

Attachment 2 - Analysis of Government Agency Submissions

Submission No.	Government Agency / Issue	Consideration	Recommended Response
1	<p>NSW Public Works</p> <p>None of the proposed zonings include 'special uses', such as WWTPs, so there is no specific zoning type for this land use. The proposed zoning for Ballina and Wardell WWTPs is 'Rural Landscape' (RU2), Lennox Head WWTP is 'Environmental Conservation' (E2) and Alstonville WWTP is 'Environmental Management' (E3).</p> <p>Proposed zoning of the Lennox Head WWTP site as 'Environmental Conservation' (E2) seems inappropriate. The review of the Infrastructure SEPP undertaken in March 2010 by the Department of Planning recommended that consultation be undertaken during the preparation of LEPs to ensure that land is appropriately zoned for sewage treatment facilities where anomalies exist.</p>	<p>The Department of Planning & Infrastructure (DP&I) released a new LEP Practice Note (PN 06-002; PS 09-011) on 14 December 2010. The Practice Note contains six principles for zoning infrastructure. The second principle states that where the infrastructure type is only permitted in certain prescribed zones in the Infrastructure SEPP the infrastructure should be provided in the prescribed zones rather than the special use zones. If there is no adjacent prescribed zone, the land should be zoned SP2 Infrastructure.</p> <p>While the RU2 zone is a prescribed zone for Sewerage systems, the E2 zone and the E3 zone are not. The Lennox Head WWTP and the Alstonville WWTP should therefore be zoned SP2 Infrastructure in accordance with the Practice Note.</p> <p>In relation to Wardell and Ballina WWTPs, there is the potential for confusion and inconsistency if some but not all WWTPs are zoned SP2. It is therefore recommended that all the WWTPs be zoned SP2.</p>	<p>Recommend rezone the Lennox Head WWTP, Alstonville WWTP, Wardell WWTP and Ballina WWTP SP2.</p>

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	<p>Map sheet SGA-015 'Strategic Growth Area Map' shows the Ballina WWTP site and surrounding buffer zone as a 'Potential Urban Growth Area'. This could have significant implications for the new WWTP and threats to the associated buffer zone. which needs to be a minimum 200m radius from active parts of the plant. If the buffer zone is proposed to be zoned for potential urban development then any future use of the area for 'Vegetation Regeneration' purposes will be prejudiced by the high cost of the land purchase due to its higher value. The future site for the planned WWTP and a minimum buffer zone requires some safeguarding through the LEP.</p>	<p>This map reflects the land within the Shire currently zoned 1(d). Any future proposed rezoning of land zoned 1(d) under BLEP 1987 will be required to consider the relationship of the land with the WWTP. The application of the SP2 zone to the WWTP may provide further clarity in this regard.</p>	<p>Recommend review provision / zoning of buffers in the application of the SP2 Infrastructure Zone.</p>

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02	<p>Roads and Traffic Authority</p> <p>Request that the Alstonville Bypass, Ballina Bypass, Woodburn to Ballina and Tintenbar to Ewingsdale upgrades of the Pacific Highway along with remnant sections of the existing Bruxner Highway to be zoned SP2 Infrastructure. The RTA is requesting the SP2 zoning of State Roads under the LEP renewal process on a State wide basis. The section of existing Pacific Highway through Ballina excised by the Ballina Bypass could be zoned according to the adjacent zonings.</p> <p>RTA requires Council to ensure that the Draft LEP provides for “Roads” to be permitted without consent in the SP2 Infrastructure Zone. Roads should be permitted with consent in all other zones.</p>	<p>Difficulty in relation to the precise location of some roads and associated confusion with having some, but not all, future road corridors zoned.</p> <p>Will depend on decision re application of the SP2 zone. Roads are permitted with consent in all zones with the exception of the following:</p> <ul style="list-style-type: none"> • RE1 Public Recreation Zone - permitted without consent as prescribed land uses; and • E1 National parks and Nature Reserves Zone – only uses authorised under the National Parks and Wildlife Act 1974 are permitted without consent, and no uses permitted with consent. <p>Given that the SP2 zone is similar to the RE1 zone in terms of ownership and</p>	<p>Recommended that for the purpose of consistency the SP2 zone not be applied to road corridors, unless the above review of the revised Practice Note indicates otherwise.</p> <p>Recommend that roads be listed as permissible without development consent in the SP2 zone.</p>

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	<p>LEP should make provisions for developer funding of required road / transport infrastructure improvements that may be required as a result of future development in the area. A clause should be applied consistent with the provisions of the Draft EP & A Act 2008 for road transport infrastructure.</p> <p>For safety reasons, the RTA requires Council to ensure that child care centres are prohibited within any zones where the subject property(s) have direct frontage to a classified road.</p> <p>Council should consider the land uses listed as permissible development in rural zones. Controlling the type of development permissible within these zones, given the large extent of rural zoning along the classified road network, is an important</p>	<p>management (i.e. Council or Crown) it is recommended that roads be listed as permissible without development consent in the SP2 zone for consistency.</p> <p>The EP & A Act makes provision for this and based on advice from the DP&I it is not considered appropriate to include these provisions in the Draft LEP.</p> <p>This would require the potential application of a different zone to properties with direct frontage to a classified road, or the insertion of a local provision to address this issue. This is considered to be a matter for the Standard Instrument and / or the Infrastructure SEPP. It may be appropriate to add child care centres as defined to Schedule 3 of the Infrastructure SEPP?</p> <p>Educational establishments are prohibited in the RU1 Primary Production zone and permitted with consent in the RU2 Rural Landscape zone. Any application for development with frontage to a classified road is required to be assessed in</p>	<p>It is recommended that no amendment to the Draft LEP is required in response to this issue.</p> <p>No action is recommended in relation to this issue other than advising the DP&I through the Draft LEP process of the concerns of the RTA.</p> <p>No action required.</p>

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	<p>consideration for a roads authority. The current Draft LEP includes educational facilities as permissible in rural zones with consent. These developments create major traffic generation and accessibility issues on the classified road network and Council should consider prohibiting them where they have direct frontage to a classified road in rural zones.</p> <p>The proposed enterprise zone at West Ballina is noted. Permissible uses should be evaluated to determine the implications of increased traffic due to the intensification of land use in this area.</p> <p>RTA has previously provided information on the road network corridors for the State Road network, RTA land ownership and identifies any adjustments / inclusions required for the Draft LEP.</p> <p>No direct vehicular access should be permitted via individual properties to/from classified roads. All direct property access should desirably be via the local road network. A road hierarchy and access management strategy should be implemented for the purpose of access</p>	<p>accordance with the provisions of the ISEPP (Clauses 98 – 104). The ISEPP currently requires educational establishments with 50 or more students to be referred to the RTA for comment. Given the provisions of the ISEPP it is not considered likely that the DP&I would allow a further local provision to address the issue of development permitted on classified roads.</p> <p>While the proposed B6 Enterprise Zone represents a new approach to the West Ballina locality, the types of uses proposed to be permitted are not dissimilar to those presently permitted in this area in terms of their potential traffic generation.</p> <p>This is related to the overall policy position regarding the zoning of roads.</p> <p>This is considered to be an issue that should either be addressed via a clause in the Standard Instrument to apply to all local government areas or addressed via DCP provisions and / or via the development assessment process.</p>	<p>B6 zone subject to recommended amendment – see community and staff based issues summary.</p> <p>No action recommended.</p> <p>No action recommended.</p>

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	<p>rationalisation, with the aim of ultimately removing / reducing direct property access to the state road network.</p> <p>The NSW Government - Premiers Council for Active Living (PCAL) has produced a document "<i>Designing Places for Active Living</i>". The key design considerations should be taken into consideration in the preparation of new LEPs. Future developments should be designed such that the road traffic noise from classified roads is mitigated in accordance with the DECCW's criteria for new developments (<i>Environmental Criteria for Road Traffic Noise</i>). The RTA's <i>Environmental Noise Management Manual</i> provides practical advice for selecting noise mitigating treatments.</p>	<p>The design provisions referred to are considered to be most appropriately addressed via DCP provisions and / or via the development consent process.</p>	<p>This will be addressed in the DCP.</p>

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04	<p>NSW Police Force</p> <p>The following issues are identified as requiring Police attendance and resources:</p> <ul style="list-style-type: none"> • Noise complaints (e.g. complaints from rural subdivision residents about farming noises); • Impacts of rural industry on adjoining neighbours; • Policing of sex industry and brothel development both legal and illegal; • Caravan parks; and • Inappropriate land being dedicated as parkland in new subdivisions – most cases not useable and does not comply with Crime Prevention through Environmental Design criteria. 	<p>The issues identified generally appear to relate to development assessment matters. Issues such as potential land use conflict have been considered as part of the Draft LEP preparation process.</p>	<p>No action required.</p>

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05	Department of Planning – Heritage Branch		
	<p>Compulsory Heritage Provisions The Heritage Branch supports the preparation of the Draft LEP in accordance with the Standard Instrument Heritage Provisions for LEPs.</p> <p>Council has included an additional Note at the beginning of the provision to highlight that Aboriginal cultural heritage is not included in Schedule 5 of the Draft LEP, and that any such matters would be assessed under Section 79C of the <i>Environmental Planning and Assessment Act</i> with reference to the <i>National Parks and Wildlife Act</i>. The Heritage Branch supports the inclusion of this Note.</p>	<p>Noted</p> <p>Noted</p>	<p>No action required.</p> <p>No action required.</p>
	<p>Exempt and Complying Provisions “Advertisements” is not listed in <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i> (the Codes SEPP). No objection is raised to the inclusion of Advertisements for the purposes of all proposed forms of real estate signs, signs behind glass line of a shop window, and temporary signs. These types of advertisements are considered to have minimal impacts on the heritage significance of the heritage items and conservation</p>	<p>It is understood that the Codes SEPP is being revised to include provisions for advertising signage.</p> <p>The current exempt and complying development provisions contained in Ballina Shire DCP exclude land identified as an Item of Environmental Heritage in Schedule 1 of the BLEP 1987, or subject to an order under the <i>Heritage Act 1974</i>.</p>	<p>Recommended that the Exempt Development Schedule be adjusted to incorporate provision for general advertising as suggested by the Heritage Branch.</p>

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	<p>areas. However, it is recommended that a clause is inserted into the general requirements for advertisements to exclude heritage items and heritage conservation areas, unless it is to replace existing signage. Where this is not possible, it is recommended that all other proposed forms of advertisements are removed from the Schedule as these development types have a high potential to adversely impact the fabric of the heritage items.</p>	<p>The draft LEP contains a compulsory clause in relation to Exempt and Complying Development (Clause 3.1) which nominates the exclusions in relation to exempt development. The exclusions include land that comprises, or on which there is, an item that is listed on the State Heritage Register under the <i>Heritage Act 1977</i> or that is subject to an interim heritage order under the <i>Heritage Act 1977</i>.</p> <p>The draft LEP therefore does not afford the same level of “protection” for heritage items as the existing DCP. There are no conservation areas identified in BLEP 1987 or the draft LEP.</p>	
	<p>Schedule of Heritage Items Schedule 5 of the Draft LEP identifies a list of local and State significant heritage items and archaeological sites in the Ballina LGA. The Heritage Branch raises no objections to the listing of heritage items that have had the appropriate assessment undertaken and that have been determined as being of heritage significance. It would be appreciated if Council could provide the Heritage Branch with an updated list of items at the finalisation of the LEP.</p>	<p>Noted</p>	<p>Council to send an updated list of items to the Heritage Branch at the finalisation of the LEP.</p>

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	<p>State heritage significant item "High Conservation Value Old Growth Forest", and the local heritage significant item "Sunnyhaven Flats" are not listed in the Schedule. The State heritage significant item is required to be listed in the LEP and given the proper "State" notation. In regards to the locally significant item, Council is the determining body for its listing eligibility. However, it is recommended that Council provide justification to the Heritage Branch for any items removed from the Schedule.</p>	<p>No change re "High Conservation Value Old Growth Forest". DP&I has advised that item is not to be listed as it is adequately protected by other means (see email dated 6/7/10).</p> <p>"Sunnyhaven Flats" are also known as Ballina Manor and are listed as this.</p>	<p>No amendment recommended.</p>

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06	Industry and Investment NSW		
	<p>General Comment Council is commended on the comprehensiveness and quality of the package of LEP material that was developed and made publically available via the website. This material has been of assistance in gaining an understanding of the Draft LEP. The Information Sheets detailing Council's policy with respect to primary Production Land and Rural Subdivision complement the objectives of this agency and are commended.</p> <p>In relation to climate change, extreme weather patterns involving high winds, intense rainfall events, potential natural disasters and storm damage are possible consequences of a changing climate. Climate change may also bring about some changes in land use and some changes in industries and businesses as they respond. The LEP review presents Council with an opportunity to provide future planning appropriate to meet these expected changes.</p>	Noted	No action required.
	<p>Aims of the LEP The aims of the LEP are supported in principle.</p>	Noted	No action required.

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	<p>Land Use Zones The dominant use of the RU1 zone across the rural lands of the Shire is supported in principle. The RU1 zone includes lands that have been subdivided and are used for rural living purposes. Our agency would prefer zoning to reflect the actual and dominant use of an area though we acknowledge that lands used for rural living may have been zoned RU1 due to the current rural zoning that applies to these lands and given that rural residential development is no longer encouraged or permitted in the Shire by way of Council policy.</p> <p>Department pleased to note that access to mineral resources has been maintained across much of the LGA. The Mineral Resource and Energy Division supports Council's attempt to cater for a range of land uses in many of the proposed zones and is pleased to note that mining and extractive industries are permissible activities with development consent in the proposed E3 zone. The Division suggests however that it may be more appropriate to limit the use of E2 zones to areas with high conservation value and prohibit mining and extractive industries in his zone in conjunction with a broader application of E3 which permits</p>	<p>Intention is not to include the rural residential zones in the draft plan to reflect Council policy regarding no more rural residential subdivision in the Shire.</p> <p>The provisions of State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 permits extractive industry to be carried out with development consent on land on which development for the purposes of agriculture or industry may be carried out. As it is intended to maintain extensive agriculture as a permissible use within the E2 zone Extractive industry will remain permissible within consent in the zone.</p> <p>In view of the above, and that the application of the E2 zone reflects the attributes of the land and surrounding land, the</p>	<p>Maintain existing zone application to rural residential areas of the shire.</p> <p>No amendment recommended.</p>

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	<p>mining and extractive industries. The Department would want to assess any revisions to the land use zoning maps should Council decide to adopt such an approach.</p> <p>Zoning maps indicate small pockets of rural land within the urban precinct of Lennox Head that have been zoned RU1. The RU1 zone should primarily be applied to lands where there is a genuine desire to promote continued primary industry and agricultural development. It is accepted that the RU1 zone may be the most appropriate zone in the circumstances in order to recognise that some of this land is the subject of investigation for future urban development.</p> <p>E3 zone appears to have been applied to areas that continue to have values as water catchments. No objection is offered given the agricultural land uses that are permitted with consent and that the voluntary adoption of best management practice and on-ground environmental works are already occurring and can provide substantial benefits to these catchments.</p>	<p>recommendation to zone these areas E3 is not considered appropriate.</p> <p>Application if RU1 zone reflects the absence of an equivalent to the existing 1(d) zone and represents the 'base' zone pending detailed investigations regarding the suitability of the land for urban development.</p> <p>Noted</p>	<p>No amendment recommended.</p> <p>No action required.</p>

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	<p>“Buffer” lands between Alstonville and Wollongbar, as well as rural lands to the east, north and west of Alstonville have been zoned E3 to maintain the buffer concept between the villages. It would appear that a green belt between these villages could be provided by applying the RU1 zone to these areas. The RU1 zone would better reflect the agricultural values of the lands and more accurately reflect the land uses being undertaken on these lands. It is accepted however that Council is the local planning authority and has determined that the E3 zone in this instance better serves the longer term intended planning outcomes of the lands surrounding these villages.</p>	<p>The application of the E3 zone to these areas is considered more likely to achieve the intended planning outcomes for these areas. It provides the opportunity to ensure that the intended buffer is not eroded by urban land uses such as Seniors housing.</p>	<p>No amendment recommended.</p>
	<p>Fisheries Ecosystems:</p>		
	<p>Waterway Zones: Health of the Richmond River and its estuary is under significant pressure. Ensuring appropriate conservation and management of aquatic biodiversity and the lands that impact on these features is critical to improving river health and resilience particularly when considering the impacts on both the environment and economy of Ballina following the significant fish kills of 2001 and 2008.</p>	<p>Noted</p>	<p>No action required.</p>

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	<p>While the use of the W1 and W2 waterways zones in the lower estuary is somewhat different to other approaches (i.e. zone boundary within centre line of river) and may present difficulties in delineating zone boundaries, Fisheries Ecosystems (FE) generally supports Council's application of waterway zones for the lower Richmond River, Emigrant Creek and North Creek.</p> <p>Following comments should be considered in finalising the Draft LEP:</p> <ul style="list-style-type: none"> Recommend the use of waterway zones for all waterways and those zones should cover, to the fullest extent possible, the entire length of the river or waterway (at least to the tidal limit). There are a number of waterways (non tidal and tidal) that have not received a waterway zone. FE recommends review and amendment. 	<p>Noted</p> <p>The waterways zones have been applied to all significant waterways areas. It is noted that some of the coastal lakes were not zoned W however these have had an E2 or E3 zone applied, with the exception of Prospect Lake which is proposed to be zoned RE1 and is an artificial waterway. (It is noted that it is likely that Chickiba Lake will be recommended to be zoned E2 following a review of submissions received in response to the exhibition of the Draft LEP). The extent of the waterways zoned was based on the extent of the cadastral information. This was considered appropriate given the difficulty of accurately identifying the upper reaches of the waterways without a cadastral reference.</p> <p>In response to this submission and others</p>	<p>No action required.</p> <p>Recommendation that the application of the waterways zone to Emigrant and Maguire's creeks be extended further upstream.</p>

Submission No.	Government Agency / Issue	Consideration	Recommended Response
	<ul style="list-style-type: none"> <li data-bbox="415 553 911 894">• LEP zonings fail to provide adequate protection of riparian zones. The degradation of native riparian vegetation along NSW watercourses is a listed “Key Threatening Process” under the <i>Fisheries Management Act, 1994</i>. Strongly recommended that the LEP incorporate appropriate zoning (e.g. E2 or E3) to protect and conserve riparian vegetation within the Ballina LGA. <li data-bbox="415 992 911 1268">• Noted that the objective of the Waterway zones “to provide for sustainable fishing industries and recreational fishing” is not relevant to an environmental planning instrument as both forms of fishing are permissible and managed under the <i>Fisheries Management Act, 1994</i>. 	<p data-bbox="932 363 1451 513">from State government agencies including DECCW, it is proposed to extend the waterways zoning further upstream in the case of both Emigrant and Maguire’s Creeks.</p> <p data-bbox="932 553 1478 954">The application of an environmental zone to the riparian zones, or an alternative overlay approach are considered to warrant further consideration. Given the further work required to support this initiative consideration should be given to undertaking this as a separate project. In the interim the provisions of Clause 7.8 apply to land adjoining a number of zones including the W1 and W2 zones, and requires specific consideration of impacts on ecological values of these areas. This clause will also be supported by DCP provisions.</p> <p data-bbox="932 992 1478 1081">The objectives referred to are prescribed text in the Standard Instrument and are therefore not able to be amended or deleted.</p>	<p data-bbox="1501 553 1984 670">Recommended that Council undertake a review of provision relating to riparian zones and their management as a separate exercise to the LEP.</p> <p data-bbox="1501 992 1734 1019">No action required.</p>

