

**Nambucca Shire Council**

**Planning Proposal  
Nambucca LEP Amendment  
No. 8  
Secondary Dwellings**

**Prepared by:**  
*Department of Environment and Planning  
Nambucca Shire Council*

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## **1.0 Preliminary**

### **1.1 Context**

This Planning Proposal has been drafted in accordance with section 55 of the *Environmental Planning and Assessment Act 1979*, and 'A guide to preparing Planning Proposals' (DoP, 2009). A gateway determination under Section 66 of the Act is requested.

### **1.2 Subject Land**

The first part of this Planning Proposal applies to provisions relating to secondary dwellings and the land to which secondary dwellings are permissible. The second part applies to land zoned RU1 Primary Production and RU2 Rural Landscape.

### **1.3 Current Zoning and Use**

This Planning Proposal does not propose to rezone land. Rather, it will modify provisions which relate to Secondary Dwellings.

### **1.4 Background**

#### **1.4.1 Size of Secondary Dwellings:**

Secondary Dwellings were introduced into the NSW Planning System as a way of promoting alternative forms of affordable housing or granny flats. To achieve this, secondary dwelling provisions were written into the SEPP Affordable Rental Housing and the Standard Instrument Local Environmental Plan.

Under the SEPP and the Nambucca LEP 2010, secondary dwellings are permissible in the following zones:

- R1 General Residential
- R2 Low Density Residential
- R3 Medium Density Residential
- R4 High Density Residential
- R5 Large Lot Residential; and
- RU5 Rural Village.

When initially made, the Nambucca LEP 2010 contained provisions which had the intent of allowing secondary dwellings to be constructed to 50% of the size of the primary dwelling.

Recent amendments to the Standard Instrument Order included grammatical corrections to clause 5.4 (9) Secondary Dwellings. The changes affect the way in which the percentage size of the second dwelling is calculated. Recommendations were made to the Department of Planning and Infrastructure Northern Office requesting secondary dwellings only be permissible to 50% of size of the primary dwelling. The Northern Office agreed to these provisions in principle.

Despite these recommendations, the final plan as made on the 13 July 2011 has resulted in secondary dwellings being permissible to 100% of the size of the primary dwelling. The DoP indicated that due to the interpretation of the original LEP clause the recommended 50% would have been a fundamental change requiring public consultation. The actual clause as it is at present is shown below:

#### **(9) Secondary dwellings**

If development for the purposes of a secondary dwelling is permitted under this Plan, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater:

- (a) 60 square metres;
- (b) 100% of the total floor area of the principal dwelling.

This most recent amendment allows secondary dwellings to be the same size as a primary dwelling and therefore a person may make an application for a dual occupancy type development as a secondary dwelling. This has the following implications:

- The objectives of the secondary dwelling provisions to provide alternative forms of affordable housing would not be achieved and the intent of the provisions to provide granny flats would become redundant.
- In R5 Large Lot Residential areas a person may undertake a detached dual occupancy type development which was not previously permissible. Only granny flat type developments and attached dual occupancy developments were permissible.
- A person may undertake a dual occupancy type development within the R1, R2 R3 and R4 zones as Complying Development under the Affordable Rental Housing SEPP.
- A person may undertake a dual occupancy type development which is not consistent with the minimum Lot Size Clause for Dual Occupancies in the Nambucca LEP 2010 (presently 600m<sup>2</sup>).
- These changes would also make it difficult for Council to consider other policies which may encourage affordable housing types in the Shire. For example, Council could consider a reduced Section 94 contribution rate for secondary dwellings, but if the secondary dwelling is the same size as a primary dwelling contribution reductions would be meaningless.

#### Proposed Amendment

To achieve the intent of the secondary dwelling provisions, (to allow granny flat type developments) and to provide an alternative low cost accommodation within the Shire, it is proposed that clause 5.4(9) be amended to:

#### **(9) Secondary dwellings**

If development for the purposes of a secondary dwelling is permitted under this Plan, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater:

- (a) 60 square metres,
- (b) 50% of the total floor area of the principal dwelling.

Supporting Affordable Rental Housing – granny flats (NSW Department of Planning 2009)

## 1.4.2 Permissibility of Secondary dwellings in Rural Zones

In preparing the Nambucca LEP 2010, Council resolved to allow secondary dwellings in rural areas. Prior to exhibition of the Draft Nambucca LEP 2010 the Department of Planning requested Council make the following change:

*'secondary dwellings are to be listed as prohibited development in the land use table for zones RU1 Primary Production, RU2 Rural Landscape and E3 Environmental Management'*

The Department's justification to prohibit secondary dwellings in rural areas was to ensure consistency with the Mid North Coast Regional Strategy and the North Coast Regional Environmental Plan.

To progress the Nambucca LEP 2010 in a timely manner Council agreed to this change. Now that the Nambucca LEP 2010 has been made, further justification for secondary dwellings in rural areas is provided within this Planning Proposal.

### Advantages and disadvantages of secondary dwellings in rural areas

The advantages and disadvantages of allowing secondary dwellings in Rural zones are listed below.

