

Bellingen LEP 2010 Draft Amendment No 6 – Minor adjustments and administrative review.

Proposal Title : **Bellingen LEP 2010 Draft Amendment No 6 – Minor adjustments and administrative review.**

Proposal Summary : The planning proposal seeks to make 28 amendments to the LEP. These amendments constitute;

- An amendment to the mapping of Mineral Resources identified by the Department of Industry and Investment.
- Four (4) Corrections to the mapping of heritage items and their entries in Schedule 5 of the LEP as a result of recent subdivisions and investigations into the location of the items.
- An amendment to the zoning and lot size map for a recent extension of the New England National Park over Lot 43 DP 755555 and Lot 1 DP 755563.
- Nine (9) amendments to the Lot Size map to rectify anomalies and facilitate subdivision of properties which are currently prevented from subdividing because of the limitation on variation of minimum lot size in the LEP.
- Eleven (11) amendments to the zoning map to rectify anomalies and apply appropriate zones to recently dedicated public land.
- One (1) amendment to the zoning map to reinstate a residential zone on lot 102 DP 1015866, 35 Gordon Road Raleigh, and Lot 4 DP 1153206, 10 Gordon Road Raleigh
- Amend the grid for the map series in accordance with the Department's revised map grid requirements for standard LEPs.

PP Number : **PP_2012_BELLI_001_00** Dop File No : **12/10358**

Proposal Details

Date Planning Proposal Received :	10-Jul-2012	LGA covered :	Bellingen
Region :	Northern	RPA :	Bellingen Shire Council
State Electorate :	OXLEY	Section of the Act :	55 - Planning Proposal
LEP Type :	Housekeeping		

Location Details

Street :	21 Vine Street		
Suburb :	Dorrigo	City :	Dorrigo
Land Parcel :	Lot 2 DP 1173199		Postcode : 2453
Street :	49 Promised Land Road		
Suburb :	Gleniffer	City :	Bellingen
Land Parcel :	Lot 69 DP 1167128		Postcode : 2454
Street :	1A Rawson Street		
Suburb :	Bellingen	City :	Bellingen
Land Parcel :	Lot 11 DP 1172177		Postcode : 2454
Street :	6 Hammond St		
Suburb :	Bellingen	City :	Bellingen
Land Parcel :	Lot 9 Section A DP 5564		Postcode : 2454

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Street :	Darkwood Road		
Suburb :	Brinerville	City :	Bellinghen
		Postcode :	2454
Land Parcel :	Lot 43 DP 755555, Lot 1 DP 755563		
Street :	10 and 35		
Suburb :	Gordon Street	City :	Raleigh
		Postcode :	2454
Land Parcel :	Lot 4 DP 1153206 and Lot 102 DP 1015866		
Street :	137 North Bank Road		
Suburb :	Bellinghen	City :	Bellinghen
		Postcode :	2454
Land Parcel :	Lot 11 DP 711859		
Street :	105 North Bank Road		
Suburb :	Bellinghen	City :	Bellinghen
		Postcode :	2454
Land Parcel :	Lot 7 DP 810520		
Street :	197 North Bank Road		
Suburb :	Bellinghen	City :	Bellinghen
		Postcode :	2454
Land Parcel :	Lot 34 DP 773989		
Street :	Old Pacific Highway		
Suburb :	Raleigh	City :	Raleigh
		Postcode :	2454
Land Parcel :	Lot 100 DP 1154793		
Street :	Slarkes Road		
Suburb :	Bellinghen	City :	Bellinghen
		Postcode :	2454
Land Parcel :	Lot A DP 388867, Pine Creek State Forest		
Street :	Burdett Park		
Suburb :	Fernmount	City :	Bellinghen
		Postcode :	2454
Land Parcel :	Lot 1 DP 1151880		
Street :	Road reserve adjacent to Tarkeeth State Forest		
Suburb :	Bellinghen	City :	Bellinghen
		Postcode :	2454
Land Parcel :	Lot 1 DP 1147631		
Street :	Old Punt Road		
Suburb :	Urunga	City :	Urunga
		Postcode :	2454
Land Parcel :	Lot 10 DP 1156550		
Street :	Dorrigo Heritage Gardens		
Suburb :	Dorrigo	City :	Dorrigo
		Postcode :	2453
Land Parcel :	Lot 7007 DP 1072462		
Street :	Sunset Ridge		
Suburb :	Bellinghen	City :	Bellinghen
		Postcode :	2454
Land Parcel :	Lot 59 DP 1155766		
Street :	Cedar Court		
Suburb :	Bellinghen	City :	Bellinghen
		Postcode :	2454
Land Parcel :	Lot 23 DP 1143592		