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	<p>Environmental Conservation:</p> <ul style="list-style-type: none"> • Saltmarsh (listed as an endangered ecological community under the TSC Act) areas should be zoned E2 or W1 to afford maximum protection of this endangered ecological community. • Strongly recommended Council use either a zoning (E2 or E3) or overlay approach (see additional local provision comments) to map and protect riparian areas around the Richmond River and Estuary. Key Fish habitat layers provided to Council could form the basis of an overlay approach. FE recommends Council review the approach undertaken by Bellingen Shire Council. 	<p>A review of the document prepared by the Northern Rivers CMA titled “NSW Northern Rivers estuary Habitat Mapping – Final Analysis Report” dated August 2005, indicates that the mangrove and saltmarsh identified in that report has generally been identified in the preparation of the Draft LEP and zoned as either E2 or W1. The south western portion of North Creek is zoned W2 however this is not considered to be significantly problematic given that the habitat is protected via legislation.</p> <p>As noted above, the mapping or overlay approach to riparian zones is considered to comprise a body of work which is appropriate to be undertaken as a separate project. A review of the provisions of the Bellingen LEP indicates that the mapping of sensitive lands is linked to a local provision which requires certain matters to be taken into consideration prior to the granting of development consent on land identified on the maps. The approach presently adopted by the Draft LEP for Ballina Shire includes a clause (Clause 7.8) titled “Natural areas and habitat”. This clause applies to development on land or water within zones E1, E2, E3, W1 or W2 as well as development on land</p>	<p>No amendment recommended.</p> <p>No amendment recommended.</p>

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	<ul style="list-style-type: none"> The Draft LEP is not considered to be consistent with the provisions of Chapter 8 of the FNCRS. Appropriate zoning and buffers/setbacks around rivers and estuaries is a critical strategy, given current sea level rise projections and the importance of providing adaptation and/or mitigation pathways for estuarine habitats. 	<p>or water <u>adjoining these zones</u>. The clause contains potential impacts which must be taken into consideration in the determination of development applications and is considered to provide a similar level of protection to natural areas to that provided by the provisions contained in Bellinghen LEP.</p> <p>The submission is not clear in terms of identifying the particular provisions of Chapter 8 of the FNCRS with which the draft plan is considered to be inconsistent. There is no provision in Chapter 8 which appears to deal specifically with buffers and setbacks around rivers and estuaries. As noted above the Draft LEP contains Clause 7.8 which applies to land zoned E1, E2, E3, W1 and W2 and land adjoining these zones. It is noted that while draft documents and guidelines have been provided by the regional offices of FE, no State-wide guidelines have been provided in relation to setbacks and buffers around rivers and estuaries.</p>	No amendment recommended.
	<p>Permissible and Prohibited Land Uses: Agricultural issues: RU1 and RU2 zones permit without consent land uses such as dairies, extensive agriculture and intensive plant agriculture.</p>	<p>Noted.</p> <p>Farm forestry is not a land use. Standard</p>	<p>No action required.</p> <p>No amendment required.</p>

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	<p>This is supported. It is recommended that farm forestry be included as a land use that does not require consent in these zones. Group homes are proposed to be permissible with consent in the RU1 zone. It is recommended that group homes and other rural living focussed developments be directed to other zones more suited to the intended pursuit given the objectives of the RU1 zone and the provisions of the Rural Lands SEPP.</p> <p>Moveable dwellings are proposed to be prohibited in the RU1 and RU2 zones. It is recommended that such dwellings be permissible with consent particularly given rural worker's dwellings and attached dwellings are permissible with consent as they provide an alternative to permanent fixed dwellings in these zones and can be shifted as circumstances in the rural areas change.</p> <p>Fisheries Ecosystems issues: Council should consider appropriateness of permitting agriculture, and as a result</p>	<p>Instrument refers to the <i>Plantation and Reafforestation Act</i> in relation to permissibility of this use.</p> <p>In relation to Group homes it is noted that this form of residential accommodation is permitted with development consent on land within any zone in which development for the purposes of dwelling-houses may be carried out, in accordance with the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009.</p> <p>“Moveable dwellings” are not intended to refer to dwellings which can be relocated as such, they refer to moveable dwellings in the context of the manufactured homes and caravan parks. The Standard Instrument amendment clarifies that moveable dwellings are not a land use. The provision of temporary accommodation for seasonal workers is not specifically addressed in the SI however the provisions regarding the temporary use of land (Clause 2.6B) may provided limited opportunity in relation to this form of housing in rural areas.</p> <p>A review of the land uses permitted with development consent in the E2 zone has been undertaken in response to issues</p>	<p>No amendment recommended.</p> <p>No amendment recommended.</p> <p>No amendment recommended.</p>

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	<p>activities such a mining, petroleum production and extractive industries in E2 zones. This zone is for areas with high ecological, scientific, cultural or aesthetic values. The zone provides the highest level of protection, management and restoration for such lands whilst allowing uses compatible with those values. FE does not consider these uses as compatible with the E2 zoning objectives and the DP&I's practice note on environmental protection zones.</p>	<p>raised in submissions from State government agencies and the general public. Consideration has been given to the permissibility of agriculture, and the associated relationship with the provisions of State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 which permits extractive industry to be carried out with development consent on land on which development for the purposes of agriculture or industry may be carried out.</p> <p>It should be noted that the current BLEP 1987 provides a total of seven environmental protection zones, and that the introduction of the Standard Instrument effectively requires these to be consolidated into two zones – the E2 and E3 zone. The environmental protection zones that are proposed to be zoned E2 comprise the 7(a) Environmental Protection (Wetlands) Zone, the 7(f) Environmental Protection (Coastal Lands) Zone, and the 7(l) Environmental Protection (Habitat) Zone. Agriculture is presently permissible with development consent within all of these zones.</p> <p>As discussed later in this review of State government agency submissions, the review</p>	

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	<p>A better approach may be to zone marginal lands as E3, allowing the above activities with consent, and retain high value biodiversity areas within the E2 zone and afford it greater protection by removing incompatible land use activities.</p>	<p>of the E2 zone permissible land uses undertaken in response to the submissions recommends the removal of “Horticulture” from the permissible land uses within the E2 zone. It is proposed to retain “Extensive agriculture” as a permissible land use within the zone. Any existing horticulture will be protected under the Existing Use provisions of the EP & A Act 1979 however this will ensure that the intensification of agricultural land uses within environmentally sensitive areas does not occur.</p> <p>While the issue regarding the implications of permitting extensive agriculture in terms of the resulting permissibility of mining and extractive industries under the SEPP is acknowledged, it is not considered appropriate to restrict the permissibility of grazing in this zone to address an issue with the SEPP.</p> <p>It is also important to note that the application of the E2 zone proposed does not relate solely to ecological attributes of the land. The E2 zone is also proposed to apply to coastal lands and is not marginal as such. It may be entirely appropriate to use for land for grazing, subject to development consent.</p>	<p>No amendment recommended.</p>

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	<p>W2 zone is considered an environmental protection zone on the basis of the primary objective relating to the protection of ecological, scenic and recreational values. Allowing agriculture and extractive industry is not considered appropriate or consistent with the zone objective. While it is recognised that aquaculture is contained within the definition for agriculture, the Draft LEP also defines aquaculture separately and is a more appropriate use within the W2 waterway zone.</p>	<p>The W2 zone applies to some areas adjoining existing agricultural land uses. The rationale for the inclusion of agriculture as a land use permissible with development consent in the W2 zone was that in some cases, given the limitations of the mapping, land adjacent to waterways may in reality comprise existing land used for agricultural purposes. It is noted that the land involved is presently zoned 1(d) Urban Investigation and that agriculture is permissible without consent in accordance with the provisions of BLEP 1987. In this case the prohibition of agriculture would result in the creation of lawful existing uses in accordance with the EP & A Act 1979, in the case of land currently used for the purpose of agriculture.</p> <p>Any development proposal will be required to demonstrate compliance with Clause 7.8 which applies to a number of zones. This clause requires development on land adjoining land zoned W1 to consider certain potential impacts including water quality, terrestrial and aquatic flora and fauna, ecological and biodiversity values.</p>	<p>No amendment recommended.</p>

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	<p>Principle Development Standards: Part 4 of the LEP permits rural worker's dwellings within rural zones. The Department is of the view that worker's dwellings are rarely essential or justified in more closely settled coastal rural areas where farms are generally smaller. If Council has determined that rural worker's dwellings provisions are to continue, Council is referred to the Department's guide to rural worker's dwellings which outlines policy and broad assessment criteria for rural dwellings.</p>	<p>It is noted that the DP&I considered the policy position of the removal of rural worker's dwellings in more closely settled coastal rural areas where farms are generally smaller. The comment that they are rarely essential or justified is acknowledged however the definition has been retained in the SI and they are proposed to be listed in the land use table to provide for the "exceptional" case.</p> <p>The former DPI (now I&I) have released a series of publications / information brochures titled "Primefacts". Primefact No. 839 relates to Rural Workers Dwellings and outlines issues Council should take into consideration in developing policies regarding rural worker's dwellings. The current provisions of the Combined DCP Chapter 18 – Rural Land include most of the issues identified in the I&I brochure. It is recommended that the current DCP provisions be reviewed to ensure consistency with the I&I provisions.</p>	<p>Recommended that the current provisions of Chapter 18 – Rural Land of the Combined DCP be reviewed to ensure consistency with the I&I brochure – Primefact No. 839 Rural Workers Dwellings.</p> <p>Recommend inclusion of LEP based provisions and prohibition of the use in urban and E2 zones.</p>

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	<p>Minimum Lot Size Map: The proposed 40 ha minimum lot size for a dwelling across the rural lands of the Shire including the plateau is supported in principle. Substantial fragmentation of the resource lands of the plateau has already occurred and a 40 ha minimum would support profitable and efficient agricultural development of this unique area. The proposed retention of the capability of lots that are currently greater than 40 ha to create lots of 20 or more hectares, subject to assessment criteria, may contribute to some, albeit limited, further fragmentation of resource lands. Council is referred to the new Department's <i>Farm Subdivision Assessment Guideline</i> that sets out some recommended performance standards and criteria for farm subdivision proposals.</p>	<p>Noted.</p> <p>The proposed retention of the capability of lots that are currently greater than 40ha to create lots of 20ha or more seeks to maintain the existing subdivision potential of the land identified in Item 1 of Schedule 1 (15 lots in total). The provision requires the consent authority to be satisfied that the subdivision will not adversely impact on the long term agricultural production potential of the land.</p>	<p>No amendment recommended.</p>
	<p>Additional Local Provisions: Recommended that a local provision for Environmentally Sensitive Lands – Water be applied to the remaining waterways within the Ballina LGA if not zones. An example clause is provided in an appendix to the submission.</p>	<p>The example clause provided applies to land within a waterway, land within 50 metres of a W1 or W2 zone, and land that is within 50 metres of the bank or shore of any waterway identified on the "Natural resources Water Map". The clause and map appear to be similar to that in the recently gazetted Bellingen LEP. In the absence of more detailed work regarding the identification of riparian zones etc. it is considered that the</p>	<p>No amendment recommended.</p>

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		current natural areas and habitat clause (Clause 7.8) of the Draft LEP sufficiently addresses the issues identified in the example clause provided.	
	<p>Miscellaneous: Fisheries Ecosystems: Recommended that an additional subclause be added to Clause 5.9 Preservation of trees or vegetation as follows: 5.9(8) the clearing of marine vegetation that is authorised by authority under the <i>Fisheries Management Act, 1994</i>.</p>	This clause is a standard clause. As this issue is one which would apply to all local government areas it should be raised directly by FE with the DP&I.	No amendment recommended.

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07	Land and Property Management Authority		
	<p>The Land and Property Management Authority (LPMA) would like to congratulate Council on its presentation and overall delivery of the Draft LEP and supporting information. We believe the Council's overall approach sets the benchmark for the North Coast. The assistance of staff and quality of supporting information has been of great assistance to LPMA.</p>	Noted.	
	<p>General Comments: The zoning of dedicated reserved Crown land should be consistent with the notified purpose and any adopted plans of management (PoM) and should not constrain the highest and best use envisaged by the reservation/dedication and PoM.</p> <p>To ensure that rehabilitation, erosion control and other environmental protection works are carried out in a timely and efficient manner, 'Environmental Protection Works' should be permissible without consent in any zone.</p>	<p>The provisions of State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP) provide for certain works on Crown Reserves without development consent including the following (Section 65(2)(d)):</p> <p>in the case of land that is a reserve within the meaning of Part 5 of the <u>Crown Lands Act 1989</u>, by or on behalf of the Director-General of the Department of Lands, a trustee of the reserve or (if appointed under that Act to manage the reserve) the Ministerial Corporation constituted under that Act or an administrator,</p> <p>if the development is for the purposes of implementing a plan of management adopted for the land under the Act referred to above in relation to the land.</p>	No amendment recommended.

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		<p>The provisions of Section 65 of the Infrastructure SEPP also include a range of exempt development that can be undertaken without consent when carried out by, or on behalf of, a public authority in connection with a public reserve.</p> <p>The provisions of the Infrastructure SEPP are considered to adequately address these issues.</p>	
	<p>Tourism Development on Crown land: Tourism is now a major contributor to the State economy and coastal Crown land is recognised for its high recreation and tourism values. Revenue gained from tourism activities on Crown land is a significant driver of local economies and provides one of the few funding sources for the management of Crown land. Ballina LGA has some of the most accessible and iconic coastal tourist destinations in NSW.</p> <p>It is important that tourism in general is integrated into zone objectives and that the zoning of Crown properties is compatible with their existing and/or potential recreation and tourism use. To achieve this aim, it is requested that the use 'Tourist and Visitor</p>	<p>The definition of tourist and visitor accommodation is quite broad and provides for hotels, motels, serviced apartments and backpackers. It is noted that tourist accommodation in the form of caravan parks is permitted with development consent in the</p>	<p>No amendment recommended.</p>

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	<p>Accommodation' is included as permissible with consent in the RE1 zone.</p> <p>Alternatively, Crown land that includes tourist or visitor accommodation or is reserved for a related use should be zoned SP3 where indicated by LPMA. Practice Note PN 09-006 indicates that the SP3 zone should be used for tourism related precincts rather than on a site by site basis and that <i>“tourism uses should be included in the majority of zones rather than applying a separate zone (SP3)”</i>.</p>	<p>RE1 zone in accordance with the provisions of the Draft LEP. The recommendation to permit tourist and visitor accommodation as permissible with development consent on all land zoned RE1 is considered problematic given that this zone applies to all public reserves. Permitting larger scale tourist accommodation on all land zoned RE1 could see application for serviced apartments on Missingham Park for example. A change in the current policy approach of this nature is considered to warrant detailed consultation with the community. If it is intended to identify certain sites for tourist and visitor accommodation is considered that a more appropriate approach may be to seek to apply the SP3 Tourist zone to particular sites. Further information would be required to support an argument for this approach and it is considered that the application of this zone would need to relate to specific reserves or precincts within reserves.</p> <p>As previously noted the Infrastructure SEPP contains provisions which enable uses identified in Plans of Management to be undertaken on Crown Reserves.</p>	

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	<p>Recreation: ‘Uses authorised under the Crown Lands Act 1989’ should be permissible without consent in the RE1 zone. It is noted that Division 12 (Parks and other Public Reserves) of the State Environmental Planning Policy (SEPP) (Infrastructure) 2007 provides the necessary authorisation for the establishment or maintenance of recreation areas on any existing reserve. However, it is considered that this inclusion will provide certainty for activities authorised by the Crown independent of the provisions of SEPP Infrastructure.</p> <p>The following supportive zone objective should be included in the RE1 zone: “To provide for a range of tourism related uses that support the recreational use of the area.”</p> <p>Include “Function Centre” in the RE1 zone to complement “Entertainment Facility” and facilitate the use of recreational areas for the holding of events, functions, conferences</p>	<p>Further to the above comments regarding the provisions of the Infrastructure SEPP the DP&I has advised that the LEP should not duplicate uses which are provided for in the Infrastructure SEPP.</p> <p>The issue with the recommended objective is that while this may indeed be an appropriate objective for some land zoned RE1 it will not necessarily be so for all land zoned RE1. A significant proportion of the land to which the RE1 zone applies primarily has a recreational role rather than a tourism role. It is noted that the tourism role of land zoned RE1 can be reflected in the Plan of Management for the particular reserve.</p> <p>The relevant definitions are provided as follows: <i>entertainment facility</i> means a theatre, cinema,</p>	<p>No amendment recommended.</p> <p>No amendment recommended.</p> <p>No amendment recommended.</p>

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	<p>and major entertainment events at venues such as showgrounds and sports grounds. This use is consistent with the objective recommended above.</p> <p>Include "Dwelling House" in the RE1 zone to facilitate the use of these areas for dwellings that are ancillary to a recreational land use, for example, a caretaker's dwelling.</p>	<p>music hall, concert hall, dance hall and the like, but does not include a pub, nightclub or registered club.</p> <p>function centre means a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility.</p> <p>The issues in relation to the permissibility of function centres within the RE1 zone are considered to primarily relate to scale and frequency. For example, while it may be appropriate to enable an occasional concert at a Showground, it may not be appropriate to permit convention centres on all reserves. Uses such as a concert or event at a Showground can be undertaken either as a "place of public entertainment" which is a permissible use within the zone, in accordance with an adopted Plan of Management, or via temporary use of land provisions.</p> <p>Given the number of sites to which the RE1 zone will apply and the different roles and characteristics of the land involved it is not considered appropriately to permit dwelling-houses generally. The requirement for a</p>	<p>No amendment recommended.</p>

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	<p>The following additional objective should be included in the RE1 zone:</p> <p>“To enable the erection of a dwelling house only where necessary and where that dwelling house is associated with or ancillary to another use permissible on the site.”</p> <p>“Roads” is omitted from the RE1 zone and should be permitted with consent.</p>	<p>caretaker’s dwelling on particular sites can be dealt with via the Plan of Management process.</p> <p>Roads are prescribed as permissible without consent in the RE1 zone in accordance with the Standard Instrument.</p>	<p>No amendment recommended.</p>
	<p>Camping on Crown Land “Camping Grounds” – it is noted that the Department of Planning proposes to amend the Standard Instrument to separate “Camping Grounds” from “Caravan Parks”. LPMA support this amendment.</p> <p>“Camping Ground” should be included in the ‘permitted with consent’ category for the RU1, RU2, RE1, E2 and E3 zones (noted that “Caravan Parks” are already permitted with consent in the RU2, R2, RE1, E2 and E3 zones.</p>	<p>The Standard Instrument amendment includes the separation of camping grounds from the definition of caravan parks.</p> <p>It is recommended that camping grounds be listed as permissible with development consent in the RU2, RE1, and E3 zones.</p>	<p>Recommended that camping grounds be listed as permissible with development consent in accordance with the Community and Staff Based Issues Summary.</p>
	<p>Crown Land in rural areas Crown land within Ballina LGA is primarily located along the coast however the following objective should be included in the RU1 zone:</p>	<p>The application of the RU1 and RU2 zones has been based on the agricultural potential of the rather than the ownership or use of the land. Given the relatively limited amount</p>	<p>No amendment recommended.</p>