<b>Disadvantages</b>	<b>Advantages</b>
<p>It is likely secondary dwellings would be seen as an attractive option for rural land holders due to the number of advantages. Due to this, secondary dwellings in rural areas may contribute to dispersed rural settlement.</p> <p>The impact on rural settlement patterns is expected to be minor as the majority of secondary dwellings would be of a size that limits occupancy to 1 or 2 persons. In addition to this, for convenience of servicing secondary dwellings are likely to be in the vicinity of the primary dwelling.</p>	<p>With one of the coast's fastest growing ageing populations it will provide affordable alternative accommodation for ageing rural property owners who need assistance to manage properties, but wish to retain rural lifestyle.</p> <p>It will also provide an affordable retirement solution where rural property owners may be priced out of the coastal village market.</p> <p>It will allow older community members to 'age in place'.</p>
<p>Increasing loads on existing effluent disposal systems or requiring multiple systems to manage waste. This issue would require individual merit assessment with development applications. To accommodate the increased capacity upgrades/modification to existing systems may be required.</p>	<p>Secondary dwellings provide space for additional family members or provide additional low cost accommodation for other persons.</p> <p>It will allow for generational farm transition.</p>
<p>Over time Council may receive enquiries from persons who would like to subdivide secondary dwellings onto a separate torrens title. The LEP 2010 and SEPP (Rural Lands) contain adequate provisions to prohibit this.</p>	<p>With an identified ageing population it is important to create as many opportunities as possible for young persons to reside in the area and contribute to the service needs of older generations. The rural secondary dwelling provides an attractive option for young persons attempting to find low cost rental accommodation.</p>
<p>Adverse impacts on agricultural productivity due to land use conflicts. Council's DCP 2010 provides controls to reduce land use conflicts, through buffer requirements and Council often refers to the Living and Working in Rural Areas Handbook (DPI 2007).</p>	<p>Provides an opportunity to supplement income by renting out the second dwelling.</p>
	<p>Provides an opportunity for seasonal accommodation for farm workers.</p>
	<p>The provision of secondary dwellings as an additional form of residential accommodation within a single title may assist in preventing widespread and unnecessary subdivision on larger allotments.</p>
	<p>Second dwellings are likely to encourage legitimate</p>

	occupation of granny flats in rural areas and decrease the number of illegal occupations of rural structures which present resource draining regulatory issues.
	Council will gain contributions from structures which may otherwise be occupied illegally without Council knowledge.

In conclusion it is expected that the impact of a secondary dwelling in a rural areas could be adequately managed through the development application process and the proposed size restrictions on secondary dwellings. It is expected that this option would be used by landowners wishing to accommodate family members such as grandparents or children who are yet to leave home, or those looking at farm succession planning which would cater for the retiring parents/family to continue to reside on the land. It will provide for housing diversity and choice in the shire which needs to maximise housing options to support the changing demographics.

Clause 2.6 of the Nambucca LEP 2010 does not allow the subdivision of land that would result in the secondary dwelling being positioned on a second lot if the lots are under the minimum lots size – see below:

‘(2) Development consent must not be granted for the subdivision of land on which a secondary dwelling is situated if the subdivision would result in the principal dwelling and the secondary dwelling being situated on separate lots, unless the resulting lots are not less than the minimum size shown on the Lot Size Map in relation to that land.

**Note.** The definition of **secondary dwelling** in the Dictionary requires the dwelling to be on the same lot of land as the principal dwelling.’

Proposed Amendment

It is proposed to amend Zone RU1 Primary Production and RU2 Rural Landscape to allow secondary dwellings as a use that is permitted with consent.

## **Part 1 Objectives or Intended outcomes**

The primary objective of this LEP Amendment is:

1. To ensure secondary dwellings provide an alternative form of housing for persons within the Nambucca Local Government Area.
2. To provide an alternative form of low cost housing in rural areas within the Nambucca Local Government Area.

## **Part 2 Explanation of Provisions**

The objectives of the LEP amendment will be achieved by:

### 1 Secondary Dwellings

It is proposed that clause 5.4(9) be amended to:

#### **(9) Secondary dwellings**

If development for the purposes of a secondary dwelling is permitted under this Plan, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater:

- (a) 60 square metres,
- (b) 50% of the total floor area of the principal dwelling.

### 2 Secondary Dwellings in Rural Zones

It is proposed to amend the land use table (for Zone RU1 Primary Production and RU2 Rural Landscape) to allow secondary dwellings as a use that is permitted with consent. Refer to Appendix 1.

## **Part 3 Justification**

### **Section A – Need for the Planning Proposal**

#### **1 Is the Planning Proposal the Result of any Strategic Study or Report?**

**Size of Secondary Dwellings** – There are no strategic Studies or Reports that have been completed to address the size of the secondary dwellings permissible in the Nambucca LEP 2010. However the aims of the SEPP Affordable Rental Housing (2009) are:

- (a) to provide a consistent planning regime for the provision of affordable rental housing,
- (b) to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards,
- (c) to facilitate the retention and mitigate the loss of existing affordable rental housing,
- (d) to employ a balanced approach between obligations for retaining and mitigating the loss of existing affordable rental housing, and incentives for the development of new affordable rental housing,
- (e) to facilitate an expanded role for not-for-profit-providers of affordable rental housing,
- (f) to support local business centres by providing affordable rental housing for workers close to places of work,
- (g) to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.

In its current form clause 5.4(9) allows secondary dwellings to be constructed up to 100% of the size of the primary dwelling. Because of this the secondary dwelling clause does not provide an alternative option for development. Rather it provides another option which is very similar to dual occupancies and as such a number of the aims of the SEPP will not be achieved.

**Secondary Dwellings in Rural Zones** – There are a number of studies and reports that have been completed which highlight the need to provide alternative housing options within the north and mid north coast as well as rural and regional areas in general. The following comments are taken from studies which are relevant to this discussion.

**The Australian Local Government Association Submission to the Productivity Commission Research Study into Economic Implications of an Ageing Australia** states - The availability of affordable, accessible and suitable housing options is particularly important for older people, and will be a priority as the Australian population ages. The changing age profile, along with lifestyle and work pattern changes, will impact on future housing arrangements. It will therefore be important to provide flexible models of accommodation, encompassing a wide range of settings, while at the same time fostering supportive environments and independence.