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Street :	McCristal Drive		
Suburb :	Bellingen	City :	Bellingen
		Postcode :	2454
Land Parcel :	Lot 76 DP 1056322		
Street :	Pacific Highway		
Suburb :	Raleigh	City :	Raleigh
		Postcode :	2454
Land Parcel :	Lot 2 DP 1127087		
Street :	Beach Parade		
Suburb :	Mylestom	City :	Mylestom
		Postcode :	2454
Land Parcel :	Lot 7004 DP 1107437		
Street :	Crescent Close		
Suburb :	Urunga	City :	Urunga
		Postcode :	2454
Land Parcel :	Lot 1 DP 538657		
Street :	Numerous rural properties		
Suburb :		City :	
		Postcode :	
Land Parcel :	The proposed amendment will affect numerous properties affected by the buffer area on the Mineral Resources Map		

DoP Planning Officer Contact Details

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Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub	Mid North Coast Regional	Consistent with Strategy :	Yes
Regional Strategy :	Strategy		

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MDP Number :	0	Date of Release :	
Area of Release (Ha)	0.00	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	120	No. of Dwellings (where relevant) :	120
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with :

If No, comment :

Have there been meetings or communications with registered lobbyists? :

If Yes, comment :

Supporting notes

Internal Supporting Notes : The planning proposal was received on the 19 June 2012 however errors in the mapping were identified and additional information was requested. The corrected maps and additional information were received on the 10 July 2012.

External Supporting Notes : The potential lot yield is an estimate only, based on the area of all land which will receive changes to the planning controls which will enable development of the land to proceed.

Adequacy Assessment**Statement of the objectives - s55(2)(a)**

Is a statement of the objectives provided? **Yes**

Comment : The Statement of objectives adequately describes the intention of the planning proposal. The proposal seeks to amend the Bellingen LEP 2010 to;

1. Facilitate the development of land in accordance with relevant release strategies by amending zone and lot size maps
2. Ensure the mapping achieves accuracy and currency by updating property descriptions and rectifying errors and anomalies that have been identified since the plan was made.
3. Ensure the mapping reflects the Department's current mapping requirements.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : The explanation of provisions adequately addresses the intended method of achieving the objectives of the planning proposal. The amendments set out in Table 1 of the planning proposal are the best means of achieving the intent of the objectives.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.2 Rural Zones

1.4 Oyster Aquaculture

1.5 Rural Lands

2.1 Environment Protection Zones

2.2 Coastal Protection

2.3 Heritage Conservation
3.1 Residential Zones
4.1 Acid Sulfate Soils
4.3 Flood Prone Land
4.4 Planning for Bushfire Protection
5.1 Implementation of Regional Strategies

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 44—Koala Habitat Protection
SEPP No 55—Remediation of Land
SEPP No 62—Sustainable Aquaculture
SEPP No 71—Coastal Protection
SEPP (Mining, Petroleum Production and Extractive Industries) 2007
SEPP (Rural Lands) 2008

e) List any other matters that need to be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain : **See the assessment section of this report.**

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **The proposal includes mapping which adequately shows which properties are affected by the proposed amendments.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **The RPA considers that the proposal is a low impact proposal and that a community consultation period of 14 days is adequate. The RPA also intends to provide written notification of the proposed changes to the affected landowners for the Group 1 amendments and to the affected landowners and the adjoining land owners for the Group 2 amendments. The Northern Region agrees that the proposed changes constitute a low impact planning proposal and a consultation period of 14 days is considered appropriate. The RPA's proposal to provide written notification of the proposed changes to the affected land owners is considered appropriate given the specific nature of some of the changes.**

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

The planning proposal satisfies the adequacy criteria by;
1. Providing appropriate objectives and intended outcomes.
2. Providing a suitable explanation of the provisions proposed for the LEP to achieve the outcomes.
3. Providing an adequate justification for the proposal.
4. Outlining a proposed community consultation program.