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	<p>“To provide for a range of rural recreational uses that are consistent with reserve uses authorised under the Crown Lands Act 1989.”</p> <p>Alternatively, zones affecting rural Crown land should be amended from RU1 to RU2 to facilitate complementary recreation use.</p>	<p>of Crown land within the RU1 zone the recommended objective is not considered to be a primary objective of the zone. Further, as previously noted the Infrastructure SEPP contains provisions in relation to Crown reserves which ensures the promotion of their recreational role.</p>	
	<p>Environmental Zoning E2 has been used extensively particularly within the coastal zone of the LGA. This zone should be applied cautiously as noted in the Department of Planning Practice Note 09-002 Environmental Protection Zones: <i>The range of uses proposed to be permitted in the E zones is a consideration for council in consultation with the Department of Planning. In determining uses, council should be aware that the range of uses should not be drawn too restrictively as they may, depending on circumstances, invoke the Land Acquisition (Just Terms Compensation) Act 1991 and the need for the Minister to designate a relevant acquiring authority. Unless a relevant acquisition authority has been nominated and that authority has agreed to the proposed acquisition, council should ensure, wherever possible, that the range of the proposed land</i></p>	<p>The Standard Instrument provides limited options for distinguishing between the particular attributes of land deemed appropriate to be zoned environmental protection. The approach applied to the Draft LEP as exhibited in relation to the coastal zone was that all areas of high environmental significance where protection of environmental values should be strongly encouraged was zoned E2. In general terms this includes existing wetland, habitat and coastal land zones as well as other suitable areas.</p>	<p>No amendment recommended.</p>

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	<p><i>uses assists in retaining the land in private ownership.</i></p> <p>It is considered that the use of the E3 zone adjacent to urban areas is a more appropriate transitional zone, particularly in modified environment, whilst affording a high level of environmental protection. The <i>Native Vegetation Act 2003</i> applies to all environmental protection zones providing an additional level of protection of valuable vegetation in environmental protection zones (outside urban boundaries).</p> <p>Considering the extensive use of the E2 zone, the following additional uses should be permitted with consent within the zone (DP&I Practice Note 09-002):</p> <ul style="list-style-type: none"> • Eco tourism • Wetland rehabilitation • Camping ground 	<p>The Standard Instrument amendment includes definitions for eco tourism and camping grounds. The permissibility of camping grounds is addressed earlier in this table. The definition of eco tourism and associated provisions are not considered to be particularly appropriate for Ballina Shire. The draft LEP includes provisions for tourism development in rural and environmental zones.</p>	<p>Recommended that the amendments noted above regarding camping ground permissibility be incorporated in the revised draft plan.</p>
	<p>Beaches Noted that E2 zone has been applied to all beaches and adjoining foredunes/foreshores across the Shire. Suggested that an RE1 zone be applied in areas adjoining</p>	<p>The land adjoining the beaches within the Shire is currently zoned 7(f) Environmental Protection (Coastal Lands) in accordance with the provisions of BLEP 1987. It is</p>	<p>No amendment recommended.</p>

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	residential areas where the dune environment has been modified and supports infrastructure and activities such as surf life saving carnivals, surfing events and marine infrastructure.	considered appropriate to maintain an environmental protection zone to these areas and to limit the land uses permitted. As stated previously the Infrastructure SEPP provides opportunities for uses identified in a Plan of Management to be carried out on Crown reserves.	
	<p>Heritage Items</p> <p>Noted that a number of Crown properties are listed in Schedule 5. A review of all Crown estate property listings is recommended. To facilitate this it is requested that Council consult with the LPMA when the Heritage list is reviewed to provide an opportunity for the LPMA to re-evaluate each listing and provide new listings where appropriate. Properties with genuine heritage significance should be recognised and conserved, and inappropriate heritage listings should be removed from the list.</p>	Recommend that listings be based on the Shire-wide Community Based Heritage Study.	No amendment recommended.
	<p>Minimum Subdivision Lot Size</p> <p>The use of this optional clause will constrain the option of residue lots being created on subdivision and gifted to Council or the Crown. This has implications for strategic open space planning.</p>	It is agreed that the provisions of the Standard Instrument present limitation in relation to the creation of residual allotments. This issue has been pursued with the DP&I and they are currently looking at options to address the concerns raised.	

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	Site Specific Comments		
	Ballina Trawler Harbour The LPMA supports the proposed zoning (IN1).	Noted.	
	RTA Depot The LPMA supports the proposed zoning (R3).	Noted.	
	Lake Ainsworth Sport & Recreation Centre It is suggested that Lake Ainsworth Sport & Recreation Centre might be accommodated in Schedule 1 Additional Permitted Uses.	It is considered that this proposal has merit given the relatively unique circumstances associated with the uses on this land.	Recommended that Schedule 1 be amended to include reference to sport and recreation centre as an additional permitted use on the land.
	Camp Drewe It is suggested that Camp Drewe might be accommodated in Schedule 1 Additional Permitted Uses.	As above - It is considered that this proposal has merit.	Recommended that Schedule 1 be amended to include reference to Camp Drewe as an additional permitted use on the land.
	Wardell Crown Lands Current zoning of 2(b) Village Area Zone and 7(l) Environmental Protection (Habitat) Zone. Proposed zoning E2 Environmental Conservation. LPMA objects to the proposed zoning over land within the village earmarked for development. This represents a major change to the current zoning which was the result of extensive and costly rezoning	The subject land which is currently zoned 2(b) Village Area Zone is considered to contain vegetation of high conservation value.	No amendment recommended.

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	<p>process with strong community support.</p> <p>LPMA seeks to retain the scope of the existing 2(b) zone to enable opportunities for appropriate complementary development such as affordable housing to be explored. LPMA foresees considerable benefits to the local community including employment opportunities or other avenues for Aboriginal participation.</p> <p>The merit of any vegetation clearing that may be required for the development of the site should be assessed in the light of a development application to allow opportunities for suitable offsets to be considered.</p> <p>If Council has a more detailed assessment of affordable housing needs that identifies that the site is no longer needed for this essential public purpose the LPMA would appreciate the opportunity to comment on that study prior to a change in zoning.</p> <p>Additionally, if that same study also provides accurate assessment of vegetation values on this site that leads to a clear conclusion that clearing for development would not be permissible, regardless of what offsets might</p>		

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	<p>be provided, the LPMA would be very interested in reviewing that information before a rezoning occurs.</p>		
	<p>East Ballina Crown Lands Currently zoned 2(a) Living Area Zone and 7(f) Environmental Protection (Coastal Lands) Zone.</p> <p>Proposed zoning E2 Environmental Conservation.</p> <p>LPMA objects to the proposed E2 zoning over Crown Lots within Pre-allocated Plan Number DP 1119406 earmarked for development and zoned 2(a) at present. Proposed zoning represents a major change to the current zoning.</p> <p>The LPMA is progressing the development of aged persons accommodation in line with planned community and environmental offsets. These commitments have already included the reservation in 2007 of over 44 hectares of Crown land (the significant proportion of the site) for environmental protection and addition to the Ballina Coastal Reserve system.</p> <p>The subject area has been identified by</p>	<p>Council's Ecologist has advised that this land has ecological attributes that warrant an E2 zoning.</p>	<p>No amendment recommended.</p>

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	<p>survey with boundaries reflecting the Ballina LEP 1987 and appropriate offset areas. A development application was lodged and consent granted by Council as recently as 2007. In real terms very little has changed since that time to warrant rezoning.</p> <p>LPMA not aware of any study to demonstrate that the proposed residential housing for aged persons is not required, or any study that supports the high value of the vegetation within the residual development site that would merit a zone of E2.</p> <p>Proposed zoning of Lot 5 within the Pre-allocated Plan Number DP 1119406 as E2 is supported as it covers those areas of high environmental value that have been identified as most suited for environmental protection.</p> <p>The LPMA has expended significant funds over several years progressing the site towards the planned vision with community support and public benefits expected.</p> <p>While it is acknowledged that some native growth may have occurred onsite in the interim, it doesn't warrant a cessation of the State commitment. In our view the merit of</p>		

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	<p>any vegetation clearing should be assessed in the light of a development application to allow opportunities for suitable offsets etc.</p>		
	<p>Botanic Gardens Reserve Currently zoned 1(b) Rural (Secondary Agricultural Land) Zone. Proposed RU2 Rural Landscape and E2 Environmental Conservation.</p> <p>Comprises Reserve 97297 for Preservation of Native Flora & Fauna. It is suggested that the RU2 component should be RE1 to complement the reservation and passive recreation use of the land.</p>	<p>It is considered that there is merit in zoning that part of the site that does not contain significant vegetation RE1 rather than RU2 having regard for the status of the land and its reservation.</p>	<p>Recommended that the RE1 zone be applied to RU2 identified portion of the land.</p>
	<p>Council Depot Precinct Current 1(d) Urban Investigation Zone. Proposed RU2 Rural Landscape and E2 Environmental Conservation.</p> <p>The RU2 zoning appears incongruous in relation to the adjoining INI zoning and intent of the current zoning. This may highlight the need for a growth and economic development strategy which would help to resolve issues associated with the strategic planning of these areas. LPMA would welcome the opportunity to participate in development of such a strategy.</p>	<p>The proposed RU2 zone reflects the absence of a zone which is equivalent to the 1(d) Urban Investigation Zone. The Growth Management Strategy will include consideration of this area.</p>	<p>No amendment recommended.</p>

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	<p>Caravan Parks Current zoning 6(a) Open Space. Proposed zoning RE1 Public Recreation. LPMA supports the proposed zoning.</p>	<p>Noted.</p>	

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08	<p>Environment, Climate Change & Water</p> <p>Ballina LGA is included within one of the most biologically diverse regions in Australia - the Australian Government's Border Ranges North and South (Queensland and New South Wales) Biodiversity Hotspot. Notwithstanding the largely cleared nature of Ballina LGA, the native vegetation remaining is highly significant. Accordingly DECCW supports the zoning of most remnant vegetation as E2.</p> <p>Key issues:</p> <ol style="list-style-type: none"> Overall, the Draft LEP appears to confuse the purposes of the zones by, for example, allowing a broad range of urban uses in rural zones, and vice versa, and a broad range of exploitative uses in environmental protection zones. Accordingly DECCW is concerned that environmental values may not be adequately protected. DECCW prefers zones to have discrete land uses applied, so that it is clear what is, and is not, permissible in each zone, consistent with the objectives of the zone. Land appropriately allocated to these zones, consistent with the land's capability and its 	<p>One of the underlying principles of the Draft LEP was to aim to generally reflect the current BLEP 1987 provisions in terms of the land uses permitted within the various zones. This was based on a view that the current approach generally appears to work well.</p> <p>The issue raised by DECCW reflects the difficulties associated with the limited range of environmental zones provided in the Standard Instrument. For example, the challenge in applying the E2 zone to a range of characteristics including coastal lands and high conservation vegetation is getting the balance right in terms of the uses permitted with the zone.</p>	<p>It is recommended that the E2 zone be amended as detailed in this document and the associated report to Council. The proposed amendments to the E2 zone comprise revision to the range of permissible land uses and the 'tightening' of the mapping.</p>

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	<p>primary purpose.</p> <p>2. The identification and protection of significant Aboriginal cultural heritage (ACH) items in the Heritage Map and Schedule 5 remain to be addressed. DECCW acknowledges the challenges involved in this undertaking and recommends further consultation with the local Aboriginal community. However, as a minimum, items listed in the current Schedule 5 and any others in the public domain should be listed in the new schedule.</p> <p>3. Climate change and potential flood impacts due to cumulative</p>	<p>In response to the issues raised in government agency and community submissions, a review of the rural and environmental zones has been undertaken. This review has resulted in the range of permissible uses being “tightened” in the environmental and rural zones where appropriate. The vegetation mapping has also been reviewed as part of this process to ensure that land that does not have significant ecological or coastal value is not included in the E2 zone in particular.</p> <p>Ballina Shire Council is currently preparing an Aboriginal Cultural Heritage Study. Schedule 5 mapping of items is not considered appropriate until this study has been completed and the Aboriginal community has been consulted regarding the issue of mapping items of cultural heritage.</p> <p>Ballina Shire Council is presently preparing a Flood Plain Management Plan which will</p>	<p>No amendment recommended. Issue to be reviewed with the local Aboriginal community as part of the preparation of the Aboriginal Cultural Heritage Study.</p> <p>No amendment recommended. Issue to be reviewed following the</p>

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	<p>development have not been adequately considered in the Draft LEP. This Draft LEP has also failed to consider the consequences of climate change on flood planning levels, despite BSC currently considering climate change scenarios in consultation with State Government.</p> <p>4. The minimal extent of waterways zoning and lack of mapping of riparian areas is also of concern and should be reviewed.</p>	<p>encompass climate change considerations. The approach adopted for the current draft plan includes not increasing the current densities permitted on Ballina Island until further work has been completed in relation to flooding. This work will be incorporated into the Draft LEP when it is complete and this approach is supported by the DP&I.</p> <p>The Draft LEP also includes a provision specifically addressing flooding and the flood information that supports this clause will have regard for sea level rise.</p> <p>The mapping of waterways has been based on the extent of cadastral information. This approach was adopted having regard for the difficulties in establishing zone lines on the ground in cases where cadastral information is not available. In response to the submissions received from State government agencies and the general public, a review of the mapping of waterways has been undertaken. It is considered that the mapping of the waterways zones could be extended over Emigrant and Maguire's creeks closer to the tidal limits of these waterways based on best fit to cadastre and waterway location.</p>	<p>completion of the Flood Plain Management Plan.</p> <p>It is recommended that the mapping of waterways be amended to extended over Emigrant and Maguire's creeks further towards the tidal limits of these waterways, based on best fit to cadastre and waterway location.</p>

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	<p>DECCW recommends that the above points be addressed prior to finalisation of the Draft LEP. If this is not possible, then formal amendments should be made to the LEP as soon as possible after its adoption. DECCW would appreciate the opportunity to work more closely with Council in order to address these concerns, including biodiversity and Aboriginal cultural heritage.</p>	<p>It is proposed to seek Council's support to undertake a separate project in relation to the mapping of riparian areas.</p> <p>Noted.</p>	<p>It is recommended that Council undertake a review of current planning policies in relation to riparian areas as a separate exercise.</p>
	Detailed Comments		
	A – The Written Instrument		
	<p>Part 1 – Preliminary and Part 2 Permitted or Prohibited Development Clause 1.2(2) The particular aims of the plan are quite general. DECCW encourages the inclusion of more specific biodiversity protection and Aboriginal cultural heritage subclauses in the proposed aims of the LEP. Some examples of specific aims relating to riparian areas, wildlife corridors, wetlands and Aboriginal cultural heritage are contained in the gazetted Muswellbrook and Goulburn Mulwaree LEPs</p>	<p>The particular aims of the Draft LEP have been derived from <i>the Ballina Shire Community Strategic Plan 2010 - 2025</i> adopted on 25 March 2010 which is a long term strategic plan intended to guide the future growth of the Shire for the next 20 years. A review of the aims contained in other LEPs indicates that the aims of the Draft Ballina LEP are generally similar to those contained in other plans in terms of</p>	<p>No amendment recommended.</p>

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	<p>Clause 1.8A – Savings Provision should make it clear that despite the LEP not having commenced, any future development must still comply with the existing adopted North Coast Regional Environmental Plan (REP) and the Far North Coast Regional Strategy (FNCRS).</p> <p>Clause 1.9(2) Although the REP will be repealed upon commencement of the LEP, it is understood that it will remain in force as a “deemed” SEPP (DP&I Circular PS09-015) and therefore continued compliance will be needed. The LEP must also remain consistent with the FNCRS by virtue of the s117 direction imposed by the DP&I.</p> <p>Clause 1.9A(2) DECCW supports these exclusions which allow certain environmental agreements to prevail.</p> <p>Clause 2.6B DECCW does not support temporary use of land (up to 30 days in length in any one year) in any environmentally sensitive area or Environmental (E) or Waterways (W) zones.</p>	<p>the range of matters addressed.</p> <p>The savings provision is standard text. Clause 1.8A advises that the REP applies to pending development applications.</p> <p>The REP (which is now a deemed SEPP) ceases to apply to Ballina Shire once the comprehensive LEP commences.</p> <p>Noted.</p> <p>The temporary use of land clause enables certain activities to be undertaken with development consent. The position that this clause should not apply to E or W zones may preclude activities that have merit subject to an assessment of their potential</p>	<p>No amendment recommended.</p> <p>No amendment recommended.</p> <p>No amendment recommended.</p>

Submission No.	Government Agency / Issue	Consideration	Recommended Response
	<p>Land Use Table RU1 Primary Production and RU2 Rural Landscape Support proposed inclusion of additional cultural and landscape objective in RU1 zone.</p> <p>Support proposed environmental protection biodiversity objectives in RU2 zone.</p> <p>Recommend amendment of objective no. 8 to emphasise the environmental values in Rural zones, rather than development. <u>From:</u> <i>To enable development that does not adversely impact on the natural environment, including habitat and waterways.</i> <u>To:</u> <i>To prevent development that is likely to adversely impact on the natural environment.</i></p>	<p>environmental impacts.</p> <p>Since the certification of the Draft LEP an amendment to the Standard Instrument has introduced standard text in relation to this matter. The text is similar to that which was exhibited.</p> <p>Noted.</p> <p>Noted.</p> <p>In general terms, 'positively' worded objectives are considered to be preferable to 'negatively' worded objectives. The current objective is not considered to emphasise development, noting that the land use table as a statutory tool seeks to convey land uses that are permitted with and without consent, and land uses that are prohibited within a certain zone.</p>	<p>No amendment recommended.</p>

Submission No.	Government Agency / Issue	Consideration	Recommended Response
	<p>Other examples from the objectives of rural zones in the gazetted Goulburn-Mulwaree LEP include:</p> <ul style="list-style-type: none"> • To avoid or minimise impacts on the natural environment and protect environmentally sensitive land. • To protect and enhance the water quality of receiving watercourses and groundwater systems to reduce land degradation. • To protect, manage and restore areas with high conservation, scientific, cultural or aesthetic values. • To preserve environmentally sensitive land, including catchment areas, and prevent development likely to result in environmental harm. <p>DECCW also recommends Council consider the inclusion of the following objectives taken from the adopted Muswellbrook LEP, given that some of the proposed activities permitted with consent in rural zones could potentially conflict with maintaining agricultural productivity and landscape character (for example earthworks, drainage and extractive industries):</p>	<p>The Draft LEP includes Clause 7.2, a local clause that applies to development involving earthworks and drainage. This clause is considered to be 'stronger' than a set of zone objectives in terms of dealing with the potential impacts of development involving earthworks and drainage.</p>	<p>No amendment recommended.</p>

Submission No.	Government Agency / Issue	Consideration	Recommended Response
	<p>To ensure that development for the purpose of extractive industries will not:</p> <ul style="list-style-type: none"> (a) destroy or impair the agricultural production potential of the land or, in the case of underground mining, unreasonably restrict or otherwise affect any other development on the surface, or (b) detrimentally affect in any way the quantity, flow and quality of water in either subterranean or surface water systems, or (c) visually intrude into its surroundings, except by way of suitable screening. <p>To protect or conserve (or both):</p> <ul style="list-style-type: none"> (a) soil stability by controlling development in accordance with land capability, and (b) trees and other vegetation, and (c) water resources, water quality and wetland areas, and their catchments and buffer areas, and (d) valuable deposits of minerals and extractive materials by restricting development that would compromise the efficient extraction of those deposits. 		

