

Nambucca LEP 2010 – Policy and Housekeeping Amendments

Proposal Title : Nambucca LEP 2010 – Policy and Housekeeping Amendments

Proposal Summary : The proposal seeks to undertake 14 policy and housekeeping amendments to the Nambucca LEP 2010. The proposal requires amendments to the maps and written instrument.

The mapping changes relate to the application of land use zones and development standards to land in accordance with its ownership and / or primary use.

The proposed policy amendments are intended to improve the operation and accuracy of the Plan and also permit new development opportunities throughout the LGA.

PP Number : PP_2016_NAMBU_001_00 Dop File No : 16/03132

Proposal Details

Date Planning Proposal Received :	31-Mar-2016	LGA covered :	Nambucca
Region :	Northern	RPA :	Nambucca Shire Council
State Electorate :	OXLEY	Section of the Act :	55 - Planning Proposal
LEP Type :	Policy		

Location Details

Street :
 Suburb : City : Postcode :
 Land Parcel : Various individual land parcels throughout the LGA

DoP Planning Officer Contact Details

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Nambucca LEP 2010 – Policy and Housekeeping Amendments

Land Release Data

Growth Centre :	Release Area Name :
Regional / Sub Regional Strategy :	Consistent with Strategy :
MDP Number :	Date of Release :
Area of Release (Ha) :	Type of Release (eg Residential / Employment land) :
No. of Lots : 0	No. of Dwellings 0 (where relevant) :
Gross Floor Area : 0	No of Jobs Created : 0
The NSW Government Lobbyists Code of Conduct has been complied with : Yes	
If No, comment :	The Department of Planning and Environment's Code of Practice in relation to communications and meetings with lobbyists has been complied with to the best of the Region's knowledge.
Have there been meetings or communications with registered lobbyists? :	No
If Yes, comment :	The Northern Region office has not met any lobbyists in relation to this proposal, nor has the Region been advised of any meeting between other officers within the agency and lobbyists concerning this proposal.

Supporting notes

Internal Supporting
Notes :

External Supporting
Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

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

Comment : **The 'Statement of Objectives' describes the intention of the Planning Proposal.**

**It is suggested that any references to 'minor anomalies' and / or 'minor amendments' be
removed from this statement, and anywhere else that they appear in the Planning
Proposal, and replaced with the terms 'housekeeping' and / or 'policy amendments'.**

**This is considered necessary given that the proposed LEP amendments are not exclusive
to resolving minor anomalies in the Plan but also relate to permitting new development
opportunities throughout the LGA.**

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

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

Comment : **The Planning Proposal includes an explanation of the intended provisions to achieve the
objectives and intended outcomes.**

Nambucca LEP 2010 – Policy and Housekeeping Amendments

The proposal includes 14 policy and housekeeping amendments to the LEP, which can be summarised as:

- 8 x administrative mapping corrections to rezone land or apply development standards in accordance with its primary use or ownership;
- Map and list a new site under Schedule 5 – Environmental Heritage;
- 2 x amendments to written LEP provisions to improve their function;
- List 'secondary dwellings' as a permitted land use under the R5 Large Lot Residential zone land use table; and
- List 'detached dual occupancies' and 'eco tourist facilities' as a permitted land use under the RU1 Primary Production, RU2 Rural Landscape and R5 Large Lot Residential zone land use tables.

A detailed review of each proposed amendment is discussed under the 'Assessment' section of this Planning Team Report.

The explanation for each proposed LEP amendment is contained under Section 1 of the Planning Proposal rather than Part 2 as required by the Department's guidelines. The description of the proposed LEP amendments, which currently appear under Parts 1.2 – 1.14 of the Planning Proposal, should be contained within Part 2 – Explanation of Provisions of the document.

The Planning Proposal should also be updated prior to exhibition to incorporate the changes discussed under the 'Assessment' section of this Planning Team Report.

