

29 April 2010
Ref No: 1499750

The Director General
Department of Planning
PO Box 39
SYDNEY NSW 2001

Attention: Sebastian Tauni

Dear Sebastian,

Part 3A Major Project application for a Proposed Residential Subdivision at South Urunga

ABN 79 896 839 729
ACN 101 084 557

Return address:
PO Box 1446
Coffs Harbour
NSW 2450

LENNOX HEAD
T 02 6687 7666
F 02 6687 7782

COFFS HARBOUR
T 02 6651 7666
F 02 6651 7733

www.geolink.net.au

This letter forms a response to a request for additional information for the Preliminary Environmental Assessment (PEA) for a proposed Residential Subdivision located at South Urunga within the Bellingen Shire Council Local Government Area.

I refer to our recent telephone discussion in regard to the abovementioned project and your request for additional information as part of the PEA for the project. You have advised that the Department of Planning has concerns with the proposal being inconsistent with the draft Bellingen Local Environmental Plan 2009 (draft BLEP 2009) whereby the proposed subdivision layout extends beyond the proposed R1 General Residential Zone into the proposed E3 Environmental Management Zone. The attached Illustration shows the extent of the inconsistency.

As discussed we have been negotiating closely with Bellingen Shire Council on this matter. Please find attached a copy of our submission to Bellingen Shire Council on the publically exhibited draft BLEP 2009. As can be identified by the submission, we requested Council consider an amendment to the zoning of the subject site and provided justification for this amendment. Council considered our submission at its Ordinary Meeting held on 24 March 2010 and resolved to revise the zoning map and lot size map for Lot 2 DP 792596 to align with edge of 50m buffer to previously identified eastern EEC boundary. An extract of the adopted minutes relating to the "*Draft Shirewide Local Environmental Plan – Consideration of Submissions*" is attached for your information. Please note that the information relating to the subject land is Submission 11 on pages 18 to 19. Council has advised as of today that it has, pursuant to Section 58 of the EP&A Act, amended the zoning map and lot size map for Lot 2 DP 792596 to align with edge of 50m buffer to previously identified eastern EEC boundary and this has been forwarded to the Department of Planning.

The Catholic Church has for some time been planning to develop the aforementioned site. It was originally proposed to develop the whole site for a school and residential development over the majority of the site. Over the years the development footprint for the school and residential development has been reduced considerably, mainly as a result of the ecological value of the site such as the existence of Endangered Ecological Communities (EEC's) that were identified as part of the most recent ecological assessment of the site.



In recent times the Catholic Church has decided not to proceed with its proposal to develop a Catholic High School on the subject site due to a number of reasons. The Church has, however, now decided to pursue approval of a residential subdivision over part of the site under Part 3A of the *Environmental Planning and Assessment Act 1979 (EP&A Act 1979)* and has consequently lodged a Project Application and PEA with the Department of Planning (the subject application).

As indicated in the PEA, there are a number of ecological and economic constraints to development of the subject site which include:

- ecological value of existing vegetation;
- existence of EEC's within the site;
- proximity to a SEPP 14 Wetland;
- bushfire implications;
- flooding and drainage constraints;
- adjoining agricultural landuses;
- potential contamination of certain parts of the site;
- sole access being to the Pacific Highway and associated costs of constructing an access to service any development;
- requirement to augment existing services such as water and sewer; and
- provision of pedestrian access links back to Urunga.

GeoLINK has investigated a number of potential development options for the site. In preparing these options it became apparent that the proposed zoning of the subject site under the Draft Shire Wide LEP should be reviewed to ensure the best ecologically sustainable development option is achieved for the site. As a result we lodged the aforementioned submission with Council.

As you may be aware the town of Urunga is very constrained from future expansion due to surrounding ecologically sensitive land, land owned by the Crown, flood prone land, the Kalang and Bellinger Rivers, agricultural land and the Pacific Highway. Therefore, in preparing the proposed residential development/subdivision layout for the site, GeoLINK not only gave consideration to these environmental constraints, we also looked at achieving the most efficient and best economic use of the land. Consequently we have proposed an amendment to the proposed zoning of the site that accommodates an increased development foot print which requires more vegetation on site to be removed. However, it is considered that there are significant benefits in increasing the R1 Residential Zone on the site. These benefits include:

- greater potential to increase protection measures and rehabilitation of the EEC's that are located on the site;
- optimising available land for residential development. There is currently limited developable land in and around Urunga to cater for further population growth so development of the few sites that exist should seek to ensure maximum development potential;
- creating a more vibrant community through greater critical mass that will increase availability and viability of community facilities and services such as the proposed shop/neighbourhood precinct and possible public transport connections;
- assist in funding the significant infrastructure costs that will need to be met including construction of new water reservoir, augmentation of the reticulated sewage system and construction of a new intersection with the Pacific Highway;
- lowering developer contribution fees for individual allotments;
- the proposal still includes a significant amount of land to be protected under the proposed E3 Environmental Management Zone that is currently zoned Zone No 2 (b) (Village Area Zone) under BLEP 2003; and
- an increased development footprint enables better implementation of urban design principles and facilitates a more permeable and connected layout than the previously proposed subdivision layout.

It can also be argued that the proposed rezoning line between the R1 Residential Zone and the E3 Environmental Management Zone in the exhibited draft BLEP 2009 was not derived as a result of a rigorous and robust ecological assessment. The boundary was derived from a somewhat broad scale ecological assessment undertaken as part of Council's Growth Management Strategy.

It is therefore our position that the proposed boundary between the R1 Residential Zone and the E3 Environmental Management Zone in exhibited draft BLEP 2009 does not provide for the most economic, optimal and efficient use of the subject site. This is also the position of Bellingen Shire Council and Council staff as indicated in the attached Council Minutes.

We therefore consider there is sufficient justification for the Minister to declare the project as a major project pursuant to Clause 6 of State Environmental Planning Policy (Major Projects) 2005 and continue assessing the application under Part 3A of the EP&A Act 1979.

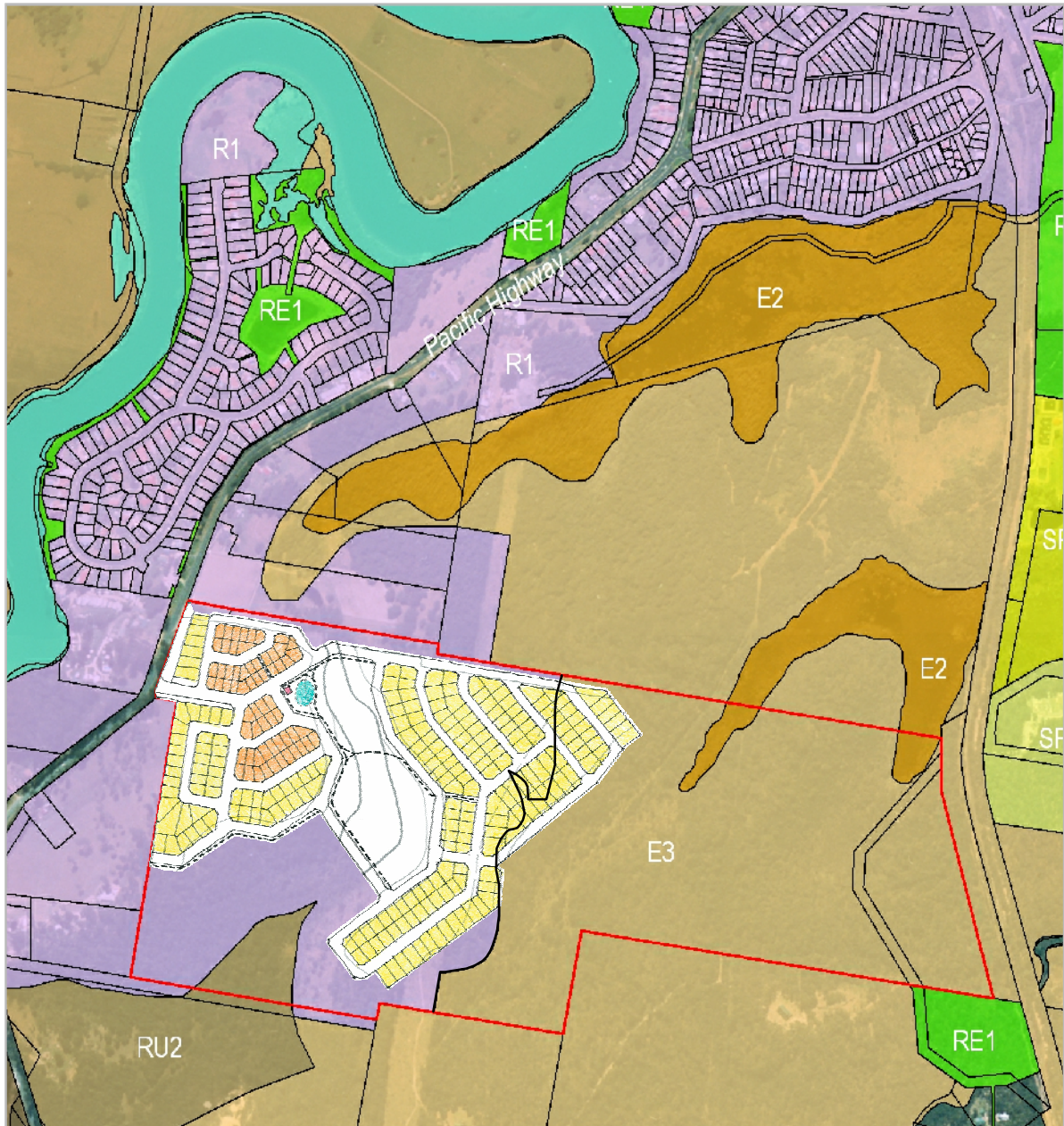
Should you require any further information regarding this proposal please contact me on 6651 7666.

Yours faithfully
GeoLINK














Simon Waterworth
Senior Planner / Principal

Attach: Illustration – Concept Plan over Draft Zoning Map
 Submission to BSC on exhibited draft BLEP 2009
 Council Minutes

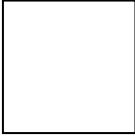


LEGEND

-  Site boundary
-  E2 Environmental Conservation
-  E3 Environmental Management
-  R1 General Residential
-  RE1 Public Recreation
-  RU1 Primary Production
-  RU2 Rural Landscape
-  RU4 Rural Small Holdings
-  SP1 Special Activities
-  SP2 Infrastructure
-  W2 Recreational Waterways

Site Context and Proposed LEP





1 December 2009
Ref No: 1499917

General Manager, Bellingen Shire Council
PO Box 117
BELLINGEN NSW 2454

Attention: Daniel Bennett

Dear Daniel

Submission to Draft Shire Wide LEP – South Urunga Zoning and Lot Size Maps

We act on behalf of the Catholic Church who own land described as Lot 2 DP 792596 Pacific Highway South Urunga.

As you are aware the Catholic Church has, for some time, been planning to develop the aforementioned site. It was originally proposed to develop the whole site for a school and residential development. Over the years the development footprint for the school and residential development has been reduced considerably mainly as a result of the ecological value of the site and the existence of a Endangered Ecological Communities (EEC's) that were found as part of the most recent ecological assessment of the site.

In recent times the Catholic Church has decided not to proceed with its proposal to develop a Catholic High School on the subject site due to a number of factors. The Church, however, has now decided to pursue approval of a residential subdivision over part of the site under Part 3A of the *Environmental Planning and Assessment Act 1979 (EP&A Act 1979)*.

As you are no doubt aware from your involvement in the site over the years, there are a number of ecological and economic constraints to development of the land which include:

- ecological value of existing vegetation;
- existence of EEC's within the site;
- proximity to a SEPP 14 Wetland;
- bushfire implications;
- flooding and drainage constraints;
- adjoining agricultural landuses;
- potential contamination of certain parts of the site;
- sole access being to the Pacific Highway and associated costs of constructing an access to service any development;
- requirement to augment existing services such as water and sewer; and
- provision of pedestrian access links back to Urunga.

GeoLINK has investigated a number of potential development options for the site. In preparing these options it has become apparent that the proposed zoning of the subject site under the Draft Shire Wide LEP should be reviewed to ensure the best ecologically sustainable development option is achieved for the site.

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Attached is one potential option for the residential development/subdivision of the site. The option provides for an increase in the development foot print to allow for an increased lot yield from what was originally proposed in the Development Application lodged with Council and the Part 3A Concept Plan lodged with the Department of Planning.

To accommodate this increased development foot print, more vegetation will be required to be removed. However, it is considered that there are significant benefits in increasing the yield/development foot print on the site. These benefits include:

- greater potential to increase protection measures and rehabilitation of the EEC's that are located on the site;
- optimising available land for residential development. There is currently limited developable land in and around Urunga to cater for further population growth so development of the few sites that exist should seek to ensure maximum development potential;
- creating a more vibrant community through greater critical mass that will increase availability and viability of community facilities and services such as the proposed shop/neighbourhood precinct and possible public transport connections;
- assist in funding the significant infrastructure costs that will need to be met including construction of new water reservoir, augmentation of the reticulated sewage system and construction of a new intersection with the Pacific Highway;
- lowering developer contribution fees for individual allotments; and
- an increased development footprint enables better implementation of urban design principles and facilitates a more permeable and connected layout than the previously proposed subdivision layout.

It should be noted that the proposed option is provided for discussion and to assist Council in determining the optimum zoning strategy for the site. We understand that Council may want other options and issues considered and we would therefore like the opportunity to discuss this further with Council to ensure all issues are considered in determining the final zoning of the site.

Should you require any further clarification or additional information please feel free to contact me on 6651 7666.