Proposal Assessment

Principal LEP:

Due Date : **August 2010**

Comments in relation to Principal LEP : **The Bellingen LEP was made in August 2010. This planning proposal seeks an amendment to the Bellingen LEP 2010.**

Assessment Criteria

Need for planning proposal : **The planning proposal is not a result of any strategic study or report. The proposal has arisen as a result of continued monitoring of the accuracy of the LEP and requests from landowners for amendments to enable development of specific sites. Council has separated the amendments into two groups. Group 1 items constitute minor administrative amendments. Group 2 items will alter the minimum lot size (MLS) and/or zoning applying to the land to facilitate development of the land. The increased development potential is in accordance with relevant strategies and a detailed justification for the proposed amendments is provided**

The proposed amendments are as follows.

GROUP 1 ITEMS MINOR ADMINISTRATIVE AMENDMENTS

Mineral Resource Area Map Amendments

1. The Bellingen LEP currently maps significant mineral resources on the Mineral Resource Area Map. The Department of Industry and Investment has recently provided new data for these mineral resources. This amendment will introduce this new data into the LEP. The amendments constitute increases to the buffer areas around each resource and the identification of a new resource in the south east of the LGA in Little Newry State Forest. The LEP provisions which relate to these mineral resources only serve to identify them as significant resources for the purposes of clause 13 of State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007. This amendment is considered to be acceptable as it is appropriate that the information in the LEP reflects the most up to date information.

Heritage Map and Schedule 5 Amendments.

2. Heritage Item I166, Lot 2 DP 1173199, 21 Vine Street, Dorriggo.
The original lot on which the heritage listed dwelling was located has been subdivided. The entry in Schedule 5 of the LEP and the Heritage map need to be amended to reflect the new lot and DP number of the property on which the item is located. This amendment is considered to be appropriate to maintain the accuracy of the LEP.

3. Heritage Item I195 Lot 69 DP 1167128, 49 Promised Land Road, Gleniffer.
A minor boundary adjustment has increased the area of the lot containing the heritage item. The entry in Schedule 5 needs to be changed to reflect the new lot and DP and the heritage map needs to be amended so the shading of the lot includes this additional land and covers the full extent of the lot. This amendment is considered to be appropriate to maintain the accuracy of the LEP.

4. Heritage Map shading for 1A Rawson Street Bellingen
Heritage Item I11 was located on Lot 4 DP 1070017. This lot has been the subject of a boundary adjustment with the adjoining lot. The new description of the lot containing the heritage listed dwelling is Lot 12 DP 1172177 and the entry in Schedule 5 of the LEP for item I11 needs to be changed accordingly. The Heritage Map also needs to be amended by removing the shading from that part of Lot 11 DP 1172177 which was previously part of lot 4, which contained the heritage item prior to the boundary adjustment. This amendment is considered to be appropriate to maintain the accuracy of the LEP.

5. Heritage Item I26, 6 Hammond Street Bellingen.

The current heritage listing indicates the dwelling is on lot 8 Section A DP 5564. Recent investigations of the site revealed that the dwelling is also partly constructed on Lot 9 Section A DP 5564. It is therefore necessary to amend the entry in Schedule 5 and the Heritage Map to include Lot 9. This amendment is considered to be appropriate to maintain the accuracy of the LEP.

National Park Extension Amendment

6. Extension of New England National Park at Darkwood Road, Brinerville.

The New England National Park has recently been extended to include Lot 43 DP 755555 and the road reserve within this lot, and Lot 1 DP 755563. This necessitates two amendments to the maps for Bellingen LEP. The first is the rezoning of the land from E4 Environmental Living to E1 National Parks and Nature Reserves. The second is the removal of the 200ha minimum lot size applying to the land. These amendments are necessary to achieve consistency of planning controls applying to National Parks in the LEP and are considered to be appropriate.

Zoning and Lot Size Map Amendments.

11. Lot 100 DP 1154793, Old Pacific Highway, Raleigh

A small portion of the land, less than 1ha, is subject to a 200ha minimum lot size (MLS) because it is flood liable. The remainder of the land and the surrounding properties have a 1ha MLS. The land is zoned R5 Large Lot Residential and it is appropriate that the 1ha MLS applies to the whole lot to enable future development. The subdivision of the lot is currently prevented by the inability to vary the 200ha MLS by virtue of clause 4.6(6) of the LEP. This amendment is appropriate and will enable the orderly development of the land.