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.2 Rural Zones

1.3 Mining, Petroleum Production and Extractive Industries

1.5 Rural Lands

2.1 Environment Protection Zones

2.3 Heritage Conservation

3.1 Residential Zones

3.4 Integrating Land Use and Transport

4.1 Acid Sulfate Soils

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

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

6.1 Approval and Referral Requirements

6.2 Reserving Land for Public Purposes

6.3 Site Specific Provisions

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

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

d) Which SEPPs have the RPA identified?

SEPP No 44—Koala Habitat Protection

SEPP No 55—Remediation of Land

SEPP No 71—Coastal Protection

SEPP (Rural Lands) 2008

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

An assessment of the applicable directions and SEPPs is provided within the 'Assessment' section of this planning team report.

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

If No, explain :

See the 'Assessment' section of this planning team report.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **The Planning Proposal includes thumbnail maps that identify most sites which are subject to a proposed LEP amendment. Maps that indicate all of the proposed zoning and development standard amendments will need to be prepared prior to the proposal being exhibited.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **The Planning Proposal has indicated that community consultation will be undertaken but has not nominated a timeframe for this consultation.**

A 28 day community consultation period is considered appropriate given the proposal relates to policy amendments that will affect the wider LGA.

A condition should be included on the Gateway determination requiring Council to notify all affected and adjoining landowners in writing of the proposed LEP amendments. This is in regard to the proposed LEP amendments that relate to individual sites.

Consultation with the Office of Environment and Heritage, NSW Rural Fire Service and National Parks and Wildlife Service should be made a requirement as discussed further below.

Additional Director General's requirements

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

If Yes, reasons :

Overall adequacy of the proposal

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

If No, comment : **Noting all of the amendments which will be required to be undertaken to the Planning Proposal prior to it being exhibited, it is considered that the Planning Proposal can satisfy the adequacy criteria. It will:**

- 1. provide appropriate objectives and intended outcomes;**
- 2. provide a suitable explanation of the proposed provisions to achieve the outcomes;**
- 3. provide an adequate justification for the proposal;**
- 4. provide maps which identify the site and intended outcomes;**
- 5. indicate that community consultation will be undertaken; and**
- 6. include a project timeframe, which currently suggests completion around June 2016 (3 months).**

Timeline

- The timeline estimates the completion of the Planning Proposal by June 2016 (3 months). It is considered that a 9 month time frame would be appropriate given that amendments are required to the proposal before it is publicly exhibited. This does not restrict Council from finalising the matter sooner.

Delegation

- Council has requested delegation to finalise the proposal. Plan making functions should be delegated to Council given that the proposal relates to policy and zoning amendments which are consistent with the strategic planning framework.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation
to Principal LEP :

The Nambucca LEP 2010 is a Principal LEP and came into effect in July 2010. The Planning Proposal seeks to amend this planning instrument.

Assessment Criteria

Need for planning
proposal :

The Planning Proposal lists the proposed LEP Amendments under Sub Heading 1.2 – 1.14.

A detailed review of each proposed amendment is provided below. For the purposes of this 'Planning Team Report' the proposed LEP Amendments are discussed below in the order that they appear in the Planning Proposal and are identified by the Sub Heading Number provided in the Planning Proposal.

Sub Heading 1.2

- Thistle Park, which is located off Dudley Street in Macksville, comprises seven allotments.
- Despite these allotments being owned by Council and used for public recreation purposes, the land has been zoned residential.
- The Planning Proposal notes that this residential zoning is the result of the land previously being zoned for residential purposes under the Nambucca LEP 1995 and owned by the Department of Education.
- The proposal seeks to apply the RE1 Public Recreation Zone to these allotments and to remove any floor space ratio, maximum building height and minimum lot size development standards. This is consistent with the zoning and development standards applied to other public recreation land in the LGA.
- There are no issues raised in regard to this proposed amendment.