Yours sincerely
GeoLINK



Simon Waterworth
Senior Planner / Principal





Attach: Concept Layout – EEC and Buffers
 Concept Layout – Lot Layout



-  EEC
-  EEC BUFFER (50 M WIDTH)
-  APZ (30 M WIDTH)
-  RIDGELINE
-  PROPOSED DRAFT LEP 2009

SOUTH URUNGA
GEO 01499
1:3000 @ A3 - GEOLINK - 27-11-09
CONCEPT LAYOUT



-  LOW DENSITY RESIDENTIAL
174 x 600M² LOTS, 38 x 800M² LOTS
-  MEDIUM DENSITY RESIDENTIAL
63 x 375 - 450 M² LOTS
-  PEDESTRIAN ROUTES
-  SHOP / COMMUNITY PARK

SOUTH URUNGA
GEO 01499
1:3000 @ A3 - GEO LINK - 27-11-09
CONCEPT LAYOUT

8. REPORTS BY DIRECTOR OF ENVIRONMENTAL HEALTH AND PLANNING

8.1 DRAFT SHIREWIDE LOCAL ENVIRONMENTAL PLAN – CONSIDERATION OF SUBMISSIONS

File/Index: Draft Shirewide Local Environmental Plan – Consideration of Submissions (Planning/Local Environmental Plan 2009)

Author: Daniel Bennett, Strategic Planner

REPORT SUMMARY:

Draft Bellingen Local Environmental Plan 2009 was publicly exhibited from 8 October 2009 to 4 December 2009. A total of 68 submissions were received by Council in response to the Draft LEP. The purpose of this report is to present the submissions to Council, provide comment on the issues raised and detail any amendments to the Draft LEP that are considered necessary as a result of the exhibition process. The report recommends that Council endorse the proposed amendments to the Draft LEP and proceed with the remaining phases of the LEP making process.

REPORT DETAIL:

Pursuant to the former provisions of Section 68(4) of the Environmental Planning & Assessment Act, Council is required to submit the following core information to the Director General of the Department of Planning;

- a) Details of all submissions,
- b) The report of any public hearing,
- c) The draft local environmental plan and the reasons for any alterations made to the plan pursuant to the public hearing

A summary of all submissions received by Council is provided below. The actual submissions are included as an attachment to this report. There were no submissions received by Council that requested a public hearing be conducted in respect of the Draft LEP. However, a public hearing will be held on 18 March 2010 pursuant to Section 29 of the Local Government Act, as the LEP proposes to reclassify two portions of Community land to Operational land.

A summary of all proposed amendments to the instrument is also provided at the end of the report. This includes both amendments made as a result of submissions and all other amendments made to the instrument due to minor errors or oversights.

An amended set of maps will be tabled at the meeting for the information of Councillors.

Submission 1

Category	Development potential
Author/s	Littlely, J
Property details	BELLINGEN Lot 14 Section 7 DP 758084 27 William St
Issues raised	<i>What are the parameters around subdivision of the subject land.</i>
Comment	Advice provided. 600m ² minimum lot size for residential subdivision.
Resolution	No further action required.

Submission 2

Category Development potential
Author/s Thrower, M
Property details BELLINGEN Lot 4 DP 818626

Issues raised

- a). *Land to the east of cemetery included as R1. GMS endorsed by DoP conditional upon DECC agreeing to this area. Has this agreement been received and can it be sighted?*

Comment Agreement provided. Copy of letter to be sent to author.

- b). *Does SEPP 44 apply to the land? Koalas still heard and sighted in the area, however less since construction of Figwood Drive.*

Comment SEPP 44 applies to any land over 1ha. Subject land has area of 17.04ha. Part identified for R1 may not qualify as potential habitat given dominance of Radiata Pine as main tree species.

Resolution No further action required.

Submission 3

Category Development potential
Author/s Hutchings, SA
Property details BELLINGEN Lot 2 DP 1118873 20 Jordan Rd

Issues raised *Request that 1(a2) residue portion of lot be permitted to be subdivided off into two residue portions rather than one to facilitate better management of creek line.*

Comment The Draft LEP adopts a basic principle of not allowing for the subdivision of riparian land into more than one lot. The main reasoning behind this is that new lots created with a frontage to a creek line automatically benefit from a riparian right to use water from the creek line for certain purposes.

The subject property is one of many in the Hydes Creek Rd rural residential area that have constrained central sections in the riparian zone. If the LEP were amended to facilitate the authors request then a similar position could be argued for all of the remaining lots.

It is accepted that there may be circumstances where it is undesirable or impractical to retain all of the constrained land in the one lot however it is considered that this should be demonstrated on a case by case basis, within the context of an appropriately detailed lot layout or submission, and that the principle underlying the single lot requirement should not be abandoned without adequate justification. It is noted that a Planning Proposal (for an LEP amendment) would be required to support such a change.

Resolution Retain proposed minimum lot size requirements in Hydes Ck rural residential area.

Submission 4

Category Development potential
Author/s Denis Atkinson Planning Pty Ltd (on behalf of Kethel, BA & EE)
Property details BELLINGEN Lot 32 DP 589423 285 Hydes Creek Rd
Issues raised *Request extension of R5 zoning to north as land features to north are also suitable for development. Argue that extension would allow land to provide buffers to adjoining rural land and improved APZ's.*

Comment APZ and buffer arguments not considered adequate. No bushfire prone land is in vicinity of dwelling and pushing lots closer to adjoining rural does not reduce conflict potential.

The existing edge of the R5 zoning has been delineated with regards to an existing road reserve, as opposed to any distinctive landscape feature differentiating the relative capacity of the land for subdivision. Given that there are existing improvements associated with the dwelling located to the north of the road reserve it is considered that a minor extension of the 1ha lot size area to the north would include this part of the land and assist in a rational subdivision design. This would involve an additional area of land in the order of 2.7ha.

Other than this minor extension, any further extension to the north is not considered warranted though given the physical characteristics of the land and its proximity to adjoining agricultural land.

Resolution Amend R5 and 1ha minimum lot size boundaries on Lot 32 DP 589423 to include approximately 2.7ha extra land to the north.

Submission 5

Category Development potential
Author/s Geoff Smyth Consulting (on behalf of Sanger,P)
Property details BELLINGEN Lot 21 DP 805764 Crown St
Issues raised

- a) *Propose extension of R1 zone further to south to most efficiently use land on the South side of Bellingen. Alternatively, propose smaller lot size of 2000m2 connected to sewer for R5 zoning.*

Comment Following an inspection of the site, it is not considered that the proposed extensions to the zoning or lot size map should be supported at this stage. Although suitable land for residential development occurs along the central ridgeline running through the site, the land falls away steeply on either side and it is likely that the road would occupy much of this land in any case. The proposal is also argued on the basis of providing the extra development potential to fund the closure of a section of Nobles Rd and the construction of a high level replacement road through the development site. It is noted though that the rear portion of the site is mapped as bushfire prone land, substantial regrowth was observed on other portions of the site and the proposal as submitted would result in a one road in, one road out scenario that is unlikely to be an acceptable outcome having regard to bushfire risk.

Therefore, despite endorsing in principle the intention to make the most efficient use of land on the south side of Bellingen, it is considered that there is inadequate detail at this stage to

justify an extension of the R1 Zone or 'smaller lot' area (600m² lot size) given the observed constraints on the land. It would be preferable to consider any such request as a stand alone amendment to the LEP, via the submission of a Planning Proposal where the necessary level of supporting detail can be better considered and supplied.

It should also be noted that the land was not identified in either Council's adopted Growth Management Strategy or the Mid North Coast Regional Strategy as being suitable for residential development and inadequate detail has been provided to support a departure from these identified strategies.

b) *Suggest caravan parks should be permissible in RU1 Zone.*

Comment It is not agreed that a caravan park should be made permissible in the RU1 Zone throughout the Shire due to this zone's primary emphasis being on rural land uses. Should an individual site be found that possesses the desired characteristics for a caravan park then this can be considered as a stand alone amendment to the LEP, via the submission of a Planning Proposal.

Resolution No proposed change to zoning or lot size boundaries.

Submission 6

Category Development potential
Author/s Hull, S
Property details BRIERFIELD
Issues raised *Supports R5 zoning in area. Is close to Bellingen, has flood free access and most properties do not contain large areas of native vegetation.*

Comment Noted.

Resolution No further action required.

Submission 7

Category Development potential
Author/s Barwick Stevens (on behalf of G&A Cork Memorial Trust)
Property details DORRIGO Lot 710 DP 706735
Issues raised *Request land be rezoned to R1 to allow for Aged Housing Development on site. Argue that adequate and excessive Industrial Land exists in Dorrigo. Argue land use conflict issues can be managed by site design.*

Comment The Director of EHP has advised that this matter should be dealt with via a separate site specific LEP amendment should the proponents wish to pursue this further. Note: Such a proposal has been submitted by the proponent and this will be reported to Council at a future date.

Resolution Retain existing IN1 zoning.

Submission 8

Category Development potential

Author/s Kneen, P

Property details GLENNIFER Lot 12 DP 785478

Issues raised *Believed that he could subdivide when he purchased property in 1990. Requests approval to subdivide his property to split into two parcels, as separated by Roses Rd. Alleges disparity with other lots in vicinity.*

Comment The GMS made strategic decisions regarding localities for future rural residential development. The Roses Rd area was not included and therefore it is not considered that any strategic justification exists for permitting subdivision of the subject land.

Resolution Request not supported.

Submission 9

Category Development potential

Author/s Willis, M

Property details RALEIGH Lot 150 DP 851515 Lots 318 & 528 DP 755557, Lot 9 & 10 DP 839899 Lot 1 DP 170992

Issues raised

- a). *Land in SW corner of Lot 150 DP 851515 should have industrial subdivision potential preserved.*

Comment Agreed. Amend lot size boundary to exclude this section of industrial land from a minimum lot size

- b). *Multiple land parcels need review of zoning having regard to highway deviation and previous zoning logic of 7(s) Zone.*

Comment Agreed in part. That portion of land on Lot 9 DP 839899, between the current highway and the old highway, that is primarily cleared should not be zoned E3. As such, it is considered that the land should be zoned RU1 in accordance with surrounding zonings. Remaining E3 areas appear to mostly cover existing vegetated or flood prone areas and the recently released Environmental Assessment for the Warrell Ck to Urunga Pacific Highway upgrade notes the existence of several Endangered Ecological Communities in these areas. As such, it is not considered that further removal of the E3 zoning is justified at this stage.

- c). *Land currently 1(c1) and proposed RU4 with respect to highway deviation appears excessive given most recent approved route plan. Seek minimisation of impact or deferral until final decision made.*

Comment The proposed RU4 zoning has been made with regards to the adopted GMS. The GMS clearly excludes this area of land from being maintained as large lot residential and given the lot layout in the area, RU4 Rural Small Holdings was considered to be the optimal zone to select. The finer details of the proposed highway route are not considered to justify a departure from the recommended zoning contained within the GMS and any such change would warrant a revision of all other properties in the immediate vicinity that are similarly affected.

Resolution Extend IN1 zoning to SW corner of Lot 150 DP 851515.

Portion of land on Lot 9 DP 839899, between the current highway and the old highway, that is primarily cleared to be zoned RU1.

Submission 10

Category Development potential

Author/s Denis Atkinson Planning (on behalf of Nanute Pty Ltd)

Property details RALEIGH Lot 295 DP 755553 & Lot 1 DP 572393 753 North Bank Rd

Issues raised *Contests that Lot 295 DP 755553 is effectively the residue of an “existing holding” and request that a Schedule amendment be made to permit the erection of a dwelling on the consolidated area of Lot 295 DP 755553 and Lot 1 DP 572393.*

Comment Lot 295 DP 755553 formed part of a 1969 existing holding. The holding has since been broken up into various ownerships and/or subject to various development consents resulting in Lot 295 DP 755553 being the only remaining lot of the holding that does not have an entitlement (with the exception of closed roads). The lot does not meet the definition of 'residue land' under BLEP as the definition does not acknowledge the fact that some of the lots that comprised the initial 1969 existing holding, are now holdings in their own right .i.e. 1996 existing holdings. As such those lots now have an entitlement, however because Lot 295 DP 755553, which was in separate ownership in 1996, does not have an area greater than 40ha (35.62ha) it does not.

As Lot 295 DP 755553 is effectively the residue of the holding, is the only lot of that holding that does not have an entitlement and has a combined area with Lot 1 DP572393 of 37.24ha, it is proposed to amend Schedule 1- Additional Permitted uses, to permit the erection of a dwelling house on the land, provided that it is consolidated with Lot 1 DP 572393.

Resolution An additional Item 12 be inserted into Schedule 1- Additional Permitted uses, to permit the erection of a dwelling house on Lot 295 DP 755553 and Lot 1 DP 572393, following their consolidation into a single lot.

Submission 11

Category Development potential

Author/s Geolink (on behalf of The Catholic Church)

Property details URUNGA Lot 2 DP 792596

Issues raised *Request review of zone and lot size boundary to push it further to the east. Will allow a greater lot yield than previously envisaged, however significant portions of the site require protection as EEC's. A greater lot yield will allow for a better overall development and will further justify significant infrastructure costs that will ensue.*

Comment The exhibited lot size boundary was selected to follow a ridgeline and the zoning boundary reflected that contained in Council's adopted Growth Management Strategy.

Generally, it is considered that the requested extension of the developable area to the east is worthy of support and it is acknowledged that the edge of development has been determined with reference to previous mapping of EEC's and the incorporation of a 50m buffer to this area. It is noted that a significant portion of the subject land will be back zoned to E3 Environmental Management under the Draft LEP and that large portions of land in the

eastern portion are unable to be developed due to EEC constraints. The ultimate amendment of the Zoning and Lot Size Maps will, however, not be solely determined by Council and DoP will need to concur with this amendment.

Resolution

Revise zoning map and lot size map for Lot 2 DP 792596 to align with edge of 50m buffer to previously identified eastern EEC boundary.

Submission 12

Category Development potential

Author/s Denis Atkinson Planning (on behalf of Detize Pty Ltd)

Property details URUNGA Lot 1 DP 604511

Issues raised *Request R5 zoning to permit subdivision. Large proportion is at or above 1% flood level. Development would provide APZ's to adjoining development and reduce a possible future fire hazard. Developer could create a helipad to be used in event of flooding for emergency purposes. Houses would be above GFPL and could provide a community of support for other flood affected properties.*

Comment The subject land was considered as part of the GMS and rejected. The principal concern is the single lane access to the highway from Newry Island, the cumulative impact of increased traffic and the cost of any necessary upgrade. There have been significantly less constrained sites selected for an R5 zoning based upon a strategic assessment of site suitability and the request is not supported.

