

# **Nambucca Shire Council**

## **Planning Proposal Nambucca LEP 2010 Amendment No. 7 Rural Tourist Facilities**

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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 Planning Proposal applies to:

All land within Nambucca Local Government Area and as prescribed by those provisions of the Nambucca LEP 2010 proposed to be amended being all land presently zoned:

- RU1 Primary Production;
- RU2 Rural Landscape; and
- R5 Large Lot Residential.

## 1.3 Current Zoning and Use

This proposal is aimed at amending land use provisions with the Nambucca LEP 2010 and therefore does not require amendments to current land zones.

## 1.4 Background

### Tourist Development in Rural Zones

A common alternative form of temporary accommodation in Rural areas are tourist cabins and the Nambucca LEP 1995 allowed a '*Rural Tourist Facility*' to be undertaken on Rural Land. Under this definition Council could accept applications for detached tourist facilities such as tourist cabins.

The definitions which most closely achieve the intent of a rural tourist facility under the Standard Instrument LEP template were '*farm stay accommodation*' and '*bed and breakfast accommodation*'. Both these land uses were incorporated into the Nambucca LEP 2010 as permissible uses in the rural zones to capture activities previously permissible as a rural tourist facility.

An amendment to the Standard Instrument Order on 13 July 2011 varied the definition of Bed and Breakfast Accommodation within the Nambucca LEP 2010. This recent change to the definition of Bed and Breakfast Accommodation has resulted in the Nambucca LEP 2010, not permitting activities such as tourist cabins in rural zoned land unless it is related to primary production.

Tourism in the rural areas of the shire has the potential to create a positive contribution to the local economy. One of the potential risks of allowing this type of development is the misuse of tourist accommodation as dwellings, particularly where a dwelling entitlement is not available. It is anticipated that any tourist facilities misused in this manner could be appropriately addressed through regulatory action.

### Proposed Amendment

It is proposed to prepare a Planning Proposal to permit tourism facilities in rural zones as previously permissible in the Nambucca LEP 1995. To achieve this in the following is proposed:

- 1 Council allow '*Tourist and Visitor Accommodation*' as permissible with consent in the RU1 Primary Production Zone, RU2 Rural Landscape Zone, R5 Large Lot Residential Zones but prohibit the land uses '*backpackers accommodation*', '*hotel and motel accommodation*' and '*serviced apartment*'. By preparing the land use tables in this way all tourist accommodation except those

prohibited will be permissible uses. This is a similar approach used by other Councils including Bellinghen Council.

## **Part 1 Objectives or Intended Outcomes**

The primary objective of this LEP Amendment is to:

- 1 Amend the Nambucca LEP 2010 to allow Rural Tourist Developments that may be detached from dwellings and not ancillary to agricultural activities, for example tourist cabins.

## **Part 2 Explanation of Provisions**

The objectives of the LEP amendment will be achieved by the following proposed amendment:

*'Tourist and Visitor Accommodation'* be amended to permissible with consent in the RU1, RU2, R5 Zones but prohibit the land uses *'backpackers accommodation'*, *'hotel and motel accommodation'* and *'serviced apartment'*. By preparing the land use tables in this way all tourist accommodation except those prohibited will be permissible uses.

The current land use tables with recommended changes are provided in 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**

The planning proposal is not a direct result of any strategic study or report. Rather it is consistent with previous provisions contained within the Nambucca LEP 1995 which had been successfully implemented in the past. The proposed amendment will ensure land uses that were previously implemented are not complicated by legislative changes.

In addition to this the proposal is consistent with the Mid North Coast Regional Strategy which suggests that a range of tourism opportunities will be created across the region including:

*'Opportunities for smaller scale minimum-impact tourism ventures outside prime tourism development areas which relate to the landscape and environment will be provided'.*

The settlement planning guidelines to be used to implement the provisions of the Mid North Coast Regional Strategy suggest the following in relation to Tourism Activities:

*"future tourism development should provide for a wide range of experience opportunities from the low cost family type tourism developments, such as in caravan parks and camping grounds, to large single destination development."*

The proposal is not inconsistent with the vision or objectives of the North Coast Regional Tourism Plan 2004-2007.

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

The planning proposal is the best means of the achieving the objectives and intended outcomes. The only alternative would be to include an alternative definition within the standard instrument LEP.

It is not intended to address Rural Tourist Development in Councils DCP 2010 at this time. However, should Council find it becomes necessary at a later date, then Council's DCP could be amended to incorporate provisions which specifically address this type of development.

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

Amending the LEP to allow rural tourist developments will ensure uses permissible prior to recent changes to the Standard Instrument LEP will continue. A number of rural tourist businesses have been established under the old provisions, and have proved that with appropriate management an economical viable and sustainable rural tourism activity can succeed in the LGA. Such activities positively contribute to the local community and businesses.

***Implications of not proceeding at this time***

Should Council not proceed with the Amendment as proposed, then the Nambucca LEP 2010 will not allow certain types of rural tourist developments such as tourist cabins to occur in rural areas. This could be seen as a backward step by the community and prevent legitimate business from establishing in the shire.

***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?***

Yes, as stated above the proposal is consistent with the Mid North Coast Regional Strategy which suggests that a range of tourism opportunities will be created across the region including:

*'Opportunities for smaller scale minimum-impact tourism ventures outside prime tourism development areas which relate to the landscape and environment will be provided'.*

The proposal is not inconsistent with the vision or objectives of the North Coast Regional Tourism Plan 2004-2007.