Submission No.	Government Agency / Issue	Consideration	Recommended Response
	<p>DECCW notes a broad range of uses proposed to be permitted with consent in the RU1 and RU2 zones. DECCW does not support the inclusion of mooring or marina development in RU1 and RU2 zones as these developments would be considered more appropriate in the W2 Recreational Waterways zone.</p>	<p>Advice from NSW Maritime indicates that a mooring cannot be installed or used without approval from them. The ISEPP provides for moorings undertaken by or on behalf of a public authority as development permitted without consent.</p> <p>Clause 5.7 of the Standard Instrument requires development consent for development on any land below the mean high water mark of any body of water subject to tidal influence (including the bed of any such water). A private mooring in tidal waters would need development consent in accordance with this clause.</p> <p>It would appear that the process for obtaining a private mooring in tidal waters would be as follows:</p> <ul style="list-style-type: none"> - Obtain a license from NSW Maritime; - obtain landowner's consent from Crown to lodge the DA; and - lodge a Development Application with Council for the mooring. <p>There may be circumstances where a private mooring is appropriate in the RU1</p>	<p>It is recommended that the land use table be amended to permit moorings with development consent in the RU1 zone, and that moorings be retained as permissible with development consent in the RU2 zone.</p> <p>It is recommended that marinas be maintained as prohibited in the RU1 zone, and permissible with development consent in the RU2 zone.</p>

Submission No.	Government Agency / Issue	Consideration	Recommended Response
	<p>Other Councils have included developments such as a cemetery and waste or resource management facility in the SP1 Special Activities zone.</p>	<p>and RU2 zones, given that the LEP mapping is based on the cadastre, and that in some cases the 'water' may be zoned RU1 or RU2. Having regard for this, and noting that landowners consent will be required from the Crown for a DA, and NSW Maritime Services must approve the location, it is recommended that moorings be permitted with development consent in both the RU1 and RU2 zones.</p> <p>Marinas are prohibited in the RU1 zone and permissible with development consent in the RU2 zone. As noted above, the LEP mapping is based on cadastral boundaries and the water may be zoned RU2 in some circumstances. It is recommended that the permissibility of marinas in the RU1 and RU2 zones be maintained.</p> <p>An LEP Practice Note (PN) has been issued in relation to zoning for infrastructure in LEPs (PN 06-002; PS 09-011 issued 14 December 2010). The PN contains six principles for zoning infrastructure. In relation to uses such as cemeteries the principles advocate zoning this kind of infrastructure SP2 Infrastructure if it is currently zoned 'special use'. Cemeteries are not presently zoned 'special use' in</p>	<p>No amendment proposed in relation to cemeteries.</p>

Submission No.	Government Agency / Issue	Consideration	Recommended Response
		<p>accordance with the provisions of BLEP 1987.</p> <p>In relation to waste and resource management facilities, the PN states that where the infrastructure type is only permitted in certain prescribed zones in the ISEPP, the following process should be applied:</p> <ul style="list-style-type: none"> - provide for future infrastructure in prescribed zones rather than special use zones - existing 'special use' zones should be rezoned the same as the adjacent land (if a prescribed zone) - rezone land SP2 Infrastructure if there is no adjacent prescribed zone. <p>The Ballina Waste Management Facility is presently zoned 1(b) Rural (Secondary Agriculture) in accordance with BLEP 1987. The Draft LEP as exhibited proposes the RU2 Rural Landscape zone for the facility. The PN principle provided above indicates that the RU2 zone, which is a prescribed zone in accordance with the ISEPP, should be maintained for the facility.</p>	<p>No amendment recommended in relation to waste and resource management facilities.</p>

Submission No.	Government Agency / Issue	Consideration	Recommended Response
	<p>DECCW does not support the inclusion of a function centre, group home, information and education facility, passenger transport facility, public administration building, recreation area, recreation facility (major), recreation facility (outdoor) in rural zones. These uses are more applicable in urban zones or should have their own zone in the case of recreational facilities.</p> <p>In its desire to be flexible Council should not risk compromising rural enterprise values through introducing potential land use conflict situations or allow regionally significant farmland to be used for non-productive purposes.</p> <p>Noted that Forestry will be permitted with consent in both RU1 and RU2 zones. DECCW supports this but recommends that a footnote be inserted to emphasise that the requirements of the <i>Native Vegetation Act 2003</i> still apply, in accordance with the adopted Private Native Forestry Code of Practice (refer Part 5A of <i>Native Vegetation Regulation 2005</i>).</p> <p>It is noted that there is a focus on small scale tourism orientated development in</p>	<p>The uses listed by DECCW are considered as follows:</p> <ul style="list-style-type: none"> • Function centre – permitted with consent in the RU2 zone. The RU2 zone is intended to provide for “a more flexible range of land uses on rural land” and has been applied to the balance of rural land that is not identified for inclusion in the RU1 zone or as having significant environmental values that warrant the application of an E zone. Permitting Function centres within this zone is not considered to be inappropriate. • Group home – Group homes are permitted with development consent on land within any zone in which development for the purposes of dwelling-houses may be carried out, in accordance with the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009. • Information and education facility – The definition “means a building or place used for providing information or education to visitors, and the exhibition or display of items, and includes an art gallery, museum, 	<p>No amendment recommended.</p> <p>No amendment recommended.</p> <p>No amendment.</p>

Submission No.	Government Agency / Issue	Consideration	Recommended Response
	<p>RU2 zones. The additional environmental protection and biodiversity objectives in this zone are supported as this will assist in achieving a balance between tourism and protection of the environment.</p>	<p>library, visitor information centre and the like". It is considered that this land use may appropriately support agricultural activity on a property e.g. a coffee farmer may include a tourist education component to support the primary agricultural operation.</p> <ul style="list-style-type: none"> • Passenger transport facility – This use is prohibited in the RU1 zone and permitted with development consent in the RU2 zone. This land use is considered to be an acceptable land use in the RU2 zone. • Public administration building – This use is prohibited in the RU1 zone and permitted with development consent in the RU2 zone. The definition includes a building used as offices or for administrative purposes by the Crown and includes a police station. It is considered reasonable to permit these land uses on land zoned RU2. • Recreation area – The definition of a Recreation area includes a children's playground, an area used for community sporting activities, and a public park, reserve or garden or the like. This land use is considered to 	<p>No amendment recommended.</p> <p>No amendment recommended.</p> <p>No amendment recommended.</p>

Submission No.	Government Agency / Issue	Consideration	Recommended Response
	<p>DECCW supports the additional environment protection objectives proposed for R2 and R3 zones. Council could also consider including the following additional environmental objective for these zones (sourced from the Muswellbrook LEP):</p> <ul style="list-style-type: none"> To ensure that development is carried out in a way that is compatible with the flood risk of the area. <p>Noted that environmental facilities and environmental protection works are permitted with consent in these zones by default. DECCW supports this as it would ensure that Council are in agreement with the types and location of works approved to avoid potential environmental harm.</p> <p>DECCW is concerned with the broad and inappropriate range of uses permitted with consent in the R2 and R3 zones. DECCW does not support the inclusion of a marina as this use would be more appropriately located in W2 zone.</p>	<p>The Draft LEP contains a local provision that addresses flooding. Clause 7.6 contains specific objectives and matters for consideration in relation to development on flood prone land.</p> <p>Noted.</p> <p>The basis for concern regarding the broad range of land uses permitted with consent in the R2 and R3 zones is not understood. The current BLEP 1987 contains an 'open' land use table and it is not considered to result in significant problems in relation to the approval of 'inappropriate' development in the residential areas.</p> <p>Notwithstanding the above, it is considered acceptable to prohibit marinas in residential</p>	<p>No amendment recommended.</p> <p>Recommended that 'Marina' be deleted from the land uses permitted with development consent (thereby prohibited) in the R2 and R3 zones.</p>

Submission No.	Government Agency / Issue	Consideration	Recommended Response
	<p>DECCW does not support the inclusion of rural-based uses such as dairy (pasture-based), extensive agriculture, extractive industry, farm stay accommodation, horticulture, rural worker's dwelling as these would be more appropriately permissible in the RU1 and RU2 zones. Notwithstanding that some areas intended for future residential development may still be subject to grazing, to embed these uses in the zone table encourages land use conflicts.</p>	<p>zones.</p> <p>The reason for the provision of some rural land uses within the R2 and R3 zones is to provide for the continued use of this land pending its subdivision where it has been identified as suitable for urban zoning. For example, while zoned for urban purposes for some time the Pacific Pines Estate remains undeveloped and it is not considered unreasonable for cattle to be grazed on the land pending its development. The development consent process will enable the consideration of issues such as potential land use conflict.</p> <p>Notwithstanding the above, it is considered that some of the more 'rural' or intensive uses may not be appropriate adjoining existing urban areas and on this basis it is recommended that dairy (pasture-based), farm stay accommodation, horticulture, and rural worker's dwelling be removed from the list of permissible uses in the R2 and R3 zones.</p> <p>In relation to extractive industry, the provisions of State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 permit extractive</p>	<p>Recommended that "Dairy (pasture-based)", 'Farm stay accommodation', 'Horticulture', and 'Rural worker's dwelling' be removed from the list of permissible uses in the R2 and R3 zones.</p> <p>No amendment recommended.</p>

Submission No.	Government Agency / Issue	Consideration	Recommended Response
	<p>DECCW is concerned with the inclusion of caravan park, car park, entertainment facility, function centre, hospital, hostel, kiosk, passenger transport facility, recreation facility (indoor), recreation facility (outdoor), registered club, or shop top housing in residential zones. These could be more appropriately placed in other land use zones such as B, SP, or RE, and not dilute the intent of these residential zones.</p> <p>DECCW recommends Forestry be prohibited in R2 and R3 zones.</p>	<p>industry to be carried out with development consent on land on which development for the purposes of agriculture or industry may be carried out. As it is intended to maintain extensive agriculture as a permissible use within the R2 and R3 zones, extractive industry will remain permissible within consent in these zones.</p> <p>As noted above, the current land use tables in BLEP 1987 are reasonably “open” as they apply to the residential zones. A review of the land use table indicates that these uses are acceptable subject to the development assessment process.</p> <p>The deletion of ‘Forestry’ as a use permitted with development consent in the R2 and R3 zones is considered to be reasonable.</p>	<p>Recommend that ‘Forestry’ be listed as a prohibited land use within the R2 and R3 zones.</p>
	<p>B1 Neighbourhood Centre, B2 Local Centre, B3 Commercial Core, B4 Mixed Use and B6 Enterprise Corridor DECCW supports the additional environment protection and cultural objectives proposed for B2, B3, B4 and B6 zones, and recommends these are also included in B1.</p>	<p>The recommended addition to the B1 zone objectives is supported.</p>	<p>Amend the plan by inserting the following objective in the B1 Neighbourhood centre Zone:</p>

Submission No.	Government Agency / Issue	Consideration	Recommended Response
	<p>The objective to minimise conflict between land uses between and within zones, provided in B2, could be applied to other zones.</p> <p>DECCW recommends the inclusion of the following objective in the business zones:</p> <ul style="list-style-type: none"> To ensure that development is carried out in a way that is compatible with the flood risk of the area. <p>Noted that environmental facilities and environmental protection works are permitted with consent in these zones by default. DECCW supports this as it would ensure that Council are in agreement with the types and location of works approved to avoid potential environmental harm.</p>	<p>There are a number of zone objectives which could arguably be applied to all zones however, the intent of the zone objectives is to identify the issues particularly relevant to a zone. The issue of land use conflict is a relevant consideration in the assessment of any development application however, this objective is considered to be particularly appropriate for the B2 Local Centre zone given its general proximity to residential land uses both within and adjacent to the zone.</p> <p>See comments above regarding the specific local provision to address flooding.</p> <p>Noted.</p>	<p><i>To encourage development that recognises natural, cultural and built heritage.</i></p> <p>No amendment recommended.</p> <p>No amendment recommended.</p>

Submission No.	Government Agency / Issue	Consideration	Recommended Response
	<p>DECCW does not support the following uses listed as permissible in the B1 and B2 zones:</p> <p>Extensive agriculture, horticulture, natural water-based aquaculture, and waste transfer station. Uses should be confined to RU1 and RU2 zones or an industrial zone.</p>	<p>The permissibility of aquaculture and waste transfer stations are prescribed by SEPPs. Given the potential application of these zones to “greenfield” areas it is proposed to maintain agricultural land uses within these zones as permissible with development consent. Notwithstanding this, it is considered that more intensive land uses, such as horticulture, may not be appropriate adjoining existing urban development.</p>	<p>Recommended that ‘Horticulture’ be listed as prohibited in the B1 and B2 zones.</p>
	<p>INI General Industrial DECCW supports the additional environment protection objectives proposed in INI zone.</p> <p>Noted that environmental facilities and environmental protection works are permitted with consent in these zones by default. DECCW supports this as it would ensure that Council are in agreement with the types and location of works approved to avoid potential environmental harm.</p>	<p>Noted.</p> <p>Noted.</p>	
	<p>RE1 Public Recreation and RE2 Private Recreation DECCW supports the additional environment protection, biodiversity and cultural</p>	<p>Noted.</p>	

Submission No.	Government Agency / Issue	Consideration	Recommended Response
	<p>objectives proposed in RE1 and RE2 zones.</p> <p>DECCW suggests Council include their previously suggested energy and water efficiency objective in both recreational zones:</p> <ul style="list-style-type: none"> To encourage development that achieves the efficient use of resources such as energy and water. <p>Inclusion of Roads and Flood mitigation works without consent in RE1 zone is not supported. Potentially inconsistent with zone objective “to protect and enhance the natural environment for recreational purposes”. DECCW notes that the standard instrument template allows the consent option for roads in these recreation zones.</p> <p>DECCW recommends environmental protection works be permitted with consent in the RE1 zone, rather than without consent. This will allow Council to control the type and location of environmental protection works in order to avoid possible environmental harm. Noted that it is at Council’s discretion whether or not these</p>	<p>This recommendation is supported.</p> <p>The provisions of clause 50 of the Infrastructure SEPP state that flood mitigation work may be carried out by or on behalf of a public authority without consent on any land. Clause 65 of the Infrastructure SEPP permits certain works to be carried out by or on behalf of a council without consent on a public reserve under the control of, or vested in, the council. These works include roads, cycleways, and environmental management works.</p> <p>Given that certain environmental protection works are permitted without consent in accordance with the provisions of the Infrastructure SEPP it is considered that they should remain permissible without consent in the Draft LEP. Further, RE1 zoned land is public land and therefore Council has control in relation to the works</p>	<p>Insert the following additional objective in the RE1 and RE2 zones: <i>To encourage development that achieves the efficient use of resources such as energy and water.</i></p> <p>No amendment recommended.</p> <p>No amendment recommended.</p>

Submission No.	Government Agency / Issue	Consideration	Recommended Response
	<p>uses are permitted with or without consent.</p> <p>DECCW concerned with broad range of uses permitted with consent in RE1 and RE2 zones. Rural based uses such as agriculture, dairy (pasture-based), extractive industry, forestry or mine more appropriate in RU1 and RU2 zones.</p> <p>DECCW does not support inclusion of cemetery in RE1 zones as permissible and suggests SP1 Special Activities zone.</p>	<p>undertaken on the land. A review of the definition of environmental protection works also indicates that they are generally unlikely to result in environmental harm.</p> <p>The reason for the inclusion of agricultural Land uses with consent in the RE1 and RE2 zones is to enable these uses as interim uses where land is rezoned for future urban development. For example, land currently used for rural purposes may be rezoned for urban purposes and that rezoning may include the allocation of open space areas. It may be appropriate to continue to use the land for rural purposes pending the development of the land for urban purposes. Notwithstanding this, it is considered that it may be appropriate to limit agriculture within these zones to extensive agriculture. It is noted that the provisions of State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 permit mines and extractive industry in zones where agriculture is permissible with or without development consent.</p> <p>It is considered that cemeteries may be compatible with and appropriately located in association with areas of passive open</p>	<p>Amend the zoning table for the RE1 and RE2 zones to permit extensive agriculture only (that is delete 'Agriculture' as a land use permitted with development consent, and insert 'Extensive agriculture' as a permissible with development consent).</p> <p>No amendment recommended in relation to 'Forestry'.</p> <p>No amendment proposed.</p>

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	Electricity generating works seems out of place in RE2 zone.	<p>space. The DP&I Practice Note principles (PN 06-002; PS 09-011) regarding zoning for infrastructure do not support the application of the SP1 zone in the circumstances.</p> <p>Given emerging technologies in relation to the generation of electricity it is considered appropriate to provide for electricity generating works within the zone.</p>	No amendment recommended.
	<p>E1 National Parks and Reserves E1 land use table supported.</p>	Noted.	
	<p>E2 Environmental Conservation DECCW considers this zone should protect high conservation value (HCV) lands equivalent at least to those found in E1 lands, but which remain outside the formal reserve system or which have statutory protection, such as SEPP 14 wetlands and SEPP 26 littoral rainforests. In addition to its application to discrete areas of HCV land, it is appropriate to apply the zone to larger tracts of environmentally sensitive areas adjacent to existing national parks and reserves, where it can function as a buffer in addition to providing protection of its more intrinsic conservation values. The insertion</p>	It is noted that E2 zone has not only been applied to HCV lands, but also to coastal lands zoned 7(f) in accordance with BLEP 1987.	

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	<p>of additional objectives in the E2 zone in relation to the protection and enhancement of wetlands, rainforests, key habitat and wildlife corridors and the coastline is generally supported.</p> <p>DECCW concerned with the broad range of land uses permitted with consent in the E2 zones. The following uses appear inappropriately placed in the E2 zone: cemetery, dairy (pasture-based), drainage, earthworks, extensive agriculture, extractive industry, forestry, funeral chapel, group home, horticulture, mine, mooring, roads, rural worker's dwelling, sewerage reticulation system, and water recreation structure. These uses are inconsistent with the mandated objectives of the zone and would potentially adversely impact on conservation and cultural values. Uses should be prohibited in E2 zone in accordance with the approach adopted by Bellingen Draft LEP.</p> <p>Other uses not supported in E2 zone and more appropriately permitted in E3 zone area: emergency services, home businesses, information and education facilities, and research stations.</p>	<p>The uses permitted with consent in the E2 zone have been reviewed following a number of submissions in relation to this issue. The following comments are provided in relation to each of the land uses identified by DECCW:</p> <ul style="list-style-type: none"> • Cemetery – it is recommended that the land use table be amended by deleting cemetery from the permissible with consent category, which will mean this land use becomes prohibited within the E2 zone. • Dairy (pasture-based) – it is recommended that the land use table be amended by deleting dairy (pasture-based) from the permissible with consent category, which will mean this land use becomes prohibited within the E2 zone. • Drainage – it is proposed to maintain drainage as a permissible use as 	<p>Recommended amendment to reduce the range of permissible land uses – see Community and Staff Based Issues Summary</p>

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		<p>there may be circumstances where drainage works are appropriate on land within the E2 zone.</p> <ul style="list-style-type: none"> • Earthworks – it is proposed to maintain earthworks as a permissible use as there may be circumstances where earthworks are appropriate on land within the E2 zone. • Emergency services – while it is considered that the provision of emergency services facilities may be appropriate within the E2 zone, it is recommended that the land use table be amended by deleting this use from the permissible with consent category, which will mean emergency services facilities become prohibited within the E2 zone. • Extensive agriculture - it is proposed to maintain extensive agriculture as a permissible use within the E2 zone. The definition of extensive agriculture includes grazing of livestock, the production of crops or fodder, and bee keeping, but does not include animal boarding or 	

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		<p>training establishments, aquaculture, farm forestry, intensive livestock agriculture, intensive plant agriculture. The prohibition of extensive agriculture would only impact on the expansion of existing farms and new uses as any existing extensive agricultural uses would be protected by the existing use rights provisions of the EP & Act 1979. It is considered appropriate to enable those areas which are presently grazed for example to continue to be used for this purpose.</p> <ul style="list-style-type: none"> • Extractive industry – the provisions of State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 permit extractive industry to be carried out with development consent on land on which development for the purposes of agriculture or industry may be carried out. As noted above it is intended to maintain extensive agriculture as a permissible use within the E2 zone. Extractive industry will therefore remain permissible within consent in the E2 zone. 	