**Dr Helen Feist, Senior Research Associate, University of Adelaide** states that the majority of today's older rural Australians want to age where they are living now. Dr Feist also states the following in relation to the *Provision of suitable housing at the very local level*. More appropriate housing choices are needed at the very local level; there are some good examples of this in communities with populations as small as a few hundred people. In addition to this, we need to consider affordable housing solutions in regional and urban areas for those rural older people, who do need to move closer to more complex services, or loved ones in nursing homes or other family members, but are currently priced out of the housing market. 'Towards a NSW whole of Government Ageing Strategy – ageing round table discussion papers - (DEC 2011) further discusses these matters of ageing in rural areas.

**Mid North Coast Regional Strategy** states Council will consider a range of affordable housing strategies, including low cost housing, suitable zonings and development controls to improve housing affordability and choice. These strategies must be consistent with relevant state policies. In relation to rural dwellings it also states:

*'Local Environmental Plans will include provisions to limit dwellings in rural and environmental zones.'*



The Nambucca LEP 2010 is consistent with this provision in that it limits dwellings in rural zones to Dwelling Houses; Dual Occupancies (attached) and Rural Workers Dwellings. Permitting secondary dwellings restricted to 60sqm or 50% of the size of the primary dwelling is only considered a minor addition to those dwellings already permissible and the benefits appear to outweigh the issues.

**Nambucca Shire Council Social Plan 2009-2014** has the following as one of a number of targets for 2029:

## *7 Affordable Housing meets the community's needs*

### **20-Year Strategies**

- 7.1 To understand levels and quality of housing needs
- 7.2 To maintain housing affordability particularly improving access to youth markets
- 7.3 To advocate for aged care in home support settings (HACC services)

**Council's Draft 2022 Community Strategic Plan** states the following in relation to Housing in the Nambucca Shire.

Objective: Housing across the Nambucca Valley provides for choice and is affordable

Strategy Measure Benchmarks Progress:

- Provide diverse, sustainable, adaptable and affordable housing options through effective land use planning; and
- Provide a mixture of housing types that allow residents to meet their housing needs at different stages of their lifecycle within the Nambucca Valley;

### **SEPP Affordable Rental Housing**

A recent review of the SEPP Affordable Rental Housing considered a recommendation to include secondary dwellings as permissible in rural areas as proposed by this amendment. Although not directly included within the provisions of the SEPP the review concluded that where warranted a Local Environmental Plan may allow secondary dwellings in Rural Areas. At present the SEPP only allows secondary dwellings in Residential Zones.

### **Conclusion**

There is a large amount of information contained within studies and strategies that support the provision of alternative forms of affordable housing such as granny flats. By extending the permissibility of secondary dwellings to rural areas Council is increasing the scope for affordable housing in the shire.

Such an amendment would provide a number of social, wellbeing and financial opportunities for rural land owners. Among other things the LEP amendment is likely to provide opportunities:

- to assist in maintaining an affordable rental market for young adults aiming to save for home ownership;
- to allow grandparents to maintain independence while sharing child raising duties for young families in rural areas or provide another low cost option for families;
- for elderly property owners to have a viable option to hand over their house to their children but not be forced to leave their property, community or established community networks.

The key to the success of the proposed second dwelling provisions will be to ensure no adverse impacts on agricultural productivity of the shire. This will be determined through the appropriate application of Council's relevant development controls.

**2 *Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?***

**Size of Secondary Dwellings**

To reduce the potential size of secondary dwellings and ensure that the objective of the clause is achieved Clause 5.4(9) must be amended.

**Secondary Dwellings in Rural Zones**

To achieve the intent of this amendment the land use tables must be amended to allow secondary dwellings as permissible with consent.

**3 *Is there a net community benefit?***

**Size of Secondary Dwellings**

Amending the LEP to reduce the size of the secondary dwellings effectively creates an alternative form of low cost housing. Retaining the existing size provisions effectively limits developer choice and may also limit other affordable housing policies which Council may consider adopting.

**Secondary Dwellings in Rural zones**

Allowing secondary dwellings within the Rural Zones provides another form of low cost accommodation for residents within the shire.

*Implications of not proceeding at this time*

**Size of Secondary Dwellings**

Should the Nambucca LEP 2010 remain in its current form then a secondary dwellings the same size as a primary dwelling may be undertaken on land as complying development.

**Secondary Dwellings in Rural Zones**

Should this amendment not proceed at this time there are not likely to be any adverse impacts.

***Section B –Relationship to strategic planning framework***

**4 *Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?***

**Size of Secondary dwellings**

The proposed amendment is consistent with the provisions of the Mid North Coast Regional Strategy.

**Secondary Dwellings in Rural Areas**

The reasons given by the DoP to justify requiring secondary dwellings to be prohibited in rural zones included references to the North Coast Regional Environmental Plan and Mid North Coast Regional Strategy.

It is noted that when the Nambucca LEP 2010 was made the North Coast REP ceased to apply to the Nambucca LGA, therefore its provisions are no longer applicable to LEP Amendments in Nambucca.

The Mid North Coast Regional Strategy continues to apply to the Nambucca LGA and it states the following in relation to rural dwellings:

*'Local Environmental Plans will include provisions to limit dwellings in rural and environmental zones.'*

It is noted that this requirement is also an action in the Illawarra Regional Strategy and Sydney-Canberra Regional Strategy and the Department of Planning appears to be inconsistent in the enforcement of this requirement because the following LEPs have been approved by the Minister with land use tables which permit secondary dwellings within the rural zones:

- Wollongong LEP 2009
- Wollongong (West Dapto) 2010
- Wingercarribee LEP 2010
- Goulburn Mulwarree LEP 2009
- Upper Lachlan LEP 2010

Of the twenty seven (27) other LEPs made under the standard instrument provisions that contain rural zones, sixteen (16) or 59% allow Secondary dwellings in rural zones. A number of Draft LEPs also allow secondary dwellings in Rural Zones including Gosford City Council Draft LEP and the Hills Shire LEP. The following table shows the LEPs that allow secondary dwellings in rural areas.