12. Pine Creek State Forest, Slarkes Road Bellingen.

Lot A DP 388867 has recently been included within the State Forest. This necessitates two amendments to the LEP. Firstly the land zoning map needs to be amended to reflect the rezoning from RU2 Rural Landscape to RU3 Forestry. Secondly the Lot Size map needs to be amended to remove any MLS from the land. These amendments are necessary to achieve consistency in planning controls applying to State Forests in the LEP and are considered to be appropriate.

13. Burdett Park, Waterfall Way, Fernmount.

Lot 1 DP 1151880 is Crown Reserve used for public recreation however has a RU1 zone and a 200ha MLS. The remainder of the Crown Reserve has a RE1 zone and a 1ha MLS. The amendment proposes to change the zone and MLS for lot 1 to match the remainder of the Crown reserve. This amendment is considered to be appropriate.

14. Lot 1 DP 1147631 Tarkeeth State Forest

The road reserve has been realigned which has resulted in a need to amend the zone and MLS boundaries for the subject land. The E3 Environmental Management zone boundary and the 200ha MLS boundary have been extended to the southern side of the road reserve to reflect the new boundary of the State Forest and to be consistent with planning controls for land in the locality. This proposed change is considered to be appropriate.

15. Lot 10 DP 1156550, 4 and 6 Old Punt Road, Urunga.

A boundary adjustment between the two properties created lot 10 DP 1156550. The Boundary adjustment added a small portion of land zoned RU1 to the existing allotment zoned R1. The planning proposal seeks to rezone the additional small portion of land from RU1 to R1 and change the MLS from 200ha to 1ha. This will ensure that the planning controls are consistent across the entire allotment. This amendment is considered to be appropriate.

16. Lot 7007 DP 1072462 Dorrigo Heritage Gardens, Karabin Street, Dorrigo.

The land is public reserve and is predominantly zoned RE1 Public Recreation. A small portion of the lot is zoned R1 General Residential. There is no reason why this portion of

the public reserve should be zoned R1 and the planning proposal seeks to correct this anomaly and rezone the land RE1. This amendment is considered to be appropriate.

17. Lot 59 DP 1155766 Public Reserve Sunset Ridge, Bellinghen.

This lot was recently created as part of a residential subdivision and dedicated to Council as public reserve. In accordance with the controls applying to other public reserves in the LEP the planning proposal seeks to rezone the land from R1 General Residential to RE1 Public Recreation. This amendment is considered to be appropriate.

18. Lot 23 DP 1143592 Public Reserve Cedar Court, Bellinghen.

This lot was recently created as part of a residential subdivision and dedicated to Council as public reserve. In accordance with the controls applying to other public reserves in the LEP the planning proposal seeks to rezone the land from R1 General Residential to RE1 Public Recreation. This amendment is considered to be appropriate.

19. Lot 76 DP 1056322 Public Reserve McCristal Drive, Bellinghen.

This lot was recently created as part of a residential subdivision and dedicated to Council as public reserve. In accordance with the controls applying to other public reserves in the LEP the planning proposal seeks to rezone the land from R1 General Residential to RE1 Public Recreation. This amendment is considered to be appropriate.

20. Lot 2 DP 1127087 Essential Energy Substation, Pacific Highway, Raleigh.

The substation was constructed on land that had formerly been reserved for the Pacific Highway upgrade. The highway upgrade has been completed and the SP2 Infrastructure (Classified Road) zoning is no longer appropriate for the land containing the substation. Council proposes to zone Lot 2, which contains the substation, as RU2 Rural Landscape being the nearest adjoining zone for the land. The SEPP (Infrastructure) 2007 permits 'electricity transmission or distribution network' developments, which includes electricity substations, on any land without development consent. Therefore the proposed RU2 zone is considered to be appropriate.

21. Lot 7004 DP 1107437 Corner of Christian Parade and Beach Parade Mylestom.

In the preparation of the maps for Bellinghen LEP 2010 an error in the cadastre created a portion of road reserve in the form of a T intersection between the two streets, and this was zoned R1. The error in the cadastre has been rectified and consequently this portion of land is to be rezoned from R1 to E3 to be consistent with the remainder of the lot. This proposed amendment is considered to be appropriate.

22. Lot 1 DP 538657, Lions Park, Crescent Close, Urunga.

The land is zoned R1 General Residential but is part of Crown reserve 87713 and therefore the RE1 Public Recreation zone is more appropriate. This proposed amendment is considered to be appropriate.

