov 2025)  
Revised Preliminary PSI - Douglas Partners (26 Nov 2025)  
Revised Preliminary Groundwater Assessment - Douglas Partners (14 Nov 2025)  
Revised Preliminary Geotechnical Investigation - Douglas Partners (17 Nov 2025)  
Revised Ecological Assessment - Bower Ecology (19 Nov 2025)  
Agricultural Report - Melaleuca Group (14 April 2025)  
Landscape Visual Impact Assessment - Habit8 (18 Nov 2025)  
Revised LUCRA - Tim Fitzroy (21 Nov 2025)  
Revised Urban Design Report - RPS (17 Nov 2025)  
Revised Zone Plan- BRS (October 2025)

## **7. Conclusion**

In summary, this rezoning review request has been submitted on the basis that Ballina Council has failed to indicate their endorsed position for the Planning Proposal within 90 days (or 115 days for complex proposals). The Planning Proposal was validly lodged and remains active and Council's purported return of the proposal has no procedural weight under the LEP Making Guideline, and the 90-day assessment period expired on 8 October 2025. In addition, by returning the proposal well after the adequacy period, Council failed to meet its obligations under Division 3.4 of the EP&A Act and has not carried out those obligations in a satisfactory manner under section 3.32(2)(d).

Additional work has been undertaken to address the matters raised in Council's RFI and further informs the proposal, noting that a majority of these matters are DCP and development application-level matters.

The proposal is consistent with all relevant State Government and Ballina Shire Council strategic planning documentation and the strategic and site specific merit of the proposal is well established being:

- The site has gentle to moderate slopes with stable soils, no significant geotechnical risks, and is suitable for cut/fill, retaining works, and residential developments.
- Groundwater poses no constraint, and isolated wet areas can be integrated into environmental corridors and stormwater management systems.
- The site is not visually prominent from key viewpoints, and potential impacts can be mitigated through landscaping and design measures.
- Noise can be effectively managed through buffers, barriers, and lot orientation, allowing compliance with relevant noise criteria.
- Flood prone areas are limited to eastern wetland and drainage corridor, which will be retained as C2, leaving residential land unaffected.
- The site has safe and practical access via Tamarind Drive and internal roads, with good connectivity to key services and employment centres.
- Potable water, sewer, and recycled water can be feasibly provided via multiple connection options, ensuring no servicing constraints for rezoning.

The proponent is committed to the delivery of housing, including affordable housing, within the Housing Accord period.

We welcome the opportunity to brief the Department and the Regional Planning Panel during the rezoning review process.

## 4.1 Cumalum Urban Release Area C - Rezoning Review

NRLS20066 - Cura C - 962 Tamarind Drive

4 February 2026

Please do not hesitate to contact us should you require any further information.

Regards,

Sally McGarry | Senior Town Planner  
**BRS Northern Rivers (ABN 41 657 245 317) part of the Barker Ryan Stewart Group**

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