Resolution Retain E3 zoning.

Submission 13

Category Development potential

Author/s NTSCORP (on behalf of Boney family)

Property details URUNGA Schnapper Beach Rd

Issues raised *Request that proposed Schedule 1 item for LEP be amended by referring to three "expanded dwellings" (rather than "dwellings") and insert a definition.*

Comment It is not considered necessary to include a definition for an expanded dwelling. It is noted though that the proposed lot intended to benefit from the schedule amendment has not yet been created and it is not intended to apply the amendment to the entire existing lot. As such, the schedule should be amended to refer to a proposed Additional Permitted Uses Map that will depict the extent of the intended development envelope.

Resolution Amend Item 11(1) in Schedule 1 – Additional Permitted Uses to state as follows.

- (1) This clause applies to land at Schnapper Beach Road, being land shown as Item 11 - on the Additional Permitted Uses Map.

Submission 14

Category	Development potential and policy
Author/s	Stevens, D
Property details	DORRIGO in General; and Lot 2 DP 847111 & Lot 30 DP 788972
Issues raised	<i>Submission 1; Remove Native Vegetation Clause 7.4 & mapping from Draft LEP for private lands and/or insert clause preventing Native Vegetation layer being used as a basis for rezoning private land in future.</i>

Submission 2; Council remove Native Vegetation Clause 7.4 & mapping from Draft LEP

Comment The clause is easily complied with if there is a discrepancy in the mapping attributable to the scale of data collection or lack of ground truthing. It does not require consent for development by virtue of land being mapped.

The clause is intended to ensure that the avoidance of impact on native vegetation is the preferred option for site layouts. This is an important policy position that is worthy of maintaining in the new LEP and on the individual properties mentioned.

Both properties are within an identified Regional Wildlife Corridor, hence inclusion of cleared land on mapping. These areas have been included as certain developments may jeopardise future attainment of vegetated regional corridor links.

Resolution

No change to Draft BLEP 2009 proposed as a result of submission.

Submission 15

Category	Development potential and policy
Author/s	Petersen Consulting Group (on behalf of Riddel)
Property details	URUNGA Lots 69,79,120,124-126,148,195, 274,275 & 449 DP 755557 Lot 2 DP 804995

Issues raised

- a). *On “face value”, Clause 46 of BLEP provides some scope for further subdivision of this land. Draft LEP will remove this with 40ha minimum, Submit that 5ha minimum should apply.*

Comment The “Face value” assessment that has been undertaken is incorrect. The vast majority of this land is covered by an exclusion, pursuant to Clause 47 of the current LEP that prevents further subdivision of the land until such time as Council has obtained written approval from the DoP to a revised rural residential land release strategy. The revised strategy is, in fact, the adopted GMS and this did not recommend subdivision of the land until such time as a Local Environmental Study (LES) is firstly prepared that provides support for the proposed change.

- b). *Existing LEP provides scope for boundary adjustments between undersized lots; Draft LEP limits this to one lot within 90%. Suggest amendment to continue existing flexibility.*

Comment Agreed. This is a serious flaw of the Standard Instrument and the Rural Lands SEPP and needs to be addressed by the DoP. It is recommended that Council resolve to express its dissatisfaction at the inability of the Standard Instrument to accommodate legitimate rural boundary adjustments and this is explained further in the report in the commentary on Submission 53.

- c). LEP proposes E3 Zone over much 1(a2) land. Seek to be able to continue previous land uses of forestry, grazing and cropping. Request change to RU2 zone, permit uses without consent in E3 zone or allow schedule use for these without consent on subject properties.*

Comment Existing use rights provisions will permit the continuation of any existing activities. Should the owners wish to confirm existing use rights then they need to submit a detailed case to Council for recognition.

An RU2 zoning is not considered to accurately reflect the constrained nature of land that is proposed to be zoned E3. Most of this land is heavily vegetated and this was recognised in the GMS that proposed the back zoning of this land to environmental protection. No compelling argument has been provided that would warrant a departure from the recommendation of the GMS and as such it is considered that the E3 zoning should remain. Similarly, a Schedule amendment that would be contrary to the basic premise of the E3 zone is not supported.

It should be noted that vegetation removal for the purpose of establishing new pasture or vegetation removal associated with private native forestry will be subject only to the provisions of the Native Vegetation Act upon commencement of the new LEP and any proposed changes to the LEP to facilitate these ends are therefore not considered necessary.

- d). 40ha additional requested as part of GMS process; not reflected in final GMS Maps or draft LEP.*

Comment The Local Environmental Study (LES) process is the appropriate mechanism to review the overall subdivision potential of the area. The land referred to can be considered as part of this process. It is not intended to revise adopted GMS maps or to amend the Draft LEP 2009.

- e). Native vegetation; mapped sensitive area does not accurately reflect on ground extent.*

Comment The Native Vegetation Mapping is not ground truthed accurate and as such, it is possible that some discrepancies may occur. It is also noted that some areas of land may have had vegetation removed since the data set was prepared or that the mapping covers land that may function as a wildlife corridor if suitably revegetated.

A cursory desktop analysis of the subject land confirms that in the most part the Native Vegetation Mapping layer appears to correspond with the extent of vegetation observed on aerial photography. Clause 7.4 (Environmentally Sensitive Land- Native Vegetation) does not add an extra layer of consent requirements upon undertaking development and is easily complied with if the site of the proposed development is shown, upon more detailed investigation, to not contain native vegetation.

As such, it is not intended to amend the mapped area at this stage. Should minor discrepancies continue to be a matter of concern to the owners then Council would be prepared to review the mapping upon submission of detailed supporting information as part of the broader LES process for subdivision of the land.

- f). Rural Residential; Argue that Council should facilitate preparation of an LES and Draft LEP to allow for rezoning of land to proceed. Seek resolution to proceed.*

Comment The rezoning of the subject land is currently ranked as Priority No. 15 in Council's Strategic Planning Program, as adopted by Council at its meeting of 25 February 2010.

As previously advised, Council is willing at any time to commence discussion with the proponents as to the level of information required to support the LES.

Resolution No amendments are proposed to the Draft BLEP 2009 as a result of this submission.

Submission 16

Category Development potential

Author/s Hickey, A&A

Property details THORA Lots 1&2 DP 755541 & Lot 6 DP 658007 1898 Darkwood Rd

Issues raised

- a). Consider that an E4 zoning should be adopted for whole of property given that it allows for ongoing agricultural and forestry operations as permissible without the consent of Council. The property has been and continues to be used for these purposes.*

Comment The properties concerned are entirely within an identified Regional Wildlife Corridor. The properties are currently zoned 7(s) so an E4 zoning would constitute a weakening of a current zoning provision that is appropriate for an identified wildlife corridor. Notwithstanding this, no objection is offered to an E4 zoning over the currently cleared portions of the land only.

- b). Illogical to require consent for forestry in Zone E3 when Council is not the consent authority for logging.*

Comment Further confirmation has been sought from DoP as to Council's ability to require development consent for forestry. It has been confirmed that the Native Vegetation Act 2003 will take precedence in this instance. Therefore, if the forestry activity is permitted under that Act then there will be no further ability for Council to require development consent.

DoP have also confirmed that "forestry" should be retained as a defined land use in the land use table for non-urban zones (where the NV Act 2003 applies). This is because there may still be some need to regulate this activity if, for example, a forestry activity was not permissible under the provisions of the Native Vegetation Act 2003.

- c). Consider have existing use rights for forestry and other agricultural activities*

Comment The pursuance of existing rights is a separate process. The new LEP will not affect the operation of any current valid consent for forestry.

Resolution Replace E3 zoning with an E4 zoning over the currently cleared portions of Lots 1&2 DP 755541 & Lot 6 DP 658007 only.

Submission 17

Category Development potential
Author/s Welsh, H
Property details THORA Lot 1 DP 827222 2000 Darkwood Rd

Issues raised

- a). *Note that E3 zoning appears to incorporate more flexibility than current 7(s) Zone.*
- b). *Still concerned that value of property has reduced since purchase in 1998 when it was zoned 1(a2) and LTO documentation referred to land as a “farmlet”. Travesty that EP&A Act 1979 doesn’t require individual notification of zoning changes to zoning such as from 1(a2) to 7(s).*

Comment The 149 Certificate obtained upon purchase of property clearly advises of the existence of a Clause 19 Special Emphasis Area on the land under the now superseded BLEP 1990 and the consent requirement for any development on the land, notwithstanding the 1(a2) Zoning. The 7(s) Zoning of BLEP 2003 effectively continued the Clause 19 requirements of BLEP 1990, as does Draft BLEP 2010, with some additional flexibility as observed. Reference to a farmlet is a descriptive term on an LTO property information inquiry form and is of no relevance in planning law.

- c). *Want original 1(a2) zoning re-instated as an RU2 zoning in new LEP.*

Comment Land is wholly within an identified Regional Wildlife Corridor. The properties are currently zoned 7(s) so a 1(a2) zoning would constitute a weakening of a current zoning provision that is appropriate for an identified wildlife corridor. There is a small area of cleared land however the parcel area does not warrant a different zoning for this small piece of land.

Resolution

No change recommended to Draft LEP as a result of this submission.

Submission 18

Category Development potential
Author/s Powter, S
Property details BELLINGEN Lots 1-3 DP 264018, 1-3 Evans St

Issues raised *Propose change of zoning to R1 (General Residential) from R5 (Large Lot Residential). All have town water, electricity, sewer & power and request 600m2 minimum lot size apply.*

Comment There is merit in the requested amendment given availability of services. The requested zoning and subdivision category would be consistent with land to the immediate north and there is no apparent reason why the land should not be similarly zoned. The same should also apply for Lot 4 DP 264018.

Resolution

Amend the zoning of Lots 1-4 DP 264018 from R5 to R1 (General Residential) and amend the Lot Size Map to provide a 600m² minimum lot size area.

Submission 19

Category Development potential
Author/s Scott, AA & PM
Property details BELLINGEN Lot 2 DP 814737, 41 Hennesseys Lane
Issues raised *Would like to make land available for inclusion in this Growth Management Study. Less than 2kms from Bellingen, has town water & sewerage at eastern boundary, 30ha of flood free land. Would be suitable for residential, rural residential, industrial, caravan park/tourist park or Home Village Park. Understanding of this Growth Management Plan is if any of our proposed developments are not accepted at this time there will be no future development plan.*

Comment The LEP is not a Growth Management Study and comment has not been sought in this regard. The LEP does however implement the majority of outcomes of the already adopted Growth Management Strategy.

The existing GMS will be reviewed in 2012 and the completion of an Employment Lands Strategy is Priority No. 14 in Council's adopted Strategic Planning Program. These actions will provide opportunity for further exploration of the development potential of land.

Resolution

No change recommended to proposed LEP provisions.

Submission 20

Category Development potential
Author/s Atkinson, D
Property details BRIERFIELD Lot 30 DP 707896 913 Bowraville Rd
Issues raised *Request removal of E3 zoning over property. Area zoned E3 contains two approved dwelling sites related to an approved Multiple Occupancy on the property. E3 zoning may jeopardise future development potential. Request RU2 zoning be applied.*

Comment No objection offered to refinement of E3 boundary. It is noted that an environmental zoning does in fact limit potential for development under the Rural Landsharing Communities SEPP, as the SEPP does not apply to Environmental Protection Zones.

Resolution

Amend zoning for Lot 30 DP 707896 to remove E3 zoning and replace with RU2 zoning.

Submission 21

Category Heritage
Author/s Church, G
Property details BELLINGEN Lot 1 DP 23405 118 Wheatley St,
Inventory number I108-0362

Item description	Cultural planting
Issues raised	Clarify that the listing applies to the garden but not the house.
Comment	Author contacted. Error in listing.
Resolution	Remove I108-0362 at Lot 1 DP 23405 from heritage schedule.

Submission 22

Category	Heritage
Author/s	Shields, S&E
Property details	BELLINGEN Lot A DP 913988 850 Waterfall Way
Inventory number	I99-0263
Item description	Stand of River Sheoak – along Bellinger River
Issues raised	<i>Stand of River She Oak was destroyed and washed away in 2001 flood. Request written advice of decision.</i>

Comment Flood events have had a significant effect on the extent of River She-oak on the property. It is also noted that Council has issued development consent for a rock stabilising wall across the riverbank frontage of the subject lot.

As such, it is considered that the subject property no longer contains the vegetation referred to in the original heritage study and that opportunities for re-establishment of the riverbank vegetation are limited. It is also noted that the Heritage Map extends the listing to the property to the west, however this should also not be included due to a similar lack of She-oaks and the break in connectivity that will result from removing the listing described in this submission.

Resolution Remove I99-0263 from Lot A DP 913988 and Lot 10 DP 1073931.

Submission 23

Category	Heritage
Author/s	Goodwin, F
Property details	BELLINGEN Lot 3 Sec 3 DP 758054 31 William St,
Inventory number	I110-0910
Item description	William Street Group
Issues raised	<i>Pleased to see listing of all buildings of significance. Questions retrospective application of heritage criteria</i>

Comment New listings will not have retrospective application to current consents

Resolution No further action required.

Submission 24

Category Heritage
Author/s Cameron, S
Property details BELLINGEN Lot 3 Sec2 DP 3958 18 Coronation St
Inventory number I12-0153
Item description Coronation St Group
Issues raised *Very happy to be involved and pass on congratulations to Council on efforts to maintain heritage*

Resolution No further action required.

Submission 25

Category Heritage
Author/s Lavender, A
Property details BELLINGEN Lot 2 Sec 3 DP 3958 30 Coronation St
Inventory number I12-0153
Item description Coronation St Group
Issues raised *House built in 1967; not of significance in own right. Concerned about implications; Real Estate Agents advise harder to sell & insurers note difficulties.*

Comment The lack of individual significance of the dwelling at 30 Coronation St will be recognised in the Inventory description for the Coronation St grouping. This **will** increase the extent to which the property owner can modify the dwelling. The extent to which any development will be compatible with the overall character of the streetscape will still be required to be considered as part of the development process.

Resolution Retain as part of Coronation St Group.
Amend database description for I12-0153 to note lack of individual significance of dwelling at 30 Coronation St.