GROUP 2 ITEMS - CHANGES TO FACILITATE DEVELOPMENT

7. Lot 102 DP 1015866, 35 Gordon Road, Raleigh and Lot 4 DP 1153206, 10 Gordon Street, Raleigh.

The land is zoned partly RU1 Primary Production, R5 Large Lot Residential, R1 General Residential and E3 Environmental Management. A 20ha minimum lot size applies to the majority of the land. A portion of the land was zoned 2(b) Village Area in the Bellinghen LEP 2003. This 2(b) zone was used to identify the agreed growth area boundary of the Mid North Coast Regional Strategy (MNCRS). The majority of the 2(b) zone was translated to the R1 zone in the Bellinghen LEP 2010 with the exception of a small incursion of the RU1 zone. The land owner has requested a review of the zoning of the property and provided investigations which demonstrate that some further subdivision is appropriate on the land. The investigations also identified an endangered ecological community (EEC) on the land.

The proposed amendment will extend the R1 zone over the land which was formerly zone

2(b) and apply a 5000m² minimum lot size to this land while applying a 10ha MLS to the remainder of lot 102.

The R1 zone will align with the growth area boundary identified by the MNCRS. The alteration to the R1 zone will also require a rezoning of lot 4 DP 1153206 which adjoins the proposed R1 zone on lot 102 to provide a consistent and workable zone boundary. The EEC will be zoned E2 to ensure protection for this vegetation. There will still be sufficient land available for a dwelling on the remainder of lot 102. This amendment is considered to be appropriate.

The application of a 5000m² MLS is considered to be appropriate given that it will enable subdivision of the land for residential purposes while ensuring sufficient lot area for effluent disposal. The alteration of the MLS for the remainder of the lot from 20ha to 10ha will enable subdivision of the R1 zoned portion of land as it will no longer require a variation to the 20ha MLS which is currently not possible due to the provisions of clause 4.6(6) of the LEP. This amendment is considered to be appropriate.

8. Lot 11 DP 711859, 137 North Bank Road, Bellinghen.

The subject land is zoned partly R5 Large Lot Residential with a 1ha MLS and partly E3 Environmental Management with a 600m² MLS. The 600m² MLS was imposed incorrectly as the E3 zoned land is flood liable. A dwelling exists in the south eastern corner of the existing R5 zone. The proposed change of MLS from 600m² to 1ha is appropriate as it reflects the existing controls for surrounding large lot residential subdivision in the LEP. A 600m² MLS is not suitable on the land because of flooding and effluent disposal constraints. The proposed amendment is considered to be appropriate.

9. Lot 7 DP 810520, 105 North Bank Road, Bellinghen.

The subject land is bisected by North Bank Road. To the north of the road the land is zoned partly R1 General Residential, R5 Large Lot Residential and E3 Environmental management with 600m² and 1ha minimum lot sizes. There is significant residential development potential in this portion of the lot. To the south of the road the land has an area of approximately 20ha, is flood liable and contains an existing dwelling, and is zoned RU1 Primary Production with a 200ha MLS. The provisions of clause 4.6(6) of the LEP do not permit a variation of the 200ha MLS which currently prevents the development of the residential zoned land to the north of the road.

The amendment proposes to change the MLS for the land south of the road to 20ha thereby enabling its excision from the land to the north of the road and enabling subdivision of the land north of the road. This amendment is considered to be appropriate as it will facilitate the development of residentially zoned land.

10. Lot 34 DP 773989, 197 North Bank Road, Bellinghen.

The land is zoned predominantly R5 Large Lot Residential with a 1ha MLS and RU2 Rural Landscape with a 10ha MLS. The RU2 zone boundary and the 10ha MLS boundary follow the 1% AEP flood level line which has several fingers that extend up minor watercourses. The landowner's consultant has produced a draft subdivision concept plan which requires an amendment to the 10ha MLS boundary to achieve a workable subdivision layout. The proposed subdivision concept plan would result in irregular portions of 10ha MLS land being subdivided and therefore requiring a significant variation to the MLS which is not permitted by clause 4.6(6) of the LEP.

The proposed amendment will set a more regular boundary for the 10ha MLS and extend the area of land with a 1ha MLS so that it correlates with the proposed subdivision concept plan, thereby enabling the subdivision to proceed with a potential yield of approximately 30 rural residential allotments. The RPA supports the proposed amendment and there is no unacceptable flood risk to future lots.