Local Environment Plan	Permissible with Consent Secondary Dwellings	
	RU1	RU2
Albury LEP 2010	yes	yes
Camden LEP 2010	yes	yes
Coolamon LEP 2011	yes	
Goulburn Mulwaree LEP 2009	yes	yes
Gundagai LEP 2011	yes	
Harden LEP 2011	yes	
Muswellbrook LEP 2009	yes	
Penrith LEP 2010	yes	yes
Tumbarumba LEP 2010	yes	
Upper Lachlan LEP 2010	yes	yes
Urana LEP 2010	yes	
Wagga Wagga LEP 2010	yes	yes
Wingercarribee LEP 2010	yes	yes
Wollondilly LEP 2011	yes	yes
Wollongong LEP 2009		yes
Wollongong (west Dapto) LEP 2010		yes

Based on the Standard Instrument LEPs made to date there does not appear to be any conformity to permissibility of secondary dwellings in rural areas. Rather it is determined on a case by case basis by individual Council's regardless of provisions contained within Regional Strategies.

Removing the option for secondary dwellings to be permissible in rural areas at a regional scale is eliminating an affordable and viable housing choice in an area with a known ageing demographic presently susceptible to an out-migrating service population (18-35 year olds). With such a demographic it is important to ensure a range of housing options are made available to all generations of the community. Rural property owners should have the option of providing a granny flat/ secondary dwelling on their property should their circumstances require such a dwelling. The approval of dwellings in these areas would be subject to a merit based Development Assessment.

**5 Is the Planning Proposal consistent with the local Council's Community Strategic Plan, or other strategic plan?**

**Secondary Dwelling Sizes and Secondary Dwellings in Rural Zones**

The proposed amendment will ensure that Council's planning provisions are consistent with recommendations included in Council's Social Plan. Council's social plan includes the following strategy:

## *7 Affordable Housing meets the community's needs*

### **20-Year Strategies**

- 7.1 To understand levels and quality of housing needs
- 7.2 To maintain housing affordability particularly improving access to youth markets
- 7.3 To advocate for aged care in home support settings (HACC services)

The proposed amendment will assist in addressing these strategies, providing a legitimate form of alternative housing, not a meaningless term for development presently available through other forms of residential accommodation.

The Planning Proposal will also be consistent with Council's Draft 20 Year Community Strategic Plan which states the following.

Objective: Housing across the Nambucca Valley provides for choice and is affordable

Strategy Measure Benchmarks Progress:

- Provide diverse, sustainable, adaptable and affordable housing options through effective land use planning; and
- Provide a mixture of housing types that allow residents to meet their housing needs at different stages of their lifecycle within the Nambucca Valley;

### **6 *Is the Planning Proposal consistent with applicable State Environmental Planning Policies (SEPPs)?***

Yes – see Appendix 1

### **7 *Is the Planning Proposal consistent with applicable Ministerial Directions (s.117 directions)?***

Yes – see Appendix 2

## **Section C – Environmental, social and economic impact**

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

The Planning Proposal itself is not likely to directly result in a significant impact to any threatened, populations or ecological communities, or their habitats.

The proposal will permit alternative forms of development to occur in rural and semi rural areas. A development application would be required for any proposal to undertake such an activity on the land.

A development application would be subject to the section 5A of the *Environmental Planning and Assessment Act 1979* and the provisions of the *Threatened Species Conservation Act 1995*. Should the proposal be likely to result in a significant impact to any threatened species, community or population then the matter would be subject to additional assessment in the form of a species impact statement.

**9** *Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?*

There are no direct environmental effects resulting from the proposed amendment. Other common issues that would need to be addressed for these types of dwellings in rural and semi rural environments include but are not limited to:

- Effluent/ Waste Management;
- Bushfire Management;
- Access; and
- Flora and Fauna

**10** *How has the Planning Proposal adequately addressed any social and economic effects?*

As with the environment impacts, there are unlikely to be any negative social or economical impacts that are a direct result of this Planning Proposal. These matters will be examined for each development application for a proposed activity pursuant to Section 79c of the *Environmental Planning and Assessment Act 1979*.

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

**11** *Is there adequate public infrastructure for the Planning Proposal?*

The proposal is unlikely to place a demand on public infrastructure that could not be managed. All developments that are approved would be charged applicable Section 94 contributions rates for Roads, Open Space and Surf Life Saving Equipment and any other relevant infrastructure or services.

**12** *What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?*

As the gateway determination is yet to be made the Planning Proposal has not been subject to any consultation with Government Authorities.

## **Part 4 Community Consultation**

The proposal is considered to be a low impact proposal in accordance with Section 4.5 of '*A guide to preparing local environmental plans*'. As such it is intended that the exhibition period for the Planning Proposal will be a minimum of 14 days and the exhibition will be undertaken in accordance with Section 4.5 of '*A guide to preparing local environmental plans*'.

# Appendix 1 – Proposed Land Use Tables

## **Zone RU1 Primary Production**

### **1 Objectives of zone**

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.