Submission 26

Category Heritage
Author/s McNeil, B
Property details BELLINGEN Lot 1 DP 373589 19 Coronation St
Inventory number I12-0153
Item description Coronation St Group
Issues raised *House does not retain sufficient original features to warrant a heritage listing. Not identified as one of the primary properties of interest.*

Concerned about implications; Real Estate Agents advise harder to sell & insurers note difficulties.

Comment The dwelling at 19 Coronation St has been re-inspected and it is agreed that it should not have individual listing as the unsympathetic additions to the house have completely obscured the front and western side of the building and have resulted in removal of original verandah features. A description of the building (including renovations) will be

provided in the Inventory description for the Coronation St grouping that will note the relative lack of significance of this dwelling within the overall grouping. This will increase the extent to which the property owner can modify the dwelling. The extent to which any development will be compatible with the overall character of the streetscape will still be required to be considered as part of the development process.

Resolution Amend database description for I12-0153 to note lack of individual significance of dwelling at 19 Coronation St.

Submission 27

Category Heritage
Author/s Balcomb, DM
Property details BELLINGEN Lot 4 Sec 4 DP 11100 8 Park St,
Inventory number I70-0015
Item description Park St Group
Issues raised *Decided not to have house listed as heritage.*

Comment This matter has been discussed with Council's Heritage Advisor. As no compelling reasons have been provided for not including this item it is considered that the item should remain as per the exhibited Draft.

Resolution No further action required.

Submission 28

Category Heritage
Author/s Hoschke, P&P
Property details DORRIGO Lot 297 DP 752830 16 Vine St
Inventory number I168-0403
Item description Cultural Planting
Issues raised *Acknowledge significance*

Don't want restrictions placed on normal maintenance and care. If additional restrictions, don't support listing.

Comment Clause 5.10(3) of Draft BLEP 2009 allows for minor maintenance works without development consent provided that the proponent firstly notifies the consent authority and the consent authority advises, in writing, that the work is of a minor nature or is for the maintenance of the heritage item or tree. Clause 5.10(3) also provides that consent is not required if the activity is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property.

Given that most proposed works on the trees concerned would currently require development consent from Council, the proposed amendments are not considered to be significant new restrictions on normal maintenance or care.

Resolution Retain listing. Provide written advice to author explaining provisions of Clause 5.10(3).

Submission 29

Category Heritage
Author/s McConnell, CM
Property details DORRIGO Lot 1 DP 587826
Inventory number A25
Item description Dorrigo Hydro Power Plant
Issues raised *Original value of former hydro station significantly altered due to residential adaptations over time and loss of original fabric.*

Want to work with Council and their Consultants to prepare a Conservation Management Plan that will be cognisant of remaining heritage value and allow certain ongoing things to be done without restriction.

Comment Noted and agreed. Council is fully supportive of the stated intention to prepare a Conservation Management Plan to assist in providing the owners with flexibility to undertake certain routine works without needing development consent.

Resolution Retain listing. Advise in writing of support for development of a Conservation Management Plan.

Submission 30

Category: Heritage
Author/s Parker, K
Property details DORRIGO Lot 1 DP 594274, 4389 Waterfall Way
Inventory number I174-0353
Item description Windbreaks
Issues raised *There are no Broad Leaf Privet windbreaks on my property. Please remove.*

Comment Site inspected. No windbreaks on property.

Resolution Remove Lot 1 DP 594274 from the description for Item I174-0353 in heritage schedule.

Submission 31

Category Heritage
Author/s Plummer, C & J and Rhodes, J&T
Property details DORRIGO Lot 1 DP 556609 & Lot 3 DP 808539
Inventory number I160-0418
Item description Cultural Planting – ‘Bylinga Downs’
Issues raised *As Council has been unable to identify what they are specifically listing we can see no point.*

*Lot 3 had only one small leaf privet and some pines on boundary.
Not part of Bylinga Downs which is on other side of road.*

Comment Site inspected. Core planting associated with Bylinga Downs & homestead is located on Lot 11 DP 1022079.

Resolution Amend listing for I160-0418 to reference Lot 11 DP 1022079 only.

Submission 32

Category Heritage
Author/s Chan, T
Property details DORRIGO Lot 21 DP 1069210 1 Walnut Close
Inventory number I161-0415
Item description Windbreak
Issues raised *Block was cleared of vegetation in 2005 with Council's approval due to safety and weed concerns.*

As such, request removal of heritage classification for windbreak on property.

Comment Inspection of aerial imagery confirms that there is no established windbreak on the site and illustrates a range of other discrepancies in the mapped extent of this listing.

Resolution Remove item I161-0415 from Heritage Schedule.

Submission 33

Category Heritage
Author/s Haul, G
Property details DORRIGO Lot 174 DP 752813 66 Whisky Creek Rd
Inventory number I180-0211
Item description House
Issues raised *Recently purchased. Object strongly to inclusion*

Comment Council's Heritage Advisor has considered the submission and advises that the listing is to be retained if the general character remains or could be restored. The inventory description should however be amended to note that alterations have been made to exteriors.

Resolution The General character of the house remains. Retain listing and amend database description to make explicit reference to alterations that have been made.

Submission 34

Category: Heritage
Author/s McKenzie, G
Property details DORRIGO Lot 1 DP 351066 Railway St
Inventory number A27-0105
Item description Ruined Timber Mill
Issues raised *Only concrete slabs remain.*

Will severely limit development potential.

Requests that Council record existence of mill for historical purposes but not list and request written advice of decision.

Comment The subject site has been re-inspected and the matter further discussed with Council's Heritage Advisor. The listing warrants retention given that there are relics on the site which are covered under the relics provisions of the Heritage Act in any case. The identified significance will not eliminate the future development potential of the site however professional Heritage advice will need to be sought and a Heritage Impact Statement submitted with any Development Application.

Resolution Retain listing as proposed. Advise of decision in writing.

Submission 35

Category Heritage
Author/s Kennedy, ME & SE
Property details FERNMOUNT Lot B DP 378540 23 Baker St
Inventory number I182-0213
Item description House
Issues raised *Do not wish to have house added to list*

As elderly residents, know that it will cause extra expense and stress.

Comment The submission has been discussed with Council's Heritage Advisor. As no compelling reasons have been provided for not including this item it is considered that the listing should remain.

Resolution Proceed as per Draft LEP. Notify in writing of decision.

Submission 36

Category Heritage
Author/s Langton, I
Property details FERNMOUNT Lot 4 DP 758407 13 Hyde St
Inventory number I184-0214
Item description House
Issues raised *Classification has been overtaken by subsequent event such as issuing of building approval by Council in 1997 to allow what was left of the significantly damaged building to be repaired & extended.*

Original house no longer exists, ask for classification to be removed.

Comment The dwelling was previously inspected by Council's Heritage Advisor who notes that although the adaptive work has not been entirely sympathetic, the original building and setting remain capable of being interpreted. As such, it is considered that the building should remain, with additional notes to be inserted into the database description that advise the extent of renovation and previous issuing of building approvals.

Resolution Retain listing. Amend database description to note the extent of renovation and previous issuing of building approvals.

Submission 37

Category	Heritage
Author/s	Martyn, W
Property details	GLENNIFER Lot 100 DP 831637 908 Promised Land Rd
Inventory number	I200-0382
Item description	Never Never River and Natural Vegetation
Issues raised	<i>Natural vegetation and sections of rainforest species no longer appear to be current.</i>

*Weeds smother bank which has collapsed in many places.
Don't agree to inclusion.*

Comment Alternative mechanisms exist for the protection of riparian vegetation in this locality. Some confusion exists as to the accuracy of the listing and therefore it is considered that the item should be deleted at this stage. It is possible that this may be reviewed at a later stage along with other heritage items that have not been included in this LEP.

Resolution Remove Item I200-0382 on Lot 100 DP 831637 from Schedule 5.

Submission 38

Category	Heritage
Author/s	Keough, T&L
Property details	GLENNIFER Lot 12 DP 714172 & Lot 67 DP 605867
Inventory number	I196-0378 & I198-0379
Item description	Cultural Planting
Issues raised	<i>Disagree with listing due to property containing a noxious weed (Camphor Laurel).</i>

Comment The issue of noxious weeds and environmental weeds being included as heritage items has been discussed at length with Council's Heritage Advisor, the Heritage Office and Council's Manager of Sustainability & Natural Resources.

It has been recommended that Council adopt a policy to assist in dealing with requests for removal of weed species that are listed as noxious weeds. Such a policy would balance the significance of the item (in a heritage sense) with the classification of the weed and Council's priorities for dealing with that particular weed species.

Resolution Retain listing.

That Council resolve to prepare a policy to assist in dealing with requests for removal of weed species that are listed as noxious or environmental weeds. Such a policy would balance the significance of the item (in a heritage sense) with the classification of the weed and Council's priorities for dealing with that particular weed species.

Submission 39

Category	Heritage
Author/s	Diespecker, D
Property details	THORA Lot 44 DP 627606 1655 Darkwood Rd

Inventory number I126-0336
Item description Bridge and Scenic River, Richardsons Crossing
Issues raised *Notes that introduced species help to keep riverbank intact.*

Some of the native species near the river are leaning and possibly becoming unstable.

Retaining low level bridges in the future may be unsustainable given climate change and increased frequency of flooding

Various observations re property and unrelated matters.

Comment The site has been inspected and the author has confirmed that no fundamental objection is offered to the proposed listing.

Resolution Retain listing.

Submission 40

Category Heritage
Author/s Pegum, M
Property details URUNGA Lot 4 Sec 23 DP 759026 4 & 4A Morgo St
Inventory number I259-I261 (and 0026)
Item description Former Pilot House & Former Pilot House Fence
Issues raised *Stables were not associated with Pilot house and shouldn't be included. Built around 10 years after Pilot House ceased operation and after fence which was built in 1946.*

Flagpole restored to hill in 2005; other parts of Ports operation integral to overall appreciation of Pilot House and its important functional role.

Request that Council include more port related items in the LEP.

Comment Council's Heritage Advisor has been consulted with respect to this submission and advises that in relation to the Pilot Station at Urunga, the broader site requires more study to investigate the other related sites that have been mentioned. Therefore, at this point in time the listings should remain as is but with amendments to the database description to note the 1946 date of the fencing.

With respect to the flats at 6 Morgo Street it is recommended that Council delete any reference to the building being of significance as a stable. The listing should refer to the significance of the site only and the flat building is to be described as an element which detracts from the significance of the site and the adjoining Pilot Station.

Resolution Remove reference to "Stables" in the Item name for I261 in Schedule 5.

Submission 41

Category Heritage
Author/s Fortescue, G&C
Property details URUNGA Lot 1 DP 771799 1021 Sth Arm Rd
Inventory number I119-0300
Item description Cultural Planting Pine Grove
Issues raised *Object to listing as Hoop Pines not rare to area, there is no information to suggest they are of cultural significance and neighbours suggest that they were self propagated.*

Post & Rail fence on floodplain; ½ lost in floods, replaced with wire, costs too great for maintenance by owners, envisage replacement with wire.

Comment The majority of the item is on an adjoining property that was not notified of the proposed listing at the time of public exhibition. In the circumstances, it is proposed to delete the listing from the Draft LEP at this stage and reconsider its inclusion, with correct notification, at a later stage.

Resolution Item number I119-0300 on Lot 1 DP 771799 and Lot 43 DP 1016173 be deleted from Heritage Schedule 5.

Submission 42

Category Heritage
Author/s McLennan, H
Property details URUNGA Lot 1 DP 223495 56 Yellow Rock Rd
Inventory number I273
Item description House
Issues raised *Would like to have the house raised to 2 storey in future. As such, do not wish to have the house listed.*

Comment A future intention to raise the house does not amount to a compelling argument against the inclusion of this item. Any request to raise the house can be considered on merit at some point in the future.

Resolution Retain listing.

Submission 43

Category Heritage
Author/s Tipper, P
Property details VALERY Lot 247 DP 7555553 989 Valery Rd
Inventory number I276-0316
Item description Cultural Planting
Issues raised *Submission 14 October 2009 requests details of cultural planting to inform possible further submission*

Comment Information provided.

Resolution No further action required.

Submission 44

Category Heritage
Author/s Stoodley, M
Property details VALERY 40 Briggenshaws Rd
Inventory number A78-0097
Item description Milk stand
Issues raised *Requesting confirmation of location of milk stand*

Comment Photo emailed

Resolution No further action required.

Submission 45

Category Heritage
Author/s Never Never Catchment Group
Property details VARIOUS PROPERTIES
Inventory number N/A
Item description Cultural Plantings including Camphor Laurel
Issues raised *Object to listing of Camphor Laurel due to noxious weed status and qualities*

Comment As previously noted, it is recommended that Council resolve to prepare a policy to assist in dealing with requests for removal of weed species that are listed as noxious or environmental weeds. Such a policy would balance the significance of the item (in a heritage sense) with the classification of the weed and Council's priorities for dealing with that particular weed species.

Resolution Retain listings.

Submission 46

Category Heritage - Osprey nests
Author/s Sawtell, DB
Property details MYLESTOM Lot 113 DP 755553 32 River St
Inventory number I208
Item description Osprey nest sites – dead trees and land within 100metres of them
Issues raised *Subject tree was blown over early 2000's.
Want it removed from LEP.*

Comment Removal supported.

Resolution Remove I208, on Lot 113 DP 755553 from Heritage Schedule.

Submission 47

Category	Heritage - Osprey nests
Author/s	Gossip, H.B
Property details	URUNGA Lot 32 DP 755552 Martells Rd,
Inventory number	I258
Item description	Osprey nest sites – dead trees and land within 100metres of them
Issues raised	<i>Nest fell out 5/2/01 & tree fell 9/2/04</i>
Comment	Removal supported.
Resolution	Remove I258, on Lot 32 DP 755552 from Heritage Schedule.

Submission 48

Category	Heritage - Osprey nests
Author/s	Frank, M&S
Property details	URUNGA Lot 116 DP 835501 41 Osprey Drive
Inventory number	I269
Item description	Osprey nest sites – dead trees and land within 100metres of them
Issues raised	<i>Dead tree has not had nest in it since approx 2003.</i>

Osprey may have dismantled nest & relocated to Urunga Bridge.