This amendment is considered to be appropriate as it will facilitate the development of

residentially zoned land.

MAP GRID

The maps for the Bellinghen LEP 2010 were created using the original map grid system. This map grid has now been revised and the changes to the grid are necessary to ensure the map format is consistent with other Standard LEPs. The changes to the map grid are technical changes only and do not alter any planning information. This amendment is considered to be appropriate.

The amendments proposed to the LEP are the most appropriate means of achieving the objectives in each particular instance.

The proposed amendments will have net community benefit by virtue of the fact that the LEP should be maintained to be accurate and current thereby avoiding confusion and delay in processing development applications. In amending the lot size maps for the properties in Group 2, the LEP provides a net community benefit by enabling land which has been identified for residential purposes to be developed as such, thereby providing much needed housing in the Bellinghen LGA.

Consistency with strategic planning framework :

Mid North Coast Regional Strategy (MNCRS).

The proposed amendments are generally consistent with the MNCRS.

The proposed changes to the zonings of properties and the minimum lot size controls are of minor significance, and will either rectify anomalies or facilitate development that is consistent with the surrounding zone or suited to the physical characteristics of the site.

The Proposal is not inconsistent with the RPA's local strategies or its community strategic plan. The Bellingen Shire Growth Management Strategy 2007 identifies areas for rural residential development in the vicinity of the subject properties on North Bank Road. The proposed amendments to the lot size map for sites 8, 9 and 10 will facilitate development in accordance with this Strategy.

SEPPs

The RPA has identified the following SEPPs as being applicable to the planning proposal; SEPP 44 Koala Habitat and Protection, SEPP 62 Sustainable Aquaculture, SEPP 71 Coastal Protection, and SEPP (Rural Lands). The proposed amendments are not inconsistent with the SEPPs.

SEPP (Mining, Petroleum Production and Extractive Industries) 2007 is applicable to the proposed amendments to the Mineral Resource Area Map. The Map identifies significant mineral resources for the purposes of clause 13 of the SEPP. Clause 13 requires certain matter to be considered before development consent is granted for development affected or in the vicinity of mineral resources identified in an environmental planning instrument. The proposed amendments are not inconsistent with the provisions of the SEPP.

S117 Directions.

The planning proposal identifies the following S117 directions as being applicable to the proposed amendments 1.2 Rural Zones, 1.4 Oyster Aquaculture, 1.5 Rural Lands, 2.1 Environmental Protection Zones, 2.2 Coastal Protection, 2.3 Heritage Conservation, 3.1 Residential Zones, 4.1 Acid Sulfate Soils, 4.3 Flood Prone Land, 4.4 Planning for Bushfire Protection, 5.1 Implementation of Regional Strategies. The Planning proposal identifies an inconsistency with directions 1.2, 4.1, 4.3. These are discussed below.

The Northern Region considers the following 117 Directions are applicable to the proposal, 1.2 Rural Zones, 1.5 Rural Lands, 2.1 Environmental Protection Zones, 2.2 Coastal Protection, 2.3 Heritage Conservation, 3.1 Residential Zones, 3.2 Caravan Parks and Manufactured Home Estates, 3.3 Home Occupations, 3.4 Integrating Land Use and Transport, 4.1 Acid Sulfate Soils, 4.3 Flood Prone Land, 4.4 Planning for Bushfire Protection, 5.1 Implementation of Regional Strategies, 6.1 Approval and Referral Requirements, 6.2 Reserving Land for Public Purposes, 6.3 Site Specific Provisions.

Of the above s117 Directions the proposal is inconsistent with Directions 1.2, 3.1, 4.1, 4.4, and 6.2.

Direction 1.2 Rural Zones is relevant to certain aspects of the planning proposal. The direction states that a planning proposal shall not rezone land from a rural zone to a residential zone. The planning proposal contains two amendment items which rezone part of a lot from a rural zone to a residential zone (amendments 7 and 15).

In both instances the area of land proposed to be rezoned is small. In the case of amendment item 15 the rezoning rectifies a dual zoning of the lot resulting from a recent boundary adjustment and will not increase the development potential of the land. In the case of amendment item 7 the rezoning reinstates the 2(b) Village zone that previously existing over the land and is located in the agreed growth area boundary of the MNCRS. The direction provides that a planning proposal may be inconsistent with the direction if the inconsistency is justified by a strategy, a study, or is of minor significance. It is considered that the proposed amendments are of minor significance and therefore the inconsistency has been adequately justified in accordance with the terms of the direction.