Sub Heading 1.3

- No. 5 Beer Parade, Nambucca comprises two allotments that were previously zoned part residential and part business under the Nambucca LEP 1995. The land has been developed and is being used as a veterinary clinic.
- The R3 Medium Density Residential zone has been applied to all of this land under the Nambucca LEP 2010. This zoning appears to be an error considering the current use of the site and that the site is identified as employment land under Council's Growth Strategy.
- The proposal seeks to apply the B1 Neighbourhood Centre zone to this site and to remove any floor space ratio and minimum lot size development standards. This is consistent with other B1 zoned land in the LGA.
- No issues are raised in regard to the proposed amendment.

Sub Heading 1.4

- The Macksville Post Office is Commonwealth Heritage Listed.
- It was listed in 2011, post finalisation of the Nambucca LEP 2010.
- The proposal seeks to list this site under Schedule 5 – Environment Heritage of the LEP.
- Whilst it is not stated under the LEP, the item will need to be mapped under the Heritage Map. This map should be prepared and exhibited with the proposal.
- No issues are raised in regard to the proposed amendment.

Sub Heading 1.5

- There is an allotment within the BJ Biffin Playing Fields in Nambucca Heads that is owned by the Nambucca Bridge Club and used for private recreation purposes.
- This land was purchased from Council by the Bridge Club in 2012, post finalisation of

the Nambucca LEP 2010.

- Despite this acquisition and private use, the land is zoned RE1 Public Recreation.
- The proposal seeks to apply the RE2 Private Recreation zone to this allotment, consistent with its use and private ownership
- Any matters regarding the loss of public land would have been reviewed at the time of Council classifying the land for operational purposes.
- The community will have opportunity to review the proposal during the exhibition period.
- No issues are raised in regard to this proposed amendment.

Sub Heading 1.6

- No. 24 Bellevue Drive and 10 McLennans Land, North Macksville comprise 6 separate allotments. These lots are zoned R1 General Residential however maximum floor space ratio and building height provisions have not been applied to all of the land.
- This is an error in the Plan and a likely outcome of this site previously being zoned for business purposes under a former LEP.
- A maximum FSR of 0.55:1 and a building height of 8.5m is proposed for the land, which is consistent with the zoning of the site and surrounding R1 zoned land.
- No issues are raised in regard to this proposed amendment.

Sub Heading 1.7

- A Standard Instrument LEP model clause exists for Acid Sulfate Soils. Under this model clause, development consent is not required for works which involve the disturbance of less than 1 tonne of soil 'or' is not likely to lower the water table. Council's LEP adopts this model clause.
- Council has identified that the wording of the clause has the potential to permit works occurring without consent that are not considered minor, i.e. works that are not likely to lower the water table but involve more than 1 tonne of soil. This is because of the use of the term 'or' in the clause.
- Council is seeking to substitute this 'or' with an 'and', to ensure that only low impact / minor works are excluded from the provision of the clause.
- The proposed use of an 'and' in this clause is consistent with other LEPs in the Northern Region and NSW.
- No issues are raised in regard to this proposal.

Sub Heading 1.8(a) and (b)

- There are 2 allotments in Nambucca Heads which are owned by the Nambucca Heads Local Aboriginal Land Council.
- Despite these allotments historically being zoned for residential purposes, a RE1 Public Recreation zone has been applied to the land under the current LEP.
- The land is not used or embellished for public recreation use and is not mapped as open space under Council's 2015 Open Space Management Strategy.
- The proposal seeks to rezone the land consistent with its private ownership and to facilitate development.
- The proposal seeks to apply the R1 General Residential Zone and E3 Environmental Management Zone to parts of each allotment. The R1 zoned portions would have a 450m² minimum subdivision, 8.5m maximum building height and 0.55:1 maximum FSR applied to them. The E3 zoned portions would have a 40 hectare minimum subdivision standard applied to them.
- Zoning the land R1 is consistent with the previous zoning for the site and surrounding land uses. No issues are raised in regard to this proposed zoning.
- Council has indicated that the E3 zone is proposed due to perceived development constraints on the land, primarily due to slope. Council has also indicated that the E3 zone is supported by the Local Aboriginal Land Council.
- Whilst the 'Final Recommendations' for the Northern Councils E Zone Review do not

apply to Nambucca, it is noted that 'slope' does not qualify for an E3 zoning under these recommendations. An E3 zone can be applied to land that does not meet the criteria however if it is supported by the landowner.