Unlikely to return; trees around have grown higher than nest tree; wants listing & restriction lifted.

Comment The removal of the listing is supported. In the event that an Osprey was to return to the site it can be adequately protected via the provisions of the Threatened Species Conservation Act 1995.

Resolution Remove I269, on Lot 116 DP 835501 from Heritage Schedule

Submission 49

Category	Heritage - Osprey nests
Author/s	Sayer, J
Property details	URUNGA Lot 115 DP 835501 15 Osprey Drive
Inventory number	I269
Item description	Osprey nest sites – dead trees and land within 100metres of them
Issues raised	<i>Dead tree has not had nest in it since approx 2003.</i>

Osprey may have dismantled nest & relocated to Urunga Bridge.

Unlikely to return; trees around have grown higher than nest tree; wants listing & restriction lifted

Comment The removal of the listing is supported. In the event that an Osprey was to return to the site it can be adequately protected via the provisions of the Threatened Species Conservation Act 1995.

Resolution Remove I269, on Lot 115 DP 835501 from Heritage Schedule

Submission 50

Category Heritage

Author/s Heagney, MP

Property details BELLINGEN Lot 6 Section 4 DP 11100 6 Park St

Inventory number I70-0015

Item description Park Street Group

Issues raised *I would like to decline this offer, I have read the pamphlet describing benefits to owners of heritage properties and find them to be of minor benefit to me. I would appreciate removal of the property from the State Heritage Inventory Project.*

Comment As no compelling argument has been presented in support of the item being removed, it is considered that the item should remain in the group listing.

Resolution Retain listing.

Submission 51

Category Policy

Author/s Martin, T

Property details BELLINGEN

Issues raised *With regard to proposed Part 6 of draft LEP, if Council is to proceed with 190 new blocks in Nth Bellingen then Council should submit an urgent proposal to the State Government to contribute a substantial amount of funding towards installation of traffic lights at intersection of Hammond St & Lavender Bridge.*

Already significant congestion will increase if traffic lights are not a priority before the 190 new lots are on sale.

Comment The key purpose of Part 6 is to allow for the State Government to determine whether they wish to collect a contribution from the developers of affected land to contribute towards essential upgrades to State Infrastructure. Council will consult with the Director-General in accordance with Clause 6.1 when work commences on the Development Control Plan that is also required pursuant to Clause 6.3 of Part 6.

It should also be noted that Council already has a Section 94 Contribution Plans in place that allows for the collection of contributions for upgrading of the intersection. The final design of the intersection upgrade is not yet known however it is possible, given space constraints, that traffic lights will be required.

Resolution No proposed changes to the Draft LEP as a result of this submission.

Submission 52

Category Policy
Author/s Barwick Stevens Lawyers
Property details Not specific
Issues raised *Secondary dwellings in rural zones; argue that these should be made permissible in rural areas. Many clients asset rich but don't have desire or equity to leave farm to children. Important issue to create graceful and workable living arrangements for farm and lifestyle transition.*

Comment Noted. DoP continue to advise that secondary dwellings in rural areas are not permitted as they are considered contrary to the Mid North Coast Regional Strategy. No explicit mention made of secondary dwellings in the Strategy and the provision quoted in support of their position states only that "Local Environmental Plans will include provisions to limit dwellings in rural and environmental zones".

Rural Workers Accommodation; submit that it is still important to have this permissible. Note that they often deal with employment contracts where accommodation is a crucial condition to sourcing staff and there is a lack of rental accommodation and large travel distances within Shire.

Comment There is adequate provision for additional rural workers dwellings via the attached Dual Occupancy provisions or the possibility of an expanded dwelling should some degree of separation be desired. In the event that a bona fide agricultural operation can demonstrate the need for an additional rural workers dwelling then this could also be considered via a Planning Proposal (LEP amendment) that allows for it in the particular circumstances of the case.

The refusal of DoP to permit secondary dwellings in rural areas has closed off an alternative for temporary workers accommodation that permits a legal future for a dwelling beyond the employment contract of the worker, restricts the scale of the dwelling to 60m2 only and prohibits further subdivision due to secondary dwelling status.

Lot Sizes; would like to see LEP maps better reflect reality of subdivision potential in DCP 9.

Comment Clause 4.1(5) of the Draft LEP allows for creation of undersized allotments that contain approved or existing residential accommodation that may have been permitted via the provisions of DCP 9. Upon finalisation of the sewer modelling exercise currently being undertaken by the Engineering & Operations Division, Council will be reviewing the overall density provisions of DCP 9. At this stage, consideration will be given to amending the lot size map and/or including a Floor Space Ratio Map in the LEP map series.

Resolution No proposed changes to the Draft LEP as a result of this submission.

Submission 53

Category Policy
Author/s Creenaune, P
Property details Not specific
Issues raised *Concerned that opportunities for rural boundary adjustments will be limited by Draft LEP. Clause 4.6 only allows flexibility in lot sizes if only one lot is undersized and it is within 90% of the minimum lot size.*

LEP needs to enable a merit based assessment of boundary adjustments in rural areas that are below the minimum lot size but also have dwellings or dwelling entitlements to retain. Lack of this will severely limit flexible responses to changing nature of agriculture.

Comment Noted. and agreed. This is a serious flaw of the Standard Instrument & Rural Lands SEPP that has been raised repeatedly with DoP, however no proposed solutions have been accepted or no alternative solutions developed by the Department. These concerns were expressed directly to DoP Officers from the legal branch at a meeting in Grafton on 4 March 2010. However it appears likely that the LEP will be gazetted before a possible solution is available to allow for these types of boundary adjustments to occur. As such, rural landholders who wish to legitimately re-organise lot boundaries while retaining dwelling entitlements will, in the majority of cases in Bellingen Shire (and ultimately other LGA's), be prevented from doing so indefinitely due to the apparent urban bias of the Standard Instrument and the DoP's inflexible position.

Resolution It is recommended that Council formally resolve to express its strong dissatisfaction to the DoP with the Standard Instrument's lack of provision for legitimate rural boundary adjustments and request the urgent attention of DoP to rectifying this matter prior to the gazettal of the Draft BLEP 2009.

Submission 54

Category Policy

Author/s Atkinson, D

Property details Not specific

Issues raised *Request consideration be given to making tourist and visitor accommodation permissible in RU1 Zone.*

Many of Shire's successful tourist facilities are located in this zone and have no adverse impact on agriculture.

Larger commercial operations usually include large areas of floodplain that restrict tourism development in any case

Many areas in RU1 would ideally suit tourism development whilst not being viable farm units.

Comment Bed & breakfast accommodation will remain permissible with consent in the RU1 Zone and this is considered adequate given the agricultural focus of the zone. Opportunities will also exist for the establishment of a B&B in an "expanded dwelling" format and this will provide some flexibility in the ultimate design of the development.

It is considered that adequate land area exists within the RU2 Zone to accommodate the likely demand for other forms of tourist accommodation in the Shire and as such, it is recommended that the prohibition on tourist and visitor accommodation in Zone RU1 is retained. Additional areas of land have been zoned RU1 as a result of the recently completed Farmland Mapping Project and it is considered important to protect all land within this zone from possible impacts related to unsympathetic adjoining land uses.

Resolution Retain prohibition on Tourist & Visitor Accommodation in Zone RU1.

Submission 55

Category Government agency
Author/s Northern Rivers Catchment Management Authority
Property details Not specific
Issues raised *Have reviewed the LEP with reference to the Northern Rivers Catchment Action Plan. Following sections of CAP are of particular relevance to LEP and its content.*

Management Target LUP1 - Aboriginal Cultural Landscapes

More detail should be provided to Clause 5.10.8 to clarify what is a significant affect on a heritage site. Should also deal with protocols relating to engaging with the aboriginal community.

Comment Standard clause; Council cannot amend. Inappropriate level of detail for LEP.

Management Target LUP2 - Environmental Assets & Rural Production Areas

A NRCMA project is currently underway to develop a consistent regional definition of environmental assets for use in planning instruments.

Comment Noted

Management Target LUP3 – Land Use Conflict & Key Natural Resources

NRCMA has produced “Living & Working in Rural Areas – a handbook for managing land use conflict issues on the NSW North Coast.”. DCP’s should comply with recommendations in Part 6.

Comment Noted

Management Target LUP4 –Natural Resource Integration

NRCMA encourages Council to apply the “maintain and improve” philosophy to vegetation removal in urban areas that are excluded from operation of the Native Vegetation Act 2003.

Comment The adoption of Clause 7.4 (Environmentally Sensitive Land – Native vegetation) will provide some sound planning principles upon which to assess applications that propose removal of mapped areas of native vegetation.

The new Shirewide DCP will also include a chapter relating to tree removal that will incorporate criteria governing tree removal in urban areas.

Resolution

No further action required.

Submission 56

Category Government agency
Author/s Human Services – Housing NSW
Property details Not specific

Issues raised *Given limited social housing properties in Bellingen, submission focuses primarily on broader housing market and affordability.*

Housing NSW Assets

There are 149 social housing dwellings in Bellingen. Housing NSW supports Council in zoning all sites R1 general Residential. Request to be consulted on Draft DCP.

Comment Noted.

Forms of low cost housing

Housing NSW commends Council for adopting Clause 7.6 – Redevelopment of Caravan parks & Manufactured Home Estates. To further assist in retaining, Council may wish to rezone existing parks as SP1 – Special Activities rather than other zones which may allow for redevelopment.

Comment In the circumstances, it is considered that proposed Clause 7.6 is an adequate and appropriate check on redevelopment of these areas and that the degree of restriction need not be further entrenched via the adoption of a restrictive SP1 zoning.

Affordable Housing

Note that BSC intends to develop an Affordable Housing Policy. Attached Bellingen Housing Market Analysis showing decreasing levels of affordability on Nth Coast NSW. Land release offers opportunities to encourage affordable housing and support is offered to Council to assist. Also potential for DCP's to require that multi dwelling development must include a portion of 1bd units to meet demand for this type of housing

Comment The Housing Market Analysis contains some interesting and useful information describing the nature of the Housing Market in Bellingen Shire. This will be of value in the preparation of an Affordable Housing Policy in the future and the offer of support from Housing NSW to develop such a policy is noted and welcomed. The suggestion that the new Shirewide DCP could incorporate a provision requiring a portion of units in a redevelopment to be 1bd only is considered to have significant merit, particularly given figures in the Housing Market Analysis documenting the profound lack of such accommodation in Bellingen Shire relative to demand.

Resolution No further action required for Draft LEP. Suggestions to be considered further in preparation of DCP.

Submission 57

Category Government agency
Author/s Department of Industry & Investment
Property details Not specific
Issues raised *Congratulate Council on plan.*

Support use of overlays and local provisions for managing sensitive lands.

Question consistency with S117 Direction 1.4 – Oyster Aquaculture.

Comment Council addressed consistency with S117 Direction 1.4 in its Section 65 submission to DoP and the plan was allowed to proceed to exhibition on this basis.

Aims

*Would benefit from reference to resources and importance of protecting them.
ESD should be defined in LEP.*

Comment Resource protection and utilisation is considered to be broadly addressed by the existing aims. It is not open for Council to add new definitions to the Standard Instrument.

Land Use Zones

E3 zones may cover authorised plantations in which Forest NSW have an interest as well as Crown-timber land. Recommended that plantations go to rural zones.

Use of W1, W2, E2 & E3 zones for “key fish habitat” consistent with interagency advice and endorsed.

Comment Upon provision of plantation location information, Council is prepared to check zoning boundaries against the E3 Zone as requested. This has not however occurred as part of this process and given that the Plantations & Reafforestation Act guarantees harvests in any case it is not considered essential that this occurs.

Permissible & Prohibited Uses

Suggest Intensive Livestock Agriculture permitted with consent in RU1 zone

Comment This is already permitted with consent in the Draft LEP.

Farm forestry permissible without development consent

Comment Farm forestry is a non defined use in the Standard Instrument and as such should not be referred to explicitly in the land use table.

Timber & building & landscape supplies compatible with RU1 zone

Comment Not agreed. Provision made in other more suitable zones such as IN1. Rural supplies are permissible in Zone RU1 and these types of businesses could offer goods of this nature for sale as part of their normal range of activities.

Educational establishments should be limited to urban areas only and not in RU1, RU2 or RU4

Comment Zones RU2 & RU4 are prescribed zones for the purpose of educational establishments in the Infrastructure SEPP. It is possible that an educational establishment centred on rural pursuits could be established in Zone RU1. Any other educational facility would be unlikely to locate in such an area.

Dairies (pasture based) and viticulture should be permissible without consent in RU4 due to similarity with other uses

Comment Given the relatively small size of many lots within RU4 it is considered that the potential impacts of a dairy, including hours of operation, noise and odour, should be

considered via the submission of a Development Application to reduce the likelihood of land use conflict resulting from the establishment of such a use. It is agreed that viticulture could be made permissible without consent as requested and the LEP will be amended accordingly.

Consider making forestry permissible without consent in E3 Zone

Comment This would be a significant policy departure from the current LEP and is therefore outside the scope of the essentially administrative nature of the Draft LEP.

Recommend extensive agriculture be permissible without consent in E3 zone

Comment This is not supported. E3 zones possess relatively higher levels of environmental value than agricultural zones and it is considered that the impacts of agriculture should be weighed up against the identified environmental values via the DA process.

Permissibility of extensive agriculture in E3 considered to render mining permissible pursuant to Mining SEPP 2007 – please confirm.

Comment Clause 7 of SEPP (Mining, Petroleum Production and Extractive Industries) 2007 states that Mining is permissible on land where agriculture or industry is permissible. In Zone E3, “Agriculture” will be prohibited, other than “Extensive Agriculture”. Therefore it is likely that Mining will remain prohibited under both the LEP and SEPP in the E3 Zone. This has been discussed with the DoP who have yet to confirm whether the prohibition of “agriculture” in the land use table for Zone E3 means that the prohibition on mining/extractive industries remains. This matter will be considered and resolved by DoP with any necessary amendment made to the Draft LEP in subsequent phases leading to approval.