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

Yes, Council has 'Nambucca Valley Strategic Review Report', (evolve network, 2007), this study reviewed the tourism industry within the Nambucca Valley and has made a number of recommendations. In respect to this proposed LEP Amendment the report notes the following:

*'Traditionally a strong farming community in recent years the industry has experienced massive losses due to a range of factors from drought through to ageing farmers with no succession planning and the effects of imported product. Opportunities exist in farm tours, to B&B's and farm stay experiences.'*

This proposal will ensure the opportunities for alternative forms of Rural Tourism are maintained.

As previously stated this proposed amendment is simply ensuring that activities permissible under the Nambucca LEP 2010 prior to recent changes remain permissible.

**6     *Is the Planning Proposal consistent with applicable State Environmental Planning Policies (SEPP's)?***

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 the 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 facilities in rural and semi rural environments include but are not limited to:

- Effluent/Waste Management;
- Bushfire Management (special purpose development that requires 100B bushfire safety authority);
- Access; and
- Flora and Fauna

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

Yes, 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 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*'.

The consultation will undertaken by:

- Giving notice in the local paper; and
- On Council's Website.

It is considered impractical to notify all landholders who may be affected by the planning proposal. Should the preparation of a Council newsletter and distribution within Council's rates notices coincide with the exhibition of the planning proposal a note may be placed in the newsletter.

# Appendix 1 – Existing Land Use Tables with proposed Changes

## 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; Shop top housing; **Tourist and visitor accommodation**. Any other development not specified in item 2 or 4.

### 4 Prohibited

Amusement centres; **Backpackers accommodation**; 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; **Hotel and motel accommodation**; Industrial retail outlets; Industrial training facilities; Industries; Mortuaries; Recreation facilities (indoor); Registered clubs; Residential accommodation; Respite day care centres; Restricted premises; Service stations; **Serviced apartments**; 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; **Tourist and visitor accommodation**; Any other development not specified in item 2 or 4.

### **4      Prohibited**

Amusement centres; **Backpackers accommodation**; Child care centres; Commercial premises; Eco-tourist facilities; Entertainment facilities; Exhibition homes; Exhibition villages; Heavy industrial storage establishments; Health services facilities; Heliports; **Hotel and motel accommodation**; Industrial retail outlets; Industrial training facilities; Industries; Recreation facilities (indoor); Registered clubs; Residential accommodation; Respite day care centres; Restricted premises; Service stations; **Serviced apartments**; 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 R5      Large Lot Residential**

### **1      Objectives of zone**

- To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality;
- To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future;
- To ensure that development in the area does not unreasonably increase the demand for public services or public facilities;
- To minimise conflict between land uses within this zone and land uses within adjoining zones.

### **2      Permitted without consent**

Home-based childcare; Home occupations; Horticulture.

### **3      Permitted with consent**

~~Bed and breakfast accommodation~~; Dual occupancies (attached); Dwelling houses; Extensive agriculture; Farm buildings; ~~Farm stay accommodation~~; Forestry; Garden centres; Group homes; Home industries; Landscaping material supplies; Neighbourhood shops; Plant nurseries; Roads; Rural workers' dwellings; Shop top housing; **Tourist and visitor accommodation**; Any other development not specified in item 2 or 4.

### **4      Prohibited**

Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; **Backpackers accommodation**; Commercial premises; Correctional centres; Dairies (pasture-based); Depots; Eco-tourist facilities; Exhibition villages; Extractive industries; Freight transport facilities; Heavy industrial storage establishments; Helipads; **Hotel and motel accommodation**; Highway service centres; Home occupations (sex services); Hostels; Industrial retail outlets; Industrial training facilities; Industries; Mortuaries; Multi dwelling housing; Passenger transport facilities; Registered clubs; Residential accommodation; Restricted premises; Rural industries; Service stations; **Serviced apartments**; Sex services premises; Storage premises; ~~Tourist and visitor accommodation~~; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Warehouse or distribution centres; Waste or resource management facilities; 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 the planning proposal for the Valla Urban Growth Area:

- **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 1,300 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 of 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 rural tourist facilities.

- **State Environmental Planning Policy No. 26 – Littoral Rainforest**

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 rural tourist facilities.

- **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 rural tourist activity.

- **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 the 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,

- (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 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.

- (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,

- (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,

The planning proposal may assist some rural land owners, compliment income from existing rural activities with income from tourist related development,

- (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 for tourist developments in rural areas,

- (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 does not specifically related to rural housing.

- **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 not inconsistent with the provisions of 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.

### 1.0 Employment and Resources

#### 1.1 Business and Industrial Zones

This planning proposal does 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 of minor significance, ensuring the Nambucca LEP 2010 allows similar uses to those permitted under the Nambucca LEP 1995.

#### 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.

## **2.0 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 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.

## **3.0 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.



Generally, this direction would not apply to the majority of land affected by this planning proposal. However the planning proposal does relate to R5 Large Lot Residential Land, and it is considered that the planning proposal is consistent with this direction.

### **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.

## **4.0 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 large lot 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 large lot residential zones 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,
- f Introduce controls on the placement of combustible materials in the Inner Protection Area.

The NSW Rural Fire Service (RFS) was consulted in accordance with the provisions of section 62 of the EP&A Act. The RFS advised that it *'raises no concerns or special considerations in relation to bushfire matters for the LEP.'*

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.

#### 5.0 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.

This Planning Proposal is consistent with the Mid North Coast Regional Strategy and the requirements of 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.

## **6.0 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.