### **2 Permitted without consent**

Environmental protection works; Extensive agriculture; Forestry; Home-based child care; Home occupations; Horticulture

### **3 Permitted with consent**

Bed and breakfast accommodation; Cellar door premises; Dual occupancies (attached); Dwelling houses; Extractive industries; Farm buildings; Farm stay accommodation; Heavy industries; Home industries; Intensive livestock agriculture; Intensive plant agriculture; Landscaping material supplies; Open cut mining; Neighbourhood shops; Plant nurseries; Roads; Roadside stalls; Rural supplies; Rural workers' dwellings; Secondary dwellings; Shop top housing; Any other development not specified in item 2 or 4

### **4 Prohibited**

Amusement centres; Camping grounds; Caravan parks; Cemeteries; Child care centres; Commercial premises; Correctional centres; Crematoria; Eco-tourist facilities; Entertainment facilities; Exhibition homes; Exhibition villages; Function centres; Health services facilities; Heavy industrial storage establishments; Heliports; Industrial retail outlets; Industrial training facilities; Industries; Mortuaries; Recreation facilities (indoor); Registered clubs; Residential accommodation; Respite day care centres; Restricted premises; Service stations; Sex services premises; Storage premises; Tourist and visitor accommodation; Vehicle body repair workshops; Vehicle repair stations; Warehouse or distribution centres; Wharf or boating facilities; Wholesale supplies

## **Zone RU2 Rural Landscape**

### **1 Objectives of zone**

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To maintain the rural landscape character of the land.
- To provide for a range of compatible land uses, including extensive agriculture.
- To control development which could have an adverse impact on the Council's urban water supply.

### **2 Permitted without consent**

Environmental protection works; Extensive agriculture; Forestry; Home-based child care; Home occupations; Horticulture

### **3 Permitted with consent**

Bed and breakfast accommodation; Cellar door premises; Dwelling houses; Dual occupancies (attached); Farm buildings; Farm stay accommodation; Group homes; Heavy industries; Home industries; Landscape material supplies; Neighbourhood shops; Plant nurseries; Roads; Roadside stalls; Rural supplies; Secondary Dwellings; Any other development not specified in item 2 or 4

### **4 Prohibited**

Amusement centres; Child care centres; Commercial premises; Eco-tourist facilities; Entertainment facilities; Exhibition homes; Exhibition villages; Heavy industrial storage establishments; Health services facilities; Heliports; Industrial retail outlets; Industrial training facilities; Industries; Recreation facilities (indoor); Registered clubs; Residential accommodation; Respite day care centres; Restricted premises; Service stations; Sex services premises; Storage premises; Tourist and visitor accommodation; Vehicle body repair workshops; Vehicle repair stations; Warehouse or distribution centres; Wharf or boating facilities; Wholesale supplies



## **Appendix 2 - State Environmental Planning Policies**

The following State Environmental Planning Policies (SEPP) have been considered in the preparation of this Planning Proposal:

- **State Environmental Planning Policy No 14 – Coastal Wetlands**

Ensures coastal wetlands are preserved and protected for environmental and economic reasons. The policy applies to local government areas outside the Sydney metropolitan area that front the Pacific Ocean. The policy identifies over 1300 wetlands of high natural value from Tweed Heads to Broken Bay and from Wollongong to Cape Howe. Land clearing, levee construction, drainage work or filling may only be carried out within these wetlands with the consent of the local council and the agreement of the Director General of the Department and Planning. Such development also requires an environmental impact statement to be lodged with a development application. The policy is continually reviewed. It has, for example, been amended to omit or include areas, clarify the definition of the land to which the policy applies and to allow minimal clearing along boundaries for fencing and surveying.

All lands identified as SEPP 14 Wetlands or SEPP 26 Littoral Rainforests have been zoned E2 Environmental Protection. This Planning Proposal does not propose to amend the land use tables of this zone to allow secondary dwellings.

- **State Environmental Planning Policy No 26 – Littoral Rainforests**

Protects littoral rainforests, a distinct type of rainforest well suited to harsh salt-laden and drying coastal winds. The policy requires that the likely effects of proposed development be thoroughly considered in an environmental impact statement. The policy applies to 'core' areas of littoral rainforest as well as a 100 metre wide 'buffer' area surrounding these core areas, except for residential land and areas to which SEPP No. 14 - Coastal Wetlands applies. Eighteen local government areas with direct frontage to the Pacific Ocean are affected, from Tweed in the north to Eurobodalla in the south.

All lands identified as SEPP 14 Wetlands or SEPP 26 Littoral Rainforests have been zoned E2 Environmental Protection. This Planning Proposal does not propose to amend the land use tables of this zone to allow secondary dwellings.

- **State Environmental Planning Policy No 44 – Koala Habitat Protection**

SEPP 44 encourages the conservation and management of natural vegetation areas that provide habitat for koalas to ensure permanent free-living populations will be maintained over their present range.

Under SEPP 44, potential koala habitat is defined as areas of native vegetation where the trees listed in Schedule 2 of the SEPP constitute at least 15% of the total number of trees in the upper or lower strata of the tree component. A koala habitat assessment is required for any significant development in such areas.

Threatened species investigations may be required to be undertaken as part of any future development application. Typically a SEPP 44 Assessment would be undertaken in conjunction with a Threatened Species Assessment.

- **State Environmental Planning Policy No 71 – Coastal Protection**

The object of this policy is to provide for the protection and management of sensitive and significant areas within the coastal zone. Part of the subject land is located within the coastal zone. Therefore, in preparing the final LEP, Council must consider the natural, cultural, recreational and economic attributes of land within the coastal zone to ensure that public access to foreshore areas, Aboriginal heritage, visual amenity, coastal flora and fauna, coastal processes and cumulative impacts are addressed.

This Planning Proposal would not be considered inconsistent with the provisions of this SEPP. If necessary, appropriate consideration of the matters referred to in this SEPP will be undertaken as part of any future development application.

- **State Environmental Planning Policy (Infrastructure) 2007**

The SEPP supports greater flexibility in the location of infrastructure and service facilities and allows efficient development, redevelopment or disposal of surplus government owned land.