Local provisions

Use of “any” in Clauses 7.3/7.4 (4)(b)(iii) could render some developments unviable if “all” existing disturbed areas need restoration.

Comment DoP advise that new versions of Clauses 7.3 and 7.4 relating to environmentally sensitive land are being developed that will remove the abovementioned sub-clauses that concern restoration of disturbed areas. As such, no objection offered to removal of these subclauses.

Clause 7.7(1) should reference mineral/extractive resources in addition to other rural land values that could be impacted by tourism development.

Comment Clause 7.5 of the Draft LEP relates to development in the vicinity of identified Mineral Resource Areas and is considered to provide sufficient scope for the protection of resource interests in rural areas.

Clause 7.4(1)(d) concerning environmentally sensitive land/native vegetation could be interpreted to mandate habitat restoration as having precedence over other uses.

Comment The emphasis of the clause is to prevent “incompatible” development in such areas. It does not preclude any development occurring in such an area however if there is an alternative and more suitable area on the site then this should be considered first.

It may be worth identifying that the corridors referred to in the clause are in fact regional or local wildlife corridors identified by Biodiversity Conservation Lands Mapping used by Council to generate the Native Vegetation mapping. Failure to make this distinction could result in misinterpretation as to the scale of corridor intended for preservation. It is considered though that the appropriate document for providing this confirmation is the Shirewide DCP, rather than the Draft LEP.

Part 7 (Additional Local Provisions) warrants a generic clarification stating that these provisions are secondary to core aims and objectives of zones.

Comment Not supported. There is no reason why Part 7 provisions should necessarily be accorded any greater or lesser degree of significance than other sections of the LEP.

Rural subdivision

Further explanation of how Clause 4.2 concerning subdivision of rural land will operate is warranted in LEP.

Comment Not appropriate within LEP document. It is agreed though that various aspects of the DoP’s overall approach to rural subdivision (particularly boundary adjustments) need revision so as to not preclude boundary adjustments involving properties with existing dwellings or dwelling entitlements. This is discussed elsewhere in the report.

Minimum lot size map

A 200ha minimum lot size generally supported. Care needs to be taken where 20ha minimum applies in rural zones to ensure underlying zone objectives take precedence.

Comment Agreed. The 5, 10, 20 & 40ha minimum lot sizes are included only to allow for creation of small residue allotments including constrained land. DCP provisions will provide that the underlying zoning should be the principal determinant of subdivision potential in such instances.

Other

Forests NSW will provide further comment on heritage items in State Forests.

Comment Noted.

Resolution Amend written document as follows;
Viticulture be made permissible without consent in RU4 Zone as requested.
Delete subclauses 7.3(4)(b)(iii) and 7.4(4)(b)(iii).

Submission 58

Category Government agency
Author/s Department of Environment, Climate Change & Water

Property details Not specific

Issues raised *Comprehensive planning document. In particular, conservation intent in the draft LEP for streams, sensitive native vegetation, E Zones and coastal area protection strongly supported. Major points for further consideration include:*

Further rezoning of lands zoned E3 (Environmental Management) as E2 (Conservation) is suggested. Priority be given to larger undisturbed vegetated land portions adjacent to National Parks that form part of Key Habitats & Wildlife Corridor system.

Comment There has been no detailed research undertaken to justify any additional E2 zonings as suggested above. As such, the imposition of such zonings would be contrary to the provisions of Practice Note 09-002 – Environmental Zones.

Aboriginal Cultural Heritage not addressed in heritage map and schedule. DECCW suggests that this be addressed as priority in formal amendments to LEP as soon as possible after adoption.

Comment It is agreed that a comprehensive Aboriginal Cultural Heritage study is required and that this should take place after the gazettal of the Draft LEP, in accordance with Council's Strategic Planning Works Program.

Detailed comments on written instrument

(Note: compulsory clauses and content not commented on in this section)

Do not support temporary consents in environmentally sensitive areas or E Zones.

Comment Clause 2.6B allows for the temporary use of land and is considered a useful and desirable tool to provide flexibility in the approval of developments. It is often the case that due to the generally coarse level of detail that determines zone boundaries, developments prohibited in a particular zone can be easily accommodated on certain properties within that Zone with no significant adverse impacts.

Earthworks Clause 2.6C supported however earthworks should be prohibited in E2 Conservation zones unless ancillary to environmental works.

Comment Earthworks are a defined activity in the Draft LEP and are prohibited in Environmental Zones E2, E3 & E4 as an activity in their own right. The implication of this is that earthworks must be ancillary to some other form of development otherwise permitted in the zone.

Should include new definition of "environmentally sensitive area" that expands that used for Exempt & Complying Development. This could include reference to the mapped areas in the CL2 map series for Natural Resources - Native Vegetation.

Comment The environmentally sensitive lands mapping and relevant clauses were intentionally described so as to ensure that exempt & complying development would still apply in these areas. It should be noted that much of the land affected by the Native Vegetation layer would be mapped as bushfire prone land which would mean that development permitted under the General Housing Code as complying development could not proceed in any case without a DA. Exempt development will still be permitted in these

areas and this is considered desirable given the scale of development generally permitted as exempt and the detail of native vegetation mapping that underlies the CL2 (Natural Resources – native vegetation) map.

RU1 Primary Production & RU2 Rural Landscape zones; consider inclusion of some biodiversity related zone objectives given that there are some heavily vegetated areas within these zones.

Comment In the circumstances, it is considered that the use of environmentally sensitive land overlays will provide a more useful means of ensuring that RU1 and RU2 land that may have environmental values is given an adequate degree of protection in the undertaking of development within these zones.

Suggest insertion of advisory notes related to approvals required under Native Vegetation Act for clearing and forestry.

Comment No objection if DoP consent to inclusion, however discussions with Head Office representatives indicate that these are unlikely to be supported.

Consider forestry incompatible with Zone R5 (Large lot Residential)

Comment There may be areas where, subject to consent, small scale forestry operations are viable.

SP1 (Special Activities) Zone – suggest “environmental facilities’ permissible with consent, rather than without consent.

Comment SP1 (Special Activities) & SP2 (Infrastructure) Zones are most commonly owned by government agencies and as such there is a Part 5 approval process under the EP & A Act that would still apply to the undertaking of such development within these zones. This is considered an adequate level of assessment for environmental facilities.

RE1 (Public Recreation) & RE2 (Private Recreation) Zones; object to forestry and extensive agriculture being permissible with consent in these zones.

Comment It is agreed that Forestry could be considered as an incompatible land use within these zones. Extensive agriculture should however remain permissible with consent as it allows for grazing and or other productive uses of land that may, at any given point in time not be required for other recreation type purposes and might otherwise require constant ongoing maintenance and mowing. Such consents can be time limited to ensure that alternative uses more suited to the core zone objectives can be revisited if future circumstances change.

E2 (Conservation) Zone; suggest should be used to buffer formal reserve system where high value conservation land exists. Suggest caution in scale of environmental facilities permitted and suggest numerical controls. Isolated E2 zonings should be linked via wildlife corridors where possible.

Comment The suggestion to provide buffers to the reserve system with high conservation value E2 land and the linking of isolated E2 zonings is generally supported.

However it is considered that Council has inadequate supporting data at this stage and that this would be beyond the scope of the Standard Instrument process. The scale of any environmental facility proposed on E2 lands can be appropriately regulated via the development consent process.

Recommend inserting provisions restricting “bushrock removal”.

Comment Bushrock removal is considered to be defined as “extractive industry” and can be regulated via the proposed provisions governing extractive industry in the draft LEP.

E3 (Environmental Management) Zone; recommend that “limited range of development” (as referred to in zone objectives) should be defined; possibly as footnote to LEP or in a DCP.

Comment “Limited range of development” can be adequately understood with reference to the limited uses permissible within the zone.

E4 (Environmental Living) Zone; Recommend “extensive agriculture” and “forestry” be made permissible with consent rather than without. Recommend extractive industry and mining be prohibited.

Comment The Thora and Kalang valleys contain significant portions of alluvial floodplains that are currently cleared and should continue to be capable of unregulated agricultural use. The permissibility of forestry without consent continues the existing policy with respect to 1(a2) lands in these valleys and to remove this would be a significant policy departure that is considered outside the scope of the Standard Instrument process. Extractive industry and mining should remain permissible with consent so as to provide options for sourcing of locally derived extractive material for repair to access roads etc, particularly with an increased likelihood of erosive rainfall events associated with climate change.

W1 (Natural Waterways) Zone; support Council’s adoption of this zone.

Comment Noted

W2 (Recreational Waterway Zones) concern at permissibility of mining and extractive industry given recreational focus. Recommend W3 zone be applied to any such activities.

Comment An existing sand dredging business currently operates in the Bellinger River on the Raleigh shoal and manages to co-exist with other recreational uses of the waterway. It is considered that subject to careful assessment of any Development Application that such activities need not significantly affect attainment of the zone objectives. A W3 zoning (Working Waterfront) does not appear to be a suitable zone selection having regard to DoP criteria.

Exempt & complying development; recommend additional areas to fall within definition of environmentally sensitive area for exempt and complying development. Eg: National Parks, heritage items, E1 & E2 zones and land identified on the native vegetation sensitive areas map.

Comment Clause 3.3 of the Draft LEP provides a list of environmentally sensitive areas such as SEPP 14 Wetlands on which exempt and complying development cannot be carried out. Further additions to this list are not considered necessary as the LEP would then become too restrictive. It is noted that exempt development is generally development of minimal environmental impact.

Support some flexibility in lot sizes so as to leverage better environmental outcomes.

Comment There is no provision for variation of lot sizes in order to trade development potential for environmental gain.

Propose expansion of Clause 5.3 (Development near zone boundaries) to act as a restriction to development within defined distance of Environmental, Public Recreation and Waterways (W1) Zones.

Comment This is not considered necessary. Areas of environmental sensitivity will generally be picked up via the environmentally sensitive lands mapping which will provide for a higher standard of assessment. A similar draft clause regulating development adjoining National Parks was previously rejected by DoP noting that Section 79C provided an adequate mechanism to consider impacts.

Clause 5.9 - Tree preservation; recommend a note be added stating whether Council has adopted a DCP for tree preservation.

Comment No objection if DoP consent to inclusion. The matter has however been discussed with DoP representatives who have indicated that they would be unlikely to support such an inclusion.

Clause 5.10 – Heritage; recommend future comprehensive LEP amendment dealing with aboriginal heritage matters.

Comment Noted and agreed.

Clause 5.11 – Bush fire hazard reduction; recommend footnote to clarify that other approvals may be required.

Comment The statement made at Clause 5.11 alludes to authorisation under Rural Fires Act 1997 and is considered sufficient. It is at the authorisation stage that further advice from the RFS would be appropriate as to the need for other possible approvals.

Part 6 – Urban Release Areas; omits areas in Sth Bellingen & Urunga from the provisions that apply to Urban Release Areas. Recommend Clause 6.3(4)(b) be amended to require DCP to be prepared before creation of any environmental protection lot.

Comment Sth Bellingen is not included as an Urban Release Area as it will not yield in excess of 150 lots which is the DoP precursor for mapping of such areas. Sth Urunga is not included as an Urban Release Area as to be included it must be a rezoning of land from rural to residential. Sth Urunga is already zoned 2(b)(Village Area Zone).

Clause 6.3 requires a DCP be prepared before development consent can be issued for land in an urban release zone. Clause 6.3(4) states that this requirement does not apply to certain forms of development, including the creation of lots for environmental protection purposes.

There is not considered to be any compelling reason for an amendment to Clause 6.3(4) to require DCP preparation prior to creation of any environmental protection lot.

Part 7; Support clauses relating to ASS, flood prone land and watercourses. Suggest 100m buffer to major estuarine watercourses rather than 50m and consider Environmental Zoning for riparian areas with environmental significance.

Comment The 50m buffer represents a continuation of current provisions within BLEP 2003 that regulate development within 50m of watercourses. It is considered that 50m should be retained for the purpose of the Standard Instrument process and that possible revisions could be made in the future following more detailed investigations into the possible impacts of climate change. No additional Environmental Zonings are considered to be warranted at this stage however these may be justified should further investigations provide sufficient justification.

Clause 7.4 - Environmentally Sensitive Land (Native Vegetation). Suggest expansion of clause to refer to provision of offset areas possible under Native Vegetation Act, Property Vegetation Plan's or Biobanking.

Comment The LEP is not considered the appropriate document to detail such matters. Consideration will be given to referencing opportunities for offsets in the Shirewide DCP.

Clause 7.7 (Tourism Development); recommend exclusion of Zone E2 Conservation from land that Clause 7.7 applies to given that tourism is prohibited in the E2 Zone.

Comment The clause states that it applies to any tourism related development that is permissible in the applicable zones (eg: environmental facilities). Reference to other land uses in the clause does not over-ride the basic prohibitions/permissibility inherent in the land use table for any particular zone.

Clause 7.8 (Council Infrastructure); suggest clarifications etc relating to requirement for Part 5 approvals where consent is not required and to reflect requirements arising from Infrastructure SEPP.

Comment Not considered necessary. Part 5 of the EP&A Act and the provisions of the Infrastructure SEPP apply under the law and do not need to be referenced in the LEP document.

Mapping of Environmental zones suggest expansion of E3 Environmental Management zonings on multiple rural properties that possess apparently high levels of environmental significance. Note some new proposed E3 listings of what is currently rural zoned land, but other rural zoned land with similar qualities has not been recommended for an E3 zone, which appears to be inconsistent. Acknowledge time constraints etc. in overall review of Environmental zonings but suggest priority be given to large blocks of sensitive vegetation adjoining E1 National Parks and Nature Reserve areas.

Comment Not proposed as part of this LEP amendment. New E3 listing restricted to vegetated portions of identified Regional Wildlife Corridors only.

Suggest inclusion of clause regulating development on land adjoining DECC estate.

Comment As previously noted, DoP rejected a similar clause in earlier versions of the Draft LEP stating that Section 79C of The EP&A Act 1979 made adequate provision for the consideration of such impacts.

Strongly supports Waterway zones and waterway buffers. Suggest E3 zoning could be extended in some riparian areas.

Comment No proposed extensions of E3 zoning for reasons previously discussed.