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		<ul style="list-style-type: none"> • Forestry – it is proposed to remove forestry from the list of permissible land uses within the E2 zone. • Funeral chapel - it is proposed to remove funeral chapel from the list of permissible land uses within the E2 zone. • Group home – group homes are permissible with development consent in any zone in which development for the purpose of dwelling houses is permissible, in accordance with the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009. • Home business – home businesses can only be carried out within an approved dwelling and by virtue of their definition involve minimal environmental impact. It is proposed to maintain home businesses as a permissible use. • Horticulture – it is proposed to remove horticulture from the permissible land uses within the E2 	

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		<p>zone following the review of the submissions made in relation to the E2 zone. Horticulture is considered to represent an intensification of the agricultural use of the land.</p> <ul style="list-style-type: none"> • Information and education facilities – it is proposed to maintain information and education facilities as a permissible use within the E2 zone. The definition of information and education facility includes a building or place used for providing information or education to visitors, and visitor information centres and it is considered that this is an appropriate land use within the zone. • Mine – the provisions of the Mining SEPP include the following: <p>7 Development permissible with consent</p> <p>(1) Mining Development for any of the following purposes may be carried out only with development consent:</p> <p>(a) underground mining carried out on any land, (b) mining carried out:</p> <p>(i) on land where development for the purposes of agriculture or industry may be carried out (with or without development consent), or</p>	

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		<p>(ii) on land that is, immediately before the commencement of this clause, the subject of a mining lease under the <i>Mining Act 1992</i> or a mining licence under the <i>Offshore Minerals Act 1999</i>,</p> <p>(c) mining in any part of a waterway, an estuary in the coastal zone or coastal waters of the State that is not in an environmental conservation zone,</p> <p>(d) facilities for the processing or transportation of minerals or mineral bearing ores on land on which mining may be carried out (with or without development consent), but only if they were mined from that land or adjoining land,</p> <p>(e) mining on land that is reserved as a state conservation area under the <i>National Parks and Wildlife Act 1974</i>.</p> <p>The provisions of the Mining SEPP enable <u>underground mines</u> to be carried out on <u>any land</u> with development consent. The SEPP also permits <u>mining</u> on land where agriculture or industry may be carried out with or without development consent. While it is appreciated that it may be desirable to prohibit mining within the E2 zone, the prohibition of agricultural uses to achieve this is not considered appropriate. Enabling extensive agriculture with development consent is considered appropriate in the E2 zone given the range of current BLEP 1987 zones the E2 will</p>	

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		<p>apply to. Agriculture is currently permitted as follows in accordance with the provisions of BLEP 1987:</p> <ul style="list-style-type: none"> - 7(a) Environmental Protection (Wetlands) Zone permissible with development consent, - 7(f) Environmental Projection (Coastal Lands) Zone permissible with development consent, - 7(l) Environmental Protection (Habitat) Zone permissible with development consent, <p>Given the ecological attributes of the land identified in the above land use zones are the same as those of the proposed E2 zoned lands, it is considered that Council would require justification for the introduction of a prohibition on agricultural uses within the zone. It is also noted that the definition of agriculture in accordance with the BLEP 1987 is broader than that provided in the Standard Instrument. To Council's knowledge the undertaking of agricultural land uses within the environmental protection zones identified in BLEP 1987 has not resulted in issues associated with impacts on areas of ecological significance.</p> <ul style="list-style-type: none"> • Mooring – it is proposed to remove 	

Submission No.	Government Agency / Issue	Consideration	Recommended Response
		<p>mooring from the list of land uses permissible with development consent in the E2 zone.</p> <ul style="list-style-type: none"> • Research stations – it is proposed to maintain research stations as a permissible use in the E2. The definition requires the use to be operated by a public authority and is considered a potentially appropriate use within the zone. • Roads – Division 17 of the Infrastructure SEPP permits roads to be carried out by or on behalf of a public authority, without consent within any zone. In terms of private land use, it may be appropriate to consider access in relation to E2 zoned land e.g. access through a property zoned due to its coastal values. • Rural worker’s dwelling – it is proposed to remove this use from the list of permitted land uses. It is considered that rural worker’s dwellings are more appropriately located outside of the E2 zone. 	<p>No amendment recommended.</p> <p>No amendment recommended.</p>

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	<p>DECCW notes and supports the prohibition of earthworks and drainage by default in E2 zone.</p> <p>Where E2 areas are identified in isolated patches, DECCW recommends that consideration be given to linking them via</p>	<ul style="list-style-type: none"> • Sewerage reticulation system – Clause 106(3) of the Infrastructure SEPP permits sewage reticulation systems to be carried out by or on behalf of a public authority or any person licensed under the <i>Water Industry Competition Act 2006</i> without consent on any land. It is therefore recommended that this land use be removed from the table on this basis in accordance with advice from the DP&I. • Water recreation structure – this land use has been removed from the list of permissible land uses given the opportunities for their provision in other zones. <p>As reflected in the comments above from DECCW, and Council's response, earthworks are permissible with development consent in the E2 zone and it is proposed to maintain them as a permitted land use.</p> <p>Council presently does not have sufficient information support the application of the E3 zone to link areas of isolated E2 land. It is</p>	<p>No amendment recommended. Recommend that the DP&I be advised of the suggested addition to the Dictionary by DECCW.</p>

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	<p>wildlife corridors where possible. Given these corridors may require rehabilitation, they may be more appropriately placed in the E3 zone or delineated as an environmental overlay which could link, where relevant, with riparian vegetation adjacent to watercourses, which should be zoned W1.</p> <p>Bushrock removal has been identified as a serious threat to certain threatened species and has been listed as a Key Threatening Process under the <i>Threatened Species Conservation Act 1995</i>. It is therefore a matter that Councils must consider in the preparation of planning instruments. Although most applicable to sandstone areas DECCW recommends that bushrock removal be prohibited in E zones and subjected to consent in all other zones. This is consistent with existing LEP provisions in several other LGAs.</p> <p>Currently, as there is no 'bushrock' land use category it is difficult to ascertain under what category this activity would be assessed. Although it is understood that adding definitions into the Dictionary can be difficult, it is recommended that the following definition be considered either as an</p>	<p>considered that the issue of wildlife corridors may warrant further consideration as a separate project.</p> <p>The addition of definitions to the Dictionary is a matter for the DP&I, and if the removal of bushrock is problematic across the State then it is recommended that DECCW seek support from the DP&I for the addition of a definition to address this issue.</p> <p>The <i>Threatened Species Conservation Act 1995</i> provides a legislative framework for addressing the removal of bushrock.</p> <p>The DP&I also advise that bushrock removal is "extractive industry".</p>	

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	<p>insertion in the LEP Dictionary or as a footnote to the LEP.</p> <p>Bushrock removal means the removal of natural surface deposits of rock from rock outcrops or from areas of native vegetation. Bushrock may be loose rocks sitting on a rock surface or sitting directly on the soils surface, or may have been removed from rock outcrops by excavation, or blasting or other mechanical means. It does not include:</p> <ul style="list-style-type: none"> • The removal of rock from approved mining or quarrying activities; • The salvage of rock where the removal of rock is necessary for carrying out a development or activity with an existing approval under the Environmental Planning and Assessment Act 1979; or • The removal of rock from paddocks when it constitutes a necessary part of carrying out of a routine agricultural activity. 		
	<p>E3 Environmental Management DECCW considers the emphasis for this zone is on the management and restoration of more disturbed environmentally sensitive areas where limited development will not have an adverse impact.</p>	<p>The application of the E3 zone in Ballina Shire is different to how it has been applied in other areas. The E3 zone has been applied to the water catchments and visually significant areas of the shire. Following a</p>	<p>No amendment recommended.</p>

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	<p>DECCW supports the insertion of additional objectives relating to the protection of water catchments, scenic and landscape values and rehabilitation of the natural environment.</p> <p>DECCW not supportive of dairy (pasture-based), extensive agriculture, and intensive plant agriculture permitted without consent as these developments have the potential to conflict with the zone objectives. Recommended that these developments be permitted with consent or prohibited in this zone.</p>	<p>review of the available E zones it is considered that the E3 zone is the most appropriate zone to apply to these areas.</p> <p>The areas to which the E3 zone applies also contain some of the most productive farmland in the shire. It is not considered appropriate to apply an E2 zone to these areas.</p> <p>DECCW support for the additional objectives inserted by Council noted.</p> <p>The permissibility of extensive agriculture without consent is considered to be appropriate in the area to which the E3 zone has been applied. The definition of extensive agriculture includes grazing of livestock, the production of crops or fodder, and bee keeping, but does not include animal boarding or training establishments, aquaculture, farm forestry, intensive livestock agriculture, intensive plant agriculture. The prohibition of extensive agriculture would only impact on the expansion of existing farms and new uses as any existing extensive agricultural uses would be protected by the existing use rights</p>	<p>Noted.</p> <p>No amendment recommended.</p>

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		<p>provisions of the EP & Act 1979. It is considered appropriate to enable those areas which are presently grazed for example to continue to be used for this purpose. Similarly, the distinction in relation to dairy (pasture-based) has only been made due to an existing issue with the linking of this 'child' definition to its 'parent' extensive agriculture.</p> <p>In relation to intensive plant agriculture Council has requested that the DP&I review the current definition to provide for the distinction between more and less intensive types of horticultural land use (e.g. growing macadamias compared with hydroponics operations in igloos). Council has also requested a distinction to be made between horticultural uses and wholesale plant nurseries following a report of the Ombudsman regarding a wholesale plant nursery within the current water catchment zone.</p> <p>The recent amendments to the Standard Instrument unfortunately do not satisfactorily resolve the issues related to horticultural land uses. Council cannot therefore clearly distinguish wholesale nurseries from horticulture under current definition</p>	<p>No amendment recommended. Recommended that Council continue to make representations to DP&I regarding this issue.</p>

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	<p>DECCW concerned with broad range of uses permitted in the E3 zone. Recommends that developments likely to conflict with zone objectives should be prohibited as they are more appropriately placed in other land use zones. These uses include agriculture, cemetery, charter and tourism boating facility, earthworks, electricity generating works, extractive industry, mine, rural industry and turf farming DECCW supports inclusion of Forestry as subject to consent however it is advised that the provisions of the NV Act apply and that consequently approval for private native forestry may also be required from DECCW in accordance with the Code of Practice.</p>	<p>structure.</p> <p>It is recommended that Council continue to make representations to DP&I regarding this issue.</p> <p>As noted above the E3 zone has been applied to areas including the water catchments and areas of visual significance. It is intended that this zone be more open than the E2 zone. The listing of land uses as permissible provides the opportunity to undertake a detailed assessment of the particular land use, its consistency with the zone objectives, and its suitability for the site and locality in general. It is also considered that in areas where improved management or restoration is desirable the development application process will provide the opportunity to achieve these outcomes. A restrictive zone in terms of the permissible uses is considered less likely to provide incentives for positive environmental outcomes.</p> <p>Development that requires consent in the E3 zone is also subject to Clause 7.8 – Natural areas and habitat.</p> <p>Notwithstanding the above, the range of</p>	<p>Recommend amendment to reduce the range of permissible uses in the E3 zone – see Community and Staff Based Issues Summary.</p>

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		permissible uses in the E3 zone has been reviewed and it is recommended that some uses be removed from those permitted with development consent in the E3 zone.	
	<p>W1 Natural Waterways and W2 Recreational Waterways DECCW concerned with the proposed additional objective for W1 “to provide for development consistent with any applicable plan of management”, as this potentially contradicts the other mandated objectives that are aimed at conserving natural waterways. It is understood that this is to enable incorporation of plans such as the Richmond River Estuary Management Plan and this intention is supported. Recommend the following wording:</p> <ul style="list-style-type: none"> To ensure that development maintains and enhances the integrity of the water quality, ecosystems, health and biodiversity in or adjacent to key fish habitats. <p>DECCW does not support the following uses in the W1 zone: charter and tourism boating facility, dairy (pasture-based), drainage, earthworks, electricity generating works, emergency services facility, information and education facility, and sewerage reticulation system. These developments would be</p>	<p>It is considered that the alternative objective recommended by DECCW has merit. However, it is considered that this recommended objective could be amended for broader application to aquatic ecosystems in general, as follows:</p> <ul style="list-style-type: none"> To ensure that development maintains and enhances the integrity of aquatic ecosystems and biodiversity. <p>It is important to note that the reason for some of the more ‘terrestrial’ uses being listed in the zone as permissible with development consent, is that the cadastre associated with waterways is not precise and that in some cases land adjacent to the waterway may be zoned W1.</p>	<p>Recommended that the following existing objective in the Draft LEP be replaced with the amended objective.</p> <p>Existing objective:</p> <p>To provide for development consistent with any applicable plan of management.</p> <p>Amended objective:</p> <p>To ensure that development maintains and enhances the integrity of aquatic ecosystems and biodiversity.</p> <p>Recommended amendment to reduce the range of permissible land uses – see Community and Staff Based Issues Summary.</p>

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	<p>considered more appropriate in terrestrial zones. DECCW also does not support the inclusion of a research station as the definition in the Dictionary includes 'building or place, and any associated facility'.</p> <p>DECCW would be supportive of temporary monitoring stations in W1 zones for the purpose of research, such as the monitoring of threatened fish species and habitats.</p> <p>DECCW does not support the inclusion of ancillary uses such as car parks and research stations in W2 zones. Sewerage and information facilities are more appropriately placed in terrestrial zones.</p>	<p>The land uses permitted in the W1 and the W2 zone have been reviewed in association with the E2 zone review. In considering the zone to be more conservation focussed several changes to the listed permissible uses are recommended as detailed in the Council Report.</p> <p>The uses listed in the DECCW submission are considered as follows:</p> <ul style="list-style-type: none"> • Charter and tourism boating facility – recommended for prohibition in the W1 zone. • Dairy (pasture-based) — recommended for prohibition in the W1 zone. • Drainage – having regard for the definition of drainage there may be circumstances where it is appropriate to carry out drainage works. The use will require environmental assessment and is also likely to require the approval of relevant State government agencies. 	

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		<ul style="list-style-type: none"> • Earthworks – the definition of earthworks is “excavation or filling”. Similarly to drainage, it is considered that there may be circumstances where it is appropriate to carry out earthworks subject to environmental assessment and relevant approvals. • Electricity generating works – – recommended for prohibition in the W1 zone. • Emergency services facility – given the definition of emergency services facility relates specifically to the provision of facilities by an emergency services organisation, it is considered to be an appropriate use within the zone. For example, the NSW Volunteer Rescue Association Incorporated may have cause to construct a facility on land adjacent to the Richmond River, Permitting these uses with development consent is not considered to be inconsistent with the objectives of the zone. • Information and education facility – 	

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		<p>– recommended for prohibition in the W1 zone.</p> <ul style="list-style-type: none"> • Research station – the definition of a research station is “...a building or place operated by a public authority for the principal purpose of agricultural, environmental, fisheries, forestry, minerals or soil conservation research, and includes any associated facility for education, training, administration or accommodation”. This use recommended for prohibition in the W1 zone however it is considered appropriate as a permissible use within W2 zone, noting that development consent is required. • Sewerage reticulation system - Clause 106(3) of the Infrastructure SEPP permits sewerage reticulation systems to be carried out by or on behalf of a public authority or any person licensed under the <i>Water Industry Competition Act 2006</i> without consent on any land. On this basis and given that is desirable to prohibit private works, it is recommended that this land use be 	

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	<p>DECCW has a regulatory role with respect to noise, air and water quality for mining and extractive industry in waterways where the activity is scheduled under the Protection of the Environment Operations Act 1997. DECCW does not consider scheduled activities to be necessarily consistent with the current recreational and ecological protection objectives of the W2 zone. DECCW recommends that the W3 – Working Waterway (Maritime Industry) zone be applied over current areas or areas identified for such activities in the future.</p> <p>DECCW generally supports Council's mapping of W1 zone but recommends the zone be continued further upstream (e.g. in Emigrant and Maguire's Creeks, rather than these being mapped as rural lands).</p> <p>DECCW concerned with the apparent lack of any riparian buffer protection for the waterways including the Richmond River. DECCW recommends that Council consider</p>	<p>removed from listing in the W1 zone.</p> <p>The issue regarding the permissibility of extractive industry is addressed earlier in this submission. The Mining SEPP permits <u>underground mines</u> to be carried out on <u>any land</u> with development consent. The SEPP also permits <u>mining</u> on land where agriculture or industry may be carried out with or without development consent. While it is appreciated that it may be desirable to prohibit mining within the W zones, the prohibition of all agricultural uses to achieve this is not considered appropriate.</p> <p>The waterways zones have been applied to all significant waterways areas. The extent of the waterways zoned was based on the extent of the cadastre. As previously noted, there is an opportunity to extend the W1 zone along Emigrant and Maguire's Creeks and it is recommended that this be undertaken to the bridges at Tintenbar and Teven respectively.</p> <p>As noted in response to the submission provided by NSW Industry & Investment, the mapping or overlay approach to riparian zones is considered to comprise a body of</p>	<p>No amendment recommended.</p> <p>Recommended that the W1 zone be extended along Emigrant and Maguire's Creeks.</p> <p>Recommendation addressed earlier in this report.</p>

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	<p>the draft Guideline for the Zoning of Waterways prepared by the former Department of Primary Industries and the Department of Water and Energy which recommends, as a minimum, 50m buffer along major watercourses as mapped in the LPI Major Watercourse, 2003 dataset.</p> <p>If Council chooses not to zone riparian land for environmental protection, it is strongly recommended that Council consider the insertion of a riparian overlay clause in Part 7 of the LEP and a map relating to all streams mapped in the 1:25,000 topographic series whereby buffer widths are determined by stream order. This approach has been adopted by Bellingen Council.</p>	<p>work which is appropriate to be undertaken as a separate project.</p> <p>The approach presently adopted by the Draft LEP for Ballina Shire includes a clause (Clause 7.8) titled "Natural areas and habitat". This clause applies to development on land or water within zones E1, E2, E3, W1 or W2 as well as development on land or water <u>adjoining these zones</u>. The clause requires consideration of potential impacts on environmental attributes / values in the determination of development applications.</p>	<p>No amendment recommended.</p>
	<p>Part 3 – Exempt and Complying Development Recommendations for amendments to Clause 3.3:</p> <ul style="list-style-type: none"> • Clause 3.3(2)(h) should include "all land reserved under the National Parks and Wildlife Act 1974 or land to which Part 11 of that Act applies". It should be noted that this amendment meets the approval of DP&I and had already been applied to SEPP (Exempt and Complying 	<p>It is noted that the Standard Instrument (Local Environmental Plans) Amendment Order 2011 incorporates an amendment to Clause 3.3(2)(h) to include land acquired under Part 11 of the Act.</p>	<p>No amendment required.</p>