Typically this SEPP would have no association with a proposal to undertake a second dwelling.

- **State Environmental Planning Policy No 55 – Remediation of Land**

Introduces state-wide planning controls for the remediation of contaminated land. The policy states that land must not be developed if it is unsuitable for a proposed use because it is contaminated. If the land is unsuitable, remediation must take place before the land is developed.

Should land with potential contamination be identified through a Development Assessment process; the applicant would be required to address the provisions of this SEPP and associated guidelines. Council staff would need to be satisfied that a proposed development would be suitable in relation to any contamination on site or if further investigation or remediation would be required.

- **State Environmental Planning Policy (Rural Lands)**

The aim of this policy is to facilitate the orderly and economic use and development of rural lands for rural and related purposes. The policy applies to local government areas that are not listed in clause 4.

The principles contained within the policy are required to be addressed through related s117 Directions. They would also be required to be addressed as part of any future development application for a site.

The Rural Planning Principles are as follows:

(a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,

The Planning Proposal is consistent with this principle. Applications for uses would also need to be assessed on their merits. Council's DCP 2010 has controls in place which determine buffer distances required to certain rural activities. Given the Planning Proposal would allow second dwellings in rural areas, these provisions would be applied. The location of second dwellings on rural land may be restricted due to adjoining land uses.

(b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,

Although the Planning Proposal will allow for an alternative form of development to occur in rural areas, legislation and Council development controls would prevent adverse impacts to rural activities in the area. As an example the Nambucca LEP 2010 prevents subdivision of land containing secondary dwellings where the size of the lots will be below the minimum lot size. Also Council would apply buffers between rural and other areas of the shire.

(c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,

Although the Planning Proposal will allow for an alternative form of development to occur in rural areas, legislation and Council development controls would prevent adverse impacts to rural activities in the area. As an example Council would apply buffers between rural and other areas of the shire. It is anticipated that secondary dwellings would have limited impact on rural activities but may assist rural landowners to supplement income from their property and also assist in property management.

(d) in planning for rural lands, to balance the social, economic and environmental interests of the community,

The Planning Proposal is consistent with this principle. The proposal may assist in meeting this balance by providing land owners with additional options or choice in relation to the future of their land.

(e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,

As stated previously these requirements would be subject to a merit based assessment through the development application process.

(f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,

For the reasons discussed in the core of this report the Planning Proposal is likely to provide a number of benefits to rural lifestyle, social and economic welfare of the rural communities.

(g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,

This Planning Proposal will not adversely impact on the services and infrastructure, the majority of rural residential and rural areas are not serviced, and contributions are collected as appropriate.

(h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.

This Planning Proposal is consistent with the principles and actions contained within the Mid North Coast Regional Strategy. The proposal presents a minor variation to the permissible housing types in the rural areas that would have a number of positive effects for the rural community which are outlined in the core of this report.

- **State Environmental Planning Policy No 15 Rural Land Sharing Communities**

Makes multiple occupancy permissible, with council consent, in rural and non-urban zones, subject to a list of criteria in clause 9(1) of the policy. Multiple occupancy is defined as the collective management and sharing of unsubdivided land, facilities and resources. The policy encourages a community-based environmentally-sensitive approach to rural settlement, and enables the pooling of resources to develop opportunities for communal rural living. SEPP 15 Guide provides guidance to intending applicants.

This Planning Proposal is generally unrelated to this SEPP.

## **Appendix 3 - Section 117 Directions**

A number of directions under Section 117 of the EP & A Act 1979 are relevant to this Planning Proposal.

### **1 Employment and Resources**

#### **1.1 Business and Industrial Zones**

This Planning Proposal does not intend to amend business or industrial zones in any manner.

#### **1.2 Rural Zones**

The objective of this direction is to protect the agricultural production value of rural land.

This direction applies when a council prepares a draft LEP that affects land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary).

A draft LEP shall:

- a not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.
- b not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).

A draft LEP may be inconsistent with the terms of this direction only if council can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the draft LEP that are inconsistent are:

- a justified by a strategy which:
  - i gives consideration to the objectives of this direction,
  - ii identifies the land which is the subject of the draft LEP (if the draft LEP relates to a particular site or sites), and
  - iii is approved by the Director-General of the Department of Planning, or
- b justified by an environmental study prepared in accordance with section 57 of the *Environmental Planning and Assessment Act 1979* which gives consideration to the objectives of this direction, or
- c in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or
- d is of minor significance.

This Planning Proposal does not require the rezoning of rural land. It may result in an increase in density over the rural land, however it is expected that this increase would only be of minor significance. The provision of secondary dwellings in rural areas is likely to result in a number of positive outcomes for the rural communities as detailed in the body of this proposal.

#### **1.3 Mining, Petroleum Production and Extractive Industries**

This direction has no impact on the Planning Proposal as proposed.

#### **1.4 Oyster Aquaculture**

The objectives of this direction are:

- a to ensure that Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area are adequately considered when preparing a draft LEP,
- b to protect Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area from land uses that may result in adverse impacts on water quality and consequently, on the health of oysters and oyster consumers.

In the preparation of a draft LEP affected by this direction, the council shall:

- a identify any Priority Oyster Aquaculture Areas and oyster aquaculture leases outside such an area, as shown on the maps to the Strategy, to which the draft LEP would apply,
- b identify any proposed land uses which could result in any adverse impact on a Priority Oyster Aquaculture Area or oyster aquaculture leases outside such an area,
- c identify and take into consideration any issues likely to lead to an incompatible use of land between oyster aquaculture and other land uses and identify and evaluate measures to avoid or minimise such land use incompatibility,
- d consult with the Director-General of the Department of Primary Industries (DPI) of the proposed changes in the preparation of the draft LEP, and
- e ensure the draft LEP is consistent with the Strategy.