- It is considered that the E3 zone could provide limitations for developing the residential zoned portions of the site and that consideration of the extent of the E3 zone may be more appropriate for the site once a development outcome for the land is known.
- However, as the zone is supported by Council and the landowner, it is considered appropriate that the Planning Proposal progresses at this stage.
- Further review after the Gateway with the Community and Government Agencies and/or site specific studies may inform changes to these proposed zoning boundaries.
- A condition should be included on the Gateway determination that requires Council to write to the landowner. This will provide opportunity for the landowner to review the proposal and raise any concerns with the proposed LEP amendments.

Sub Heading 1.9

- Whilst Clause 4.6 of the LEP provides flexibility for creating lots less than the minimum lot size, it is common for a Standard Instrument LEP to contain specific provisions for creating lots less than the minimum lot size when associated with an existing or proposed dwelling (integrated housing clause).
- The Nambucca LEP 2010 includes this clause, being Clause 4.1(4A).
- Council is concerned that the wording of the current clause is ambiguous and is seeking to amend the written provisions regarding subdividing land with a dual occupancy. Council is seeking to amend the clause to confirm that subdivision of an existing dual occupancy onto separate titles that are less than the minimum lot size is permitted.
- The wording of Clause 4.1(4A) under Council's LEP is unique and differs to other model Clauses throughout the Northern Region (e.g. Lismore & Byron LEPs).
- Council has indicated that it wants to retain its clause with the proposed amendment.
- The proposed clause is easy to interpret, so it is not considered necessary to require Council to rewrite the proposed provision as plain English.
- The sub heading title does not reflect the proposed LEP amendment and should be updated prior to the proposal being exhibited.

Sub Heading 1.10

- A 15.05 hectare allotment in Buckra Bendinni is zoned RU3 Forestry. The land is heavily vegetated with approximately 2.5 hectares of cleared land within the south of the site.
- The planning proposal indicates that this zoning does not reflect the private ownership or use of the site. The proposal seeks to apply a RU1 Primary Production and RU2 Rural Landscape zone to this land and apply the 100 hectare minimum lot size standard to the entire site.
- The proposal currently does not include a map indicating the proposed zoning configuration.
- The proposed zones and minimum lot size standards are consistent with the zoning and development provisions for the local rural area. It is assumed that the RU1 zone would be applied to the southern portion of the site, which as mapped as significant farmland. This is consistent with the approach for zoning farmland in the Nambucca LGA.
- A condition should be included on the Gateway determination that requires Council to write to the landowner of the site. This will provide opportunity for the landowner to review the proposal and raise any concerns with the proposed zoning and development provisions being proposed.
- The Department will have an opportunity to review the mapping prior to exhibition.

Sub Heading 1.11

- Part of a private allotment has been zoned as E1 National Park and Nature Reserves.

The proposal indicates that this is due to incorrect cadastre being used during the preparation of the LEP.

- The proposal seeks to rezone this land with the adjoining R1 General Residential and E3 Environmental Management zones and apply floor space ratio, height of building and minimum lot size development standards to this rezoned land which correspond with the adjoining R1 and E3 zones. This would be consistent with the former zoning for the site under the LEP 1995 and appears consistent with the Growth Area Boundary Map under the Mid North Coast Regional Strategy.
- The proposal currently does not include a map indicating the proposed zoning configuration or the actual development standards being proposed.
- A map indicating the proposed zones and development standards will be required to be prepared and exhibited with the proposal.
- A condition should be included on the Gateway determination that requires Council to write to the landowner. This will provide opportunity for the landowner to review the proposal and raise any concerns with the proposed LEP amendments.