Native vegetation mapping; note it is conservative. Encourage review and expansion in future to increase Environmental zonings.

Comment Noted.

Heritage mapping; Support generally. Scope for increased mapping of aboriginal cultural heritage areas in future. Council recommended to liaise with DECCW & CMA regarding pilot study in Coffs Harbour LGA of landscape mapping of culturally significant areas.

Comment Noted.

Resolution RE1 (Public Recreation) & RE2 (Private Recreation) Zones; Forestry to be made a prohibited land use within RE1 & RE2 Zones.

Submission 59

Category Government agency

Author/s North Coast Area Health Service

Property details Not specific

Issues raised *Pleased to note inclusion of healthy planning principles in LEP and intention for further supportive specifications at DCP level.*

Comment Noted.

Access to healthy, local food

Support preservation of agricultural land and permission of roadside stalls and neighbourhood shops in R1 (General Residential Zone) and other agricultural uses in E4 (Environmental Living Zone). Recommend "community facilities" be permitted in RE1(Public Recreation Zone) so that community gardens can be included in the zone and recommend horticulture/agriculture be permitted in Zone R5 (Large Lot Residential).

Comment As recommended, Community facilities are permitted with consent in Zone RE1 and agriculture/horticulture are both permitted with consent in Zone R5.

Active living and Local employment Opportunities

Neighbourhood shops and home occupation/business options and universal permissibility of home based child care encourage walking in residential areas and reduce reliance upon motor vehicles to access work and facilities etc.. Strongly support DCP provisions for connected transport systems catering for pedestrian activity etc.. Recommend Part 6.3 include stipulation for well connected street patterns (short blocks), avoidance of cul-de-sacs and traffic facilities include access for pedestrians and cyclists.

Comment The suggested inclusions for Part 6.3 which requires the preparation of a DCP for Urban Release Areas are strongly supported in principle, however it is considered that design requirements of this nature should be in the new Shirewide DCP that will commence operation upon gazettal of the new LEP.

Active living and Social Connectivity

Support concentrations of activity zones in local and neighbourhood centres, support markets in RE1 Zones to encourage local food production and consumption, support aim of Local Centre Zone B2 to maximise public transport and encourage walking and cycling. Support DCP requirements for networks of passive and active recreation areas.

Protection of environment, heritage and considerations of climate change

Support broad aim of LEP which is consistent with healthy planning approach. Research shows people's contact with nature helps lower blood pressure, cope with stress and other health problems.

Protection of affordable housing

Applaud clause governing redevelopment of caravan parks and manufactured home estates.

Comment Noted. Council has been working closely with NCAHS and the Heart Foundation to introduce healthy planning principles into Council's planning and other functions and it is of significant value to have health professionals providing input into the draft LEP and shirewide DCP.

Resolution Continue liaising with NCAHS on introduction of healthy planning principles into Council's Shirewide DCP.

Submission 60

Category	Government agency
Author/s	Australian Rail Track Corporation Pty Ltd
Property details	Not specific
Issues raised	<i>With respect to zoning, railway land correctly zoned having regard to DoP Practice Note.</i>

With respect to heritage, request copy of inventories.

Comment Noted. Inventories supplied.

Resolution No further action required.

Submission 61

Category Government agency
Author/s Nambucca Shire Council
Property details Not specific
Issues raised *No matters of concern to Nambucca Council.*

Comment Noted. Council has also reviewed Nambucca Shire Council's Draft LEP and has no comment except for a suggestion that Oyster Ck be given a similar Waterway Zoning in both Shires.

Resolution

No further action required.

Submission 62

Category Government agency
Author/s Department of Transport & Infrastructure
Property details Not specific
Issues raised *Key outcomes that NSWTI wish to see realised thorough LEP's include reduced car reliance, improved public transport options, improved road safety and increased walking & cycling.*

Comment The Draft LEP is considered to provide a sound basis for achievement of the abovementioned outcomes.

Resolution No further action required

Submission 63

Category Government agency
Author/s RTA
Property details Not specific
Issues raised *Council should include Part 5 Clause 30 of the Standard Principal Plan in the draft LEP.*

Comment No such clause exists in the Standard Instrument Principal LEP.

LEP should be consistent with requirements of Infrastructure SEPP 2007.

Comment The Draft LEP is considered to be consistent with all relevant provisions of the Infrastructure SEPP. Procedural matters related to developments on classified roads etc. are self contained within the SEPP and do not require replication in the Draft LEP.

LEP should make provision for developer funding of required road/transport infrastructure improvements.

Comment Part 6 of the Draft LEP is included to provide an avenue for State Agencies to request, via the DoP, that contributions be levied by the development process to upgrade state infrastructure where required. Apart from this, Council is ensuring that appropriate

Developer Contribution Plans are in place prior to the LEP being gazetted. This will ensure that contributions are levied as development occurs, improvements to infrastructure are progressively made as funding becomes available and the cumulative impact of increased population is addressed in a planned manner.

LEP should ensure that “roads” are permitted without consent in SP2 (Special Purpose Infrastructure) Zone and permitted with consent in all other zones.

Comment Roads are permitted with or without consent in accordance with the instructions within the Standard Instrument Principal LEP. Roads are not, by definition, restricted only to public roads and it is necessary to retain some regulatory role with respect to private roads. The RTA do not require permissibility of roads throughout all zones within an LEP in order to fulfil their normal range of functions.

For safety reasons, child care centres should be prohibited within any zones where the subject property has frontage to a classified road.

Comment A broad brush prohibition is not supported or necessary and it is noted that child care centres are a compulsory permitted use in several zones used in the Draft LEP (eg: R1, B2). Clause 101 of The Infrastructure SEPP provides detailed matters for consideration for development fronting classified roads .

Rural zones permissibility should be considered in terms of possible impact on classified road network. Eg: current trend towards emerging retail formats such as bulky goods is increasing.

Comment Noted. No significant conflicts considered likely.

RTA expectation for areas to be rezoned as part of the broader amendment is that a comprehensive traffic study is prepared that justifies and investigates the impact of the proposed rezonings on the road network in consultation with the RTA. Study should be used to identify necessary improvements and to arrange for equitable contribution towards required road infrastructure by all parties.

Comment This would represent a significant time delay in the progress of the LEP and is not supported for the following reasons.

- Council has already in place an updated Local Roads & Traffic Infrastructure Contribution Plan - 2009 that deals comprehensively with necessary upgrades to road and other infrastructure that will arise from most of the proposed rezonings contained in the LEP (and as foreshadowed in the Bellingen Shire Growth Management Strategy 2007).
- The Nth Bellingen Urban Release Area will require the preparation of a DCP in accordance with Part 6 of the Draft LEP. That will be the appropriate stage at which to undertake a more detailed assessment of traffic matters including a possible road layout and hierarchy in the subject area. Furthermore, and pursuant to Clause 6.1, it is at this point that arrangements for designated State public Infrastructure can be made via the referral process to the Director General.

- The Sth Urunga and Dorrigo Urban Release Areas are already zoned 2(b) (Village Area Zone) and as such the proposed R1 (General Residential) zonings in the Draft LEP should not be considered as new rezonings.

No direct access should be permitted via individual properties to/from classified roads.

Comment This is an unrealistic scenario in the absence of any alternative forms of access and it is not intended to amend the LEP to accommodate such a request. The Shirewide DCP will however provide principles for subdivision design to require internal access roads for new subdivision in preference to individual access points to main roads.

Future development should be designed such that road traffic noise from classified roads is mitigated. Developers to be responsible for attenuation, not RTA.

Comment Noted.

Resolution It is not intended to alter the Draft LEP in response to any matters raised by the RTA.

Submission 64

Category Government agency

Author/s Transgrid

Property details Not specific

Issues raised

Numerous easements within Shire. Note requirement for Transgrid to be advised of any DA affecting an easement. No other current proposal or interest in the Shire requiring special consideration.

Comment Noted. Notification requirements are not appropriate for insertion into an LEP.

Resolution No further action required.

Submission 65

Category Government agency

Author/s Heritage Council

Property details Not specific

Issues raised *No objection. Note possible confusion that may result from use of "I" prefix in front of numbers. Also the database number should be removed.*

Heritage Branch requests that Draft LEP not be referred back to them unless changes are made as a result of the exhibition period.

Comment Confusion with the use of the I prefix is a result of the mapping requirements issued by DoP. No objection is offered to any amendment that improves legibility should DoP wish to amend the instrument. The request to remove the database number is not considered likely to improve legibility.

Resolution No further action proposed. DoP to consider need for amendment of Item or database numbers. Advise Heritage Office of proposed changes to the plan, post exhibition.

Submission 66

Category	Heritage and Government
Author/s	NSW Department of Education & Training
Property details	Various properties

- a). Bellingen High School; Heritage Item I85-0287, Lot 1 DP 437490. Support avenue of Ponderosa Pines and Liquid amber at entry to school. Don't support subsequent native landscape plantings or Camphor Laurel in school grounds or along creek line.
- b). Bellingen Public School; Heritage Item I114-0310, Lot 6 DP 232262. No objection to listing of non-native species on site however do object to listing of Australian native trees planted as part of landscaping works associated with erection of buildings and to Camphor Laurels.
- c). Cascade Environmental Education Centre; Heritage Item I121-0412, Lot 1 DP 752806. Cultural plantings listed include Bunya & Hoop Pines, tall Eucalypts and a row of English Oak trees located in the school grounds. Note that Flooded Gum and Hoop Pine are endemic to area and cannot claim to have been planted by English Settlers. Oaks, Bunya and Bhutan Cypress are significant and no objection offered to their listing.
- d). Dorrigo High School; Heritage Item I173-0349, Lots 230 & 236 DP 752813. Cultural plantings listed include mature radiata pines, plane trees, unidentified deciduous trees, eucalypt species and rows of pine trees to modulate spaces and levels in the grounds. No objection to listing on non-native trees located along property boundary and lower playground. Objects to any endemic species, Camphor Laurels or those planted as part of landscaping works associated with erection of buildings.
- e). Raleigh Public School; Heritage Item I228-0282, Lot 3 Sec 8 DP 758865. Inventory refers to tall Norfolk Island and Hoop Pines, very large Camphors and later plantings. Planting of tees appears to have been undertaken in 1904, 1954 and during the 1990's in association with building projects at the school. Department has no objection to listing of non-native trees located along property boundary and the playground. Object to Camphors, natives and trees associated with erection of buildings
- f). Repton Public School; Heritage Item I241-0388, Various including Lot 524 DP 821072. Inventory refers to Tallowood trees and Hoop Pines. All native species, Department objects to listing of the school.
- g). Urunga Public School; Heritage Item I252-0242, Lot 48 DP 755552. Department objects to proposed listing of trees at the school as the trees are endemic to the region. Objects to all buildings as none of the original buildings remain on site. The 1954/1958 timber building is not representative of Post WWII buildings and therefore not of heritage significance.

Comment:

This submission was referred to Council's Heritage Advisor for comment. Generally, the NSW Department of Education & Training have adopted a broad brush position with respect to native trees that is not supported from a heritage conservation viewpoint. Whether or not the trees are European in origin, of native provenance or were planted by original settlers does not necessarily inform heritage value. Similarly, the submission objects on principle to the listing of any Camphor Laurels due to their noxious weed status however, as previously discussed, this should not necessarily prevent these trees being listed given the classification of the weed and Council's strategic focus on controlling newly established weed species.

Council's Heritage Advisor has recommended that the database descriptions for each of the properties be amended to include certain background information that has been supplied by the authors. This will help to form a clearer picture of the items that are worthy of protection from a heritage viewpoint. It is also recommended that each listing have the following provisos attached.

Generally, significant trees are those that were planted before 1960, with a trunk exceeding 300mm girth measured 400mm above the ground, and a height exceeding 5m. Trees that are classified as a noxious weed or environmental weed should be managed in accordance with a policy adopted by Council that balances the need for weed control with that of heritage preservation and provides guidance as to how requests for removal or maintenance should be handled.

Resolution Retain all listings. Amend Database Inventory descriptions to include additional information and recommended criteria for determining significance of plantings.

Submissions 67 & 68

Category Government agency
Author/s Land & Property Management Authority
Property details Multiple – see attached table.
Issues raised *Zonings for Crown Land should as much as practicable reflect the purpose for which that land is reserved or dedicated. Generally, object to “down grading” of zonings and wish to ensure that Crown Land is zoned to allow highest use compatible with reservation purpose.*

Object to RE1 Zone's prohibited uses of “function centre” and “marina”. Consider these are legitimate uses of public recreation reserves.

Comment No objection. Amend LEP document accordingly.

Request that where Public Recreation Reserves have been zoned wholly or partly as E3 (Environmental Management), provisions be included to ensure “recreational areas” are permissible with or without consent.

Comment Division 12 of SEPP (Infrastructure) 2007 (Parks & other Public Reserves) is considered to provide the necessary authorisation for the establishment or maintenance of recreational areas on any existing reserve. In this regard, no amendment of the LEP is considered necessary.

Request that where Travelling Stock Reserves (TSR's) have been zoned RU1(Primary Production) that provisions be included to ensure that “recreational areas” are permissible with or without consent.

Comment Division 22 of SEPP (Infrastructure) 2007 is considered to provide the necessary authorisation for the establishment or maintenance of recreational areas on any TSR. In this regard, no amendment of the LEP is considered necessary.

A Significant number of heritage items are on Crown land. It is important that listings will not unreasonably restrict development potential, risk management etc.. For example, it is important that Crown Land Managers be able to efficiently demolish dangerous structures at

end of economic life. It would be appreciated if a copy of the heritage report for each of the listings could be provided for our records.

Comment Clause 14 of SEPP (Infrastructure) 2007 provides a mechanism for consultation with Council regarding matters of heritage. It does not prevent a public authority from undertaking work of the nature discussed in the submission and does not mandate that development consent must be obtained. It does however require prior consultation with Council as to the likely impact and Council's comments must be considered in forming a decision as part of a Part 5 assessment.

A copy of the listings has been provided as requested.

Request Council bring forward previous comments on draft for consideration from letter of 24 March 2009.