The Planning Proposal is consistent with this direction. Where a development application is proposed in an area that may impact on oyster leases – the provisions of SEPP 62 Aquaculture are likely to apply.

## 1.5 Rural Lands

The objectives of this direction are to:

- a protect the agricultural production value of rural land,
- b facilitate the orderly and economic development of rural lands for rural and related purposes.

This direction applies when:

- a a council prepares a draft LEP that affects land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary) or
- b a council prepares a draft LEP that changes the existing minimum lot size on land within a rural or environment protection zone.

What a council must do if this direction applies

- a A draft LEP to which clauses 3(a) or 3(b) apply must be consistent with the Rural Planning Principles listed in *State Environmental Planning Policy (Rural Lands) 2008*.
- b A draft LEP to which clause 3(b) applies must be consistent with the Rural Subdivision Principles listed in *State Environmental Planning Policy (Rural Lands) 2008*.

The principles of the SEPP (Rural Lands) 2008 were addressed previously. The Planning Proposal is consistent with this direction.

## 2 Environment and Heritage

### 2.1 Environment Protection Zones

The Planning Proposal does not proposed to amend environmental zones in any manner.

### 2.2 Coastal Protection

The objective of this direction is to implement the principles in the NSW Coastal Policy.

This direction applies to the coastal zone, as defined in the *Coastal Protection Act 1979*.

This direction applies when a council prepares a draft LEP that applies to land in the coastal zone.

A draft LEP shall include provisions that give effect to and are consistent with:

- a the *NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997*, and
- b the *Coastal Design Guidelines 2003*, and
- c the manual relating to the management of the coastline for the purposes of section 733 of the *Local Government Act 1993* (the *NSW Coastline Management Manual 1990*).

This Planning Proposal is consistent with this direction. Various state policies may apply to any future development proposed within the Coastal Zone.

### **2.3 Heritage Conservation**

The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.

This direction applies when a council prepares a draft LEP.

A draft LEP shall contain provisions that facilitate the conservation of:

- a items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area,
- b Aboriginal objects or Aboriginal places that are protected under the *National Parks and Wildlife Act 1974*, and
- c Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the council, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.

The Planning Proposal is unlikely to result in impacts to heritage matters. Development applications proposed will be required to address the various state government and local policies in relation to heritage matters.

### **2.4 Recreation Vehicle Areas**

The Planning Proposal is consistent with this direction.

## **3 Housing, Infrastructure and Urban Development**

### **3.1 Residential Zones**

The objectives of this direction are:

- a to encourage a variety and choice of housing types to provide for existing and future housing needs,
- b to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and
- c to minimise the impact of residential development on the environment and resource lands.

This direction applies when a council prepares a draft LEP that affects land within:

- a an existing or proposed residential zone (including the alteration of any existing residential zone boundary),
- b any other zone in which significant residential development is permitted or proposed to be permitted.

A draft LEP shall include provisions that encourage the provision of housing that will:

- a broaden the choice of building types and locations available in the housing market, and
- b make more efficient use of existing infrastructure and services, and
- c reduce the consumption of land for housing and associated urban development on the urban fringe, and
- d be of good design.

A draft LEP shall, in relation to land to which this direction applies:

- a contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and
- b not contain provisions which will reduce the permissible residential density of land.

The draft LEP Amendment will reduce the size permissibility of secondary dwellings in Residential areas. As outlined in the body of this proposal this is expected to have a number of positive outcomes.

### **3.4 Integrated Land Use and Transport**

The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:

- a improving access to housing, jobs and services by walking, cycling and public transport, and
- b increasing the choice of available transport and reducing dependence on cars, and
- c reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and
- d supporting the efficient and viable operation of public transport services, and
- e providing for the efficient movement of freight.

This direction applies when a council prepares a draft LEP that creates, alters or removes a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.

A draft LEP shall locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:

- a *Improving Transport Choice – Guidelines for planning and development (DUAP 2001)*, and
- b *The Right Place for Business and Services – Planning Policy (DUAP 2001)*.

The Planning Proposal is consistent with this direction.

### **3.5 Development Near Licensed Aerodromes**

This Planning Proposal is consistent with this direction. At present there are no known licensed aerodromes in the Nambucca Local Government Area.

### **3.6 Shooting Ranges**

As previously stated the Planning Proposal does not relate to specific land. Should a development application be lodged with Council as a result of the Planning Proposal, then it would need to be determined on its merits and in accordance with relevant legislation and development controls.

## **4 Hazard and Risk**

### **4.1 Acid Sulfate Soils**

The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.

This direction applies when a council prepares a draft LEP that will apply to land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps.

Council shall consider the Acid Sulfate Soils Planning Guidelines adopted by the Director-General of the Department of Planning when preparing a draft LEP that applies to any land identified on the Acid Sulfate Soils Planning Maps as having a probability of acid sulfate soils being present.

When a council is preparing a draft LEP to introduce provisions to regulate works in acid sulfate soils, those provisions shall be consistent with:

- a the Acid Sulfate Soils Model LEP in the Acid Sulfate Soils Planning Guidelines adopted by the Director-General, or

- b such other provisions provided by the Director-General of the Department of Planning that are consistent with the Acid Sulfate Soils Planning Guidelines.

A council shall not prepare a draft LEP that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the council has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils. Council shall provide a copy of any such study with its statement to the Director-General of the Department of Planning under section 64 of the EP&A Act.

Where provisions referred to under paragraph (5) of this direction have not been introduced and council is preparing a draft LEP that proposes an intensification of land uses on land identified as having a probability of acid sulfate soils on the Acid Sulfate Soils Planning Maps, the draft LEP must contain provisions consistent with paragraph (5).