Sub Heading 1.12

- The proposal seeks to list secondary dwellings in the R5 Large Lot Residential zone land use table as a use that is permitted with development consent.
- It is acknowledged that the Affordable Housing SEPP makes secondary dwellings a permitted use in the R5 zone.
- Listing this use under the LEP does not raise any inconsistency with the SEPP. Listing it under the LEP also removes any ambiguity regarding maximum floor space requirements under the SEPP and LEP.

Sub Heading 1.13

- Dual occupancies (attached) and rural workers dwellings are listed as a permitted use within the rural and large lot residential zones under the LEP. Secondary dwellings are also permitted in the rural zones in accordance with the LEP and within the R5 large lot residential zone as discussed above. The LEP in this regard already includes provisions that provide a mechanism for erecting two (or more) dwellings within these zones.
- Council is seeking to permit detached dual occupancies as an alternative form of residential accommodation within these zones, to increase housing availability, choice and affordability in the LGA.
- Council is also seeking to amend the development provision (Clause 4.2A) which relates to erecting dual occupancies on rural land (dwelling entitlement clause).
- The inclusion of dual occupancies (both detached and attached) in the rural and large lot residential zone land use tables is common planning practice on the North Coast. Similar provisions are included in the local planning instruments for the Lismore, Kyogle, Nambucca and Byron LGAs. Kempsey and Clarence Valley Council are currently pursuing a planning proposal to include similar provisions in their LEPs.
- Unlike these other LGAs, Nambucca Council is not seeking to include 'heads of consideration' type provisions under its LEP for this proposed use. Council is of the belief that the current LEP zone objectives and merit assessment requirements under the Act are sufficient for managing land use conflict and environmental impacts. Council has noted that it will consider including 'heads of consideration' provision under its DCP when it later reviews this development guiding document. This is considered a local planning matter and does not raise issues for the Gateway supporting the proposal.
- Further review after the Gateway with the Community and Government Agencies may inform additional provisions being proposed under Council's LEP or DCP.
- Council is also not seeking to remove its provisions relating to rural workers dwellings on rural land. Whilst it could be argued that a dual occupancy or secondary dwelling could perform the function of a 'rural workers dwelling', retaining these provisions under the LEP provides flexibility for farmers and rural land owners and means that 'continuation of use' provisions under the Act are not being relied on.

Sub Heading 1.14

- The proposal seeks to list 'eco tourist facilities' as a permitted land use in the RU1 Primary Production, RU2 Rural Landscape and R5 Large Lot Residential zones.
- This will promote alternative forms of temporary / tourist accommodation in rural areas.
- The proposal also seeks to adopt the model clause for 'eco tourist facilities', which includes heads of consideration for matters such as land use conflict, site suitability and managing potential impacts.
- No issues are raised in regard to this proposal.

The proposed amendments to the LEP are the most appropriate means for achieving the intent of the proposal.

Consistency with
strategic planning
framework :

MID NORTH COAST REGIONAL STRATEGY

The Planning Proposal is considered to be generally consistent with the aims and policies of the Regional Strategy.

Many of the proposed LEP amendments relate to correcting mapping anomalies in the Plan to ensure land use zones or development standards are applied to land in accordance with its ownership and/or primary use. It appears that the proposal does not include any proposed residential zoning outside of the Growth Area Boundary.

Listing the Macksville Post Office under the Heritage Schedule of the LEP will promote the heritage status of this item and ensure the provisions under the LEP which relate to protecting heritage items are applicable to this site. This is consistent with the aims of the Strategy.

The proposed amendments to the residential subdivision and acid sulfate soils clauses and inclusion of secondary dwellings under the R5 land use table will improve the operation of the LEP and are not inconsistent with the Strategy.