Comment The submission of 24 March 2009 is similar to the submission received in response to the exhibition of BLEP 2009. The Land & Property Management Authority (LPMA) request that individual parcels of Crown Land be zoned in a manner that is consistent with the purpose for which the land is reserved or dedicated and that land with multiple purpose reservations should be zoned to allow the highest use envisaged by that reservation/dedication.

In general, it is difficult to see why this is necessary given the over-riding provisions of the Infrastructure SEPP which allow for most uses consistent with a reserve purpose irrespective of the provisions of an LEP. Furthermore, it is apparent that many of the requests for zoning amendments and review of permissible uses appear to have been made without an adequate understanding of the permissive nature of the Infrastructure SEPP (ISEPP).

For example, it is observed that many TSR's are within Zone RU1 which prohibits Tourist & Visitor Accommodation (except B&B's). Therefore the LPMA has recommended that TSR's be zoned RU2 in order to allow for camping opportunities, which are considered a valid use of a TSR. This overlooks the provisions of Division 22 of the ISEPP which says that any development designed to change the use or purpose of a TSR is permissible with development consent (regardless of LEP provisions).

Another problem is that recommendations for Special Purpose Infrastructure Zonings have been made that are contrary to the principles for allocation of these zones provided by DoP in Practice Note 08-002 – Zoning for Infrastructure in LEP's. For example, it is a general principle that if a land use is permissible in the adjacent zone then the adjacent zoning should be adopted so as to retain flexibility for use of this land parcel in the future. The general intent of the Practice Note is that Special Purpose Zonings should be allocated in a sparing and judicious manner given the SEPP is permissive enough, independent of any LEP provisions, so as to not require special zoning categories which ensure the continuance or permissibility of a particular reserve purpose or intended use.

An additional matter of concern is that large scale recommendations for RE1 (Public Recreation) zonings open up the possibility of a range of developments that may not be considered suitable in either remote or constrained locations, such as bushfire prone land or flood liable land.

Attachment C lists those properties that have had their zoning amended in accordance with the requested zoning from LPMA. This only represents 43 out of a list of 422 properties with

requested zonings. Whilst many of the requested zonings from LPMA conformed to the zoning that had already been selected by Council, a large number were considered to be inappropriate zonings with inadequate consideration given to the possible impacts that would result from the types of development permitted in the requested zonings.

Acceptance or rejection of the zonings suggested by LPMA was determined with regard to the following general principles. It is not intended to describe in detail reasons behind each individual property.

- The permissive nature of various SEPPs in relation to use of existing reserves.
- The permissive nature of RE1 (Public Recreation Zone) and the fact that many of the developments permitted in the zone are not considered appropriate in isolated rural locations.
- The existence of an alternative planning mechanism (ie: Plan of Management) to properly determine suitable uses for particular reserves and the fact that any activity implementing a POM does not require separate development consent from Council.
- Conflict with environmental values if RE1 zoning proposed in middle of area of environmental constraint.
- Conflict with agricultural values if RE1 or RU2 zoning proposed in middle of RU1 areas.
- Isolation and impact on Councils roads and infrastructure.
- Coastal riparian lands generally supported for RE1 zoning given desirability of providing public access to foreshore areas and entrenching public recreation zonings.
- Existing Environmental and Waterway Zonings generally to take precedence. Higher level of investigation should be required to overturn an existing environmental protection zone.
- Possible traffic issues associated with frontage to Waterfall Way or Pacific Highway.
- The possible benefits of defined localities (eg: Thora Store) having RE1 zonings.

Resolution

That “function centre” and “marina” be made permissible with consent in Zone RE1, (Public Recreation).

That the Draft LEP be amended to provide zonings of Crown Land in accordance with Attachment C.

SUMMARY OF PROPOSED AMENDMENTS TO DRAFT BLEP 2009

Amendments as a result of submissions

1. Amend R5 and 1ha minimum lot size boundaries on Lot 32 DP 589423 to include approximately 2.7ha extra land to the north (Submission 4)
2. Extend IN1 zoning to SW corner of Lot 150 DP 851515 (Submission 9)
3. Portion of land on Lot 9 DP 839899, between the current highway and the old highway, that is primarily cleared to be zoned RU1. (Submission 9)

4. An additional Item 12 be inserted into Schedule 1- Additional Permitted uses, to permit the erection of a dwelling house on Lot 295 DP 755553 and Lot 1 DP 572393, following their consolidation into a single lot. (Submission 10)
5. Revise zoning map and lot size map for Lot 2 DP 792596 to align with edge of 50m buffer to previously identified eastern EEC boundary. (Submission 11)
6. Amend Item 11(1) in Schedule 1 – Additional Permitted Uses to state as follows.
“This clause applies to land at Schnapper Beach Road, being land shown as Item 11 on the Additional Permitted Uses Map.” (Submission 13)
7. Replace E3 zoning with an E4 zoning over the currently cleared portions of Lots 1&2 DP 755541 & Lot 6 DP 658007 only. (Submission 16)
8. Amend the zoning of Lots 1-4 DP 264018 from R5 to R1 (General Residential) and amend the Lot Size Map to provide a 600m² minimum lot size area. (Submission 18)
9. Amend zoning for Lot 30 DP 707896 to remove E3 zoning and replace with RU2 zoning. (Submission 20)
10. Remove I108-0362 at Lot 1 DP 23405 from heritage schedule. (Submission 21)
11. Remove 199-0263 from Lot A DP 913988 and Lot 10 DP 1073931 on LEP maps. (Submission 22)
12. Remove Lot 1 DP 594274 from the description for Item I174-0353 in heritage schedule. (Submission 30)
13. Amend listing for I160-0418 to reference Lot 11 DP 1022079 only. (Submission 31)
14. Remove item I161-0415 from Heritage Schedule. (Submission 32)
15. Remove Item I200-0382 on Lot 100 DP 831637 from Schedule 5. (Submission 37)
16. Remove reference to “Stables” in the Item name for I261 in Schedule 5. (Submission 40)
17. Remove item I119-0300 on Lot 1 DP 771799 and Lot 43 DP 1016173 from Heritage Schedule 5.(Submission 41)
18. Remove I208, on Lot 113 DP 755553 from Heritage Schedule (Submission 46)
19. Remove I258, on Lot 32 DP 755552 from Heritage Schedule. (Submission 47)
20. Remove I269, on Lot 116 DP 835501 from Heritage Schedule (Submission 48)
21. Remove I269, on Lot 115 DP 835501 from Heritage Schedule (Submission 49)

22. Viticulture be made permissible without consent in RU4 Zone as requested. (Submission 57)
23. Delete subclauses 7.3(4)(b)(iii) and 7.4(4)(b)(iii) (Submission 57)
24. Forestry to be made prohibited land use within the RE1 & RE2 zones (Submission 58)
25. That “function centre” and “marina” be made permissible with consent in Zone RE1 (Submission 67 and 68)
26. That the Draft LEP be amended to provide zonings of Crown Land in accordance with Attachment C to this report (Submission 67 and 68)

Additional proposed amendments

27. Heritage Schedule; Item I26 -0166. Fix incorrect Lot & DP No's and address. Owners amenable.
28. Heritage Schedule; Item I77-0307. Delete Item. Tree no longer there.
29. Heritage Schedule; Item I105-0312. Trees removed. House to be listed instead of the trees. Owners amenable.
30. Heritage Schedule; Item I107-0373. Wrong property notified. Delete listing and consider future listing.
31. Heritage Schedule; Item I166-0210. Fix address, as the address has changed.
32. Heritage Schedule; Items I187, I188, I190 & I192. Fix Lot & DP's No's which were incorrect. Discussed with owners and rectified.
33. Heritage Schedule; Item I214 – 0216. Fix address. (Lot & DP are correct).
34. Heritage Schedule; Item 222 – 0047. Incorrectly notified. Delete listing and postpone if owners not amenable.
35. Heritage Schedule; Item 242 – 0054. Incorrectly notified. Delete listing and postpone if owners not amenable.
36. Heritage Schedule; Item 244-0334. Fix incorrect Lot & DP. No's. Owners amenable.
37. Heritage Schedule; Item A39 – 0096. Delete item – located on wrong property.
38. Heritage Schedule; Add new item, as included on State Heritage Inventory, at request of DoP. Bellingen River District Hospital Original Building; Lot 267 DP 755557, 80 Bowraville Rd, Bellingen. Note: Exact item number to be determined following

confirmation from DoP as to numbering protocol to be observed for removal or addition of items. Placed at end of Part 1 Schedule 5 until further notice.

39. Heritage Schedule; Add new item, as included on State Heritage Inventory, at request of DoP. Bellingen Ambulance Station; Lot 3 Section 9 DP 758084, 6 Church St, Bellingen. Note: Exact item number to be determined following confirmation from DoP as to numbering protocol to be observed for removal or addition of items Placed at end of Part 1 Schedule 5 until further notice.
40. Heritage Schedule; Remove 199-0263 from Lot A DP 913988 and Lot 10 DP 1073931.
41. Permit “Registered Club” with consent in Zone RE1. This is considered a legitimate possible use of land within this zone.
42. Add an additional property to ***Schedule 4 Part 1 Land classified, or reclassified, as operational land – no interests changed*** at Cnr Ferry Street and Nambucca Street, Urunga – Lot 1 DP 843993. Note: This item may be deleted subject to the outcome of a public hearing into the proposed reclassification of this land that will be held on 18 March 2010. The report from the public hearing will need to be considered at Council’s meeting of 24 March 2010 and a decision made accordingly.

OTHER POSSIBLE AMENDMENTS TO DRAFT BLEP 2009 THAT MAY TAKE PLACE PRIOR TO GAZETTAL

With reference to proposed amendment 42 above, it should be noted that the Public Hearing to be conducted on 18 March 2010 will also involve the existing property listed in Schedule 4 (ie: 4A William St, Bellingen). As for the Urunga property, should Council decide that, having regard to the outcomes of the public hearing, the reclassification should not proceed, then this item will need to be removed from the Schedule prior to forwarding the Draft LEP to DoP.

DoP have also advised that a series of amendments to the Standard Instrument are currently being considered and this may result in, amongst other things, a range of new definitions being inserted into the Dictionary. DoP have not yet decided whether these new definitions will be inserted without further input from Council.

BUDGETARY IMPLICATIONS:

There are no direct budgetary implications.

SUSTAINABILITY ASSESSMENT:

No significant changes have been made to the Draft LEP. The Draft LEP, as amended, will provide a sound platform to allow for sustainable development to occur in the Bellingen Shire, whilst also protecting areas of identified environmental significance.

CONSULTATION:

This report represents the culmination of the public consultation phase of the Draft LEP and thoroughly addresses the issues that have arisen as a result of this consultation.

<p>Stage 5</p> <ul style="list-style-type: none"> • Consideration of submissions and amendment of document if necessary. • Report LEP back to Council for endorsement. 		Report to Council 24 March 2010
<p>Stage 6</p> <p>Obtain Legal opinion from Parliamentary Counsel & submit Report to Department of Planning</p>	Section 68	21 May 2010
<p>Stage 7</p> <p>Review by DoP of Council report and request to Minister to finalise LEP.</p>	Sections 69 & 70	30 July 2010

CONCLUSION

The proposed amendments to the Draft LEP are considered to be essentially minor and worthy of the support of Council. The remaining stages for completion of the LEP are shown below and it is recommended that Council proceed in accordance with the agreed timeline for completion, as negotiated with the Department of Planning prior to exhibition.

OFFICERS RECOMMENDATION:

- (1) That Council note the submissions received in response to the public exhibition of Draft BLEP 2009, and endorse all recommended alterations as detailed in this report.
- (2) That Council proceed with the remaining phases of the LEP making process.
- (3) That Council prepare a policy to assist in dealing with requests for removal of weed species that are listed as noxious or environmental weeds. In order to balance the significance of the item (in a heritage sense) with the classification of the weed and Council's priorities for dealing with that particular weed species.
- (4) That Council express its strong dissatisfaction to the Department of Planning (DoP) with the Standard Instrument's lack of provision for legitimate rural boundary adjustments and request the urgent attention of DoP to rectifying this matter prior to the gazettal of the Draft BLEP 2009.

ATTACHMENTS:

8.1.A Copies of submissions (DW; 204653, 203429, 202952, 202526, 202645, 202428, 201739, 201644, 202087, 202374, 201744, 201743, 201742, 201684, 201463, 201461, 201460, 201453, 201741, 201736, 201735, 201749, 201454, 201366, 201373, 201456, 201365, 201361, 201141, 201138, 201469, 200895, 201745, 202649, 201371, 200897, 201457, 200753, 200750, 201363, 200896, 199919, 199918, 200039, 200038, 199862, 198938, 199457, 198946, 198804, 198807, 198798, 198379, 198672, 198296, 198674, 197948, 198137, 197552, 197143, 197027, 196244, 198294, 196520, 196382, 196093, 195912, 195523, 204364, 176407, 199454)

8.1.B Amended Map Series for Draft Bellingen Local Environmental Plan 2009. **(TABLED)**

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- 8.1.C List of properties that have had their draft zoning amended in accordance with the requested zoning from the Land and Property Management Authority. (DW 209053)

PROCEDURAL MOTION

RESOLVED (Cr Braithwaite/Cr Scott)

That Items 8.1 and 8.4 be deferred until after 9.30am Public Access Session

UNANIMOUS

Next business Item 8.2

08.010/10

RESOLVED (Cr Coe/Cr Scott)

- (1) That Council note the submissions received in response to the public exhibition of Draft BLEP 2009, and endorse all recommended alterations as detailed in this report.
- (2) That Council proceed with the remaining phases of the LEP making process.
- (3) That Council prepare a policy to assist in dealing with requests for removal of weed species that are listed as noxious or environmental weeds. In order to balance the significance of the item (in a heritage sense) with the classification of the weed and Council's priorities for dealing with that particular weed species.
- (4) That Council express its strong dissatisfaction to the Department of Planning (DoP) with the Standard Instrument's lack of provision for legitimate rural boundary adjustments and request the urgent attention of DoP to rectifying this matter prior to the gazettal of the Draft BLEP 2009.

FOR – Cr Child, Cr Coe, Cr Cronin, Cr Scott, Cr Troy, Cr Tuohy

AGAINST – Cr Braithwaite

Next business Item 12.1