As this Planning Proposal applies to all land in rural and residential zones it is not practical to undertake specific Acid Sulphate Soil investigations over such a broad area. However a development application proposed in an area potentially subject to PASS or ASS would be required to address the matter through provisions in the Nambucca LEP 2010.

### **4.3 Flood Prone Land**

The objectives of this direction are:

- a to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the *Floodplain Development Manual 2005*, and
- b to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.

This direction applies when a council prepares a draft LEP that creates, removes or alters a zone or a provision that affects flood prone land.

A draft LEP shall include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the *Floodplain Development Manual 2005* (including the *Guideline on Development Controls on Low Flood Risk Areas*).

A draft LEP shall not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone.

A draft LEP shall not contain provisions that apply to the flood planning areas which:

- a permit development in floodway areas,
- b permit development that will result in significant flood impacts to other properties,
- c permit a significant increase in the development of that land,
- d are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or
- e permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, buildings or structures in floodways or high hazard areas), roads or exempt development.

A draft LEP must not impose flood related development controls above the residential flood planning level for residential development on land, unless a council provides adequate justification for those controls to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).

For the purposes of a draft LEP, a council must not determine a flood planning level that is inconsistent with the *Floodplain Development Manual 2005* (including the *Guideline on Development Controls on Low Flood Risk Areas*) unless a council provides adequate justification for the proposed departure from that Manual to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).



As this Planning Proposal applies to all land in rural and residential areas it is not practical to undertake specific flood investigations over such a broad area. However a development application proposed in an area potentially impacted by flooding would be required to address the matter through provisions in the Nambucca LEP 2010.

#### **4.4 Planning for Bushfire Protection**

The objectives of this direction are:

- a to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and
- b to encourage sound management of bush fire prone areas.

This direction applies when a council prepares a draft LEP that affects, or is in proximity to land mapped as bushfire prone land.

In the preparation of a draft LEP a Council shall consult with the Commissioner of the NSW Rural Fire Service under section 62 of the EP&A Act, and take into account any comments so made.

A draft LEP shall:

- a have regard to *Planning for Bushfire Protection 2006*,
- b introduce controls that avoid placing inappropriate developments in hazardous areas, and
- c ensure that bushfire hazard reduction is not prohibited within the APZ.

A draft LEP shall, where development is proposed, comply with the following provisions, as appropriate:

- a provide an Asset Protection Zone (APZ) incorporating at a minimum:
  - i an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and
  - ii an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road,
- b for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the draft LEP permit Special Fire Protection Purposes (as defined under section 100B of the *Rural Fires Act 1997*), the APZ provisions must be complied with,
- c contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks,
- d contain provisions for adequate water supply for fire fighting purposes,
- e minimise the perimeter of the area of land interfacing the hazard which may be developed, and
- f introduce controls on the placement of combustible materials in the Inner Protection Area.

As this Planning Proposal applies to all land in rural and large lot residential zones it is not practical to undertake specific Bushfire investigations over such a broad area. However a development application proposed on Bushfire Prone Land would require integrated referral to the NSW RFS as a special purpose development. The appropriate assessment and requirements of the development would be addressed at this time.

## **5 Regional Planning**

### **5.1 Implementation of Regional Strategies**

*Objective*

- (1) The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.

*Where this direction applies*

- (2) This direction applies to land to which the following regional strategies apply:
  - (a) Far North Coast Regional Strategy

- (b) Lower Hunter Regional Strategy
- (c) Illawarra Regional Strategy
- (d) South Coast Regional Strategy
- (e) Sydney–Canberra Corridor Regional Strategy
- (f) Central Coast Regional Strategy, and
- (g) Mid North Coast Regional Strategy.

*When this direction applies*

- (3) This direction applies when a relevant planning authority prepares a Planning Proposal.

*What a relevant planning authority must do if this direction applies*

- (4) Planning Proposals must be consistent with a regional strategy released by the Minister for Planning.

*Consistency*

- (5) A Planning Proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), that the extent of inconsistency with the regional strategy:
  - (a) is of minor significance, and
  - (b) the Planning Proposal achieves the overall intent of the regional strategy and does not undermine the achievement of its vision, land use strategy, policies, outcomes or actions.

Matters relating to the Mid North Coast Regional Strategy were discussed within the body of this report, and as discussed previously this Planning Proposal is generally consistent with the Mid North Coast Regional Strategy and is only considered to be of minor significance. The Planning Proposal is consistent with this direction.

## **5.2 Sydney Drinking Water Catchment**

This direction does not apply to land in the Nambucca LGA

## **5.3 Farmland of State and Regional Significance on the NSW Far North Coast**

This direction does not apply to land in the Nambucca LGA.

## **5.4 Commercial and Retail Development along the Pacific Highway, North Coast**

The Planning Proposal is not proposing any amendments that would be inconsistent with this direction.

# **6 Local Plan Making**

## **6.1 Approval and Referral Requirements**

The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.

A draft LEP shall:

- a minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and
- b not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the council has obtained the approval of:
  - i the appropriate Minister or public authority, and
  - ii the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General),
 prior to a certificate under section 65 of the Act being issued, and
- c not identify development as designated development unless the council:

- i can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and
- ii has obtained the approval of the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to a certificate being issued under section 65 of the Environmental Planning and Assessment Act 1979.

It is intended to ensure the Planning Proposal is consistent with this direction.

**Direction 6.2 Reserving Land for Public Purposes**

This Planning Proposal is not relevant to this direction.

**Direction 6.3 Site Specific Provisions**

This Planning Proposal is not relevant to this direction.