In relation to permitting dual occupancies (detached) and eco tourist facilities on rural and large lot residential land, the MNCRS recognises that population growth will place pressure on farmland resources and that it is important to find a balance between protecting high value agricultural land and providing opportunities for rural lifestyle, settlement and housing.

As discussed above, two or more dwellings are already permitted on rural and large lot residential zoned land under Council's LEP. Similarly, the LEP already provides scope for short term / farm stay accommodation. The proposal to permit detached dual occupancies and eco tourist facilities within these zones in this regard does not result in a 'net increase' in potential dwellings, but rather provides for alternative forms of housing and accommodation availability, diversity and affordability.

The proposal is considered to be consistent with the strategic themes of the MNCRS.

DRAFT NORTH COAST REGIONAL PLAN

The Draft North Coast Regional Plan is currently on public exhibition. Once adopted this Plan will replace the Far North Coast Regional Strategy and will guide strategic planning across the North Coast over the next 20 years.

The Draft Plan includes a range of actions for considering LEP amendments. The key actions specific to this proposal relate to: identifying and protecting areas of high environmental values; updating controls specific to protecting heritage significance; permitting complementary uses in rural zones; focusing growth to the least sensitive and constrained areas; and providing sufficient and affordable housing supply.

The proposal is consistent with the Actions listed under this Draft Plan.

LOCAL COMMUNITY STRATEGIES

As noted above, the proposed rezoning of two sites that are currently zoned for public recreation purposes is consistent with Council's Open Space Management Strategy.

These lots are not identified as public open space under the Strategy nor are they currently used or embellished for public open space purposes.

STATE ENVIRONMENTAL PLANNING POLICIES

No inconsistency with provisions under the SEPPs has been identified.

SEPP Rural Lands

The proposal is consistent with a number of the Rural Planning Principles under the SEPP:

- the proposal does not result in a net increase of dwelling permissibility on rural land;
- consistency with the SEPP would need to be reviewed through the development application process; and
- the proposal is consistent with the MNCRS.

SEPP 55

The proposal will not result in a net increase of sensitive land use permissibility on potentially contaminated. The two sites owned by the Aboriginal Land Council which are proposed to be zoned residential from public recreation, have historically been zoned for residential purposes.

The suitability of land for accommodating development on any land would be reviewed at development application stage.

Affordable Housing SEPP

The proposal is consistent with the intent of the SEPP, promoting housing choice. Secondary dwellings which do not meet the development standards under the SEPP can still be proposed on land zoned R5, where they meet the standards under Council's LEP.

SECTION 117 DIRECTIONS

The following directions are applicable to the proposal:

1.1 Business and Industrial Zones; 1.2 Rural Zones; 1.3 Mining, Petroleum Production and Extractive Industries, 1.5 Rural Lands, 2.1 Environment Protection Zones; 2.2 Coastal Protection; 2.3 Heritage Conservation, 2.4 Recreational Vehicle Areas, 3.1 Residential Zones, 3.2 Caravan Parks and Manufactured Home Estates, 3.3 Home Occupations, 3.4 Integrating Land Use and Transport, 3.5 Development Near Licensed Aerodromes; 3.6 Shooting Ranges; 4.1 Acid Sulfate Soils; 4.3 Flood Prone Land; 4.4 Planning for Bushfire Protection; 5.1 Implementation of Regional Strategies, 5.3 Farmland of State and Regional Significance on the NSW Far North Coast; 5.4 Commercial and Retail Development along the Pacific Highway, North Coast; 6.1 Approval and Referral Requirements and 6.2 Reserving Land for Public Purposes.

Of the above s117 Directions the proposal is considered to be inconsistent with Direction 2.1, 3.1, 3.4, 4.1, 4.3, 4.4 and 6.2.

2.1 Environment Protection Zones

The proposal seeks to remove an environmental zone from a site. The proposal is inconsistent with the Direction.