Direction 3.1 Residential Zones is relevant to certain aspects of the planning proposal. The

direction provides that a planning proposal must not reduce the permissible residential density of land. The planning proposal contains several items which propose to rezone residential land to RE1 Public Recreation (items 16, 17, 18, 19, 22) or rezone land from R1 to E3 (item 21). These amendments are necessary because either the land has been dedicated to Council for a public reserve or to correct a minor anomaly. In all cases the rezonings will not result in a significant loss of residential zoned land in the urban areas. The direction provides that a planning proposal may be inconsistent with the direction if the inconsistency is justified by a strategy, a study, or is of minor significance. It is considered that the proposed amendments are of minor significance and therefore the inconsistency has been adequately justified in accordance with the terms of the direction.

Direction 4.1 Acid Sulfate Soils is relevant to certain aspects of the planning proposal. The direction states that a planning proposal shall not propose intensification of land uses on land identified as containing acid sulfate soils unless a study assessing the appropriateness of the land has been completed. Items 7 and 10 of the planning proposal will alter the minimum lot size for land which may contain acid sulfate soils thereby increasing the development potential. The direction provides that a planning proposal may be inconsistent with the direction if the inconsistency is justified by a study, or is of minor significance. It is considered that the proposed amendments are of minor significance because the sites potentially contain class 3 acid sulphate soils which are relatively low risk and any impact on acid sulfate soils would be addressed in the development application process and be subject to the provisions in acid sulfate soils clause of the Bellinghen LEP. Therefore it is considered that the inconsistency is of minor significance and has been adequately justified in accordance with the terms of the direction.

Direct 4.3 Flood Prone Land is relevant to certain aspects of the planning proposal. The direction states that a planning proposal must not contain provisions which permit a significant increase in the development of land. Items 7 and 10 will enable minor alterations to the minimum lot size permitted for subdivision of flood prone land. The area of land affected is small and the draft concept plans for subdivision indicate that large areas of flood free land will be available on the subject lots. The RPA has indicated that the proposals are consistent with the requirements of the Council's development control plan and are not inconsistent with the Lower Bellinghen Flood Study.

The direction provides that a planning proposal may be inconsistent with the direction if the inconsistency is justified by a floodplain risk management plan, or is of minor significance. It is considered that the proposed amendments are of minor significance and the inconsistency has been adequately justified in accordance with the terms of the direction.

Direction 4.4 Planning for Bushfire Protection is relevant to certain aspects of the planning proposal. The direction requires the RPA to consult with the Commissioner of the NSW Rural Fire Service after a gateway determination has been issued. Until this consultation has occurred the consistency of the proposal with the direction remains unresolved.

Direction 6.2 Reserving Land for Public Purposes is relevant to certain aspects of the planning proposal. The direction provides that a planning proposal must not create, alter or reduce zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director General. The planning proposal intends to rezone several parcels of land which have been dedicated to Council as public reserve from R1 to RE1 (items 16, 17, 18, 19, 22) and apply E1 National Park or Nature Reserve and RU3 Forestry zones to parcels of land which have recently been acquired by the NSW National Parks and Wildlife Service or Forests NSW.

The required approval of the public authorities is implicit in the zoning requests. The proposed rezonings are appropriate as they provide consistency with the planning controls are applied to public lands in the LEP and the Director General's approval to the rezonings is recommended.

The planning proposal is otherwise consistent with S117 directions.

Environmental social
economic impacts :

The planning proposal will not have any direct adverse impact on critical habitat or threatened species, populations or ecological communities, or their habitats. Similarly the planning proposal will not have any direct adverse effect on the natural, built or socio-economic environment.

The proposed amendments which enable an intensification of development potential over land have the potential for indirect effects on the natural and socioeconomic environments. Individual developments may have an impact on the natural environment as a result of clearing for access and bush fire protection, and effluent disposal. The impacts on the built environment will include land use conflict, traffic impacts and amenity. It is expected that these matters can be addressed by the development assessment process on a case by case basis.