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	<p>Development Codes) 2008. Part 11 refers to land acquired by the Minister and vested with the Crown for eventual acquisition.</p> <ul style="list-style-type: none"> • Clause 3.3 should also apply to other formal areas aside for conservation (e.g. under a Property Vegetation Plan (NV Act) or under a formal offset covenant agreed under the biobanking amendments to the <i>Threatened Species Conservation Act 1995</i>. • Additional subclauses should be included under 3.3(2), as used in the Clarence Valley LEP relating to the protection of steep slopes and land subject to coastal erosion or instability from exempt or complying development: <ul style="list-style-type: none"> “(k) land having a slope greater than 18 degrees from the horizontal, (l) land subject to a risk of coastal erosion or land instability and identified by cross hatching on the Coastal Erosion and Land Instability Areas Map”. 	<p>It is noted that DP&I advise that the Direction in the Standard Instrument says additional areas may be added. While it is considered preferable for the Standard Instrument to be amended to incorporate the requested additional wording, it is recommended that the additional wording be added as requested by DECCW.</p> <p>In relation to the issue of slope, Council does not presently have sufficient information to recommend mapping of these areas for inclusion in the definition of an environmentally sensitive area. A coastal erosion lands map has been prepared and is recommended for inclusion in Clause 3.3(2).</p>	<p>Amend Clause 3.3 by inserting: (k) land to which a vegetation plan within the meaning of the <i>Native Vegetation Act 2003</i> applies; and (l) land to which any biobanking agreement within the meaning of Part 7 of the <i>Threatened Species Conservation Act 1995</i> applies.</p> <p>No amendment in relation to slope.</p> <p>A coastal erosion lands map for inclusion in Clause 3.3(2) is recommended.</p>

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	<ul style="list-style-type: none"> All lands zoned for environmental protection should also be included. <p>Principal Development Standards Clause 4.1(1) Minimum subdivision lot size objectives. DECCW supports objectives of this clause. From an environmental context, DECCW supports a reduction in lot size for a dwelling where a larger vegetated lot exhibiting HCV can be re-zoned to an E zone in perpetuity under the same consent (e.g. provided the overall minimum lot size is not breached).</p> <p>Clause 4.1A Erection of dwelling houses on land in certain rural and environmental zones. Other Councils have excluded the E2 zone from this clause and prohibited dwelling-houses, dual occupancies, strata and community title subdivision. DECCW does not support dwellings in E2 zones.</p>	<p>Land zoned 'E' is excluded from the application of the Housing Code SEPP. It is considered that some minor works are acceptable within these zones, given that they have minimal impact by definition. For example letterboxes should be able to be installed without the need for development consent.</p> <p>Council has been discussing the provisions of Clause 4.1 with the DP&I for some time, and the "boundary adjustment", "residual lot", and "split zone" implications in particular. Council has been advised that the DP&I is preparing draft clauses to address these issues.</p> <p>The E2 zone applies to a number of 'equivalent' zones under the BLEP 1987. The following summary of the existing zones and the permissibility of dwelling-houses within them is provided:</p> <ul style="list-style-type: none"> - 7(a) Environmental Protection (Wetlands) Zone – prohibited - 7(f) Environmental Protection (Coastal Lands) Zone – permissible with development 	<p>No amendment recommended in relation to E zones.</p> <p>No amendment recommended pending the provision of draft clauses by DP&I to address these issues.</p> <p>No amendment recommended.</p>

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		<p style="text-align: center;">consent</p> <ul style="list-style-type: none"> - 7(i) Environmental Protection (Urban Buffer) Zone – permissible with development consent - 7(l) Environmental Protection (Habitat) Zone – permissible with development consent <p>As evident from the above summary, dwelling-houses are permissible in all the current environmental protection zones to which the E2 will apply, with the exception of the 7(a) Wetlands Zone. In order to obtain consent for a dwelling-house the site would also need to satisfy the dwelling entitlement provisions of Clause 4.1A.</p> <p>It is noted that the DP&I Practice Note PN-002 dated 30 April 2009 states that “Councils should be aware that uses should not be drawn too restrictively as they may, depending on circumstances, invoke the <i>Land Acquisition (Just Terms Compensation) Act 1991</i> and the need for the Minister to designate the relevant acquiring authority”.</p> <p>Further, the Frequently Asked Questions section of the practice note specifically</p>	

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		refers to the above provisions coming into effect in the event that dwelling-houses are prohibited on land on which they were previously permissible.	
	<p>Part 5 – Miscellaneous provisions</p> <p>Clause 5.3 – Development near zone boundaries. Noted that this clause does not apply to R2, R3, RE1, E1, E2, E3 and W1 zones or to any land within the coastal zone. However it is considered the addition of a local clause relating to development buffers adjacent to national parks at least would be advantageous with respect to matters such as the control of drainage and bushfire. A similar argument could be made for E2 zoned land although it is preferable that any buffer be included in this zone to begin with.</p> <p>Clause 5.5 – Development within the coastal zone. DP&I may amend clause to reflect recent policy provisions regarding sea level rise.</p> <p>Clause 5.9 – Preservation of trees. DECCW supports the inclusion of this clause.</p> <p>Clause 5.10 Heritage conservation. Noted that DECCW is in discussion with DP&I in relation to amendments to this clause.</p>	<p>It is noted that Clause 5.3 is recommended for removal from the Draft LEP.</p> <p>Clause 7.8 applies to land within, or adjoining the E and W zones.</p> <p>Noted.</p> <p>Noted.</p> <p>Noted.</p>	<p>Recommended that Clause 5.3 which is optional, be removed from the Draft LEP.</p>

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	<p>DECCW disappointed to see the additional note stating that the LEP does not include ACH items in Schedule 5, despite discussion regarding the development of an ACH Management Plan. Council is bound by the Standard Instrument to produce a Heritage Map that specifically identifies “places of Aboriginal heritage” significance. Interim maps may be produced highlighting sites that are public knowledge, for example sites listed under the current LEP. As a minimum, ACH items listed in the current LEP Schedule 5 should be carried into the new LEP.</p> <p>Although there are no declared Aboriginal Places within the Ballina LGA, under Part 6 of the <i>National Parks and Wildlife Act 1974</i>, DECCW considers any new declarations of Aboriginal Places may allow further public mapping of these locations where relevant and assist in the production of a more definitive Heritage Map.* This approach should be raised with the local Aboriginal community to assess its feasibility.</p> <p>*NOTE: the DECCW submission cites a specific example in the submission however this has not been identified in this summary due to potential sensitivity regarding the</p>	<p>Ballina Shire Council is currently preparing an Aboriginal Cultural Heritage Study. Schedule 5 mapping of items is not considered appropriate until this study has been completed and the Aboriginal community has been consulted regarding the issue of mapping items of cultural heritage.</p>	<p>No amendment recommended.</p>

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	<p>nomination of sites.</p> <p>DECCW supports the broadening of the definition to include both physical and cultural areas of importance however, the difficulties involved in mapping these parameters due to confidentiality related issues is recognised. Given this DECCW can only recommend deferral of the Heritage's Map completion under a later amendment to the LEP (subject to the above comments regarding the listing / mapping of items identified in the existing 1987 LEP).</p> <p>Noted that notwithstanding the provisions of subclause (3)(a)(i) the requirements of Part 6 of the NPW Act still apply in terms of consent from DECCW. In addition to the provisions of subclause (5)9c) DECCW would require applicants to undertake local Aboriginal community consultation in accordance with DECCW's <i>Aboriginal Cultural Heritage Consultation Requirements for Proponents</i> (April 2010) if there is a likely impact on Aboriginal objects, sites or places.</p> <p>Clause 5.11 – Bush fire hazard reduction. DECCW concerned that this clause could be interpreted as permission for hazard reduction without consent regardless of</p>	<p>This is a compulsory clause and the insertion of any notes should be discussed with the DP&I. While Council is able to seek to insert a note it is considered preferable</p>	<p>Recommend that Council advise the DP&I of the note suggested by DECCW.</p>

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	<p>whether a permit is gained under the <i>Rural Fires Act 1997</i>. Recommended that a note be inserted that approvals under other Acts may be required and that the clause be amended to reflect Section 100C(4) of the Act as follows:</p> <p>“Bush fire hazard reduction work may be carried out on land despite any requirement for an approval, consent or other authorisation for the work made by the <i>Native Vegetation Act 2003</i>, the <i>Threatened Species Conservation Act 1995</i>, the <i>National Parks and Wildlife Act 1974</i> or any other Act or instrument made under an Act if:</p> <ul style="list-style-type: none"> (a) the work is carried out in accordance with a bush fire risk management plan that applies to the land, and (b) there is a bush fire hazard reduction certificate in force in respect of the work and the work is carried out in accordance with any conditions specified in the certificate, and (c) the work is carried out in accordance with the provisions of any bush fire code applying to the land specified in the certificate. 	<p>that the relevant State government agencies resolve any issues regarding the wording of provisions to maintain consistency across the state in relation to compulsory clauses.</p>	

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	<p>Part 6 – Urban Release Area Clause 6.3 Development control plan. DECCW support the provision requiring the preparation of a development control plan for urban release areas.</p> <p>DECCW is concerned by subclause (4)(b) which states the above will not apply where “any” proposed lot is to be reserved for environmental purposes. The proposed lot may be only one of many proposed for development. It is considered that the existence of such a lot does not necessarily justify exempting the requirement for a DCP over the remainder. It is recommended that subclause (4)(b) be reworded to ensure the requirement for a DCP despite the provisions of any environmental lot.</p>	<p>Noted.</p> <p>The potential issue with the existing wording is acknowledged. It is recommended that subclause 4(b) be amended to refer to “a subdivision of the land which is solely for the purpose of creating a lot to be reserved or dedicated for public open space, public roads or any other public or environmental protection purpose”.</p>	<p>Recommend that Clause 6.3(4)(b) be deleted and replaced with:</p> <p>“a subdivision of the land which is solely for the purpose of creating a lot to be reserved or dedicated for public open space, public roads or any other public or environmental protection purpose”.</p>
	<p>Part 7 – Additional local provisions Clause 7.2 Earthworks and drainage. DECCW supports the inclusion of this clause but recommends amending 3(a)(iv) to include lands zoned E1, W1 and W2, in addition to E2 and E3.</p> <p>DECCW also recommend the inclusion of the following subclauses from Goulburn Mulwaree LEP: (v) the likelihood of disturbing Aboriginal objects; and</p>	<p>The recommendation of DECCW is supported.</p> <p>The recommended amendment to add the disturbance of Aboriginal objects is supported. The issue of potential for adverse impacts on environmentally sensitive areas is addressed by (iv) and the</p>	<p>Amend Clause 3(a)(iv) to include lands zoned E1, W1 and W2.</p> <p>Amend Clause 3(a) by inserting additional subclause “the likelihood of disturbing Aboriginal objects”. Note – doubling up of numbering in the subclauses should also be rectified.</p>

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	<p>(vi) proximity to and potential for adverse impacts on any environmentally sensitive areas.</p> <p>A definition of “environmentally sensitive area” outside that applying to exempt and complying development (Clause 3.3) should be provided in the LEP Dictionary. This should include reference to identified old growth forest, rainforest, endangered ecological communities, wildlife corridors, forest types that are considered under-conserved, critical habitat for threatened species, riparian buffers, any important wetland and streams not included in the W zones, as well as mapped overlays of such areas.</p> <p>Clause 7.3 Acid sulphate soils. DECCW supports the inclusion of this clause.</p> <p>Clause 7.4 Agricultural works in sugar cane areas. If some cane lands are zoned E3, DECCW suggests amending clause 7.4(1)(d) to include the E3, as well as the E2 zone.</p> <p>Clause 7.5 Drinking water catchments. DECCW supports the inclusion of this</p>	<p>recommended amendment to it outlined above.</p> <p>It is agreed that the definition of “environmentally sensitive area” should be added to the Standard Instrument Dictionary. This issue should be raised with the DP&I by DECCW.</p> <p>Noted</p> <p>No amendment considered necessary. E3 provides for agricultural land uses in any case.</p> <p>This issue has also been raised by Rous Water and is addressed in the section</p>	<p>Recommend that Council advise the DP&I of the definition suggested by DECCW.</p> <p>No amendment recommended.</p> <p>N/A (see Rous submission).</p>

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	<p>clause. However, DECCW suggest that the objective of this clause and subclause 3 be expanded to include water quantity as well as quality. Alternatively, a more explicit clause such as that used in the Draft Clarence Valley LEP could be inserted.</p> <p>Clause 7.6 Flood planning area including filled land. DECCW supports the inclusion of this clause. However, it fails to consider the impact of climate change and impact from cumulative development. It is noted that Council is currently considering various climate change scenarios in consultation with State government agencies and that DP&I, in conjunction with the DECCW Urban and Coastal Water Reform Branch and is currently reviewing the clauses more generally. It is recommended that Council check with DP&I to ascertain whether the amended clause should be used. DECCW also recommends that the Draft LEP be updated as soon as practicable in light of the increased flood risk associated with climate change on new and existing developments on flood prone land.</p> <p>Clause 7.7 –Strategic Urban Growth Areas. DECCW supports the inclusion of this clause. Council should consider including</p>	<p>dealing with their submission.</p> <p>Council is awaiting the finalisation of its Floodplain Management Plan in order to determine the implications in relation to climate change.</p> <p>Noted. Recommendation supported.</p>	<p>No amendment recommended.</p> <p>Recommend that stormwater and wastewater discharges be added to Clause 7.7(3)(c).</p>

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	<p>stormwater or wastewater discharges in subclause 3(c).</p> <p>Clause 7.8 Natural areas and habitat. DECCW supports the inclusion of a clause providing for protection of HCV land and water from adjacent development however is of the view that the clause should be strengthened. The clause should require the consent authority “to be satisfied” that the development will not have an adverse impact on the matters identified rather than merely having to take them into account. Specific mention of threatened species, populations and endangered ecological communities could be made in 2(b) and native vegetation and wetlands in 2(d). Alternatively Council could map the environmentally sensitive land, supported by a local provision (such as those provided below).</p>	<p>It is agreed that some amendment to this clause would strengthen it. The recommendation that the consent authority should be required to be “satisfied” of the matters is supported. It is considered that the matters listed are sufficient in terms of their scope. It is also intended to support this clause with a specific DCP provision containing further detail regarding the issues which should be addressed.</p>	<p>It is recommended that Clause 7.8 be amended to require the consent authority to be “satisfied” of the matters listed, as detailed in the Council Report.</p>
	<p>Recommended new clauses DECCW strongly recommends that Council consider the insertion of additional clauses in Part 7 relating to the following matters:</p> <p><u>Riparian buffers</u> Application of a 50m buffer zone to all lower order watercourses, as defined by the Land Information Centre 1:250,000 topographic</p>	<p>As previously noted it is intended to undertake a riparian buffer mapping exercise as a separate project to ensure that</p>	<p>No amendment recommended.</p>

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	<p>maps. This approach would be consistent with the FNCRS, the <i>Water Management Act 2002</i> and the draft guidelines for the zoning of waterways issued by the former Department of Primary Industries and the Department of Water and Energy.</p> <p>DECCW also recommends the insertion of Clause 7.3 from the Draft Bellingen LEP:</p> <p>7.3 Environmentally sensitive land - water <i>(1) The objectives of this clause are to protect or improve:</i> <i>(a) water quality within waterways, and</i> <i>(b) stability of the bed and banks of waterways, and</i> <i>(c) aquatic and riparian habitats, and</i> <i>(d) ecological processes within waterways and riparian areas, and</i> <i>(e) threatened aquatic species, communities, populations and their habitats, and</i> <i>(f) scenic and cultural heritage values of waterways and riparian areas.</i> <i>(2) This clause applies to development on land;</i> <i>(a) that is within a waterway</i> <i>(b) that is within 50 metres of Zone W1 or W2</i> <i>(c) that is within 50 metres of the bank or shore (measured horizontally from the top of the bank or shore), of any waterway identified on the Natural Resources Water Map.</i> <i>(3) Development consent must not be granted to</i></p>	<p>the identification of these areas is comprehensive and robust.</p>	

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	<p><i>development on land to which this clause applies unless the consent authority has considered the following matters:</i></p> <p><i>(a) identification of any potential adverse impact on:</i></p> <p><i>(i) water quality within the waterway, and</i></p> <p><i>(ii) aquatic and riparian habitats and ecosystems, and</i></p> <p><i>(iii) stability of the bed, shore and banks of the waterway, and</i></p> <p><i>(iv) the free passage of fish and other aquatic organisms within or along the waterway, and</i></p> <p><i>(v) habitat of any threatened species, populations, or ecological communities,</i></p> <p><i>(b) the likelihood that the development will increase water extraction from the waterway for domestic or stock use and the potential impact of any extraction on the waterway, and</i></p> <p><i>(c) a description of all proposed measures to be undertaken to ameliorate any potential adverse impact.</i></p> <p><i>(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development meets the objectives of this clause and:</i></p> <p><i>(a) the development is designed, sited and managed to avoid any potential adverse environmental impact, or</i></p> <p><i>(b) if a potential adverse impact cannot be avoided, the development:</i></p> <p><i>(i) is designed and sited so as to have minimum adverse impact, and</i></p>		

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	<p><i>(ii) incorporates effective measures so as to have minimal adverse impact, and</i> <i>(iii) mitigates any adverse impact through the restoration of any existing disturbed area on the site.</i></p> <p><u>Developments adjacent to national parks</u> DECCW recommends consideration of the following clause for development adjoining national parks:</p> <p><i>Development adjoining DECCW estate</i></p> <p><i>The consent authority must not grant consent to development on land to which this clause applies if it is of the opinion that the proposed development is not consistent with the provisions contained in the “Guidelines for development adjoining Department of Environment and Climate Change land” as in force on the day on which this clause commenced.</i></p> <p><u>Environmentally sensitive areas</u> While Clause 7.8 goes some way to addressing this, the absence of themed mapping in relation to these environmentally sensitive lands is contrary to the approach taken by a number of other Councils. Recommend Clause 7.4 from the Draft Bellingen LEP (or clause from Muswellbrook LEP titled Environmentally sensitive land – biodiversity):</p>	<p>The DP&I has advised Council that LEP provisions are not to reference external documents. Clause 7.8 contains provisions for land adjoining E1 zoned land.</p> <p>Council has reviewed the exhibited wording of Clause 7.8 and revised wording is recommended to strengthen this clause.</p>	<p>No amendment recommended.</p> <p>Revised wording recommended in relation to Clause 7.8 as outlined in the Committee Report and the Community and Staff Based Issues Summary.</p>

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	<p>7.4 Environmentally sensitive land – Native vegetation</p> <p><i>(1) The objectives of this clause are to protect, maintain or improve the diversity of the native vegetation including:</i></p> <p><i>(a) protecting the biological diversity of native flora and fauna, and.</i></p> <p><i>(b) protecting the ecological processes necessary for their continued existence, and</i></p> <p><i>(c) encouraging the recovery of threatened species, communities, populations and their habitats.</i></p> <p><i>(d) avoiding the location of incompatible development in areas that may act as habitat corridors if suitably revegetated.</i></p> <p><i>(2) This clause applies to development on land identified as a sensitive area on the Natural Resources Native Vegetation Map.</i></p> <p><i>(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority has considered the following matters:</i></p> <p><i>(a) identification of any potential adverse impact of the proposed development on:</i></p> <p><i>(i) a native vegetation community, and</i></p> <p><i>(ii) the habitat of any threatened species, populations or ecological communities, and</i></p> <p><i>(iii) a regionally significant species of plant, animal or habitat, and</i></p> <p><i>(iv) an existing or potential habitat corridor, and</i></p> <p><i>(v) a wetland, and</i></p> <p><i>(vi) the biodiversity values within a reserve,</i></p>		