The E1 National Parks and Nature Reserves zone appears to have been applied to a privately owned site in error and therefore its removal is considered to be justified as of minor significance.

The Office of Environment and Heritage and National Parks and Wildlife Service should be provided an opportunity to review the proposal.

3.1 Residential Zones

The proposal seeks to apply a business zone and a recreation zone to land that is currently zoned for residential purposes. It also seeks to apply development standards to residential zoned land which currently does not have development standard requirements applied to it. The proposal is inconsistent with the direction given that it will reduce the permissible residential density of land.

The inconsistency is considered to be of minor significance as:

- the proposed rezoning is to ensure land is zoned in accordance with its ownership and/or primary use; and
- the application of development standards to residential land is due to mapping errors in the LEP and / or to ensure consistent standards are applied to residential land across the LGA.
- the rezoning is consistent with an endorsed Growth Strategy.

3.4 Integrating Land Use and Transport

The Proposal is inconsistent with this Direction as it increases permissible uses within the R5 zone and does not reduce private travel demand. The inconsistency is justified as the proposal is consistent with the Mid North Coast Regional Strategy.

4.1 Acid Sulfate Soils

The proposal lists the sites that are mapped as potentially containing Acid Sulfate Soils.

The proposal does result in additional uses being permitted on land which may contain Acid Sulfate Soils. Despite this intensification of land uses, the proposal is not supported by an Acid Sulfate Soils assessment or management plan. The proposal is inconsistent with this Direction.

The inconsistency is considered to be of minor significance as:

- clause 7.1 Acid Sulfate Soils of Council's LEP applies to the land and ensures that Acid Sulfate Soils and water table issues are appropriately considered and addressed at the development application stage; and
- the proposal seeks to update the provisions under Clause 7.1 to ensure that only minor works on land that potentially contains Acid Sulfate Soils can be undertaken without development consent.

The Office of Environment and Heritage should be provided an opportunity to review the proposal.

4.3 Flood Prone Land

The proposal lists the sites that are subject to flooding.

The proposal is inconsistent with this Direction as it proposes provisions, land use zoning and development standard changes that have the potential to effect flood prone land.

The inconsistency is considered to be of minor significance as:

- clause 7.3 Flood Planning of Council's LEP applies to all flood prone land and ensures that flooding issues are appropriately considered and addressed at the development application stage.

The Office of Environment and Heritage should be provided an opportunity to review the proposal.

4.4 Planning for Bushfire Protection

The proposal lists the sites that are subject to bushfire.

This Direction is relevant as the Planning Proposal has the potential to affect land that is mapped as being bushfire prone or within a bushfire prone buffer area. The Direction requires the RPA to consult with the Commissioner of the NSW Rural Fire Service after a Gateway determination has been issued. Until this consultation has occurred the consistency of the proposal with the Direction remains unresolved.

6.2 Reserving Land for Public Purposes

The proposal will alter the amount of land zoned for RE1 Public Recreation Purposes and E1 National Parks and Nature Reserves.

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It is noted in the proposal that these public purpose zones have been applied to private land in error and therefore the inconsistency with this direction can be justified as of minor significance.

National Parks and Wildlife Service should be provided an opportunity to review the proposal.

Environmental social
economic impacts :

Many of the proposed amendments are of a housekeeping nature and likely to have positive environmental, social or economic impacts as a result of the improved operation of the Nambucca LEP 2010.

The proposal to permit alternative housing and tourist facilities on rural and large lot zoned land is intended to increase housing and accommodation availability, choice and affordability in the LGA without significantly increasing dwelling entitlements or densities. The additional proposed development standards relating to these uses are also intended to minimise land use conflict and environmental impact and promote residential amenity.