The planning proposal has given consideration to social and economic impacts of the proposed amendments to the Bellingen LEP 2010. The RPA suggests that the social and economic impacts will be largely positive since the amendments do not constitute a significant departure from the agreed strategic planning direction and the updating of the LEP to ensure an accurate and current document is in the best interest of the community.

Assessment Process

Proposal type : **Routine** Community Consultation **14 Days**
Period :

Timeframe to make **9 Month** Delegation : **DG**
LEP :

Public Authority **NSW Rural Fire Service**
Consultation - 56(2)(d)

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons : **The lot yield for the individual amendments does not warrant new State infrastructure**

Documents

Document File Name	DocumentType Name	Is Public
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Bellingen LEP 2010 Draft Amendment No 6 – Minor adjustments and administrative review.

Bellingen Shire Council_19-06-2012 00_00_00_Planning Proposal 6 - Minor Adjustments & Administrative Review - s56_.pdf	Proposal Covering Letter	Yes
THE PLANNING PROPOSAL - Gateway Request Version.pdf	Proposal	Yes
Council Report Planning Proposal 6 6- May 2012.pdf	Determination Document	Yes
0600_COM_SIM_001_080_20120606.pdf	Map	Yes
0600_COM_SIM_002_080_20120606.pdf	Map	Yes
0600_COM_SIM_004_080_20120606.pdf	Map	Yes
0600_COM_SIM_004AA_010_20120606.pdf	Map	Yes
0600_COM_SIM_006_080_20120606.pdf	Map	Yes
0600_COM_SIM_006A_020_20120606.pdf	Map	Yes
0600_COM_SIM_006B_020_20120606.pdf	Map	Yes
0600_COM_SIM_006F_020_20120606.pdf	Map	Yes
0600_COM_SIM_007_080_20120606.pdf	Map	Yes
0600_COM_SIM_007CA_010_20120606.pdf	Map	Yes
Council - Lot Size - North Bank Road 20120407.pdf	Map	Yes
Council - Lot Size - North Bank Road 20120524.pdf	Map	Yes
Council - Lot Size - Old Pacific Highway - 20120407.pdf	Map	Yes
Council - Lot Size - Old Pacific Highway - 20120524.pdf	Map	Yes
Council - Lot Size - OPR and CC - 20120407.pdf	Map	Yes
Council - Lot Size - OPR and CC - 20120524.pdf	Map	Yes
Council - Zone - Gordon Road - 20120407.pdf	Map	Yes
Council - Zone - Gordon Road - 20120524.pdf	Map	Yes
Council - Zone - OPR and CC - 20120407.pdf	Map	Yes
Council - Zone - OPR and CC - 20120524.pdf	Map	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 1.2 Rural Zones
- 1.4 Oyster Aquaculture
- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 2.2 Coastal Protection
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 5.1 Implementation of Regional Strategies

Additional Information : **It is recommended that;**

1. The planning proposal should proceed as a 'routine' planning proposal.
2. The planning proposal is to be completed within 9 months.
3. That a community consultation period of 14 days is necessary.
4. That the RPA consult with the Office of Environment and Heritage and the NSW Department of Primary Industries – Forests NSW in relation to the proposed amendments that affect land owned or managed by these authorities.
5. That the RPA consult with the Commissioner of the NSW Rural Fire Services in accordance with the requirements of S117 Direction 4.4 Planning for Bushfire Protection.
6. It is recommended that a delegate of the Director General agree that the inconsistency of the proposal with S117 Directions 1.2, 3.1, 4.1 and 4.3 are justified in accordance with the provisions of the directions.

Bellingen LEP 2010 Draft Amendment No 6 – Minor adjustments and administrative review.

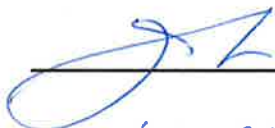
7. That the Director General agree to the rezoning of land for public purposes in accordance with the requirements of S117 Direction 6.2.

Supporting Reasons :

The reasons for the recommendation are as follows;

- 1. The proposed amendments will ensure an accurate and current LEP for Belling Shire which will provide confidence and clarity in the planning controls for the community.**
- 2. The proposed amendments which alter the minimum lot size controls of some land will facilitate the orderly development of this land in accordance with the Council's Growth Management Strategy.**
- 3. The inconsistencies of the proposal with the strategic planning framework are of minor significance.**

Signature:



Printed Name:

JIM CLARK

Date:

11 July 2012