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	<p><i>including a road reserve or a stock route; and (b) a description of any proposed measures to be undertaken to ameliorate any potential adverse impact.</i></p> <p><i>(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development meets the objectives of this clause and:</i></p> <p><i>(a) the development is designed, sited and managed to avoid any potential adverse environmental impact, or</i></p> <p><i>(b) if a potential adverse impact cannot be avoided, the development:</i></p> <p><i>(i) is designed and sited so as to have minimum adverse impact, and</i></p> <p><i>(ii) incorporates effective measures so as to have minimal adverse impact, and</i></p> <p><i>(iii) mitigates any residual adverse impact through the restoration of any existing disturbed or modified area on the site.</i></p> <p><u>Other recommended clauses from gazetted and Draft LEPs:</u></p> <ul style="list-style-type: none"> • Goulburn Mulwaree LEP - Restrictions on development adjoining mines and extractive resource sites. This clause applies to land adjoining or in the vicinity of land mapped as “Minerals and extractive resources”. It requires the consideration of the potential impact 	<p>Council does not currently have mines and extractive resource sites mapped. The matters noted appear to relate to issues which would ordinarily be considered in the development assessment process.</p>	<p>No amendment recommended.</p>

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	<p>of development on the availability of mineral or extractive resources, and the potential impacts on the development from the mine or extractive industry.</p> <ul style="list-style-type: none"> • Draft Clarence Valley LEP – Development within localities subject to coastal erosion or land instability. This clause applies to land mapped as subject to coastal erosion or land instability. Development consent to repair or rebuild a building already located on land identified on the map may be granted provided that the consent authority is satisfied of a number of matters including that the total floor area of the building after rebuilding will not be greater than prior to the damage, and that the building be relocated where possible to a location on the land as far as practicable from the coastal erosion or river bank erosion or site of the land instability. This clause requires certain matters to be taken into consideration in the assessment of the carrying out of development on land to which the clause applies, including, likelihood of the proposal adversely affecting or being 	<p>Clause 5.5 applies to land in the coastal zone. Council is also reviewing the current DCP provisions regarding development on coastal lands.</p>	<p>No amendment recommended.</p>

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	<p>adversely affected by coastal erosion, land instability, river bank erosion and/or flooding, and the need to relocate buildings or services in the long-term. It also requires consideration of whether adequate safeguards and measures have been or will be in place to protect the environment and mitigate the risk of property damage or loss of life, and whether any building would be under immediate threat from coastal erosion or land instability, including river bank erosion.</p>		
	<p>Schedule 3 – Complying Development Schedule 3 does not appear to be drafted and DECCW recommends finalising this section of the LEP. DECCW has recommended the following amendments in relation to other Draft LEPs and these could also be applicable to the Ballina Schedule when finalised:</p> <p>Amendment to Part 2 Complying development certificate conditions, Division 2 Conditions applying during the works:</p> <p>Hours DECCWs Interim Construction Noise</p>	<p>The Codes SEPP contains provisions regarding Complying Development. These comments will be considered in the event that Council adds development to Schedule 3.</p>	<p>No amendment recommended.</p>

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	<p>Guideline recommends hours of operation for construction to be conducted between 7.00am and 6.00pm Monday to Friday and between 8.00am and 1.00pm on Saturday, with no construction to be carried out on Sundays or public holidays.</p> <p>Sedimentation and erosion controls Amend and replace existing clause with: Run-off and erosion controls must be effectively installed prior to construction and maintained until the site has been stabilised and landscaped.</p>		
	<p>Schedule 5 – Environmental heritage It appears that there are no ACH sites, other than possibly Cabbage Tree Island, are listed in Schedule 5. It is recommended that Council incorporate in Schedule 5 any relevant spatial information (e.g. sensitive landscapes) from the Bundjalung community that is contained in any existing Aboriginal Cultural Heritage Management Plans and studies such as <i>Aboriginal Women's Heritage: Ballina and Cabbage Tree Island</i> publication and <i>Living on Cabbage Tree Island and Boundary Creek</i> provided that this meets the approval of the local Aboriginal community.</p>	<p>As noted above, Ballina Shire Council is currently preparing an Aboriginal Cultural Heritage Study. Schedule 5 mapping of items is not considered appropriate until this study has been completed and the Aboriginal community has been consulted regarding the issue of mapping items of cultural heritage.</p>	<p>No amendment recommended.</p>

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	<p>B – The Mapped Instrument Land Zoning Map (LZN Map sheet series) <u>Environmental Protection Zones</u> If not already undertaken, Council should ground truth lands immediately adjacent to E1 as well as lands identified in DECCW’s Key Habitats and Corridors Study to establish their environmental / conservation value, with a view to including them in an Environmental Protection zone.</p> <p>DECCW supports the zoning of most of the Ballina foreshores as E2, which is consistent with the DP&I’s Practice Note PN09-002.</p> <p>There appear to be many small areas of E2 and E3 zones scattered amongst larger patches of RU1 and RU2 zones and R2 and R3 zones (Maps_001, 003, 004, 010). DECCW also notes some apparent inconsistencies whereby some lands adjacent to E3 zoned land remain zoned under RU despite appearing to have similar conservation values (Map LZN_004). Although this may partly be explained by the rule set used to derive the mapping, it gives the impression of the zones being inconsistent and confused.</p>	<p>Where the environmental / conservation value of these lands has been identified and ground-truthed these areas have been included in an Environmental Protection Zone. Further work will be carried out over time in areas where a detailed assessment has not been undertaken.</p> <p>Noted.</p> <p>The small areas of E2 and E3 referred to have been reviewed and warrant environmental protection zoning. The rule set identifies the criteria applied to the zoning of these areas. This process has been further refined following the review of the E2 zones.</p>	<p>No amendment recommended.</p> <p>No amendment recommended.</p>

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	<p>Council could consider developing a native vegetation overlay for those areas that have not had mapping / verification undertaken of HCV vegetation. This has been done in the Draft Bellingen LEP (Clause 7.4). Vegetation on private lands and areas having existing or potential value as wildlife corridors should also be included.</p> <p>DECCW notes that there are obvious gaps in riparian vegetation along waterways which break up the connectivity of predicted wildlife corridors. Value of retaining connectivity across these gaps should be included in the heads of consideration in Clause 7.8 (in conjunction with (2)(d) fragmentation of habitat) so that development is not approved which would diminish opportunities for wildlife movement.</p> <p>Other areas such as environmental offset and private conservation initiatives could also be included in environmental protection zones. Subject to landowner agreement, DECCW may be able to provide a database and mapping of these areas where they pertain to formal agreements on title under relevant legislation and for wildlife corridors (Key Habitats and Corridors study) upon request.</p>	<p>Council has identified the opportunity for this work to be undertaken as a separate project.</p> <p>Council has identified the opportunity for this work to be undertaken as a separate project.</p> <p>This could be included in the additional work identified if appropriate.</p>	<p>No amendment recommended.</p> <p>No amendment recommended.</p> <p>No amendment recommended.</p>

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	<p>Waterways Zones DECCW supports the zoning of the majority of the waterways as W1 – Natural Waterways and the zoning of part of the lower reaches of the Richmond River W2 – Recreational Waterways.</p> <p>DECCW supports the application of the E2 zone along parts of the riparian zone in maps LZ_005 and LZN_009 and recommends Council continue this zoning and mapping along all riparian zones.</p> <p>DECCW concerned with the current mapping of the upper reaches of Emigrant Creek (LZN_014) and the whole of Maguire’s Creek (LZN_010 and LZN_014) as RU1, RU2 and E2. Should be amended to W1 to protect their high conservation value and to ensure consistency with mapping of the Waterway zones.</p> <p>Noted that the W3 zone has not been used. DECCW considers this could be applied where any extractive or dredging activity is undertaken or may be required in the future.</p> <p>DECCW concerned with the general lack of mapped riparian buffers along freshwater lower order streams. Recommended that</p>	<p>Noted.</p> <p>As previously noted, the mapping of riparian zones is proposed to be undertaken as a separate project.</p> <p>The waterways zoning has been reviewed as addressed earlier in this document.</p> <p>It is not proposed to apply the W3 Working Waterways zone at this stage.</p> <p>See earlier comments in relation to this issue.</p>	<p>No amendment recommended.</p> <p>Addressed earlier in this document.</p> <p>No amendment recommended.</p> <p>No amendment recommended.</p>

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	Council consider mapping a 100m (estuaries) and 50m (riverbanks) riparian buffer as recommended by former DPI in its draft Guidelines for the zoning of Waterways.		
	<p>Rural Zones Land zoned RU2 adjacent to R2 – Low Density Residential on Map LNZ_007 in the vicinity of Wardell. Concerned about potential land use conflict. These lots seem similar to adjacent areas zoned E2 and have the same minimum lot size. If this is to limit further subdivision of environmentally sensitive lands prior to detailed investigation, then DECCW is supportive of this approach. However, this perceived discrepancy may require clarification and a detailed study to confirm or otherwise, environmental values should be undertaken as soon as practicable.</p> <p>Clarification may also be required as to the zoning of Fig Tree Hill Drive as RU1 when there is an existing residential estate (Map LZN_011). It is understood that this form of rural residential development is no longer supported by Council. DECCW supports its removal from the urban footprint but considers it may require review.</p>	<p>The lots zoned RU2 adjacent to the R2 Low Density Residential Zone at Wardell do not contain significant ecological values and are not suitable for further urban subdivision, and have therefore been zoned the 'base' rural zone for this area.</p> <p>It is intended to maintain the RU1 zone in the Fig Tree Hill area. The zoning of the land for rural residential purposes is not considered appropriate given that it is Council's current policy position not to provide for further rural residential subdivision within the shire. It is also not considered appropriate to zone the land urban given that this form of residential</p>	<p>No amendment recommended.</p> <p>No amendment recommended.</p>

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		development is limited in the Shire and there are servicing implications for the further subdivision of the estate.	
	<p>Heritage Map (HER Map sheet series) Aboriginal Cultural and European heritage values should be listed, mapped and protected under Clause 5.10 – Heritage conservation. DECCW considers that Schedule 5 mapping is an appropriate way to protect a number of other Aboriginal sites of significance that are identified on Aboriginal Heritage and Information management System (AHIMS). Recommended that Council enter into detailed consultation with local Bundjalung community, with a view to including at least the more significant areas in Schedule 5 and on the Heritage Maps.</p> <p>Some AHIMS sites appear to fall into clusters associated with the lower estuaries. With the approval of the Aboriginal community it may be possible to landscape map these clusters to alert of their proximity without specifically divulging their locations. The exact locations can be buffered and the consolidated shape applied over one or several lots. Coffs Harbour City Council has used this approach in their LEP 2000 Amendment 32 (Red Rock and Corindi).</p>	As noted above Council is currently preparing an Aboriginal Cultural Heritage Study, and Schedule 5 mapping of items is not considered appropriate until this study has been completed.	No amendment recommended.

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	<p>DECCW supports the listing of Fig Trees (Item 189 and 193) in Schedule 5, Part 1 – Heritage Item. Other councils (such as Bellingen) have used Schedule 5 to identify other isolated but significant items of environmental heritage for protection. Examples include historic trees, known habitual nesting sites of threatened species such as Ospreys, with a buffer to development surrounding the nest. DECCW suggests this approach to mapping natural heritage items in Part 2 – Heritage Conservation Areas, could be used to protect significant raptor nest sites, known flying fox colonies, and isolated but valuable old growth habitat trees.</p> <p>For ease of finding each heritage item in Schedule 5, DECCW suggests providing an additional column for the corresponding Heritage map sheets.</p>	<p>Council is not proposing to apply heritage mapping in this manner. Council is proposing to prepare a “Significant Tree Register” as part of its Vegetation Management Chapter of the Ballina Combined DCP.</p> <p>While this suggestion is considered to have merit, the Standard Instrument format does not provide for this.</p>	<p>No amendment recommended.</p> <p>No amendment recommended.</p>
	<p>Drinking Water Catchments map (WCM) DECCW supports the mapping of drinking water catchments.</p>	<p>Noted.</p>	

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	<p>Strategic Urban Growth Area Map (SGA) DECCW recommends that the potential urban growth areas shown on the maps more accurately reflect the release areas identified on Map 3 of the FNCRS.</p> <p>DECCW supports the buffering of land intended for future urban purposes to avoid or minimise future land use conflict.</p>	<p>The map has been checked by both the DP&I and Council and no discrepancies are evident.</p> <p>Noted.</p>	<p>No amendment recommended.</p>

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09	<p>NSW Rural Fire Service</p> <p>RFS does not support the provisions of exempt and complying development being applied to certain development on bush fire prone land. This issue is being worked through with the DP&I.</p>	<p>As acknowledged by the submission this is an issue for the DP&I.</p>	<p>No amendment recommended.</p>

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10	<p>Housing NSW</p> <p>Inconsistency with Far North Coast Regional Strategy (FNCRS) FNCRS anticipates a minimum housing demand of 8,400 dwellings in Ballina LGA and identifies Ballina as a developing major regional centre. The proposed prohibition of most medium density housing forms in the R2 Low Density Residential zone, particularly in close proximity to town centres and commercial precincts, is inconsistent with the FNCRS, which states: “Decreasing occupancy rates and changing demand from traditional single detached housing to multi dwelling types means that a variety of housing forms is needed in appropriate locations”. The FNCRS also states that “Higher density living is to be encouraged around the town centres and areas of major employment”. (page 25)</p> <p>Housing NSW requests Council to consider amending the Draft LEP by including a range of medium density housing forms as permissible land uses in the R2 zone.</p>	<p>The R2 zone is a Low Density Residential Zone. In relation to the restriction on medium density housing in the R2 zone, it is important to note that the R3 zone has been applied to substantial areas of residential land particularly in close proximity to town centres and commercial precincts in Ballina, Lennox Head and at Alstonville and Wollongbar.</p> <p>The application of the R3 zone on Ballina Island has not been recommended beyond the existing medium density zoned land having regard for the outcome of the Flood Plain Management Plan work currently being undertaken which will assist in determining whether it is appropriate to increase densities on the Island.</p> <p>It is also noted that NSW Housing is able to utilise State Environmental Planning Policies (SEPP 55 and Affordable Rental Housing SEPP) to achieve higher densities than those permitted in the R2 zone.</p>	No amendment recommended.
	<p>Application of R2 Low Density Residential Zone / permissible uses Most Housing NSW assets are proposed to</p>	The Standard Instrument adopts a hierarchy	No amendment recommended.

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	<p>be zoned R2. Land uses identified as permissible with development consent in the R2 zone include boarding houses, caravan parks, dwelling houses, group homes, moveable dwellings, rural workers dwellings, secondary dwellings, seniors housing, and shop top housing, and any uses that are not listed as prohibited within the zone. Dual occupancy, multi dwelling housing and residential flat buildings are not specifically prohibited within the R2 zone however "residential accommodation" is prohibited within the zone. The definition of residential accommodation is: <i>"a building or place used predominantly as a place of residence, but does not include tourist and visitor accommodation"</i>. All forms of residential development would appear to be within the definition of residential accommodation. Therefore it could be argued, for example, that a dwelling house is both permissible and prohibited in the R2 zone. It is suggested that Council remove "residential accommodation" from the prohibited uses in the R2 zone in order to avoid potential confusion.</p> <p>It appears Council's intention is to prohibit dual occupancies, multi dwelling housing and residential flat buildings in the R2 zone.</p>	<p>of parent / child definitions. The definitions associated with residential accommodation were not specifically linked at the time the draft LEP was exhibited. This issue has been resolved for residential accommodation with the Standard Instrument (Local Environmental Plan) Amendment Order 2011, which amends the residential accommodation definitions by providing links between the group term and the sub set.</p> <p>It is the intention of the R2 zone to permit only Dwelling-houses and Secondary dwellings. The mapping of the R2 zone is</p>	<p>No amendment recommended.</p>

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	<p>Residential flat buildings are currently permissible in all residential areas including most Housing NSW assets in Ballina but this will no longer be the case under the Draft LEP. Council's rationale for more restrictive planning controls is questioned. Council is requested to consider the application of the R1 General Residential Zone to the proposed R2 areas as this would provide an opportunity to maintain similar controls to the existing ones. Alternatively, Council could broaden the range of permissible land uses in the R2 zone to include dual occupancies, multi dwelling housing and residential flat buildings. Building height and density controls could then be used to limit the urban form.</p>	<p>consistent with the current low density land identified in the Combined DCP. As noted above, following the completion of the flood study it may be appropriate to review the permitted densities on Ballina Island. In the interim it is not considered appropriate to provide for increased densities on the Island.</p> <p>As noted above NSW Housing does have other mechanisms available to it to seek higher densities than those permitted by the Draft LEP.</p>	
	<p>Proposed building height limit Draft LEP proposes a maximum building height of 8.5 metres (2 storeys) for almost all of the urban area. This is inappropriate for a major regional centre for the following reasons:</p> <ul style="list-style-type: none"> • DLEP will result in generally low density development and will encourage urban sprawl, resulting in inefficient use of infrastructure and land resources; • DLEP will limit medium density residential areas generally in line with 	<p>This issue is related to the issue above. Following the consideration of the Flood Plain Management Plan it may be appropriate to review the height provisions to increase densities in some locations however this will depend on the outcome of the Flood Plain Management Plan and consideration of issues such as climate change.</p>	<p>No amendment recommended.</p>

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	<p>existing built form, which will not make provision for the anticipated population growth foreshadowed in the FNCRS; and</p> <ul style="list-style-type: none"> • Illogical to have higher density areas located on the urban fringe, some distance from major services and facilities and likewise, locating lower densities in and around the town centre does not make maximum use of the available resources. <p>Request Council to consider application of R1 General Residential zone with graduated height limits with higher and 'denser' development permitted closer to the town centre and other commercial precincts.</p>		
	<p>Request for R3 Medium Density Residential Zone for Treelands Crescent Precinct</p> <p>It is understood that Council has been reluctant to "up-zone" any lands pending the outcome of forthcoming climate change / sea level investigations. All Housing NSW assets are located some distance from waterfront areas. Treelands Crescent Precinct comprises around 55 cottages that are more than 30 years old. The area is located adjacent to a major shopping precinct which includes Ballina Fair.</p>	<p>Having regard for the issues outlined above, and the requested increase in the height limit in this area to enable four (4) storeys, it is considered appropriate that any rezoning of this locality be subject to consideration as a separate Planning Proposal.</p>	<p>No amendment recommended.</p>

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	<p>Medium density development adjoins the precinct to the east, and open space lies to the north. Existing DCP categories area as permitting low density (dwellings and dual occupancy). Draft LEP proposed R2 zone and 8.5 metre height limit.</p> <p>Request for the area to be zoned R3 Medium Density Residential and the height limit to be increased to permit four (4) storeys. Request is made on the basis of the following:</p> <ul style="list-style-type: none"> • Estate is ideally located for seniors and / or affordable housing being adjacent to major commercial precinct and accessible to transport, services and open space; • Amenity of the existing development has been affected by the 3-4 storey wall of the adjacent shopping centre; • Existing housing stock on the site is reaching an age where redevelopment is most likely feasible and preferable to maintenance programs; • Redevelopment potential of the estate provides an opportunity to support the commercial precinct by increasing population in close proximity to the centre; 		