In particular regard to the proposed rezoning of public recreation land to residential (Sub Heading 1.8), this land is bushfire and flood prone however it is considered that the proposed rezoning does not warrant a bushfire or flood impact assessment. This land was previously zoned for residential purposes. Management of these natural hazards can be reviewed at development stage.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	28 Days
Timeframe to make LEP :	9 months	Delegation :	RPA
Public Authority Consultation - 56(2)(d) :	Office of Environment and Heritage Office of Environment and Heritage - NSW National Parks and Wildlife Service NSW Rural Fire Service		

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

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

If no, provide reasons :

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

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

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

If Yes, reasons :

Documents

Nambucca LEP 2010 – Policy and Housekeeping Amendments

Document File Name	DocumentType Name	Is Public
Planning Proposal 21 - Housekeeping & Other Minor Amendments.pdf	Proposal	Yes

Planning Team Recommendation

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

S.117 directions:

- 1.2 Rural Zones
- 1.3 Mining, Petroleum Production and Extractive Industries
- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 3.4 Integrating Land Use and Transport
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 5.1 Implementation of Regional Strategies
- 5.4 Commercial and Retail Development along the Pacific Highway, North Coast
- 6.1 Approval and Referral Requirements
- 6.2 Reserving Land for Public Purposes
- 6.3 Site Specific Provisions

Additional Information :

It is **RECOMMENDED** that the Acting Director Regions, Northern as delegate of the Minister for Planning, determine under section 56(2) of the EP&A Act that an amendment to the Nambucca Local Environmental Plan 2010 to undertake various policy and housekeeping amendments should proceed subject to the following conditions:

1. Prior to the commencement of community consultation, Council is to update the planning proposal to:
 - (a) remove any reference to 'minor anomalies' and 'minor amendments' from the Planning Proposal and replace with 'housekeeping' and 'policy amendments';
 - (b) incorporate the sections under Sub Heading 1.2 – 1.14 into Part 2 – Explanation of Provisions of the Planning Proposal and chronologically number each proposed LEP amendment;
 - (c) include maps that identify the existing and proposed zones and development standards or heritage listing as relevant for each site;

Council is to provide the Department with a copy of the updated material prior to community consultation.

2. Consultation is required with the following public authorities prior to undertaking community consultation under section 56(2)(d) of the Act and/or to comply with the requirements of relevant S117 Directions:

- Office of Environment and Heritage;
- National Parks & Wildlife Service;
- Nambucca Heads Aboriginal Land Council; and
- NSW Rural Fire Service.

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

3. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:

- (a) the planning proposal must be made publicly available for a minimum of 28 days;
- (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with Planning Proposals as identified in section 5.5.2 of A Guide

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to Preparing LEPs (Department of Planning and Infrastructure 2013); and
(c) Council must notify all affected and adjoining landowners of the Planning Proposal's public exhibition. This is in relation to the proposed LEP amendments that relate to a specific site.

4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

5. The timeframe for completing the LEP is to be 9 months from the week following the date of the Gateway determination.

6. Section 117 Directions - It is recommended that:

(a) The Secretary's Delegate determine that inconsistency with s117 Direction 2.1 Environment Protection Zones, 3.1 Residential Zones, 3.4 Integrated Land Use and Transport, 4.1 Acid Sulfate Soils, 4.3 Flood Prone Land and 6.2 Reserving Land for Public Purposes is justified in accordance with the terms of the Directions.

(b) The Secretary's Delegate note that consistency with s117 Direction 4.4 Planning for Bushfire Protection will be reviewed following consultation with public agencies.

7. Plan making functions should be delegated to Council given that the proposal relates to local planning matters and is consistent with the strategic planning framework.

Supporting Reasons : The reasons for the above recommendations for the Planning Proposal are as follows:

1. The proposed amendments will generally improve the operation of the Nambucca LEP 2010.
2. The recommended conditions to the Gateway are required to provide adequate consultation, accountability and progression.

Signature:



Printed Name:

PAUL GARNETT

Date:

6/4/16

Acting Team Leader
Northern Region