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	<ul style="list-style-type: none"> • R3 zone would allow development compatible with adjacent commercial development and adjoining land to the east which is proposed to be zoned R3; • Requested 4 storey height limit increases the feasibility of lifts for a seniors housing development, along with the possibility for ground level parking to address the flooding concerns, if required; • Proposed revisions to height and zoning controls will allow significant improvements to the existing ownership and client mix in the concentration which will not be possible otherwise; and • It would be expedient for Council and Housing NSW to consider the proposed rezoning now rather than to deal with a separate rezoning application in the future. 		
	<p>Request for R3 Medium Density Residential Zone for land at West Ballina Housing NSW owns a significant number of properties (approximately 100) in West Ballina which are approaching an age where development options need to be considered. Lands are located close to Ballina Town</p>	<p>The area referred to is subject to flooding and the comments provided above also apply to this locality.</p>	<p>No amendment recommended.</p>

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	<p>Centre (within 1 km) and Ballina Fair (2-3 km) and well serviced by a Kirklands bus route. Sites are located within walking distance to a local centre and two small areas of industrial development.</p> <p>Draft LEP proposed R2 Low Density Residential zone with a maximum building height of 8.5 metres. Council requested to consider an R3 Medium Density Residential zone for the following reasons:</p> <ul style="list-style-type: none"> • Precinct has excellent access to facilities and services being less than 1 km from the town centre; • Precinct has excellent access to transport services; • Proposed R3 zoning would be consistent with that of neighbouring lands to the east and compatible with adjoining commercial/industrial uses; • R3 zoning in close proximity to the town centre is consistent with the FNCRS; • Opportunity for Housing NSW to improve the mix of ownership, clients and housing in this location; • Limited other locations suitable for R3 zoning in the future to support the proposed population increases in the FNCRS; and 		

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	<ul style="list-style-type: none"> It would be expedient for Council and Housing NSW to consider the proposed rezoning now rather than to deal with a separate rezoning application in the future. 		
	<p>Request for review of zoning at Alstonville West Housing NSW owns approximately 17 older properties (30 years plus) in Alstonville. These sites are located in High Street, Wardell Road, Cooke Avenue and Deegan Drive. Wardell Road properties 3 contiguous) adjoin the centre to the west. It is noted that there are some residential properties located further away or a similar distance from the centre as the Housing NSW properties which are zoned at a higher density.</p> <p>Council requested to consider increasing the permissible residential densities in this area.</p>	<p>The zoning of the land in this locality reflects the current density permitted in accordance with the Combined DCP. The zoning of these sites to permit higher densities is not considered appropriate given the potential for the land to be sold on and not necessarily be redeveloped by NSW Housing. The other mechanisms available to NSW Housing to achieve higher densities on these sites are considered sufficient to address the issues raised in relation to this issue.</p> <p>A locality-based planning process will be undertaken separately to review this issue.</p>	<p>No amendment recommended.</p>
	<p>Affordable Housing objectives Draft LEP does not include specific objectives to increase the supply of affordable housing. Housing NSW would like to emphasise the importance of including options in the Draft LEP to promote</p>	<p>The Draft LEP contains objectives regarding the provision of a range of housing types within the R3 zone. The range of housing permitted in the R3 zone also supports this. Ballina Shire Council also has an Affordable</p>	<p>No amendment recommended.</p>

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	<p>the supply of affordable housing and protect the existing affordable housing stock. Key issues relevant to Ballina include:</p> <ul style="list-style-type: none"> • Lack of affordable housing for rental for low and moderate income earners in housing stress; • Declining proportion of private rental stock (and affordable private rental stock in particular); • Lack of housing diversity, particularly in private rental market, with a need for more one bedroom, studio and accessory dwellings and new boarding house style accommodation; • New more self contained boarding house style development may also assist in meeting the needs of lower income earning single people in the private rental market; • Accessory or secondary dwellings (granny flats) may assist in meeting some of the demand for smaller dwellings in Ballina: • Large number of people living permanently in caravan accommodation, many of whom are reliant on pensions or benefits and who are at risk of losing their housing if there is any move from 	<p>Housing Strategy which looks at these issues.</p>	

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	<p>long to short term sites or redevelopment of the residential parks;</p> <ul style="list-style-type: none"> • Number of older people living permanently in caravan accommodation in Ballina also suggest there are insufficient affordable housing opportunities for older lower income earners; • Lack of affordable housing for purchase for low and moderate income earners. Ballina has a very high median purchase price, along with a high proportion of low and moderate income purchasers in housing stress. <p>Although State Environmental Planning Policy (Affordable Rental Housing) 2009 has been introduced it is still important for Council to consider the provision of all forms of affordable housing and to plan strategically for areas which can best facilitate a diversity of housing choice.</p>		

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11	<p data-bbox="359 363 905 423">Rous Water Mapping of drinking water catchments</p> <p data-bbox="359 456 905 737">Surface Water Catchments Mapping fails to identify the extent of the Wilsons River water catchment area. Wilsons River water catchment extends to areas on map sheets WCM_002, WCM_003, WCM_008 and WCM_009 (see attached maps marked-up). Mapping should be amended to reflect the areas indicated on the maps.</p> <p data-bbox="359 769 905 1050">Groundwater catchments As part of effective risk management (and as described in the Australian Drinking Water Guidelines) similar protection should be provided to groundwater sources as to surface water catchment areas to prevent inappropriate development in the immediate vicinity of these locations, and more specifically in the relevant recharge areas.</p> <p data-bbox="359 1083 905 1302">In the absence of any specific mapping of recharge areas, this should include, as a minimum, a buffer distance of 250 metres around any bore location. This should include bores located at Converys Lane Wollongbar and Lumley Park Alstonville. This approach would be consistent with the</p>	<p data-bbox="934 488 1453 643">The areas of the Wilsons River Catchment referred to are not identified on the zoning maps as they are a different scale to those proposed to be zoned E3. DCP provisions will address these areas.</p> <p data-bbox="934 805 1453 927">The mapping of bores and buffers to them as E2 Environmental Conservation is not considered appropriate or practical. DCP provisions are proposed in this regard.</p>	<p data-bbox="1503 488 1881 513">No amendment recommended.</p> <p data-bbox="1503 805 1881 829">No amendment recommended.</p>

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	<p>advice of the former Department of Water and Energy (now part of the Office of Water) who published a <i>Guideline for Managing the Impact from Developments in Urban Water Catchments</i> in October 2007. This advice states that “wherever possible the E2 – Environmental Conservation zoning should be placed over lands which overlay significant shallow aquifers”.</p> <p>It is also noted that the Drinking Water Catchment Map series does not include mapping of several bores owned and operated by Council (Ellis Road Bore and Lindendale Bore). It is noted that this is a matter for Council.</p>		
	<p>Review of Land Use Table for Water Catchment Areas</p> <p>Land uses Emigrant Creek Dam is currently zoned 7(c) Environmental protection Water Catchment Zone under the provisions of Ballina LEP 1987. The mapped catchment areas have been zoned E3 – Environmental Management. A comparison of the land uses permitted under the current LEP and the Draft LEP indicates that the draft zoning permits a much greater range of land uses than the existing zoning. The existing land</p>	<p>The current BLEP 1987 land use table for the 7(c) Environmental Protection (Water Catchment) Zone is a ‘closed’ table with a limited number of land uses permitted without and with development consent, and all other land uses prohibited.</p> <p>The draft land use table for the proposed E3 zone also adopts this approach. The draft land use table as exhibited for the E3 zone does permit some additional land uses such</p>	<p>Recommended that the Draft LEP be amended to reduce the range of permitted land uses – see Community and Staff Based Issues Summary.</p>

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	<p>use table was agreed between Council and Rous Water following detailed consideration of the appropriateness of land use types and following a review of best management practice in catchment protection applied in other jurisdictions.</p> <p>Land uses permitted without consent under the draft plan include dairying, extensive agriculture, and intensive plant agriculture. This is not considered appropriate – these land uses present potential adverse impacts on water quality associated with land degradation and leaching of chemicals from</p>	<p>as tourist and visitor accommodation and restaurants. A further review of the land use table for the E3 zone indicates that some of the land uses permitted may be appropriate to remove. These include Airstrip, Caravan park, and Educational establishment. The other additional uses permitted are considered appropriate having regard for the application of the E3 zone to land other than that identified as water catchment (i.e. scenic land zoned 7(d) and 7(d1) in accordance with BLEP 1987) and the requirement for development consent.</p> <p>The perceived increase in the range of land uses permitted within the zone is also associated with the introduction of the standard definitions. There are many more land uses defined in the Standard Instrument and as a result the list of permitted land uses has increased in comparison to the current 7(c) zone.</p> <p>A review of the existing land use table for the 7(c) Water Catchment zone indicates the following: Dairying –permissible without development consent Extensive agriculture - permissible without development consent</p>	<p>No amendment recommended.</p>

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	<p>fertilizers and pesticides. Allowing these land uses without development consent presents a significant risk to water quality within drinking water catchments. For example, viral pathogens are widely known to originate from cattle faeces and the permissibility of dairies without consent represents a potential significant public health risk. This approach is not consistent with contemporary standards in the management of surface water quality in catchment areas. The Australian Drinking Water Guidelines advocate a multi-barrier approach to the protection of water quality, with an emphasis on treatment at the source and development controls.</p> <p>Rous Water prefers the existing listing of permissible land uses as it represents a discrete list of low hazard activities, and if possible would retain this existing listing.</p> <p>Land uses permitted with consent under the draft zone which cause concern include caravan park, cemetery, mine, restaurant, rural industry, sewerage system, and tourist and visitor accommodation. Rous Water considers that it would only be appropriate to permit such land uses if the assessment process adequately considers potential</p>	<p>Intensive plant agriculture - permissible without development consent</p> <p>As evident from the above, the permissibility of these land uses in accordance with the Draft LEP is consistent with the current provisions of BLEP 1987, as negotiated with Rous Water.</p> <p>Clause 7.5 of the Draft LEP applies to water catchments as mapped and requires the consent authority to consider a number of issues including the potential impact on water quality, and comments provided by the water supply authority.</p>	<p>No amendment recommended.</p>

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	<p>water quality impacts, and requires proposed development to demonstrate a neutral or beneficial effect on water quality.</p> <p>On the basis of the above it may be more appropriate to Apply an E2 Environmental Conservation zone to the water catchment areas.</p> <p>Zone objectives Objectives of the draft E3 zone are much weaker than the objectives for the existing 7(c) zone in terms of protecting water quality. Water quality is not mentioned in the objectives for the E3 zone.</p>	<p>The E2 zone is not considered appropriate to apply to the water catchment areas given that the water catchment areas also contain some of the most productive farmland in the shire.</p> <p>It is noted that the E3 zone does not only apply to water catchment areas, it also applies to areas which are currently zoned Environmental Protection Scenic / Escarpment Zone. It is also noted that a relatively new chapter of the Combined DCP (Chapter 18) supports the provisions of the LEP in relation to the protection of water catchments.</p> <p>The objectives of the 7(c) Water Catchment Zone are:</p> <p><i>A. The primary objective is to prevent development which would adversely affect the quantity or quality of the urban water supply.</i></p>	<p>No amendment recommended.</p> <p>Insert the following additional objectives for the E3 zone:</p> <p><i>To prevent development which would adversely affect the quantity or quality of the urban water supply.</i></p> <p><i>To encourage the productive use of land for agricultural purposes and to permit development which is ancillary to agricultural land uses.</i></p>

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		<p><i>B. The secondary objective is to regulate the use of land within the zone:</i></p> <p><i>(a) to encourage the productive use of land for agricultural purposes and to permit development which is ancillary to agricultural land uses, except for development which would conflict with the primary objective of the zone, and</i></p> <p><i>(b) to ensure development of the land maintains the rural character of the locality, and</i></p> <p><i>(c) to ensure development of the land does not create unreasonable and uneconomic demands, or both, for the provision or extension of public amenities or services.</i></p> <p><i>C. The exception to these objectives is development of public works and services, outside the parameters specified in the primary and secondary objectives, only in cases of demonstrated and overriding public need and subject to the impact on water quality and quantity being minimised as much as is reasonably practical.</i></p> <p>It is considered that the objectives of the E3 zone could be strengthened in relation to water catchment areas. The following additional objectives are recommended in relation to the objectives of the E3 zone:</p>	

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		<p><i>To prevent development which would adversely affect the quantity or quality of the urban water supply.</i></p> <p><i>To encourage the productive use of land for agricultural purposes and to permit development which is ancillary to agricultural land uses.</i></p>	
	<p>Review of LEP provisions relating to water supply and catchments</p> <p>Local provisions included in the Draft LEP The following comments are provided in relation to the draft Clause 7.5 Drinking water catchments.</p> <p>Subclause (1) puts the emphasis on protecting 'public water supply'. It is considered that the term (which is not defined) is too narrow and as such the objective does not encompass the part of the landscape that drains to a watercourse or storage or recharges an aquifer from which a public water supply is extracted.</p> <p>Subclause (3) requires the consent authority to consider any potential adverse impact on water quality, however, the consent authority</p>	<p>Amend DLEP to change objective to read 'impact on the public water supply' so that it has a broader application.</p> <p>The provisions specifically require the consideration of incremental and cumulative impacts on water quality within the</p>	<p>Amend DLEP to change objective to read 'impact on the public water supply' so that it has a broader application.</p> <p>No amendment recommended.</p>

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	<p>can still approve development that has an adverse impact on water quality if it deems the impact is acceptable. There is no objective measure of what is an acceptable impact. This could result in significant cumulative impacts on water quality within the catchments.</p> <p>Catchment mapping overlay provisions only apply to development that requires consent. Several potentially more serious polluting developments do not require consent, and therefore miss the test. Recommended revised clause based on the original draft prepared by the then Department of Water and Energy dated 15 October 2007. This clause has been supported by other councils and the Department of Planning (Regional Office) - although the Regional Office has indicated that the recommended clause may be superseded by a State-wide clause.</p> <p>Definitions for Catchment action plan, groundwater, aquifer, and neutral or beneficial effect on water quality should be inserted to support the clause.</p>	<p>catchment.</p> <p>The application of the provisions to development that requires consent is considered reasonable and appropriate. Clause 7.5 has been reviewed and the recommended amendments are considered to address the issues raised.</p> <p>In relation to the recommended definitions the inclusion of these definitions should be raised with the DP&I.</p>	<p>No amendment recommended.</p>

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	<p>Local provisions proposed by Rous Water for drinking water catchments</p> <p>Groundwater It was Rous Water’s understanding that Council would include a local provision relating to groundwater resources. A copy of the draft clause that was circulated by Council during the preparation of the Draft LEP has not been included in the plan. Groundwater is not referenced in Clause 7.5 of the Draft LEP and groundwater locations are not mapped. It is noted that Chapter 18 of the Combined DCP includes groundwater mapping and mentions groundwater. Adoption of the draft revised clause recommended by Rous Water would address this issue.</p> <p>Riparian Land and Waterways Due to the significance of the riparian zone for water supply catchment areas and the influence on prevailing water quality, Rous Water is interested in the potential to apply a clause such as that contained in the draft Lismore LEP 2010 to address riparian zones.</p>	<p>The draft plan does not propose the inclusion of groundwater. This issue is addressed in the DCP provisions contained in Chapter 18 of the Ballina Combined DCP.</p> <p>As previously noted in this submissions summary, it is proposed to recommend the mapping of riparian corridors as a separate exercise.</p>	<p>No amendment recommended.</p> <p>No amendment recommended.</p>

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	<p>References to DCPs There are no references to DCPs within the Draft LEP or supporting documentation that are relevant to water supply catchments.</p> <p>Rous Water has previously supplied comments in relation to Chapters 13 & 18 of the Combined DCP and it is requested that these comments be taken into consideration in the review of the Combined DCP. Comments include those provided in <i>Draft Development Control Plan for Development within the Rous Water Catchments</i> dated December 2009.</p>	<p>DP&I has advised that the Draft LEP must not make reference to DCPs.</p> <p>DCP matter.</p>	<p>No amendment recommended.</p> <p>Recommended that comments be taken into consideration in the review of the Combined DCP.</p>

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12	<p data-bbox="359 363 642 391">Northern Rivers CMA</p> <p data-bbox="359 396 453 423">Zoning</p> <p data-bbox="359 461 464 488">E2 zone</p> <p data-bbox="359 493 909 704">NRCMA recommends removing the word 'share' from the fourth dot point in the objectives of the zone as it is of the view that activities that do not contribute towards maintaining and improving the land and biodiversity in an E2 zone should no be permitted.</p> <p data-bbox="359 1029 909 1305">NRCMA does not agree with the number and type of some of the uses allowed in the E2 zone. Some of the land uses are not consistent with the objectives of the zone. For example, extensive agriculture in an E2 zone may require vegetation clearing under the Native Vegetation Act and with the many Routine Agricultural Management Activities available, biodiversity will not necessarily be</p>	<p data-bbox="934 493 1476 656">The wording of the objective is: To enable development activities that support, share, manage, enhance and/or protect the ecological, scientific, cultural and aesthetic values of the land.</p> <p data-bbox="934 688 1476 997">The objective aims to ensure that development is consistent with supporting, sharing, managing, enhancing and / or protecting the values of the land. The word 'share' is not considered to suggest that any development is at the 'expense' of the environmental values of the land but rather that it is consistent with those values. Notwithstanding this the removal of the word 'share' is not considered to be problematic.</p> <p data-bbox="934 1029 1476 1305">This issue is addressed in detail in the section dealing with submissions from DECCW. The land use table for the E2 zone has been reviewed in detail in response to the submissions received during the exhibition of the Draft LEP. The revised land use table for the E2 zone is considered to be appropriate having regard for the provisions of the current BLEP 1987, and</p>	<p data-bbox="1503 493 1919 542">Remove the word 'share' from the following objective of the E2 zone:</p> <p data-bbox="1503 591 1976 737">To enable development activities that support, share, manage, enhance and/or protect the ecological, scientific, cultural and aesthetic values of the land.</p> <p data-bbox="1503 1029 1934 1062">Addressed earlier in this document.</p>

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	<p>maintained or improved.</p> <p>Developments such as caravan parks, funeral chapels, cemeteries and helipads are not necessarily environmentally based or contribute to the protection of the environment and therefore should not be located in environmental protection zones.</p> <p>W1 zone NRCMA does not agree with the number and type of some of the uses allowed in the W1 zone including boat repair facility, car park, electricity generating works and sewerage reticulation systems. These are not consistent with the zone objectives and will detract from the ecological and scenic values of natural waterways.</p>	<p>the areas to which the E2 zone will apply.</p> <p>The land uses listed by the CMA as inappropriate have been recommended for removal from the land use table from the permissible with development consent category as a result of the review referred to above.</p> <p>The W1 zone has been reviewed and the range of land uses permissible with development consent has been revised.</p>	<p>Recommended amendment to reduce the range of permissible land uses within the W1 zone – see Community and Staff Based Issues Summary.</p>
	<p>Part 7 – Additional local provisions Clause 7.8.2 – wording of this provision in relation to the protection of the listed matters may not provide adequate protection. The LEP should adopt the principle of maintain or improve in situations where biodiversity and water quality may be affected, not just taken into account as required in this clause.</p>	<p>The provisions of Clause 7.8 have been reviewed and amendments are recommended to strengthen this clause.</p>	<p>Addressed earlier in this document.</p>
	<p>Aboriginal heritage Clause 5.10(8) Places of Aboriginal heritage significance is a standard clause will not achieve an outcome like that intended by the</p>	<p>Noted.</p>	

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	<p>CAP target as it does not consider the protection of Aboriginal Cultural Landscapes. It is understood that Ballina Council is in the process of mapping Aboriginal cultural sites of significance and the NCRMA looks forward to seeing the results of this mapping incorporated into the planning system to better protect these Aboriginal Cultural Landscapes and sites of significance.</p>		